

BITTERSWEET JUSTICE FOR BRADLEY BIRKENFELD

Today,
the IRS
awarded
whistleb
lower
Bradley
Birkenfe
ld \$104
million
to
reward
him for
having
exposed
UBS'



methods of helping US tax cheats hide their
loot, tax free, in Switzerland.

It's a bittersweet award, I'm sure. As
Birkenfeld's lawyer, Stephen Kohn, reminded at
the ceremony, Birkenfeld was imprisoned by the
Obama Administration for fraud in spite of what
now is clear confirmation he acted as a
whistleblower; he got out early on August 1 from
his 40 month sentence.

The IRS reward will help undo the
tremendous damage caused by the ill-
conceived decision of the U.S.
Department of Justice to ignore the
whistleblower laws and prosecute Mr.
Birkenfeld. Mr. Birkenfeld was the only
UBS banker to blow the whistle and the
only UBS banker to be prosecuted. By
doing so the DOJ sent the wrong message
to international bankers. They caused a
chilling effect on the willingness of
employees in the international banking
industry with direct knowledge of
illegal offshore banking practices to
step forward to report these crimes.

The National Whistleblower Center carefully investigated the basis upon which the DOJ justified its prosecution. The DOJ did not tell the truth about Mr. Birkenfeld. At his sentencing hearing, the DOJ justified its decision to indict Mr. Birkenfeld based on its position that Mr. Birkenfeld had failed to inform the government about the illegal activities of his largest client, billionaire Igor Olenicoff.

But this charge against Mr. Birkenfeld was false and defamatory. The NWC carefully reviewed court records concerning the Olenicoff case, internal emails regarding Mr. Birkenfeld's disclosures, and a confidential transcript of sworn testimony Mr. Birkenfeld provided to the U.S. Senate in 2007 about the illegal activities of Mr. Olenicoff. These materials absolutely verify that Mr. Birkenfeld did in fact blow the whistle on Mr. Olenicoff, and that the charges made by the DOJ were false. The NWC finds it very troubling that the prosecutor who leveled these charges in court against Mr. Birkenfeld has left his government job and taken a position with a major law firm that defends tax cheats. The DOJ also granted immunity to the top-ranking official at UBS who was responsible for the UBS tax frauds and permitted this official, Martin Liechti, to leave the United States and obtain safe-haven in Switzerland where, to this day, he has escaped justice. Mr. Liechti invoked the 5th amendment in testimony before the U.S. Senate.

There's even a WikiLeaks cable suggesting we prosecuted Birkenfeld as a favor to the Swiss.

And it's not just Birkenfeld who has gotten limited justice out of this—though obviously he is by far the worst off. While the IRS got over

\$5 billion in owed taxes as a result of his whistleblowing, no one else went to prison, not even the several individuals about whom specifically Birkenfeld blew the whistle. And a bunch of rich people—potentially including a Presidential candidate—enjoyed an amnesty that didn't even require them to admit they had been cheating their country.

In short, like so much else with the Obama Administration, it's an example where the real criminals go free while the whistleblowers get prosecuted.