

The Honorable Robert J. Bryan

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
SHEILA MULLINEAUX,)
)
Defendant.)
_____)

NO. CR10-5314RJB

GOVERNMENT’S SENTENCING
MEMORANDUM

A. Introduction

The United States of America, by and through Jenny A. Durkan, United States Attorney for the Western District of Washington, and Nicholas W. Brown, Assistant United States Attorney for said District, submits this sentencing memorandum.

Sentencing is scheduled for February 11, 2011.

On November 18, 2010, the Defendant entered a plea of guilty to the following charges: Mail Fraud, as charged in Counts 5 and 6, in violation of Title 18, United States Code, Sections 1341 and 2. As part of the Plea Agreement, the United States Attorney’s Office for the Western District of Washington agreed to move to dismiss the remaining counts in the Indictment at the time of sentencing.

The offenses charged in Counts 5 and 6 carry a maximum penalty of: imprisonment of up to 20 years, a fine of up to \$250,000, a period of supervision

1 following release from prison of up to three years, and a \$100 penalty assessment.

2 **B. The Offense Conduct**

3 The parties agreed on the following facts in support of the Defendant's guilty plea,
4 and the government respectfully requests that the Court use them to calculate the
5 applicable Guideline's range.

6 a. During the charged time period, Crown College (Crown) was a privately
7 owned and operated proprietary school located in Tacoma, Washington. Crown classes
8 were operated almost completely online via computer. Crown's students participated in
9 their online classes by logging on to "classrooms" they had previously registered for
10 through the school's website.

11 b. During the charged time period, the Defendant was the Director of
12 Operations at Crown. In her position, the Defendant was responsible for the day to day
13 operations of the school. During all times that the school was in operation, employees of
14 the college could attend the school as students, in addition to their employment.
15 However, all employees, including the Defendant, received a full waiver for the costs of
16 their tuition as students. Thus, employees of Crown that were enrolled as students had no
17 educational expenses related to tuition.

18 c. In the Fall of 2006, the Defendant learned that Crown was losing its
19 accreditation and would be ceasing operations in January 2007. The Defendant knew that
20 should Crown close, any student financial aid loans she had received would be
21 discharged. Defendant admits that she then entered into a scheme to defraud with her
22 co-defendants, and others known and unknown, to cause herself and others to
23 fraudulently obtain federally insured financial aid loans and grants using materially false
24 information.

25 d. The essence of the scheme and artifice to defraud was to fraudulently obtain
26 money and funds from the United States, by falsely representing themselves and others as
27 enrolled students at Crown College, and by falsely representing themselves as students
28 further advanced in their studies than they actually were, and thereafter applying for

1 federal student loans and Pell Grants.

2 e. It was further part of the scheme and artifice to defraud that the Defendant
3 completed, or caused to be completed a Free Application for Federal Student Aid
4 (FAFSA), signing a statement certifying that the federal student aid will only be used only
5 to pay the cost of attending an institution of higher education.

6 f. It was part of the scheme and artifice to defraud that the Defendant applied
7 for federally insured financial aid, and aided and abetted others in applying for federally
8 insured financial aid, believing that Crown would be ceasing operations in the near future,
9 thereby relieving the Defendant of her obligation to repay the loans. Thus, the
10 Defendant's own application for federally insured financial aid was fraudulent in that the
11 Defendant did not intend to use the student aid only for educational purposes, as certified
12 in her FAFSA, but rather believed and intended that the student aid proceeds would be
13 available for her own non-educational benefit and purposes after cessation of operations
14 at Crown.

15 g. It was further part of the scheme and artifice to defraud that the Defendant
16 caused and attempted to cause others, including B.H., to apply for loans and grants for
17 attendance at Crown knowing full well that B.H. was not an enrolled student at Crown
18 and did not intend on using the financial aid loans for attendance at Crown.

19 h. It was further part of the scheme and artifice to defraud that the Defendants
20 fraudulently and unlawfully caused, and attempted to cause, federally insured financial
21 aid, in the form of Subsidized and Unsubsidized Stafford Loans and Pell Grant funds, to
22 be disbursed to themselves and others, totaling approximately \$65,750.

23 i. Each of the fraudulently obtained loans was obtained using interstate
24 mailings. For example, on or about December 15, 2006, for the purpose of executing and
25 attempting to execute the above described scheme and artifice to obtain money, and
26 attempting to do so, the Defendant, did knowingly cause to be delivered by mail and
27 private and commercial carrier the Master Promissary Notes for B.H.'s Stafford
28 Subsidized and Unsubsidized loans.

1 **C. Presentence Report, Criminal History and Advisory Guidelines Range**

2 The Presentence Report accurately summarizes the offense conduct in this case
3 The Defendant's base offense level is 7, pursuant to U.S.S.G. § 2B1.1. Pursuant to the
4 plea agreement, the parties agreed that the base offense level should be increased by four
5 levels, pursuant to U.S.S.G. § 2B1.1(b)(1)(C), as the loss amount directly attributable to
6 the Defendant is greater than \$10,000, but less than \$30,000. U.S. Probation applies a six
7 level increase, based on the total loss amount attributable to the mail fraud scheme as a
8 whole (\$65,750). While the Presentence Report accurately reflects the total loss, the
9 government believes that it is appropriate in this case to base the adjusted offense level on
10 the loss directly attributable to the Defendant.

11 Pursuant to the plea agreement, the parties are free to argue the application of any
12 other provisions of the United States Sentencing Guidelines. The government believes
13 that a two-level increase for the Defendant's leadership role in this offense is appropriate.
14 The Defendant was the Director of Operations at Crown. As such, the Defendant was
15 responsible for the day to day operations of the school. The three other co-defendants in
16 this case, who were all employees of the school, each reported to the Defendant. In
17 addition, the Defendant, along with the owner of the school, was intimately familiar with
18 the financial difficulties the school was facing prior to the scheme and was more aware of
19 the likelihood of closure than her co-defendants. Moreover, as the Presentence Report
20 notes, during the course of the investigation others referred to the Defendant as being
21 responsible for the origins of the scheme, with one referring to her as the "kingpin." A
22 two-point enhancement pursuant to USSG § 3B1.1(c) is therefore appropriate.

23 The Presentence Report correctly accounts for deductions to the Base Offense
24 Level for acceptance of responsibility. The Defendant has assisted the United States by
25 timely notifying the authorities of Defendant's intention to plead guilty, thereby
26 permitting the United States to avoid preparing for trial and permitting the Court to
27 allocate its resources efficiently. The Defendant's Total Offense Level should be
28 decreased by two (2) levels pursuant to USSG §§ 3E1.1.

1 The government believes that the Total Offense Level is therefore a level 11. The
2 government agrees that the defendant has no prior criminal history and is therefore in a
3 criminal history category of I. The corresponding guideline range is 8-14 months.

4 **E. Restitution**

5 As part of the plea agreement, Mr. Mullineaux agreed to make restitution to any
6 institution harmed by her participation in the charged conspiracy, in an amount to be
7 determined at the time of sentencing. U.S. Probation accurately calculates the appropriate
8 restitution amount as \$65,750, to be paid to the U.S. Department of Education. Her
9 restitution obligation shall be joint and several with the three co-defendants.

10 **F. Recommendation and Justification**

11 The government respectfully recommends a sentence of three years probation,
12 along with 120 hours of community service. As set forth in the Supreme Court's decision
13 in *United States v. Booker*, 453 U.S. 220, 246 (2005), this Court is required to consider
14 the sentencing range calculated under the United States Sentencing Guidelines, together
15 with the other factors set forth in Title 18, United States Code, Section 3553(a),
16 including: (1) the nature and circumstances of the offense and the history and
17 characteristics of the defendant; (2) the need for the sentence imposed (a) to reflect the
18 seriousness of the offense, to promote respect for the law, and to provide just punishment
19 for the offense, (b) to afford adequate deterrence to criminal conduct, (c) to protect the
20 public from further crimes of the defendant, and (d) to provide the defendant with
21 educational and vocational training, medical care, or other correctional treatment in the
22 most effective manner; (3) the kinds of sentences available; (4) the kinds of sentences and
23 the sentencing range established for the offense as set forth in the guidelines; (5) any
24 pertinent policy statement; (6) the need to avoid unwarranted sentence disparity among
25 defendants involved in similar conduct who have similar records; (7) the need to provide
26 restitution to victims.

27 The nature and circumstances of Defendant's offense, as well as her personal
28 history and characteristics, support a sentence of probation and community service. First

1 and foremost, fraud within institutions of higher education is incredibly serious. The
2 Defendants in this case essentially stole taxpayer funds that were intended for real
3 students. These federal loans that were part of this scheme meant that those dollars
4 weren't available to other legitimate students who were truly needy and deserving of such
5 money. Moreover, as an employee of the school, the Defendant's fraudulent acts deserve
6 special scrutiny and criticism.

7 The government's recommended sentence is well below the recommended
8 guideline range, to account for her acceptance of responsibility and personal
9 circumstances. Given her lack of criminal history, contrition, and family support, the
10 government believes that the Defendant is unlikely to reoffend. Moreover, a sentence of
11 probation will allow the Defendant to begin making restitution in this matter, an
12 important priority. On balance, the government concurs with Probation's assessment that
13 a period of custody in this case is unnecessary. The government believes that a sentence
14 of probation is sufficient, but not greater than necessary, to satisfy the goals of
15 sentencing.

16 **G. Conclusion**

17 For the reasons set forth above, the government respectfully recommends a
18 sentence of three years of probation, restitution, and 120 hours of community service.

19
20 Respectfully submitted this 7th day of February, 2011.

21
22 JENNY A. DURKAN
United States Attorney

23
24 /s/ Nicholas Brown
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CERTIFICATE OF SERVICE

I hereby certify that on February 7, 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorney of record for the defendant.

/s/ Andrew Fuller
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