

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 08-80736-Civ-Marra/Matthewman

JANE DOE #1 AND JANE DOE #2,

Petitioners,

v.

UNITED STATES OF AMERICA,

Respondent.

UNITED STATES' NOTICE OF FILING THIRD SUPPLEMENTAL PRIVILEGE LOG

Pursuant to the Court's June 18, 2013 Omnibus Order (DE 190), the Respondent, United States of America, by and through the undersigned Assistant United States Attorney, hereby gives notice of its filing of its Third Supplemental Privilege Log. The index has been marked with Bates Numbers P-014924 thru P-015267.

The documents referenced in the Third Supplemental Privilege Log will be delivered tomorrow to the Chambers of U.S. District Judge Kenneth A. Marra for *ex parte in camera* review, pursuant to the Court's Omnibus Order.

Respectfully submitted,

WIFREDO A. FERRER
UNITED STATES ATTORNEY

By: _____

Assistant United States Attorney
Florida Bar No. _____
500 South Australian Ave, Suite 400
West Palm Beach, FL 33401
Telephone: _____
Facsimile: _____

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 3, 2015, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. According to the Court's website, counsel for all parties are able to receive notice via the CM/ECF system.

s/A. Marie Villafaña
A. MARIE VILLAFANA
Assistant United States Attorney

SERVICE LIST

Jane Does 1 and 2 ■, United States,
Case No. 08-80736-CIV-MARRA/MATTHEWMAN
United States District Court, Southern District of Florida

Brad Edwards, Esq.,
Farmer Jaffe Weissing Edwards Fistos Lehrman
425 N Andrews Ave Ste 2
Fort Lauderdale, FL 33301-3268
brad@pathtojustice.com
954-524-2820
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Paul G. Cassell
S.J. Quinney College of Law at the
University of Utah
332 S. 1400 E.
Salt Lake City, Utah 84112
(801) 585-5202
Fax: (801) 585-6833
E-mail: casselp@law.utah.edu

Attorneys for Jane Doe # 1 and Jane Doe # 2

Fax 561 820-8777

From: Villafana, Ann Marie C. (USAFI S)

Sent: Tuesday, June 24, 2008 4:05 PM
To: 'Roy BLACK'; 'Jack Goldberger'
Cc: Atkinson, Karen (USAFLS)
Subject: Jeffrey Epstein Agreement

Dear Roy and Jack:

I am just writing to re-state that it is
that there is no need for further mod

Please keep us informed of the date

Thank you.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Produced
to
Counsel

ed, binding agreement and

EFTA00190320

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Wednesday, July 09, 2008 12:35 PM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Atkinson, Karen (USAFLS)
Cc: Kuyrkendall, E N. (MM) (FBI); Richards, Jason R. (MM) (FBI); Lee, Dexter (USAFLS)
Subject: FW: Jeffrey Epstein -- Response from Jack Goldberger
Attachments: Letter to A. Marie Villafana dated 070908.pdf

Attached please find Jack Goldberger's response to my letter.

A. Marie Villafana
Assistant U.S. Attorney
561 209-1047

-----Original Message-----

From: Nira Alanis [<mailto:nalanis@agwpa.com>]
Sent: Wednesday, July 09, 2008 12:28 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Jeffrey Epstein

This attachment has been sent to you on behalf of Jack A. Goldberger, Esquire.

Regards,

Nayanira Alanis,
Legal Assistant
Atterbury, Goldberger & Weiss, P.A.
250 Australian Avenue South
Suite 1400
West Palm Beach, FL 33401
T#561-659-8300
F#561-835-8691

July 9, 2008

° JOSEPH R. ATTERBURY

°† JACK A. GOLDBERGER

JASON S. WEISS

° Board Certified Criminal Trial Attorney

† Member of New Jersey & Florida Bars

A. Marie C. Villafana, Esq.
Assistant United States Attorney
United States Attorney's Office
500 South Australian Avenue
4th Floor, Suite 400
West Palm Beach, Florida 33401

SENT VIA E-MAIL & FACSIMILE
(561) 820-8777

Re: Jeffrey E. Epstein

Dear Ms. Villafana:

Thank you for your letter to me dated July 8, 2008 and the draft document dated, e-mailed and faxed to me at my office on June 30, 2008, styled "Notification of Identified Victims." I would like to address a few related issues.

First, please note that we have several requests concerning any such notification. Specifically, we request that:

(a) Any notification be sent to any individual by mail (or served upon their attorney, to the extent known), and we respectfully object to any service by hand, a method of service which carries the concomitant risk of conversations regarding the notification that potentially would place the federal authorities in a position of being advocates for civil litigation;

(b) Any notification be effectuated by a separate mailing to each individual without the inclusion of any language that appeared on the second page of your June 30, 2008 memorandum; *i.e.* rather than including in each notification a large section listing "identified individuals" with redactions other than the name of the recipient (which we contend would be a clear and impermissible signal to any individual that the notification is a broad notification to numerous other alleged victims). Rather, a simple one page notification directed only to the recipient, and limited to the information currently on the first page of your draft memorandum would suffice.

(c) You eliminate from any notification any language that is currently contained in the "acknowledgment" section of the June 30, 2008 memorandum; and

(d) You supplement the notification with the Government's previously made representation that it is not vouching for the veracity of any claim by any identified individual. See Letter from J. Sloman to E. [REDACTED] (10/25/07).

Second, please note also that we do not understand your request that Mr. Epstein and his attorneys execute the rider / acknowledgment contained within your June 30 hand-delivered draft. Specifically, we do not believe that the Non-Prosecution Agreement requires Mr. Epstein's execution of any such additional stipulation. Because we want to ensure that Mr. Epstein continues to strictly comply with the letter of the parties' agreement, we respectfully ask that you explain why you believe that the Non-Prosecution Agreement requires execution of your stipulation.

Our understanding of the Non-Prosecution Agreement is that it does not require Mr. Epstein to "acknowledge" anything not already contained within the four corners of the written agreement. The agreement certainly contains no written term obligating that he "waive any evidentiary challenge to the introduction of a copy" of any "Notification of Identified Victims" in "any judicial proceeding between any identified individual" and Mr. Epstein, as your memorandum currently requests. Further, please note that your June 30 stipulation, as drafted, is not limited to Section 2255 proceedings. Rather, your June 30 draft requires Mr. Epstein to waive evidentiary challenges in "*any* judicial proceeding" - - which clearly exceeds the bounds of the parties' written agreement.

Third, I would respectfully request that you provide me with the names of the "pro bono lawyers" who, you indicated to me at our June 30 meeting at my office, were intending to represent certain persons identified on your June 30 draft notification, as well as any knowledge that the Government has as to how they were selected, and what communications the Government has had with them to date.

Finally, please know that it is Mr. Epstein's firm intent to fulfill strictly each term and condition of his Non-Prosecution Agreement with the Government. Nothing in this letter should be construed, however, as waiving any defense that may be available to Mr. Epstein under the parties' written agreement.

I look forward to your response. Until then, I remain,

Very truly yours,



Jack A. Goldberger

cc: Jeffrey Epstein

From: Villatana, Ann Marie C. (USAFLS)
Sent: Wednesday, November 28, 2007 4:47 PM
To: Jay Lefkowitz
Cc: Sloman, Jeff (USAFLS); Acosta, Alex (USAFLS)
Subject: Epstein: Victim Notification Letter

Dear Jay:

Jeff asked that I forward the victim notification letter to you. It is attached.

Thank you.

<<Victim Notification Ltr.pdf>>

A. Marie Villafañá

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777



U.S. Department of Justice

*United States Attorney
Southern District of Florida*

*500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777*

November 29, 2007

DELIVERY BY HAND

Miss

Re: Crime Victims' Rights – Notification of Resolution of Epstein Investigation

Dear Miss _____:

Several months ago, I provided you with a letter notifying you of your rights as a victim pursuant to the Justice for All Act of 2004 and other federal legislation, including:

- (1) The right to be reasonably protected from the accused.
- (2) The right to reasonable, accurate, and timely notice of any public court proceeding involving the crime or of any release or escape of the accused.
- (3) The right not to be excluded from any public court proceeding, unless the court determines that your testimony may be materially altered if you are present for other portions of a proceeding.
- (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, or sentencing.
- (5) The reasonable right to confer with the attorney for the United States in the case.
- (6) The right to full and timely restitution as provided in law.
- (7) The right to proceedings free from unreasonable delay.
- (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

I am writing to inform you that the federal investigation of Jeffrey Epstein has been completed, and Mr. Epstein and the U.S. Attorney's Office have reached an agreement containing the following terms.

First, Mr. Epstein agrees that he will plead guilty to two state offenses, including the offense of soliciting minors to engage in prostitution, which will require him to register as a sexual predator for the remainder of his life.

Second, Mr. Epstein has agreed to make a binding recommendation of 18 months' imprisonment to the state court judge who sentences him. Mr. Epstein will serve that sentence of imprisonment at the Palm Beach County Jail.

Third, Mr. Epstein has agreed that he will not contest jurisdiction or liability if you elect to seek damages from him because the United States has identified you as a minor victim of certain federal offenses, including travel in interstate commerce to engage in prostitution with minors and the use of facilities of interstate commerce to induce minors to engage in prostitution. To assist you in making such a claim, the U.S. Attorney's Office has asked an independent Special Master to select attorneys to represent you. Those attorneys are Aaron Podhurst and Robert ("Bob") Josefsberg with the law firm of Podhurst Orseck, P.A. They can be reached at (305) 358-2800. I anticipate that someone from their law firm will be contacting you shortly. I must also advise you that you are not obligated to use these attorneys. In fact, you have the absolute right to select your own attorney, so you can decide not to speak with Messrs. Podhurst/ Josefsberg at all, or you can speak with them and decide at any time to use a different attorney. If you do decide to seek damages from Mr. Epstein and you decide to use Messrs. Podhurst / Josefsberg as your attorneys, Mr. Epstein will be responsible for paying attorney's fees incurred during the time spent trying to negotiate a settlement. If you are unable to reach a settlement with Mr. Epstein, you and Mr. Josefsberg can discuss how best to proceed.

As I mentioned above, as part of the resolution of the federal investigation, Mr. Epstein has agreed to plead guilty to state charges. Mr. Epstein's change of plea and sentencing will occur on December 14, 2007, at _____ a.m., before Judge Sandra K. McSorley, in Courtroom 11F at the Palm Beach County Courthouse, 205 North Dixie Highway, West Palm Beach, Florida. Pursuant to Florida Statutes Sections 960.001(1)(k) and 921.143(1), you are entitled to be present and to make a statement under oath. If you choose, you can submit a written statement under oath, which will be filed by the State Attorney's Office on your behalf. If you elect to prepare a written statement, it should address the following:

the facts of the case and the extent of any harm, including social, psychological, or physical harm, financial losses, loss of earnings directly or indirectly resulting from the crime for which the defendant is being sentenced, and any matter relevant to an appropriate disposition and sentence. Fl. Stat. 921.143(2).

You also are entitled to notification when Mr. Epstein is released from imprisonment at the end of his prison term and/or if he is allowed to participate in a work release program. To receive such notification, please provide the State Attorney's Office with the following information:

1. Your name
2. Your address
3. Your home, work, and/or cell phone numbers

MISS _____
NOVEMBER 29, 2007
PAGE 3

4. Your e-mail address
5. A notation of whether you would like to participate in the "VINE system," which provides automated notification calls any time an inmate is moved. (To use this system, your calls must go to you directly, not through a switchboard.)

Thank you for all of your help during the course of the investigation. If you have any questions or concerns, please do not hesitate to contact me or Special Agent Nesbitt Kuyrkendall at (561) 822-5946.

Sincerely,

R. Alexander Acosta
United States Attorney

By:

A. Marie Villafaña
Assistant United States Attorney

cc: Special Agent Nesbitt Kuyrkendall, F.B.I.
Ms. Clearetha Wright, Victim-Witness Coordinator, U.S. Attorney's Office

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, June 24, 2008 2:02 PM
To: Jack Goldberger
Cc: Atkinson, Karen (USAFLS)
Subject: RE: Jeffrey Epstein

Jack, Karen and I will call you at 3:30. Should we call 659-8300? And what number should we use for Roy?

Thank you.

A. Marie Villafana
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

From: Jack Goldberger [mailto:jgoldberger@agwpa.com]
Sent: Tuesday, June 24, 2008 1:32 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Jeffrey Epstein

I'm ok with 3:30 please conference me into the call
Jack

From: Villafana, Ann Marie C. (USAFLS) [mailto:Ann.Marie.C.Villafana@usdoj.gov]
Sent: Tuesday, June 24, 2008 12:23 PM
To: RBlack@RoyBlack.com
Cc: Atkinson, Karen (USAFLS)
Subject: FW: Jeffrey Epstein

Dear Roy:

Jeff Sloman contacted me and asked me to return your call regarding the Epstein matter. I am forwarding to you an e-mail that I sent to Jay Lefkowitz last night.

Karen and I can call you at 3:30 to speak about your list of issues. If that time does not work, please let me know what times you are available.

Thank you.

A. Marie Villafana

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

From: Villafana, Ann Marie C. (USAFLS)
Sent: Monday, June 23, 2008 5:55 PM
To: lefkowitz@kirkland.com; Jay Lefkowitz
Cc: Atkinson, Karen (USAFLS)
Subject: Jeffrey Epstein

Dear Mr. Lefkowitz:

I understand that the Deputy Attorney General has completed his review of the Epstein matter and has determined that federal prosecution of Mr. Epstein's case is appropriate.

Accordingly, Mr. Epstein has until the close of business on Monday, June 30, 2008, to comply with the terms and conditions of the agreement between the United States and Mr. Epstein (as modified by the U.S. Attorney's December 19th letter to Ms. Sanchez), including entry of a guilty plea, sentencing, and surrendering to begin his sentence of imprisonment.

If you have any questions, please feel free to contact me at the number shown below.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

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A. Marie Villafaña

Assistant U.S. Attorney

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West Palm Beach, FL 33401

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A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Roy BLACK <RBLACK@royblack.com>
Sent: Tuesday, June 24, 2008 3:02 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: jack goldberger
Subject: Re: FW: Jeffrey Epstein

Marie that is a good time. I also want to conference Jack Goldberger into the call. This will be a wrap up call. Roy

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A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, June 24, 2008 3:08 PM
To: Roy BLACK
Subject: RE: FW: Jeffrey Epstein

Hi Roy -- Is this the best number to call? (305) 371-6421

A. Marie Villafana
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

-----Original Message-----

From: Roy BLACK [<mailto:RBLACK@royblack.com>]
Sent: Tuesday, June 24, 2008 3:02 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: jack goldberger
Subject: Re: FW: Jeffrey Epstein

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A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Roy BLACK <RBLACK@royblack.com>
Sent: Tuesday, June 24, 2008 3:13 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: FW: Jeffrey Epstein

yes.

>>> "Villafana, Ann Marie C. (USAFLS)"
<Ann.Marie.C.Villafana@usdoj.gov> 6/24/2008 3:08 PM >>>
Hi Roy -- Is this the best number to call? (305) 371-6421

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
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A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Jack Goldberger <jgoldberger@agwpa.com>
Sent: Saturday, June 28, 2008 3:38 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Notice of Non-Compliance

Marie
not a problem.

From: Villafana, Ann Marie C. (USAFLS) [mailto:Ann.Marie.C.Villafana@usdoj.gov]
Sent: Sat 6/28/2008 11:31 AM
To: Jack Goldberger
Cc: Atkinson, Karen (USAFLS); RBlack@RoyBlack.com
Subject: Re: Notice of Non-Compliance

Dear Jack:

I have conferred with a state court practitioner who stated that there is nothing that prohibits you from agreeing to a consecutive six-month sentence of incarceration followed by one year of community control as specified in the non-prosecution agreement.

If you elect to proceed with the plea agreement as currently drafted, we ask that you insert the word "imprisoned" following the words "six months" in the second sentencing paragraph.

Please confirm that this change is acceptable. Thank you.

Marie

----- Original Message -----

From: Jack Goldberger <jgoldberger@agwpa.com>
To: Villafana, Ann Marie C. (USAFLS)
Cc: Jack Goldberger <jgoldberger@agwpa.com>
Sent: Sat Jun 28 08:49:55 2008
Subject: RE: Notice of Non-Compliance

Dear Ms Villafana,

please allow this e-mail to confirm our telephone conference of 6:30 pm on June 27 wherein we discussed the Epstein plea agreement and we agreed that the Epstein state plea agreement was in compliance with the September 2007 non-prosecution agreement entered into between Mr. Epstein and the USAO for the Southern District of Florida.

Jack Goldberger

From: Villafana, Ann Marie C. (USAFLS) [mailto:Ann.Marie.C.Villafana@usdoj.gov]
Sent: Fri 6/27/2008 5:45 PM
To: Jack Goldberger; Roy BLACK
Cc: Atkinson, Karen (USAFLS)
Subject: Notice of Non-Compliance

Dear Messrs. Goldberger and Black:

Please see the attached Notification Letter.

<<080627 Goldberger Black notification ltr.pdf>>

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777



U.S. Department of Justice

*United States Attorney
Southern District of Florida*

*500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777*

June 27, 2008

VIA FACSIMILE AND ELECTRONIC MAIL

Jack A. Goldberger, Esq.
Atterbury, Goldberger & Weiss, P.A.
One Clearlake Centre, Suite 1400
250 Australian Ave S.
West Palm Beach, FL 33401-5015

Roy Black, Esq.
Black Srebnick Kornspan & Stumpf P.A.
201 S. Biscayne Blvd, Suite 1300
Miami, FL 33131

Re: Jeffrey Epstein

Dear Messrs. Goldberger and Black:

Thank you for providing me with the proposed plea agreement between Mr. Epstein and the State Attorney's Office. **The U.S. Attorney's Office hereby provides Notice that the proposed sentencing provision does not comply with the terms of the Non-Prosecution Agreement.**

The second sentencing paragraph of the proposed plea agreement reads:

On 08CF009381AMB, the Defendant is sentenced to 18 months Community Control 1 (one). As a special condition of this Community Control, the Defendant must serve the first 6 months in the Palm Beach County Detention Facility . . .

The Non-Prosecution Agreement specifically provides:

Epstein shall be sentenced to consecutive terms of twelve (12) months and six (6) months in county jail for all charges, . . . without probation or community control in lieu of imprisonment.

Thus, the proposed plea agreement with the State Attorney's Office does not comply with the terms of the Non-Prosecution Agreement. To comply with the Agreement, Mr. Epstein must make a binding recommendation of eighteen months imprisonment, which means confinement twenty-four

JACK GOLDBERGER, ESQ.
ROY BLACK, ESQ.
JUNE 27, 2008
PAGE 2 OF 2

hours a day at the County Jail, and the judge must accept that recommendation. Community control must follow that term of incarceration.


Secondly, we have not been provided with a copy of the Information filed in case number 08CF009381AMB. I want to confirm that Mr. Epstein is being charged with the substantive offense of procuring minors to engage in prostitution, not attempted procurement. Accordingly, please provide me with a copy of the Information at your earliest opportunity. I will be available via e-mail throughout the weekend or you may reach me on my cell phone at 561 601-2301.

Thank you.

Sincerely,

R. Alexander Acosta
United States Attorney

By: 

A. Marie  Villafañá
Assistant United States Attorney

cc: Karen Atkinson, AUSA

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Monday, June 30, 2008 5:13 PM
To: Ted Leopold
Subject: RE: Epstein Investigation

I will do so. Look forward to hearing from you.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

From: Ted Leopold [mailto:TLeopold@riccilaw.com]
Sent: Monday, June 30, 2008 5:13 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Epstein Investigation

Thanks Ann Marie. I will get back to you.

p.s., Tell Janice LeClainche and Jeff Sloman hello for me. Both are good friends for mine.

-----Original Message-----

From: Villafana, Ann Marie C. (USAFLS) [mailto:Ann.Marie.C.Villafana@usdoj.gov]
Sent: Monday, June 30, 2008 5:00 PM
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Dear Ted: Here is my e-mail address and contact information.

Thank you for your assistance.

A. Marie Villafaña

Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
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Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Monday, June 30, 2008 5:19 PM
To: Ted Leopold
Subject: RE: Epstein Investigation

I wish it had been more time, but this way the girls get some compensation without the horrors of a trial.

A. Marie Villafaña
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From: Ted Leopold [mailto:TLeopold@riccilaw.com]
Sent: Monday, June 30, 2008 5:23 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Epstein Investigation

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From: Ted Leopold <TLeopold@riccilaw.com>
Sent: Monday, June 30, 2008 5:43 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Epstein Investigation

correct. Quite a story however. Makes you wonder what a guy like this is thinking.

-----Original Message-----

From: Villafana, Ann Marie C. (USAFLS) [mailto:Ann.Marie.C.Villafana@usdoj.gov]
Sent: Monday, June 30, 2008 5:19 PM
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Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Ted Leopold <TLeopold@riccilaw.com>
Sent: Wednesday, July 02, 2008 5:21 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Spencer Kuvin
Subject: RE: Epstein Investigation

I will get you the names tomorrow. Thanks

Spencer, please see me.

-----Original Message-----

From: Villafana, Ann Marie C. (USAFLS) [mailto:Ann.Marie.C.Villafana@usdoj.gov]
Sent: Monday, June 30, 2008 5:00 PM
To: Ted Leopold
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A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Jack Goldberger <jgoldberger@agwpa.com>
Sent: Wednesday, July 09, 2008 3:56 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Epstein contact

Dear Marie,
I am the contact person . My office address is sufficient for contact
jack

From: Villafana, Ann Marie C. (USAFLS) [mailto:Ann.Marie.C.Villafana@usdoj.gov]
Sent: Wednesday, July 09, 2008 1:16 PM
To: Jack Goldberger
Cc: Atkinson, Karen (USAFLS)
Subject: Epstein contact

Dear Jack: I have received your letter and am considering it now. One of the questions I had asked you last week was whether you are the person whom attorneys for the victims should contact if they decide to file any claim. Are you the person? And, if so, what, if any, contact information would you like me to provide?

Thank you.

A. Marie Villafaña

Assistant U.S. Attorney

561 209-1047

LEWIS TEIN PL
ATTORNEYS AT LAW

July 21, 2008

Copy via facsimile (561) 820-8777

Ann Marie C. Villafana, Esq.
Office of the United States Attorney
500 S. Australian Avenue
West Palm Beach, Florida 33401

RE: *Jeffrey Epstein*

Dear Ms. Villafana:

Thank you for your letter of July 17, 2008. In it, you ask whether Mr. Epstein "intends to fully abide by the Non-Prosecution Agreement." The answer is yes.

We confirm as you state in your letter that the Agreement requires that "the federal Grand Jury investigation will remain suspended, and all pending federal Grand Jury subpoenas will be held in abeyance unless and until [Mr. Epstein] violates any term of [the Non-Prosecution Agreement]." We also confirm that under the Agreement, "prosecution in this District for these offenses shall be deferred in favor of prosecution by the State of Florida, provided that Epstein abides by the . . . conditions and the requirements of th[e] Agreement."

As you know, there is no provision in the Agreement referring in any way to Section 3509(k). By that statute, Congress imposed a mandatory obligation on federal district courts to stay certain civil cases. Its operation is not subject to the control or discretion of any party. Whether Title 18, United States Code, Section 3509(k) applies to this civil litigation is a question of law for resolution by Judge Marra. Accordingly, we are abiding by our ethical obligation to advise the Court of its statutory mandate under Section 3509(k).

Finally, thank you for notifying me that our motion to quash technically remains outstanding. We had previously notified the Court that the parties did not wish to argue the issue. I agree that the Agreement requires its withdrawal and we will file a formal notice withdrawing it this week.

Please do not hesitate to call me if you wish further clarification of our position or to discuss this matter in any way. Until then, I remain,

Very truly yours,



Michael R. Tein

cc: Jack Goldberger, Esq.
Roy Black, Esq.
Alex Acosta, Esq.

Lewis Tein PL
ATTORNEYS AT LAW

FACSIMILE TRANSMISSION

RECIPIENT: Ann Marie C. Villafana, Esq.

RECIPIENT'S FAX NUMBER: (561) 820-8777

SENDER: Michael R. Tein, Esq.

DATE: July 21, 2008

PAGES (including cover sheet): 2

COMMENTS:

IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL BY MAIL AT THE BELOW ADDRESS. THANK YOU.

LEWIS TEIN, P.L. · 3058 GRAND AVENUE · SUITE 340 · COCONUT GROVE, FLORIDA 33133
TELEPHONE (305) 442-1101 · FACSIMILE (305) 442-6744 · WWW.LEWISTEIN.COM

Villafana, Ann Marie C. (USAFLS)

From: Kuyrkendall, E N. (FBI) <E.Kuyrkendall@ic.fbi.gov>
Sent: Thursday, July 03, 2008 12:49 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Epstein Agreement

As usual u r the best. Lots going on but have a great 4th and I'll reach out to u next week. I hope the Col does the right thing!

----- Original Message -----

From: Villafana, Ann Marie C. (USAFLS) <Ann.Marie.C.Villafana@usdoj.gov>
To: gaugerm@pbso.org <gaugerm@pbso.org>
Cc: Atkinson, Karen (USAFLS); Kuyrkendall, E N.; Richards, Jason R.
Sent: Thu Jul 03 11:58:51 2008
Subject: Epstein Agreement

Dear Colonel Gauger:

Thank you for taking the time to meet with us on Tuesday. As we discussed, I have attached the pertinent portion of Mr. Epstein's agreement with the U.S. Attorney's Office.

<<Epstein Agrmt Portion.pdf>>

I also wanted to call to your attention a couple of items regarding the issue of Work Release. During the change of plea, Mr. Epstein stated that he would be working at the Florida Science Foundation, located at 250 Australian Avenue, Suite 1400, that the Foundation had been in existence for a "couple of years," and that he had been working there "every day" prior to the plea. The Division of Corporations' documents show that the Florida Science Foundation was incorporated in November 2007, not a "couple of years ago." The address provided for the "office" of the Florida Science Foundation is Jack Goldberger's office suite, and neither the office building directory nor the office suite door reflects that such a business is located there, and neither the security guard nor any building tenant that FBI questioned knows of the existence of such a business. Mr. Epstein also could not have been working there "every day" when he hadn't been in Palm Beach County in the past six months.

I would appreciate the opportunity to review the work release regulations. If Mr. Epstein truly is eligible for the program, we have no objection to him being treated like any other similarly situated prisoner, but sitting in his attorney's office suite making telephone calls, web-surfing, and having food delivered to him is probably not in accordance with the objectives of imprisonment. Obviously, the decision is left entirely within your discretion, but I wanted to make sure that you had a complete picture before you made that decision.

Thank you again, and have a wonderful 4th of July.

Marie

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Roy BLACK <RBLACK@royblack.com>
Sent: Wednesday, July 30, 2008 2:38 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Jeffrey Epstein

Ok. I am on the road in california and can call in about an hour or so.

-----Original Message-----

From: "Villafana, Ann Marie C. (USAFLS)" <Ann.Marie.C.Villafana@usdoj.gov>
To: Roy BLACK <RBLACK@royblack.com>

Sent: 7/30/2008 2:31:56 PM

Subject: RE: Jeffrey Epstein

Hi Roy -- It relates to the performance of the criminal Non-Prosecution Agreement.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
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-----Original Message-----

From: Roy BLACK [<mailto:RBLACK@royblack.com>]
Sent: Wednesday, July 30, 2008 1:18 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Jeffrey Epstein

I am out of town. What is it about?

>>> "Villafana, Ann Marie C. (USAFLS)" <Ann.Marie.C.Villafana@usdoj.gov>
07/30/08 11:44 AM >>>

Dear Roy: Are you available this afternoon to discuss the Epstein matter? Please let me know what time works best for you.

Thank you.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
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Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Wednesday, July 30, 2008 2:43 PM
To: Roy BLACK
Cc: Atkinson, Karen (USAFLS)
Subject: RE: Jeffrey Epstein

Can Karen and I call you on your cell at 4:00 Florida time? I just need your number. Or you can call us at Karen's desk -- 561 209-1014.

Thank you.

A. Marie Villafaña
Assistant U.S. Attorney
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Villafana, Ann Marie C. (USAFLS)

From: Roy BLACK <RBLACK@royblack.com>
Sent: Wednesday, July 30, 2008 2:45 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Jeffrey Epstein

I am in the mountains and the cell doesn't work well. I will get to a landline at 4 and call you.

-----Original Message-----

From: "Villafana, Ann Marie C. (USAFLS)" <Ann.Marie.C.Villafana@usdoj.gov>
To: Roy BLACK <RBLACK@royblack.com>
Cc: Karen (USAFLS) Atkinson <Karen.Atkinson@usdoj.gov>

Sent: 7/30/2008 2:43:11 PM
Subject: RE: Jeffrey Epstein

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Thank you.

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Subject: RE: Epstein contact

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A. Marie Villafaña
Assistant U.S. Attorney
561 209-1047

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Assistant U.S. Attorney
561 209-1047

Villafana, Ann Marie C. (USAFLS)

From: Roy BLACK <RBLACK@royblack.com>
Sent: Thursday, August 07, 2008 4:34 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Notification of Possible Compelled Disclosure of the Non-Prosecution Agreement

Marie I am working on this and will get back to you.

-----Original Message-----

From: "Villafana, Ann Marie C. (USAFLS)" <Ann.Marie.C.Villafana@usdoj.gov>
To: Roy BLACK <RBLACK@royblack.com>
Cc: Dexter (USAFLS) Lee <Dexter.Lee@usdoj.gov>
Cc: Karen (USAFLS) Atkinson <Karen.Atkinson@usdoj.gov>

Sent: 8/7/2008 3:57:52 PM

Subject: Notification of Possible Compelled Disclosure of the Non-Prosecution Agreement

Dear Roy:

In accordance with paragraph 13 of the Non-Prosecution Agreement, I am providing notice of possible compulsory process commanding the disclosure of the Agreement. As I'm sure you know, two of Mr. Epstein's victims have filed suit against the United States alleging that the government violated their rights as victims by not consulting them prior to entering into the Non-Prosecution Agreement.

As part of their response to one of the government's filings, the victims asked the Court to order the production of the Non-Prosecution Agreement. The deadline for the government to respond is August 15th and we intend to oppose the motion based upon the confidentiality provision. I have attached a copy of the victims' pleading for your review.

In connection with this, we want to make certain that we are making consistent representations to the judiciary regarding the contents of the Agreement. I know that Jack Goldberger filed the Agreement under seal in the state court in accordance with the state judge's order. Can you provide us with a copy of what Jack filed, so that, if we are ordered by the federal court to disclose the agreement, it is exactly the same as what has been filed in the state court?

Thank you again for your assistance.

Regards,
Marie

<<DE19_080801_Victims' Resp to Notice.pdf>>

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Thursday, August 07, 2008 4:36 PM
To: Roy BLACK
Subject: RE: Notification of Possible Compelled Disclosure of the Non-Prosecution Agreement

Thank you, Roy. Your help is greatly appreciated.

A. Marie Villafana
Assistant U.S. Attorney
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West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

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As part of their response to one of the government's filings, the victims asked the Court to order the production of the Non-Prosecution Agreement. The deadline for the government to respond is August 15th and we intend to oppose the motion based upon the confidentiality provision. I have attached a copy of the victims' pleading for your review.

In connection with this, we want to make certain that we are making consistent representations to the judiciary regarding the contents of the Agreement. I know that Jack Goldberger filed the Agreement under seal in the state court in accordance with the state judge's order. Can you provide us with a copy of what Jack filed, so that, if we are ordered by the federal court to disclose the agreement, it is exactly the same as what has been filed in the state court?

Thank you again for your assistance.

Regards,
Marie

<<DE19_080801_Victims' Resp to Notice.pdf>>

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, August 12, 2008 9:08 AM
To: Roy BLACK
Subject: RE: Jeffrey Epstein

Roy, thank you for your response and your assistance. I will forward your request to Dexter Lee, who is representing the United States in the civil suit.

Can you please ask Jack Goldberger to send me an exact copy of what was filed under seal in the state court? I want to insure that all of us are presenting the same packet of documents as the final agreement.

Regards,
Marie

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

-----Original Message-----

From: Roy BLACK [<mailto:RBLACK@royblack.com>]
Sent: Monday, August 11, 2008 11:40 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Jeffrey Epstein

Marie: I have conferred with the lawyers on the team. They all thank you for agreeing to oppose any disclosure of the 9/24/07 agreement. We firmly believe this document is not discoverable in the civil cases. However if the court rules against you on this we request that you further ask that any disclosure be subject to a strong protective order prohibiting dissemination to anyone except counsel to the petitioners. We are particularly concerned because civil lawyers are more apt to publicize something like this than those of us who litigate on the criminal side of the docket. You may recall one lawyer standing on the bridge to palm beach railing over his misconceptions of the case. This is the typical vehicle they use to get more plaintiffs. You had also asked what documents were disclosed in the state court. As part of counsels obligation to fully disclose any promises or inducements which led to the plea agreement, the 9/24/07 agreement was filed with the court. It was filed under seal. Once again I want to re-assure you that Mr. Epstein and his counsel intend to stand by their agreements. If you or anyone in the USAO have any concern about a possible breach please call or email me again so we can discuss any dispute or misunderstanding and allay any concerns. Thanks again. Roy

Villafana, Ann Marie C. (USAFLS)

From: Lanna Belohlavek <lbelohla@sa15.state.fl.us>
Sent: Tuesday, August 12, 2008 11:35 AM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Non-Prosecution Agreement in Epstein Case

Marie

The 7 page agreement was filed under seal with the attached signature pages.

As to a transcript, you would have to contact court administration and arrange for that together with payment.

Good luck.

From: Villafana, Ann Marie C. (USAFLS) [mailto:Ann.Marie.C.Villafana@usdoj.gov]
Sent: Tuesday, July 01, 2008 11:51 AM
To: Lanna Belohlavek
Cc: Atkinson, Karen (USAFLS)
Subject: Non-Prosecution Agreement in Epstein Case

Hi Lanna – I am attaching the agreement, with addenda, for filing with the Court under seal.

We also noticed a couple of “misstatements” during the change of plea and wanted to call them to your attention. First, the Division of Corporations’ documents show that the Florida Science Foundation was incorporated in November 2007, not a “couple of years ago” as reported by Mr. Epstein. The address provided for the “office” of the Florida Science Foundation is Jack Goldberger’s office suite, and neither the office building directory nor the office suite door reflects that such a business is located there, and neither the security guard nor any building tenant that FBI questioned knows of the existence of such a business. And, of course, Mr. Epstein could not have been working there “every day” when he hasn’t been in Palm Beach County in the past six months.

We will leave it to your discretion as to whether this should be brought to the Court’s attention.

<<Epstein Agrmt001.pdf>>

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777



U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777

July 22, 2008

VIA FACSIMILE

Michael R. Tein, Esq.
Lewis Tein, P.L.
3059 Grand Avenue, Suite 340
Coconut Grove, FL 33133

Re: Jeffrey Epstein

Dear Mr. Tein:

In response to your letter of July 21, 2008, the United States hereby provides notice that the United States Attorney has determined, based upon reliable evidence, that, during the period of the Non-Prosecution Agreement, Jeffrey Epstein has willfully violated the conditions of the Agreement. A "breach of any one of these conditions allows the United States to elect to terminate the agreement and to investigate and prosecute Epstein and any other individual or entity for any and all federal offenses."

The Non-Prosecution Agreement called for Mr. Epstein to plead guilty to a child sex offense; to serve eighteen months imprisoned at the Palm Beach County Jail, followed by twelve months of home confinement; and to accept a list of victims who could file suit against Mr. Epstein for damages. Recently, several of the designated victims sought relief. In response, Mr. Epstein sought a stay of those proceedings based on the fact that an ongoing federal investigation exists. This argument was forwarded despite the aforementioned agreement wherein the United States Attorney's Office agreed not to prosecute Mr. Epstein if he complies with the terms of the Agreement.

The portion of the agreement concerning compensation to victims is extremely material to the Agreement and is not being honored by Mr. Epstein. To complete the performance of his contractual obligations, Mr. Epstein must submit to suit under 18 U.S.C. § 2255 and admit that the Identified Victims are victims of an offense enumerated in that section. By seeking to stay all civil litigation, during what you assert is the term of the Non-Prosecution Agreement, Mr. Epstein is avoiding performance of that essential contractual term.

MICHAEL R. TEIN, ESQ.
JULY 22, 2008
PAGE 2

Accordingly, the United States Attorney's Office hereby provides timely notice of Mr. Epstein's breach of the Non-Prosecution Agreement. Pursuant to the Agreement, the United States Attorney's Office may initiate its prosecution within sixty (60) days of giving notice of the violation.

Sincerely,

R. Alexander Acosta
United States Attorney

By:

A. Marie Villafaña
Assistant United States Attorney

cc: Karen Atkinson, Esq.

Villafana, Ann Marie C. (USAFLS)

From: Jay Lefkowitz <JLefkowitz@kirkland.com>
Sent: Thursday, August 14, 2008 2:39 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Atkinson, Karen (USAFLS); lefkowitz@kirkland.com
Subject: Re: Follow-up point

Marie - In reviewing your December proposal, there are a couple of things I don't understand.

What limits are placed upon individuals who proceed under 2255 as if "Mr. Epstein had been tried federally and convicted of an enumerated offense." In other words, what individuals would have this right? And would these individual only have this right if they proceeded exclusively under 2255? Also, to what enumerated offenses do you think would Mr. Epstein have to make constructive admissions of conviction? and how many such offenses? And against whom? Remember that while you may have investigated various offenses, he only plead guilty to certain state crimes.

Finally, would paragraphs 8-10 of the September Agreement still be operative?

I am trying hard to understand what you have intended by the December letter. Alex has says he thinks it benefits Jeffrey, and I am open to understanding it that way. But I would like some clarity on these issues.

Thanks -- Jay

"Villafana, Ann Marie C. (USAFLS)"
<Ann.Marie.C.Villafana@usdoj.gov>

To <lefkowitz@kirkland.com>
cc "Atkinson, Karen (USAFLS)" <Karen.Atkinson@usdoj.gov>
Subject Follow-up point

08/14/2008 12:44 PM

Hi Jay – I forgot to mention that I can no longer argue that the Court shouldn't force us to produce the agreement because we have already provided the victims with the relevant portion when I now understand from you that I have NOT provided them with the relevant portion.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Thursday, August 14, 2008 3:27 PM
To: Jay Lefkowitz
Cc: Atkinson, Karen (USAFLS); Roy BLACK
Subject: RE: Follow-up point

Dear Jay:

The modification contained in the December letter is clear and simple, that is why we were not surprised by Mr. Epstein's and his attorneys' actions affirming acceptance of the modification. Mr. Epstein's acceptance of the modification by pleading guilty was equally clear and simple -- it followed written communications from Mr. Sloman and myself that read: "Mr. Epstein has until the close of business on Monday, June 30, 2008, to comply with the terms and conditions of the agreement between the United States and Mr. Epstein (as modified by the U.S. Attorney's December 19th letter to Ms. Sanchez), including entry of a guilty plea, sentencing, and surrendering to begin his sentence of imprisonment."

As clearly stated in the December letter, only those "individuals whom [the United States] was prepared to name in an Indictment as victims of an enumerated offense" are the beneficiaries of the agreement. That is the list of names that I provided to Messrs. Goldberger and Tein following the change of plea. Under the September/October agreement, all "individuals whom [the United States] has identified as victims" are the beneficiaries, so I would prepare a supplement to the earlier list to include identified victims whom we were not yet prepared to name in an indictment.

Again, as stated in the letter, the modification replaces paragraphs 7 and 8 of the Agreement, including paragraphs 7A through 7C that are included in the October Addendum. This means that Mr. Epstein's waiver of "his right to contest damages up to an amount as agreed to between the identified individual and Epstein" will no longer exist, nor will Mr. Epstein's obligation to pay for the victims' counsel. Paragraphs 9 and 10 are still in effect. This includes the statement that there is no admission of civil or criminal liability, and that, "[e]xcept as to those individuals who elect to proceed EXCLUSIVELY under 18 USC § 2255, . . . Epstein's signature [cannot] be construed as admissions or evidence of civil or criminal liability." This addresses your question regarding exclusivity.

I don't think that Mr. Epstein has to make any constructive admissions of conviction. He only needs to admit that the 32 girls whose names I have provided to Mr. Goldberger are "victims" of an offense listed in 18 U.S.C. 2255.

Please let me know if you have any additional questions. Thank you.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

From: Jay Lefkowitz [mailto:JLefkowitz@kirkland.com]
Sent: Thursday, August 14, 2008 2:39 PM

To: Villafana, Ann Marie C. (USAFLS)
Cc: Atkinson, Karen (USAFLS); lefkowitz@kirkland.com
Subject: Re: Follow-up point

Marie - In reviewing your December proposal, there are a couple of things I don't understand.

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Finally, would paragraphs 8-10 of the September Agreement still be operative?

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Thanks -- Jay

"Villafana, Ann Marie C. (USAFLS)"
<Ann.Marie.C.Villafana@usdoj.gov>

To <lefkowitz@kirkland.com>
cc "Atkinson, Karen (USAFLS)" <Karen.Atkinson@usdoj.gov>
Subject Follow-up point

08/14/2008 12:44 PM

Hi Jay – I forgot to mention that I can no longer argue that the Court shouldn't force us to produce the agreement because we have already provided the victims with the relevant portion when I now understand from you that I have NOT provided them with the relevant portion.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

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return e-mail or by e-mail to postmaster@kirkland.com, and
destroy this communication and all copies thereof,
including all attachments.

Villafana, Ann Marie C. (USAFLS)

From: Jay Lefkowitz <JLefkowitz@kirkland.com>
Sent: Friday, August 15, 2008 10:53 AM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Atkinson, Karen (USAFLS); Roy BLACK; Martin Weinberg
Subject: Re: Follow-up point

Marie - thanks for responding to my email. You have narrowed down some of the implementation issues.

As I told you this morning, we cannot accept your contention that Mr. Epstein is bound by an agreement he didn't sign as opposed to one he did sign, particularly in light of my written communications to your office dated December 21, 2007 and December 26, 2007. However, before we can make a determination whether to adopt the December language as you have now explained it, we need to confer with our client, which we will be able to do within the next two weeks.

I look forward to speaking with you soon to resolve these issues.

Jay

From: "Villafana, Ann Marie C. (USAFLS)" [Ann.Marie.C.Villafana@usdoj.gov]
Sent: 08/14/2008 03:27 PM AST
To: Jay Lefkowitz
Cc: "Atkinson, Karen (USAFLS)" <Karen.Atkinson@usdoj.gov>; "Roy BLACK" <RBLACK@royblack.com>
Subject: RE: Follow-up point

Dear Jay:

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As clearly stated in the December letter, only those "individuals whom [the United States] was prepared to name in an Indictment as victims of an enumerated offense" are the beneficiaries of the agreement. That is the list of names that I provided to Messrs. Goldberger and Tein following the change of plea. Under the September/October agreement, all "individuals whom [the United States] has identified as victims" are the beneficiaries, so I would prepare a supplement to the earlier list to include identified victims whom we were not yet prepared to name in an indictment.

Again, as stated in the letter, the modification replaces paragraphs 7 and 8 of the Agreement, including paragraphs 7A through 7C that are included in the October Addendum. This means that Mr. Epstein's waiver

of "his right to contest damages up to an amount as agreed to between the identified individual and Epstein" will no longer exist, nor will Mr. Epstein's obligation to pay for the victims' counsel. Paragraphs 9 and 10 are still in effect. This includes the statement that there is no admission of civil or criminal liability, and that, "[e]xcept as to those individuals who elect to proceed EXCLUSIVELY under 18 USC § 2255, . . . Epstein's signature [cannot] be construed as admissions or evidence of civil or criminal liability." This addresses your question regarding exclusivity.

I don't think that Mr. Epstein has to make any constructive admissions of conviction. He only needs to admit that the 32 girls whose names I have provided to Mr. Goldberger are "victims" of an offense listed in 18 U.S.C. 2255.

Please let me know if you have any additional questions. Thank you.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

From: Jay Lefkowitz [mailto:JLefkowitz@kirkland.com]
Sent: Thursday, August 14, 2008 2:39 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Atkinson, Karen (USAFLS); lefkowitz@kirkland.com
Subject: Re: Follow-up point

Marie - In reviewing your December proposal, there are a couple of things I don't understand.

What limits are placed upon individuals who proceed under 2255 as if "Mr. Epstein had been tried federally and convicted of an enumerated offense." In other words, what individuals would have this right? And would these individual only have this right if they proceeded exclusively under 2255? Also, to what enumerated offenses do you think would Mr. Epstein have to make constructive admissions of conviction? and how many such offenses? And against whom? Remember that while you may have investigated various offenses, he only plead guilty to certain state crimes.

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Thanks -- Jay

"Villafana, Ann Marie C. (USAFLS)"
<Ann.Marie.C.Villafana@usdoj.gov>

To <lefkowitz@kirkland.com>
cc "Atkinson, Karen (USAFLS)" <Karen.Atkinson@usdoj.gov>
Subject Follow-up point

08/14/2008 12:44 PM

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agreement because we have already provided the victims with the relevant portion when I now understand from you that I have NOT provided them with the relevant portion.

A. Marie Villafaña

Assistant U.S. Attorney

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West Palm Beach, FL 33401

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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Thursday, August 21, 2008 5:32 PM
To: lefkowitz@kirkland.com; Roy BLACK
Cc: Atkinson, Karen (USAFLS)
Subject: Jeffrey Epstein
Attachments: 080821 Villafana ltr to Lefkowitz and Black.pdf; DE26_080821_Protective Order.pdf

Dear Jay and Roy – I have attached a letter in response to Jay’s letter of August 18, 2008, and an Order we received today in the Jane Doe ■. United States litigation.

<<080821 Villafana ltr to Lefkowitz and Black.pdf>>

<<DE26_080821_Protective Order.pdf>>

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777



U.S. Department of Justice

*United States Attorney
Southern District of Florida*

*500 S. Australian Ave, Ste 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777*

August 21, 2008

DELIVERY BY ELECTRONIC MAIL

Jay P. Lefkowitz, Esq.
Kirkland & Ellis LLP
Citigroup Center
153 East 53rd Street
New York, New York 10022-4675

Roy Black, Esq.
Black Srebnick Kornspan & Stumpf P.A.
201 S. Biscayne Blvd, Suite 1300
Miami, FL 33131

Re: Jeffrey Epstein

Dear Jay and Roy:

Thank you for your response to my earlier letter. The U.S. Attorney's Office shares in your desire to implement all of the terms of the Non-Prosecution Agreement. As you are aware, the jointly-approved Special Master, Judge [REDACTED], has already selected an attorney representative, Robert Josefsberg, who was accepted by both parties. The Office has conferred with Mr. Josefsberg, who has agreed to continue in that role. In October 2007, Mr. Josefsberg expended time, effort, and funds in preparing to serve as the attorney representative, and he will need a written confirmation from you that his future fees and expenses will be paid in accordance with the terms of the Non-Prosecution Agreement. Please provide me with a copy of that correspondence for my file.

With that matter settled, I believe that the requirement for a joint written submission to the Special Master has been extinguished. Nonetheless, I have no objection to attempting to create a joint statement to assist Mr. Josefsberg in serving his duties. Regarding your suggestion that we ask Judge [REDACTED] to "offer the final word on how certain clauses should be interpreted and satisfied," I believe that the Agreement speaks for itself.

EFTA00190378

JAY P. LEFKOWITZ, ESQ.
ROY BLACK, ESQ.
AUGUST 21, 2008
PAGE 2 OF 2

Pursuant to the terms of the Agreement, following Mr. Epstein's sentencing, the U.S. Attorney's Office provided Mr. Epstein's counsel with a list of the individuals whom it was prepared to name in an indictment as victims of an offense enumerated in 18 U.S.C. § 2255, and none of those names will be deleted. By his agreement, Mr. Epstein sought to resolve liability for all criminal activity known to the United States as of the time of his plea and sentencing, and he is responsible for damages to all victims of that criminal activity.

Copies of the victim notifications will continue to be provided to counsel for Mr. Epstein. Please let me know whether I should continue to list Mr. Goldberger as the point of contact for the civil litigation. Regarding your suggestion on the content of the notification letters, I intend to use the same format that was used in the letters previously approved by Messrs. Goldberger and Tein, except that I will include the language from the September and October agreements. I have enclosed a draft herewith. Because I previously provided the victims with incorrect information—albeit with the approval of Mr. Epstein's counsel—it is imperative that I correct the error promptly. Accordingly, if you have any substantive objections to the letter, please advise me by tomorrow afternoon.

Sincerely,

R. Alexander Acosta
United States Attorney

By: 
A. Marie Villafañe
Assistant United States Attorney

cc: Karen Atkinson, Chief, Northern Division

EFTA00190379



U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777

August 22, 2008

VIA FACSIMILE AND U.S. MAIL

Michael E. Dutko, Esq.
Bogenschutz & Dutko
600 S. Andrews Ave, Suite 500
Fort Lauderdale, FL 33301-2802

DRAFT

Re: **Jeffrey Epstein/ [REDACTED] [REDACTED]: AMENDED NOTIFICATION
OF IDENTIFIED VICTIM**

Dear Mr. Dutko:

By virtue of this letter, the United States Attorney's Office for the Southern District of Florida asks that you provide the following amended notice to your client, [REDACTED]. Some of the information contained in the July 20, 2008 letter to Ms. [REDACTED] was inaccurate, so please advise her of the following changes.

As you were previously advised, on June 30, 2008, Jeffrey Epstein (hereinafter referred to as "Epstein) entered a plea of guilty to violations of Florida Statutes Sections 796.07 (felony solicitation of prostitution) and 796.03 (procurement of minors to engage in prostitution), in the 15th Judicial Circuit in and for Palm Beach County (Case Nos. 2006-cf-009454AXXXMB and 2008-cf-009381AXXXMB) and was sentenced to a term of twelve months' imprisonment to be followed by an additional six months' imprisonment, followed by twelve months of Community Control 1, with conditions of community confinement imposed by the Court.

In light of the entry of the guilty plea and sentence, the United States has agreed to defer federal prosecution in favor of this state plea and sentence, subject to certain conditions, including the following:

1. An independent Special Master was assigned the task of selecting an attorney representative to represent the victims in connection with civil

EFTA00190380

DRAFT

litigation between the victims and Mr. Epstein. The Special Master selected Robert Josefsberg, Esq. of the firm Podhurst Orseck, P.A., a highly-respected and experienced attorney. Ms. [REDACTED] is not obligated to use Mr. Josefsberg as her civil attorney, but, as explained in greater detail below, Mr. Josefsberg's services will be provided at no cost to Ms. [REDACTED] because Mr. Epstein is obligated to pay the costs and fees of the attorney-representative. Also, Mr. Epstein and his attorneys can only contact Ms. [REDACTED] via Mr. Josefsberg, assuming that she would like Mr. Josefsberg to serve as her attorney.

2. If Ms. [REDACTED] elects to file suit against Mr. Epstein pursuant to Title 18, United States Code, Section 2255, Mr. Epstein will not contest the jurisdiction of the United States District Court for the Southern District of Florida over his person and/or the subject matter, and Mr. Epstein waives his right to contest liability and also waives his right to contest damages up to an amount as agreed to between Ms. [REDACTED] and Mr. Epstein, so long as Ms. [REDACTED] elects to proceed exclusively under 18 U.S.C. § 2255, and she waives any other claim for damages, whether pursuant to state, federal, or common law. Notwithstanding this waiver, Epstein's agreement with the United States, his waivers and failure to contest liability and such damages in any suit are not to be construed as an admission of any criminal or civil liability.
3. As stated above, Mr. Epstein has agreed to pay the fees of the attorney representative selected by the independent third party. This provision, however, shall not obligate Epstein to pay the fees and costs of contested litigation filed against him. Thus, if after consideration of potential settlements, Ms. [REDACTED] and Mr. Josefsberg elect to file a contested lawsuit pursuant to 18 U.S.C. § 2255 or she elects to pursue any other contested remedy, the obligation to pay the costs of the attorney representative, as opposed to any statutory or other obligations to pay reasonable attorneys fees and costs such as those contained in Section 2255 to bear the costs of the attorney representative, shall cease.

Mr. Josefsberg will be contacting you within the next week to explain these terms and to determine if he may contact Ms. [REDACTED] directly. If you would like to contact Mr.

MICHAEL E. DUTKO, ESQ.
AMENDED NOTIFICATION OF IDENTIFIED VICTIM [REDACTED] [REDACTED]
AUGUST 22, 2008
PAGE 3 OF 3

Josefsberg directly, he can be reached at 305 358-2800.

If Ms. [REDACTED] has selected other counsel to represent her, or if she does so in the future, and she decides to pursue a claim against Jeffrey Epstein, his attorney, Jack Goldberger, asks that he be contacted at Atterbury Goldberger and Weiss, 250 Australian Avenue South, Suite 1400, West Palm Beach, FL 33401.

In addition, a judge has ordered that the United States make available to any designated victim (and/or her attorney) a copy of the actual agreement between Mr. Epstein and the United States, so long as the victim (and/or her attorney) reviews, signs, and agrees to be bound by a Protective Order entered by the Court. If Ms. [REDACTED] would like to review the Agreement, please let me know, and I will forward a copy of the Protective Order for her signature.

As I stated in my earlier notification, please understand that neither the U.S. Attorney's Office nor the Federal Bureau of Investigation can take part in or otherwise assist in civil litigation, but we again thank you and your client for all of her assistance during the course of this investigation.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

DRAFT

By:

A. MARIE VILLAFANA
ASSISTANT U.S. ATTORNEY

cc: Robert Josefsberg, Esq.
Jack Goldberger, Esq.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

NO. 08-80736-CIV-MARRA/JOHNSON

IN RE: JANE DOES 1 AND 2,

Petitioners.
_____ /

ORDER TO COMPEL PRODUCTION AND PROTECTIVE ORDER

THIS CAUSE comes before the Court on the Petitioners' *ore tenus* motion seeking the production of the Non-Prosecution Agreement between the United States Attorney's Office for the Southern District of Florida ("USAO") and Jeffrey Epstein ("Epstein"). After consideration of the Motion, the arguments of the parties, and the record, it is **ORDERED AND ADJUDGED** that the Petitioners' Motion is **GRANTED**. The USAO shall produce the Non-Prosecution Agreement, including any modifications and addenda thereto, in accordance with the following procedures:

(a) The USAO shall produce a copy of the Non-Prosecution Agreement, including any modifications and addenda thereto (collectively referred to as the "Agreement"), to the attorneys for Petitioners.

(b) Petitioners and their attorneys shall not disclose the Agreement or its terms to any third party absent further court order, following notice to and an opportunity for Epstein's counsel to be heard.

(c) Before counsel for petitioners show the Agreement to their clients or discuss the specific terms with them, they must provide a copy of this Order to petitioners, who must review and acknowledge their receipt of, and agreement to abide by, the terms of the Order. Counsel for petitioners must promptly provide a copy of that acknowledgment to the USAO.

(d) If any individuals who have been identified by the USAO as victims of

Epstein and/or any attorney(s) for those individuals request the opportunity to review the Agreement, then the USAO shall produce the Agreement to those individuals, so long as those individuals also agree that they shall not disclose the Agreement or its terms to any third party absent further court order, following notice to and an opportunity for Epstein's counsel to be heard

(e) Prior to producing the documents to any other individuals who have been identified by the USAO as victims of Epstein and/or any attorney(s) for those individuals, a copy of this Order must be provided to said individuals, who must review and acknowledge their receipt of, and agreement to abide by, the terms of this Order. Counsel for petitioners must promptly provide a copy of that acknowledgment to the USAO.

DONE and ORDERED in Chambers, in West Palm Beach, Palm Beach County, Florida, this 21st day of August, 2008.



KENNETH A. MARRA
UNITED STATES DISTRICT JUDGE

Copies furnished to: all counsel of record

By signing below, I certify that I have reviewed and agree to be bound by the terms of this Order.

Dated: _____

Signed by: _____
Printed Name: _____

KIRKLAND & ELLIS LLP
AND AFFILIATED PARTNERSHIPS

Citigroup Center
153 East 53rd Street
New York, New York 10022-4611

(212) 446-4800

www.kirkland.com

Facsimile
(212) 446-4900

Jay P. Jalkowitz, P.C.
To Call Writer Directly
(212) 446-4970
jalkowitz@kirkland.com

August 22, 2008

VIA FACSIMILE (561) 820-8777

A. Marie Villafana
United States Attorney's Office
Southern District of Florida
500 South Australian Avenue, Suite 400
West Palm Beach, Florida 33401

Re: *Jeffrey Epstein*

Dear Marie:

I write this letter to correct certain misstatements made in your letter dated August 21, 2008, and the accompanying draft notification.

First, you state that "Mr. Josefsberg expended time, effort and funds in preparing to serve as attorney representative in October of 2007." Neither I, nor any other attorney on Mr. Epstein's defense team, was notified of this work by Mr. Josefsberg.

Second, in the victim notification letter, no judge "has ordered that the United States" make available a copy of the Non-Prosecution Agreement. Section (d) of the Order to Compel Production and Protective Order provides that if any of the alleged "victims" and/or their attorneys "request the opportunity to review the Agreement," the USAO shall comply with the request so long as those individuals agree not to disclose the Non-Prosecution Agreement. There is no court order requiring the government to provide the alleged "victims" with notice that the Non-Prosecution Agreement is available to them upon request and doing so is in conflict with the confidentiality provisions of the Agreement. Given that the individuals on the list will have an attorney representative who is fully aware of the terms of the Non-Prosecution Agreement, this conflicting paragraph of your notice is unnecessary in any event and should be excised.

Third, misstatements in your prior notification were not made "with the approval of Mr. Epstein's counsel."

Fourth, we are concerned with your open-ended description of Mr. Epstein's responsibilities regarding civil restitution. The resolution of liability pursuant to 18 U.S.C.

KIRKLAND & ELLIS LLP

A. Marie Villafana
August 22, 2008
Page 2

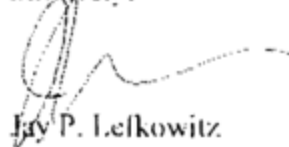
§ 2255 is as stated in paragraphs 7 and 8 of the Agreement and the Addendum to the Agreement, no more, no less.

Fifth, while you state, in your letter, that the USAO does not intend to delete any of the names on the list provided to Mr. Epstein's counsel, you do not confirm that the prior list is final and complete. There can be no expansion of the list of individuals that you informed us had been memorialized as of September 24, 2007 and disclosed to Mr. Epstein on June 30, 2008 (the date of sentence pursuant to the Agreement's disclosure requirements). Please confirm the exact name and number of individuals the government plans on notifying as provided for under the Agreement.

Sixth, based on express language in prior communications from your Office, we are in agreement that paragraphs 7 and 8 of the Agreement are in need of clarification and implementation. We will work with the attorney representative in attempting to reach a fair resolution of the outstanding civil matters in a manner that is in accordance with the Agreement.

Seventh, we have previously communicated our objections to the propriety of the attorney representative engaging in contested litigation. We again dispute the assertion that Mr. Josefsberg's duties include filing contested litigation. In any case, that issue is not ripe for resolution at this point, but again, given his agreement to be the attorney representative, we will address these matters directly with Mr. Josefsberg.

Sincerely,



Jay P. Lefkowitz

cc: Karen Atkinson, Chief, Northern Division

KIRKLAND & ELLIS LLP

Fax Transmittal

Citigroup Center
153 East 53rd Street
New York, New York 10022-4611
Phone: [REDACTED]
Fax: [REDACTED]

Please notify us immediately if any pages are not received.

THE INFORMATION CONTAINED IN THIS COMMUNICATION IS CONFIDENTIAL. MAY BE ATTORNEY-CLIENT PRIVILEGED, MAY CONSTITUTE INSIDE INFORMATION, AND IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE. UNAUTHORIZED USE, DISCLOSURE OR COPYING IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL.

IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR,
PLEASE NOTIFY US IMMEDIATELY AT:
[REDACTED]

To:	Company:	Fax #:	Direct #:	
A. Maric Villafana	United States Attorney's Office	561-820-8777	561-209-1047	
CC:	Company:	Fax #:	Direct #:	
Karen Atkinson	United States Attorney's Office	561-820-8777	561-820-8711	
From:	Date:	Pages w/cover:	Fax #:	Direct #:
Jay P. Lelkowitz	August 22, 2008	3	[REDACTED]	[REDACTED]

Message:



U.S. Department of Justice

*United States Attorney
Southern District of Florida*

*500 S. Australian Ave, Ste 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777*

August 26, 2008

DELIVERY BY ELECTRONIC MAIL

Jay P. Lefkowitz, Esq.
Kirkland & Ellis LLP
Citigroup Center
153 East 53rd Street
New York, New York 10022-4675

Roy Black, Esq.
Black Srebnick Kornspan & Stumpf P.A.
201 S. Biscayne Blvd, Suite 1300
Miami, FL 33131

Re: Jeffrey Epstein

Dear Jay and Roy:

Thank you for your letter of August 22nd. I write to follow up on some of the points that you raised.

The list of thirty-two victims that was provided to Mr. Goldberger via certified mail on July 10, 2008 is the final list. As I mentioned, copies of the notification letters to each victim will be carbon-copied to an attorney for Mr. Epstein and Mr. Josefsberg. I asked you to advise me whether Mr. Goldberger should continue to be listed as the contact person for the civil litigation in the amended victim notification letters and whether he should receive the carbon copies of those letters as they are sent.

I also asked you to provide me with written confirmation of your agreement to pay Mr. Josefsberg's fees. Please provide that confirmation to Mr. Josefsberg so that he can begin his representation, and provide me with a copy for my file.

I have conferred with the lead AUSA in the case of *Jane Doe 1 and 2* [REDACTED] *United States,*

EFTA00190388

JAY P. LEFKOWITZ, ESQ.
ROY BLACK, ESQ.
AUGUST 26, 2008
PAGE 2 OF 2

and he agrees that, based upon the discussion with Judge Marra during the hearing on the plaintiffs' motion, a notification of the judge's ruling is required. I will, however, change the language slightly to direct the victims to discuss the matter with Mr. Josefsberg.

With regard to your concerns with my "open-ended description of Mr. Epstein's responsibilities regarding civil restitution," I agree that the resolution of civil damages claims is as stated in paragraphs 7 and 8 of the Agreement and Addendum. That is why the language in the notification is taken *verbatim* from paragraphs 7, 8, and 7C of the Agreement and Addendum, except that the victim's name is used in place of "identified individual." As I mentioned in my earlier letter, if you have any proposed substantive changes, please provide them to me.

Mr. Goldberger and Mr. Tein explicitly approved the language in my earlier victim notification letter, even though they apparently were taking the position that the December 19, 2007 letter was *not* part of the Agreement, so that misinformation was provided to the victims with the approval of Mr. Epstein's attorneys.

With regard to your sixth and seventh points, I reiterate that it is the Office's position that the Agreement and Addendum speak for themselves. Let me also reiterate that, while the Office does not intend to involve itself in any civil negotiations or litigation, if it comes to our attention that Mr. Epstein has breached the terms of the Agreement, the Office intends to enforce its right pursuant to the Agreement.

I would appreciate a prompt response to the question regarding which of Mr. Epstein's attorneys should be named in and receive copies of the notification letters, as well as documentation of your commitment to paying Mr. Josefsberg's fees so that I may begin distributing the revised victim notifications on Wednesday morning.

Sincerely,

R. Alexander Acosta
United States Attorney

By:



A. Marie Villafaña
Assistant United States Attorney

cc: Karen Atkinson, Chief, Northern Division

From: Barry Krischer [mailto:Bkrische@sa15.state.fl.us]
Sent: Wednesday, September 17, 2008 10:46 AM
To: Garcia, Rolando (USAFLS)
Subject: FW: State █. Jeffrey Epstein

Please advise how you would like us to proceed. The agreement referred to is the Federal Non-Prosecution agreement sealed in the file by the judge at the time of the Epstein plea.

From: Lanna Belohlavek
Sent: Tuesday, September 16, 2008 4:21 PM
To: Barry Krischer
Subject: FW: State █. Jeffrey Epstein

How to proceed? Lanna

From: Bryce Albu [mailto:bryce@reederandreeder.com]
Sent: Tuesday, September 16, 2008 3:52 PM
To: Lanna Belohlavek
Cc: Martin Reeder
Subject: State █. Jeffrey Epstein

Ms. Belohlavek,

We represent The Palm Beach Daily News. The newspaper recently discovered that a non-prosecution agreement (and an addendum thereto) was filed under seal pursuant to an agreed order entered in the above-referenced case. Because the records are sealed, we cannot assess the propriety of the decision to seal them or even whether the newspaper is interested in the information contained therein. I was hoping you would discuss with me the nature of the agreement and the basis for sealing it so that we can advise our client on whether it should pursue an order unsealing the agreement. Please call me at your earliest convenience.

Very truly yours,

C. Bryce Albu
Reeder & Reeder P.A.
250 S. Central Blvd., Suite 200
Jupiter, FL 33458
Direct Dial: (561) 575-9721
Facsimile: (561) 575-9765
bryce@reederandreeder.com

PODHURST ORSECK, P.A.

City National Bank Building, Suite 800
25 West Flagler Street
Miami, FL 33130

Please deliver the following page(s) to:

AUSA A. Maria Villafana (561) 820-8777
Michael R. Tein, Esq. (305) 442-6744
Roy Black, Esq. (305) 358-2006

File No. Epstein

From: Robert C. Josefsberg, Esq.

Date: 9/16/08

Number of page(s): (Including cover page)

Our Fax Number: (305) 358-2382

MESSAGE:

**If you do not receive all pages, please contact us immediately at:
(305) 358-2800 - Extension 3241**

THIS IS A PRIVILEGED AND CONFIDENTIAL COMMUNICATION. IF YOU ARE NOT AN INTENDED RECIPIENT, YOU SHOULD: (1) REPLY TO SENDER; (2) DESTROY THIS COMMUNICATION ENTIRELY, INCLUDING DELETION OF ALL ASSOCIATED TEXT FILES FROM ALL INDIVIDUAL AND NETWORK STORAGE DEVICES; AND (3) REFRAIN FROM COPYING OR DISSEMINATING THIS COMMUNICATION BY ANY MEANS WHATSOEVER. THANK YOU.

Podhurst Orseck

TRIAL & APPELLATE LAWYERS

Aaron S. Podhurst
Robert C. Josefsberg
Joel D. [REDACTED]
Steven C. Marks
Victor M. Diaz, Jr.
Katherine W. Ezell
Stephen F. Rosenthal
Ricardo M. Martinez-Cid
Ramon A. Rasco
Alexander T. Rundlet
John Gravante, III

Robert Orseck (1934-1978)

Walter H. Beckham, Jr.
Karen Podhurst Dern
Of Counsel

September 15, 2008

VIA FACSIMILE

AUSA A. Marie Villafana
U.S. Attorney's Office
Southern District of Florida
500 S. Australian Avenue, Suite 400
West Palm Beach, FL 33401

Michael R. Tein, Esq.
Lewis Tein, P.L.
3059 Grand Avenue, Suite 340
Coconut Grove, FL 33133-5166

Roy Black, Esq.
Black, Srebnick, et al.
201 S. Biscayne Blvd., Suite 1300
Miami, FL 33131

Re: Jeffrey Epstein

Dear Ms. Villafana and Gentlemen:

Enclosed please find a letter received today from Jeffrey Herman. Before I start wasting my time and Mr. Epstein's money researching the ethical issues, I would like to know if any of you looked into Rule 4-7.4. Until I am advised to the contrary, I shall assume Mr. Herman is incorrect, but I would like this issue resolved as soon as possible.

Very truly yours,


Robert C. Josefsberg

RCJ/bp

Enclosure

cc: Katherine W. Ezell, Esq.
Amy Ederi, Esq.

Herman & Mermelstein, P

10:50:14 a.m.

16-09-2008

2/2

HERMAN & MERMELSTEIN PA
ATTORNEYS AT LAWKE ✓
RCJ —
CC AJE —
Jeffrey M. Herman
Tel 305.931.2200
Fax 305.931.0877
jherman@hermanlaw.com18205 Biscayne Blvd.
Suite 2218
Miami, Florida 33160
www.hermanlaw.com

September 16, 2008

Via Fax and Regular MailRobert Josefsberg, Esq.
Podhurst Orseck P A
25 W Flagler St Ste 800
Miami, Florida 331301720Re: *Jeffrey Epstein*

Dear Mr. Josefsberg:

We are in receipt of letters dated September 2, 2008 from Assistant U.S. Attorney A. Marie Villafaña that were sent to sexual assault victims of Jeffrey Epstein. That letter advises victims that you will be contacting them regarding civil claims against Epstein. Please be advised that we strenuously object to these letters and the contemplated unsolicited contacts with victims. Please be further advised that we represent the following victims in claims against Jeffrey Epstein, and direct that you make no contact with any of them, except through our office:

We further believe that Mr. Epstein's plan for you to represent victims, and for the Assistant U.S. Attorney to assist you in soliciting them, is in violation of the Florida Bar Rules, particularly Rule 4-7.4. We urge you not to participate in these activities.

Sincerely,


Jeffrey M. Herman

JMh/lr

ERMAN & MERMELSTEIN PA

ATTORNEYS AT LAW

Jeffrey M. Herman
 Tel 305-931-2200
 Fax 305-931-0877
 jherman@hermanlaw.com

18205 Biscayne Boulevard
 Suite 2218
 Miami, Florida 33160
 www.hermanlaw.com

FAX TRANSMITTAL

FROM	DATE	NO. OF PAGES
Jeffrey M. Herman	September 16, 2008	3

TO	COMPANY	FAX NUMBER
A. Marie Villafana, Esq.	U.S. Attorney's Office	(561)820-8777

MESSAGE

RE: Jane Does 2-5 | Jeffrey Epstein

Please see enclosed correspondence.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

HERMAN & MERMELSTEIN PA

ATTORNEYS AT LAW

Jeffrey M. Herman
Tel 305.931.2200
Fax 305.931.0877
jherman@hermanlaw.com

18205 Biscayne Blvd.
Suite 2218
Miami, Florida 33160
www.hermanlaw.com

September 16, 2008

Via Fax and Regular Mail

A. Marie Villafaña, Esq.
Assistant U.S. Attorney
500 Australian Ave., Fourth Floor
West Palm Beach, FL 33401

Re: *Jeffrey Epstein*

Dear Ms. Villafaña:

This concerns your letters to us and to sexual assault victims of Mr. Epstein dated September 2, 2008. Please be advised that we strenuously object to your letters on various grounds, and believe that they are in violation of the Florida Bar Rules.

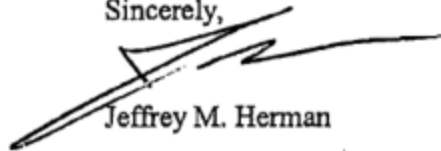
First, your letters attempt to steer the victims to a particular attorney, Mr. Josefsberg, and advise them that Mr. Josefsberg will be making an unsolicited contact to them in the next two weeks. This contact with prospective clients and solicitation reflected in your letters is contrary to Fla. Bar. Rule 4-7.4. Additionally, your letters are misleading in the following respects: (1) the action advocated to the victims in paragraph 2 refers generally to the victims' waiver of "any other claim for damages", failing to advise them that this waiver may include a valuable claim to punitive damages against an alleged billionaire; and (2) the letters imply in paragraph 3 that Mr. Epstein's agreement to pay attorney fees is a significant concession, when in fact a victim is entitled to reasonable attorneys' fees under the Statute upon proof of a violation, irrespective of Mr. Epstein's agreement.

We accordingly demand that the U.S. Attorneys' office immediately cease and desist from directing unrepresented victims into unsolicited attorney contacts and misleading them about their rights in claims against Mr. Epstein. We demand that you instruct Mr. Josefsberg not to solicit victims, and to send letters to unrepresented victims correcting the misleading statements contained in your September 2, 2008 letters.

A. Marie Villafaña, Esq.
September 16, 2008
Page 2

Finally, we demand that you make no contact with our clients directly, and contact them only through our office. Our clients include:

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey M. Herman", with a long horizontal flourish extending to the right.

Jeffrey M. Herman

JMH/lr

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Wednesday, September 17, 2008 1:20 PM
To: Jack Goldberger
Subject: RE: Letter concerning Epstein and the Palm Beach Daily News

Thank you, Jack.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

From: Jack Goldberger [mailto:jgoldberger@agwpa.com]
Sent: Wednesday, September 17, 2008 12:59 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Jay Lefkowitz; RBlack@RoyBlack.com; Barry Krischer; Sloman, Jeff (USAFLS); Atkinson, Karen (USAFLS); Garcia, Rolando (USAFLS)
Subject: Re: Letter concerning Epstein and the Palm Beach Daily News

We will deal with the state. To answer your? The addendum has been filed
Jack Goldberger

Sent from my iPhone

On Sep 17, 2008, at 12:15 PM, "Villafana, Ann Marie C. (USAFLS)" <Ann.Marie.C.Villafana@usdoj.gov> wrote:

Gentlemen: Please review the attached letter. Thank you.

<<Lefkowitz 080917.pdf>>

A. Marie Villafaña

Assistant [REDACTED] Attorney

561 209-1047

<Lefkowitz 080917.pdf>



U.S. Department of Justice

*United States Attorney
Southern District of Florida*

*500 S. Australian Ave, Ste 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777*

September 17, 2008

DELIVERY BY ELECTRONIC MAIL

Jay P. Lefkowitz, Esq.
Kirkland & Ellis LLP
Citigroup Center
153 East 53rd Street
New York, New York 10022-4675

Roy Black, Esq.
Black Srebnick Kornspan & Stumpf P.A.
201 S. Biscayne Blvd, Suite 1300
Miami, FL 33131

Jack A. Goldberger, Esq.
Atterbury, Goldberger & Weiss, P.A.
One Clearlake Centre, Suite 1400
250 Australian Ave S.
West Palm Beach, FL 33401-5015

Re: Jeffrey Epstein

Dear Jay, Roy, and Jack:

On today's date, our Office received an inquiry from State Attorney Barry Krischer related to the Non-Prosecution Agreement. In accordance with the terms of that Agreement, I am notifying you of this development. State Attorney Krischer has been contacted by counsel for the Palm Beach Daily News asking why the Non-Prosecution Agreement is under seal in order to determine whether to file suit asking that it be unsealed. I have informed State Attorney Krischer that the Agreement contains a confidentiality clause requiring us to provide Mr. Epstein's counsel with notice prior to making any disclosure (compulsory or otherwise). Since Mr. Epstein is a party to that criminal case, he has standing to contest any

EFTA00190399

JAY P. LEFKOWITZ, ESQ.
ROY BLACK, ESQ.
JACK GOLDBERGER, ESQ.
SEPTEMBER 17, 2008
PAGE 2 OF 2

unsealing, while we do not. Accordingly, I ask that you confer with Mr. Krischer regarding how you would like to proceed with the matter.

I also want to reiterate the concern I raised in my letter of August 15, 2008, that the complete Non-Prosecution Agreement, which includes the October Addendum, has not been filed with the Court in accordance with the Judge's order. Please advise that this issue has been resolved.

Thank you for your attention to these matters.

Sincerely,

R. Alexander Acosta
United States Attorney

By: 
A. Marie Villafaña
Assistant United States Attorney

cc: Barry Krischer, State Attorney
Karen Atkinson, Chief, Northern Division

-----Original Message-----

From: Roy BLACK [mailto:RBLACK@royblack.com]

Sent: Wednesday, November 26, 2008 11:56 AM

To: Villafana, Ann Marie C. (USAFLS)

Cc: Atkinson, Karen (USAFLS)

Subject: Re: Jeffrey Epstein

Marie since receipt of your letter I have looked into the situation and the following is what is happening:

Mr. Epstein has not breached the Non-Prosecution Agreement (the "Agreement") by serving a portion of his 18-month sentence of imprisonment in the Palm Beach County Work Release Program.

1. He is currently serving his sentence in the Palm Beach County Work Release Program, not in the State-Regulated Community Control Program. Thus he is not on community control.

o The County Jail sentence he is presently serving is being served under the auspices of the Palm Beach County Sheriff's Office.

o The Palm Beach County Sheriff's Office has a policy of allowing work release under certain criteria for those sentenced to the Palm Beach County Detention Center or Stockade. It has already been determined that Mr. Epstein qualifies under the Palm Beach County Sheriff's Office policy for work release. The Florida statute authorizing work release for someone imprisoned in county jail is at 951.24 (2)(a).

o The statute provides that when punishment by imprisonment in the county jail is prescribed, the sentencing court, in its discretion, may at any time during the sentence consider granting the privilege to the prisoner to leave the confines of the jail or county facility during necessary and reasonable hours, subject to the rules and regulations prescribed by the

court, to work at paid employment or to conduct his or her own business or profession. See Fla. Stat. § 951.24(2)(a).

o In Palm Beach County, the Sheriff's Office has discretion over work release. The local rules state that placement into House Arrest and Work Release "is at the discretion of the Sheriff and the presiding Judge" and offer no defined scope of the type of offenders that are eligible—or that are barred—from serving their time in Work Release." See Palm Beach County Department of Corrections Inmate Rule G-16.

2. The Non Prosecution Agreement does not prohibit work release.

o The Agreement does not regulate what programs Mr. Epstein can participate in while he is serving the County Jail sentence.

3. The Agreement expressly provides that he is to be afforded the same benefits that any other inmate might receive. See ¶ 12 of the Agreement.

5. Under Florida Law, work release is considered part of the confinement. See Rule 33-601.602, Fla. Admin. Code. (work release "allows inmates to work at paid employment in the community while continuing as inmates of the facility where they are confined."). So he is an inmate.

6. Alex Acosta recognized that Mr. Epstein might serve a portion of his sentence through the Work Release Program.

o. On December 6, 2007, after the Agreement had been executed, counsel received a draft notification letter in which US Attorney Acosta expresses this intention. The draft document provides that the recipient is "entitled to notification when Mr. Epstein is released from imprisonment at the end of his prison term and/or if he is allowed to participate in a work release program." See December 6, 2007 letter to J. Lefkowitz from A. Acosta attaching draft notification letter, p. 8.

7. I am told that on July 3, 2008, you wrote an email to the Deputy Sheriff stating that the US Attorney's Office had no objection to work release as long as Epstein is treated as any similarly situated inmate. If anything he is being treated more harshly than any other inmate in the program. He can't leave the office. He has a guard and is wearing a GPS device. So his terms are not more lenient but rather more restrictive than any other inmate in the program.

Clearly we do not feel this is a violation of the agreement and we have no intent to violate it. We will meet with you and anyone in the executive office to resolve this matter. Certainly it would be best for us to meet and discuss.

>>> "Villafana, Ann Marie C. (USAFLS)" <Ann.Marie.C.Villafana@usdoj.gov>
11/24/08 12:28 PM >>>

Dear Roy:

Please review A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Jay Lefkowitz <JLefkowitz@kirkland.com>
Sent: Wednesday, October 08, 2008 2:40 PM
To: Villafana, Ann Marie C. (USAFLS); Roy Black
Cc: Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS)
Subject: Re: Jane Does █. United States

Thank you for sending this.

Jay

From: "Villafana, Ann Marie C. (USAFLS)" [Ann.Marie.C.Villafana@usdoj.gov]
Sent: 10/08/2008 02:37 PM AST
To: <RBlack@RoyBlack.com>; Jay Lefkowitz
Cc: "Atkinson, Karen (USAFLS)" <Karen.Atkinson@usdoj.gov>; "Lee, Dexter (USAFLS)" <Dexter.Lee@usdoj.gov>
Subject: Jane Does █. United States

Dear Roy and Jay:

I am attaching the United States' Response to the Petitioners' Motion to Unseal the Non-Prosecution Agreement, which was filed in the victims' rights suit filed against the United States by Attorney Brad Edwards on behalf of two of the victims. In his motion to unseal, Attorney Edwards stated that he would provide notice of his motion to counsel for Mr. Epstein. I do not know if he actually did so.

In our response, we oppose the Petitioners' motion, and point out that Mr. Edwards has filed a civil suit against Mr. Epstein and that litigation regarding the Non-Prosecution Agreement is more appropriate in that forum where the real party in interest (Mr. Epstein) is a party to the suit.

<<DE29_081008_Resp to Motn Unseal.pdf>>

A. Marie Villafaña

Assistant U.S. Attorney

561 209-1047

Fax 561 820-8777

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communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to postmaster@kirkland.com, and destroy this communication and all copies thereof, including all attachments.

Villafana, Ann Marie C. (USAFLS)

From: Roy BLACK <RBLACK@royblack.com>
Sent: Thursday, December 04, 2008 1:34 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Sloman, Jeff (USAFLS)
Subject: Re: Motion
Attachments: Motion to Correct Sentence.wpd

Marie here is our motion to correct the sentence. As you can see Judge Pucillo is a retired judge who only handled McSorley's docket that day. Since the plea had to be done on that day due to our agreement Judge Pucillo handled it. Epstein's case has always been in division W which is McSorley and McSorley's order says all division W cases for work release are in the discretion of the sheriff. Also Jack says McSorley entered the new sentencing order without notice to anyone and in fact he didn't know it until this matter came up.

>>> "Villafana, Ann Marie C. (USAFLS)" <Ann.Marie.C.Villafana@usdoj.gov> 12/4/2008 12:51 PM >>>
Hi Roy - can you email the motion to Karen and I before it is filed? Thank you.

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Monday, November 24, 2008 12:29 PM
To: Roy BLACK
Cc: Atkinson, Karen (USAFLS)
Subject: Jeffrey Epstein
Attachments: 081124 Villafana ltr to Black.pdf

Dear Roy:

Please review the attached letter.

Thank you.

Marie

<<081124 Villafana ltr to Black.pdf>>

A. Marie Villafana

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777



U.S. Department of Justice

*United States Attorney
Southern District of Florida*

*500 S. Australian Ave, Ste 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777*

November 24, 2008

DELIVERY BY ELECTRONIC MAIL

Roy Black, Esq.
Black Srebnick Kornspan & Stumpf P.A.
201 S. Biscayne Blvd, Suite 1300
Miami, FL 33131

Re: Jeffrey Epstein

Dear Roy:

On Thursday I learned that Mr. Epstein applied for and was admitted to the Palm Beach County Sheriff's Office's work release program and that he has been on work release for the past few weeks. For the following reasons, the Office believes that Mr. Epstein's application to and participation in the work release program is a material breach of the Non-Prosecution Agreement. Accordingly, the United States demands that Mr. Epstein withdraw his application to participate in the program and complete his eighteen-month term of imprisonment in accordance with the Non-Prosecution Agreement.

The Non-Prosecution Agreement provides that Epstein "shall be sentenced to consecutive terms of twelve (12) months and six (6) months in county jail for all charges, without any opportunity for withholding adjudication or sentencing, and probation or community control in lieu of imprisonment." I have more than a dozen e-mails between myself and Jay Lefkowitz discussing the U.S. Attorney's insistence on eighteen months of incarceration. You will recall that at one meeting you and Ms. Sanchez raised the idea of Mr. Epstein hiring Sheriff's Deputies to guard him as equivalent to imprisonment. Mr. Acosta specifically rejected that suggestion. It is our understanding from the Sheriff's Office that Mr. Epstein is paying off-duty Sheriff's Deputies to guard him while he "works" at Mr.

EFTA00190408

Goldberger's office building each day.

As you remember, shortly before Mr. Epstein's change of plea, Mr. Goldberger sent me a copy of the proposed plea agreement with the state. On June 27, 2008, I sent a letter containing the following language to you and Mr. Goldberger:

The U.S. Attorney's Office hereby provides Notice that the proposed sentencing provision does not comply with the terms of the Non-Prosecution Agreement.

The second sentencing paragraph of the proposed plea agreement reads:

On 08CF009381AMB, the Defendant is sentenced to 18 months Community Control 1 (one). As a special condition of this Community Control, the Defendant must serve the first 6 months in the Palm Beach County Detention Facility . . .

The Non-Prosecution Agreement specifically provides:

Epstein shall be sentenced to consecutive terms of twelve (12) months and six (6) months in county jail for all charges, . . . without probation or community control in lieu of imprisonment.

Thus, the proposed plea agreement with the State Attorney's Office does not comply with the terms of the Non-Prosecution Agreement. To comply with the Agreement, Mr. Epstein must make a binding recommendation of eighteen months imprisonment, which means confinement twenty-four hours a day at the County Jail, and the judge must accept that recommendation. Community control must follow that term of incarceration.

(Emphasis in original.)

As I specified in that letter, the Non-Prosecution Agreement calls for "confinement twenty-four hours a day." In response to that letter, Mr. Goldberger agreed that he would revise the state plea agreement to include the word "imprisonment" to make clear that Mr. Epstein would be incarcerated for the full eighteen months and would change the language of the state agreement to match the language of the federal agreement. Mr. Goldberger and I also discussed the situation and he made clear that Mr. Epstein would not be asking for or receiving work release and would remain in jail "around the clock."

In early August, Karen Atkinson and I raised the same issue with you when we heard

that Mr. Epstein was considering applying for work release. On August 6, 2008, Ms. Atkinson and I had a conference call with you wherein you again stated that Mr. Epstein would not apply for or receive work release and would spend his eighteen months incarcerated twenty-four hours a day at the Palm Beach County Stockade.

In preparation for this letter, I obtained a certified copy of Mr. Epstein's state court file. On June 30, 2008, on the procurement of minors charge, Judge Pucillo entered the following sentence:

The defendant is hereby committed to the custody of the Sheriff of Palm Beach County, Florida for a term of 6 mos. It is further ordered that the Defendant shall be allowed a total of 1 days [*sic*] as credit for time incarcerated prior to imposition of this sentence. It is further ordered that the composite term of all sentences imposed for the counts specified in the order shall run consecutive to the following: Specific sentences: 2006CF9454AXX.

. . . the following provisions apply to the sentence imposed: . . . Followed by a period of 12 mos on community control 1 under the supervision of the Department of Corrections

As I learned on Friday when I received the state court file, you neglected to inform our Office that, on July 21, 2008, Judge McSorley modified the judgment *nunc pro tunc* to an "Order of Community Control I." This same language was the basis for the objection in my letter of June 26, 2008 and directly contradicts the language of the Non-Prosecution Agreement. I also note that, on the state plea agreement, Mr. Goldberger did not insert the word "imprisonment" as agreed prior to the change of plea, instead the words "jail sentence" are included.

The Office's Agreement not to prosecute Mr. Epstein was based upon its determination that eighteen months' incarceration (i.e., confinement twenty-four hours a day) was sufficient to satisfy the federal interest in Mr. Epstein's crimes. Accordingly, the U.S. Attorney's Office hereby gives notice that Mr. Epstein has violated the Non-Prosecution Agreement by failing to remain incarcerated twenty-four hours a day for the eighteen-month

ROY BLACK, ESQ.
NOVEMBER 24, 2008
PAGE 4 OF 4

term of imprisonment. The United States will exercise any and all rights it has under the Non-Prosecution Agreement unless Mr. Epstein immediately ceases and desists from his breach of this Agreement.

Sincerely,

R. Alexander Acosta
United States Attorney

By: 
A. Marie Villafañá
Assistant United States Attorney

cc: Karen Atkinson, Chief, Northern Division

JANE DOE ■ UNITED STATES
COURT FILE NO. 08-80736-CV-MARRA
THIRD SUPPLEMENTAL PRIVILEGE LOG – BOX #5

Bates Range	Description	Privilege(s) Asserted
P-014924	5/27/2008 emails between A.M. Villafaña and K. Atkinson regarding report of new state plea deal for J. Epstein	Work Product Deliberative Process
P-014925 thru P-014927	5/27/2008 emails between A.M. Villafaña, R. Senior, J. Sloman, and K. Atkinson regarding potential renewed plea negotiations for J. Epstein and plans to review and revise updated indictment package	Work Product Deliberative Process Investigative Privilege 6(e)
P-014928	5/23/2008-5/27/2008 emails between A.M. Villafaña, E.N. Kuyrkendall, and J. Richards regarding plans to meet to prepare for indictment presentation, service of grand jury subpoenas, interviews of additional witnesses, and plea negotiation issue	Attorney-Client Privilege Investigative Privilege 6(e)
P-014929 thru P-014933	5/27/2008-5/28/2008 emails between A.M. Villafaña, E. Nesbitt Kuyrkendall, and J. Richards regarding request for legal analysis of statute of limitations issues under state and federal law	Privacy Act/TVPA/CVRA Attorney-Client Privilege Investigative Privilege 6(e)
P-014934 thru P-014935	5/27/2008-5/28/2008 emails between A.M. Villafaña, J. Sloman, R. Senior, K. Atkinson, and R. Garcia regarding report of new state plea deal for J. Epstein	Privacy Act/TVPA/CVRA Work Product Deliberative Process
P-014936 thru P-014940	5/29/2008-5/30/2008 emails between A.M. Villafaña, J. Sloman, R. Senior, K. Atkinson, E. Nesbitt Kuyrkendall, and J. Richards regarding planned grand jury presentation, status of investigation, possible grant of immunity to victim/witness for grand jury testimony	Work Product Attorney-Client Privilege 6(e) Investigative Privilege Deliberative Process Privacy Act/TVPA/CVRA

Bates Range	Description	Privilege(s) Asserted
P-014941 thru P-014954	6/2/2008 draft letter to Deputy Attorney General Mark Filip regarding reasons to approve continued prosecution of J. Epstein (NB: The Court has already determined that final version of this letter is protected by Work Product/Deliberative Process/Attorney-Client Privileges)	Work Product 6(e) Deliberative Process Investigative Privilege
P-014955 thru P-014971	6/3/2008 draft letter to Deputy Attorney General Mark Filip regarding reasons to approve continued prosecution of J. Epstein (NB: The Court has already determined that final version of this letter is protected by Work Product/Deliberative Process/Attorney-Client Privileges)	Work Product 6(e) Deliberative Process Investigative Privilege
P-014972 thru P-014975	6/6/2008 emails between A.M. Villafaña and E. Nesbitt Kuyrkendall regarding victim/witness subpoenaed to the grand jury and need for additional grand jury subpoenas	Attorney-Client Privilege Investigative Privilege 6(e) Privacy Act/TPA/CVRA
P-014976	6/18/2008 emails between A.M. Villafaña, R. Senior, A. Acosta, J. Sloman, R. Garcia, and K. Atkinson regarding telephone conference with R. Black about allowing J. Epstein to accept state plea to 60 days' imprisonment.	Work Product Deliberative Process
P-014977 thru P-014978	6/19/2008 email forwarding 6/19/2008 email from B. Edwards to E. Nesbitt Kuyrkendall and J. Richards (NB: Asserting privilege only for A.M. Villafaña email. Attorney Edwards presumably has copy of his email to A.M. Villafaña)	Attorney-Client Privilege Investigative Privilege
P-014979 thru P-014980	6/23/2008 emails between A.M. Villafaña, A. Fernandez, and S. Ball (USAO staff) regarding scheduling of grand jury time for indictment presentation and witness testimony (Information regarding unrelated grand jury case redacted)	Work Product Investigative Privilege 6(e)
P-014981	6/23/2008 emails between A.M. Villafaña, E. Nesbitt Kuyrkendall, J. Richards, K. Atkinson, and R. Senior regarding grand jury subpoena to victim/witness, revisions to indictment, planned grand jury presentation, and plans to supersede indictment	Attorney-Client Privilege Work Product 6(e) Investigative Privilege Deliberative Process Privacy Act/TPA/CVRA

Bates Range	Description	Privilege(s) Asserted
P-014982 thru P-014990	6/25/2008 emails between A.M. Villafaña, J. Sloman, R. Senior, K. Atkinson, and A. Acosta regarding draft of notification of victim list for J. Epstein counsel with attached drafts (NB: Final list, with victim names redacted, has been produced to counsel for Petitioners)	Work Product Deliberative Process
P-014991 thru P-015004	6/23/2008-6/26/2008 emails between A.M. Villafaña and counsel for grand jury witness/victim regarding immunity and travel for grand jury appearance	6(e) Investigative privilege Privacy Act/TPA/CVRA
P-015005 thru P-015006	6/28/2008 emails between A.M. Villafaña, J. Sloman, A. Acosta, and R. Senior regarding correspondence with J. Goldberger and proposed change to state plea agreement	Work Product Deliberative Process Attorney-Client Privilege
P-015007	7/3/2008 emails between A.M. Villafaña, J. Sloman, and A. Acosta regarding telephone conf. with B. Edwards and regarding meeting with Sheriff's Office about work release program	Work Product Deliberative Process
P-015008 thru P-015024	7/8/2008 emails between D. Lee, K. Neal (Attorney Advisory, Victim Witness Staff, EOUSA), and A.M. Villafaña regarding filing of Petitioners' suit, with attached Draft of Villafaña Declaration and initial Petition (DEI) (NB: Privilege is not being asserted for second attachment (DEI). Attachment was prepared by petitioners and is not being produced because it is within their custody and control.)	Work Product Deliberative Process
P-015025 thru P-015028	7/8/2008 email from A.M. Villafaña to D. Lee, A. Acosta, and J. Sloman regarding victim notification letter provided to counsel for J. Epstein on 11/28/2007 with attachment (NB: The 11/28/2007 email to J. Lefkowitz with attachment will be produced to petitioners' counsel contemporaneously with the filing of this log)	Work Product Deliberative Process
P-015029 thru P-015034	7/7/2008-7/8/2008 emails between A.M. Villafaña and D. Lee regarding background of J. Epstein investigation, negotiations, and victim notifications, and forwarding earlier emails related to Lee questions	Work Product Deliberative Process Attorney-Client Privilege

Bates Range	Description	Privilege(s) Asserted
P-015035 thru P-015062	7/8/2008-7/9/2008 emails between A.M. Villafaña, J. Sloman, D. Lee, A. Acosta, K. Atkinson, K. Herd, K. Neal, K. Manning, and W. Jacobus regarding response to Jane Doe suit, procedure for filing, and internal office policies	Work Product Deliberative Process
P-015063 thru P-015069	7/11/2008-7/14/2008 emails between D. Lee, A.M. Villafaña, K. Herd, K. Neal, A. Acosta, J. Sloman, and W. Jacobus re outcome of hearing in Jane Doe U.S. suit and contact from counsel for J. Epstein	Attorney-Client Privilege Work Product Deliberative Process
P-015070 thru P-015071	7/14/2008-7/15/2008 emails between A.M. Villafaña, E. Nesbitt Kuyrkendall, J. Richards, and T. Smith regarding FBI victim notifications and guidance regarding language to use and information to provide	Attorney-Client Privilege
P-015072 thru P-015074	7/17/2008 email from J. Sloman to A. Acosta, A.M. Villafaña, K. Atkinson, and Dexter Lee with attached draft of letter to M. Tein regarding misrepresentations in filings on behalf of J. Epstein in civil suits	Work Product Deliberative Process
P-015075 thru P-015081	7/18/2008-7/21/2008 emails between A.M. Villafaña, J. Sloman, E. Nesbitt Kuyrkendall, J. Richards, D. Lee, and K. Atkinson regarding preparation of victim notification letters, victim contact list, filing of victim notification letter in a civil proceeding, and contact by B. Edwards with one victim opining that sentence imposed was insufficient	Attorney-Client Privilege Work Product Investigative Privilege
P-015082 thru P-015084	7/21/2008 emails between A.M. Villafaña, J. Sloman, R. Senior, D. Lee, K. Atkinson, E. Nesbitt Kuyrkendall, and J. Richards regarding ongoing victim notification process and Epstein filings in state court litigation related to federal grand jury investigation	Work Product Attorney-Client Privilege Deliberative Process 6(c)
P-015085 thru P-015090	7/22/2008 emails between A.M. Villafaña, A. Acosta, J. Sloman, R. Senior, K. Atkinson, E. Nesbitt Kuyrkendall, and J. Richards regarding 7/21/2008 letter from M. Tein announcing plan to stay the civil suits against J. Epstein and notification that B. Reinhart is counsel of record for [REDACTED] in civil suits (NB: Tein letter is being produced to petitioners' counsel concurrently with production of this privilege log)	Work Product Attorney-Client Privilege Deliberative Process

Bates Range	Description	Privilege(s) Asserted
P-015091 thru P-015092	7/22/2008 emails between A.M. Villafaña and E. Nesbitt Kuyrkendall regarding ongoing victim notification process	Attorney-Client Privilege 6(e) Investigative Privilege Privacy Act/TPA/CVRA
P-015093 thru P-015097	7/22/2008 emails between A.M. Villafaña, R. Senior, E. Nesbitt Kuyrkendall, J. Richards, and K. Atkinson regarding correspondence from J. Epstein counsel with attached draft response (NB: A final version of the letter has been produced.)	Attorney-Client Privilege Work Product 6(e) Deliberative Process
P-015098	7/23/2008 emails between A.M. Villafaña and D. Lee regarding correspondence with counsel for J. Epstein and notice of breach	Work Product Deliberative Process 6(e)
P-015099	7/25/2008 emails between A.M. Villafaña and K. Atkinson regarding extension of grand jury to allow for continued presentation of J. Epstein case	Work Product Deliberative Process 6(e)
P-015100 thru P-015116	8/2/2008 email from D. Lee to A. Acosta, J. Sloman, W. Jacobus, and A.M. Villafaña summarizing status of <i>Jane Doe</i> United States litigation and requesting views on making certain disclosures to counsel for petitioners with attached pleading filed by petitioners (DE19) (NB: Privilege is not being asserted for attachment. Attachment was prepared by petitioners and is not being produced because it is within their custody and control.)	Work Product Deliberative Process 6(e)
P-015117 thru P-015135	8/5/2008 email from A.M. Villafaña to A. Acosta, J. Sloman, R. Senior, and K. Atkinson regarding analysis of Jeffrey Epstein agreement, with attached 6/24/2008 email from A.M. Villafaña to R. Black and J. Goldberger and attached Epstein agreement. (NB: Privilege is not being asserted for the two attachments. The 6/24/2008 email will be produced to petitioners' counsel contemporaneously with the filing of this log, and the Agreement has previously been produced to petitioners pursuant to an earlier Court order.)	Work Product Deliberative Process

Bates Range	Description	Privilege(s) Asserted
P-015136 thru P-015172	8/13/2008-8/15/2008 emails between A. Acosta, K. Atkinson, R. Senior, J. Sloman, D. Lee, and A.M. Villafaña regarding scope of Epstein agreement and correspondence and telephone conference with J. Lefkowitz (NB: Emails to and from J. Lefkowitz and R. Black have been produced to Petitioners' counsel)	Work Product Deliberative Process Attorney-Client Privilege
P-015173 thru P-015186	8/25/2008 emails between A.M. Villafaña, A. Acosta, J. Sloman, R. Senior, K. Atkinson, and D. Lee regarding letter received from J. Lefkowitz (NB: Lefkowitz letter has been produced to Petitioners' counsel)	Work Product Deliberative Process Attorney-Client Privilege
P-015187 thru P-015194	8/20/2008-8/26/2008 emails between A.M. Villafaña, A. Acosta, J. Sloman, R. Senior, and K. Atkinson re draft response to J. Lefkowitz and draft amended victim notification letter (NB: Final version of letter to Lefkowitz and Black has been produced to Petitioners' counsel)	Work Product Deliberative Process
P-015195 thru P-015198	9/2/2008 emails between A.M. Villafaña, D. Lee, R. Senior, and J. Sloman regarding revised victim notification	Work Product Deliberative Process Attorney-Client Privilege
P-015199 thru P-015206	9/17/2008 emails between A.M. Villafaña, A. Acosta, J. Sloman, R. Senior, D. Lee, K. Atkinson, and R. Garcia regarding efforts by Palm Beach Daily News to unseal NonProsecution Agreement that had been filed in state court (NB: Emails from Counsel for Daily News and from State Attorney's Office have been produced to Petitioners' counsel)	Work Product Deliberative Process Attorney-Client Privilege
P-015207 thru P-015213	9/17/2008 email from A.M. Villafaña to A. Acosta, J. Sloman, R. Senior, D. Lee, and K. Atkinson regarding attached letters from J. Herman alleging that victim notifications violated Bar ethics rules (NB: Redacted versions of the letters have been produced to Petitioners' counsel)	Work Product Deliberative Process Privacy Act/TPA/CVRA
P-015214 thru P-015226	9/29/2008 correspondence to Florida Bar Ethics Counsel regarding victim notification letters and allegation of ethics violation for distribution of letters with attached proposed victim notification letters	Work Product Relevance Florida Bar Privacy Rules

Bates Range	Description	Privilege(s) Asserted
P-015227 thru P-015233	10/18/2008-10/20/2008 emails between D. Lee, A. Acosta, J. Sloman, and A.M. Villafaña regarding correspondence with B. Edwards discussing changes to understanding of portions of Non-Prosecution agreement and victim notifications	Work Product Deliberative Process
P-015234 thru P-015238	11/4/2008 correspondence from Florida Bar Ethics Counsel regarding Florida Ethics Rules involved in distributing victim notification letters.	Work Product Relevance Florida Bar Privacy Rules
P-015239 thru P-015263	11/26/2008 emails between A.M. Villafaña, J. Sloman, and R. Senior regarding email from R. Black about work release (NB: Email from R. Black has been produced to Petitioners' counsel)	Work Product Deliberative Process
P-015264 thru P-015267	12/4/2008 emails between E. Nesbitt Kuyrkendall and A.M. Villafaña regarding attempts to send victim notification letters overseas via Legal Attaches and unrelated Epstein financial issue	Attorney-Client Privilege Work Product Investigative Privilege Privacy Act/TPA/CVRA

Villafana, Ann Marie C. (USAFLS)

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From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, May 27, 2008 1:20 PM
To: Atkinson, Karen (USAFLS)
Subject: Re: Epstein

Please tell me you that you are joking. Maybe we should throw him a party and tell him we are sorry to have bothered him.

----- Original Message -----

From: Atkinson, Karen (USAFLS)
To: Villafana, Ann Marie C. (USAFLS)
Sent: Tue May 27 10:27:10 2008
Subject: Epstein

Don't know what is up but Barry talked to Rolando and according to Rolando said something about 90 days in jail. Rolando is talking to Jeff-he said. K

Produced
to
Court

Villafana, Ann Marie C. (USAFLS)

From: Senior, Robert (USAFLS) <RSenior@usa.doj.gov>
Sent: Tuesday, May 27, 2008 3:25 PM
To: Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS)
Cc: Atkinson, Karen (USAFLS)
Subject: RE: Epstein

Marie, are you back ? We need to spend some time together on the indictment. I was planning on Monday because I thought you were back that day but if you're already back let me know. By the way, Jeff and Alex have been very clear that we are not negotiating with this guy any more in any way.

Thx. Bob

-----Original Message-----

From: Villafana, Ann Marie C. (USAFLS)
Sent: Tuesday, May 27, 2008 2:54 PM
To: Sloman, Jeff (USAFLS); Senior, Robert (USAFLS)
Cc: Atkinson, Karen (USAFLS)
Subject: Epstein

Hi jeff. Karen sent me an email about epstein wanting to do less time. I hope that his request will be denied. The original deal was supposed to be 2 years so he has already gotten a big break. Plus we have identified more victims since we agreed to the 18 months. Please keep me posted. Thanks.

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, May 27, 2008 3:56 PM
To: Senior, Robert (USAFLS)
Subject: Re: Epstein

Hi bob. I get back on saturday. I will spend sunday with nesbitt and monday with you. I will be there by 10:00 unless you need me there earlier.

----- Original Message -----

From: Senior, Robert (USAFLS)
To: Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS)
Cc: Atkinson, Karen (USAFLS)
Sent: Tue May 27 15:24:50 2008
Subject: RE: Epstein

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Villafana, Ann Marie C. (USAFLS)

From: Senior, Robert (USAFLS) <RSenior@usa.doj.gov>
Sent: Tuesday, May 27, 2008 5:09 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Epstein

Perfect. Enjoy your trip. We're in good shape (so far).

-----Original Message-----

From: Villafana, Ann Marie C. (USAFLS)
Sent: Tuesday, May 27, 2008 3:56 PM
To: Senior, Robert (USAFLS)
Subject: Re: Epstein

Hi bob. I get back on saturday. I will spend sunday with nesbitt and monday with you. I will be there by 10:00 unless you need me there earlier.

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To: Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS)
Cc: Atkinson, Karen (USAFLS)
Sent: Tue May 27 15:24:50 2008
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Thx. Bob

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Sent: Tuesday, May 27, 2008 2:54 PM
To: Sloman, Jeff (USAFLS); Senior, Robert (USAFLS)
Cc: Atkinson, Karen (USAFLS)
Subject: Epstein

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Villafana, Ann Marie C. (USAFLS)

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From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, May 27, 2008 4:03 PM
To: Kuyrkendall, E N. (MM) (FBI)
Subject: Re: Mtg

Hi nesbitt. Just heard back from jeff. Theu haven't heard anything from epstein's people and they aren't interested in renegotiating so karen's msg is a non-starter. Let's plan to meet sunday at 1:30 at my house if that is okay. Then I will spend monday with bob in miami. Thanks.

----- Original Message -----

From: Kuyrkendall, E N. (FBI)
To: Villafana, Ann Marie C. (USAFLS)
Sent: Tue May 27 12:24:22 2008
Subject: RE: Mtg

Marie,

Hope you are having a Great time and resting up. I'm afraid our days will be busy when u get back:) Jason is out on Sunday, but I think u and I should be able to handle it. Let me know what time, I will keep the day open.

New York is not going well. The Agents are still trying to locate [REDACTED] (we now know here last name) [REDACTED] but no luck thus far. When we ran the name in TECS a [REDACTED] dob 07/09/1990 departed Miami on Jan 28, 2008 for Brazil and has not returned. We can not connect this [REDACTED] with New York so although the age matches this may not be our gal. There is no record of a [REDACTED] in Choicepoint or Accurant matching her description. We'll keep trying.

We have spoken to the parents and a family attorney for Leanne but she does not want to speak with us. The Agents will keep at it this week in hopes that they will be able to locate and interview her. I'll email you as soon as I have more to report.

It appears Joanne S. is residing in North Carolina now. Her house here is up for sale. We spoke with her mother and asked her to have Joanne contact us.

The subpoenas u left have all been served. We had to redo Verizon's at their request but they said they could get us the info this week. Negative results at the storage unit.

Unfortunately not much to report but we will stay at it. Email a time for Sunday and I let u know if we have any further developments.

Nesbitt

From: Villafana, Ann Marie C. (USAFLS) [Ann.Marie.C.Villafana@usdoj.gov]
Sent: Friday, May 23, 2008 9:37 AM
To: Kuyrkendall, E N.; Richards, Jason R.
Subject: Mtg

Hi guys. Hope all is well. I understand that jeff has explained the status. Can we meet on sunday june 1st to finalize everything so I can meet with bob on monday and we can present on tuesday? And what is the status of new york? Thanks

Villafana, Ann Marie C. (USAFLS)

From: Richards, Jason R. (FBI) <Jason.Richards2@ic.fbi.gov>
Sent: Tuesday, May 27, 2008 6:46 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Kuyrkendall, E N. (MM) (FBI)
Subject: RE: Epstein

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Hey Marie,

Sorry to bother you on your vacation. Apparently the DAG is inclined to allow Epstein's counsel to present further arguments. Jeff Sloman has requested Nesbitt and I to prepare, in email format, arguments to present to the DAG supporting why the case should not be stalled any further. Sloman mentioned statute of limitation issues. I don't know what the specific statute of limitations are (if there are any) for the various counts. Seems like the statute of limitations was for the life of the victim but I'm not certain. Other points that can be made include the private investigators continuing to contact the victims and the relocation of our victims to various parts of the country. Do you have any suggestions as to what would be our best course of persuasion? Thanks and happy travels.

Jason

From: Villafana, Ann Marie C. (USAFLS) [Ann.Marie.C.Villafana@usdoj.gov]
Sent: Tuesday, May 27, 2008 2:54 PM
To: Sloman, Jeff (USAFLS); Senior, Robert (USAFLS)
Cc: Atkinson, Karen (USAFLS)
Subject: Epstein

Hi jeff. Karen sent me an email about epstein wanting to do less time. I hope that his request will be denied. The original deal was supposed to be 2 years so he has already gotten a big break. Plus we have identified more victims since we agreed to the 18 months. Please keep me posted. Thanks.

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, May 27, 2008 11:45 PM
To: Richards, Jason R. (MM) (FBI); Atkinson, Karen (USAFLS); Kuyrkendall, E N. (MM) (FBI)
Subject: Re: Epstein

Aaaargh.

The statute of limitations issue is the state statute of limitations. I think joe says it is two years. The issue is implicated in two ways. First, because of the state's leniency for the first set of girls, the second set have been presented only to us for prosecution. If we cannot go forward, then there will be no prosecution of those crimes. (In response to the argument that joe should just present them now, we believe that some of the victims are unknown to the defense and disclosing them further weakens our case by allowing them to depose and harass those victims.)

Second, our "state resolution" of the case requires epstein to plead to something that hasn't been charged yet so further delay will allow him to escape one of the terms of the deal he signed several months ago. (There also is a sol on the private cause of action under 2255 pursuant to which he must pay damages to the girls. The delay will allow him to escape responsibility for that term, too.)

Other reasons:

The victims are getting older. Clearly one of epstein's arguments will be that he did not know they were minors. The older they are when they testify the more plausible epstein's argument becomes.

The grand jury we are using will expire soon. We have already presented more than a dozen hours of testimony and the grand jury is invested and wants to indict.

We promised the girls swift justice so they could move on with their lives. [REDACTED] is a perfect example of why this is needed. The delay so far has led many to reach out to private lawyers which, in turn, let's e argue that they are only in it for money.

Why give him more time? He has had more than a year's delay already for no reason other than the names of the attorneys he can afford to hire. This is not a white collar or other non-violent crime. This is a child exploitation crime with more than 20 known child victims. We are mandated by statute and doj policy to prosecute those cases vigorously and in a timely fashion - whether the children were prostitutes or unwilling victims. Why is this case being treated so differently?

----- Original Message -----

From: Richards, Jason R. (FBI)
To: Villafana, Ann Marie C. (USAFLS)
Cc: Kuyrkendall, E N. (FBI)
Sent: Tue May 27 18:45:37 2008
Subject: RE: Epstein

Hey Marie,

Sorry to bother you on your vacation. Apparently the DAG is inclined to allow Epstein's counsel to present further arguments. Jeff Sloman has requested Nesbitt and I to prepare, in email format, arguments to present to the DAG supporting why the case should not be stalled any further. Sloman mentioned statute of limitation issues. I don't know what the specific statute of limitations are (if there are any) for the various counts. Seems like the statute of limitations was for the life of the victim but I'm not certain. Other points that can be made include the private investigators continuing to contact the victims and the relocation of our victims to various parts of the country. Do you have any suggestions as to what would be our best course of persuasion? Thanks and happy travels.

Jason

From: Villafana, Ann Marie C. (USAFLS) [Ann.Marie.C.Villafana@usdoj.gov]
Sent: Tuesday, May 27, 2008 2:54 PM
To: Sloman, Jeff (USAFLS); Senior, Robert (USAFLS)
Cc: Atkinson, Karen (USAFLS)
Subject: Epstein

Hi jeff. Karen sent me an email about epstein wanting to do less time. I hope that his request will be denied. The original deal was supposed to be 2 years so he has already gotten a big break. Plus we have identified more victims since we agreed to the 18 months. Please keep me posted. Thanks.

Villafana, Ann Marie C. (USAFLS)

From: Kuyrkendall, E N. (FBI) <E.Kuyrkendall@ic.fbi.gov>
Sent: Wednesday, May 28, 2008 6:33 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Epstein

Hey we emailed Jeff MOST:) of your comments re any further delays and added a few of our own. The US Atty Gen was here today in MM. I would love to know if Epstein came up. Jeff and Acosta were going to present to the DAG reasons not to delay any further. Hopefully they were successful and we r still on for Tues. We interviewed SR today. She told Epstein her true age, she belvd was 14 or 15. Phone records show contact @ age 16. She said Epstein told her he did not care about age. She also said that E told her he had f***d TM. TM brought SR. Anyways, I'll fill u in later. NY getting close to locating ML. We have cell and good address. Keep your fingers crossed. Talk to u soon.

----- Original Message -----

From: Villafana, Ann Marie C. (USAFLS) <Ann.Marie.C.Villafana@usdoj.gov>
To: Richards, Jason R.; Atkinson, Karen (USAFLS); Kuyrkendall, E N.
Sent: Tue May 27 23:45:06 2008
Subject: Re: Epstein

Aaaargh.

The statute of limitations issue is the state statute of limitations. I think joe says it is two years. The issue is implicated in two ways. First, because of the state's leniency for the first set of girls, the second set have been presented only to us for prosecution. If we cannot go forward, then there will be no prosecution of those crimes. (In response to the argument that joe should just present them now, we believe that some of the victims are unknown to the defense and disclosing them further weakens our case by allowing them to depose and harass those victims.)

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Villafana, Ann Marie C. (USAFLS)

From: Atkinson, Karen (USAFLS) <KAtkinson@usa.doj.gov>
Sent: Wednesday, May 28, 2008 9:21 AM
To: Sloman, Jeff (USAFLS); Villafana, Ann Marie C. (USAFLS)
Subject: RE: Epstein

14

This was info that Rolando got from Barry, the state attorney, but he was waiting for an email to confirm. I am much to lowly to have communications with the "star" team.

-----Original Message-----

From: Sloman, Jeff (USAFLS)
Sent: Tuesday, May 27, 2008 3:09 PM
To: Villafana, Ann Marie C. (USAFLS); Senior, Robert (USAFLS)
Cc: Atkinson, Karen (USAFLS)
Subject: RE: Epstein

Marie/Karen,

No one has contacted anyone in Miami. Please copy me and Bob on all communications. Thanks,

Jeff

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From: Villafana, Ann Marie C. (USAFLS)
Sent: Tuesday, May 27, 2008 2:54 PM
To: Sloman, Jeff (USAFLS); Senior, Robert (USAFLS)
Cc: Atkinson, Karen (USAFLS)
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From: Sloman, Jeff (USAFLS) <JSloman@usa.doj.gov>
Sent: Wednesday, May 28, 2008 9:37 AM
To: Atkinson, Karen (USAFLS); Villafana, Ann Marie C. (USAFLS); Garcia, Rolando (USAFLS)
Subject: RE: Epstein

Rolando,
Please fill me in.
Jeff

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From: Atkinson, Karen (USAFLS)
Sent: Wednesday, May 28, 2008 9:21 AM
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Villafana, Ann Marie C. (USAFLS)

15

From: Sloman, Jeff (USAFLS) <JSloman@usa.doj.gov>
Sent: Thursday, May 29, 2008 9:29 AM
To: Villafana, Ann Marie C. (USAFLS); Senior, Robert (USAFLS)
Cc: Atkinson, Karen (USAFLS); Kuyrkendall, E N. (MM) (FBI); Richards, Jason R. (MM) (FBI)
Subject: RE: Epstein

No telling how long the DAG's office will take to decide. Tuesday is off.

-----Original Message-----

From: Villafana, Ann Marie C. (USAFLS)
Sent: Thursday, May 29, 2008 9:03 AM
To: Sloman, Jeff (USAFLS); Senior, Robert (USAFLS)
Cc: Atkinson, Karen (USAFLS); Kuyrkendall, E N. (FBI); Richards, Jason R. (FBI)
Subject: Epstein

Hi Jeff and Bob. I received Jeff's e-mail stating that the DAG agreed to meet with epstein's people. Does this mean that Tuesday is off? I need to let the gj coordinator know.

Also, I am sure that you remember [REDACTED] m. She was the person whom we initially classified as a victim until epstein's attorneys complained. Well, nesbitt has just interviewed a girl who was 14 or 15 when she first went to epstein's house who reports that epstein told her that he had sex with [REDACTED]. ([REDACTED] probably would have been 15 or 16 when this conversation occurred.) The girl also reports that she told epstein her true age and epstein told her that he doesn't care about age.

I know that epstein's people will, no doubt, continue to tell the dag and others that epstein didn't know about the girls' ages so I thought you should know.

Please let me know about tuesday so I don't needlessly spoil nesbitt's sunday. And, any chance the case was discussed with the ag when he was in town?

Thanks.

Villafana, Ann Marie C. (USAFLS)

From: Kuyrkendall, E N. (FBI) <E.Kuyrkendall@ic.fbi.gov>
Sent: Thursday, May 29, 2008 12:19 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Epstein

Marie,

The NY agents made contact with [REDACTED] today. She met them at the door with her attorney's card. (she is connected to a target in another FBI investigation) I'll explain later. Anyway, she contacted the agent a few minutes ago and sounded surprised when she was informed it was about Epstein. She switched the conversation immediately about coming to Grand Jury on Tues. The agent left the door open to contact her if she decides to talk to her. I think we should let her travel down here and let Jason and I attempt to interview her prior to putting her in the GJ. What do you think? I told the NY agent if [REDACTED] should reach out to her again to provide her with my name and information as her contact once she gets down here. I do not know if she plans on getting her attorney involved or not. His info is as follows: Diarmuid White of White and White, 148 E. 78th Street, NY NY 10075, telephone number [REDACTED]. I have a feeling she will reach out to Epstein, so it could get interesting. We have to schedule time for her in front of GJ. Let me know.

Nesbitt

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Cc: Atkinson, Karen (USAFLS); Kuyrkendall, E N.; Richards, Jason R.
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I know that epstein's people will, no doubt, continue to tell the dag and others that epstein didn't know about the girls' ages so I thought you should know.

Please let me know about tuesday so I don't needlessly spoil nesbitt's sunday. And, any chance the case was discussed with the ag when he was in town?

Thanks.

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Thursday, May 29, 2008 3:24 PM
To: Kuyrkendall, E N. (MM) (FBI)
Subject: Re: Epstein

Hi nesbitt. Very intereting. Is she coming down on her own dime? If she wants us to pay we have to set up the travel. Can you figure that out and if she is showing up this tuesday call karen atkinson to reserve grand jury time. Ask to put us last in case she is willing to do an interview and then we will not bring her to gj. We may want to video her. Since we aren't indicting on tuesday let's meet monday afternoon to go over everything. Thanks.

----- Original Message -----

From: Kuyrkendall, E N. (FBI)
To: Villafana, Ann Marie C. (USAFLS)
Sent: Thu May 29 12:18:50 2008
Subject: RE: Epstein

Marie,

The NY agents made contact with [REDACTED] today. She met them at the door with her attorney's card. (she is connected to a target in another FBI investigation) I'll explain later. Anyway, she contacted the agent a few minutes ago and sounded surprised when she was informed it was about Epstein. She switched the conversation immediately about coming to Grand Jury on Tues. The agent left the door open to contact her if she decides to talk to her. I think we should let her travel down here and let Jason and I attempt to interview her prior to putting her in the GJ. What do you think? I told the NY agent if [REDACTED] should reach out to her again to provide her with my name and information as her contact once she gets down here. I do not know if she plans on getting her attorney involved or not. His info is as follows: Diarmuid White of White and White, 148 E. 78th Street, NY NY 10075, telephone number [REDACTED]. I have a feeling she will reach out to Epstein, so it could get interesting. We have to schedule time for her in front of GJ. Let me know.

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From: Kuyrkendall, E N. (FBI) <E.Kuyrkendall@ic.fbi.gov>
Sent: Friday, May 30, 2008 2:53 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Epstein

Marie,

I just heard from [REDACTED] attorney, Brendan White. He informed me that he is representing [REDACTED] and that she would not be able to make the June 3rd date and that she will invoke her 5th amendment right unless she is granted immunity. I informed him that [REDACTED] was considered a victim/witness but he said that she would still invoke w/o immunity. SOUNDS like he has been well informed. Anyway Mr. White advised he had left you a message so I told him I would let the two of you work out the details. We can meet Monday afternoon and I will fill you in on the rest. I'll let Karen Odell and Karen Atkinson know we are off for Tuesday. Have a great weekend.

Nesbitt

From: Villafana, Ann Marie C. (USAFLS) [Ann.Marie.C.Villafana@usdoj.gov]
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Thanks.

16

Stoman, Jeff (USAFSL) <JStoman@usa.doj.gov>
Monday, June 02, 2008 4:25 PM
Villafana, Ann Marie C. (USAFSL)
draft letter to DAG

From:
Sent:
To:
Subject:

Villafana, Ann Marie C. (USAFSL)



1 2008/06/02 16:25

Villafana, Ann Marie C. (USAFLS)

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Sent: Monday, June 02, 2008 4:25 PM
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Subject: draft letter to DAG



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U.S. Department of Justice



Florida

*United States Attorney
Southern District of*

First Assistant U.S. Attorney

*Miami, FL 33132
(305) 961-9100*

99 N.E. 4th Street

DELIVERY BY FEDERAL EXPRESS

June 2, 2008

Honorable Mark Filip
Office of the Deputy Attorney General
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Re: Jeffrey Epstein

Dear Judge Filip,

Jeffrey Epstein is a part-time resident of Palm Beach County, Florida. In 2006, the Federal Bureau of Investigation began investigating allegations that, over a two-year period, Epstein paid approximately 28 minor females from Royal Palm Beach High School to come to his house for sexual favors. In July 2006, the matter was presented to AUSA A. Marie Villafana of our West Palm Beach branch office to pursue a formal criminal investigation. That investigation resulted in the discovery of approximately one dozen additional minor victims. Over the last several months, approximately six more minor victims have been identified.

AUSA Villafana has been ready to present an indictment to a West Palm Beach federal grand jury since May 2007. The prosecution memorandum and proposed indictment have been extensively reviewed and re-reviewed by Southern District of Florida (SDFL) Deputy Chief of the Criminal Division Andrew Lourie, Chief of the Criminal Division Matthew Menchel¹, First Assistant United States Attorney Jeffrey H. Sloman, United States Attorney R. Alexander Acosta as well as various members of the Child Exploitation and Obscenity Section (CEOS) at the Department of Justice including, but not limited to its Chief, Andrew G. Oosterbahn. Many of these legal and factual issues have been discussed and approved by Deputy Assistant Attorney General for the Criminal Division (DAAG) Sigal Mandelker and the Assistant Attorney General for the Criminal Division (AAG) Alice S. Fisher, as well as the Criminal Division's Appellate Section and the Office of Enforcement Operations regarding the petit policy.

¹Mr. Menchel resigned for private practice on August 3, 2007 and was replaced by Robert Senior.

By May 2007, AUSA Villafana began seeking approval from her supervisors to indict Epstein. Her immediate supervisor was Andrew Lourie. Mr. Lourie had served as the Chief of the Public Integrity Section at DOJ as well as in several supervisory positions in the SDFL. By mid-2006, he had returned to his position as the Deputy Chief of the Criminal Division in West Palm Beach (head of the West Palm Beach branch office), after serving as the interim Chief of the Public Integrity Section at DOJ at the request of AAG Fisher. By October 2007, Mr. Lourie would leave the SDFL to become AAG Fisher's Chief of Staff.² Above Mr. Lourie in the SDFL's chain of command were Matthew Menchel, Criminal Division Chief, First Assistant USA Sloman and finally, U.S. Attorney Acosta.

Prior to seeking approval to return an indictment, Epstein's legal team had been actively working to convince this Office that such action was not warranted. The legal team has consisted of many different local and national lawyers and law firms. It appears as though each lawyer and/or firm became actively involved depending upon which person from the SDFL and/or DOJ component was involved in the process. For example, at the end of 2006, former SDFL U.S. Attorney and EOUSA Executive Director Guy Lewis contacted AUSA Villafana when he learned that she was handling the federal investigation of Epstein. He asked to meet with her but she said that she believed such a meeting would be premature. In December, Lilly Ann Sanchez and Gerald Lefcourt again contacted AUSA Villafana to set a meeting. In advance of such a meeting, AUSA Villafana requested documents but that request was refused. Ms. Sanchez then contacted Deputy Chief of the Criminal Division, Andrew Lourie, who agreed to meet with Ms. Sanchez and Mr. Lefcourt. On February 1, 2007, Ms. Sanchez and Mr. Lefcourt met with AUSAs Lourie and Villafana, as well as a member of the FBI, and presented defense counsel's view of the case, and promised a willingness to assist in the investigation. The SDFL was unpersuaded by their presentation and the investigation continued.

By the late Spring and early Summer, the focus of the investigation left investigating the facts of the victims' claims and turned more to Epstein's background, his asserted defenses, co-conspirators, and possible witnesses who could corroborate the victims' statements. The investigation also began to look into financial aspects of the case, requiring the issuance of several subpoenas. At the time, Mr. Lefcourt began leveling accusations of improprieties with the investigation and sought a meeting with Criminal Division Chief Matthew Menchel. By that time, the proposed initial indictment package had been reviewed and approved by Mr. Lourie in West Palm Beach and by attorneys with CEOS; however, it awaited review by Mr. Menchel and me/FAUSA Sloman. The SDFL deferred presenting the indictment to the grand jury to accommodate the Epstein legal team's request for a meeting. We also agreed to wait several weeks for that meeting to occur to allow four of Epstein's attorneys to be present, and also provided counsel with a list of the statutes that were the subject of the investigation.

On June 26, 2007, Mr. Menchel, Mr. Lourie, AUSA Villafana, and FAUSA Sloman, and two FBI agents met with Alan Dershowitz, Roy Black, Gerald Lefcourt, and Lilly Ann Sanchez. During that meeting Professor Dershowitz and other members of the defense team presented

²Rolando Garcia replaced Mr. Lourie as the Deputy Chief of the Criminal Division.

legal and factual arguments against a federal indictment. Counsel for the defense also requested the opportunity to present written arguments, which was granted. The arguments and written materials provided by the defense were examined by the SDFL and rejected.

On July 31, 2007, Mr. Menchel, Mr. Lourie, AUSA Villafana, and FAUSA Sloman, and two FBI agents met with Roy Black, Gerald Lefcourt, and Lilly Ann Sanchez. On that date, the SDFL presented a written sheet of terms that would satisfy the SDFL's federal interest in the case and discussed the substance of those terms. One of those terms was:

Epstein agrees that, if any of the victims identified in the federal investigation file suit pursuant to 18 U.S.C. Section 2255, Epstein will not contest the jurisdiction of the U.S. District Court for the Southern District of Florida over his person and the subject matter. Epstein will not contest that the identified victims are persons who, while minors, were victims of violations of Title 18, United States Code, Sections 2422 and/or 2423.

During that meeting, the focus was on Mr. Epstein's unwillingness to spend time in prison, and various suggestions were raised by defense counsel, including the proposal that he could serve a sentence of home confinement or probation. This was repeatedly mentioned by counsel for Epstein as being equivalent to a term of imprisonment in a state or federal prison. Epstein's counsel mentioned their concerns about his safety in prison, and the SDFL offered to explore a plea to a federal charge to allow Epstein to serve his time in a federal facility. Counsel were also presented with a conservative estimate of the sentence that Epstein would face if he were convicted: an advisory guideline range of 188 - 235 months' incarceration with a five-year mandatory minimum prison term, to be followed by lifetime supervised release. Counsel was told that Epstein had two weeks to accept or reject the proposal.

It is critical to note that Ms. Sanchez, one of Epstein's local lawyers, seized upon this method of restitution as a condition of deferring federal prosecution. In referring to the 18 U.S.C. Section 2255 method of compensation, Ms. Sanchez stated:

[t]his would allow the victims to be able to promptly put this behind them and go forward with their lives. If given the opportunity to opine as to the appropriateness of Mr. Epstein's proposal, in my extensive experience in these types of cases, the victims prefer a quick resolution with compensation for damages and will always support any disposition that eliminates the need for trial.

See attached August 2, 2007 letter from Lilly Ann Sanchez to SDFL Criminal Division Chief Menchel, p.2, fn 1. Ironically, it is Epstein's "national" attorneys who are now representing to the Deputy Attorney General of the United States in their May 19, 2008 letter that:

Perhaps most troubling, the USAO in Miami, as a condition of deferring prosecution, required a commingling of substantive federal criminal law with a proposed civil remedy engineered in a way that appears intended to profit particular lawyers in private practice in South Florida with personal relationships

to some of the prosecutors involved.

Not only did Epstein's lawyers like the idea of using 18 U.S.C. Section 2255 to compensate the victims but, they also sought to make their non-incarcerative state proposal even more attractive by offering payments to "a charitable organization benefitting victims of sexual assault," "law enforcement investigative costs" and "Court and probationary costs." *Id.* at p. 2.

Epstein's counsel, still dissatisfied with the Office's review of the case, demanded to meet with U.S. Attorney Acosta and to have the opportunity to meet with someone in Washington, D.C. To accommodate Mr. Black, the meeting was put off until September 7, 2007, despite the fact that the indictment was ready for presentation to the grand jury. In the interim, AUSA Villafana and the investigators met with CEOS Chief Oosterbahn, to review, yet again, the evidence and legal theories of prosecution. Chief Oosterbahn strongly supported the indictment and even offered to join the trial team and provide additional support from CEOS.

On September 7, 2007, U.S. Attorney Acosta met with Kirkland & Ellis partners Jay Lefkowitz and former Solicitor General Ken Starr and Ms. Sanchez, along with Chief Oosterbahn and AUSAs Villafana, John McMillan, and FAUSA Sloman. Messrs. Star and Lefkowitz presented arguments regarding the sufficiency of the federal interest in the case and other legal and factual issues. We discussed those legal arguments and the unanimous opinion of all of the attorneys present was in favor of prosecution. During that meeting, Mr. Lefkowitz also offered a plea resolution. His offer, in essence, was that Epstein be subjected to home confinement at his Palm Beach home, using private security officers who would serve as his "wardens," if necessary. Mr. Lefkowitz expressed the belief that such a sentence would be particularly appropriate because, as a wealthy white man, he may be the subject of violence or extortion in prison. Finally, Messrs. Star and Lefkowitz expressed the belief that Epstein's extensive philanthropy should be considered in our prosecution decision. U.S. Attorney Acosta summarily rejected these proposals, and indicated that the 24-month offer presented previously by the SDFL stood.

The issue of the inclusion of a restitution-type remedy for the victims pursuant to 18 U.S.C. Section 2255 was specifically raised and discussed at the September 7th meeting, and Mr. Starr thanked AUSA Villafana for bringing it to his attention as a novel approach to allowing the victims to receive essentially federal restitution while allowing a plea to a state charge. After considering everything said and written by Epstein's legal team, and after conferring with Chief Oosterbahn, U.S. Attorney Acosta informed Epstein's counsel that the SDFL still intended to proceed to indictment. Since counsel indicated a desire to appeal the matter to the Attorney General, the Deputy Attorney General, or the Assistant Attorney General for the Criminal Division, U.S. Attorney Acosta agreed to delay the presentation of the indictment for two weeks to allow them to speak with someone in Washington, D.C., if they so chose.

Instead, Mr. Epstein elected to negotiate the Non-Prosecution Agreement, and on September 12, 2007, counsel for the SDFL (AUSAs Lourie, Garcia, and Villafana) and counsel for Epstein (Messrs. Lefcourt, Lefkowitz, and Goldberger) met with Palm Beach County State Attorney Barry Krisher and Assistant State Attorney Lanna Belohlavek to discuss a plea to an

Information in the state court that would satisfy the federal interest in the case. As noted on the term sheet of July 31st, one of those essential terms was a guilty plea to a charge requiring sex offender registration. During that meeting, the issue of sex offender registration was raised, and Mr. Goldberger told the federal prosecutors that there was no problem, Mr. Epstein would plead guilty to the charge of solicitation of minors for prostitution (Fl. Stat. 796.03), which was one of the statutes listed on the original term sheet. Although the SDFL had wanted Epstein to plead guilty to three different offenses, we agreed to this compromise.³ Of course, the SDFL later learned that, at the time Mr. Goldberger made that statement, he incorrectly believed, based upon a statement from ASA Belohlavek, that Fl. Stat. Section 796.03 did *not* require sex offender registration.

The parties then began working first on a plea agreement to a federal charge and, when it was clear that there was no guarantee that Epstein would serve his sentence in a minimum security prison camp, the discussion turned to a Non-Prosecution Agreement. Both the federal plea agreement and the Non-Prosecution Agreement included references to Section 2255 because neither the contemplated federal charges nor the proposed state charges encompassed all of the identified victims. If Epstein had been prosecuted under the planned indictment, the identified victims would have been eligible for restitution *and* damages under Section 2255. As explained above, one of our interests, which had to be satisfied by the Non-Prosecution Agreement, was providing appropriate compensation to the victims. This provision of the Agreement was heavily negotiated. As Mr. Lefkowitz wrote in his November 29th e-mail to FAUSA Sloman, Epstein "offered to provide a restitution fund for the alleged victims in this matter; however, that option was rejected by [our] Office." That option was rejected for several reasons. First, the SDFL does not serve as legal representatives to the victims and has no authority to bind victims, nor could it provide a monetary figure that would represent a "loss" amount for restitution purposes. Second, there would be no legal basis for federal restitution without a conviction for a federal offense. And, third, it was the U.S. Attorney's belief that the SDFL should not be put in the position of administering a restitution fund. Our Section 2255 proposal put the victims in the same position that they would have been in if we had proceeded to trial and convicted Epstein of his crimes, with the exception that the victims were provided with counsel. The appointment of counsel was not such a benefit to the victims but, rather, was done, in part, to benefit Epstein by allowing him to try to privately negotiate a group resolution of all claims with one attorney. Epstein and his lawyers agreed with this alternative.

The negotiation of the Agreement was lengthy and difficult. Mr. Lefkowitz and AUSA Villafana went through several drafts of both a federal plea agreement and a Non-Prosecution Agreement. Throughout these negotiations, when a member of the defense team was dissatisfied with the SDFL's position, it was repeatedly appealed throughout the Office. So several members of the defense team spoke with the chain of command regarding the terms of the Agreement, including the Section 2255 provisions. At the eleventh hour, when Epstein's legal team realized

³ Another significant compromise reached at the meeting was a reduction in the amount of jail time - from 24 months down to 18 months, which would be served at the Palm Beach County Jail rather than a state prison facility.

that Fl. Stat. 796.03 *would* require him to register as a sex offender, they sought to change the most essential term of the agreement - a term that Messrs. Goldberger, Lefkowitz, and Lefcourt had specifically agreed to at the September 12th meeting with the State Attorney's Office - asking to allow Epstein to plead to a charge that would not require registration. When this was rejected, several members of the defense team appealed directly to U.S. Attorney Acosta which also failed. When that failed, according to press reports, apparently Mr. Lefcourt "leaked" a letter intended for the U.S. Attorney to the press containing the reasons why he/Lefcourt did not believe Epstein should have to register.

Prior to signing the Non-Prosecution Agreement, Mr. Epstein's defense team included Ken Starr, Jay Lefkowitz, Lilly Ann Sanchez, Alan Dershowitz, Gerald Lefcourt, Roy Black, Guy Lewis, Martin Weinberg, Jack Goldberger, Stephanie Thacker, and the associates at Kirkland & Ellis who conducted research on discrete issues. This impressive legal team reviewed the Agreement and counseled Epstein. Based upon that counsel, Epstein decided that it was in his best interest to execute the Non-Prosecution Agreement which was signed on September 24, 2007 by Mr. Lefcourt, Ms. Sanchez and Epstein. A copy of which is attached hereto. The core principles of the Agreement are incarceration, registration as a sex offender and a method of compensation.⁴ Furthermore, and significantly, Epstein agreed that he had the burden of ensuring compliance of the Agreement with the Palm Beach County State Attorney's Office and the Judge of the 15th Judicial Circuit and *"that the failure to do so will be a breach of the agreement"* (emphasis added). To this day, the SDFL has never divulged its evidence to Epstein's lawyers.

Within a week of the execution of the Agreement, the SDFL unilaterally proposed to divest its right to select the attorney representative for the victims. This was done to avoid even the appearance of favoritism in the selection of the attorney representative. As a result, the parties executed an addendum which documented the SDFL's right to assign the selection of an attorney representative to an independent third-party. A copy of the October 29, 2007 Addendum is attached hereto. The parties subsequently agreed that retired Federal District Court Judge Edward B. [REDACTED] should be that independent third-party. Ultimately, Judge [REDACTED] selected Robert C. Josefsberg of the law firm of Podhurst, Orseck, Josefsberg, *et al.* During this same time frame, Epstein lawyer Jay Lefkowitz sought to delay the entry of his guilty plea and sentence. After the SDFL accommodated his request (from October 26th to November 20th), Mr. Starr began taking issue with the methodology of compensation, notification to the victims, and the issues that had been previously considered and rejected during negotiations, *i.e.*, that the conduct does not require

⁴ Specifically, the Agreement mandates, *inter alia*, (1) a guilty plea in Palm Beach County Circuit Court to solicitation of prostitution (Fl. Stat. Section 796.07) and procurement of minors to engage in prostitution (Fl. Stat. Section 796.03) (an offense that requires him to register as a sex offender); (2) a 30-month sentence including 18 months' incarceration in county jail; (3) a methodology to compensate the victims identified by the United States utilizing 18 U.S.C. Section 2255 such that they would be placed in the same position as if Epstein had been convicted of one of the enumerated offenses set forth in Title 18, United States Code, Section 2255; (4) entry of the guilty plea and sentence no later than October 26, 2007; and (5) the start of the above-mentioned sentence no later than January 4, 2008.

registration and the contemplated state and federal statutes have no applicability to the instant matter.

In response to Mr. Starr's protests, the SDFL offered numerous and various reasonable modifications and accommodations which ultimately resulted in U.S. Attorney Acosta's attached December 19, 2007 letter to Lilly Ann Sanchez. In that letter, U.S. Attorney Acosta tried to eliminate *all* concerns which, quite frankly, the SDFL was not obligated to address, let alone consider. In consultation with DAAG Mandelker, Mr. Acosta proposed the following language regarding the 2255 provision:

"Any person, who while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, Section 2255, will have the same rights to proceed under Section 2255 as she would have had, if Mr. Epstein been tried federally and convicted of an enumerated offense. For purposes of implementing this paragraph, the United States shall provide Mr. Epstein's attorneys with a list of individuals whom it was prepared to name in an Indictment as victims of an enumerated offense by Mr. Epstein. Any judicial authority interpreting this provision, including any authority determining which evidentiary burdens if any a plaintiff must meet, shall consider that it is the intent of the parties to place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less."

Mr. Starr also objected to the SDFL's intention to notify the victims pursuant to 18 U.S.C. Section 3771. In response to Mr. Starr's concerns, USA Acosta again consulted with DAAG Mandelker who advised him to make the following proposal: "[w]e will defer to the discretion of the State Attorney regarding whether he wishes to provide victims with notice of the state proceedings, although we will provide him with the information necessary to do so if he wishes." These proposals were immediately rejected by Epstein. See attached December 26, 2007 correspondence from Jay Lefkowitz to USA Acosta.

At our December 14, 2007 meeting at the U.S. Attorney's Office in Miami, counsel for Epstein articulated that it was a "profound injustice" to require Epstein to register as a sex offender and reiterated that no federal crime, especially 18 U.S.C. Section 2422(b), had been committed since the statute is only violated if a telephone or means of interstate commerce is used to do the persuading or inducing. This particular attack on this statute had been previously raised and thoroughly considered and rejected by the SDFL and CEOS prior to the execution of the Agreement. Epstein's lawyers also argued that the facts were inapplicable to the contemplated state statutes and that he should not have been allowed to have been induced into the Agreement because the facts were not what he understood them to be. To reiterate, the SDFL has never divulged its evidence to anyone on the Epstein legal team. Once counsel for Epstein failed to persuade us that federal involvement was inappropriate, they mounted an aggressive campaign to defer federal prosecution. They did this by offering to retribute victims and make other payments in hopes of avoiding incarceration and registration as a sex offender. When we refused to compromise on anything except the length of incarceration, they finally executed the Agreement realizing the federal alternative exposed Epstein to too much jail time.

Subsequent to the December 14, 2007 meeting, the SDFL received three letters from Mr. Lefkowitz and/or Mr. Starr which expanded on some of the themes announced in the December 14th meeting. Essentially, trying to portray the SDFL as trying to coerce a plea to unknown allegations and incoherent theories. In his December 17, 2007 correspondence, Mr. Lefkowitz decreed that Epstein's conduct did not meet the requirements of one of the state statutes Epstein agreed to plead guilty to - solicitation of minors to engage in prostitution (Fl. Stat. Section 796.03); that Epstein's conduct does not require registration under Florida law in contravention of the September 24th Agreement; and the State Attorney's Office does not

believe the conduct is registrable. On December 21, 2007, Mr. Lefkowitz rejected the U.S. Attorney's proposed resolution of the 2255 provision because they "strongly believe that the provable conduct of Mr. Epstein with respect to these individuals fails to satisfy the requisite elements of either 18 U.S.C. Section[s] 2422(b) ... or ... 2423(b)." In his December 26, 2007 correspondence, he stated that "we have reiterated in previous submissions that Mr. Epstein does not believe he is guilty of the federal charges enumerated under section 2255" and requiring "Mr. Epstein to in essence admit guilt, though he believes he did not commit the requisite offense."

The SDFL reiterated time and time again that it had never wanted nor expected Epstein to plead guilty to a charge he does not believe he committed. As a result, the SDFL obliged his request for an independent *de novo* review of the investigation and facilitated such a review at the highest levels of the Department of Justice. As you know, on May 15, 2008, after months of considering the matter, the Criminal Division considered whether there is a legitimate basis for the U.S. Attorney's Office to proceed with a federal prosecution of Mr. Epstein. CEOS Section Chief Oosterbahn concluded that "federal prosecution would not be improper or inappropriate." See attached May 15, 2008 letter from CEOS Section Chief Oosterbahn to Jay Lefkowitz. On May 19, 2008, I notified Mr. Lefkowitz that the SDFL would give Epstein a full two weeks (close of business on Monday, June 2, 2008) to comply with the terms and conditions of the Agreement, as modified by the USA's December 19th letter to Ms. Sanchez.⁵

The SDFL was recently notified that the Office of the Deputy Attorney General has agreed to consider additional allegations not considered by CEOS which were recently raised in correspondence by two former high-ranking members of the Department of Justice - Ken Starr and Joe Whitley. On May 28, 2008, I notified Mr. Lefkowitz by e-mail that the SDFL has postponed the June 2, 2008 deadline until the DAG's Office has completed its review of this matter. Their correspondence to the DAG alleges that the SDFL's investigation lacks integrity because it has leaked "highly confidential aspects" of the investigation and negotiations to the New York Times and that I/FAUSA Sloman directed some of the victims to my former law partner. They also claim that the "unprecedented extension of federal law" by the SDFL suggests that this is politically motivated because Epstein is a prominent figure with "close ties to former President Clinton." Messrs. Starr and Whitley go on to claim that I/FAUSA Sloman unilaterally, arbitrarily and unnecessarily imposed a June 2, 2008 deadline in order to prevent Epstein from seeking your Office's review and that "the unnecessary deadline is even more problematic because Mr. Epstein's effort to reconcile the state charge and sentence with the terms of the Agreement requires an unusual and unprecedented threatened application of federal law."

1. *The Alleged "Leak" to the New York Times.*

⁵ Mr. Lefkowitz was placed on notice on February 25, 2008, that in the event that CEOS disagreed with Epstein's position, I would give Epstein one week to comply with the terms and conditions of the Agreement, as modified by the USA's December 19th letter to Ms. Sanchez.

AUSA David Weinstein became involved in this matter in his capacity as back up for the District's Public Information Officer (PIO). While the District's PIO was on annual leave, he was the acting PIO during the first week of January 2008. The entirety of his conduct in connection with the Epstein matter began on January 2, 2008 and ended on January 7, 2008.⁶ Specifically, his contact involved five telephone conversations with Landon Thomas, a reporter for the New York Times. These conversations occurred on 1) the morning of January 2, 2008, 2) the afternoon of January 2, 2008, 3) the afternoon of January 3, 2008, 4) the afternoon of January 4, 2008, and 5) the afternoon of January 7, 2008.

A. *The Morning of January 2, 2008.*

AUSA Weinstein began his conversation with Mr. Thomas by explaining that he was the acting PIO for the week and that he had received Mr. Thomas's December 31, 2007 e-mail requesting an interview and asking for comments on the following five statements.⁷ First, "that in the summer of 2005 the palm beach police department referred the Epstein case to you." Second, "that the case is being overseen by Jeffrey Sloman, and above him, R. Alexander Acosta." Third, "that Mr. Acosta has made child pornography a focus area [sic] for your office." Fourth, "that this summer your office gave Mr. Epstein an ultimatum: plead guilty to a charge that would require him to register as a sex offender, or the government would release a 52 page indictment, charging him with crimes that could include procuring sex for a third party or engaging in sexual tourism. Both of these charges carry jail sentences of as much as 15 years." Fifth, "that your office told Mr. Epstein and his lawyers: we are ready to pull the trigger." Sixth, "I also wanted to ask Mr. Sloman about his role in a case involving Jonathan Zirulnikoff and his daughter earlier this year."

At the outset, Weinstein said that he could not comment on any specific pending matters and that he would do his best to answer some of his questions. Thomas said that his questions were based, in part, upon conversations that he had already had with members of Mr. Epstein's defense team, prior published reports of a pending State case against Mr. Epstein and public information available through the State Court system.

Weinstein refused to answer the first question. As to the second question, Weinstein told him that any matter arising out of conduct in Palm Beach County, was prosecuted by our West Palm Beach branch office. He also told him that as First Assistant, the FAUSA had supervisory authority over all AUSAs throughout the District. In turn, the FAUSA answered directly to the U.S. Attorney.

In response to the third question, Weinstein discussed the difference between child exploitation and child pornography. Weinstein said that federal crimes involving child exploitation were one of several focus points of our Office. He further explained that in addition

⁶AUSA Weinstein has self-reported to the Office of Professional Responsibility.

⁷After reviewing his e-mail, AUSA Weinstein discussed the matter with U.S. Attorney Acosta. Pursuant to USAM 1-7.530 and the Media Relations Guide, Section III D2, after consultation with and prior approval from the US Attorney, he called Mr. Thomas on the morning of January 2nd.

to traditional federal areas of prosecution the other focus points included health care fraud and gang prosecutions.

Weinstein refused to answer the fourth and fifth topics but did discuss the general nature of pre-trial proceedings in federal court. He said that the SDFL does not offer ultimatums, nor are we in the business of issuing ultimatums. He explained that in cases where a party wants to plead guilty prior to indictment, we will discuss the parameters of guilty pleas and that people always have the right to proceed to trial if they choose to do so and that we do not favor one resolution over the other. Weinstein told Mr. Thomas that he would not discuss his specific question about Mr. Epstein's lawyer's statement that someone from our Office told them that "we are ready to pull the trigger." Nor would he discuss anything about who might or might not be representing Mr. Epstein. Weinstein told Mr. Thomas that he should not allow himself to be spun one way or the other in response to statements Mr. Thomas said he had received from attorneys who said that they represented Mr. Epstein. Weinstein ended the conversation by telling Mr. Thomas that he would check further into his sixth and final topic and get back to him later in the day.

B. *Afternoon of January 2, 2008.*

Weinstein informed Mr. Thomas that in regard to his sixth topic, the SDFL had no reason to question FAUSA Sloman's judgment or integrity. He also said that this particular subject matter was a private matter that FAUSA Sloman did not want to discuss with him.⁸ Mr. Thomas told him that if he had any further questions, he would call back.

C. *Afternoon of January 3, 2008.*

This call was in response to a voice mail message that Mr. Thomas had left regarding legal issues involving specific state and federal statutes. Specifically, Mr. Thomas had some questions about the burden of proof and strict liability in some state and federal statutes that governed illegal sexual activity. Again, Weinstein told him that he would not discuss any specific cases, but that he would assist him in understanding the statutes about which he had some questions. Weinstein explained that some statutes contained defenses that must be proven

⁸ The case involving "Jonathan Zirulnikoff" involved a March 7, 2007 early morning attempted break-in of my/Sloman's house. Zirulnikoff, age 19 at the time, confessed and said that he wanted to "talk" to my daughter who was then 16. He also confessed to a prior unrelated break in which Zirulnikoff caressed the inner thigh of a 15 year old female. Zirulnikoff who had graduated from my daughter's high school in June 2006, dated my daughter's friend and had little if any contact with my daughter for over one year. Zirulnikoff negotiated a plea deal, over my objection, with the Miami-Dade State Attorney's Office to a misdemeanor trespass. That conviction resulted in a sentence of two years probation and a withhold of adjudication upon successful completion of his probationary period. Since this information was completely irrelevant to the facts and issues in the instant Epstein matter, I refused to allow Mr. Weinstein to comment about this matter to Mr. Thomas. Furthermore, none of this information had been publicized and, upon information and belief, only one member of Epstein's legal team knew anything about this matter, my former colleague, Lilly Ann Sanchez.

by a defendant, while there were other statutes that did not require a defendant to affirmatively prove a defense. The discussion centered around Title 18, United States Code, Section 2423(g). Once again, Mr. Thomas told Weinstein that if he had any further questions, he would call back.

D. *Afternoon of January 4, 2008.*

This was another call in response to a voice mail message that Mr. Thomas had left regarding some additional questions. Weinstein prefaced the conversation by saying that he would not discuss any specific cases. The conversation centered around three specific statutes, 18 United States Code, Section 2422(b), 18 United States Code, Section 1591, and 18 United States Code, Section 2423(b) as well as the burden of proof and the applicability of affirmative defenses. They discussed the difference between an attempt and a substantive charge pursuant to Section 2422(b) and how that affected the government's burden of proof *vis-a-vis* the age of a child. They also discussed the fact that a charge pursuant to Section 1591 required the government to prove that the defendant had actual knowledge of the age of the victim. Finally, they discussed the fact that if the government was charging a defendant with traveling to engage in prostitution, pursuant to Section 2423(b), there was an affirmative defense available to the defendant regarding the reasonable belief of the defendant about the age of the victim.

E. *Afternoon of January 7, 2008.*

This final call was made after the U.S. Attorney and FAUSA Sloman had received a call from a member of Mr. Epstein's defense team alleging that the SDFL had provided case specific information to the media. Weinstein called Mr. Thomas who acknowledged that both before and after each of the above-mentioned conversations, he had also called attorneys who were representing Mr. Epstein on his pending State charges. Mr. Thomas also acknowledged that all of our prior conversations had been about general legal issues and that Weinstein never spoke about any specific case. Since the January 7, 2008 conversation, Weinstein has not had any further contact with Mr. Thomas.

2. *Herman Sloman & Mermelstein.*

Seven years ago, I resigned from the SDFL for private practice. Less than five months later, I resigned from the law firm and returned to the SDFL. Public records reflect the following: on May 8, 2001, articles of amendment were filed with the Florida Division of Corporations to reflect that the firm name of "Herman & Mermelstein" was changed to "Herman Sloman & Mermelstein" on May 7, 2001. I joined the firm at that time and remained a non-equity partner until on or about October 1, 2001. At that time, I resigned from the firm and returned to the SDFL. Since I was a partner in name only, I never retained any interest in the firm nor did I ever receive any compensation other than my final paycheck. That was over six and one half years ago.

Unbeknownst to me, on July 2, 2002, articles of amendment were filed with the Florida Division of Corporations to reflect that the firm name of "Herman Sloman & Mermelstein" was changed back to "Herman & Mermelstein." The article of amendment indicates the amendment was adopted on July 1, 2002, without shareholder action. Although the filing was not immediate upon my departure from the law firm, it pre-dated for years any dealings with the subject case now under

consideration by the SDFL. Recently, I learned that there is a reference to the law firm of "Herman *Sluman* & Mermelstein" on the Florida Bar website, under a section called "Find A Lawyer." This reference appears when Stuart Mermelstein's name and information is accessed. To reiterate, since October 2001, I have had no relationship with that law firm, financial or otherwise, and no input or control over the firm's filings with the Florida Division of Corporations and/or the Florida Bar.

On Friday, January 18, 2008, at approximately 1:15 pm, I received a call from Jeffrey Herman of Herman & Mermelstein. Herman said that he was planning to file a civil lawsuit the next week against Jeffrey Epstein. He said that his clients were frustrated with the lack of progress of the state's investigation and wanted to know whether the SDFL could file criminal charges even though the state was looking into the matter. I told Herman that I would not answer any question related to Epstein – hypothetical or otherwise. I asked him how his clients retained him and he said that it was through another lawyer. I then specifically asked him whether the referral was the result of anyone in law enforcement contacting him and/or the other lawyer. He said no. At the conclusion of the conversation, I reiterated and confirmed with him that I had refused to answer any questions he asked of me. I immediately documented this conversation and informed the U.S. Attorney who informed Senior Litigation Counsel and Ethics Advisor Dexter Lee. AUSA Lee opined that he did not see a conflict.

3. *The Alleged Unprecedented Extension of Federal Law.*

It is my hope that this letter has sufficiently explained how thoroughly this matter has been reviewed, how seriously the issues have been considered, and how additional delays may adversely affect the case going forward and, more importantly, the victims. Attached please find the proposed prosecution memo and indictment. You are invited to evaluate whether I, along with U.S. Attorney Acosta, Criminal Division Chiefs Menchel and, later Robert Senior, Deputy Criminal Division Chiefs Lourie, followed by Rolando Garcia, and AUSA Villafana have somehow steered this investigation toward "an unprecedented extension of federal law" despite being simultaneously and/or subsequently reviewed by CEOS, DAAG Mandelker, and AAG Fisher. I also hope that the reputations of the above-mentioned professional prosecutors combined with the documented layers of methodical and thorough review of all issues raised by Epstein are enough to summarily dismiss the idea that this matter is politically motivated. It seems incomprehensible how Messrs. Starr and Whitley could expect *further* review when the due process rights of their client have been considered and reconsidered to the point of absurdity. In contrast to Messrs. Starr and Whitley's allegation that my June 2, 2008 deadline was "arbitrary, unfair, and unprecedented," please consider that Mr. Lefkowitz was advised several months ago (February) that in the event that CEOS disagreed with his position, Epstein would be given one-week to comply with the Agreement. I expanded that from one to two-weeks. Furthermore and more importantly, please consider that all further delays will have the following impact:

- (1) at the time of the offenses, the victims ranged in age from 14 to 17 years old. The change in physical appearance of many of the victims since then has been dramatic. Epstein has been claiming that he did not know they were minors. Obviously, the older they look when the case is at issue, the

harder it will be to overcome that
defense;

- (2) it allows Epstein's lawyers to conduct depositions of the victims in the pending state criminal case and allows his private investigators to further harass and intimidate the victims;
- (3) more victims will seek the services of civil lawyers to file lawsuits thus allowing Epstein to make more powerful arguments demeaning the credibility of the victims;
- (4) the federal grand jury which has dozens of hours invested in this matter will soon expire and re-presenting this matter to a new grand jury will cause a hardship upon the agents and prosecutors;
- (5) the prosecutors and agents may retire, transfer and/or leave the Department for other opportunities thus affecting the potential outcome and prosecutorial resources. Additionally, several of the victims have relocated thus increasing the likelihood that crucial witnesses will be lost;
- (6) the SDFL has afforded more consideration to Epstein's arguments than any other defendant in my years of being the FAUSA and, before that, the Chief of the Criminal Division (January 1, 2004 to the present). I believe that we have been disproportionately fair to Epstein at the expense of other matters; and
- (7) prolonged delay may adversely affect the statute of limitations for some of the victims.

On behalf of the SDFL and the victims in this case, I would request an expedited review and decision of the issues raised by the above-mentioned May 27, 2008 letter from Messrs. Starr and Whitley.

Sincerely,

R. Alexander Acosta
United States Attorney

By:

Jeffrey H. Sloman
First Assistant United States Attorney

Encls.

cc: Robert Senior, Chief
Criminal Division
A. Marie Villafana
Assistant U.S. Attorney
Karen Atkinson
Assistant U.S. Attorney

Villafana, Ann Marie C. (USAFLS)

From: Sloman, Jeff (USAFLS) <JSloman@usa.doj.gov>
Sent: Tuesday, June 03, 2008 10:40 AM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Campos, Cyndee (USAFLS); Senior, Robert (USAFLS)
Subject: please review

17



[REDACTED]

U.S. Department of Justice



Florida

United States Attorney
Southern District of

First Assistant U.S. Attorney

Miami, FL 33132
(305) 961-9100

99 N.E. 4th Street

DELIVERY BY FEDERAL EXPRESS

June 3, 2008

Honorable Mark Filip
Office of the Deputy Attorney General
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Re: Jeffrey Epstein

Dear Judge Filip,

Jeffrey Epstein was a part-time resident of Palm Beach County, Florida.¹ In 2006, the Federal Bureau of Investigation began investigating allegations that, over a two-year period, Epstein paid approximately 28 minor females from Royal Palm Beach High School to come to his house for sexual favors.² In July 2006, the matter was presented to AUSA A. Marie Villafaña of our West Palm Beach branch office to pursue a formal criminal investigation. That investigation resulted in the discovery of approximately one dozen additional minor victims. Over the last several months, approximately six more minor victims have been identified.

¹ Epstein has not resided in Palm Beach since he learned of the instant investigation.

² Epstein's sexual conduct with the victims included: instructing them to massage and pinch his nipples, masturbating in their presence, digitally penetrating them, using a vibrator on their vaginas, engaging in oral sex with them, having the victims perform oral sex on Epstein's adult girlfriend, and engaging in sexual intercourse, all in exchange for money, ranging from \$200 to \$1,000 per session.

AUSA Villafana has been ready to present an indictment to a West Palm Beach federal grand jury since May 2007. The prosecution memorandum and proposed indictment have been extensively reviewed and re-reviewed by Southern District of Florida (SDFL) Deputy Chief of the Criminal Division Andrew Lourie, Chief of the Criminal Division Matthew Menchel³, First Assistant United States Attorney Jeffrey H. Sloman⁴, United States Attorney R. Alexander Acosta as well as various members of the Child Exploitation and Obscenity Section (CEOS) at the Department of Justice including, but not limited to its Chief, Andrew G. Oosterbahn. Many of these legal and factual issues have been discussed and approved by Deputy Assistant Attorney General for the Criminal Division (DAAG) Sigal Mandelker and the Assistant Attorney General for the Criminal Division (AAG) Alice S. Fisher, as well as the Criminal Division's Appellate Section and the Office of Enforcement Operations regarding the petit policy.

By May 2007, AUSA Villafaña began seeking approval from her supervisors to indict Epstein. Her immediate supervisor was Andrew Lourie. Mr. Lourie had served as the Chief of the Public Integrity Section at DOJ as well as in several supervisory positions in the SDFL. By mid-2006, he had returned to his position as the Deputy Chief of the Criminal Division in West Palm Beach (head of the West Palm Beach branch office), after serving as the interim Chief of the Public Integrity Section at DOJ at the request of AAG Fisher. By October 2007, Mr. Lourie would leave the SDFL to become AAG Fisher's Chief of Staff.⁵ Above Mr. Lourie in the SDFL's chain of command were Matthew Menchel, Criminal Division Chief, First Assistant USA Sloman and finally, U.S. Attorney Acosta.

Prior to seeking approval to return an indictment, Epstein's legal team had been actively working to convince this Office that such action was not warranted. The legal team has consisted of many different local and national lawyers and law firms. It appears as though each lawyer and/or firm became actively involved depending upon which person from the SDFL and/or DOJ component was involved in the process. For example, at the end of 2006, former SDFL U.S. Attorney and EOUSA Executive Director Guy Lewis contacted former colleague AUSA Villafaña and, later Deputy Criminal Chief Lourie, when he learned that AUSA Villafaña was handling the federal investigation of Epstein. He asked to meet with her but she said that she believed such a meeting would be premature. In December, Lilly Ann Sanchez and Gerald Lefcourt again contacted AUSA Villafaña to set a meeting. In advance of such a meeting, AUSA Villafaña requested documents but that request was refused. Ms. Sanchez then contacted AUSA Lourie, who agreed to meet with Ms. Sanchez and Mr. Lefcourt. On February 1, 2007, Ms. Sanchez and Mr. Lefcourt met with AUSAs Lourie and Villafaña, as well as a member of the FBI, and presented defense counsel's view of the case and promised a willingness to assist in the investigation. The SDFL was unpersuaded by their presentation and the investigation continued.

³Mr. Menchel resigned for private practice on August 3, 2007 and was replaced by Robert Senior.

⁴Although I, Jeffrey H. Sloman, am writing this letter, I will continue to refer to myself as "First Assistant USA Sloman" or "FAUSA Sloman" to help reduce any confusion.

Rolando Garcia replaced Mr. Lourie as the Deputy Chief of the Criminal Division.

By the late Spring and early Summer, the focus of the investigation shifted from investigating the facts of the victims' claims to Epstein's background, his asserted defenses, co-conspirators, and possible witnesses who could corroborate the victims' statements. The investigation also began to look into financial aspects of the case, requiring the issuance of several subpoenas. At the time, Mr. Lefcourt began leveling accusations of improprieties with the investigation and sought a meeting with Criminal Division Chief Matthew Menchel. By that time, the proposed initial indictment package had been reviewed and approved by Mr. Lourie in West Palm Beach and by attorneys with CEOS; however, it awaited review by Mr. Menchel and FAUSA Sloman. The SDFL deferred presenting the indictment to the grand jury to accommodate the Epstein legal team's request for a meeting. We also agreed to wait several weeks for that meeting to occur to allow four of Epstein's attorneys to be present and also provided counsel with a list of the statutes that were the subject of the investigation.

On June 26, 2007, Mr. Menchel, Mr. Lourie, AUSA Villafaña, and FAUSA Sloman, and two FBI agents met with Alan Dershowitz, Roy Black, Gerald Lefcourt, and Lilly Ann Sanchez. During that meeting Professor Dershowitz and other members of the defense team presented legal and factual arguments against a federal indictment. Counsel for the defense also requested the opportunity to present written arguments, which was granted. The arguments and written materials provided by the defense were examined by the SDFL and rejected.

On July 31, 2007, Mr. Menchel, Mr. Lourie, AUSA Villafaña, and FAUSA Sloman, and two FBI agents met with Roy Black, Gerald Lefcourt, and Lilly Ann Sanchez. On that date, the SDFL presented a written sheet of terms that would satisfy the SDFL's federal interest in the case and discussed the substance of those terms. *See* Tab A. One of those terms was:

Epstein agrees that, if any of the victims identified in the federal investigation file suit pursuant to 18 U.S.C. § 2255, Epstein will not contest the jurisdiction of the U.S. District Court for the Southern District of Florida over his person and the subject matter. Epstein will not contest that the identified victims are persons who, while minors, were victims of violations of Title 18, United States Code, §§ 2422 and/or 2423.

During that meeting, the focus was on Mr. Epstein's unwillingness to spend time in prison, and various suggestions were raised by defense counsel, including the proposal that he could serve a sentence of home confinement or probation. This was repeatedly mentioned by counsel for Epstein as being equivalent to a term of imprisonment in a state or federal prison. Epstein's counsel mentioned their concerns about his safety in prison, and the SDFL offered to explore a plea to a federal charge to allow Epstein to serve his time in a federal facility. Counsel were also presented with a conservative estimate of the sentence that Epstein would face if he were convicted: an advisory guideline range of 188 - 235 months' incarceration with a five-year mandatory minimum prison term, to be followed by lifetime supervised release. Counsel was told that Epstein had two weeks to accept or reject the proposal.

It is critical to note that Ms. Sanchez, one of Epstein's local lawyers, seized upon this

method of restitution as a condition of deferring federal prosecution. In referring to the 18 U.S.C. § 2255 method of compensation, Ms. Sanchez stated:

[t]his would allow the victims to be able to promptly put this behind them and go forward with their lives. If given the opportunity to opine as to the appropriateness of Mr. Epstein's proposal, in my extensive experience in these types of cases, the victims prefer a quick resolution with compensation for damages and will always support any disposition that eliminates the need for trial.

See attached Tab B, August 2, 2007 letter from Lilly Ann Sanchez to SDFL Criminal Division Chief Menchel, p.2, fn 1. Ironically, it is Epstein's "national" attorneys who are now representing to the Deputy Attorney General of the United States in their May 19, 2008 letter that:

Perhaps most troubling, the USAO in Miami, as a condition of deferring prosecution, required a commingling of substantive federal criminal law with a proposed civil remedy engineered in a way that appears intended to profit particular lawyers in private practice in South Florida with personal relationships to some of the prosecutors involved.

Not only did Epstein's lawyers like the idea of using 18 U.S.C. § 2255 to compensate the victims but, they also sought to make their non-incarcerative state proposal even more attractive by offering payments to "a charitable organization benefitting victims of sexual assault," "law enforcement investigative costs" and "Court and probationary costs." *Id.* at p. 2.

Epstein's counsel, still dissatisfied with the Office's review of the case, demanded to meet with U.S. Attorney Acosta and to have the opportunity to meet with someone in Washington, D.C. To accommodate Roy Black, the meeting was put off until September 7, 2007, despite the fact that the indictment was ready for presentation to the grand jury. In the interim, AUSA Villafañia and the investigators met with CEOS Chief Oosterbahn, to review, yet again, the evidence and legal theories of prosecution. Chief Oosterbahn strongly supported the proposed indictment and even offered to join the trial team and provide additional support from CEOS.

On September 7, 2007, U.S. Attorney Acosta met with Kirkland & Ellis partners Jay Lefkowitz and former Solicitor General Ken Starr and Ms. Sanchez, along with Chief Oosterbahn and AUSAs Villafana, John McMillan, and FAUSA Sloman.⁶ Messrs. Starr and Lefkowitz presented arguments regarding the sufficiency of the federal interest in the case and other legal and factual issues. We discussed those legal arguments and the unanimous opinion of all of the attorneys present was in favor of prosecution. During that meeting, Mr. Lefkowitz also offered a plea resolution. His offer, in essence, was that Epstein be subjected to home confinement at his Palm Beach home, using private security officers who would serve as his "wardens," if necessary. Mr. Lefkowitz expressed the belief that such a sentence would be particularly appropriate because, as a wealthy white man, he may be the subject of violence or

⁶Roy Black did not attend.

extortion in prison. Finally, Messrs. Starr and Lefkowitz expressed the belief that Epstein's extensive philanthropy should be considered in our prosecution decision. U.S. Attorney Acosta summarily rejected these proposals, and indicated that the 24-month offer presented previously by the SDFL stood.

The issue of the inclusion of a restitution-type remedy for the victims pursuant to 18 U.S.C. § 2255 was specifically raised and discussed at the September 7th meeting, and Mr. Starr thanked AUSA Villafaña for bringing it to his attention as a novel approach to allowing the victims to receive essentially federal restitution while allowing a plea to a state charge. After considering everything said and written by Epstein's legal team, and after conferring with Chief Oosterbahn, U.S. Attorney Acosta informed Epstein's counsel that the SDFL still intended to proceed to indictment. Since counsel indicated a desire to appeal the matter to the Attorney General, the Deputy Attorney General, or the Assistant Attorney General for the Criminal Division, U.S. Attorney Acosta agreed to delay the presentation of the indictment for two weeks to allow them to speak with someone in Washington, D.C., if they so chose.

Instead, Mr. Epstein elected to negotiate the Non-Prosecution Agreement, and on September 12, 2007, counsel for the SDFL (AUSAs Lourie, Garcia, and Villafaña) and counsel for Epstein (Messrs. Lefcourt, Lefkowitz, and Goldberger) met with Palm Beach County State Attorney Barry Krisher and Assistant State Attorney Lanna Belohlavek to discuss a plea to an Information in the state court that would satisfy the federal interest in the case. As noted on the term sheet of July 31st (Tab A), one of those essential terms was a guilty plea to a charge requiring sex offender registration. During that meeting, the issue of sex offender registration was raised, and Mr. Goldberger told the federal prosecutors that there was no problem, Mr. Epstein would plead guilty to the charge of procurement of minors for prostitution (Fl. Stat. 796.03), which was one of the statutes listed on the original term sheet. Although the SDFL had wanted Epstein to plead guilty to three different offenses, we agreed to this compromise.⁷ Of course, the SDFL later learned that, at the time Mr. Goldberger made that statement, he incorrectly believed, based upon a statement from ASA Belohlavek, that Fl. Stat. § 796.03 did *not* require sex offender registration.

The parties then began working first on a plea agreement to a federal charge and, when it was clear that there was no guarantee that Epstein would serve his sentence in a minimum security prison camp, the discussion turned to a Non-Prosecution Agreement. Both the federal plea agreement and the Non-Prosecution Agreement included references to § 2255 because neither the contemplated federal charges nor the proposed state charges encompassed all of the identified victims. If Epstein had been prosecuted under the planned indictment, the identified victims would have been eligible for restitution *and* damages under § 2255. As explained above, one of our interests, which had to be satisfied by the Non-Prosecution Agreement, was providing appropriate compensation to the victims. This provision of the Agreement was heavily

⁷ Another significant compromise reached at the meeting was a reduction in the amount of jail time - from 24 months down to 18 months, which would be served at the Palm Beach County Jail rather than a state prison facility.

negotiated. As Mr. Lefkowitz wrote in his November 29th e-mail to FAUSA Sloman, Epstein "offered to provide a restitution fund for the alleged victims in this matter; however, that option was rejected by [our] Office." That option was rejected for several reasons. First, the SDFL does not serve as legal representatives to the victims and has no authority to bind victims, nor could it provide a monetary figure that would represent a "loss" amount for restitution purposes. Second, there would be no legal basis for federal restitution without a conviction for a federal offense. And, third, it was the U.S. Attorney's belief that the SDFL should not be put in the position of administering a restitution fund. Our § 2255 proposal put the victims in the same position that they would have been in if we had proceeded to trial and convicted Epstein of his crimes, with the exception that the victims were provided with counsel. The appointment of counsel was not such a benefit to the victims but, rather, was done, in part, to benefit Epstein by allowing him to try to privately negotiate a group resolution of all claims with one attorney. Epstein and his lawyers agreed with this alternative.

The negotiation of the Agreement was lengthy and difficult. Mr. Lefkowitz and AUSA Villafañá went through several drafts of both a federal plea agreement and a Non-Prosecution Agreement. Throughout these negotiations, when a member of the defense team was dissatisfied with the SDFL's position, it was repeatedly appealed throughout the Office. So several members of the defense team spoke with the chain of command regarding the terms of the Agreement, including the § 2255 provisions. At the eleventh hour, when Epstein's legal team realized that Fl. Stat. 796.03 *would* require him to register as a sex offender, they sought to change the most essential term of the agreement - a term that Messrs. Goldberger, Lefkowitz, and Lefcourt had specifically agreed to at the September 12th meeting with the State Attorney's Office - asking to allow Epstein to plead to a charge that would not require registration. When this was rejected, several members of the defense team appealed directly to U.S. Attorney Acosta which also failed. When that failed, according to press reports, apparently Mr. Lefcourt "leaked" a letter intended for the U.S. Attorney to the press containing the reasons why he/Lefcourt did not believe Epstein should have to register. See October 9, 2007 New York Post article attached at Tab C.

Prior to signing the Non-Prosecution Agreement, Mr. Epstein's defense team included Ken Starr, Jay Lefkowitz, Lilly Ann Sanchez, Alan Dershowitz, Gerald Lefcourt, Roy Black, Guy Lewis, Martin Weinberg, Jack Goldberger, Stephanie Thacker⁸, and the associates at Kirkland & Ellis who conducted research on discrete issues. This impressive legal team reviewed the Agreement and counseled Epstein. Based upon that counsel, Epstein decided that it was in his best interest to execute the Non-Prosecution Agreement which was signed on September 24, 2007 by Mr. Lefcourt, Ms. Sanchez and Epstein. A copy of which is attached hereto as Tab D. The core principles of the Agreement are incarceration, registration as a sex offender and a method of compensation.⁹ Furthermore, and significantly, Epstein agreed that he had the burden

⁸Ms. Thacker had recently resigned from CEOS as a Trial Attorney and entered private practice.

⁹ Specifically, the Agreement mandates, *inter alia*, (1) a guilty plea in Palm Beach County Circuit Court to solicitation of prostitution (Fl. Stat. § 796.07) and procurement of minors to engage in prostitution (Fl. Stat. § 796.03) (an offense that requires him to register as a sex offender); (2) a 30-month sentence

of ensuring compliance of the Agreement with the Palm Beach County State Attorney's Office and the Judge of the 15th Judicial Circuit and "that the failure to do so will be a breach of the agreement" (emphasis added). To this day, the SDFL has never divulged its evidence to Epstein's lawyers.

Within a week of the execution of the Agreement, the SDFL unilaterally proposed to divest its right to select the attorney representative for the victims. Contrary to Messrs. Starr and Whitley's recent assertion that this was "engineered in a way that appears intended to profit particular lawyers in private practice in South Florida with personal relationships to some of the prosecutors involved", it was done to avoid even the appearance of favoritism in the selection of the attorney representative. As a result, the parties executed an addendum which documented the SDFL's right to assign the selection of an attorney representative to an independent third-party. A copy of the October 29, 2007 Addendum is attached hereto as Tab E. The parties subsequently agreed that retired Federal District Court Judge Edward B. ██████ should be that independent third-party/special master. Ultimately, Judge ██████ selected Robert C. Josefsberg of the law firm of Podhurst, Orseck, Josefsberg, *et al.*¹⁰ During this same time frame, Epstein lawyer Jay Lefkowitz sought to delay the entry of his guilty plea and sentence. After the SDFL accommodated his request (from October 26th to November 20th), Mr. Starr began taking issue with the methodology of compensation, notification to the victims, and the issues that had been previously considered and rejected during negotiations, *i.e.*, that the conduct does not require registration and the contemplated state and federal statutes have no applicability to the instant matter.

In response to Mr. Starr's protests, the SDFL offered numerous and various reasonable modifications and accommodations which ultimately resulted in U.S. Attorney Acosta's December 19, 2007 letter to Lilly Ann Sanchez. See attached Tab F. In that letter, U.S. Attorney Acosta tried to eliminate *all* concerns which, quite frankly, the SDFL was not obligated to address, let alone consider. In consultation with DAAG Mandelker, Mr. Acosta proposed the following language regarding the 2255 provision:

"Any person, who while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, § 2255, will have the same rights to proceed under § 2255 as she would have had, if Mr. Epstein been tried federally and convicted of an enumerated offense. For purposes of implementing this paragraph, the United States shall provide Mr. Epstein's attorneys with a list of individuals whom it was prepared to name in an Indictment as victims of an enumerated offense by Mr. Epstein. Any judicial

including 18 months' incarceration in county jail; (3) a methodology to compensate the victims identified by the United States utilizing 18 U.S.C. Section 2255 such that they would be placed in the same position as if Epstein had been convicted of one of the enumerated offenses set forth in Title 18, United States Code, § 2255; (4) entry of the guilty plea and sentence no later than October 26, 2007; and (5) the start of the above-mentioned sentence no later than January 4, 2008.

¹⁰ Due to the subsequent objections raised by Epstein's counsel, Mr. Josefsberg was never given the opportunity to become the attorney representative.

authority interpreting this provision, including any authority determining which evidentiary burdens if any a plaintiff must meet, shall consider that it is the intent of the parties to place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less."

Mr. Starr also objected to the SDFL's intention to notify the victims pursuant to 18 U.S.C. § 3771. In response to Mr. Starr's concerns, USA Acosta again consulted with DAAG Mandelker who advised him to make the following proposal: "{w}e will defer to the discretion of the State Attorney regarding whether he wishes to provide victims with notice of the state proceedings, although we will provide him with the information necessary to do so if he wishes." These proposals were immediately rejected by Epstein in Mr. Lefkowitz's December 26, 2007 correspondence to USA Acosta.

At our December 14, 2007 meeting at the U.S. Attorney's Office in Miami, counsel for Epstein articulated that it was a "profound injustice" to require Epstein to register as a sex offender and reiterated that no federal crime, especially 18 U.S.C. § 2422(b), had been committed since the statute is only violated if a telephone or means of interstate commerce is used to do the persuading or inducing. This particular attack on this statute had been previously raised and thoroughly considered and rejected by the SDFL and CEOS prior to the execution of the Agreement. Epstein's lawyers also argued that the facts were inapplicable to the contemplated state statutes and that he should not have been allowed to have been induced into the Agreement because the facts were not what he understood them to be. To reiterate, the SDFL has never divulged its evidence to anyone on the Epstein legal team. Once counsel for Epstein failed to persuade us that federal involvement was inappropriate, they mounted an aggressive campaign to defer federal prosecution. When we refused to compromise on anything except the length of incarceration, they finally executed the Non-Prosecution Agreement.

Subsequent to the December 14, 2007 meeting, the SDFL received three letters from Mr. Lefkowitz and/or Mr. Starr which expanded on some of the themes announced in the December 14th meeting. Essentially, trying to portray the SDFL as trying to coerce a plea to unknown allegations and incoherent theories. In his December 17, 2007 correspondence, Mr. Lefkowitz decreed that Epstein's conduct did not meet the requirements of one of the state statutes Epstein agreed to plead guilty to - procurement of minors to engage in prostitution (Fl. Stat. § 796.03); that Epstein's conduct does not require registration under Florida law in contravention of the September 24th Agreement; and the State Attorney's Office does not believe the conduct is registrable. On December 21, 2007, Mr. Lefkowitz rejected the U.S. Attorney's proposed resolution of the 2255 provision because they "strongly believe that the provable conduct of Mr. Epstein with respect to these individuals fails to satisfy the requisite elements of either 18 U.S.C. Section[s] 2422(b) ... or ... 2423(b)." In his December 26, 2007 correspondence, he stated that "we have reiterated in previous submissions that Mr. Epstein does not believe he is guilty of the federal charges enumerated under section 2255" and requiring "Mr. Epstein to in essence admit guilt, though he believes he did not commit the requisite offense."

The SDFL reiterated time and time again that it had never wanted nor expected Epstein to plead guilty to a charge he did not believe he committed and repeatedly offered to dissolve the agreement to allow Epstein to contest the charges in the court system. As a result, the SDFL obliged his request for an independent *de novo* review of the investigation and facilitated such a review at the highest levels of the Department of Justice. As you know, on May 15, 2008, after months of considering the matter, the Criminal Division considered whether there is a legitimate basis for the SDFL to proceed with a federal prosecution of Mr. Epstein. CEOS Section Chief Oosterbahn concluded that "federal prosecution would not be improper or inappropriate." See attached May 15, 2008 letter from CEOS Section Chief Oosterbahn to Jay Lefkowitz. On May

19, 2008, I notified Mr. Lefkowitz that the SDFL would give Epstein a full two weeks (close of business on Monday, June 2, 2008) to comply with the terms and conditions of the Non-Prosecution Agreement, as modified by the USA's December 19th letter to Ms. Sanchez.¹¹ Therefore, despite the fact that the investigation has identified several more victims, the SDFL is still offering Epstein the opportunity to comply with the terms and conditions of the Non-Prosecution Agreement.

The SDFL was recently notified that the Office of the Deputy Attorney General has agreed to consider additional allegations not considered by CEOS which were recently raised in correspondence by two former high-ranking members of the Department of Justice - Ken Starr and Joe Whitley. On May 28, 2008, I notified Mr. Lefkowitz by e-mail that the SDFL has postponed the June 2, 2008 deadline until the DAG's Office has completed its review of this matter. Their correspondence to the DAG alleges that the SDFL's investigation lacks integrity because it has leaked "highly confidential aspects" of the investigation and negotiations to the New York Times and that I/FAUSA Sloman directed some of the victims to my former law firm. They also claim that the "unprecedented extension of federal law" by the SDFL suggests that this is politically motivated because Epstein is a prominent figure with "close ties to former President Clinton." Messrs. Starr and Whitley go on to claim that FAUSA Sloman unilaterally, arbitrarily and unnecessarily imposed a June 2, 2008 deadline in order to prevent Epstein from seeking your Office's review and that "the unnecessary deadline is even more problematic because Mr. Epstein's effort to reconcile the state charge and sentence with the terms of the Agreement requires an unusual and unprecedented threatened application of federal law."

1. *The Alleged "Leak" to the New York Times.*

AUSA David Weinstein became involved in this matter in his capacity as back up for the District's Public Information Officer (PIO). While the District's PIO was on annual leave, he was the acting PIO during the first week of January 2008. The entirety of his conduct in connection with the Epstein matter began on January 2, 2008 and ended on January 7, 2008.¹² Specifically, his contact involved five telephone conversation with Landon Thomas, a reporter for the New York Times. These conversations occurred on 1) the morning of January 2, 2008, 2) the afternoon of January 2, 2008, 3) the afternoon of January 3, 2008, 4) the afternoon of January 4, 2008, and 5) the afternoon of January 7, 2008.

A. *The Morning of January 2, 2008.*

¹¹ Mr. Lefkowitz was placed on notice on February 25, 2008, that in the event that CEOS disagreed with Epstein's position, Epstein would have one week to comply with the terms and conditions of the Agreement, as modified by the USA's December 19th letter to Ms. Sanchez.

¹²AUSA Weinstein has self-reported to the Office of Professional Responsibility.

AUSA Weinstein began his conversation with Mr. Thomas by explaining that he was the acting PIO for the week and that he had received Mr. Thomas's December 31, 2007 e-mail requesting an interview and asking for comments on the following five statements.¹³ First, "that in the summer of 2005 the palm beach police department referred the Epstein case to you." Second, "that the case is being overseen by Jeffrey Sloman, and above him, R. Alexander Acosta." Third, "that Mr. Acosta has made child pornography a focus are [sic] for your office." Fourth, "that this summer your office gave Mr. Epstein an ultimatum: plead guilty to a charge that would require him to register as a sex offender, or the government would release a 52 page indictment, charging him with crimes that could include procuring sex for a third party or engaging in sexual tourism. Both of these charges carry jail sentences of as much as 15 years." Fifth, "that your office told Mr. Epstein and his lawyers: we are ready to pull the trigger." Sixth, "I also wanted to ask Mr. Sloman about his role in a case involving Jonathan Zirulnikoff and his daughter earlier this year."

At the outset, Weinstein said that he could not comment on any specific pending matters and that he would do his best to answer some of his questions. Thomas said that his questions were based, in part, upon conversations that he had already had with members of Mr. Epstein's defense team, prior published reports of a pending State case against Mr. Epstein and public information available through the State Court system.

Weinstein refused to answer the first question. As to the second question, Weinstein told him that any matter arising out of conduct in Palm Beach County, was prosecuted by our West Palm Beach branch office. He also told him that as First Assistant, the FAUSA had supervisory authority over all AUSAs throughout the District. In turn, the FAUSA answered directly to the U.S. Attorney.

In response to the third question, Weinstein discussed the difference between child exploitation and child pornography. Weinstein said that federal crimes involving child exploitation were one of several focus points of our Office. He further explained that in addition to traditional federal areas of prosecution the other focus points included health care fraud and gang prosecutions.

Weinstein refused to answer the fourth and fifth topics but did discuss the general nature of pre-trial proceedings in federal court. He said that the SDFL does not offer ultimatums, nor are we in the business of issuing ultimatums. He explained that in cases where a party wants to plead guilty prior to indictment, we will discuss the parameters of guilty pleas and that people always have the right to proceed to trial if they choose to do so and that we do not favor one resolution over the other. Weinstein told Mr. Thomas that he would not discuss his specific question about Mr. Epstein's lawyer's statement that someone from our Office told them that "we are ready to pull the trigger." Nor would he discuss anything about who might or might not be representing Mr. Epstein. Weinstein told Mr. Thomas that he should not allow himself to be spun

¹³After reviewing his e-mail, AUSA Weinstein discussed the matter with U.S. Attorney Acosta. Pursuant to USAM 1-7.530 and the Media Relations Guide, Section III D2, after consultation with and prior approval from the US Attorney, he called Mr. Thomas on the morning of January 2nd.

one way or the other in response to statements Mr. Thomas said he had received from attorneys who said that they represented Mr. Epstein. Weinstein ended the conversation by telling Mr. Thomas that he would check further into his sixth and final topic and get back to him later in the day.

B. *Afternoon of January 2, 2008.*

Weinstein informed Mr. Thomas that in regard to his sixth topic, the SDFL had no reason to question FAUSA Sloman's judgment or integrity. He also said that this particular subject matter was a private matter that FAUSA Sloman did not want to discuss with him.¹⁴ Mr. Thomas told him that if he had any further questions, he would call back.

C. *Afternoon of January 3, 2008.*

This call was in response to a voice mail message that Mr. Thomas had left regarding legal issues involving specific state and federal statutes. Specifically, Mr. Thomas had some questions about the burden of proof and strict liability in some state and federal statutes that governed illegal sexual activity. Again, Weinstein told him that he would not discuss any specific cases, but that he would assist him in understanding the statutes about which he had some questions. Weinstein explained that some statutes contained defenses that must be proven by a defendant, while there were other statutes that did not require a defendant to affirmatively prove a defense. The discussion centered around Title 18, United States Code, § 2423(g). Once again, Mr. Thomas told Weinstein that if he had any further questions, he would call back.

D. *Afternoon of January 4, 2008.*

This was another call in response to a voice mail message that Mr. Thomas had left regarding some additional questions. Weinstein prefaced the conversation by saying that he would not discuss any specific cases. The conversation centered around three specific statutes, 18 United States Code, § 2422(b), 18 United States Code, § 1591, and 18 United States Code, § 2423(b) as well as the burden of proof and the applicability of affirmative defenses. They discussed the difference between an attempt and a substantive charge pursuant to § 2422(b) and how that affected the government's burden of proof *vis-a-vis* the age of a child. They also

¹⁴ The case involving "Jonathan Zirulnikoff" involved a March 7, 2007 early morning attempted break-in of my/Sloman's house. Zirulnikoff, age 19 at the time, confessed and said that he wanted to "talk" to my daughter who was then 16. He also confessed to a prior unrelated break in which Zirulnikoff caressed the inner thigh of a 15 year old female. Zirulnikoff who had graduated from my daughter's high school in June 2006, dated my daughter's friend and had little if any contact with my daughter for over one year. Zirulnikoff negotiated a plea deal, over my objection, with the Miami-Dade State Attorney's Office to a misdemeanor trespass. That conviction resulted in a sentence of two years probation and a withhold of adjudication upon successful completion of his probationary period. Since this information was completely irrelevant to the facts and issues in the instant Epstein matter, I refused to allow Mr. Weinstein to comment about this matter to Mr. Thomas. Furthermore, none of this information had been publicized and, upon information and belief, only one member of Epstein's legal team knew anything about this matter, my former colleague, Lilly Ann Sanchez.

discussed the fact that a charge pursuant to § 1591 required the government to prove that the defendant had actual knowledge of the age of the victim. Finally, they discussed the fact that if the government was charging a defendant with traveling to engage in prostitution, pursuant to § 2423(b), there was an affirmative defense available to the defendant regarding the reasonable belief of the defendant about the age of the victim.

E. *Afternoon of January 7, 2008.*

This final call was made after the U.S. Attorney and FAUSA Sloman had received a call from a member of Mr. Epstein's defense team alleging that the SDFL had provided case specific information to the media. Weinstein called Mr. Thomas who acknowledged that both before and after each of the above-mentioned conversations, he had also called attorneys who were representing Mr. Epstein on his pending State charges. Mr. Thomas also acknowledged that all of our prior conversations had been about general legal issues and that Weinstein never spoke about any specific case. Since the January 7, 2008 conversation, Weinstein has not had any further contact with Mr. Thomas.

2. *Herman Sloman & Mermelstein.*

Seven years ago, I resigned from the SDFL for private practice. Less than five months later, I resigned from the law firm and returned to the SDFL. Public records reflect the following: on May 8, 2001, articles of amendment were filed with the Florida Division of Corporations to reflect that the firm name of "Herman & Mermelstein" was changed to "Herman Sloman & Mermelstein" on May 7, 2001. I joined the firm at that time and remained a non-equity partner until on or about October 1, 2001. At that time, I resigned from the firm and returned to the SDFL. Since I never had an equity interest in the firm, I never retained an interest in the firm. That was over six and one half years ago.

Unbeknownst to FAUSA Sloman, on July 2, 2002, articles of amendment were filed with the Florida Division of Corporations to reflect that the firm name of "Herman Sloman & Mermelstein" was changed back to "Herman & Mermelstein." The article of amendment indicates the amendment was adopted on July 1, 2002, without shareholder action. Although the filing was not immediate upon my departure from the law firm, it pre-dated for years any dealings with the subject case now under consideration by the SDFL. Recently, I learned that there is a reference to the law firm of "Herman Sloman & Mermelstein" on the Florida Bar website, under a section called "Find A Lawyer." This reference appears when Stuart Mermelstein's name and information is accessed. To reiterate, since October 2001, I have had no relationship with that law firm, financial or otherwise, and no input or control over the firm's filings with the Florida Division of Corporations and/or the Florida Bar.

On Friday, January 18, 2008, at approximately 1:15 pm, I received a call from Jeffrey Herman of Herman & Mermelstein. Herman said that he was planning to file a civil lawsuit the next week against Jeffrey Epstein. He said that his clients were frustrated with the lack of progress of the state's investigation and wanted to know whether the SDFL could file criminal charges even though the state was looking into the matter. I told Herman that I would not answer any question related to Epstein – hypothetical or otherwise. I asked him how his clients retained him and he said that it was through another lawyer. I then specifically asked him whether the referral was the result of anyone in law enforcement contacting him and/or the other lawyer. He said "no." At the conclusion of the conversation, I reiterated and confirmed with him that I had refused to answer any questions he asked of me. I immediately documented this conversation and informed the U.S. Attorney who

informed Senior Litigation Counsel and Ethics Advisor Dexter Lee. AUSA Lee opined that he did not see a conflict. As soon as I became aware of these allegations, reported myself to the Office of Professional Regulation on or about April 21, 2008.

3. *The Alleged Unprecedented Extension of Federal Law and the Allegations of Political Motivation for the Prosecution.*

It is my hope that this letter has sufficiently explained how thoroughly this matter has been reviewed, how seriously the issues have been considered, and how additional delays may adversely affect the case going forward and, more importantly, the victims. I have attached the proposed indictment for you to consider the nature and gravity of the crimes. See Tab G. You are invited to evaluate whether I, along with U.S. Attorney Acosta, Criminal Division Chiefs Menchel and, later Robert Senior, Deputy Criminal Division Chiefs Lourie, followed by Rolando Garcia, and AUSA Villafaña have somehow steered this investigation toward "an unprecedented extension of federal law" despite being simultaneously and/or subsequently reviewed by CEOS, DAAG Mandelker, and AAG Fisher. I also hope that the reputations of the above-mentioned professional prosecutors combined with the documented layers of methodical and thorough review of all issues raised by Epstein are enough to summarily dismiss the idea that this matter is politically motivated. It seems incomprehensible how Messrs. Starr and Whitley could expect *further* review when the due process rights of their client have been considered and reconsidered to the point of absurdity.

With respect to the other allegations of misconduct leveled against investigators and prosecutors, similarly false allegations were made against the local police detective who first investigated the case. Those false allegations apparently were accepted as true and were not investigated or challenged by the State Attorney's Office and, when coupled with the immense pressure brought to bear upon the State Attorney by some of these same lawyers who represent Epstein today, resulted in a single felony charge related to only two of the more than 20 victims identified in the state investigation. Contrary to the claims of Epstein's attorneys, the SDFL is *not* trying to prosecute Epstein more harshly because of his political friends or his financial status; rather, the SDFL is attempting to follow Department policy by treating Epstein like all other criminal defendants - charging him with the most serious readily provable offenses. The SDFL has even continued to allow Epstein the opportunity to perform his obligations under the Non-Prosecution Agreement despite his numerous breaches of and attacks on the terms to which he already agreed.

Without attempting to address each and every allegation, I would like to highlight some of the misstatements contained in counsels' letter, to provide some sense of counsels' conduct throughout this case, particularly after their attempts at legal persuasion failed. Throughout the case, counsel have misrepresented the facts of the case to our Office, CEOS, and the press. For example, Epstein's counsel reference to this case as "precedent-shattering," suggests that all of the victims were at least 16 years old, and that the conduct "was purely local in nature." The SDFL has prosecuted several "sex tourism" cases where the "john" communicated via telephone with an undercover "pimp" in the SDFL to meet minor females to engage in prostitution. All were charged and convicted of violating 18 U.S.C. § 1591. The SDFL has charged and convicted a 21-year-old man of violating 18 U.S.C. § 2423 when he traveled to Florida to meet

his 14-year-old girlfriend and later digitally penetrated her. The SDFL has prosecuted numerous violations of 18 U.S.C. § 2422 where the "facility of interstate commerce" – generally the internet and telephones – are used by a defendant and an undercover pretending to be the parent of a minor, to arrange for a meeting that the defendant hopes will result in sexual activity. There is nothing extraordinary about Epstein's case except the large number of victims involved.

Epstein's counsel neglected to inform you that the age range of the victims includes girls as young as 14, and glosses over the fact that Epstein did not simply engage in "solo self-pleasuring" in front of the victims. Instead, with each visit, he pressured the victims to allow him to engage in more and more sexual activity – fondling breasts and vaginas, digital penetration, use of a vibrator on their vaginas, performing oral sex on them, having them perform oral sex on his adult girlfriend, and engaging in sexual intercourse. Counsel also neglected to inform you that many girls did affirmatively tell Epstein their true ages and he told several that he "did not care about age."

Epstein's conduct was not "purely local." He and his assistants called and sent text messages to victims in Palm Beach County from other states to arrange "appointments" for his upcoming visits to Palm Beach. And, while in Palm Beach, Epstein and his assistants called victims in New York to arrange "appointments" for his return to New York. Epstein wired money to some victims and sent gifts through the mails. This case falls squarely within federal jurisdiction.

Epstein also falsely claims that certain facts related to the resolution of the case were hidden and later discovered by his lawyers. For example, they complain about the proposed use of a guardian ad litem, stating that "Mr. Epstein's counsel later established that all but one of these individuals were adults, not minors." It was AUSA Villafañá who told Epstein's counsel that all of the victims but one had already reached the age of majority, which was one reason why the guardian ad litem procedure proposed by Epstein's counsel would not work. Likewise, AUSA Villafañá disclosed to Epstein's counsel that one of the five attorney-representatives that she recommended for consideration by Epstein's counsel was a "good friend" of a "good friend." Despite the disclosure of this relationship, Epstein's counsel selected that person, before the SDFL, on its own, decided to use an independent Special Master to make the selection.

Epstein's counsel states that the "USAO eventually asserted that it could not vouch for the veracity of any of the claims that these women might make," but neglects to disclose that the SDFL made that statement *at Epstein's request* to avoid the suggestion that the SDFL was involving itself in the outcome of civil litigation.

Epstein's counsel have repeatedly attacked the SDFL and the FBI for classifying the victims as "victims." As you know, all Justice Department employees have the obligation to identify victims and to notify them of their rights. "Victims" are defined by law, not by self-selection. The girls whom have been identified by the FBI and the SDFL fall within the legal definition – they were all minors who engaged in illicit sexual activity with Jeffrey Epstein, at his request, in exchange for money. From interviewing them, the FBI Special Agents, the FBI Victim-Witness Coordinator, and AUSA Villafañá all feel confident that they suffered harm, in a

multitude of ways, by their interaction with Epstein.

Finally, in contrast to Epstein's counsel allegation that my June 2, 2008 deadline was "arbitrary, unfair, and unprecedented," please consider that Mr. Lefkowitz has known since February that in the event that CEOS disagreed with his position, Epstein would be given one-week to comply with the Non-Prosecution Agreement. Subsequent to the receipt of CEOS Section Chief Oosterbahn's May 15, 2008 letter, I notified Mr. Lefkowitz that Epstein would have a full two-weeks to comply with the Non-Prosecution Agreement as modified by the December 19th letter to Ms. Sanchez. We believe it is finally time to shift the focus from Epstein's due process rights to treating him like all other similarly situated criminal defendants and perhaps, most importantly, to consider the rights of his victims. Continued delays adversely effect the case and the victims in the following ways:

- (1) at the time of the offenses, the victims ranged in age from 14 to 17 years old. The change in physical appearance of many of the victims since then has been dramatic. Epstein has been claiming that he did not know they were minors. Obviously, the older they look when the case is at issue, the harder it will be to overcome that defense;
- (2) it allows Epstein's lawyers to conduct depositions of the victims in the pending state criminal case and allows his private investigators to further harass and intimidate the victims;
- (3) more victims will seek the services of civil lawyers to file lawsuits thus allowing Epstein to make more powerful arguments demeaning the credibility of the victims;
- (4) the prosecutors and agents may retire, transfer and/or leave the Department for other opportunities thus affecting the potential outcome and prosecutorial resources. Additionally, several of the victims have relocated thus increasing the likelihood that crucial witnesses will be lost;
- (5) the SDFL has afforded more consideration to Epstein's arguments than any other defendant in my years of being the FAUSA and, before that, the Chief of the Criminal Division (January 1, 2004 to the present). I believe that we have been disproportionately fair to Epstein at the expense of other matters; and
- (6) prolonged delay may adversely affect the statute of limitations for some of the victims.

On behalf of the SDFL and the victims in this case, please expedite the review and decision of the issues under consideration.

Sincerely,

R. Alexander Acosta
United States Attorney

By:

Jeffrey H. Sloman
First Assistant United States Attorney

Encls.

cc: Robert Senior, Chief
Criminal Division
A. Marie Villafaña
Assistant U.S. Attorney
Karen Atkinson
Assistant U.S. Attorney

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Friday, June 06, 2008 3:04 PM
To: Kuyrkendall, E N. (MM) (FBI)
Subject: RE: Call from M's attorney

Does she have any criminal history? And can you subpoena her driver's license and autotrack?

Thanks.

A. Marie Villafana
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

-----Original Message-----

From: Kuyrkendall, E N. (FBI)
Sent: Friday, June 06, 2008 2:50 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Call from M's attorney

I can do a more extensive phone interview with [REDACTED] and cont to try and locate Leanne. Idont know of anyone else that would have info on [REDACTED], other Leslie G. I'll check on A file on Monday. Previous phone numbers and/or bills from 04-05. Plus standard lang about gifts, cards and such pertaining to Epstein, Leslie, Ciceila and [REDACTED]

----- Original Message -----

From: Villafana, Ann Marie C. (USAFLS) <Ann.Marie.C.Villafana@usdoj.gov>
To: Kuyrkendall, E N.; Richards, Jason R.
Sent: Fri Jun 06 14:40:06 2008
Subject: Call from M's attorney

[REDACTED] attorney called and she would really like full immunity. I said no, so she will have to come and testify in front of the grand jury and assert the fifth as to each question. I will start putting together a list of questions for her and send it to you. I also am wondering whether we should subpoena any records from her to bring with her to the grand jury.

I told him that we will need to see her on a Tuesday in June, he is going to call me back with a date. I also told him that we would pay for her plane ticket but not his.

Can you try to find out if she has an A-file and, if so, get a copy before then? And do you want to try to interview some other New York people before she comes to testify?

Thank you.

A. Marie Villafana
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Kuyrkendall, E N. (FBI) <E.Kuyrkendall@ic.fbi.gov>
Sent: Friday, June 06, 2008 3:39 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Call from M's attorney

I will provide info to u on Monday.

----- Original Message -----

From: Villafana, Ann Marie C. (USAFLS) <Ann.Marie.C.Villafana@usdoj.gov>
To: Kuyrkendall, E N.
Sent: Fri Jun 06 15:04:04 2008
Subject: RE: Call from M's attorney

Does she have any criminal history? And can you subpoena her driver's license and autotrack?

Thanks.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

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To: Kuyrkendall, E N.; Richards, Jason R.
Sent: Fri Jun 06 14:40:06 2008
Subject: Call from M's attorney

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I told him that we will need to see her on a Tuesday in June, he is going to call me back with a date. I also told him that we would pay for her plane ticket but not his.

Can you try to find out if she has an A-file and, if so, get a copy before then? And do you want to try to interview some other New York people before she comes to testify?

Thank you.

A. Marie Villafaña
Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Senior, Robert (USAFLS) <RSenior@usa.doj.gov>
Sent: Wednesday, June 18, 2008 3:20 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Epstein -- Call with Roy Black

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Nothing that I know of by way of final decision.

From: Villafana, Ann Marie C. (USAFLS)
Sent: Wednesday, June 18, 2008 1:53 PM
To: Senior, Robert (USAFLS); Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS)
Cc: Garcia, Rolando (USAFLS); Atkinson, Karen (USAFLS)
Subject: Epstein -- Call with Roy Black

Karen and I spoke with Roy. Roy said that he had called because he had heard that Rolando had discussed the matter with Barry Krischer and Roy wanted to see if there was any way to wrap this up before July 7th. Roy also said that he had seen a letter from Jeff Sloman that said that the matter of incarceration would be left to the State. (I am not certain what letter he is referring to, but I think Jeff wrote a letter about not taking a position on where Epstein would be incarcerated, not the length of time.) So, Roy wondered whether we would go away if Epstein took Barry's 60-day deal.

Karen explained that Rolando had not had substantive discussions with Barry about the case and that all communication regarding the case is being handled by Karen and me. In response to the question of whether there was anything that could "make this go away," we said that our position is that if Epstein stops the process in Washington and pleads in accordance with the terms of the signed agreement, then we will perform pursuant to the agreement. Karen explained that if Epstein pleads to something else or gets sentenced to a lower amount, then we will consider that a breach of our agreement and we will proceed accordingly.

On that note, has there been any word from Washington?

Thank you.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Thursday, June 19, 2008 1:23 PM
To: Kuyrkendall, E N. (MM) (FBI); Richards, Jason R. (MM) (FBI)
Subject: FW: Jeff Epstein

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Hi Guys – This is [REDACTED] attorney. He seems like a very good guy – much better than the others, but I am concerned about allegations of misconduct. What do you think? Maybe we could meet with him and with [REDACTED].

A. Marie Villafana
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

From: Brad Edwards [mailto:be@bradedwardslaw.com]
Sent: Thursday, June 19, 2008 11:34 AM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Jeff Epstein

Hi Marie,

I have information and concerns that I would like to share. While I understand that you are limited in what you can discuss, I would like to meet with you and discuss my plans. This would be beneficial to you and me. Let me know if you are interested in meeting and talking. My schedule is free next Monday, Tuesday, and Wednesday, July 23-25. If any of those days are open for you, then I will go to you and can meet you at any time convenient for you. I am scheduling to meet with my client again next week in your area anyway, so it would be no problem for me to meet you on the same day. I look forward to hearing back from you.

Sincerely,

Brad Edwards, Esquire
Law Office of Brad Edwards & Associates
2028 [REDACTED] Street
Suite 202
Hollywood, Florida 33020
Telephone: 954-414-8033 (Broward)
305-935-2011 (Miami-Dade)
Facsimile: 954-924-1530(Broward)
305/935-4227 (Miami-Dade)
e-mail: be@bradedwardslaw.com

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reproduction, disclosure or dissemination of this communication may be subject to legal restriction or sanction.

Villafana, Ann Marie C. (USAFLS)

From: Fernandez, Aida I. (USAFLS) <afernandez@usa.doj.gov>
Sent: Monday, June 23, 2008 9:23 AM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Grand Jury on 6/26 and 7/1

Ok – got it - thx

From: Villafana, Ann Marie C. (USAFLS)
Sent: Monday, June 23, 2008 9:19 AM
To: Fernandez, Aida I. (USAFLS)
Subject: RE: Grand Jury on 6/26 and 7/1

Hi Aida. Thank you for asking. We will be presenting the witness testimony after the indictment. (I would like to do the indictment in the morning and the witness in the afternoon, if possible.)

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

From: Fernandez, Aida I. (USAFLS)
Sent: Monday, June 23, 2008 9:18 AM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Ball, Shawn (USAFLS)
Subject: RE: Grand Jury on 6/26 and 7/1

I assume you will be presenting your witness testimony first? Pls advise so that I know the order in which to present them next week.

Pls advise.

Thx.

From: Villafana, Ann Marie C. (USAFLS)
Sent: Monday, June 23, 2008 9:09 AM
To: Fernandez, Aida I. (USAFLS)
Cc: Ball, Shawn (USAFLS)
Subject: Grand Jury on 6/26 and 7/1

Hi Aida – I think you already have this, but, if not:

Can you put me down for a half-hour on Thursday, 6/26, in the morning, for an indictment

And, on 7/1 can I have 2 hours in the morning for an indictment on Operation Leap Year. Witness will be Nesbitt Kuyrkendall, FBI. It will be sealed.

Also on 7/1, I will need 2 hours for witness testimony on Operation Leap Year. Witness will be [REDACTED]

Thank you!

A. Marie Villafañã

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Senior, Robert (USAFLS) <RSenior@usa.doj.gov>
Sent: Monday, June 23, 2008 10:06 AM
To: Villafana, Ann Marie C. (USAFLS); Kuyrkendall, E N. (MM) (FBI); Richards, Jason R. (MM) (FBI)
Cc: Atkinson, Karen (USAFLS)
Subject: RE: Trip to New York, etc.

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Ok. Marie, hoping to hear from DAG's office today giving the green light. Let's talk when that decision is made.

From: Villafana, Ann Marie C. (USAFLS)
Sent: Monday, June 23, 2008 9:15 AM
To: Kuyrkendall, E N. (FBI); Richards, Jason R. (FBI)
Cc: Atkinson, Karen (USAFLS); Senior, Robert (USAFLS)
Subject: Trip to New York, etc.

We will not be interviewing [REDACTED] in New York. Her attorney gave a copy of the grand jury subpoena to Epstein's lawyers. They, in turn, promptly sent it on to Washington complaining, yet again, about me. So, I do not want to do an interview with him present, and we will have to put her in the grand jury.

Given that, let's take the New York section out of the indictment so we can present the indictment Tuesday morning. Then we can do [REDACTED] interview in the afternoon with plans to supersede. It probably makes sense to wait on the rest of the interviews until we hear what [REDACTED] has to say, so let's plan to do the New York trip in a few weeks.

Bob – I will revise everything accordingly and send it down to you. We have another girl from Florida, so I will replace our New York Jane Doe with her.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Sloman, Jeff (USAFLS) <JSloman@usa.doj.gov>
Sent: Wednesday, June 25, 2008 6:05 PM
Cc: Villafana, Ann Marie C. (USAFLS)
Subject: Fw: Revised Victim Notification
Attachments: U.wpd

35

This simplifies it. What do u think?

----- Original Message -----

From: Acosta, Alex (USAFLS)
To: Sloman, Jeff (USAFLS)
Sent: Wed Jun 25 18:00:14 2008
Subject: RE: Revised Victim Notification

What do you think

<<U.wpd>>
<<U.wpd>>

From: Sloman, Jeff (USAFLS)
Sent: Wednesday, June 25, 2008 5:43 PM
To: Acosta, Alex (USAFLS)
Subject: FW: Revised Victim Notification

From: Villafana, Ann Marie C. (USAFLS)
Sent: Wednesday, June 25, 2008 5:25 PM
To: Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Atkinson, Karen (USAFLS)
Subject: Revised Victim Notification

Hi Jeff – I have tried to phrase it in a way that suggests that, since Epstein has performed certain provisions, it is now our turn to perform.

<< File: Revised Victim Notification.wpd >>

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Thursday, June 26, 2008 8:31 AM
To: Sloman, Jeff (USAFLS)
Subject: RE: Revised Victim Notification

Jeff -- I am running off to grand jury. I will call as soon as I get back, probably around 9:45. Thanks.

A. Marie Villafana
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

-----Original Message-----

From: Sloman, Jeff (USAFLS)
Sent: Wednesday, June 25, 2008 6:05 PM
Cc: Villafana, Ann Marie C. (USAFLS)
Subject: Fw: Revised Victim Notification

This simplifies it. What do u think?

----- Original Message -----

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Sent: Wed Jun 25 18:00:14 2008
Subject: RE: Revised Victim Notification

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<< File: Revised Victim Notification.wpd >>

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777



U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777

July __, 2008

NOTIFICATION OF IDENTIFIED VICTIMS

On June 30, 2008, Jeffrey Epstein (hereinafter referred to as "Epstein") entered a plea of guilty to violations of Florida Statutes Sections 796.07 (felony solicitation of prostitution) and 796.03 (procurement of minors to engage in prostitution), in the 15th Judicial Circuit in and for Palm Beach County (Case Nos. 2006-cf-009495AXXXMB and 2008-_____) and was sentenced to a term of eighteen months' imprisonment to be followed by __ years of probation.

In light of the entry of the guilty plea and sentence, the United States has agreed to defer federal prosecution in favor of this state plea and sentence, subject to certain conditions.

One such condition to which Epstein has agreed is the following:

"Any person, who while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, Section 2255, will have the same rights to proceed under Section 2255 as she would have had, if Mr. Epstein had been tried federally and convicted of an enumerated offense. For purposes of implementing this paragraph, the United States shall provide Mr. Epstein's attorneys with a list of individuals whom it was prepared to name in an Indictment as victims of an enumerated offense by Mr. Epstein. Any judicial authority interpreting this provision, including any authority determining which evidentiary burdens if any a plaintiff must meet, shall consider that it is the intent of the parties to place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less."

Through this letter, this Office hereby provides Notice that the individuals identified below are individuals whom the United States was prepared to name as a victim of an enumerated offense.

EFTA00190481

Identified Individuals

Jane Doe #1	Jane Doe #11	Jane Doe #21
Jane Doe #2	Jane Doe #12	Jane Doe #22
Jane Doe #3	Jane Doe #13	Jane Doe #23
Jane Doe #4	Jane Doe #14	Jane Doe #24
Jane Doe #5	Jane Doe #15	Jane Doe #25
Jane Doe #6	Jane Doe #16	Jane Doe #26
Jane Doe #7	Jane Doe #17	Jane Doe #27
Jane Doe #8	Jane Doe #18	Jane Doe #28
Jane Doe #9	Jane Doe #19	Jane Doe #29
Jane Doe #10	Jane Doe #20	Jane Doe #30

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By:

A. MARIE VILLAFANA
ASSISTANT U.S. ATTORNEY

ACKNOWLEDGEMENT

I have received this Notification from my attorney, Roy Black, Esquire, have read it and discussed it with my attorney, and I hereby acknowledge that it accurately sets forth my understanding and agreement with the Office of the United States Attorney for the Southern District of Florida. I understand that an exact copy of this Notification will be provided to each identified individual, except that the names of all other identified individuals will be redacted, and I hereby waive any evidentiary challenges to the introduction of a copy of this document—even in redacted form—in any judicial proceeding between any identified individual and myself.

NOTIFICATION OF IDENTIFIED VICTIMS
JULY __, 2008
PAGE 3 OF 3

Dated: _____

Jeffrey Epstein

Witnessed

by:

Roy Black, Esquire



U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777

July __, 2008

NOTIFICATION OF IDENTIFIED VICTIMS

On June 30, 2008, Jeffrey Epstein (hereinafter referred to as "Epstein") entered a plea of guilty to violations of Florida Statutes Sections 796.07 (felony solicitation of prostitution) and 796.03 (procurement of minors to engage in prostitution), in the 15th Judicial Circuit in and for Palm Beach County (Case Nos. 2006-cf-009495AXXXMB and 2008-_____) and was sentenced to a term of eighteen months' imprisonment to be followed by __ years of probation.

In light of the entry of the guilty plea and sentence, and pursuant to the terms of the deferred prosecution agreement between Epstein and the United States Attorney's Office for the Southern District of Florida (hereinafter referred to as "the Office"), the Office hereby provides notice to Epstein that the following is a list of individuals whom the Office was prepared to name as victims in an Indictment charging Epstein with violations of federal statutes enumerated in Title 18, United States Code, Section 2255 (hereinafter referred to as "identified individuals").

The terms of the deferred prosecution agreement provide that the identified individuals shall have the same right to seek damages pursuant to Title 18, United States Code, Section 2255, as they would have had if Mr. Epstein had been tried and convicted of those enumerated offenses in a federal court. Section 2255 provides, in relevant part:

Any person who, while a minor, was a victim of a violation of section . . . 2422, or 2423 of this title and who suffers personal injury as a result of such violation, regardless of whether the injury occurred while such person was a minor, may sue in any appropriate United States District Court and shall recover the actual damages such person sustains and the cost of the suit, including a reasonable attorney's fee. Any person as described in the preceding sentence shall be deemed to have sustained damages of no less than \$150,000 in value.

Thus, pursuant to the deferred prosecution Agreement between the Office and

Epstein, the Office hereby provides Notice to the identified individuals that each of them is a person who, while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, Section 2255, committed by Epstein. The Office further provides Notice to the identified individuals that, pursuant to the Agreement between the Office and Epstein, a copy of this document may be introduced in a judicial proceeding between any such identified individual and Epstein, and that any judicial authority interpreting this Notification, including any authority determining what evidentiary burdens, if any, a plaintiff must meet, shall consider that it is the intent of Epstein and the Office to place the identified individuals in the same position as they would have been had Epstein been convicted of those federal offenses.

Identified Individuals

Jane Doe #1	Jane Doe #11	Jane Doe #21
Jane Doe #2	Jane Doe #12	Jane Doe #22
Jane Doe #3	Jane Doe #13	Jane Doe #23
Jane Doe #4	Jane Doe #14	Jane Doe #24
Jane Doe #5	Jane Doe #15	Jane Doe #25
Jane Doe #6	Jane Doe #16	Jane Doe #26
Jane Doe #7	Jane Doe #17	Jane Doe #27
Jane Doe #8	Jane Doe #18	Jane Doe #28
Jane Doe #9	Jane Doe #19	Jane Doe #29
Jane Doe #10	Jane Doe #20	Jane Doe #30

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By:

A. MARIE VILLAFANA
ASSISTANT U.S. ATTORNEY

ACKNOWLEDGEMENT

I have received this Notification from my attorney, Roy Black, Esquire, have read it and discussed it with my attorney, and I hereby acknowledge that it accurately sets forth my understanding and agreement with the Office of the United States Attorney for the Southern District of Florida. I understand that an exact copy of this Notification will be

provided to each identified individual, except that the names of all other identified individuals will be redacted, and I hereby waive any evidentiary challenges to the introduction of a copy of this document—even in redacted form—in any judicial proceeding between any identified individual and myself.

Dated: _____

Jeffrey Epstein

Witnessed

by:

Roy Black, Esquire

Villafana, Ann Marie C. (USAFLS)

From: Brendan White <brendan@whiwhi.com>
Sent: Thursday, June 26, 2008 10:38 AM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Grand Jury Appearance

34

Dear Ms. Villafana:

I understand that there has been a recent development with respect to Mr. Epstein in that he intends to plead guilty in Florida state court on Monday pursuant to a deferred prosecution agreement with your office that has already been executed. Since this would seem to obviate any need for Ms. [REDACTED] to testify, please let me know what is going on with respect to this Tuesday. Do we still need to come down there and, if so, will she receive court-ordered immunity? Thanks.

Brendan White

----- Original Message -----

From: [Villafana, Ann Marie C. \(USAFLS\)](#)
To: [Brendan White](#)
Sent: Monday, June 23, 2008 2:09 PM
Subject: RE: Grand Jury Appearance

Dear Mr. White:

Please feel free to make your own travel arrangements, but if you would like Ms. [REDACTED] travel costs to be reimbursed, they must be made through the government's approved agency on the approved carriers.

Regarding the immunity, at this point, without a written proffer from you regarding the substance of her anticipated testimony, I believe that the more prudent course will be to question Ms. [REDACTED] to determine the limits of her Fifth Amendment exposure and, if necessary, to apply to the Court at that time. If you provide me with a written proffer that summarizes her anticipated testimony and explains how she will be exposed to criminal liability, then I can make the motion ahead of time. Your written statement would be treated as an attorney statement made in the course of confidential plea discussions and related negotiations, and would be governed by Fed. R. Crim. P. 11(f) and Fed. R. Evid. 410.

A. Marie Villafana
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

From: Brendan White [mailto:brendan@whiwhi.com]
Sent: Monday, June 23, 2008 1:45 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Ball, Shawn (USAFLS)
Subject: Re: Grand Jury Appearance

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Brendan White

----- Original Message -----

From: [Villafana, Ann Marie C. \(USAFLS\)](#)

To: [Brendan White](#)

Cc: [Ball, Shawn \(USAFLS\)](#)

Sent: Monday, June 23, 2008 11:27 AM

Subject: Grand Jury Appearance

Dear Mr. White:

Ms. [REDACTED] will need to appear before the grand jury on July 1st to give testimony. Please contact my assistant, Shawn Ball, at 561 820-8711, ext. 3037, to make travel arrangements. I expect that Ms. [REDACTED] testimony will begin either in the late morning or early afternoon, but she should be available for the whole day.

Thank you.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
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To: Brendan White
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If the situation changes, I will contact you.

Thank you.

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|| Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Brendan White <brendan@whiwhi.com>
Sent: Thursday, June 26, 2008 11:26 AM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Grand Jury Appearance

Thanks.

----- Original Message -----

From: [Villafana, Ann Marie C. \(USAFLS\)](#)
To: [Brendan White](#)
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Villafana, Ann Marie C. (USAFLS)

From: Brendan White <brendan@whiwhi.com>
Sent: Thursday, June 26, 2008 3:00 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Grand Jury Appearance

I've learned from Mr. Epstein's attorney that the plea is scheduled to take place on Monday morning. In understand, of course, that you need confirmation of this before withdrawing the subpoena, but it might make logistical sense to consider putting the contingent appearance off for another week at this point, to avoid our having to make an unnecessary trip to Florida. Although I am confident that things will proceed as scheduled, should there be a problem, we would then be able to appear at a later date.

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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Thursday, June 26, 2008 6:41 PM
To: Brendan White
Subject: RE: Grand Jury Appearance

Dear Mr. White:

I have not received any such confirmation. At this time, we are still on for July 1st. I recommend that you make your travel plans for Monday afternoon or evening and if things change, I will call you right away.

Thank you.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
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Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Sloman, Jeff (USAFLS) <JSloman@usa.doj.gov>
Sent: Saturday, June 28, 2008 7:38 AM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Acosta, Alex (USAFLS); Senior, Robert (USAFLS)
Subject: Re: Agreement

24

I agree. Ask Jack to make that change.

----- Original Message -----

From: Villafana, Ann Marie C. (USAFLS)
To: Sloman, Jeff (USAFLS)
Sent: Fri Jun 27 21:28:46 2008
Subject: Agreement

Hi Jeff – Hadn't heard back, so I figured this would be easiest way to communicate.

I got a call back from Jack Goldberger, incensed that I was somehow accusing him of trying to get out of the agreement. I was taken aback because the response was completely out of line with the questions I was asking. From my dealings with Jack, this just made me more suspicious than I was originally.

Anyhow, Jack said that "this was the only way to do the consecutive jail time." And he "swore" that Epstein would be in custody 24-hours-a-day during the community confinement portion of the sentence. He also insisted that Epstein had been charged with a substantive procurement offense, not attempt.

He did, however, let it slip that Epstein would not be at the jail, he would be at the stockade out on the fairgrounds (a low security "camp"). Since we specifically discussed this at the meeting with Barry Krisher months ago that Epstein would be at the Gun Club facility (the jail), this certainly violates the spirit of the agreement, if not the letter.

I talked to [REDACTED] Millian, who used to be with the Palm Beach County State Attorney's Office before joining our office. She said, first, that it was extremely strange to call it the "Palm Beach County Detention Center," rather than the jail, but I explained that I thought Epstein's people were trying to make us believe he was going to the jail even though he wasn't and this was their way to "finesse" the situation.

[REDACTED] also explained that the normal way for the plea agreement to read is a consecutive term of six months imprisonment to be followed by one year of community control – in other words, Goldberger's statement that this was the "only way" to do the consecutive sentence is false. I did find a statute that says that if two sentences are imposed consecutively that result in a sentence of greater than one year, the judge is supposed to send the defendant to a state prison rather than a county facility, so that may be why they are wording it this way. [REDACTED] also said that typically the term "community control" means home confinement, and she has never seen imprisonment used as a condition of "community control." She has seen such a condition in connection with a sentence of probation, but not community control.

Also, she and I did a state guideline calculation for Epstein's plea, and, if done correctly, he should be looking at 51 months. The only way that Lanna could avoid that calculation is if she tells the judge that there was no sexual contact. That, of course, would be completely false.

In short, something smells very bad. My suggestion is to ask that we ask them to add one word to the second sentencing paragraph of the plea agreement with the state, as follows: the Defendant is sentenced to 18 months Community Control I (one). As a special condition of this Community Control, the Defendant must serve the first 6 months INCARCERATED [or IMPRISONED] in the Palm Beach County Detention Facility . . .

If they object to this small change – which according to Goldberger is intended by the language already there – then we will know that something is extremely fishy.

What do you think?

A. Marie Villafaña
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Villafana, Ann Marie C. (USAFLS)

From: Sloman, Jeff (USAFLS) <JSloman@usa.doj.gov>
Sent: Thursday, July 03, 2008 1:12 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Acosta, Alex (USAFLS)
Subject: Re: Epstein

28

Thanks

----- Original Message -----

From: Villafana, Ann Marie C. (USAFLS)
To: Sloman, Jeff (USAFLS)
Sent: Thu Jul 03 11:36:42 2008
Subject: Epstein

Hi Jeff – I just got an earful from the last of the victims' lawyers. He is a former Broward County ASA and he represents three victims. He says that his clients can name many more victims and wanted to know if we can get out of the deal. I told him that, at this time, assuming that Epstein performs the last piece of the agreement, we are bound. He asked that, if there is the slightest hesitation on Epstein's part of completing his performance, that he and his clients be allowed to consult with our office before making a decision.

I also couldn't remember if I told you about our meeting with the Sheriff's Office about the jail. Epstein is out at the stockade, not the jail. Goldberger and some psychiatrist have already met with him and have told him that, if he receives any less favorable treatment than others, Ken Starr and the whole crew will sue. He also told me that Epstein was "brilliant" and that he has already offered to teach GED classes. I sort of cocked my head at the "brilliant" comment and said, you know he only has a high school diploma, right? (I used my best, "don't believe the hype" voice. He was clearly shocked, and I explained that Epstein usually claims to have at least a master's degree, but other than a few college courses, he had no education above a high school diploma, which I think makes him ineligible to teach a GED course.) He also told us that Epstein is eligible for work release and will be placed on work release – in direct contradiction to what he told the agents a few months ago.

A. Marie Villafana
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Lee, Dexter (USAFLS) <DLee@usa.doj.gov>
Sent: Tuesday, July 08, 2008 4:29 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: FW: Epstein CVRA Case
Attachments: Villafana Declaration re victim notification.wpd; DE1_080707_Petition.pdf

Marie,

Can you scan the letters and send them to me by e-mail? Thanks.

Dexter

From: Neal, Kristina (USAEO)
Sent: Tuesday, July 08, 2008 4:02 PM
To: Lee, Dexter (USAFLS)
Cc: Herd, Kim (USAEO)
Subject: FW: Epstein CVRA Case

Good Afternoon.

Kim and I are taking a look at the petition and affidavit that you sent and were wondering if it would be possible for you to send us a copy of the letters that were sent to the victims in this case. The AUSA refers to attached copies in her affidavit at #3.

We are working on this and will respond to you ASAP.

Thanks.

Kris Neal

Kristina Neal

Attorney Advisor

LECC/Victim Witness Staff

EOUSA

(202) 305 2538

From: Lee, Dexter (USAFLS)
Sent: Tuesday, July 08, 2008 1:37 PM

To: Herd, Kim (USAE0)
Subject: Epstein CVRA Case

Ms. Herd.

Attached please find the emergency petition filed yesterday afternoon, and a draft declaration from the AUSA. Our response is due on Wednesday, July 9, 2008, at close of business.

Thanks for your assistance.

Dexter Lee

(305) 961-9320

<<Villafana Declaration re victim notification.wpd>> <<DE1_080707_Petition.pdf>>

DRAFT DRAFT DRAFT DRAFT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 08-80736-Civ-Marra/Johnson

JANE DOE

█

UNITED STATES OF AMERICA

DECLARATION OF A. MARIE VILLAFANA

1. I, A. Marie Villafaña, do hereby declare that I am a member in good standing of the Bar of the State of Florida. I graduated from the University of California at Berkeley School of Law (Boalt █) in 1993. After serving as a judicial clerk to the Hon. David F. Levi in Sacramento, California, I was admitted to practice in California in 1995. I also am admitted to practice in all courts of the states of Minnesota and Florida, the Eighth, Eleventh, and Federal Circuit Courts of Appeals, and the U.S. District Courts for the Southern District of Florida, the District of Minnesota, and the Northern District of California. My bar admission status in California and Minnesota is currently inactive. I am currently employed as an Assistant United States Attorney in the Southern District of Florida and was so employed during all of the events described herein.

2. I was the Assistant United States Attorney assigned to the investigation of Jeffrey Epstein. The case was investigated by the Federal Bureau of Investigation ("FBI"). The federal investigation was initiated in 2006 at the request of the Palm Beach Police Department ("PBPD") into allegations that Jeffrey Epstein and his personal assistants had used facilities of interstate commerce to induce young girls between the ages of thirteen and seventeen to engage in prostitution, amongst

other offenses. PBPB had asked for federal assistance after it perceived that Mr. Epstein was receiving preferential treatment from the Palm Beach County State Attorney's Office ("SAO").

3. Throughout the investigation, when a victim was identified, victim notification letters were provided to her both from your Affiant and from the FBI's Victim-Witness Specialist. Attached hereto are copies of the letters provided to two of Bradley Edwards' clients, T.M. and C.W.¹ The letter to C.W. was hand-delivered by the FBI agents. The letter to T.M. was hand-delivered by myself to T.M. at the time that she was interviewed.

4. Throughout the investigation, the FBI agents, the FBI's Victim-Witness Specialist, and your Affiant had contact with C.W. Attorney Edwards' other client, T.M., was represented by counsel and, accordingly, all contact with T.M. was made through that attorney. That attorney was James Eisenberg, and his fees were paid by Jeffrey Epstein, the target of the investigation.²

¹Attorney Edwards filed his Motion on behalf of "Jane Doe," without identifying which of his clients is the purported victim. Accordingly, I will address facts related to both C.W. and T.M. Both of those clients were victims of Jeffrey Epstein's while they were minors beginning when they were fifteen years old.

²The undersigned does not know when Mr. Edwards began representing T.M. or whether T.M. ever formally terminated Mr. Eisenberg's representation.

5. In the summer of 2007, the U.S. Attorney's Office for the Southern District of Florida ("the Office") decided to enter into negotiations with Epstein to resolve the investigation. In September 2007, an agreement was reached. Pursuant to that agreement, Epstein was required to enter into negotiations with the SAO to enter into a guilty plea to the indictment already pending against him in state court, which charged felony solicitation of prostitution.³ Epstein also would have to convince the State Attorney's Office to file an Information charging him with a more serious offense, that is, an offense for which sex offender registration was required, specifically, the procurement of minors to engage in prostitution, and Epstein would have to plead guilty to that offense. Epstein also would have to negotiate a harsher sentence than the one requested by the State Attorney's Office, that is, eighteen months' imprisonment, to be followed by twelve months of home confinement. Finally, Epstein would have to agree that the victims identified by the United States would be entitled to damages under federal law as though Epstein had been convicted at trial. This last provision was included at the Office's insistence, to put the victims in the same position that they would have been if Epstein had been convicted at trial.

6. Prior to the final resolution, the agents and your Affiant made contact with several of the victims to advise them of this result. One of those victims who was contacted was T.M., via her attorney, James Eisenberg. Your Affiant informed Mr. Eisenberg that T.M. was on a list that would be submitted to Epstein of victims whom the Office had identified as being entitled to seek damages against Epstein. Your Affiant does not know whether Attorney Eisenberg ever provided this information to his client. However, less than twenty-four hours after this conversation, and before anyone from the Office had communicated the victim list to Epstein, attorneys for Epstein made contact with the Office complaining of the designation of T.M. as a victim. Epstein's attorneys used the designation of T.M. as a basis to allege prosecutorial misconduct against

³The indictment contained no reference to the victims' ages.

your Affiant, the agents, and others in the Office, and to raise those claims throughout the Office and up to the Department of Justice in Washington, D.C.

7. After the signing of the deferred prosecution agreement, your Affiant drafted a victim notification letter informing each victim of the resolution of the matter, the terms of the Agreement, and the date of the scheduled change of plea in state court. The Office provided a copy of that letter to Epstein's attorneys, who again complained about improper conduct by your Affiant and the agents. Epstein's counsel further argued that the CVRA did not apply because the proceedings would be held in state court, not federal court. The Office agreed to leave the issue of victim notification regarding the change of plea hearing to the State Attorney's Office, and your Affiant's letter was never sent to the victims.

8. Following several months of delay by Epstein's counsel, Epstein finally agreed to perform pursuant to the terms of the deferred prosecution agreement. On Friday, June 27, 2008, at approximate 4:15 p.m., your Affiant received a copy of the proposed state plea agreement and learned that the plea was scheduled for 8:30 a.m., Monday, June 30, 2008. Your Affiant, the agents, and the Palm Beach Police Department all attempted to provide notification to the victims, and your Affiant specifically called Attorney Edwards to provide notice to his clients regarding the hearing. Attorney Edwards informed your Affiant that he could not attend but that someone would be present at the hearing. Your Affiant attended the hearing, but none of Attorney Edwards' clients was present.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge and belief.

Executed this _____ day of February, 2007.

A. Marie Villafaña, Esq.

JULY 7, 2008

STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
08-80736-Civ-MARRA/JOHNSON
CASE NO.: _____

IN RE: JANE DOE,

Petitioner.

Emergency **VICTIM'S PETITION FOR ENFORCEMENT OF
CRIME VICTIM'S RIGHTS ACT, 18 U.S.C. SECTION 3771**

COMES NOW the Petitioner, JANE DOE (hereinafter "Petitioner"), by and through her undersigned attorneys, pursuant to the Crime Victim's Rights Act, 18 U.S.C. Section 3771 ("CVRA"), and files this Petition for Enforcement in the above styled action as follows:

1. Petitioner, an adult, as a minor child was a victim of federal crimes committed by JEFFREY EPSTEIN (hereinafter "Defendant"). These crimes included sex trafficking of children by fraud, in violation of 18 U.S.C. § 1591, use of a means of interstate commerce to entice a minor to commit prostitution, in violation of 18 U.S.C. § 2422, as well as wire fraud, in violation of 18 U.S.C. § 1343. The Defendant committed these crimes within the jurisdiction of the Southern District of Florida in Palm Beach County, Florida.

2. Upon information and belief, the Defendant is the subject of a federal criminal investigation conducted by the United States of America in the Southern District of Florida. The Defendant has recently been prosecuted and pleaded guilty, on June 30, 2008, in the Circuit Court for Palm Beach County to various similar state offenses including solicitation of minors for prostitution.

3. Upon information and belief, the Defendant is engaged in plea negotiations with the Office of the United States Attorney for the Southern District of Florida concerning federal

crimes which he is alleged to have committed against minor children, including the Petitioner. Such negotiations may likely result in a disposition of the charges in the next several days.

4. Under the CVRA, before any charges are filed against the Defendant, the Petitioner has the rights (among others) to notice of her rights under the CVRA, to confer with the prosecutors, and to be treated with fairness. As soon as charges are filed, the Petitioner has the rights (among others) to timely notice of court proceedings, the right not to be excluded from such proceedings, the right to be heard at such public proceedings regarding conditions of release, any plea, and any sentence, the right to confer with the attorney for the government, the right to restitution, and the right to be treated with fairness and with respect for her dignity and privacy.

5. The Petitioner has been denied her rights in that she has received no consultation with the attorney for the government regarding the possible disposition of the charges, no notice of any public court proceedings, no information regarding her right to restitution, and no notice of rights under the CVRA, as required under law.

6. The Petitioner is in jeopardy of losing her rights, as described above, if the government is able to negotiate a plea or agreement with the Defendant without her participation and knowledge.

WHEREFORE, for the reasons outlined above, the Petitioner respectfully requests this Court to grant her Petition, and to order the United States Attorney to comply with the provisions of the CVRA prior to and including any plea or other agreement with the Defendant and any attendant proceedings.

MEMORANDUM

I. THE CRIME VICTIMS' RIGHTS ACT MAKES CRIME VICTIMS INDEPENDENT PARTICIPANTS THROUGHOUT THE CRIMINAL JUSTICE PROCESS.

In October 2004, Congress passed and the President signed into law the Crime Victims' Rights Act, Pub. L. No. 108-405, 118 Stat. 2251 (codified at 18 U.S.C. § 3771). Because this appears to be the first case involving the Act to come before this Court, a bit of background may be in order.

A. The CVRA Gives Crime Victims Rights to Participate in the Criminal Justice Process.

Congress passed the CVRA "to give crime victims enforceable rights to participate in federal criminal proceedings." Opinion at 14. Congress was concerned that in the federal system crime victims were "treated as non-participants in a critical event in their lives. They were kept in the dark by prosecutors too busy to care enough ... and by a court system that simply did not have a place for them." 150 CONG. REC. S4262 (Apr. 22, 2004) (statement of Sen. Feinstein). To remedy this problem, Congress gave victims "the simple right to know what is going on, to participate in the process where the information that victims and their families can provide may be material and relevant" *Id.*

The CVRA gives victims of federal crimes a series of rights, including the right to notice of court proceedings, to be heard at plea and sentencing hearings, and to reasonably "confer with the attorney for the Government in the case." 18 U.S.C. § 3771(a). Victims also have a "right of access to the terms of a plea agreement" *In re Interested Party 1*, 530 F.Supp. 2d 136, 2008 WL 134233 at *7 (D.D.C. 2008). The CVRA also assures victims broadly that they will "be treated with fairness." 18 U.S.C. § 3771(a)(8).

Of course, these rights would be of little use to most crime victims unless they were told about them. To ensure that victims are notified of their rights, the CVRA directs employees of the Justice Department “and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime” to use their “best efforts to see that crime victims are notified of ... the rights described [in the CVRA].” 18 U.S.C. § 3771(c)(1) (emphasis added).¹

B. The CVRA Gives Victims Rights During the Investigation of a Crime.

The CVRA gives victims rights during the investigation of a crime. The Fifth Circuit recently reached this conclusion, holding:

The district court acknowledged that “[t]here are clearly rights under the CVRA that apply before any prosecution is underway.” BP Prods., 2008 WL 501321 at *11, 2008 U.S. Dist. LEXIS 12893, at *36. Logically, this includes the CVRA's establishment of victims' “reasonable right to confer with the attorney for the Government.” 18 U.S.C. § 3771(a)(5). At least in the posture of this case (and we do not speculate on the applicability to other situations), the government should have fashioned a reasonable way to inform the victims of the likelihood of criminal charges and to ascertain the victims' views on the possible details of a plea bargain.

In re Dean, 527 F.3d 391, 394 (5th Cir. 2008).

The position that CVRA rights apply before charges have been filed is consistent with the Justice Department regulations under the CVRA, which explain that government officials “must advise a victim [about their rights under the CVRA] ... at the earliest opportunity at which it may be done without interfering with an investigation.” A.G. GUIDELINES FOR VICTIM AND WITNESS

¹ Further supporting this requirement is another statute, 42 U.S.C. § 10607(c)(3), which directs government officials to provide victims with “the earliest possible notice of,” among other things, “the filing of charges against a suspected offender.”

ASSISTANCE 23 (May 2005). And the plain language of the CVRA undergirds this conclusion, as it applies not simply to prosecutors but to government agencies “engaged in the detection [and] investigation ... of crime” 18 U.S.C. § 3771(c)(1). Indeed, if there were any doubt, the plain language of the CVRA extends victims’ right to situations “in which no prosecution is underway.” 18 U.S.C. § 3771(d)(3).

II. PETITIONER IS A “VICTIM PROTECTED BY THE CVRA.

Under the CVRA the crime victim is defined as “a person directly and proximately harmed as a result of the commission of a Federal offense” 18 U.S.C. Section 3771(e). In particular, Defendant called Petitioner when she was a minor over a telephone (a means of interstate communication) requesting that she perform a massage in exchange for payment. As Defendant well knew, that request was fraudulent, as he not only intended to receive a massage, but also intended to have her perform sexual acts in exchange for a cash payment to Petitioner. Only when Petitioner arrived at a Defendant’s mansion as directed by Defendant, did Defendant reveal his true purpose of obtaining sexual favors in exchange for payment. This conduct violated 18 U.S.C. § 2422, which forbids using a means of interstate commerce to knowingly “induce” or “entice” a minor “to engage in prostitution.” In addition, this conduct was both a use of “fraud” to obtain a commercial sex act, in violation of 18 U.S.C § 1591, and use of wire communications to perpetrate a “scheme and artifice to defraud,” in violation of 18 U.S.C. § 1343.

It appears obvious that Petitioner was “directly and proximately” harmed by these crimes, thereby making her a victim under the CVRA. It should be emphasized that the CVRA “was designed to be a ‘broad and encompassing’ statutory victims’ bill of rights.” *United States* █

Degenhardt, 405 F.Supp.2d 1341, 1342 (D. Utah 2005) (quoting 150 Cong. Rec. S4261 (daily ed. Apr. 22, 2004) (statement of Sen. Feinstein)). Congress intended the CVRA to dramatically rework the federal criminal justice system. In the course of construing the CVRA generously, the Ninth Circuit observed: “The criminal justice system has long functioned on the assumption that crime victims should behave like good Victorian children -- seen but not heard. The Crime Victims’ Rights Act sought to change this by making victims independent participants in the criminal justice process.” *Kenna* ■ *U.S. Dist. Court for C.D. Cal.*, 435 F.3d 1011, 1013 (9th Cir. 2006). Accordingly, because the CVRA is remedial legislation, courts should interpret it “liberally to facilitate and accomplish its purposes and intent.” *Elliott Industries Ltd. Partnership* ■ *BP America Production Co.*, 407 F.3d 1091, 1118 (10th Cir. 2005) (noting remedial legislation should be “interpreted liberally to facilitate and accomplish its purposes and intent”). The CVRA itself suggests this conclusion by requiring that courts must treat crime victims with “fairness.” *United States* ■ *Patkar*, 2008 WL 233062 at *3 (D. Haw. 2008) (citing *United States* ■ *Turner*, 367 F.Supp.2d 319, 335 (E.D.N.Y. 2005)).

Not only must the CVRA as a whole be interpreted liberally, but its definition of “crime victim” requires a generous construction. After reciting the direct-and-proximate-harm language at issue here, one of the Act’s two co-sponsors -- Senator Kyl -- explained that “[t]his is an intentionally broad definition because all victims of crime deserve to have their rights protected” 150 Cong. Rec. S10912 (Oct. 9, 2004) (emphasis added). The description of the victim definition as “intentionally broad” was in the course of floor colloquy with the other primary sponsor of the CVRA and therefore deserves significant weight. See *Kenna*, 435 F.3d at 1015-16 (discussing significance of CVRA sponsors= floor statements).

The definition of “crime victims” must thus be construed broadly in favor of Petitioner.

She obviously qualifies as a “victim” under the CVRA.

III. PETITIONER IS ENTITLED TO NOTICE OF HER RIGHTS, AN OPPORTUNITY TO CONFER WITH THE PROSECUTORS AND TO BE TREATED WITH FAIRNESS.

Because Petitioner is a “victim” under the CVRA, she has certain protected rights under the Act. Most important, the Act promises that she will have an opportunity to “confer with the attorney for the Government in the case.” To date, Petitioner has not been given that right. This raises that very real possibility that the Government may negotiate and conclude a plea agreement with the Defendant without giving Petitioner her protected rights.²

Petitioner is entitled to have this conference with prosecutors before any final plea agreement is reached. The Fifth Circuit reached exactly this conclusion in a very recent case. In *In re Dean*, 527 F.3d 391 (5th Cir. 2008), the Government negotiated a plea agreement with the well-heeled corporate defendant without conferring with the victims. When the Government’s failure was challenged in the Fifth Circuit, the Fifth Circuit concluded that the Government had indeed violated the CVRA. The Fifth Circuit observed: “In passing the [CVRA], Congress made the policy decision-which we are bound to enforce-that the victims have a right to inform the plea negotiation process by conferring with prosecutors before a plea agreement is reached.” *Id.* at 394.

This Court is obligated to protect the rights of Petitioner. The CVRA directs that “[i]n any court proceeding involving an offense against a crime victim, the court shall ensure that the

² On information and belief, roughly the same crimes were committed against several other young females. These victims, too, are in danger of losing their right to confer under the CVRA.

crime victim is afforded the rights described in [the CVRA].” 18 U.S.C. § 3771(b)(1). The CVRA also confers on crime victims the right to “assert the rights described in [the CVRA].” 18 U.S.C. § 3771(d)(1). Therefore, this Court has its own independent obligation to intercede and ensure that the Government respects the rights of Petitioner under the CVRA.

CONCLUSION

The Petitioner requests the intervention of this Court to ensure that her rights are respected and accorded, as promised in the Crime Victims’ Rights Act.

DATED this 7th day of July, 2008.

Respectfully Submitted,

THE LAW OFFICE OF BRAD EDWARDS &
ASSOCIATES, LLC



Brad Edwards, Esquire
Attorney for Petitioner
Florida Bar #542075
2028 [REDACTED] Street
Suite 202
Hollywood, Florida 33020
Telephone: 954-414-8033
Facsimile: 954-924-1530

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been provided by United States mail and via facsimile to: ANN MARIE C. VILLAFANA, AUSA, United States Attorney's Office, 500 South Australian Avenue, Suite 400, West Palm Beach, Florida 33401, this 7th day of July, 2008.



Brad Edwards, Esquire
Attorney for Petitioner
Florida Bar No. 542075

CIVIL COVER SHEET

JS 44 (Rev. 2/01)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) NOTICE: Attorneys MUST Indicate All Re-filed

JULY 7, 2008

STEVEN M. LARIMORE CLERK U.S. DIST. CT. S. D. OF FLA. - MIAMI

I. (a) PLAINTIFFS
In re: Jane Doe
(b) County of Residence of First Listed Plaintiff Palm Bch.
(c) Attorney's (Firm Name, Address, and Telephone Number)
Law office of Brad Edwards & Associates
2028 Harrison Street
Suite 202
Hollywood, FL 33020

DEFENDANTS
United States of
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT LAND INVOLVED.
Attorneys (if known)
Ann marie C. Villafañan, U.S. attys office

(1) Check County Where Action Arose: MIAMI-DADE MONROE BROWARD PALM BEACH MARTIN ST. LUCIE INDIAN RIVER OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)
08CV80736 MARRA/JOHNSON

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1
2 2
3 3
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation
PTF DEF
4 4
5 5
6 6

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories and checkboxes.

ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Re-filed (see VI below)
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S).
a) Re-filed Case YES NO
b) Related Cases YES NO
JUDGE DOCKET NUMBER

VII. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):
Crime Victims Rights Act 18 USC § 3771
Petition on behalf of victim of sex offenses to be accorded her rights under the CVRA
LENGTH OF TRIAL via 1 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMANDS
CHECK YES only if demanded in complaint:
JURY DEMAND: YES NO

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE
SIGNATURE OF ATTORNEY OF RECORD
DATE 7-7-08
FOR OFFICE USE ONLY
AMOUNT 350.00 RECEIPT # 124403

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, July 08, 2008 5:43 PM
To: Lee, Dexter (USAFLS); Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS)
Subject: FW: Epstein: Victim Notification Letter
Attachments: Victim Notification Ltr.pdf

9

Alex, Dexter, and Jeff – in my draft declaration I reference the original victim notification letter that was objected to by the defense. Here it is as it was sent to Jay Lefkowitz on November 28, 2007.

Thanks.

From: Villafana, Ann Marie C. (USAFLS)
Sent: Wednesday, November 28, 2007 4:47 PM
To: Jay Lefkowitz
Cc: Sloman, Jeff (USAFLS); Acosta, Alex (USAFLS)
Subject: Epstein: Victim Notification Letter

Dear Jay:

Jeff asked that I forward the victim notification letter to you. It is attached.

Thank you.

<<Victim Notification Ltr.pdf>>

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777



U.S. Department of Justice

*United States Attorney
Southern District of Florida*

*500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777*

November 29, 2007

DELIVERY BY HAND

Miss

Re: Crime Victims' Rights – Notification of Resolution of Epstein Investigation

Dear Miss _____:

Several months ago, I provided you with a letter notifying you of your rights as a victim pursuant to the Justice for All Act of 2004 and other federal legislation, including:

- (1) The right to be reasonably protected from the accused.
- (2) The right to reasonable, accurate, and timely notice of any public court proceeding involving the crime or of any release or escape of the accused.
- (3) The right not to be excluded from any public court proceeding, unless the court determines that your testimony may be materially altered if you are present for other portions of a proceeding.
- (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, or sentencing.
- (5) The reasonable right to confer with the attorney for the United States in the case.
- (6) The right to full and timely restitution as provided in law.
- (7) The right to proceedings free from unreasonable delay.
- (8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

I am writing to inform you that the federal investigation of Jeffrey Epstein has been completed, and Mr. Epstein and the U.S. Attorney's Office have reached an agreement containing the following terms.

First, Mr. Epstein agrees that he will plead guilty to two state offenses, including the offense of soliciting minors to engage in prostitution, which will require him to register as a sexual predator for the remainder of his life.

Second, Mr. Epstein has agreed to make a binding recommendation of 18 months' imprisonment to the state court judge who sentences him. Mr. Epstein will serve that sentence of imprisonment at the Palm Beach County Jail.

Third, Mr. Epstein has agreed that he will not contest jurisdiction or liability if you elect to seek damages from him because the United States has identified you as a minor victim of certain federal offenses, including travel in interstate commerce to engage in prostitution with minors and the use of facilities of interstate commerce to induce minors to engage in prostitution. To assist you in making such a claim, the U.S. Attorney's Office has asked an independent Special Master to select attorneys to represent you. Those attorneys are Aaron Podhurst and Robert ("Bob") Josefsberg with the law firm of Podhurst Orseck, P.A. They can be reached at (305) 358-2800. I anticipate that someone from their law firm will be contacting you shortly. I must also advise you that you are not obligated to use these attorneys. In fact, you have the absolute right to select your own attorney, so you can decide not to speak with Messrs. Podhurst/ Josefsberg at all, or you can speak with them and decide at any time to use a different attorney. If you do decide to seek damages from Mr. Epstein and you decide to use Messrs. Podhurst / Josefsberg as your attorneys, Mr. Epstein will be responsible for paying attorney's fees incurred during the time spent trying to negotiate a settlement. If you are unable to reach a settlement with Mr. Epstein, you and Mr. Josefsberg can discuss how best to proceed.

As I mentioned above, as part of the resolution of the federal investigation, Mr. Epstein has agreed to plead guilty to state charges. Mr. Epstein's change of plea and sentencing will occur on December 14, 2007, at _____ a.m., before Judge Sandra K. McSorley, in Courtroom 11F at the Palm Beach County Courthouse, 205 North Dixie Highway, West Palm Beach, Florida. Pursuant to Florida Statutes Sections 960.001(1)(k) and 921.143(1), you are entitled to be present and to make a statement under oath. If you choose, you can submit a written statement under oath, which will be filed by the State Attorney's Office on your behalf. If you elect to prepare a written statement, it should address the following:

the facts of the case and the extent of any harm, including social, psychological, or physical harm, financial losses, loss of earnings directly or indirectly resulting from the crime for which the defendant is being sentenced, and any matter relevant to an appropriate disposition and sentence. Fl. Stat. 921.143(2).

You also are entitled to notification when Mr. Epstein is released from imprisonment at the end of his prison term and/or if he is allowed to participate in a work release program. To receive such notification, please provide the State Attorney's Office with the following information:

1. Your name
2. Your address
3. Your home, work, and/or cell phone numbers

MISS _____
NOVEMBER 29, 2007
PAGE 3

4. Your e-mail address
5. A notation of whether you would like to participate in the "VINE system," which provides automated notification calls any time an inmate is moved. (To use this system, your calls must go to you directly, not through a switchboard.)

Thank you for all of your help during the course of the investigation. If you have any questions or concerns, please do not hesitate to contact me or Special Agent Nesbitt Kuyrkendall at (561) 822-5946.

Sincerely,

R. Alexander Acosta
United States Attorney

By:

A. Marie Villafaña
Assistant United States Attorney

cc: Special Agent Nesbitt Kuyrkendall, F.B.I.
Ms. Clearetha Wright, Victim-Witness Coordinator, U.S. Attorney's Office

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Monday, July 07, 2008 7:23 PM
To: Lee, Dexter (USAFLS)
Cc: Sloman, Jeff (USAFLS)
Subject: Re: CVRA Suit

25

Hi dexter. Yes an agreement has been signed and has already been partially performed. The agreement is confidential and has been filed under seal in the state court proceedings.

He could be filing his motion on behalf of 3 different jane does. S.R. Was not fully identified until after the agreement was signed. T.M. was notified and her notification resulted in claims of prosecutorial misconduct by Epstein's lawyers. I am checking to see if the third, C.W., was notified prior to the signing of the agreement.

----- Original Message -----

From: Lee, Dexter (USAFLS)
To: Villafana, Ann Marie C. (USAFLS)
Sent: Mon Jul 07 18:52:42 2008
Subject: CVRA Suit

Ann Marie,

The Attorney General Guidelines for Victim and Witness Assistance (May 2005) provides that "responsible officials should make reasonable efforts to notify identified victims of, and consider victims' views about, prospective plea negotiations." Article IV, Services to Victims and Witnesses, p. 30.

Has an agreement been signed with Epstein? Did we notify Jane Doe that an agreement was about to be negotiated, and the outlines of that proposed agreement? Thanks.

Dexter

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, July 08, 2008 10:17 AM
To: Lee, Dexter (USAFLS)
Subject: Emailing: Villafana Declaration re victim notification.wpd
Attachments: Villafana Declaration re victim notification.wpd

<<Villafana Declaration re victim notification.wpd>> Hi Dexter -- I am still working on it, but thought this would help with background. When I finish, I will send to you, Jeff, and Alex.

Thanks.

The message is ready to be sent with the following file or link attachments:

Villafana Declaration re victim notification.wpd

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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, July 08, 2008 12:15 PM
To: Lee, Dexter (USAFLS)
Subject: FW: Epstein
Attachments: Conf Plea Negotiations final.wpd

Dexter – Please see below.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

From: Villafana, Ann Marie C. (USAFLS)
Sent: Thursday, September 06, 2007 5:47 PM
To: Sloman, Jeff (USAFLS)
Subject: RE: Epstein

Hi Jeff – Funny you should ask. I have been wondering the same thing. Here is the term sheet and guidelines calculation that we provided at the last meeting. You and Matt and I had also discussed a possible federal plea to an Information charging a 371 conspiracy, with a Rule 11 plea with a two-year cap, but I think Matt must have asked Alex about it and it was nixed. Just to be prepared for tomorrow, I was just starting to draft a Rule 11 plea agreement in case Alex changes his mind and a formal non-prosecution agreement containing the state plea terms. As soon as those are ready, I will e-mail them to you.

<<Conf Plea Negotiations final.wpd>>

There are three concerns that I hope we can address tomorrow. First, that there is an absolute drop-dead date for accepting or rejecting because it is strategically important that we indict before the end of September, which means presenting the indictment on September 25th. Second, the agents and I have not reached out to the victims to get their approval, which as Drew politely reminded me, is required under the law. And third, I do not want to make any promises about allowing Epstein to self-surrender because I still believe that we have a good chance of getting him detained.

On another note, Junior got a call today from the Palm Beach Police Chief because he got information that there will be an article released tomorrow about our meeting and that Epstein is going to plead to a state charge and the Chief wanted to know if the victims had been consulted about the deal. There has been some coverage in the New York press about Ken Starr, but I haven't seen anything local yet.

A. Marie Villafaña

Assistant U.S. Attorney

561 209-1047

From: Sloman, Jeff (USAFLS)
Sent: Thursday, September 06, 2007 5:35 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Epstein

Please refresh my recollection. What is the "deal" on the table?

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, July 08, 2008 12:17 PM
To: Lee, Dexter (USAFLS)
Subject: RE: Factors in Not Disclosing Plea Agreement Terms

Hi Dexter – I will forward to you an e-mail that I sent to Jeff and Alex about victim notification during the negotiations. The terms of the agreement were proposed by Matt Menchel, and I worked on drafting an agreement in accordance with those terms.

I think the Office's position is that the number of victims, timing, and the confidentiality provisions included in the agreement made victim notification impossible. I would add that, after seeing how the defense twisted the disclosure of the terms to the first few victims, premature notification of them would have compromised their trial testimony.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

From: Lee, Dexter (USAFLS)
Sent: Tuesday, July 08, 2008 12:09 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Factors in Not Disclosing Plea Agreement Terms

Marie,

The Attorney General's Guidelines lists several factors in determining whether to notify a victim of a proposed plea agreement:

(3) Proposed Plea Agreements. Responsible officials should make reasonable efforts to notify identified victims of, and consider victims' views about, prospective plea negotiations. In determining what is reasonable, the responsible official should consider factors relevant to the wisdom and practicality of giving notice and considering views in the context of the particular case, including, but not limited to, the following factors:

- (a) The impact on public safety and risks to personal safety.
- (b) The number of victims.
- (c) Whether time is of the essence in negotiating or entering a proposed plea.

(d) Whether the proposed plea involves confidential information or conditions.

(e) Whether there is another need for confidentiality.

(f) Whether the victim is a possible witness in the case and the effect that relaying any information may have on the defendant's right to a fair trial.

When we spoke this morning, you told me that the initial agreement with Epstein was reached in September 2007. An addendum was negotiated in October 2007. Finally, an additional portion of the agreement was signed in December 2007.

Did we consider these, or any other factors, in deciding not to advise the victims of the plea negotiations, which appeared to have commenced in mid-2007? Thanks.

Dexter

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Wednesday, July 09, 2008 11:49 AM
To: Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS); Acosta, Alex (USAFLS)
Cc: Atkinson, Karen (USAFLS); Jacobus, Wendy (USAFLS)
Subject: RE: Emailing: victim_resp_USArev corrected.wpd

8

Here is the language from the Agreement. I will leave it to you to interpret whether disclosing part of the substance of the Agreement requires sealing or otherwise.

The parties anticipate that this agreement will not be made part of any public record. If the United States receives a Freedom of Information Act request or any compulsory process commanding the disclosure of the agreement, it will provide notice to Epstein before making that disclosure.

A. Marie Villafaña
Assistant U.S. Attorney
561 209-1047

-----Original Message-----

From: Sloman, Jeff (USAFLS)
Sent: Wednesday, July 09, 2008 9:57 AM
To: Lee, Dexter (USAFLS); Villafana, Ann Marie C. (USAFLS); Acosta, Alex (USAFLS)
Cc: Atkinson, Karen (USAFLS); Jacobus, Wendy (USAFLS)
Subject: RE: Emailing: victim_resp_USArev corrected.wpd

Doesn't the confidentiality provision obligate us to file it under seal?

-----Original Message-----

From: Lee, Dexter (USAFLS)
Sent: Wednesday, July 09, 2008 9:53 AM
To: Villafana, Ann Marie C. (USAFLS); Acosta, Alex (USAFLS)
Cc: Atkinson, Karen (USAFLS); Sloman, Jeff (USAFLS); Jacobus, Wendy (USAFLS)
Subject: RE: Emailing: victim_resp_USArev corrected.wpd

Alex and Jeff,

Do you have any preference for filing under seal or a public filing? If we can protect the identities of the minor victims in a public filing, that is one less reason to file it under seal. The other considerations are the government's confirmation that Epstein was under federal investigation, and the confidentiality provision in the deferral of prosecution agreement with Epstein.

It's actually easier to file it electronically, and the general policy is that documents filed in court are public.

Dexter

-----Original Message-----

From: Villafana, Ann Marie C. (USAFLS)
Sent: Wednesday, July 09, 2008 9:23 AM

To: Lee, Dexter (USAFLS); Acosta, Alex (USAFLS)
Cc: Atkinson, Karen (USAFLS); Sloman, Jeff (USAFLS); Jacobus, Wendy (USAFLS)
Subject: RE: Emailing: victim_resp_USArev corrected.wpd

I was planning to redact all of that information prior to scanning it and attaching Exhibit Stickers. I think we should do so even if this is filed under seal.

A. Marie Villafaña
Assistant U.S. Attorney
561 209-1047

-----Original Message-----

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Sent: Wednesday, July 09, 2008 9:22 AM
To: Villafana, Ann Marie C. (USAFLS); Acosta, Alex (USAFLS)
Cc: Atkinson, Karen (USAFLS); Sloman, Jeff (USAFLS); Jacobus, Wendy (USAFLS)
Subject: RE: Emailing: victim_resp_USArev corrected.wpd

Marie,

I will sign the response. Since this case involves girls who were minors when the crimes were committed, and there is a confidentiality provision in the deferral of prosecution agreement with Epstein, I believe this should be filed under seal. Otherwise, we'll have to go through each letter and excise the names, addresses, and other identifying information on the three girls.

Dexter

-----Original Message-----

From: Villafana, Ann Marie C. (USAFLS)
Sent: Wednesday, July 09, 2008 9:11 AM
To: Lee, Dexter (USAFLS); Acosta, Alex (USAFLS)
Cc: Atkinson, Karen (USAFLS); Sloman, Jeff (USAFLS)
Subject: Emailing: victim_resp_USArev corrected.wpd

Dexter and Alex -- I fixed a couple of typos and entered the correct information about the dates when the letters were sent. I also included the information about all three of Edwards' clients, T.M., C.W., and S.R.

At the end, I also corrected the information regarding the notifications of the victims about the change of plea. I called Edwards on Friday, but I'm not sure whether we spoke that day or if he called me over the weekend. And the agents and I didn't start making calls together until Monday after the hearing. So I notified Edwards to inform his three clients, and PBPD tried to notify six victims, I think. I didn't want the court to think that we tried to notify all 33 girls.

I will make similar changes to my declaration and send that to you shortly.

Also, I notice there is no signature block. Do you want me to sign and file? Or will you do that, Dexter? Thanks.

The message is ready to be sent with the following file or link attachments:

victim_resp_USArev corrected.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, July 08, 2008 5:24 PM
To: Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS)
Cc: Kuyrkendall, E N. (MM) (FBI); Richards, Jason R. (MM) (FBI); Atkinson, Karen (USAFLS)
Subject: Emailing: Villafana Declaration re victim notification.wpd
Attachments: Villafana Declaration re victim notification.wpd

<<Villafana Declaration re victim notification.wpd>> I haven't proofed it yet, and Nesbitt and Jason need to double-check me on the facts, but I wanted to get it to you as soon as I could in case the Office wants to do major revisions.

The air conditioning in my office is broken, so I am going to head home. I will have access to e-mail and the document at home, if we want to make changes tonight. Otherwise I will be back early tomorrow. If you do want to make changes, please just call me on my cell, 561 601-2301, and then I can sign on to the computer at home.

Thanks.

The message is ready to be sent with the following file or link attachments:

Villafana Declaration re victim notification.wpd

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Villafana, Ann Marie C. (USAFLS)

From: Acosta, Alex (USAFLS) <AAcosta@usa.doj.gov>
Sent: Tuesday, July 08, 2008 6:17 PM
To: Lee, Dexter (USAFLS); Sloman, Jeff (USAFLS)
Cc: Villafana, Ann Marie C. (USAFLS); Jacobus, Wendy (USAFLS)
Subject: RE: Draft Response in Jane Doe
Attachments: victim_resp.wpd

Here is a second draft, with small rewrites

I reduced the discussion of negotiations. The agreement has a confidentiality clause. I note this, because if we disclose too much, then we will be sued by the other side for breach of that clause.

In other words, we need to disclose and discuss without going too far – unless ordered to do so by the court.

<<victim_resp.wpd>> :

From: Lee, Dexter (USAFLS)
Sent: Tuesday, July 08, 2008 5:29 PM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS)
Cc: Villafana, Ann Marie C. (USAFLS); Jacobus, Wendy (USAFLS)
Subject: Draft Response in Jane Doe

Alex and Jeff,

Here is a draft response to the emergency petition filed by Jane Doe in the Epstein case. Our first argument is that Doe had no rights under 18 U.S.C. 3177(a)(5) since that provision does not apply where there are no "court proceedings" in federal court, and none were contemplated, as long as Epstein complied with the non-prosecution agreement. The second argument is that the government used its best efforts to comply, since the A/G guidelines permitted us to not notify victims of the proposed plea negotiations if the proposed plea involved confidential information or conditions, or there is another need for confidentiality. Article IV, Section B(2)(C)(3). The government exercised its discretion and determined that keeping the terms confidential was necessary in order to obtain the best agreement. In particular, the government wanted Epstein to make a significant concession on one of the elements in 18 U.S.C. 2255.

I am speaking with Kim Herd at EOUSA regarding the government's position. In particular, the first argument will have to be cleared by DOJ before I can assert it. Please feel free to make any comments. Thanks.

Dexter

<< File: victim_resp.wpd >>

Villafana, Ann Marie C. (USAFLS)

From: Lee, Dexter (USAFLS) <DLee@usa.doj.gov>
Sent: Tuesday, July 08, 2008 7:42 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Revised Declaration & Response
Attachments: victim_resp_USArev.wpd; Villafana Declaration-v2.wpd

Marie,

Alex has reviewed my draft response and your final declaration. He wanted to leave out specific details regarding the plea negotiations, since plea discussions are normally held in confidence. Also, he wanted to leave out Epstein's attorneys' undue haste in hurling accusations of misconduct at the prosecution, since that does not address the claims presented by petitioner.

I have revised the response and your declaration accordingly. Please review both to ensure they are accurate. Thanks.

Dexter

<<victim_resp_USArev.wpd>> <<Villafana Declaration-v2.wpd>>

Villafana, Ann Marie C. (USAFLS)

From: Lee, Dexter (USAFLS) <DLee@usa.doj.gov>
Sent: Wednesday, July 09, 2008 9:22 AM
To: Villafana, Ann Marie C. (USAFLS); Acosta, Alex (USAFLS)
Cc: Atkinson, Karen (USAFLS); Sloman, Jeff (USAFLS); Jacobus, Wendy (USAFLS)
Subject: RE: Emailing: victim_resp_USArev corrected.wpd

Marie,

I will sign the response. Since this case involves girls who were minors when the crimes were committed, and there is a confidentiality provision in the deferral of prosecution agreement with Epstein, I believe this should be filed under seal. Otherwise, we'll have to go through each letter and excise the names, addresses, and other identifying information on the three girls.

Dexter

-----Original Message-----

From: Villafana, Ann Marie C. (USAFLS)
Sent: Wednesday, July 09, 2008 9:11 AM
To: Lee, Dexter (USAFLS); Acosta, Alex (USAFLS)
Cc: Atkinson, Karen (USAFLS); Sloman, Jeff (USAFLS)
Subject: Emailing: victim_resp_USArev corrected.wpd

Dexter and Alex -- I fixed a couple of typos and entered the correct information about the dates when the letters were sent. I also included the information about all three of Edwards' clients, T.M., C.W., and S.R.

At the end, I also corrected the information regarding the notifications of the victims about the change of plea. I called Edwards on Friday, but I'm not sure whether we spoke that day or if he called me over the weekend. And the agents and I didn't start making calls together until Monday after the hearing. So I notified Edwards to inform his three clients, and PBPB tried to notify six victims, I think. I didn't want the court to think that we tried to notify all 33 girls.

I will make similar changes to my declaration and send that to you shortly.

Also, I notice there is no signature block. Do you want me to sign and file? Or will you do that, Dexter? Thanks.

The message is ready to be sent with the following file or link attachments:

victim_resp_USArev corrected.wpd

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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Wednesday, July 09, 2008 9:22 AM
To: Acosta, Alex (USAFLS); Lee, Dexter (USAFLS)
Cc: Atkinson, Karen (USAFLS); Sloman, Jeff (USAFLS)
Subject: Emailing: Villafana Declaration-v2 final.wpd
Attachments: Villafana Declaration-v2 final.wpd

<<Villafana Declaration-v2 final.wpd>> Attached is the revised declaration. Please let me know if any other changes are required. I am off to Court but should be back by 11:30.

Thank you.

The message is ready to be sent with the following file or link attachments:

Villafana Declaration-v2 final.wpd

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Cc: Atkinson, Karen (USAFLS); Sloman, Jeff (USAFLS); Jacobus, Wendy (USAFLS)
Subject: RE: Emailing: victim_resp_USArev corrected.wpd

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A. Marie Villafaña
Assistant U.S. Attorney
561 209-1047

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Marie,

I will sign the response. Since this case involves girls who were minors when the crimes were committed, and there is a confidentiality provision in the deferral of prosecution agreement with Epstein, I believe this should be filed under seal. Otherwise, we'll have to go through each letter and excise the names, addresses, and other identifying information on the three girls.

Dexter

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At the end, I also corrected the information regarding the notifications of the victims about the change of plea. I called Edwards on Friday, but I'm not sure whether we spoke that day or if he called me over the weekend. And the agents and I didn't start making calls together until Monday after the hearing. So I notified Edwards to inform his three clients, and PBPD tried to notify six victims, I think. I didn't want the court to think that we tried to notify all 33 girls.

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Sent: Wednesday, July 09, 2008 9:53 AM
To: Villafana, Ann Marie C. (USAFLS); Acosta, Alex (USAFLS)
Cc: Atkinson, Karen (USAFLS); Sloman, Jeff (USAFLS); Jacobus, Wendy (USAFLS)
Subject: RE: Emailing: victim_resp_USArev corrected.wpd

Alex and Jeff,

Do you have any preference for filing under seal or a public filing? If we can protect the identities of the minor victims in a public filing, that is one less reason to file it under seal. The other considerations are the government's confirmation that Epstein was under federal investigation, and the confidentiality provision in the deferral of prosecution agreement with Epstein.

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Assistant U.S. Attorney
561 209-1047

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Assistant U.S. Attorney
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At the end, I also corrected the information regarding the notifications of the victims about the change of plea. I called Edwards on Friday, but I'm not sure whether we spoke that day or if he called me over the weekend. And the agents and I didn't start making calls together until Monday after the hearing. So I notified Edwards to inform his three clients, and PBPD tried to notify six victims, I think. I didn't want the court to think that we tried to notify all 33 girls.

I will make similar changes to my declaration and send that to you shortly.

Also, I notice there is no signature block. Do you want me to sign and file? Or will you do that, Dexter? Thanks.

The message is ready to be sent with the following file or link attachments:

victim_resp_USArev corrected.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Villafana, Ann Marie C. (USAFLS)

From: Lee, Dexter (USAFLS) <DLee@usa.doj.gov>
Sent: Wednesday, July 09, 2008 12:28 PM
To: Villafana, Ann Marie C. (USAFLS); Acosta, Alex (USAFLS)
Subject: RE: Victim Notification

Marie,

DOJ wanted us to hold off sending this out until we get clearance to file our document this afternoon. Will that pose any problems?

Dexter

From: Villafana, Ann Marie C. (USAFLS)
Sent: Tuesday, July 08, 2008 5:37 PM
To: Acosta, Alex (USAFLS); Lee, Dexter (USAFLS)
Subject: Victim Notification

Hi Alex and Dexter – Here is the proposed notification that was provided to Epstein’s counsel last week.

<< File: Victim Identification and Notification Final with Goldberger sig revised.wpd >>

Assuming that they don’t sign it tomorrow, I would remove the bottom portion that calls for Epstein’s signature and incorporate some instructional language along with notice that Jack Goldberger is the contact person for any civil litigation.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Wednesday, July 09, 2008 12:34 PM
To: Lee, Dexter (USAFLS)
Cc: Acosta, Alex (USAFLS)
Subject: RE: Victim Notification

Hi Dexter – Jack Goldberger’s response just arrived – I am sending it in a separate e-mail. I need to revise the letter and make sure Alex and Jeff approve before it goes out, so it won’t be ready until later this afternoon. I just need to make sure that it goes out before I file my Declaration, since I swear that it has gone out to Attorney Edwards.

Thanks.

A. Marie Villafaña

Assistant U.S. Attorney

561 209-1047

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Sent: Wednesday, July 09, 2008 12:28 PM
To: Villafana, Ann Marie C. (USAFLS); Acosta, Alex (USAFLS)
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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Wednesday, July 09, 2008 12:42 PM
To: Lee, Dexter (USAFLS); Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS)
Cc: Atkinson, Karen (USAFLS)
Subject: Emailing: Villafana Declaration-v2 final.wpd
Attachments: Villafana Declaration-v2 final.wpd

<<Villafana Declaration-v2 final.wpd>> Hi all -- I think this includes everyone's thoughts. If any changes are needed, please let me know.

The message is ready to be sent with the following file or link attachments:

Villafana Declaration-v2 final.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Villafana, Ann Marie C. (USAFLS)

From: Lee, Dexter (USAFLS) <DLee@usa.doj.gov>
Sent: Wednesday, July 09, 2008 1:17 PM
To: Herd, Kim (USAEO); Neal, Kristina (USAEO)
Cc: Manning, Katharine (USAEO); Villafana, Ann Marie C. (USAFLS)
Subject: RE: Victim Notification

Kim,

The consensus is that there's nothing to talk to Edwards about because the agreement has been signed and the federal case is over. We will not be reaching out to Edwards to get an extension.

As to the draft notice, Epstein's lawyers raised a similar concern.

Dexter

From: Herd, Kim (USAEO)
Sent: Wednesday, July 09, 2008 1:07 PM
To: Lee, Dexter (USAFLS); Neal, Kristina (USAEO)
Cc: Manning, Katharine (USAEO)
Subject: RE: Victim Notification

Our concern is that the list of individuals contains the names of minors. Have you thought about just listing initials? Or not providing the entire list to each victim?

Also – any word from victim counsel on an extension?

From: Lee, Dexter (USAFLS)
Sent: Wednesday, July 09, 2008 12:29 PM
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Subject: FW: Victim Notification

From: Villafana, Ann Marie C. (USAFLS)
Sent: Tuesday, July 08, 2008 5:37 PM
To: Acosta, Alex (USAFLS); Lee, Dexter (USAFLS)
Subject: Victim Notification

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<< File: Victim Identification and Notification Final with Goldberger sig revised.wpd >>

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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Wednesday, July 09, 2008 1:19 PM
To: Lee, Dexter (USAFLS); Herd, Kim (USAEO); Neal, Kristina (USAEO)
Cc: Manning, Katharine (USAEO)
Subject: RE: Victim Notification

The Notification specifically provided that each victim would receive a copy with the names of all other victims redacted. We also have provided the list only by hand delivery to counsel for Mr. Epstein with a cover sheet advising them that disclosing the names to anyone could violate federal and/or state law. That cover sheet will accompany the victim notification even when it is sent to the victims themselves.

A. Marie Villafaña

Assistant U.S. Attorney

561 209-1047

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Great, thanks!

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Phone 561 209-1047

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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Wednesday, July 09, 2008 2:06 PM
To: Lee, Dexter (USAFLS)
Subject: RE: Government's Motion to Seal

Hi Dexter – You want to seal my declaration as well, right? Please let me know and I will change accordingly.

Thanks.

A. Marie Villafaña

Assistant U.S. Attorney

561 209-1047

From: Lee, Dexter (USAFLS)
Sent: Wednesday, July 09, 2008 1:47 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Government's Motion to Seal

Marie,

In preparation for this afternoon's filing, I have prepared a motion to seal, which is attached. I did not include Epstein's name and made general assertions regarding the confidentiality of the negotiations. Please have someone sign both the motion to seal, and the government's response, for me. We then need to prepare a sealed document tracking sheet, to accompany the motion.

An original and one copy of the sealed document should be placed in two separate envelopes, with the case number written on the outside. An original and one copy of the motion to seal should be filed with the Clerk.

Thanks.

Dexter

<< File: victim_Mot_seal.wpd >>

Villafana, Ann Marie C. (USAFLS)

From: Lee, Dexter (USAFLS) <DLee@usa.doj.gov>
Sent: Wednesday, July 09, 2008 2:13 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Government's Motion to Seal

Marie,

Yes, both the response, your declaration, and the attachments to your declaration, are to be sealed.

Dexter

From: Villafana, Ann Marie C. (USAFLS)
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<< File: victim_Mot_seal.wpd >>

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Wednesday, July 09, 2008 3:52 PM
To: Lee, Dexter (USAFLS)
Subject: RE: Government's Motion to Seal

Everything is out. Copies will be sent to you via inter-office. Thank you, Dexter, as usual, you came to the rescue!

Can I ask one more favor? Will you e-file a notice of appearance? That way notices of hearings will come to both of us. I have to run to an appointment, but you can get me on the cell phone.

Thanks.

A. Marie Villafaña

Assistant U.S. Attorney

561 209-1047

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To: Villafana, Ann Marie C. (USAFLS)
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<< File: victim_Mot_seal.wpd >>

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Friday, July 11, 2008 3:04 PM
To: Lee, Dexter (USAFLS)
Subject: RE: Jane Doe Hearing

22

Hi Dexter – I really think you should be on this call with Jack Goldberger, if you feel a response is required.

A. Marie Villafaña

Assistant U.S. Attorney

561 209-1047

From: Lee, Dexter (USAFLS)
Sent: Friday, July 11, 2008 2:33 PM
To: Herd, Kim (USAE0); Neal, Kristina (USAE0); Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS)
Cc: Villafana, Ann Marie C. (USAFLS); Jacobus, Wendy (USAFLS)
Subject: Jane Doe Hearing

Colleagues,

The hearing this morning lasted 45 minutes. Judge Marra first heard argument from Brad Edwards, who harangued the government for permitting Epstein to get off with a light sentence in state court. He argued that the victims were entitled to be consulted before this agreement was reached, and the court should set the agreement aside. Edwards again argued that the rights in section 3771(a) accrue prior to the filing of any charges.

In my portion of the argument, I advised the court of the status of Epstein's state case: (1) he entered pleas of guilty to two state charges on June 30, 2008; (2) he was sentenced to 18 months' incarceration and 1 year of community control; and (3) he was serving his sentence of incarceration. The court queried me on the Dean case and the government's position on when the rights in section 3371(a) applied. I distinguished Dean and argued that rights under 3771(a) does not accrue until a charge is filing in district court. I noted that the A/G's guidelines are applied with common sense, such that a victim claiming they were being threatened by a perpetrator would not be turned away since an indictment had not been returned. I also argued that 18 U.S.C. 3771 did not grant authority to the court to set aside the agreement in the instant case, since it was not a plea agreement filed with court, which it had the discretion to accept or reject. The court had questions regarding the completion of the agreement in September 2007, but the plea was not entered until June 30, 2008. I advised the court that Epstein's attorneys sought higher review of the agreement within the DOJ.

As to the motion to seal the government's response, the court asked if that was necessary any more, since a public hearing had been held and much of what was filed had been discussed. I argued that the government had two bases for sealing: (1) protection of the privacy of the minor victims; and (2) confidentiality of negotiations with Epstein's attorneys and the confidentiality clause in the Agreement. Edwards waived any protection for his clients, two of whom were present in court (C.W. and T.M.) As to the confidentiality, the court found that the discussions regarding the potential impeachment of the victims because of the

availability of relief under 18 U.S.C. 2255 had already been discussed at the hearing. I argued that the exact clause in the agreement pertaining to section 2255 had been cited in the notification letters to C.W. and S.R., which were filed, and the government had agreed to notify Epstein before making any disclosure. The court stated that the disclosure was being done pursuant to its order, not by the government's action. I told the court the government wanted to register its objection.

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There was a reporter from the Sun Sentinel present in the audience.

Dexter

Villafana, Ann Marie C. (USAFLS)

From: Lee, Dexter (USAFLS) <DLee@usa.doj.gov>
Sent: Monday, July 14, 2008 10:20 AM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Jane Doe Hearing

Marie,

I left early on Friday since I had to take care of some matters before my Air Force reserve duty at Homestead AFB this weekend. If you want me to participate in a conference with Mr. Goldberger, I will be happy to do so.

Dexter

From: Villafana, Ann Marie C. (USAFLS)
Sent: Friday, July 11, 2008 3:04 PM
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561 209-1047

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Cc: Atkinson, Karen (USAFLS)
Subject: RE: Jane Doe Hearing

Hi Dexter – I haven't heard any more from Jack and I haven't received any faxes, so perhaps the storm has passed. If you would like to call him, his phone number is 561.659.8300.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, July 15, 2008 12:01 PM
To: Richards, Jason R. (MM) (FBI)
Subject: Re: Calls

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Hi Jason. I am out of the office right now. It is Jason at South Carolina Victim's Action Network (www.scvan.org) and Pauline Mandel at Maryland Crime Victims' Services (www.mdcrimevictims.org)

----- Original Message -----

From: Richards, Jason R. (FBI)
To: Villafana, Ann Marie C. (USAFLS)
Sent: Tue Jul 15 11:32:17 2008
Subject: Re: Calls

Call me when you get a chance. Twila on hold re: notifications. Any word from Marra?

----- Original Message -----

From: Villafana, Ann Marie C. (USAFLS) <Ann.Marie.C.Villafana@usdoj.gov>
To: Kuyrkendall, E N.; Richards, Jason R.; Smith, Twiler
Sent: Mon Jul 14 16:16:08 2008
Subject: FW: Calls

Hi all -- Wasn't sure this went through last time.

On another note, do you guys have an office in Ft Pierce?

A. Marie Villafana
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

-----Original Message-----

From: Villafana, Ann Marie C. (USAFLS)
Sent: Monday, July 14, 2008 2:14 PM
To: Kuyrkendall, E N. (FBI); Richards, Jason R. (FBI)
Subject: Calls

Hi guys. I am stuck in the rain. If you want to start calling here are my thoughts.

We are calling to inform you about the resolution of the Epstein investigation and to thank you for your help.

Mr Epstein pled guilty to one child sex offense that will require him to register as a sex offender for life and received a sentence of 18 months imprisonment followed by one year of home confinement. Mr Epstein also made a concession regarding the payment of restitution.

All of these terms are set out in a letter that AUSA Villafana is going to send out. Do you have a lawyer? Get name and address. If not where do you want letter sent? If you have questions when you receive the letter, please understand that we cannot provide legal advice but the lawyers at the following victims rights organizations are able to help you at no cost to you. (Provide the names and phone numbers)

Also ask about counseling and let them know that counseling is still available even though the investigation is closed.

Villafana, Ann Marie C. (USAFLS)

From: Sloman, Jeff (USAFLS) <JSloman@usa.doj.gov>
Sent: Thursday, July 17, 2008 2:51 PM
To: Villafana, Ann Marie C. (USAFLS); Acosta, Alex (USAFLS); Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS) 7
Subject: RE: Emailing: 080717 Tein Ltr.wpd
Attachments: 080717 DraftTein Ltr.wpd

Marie,

Tein may be trying to bait us into declaring the matter closed when it's technically deferred/suspended. As a result, I've revised your draft which you may be able to color in a bit. Let me know what you think. Thanks,

Jeff

-----Original Message-----

From: Villafana, Ann Marie C. (USAFLS)
Sent: Thursday, July 17, 2008 11:38 AM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS)
Subject: Emailing: 080717 Tein Ltr.wpd

-----Original Message-----

From: Villafana, Ann Marie C. (USAFLS)
Sent: Thursday, July 17, 2008 11:38 AM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS)
Subject: Emailing: 080717 Tein Ltr.wpd

Here it is. Feel free to revise. I have listed myself as the author, but it may be more powerful coming from someone else.

The message is ready to be sent with the following file or link attachments:

080717 Tein Ltr.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

U.S. Department of Justice



United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401

(561) 820-8711

Facsimile: (561) 820-8777

July 17, 2008

VIA FACSIMILE

Michael R. Tein, Esq.
Lewis Tein, P.L.
3059 Grand Avenue, Suite 340
Coconut Grove, FL 33133

Re: Jeffrey Epstein

Dear Mr. Tein:

The Office has reviewed your "Notice of Continued Pendency of Federal Criminal Action," and we feel that it misrepresents the posture of the federal investigation. For example, you cite to *In re Grand Jury*, No. FGJ 07-103 (WPB), as evidence that the federal criminal action remains pending. That is a citation to Mr. Epstein's Motion to Quash a subpoena for computer equipment removed from Mr. Epstein's home after he and his attorneys were aware of the existence of the state investigation. Pursuant to the Non-Prosecution Agreement, that motion was supposed to have been withdrawn several months ago, and, therefore, is not "pending" in our estimation.

~~The Non-Prosecution Agreement called for the closure of the federal investigation upon Mr. Epstein's guilty plea and sentencing~~ deferment of federal prosecution "in favor of prosecution by the State of Florida, provided that Epstein abides by the following conditions and the requirements of this Agreement set forth below." Non-Prosecution Agreement, p. 2 (emphasis added). Accordingly, the U.S. Attorney's Office and the Federal Bureau of Investigation have ceased their investigation of Mr. Epstein and his employees. It is inappropriate for you to use the Agreement, especially the provisions governing a breach by Mr. Epstein, both as a shield from further criminal investigation, and as a sword to prevent the One of those conditions is that Epstein has agreed that the subject Jane Does, while minors, were victims of a violation of an offense enumerated in Title 18, United States Code Section 2255, will have the same rights to proceed under Section 2255 as [they] would have had if Mr. Epstein had been tried and convicted of an enumerated offense." United States Attorney's December 19, 2007 letter to Lilly Ann Sanchez.

MICHAEL TEIN, ESQ.
JULY 17, 2008
PAGE 2

If, in fact, your position is that the federal criminal action is still pending and not deferred requiring the Court to stay the civil proceedings, then the Office proposes that we seek the prompt resolution of the Motion to Quash, so that the computer equipment can be analyzed and the investigation can continue, ~~including the identification of additional victims~~. If, instead, Mr. Epstein intends ~~to continue performing his obligations under the Non-Prosecution Agreement~~ to fully abide by the Non-Prosecution Agreement, then the ~~investigation will remain closed~~ "federal Grand Jury investigation will remain suspended, and all pending federal Grand Jury subpoenas will be held in abeyance unless and until [Epstein] violates any term of [the Non-Prosecution Agreement]." Non-Prosecution Agreement, page 5. Please advise whether you ~~would like to proceed on the Motion to Quash or, if not, please intend to correct the representations to the Court regarding the status of the federal investigation.~~

Sincerely,

R. Alexander Acosta
United States Attorney

By:

A. Marie Villafañá
Assistant United States Attorney

cc: Karen Atkinson, Esq.

EFTA00190570

Villafana, Ann Marie C. (USAFLS)

23

From: Kuyrkendall, E N. (FBI) <E.Kuyrkendall@ic.fbi.gov>
Sent: Friday, July 18, 2008 4:51 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Well, our victim notification letter has been filed in court

Thanks for the update. Have a great weekend!

----- Original Message -----

From: Villafana, Ann Marie C. (USAFLS) <Ann.Marie.C.Villafana@usdoj.gov>
To: Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS); Kuyrkendall, E N.; Richards, Jason R.; Atkinson, Karen (USAFLS)
Sent: Fri Jul 18 16:48:47 2008
Subject: Well, our victim notification letter has been filed in court

Our victim notification letter has been filed in court in connection with one of the federal civil suits against Epstein.

About 10 letters have gone out so far. The FBI's victim coordinator is updating the addresses on the rest and they will go out on Monday.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Friday, July 18, 2008 4:55 PM
To: Kuyrkendall, E N. (MM) (FBI)
Subject: RE: Well, our victim notification letter has been filed in court

Thanks, Nesbitt. Whenever you have a chance, can you send the corrected address list to me?

Thanks.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

-----Original Message-----

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To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Well, our victim notification letter has been filed in court

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----- Original Message -----

From: Villafana, Ann Marie C. (USAFLS) <Ann.Marie.C.Villafana@usdoj.gov>
To: Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS); Kuyrkendall, E N.; Richards, Jason R.; Atkinson, Karen (USAFLS)
Sent: Fri Jul 18 16:48:47 2008
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West Palm Beach, FL 33401
Phone 561 209-1047
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Villafana, Ann Marie C. (USAFLS)

From: Kuyrkendall, E N. (FBI) <E.Kuyrkendall@ic.fbi.gov>
Sent: Friday, July 18, 2008 5:30 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Well, our victim notification letter has been filed in court

Sure. sorry I was in Miami all day. I'll send it Mon.

----- Original Message -----

From: Villafana, Ann Marie C. (USAFLS) <Ann.Marie.C.Villafana@usdoj.gov>
To: Kuyrkendall, E N.
Sent: Fri Jul 18 16:54:49 2008
Subject: RE: Well, our victim notification letter has been filed in court

Thanks, Nesbitt. Whenever you have a chance, can you send the corrected address list to me?

Thanks.

A. Marie Villafana
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
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Subject: Re: Well, our victim notification letter has been filed in court

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From: Villafana, Ann Marie C. (USAFLS) <Ann.Marie.C.Villafana@usdoj.gov>
To: Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS); Kuyrkendall, E N.; Richards, Jason R.; Atkinson, Karen (USAFLS)
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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Monday, July 21, 2008 12:31 PM
To: Kuyrkendall, E N. (MM) (FBI)
Subject: RE: Addresses

Are there any girls who have not been contacted yet?

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

From: Kuyrkendall, E N. (FBI)
Sent: Monday, July 21, 2008 11:23 AM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Addresses

Marie,

Here is a copy of the most up-to-date addresses. Twiler told me that Randy was telling her that Edwards has been talking to some of the victims that she is counseling and that he is encouraging them that 18 months is not long enough of a sentence for Epstein. I am not sure who she is referring to but that Randy is having to provide additional counseling. If you have any questions regarding this you might want to speak directly to Twiler.

Talk to you soon.

Nesbitt

Villafana, Ann Marie C. (USAFLS)

From: Kuyrkendall, E N. (FBI) <E.Kuyrkendall@ic.fbi.gov>
Sent: Monday, July 21, 2008 12:33 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Addresses

Yes, I will get an update from Twiler and let u know. I am also out this Thur and Fri. Have a good time on your B-Day.

----- Original Message -----

From: Villafana, Ann Marie C. (USAFLS) <Ann.Marie.C.Villafana@usdoj.gov>
To: Kuyrkendall, E N.
Sent: Mon Jul 21 12:31:13 2008
Subject: RE: Addresses

Are there any girls who have not been contacted yet?

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

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Nesbitt

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Monday, July 21, 2008 12:35 PM
To: Kuyrkendall, E N. (MM) (FBI)
Subject: RE: Addresses

Thank you.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
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Talk to you soon.

Nesbitt

Villafana, Ann Marie C. (USAFLS)

From: Sloman, Jeff (USAFLS) <JSloman@usa.doj.gov>
Sent: Monday, July 21, 2008 3:52 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Senior, Robert (USAFLS)
Subject: RE: Epstein

27

I don't think it's necessary to point out the NY Post article to those victims and in the next breath say that Rubenstein's statement contradicts the agreement. I think our notice to them should give them some comfort over a tabloid story.

From: Villafana, Ann Marie C. (USAFLS)
Sent: Monday, July 21, 2008 3:47 PM
To: Sloman, Jeff (USAFLS); Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS)
Cc: Kuyrkendall, E N. (FBI); Richards, Jason R. (FBI)
Subject: Epstein

Well, our friend Jack Goldberger (probably really Mike Tein) is trying to be very smart.

They have filed a Motion for Return of Property in State Court. The State Attorney will, no doubt, file a response saying, "we don't have it, the FBI took it pursuant to a federal grand jury subpoena." Then, Epstein's folks will either file that response in federal court to show that the federal criminal action is still pending or they will file a motion for return of property in federal court and when we say, "no," then they will claim that the federal criminal action is still pending.

I plan to ignore it for now.

On another note, I plan to send copies of 11 more victim notifications to Goldberger today. These girls currently are unrepresented. I have redacted their addresses and intend to state in the cover letter that the victims will initiate contact when and if they decide to file a claim. Should I include anything about how Mr. Rubenstein's statement to the New York Post directly contradicts Epstein's agreement?

Epstein's rep, **Howard Ruben stein**, said, "The lawsuit has absolutely no merit. They're just looking for money. These women have lied repeatedly, and in no way shape or form were they victims. They were at his place freely and voluntarily. And one of them showed Epstein a fake ID."

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Monday, July 21, 2008 3:53 PM
To: Sloman, Jeff (USAFLS)
Cc: Senior, Robert (USAFLS)
Subject: RE: Epstein

Hi Jeff – Sorry, I wasn't clear. The notice to the victims doesn't say anything about the story, it is just the standard notification letter. Goldberger gets a copy of all the letters and I wondered whether, in my cover letter to him, I should say something.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

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A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, July 22, 2008 9:30 AM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Atkinson, Karen (USAFLS)
Cc: Kuyrkendall, E N. (MM) (FBI); Richards, Jason R. (MM) (FBI)
Subject: Letter from Michael Tein
Attachments: 080721 Tein Ltr to Villafana.pdf

26

Good morning:

Mike Tein faxed the following letter to our office at 6:30 last night. It shows that Alex received a copy, but I thought I should scan and share with all of you. Tein claims that it is his "ethical duty" to stay the civil litigation. What I don't understand is how Epstein can perform his contractual obligations with respect to the victim litigation if he intends to stay all litigation until the agreement is fully performed. Indicting him would make our lives so much easier. The Jane Doe suit against us would become moot, we now have a guilty plea that can be used against Mr. Epstein, and if they try to raise the civil suits to impeach our witnesses, we can bring in the fact that he promised to pay them and then renege.

Please advise how you would like to proceed.

<<080721 Tein Ltr to Villafana.pdf>>

A. Marie Villafana

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

LEWIS TEIN PL
ATTORNEYS AT LAW

July 21, 2008

Copy via facsimile (561) 820-8777

Ann Marie C. Villafana, Esq.
Office of the United States Attorney
500 S. Australian Avenue
West Palm Beach, Florida 33401

RE: *Jeffrey Epstein*

Dear Ms. Villafana:

Thank you for your letter of July 17, 2008. In it, you ask whether Mr. Epstein "intends to fully abide by the Non-Prosecution Agreement." The answer is yes.

We confirm as you state in your letter that the Agreement requires that "the federal Grand Jury investigation will remain suspended, and all pending federal Grand Jury subpoenas will be held in abeyance unless and until [Mr. Epstein] violates any term of [the Non-Prosecution Agreement]." We also confirm that under the Agreement, "prosecution in this District for these offenses shall be deferred in favor of prosecution by the State of Florida, provided that Epstein abides by the . . . conditions and the requirements of th[c] Agreement."

As you know, there is no provision in the Agreement referring in any way to Section 3509(k). By that statute, Congress imposed a mandatory obligation on federal district courts to stay certain civil cases. Its operation is not subject to the control or discretion of any party. Whether Title 18, United States Code, Section 3509(k) applies to this civil litigation is a question of law for resolution by Judge Marra. Accordingly, we are abiding by our ethical obligation to advise the Court of its statutory mandate under Section 3509(k).

Finally, thank you for notifying me that our motion to quash technically remains outstanding. We had previously notified the Court that the parties did not wish to argue the issue. I agree that the Agreement requires its withdrawal and we will file a formal notice withdrawing it this week.

Please do not hesitate to call me if you wish further clarification of our position or to discuss this matter in any way. Until then, I remain,

Very truly yours,



Michael R. Tein

cc: Jack Goldberger, Esq.
Roy Black, Esq.
Alex Acosta, Esq.

Lewis Tein PL
ATTORNEYS AT LAW

FACSIMILE TRANSMISSION

RECIPIENT: Ann Marie C. Villafana, Esq.

RECIPIENT'S FAX NUMBER: (561) 820-8777

SENDER: Michael R. Tein, Esq.

DATE: July 21, 2008

PAGES (including cover sheet): 2

COMMENTS:

IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS FACSIMILE IN ERROR, PLEASE NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL BY MAIL AT THE BELOW ADDRESS. THANK YOU.

LEWIS TEIN, P.L. · 3058 GRAND AVENUE · SUITE 340 · COCONUT GROVE, FLORIDA 33133
TELEPHONE (305) 442-1101 · FACSIMILE (305) 442-6744 · WWW.LEWISTEIN.COM

Villafana, Ann Marie C. (USAFLS)

From: Acosta, Alex (USAFLS) <AAcosta@usa.doj.gov>
Sent: Tuesday, July 22, 2008 10:29 AM
To: Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Atkinson, Karen (USAFLS)
Cc: Kuyrkendall, E N. (MM) (FBI); Richards, Jason R. (MM) (FBI)
Subject: Re: Letter from Michael Tein

What is your proposal?

----- Original Message -----

From: Villafana, Ann Marie C. (USAFLS)
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Atkinson, Karen (USAFLS)
Cc: Kuyrkendall, E N. (FBI); Richards, Jason R. (FBI)
Sent: Tue Jul 22 09:29:37 2008
Subject: Letter from Michael Tein

Good morning:

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Please advise how you would like to proceed.

<<080721 Tein Ltr to Villafana.pdf>>

A. Marie Villafana
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
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Villafana, Ann Marie C. (USAFLS)

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Sent: Tuesday, July 22, 2008 10:35 AM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Atkinson, Karen (USAFLS)
Cc: Kuyrkendall, E N. (MM) (FBI); Richards, Jason R. (MM) (FBI)
Subject: RE: Letter from Michael Tein

Right now I am digesting something filed in a new federal civil lawsuit against Epstein. Bruce Reinhart is listed as counsel of record for [REDACTED] and a deposition transcript attached to the removal petition includes questions from Mike Tein to [REDACTED] G. implying that Jeff and I both went to her house and promised her compensation after the end of the criminal case.

Karen and I put a call in to Dexter about the Bruce issue and we are waiting to hear back.

I recommend sending a letter telling them that their position makes it impossible for Mr. Epstein to fully perform his contractual obligations and that, coupled with Mr. Rubinstein's denial that C.W. was a victim, places them in breach of the agreement and we intend to proceed.

We may want to use that opportunity to put them on notice that Bruce Reinhart cannot represent Ms. [REDACTED] in connection with the criminal litigation.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

-----Original Message-----

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Sent: Tuesday, July 22, 2008 10:29 AM
To: Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Atkinson, Karen (USAFLS)
Cc: Kuyrkendall, E N. (FBI); Richards, Jason R. (FBI)
Subject: Re: Letter from Michael Tein

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Subject: Letter from Michael Tein

Good morning:

Mike Tein faxed the following letter to our office at 6:30 last night. It shows that Alex received a copy, but I thought I should scan and share with all of you. Tein claims that it is his "ethical duty" to stay the civil litigation. What I don't understand is how Epstein can perform his contractual obligations with respect to the victim litigation if he intends to stay all litigation until the agreement is fully performed. Indicting him would make our lives so much easier. The Jane Doe suit against us would become moot, we now have a guilty plea that can be used against Mr. Epstein, and if they try to raise the civil suits to impeach our witnesses, we can bring in the fact that he promised to pay them and then renege.

Please advise how you would like to proceed.

<<080721 Tein Ltr to Villafana.pdf>>

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Kuyrkendall, E N. (FBI) <E.Kuyrkendall@ic.fbi.gov>
Sent: Tuesday, July 22, 2008 3:05 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re:

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Bogota- ALAT Robert Falero. Sydney - ALAT Matthew Witt.

----- Original Message -----
From: Villafana, Ann Marie C. (USAFLS) <Ann.Marie.C.Villafana@usdoj.gov>
To: Kuyrkendall, E N.
Sent: Tue Jul 22 15:01:29 2008
Subject: RE:

Actually, do you have the names of the LegAtts?

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

-----Original Message-----
From: Kuyrkendall, E N. (FBI)
Sent: Tuesday, July 22, 2008 2:58 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re:

Leave them unaddressed they will be hand delivered with Twiler's.

----- Original Message -----
From: Villafana, Ann Marie C. (USAFLS) <Ann.Marie.C.Villafana@usdoj.gov>
To: Kuyrkendall, E N.
Sent: Tue Jul 22 14:57:45 2008
Subject: RE:

Hey Nesbitt – What addresses should I put on Shasdy's and [REDACTED] letters?

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

From: Kuyrkendall, E N. (FBI)

Sent: Tuesday, July 22, 2008 12:28 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject:

Marie,

Hey take a deep breath!!!!!! I had not read your latest email or Tein's letter. I'm speechless but we must deal with only one issue at a time. We need to, as u say, digest and dissect. As I write this, the pain in my gut intensifies. I hope it is only something I ate and not an ulcer from Epstein. Anyways, take a deep breath!!!!!!

Our legat has located what we believe to be a good address for Shasdy. I need to come by and get her letter from you so it can be included with the lead to Bogata.

■■■■■■■■■■ address is: 13373 Windsong Way, Carrollton, Va 23314 (561)306-9970

Let me know what time to come by and also dont hesitate to call if you need something done. Hang in there(THIS IS CRAZY)!!!!!!!!!!!!!!!!!!!!!!

Nesbitt

Villafana, Ann Marie C. (USAFLS)

30

From: Senior, Robert (USAFLS) <RSenior@usa.doj.gov>
Sent: Tuesday, July 22, 2008 3:47 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Emailing: 080722 Tein Ltr.wpd

Hate to be a pain but I was thinking more along these lines. I don't know the details and would quote from the agreement and pleadings, etc.

Dear Tein,

1. The agreement called for you to go to jail for x months and to compensate the victims as though you had been convicted of x federal law. You agreed to accept a list of the victims that you were to compensate at the time of the change of plea (?). A list was provided to you so that you could compensate victims on x date. (I would quote this from the agreement)
2. Recently, one (more ?) of the designated victims sought relief pursuant to this agreement. In response, Mr. Epstein sought a stay of those proceedings based on the fact that an ongoing federal investigation exists. This argument was forwarded despite the aforementioned agreement where the USAO has agreed to not prosecute Epstein if he complies with the terms of the agreement.
3. The portion of the agreement concerning compensation to victims is extremely material to the agreement and is not being honored by Epstein. This breach of the agreement is material. (you've done this paragraph already in par. 4 of your letter.
4. I would end it by quoting from the agreement something along the lines that any material breach of the contract permits us to indict (is there something that says that ?)

Call me.

Bob

-----Original Message-----

From: Villafana, Ann Marie C. (USAFLS)
Sent: Tuesday, July 22, 2008 2:41 PM
To: Senior, Robert (USAFLS)
Cc: Kuyrkendall, E N. (FBI); Richards, Jason R. (FBI); Atkinson, Karen (USAFLS)
Subject: Emailing: 080722 Tein Ltr.wpd

Hi Bob -- Here is my draft. I thought you should review before it goes to Alex. Thanks.

The message is ready to be sent with the following file or link attachments:

080722 Tein Ltr.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.



U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777

July 22, 2008

VIA FACSIMILE

Michael R. Tein, Esq.
Lewis Tein, P.L.
3059 Grand Avenue, Suite 340
Coconut Grove, FL 33133

Re: Jeffrey Epstein

Dear Mr. Tein:

In response to your letter of July 21, 2008, the United States hereby provides notice that the United States Attorney has determined, based upon reliable evidence, that, during the period of the Non-Prosecution Agreement, Jeffrey Epstein has willfully violated the conditions of the Agreement.

In particular, Epstein has repeatedly denied that the victims named by the United States are not victims of an enumerated offense contained in Title 18, United States Code, Section 2255, and has attempted to stop those victims from pursuing their claims under that statute. For example, just yesterday, Epstein's publicist, speaking of behalf of Epstein, made the following statement regarding the suit brought against the United States by [REDACTED] R., [REDACTED] M., and [REDACTED] W.:

The lawsuit has absolutely no merit. They're just looking for money. These women have lied repeatedly, and **in no way shape or form were they victims**. They were at his place freely and voluntarily. And one of them showed Epstein a fake ID.

(July 21, 2008 New York Post article, entitled "Bid to Burn Epstein Plea," found at www.nypost.com/seven/07212008/gossip/pagesix/bid_to_burn_epstein_plea_120770.htm.)

[REDACTED] W. and [REDACTED] R. are both listed in the United States' July 10, 2008 "Final Notification of Identified Victims." Mr. Epstein was given more than a week to

MICHAEL R. TEIN, ESQ.
JULY 22, 2008
PAGE 2

object to the names on the list and chose not to make any objections. Accordingly, pursuant to the terms of the Non-Prosecution Agreement as modified, Mr. Epstein and all of his representatives are required to treat [REDACTED] and [REDACTED] as "victims of an enumerated offense."

Furthermore, Mr. Epstein is frustrating the purpose of the Agreement with respect to the victims' ability to obtain damages. Epstein's waiver of liability regarding civil suits brought pursuant to 18 U.S.C. § 2255 was a key piece of consideration for the United States' willingness to defer its prosecution to the State of Florida. To complete his performance of his contractual obligations, Mr. Epstein must submit to suit under 18 U.S.C. § 2255 and admit that the Identified Victims are victims of an offense enumerated in that section. By seeking to stay all civil litigation, during what you assert is the term of the Non-Prosecution Agreement, Mr. Epstein is avoiding that essential contractual term.

Accordingly, the United States Attorney's Office hereby provides notice of Mr. Epstein's breach of the Non-Prosecution Agreement.

Sincerely,

R. Alexander Acosta
United States Attorney

By:

A. Marie Villafaña
Assistant United States Attorney

cc: Karen Atkinson, Esq.

EFTA00190591

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, July 22, 2008 3:57 PM
To: Senior, Robert (USAFLS)
Subject: RE: Emailing: 080722 Tein Ltr.wpd

Part of the problem, Bob, is that Alex took it upon himself to modify that part of the agreement related to compensation, so it no longer has any teeth. I will give it a go and send it back to you.

A. Marie Villafana
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

-----Original Message-----

From: Senior, Robert (USAFLS)
Sent: Tuesday, July 22, 2008 3:47 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Emailing: 080722 Tein Ltr.wpd

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Dear Tein,

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Call me.

Bob

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Sent: Tuesday, July 22, 2008 2:41 PM
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Cc: Kuyrkendall, E N. (FBI); Richards, Jason R. (FBI); Atkinson, Karen (USAFLS)
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080722 Tein Ltr.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Wednesday, July 23, 2008 2:32 PM
To: Lee, Dexter (USAFLS)
Subject: RE: Draft Letter to Brad Edwards

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Hi Dexter -- I like it. Just so you know, Bob, Jeff, and I all think that we should give notice of breach to Epstein's counsel and indict Epstein. We are waiting for Alex's approval. If that were to happen, it obviously would moot the Jane Doe case. I will keep you posted.

A. Marie Villafaña

Assistant U.S. Attorney

561 209-1047

From: Lee, Dexter (USAFLS)
Sent: Wednesday, July 23, 2008 1:12 PM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS)
Cc: Villafana, Ann Marie C. (USAFLS); Jacobus, Wendy (USAFLS)
Subject: Draft Letter to Brad Edwards

Alex and Jeff,

Attached please find a draft letter responding to Brad Edwards' July 17, 2008 letter, regarding a stipulation regarding agreed facts in our case. Please feel free to make any changes. Thanks.

Dexter

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Friday, July 25, 2008 2:11 PM
To: Atkinson, Karen (USAFLS)
Subject: Re: Epstein

33

Hi karen. They are 18 usc 2422, 2423, 371, 1581

Good luck. No pink birds but we are having a great time.

----- Original Message -----

From: Atkinson, Karen (USAFLS)
To: Villafana, Ann Marie C. (USAFLS)
Sent: Fri Jul 25 10:34:12 2008
Subject: Epstein

We are moving (finally) to extend the grand jury. Can you email the main statutes that are in the proposed indictment with everything packed(including my brain) I don't remember. We are filing it today. Did you see the pink birds???? K

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Saturday, August 02, 2008 5:34 PM
To: villafana@hotmail.com
Subject: Fw: Jane Doe Litigation
Attachments: 19_plts_resp_gov_notice.pdf

4

----- Original Message -----

From: Lee, Dexter (USAFLS)
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS)
Cc: Villafana, Ann Marie C. (USAFLS); Jacobus, Wendy (USAFLS)
Sent: Fri Aug 01 15:53:49 2008
Subject: Jane Doe Litigation

Alex and Jeff,

On Tuesday evening, July 29, I filed with the Court our notice advising that the government did not believe an evidentiary hearing was necessary, since there were only two facts which were relevant: (1) no federal charges in S.D.Fla. against Jeffrey Epstein; and (2) Epstein plead guilty to state charges on June 30, 2008, was sentenced, and is in jail in Palm Beach County.

On Wednesday, I received an urgent phone message from Brad Edwards, counsel for the victims. He said he needed to speak with me to determine if this matter couldn't be resolved without a hearing or further intervention from the Court. When I called him back, Edwards told me he had obtained a copy of the state court plea bargain, and realized Epstein was going to be on probation after his incarceration was completed. Edwards understood that, if Epstein violated his probation, that could be a basis for further charges against Epstein. The tenor of his conversation was that, since he knew more, he could be convinced that his clients' interests are adequately protected by the deferral of prosecution agreement. Edwards requested: (1) a copy of the agreement between the USAO and Epstein; and (2) the opportunity to meet with USAO representatives about the agreement and how the provisions would work. I told him the agreement contained a confidentiality provision, and had been filed under seal in state court, but I would determine if it had been publicly filed anywhere.

On Thursday, I called Edwards to tell him I still had not determine if the agreement had been publicly disclosed anywhere, but that I would be glad to meet with him and his clients next week

Today, I verified with Marie that the agreement had not been filed by Michael Tein in the federal court civil litigation. Tein also called me for any information on the Jane Doe case, and I asked him if the agreement had been filed. He told me he had filed sealed motions with the court, in which references were made to the provisions of the agreement, but the agreement itself had not been filed.

Since the agreement is not public, and there is a confidentiality provision in it, I don't believe we can produce it to the victims. We can still meet with Edwards and his clients, but it will be without the agreement being produced. This may not satisfy them.

Edwards just filed a fifteen-page reply/response to our two-page notice to the court. Edwards' response looks more like a summary judgment motion, rather than a simple agreement or disagreement with the government's view that no further hearing is necessary.

Please let me know your views on whether the agreement can be disclosed to Edwards and his clients, and whether it would be permissible/advisable to meet with Edwards and his clients. Tha <<19_plts_resp_gov_notice.pdf>> nks.

Dexter

<<19_plts_resp_gov_notice.pdf>>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-80736-CIV-MARRA/JOHNSON

JANE DOE #1 AND JANE DOE #2,

Petitioners,

↓

UNITED STATES OF AMERICA,

Respondent.

**VICTIMS' RESPONSE TO GOVERNMENT'S "NOTICE TO COURT REGARDING
ABSENCE OF NEED FOR EVIDENTIARY HEARING" AND MOTION FOR
PRODUCTION OF NON-PROSECUTION AGREEMENT AND OF REPORT OF
INTERVIEW**

COME NOW the Petitioners, Jane Doe #1 and Jane Doe #2 (the "victims"), by and through their undersigned attorneys to file this Response to the Government's document styled as "Notice to Court Regarding Absence of Need for Evidentiary Hearing" as follows:

INTRODUCTION

At the conclusion of the oral argument on the victims' petition, victims Jane Doe #1 and Jane Doe #2 joined the Government in expressing to the Court a desire to work out a set of stipulated facts regarding this case. Towards that end, the Government sent a proposed set of stipulated facts to the victims' counsel (Exhibit 1 to this pleading) and, in turn, the victims' sent a responsive letter raising concerns about some of the Government's proposed stipulated facts and suggesting some additions and modifications (Exhibit 2 to this pleading). The victims also requested copies of two relevant documents from the Government: (1) the Non-Prosecution

Agreement with defendant Epstein that is at the center of this litigation and (2) the FBI's report of interview concerning a meeting with Jane Doe #1. These requests were also made in several telephone conversations with the attorney for the Government. Remarkably, rather than respond to the victims' suggestions, the Government has now suddenly reversed course and filed a terse document claiming an "absence of a need" for an evidentiary hearing. If anything, however, the victims' discussions with the Government have made clear that the Court should not enter judgment for the Government but rather should enter immediate judgment for the victims that the Government violated their rights under the CVRA. The Court should then schedule a hearing to determine the proper remedy for the violation of the victims' rights.

In particular, the Government now apparently admits that the Non-Prosecution Agreement it struck with Epstein in September 2007 contained an "express confidentiality provision." *See* Exhibit 1 to this pleading, Government's Proposed Stipulated Facts, at page 3, paragraph 6. Assuming that the Government honored its agreement with the defendant (a fact that the victims have proposed to stipulate to), the Government could not have "conferred" with the victims about the proposed arrangement over the next nine months because doing so would have violated its confidentiality obligations with the defendant. As a result, the Government plainly has not afforded the victims' their right to "confer" about the proposed arrangement under the Crime Victims' Rights Act (CVRA), 18 U.S.C. § 3771(a)(5). In addition, the Government effectively misled the victims that it had reached a Non-Prosecution Agreement with Epstein, plainly violating the victims' rights to be treated with "fairness" under the CVRA, 18 U.S.C. §3771(a)(8). The Court should therefore find that the victims' rights have been violated.

The Court should also order the Government to produce the Non-Prosecution Agreement

to the victims. The victims are entitled to know what disposition has been made in their case. Moreover, that Agreement purportedly contains provisions pertaining to the civil liability of Epstein for crimes he has committed against Jane Doe #1 and Jane Doe #2. Epstein obviously knows what those provisions are. The victims are entitled to see those provisions and the surrounding document as well.

The Court should also order the Government to produce a report of interview with Jane Doe #1 from about October 26, 2007, during which the Government apparently claims that it discussed the plea arrangement with the victims.

Finally, after these documents are produced to the victims and the Court enters judgment that the victims' rights have been violated, the Court should schedule a hearing to determine the appropriate remedy for the violations of the victims' rights.

THE VICTIMS' PROFFERED FACTS

The Government's latest submission takes the position that "after consideration" it is now unnecessary to hold an evidentiary hearing. The Government apparently believes that the Court could rule in its favor based on just two submitted undisputed facts. In taking this position, the Government apparently believes that there are no set of facts that could sustain judgment for the victims. To the contrary, however, the available facts require judgment for the victims that their rights under the CVRA have been violated.

Having attempted to confer with the Government about the facts in this case, counsel for the victims respectfully submit the following – and more complete -- set of facts that, on information and belief, they could establish if given the opportunity to do so:

In 2006, at the request of the Palm Beach Police Department, the Federal Bureau of

Investigation opened an investigation into allegations that Jeffrey Epstein had used facilities of interstate commerce to induce young girls between the ages of thirteen and seventeen to engage in prostitution (among other offenses). The case was presented to the United States Attorney's Office for the Southern District of Florida, which accepted the case for investigation. Jane Doe #1 and Jane Doe #2 were victims of sex crimes committed by Epstein while they were minors.

The U.S. Attorney's Office's investigation soon revealed that Epstein had committed federal sex crimes against Jane Doe #1 and Jane Doe #2. This made Jane Doe #1 and Jane Doe #2 "victims" protected by the Crime Victim's Rights Act, 18 U.S.C. § 3771. Accordingly, the U.S. Attorney's Office arranged to have victim notification letters sent to Jane Doe #1 and Jane Doe #2. For example, on about June 7, 2007, Assistant U.S. Attorney A. Marie Villafaña sent a letter to Jane Doe #1 that began: "Pursuant to the [CVRA], as a victim and/or witness of a federal offense, you have a number of rights." The letter then listed the various rights of victims under the CVRA. The U.S. Attorney's Office would not have sent such a letter to Jane Doe #1 if it did not believe that she was a victim and was protected by the CVRA.

By mid-2007, the U.S. Attorney's Office had ample information to file an indictment against Epstein charging multiple federal sex offenses. It elected not to file an indictment but instead to engage in pre-indictment plea discussions with Epstein.

In September 2007, Epstein and the U.S. Attorney's Office reached an agreement blocking any federal prosecution of the federal offenses he had committed. This Non-Prosecution Agreement barred federal charges for Epstein's sex offenses in favor of prosecution by Florida, so long as several preconditions were met. Those included a conviction on a state sex offense that reflected that the victims were minors at the time the crimes occurred and that

would require sex offender registration. While the Agreement barred federal criminal prosecution, it envisioned that the victims would pursue a civil rights action against Epstein for his sexual offenses against them. Most important for present purposes, the Agreement contained an express confidentiality provision, which prevented the Government from disclosing the terms of the Agreement to the victims or others before it was consummated. The Agreement was subsequently modified in October and December 2007. The Agreement has several addenda that are relevant to the Agreement. (To date, although requested to do so, the Government has refused to provide to the victims the final Non-Prosecution Agreement or any of its earlier versions.) Through his attorneys, Epstein was aware of the confidentiality provision and of the fact that it would block the Government from conferring with the victims about the plea arrangement.

On about October 26, 2007, FBI Special Agents E. Nesbitt Kuyrkendall and Jason Richards met in person with Jane Doe #1 at a restaurant. The Special Agents explained that there had been discussions with Epstein about a possible resolution of the charges against him. Consistent with the express confidentiality provision in the Non-Prosecution Agreement, the Special Agents did not disclose that the arrangement would bar any federal prosecution of Epstein. Nor did the Agents disclose that the Non-Prosecution Agreement had been finalized. Jane Doe #1's reasonable perception of the meeting was that only the State part of the Epstein investigation had been resolved, and that the federal investigation would continue, possibly leading to a federal prosecution. (While the Government has a report of interview regarding this meeting with the victim that could confirm the victims' understanding of the facts, the Government has refused Jane Doe #1's request to see the report.)

Following the signing of the Non-Prosecution Agreement and the modifications thereto by the U.S. Attorney's Office for the Southern District of Florida, Epstein received an unusual benefit that the Government does not ordinarily provide to other criminal defendants: his performance was delayed while he was given an opportunity to seek higher level review within the Department of Justice in Washington, D.C.

On around January 10, 2008, Jane Doe #1 and Jane Doe #2 received letters from the FBI advising them that "[t]his case is currently under investigation. This can be a lengthy process and we request you continued patience while we conduct a thorough investigation." The FBI sent these letters, under the direction of the U.S. Attorney's Office, because it believed that the CVRA applied to Jane Doe #1 and Jane Doe #2. The FBI did not notify Jane Doe #1 or Jane Doe #2 that the Non-Prosecution Agreement had been concluded four months earlier. Jane Doe #1 and Jane Doe #2 reasonably understood that a federal criminal investigation of Epstein was on-going and that federal criminal charges were possibility. At the time, Jane Doe #1 and Jane Doe #2 believed that criminal prosecution of Epstein was extremely important. They also desired to be consulted by the FBI and/or other representatives of the federal government about the prosecution of Epstein. In light of the letters that they had received around January 10 (among other things), they reasonably believed that they would be contacted before the federal government reached any final resolution of that investigation.

In the spring 2008, Jane Doe #1 contacted the FBI because Epstein's counsel was attempting to take her deposition and private investigators were harassing her. Assistant U.S. Attorney A. Marie Villafaña secured pro bono counsel to represent Jane Doe #1 and several other identified victims in connection with the criminal investigation. Pro bono counsel was able to

assist Jane Doe #1 in avoiding the improper deposition. AUSA Villafaña secured pro bono counsel by contacting Meg Garvin, Esq. of the National Crime Victims' Law Institute in Portland, Oregon, which is based in the Lewis & Clark College of Law. During the call, Ms. Garvin was not advised about the Non-Prosecution Agreement.

In mid-June 2008, Mr. Edwards contacted Assistant U.S. Attorney Villafaña to inform her that he represented Jane Doe #1 and, later, Jane Doe #2. Mr. Edwards asked to meet to provide information about the federal crimes committed by Epstein, hoping to secure a significant federal indictment against Epstein. AUSA Villafaña and Mr. Edwards discussed the possibility of federal charges being filed. At the end of the call, AUSA Villafaña asked Mr. Edwards to send any information that he wanted considered by the U.S. Attorney's Office in determining whether to file federal charges. Because of the confidentiality provision in the Non-Prosecution Agreement, Mr. Edwards was not informed of the Agreement's existence. Mr. Edwards was also not informed that any resolution of the criminal matter was imminent.

On July 3, 2008, Mr. Edwards sent to AUSA Villafaña a letter, a true and correct copy of which is attached as Exhibit 3. In the letter, Mr. Edwards indicated his desire that federal charges be filed against defendant Epstein. In particular, he wrote on behalf of his clients: "We urge the Attorney General and our United States Attorney to consider the fundamental import of the vigorous enforcement of our Federal laws. We urge you to move forward with the traditional indictments and criminal prosecution commensurate with the crimes Mr. Epstein has committed, and we further urge you to take the steps necessary to protect our children from this very dangerous sexual predator." When Mr. Edwards wrote this letter, he still had not been made aware that a Non-Prosecution Agreement had been reached with Epstein.

On about July 3, 2008, Jane Doe #1 and Jane Doe #2 learned, through telephone conversations had between Mr. Edwards and AUSA Villafañá, that the U.S. Attorney's Office and Epstein might be in the process of finalizing some sort of plea arrangement. Accordingly, they filed an emergency motion seeking to protect their rights under the CVRA, including in particular their right to confer about the proposed plea arrangement.

Mr. Edwards -- and thus his clients -- first learned of the Non-Prosecution Agreement on or after July 9, 2008, when the Government filed its responsive pleading to Jane Doe's emergency petition. That pleading was the first public mention of the non-prosecution agreement and the first disclosure to Mr. Edwards and his clients. Epstein, through his attorneys, knew that the victims had not been informed about the plea arrangement.

On July 9, 2008, AUSA Villafañá sent a victim notification to Jane Doe #1 via her attorney, Mr. Edwards, which is attached as Exhibit 6 to the Villafañá Declaration. That notification contains a written explanation of some of the terms of the Non-Prosecution Agreement between Epstein and the U.S. Attorney's Office. A full copy of the terms was not provided. This was the first time that Jane Doe #1 was told that the arrangement blocked any possibility of federal criminal charges being filed against Epstein. A notification was not provided to Jane Doe #2 because the agreement limited Epstein's liability to victims whom the United States was prepared to name in an indictment.

On July 11, 2008, the Court held a hearing on the victims' emergency motion. During the hearing, the Government discussed in open court various provisions of the Non-Prosecution Agreement. At the conclusion of the hearing, victims' counsel and the Government agreed to

confer in an effort to determine the undisputed facts of the fact. The Court took the motion under advisement.

On July 16, 2008, the Government sent to Mr. Edwards a proposed set of undisputed facts, which is attached to this pleading as Exhibit 1.

On July 17, 2008, Mr. Edwards sent a response to the Government, which is attached to this pleading as Exhibit 2. The response made various suggestions to the proposed undisputed facts. The response also requested a copy of the Non-Prosecution Agreement and the Report of Interview with Jane Doe #1.

On July 29, 2008, rather than attempt to work with victims' counsel to draft a set of undisputed facts, the Government filed its "Notice to Court Regarding Absence of Need for Evidentiary Hearing."

At all times material to this statement of facts, it would have been easily practical and feasible for the Federal Government to inform Jane Doe #1 and Jane Doe #2 of the details of any proposed plea agreement with Epstein, including in particular the details of the Non-Prosecution Agreement. The reason that AUSA Villafañá and the FBI agents acting with her did not provide this information to Jane Doe #1 and Jane Doe #2 was because of the express confidentiality provision that had been entered into by the Federal Government and Epstein. This provision was requested by Epstein. The Government was under no obligation to enter into such an arrangement and would have been statutorily forbidden from entering into such an arrangement by the CVRA's requirement that it "confer" with the victims about any disposition of their cases.

THE GOVERNMENT SHOULD BE DIRECTED TO CONFER WITH THE VICTIMS
REGARDING THE UNDISPUTED FACTS OF THE CASE

The Government should be directed to confer with the victims about the facts in this case, rather than allowed to obscure the facts with its proposed “notice” that an evidentiary hearing is unnecessary. The reason that the Government abruptly terminated discussions about the facts with the victims seem obvious: The facts, if revealed, would plainly demonstrate that the victims did not receive their right under the CVRA to confer with the Government and to be treated fairly. The victims will not repeat all of their arguments from their earlier pleadings but would simply highlight for the Court the point that this case already reeks of favored treatment for a billionaire sex offender who has substantial influence. Regardless of how the Court proceeds, it should at least do so on the basis of fully developed factual record so that the victims and the public can be assured that justice has been done.

If anything, the facts in this case now call for immediate judgment in favor of the victims. Based on the Government's proposed stipulated facts (Exhibit 1 to this pleading), it is now obvious that the Government could not have fulfilled its statutory obligations to confer with the victims. As now admitted by the Government, in September 2007, it had entered into a Non-Prosecution Agreement with Epstein containing what it describes as “an express confidentiality provision.” While the Government has refused to disclose the text of this provision (or, indeed, the Non-Prosecution Agreement itself), it is apparent that the Government could not have conferred with the victims about the Agreement while abiding by the confidentiality provision.

Likewise it is now apparent that the Government has not fulfilled its statutory obligation to treat the victims with fairness. The Government reached the Non-Prosecution Agreement with

Epstein in September 2007, yet affirmatively concealed that Agreement from the victims through a series of misleading statements and representations over the next nine months. For example, on around January 10, 2008, Jane Doe #1 and Jane Doe #2 received letters from the FBI advising them that “[t]his case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation.” As the Government well knew, however, a Non-Prosecution Agreement had already been reached with Epstein at that time – a fact not disclosed in the letter.

The victims therefore request judgment in their favor that their rights under the CVRA have been violated. In the alternative, the victims request that the Court direct that the Government confer in good faith with the victims to attempt to reach a set of stipulated facts that might form the basis for a final ruling in this case. As part of this conference, the victims request that the Government indicate which (if any) of the proposed facts set forth above it disputes.

THE GOVERNMENT SHOULD BE REQUIRED TO PRODUCE
THE NON-PROSECUTION AGREEMENT

Remarkably, the Government has yet to disclose to the victims the very Non-Prosecution Agreement that lies at the heart of this case. This failure becomes even more curious when assessed against the Government’s proposed stipulation of facts, which included the proposed fact that the victims had been told about the “full terms” of the Agreement. The proposed stipulated facts that the Government sent to the victims included this proposed stipulation:

On July 9, 2008, AUSA Villafañá sent a victim notification to Jane Doe #1 via her attorney, Bradley Edwards, which is attached as Exhibit 6 to the Villafañá Declaration. That notification contains a written explanation of the *full terms* of the agreement between Epstein and the U.S. Attorney’s Office.

Contrary to its own proposed stipulation, the Government has never disclosed to the victims the

“full terms” of its Non-Prosecution Agreement with Epstein. To protect the victims’ right to be treated with fairness, 18 U.S.C. § 3771(a)(8), it should be required to do so now.

Congress’ main concern in passing the CVRA was that crime victims were “treated as non-participants in a critical event in their lives. They were kept in the dark by prosecutors too busy to care enough ... and by a court system that simply did not have a place for them.” 150 CONG. REC. S4262 (Apr. 22, 2004) (statement of Sen. Feinstein). To remedy this problem, Congress gave victims “the simple right to know what is going on, to participate in the process where the information that victims and their families can provide may be material and relevant ...” *Id.* To date, Jane Doe #1 and Jane Doe #2 do not know what has happened to their case, because they have not been told how it has been resolved. Of course, no possible harm to the Government can come from the release of the Agreement, as this criminal matter is now concluded – at least from the Government’s perspective.

Production of the Non-Prosecution Agreement is also warranted because it has provisions in it that are designed to benefit Jane Doe #1 and Jane Doe #2. As described by the Government, the Agreement contains provisions in it that preclude Epstein from contesting civil liability for the sex offenses committed against a number of the victims, including Jane Doe #1. Obviously, Jane Doe #1 cannot take advantage of this provision if her attorneys are not able to review it. Jane Doe #1 and Jane Doe #2 intend to file civil suits against Epstein within the next few days. Epstein knows what is in the Non-Prosecution Agreement that may be helpful to him. Jane Doe #1 and Jane Doe #2 are entitled to see the Agreement for items that may be helpful to them.

Finally, Epstein is apparently taking advantage of provisions in the Non-Prosecution Agreement to stall civil suits against him. For example, in *Jane Doe* ■. *Epstein et al.*, No. 08-

80804-MARRA/JOHNSON (S.D. Fla. 2008), on July 25, 2008, Epstein filed a motion for a stay. That motion claims that the civil action is “a counterpart to a pending federal criminal action.” The basis for that claim, so far as Jane Doe #1 and Jane Doe #2 can tell, is the federal Non-Prosecution Agreement. Epstein should not be permitted to use provisions in the Agreement to his advantage in private litigation without disclosing those provisions to the parties he is opposing. Indeed, as a simple matter of fairness to the victims, *see* 18 U.S.C. § 3771(a)(5) (victims right to “fairness”), the provisions should be disclosed.

In sum, the Court should direct the Government to reveal to the victims what it has done to resolve the case by ordering production of the full Non-Prosecution Agreement and any accompanying addenda to the agreement.

THE GOVERNMENT SHOULD BE REQUIRED TO PRODUCE THE REPORT OF
INTERVIEW WITH JANE DOE #1

The Government apparently has a report of interview indicating that two named FBI agents met with Jane Doe #1 on about October 26, 2007. The Government, however, has declined to produce it.

The Government should be directed to produce this information to Jane Doe #1. Of course, a criminal defendant would be entitled to such a report. *See* Fed. R. Crim. P. 16(a)(1)(A) & (B). As an innocent victim in this matter, Jane Doe #1 should be treated with at least the same consideration. *See* 18 U.S.C. § 3771(a)(8) (victim’s right to “be treated with fairness”). Jane Doe #1 requested this report in her letter regarding the proposed stipulated facts (see Exhibit 2 to this filing), a request that the Government has simply ignored.

AFTER ENTERING JUDGMENT FOR THE VICTIMS' ON THE VIOLATION OF THEIR RIGHTS, THE COURT SHOULD SCHEDULE A HEARING ON THE APPROPRIATE REMEDY

For the reasons just explained, the Court should enter judgment for Jane Doe #1 and Jane Doe #2 on the violations of their rights under the CVRA and order the Government to produce the Non-Prosecution Agreement and the report of interview with Jane Doe #1. After doing that, the question then arises as to what is the proper remedy for the violations of victims' rights.

To be clear, at this time, the victims seek two things: (1) a judicial declaration that the Government violated their rights under the CVRA and an apology from the Government; and (2) a hearing to discuss the appropriate remedy under the circumstances. At the same time, the victims are *not* asking to have any provision in the Non-Prosecution Agreement establishing liability in a civil suit to be vacated or declared invalid. Because the possible connection between these two things raises complex legal issues, the victims respectfully request that the Court order a hearing at which the appropriate remedy can be discussed. The victims also need to review the full text of the Non-Prosecution Agreement and any accompanying addenda to make an appropriate determination about the remedy that they wish to pursue.

CONCLUSION

The Court should find that the Government violated Jane Doe #1 and Jane Doe #2's rights under the CVRA to confer and to be treated with fairness during the negotiation and consummation of the Non-Prosecution Agreement. In the alternative, the Court should direct the Government to confer with the victims regarding what facts are undisputed in this matter and, should material facts actually be disputed, hold an evidentiary hearing regarding those facts. So that the victims can discuss these matters with the Government, the Court should order the

Government to provide to the victims the full Non-Prosecution Agreement (and accompanying addenda) that is central to this litigation as well as a report of interview with Jane Doe #1 from about October 26, 2007. The Court should then hold a hearing on the proper remedy for the violations of the victims' rights.

DATED this 1st day of August, 2008.

Respectfully Submitted,

THE LAW OFFICE OF BRAD EDWARDS &
ASSOCIATES, LLC

By: s/ Brad Edwards

Brad Edwards, Esquire
Attorney for Petitioners
Florida Bar No. 542075
2028 [REDACTED] Street
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Paul G. Cassell
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Pro Hac Vice
332 S. 1400 E.
Salt Lake City, UT 84112
Telephone: 801-585-5202
Facsimile: 801-585-6833
E-Mail: cassellp@law.utah.edu

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 1, 2008, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF.

s/ Brad Edwards
Brad Edwards, Esquire
Attorney for Petitioner
Florida Bar No. 542075

SERVICE LIST

Jane Doe 1 and Jane Doe 2
Case No.: 08-80736-CIV-MARRA/JOHNSON
United States District Court, Southern District of Florida

Dexter A. Lee,
Assistant U.S. Attorney
99 N.E. 4th Street
Miami, Florida 33132
Telephone: 305-961-9320
Facsimile: 305-530-7139

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, August 05, 2008 6:35 PM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Atkinson, Karen (USAFLS) 6
Subject: FW: Jeffrey Epstein Agreement
Attachments: Epstein Agrmt001.pdf

Hi everyone – I still haven't heard from Roy, but in the meantime, I have been looking for correspondence that could be described as an assent to the modification in the December letter.

First, as set forth below, **prior to the change of plea**, we informed Epstein's counsel that we took the position that we already have a binding agreement and that nothing further was required. (This was a June 24 e-mail)

Dear Roy and Jack:

I am just writing to re-state that it is the Government's position that we have a signed, binding agreement and that there is no need for further modification.

Please keep us informed of the date and time of the change of plea and sentencing.

Thank you.

We took the same position in the e-mails that Jeff and I sent to Jay Lefkowitz notifying him of Epstein's need to promptly perform their obligations following the various DOJ decisions. This was the language we used:

Dear Mr. Lefkowitz:

I understand that the Deputy Attorney General has completed his review of the Epstein matter and has determined that federal prosecution of Mr. Epstein's case is appropriate.

Accordingly, Mr. Epstein has until the close of business on Monday, June 30, 2008, to comply with the terms and conditions of the agreement between the United States and Mr. Epstein (as modified by the U.S. Attorney's December 19th letter to Ms. Sanchez), including entry of a guilty plea, sentencing, and surrendering to begin his sentence of imprisonment.

If you have any questions, please feel free to contact me at the number shown below.

(This was sent on June 23rd to Jay and June 24th to Roy.) Following this correspondence, Epstein entered his guilty plea.

On June 30th, a couple of hours after the change of plea, the agents and I went to Jack Goldberger's office and met with Jack and Mike Tein. We provided them with the proposed Notification of Identified Victims. On the first page of that notice, we wrote the following:

In light of the entry of the guilty plea and sentence, the United States has agreed to defer federal prosecution in favor of this state plea and sentence, subject to certain conditions.

One such condition to which Epstein has agreed is the following:

“Any person, who while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, Section 2255, will have the same rights to proceed under Section 2255 as she would have had, if Mr. Epstein had been tried federally and convicted of an enumerated offense. For purposes of implementing this paragraph, the United States shall provide Mr. Epstein’s attorneys with a list of individuals whom it was prepared to name in an Indictment as victims of an enumerated offense by Mr. Epstein. Any judicial authority interpreting this provision, including any authority determining which evidentiary burdens if any a plaintiff must meet, shall consider that it is the intent of the parties to place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less.”

On July 9, 2008, Jack Goldberger wrote me a letter with some objections to the Proposed Notification. Although he had several requests for changes, he stated: “Rather, a simple one page notification directed only to the recipient, *and limited to the information currently on the first page of your draft memorandum would suffice.*”

This, to me, is a written assent that the quoted language is, in fact, one of the conditions to which Epstein has agreed. So, I think that we do have a written, binding agreement comprised of the three documents that, as far as I know, were filed with the state court with Jack Goldberger’s approval. (I am waiting to hear back from the ASA.)

Here again is what I provided to the State Attorney’s Office, for your records.

<<Epstein Agrmt001.pdf>>

I am concerned that we were adamant before Epstein’s plea that we had a complete agreement and nothing more was necessary and now taking the position that we do not have an operative document (or set of documents).

Alex, does the Black and Goldberger correspondence described above allay your concerns? Or would you still like me to raise this issue with Roy whenever he gets back to me?

Thank you, sorry for the lengthy e-mail.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

From: Villafana, Ann Marie C. (USAFLS)

Sent: Tuesday, June 24, 2008 4:05 PM
To: 'Roy BLACK'; 'Jack Goldberger'
Cc: Atkinson, Karen (USAFLS)
Subject: Jeffrey Epstein Agreement

Dear Roy and Jack:

I am just writing to re-state that it is the Government's position that we have a signed, binding agreement and that there is no need for further modification.

Please keep us informed of the date and time of the change of plea and sentencing.

Thank you.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

**IN RE:
INVESTIGATION OF
JEFFREY EPSTEIN**

NON-PROSECUTION AGREEMENT

IT APPEARING that the City of Palm Beach Police Department and the State Attorney's Office for the 15th Judicial Circuit in and for Palm Beach County (hereinafter, the "State Attorney's Office") have conducted an investigation into the conduct of Jeffrey Epstein (hereinafter "Epstein");

IT APPEARING that the State Attorney's Office has charged Epstein by indictment with solicitation of prostitution, in violation of Florida Statutes Section 796.07;

IT APPEARING that the United States Attorney's Office and the Federal Bureau of Investigation have conducted their own investigation into Epstein's background and any offenses that may have been committed by Epstein against the United States from in or around 2001 through in or around September 2007, including:

- (1) knowingly and willfully conspiring with others known and unknown to commit an offense against the United States, that is, to use a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution, in violation of Title 18, United States Code, Section 2422(b); all in violation of Title 18, United States Code, Section 371;
- (2) knowingly and willfully conspiring with others known and unknown to travel in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females, in violation of Title 18, United States Code, Section 2423(b); all in violation of Title 18, United States Code, Section 2423(e);
- (3) using a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution; in violation of Title 18, United States Code, Sections 2422(b) and 2;
- (4) traveling in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females; in violation

of Title 18, United States Code, Section 2423(b); and

- (5) knowingly, in and affecting interstate and foreign commerce, recruiting, enticing, and obtaining by any means a person, knowing that the person had not attained the age of 18 years and would be caused to engage in a commercial sex act as defined in 18 U.S.C. § 1591(c)(1); in violation of Title 18, United States Code, Sections 1591(a)(1) and 2; and

IT APPEARING that Epstein seeks to resolve globally his state and federal criminal liability and Epstein understands and acknowledges that, in exchange for the benefits provided by this agreement, he agrees to comply with its terms, including undertaking certain actions with the State Attorney's Office;

IT APPEARING, after an investigation of the offenses and Epstein's background by both State and Federal law enforcement agencies, and after due consultation with the State Attorney's Office, that the interests of the United States, the State of Florida, and the Defendant will be served by the following procedure;

THEREFORE, on the authority of R. Alexander Acosta, United States Attorney for the Southern District of Florida, prosecution in this District for these offenses shall be deferred in favor of prosecution by the State of Florida, provided that Epstein abides by the following conditions and the requirements of this Agreement set forth below.

If the United States Attorney should determine, based on reliable evidence, that, during the period of the Agreement, Epstein willfully violated any of the conditions of this Agreement, then the United States Attorney may, within ninety (90) days following the expiration of the term of home confinement discussed below, provide Epstein with timely notice specifying the condition(s) of the Agreement that he has violated, and shall initiate its prosecution on any offense within sixty (60) days' of giving notice of the violation. Any notice provided to Epstein pursuant to this paragraph shall be provided within 60 days of the United States learning of facts which may provide a basis for a determination of a breach of the Agreement.

After timely fulfilling all the terms and conditions of the Agreement, no prosecution for the offenses set out on pages 1 and 2 of this Agreement, nor any other offenses that have been the subject of the joint investigation by the Federal Bureau of Investigation and the United States Attorney's Office, nor any offenses that arose from the Federal Grand Jury investigation will be instituted in this District, and the charges against Epstein if any, will be dismissed.

Terms of the Agreement:

1. Epstein shall plead guilty (not nolo contendere) to the Indictment as currently pending against him in the 15th Judicial Circuit in and for Palm Beach County (Case No. 2006-cf-009495AXXXMB) charging one (1) count of solicitation of prostitution, in violation of Fl. Stat. § 796.07. In addition, Epstein shall plead guilty to an Information filed by the State Attorney's Office charging Epstein with an offense that requires him to register as a sex offender, that is, the solicitation of minors to engage in prostitution, in violation of Florida Statutes Section 796.03;
2. Epstein shall make a binding recommendation that the Court impose a thirty (30) month sentence to be divided as follows:
 - (a) Epstein shall be sentenced to consecutive terms of twelve (12) months and six (6) months in county jail for all charges, without any opportunity for withholding adjudication or sentencing, and without probation or community control in lieu of imprisonment; and
 - (b) Epstein shall be sentenced to a term of twelve (12) months of community control consecutive to his two terms in county jail as described in Term 2(a), *supra*.
3. This agreement is contingent upon a Judge of the 15th Judicial Circuit accepting and executing the sentence agreed upon between the State Attorney's Office and Epstein, the details of which are set forth in this agreement.
4. The terms contained in paragraphs 1 and 2, *supra*, do not foreclose Epstein and the State Attorney's Office from agreeing to recommend any additional charge(s) or any additional term(s) of probation and/or incarceration.
5. Epstein shall waive all challenges to the Information filed by the State Attorney's Office and shall waive the right to appeal his conviction and sentence, except a sentence that exceeds what is set forth in paragraph (2), *supra*.
6. Epstein shall provide to the U.S. Attorney's Office copies of all

proposed agreements with the State Attorney's Office prior to entering into those agreements.

7. The United States shall provide Epstein's attorneys with a list of individuals whom it has identified as victims, as defined in 18 U.S.C. § 2255, after Epstein has signed this agreement and been sentenced. Upon the execution of this agreement, the United States, in consultation with and subject to the good faith approval of Epstein's counsel, shall select an attorney representative for these persons, who shall be paid for by Epstein. Epstein's counsel may contact the identified individuals through that representative.
8. If any of the individuals referred to in paragraph (7), *supra*, elects to file suit pursuant to 18 U.S.C. § 2255, Epstein will not contest the jurisdiction of the United States District Court for the Southern District of Florida over his person and/or the subject matter, and Epstein waives his right to contest liability and also waives his right to contest damages up to an amount as agreed to between the identified individual and Epstein, so long as the identified individual elects to proceed exclusively under 18 U.S.C. § 2255, and agrees to waive any other claim for damages, whether pursuant to state, federal, or common law. Notwithstanding this waiver, as to those individuals whose names appear on the list provided by the United States, Epstein's signature on this agreement, his waivers and failures to contest liability and such damages in any suit are not to be construed as an admission of any criminal or civil liability.
9. Epstein's signature on this agreement also is not to be construed as an admission of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person whose name does not appear on the list provided by the United States.
10. Except as to those individuals who elect to proceed exclusively under 18 U.S.C. § 2255, as set forth in paragraph (8), *supra*, neither Epstein's signature on this agreement, nor its terms, nor any resulting waivers or settlements by Epstein are to be construed as admissions or evidence of civil or criminal liability or a waiver of any jurisdictional or other defense as to any person, whether or not her name appears on the list provided by the United States.
11. Epstein shall use his best efforts to enter his guilty plea and be

sentenced not later than October 26, 2007. The United States has no objection to Epstein self-reporting to begin serving his sentence not later than January 4, 2008.

12. Epstein agrees that he will not be afforded any benefits with respect to gain time, other than the rights, opportunities, and benefits as any other inmate, including but not limited to, eligibility for gain time credit based on standard rules and regulations that apply in the State of Florida. At the United States' request, Epstein agrees to provide an accounting of the gain time he earned during his period of incarceration.
13. The parties anticipate that this agreement will not be made part of any public record. If the United States receives a Freedom of Information Act request or any compulsory process commanding the disclosure of the agreement, it will provide notice to Epstein before making that disclosure.

Epstein understands that the United States Attorney has no authority to require the State Attorney's Office to abide by any terms of this agreement. Epstein understands that it is his obligation to undertake discussions with the State Attorney's Office and to use his best efforts to ensure compliance with these procedures, which compliance will be necessary to satisfy the United States' interest. Epstein also understands that it is his obligation to use his best efforts to convince the Judge of the 15th Judicial Circuit to accept Epstein's binding recommendation regarding the sentence to be imposed, and understands that the failure to do so will be a breach of the agreement.

In consideration of Epstein's agreement to plead guilty and to provide compensation in the manner described above, if Epstein successfully fulfills all of the terms and conditions of this agreement, the United States also agrees that it will not institute any criminal charges against any potential co-conspirators of Epstein, including but not limited to [REDACTED], Lesley Groff, or [REDACTED]. Further, upon execution of this agreement and a plea agreement with the State Attorney's Office, the federal Grand Jury investigation will be suspended, and all pending federal Grand Jury subpoenas will be held in abeyance unless and until the defendant violates any term of this agreement. The defendant likewise agrees to withdraw his pending motion to intervene and to quash certain grand jury subpoenas. Both parties agree to maintain their evidence, specifically evidence requested by or directly related to the grand jury subpoenas that have been issued, and including certain computer equipment, inviolate until all of the terms of this agreement have been satisfied. Upon the successful completion of the terms of this agreement, all outstanding grand jury subpoenas shall be deemed withdrawn.

By signing this agreement, Epstein asserts and certifies that each of these terms is material to this agreement and is supported by independent consideration and that a breach of any one of these conditions allows the United States to elect to terminate the agreement and to investigate and prosecute Epstein and any other individual or entity for any and all federal offenses.

By signing this agreement, Epstein asserts and certifies that he is aware of the fact that the Sixth Amendment to the Constitution of the United States provides that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial. Epstein further is aware that Rule 48(b) of the Federal Rules of Criminal Procedure provides that the Court may dismiss an indictment, information, or complaint for unnecessary delay in presenting a charge to the Grand Jury, filing an information, or in bringing a defendant to trial. Epstein hereby requests that the United States Attorney for the Southern District of Florida defer such prosecution. Epstein agrees and consents that any delay from the date of this Agreement to the date of initiation of prosecution, as provided for in the terms expressed herein, shall be deemed to be a necessary delay at his own request, and he hereby waives any defense to such prosecution on the ground that such delay operated to deny him rights under Rule 48(b) of the Federal Rules of Criminal Procedure and the Sixth Amendment to the Constitution of the United States to a speedy trial or to bar the prosecution by reason of the running of the statute of limitations for a period of months equal to the period between the signing of this agreement and the breach of this agreement as to those offenses that were the subject of the grand jury's investigation. Epstein further asserts and certifies that he understands that the Fifth Amendment and Rule 7(a) of the Federal Rules of Criminal Procedure provide that all felonies must be charged in an indictment presented to a grand jury. Epstein hereby agrees and consents that, if a prosecution against him is instituted for any offense that was the subject of the grand jury's investigation, it may be by way of an Information signed and filed by the United States Attorney, and hereby waives his right to be indicted by a grand jury as to any such offense.

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By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

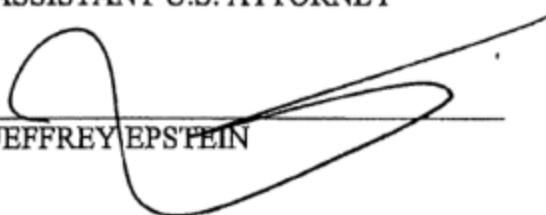
R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____

A. MARIE VILLAFANA
ASSISTANT U.S. ATTORNEY

Dated: 9/24/07



JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

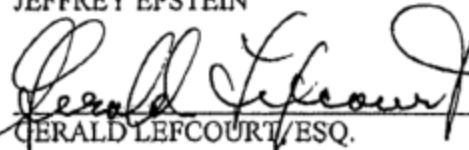
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R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____
A. MARIE VILLAFANA
ASSISTANT U.S. ATTORNEY

Dated: _____

JEFFREY EPSTEIN

GERALD LEFCOURT/ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 9/24/07

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____
A. MARIE VILLAFANA
ASSISTANT U.S. ATTORNEY

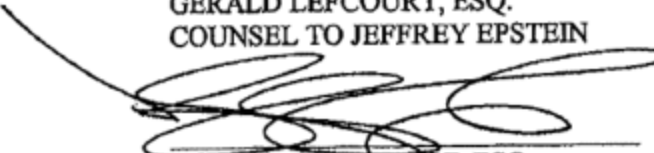
Dated: _____

JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 9-24-07



LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

IN RE:
INVESTIGATION OF
JEFFREY EPSTEIN

ADDENDUM TO THE NON-PROSECUTION AGREEMENT

IT APPEARING that the parties seek to clarify certain provisions of page 4, paragraph 7 of the Non-Prosecution Agreement (hereinafter "paragraph 7"), that agreement is modified as follows:

- 7A. The United States has the right to assign to an independent third-party the responsibility for consulting with and, subject to the good faith approval of Epstein's counsel, selecting the attorney representative for the individuals identified under the Agreement. If the United States elects to assign this responsibility to an independent third-party, both the United States and Epstein retain the right to make good faith objections to the attorney representative suggested by the independent third-party prior to the final designation of the attorney representative.
- 7B. The parties will jointly prepare a short written submission to the independent third-party regarding the role of the attorney representative and regarding Epstein's Agreement to pay such attorney representative his or her regular customary hourly rate for representing such victims subject to the provisions of paragraph C, infra.
- 7C. Pursuant to additional paragraph 7A, Epstein has agreed to pay the fees of the attorney representative selected by the independent third party. This provision, however, shall not obligate Epstein to pay the fees and costs of contested litigation filed against him. Thus, if after consideration of potential settlements, an attorney representative elects to file a contested lawsuit pursuant to 18 U.S.C. s 2255 or elects to pursue any other contested remedy, the paragraph 7 obligation of the Agreement to pay the costs of the attorney representative, as opposed to any statutory or other obligations to pay reasonable attorneys fees and costs such as those contained in s 2255 to bear the costs of the attorney representative, shall cease.

By signing this Addendum, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the clarifications to the Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By:

A. MARIE VILLAFANA
ASSISTANT U.S. ATTORNEY

Dated: 10/29/07


JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

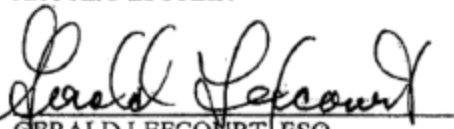
By signing this Addendum, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the clarifications to the Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____
A. MARIE VILLAFANA
ASSISTANT U.S. ATTORNEY

Dated: _____

JEFFREY EPSTEIN

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 10/29/07

Dated: _____

LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

By signing this Addendum, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the clarifications to the Non-Prosecution Agreement and agrees to comply with them.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

Dated: _____

By: _____
A. MARIE VILLAFANA
ASSISTANT U.S. ATTORNEY

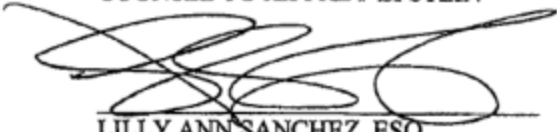
Dated: _____

JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: 10-29-07



LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN



U.S. Department of Justice

United States Attorney
Southern District of Florida

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

99 N.E. 4 Street
Miami, FL 33132
(305) 961-9100 - Telephone
(305) 530-6444 - Facsimile

December 19, 2007

DELIVERY BY FACSIMILE

Lilly Ann Sanchez
Fowler White Burnett, PA
1395 Brickell Ave, 14th Floor
Miami, FL 33131

Re: Jeffrey Epstein

Dear Ms. Sanchez:

I write to follow up on the December 14th meeting between defense counsel and the Epstein prosecutors, as well as our First Assistant, the Miami FBI Special Agent in Charge and myself.

[REDACTED]

² Section 2255 provides that: "[a]ny person who, while a minor, was a victim of a violation of [enumerated sections of Title 18] and who suffers personal injury as a result of such violation . . . may sue in any appropriate United States District Court and shall recover the actual damages such person sustains and the cost of the suit, including a reasonable attorney's fee."

[REDACTED]

With this in mind, I have considered defense counsel arguments regarding the Section 2255 portions of the Agreement. As I previously observed, our intent has been to place the victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less. From our meeting, it appears that the defense agrees that this was the intent. During the course of negotiations that intent was reduced to writing in Paragraphs 7 and 8, which as I wrote previously, appear far from simple to understand. I would thus propose that we solve our disagreements over interpretations by saying precisely what we mean, in a simple fashion. I would replace Paragraphs 7 and 8 with the following language:

"Any person, who while a minor, was a victim of a violation of an offense enumerated in Title 18, United States Code, Section 2255, will have the same rights to proceed under Section 2255 as she would have had, if Mr. Epstein been tried federally and convicted of an enumerated offense. For purposes of implementing this paragraph, the United States shall provide Mr. Epstein's attorneys with a list of individuals whom it was prepared to name in an Indictment as victims of an enumerated offense by Mr. Epstein. Any judicial authority interpreting this provision, including any authority determining which evidentiary burdens if any a plaintiff must meet, shall consider that it is the intent of the parties to place these identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less."

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Sincerely,



R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

[REDACTED]

Villafana, Ann Marie C. (USAFLS)

From: Acosta, Alex (USAFLS) <AAcosta@usa.doj.gov>
Sent: Wednesday, August 13, 2008 6:03 PM
To: Atkinson, Karen (USAFLS); Senior, Robert (USAFLS); Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS)
Cc: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Epstein

3c

This is why we need to get agreement on the final version of the agreement.

----- Original Message -----

From: Atkinson, Karen (USAFLS)
To: Acosta, Alex (USAFLS); Senior, Robert (USAFLS); Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS)
Cc: Villafana, Ann Marie C. (USAFLS)
Sent: Wed Aug 13 17:39:51 2008
Subject: Epstein

Marie and I just got off the phone with Jay—he is not on the civil case. After discussing the hearing for tomorrow and being told that if we had to supply the agreement it would be all three documents he again said that we should talk because that was not their view of the agreement. He said a unilateral change in the agreement in the letter from Alex (although he knew that Alex did not want to hurt Jeffery) could not change the terms of the agreement and put Jeffery in a worse position. Marie pointed out that the letter sent to the victims and approved by Goldberger and others quoted from that letter. He said he had not seen it so Marie is sending him the paperwork. It seems clear that they want all the advantages in subsequent agreements and none of the disadvantages. He thinks this is like a Chinese menu family style—pick and chose what you want from columns A & B. Back to wiretaps!!

Villafana, Ann Marie C. (USAFLS)

From: Senior, Robert (USAFLS) <RSenior@usa.doj.gov>
Sent: Wednesday, August 13, 2008 6:09 PM
To: Atkinson, Karen (USAFLS); Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS)
Cc: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Epstein

OK, so now it has been flushed out and we can deal with it directly. We need to get this formally resolved. Marie/Karen, let's discuss tomorrow morning.

From: Atkinson, Karen (USAFLS)
Sent: Wednesday, August 13, 2008 5:40 PM
To: Acosta, Alex (USAFLS); Senior, Robert (USAFLS); Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS)
Cc: Villafana, Ann Marie C. (USAFLS)
Subject: Epstein

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Villafana, Ann Marie C. (USAFLS)

From: Senior, Robert (USAFLS) <RSenior@usa.doj.gov>
Sent: Thursday, August 14, 2008 9:59 AM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Agreement

Ok

----- Original Message -----

From: Villafana, Ann Marie C. (USAFLS)
To: Senior, Robert (USAFLS)
Sent: Thu Aug 14 09:58:36 2008
Subject: Agreement

Hi Bob – Just talked to Dexter and he disagrees with our strategy. He is going to call and explain his reasoning. Here are the three documents.

<<Epstein Agrmt001.pdf>>

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Thursday, August 14, 2008 2:45 PM
To: Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS); Acosta, Alex (USAFLS)
Subject: FW: Follow-up point

Ahh, the plot thickens. Apparently December is looking better than October.

I will draft a response and send to you shortly.

A. Marie Villafana
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

From: Jay Lefkowitz [mailto:JLefkowitz@kirkland.com]
Sent: Thursday, August 14, 2008 2:39 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Atkinson, Karen (USAFLS); lefkowitz@kirkland.com
Subject: Re: Follow-up point

Marie - In reviewing your December proposal, there are a couple of things I don't understand.

What limits are placed upon individuals who proceed under 2255 as if "Mr. Epstein had been tried federally and convicted of an enumerated offense." In other words, what individuals would have this right? And would these individual only have this right if they proceeded exclusively under 2255? Also, to what enumerated offenses do you think would Mr. Epstein have to make constructive admissions of conviction? and how many such offenses? And against whom? Remember that while you may have investigated various offenses, he only plead guilty to certain state crimes.

Finally, would paragraphs 8-10 of the September Agreement still be operative?

I am trying hard to understand what you have intended by the December letter. Alex has says he thinks it benefits Jeffrey, and I am open to understanding it that way. But I would like some clarity on these issues.

Thanks -- Jay

"Villafana, Ann Marie C. (USAFLS)"
<Ann.Marie.C.Villafana@usdoj.gov>

08/14/2008 12:44 PM

To <lefkowitz@kirkland.com>
cc "Atkinson, Karen (USAFLS)" <Karen.Atkinson@usdoj.gov>
Subject Follow-up point

Hi Jay – I forgot to mention that I can no longer argue that the Court shouldn't force us to produce the

agreement because we have already provided the victims with the relevant portion when I now understand from you that I have NOT provided them with the relevant portion.

A. Marie Villafaña

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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Thursday, August 14, 2008 3:06 PM
To: Senior, Robert (USAFLS); Sloman, Jeff (USAFLS); Acosta, Alex (USAFLS); Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS)
Subject: FW: Follow-up point

Here is my proposed response.

Dear Jay:

Pursuant to the December letter, only those "individuals whom [the United States] was prepared to name in an Indictment as victims of an enumerated offense" are the beneficiaries of the agreement. That is the list of names that I provided to Messrs. Goldberger and Tein following the change of plea. Under the September/October agreement, all "individuals whom [the United States] has identified as victims" are the beneficiaries, so I would prepare a supplement to the earlier list to include identified victims whom we were not yet prepared to name in an indictment.

The December modification replaces paragraphs 7 and 8 of the Agreement, including paragraphs 7A through 7C that are included in the October Addendum. This means that Mr. Epstein's waiver of "his right to contest damages up to an amount as agreed to between the identified individual and Epstein" will no longer exist, nor will Mr. Epstein's obligation to pay for the victims' counsel. Paragraphs 9 and 10 are still in effect. This includes the statement that there is no admission of civil or criminal liability, and that, "[e]xcept as to those individuals who elect to proceed EXCLUSIVELY under 18 USC § 2255, . . . Epstein's signature [cannot] be construed as admissions or evidence of civil or criminal liability." I believe that this means that Mr. Epstein's agreement that the individuals on our list are "victims" as defined by statute applies only if the victims proceed exclusively under 18 USC 2255.

I don't think that Mr. Epstein has to make any constructive admissions of conviction. He only needs to admit that the 32 girls whose names I have provided to Mr. Goldberger are "victims" of an offense listed in 18 U.S.C. 2255.

Please let me know if you have any additional questions. Thank you.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

From: Jay Lefkowitz [mailto:JLefkowitz@kirkland.com]
Sent: Thursday, August 14, 2008 2:39 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Atkinson, Karen (USAFLS); lefkowitz@kirkland.com
Subject: Re: Follow-up point

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<Ann.Marie.C.Villafana@usdoj.gov>

To <lefkowitz@kirkland.com>
cc "Atkinson, Karen (USAFLS)" <Karen.Atkinson@usdoj.gov>

08/14/2008 12:44 PM

Subject Follow-up point

Hi Jay – I forgot to mention that I can no longer argue that the Court shouldn't force us to produce the agreement because we have already provided the victims with the relevant portion when I now understand from you that I have NOT provided them with the relevant portion.

A. Marie Villafaña

Assistant U.S. Attorney

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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Friday, August 15, 2008 11:08 AM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS)
Subject: FW: Follow-up point

Just received a response from Jay. I'm not sure what he means about talking "this morning," since I haven't spoken to him today.

I don't believe that we should wait two weeks for them to confer. They have the ability to confer over the telephone or to come and visit him (as reported in the Palm Beach Post).

Here is my proposed response:

Dear Jay:

Thank you for your response. It is our position that Mr. Epstein accepted the December modification by his performance. If you prefer to return to the language of the October addendum, we have no objection, but, as you know, I have been ordered to produce the Non-Prosecution Agreement and I cannot wait two weeks to do so. Please advise me by noon on Monday in writing, preferably signed by your client, whether Mr. Epstein intends to perform according to the terms of the December modification or whether he elects to return to the October addendum.

If Mr. Epstein elects to perform according to the terms of the October addendum, then please prepare a proposed written submission to the Special Master, in accordance with Paragraph 7B, for my review by Monday afternoon. The extensive delays of the past will no longer be tolerated, and the Office will insist upon a showing of good faith performance in the selection of the attorney representative and all other terms of the Agreement.

Sincerely,
Marie

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From: Jay Lefkowitz [mailto:JLefkowitz@kirkland.com]
Sent: Friday, August 15, 2008 10:53 AM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Atkinson, Karen (USAFLS); Roy BLACK; Martin Weinberg
Subject: Re: Follow-up point

Marie - thanks for responding to my email. You have narrowed down some of the implementation issues.

As I told you this morning, we cannot accept your contention that Mr. Epstein is bound by an agreement he didn't sign as opposed to one he did sign, particularly in light of my written communications to your office dated December 21, 2007 and December 26, 2007. However, before we can make a determination whether to adopt the December language as you have now explained it, we need to confer with our client, which we will be able to do within the next two weeks.

I look forward to speaking with you soon to resolve these issues.

Jay

From: "Villafana, Ann Marie C. (USAFLS)" [Ann.Marie.C.Villafana@usdoj.gov]
Sent: 08/14/2008 03:27 PM AST
To: Jay Lefkowitz
Cc: "Atkinson, Karen (USAFLS)" <Karen.Atkinson@usdoj.gov>; "Roy BLACK"
<RBLACK@royblack.com>
Subject: RE: Follow-up point

Dear Jay:

The modification contained in the December letter is clear and simple, that is why we were not surprised by Mr. Epstein's and his attorneys' actions affirming acceptance of the modification. Mr. Epstein's acceptance of the modification by pleading guilty was equally clear and simple -- it followed written communications from Mr. Sloman and myself that read: "Mr. Epstein has until the close of business on Monday, June 30, 2008, to comply with the terms and conditions of the agreement between the United States and Mr. Epstein (as modified by the U.S. Attorney's December 19th letter to Ms. Sanchez), including entry of a guilty plea, sentencing, and surrendering to begin his sentence of imprisonment."

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Again, as stated in the letter, the modification replaces paragraphs 7 and 8 of the Agreement, including paragraphs 7A through 7C that are included in the October Addendum. This means that Mr. Epstein's waiver of "his right to contest damages up to an amount as agreed to between the identified individual and Epstein" will no longer exist, nor will Mr. Epstein's obligation to pay for the victims' counsel. Paragraphs 9 and 10 are still in effect. This includes the statement that there is no admission of civil or criminal liability, and that, "[e]xcept as to those individuals who elect to proceed EXCLUSIVELY under 18 USC § 2255, . . . Epstein's signature [cannot] be construed as admissions or evidence of civil or criminal liability." This addresses your question regarding exclusivity.

I don't think that Mr. Epstein has to make any constructive admissions of conviction. He only needs to admit that the 32 girls whose names I have provided to Mr. Goldberger are "victims" of an offense listed in 18 U.S.C. 2255.

Please let me know if you have any additional questions. Thank you.

A. Marie Villafaña

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West Palm Beach, FL 33401
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To: Villafana, Ann Marie C. (USAFLS)
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Sent: Friday, August 15, 2008 11:12 AM
To: Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS)
Subject: RE: Follow-up point

Are we really proposing the Special Master? Is he still on board?

I thought we had said that compliance with that was an impossibility given the passage of time?

From: Villafana, Ann Marie C. (USAFLS)
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The information contained in this communication is confidential, may be attorney-client privileged, may constitute inside information, and is intended only for the use of the addressee. It is the property of Kirkland & Ellis LLP or Kirkland & Ellis International LLP. Unauthorized use, disclosure or copying of this communication or any part thereof is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by return e-mail or by e-mail to postmaster@kirkland.com, and destroy this communication and all copies thereof, including all attachments.

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Villafana, Ann Marie C. (USAFLS)

From: Acosta, Alex (USAFLS) <AAcosta@usa.doj.gov>
Sent: Friday, August 15, 2008 11:55 AM
To: Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)
Subject: RE: New proposed response to Jay

How about a slightly different version:

Thank you for your response. Our communications with Roy Black and later with you were solely to determine what Mr. Epstein considered to be the terms of the Non-Prosecution Agreement. We appreciate your answering our question with finality. You have now made clear that Mr. Epstein did not accept the December modification, and accordingly, we will now consider that modification to be a nullity.

Pursuant to our Agreement, I will prepare an Amended Notification that contains the name of additional identified victims. In accordance with Paragraph 7B, please provide me with a proposed written submission to the Special Master by Monday afternoon.

Finally, as you are aware, the United States has been ordered to produce the Non-Prosecution Agreement. In accordance with that Order, we will produce the September Agreement with the October Addendum signed by your client. We understand that Mr. Goldberg may not have provided the state court with a true copy of the complete Agreement, and he should take steps to correct that error.

From: Villafana, Ann Marie C. (USAFLS)
Sent: Friday, August 15, 2008 11:42 AM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)
Subject: New proposed response to Jay

Dear Jay:

Thank you for your response. Our communications with Roy Black and later with you were solely to determine what Mr. Epstein considered to be the terms of the Non-Prosecution Agreement. You have now made clear that Mr. Epstein did not accept the December modification and does not intend to perform the obligations set forth therein. The Office is not going to continue negotiating the terms of the Agreement. We only sought finality and you have answered our question. Accordingly, the December proposed modification is hereby withdrawn.

The United States has been ordered to produce the Non-Prosecution Agreement and, in accordance with that Order, will produce the September Agreement with the October Addendum signed by your client. Mr. Goldberger should be advised that we understand he has not provided the state court with a true copy of the complete Agreement, and he should take steps to correct that error. I will prepare an Amended Notification that contains the name of additional identified victims and will provide that to you promptly.

In accordance with Paragraph 7B of the Agreement, please provide me with a proposed written submission to the Special Master by Monday afternoon. We will expect a showing of good faith in the selection of the attorney representative and all other terms of the Agreement and excessive delays, like those that have occurred in the past, will be considered a breach of that duty of good faith.

Sincerely,

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Friday, August 15, 2008 11:17 AM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS)
Subject: RE: Follow-up point

We either have to do the October Agreement or the December Agreement, I don't think we can let them get away with doing neither. Two-thirds of the victims do not have any representation.

The language of the agreement gives us the right to select the Special Master, and we should choose someone quickly. We then have to create a written submission, and we should give them a very short time frame to do so. If we keep their feet to the fire, this can be completed within a week.

A. Marie Villafana
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

From: Acosta, Alex (USAFLS)
Sent: Friday, August 15, 2008 11:12 AM
To: Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS)
Subject: RE: Follow-up point

Are we really proposing the Special Master? Is he still on board?

I thought we had said that compliance with that was an impossibility given the passage of time?

From: Villafana, Ann Marie C. (USAFLS)
Sent: Friday, August 15, 2008 11:08 AM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS)
Subject: FW: Follow-up point

Just received a response from Jay. I'm not sure what he means about talking "this morning," since I haven't spoken to him today.

I don't believe that we should wait two weeks for them to confer. They have the ability to confer over the telephone or to come and visit him (as reported in the Palm Beach Post).

Here is my proposed response:

Dear Jay:

Thank you for your response. It is our position that Mr. Epstein accepted the December modification by his performance. If you prefer to return to the language of the October addendum, we have no objection, but, as

you know, I have been ordered to produce the Non-Prosecution Agreement and I cannot wait two weeks to do so. Please advise me by noon on Monday in writing, preferably signed by your client, whether Mr. Epstein intends to perform according to the terms of the December modification or whether he elects to return to the October addendum.

If Mr. Epstein elects to perform according to the terms of the October addendum, then please prepare a proposed written submission to the Special Master, in accordance with Paragraph 7B, for my review by Monday afternoon. The extensive delays of the past will no longer be tolerated, and the Office will insist upon a showing of good faith performance in the selection of the attorney representative and all other terms of the Agreement.

Sincerely,
Marie

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

From: Jay Lefkowitz [mailto:JLefkowitz@kirkland.com]
Sent: Friday, August 15, 2008 10:53 AM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Atkinson, Karen (USAFLS); Roy BLACK; Martin Weinberg
Subject: Re: Follow-up point

Marie - thanks for responding to my email. You have narrowed down some of the implementation issues.

As I told you this morning, we cannot accept your contention that Mr. Epstein is bound by an agreement he didn't sign as opposed to one he did sign, particularly in light of my written communications to your office dated December 21, 2007 and December 26, 2007. However, before we can make a determination whether to adopt the December language as you have now explained it, we need to confer with our client, which we will be able to do within the next two weeks.

I look forward to speaking with you soon to resolve these issues.

Jay

From: "Villafana, Ann Marie C. (USAFLS)" [Ann.Marie.C.Villafana@usdoj.gov]
Sent: 08/14/2008 03:27 PM AST
To: Jay Lefkowitz
Cc: "Atkinson, Karen (USAFLS)" <Karen.Atkinson@usdoj.gov>; "Roy BLACK" <RBLACK@royblack.com>
Subject: RE: Follow-up point

Dear Jay:

The modification contained in the December letter is clear and simple, that is why we were not surprised by Mr. Epstein's and his attorneys' actions affirming acceptance of the modification. Mr. Epstein's acceptance of the modification by pleading guilty was equally clear and simple -- it followed written communications from Mr. Sloman and myself that read: "Mr. Epstein has until the close of business on Monday, June 30, 2008, to comply with the terms and conditions of the agreement between the United States and Mr. Epstein (as modified by the U.S. Attorney's December 19th letter to Ms. Sanchez), including entry of a guilty plea, sentencing, and surrendering to begin his sentence of imprisonment."

As clearly stated in the December letter, only those "individuals whom [the United States] was prepared to name in an Indictment as victims of an enumerated offense" are the beneficiaries of the agreement. That is the list of names that I provided to Messrs. Goldberger and Tein following the change of plea. Under the September/October agreement, all "individuals whom [the United States] has identified as victims" are the beneficiaries, so I would prepare a supplement to the earlier list to include identified victims whom we were not yet prepared to name in an indictment.

Again, as stated in the letter, the modification replaces paragraphs 7 and 8 of the Agreement, including paragraphs 7A through 7C that are included in the October Addendum. This means that Mr. Epstein's waiver of "his right to contest damages up to an amount as agreed to between the identified individual and Epstein" will no longer exist, nor will Mr. Epstein's obligation to pay for the victims' counsel. Paragraphs 9 and 10 are still in effect. This includes the statement that there is no admission of civil or criminal liability, and that, "[e]xcept as to those individuals who elect to proceed EXCLUSIVELY under 18 USC § 2255, . . . Epstein's signature [cannot] be construed as admissions or evidence of civil or criminal liability." This addresses your question regarding exclusivity.

I don't think that Mr. Epstein has to make any constructive admissions of conviction. He only needs to admit that the 32 girls whose names I have provided to Mr. Goldberger are "victims" of an offense listed in 18 U.S.C. 2255.

Please let me know if you have any additional questions. Thank you.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

From: Jay Lefkowitz [mailto:JLefkowitz@kirkland.com]
Sent: Thursday, August 14, 2008 2:39 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Atkinson, Karen (USAFLS); lefkowitz@kirkland.com
Subject: Re: Follow-up point

Marie - In reviewing your December proposal, there are a couple of things I don't understand.

What limits are placed upon individuals who proceed under 2255 as if "Mr. Epstein had been tried federally and convicted of an enumerated offense." In other words, what individuals would have this right? And would these individual only have this right if they proceeded exclusively under 2255? Also, to what enumerated offenses do you think would Mr. Epstein have to make constructive admissions of conviction? and how many such offenses? And against whom? Remember that while you may have investigated various offenses, he only plead guilty to certain state crimes.

Finally, would paragraphs 8-10 of the September Agreement still be operative?

I am trying hard to understand what you have intended by the December letter. Alex has says he thinks it benefits Jeffrey, and I am open to understanding it that way. But I would like some clarity on these issues.

Thanks -- Jay

"Villafana, Ann Marie C. (USAFLS)"
<Ann.Marie.C.Villafana@usdoj.gov>

To <lefkowitz@kirkland.com>
cc "Atkinson, Karen (USAFLS)" <Karen.Atkinson@usdoj.gov>
Subject Follow-up point

08/14/2008 12:44 PM

Hi Jay – I forgot to mention that I can no longer argue that the Court shouldn't force us to produce the agreement because we have already provided the victims with the relevant portion when I now understand from you that I have NOT provided them with the relevant portion.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

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Villafana, Ann Marie C. (USAFLS)

From: Senior, Robert (USAFLS) <RSenior@usa.doj.gov>
Sent: Friday, August 15, 2008 1:34 PM
To: Acosta, Alex (USAFLS); Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)
Subject: Re: New proposed response to Jay

Shouldn't we formally withdraw the offer as opposed to considering it a nullity ?

----- Original Message -----

From: Acosta, Alex (USAFLS)
To: Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)

Sent: Fri Aug 15 11:55:13 2008
Subject: RE: New proposed response to Jay

How about a slightly different version:

Thank you for your response. Our communications with Roy Black and later with you were solely to determine what Mr. Epstein considered to be the terms of the Non-Prosecution Agreement. We appreciate your answering our question with finality. You have now made clear that Mr. Epstein did not accept the December modification, and accordingly, we will now consider that modification to be a nullity.

Pursuant to our Agreement, I will prepare an Amended Notification that contains the name of additional identified victims. In accordance with Paragraph 7B, please provide me with a proposed written submission to the Special Master by Monday afternoon.

Finally, as you are aware, the United States has been ordered to produce the Non-Prosecution Agreement. In accordance with that Order, we will produce the September Agreement with the October Addendum signed by your client. We understand that Mr. Goldberg may not have provided the state court with a true copy of the complete Agreement, and he should take steps to correct that error.

From: Villafana, Ann Marie C. (USAFLS)
Sent: Friday, August 15, 2008 11:42 AM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)

Subject: New proposed response to Jay

Dear Jay:

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In accordance with Paragraph 7B of the Agreement, please provide me with a proposed written submission to the Special Master by Monday afternoon. We will expect a showing of good faith in the selection of the attorney representative and all other terms of the Agreement and excessive delays, like those that have occurred in the past, will be considered a breach of that duty of good faith.

Sincerely,

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Friday, August 15, 2008 1:44 PM
To: Senior, Robert (USAFLS)
Subject: RE: New proposed response to Jay

Yes, Bob. Firm language. These guys only respond to decisive action, not civilities.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

-----Original Message-----

From: Senior, Robert (USAFLS)
Sent: Friday, August 15, 2008 1:34 PM
To: Acosta, Alex (USAFLS); Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)

Subject: Re: New proposed response to Jay

Shouldn't we formally withdraw the offer as opposed to considering it a nullity ?

----- Original Message -----

From: Acosta, Alex (USAFLS)
To: Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)

Sent: Fri Aug 15 11:55:13 2008
Subject: RE: New proposed response to Jay

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From: Villafana, Ann Marie C. (USAFLS)

Sent: Friday, August 15, 2008 11:42 AM

To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)

Subject: New proposed response to Jay

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In accordance with Paragraph 7B of the Agreement, please provide me with a proposed written submission to the Special Master by Monday afternoon. We will expect a showing of good faith in the selection of the attorney representative and all other terms of the Agreement and excessive delays, like those that have occurred in the past, will be considered a breach of that duty of good faith.

Sincerely,

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Friday, August 15, 2008 1:49 PM
To: Senior, Robert (USAFLS); Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)
Subject: RE: New proposed response to Jay

Here is my proposal after speaking with Jeff.

Dear Jay and Roy:

Thank you for your response to my earlier e-mail. Our communications with Mr. Black and later with Mr. Lefkowitz were solely to determine what Mr. Epstein considered to be the terms of the Non-Prosecution Agreement. We appreciate your answering our question with finality. You have now made clear that Mr. Epstein did not accept the December modification, and accordingly, the offer to make that modification is hereby withdrawn.

Pursuant to our Agreement, I will prepare an Amended Notification that contains the names of additional identified victims. As you know, Judge [REDACTED] had selected the Podhurst firm to serve as the attorney representative for the victims. Assuming that Mr. Josefsberg is still amenable to the appointment, we will provide him with the victim list so that he may begin his service.

Finally, as you are aware, the United States has been ordered to produce the Non-Prosecution Agreement. In accordance with that Order, we will produce the September Agreement with the October Addendum signed by your client. We understand that Mr. Goldberger did not provide the state court with a true copy of the complete Agreement, and he should take steps to correct that error.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

-----Original Message-----

From: Senior, Robert (USAFLS)
Sent: Friday, August 15, 2008 1:34 PM
To: Acosta, Alex (USAFLS); Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)

Subject: Re: New proposed response to Jay

Shouldn't we formally withdraw the offer as opposed to considering it a nullity ?

----- Original Message -----

From: Acosta, Alex (USAFLS)
To: Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)

Sent: Fri Aug 15 11:55:13 2008
Subject: RE: New proposed response to Jay

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From: Villafana, Ann Marie C. (USAFLS)
Sent: Friday, August 15, 2008 11:42 AM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)

Subject: New proposed response to Jay

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Sincerely,

A. Marie Villafana
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Sloman, Jeff (USAFLS) <JSloman@usa.doj.gov>
Sent: Friday, August 15, 2008 1:52 PM
To: Villafana, Ann Marie C. (USAFLS); Senior, Robert (USAFLS); Acosta, Alex (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)
Subject: RE: New proposed response to Jay

Marie,

Please substitute the word "withdrawn" in the first sentence with "a nullity"

Jeff

-----Original Message-----

From: Villafana, Ann Marie C. (USAFLS)
Sent: Friday, August 15, 2008 1:49 PM
To: Senior, Robert (USAFLS); Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)

Subject: RE: New proposed response to Jay

Here is my proposal after speaking with Jeff.

Dear Jay and Roy:

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Pursuant to our Agreement, I will prepare an Amended Notification that contains the names of additional identified victims. As you know, Judge [REDACTED] had selected the Podhurst firm to serve as the attorney representative for the victims. Assuming that Mr. Josefsberg is still amenable to the appointment, we will provide him with the victim list so that he may begin his service.

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West Palm Beach, FL 33401
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-----Original Message-----

From: Senior, Robert (USAFLS)
Sent: Friday, August 15, 2008 1:34 PM
To: Acosta, Alex (USAFLS); Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)

Subject: Re: New proposed response to Jay

Shouldn't we formally withdraw the offer as opposed to considering it a nullity ?

----- Original Message -----

From: Acosta, Alex (USAFLS)

To: Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)

Sent: Fri Aug 15 11:55:13 2008

Subject: RE: New proposed response to Jay

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From: Villafana, Ann Marie C. (USAFLS)

Sent: Friday, August 15, 2008 11:42 AM

To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)

Subject: New proposed response to Jay

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Sincerely,

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Assistant U.S. Attorney
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West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Friday, August 15, 2008 1:54 PM
To: Lee, Dexter (USAFLS)
Cc: Sloman, Jeff (USAFLS)
Subject: FW: New proposed response to Jay

Importance: High

Dexter -- If we call it "a nullity" instead of "withdrawn" how does that affect the issue with the Jane Does?

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

-----Original Message-----

From: Sloman, Jeff (USAFLS)
Sent: Friday, August 15, 2008 1:52 PM
To: Villafana, Ann Marie C. (USAFLS); Senior, Robert (USAFLS); Acosta, Alex (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)

Subject: RE: New proposed response to Jay

Marie,

Please substitute the word "withdrawn" in the first sentence with "a nullity"

Jeff

-----Original Message-----

From: Villafana, Ann Marie C. (USAFLS)
Sent: Friday, August 15, 2008 1:49 PM
To: Senior, Robert (USAFLS); Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)

Subject: RE: New proposed response to Jay

Here is my proposal after speaking with Jeff.

Dear Jay and Roy:

Thank you for your response to my earlier e-mail. Our communications with Mr. Black and later with Mr. Lefkowitz were solely to determine what Mr. Epstein considered to be the terms of the Non-Prosecution Agreement. We appreciate your answering our question with finality. You have now made clear that Mr. Epstein did not accept the December modification, and accordingly, the offer to make that modification is hereby withdrawn.

Pursuant to our Agreement, I will prepare an Amended Notification that contains the names of additional identified victims. As you know, Judge [REDACTED] had selected the Podhurst firm to serve as the attorney representative for the victims. Assuming that Mr. Josefsberg is still amenable to the appointment, we will provide him with the victim list so that he may begin his service.

Finally, as you are aware, the United States has been ordered to produce the Non-Prosecution Agreement. In accordance with that Order, we will produce the September Agreement with the October Addendum signed by your client. We understand that Mr. Goldberg did not provide the state court with a true copy of the complete Agreement, and he should take steps to correct that error.

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From: Senior, Robert (USAFLS)
Sent: Friday, August 15, 2008 1:34 PM
To: Acosta, Alex (USAFLS); Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)

Subject: Re: New proposed response to Jay

Shouldn't we formally withdraw the offer as opposed to considering it a nullity ?

----- Original Message -----

From: Acosta, Alex (USAFLS)
To: Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)

Sent: Fri Aug 15 11:55:13 2008
Subject: RE: New proposed response to Jay

How about a slightly different version:

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Pursuant to our Agreement, I will prepare an Amended Notification that contains the name of additional identified victims. In accordance with Paragraph 7B, please provide me with a proposed written submission to the Special Master by Monday afternoon.

Finally, as you are aware, the United States has been ordered to produce the Non-Prosecution Agreement. In accordance with that Order, we will produce the September Agreement with the October Addendum signed by your client. We understand that Mr. Goldberg may not have provided the state court with a true copy of the complete Agreement, and he should take steps to correct that error.

From: Villafana, Ann Marie C. (USAFLS)
Sent: Friday, August 15, 2008 11:42 AM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)

Subject: New proposed response to Jay

Dear Jay:

Thank you for your response. Our communications with Roy Black and later with you were solely to determine what Mr. Epstein considered to be the terms of the Non-Prosecution Agreement. You have now made clear that Mr. Epstein did not accept the December modification and does not intend to perform the obligations set forth therein. The Office is not going to continue negotiating the terms of the Agreement. We only sought finality and you have answered our question. Accordingly, the December proposed modification is hereby withdrawn.

The United States has been ordered to produce the Non-Prosecution Agreement and, in accordance with that Order, will produce the September Agreement with the October Addendum signed by your client. Mr. Goldberger should be advised that we understand he has not provided the state court with a true copy of the complete Agreement, and he should take steps to correct that error. I will prepare an Amended Notification that contains the name of additional identified victims and will provide that to you promptly.

In accordance with Paragraph 7B of the Agreement, please provide me with a proposed written submission to the Special Master by Monday afternoon. We will expect a showing of good faith in the selection of the attorney representative and all other terms of the Agreement and excessive delays, like those that have occurred in the past, will be considered a breach of that duty of good faith.

Sincerely,

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Villafana, Ann Marie C. (USAFLS)

From: Lee, Dexter (USAFLS) <DLee@usa.doj.gov>
Sent: Friday, August 15, 2008 2:05 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Sloman, Jeff (USAFLS)
Subject: RE: New proposed response to Jay

Something which is a nullity lacks any legal import. If it has been withdrawn, then the item had import at one time, but it no longer does. If the December 2007 letter is viewed as an offer, there was no acceptance, or it has been rejected. Consequently, the offer no longer has an legal import.

We are obligated to provide a copy of the non-prosecution agreement to petitioners, whatever that agreement is. If the December 2007 letter never became a part of the agreement, and the government and Epstein are in agreement as to that issue, then we can produce the September 2007 agreement and the addendum. Are we at that point?

Dexter

-----Original Message-----

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Sent: Friday, August 15, 2008 1:54 PM
To: Lee, Dexter (USAFLS)
Cc: Sloman, Jeff (USAFLS)
Subject: FW: New proposed response to Jay
Importance: High

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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Monday, August 25, 2008 9:48 AM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS)
Subject: Letter re Epstein and Protective Order
Attachments: 080822 Lefkowitz ltr to Villafana.pdf

38

Good morning, everyone.

I have attached a letter from Jay Lefkowitz that came in by fax on Friday night. The good news is that they seem to be in agreement regarding Mr. Josefsberg. Most of the letter doesn't really require a comment, but I wanted to get Dexter's feedback regarding the notification to the victims of their right to see the agreement. Here is the language from my proposed victim notification letter:

"In addition, a judge has ordered that the United States make available to any designated victim (and/or her attorney) a copy of the actual agreement between Mr. Epstein and the United States, so long as the victim (and/or her attorney) reviews, signs, and agrees to be bound by a Protective Order entered by the Court. If Ms. [REDACTED] would like to review the Agreement, please let me know, and I will forward a copy of the Protective Order for her signature."

Lefkowitz objects, but I am wondering whether Dexter agrees that the spirit of our discussions with Judge Marra requires such a notification. If we make the entire agreement available to Mr. Josefsberg and he conveys that information to all of his clients, the concern becomes moot, I suppose.

Lastly, from my discussion with Bob, it appears that the Office does not want to add to the list the names of victims identified after the date of signing the September agreement unless our investigation had provided enough information that we were prepared to include them in the indictment – i.e., the New York girls – and that you do not want me to re-add [REDACTED] [REDACTED] to the list, even though we have extensive corroboration of her involvement with Epstein. Can someone please confirm?

Thank you all.

<<080822 Lefkowitz ltr to Villafana.pdf>>

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Fax 561 820-8777

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Marie,

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A. Marie Villafaña

Assistant U.S. Attorney

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West Palm Beach, FL 33401

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Fax 561 820-8777

KIRKLAND & ELLIS LLP

AND AFFILIATED PARTNERSHIPS

Citigroup Center
153 East 53rd Street
New York, New York 10022-4611

(212) 446-4900

www.kirkland.com

Jay P. Iofkowitz, P.C.
To Call Writer Directly
212-446-4970
jiofkowitz@kirkland.com

Facsimile
(212) 446-4900

August 22, 2008

VIA FACSIMILE (561) 820-8777

A. Marie Villafana
United States Attorney's Office
Southern District of Florida
500 South Australian Avenue, Suite 400
West Palm Beach, Florida 33401

Re: *Jeffrey Epstein*

Dear Marie:

I write this letter to correct certain misstatements made in your letter dated August 21, 2008, and the accompanying draft notification.

First, you state that "Mr. Josefsberg expended time, effort and funds in preparing to serve as attorney representative in October of 2007." Neither I, nor any other attorney on Mr. Epstein's defense team, was notified of this work by Mr. Josefsberg.

Second, in the victim notification letter, no judge "has ordered that the United States" make available a copy of the Non-Prosecution Agreement. Section (d) of the Order to Compel Production and Protective Order provides that if any of the alleged "victims" and/or their attorneys "request the opportunity to review the Agreement," the USAO shall comply with the request so long as those individuals agree not to disclose the Non-Prosecution Agreement. There is no court order requiring the government to provide the alleged "victims" with notice that the Non-Prosecution Agreement is available to them upon request and doing so is in conflict with the confidentiality provisions of the Agreement. Given that the individuals on the list will have an attorney representative who is fully aware of the terms of the Non-Prosecution Agreement, this conflicting paragraph of your notice is unnecessary in any event and should be excised.

Third, misstatements in your prior notification were not made "with the approval of Mr. Epstein's counsel."

Fourth, we are concerned with your open-ended description of Mr. Epstein's responsibilities regarding civil restitution. The resolution of liability pursuant to 18 U.S.C.

KIRKLAND & ELLIS LLP

A. Marie Villafana
August 22, 2008
Page 2

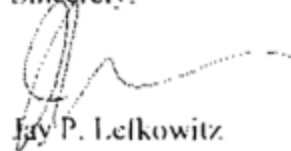
§ 2255 is as stated in paragraphs 7 and 8 of the Agreement and the Addendum to the Agreement, no more, no less.

Fifth, while you state, in your letter, that the USAO does not intend to delete any of the names on the list provided to Mr. Epstein's counsel, you do not confirm that the prior list is final and complete. There can be no expansion of the list of individuals that you informed us had been memorialized as of September 24, 2007 and disclosed to Mr. Epstein on June 30, 2008 (the date of sentence pursuant to the Agreement's disclosure requirements). Please confirm the exact name and number of individuals the government plans on notifying as provided for under the Agreement.

Sixth, based on express language in prior communications from your Office, we are in agreement that paragraphs 7 and 8 of the Agreement are in need of clarification and implementation. We will work with the attorney representative in attempting to reach a fair resolution of the outstanding civil matters in a manner that is in accordance with the Agreement.

Seventh, we have previously communicated our objections to the propriety of the attorney representative engaging in contested litigation. We again dispute the assertion that Mr. Josefsberg's duties include filing contested litigation. In any case, that issue is not ripe for resolution at this point, but again, given his agreement to be the attorney representative, we will address these matters directly with Mr. Josefsberg.

Sincerely,



Jay P. Lelkowitz

cc: Karen Atkinson, Chief, Northern Division

KIRKLAND & ELLIS LLP

Fax Transmittal

Citigroup Center
153 East 53rd Street
New York, New York 10022-4611
Phone: [REDACTED]
Fax: [REDACTED]

Please notify us immediately if any pages are not received.

THE INFORMATION CONTAINED IN THIS COMMUNICATION IS CONFIDENTIAL, MAY BE ATTORNEY-CLIENT PRIVILEGED, MAY CONSTITUTE INSIDE INFORMATION, AND IS INTENDED ONLY FOR THE USE OF THE ADDRESSEE. UNAUTHORIZED USE, DISCLOSURE OR COPYING IS STRICTLY PROHIBITED AND MAY BE UNLAWFUL.

IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR,
PLEASE NOTIFY US IMMEDIATELY AT:
[REDACTED]

<i>To:</i>	<i>Company:</i>	<i>Fax #:</i>	<i>Direct #:</i>	
A. Marie Villafana	United States Attorney's Office	561-820-8777	561-209-1047	
<i>CC:</i>	<i>Company:</i>	<i>Fax #:</i>	<i>Direct #:</i>	
Karen Atkinson	United States Attorney's Office	561-820-8777	561-820-8711	
<i>From:</i>	<i>Date:</i>	<i>Pages w/cover:</i>	<i>Fax #:</i>	<i>Direct #:</i>
Jay P. Lelkowitz	August 22, 2008	3	[REDACTED]	[REDACTED]

Message:

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Monday, August 25, 2008 1:54 PM
To: Lee, Dexter (USAFLS)
Subject: RE: Letter re Epstein and Protective Order

Hi Dexter – Thank you for your response. Did you ever send the agreement to Brad? Do you want me to do that?

A. Marie Villafaña

Assistant U.S. Attorney

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Sent: Monday, August 25, 2008 2:18 PM
To: Villafana, Ann Marie C. (USAFLS)
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Marie,

I have not sent Brad the Agreement, and would appreciate it if you could take care of that. Are we sending out parts I and II, and leaving out the December 2007 letter? Thanks.

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To: Lee, Dexter (USAFLS)
Subject: RE: Letter re Epstein and Protective Order

Yes, that was my plan. I will send it out today. Thanks.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

From: Lee, Dexter (USAFLS)
Sent: Monday, August 25, 2008 2:18 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Letter re Epstein and Protective Order

Marie,

I have not sent Brad the Agreement, and would appreciate it if you could take care of that. Are we sending out parts I and II, and leaving out the December 2007 letter? Thanks.

Dexter

From: Villafana, Ann Marie C. (USAFLS)
Sent: Monday, August 25, 2008 1:54 PM
To: Lee, Dexter (USAFLS)
Subject: RE: Letter re Epstein and Protective Order

Hi Dexter – Thank you for your response. Did you ever send the agreement to Brad? Do you want me to do that?

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

From: Lee, Dexter (USAFLS)

Sent: Monday, August 25, 2008 10:25 AM

To: Villafana, Ann Marie C. (USAFLS); Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Atkinson, Karen (USAFLS)

Subject: RE: Letter re Epstein and Protective Order

Marie,

During our telephonic hearing, I received the clear impression that Judge Marra wanted the other victims (non-parties to the Jane Doe litigation), would be given the opportunity to see the Agreement, subject to each one agreeing to be bound by the protective order. I believe it would be contrary to Judge Marra's intent for us to go through the trouble of creating a mechanism for the other non-party victims to have access to the Agreement, and then not tell them there is an Agreement.

Also, does CVRA impose any obligation on us, independent of what Judge Marra ordered, to advise the victims of the Agreement?

Dexter

From: Villafana, Ann Marie C. (USAFLS)

Sent: Monday, August 25, 2008 9:48 AM

To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS)

Subject: Letter re Epstein and Protective Order

Good morning, everyone.

I have attached a letter from Jay Lefkowitz that came in by fax on Friday night. The good news is that they seem to be in agreement regarding Mr. Josefsberg. Most of the letter doesn't really require a comment, but I wanted to get Dexter's feedback regarding the notification to the victims of their right to see the agreement. Here is the language from my proposed victim notification letter:

"In addition, a judge has ordered that the United States make available to any designated victim (and/or her attorney) a copy of the actual agreement between Mr. Epstein and the United States, so long as the victim (and/or her attorney) reviews, signs, and agrees to be bound by a Protective Order entered by the Court. If Ms. [REDACTED] would like to review the Agreement, please let me know, and I will forward a copy of the Protective Order for her signature."

Lefkowitz objects, but I am wondering whether Dexter agrees that the spirit of our discussions with Judge Marra requires such a notification. If we make the entire agreement available to Mr. Josefsberg and he conveys that information to all of his clients, the concern becomes moot, I suppose.

Lastly, from my discussion with Bob, it appears that the Office does not want to add to the list the names of victims identified after the date of signing the September agreement unless our investigation had provided

enough information that we were prepared to include them in the indictment – i.e., the New York girls – and that you do not want me to re-add [REDACTED] [REDACTED] to the list, even though we have extensive corroboration of her involvement with Epstein. Can someone please confirm?

Thank you all.

<< File: 080822 Lefkowitz ltr to Villafana.pdf >>

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West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Wednesday, August 20, 2008 3:47 PM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Atkinson, Karen (USAFLS) 37
Subject: Emailing: 080820 Villafana Ltr to Lefkowitz and Black.wpd
Attachments: 080820 Villafana Ltr to Lefkowitz and Black.wpd

<<080820 Villafana Ltr to Lefkowitz and Black.wpd>> I have attached my proposed response to Jay Lefkowitz. Please let me know if you have any changes, I would like to try to get this out today, if possible.

The message is ready to be sent with the following file or link attachments:

080820 Villafana Ltr to Lefkowitz and Black.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Thursday, August 21, 2008 9:29 AM
To: Senior, Robert (USAFLS); Sloman, Jeff (USAFLS)
Subject: Are these alright to send out to Jay and Roy?
Attachments: Amended Final Victim Notification -- [REDACTED] [REDACTED] final.wpd; 080820 Villafana Ltr to Lefkowitz and Black.wpd

<<Amended Final Victim Notification -- [REDACTED] [REDACTED] final.wpd>> <<080820 Villafana Ltr to Lefkowitz and Black.wpd>>

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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Thursday, August 21, 2008 1:08 PM
To: Senior, Robert (USAFLS); Sloman, Jeff (USAFLS)
Subject: Emailing: 080820 Villafana Ltr to Lefkowitz and Black w Senior edits.wpd
Attachments: 080820 Villafana Ltr to Lefkowitz and Black w Senior edits.wpd

<<080820 Villafana Ltr to Lefkowitz and Black w Senior edits.wpd>> Here you go, Bob. Let me know if it looks alright.

Thanks.

The message is ready to be sent with the following file or link attachments:

080820 Villafana Ltr to Lefkowitz and Black w Senior edits.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Monday, August 25, 2008 5:33 PM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Atkinson, Karen (USAFLS)
Subject: Emailing: 080826 Villafana Ltr to Lefkowitz and Black.wpd
Attachments: 080826 Villafana Ltr to Lefkowitz and Black.wpd

<<080826 Villafana Ltr to Lefkowitz and Black.wpd>> Please let me know if you have any changes. Thank you.

The message is ready to be sent with the following file or link attachments:

080826 Villafana Ltr to Lefkowitz and Black.wpd

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, August 26, 2008 9:22 AM
To: Sloman, Jeff (USAFLS); Senior, Robert (USAFLS)
Subject: Letter to Jay
Attachments: 080826 Villafana Ltr to Lefkowitz and Black with Acosta change.wpd

Hi guys – Is it alright to send out? I received one comment from Alex and have changed the letter to reflect that. Can you let me know if you have any other changes? I am off to mag court but shouldn't be gone too long. Thank you.

<<080826 Villafana Ltr to Lefkowitz and Black with Acosta change.wpd>>

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Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Sloman, Jeff (USAFLS) <JSloman@usa.doj.gov>
Sent: Tuesday, August 26, 2008 9:53 AM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Acosta, Alex (USAFLS); Senior, Robert (USAFLS)
Subject: RE: Letter to Jay

Marie,

It's fine with one suggestion. Near the end when you say "if it comes to our attention that Mr. Epstein has breached the terms of the Agreement, the Office intends to enforce its right to indict Mr. Epstein." How about softening it just a tad to "the Office intends to enforce its rights pursuant to the Agreement." Otherwise, you're good to go.

Jeff

From: Villafana, Ann Marie C. (USAFLS)
Sent: Tuesday, August 26, 2008 9:22 AM
To: Sloman, Jeff (USAFLS); Senior, Robert (USAFLS)
Subject: Letter to Jay

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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, August 26, 2008 1:24 PM
To: Sloman, Jeff (USAFLS)
Subject: RE: Letter to Jay

Great. It is headed to you shortly.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

From: Sloman, Jeff (USAFLS)
Sent: Tuesday, August 26, 2008 9:53 AM
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Cc: Acosta, Alex (USAFLS); Senior, Robert (USAFLS)
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Sent: Tuesday, August 26, 2008 9:22 AM
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<< File: 080826 Villafana Ltr to Lefkowitz and Black with Acosta change.wpd >>

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West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Lee, Dexter (USAFLS) <DLee@usa.doj.gov>
Sent: Tuesday, September 02, 2008 12:36 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Senior, Robert (USAFLS); Sloman, Jeff (USAFLS)
Subject: RE: Revised Notification to Victims regarding right to see Epstein agreement.

39

Marie,

Does Epstein's lawyer not want the victims to know that an agreement exists? It seems they are imposing an additional barrier, since the victims' lawyer will be able to review the order signed by Judge Marra. Once the attorney does that, I'm certain the attorney will want to obtain a copy of the Agreement. I'm not sure how this achieves any objective for Epstein, but if they're satisfied with that language, that's fine. As long as the victims know there is an agreement between Epstein and the U.S. Government, I believe we have complied with Judge Marra's order.

Dexter

From: Villafana, Ann Marie C. (USAFLS)
Sent: Tuesday, September 02, 2008 12:19 PM
To: Lee, Dexter (USAFLS)
Cc: Senior, Robert (USAFLS); Sloman, Jeff (USAFLS)
Subject: Revised Notification to Victims regarding right to see Epstein agreement.

Hi Dexter – In light of the complaint of Mr. Epstein's counsel regarding my earlier notification language, I have revised it as follows:

“In addition, there has been litigation between the United States and two other victims regarding the disclosure of the entire agreement between the United States and Mr. Epstein. Mr. Josefsberg can provide further guidance on this issue or, if Ms. [REDACTED] has selected another attorney to represent her in the context of civil litigation, that attorney can review the Court's order in the matter of *In re Jane Does 1 and 2*, S.D. Fl. Court File No. 08-80736-CIV-MARRA, and advise her accordingly.”

What do you think? This was my original language:

“In addition, a judge has ordered that the United States make available to any designated victim (and/or her attorney) a copy of the actual agreement between Mr. Epstein and the United States, so long as the victim (and/or her attorney) reviews, signs, and agrees to be bound by a Protective Order entered by the Court. If Ms. [REDACTED] would like to review the Agreement, please let me know, and I will forward a copy of the Protective Order for her signature.”

Thanks.

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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Tuesday, September 02, 2008 12:44 PM
To: Lee, Dexter (USAFLS)
Cc: Senior, Robert (USAFLS); Sloman, Jeff (USAFLS)
Subject: RE: Revised Notification to Victims regarding right to see Epstein agreement.

Hi Dexter – Jay’s complaint was that we were “advertising” the fact that the victims are now entitled to see the agreement, and he saw that as a breach of the confidentiality clause. I agree with you that this is just an extra step that the victims have to take to get the agreement, but I think it balances Epstein’s complaints with the Court’s desire that we inform the victims.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

From: Lee, Dexter (USAFLS)
Sent: Tuesday, September 02, 2008 12:36 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Senior, Robert (USAFLS); Sloman, Jeff (USAFLS)
Subject: RE: Revised Notification to Victims regarding right to see Epstein agreement.

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Dexter

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Sent: Tuesday, September 02, 2008 12:19 PM
To: Lee, Dexter (USAFLS)
Cc: Senior, Robert (USAFLS); Sloman, Jeff (USAFLS)
Subject: Revised Notification to Victims regarding right to see Epstein agreement.

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Assistant U.S. Attorney

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West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

40

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Wednesday, September 17, 2008 10:50 AM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)
Cc: Garcia, Rolando (USAFLS)
Subject: FW: State █. Jeffrey Epstein

Will it never end? Barry Krischer sent the e-mail below to Rolando this morning. How would you like to handle this issue?

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

From: Garcia, Rolando (USAFLS)
Sent: Wednesday, September 17, 2008 10:48 AM
To: Villafana, Ann Marie C. (USAFLS)
Subject: FW: State █. Jeffrey Epstein

From: Barry Krischer [mailto:Bkrische@sa15.state.fl.us]
Sent: Wednesday, September 17, 2008 10:46 AM
To: Garcia, Rolando (USAFLS)
Subject: FW: State █. Jeffrey Epstein

Please advise how you would like us to proceed. The agreement referred to is the Federal Non-Prosecution agreement sealed in the file by the judge at the time of the Epstein plea.

From: Lanna Belohlavek
Sent: Tuesday, September 16, 2008 4:21 PM
To: Barry Krischer
Subject: FW: State █. Jeffrey Epstein

How to proceed? Lanna

From: Bryce Albu [mailto:bryce@reederandreeder.com]
Sent: Tuesday, September 16, 2008 3:52 PM
To: Lanna Belohlavek
Cc: Martin Reeder
Subject: State █. Jeffrey Epstein

Ms. Belohlavek,

We represent The Palm Beach Daily News. The newspaper recently discovered that a non-prosecution agreement (and an addendum thereto) was filed under seal pursuant to an agreed order entered in the above-referenced case. Because the records are sealed, we cannot assess the propriety of the decision to seal them or even whether the newspaper is interested in the information contained therein. I was hoping you would discuss with me the nature of the agreement and the basis for sealing it so that we can advise our client on whether it should pursue an order unsealing the agreement. Please call me at your earliest convenience.

Very truly yours,

C. Bryce Albu
Reeder & Reeder P.A.
250 S. Central Blvd., Suite 200
Jupiter, FL 33458
Direct Dial: (561) 575-9721
Facsimile: (561) 575-9765
bryce@reederandreeder.com

Villafana, Ann Marie C. (USAFLS)

From: Sloman, Jeff (USAFLS) <JSloman@usa.doj.gov>
Sent: Wednesday, September 17, 2008 11:22 AM
To: Villafana, Ann Marie C. (USAFLS); Acosta, Alex (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)
Cc: Garcia, Rolando (USAFLS)
Subject: RE: State █ Jeffrey Epstein

I have reviewed the Agreement. We have no obligation to seek its continued sealing. Per my conversation with Marie, she is going to notify Jack Goldberger that he has yet to file the remainder of the Agreement and that the unsealing issue is between him/Epstein and the SAO's office.

From: Villafana, Ann Marie C. (USAFLS)
Sent: Wednesday, September 17, 2008 10:50 AM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)
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From: Lanna Belohlavek
Sent: Tuesday, September 16, 2008 4:21 PM
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How to proceed? Lanna

From: Bryce Albu [mailto:bryce@reederandreeder.com]
Sent: Tuesday, September 16, 2008 3:52 PM
To: Lanna Belohlavek
Cc: Martin Reeder
Subject: State v. Jeffrey Epstein

Ms. Belohlavek,

We represent The Palm Beach Daily News. The newspaper recently discovered that a non-prosecution agreement (and an addendum thereto) was filed under seal pursuant to an agreed order entered in the above-referenced case. Because the records are sealed, we cannot assess the propriety of the decision to seal them or even whether the newspaper is interested in the information contained therein. I was hoping you would discuss with me the nature of the agreement and the basis for sealing it so that we can advise our client on whether it should pursue an order unsealing the agreement. Please call me at your earliest convenience.

Very truly yours,

C. Bryce Albu
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250 S. Central Blvd., Suite 200
Jupiter, FL 33458
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Villafana, Ann Marie C. (USAFLS)

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Sent: Wednesday, September 17, 2008 11:25 AM
To: Villafana, Ann Marie C. (USAFLS); Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)
Cc: Garcia, Rolando (USAFLS)
Subject: RE: State █ Jeffrey Epstein

Given the non-disclosure agreement, aren't we left with telling the SAO that we have agreed to not disclose so it wouldn't be proper for us to now agree that unsealing is appropriate. Ultimately, it's the SAO's call because they will get the Florida Public Records Act request and they were not a signatory to the agreement. We should also notify defense counsel so that they can take whatever actions they believe are appropriate. Wait till others have had a chance to weigh in on this issue.

From: Villafana, Ann Marie C. (USAFLS)
Sent: Wednesday, September 17, 2008 10:50 AM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)
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Subject: FW: State █ Jeffrey Epstein

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From: Senior, Robert (USAFLS) <RSenior@usa.doj.gov>
Sent: Wednesday, September 17, 2008 11:26 AM
To: Sloman, Jeff (USAFLS); Villafana, Ann Marie C. (USAFLS); Acosta, Alex (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)
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Nothing like emails that cross in the wind.

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Ms. Belohlavek,

We represent The Palm Beach Daily News. The newspaper recently discovered that a non-prosecution agreement (and an addendum thereto) was filed under seal pursuant to an agreed order entered in the above-referenced case. Because the records are sealed, we cannot assess the propriety of the decision to seal them or even whether the newspaper is interested in the information contained therein. I was hoping you would discuss with me the nature of the agreement and the basis for sealing it so that we can advise our client on whether it should pursue an order unsealing the agreement. Please call me at your earliest convenience.

Very truly yours,

C. Bryce Albu
Reeder & Reeder P.A.
250 S. Central Blvd., Suite 200
Jupiter, FL 33458
Direct Dial: (561) 575-9721
Facsimile: (561) 575-9765
bryce@reederandreeder.com

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Wednesday, September 17, 2008 10:43 AM
To: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS); Senior, Robert (USAFLS); Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)
Subject: Communications from Jeff Herman re Epstein matter
Attachments: 080916 Ltr from Herman to Josefsberg.pdf; 080915 Ltr from Herman to Villafana.pdf

41

Hi all – Today, Jeff and Dexter should receive hard copies of a letter I received from Jeff Herman yesterday. (Karen received her copy yesterday.) I had not intended to do much with it, but today I received a fax from Bob Josefsberg attaching a letter that he had received from Herman. I have scanned and attached both of the letters to this e-mail. In light of the two letters, I would like to get permission to contact the Florida Bar for a written staff opinion on the issue. I could only ask them to address the issue of my contacting the victims, but I recommend that we ask Bob if he wants to submit a written request at the same time regarding whether he can contact the victims.

I will note that, for those girls who we knew were represented, all communications were directed to their attorneys, and Bob J. knows that he cannot contact those girls directly.

Can you let me know if you have any objection to this? And, Dexter, are you willing to review my written request before it goes out?

Thank you.

<<080916 Ltr from Herman to Josefsberg.pdf>> <<080915 Ltr from Herman to Villafana.pdf>>

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

ERMAN & MERMELSTEIN PA

ATTORNEYS AT LAW

Jeffrey M. Herman
 Tel 305-931-2200
 Fax 305-931-0877
 jherman@hermanlaw.com

18205 Biscayne Boulevard
 Suite 2218
 Miami, Florida 33160
 www.hermanlaw.com

FAX TRANSMITTAL

FROM	DATE	NO. OF PAGES
Jeffrey M. Herman	September 16, 2008	3

TO	COMPANY	FAX NUMBER
A. Marie Villafana, Esq.	U.S. Attorney's Office	(561)820-8777

MESSAGE

RE: Jane Does 2-5 █ Jeffrey Epstein

Please see enclosed correspondence.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

HERMAN & MERMELSTEIN PA

ATTORNEYS AT LAW

Jeffrey M. Herman
Tel 305.931.2200
Fax 305.931.0877
jherman@hermanlaw.com

18205 Biscayne Blvd.
Suite 2218
Miami, Florida 33160
www.hermanlaw.com

September 16, 2008

Via Fax and Regular Mail

A. Marie Villafaña, Esq.
Assistant U.S. Attorney
500 Australian Ave., Fourth Floor
West Palm Beach, FL 33401

Re: *Jeffrey Epstein*

Dear Ms. Villafaña:

This concerns your letters to us and to sexual assault victims of Mr. Epstein dated September 2, 2008. Please be advised that we strenuously object to your letters on various grounds, and believe that they are in violation of the Florida Bar Rules.

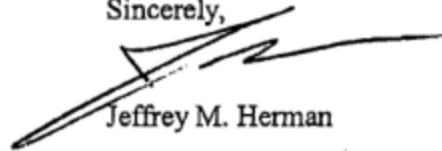
First, your letters attempt to steer the victims to a particular attorney, Mr. Josefsberg, and advise them that Mr. Josefsberg will be making an unsolicited contact to them in the next two weeks. This contact with prospective clients and solicitation reflected in your letters is contrary to Fla. Bar. Rule 4-7.4. Additionally, your letters are misleading in the following respects: (1) the action advocated to the victims in paragraph 2 refers generally to the victims' waiver of "any other claim for damages", failing to advise them that this waiver may include a valuable claim to punitive damages against an alleged billionaire; and (2) the letters imply in paragraph 3 that Mr. Epstein's agreement to pay attorney fees is a significant concession, when in fact a victim is entitled to reasonable attorneys' fees under the Statute upon proof of a violation, irrespective of Mr. Epstein's agreement.

We accordingly demand that the U.S. Attorneys' office immediately cease and desist from directing unrepresented victims into unsolicited attorney contacts and misleading them about their rights in claims against Mr. Epstein. We demand that you instruct Mr. Josefsberg not to solicit victims, and to send letters to unrepresented victims correcting the misleading statements contained in your September 2, 2008 letters.

A. Marie Villafaña, Esq.
September 16, 2008
Page 2

Finally, we demand that you make no contact with our clients directly, and contact them only through our office. Our clients include [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], Garcia, Faith Pentek and [REDACTED] Alvarez.

Sincerely,



Jeffrey M. Herman

JMH/lr

PODHURST ORSECK, P.A.

City National Bank Building, Suite 800
25 West Flagler Street
Miami, FL 33130

Please deliver the following page(s) to:

AUSA A. Maria Villafana (561) 820-8777
Michael R. Tein, Esq. (305) 442-6744
Roy Black, Esq. (305) 358-2006

File No. Epstein

From: Robert C. Josefsberg, Esq.

Date: 9/16/08

Number of page(s): (Including cover page)

Our Fax Number: (305) 358-2382

MESSAGE:

**If you do not receive all pages, please contact us immediately at:
(305) 358-2800 - Extension 3241**

THIS IS A PRIVILEGED AND CONFIDENTIAL COMMUNICATION. IF YOU ARE NOT AN INTENDED RECIPIENT, YOU SHOULD: (1) REPLY TO SENDER; (2) DESTROY THIS COMMUNICATION ENTIRELY, INCLUDING DELETION OF ALL ASSOCIATED TEXT FILES FROM ALL INDIVIDUAL AND NETWORK STORAGE DEVICES; AND (3) REFRAIN FROM COPYING OR DISSEMINATING THIS COMMUNICATION BY ANY MEANS WHATSOEVER. THANK YOU.

Podhurst Orseck

TRIAL & APPELLATE LAWYERS

Aaron S. Podhurst
Robert C. Josefsberg
Joel D. [REDACTED]
Steven C. Marks
Victor M. Diaz, Jr.
Katherine W. Ezell
Stephen F. Rosenthal
Ricardo M. Martinez-Cid
Ramon A. Rasco
Alexander T. Rundlet
John Gravante, III

Robert Orseck (1934-1978)

Walter H. Beckham, Jr.
Karen Podhurst Dem
Of Counsel

September 15, 2008

VIA FACSIMILE

AUSA A. Marie Villafana
U.S. Attorney's Office
Southern District of Florida
500 S. Australian Avenue, Suite 400
West Palm Beach, FL 33401

Michael R. Tein, Esq.
Lewis Tein, P.L.
3059 Grand Avenue, Suite 340
Coconut Grove, FL 33133-5166

Roy Black, Esq.
Black, Srebnick, et al.
201 S. Biscayne Blvd., Suite 1300
Miami, FL 33131

Re: Jeffrey Epstein

Dear Ms. Villafana and Gentlemen:

Enclosed please find a letter received today from Jeffrey Herman. Before I start wasting my time and Mr. Epstein's money researching the ethical issues, I would like to know if any of you looked into Rule 4-7.4. Until I am advised to the contrary, I shall assume Mr. Herman is incorrect, but I would like this issue resolved as soon as possible.

Very truly yours,


Robert C. Josefsberg

RCJ/bp

Enclosure

cc: Katherine W. Ezell, Esq.
Amy Ederi, Esq.

Herman & Mermelstein, P

10:50:14 a.m.

16-09-2008

2/2

KE ✓
RCJ —
CC AJE —

HERMAN & MERMELSTEIN PA

ATTORNEYS AT LAW

Jeffrey M. Herman
Tel 305.931.2200
Fax 305.931.0877
jherman@hermanlaw.com

18205 Biscayne Blvd.
Suite 2218
Miami, Florida 33160
www.hermanlaw.com

September 16, 2008

Via Fax and Regular Mail

Robert Josefsberg, Esq.
Podhurst Orseck P A
25 W Flagler St Ste 800
Miami, Florida 331301720

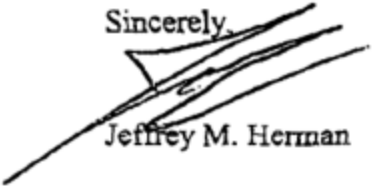
Re: *Jeffrey Epstein*

Dear Mr. Josefsberg:

We are in receipt of letters dated September 2, 2008 from Assistant U.S. Attorney A. Marie Villafaña that were sent to sexual assault victims of Jeffrey Epstein. That letter advises victims that you will be contacting them regarding civil claims against Epstein. Please be advised that we strenuously object to these letters and the contemplated unsolicited contacts with victims. Please be further advised that we represent the following victims in claims against Jeffrey Epstein, and direct that you make no contact with any of them, except through our office: Michele [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED] Garcia, Faith Pentek and [REDACTED] Alvarez.

We further believe that Mr. Epstein's plan for you to represent victims, and for the Assistant U.S. Attorney to assist you in soliciting them, is in violation of the Florida Bar Rules, particularly Rule 4-7.4. We urge you not to participate in these activities.

Sincerely,



Jeffrey M. Herman

JMH/r

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Monday, September 29, 2008 12:05 PM
To: Ethics Opinions
Subject: FW: Request for Written Staff Opinion ATTN Elizabeth Clark Tarbert
Attachments: Florida Bar Ltr re Ethics Opinion.pdf; Final Victim Notification -- Sample.pdf; Final Victim Notification Represented Sample.pdf

2

Dear Ms. Tarbert – Here is my earlier e-mail.

Thank you.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

From: Villafana, Ann Marie C. (USAFLS)
Sent: Thursday, September 18, 2008 7:21 PM
To: eto@flabar.org
Cc: Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS)
Subject: Request for Written Staff Opinion

Dear Sir or Madam: Please see the attached correspondence. Thank you for your assistance.

<<Florida Bar Ltr re Ethics Opinion.pdf>>

<<Final Victim Notification -- Sample.pdf>>

<<Final Victim Notification Represented Sample.pdf>>

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777



U.S. Department of Justice

*United States Attorney
Southern District of Florida*

*500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777*

September 18, 2008

VIA ELECTRONIC MAIL

Ethics Counsel
The Florida Bar
651 East Jefferson Street
Tallahassee, FL 32399-2300

CONFIDENTIAL¹

Re: Request for Written Staff Opinion

Dear Sir or Madam:

I am an Assistant United States Attorney and a member in good standing of the Florida Bar. I am writing to request a written staff opinion on an issue related to contact with unrepresented parties.

As part of my employment, I have investigated and presented for prosecution a case involving the sexual abuse of several young women who were teenagers at the time of the abuse. There is a federal statute, 18 U.S.C. § 2255, that provides a civil cause of action for victims of the federal crimes that I investigated, which sets a minimum of \$150,000 in damages.

At the request of counsel for the putative defendant, the U.S. Attorney's Office entered into pre-indictment plea negotiations that resulted in the signing of a Non-Prosecution Agreement ("Agreement"). The Agreement called for the putative defendant to plead guilty to state criminal offenses that would result in the defendant's designation as a sex offender. The Agreement also sought to place the victims in the same position where they would have been if the defendant had been convicted of the federal offenses. Accordingly, the Agreement required the defendant to agree to waive challenges to liability and damages related to claims brought pursuant to 18 U.S.C. § 2255. In light of the large

¹In addition to the general rules regarding confidentiality, this letter relates to a confidential Non-Prosecution Agreement, and, accordingly, I would ask that the information contained herein remain confidential.

number of young, vulnerable, and unsophisticated victims, the U.S. Attorney's Office also included agreement terms requiring the defendant to pay for the services of an independent attorney-representative, whose services would be offered (without obligation) to the victims free of charge. The U.S. Attorney's Office asked the former Chief United States District Judge to serve *pro bono* as a Special Master for the selection of the attorney-representative. The Special Master selected Robert Josefsberg and his firm, Podhurst Orseck, to serve as the attorney-representative.

Under federal law, I have several obligations related to victims, including an obligation to confer with them and advise them of resolution of their matters. *See, e.g.*, 18 U.S.C. § 3771. Accordingly, I have prepared a letter informing the victims of how the matter was resolved, including the appointment of Mr. Josefsberg. The letter advises the victims that Mr. Josefsberg will be in contact with them shortly and invites the victims to contact Mr. Josefsberg directly if they so choose. A copy of the letter, with some identifying information redacted, is attached. This letter was reviewed by attorneys for the defendant before it was sent.

During the pendency of the investigation, some of the victims retained civil attorneys to represent them in civil suits against the defendant. For those victims whom I knew to be represented, I sent a modified version of the letter to the attorney, rather than to the victim, and asked the attorney to convey the substance of the letter to the victim. In that letter, the discussion of contact with Mr. Josefsberg made clear that Mr. Josefsberg's contact would be with the attorney only, not directly with the victim. A copy of the letter for those victims already represented by counsel also is attached.

I understand that you do not opine on past events, and some of these letters already have been distributed, but several victims have yet to be notified, and I need guidance on how to proceed.

Unbeknownst to me, one victim had obtained counsel prior to receiving my letter. I have received a letter from that attorney asserting that my contact with the victims violates Florida Bar Rule 4-7.4. I have reviewed the rule and do not understand how it would apply to me because: (1) I am not soliciting employment from a prospective client; (2) I am not seeking pecuniary gain; (3) none of the victims has expressed a desire not to receive communications from me; (4) the letter does not involve coercion, duress, fraud, overreaching, harassment, intimidation, or undue influence; (5) the letter is not false, fraudulent, misleading, or deceptive; and (6) there is nothing about the mental or physical

ETHICS COUNSEL
FLORIDA BAR
SEPTEMBER 18, 2008
PAGE 3

states of the victims that leads me to believe that they cannot review and understand the information that is included in the letter.

Can you provide me with a written opinion on this issue so that I may revise the letters that have not yet been distributed if you deem it necessary?

I understand that the same attorney has made contact with Mr. Josefsberg, also accusing him of violating the same rule. Since the benefit to these victims will be lost if Mr. Josefsberg cannot advise them in detail of their rights under the Agreement, I understand that his firm will be contacting your Office for similar guidance.

Please let me know if you need any additional information, and thank you for your kind assistance with this matter.

Sincerely,

R. Alexander Acosta
United States Attorney

By: *s/A. Marie Villafaña*
A. Marie Villafaña
Assistant United States Attorney

cc: Dexter Lee, AUSA and Professional Responsibility Officer
Karen Atkinson, AUSA



U.S. Department of Justice

*United States Attorney
Southern District of Florida*

*500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777*

[DATE]

[Victim name and address]

Re: **[Defendant]/[Victim]: NOTIFICATION OF IDENTIFIED
VICTIM**

Dear Ms. [Victim]:

By virtue of this letter, the United States Attorney's Office for the Southern District of Florida provides you with the following notice because you are an identified victim of a federal offense.

On June 30, 2008, [Defendant] entered a plea of guilty to violations of Florida Statutes Sections [insert case information] and was sentenced to a term of twelve months' imprisonment to be followed by an additional six months' imprisonment, followed by twelve months of Community Control 1, with conditions of community confinement imposed by the Court.

In light of the entry of the guilty plea and sentence, the United States has agreed to defer federal prosecution in favor of this state plea and sentence, subject to certain conditions, including the following:

1. An independent Special Master was assigned the task of selecting an attorney representative to represent the victims, including you, in connection with civil actions between the victims and [Defendant.] The Special Master selected Robert Josefsberg, Esq. of the firm Podhurst Orseck, P.A., a highly-respected and experienced attorney. You are not obligated to use Mr. Josefsberg as your civil attorney, but, as explained in greater detail below, Mr. Josefsberg's services will be provided at no cost to you because [Defendant] is obligated to pay the costs and fees of the attorney-representative. Also, [Defendant] and his attorneys can only contact you via Mr. Josefsberg, assuming that you would like Mr. Josefsberg to serve as your attorney.

2. If you elect to file suit against [Defendant] pursuant to Title 18, United States Code, Section 2255, [Defendant] will not contest the jurisdiction of the United States District Court for the Southern District of Florida over his person and/or the subject matter, and [Defendant] waives his right to contest liability and also waives his right to contest damages up to an amount as agreed to between you and [Defendant], so long as you elect to proceed exclusively under 18 U.S.C. § 2255, and you waive any other claim for damages, whether pursuant to state, federal, or common law. Notwithstanding this waiver, [Defendant's] agreement with the United States, his waivers and failure to contest liability and such damages in any suit are not to be construed as an admission of any criminal or civil liability.
3. As stated above, [Defendant] has agreed to pay the fees of the attorney representative selected by the independent third party. This provision, however, shall not obligate [Defendant] to pay the fees and costs of contested litigation filed against him. Thus, if after consideration of potential settlements, you and Mr. Josefsberg elect to file a contested lawsuit pursuant to 18 U.S.C. § 2255 or you elect to pursue any other contested remedy, the obligation to pay the costs of the attorney representative, as opposed to any statutory or other obligations to pay reasonable attorneys fees and costs such as those contained in Section 2255, shall cease.

Mr. Josefsberg will be contacting you within the next two weeks to explain these terms. If you would like to contact Mr. Josefsberg directly, he can be reached at 305 358-2800.

If you have already selected other counsel to represent you, or if you do so in the future, and you decide to file a claim against [Defendant], [Defendant's] attorney, [attorney name], asks that you have your attorney contact him at [firm name and address].

In addition, there has been litigation between the United States and two other victims regarding the disclosure of the entire agreement between the United States and [defendant]. Mr. Josefsberg can provide further guidance on this issue, or if you select another attorney to represent you, that attorney can review the Court's order in the matter of *In re Jane Does 1 and 2*, United States District Court for the Southern District of Florida Court File No. 08-

[VICTIM'S NAME]
NOTIFICATION OF IDENTIFIED VICTIM
[DATE]
PAGE 3 OF 3

80736-CIV-MARRA.

Please understand that neither the U.S. Attorney's Office nor the Federal Bureau of Investigation can take part in or otherwise assist in civil litigation. Thank you for all of your assistance during the course of the federal and state investigations and please accept the heartfelt regards of myself and Special Agents Kuyrkendall, Slater, and Richards for your health and well-being.

Sincerely,

R. Alexander Acosta
United States Attorney

By:

A. Marie Villafaña
Assistant United States Attorney

cc: Robert Josefsberg, Esq.
[Defendant's attorney]



U.S. Department of Justice

*United States Attorney
Southern District of Florida*

*500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
Facsimile: (561) 820-8777*

[Date]

VIA UNITED STATES MAIL

[Name and address of victim's attorney]

Re: **[Defendant]/[Victim]: NOTIFICATION OF IDENTIFIED
VICTIM**

Dear Mr. [Attorney]:

By virtue of this letter, the United States Attorney's Office for the Southern District of Florida asks that you provide the following notice to your client, [victim], who has been identified as a victim of a federal offense.

On June 30, 2008, [defendant] entered a plea of guilty to violations of Florida Statutes Sections [case information] and was sentenced to a term of twelve months' imprisonment to be followed by an additional six months' imprisonment, followed by twelve months of Community Control 1, with conditions of community confinement imposed by the Court.

In light of the entry of the guilty plea and sentence, the United States has agreed to defer federal prosecution in favor of this state plea and sentence, subject to certain conditions, including the following:

1. An independent Special Master was assigned the task of selecting an attorney representative to represent the victims in connection with civil litigation between the victims and [defendant]. The Special Master selected Robert Josefsberg, Esq. of the firm Podhurst Orseck, P.A., a highly-respected and experienced attorney. [The victim] is not obligated to use Mr. Josefsberg as her civil attorney, but, as explained in greater detail below, Mr. Josefsberg's services will be provided at no cost to [the victim] because [defendant] is obligated to pay the costs and fees of the attorney-representative. Also, [defendant] and his attorneys

EFTA00190718

can only contact [the victim] via Mr. Josefsberg, assuming that she would like Mr. Josefsberg to serve as her attorney.

2. If [the victim] elects to file suit against [the defendant] pursuant to Title 18, United States Code, Section 2255, [defendant] will not contest the jurisdiction of the United States District Court for the Southern District of Florida over his person and/or the subject matter, and [defendant] waives his right to contest liability and also waives his right to contest damages up to an amount as agreed to between [the victim] and [defendant], so long as [the victim] elects to proceed exclusively under 18 U.S.C. § 2255, and she waives any other claim for damages, whether pursuant to state, federal, or common law. Notwithstanding this waiver, [defendant's] agreement with the United States, his waivers and failure to contest liability and such damages in any suit are not to be construed as an admission of any criminal or civil liability.
3. As stated above, [defendant] has agreed to pay the fees of the attorney representative selected by the independent third party. This provision, however, shall not obligate [defendant] to pay the fees and costs of contested litigation filed against him. Thus, if after consideration of potential settlements, [the victim] and Mr. Josefsberg elect to file a contested lawsuit pursuant to 18 U.S.C. § 2255 or she elects to pursue any other contested remedy, the obligation to pay the costs of the attorney representative, as opposed to any statutory or other obligations to pay reasonable attorneys fees and costs such as those contained in Section 2255, shall cease.

Mr. Josefsberg will be contacting you within the next two weeks to explain these terms and to determine if he may contact [the victim] directly. If you would like to contact Mr. Josefsberg directly, he can be reached at 305 358-2800.

If [the victim] has selected other counsel to represent her, or if she does so in the future, and she decides to pursue a claim against [the defendant,] his attorney, [name] asks that he be contacted at [firm name and address].

In addition, there has been litigation between the United States and two other victims regarding the disclosure of the entire agreement between the United States and [defendant]. Mr. Josefsberg can provide further guidance on this issue, or if [the victim] selects another

[NAME OF VICTIM'S ATTORNEY]
AMENDED NOTIFICATION OF IDENTIFIED VICTIM [NAME]
[DATE]
PAGE 3 OF 3

attorney to represent her, that attorney can review the Court's order in the matter of *In re Jane Does 1 and 2*, S.D. Fl. Court File No. 08-80736-CIV-MARRA.

As I stated in my earlier notification, please understand that neither the U.S. Attorney's Office nor the Federal Bureau of Investigation can take part in or otherwise assist in civil litigation, but we again thank you and your client for all of her assistance during the course of this investigation.

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

By:

A. MARIE VILLAFANA
ASSISTANT U.S. ATTORNEY

cc: Robert Josefsberg, Esq.
[Defendant's attorney's name]

Villafana, Ann Marie C. (USAFLS)

From: MAIL <MAIL@flabar.org>
Sent: Monday, September 29, 2008 1:33 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: FW: Request for Written Staff Opinion ATTN Elizabeth Clark Tarbert
Attachments: graycol.gif; Florida Bar Ltr re Ethics Opinion.pdf; Final Victim Notification -- Sample.pdf; Final Victim Notification Represented Sample.pdf

Dear Ms. Villafana:

Thank you for re-sending the inquiry. Most inquiries receive a reply within 3-5 weeks.

Sincerely,

Elizabeth Clark Tarbert
Ethics Counsel

▼ "Villafana, Ann Marie C. (USAFLS)" <Ann.Marie.C.Villafana@usdoj.gov> on 09/29/2008 12:05:05 PM

To: "Ethics Opinions" <etopinion@flabar.org>
cc:
Subject: FW: Request for Written Staff Opinion ATTN Elizabeth Clark Tarbert

Staff:

Dear Ms. Tarbert – Here is my earlier e-mail.

Thank you.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

From: Villafana, Ann Marie C. (USAFLS)
Sent: Thursday, September 18, 2008 7:21 PM
To: eto@flabar.org
Cc: Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS)
Subject: Request for Written Staff Opinion

Dear Sir or Madam: Please see the attached correspondence. Thank you for your assistance.

<<Florida Bar Ltr re Ethics Opinion.pdf>>

<<Final Victim Notification -- Sample.pdf>>

<<Final Victim Notification Represented Sample.pdf>>

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777 (See attached file: *Florida Bar Ltr re Ethics Opinion.pdf*) (See attached file: *Final Victim Notification -- Sample.pdf*) (See attached file: *Final Victim Notification Represented Sample.pdf*)

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Monday, October 20, 2008 4:48 PM
To: Lee, Dexter (USAFLS)
Cc: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS)
Subject: RE: Draft Response Letter to Edwards' October 9, 2008 letter

43

Hi Dexter – I am following up on my e-mail from Saturday night.

The only concern I have is with the third sentence in your second paragraph: “Additionally, the meetings with Jane Does #1 and #2, in which the Non-Prosecution Agreement was discussed, also reflected the government’s belief that the December 19, 2007 letter was part of the Agreement.” I think that you are referring to the meeting that the agents had with Jane Doe #1 in October 2007. No one ever met with Jane Doe #2 because she was represented by counsel at the time. During the meeting with Jane Doe #1 in October, the December letter was not discussed because it was not in existence at the time.

This is what I wrote in footnote 2 of our response to the Motion to Unseal: “Furthermore, petitioners aver that the October 2007 disclosure to Jane Doe #1 contained inaccurate information, but that disclosure was made before the December 2007 letter and, therefore, did not include anything related to the U.S. Attorney’s now-defunct proposed amendment to the Agreement.”

You may just want to refer him to that footnote, or you can edit the language as you see fit.

Thank you!

A. Marie Villafana

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

From: Lee, Dexter (USAFLS)
Sent: Saturday, October 18, 2008 1:29 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS)
Subject: Draft Response Letter to Edwards' October 9, 2008 letter

Marie,

Attached please find a draft response letter to Brad Edwards' October 9, 2008 letter to me. I was tempted to also include a response to his October 15, 2008 letter to me, which he filed with the court, which I have yet to

receive in the U.S. Mail. However, which version of 18 U.S.C. 2255 applies (\$50,000 vs. \$150,000) seems to be a question of retroactivity of the amendment. This is a civil remedy, so there's no ex post facto issue. The question is whether Congress intended the higher damages to apply to acts of sexual abuse occurring before the effective date of the amendment to section 2255.

Since this involves a statutory interpretation issue, I am reluctant to start offering opinions on whether a breach of the Agreement occurs when Epstein argues that the current version of section 2255, with its floor of \$150,000 in damages, does not apply to him. He may have agreed in negotiations that the \$150,000 floor did apply, thereby waiving any retroactivity argument, just as he waived the jurisdictional argument that he was never convicted of a enumerated offense in federal court under 18 U.S.C. 2255. Thanks.

Dexter

<< File: edwards_resp_ltr_100908.wpd >>

Villafana, Ann Marie C. (USAFLS)

From: Lee, Dexter (USAFLS) <DLee@usa.doj.gov>
Sent: Monday, October 20, 2008 4:51 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS)
Subject: RE: Draft Response Letter to Edwards' October 9, 2008 letter

Marie,

If the only meeting between the FBI agents and Jane Doe # 1 occurred in October 2007, then she could not have been told about the December 2007 letter, since it had yet to occur. Am I correct in assuming that the December 2007 part of the Agreement was made known to Jane Does # 1 and # 2 in the victim notification letters sent out at the same time we filed our response to the petition, July 9, 2008? Thanks.

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From: Villafana, Ann Marie C. (USAFLS)
Sent: Monday, October 20, 2008 4:48 PM
To: Lee, Dexter (USAFLS)
Cc: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS)
Subject: RE: Draft Response Letter to Edwards' October 9, 2008 letter

Hi Dexter – I am following up on my e-mail from Saturday night.

The only concern I have is with the third sentence in your second paragraph: “Additionally, the meetings with Jane Does #1 and #2, in which the Non-Prosecution Agreement was discussed, also reflected the government’s belief that the December 19, 2007 letter was part of the Agreement.” I think that you are referring to the meeting that the agents had with Jane Doe #1 in October 2007. No one ever met with Jane Doe #2 because she was represented by counsel at the time. During the meeting with Jane Doe #1 in October, the December letter was not discussed because it was not in existence at the time.

This is what I wrote in footnote 2 of our response to the Motion to Unseal: “Furthermore, petitioners aver that the October 2007 disclosure to Jane Doe #1 contained inaccurate information, but that disclosure was made before the December 2007 letter and, therefore, did not include anything related to the U.S. Attorney’s now-defunct proposed amendment to the Agreement.”

You may just want to refer him to that footnote, or you can edit the language as you see fit.

Thank you!

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

From: Lee, Dexter (USAFLS)
Sent: Saturday, October 18, 2008 1:29 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS)
Subject: Draft Response Letter to Edwards' October 9, 2008 letter

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<< File: edwards_resp_ltr_100908.wpd >>

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Monday, October 20, 2008 5:02 PM
To: Lee, Dexter (USAFLS)
Cc: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS)
Subject: RE: Draft Response Letter to Edwards' October 9, 2008 letter

Hi Dexter – We sent out two sets of victim notifications to Jane Doe #1, which were sent to Brad Edwards as counsel for Jane Doe #1 (again, we never sent notifications to Jane Doe #2 because of her false exculpatory statements, which kept us from including her in any charged conduct).

The first notification was sent on July 9th and contained the “incorrect” info (i.e., the December 2007 info).

The second notification was sent on September 3rd, with the correct info.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

From: Lee, Dexter (USAFLS)
Sent: Monday, October 20, 2008 4:51 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Acosta, Alex (USAFLS); Sloman, Jeff (USAFLS)
Subject: RE: Draft Response Letter to Edwards' October 9, 2008 letter

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Dexter

<< File: edwards_resp_itr_100908.wpd >>

Villafana, Ann Marie C. (USAFLS)

From: MAIL <MAIL@flabar.org>
Sent: Tuesday, November 04, 2008 12:22 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: FW: Request for Written Staff Opinion ATTN Elizabeth Clark Tarbert; Logbook # 28386
Attachments: graycol.gif; 28386gef denial.doc; Florida Bar Ltr re Ethics Opinion.pdf; Final Victim Notification -- Sample.pdf; Final Victim Notification Represented Sample.pdf

Dear Ms. Villafana:

My letter in response to your inquiry is attached below. This letter will be faxed and mailed to you later today.

If you have questions, please do not hesitate to call me at 850-561-5815 or on the hotline at 800-235-8619.

Sincerely,

Gail E. Ferguson
Assistant Ethics Counsel

(See attached file: 28386gef denial.doc)

▼ "Villafana, Ann Marie C. (USAFLS)" <Ann.Marie.C.Villafana@usdoj.gov> on 09/29/2008 12:05:05 PM

To: "Ethics Opinions" <etopinion@flabar.org>

cc:

Subject: FW: Request for Written Staff Opinion ATTN Elizabeth Clark Tarbert; Logbook # 28386

Staff: Gail Ferguson/The Florida Bar

Dear Ms. Tarbert – Here is my earlier e-mail.

Thank you.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

From: Villafana, Ann Marie C. (USAFLS)
Sent: Thursday, September 18, 2008 7:21 PM
To: eto@flabar.org
Cc: Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS)
Subject: Request for Written Staff Opinion

Dear Sir or Madam: Please see the attached correspondence. Thank you for your assistance.

<<Florida Bar Ltr re Ethics Opinion.pdf>>

<<Final Victim Notification -- Sample.pdf>>

<<Final Victim Notification Represented Sample.pdf>>

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777(See attached file: *Florida Bar Ltr re Ethics Opinion.pdf*)(See attached file: *Final Victim Notification -- Sample.pdf*)(See attached file: *Final Victim Notification Represented Sample.pdf*)

November 4, 2008

VIA FACSIMILE (561) 820-8777
& U.S. MAIL

Ms. A. Marie Villafana
Assistant United States Attorney
Southern District of Florida
500 South Australian Avenue, Suite 400
West Palm Beach, Florida 33401

Re: Ethics Inquiry 28386

Dear Ms. Villafana:

I received your request for an advisory ethics opinion dated September 18, 2008. You ask whether you violated Rule 4-7.4, Rules Regulating The Florida Bar, by complying with your statutory obligation to contact victims to inform them of the resolution of their matters and by complying with a court order to advise them that the services of an independent attorney-representative would be offered to them free of charge.

Unfortunately, I cannot provide the opinion you requested, because you are asking about your past conduct and legal questions that relate to your obligations under federal statutes and a court order. Florida Bar ethics attorneys are only authorized to provide opinions regarding an attorney's own future conduct. We are not authorized to render opinions concerning an attorney's past conduct or legal questions. See Procedures 2 (a)(1)(B) and 2(a)(1)(D), Florida Bar Procedures for Ruling on Questions of Ethics (www.floridabar.org).

Although I cannot provide an opinion, I can discuss the relevant rules. Generally speaking, Rule 4-7.4 (a), prohibits an attorney from soliciting clients in person or through an agent, or in writing without complying with the attorney advertising rules, if the lawyer's primary motive is pecuniary gain, and states:

(a) Solicitation. Except as provided in subdivision (b) of this rule, a lawyer shall not solicit professional employment from a prospective client with whom the lawyer has no family or prior professional relationship, in person or otherwise, *when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain*. A lawyer shall not permit employees or agents of the lawyer to solicit in the lawyer's behalf. A lawyer shall not enter into an agreement for, charge, or collect a fee for professional employment obtained in violation of this rule. *The term "solicit"*

includes contact in person, by telephone, telegraph, or facsimile, or by other communication directed to a specific recipient and includes (i) **any written form of communication directed to a specific recipient and not meeting the requirements of subdivision (b) of this rule**, and (ii) any electronic mail communication directed to a specific recipient and not meeting the requirements of subdivision (c) of rule 4-7.6.

Emphasis added. If your contact with victims is neither motivated by pecuniary gain nor to assist another lawyer whose significant motive is pecuniary gain, then it is unlikely that your contact with victims could be characterized as improper solicitation in violation of Rule 4-7.4 (a).

Although your letter does not reference Rule 4-4.2 ("Communication with Person Represented by Counsel"), this rule prohibits a lawyer from communicating directly with a person the lawyer knows is represented in a particular matter, and states:

(a) In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer. **Notwithstanding the foregoing, an attorney may, without such prior consent, communicate with another's client in order to meet the requirements of any court rule, statute or contract** requiring notice or service of process directly on an adverse party, in which event the communication shall be strictly restricted to that required by the court rule, statute or contract, and a copy shall be provided to the adverse party's attorney.

Emphasis added. It would be prudent for you to comply with this rule by limiting your contact to the lawyers of represented victims. Whether or not you were required to comply with this rule in the past, or whether you would be required to comply with it in the future, given your obligations under the federal statutes and the relevant court order involves legal questions beyond the scope of an ethics opinion.

Finally, Rule 4-3.4, prohibits a lawyer from deliberately violating a court's order, and states:

A lawyer shall not:

....
(c) **knowingly disobey an obligation under the rules of a tribunal** except for an open refusal based on an assertion that no valid obligation exists;

Emphasis added.

Ms. A. Marie Villafana
November 4, 2008
Page 3

Thus, Rule 4-3.4 (c), requires you to comply with any orders issued by the court. Again, I can provide no opinion on how to accomplish compliance, because interpretation of the court order requires legal advice beyond the scope of an ethics opinion.

If you disagree with my denial of your request for an advisory ethics opinion, you have thirty (30) days to request that the Professional Ethics Committee review the denial. A request for review must be addressed to Elizabeth Clark Tarbert, Ethics Counsel, at 651 E. Jefferson Street, Tallahassee, Florida 32399. The request must be postmarked no later than thirty (30) days from the date of this letter, not the date of receipt. The request must contain the original inquiry number and clearly state the issues for review. You may include a written argument explaining why you believe you should be issued an advisory ethics opinion. Procedures governing your request for review and committee procedures may be found in Procedures 3(d), 4 and 6, Florida Bar Procedures for Ruling on Questions of Ethics (available on The Florida Bar's website at www.floridabar.org). The Professional Ethics Committee meets approximately four times per year. You will be notified of the committee's decision promptly.

If you have any questions, please call me at (850) 561-5780.

Sincerely,

Gail E. Ferguson
Assistant Ethics Counsel

GEF/gef

28386gef denial

Villafana, Ann Marie C. (USAFLS)

From: Senior, Robert (USAFLS) <RSenior@usa.doj.gov>
Sent: Wednesday, November 26, 2008 2:10 PM
To: Villafana, Ann Marie C. (USAFLS); Sloman, Jeff (USAFLS)
Subject: RE: Jeffrey Epstein

42

Meeting next Thursday. Does anything Roy say hold water ?

-----Original Message-----

From: Villafana, Ann Marie C. (USAFLS)
Sent: Wednesday, November 26, 2008 12:18 PM
To: Senior, Robert (USAFLS); Sloman, Jeff (USAFLS)
Subject: FW: Jeffrey Epstein

Hi guys -- Happy Thanksgiving! Let me know how you would like me to proceed.

A. Marie Villafana
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

-----Original Message-----

From: Roy BLACK [<mailto:RBLACK@royblack.com>]
Sent: Wednesday, November 26, 2008 11:56 AM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Atkinson, Karen (USAFLS)
Subject: Re: Jeffrey Epstein

Marie since receipt of your letter I have looked into the situation and the following is what is happening:

Mr. Epstein has not breached the Non-Prosecution Agreement (the "Agreement") by serving a portion of his 18-month sentence of imprisonment in the Palm Beach County Work Release Program.

1. He is currently serving his sentence in the Palm Beach County Work Release Program, not in the State-Regulated Community Control Program. Thus he is not on community control.

o The County Jail sentence he is presently serving is being served under the auspices of the Palm Beach County Sheriff's Office.

o The Palm Beach County Sheriff's Office has a policy of allowing work release under certain criteria for those sentenced to the Palm Beach County Detention Center or Stockade. It has already been determined that Mr. Epstein qualifies under the Palm Beach County Sheriff's Office policy for work release. The Florida statute authorizing work release for someone imprisoned in county jail is at 951.24 (2)(a).

o The statute provides that when punishment by imprisonment in the county jail is prescribed, the sentencing court, in its discretion, may at any time during the sentence consider granting the privilege to the prisoner to leave the confines of the jail or county facility during necessary and reasonable hours, subject to the rules and regulations prescribed by the court, to work at paid employment or to conduct his or her own business or profession. See Fla. Stat. § 951.24(2)(a).

o In Palm Beach County, the Sheriff's Office has discretion over work release. The local rules state that placement into House Arrest and Work Release "is at the discretion of the Sheriff and the presiding Judge" and offer no defined scope of the type of offenders that are eligible—or that are barred—from serving their time in Work Release." See Palm Beach County Department of Corrections Inmate Rule G-16.

2. The Non Prosecution Agreement does not prohibit work release.

o The Agreement does not regulate what programs Mr. Epstein can participate in while he is serving the County Jail sentence.

3. The Agreement expressly provides that he is to be afforded the same benefits that any other inmate might receive. See ¶ 12 of the Agreement.

5. Under Florida Law, work release is considered part of the confinement. See Rule 33-601.602, Fla. Admin. Code. (work release "allows inmates to work at paid employment in the community while continuing as inmates of the facility where they are confined.") So he is an inmate.

6. Alex Acosta recognized that Mr. Epstein might serve a portion of his sentence through the Work Release Program.

o. On December 6, 2007, after the Agreement had been executed, counsel received a draft notification letter in which US Attorney Acosta expresses this intention. The draft document provides that the recipient is "entitled to notification when Mr. Epstein is released from imprisonment at the end of his prison term and/or if he is allowed to participate in a work release program." See December 6, 2007 letter to J. Lefkowitz from A. Acosta attaching draft notification letter, p. 8.

7. I am told that on July 3, 2008, you wrote an email to the Deputy Sherriff stating that the US Attorney's Office had no objection to work release as long as Epstein is treated as any similarly situated inmate. If anything he is being treated more harshly than any other inmate in the program. He can't leave the office. He has a guard and is wearing a GPS device. So his terms are not more lenient but rather

more restrictive than any other inmate in the program.

Clearly we do not feel this is a violation of the agreement and we have no intent to violate it. We will meet with you and anyone in the executive office to resolve this matter. Certainly it would be best for us to meet and discuss.

>>> "Villafana, Ann Marie C. (USAFLS)" <Ann.Marie.C.Villafana@usdoj.gov>
11/24/08 12:28 PM >>>

Dear Roy:

Please review A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Wednesday, November 26, 2008 2:24 PM
To: Senior, Robert (USAFLS); Sloman, Jeff (USAFLS)
Subject: RE: Jeffrey Epstein

I don't know what he is talking about with a letter from Alex. I will have to try to find that letter.

The citations to the rules of the PBSO are all correct. Our position is not that he is legally ineligible to participate, it is that he is contractually ineligible to participate by virtue of our agreement.

The agreement says that he is entitled to "good time" like other prisoners, but I specifically rejected any language broader than that.

My e-mail explained to the Colonel that I didn't think he was statutorily eligible for participation but that decision was one within PBSO's discretion.

A. Marie Villafana
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
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Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Sloman, Jeff (USAFLS) <JSloman@usa.doj.gov>
Sent: Wednesday, November 26, 2008 2:27 PM
To: Villafana, Ann Marie C. (USAFLS); Senior, Robert (USAFLS)
Subject: RE: Jeffrey Epstein

Perhaps a conference call is in order on Wednesday before the Thursday meeting. If that's o.k. How's 10:30 am on Wednesday? Have a great Thanksgiving.

-----Original Message-----

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To: Senior, Robert (USAFLS); Sloman, Jeff (USAFLS)
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Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
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Fax 561 820-8777

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A. Marie Villafaña
Assistant U.S. Attorney
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West Palm Beach, FL 33401

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11/24/08 12:28 PM >>>

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Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone 561 209-1047
Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Wednesday, November 26, 2008 2:28 PM
To: Sloman, Jeff (USAFLS); Senior, Robert (USAFLS)
Subject: RE: Jeffrey Epstein

Perfect. I'll send an e-mail around before then, too.

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Sent: Wednesday, November 26, 2008 2:27 PM
To: Villafana, Ann Marie C. (USAFLS); Senior, Robert (USAFLS)
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Perhaps a conference call is in order on Wednesday before the Thursday meeting. If that's o.k. How's 10:30 am on Wednesday? Have a great Thanksgiving.

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Sent: Wednesday, November 26, 2008 2:24 PM
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From: Kuyrkendall, E N. (FBI) <E.Kuyrkendall@ic.fbi.gov>
Sent: Thursday, December 04, 2008 5:03 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Overseas Victim Notifications

44

I rcvd email from Bogota a few weeks ago that they had rcvd letter and would be delivering it. Her address is correct. I will place a call to Austraila first thing in the AM. I'll update u then. B of America really giving employee grief for calling FBI but she is still working on SAR. This may have more to do with Atty Alan D and Br Stns than E. We should have it tomorrow.

From: Villafana, Ann Marie C. (USAFLS)
To: Kuyrkendall, E N.
Sent: Thu Dec 04 16:51:40 2008
Subject: Overseas Victim Notifications

Hi Nesbitt – Can you tell me whether the victim notifications to Shasdy and [REDACTED] ever made it to them? And did we get good addresses for them? I need to send the notifications of Epstein's release.

Thanks.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Villafana, Ann Marie C. (USAFLS)

From: Kuyrkendall, E N. (FBI) <E.Kuyrkendall@ic.fbi.gov>
Sent: Thursday, December 04, 2008 5:05 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Overseas Victim Notifications

Sure!

From: Villafana, Ann Marie C. (USAFLS)
To: Kuyrkendall, E N.
Sent: Thu Dec 04 17:05:25 2008
Subject: RE: Overseas Victim Notifications

Thanks. When you hear back from them, can you send me Shasy's address and the info on [REDACTED]?

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
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Phone 561 209-1047
Fax 561 820-8777

From: Kuyrkendall, E N. (FBI)
Sent: Thursday, December 04, 2008 5:03 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Overseas Victim Notifications

I rcvd email from Bogota a few weeks ago that they had rcvd letter and would be delivering it. Her address is correct. I will place a call to Australia first thing in the AM. I'll update u then. B of America really giving employee grief for calling FBI but she is still working on SAR. This may have more to do with Atty Alan D and Br Stns than E. We should have it tomorrow.

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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
Sent: Thursday, December 04, 2008 5:05 PM
To: Kuyrkendall, E N. (MM) (FBI)
Subject: RE: Overseas Victim Notifications

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