

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA)	
)	
v.)	Case No. 09-CR-00269-001 (RHK)
)	
GREGORY M. BELL)	
_____)	

**DEFENDANT GREGORY M. BELL’S
POSITION REGARDING SENTENCING**

I. INTRODUCTION

Defendant Gregory M. Bell pleaded guilty on October 7, 2009 to a one count information charging him with wire fraud, in violation of Title 18, United States Code, Section 1343, because of material omissions and misrepresentations he made to investors in his hedge funds about those funds’ investments in promissory notes issued by affiliates of Petters Company, Incorporated (“PCI”). Specifically, through a series of affiliates, Mr. Bell owned and controlled a management fund (Lancelot Investment Management or “Lancelot Management”) which advised, and was the general partner of, three hedge funds: Lancelot Investors Fund, LP, Lancelot Investors Fund, II, LP and Lancelot Investors Fund, Ltd. (collectively, “Lancelot”). Having been impressed by Tom Petters’ apparent “incredible success story” (Presentence Report (“PSR”) at ¶ 31), Mr. Bell concentrated Lancelot’s investment portfolio in PCI promissory notes. Unbeknownst to Bell, Petters had been conducting a massive Ponzi scheme for many years and, as a result, the PCI notes were worthless. Although Mr. Bell did not learn that PCI was a house of cards until Petters’ September 24, 2008 arrest, Mr. Bell did know that, in late 2007, PCI started to become delinquent in making payments on its notes. (PSR at ¶ 15.) Mr. Bell did not

disclose these late payments to Lancelot investors, as he should have, but instead executed an extension agreement with PCI extending the repayment terms of all PCI notes from 180 to 270 days. (*Id.*) Mr. Bell did not disclose this extension agreement to Lancelot investors, either, unless specifically asked and, even then, he did not reveal the fact that the extension was prompted by PCI's delinquencies. (*Id.*)

The 90-day extension only delayed PCI's payment problems and, by February 2008, PCI's notes were again delinquent. Mr. Bell did not disclose these delinquencies, as he should have, but, rather, engineered 86 "round trip" transactions that gave Lancelot's investors and potential investors the false impression that PCI was paying its notes in a timely manner. (PSR at ¶¶ 16-20.)

Mr. Bell's conduct was wrong and deceitful and, although Mr. Bell did not intend for his investors to lose money, the investments in PCI proved disastrous. Indeed, after Petters' Ponzi scheme was revealed, the Lancelot entities plunged into bankruptcy. As Mr. Bell has repeatedly and forthrightly acknowledged, his conduct was criminal; indeed, Mr. Bell has apologized for his crime to the Probation Department (PSR at ¶ 32) and in his letter to this Court ("Bell Ltr.").¹ In doing so, Mr. Bell recognizes both that his crime was serious and that it has tragically impacted his investors.

¹ All letters referred to herein have been delivered to the United States Probation Office for transmission to the Court.

Nonetheless, in determining the appropriate sentence for Mr. Bell, it is important that this Court distinguish his actions from the Ponzi scheme that Petters and his confederates committed. As discussed above, Mr. Bell's crime was that he deceived his investors about the performance (or non-performance) of the PCI notes. But that crime, while serious, is far different from the Petters Ponzi scheme, which was a deliberate, outright theft of more than \$1.8 billion from hundreds of victims over a 13 year period. Thus, while Mr. Bell's conduct is factually intertwined with the Petters Ponzi scheme, his culpability is different, and, in imposing a sentence, this Court should distinguish between that conduct and the conduct of the Petters Ponzi scheme participants.

In addition, and as discussed more fully below, an appropriate sentence in this case must take into account a number of other mitigating facts. First, Mr. Bell immediately and fully accepted responsibility. Second, Mr. Bell has cooperated fully—not just with the U.S. Attorney's Office and in testimony before this Court, but with the SEC and various trustees attempting to recover assets for the PCI estate, the Lancelot estate and others. Third, Mr. Bell's conduct was out-of-character. Mr. Bell has no criminal record. Indeed, Mr. Bell came to the United States as a religious refugee from the former Soviet Union, worked his way through college and graduate school, and has many years of successful, honorable employment before his conduct in this case. Moreover, as the Presentence Report and the many letters to this Court from Mr. Bell's family and friends attest, Mr. Bell's eventual wealth did not alter his basic values; he remains a dedicated family man, devoted to his wife and two children and their aging

relatives. In light of these circumstances, we respectfully submit that a below-Guidelines sentence, and, in particular, a sentence of less than 10 years' imprisonment, would be "sufficient but not greater than necessary" to serve the purposes of Title 18, United States Code, Section 3553(a).²

II. SECTION 3553 FACTORS

A. The Guidelines Range

Mr. Bell's Guidelines range of 240 months is driven almost entirely by the amount of the loss, as defined in Guidelines Section 2B1.1 and Application Note 3. Specifically, the loss amount results in a 28 level increase, taking Mr. Bell's sentence from level 16 (21-27 months) to level 44 (statutory maximum of 240 months). However, loss amount is a crude measure of culpability. As the Second Circuit recently noted:

[M]any guidelines, such as those covering...fraud, *see* [USSG] §2B1.1, dramatically vary as to the recommended sentence based simply on the amount of money involved. Here again a district court may find that even after giving weight to the large or small financial impact, there is a wide variety of culpability amongst defendants and, as a result, impose sentences based on the factors identified in §3553(a).

United States v. Cavera, 550 F. 3d 180, 192 (2d. Cir. 2008) (*en banc*).

The limitations on the utility of loss amount are in large part a function of the breadth of the definition. Thus, loss is defined in Application Note 3(A) as "the greater of actual

² Mr. Bell does not dispute any of the facts in the Final Presentence Report or the Guidelines Calculation in that Report. Accordingly, Mr. Bell does not believe that any evidentiary hearing is required.

loss or intended loss,” with “actual loss” including both “pecuniary harm that the defendant knew...was a potential result of the offense” and “pecuniary harm that the defendant[,]...under the circumstances, reasonably should have known was a potential result of the offense.” As a result, the loss enhancement does not distinguish between defendants who defrauded their victims with a deliberate intent to steal their money and defendants who made fraudulent misrepresentations to investors with a misguided (but still wrongful) belief that little or no loss would occur.

In this case, Mr. Bell’s crime was deceiving his investors about the quality of the PCI notes and, in particular, constructing a ruse to make it appear that those notes were being repaid on a timely basis. Mr. Bell wrongfully did this “to keep the investors [in Lancelot] happy,” (PSR at ¶ 32), *i.e.*, to maintain confidence in the Lancelot funds. That fraud, although reckless, was not designed to steal investors’ money. Nevertheless, because Petters was running a Ponzi scheme, Mr. Bell’s investors did lose their money and, under Section 2B1.1, Mr. Bell’s loss enhancement is the same as it would have been had such theft been his goal. Had Petters been running a legitimate but financially troubled business, Mr. Bell’s crime would have been the same. Had PCI repaid its notes—in part or late but in full—or had the electronic equipment PCI purported to have as security for the notes truly existed, Mr. Bell’s investors would have had less or, perhaps even no, loss.

Thus, the total amount of the loss enhancement—and the dramatic increase in Mr. Bell’s Guidelines range—is a product in significant part of the venality of Petters’ separate,

independent wrongdoing, not Mr. Bell's. This is not to say that Mr. Bell does not bear responsibility for his victim's losses. He defrauded them, and at least some of their harm was reasonably foreseeable to him, as he should have known that Petters' prolonged delinquencies and willingness to engage in the fraudulent roundtrip scheme were serious warning signs about PCI. However, an enhancement that does not distinguish between the wide range of circumstances that can result in "loss" has limits as an appropriate measure of culpability.³ In this case, the enormous increase in Mr. Bell's offense level that results largely from *Petters'* conduct produces a Guidelines range that significantly exceeds what "the nature and circumstances of the offense," 18 U.S.C. § 3553(a)(1), warrant.⁴

³ Indeed, in the analogous context of a private action for securities fraud, the Supreme Court has held that the mere foreseeability of a loss is insufficient to hold an actor responsible for that loss. In *Dura Pharmaceuticals, Inc. v. Broudo*, 544 U.S. 336, 345-46 (2005), the Court held that, in order to successfully plead (and, ultimately, prove) a securities fraud claim, a claimant must describe the proximate connection between the loss and the misrepresentation. In other words, "loss," for purpose of a civil securities fraud claim, requires that a claimant demonstrate "that it was the very facts about which the defendant lied which caused its injuries." *Makor Issues & Rights, Ltd. v. Tellabs, Inc.*, No. 02 C 4356, 2010 WL 3275284, *45 (N.D. Ill., Aug. 13, 2010). The Guidelines, however, do not distinguish between losses that were merely foreseeable to criminal defendants and those that were in fact caused by them.

⁴ Judge Bright has made a similar point in criticizing the calculation of "gain" in insider trading cases where 3 individuals who, separately, with the same insider's knowledge, purchase stock on the same day but each sell their stock on different dates, with different resulting gains and, accordingly, different enhancements under §2B1.1. *United States v. Mooney*, 425 F. 3d 1093, 1106-07 (8th Cir. 2005) (Bright, J., dissenting). The result, as Judge Bright notes, is "unequal justice for equal crimes." *Id.* at 1107. Although the Eight Circuit disagreed with Judge Bright's analysis as a matter of Guidelines interpretation, the force of his argument remains in the context of deciding what weight to assign to a Guidelines range in assessing all the factors under Section 3553(a).

B. Acceptance of Responsibility

Mr. Bell has promptly and fully admitted his guilt and apologized for it. Shortly after he was arrested on a criminal complaint, Mr. Bell waived indictment and pleaded guilty, thereby sparing the government the burden not just of a trial but of a grand jury presentation, as well. (PSR at ¶ 2.) At his plea hearing before Judge Magnuson, Mr. Bell not only admitted his guilt but, in responding to questions from AUSA Docherty, candidly acknowledged and took responsibility for the full details of his crime.

Mr. Bell has also repeatedly apologized for his conduct. For example, in his presentence interview, Mr. Bell told the Probation Office that “[h]e is very, very sorry” for his actions and apologizes to the court. (PSR at ¶ 32.) Similarly, he begins his letter to this Court by apologizing for his conduct:

First, I would like to apologize for the wrongs I have done. Sir, I am so very sorry. I was not fully honest with my investors and it was very wrong. For that I am very sorry. I am so ashamed. It is a constant pain to me and will be for the rest of my days.

(Bell Ltr. at 1.)

Rabbi Norman Cohen, of Congregation Bet Shalom in Minnetonka, attests to the genuineness of Mr. Bell’s contrition. As Rabbi Cohen explains in his letter to this Court:

I have had the opportunity to visit Greg Bell on several occasions while he has been at the Anoka County Jail. Our visits have been very meaningful and we have talked about many subjects. Greg has expressed his remorse for the hurt

that he has caused to others, for the things that he did that resulted in his arrest and incarceration. As you can imagine, he also has tremendous regret that it has taken him away from his family and the things that he is missing with his family at home.

We have also talked about not wasting this time he is in jail, but doing what he can to make the best of it. Greg has been working to help others in the jail by offering advice and help whenever he can. He is also cooperating with the investigators in his case as part of his recognition of his wrongdoing and his process of repentance. He knows that he will have to serve time but hopes that he can make it through so that he will eventually be able to return to his family and move on in a new direction in his life.

In the time I have spent with Greg he has shown true remorse and a desire to make amends for the wrongs he has done. I believe he truly wants to make changes in his life that will keep him from repeating past mistakes.

(Letter of Rabbi Norman Cohen, dated June 9, 2010.)⁵

Rabbi Steven S. Mason, Mr. Bell's longtime rabbi from his home in the Chicago area, describes why, based on his years of experience with Mr. Bell, he believes that Mr. Bell is learning from his mistake and directing himself on a new and productive path for the future:

At this challenging time, I believe that his essential goodness as a husband, father, son and Jew will influence his future choices as he charts his future on life's paths. Judaism places

⁵ Notably, Mr. Bell has already been incarcerated for more than a year since his arrest and has been housed virtually all of that time in the relatively harsh conditions of the Anoka County Jail. *See United States v. Fiorito*, No. 07-CR-0212(1) (PJS/JSM), 2010 WL 1507645 at *39 (D. Minn. Apr. 14, 2010) (Shlitz, J.) (harsh conditions at Anoka County Jail are a factor to be considered in imposing sentence). This incarceration has already given him substantial opportunity to reflect on his crime, his debt to society and the need to direct his considerable talents into productive and positive channels in the future.

great stock in the power of repentance—personal soul searching and fundamental change. Greg is the kind of sensitive man who would take that seriously. I have sent him a prayer book and arranged visits with a Minneapolis area rabbi in order to help him make his spiritual footing even more solid. I believe that he is taking very seriously this process of self examination and change and that it will yield results that will benefit him, his family and, ultimately, his community.

(Letter of Rabbi Steven S. Mason, dated February 9, 2010.)

C. Cooperation

This Court has witnessed some of Mr. Bell's cooperation firsthand, as Mr. Bell testified truthfully and forcefully as a government witness in *United States v. Petters*. That testimony represented only a portion of Mr. Bell's cooperation with the U.S. Attorney's Office, as Mr. Bell participated in multiple interviews with the FBI and the prosecutors, proactively providing them with information and candidly and completely answering their questions. Because we understand that the Government will describe Mr. Bell's assistance to the Department of Justice in full in its own submission, for now we will simply note that Mr. Bell provided this cooperation voluntarily, without any requirement in his plea agreement that he do anything to assist in the *Petters* investigation or prosecution.

Beyond his cooperation with the Justice Department, Mr. Bell has spent countless hours assisting other efforts to remedy the losses not just of his own investors but of Petters', as well. We anticipate that some or all of the entities to which Mr. Bell has provided assistance will submit their own letters to the Court describing the value of Mr. Bell's cooperation in their own

words. However, a summary of Mr. Bell's additional cooperation includes assistance to the following:

1. **The Securities and Exchange Commission:** At the SEC's request, Mr. Bell has given a voluntary interview to the SEC and answered questions and provided information to it to assist the SEC in its investigation of other hedge fund investors in PCI notes. Among other things, Mr. Bell has used his financial expertise to identify suspect transactions by other funds that appear to parallel his own "roundtrip" scheme.

2. **Lancelot Bankruptcy Trustee:** Even before he was arrested, Mr. Bell worked cooperatively with Ron Peterson, the chapter 7 Trustee for the bankruptcy estate of the Lancelot funds, in order to assist Mr. Peterson in his efforts to recover for Lancelot investors. That cooperation has continued post-arrest and, most recently, in April 2010 when Mr. Peterson and his team of professionals interviewed Mr. Bell for four days on a wide range of topics, including: (i) professional liability (potential claims against lawyers and accountants); (ii) potential targets for clawback/preference/fraudulent transfer litigation (identified by Mr. Bell based on his review and interpretation of Lancelot's financial records), (iii) potential negligence claims against Swiss Financial Services (the Lancelot funds' administrative fiduciary, and a defendant in litigation filed by Mr. Peterson, as the Lancelot Trustee); and (iv) Mr. Bell's and Lancelot's relationships with Lancelot's banks (including information related to Royal Bank of Scotland's claims against the Lancelot estate and the Trustee's potential defenses and

counterclaims). In these interviews, Mr. Bell helped identify additional potential claims for the Trustee and generally assisted the Trustee in preserving value in the Lancelot estate for investors.

3. **PCI Bankruptcy Trustee:** Mr. Bell has also offered assistance to Doug Kelley, the court-appointed Receiver of the assets of Petters and PCI (among other Petters-related entities). In particular, on May 10, 2010, a team of lawyers and accountants working for Mr. Kelley interviewed Mr. Bell extensively regarding: (i) the history of both the Lancelot funds and the Colossus funds (hedge funds operated by Mr. Bell that invested primarily in high-return loans and also invested in PCI notes); (ii) the work of various professional services firms; (iii) the identity of investors who may be subject to clawback or fraudulent transfer claims; and (iv) the Polaroid transaction, including funding for that transaction.

4. **Palm Beach Finance Bankruptcy Trustee:** Barry E. Mukamal is the bankruptcy trustee for Palm Beach Finance Partners, L.P. and Palm Beach Finance II, L.P. (collectively "Palm Beach"), two related hedge funds that lost huge amounts in the Petters Ponzi scheme and, as a result, are now in bankruptcy proceedings in the Southern District of Florida. In total, the Palm Beach entities have filed claims for more than \$1 billion in the *Petters* bankruptcy cases. Through his attorney, Michael Budwick, Mr. Mukamal requested the opportunity to interview Mr. Bell in order to gain information for use in pursuing claims on behalf of Palm Beach's investors. Mr. Bell willingly complied and spent a number of hours with Mr. Budwick and his colleague candidly answering their questions and assisting their efforts. As Mr. Budwick himself stated in his July 23, 2010 letter to the Court:

I found Mr. Bell to be very cooperative and interested in making every effort to assist us in our function. He answered all questions that we posed in what appeared to be an open and forthright manner. He made suggestions regarding the unique manner in which hedge funds invest and obtain leverage and volunteered insights as to the relationship between hedge fund investors and institutional leverage providers that may potentially aid us tremendously in our analysis of avoidance claims under Sections 544 and 548 of the Bankruptcy Code.

During the course of my career I have represented a number of trustees, receivers and creditors in significant financial fraud matters and have interviewed many witnesses. It was my sense that Mr. Bell was sincere in his desire to be cooperative. He has pledged to continue to cooperate and make himself available in the future.

As Your Honor carefully weighs the sentence to impose in order to accomplish the necessary goals of the criminal justice system, I respectfully urge the Court to consider what I perceive to be a sincere and genuine effort to cooperate such that Mr. Bell may have a realistic opportunity to rejoin his family and community.

(Letter of Michael S. Budwick dated July 23, 2010.)

D. Personal Background

Mr. Bell has no prior record at all. (PSR at ¶¶ 46-51.) Indeed, up until his conduct in this case, he has led a life of hard work, study, and dedication to family. Born in the former Soviet Union, Mr. Bell and his parents were subject to religious persecution, like all Jews in the country at that time. (PSR at ¶¶ 55-56.) Mr. Bell eventually came to the United States with his parents in 1981 at age 15 and settled in Chicago. (PSR at ¶ 54.) At the time, Mr. Bell spoke little English. (Bell Ltr. at 1-2.) Nonetheless, he immediately began what has been a lifelong pattern of hard work and not only learned the language, but was able to enter college at

age 17 and to graduate from Illinois Institute of Technology with a Bachelor of Science in computer science before turning 20. (PSR at ¶65; Bell Ltr. at 1-2.) Mr. Bell worked his way through school, delivering pizza to help support himself and his family. (Letter of Inna Goldman (“Goldman Ltr.”) at 1.)

Following graduation from college, Mr. Bell worked for 3 years as a systems analyst for Commonwealth Edison in Chicago before leaving to attend business school at the University of Chicago, where he graduated in the top 5% of his class with an MBA in 1990 at age 24. (PSR at ¶¶ 66, 78; Bell Ltr. at 2.) After graduating from business school, Mr. Bell took a position as an associate at Booz, Allen in Chicago, which was the first of a series of jobs in the consulting and financial services industry. Through a combination of hard work and the application of his considerable mathematical and analytical talents, Mr. Bell worked his way up to a position where in 2002, he was able to start his own investment management business at Lancelot. (PSR at ¶ 72.)

For approximately the last 25 years, Mr. Bell’s partner in life has been his wife, Inna Goldman. (Goldman Ltr. at 1.) Like Mr. Bell, Inna is a Russian immigrant; the two met while students at Illinois Institute of Technology and were married in 1987. (*Id.*; PSR at ¶ 55.) Together, they have two children: a son (David) who is entering his senior year in high school and a daughter (Rebecca) who will be a sophomore. (PSR at ¶ 55.) As Inna explains, Mr. Bell is a devoted father to both children:

Greg has a thriving relationship with his daughter and son. He went to all soccer matches for both children, even if he stayed in the car on the cold rainy days. He is a math wizard who can explain problems to Rebecca; nobody else can. He can calmly help with [the] children's homework. He can admit when he cannot understand physics and get someone else to help our son. He was thoughtful to [our] teenagers['] needs and gave them space while locking alcohol in the closet.

...

Since neither Greg nor I have siblings, all the responsibility of raising the kids and looking after aging parents falls to me. My mother is in hospice care, my father recently had a heart attack, and my father in law can barely take care of himself. Greg's absence [is] felt daily in our household. The children and I need his support. I am the one financially and emotionally responsible for two teenagers. I need my husband's help.

(Goldman Ltr. at 1-2.)

Mr. Bell's imprisonment is taking a tremendous toll on his children, who nevertheless continue to love and support him and who hope desperately that this Court will allow him to rejoin their lives. As Rebecca Bell states in her letter to the Court:

Greg is a truly amazing person and I am the luckiest daughter in the world to have such a loving father. My dad is my role model, teacher, supporter, and best friend. We have always been close since my first steps as a baby. I loved walking up and down stairs, and he would be there, holding my hand as I ventured up and down repetitively. Being a soccer player needs not only commitment from me, but my parents too. My dad attended every one of my soccer games since I was 5 and was willing to drive me to practices. Although he worked a lot, he always found time to go out of his way and spend time with me.

Of all my family, my dad and I were the closest. We always got along and enjoyed each other's company. We joked around and cherished life's details, and he was always there to cheer me up. My dad always did small things for my family that he knew would make us happy. Buying fresh bagels on Saturday mornings, or getting my mom a full tank of gas on Valentine's Day. I loved the ski trips we took over spring break because we had so much time to ourselves. We loved to travel and be active and the trips brought us closer.

By far the worst day of my entire life was July 10, 2009, the day he was put into custody. Having your best friend and the person you love the most in life be taken away from you is indescribable. Words do not do justice for the difficulties and sadness I've dealt with this year. I miss having my dad help me with my math homework, or motivating me to be a better person, to eat healthier and try my absolute best in school. I miss seeing him come home from work and talking about our days together. Every girl needs her father, and it's been nearly impossible not to have him. I haven't seen my dad in over a year. I sit here writing this letter, trying to keep my tears in. In one day my entire life was flipped upside down, and it's been so hard to stay positive.

We all take advantage of seeing our families every day. No matter how many times I say I miss my dad or how many wishes I make on shooting stars it doesn't change the situation. I can't make you realize what it's like to lose your dad because it's like ripping out a piece of your heart. I hope you consider my words when making your decision.

(Letter of Rebecca Bell.)

Mr. Bell's son, David, echoes these sentiments:

My dad has been there for me when I [was] healthy or sick. When I was eight years old, my first week of camp I broke my wrist. Dad took me to the hospital, then the doctor, then another doctor looking for waterproof wrap. It was [a] brilliant

idea, since I got to do everything that summer, including swimming, [and] climbing.

...

This year has been so difficult; emotionally draining. I am very worried about my mother and my sister. Who is going to help them when I move away? My dad was always there for me, but my sister is so much younger. Who will help with homework and check out her friends? Where are we going to live?

(Letter of David Bell.)

Others attest to the strength of Mr. Bell's family bonds, as well. For example, Inna's cousins, Luiza and Edward Vaynberg, wrote to this Court to describe Mr. Bell in these words:

The most important [thing] about Gregory is that he is a very devoted father and husband. He is doting on his children, always involved into their school life, friendships, and extracurricular activities. We would never forget how much warmth he is giving to them, and how it is important for them to share their news with dad. Rebecca said that it is always great to have her daddy's back, knowing how much dad emphasizes the education, and how much dad encouraged her and her brother to be the better people.

We also witnessed how good Gregory is as a husband. Marr[y]ing our cousin Inna when they were both very young, Gregory always cherished the strength of their marriage, was a very protective and loving husband. Gregory was also a very good son to his late mother. His mother was suffering for years, and Gregory would give everything he could to ease up her sufferings till her death. It would not be too much [t]o say, but the way Gregory car[re]d for his late mother he definitely prolonged her life.

We know how much the family loves Gregory and he really deserves this love as a husband and father. It is hard to imagine the impact of taking Gregory away from the family for the very long time; it is hard to imagine what toll it would take on his kids['] life.

(Letter of Luiza and Eduard Vaynberg dated January 18, 2010.)

Inna's other cousin, Yakira Leevan, describes Mr. Bell similarly:

I have known Gregory Bell for 16 years. He is married to my cousin Ina and like us Gregory Bell came from a family where he was the only child. Gregory felt responsibility for his family, his parents and his friends. He tended to family, and he tended to friends. He made time for the people he cared about in his life. There seemed to be more than 24 hours in one of Gregory's days. I do believe the rules of nature were suspended when it came to him. He filled every moment. He was always full of energy, always positive and always smiling. And when we made plans to get together he would not think twice to drive 1.5 to 3 hour, depending on the Chicago traffic, to meet us in Milwaukee for dinner, and then drive back to make sure he is home to pick up his kids from their friends['] house. And he always maintained his vital role. Gregory was also the man with the big shoulders. He was there for his father when his mother died and continued being there for him until now. He was the person being strong for both of them. And he was there for me when my father died.

...

Gregory was and is A Family Man. The family was the center of his life. I think it defined in so many ways that he is. He is a family man. He loves his family. Gregory spent little time worrying about the "gossip" or talking about others. He was taught early, by his parents, not to pay attention. Gregory was a man of few words but a great listener. When with family he never discussed business. He enjoyed his wife's art and displayed it proudly in his office and through the house.

(Letter of Yakira Leevan.)

Mr. Bell's relationship with his parents has been equally close, and he has been a source of strength in time of hardship. Most notably, Mr. Bell's mother, Bella, was diagnosed with leukemia in 1998 while Mr. Bell was living and working in Richmond, Virginia. (Bell Ltr. at 2-3.) Upon receiving the news of her diagnosis, Mr. Bell returned to the Chicago area with his family to be with his mother. (*Id.*) Mr. Bell was at Bella's side through seven years of chemotherapy, radiation treatment and a bone marrow transplant. (*Id.*) Mr. Bell also assisted his parents with the financial and logistical burdens brought on by Bella's disease. Bella passed away in 2005 (PSR at ¶52), and, since then, Mr. Bell has helped his father, Lev, cope with the loss.

Mr. Bell's distance from his aging father the past year has been nearly unbearable for both of them. Mr. Bell's father confirms this in his letter to the Court:

Greg Bell is my only child...It was a great shock to see my son taken away last July. He is such good, smart, dedicated son. With my wife gone I have no one to share worries with. I am so stricken with grief, I can barely walk. I have to drive sixteen hours round trip to see my son for fifteen minutes. I make the trip every six weeks. His imprisonment is slowly killing me.

Twelve years ago my wife became very sick and the doctors told us it was leukemia. I asked Greg to move back to Chicago from Richmond. My grandson just got into very prestigious school, but the family moved within few weeks. Greg was in the hospital helping with life decisions regarding his mother. He was determined to make her feel better and flew with her to Boston for second opinion. He set with her through seven years of treatments: chemotherapies, radiation and bone

marrow transplant. Greg used to help his mother and I with multiple mailings and decisions.

Greg made bad choice, but I am old and by myself. Please move him closer and help me see him free.

(Letter of Lev Belinkov.)

Mr. Bell's father-in-law, Leonid Goldman, has also witnessed Mr. Bell's compassion, not just when Mr. Bell's mother became ill but when Mr. Goldman himself was hospitalized:

Greg Bell is my son in law and I love him a lot.

I think any father in law would [be] proud to have a son in law like him. He is very intelligent, sensitive and caring person.

...

He always has time for everyone. When his mother was diagnosed with Leukemia [h]e moved his family from Richmond, Va. to Chicago, Il. [t]o be close to her and taken care and comfort her.

When I had a heart attack and was in the hospital for awhile[,] He was [v]isiting me almost every day bringing me some goodies, telling me jokes to cheer me up.

He loves his family and spent a lot of time with his children Rebecca and David. He is an exceptional father who has a lot of patience to teach them [e]verything he knew math, science, computers.

He really is an exceptional young man and I love him unconditionally.

(Letter of Leonid Goldman.)

Over the years, Mr. Bell's longtime friends have seen in him the same kindness, humility, patience and integrity as have his family members. For example, Gisela Schmidt, who has known Mr. Bell for more than 25 years, offers her own perspective on Mr. Bell's special relationship with his family and his kindness to her:

My friends, Inna and Greg: theirs was a love story that is rarely seen these days. They met before 20, married while in school, had two lovely children and maintained a solid and lasting relationship while the rest of us have endured many bad relationships, loneliness and failed marriages. I have been very close to Inna and Greg this entire time, even while we have lived in different cities at times.

Thru the years I have known him as highly intelligent, ambitious, devoted to family, good husband, good father, humble, thoughtful, practical, unpretentious, a friend to many.

...

With his kids I have seen Greg selective with their possessions but generous with summer camps and special hobbies, activities and their congregation. He took Rebecca on father-daughter ski trips that meant the world to her and I am sure she will always remember. Rebecca and David are confident, curious, sweet kids with interests that will help to broaden their minds and help those less fortunate. Since they were very young both kids were integrated into the Jewish faith even though it had been difficult for Greg and Inna to practice in the Soviet Union of their childhoods. I attended both their children's bat/bar mitzvahs and witnessed all the special works and learning that it took for them to make that big step.

...

Greg was always more down to earth, practical and thoughtful. It seemed that he never forgot how hard it is when you have very little. I was a poor intern Architect for many years and he would often pay at restaurants and bars because he knew I had

little money and no one to depend on. For his kindness to me I will be eternally grateful.

(Letter of Gisela Schmidt, AIA.)

Dorothy Izewski, another friend of Mr. Bell's since their days together in college, also notes Mr. Bell's dedication to his family and his importance to them:

I have known Greg Bell since the late 1980's when we met while attending Illinois Institute of Technology. He was dating my friend and fellow architecture student Inna Goldman at the time. They married a few years later and had 2 children. Greg has always been a man who was dedicated to whatever course he was on and followed through on his commitments.

...

Greg's strong dedication and commitment is evident in his family life. He has been married to Inna for over 20 years and has been an active father to their 2 children who are currently in high school. Greg and his wife Inna have raised their children in the Jewish tradition, making sure they know their roots and heritage. They have attended Temple and the children have had their Bar Mitzvah and Bat Mitzvah. I attended these ceremonies and witnessed the results of dedicated study and hard work that Greg has instilled in his children. I also witnessed the strong bond between Greg and his family and how dependant they are on him. They need him, especially the children who are years away from adulthood and still require a father's guidance and support. Greg has been the rock and foundation of the Bell family and I feel they will struggle greatly without him.

(Letter of Dorothy I. Izewski dated May 17, 2010.)

Eric Schreiber, a friend since he and Mr. Bell attended business school together, reports the same thing:

No matter how successful Greg became his main focus was always his family. He lived a relatively austere lifestyle, never forgetting his modest upbringing. For him, the time spent with his family was of more value than any material thing. As a friend, I sometimes had occasion to call him for information or counsel. He always made time for me.

(Letter of Eric Ian Schreiber dated February 9, 2010.)

Mr. Bell's friend, Deane Dubansky, who has known him for approximately 14 years, provides the Court with a concrete example of Mr. Bell's integrity, demonstrating that his crime in this case was truly an aberration and ought to be judged accordingly. As Ms. Dubansky recounts, Mr. Bell and Ms. Dubansky's husband were partners in an unsuccessful business in which she also invested:

At the final dissolution of the business, I felt that I had deposited into the business account \$10,000 more than Greg did. I was not computer proficient at that time and only had handwritten ledgers. Greg made many attempts to show me that he put in the same money over that year that I did. But as many times as he tried, I just could not reconcile my books to show that. At the final dissolution of the business, I decided to add the \$10,000 in question to my losses and move forward. I never felt comfortable with that, but had no way of proving it to Greg. In the times that we talked after that, I never mentioned the disputed amount to him again. One day, about 4 months later, I went to the mailbox and there was a letter from Greg. His note said something to the effect that although he still could not reconcile to my figures, he did not want me to feel uncomfortable with the final figures. He sent me a personal check for \$10,000. I remember thinking to myself, who would do that? He did not have to send me that money. I have never forgotten his generosity and his integrity to do the right thing.

(Letter of Deane R. Dubansky dated January 15, 2010.)

Ms. Dubansky, like so many others, also observed Mr. Bell's relationship with his family:

Several years ago, Greg and Inna invited us to attend their son's Bar Mitzvah. My husband and I accepted and traveled to Chicago to share the weekend. I sat in the first row of the synagogue and could see both David and Greg's faces during the service. Greg never looked away from David. And when David began his religious portion, I watched Greg's eyes fill with tears. I remember thinking to myself that he was so proud of his son. David did a wonderful job that day and it was evident to me that much parental nurturing, guidance, and love went into ensuring David's religious training and academic successes. We visited their home in Chicago for the first time that weekend. I was moved by the warmth and the love that I could feel there. And I was moved by the way that Greg was so close to his family—on his side and Inna's side. We had not seen them for almost ten years and they welcomed us like family.

(Id. at 3.)

The clear picture of Mr. Bell that emerges from these many letters, and from the Presentence Report, is of a man whose entire life has been devoted to overcoming hardship; loving, supporting and nurturing his family; and always remembering his humble origins and the persecution that he and his family had to escape. Mr. Bell's crime in this case was a deviation from that path, but one that his history and his family ties should give the Court confidence would never recur. Those facts, together with the demonstrated, overwhelming importance of his presence to his family, constitute powerful additional reasons why the Court ought to impose a sentence significantly below the advisory Guidelines range.

III. CONCLUSION

Mr. Bell apologizes for his crime and recognizes that it deserves punishment. However, in determining an appropriate punishment, this Court must view that crime in context—both in the context of the crimes of others and in the context of Mr. Bell’s personal circumstances. With respect to the former, Mr. Bell’s crime, while serious, is markedly different in scope and venality from those of the Petters Ponzi scheme participants and a just sentence should recognize that distinction. With respect to the latter, his acceptance of responsibility and cooperation; the aberrational nature of his conduct in a life of hard work, integrity, and compassion; and his importance to his family all argue strongly for leniency. For these reasons, we respectfully submit that a sentence of less than 10 years’ imprisonment would be a fair and just sentence in this case and “sufficient but not greater than necessary” to serve the purposes of Title 18, United States Code, Section 3553(a).

Dated: August 31, 2010

Respectfully Submitted,

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA)	
)	
v.)	Case No. 09-CR-00269-001
)	(RHK)
GREGORY M. BELL)	
_____)	

CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2010, I caused **Defendant Gregory M. Bell's Position Regarding Sentencing** to be electronically filed with the Clerk of the Court through ECF, and that ECF will send an e-notice of the electronic filing to:

John Docherty
Assistant United States Attorney
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Assistant United States Attorney
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I further certify that I caused a copy of the foregoing document and the notice of electronic filing to be mailed by first class mail, postage paid, to the following non-ECF participants:

Peter I. Madsen
United States Probation Officer
316 North Robert Street, Suite 600
St. Paul, Minnesota 55101

Dated: August 31, 2010

/s/ Michael R. Wanser
Michael R. Wanser