

Messrs. Glazer and Geller

January 28, 1974

Philip A. Lacovara

Hunt Appeal

When I spoke to Earl Silbert, the United States Attorney, recently, he asked about the points Hunt was making on appeal. The one point he expressed concern about our treatment of is the Ammidon issue. You will recall that the government confessed error on Judge Sirica in that case, and Silbert feels very strongly that it would not be in the government's interest to leave much room for district judges to reject plea bargains that the prosecution and the defense agree upon. Obviously, it is of little practical concern either to Hunt or to us whether a few concurrent sentences are upheld, and we should not press for any enlargement of the district court's discretion to reject a plea agreement that is satisfactory to the parties. If the circumstances before Judge Sirica at the time the original plea was tendered can be convincingly distinguished from Ammidon then we should defend his decision and the ensuing conviction on those counts that would have been dismissed under that arrangement. Even then, we should explicitly recognize that exceptional circumstances were present.

On the other hand, if there are no convincingly distinguishing circumstances, it would be my judgment that we should either confess error in light of the intervening decision of the Court of Appeals or, perhaps, at most engage in a perfunctory defense of the judge's ruling. I would like to avoid taking a position that would appear to have us under cutting Judge Sirica's handling of the case, but if necessary we must be prepared to take the long view of things.

cc: Mr. Ruth