

# MARKS & WEINBERG, P.C.

## United States v. Hegge

221 F.3d 1347 (9<sup>th</sup>. Cir. 2000)

The issue on appeal was related to the failure by the district judge to reduce the defendant's twenty-seven (27) month sentence for bank fraud. U.S.S.G. §2F1.1 Commentary 7(b) provides that "when the loss determined above significantly understates or overstates the seriousness of the defendant's conduct, an upward or downward departure may be warranted." The appeals court concluded that it lacked jurisdiction to review the district court's discretionary refusal to grant a downward departure and as such the issue was not reviewable.

The facts in the case were interesting and worth noting in that a portion of the defendant's bank fraud scheme involved equipment leasing. Hegge opened Midwest Equipment Company ("Hegge Midwest") to sell equipment to farmers in northwest Wisconsin. Hegge used the Northwest Savings Bank ("Northwest") as his primary lender by extending to the defendant a line of credit secured by inventory and accounts receivable. Thereafter, the defendant opened a second business Clear Lake Equipment Company ("Clear Lake"), through which Hegge rented machinery to local farmers. Clear Lake did not actually own any equipment, instead, it leased the equipment from Stearns County National Bank ("Stearns").



The defendant would find equipment at other dealers, Stearns would purchase the equipment and lease it to the defendant for rental to local farmers. The defendant, however, with the help of friends set up a system where he would sell Hegge Midwest equipment to a third-party for resale to Stearns. The third party would pay Hegge the purchase price received from Stearns (minus a percentage). Stearns would then lease the equipment to Clear Lake. These transactions were on paper only, throughout all the "transactions" the equipment remained on the Hegge Midwest lot. The defendant failed to remit the money received to Northwest, and he continued to hold out equipment sold to Stearns as inventory to Northwest on his collateral statements. The defendant's scheme was discovered when he suffered a nervous breakdown and, as indicated above, was eventually convicted of bank fraud.

Marks & Weinberg, PC is a law firm with significant experience in dealing with virtually every type of equipment and facility lease financing. The lawyers of the firm have participated in leasing financings for more than a billion dollars of equipment and are recognized throughout the industry. If you would like more cases or articles on leasing, or have any questions or comments about this Article or other leasing issues, please visit [leaselawyer.com](http://leaselawyer.com) or contact Barry Marks at 205.251.8303 or Ken Weinberg at 205.251.8307.

