

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON
3 AT SEATTLE

3 UNITED STATES OF AMERICA,) NO.
4 Plaintiff,)
5 v.) INDICTMENT
6 LEONARD WAYNE)
7 and)
8 KEVIN LOBEHAN)
9 Defendants.)
10 _____)

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12 At all times material to this Indictment:

13 1. The defendants, LEONARD WAYNE and KEVIN LOBEHAN, had no
14 license or permit issued by the Secretary of the Treasury (Department of the Treasury - Bureau
15 of Alcohol, Tobacco, and Firearms) authorizing them to engage in the business of dealing in
16 explosive materials.

17 2. "Explosive materials" were defined by Section 841(c) of Title 18, United
18 States Code, to mean explosives, blasting agents, and detonators.

19 3. "Explosives" were defined by Section 841(d) of Title 18, United States
20 Code, as "any chemical compound mixture, or device, the primary or common purpose of which
21 is to function by explosion," including, but not limited to, a list of explosives published by the
22 Secretary of the Treasury or his delegate, the Director of Bureau of Alcohol, Tobacco and
23 Firearms (ATF), on an annual basis.

24 4. "Flash powder" was listed as an explosive by the Director of the ATF
25 pursuant to Title 18, United States Code, Section 841(d).

26 5. "Flash powder explosive devices" were explosive materials within the

1 meaning of Title 18, United States Code, Sections 841(c) & (d), as they were devices, filled with
2 flash powder, a chemical compound mixture and a specifically designated explosive, whose
3 primary and common purpose was to function by explosion.

4 6. A "dealer" in explosive materials was any person engaged in the business
5 of distributing explosive materials at wholesale or retail. 18 U.S.C. § 841(i).

6 7. "Distribution" of explosive materials meant selling, issuing, giving,
7 transferring, or otherwise disposing of explosive materials. 18 U.S.C. § 841(n).

8 8. LEONARD WAYNE was the uncle of KEVIN LOBEHAN.

9 9. LEONARD WAYNE was aware that it is illegal to sell flash powder
10 explosive devices without a license, having previously received a warning to that effect from an
11 ATF agent.

12 **COUNT ONE**
(Conspiracy)

13 **THE GRAND JURY CHARGES:**

14 1. The Grand Jury repeats and realleges each and every allegation contained
15 in paragraphs 1 through 9 of the Indictment.

16 **The Conspiracy**

17 10. Beginning not later than June 29, 2001, and continuing until at least July
18 4, 2001, within the State, and Western Judicial District, of Washington and elsewhere, the
19 defendants, LEONARD WAYNE and KEVIN LOBEHAN, did unlawfully, knowingly, and
20 willfully combine, conspire, confederate, and agree with each other to commit offenses against
21 the United States, namely, to violate Title 18, United States Code, Section 842(a)(1), by
22 engaging in the business of dealing in explosive materials without a license issued by the
23 Secretary of the Treasury, and to violate Title 15, United States Code, Section 1263(c), by
24 receiving in interstate commerce a banned hazardous substance and delivering and proffering
25 delivery thereof for pay and otherwise.

26 **Plan and Purpose**

1 2. It was the plan and purpose of the conspiracy that the defendants would
2 sell flash powder explosive devices in the State, and Western Judicial District, of Washington.

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27 INDICTMENT/WAYNE-LOBEHAN - 3

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1 **Overt Acts**

2 11. In furtherance of the conspiracy and to effect the plan and purpose
3 thereof, the defendants and their co-conspirators committed and caused to be committed the
4 following overt acts, among others, within the State, and Western Judicial District, of
5 Washington and elsewhere:

- 6 (a.) On or before June 29, 2001, at or near the city of Auburn,
7 LEONARD WAYNE and a member of his family obtained a
8 permit from the Muckleshoot Tribe to sell consumer fireworks
9 from a location on the Muckleshoot Indian Reservation.
- 10 (b.) On or about June 29, 2001, LEONARD WAYNE operated a
11 fireworks stand on the Muckleshoot Indian Reservation, and from
12 that stand he sold the following explosive devices to an individual
13 for \$160: a box of M-200 type devices, ten M-80 type devices,
14 two M-250 type devices, one M-1000 type device, and one M-
15 2000 type device.
- 16 (c.) On or about July 4, 2001, after an individual approached the
17 fireworks stand operated by LEONARD WAYNE and requested
18 something "really loud," LEONARD WAYNE pointed to KEVIN
19 LOBEHAN and indicated that such items could be purchased from
20 LOBEHAN.
- 21 (d.) On or about July 4, 2001, immediately after LEONARD WAYNE
22 had identified him as a source for something "really loud," KEVIN
23 LOBEHAN sold to an individual for \$80.

24 **All in violation of Title 18, United States Code, Sections 371 and 844(n).**

25 **COUNT 2**
26 **(Dealing in Explosive Materials Without a License)**

27 On or about June 29, 2001, at or near the city of Auburn, within the State, and Western
28 Judicial District, of Washington, LEONARD WAYNE did knowingly engage in the business of
29 dealing in explosive materials without a license to do so issued under chapter 40 of Title 18,
30 United States Code, and did aid and abet therein, in that he operated a fireworks stand from
31 which he knowingly sold the following explosive devices: a box of M-200 type devices, ten M-
32 80 type devices, two M-250 type devices, one M-1000 type device, and one M-2000 type device.

33 All in violation of Title 18, United States Code, Sections 842(a)(1), 844(a), and 2.

34 **COUNT 3**

A TRUE BILL:

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FOREPERSON

JOHN MCKAY
United States Attorney