

Juan's Hardware (Juan Smith)

Juan comment.

R. Keith Brower
Colonel, USA (retired)



March 4, 2012

United States Sentencing Commission
One Columbus Circle, N.E. Suite 2-500
Washington, D.C. 20002-8002
Attention: Public Affairs

Re: Proposed Amendments to Section 2b.1.1

Dear Sirs/Madams:

I agree that the general statement that in security fraud cases the significant impact of loss amounts and the number of victims in the sentencing guidelines has resulted in extremely unfair and harsh sentences to criminal defendants without any regard to individual culpability or personal gain on the part of the defendants. The proposed changes are at the very least a starting point to ameliorate the guidelines in this regard.

Specifically, the Commission should consider those cases where the defendant had little or no gain relative to the loss and limit the impact of the loss table in these cases. In the past several years, extremely harsh sentences driven by the inability to distinguish between culpability with no gain and culpability where the defendants had exceptionally large gains based on the "one-size fits all" nature of the guidelines has created an undifferentiated playing field. Therefore, any change to the sentencing guidelines should be retroactive to correct this oversight.

Thank you for your consideration of this matter. I hope you will find the latitude to correct this undifferentiated guidance.

Sincerely yours,

A handwritten signature in black ink that reads "R. Keith Brower".

R. KEITH BROWER
Colonel, USA (retired)