

[REDACTED] (USANYS)

**From:** [REDACTED] (USANYS) 3  
**Sent:** Wednesday, August 14, 2019 2:14 PM  
**To:** [REDACTED]  
**Cc:** [REDACTED]  
**Subject:** Epstein Forfeiture Options

To inform our meeting at 3, below is a brief overview of my assessment of our options after discussing with the team and [REDACTED]. My bottom lines are:

- (1) We currently have a potentially viable action against the New York property, albeit with significant litigation risk. The team is exploring a potentially viable action against the VI property, but it will take additional investigative work. We do not have viable action against the Florida property absent further evidence.
- (2) A resolution with the Estate involving a victim compensation fund outside the forfeiture process would be most likely to fully compensate victims.
- (3) It is possible that even absent such a resolution, the victims would be better served by litigating directly against the Estate rather than our pursuing a forfeiture.

#### Viability of Actions

- *New York:* Based on my discussions with the team, it appears we trafficking offenses against 6 victims that involve the New York property which could potentially withstand a statute of limitations challenge: the victim referred to as [REDACTED] in the indictment, who was served with a grand jury subpoena in 2008 but declined to cooperate with law enforcement and was not interviewed, and five new victims who came forward in various ways after our charges were announced.
  - We would need to more thoroughly investigate whether the offenses against these victims could have been discovered by a reasonable investigation between the start of the Florida investigation and 2014.
  - The case would require the cooperation and testimony of the victims, of whom only [REDACTED] had previously committed to testifying. Unfortunately, her counsel have already indicated that it is an open question if she would agree to testify in a forfeiture proceeding, and in my view hers is also the weakest case for SOL purposes.
- *Virgin Islands:* The team has met with one witness who was sexually abused by Epstein at the VI property as part of a course of conduct that may constitute sex trafficking, although the legal analysis is not straightforward because the victim was not paid in exchange for specific sex acts. We have not yet had a chance to fully debrief her, nor has she yet committed to being willing to testify. We also have a number of photographs of nude and partially nude young women taken on the VI property that were seized during the search of the NY property. And, of course, we have the results of the VI search warrant executed this week, the evidentiary value of which is presently unknown.
  - As with the NY property, we would need to more thoroughly investigate whether the offenses against this victim (and any others we may be able to identify) could have been discovered by a reasonable investigation between the start of the Florida investigation and 2014.
  - The case would require the cooperation and testimony of the victim, who has not yet committed to testify.
- *Florida:* The only trafficking offenses that involved the Florida property for which we have evidence and venue are those involving victims who cooperated with the original Florida investigation. I do not believe we can credibly argue that forfeiture based on those offenses is not time-barred.

### **Victim Compensation from Forfeiture of Epstein Properties (confirmed with MLARS team responsible for victim compensation)**

- Any victims of Epstein's general pattern of activity would be eligible for compensation from any civilly forfeited funds through the remission process.
- That compensation, however, would be basically limited to provable medical and psychiatric expenses (past and future) and lost wages minimum wage for the time they were being trafficked. They cannot recover broader pain and suffering or punitive-style damages. I think it's extremely likely that the numbers involved would be very modest per victim, and potentially result in the U.S. retaining tens of millions of dollars rather than it going to the victims.

### **Relative Merits of Forfeiture vs. Non-Forfeiture Resolution/Litigation**

- In light of the victim remission restrictions, I believe that the victims generally would very likely obtain a greater benefit from a non-forfeiture-based settlement. There have apparently already been extremely preliminary suggestions of a Victim Compensation Fund paid out of the Estate and supervised by Ken Feinstein or an equivalent receiver.
- Individual victims willing to subject themselves to deposition and trial testimony would receive a much greater potential financial benefit if they succeeded in direct litigation against the Estate. My understanding from the team is that a number of such suits were already being filed as early as today.
  - This not only means that the equities may favor deferring to the victim actions, it also suggests our critical victim witnesses may not be willing to cooperate with a forfeiture action when they realize their interests are better served by independent actions.
  - If the Estate is unwilling to settle with us and the victims, the question of which action is more likely to succeed would obviously require more information about the strength of the victim civil action vs. our forfeiture action, but given the serious litigation risk on SOL grounds for us, I suspect they may have the better chance of success.