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In the Matter of the Complaint of  
JOHN GREGORY LAMBROS, #00436-124  
U.S. Penitentiary Leavenworth  
P.O. Box 1000  
Leavenworth, KS 66048-1000  
against DAVID L. LILLEHAUG,  
an Attorney at Law of  
the State of Minnesota.

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**DETERMINATION THAT  
DISCIPLINE IS NOT  
WARRANTED, WITHOUT  
INVESTIGATION**

TO: Complainant and the Respondent Attorney Above-Named:

After reviewing the documents submitted by the complainant, the Director has determined not to investigate this complaint pursuant to Rule 8(d)(1), Rules on Lawyers Professional Responsibility. The reasons for the Director's decision not to investigate this complaint are as follows:

**Complaint Summary**

Complainant is currently incarcerated in the U.S. Penitentiary in Leavenworth, Kansas. Complainant asserts that respondent, who represented the U.S. government with respect to recent appeals that he brought, failed to discharge their responsibilities because respondent failed to request that the presiding judge, Robert G. Renner, recuse himself on the matter. Complainant asserts that the judge should have recused himself under Title 28 U.S.C. § 455 which prohibits a United States district court judge to adjudicate a case that he or she, as a United States attorney, commenced.

**Reasons for Decision Not to Investigate**

While complainant asserts that respondent somehow had an obligation to request the judge to disqualify himself with respect to the February 10, 1997, re-sentencing motion, the complaint makes it clear that respondent represented the United States government, rather than complainant. Nothing in the materials provided to the Director's Office requires that the attorney representing the government has a duty to request that the presiding judge recuse, or indeed that respondent was aware of the statute at the time of the hearing.

Moreover, complainant acknowledges that he was separately represented during that motion process. If complainant believes that the judge improperly presided over the motion, complainant has adequate recourse through the federal courts and by way of complaint to the appropriate judicial authorities regarding the judge's conduct. The Director's Office, however, declines to investigate.

The Director's Office is limited to investigating complaints of unprofessional conduct and prosecuting disciplinary actions against attorneys. It cannot represent complainants in any legal matter or give legal advice. Complainant must retain an attorney if either legal advice or representation is desired.

#### NOTICE OF COMPLAINANT'S RIGHT TO APPEAL

If the complainant is not satisfied with the Director's determination not to investigate this complaint, an appeal may be made by notifying the Director in a letter postmarked no later than fourteen (14) days after the date of this notice. The letter of appeal should state the reason(s) why the complainant believes the matter should be investigated. A Lawyers Professional Responsibility Board member will review the appeal. The Lawyers Board is comprised of 14 lawyers and 9 non-lawyers appointed by the Minnesota Supreme Court. Appeals are assigned to individual Lawyers Board members in rotation according to when they are received. The Board members' options on appeal are limited to either approving the Director's decision not to investigate the complaint or directing that the complaint or some portion of the complaint be investigated. This determination will generally be based upon the information which is already contained in the file.

Enclosed with this notice to the respondent attorney is a copy of complainant's complaint.

Dated: November 21, 2001.

EDWARD J. CLEARY  
DIRECTOR OF THE OFFICE OF LAWYERS  
PROFESSIONAL RESPONSIBILITY  
25 Constitution Avenue, Suite 105  
St. Paul, MN 55155-1500  
(651) 296-3952

By   
Kenneth L. Jorgensen  
First Assistant Director