

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	
	:	
- v. -	:	S1 10 Cr. 388 (PKC)
	:	
KENNETH HELLER,	:	
	:	
Defendant.	:	
	:	
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SENTENCING MEMORANDUM

PREET BHARARA
United States Attorney for the
Southern District of New York
Attorney for the United States of America

DAVID B. MASSEY
Assistant United States Attorney,
Of Counsel.

Image Not
Available

U.S. Department of Justice

*United States Attorney
Southern District of New York*

The Silvio J. Mollo Building

*One Saint Andrew's Plaza
New York, New York 10007*

January 7, 2012

BY ECF

The Honorable P. Kevin Castel
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *United States v. Kenneth Heller*, S1 10 Cr. 388 (PKC)

Dear Judge Castel:

The Government respectfully submits this letter in advance of the sentencing of the defendant Kenneth Heller, and in response to Mr. Heller's sentencing memorandum dated January 6, 2012.

As an initial matter, the Government respectfully requests leave to file this sentencing memorandum one day after the Court's deadline of January 6, 2012. The Government received Mr. Heller's sentencing memorandum late in the day on January 6, and the Probation Department submitted its revised Presentence Investigation Report on January 5, 2012 ("PSR"). It has been helpful to the Government to have these submissions before drafting this memorandum.

The parties agree that the applicable Guidelines range for Mr. Heller is 30 to 37 months' imprisonment based on a total offense level of 19 and a criminal history category of I. However, based on the information provided by the defense, and specifically because of the defendant's mental health and serious physical health conditions, the Government agrees that a sentence below the Stipulated Guidelines Range is warranted in this unusual case.

In addition, the Government confirms that Mr. Heller provided assistance to the Government in connection with its investigation of others. In particular, Mr. Heller provided information to the Government concerning the repatriation of undeclared funds from Switzerland to the United States through a United States-based correspondent bank account of an entity described as Swiss Bank A in the recent indictment *United States v. Berlinka et al.*, 12 Cr. 02 (JSR). Mr. Heller advised the Government, through counsel, that, based on his (Mr. Heller's) requests, Swiss Bank A issued checks payable to Mr. Heller's wife. These checks were then sent

to Mr. Heller in the United States. This information was corroborated by documents in the Government's possession, and it corroborated similar information provided to the Government by others.

Respectfully submitted,

PREET BHARARA
United States Attorney
Southern District of New York

By: _____
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cc: Robert S. Fink, Esq.
Brian P. Ketchum, Esq.