

# STERIODS: BALCO trash was early target of Bonds' investigator

From page A1

the primary investigator since the case began in August 2002, he dug up the evidence that a grand jury used last week to indict Barry Bonds, who became baseball's career home run leader this year with the San Francisco Giants. Bonds faces five felony charges for perjury and obstruction of justice that, if proved, could send him to jail for years.

It was clear after the indictment was announced that Bonds would not be the only person on trial in San Francisco next year. Bonds' lawyers are trying to base their defense on Novitzky and his methods. The very qualities that make Novitzky a respected investigator — his passion, aggressiveness and perseverance — are expected to be used against him in trying to have the case dismissed.

Among government officials and anti-doping authorities, Novitzky is heralded as a pioneer. They credit him with helping to change how the distribution of performance-enhancing drugs is prosecuted. They describe him as a tenacious and methodical investigator whose work has always held up in court.

Novitzky's work has cost the sprinter Marion Jones five Olympic medals and helped get federal convictions of her and six others.

He urged the former New York Mets clubhouse worker Kirk Radomski, said to be the biggest supplier of steroids to Major League Baseball players until 2005, to become a government informant and wear a wire as he went about his work for 16 months. Novitzky secured his cooperation after leading a surprise raid at Radomski's Long Island home. George Mitchell, the former senator, is relying on information based on Novitzky's legwork to provide details and evidence for his coming report

on steroids in baseball.

Novitzky's detractors, mainly the defendants and their lawyers, say he is biased and unfair. They say he has a vendetta against Bonds, is seeking fame and financial gain from the case, and puts words into suspects' mouths and has lied in sworn reports, including on the initial search warrant affidavit that kick-started the investigation of the Bay Area Laboratory Co-Operative, or BALCO, and its many famous clients.

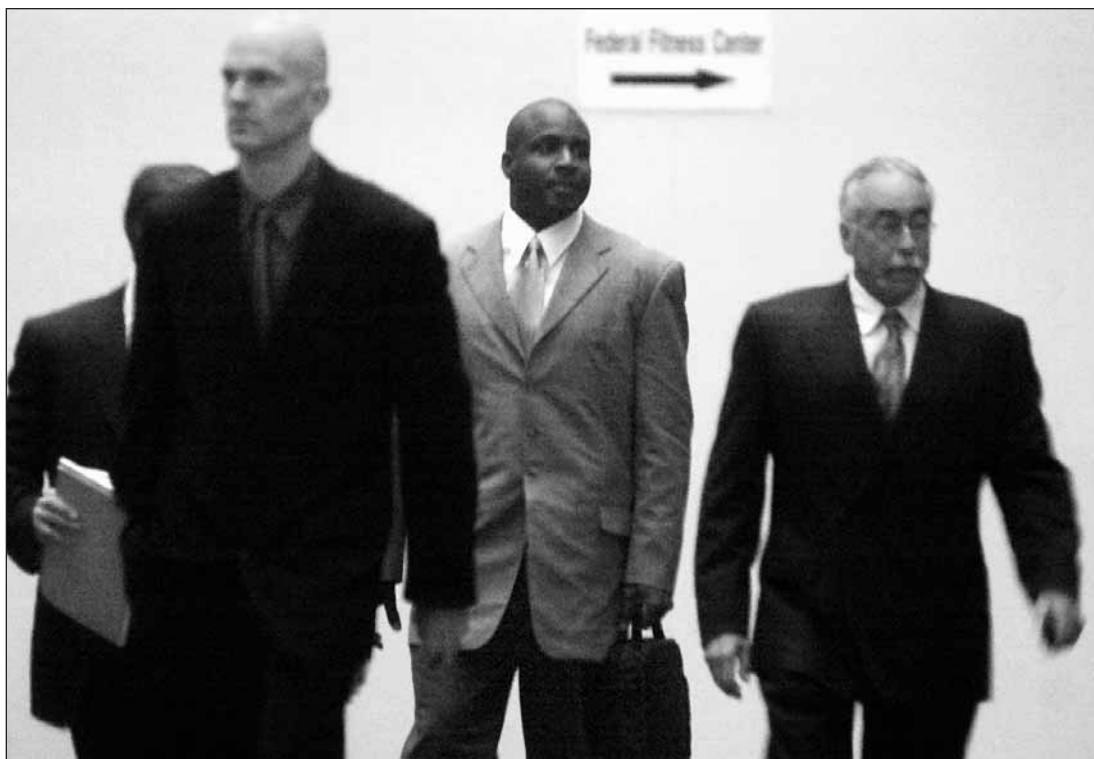
Since May, lawyer Michael Rains has accused Novitzky of lying in the court documents used to obtain much of the evidence gathered against his client Bonds, according to letters obtained by the New York Times. Novitzky's credibility, motives and methods have been the subject of correspondence between Bonds' lawyer and the U.S. attorney's office in San Francisco.

"Cheating to win — the athletes did it; the government did it, too," Victor Conte Jr., BALCO's founder and president, said in an interview. Conte spent four months in jail based on the evidence Novitzky gathered.

The BALCO case started in August 2002. At the time, using steroids without a prescription was a crime largely ignored by the authorities. The FBI mostly stopped doing drug cases after 9/11, and the Drug Enforcement Administration focused primarily on the biggest ones, involving heroin or cocaine. Rusty Payne, a DEA spokesman, said the Bay Area steroids case was "from a DEA standpoint, small potatoes."

Novitzky lives less than a mile from Conte's BALCO office and the World Gym where Bonds pumped himself up during his home run spree in 2001, when he hit a record 73.

Assigned to the case after a tip, Novitzky started going through the BALCO trash in September 2002. The reasons for the investigation



IRS Special Agent Jeff Novitzky (left) walks ahead of Barry Bonds in 2003 when Bonds gave his grand jury testimony in San Francisco. Novitzky is the lead investigator in the BALCO steroids case.

are unclear. Collecting drug samples and financial records weekly, he identified more than a dozen famous clients. "Most federal investigations are built on cooperating witnesses," said Nanci Clarence, a San Francisco defense lawyer for athletes summoned to the grand jury. "More rarely do you see Dumpster diving."

Novitzky also joined Bonds' gym. Back in his office in San Jose, he teamed with Jeff Nedrow, an assistant U.S. attorney, and enlisted Don Catlin, then director of the UCLA Olympic Analytical Laboratory, as his drug tutor.

Catlin recalled that Novitzky could not even pronounce eritropotin, a common steroid, when they first spoke. Years later, some people thought Novitzky had medical training, so commanding was his knowledge of performance-enhancing drugs.

Lawyers defending athletes are suspicious of Novitzky's motives and describe him as out of control. They point to the many charges that have been dropped, the light sentences for those who have been convicted and the sluggish pace of the investigation. Of the seven people who have been convicted in the BALCO

case, the lawyer who leaked grand jury testimony received the toughest sentence: two and a half years.

Novitzky made some tactical mistakes. He took BALCO garbage home to examine, then put the resealed bags in a trash container behind a building that had no connection to the case. The owner of that building complained to BALCO.

It was then, Conte said, that he knew someone was going through his garbage. He also said he learned his mail was being opened and copied, and he said he once spotted somebody following him. Joyce Valente, a BALCO employee, filed a police report about the "stolen" garbage in August 2002, and the local weekly paper published an item about it.

Three weeks later, forced to act quickly, Novitzky led 20 agents on the raid of BALCO. "They came in before they were ready to," Conte said. "They'd blown their cover."

Novitzky does not tape his interviews but writes detailed reports. Conte; Greg Anderson, Bonds' personal trainer; James Valente, BALCO's former vice president; and the former pitcher Jason Grimsley are among those who have complained that Novitzky

misstated some of what they said or attributed to them information he had collected elsewhere. Conte has filed sworn statements saying he had not even met three of the 27 athletes to whom Novitzky said he had admitted giving steroids.

Conte said Novitzky's mistakes led the government to drop 40 out of 42 charges against him. The prosecutors said that his was a fair outcome and that Novitzky had not erred.

In letters to Scott Schools, the interim U.S. attorney in San Francisco, Rains argued that the government should walk away from its investigation because of Novitzky's "vendetta" against Bonds.

But Dwight Sparlin, a retired IRS manager who led the San Francisco office when the BALCO case started, said the original focus was Conte. "He wasn't even looking at Barry Bonds," Sparlin said in an interview. "What appears to be a small money-laundering case, you never know where it will go."

Rains accused Novitzky of perjury in two sworn statements at the heart of the BALCO case. Rains wrote that all evidence obtained

from BALCO and Anderson's home against all defendants should be thrown out because Novitzky put a false statement in the original search warrant affidavit about the reliability of an informant.

Rains also said two members of the San Mateo narcotics task force, who worked with Novitzky early in the case, met with Nedrow, the assistant U.S. attorney, to express their concerns about what they say were the false statements by Novitzky. Rains wrote that Nedrow replied that he would deal with the problems later but never did. One member of the task force did not respond to specific questions by e-mail, and the other could not be identified.

In early 2003, Novitzky had a state narcotics agent go undercover in the gym to try to befriend Anderson. The agent, Iran White, later told Playboy magazine that Novitzky was obsessed with Bonds and talked about writing a book. One of the task force agents corroborated White's account, according to Rains' letters to Schools.

Novitzky signed a sworn statement in 2004 denying he ever discussed a book deal.

Kevin Ryan, the U.S. attorney in San Francisco until earlier this year, said none of the complaints had merit.

"He has taken a lot of unfair shots," Ryan said of Novitzky in a telephone interview. "Most of the criticism, if not all, has been false or hyperbole or an effort to distract people's attention from what is going on. There has not been a motion to suppress that has held up. Those that have been granted were reversed. Everything he has done has held up."

Some anti-doping advocates gush when they speak of Novitzky's effect on sports.

"Agent Novitzky has been one of the pioneers in trying to rid an issue that is cancer-like in the world of sports," Peter Ueberroth, the chairman of the United States Olympic Committee and former baseball commissioner, said in a phone interview.

Ryan put his work in even grander terms: "He has changed the face of sports."

## "Carols From Around The World" Holiday Concerts Presented In Part By Wells Fargo

This holiday season Marin County residents can revel in the sounds of "Carols from Around the World" at the Marin Symphony Association's annual Holiday Concerts by Candlelight, presented in part by Wells Fargo.

This season the special candlelight concerts feature diverse and festive carols from around the world. Marin Symphony Chamber Chorus and Orchestra will perform with the newly founded Marin Symphony Youth Chorus, on Saturday, Dec. 1 at 7:30 p.m. and Sunday, Dec. 2 at 4:00 p.m. at the Church of Saint Raphael in San Rafael.

The "candlelight portion" - a dramatic and heart-warming interlude when all the lights are lowered - is brought to light by members of the audience as they join with the choruses in the singing of traditional carols. The candlelight portion was added in 2004 through a special partnership with Wells Fargo.

"Wells Fargo has been a long time partner of the Marin Symphony," said **Noralee Monestere**, Executive Director of the Marin Symphony. "The Holiday Concerts by Candlelight continue to be a Marin favorite and with the support of Wells Fargo we are able to continue the holiday tradition for all of Marin County to enjoy."

This season's Holiday Concerts by Candlelight will present a program of international carols including "Il Est Né" (Traditional French), "Go Tell It On The Mountain" (Traditional-American spiritual), Ralph Vaughan Williams' "Wassail Song" (British), Franz Biebl's "Ave Maria" (German), "Twas in the Moon of Wintertime" (Canadian Indian), "The Virgin Mary had a Baby Boy" (Jamaican), two medieval Latin carols and many more.

"The Marin Symphony concerts bring the Marin community together during the holidays and Wells Fargo is proud to support the holiday tradition," said **David Galasso**, Wells Fargo's Marin-Golden Gate Regional President.

"As a Marin resident, I am delighted to be part of the brand new Private Bank office in Corte Madera, which is dedicated to serving both the needs of the Marin community, as well as active engagement with nonprofit organizations, like the Marin Symphony," said **Kay Lee**, board member with the Marin Symphony who serves on the planned giving committee, and is a vice president with Wells Fargo's Wealth Management Group.

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Tuning up for this year's Holiday Concerts by Candlelight: Four-year-old Henry (left), and two-year-old William, sons of Marin Symphony Principal Violist Jenny Douglas (not pictured); Kay Lee, Marin Symphony Board Member and Wells Fargo Wealth Management Senior Private Banker; and Noralee Monestere, Executive Director of the Marin Symphony.

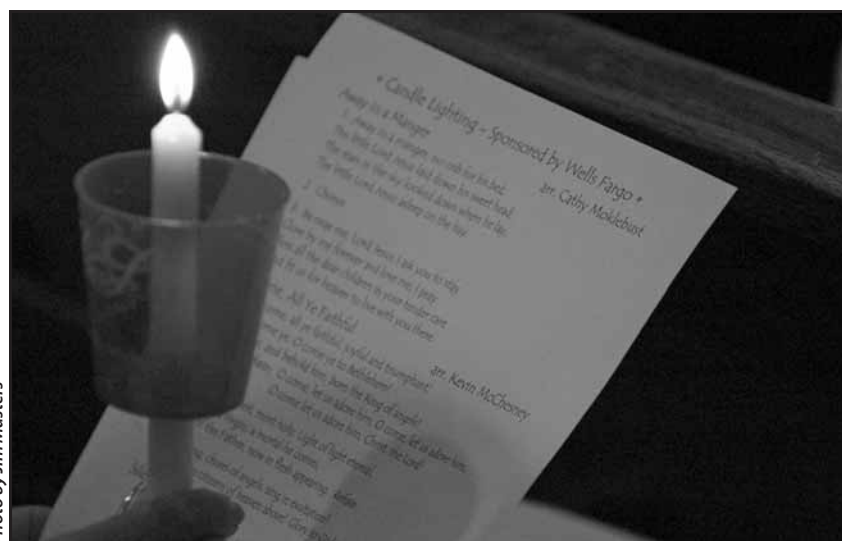


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