

II. FACTS

The facts of this case are extensive and are outlined in the Government's Guilty Plea Memorandum. An outline of the facts is also contained in the Pre Sentence Investigation Report ("PSR") at ¶¶ 9-40. The government hereby incorporates by reference the facts as set forth in these submissions.

III. SENTENCING GUIDELINES

A. Calculation of Total Offense Level

The base offense level is 6. PSR, at ¶ 48; Plea Agreement Stipulation ("Stipulation"), at ¶ 13(b). An increase of 8 levels is warranted because the defendant's criminal activity involved a loss of between \$200,000 and \$350,000. PSR, at ¶ 49; Stipulation, at ¶ 13(c). Two points are added because defendant's conduct involved more than minimal planning. PSR, at ¶ 50; Stipulation, at ¶ 13(d). Two points are added because the defendant was an organizer and leader of the criminal activity of which defendant has been convicted. PSR, at ¶ 52; Stipulation, at ¶ 13(e). Two additional points should be added because the defendant obstructed the FAA's investigation by withholding, concealing and altering files. PSR, at ¶ 53; Stipulation, at ¶ 13(f). The government also believes that an additional upward adjustment of two points is warranted in this case under U.S.S.G. § 2F1.1(b)(6) because the offense of conviction in this case "involved (A) the conscious or reckless risk of serious bodily injury." Defendant is entitled to a three-point reduction for acceptance of responsibility. PSR, at ¶ 55; Stipulation, at ¶¶ 13(g)-(h). The defendant's total offense level is therefore **19**.

B. Imprisonment Range under the U.S.S.G.

Defendant has no prior criminal convictions that count as points in the criminal history calculation, and therefore is designated with a criminal history category of I under the sentencing guidelines. PSR, at ¶¶ 57-59. With a total offense level of 19 and criminal history category of I, the guidelines range for imprisonment in this case is 30-37 months.

C. Restitution, Fine and Supervised Release

Restitution is mandatory. However, the defendant's employer, Argenbright Holdings, Limited, also a defendant in this case, has agreed as part of its plea agreement with the government to pay restitution in the amount of \$350,000.¹ With respect to a fine, the defendant's fine range in this case under the sentencing guidelines is \$5,000 to \$50,000. PSR, at ¶ 94. However, the Probation Office has concluded that defendant is financially unable to pay a fine within this range. PSR, at ¶ 81. With respect to supervised release, the guideline range is at least two years but not more than three years. PSR, at ¶ 88.

D. Downward Departure Under §§ 5H1.6 and 5K2.0

On August 30, 2000, the undersigned counsel received from the Court a copy of the defendant's letter to the U.S. Probation Office requesting a downward departure due to defendant's allegedly extraordinary family circumstances. The government is reviewing defendant's request and will respond separately in writing. With the Court's permission, the government will provide its written response on or before September 6, 2000.

IV. GOVERNMENT'S SENTENCING RECOMMENDATION

¹ A chart prepared by the government setting forth the identity of each airline victim and the amount lost is attached as Exhibit A.

A. Victim Impact Statements

In total, defendant Saffer victimized 38 different air carriers. Several of the air carrier victims have submitted victim impact statements that the Court should consider in imposing sentence in this case. These statements provide a victim's perspective on the gravity of the criminal conduct engaged in by defendant Saffer and his co-defendants. Excerpts of these victim statements include the following:

1. Delta Air Lines

"...[O]ur ability to abide by the regulations of the Federal Aviation Administration has been compromised due to the deliberate attempt on Argenbright, Inc. to deceive and falsify background records of employees. Delta's success as a company is attributed to the safe and secure environment we have maintained for our customers. The media coverage as a result of this incident could lead to a loss of confidence in our ability to uphold the high standards we have established. Additionally, as a result of these falsifications of records an increase in FAA testing and scrutinization has taken place. This attention demands more manpower hours by Delta employees to satisfy the FAA requests thus taking the productive time of Delta employees away from providing the high level of customer service expected by our customers."

"A failure to properly verify the background employment checks of individuals responsible for the handling of our customers could result in individuals of questionable character and criminal backgrounds subjecting our customers and employees to life threatening circumstances. The volatile climate in the world today has resulted in the traveling public being more cognizant of the susceptibility of danger in the airline industry. The close scrutiny of the federal government attests to the fact that airlines today are more vulnerable than ever to acts of

terrorism and threats. Regulations to reduce these threats are constantly being implemented, refined and enforced to ensure a transparent safe environment exists for our customers. When this transparency is threatened it creates a high anxiety level in the customer that can lead to additional complications at the airport or on the aircraft during flight.”

“Delta Air Lines has been a leader in providing a safe and secure travel experience for over 70 years. Our success as a company is a result of partnering with companies and individuals with high integrity and honest behavior. When an incident occurs that destroys a partnership due to the collapse in these ethics a long range effect on customers, employees, and the companies can be felt. It is our hope this sentence sends a clear and lasting message to individuals and companies that the security and safety of our traveling public is crucial to the success of the transportation industry.” (Emphasis supplied.)

2. American Airlines

“Argenbright’s failure to follow some of these security procedures could have potentially compromised the safety and security of our passengers, employees, and planes and undermined the FAA’s and the Companies’ safety and security efforts. ... Employee screening procedures are put in place to ensure that the appropriate type of people are placed in safety and security sensitive jobs. Failing to follow the proper screening procedures can undermine the effectiveness of other safety and security procedures by allowing inappropriate or unqualified people to serve in safety and security sensitive jobs. A breakdown such as this in safety and security procedures could potentially compromise the safety and security of our passengers, employees, and planes.”

3. US Airways

“In the present case, the defendants violated the laws regarding pre-departure screening for their own benefit. From the record it appears clear that the defendants hired security screeners with criminal records that should have disqualified them. It is further clear that the defendants deliberately disregarded required training in order to reduce their costs. US Airways submits that the sentencing in this case will send a clear message regarding the serious consequences of violating laws regarding pre-departure screening.” (Emphasis supplied.)

4. Midwest Express Airlines, Inc.

“To the extent that the defendant failed to comply with FAA training and hiring requirements for pre-departure screeners, the safety of our customers was intentionally at greater risk. Improperly trained screeners may either negligently or willfully fail to detect an item that is not permitted to be on the aircraft. In addition, the public’s confidence in the safety of the airline industry is eroded by the defendant’s actions.”

5. Sun Country Airlines, Inc.

“The rules and regulation[s] that were violated are meant to prescreen individuals and to provide a minimum level of assurance that the individuals performing the screening functions have the capacity to function as a screener. By hiring persons who fail to meet the minimum requirements we are expecting them to perform duties that they are not qualified to perform according to the Federal Regulations. The possible safety and security related risks to the air carriers were exposed to are countless. The criminal records of some of the people hired indicates some of the possible risks, not to mention terrorism, hijacking or even using one position to gain access to an aircraft. ... Any time there is a deficiency or failure that has the potential to

affect public safety it causes great concern. The traveling public trusts air carriers with their safety and security. Any lapse in security is a direct reflection on the industry.”

6. Trans World Airlines, Inc.

“To the exten[t] that Argenbright screeners had not been fully FAA trained, and that the required hiring records were not completed for pre-departure screeners the security and safety of all TWA passengers who pass through that checkpoint was potentially compromised.”

B. Sentencing Recommendation

Defendant Saffer has demonstrated through his actions a high level of dishonesty and corruption that is difficult to comprehend. He occupied a top management position and was charged with the tremendous responsibility of ensuring the safety of the flying public by hiring pre-departure screeners who were competent, honest and properly trained. He knew through his years of experience in the aviation security business that pre-departure screeners are the last line of defense against terrorists and hijackers aiming to harm airline passengers and disrupt air travel. By putting more than 1,300 untrained pre-departure screeners (many of whom were themselves criminals) at the security checkpoints and failing to verify their backgrounds, defendant Saffer opened the door to disaster at Philadelphia International Airport and jeopardized public safety.

That there have been no disastrous consequences in the form of terrorism or actual loss of life at Philadelphia International Airport as a result of defendant Saffer’s criminal activities is indeed fortunate. Nonetheless, there are still serious consequences to defendant Saffer’s criminal actions. The prevention of dangerous weapons and explosives on airplanes requires not only competent pre-departure screeners and effective security measures, it also requires public confidence in the systems and safeguards in place. In order to deter would be terrorists, hijackers

and the like from attempting to harm air travelers or aircraft, there is a strong need for public confidence that the security safeguards in place are effective and will detect and prevent contraband from entering secure areas of the airport. By his actions, defendant Saffer has contributed to a diminution in public confidence that the security systems in place are indeed effective. To the extent this loss of confidence in the safety of air travel emboldens terrorists and hijackers, the public has been harmed. If this loss in confidence deters law abiding citizens from traveling on commercial air carriers, our society has also been harmed.

Virtually every aspect of defendant Saffer's work as Argenbright Security, Inc.'s district manager involved fraud or deceit on a continuous, daily basis. It took a great deal of effort on Saffer's part to commit the crimes of which he has been convicted. Although there is diversity in the types of crimes he committed, there is a common motivating factor in all of them: greed and self-interest. By failing to check criminal backgrounds of pre-departure screeners, failing to provide the necessary training, failing to follow the FAA regulations, and putting virtually anyone who walked in off the street at a security checkpoint, Saffer saved money from his Philadelphia budget. This translated into a better bottom line for his operation and a greater bonus at the end of the year. By fraudulently inflating the bills to airline clients, Saffer also improved his office's bottom line and padded his year end bonus. Saffer's apparent success in running the Philadelphia office even won him high praise from Argenbright's corporate leaders in Atlanta, including membership in the "President's Club," which included a trip to the Caribbean with Argenbright's top managers.

Saffer's obstruction of the FAA investigation provides perhaps the most insight into his state of mind and the lengths to which he would travel to protect his own self interest.

After years of deception and corruption, in the face of FAA inspectors demanding records and answers to difficult questions, Saffer took it upon himself to alter and conceal records in order to try to prevent discovery of his crimes. By these actions, Saffer demonstrated both consciousness of guilt and an affirmative effort to prevent the truth from being known.

The sheer gravity of defendant Saffer's crimes, when combined with the safety risks they created, demand that a significant punishment be imposed. In many ways, a sentence of only 30 to 37 months imprisonment hardly seems adequate to punish Saffer for his crimes and to deter others from committing similar crimes in the future. For all of the reasons

stated above, the government respectfully recommends that this Honorable Court impose a sentence of imprisonment at or near the high end of the sentencing guidelines range of 30 to 37 months.

Respectfully submitted,

MICHAEL R. STILES
United States Attorney

PETER F. SCHENCK
Assistant United States Attorney
Chief, Frauds Section

JOHN J. PEASE
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on this date a true and correct copy of the foregoing was served by fax (302) 652-2173 and by first-class U.S. mail, postage prepaid, to counsel for the defendant:

Eugene J. Maurer, Jr., Esquire
1201-A King Street
Wilmington, Delaware 19801

JOHN J. PEASE
Assistant United States Attorney

Date: _____