

1
2 **UNITED STATES DISTRICT COURT**
3 **For the**
4 **WESTERN DISTRICT OF WASHINGTON**

5 UNITED STATES OF AMERICA,) Case No. CR 10-5314
6 Plaintiff,)
7 vs.) **RESPONSE TO GOVERNMENT’S**
8 SHEILA MULLINEAUX) **SENTENCING MEMORANDUM**
9 Defendant.)
_____)

10 In response to the Government’s sentencing memorandum, the defendant objects to the
11 Government’s position regarding a two level increase pursuant to United States Sentencing
12 Guidelines section 3B1.1 for a leadership role. The Government seems to be confused between
13 Ms. Mullineaux’s role as the Director of Operations at Crown College and her role in the instant
14 offense. Further the Government assumes that in her employment position Ms. Mullineaux had
15 some special unshared knowledge about the likely closure of the school though no evidence
16 supports that this was a secret. In fact, to the contrary, it seemed to be common knowledge
17 among the staff that the school was in financial straits and that closure was a possible outcome as
18 most of the staff was laid off in December 2006 due to these issues.

19
20 The only evidence used to support the two level increase as leader/organizer is based on
21 Ms. Mullineaux being “...responsible for the origins of the scheme...” Application note 4 to
22 USSG §3B1.1 is clear that the adjustment does NOT apply to those who merely suggest
23 committing an offense. Ms. Mullineaux did not exercise any decision-making authority, each
24 individual made their own decision to apply for the funds. Further, Ms. Mullineaux did not fill
25 out any other participants’ applications. Each filled out and signed their own financial aid
26 application except for Mr. Hinton. In his interview with Agents Shanedling and Greenblatt, he
27
28

1 stated that Misty Lee completed all of his financial aid paperwork and brought it to him for his
2 signature, not Sheila Mullineaux.

3 The Government additionally erroneously relies on the reference to Ms. Mullineaux by
4 one co-defendant as the “kingpin.” However, Application Note 4 is again clear that “...titles
5 such as ‘kingpin’ or ‘boss’ are not controlling...” when applying this guideline.
6

7 The two level increase for leader/organizer is inappropriate as applied to this defendant.
8 This was not a case of a group of people agreeing to commit one crime together but rather
9 several people individually and separately committing the same criminal offenses. Further, this
10 is not the type of enterprise that the sentencing commission meant to punish with 3B1.1 because
11 it is not the type of offense whose commission requires concerted actions of multiple
12 participants. It is not for instance like an agreement to import and sell drugs which requires at
13 least a supplier and importer or seller. No participant in this action needed any of the other
14 participants to successfully complete their illegal acts.
15

16 The background note under 3B1.1 states “...this section provides a range of adjustments
17 to increase the offense level based upon the size of the criminal organization and the degree to
18 which the defendant was responsible for committing the offense.” There was no criminal
19 organization in this case. The defendants each conducted their criminal conduct separately from
20 one another and each benefited independently. Each participant was equally responsible for
21 committing the offense. No one member reaped a greater benefit or exercised any authority over
22 another therefore there is no leader, organizer, manager or supervisor and no upward adjustment
23 is appropriate under this guideline.
24

25 //

26 //

27 //

28

1 **RESPECTFULLY SUBMITTED,**

2 By: /s/ Summer McKeivier
3 Counsel for Defendant
4 CBN 230605
5 United Defense Group
6 4181 Sunswept Dr., Ste. 100
7 Studio City, CA 91604
8 Ph: (818) 487-7400
9 Fax: (818) 487-7414
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28