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# Why this Swiss bank whistleblower can't leave US

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The highest-paid whistleblower in American history wants to leave the country—but first, he has to get off probation.

The IRS paid Swiss bank whistleblower Bradley Birkenfeld a \$104 million reward in 2012 and praised his "exceptional cooperation" in helping expose widespread tax fraud by wealthy Americans.

It was a landmark case that broke the back of Swiss bank secrecy, and led directly to the Swiss bank UBS—Birkenfeld's former employer—paying a \$780 million fine to the U.S. government. Information Birkenfeld provided to the government also made it possible for the IRS to collect billions in back taxes and penalties from Americans who had hidden money in undeclared bank accounts in Switzerland.



Bradley C. Bower | Bloomberg | Getty Images

Bradley Birkenfeld, a former banker with UBS, left, and his attorney Stephen Kohn hold a news conference outside Schuylkill Federal Correctional Institution in Minersville, Pa, in 2010.

Although he provided the Department of Justice with an unprecedented

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insider's account of a Swiss bank in action, federal prosecutors charged Birkenfeld for helping a rich American client in California dodge taxes. That sent Birkenfeld to federal prison for more than two years until his release in 2012.

In the wake of his jail term, Birkenfeld is still slated to remain on probation—known formally as "supervised release"—until November 2015. Among other restrictions, that means he can't travel overseas.

On Tuesday, Birkenfeld filed a motion with the United States District Court for the Southern District of Florida asking for his three-year probation to be terminated early, or modified.

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"The reason is simple," wrote Birkenfeld's attorney Gerald Greenberg in the filing. "As the end of his sentence approaches, Mr. Birkenfeld, who now resides in New Hampshire, seeks to return to Europe to rebuild his life. He therefore needs the ability to travel and relocate as necessary in order establish a new home so that he can once again be a productive member of society."

The filing lays out Birkenfeld's argument that he has already been severely punished for his transgression and that he has spent his time productively since receiving his massive federal payout.

The filing gives some clues to the post-prison lifestyle of Birkenfeld, who hasn't spoken publicly since his \$104 million reward. It includes a letter from the Boston Police Department expressing gratitude for Birkenfeld's donation of six electric bicycles for patrol officers in the wake of the Boston Marathon bombings.

Birkenfeld's lawyer included a letter from the executive director of the Boston Bruins Foundation praising Birkenfeld for donating the luxury suite he rents at the hockey team's arena to the charitable foundation for disadvantaged children to use.

And the filing also includes a picture of Birkenfeld in a luxury suite with members of the Boston police force and Boston Marathon bombing survivor Jeff Bauman, who lost two legs in the attack but was able to help police identify the suspects.

But Birkenfeld's post-prison life hasn't been entirely incident free. The documents also include an explanation by Birkenfeld's lawyer of a 2013 arrest and conviction for driving while intoxicated in Portsmouth, New Hampshire. "Mr. Birkenfeld acknowledged having two alcoholic beverages at dinner with friends but never believed he was intoxicated," wrote Birkenfeld's attorney.

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Advocates for whistleblowers argue that the government gains nothing by

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restricting Birkenfeld's travel. "He needs to be taken off probation and thanked for his service," said Patrick Burns, co-director of the group Taxpayers Against Fraud Education Fund. "Here's my question: What's probation doing? Does anyone think he will be a recidivist?"

The Department of Justice had no comment on Tuesday. "The department is reviewing the filing and does not have any further comment at this time," wrote spokeswoman Dena Iverson in an email to CNBC.

Beyond his personal life, the filings give a clue to Birkenfeld's thoughts on what's happened to the U.S. government's efforts against Swiss bank secrecy in the years since he went to jail.

Birkenfeld's request for an end to his probation comes in the wake of the government's failure to win a conviction against the highest-ranking Swiss banker ever captured by the United States, Raoul Weil.

No longer with the bank, Weil, who was significantly higher in the UBS chain of command than Birkenfeld, was acquitted in November on a charge of conspiring to help more than 10,000 taxpayers hide as much as \$20 billion from the U.S. government. Weil's acquittal was seen as a blow to the government's efforts to root out Swiss bank secrecy—an effort that began when Birkenfeld began providing documents and information to the DOJ years earlier.

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Some of the documents filed by Birkenfeld and his attorney shed new light on the back story of the Weil case. The filing includes a previously undisclosed offer to the DOJ by Birkenfeld, an offer that was apparently rebuffed by the department.

In a January 2014 email from Birkenfeld's brother and attorney to senior DOJ officials, Douglas Birkenfeld wrote that Bradley Birkenfeld was the person who gave Weil's name to the department, and noted that a "significant portion of the indictment of Mr. Weil is based on information first provided by Brad." In the email, Birkenfeld offers his brother's testimony against Weil before a jury.

In the end, though, Bradley Birkenfeld never testified in the case.

Birkenfeld declined to comment for this article.



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