



**U.S. Department of Justice**

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September 4, 2019

**VIA ELECTRONIC MAIL**

Jeff Cobe  
Chief of Police  
Little Traverse Bay Band Tribal Police

Catherine Castagne  
Tribal Prosecutor  
Little Traverse Bay Band

Re: Controlled Substances and Related Offenses

Dear Chief Cobe and Tribal Prosecutor Castagne:

You recently asked for a brief summary of some of the federal criminal statutes related to controlled substances, particularly marijuana. You also asked for a brief summary of related offenses, such as money laundering and RICO, as well as the statutes authorizing criminal and civil forfeiture. Finally, you asked for information about federal principles governing co-conspirator liability and the liability of aiders and abettors.

I have outlined below some authority that I believe will be most informative. The below is not comprehensive, in that it does not outline all of the law in this area. But it does outline some of the more commonly used statutes.

**18 U.S.C. § 2 – Aiding and Abetting**

Federal law provides that whoever “aids, abets, counsels, commands, induces or procures [the commission of a crime], is punishable as a principal.” 18 U.S.C. § 2(a). The jury instructions explain that a person may be guilty as an aider and abettor “if he intentionally helped or encouraged someone else to commit the crime.”

**21 U.S.C. § 841 – Prohibited Acts Related to Controlled Substances**

This statute provides that it is unlawful “to manufacture, distribute, or dispense, or possess with intent to manufacture, distribute, or dispense, a controlled substance.” 21 U.S.C. § 841(a). Marijuana is a controlled substance under federal law.

## **21 U.S.C. § 846 – Conspiracy and Attempt**

This section provides that “[a]ny person who attempts or conspires to commit any offense defined in this subchapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.”

The jury instructions explain that “A conspiracy is a kind of criminal partnership.” The instructions further explain that even a “slight role” in a conspiracy or a slight connection to a conspiracy can be enough to yield co-conspirator liability.

## **21 U.S.C. § 848 – Continuing Criminal Enterprise**

This section prohibits “engag[ing] in a continuing criminal enterprise” and provides for penalties of “not be less than 20 years and which may be up to life imprisonment.”

## **21 U.S.C. § 856 – Maintaining Drug-involved Premises**

Violations of this section are subject to both criminal and civil penalties. This section provides that it is unlawful to:

- (1) knowingly open, lease, rent, use, or maintain any place, whether permanently or temporarily, for the purpose of manufacturing, distributing, or using any controlled substance;
- (2) manage or control any place, whether permanently or temporarily, either as an owner, lessee, agent, employee, occupant, or mortgagee, and knowingly and intentionally rent, lease, profit from, or make available for use, with or without compensation, the place for the purpose of unlawfully manufacturing, storing, distributing, or using a controlled substance.

21 U.S.C. § 856(a).

## **18 U.S.C. §§ 1956, 1957 – Money Laundering**

These sections prohibit laundering the proceeds of specified unlawful activities and engaging in monetary transactions in criminally derived property. Specified unlawful activities include, but are not limited to, “the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance.” 18 U.S.C. § 1961(1)(D).

## **18 U.S.C. § 1962 – RICO**

This statute prohibits certain activities related to engaging in “a pattern of racketeering activity.” Racketeering activity includes, but is not limited to, “the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance.” 18 U.S.C. § 1961(1)(D).

**21 U.S. Code § 853 – Criminal Forfeiture**

This statute provides for criminal forfeiture in drug cases. Property subject to forfeiture includes proceeds of drug trafficking and property that facilitates drug trafficking.

**21 U.S. Code § 881 – Civil Forfeiture**

This statute provides for civil forfeiture of, among other things, controlled substances, equipment, money, personal property, and real estate.

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I trust the foregoing is helpful. Please do not hesitate to contact me with any questions.

Sincerely,

/s/ Sean M. Lewis

Sean M. Lewis

Assistant United States Attorney