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UBS informant files complaint with DOJ

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The key whistleblower in the tax evasion investigation of Swiss bank UBS AG claimed in a complaint Tuesday that prosecutors made false statements to a judge who sentenced him to prison.

Attorneys for informant Bradley Birkenfeld asked for an internal Justice Department investigation and said the "inaccurate, misleading and incomplete" allegations should be corrected. The complaint was filed with the department's Office of Professional Responsibility, which investigates ethical matters involving prosecutors and other employees.

"These statements had a material impact on Mr. Birkenfeld, and caused the Department of Justice to improperly seek jail time for one of the most important tax whistleblowers in American history," wrote Birkenfeld attorneys Stephen Kohn and Dean Zerbe in the complaint.

Justice Department spokesman Charles Miller declined comment.

Birkenfeld, 44, is scheduled to begin serving a prison term Friday of more than three years. He and his attorneys — affiliated with the National Whistleblowers Center — have embarked on a campaign to reduce or eliminate the sentence based on his disclosures, which led UBS last year to pay a \$780 million fine and agree to reveal names of thousands of suspected American tax cheaters.

The complaint revolves around Birkenfeld client Igor Olenicoff, a wealthy California real estate magnate who pleaded guilty to federal tax charges in 2007.

Prosecutors said Birkenfeld was indicted because he did not tell them about Olenicoff in their meetings about UBS wrongdoing in 2007. Birkenfeld ultimately pleaded guilty to a fraud conspiracy charge and prosecutors recommended prison time, though less than the three years and four months Birkenfeld got.

U.S. District Judge William Zloch refused Monday to reconsider the sentence or delay Birkenfeld's surrender date.

The Justice Department complaint said Birkenfeld refused to initially disclose Olenicoff's identity because Birkenfeld was still living in Switzerland and feared violating that nation's fabled bank secrecy laws.

Birkenfeld wanted a subpoena to justify disclosing his client's identify, but his attorneys said that request was rebuffed by the Justice Department. So at Birkenfeld's request, the Senate Permanent Subcommittee on Investigations did provide a subpoena Oct. 9, 2007.

"Two days later, on Oct. 11, 2007, he gave extensive testimony on Mr. Olenicoff and several other clients," Birkenfeld's attorneys wrote, adding that the disclosures occurred well before Olenicoff was charged and were given to other U.S. agencies.

"In the interests of justice, this matter must be fully and independently investigated," they wrote.



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