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8 UNITED STATES DISTRICT COURT FOR THE
9 NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,)
11 Plaintiff,)
12 v.)
13)
14 WALTER PIERRE RAUSINI,)
15 Defendant.)

No. CR 95-0319 SI

16
17 **NOTICE OF INTENT TO SEEK THE DEATH PENALTY**

18 The United States of America, pursuant to 18 U.S.C. §3593(a),
19 by and through its undersigned counsel, notifies the Court and the
20 defendant in the above-captioned case that in the event of the
21 defendant's conviction for the intentional killing of John
22 Ellenberger and/or Lance Estes, as charged in Counts Two and Three
23 of the Fifth Superseding Indictment filed today, the Government
24 will seek the sentence of death.

25 The Government will seek to prove the following aggravating
26 factors as the basis for imposition of the death penalty.

1 A. Statutory Aggravating Factors Enumerated under 18 U.S.C.
2 §3592(c)(1) through (16):

3 1. **Procurement of Offense by Payment.** The defendant
4 procured the commission of each offense by payment, or promise of
5 payment of anything of pecuniary value. 18 U.S.C. §3592(c)(7).

6 2. **Pecuniary Gain.** The defendant committed each
7 offense as consideration for the receipt, or in expectation of the
8 receipt, of anything of pecuniary value. 18 U.S.C. §3592(c)(8).

9 3. **Substantial Planning and Premeditation.** The
10 defendant committed each offense after substantial planning and
11 premeditation. 18 U.S.C. §3592(c)(9).

12 B. Other, Non-Statutory, Aggravating Factors Identified
13 under 18 U.S.C. §3593(a)(2):

14 1. **Future Dangerousness of the Defendant.** The defendant
15 is likely to commit acts of violence in the future which would be
16 a continuing and serious threat to society. Simmons v. South
17 Carolina, 512 U.S. 154, 162 (1994).

18 2. **Obstruction of Justice.** The defendant murdered John
19 Ellenberger and Lance Estes in order to prevent them from
20 testifying against Walter Pierre Rausini and others in a federal
21 drug investigation and trial.

22 3. **Contemporaneous Convictions for More than One Murder.**
23 The defendant will have suffered convictions for the murders of
24 John Ellenberger and Lance Estes.

25 4. **Victim Impact Evidence.** The family of the victim has
26 suffered injury and loss as a result of his death. Payne v.

1 Tennessee, 501 U.S. 808,825-26 (1991).

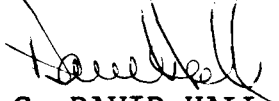
2 Respectfully submitted this the 1st day of March, 1999.

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4 ROBERT S. MUELLER, III
5 United States Attorney

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9 C. DAVID HALL
10 Assistant United States Attorney

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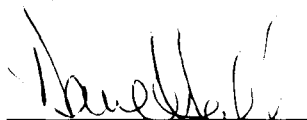
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1 CERTIFICATE OF SERVICE

2 I hereby certify that on the 1st day of March, 1999, a true
3 and correct copy of the foregoing notice of intent to seek the
4 death penalty was [delivered by fax/mailed via first class
5 mail, postage prepaid thereon], to the following attorneys of
6 record:

7 George Cotsirilos
8 Guy Campisano
9 155 Montgomery Street, Ninth Floor
10 San Francisco, California 94104

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12 C. DAVID HALL
13 Assistant United States Attorney
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