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U.S. judge rejects leniency for UBS whistleblower

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By Tom Brown

MIAMI (Reuters) - A U.S. judge on Monday upheld the prison sentence of a key informant in the tax fraud case against Swiss bank UBS AG and ordered him to start serving his 40-month term as scheduled this Friday.

The ruling by Fort Lauderdale Federal Judge William Zloch ignored both public and legal pleas for leniency by former UBS banker Bradley Birkenfeld, the main whistleblower in the high-profile case that cracked open Swiss banking secrecy.

Lawyers for Birkenfeld had asked Zloch last month to postpone the January 8 start of his prison term, saying he was ready to cooperate further with the authorities in their pursuit of U.S. tax cheats.

The lawyers also requested reconsideration by Zloch of the jail term he gave Birkenfeld, a 44-year-old U.S. citizen who has been hailed by whistleblower advocates and U.S. prosecutors alike as a vital information source in the U.S. government's case against UBS, his former employer.

The Swiss bank was targeted in a wide federal probe of thousands of U.S. tax cheats who hid assets in secretive UBS accounts.

In a ruling filed on Monday, Zloch rejected the requests filed on Birkenfeld's behalf, saying they were denied after careful consideration of their merits.

Birkenfeld was handed his 40-month sentence by Zloch in August, two days after U.S. and Swiss authorities signed a pact in which Switzerland agreed to reveal the names of about 4,450 wealthy American clients of UBS to U.S. tax investigators.

Birkenfeld had pleaded guilty to a single fraud conspiracy count in June 2008, when he acknowledged helping his largest U.S. client hide assets from the Internal Revenue Service.

In a claim disputed by Birkenfeld's lawyers in a December 7 letter to U.S. Attorney General Eric Holder, Justice Department officials have said the jail time was justified because he was not initially forthcoming about the tax fraud committed by his billionaire U.S. client Igor Olenicoff.

WHISTLEBLOWER REWARD?

Giving his first public interview on Sunday, Birkenfeld told CBS television's

"60 Minutes" that he played a pivotal role in the U.S. case against UBS by breaking the traditional silence and secrecy surrounding Swiss private banking.

"I gave them the biggest tax fraud case in the world. I exposed 19,000 international criminals. And I'm going to jail for that?" he asked.

Birkenfeld did not immediately respond to Reuters on Monday, when asked for his reaction to Zloch's ruling. But one of his attorneys, Stephen Kohn, strongly criticized the decision not to reconsider Birkenfeld's sentence.

"Putting only the whistleblower in jail while all the major tax cheats who stole billions of taxpayer dollars escape without criminal penalties is outrageous and sends the wrong message," said Kohn, executive director of the National Whistleblowers Center, a Washington, D.C.-based advocacy group.

Despite Birkenfeld's upcoming prison term, the Boston-area native may still be entitled to collect tens of millions of dollars under a federal law that rewards whistleblowers with up to 30 percent of the money recovered as a result of the information they provide, even if they committed a crime.

The U.S. Internal Revenue Service, which has estimated the case against UBS recovered billions in lost taxes, will ultimately decide whether Birkenfeld qualifies for the reward.

(Reporting by Tom Brown; Editing by [Pascal Fletcher](#) and Maureen Bavdek)

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