

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 08-304 (RHK)

UNITED STATES OF AMERICA,)	
)	GOVERNMENT'S POSITION
Plaintiff,)	REGARDING SENTENCING AND
)	MOTION FOR DOWNWARD DEPARTURE
v.)	PURSUANT TO U.S.S.G. § 5K1.1
)	
DEANNA LYNN COLEMAN,)	
)	
Defendant.)	

The United States of America, by and through its attorneys, B. Todd Jones, United States Attorney for the District of Minnesota, and Joseph T. Dixon III, John R. Marti, and Timothy C. Rank, Assistant United States Attorneys, hereby submits this Position Regarding Sentencing and Motion for Downward Departure pursuant to U.S.S.G. § 5K1.1.

Deanna Coleman was a critical and trusted assistant to Tom Petters for approximately fifteen years. Throughout her employment, Coleman acted as Petters' trusted assistant, carrying out and executing his instructions and directions, thereby furthering his massive fraud. She knew what she was doing was wrong. She knew she could go to jail. Yet, until September 8, 2008, she continued, all the while coached, cajoled, encouraged, enticed, rewarded, and manipulated by Tom Petters.

Deanna Coleman was also critical and instrumental to bringing the massive criminal fraud to an end and to ensuring that Tom Petters, herself, and six other individuals, were brought to

justice and held accountable for their respective roles in the fraud. Without Coleman's personal decision to come forward and report the crime to law enforcement - an act that put her at risk both financially and with regard to her liberty - the fraud could well have continued for some time. Moreover, even once the scheme eventually collapsed, justice would not have been as quick, efficient or far-reaching. Deanna Coleman's assistance to law enforcement simply cannot be overstated. Her whistle-blowing cooperation is quite possibly the most significant cooperation ever provided to law enforcement in a fraud case.

The government asks this Court to impose a fair and just sentence that reflects the defendant's role in the offense balanced against the remarkable and unique quality of her assistance and cooperation. As the Court is aware, the government has rewarded the defendant in two separate respects for her cooperation. First, the defendant was allowed to plead guilty to a charge with a statutory maximum sentence of 60 months. Second, the government hereby makes a motion for a downward departure from the applicable 60-month guideline based on her remarkable and unique substantial assistance. Needless to say, these rewards are remarkable. Coleman's conduct merits that reward.

I. COLEMAN'S PARTICIPATION IN THE FRAUD

Tom Petters hired Deanna Coleman as a secretary and receptionist in 1993. At the time, Coleman, who had grown up on a

farm in Western Minnesota, was approximately 26-years old. Like many others recruited by Petters, Coleman fell under Petters' corrupt influence. (During the trial, the Court heard from young employees, such as David Margolis, and senior employees, like Jim Wemhoff, who were corrupted by Petters, trained and conditioned to lie for Petters.) Until September 8, 2008, Coleman proved herself to be the most trusted and reliable of Petters' corrupted aides.

Whatever Coleman believed about the propriety of her work environment when she first began work at Petters Company, Inc., at some point, many, many years ago, she realized she was helping Petters commit a criminal fraud. Indeed, in October 2004, she was wrote Petters a letter, noting her concerns that he could not resolve the fraud and acknowledging that she could go to jail for assisting him. Gov't Ex. 25. Soon thereafter, Petters began paying Coleman millions of dollars in bonuses, and Coleman continued.

The testimony and documentary evidence also revealed Coleman's role in the fraud: a trustworthy and reliable back office aide, readily and capably handling paperwork and wire transfers. When the fraud required higher-level planning, however, Petters handled it himself, specifically instructed Coleman how to respond to investors, or recruited others, such as Bob White or Larry Reynolds, to provide Coleman with the necessary guidance. Coleman's role should be understood for what it was: an important cog in the machinery of fraud.

Without question, the fraud was massive in duration, scope and impact. As a result, individuals and institutional investors were devastated, resulting in lost dreams, sleepless nights, and difficult, bleak futures. The harms inflicted by Tom Petters, with Coleman's full and knowing assistance, strain comprehension.

Coleman's conduct was deliberate and deceitful, enduring for well over a decade. That said, documentary evidence (namely contemporaneous emails) memorialize that Coleman repeatedly raised her concerns to Petters. In response, seeking to maintain her loyalty and assistance, Petters repeatedly took responsibility for her involvement and promised her he would figure a way out. For example, on April 1, 2006, Petters emailed Coleman:

The reason I sent you flowers this week is I spent a fair amount of time [c]rying about all I have done wrong in my life (crying inside and out) I ask daily to be able to get up and have God to help me change this company into one we are so proud of instead of full of shame! I am determined and so are you. I am so sorry that I ever got you in this shit. But I am not sorry for the fact that I call you one of my best friends in the whole world! For you have stood by in Pain, I owe you so many apologies, now I need to fix it. I am in [] it with you an[d] Bob and toget[h]er we will take it out. The decisions I make I do not ever try to keep from you.

See Gov't Ex. 14.

Indeed, even in September 2008, Petters was recorded assuring Coleman that she would not go to jail even if he did. Gov't Ex. 377.

Of course, Petters' leadership and influence over Coleman does not negate her personal responsibility for her participation in the crime. Her conduct, while nowhere on par with the criminal culpability of Petters, would normally warrant - if taken alone - severe punishment. Yet, just and fair punishment must consider and balance Coleman's extraordinary cooperation and assistance.

II. THE DEFENDANT MERITS A DOWNWARD DEPARTURE

Simply put, Coleman's assistance and cooperation cannot be overstated. Her assistance was beyond substantial: it was mission critical to ending the fraud and bringing many of its participants to justice, efficiently and effectively.

First, Coleman did not simply cooperate in an ongoing criminal investigation. She is one of a very rare breed of cooperating defendants who notify law enforcement of an ongoing fraud in which they are criminally culpable. While Coleman's attorney negotiated some protections for her, Coleman's personal decision to walk into the United States Attorney's Office on September 8, 2008 and report the fraud (and her participation) was made at significant risk to herself. She knew she could be charged; she knew she faced a significant term of imprisonment; she knew she faced financial ruin and personal destruction. She did it anyway.

Without Coleman's notification, the fraud might have continued. The Court heard testimony of Petters' success at avoiding collapse in the fall of 2000. Others might have been

victimized. Millions more could have been lost. Indeed, the Court heard recordings that Petters was attempting to purchase large publicly-owned corporations so that he could strip them of assets and bury his fraud, which could have devastated thousands of investors and employees.

Second, Coleman immediately worked with law enforcement to record conversations at Petters Company Inc., identifying culpable participants and gathering evidence against them. These recordings were instrumental in evidencing criminal culpability. This assistance was critical in making many early and efficient targeting decisions.

Third, Coleman provided the basis for the search warrants executed on September 24, 2008, during which law enforcement obtained documents - and most importantly emails - that further substantiated and proved the culpability of the fraud's participants. Moreover, in the following year, Coleman repeatedly and frequently provided law enforcement insight and explanation for documents and emails from a critical inside perspective.

Fourth, Coleman pleaded guilty and formally accepted responsibility for her conduct in open court on October 8, 2008, only thirty days after she came forward. Her cooperation was essential to obtaining the guilty pleas and cooperation of other participants. For all intents and purposes, the case against Tom

Petters was over and complete on October 8, 2008. Although Petters exercised his right to a trial, his decision was pure folly.

Fifth, Coleman testified at trial. Her testimony was clear and credible. The Court heard the testimony and can fully recognize the importance to have a witness give voice to documents from an inside perspective.

Sixth, Coleman stipulated to a court-appointed receiver over her assets and has cooperated in the liquidation of her assets for the benefit of victims. Coleman's information and assistance was also the basis upon which the government was able to secure the court-appointed receivership over other defendants and the Petters corporations, thereby securing additional assets for victims. Coleman has been interviewed by the receiver and voluntarily testified in furtherance of those efforts.

Seventh, Coleman has been interviewed by the Securities and Exchange Commission to assist the SEC in its efforts.

In sum, the value of Coleman's vast and critical cooperation is well beyond substantial. It is unique. Fairness and justice require the Court balance the full scope and weight of the cooperation against her criminal culpability. Moreover, public policy also requires Coleman be visibly rewarded for her efforts to encourage other potential whistle blowers to come forward (even at personal risk).

III. CONCLUSION

The government moves the Court for a downward departure pursuant to Section 5K1.1 and asks this Court to impose a fair and just sentence that reflects the defendant's role in the offense balanced by the remarkable and unique quality of her assistance and cooperation.

Dated: August 16, 2010

Respectfully submitted,

B. TODD JONES
United States Attorney

s/ Joseph Dixon

BY: JOSEPH T. DIXON, III
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case Number: 08cr304(RHK)

DEANNA LYNN COLEMAN,

Defendant(s).

I hereby certify that on August 16, 2010, I served, or caused to be served, the following documents:

Government's Position Regarding Sentencing and Motion for
Downward Departure Pursuant to U.S.S.G. § 5K1.1

I certify, further, that I electronically filed the above-listed documents with the Clerk of the Court by using ECF, which constitutes service on the following ECF participants, pursuant to the ECF Procedures for the District of Minnesota:

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B. TODD JONES
United States Attorney

s/Kim Anderson

BY: KIM ANDERSON
Legal Assistant