



# Integrity Line

The Whistleblowing Center of Competence

August 21, 2009

The Honorable William J. Zloch  
United States District Judge  
United States District Court for the Southern District of Florida  
299 East Broward Boulevard  
Room 202B  
Fort Lauderdale, Florida 33301

Re: United States v. Birkenfeld, 08-60099-CR-Zloch

VIA FACSIMILE: 954-769-5429

Dear Judge Zloch:

The undersigned groups are writing today to raise serious concerns about the implications of the forthcoming sentencing of prominent UBS whistleblower, Brad Birkenfeld.

As organizations that strive to achieve a more transparent and accountable government, we have a keen interest in working to create an environment that encourages those with knowledge of wrongdoing to come forward with their disclosures.

In that regard, we are concerned that the prosecution and forthcoming sentencing of Brad Birkenfeld, a whistleblower who voluntarily and singlehandedly brought the United States government its largest case of offshore tax evasion in history, will send chills through the spines of future whistleblowers. As you know, white collar crimes are both difficult to detect and almost impossible to prosecute without an insider. In most cases, these insiders will have some involvement in the wrongdoing that they are exposing.

To be sure, Birkenfeld is no saint. In pleading guilty to conspiring to defraud the United States, Birkenfeld signed a statement of facts detailing his role in soliciting wealthy

Americans to evade taxes through the services provided by UBS. But it is also true that Birkenfeld came to the United States government on his own accord, after first reporting his discomfort with UBS' policies internally. And based on those disclosures, he was personally investigated and ultimately prosecuted, while UBS' top executives were simply banished from the United States and allowed to return to Switzerland.

At least four federal agencies—the Securities and Exchange Commission, Internal Revenue Service, Department of Justice, and the Senate Permanent Subcommittee on Investigations—have written letters professing the key role Birkenfeld played in their investigations of UBS. Without his disclosures, there would likely be no case against UBS.

It is in that context that we ask that you consider the public policy implications for future whistleblowers in determining the proper sentence for Mr. Birkenfeld.

Sincerely,

Danielle Brian  
Executive Director  
Project On Government Oversight

Mark Cohen  
Executive Director  
Government Accountability Project

Dr. Zora Ledergerber  
Executive Director  
Integrity Line (Switzerland)

Anne Schwoebel  
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