UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 9:08-cv-80736-KAM

JANE DOE 1 AND JANE DOE 2,

Petitioners,

v.

UNITED STATES,

Respondent.
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JANE DOE 1 AND JANE DOE 2'S CONSOLIDATED STATEMENT OF UNDISPUTED MATERIAL FACTS AND MOTION FOR PARTIAL SUMMARY JUDGMENT WITH INCORPORATED MEMORANDUM OF LAW

Jane Doe 1 and Jane Doe 2 (also referred to as "the victims"), by and through undersigned counsel, pursuant to Fed. R. Civ. P. 56 and Local Rule 56.1, move for summary judgment on the issue of the United States Government's violation of their rights under the Crime Victims' Rights Act (CVRA), where no genuine issue of material fact exists.[1] In support, they state:

INTRODUCTION

In 2004, Congress enacted the CVRA because it found that in case after case "victims, and their families, were ignored, cast aside, and 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 place for them." 150 CONG. REC. 7296 (2004) (statement of

[1] The Court previously granted the victims leave to file a 60-page motion for partial summary judgment. DE 327.

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Sen. Feinstein). In passing the CVRA, Congress mandated a series of rights for crime victims. Sadly, several years later, when the Government began handling this case, it did precisely what Congress thought it had forbidden. The Government deliberately kept crime victims "in the dark" so that it could enter into a plea arrangement designed to prevent the victims from raising any objection. In doing so, the Government refused to afford victims the rights they had been promised by Congress—particularly "the right to reasonable, accurate, and timely notice of any public court proceeding," "the reasonable right to confer with the attorney for the Government in the case," and "the right to be treated with fairness and with respect for the victim's dignity and privacy."[2]

The undisputed evidence begins in 2005, when the Palm Beach Police Department ("PBPD") had identified numerous girls as victims of Jeffrey Epstein's sexual crimes. In 2006, the PBPD turned the case over to federal authorities for further investigation. As early as March 15, 2007 and throughout the rest of the investigation, the United States Attorney's Office for the Southern District of Florida ("the Office") specifically identified several dozen girls whom it classified as "victims" under the CVRA. Once that identification was made, the Government was obligated to afford these victims certain rights under the CVRA—a fact of which the Government itself was well aware.[3] Indeed, the Government provided notification to the girls that they were classified as "victims" under the CVRA.

But what the Government did *not* tell the victims lies at the heart of the case. It is undisputed that the Government did not tell the victims that, by May 2007, the Office had

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[2] 18 U.S.C. § 3771(a)(2), (4)-(5), (8); RFP MIA 000001-000006 (Exhibit 1).
[3] 000966-000967 (Exhibit 2); 000589-000591 (Exhibit 3); US_Atty_Cor_00135 (Exhibit 4); RFP MIA 000222 (Exhibit 5).

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prepared an 82-page prosecution memorandum and a 53-page indictment against Epstein and his co-conspirators.[4] At that time, rather than confer with the victims about how to proceed, the Government began conferring about this issue exclusively with Epstein's counsel. Epstein's counsel contended that, despite abundant connection to interstate commerce, Epstein's sex trafficking was purely of local concern. By August 2007, federal prosecutors had disproven or rejected these defense arguments and notified the defense that all of the identified victims retained federal rights.

For example, during August 2007, Jane Doe 1, and other similarly situated victims, provided details to federal agents of the abuse that they endured at the hands of Epstein and his co-conspirators. In September 2007, without conferring with *any* of the victims, the Government and Epstein shifted gears and began working together to concoct a criminal charge for Epstein to plea to other than his sexual abuse of minors. As alternative charges, they discussed charging Epstein with: (1) various misdemeanors, (2) assaulting his co-conspirators and girlfriend, (3) using private investigators to chase and harass victims' families, (4) obstructions of grand jury subpoenas, or (5) his obstruction of the federal investigation when he instructed another co-conspirator to lie to federal agents.[5] Ultimately, however, none of those would work. Assistant U.S. Attorney ("AUSA") [redacted] (the "line prosecutor") informed Epstein's counsel that she was getting pushback for creating a charge using one of the main co-conspirators as the

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[4] RFP WPB 000286 (Exhibit 6).

[5] US_Atty_Cor_00030-00032 (Exhibit 7); RFP MIA 000129 (Exhibit 8); RFP MIA 000133 (Exhibit 9); RFP MIA 000095 (Exhibit 10); RFP MIA 000075-000076 (Exhibit 11); RFP WPB 000220 (Exhibit 12); RFP MIA 000077-000087 (Exhibit 13); RFP MIA 000088 (Exhibit 14); RFP WPB 000235-000244 (Exhibit 15); RFP WPB 000107-000112 (Exhibit 16); RFP WPB 002188 (Exhibit 17); RFP WPB 000266-000277 (Exhibit 18); RFP MIA 000113 (Exhibit 19); RFP MIA 000151-000160 (Exhibit 20); RFP MIA 000098-000105 (Exhibit 21).

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victim.[6] Consequently, the Government and Epstein searched for another crime for Epstein to plead to, which could accompany a federal non-prosecution agreement (NPA). Incredibly, the offense to which Epstein and the Government ultimately agreed, labeled the minor victims "prostitutes."

The undisputed evidence clearly shows that by September 21, 2007, the line prosecutor had informed Palm Beach State Attorney Barry Krischer that a federal resolution had been reached by way of a NPA, yet the victims remained uninformed.[7] On September 24, 2007, the NPA was signed, preventing prosecution of all federal crimes committed by Epstein and his co-conspirators against the victims. After the signing of the NPA, the Government and Epstein's attorneys worked together to choose a lawyer to be paid by Epstein to represent Epstein's victims for the purpose of settling civil restitution claims. This too was all being done without the victims having any knowledge whatsoever. The correspondence between the Government and a candidate for that representative position as well as between the Government and Epstein's counsel reflects that the Government still had not yet disclosed the NPA to the victims, and was following the guidance of Epstein's counsel in making decisions with respect to the timing and substance of any communication to the victims.[8]

For the next nine months, from the time the NPA was signed through the date of Epstein's state court plea in June of 2008, the Office—doing Epstein's bidding—assiduously concealed the NPA's existence from the victims. While this indulgent deal was incredible in its own right, even more extraordinary was how the victims were treated during the process. Rather

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[6] Exhibit 15.
[7] RFP WPB 002125 (Exhibit 22).
[8] *See e.g.*, US_Atty_Cor_00166 (Exhibit 23).

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than confer with the victims about the fact that resolution by NPA was ever being considered—or even tell them that it was already a signed deal—the Office and Epstein inserted a "confidentiality" provision into the agreement barring its disclosure to anyone, including the victims. There is no dispute that the Government did not inform the victims of the NPA or of the possibility of any such type of resolution. Consequently, there is no dispute that the Government did not afford the victims any rights *before* the signing of the NPA.

In October 2007, after the NPA was signed, federal agents spoke with three of the more than 30 identified victims, including Jane Doe 1.[9] The Government does not dispute that this contact only occurred *after* the signing of the NPA. Even more important, it is not disputed that this contact was: 1) made by the Federal Bureau of Investigation ("FBI") and not a "prosecutor for the Government," 2) that the FBI did not inform the victims of the NPA and certainly did not confer with the victims about the details of the NPA, and 3) that this contact only occurred with three of the more than 30 victims. Lastly, while the content of that conversation is contested, any stretched argument that the conversation satisfied CVRA requirements for Jane Doe 1 are belied by the timing of the conversation as well as the uncontested documentary evidence of the communications with the victims (including with Jane Doe 1) that followed that conversation.

Subsequent to the FBI's contact with three of Epstein's victims, the Government informed Epstein's attorneys that victim notification letters needed to be sent to all the victims pursuant to the CVRA. Rather than comply with this acknowledged requirement, Epstein's counsel convinced the Government that (contrary to standard Government practice) Epstein

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[9] RFP MIA 000464-000468 (Exhibit 24).

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should be permitted to provide input into any message being delivered, and ultimately that the victims should not be told anything "until after Epstein pleas."[10]

In January 2008, FBI agents again met with Jane Doe 1 and gathered additional details about Epstein's abuse as well as the direct sexual abuse by one of his co-conspirators, [redacted]—who participated in the abuse of other victims as well. The Government then sent a victim notification letter to Jane Doe 1 informing her of her rights under the CVRA, that "this will be a long investigation," and to "be patient."[11] Jane Doe 1 was sent a similar letter on June 7, 2008.[12] Other victims were also sent these letters communicating that the Epstein case was an on-going active criminal investigation—not that the Government had already immunized Epstein for all federal crimes committed against each of the victims, through a NPA. These misleading letters were sent almost up until the date of Epstein's state court plea in late June 2008.[13]

On June 30, 2008, Epstein pled guilty to state court charges. It is uncontested that the victims were not reasonably and accurately informed about that hearing—specifically, they were never told the hearing was part of a process that would extinguish any possibility of Epstein being prosecuted for the crimes he had committed against them in Florida. Even after the plea, the Government once again conferred with Epstein's attorneys to decide what to tell the victims.

As the Court is aware, this CVRA action was filed in July 2008 at a time when the victims mistakenly believed that the federal case remained open, and wanted to ensure that their rights under the CVRA were afforded *before* any possible federal disposition. At the emergency

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[10] RFP WPB 001978-001979 (Exhibit 25).
[11] Declaration of Jane Doe 1 (Exhibit 26); Declaration of Jane Doe 2 (Exhibit 27).
[12] 000978-000989 (Exhibit 28).
[13] [DE 48] Exhibit I (Exhibit 29).

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hearing on the Petition for Enforcement of Crime Victims' Rights Act, Jane Doe 1 and Jane Doe 2 were in the courtroom to learn for the first time that the federal case had been resolved.

The undisputed facts show that for nine months, the Government and Epstein conspired to conceal the NPA from the victims to prevent them from voicing any objection, and to avoid the firestorm of controversy that would have arisen if it had become known that the Government was immunizing a politically-connected billionaire and all of his co-conspirators from prosecution of hundreds of federal sex crimes against minor girls. Such facts demonstrate clear violations of the CVRA's requirements that the Government afford victims the reasonable right to confer, the right to be treated with fairness, and the right to reasonable and accurate notice about court hearings. No genuine issue of material fact or law can exist on these points. The Court should accordingly grant summary judgment for the victims on the issue of the CVRA violations and then, in subsequent proceedings, turn to the issue of the proper remedy for those violations.

STATEMENT OF UNDISPUTED MATERIAL FACTS

Pursuant to Local Rule 56.1, the victims submit this statement of undisputed material facts in support of their motion for partial summary judgment:[14]

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[14] In an effort to streamline their case and bring it to a more rapid resolution, in this summary judgment motion the victims present only some of the evidence that they are prepared to produce at any evidentiary hearing in this matter. For instance, the victims have concentrated on the emails and other documents establishing violations of their rights, largely avoiding issues of the Government's "motive" for the violations and other related issues. Because of the possibility that the Court may not grant summary judgment on this narrower approach, the victims are continuing to pursue discovery with regard to motive and several other important issues that would come into play at a broader evidentiary hearing. *See, e.g.*, [DE 344] (victims' motion for deposition of government witnesses). The victims reserve the right to supplement this motion if additional discovery is received through these discovery efforts and to present these broader issues at any evidentiary hearing or remedy phase of these proceedings.

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EPSTEIN'S CRIMES

1. Between about 1999 and 2007, Jeffrey Epstein sexually abused more than 30 minor girls, including Jane Doe 1 and Jane Doe 2, at his mansion in Palm Beach, Florida, located in the Southern District of Florida, and elsewhere in the United States and overseas.[15]

2. Because Epstein and his co-conspirators knowingly traveled in interstate and international commerce to sexually abuse Jane Doe 1, Jane Doe 2, and other similarly situated victims, they committed violations of not only Florida law (*see, e,g.*, Fla. Stat. §§ 794.05, 796.04, 796.045, 39.201 & 777.04), but also federal law, including repeated violations of 18 U.S.C. §§ 1591, 2421, 2422, 2423, & 371).[16]

EPSTEIN'S VICTIMS

3. In addition to personally abusing his victims, Epstein also directed other persons to sexually abuse the girls. For example, [redacted] sexually abused Jane Doe 1 and other victims at the direction of Epstein.[17]

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[15] *See, e.g.,* Exhibit 26; Exhibit 27; Jane Doe 102 v. Epstein Complaint (Exhibit 30); Response to Request for Admission #1 (Exhibit 31) (admitting federal investigation); FBI 302 of Interview with Jane Doe 1 on August 14, 2007 (Exhibit 32); FBI 302 of Interview with Jane Doe 1 on January 31, 2008 (Exhibit 33); Palm Beach Police Report (Exhibit 34) (discussing investigation of numerous Epstein victims); Exhibit 6 (noting 82-page prosecution memo and 52-page prepared indictment); [DE 304] Declaration of FBI Special Agent [redacted] (Exhibit 35) (noting that the FBI identified many potential victims of sexual abuse by Epstein); The People of the State of New York v. Jeffrey Epstein (Exhibit 36); RFP WPB 000550-000554 (Exhibit 37) (listing 31 victims the that U.S. Attorney's Office was prepared to name as a victim of an enumerated federal offense); Sora Hearing Transcript (Exhibit 38); RFP MIA 000361-000365 (Exhibit 39) (Chief of Child Exploitation Section of the Justice Department concluding after review of the facts that U.S. Attorney's would not abuse its discretion in prosecuting; noting "multiple mutually-corroborating witnesses;" the Epstein case "consistent in principle with other federal prosecutions nationwide").

[16] *See* note 14, *supra*.

[17] *See* Exhibit 32; Exhibit 33; Exhibit 34.

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THE INVESTIGATION OF EPSTEIN'S CRIMES

4. In 2005, the Town of Palm Beach Police Department received a complaint from the parents of a 14-year-old girl about her sexual abuse by Jeffrey Epstein. The PBPD then capably conducted a thorough investigation and ultimately identified approximately 20 girls between the ages of 14 and 17 who were sexually abused by Epstein.[18]

5. In 2006, at the request of the PBPD, the FBI opened a federal investigation into allegations that Epstein and his personal assistants had used facilities of interstate commerce to induce girls between the ages of 14 and 17 to engage in illegal sexual activities.

6. The FBI ultimately determined that both Jane Doe 1 and Jane Doe 2 were victims of sexual abuse by Epstein while they were minors. Jane Doe 1, for example, provided detailed information about her abuse—and the abuse of Jane Doe 2—to the FBI on August 7, 2007.[19]

7. On about August 11, 2006, Jane Doe 2 received a standard CVRA victim notification letter. The notification promised that the Justice Department would make its "best efforts" to protect Jane Doe 2's rights, including "[t]he reasonable right to confer with the attorney for the Government in the case" and "to be reasonably heard at any public proceeding in the district court involving … plea." The notification further explained that "[a]t this time, your case is under investigation."[20] That notification meant that Jane Doe 2 had been identified as a victim of a federal offense and as someone protected by the CVRA.

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[18] Exhibit 34; *see also* RFP WPB 001940-001941 (Exhibit 40) (later description of investigation by the U.S. Attorney's Office).
[19] Exhibit 26; Exhibit 27; Exhibit 32.
[20] August 11, 2006 Victim Notification Letter to Jane Doe 2 (Exhibit 41).

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8. More generally, the FBI established that Epstein used paid employees to repeatedly find and bring minor girls to him. Epstein worked in concert with others to obtain minor girls not only for his own sexual gratification, but also for the sexual gratification of others.[21]

EPSTEIN'S FEDERAL PLEA NEGOTIATIONS

9. From January 5, 2007 through September 2007, plea discussions took place between the U.S. Attorney's Office for the Southern District of Florida and Jeffrey Epstein, who was represented by numerous attorneys.[22]

10. On February 1, 2007, the Epstein defense team sent a 24-page letter to the Office going over what they intended to present during a meeting at the Office the same day. The letter falsely stated: "Epstein did not know or believe any women were under 18 years of age." It also contained other deceptive factual and legal arguments about Epstein's culpability.[23]

11. By March 15, 2007, the Office was sending letters to victims informing them of their rights pursuant to the CVRA.[24]

12. By May 2007, the Office had drafted an 82-page prosecution memorandum and 53-page indictment outlining numerous federal sexual offenses committed by Epstein.[25]

13. On about June 7, 2007, FBI agents hand delivered to Jane Doe 1 a standard CVRA victim notification letter. The notification promised that the Justice Department would make its "best efforts" to protect Jane Doe 1's rights, including "[t]he reasonable right to confer with the attorney for the United States in the case" and "to be reasonably heard at any public proceeding

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[21] *See* note 14, *supra*.
[22] RFP WPB 001744 (Exhibit 42).
[23] RFP WPB 000730-000754 (Exhibit 43) (asserting Epstein thought the girls were 18 or older).
[24] Exhibit 1.
[25] US_Atty_Cor. 00004 (Exhibit 44); Exhibit 6.

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in the district court involving [a]…plea." The notification further stated that, "[a]t this time, your case is under investigation."[26]

14. The notification described in the previous paragraph meant that Jane Doe 1 had been identified as a victim of a federal offense and as someone protected by the CVRA. Jane Doe 1 relied on these representations and believed that the Government would protect these rights and keep her informed about the progress of her case.[27]

15. On July 6, 2007, Epstein's lawyers sent a 23-page letter lodging numerous, technical legal arguments to persuade the Office that no federal crimes had been committed by Epstein, and that consequently there were no federal crime victims. The letter also falsely claimed that "Mr. Epstein never targeted minors," and urged the Government against a federal prosecution on the basis that Epstein was an upstanding citizen who had made tremendous philanthropic and personal contributions that warranted a declination to prosecute.[28]

16. On August 2, 2007, another attorney for Epstein sent a similar letter expressing the same sentiments.[29]

17. However, by August 3, 2007, the Government had disproven or rejected Epstein's various arguments against federal charges, as AUSA [redacted] sent a letter to Epstein's counsel stating, "[w]e would reiterate that the agreement to Section 2255 liability applies to all of the minor girls identified during the federal investigation, not just the 12 that form the basis of an

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[26] June 7, 2007 Victim Notification Letter to Jane Doe 1 (Exhibit 45).
[27] Exhibit 26.
[28] MIA_CEOS_00077-00099 (Exhibit 46); RFP MIA 000189 (Exhibit 47).
[29] RFP MIA 000053-000055 (Exhibit 48).

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initial planned charging instrument."[30] This was a clear indication from the federal prosecutors that all of the minor girls identified through the investigation were classified as victims with federal rights pursuant to the CVRA.

18. By September 10, 2007, multiple drafts of the NPA had been exchanged between Epstein's counsel and the U.S. Attorney's Office; however, no one from the Office and no Government representative had notified a single victim about the existence of the plea negotiations, much less conferred with them about their views on those negotiations.[31]

19. On September 12, 2007, while attempting to create alternative charges against Epstein, the U.S. Attorney's Office expressed concern about "the effect of taking the position that Mr. Epstein's house is in the special maritime and territorial jurisdiction of the United States" because the Government had "no evidence of any assaults occurring either on Mr. Epstein's plane or offshore from his residence."[32]

20. On September 13, 2007, the line prosecutor emailed Epstein's counsel indicating that in an effort to come up with a solution to the September 12 concern, [redacted] had been "spending some quality time with Title 18 looking for *misdemeanors*." The line prosecutor further indicated, "I know that someone mentioned there being activity on an airplane, I just want to make sure that there is factual basis for the plea that the agents can confirm." Epstein's counsel responded, "[a]lready thinking about the same statutes."[33]

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[30] RFP WPB 001479-001480 (Exhibit 49); Exhibit 48 (earlier correspondence attached for reference).
[31] RFP MIA 000058-000063 (Exhibit 50).
[32] Exhibit 12; RFP MIA 000072-000073 (Exhibit 51).
[33] Exhibit 11 (emphasis added).

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21. On September 14, 2007, after having spoken on the telephone about the subject matter of the September 13 emails, Epstein's counsel and the line prosecutor exchanged emails including a proposed plea agreement for Epstein to plea to assaulting one of his co-conspirators.[34]

22. On September 15, 2007, the line prosecutor sent an email to the Epstein defense team raising concerns about a resolution that would not involve one of Epstein's minor victims and stating:

> I have gotten some negative reaction to the assault charge with [a co-conspirator] as the victim, since she is considered one of the main perpetrators of the offenses that we planned to charge in the indictment. Can you talk to Mr. Epstein about a young woman named [Jane Doe]? We have hearsay evidence that she traveled on Mr. Epstein's airplane when she was under 18, in around the 2000 or 2001 time frame.[35]

23. On September 16, 2007, the line prosecutor corresponded with Epstein's counsel about having Epstein plead to obstruction of justice for pressuring one of his co-conspirators to prevent her from turning over evidence or complying with a previously-served grand jury subpoena.[36]

24. In the same correspondence, the Office discussed with defense counsel how they could contrive to establish jurisdiction away from the location where the crimes actually occurred—and away from where the victims actually lived—so as to avoid the public finding out about anything: "On an 'avoid the press' note, I believe that Mr. Epstein's airplane was in Miami on the day of the [co-conspirator] telephone call. If he was in Miami-Dade County at the time, then

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[34] Exhibit 13.
[35] Exhibit 15; RFP WPB 000066-000074 (Exhibit 52).
[36] RFP WPB 000124-000126 (Exhibit 53).

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I can file the charge in the District Court in Miami, which will hopefully cut the press coverage significantly." They also discussed having Epstein plea to a second charge of assaulting a different co-conspirator.[37]

25. On September 16, 2007, the line prosecutor wrote to Epstein's counsel indicating that the Office did not like the factual basis for the proposed charges as the Office was "not investigating Mr. Epstein abusing his girlfriend."[38]

26. The correspondence further discussed a possible plea disposition that would make it hard for a judge to see what was happening:

> [redacted] [i.e., AUSA [redacted] [redacted]] recommended that some of the timing issues be addressed only in the state agreement, so that it isn't obvious to the judge that we are trying to create federal jurisdiction for prison purposes.
>
> I will include our standard language regarding resolving all criminal liability and I will mention 'co-conspirators,' but I would prefer not to highlight for the judge all of the other crimes and all of the other persons that we could charge. Also, we do not have the power to bind Immigration . . . there is no plan to try to proceed on any immigration charges against either Ms. [co-conspirator] or Ms. [co-conspirator].[39]

27. In the same email, the line prosecutor wrote to defense counsel about a meeting outside the U.S. Attorney's Office: "Maybe we can set a time to meet. If you want to meet 'off campus' somewhere, that is fine."[40]

28. On about September 16, 2007, Epstein's counsel provided a proposed NPA to the Government that extended immunity from federal prosecution not only for Epstein, but also to

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[37] US_Atty_Cor. at 29 (Exhibit 54); RFP WPB 000122 (Exhibit 55); RFP WPB 000125-000126 (Exhibit 56); RFP MIA 000281 (Exhibit 57).
[38] Exhibit 7.
[39] *Id.*
[40] Exhibit 7; US_Atty_Cor. 00196 (Exhibit 58) (indicating that at least one additional meeting was held off campus between the Government and counsel for Epstein).

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certain co-conspirators: "Epstein's fulfilling the terms and conditions of the Agreement also precludes the initiation of any and all criminal charges which might otherwise in the future be brought against [redacted], and [redacted] or any employee of N.E.S. for any criminal charge that arises out of the ongoing federal investigation as described above."[41]

29. On September 17, 2007, the line prosecutor wrote to defense counsel Jay Lefkowitz: "Please send [a document] to my home e-mail address – [redacted] and give me a call on my cell [redacted] so I can be ready for some discussions tomorrow."[42] In discovery in this case, the U.S. Attorney's Office has not produced any emails sent to or from any home e-mail addresses of its prosecutors.

30. On September 17, 2007, defense counsel Jay Lefkowitz responded: "[D]o you have another obstruction proffer I can review that you have drafted? Also, if we go that route, would you intend to make the deferred prosecution agreement public?"[43]

31. On September 18, 2007, the Office responded: "A non-prosecution agreement would not be made public or filed with the Court, but it would remain part of our case file. It probably would be subject to a FOIA request, but it is not something that we would distribute without compulsory process."[44]

32. On September 20, 2007, the U.S. Attorney's Office wrote: "On the issue about 18 USC 2255 [a civil restitution provision], we seem to be miles apart. Your most recent version

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[41] Exhibit 16.
[42] RFP WPB 001709 (Exhibit 59).
[43] Exhibit 17.
[44] Exhibit 10.

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not only had me binding the girls to a trust fund administered by the state court, but also promising that they will give up their 2255 rights.... In the context of a non-prosecution agreement, the office may be more willing to be specific about not pursuing charges against others."[45]

33. On September 21, 2007, state prosecutor [redacted] wrote the line prosecutor about the proposed deal and added: "Glad we could get this worked out for reasons I won't put in writing. After this is resolved I would love to buy you a cup at Starbucks and have a conversation."[46] Such statement is further evidence of the fact that Epstein's counsel, the U.S. Attorney's Office, and the State of Florida were conferring daily in an effort to resolve the case in a way that would compensate the victims through restitution, yet no one made any effort to notify the victims of the true status of the case.

34. On September 21, 2007, the line prosecutor emailed Epstein's counsel stating, "I think that the attached addresses the concerns about having an unlimited number of claimed victims, without me trying to *bind* girls whom I do not represent."[47] Despite knowledge that such agreement would be binding on the victims, the Office never attempted to notify or confer with the victims about the existence of the NPA.

35. On September 23, 2007, the U.S. Attorney's Office sent an email to Lefkowitz stating: "It is factually accurate that the list we are going to give you are persons we have identified as victims. If we did not think they were victims, they would have no right to bring suit."[48]

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[45] RFP MIA 000173 (Exhibit 60).
[46] Exhibit 21.
[47] US_Atty_Cor_0081-0087 (Exhibit 61) (emphasis added).
[48] Exhibit 4.

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36. On September 24, 2007, the line prosecutor sent an e-mail to a prospective representative for the Epstein victims named [redacted] entitled "Conflict Check" confirming the girls' status as victims, stating: "Please keep this confidential because these are minor victims. This is a preliminary list."[49] Later on September 24, 2007, the line prosecutor sent an email to Lefkowitz stating, "I have compiled a list of 34 confirmed minors."[50]

37. As correspondence continued on September 24, 2007, and the NPA was being executed, Lefkowitz sent an email to line prosecutor [redacted] stating: "[redacted] – Please do whatever you can to keep this [i.e., the NPA] from becoming public."[51]

SIGNING THE SECRET NON-PROSECUTION AGREEMENT

38. On September 24, 2007, Epstein and the U.S. Attorney's Office formally reached an agreement whereby the United States would defer federal prosecution in favor of prosecution by the State of Florida. Epstein and the Office accordingly entered into a NPA reflecting such agreement. Most significantly, the NPA gave Epstein a promise that he would not be prosecuted in the Southern District of Florida for a series of federal felony offenses involving his sexual abuse of more than 30 known minor girls and countless other unknown minors. The NPA instead allowed Epstein to plead guilty to state felony offenses for solicitation of prostitution and procurement of minors for prostitution.[52]

39. The NPA also set up a procedure whereby a victim of Epstein's sexual abuse could obtain an attorney to proceed with a civil settlement with Epstein, provided that the victim

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[49] Exhibit 2.
[50] Exhibit 4.
[51] Exhibit 57.
[52] Executed Non-Prosecution Agreement (Exhibit 62).

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agreed to limit damages sought from Epstein.[53] Such provision was devised by Epstein's counsel and the Office without the knowledge or consent of the victims, and without any opportunity for them to reasonably confer on the provision.

40. Among other provisions, the NPA expanded immunity to any "potential co-conspirator" of Epstein's: "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], [redacted], [redacted], [redacted], or [redacted]."[54]

41. The NPA also provided that it was confidential: "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."[55]

LACK OF VICTIM NOTIFICATION BEFORE THE NPA WAS SIGNED

42. From the time the FBI began investigating Epstein until September 24, 2007—when the NPA was concluded—the U.S. Attorney's Office never conferred with the victims about a NPA.[56]

43. From the time the FBI began investigating Epstein until September 24, 2007—when the NPA was concluded—the U.S. Attorney's Office never even told the victims that such an

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[53] Exhibit 62.
[54] *Id.* at 5.
[55] *Id.*
[56] *See* Tr. of July 11, 2008 Hearing (Exhibit 63) at 9-12; [DE 14] at 4 (Exhibit 64).

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agreement was under consideration.[57]

FAILURE TO NOTIFY OTHER SIMILARLY-SITUATED VICTIMS ABOUT THE NPA

44. Many, if not all, other similarly-situated victims received standard CVRA victim notification letters substantively identical to those sent to Jane Doe 1 and Jane Doe 2 and the Government reasonably expected them to rely on those representations.[58]

45. The U.S. Attorney's Office did not consult or confer with any of the victims about the NPA before it was signed.[59]

46. The U.S. Attorney's Office did not tell any of the victims about the NPA before it was signed.[60]

47. Because none of the victims knew about the NPA or any other possible resolution of the case, they could not have conferred with prosecutors about the NPA before it was signed.[61]

48. Epstein's counsel was aware that the Office was deliberately keeping the NPA secret from the victims and, indeed, had sought assurances to that effect.[62]

NEGOTIATIONS ABOUT CONCEALING THE NPA FROM THE VICTIMS

49. After the NPA was signed, Epstein's counsel and the Office began negotiations about whether the victims would be told about the NPA.[63]

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[57] *See* Exhibit 63 at 9-12; Exhibit 64 at 4; [DE 225-1] at 51 (Exhibit 65).
[58] *Id.*
[59] *Id.*
[60] *Id.*
[61] Exhibit 26; Exhibit 27.
[62] Exhibit 63 at 9; US_Atty_Cor. 0153 (Exhibit 66) (emphases added); RFP MIA 000489-000491 (Exhibit 67).
[63] Exhibit 66 (emphases added).

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50. It was a deviation from the Government's standard practice to negotiate with defense counsel about the extent of crime victim notifications.[64]

51. To pressure the Office to agree to positions they wanted, Epstein's counsel began "a year-long assault on the prosecution and the prosecutors." This assault was more aggressive than any U.S. Attorney [redacted], or any of his prosecutors, had ever seen in their extensive experience.[65]

52. On about September 24, 2007, the U.S. Attorney's Office sent an e-mail to Lefkowitz, stating that the Government and Epstein's counsel would negotiate privately about what information would be disclosed to the victims about the agreement:

> Thank you, Jay. I have forwarded your message only to [United States Attorney] [redacted] [redacted], [redacted], and [redacted]. I don't anticipate it going any further than that. When I receive the originals, I will sign and return one copy to you. The other will be placed in the case file, which will be kept confidential since it also contains identifying information about the girls.
>
> When we reach an agreement about the attorney representative for the girls, *we can discuss what I can tell him and the girls about the agreement.* I know that [redacted] promised Chief [redacted] an update when a resolution was achieved.... Rolando is calling, but Rolando knows not to tell Chief [redacted] about the money issue, just about what crimes Mr. Epstein is pleading guilty to and the amount of time that has been agreed to. *Rolando also is telling Chief [redacted] not to disclose the outcome to anyone.*[66]

53. On September 25, 2007, the line prosecutor sent an e-mail to Lefkowitz stating: "And can we have a conference call to discuss what I may disclose to . . . the girls regarding the agreement."[67]

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[64] Exhibit 65 at 50.
[65] 001795-001797 (Exhibit 68); *see, e.g.*, Exhibit 24.
[66] Exhibit 66 (emphases added).
[67] US_Atty_Cor. at 156 (Exhibit 69).

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54. On September 25, 2007, the line prosecutor sent an email to Lefkowitz, (1) expressing what [redacted] called "bias" against plaintiffs' attorneys, (2) trying to set up an arrangement whereby Epstein's victims would not be represented by various private attorneys, and (3) arguing instead for an attorney in Miami who could help keep things concealed: "They [redacted] are all very good personal injury lawyers, but I have concerns about whether there would be an inherent tension because they may feel that THEY might make more money (and get a lot more press coverage) if they proceed outside the Terms of the plea agreement. (Sorry – I just have a bias against plaintiffs' attorneys.) One nice thing about Bert is that he is in Miami where there has been almost no coverage of this case."[68]

55. On September 26, 2007, the line prosecutor sent an e-mail to Lefkowitz in which [redacted] stated: "Hi Jay – Can you give me a call at [redacted] [xxx-xxxx] this morning? I am meeting with the agents and want to give them their marching orders regarding what they can tell the girls."[69]

56. On September 27, 2007, the attorney appointed by the Office to represent the victims—without the knowledge of the victims—emailed the Office asking questions about the assignment, including whether he could see a copy the indictment or plea agreement "so that we understand exactly what Epstein concedes to in the civil case."[70]

57. On September 27, 2007, upon inquiry from the Office, Lefkowitz responded by stating that the attorney representative "certainly [] should not get a copy of any indictment."[71]

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[68] RFP WPB 000384 (Exhibit 70).
[69] Exhibit 26; US_Atty_Cor. at 359 (Exhibit 71).
[70] 000574-000575 (Exhibit 72).
[71] RFP WPB 001687 (Exhibit 73).

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58. On September 27, 2007, the line prosecutor informed Epstein's counsel of concerns raised by the attorney representative for the girls selected by the Government and paid for by Epstein. Specifically, "[t]he concern is, if all 40 girls decide they want to sue, they don't want to be in a situation where Mr. Epstein says this is getting too expensive, we won't pay anymore attorneys' fees."[72]

59. On September 27, 2007, the line prosecutor sent an email to state prosecutors [redacted] and [redacted]: "Can you let me know when Mr. Epstein is going to enter his guilty plea and what judge that will be in front of? I know the agents and I would really like to be there, 'incognito.'" The fact that they intended to be at the plea proceeding "incognito" is evidence that they did not intend to notify the victims of the proceeding.[73]

60. On October 3, 2007, the U.S. Attorney's Office sent a proposed letter that would have gone to a special master for selecting an attorney representative for the victims under NPA's compensation procedure. The letter described the facts of the Epstein case as follows: "Mr. Epstein, through his assistants, would recruit underage females to travel to his home in Palm Beach to engage in lewd conduct in exchange for money. Based upon the investigation, the United States has identified 40 young women who can be characterized as victims pursuant to 18 U.S.C. § 2255. Some of those women went to Mr. Epstein's home only once, some went there as many as 100 times or more. Some of the women's conduct was limited to performing a

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[72] Exhibit 23.
[73] RFP WPB 002046 (Exhibit 74).

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topless or nude massage while Mr. Epstein masturbated himself. For other women, the conduct escalated to full sexual intercourse."[74]

61. On October 10, 2007, Lefkowitz sent a letter to U.S. Attorney [redacted] stating, in pertinent part: "Neither federal agents nor anyone from your Office should contact the identified individuals to inform them of the resolution of the case, including appointment of the attorney representative and the settlement process. Not only would that violate the confidentiality of the agreement, but Mr. Epstein also will have no control over what is communicated to the identified individuals at this most critical stage. We believe it is essential that we participate in crafting mutually acceptable communication to the identified individuals." The letter further proposed that the attorney representative for the victims be instructed that "[t]he details regarding the United States's investigation of this matter and its resolution with Mr. Epstein is confidential. You may not make public statements regarding this matter."[75]

62. On October 18, 2007, the U.S. Attorney met with Lefkowitz in person for breakfast. Meanwhile, the victims had still not been notified of the NPA.[76]

63. On October 23, 2007, Lefkowitz sent a letter to U.S. Attorney [redacted], which stated: "I also want to thank you for the commitment you made to me during our October 12 meeting in which you . . . *assured me* that your Office would not . . . *contact any of the identified individuals, potential witnesses, or potential civil claimants and their respective counsel in this matter.*"[77]

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[74] RFP WPB 000411-000412 (Exhibit 75).
[75] RFP MIA 000015-000016 (Exhibit 76).
[76] RFP WPB 002020-002021 (Exhibit 77).
[77] Exhibit 67 (emphasis added).

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64. On October 24, 2007, AUSA [redacted] sent a letter to Jay Lefkowitz, proposing an Addendum to the NPA clarifying the procedures for the third-party representative for the victims under the NPA's compensation procedures.[78]

65. On October 25, 2007, AUSA [redacted] sent a letter to Ret. Judge [redacted] about selecting an attorney to represent the victims under the NPA's compensation procedure.[79]

LACK OF VICTIM NOTIFICATION AFTER THE NPA WAS SIGNED

66. After the NPA was signed, the Office regarded the agreement as having "an express confidentiality provision."[80]

67. By entering into the confidentiality provision, the Office put itself in a position that conferring with the crime victims—including Jane Doe 1, Jane Doe 2, and other similarly-situated victims—about the co-conspirator immunity provision and the NPA's non-prosecution provisions would have violated the confidentiality provision of the agreement.[81]

68. The confidentiality provision was a contractual prohibition, binding on the U.S. Attorney's Office, against disclosing the terms of the NPA.[82]

69. Epstein was well aware of this failure to notify the victims and, indeed, arranged for this failure to notify the victims.[83]

70. On about October 26 or 27, 2007, after the initial plea agreement was signed, FBI agents contacted Jane Doe 1. Special Agents E. [redacted] and [redacted] met in

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[78] US_Atty_Cor. 00220-00226 (Exhibit 78).
[79] 000551-000554 (Exhibit 79).
[80] Exhibit 64 at 4.
[81] Exhibit 62.
[82] *Id.*
[83] *Id.*; Exhibit 63 at 4-6, 18-19, 22-23, 28-29; Exhibit 64 at 4-5; Exhibit 69.

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person with Jane Doe 1. During this litigation, the Special Agents have said that they explained that Epstein would plead guilty to state charges involving another victim, he would be required to register as a sex offender for life, and he had made certain concessions related to the payment of damages.[84]

71. During this meeting, the Special Agents did not explain that an agreement had already been signed that precluded any prosecution of Epstein for federal charges for crimes committed against Jane Doe 1 or the many other victims cooperating with the federal investigation.[85]

72. The Special Agents also did not explain that an agreement had already been signed that precluded any prosecution of Epstein's co-conspirators, including [redacted] who had personally sexually abused Jane Doe 1 at the direction of Epstein. Because the plea arrangement had already been reached with Epstein, the agents made no attempt to secure Jane Doe 1's view on the proposed resolution of the case or to confer with her about it.[86]

73. Jane Doe 1 did not get the opportunity to meet or confer with the attorney for the Government in the case about any potential federal deal that related to her or the crimes Epstein committed against her.[87]

74. The agents could not have revealed the immunity features of the NPA without violating its terms, which required that the Government "provide notice to Epstein before making … disclosure" of the NPA.[88]

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[84] Exhibit 26.
[85] Exhibit 62; Exhibit 26; Exhibit 63 at 4-6, 18-19, 22-23.
[86] *Id.*
[87] *Id.*
[88] *Id.*

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75. Jane Doe 1's understanding of the Special Agent's explanation was that only the state portion of the Epstein investigation was being resolved, and that the federal investigation in which she was participating would continue. This understanding is consistent with the future communication she received.[89]

76. In addition to Jane Doe 1, FBI agents talked to only two other victims out of the 34 identified victims about the "general terms" of the NPA, including the provision providing a federal civil remedy to the victims.[90]

77. After these meetings with three victims, Epstein's defense team complained. At that point, the U.S. Attorney's Office decided not to make any notifications about the NPA to any victim.[91]

78. Other than the three victims mentioned above, the United States did not inform any of the victims of anything about the status of the case or any plea discussions with Epstein, including even the existence of the NPA.[92]

79. On about November 27, 2007, AUSA [redacted] sent an e-mail to Lefkowitz, (with a cc to U.S. Attorney [redacted]) stating that the Office had a statutory obligation to notify the victims about Epstein's plea to state charges that was part of the NPA:

> *The United States has a statutory obligation (Justice for All Act of 2004) to notify the victims of the anticipated upcoming events and their rights associated with the agreement entered into by the United States and Mr. Epstein in a timely fashion.* Tomorrow will make one full week since you were formally notified of the selection. I must insist that the vetting process come to an end. Therefore, unless you provide me with a good faith objection to Judge [redacted] selection [as special

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[89] Exhibit 26; Exhibit 63 at 4-6, 18-19, 22-23, 28-29; [DE 58] (Exhibit 80) at 11.
[90] RFP MIA 000408 (Exhibit 81); Exhibit 64 at 4.
[91] Exhibit 64 at 5.
[92] Exhibit 62; Exhibit 65 at 57; Exhibit 64 at 4-5.

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> master for selecting legal counsel for victims pursuing claims against Epstein] by COB tomorrow, November 28, 2007, I will authorize the notification of the victims. Should you give me the go-head on [victim representative] . . . selection by COB tomorrow, I will simultaneously send you a draft of the letter. I intend to notify the victims by letter after COB Thursday, November 29th.[93]

80. On November 28, 2007, the Government sent an email to Lefkowitz attaching a letter dated November 29, 2007 (the apparent date upon which it was intended to be mailed) and explained that "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." The proposed letter then spelled out a number of the provisions in the NPA, including that because Epstein's plea to state charges was "part of the resolution of the federal investigation," the victims were "entitled to be present and to make a statement under oath at the state sentencing."[94]

81. On November 28, 2007, Lefkowitz sent an email to U.S. Attorney [redacted] (with a copy to AUSA [redacted]) objecting to victim notifications:

> *We do, however, strongly and emphatically object to your sending a letter to the alleged victims.* Finally, we disagree with your view that you are required to notify the alleged victims pursuant to the Justice for All Act of 2004.... Furthermore, if a letter is to be sent to these individuals, we believe we should have a right to review and make objections to that submission prior to it being sent to any alleged victims.... *[I]t it should happen only after Mr. Epstein has entered his plea.*[95]

82. The Government complied with such direction and failed to inform the victims of the NPA until after Epstein entered his plea. On November 29, 2007, Lefkowitz sent a letter to U.S. Attorney [redacted] objecting to the proposed victim notification letter, stating that it is

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[93] US_Atty_Cor. at 00255-00262 (Exhibit 82) (emphasis rearranged).
[94] RFP WPB 000429 (Exhibit 83); RFP MIA 000011-000014 (Exhibit 84).
[95] Exhibit 26 (emphasis added).

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inappropriate for any letter to be sent to the victims before Epstein entered his plea or had been sentenced. Lefkowitz also told the Government that the victims should not be invited to the state sentencing, that they should not be encouraged to contact law enforcement officials, and that encouraging the attorney representative to do anything other than get paid by Epstein to settle the cases was to encourage an ethical conflict.[96]

83. On about November 30, 2007, U.S. Attorney [redacted] sent a letter to one of Epstein's defense attorneys, Ken Starr, stating: "I am directing our prosecutors not to issue victim notification letters until this Friday at 5 p.m., to provide you with time to review these options with your client." The letter also explained that the line prosecutor had informed [redacted] "that the victims were not told of the availability of Section 2255 relief during the investigation phase of this matter" despite the fact that the "[r]ule of law . . . now requires this District to consider the victims' rights under this statute in negotiating this Agreement."[97]

84. Because of concerns from Epstein's attorneys, the U.S. Attorney's Office never sent the proposed victim notification letters discussed in previous paragraphs to the victims or anything discussing any of the NPA provisions.[98]

85. On December 5, 2007, Starr sent a letter to U.S. Attorney [redacted] (with copy to AUSA [redacted]) asking about issuance of victim notification letters and stating: "While we believe that it is wholly inappropriate for your Office to send this letter under any circumstances, it is certainly inappropriate to issue this letter without affording us the right to review it."[99]

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[96] RFP MIA 000007-000010 (Exhibit 85).
[97] RFP MIA 000501-507 (Exhibit 86).
[98] Exhibit 26; RFP MIA 000025-000037 (Exhibit 87).
[99] Exhibit 76.

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86. On about December 6, 2007, [redacted] sent a letter to Lefkowitz again recognizing the rights of the victims, and also recognizing that the victims had not yet been afforded any rights, despite the fact that the NPA was signed months earlier. The letter stated:

> [E]ach of the listed individuals are persons whom the Office identified as victims. [T]he Office is prepared to indict Mr. Epstein based upon Mr. Epstein's 'interactions' with these individuals. This conclusion is based upon a thorough and proper investigation - one in which none of the victims was informed of any right to receive damages of any amount prior to the investigation of her claim.
>
> [T]he Office can say, without hesitation, that the evidence demonstrates that each person on the list was a victim of Mr. Epstein's criminal behavior.
>
> Finally, let me address your objections to the draft Victim Notification Letter. You write that you don't understand the basis for the Office's belief that it is appropriate to notify the victims. Pursuant to the 'Justice for All Act of 2004,' crime victims are entitled to: 'The right to reasonable, accurate, and timely notice of any public court proceeding … involving the crime' and the 'right not to be excluded from any such public court proceeding….' 18 U.S.C. § 3771(a)(2) & (3). Section 3771 also commands that 'employees of the Department of Justice . . . engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).' 18 U.S.C. § 3771(c)(1)….
>
> With respect to notification of the other information that we propose to disclose, the statute requires that we provide a victim with the *earliest possible* notice of: the status of the investigation, the filing of charges against a suspected offender, and the acceptance of a plea. 42 U.S.C. 10607(c)(3). Just as in 18 U.S.C. 3771, these sections are not limited to proceedings in a *federal* district court. Our Non-Prosecution Agreement resolves the federal investigation by allowing Mr. Epstein to plead to a state offense. *The victims identified through the federal investigation should be appropriately informed*, and our Non-Prosecution Agreement does not require the U.S. Attorney's Office to forego its legal obligations.
>
> [T]he Office believes that it has proof beyond a reasonable doubt that each listed individual was a victim of Mr. Epstein's criminal conduct while the victim was a minor. The law requires us to treat all victims "with fairness and with respect for the victim's dignity and privacy." 18 U.S.C. 3771(a)(8).[100]

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[100] US_Atty_Cor. 190-193 (Exhibit 88) (emphasis added).

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The letter included a footnote stating: "Unlike the State's investigation, the federal investigation shows criminal conduct by Mr. Epstein at least as early as 2001, so all of the victims were minors at the time of the offense."[101]

87. On December 7, 2007, defense attorney Lilly Ann Sanchez sent a letter to AUSA [redacted], requesting "that the Office hold off on sending any victim notification letters." The Government complied.[102]

88. While discussing with defense counsel changes in the October 2007 Addendum and in a December 19, 2007 letter from the U.S. Attorney to Attorney Lilly Ann Sanchez, the U.S. Attorney's Office did not confer with any of the victims about these modifications to the NPA.

89. On December 13, 2007, the line prosecutor sent a letter to Lefkowitz confirming that the Government had earlier stopped making victim notifications because of objections from Epstein's criminal defense counsel: "You raised objections to any victim notification, and no further notifications were done."[103] The December 13, 2007 letter reveals it would have been possible to confer with victims about the NPA. The U.S. Attorney's Office was able to confer constantly with Epstein's counsel about the parameters of the NPA, but intentionally declined to confer with Epstein's victims about the Agreement.[104]

90. On December 19, 2007, U.S. Attorney [redacted] sent a letter to Lilly Ann Sanchez stating, "I understand that the defense objects to the victims being given notice of time and place of Mr. Epstein's state court sentencing hearing. We intend to provide victims with notice of the

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101 RFP WPB 000620 (Exhibit 89).
102 RFP WPB 001557 (Exhibit 90).
103 Exhibit 24; Exhibit 69; RFP MIA 00469 (Exhibit 91).
104 *Id.*

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federal resolution, as required by law. We will defer to the discretion of the State Attorney regarding whether he wishes to provide victims with notices of the state proceedings.[105]

91. In about early January 2008, as the result of pressure from Epstein's attorneys, [redacted] agreed with Epstein's attorneys "that there were significant irregularities with the deferred prosecution agreement" and "called a time-out." At that time, [redacted] asked the Child Exploitation and Obscenity Section of the Justice Department's Criminal Division, located in Washington, D.C., to look at the case.[106]

CONCEALING THE NPA WHILE EPSTEIN SOUGHT REVIEW

92. Following the entry of the "time out," any requirement that Epstein carry out his obligations under the NPA was delayed while he sought higher level review within the Justice Department. During this review, the victims were not told about the existence of the NPA.[107]

93. On January 10, 2008, Jane Doe 1 and Jane Doe 2 received victim notification 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.*"[108]

94. The January 10, 2008, notification letter did not disclose that the federal cases in the Southern District of Florida involving Jane Doe 1 and Jane Doe 2 were the subject of the NPA

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[105] US_Atty_Cor. 00272-00273 (Exhibit 92); RFP MIA 000038-000040 (Exhibit 93); RFP MIA 00041-00047 (Exhibit 94); RFP MIA 000048-000052 (Exhibit 95).

[106] Exhibit 91 (email from Lefkowitz to [redacted], dated February 29, 2008, and noting that it had been nearly two months since the "time out" agreement).

[107] Exhibit 26; Exhibit 27; RFP WPB 001616-001623 (Exhibit 96); Exhibit 63 at 4-5, 18-19, 22-29.

[108] January 10, 2008 Victim Notification Letter to Jane Doe 1 (Exhibit 97) (emphasis added); January 10, 2008 Victim Notification Letter to Jane Doe 2 (Exhibit 98).

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entered into by Epstein and the U.S. Attorney's Office discussed previously, or that there had been any potentially binding resolution.[109]

95. On about January 10, 2008, other victims similarly-situated to Jane Doe 1 and Jane Doe 2 received letters identical in substance to those described in the immediately preceding paragraphs.[110]

96. In early 2008, 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 or other representatives of the Federal Government about the prosecution of Epstein. In light of the letters that they had received around January 10, 2008, they reasonably believed, as was obviously intended by the letters, that a federal criminal investigation of Epstein was on-going—including investigation into Epstein's crimes against them. They also reasonably believed that they would be contacted by and have an opportunity to confer with federal prosecutors before the Federal Government reached any final resolution of that investigation.[111]

97. On January 31, 2008, Jane Doe 1 met with FBI Agents and AUSA's from the U.S. Attorney's Office. She provided additional details of Epstein's sexual abuse of her. The AUSA's did not disclose to Jane Doe 1 at this meeting that they had already negotiated a NPA with Epstein.[112]

98. On March 19, 2008, the line prosecutor sent a lengthy email to a prospective pro bono attorney for one of Epstein's victims who had been subpoenaed to appear at a deposition. The

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[109] *Id.*
[110] Exhibit 63 at 4-5, 18-19, 22-29.
[111] Exhibit 63 at 4-6, 18-19, 22-23, 28-29; Exhibit 26; Exhibit 27.
[112] Exhibit 33.

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email listed the attorneys representing Epstein, the targets of the investigation, and recounted in detail the investigation that had been conducted to that point. The email did not reveal the fact that Epstein had signed the NPA in September 2007.[113]

99. On May 30, 2008, Jane Doe 5 (another client of the undersigned), who was recognized as an Epstein victim by the U.S. Attorney's Office, received a letter from the FBI advising her 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.*"[114] The statement in the notification letter was misleading. The letter did not disclose the NPA already entered into by Epstein and the Office, and instead implied that the Office was still investigating Epstein and had not decided how to proceed with the case, neither of which was accurate.[115]

100. The May 30, 2008, victim letter to Jane Doe 5 also acknowledged the victims' rights under the CVRA at the same time as the Office was not disclosing the NPA's existence to Jane Doe 5 and the other victims.[116]

101. In mid-June 2008, Mr. Edwards contacted the line AUSA handling the case 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 against these victims, hoping to secure a significant federal indictment against Epstein, consistent with his clients' desires. The line prosecutor and Mr. Edwards discussed the possibility of federal charges being filed in the

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[113] Exhibit 40.
[114] Exhibit 29.
[115] *Id.*
[116] Exhibit 28; Exhibit 62.

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future. Mr. Edwards was lead to believe federal charges could still be filed, with no mention whatsoever of the existence of the NPA or any other possible resolution to the case.[117]

102. At the end of the call, the line prosecutor asked Mr. Edwards to send any information that he wanted considered by the Office in determining whether to file federal charges. Because of the confidentiality provision that existed in the plea agreement, the line prosecutor did not inform Mr. Edwards that months earlier, in September 2007, the Office had reached an agreement not to file federal charges. The line prosecutor also did not inform Mr. Edwards that resolution of the criminal matter was imminent.[118]

103. On June 19, 2008, Mr. Edwards sent an email to the line prosecutor requesting to meet in person to confer with the Government regarding the status of his clients' case.[119]

104. Because the line prosecutor did not tell Mr. Edwards about the NPA, Mr. Edwards was not able to confer with the prosecutor about the NPA on behalf of his clients. Mr. Edwards, however, made it perfectly clear that his clients wanted to confer with the prosecutor before any resolution was reached. Epstein was aware of this continued concealment of the NPA from the victims and, indeed, sought this concealment.[120]

105. On June 23, 2008, the line prosecutor sent an email to Lefkowitz stating that the Deputy Attorney General had completed his review of the Epstein matter and "determined that federal prosecution of Mr. Epstein's case [wa]s appropriate. Accordingly, Mr. Epstein ha[d] until

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[117] Exhibit 63 at 4-6, 18-19, 22-23, 28-29; Exhibit 64 at 5-6.
[118] *Id.*; US_Atty_Cor. 0321 (Exhibit 99).
[119] RFP WPB 001894 (Exhibit 100).
[120] Exhibit 63 at 4-6, 18-19, 22-23, 28-29; Exhibit 64 at 5-6; Exhibit 99.

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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."[121]

EPSTEIN'S ENTRY OF HIS GUILTY PLEA

106. On and before June 30, 2008, the Government and Epstein's attorneys corresponded extensively (often multiple times on any given day) regarding Epstein's entry of his guilty plea. Throughout the course of these communications, the Government and Epstein operated on the agreement that the victims would not be told about the NPA, much less about the fact that Epstein's plea was a triggering event for the federal case being resolved.[122]

107. On about June 27, 2008, the U.S. Attorney's Office called Mr. Edwards to provide notice to his clients regarding the impending Monday morning hearing. The notice, however, was only that Epstein was pleading guilty to state solicitation of prostitution charges involving other victims—not Mr. Edwards' clients nor any of the federally-identified victims. The U.S. Attorney's Office did not tell Mr. Edwards that the guilty pleas in state court would bring an end to the possibility of federal prosecution pursuant to the plea agreement.[123]

108. In fact, the U.S. Attorney's Office did not disclose to Edwards the fact that the guilty pleas in state court had any bearing on the cases of Jane Doe 1 and Jane Doe 2. As a result, Jane Doe 1 and Jane Doe 2 did not attend the plea hearing.[124]

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[121] Exhibit 40.
[122] Exhibit 26; Exhibit 27; Exhibit 62; Exhibit 63 at 4-6, 18-19, 22-23; Exhibit 99; RFP WPB 000512-000513 (Exhibit 101).
[123] Exhibit 62; Exhibit 63 at 4-6, 18-19, 22-23; Exhibit 99; Exhibit 101.
[124] Exhibit 26; Exhibit 27; Exhibit 62; Exhibit 63 at 4-6, 18-19, 22-23; Exhibit 99; Exhibit 101; Declaration of Brad Edwards (Exhibit 102).

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109. Had they known that the plea agreement in state court made it impossible to prosecute Epstein federally for his crimes against them, they would have objected to this resolution and would have certainly attended the hearing.[125]

110. On or before June 30, 2008, the Office prepared a draft victim notification to be sent to the victims—a letter that it intended to show to both Epstein and Jack Goldberger, as reflected by a place for the initials of both Epstein and Goldberger on the document. The notification was designed to inform the victims of the provisions of deferral of federal prosecution in favor of state charges. The notification letter began by describing Epstein's guilty plea in the past tense: "On June 30, 2008, Jeffrey Epstein … entered a plea of guilty to violations of Florida statutes forbidding the solicitation of minors to engage in prostitution and felony solicitation of prostitution." Later, a substantively identical letter was prepared for Epstein's and Guy Lewis' review.[126]

111. On June 30, 2008, the Office sent an e-mail to Goldberger reflecting continuing efforts to keep the NPA secret: "Jack: The FBI has received several calls regarding the Non-Prosecution Agreement. I do not know whether the title of the document was disclosed when the Agreement was filed under seal, but the FBI and our office are declining comment if asked."[127]

112. On June 30, 2008, Epstein plead guilty to state law solicitation of prostitution charges. Because the Federal Government failed to notify the victims about the NPA or its arrangements with Epstein, neither Jane Doe 1, Jane Doe 2, Jane Doe 5, nor any of the identified victims in the

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[125] Exhibit 26; Exhibit 27; Exhibit 63 at 4-6, 18-19, 22-23; Exhibit 99; Exhibit 101; Exhibit 102.
[126] US_Atty_Cor. 00323 (Exhibit 103); RFP WPB 000515-000520 (Exhibit 104).
[127] Exhibit 99.

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federal case were aware of the ramifications of the state proceeding (either in person or through counsel).[128]

113. Immediately following the June 30, 2008 hearing, the line prosecutor told one of the victims' attorneys that Epstein had "plead guilty today in state court."[129]

114. On June 30, 2008, based on what she had been told by the Government, Jane Doe 1 thought that the Office was still investigating and pursuing her case. She did not receive notice that Epstein's state guilty plea affected her rights in any way. If she had been told that the state plea had some connection to blocking the prosecution of her case, she would have attended and tried to object to the judge to prevent that plea from going forward.[130]

115. On June 30, 2008, based on what she and her attorneys had been told by the Government, Jane Doe 2 thought that the Government was still investigating her case. If she had been told that the state plea had some connection to blocking the prosecution of her case, she would have tried to confer with the prosecutors about it and tried to get charges filed. She wanted to be treated fairly in the process.[131]

116. From September 24, 2007, the date that the NPA was signed, through at least the state court plea on June 30, 2008—a period of more than nine months—the Office did not notify any of Epstein's victims about the existence of the NPA.[132]

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[128] Exhibit 26; Exhibit 27; Exhibit 63 at 4-6, 18-19, 22-23; Exhibit 64 at 6; 000001-000002 (Exhibit 105).
[129] RFP WPB 001861 (Exhibit 106).
[130] Exhibit 26; Exhibit 63 at 4-6, 18-19, 22-23.
[131] Exhibit 27; Exhibit 63 at 4-6, 18-19, 22-23; Exhibit 105.
[132] Exhibit 62; Exhibit 63 at 4-6, 18-19, 22-23, 28-29; Exhibit 64 at 4; US_Atty_Cor. 00267-00271 (Exhibit 107).

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117. On July 1, 2008, the day following Epstein's plea, the line prosecutor emailed the Assistant State Attorney a copy of the NPA for "filing with the Court under seal" demonstrating that the agreement continued to be withheld from the victims.[133]

118. On July 3, 2008, as specifically directed by the U.S. Attorney's Office, Mr. Edwards sent a letter to the Office communicating the wishes of Jane Doe 1, Jane Doe 2, and Jane Doe 5 that federal charges be filed against Epstein: "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."[134]

119. When Mr. Edwards wrote his July 3, 2008 letter, he was still unaware that a NPA had been reached with Epstein and that there was any federal resolution of the case—facts that the Office continued to conceal, at the request of Epstein, not only from Edwards but also as his clients and other victims.[135]

120. On July 7, 2008, the line prosecutor again conferred with Epstein's counsel seeking permission to *begin* distributing the notification letters to the victims, acknowledging her failure to include one victim who was still a minor in 2008.[136]

121. Mr. Edwards first saw a reference to the NPA on or after July 9, 2008, when the Government filed its responsive pleading to Jane Doe's emergency petition. That pleading was

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[133] RFP WPB 001857 (Exhibit 108).
[134] Exhibit 105.
[135] Exhibit 63 at 4-6, 18-19, 22-23, 28-29; Exhibit 99; RFP WPB 001855 (Exhibit 109); [DE 48] (Exhibit 110) at 18-19.
[136] RFP WPB 001854 (Exhibit 111).

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the first public mention of the NPA and the first disclosure to Mr. Edwards—and thus to Jane Doe 1, Jane Doe 2, and Jane Doe 5—of the possible existence of a NPA.[137]

122. Mr. Edwards detrimentally relied on the misleading representations made by the Office that the case was still under investigation when he was writing his July 3, 2008 letter. He would not have wasted his time undertaking a pointless exercise had he known that the U.S. Attorney's Office had previously negotiated a NPA, and he would have informed his clients about the agreement.[138]

A MOTIVE TO CONCEAL THE NPA FROM THE VICTIMS

123. The U.S. Attorney's Office—pushed by Epstein—wanted the NPA kept from public view because of the strong objection it would have faced from victims of Epstein's abuse, and because of the public criticism that would have resulted from allowing a politically-connected billionaire who had sexually abused more than 30 minor girls to escape from federal prosecution with only a county court jail sentence.[139]

124. When deciding whether to notify the victims before Epstein entered his guilty plea, the Office was aware that a state court judge would have to review the plea and determine whether it was in the public interest, and accordingly chose not to "highlight" certain potentially objectionable features.[140]

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[137] Exhibit 62; Exhibit 63 at 4-6, 18-19, 22-23, 28-29; Exhibit 99; Exhibit 110 at 18-19.
[138] *See* Exhibit 28; Exhibit 102; Exhibit 105.
[139] Exhibit 26; Exhibit 27; Exhibit 62; Exhibit 63 at 4-6, 18-19, 22-23; Exhibit 99; Exhibit 101; Exhibit 102; Exhibit 57 (urging Government to try and keep agreement from becoming public); Exhibit 7 (explaining Government's desire not to "highlight" possible charges or defendants being immunized).

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125. Concealing the NPA from the victims prevented them from using their right to confer with the Government about why the NPA was not desirable or appearing at Epstein's plea and sentencing hearing to raise their concerns with the Court.[141]

THE VICTIMS' UNSUCCESSFUL ATTEMPTS TO ENFORCE THEIR RIGHTS

126. On July 7, 2008, Jane Doe 1 filed an emergency petition for enforcement of her rights under the CVRA. At the time, Jane Doe 1 was not aware of the NPA, so she sought a court order directing the Government to confer with her before reaching any such agreement. Epstein quickly became aware of this petition.[142]

127. On July 8, 2008, the line prosecutor sent a letter to Epstein's counsel stating that victims would be informed about the civil compensation provision of the NPA the next day:

> In accordance with the terms of the Non-Prosecution Agreement, on June 30, 2008, the United States Attorney's Office provided you with a list of thirty-one individuals "whom it was prepared to name in an Indictment as victims of an enumerated offense by Mr. Epstein." . . . In deference to your vacation, we allowed you a week to provide us with any objections or requested modifications of the list and/or the Notification language. Yesterday, I contacted you via telephone and e-mail, but received no response. Accordingly, the United States hereby notifies you that it will distribute the victim notifications tomorrow, July 9, 2008, to each of the thirty-two identified victims, either directly or via their counsel.[143]

128. On July 9, 2008, Jack Goldberger sent a letter to the line prosecutor raising concerns about the notifications, and suggesting modifications to the notification letter. Epstein's counsel also objected to the victim notification letters containing certain information about the NPA.[144]

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[141] 18 U.S.C. § 3771; Exhibit 26; *see also* Exhibit 62.
[142] [DE 1] (Exhibit 112) at 1-2.
[143] Exhibit 101.
[144] RFP WPB 000524-000525 (Exhibit 113).

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129. Later on July 9, 2008, the line prosecutor sent a response back to Goldberger, explaining how [redacted] intended to keep the victims from having access to the terms of the NPA:

> Without such an express Acknowledgment by Mr. Epstein that the notice contains the substance of that Agreement, I believe that the victims will have justification to petition for the entire agreement, which is contrary to the confidentiality clause that the parties have signed.[145]

130. On July 9, 2008, the U.S. Attorney's Office sent victim notification letters to Jane Doe 1 and Jane Doe 5, via their attorney, Mr. Edwards, and to other identified victims of Epstein. That notification contained a written explanation of some of the civil compensation provisions of the NPA. The notification did not provide the full terms of the NPA. For example, the notification did not disclose the NPA or the immunity for "other potential co-conspirators" of Epstein.[146]

131. On July 10, 2008, Epstein's counsel continued to protest victim notification as evidenced by Goldberger's email to the line prosecutor stating, "we respectfully request a reasonable opportunity to review and comment on a draft of the modified notification letter you intend to mail before you send it."[147]

132. On July 11, 2008, the Court held a hearing on Jane Doe 1's petition and, with the stipulation of the Government, added Jane Doe 2 as a petitioner because she was a recognized crime "victim." The Court unsealed a declaration that the line prosecutor had filed in response to the petition, and because the declaration contained one paragraph of the NPA, that paragraph

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[145] RFP WPB 000526-000527 (Exhibit 114).
[146] 000777-000779 (Exhibit 115); 000774-000776 (Exhibit 116).
[147] RFP WPB 000535-000537 (Exhibit 117).

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became unsealed. The line prosecutor sent an email to Goldberger informing him of the unsealing of that one paragraph.[148]

133. During the July 11, 2008 hearing, the Government conceded that the NPA had been concluded months before the victims were notified about it.[149]

134. Throughout July 2008, Epstein's attorneys and the Government continued to correspond about issues such as subpoenas related to his computers and returning of his property.[150]

135. On August 7, 2008, the line prosecutor emailed one of Epstein's defense attorneys, Roy Black, notice of the motion to disclose the NPA to the victims and assured him that the Government intended "to oppose the motion based upon the confidentiality provision."[151]

136. On August 10, 2008, Jane Doe 1 and Jane Doe 2 filed a motion seeking release of the NPA.[152]

137. Immediately after the motion was filed, the Office coordinated with another Epstein attorney about how to best object to the motion.[153]

138. On August 11, 2008, Roy Black wrote back to the line prosecutor, thanking the Government for "agreeing to oppose any disclosure of the 9/24/07 agreement."[154]

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148 RFP WPB 001845 (Exhibit 118).
149 *See* Exhibit 63 at 12 (". . . the agreement was consummated by the parties in December of 2007."); *see also* Exhibit 62.
150 RFP WPB 000470-000471 (Exhibit 119); RFP WPB 000481-000489 (Exhibit 120); RFP WPB 000547 (Exhibit 121).
151 [DE 19] (Exhibit 122); RFP WPB 001825 (Exhibit 123).
152 Exhibit 122.
153 RFP WPB 001820-001838 (Exhibit 124).
154 RFP WPB 001819 (Exhibit 125).

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139. Between August 11 and 14, 2008, the line prosecutor attempted to obtain a copy of the NPA that Epstein's counsel had filed in state court.[155] After receiving a copy, on August 14, 2008, the line prosecutor wrote to Lefkowitz: "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."[156]

140. Further communications ensued between the line prosecutor and Epstein's counsel about what exactly was contained in the NPA—specifically, whether a December modification to the agreement was part of the NPA. The notification to the victims about the civil restitution provisions had quoted from the December language.[157]

141. On August 14, 2008, the line prosecutor emailed Epstein's counsel stating that the court has "ordered us to make the Agreement available to the plaintiffs."[158]

142. On August 15, 2008, the line prosecutor sent a letter to Epstein's counsel confirming that recent correspondence was intended "solely to determine what Mr. Epstein considered to be the terms of the Non-Prosecution Agreement" so that the Government would know exactly what needed to be produced to the victims in this CVRA case.[159]

143. On August 18, 2008, Lefkowitz wrote the line prosecutor that Epstein objected to disclosure of the terms of the NPA, but that Epstein would "cooperate with the government to reach an agreement as to substance of the notification to be sent to the government's list of

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[155] RFP WPB 001809-001818 (Exhibit 126).
[156] RFP WPB 001804 (Exhibit 127).
[157] RFP WPB 001805-001808 (Exhibit 128).
[158] RFP WPB 001798 (Exhibit 129).
[159] Exhibit 68; RFP WPB 000575-000576 (Exhibit 130).

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individuals. Based on the Agreement, the information contained in the notification should be limited to (1) the language provided in the Agreement dealing with civil restitution (paragraphs 7-10) and (2) the contact information of the selected attorney representative. We object to the inclusion of additional information about the investigation of Mr. Epstein, the terms of the Agreement other than paragraphs 7-10 and the identity of other identified individuals." [160]

144. On August 21, 2008, the Government sent a letter to Epstein's counsel stating that, "[c]opies of the victim notifications will continue to be provided to counsel for Mr. Epstein." The letter further requested substantive objections to the draft notification letters, which were being re-sent "[b]ecause 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."[161]

145. On August 26, 2008, the Government sent another letter to Epstein's counsel stating, "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."[162]

146. Jane Doe 1 and Jane Doe 2 were not informed of the contents of the NPA until August 28, 2008, when the line prosecutor provided a copy to Mr. Edwards.[163]

147. On September 2, 2008, nearly a year after the NPA was signed, the line prosecutor sent an email to Epstein's counsel stating, "I will start sending out the victim notifications today.

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[160] RFP WPB 000581-000583 (Exhibit 131).
[161] RFP WPB 000587-000588 (Exhibit 132).
[162] RFP WPB 000603-000604 (Exhibit 133) (emphasis in original).
[163] RFP WPB 001776 (Exhibit 134).

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In accordance with your request, I have changed the language regarding the victims' right to receive a copy of the Agreement."[164]

148. On September 2 and 3, 2008, the U.S. Attorney's Office sent to Jane Doe 1 and other identified victims amended notification letters correcting the earlier inaccurate information about the civil compensation provisions contained in the earlier notifications.[165]

149. The victim notification letters that the victims received were confusing. They did not directly state that Epstein's crimes against them were not going to be prosecuted, but instead said that "the United States has agreed to defer federal prosecution in favor of this state prosecution." The letter did not inform the victims of how this applied to them.[166]

150. The victim notification letters also state that there was "litigation between the United States and two other victims regarding the disclosure of the entire agreement between the United States and Mr. Epstein." The letters did not explain that the remedy being sought in the litigation was not just to get "disclosure" of the agreement, but instead to uphold the rights of Epstein's victims.[167]

151. On September 16, 2008, the *Palm Beach Daily News* wrote the State Attorney's Office that it had "recently discovered" the NPA and wanted to know what was in it. The State Attorney's Office wrote the line prosecutor inquiring how to respond.[168]

152. On September 16, 2008, attorney Jeffrey Herman, who represented several Epstein victims, wrote to the line prosecutor to strenuously object to the restitution procedures

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[164] RFP WPB 001775 (Exhibit 135).
[165] September 3, 2008 Victim Notification Letter to Jane Doe 1 (Exhibit 136); Exhibit 2; Exhibit 94 at 2-3.
[166] *Id.*; Exhibit 26; Exhibit 27.
[167] *Id.*
[168] 002343-002344 (Exhibit 137).

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established in the NPA after learning that another attorney established through the NPA would be making unsolicited contacts to the victims. Mr. Herman explained that the notification letters were "misleading" because they referred generally to a waiver of "any other claim for damages" without informing them that this waiver might include a valuable punitive damages claim against an alleged billionaire.[169]

153. On September 17, 2008, the line prosecutor sent an email to State Attorney [redacted], explaining that the NPA "contain[ed] a confidentiality provision that require[ed] us to inform Mr. Epstein's counsel before making any disclosure."[170]

154. On September 18, 2008, attorney Katherine Ezell representing some of Epstein's victims emailed the line prosecutor, asking whether the NPA was "blessed" by Judge Marra. The line prosecutor emailed back: "As far as I know, Judge Marra has not ever seen the agreement or these notification letters.... I don't know if the sentencing judge ever reviewed it. The letters were reviewed by my office and Jay Lefkowitz and Roy Black before they went out."[171]

155. In 2010, Jane Doe 1 met with the new U.S. Attorney, [redacted]. She explained to him how the NPA had been concealed from her. Nothing ever came of the meeting, and Mr. [redacted] has continued to fight efforts by Jane Doe 1 and other victims to have the court declare that their rights were violated while the NPA was drafted and implemented.[172]

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[169] *Id.*
[170] RFP WPB 001773 (Exhibit 138).
[171] RFP WPB 001763 (Exhibit 139).
[172] Exhibit 26; Tr. Nov. 23, 2015 (Exhibit 140) at 3-5 (U.S. Attorney's Office argues that the victims are "complicit" in their own sexual abuse and therefore cannot receive any remedy under the CVRA).

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156. At all times material to this statement of facts, it would have been practical and feasible for the federal government to inform Jane Doe 1, Jane Doe 2, Ms. [redacted], Jane Doe 5, and all other similarly-situated victims of the details of the proposed NPA with Epstein, including in particular the fact that the agreement barred any federal criminal prosecution of crimes that Epstein committed against them.[173]

157. At no time while it negotiated and executed the NPA did the Government notify the victims that Epstein's guilty plea would prevent his prosecutions for crimes against them. Nor did the Government ever allow the identified victims to "confer with the prosecutor on the case," 18 U.S.C. § 3771(a)(5), or "treat them with fairness, respect and dignity" by making them aware of the NPA, § 3771(a)(8). In fact, to the contrary, the Government went to great lengths to conceal the fact that there was a federal resolution at all and mislead the victims into believing that the federal case was proceeding so that the NPA could be secretly put in place before the victims knew what was going on.[174]

MOTION FOR SUMMARY JUDGMENT AND INCORPORATED MEMORANDUM OF LAW

In light of the foregoing undisputed material facts, summary judgment for the victims on the issue of whether their CVRA rights were violated is appropriate. The Court is well aware of the applicable summary judgment standard, which requires that there be no disputed issues that are genuine or material for the moving party to be entitled to judgment as a matter of law. *See, e.g.*, *Joseph v. Napolitano*, 839 F. Supp. 2d 1324, 1333 (S.D. Fla. 2012). The undisputed facts

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[173] *See* Exhibit 88.
[174] Exhibit 26; Exhibit 27; Exhibit 62; Exhibit 63 at 4-6, 18-19, 22-23; Exhibit 99; Exhibit 101; Exhibit 102; Exhibit 57; Exhibit 7.

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here plainly establish that the Government—with the knowledge of, and at the urging of Epstein—violated the CVRA rights of Jane Doe 1, Jane Doe 2, and other similarly-situated victims, by deliberately concealing from them the NPA barring the prosecution of Jeffrey Epstein and his co-conspirators for the federal offenses they committed against them. In particular, the Government violated the victims' right to confer with prosecutors, right to accurate notice of court hearings, and right to be treated with fairness. 18 U.S.C. § 3771(a)(5), (2), & (8).

A. The Government Violated the Victims' Right to Confer.

There can be no real debate that the Government violated the victims' right to confer. Indeed, it is worth recalling that in earlier proceedings, the victims filed a similar (although less detailed) motion for summary judgment. DE 48. The Government responded not by claiming that it had in fact conferred with the victims, but rather by advancing the legal argument that the CVRA does not extend any rights to victims before the filing of an indictment. DE 62. This argument was flatly contradicted by the Government's own earlier decision to provide notification to victims after the NPA was signed – and even during the investigation treating them as victims. *See, e.g.,* ¶¶ 10-16, 34-35, 69-73, 91-94, 98, 125, *supra.* In any event, this Court has now firmly rejected the Government's contrived legal position. DE 99 (the court has determined "that as a matter of law the CVRA can apply before formal charges are filed").[175]

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[175] Not only has this Court rejected the Government's position, but Congress and the President have specifically decided to end any debate and to codify this Court's ruling into federal law. *See* 18 U.S.C. § 3771(a)(9) (victims have the "right to be informed in a timely manner of any plea bargain or deferred prosecution agreement") (added as part of Pub. L. 114-22, Title I, § 113(a), (c)(1) (May 29, 2015)). This codification builds on the fact that Senator Kyl, the Senate co-sponsor of the CVRA, took to the Senate floor to directly express his approval of this Court's ruling. 157 Cong. Rec. S7060-01 (statement of Senator Kyl) (Nov. 2, 2011) (applauding this Court's decision and

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The Government's inability to demonstrate that it afforded victims their right to confer is unsurprising. Under the CVRA, identified crime victims are granted "the reasonable right to confer with the attorney for the Government in the case." 18 U.S.C. § 3771(a)(5). In some cases, there might be a debate about how much conferring is "reasonable" for the prosecutor to undertake. But here, no such debate is possible for the simple reason that the Government simply concealed that it was planning to enter into an agreement blocking the federal prosecution of Epstein from more than 30 of Epstein's identified victims. *See, e.g.*, ¶¶ 17, 32-33, 38, 41, 44-46, 66, 71-72, 87-88, 95, 102, 113, 123, *supra*.

Whatever other rights the CVRA extends to crime victims, it surely extends the simple right to know when the Government is entering into a deal with a sex offender blocking his prosecution for crimes committed against them. *See, e.g.*, ¶ 155, *supra*. Here, the Government violated the victims right to confer during at least three separate time periods: (1) on and before September 24, 2007, when the Government was negotiating and signing the NPA; (2) in and around January 2008, when it sent letters telling the victims not about the previously signed NPA, but rather counseling "patience" while the Government finished its "investigation;" and (3) in and around June 30, 2008, when the Government didn't tell the victims that the state plea would effectively extinguish their rights to ever see Epstein prosecuted. *See* ¶¶ 17, 32-33, 38, 41, 44-46, 66, 71-72, 87-88, 95, 102, 113, 123, *supra*.

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noting its "careful[] review" of the issues).

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Simply put, the NPA barred prosecution of the federal sexual offenses that Epstein had committed against Jane Doe 1, Jane Doe 2, and other similarly-situated victims. Under the CVRA, the victims were entitled to confer about this disposition and attempt to persuade prosecutors to reach a different result. Recognizing a right to confer about such dispositions is "not an infringement … on the government's independent prosecutorial discretion; instead, it is only a requirement that the government confer in some reasonable way with the victims *before* ultimately exercising its broad discretion." *In re Dean*, 527 F.3d 391, 395 (5th Cir. 2008) (internal citations omitted) (emphasis added).

The victims fully understand that if they had conferred with the Government, the prosecutors could possibly have ultimately reached the same kind of agreement. But there is good reason to believe that if the prosecutors had exposed their dealings to scrutiny by Jane Doe 1, Jane Doe 2, and the other victims, they would not have reached such a sweetheart plea deal. *See* ¶¶ 121-23, *supra*. For example, despite the fact that this case has been in litigation for more than seven years spanning several hundred pleadings, the Government does not write even a single sentence explaining why it entered into an NPA with a sex offender who had committed hundreds of federal sex offenses against young girls. Perhaps there is some reason for this extraordinary leniency. But if so, the Government has yet to offer it. In any event, regardless of the ultimate consequences of conferring, Congress promised to all crime victims—including Jane Doe 1, Jane Doe 2, and other similarly-situated victims—that they would be able to confer with prosecutors before a disposition was reached in their case. 18 U.S.C. § 3771(a)(5). The victims never received that congressionally-mandated opportunity.

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In sum, the Government repeatedly violated the victims' CVRA right to confer — and did so at the specific request of Jeffrey Epstein. Summary judgment is thus appropriate on this basis.

B. The Government Violated the Victims' Right to Be Treated With Fairness.

The Government also violated the victims' "right to be treated with fairness and with respect for the victim's dignity and privacy." 18 U.S.C. § 3771(a)(8). Entirely apart from whether the victims had any right to confer with prosecutors, at a bare minimum they had a right to be treated fairly and not be deceived by the Government. Yet here the Government repeatedly and deliberately misled the victims about what was happening in their case, concealing from them the NPA's negotiation and all of the terms it ultimately contained. As with the violation of the right to confer, these violations occurred at multiple points in the process, including the time before the NPA was signed, after the NPA was signed, and when Epstein was entering his State court guilty plea.

A clear-cut example of the Government's violating the victims right to be treated fairly is its remarkable decision in 2008, well after the NPA had been signed, to send the victims (and, in some cases, their attorneys) deceptive information that the case "is currently under investigation" and that "[t]his can be a lengthy process and we request your continued patience while we conduct a thorough investigation." *See* ¶¶ 91-103, *supra*. When the Government finally did inform the victims about what had happened, the notifications were not only incomplete and inaccurate, but they also arrived too late for the victims to do anything about the deal. Specifically, it was too late to confer with the prosecutor or attend the sentencing hearing. *See* ¶¶ 124-48, *supra*. Most important, the notifications did not inform the victims that a NPA had been

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signed with Epstein, preventing federal prosecution in the Southern District of Florida (and thus, as a practical matter, *any* prosecution for most of the victims) for the crimes he and his co-conspirators had committed against them. The notification letters also described this litigation as "the disclosure" of the NPA, rather than its true purpose of vindicating the victims' rights and securing for the victims a right to confer about prosecuting Epstein free from the backdrop of the NPA. See ¶¶ 145-48, supra.

The foregoing facts provide numerous other examples of the victims not being treated fairly. These examples include, but are not limited to:

- Secretly discussing with Epstein's defense counsel contrived charges to avoid making victim notifications (¶¶ 17-22, *supra*);
- Secretly discussing with Epstein's defense counsel arranging a guilty plea in a jurisdiction located some distance from the victims to make it hard for them to find out what was happening (¶ 23, *supra*);
- Secretly reaching a resolution of the case that would make it hard for a judge to see what was going on (¶ 25, *supra*);
- Not telling the victims the NPA was under consideration (¶¶ 41-47, *supra*);
- Deviating from standard policy by negotiating with defense counsel about the extent and substance of crime victim notifications (¶ 49, *supra*);
- Negotiating with defense counsel about concealing the agreement (¶¶ 48-58, *supra*);
- Working to have agents attend Epstein's sentencing hearing "incognito" without telling the victims what was happening (¶ 58, *supra*);
- Making a commitment to Epstein not to contact victims about the NPA (¶ 62, *supra*);
- Entering into a NPA with a confidentiality provision that precluded compliance with CVRA victim notification obligations (¶¶ 65-69, *supra)*;

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- Sending FBI agents to meet with three victims, while precluding the agents from being able to discuss the NPA (¶¶ 69-73, *supra*);
- Agreeing with defense counsel to stop victim notifications required under the CVRA (¶¶ 76-77, *supra*);
- Agreeing to notify victims only after Epstein had entered his plea (¶¶ 80-81);
- Sending deceptive letters about the case still being "under investigation" (¶¶ 91-94, 98);
- Concealing the NPA from attorneys for the victims (¶¶ 100-02, 116-17);
- Failing to provide reasonable notice of Epstein's sentencing hearing to the victims (¶¶ 105-10); and
- Agreeing with Epstein to oppose the release of the NPA to the victims after his plea (¶¶ 134-36).

The Government took all of these actions, it should be noted, with the knowledge of – and, indeed, at the insistence of – Epstein, the criminal who had sexually abused the victims. *See* ¶ 1, *supra*.

The overarching point on many of these actions is that victims of crime are not treated fairly if prosecutors are deceiving them about what is going on with regard to prosecuting their abusers. Whatever else "fairness" might mean, it has to at least mean that the Government keep the victims properly informed and otherwise try to insure that their interests are respected in the criminal justice process. *See* 150 CONG. REC. 7303 (Apr. 22, 2004) (statement of Sen. Kyl describing right to fairness in broad terms). The foregoing facts amply demonstrate numerous situations wherein the Government deliberately kept the victims in the dark about what was happening. Accordingly, the Government violated their right to fairness too and summary judgment is warranted on this independent basis as well.

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C. The Government Violated the Victims' Right to Reasonable and Accurate Notice.

The Government also violated the victims' "right to *reasonable, accurate* and timely notice of any public court proceedings…involving the crime." 18 U.S.C. § 3771(a)(2) (emphasis added). The Government may claim that it complied with this right by giving the victims notice of the state court proceeding in which Epstein pled guilty to sex offenses involving other girls less than one business day before the hearing.[176] But the Government violated the victims' right to "reasonable" and "accurate" notice about this hearing. The Government concealed from Jane Doe 1, Jane Doe 2, and all the other victims, that the NPA and the federal investigation were implicated in this hearing—and thus their right to see Epstein prosecuted was about to be permanently extinguished. As a result of this concealment, they missed their only chance to speak to the Court about the crimes committed against them and to see with their own eyes Epstein being sent to jail. Indeed, even afterwards, the Government continued to hide what was happening with regard to the NPA. *See* ¶¶ 124-148, *supra*.

Importantly, one of the motives for this concealment was to avoid scrutiny by the victims—and the public—of what the Government was doing. *See* ¶¶ 121-23, *supra*. Jane Doe 1, Jane Doe 2, and other similarly-situated victims of serious federal sex offenses did not attend Epstein's plea hearing and sentencing for the obvious reason that they thought it had nothing to do with them—which is precisely what the Government and Epstein were trying to accomplish

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[176] The Government also seems to argue that the CVRA did not apply to this hearing because it was held in state court. But the hearing was one "involving the crime" committed against the victims, 18 U.S.C. § 3771(a)(2), because the NPA was directly involved in the proceedings in state court. Because of the way the Government and Epstein had constructed the NPA, the state plea triggered the applicability of the federal NPA – and thus the CVRA.

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together. Whatever else might be said about one of the most extraordinarily lenient plea arrangements in American history, the Government simply failed to discharge its duty to Epstein's victims to provide "reasonable" and "accurate" notice about court hearings connected with their abuse. Summary judgment should therefore also be granted on this basis.

CONCLUSION

Under the Crime Victims' Rights Act, once the Government had identified the victims of Epstein's sexual offenses, it had statutory obligations to them that it was legally required to respect. Despite those responsibilities to the victims, the Government chose instead to side with the man who had victimized them. Rather than properly inform the victims what was happening, the Government engaged in months of undisclosed plea negotiations with Epstein. Once the negotiations had produced a plea arrangement that was sufficiently lenient to be acceptable to Epstein, rather than tell the victims what had been agreed, the Government conspired with Epstein to conceal that agreement. The undisputed facts clearly show that, for months, the Government deceived the victims about the existence of this arrangement—deception that was necessary to permit the agreement to be consummated before the victims could object.

Perhaps before Congress enacted the CVRA, such outrageous behavior could escape a judicial response. But Congress has now spoken. The Government has an obligation to confer with crime victims, to treat them fairly, and to provide them reasonable and accurate notice of judicial proceedings relevant to their victimization. To the contrary, the undisputed facts in this case show that the Government did not make *any* effort to extend to *any* of Epstein's dozens of victims *any* of the rights which Congress promised them. This Court is accordingly now

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obligated to take all necessary steps to "ensure" that the victims' rights are protected. 18 U.S.C. § 3771(b).

This is not a close case. This is a summary judgment case. For all the foregoing reasons, the Court should find the Government violated the rights of Jane Doe 1, Jane Doe 2, and other similarly situated victims under the Crime Victims' Rights Act. If the Court grants their motion, the victims would then ask the Court to set an appropriate schedule for briefing and a hearing on the issue of the remedy for the violations of their rights.

DATED: February 10, 2016

Respectfully Submitted,

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*This daytime business address is provided for identification and correspondence purposes only and is not intended to imply institutional endorsement by the University of Utah.

EFTA00184279

E-Mail:cassellp@law.utah.edu

Attorneys for Jane Does 1 and 2

CERTIFICATE OF SERVICE

I certify that the foregoing document was served on February 10, 2016, on the following using the Court's CM/ECF system:

Dexter Lee
[redacted]
Fax:
E-mail:
E-mail:

Attorneys for the Government

Roy Eric Black
Jacqueline Perczek
Black Srebnick Kornspan & Stumpf
[redacted]
Fax:
Email:

Attorneys for Jeffrey Epstein

/s/ Bradley J. Edwards

EFTA00184280

EXHIBIT

1

KIRKLAND & ELLIS LLP

AND AFFILIATED PARTNERSHIPS

Citigroup Center
[redacted]

Jay P. Lefkowitz, P.C.
To Call Writer Directly:
[redacted]

www.kirkland.com

Facsimile:
[redacted]
Dir. Fax: [redacted]

Confidential. For Settlement Purposes Only, Pursuant to Rule 408.

October 10, 2007

VIA E-MAIL

[redacted]
United States Attorney's Office
Southern District of Florida
[redacted]

Re: Jeffrey Epstein

Dear [redacted]:

I write as a follow up to our conversation yesterday regarding the open issues that remain in the Epstein matter. As you are aware, we continue to have serious disagreements with Ms. [redacted] regarding the nature of the settlement process for identified individuals' § 2255 claims. Legal representation in a lawsuit was never contemplated by the Federal Plea Agreement (the "Agreement"). Over the course of the negotiations of the Agreement, the parties worked diligently to create an alternative dispute resolution for those identified individuals seeking a civil remedy for the conduct at issue, in an effort to avoid long drawn out disputes over liability in public adversarial litigations. Initially, we proposed that Mr. Epstein create a trust whereby a trustee would be appointed by the Circuit Court to disperse the funds to the identified individuals based on a good faith showing of injury. In response, Ms. [redacted] proposed the appointment of a guardian ad litem to represent the identified individuals, not an attorney, which suggests that litigation was never contemplated by either party. Ultimately, the parties agreed to Paragraphs 7 and 8 of the Agreement, which allow for a single attorney representative to settle the claims of the identified individuals and create a procedural alternative to public adversarial litigation.

In keeping with the parties' understanding of Paragraphs 7 and 8, you should know that we are in agreement with your choice of Judge [redacted] [redacted], but we believe Judge [redacted] should act as the attorney representative to settle claims pursuant to the Agreement and the parties' longstanding understanding of the settlement process. Because the process we have agreed to does not contemplate litigation with respect to the attorney representative, Judge [redacted] can work to negotiate settlements with the identified individuals without further involvement by the government or its agents. Below, I've outlined our main areas of concern with the approach Ms.

[redacted] has taken regarding the role of the attorney representative and the settlement process for § 2255 claims pursuant to Paragraphs 7 and 8 of the Agreement.

First Issue: The Settlement Process and the Role of the Attorney Representative. The settlement procedure we propose, and which we believe is made clear by the Agreement, is reasonable and consistent with the intention of the parties: the attorney representative will represent the identified individuals provided they opt to enter into a settlement agreement with Mr. Epstein with respect to their § 2255 claims. The attorney representative will negotiate a total settlement amount with Mr. Epstein. Once the United States has formally declined to prosecute Mr. Epstein in this matter, and each identified individual electing to settle has waived her right to pursue any other claims against Mr. Epstein, the attorney representative will distribute the proceeds in the manner he sees fit. If the identified individuals cannot settle or opt not to settle on a damages amount with Mr. Epstein, then the attorney representative may not continue his representation and is barred from filing lawsuits pursuant to § 2255 and the identified individuals would not be suing under § 2255 as contemplated by Paragraph 8.

Based on the specific language in the contract and the intent of both parties, we believe that the Agreement clearly provides that the identified individuals may opt to make use of the attorney representative so long as they can reach a settlement agreement with Mr. Epstein. If the parties cannot settle on a damages amount with Mr. Epstein, then the attorney representative may not continue his representation and is barred from filing lawsuits pursuant to § 2255.

The provisions of the Agreement make clear that the role of the attorney representative is limited to settling claims brought by identified individuals pursuant to the Agreement. While Paragraph 7 defines who may be represented by the attorney representative, Paragraph 8 outlines the scope of that representation. Paragraph 7 states:

> 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 has 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.

Under Paragraph 8 of the Agreement, which provides the terms of the representation, the attorney representative is only appointed to protect the interests of those identified individuals who elect to waive any claim for damages other than the damages agreed to by the parties. Paragraph 8 states:

> 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 this 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.

Paragraph 8 addresses how Mr. Epstein's waivers are triggered pursuant to a settlement with each identified individual. Paragraph 8 is clear that Mr. Epstein will only waive § 2255 liability "so long as" each identified individual proceeds exclusively under § 2255 and agrees to waive damages other than "an amount as agreed to between the identified individual and Epstein." The Agreement's silence with respect to what happens if the parties cannot settle on a damages amount indicates that the parties intended for the scope of the attorney representative's representation to be limited to settling claims with Mr. Epstein, not representing these identified individuals in § 2255 lawsuits.

Ms. [redacted], however, insists that the attorney representative's duties include pursuing a lawsuit under § 2255 on behalf of each identified individual in the event that settlement talks are unsuccessful. This interpretation is incorrect because Ms. [redacted] ignores Paragraph 8, which limits the scope of the attorney representative's representation.

The longstanding intention of the parties is also consistent with our interpretation of the Agreement based on prior iterations of the Agreement, which only refer to appointing a trustee or a guardian ad litem to protect the interests of the identified individuals. Thus, legal representation in a lawsuit was never contemplated under the Agreement. Also, Mr. Epstein's agreement to pay the attorney representative's fees reaffirms that the parties never intended for the attorney representative to bring lawsuits. § 2255 includes a provision for attorney's fees, but only if there is a monetary recovery. If the Agreement contemplates, as Ms. [redacted] suggests, that the attorney representative could file suit on behalf of each identified individual, Mr. Epstein would never have agreed to pay attorneys fees for those that being suit and lose. It is clear that Mr. Epstein agreed to pay the attorney representative's fees because he assumed that each identified individual represented by the attorney representative would recover something by settling on their respective damages claim.

Ms. [redacted] interpretation of the Agreement would also trigger profound ethical problems due to the conflicts of interests that would arise. For instance, if Mr. Epstein agrees to pay for the attorney representative's fees and monthly expenses in any potentially litigated matter, then the attorney representative would effectively be incentivized to reject settlement under § 2255 in an effort to draw out the lawsuits and incur more fees. If the lawyer were allowed to represent the identified individuals in a lawsuit, the best interests of each identified individual might not be served, because the attorney representative will always be more interested in pursuing lawsuits in lieu of settling claims against Mr. Epstein efficiently and fairly. This conflict

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could compromise the attorney representative's duty of loyalty. *See* ABA Annotated Model Rules of Professional Conduct, Rule 1.8(f) ("A lawyer shall not accept compensation for representing a client from one other than the client unless… there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship"). And Mr. Epstein would essentially be paying the attorney representative to sue himself. Such a result is inappropriate and unconscionable.

The attorney representative will face other conflicts as well. As a general matter, multiple representation of a group of individuals that elects to settle on damages as well as one or more individuals who reject settlement carries with it the heightened potential for irreparable conflicts. For example, the ethics rules preclude an attorney from simultaneously representing parties that are likely to end up in conflict. *See* ABA Annotated Model Rules of Professional Conduct, Rule 1.7 ("A lawyer shall not represent a client if…there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer."). Here, I can imagine a case where one of the identified individuals is called as a witness by Mr. Epstein to dispute an allegation by another identified individual who is a party to the case. The attorney representative would have to cross examine the witness, who is also his client. In another scenario, the attorney representative may receive privileged information from one identified individual, which precludes him from using that information with respect to another identified individual. In each scenario, the attorney representative will be simultaneously representing parties that may be in conflict, in violation of Rule 1.7.

For these reasons, we believe that Ms. [redacted] interpretation of the Agreement in connection with the attorney representative's role in the settlement process must be rejected.

Second Issue: Waiver of Liability. Ms. [redacted] incorrectly alleges that Mr. Epstein has waived liability even when claims are not settled. Pursuant to the Agreement, if the identified individuals choose not to settle with Mr. Epstein, he will not waive liability for those individuals whose claims are not settled by the attorney representative. Paragraph 8 is clear that Mr. Epstein will only waive § 2255 liability so long as each identified individual proceeds exclusively under § 2255 and agrees to waive damages other than "an amount as agreed to between the identified individual and Epstein." (Paragraph 8, Agreement) Consequently, those identified individuals who choose not to settle with Mr. Epstein are not covered by the terms of the Agreement and will have to prove, among other things, that they are victims under the enumerated statutes.

Third Issue: Communication to Identified Individuals. Ms. [redacted] proposes that either she or federal agents will speak with the identified individuals regarding the settlement process. We do not think it is the government's place to be co-counsel to the identified individuals, nor should the FBI be their personal investigators. Neither federal agents nor anyone from your Office should contact the identified individuals to inform them of the resolution of the

case, including appointment of the attorney representative and the settlement process. Not only would that violate the confidentiality of the Agreement, but Mr. Epstein also will have no control over what is communicated to the identified individuals at this most critical stage. We believe it is essential that we participate in crafting a mutually acceptable communication to the identified individuals. We further believe that communications between your Office or your case agents and the identified individuals might well violate Rule 6(e)(2)(B) of the Federal Rules of Criminal Procedure. The powers of the federal grand jury should not, even in appearance, be utilized to advance the interests of a party to a civil lawsuit.

We propose that the following joint communication be made to Judge [redacted], who will act as the attorney representative and communicate accordingly with the identified individuals:

> As counsel for the United States of America and Jeffrey Epstein, we jointly write to you to provide information relevant to your services as the attorney representative to represent certain identified individuals who may have a civil claim against Mr. Epstein.
>
> The United States has conducted an investigation of Mr. Epstein regarding his solicitation of females, some of whom the government alleges were underage, to engage in prostitution in his Palm Beach County home. Based on this investigation, the United States has identified certain individuals who may be eligible to seek a civil remedy against Mr. Epstein pursuant to 18 U.S.C. § 2255.
>
> The United States and Mr. Epstein have agreed to a resolution of this investigation. As part of the resolution of this matter, the parties have agreed to a settlement process for these identified individuals. The parties agree that you will contact each identified individual and explain the nature of the resolution of this matter, including the settlement process, in accordance with a joint communication drafted by the United States and Mr. Epstein. The parties further agree that you will interview each identified individual to confirm that they have a viable claim against Mr. Epstein pursuant to 18 U.S.C. § 2255.
>
> Pursuant to the resolution of this matter, you will represent only those identified individuals who elect to settle their claims with Mr. Epstein, and your duties will be limited to negotiating a settlement on the identified individuals' behalf and dispersing the settlement proceeds. Mr. Epstein has agreed that he will not contest jurisdiction in the Southern District of Florida, and he will not contest liability pursuant to 18 U.S.C. § 2255 for those identified individuals who elect to settle all potential claims against him regarding this matter. Mr. Epstein has also agreed to pay reasonable attorney's fees and expenses that you incur as a result of settlement negotiations and settlement administration of this matter.

To settle these claims, the parties agree that you will negotiate a total settlement amount with Mr. Epstein for each identified individual who elects to settle. After the United States formally declines to initiate any prosecution against Mr. Epstein related to this matter and each identified individual you represent executes a waiver of all rights to pursue any litigation regarding this matter, you may then distribute the proceeds from the total settlement amount to the identified individuals in the manner you see fit.

For those identified individuals who elect not to settle their claims, Mr. Epstein will not waive his right to contest jurisdiction, liability or damages. Furthermore, Mr. Epstein will not pay for their attorney's fees or expenses, and you may not represent these individuals in any capacity. Each of these individuals will be responsible for finding, hiring and paying for her own attorney.

The details regarding the United State's investigation of this matter and its resolution with Mr. Epstein is confidential. You may not make public statements regarding this matter. If you have any questions regarding this matter, including the settlement process, you must contact Mr. Epstein's counsel and request a joint clarification from said counsel and the United States. You should not contact the United States directly. The parties will make every effort to answer your questions via a joint communication.

[redacted], as you know, when Mr. Epstein signed the Agreement, he did so in order to reach finality with your Office and with the express representation that the federal investigation against him would cease. To that end, I would like your assurance that after you and I agree to the issues raised in this letter, that it will be the end of the United States' involvement barring a willful breech of the Agreement. Specifically, the government or any of its agents will not make any further communications to the identified individuals and will not make any ex parte communications with Judge [redacted].

I look forward to resolving these open issues with you during our 4:30 call today.

Sincerely,

Jay P. Lefkowitz

EXHIBIT

2

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
[redacted]
Facsimile: [redacted]

March 15, 2007

DELIVERY BY HAND
Miss [redacted]

Re: Crime Victims' and Witnesses' Rights

Dear Miss [redacted]

Pursuant to the Justice for All Act of 2004, as a victim and/or witness of a federal offense, you have a number of rights. Those rights are:

(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.

Members of the U.S. Department of Justice and other federal investigative agencies, including the Federal Bureau of Investigation, must use their best efforts to make sure that these rights are protected. If you have any concerns in this regard, please feel free to contact me at [redacted], or Special Agent [redacted] from the Federal Bureau of Investigation at [redacted]. You also can contact the Justice Department's Office for Victims of Crime in Washington, D.C. at [redacted]. That Office has a website at www.ovc.gov.

You can seek the advice of an attorney with respect to the rights listed above and, if you believe that the rights set forth above are being violated, you have the right to petition the Court for relief.

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In addition to these rights, you are entitled to counseling and medical services, and protection from intimidation and harassment. If the Court determines that you are a victim, you also may be entitled to restitution from the perpetrator. A list of counseling and medical service providers can be provided to you, if you so desire. If you or your family is subjected to any intimidation or harassment, please contact Special Agent [redacted] or myself immediately. It is possible that someone working on behalf of the targets of the investigation may contact you. Such contact does not violate the law. However, if you are contacted, you have the choice of speaking to that person or refusing to do so. If you refuse and feel that you are being threatened or harassed, then please contact Special Agent [redacted] myself.

You also are entitled to notification of upcoming case events. At this time, your case is under investigation. If anyone is charged in connection with the investigation, you will be notified.

Sincerely,

[redacted]
United States Attorney

By: [redacted]
Assistant United States Attorney

cc: Special Agent [redacted], F.B.I.

EFTA00184290

EXHIBIT

3

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Monday, September 24, 2007 10:56 AM
To: 'Ocariz, Humberto H. (SHB)'
Subject: RE: Conflict Check

Bert,

Please keep this confidential because these are minor victims. This is a preliminary list:

[redacted]

EFTA00184292

Assistant U.S. Attorney
[redacted]

From: Ocariz, Humberto H. (SHB) [mailto:[redacted]
Sent: Monday, September 24, 2007 10:27 AM
To: [redacted] (USAFLS)
Subject: RE: Conflict Check

[redacted]

Thanks. I am also going to need the list of the 40 girls who will be my clients. Can you send those as well?

Thanks,

Bert Ocariz

From: [redacted] (USAFLS) [redacted]
Sent: Monday, September 24, 2007 10:25 AM
To: Ocariz, Humberto H. (SHB)
Subject: Conflict Check

Hi Bert – Here is the list of names for a conflict check

Jeffrey Epstein

[redacted]

[redacted]

[redacted] Mucinska

[redacted]

J. Epstein Virgin Islands Foundation, Inc.

J.Epstein & Company, Inc.

Epstein Interests

Financial Trust company, Inc.

NES, LLC

New York Strategy Group, Inc.

JEGE, Inc.

EFTA00184293

Hyperion Air, Inc.

Jeffrey Epstein would be the defendant in any lawsuit, but the other individuals are persons involved in the criminal activity. All of the corporations are essentially alter-egos of Epstein.

Thank you so much.

[redacted]

Assistant U.S. Attorney

[redacted]

[redacted]

[redacted]

Mail Gate made the following annotations on Mon Sep 24 2007 09:27:21

CONFIDENTIALITY NOTICE: This e-mail message including attachments, if any, is intended for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. Thank you.

EXHIBIT

4

[redacted]

To "Jay Lefkowitz" <JLefkowitz@kirkland.com>
cc "Martin Weinberg" <owlmgw@worldnet.att.net>,
bcc
Subject RE: Epstein agreement as reviewed by the U.S. Attorney

09/24/2007
01:27 PM

History: This message has been forwarded.

Hi Jay – Sorry for the delay. The U.S. Attorney had a last-minute concern, that I think I fixed (it is in the first "It Appearing" clause following the list of statutes potentially violated).

After you get the green light, let's discuss the potential representative. The person I am thinking of has run a preliminary conflicts check and it looks alright.

Also, to address Mr. Epstein's concern regarding the list of names, I wanted to tell you that I have compiled a list of 34 confirmed minors. There are six others, whose names we already have, who need to be interviewed by the FBI to confirm whether they were 17 or 18 at the time of their activity with Mr. Epstein. Once those interviews are completed, I can finalize the list of identified victims, which I will put in a formal document that I will maintain until the time of Mr. Epstein's sentencing.

Assuming that this agreement is fine, please execute at least three copies, and send one to me by fax and the rest by FedEx. I will execute and send the copies back.

Thank you.

[redacted]

EXHIBIT

5

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Sunday, September 23, 2007 8:58 PM
To: Jay Lefkowitz
Subject: Epstein agreement

Hi Jay – Here are the revisions that I agree with and those I don't. We have been over paragraph 6 an infinite number of times. It is factually accurate that the list we are going to give you are persons we have identified as victims. If we did not think they were victims, they would have no right to bring suit, regardless of whether your client is willing to waive liability or not. I have not balked about giving your client yet another month to self-surrender, so please let us just put this to rest. I changed the amount of time for the US to notify you of breach to take into account the fact that this agreement will not be completed within 30 months of execution (because of the lengthy delay before self-surrender) and to give us a 6 month window in case we discover a violation after Mr. Epstein is released.

I do not care if you want to call the appointed person a "representative" instead of a guardian, so long as he/she is: (1) a lawyer; (2) independent; (3) selected by our Office or a federal judge; and (4) paid for by your client or by the federal court.

I have sent this to [redacted] for his review. I have asked him to call me either late tonight or early tomorrow morning. When I get his comments, I will get back to you, probably tomorrow.

Thank you.

070923 Epstein
n-Prosecution..

EXHIBIT

6

[redacted]

[redacted]

09/19/2007 12:14 PM

To "Jay Lefkowitz" <JLefkowitz@kirkland.co
cc
bcc
Subject RE: Meeting

[redacted]

Judge Johnson has duty next week.

Jay – I hate to have to be firm about this, but we need to wrap this up by Monday. I will not miss my indictment date when this has dragged on for several weeks already and then, if things fall apart, be left in a less advantageous position than before the negotiations. I have had an 82-page pros memo and 53-page indictment sitting on the shelf since May to engage in these negotiations. There has to be an ending date, and that date is Monday.

[redacted]
Assistant U.S. Attorney
[redacted]

----- Original Message -----
From: [redacted] \(USAFLS\)"
[redacted]
Sent: 09/19/2007 11:51 AM AST
To: Jay Lefkowitz
Subject: Meeting

Barry is available Monday morning. Our most flexible West Palm Beach magistrate is on duty on Monday, so, assuming we have signed documents by 1:30 or so, we should be able to get Mr. Epstein arraigned on Monday. I doubt that we will be able to get everything finished up here, get down to Miami, and try to find a Miami mag by close of business on Monday.

[redacted]

EFTA00184300

EXHIBIT

7

[redacted]

09/16/2007 03:54 PM

To "Jay Lefkowitz" <JLefkowitz@kirkland.cor
cc
bcc
Subject Re:

History: This message has been replied to and forwarded.

Hi Jay -- This can wait until after the show, but my voice is going so I thought I would type it up. I talked to [redacted] and he still doesn't like the factual basis. In his opinion, the plea should only address the crimes that we were addressing, and we were not investigating Mr. Epstein abusing his girlfriend.

So, these are the only options that he recommended:

1. We go back to the original agreement where Mr. Epstein pleads only to state charges and serves his time in the state, except that we can agree to only 18 months imprisonment.

2. Mr. Epstein pleads guilty to the state charges and also pleads to either two obstruction counts or to one count of violating 47 USC 223(a)(1)(B), with a joint non-binding recommendation of 18 months, so that Mr. Epstein can serve his time federally.

3. (My suggestion only, not [redacted]): I go back to the U.S. Attorney and ask him to agree to an ABA-plea to a 371 count (conspiracy to violate 2422(b)) with a binding 20-month recommendation so that Mr. Epstein can serve all of his time in a federal facility.

Or 4. Mr. Epstein pleads to one obstruction count, and serves part of his time federally and part state.

On your other proposed changes, some are fine and some are problematic.

Re your paragraph 2: As to timing, it is my understanding that Mr. Epstein needs to be sentenced in the state after he is sentenced in the federal case, but not that he needs to plead guilty and be sentenced after serving his federal time. [redacted] recommended that some of the timing issues be addressed only in the state agreement, so that it isn't obvious to the judge that we are trying to create federal jurisdiction for prison purposes. My understanding is that Mr. Epstein should sign a state plea agreement, plead guilty to the

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federal offenses, plead guilty to the state offenses, be sentenced on the federal offenses, and then be sentenced on the state offenses, and then start serving the federal sentence.

Re your paragraph 3: As to the reservation of Mr. Epstein's right to withdraw his state plea or to appeal his state plea or sentence, that is fine, but we need the caveat that, if he were to do so, the United States could proceed on our charges.

Re your paragraph 6: With respect to the waiver of the right to appeal the federal sentence, given the way we have drafted the information, it is possible that getting to the 18 month sentence will require an upward departure. The version of the agreement that you were working from is a federal non-prosecution agreement, the ones I have sent you recently are plea agreements that get filed with the court. Please see if the appeal waiver language in those versions is alright.

Re your paragraph 7: As I mentioned, we will not waive the presentence investigation. I know that this will delay Mr. Epstein's sentencing by 70 days, but that will allow him to get all of his affairs in order. As to bail, it will be set at the time of arraignment, and we can work out a joint recommendation regarding the amount and its limitations. I have no objection to making a joint recommendation that Mr. Epstein remain out on bond pending his sentencing, but I'm not sure that it belongs in a plea agreement, especially since I can't bind the court on that issue. However, I can assure you, and we can put it on the record during the plea collooquy, that I will join in your recommendation that he remain out on bond pending sentencing. The same goes for the prison camp issue. As I mentioned, I have opposed a designation only once in a very particular case. I can assure you, and we can put it on the record at the plea colloquy that I will not oppose your recommendation for Mr. Epstein's designation.

Re your paragraph 8: As I mentioned over the telephone, I cannot bind the girls to the Trust Agreement, and I don't think it is appropriate that a state court would administer a trust that seeks to pay for federal civil claims. We both want to avoid unscrupulous attorneys and/or litigants from coming forward, and I know that your client wants to keep these matters outside of public court filings, but I just don't have the power to do what you ask. Here is my recommendation. During the period between Mr. Epstein's plea and sentencing, I make a motion for appointment of the Guardian Ad Litem. The three of us sit down and discuss things,

and I will facilitate as much as I can getting the girls' approval of this procedure because, as I mentioned, I think it is probably in their best interests. In terms of plea agreement language, let me suggest the following:

The United States agrees to make a motion seeking the appointment of a Guardian ad Litem to represent the identified victims. Following the appointment of such Guardian, the parties agree to work together in good faith to develop a Trust Agreement, subject to the Court's approval, that would provide for any damages owed to the identified victims pursuant to 18 U.S.C. Section 2255. Then include the last two sentences of your paragraph 8.

Re the two paragraphs following your paragraph 8: I will include our standard language regarding resolving all criminal liability and I will mention "co-conspirators," but I would prefer not to highlight for the judge all of the other crimes and all of the other persons that we could charge. Also, we do not have the power to bind Immigration and we make it a policy not to try to, however, I can tell you that, as far as I know, there is no plan to try to proceed on any immigration charges against either

Also, on the , I can prepare letters withdrawing them as of the signing of the plea agreement, but I would prefer to take out that language. In my eyes, once we have a plea agreement, the [redacted] has ended and there can be no more use of the

I had hoped that we were far closer to resolving this than it appears that we are. Can I suggest that tomorrow we either meet live or via teleconference, either with your client or having him within a quick phone call, to hash out these items? I was hoping to work only a half day tomorrow to save my voice for Tuesday's hearing grand jury, if necessary, but maybe we can set a time to meet. If you want to meet "off campus" somewhere, that is fine. I will make sure that I have all the necessary decision makers present or "on call," as well.

If we can resolve some of these issues today, let's try to, and then save only the difficult issues for tomorrow.

Sorry for the long e-mail, and for ruining your date with your daughter.

EXHIBIT

8

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
nt: Tuesday, September 18, 2007 2:53 PM
: 'Jay Lefkowitz'
Subject: Factual proffer

Hi Jay – I didn't want us to get sidetracked during the conference call. I want to make sure that we have a factual basis for "harassment." [redacted] somewhere else is a different 1512 offense with a 10 year cap. This is the factual proffer that I drafted up earlier this afternoon, to give you an idea of what it would look like.

When I include a factual proffer in a plea agreement, I usually use prefatory language like: The parties agree that, had this case proceeded to trial, the United States would have proven the following facts beyond a reasonable doubt, and that the following facts are true and correct and are sufficient to support a plea of guilty .

Epstein Plea Proffer.doc

A. [redacted]
Assistant U.S. Attorney
00 S. Australian Ave, Suite 400
est Palm Beach, FL 33401
[redacted]

RFP MIA 000129

EFTA00184306

EXHIBIT

9

[redacted]. (USAFLS)

From: Jay Lefkowitz [JLefkowitz@kirkland.com]
Sent: Wednesday, September 19, 2007 11:36 AM
To: [redacted]. (USAFLS)
Subject: Re: Draft Agreements?

Confidential - For settlement purposes only

Still working on redline. But pls look at this:

On August __, 2007, FBI Special Agents E. [redacted] and Jason [redacted] traveled to the home of [redacted] in connection with an investigation pending in the Southern District of Florida. Mr. Epstein was informed of the service of the [redacted] As a result, Mr. Epstein attempted to harass both [redacted] delay and hinder their receipt of a [redacted] to attend an official proceeding, more particularly the [redacted] to which [redacted]. Mr. Epstein, in particular, changed travel plans and flew with both [redacted] to the United States Virgin Islands rather than to an airport in New Jersey in order to attempt to delay their receipt of what Mr. Epstein expected to be a [redacted] Mr. Epstein further verbally harassed both [redacted] in connection to this attempt to delay their voluntary receipt of process all in violation of 18 USC 1512(d)(1).

----- Original Message -----
From: "[redacted]. \(USAFLS\)" [redacted]
Sent: 09/19/2007 11:18 AM AST
To: Jay Lefkowitz
Subject: RE: Draft Agreements?

Hi Jay – I don't know the factual basis for the alleged [redacted] because we have no independent evidence of that. So, the agents need to talk to them and then I can draft up a proposed factual proffer. I have sent an e-mail to Barry and Lanna to determine their availability. Thanks.

A. [redacted] *Villafaña*
Assistant U.S. Attorney
[redacted]

****
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EXHIBIT

10

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Tuesday, September 18, 2007 8:44 AM
To: 'Jay Lefkowitz'
Subject: Draft Agreements?

Hi Jay – I was hoping there would be things for me to read this morning, but I will try to remain patient.

I believe there are only two types of agreements that would apply to this case: (1) a plea agreement to a federal charge or charges; and (2) a non-prosecution agreement (which is really a deferred prosecution agreement because the defendant agrees that if he violates the agreement, the U.S. can prosecute him).

A plea agreement is part of the court file. It is not accessible on-line via PACER, but someone can go to the Clerk's Office to obtain a copy.

A non-prosecution agreement would not be made public or filed with the Court, but it would remain part of our case file. It probably would be subject to a FOIA request, but it is not something that we would distribute without compulsory process.

On the obstruction charges, many of the facts I included in that first proffer were hypothesized based upon our discussions and the agents' observations of [redacted] We will need to interview her to confirm the accuracy of those facts. On a second count, we could rely on the incident where Mr. Epstein's private investigators followed [redacted] father, forcing him off the road. Or, if there is something more recent related to any [redacted] we could consider that.

[redacted]ope that helps.

A. [redacted] *Villafaña*
Assistant U.S. Attorney
[redacted]

EXHIBIT

11

[redacted]. (USAFLS)

From: Jay Lefkowitz [JLefkowitz@kirkland.com]
Sent: Thursday, September 13, 2007 7:35 PM
To: [redacted]. (USAFLS)
Subject: Re:

Sounds good. I will be at home. Let's talk at 9 am. [redacted] Already thinking about the same statutes.

Look forward to speaking in the morning.

Best, Jay

----- Original Message -----
From: "[redacted]. \[redacted]
Sent: 09/13/2007 07:26 PM AST
To: Jay Lefkowitz
Subject: RE:

Hi Jay -- Yes, I am. I have been spending some quality time with Title 18 looking for misdemeanors. Do you want to take a look at 18 USC 403, 18 USC 1512(d), and 47 USC 223(a)(1)(B) and we can talk about them tomorrow? I know that someone mentioned there being activity on an airplane, I just want to make sure that there is factual basis for the plea that the agents can confirm.

I'm not sure exactly where I will be tomorrow morning, so is it alright if I call you?

Have a good evening.

A. [redacted]
Assistant U.S. Attorney
[redacted]

-----Original Message-----
From: Jay Lefkowitz [mailto:JLefkowitz@kirkland.com]
Sent: Thursday, September 13, 2007 7:21 PM
To: [redacted]. (USAFLS)
Subject:

[redacted] - Are you free to speak at 9 am tomorrow?

Thanks. Jay

****
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****

EXHIBIT

12

"Villafana, Ann Marie C. [redacted]

09/12/2007 03:44 PM

To <lefkowitz@kirkland.com>
cc [redacted]
bcc
Subject Jeffrey Epstein

History: This message has been replied to.

Jay – It was nice seeing you again. [redacted] and I talked with [redacted] and Jeff. We are all satisfied in principle with the agreement, but the Office is uncomfortable with the recommended federal charge. Specifically, we are concerned about the effect of taking the position that Mr. Epstein's house is in the special maritime and territorial jurisdiction of the United States, and we have no evidence of any assaults occurring either on Mr. Epstein's plane or offshore from his residence.

We are hoping that you can find an alternative federal statute that can be used. I also will wait to hear from Jack Goldberger to discuss logistics.

Thank you.

A. [redacted]

Assistant U.S. Attorney

[redacted]

[redacted]

[redacted]

EXHIBIT

13

[redacted]. (USAFLS)

From: Jay Lefkowitz [JLefkowitz@kirkland.com]
Sent: Friday, September 14, 2007 9:40 AM
To: [redacted]. (USAFLS)
Subject: Follow up

Confidential

[redacted] - thanks very much for speaking this am. Have conferred with my client and I think we are on the same page. When you send me your draft today, would you please also include a paragraph with 403 in lieu of 1512. I want to understand better how you would characterize the 403 violation. (What was actually said?). I want to keep studying that avenue today as well. The other possible option is to charge three 113s. Also, one other idea. Can you look at 47 usc 227(b), which is another 6 month statute which might work for the 6 months. We could do three of them, and they seem to fit the facts well.

I will call you late this pm (if you leave me a number to reach you), and then we can plan on getting this done Monday.

****
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.
****

[redacted] (USAFLS)

From: [redacted], Ann Marie C. (USAFLS)
Sent: Friday, September 14, 2007 9:54 AM
To: 'lefkowitz@kirkland.com'; 'Jay Lefkowitz'
Subject: Plea documents

Hi Jay – I'm not sure which of those e-mail addresses is correct. Here are drafts of the plea agreement and information. They have not yet been blessed by Miami, but they have approved of prior similar drafts, so these should be close to what is needed. My home e-mail is [redacted] You also can get me over the weekend on my cell phone at [redacted]

Information
arging 1512 and

OLY Plea
ement v4 1512 a

Regards,

[redacted]

Assistant U.S. Attorney
[redacted]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

D

CASE NO. _____

18 U.S.C. § 1512(d)(2)
18 U.S.C. § 113(a)(5)

UNITED STATES OF AMERICA

vs.

R

JEFFREY EPSTEIN,

Defendant.
_____/

A

INFORMATION

The United States Attorney charges that:

COUNT 1

In or around October 2005, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

F

JEFFREY EPSTEIN,

did intentionally harass another person, that is, Jane Doe #1, in an attempt to delay, prevent, and dissuade Jane Doe #1 from reporting to a law enforcement officer of the United States the commission of a federal offense; in violation of Title 18, United States Code, Sections 1512(d)(2) and 2.

T

COUNT 2

In or around _____ 2005, in the special territorial jurisdiction of the United States, that is, in an aircraft owned by a United States citizen while in flight over the high seas, and elsewhere,

the defendant,

JEFFREY EPSTEIN,

did knowingly commit a simple assault on a person who was over the age of 16 years, that is, [redacted]

in violation of Title 18, United States Code, Section 113(a)(5).

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

A. [redacted] VILLAFAÑA
ASSISTANT UNITED STATES ATTORNEY

DRAFT

RFP MIA 000080

EFTA00184320

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. _____

UNITED STATES OF AMERICA

vs.

JEFFREY EPSTEIN,

Defendant.
_____

PLEA AGREEMENT

The United States Attorney for the Southern District of Florida ("the United States"), and Jeffrey Epstein (hereinafter referred to as the "defendant") enter into the following agreement:

1. The defendant agrees to plead guilty to the Information which charges the defendant as follows: Count 1 charges that the defendant intentionally harassed another person, that is, Jane Doe #1, in an attempt to delay, prevent, and dissuade Jane Doe #1 from reporting to a law enforcement officer of the United States the commission of a federal offense; in violation of Title 18, United States Code, Sections 1512(d)(2) and 2; and Count 2 charges that the defendant, while in an airplane over the high seas, did knowingly commit a simple assault on a person who was over the age of 16 years, that is, [redacted]; in violation of Title 18, United States Code, Section 113(a)(5).

2. The defendant is aware that the sentence will be imposed by the Court after considering the Federal Sentencing Guidelines and Policy Statements (hereinafter

"Sentencing Guidelines"). The defendant acknowledges and understands that the Court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the Court relying in part on the results of a Pre-Sentence Investigation by the Court's probation office, which investigation will commence after the guilty plea has been entered. The defendant is also aware that, under certain circumstances, the Court may depart from the advisory sentencing guideline range that it has computed, and may raise or lower that advisory sentence under the Sentencing Guidelines. The defendant is further aware and understands that the Court is required to consider the advisory guideline range determined under the Sentencing Guidelines, but is not bound to impose that sentence; the Court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines' advisory sentence. Knowing these facts, the defendant understands and acknowledges that the Court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offenses identified in paragraph 1 and that the defendant may not withdraw the plea solely as a result of the sentence imposed.

3. The defendant further understands and acknowledges that, as to Count 1 of the Information, the Court may impose a statutory maximum term of imprisonment of up to one (1) year, to be followed by a term of supervised release of up to a maximum of one (1) year. In addition to terms of imprisonment and supervised release, the Court may impose a fine of up to $100,000. The defendant further understands and acknowledges that, as to Count 2 of the Information, the Court may impose a statutory maximum term of imprisonment of up to

EFTA00184322

six (6) months, to be followed by a term of supervised release of up to a maximum of one (1) year. In addition to terms of imprisonment and supervised release, the Court may impose a fine of up to $100,000.

4. The defendant further understands and acknowledges that, in addition to any sentence imposed under paragraph 3 of this Agreement, a special assessment in the amount of $50 will be imposed on the defendant, which must be paid at or before the time of sentencing.

5. The defendant understands that the Court will order that he must pay full restitution to all victims of the offense to which he is pleading guilty. The defendant understands that the amount of restitution owed to each victim will be determined at or before sentencing.

6. The parties agree to jointly recommend that the defendant receive a sentence of eighteen (18) months' imprisonment, to be followed by two (2) years of supervised release; and a fine of $200,000.

7. The defendant agrees that, if any of the victims identified in the federal investigation file suit pursuant to 18 U.S.C. § 2255, the defendant will not contest the jurisdiction of the U.S. District Court for the Southern District of Florida over his person and/or the subject matter, and the defendant will not contest that the identified victims are persons who, while minors, were victims of violations of Title 18, United States Code, Sections(s) 2422 and/or 2423. The United States agrees to provide the defendant's attorneys with a list of the identified victims, which will not exceed forty, after the defendant has signed this agreement and has been sentenced. The United

States further agrees to make a motion with the United States District Court for the Southern District of Florida for the appointment of a guardian ad litem for the identified victims and the defendant's counsel may contact the identified victims through that guardian.

8. The defendant agrees to plead guilty (not nolo contendere) to an Information filed by the Palm Beach County State Attorney's Office charging an offense for which the defendant must register as a sex offender, that is, solicitation of minors to engage in prostitution, in violation of Fl. Stat. 796.03. The defendant agrees that he and the Palm Beach County State Attorney's Office will make a joint, binding recommendation that the Court impose a sentence of at least thirty (30) months, to be divided as follows:

(a) the defendant shall begin by serving at least twenty (20) months in prison, without any opportunity for withholding adjudication or sentencing, and without probation or community control in lieu of imprisonment; and

(b) following the term of imprisonment, the defendant shall serve ten (10) months of community control/home confinement with electronic monitoring.

9. The defendant agrees to waive all challenges to the Information filed by the State Attorney's Office and to waive the right to appeal his conviction and sentence in the state court.

10. The defendant agrees that he will provide to the U.S. Attorney's Office copies of all proposed agreements with the Palm Beach County State Attorney's Office prior to entering into those agreements.

11. The United States reserves the right to inform the Court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the

EFTA00184324

defendant and the defendant's background, and to respond to any questions from the Court and the Probation Office and to any misstatements of fact or law. Subject only to the express terms of any agreed-upon sentencing recommendations contained in this Agreement, this Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

12. The defendant is aware that the sentence has not yet been determined by the Court. The defendant also is aware that any estimate of the probable sentencing range or sentence that the defendant may receive, whether that estimate comes from the defendant's attorney, the government, or the probation office, is a prediction, not a promise, and is not binding on the government, the probation office or the Court. The defendant understands further that any recommendation that the government makes to the Court as to sentencing, whether pursuant to this agreement or otherwise, is not binding on the Court and the Court may disregard the recommendation in its entirety. The defendant understands and acknowledges, as previously acknowledged in paragraph 2 above, that the defendant may not withdraw his plea based upon the Court's decision not to accept a sentencing recommendation made by the defendant, the government, or a recommendation made jointly by both the defendant and the government.

13. **WAIVER OF RIGHT TO APPEAL AND COLLATERALLY ATTACK THE SENTENCE.** The defendant is aware that Title 18, United States Code, Section 3742 affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the

EFTA00184325

defendant hereby waives all rights conferred by Section 3742 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure or upward variance from the guideline range that the Court establishes at sentencing. The defendant further voluntarily and expressly waives, to the maximum extent permitted by federal law, the right to collaterally attack his sentence in any post-conviction proceeding, including a motion on any ground brought under 28 U.S.C. § 2254, 28 U.S.C. § 2255, 18 U.S.C. § 3572, or 18 U.S.C. § 3771. The defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b). However, if the United States appeals the defendant's sentence pursuant to Section 3742(b), the defendant shall be released from the above waiver of appellate rights. By signing this agreement, the defendant acknowledges that he has discussed the appeal waiver set forth in this agreement with his attorney.

14. If the defendant fails in any way to fulfill each one of his obligations under this Plea Agreement, the United States, and only the United States, may elect to be released from its commitments under this Plea Agreement. If the United States elects to void the Plea Agreement because of a breach by the defendant, then the United States agrees not to use the defendant's guilty plea against him. However, the United States may prosecute the defendant for any and all Federal crimes that he has committed related to this case and may seek any sentence for such crimes up to and including the statutory maximums. The defendant expressly waives any statute of limitations defense and any constitutional or statutory speedy

EFTA00184326

trial defense to such a prosecution, except to the extent that such a defense exists as of the date he signs this Plea Agreement. Finally, the defendant understands that his violation of the terms of this Plea Agreement would not entitle him to withdraw his guilty plea.

15. This is the entire agreement and understanding between the United States and the defendant. There are no other agreements, promises, representations, or understandings.

Date: _____ By: _____
[redacted]
UNITED STATES ATTORNEY

Date: _____ By: _____
JEFFREY EPSTEIN, DEFENDANT

Date: _____ By: _____
JAY LEFKOWITZ, ESQ.
ATTORNEY FOR DEFENDANT

EXHIBIT

14

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Friday, September 14, 2007 9:56 AM
To: 'Jay Lefkowitz'
Subject: RE: Follow up

Sorry, Jay. I just got this and have to run off to the hospital. I will revise and re-email you tomorrow or late tonight.

[redacted]
Assistant U.S. Attorney
[redacted]

-----Original Message-----
From: Jay Lefkowitz [mailto:JLefkowitz@kirkland.com]
Sent: Friday, September 14, 2007 9:40 AM
To: [redacted]. (USAFLS)
Subject: Follow up

Confidential

Marie - thanks very much for speaking this am. Have conferred with my client and I think we are on the same page. When you send me your draft today, would you please also include a paragraph with 403 in lieu of 1512. I want to understand better how you would characterize the 403 violation. (What was actually said?). I want to keep studying that avenue today as well. The other possible option is to charge three 113s. Also, one other idea. Can you look at 47 usc 227(b), which is another 6 month statute which might work for the 6 months. We could do three of them, and they seem to fit the facts well.

I will call you late this pm (if you leave me a number to reach you), and then we can plan on getting this done Monday.

****
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EXHIBIT

15

"Ann [redacted] Villafana" [redacted]
09/15/2007 03:16 PM

To lefkowitz@kirkland.com, jlefkowitz@kirkland.com
cc
bcc
Subject JE negotiations

History: This message has been replied to and forwarded.

Hi Jay -- Sorry to trouble you over the weekend. Here are the revised documents with the 403 charge. I have gotten some negative reaction to the assault charge with [redacted] as the victim, since she is considered one of the main perpetrators of the offenses that we planned to charge in the indictment. Can you talk to Mr. Epstein about a young woman named [redacted]? We have hearsay evidence that she traveled on Mr. Epstein's airplane when she was under 18, in around the 2000 or 2001 time frame. That falls outside the statute of limitations, but perhaps we could construct a 371 conspiracy around that?

Let me know what you think.

Thank you.

--
Ann [redacted]
[redacted]

<<< Attachment 'Information charging 403 and 113.pdf' has been archived by user 'CommonStore/IT/Kirkland-Ellis' on '11/26/2007 01:07:57'. >>>
<<< Attachment 'OLY Plea Agreement v5 403 and 113 violations.pdf' has been archived by user 'CommonStore/IT/Kirkland-Ellis' on '11/26/2007 01:07:57'. >>>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. _____

18 U.S.C. § 403
18 U.S.C. § 113(a)(5)

UNITED STATES OF AMERICA

vs.

JEFFREY EPSTEIN,

Defendant.
_____/

INFORMATION

The United States Attorney charges that:

COUNT 1

In or around August 2006, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

JEFFREY EPSTEIN,

did knowingly and intentionally violate the privacy protection accorded by 18 U.S.C. § 3509 to a child victim, that is, Jane Doe #1; in violation of Title 18, United States Code, Sections 403 and 2.

COUNT 2

In or around _____ 2005, in the special territorial jurisdiction of the United States, that is, in an aircraft owned by a United States citizen while in flight over the high seas, and elsewhere, the defendant,

JEFFREY EPSTEIN,

EFTA00184332

did knowingly commit a simple assault on a person who was over the age of 16 years, that is, [redacted]

in violation of Title 18, United States Code, Section 113(a)(5).

D

R. ALEXANDER [redacted]
UNITED STATES ATTORNEY

R

A. [redacted] VILLAFAÑA
ASSISTANT UNITED STATES ATTORNEY

A

F

T

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. _____

UNITED STATES OF AMERICA

vs.

JEFFREY EPSTEIN,

Defendant.

_____/

PLEA AGREEMENT

The United States Attorney for the Southern District of Florida ("the United States"), and Jeffrey Epstein (hereinafter referred to as the "defendant") enter into the following agreement:

1. The defendant agrees to plead guilty to the Information which charges the defendant as follows: Count 1 charges that the defendant knowingly and intentionally violated the privacy protection accorded to child victims by 18 U.S.C. § 3509; in violation of Title 18, United States Code, Sections 403 and 2; and Count 2 charges that the defendant, while in an airplane over the high seas, did knowingly commit a simple assault on a person who was over the age of 16 years, that is [redacted]; in violation of Title 18, United States Code, Section 113(a)(5).

2. The defendant is aware that the sentence will be imposed by the Court after considering the Federal Sentencing Guidelines and Policy Statements (hereinafter

EFTA00184334

"Sentencing Guidelines"). The defendant acknowledges and understands that the Court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the Court relying in part on the results of a Pre-Sentence Investigation by the Court's probation office, which investigation will commence after the guilty plea has been entered. The defendant is also aware that, under certain circumstances, the Court may depart from the advisory sentencing guideline range that it has computed, and may raise or lower that advisory sentence under the Sentencing Guidelines. The defendant is further aware and understands that the Court is required to consider the advisory guideline range determined under the Sentencing Guidelines, but is not bound to impose that sentence; the Court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines' advisory sentence. Knowing these facts, the defendant understands and acknowledges that the Court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offenses identified in paragraph 1 and that the defendant may not withdraw the plea solely as a result of the sentence imposed.

3. The defendant further understands and acknowledges that, as to Count 1 of the Information, the Court may impose a statutory maximum term of imprisonment of up to one (1) year, to be followed by a term of supervised release of up to a maximum of one (1) year. In addition to terms of imprisonment and supervised release, the Court may impose a fine of up to $100,000. The defendant further understands and acknowledges that, as to Count 2 of the Information, the Court may impose a statutory maximum term of imprisonment of up to

EFTA00184335

six (6) months, to be followed by a term of supervised release of up to a maximum of one (1) year. In addition to terms of imprisonment and supervised release, the Court may impose a fine of up to $100,000.

4. The defendant further understands and acknowledges that, in addition to any sentence imposed under paragraph 3 of this Agreement, a special assessment in the amount of $50 will be imposed on the defendant, which must be paid at or before the time of sentencing.

5. The defendant understands that the Court will order that he must pay full restitution to all victims of the offense to which he is pleading guilty. The defendant understands that the amount of restitution owed to each victim will be determined at or before sentencing.

6. The parties agree to jointly recommend that the defendant receive a sentence of eighteen (18) months' imprisonment, to be followed by two (2) years of supervised release; and a fine of $200,000.

7. The defendant agrees that, if any of the victims identified in the federal investigation file suit pursuant to 18 U.S.C. § 2255, the defendant will not contest the jurisdiction of the U.S. District Court for the Southern District of Florida over his person and/or the subject matter, and the defendant will not contest that the identified victims are persons who, while minors, were victims of violations of Title 18, United States Code, Sections(s) 2422 and/or 2423. The United States agrees to provide the defendant's attorneys with a list of the identified victims, which will not exceed forty, after the defendant has

signed this agreement and has been sentenced. The United States further agrees to make a motion with the United States District Court for the Southern District of Florida for the appointment of a guardian ad litem for the identified victims and the defendant's counsel may contact the identified victims through that guardian.

8. The defendant agrees to plead guilty (not nolo contendere) to an Information filed by the Palm Beach County State Attorney's Office charging an offense for which the defendant must register as a sex offender, that is, solicitation of minors to engage in prostitution, in violation of Fl. Stat. 796.03. The defendant agrees that he and the Palm Beach County State Attorney's Office will make a joint, binding recommendation that the Court impose a sentence of at least thirty (30) months, to be divided as follows:

(a) the defendant shall begin by serving at least twenty (20) months in prison, without any opportunity for withholding adjudication or sentencing, and without probation or community control in lieu of imprisonment; and

(b) following the term of imprisonment, the defendant shall serve ten (10) months of community control/home confinement with electronic monitoring.

9. The defendant agrees to waive all challenges to the Information filed by the State Attorney's Office and to waive the right to appeal his conviction and sentence in the state court.

10. The defendant agrees that he will provide to the U.S. Attorney's Office copies

of all proposed agreements with the Palm Beach County State Attorney's Office prior to entering into those agreements.

D. The United States reserves the right to inform the Court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the defendant and the defendant's background, and to respond to any questions from the Court and the Probation Office and to any misstatements of fact or law. Subject only to the express terms of any agreed-upon sentencing recommendations contained in this Agreement, this Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

12. The defendant is aware that the sentence has not yet been determined by the Court. The defendant also is aware that any estimate of the probable sentencing range or sentence that the defendant may receive, whether that estimate comes from the defendant's attorney, the government, or the probation office, is a prediction, not a promise, and is not binding on the government, the probation office or the Court. The defendant understands further that any recommendation that the government makes to the Court as to sentencing, whether pursuant to this agreement or otherwise, is not binding on the Court and the Court may disregard the recommendation in its entirety. The defendant understands and acknowledges, as previously acknowledged in paragraph 2 above, that the defendant may not withdraw his plea based upon the Court's decision not to accept a sentencing recommendation made by the defendant, the government, or a recommendation made jointly

by both the defendant and the government.

13. **WAIVER OF RIGHT TO APPEAL AND COLLATERALLY ATTACK THE SENTENCE.** The defendant is aware that Title 18, United States Code, Section 3742 affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the defendant hereby waives all rights conferred by Section 3742 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure or upward variance from the guideline range that the Court establishes at sentencing. The defendant further voluntarily and expressly waives, to the maximum extent permitted by federal law, the right to collaterally attack his sentence in any post-conviction proceeding, including a motion on any ground brought under 28 U.S.C. § 2254, 28 U.S.C. § 2255, 18 U.S.C. § 3572, or 18 U.S.C. §3771. The defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b). However, if the United States appeals the defendant's sentence pursuant to Section 3742(b), the defendant shall be released from the above waiver of appellate rights. By signing this agreement, the defendant acknowledges that he has discussed the appeal waiver set forth in this agreement with his attorney.

14. If the defendant fails in any way to fulfill each one of his obligations under this Plea Agreement, the United States, and only the United States, may elect to be released from its commitments under this Plea Agreement. If the United States elects to void the Plea

EFTA00184339

Agreement because of a breach by the defendant, then the United States agrees not to use the defendant's guilty plea against him. However, the United States may prosecute the defendant for any and all Federal crimes that he has committed related to this case and may seek any sentence for such crimes up to and including the statutory maximums. The defendant expressly waives any statute of limitations defense and any constitutional or statutory speedy trial defense to such a prosecution, except to the extent that such a defense exists as of the date he signs this Plea Agreement. Finally, the defendant understands that his violation of the terms of this Plea Agreement would not entitle him to withdraw his guilty plea.

15. This is the entire agreement and understanding between the United States and the defendant. There are no other agreements, promises, representations, or understandings.

Date: _____ By: _____
R. ALEXANDER [redacted]
UNITED STATES ATTORNEY

Date: _____ By: _____
JEFFREY EPSTEIN, DEFENDANT

Date: _____ By: _____
JAY LEFKOWITZ, ESQ.
ATTORNEY FOR DEFENDANT

EFTA00184340

EXHIBIT

16

Gmail by Google

Ann [redacted]

Fw:

1 message

Jay Lefkowitz< JLefkowitz@kirkland.com> Sun, Sep 16, 2007 at 12:07 PM
To: [redacted], Ann" [redacted]

[redacted] - I would like you to take a look at these suggestions in the meantime. I tried to follow your format.
I have not yet cleared all of this with my client.
Thx

----- Original Message -----
From: jplefkowitz
Sent: 09/16/2007 11:58 AM AST
To: Jay Lefkowitz

Email and AIM finally together. You've gotta check out free AOL Mail! - http://mail.aol.com

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****

epstein.doc
34K

In Re:
Investigation of
Jeffrey Epstein
_____/

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 with three counts of 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 of the offenses and Epstein's background;

IT APPEARING to the United States Attorney's Office and the Federal Bureau of Investigation that Epstein may have committed offenses against the United States from in or around 2001 through in or around October 2005, including:

(1) knowingly and willfully conspiring with others known and unknown to commit offenses against the United States, in violation of Title 18, United States Code, Section 2422(b) and 2423(b); all in violation of Title 18, United States Code, Section 371 and 18 USC 2423(e); and

(2) knowingly and willfully violating 18 USC 2422(b) and 2, 18 USC 2423(b), and 18 USC 1591(a)(1),(2);

IT APPEARING, after an investigation of the offenses and Epstein's background, that the interest of the United States pursuant to the Petite policy will be served by the following procedure;

THEREFORE, on the authority of [redacted], United States Attorney for the Southern District of Florida, prosecution of these offenses shall be deferred in favor of prosecution by the State of Florida and prosecution of violations of 18 USC 1512(d) and 18 USC 371, 113(a)(5) by the United States, provided that Epstein abides by the following conditions and the requirements of this Agreement set forth below.

Should Epstein be proven to have violated any of the conditions of this Agreement, the United States Attorney may at any time initiate prosecution against Epstein for any offense listed above. In this case, the United States Attorney will furnish Epstein with notice specifying the conditions of the Agreement that he has violated.

EFTA00184343

Terms of the Agreement:

1. Epstein shall plead guilty to the criminal charge in the Indictment as currently pending against him in the 15th Judicial Circuit in and for Palm Beach County and in addition shall plead guilty to a 1 count Information filed by the State Attorney's Office charging a violation of the following Florida Statute: Procuring person under age of 18 for prostitution in violation of F.S.A. § 796.03.

2. Epstein and the State Attorney's Office shall make a joint, binding recommendation that the Court impose a sentence as follows:

   (a) Epstein shall enter a plea agreement with the State Attorney's Office forthwith and thereafter enter his plea of guilty to the Indictment (Case # 2006cf009495AXXXMB) on a date after the date of imposition of his federal sentence as described in paragraph 5 and 6, infra but before the beginning of his term of federal imprisonment Epstein shall thereafter be required to enter his plea of guilty to the Information within 7 days after the completion of his federal term of imprisonment.

   (b) Following the term of federal imprisonment Epstein shall be placed on three (3) years probation.

   (c) As a special condition to that probation, Epstein will serve the first (1) year in community control.

   (d) Following community control, Epstein shall serve the remaining two (2) years of Probation on the charge that presently pending in the state Indictment

3. 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 unless the Court imposes a sentence that exceeds the terms of the joint recommendation in which case Epstein reserves the right to withdraw his plea and to exercise at his sole election any other right to appeal

4. 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;

5. Epstein shall plead guilty to an Information charging one (1) count charging a violation of 18 USC 1512(d) and one (1) count charging simple assault within the maritime and territorial jurisdiction of the United States in violation of 18 USC §113(a)(5) and 18 USC §7(5).

6. Epstein and the Government shall make a joint recommendation that the Court impose the maximum sentence of eighteen (18) months. Epstein,

EFTA00184344

acknowledging his right to appeal under 18 U.S.C. § 3742, hereby waives the rights conferred by § 3742 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure or upward variance from the guideline range that the Court establishes at sentencing.

7. Epstein shall enter his guilty plea to the federal Information no later than November 5, 2007. Epstein and the Government agree to submit an agreed statement of facts in lieu of the Pre-Sentence Investigation Report, which shall be waived, and Epstein and the Government agree that sentence shall be imposed on the date of plea, that Epstein be released on bail, that travel shall not be restricted during the period of bail and that Epstein be permitted to self-report to the facility designated by the United States Bureau of Prisons to commence his sentence 75 days after sentencing. Epstein and the Government further agree that the Government shall not object to Epstein's request that the Court recommend to the Bureau of Prisons that Epstein be designated to serve his sentence at a federal prison camp; and

8. Epstein agrees to fund a Trust set up in concert with the Government and under the supervision of the 15th Judicial Circuit in and for Palm Beach County. Epstein agrees that a Trustee will be appointed by the Circuit Court and that funds from the Trust will be available to be disbursed at the Trustee's discretion to an agreed list of persons who seek reimbursement and make a good faith showing to the Trustee that they suffered injury as a result of the conduct of Epstein. Epstein waives his right to contest liability or damages up to an amount agreed to by the parties for any settlements entered into by the Trustee. Epstein's waiver is not to be construed as an admission of civil or criminal liability in regards to any of those who seek compensation from the Trust.

After timely fulfilling the terms and conditions of this Agreement, the United States agrees that no prosecution will be instituted or initiated against Epstein for any and all criminal charges which might otherwise in the future be brought against Epstein that arise out of the ongoing FBI federal investigation for offenses that include but are not limited to those listed above that could be brought under 18 U.S.C. §2423(b),(e) and (f), 18 U.S.C. §2422(b), 18 U.S.C. §1591 or conspiracies or attempts to violate such statutes or for any other offense that is or has been the subject of the federal investigation being conducted by the Federal Bureau of Investigations and/or the United States Attorney's Office.

Epstein's fulfilling the terms and conditions of the Agreement also precludes the initiation of any and all criminal charges which might otherwise in the future be brought against [redacted] or any employee of [redacted] for any criminal charge that arises out of the ongoing federal investigation as described above; Further, no immigration proceeding will be instituted against [redacted] as a result of the ongoing investigation

EFTA00184345

Epstein's fulfilling the terms and conditions of the Agreement resolves any and all outstanding [redacted] that have requested witness testimony and/or the production of documents and/or computers in relation to the investigation that is the subject of the Agreement. Each subpoena will be withdrawn upon the execution of the Agreement and will not be re-issued absent reliable evidence of a violation of the Agreement. Epstein and his counsel agree that the computers that are currently under [redacted] will be safeguarded in their current condition by Epstein's counsel or their agents until the terms and conditions of the Agreement are fulfilled. Provided that Epstein does not breach this agreement, the Government agrees that it will not seek to initiate federal investigation or prosecution for conduct subject to this agreement.

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 discussion with the State Attorney's Office to ensure compliance with these procedures, which compliance will be necessary to satisfy the United States' interest, pursuant to the *Petite* policy.

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 for any and all federal offenses listed above at pg 1.

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. 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, 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.

EFTA00184346

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 Agreement and agrees to comply with them.

Dated: _____

_____
JEFFREY EPSTEIN

Dated: _____

_____
GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

_____
[redacted]
UNITED STATES ATTORNEY

EXHIBIT

17

[redacted]. (USAFLS)

From: Jay Lefkowitz [JLefkowitz@kirkland.com]
Sent: Monday, September 17, 2007 3:11 PM
To: [redacted]. (USAFLS)
Cc: Garcia, Rolando (USAFLS)
Subject: Re: My whereabouts

Marie - do you have another obstuction proffer I can review that you have drafted?

Also, if we go that route, would you intend to make the deferred prosecution agreement public?

Thanks - Jay

----- Original Message -----
From: "[redacted]"
Sent: 09/17/2007 01:08 PM AST
To: Jay Lefkowitz
Cc: "Garcia, Rolando [redacted]
Subject: My whereabouts

Hi Jay – I am headed home. If a document is ready to be reviewed later today, can you send a copy to me and also to Rolando (who is stepping in for [redacted]). Please send to my home e-mail address [redacted] and give me a call on my cell [redacted] so I can be ready for some discussions tomorrow. If anything else comes up, please don't hesitate to call.

Thanks,

[redacted]

****
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****

EXHIBIT

18

Fax [redacted]

[redacted]

[redacted]

[

[redacted]

[redacted]

[redacted]

I believe there are only two types of agreements that would apply to this case: (1) a plea agreement to a federal charge or charges; and (2) a non-prosecution agreement (which is really a deferred prosecution agreement because the defendant agrees that if he violates the agreement, the U.S. can prosecute him).

A plea agreement is part of the court file. It is not accessible on-line via PACER, but someone can go to the Clerk's Office to obtain a copy.

A non-prosecution agreement would not be made public or filed with the Court, but it would remain part of our case file. It probably would be subject to a FOIA request, but it is not something that we would distribute without compulsory process.

On the obstruction charges, many of the facts I included in that first proffer were hypothesized based upon our discussions and the agents' observations of [redacted] We will need to interview her to confirm the accuracy of those facts. On a second count, we could rely on the incident where Mr. Epstein's private investigators followed [redacted] father, forcing him off the road. Or, if there is something more recent related to any [redacted] we could consider that.

Hope that helps.

A. [redacted] *Villafaña*

Assistant U.S. Attorney

[redacted]

[redacted]

[redacted]

****

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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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*****

070918 12.22 pm Plea Agreement 1512 counts.wpd

EFTA00184354

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. _____

UNITED STATES OF AMERICA

vs.

JEFFREY EPSTEIN,

Defendant.
_____/

PLEA AGREEMENT

The United States Attorney for the Southern District of Florida ("the United States"), and Jeffrey Epstein (hereinafter referred to as the "defendant") enter into the following agreement:

1. The defendant agrees to plead guilty to a two-count Information which charges the defendant as follows. Count 1 charges that the defendant intentionally harassed another person, that is, [redacted] in an attempt to delay, prevent, and dissuade [redacted] from attending or testifying in an official proceeding, that is a [redacted] appearance in the Southern District of Florida, in violation of Title 18, United States Code, Sections 1512(d)(2) and 2; and Count 2 charges that the defendant intentionally harassed another person, that is, [redacted] in an attempt to delay, prevent, and dissuade [redacted] from reporting to a law enforcement officer of the United States the commission of a federal offense; in violation of Title 18, United States Code, Sections 1512(d)(2) and 2.

2. The defendant agrees and understands that the above charges involve his conduct, and the conduct of others, between in and around early 2001 through in and

around September 2007 involving a conspiracy to solicit minors to engage in prostitution and to travel in interstate commerce to engage in illicit sexual conduct. This agreement resolves the federal criminal liability of the defendant and any co-conspirators in the Southern District of Florida growing out of any criminal conduct by those persons known to the United States Attorney's Office for the Southern District of Florida as of the date of this plea agreement, including but not limited to the above-described scheme.

3. The United States agrees that, upon entry of the defendant's guilty plea, its Grand Jury investigation will be suspended, and all pending ([redacted] will be held in abeyance unless and until the defendant violates any term of this agreement, as explained in paragraph 19, *infra*. The defendant likewise agrees to withdraw his pending motion to intervene and to quash certain [redacted] The defendant further agrees that the current custodian of certain computer equipment shall maintain that evidence inviolate until all of the terms of this agreement have been satisfied.

4. The defendant is aware that the sentence will be imposed by the Court after considering the Federal Sentencing Guidelines and Policy Statements (hereinafter "Sentencing Guidelines"). The defendant acknowledges and understands that the Court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the Court relying in part on the results of a Pre-Sentence Investigation by the Court's probation office, which investigation will commence after the guilty plea has been entered. The defendant is also aware that, under certain circumstances, the Court may depart from the advisory sentencing guideline range that it has computed, and may raise or lower that advisory sentence under the Sentencing Guidelines. The defendant is further aware and understands that the Court is required to consider the advisory guideline range determined under the Sentencing Guidelines, but is not bound to impose that sentence; the Court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less

severe than the Sentencing Guidelines' advisory sentence. Knowing these facts, the defendant understands and acknowledges that the Court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offenses identified in paragraph 1 and that the defendant may not withdraw the plea solely as a result of the sentence imposed.

5. The defendant further understands and acknowledges that, as to each of Counts 1 and 2 of the Information, the Court may impose a statutory maximum term of imprisonment of up to one (1) year, to be followed by a term of supervised release of up to a maximum of one (1) year. In addition to terms of imprisonment and supervised release, the Court may impose a fine of up to $100,000 as to each count.

6. The defendant further understands and acknowledges that, in addition to any sentence imposed under paragraph 3 of this Agreement, a special assessment in the amount of $50 will be imposed on the defendant, which must be paid at or before the time of sentencing.

7. The defendant understands that the Court will order that he must pay full restitution to all victims of the offense to which he is pleading guilty. The defendant understands that the amount of restitution owed to each victim will be determined at or before sentencing.

8. The parties agree to jointly recommend that the defendant receive a sentence of eighteen (18) months' imprisonment, to be followed by two (2) years of supervised release; and a fine of $200,000. The parties' further agree to jointly recommend that the Court impose one year of home confinement as a special condition of supervised release.

9. The defendant agrees that, if any of the victims identified in the federal investigation file suit pursuant to 18 U.S.C. § 2255, the defendant will not contest the jurisdiction of the U.S. District Court for the Southern District of Florida over his person

and/or the subject matter, and the defendant will not contest that the identified victims are persons who, while minors, were victims of violations of Title 18, United States Code, Sections(s) 2422 and/or 2423. The United States agrees to provide the defendant's attorneys with a list of the identified victims, which will not exceed forty, after the defendant has signed this agreement and has been sentenced. The United States further agrees to make a motion with the United States District Court for the Southern District of Florida for the appointment of a guardian ad litem for the identified victims and the defendant's counsel may contact the identified victims through that guardian.

10. The defendant further understands and acknowledges that he must undertake certain actions with the State Attorney's Office for the 15th Judicial Circuit in and for Palm Beach County (hereinafter, "State Attorney's Office") in order to satisfy the United States' federal interest in the investigation and prosecution of his offenses, in accordance with the Justice Department's *Petite* policy. Epstein understands and acknowledges 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 discussion with the State Attorney's Office to ensure compliance with these procedures.

11. In addition to entering a guilty plea in the instant case, the defendant agrees to plead guilty to an Information filed by the Palm Beach County State Attorney's Office charging an offense for which the defendant must register as a sex offender, that is, solicitation of minors to engage in prostitution, in violation of Fl. Stat. 796.03. The defendant must enter this guilty plea before he is sentenced on the federal offenses.

12. The defendant agrees that he and the Palm Beach County State Attorney's Office will make a joint, binding recommendation that the Court impose a sentence of at least eighteen (18) months' imprisonment to be followed by at least twelve (12) months of community control/home confinement to be served upon the defendant's release from

federal prison. Those sentences may run concurrently with the federal sentence imposed pursuant to this agreement. **[NB: The other option is: The defendant and the Palm Beach County State Attorney's Office shall make a joint, binding recommendation that the Court impose a sentence of at least sixty (60) months' probation, which will include at least twelve (12) months of community control/home confinement to be served upon the defendant's release from federal prison.]**

13. The defendant agrees to waive all challenges to the Information filed by the State Attorney's Office and to waive the right to appeal his conviction and sentence in the state court.

14. The defendant agrees to provide to the U.S. Attorney's Office copies of all proposed agreements with the Palm Beach County State Attorney's Office prior to entering into those agreements.

15. The defendant agrees that the timely completion of these actions 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 for any and all federal offenses.

16. The United States reserves the right to inform the Court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the defendant and the defendant's background, and to respond to any questions from the Court and the Probation Office and to any misstatements of fact or law. Subject only to the express terms of any agreed-upon sentencing recommendations contained in this Agreement, this Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

17. The defendant is aware that the sentence has not yet been determined by the Court. The defendant also is aware that any estimate of the probable sentencing range or

sentence that the defendant may receive, whether that estimate comes from the defendant's attorney, the government, or the probation office, is a prediction, not a promise, and is not binding on the government, the probation office or the Court. The defendant understands further that any recommendation that the government makes to the Court as to sentencing, whether pursuant to this agreement or otherwise, is not binding on the Court and the Court may disregard the recommendation in its entirety. The defendant understands and acknowledges, as previously acknowledged in paragraph 4 above, that the defendant may not withdraw his plea based upon the Court's decision not to accept a sentencing recommendation made by the defendant, the government, or a recommendation made jointly by both the defendant and the government.

18. **WAIVER OF RIGHT TO APPEAL AND COLLATERALLY ATTACK THE SENTENCE.** The defendant is aware that Title 18, United States Code, Section 3742 affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the defendant hereby waives all rights conferred by Section 3742 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute. The defendant further voluntarily and expressly waives, to the maximum extent permitted by federal law, the right to collaterally attack his sentence in any post-conviction proceeding, including a motion on any ground brought under 28 U.S.C. § 2254, 28 U.S.C. § 2255, 18 U.S.C. § 3572, or 18 U.S.C. § 3771. The defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b). However, if the United States appeals the defendant's sentence pursuant to Section 3742(b), the defendant shall be released from the above waiver of appellate rights. By signing this agreement, the defendant acknowledges that he has discussed the appeal waiver set forth in this

agreement with his attorney.

19. If the defendant fails in any way to fulfill each one of his obligations under this Plea Agreement, the United States, and only the United States, may elect to be released from its commitments under this Plea Agreement. If the United States elects to void the Plea Agreement because of a breach by the defendant, then the United States agrees not to use the defendant's guilty plea against him. However, the United States may prosecute the defendant for any and all Federal crimes that he has committed related to this case and may seek any sentence for such crimes up to and including the statutory maximums. The defendant expressly waives any statute of limitations defense and any constitutional or statutory speedy trial defense to such a prosecution, except to the extent that such a defense exists as of the date he signs this Plea Agreement. Finally, the defendant understands that his violation of the terms of this Plea Agreement would not entitle him to withdraw his guilty plea.

20. This is the entire agreement and understanding between the United States and the defendant. There are no other agreements, promises, representations, or understandings.

Date: _____ By: _____
[redacted]
UNITED STATES ATTORNEY

Date: _____ By: _____
JEFFREY EPSTEIN, DEFENDANT

Date: _____ By: _____

GERALD LEFCOURT, ESQ.
ATTORNEY FOR DEFENDANT

EXHIBIT

19

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Tuesday, September 18, 2007 12:44 PM
To: 'Jay Lefkowitz'
Subject: RE: Draft Agreements?

Hi Jay – It looks like I will be here all afternoon, but earlier is better than later. There are a number of issues with your version, but one that you can look at before our call is the calculation of the guidelines on the 1512(d) counts. The cross-reference to 2X3.1 applies, which then takes us to 2G1.3. Giving Mr. Epstein the benefit of the doubt (that they would treat this as though there were only one victim), he would have a base offense level of 24, plus 2 for a commercial sex act, totaling 26. Returning to 2X3.1, we would subtract 6 levels and subtract another 3 levels for acceptance for a total offense level of 17. With criminal history category of I, that results in 24 to 30 months, which is in Zone D.

A. [redacted] *Villafaña*
Assistant U.S. Attorney
[redacted]

From: Jay Lefkowitz [mailto:JLefkowitz@kirkland.com]
Sent: Tuesday, September 18, 2007 12:11 PM
To: [redacted]. (USAFLS)
Subject: RE: Draft Agreements?

[redacted] -- are you free for a call this afternoon? what time works best for you?

Thanks -- Jay

"[redacted]
<[redacted]
09/18/2007 09:14 AM

To "Jay Lefkowitz" <JLefkowitz@kirkland.com>
cc
Subject RE: Draft Agreements?

Hi Jay – I know that the U.S. Attorney will not go below 18 months of prison/jail time (and I would strongly oppose the suggestion).

A. [redacted]
Assistant U.S. Attorney
[redacted]

From: Jay Lefkowitz [mailto:JLefkowitz@kirkland.com]
Sent: Tuesday, September 18, 2007 8:59 AM

EXHIBIT

20

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Thursday, September 20, 2007 3:52 PM
To: 'Jay Lefkowitz'
Cc: Lourie, Andrew; McMillan, John (USAFLS); Atkinson, Karen (USAFLS); Garcia, Rolando (USAFLS)
Subject: Final version of Plea Agreement -- EPSTEIN

Hi Jay – I have attached the plea agreement as approved by the U.S. Attorney and the proposed information. If your client is going to accept the agreement, please let me know by noon tomorrow, so that I can file the Information, get a judicial assignment, and arrange an arraignment and change of plea for Monday. We also will need to set a time for the agents to interview [redacted] to finalize a factual proffer.

Following the plea, Mr. Epstein will have at least 70 days before sentencing plus the time to self-surrender in order to get his affairs in order, including entering his guilty pleas to the state charges.

[redacted] mentioned that your client is considering returning to our original offer of just a state plea. If that is the case, the non-prosecution agreement that was provided to you last week will control. Again, we will need to receive a signed version by tomorrow if that is Mr. Epstein's decision.

You can reach me on my cell phone at [redacted] Thank you.

070920 3.45 pm
Agreement ..

070919
mation charging

A. [redacted] *Villafaña*
Assistant U.S. Attorney
[redacted]

Tracking:

RFP MIA 000151

EFTA00184366

Recipient	Read
'Jay Lefkowitz'	
Lourie, Andrew	
McMillan, John (USAFLS)	
Atkinson, Karen (USAFLS)	Read: 9/20/2007 4:20 PM
Garcia, Rolando (USAFLS)	Read: 9/20/2007 3:54 PM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. _____

UNITED STATES OF AMERICA

vs.

JEFFREY EPSTEIN,

Defendant.
_____/

PLEA AGREEMENT

The United States Attorney for the Southern District of Florida ("the United States"), and Jeffrey Epstein (hereinafter referred to as the "defendant") enter into the following agreement:

1. The defendant agrees to plead guilty to a two-count Information which charges that the defendant intentionally harassed two other persons, that is, [redacted] in an attempt to delay, prevent, and dissuade those persons from reporting to a law enforcement officer of the United States the commission of a federal offense; in violation of Title 18, United States Code, Sections 1512(d)(2) and 2.

2. The defendant agrees and understands that the above charges involve his conduct, and the criminal conduct of others, between in and around early 2001 through in and around September 2007. This agreement resolves the federal criminal liability of the defendant and any co-conspirators in the Southern District of Florida growing out of any

RFP MIA 000153

EFTA00184368

criminal conduct by those persons known to the United States Attorney's Office for the Southern District of Florida as of the date of this plea agreement.

3. The United States agrees that, upon entry of the defendant's guilty plea, its Grand Jury investigation will be suspended, and all pending litigation between the parties will be held in abeyance unless and until the defendant violates any term of this agreement, as explained in paragraph 18, *infra*. Both parties agree to maintain their evidence inviolate until all of the terms of this agreement have been satisfied.

4. The defendant is aware that the sentence will be imposed by the Court after considering the Federal Sentencing Guidelines and Policy Statements (hereinafter "Sentencing Guidelines"). The defendant acknowledges and understands that the Court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the Court relying in part on the results of a Pre-Sentence Investigation by the Court's probation office, which investigation will commence after the guilty plea has been entered. The defendant is also aware that, under certain circumstances, the Court may depart from the advisory sentencing guideline range that it has computed, and may raise or lower that advisory sentence under the Sentencing Guidelines. The defendant is further aware and understands that the Court is required to consider the advisory guideline range determined under the Sentencing Guidelines, but is not bound to impose that sentence; the Court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines'

advisory sentence. Knowing these facts, the defendant understands and acknowledges that the Court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offenses identified in paragraph 1 and that the defendant may not withdraw the plea solely as a result of the sentence imposed.

5. The defendant further understands and acknowledges that, as to each of Counts 1 and 2 of the Information, the Court may impose a statutory maximum term of imprisonment of up to one (1) year, to be followed by a term of supervised release of up to a maximum of one (1) year. In addition to terms of imprisonment and supervised release, the Court may impose a fine of up to $100,000 as to each count.

6. The defendant further understands and acknowledges that, in addition to any sentence imposed under paragraph 4 of this Agreement, a special assessment in the amount of $50 will be imposed on the defendant, which must be paid at or before the time of sentencing.

7. The defendant understands that the Court will order that he must pay full restitution to all victims of the offenseS to which he is pleading guilty. The defendant understands that the amount of restitution owed to each victim will be determined at or before sentencing.

8. The parties agree to jointly recommend that the defendant receive a sentence of eighteen (18) months' imprisonment, to be followed by one (1) year of supervised release, and a fine of $200,000. The parties' further agree to jointly recommend that the Court

RFP MIA 000155

EFTA00184370

impose one year of home confinement as a special condition of supervised release.

9. The defendant agrees that, if any of the victims identified in the federal investigation file suit pursuant to 18 U.S.C. § 2255, the defendant will not contest the jurisdiction of the U.S. District Court for the Southern District of Florida over his person and/or the subject matter, and the defendant will not contest that the identified victims are persons who, while minors, were victims of violations of Title 18, United States Code, Sections(s) 2422 and/or 2423. The United States agrees to provide the defendant's attorneys with a list of the identified victims, which will not exceed forty, after the defendant has signed this agreement and has been sentenced. The United States further agrees to make a motion with the United States District Court for the Southern District of Florida for the appointment of a guardian ad litem for the identified victims and the defendant's counsel may contact the identified victims through that guardian.

10. The United States has reached this agreement with the defendant in response to the defendant's request to globally resolve his state and federal criminal liability. To do so, the defendant further understands and acknowledges that he must undertake certain actions with the State Attorney's Office for the 15th Judicial Circuit in and for Palm Beach County (hereinafter, "State Attorney's Office").

11. In addition to entering a guilty plea in the instant case, the defendant agrees that, prior to his sentencing on the federal charges, he will plead guilty to an Information filed by the State Attorney's Office charging an offense for which the defendant must register

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as a sex offender, that is, solicitation of minors to engage in prostitution, in violation of Fl. Stat. 796.03. The defendant agrees that he will waive all challenges to the Information filed by the State Attorney's Office and waive the right to appeal his conviction and sentence in the state court.

12. The defendant agrees that he will make a binding recommendation that the 15th Judicial Circuit Court impose a sentence of at least eighteen (18) months' imprisonment to be followed by at least twelve (12) months of community control/home confinement to be served upon the defendant's release from federal prison. The defendant further represents that he has had discussions with the State Attorney's Office, which has agreed to likewise make this recommendation. The sentences imposed by the 15th Judicial Circuit Court may run concurrently with the federal sentence imposed pursuant to this agreement.

13. The defendant agrees to 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.

14. The defendant agrees that the timely completion of these actions 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 the defendant for any and all federal offenses.

15. The United States reserves the right to inform the Court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the

defendant and the defendant's background, and to respond to any questions from the Court and the Probation Office and to any misstatements of fact or law. Subject only to the express terms of any agreed-upon sentencing recommendations contained in this Agreement, this Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

16. The defendant is aware that the sentence has not yet been determined by the Court. The defendant also is aware that any estimate of the probable sentencing range or sentence that the defendant may receive, whether that estimate comes from the defendant's attorney, the government, or the probation office, is a prediction, not a promise, and is not binding on the government, the probation office or the Court. The defendant understands further that any recommendation that the government makes to the Court as to sentencing, whether pursuant to this agreement or otherwise, is not binding on the Court and the Court may disregard the recommendation in its entirety. The defendant understands and acknowledges, as previously acknowledged in paragraph 4 above, that the defendant may not withdraw his plea based upon the Court's decision not to accept a sentencing recommendation made by the defendant, the government, or a recommendation made jointly by both the defendant and the government.

17. **WAIVER OF RIGHT TO APPEAL AND COLLATERALLY ATTACK THE SENTENCE.** The defendant is aware that Title 18, United States Code, Section 3742

EFTA00184373

affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the defendant hereby waives all rights conferred by Section 3742 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute. The defendant further voluntarily and expressly waives, to the maximum extent permitted by federal law, the right to collaterally attack his sentence in any post-conviction proceeding, including a motion on any ground brought under 28 U.S.C. § 2254, 28 U.S.C. § 2255, 18 U.S.C. § 3572, or 18 U.S.C. § 3771. The defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b). However, if the United States appeals the defendant's sentence pursuant to Section 3742(b), the defendant shall be released from the above waiver of appellate rights. By signing this agreement, the defendant acknowledges that he has discussed the appeal waiver set forth in this agreement with his attorney.

18. If the defendant fails in any way to fulfill each one of his obligations under this Plea Agreement, the United States, and only the United States, may elect to be released from its commitments under this Plea Agreement. If the United States elects to void the Plea Agreement because of a breach by the defendant, then the United States agrees not to use the defendant's guilty plea against him. However, the United States may prosecute the defendant for any and all Federal crimes that he has committed related to this case and may seek any

EFTA00184374

sentence for such crimes up to and including the statutory maximums. The defendant expressly waives any statute of limitations defense and any constitutional or statutory speedy trial defense to such a prosecution, except to the extent that such a defense exists as of the date he signs this Plea Agreement. Finally, the defendant understands that his violation of the terms of this Plea Agreement would not entitle him to withdraw his guilty plea.

19. This is the entire agreement and understanding between the United States and the defendant. There are no other agreements, promises, representations, or understandings.

[redacted]
UNITED STATES ATTORNEY

Date: _____ By: _____
A. [redacted] VILLAFAÑA
ASSISTANT UNITED STATES ATTORNEY

Date: _____ By: _____
JEFFREY EPSTEIN, DEFENDANT

Date: _____ By: _____
ROY BLACK, ESQ.
ATTORNEY FOR DEFENDANT

Date: _____ By: _____
GERALD LEFCOURT, ESQ.
COUNSEL TO DEFENDANT

RFP MIA 000160

EFTA00184375

EXHIBIT

21

[redacted]. (USAFLS)

From: Jay Lefkowitz [JLefkowitz@kirkland.com]
Sent: Tuesday, September 18, 2007 11:09 AM
To: [redacted], Ann Marie C. (USAFLS)
Subject: RE: Draft Agreements?
Attachments: Agreement updated.doc.rtf

Confidential -- For Settlement purposes only.

[redacted] -- Please look this over and let's see if we can identify any issues that we need to discuss in greater detail. Since you can't go to only one count of obstruction, but 18 would become about 15 with gain time, I have made a proposal of a total 24 month sentence based on two informations. This would include a period of home detention. We can then follow this with a state plea as well so he serves the additional time there. I need to see your language for proffers on the two charges - [redacted]

Alternatively, at this stage, we could have just one count for 12 months and then 6 months incarceration under the state, followed by community control and probabtion. I am not sure which is more practicable.

Please let me know when you are free to speak.

Thanks -- Jay

[redacted]

09/18/2007 09:14 AM

To "Jay Lefkowitz" <JLefkowitz@kirkland.com>
cc
Subject RE: Draft Agreements?

Hi Jay – I know that the U.S. Attorney will not go below 18 months of prison/jail time (and I would strongly oppose the suggestion).

A. [redacted] *Villafaña*
Assistant U.S. Attorney
[redacted]

From: Jay Lefkowitz [mailto:JLefkowitz@kirkland.com]
Sent: Tuesday, September 18, 2007 8:59 AM
To: [redacted]. (USAFLS)
Subject: Re: Draft Agreements?

[redacted]

an alternative to what we discussed just now might be to plead to one count of 1512, serve 12 months plus supervised

release which would be one year of home detention (if we can make that work), followed by two years of probation in the state on the state charges with the first 6 months being community control.

[redacted]

[redacted]8/2007 08:44 AM

To "Jay Lefkowitz" <JLefkowitz@kirkland.com>
cc
Subject Draft Agreements?

Hi Jay – I was hoping there would be things for me to read this morning, but I will try to remain patient.

I believe there are only two types of agreements that would apply to this case: (1) a plea agreement to a federal charge or charges; and (2) a non-prosecution agreement (which is really a deferred prosecution agreement because the defendant agrees that if he violates the agreement, the U.S. can prosecute him).

A plea agreement is part of the court file. It is not accessible on-line via PACER, but someone can go to the Clerk's Office to obtain a copy.

[redacted]non-prosecution agreement would not be made public or filed with the Court, but it would remain part of our case file. It probably would be subject to a FOIA request, but it is not something that we would distribute without compulsory process.

On the obstruction charges, many of the facts I included in that first proffer were hypothesized based upon our discussions and the agents' observations of [redacted] We will need to interview her to confirm the accuracy of those facts. On a second count, we could rely on the incident where Mr. Epstein's private investigators followed [redacted] father, forcing him off the road. Or, if there is something more recent related to any [redacted] we could consider that.

Hope that helps.

A. [redacted]

Assistant U.S. Attorney

[redacted]

[redacted]

[redacted]

EFTA00184378

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 with one count of solicitation of prostitution, in violation of Florida Statutes Section 796.07;

IT APPEARING that the interest of the United States pursuant to the *Petite* policy will be served by the following procedure expressed in this Agreement;

IT APPEARING that the United States Attorney's Office and the Federal Bureau of Investigation have conducted their own investigation of Epstein's background and offenses including;

(1) knowingly and willfully conspiring with others known and unknown to commit an offense against the United States, in violation of Title 18, United States Code, Section 2422(b) and 2423(b); all in violation of Title 18, United States Code, Section 371 and 18 USC 2423(e); and

(2) knowingly and willfully violating Title 18, United States Code, Sections 2422(b) and § 2423(b) and (f); and Title 18, United States Code, Sections 1591(a)(1) and (2); and

THEREFORE, on the authority of [redacted], 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 and prosecution of violations of 18 USC 1512(d) by the United States, provided that Epstein abides by the following conditions and the requirements of this Agreement set forth below.

Should Epstein be proven to have violated any of the conditions of this Agreement, the United States Attorney may initiate prosecution against Epstein for any offense listed above for the duration of this Agreement. In this case, the United States Attorney will furnish Epstein with notice specifying the condition(s) of the Agreement that he has violated.

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 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 to an Information charging one (1) count of a violation of 18 USC 1512(d).

2. Epstein and the Government agree to follow the United States Sentencing Guidelines which indicate that one (1) count of 18 USC § 1512(d) has a Base Offense Level of fourteen (14) pursuant to USSG § 2J1.2. Epstein and the Government acknowledge that after applying the downward departure to the Base Offense Level for Acceptance, the resulting Level is twelve (12), which requires incarceration for ten - sixteen (10 - 16) months.

3. Following the United States Sentencing Guidelines, Epstein shall serve twelve (12) months in the custody of the Bureau of Prisons.

4. Following Epstein's entry of a guilty plea to the Information described in paragraph 1, infra, Epstein shall plead guilty to a second Information charging one (1) additional count of a violation of 18 USC 1512(d). Epstein and the Government shall make a joint recommendation that the Court impose a sentence to be divided as follows:

   (a) Epstein shall serve four (4) months in the custody of the Bureau of Prisons.

   (b) following the term of imprisonment, Epstein shall serve eight (8) months of federal Supervised Release with a special condition that the entire term of the Supervise Release be served in the form of home detention pursuant to USSG 5F1.2.

5. Epstein, acknowledging his right to appeal under 18 U.S.C. § 3742, hereby waives the rights conferred by § 3742 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure or upward variance from the guideline range that the Court establishes at sentencing.

6. Epstein shall enter his guilty plea to both federal Informations no later than November 5, 2007. Epstein and the Government agree to recommend to the Court that the Pre-Sentence Investigation Report be waived as to both Informations in which case Epstein and the Government agree that both

EFTA00184380

sentences shall be imposed on the date of plea, that Epstein be released on bail, that travel shall not be restricted during the period of bail and that Epstein be permitted to self-report to the facility designated by the United States Bureau of Prisons to commence his sentence 75 days after sentencing. If the Court requires a Pre-Sentence Investigation Report, Epstein shall be sentenced on a later date but the parties agree to the bail, travel and self-report conditions as outlined in this paragraph. Epstein and the Government further agree to recommend to the Court that the Court recommend to the Bureau of Prisons that Epstein be designated to serve his sentence at a federal prison camp.

7. Epstein, acknowledging his right to appeal under 18 U.S.C. § 3742, hereby waives the rights conferred by § 3742 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure or upward variance from the guideline range that the Court establishes at sentencing.

After timely fulfilling the terms and conditions of this Agreement, the United States agrees that no prosecution will be instituted or initiated against Epstein for any and all criminal charges which might otherwise in the future be brought against Epstein that arise out of the ongoing FBI federal investigation for offenses that include but are not limited to those listed above that could be brought under 18 U.S.C. §2423(b), (e) and (f), 18 U.S.C. §2422(b), 18 U.S.C. §1591 or conspiracies or attempts to violate such statutes or for any other offense that is or has been the subject of the federal investigation being conducted by the Federal Bureau of Investigations and/or the United States Attorney's Office.

Epstein's fulfilling the terms and conditions of the Agreement also precludes the initiation of any and all criminal charges which might otherwise in the future be brought against [redacted] for any criminal charge that arises out of the ongoing federal investigation as described above; Further, the United States Attorney's Office will not request, initiate, or any way encourage immigration authorities to institute immigration proceedings against [redacted] as a result of the ongoing investigation.

Epstein's fulfilling the terms and conditions of the Agreement resolves any and all outstanding federal grand jury subpoenas that have requested witness testimony and/or the production of documents and/or computers in relation to the investigation that is the subject of the Agreement. Each subpoena will be withdrawn upon the execution of the Agreement and will not be re-issued absent reliable evidence of a violation of the Agreement. Epstein and his counsel agree that the computers that are currently under subpoena will be safeguarded in their current condition by Epstein's counsel or their agents until the terms and conditions of the Agreement are fulfilled. Provided that Epstein does not breach this agreement, the Government agrees that it will not seek to initiate federal investigation or prosecution for conduct subject to this agreement.

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 discussion with the State Attorney's Office to ensure compliance with these procedures, which compliance will be necessary to satisfy the United States' interest, pursuant to the *Petite* policy.

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 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, for the offenses listed on pages 1 and 2 infra. 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 the offenses listed on pages 1 and 2 infra, 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.

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.

Dated: _____

_____
JEFFREY EPSTEIN

Dated: _____

_____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

[redacted]
UNITED STATES ATTORNEY

RFP MIA 000104

EFTA00184383

UNITED STATES vs. JEFFREY EPSTEIN
PLEA PROFFER

On August __, 2007, Mr. Epstein learned that his Special Agents would attempt to serve subpoenas on his personal assistants, [redacted] While traveling to the New York City area, Mr. Epstein re-directed his airplane to the U.S. Virgin Islands in order to harass to delay Special Agents from serving target letters on his assistants, [redacted]

[redacted]

RFP MIA 000105

EFTA00184384

EXHIBIT

22

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Friday, September 21, 2007 2:15 PM
To: [redacted]
Cc: [redacted]
Subject: RE: Meeting with Epstein's attorneys
Attachments: 070921 Epstein Non-Prosecution Agreement.pdf

Hi Barry and [redacted] – This is the draft I just sent to Jay. There are still some outstanding issues, but I thought that you might want to see what the most recent looks like.

A. [redacted] *Villafaña*
Assistant U.S. Attorney
500 S. Australian Ave. Suite 400
West Palm Beach, FL 33401
[redacted]

From: [redacted] [mailto:Bkrische@sa15.state.fl.us]
Sent: Friday, September 21, 2007 1:18 PM
To: [redacted]. (USAFLS)
Cc: [redacted]
Subject: RE: Meeting with Epstein's attorneys

I just spoke to Jack and related our conversation. You can expect a call from him shortly.
I understand the deft. gets 3 days a month gain time plus 3 additional days a month if he works. So I think that would work out to 15 months actual time served. He would then be on the bracelet, house arrest, for one year. Jack indicated that he double checked with the stockade and the registration offense won't act as a bar to Epstein doing his time at the stockade, so they intend to register concurrent with the plea of guilty.
Glad we could get this worked out for reasons I won't put in writing. After this is resolved I would love to buy you a cup at Starbucks and have a conversation.

From: [redacted]. (USAFLS) [redacted]
Sent: Friday, September 21, 2007 1:10 PM
To: [redacted]
Subject: RE: Meeting with Epstein's attorneys

Hi Barry. Thanks for your time this morning. We called Jay and told him that we (you and our office) had decided what would work best and that you would contact Jack to finalize the state agreement. I am trying to finish the federal agreement. In addition to the sentence imposed, I want to put in a provision that he will actually be in jail at least a certain number of days to make sure he doesn't try to "convince" someone with the Florida prison authorities to let him out early. So, do you know how much "gain time" would Epstein earn? And do you call it "gain time" or "good time" or something else?

Thank you.

A. [redacted] *Villafaña*
Assistant U.S. Attorney
500 S. Australian Ave. Suite 400
West Palm Beach, FL 33401

EXHIBIT

23

"Villafana, Ann [redacted] C. (USAFLS)"

09/27/2007 03:06 PM

To "Jay Lefkowitz" <JLefkowitz@kirkland.co

cc

bcc

Subject RE: Conference Call with Bert Ocariz

History: This message has been forwarded.

Hi Jay – I already told Bert that there is no indictment and, as I mentioned, he doesn't really need to/want to see the entire plea agreement, just the relevant paragraphs so that he understands what the scope of his representation will be. I think they would be happy knowing that their hourly rate will be paid when it is billed. The concern is, if all 40 girls decide they want to sue, they don't want to be in a situation where Mr. Epstein says this is getting too expensive, we won't pay any more attorneys' fees.

Two suggestions, that I haven't run past Bert, are:

1. Mr. Epstein signs a standard fee agreement, where one of his attorneys or accountants who is not working on the damages litigation receives a monthly bill with attorney's fees charged at an hourly rate and costs billed monthly. The bills will have any privileged information redacted. If there is a dispute about a bill that cannot be resolved, it will be submitted to a mediator for resolution.

2. If that is too open-ended for Mr. Epstein, do the hourly/monthly billing until Bert has had a chance to confer with all of the girls to determine how many want him to represent them. Once it is known how many girls will be represented by Bert, and maybe who those girls are, there can be a more educated discussion about estimated fees and costs.

Just some food for thought. I will be out of the office tomorrow, but I will be reachable by cell phone. I will make sure Bert is available and confirm the time with you.

A. [redacted] Villafaña
Assistant U.S. Attorney

EXHIBIT

24

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 S. Australian Ave, Ste 400
West Palm Beach, FL 33401
[redacted]
Facsimile: [redacted]

December 13, 2007

DELIVERY BY ELECTRONIC MAIL
Jay P. Lefkowitz, Esq.
Kirkland & Ellis LLP
Citigroup Center
[redacted]
New York, New York 10022-4675

Re: Jeffrey Epstein

Dear Jay:

I am writing not to respond to your asserted "policy concerns" regarding Mr. Epstein's Non-Prosecution Agreement, which will be addressed by the United States Attorney, but the time has come for me to respond to the ever-increasing attacks on my role in the investigation and negotiations.

It is an understatement to say that I am surprised by your allegations regarding my role because I thought that we had worked very well together in resolving this dispute. I also am surprised because I feel that I bent over backwards to keep in mind the effect that the agreement would have on Mr. Epstein and to make sure that you (and he) understood the repercussions of the agreement. For example, I brought to your attention that one potential plea could result in no gain time for your client; I corrected one of your calculations of the Sentencing Guidelines that would have resulted in Mr. Epstein spending far more time in prison than you projected; I contacted the Bureau of Prisons to see whether Mr. Epstein would be eligible for the prison camp that you desired; and I told you my suspicions about the source of the press "leak" and suggested ways to avoid the press. Importantly, I continued to work with you in a professional manner even after I learned that you had been proceeding in bad faith for several weeks – thinking that I had incorrectly concluded that solicitation of minors to engage in prostitution was a registrable offense and that you would "fool" our Office into letting Mr. Epstein plead to a non-registrable offense. Even now, when it is clear that neither you nor your client ever intended to abide by the terms of the agreement that he signed, I have never alleged misconduct on your part.

The first allegation that you raise is that I "assiduously" hid from you the fact that Bert Ocariz is a friend of my boyfriend and that I have a "longstanding relationship" with Mr. Ocariz.

I informed you that I selected Mr. Ocariz because he was a friend and classmate of two people whom I respected, and that I had never met or spoken with Mr. Ocariz prior to contacting him about this case. All of those facts are true. I still have never met Mr. Ocariz, and, at the time that he and I spoke about this case, he did not know about my relationship with his friend. You suggest that I should have explicitly informed you that one of the referrals came from my "boyfriend" rather than simply a "friend," which is the term I used, but it is not my nature to discuss my personal relationships with opposing counsel. Your attacks on me and on the victims establish why I wanted to find someone whom I could trust with safeguarding the victims' best interests in the face of intense pressure from an unlimited number of highly skilled and well paid attorneys. Mr. Ocariz was that person.

One of your letters suggests a business relationship between Mr. Ocariz and my boyfriend. This is patently untrue and neither my boyfriend nor I would have received any financial benefit from Mr. Ocariz's appointment. Furthermore, after Mr. Ocariz learned more about Mr. Epstein's actions (as described below), he expressed a willingness to handle the case *pro bono*, with no financial benefit even to himself. Furthermore, you were given several other options to choose from, including the Podhurst firm, which was later selected by Judge [redacted]. You rejected those other options.

You also allege that I improperly disclosed information about the case to Mr. Ocariz. I provided Mr. Ocariz with a bare bones summary of the agreement's terms related to his appointment to help him decide whether the case was something he and his firm would be willing to undertake. I did not provide Mr. Ocariz with facts related to the investigation because they were confidential and instead recommended that he "Google" Mr. Epstein's name for background information. When Mr. Ocariz asked for additional information to assist his firm in addressing conflicts issues, I forwarded those questions to you, and you raised objections for the first time. I did not share any further information about Mr. Epstein or the case. Since Mr. Ocariz had been told that you concurred in his selection, out of professional courtesy, I informed Mr. Ocariz of the Office's decision to use a Special Master to make the selection and told him that the Office had made contact with Judge [redacted]. We have had no further contact since then and I have never had contact with Judge [redacted]. I understand from you that Mr. Ocariz contacted Judge [redacted]. You criticize his decision to do so, yet you feel that you and your co-counsel were entitled to contact Judge [redacted] to try to "lobby" him to select someone to your liking, despite the fact that the Non-Prosecution Agreement vested the Office with the exclusive right to select the attorney representative.

Another reason for my surprise about your allegations regarding misconduct related to the Section 2255 litigation is your earlier desire to have me perform the role of "facilitator" to convince the victims that the lawyer representative was selected by the Office to represent their interests alone and that the out-of-court settlement of their claims was in their best interests. You now state that doing the same things that you had asked me to do earlier is improper meddling in civil litigation.

Much of your letter reiterates the challenges to Detective Recarey's investigation that have

already been submitted to the Office on several occasions and you suggest that I have kept that information from those who reviewed the proposed indictment package. Contrary to your suggestion, those submissions were attached to and incorporated in the proposed indictment package, so your suggestion that I tried to hide something from the reviewers is false. I also take issue with the duplicity of stating that we must accept as true those parts of the Recarey reports and witness statements that you like and we must accept as false those parts that you do not like. You and your co-counsel also impressed upon me from the beginning the need to undertake an independent investigation. It seems inappropriate now to complain because our independent investigation uncovered facts that are unfavorable to your client.

You complain that I "forced" your client and the State Attorney's Office to proceed on charges that they do not believe in, yet you do not want our Office to inform the State Attorney's Office of facts that support the additional charge nor do you want any of the victims of that charge to contact Ms. [redacted] or the Court. Ms. [redacted] opinion may change if she knows the full scope of your client's actions. You and I spent several weeks trying to identify and put together a plea to federal charges that your client was willing to accept. Yet your letter now accuses me of "manufacturing" charges of obstruction of justice, making obscene phone calls, and violating child privacy laws. When Mr. Lourie told you that those charges would "embarrass the Office," he meant that the Office was unwilling to bend the facts to satisfy Mr. Epstein's desired prison sentence – a statement with which I agree.

I hope that you understand how your accusations that I imposed "ultimatums" and "forced" you and your client to agree to unconscionable contract terms cannot square with the true facts of this case. As explained in letters from Messrs. [redacted] and [redacted], the indictment was postponed for more than five months to allow you and Mr. Epstein's other attorneys to make presentations to the Office to convince the Office not to prosecute. Those presentations were unsuccessful. As you mention in your letter, I –a simple line AUSA – handled the primary negotiations for the Office, and conducted those negotiations with you, Ms. Sanchez, Mr. Lewis, and a host of other highly skilled and experienced practitioners. As you put it, your group has a "combined 250 years experience" to my fourteen. The agreement itself was signed by Mr. Epstein, Ms. Sanchez, and Mr. Lefcourt, whose experience speaks for itself. You and I spent hours negotiating the terms, including when to use "a" versus "the" and other minutiae. When you and I could not reach agreement, you repeatedly went over my head, involving Messrs. Lourie, [redacted], [redacted], and [redacted] in the negotiations at various times. In any and all plea negotiations the defendant understands that his options are to plead or to continue with the investigation and proceed to trial. Those were the same options that were proposed to Mr. Epstein, and they are not "persecution or intimidation tactics." Mr. Epstein chose to sign the agreement with the advice of a multitude of extremely noteworthy counsel.

You also make much of the fact that the names of the victims were not released to Mr. Epstein prior to signing the Agreement. You never asked for such a term. During an earlier meeting, where Mr. Black was present, he raised the concern that you now voice. Mr. Black and I did not have a chance to discuss the issue, but I had already conceived of a way to resolve that

issue if it were raised during negotiations. As I stated, it was not, leading me to believe that it was not a matter of concern to the defense. Since the signing of the Non-Prosecution Agreement, the agents and I have vetted the list of victims more than once. In one instance, we decided to remove a name because, although the minor victim was touched inappropriately by Mr. Epstein, we decided that the link to a payment was insufficient to call it "prostitution." I have always remained open to a challenge to the list, so your suggestion that Mr. Epstein was forced to write a blank check is simply unfounded.

Your last set of allegations relates to the investigation of the matter. For instance, you claim that some of the victims were informed of their right to collect damages prior to a thorough investigation of their allegations against Mr. Epstein. This also is false. None of the victims was informed of the right to sue under Section 2255 prior to the investigation of the claims. Three victims were notified shortly after the signing of the Non-Prosecution Agreement of the general terms of that Agreement. You raised objections to any victim notification, and no further notifications were done. Throughout this process you have seen that I have prepared this case as though it would proceed to trial. Notifying the witnesses of the possibility of damages claims prior to concluding the matter by plea or trial would only undermine my case. If my reassurances are insufficient, the fact that not a single victim has threatened to sue Mr. Epstein should assure you of the integrity of the investigation.[1]

---

[1]There are numerous other unfounded allegations in your letter about document demands, the money laundering investigation, contacting potential witnesses, speaking with the press, and the like. For the most part, these allegations have been raised and disproven earlier and need not be readdressed. However, with respect to the subpoena served upon the private investigator, contrary to your assertion, and as your co-counsel has already been told, I did consult with the Justice Department prior to issuing the subpoena and I was told that because I was not subpoenaing an attorney's office or an office physically located within an attorney's office, and because the business did private investigation work for individuals (rather than working exclusively for Mr. Black), I could issue a grand jury subpoena in the normal course, which is what I did. I also did not "threaten" the State Attorney's Office with a grand jury subpoena, as the correspondence with their grand jury coordinator makes perfectly clear.

With regard to your allegation of my filing the [redacted] "with the court knowing that the public could access it," I do not know to what you are referring. All documents related to the [redacted] investigation have been filed under seal, and the [redacted] has never been filed with the Court. If, in fact, you are referring to the [redacted] should have access to it except the Court and myself. Those documents are still in the Court file only because you have violated one of the terms of the Agreement by failing to "withdraw [Epstein's] pending motion to intervene and to quash certain [redacted]

With respect to [redacted], I contacted her attorney – who was paid for by Mr. Epstein and was directed by counsel for Mr. Epstein to demand immunity – and asked only whether he still represented [redacted] and if he wanted me to send the victim notification letter to him. He asked what the letter would say and I told him that the letter would be forthcoming in about a week and that I could not provide him with the terms. With respect to [redacted] status as a victim, you again want us to accept as true only facts that are beneficial to your client and to reject as false anything detrimental to him. [redacted] made a number of statements that are contradicted by documentary evidence and a review of her recorded statement shows her lack of credibility with respect to a number of statements. Based upon all of the evidence collected, [redacted] is classified as a victim as defined by statute. Of course, that does not mean that [redacted] considers herself a victim or that she would seek damages from Mr. Epstein. I believe that a number of the identified victims will not seek damages, but that does not negate their legal status as victims.

I hope that you now understand that your accusations against myself and the agents are unfounded. In the future, I recommend that you address your accusations to me so that I can correct any misunderstandings before you make false allegations to others in the Department. I hope that we can move forward with a professional resolution of this matter, whether that be by your client's adherence to the contract that he signed, or by virtue of a trial.

Sincerely,

[redacted]
United States Attorney

By: *s/A [redacted] Villafaña*
A. [redacted]
Assistant United States Attorney

cc: [redacted], U.S. Attorney
Jeffrey [redacted], First Assistant U.S. Attorney

You also accuse me of "broaden[ing] the scope of the investigation without any foundation for doing so by adding charges of money laundering and violations of a money transmitting business to the investigation." Again, I consulted with the Justice Department's Money Laundering Section about my analysis before expanding that scope. The duty attorney agreed with my analysis.

EXHIBIT

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[redacted]. (USAFLS)

From: [redacted], Jeff (USAFLS)
Sent: Wednesday, November 28, 2007 4:35 PM
To: [redacted]. (USAFLS)
Subject: Fw: Epstein

[redacted],
Can u send Jay the proposed letter and redact the names? Thx, Jeff
---
Sent from my BlackBerry Wireless Handheld

----- Original Message -----
From: Jay Lefkowitz <JLefkowitz@kirkland.com>
To: [redacted], Jeff (USAFLS)
Cc: [redacted], [redacted] (USAFLS)
Sent: Wed Nov 28 16:29:09 2007
Subject: Re: Epstein

Dear Jeff:

I received your email yesterday and was a little surprised at the tone of your letter, given the fact that we spoke last week and had what I thought was a productive meeting. I was especially surprised given that your letter arrived on only the second day back to work after the Thanksgiving Holiday, and yet your demands regarding timing suggest that I have been sitting on my hands for days.

You should know that the first time I learned about Judge [redacted] selection of Podhurst and Josephsberg, and indeed the first time I ever heard their names, was in our meeting with you on Wednesday of last week. Nevertheless, I have now been able to confer with my client, and we have determined that the selection of Podhurst and Josephsberg are acceptable to us, reserving, of course, our previously stated objections to the manner in which you have interpreted the section 2255 portions of the Agreement.

We do, however, strongly and emphatically object to your sending a letter to the alleged victims. Without a fair opportunity to review and the ability to make objections to this letter, it is completely unacceptable that you would send it without our consideration. Additionally, given that the US Attorney's office has made clear it cannot vouch for the claims of the victims, it would be incendiary and inappropriate for your Office to send such a letter. Indeed, because it is a certainty that any such letter would immediately be leaked to the press, your actions will only have the effect of injuring Mr. Epstein and promoting spurious civil litigation directed at him. We believe it is entirely unprecedented, and in any event, inappropriate for the Government to be the instigator of such lawsuits.

Finally, we disagree with your view that you are required to notify the alleged victims pursuant to the Justice for All Act of 2004. First, 18 USC section 2255, the relevant statute under the Non-Prosecution Agreement for the settlement of civil remedies, does not have any connection to the Justice for All Act. Section 2255 was enacted as part of a different statute. Second, the Justice for All Act refers to restitution, and section 2255 is not a restitution statute. It is a civil remedy. As you know, we had offered to provide a restitution fund for the alleged victims in this matter; however that option was rejected by your Office. Had that option been chosen, we would not object to your notifying the alleged victims at this point. At this juncture, however, we do not accept your contention that there is a requirement that the government notify the alleged victims of a potential civil remedy in this case.

Accordingly, for all the reasons we have stated above, we respectfully -- and firmly -- object to your sending any letter whatsoever to the alleged victims in this matter. Furthermore, if a letter is to be sent to these individuals, we believe we should have a right to review and make objections to that submission prior to it being sent to any alleged victims. We also request that if your Office believes that it must send a letter to go to the alleged victims, who still have not been identified to us, it should happen only after Mr. Epstein has entered his plea. This letter should then come from the attorney representative, and not from the Government, to avoid any bias.

As you know, Judge Starr has requested a meeting with Assistant Attorney General Fisher to address what we believe is the unprecedented nature of the section 2255 component of the Agreement. We are hopeful that this meeting will take place as early as next week. Accordingly, we respectfully request that we postpone our discussion of sending a letter to the alleged victims until after that meeting. We strongly believe that rushing to send any letter out this week is not the wisest manner in which to proceed. Given that Mr. Epstein will not even enter his plea for another few weeks, time is clearly not of the essence regarding any notification to the identified individuals.

Thanks very much,

Jay

"[redacted], Jeff (USAFLS)" [redacted]

11/27/2007 01:55 PM

To "Jay Lefkowitz" <JLefkowitz@kirkland.com> cc "[redacted], [redacted] (USAFLS)" [redacted]

Epstein

EXHIBIT

26

DECLARATION OF [redacted]

1. My name is [redacted] and I was born [redacted]
2. I was molested by Jeffrey Epstein as a minor on dozens of occasions in his mansion in Palm Beach, Florida from around 2002 to 2005. I understand that evidence collected from Mr. Epstein's home showed conclusively that I was there as a minor, along with many other underage girls. Given how many girls Epstein was abusing, there could not have been any doubt in anyone's mind that had access to the testimonial and other evidence that Epstein molested me (and many others).
3. I cooperated fully with the FBI while they investigated Epstein's illegal activities with minors.
4. During the investigation, Epstein had investigators following and harassing me. I continued to cooperate with the investigation despite this intimidation.
5. In late 2007, FBI agents met in person with me. During this meeting, the agents explained that Epstein was also being charged in State court and may plea to state charges related to some of his other victims. I knew the State charges had nothing to do with me. During this meeting, the Agents did not explain that an agreement had already been signed that precluded any prosecution of Epstein for federal charges against me. I did not get the opportunity to meet or confer with the prosecuting attorneys about any potential federal deal that related to me or the crimes committed against me.
6. My understanding of the agents' explanation was that the federal investigation would continue. I also understood that my own case would move forward towards prosecution of Epstein.
7. Confirming my understanding, in about January 2008, I received a letter from the FBI that told me that "this case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation." My understanding of this letter was that my case was still being investigated and the FBI and prosecutors were moving forward on the Federal prosecution of Epstein for his crimes against me.

8. At this time, I was not told about any non-prosecution agreement or any potential resolution of the federal criminal investigation I was cooperating in. If I had been told about a non-prosecution agreement, I would have objected.
9. Criminal prosecution of Epstein for crimes against me was extremely important to me. I wanted to be consulted by the prosecutors before any resolution. In light of the letter I had received, I had confidence that I would be contacted by the federal government before it reached any final resolution of the investigation into my case and that I would likely be needed to testify if the case went to trial, which I was willing and anxious to do.
10. When I had not heard from the prosecuting attorney for a while, I met with attorney Brad Edwards wanting him to find out when Epstein was going to be federally charged and prosecuted for the crimes he committed against me and others. Epstein's investigators were harassing me, and that interfered with my life dramatically. My attorney, Mr. Edwards, was hired to make sure the prosecutor knew how eager I was to have Jeffrey Epstein prosecuted, and I understand that he did convey that to the prosecutors numerous times in around June 2008.
11. At some point, I understood that Mr. Edwards was getting responses from the prosecutor that were making him suspicious of the motivations of the U.S. Attorney's Office. I then understood that Mr. Edwards' suspicions were that the prosecutors were conferring with Epstein and not with me and the other victims.
12. I authorized Mr. Edwards to do anything possible to ensure that Epstein was prosecuted, and that I was able to meet with prosecutors and participate in the process. I agreed to file a lawsuit against the U.S. Attorney's Office to get them to speak with me about any possible case resolution or the terms and to answer questions about the case, and to generally treat me fairly, to notify me about any court hearing, and to otherwise enforce my rights as a crime victim.

13. Towards the end of June, 2008, I did not attend Jeffrey Epstein's guilty plea hearing in state court involving another victim of Epstein's abuse. I did not have reasonable notice of the hearing, and I did not have any reason to attend that hearing because no one had told me that this guilty plea was related to the FBI's investigation of Epstein's abuse of me. I had always understood generally that the State and Federal criminal systems were different and that one had nothing to do with the other. Based on what the FBI had been telling me, I thought they were still investigating my case. If I had been told that this plea had some connection to blocking the prosecution of my case, I would have attended and tried to object to the judge and prevent that plea from going forward. Many other victims would have done the same. I think that after hearing from me and some of the other girls who were abused by Epstein, a judge would not have allowed such a plea deal to go forward. It is my belief that the US Attorney's Office and Epstein's attorneys conspired to prevent my attendance at this hearing as well as the attendance of the many other victims.

14. I learned about the existence of a secret non-prosecution agreement only in July 2008, after my lawyer had filed court pleadings trying to give me a chance to talk to prosecutors about my case. I would never have learned of that agreement if I had not authorized my attorney to sue the United States. Nobody would have.

15. I wanted to cooperate in the prosecution more than anything else in my life; I was scared of Epstein; I was scared of what he had done to me and others, and of how he was continuing to harass me, and also what he could do to me and others. The criminal case against Epstein was my main focus in life.

16. When I attended a court hearing with Mr. Edwards in federal court, I learned for the first time that my rights had been extinguished through a secret deal between the prosecutors and Mr. Epstein. I received no explanation about exactly how the deal occurred or about whether my rights were gone forever. The

prosecutors were, at that time, trying to even keep me from seeing a copy of the secret plea deal. I wanted to meet with the prosecutors and tell them why they should prosecute my case, but it became clear that without ever talking to me, they had bargained my case away.

17. In about 2010, I had the chance to meet with the U.S. Attorney, Mr. [redacted]. I told him all about how I had been mistreated in the process. Mr. [redacted] seemed to be interested in this, but nothing ever came of the meeting. And unfortunately it seems to me that Mr. [redacted] office is continuing to try to block me and other girls from learning anything about the secret deal with Epstein or how our rights were violated, even though they know what they did was wrong.

18. I later came to understand that crime victims in the federal system have the right to meaningfully confer with the prosecutor for the government in the case, which at least means to explain how my case would be concluded; the right to be heard at important hearings; and the right to be treated with "fairness." I strongly believe that the way I was treated was unfair and violated my rights.

19. I think that the secret non-prosecution agreement should be declared illegal and that I should have the right to have crimes against me prosecuted by the U.S. Attorney's Office, and that Mr. Epstein should be treated the same as other defendants with less money and connections are treated for these crimes.

20. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 28th, day of January, 2015.

[redacted]

EXHIBIT

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DECLARATION OF [redacted]

1. My name is [redacted] and I was born in [redacted]
2. I was paid by Jeffrey Epstein to interact sexually with him as a minor on dozens of occasions in his mansion in Palm Beach, Florida from around 2002 to 2005, and also to bring him other girls who were my approximate age for the same purposes. I understand that evidence collected from Epstein's home showed conclusively that I was there as a minor, along with many other underage girls. Given how many girls Epstein was sexually abusing, there could not have been any doubt in anyone's mind that had access to the testimonial and other evidence that Epstein sexually molested me as a minor (and many others).
3. My son was very young when the FBI came to speak with me the first time. I did not know what to do and I was scared. I called Epstein, who told me not to worry and that he would hire an attorney for me. I believed that if I told the truth about what happened at Epstein's house, the police would take my baby from me. That made me really scared.
4. Through the attorney that Jeffrey Epstein obtained for me, it was arranged for me to give a statement to the prosecutor investigating Epstein.
5. While with the attorney Epstein obtained for me I gave a statement to the prosecutor that was favorable to Epstein. The prosecutors knew the truth because of the volume of evidence they had, and they continued to recognize me as a victim of Epstein's crimes.
6. I had been greatly intimidated, which is why I could not be truthful initially and I wanted to end the threat of the possibility of my child being taken. My involvement with Epstein from a very young age was a deep, dark secret and Epstein told me to keep it a secret. I knew that I was expected to keep it a secret.
7. The more I thought about what was going on, the more I realized that what Epstein had done to both me and my friends was wrong and that anyone who was not very wealthy would be punished. At this time, I

wanted Epstein held accountable the same way anyone else would be. I spoke about this with one of my friends around May 2008. I then called an attorney, Brad Edwards, around June 2008, understanding that he was hired to get the prosecutors to talk to us and hear the truth from me. That was especially important to me because I was finally represented by someone other than Epstein's attorney and wanted to talk to the prosecutors about everything I knew.

8. The prosecutors had a lot of information revealing the truth about the situation at Epstein's house. I had lot of information, too, because I was one of the young teenagers who had brought many other young teenagers to Epstein for the purpose of getting paid by Epstein. I wanted to assist the prosecutors in the investigation. I hired Mr. Edwards to let them know that I was cooperative and ready to tell them all of the helpful information I had. I understood that Mr. Edwards did that.
9. I authorized Mr. Edwards to join me in the lawsuit against the U.S. Attorney's Office to enforce my rights and to try to get me my chance to confer with the prosecutors before Mr. Epstein took a plea or the case was resolved in any way. I just wanted to be treated fairly in the process.
10. When Epstein pled guilty to a state crime at the end of June 2008, no one notified me that his plea had anything to do with my case against him. I did not know, for example, that this plea had some connection to a crime he committed against me particularly. In fact, at this young age, I had no idea what was going on and nobody tried to explain it to me.
11. In July 2008, I attended a federal court hearing with Mr. Edwards. It was then that I learned for the first time at that hearing that the prosecutors worked out some sort of secret deal with Epstein that might block his prosecution for crimes against me. It also appeared that there was a lot of continued communication between Epstein and the U.S. Attorney's Office. I was really upset that the U.S. Attorney's Office seemed like it would not talk with me or the other victims about what was going on. It was easier to get them to talk to me when I was represented by Epstein's attorney.

12. I wanted to see this secret deal that the Government had with Epstein, but they would not give it to me at the hearing. Later, the other victims and I finally got to see the secret deal after the judge forced the prosecutors to show it to us.
13. I understand that I did not initially help the investigation by speaking on Epstein's behalf untruthfully. But I was intimidated and had good reason to protect myself and my son – reasons that I think everyone who was talking to me could obviously see. Also, the agents and attorneys obviously had a lot of evidence that provided proof of what Epstein had actually done. Epstein was still supporting me, providing me a lawyer and in my mind protecting me, so I was in a position where I felt I had to say certain things. And Epstein expected me to say those things.
14. Once I wanted to cooperate and tried to cooperate, I was never given the opportunity to confer with prosecutors from the time they were informed by my attorney that I was a cooperating witness. I was never told about the secret deal until after it was already concluded. I would have had my attorney object if I had been given the chance.
15. I don't feel like I was treated fairly in this process. And I know Epstein got a really good plea deal because he is rich and powerful. That doesn't seem fair either.

Executed this 28th, day of January, 2015.

[redacted]

EXHIBIT

28

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
[redacted]
Facsimile: [redacted]

June 7, 2007

DELIVERY BY HAND
Miss [redacted]

Re: Crime Victims' and Witnesses' Rights

Dear Miss [redacted]

Pursuant to the Justice for All Act of 2004, as a victim and/or witness of a federal offense, you have a number of rights. Those rights are:

(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.

Members of the U.S. Department of Justice and other federal investigative agencies, including the Federal Bureau of Investigation, must use their best efforts to make sure that these rights are protected. If you have any concerns in this regard, please feel free to contact me at [redacted], or Special Agent [redacted] from the Federal Bureau of Investigation at [redacted]. You also can contact the Justice Department's Office for Victims of Crime in Washington, D.C. at [redacted]. That Office has a website at www.ovc.gov.

You can seek the advice of an attorney with respect to the rights listed above and, if you believe that the rights set forth above are being violated, you have the right to petition the Court for relief.

EFTA00184408

In addition to these rights, you are entitled to counseling and medical services, and protection from intimidation and harassment. If the Court determines that you are a victim, you also may be entitled to restitution from the perpetrator. A list of counseling and medical service providers can be provided to you, if you so desire. If you or your family is subjected to any intimidation or harassment, please contact Special Agent Kuyrkendall or myself immediately. It is possible that someone working on behalf of the targets of the investigation may contact you. Such contact does not violate the law. However, if you are contacted, you have the choice of speaking to that person or refusing to do so. If you refuse and feel that you are being threatened or harassed, then please contact Special Agent [redacted] or myself.

You also are entitled to notification of upcoming case events. At this time, your case is under investigation. If anyone is charged in connection with the investigation, you will be notified.

Sincerely,

[redacted]
United States Attorney

By: [signature]
A. [redacted]
Assistant United States Attorney

cc: Special Agent [redacted] Kuyrkendall, F.B.I.

EFTA00184409

EXHIBIT

29

JANE DOE #1 AND JANE DOE #2'S MOTION FOR FINDING OF VIOLATIONS OF THE CRIME VICTIMS' RIGHTS ACT AND REQUEST FOR A HEARING ON APPROPRIATE REMEDIES

CASE NO: **08-80736-Civ-Marra/Johnson**

EXHIBIT I

U.S. Department of Justice
Federal Bureau of Investigation
FBI - West Palm Beach
Suite 500
505 South Flagler Drive
West Palm Beach, FL 33401
Phone: [redacted]
Fax: [redacted]

[redacted]

May 30, 2008

[redacted]

Re: [redacted]

Dear [redacted]

Your name was referred to the FBI's Victim Assistance Program as being a possible victim of a federal crime. We appreciate your assistance and cooperation while we are investigating this case. We would like to make you aware of the victim services that may be available to you and to answer any questions you may have regarding the criminal justice process throughout the investigation. Our program is part of the FBI's effort to ensure the victims are treated with respect and are provided information about their rights under federal law. These rights include notification of the status of the case. The enclosed brochures provide information about the FBI's Victim Assistance Program, resources and instructions for accessing the Victim Notification System (VNS). VNS is designed to provide you with information regarding the status of your case.

This case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation.

As a crime victim, you have the following rights under 18 United States Code § 3771: **(1)** The right to be reasonably protected from the accused; **(2)** The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused; **(3)** The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; **(4)** The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding; **(5)** The reasonable right to confer with the attorney for the Government 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.

We will make our best efforts to ensure you are accorded the rights described. Most of these rights pertain to events occurring after the arrest or indictment of an individual for the crime, and it will become the responsibility of the prosecuting United States Attorney's Office to ensure you are accorded those rights. You may also seek the advice of a private attorney with respect to these rights.

The Victim Notification System (VNS) is designed to provide you with direct information regarding the case as it proceeds through the criminal justice system. You may obtain current information about this matter on the Internet at WWW.Notify.USDOJ.GOV or from the VNS Call Center at 1-866-DOJ-4YOU (1-866-365-4968) (TDD/TTY: 1-866-228-4619) (International: 1-502-213-2767). In addition, you may use the Call Center or Internet to update your contact information and/or change your decision about participation in the notification program. If you update your information to include a current email address, VNS will send information to that address. You will need the following Victim Identification Number (VIN) '2074381' and Personal Identification Number (PIN) '1816' anytime you contact the Call Center and the first time you log on to VNS on the Internet. In addition, the first time you access the VNS Internet site, you will be prompted to enter your last name (or business name) as currently contained in VNS. The name you should enter is [redacted]

[redacted]

[redacted]

If you have additional questions which involve this matter, please contact the office listed above. When you call, please provide the file number located at the top of this letter. Please remember, your participation in the notification part of this program is voluntary. In order to continue to receive notifications, it is your responsibility to keep your contact information current.

Sincerely,

Twiler Smith

Twiler Smith
Victim Specialist

TOTAL P.07

EXHIBIT

30

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

JANE DOE No. 102,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

/

09-80656

Civil Action No. _____
CIV-RYSKAMP

MAGISTRATE JUDGE
VITUNAC

FILED by AOB D.C.
INTAKE
MAY - 1 2009
STEVEN M. LARIMORE
CLERK U.S. DIST. CT
S.D. OF FLA. MIAMI

COMPLAINT AND
DEMAND FOR JURY TRIAL

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Jane Doe No. 102, brings this Complaint against Defendant, Jeffrey Epstein, and states as follows:

PARTIES, JURISDICTION, AND VENUE

1. At all times material to this cause of action, Plaintiff, Jane Doe No. 102, was a resident of Palm Beach County, Florida.

2. This Complaint is brought under a fictitious name to protect the identity of Plaintiff, Jane Doe No. 102, because this Complaint makes sensitive allegations of sexual assault and abuse of a then minor.

3. At all times material to this cause of action, Defendant, Jeffrey Epstein, had a residence located at 358 El Brillo Way, Palm Beach, Palm Beach County, Florida.

4. Defendant, Jeffrey Epstein, is currently a citizen of the State of Florida, as he is currently incarcerated in the Palm Beach County Stockade.

5. At all times material to this cause of action, Defendant, Jeffrey Epstein, was an adult male born in 1953.

EXHIBIT
C

6. This Court has jurisdiction over this action and the claims set forth herein pursuant to 18 U.S.C. § 2255.

7. This Court has venue of this action pursuant to 28 U.S.C. § 1391(b), as a substantial part of the events giving rise to the claim occurred in this District.

STATEMENT OF FACTS

8. At all relevant times, Defendant, Jeffrey Epstein, was an adult male, spanning the ages of 45 and 55 years old. Epstein is known as a billionaire financier and money manager with a secret clientele limited exclusively to billionaires. He is a man of tremendous wealth, power, and influence. He owns a fleet of aircraft that includes a Gulfstream IV, a helicopter, and a Boeing 727, as well as a fleet of motor vehicles. Until his incarceration, he maintained his principal place of residence in the largest home in Manhattan, a 51,000-square-foot eight-story mansion on the Upper East Side. Upon information and belief, he also owns a $6.8 million mansion in Palm Beach, Florida, a $30 million 7,500-acre ranch in New Mexico he named "Zorro," a 70-acre private island known as Little St. James in St. Thomas, U.S. Virgin Islands, a mansion in London's Westminster neighborhood, and a home in the Avenue Foch area of Paris. The allegations herein concern Defendant's conduct while at his lavish homes and/or numerous other locations both nationally and internationally.

9. Upon information and belief, Defendant has a sexual preference for underage minor girls. He engaged in a plan, scheme, or enterprise in which he gained access to countless vulnerable and relatively economically disadvantaged minor girls, and sexually assaulted, molested, and/or exploited these girls, and then gave them money.

10. Beginning in or around 1998 through in or around September 2007, Defendant used his resources and his influence over vulnerable minor girls to engage in a systematic pattern of sexually exploitative behavior.

Podhurst Orseck, P.A.
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11. Defendant's plan and scheme reflected a particular pattern and method. Defendant coerced and enticed impressionable, vulnerable, and relatively economically less fortunate minor girls to participate in various acts of sexual misconduct that he committed upon them. Defendant's scheme involved the use of underage girls, as well as other individuals, to recruit other underage girls. Upon information and belief, Defendant and/or an authorized agent would call and alert Defendant's assistants shortly before or after he arrived at his Palm Beach residence. His assistants would call economically disadvantaged and underage girls from West Palm Beach and surrounding areas who would be enticed by the money being offered and who Defendant and/or his assistants perceived as less likely to complain to authorities or have credibility issues if allegations of improper conduct were made. The then minor Plaintiff and other minor girls, some as young as 12 years old, were transported to Defendant's Palm Beach mansion by Defendant's employees, agents, and/or assistants in order to provide Defendant with "massages."

12. Many of the instances of illegal sexual conduct committed by Defendant were perpetrated with the assistance, support, and facilitation of at least three assistants who helped him orchestrate this child exploitation enterprise. These assistants would often arrange times for underage girls to come to Defendant's residence, transport or cause the transportation of underage girls to Defendant's residence, escort the underage girls to the massage room where Defendant would be waiting or would enter shortly thereafter, urge the underage girls to remove their clothes, deliver cash from Defendant to the underage girls and/or their procurers at the conclusion of each "massage appointment," and, upon information and belief, take nude photographs and/or videos of the underage girls for Defendant with and/or without their knowledge. Defendant would pay the procurer of each girl's "appointment" hundreds of dollars.

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13. Epstein designed this scheme to secure a private place in Defendant's Palm Beach mansion where only persons employed and invited by Epstein would be present, so as to reduce the chance of detection of Defendant's sexual abuse and prostitution as well as to make it more difficult for the minor girls to flee the premises and/or to credibly report his actions to law enforcement or other authorities. The girls were usually transported by his employees, agents, and/or assistants or by a taxicab paid for by Defendant in order to make it difficult for the girls to flee his mansion.

14. Upon arrival at Defendant's Palm Beach mansion, each underage victim would generally be introduced to one of Defendant's assistants, who would gather the girl's personal contact information. The minor girl would then be led up a flight of stairs to a room that contained a massage table and a large shower. The staircase leading to the room was plastered with nude photographs of young girls, including some photographs depicting two or more young girls engaged in lewd acts. Upon information and belief, Defendant, Jeffrey Epstein, had such photographs in each of his six homes and/or on his computers.

15. At times, if it was the girl's first "massage" appointment, another female would be in the room to "lead the way" until Defendant would have her leave. Generally, Defendant would start his massage wearing only a small towel, which eventually would be removed. Defendant and/or the other female would direct the girl to massage him, giving the minor girl specific instructions as to where and how he wanted to be touched, and then direct her to remove her clothing. He would then perform one or more lewd, lascivious, and sexual acts, including masturbation, fondling the minor's breasts and/or sexual organs, touching the minor's vulva, vagina, and/or anus with a vibrator and/or back massager and/or his finger(s) and/or his penis, digitally penetrating her vagina, performing intercourse, oral sex, and/or anal sex, and/or coercing or attempting to coerce the girl to engage in lewd acts and/or prostitution and/or

enticing the then minor girl to engage in sexual acts with another female in Defendant's presence. The exact degree of molestation and frequency with which the sexual exploitations took place varied and is not yet completely known; however, Defendant committed such acts regularly on a daily basis and, in most instances, several times a day. In order to facilitate the daily exchanges of money for sexual assault and abuse, Defendant kept U.S. currency readily available.

16. Defendant, Epstein, traveled to his mansion in Palm Beach for the purpose of luring minor girls to his mansion to sexually abuse and/or batter them. He used the telephone to contact these minor girls for the purpose of coercing them into acts of prostitution and to enable himself to commit sexual battery against them and/or acts of lewdness in their presence, and he conspired with others, including assistants and/or his driver(s) and/or pilot(s), and his socialite friend/partner, Ghislaine Maxwell, to further these acts and to avoid police detection. Defendant's systematic pattern of sexually exploitative behavior referred to in paragraph 10 and described in paragraphs 11 through the present paragraph occurred in all of Defendant's domestic and international residences and/or places of lodging and/or modes of transportation.

17. Consistent with the foregoing plan and scheme, Defendant used his money, wealth, and power to unduly and improperly manipulate and influence the then minor Plaintiff. A vulnerable young girl, Plaintiff was working as a changing room assistant at The Mar-A-Lago Club in Palm Beach making approximately $9 an hour when she was first lured into Defendant's sexually exploitative world. In or about the summer of 1998, when Plaintiff was merely fifteen years old while attending to her duties at Mar-A-Lago, Plaintiff was recruited by Ghislaine Maxwell, who lived, traveled, socialized, and worked with Defendant. Ms. Maxwell asked Plaintiff if she was interested in learning massage therapy and earning a great deal of money while learning the profession. Plaintiff's father, who was a maintenance manager at The Mar-A-

Lago Club, was not apprehensive because he felt comforted that an older woman had approached Plaintiff with this opportunity. As a result, Plaintiff's father dropped off Plaintiff at Defendant's mansion that same day. Ms. Maxwell met Plaintiff and her father outside of Defendant's Palm Beach mansion, where Ms. Maxwell assured the minor girl's father that Ms. Maxwell would provide transportation home for his teenaged daughter. Ghislaine Maxwell led Plaintiff up a flight of stairs to a spa room with a shower and a massage table. Defendant was lying naked on the massage table. Plaintiff was shocked, but, with no experience with massages, thought this could be massage therapy protocol. Ms. Maxwell then took off her own shirt and left on her underwear and started rubbing her breasts across Defendant's body, impliedly showing Plaintiff what she was expected to do. Ms. Maxwell then told Plaintiff to take off her clothes. The minor girl was apprehensive about doing this, but, in fear, proceeded to follow Ms. Maxwell by removing everything but her underwear. She was then ordered to remove her underwear and to straddle Defendant. The encounter escalated, with Defendant and Ms. Maxwell sexually assaulting, battering, exploiting, and abusing Plaintiff in various ways and in various locations, including the steam room and shower. At the end of this sexually exploitive abuse, Defendant and Ms. Maxwell giddily told Plaintiff to return the following day and told her she had "lots of potential." Defendant paid Plaintiff hundreds of dollars, told her it was for two hours of work, and directed one of his employees to drive her home.

18. Defendant and/or his procurers thereafter lured the then minor Plaintiff to his Palm Beach mansion every day for the next two weeks in order to engage in a similar pattern of sexual exploitation. Defendant and/or his procurers arranged at the end of each incident the transportation and scheduling for the following day's appointment. Additionally, Defendant telephoned the minor Plaintiff himself and/or had Ms. Maxwell telephone Plaintiff to make arrangements. Plaintiff was often times driven to and from Epstein's mansion by Epstein

himself or his driver. Alternatively, Defendant or Ms. Maxwell would arrange and pay for Plaintiff's transportation home by taxicab.

19. During Plaintiff's second incident of being sexually exploited and assaulted by Defendant at Defendant's Palm Beach mansion, Defendant asked Plaintiff to quit her job at The Mar-A-Lago Club and travel with him to earn much more money while learning the massage profession. Thus, Plaintiff, an impressionable and vulnerable young girl of modest means, quit her job as a changing room assistant, was lured by Defendant, and continued to be victimized by Defendant, who immersed the minor Plaintiff into Defendant's lewd and abusive lifestyle. Under Defendant's dominion and control, Defendant continuously "groomed" the minor adolescent. Defendant's daily routine required the minor Plaintiff to perform sexually on Defendant multiple times per day and to provide Defendant massages multiple times per day. Plaintiff had absolutely no say as to when, how many times, or what was done during each sexual encounter. Often, Plaintiff was joined by Ms. Maxwell, Ms. Maxwell's assistant, and/or a countless array of young women who would be brought to one of Defendant's homes for the sexual trysts and then be sexually exploited by Defendant.

20. The first time that Defendant transported Plaintiff to another state in order to engage in sexual acts with her occurred when she was merely fifteen years old and after only two weeks of daily sexually abusive encounters with Defendant. Defendant used his private jet to transport the minor Plaintiff to Manhattan, where he provided her with spending money and accommodations with him at his mansion. From the time that Plaintiff was 15 years old, Defendant abused her to serve his every sexual whim, obtaining and purchasing passports and whatever was needed for her to travel with him and/or for him. Defendant transported Plaintiff in his private jet to locations that included Palm Beach, New York City, Santa Fe, Los Angeles, San Francisco, St. Louis, and numerous other domestic destinations, as well as international

destinations, including Europe, the Caribbean, and Africa. He provided accommodations with him in order to have her available to him at all times wherever he went, including while transporting the minor Plaintiff on his private jet. Each time they would travel to one of these destinations, the same pattern of sexual abuse would occur, often with a vast array of aspiring models, actresses, celebrities, and/or other females, including minors, from all over the world. Upon information and belief, Defendant transported minor girls from Turkey, the Czech Republic, Asia, and numerous other countries, many of whom spoke no English. To Plaintiff's knowledge, the only females specifically excluded from Defendant's sexual escapades were African-Americans.

21. In addition to being continually exploited to satisfy Defendant's every sexual whim, Plaintiff was also required to be sexually exploited by Defendant's adult male peers, including royalty, politicians, academicians, businessmen, and/or other professional and personal acquaintances. Whenever Defendant transported Plaintiff with him in his private jet to any destination, Defendant would pay Plaintiff a flat rate per day while he and/or his above-mentioned associates would sexually exploit and abuse minor Plaintiff.

22. Most of these acts of abuse occurred during a time when Defendant knew that Plaintiff was approximately 15, 16, and 17 years old, and, after years of daily sexual exploitation, continued into her adulthood. Despite Defendant's stating shortly before Plaintiff's sixteenth birthday that he soon would have to trade her in because she was getting too old, Defendant continued to sexually exploit Plaintiff until she fled at age 19. Defendant's predilection for young girls was well known to those who regularly procured them for him and to his circle of friends. On one of Defendant's birthdays, a friend of Defendant sent him three 12-year-old girls from France who spoke no English for Defendant to sexually exploit and abuse. After doing so, they were sent back to France the next day.

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23. Any assertions by Defendant that he was unaware of the age of the then minor Plaintiff are belied by his own actions, and are rendered irrelevant by the provision of applicable federal statutes concerning the sexual exploitation and abuse of a minor child. Defendant, Jeffrey Epstein, at all times material to this cause of action, knew and should have known of Plaintiff's age of minority. Defendant and Ms. Maxwell acknowledged and celebrated Plaintiff's 16th birthday. Defendant's preference for underage girls was well-known to those who regularly procured them for him.

24. As previously stated in paragraph 14, Defendant displayed nude photographs of underage girls throughout his homes in New York City, Palm Beach, Santa Fe, and the U.S. Virgin Islands. Plaintiff, Jane Doe No. 102, saw photographs of naked young girls in each of Defendant's homes, including a photograph of herself naked at Defendant's home in Palm Beach. When she asked Defendant about it, he stated dismissively that he had naked photographs of her in all of his homes.

25. Upon information and belief, some of the photographs in Defendant's possession were taken with hidden cameras set up in his home in Palm Beach. On the day of his arrest, police found two hidden cameras and photographs of underage girls on a computer in Defendant's home. Upon information and belief, Defendant may have taken lewd photographs of Plaintiff, Jane Doe No. 102, with his hidden cameras and may have transported lewd photographs of Plaintiff (among many other victims) to his other residences and elsewhere using a facility or means of interstate and/or foreign commerce. In addition, while Plaintiff was a minor teenager and upon Ms. Maxwell's insistence after Ms. Maxwell rejected as inappropriate photographs that Plaintiff presented of herself fully clothed, Ms. Maxwell photographed Plaintiff naked in different sexually explicit positions. Ms. Maxwell then presented these nude photographs of Plaintiff to Defendant as a birthday present for Defendant from Ms. Maxwell.

Upon information and belief, one or more nude photographs of Plaintiff that were taken when she was a minor were confiscated by the Palm Beach Sheriff's Office during its execution of a search warrant of Defendant's Palm Beach mansion on October 20, 2005. Upon information and belief, those photographs are still in the custody of law enforcement.

26. It is virtually impossible to calculate the exact number of times that Defendant sexually exploited and abused Plaintiff. From the age of 15, Plaintiff was sexually exploited and abused by Defendant on a daily basis and, most often, multiple times each day. While some of the precise dates these acts occurred are unknown to Plaintiff, these dates are known to Defendant, as he is reported to have kept a written log of each instance in which he engaged in these lewd acts with then minor Plaintiff and others. Upon information and belief, these logs are also in the custody of law enforcement.

27. In or around September 2002, Defendant purchased a commercial round-trip airline ticket, and provided a passport, U.S. currency, and accommodations for Plaintiff to fly to Thailand. While thousands of miles away from Defendant on this extended trip alone for the first time in more than four years, Plaintiff met, fell in love, and married a young man. She escaped from Defendant's abuse with the help and insistence of her new husband and, instead of returning to Defendant, boarded a plane to Australia with one suitcase.

28. Since November 2002, Plaintiff has lived a modest life in Australia, while maintaining lines of communication with her family and without contact with Defendant or any of the people in his entourage. However, suddenly, in 2008, Plaintiff received numerous phone calls from one of Defendant's agents. During these phone calls to Plaintiff, he repeatedly asked whether she knew anything about the civil cases against Defendant, whether she knew any of the females who were proceeding with the civil suits, whether she was planning on filing suit, whether she was communicating and/or cooperating with anyone against Defendant, and whether

she would return to the United States to testify. Terrified by Defendant's demonstrated ability to track her down on her changed cell phone number halfway across the world, Plaintiff attempted to reassure Defendant's agent that she would remain quiet. During the course of one of these phone calls from Defendant's agents, Defendant himself spoke on the phone, continued to question her intentions, and, upon being reassured by Plaintiff, thanked her for not getting involved.

29. Around January 2009, Plaintiff received a letter from the United States Attorney's Office for the Southern District of Florida, informing her of her potential civil claims against Defendant under 18 U.S.C. § 2255. Plaintiff contacted undersigned counsel within days and diligently and repeatedly pursued a good faith viable settlement of her claims against Defendant. Unable to reach a settlement, this lawsuit followed.

30. As a result of these encounters with Defendant, Plaintiff, Jane Doe No. 102, has in the past suffered, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunities, loss of self-esteem, loss of dignity, invasion of her privacy, separation from her family, and other damages associated with Defendant's controlling and manipulating her on a daily basis for years into a perverse and unhealthy way of life.

31. Defendant, Jeffrey Epstein, committed the above-referenced acts upon Plaintiff in violation of federal statutes condemning the coercion and enticement of a minor to engage in prostitution or sexual activity, travel with intent to engage in illicit sexual conduct, sex trafficking of children, sexual exploitation of minor children, transport of visual depictions of a minor engaging in sexually explicit conduct, transport of child pornography, child exploitation enterprises, and other crimes, specifically including, but not limited to, those crimes designated

in 18 U.S.C. § 2421, § 2422(a), § 2422(b), § 2423(a), § 2423(b), § 2423(e), § 2251, § 2252, § 2252A(a)(1), and § 2252A(g)(1).

32. In June 2008, after investigations by the Palm Beach Police Department, the Palm Beach State Attorney's Office, the Federal Bureau of Investigation, and the United States Attorney's Office for the Southern District of Florida, Defendant, Jeffrey Epstein, entered pleas of "guilty" to various Florida state crimes involving the solicitation of minors for prostitution and the procurement of minors for the purposes of prostitution in the Fifteenth Judicial Circuit in Palm Beach County, Florida. Defendant, Jeffrey Epstein, is in the same position as if he had been tried and convicted of the sexual offenses committed against Plaintiff and, as such, must admit liability unto Plaintiff, Jane Doe No. 102. Plaintiff hereby exclusively seeks civil remedies pursuant to 18 U.S.C. § 2255.

COUNT ONE
(Cause of Action for Coercion and Enticement of Minor to Engage in Prostitution or Sexual Activity pursuant to 18 U.S.C. § 2255 in Violation of 18 U.S.C. § 2422(b))

33. Plaintiff, Jane Doe No. 102, hereby adopts, repeats, realleges, and incorporates by reference the allegations contained in paragraphs 1 through 32 above.

34. Defendant, Jeffrey Epstein, used a facility or means of interstate and/or foreign commerce to knowingly persuade, induce, entice, or coerce Jane Doe No. 102, when she was under the age of 18 years, to engage in prostitution and/or sexual activity for which any person can be charged with a criminal offense, or attempted to do so, pursuant to 18 U.S.C. § 2255 in violation of 18 U.S.C. § 2422(b).

35. Plaintiff, Jane Doe No. 102, was a victim of one or more offenses enumerated in 18 U.S.C. § 2255, and, as such, asserts a cause of action against Defendant, Jeffrey Epstein, pursuant to this Section of the United States Code.

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36. As a direct and proximate result of the offenses enumerated in 18 U.S.C. § 2255 being committed against the then minor Plaintiff by Defendant, Plaintiff has in the past suffered, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunities, loss of self-esteem, loss of dignity, invasion of her privacy, separation from her family, and other damages associated with Defendant's manipulating and leading her into a perverse and unhealthy way of life. The then minor Plaintiff incurred medical and psychological expenses, and Plaintiff will in the future suffer additional medical and psychological expenses. Plaintiff has suffered a loss of income, a loss of the capacity to earn income in the future, and a loss of the capacity to enjoy life. These injuries are permanent in nature, and Plaintiff will continue to suffer these losses in the future.

WHEREFORE, Plaintiff, Jane Doe No. 102, demands judgment against Defendant, Jeffrey Epstein, for all damages available under 18 U.S.C. § 2255, including, without limitation, actual and compensatory damages, attorney's fees, costs of suit, and such other further relief as this Court deems just and proper, and hereby demands trial by jury on all issues triable as of right by a jury.

COUNT TWO
(Cause of Action for Transportation of Minor with Intent to Engage in Criminal Sexual Activity pursuant to 18 U.S.C. § 2255 in Violation of 18 U.S.C. § 2423(a))

37. Plaintiff, Jane Doe No. 102, hereby adopts, repeats, realleges, and incorporates by reference the allegations contained in paragraphs 1 through 32 above.

38. Defendant, Jeffrey Epstein, knowingly transported then minor Plaintiff, Jane Doe No. 102, in interstate and/or foreign commerce, with the intent that Plaintiff engage in prostitution, or in any sexual activity for which any person can be charged with a criminal offense, in violation 18 U.S.C. § 2423(a). As previously stated in paragraphs 20, 21, and 27,

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Defendant transported Plaintiff, Jane Doe No. 102, across state lines and across international borders numerous times from the time that Plaintiff was merely 15 years old through adulthood with the primary intent of sexually exploiting her.

39. Plaintiff, Jane Doe No. 102, was a victim of one or more offenses enumerated in 18 U.S.C. § 2255, and, as such, asserts a cause of action against Defendant, Jeffrey Epstein, pursuant to this Section of the United States Code.

40. As a direct and proximate result of the offenses enumerated in 18 U.S.C. § 2255 being committed against the then minor Plaintiff by Defendant, Plaintiff has in the past suffered, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunities, loss of self-esteem, loss of dignity, invasion of her privacy, separation from her family, and other damages associated with Defendant's manipulating and leading her into a perverse and unhealthy way of life for a minor. The then minor Plaintiff incurred medical and psychological expenses, and Plaintiff will in the future suffer additional medical and psychological expenses. Plaintiff has suffered a loss of income, a loss of the capacity to earn income in the future, and a loss of the capacity to enjoy life. These injuries are permanent in nature, and Plaintiff will continue to suffer these losses in the future.

WHEREFORE, Plaintiff, Jane Doe No. 102, demands judgment against Defendant, Jeffrey Epstein, for all damages available under 18 U.S.C. § 2255, including, without limitation, actual and compensatory damages, attorney's fees, costs of suit, and such other further relief as this Court deems just and proper, and hereby demands trial by jury on all issues triable as of right by a jury.

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COUNT THREE
(Cause of Action for Travel with Intent to Engage in Illicit Sexual Conduct pursuant to 18 U.S.C. § 2255 in Violation of 18 U.S.C. § 2423(b))

41. Plaintiff, Jane Doe No. 102, hereby adopts, repeats, realleges, and incorporates by reference the allegations contained in paragraphs 1 through 32 above.

42. Upon information and belief, Defendant, Jeffrey Epstein, traveled in interstate and/or foreign commerce with the intent to engage in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females, including the then minor Plaintiff, in violation of 18 U.S.C. § 2423(b).

43. Plaintiff, Jane Doe No. 102, was a victim of one or more offenses enumerated in 18 U.S.C. § 2255, and, as such, asserts a cause of action against Defendant, Jeffrey Epstein, pursuant to this Section of the United States Code.

44. As a direct and proximate result of the offenses enumerated in 18 U.S.C. § 2255 being committed against the then minor Plaintiff by Defendant, Plaintiff has in the past suffered, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunities, loss of self-esteem, loss of dignity, invasion of her privacy, separation from her family, and other damages associated with Defendant's manipulating and leading her into a perverse and unhealthy way of life. The then minor Plaintiff incurred medical and psychological expenses, and Plaintiff will in the future suffer additional medical and psychological expenses. Plaintiff has suffered a loss of income, a loss of the capacity to earn income in the future, and a loss of the capacity to enjoy life. These injuries are permanent in nature, and Plaintiff will continue to suffer these losses in the future.

WHEREFORE, Plaintiff, Jane Doe No. 102, demands judgment against Defendant, Jeffrey Epstein, for all damages available under 18 U.S.C. § 2255, including, without limitation,

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actual and compensatory damages, attorney's fees, costs of suit, and such other further relief as this Court deems just and proper, and hereby demands trial by jury on all issues triable as of right by a jury.

COUNT FOUR
(Cause of Action for Coercion and Enticement to Engage in Prostitution or Sexual Activity pursuant to 18 U.S.C. § 2255 in Violation of 18 U.S.C. § 2422(a))

45. Plaintiff, Jane Doe No. 102, hereby adopts, repeats, realleges, and incorporates by reference the allegations contained in paragraphs 1 through 32 above.

46. Defendant, Jeffrey Epstein, knowingly persuaded, induced, enticed, and/or coerced Jane Doe No. 102 to travel in interstate and/or foreign commerce to engage in prostitution and/or sexual activity for which any person can be charged with a criminal offense, or attempted to do so, pursuant to 18 U.S.C. § 2255 in violation of 18 U.S.C. § 2422(a).

47. Plaintiff, Jane Doe No. 102, was a victim of one or more offenses enumerated in 18 U.S.C. § 2255, and, as such, asserts a cause of action against Defendant, Jeffrey Epstein, pursuant to this Section of the United States Code.

48. As a direct and proximate result of the offenses enumerated in 18 U.S.C. § 2255 being committed against the then minor Plaintiff by Defendant, Plaintiff has in the past suffered, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunities, loss of self-esteem, loss of dignity, invasion of her privacy, separation from her family, and other damages associated with Defendant's manipulating and leading her into a perverse and unhealthy way of life. The then minor Plaintiff incurred medical and psychological expenses, and Plaintiff will in the future suffer additional medical and psychological expenses. Plaintiff has suffered a loss of income, a loss of the capacity to earn

income in the future, and a loss of the capacity to enjoy life. These injuries are permanent in nature, and Plaintiff will continue to suffer these losses in the future.

WHEREFORE, Plaintiff, Jane Doe No. 102, demands judgment against Defendant, Jeffrey Epstein, for all damages available under 18 U.S.C. § 2255, including, without limitation, actual and compensatory damages, attorney's fees, costs of suit, and such other further relief as this Court deems just and proper, and hereby demands trial by jury on all issues triable as of right by a jury.

COUNT FIVE
(Cause of Action for Transportation with Intent to Engage in Criminal Sexual Activity pursuant to 18 U.S.C. § 2255 in Violation of 18 U.S.C. § 2421)

49. Plaintiff, Jane Doe No. 102, hereby adopts, repeats, realleges, and incorporates by reference the allegations contained in paragraphs 1 through 32 above.

50. Defendant, Jeffrey Epstein, knowingly transported, or attempted to transport, Plaintiff, Jane Doe No. 102, in interstate and/or foreign commerce, with the intent that Plaintiff engage in prostitution and/or in any sexual activity for which any person can be charged with a criminal offense, in violation of 18 U.S.C. § 2421. As previously stated in paragraphs 20, 21, and 27, Defendant transported Plaintiff, Jane Doe No. 102, across state lines and across international borders numerous times from the time that Plaintiff was merely 15 years old through adulthood with the primary intent of sexually exploiting her.

51. Plaintiff, Jane Doe No. 102, was a victim of one or more offenses enumerated in 18 U.S.C. § 2255, and, as such, asserts a cause of action against Defendant, Jeffrey Epstein, pursuant to this Section of the United States Code.

52. As a direct and proximate result of the offenses enumerated in 18 U.S.C. § 2255 being committed against the then minor Plaintiff by Defendant, Plaintiff has in the past suffered, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress,

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psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunities, loss of self-esteem, loss of dignity, invasion of her privacy, separation from her family, and other damages associated with Defendant's manipulating and leading her into a perverse and unhealthy way of life for a minor. The then minor Plaintiff incurred medical and psychological expenses, and Plaintiff will in the future suffer additional medical and psychological expenses. Plaintiff has suffered a loss of income, a loss of the capacity to earn income in the future, and a loss of the capacity to enjoy life. These injuries are permanent in nature, and Plaintiff will continue to suffer these losses in the future.

WHEREFORE, Plaintiff, Jane Doe No. 102, demands judgment against Defendant, Jeffrey Epstein, for all damages available under 18 U.S.C. § 2255, including, without limitation, actual and compensatory damages, attorney's fees, costs of suit, and such other further relief as this Court deems just and proper, and hereby demands trial by jury on all issues triable as of right by a jury.

COUNT SIX
(Cause of Action for Sexual Exploitation of Children pursuant to 18 U.S.C. § 2255 in Violation of 18 U.S.C. § 2251)

53. Plaintiff, Jane Doe No. 102, hereby adopts, repeats, realleges, and incorporates by reference the allegations contained in paragraphs 1 through 32 above.

54. Defendant, Jeffrey Epstein, knowingly persuaded, induced, enticed, or coerced the then minor Plaintiff to engage in sexually explicit conduct for the purpose of producing a visual depiction of such conduct, in violation of 18 U.S.C. § 2251. As previously stated in paragraphs 14, 24, and 25, Defendant kept and displayed a myriad of nude photographs of underage girls throughout his homes, including his homes in New York City, Palm Beach, Santa Fe, and the U.S. Virgin Islands. Plaintiff, Jane Doe No. 102, saw photographs of naked young girls in each of Defendant's homes, including a photograph of herself naked at Defendant's home in Palm

Beach. Upon information and belief, many of the photographs in the possession of Defendant were taken with hidden cameras set up in his home in Palm Beach. On the day of his arrest, police found two hidden cameras and photographs of underage girls on a computer in Defendant's home. Upon information and belief, Defendant, Jeffrey Epstein, may have taken lewd photographs of Plaintiff, Jane Doe No. 102, with his hidden cameras and may have transported lewd photographs of Plaintiff (among many other victims) to his other residences and elsewhere using a facility or means of interstate and/or foreign commerce. Upon information and belief, one or more nude photographs of Plaintiff that were taken when she was a minor were confiscated by the Palm Beach Sheriff's Office during its execution of a search warrant of Defendant's Palm Beach mansion on October 20, 2005. Upon information and belief, those photographs are still in the custody of law enforcement.

55. Plaintiff, Jane Doe No. 102, was a victim of one or more offenses enumerated in 18 U.S.C. § 2255, and, as such, asserts a cause of action against Defendant, Jeffrey Epstein, pursuant to this Section of the United States Code.

56. As a direct and proximate result of the offenses enumerated in 18 U.S.C. § 2255 being committed against the then minor Plaintiff by Defendant, Plaintiff has in the past suffered, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunities, loss of self-esteem, loss of dignity, invasion of her privacy, separation from her family, and other damages associated with Defendant's manipulating and leading her into a perverse and unhealthy way of life. The then minor Plaintiff incurred medical and psychological expenses, and Plaintiff will in the future suffer additional medical and psychological expenses. Plaintiff has suffered a loss of income, a loss of the capacity to earn

income in the future, and a loss of the capacity to enjoy life. These injuries are permanent in nature, and Plaintiff will continue to suffer these losses in the future.

WHEREFORE, Plaintiff, Jane Doe No. 102, demands judgment against Defendant, Jeffrey Epstein, for all damages available under 18 U.S.C. § 2255, including, without limitation, actual and compensatory damages, attorney's fees, costs of suit, and such other further relief as this Court deems just and proper, and hereby demands trial by jury on all issues triable as of right by a jury.

COUNT SEVEN
(Cause of Action for Transport of Visual Depiction of Minor Engaging in Sexually Explicit Conduct pursuant to 18 U.S.C. § 2255 in Violation of 18 U.S.C. § 2252(a)(1))

57. Plaintiff, Jane Doe No. 102, hereby adopts, repeats, realleges, and incorporates by reference the allegations contained in paragraphs 1 through 32 above.

58. Defendant, Jeffrey Epstein, knowingly mailed, transported, shipped, or sent via computer and/or facsimile in or affecting interstate and/or foreign commerce at least one visual depiction of the minor Plaintiff engaging in sexually explicit conduct, in violation of 18 U.S.C. § 2252(a)(1). As previously stated in paragraphs 14, 24, and 25, Defendant displayed a myriad of nude photographs of underage girls throughout his homes, including his homes in New York City, Palm Beach, Santa Fe, and the U.S. Virgin Islands. Plaintiff, Jane Doe No. 102, saw photographs of naked young girls in each of Defendant's homes, including a photograph of herself naked as a minor at Defendant's home in Palm Beach. As previously stated in paragraph 24, Defendant told Plaintiff that he had photographs of her naked in all of his homes. Upon information and belief, many of the photographs in the possession of Defendant were taken with hidden cameras set up throughout his home in Palm Beach. On the day of his arrest, police found two hidden cameras and nude photographs of underage girls on a computer in Defendant's home. Upon information and belief, Defendant, Jeffrey Epstein, may have taken lewd

photographs of Plaintiff, Jane Doe No. 102, with his hidden cameras and may have transported lewd photographs of Plaintiff (among many other victims) to his other residences and elsewhere using a facility or means of interstate and/or foreign commerce. Upon information and belief, one or more nude photographs of Plaintiff that were taken when she was a minor were confiscated by the Palm Beach Sheriff's Office during its execution of a search warrant of Defendant's Palm Beach mansion on October 20, 2005. Upon information and belief, those photographs are still in the custody of law enforcement.

59. As previously stated in paragraph 23, any assertions by Defendant that he was unaware of the age of the then minor Plaintiff are belied by his actions and rendered irrelevant by the provision of applicable federal and state statutes concerning the sexual exploitation and abuse of a minor child. Defendant, Jeffrey Epstein, at all times material to this cause of action, knew and should have known of Plaintiff's age of minority. Defendant's preference for underage girls was well-known to those who regularly procured them for him.

60. Plaintiff, Jane Doe No. 102, was a victim of one or more offenses enumerated in 18 U.S.C. § 2255, and, as such, asserts a cause of action against Defendant, Jeffrey Epstein, pursuant to this Section of the United States Code.

61. As a direct and proximate result of the offenses enumerated in 18 U.S.C. § 2255 being committed against the then minor Plaintiff by Defendant, Plaintiff has in the past suffered, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunities, loss of self-esteem, loss of dignity, invasion of her privacy, separation from her family, and other damages associated with Defendant's manipulating and leading her into a perverse and unhealthy way of life. The then minor Plaintiff incurred medical and psychological expenses, and Plaintiff will in the future suffer additional medical and

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psychological expenses. Plaintiff has suffered a loss of income, a loss of the capacity to earn income in the future, and a loss of the capacity to enjoy life. These injuries are permanent in nature, and Plaintiff will continue to suffer these losses in the future.

WHEREFORE, Plaintiff, Jane Doe No. 102, demands judgment against Defendant, Jeffrey Epstein, for all damages available under 18 U.S.C. § 2255, including, without limitation, actual and compensatory damages, attorney's fees, costs of suit, and such other further relief as this Court deems just and proper, and hereby demands trial by jury on all issues triable as of right by a jury.

COUNT EIGHT
(Cause of Action for Transport of Child Pornography pursuant to 18 U.S.C. § 2255 in Violation of 18 U.S.C. § 2252A(a)(1))

62. Plaintiff, Jane Doe No. 102, hereby adopts, repeats, realleges, and incorporates by reference the allegations contained in paragraphs 1 through 32 above.

63. Defendant, Jeffrey Epstein, knowingly mailed, transported, shipped, or sent via computer and/or facsimile in or affecting interstate and/or foreign commerce child pornography in violation of 18 U.S.C. § 2252A(a)(1).

64. Plaintiff, Jane Doe No. 102, was a victim of one or more offenses enumerated in 18 U.S.C. § 2255, and, as such, asserts a cause of action against Defendant, Jeffrey Epstein, pursuant to this Section of the United States Code.

65. As a direct and proximate result of the offenses enumerated in 18 U.S.C. § 2255 being committed against the then minor Plaintiff by Defendant, Plaintiff has in the past suffered, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunities, loss of self-esteem, loss of dignity, invasion of her privacy, separation from her family, and other damages associated with Defendant's manipulating and

leading her into a perverse and unhealthy way of life. The then minor Plaintiff incurred medical and psychological expenses, and Plaintiff will in the future suffer additional medical and psychological expenses. Plaintiff has suffered a loss of income, a loss of the capacity to earn income in the future, and a loss of the capacity to enjoy life. These injuries are permanent in nature, and Plaintiff will continue to suffer these losses in the future.

WHEREFORE, Plaintiff, Jane Doe No. 102, demands judgment against Defendant, Jeffrey Epstein, for all damages available under 18 U.S.C. § 2255, including, without limitation, actual and compensatory damages, attorney's fees, costs of suit, and such other further relief as this Court deems just and proper, and hereby demands trial by jury on all issues triable as of right by a jury.

COUNT NINE
(Cause of Action for Engaging in a Child Exploitation Enterprise pursuant to 18 U.S.C. § 2255 in Violation of 18 U.S.C. § 2252A(g))

66. Plaintiff, Jane Doe No. 102, hereby adopts, repeats, realleges, and incorporates by reference the allegations contained in paragraphs 1 through 32 above and Counts One through Eight above.

67. Defendant, Jeffrey Epstein, knowingly engaged in a child exploitation enterprise, as defined in 18 U.S.C. § 2252A(g)(2), in violation of 18 U.S.C. § 2252A(g)(1). As more fully set forth above, Defendant engaged in actions that constitute countless violations of 18 U.S.C. § 1591 (sex trafficking of children), Chapter 110 (sexual exploitation of children in violation of 18 U.S.C. §§ 2251, 2252(a)(1), and 2252(A)(a)(1)), and Chapter 117 (transportation for illegal sexual activity in violation of 18 U.S.C. §§ 2421, 2422, and 2423). As more fully set forth above in paragraphs 9 through 32, Defendant's actions involved countless victims and countless separate incidents of sexual abuse, which he committed against minors, including Plaintiff, in concert with at least three other persons.

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68. Plaintiff, Jane Doe No. 102, was a victim of one or more offenses enumerated in 18 U.S.C. § 2255, and, as such, asserts a cause of action against Defendant, Jeffrey Epstein, pursuant to this Section of the United States Code.

69. As a direct and proximate result of the offenses enumerated in 18 U.S.C. § 2255 being committed against the then minor Plaintiff by Defendant, Plaintiff has in the past suffered, and will in the future continue to suffer, physical injury, pain and suffering, emotional distress, psychological and/or psychiatric trauma, mental anguish, humiliation, confusion, embarrassment, loss of educational opportunities, loss of self-esteem, loss of dignity, invasion of her privacy, separation from her family, and other damages associated with Defendant's manipulating and leading her into a perverse and unhealthy way of life. The then minor Plaintiff incurred medical and psychological expenses, and Plaintiff will in the future suffer additional medical and psychological expenses. Plaintiff has suffered a loss of income, a loss of the capacity to earn income in the future, and a loss of the capacity to enjoy life. These injuries are permanent in nature, and Plaintiff will continue to suffer these losses in the future.

WHEREFORE, Plaintiff, Jane Doe No. 102, demands judgment against Defendant, Jeffrey Epstein, for all damages available under 18 U.S.C. § 2255, including, without limitation, actual and compensatory damages, attorney's fees, costs of suit, and such other further relief as this Court deems just and proper, and hereby demands trial by jury on all issues triable as of right by a jury.

Date: May 1, 2009

Robert C. Josefsberg by KWE

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Attorneys for Plaintiff

DEMAND FOR JURY TRIAL

Plaintiff demands to have her case tried before a jury.

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Attorneys for Plaintiff

JS 44 (Rev. 11/05)

CIVIL COVER SHEET

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 law, except as provided 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 Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS
Jane Doe No. 102

DEFENDANTS
Jeffrey Epstein

(b) County of Residence of First Listed Plaintiff West Palm Beach
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant West Palm Beach
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

FILED by AGS D.C.
INTAKE
MAY 1 2009
CLERK U.S. DIST. CT.
S.D. OF FLA. - FTL

(c) Attorney's (Firm Name, Address, and Telephone Number)
Robert C. Josefsberg, Esq./Katherine W. Ezell, Esq.
Podhurst Orseck, P.A.
25 W. Flagler St., Suite 800
Miami FL 33130

Attorneys (If Known)
Jack A. Goldberger, Esq., Atterbury Goldberger, et al., 250 S. Australian Ave., #1400, West Palm Beach, FL 33401 Robert D.

09-CV-80656-Ryskamp/Vitunac

(d) 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
- ☑ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☑ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence

Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition

FORFEITURE/PENALTY
- ☐ 610 Agriculture
- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
- ☐ 640 R.R. & Truck
- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 730 Labor/Mgmt.Reporting & Disclosure Act
- ☐ 740 Railway Labor Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 810 Selective Service
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 875 Customer Challenge 12 USC 3410
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 892 Economic Stabilization Act
- ☐ 893 Environmental Matters
- ☐ 894 Energy Allocation Act
- ☐ 895 Freedom of Information Act
- ☐ 900Appeal of Fee Determination Under Equal Access to Justice
- ☐ 950 Constitutionality of State Statutes

V. 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).
(See instructions second page):
a) Re-filed Case ☐ YES ☑ NO b) Related Cases ☑ YES ☐ NO
JUDGE Kenneth A. Marra DOCKET NUMBER See Attached

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)**:
18 U.S.C. 2255 (Predicate Statutes 18 U.S.C. 2422(b), 2423(b), 2423(e), 2251, 2252, 2252A(a)(1), 2252A(g)(1)
LENGTH OF TRIAL via 4 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 DEMAND $
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 Katherine W. Ezell DATE 5/1/09

FOR OFFICE USE ONLY
AMOUNT $350.00 RECEIPT # 9100030 CHK
05/01/09

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

ATTACHMENT TO CIVIL COVER SHEET
FOR: Jane Doe 101 v. Jeffrey Epstein

VI: RELATED/RE-FIELD CASE(S):

08-80069
08-80119
08-80232
08-80380
08-80381
08-08804
08-80811
08-80893
08-80993
08-80994
08-80469
09-80591

EXHIBIT

31

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 08-80736-CIV-Marra/Matthewman

JANE DOE #1 and JANE DOE #2,

Petitioners,

[redacted].

UNITED STATES OF AMERICA,

Respondent.
_____/

UNITED STATES' RESPONSE TO
PETITIONERS' FIRST REQUEST FOR ADMISSIONS TO THE GOVERNMENT

The United States (hereinafter the "government") hereby responds to *Jane Doe #1 and Jane Doe #2's First Request for Admissions to the Government Regarding Questions Relevant to Their Pending Action Concerning the Crime Victims Rights Act* (hereinafter the "*Request for Admissions*"), and states as follows:*

1. The government admits that the FBI and the U.S. Attorney's Office for the Southern District of Florida ("USAO") conducted an investigation into Jeffrey Epstein ("Epstein") and developed evidence and information in contemplation of a potential federal prosecution against Epstein for many federal sex offenses. Except as otherwise admitted above, the government denies Request No. 1.

* The government's response is confined to Request No. 1 through Request No. 26 in the "Discovery Requested" section of the *Request for Admissions* and does not intend to respond to assertions in any other section of the *Request for Admissions* (including the "Background" section), none of which appear to separately state any matter calling for an admission. Nonetheless, the government denies the assertion that the government has declined the request of Jane Doe #1 and Jane Doe #2 to stipulate to undisputed facts in this case.

EFTA00184443

2. (a) The government admits that, after Epstein's attorneys learned of the notification that the government planned to provide to Jane Doe #2, who claimed that she was not a victim, Epstein's attorneys contacted the USAO and objected to the procedures for notification and the legal bases therefor. The government further admits that the USAO considered those objections when evaluating what notification to provide to victims. Except as otherwise admitted above, the government denies Request No. 2(a).

(b) Admitted.

(c) The government admits that, as a result of objections lodged by Epstein's attorneys, the government reevaluated the notifications that it had intended to provide to victims and, as a result of that reevaluation, the USAO altered the scope, nature, and timing of notifications that it had contemplated providing to victims. With regard to Jane Doe #2, the government further admits that, as a result of representations made by Jane Doe #2 that she was not a victim and objections lodged by Epstein's attorneys, the USAO stopped making notifications to Jane Doe #2. Except as otherwise admitted above, the government denies Request No. 2(c).

(d) The government admits that, after the USAO received objections to victim notifications from Epstein's counsel and reevaluated its victim notification obligations, the USAO altered the language that was ultimately contained in the July 9, 2008 notification letter to Jane Doe #1 in care of Bradley Edwards. Except as otherwise admitted above, the government denies Request No. 2(d).

EFTA00184444

(e) The government admits that, at least in part as a result of objections lodged by Epstein's lawyers to victim notifications, the USAO reevaluated its obligations to provide notifications to victims, and Jane Doe #1 was thus not told that the USAO had entered into a non-prosecution agreement with Epstein until after the agreement was signed. The government further admits that Jane Doe #2 was not told that the USAO had entered into a non-prosecution agreement with Epstein until after the agreement was signed, but denies that the USAO did not inform Jane Doe #2 as a result of any negotiations involving Epstein or any objections lodged by Epstein's lawyers; the USAO did not consider Jane Doe #2 a victim after she informed the USAO and the FBI that she was not a victim of any offense committed by Epstein, and, as a result, the USAO did not consider informing Jane Doe #2 about the non-prosecution agreement. Except as otherwise admitted above, the government denies Request No. 2(e).

3. Denied.

4. Denied.

5. The government admits that, during the negotiations with Jeffrey Epstein regarding the non-prosecution agreement, at least one experienced attorney within the USAO subscribed to the position that the CVRA required notifications to the victims in this case and that position was communicated to Epstein's counsel. To the extent that Request No. 5 seeks admissions regarding the positions held by attorneys within the USAO that were not communicated to non-government personnel regarding whether or not the CVRA ultimately required notifications to the victims in this case, the government objects to Request No. 5 as violative of the deliberative process privilege.

EFTA00184445

6. (a) Denied.

   (b) Denied.

   (c) Admitted.

   (d) Admitted.

   (e) Admitted to the extent that the reference to "Lillian Sanchez" was meant to refer to Lilly Ann Sanchez.

   (f) Admitted.

   (g) Admitted.

7. The government admits that, on about January 10, 2008, when Jane Doe #1 and Jane Doe #2 were sent letters advising them that "this case is currently under investigation," the U.S. Attorney's Office had already signed a non-prosecution agreement with Jeffrey Epstein, but that, on that date, the non-prosecution agreement nonetheless remained in a state of some flux and was subject to being set aside as Epstein was challenging the propriety of the non-prosecution agreement and seeking further review from the Department of Justice.

8. Denied.

9. (a) The government admits that, at Epstein's insistence, the USAO agreed to a provision in the non-prosecution agreement that provided as follows: "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." Except as otherwise admitted above, the government denies Request No. 9(a).

EFTA00184446

(b) Admitted.

(c) Denied.

(d) Denied.

(e) The government admits that, during the period from September 24, 2007 through June 2008, the USAO did not notify Jane Doe #2 of the existence of the non-prosecution agreement. The government further admits that, although FBI agents notified Jane Doe #1 of the existence and substance of the agreement at the request of the USAO on or about October 27, 2007, no employee of the USAO personally notified Jane Doe #1 of the existence of the non-prosecution agreement during the period from September 24, 2007 through June 2008. Except as otherwise admitted above, the government denies Request No. 9(e).

10. (a) Admitted. Because Request No. 10 appears directed solely to the communications between FBI agents and Jane Doe #1 during their meeting on or about October 26, 2007, the government responses to Requests No. 10(b) through 10(g) address only that meeting.

(b) The government admits that, on or about October 26, 2007, FBI agents explained to Jane Doe #1 that Epstein would plead guilty to state charges for procuring minors to engage in prostitution; that Epstein would be required to register as a sex offender; that Jane Doe #1 would be entitled to seek damages from Epstein; and that, if she desired, Jane Doe #1 would be entitled to use the services of an attorney at no expense to her in seeking those damages from Epstein. The government denies that the FBI agents explained that the state charges "involv[ed] another victim."

EFTA00184447

(c) The government denies that the FBI agents did not explain to Jane Doe #1 that an agreement had already been signed; denies that the FBI agents did not explain to Jane Doe #1 that the agreement resolved the investigation of the federal case involving Jane Doe #1; and denies that the FBI agents did not explain to Jane Doe #1 other terms of that agreement Except as otherwise admitted above, the government denies Request No. 10(c).

(d) Denied.

(e) Denied.

(f) Denied.

(g) Denied.

11. The government admits that, on or about November 28, 2007, A. [redacted] Villafaña of the USAO sent a draft of a crime victim notification letter to Jay Lefkowitz, counsel for Jeffrey Epstein, and that the draft notification letter stated, in part: "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 . . . ." The government further admits that, in part as a result of objections lodged by Epstein's lawyers, the USAO reevaluated its obligations to provide notifications to victims, and, as a result of that reevaluation and other considerations and developments, the USAO never sent victims the draft notification letter that was sent to Jay Lefkowitz on or about November 28, 2007. Except as otherwise admitted above, the government denies Request No. 11.

12. The government admits that, prior to July 3, 2008, the USAO had already entered a binding non-prosecution agreement with Jeffrey Epstein. The government is without

EFTA00184448

knowledge of precisely when "Bradley J. Edwards was working on a letter to the U.S. Attorney's Office concerning the need to federally prosecute Epstein for sex offenses committed against Jane Doe #1 and Jane Doe #2," and, accordingly, the government denies the assertion that Edwards worked on that letter on July 3, 2008. Except as otherwise admitted above, the government denies Request No. 12.

13. (a) The government admits that, when Epstein pled guilty to state charges on June 30, 2008, Jane Doe #2 had not been informed by the USAO of the existence of the non-prosecution agreement. The government further admits that, although the USAO, through FBI agents, had notified Jane Doe #1 of the existence of the non-prosecution agreement prior to Epstein's June 30, 2008 guilty plea, no employee of the USAO had personally notified Jane Doe #1 at that time of the existence of the non-prosecution agreement. Except as otherwise admitted above, the government denies Request No. 13(a).

(b) The government denies that, by the time of Epstein's June 30, 2008 guilty plea, an attorney for the government working at the USAO had not already conferred with Jane Doe #1 and Jane Doe #2 about their opinions regarding how the federal investigation and potential prosecution of Epstein should proceed. The government admits that the USAO had not conferred with Jane Doe #2 about the non-prosecution agreement prior to Epstein's June 30, 2008 guilty plea. The government further admits that, although the USAO had communicated with Jane Doe #1 about the non-prosecution agreement through FBI agents prior to Epstein's June 30, 2008 guilty plea, no employee of the USAO had personally conferred with Jane Doe #1 about the non-prosecution agreement prior to

EFTA00184449

Epstein's guilty plea. Except as otherwise admitted above, the government denies Request No. 13(b).

(c) Although the government was aware that Jane Doe #2 had been represented by counsel paid for by Epstein, the government is unaware of the extent of Epstein's defense attorneys' awareness of the USAO's communications with Jane Doe #1 and Jane Doe #2 about the agreement, as described in the responses to Requests No. 13(a) and 13(b), and therefore can neither deny nor admit Request No. 13(c). Except as otherwise admitted above and in the responses to Requests No. 13(a) and 13(b), the government denies Request No. 13(c).

(d) The government admits that Epstein's attorneys negotiated with the USAO for a provision in the non-prosecution agreement that ultimately provided as follows: "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." Except as otherwise admitted above, the government denies Request No. 13(d).

14. The government admits that, when Epstein was pleading guilty to the state charges discussed in the non-prosecution agreement, the USAO and Epstein's defense attorneys sought to keep the document memorializing the non-prosecution agreement confidential, but denies that they sought at that time to keep the existence of the non-prosecution agreement confidential. Except as otherwise admitted above, the government denies Request No. 14.

EFTA00184450

15. (a) The government admits that, while Bruce E. Reinhart was an Assistant U.S. Attorney, he learned confidential, non-public information about the Epstein matter.

    (b) The government admits that, while Bruce E. Reinhart was an Assistant U.S. Attorney, he discussed the Epstein matter with another Assistant U.S. Attorney working on the Epstein matter.

    (c) Denied.

16. Admitted.

17. Admitted.

18. (a) Denied.

    (b) Denied.

19. To the extent that Request No. 19 is directed to the business or personal relationships of the 93 U.S. Attorneys and over 5,400 Assistant U.S. Attorneys serving across this country, or the countless individuals who have formerly served as U.S. Attorneys and Assistant U.S. Attorneys throughout this nation, the government objects to Request No. 19 as overly broad and burdensome and not calculated to lead to or involve information relevant to the instant matter. The government denies possessing or having any knowledge or information about a personal or business relationship between Jeffrey Epstein and either the U.S. Attorney or any Assistant U.S. Attorney serving in the Southern District of Florida. Except as otherwise admitted above, the government denies Request No. 19.

20. Admitted.

21. Denied.

EFTA00184451

22. (a) Admitted.

    (b) Admitted.

    (c) Admitted.

23. The government admits that the non-prosecution agreement signed by the USAO and Jeffrey Epstein currently blocks the USAO from prosecuting sex offenses committed by Epstein against Jane Doe #1 and Jane Doe #2 in the Southern District of Florida from in or around 2001 through in or around September 2007, provided that those offenses are set out on pages 1 and 2 of the non-prosecution agreement, were the subject of the joint investigation by the FBI and the USAO, or arose from the federal grand jury investigation. Except as otherwise admitted above, the government denies Request No. 23.

24. Admitted; Jeffrey Epstein provided valuable consideration to the federal government through the non-prosecution agreement he entered with the USAO.

25. Denied.

26. The government objects to Request No. 26 because it seeks information protected from disclosure by the law enforcement investigative privilege.

///

///

EFTA00184452

Respectfully submitted,

WIFREDO A. [redacted]
UNITED STATES ATTORNEY

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Attorneys for United States

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing *United States' Response to Petitioners' First Request for Admissions to the Government* was served via CM/ECF on this 19th day of July, 2013, on the parties and counsel appearing on the attached service list.

/s Dexter A. Lee
Assistant United States Attorney

EFTA00184453

SERVICE LIST

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

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EFTA00184454

EXHIBIT

32

JANE DOE #1 AND JANE DOE #2'S MOTION FOR FINDING OF VIOLATIONS OF THE CRIME VICTIMS' RIGHTS ACT AND REQUEST FOR A HEARING ON APPROPRIATE REMEDIES

CASE NO: **08-80736-Civ-Marra/Johnson**

EXHIBIT B

FD-302 (Rev. 10-6-95)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 08/14/2007

[redacted] was interviewed in West Palm Beach, Florida, regarding a federal investigation involving the sexual exploitation of minors. After being advised of the identity of the interviewing agents and the nature of the interview, [redacted] provided the following information:

In 2003 or 2004 [redacted] was introduced to JEFFREY EPSTEIN for the purpose of providing him with personal massages. [redacted] was approached at a party by a female she believed was named [redacted] She described the female as having brown hair and taller. The female was later identified as [redacted]. [redacted] told [redacted] and [redacted]'s friend, [redacted] that they could make money by providing massages to EPSTEIN. [redacted] told [redacted] that she could provide the massages with her clothes on or off. [redacted], who was fifteen years old, believed that she was close to turning sixteen when she first met EPSTEIN. However, during [redacted]'s first contact with EPSTEIN, she told him that she had just turned eighteen.

[redacted] and [redacted] traveled to EPSTEIN's residence in Palm Beach by taxi. [redacted] was pregnant at the time. Once at the residence, [redacted] took W[redacted] upstairs. EPSTEIN entered the room wearing only a robe. Once EPSTEIN had removed the robe, both [redacted] and [redacted] provided EPSTEIN with a massage. Both [redacted] and [redacted] had removed their clothing and remained only in their underwear. EPSTEIN asked [redacted] to leave. Once alone with [redacted] EPSTEIN began to masturbate. [redacted] was uncomfortable. After EPSTEIN climaxed the massage was over. [redacted] believed that [redacted] had mentioned EPSTEIN might masturbate during the massage but she was still very surprised when he masturbated. EPSTEIN paid [redacted] $200.00. EPSTEIN did not touch [redacted] during that massage. [redacted] departed EPSTEIN's residence with two men that worked for EPSTEIN. They drove [redacted] to a Shell Gas Station located near Okeechobee Boulevard and the Florida Turnpike.

Prior to departing the residence, [redacted] provided her telephone number to one of EPSTEIN's assistants, [redacted] (PHONETIC). [redacted] described her as a very pretty Hispanic female in her early twenties, with long brown hair, and approximately 5'5" to 5'6" tall. [redacted] stated that [redacted] another of EPSTEIN's assistants, or EPSTEIN would usually contact her. [redacted] would telephone and ask if she was available or if she had any other

Investigation on 08/07/2007 at West Palm Beach, Florida

File # 31E-MM-108062 Date dictated 08/07/2007

by SA E. [redacted]
SA Jason R. [redacted]

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FD-302a (Rev. 10-6-95)

31E-MM-108062

Continuation of FD-302 of [redacted], On 08/07/2007, Page 2

girls she could bring. When EPSTEIN telephoned, he usually asked for [redacted] to come over. According to [redacted] EPSTEIN's house telephone number began with the digits 655. She would call sometimes and leave a message. [redacted] stated that when they telephoned her they would inform her of when they would be coming back to town and if she might have anyone new. [redacted] did not believe that EPSTEIN ever really liked her.

[redacted] traveled to the EPSTEIN's residence during 2003 and 2004 over twenty five times. [redacted] believed that she provided EPSTEIN with approximately 10-15 massages. EPSTEIN initially started out touching W[redacted]s breasts but gradually the massages became more sexual. EPSTEIN would instruct W[redacted] on how and what to do during the massages. He would request W[redacted] to rub his chest and nipples. [redacted] stated that on approximately two occasions, EPSTEIN asked that [redacted] remove her underwear and provide the massage nude. [redacted] complied. [redacted] stated that EPSTEIN would make her feel that she had the option to do what she wanted.

During one massage, [redacted] stated that she had been giving EPSTEIN a massage for approximately 30-40 minutes when instead of EPSTEIN turning over to masturbate, EPSTEIN brought another female into the massage area. [redacted] described the female as a beautiful blonde girl, a "Cameron Diaz" type, 19 years of age, bright blue eyes, and speaking with an accent. EPSTEIN had [redacted] straddle the female on the massage table. EPSTEIN wanted [redacted] to touch the females breast. According to W[redacted], EPSTEIN "pleasured" the female while [redacted] was straddled on top of the female. [redacted] stated she could hear what she believed to be a vibrator. [redacted] said for EPSTEIN it was all about pleasuring the female. After the female climaxed, EPSTEIN patted [redacted] on the shoulder and she removed herself from the table. The female got up from the table and went into the spa/sauna. EPSTEIN commented to [redacted] that in a few minutes the female would realize what had just happened to her. [redacted] received $200.00.

[redacted] advised the interviewing agents that EPSTEIN had used a back massager on her vagina. EPSTEIN asked her first if he could use the massager on her. [redacted] stated that she had held her breath when EPSTEIN used the back massager on her. [redacted] stated that at no time during any of the massages had EPSTEIN caused her to climax.

During another massage, [redacted] believed by this time she was seventeen, EPSTEIN placed his hand on [redacted] vagina, touching

[redacted] clitoris. [redacted] was uncomfortable and told him to stop. EPSTEIN complied. [redacted] stated that the incident freaked her out. W[redacted] stated that EPSTEIN was upset because she was upset. [redacted] never return to the residence. [redacted] stated that she did not deal with EPSTEIN anymore after that incident.

EPSTEIN gave both [redacted] each a book entitled "Massage for Dummies". They received the books on the same visit. EPSTEIN also commented how strong [redacted]s hands were when it came to her providing his massages.

On another occasion, [redacted] mentioned to EPSTEIN that she was looking at a car, a Toyota Corolla. EPSTEIN provided [redacted] with $600.00 - $700.00. [redacted] stated that EPSTEIN gave her the money after the incident with the other female.

According to [redacted] EPSTEIN would ask her to bring him other girls. [redacted] who started dancing at strip clubs when she was 16, brought girls from the club as well as from other sources. WILD stated she brought girls from fifteen years of age to twenty-five years of age. [redacted] stated that EPSTEIN would get frustrated with her if she did not have new females for him. On one instance, EPSTEIN hung up on her because she could not provide him with anyone new. [redacted] stated that EPSTEIN's preference was short, little, white girls. [redacted] stated that EPSTEIN was upset when one of the other girls brought a black girl. [redacted] stated that EPSTEIN did not want black girls or girls with tatoos.

[redacted] stated that one of the girls she stayed with on occasion, [redacted], also started providing EPSTEIN with massages. A telephone number for [redacted] was [redacted]. W[redacted] said that her family resides in [redacted], Florida, possibly [redacted] also stayed with [redacted] during this same time period. However, [redacted] never went to EPSTEIN's house or provided him with massages. [redacted] has a Yacht Club address.

Another girl that [redacted] had taken to EPSTEIN's residence was L[redacted] Last Name Unknown [redacted] According to [redacted] EPSTEIN liked L[redacted] LNU a lot. [redacted] said that she was never a favorite of EPSTEIN. EPSTEIN offered [redacted] $300.00 to bring L[redacted] [redacted] was a couple years younger than [redacted] believed that she was either 16 or 17 when she first went to EPSTEIN's residence. [redacted] said that [redacted] went 2-3 times but that she did not want any part of it after that. [redacted] believes she could identify [redacted] if she saw her photograph. [redacted] also stated that [redacted] at

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31E-MM-108062

Continuation of FD-302 of [redacted], On 08/07/2007, Page 4

one time attended [redacted] HIGH SCHOOL. [redacted] also believed that they had met through a group of friends while attending [redacted] - a dropout prevention school.

[redacted] mentioned another girl by the name of C[redacted]. EPSTEIN distinguished the two "[redacted]" by referring to [redacted] as [redacted]. [redacted] worked at an ice cream shop. [redacted] stated that she did not like [redacted] and that [redacted] was a storyteller and a bad liar. [redacted] stated that [redacted] never really wanted to go to EPSTEIN's residence but she went anyway.

[redacted] said that she had not taken a good look at EPSTEIN's penis. [redacted] explained that it seemed like he would always try and hide his penis. [redacted] stated that EPSTEIN never asked her for sex.

W[redacted] started dancing when she was sixteen at [redacted]. The owner, [redacted], let her dance. [redacted] has also worked at [redacted] located [redacted] in Boynton Beach, Florida.

[redacted] used illegal drugs during the years she provided EPSTEIN with massages. [redacted] said that EPSTEIN tried to provide her with advice regarding controlled substances.

[redacted] stated that she met with EPSTEIN's attorneys, [redacted] and a unidentified female (UF), at the ALE HOUSE RESTAURANT. W[redacted] met with them after she contacted [redacted] who confirmed that they were really working for EPSTEIN. [redacted] stated that [redacted] also talked of her twin boys and stated that she was living in Manhattan. [redacted] found out that [redacted] and the UF are employed by [redacted]. They asked a lot of questions. They specifically asked about L[redacted] and a [redacted] reiterated her dislike for [redacted].

[redacted] also informed the interviewing agents that she had spoken to [redacted] she believed before the fourth of July. [redacted] told [redacted] that she had met with investigators and that they had videoed her.

[redacted] confirmed her association to the following telephone numbers:

Old cellular number - ([redacted]) [redacted]
Possibly an old cellular number - ([redacted]) [redacted]
[redacted]'s telephone number - ([redacted]) [redacted]

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31E-MM-108062

Continuation of FD-302 of [redacted], On 08/07/2007, Page 5

EXHIBIT

33

JANE DOE #1 AND JANE DOE #2'S MOTION FOR FINDING OF VIOLATIONS OF THE CRIME VICTIMS' RIGHTS ACT AND REQUEST FOR A HEARING ON APPROPRIATE REMEDIES

CASE NO: **08-80736-Civ-Marra/Johnson**

EXHIBIT H

FD-302 (Rev. 10-6-95)

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 02/08/2008

On Thursday, January 31, 2008, [redacted] met with Assistant United States Attorney [redacted], UNITED STATES ATTORNEY'S OFFICE (USAO) and Attorney MYESHA K. BRADEN, UNITED STATES DEPARTMENT OF JUSTICE(DOJ), CRIMINAL DIVISION. Also present at the meeting were Special Agents E. [redacted] and JASON R. [redacted], FEDERAL BUREAU OF INVESTIGATION. The meeting was arranged pursuant to a federal investigation regarding the sexual exploitation of minors. During the course of the meeting, [redacted] provided the following additional or clarifying information not previously documented in earlier FD-302s:

JEFFREY EPSTEIN and his assistants, [redacted] and [redacted] (identified as [redacted] and [redacted]) would contact [redacted] to set up appointments for EPSTEIN's massages. According to [redacted], [redacted] would call and say that EPSTEIN was on a flight and inquire about scheduling work for [redacted]

Life was not going well for [redacted] during the time she was providing EPSTEIN with massages. [redacted] was buying and taking drugs, i.e. Xanax, Lorcets, and Percosets. [redacted] said that she stayed on pills. [redacted] explained that she wanted to feel numb. [redacted] stopped attending school at age fifteen. Her parents were addicted to crack and cocaine. Prior to her parent's drug use, [redacted] was in the band, a cheerleader, and a straight "A" student. [redacted] played the trumpet for the school band. When her parent's drug habits got bad, things went downhill, they lost everything.

[redacted] became a dancer the day before her sixteenth birthday at [redacted] She worked there for six months, up until the employer found out she was underage. Later, [redacted] worked for [redacted] which she did for 6 months. [redacted] stopped seeing EPSTEIN during that time.

[redacted] stated that she brought up to twenty, twenty-five, or thirty different girls. [redacted] said all of the girls but maybe ten of them were underage. Some of the females [redacted] brought for EPSTEIN were dancers. [redacted] said that EPSTEIN did not care for all of the girls she brought to him. [redacted] explained that EPSTEIN did not care for some of the dancers, the older females, and the females with tattoos.

Investigation on 01/31/2008 at West Palm Beach, Florida

File # 31E-MM-108062 Date dictated 01/31/2008

by SA E. [redacted]
SA Jason R. [redacted]

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31E-MM-108062

Continuation of FD-302 of [redacted], On 01/31/2008, Page 2

[redacted] said that during the massages EPSTEIN would push further and further regarding the sexual activity. According to [redacted] EPSTEIN never asked, "is this okay," he would just see how far one would let him go.

[redacted] recalled seeing sculptures of naked women and lots of pictures of kids in the library.

[redacted] stated that everybody thought Epstein was a neurologist.

[redacted] also stated that [redacted] has twin boys.

EXHIBIT

34

ate: 7/19/06 PALM BEACH POLICE DEPARTMENT Page: 1
ime: 15:01:37 Incident Report Program: CMS301L

ase No. . . . : 1-05-000368
PECIAL NOTES : Occur From Date: 1/27/05 0000
ccur To Date : 1/27/05 0000 Report Date . : 3/14/05 1600
ay Of Week . : Thursday
ommon/Location: 358 EL BRILLO WY
ity . . . . . : PALM BEACH, FL
ocation Type : RESIDENCE-SINGLE FAMILY
eat Assignment: DETECTIVE BUREAU Map Reference : 10
ept Class . . : SEXUAL BATTERY Report Officer : PAGAN, MICHELE
ase Status . : OPEN / ACTIVE Case Status Dt : 3/14/05
upervisory Dt.: TRYLCH, JEFFREY 3/14/05
ntry Date . . : OREGERO, LAURA 4/06/05
ames? . . . . : Property? . . :
ehicles? . . : Offenses? . . :
arrative? . . : Related Cases? :

******* V E H I C L E I N F O R M A T I O N # 1 **********
ase number . : 1-05-000368 Category . . . :
ate Veh Type : Year . . . . . : 0
ake . . . . . : Model . . . . :
odel Name . . : Permit Number :
yle . . . . . : Color - Top . :
olor - Bottom : License # . . :
N . . . . . : Stolen value . : 0
sposition . : Insured . . . :
sured by . . : Keys in car . :
hicle locked : Lein holder . :
te recovered : 0/00/00 Recovery value : 0
reet number :
ty . . . . . :
covery code : NCIC number . :
On Look Out?:

******* P E R S O N R E P O R T I N G I N F O - # 1 *********
se Number . : 1-05-000368 Last Name . . : [redacted]
reet Number : [redacted]
ty . . . . . : [redacted]
rth Date/Age : [redacted] Employer? . . :
cupation . . : Oper Lic No. . : [redacted]
me Phone No. : [redacted] Race . . . . . : White
x . . . . . : Female Height . . . . : 0
ight . . . . : 0 Other Phone Nbr:

********** S U S P E C T / A R R E S T E E I N F O R M A T I O N - # 1 **
se Number . : 1-05-000368 Prompt valid in: [redacted]
reet Number : [redacted]
ty . . . . . : 334121460
rth Date . . : Maximum Age . : 18
ployer? . . : Occupation . . :
er Lic No. . : R125320866290 FL Home Phone No. :
er Phone Nbr: Race . . . . . : White
x . . . . . : Female Minimum Height : 0
inimum Weight : 0 Maximum Height : 0

ase No. . . . : 1-05-000368 (Continued)

laximum Weight	: 0	Misc. ID# . .	:
liases? . . .	:	MO/Crime Spec?	:
air Color . .	:	Hair Length .	:
air Style . .	:	Eye Color . .	:
lasses . . .	:	Complexion . .	:
acial Hair .	:	Build	:
eeth	:	Speech	:
at	:	Coat	:
hirt	:	Pants	:
hoes	:	Body Marks #1	:
ody Marks #2	:	Body Marks #3	:
ody Marks #4	:	Status	: STILL SUSPECT
rrest Case No.	:	Additional UCR?	:

********** S U S P E C T / A R R E S T E E I N F O R M A T I O N - # 2 **

ase Number .	: 1-05-000368	Prompt valid in:	[redacted]
treet Number	: 358 EL BRILLO WY		
ity	: PALM BEACH, FL 000033480		
irth Date . .	: [redacted]	Maximum Age .	: 25
nployer? . .	:	Occupation . .	: PERSONAL ASST/EPSTEIN
per Lic No. .	: [redacted]	Home Phone No.	: [redacted]
ther Phone Nbr	: [redacted]	Race	: White
ex	: Female	Minimum Height	: 0
nimum Weight	: 0	Maximum Height	: 0
ximum Weight	: 0	Misc. ID# . .	:
ases? . . .	:	MO/Crime Spec?	:
ir Color . .	:	Hair Length .	:
ir Style . .	:	Eye Color . .	:
asses . . .	:	Complexion . .	:
cial Hair .	:	Build	:
eth	:	Speech	:
t	:	Coat	:
irt	:	Pants	:
oes	:	Body Marks #1	:
dy Marks #2	:	Body Marks #3	:
dy Marks #4	:	Status	: STILL SUSPECT
rest Case No.	:	Additional UCR?	:

********** S U S P E C T / A R R E S T E E I N F O R M A T I O N - # 3 **

se Number .	: 1-05-000368	Prompt valid in:	EPSTEIN, JEFFREY
reet Number	: 358 EL BRILLO WY		
ty	: PALM BEACH, FL 000033480		
rth Date . .	: 1/20/1953 52	Maximum Age .	: 52
ployer? . .	:	Occupation . .	:
er Lic No. .	: E123425530200 FL	Home Phone No.	:
ner Phone Nbr	:	Race	: White
x	: Male	Minimum Height	: 0
nimum Weight	: 0	Maximum Height	: 0
ximum Weight	: 0	Misc. ID# . .	:
ases? . . .	:	MO/Crime Spec?	:
r Color . .	:	Hair Length .	:
r Style . .	:	Eye Color . .	:

Case No. . . . : 1-05-000368 (Continued)
Glasses . . . :
Facial Hair . :
Teeth . . . . :
Hat . . . . . :
Shirt . . . . :
Shoes . . . . :
Body Marks #2 :
Body Marks #4 :
Arrest Case No.:
Complexion . . :
Build . . . . :
Speech . . . . :
Coat . . . . . :
Pants . . . . :
Body Marks #1 :
Body Marks #3 :
Status . . . . : STILL SUSPECT
Additional UCR?:

********** VICTIM INFORMATION - # 1 **********
Case Number . : 1-05-000368
Prompt valid in: [redacted]
Street Number : [redacted]
City . . . . . : [redacted]
Birth Date/Age : [redacted] 14
Occupation . . : STUDENT
Home Phone No. : [redacted]
Sex . . . . . : Female
Weight . . . . : 0
Be On Look Out?:
Victim Type . : JUVENILE
Residency Sts :
Can Identify . :
Injury Extent :
Injury Type 2 :
Med Treatment :
Phys Last Name :
Employer? . . :
Oper Lic No. . :
Race . . . . . : White
Height . . . . : 0
Misc. ID# . . :
Other Phone Nbr:
Residency Type :
File Charges . :
Victim Sobriety:
Injury Type 1 :
Hospital ID . :
Phys First Name:

********** VICTIM INFORMATION - # 2 **********
Case Number . : 1-05-000368
Street Number :
City . . . . . : PALM BEACH, FL 000033480
Birth Date/Age : [redacted] 18
Occupation . . :
Home Phone No. : [redacted]
Sex . . . . . : Female
Weight . . . . : 0
Be On Look Out?:
Victim Type . : ADULT
Residency Sts :
Can Identify . :
Injury Extent :
Injury Type 2 :
Med Treatment :
Phys Last Name :
Prompt valid in: [redacted]
Employer? . . :
Oper Lic No. . :
Race . . . . . : White
Height . . . . : 0
Misc. ID# . . :
Other Phone Nbr: [redacted]
Residency Type :
File Charges . :
Victim Sobriety:
Injury Type 1 :
Hospital ID . :
Phys First Name:

********** VICTIM INFORMATION - # 3 **********
Case Number . : 1-05-000368
Street Number :
City . . . . . : PALM BEACH, FL 000033480
Birth Date/Age : [redacted] 16
Prompt valid in: [redacted]
Employer? . . :

ase No. . . . : 1-05-000368 (Continued)

ccupation . . :		Oper Lic No. . :	
ome Phone No. :	561/000-0000	Race . . . . . :	White
ex . . . . . :	Female	Height . . . . :	0
eight . . . . :	0	Misc. ID# . . :	
e On Look Out?:		Other Phone Nbr:	[redacted]
ictim Type . :	JUVENILE	Residency Type :	
esidency Sts :		File Charges . :	
an Identify . :		Victim Sobriety:	
njury Extent :		Injury Type 1 :	
njury Type 2 :		Hospital ID . :	
ed Treatment :		Phys First Name:	
ys Last Name :			

********** [redacted] I C T I M I N F O R M A T I O N - # 4 **********

ase Number . :	1-05-000368	Prompt valid in:	[redacted]
reet Number :			
ty . . . . . :	PALM BEACH, FL 000033480		
rth Date/Age :	[redacted] 17	Employer? . . :	
cupation . . :		Oper Lic No. . :	
me Phone No. :	[redacted]/000-0000	Race . . . . . :	White
x . . . . . :	Female	Height . . . . :	0
ight . . . . :	0	Misc. ID# . . :	
On Look Out?:		Other Phone Nbr:	[redacted]
ctim Type . :	JUVENILE	Residency Type :	
sidency Sts :		File Charges . :	
Identify . :		Victim Sobriety:	
jury Extent :		Injury Type 1 :	
jury Type 2 :		Hospital ID . :	
d Treatment :		Phys First Name:	
ys Last Name :			

********** V I C T I M I N F O R M A T I O N - # 5 **********

se Number . :	1-05-000368	Prompt valid in:	[redacted]
reet Number :			
ty . . . . . :	PALM BEACH, FL 000033480		
rth Date/Age :	[redacted] 18	Employer? . . :	
cupation . . :		Oper Lic No. . :	
ne Phone No. :	[redacted]	Race . . . . . :	White
x . . . . . :	Female	Height . . . . :	0
ight . . . . :	0	Misc. ID# . . :	
On Look Out?:		Other Phone Nbr:	[redacted]
ctim Type . :	ADULT	Residency Type :	
sidency Sts :		File Charges . :	
Identify . :		Victim Sobriety:	
jury Extent :		Injury Type 1 :	
jury Type 2 :		Hospital ID . :	
d Treatment :		Phys First Name:	
ys Last Name :			

********** V I C T I M I N F O R M A T I O N - # 6 **********

se Number . :	1-05-000368
mpt valid in:	[redacted]

ase No. . . . : 1-05-000368 (Continued)
treet Number :
ity . . . . . : PALM BEACH, FL 000033480
irth Date/Age : [redacted] 16 Employer? . . :
ccupation . . : Oper Lic No. . :
ome Phone No. : [redacted] Race . . . . . : White
ex . . . . . : Female Height . . . . : 0
eight . . . . : 0 Misc. ID# . . :
e On Look Out?: Other Phone Nbr: [redacted]
ictim Type . : JUVENILE Residency Type :
esidency Sts : File Charges . :
an Identify . : Victim Sobriety:
njury Extent : Injury Type 1 :
njury Type 2 : Hospital ID . :
ed Treatment : Phys First Name:
nys Last Name :

********** V I C T I M I N F O R M A T I O N - # 7 **********
ase Number . : 1-05-000368 Prompt valid in: [redacted]
treet Number :
ity . . . . . : PALM BEACH, FL 000033480
rth Date/Age : [redacted] 17 Employer? . . :
cupation . . : Oper Lic No. . :
ome Phone No. : 561/000-0000 Race . . . . . : White
ex . . . . . : Female Height . . . . : 0
ight . . . . : 0 Misc. ID# . . :
On Look Out?: Other Phone Nbr: [redacted]
ctim Type . : JUVENILE Residency Type :
sidency Sts : File Charges . :
n Identify . : Victim Sobriety:
jury Extent : Injury Type 1 :
jury Type 2 : Hospital ID . :
d Treatment : Phys First Name:
ys Last Name :

********** I C T I M I N F O R M A T I O N - # 8 **********
se Number . : 1-05-000368 Prompt valid in: [redacted]
reet Number :
ty . . . . . : PALM BEACH, FL 000033480
rth Date/Age : [redacted] 16 Employer? . . :
cupation . . : Oper Lic No. . :
me Phone No. : [redacted] Race . . . . . : White
x . . . . . : Female Height . . . . : 0
ight . . . . : 0 Misc. ID# . . :
On Look Out?: Other Phone Nbr: [redacted]
ctim Type . : JUVENILE Residency Type :
sidency Sts : File Charges . :
n Identify . : Victim Sobriety:
jury Extent : Injury Type 1 :
jury Type 2 : Hospital ID . :
d Treatment : Phys First Name:
/s Last Name :

********** V I C T I M I N F O R M A T I O N - # 9 **********

Case No. . . . : 1-05-000368 (Continued)
Case Number . : 1-05-000368 Prompt valid in: [redacted]
Street Number :
City . . . . . : PALM BEACH, FL 000033480
Birth Date/Age : [redacted] 17 Employer? . . :
Occupation . . : Oper Lic No. . :
Home Phone No. : [redacted] Race . . . . . : White
Sex . . . . . : Female Height . . . . : 0
Weight . . . . : 0 Misc. ID# . . :
Be On Look Out?: Other Phone Nbr: [redacted]
Victim Type . : JUVENILE Residency Type :
Residency Sts : File Charges . :
Can Identify . : Victim Sobriety:
Injury Extent : Injury Type 1 :
Injury Type 2 : Hospital ID . :
Med Treatment : Phys First Name:
Phys Last Name :

********** VICTIM INFORMATION - # 10 **********
Case Number . : 1-05-000368
Prompt valid in: [redacted]
Street Number :
City . . . . . : PALM BEACH, FL 000033480
Birth Date/Age : [redacted] 17 Employer? . . :
Occupation . . : Oper Lic No. . :
Home Phone No. : [redacted] Race . . . . . : White
Sex . . . . . : Female Height . . . . : 0
Weight . . . . : 0 Misc. ID# . . :
Be On Look Out?: Other Phone Nbr: [redacted]
Victim Type . : JUVENILE Residency Type :
Residency Sts : File Charges . :
Can Identify . : Victim Sobriety:
Injury Extent : Injury Type 1 :
Injury Type 2 : Hospital ID . :
Med Treatment : Phys First Name:
Phys Last Name :

********** VICTIM INFORMATION - # 11 **********
Case Number . : 1-05-000368 Prompt valid in: [redacted]
Street Number :
City . . . . . : PALM BEACH, FL 000033480
Birth Date/Age : [redacted] 18 Employer? . . :
Occupation . . : Oper Lic No. . :
Home Phone No. : [redacted] Race . . . . . : White
Sex . . . . . : Female Height . . . . : 0
Weight . . . . : 0 Misc. ID# . . :
Be On Look Out?: Other Phone Nbr: [redacted]
Victim Type . : ADULT Residency Type :
Residency Sts : File Charges . :
Can Identify . : Victim Sobriety:
Injury Extent : Injury Type 1 :
Injury Type 2 : Hospital ID . :
Med Treatment : Phys First Name:

Case No. . . . : 1-05-000368 (Continued)
Phys Last Name :

********** VICTIM INFORMATION - # 12 **********
Case Number . : 1-05-000368 Prompt valid in: [redacted]
Street Number :
City . . . . . : PALM BEACH, FL 000033480
Birth Date/Age : [redacted] 18 Employer? . . :
Occupation . . : Oper Lic No. . :
Home Phone No. : [redacted] Race . . . . . : White
Sex . . . . . : Female Height . . . . : 0
Weight . . . . : 0 Misc. ID# . . :
Be On Look Out?: Other Phone Nbr: [redacted]
Victim Type . : ADULT Residency Type :
Residency Sts : File Charges . :
Can Identify . : Victim Sobriety:
Injury Extent : Injury Type 1 :
Injury Type 2 : Hospital ID . :
Med Treatment : Phys First Name:
Phys Last Name :

********** VICTIM INFORMATION - # 13 **********
Case Number . : 1-05-000368 Prompt valid in: [redacted]
Street Number :
City . . . . . : PALM BEACH, FL 000033480
Birth Date/Age : [redacted] 16 Employer? . . :
Occupation . . : Oper Lic No. . :
Home Phone No. : [redacted] Race . . . . . : White
Sex . . . . . : Female Height . . . . : 0
Weight . . . . : 0 Misc. ID# . . :
Be On Look Out?: Other Phone Nbr: [redacted]
Victim Type . : JUVENILE Residency Type :
Residency Sts : File Charges . :
Can Identify . : Victim Sobriety:
Injury Extent : Injury Type 1 :
Injury Type 2 : Hospital ID . :
Med Treatment : Phys First Name:
Phys Last Name :

********** VICTIM INFORMATION - # 14 **********
Case Number . : 1-05-000368 Prompt valid in: [redacted]
Street Number :
City . . . . . : PALM BEACH, FL 000033480
Birth Date/Age : [redacted] 16 Employer? . . :
Occupation . . : Oper Lic No. . :
Home Phone No. : [redacted] Race . . . . . : White
Sex . . . . . : Female Height . . . . : 0
Weight . . . . : 0 Misc. ID# . . :
Be On Look Out?: Other Phone Nbr: [redacted]
Victim Type . : JUVENILE Residency Type :
Residency Sts : File Charges . :
Can Identify . : Victim Sobriety:
Injury Extent : Injury Type 1 :

ase No. . . . : 1-05-000368 (Continued)
Injury Type 2 : Hospital ID . :
Med Treatment : Phys First Name:
Phys Last Name :

********** V I C T I M I N F O R M A T I O N - # 15 **********
Case Number . : 1-05-000368 Prompt valid in: [redacted]
Street Number :
City . . . . . : PALM BEACH, FL 000033480
Birth Date/Age : [redacted] 19 Employer? . . :
Occupation . . : Oper Lic No. . :
Home Phone No. : [redacted] Race . . . . . : White
Sex . . . . . : Female Height . . . . : 0
Weight . . . . : 0 Misc. ID# . . :
Be On Look Out?: Other Phone Nbr: [redacted]
Victim Type . : ADULT Residency Type :
Residency Sts : File Charges . :
Can Identify . : Victim Sobriety:
Injury Extent : Injury Type 1 :
Injury Type 2 : Hospital ID . :
ed Treatment : Phys First Name:
hys Last Name :

********** V I C T I M I N F O R M A T I O N - # 16 **********
ase Number . : 1-05-000368 Prompt valid in: [redacted]
treet Number :
ty . . . . . : PALM BEACH, FL 000033480
rth Date/Age : [redacted] 17 Employer? . . :
ccupation . . : Oper Lic No. . :
ome Phone No. : 561/000-0000 Race . . . . . : White
ex . . . . . : Female Height . . . . : 0
eight . . . . : 0 Misc. ID# . . :
e On Look Out?: Other Phone Nbr: [redacted]
ictim Type . : JUVENILE Residency Type :
esidency Sts : File Charges . :
an Identify . : Victim Sobriety:
njury Extent : Injury Type 1 :
njury Type 2 : Hospital ID . :
ed Treatment : Phys First Name:
ys Last Name :

********** V I C T I M I N F O R M A T I O N - # 17 **********
se Number . : 1-05-000368 Prompt valid in: [redacted]
reet Number :
ty . . . . . : PALM BEACH, FL 000033480
rth Date/Age : [redacted] 16 Employer? . . :
cupation . . : Oper Lic No. . :
ne Phone No. : [redacted] Race . . . . . : White
x . . . . . : Female Height . . . . : 0
ight . . . . : 0 Misc. ID# . . :
On Look Out?: Other Phone Nbr: [redacted]
ctim Type . : JUVENILE Residency Type :
sidency Sts : File Charges . :

Case No. . . . : 1-05-000368 (Continued)
Can Identify . :
Injury Extent :
Injury Type 2 :
Med Treatment :
Phys Last Name :
Victim Sobriety:
Injury Type 1 :
Hospital ID . :
Phys First Name:

********* O T H E R P E R S O N I N F O R M A T I O N - # 1 *********
Case Number . : 1-05-000368
Street Number : [redacted]
City . . . . . : [redacted]
Birth Date/Age : [redacted] 14
Occupation . . : STUDENT
Home Phone No. : [redacted]
Sex . . . . . : Female
Weight . . . . : 0
Other Phone Nbr:
Last Name . . : [redacted]
Employer? . . :
Oper Lic No. . :
Race . . . . . : White
Height . . . . : 0
Person Type . : OTHER PERSON

******** O T H E R P E R S O N I N F O R M A T I O N - # 2 *********
ase Number . : 1-05-000368
treet Number : 358 EL BRILLO WY
ity . . . . . : PALM BEACH, FL 000033480
irth Date/Age : 2/21/1985 19
ccupation . . :
ome Phone No. :
ex . . . . . : Female
eight . . . . : 0
ther Phone Nbr:
Last Name . . : [redacted], NADA
Employer? . . :
Oper Lic No. . : M625620855610 FL
Race . . . . . : White
Height . . . . : 510
Person Type . : OTHER PERSON

******** O T H E R P E R S O N I N F O R M A T I O N - # 3 *********
ase Number . : 1-05-000368
treet Number : [redacted]
ity . . . . . : [redacted]
irth Date/Age : [redacted] 35
ccupation . . :
ome Phone No. : [redacted]
ex . . . . . : Female
eight . . . . : 0
her Phone Nbr: [redacted]
Last Name . . : [redacted]
Employer? . . :
Oper Lic No. . :
Race . . . . . : White
Height . . . . : 0
Person Type . : OTHER PERSON

******* O T H E R P E R S O N I N F O R M A T I O N - # 4 *********
se Number . : 1-05-000368
reet Number : [redacted]
ty . . . . . : [redacted]
rth Date/Age : [redacted] 37
cupation . . : PAINTER
ne Phone No. : [redacted]
x . . . . . : Male
ight . . . . : 0
ner Phone Nbr:
Last Name . . : [redacted]
Employer? . . :
Oper Lic No. . :
Race . . . . . : White
Height . . . . : 0
Person Type . : OTHER PERSON

******* O T H E R P E R S O N I N F O R M A T I O N - # 5 *********
se Number . : 1-05-000368
Last Name . . : BACK, KATHY

ase No. . . . : 1-05-000368 (Continued)
treet Number :
ity . . . . . :
irth Date/Age : 0/00/0000 0 Employer? . . :
ccupation . . : FAMILY THERAPIST Oper Lic No. . :
ome Phone No. : [redacted] Race . . . . . : White
ex . . . . . : Female Height . . . . : 0
eight . . . . : 0 Person Type . : OTHER PERSON
ther Phone Nbr: [redacted]

EMPLOYER INFORMATION
ase Number . : 1-05-000368
nployer Name : PBC DIVISON OF YOUTH AFFAIRS
ddress . . . : 4200 N AUSTRALIAN AV
ity/State/Zip : WEST PALM BEACH, FL 33407
hone Number . : [redacted]

******** O T H E R P E R S O N I N F O R M A T I O N - # 6 *********
ase Number . : 1-05-000368 Last Name . . : [redacted]
treet Number : [redacted]
.ty . . . . . : [redacted]
rth Date/Age : [redacted] 16 Employer? . . :
cupation . . : STUDENT Oper Lic No. . :
me Phone No. : [redacted] Race . . . . . : White
x . . . . . : Male Height . . . . : 0
ight . . . . : 0 Person Type . : OTHER PERSON
er Phone Nbr:

EMPLOYER INFORMATION
se Number . : 1-05-000368 Employer Name : [redacted]
dress . . . : [redacted]
ty/State/Zip : [redacted]
one Number . :

******* O T H E R P E R S O N I N F O R M A T I O N - # 7 *********
se Number . : 1-05-000368 Last Name . . : [redacted]
reet Number : [redacted]
ty . . . . . : [redacted]
rth Date/Age : 0/00/0000 0 Employer? . . :
cupation . . : Oper Lic No. . :
ne Phone No. : [redacted] Race . . . . . : White
x . . . . . : Male Height . . . . : 0
ight . . . . : 0 Person Type . : OTHER PERSON
ner Phone Nbr:

****** O T H E R P E R S O N I N F O R M A T I O N - # 8 *********
se Number . : 1-05-000368 Last Name . . : [redacted]
eet Number : [redacted]
y . . . . . : [redacted]
th Date/Age : 0/00/0000 0 Employer? . . :
upation . . : Oper Lic No. . :
e Phone No. : [redacted] Race . . . . . :
. . . . . : Female Height . . . . : 0

Case No. . . . : 1-05-000368 (Continued)
Weight . . . . : 0 Person Type . : OTHER PERSON
Other Phone Nbr:

******** O T H E R P E R S O N I N F O R M A T I O N - # 9 *********
Case Number . : 1-05-000368 Last Name . . : [redacted]
Street Number : [redacted]
City . . . . . : [redacted]
Birth Date/Age : [redacted] 16 Employer? . . :
Occupation . . : Oper Lic No. . : [redacted]
Home Phone No. : [redacted] Race . . . . . : White
Sex . . . . . : Female Height . . . . : 0
Weight . . . . : 0 Person Type . : OTHER PERSON
Other Phone Nbr: [redacted]

********** N A R R A T I V E # 1 **********
Original Report LO Reported By: PAGAN, MICHELE D. 9/20/05
Entered By.: OREGERO, LAURA D. 9/20/05

On 03/14/2005, I received a call from a woman who did not wish to identify herself (later identified as [redacted]). She stated that her fourteen year old step daughter (later identified as [redacted]) possibly may have been molested in Palm Beach by a wealthy man. According to [redacted], she learned of the possible molestation by a third party. She explained that she had received a call from the mother of her stepdaughter's friend. The mother claimed to have overheard a conversation between her daughter and a male friend; they were talking about [redacted]. The conversation was about how [redacted] had met with a 45-year-old man and had sex with him and was paid for it. I advised [redacted] that I would like to meet with her to obtain a more detailed statement and facts. [redacted] stated she did not know what to do and had to discuss the matter with her husband. At this point [redacted] did not provide me with a call back number or any other information. She stated that she would contact me once she had spoken with her husband and [redacted] mother.

On 03/14/2005 received a call from Mr. & Mrs. [redacted]. They stated it was all right to speak to their daughter [redacted] via cell phone [redacted]. Her mother [redacted] had been made aware of the case. They agreed to meet me at the police department later this date. [redacted].

On 03/14/2005, Mr. [redacted] accompanied by his wife [redacted] came to the Palm Beach Police Department where they advised me that they believed their fourteen year old daughter may have had some type of sexual relationship with an older male who resided in Palm Beach. Neither knew the suspect's name or address. Both stated that their daughter did not talk to them about the incident, nor would she admit to it.

[redacted] identified his daughter as [redacted] w/f, DOB [redacted]; resides with her biological mother [redacted] at [redacted], [redacted], [redacted] [redacted] is a twin,

Case No. . . . : 1-05-000368 (Continued)

her sister [redacted] resides with Mr. [redacted] Both [redacted] and [redacted] are currently attending [redacted] which is an involuntary admitted juvenile educational facility. [redacted] stays at the facility during the week and comes home on the weekend. According to [redacted] she was admitted to the school because of disciplinary problems that recently escalated. The facility also coordinates with the families to provide one on one as well as family counseling.

According to Mrs. [redacted] she believes the incident occurred on Sunday, Feb 6, 2005. A friend of [redacted], named Haley picked her up at their house and left. They believe Haley initiated the relationship with the older gentleman, though they do not have any proof. Haley lives close by with her mother. Mrs. [redacted] further explained that [redacted] was introduced to Haley by [redacted], a boy she was dating (goes to [redacted], plays baseball). Mrs. [redacted] continued that on Sunday, Haley picked up [redacted] and drove to Palm Beach where they met the man. Supposedly, the man has a lot of money and often has young girls come over to his house. Haley offers these girls a way to make fast cash. The man starts with a massage. If he likes them, he keeps them around and does more. The [redacted] did not have any information on Haley other than she lives on 72nd Place North, the last house on right side (north side).

Mrs. [redacted] talked of a conversation that she had with [redacted], the mother of [redacted], a former friend of [redacted]. She found it strange that they were no longer friends until she received the call from her mother telling her of the conversation she overheard between [redacted] and a boy named [redacted]

Mrs. [redacted] told me of an incident that occurred on 02/09/2005. [redacted] got into a fight at school ([redacted]). Mrs. [redacted] found over $300.00 in [redacted] purse. [redacted] gave different explanations for the large sum of money. Initially the school administration thought it was drug related but then dismissed the claim. Since that day, [redacted] did not return to school; she ran away Thursday, 02/10th or Friday 02/11 and returned to her mother's house later that night after midnight. It was not until after [redacted] received the call from [redacted] mother, [redacted], that she learned [redacted] was the girl that got into the fight with [redacted]. The fight was instigated when [redacted] accused [redacted] of being a prostitute.

[redacted], who has legal joint custody of his daughter [redacted], signed the affidavit of prosecution indicating he wished to prosecute against the inappropriate sexual behavior with his fourteen-year-old daughter.

Mr. [redacted] stated that he had no objections with our agency speaking with his daughter [redacted] about the incident. Mr. [redacted] stated that [redacted] mother [redacted] is aware of the allegations and also was willing to cooperate. According to Mrs. [redacted], she does not believe her daughter had any additional contact with the suspect as she was with

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her mother and then placed into [redacted].

I contacted the School Board Police who provided me the information for [redacted], also known as [redacted]. Checking the school board records for [redacted] and [redacted] there was no disciplinary record found. I was advised if no disciplinary action was taken for a fight, such as an expulsion or detention, the incident may not have been recorded. This was at the discretion of the individual school security and principal.

03/15/2005, I called the Palm Beach County Sheriff's Office and left a message for PBSP Sgt. Chris Keen, Child Abuse Unit.

On 03/15/2005, I went to [redacted] where I met with white female [redacted] Also present was Kathy Back, [redacted] therapist. During an audiotaped interview, I spoke with [redacted] about the allegations that were made. [redacted] initially denied anything had happened, only admitting to going with Haley (later identified as Haley Robson) to Palm Beach to pick up money Robson was owed. [redacted] identified Haley Robson as the cousin of her former boyfriend [redacted] She ultimately admitted to knowing that Robson worked for a wealthy man and possibly did sexual favors for him. She also admitted that Robson had offered her an opportunity to make money.

[redacted] identified Robson's boss as a white male named "Jeff" who lived in Palm Beach (later positively identified as Jeffrey Epstein). [redacted] explained that she was first approached by Robson to go with her to Jeff's house, when they were at [redacted] house. According to [redacted] she was not sure exactly what was going on with Robson but agreed to go with her. [redacted] ([redacted] boyfriend) became angry when he heard Robson inviting [redacted] to accompany her. [redacted] believed it was to pick up money the man owed Robson. [redacted] stated Robson told her that she would pick her up at her house on Sunday. [redacted] was not sure of the exact dates but knew it was a Sunday. According to [redacted] Robson along with an unknown, possibly Hispanic female, picked her up at her father's house on [redacted] [redacted] told her father that they were going shopping. It was later confirmed by [redacted] that Robson picked his daughter up. According to Mr. [redacted], Robson drove a pick up truck.

Robson drove [redacted] along with the unknown female to Palm Beach. Sometime on the way there, a conversation occurred between Robson and [redacted] whereby Robson told [redacted] that if Jeff asked her ([redacted]) age, she should say she was eighteen.

[redacted] recalled that Jeff's house was on a dead end street. All three girls walked up a driveway, past what appeared to be a small guard/security room. In fact, [redacted] recalled a male approaching them asking what they wanted. Robson stated they were there to see Jeff. The male allowed them to continue walking up to the house.

Case No. . . . : 1-05-000368 (Continued)

[redacted] stated the man told them that Epstein was not there but was expected back. He allowed them to enter the house, via the kitchen. He offered them something to drink while they waited inside. Shortly after, Epstein and a woman, described as white with blond hair entered the kitchen. [redacted] believed the woman was Epstein's Assistant. [redacted] added that the woman did not seem friendly and kept her responses short and direct. Epstein introduced himself to [redacted] as Jeff . [redacted] got the impression that Epstein and Robson's friend knew each other. [redacted] described Epstein as being approximately forty-five years old, a long face, and bushy eyebrows, with graying hair.

Robson and Epstein left the kitchen leaving [redacted] and Robson's friend alone in the kitchen. They returned a short time later. They all spoke briefly in the kitchen. While speaking to me, [redacted] became upset and started to cry. [redacted] stated the woman instructed her to follow her upstairs, which she did. According to [redacted], the woman led her to a room that had a massage table in it. The woman started to fix up the room, putting the covers on the table and taking lotions out. She then told [redacted] that Epstein would be up in a second. The woman left the room, and soon after, Epstein walked in and told [redacted] to take off her clothes. As [redacted] was telling me what had happened, she looked away from me, and with a pointed finger, repeatedly pressed it into her thigh. [redacted] stated he was stern when he told her to take off her clothes. [redacted] said she did not know what to do as she was the only one there. [redacted] took off her shirt leaving her bra on. Epstein, dressed in a towel told her to take off everything. [redacted] stated she removed her pants leaving her thong panties on. Epstein then instructed her to give him a massage pointing to a specific lotion for her to use. Epstein laid on the table, face down. As [redacted] began to give Epstein the massage, he told her to get on his back. [redacted] stated she straddled herself on Epstein's back. [redacted] stated her exposed buttocks were touching Epstein s bare buttocks. As [redacted] was giving Epstein the massage, he turned around, and wacked off [redacted] later explained that wacking off was masturbating). [redacted] stated she was disgusted by Epstein's actions but did not say anything. According to [redacted] Epstein told her that she "had a really hot body." Epstein excused himself and went to the bathroom where she believed he masturbated again. Epstein returned to the room and told [redacted] that he was done and gave her three hundred dollars. They went back down stairs where they met Robson. Epstein said good-bye and they left. Robson asked [redacted] how did it go and asked what did she [redacted] do. When [redacted] told Robson that Epstein asked for a massage, Robson allegedly stated "I know." [redacted] stated they then went shopping. [redacted] stated Robson also got paid, but that she did not know why since she was confident that Robson did not do anything.

[redacted] described Epstein's house as a two story pink house with a Cadillac Escalade parked in the driveway. There were gates leading into the property. From the kitchen, [redacted] recalled walking up a flight of stairs, lined with photographs, to a room. Upon entering

Case No. . . . : 1-05-000368 (Continued)

the room there was a large bathroom to the right. [redacted] recalled a hot pink and green sofa in the room. There was a door on each side of the sofa. [redacted] recalled there being a mural of a naked woman in the room, as well as several photographs of naked women on a shelf.

[redacted] stated Epstein did not change in front of her but did take off his towel, exposing himself. [redacted] recalled Epstein being hairy especially on his chest. Epstein also had a hairline that continued to his buttocks. [redacted] admitted to seeing his penis. I asked [redacted] if she knew what being circumcised meant and she stated no. [redacted] then said that she thought Epstein was on steroids because he was a "really built guy and his wee wee was very tiny." [redacted] would explain that when she stated "wee wee" she meant penis. [redacted] stated Epstein exposed himself when he took his towel off, placing it on the floor as he laid down on the table.

[redacted] said Epstein was specific in his instruction to her on how to massage, telling her to go clockwise, etc. [redacted] recalled that Epstein got up from the table and went to the bathroom where she heard him making, what she believed to be sexual type of noises. (moaning) He then returned to the room where he again laid down on the table. Epstein then turned over and instructed [redacted] to massage his boobs. As she did this, Epstein continued to make moaning noises.

[redacted] resumed massaging his chest area. [redacted] was now standing on the ground. Epstein turned to his side, and with the towel on the ground started to rub his penis in an up and down motion. [redacted] stated Epstein held on to the small of her back as she massaged his chest, back and shoulder area. [redacted] recalled Epstein ejaculating because he had to use the towel to wipe himself as he got off the table. [redacted] also recalled Epstein having a noticeable freckle on his chest.

Epstein then left the room and [redacted] got dressed. She went back downstairs where she met Haley and the unknown white female. [redacted] admitted to getting paid three hundred dollars in cash from Epstein. Before they left, Epstein asked [redacted] to leave her phone number. As they were leaving the house, Haley asked [redacted] what had happened and how much she was paid. [redacted] stated Haley seemed upset or jealous when she told her that she received three hundred dollars. Haley stated received only two hundred dollars that day. [redacted] stated that she believed Haley was paid two hundred dollars for bringing her.

Robson told [redacted] that if they do this every Saturday, they could be rich; [redacted] agreed. They then went shopping, though she is not sure where. Possibly at TJ Maxx or Marshall's. [redacted] stated she never saw Robson again as she got into a fight at school. She had not spoken with Robson either as her mother took away her cell phone.

I asked [redacted] if she was aware of any video equipment while she was in the room. She stated no.

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[redacted] stated she was afraid that Robson would retaliate against her or her family if she ever went to the police regarding the incident. [redacted] stated that her father's vehicle was recently vandalized. [redacted] admitted to telling [redacted] what had happened with Epstein. According to [redacted], [redacted] became angry and upset, punching a hole in the wall. [redacted] guessed that it was [redacted] who told [redacted] about the incident, and now there were rumors in school about [redacted] and what she did with Epstein.

I then talked to [redacted] about truth and lying. We talked about the color sweater she was wearing. [redacted] denied having sexual intercourse with Epstein. She denied touching his penis. [redacted] again admitted to observing Epstein masturbate.

[redacted] agreed to cooperating with the police department in placing a phone call to Robson in a controlled setting. I met with Ms. Back and advised her of the families' as well as [redacted] willingness to cooperate with this investigation. Copies of this interview were placed into evidence.

I made contact with [redacted] mother of [redacted] I advised her briefly of my investigation. She was aware of the incident and stated that she overheard a portion of a conversation that her daughter was having with a boy named [redacted] [redacted] stated that it was her opinion that both girls liked [redacted] [redacted] recalled hearing her daughter calling [redacted] a whore. [redacted] admitted that she did not listen to the entire conversation but did confront her daughter about it later. [redacted] told her mother that something to the effect that [redacted] had slept with an older man for money. [redacted] stated that she would not object to me speaking with her daughter. It was [redacted] belief that everyone in the school may have known about this because of the fight that her daughter [redacted] and [redacted] had gotten into. I reminded [redacted] that this was an ongoing investigation and requested she not discuss the fact that I had contacted her. She agreed.

On 03/16/2005, PBSO Sgt. Chris Keen left a message that he was returning my call. I spoke with Keen and discussed the case with him and inquired if he had any open allegations or cases where the suspect resided in Palm Beach. Keen stated he was unaware of any. Keen offered any assistance if needed. Keen stated it was his experience that due to the age of the parties involved, it would be difficult to interview them and expect the investigation to remain confidential.

Because of the time delay, there was no need for the victim to be taken to a medical facility for a physical for the purpose of obtaining evidence. There was also no need to take her to CPT as she was already in a juvenile facility, with an assigned therapist, in which coordinating a day and time to obtain a statement could be made.

On 03/17/2005, I queried Jeffery Epstein on the internet and obtained

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a photo of Epstein to be used in a photo line up. I met with [redacted] at which time she viewed the photo line up. She immediately recognized Epstein and pointed to him (Position #5). [redacted] signed the photo line up under Epstein's picture. This signed line up was placed into evidence.

On 03/18/2005, I met with [redacted] at her residence for the purpose of placing a controlled call to Haley Robson. [redacted] spoke with Robson and asked if she could arrange another meeting with Jeff. Robson stated that she would have to call him and make the arrangements. A copy of this conversation was placed into evidence.

03/19/2005, I spoke with [redacted] and [redacted] and was advised that [redacted] left the state to visit with her aunt and uncle. [redacted] is scheduled to return to Florida on 03/27/2005

03/21/2005, I coordinated with PB BSF Unit and OCVAN to initiate surveillance on 358 El Brillo.

03/21/2005, Coordinated with Det. Lee regarding trash pulls from 358 El Brillo. On this same date I called [redacted] to schedule an appointment to speak with [redacted] She stated the school guidance counselor was reluctant to have police presence at the school. I assured her that I would respond to the school in civilian clothes and an unmarked vehicle.

[redacted] called me back and advised that I did not need to make an appointment to see [redacted]

I received a return phone call from [redacted] stating that [redacted] would be attending the family therapy sessions with [redacted]

I received messages from [redacted]

I conducted a computer query on Epstein. The results of this query indicated the most recent driver's license on file for Epstein was for the state of Florida, which had expired.

A cross reference of Epstein s residence, 358 El Brillo, Palm Beach, revealed the following affiliated names: Nada [redacted], w/f, dob 02/21/1985, Mark L. Epstein, w/m dob 07/14/1954, & Ghislaine N. Maxwell, uk/f, dob 12/25/1961. A computer query for both returned no history.

On 03/23/2005, I spoke with [redacted] cell phone wk [redacted] I requested that she not discuss the incident with anyone including her daughter [redacted] as I did not want the investigation compromised. I was told at this time, that [redacted] and [redacted] have not been getting along due to the fact that [redacted] has decided to continue living with her father.

On 03/29/2005, I placed telephone calls to both the [redacted] and [redacted] residences requesting to speak with them regarding the

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investigation. I received return phone calls from Mrs. [redacted] and Mrs. [redacted] and advised them that I would be contacting Kathy Back, [redacted] family therapist to coordinate a time to meet with [redacted]. This was at the request of both Back and Mrs. [redacted] that [redacted] strict classroom and therapy schedule be disrupted as little as possible. I also updated them to the investigation thus far. Both [redacted] and [redacted] stated they had no objection to my meeting with [redacted]. In speaking with Ms. [redacted] she identified the cell phone number of [redacted] being the phone assigned to [redacted]. Ms. [redacted] had no objections and provided consent to giving it to the police department for the use of placing controlled phone calls from it. [redacted] stated the phone had been taken away from [redacted] as part of her punishment for not doing well in school. According to [redacted] used to be an excellent student, but in the past two months has become irritable, verbally abusive to the family and has run away. [redacted] stated her daughter's recent behavior is the opposite of what she normally is. [redacted] stated they are going through family therapy sessions with the school but none of this had come up. Arrangements were made for Det. Captain Gudger to retrieve the cell phone from [redacted] at her place of employment.

I called [redacted] and requested to speak with Ms. Back. Upon speaking with Ms. Back she advised me that she was in the middle of therapy sessions and would call me back once the sessions were completed. Ms. Back stated the sessions should be concluded by 7:00 PM. At approximately 8:00PM I had called Ms. Back at which time I left a message on her voice mail requesting a return phone call. I spoke with Ms. [redacted] and advised her that I did not meet with her daughter and that I would again attempt to coordinate a time with the counselor so as not to disrupt [redacted] school schedule. [redacted] had no objections. Shortly after speaking with Ms. [redacted] I received a call from Ms. Back. I explained the situation and requested a time to meet with [redacted]. Back reviewed [redacted] schedule and advised that [redacted] would be available after 3:00PM.

On 03/30/2005, I met with Ms. Back and [redacted] at [redacted]. I reminded [redacted] of her conversation with Robson. During this time [redacted] initiated a conversation with me in which she admitted that she was not telling me everything that had happened during the time she was alone with Epstein. According to [redacted], while she and Epstein were alone on the second floor, Epstein used a purple vibrator to massage her vaginal area. [redacted] stated there was no penetration as the vibrator was on top of her underwear. I asked [redacted] if Epstein ever asked her age and she stated he had. [redacted] stated she told him she was eighteen. When Epstein asked what school she was in, [redacted] responded she was in the twelfth grade at [redacted]. During the course of this incident, [redacted] stated Epstein told her that Haley had worked for him for years.

We then continued with the controlled call to Robson. At approximately 3:35pm [redacted] from her cell phone, made a call to Robson s home, (561)333-0180. Robson was not home. [redacted] was told

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that Haley Robson was at working a double and could be reached on her cell phone, [redacted]. W/F, Haley Robson is employed at The Olive Garden Restaurant, located on Forest Hills Blvd in Wellington.

[redacted] called Robson. During the conversation between Haley Robson and [redacted] Robson asked [redacted], what happened, stating that she had heard rumors that [redacted] was going to press charges. Robson asked if they, meaning [redacted] parents, knew about Jeffery. Robson claimed to have heard that [redacted] father had found out about Jeffrey, [redacted] told Robson that they (her parents) did not know anything about Epstein. Robson told [redacted] that Epstein needed someone to work tomorrow and asked if she was available. Robson stated she would call Epstein and then call [redacted] back.

During the course of these conversations with [redacted], she would at times appear to be articulate and well spoken. She would then start to act in an immature manner, by looking around, not paying attention, drawing on a paper. [redacted] would offer me a high five whenever she claimed to have told me the truth in the details of the afternoon at Epstein's house. [redacted] would sit in the chair, with her knees propped up to her chest as she admitted that she did not tell me the all the details of her encounter with Epstein during our first meeting. As a means of positive reinforcement I would high five [redacted]

On 03/31/2005, subpoena requests for T-Mobile Wireless [redacted] and Cingular Wireless, [redacted] (Robson and [redacted] phone numbers) were drafted.

On 04/01/2005, I met with members of PB BSF Unit for the purpose of conducting surveillance on 358 El Brillo. Cross-reference supplement.

On 04/01/2005, I met with Det. Krauel of the Palm Beach Police Department who provided me a copy of the concealed weapons permit for Mr. Epstein. It revealed Epstein had a valid permit. There was no current photo attached to the renewal notice.

On this same date I queried various different web sites for a possible identification of the purple item retrieved from the trash pull from 358 El Brillo. The item was similar in description as the one described by [redacted] and used by Epstein.

I made contact with Spicygear.com and spoke with the owner John. I emailed a photograph of the item for his opinion. He identified the items as a Jelly Anal Wand of some sort. The item is easily available at sex shops in South Florida.

04/06/2005, I conducted business queries into Epstein utilizing the internet. I located articles relating to financial reports. There was no local history.

On 04/01/2005 - 04/03/2005, with the assistance of BSF, there was

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continued surveillance on the property.

On 04/04/2005, I obtained a copy of voice mail messages, dated 03/31 and 04/01 from Haley Robson to [redacted] A female identifying herself as Haley states that she could pick [redacted] up to take her to Epstein's house for an eleven o clock appointment. A copy of this was placed into evidence.

On 04/05/2005, a trash pull was conducted at 358 El Brillo by Det. Lee and me. There were several messages written on various forms of papers. There was a message from Haley, indicating [redacted] 11:00. The following was additional information obtained from trash retrieved from 358 El Brillo: Jean Luc 6:20 AM; David 772-546-6952; [redacted] 655-0995; 881-8116;655-0995; [redacted], Alexis, [redacted] Brit; Rion 1x; fuliias Friday 5:30PM;Joanna H;Wilde[redacted] & [redacted]; Nicole; Sherry; Haley; a message receipt dated 4/4 1:05- Joanne S. 771-0546 She is looking to speak to you .; 917-7783-4113.

On 04/06/2005, I faxed subpoena requests to SA Mighdolls office for Epstein, Robson and [redacted] phone records. (Phone numbers [redacted], [redacted], [redacted] & [redacted]).

On 04/06/2005, I called [redacted], [redacted] ext 311, and spoke with Principal [redacted] He confirmed that they had a student by the name of [redacted] He requested a written request prior to releasing any additional information. On this same date I faxed Heers a request for student and parent information on [redacted] I advised Heers that due to this being an open investigation he was not to discuss the matter with anyone.

On 04/08/2005, I received a message from [redacted] providing me the following information: [redacted] w/m DOB [redacted] Parents name: [redacted] work [redacted]

Det. Lee provided me with trash obtained from 358 El Brillo for 04/06 04/07/05. The following information was retrieved: Jet Aviation 800-538-0724 itinerary, indicating a departure date of 04/05/2005 at 4:00 PM with an arrival in New York City of 6:15PM. Flight crew captain David Rodgers, co-captain, Larry Visoski, flight engineer Larry Morrison. Call sign N908JE; a note stating Bye J. thank you Johanna, hand written notes & messages 11-Glenn, 12:30 chicken, Melissa 4, 3 September B & J, Big Screen x8, Johanna work Sunday @ 4PM, [redacted] Monday after school?; left message for [redacted] Joanna Harrison, Rhiannon; Sandy works 4-9 Monday and Tuesday, leaves school @ 11:30 AM; [redacted] will be here tomorrow @ 10:30 Am; Mrs. Business 654-6699 Karen;833-4533. There was no trash for 04/08/05.

04/22/05 received the results of a subpoena request from Bellsouth for [redacted]. The results only provided subscriber information. I contacted Alice Grant Investigative Subpoena Compliance Center who stated the request was not complete and the results would be sent to

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me as soon as the query was finished.

Cross-referencing the names Christine Tatum and Joanna Harrison as well as phone numbers, which were obtained from message notes via trash pulls, I identified the before mentioned individuals as being acquainted with someone at 358 El Brillo. Tatum, DOB 06/07/1984, FL DL #T350115847070 and Harrison, DOB 06/12/1986 FL DL3h625432867120 are both above the legal age of consent.

On 05/03/2005, I spoke with [redacted] and updated her on the investigation. [redacted] stated that [redacted] was doing well in the school. Her contact with the outside is limited as they do not have access to the phones. [redacted] comes home on the weekends and she is not allowed to go anywhere alone.

On 05/11/2005, I made arrangements to meet with [redacted] and [redacted]

On Thursday, 05/12/05, I spoke with [redacted] regarding the case. They will be moving to GA in July 2005. They will be very busy over the next few weeks but would be available via phone. Will coordinate a date to meet to discuss the matter further.

During this week I conducted surveillance at Epstein s residence and at the airport, but there was nothing to indicate that Epstein was in town.

Due to conflicting appointments, rescheduled until 06/02/2005, to meet with Ms. [redacted]

I also spoke with [redacted] and updated her to the investigation.

On 06/02/2005, I met with [redacted] and [redacted] [redacted] advised that she could be reached via her cell phone until she is able to provide me with her new contact information.

I also received a message from [redacted] Attempted call back but the line was busy.

June 14, 2005, I received information that Epstein's plane was at Jet Aviation. I spoke with Det. Lee regarding surveillance.

I called the Olive Garden and asked for Haley Robson. I was advised she was not working today. This would indicate that Robson was still employed there.

On 07/07/2005, I faxed subpoena requests to SA Mighdolls office for Epstein, Robson and [redacted] phone records. (Phone numbers [redacted], [redacted] and [redacted]. The original subpoena requests only provided subscriber and billing information.

On 07/20/2005, conducted a trash pull arranged by Ofc. Lee. Inside there were misc. papers with phone numbers and names. There were

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misc. female hygiene products in the trash. Based on a prior Auto Track report done on 358 El Brillo, a possible subject residing at the residence is Nada [redacted]. [redacted] fit the description provided by officers who had conducted surveillance in the area of a female seen entering and leaving the residence.

On 07/21/05, I received the Duces Tecum dated 07/18/05, which was clerked by ASO

On 07/26/2005, I received the results of Bell South Subpoena.

On 08/04/05, I received DHL Express from T mobile with the results of the query.

I spoke with [redacted] who confirmed that [redacted] was still living out of state. It appeared that all was going well.

I left a message for [redacted] at [redacted]

On 08/08/2005, I received the results of Cingular cell phone subpoena.

During the week of 09/08/2005, I checked 358 El Brillo and the Palm Beach International Airport but there was no direct indication that Epstein was in town.

On 09/08/2005, I reviewed the case notes of this file, as the case will be turned over to Det. Recarey.

On 09/11/2005, while on patrol, I conducted a check at Epstein's residence and found that it still had the hurricane shutters on. On a drive by the Palm Beach International Airport later that afternoon, I did not observe Epstein's plane.

On 09/14/2005, I conducted a check at the Palm Beach International Airport but did not see Epstein s plane.

On 09/19/2005, I spoke with [redacted] to keep her updated and to find out if there was any change of address or phone numbers for [redacted] I was told no. I left a message for [redacted] at [redacted] in order to provide her with Detective Recarey s information.

********** N A R R A T I V E # 2 **********

Reported By: RECAREY, JOSEPH 9/21/05
Entered By.: ALTOMARO, NICKIE A. 9/21/05

On September 19, 2005, I met with Officer Pagan and received the information pertaining to this case. Members of the Burglary Strike Force had previously been conducting surveillance on both Epstein and Robson. Officer Munyan was assigned to monitor the Epstein home and Sgt Sorge and Officer Minot were assigned to monitor Robson. Both teams provided a surveillance log that will be placed into the

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attachment file.

Det. Dawson was assigned to relieve Officer Munyan at 4:00 pm; he informed me that at approximately 8:00 pm, Epstein had left for the airport and his private jet was sitting on the tarmac. Epstein's private vehicle drove to the jet and unloaded packages into the jet. It appeared that Epstein left the county at this time. Surveillance will continue to determine when Epstein will return.

Inv Continues.

********** N A R R A T I V E # 3 **********
A Reported By: PARKINSON, GREGORY A. 9/23/05
Entered By.: ALTOMARO, NICKIE A. 9/23/05

On Friday, September 23, 2005 at approximately 1:45 p.m., I began to copy a tape micro cassette, under case number 05-368 and property number 05-243, tape number 1. I placed the tape in the telex copy-et, series 2 machine and began to go through the copying process. Approximately 1/2 through the tape, the tape wrapped around the spindle and became locked and stretched the tape. I examined it and determined that it was in the best interest to leave it as it is as a prior copy had been made and turned over to Sergeant Frick. I immediately took the tape to Sergeant Frick and allowed him to examine it and then obtained the copy from him and Detective Recarey and brought the copy of the tape down and made a copy for him based on that. The tape was placed back in the original container and is retained in the evidence bag under the previously mentioned property number of 05-243. It is not advisable to attempt to copy this tape as further damage could result to the recorded material and there is an existing copy anyway.

********** N A R R A T I V E # 4 **********
Reported By: PARKINSON, GREGORY A. 9/26/05
Entered By.: ALTOMARO, NICKIE A. 9/26/05

On 3-24-05 at 11:00 pm, a copy of tape 2 (case number 05-294) had been made for Det. Pagan by Evidence Specialist Annette Badger. The copy was turned over to Detective Recarey.

On Friday, 09-23-05 at approimately 2:15 pm, I was in the process of reproducing audio tapes (micro and standard) to standard size when it was discovered, in the test review process, that tape number 2 was blank. I notified Sgt. Frick and Det. Recarey. I was informed that they had a prior copy and I could use it to make a master tape. I did so and when reviewing and signing the evidence sheet, I noticed Evidence Specialist Badger had written "#2 is blank."

I obtained that copy from Det. Recarey and made a new copy on a standard size tape. The new copy was placed in the evidence bag under

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property number 05-294 with the blank tape.

********** N A R R A T I V E # 5 **********
JA Reported By: RECAREY, JOSEPH 9/26/05
Entered By.: ALTOMARO, NICKIE A. 9/28/05

Copies of the tapes that were submitted into evidence were requested. Additionally, trash pulls were started on September 21, 2005. Sgt. Szarszewski made telephone contact with Tony Higgins, Supervisor of the Sanitation Department, and requested that trash be collected at the Epstein House located at 358 El Brillo in Palm Beach. Sgt Szarszewski met with Sanitation worker, Jeff Williams and observed him enter the property at 358 El Brillo. Shortly thereafter, Williams exited the property and placed the three white trash bags in the empty well in the rear of the truck. Williams then drove away where he met with Sgt. Szarszewski who removed the bags from the well and placed them into one large black trash bag. The bag was returned to the Police Station where I was waiting for him. Upon his arrival, we inspected the bags where several notes and papers were found. These notes contained names of girls with times. Additionally, there was a note from [redacted] and Laura to Jeffrey Epstein on a notepad, which stated, "For a good time call [redacted] and Laura at [redacted]." Also, there was another telephone number on the note [redacted]. Also found was a written note, which stated, [redacted] can not come at 7 p.m. tomorrow because of soccer. These items were written on notepads that contain Jeffrey Epstein on the bottom of the notes. These items were placed into evidence for future follow up. I requested subpoenas for subscriber information on the telephone numbers listed above on the note from [redacted] and Laura. The cellular telephones [redacted] and [redacted] are both assigned to Cingular Cellular Service. Other notes were found within the trash on Jeffrey Epstein pad, papers that contained telephone numbers. One note had [redacted] with [redacted] written on it. This cellular number is assigned to Cingular Cellular Service. Another sheet had written [redacted] which is assigned to Bell South Telecommunications. The subpoenas were picked up and submitted to Cingular and Bell South Telecommunication for subscriber information.

On September 22, 2005, I was informed by Sgt. Szarszewski that there would be no trash pick up as it was recycle pick up day. A request for copies of the micro and standard size cassettes were requested from crime scene to familiarize myself with the interviews conducted.

On September 23, 2005, the tapes were received and I began to become familiar with the interviews that were conducted. Det. Krauel had met with Town of Palm Beach Sanitation worker, Jeff Williams and observed him enter the property of 358 El Brillo. Shortly thereafter, Williams exited the property and placed the three white trash bags in the empty well in the rear of the truck. Williams then drove away where he met with Det. Krauel who removed the bags from the well and placed them into one large black trash bag. The bag was returned to the Police Station where I was waiting for him. Upon his arrival, we inspected

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the bags where several notes and papers were found. The notes will be inspected for future use. The items collected were placed into evidence.

It became evident that some of the recordings were recorded with background noise and some interference. The calls most affected were the control phone calls from the victim to the suspect Haley Robson. I obtained the graphic equalizer and discovered that the calls are able to be legible with the use of the equalizer by lowering the background noise and increasing voice gain. I also learned that a tape was broken during the coping of the tape. I returned the copy of the tape marked Property Number 05-243 to have it recopied to have an original in evidence and a working copy with the file.

Upon researching the file, it was discovered that the suspect, Haley Robson's cellular calls were subpoenaed incorrectly. The suspect telephone number was [redacted] and the original request was for [redacted]. I requested the information through Cingular Cellular Service from February 2005 through the present. The purpose was to have a record of Robson making calls to victim, Jeffrey Epstein and the frequency of calls. The request was submitted to the State Attorney's Office.

Investigation Continues....

********** N A R R A T I V E # 6 **********

Reported By: KRAUEL, CURTIS D. 10/06/05
Entered By.: ALTOMARO, NICKIE A. 10/06/05

On or about September 23, 2005 at approximately 0915 hours, I responded to 358 El Brillo and met with PB Sanitation worker Jeff Williams. Williams had been previously notified to assist in trash pulls at the residence of Jeffrey Epstein, 358 El Brillo, Palm Beach, Florida. I observed Williams enter the driveway of 358 El Brillo and remove several plastic bags of trash and place the contents into the back of an empty sanitation truck.

I then followed Williams to a predetermined location and seized the trash from the truck. The trash was transported to the Palm Beach Police Department where I began sifting through its contents. There was a total of 4 white in color plastic bags and each contained documentation and correspondence for 358 El Brillo and Jeffrey Epstein. All documents of evidentiary value were removed and turned over to Det. Recarey for follow-up.

On or about September 26, 2005 at approximately 0900 hours, I responded to 358 El Brillo and met with PB Sanitation worker Jessie Jones. Jones had been previously notified to assist in trash pulls at the residence of Jeffrey Epstein, 358 El Brillo, Palm Beach, Florida. I observed Jones enter the driveway of 358 El Brillo, where no trash was located within the receptacles. I left the area without incident

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and notified Det. Recarey to that affect.

On or about September 27, 2005 at approximately 0915 hours, I responded to 358 El Brillo and met with PB Sanitation worker Jesse Jones. I observed Jones enter the driveway of 358 El Brillo and remove one plastic bag of trash and place it in the back of an empty sanitation truck.

I then followed Jones to a predetermined location and seized the trash from the truck. The trash was transported to the Palm Beach Police Department where I began sifting through its contents. There was a total of 1 white in color plastic bag which contained correspondence for 358 El Brillo. All documents of evidentiary value were removed and turned over to Det. Recarey for follow-up.

On or about Monday October 3, 2005 at approximately 0915 hours, I responded to 358 El Brillo and met with PB Sanitation worker Jeff Williams. I observed Williams enter the driveway of 358 El Brillo and remove several plastic bags of trash and place the contents into the back of an empty sanitation truck.

I then followed Williams to a predetermined location and seized the trash from the truck. The trash was transported to the Palm Beach Police Department where I began sifting through its contents. There was a total of 7 white in color plastic bags with a red tie and 1 black in color bag which contained 2 white in color plastic bags with a red tie. Each of the bags contained documentation and correspondence for 358 El Brillo and Jeffrey Epstein. Inside of one of the white in color bags, I located a broken piece of a hard plastic or clear acrylic stick, which was shaped with small ridges. This device is commonly used as a sexual toy which is inserted into the vagina or anus for stimulation. This item, along with all documents of evidentiary value were removed and turned over to Det. Recarey for follow-up.

On or about Tuesday October 4, 2005 at approximately 0928 hours, I responded to 358 El Brillo and met with PB Sanitation worker Jeff Williams. I observed Williams enter the driveway of 358 El Brillo and remove several plastic bags of trash and place the contents into the side well of the sanitation truck. This side of the truck is separate from the rear of the truck and does not come into contact with other trash.

I then followed Williams to a predetermined location and seized the trash from the truck. The trash was transported to the Palm Beach Police Department where I began sifting through its contents. There was a total of 2 white in color plastic bags which were tied at the top. Each of the bags contained documentation and correspondence for 358 El Brillo and Jeffrey Epstein. All documents of evidentiary value were removed and turned over to Det. Recarey for follow-up.

On or about Wednesday October 5, 2005 at approximately 0928 hours, I

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responded to 358 El Brillo and met with PB Sanitation worker Jeff Williams. I observed Williams enter the driveway of 358 El Brillo and remove several plastic bags of trash and place the contents into the bed of the sanitation truck.

I then followed Williams to a predetermined location and seized the trash from the truck. The trash was transported to the Palm Beach Police Department where I began sifting through its contents, with the assistance of Det. Recarey. There were a total of 2 bags, one of which was white in color and tied in a knot at the top, and the other was a black in color bag, which contained two white in color trash bags along with loose debris. Each of the bags contained documentation and correspondence for 358 El Brillo and Jeffrey Epstein. All documents of evidentiary value were removed and turned over to Det. Recarey for follow-up.

********** N A R R A T I V E # 7 **********

Reported By: RECAREY, JOSEPH 10/07/05
Entered By.: ALTOMARO, NICKIE A. 10/07/05

I met with Det. Krauel and requested further assistance to maintain trash collections at Epstein's residence at 358 El Brillo Road. On October 3, 2005, at approximately 10:30 am, I was contacted by Sgt. Frick to respond to the Palm Beach Police Station. Det. Krauel had observed Jeff Epstein riding his bicycle on South County Road. Upon my arrival, I met with Sgt Frick who advised, as Epstein was currently in Town; we interview Haley Robson as to her involvement with Epstein and the girls that are brought to his house. As we were to interview Robson in the county, (outside of our jurisdiction), I contacted the State Attorney s Office Investigation Division, and made contact with Assistant Supervisor Investigator Carlos Ortiz. I requested assistance to interview Robson as the interview may occur in the county. Supervisor Ortiz assigned Investigator Mike Waites to assist us at the location and interview of Robson.

Det. Dicks had responded to the address of Robson and viewed her vehicle parked in the driveway. Robson's vehicle a red Plymouth Neon baring Florida Tag of H49-PKB was parked in the driveway of 12247 72nd Court in Loxahatchee. Sgt Frick and I responded to 120th Ave and awaited the arrival of Investigator Mike Waites. Upon his arrival, he was briefed that should she wish to be interviewed within her home he would be needed. However, should Robson agree to return to the police station for further questioning, he would not be needed. Sgt. Frick and I knocked on the door and met with Haley Robson. Robson was told that we were investigating a claim involving Jeffrey Epstein of El Brillo in Palm Beach. Robson was asked if she wanted to accompany us back to the police station for further questioning. She was also told that at the conclusion of the interview she would be returned home. She agreed and wished to change her clothes prior to accompanying us back to the police station. At the conclusion of her changing clothes, she advised she was ready to go. I thanked Inv. Waites and advised she was going to voluntarily return to the police station.

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Upon Robson s entry in the unmarked Detective vehicle, I placed a tape recorder within the vehicle to record any conversations within the vehicle. During the ride back to the police station, Robson advised she is attending Palm Beach Community College at the Palm Beach Gardens Campus and is majoring in journalism.

Upon our arrival at the police station, Robson was brought to the interview room in the Detective Bureau. I explained to Robson that I appreciated her willingness to assist us and informed her that should she desire to leave at any time she may do so. I further explained the interview room door is only closed for privacy. Robson stated she understood. During the taped sworn interview, Robson was asked how she came in contact with Epstein. Robson stated back when she turned 17 years of age she was approached by a friend Molly in the Canopy Beach Resort in Rivera Beach. Robson was asked if she wanted to make money.

She was told she would have to provide a massage and should make $200.00. Robson thought about the offer and agreed to meet with Jeffrey. Molly (Unknown last name) and Tony (Unknown last name) picked her up and she was taken to Epstein's house. Upon her arrival at the house, she was introduced to Epstein in the kitchen of the house. She was also introduced to a white female known to her as Sara. She was led upstairs to the main bedroom known to her as Jeff Epstein s bedroom. Sara arranged the massage table and covered the table with a sheet. She brought out the massage oils and laid them next to the massage bed. Sara then left the room and informed her Jeff would be in a minute. Jeff entered the bedroom wearing only a towel. He lay on the table onto his stomach and picked massage oil for Robson to rub on him. During the massage, Robson stated, He tried to touch me and I stopped him. I asked how he tried to touch her. He grabbed her buttocks and she felt uncomfortable. Robson also stated Epstein has a vibrator, which is large and white in color. Robson told Epstein, I'll massage you but I don't want to be touched. Robson stated she performed the massage naked. At the conclusion of the massage, Epstein paid Robson $200.00 for the massage. He explained, I know you re not comfortable, but I'll pay you if you bring some girls. He told her the younger the better. Robson stated she once tried to bring a 23-year-old female and Epstein stated that the female was too old. Robson was asked how many girls she brought in total to Epstein. Robson stated six that she can remember. Robson stated she brought [redacted] and the victim in this case.

I asked Robson which one was the youngest. Robson advised the victim was the youngest. Robson stated every girl she brought knew what to expect when they arrived. They were told they would provide a massage, possibly naked, and some touching. I asked her if the victim was aware. She stated every girl she brought knew what to expect. She explained she knew the victim wanted to make money. She approached the victim and explained about going to work for Jeff. The

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victim agreed and arrangements were made to bring the victim to Epstein's house on a weekend. Robson stated that she and [redacted] (later identified as [redacted] picked up the victim at the victim s house. They traveled to Epstein's House and entered through the kitchen door. They met with the house chef and Epstein s assistant Sara. The victim was introduced to Epstein while they were in the kitchen area. Sara led the victim upstairs and Epstein went upstairs. When the massage was over, the victim returned to the kitchen area. Robson stated she was paid $200.00 for bring the victim to Epstein's. Robson stated the victim told her she was paid $300.00 for the massage. Back in the vehicle, Robson asked the victim what happened. The victim told her about the massage and then they went shopping. Robson stated the victim was the last person she brought to Epstein. She further stated that she had changed her cellular number to avoid being contacted by Sara. She continued that when Epstein announces to his assistant that he is traveling to Palm Beach, Sara would contact Robson to arrange girls for Epstein. [redacted], later identified as [redacted] Date of Birth 05-25-1979, had told Robson that Jeff likes to have his fun with the girls.

Robson stated that once her parents discovered that she was visiting Epstein, they disapproved of the encounters with him and she stopped. Robson further stated that Sara still tries to call the house and leaves messages. With the assistance of Robson, we were able to identify [redacted], DOB [redacted], [redacted] DOB [redacted] DOB [redacted], and [redacted] DOB [redacted]

Sgt Frick entered the room and explained that based on her own statements, she had implicated herself with bringing underage girls to Epstein's house. Robson was aware of what she had stated and wished to assist further in hopes to receive a lesser charge. Robson provided cellular telephone numbers for the girls she had mentioned previously. Additionally, she also provided possible addresses and areas in which they lived. As Robson was being taken home in the vehicle, a tape recorder was placed within the vehicle to record any conversations within the vehicle. During the drive back to her home, Robson made the comment I m like a Heidi Fliess. (Hollywood Madam who sent girls to clients for sexual favors in California). Robson was dropped off at her house without incident.

Sgt Frick and I went to [redacted] in [redacted], Florida in an attempt to speak with [redacted]. We met with Mrs. [redacted] Mother) at the front door. We explained the ongoing investigation and felt that [redacted] may have additional information as we had information that she had worked for Jeff. Mrs. [redacted] introduced us to her husband and allowed us entry into the home. We sat in the dinning room and met with [redacted] Date of Birth [redacted] As she was under the age of eighteen, Mrs. [redacted] was advised we would be speaking with her. She expressed, if her daughter had information she wanted to assist. As we interviewed [redacted] she denied having any inappropriate encounters with Jeff (Epstein). She stated she had gone to Jeff s

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House with Haley Robson approximately eight months ago and sat in the kitchen with the house chef but nothing happened. As the parents were present during the interview, we felt that [redacted] was withholding information from us. She made several comments as to she has put the entire incident behind her. I left my direct telephone number and advised should she wish to speak with me again to telephone me. Sgt Frick and I thanked Mrs. [redacted] for her time and left the area. She stated she would ask her again after we left as to what happened at Epstein s house. I informed her that [redacted] had my telephone number and hopefully she would call.

Sgt Frick and I then attempted contact with [redacted] at [redacted] in [redacted]. We met with [redacted] who stated [redacted] was her daughter, [redacted] was at the Wellington Mall and was not home. We explained the ongoing investigation and felt the [redacted] may have additional information as we had information that she had worked for Jeff. We left our phone numbers and asked her to telephone me upon her daughter's return. We then left the area.

On October 4, 2005, at approximately, 8:05 am, Sgt Frick had retrieved a voice mail message from [redacted]. She stated she had spoken with her daughter and she had information as to what occurred at Jeff s house. I contacted [redacted] who stated her daughter was in the shower at the moment and would be traveling back to Orlando to attend College. I informed her I would be en route to her home in [redacted]. Det. Dawson and I drove to the [redacted] home and met with [redacted] and [redacted]. During a sworn taped statement, [redacted] stated she was taken to the house by Haley Robson. She was told she could make money working for Jeff. She was told she would have to provide a massage to Jeff. [redacted] stated upon her arrival to the house she was brought to the kitchen area by Robson.

They met with the house chef and Haley stayed in the kitchen. She was introduced to Sara, Jeff's assistant and was brought upstairs to the mater bedroom. Sara prepared the room and massage table for a massage. Epstein entered the room and she provided a massage. [redacted] stated she kept her clothes on during the massage. She stated sometime during the massage Epstein grabbed her buttocks and pulled her close to him. [redacted] said she was wierded out by the incident involving Jeff. At the conclusion of the massage, she was paid $200.00 for the massage. I asked [redacted] if she has any formal training in massages to which she replied no. I asked her if Robson received any monies for taking her to perform the massage. [redacted] stated Robson also received money for taking her there. [redacted] stated she went with Robson and another girl, [redacted] to Jeff's house once. [redacted] stated she waited in the kitchen with Robson, while [redacted] was taken upstairs by Sara. [redacted] stated she only did the massage once, as she was wierded out by the whole experience. At the conclusion of the interview and the tape was stopped, I was informed that Sara had attempted to reach [redacted] via cell phone. A voice mail message on October 4, 2005 at 10:59 am, revealed a female voice who identified herself as Sara who requested her to call her back reference the

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police questioning. This voice mail message was recorded onto a micro cassette. [redacted] provided the incoming telephone number as 917-855-3363. [redacted] stated she inadvertently told [redacted] about the police investigation because [redacted] had called her to tell her about how she just received a rental car from Jeff Epstein. [redacted] had called her to tell her that she was given a rental car, a 2005 Silver Nissan Sentra, to utilize to visit family and visit Jeff. [redacted] asked her what was going on at the house that the police would be asking questions. [redacted] stated [redacted] then called Jeff and Sara and asked what was going on reference the ongoing police investigation. According to [redacted], Sara has since then been trying to contact her to ask about the police questions. I instructed [redacted] not to contact Sara and do not provide any more information to [redacted] as she would notify Jeff Epstein and Sara what was transpiring.

Investigation Continues...

********** N A R R A T I V E # 8 **********

A Reported By: LEE, LA'MONT 10/07/05
Entered By.: ALTOMARO, NICKIE A. 10/07/05

On March 30, 2005, I was asked by Sgt. Daniel Szarszewski to begin conducting surveillance and trash pulls reference Detective Pagan conducting a criminal investigation involving Jeffrey Epstein. I was advised that Epstein was possibly engaging in sexual contact with young females.

On March 30, 2005, I made contact with Town of Palm Beach Sanitation Office Supervisor Tony Higgins and requested trash pulls for 358 El Brillo Way to begin on March 31, 2005.

On March 31, 2005 at 9:20 a.m., I responded to the area of 358 El Brillo Way and met with Town of Palm Beach sanitation employee, Jeffrey Williams. I observed Williams enter the driveway of 358 El Brillo Way, collect the trash bags from Epstein's property and place the contents into an empty sanitation truck. I followed Williams to a nearby area, were he turned over seventeen white plastic trash bags, which were collected from Epstein's property.

I took the trash bags to the sanitation department were I sifted through its contents. I collected mail correspondence from Armani Exchange addressed to Nada [redacted], Jeffrey E. Epstein notepaper with [redacted] an important message notepaper addressed to J.E dated 03/29/05 at 8:15 p.m. reference Peggy Seagal, U.S Airways boarding pass copy for passenger, Janusz Banasiak, Montgomery County, Maryland Health Department food service ID NO#40820 for Janusz Banasiak and Ghislaine Maxwell notepaper with names and phone numbers. Photocopies of the trash collected were attached with the supplement. Detective Pagan was advised of the contents that were collected for evidentiary value.

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On March 31, 2005, Sgt. Daniel Szarszewski requested that I set up a surveillance vehicle on El Brillo Way and conduct video surveillance of the front exterior of Epstein's residence. At 3:00 p.m., I set up a surveillance vehicle equipped with a video monitoring device. The surveillance vehicle was parked on El Brillo Way approximately fifty feet east of Epstein's driveway. The purpose of the video surveillance was to gather investigative intelligence by monitoring and recording all vehicle and pedestrian traffic entering and leaving Epstein's property.

The video surveillance tapes were changed daily with a new Maxell T-160 VHS tape. Video surveillance was established for Epstein s from March 31, 2005 through April 05, 2005. On April 05, 2005, video surveillance was concluded. I reviewed the video tapes and advised Detective Pagan the surveillance videos yielded no evidentiary value.

On April 01, 2005 at 9:30 a.m., I responded to the area of 358 El Brillo Way to meet with Town of Palm Beach sanitation employee, Jessie Jones. While parked in the area of 358 El Brillo Way waiting to collect Epstein s trash, I observed a white female, who I recognized as Nada [redacted] from her Florida driver's license photograph. I made no contact with [redacted]. While parked in the area, I also observed Epstein s GMC Yukon truck leave the property as well as other vehicles arrive and park across the street from the property. The occupants of these vehicles appeared to be housekeepers, maintenance men, and gardeners.

At 9:38 a.m., I met with Town of Palm Beach sanitation employee, Jessie Jones. I observed Jones enter the driveway of 358 El Brillo Way and collect the trash from Epstein s property. I followed Jessie to a predetermined area at which time I collected the trash bags from the sanitation truck. I transported the trash bags to the sanitation department, where I sifted through its contents. I collected mail correspondences addressed to Jeffrey Epstein, automotive records and personal documents for Janusz Banasiak and Beata Banasiak as well as Jeffrey Epstein notepaper with the names and appointment times for [redacted] and [redacted] No last names or other personal information was written on the notepaper.

While sifting through Epstein s trash, I also collected a three-inch purple finger size object, which had a broken end. The object appeared to be a broke piece from a sexual toy similar to a (Cyclone Vibrator) possibly used for rectal gratification. The sexual object was photographed for Detective Pagan, packaged in a biohazard evidence bag (possible body fluids) and secured as investigative evidence. All items collected from Epstein s trash were turned over to Detective Pagan for evidentiary purposes.

On April 05, 2005 at 9:18 a.m., I met with Town of Palm Beach sanitation employee, Jessie Jones. I observed Jones enter the driveway of 358 El Brillo Way and collect the trash from Epstein s property. I followed Jessie to a predetermined area at which time I

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collected the trash bags from the sanitation truck. I transported the trash bags to the sanitation department, where I sifted through its contents. I collected mail correspondences addressed to Jeffrey Epstein as well as notepaper (Important Message) with names and telephone numbers. The following are items collected from Epstein s trash.

Joanne G. (714-0546)
blank piece of white paper ([redacted])
black paper (655-7626)
black paper (917-783-4113)
David (772-546-6952)
MSN Hotmail web page with email address (adrianamucinska@hotmail.com)

The following items were documented for Detective Pagan s investigation for evidentiary purposes.

On April 06, 08, 11, 12, 13, 15, 2005, at approximately 9:30 a.m, I met with Town of Palm Beach sanitation employees. I observed the employee enter the driveway of 358 El Brillo Way and collect the trash from Epstein's property. I followed the employee to a predetermined area at which time I collected the trash bags from the sanitation truck. I transported the trash bags to the sanitation department, where I sifted through its contents.

All of the documents collected from Epstein's trash during my assistance were turned over to Detective Pagan for evidentiary purposes.

On June 14, 2005, Detective Michelle Pagan contacted me and advised that the airplane belonging to Jeffrey Epstein of 358 El Brillo Way was parked at the Palm Beach International Airport.

Detective Pagan requested that I begin trash pulls for the purpose of gathering evidence and intelligence.

I made contact with Town of Palm Beach Sanitation Office Supervisor Tony Higgins and requested trash pulls for 358 El Brillo Way to begin on June 15, 2005.

On June 15, 2005, I met with a sanitation employee. I observed the employee enter the driveway of 358 El Brillo Way and collect the trash from Epstein s property. I followed the employee to a predetermined area at which time I collected the trash bags from the sanitation truck. I transported the trash bags to the sanitation department, where I sifted through its contents. The trash yielded negative results and no evidence was collected.

No further trash was collected throughout the week due to the fact that Epstein s security gates remained closed throughout the week; therefore, the sanitation employees were unable to gain access onto the property for collection of the trash.

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All evidence and intelligence gathered by this officer has been turned over to the detective bureau and no further action has been taken by this officer.

End of supplement.

********** N A R R A T I V E # 9 **********
A Reported By: RECAREY, JOSEPH 10/07/05
Entered By.: ALTOMARO, NICKIE A. 10/10/05

On October 4, 2005, I made telephone contact with [redacted] who had left several messages on voice mail. During the message, she advised she was not completely truthful when we met in person but would like to speak with me to advise what had happened. She further advised she did not want to speak of this incident in front of her mother. At approximately 15:48 pm, I made telephone contact with [redacted] at [redacted] During a taped recorded statement, [redacted] stated the following: Approximately a year ago, when she was sixteen years of age, Robson took her to Jeff's house twice. The first time she went, Haley Robson drove to the house. They entered through the kitchen area where she was introduced to Sara and Jeff. She was taken upstairs to a bedroom by Sara who set the room up with a massage bed and brought out the oils to use. Jeff then entered the room wearing a towel. He lay on the table and picked out a lotion for [redacted] to rub on him. At one point during the massage, he tried to remove her shirt at which point she became very upset and discontinued the massage. Both [redacted] and Jeffrey had a verbal disagreement at which time she left without being paid. She met with Haley Robson who was sitting in the kitchen and told her let's go. [redacted] advised she received no money for that day. [redacted] also said that Haley Robson had told her if she was uncomfortable with what was going on, to let him know and he'll stop. She knew that the more you do the more you are paid.

Several weeks later, [redacted] advised she agreed to be taken a second time by Haley Robson. Once they arrived at the residence, Haley sat in the kitchen and Sara took her upstairs to the master bedroom again. Sara set the room up with a massage bed and brought out the oils to use. Jeff then entered the room wearing a towel. He lay on the table and picked out a lotion for [redacted] to rub on him. At one point during the massage, he tried to touch her buttocks. As [redacted] was wearing tight jeans and had a tight belt on Jeff was unable to touch her buttocks. Jeff then rolled onto his back during the massage; he attempted to touch her breasts. [redacted] then became upset again and told him she didn't want to be touched. [redacted] discontinued the massage and was paid $200.00. [redacted] then went downstairs where Haley Robson was waiting for her. She told Robson she wanted to leave. [redacted] said she never returned to the house. [redacted] stated she is aware that her friend, [redacted] was also at the house and had a problem with Jeff. She provided a telephone number

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for [redacted] The interview was concluded and the micro cassettes were turn in as evidence.

On October 5, 2005, I researched the incoming telephone number that had left [redacted] a message. The telephone number, [redacted] was assigned to ATT/Cingular Cellular service. I prepared a subpoena request and faxed the request to the State Attorney s Office. Information requested was subscriber information as well as all incoming and outgoing calls for the months of September and October 2005.

I later researched [redacted] and discovered she resides in [redacted] Det. Dawson and I drove to [redacted] and met with [redacted] at her residence [redacted] in [redacted]

[redacted] agreed to speak with us in the kitchen area. During a sworn taped statement, [redacted] stated the following: On or about November 2004, she was approached by Haley Robson and asked if she wanted to make money. She agreed and was told she would provide a massage to wealthy man in Palm Beach. Robson picked her up and drove her to a house in Palm Beach. She was brought into the kitchen area of the house. She further stated that [redacted] and [redacted] went with them. They were brought into the kitchen where she was introduced to Jeff and other females. [redacted] stated she was introduced to a helper of Jeff; the female was described as white female (unknown name), with blond hair. She stated that the assistant was familiar with Robson. The assistant set up the massage table and put out lotions to be used. She told [redacted] Jeff would available in a minute. Jeff entered the room wearing only a towel. Jeff lay on the massage table and picked a lotion to rub on his thighs and back. [redacted] further stated that during the massage Jeff asked her to remove her clothes. She complied and removed her pants and blouse. [redacted] didn't remember if she had removed her bra but feels that she did. [redacted] was certain that she stayed in her thong underwear. [redacted] continued the massage and at one point she straddled him to massage his back, which touched his buttocks with hers. [redacted] was instructed to return to the ground at which time Jeff turned to have his chest rubbed. [redacted] advised it was at this time she is sure he was masturbating. [redacted] did not want to look at his penis area because she was uncomfortable. Jeff removed a large white vibrator and turned it on. [redacted] stated he began rubbing the vibrator over her thong underwear on her vaginal area. Shortly thereafter, Jeff ejaculated and removed himself from the table. He walked over to where the shower was and opened the glass door. She waited as he was taking a shower in her direct view. When I asked [redacted] how old she was when this occurred, she stated she had just turned seventeen. At the conclusion of the shower, [redacted] was paid either $350.00 or $400.00. She stated she wasn't sure, but knows it was close to $400.00. At the conclusion of the interview, [redacted] stated she never returned to provide a massage for Jeff. She advised she was ashamed and uncomfortable with the situation.

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Det. Dawson and I then left the area and responded to the [redacted] where Robson and all the above-mentioned girls had attended. I met with School Police Officer, Off Williams. I explained I was looking for a previous student who attended [redacted] I inquired about [redacted] I further explained that I was working a case in which most of the girls I have interviewed are either witnesses or victims and felt that [redacted] may be one as well. Officer Williams researched his previous student records and found [redacted] She attended the same year and graduated in the same year as the other girls. I was provided the last known address of [redacted]

At approximately 2:10 pm, Det. Dawson and I met with [redacted] at her residence, [redacted] in [redacted] As [redacted] was only seventeen years of age, I had notified her mother, Mrs. [redacted] that she would be interviewed reference an ongoing investigation in Palm Beach. I assured her that her daughter was not a suspect. I explained the possibility of her being either a witness or victim. Mrs. [redacted] advised she wanted [redacted] to cooperate and consented to the interview. During a sworn taped statement, [redacted] stated the following: at the age of sixteen, during the month of September 2004, she was approached by Haley Robson for a chance to make money. [redacted] was friends with the friends of Robson and knew the same people. [redacted] had been previously told by her friends what Robson did for Jeff. Robson called a person known to [redacted] as Sara and scheduled the appointment. Robson picked [redacted] up and drove her to Palm Beach to a street called Brillo Way. They drove to the end of the street and entered a large driveway. They entered the kitchen area of the house and met with Jeff. [redacted] was introduced to Jeff. Robson led [redacted] upstairs to the main bedroom area and set up the room with a massage table and set out the oils. Robson dimmed the lights and turned on soft music. Robson exited the room and Jeff entered the room wearing only a towel. Jeff picked oils and instructed her to rub his legs, under his buttocks, back and chest area. Jeff asked her to get comfortable. [redacted] advised she did not remove her clothes. She was wearing tight jeans and a cropped tank top exposing her belly area. During the massage, Jeff removed his towel. As [redacted] rubbed his chest area, Jeff attempted to reach down her pants through the buttocks area, however was unable to due to the tightness of the jeans and a tight belt. [redacted] advised Jeff began to masturbate as she rubbed his chest. Jeff moaned as she rubbed his chest. She observed he was continuing to masturbate and attempted to reach up her tank top and touch her breasts. [redacted] pulled back and Jeff stopped. However, he kept masturbating until he climaxed. He cleaned himself with the towel he was previously wearing. I asked [redacted] if she knew the difference between circumcised and not circumcised. She explained she knew and advised Jeff was circumcised. [redacted] was paid $200.00 for the massage and left the area. She met with Robson who was waiting in the kitchen area and left the house.

[redacted] then explained she never provided another massage for Jeff. She did however, go to the house with Robson and [redacted] as they

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took another friend of Robson's, [redacted] advised she was present when [redacted] went to work for Jeff. She advised she rode over and sat in the kitchen area with Robson to wait for [redacted] advised that while they waited for [redacted] the house chef prepared lunch for them, as it was almost lunchtime. As [redacted] was finished with the massage, they left the area. I asked [redacted] if Robson ever told what would be expected of her when she provided a massage. [redacted] stated yes, Robson told her that a massage would be expected possibly naked and possibly some touching involved. [redacted] has no formal training in providing massages.

[redacted] spoke about a third and last time she went to Jeff's house. Robson drove another girl, [redacted] who is [redacted] friend, to Jeff's house. [redacted] stated she knew that Robson had made money providing girls for Jeff and she wanted to do the same. Robson took them in the kitchen area of the house and introduced [redacted] to Sara. Robson and Sara took [redacted] upstairs to the main bedroom. [redacted] advised she doesn t know what happened as [redacted] did not speak about what happened in the room. [redacted] received $100.00 from Robson for going with her to Jeff s house and recommending [redacted] was unable to remember [redacted] telephone number. The interview was concluded and we left the area.

Investigation Continues...

********** N A R R A T I V E # 10 **********
Reported By: RECAREY, JOSEPH 10/09/05
Entered By.: ALTOMARO, NICKIE A. 10/10/05

On October 6, 2005, Det. Dawson and I went to [redacted] located in [redacted] We met with Dean of Students, [redacted] I explained to Mr. [redacted] that we were investigating a crime within the Town of Palm Beach and felt that a student, [redacted] may have information. [redacted] confirmed that [redacted] is a student and currently on the soccer team for [redacted] She was in computer class at the time of our arrival. [redacted] sent a security guard to locate [redacted] in class and bring her to the office. Mr. [redacted] allowed us to interview [redacted] in an empty conference room.

At 11:45 am I met with [redacted] and explained to her why we there to interview her. She advised she was aware of the ongoing investigation. [redacted] stated she had previously spoken with [redacted] who told her she was interviewed by detectives. During a sworn taped statement, [redacted] stated she knew that Haley Robson worked for Jeff in Palm Beach. [redacted] advised she has been there many times for massages. I asked her if she had formal training in providing massages, [redacted] stated she did not. [redacted] advised she was told what was expected of her by providing massages and would have to remove clothing but if she felt uncomfortable just to say so and Jeff would stop pushing the issue. [redacted] began providing massages and advised she kept her clothes on. She considered Jeff a pervert who kept

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pushing to go further and further. [redacted] explained she would keep telling him she had a boyfriend and that it would not be right to her boyfriend. It wasn t until recently [redacted] admitted to removing her clothes and staying in her thong underwear to provide a massage. [redacted] explained Jeff wanted to be rubbed on his back and recently he began turning over to have her rub his chest as he masturbated. He would try to touch her breasts as she rubbed his chest. [redacted] stated, Jeff would try to get away with more and more on each massage. Originally, Robson drove her to the house for the original massage. [redacted] left Sara her cell phone number and every time Jeff would come into town, Sara would call her for an appointment. Each time she went, Sara would meet her at the kitchen door area. She would bring her upstairs and prepare the massage table. [redacted] advised Jeff would ask her questions about herself. He knew she was a soccer player and would be attending [redacted] I asked [redacted] if he knew her real age, [redacted] stated Jeff didn t care. The most recent massage she provided was on October 1, 2005. During the massage she asked Jeff if she could borrow one of his vehicles to visit her family and boyfriend in Orlando. Jeff had told she could borrow one of his vehicles but later stated he would rent her a car. She continued with the massage as Jeff grabbed her buttocks and caressed the buttocks cheeks. I asked [redacted] if she was wearing undergarments to which she replied her thong underwear. Once he tried to touch her breasts she would pull away from him and he would stop. [redacted] was asked if he ever used a vibrator on her. [redacted] was aware of the vibrator but advised she never would allow him to use the vibrator on her. She described the vibrator as a large white vibrator with a huge head on the tip of the vibrator. She stated he kept the vibrator in a closet near the massage table. [redacted] advised she had been doing the massage for approximately two years, which meant she would have started doing massages for Jeff at the age of sixteen.

[redacted] stated she was contacted by Sara on October 3, 2005. Sara had informed her that Jeff had rented her a new Nissan Sentra and she should come by the house to pick it up. Sara informed [redacted] she would have the car for a month. [redacted] stated Jeff knew her car was not working properly and had missed appointments in the past because of her car being inoperable. [redacted] explained the car is currently parked next to the Gym field. I asked her if she ever took any one to the house. [redacted] explained she took [redacted], a friend of hers who has returned to Orlando to attend college. I asked she ever allowed another female in the room. [redacted] advised no one was brought into the room with her. At the conclusion of the interview, Det. Dawson and I went to the Gym area and located the Silver Nissan Sentra bearing Florida tag X98-APM. The vehicle is registered to Dollar rent a car out of the Palm Beach International Airport.

Telephone contact was made with [redacted], the victim's mother, at [redacted]. I explained to her that I was following up on this case and provided a complete update on the case.

Investigation Continues.

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********** N A R R A T I V E # 11 **********
IA Reported By: RECAREY, JOSEPH 10/21/05
Entered By.: ALTOMARO, NICKIE A. 10/21/05

On October 10, 2005, at approximately 2:30 p.m., I made telephone contact with [redacted] During a taped conversation, [redacted] was told of an ongoing investigation in which I felt she had information pertaining to Jeffrey Epstein. [redacted] explained she met Epstein when she was just sixteen years of age. She was approached by [redacted] a friend who also had previously gone to Epstein's house for massages. [redacted] advised she was working at the Wellington Mall when she was approached. [redacted] told her that she would have to provide a massage to Epstein and she would have to perform this massage naked. [redacted] thought about the offer and stated she could make $200.00 for only 30 minutes of work. She agreed to perform the massage and [redacted] set the appointment for her that same day. [redacted] remembered it was a weekend as she only worked at the mall on the weekends. [redacted] took her to the house where she was introduced to Sara, Jeff Epstein's assistant. Sara took her upstairs to a master bedroom. [redacted] explained that as she was walking up the stairs she observed several photographs of naked women along the walls and tables of the house. [redacted] further explained that she was brought into the bedroom where Sara prepared the room by setting up the massage table and provided the oils for her to rub on Epstein.

Epstein entered the room and introduced himself. Epstein lay on the table and told her to get comfortable. [redacted] could not remember if he was naked or if he entered the room with a towel. [redacted] stated she provided the massage wearing only her panties. She continued rubbing his legs, thighs and feet. [redacted] advised he turned over onto his back. She continued to rub his legs with the oils. Epstein touched her breasts and began to masturbate. I asked [redacted] if she knew what circumcised and un-circumcised meant. [redacted] stated circumcised is when the penis has no foreskin and the head of the penis is visible. [redacted] said Epstein is circumcised. [redacted] began to cry on the telephone and stated she had been to his house hundreds of times over a two-year period. She claimed to have made thousands of dollars during her visits. [redacted] stated she could not remember how many times exactly she went to Epstein's home but said it was a lot.

[redacted] became more upset, crying hysterically and stated she was paid and instructed to have sex with Epstein's assistant, Nada [redacted] by Epstein. Epstein continued to watch them have sex and masturbated himself as they had sex with each other. She further stated that things escalated further and further. Epstein used sexual toys such as vibrators, rubber penises and strap-on penises on [redacted] Additionally, [redacted] stated he performed oral sex on her numerous times. She claimed he (Epstein) put his fingers inside her vagina while he masturbated in an attempt to make her climax. [redacted] could not continue and wanted some time to regain her composure. I explained to [redacted] to take her time. After taking several minutes to regain her composure I

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explained that I would travel to meet with her in person as I felt she had additional information to provide. I met with Sgt. Frick and explained the importance to meet with [redacted] in person. Sgt. Frick agreed and made arraignments for Det. Dawson and I to meet with [redacted] in [redacted]

On October 11, 2005, at 4:10 p.m., Det. Dawson and I met with [redacted] and her friend, [redacted] at [redacted] in [redacted] wanted to have [redacted] present for support. I explained to her that I did not have a problem as long as she wanted [redacted] present during the interview. [redacted] stated she wanted her present. I explained that as [redacted] was present she was not allowed to comment or ask any questions during the interview. She was only there to comfort [redacted] should the interview upset her.

During a sworn taped statement, [redacted] explained how everything began. She said she was brought through the kitchen area where she met Sara for the first time. She was led to the master bedroom, Epstein s room. [redacted] explained that as she was walking up the stairs she observed several photographs of naked women along the walls and tables of the house. [redacted] further explained that she was brought into the bedroom, where Sara prepared the room by setting up the massage table and provided the oils for her to rub on Epstein. [redacted] explained she remembered the steam room area, which contained two large showers. Epstein entered the room from the steam room area and introduced himself. Epstein lay on the table and told her to get comfortable. [redacted] removed her skirt and kept her shirt on. She could not remember if he was naked or if he entered the room with a towel. Epstein then instructed her to remove her shirt. [redacted] removed her shirt and remembered she was not wearing a bra. [redacted] stated she provided the massage wearing only her panties. She continued rubbing his legs, thighs and feet. [redacted] advised he turned over onto his back. She continued to rub his legs with the oils. Epstein touched her breasts and began to masturbate. Epstein ejaculated which meant the massage was over. At the conclusion of the massage, [redacted] was paid $200.00. They walked together downstairs where Sara and [redacted] were waiting. [redacted] stated [redacted] received an unknown amount of money for taking her to Epstein. Epstein instructed to leave her cellular telephone number so that he could contact her when he is in town.

[redacted] explained that she continued to go to Epstein s house and became a regular at the house. She could not provide an exact number but claimed she had been their hundreds of times. She claimed sexual activities did not occur every time she was there. There were times she went to dinners and parties with Epstein. [redacted] explained that things began to escalate more than the massage. The encounters included bringing in his assistant, Nada [redacted]. [redacted] explained Epstein had purchased her from her family in Yugoslavia. Epstein bragged he brought her into the United States to be his Yugoslavian sex slave. [redacted] advised he was naked in the bedroom, she entered and removed her clothing. [redacted] entered the room from the steam room area already naked. He instructed [redacted] to perform oral sex on

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[redacted] refused to perform that act. Epstein offered her an additional $200.00 for her to perform oral sex on Marcinkova for five minutes. [redacted] agreed to perform the oral sex for the additional $200.00. [redacted] explained that Epstein would masturbate while he watched them perform sexual acts.

Things continued to escalate by purchasing sex toys. [redacted] stated she had massagers, vibrators and strap on rubber penises used on her. Each time something new was introduced additional monies were produced and offered for [redacted] to allow the acts to happen. [redacted] was adamant that she performs all these acts but there was an understanding with Epstein that no vaginal penetration would occur with his penis. [redacted] explained that Epstein's penis was deformed. [redacted] explained that his penis was oval shaped. She claimed when Epstein's penis was erect, it was thick toward the bottom but was thin and small toward the head portion. She called it egg-shaped.

[redacted] continued that the sexual encounters with [redacted], Epstein and her became a ritual. [redacted] would arrive at the house and walk herself upstairs, where Marcinkova and Epstein were waiting. [redacted] would remove her clothing and join them on the bed. [redacted] explained [redacted] and she would begin by kissing and touching each other. [redacted] explained sex toys were brought into the bed by either Epstein or Marcinkova and they would begin using the toys on each other. Epstein would perform oral sex on either person depending who was on top during the intercourse. [redacted] explanation revealed they were in a missionary position.

[redacted] advised one day, [redacted] was unable to state and exact date when this incident occurred), she came to the house after Sara had informed her that Epstein had arrived. She arrived at the house and went upstairs to the master bedroom. [redacted] advised she immediately removed her clothing, as Nada [redacted] and Epstein were already naked in the bedroom. [redacted] explained that Nada [redacted] and she had a sexual encounter to include kissing, touching and oral sex. [redacted] remembered that she climaxed and was removing her self from the massage table. [redacted] asked for a sheet of paper and drew the massage table in the master bathroom and where Epstein, [redacted] and she were. Epstein turned [redacted] on to her stomach on the massage bed and inserted his penis into her vagina. [redacted] stated Epstein began to pump his penis in her vagina. [redacted] became upset over this. She said her head was being held against the bed forcibly, as he continued to pump inside her. She screamed no, and Epstein stopped. She told him that she did not want to have his penis inside of her. Epstein apologized for his actions and subsequently paid her a thousand dollars for that visit. Additionally, shortly thereafter, Epstein gave [redacted] a 2005 Doge Neon, blue in color for her personal use.

[redacted] advised there were times that she was so sore when she left Epstein's house. [redacted] advised she was ripped, torn, in her vagina area. [redacted] advised she had difficulty walking to the car after leaving the house because she was so sore. [redacted] advised that other

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than that one time, when Epstein inserted his penis inside her vagina, there was no other penile intercourse.

[redacted] provided names of girls that she knew of that have gone to Epstein's house. [redacted] provided the name of [redacted] and feels she still may be going to the house to massage Epstein. According to [redacted], [redacted] is still sucking his dick."

When asked if she had been recently contacted by anyone of the house, [redacted] advised she received an email from Sara, from KellenS@earthlink.net, which is her email account. The email was just a hello, how are you doing type of email. There had been no other contact from the house. The interview was concluded and [redacted] left the area. The tapes and drawing were submitted into evidence.

Investigation continues...

********** N A R R A T I [redacted] E # 12 **********
A

Reported By: RECAREY, JOSEPH 11/01/05
Entered By.: ALTOMARO, NICKIE A. 11/07/05

On October 12, 2005, Det. Dawson and I traveled to the Orlando area and made telephone contact with [redacted]. [redacted] agreed to meet with us as we were in the Orlando area. [redacted] provided directions to her apartment. Det. Dawson and I met with [redacted] who stated, during a sworn taped statement that nothing happened between her and Epstein. [redacted] appeared nervous during the interview. I assured her that I had spoken with other people who advised differently. [redacted] stated she only went a couple of times and provided a massage to Epstein. She stated she was brought to the Epstein house in March of 2005. [redacted] brought her to work. [redacted] has no formal training in providing massages. [redacted] stated she provided a massage, fully clothed for $200.00. As I sensed hesitancy in her answers, I asked [redacted] if she had been contacted by anyone from the house. [redacted] stated she was interviewed already by an investigator for Epstein. He met with her on October 8, 2005, at a Roadhouse in Orlando. He identified himself as Paul and inquired about the police investigation and left his telephone number 305-710-5165 for additional contact. [redacted] provided no additional information, as it appeared her responses were almost scripted. We left the area and returned to Palm Beach Police Department.

Based on the information acquired during the interviews, a search warrant was prepared for entry at the Epstein home. On October 18, 2005, I met with Judge Laura Johnson who reviewed the warrant request. She found there was sufficient probable cause and signed the warrant request. On October 20, 2005, at approximately 9:36 am, members of the Palm Beach Police Investigations Unit executed the search warrant at 358 El Brillo in Palm Beach. Members of the Investigations Unit included Capt Gudger, Sgt Frick, Det. Dicks, Det. Dawson, Det. Melnichok, Det. Sandman, Det. Krauel, the crime scene unit and myself.

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As we entered onto the property, we encountered the house manager, Janusz Banasiak who was in the guest portion of the house. The guesthouse section had open doors and no forced entry was made. I made contact with Banasiak, Date of Birth 04-07-1953, Fl DL B522-420-53-127-0, and informed him of the search warrant for the premises. The members of the Police Department entered the residence and announced we had a search warrant. A safety search was done and members exited the home. I read the search warrant to Banasiak as Mgr Parkinson videotaped the search warrant execution. Several interior decorators were located on the property. I spoke with Mark Zeff, of 515 W 20th Street in New York. Mr. Zeff stated he is the designer for Mr. Epstein's homes. He advised he was contacted in March of 2005 to do a complete overhaul on the house. He advised he was on the phone with Mr. Epstein when officers announced the search warrant. Mr. Epstein was then made aware of the search warrant. Mr. Zeff advised, his contact with Epstein is strictly business and he has never witnessed Epstein with any girls except for his assistants, Sara or Nada.

I then interviewed Daniel Estes, of 315 East 14th Street in New York. Mr. Estes stated he has worked for Zeff for seven years. He advised he personally worked on the New York and Palm Beach home for Mr. Epstein. He has previously met with Sara and Adrianna, Epstein's assistants in New York and in Florida. Estes stated they travel with Epstein everywhere he goes.

I interviewed Zara Bailey of 35 Riverside Jersey City, New Jersey. Bailey stated she just arrived from Scotland and has worked with Zeff for only one month. She stated she has never met Epstein and has not seen him. The interview was then concluded.

I then spoke with Douglas Schoettle of 243 Riverside Dr in New York City. Schoettle stated he has been Epstein's Architect for seven years. He further stated he deals with Epstein's assistants and speaks with Epstein on the phone. Schoettle stated he mainly speaks with Sara [redacted], Epstein s main assistant, who travels with Epstein. Schoettle stated he only has contact with Epstein when his services are needed.

At approximately 10:30 am, I was informed that the videotaping was concluded. I entered the residence and located two covert (hidden) cameras. The first camera was a covert wall clock in the garage area. I traced the wire behind the clock and removed the RCA wire and unplugged the camera. The other covert camera was located within a desk clock beside Epstein's desk. I traced the wire behind the clock and unplugged the RCA wire. I could not locate another camera. I then began with the search of the residence for the specified evidence.

My search consisted of the second floor. Det. Krauel and I began in the master bedroom area where several items were located. They were

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marked to be retrieved by the evidence custodian. In the master desk with Epstein's notepads marked Jeffrey Epstein we located a high school transcript from [redacted] for [redacted]. Also in the room, was the dresser /armoire where we located a bottle of peach flavored Joy Jelly (Sexual Lubricant). Additionally, there were several photographs of young naked teenage girls within the closet, which was consistent with what the witnesses said. The massage table was also located within the master bedroom. Video tapes were located beside the television, which were also collected. An itemized list of the property and locations was prepared on the property receipts. At approximately 2:55 pm, the house was secured; the exit of the residence was videotaped. Upon our exit of the property, I encountered Atty. Guy Fronstein who advised he was representing Mr. Epstein. He provided a business card and provided his assistance with the investigation.

Due to Hurricane Wilma, which struck South Florida causing massive power outages, the courthouse was closed due to the lack of power. I was previously told that the Chief Judge had extended the filing deadlines due to the hurricane and the Courthouse being closed. On October 27, and 28, 2005 the courthouse was closed and I could not file the search warrant and inventory at the clerk's office. On October 31, 2005, I responded to the courthouse and filed the paperwork along with an order to seal, signed by Judge Johnson, to deny any release of any paperwork on this case.

INV CONTINUES..

********** N A R R A T I V E # 13 **********
Reported By: PARKINSON, GREGORY A. 10/20/05
Entered By.: ALTOMARO, NICKIE A. 11/07/05

On October 20, 2005, at approximately 8:30 a.m., Thursday morning, I was advised by Captain Gudger that a search warrant would be executed and that I was to assemble the Crime Scene Investigative Team and stand by the south side of the building ready to go. I designated Evidence Specialist Annette Badger to handle the inventory return, the documentation of the property receipts and the collection and bagging of the evidence at the scene. I further instructed CSI Kim Pavlik, ID # 8807, to accompany us and perform the role of photographing the scene and the items that may be taken into custody by the affiant, Detective Joseph Recarey, ID # 7915.

My responsibility was to go through from the reading of the warrant to the final exit from the residence and perform a video recording of the reading of the warrant, the initial walk through of the residence showing the current condition and then finally a walk through of the residence at the time of the police exit.

We started out towards the residence, which was located at 358 El Brillo and arrived at approximately 9:33 a.m. The search was conducted, items were collected by Evidence Specialists Badger,

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photographed by CSI Pavlik and then videotaped by myself. The search was concluded at approximately 3:05 p.m. whereupon Detective Recarey and I were the last two officers in the house. Upon securing the residence we met with the gentleman who identified himself to Detective Recarey as the lawyer for the defendant and he was informed that the residence was secured and that copies of the inventory return had been left on the first floor table of the personal assistant's office.

Detective Recarey and I returned to Police Headquarters and secured for the day.

********** N A R R A T I V E # 14 **********

a

Reported By: DAWSON, MICHAEL C. 11/07/05
Entered By.: ALTOMARO, NICKIE A. 11/07/05

On October 20, 2005, I assisted Defective Recarey in the execution of a search warrant at 358 El Brillo Way, Palm Beach, Florida, 33480.

Upon the announcement of the search warrant, immediate contact was made with three white males who came out of the house or surrounding structures. Those males were identified as Janusz Banasiak, Daniel Estes, and Mark Zeff. As other members of the police department cleared the home, I kept watch over these three males. Once the house was cleared, those males were turned over to Detective Recarey.

Detective Dicks and I were assigned to assist in the search of the main house, the cabana and the servant's quarters. We started in the garage. All areas of the garage were searched to include four vehicles. These vehicles were three black Mercedes Benz cars registered to Jeffrey Epstein. The fourth vehicle was a Harley Davidson motorcycle, green in color, registered to Jeffrey Epstein. Nothing was recovered from the garage.

A towel closet and pantry located off the kitchen were searched and yielded negative results.

The kitchen was searched and taken into evidence was a phone message book that was located near a house phone.

North of the kitchen was an office room which contained a computer. The room had a closet that contained a locked gun locker. The combination was entered by Banasiak in the presence of Sgt. Frick and the safe was opened. Items were taken from the room. See the completed property receipt for a detailed list.

A green bathroom located on the first floor was searched and nothing was taken.

A closet located just west of the green bathroom was searched. Two massage tables were located in the closet along with a photo of a nude

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female from the waist up. See the property receipt for details.

I searched two bedrooms and their adjoining bathrooms, which were located on the second floor on the East side of the house. In the Northeast bedroom closet I found adult sex toys called Twin Torpedoes. Soap made in the shape of a penis and vagina were also found in these upstair bedrooms. See the property receipt for details.

I searched the pool cabana located on the South side of the pool. Photos were taken from the wall. See the property receipt for details.

I assisted in the search of Banasiak's living quarters. Numerous CD s along with a message book was seized. See the property receipt for details.

********** N A R R A T I V E # 15 **********

A Reported By: RECAREY, JOSEPH 11/08/05
Entered By.: ALTOMARO, NICKIE A. 11/08/05

On November 1, 2005, I was contacted by Atty. Gus Fronstin, who advised he was willing to assist with the investigation. Atty. Fronstin advised he would try to have his client, Jeffrey Epstein available to be interviewed. I explained I would be interested in conducting an interview with his client as well as other employees that are employed within the house. Atty. Fronstin advised he would return my call once he received confirmation on the interviews.

On November 6, 2005, I attempted contact with [redacted] at her residence. I left a business card for her to return my call. Upon returning to the police department, I had received a telephone call from [redacted] I returned her call at [redacted] and spoke with [redacted] She made arrangements to respond to the station to provide an interview. At approximately 3:30 pm, she arrived at the Palm Beach Police Station with her boyfriend. Her boyfriend was allowed to sit in the lobby area while Ms. [redacted] was interviewed.

I took Ms [redacted] to the Detective Bureau Interview room. I closed the door for privacy and explained to her that I appreciated her coming to the police station for the interview. During the sworn taped statement, she advised she was at Jeffrey Epstein s house one time. Approximately two months ago, she was approached by a girl, [redacted] who was dating her roommate, to make some quick money. [redacted] advised she was in need to make some quick cash to make the rent that month. She agreed to go to the house. She had been told by [redacted] that the massage would have to be done in her underwear. She advised [redacted] drove with her and brought her into the house. They walked into the kitchen area and took the stairs upstairs. [redacted] further stated she was brought into a master bedroom area. She advised she recalled seeing portraits of naked women throughout the room. A massage table was already out near the sauna/shower area in the master bedroom. Epstein entered the room wearing only a towel and

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introduced himself as Jeff. [redacted] advised she recalled she and [redacted] removed their clothing down to their panties, Epstein lay on his stomach area and they provided a massage on his legs and feet area. I asked [redacted] if she had any formal massage training and she replied no. [redacted] advised she was topless and the panties she wore were the boy shorts lace panties. She and [redacted] continued the massage until the last ten minutes of the massage, Epstein, told [redacted] to leave the room so that [redacted] could finish the massage.

[redacted] got dressed and Epstein turned over onto his back. Epstein then removed the towel, which had been around his waist. Epstein laid there naked and requested that [redacted] rub his chest area. [redacted] stated as she did this, Epstein, began masturbating as she rubbed his chest. [redacted] stated he pulled down her boy short panties and he produced a large white vibrator with a large head. She stated it was within a drawer in his master bathroom. He rubbed the vibrator on her vagina area. [redacted] advised he never penetrated her vagina with the vibrator.

He continued to rub her vagina with the vibrator as he continued to masturbate. [redacted] stated she was very uncomfortable during the incident but knew it was almost over. Epstein climaxed and started to remove himself from the table. He wiped himself with the towel he had on previously and went into the shower area. [redacted] got dressed and met with [redacted] in the kitchen area. Epstein came into the kitchen and provided [redacted] $200.00 for bringing [redacted] and paid $200.00 to [redacted] for providing the massage. [redacted] was told to leave her telephone number with [redacted], his assistant for future contact. [redacted] provided her cellular telephone number for future contact. [redacted] was asked if she was recently contacted about this investigation by anyone from the Epstein organization. She replied she was called but it was for work. She stated she was called by [redacted] for her to return to work for Epstein. [redacted] stated work is the term used by [redacted] to provide the massage in underwear. [redacted] advised she declined, as she was not comfortable in providing that type of work. The interview was concluded and the videotape was placed into evidence.

Investigation Continues..

********** N A R R A T I V E # 16 **********
Reported By: RECAREY, JOSEPH 11/10/05
Entered By.: ALTOMARO, NICKIE A. 11/10/05

On November 7, 2005, I made telephone contact with [redacted] who advised she would be able to meet with me at her home. Det. Sandman and I traveled to her home in [redacted] and made contact with [redacted] During a sworn taped statement, [redacted] stated she met Jeffrey Epstein through Haley Robson. Robson would approach females who wished to work for him. [redacted] stated she was asked to work for him but declined. [redacted] explained that work means give massages. She was asked about any formal training in providing massages to which she said no. [redacted] said she accompanied Robson and other females

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who were taken to Epstein s house to provide massages. [redacted] further stated she had been to the house approximately 4 or 5 times in the past year. She accompanied Robson with [redacted] the 14-year-old victim, and [redacted]. Each time the girls were taken over, they were previously told they would have to provide a massage, possibly naked. It was also told that should Epstein require them to do anything extra and they were not comfortable just to tell him and he would stop. [redacted] stated Robson received $200.00 for each girl she brought over to massage Jeffrey Epstein. When I asked which girl appeared to be the youngest, she replied, the victim, as she stated she was fifteen years old at the most; she looked really young. [redacted] further stated each time she went to the house, she sat in the kitchen and waited with Robson until the massage was over. She further stated that the cook would make lunch or a snack for them as they waited. I asked her if there was anything that caught her attention within the home. [redacted] stated there were a lot of naked girls in photographs throughout the house. The interview was concluded and the tape was turned into evidence.

Investigation Continues..

********** N A R R A T I V E # 17 **********
Reported By: RECAREY, JOSEPH 11/10/05
Entered By.: ALTOMARO, NICKIE A. 11/10/05

Det. Dawson and I attempted contact with [redacted] in [redacted] I left my business card at her front door. Ms [redacted] returned my call and arranged a meeting with me at the Palm Beach Police Department for November 8, 2005. At approximately 2:00pm, [redacted] arrived at the Palm Beach Police Department. She was brought into the interview room and the door was closed for privacy. She was told that I appreciated her coming to the police station for questioning regarding an on going investigation. She was told that I was investigating a crime involving Jeffrey Epstein and knew, based on the investigation, that she had encounters with him in the past. During a sworn taped statement, [redacted] stated she had met Epstein approximately two years ago. She was first introduced to Epstein by Haley Robson. Robson approached her about working for Epstein and providing a massage to him for $200.00. The arrangements were made and as Robson could not take her the day the arrangements were made, [redacted] took [redacted] also attended [redacted] and was familiar with Epstein.

[redacted] recalled she was brought there and entered through the back kitchen door. She had met with an assistant [redacted] and another assistant Adrianna. [redacted] brought her upstairs as she observed several photographs of naked females throughout the house. [redacted] stated Epstein came in the room, wearing only a towel, and laid on the table. [redacted] stated he picked out the oils he wanted her to use and requested she remove her clothing to provide the massage. [redacted] stated that on the first massage she provided she did not remove her

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clothing. [redacted] stated she had returned several times after that. Each time she returned more things happened. [redacted] stated that the same thing would happen. Epstein would walk into the master bedroom/bathroom area wearing only a towel. He would masturbate as she provided a massage. [redacted] stated she was unsure if he climaxed as he masturbated under the towel. Additionally she never looked blow his waist. She claimed that Epstein would convince her to remove her clothes. She eventually removed her clothes and stayed in her thong panties. On occasion, Epstein would use a massager/vibrator, which she described as white in color with a large head, on her. Every time she provided a massage he would masturbate. [redacted] added she has no formal training in providing a massage. [redacted] stated she brought two females during her visits to provide massages. [redacted] stated she brought a girl named [redacted] and [redacted] from [redacted]. [redacted] stated she received $200.00 for each girl she brought. Additionally, [redacted] was given $200.00 for taking her in the very beginning. The interview was concluded and the tape was placed into evidence.

Investigation continues...

********** N A R R A T I V E # 18 **********

A Reported By: RECAREY, JOSEPH 11/13/05
Entered By.: ALTOMARO, NICKIE A. 11/14/05

On November 8, 2005, I made telephone contact with [redacted] W/F, [redacted] at her residence. [redacted] responded to the police station for an interview reference an ongoing investigation. At approximately 2:30 pm, she arrived at the Palm Beach Police Station and was brought into the interview room for the interview. The door was closed for privacy and she was told that I appreciated her cooperation in this case. During a sworn taped statement, [redacted] stated she had met Jeffrey Epstein approximately one year ago. She was approached by a subject known to her as [redacted]. [redacted] had asked her if she wanted to make money providing massages to Epstein. [redacted] had heard that several girls from [redacted] were doing this and making money. She agreed and was taken to the house by [redacted] had introduced her to [redacted] and Epstein and brought her upstairs to a master bedroom and Master bathroom where a massage table was prepared and the proper oils were taken out. [redacted] left the room and waited downstairs for [redacted] stated Epstein entered the room wearing a towel and she provided a massage wearing only her thong panties. [redacted] advised Epstein had masturbated every time she provided a massage. She stated Epstein continued to masturbate until he climaxed; once that occurred the massage was over. She felt the whole situation was weird but she advised she was paid $200.00 for providing the massage. She also stated [redacted] received $200.00 for bring [redacted] to Epstein.

[redacted] stated she had gone a total of 15 times to his residence to provide a massage and things had escalated from just providing a

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massage. Epstein began touching her on her buttocks and grabbed her closer to him as he masturbated. Epstein also grabbed her breasts and fondled her breast with his hands as she provided the massage. [redacted] stated on one occasion, he offered extra monies to have vaginal intercourse. She stated this all occurred on the massage table. [redacted] stated Epstein penetrated her vagina with his penis and began having intercourse with her until he reached the point of climax. Epstein removed his penis from her vagina and climaxed onto the massage table. [redacted] received $350.00 for her massage. I asked her if she had any formal training in providing massages, [redacted] stated she did not.

[redacted] continued to state on one other occasion, Epstein introduced his assistant, Nada, into the massage. Nada was brought into room with [redacted] to provide a massage. Epstein had them kiss and fondle each other around the breasts and buttocks as they provided a massage to Epstein. Epstein, watched and masturbated as this occurred. On other occasions, Epstein introduced the large white vibrator/massager during the massage. Epstein stroked the vibrator/massager on [redacted] vagina as she provided the massage.

[redacted] stated the last time she spoke with anyone at the house, was with [redacted] during the weekend of October 2 or 3, 2005. [redacted] stated she had brought two people to the Epstein house. She provided the names of [redacted] and [redacted] (unknown last name). It should noted, [redacted] had been previously identified as [redacted] and had been previously interviewed. The interview was concluded and the videotape was placed into evidence via the locker system.

On November 9, 2005, Sgt Frick and I traveled to 6791 Fairway Lakes Drive in Boynton Beach, Florida in hopes to interview Juan Alessi, the former houseman of Epstein's home. As no one was home, a business card was left for him to return my call. We then traveled to 11349 SW 86th Lane in Miami in hopes to interview Alfredo Rodriguez, a former house man of Epstein. We did not locate them at home. I left a business card for him to return my call.

We then traveled to [redacted] and met with Dean of Students, Mr. [redacted]. We requested to speak with [redacted]. [redacted] was re interviewed, as she still was in possession of the rental car that Epstein had acquired for her. [redacted] stated that [redacted], Epstein's assistant, had called her on her cellular telephone and informed her that rental was extended for her. [redacted] stated she had paid an additional $625.00 for her to keep the rental an extra month. [redacted] was asked if she had any additional contact with either Epstein or anyone from his organization. [redacted] stated she did not, other than the telephone call informing her that she could keep the car for an extra month. [redacted] did not provide any additional information.

On November 10, 2005, at approximately 9:47 am, Alfredo Rodriguez had telephoned reference my business card found on his door. Rodriguez stated he had worked with Epstein for approximately six months after

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the previous houseman left. Rodriguez stated that it was his responsibility to keep the identity of the masseuses private. Mr. Epstein had a massage in the morning and one in the afternoon. Mr. Rodriguez stated he would rather speak about this in private. He advised he would come to the police station to speak with me. Rodriguez stated he would return my call on Monday, November 14, 2005.

I then made telephone contact with Juan Alessi. He advised he found my card on his door and wanted to know what I needed to speak with him about. I explained to Alessi that I was conducting an investigation on his former employer, Mr. Epstein. Alessi stated he would return my call shortly as he was in the middle of a project at his home. I received a telephone call from Attorney Donald Morrell from 686-2700. Mr. Morrell stated he represented Mr. Alessi and did not want me speaking with his client. I then made telephone contact with the State Attorney s Office and confirmed that subpoenas would be issued to the former employees to assist in the investigation.

I then made telephone contact with Attorney Guy Fronstin, attorney for Mr. Epstein. I explained to Mr. Fronstin that I would like to speak with Mr. Epstein. He stated Mr. Epstein is not in residence in Florida at this time and would check with him to ascertain if he could be here by Wednesday November 16, 2005 for an interview. Mr. Fronstin stated he would return my call should Mr. Epstein decide to come in to the police station for an interview.

Investigation continues.

********** N A R R A T I V E # 19 **********
Reported By: RECAREY, JOSEPH 11/15/05
Entered By.: ALTOMARO, NICKIE A. 11/16/05

On November 14, 2005, Det. Sandman and I traveled to [redacted] in [redacted] and spoke with [redacted] She was told of the ongoing investigation involving Epstein. [redacted] advised she had gone to the house on several occasions. During a sworn taped statement, she advised she started going to the house approximately one year ago and was brought by [redacted] (Unknown last name). [redacted] stated [redacted] brought her into the house and she was introduced to a girl named [redacted]. Once she met her, [redacted] brought her upstairs into a master bedroom bathroom. [redacted] stated she met Jeffrey in the bathroom. He lay on the table and picked the massage oils. She provided the massage, as he lay naked on the massage bed. She stated she rubbed his calves and back area. Upon the end of the massage, Epstein removed himself from the massage table and paid her $300.00 for the massage.

[redacted] stated she had only been at the house approximately five or six times. [redacted] said each time she went to the house she was notified by [redacted], Epstein's assistant, that Epstein was in town and would like her to work. [redacted] stated she returned to the house and was again led upstairs by [redacted]. She provided the massage, clothed.

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[redacted] advised it wasn't really weird until later on. [redacted] was asked if she ever removed her clothing to provide a massage. [redacted] stated it was not until the third time she went that she removed her clothing. [redacted] stated she was notified by [redacted] that Epstein wanted her to come to work. She arrived at the house and was led upstairs by [redacted]. She started providing the massage when Epstein asked her to remove her clothing. [redacted] removed her pants, shirt and bra. She stayed in her thong panties and continued rubbing Epstein. Epstein turned over onto his back and she rubbed his chest area. [redacted] stated she knew he was masturbating himself as she providing the massage. [redacted] stated she believed he climaxed based on his breathing. She did not want to view either the climax or the fact that he was masturbating. [redacted] stated once the breathing relaxed he got up and told her to get dressed. She was paid $300.00 for her services.

[redacted] stated on the last time she went to provide a massage, she was notified by [redacted] to come to the house and work. [redacted] stated she was now dating her current boyfriend and did not feel comfortable going. She recalled it was approximately January 2005. She said she went, already thinking that this would be the last time. She went upstairs and went into the master bathroom. She met with Epstein, who was wearing only a towel as he entered the room to lie on the table. [redacted] stated Epstein caught her looking at the clock on several occasions. Epstein asked her if she was in a hurry. [redacted] stated her boyfriend was in the car waiting for her. [redacted] further stated that Epstein got upset, as she wasn't enjoying the massage. She told him that she didn't want to continue and she would not be back. Epstein told her to leave as she was ruining his massage. I asked her if she had any contact with Epstein's organization, she stated she received $200.00 from Western Union in Royal Palm Beach and Okeechobee Blvd as a Christmas gift. [redacted] advised she had no formal training in provide any massages. [redacted] also stated she was sixteen years old when she first went to Epstein's house.

At approximately 4:22 pm, I made telephone contact with [redacted] at [redacted] She agreed to meet with me at a public place. I suggested she come to the police station for an interview. [redacted] did not want to meet at the police station. I recommended we meet at the Palm Beach Gardens Mall in the food court area. She agreed and an appointment was made for November 15, 2005 at 5:00 pm at the food court.

Investigations Continue.

********** N A R R A T I V E # 20 **********
Reported By: SANDMAN, JENNIFER R. 11/16/05
Entered By.: ALTOMARO, NICKIE A. 11/17/05

On 10/20/2005, I assisted executing a search warrant at 358 El Brillo Way in the Town of Palm Beach, Palm Beach County Florida under the direction of affiant Detective Joe Recarey.

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Detective Melnichok and I searched the pantry room that is west next to the kitchen. This room had all white cabinets with a dark grey and black counter top. We did not find anything in this room.

We searched the yellow and blue room that is west next to the pantry room. This room had a very large statue of man with a bow. Taken into evidence from this room were nine photographs in frames of various women.

We searched the main entrance foyer that is to the north of the yellow and blue room. This room contained two bamboo chairs and ottomans with cushions. It also contained a round table with numerous books.

We searched another blue room that is west of the foyer. This room had a stereo system and book shelves that were from the floor to the ceiling. Taken into evidence from this room were eight photographs in frames of various women and/or Epstein, the owner of the residence.

We searched the room to the west of the blue room that has sliding glass doors that lead out to the pool. In this room in a dresser were two DVD's and two VCR tapes. These items were taken into evidence.

We searched a 2004 black Chevy Suburban bearing Florida tag X99-EGL, registered to Jeffrey Epstein DOB 01/20/53, which was located on the east side of the driveway facing south. I found a Thrifty rental agreement between the passenger seat and the middle console. The name on the rental agreement was Johanna Sjoberg from 622 Holly Drive Palm Beach Gardens, Florida 33410. The phone number on the rental agreement was [redacted]. The vehicle rented was a white 2005 Chrysler Sebring bearing Florida tag W99-FUN. The vehicle was rented on 9/25/05 at 17:58 hours and was returned on 9/26/05 at 16:52 hours. The last four numbers of the credit card used are 9821. Detective Melnichok found a piece of paper in the middle console that said I used the cash in here to fill up the tank and was signed by Johanna.

I searched the 2005 black Cadillac Escalade ESV bearing Florida tag Q29-9GT, registered to Jeffrey Epstein dob 01/20/53, which was located on the west side of the driveway facing south. I did not find anything in this vehicle.

All of the items that were taken into evidence were photographed in the place they were located and then turned over to crime scene.

********** N A R R A T I V E # 21 **********
Reported By: RECAREY, JOSEPH 11/17/05
Entered By.: ALTOMARO, NICKIE A. 11/17/05

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On November 15, 2005, Det. Sandman and I traveled to [redacted] in [redacted]. We met with [redacted] a seventeen-year old juvenile who was not in school this day due to a cold from which she was suffering. [redacted] was told that I needed to speak with her in reference to an ongoing investigation involving a subject she would know as Jeffrey Epstein. Prior to speaking with her, I explained that because of the fact that she is a minor, I needed to speak with her parents prior to speaking with her. She telephoned her father, Mr. [redacted], on his cell phone and explained to him that Det. Sandman and I were there to speak with her. I spoke with Mr. [redacted] on the telephone and informed him I needed to speak with his daughter in reference to an ongoing investigation. Mr. [redacted] advised he had no problem with us speaking with his daughter.

During a sworn taped statement, [redacted] stated she met Jeffrey Epstein over a year ago. She was sixteen years of age and was approached by [redacted] who informed her that she could make monies providing a massage to Epstein for $200.00. [redacted] had informed her that she would have to provide this massage topless. [redacted] made the arrangements with Epstein and his assistants and took [redacted] to the house. [redacted] stated [redacted] and she entered through a glass door that led into a kitchen. [redacted] took her upstairs, to a master bedroom and master bathroom. She recalled the bathroom had a large pink couch, sauna and matching shower. Epstein entered into the room wearing only a towel. [redacted] and [redacted] removed their clothing remaining only in thong underwear. She further stated that Epstein lay on his chest on the table. Epstein selected which oils to use for the massage. Both [redacted] and [redacted] provided the massage on his legs, back and feet. Forty minutes into the massage, Epstein turned over onto his back and requested [redacted] wait downstairs in the kitchen area for [redacted]. Epstein instructed [redacted] to finish the massage. As [redacted] got dressed, [redacted] starting rubbing his chest. [redacted] left the room, and Epstein began masturbating himself as [redacted] rubbed Epstein s chest. [redacted] stated he continued masturbating until he climaxed on the towel he was wearing. When asked if he had removed the towel she stated he turned the towel around so that the opening would allow him to expose himself. After he cleaned himself off with the towel, he instructed [redacted] the massage was done and to get dressed and met with him downstairs. [redacted] got dressed and met with Epstein in the kitchen area. She was paid $200.00 dollars for providing the massage. [redacted] stated she was aware that [redacted] also received monies for the same thing.

The second time she went to the house she was again approached by [redacted]. [redacted] asked if she wanted to return to the house to provide another massage; [redacted] agreed and the arrangements were made by [redacted] for her to return to the house. [redacted] stated [redacted] drove her to the house and knocked on the same glass door that leads to the kitchen area. They were allowed entry into the house by one of the staff members. [redacted]led her upstairs to the master bedroom and

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master bathroom area. [redacted] left [redacted] this time to do the massage alone. Epstein entered the room again wearing only a towel. [redacted] began removing her clothing as she did the last time she was at the house. Epstein instructed her to get naked. He lay on the table on his stomach as [redacted] began massaging his legs and back.

As [redacted] finished with Epstein's back and legs, Epstein then turned over onto his back. [redacted] started to rub his chest and he began masturbating himself. As [redacted] rubbed his chest, Epstein leaned over and produced a massager/vibrator. He turned it on and began rubbing [redacted] vagina and masturbating himself at the same time. [redacted] stated she continued to rub his chest as this was occurring. She described the vibrator/massager as large, grey with a large head. Epstein rubbed her vagina for approximately two to three minutes with the massager/vibrator. He then removed the vibrator from her vaginal area and concentrated on masturbating himself. [redacted] stated he climaxed onto the towel again and informed her that the massage was done. [redacted] got dressed and met with [redacted] who was waiting in the kitchen area. She received $200.00 for the massage. [redacted] said she never returned to the house and had no desire to return to the house. [redacted] was asked if she received any formal massage training. She advised she had no formal training. [redacted] was asked if Epstein knew her real age. [redacted] stated he knew as he asked her questions about herself and high school. He was aware she attended and is still attending [redacted].

The interview was concluded. I suggested [redacted] inform her parents of what occurred at the Epstein house. [redacted] stated she would tell her father as he was unaware this had occurred. I left my business card for any questions they may have. We left the area and returned to the police station. The tape was placed into evidence.

Investigation Continues.

********** N A R R A T I [redacted] E # 22 **********
Reported By: RECAREY, JOSEPH 11/17/05
Entered By.: ALTOMARO, NICKIE A. 11/17/05

On November 15, 2005, Officer Munyan and I responded to the Palm Beach Gardens Mall food court section to meet with [redacted]. At approximately 5:10 p.m., [redacted] arrived and met with us at the food court. [redacted] provided a sworn taped statement in which she stated she had been at the Epstein house over fifty times. She began going to Epstein's house when she turned eighteen years old. [redacted] was asked if she knew of the on-going investigation. [redacted] stated she was aware there was an investigation as she had been told by other girls that were interviewed. Additionally, she has had several telephone conversations with Epstein's assistants as to what had been going on during the investigation.

I asked [redacted] how she was introduced to Epstein. [redacted] stated she did not want to disclose who brought her to the house but she would

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respond to any other questions. When I asked her what happened at the house, [redacted] stated everything happened. It all began with the massages. Each time she went more things happened. She would massage Epstein and he would masturbate and climax. She stated things escalated from there. She provided oral sex on Epstein and he provided oral sex on her. She stated he would also use a massager/vibrator on her vagina to stimulate her as she massaged him. He introduced his assistant [redacted] or Nada to have vaginal intercourse with [redacted]. She stated Nada or [redacted] would utilize a strap-on (synthetic penis) to have intercourse with her. She was told to masturbate herself as Epstein and Nada had sexual intercourse. All this was done at Epstein's direction.

[redacted] could not provide exact dates as she had been to the house so many times. [redacted] stated Epstein inserted his fingers in her vagina to stimulate her as she massaged him. When I asked her if there had been any vaginal intercourse with Epstein, she stated she did not have sex with him. She did admit having sex with Nada, his assistant. [redacted] stated not every time she went involved sexual favors. Sometimes she would just talk with him and get paid. I asked her how much she was paid each time she went to Epstein s residence. [redacted] stated she got paid $300.00 every time she went to the house. She was told to bring other girls to him to provide massages. [redacted] declined stating that she does what she does and did not want to introduce anyone else to do what she does. [redacted] stated she had never received any formal training in providing massages.

I showed [redacted] a photo line up in which Nada [redacted] was placed in position six. She reviewed the six photographs and immediately identified Nada [redacted] as the person with whom she had intercourse. Additionally, it was the same person she watched have intercourse with Epstein. She signed the photo line-up under Nada [redacted] s photo as the person she identified. We then left the mall and returned to the police station. The photo line up and tape were placed in to evidence.

Investigation Continues...

********** N A R R A T I V E # 23 **********
Reported By: RECAREY, JOSEPH 11/29/05
Entered By.: ALTOMARO, NICKIE A. 12/01/05

On November 17, 2005, I received a phone message from Atty. Guy Fronstin who advised to call his cellular phone reference his client Jeffrey Epstein. I telephoned his cell phone and left a message for him to return my call. I did not receive a call back on Thursday, November 17, 2005. On Friday, November 18 2005, I retrieved another voice mail from my work phone from Mr. Fronstin advising he would not produce his client Jeffrey Epstein for any statement. Fronstin stated he had spoken with ASA Lana [redacted] and expressed Mr. Epstein has a passion for massages. I called ASA Lana [redacted] and confirmed that

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Fronstin had telephoned her reference this case. Although nothing was discussed, Mr. Fronstin did advise her that Epstein is very passionate about massages.

I also spoke with ASA Daliah Weiss reference the previous employees, Juan and [redacted] Alessi. She advised that they had been served through a subpoena process server. They were both scheduled to appear on Monday November 21, 2005 at 12:00 p.m.

On November 21, 2005, I met with ASA Weiss, Atty. Donnie Murrell and Juan and [redacted] Alessi at the State Attorney Office. ASA Weiss had requested a court reporter to be present to take the statement of the Alessi s. I spoke with [redacted] Alessi, in the presence of her attorney, Donnie Murrell. She advised she had worked for Epstein for eight years, from the period of 1994 through 2002. She advised she had never had any direct conversations with him. She stated it was her husband who spoke directly with Epstein. Her work consisted of doing house cleaning, shopping and other preparations when Epstein would arrive in town. Alessi stated the preparations consisted of preparing the house and bathrooms for his arrival. She advised she did view several masseuses that arrived at the house. She advised that two or three girls would come during a day and provide the massages. The girls that arrived looked young in age. Mrs. Alessi did not know any of the girls personally and were always different. She was told that when Epstein was in residence he did not want to encounter the Alessis during his stay in Palm Beach.

I then spoke with Mr. Alessi in the presence of his attorney, Donnie Murrell. Mr. Alessi stated that he was employed for eleven years with Mr. Epstein. He originally was hired as a part time employee and then moved up into a full time position. His duties included everything. Alessi stated he was the house manager, driver and house maintenance person. It was his responsibility to prepare the house for Epstein s arrival. When asked about cooks or assistants, Alessi stated they traveled with Epstein on his private plane. He remembered dealing with his girlfriend, Ms. Maxwell originally and then dealt with Epstein directly.

I asked Mr. Alessi about massages that occurred within the home. Mr. Alessi stated Mr. Epstein had up to three massages a day. Each masseuse that visited the house was different. Alessi stated that towards the end of his employment, the masseuses were younger and younger. When asked how young, Mr. Alessi stated they appeared to be sixteen or seventeen years of age at the most. The massages would occur in Epstein's bedroom or bathroom. There were times he recalled that he would set up the massage tables either in Epstein s bedroom or in his bathroom. I asked if there were things going on other than a massage. Alessi stated that there were times towards the end of his employment that he would have to wash off a massager/vibrator and a long rubber penis, which were in the sink after the massage. Additionally, he stated the bed would almost always have to be made after the massage. Alessi was never privy to what went on during the

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massages.

He was asked if he remembered any names of the girls that massaged Epstein. He tried to remember and was unable to provide any exact names of any girls. Alessi was asked about any contact with anyone from the Epstein organization. Alessi said he did speak with Mr. Epstein shortly after my initial contact with him to find out what was going on. Alessi also stated that approximately on November 11, 2005, he was contacted by a private investigator from the Law Office of Roy Black. The investigator had called him to meet with him to ascertain what he was going to tell the police. Alessi stated they met at the Carrabba s Restaurant in Boynton Beach and discussed the same questions I was asking him. I informed Mr. Alessi and Mr. Morrell that as this is an ongoing investigation and anything we discuss should be confidential. They both acknowledged the fact that the information would be kept confidential. It should be noted that a court reporter was present during the interviews and would be providing a copy of the statements to me when they become available.

On November 21, 2005, I received a voice mail from Mr. Fronstin who advised he would not be making Mr. Epstein available for any statements. He did have some words that he wanted to relay on behalf of Mr. Epstein. I telephoned his office and left a message for him to return my call.

On November 29, 2005, I received a call back from Mr. Fronstin who left a voice mail after hours on November 28, 2005, advising he would return my call during normal business hours to speak with me reference the case on November 29, 2005.

********** N A R R A T I V E # 24 **********
Reported By: RECAREY, JOSEPH 11/29/05
Entered By.: ALTOMARO, NICKIE A. 12/01/05

On November 29, 2005, at approximately 2:30 p.m. I received a telephone call on the department issued cell phone. Mr. Fronstin stated he was calling to relay information that Mr. Epstein wished he could relay. Mr. Fronstin stated that he would not allow Mr. Epstein to speak with me at this time. He further stated that Mr. Epstein is very passionate about massages. He continued that Mr. Epstein had allegedly donated over $100,000 to the Ballet of Florida for massages. The massages are therapeutic and spiritually sound for him that is why he has had many massages. Mr. Fronstin stated he appreciated the way the investigation has not been leaked out into the media. I explained to Mr. Fronstin that it is as important to protect the innocent if the allegations are not substantiated. Mr. Fronstin was told of the allegations that the private investigators assigned to the case have been portraying themselves as police officers.
Additionally, I explained that my cell phone had been called by the private investigators. Mr. Fronstin advised he was not aware of that and advised they were under the direction of Attorney Roy Black in

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Miami. Mr. Fronstin further stated Epstein had originally called Mr. Dershorwitz in Boston, who recommended Roy Black in Miami, who asked Mr. Fronstin to assist. I informed him that if and when any charges would be presented I would notify him. The call was then terminated.

Investigation continues.

********** N A R R A T I V E # 25 **********

JA Reported By: RECAREY, JOSEPH 12/15/05
Entered By.: ALTOMARO, NICKIE A. 12/16/05

A review of the telephone message books, which were obtained during the search warrant, was conducted in which various messages from different dates were made to Jeffrey Epstein. The telephone message books have a duplicate copy (Carbon Copy) which, once a phone message is written into the book, the top copy is then torn on the perforated edge and the carbon copy is left in the book. First names of girls, dates and telephone numbers were on the copy of the messages. I recognized various numbers and names of girls that had already been interviewed. The body of the messages was time of the day that they called for confirmation of "work." Other names and telephone numbers were located in which the body of the messages were, "I have girls for him" or "I have 2 girls for him." These messages were taken by Sarah for Jeffrey Epstein. Based on the context of the body of the messages, I requested subpoenas for subscriber information on the telephone numbers and the time frame involved. Copies of the messages were made for evidentiary purposes.

I obtained [redacted] yearbooks for 2005, 2004 and 2003. I first reviewed the 2005 yearbook and located most of the girls I had spoken with. Additionally, I located [redacted] Based on the corrected name spelling, I was able to locate her to her residence in [redacted]. On December 8, 2005, Det. Caristo and I responded to [redacted] in [redacted] I located [redacted] at her home. She advised she is attending [redacted] and is participating in the early release program so she can maintain her part time job. As she is still a minor, I left my business card to have her mother return my call to request an interview with her daughter. We then left the area.

I also had previously researched the telephone number for [redacted] and telephone number [redacted] A subpoena had been issued for the information on [redacted] The telephone number was registered to [redacted] of [redacted] A query of [redacted] revealed that she is the daughter of [redacted] and is currently residing at [redacted] Det. Caristo and I attempted contact with [redacted] with negative results. I left my business card on her front door requesting she return my call. We then responded to [redacted] I also attempted contact with Mr [redacted] with negative results. I left my business card for him to return my call.

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On December 9, 2005, I received a telephone call from [redacted] mother, who was made aware of the on going investigation in Palm Beach. [redacted] advised she was told of everything that occurred at Epstein's house involving Epstein and his staff. She advised she would allow me to question her daughter about what occurred and would cooperate with the investigation. [redacted] provided me with [redacted] cellular telephone number to schedule an appointment for an official interview. I telephoned her cellular telephone and made a tentative appointment for Monday, December 12, 2005.

I then received a telephone call from [redacted] father of [redacted] who stated he found the business card on his door. I explained that I was conducting an investigation and needed to speak with [redacted] as she may have information that could assist in the investigation. Mr. [redacted] stated that his daughter no longer resides with him and has her own trailer in another trailer park. He advised he would tell her to call me.

On December 12, 2005, due to a conflict with schedules, arrangements were made to meet with [redacted] on Tuesday, December 13, 2005 at 5:00 pm. On December 13, 2005, Det. Dawson and I traveled to [redacted] and met with [redacted] During a sworn taped statement, [redacted] stated that when she was sixteen years old, she was taken to Epstein's house to provide a massage for money. [redacted] stated it was before Christmas last year when [redacted] approached her and asked if she needed to make money for Christmas; [redacted] stated she did and agreed to provide a massage for money. [redacted] made arrangements to take [redacted] to the house and drove [redacted] to the house to "work." [redacted] stated she could not remember the street name but would be able to drive to the street. They drove to the last house on the street and pulled in the last house on left side. They walked up the driveway and entered through a side gate which led to a kitchen door. They knocked on the door and were encountered by an employee who [redacted] described as a "Spanish looking lady." They informed her that they were expected. They were then encountered by a white female with long blond hair. [redacted] was unable to remember the name of the white female with blond hair but knew she was Epstein's assistant. She was led upstairs by the white female who explained that there would be lotions out already and Epstein would choose the lotion he wanted her to use. She was led through a spiral staircase which led to a master bedroom and bathroom. The massage table was already set up in the bathroom. [redacted] described the bathroom as a large spacious bathroom with a steam room and shower beside it with a sink to the right. [redacted] was introduced to Jeff who was on the phone when she entered. Jeff was wearing a white towel and lay on his stomach so that [redacted] may massage his feet and calves. [redacted] started the massage with the massage oil Jeff chose and rubbed his feet and calves. Jeff got off the phone and requested she massage his back as well. [redacted] began rubbing his back and got to the small of his back. During the rubbing of his back Jeff asked her to get comfortable. He

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requested she remove her pants and shirt. [redacted] removed her shirt and pulled her pants off. [redacted] stayed in her bra and thong panties. As she finished the small of the back, Jeff then turned onto his back. He instructed she rub his chest and pinch his nipples. As she began to rub his chest, Jeff asked her questions about herself. [redacted] remembered telling him she attended [redacted]. Jeff asked her if she was sexually active. Before [redacted] could answer, he also asked what sexual positions does she enjoy. [redacted] stated she was shy didn't like talking about those things. She continued rubbing his chest. Epstein reached up and unsnapped her bra from the front. [redacted] explained the bra she used had a front snapping device. Epstein rubbed her breasts and asked her if she like having her breasts rubbed. [redacted] said "no, I don't like that." Epstein then removed his towel and lay on the bed naked exposing his penis to [redacted] He began touching his penis and masturbated as he touched her breasts. [redacted] explained Jeff then touched her vagina area by rubbing her vagina with his fingers on the outside of her thong panties. [redacted] tensed up and stated Jeff was aware that she was uncomfortable.

[redacted] stated that Jeff told her , "Relax, I'm not going inside." She further explained Jeff commented to her how beautiful and sexy she was. Jeff then moved her thong panties to one side and now was stroking her clitoris. [redacted] said "Jeff commented how hard my clit was." He then inserted two fingers in her vagina and was stroking her within her vagina. She tried pulling back to pull out his fingers from within her vagina. Jeff removed his fingers from within her vagina and apologized for putting his fingers inside her. During this time he kept his hand on her vagina area rubbing her vagina. [redacted] stated he rubbed her real hard as he was masturbating. [redacted] said he climaxed onto the towel he had been previously wearing and got up from the table. Jeff told her there was $200.00 dollars for her on the dresser within the master bathroom. Jeff also told her that there was an additional $100.00 that was to be given to [redacted] for bringing her there to massage him. Jeff told her to leave her telephone number with his assistant as he wanted to see her again. Jeff stated his assistant would contact her to work again soon.

I asked her if she ever received any formal massage training to which [redacted] stated she did not. [redacted] stated it was the only time she ever went to work for Jeff and knew what happened to her was wrong. She stated she no longer speaks to [redacted] because she was upset that [redacted] took her there. She further stated that she had never been contacted for any additional work. The interview was terminated and we left the area.

Investigation Continues...

********** N A R R A T I V E # 26 **********
Reported By: DICKS, ALLEN C. 12/18/05
Entered By.: ALTOMARO, NICKIE A. 12/19/05

Case No. . . . : 1-05-000368 (Continued)

On 102005 at approx 0930hrs I assisted with the execution of a search warrant at 358 El Brillo Ave, Palm Beach.

Initially I was assigned to enter the residence and conduct a sweep of the premises for safety purposes. I then accompanied CSEU tech Pavlik while she photographed the exterior of the house. Once this was complete I was assigned to search certain areas of the house with Det. Dawson as part of the search warrant.

We began in the garage, searching three Mercedes Benz vehicles, a Harley Davidson motorcycle and adjacent closets in the garage. Nothing of evidentiary value was located.

We then searched two closets off the kitchen area on the east side. These can best be described as pantry or storage closets. Nothing of evidentiary value was obtained.

A small office with adjoining bath was then searched. In the bath area I located a phone message book with recent messages. This item was seized as evidence. Please note this bath and shower area are not used as designed but are storage areas containing a variety of items to include a gun safe in the shower and assorted household items.

We then searched a bath area and closet at the base of the main stairs in the foyer. Inside the closet two massage tables were located as well as partial nude female photographs. These items were later seized as evidence. Nothing of evidentiary value was noted in the bathroom.

We then searched two bedrooms upstairs on the east side of the residence. Located in the bath room of the south bedroom was penis shaped soap. Located in the bedroom of the northern bedroom was penis and vagina shaped soap as well as an adult sex toy. These items were seized as evidence.

We then searched the pool cabana located in the south west corner of the property. Several photographs of nude females were seized as evidence.

I was then assigned to stand by with a person I believe was Douglas Schoettle. Mr. Schoettle was in the residence at the beginning of the search warrant. He was present during the warrant service and subsequent search. I stood by with him until the search was completed and I departed the residence. I had no conversation with him regarding the reason for our presence.

Regarding seized evidence, all items were photographed in place and then collected by CSEU personnel.

This concludes my involvement in this case.

Case No. . . . : 1-05-000368 (Continued)

********** N A R R A T I V E # 27 **********
IA Reported By: KRAUEL, CURTIS D. 12/21/05
Entered By.: ALTOMARO, NICKIE A. 12/21/05

On Thursday, October 20, 2005 at approximately 0936 hours, I assisted in the execution of a search warrant located at 358 El Brillo Way, Palm Beach, Florida, residence of Jeffrey Epstein. I was instructed by Case Agent Det. Joseph Recarey, to secure all computer and media related material from the residence.

Upon my arrival I was directed by Det. Recarey to a room designated as the Kitchen Staff Office. I observed a, Silver in color, CPU with the left side cover removed, exposing the CPU s hardware sitting on floor next to a glass type desk. The CPU had no discernable identifiers or features indicating a make or model. This CPU was powered off with the power cord not plugged in. The keyboard and mouse were atop the CPU. It should be noted that the CPU was not connected to a monitor, printer, or other media device. On the back Panel of the CPU, I observed an A/[redacted] card with RCA jacks attached. This type of hardware would allow audio and video to be downloaded onto the CPU s hard disk. The ends of the RCA jacks were unattached at the time of the search and no external camera was located within this room.

The CPU was located on the right side of a desk that held a flat panel LCD screen. The desk also held another keyboard and mouse, indicative of a second computer; however, no other computer was found. It appeared as though a second computer had been recently removed as the cables ends from the monitor, keyboard and mouse were in the same area. A further search of the room revealed no media storage devices, i.e. CD s, Floppy Disks, Zip Disks, etc. This type of media is commonly stored in an area where computers are placed, yet no media was found.

After completing a search of this room, I secured the CPU and turned all items over to the Evidence Custodian for future forensic analysis via a property receipt.

I was then directed by Det. Recarey to a room designated as the Garden Room, where I observed a wooden desk facing west. The desk held a flat screen LCD monitor, keyboard, mouse, media card reader and printer; however, no CPU was located. All of the cables were removed from an area where a computer had once been. A search of the desk area revealed no signs of any media devices.

Det. Recarey directed me to a third location designated as the Cabana room, which is detached from the residence and located just south of the pool. In the South East corner of the room, I observed an office type setting, with an L-shaped desk holding a flat screen LCD monitor, keyboard, mouse and printer; however, no CPU was located. All of the cables were removed from an area where a computer had once been. A search of the desk area revealed no signs of any media devices.

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Det. Recarey directed me to a second detached structure located on the South East corner of the property. This area of this structure was assigned with single letters to identify a particular part of the room. In the office area, designated as Room B, I observed a powered on Dell Dimension 2350, attached to an LCD flat panel monitor. The screen displayed an open Microsoft Internet Explorer browser with URL address of http://home.bellsouth.net/. I observed no other active windows in the Start panel window and photographed screen. The power cord was removed from the back of the Dell CPU and I disconnected the cable modem to prevent remote access. At that time, the Dell CPU, marked with Serial Number 6WTVN21, was secured and turned over the evidence custodian for future forensic analysis via property receipt. I also located several media related items within Room B, which were recorded onto a property receipt and turned over the Evidence Custodians.

I then responded to a Bedroom designated as Room F, where I observed a white in color CPU marked Premio. The Premio CPU was in a computer desk which held a white CRT monitor, both of which were powered on. The CRT monitor displayed a message from Norton Antivirus software, warning of an expired subscription. I observed no other active windows in the Start panel window and photographed screen. I removed the power cable from the back of the Premio CPU and shutdown all other media. The Premio CPU, marked with Serial Number 2000091078, was secured and turned over the evidence custodian for future forensic analysis via property receipt. I also located several media related items within Room F, which were recorded onto a property receipt and turned over the Evidence Custodians.

This concluded my participation in the search of the residence.

********** N A R R A T I V E # 28 **********
Reported By: RECAREY, JOSEPH 12/21/05
Entered By.: ALTOMARO, NICKIE A. 12/21/05

On December 20, 2005, I contacted ASA Daliah Weiss in an attempt to subpoena the Epstein former houseman, Alfredo Rodriguez. Rodriguez, who resides in Miami, had eluded the process servers previously and was not served the investigative subpoena. A telephone message was left as she is not available during the week of 12/19/2005. I made contact with State Attorney Inv Theresa Wyatt and requested the same via telephone message.

I then researched the victim's [redacted] cellular telephone subpoena data which had been received from a previous subpoena request. I analyzed the records which depict several calls from Haley Robson. The telephone calls start on February 6, 2005 at 12:49 pm.; the same day which the victim and the victim's father stated the incident occurred at Epstein s house. The first incoming call was from Robson's residence at [redacted]. The second incoming call from Robson's

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cellular phone [redacted] occurred at 1:02 pm. The call durations were one minute or less. The time frame was within thirteen minutes apart. It should be noted that Robson s residence was in close proximity to the victim's. The next call occurred at 5:50 pm when the victim telephoned Robson s residence. Several calls were made after the above mentioned calls both incoming and outgoing to Robson. Further analysis showed no telephone calls to either Robson's cellular telephone or Robson's residence were registered prior to February 6, 2005.

Additionally, I also conducted an analysis on the telephone calls from 305-710-5165. The subscriber information confirmed that the number is registered to Paul A Lavery from Hialeah, Florida. The address was crossed referenced to the Office of Kiraly and Riley Private Investigators. I researched the web page www.rileykiraly.com which also showed various cases in which they assisted. I also located another web site under www.coralspringssparklandrotary.org in which Mr. Riley attended a Miami Rotary meeting and confirmed Atty. Roy Black is among his clientele.

The telephone calls revealed Lavery had telephone contact with [redacted] and [redacted] either just after I attempted to interview them, or just prior. A background was conducted on Lavery which revealed he holds a current Private Investigator License. A criminal arrest record revealed he had been previously arrested for possession of cocaine and solicitation of prostitution.

I also researched the girls using www.myspace.com. This web site is a new social networking service that allows members to create unique personal profiles online in order to find and communicate with old and new friends. The site allows one to establish your own myspace.com page and decorate the page any way one wishes. I found the following people have myspace sites: Haley Robson, [redacted] and [redacted]

I received a Cingular Wireless packet which contained a CD which contained the results of the subpoena request for verbatim calls on [redacted] An analysis will be conducted in the near future on the phone numbers called.

Investigation Continues.

********** N A R R A T I E # 29 **********
Reported By: RECAREY, JOSEPH 12/27/05
Entered By.: ALTOMARO, NICKIE A. 12/29/05

Upon doing research on the message books recovered in the search warrant, I located the identity of [redacted] The telephone number [redacted] was registered to [redacted] She currently is seventeen years old and is attending the [redacted]. I

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responded to [redacted] also known as the [redacted] I located the [redacted] I located [redacted] inside the foundation and informed her that I was investigating a case against Jeffrey Epstein and knew she had been at the house. [redacted] started to cry and advised she had put that part of her life behind her. I explained that although she is seventeen years old I needed to inform her parents that she would be interviewed. She provided her home telephone number. I attempted contact and left voice mail messages at the house to speak with her parents.

Det. Caristo and I then located [redacted] at her residence located at [redacted] in [redacted] I attempted to interview her about Jeffrey Epstein. She advised she is so in love with Jeff Epstein and would do anything for him. She further explained that she would not speak with us about him either negative or positive. She asked us to leave her property. I informed her that although she did not wish to speak with us, I had sufficient information at this point in the investigation to know she was at Epstein's house and provided girls to Epstein to work. I also explained that prior to our arrival at her residence I had telephone contact with her father, [redacted] who was told she would be interviewed. [redacted] is currently seventeen years old and as a juvenile, parental notification would be required. We then left the area and returned to the police station.

While at the police station, I left another telephone message for [redacted] parents. I began an analysis of [redacted] Cellular telephone. The telephone number 917-855-3363 is assigned to [redacted] and the financially responsible party is Jeffrey Epstein of 457 Madison Ave. in New York City, New York. The time frame which was subpoenaed was September 2005, through October 2005. There were eighty seven pages of calls made either to the cell phone or from the cell phone. The local ([redacted]) numbers were analyzed. A spread sheet was prepared and placed into the attachment file of who was called.

The unknown numbers were researched using FoneFinder.com and subpoenas were requested to determine subscriber information. This was done to identify additional victims or witnesses. The analysis revealed that [redacted] had called the victim/witnesses frequently when Epstein was in the Town of Palm Beach to "work." This confirms what the girls interviewed had previously stated. [redacted] would notify them when Epstein was in town and their willingness to "work." The CD was placed into evidence.

Investigation Continues.

********** N A R R A T I V E # 30 **********
Reported By: RECAREY, JOSEPH 1/03/06
Entered By.: ALTOMARO, NICKIE A. 1/03/06

On December 29, 2005, I received a facsimile from National Compliance

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Center from Cingular Wireless for telephone number [redacted]. This was the telephone number for Haley Robson during the time frame when the victim, [redacted] was brought to the Epstein house to "work." An analysis of the phone records, of all incoming and outgoing calls, showed that on February 6, 2005, the day the victim, [redacted] was brought to the house, Robson first called [redacted], Epstein's assistant, at 917-855-3363at 12:50 pm (EST). The next call was made to Epstein's house in Palm Beach, at 12:52 pm (EST). The following call was made to the victim, [redacted] at 1:01 pm (EST) and at 1:02 pm (EST). This confirms the information provided by the victim and victim's father. I photo copied the records and enlarged the page 8 of 10 to show the calls made by Robson on February 6, 2005.

To this date, I have not heard from [redacted] parents. I will attempt to establish contact with them during the evening hours. I received a package from Atty. Guy Fronstin, which was hand delivered at the police station. Within the package, was a letter from Alan Dershowitz, and two www.myspace.com profiles. The profiles were that of [redacted] and [redacted] MySpace.com is a social networking service that allows members to create unique personal profiles online in order to find and communicate with old and new friends. This package was in response to a previous meeting in which Mr. Dershowitz called to assist in the investigation in providing any additional witnesses such as house employees who have been reluctant to speak with law enforcement.

I reviewed the profiles Mr. Dershowitz enclosed. [redacted] who designed her blog to be [redacted]" still attends [redacted] sends and receives messages from friends which contain some profanity. Upon reviewing her friends' comments section from Myspace, most of her good friends sent messages to establish contact and invite her to go out.

I then reviewed [redacted] web blog which was provided by Mr. Dershowitz. Ms. [redacted] designed her blog to be [redacted]' Her blog states that her interests include music, theater and weed (Marijuana). I reviewed her packet in which [redacted] declares her love for her live-in boyfriend. She also describes using marijuana with her boyfriend [redacted]

The letter Mr. Dershowitz sent advised he was looking into the allegation that one of the private investigators used by the private attorneys of Epstein, attempted to impersonate or state that they were police officers from Palm Beach. Mr. Dershowitz advised that the investigators used to interview [redacted] had "quite a distinct speech impediment", did not claim to be nor did they impersonate themselves as a police officer. This package was sent to both ASA Lana Belohlavic and ASA Daliah Weiss at the State Attorney's Office.

I made telephone contact with ASA Weiss to confirm she received the package and request an interview with [redacted], Nada [redacted], and Janusz Banasiak. She advised she would assist in attempting to

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contact Mr. Dershowitz.

On January 3, 2006, I received a telephone call from ASA Weiss who informed me that she made telephone contact with Mr. Dershowitz. She had requested the employees be available the week of January 3, 2006. Mr. Dershowitz informed her that the assistants are out of the country and would require additional time to locate them and make them available.

Investigation Continues.

********** N A R R A T I V E # 31 **********

Reported By: MINOT, LORI S. 1/03/06
Entered By.: ALTOMARO, NICKIE A. 1/03/06

On Thursday, 03/31/05, I started conducting surveillance at 358 El Brillo. At this point I observed at 1155 hours, a Tan Altima bearing FL tag A303AN in Roadway, Black SL bearing FL tag V55RFW in drive, Tan Honda Civic bearing FL tag X98APM in Roadway, Black Chevy Suburban in driveway and a Black Caddy Escalade in driveway. At 1325 Hours I observed Tan Honda Civic X98APM in roadway, Black Chevy Suburban in driveway, Black Caddy Escalade in drive and a White Kia car bearing FL tag D651BQ. At 1615 hours I observed a Tan Honda Civic, X98APM in roadway, Black Chevy Suburban in drive, Black Caddy Escalade in driveway and a White Kia car D651BQ in roadway.

On Friday, 04/01/05, I continued surveillance at 358 El Brillo. At 1130 hours I observed a Tan Honda Civic bearing FL tag X98APM in roadway, Black Caddy Escalade in driveway and a Tan unknown make/model bearing FL tag A303AN in roadway. At 1227 hours, I observed a Tan Honda Civic X98APM in roadway, Black Caddy Escalade in driveway and a Black Chevy SUV located behind the Escalade. At 1345 hours, I observed a Tan Honda Civic X98APM in roadway and a Black Chevy SUV in driveway. At 1558 hours, I observed a Tan Honda Civic X98APM in roadway, Black Chevy SUV in driveway, Black Caddy Escalade in driveway and a dark unknown model/make car parked in garage.

On Saturday, 04/02/05, I continued surveillance at 358 El Brillo. At 0713 hours, I observed a Red Explorer bearing FL tag J98JEI in roadway and a Black Caddy Escalade in driveway. At 0814 hours, I observed a Red Explorer J98JEI in roadway, Black Caddy Escalade in driveway and a Tan Honda Civic X98APM. At 0952 hours, I observed a Red Explorer J98JEI in roadway, Black Caddy Escalade in driveway, Tan Honda Civic X98APM in roadway and also a Grey unknown make/model with a B.M in trunk retrieving landscaping tools.

At 1155 hours, I observed a Grey Camaro bearing FL tag [redacted] parking in the roadway in front of 358 El Brillo. A W/F, blond hair, teens to early 20's, thin and tall wearing a white tank top and short blue jean shorts, exited the vehicle and walked to the rear of the house. I also observed a Red Explorer J98JEI in roadway, Tan Honda Civic X98APM in roadway and a Black Caddy Escalade in driveway. At 1310 hours, I

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observed a Red Explorer W/F driver leaving the area, Tan subcompact on roadway and a Red Neon bearing FL tag [redacted]. Then observed 3 W/Fs, approximately 16 to 18 years of age jogging. All 3 females ran into the driveway. There were 2 with blond hair and one brown hair.

On Sunday, 04/03/05, I continued surveillance at 358 El Brillo. At 0719 hours I observed a Tan Honda Civic X98APM in roadway and a Black Caddy Escalade. At 0934 hours, I observed a Tan Honda Civic X98APM in roadway and a Black Caddy Escalade in driveway. At 1057 hours I observed only the Tan Honda Civic X98APM.

On Tuesday, 04/05/05, I continued surveillance at 358 El Brillo. At 1052 hours, I observed a Red Explorer J98JEI in roadway, a Green Explorer, bearing FL tag F91KAK in roadway, a Grey Altima bearing FL tag A303AN in roadway, White Ford Truck H58LRA in roadway, Black Mercedes in driveway being washed by a B/M and an unknown dark car parked in the garage. At 1059 hours a Blue Chevy Suburban drove to the house of 358 El Brillo and parked in the driveway. At 1119 hours, I observed the White Fort Truck H58LRA leave the area and the drive was the pool man.

At 1126 hours, I observed a Grey unknown make/model car park in roadway. W/M got out of the car and walked to a house on the south side of El Brillo. At 1406 hours, I observed a Red Explorer parked on roadway and a large white box truck parked behind the surveillance suburban.

********** N A R R A T I V E # 32 **********

Reported By: BATES, MICHAEL J. 1/03/06
Entered By.: ALTOMARO, NICKIE A. 1/03/06

On 03/31/05, at approximately 1500 hours while conducting surveillance at 358 El Brillo, I observed a Black Cadillac Escalade, unknown tag, a Black Chevrolet Suburban, unknown tag, a Black Mercedes S600 FL tag U90BQL parked in the east driveway next to the 3-car garage. There was a Tan Honda Civic FL tag X98APM parked on the street in front of the residence.

At approximately 1700 hours, I observed the Black Suburban, Black Escalade, Black Mercedes and Tan Honda Civic parked in the same place. At 1750 hours, there was no change in vehicles. At 1840 hours, I observed the Black Escalade, Black Suburban and Black Mercedes along with a Silver Hyundai Accent FL tag A136AN all parked in the east driveway and a Red Ford Explorer FL tag J98JEI parked on the street in front of the residence.

At 2000 hours, I observed the Black Escalade, Black Suburban parked in the ease driveway and the Red Explorer and Tan Civic parked on the street.

On Friday, 04/01/05 at approximately 1700 hours, I observed the Black

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Escalade and Black Suburban parked in the east driveway and the Tan Honda Civic parked on the street in front of the residence. At 1820 hours, I observed the Suburban and Civic in the same place and a Gold Chevrolet Camaro FL tag [redacted] parked on the street in front of the residence. At 2250 there was no change. At 2330, I observed the Black Escalade parked in the driveway and the Red Explorer parked on the street in front of the residence.

On Saturday, 04/02/05 at approximately 1700 hours, I observed a Black Escalade, unknown tag, parked in the driveway and a Tan Honda Civic FL tag X98AMP parked in the street in front of the residence. At 1805 hours the Escalade and Civic were in the same position and the Black Mercedes FL tag U90BQL was also parked in the east driveway. At 1920 hours the Escalade and Civic were the only vehicles and both were in the same position. At 2030 hours and 2145 hours there were no vehicles observed.

At 2115 hours, I observed a Black Mercedes, 4-door parked in the east driveway FL tag G14CT. At 2300 hours, 2350 hours and 0045 hours, the Black Mercedes was the only vehicle observed.

********** N A R R A T I V E # 33 **********
Reported By: RECAREY, JOSEPH 1/05/06
Entered By.: ALTOMARO, NICKIE A. 1/05/06

I made contact with Mr. [redacted] father of [redacted] who was told that I wished to interview his daughter. Mr. [redacted] stated he was aware and had spoken with his daughter about the incident. He stated that his daughter had previously told him that she was hired to model lingerie at a Palm Beach mansion. Mr. [redacted] stated he knew nothing else about what she did when she went to "work." Mr. [redacted] advised he would cooperate with the investigation and make his daughter available for interviews. I asked if she was available for an interview, [redacted] stated she was not at home at the moment. I informed him I would make contact with her at a later time. Mr. [redacted] expressed his interest in the resolution in this matter as he stated this information has affected his daughter emotionally.

On January 4, 2005, I acquired the subpoenas from the State Attorney's Office for Cingular Wireless, Metro PCS, Verizon, Bell South Telecommunications and Sprint for the unknown telephone numbers from [redacted] cellular telephone. The subpoenas were sent to the respective telephone carriers for subscriber information.

I received a telephone call from State Attorney's Office, who informed me that the former houseman for Jeffrey Epstein, Alfredo Rodriguez, was present at the State Attorney's Office for an interview. Rodriguez was issued an investigative subpoena for an interview on the on-goings at Epstein's house during his employ. I responded to the State Attorney's Office and encountered Mr. Rodriguez waiting in the lobby. I brought Mr. Rodriguez to the interview room.

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During a sworn taped statement, Mr. Rodriguez stated he was employed by Jeffrey Epstein for approximately six months. He was referred by associates and his employment lasted the months of November 2004 through May 2005. His responsibilities as house manager included being the butler, chauffer, chef, houseman, run errands for Mr. Epstein and provide for Epstein's guests. Rodriguez advised he had very limited contact with Mr. Epstein. If Rodriguez needed to relay a message to Mr. Epstein, he would have to notify Epstein's secretary "Leslie" in New York City, who would then notify Epstein's personal assistant, [redacted], who would relay the message to Epstein. Rodriguez stated Epstein did not want to see or hear the staff when he was in residence.

I asked Rodriguez if Epstein received many guests during his stay in Palm Beach. Rodriguez advised he had many guests. I asked specifically about masseuses coming to the house. Rodriguez stated he would have two massages a day. Epstein would have one massage in the morning and one massage in the afternoon everyday he was in residence. Rodriguez stated he would be informed to expect someone and make them comfortable until either [redacted] or Epstein would meet with them.

Rodriguez stated once the masseuses would arrive, he would allow them entry into the kitchen area and offer them something to drink or eat. They would then be encountered by either [redacted] or Epstein. They would be taken upstairs to provide the massage. I asked Rodriguez if any of the masseuses appeared young in age. He advised he didn't ask their ages but felt they were very young. Rodriguez stated they ate like his own daughter who is in high school. Rodriguez stated they would eat tons of cereal and drink milk all the time. Rodriguez stated the girls that would come appeared to be too young to be masseuses. He stated one time under Epstein's direction, he delivered a dozen roses to [redacted] for one of the girls that came to provide a massage. He knew the girls were still in high school and were of high school age. I asked Rodriguez about the massages. He felt there was a lot more going on than just massages. He would clean Mr. Epstein's bedroom after the alleged massages and would discover massager/vibrators and sex toys scattered on the floor. He also said he would wipe down the vibrators and sex toys and put them away in an armoire. He described the armoire as a small wood armoire which was on the wall close to Epstein's bed.

Epstein ordered Rodriguez to go to the Dollar rent a car and rent a car for the same girl he brought the roses to, so that she could drive her self to Epstein's house without incident. Rodriguez said the girl always needed rides to and from the house. Rodriguez referred himself as a "human ATM machine" and was ordered by Epstein to maintain a minimum balance of $2,000 dollars on him at all times. When a girl would come by the house and Mr. Epstein was either not in residence or was not at home at the time, Rodriguez was to provide the girl (masseuse) several hundred dollars for their time and to notify Epstein the amount they were given. Epstein also ordered Rodriguez to

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purchase several gifts and provide them as tips to the girls. I asked what kind of gifts. Rodriguez stated he purchased IPODS, jewelry, anything the girls would want.

Rodriguez stated the amount of girls that came to the house was approximately fifteen. Each of the girls knew each other and all seemed to know at [redacted] who Mr. Epstein was. When asked to identify these girls, Rodriguez stated he could not at the moment but knew he wrote their names down on a journal he kept during his employ with Mr. Epstein. He kept a journal in the event he needed to explain either to Mr. Epstein or his assistants what was done at the house or who visited the house as he stated he was in-charge of Mr. Epstein's personal security while in Palm Beach. I informed him I would need to view this journal to which he stated he would research the book and contact me to provide the book. The interview was concluded and left the area. I returned back to the police station where the micro cassette was placed into evidence. At approximately 7:20 pm, I was notified Rodriguez located the journal and would call me on January 5, 2005 to provide the journal.

Investigation Continuesàà

********** N A R R A T I V E # 34 **********
Reported By: RECAREY, JOSEPH 1/09/06
Entered By.: ALTOMARO, NICKIE A. 1/10/06

On January 5, 2006, I attempted to meet with Alfredo Rodriguez to recover the folder or journal in which he kept the notes that were given to him during his employ with Mr. Jeffrey Epstein. He kept this folder to justify what he did during his employ should the need arise to justify what occurred with the monies he had to keep or any questions as to the petty cash he withdrew from the household account from the bank. At approximately 10:00 pm, I attempted contact with Mr. Rodriguez and discovered he was assisting his wife at her place of employment and would not be able to meet with me. Mr. Rodriguez stated he would meet with me on January 6, 2006, in Broward County, in the morning hours.

On January 6, 2006, at approximately 9:00 am, I received a telephone call from Mr. Rodriguez who advised he had the file in hand and would be traveling northbound to meet with me in Broward County. At 10:50 am, I met with Alfredo Rodriguez at the parking lot of Bank of America in Boca Raton on Yamato Road and Military Trail (known as the Polo Center). Rodriguez produced a green folder which contained documents, a note with Mr. Epstein's stationary with direction to deliver a bucket of roses to [redacted] after [redacted] high school drama performance. Also in that same note was direction to rent a car for [redacted] and direction to extend the rental contract. I returned to the Palm Beach Police Station and placed the folder into evidence.

I received a fax from Verizon from the subpoena request sent on

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01-04-06, for telephone number [redacted]. The phone number is registered to Dr Perry Bard, from West Palm Beach. Dr. Bard is a chiropractor and has an office located 4275 Okeechobee Blvd in West Palm Beach. The cellular number is Dr Bard's personal cellular number.

On January 9, 2006, Det. Caristo and I traveled to 622 Holly Drive in Palm Beach Gardens in an attempt to locate Johanna Sjoberg, who had been previously seen on the property and identified through her Florida Drivers License and Florida license Plate. A business card was left for her to return my call. We then traveled to the [redacted] and located [redacted] agreed to speak with us and in a private room within the school provided us a taped statement.

During the statement, [redacted] advised that when she was fifteen or sixteen years of age, she was taken to Jeffrey Epstein's house by her associate, [redacted] stated this occurred late May 2004 or early June 2004. She was told she could model lingerie for money for a wealthy Palm Beacher. She remembered they traveled by yellow cab from their residence in West Palm Beach to Epstein's house. She remembered encountering Epstein at the front door during the evening hours.

He introduced himself and brought them into the kitchen so that the chef could prepare something for them to eat. After having a meal, [redacted] and Epstein brought [redacted] upstairs to a master bedroom which had a large bathroom. She observed a large style shower, sauna and there was a large massage bed also in the bathroom. Epstein entered a room within the bathroom and came out wearing only a towel. [redacted] said they would provide a massage on his feet. [redacted] asked why they are doing this. [redacted] told her this was part of the routine and told her to rub his legs and calves. Epstein had told [redacted] to get comfortable. [redacted] continued rubbing Epstein's calves and feet. At Epstein's direction, [redacted] then left the room leaving [redacted] there by herself. Epstein told [redacted] to get comfortable. [redacted] removed her blouse and pants and stayed in her panties. [redacted] stated she was not wearing a bra. She believed she was wearing thong panties. Epstein turned over onto his back and began touching her. Epstein touched her breasts and began touching her in her vagina area. Epstein instructed her to rub his chest and rub his nipples. [redacted] stated the touching consisted over the panties on the first time; he stroked her vagina but stayed on top of the panties. During the first massage, she stated Epstein was stroking her and began masturbating himself at the same time. He put his hands under the towel and appeared as to masturbate himself however she never saw his penis. She continued rubbing his chest until he grabbed her and pulled her closer to him. He appeared to have climaxed because after he pulled her closer to him the massage was over. Epstein had told her that there was two hundred dollars for her on the dresser. He told her that she could not tell anyone what happened at the house or bad things could happen. [redacted] stated she went to Epstein's house three

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or four times total. [redacted] was very scared and felt very nervous. She knew because of Epstein's money he was powerful. After the massage, Epstein ordered his houseman at the time to drive the girls home. The employee was to drop off the girls at their house and watch them go inside their house.

[redacted] could not remember who the houseman was. She stated Epstein and his assistant [redacted] would call her at her father's house to arrange for her to come and "work." She advised each time she returned to the house, Epstein would do the same thing. [redacted] stated it was a routine with Epstein. She would rub his feet and calves. He would then turn over and begin to touch her on her vagina area. The only difference was that it was done without panties. Epstein's fingers would stroke her vagina area as he would masturbate and finally climax and the massage would be over. She was paid $200.00 each time she went. Each time she went she was reminded not to speak of what happened at the house and that she would be contacted again. She began to purposely miss the calls when either [redacted] or Epstein would call her. She once brought a friend, [redacted] unknown last name, to work for Epstein. She was paid $200.00 for bringing [redacted] stated she no longer retuned to work for Epstein. She also stated that she wanted to notify the police of what happened at the house. [redacted] stated she was scared of what could have happened to her or her family if she notified authorities.

On January 10, 2006, I received the results from the subpoena from BellSouth Telecommunications for telephone number [redacted] The number is assigned to Mr. [redacted] father in [redacted] I also received the results from Western Union which confirmed the money order sent to [redacted] from Jeffrey Epstein in New York City. The "wire" was sent by Jeffrey Epstein of 457 Madison Ave in New York City on December 23, 2004 at 12:05 pm. The amount of $222.00 was charged to Epstein's credit card so that [redacted] could receive $200.00 in [redacted] The twenty-two dollars was for processing and local fees to send the money via Western Union. A copy of the check presented to [redacted] was also attached to the receipt of the wire. This confirmed what [redacted] advised she received as a Christmas bonus from Epstein.

Investigation continues.

********** N A R R A T I V E # 35 **********

Reported By: RECAREY, JOSEPH 1/10/06
Entered By.: ALTOMARO, NICKIE A. 1/10/06

I received and reviewed the Cingular Wireless results from the subpoena requests for subscriber information for telephone numbers [redacted], [redacted] and [redacted]. The first number, [redacted], is assigned to Janusz Banasiak in care of Jeffrey Epstein of 457 Madison Ave in New York City. Banasiak is the current houseman/house manager for 358 El Brillo Way in Palm Beach, Fl 33480. The second number, [redacted]-389-6874, is assigned to Christina Venero of

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1685 61st Drive in West Palm Beach. Research conducted on Venero revealed she is a licensed Massage therapist with a Florida conditional/active license number MA39723. Venero had been previously arrested for battery / unwanted touching and DUI. Requests for copies of the reports involving the arrests were requested from the Palm Beach County Sheriff's Office. The last number [redacted] is assigned to Thomas Rofrano of 9850 Alt A1A in Palm Beach Gardens. Research on Mr. Rofrano, revealed that he is a Florida Chiropractic Physician.

Vehicles that were previously documented on the property while surveillance was being conducted were researched. I determined a tan Chevrolet Camaro, bearing Florida license [redacted] was seen on the property in which a young white female was seen entering the Epstein property. Research was conducted which revealed that the vehicle is registered to [redacted] of [redacted]. Mr. [redacted] has two daughters, [redacted] and [redacted] is currently residing in Connecticut and [redacted] is residing with her father in [redacted] Research on [redacted] revealed she was recently involved in a traffic stop in Lake Clarke Shores in May 19, 2005. A request to discover any information from the stop was requested.

I spoke with ASA Daliah Weiss who informed me that Janusz Banasiak will be available for an interview tomorrow at the State Attorney's Office in West Palm Beach at 1:30 pm. I informed her that I would be at her office for the interview.

********** N A R R A T I V E # 36 **********
Reported By: RECAREY, JOSEPH 1/23/06
Entered By.: ALTOMARO, NICKIE A. 1/23/06

On January 19, 2006, Det. Caristo and I met with Johanna Sjoberg at 622 Holly Drive in Palm Beach Gardens. Sjoberg was identified as a licensed massage therapist who had previously been seen on Epstein's property when physical surveillance was done. Sjoberg was told of the on going investigation and I felt she may have information pertaining to the case. During a sworn taped statement, Sjoberg stated she met Epstein three years ago when Ghaline Maxwell approached her while she was attending Palm Beach Atlantic College to work around Epstein's house. Maxwell had told her that they needed some girls to work at the house to answer phones and run errands. Sjoberg accepted the job and began working at Epstein's house on El Brillo in Palm Beach. Sjoberg stated it was a part time job during the time she went to Palm Beach Atlantic College. She continued going to Epstein's house and would be notified when Epstein would travel to Palm Beach. Sjoberg advised she would be notified by Maxwell, Epstein or [redacted], his assistant, when he would travel to Palm Beach. Sjoberg stated she began providing massages to Epstein before she became a massage therapist. She continued giving massages not only to Epstein but to [redacted], [redacted], and [redacted], his assistant. Sjoberg was asked about what occurred during the massages. Sjoberg stated as she was twenty

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three years old when she met Epstein, anything that happened was between two consenting adults. I explained to her that she was not in any trouble however as part of this investigation, I needed to ask certain questions. Sjoberg stated that there were times that Epstein would ask her to perform during the massage. He would instruct her to rub his nipples as he masturbated himself. Sjoberg stated she felt "grossed" about the behavior but as she was getting paid, she just continued. Sjoberg also advised she would on occasion perform the massages naked. Epstein would on occasion, utilize the vibrator/massager on her vagina area when she performed the massages. Sjoberg explained that Epstein never exposed himself to her as he maintained himself covered under the towel he would be wearing. When Epstein would masturbate he would be covered.

I asked if Sjoberg ever received any gifts, or any gratuities from Epstein. Sjoberg advised aside from being paid well, she advised Epstein took care of her tuition from Palm Beach Atlantic College. She received a rental car for a week when her scooter broke down.

Additionally she received other gifts from Epstein. Epstein also recommended her to another client who resides at Breakers Row in Palm Beach. The client she was referred to was "Glenn" unknown last name, and his wife, who she provided a massages to. The statement was concluded and placed into evidence upon our return to the Palm Beach Police Department.

While at the police station, I researched Florida tag [redacted] which was also previously seen on the property when there was physical surveillance being done at the property. The vehicle is registered to [redacted] of [redacted] Researching Mr. [redacted] and the vehicle revealed that his daughter, [redacted] had been driving the vehicle and was cited for unlawful speed in Lake Clark Shores. The vehicle is a tan, Chevrolet Camaro, 2-door. I researched [redacted], date of birth, [redacted], resides at [redacted] in [redacted] has a my space page called www.myspace.com/[redacted] In her web page, shows various photos of [redacted] photographed at a beach. An interview is forthcoming.

A review of the video disks which was extracted at the Palm Beach County Sheriff's Office Computer Crime Unit revealed that only one hidden camera was functional at the time. Several images of Epstein working at his office were seen. Additional footage of [redacted] and [redacted] was seen. There was other footage of females seen. The identity of the females is unknown at this time, until such time as I meet with certain females to show the video footage to confirm if, in fact, it is them on the video. At this time it appears that [redacted] and Haley Robson are seen sitting with Epstein beside his desk in the evening hours. Due to poor lighting, a direct confirmation cannot be made at this time.

Inv. Continues.

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********** N A R R A T I V E # 37 **********

A Reported By: RECAREY, JOSEPH 1/30/06
Entered By.: ALTOMARO, NICKIE A. 1/30/06

On January 25, 2006, Det Caristo and I, responded to [redacted] in [redacted] and met with [redacted] stated last year, when she was seventeen years of age, she met Jeffrey Epstein through her former room mate [redacted] was allegedly dating Epstein at the time. [redacted] and [redacted] had once cohabitated together when they modeled. [redacted] explained [redacted] called her on her telephone and advised her that she was in Palm Beach and requested to see her. [redacted] made arrangements to meet with her at Epstein's house. [redacted] arrived and met Epstein and [redacted]. [redacted] and [redacted] went to the Palm Beach Mall together and went shopping. [redacted] advised that [redacted] and she had received money from Epstein to go to the mall. They visited Victoria's Secret and purchased undergarments from the store utilizing monies given by Epstein. [redacted] advised she purchased one item and [redacted] purchase various items. The money used to purchase the items was the money given by Epstein.

[redacted] and [redacted] continued shopping and having a day together. [redacted] stated [redacted] explained how she and Epstein have been dating each other and he has been paying all of her bills. [redacted] claimed [redacted] advised they met in New York and had been dating ever since. They later returned to Epstein's home and encountered Epstein. He had a brief conversation with [redacted] about her modeling career. He knew of her modeling career from [redacted] He requested to see her modeling portfolio and explained that he could help her with modeling jobs. [redacted] had her book with her to show [redacted] and showed the book to Epstein. He commented negatively about her photographs and portfolio. [redacted] felt uncomfortable with the comments made as she had been working with other professional modeling companies who had offered her work from her photographs. Epstein requested to see what was purchased at the mall. [redacted] took out the undergarments which were purchased. She immediately showed Epstein different sets purchased. Epstein then requested to view what [redacted] purchased. [redacted] was reluctant to show the outfit however since it was Epstein's money that purchased the item, she pulled it out of the bag. Epstein asked her to try it on. [redacted] looked at [redacted] who told her "yeah, try it on." Feeling compelled to try the undergarment outfit on; she went to another room and put on the bra and panty set. She walked out to the living room where they were sitting, and modeled the suit. She then went back into the other room and changed back into her clothes. [redacted] returned into the room and told [redacted] she would be going home. [redacted] scheduled another day for [redacted] to return for massages with her.

[redacted] stated within that same week, she returned to meet with [redacted] and have a massage. [redacted] had told her that she would be unable to stay with her as she would be going on a bike ride with Epstein. [redacted] explained she could stay at the house and take advantage of the massage.

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[redacted] stated she met with an unknown massage therapist and had the table already set up in a guest room. [redacted] removed her clothing, leaving her panties on, and wrapped herself with a towel for the massage. [redacted] remembered that the door to the guest room was closed but not locked. As the therapist was working her back, the door was opened by Epstein and entered into the room. [redacted] was trying to conceal herself as Epstein was talking to her about his chiropractic session. Epstein told [redacted] turn over onto her back. [redacted] eventually turned over exposing her breasts to Epstein as he applied pressure on her shoulder and her waist. [redacted] stated Epstein "popped" her back. [redacted] removed her self from the table, got dressed and left the house. [redacted] further stated [redacted] had attempted to call her on several occasions to invite her back to Epstein's house to which [redacted] replied "I'm busy." [redacted] advised she has not had contact with either [redacted] or Jeffrey Epstein. It should be noted that her mother, [redacted] was present during the interview. The interview was concluded and we thanked them her for their time.

********** N A R R A T I V E # 38 **********

Reported By: RECAREY, JOSEPH 1/31/06
Entered By.: ALTOMARO, NICKIE A. 1/31/06

On January 27, 2006, I made telephone contact with Christina Venero, at 772-878-7280. Venero is a licensed massage therapist who had frequented the home of Jeffrey Epstein. Ms. Venero has been unable to meet with me in Palm Beach County, and because she lives and works in Port St Lucie, a telephone interview was conducted. I explained to Ms. Venero that there was an on going investigation involving Jeffrey Epstein.

Venero stated she knows Epstein and has been employed by him for approximately three years. Epstein has paid Venero to perform Swedish Massages (Deep Tissue) on him and other guests. Venero explained that approximately three year ago she met Ghislaine Maxwell and Jeffrey Epstein through a mutual friend. Epstein and Maxwell were looking for a massage therapist. Venero stated since that time, she is notified when Epstein is coming to Palm Beach. Venero stated she comes to his house and provides the massage or massages. Venero explained she has also massaged his guests and assistants. Venero continued that she is paid $100.00 and hour for the massage.

I asked Venero if anything occurred during the massage that would have made her feel uncomfortable. Venero stated she only provided massages and that was it. She never was approached for anything else. I asked if Epstein ever asked her to rub his chest she stated she would not rub his chest as that is not part of her massage. Venero explained that she was not Epstein's type. The girls she would see at Epstein's house were very thin, beautiful and without tattoos. Venero explained she has several tattoos that are visible. Maxwell and Epstein have commented negatively about her tattoos previously when she has provided massages.

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Venero stated she only provided massages for Epstein and his associates and nothing happened during those massages. Venero stated as she does Swedish style massages, the patient is usually sore after the massages. I thanked her for her assistance and the interview was concluded at this time.

I received a facsimile from T-Mobile Cellular service on telephone number [redacted], which is assigned to David Rodgers, pilot for Mr. Epstein, who resides in Lake Worth. Rodgers' telephone number was dialed on several occasions by [redacted]. A background on Rodgers indicated he has a valid FAA pilot license First Class for the Southern FAA Region. Rodgers has another historical FAA license for Airline Transport Pilot.

Investigation Continues.

********** N A R R A T I V E # 39 **********
Reported By: RECAREY, JOSEPH 2/14/06
Entered By.: ALTOMARO, NICKIE A. 2/16/06

On Friday, February 3, 2006, I had made arrangements to meet with Joanna Harrison at the Palm Beach Police Station. At approximately 1:00pm, Harrison and her friend, Victoria Bean arrived at the police station. During an interview with Harrison, she stated she met Epstein when she turned eighteen years old and was brought to Epstein's house to provide a massage. She advised this occurred on May of 2005. She advised Haley Robson had informed her if she wanted to provide a massage for $200.00. Harrison agreed and was brought to Epstein's house to provide a massage. Harrison stated she had been to the house on many occasions during the massage sessions. Harrison also stated she would remove her clothing to provide the massage on Epstein. Harrison advised Epstein would pay her $300.00 to rub his back, legs and chest. During the massages, Epstein would masturbate himself as she rubbed his chest. I asked her if Epstein ever touched her breasts during the massages. Harrison replied, "Yes." I asked her if Epstein ever touched or massaged her vagina. Harrison stated he had on several occasions. I asked her if he ever penetrated her with either his penis or any other objects. Harrison stated that during a massage he inserted his fingers in her vagina as she massaged him. She stated this occurred one time only. Harrison stated the massage would be over when Epstein would climax onto a towel. I asked Harrison if she had any formal massage training to which she replied that she did not. Harrison was then asked if she ever brought anyone to the house to "work." Harrison stated she brought two people to the house. She advised she received money for bringing people to the house to "work." Harrison stated she brought a girl named [redacted] and her friend Tory Bean. Bean was still waiting for Harrison in the lobby of the police station. I thanked Harrison for her time and her cooperation and escorted her to the lobby.

I asked Ms Bean if I could speak with her about this investigation. I

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brought her to the interview room and explained to her that I was conducting an investigation on Jeffrey Epstein and felt she may have information pertaining to the investigation. Ms Bean identified herself as Victoria Bean and resides in Wellington, Florida. She advised approximately a year ago she was brought to Epstein's house to provide a massage for money. Bean stated she needed to make money and felt it was a quick way to make some money. Bean stated she was brought to the house by Harrison and was introduced to Epstein and his assistant. She was brought to his main bathroom and provided a massage. I asked her if she provided the massage naked. Bean stated she did. She rubbed Epstein's legs, back and chest. I asked Bean if Epstein touched her during the massage. She advised he did not, however he did masturbate himself as she rubbed his chest. Once he climaxed the massage was over. She was paid her money and left the area. Bean advised it occurred one time and she never returned to Epstein's house. The interview was concluded and Bean was escorted to the lobby.

I located a telephone number for [redacted] and attempted to contact her on several occasions. I called [redacted] and spoke with Ms. [redacted] who advised she would speak with me in [redacted] where she resides. Due to a scheduling conflict, we were unable to meet. I informed her I would contact her to schedule another appointment to speak with her about this investigation. I have attempted to meet with her and make telephone contact with negative results.

On February 13, 2006, I met with David Rodgers at 7318 Heathley Drive in Lake Worth. Rodgers was identified as Epstein's pilot. I spoke with Rodgers who advised he has been employed with Epstein since 1991. He flies both planes for Epstein depending where he wants to fly to. Rodgers was asked about passengers in the plane he flies. Rodgers stated unless Epstein flew to his island off of St Thomas, there would be no way of knowing who the passengers were. I mentioned a recent flight to Ohio, where Rodgers flew to Ohio to pick up [redacted] Rodgers stated he recalled flying on several occasions and did remember [redacted] Rodgers stated once he is in the cockpit, he does not know who the passengers are. When he prepares the passenger manifests, he lists Epstein and his assistants he knows by name, [redacted] and Adrianna. Rodgers stated he would list either female or male passengers on the manifests only to keep a count on the passengers. Mrs. Rodgers came into the living room and recommended that her husband consult with an attorney. Mr. Rodgers agreed he would speak with the family attorney to inform him of this questioning. I explained to Mr. Rodgers that he was not the suspect in this investigation and ceased all questions. Based on the fact Rodgers could not advise who passengers were in the plane, I then left the area.

I attempted to locate [redacted] at [redacted] in [redacted]. I left my business card for her to return my call. On February 14, 2006, at 12:06 pm, I received a call back from Ms. [redacted]

ase No. . . . : 1-05-000368 (Continued)

on my voice mail. Ms [redacted] left her telephone number for a return call [redacted]. I left her a message to return call.

Investigation Continues..

********** N A R R A T I V E # 40 **********
Reported By: RECAREY, JOSEPH 2/21/06
Entered By.: ALTOMARO, NICKIE A. 2/22/06

On February 15, 2006, I made telephone contact with [redacted] who provided directions to where I could locate her. Det Caristo and I responded to 806 Old Dixie Hwy in Lake Park to meet with [redacted]. Upon my arrival, I met with [redacted] in the parking lot directly behind MAACO Auto Painting. She was advised I was there to speak with her about an ongoing investigation that concerned Jeffrey Epstein in Palm Beach. [redacted] stated she knows Epstein very well and did not want to speak with me about Mr. Epstein. She was very fond of Epstein and did not want to speak with me about anything concerning Jeffrey Epstein. I explained to her that she was seen at the house and I would like to speak with her. She stated she knew there was an investigation and that I had spoken with other people and therefore I should know what happened at Epstein's house. [redacted] ended the conversation and walked back into her boyfriends business, Blanton Automotive. Det Caristo and I left the area and returned to the police station.

Investigation continues.

********** N A R R A T I [redacted] E # 41 **********
Reported By: RECAREY, JOSEPH 4/10/06
Entered By.: ALTOMARO, NICKIE A. 4/10/06

A Grand Jury Session was requested during the month of February 2006, in which all the girls that had been interviewed would have been called to testify before the Grand Jury to seek an indictment against Jeffrey Epstein. Due to subsequent meetings with the State Attorney's Office and Defense Attorney Alan Dershowitz the Grand Jury was postponed until a later time. Dershowitz had provided a package of material on the main victims in this case in which they appear on myspace.com and speak about alcohol use and some marijuana use. The State Attorney's Office wanted time to review the material.

I requested additional subpoenas from the State Attorney's Office in which I requested information from Dollar Rent a Car and Jet Aviation. The information requested from Dollar Rent a Car was for the rented vehicle by Alfredo Rodriguez while under the employ of Epstein for one of the victims. The other subpoena requested was for Jet Aviation for dates and times when Epstein's planes were in Palm Beach County.

I continued to research other names that were acquired either from interviews or intelligence gathered during the investigation. I

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located [redacted] in [redacted]. I responded to [redacted] in [redacted] During the interview, [redacted] stated she knew I would be speaking with her. [redacted] stated she was first introduced to Epstein when she turned eighteen years old. [redacted] stated she was sure of her age as it was her senior year in [redacted] She advised she was brought there to make money and was told she would have to provide a massage to this Palm Beach guy. She remembered she met Epstein and his assistant [redacted] in the kitchen area. She stated she was taken by one of her friends, [redacted] She stated she went upstairs with [redacted] while Epstein got ready for the massage. He exited his bathroom naked and [redacted] turned around. Epstein asked her if being naked offended her. [redacted] stated it made her uncomfortable. Epstein then put on a towel and lay on the table. [redacted] stated she rubbed his back and feet. She stated she had no massage training or experience. [redacted] stated during the massage, Epstein attempted to touch her buttocks. [redacted] pulled away as he touched her buttocks. She told him again she was uncomfortable with him touching her. Epstein then cut the massage short and became upset with her. Epstein paid her $200.00 for the massage and told her to leave the house. [redacted] never returned to the house. She did advise of one time she went with [redacted] however she waited in the car for [redacted] as she did not want to go into the house. At the conclusion of [redacted] visit with Epstein they left the area. [redacted] stated she had heard from other girls that have gone to the house that Epstein now required them to do the massage naked and allow him to touch them in their private areas for monies. The interview was concluded as [redacted] did not have any other information to provide.

I then learned from the original victim, [redacted] the defense attorney had learned of her identity. I spoke with the father of the victim, who stated there has been a private investigator on his house photographing his family and chasing visitors who come to the house. He provided a Florida License of E79-4EH. This vehicle is registered to Ivan Robles of West Palm Beach. Robles is a private investigator intern who is licensed by the state. I informed the State Attorney's Office of the above information.

I received the Grand Jury subpoenas to be delivered to three victims for a Grand Jury session to be held on April 18, through April 20, 2006.

Investigation continues.

********** N A R R A T I V E # 42 **********
Reported By: RECAREY, JOSEPH 4/14/06
Entered By.: ALTOMARO, NICKIE A. 4/18/06

The Grand Jury Subpoenas were personally served to the individuals they were issued to. On April 5, 2006, at approximately 7:30 p.m., I personally served the parents of [redacted] who had informed me that the private investigators were still photographing the family. On April

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10, 2006, at approximately 2:30 p.m., I served [redacted] at her residence in [redacted] The subpoena was given to her mother, [redacted]

I learned through one of the victims [redacted] that she was personally contacted through a source that has maintained contact with Epstein. The source assured [redacted] she would receive monetary compensation for her assistance in not cooperating with law enforcement. [redacted] also stated she was told, "Those who help him will be compensated and those who hurt him will be dealt with." I told [redacted] that tampering with a witness/victim is an arrestable offense and very serious. I asked her who approached her during this encounter. [redacted] originally was reluctant to provide the name of the person who approached her to offer her not to testify because she felt they were still friends.

On April 11, 2006, Det Dawson and I traveled to Tallahassee, Florida and met with the victim, [redacted] identified [redacted] W/F, [redacted], as the person who approached her in Royal Palm Beach while she was home during Spring Break in March 2006. [redacted] also stated she did not want to pursue the intimidation charges on [redacted] was concerned that the defense attorney was given a copy of the report as certain things she had told me in confidence were repeated to her by Beal. Prior to our departure, the victim was given a copy of her subpoena for the Grand Jury which was scheduled to commence April 18, 2006.

Upon our return from Tallahassee, I notified the State Attorney's Office of what was told to me. I also notified them that the subpoenas were delivered to the witnesses and they would be calling for arrangements for the date and time needed for the Grand Jury. I spoke with ASA Weiss and informed her of the possible intimidation by the defense.

On April 13, and April 14, 2006 I attempted contact on several occasions with ASA Weiss and ASA Belohlavic to ascertain when the victims needed to report for Grand Jury testimony. Messages were left on their voicemail. On April 17, 2006, during the hours of 9:00 am and 11:30 am, I again left messages for ASA Weiss and ASA Belohlavic for either of them to return my call as I had not heard from the State Attorney's Office as to the time and date of the Grand Jury.

At approximately 12:30 pm, I went to the State Attorney's Office and located ASA Weiss and ASA Belohlavic in their offices. I entered ASA Belohlavic's office who informed me that she was going to return my call. She explained that an offer was made to the defense, Atty Guy Fronstin and Atty Alan Dershowitz. The offer is 1 count of Agg Assault with intent to commit a felony, five years probation, with adjudication withheld. Epstein would have to submit to psychiatric/sexual evaluation and no unsupervised visits with minors. When asked about the all the other victims, ASA Belohlavic stated that was the only offer made as to one victim, [redacted] ASA Belohlavic cell phone rang and went to voice mail. She checked her voice mail and played the message on speaker. The caller identified himself as

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Atty Guy Fronstin and acknowledged the deal made between them. Fronstin stated in the message, he spoke with his client, Jeffrey Epstein, and agreed to the deal. Fronstin asked to call off the grand jury as they would accept this deal. Belohlavic stated a probable cause would be needed to book Epstein in the county jail and would let me know as to when it would be needed. I explained my disapproval of the deal and not being consulted prior to the deal being offered. However I expressed that was only my opinion and the final approval would come from the Chief of Police. She explained to have Chief [redacted] call Barry Krisher about the deal. I left the area and returned to the police station where I briefed the Chief about the deal offered.

I checked my voice mail messages and discovered a message from [redacted] stepmother for the victim [redacted] She was calling because the State Attorney's Office still had not returned any of her calls as to when they are needed for this case. I then called ASA Belohlavic's office and left messages for her to call the victims on this case and explained to them what the State Attorney's Office had done.

On April 17, 2006, at approximately 4:30 pm, State Attorney Investigator Tim Valentine called to officially notify me of the cancellation of the Grand Jury. He requested I contact the victims that had been served to appear, to notify them of the cancellation. I advised Valentine that as this Grand Jury session was called based on the State Attorney's Office decision to have the victims heard by the Grand Jury that I felt it was the States Attorney's Office responsibility to contact the victims and advise them of the reason they were no longer needed.

********** N A R R A T I V E # 43 **********
Reported By: RECAREY, JOSEPH 5/04/06
Entered By.: ALTOMARO, NICKIE A. 5/04/06

As I had not received any contact from anyone at the State Attorney's Office, on May 1, 2006, I prepared three arrest warrant requests and submitted them to the State Attorney's Office. The packages were delivered to the Crimes against Children Unit in care of ASA Lana [redacted]. Jeffrey Epstein's arrest warrant was requested for 4 counts of Unlawful Sexual activity with certain minors and one count of Lewd and Lascivious Molestation. [redacted] [redacted], Epstein's assistant's, arrest warrant request was for 4 counts of Principal in the 1st degree Unlawful Sexual activity with certain minors and one count of Principal in the 1st degree Lewd and Lascivious Molestation. Haley Robson's arrest warrant request was for Lewd and Lascivious Acts on a victim under 16 years of age. The receipt of delivery was signed and brought back to the records division at the police department.

On May 3, 2006, at approximately 2:54 pm, I received a telephone call from ASA Daliah Weiss on my cellular telephone. ASA Weiss advised she

ase No. . . . : 1-05-000368 (Continued)

has been taken off the Jeffrey Epstein case because her husband is employed with Attorney Jack Goldberger. Attorney Goldberger is the attorney of record for Jeffrey Epstein. His previous attorney, Guy Fronstin, has been fired from representation. ASA Lana [redacted] has been assigned the case. ASA Weiss stated she can no longer speak about the Epstein case with me. I thanked her for her telephone call. ASA Weiss further stated that ASA [redacted] would be calling me.

********** N A R R A T I V E # 44 **********

Reported By: RECAREY, JOSEPH 5/15/06
Entered By.: ALTOMARO, NICKIE A. 5/15/06

On May 10, 2006, information was received that Epstein's associate, Leslie Wexner, The Limited Inc, CEO's, plane had arrived in West Palm Beach, PBIA. The plane, a Gulfstream 4 bearing a N900LS registration, was on the tarmac at Galaxy Aviation. As Epstein had recently acquired the services of a new attorney, and the fact that Epstein's house is currently under remodeling, it was believed that Epstein may be in Palm Beach. I conducted physical surveillance at the residence, 358 El Brillo Way. I observed a large construction crew conducting remodeling at the house. The contractor, David Norr, was observed driving a Ford Explorer, white in color. The vehicle has a Florida registration of F30QQF. Norr left Epstein's house and traveled north on County Road. Det Caristo and I conducted surveillance on Norr. Norr traveled to several construction sites and checked on certain jobs. Surveillance was discontinued on Norr and Det Caristo and I traveled to Galaxy Aviation. I observed the white plane with a blue stripe along the body and tail of the plane; the tail number was visible on the bottom of the tail, closer to the body of the plane. We maintained visual surveillance on the plane until 4:57 p.m., when a caravan of Cadillac Escalades drove onto the tarmac. We observed several people exit the vehicles and discovered that they were part of the executive team for Limited Inc. The executives were in Palm Beach County for an executive meeting for the day. They arrived in Palm Beach County on May 9, 2006 at 9:30 pm and were scheduled to leave on the 10th at 5:00 pm.

On May 12, 2006, I met with ASA Lana [redacted] at the State Attorney's Office. She explained that her boss, [redacted], was requesting this case be taken to the Grand Jury again. I explained to her I had requested arrest warrants for Jeffrey Epstein, [redacted], and Haley Robson. I asked that she either issue the warrants or direct file, as so much time has elapsed since the original request to the Grand Jury. I explained that the Palm Beach Police Department had concluded the case in December of 2005 and has been waiting for the case to go forward. [redacted] stated the original offer was again offered to the new defense attorney. She was waiting for their answer by Friday May 19, 2006. She stated she would advise me of the answer.

********** N A R R A T I V E # 45 **********

Reported By: RECAREY, JOSEPH 6/05/06

ase No. . . . : 1-05-000368 (Continued)
Entered By.: ALTOMARO, NICKIE A. 6/06/06

On May 22, 2006, I received several phone calls throughout the day from Mr. [redacted] who stated he had been followed aggressively by a private investigator. Mr. [redacted] stated that as he drove to and from work and running errands throughout the county, the same vehicle was behind him running other vehicles off the road in an attempt not to lose sight of Mr. [redacted] vehicle.

I explained to him as Mr. Epstein had retained new legal council it was possible it would be new private investigators following him to observe his daily activities. I also explained to him that there was a meeting scheduled with ASA Lana [redacted] and Attorney Jack Goldberger at Mr. Krischer's office scheduled on June 1, 2006 at 9:00 am. I attempted to call ASA Lana [redacted] to inform her of the private investigators following Mr. [redacted] however; she was on her vacation during the week of May 22 through May 30 2006.

On May 23, 2006, I received other phone calls from Mr. and Mrs. [redacted] who advised they were able to acquire the private investigators license plate information. The subject following them was again driving very aggressively and caused Mrs. [redacted] to run off the road. Mrs. [redacted] stated the vehicle is a green Chevy Monte Carlo bearing Florida tag I35-XGA. The vehicle is registered to Zachary Bechard of Jupiter Florida. Bechard is employed with Candor Investigations from Jupiter, Florida. Bechard is a licensed Private Investigator in the State of Florida.

Since the discovery of the threat made against one of the victims in this case [redacted] I requested subpoenas for all calls made to and received from [redacted] during the month of March 2006 for her cell phone and home phone. I had confirmed with Florida State University the exact dates of Spring Break for 2006. The Spring Break was from March 4, 2006 through March 12, 2006. I received a subpoena from Sprint/Nextel with all calls made during the month of March 2006. I reviewed the 989 calls made and received during the month of March 2006. I observed on March 7, 2006, [redacted] made and received thirty five calls during that day.

Date	Time	Seconds	In/Out	To/From
7-Mar-06	11:03 AM	492	Outbound	561XXXX
7-Mar-06	11:16 AM	6	Inbound	561XXXX
7-Mar-06	11:22 AM	887.2	Inbound	561XXXX
7-Mar-06	11:37 AM	48	Outbound	9178553363
7-Mar-06	11:39 AM	28.2	Inbound	2125356831
7-Mar-06	12:02 PM	727.2	Inbound	2125356831

The table reflects the date of the calls, time of day (EST), duration

.se No. . . . : 1-05-000368 (Continued)

of call in seconds, inbound or outbound calls and calls made to or from [redacted] phone. On March 7, 2006, at 11:03 am, [redacted] made a call to the victim [redacted] which lasted 492 seconds (8 minutes and 2 seconds). The victim then returned the call at 11:16 am which lasted 6 seconds. The victim then made contact with [redacted] at 11:22 am for 877.2 seconds (14 minutes and 6 seconds). These sequences of calls were consistent with what the victim had described to me on the date of the intimidation. Immediately after speaking with the victim, [redacted] makes a call to [redacted] Epstein's assistant, which lasts for forty-eight seconds. A call is then immediately received, a telephone number registered to a Corporation affiliated with Jeffrey Epstein located at 457 Madison Ave in New York. An extensive computer check revealed 457 Madison Ave is a business address in which Epstein has his corporations assigned to. Epstein had corporation attorney, Darren Indyke, register the businesses and register himself as an agent. I also observed Epstein has his El Zorro Ranch Corporation, New York Strategy Group, Ghislaine Corporation, J Epstein and Company and the Financial Strategy Group registered to this same address. Finally, a third call is received by [redacted] at 12:02 pm from the same corporate number which lasts 12 minutes and 1 second. It should be noted that there is no further contact with either the victim during the month of March or April of 2006. I also noted that there was no further contact with [redacted] or Jeffrey Epstein during the remainder of the month of March or April 2006.

On June 1, 2006, ASA Lana [redacted] telephoned me to inform me of the meeting that occurred with Atty. Jack Goldberger and her reference this case. She advised she would make her determination on whether to file on this case or not by Monday June 5, 2006.

Inv Continues.

********** N A R R A T I V E # 46 **********
Reported By: RECAREY, JOSEPH 7/12/06
Entered By.: ALTOMARO, NICKIE A. 7/12/06

On June 29, 2006, I had spoken to ASA Lana Belohlavic who informed me that the case would be sent to the Grand Jury for charges. She informed me that the grand jury would convene on July 19, 2006 to hear the Epstein case. Belohlavic stated State Attorney Barry Krisher made the determination to go the Grand Jury to hear the case.

On July 12, 2006, I spoke with Mrs. [redacted] mother of the victim, [redacted] who inquired about the status of the case. I explained to her that I was told we would be going to the Grand Jury during the week of July 19, 2006. She stated she had not been contacted as of yet by the State Attorney's Office for any information. I provided her with the telephone numbers to the State Attorney's Office.

Investigation continues..

* * * * * * * * * * * * * * * END OF REPORT * * * * * * * * * * * * * * * * * *

Date/Time: 10/16/06 / 9:24:44

System: HTE PALM BEACH POLICE DEPARTMENT Page: 1
Progrm: CHF004P Narrative Print

Case Number: 1-05-000368

********** N A R R A T I V E # 47 **********

NA Reported By: RECAREY, JOSEPH 8/03/06
Entered By.: ALTOMARO, NICKIE A. 8/03/06

On July 18, 2006, I received a Grand Jury letter to appear before the Grand Jury on July 19, 2006, reference the Jeffrey Epstein case. On July 19, 2006, I responded to the Grand Jury Room and testified before the grand jury. At the conclusion, ASA Belohlavec stated the grand jury returned with a true bill for Felony Solicitation of Prostitution.

On July 25, 2006, Epstein turned himself into the county jail and was released on a $3,000 bond. Epstein is to return for arraignment on August 25, 2006 at 8:45 am.

ATT POLICE CLERKS: Please show this case cleared by arrest with the arrest of Jeffrey Epstein W/M 01-20-1953.

** End of Report **

EXHIBIT

35

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-80736-CIV-MARRA

JANE DOE #1 and JANE DOE #2,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.
_____/

GOVERNMENT'S NOTICE OF FILING DECLARATION
OF FBI SPECIAL AGENT TIMOTHY R. [redacted]

Respondent United States of America, by and through its undersigned counsel, files the Declaration of Federal Bureau of Investigation Special Agent Timothy R. [redacted], attached as Exhibit D.

DATED: January 30, 2015

Respectfully submitted,

[redacted] A. [redacted]
UNITED STATES ATTORNEY

By: s/ Dexter A. Lee
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(305) 961-9320
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E-mail: [redacted]

ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 30, 2015, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF.

s/ Dexter A. Lee
DEXTER A. LEE
Assistant U.S. Attorney

SERVICE LIST
Jane Does 1 and 2 [redacted]. United States,
Case No. 08-80736-CIV-MARRA/JOHNSON
United States District Court, Southern District of Florida

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EFTA00184557

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-80736-CIV-MARRA

JANE DOE #1 and JANE DOE #2,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.
_____/

DECLARATION OF FBI SPECIAL AGENT TIMOTHY R. [redacted]

TIMOTHY R. [redacted] declares as follows:

1. I am a Special Agent, Federal Bureau of Investigation (FBI), currently assigned as a Section Chief at FBI Headquarters, Washington, D.C. I was appointed a Special Agent in May 1999. Upon graduation from the FBI Academy at Quantico, Virginia, in September 1999, I was assigned to the Detroit Field Office. I was subsequently transferred to the FBI Miami Field Office in May 2006.

2. In 2006, I was assigned to work on an investigation of Jeffrey Epstein, who was accused of sexually abusing many young girls under the age of 18. In the course of our investigation, the FBI identified many potential victims of sexual abuse by Epstein. We obtained names by speaking to other victims, who frequently knew of friends who had also been paid money by Epstein to provide sexual services to him.

3. One of the victims identified was [redacted] In January – February 2007, I used various computer indices to try and locate Ms. [redacted] By using these indices and other means, I found two international phone numbers which I believed were being used by Ms.

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[redacted].

4. Sometime during January – February 2007, I called the one of the numbers, in an attempt to speak to Ms. [redacted] Also in my office was FBI Special Agent [redacted] E. [redacted], the lead agent for the investigation of Jeffrey Epstein. I was not using a speakerphone when I spoke with Ms. [redacted] I asked S/A [redacted] to be present because she, as the lead agent, was thoroughly versed in the details of the entire investigation, and I might need her assistance to respond to a question posed by Ms. [redacted] that I was unable to answer.

5. When I dialed the number, a young woman answered the phone. I told her my name, identified myself as a Special Agent with the FBI, and asked if she was [redacted] She said yes. I used a technique which I employ when speaking to people on the phone, who might question whether I am truly an FBI agent. I provided her with the phone number of the FBI Field Office in Miami, Florida, and told her she could hang up and verify the number. She could then call me back at the number, and her call would be routed to me. Ms. [redacted] said that would not be necessary.

6. I told Ms. [redacted] about our investigation of Jeffrey Epstein, and the allegations that Epstein had sexually abused many underage young girls. I told her we believed she might be a victim of sexual abuse by Epstein.

7. Ms. [redacted] answered basic questions, telling me that she did know Jeffrey Epstein. She quickly became uncomfortable, telling me she moved away to distance herself from this situation, and expressing her desire to "let this be in my past." She asked that I not bother her with this again.

8. I thanked Ms. [redacted] and told her I appreciated her time. I provided my name and encouraged her to call the FBI Miami Field Office, if she had any questions or needed assistance.

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The entire phone conversation only last several minutes.

9. I did not hear from Ms. [redacted] again. In mid-March 2007, I reported for my new assignment at FBI Headquarters in Washington, D.C.

10. I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 26, 2015.

TIMOTHY R. [redacted]
Section Chief
Federal Bureau of Investigation
Washington, D.C.

Govt Exhibit D
Case No. 08-80736-CIV-MARRA

EFTA00184560

EXHIBIT

36

SUPREME COURT NEW YORK COUNTY
TRIAL TERM PART 66

THE PEOPLE OF THE STATE OF NEW YORK: INDICTMENT # 30129/2010

AGAINST

JEFFREY EPSTEIN
Defendant.

SORA HEARING

111 Centre Street
New York, New York 10013
January 18, 2011

B E F O R E:

HONORABLE RUTH PICKHOLZ
Justice of the Supreme Court

A P P E A R A N C E S:

For the People: CYRUS R. VANCE, JR., ESQ.,
New York County District Attorney
One Hogan Place
New York, New York 10013
BY: JENNIFER GAFFNEY, ESQ.
Assistant District Attorney

For the Defense: KIRKLAND & ELLI LLP
[redacted]
New York, New York 10022
BY: JAY LEFKOWITZ, ESQ.
SANDRA MUSUMECI, ESQ.

Vikki J. Benkel
Senior Court Reporter

COURT CLERK: This is number two on the calendar, matter of Jeffrey Epstein.

Your appearances please.

MS. GAFFNEY: Jennifer Gaffney for the People.

Good afternoon, Your Honor.

MR. LEFKOWITZ: Jay Lefkowitz and Sandra Musumeci for Mr. Epstein.

THE COURT: Mr. Epstein is not here.

MR. LEFKOWITZ: That's correct.

THE COURT: Are you waiving his appearance?

MR. LEKWOWITZ: Yes.

MS. GAFFNEY: Your Honor, this case is on for a SORA hearing this afternoon.

The People did receive the board's recommendation of a Level Three. However, we received the underlying information from them and also had some contact with Florida, and we don't believe that we can rely on the entire probable cause affidavit.

I don't know if the board sent that to you as well.

THE COURT: I don't know why you cannot rely on it.

MS. GAFFNEY: Because in Florida of all of the victims in that probable cause affidavit, they actually only went forward on one case. There was only an indictment for

one victim and that is what the defendant plead to.

So it is unlike a situation where everything was indicted and then we get to sort of assess points for all of the victims, if it was part of a plea bargain. They did not actually choose to go forward on any except for the one victim.

So under the board guidelines, the risk assessment interim guidelines, it actually says, you know, by way of contrast if an offender is not indicted for an offense, it is strong evidence that the offense did not occur and I don't think --

THE COURT: Do you find that if somebody is not indicted it is strong evidence that it did not occur?

MS. GAFFNEY: I don't know that we can rely on it as clear and convincing evidence if the prosecutor's office never went forward on it. The prosecution said that the victims, although they spoke to the police early on, did not cooperate with them. So we don't have any follow up information.

THE COURT: But the board found a Level Three.

I have to tell you, I am a little overwhelmed because I have never seen the prosecutor's office do anything like this. I have never seen it. I had a case with one instance it was a marine who went to a bar, and I wish I had the case before me, but he went to a bar and a 17

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year old, he was an adult obviously, he was a Marine, a 17 year old came up to him and one thing lead to another and he had sex with her and the People would not agree to a downward modification on that.

So I am a little overwhelmed here because I see -- I mean I read everything here, I am just a little overwhelmed that the People are making this application.

I could cite many many, I have done many SORAs much less troubling than this one where the People would never make a downward argument like this.

MS. GAFFNEY: I agree with Your Honor, it is incredibly unusual for us to make a downward argument. But the problem is the one thing that we have from the board is it seems to be in contradiction to their own guidelines which if something was not indicted, you are not supposed to rely on it.

THE COURT: They obviously took that into consideration.

MS. GAFFNEY: And I tried to reach -- I reached the authorities in Florida to try to see if they had all the interview notes or other things that we can then subsequently rely on that might be considered clear and convincing evidence, if they had interviewed these women on their own, and they never did. No one was cooperative and they did not go forward on any of the cases and none of the

EFTA00184565

were indicted. So I don't know.

THE COURT: And you spoke to the prosecutor?

MS. GAFFNEY: The actual prosecutor left the office. I spoke to the prosecutor that took over the case.

THE COURT: Maybe you can find the prosecutor that left the office.

You have done more in other cases looking into it. I have never seen the prosecutor's office do this. I have to tell you, I am shocked.

MS. GAFFNEY: Right, but I spoke to the prosecutor that took over the case and they don't have anything, any affidavits, any statements, any notes.

THE COURT: Why don't you speak to the prosecutor that did do the case, I am sure you could find that prosecutor.

MS. GAFFNEY: I can find her, but based upon what the other prosecutor said, they did not speak to that prosecutor either.

THE COURT: You did not speak to the prosecutor yourself, you did not speak to them, that is hearsay. You did not speak to the prosecutor that handled the case.

MS. GAFFNEY: That's right.

THE COURT: I don't think you did much of an investigation here.

MS. GAFFNEY: I mean I called the prosecutor.

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Even though the first prosecutor left, presumably the prosecutor's office has the file.

THE COURT: I would still call the prosecutor.

MS. GAFFNEY: Anything from these women they would have forwarded it to us.

THE COURT: I don't know that, I think you have to speak to the prosecutor.

But be that as it may, I hear your argument.

Anything else?

MS. GAFFNEY: I mean that is why I don't think we can, I don't think we are entitled to rely on this because they did not go forward.

THE COURT: The board made a recommendation.

MS. GAFNEY: Correct.

MS. MUSUMECI: May I speak, Your Honor?

THE COURT: Yes.

MS. MUSUMECI: Good afternoon.

I would like to bring a few additional points to Your Honor's attention that don't come across in the board recommendation.

The first is that Mr. Epstein is not a resident of New York, unlike most of these out of state, he has not changed his address and moved to New York, he maintains a vacation home in New York. His primary residence is the U.S. Virgin Islands.

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He is registered in the U.S. Virgin Islands, he has been since his release from jail. He notifies the Virgin Island authorities every time he leaves that jurisdiction. Virgin Island authorities rated him at the lowest level of registration.

He also registered in Florida, which is the state of this particular offense, and the only reason that this conviction is even before Your Honor.

The offense for which he was convicted is not a registrable offense in New York. He is only registrable here arguably because based on the provision of SORA that says if a crime is registrable in the state of conviction, then it is registrable here in New York. And the Florida authorities that considered that rated him at the lowest level of their SORA statute.

He additionally has a vacation home in New Mexico and is registered in New Mexico. The New Mexican authorities when they considered his offenses, determined he need not register at all. Nevertheless, he has voluntarily registered with New Mexico and maintains that registration.

Additionally, because of his possession of a vacation home in New York, he has been voluntarily registered with New York SOMU, the Sex Offender Monitoring Unit since May of this year. He notifies them whenever he comes to travel to New York. He never comes to New York for

EFTA00184568

more than seven days or at least he has not since he has been registered. He has no intention to ever be here for longer than a period of ten days.

Like I said, he does notify the authorities when he is here. He fully understands the reason for voluntary registration, he wants to be compliant with the Federal SORA law which requires wherever you own a property to register.

To require Mr. Epstein to register as a Level Three offender in New York would actually require him to come to New York more than he does normally, it would require him to come every 90 days and renew his registration.

He is very diligent in registering with New York authorities.

All of the other jurisdictions that have considered his case have determined that he either not register at all or register at the lowest level, and he has been more than compliant with all of those requirements.

Your Honor, we would join in the prosecutor's application.

THE COURT: I am sure you would.

MS. MUSUMECI: By way of background, we have been in contact with the prosecutor's office on this matter since I believe certainly since Mr. Epstein got his notification, which I believe was in August. We have met with the

prosecutor and provided numerous materials for the prosecutor to consider. We have included in that a deposition from the detective who headed this investigation who acknowledged in a sworn deposition that the lead prosecutor who originally had the case, whose name I cannot pronounce, [redacted], I apologize for the mispronunciation, said to the detective after her investigation, there are no real victims here.

All of the alleged conduct that is cited in the board's write up was commercial conduct. All of the alleged conduct the women went voluntarily, there are no allegations of force certainly none.

THE COURT: There was no allegation of force in the marine either, who met a girl in a bar, a young girl 17, there was no force there.

MS. MUSUMECI: It is our understanding that the prosecutor in Florida conducted a full investigation, as full as she was able with the cooperation afforded by these complainants, and determined that the only case that she could present to the grand jury was this indictment for a non registrable offense then --

THE COURT: But it is registrable here.

I don't know what you mean non registrable offense.

MS. MUSUMECI: Let me explain, Your Honor.

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Mr. Epstein plead to two charges, one was an indictment which is an offense that is not registrable, it is a Florida indictment for --

THE COURT: Then why does he have to register here?

MS. MUSUMECI: It was a second offense that he plead to --

THE COURT: That is registrable.

MS. MUSUMECI: That is registrable.

That offense was by information and that is the only registrable offense, that is what the DA's office is considering in doing their scoring.

The indictment which was the only case that the prosecutor even prosecuted through grand jury is not even a registrable offense.

THE COURT: He plead guilty to a registrable offense.

MS. MUSUMECI: Yes.

THE COURT: What did he plead guilty to?

MS. GAFFNEY: He plead guilty to the procuring a person under 18 for prostitution.

THE COURT: Procuring a person under 18 for prostitution.

MS. GAFFNEY: Right.

THE COURT: How old was she?

MS. GAFFNEY: It appears the first time they met she was either 16 or 17, then for the remainder of their relationship she was probably 17.

THE COURT: How long was their relationship?

MS. GAFFNEY: She met, she gave him approximately 15 massages, including with sexual contact, and ultimately when she is 17 had intercourse with him.

THE COURT: She is a child.

MS. MUSUMECI: Your Honor, I would note that under SORA it is clear that prostitution offenses are only registrable when in fact by clear and convincing evidence the women or victim is 17, is under 17.

THE COURT: Well, she met him at 16, he procured her at 16 from what I read.

MS. MUSUMECI: There is evidence we challenged.

THE COURT: He plead guilty to that, didn't he?

MS. MUSUMECI: He plead guilty to under 18, which is the law in Florida, which is a different standard than what the law is in New York. And there is no evidence, there is no clear and convincing evidence as to her specific age at the time of the specific conduct.

THE COURT: Well, the DA just told me she was most likely 17, she just said it on the record.

MS. MUSUMECI: Your Honor, we agree that the evidence is that she was 17 on the one occasion she had

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consensual intercourse with him and 17 is not registrable or criminal under New York law.

And the prostitution aspect of having intercourse with a 17 year old is not registrable conduct.

THE COURT: Why does he have to register here?

MS. GAFFNEY: Because it is a register able offense in Florida, New York State board of examiners --

THE COURT: Recognizes it.

MS. GAFFNEY: Recognizes it, yes.

THE COURT: I have had many cases like that where it was not registrable here but it was in the state where the person came from and New York recognized that.

MS. MUSUMECI: Your Honor, we are not saying that he should not register. Mr. Epstein has already registered and recognizes his duty to register.

THE COURT: I am glad of that, very glad of that.

I am sorry he may have to come here every 90 days.

He can give up his New York home if he does not want to come every 90 days.

Anything else?

I rely on the board.

MS. MUSUMECI: Your Honor, we would reserve our right to appeal Your Honor's ruling.

THE COURT: Of course, do so.

MS. GAFFNEY: For the record, Your Honor, he is

going to be deemed a Level Three sex offender with no designation, correct?

THE COURT: Correct.

MS. MUSUMECI: For purposes of the appeal I believe that Your Honor --

THE COURT: Give me the board's scoring.

The board has scored use of violence the least, 10.

Sexual contact with victim, 25. I agree.

Number of victims, three or more. He only plead guilty to one, but apparently there were more than one and I think the People concede that although they say it was not reliable.

Duration of offense, conduct with victim, continuing course of sexual misconduct, the People have told me it was continuing for 20 points.

Age of victim 11 through 16, he got 20 points for that, and she was 16 at the time.

Other victim characteristics, there was no mental disable or helplessness. I agree.

Relationship with victim stranger, 20 points.

Age at first act of sexual misconduct, 20 or less. They scored him zero on that.

Number and nature of prior crimes, no history, they scored him five on that.

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Recency of prior offense less than three years, they gave him zero.

Drug or alcohol abuse history, they gave him zero.

Acceptance of responsibility, they gave him zero.

Conduct while confined, they gave him zero.

And supervision, they gave him zero.

Living employment situation, zero.

They gave him 130 points, which is the highest level, and I agree with that.

MR. LEFKOWITZ: If I could be heard for one moment.

It appears that the state board made its determination based on access to a police report in Florida

The prosecutor, the lead prosecutor, the lead sex crimes prosecutor in Palm Beach made a determination that the complainants and the police report itself was not credible and decided not to prosecute on the basis of all of that.

In addition, there has been through the course of the last few years some civil litigation, as you might imagine, involving these matters and we now have sworn testimony in evidence from the complainants themselves disclaiming much of what appears in the police report.

So, Your Honor, we would submit and this is not to make light in any way of the conduct what Mr. Epstein did o

what Mr. Epstein plead guilty to, but with respect to everything and that is why Mr. Epstein voluntarily registered in New York even though there is a question about whether he has any obligation just as a jurisdictional matter, but Your Honor, with respect to the appropriate level for him to register, we would submit Your Honor that the evidence simply does not support the foundation of the state's determination.

THE COURT: You have made a very clear record and you have your right to appeal.

I feel the board looked into all of this, made their recommendation, found him to have 130 points and I see no reason to disturb that.

Thank you.

I, Vikki J. Benkel, a Senior Court Reporter in and for the State of New York, do hereby certify that the foregoing transcript is true and accurate to the best of my knowledge, skill and ability.

Vikki J. Benkel

EFTA00184576

EXHIBIT

37

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 S. Australian Ave, Ste 400
West Palm Beach, FL 33401
[redacted]
Facsimile: [redacted]

August 13, 2008

DELIVERY BY FACSIMILE
Jay P. Lefkowitz, Esq.
Kirkland & Ellis LLP
Citigroup Center
[redacted]
New York, New York 10022-4675

Re: Jeffrey Epstein

Dear Jay:

As per your request, I am attaching several documents related to Mr. Epstein's performance of the Non-Prosecution Agreement.

The first document attached hereto is the June 30, 2008 proposed Notification, which was hand-delivered to Jack Goldberger and Michael Tein shortly after Mr. Epstein entered his guilty plea.

Following that, I have attached the July 9, 2008 response from Mr. Goldberger. I have highlighted two portions. The first is where Mr. Goldberger (presumably with the approval of Mr. Tein) approves of the portion of my proposed Notification that quotes directly from the U.S. Attorney's December letter to Lilly Ann Sanchez. The second portion is where Mr. Goldberger provides his interpretation of the Agreement, and nowhere mentions that he does not believe that the December letter is operative. I note that Mr. Goldberger's letter contains a notation showing that Mr. Epstein was provided with a copy.

The third document I have attached is a copy of one of the notifications that was provided directly to a victim. Copies of all of the notifications have been provided to Mr. Goldberger, and neither he nor any other attorney for Mr. Epstein has ever stated that the letter misrepresents the Agreement between the parties or the benefit that the Agreement bestows upon the victims.

The fourth document I have attached is a copy of a Declaration that I have filed in connection with the victims' lawsuit filed against the United States. This Declaration sets forth our understanding of the Agreement and again quotes from the U.S. Attorney's December letter. Messrs. Goldberger and Tein are aware of this Declaration and have filed copies of it in connection with their

efforts to stay all of the civil litigation. Again, neither of them ever expressed to me – or to the Court – that it inaccurately describes the Agreement between the United States and Mr. Epstein.

Please contact me tomorrow morning so that we can resolve this issue.

Sincerely,

[redacted]
United States Attorney

By: [redacted]
A. [redacted]
Assistant United States Attorney

cc: Karen Atkinson, Chief, Northern Division

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
[redacted]
Facsimile: [redacted]

June 30, 2008

NOTIFICATION OF IDENTIFIED VICTIMS

NOTICE: IN ACCORDANCE WITH TITLE 18, UNITED STATES CODE, SECTION 3509(d) AND FLORIDA LAW, THE ATTACHED DOCUMENT IS TO BE TREATED AS CONFIDENTIAL AND SHALL NOT BE DISCLOSED EXCEPT IN CONNECTION WITH A LEGAL PROCEEDING.

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
[redacted]
Facsimile: [redacted]

June 30, 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-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.

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."

Initials of Jeffrey Epstein _____ Initials of Jack Goldberger _____

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.

Identified Individuals

[redacted]

[redacted]
UNITED STATES ATTORNEY

Dated: _____ By:

A. [redacted] VILLAFAÑA
ASSISTANT U.S. ATTORNEY

ACKNOWLEDGMENT

I have received this Notification from my attorney, Jack Goldberger, 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 regarding the notification and rights of identified victims. I

Initials of Jeffrey Epstein _____ Initials of Jack Goldberger _____

EFTA00184582

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: _____
Jack Goldberger, Esquire

EFTA00184583

EXHIBIT

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People [redacted] Epstein
2011 NY Slip Op 08293
Decided on November 17, 2011
Appellate Division, First Department
Published by New York State Law Reporting Bureau pursuant to Judiciary Law § 431.
This opinion is uncorrected and subject to revision before publication in the Official Reports.

Decided on November 17, 2011

Mazzarelli, J.P., Sweeny, Moskowitz, [redacted], Abdus-Salaam, JJ.

6081 30129/10

[*1]The People of the State of New York, Respondent,

[redacted]

Jeffrey E. Epstein, Defendant-Appellant.

Kirkland & Ellis LLP, New York (Jay P. Lefkowitz of

counsel), for appellant.

Cyrus R. Vance, Jr., District Attorney, New York (Deborah L. Morse of counsel), for respondent.

Order, Supreme Court, New York County (Ruth Pickholz, J.), entered on or about January 18, 2011, which adjudicated defendant a level three sex offender pursuant to the Sex Offender Registration Act (Correction Law art 6-C), unanimously affirmed, without costs.

Clear and convincing evidence, including reliable hearsay (*see People [redacted] Mingo*, 12 NY3d 563, 571 [2009]) supported the assessment of points for risk factors sufficient for a level three sex offender adjudication (Correction Law § 168-n[3]). In the circumstances of this case, the court properly relied on highly reliable proof of criminal conduct for which defendant was neither indicted nor convicted.

The sex offender adjudication arises out of defendant's sex offenses in Florida. The evidence before the SORA hearing court established that defendant committed multiple offenses against a series of underage girls. The girls were brought to defendant's home to provide "massages" that led to very serious sex crimes.

These facts were established by reliable hearsay, including the probable cause affidavit prepared by Florida law enforcement authorities after their investigation, and the Board of Examiners of Sex Offenders' case summary (*see Mingo*, 12 NY3d at 572-573, 577). The probable cause affidavit was extremely detailed. It set forth the sworn, tape-recorded statements of the victims. The victims' detailed accounts of defendant's crimes corroborated each other, and were also corroborated by other evidence, including declarations against penal interest made by defendant's accomplice.

In 2006, the Florida prosecutor obtained an indictment charging defendant with solicitation of prostitution. In 2008, the Florida prosecutor filed an information, this time charging procuring a person under 18 for prostitution. A few days after the information,

defendant pleaded guilty to both accusatory instruments. Both instruments involved the same victim, who was only one of defendant's many victims.

The Board and the hearing court are not limited to the underlying crime in determining an offender's risk level (*see People [redacted] Johnson*, 77 AD3d 548, 549-550 [2010], *lv denied* 16 NY3d 705 [2011]). "[T]he fact that an offender was not indicted for an offense may be strong evidence that the offense did not occur" (Sex Offender Registration Act: Risk Assessment Guidelines and Commentary, General Principles ¶ 7, at 5 [2006]). However, here the strong evidence that the [*2]offenses against the other victims *did* occur outweighs any inferences to be drawn from the manner in which this case was prosecuted in Florida.

The reasons for the actions taken by the Florida authorities remain unclear on this record. The record before us is insufficient to establish that those authorities reasonably believed the charges involving the other victims were unprovable. The record permits competing inferences. In any event, the hearing court was entitled to rely on the reliably proven facts themselves, and was not necessarily bound by any exercises of prosecutorial discretion.

We reject defendant's argument that the People should be estopped from taking a different position on appeal from the position they took before the hearing court. At the hearing, the People mistakenly conceded that the conduct for which defendant was not indicted should not be considered, and that defendant should be adjudicated a level one offender. These were legal arguments that the court rejected, and it is the court's determination that we review on this appeal. Furthermore, when the court announced that it was rejecting the People's position and would consider the offenses against additional victims, defendant did not request any opportunity to challenge the reliability of the additional charges. Accordingly, defendant was not deprived of a fair opportunity to litigate the issue (*see e.g. People [redacted] Strong*, 276 AD2d 271 [2000], *lv denied* 96 NY2d 807 [2001]).

Defendant's remaining claims are improperly raised for the first time on appeal (*see People [redacted] Windham*, 10 NY3d 801 [2008]), and are unavailing in any event.

THIS CONSTITUTES THE DECISION AND ORDER
OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: NOVEMBER 17, 2011

CLERK

MACROBUTTON DoFieldClick [Return to Decision List]

EXHIBIT

39

U.S. Department of Justice

Criminal Division

Andrew G. Oosterbaan, Chief

Child Exploitation and Obscenity Section

1400 New York Avenue, NW
Suite 600
Washington, DC 20530
[redacted]

May 15, 2008

Jay Lefkowitz, Esq.
Kirkland & Ellis LLP
Citigroup Center
153 E. 53rd St.
New York, NY 10022-4611

Re: *Investigation of Jeffery Epstein*

Dear Mr. Lefkowitz:

Pursuant to your request and the request of U.S. Attorney [redacted], we have independently evaluated certain issues raised in the investigation of Jeffrey Epstein to determine whether a decision to prosecute Mr. Epstein for federal criminal violations would contradict criminal enforcement policy interests. As part of our evaluation, we have reviewed letters written on behalf of Mr. Epstein on February 1, 2007, June 25, 2007, July 6, 2007, March 28, 2008, April 8, 2008, April 28, 2008, and May 14, 2008, with their attachments. We have also reviewed memos prepared by the U.S. Attorney's Office. As you will recall, we met with you and other representatives of Mr. Epstein to further discuss your views on the propriety of a federal prosecution. We have discussed the factual and legal issues you raise with the Criminal Division's Appellate Section, and we consulted with the Office of Enforcement Operations concerning the petite policy.

We are examining the narrow question as to whether there is a legitimate basis for the U.S. Attorney's Office to proceed with a federal prosecution of Mr. Epstein. Ultimately, the prosecutorial decision making authority within a U.S. Attorney's Office lies with the U.S. Attorney. Therefore, to borrow a phrase from the case law, the question we sought to answer was whether U.S. Attorney [redacted] would abuse his discretion if he authorized prosecution in this case.

As you know, our review of this case is limited, both factually and legally. We have not looked at the entire universe of facts in this case. It is not the role of the Criminal Division to re-conduct a complete factual inquiry from scratch. Furthermore, we did not analyze any issues concerning prosecution under federal statutes that do not pertain to child exploitation, such as the money laundering statutes.

As was made clear at the outset, we did not review the facts, circumstances, or terms included in the plea offer, nor any allegations that individuals involved in the investigation engaged in misconduct. Despite that agreement, we note that your letters of April 8, April 28, and May 14 focus in large part on accusations of investigative or prosecutorial misconduct. Not only do allegations of prosecutorial misconduct fall outside the boundary of our agreed review, they also fall outside the authority of the Criminal Division in the first instance. Simply, the Criminal Division does not investigate or resolve allegations of professional misconduct by federal prosecutors. For these reasons, we do not respond to the portion of those letters that discuss alleged misconduct.

Based on our review of all of these materials, and after careful consideration of the issues, we conclude that U.S. Attorney [redacted] could properly use his discretion to authorize prosecution in this case. We will briefly address each of the issues that you have raised.

Knowledge of age. Federal child exploitation statutes differ as to whether there must be proof that the defendant was aware that the children were under the age of 18. However, even for those statutes where knowledge of age is an element of the offense, it is possible to satisfy that element with proof that the defendant was deliberately ignorant of facts which would suggest that the person was a minor. For that reason, the fact that some of the individuals allegedly lied to Mr. Epstein about their age is not dispositive of the issue. While there may be an open factual issue as to Mr. Epstein's knowledge, we cannot say that it would be impossible to prove knowledge of age for any such charges which require it. Therefore, Mr. [redacted] could rightfully conclude that this factual issue is best resolved by a jury.

Travel for the purpose. In the materials you prepared, you suggest that Mr. Epstein should not be charged with violating 18 U.S.C. § 2423(b) because his dominant purpose in going to Florida was not to engage in illegal sexual activity, but rather to return to one of his residences. While we fully understand your argument, we also find that the U.S. Attorney's office has a good faith basis fully to develop the facts on this issue and brief the law to permit a court to decide whether the law properly reaches such conduct. Mr. [redacted] would not be abusing his discretion if he decided to pursue such a course of action.

Intent to engage in the conduct at the time of travel. Based on our review of the facts of this case, we respectfully disagree that there is no evidence concerning Mr. Epstein's intent when he traveled, and when that intent was formed. Should Mr. [redacted] elect to let the case proceed so that a jury can resolve this factual issue, he would be within his discretion to do so.

Use of a facility or means of interstate or foreign commerce. Much of the materials you have prepared and much of the meeting we had focused on 18 U.S.C. § 2422(b), specifically your contention that Mr. Epstein did not use the phone to coerce anyone to engage in illegal sexual activity. We understand the issue you raise concerning the statutory interpretation. As before, however, we cannot agree that there is no evidence that would support a charge under Section 2422(b), nor can we agree that there is no argument in support of the application of that statute to this case. Finally, our assessment is that the application of that statute to these facts would not be

so novel as to implicate the so-called "clear statement rule," the *Ex Post Facto* clause, or the Due Process clause. As with the other legal issues, Mr. [redacted] may elect to proceed with the case.

Absence of coercion. With respect to 18 U.S.C. § 1591, the alleged absence of the use of force, fraud, or coercion is of no moment. The statute does not require the use of force, fraud, and coercion against minors. Because of their age, a degree of coercion is presumed. In your materials, you note that the statute requires that the minors must be "caused" to engage in a commercial sex act, further arguing that the word "cause" suggests that a certain amount of undue influence was used. We reject that interpretation, as it would read back into the offense an element–coercion–that Congress has expressly excluded. We have successfully prosecuted defendants for the commercial sexual exploitation of minors, even when the minors testified that not only did they voluntarily engage in the commercial sex acts, it was their idea to do so. As such, Mr. [redacted] could properly decide to pursue charges under Section 1591 even if there is no evidence of coercion.

More broadly, a defendant's criminal liability does not hinge on his victim identifying as having suffered at his hands. Therefore, a prosecution could proceed, should Mr. [redacted] decide to do so, even though some of the young women allegedly have said that they do not view themselves as victims.

Witness credibility. As all prosecutors know, there are no perfect witnesses. Particularly in cases involving exploited children, as one member of your defense team, Ms. Thacker, surely knows from her work at CEOS, it is not uncommon for victim-witnesses to give conflicting statements. The prosecutors are in the best position to assess the witness's credibility. Often, the prosecutor may decide that the best approach is to present the witness, let defense counsel explore the credibility problems on cross-examination, and let the jury resolve the issue. Mr. [redacted] would be within his authority to select that approach, especially when here there are multiple, mutually-corroborating witnesses.

Contradictions and omissions in the search warrant application. We have carefully reviewed the factual issues you raise concerning the search warrant application. For a search warrant to be suppressed, however, the factual errors must be material, and the officers must not have proceeded in good faith. Despite the numerous factual errors you describe, the U.S. Attorney's Office could still plausibly argue that the mistakes–whether inadvertent or intentional–were not material to the determination that probable cause existed for a search, and that the search was in good faith in any event. As such, Mr. [redacted] could properly elect to defend the search warrant in court rather than forego prosecution.

Petite Policy: After reviewing the petite policy and consulting with the Office of Enforcement Operations ("OEO"), we conclude that the petite policy does not prohibit federal prosecution in this case. According to the U.S. Attorney's Manual, the petite policy "applies whenever there has been a prior state or federal prosecution resulting in an acquittal, a conviction, including one resulting from a plea agreement, or a dismissal or other termination of

the case on the merits after jeopardy has attached." USAM 9-2.031(C). Our understanding is that the state case is still pending. As such, the procedural posture of the state case does not implicate the petite policy.

We recognize that the petite policy could be triggered if the state case concluded after a federal indictment was issued but prior to the commencement of any federal trial. *Id.* However, the policy "does not apply ... where the [state] prosecution involved only a minor part of the contemplated federal charges." USAM 9-2.031(B). Based on our understanding of the possible federal charges and existing state charges, we do not think the petite policy would be an issue should federal proceedings take place.

Federalism and Prosecutorial Discretion. All of the above issues essentially ask whether a federal prosecution *can* proceed. We understand, however, that you also ask whether a federal prosecution *should* proceed, even in the event that all of the elements of a federal offense could be proven. On this issue, you raised two arguments: that the conduct at issue here is traditionally a state concern because the activity is entirely local, and that the typical prosecution under federal child exploitation statutes have different facts than the ones implicated here. You have essentially asked us to look into whether a prosecution would so violate federal prosecutorial policy that a United States Attorney's Office should not pursue a prosecution. We do not think that is the case here for the following reasons.

Simply, the commercial sexual exploitation of children is a federal concern, even when the conduct is local, and regardless of whether the defendant provided the child (the "pimp") or paid for the child (the "john"). In your materials, you refer to a letter sent by the Department of Justice to Congress in which the Department expresses concern over the expansion of federal laws to reach almost all instances of prostitution. In that portion of the letter, the Department was expressly referring to a proposed federal law that reach adult prostitution where no force, fraud, or coercion was used. Indeed, the point being made in that letter is that the Department's efforts are properly focused on the commercial sexual exploitation of children and the exploitation of adults through the use of force, fraud, or coercion. As such, there is no inconsistency between the position taken in that letter and the federal prosecution of wholly local instances of the commercial sexual exploitation of children.

If Congress wanted to limit the reach of federal statutes only to those who profit from the commercial sexual exploitation of children, or only to those who actually traffic children across state lines, it could have done so. It did not. Finally, that a prosecution of Mr. Epstein might not look precisely like the cases that came before it is not dispositive. We can say with confidence that this case is consistent in principle with other federal prosecutions nationwide. As such, Mr. [redacted] can soundly exercise his authority to decide to pursue a prosecution even though it might involve a novel application of a federal statute.

Conclusion. After carefully considering all the factual and legal issues raised, as well as the arguments concerning the general propriety of a federal case against Mr. Epstein on these

EFTA00184593

facts, we conclude that federal prosecution in this case would not be improper or inappropriate. While you raise many compelling arguments, we do not see anything that says to us categorically that a federal case should not be brought. Mr. [redacted] would not be abusing his prosecutorial discretion should he authorize federal prosecution of Mr. Epstein.

Sincerely yours,

Andrew G. Oosterbaan
Chief

cc: AAG Alice S. Fisher
DAAG Sigal P. Mandelker
U.S. Attorney [redacted]

RFP MIA 000365

EFTA00184594

EXHIBIT

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[redacted] (USAFLS)

From: [redacted] (USAFLS)
Sent: Wednesday, March 19, 2008 6:18 PM
To: [redacted]
Cc: [redacted], E N.; Twiler Smith [redacted]
Subject: Representation of Victims in Florida -- CONFIDENTIAL

Hi Jason and Pauline – My info is shown below. The Justice Department Victim Advocate assigned to the case is Twiler Smith. She is located at the FBI office here in West Palm Beach. The number there is [redacted]

[redacted] is the case agent assigned to the case. She can answer any questions that you have. Her direct dial is [redacted] I will be out of the office tomorrow, so if you need anything you can give [redacted] a call.

By this e-mail, I will ask Twiler and [redacted] to put together a letter to the victims informing them of the availability of pro bono legal representation with your name and telephone number. I understand that you and your colleagues in Maryland are still working out logistics, so we will wait to send out until we know what name and contact information should be included.

The one urgent case is that of victim [redacted] She has been subpoenaed to appear for a deposition on Monday in West Palm Beach. I have given [redacted] the contact information for Pauline Mandel, and I know that Vanessa was going to call her today. (I just spoke with Pauline and she has everything under control).

For conflicts purposes, here are the relevant names and firms:
The targets' names are Jeffrey Epstein, [redacted]

The attorneys involved in the case so far are: Guy Fronstin (West Palm Beach), Jack Goldberger of Atterbury Goldberger and Weiss (West Palm Beach), Roy Black of Black Srebnick Kornspan & Stumpf (Miami), Guy Lewis and Michael Tein of Lewis & Tein (Miami), Ken Starr and Jay Lefkowitz of Kirkland & Ellis (New York and L.A.), Alan Dershowitz from Harvard, Gerald Lefcourt (New York), Bruce Lyons (Ft Lauderdale), Lilly Ann Sanchez of Fowler White & Burnett (Miami), Jim Eisenberg (West Palm Beach), Michael Dutko of Bogenschutz & Dutko (Fort Lauderdale), Robert Targ of Diaz Reus Rolff & Targ (Miami), Nathan Dershowitz of Dershowitz, Eiger & Adelson (New York), Dennis Block of Cadwalader, Wickersham & Taft LLP (New York), William Richey (Miami and Palm City, FL), and Stephanie Thacker (West Virginia).

If a firm name isn't listed, then they are sole practitioners.

Here is a brief summary of the case:

The investigation initially was undertaken by the City of Palm Beach Police Department in response to a complaint received from the parents of a 14-year-old girl, [redacted] from Royal Palm Beach. When [redacted] and another girl began fighting at school because the other girl accused [redacted] of being a prostitute, one of the school principals intervened. The principal searched [redacted] purse and found $300 cash. The principal asked [redacted] where the money came from. [redacted] initially claimed that she earned the money working at "Chik-Fil-A," which no one believed. [redacted] then claimed that she made the money selling drugs; no one believed that either. [redacted] finally admitted that she had been paid $300 to give a massage to a man on Palm Beach island. [redacted] parents approached the Palm Beach Police Department ("PBPD") about pressing charges.

PBPD began investigating the recipient of the massage, Jeffrey Epstein, and two of his assistants, [redacted] PBPD identified 27 girls who went to Epstein's house to perform "massage services" (not including one licensed massage therapist). The girls' ages ranged from 14 years' old to 23 years' old. Some girls saw Epstein only once and some saw him dozens of times. The "massage services" performed also varied. Some girls were fully clothed while they massaged Epstein; some wore only their underwear; and some were fully nude. During all of these massages, Epstein masturbated himself and he would touch the girl performing the massage, usually fondling their breasts and touching their vaginas - either over their clothing or on their bare skin. Epstein often used a vibrator to masturbate the girls and digitally penetrated a number of them. For the girls who saw him more often, Epstein graduated to oral sex and vaginal sex. Epstein sometimes brought his assistant/girlfriend, [redacted], into the sexual activity. One of the girls described [redacted] as Epstein's "sex slave".

On October 18, 2005, PBPD obtained a search warrant with the assistance of the Palm Beach County State Attorney's Office ("PBSAO"). By this time, PBSAO had already been contacted by Epstein's cadre of lawyers. When PBPD arrived at Epstein's home two days later (10/20/05) to execute the search warrant, they found several items conspicuously missing. For example, computer monitors and keyboards were found, but the CPUs were gone. Similarly, surveillance cameras were found, but they were disconnected and the videotapes were gone. Nonetheless, the search did recover some evidence of value, including message pads showing messages from many girls over a two year span. The messages show girls returning phone calls to confirm appointments to "work." Messages were taken by [redacted] The search also recovered numerous photos of Epstein sitting with naked girls whose ages are undetermined. Two other assistants, [redacted] have also been implicated.

Photographs taken inside the home show that the girls' descriptions of the layout of the home and master bedroom/bathroom area are accurate. PBPD also found massage tables and oils, the high school transcript of one of the girls, and sex toys.

The investigation showed that girls from local high schools would be contacted by one of Epstein's assistants to make an appointment to "work." Up to three appointments each day would be made. The girls would travel to Epstein's home in Palm Beach where they would meet Epstein's chef and Epstein's assistant–usually [redacted]–in the kitchen. The assistant would escort the girls upstairs to the master bedroom/bathroom area and set up the massage table and massage oils. The girl sometimes was instructed to remove her clothing. The assistant would leave and Epstein would enter the room wearing a robe. He would remove the robe and lie face down and nude on the massage table. Epstein would then instruct the girl on what to do and would ask her to remove her clothing. After some time, Epstein would turn over, so that he was lying face up. Epstein would masturbate himself and fondle the girl performing the massage. When Epstein climaxed, the massage was over, and the girl was instructed to get dressed and to go downstairs to the kitchen while Epstein showered. Epstein's assistant would be in the kitchen and the girl would be paid–usually $200–and if it was a "new" girl, the assistant would ask for the girl's phone number to contact her in the future. Girls were encouraged to find other girls to bring with them. If a girl brought another girl to perform a "massage," each girl would receive $200.

More detailed facts appear in the state's probable cause affidavit, which can be found online at www.thesmokinggun.com

EXHIBIT

41

U.S. Department of Justice

United States Attorney
Southern District of Florida

[redacted]

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401

[redacted]

August 11, 2006

DELIVERY BY HAND
Miss [redacted]

Re: Crime Victims' and Witnesses' Rights

Dear Miss [redacted]

Pursuant to the Justice for All Act of 2004, as a victim and/or witness of a federal offense, you have a number of rights. Those rights are:

(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.

Members of the U.S. Department of Justice and other federal investigative agencies, including the Federal Bureau of Investigation, must use their best efforts to make sure that these rights are protected. If you have any concerns in this regard, please feel free to contact me at [redacted], or Special Agent [redacted] from the Federal Bureau of Investigation at [redacted]. You also can contact the Justice Department's Office for Victims of Crime in Washington, D.C. at [redacted]. That Office has a website at www.ovc.gov.

You can seek the advice of an attorney with respect to the rights listed above and, if you believe that the rights set forth above are being violated, you have the right to petition the Court for relief.

In addition to these rights, you are entitled to counseling and medical services, and pr[illegible] from intimidation and harassment. If the Court determines that you are a victim, you also [illegible] entitled to restitution from the perpetrator. A list of counseling and medical service pro[illegible] be provided to you, if you so desire. If you or your family is subjected to any intimi[illegible] harassment, please contact Special Agent [redacted] or myself immediately. It is possible that someone working on behalf of the targets of the investigation may contact you. Such cont[illegible] not violate the law. However, if you are contacted, you have the choice of speaking to that p[illegible] or refusing to do so. If you refuse and feel that you are being threatened or harassed, then p[illegible] contact Special Agent [redacted] or myself.

You also are entitled to notification of upcoming case events. At this time, your ca[illegible] investigation. If anyone is charged in connection with the investigation, you will be noti[illegible]

Sincerely,

[redacted]
United States Attorney

By: [signature]
A. [redacted]
Assistant United States Attorney

cc: Special Agent [redacted], F.B.I.

EXHIBIT

42

[redacted]. (USAFLS)

From: Lilly Ann Sanchez [LAS@FOWLER-WHITE.COM]
Sent: Friday, January 05, 2007 4:05 PM
To: [redacted]. (USAFLS)
Cc: Gerald Lefcourt
Subject: Jeffrey Epstein

[redacted]-
hope you had a great holiday season. Gerald Lefcourt and I would like to speak with you early next week on the Epstein matter. if you provide me with some convenient dates and times for us to call you, i will coordinate with Gerry and confirm same.
regards

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EXHIBIT

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February 1, 2007

BY HAND

A. [redacted], Esq., Assistant United States Attorney
Andrew Lourie, Esq., Deputy Chief, Northern Region
Office of the United States Attorney
Southern District of Florida
[redacted]

Jeffrey Epstein

Dear Ms. Villafaña and Mr. Lourie:

The following outlines the talking points we intend to cover in today's meeting.

The events at issue occurred in 2004 and 2005. The matter was investigated during the course of nearly a year beginning in March 2005 by the Palm Beach County Police Department (PBPD).

As will be discussed in detail below, it appears that a PBPD detective formed a view early on as to the criminality of the conduct of Jeffrey Epstein (Epstein). That view tainted both the determination of what to include in the Police Report[1] and led the PBPD to ignore evidence that did not support the initial conclusion of the investigating officers, including ignoring material evidence supplied to the State Attorney by defense counsel.

We understand that the PBPD has sought your intervention in this matter; we also believe that the misleading and inaccurate reports of the PBPD may well have affected how you view the

[1] A copy of the unredacted Police Report, to which we make reference throughout the letter, is provided at Tab 1. Note, pages 81 - 87 are taken from the redacted Police Report because we do not have an unredacted copy of these pages. Other documents cited herein, all of which were provided to you previously, are annexed in successive Tabs.

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matter and whether you believe it warrants federal intervention. We respectfully submit that there is no basis for the exercise of federal jurisdiction here. The conduct at issue is entirely local and subject to State prosecution under the State's standards and policies. And indeed, as you know, Epstein has been indicted for felony charges relating to this matter. That indictment is still pending.

Moreover, key elements that are necessary to support the invocation of federal jurisdiction in this area are wholly lacking. As we detail below, the evidence will not support a determination that Epstein knew or believed that any of the women was under the age of 18. Indeed, the witness statements[2] demonstrate that the opposite is true. As herself told the PBPD: ' told me to say I was 18 because said . . . if you're not then he [Epstein] won't really let you in his house. So I said I was 18". Nor is there any evidence whatever that any of the women traveled in interstate commerce for the purpose of engaging in prohibited sexual activity or that Epstein ever traveled in interstate commerce for the purpose of engaging in prohibited sexual activity – the clear predicates for any federal violation. Neither is there any reason to breach the *Petite* Policy in favor of the discretionary exercise of federal jurisdiction: there has been a full investigation that has resulted in a prosecution by State authorities on charges deemed appropriate and that the facts will support. And, even if a case could be made, and the exercise of federal jurisdiction were warranted, the extraordinary forensic barriers to a successful prosecution, including the need to use witnesses who themselves have provided sworn statements that contradict key elements of any prosecution, compel that no case be brought. In fact, we believe the State's choice in which charges to pursue was informed by the significant credibility problems of the potential witnesses.

I. The Facts Will Not Support a Charge Under Federal Statutes Governing Sexual Conduct

Although to date the federal statutes Epstein may have violated have not been identified, nevertheless, there are certain key elements common to the statutes governing sexual conduct that we believe present insurmountable hurdles to any federal prosecution. We are, of course, prepared to provide further explication of why particular statutes are inapplicable to the conduct alleged here once the statutes you believe may apply have been specified.

[2] We are prepared to provide copies of all recordings if requested them.

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1. **Epstein Did Not Know or Believe Any Women Were Under 18 Years of Age.**

Each of the potential statutes requires that the government prove that Epstein knew or believed a particular woman was under 18 (or in some instances, under 16), at the time of the events at issue. Epstein did not. There is substantial evidence, found in the sworn statements of the women themselves, that to the extent any were in fact under the age of 18, each affirmatively lied about her age because she knew that Epstein would not "let [her] into his house" if she were under 18. Evidence also supports that Epstein took affirmative steps to ensure that every woman was at least 18 years of age. In fact, many were indisputably over the age of 18.[3]

- Q: At any time, did he speak to you and does he know how old you are? Did he know how old you were?

  A: . . .As a mater of fact, told me to say I was 18 because said tell him you're 18 because if you're not, then he won't really let you in his house. So I said I was 18. As I was giving him a massage, he's like, how old are you? And then I was like 18. But I kind of said it really fast because I didn't want to make it sound like I was lying or anything. (Statement of 3/15/05).

- Q: Did he ask you your age?
  A: Yeah, I told him I was 18. (Sworn Statement of 10/05/05).

- Q: Did he know your age?

  A: I don't think -- I think he did. Downstairs was like oh, well if they ask you how old are you just say you're 18 but

[3] In addition to the women referenced herein, the evidence reflects that witnesses were all over the age of 18 at the time each visited Epstein's home.

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he never asked me how old I was. I thought you had to be 18 to give a massage (inaudible). (Sworn Statement of 12/13/05)

- A: We were supposed to say we were 18.

  Q: Who told you that, to say that?

  A: (Sworn Statement of 11/8/05).

- He likes the girls who are between the ages of 18 and 20. (Sworn Statement of 10/3/05).

- Well with I don't know how old she is because she lied about her age. She lied to me when I first met her. When I was 18 she told me she was 18. (Inaudible.) Well she left her purse at my house and she told me to make sure that I didn't look in her purse. When I went through her purse I found her state license that said she was 16 so she lied to me about her age. (Statement of 10/03/05).[4]

- Q: Now, how old were you when you first started going there?

  A: Eighteen. I'm 19 now this last March." (Sworn Statement of 10/12/05).

[4] In addition to giving a sworn statement at the PBPD Station, conversations with Detective Recarey while being transported to and from the station were also recorded. This excerpt is taken from the recording of traveling from the station.

Q: And all this occurred when you were 18 though?

A: Uh-huh. I had been 18 for like 8 months, nine months already. My birthday is in June so I had been 18 for a while. (Sworn Statement of 2/3/05).

Q: Okay. How old are you now? You're –

A: I'm 20

Q: You're 20. So a couple months ago you would have been what, 19?

A: Uh-huh.

Q: Alright. So July, August you would have been 19, 20. On the verge of 20?

A: Uh-huh. (Sworn Statement of 11/4/05).

Q: Okay. Did they appear young to you?

A: Yes. They were young. You know, that I never seen anybody older than 28 or something like that.

Q: Anybody younger than 18?

A: It's hard to say that, sir. You know there were a lot of girls that were very, very young, but you know for me to say they were minors, you know, you know, I never see their driver's license.[5] (Sworn Statement of 1/4/06).

[5] To put Rodriguez' comments about the age of the women in context, referring to Epstein's girlfriend, [redacted], Rodriguez stated she was "very, very young". Sworn Statement of 1/4/06. Since [redacted] date of birth is [redacted], she was in fact twenty at the relevant time.

Even as to those women with respect to whom there is no explicit evidence of their being at least 18 at the time or having made affirmative misrepresentations of being so, each was introduced to Epstein through either or others,[6] who instructed the women to say they were 18 even if they were not. Thus, proof of this critical element would be lacking.

2. **No Travel Was For the Purpose of Engaging in Prohibited Sexual Activity.**

Federal law criminalizes *travel for the purpose* of knowingly engaging in unlawful sexual activity with minors. *United States* [redacted] *Hayward,* 359 F.3d 631, 638 (3d Cir. 2004); *United States v. Tykarsky,* 446 F.3d 458, 471 (3d Cir. 2006). This is the highest level of culpability in the four tier hierarchy of culpability that the Model Penal Code uses. "The different levels in this hierarchy are commonly identified, in descending order of culpability, as purpose, knowledge, recklessness, and negligence. . . [A] person who causes a particular result is said to act purposefully if 'he consciously desires that result, whatever the likelihood of that result happening from his conduct.'" *United States* [redacted] *Bailey*, 444 U.S. 394, 404 (1980), *quoting United States v. United States Gypsum Co.*, 438 U.S. 422, 445 (1978).[7]

The Supreme Court has repeatedly interpreted this language to require that the illegal activity be the dominant motive for the travel. *See, e.g., Mortensen* [redacted] *United States*, 322 U.S. 369, 373 (1944) (". . .an intention that the women or girls shall engage in the conduct outlawed by Section 2 must be found to exist before the conclusion of the interstate journey and must be *the dominant motive* of such interstate movement") (emphasis supplied); *Hawkins* [redacted] *United States*, 358 U.S. 74, 79 (1958) ("[T]he only factual issue in the case was whether petitioners dominant purpose in making the trip was to facilitate her practice of prostitution. . .); *Cleveland* [redacted] *United States*, 329 U.S. 14, 20 (1946) ("There was evidence . . . that the unlawful purpose was the dominant motive.").

There is no basis for concluding that Epstein's paramount or dominant purpose in going to Palm Beach on any occasion was to engage in proscribed sexual activity, even if we assume that some such conduct occurred while he was there. Epstein's interstate *travel* was motivated

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[6] As aid, "Like I said, some bring friends who bring friends". Statement of 10/3/03.

[7] Indeed, a 2003 change in the law, redefining the *mens rea* necessary for a violation of 18 U.S.C. § 2423 with respect to international travel, left untouched the standard for domestic travel, and thus underscores the strict standard needed for a prosecution in this area. *See United States* [redacted] *Clark*, 435 F.3d 1100, 1104-05 (9th Cir. 2006).

by his need to be outside of New York for tax reasons. *That* was the principal purpose of his travel: to be certain not to be present in New York in excess of half of each year. That he chose Florida as his destination was a function of his decision made long ago to maintain a home there, which also was not motivated by any desire to or intention to engage in prohibited sexual activity. Epstein has maintained a connection to Florida for nearly 30 years, the last seventeen as a homeowner. Prior to that Epstein rented homes in the area. Epstein's parents also lived there for years and, before his mother's death in 2004, especially during the four years of illness that led to her death (his father died earlier), Epstein frequently traveled to see her. Since their deaths, he has traveled to Florida specifically to visit their graves. Epstein's brother, too, maintains a home in Palm Beach County.

Indeed, Epstein has been traveling there regularly, integrating into the Palm Beach community. He was a member of The Breakers Club from 1993 to 2006. He maintains bank accounts in Florida, including accounts at the First Bank of the Palm Beaches, in which bank he had an ownership interest, as well. He holds a concealed weapons permit from the State of Florida; maintains the corporate records of his two airplanes in Florida, which airplanes receive virtually all of their scheduled maintenance work in Florida; has titled and registered twelve automobiles in Florida, as well as his boat; the majority of all demonstrations and inspections of new aircraft and boats have been done in Florida; until recently has maintained a driver's license in Florida; and he employs pilots who reside in Florida. So ensconced in Florida is he that his regular physician is based in Florida and most medical procedures he has had performed over the years have been done in Florida. Foundations he controls have donated generously and regularly to Ballet Florida during the period from 2000 to 2007.

Epstein also uses his home in Florida for meeting regularly with important business contacts, many of whom either live or maintain residences in the Palm Beach area. Beginning in 2003 and continuing through most of 2004, Epstein also traveled frequently to Florida to negotiate the purchase of the Abraham Gosman Estate, which was finally sold at auction in November 2004. Although, Epstein was ultimately outbid, nearly a dozen trips to Florida were made in direct pursuit of his offer.

In furtherance of these activities – being out of New York for in excess of half of each year, visiting his mother and brother, meeting with business associates, and negotiating the purchase of the Gosman Estate – Epstein made 65 separate trips to Florida in 2004 and 2005[8].

[8] There trips are reflected on the flight records previously provided to you. We are not reproducing them here because of their bulk. If you would like an additional copy we will provide it.

Having massages were entirely incidental to the purpose of his travel to Florida. And given the other purposes of his travel to Florida, the act of going there cannot itself give rise to any inference of an improper purpose. Indeed, it can be demonstrated that Epstein typically spent between one third and one half his time at his home in Florida.

Likewise, there is no evidence that any of the women traveled in interstate commerce for the purpose of engaging in the conduct alleged. Though the Police Report suggests that one of the witnesses, Alfredo Rodriquez, claimed that one or more of the women in question traveled on Epstein's plane, a careful reading of the interview itself shows that the detective confused Epstein's assistants, his girlfriend, and her friends, all of whom are indisputably over the age of 18, with the women at issue here. More to the point, even if Rodriquez did so claim, the flight records and the statements of the pilots show conclusively that none of these women ever traveled in interstate commerce on any of Epstein's planes to engage in any of the conduct alleged.

3. **There Was No Intent To Engage in the Conduct at the Time of the Travel.**

Even assuming *arguendo* that any travel occurred for the purpose of getting massages from women, there is no evidence that *at the time he was traveling to Florida* Epstein had planned to engage in the conduct with a person he knew or believed was under 18. Thus, even if, once in Florida, Epstein purposefully engaged in a proscribed act (which is denied), that purpose arose long after his travel to Florida was complete, while a particular massage with a particular masseuse was in progress.

It is for these reasons that no prosecution would lie for the conduct alleged to have occurred with According to the Police Report (at 13-15) a woman evidently in fact under 16 at the time of the events, met with Epstein on only one occasion. The evidence is that *at the time he traveled to Florida,* Epstein had no knowledge that he would see anyone at all, let alone knowledge that he would see or any person whom he knew or believed was under 16. Thus, whatever the evidence shows occurred during the time was in Epstein's home, any case would be fatally flawed because there is no evidence Epstein traveled in interstate commerce with any intention of meeting

Similarly, there is no evidence that *at the time he was traveling to Florida* on any particular occasion he intended to engage in prohibited activity with any other person whom he knew or believed was under 18.

II. Statements in the Police Report that Have No Factual Basis or Are Contradicted by the Record

We have reviewed recordings of many of the interviews (conducted in person or by telephone) and controlled calls cited in the Police Report. We have compared them to the statements purporting to summarize them in the Police Report and Probable Cause Affidavit.[9] In instance after instance, we find material statements in the Police Report attributed to these sworn recorded statements that either simply were not said, or in some instances, are flatly contradicted, by the witness who purportedly made the statement. We highlight the most significant ones identified to date:

1. (Sworn Statement of 3/15/05)

- Police Report at 15: " stated seemed upset or jealous when she told her that she received three hundred dollars". PBPD Transcript at 26-27:[10] ' like, let me see what he gave you. And then I showed her my $300 and she's like, we're going to Marshalls".

2. (Sworn Statement of 10/04/05)

- Police Report at 30: "Sometime during the massage Epstein grabbed her buttocks and pulled her close to him." Sworn Statement: "Q: Did he touch you in any way? A: He was like kind of like leaning towards me but I was like you could tell I was shy so I think that's why he didn't. Q: He did not touch you inappropriately? A: No".

3. (Telephone Interview of 10/04/05)

- Police Report at 34: "As was wearing tight jeans and had a tight belt on Jeff was unable to touch her buttocks". There is no mention in her

[9] There were three Probable Cause Affidavits prepared and executed by Detective Recarey on the same date. The affidavits are in all material respects identical and we here refer to the one concerning Epstein. It is annexed at Tab 2. Because the Probable Cause Affidavit merely parrots the Police Report, for simplicity we refer solely to the Police Report.

[10] We have not reviewed a recording of the bulk of the interview. Instead we are relying on a transcript with which we were provided.

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statement of what she was wearing or Epstein's inability to touch her because of it.

- Police Report at 34: ' stated she is aware that her friend, was also at the house and had a problem with Jeff." There is no mention in her statement of being at Epstein's house or having a problem with Epstein.

4. (Sworn Statement of 11/14/05)

- Police Report at 52: ' also stated she was sixteen years old when she first went to Epstein's house". Sworn Statement: "Q: Okay. How old were you when you first went there? A: Seventeen. Q: Seventeen. A: And I was 17 the last time I went there too. I turned 18 this past June".

5. (Sworn Statement of 11/8/05)

- Police Report: "On occasion, Epstein would use a massage/vibrator, which she described as white in color with a large head, on her." Sworn Statement: "Did he ever, did he ever take out any toys? A: No".

6. (Sworn Statement of 2/3/06)

- Police Report at 80: "I asked her if she provided the massage naked. aid she did." Sworn Statement: "Well, I was not – I wasn't naked. Like I was in boy shorts and like topless and boy shorts".

7. **Juan Alessi** (Sworn Statement of 11/21/05)

- Police Report at 57: "Alessi stated that towards the end of his employment, the masseuses were younger and younger". Sworn Statement at 9[11]: "Did they seem young to you? A. No, sir. Mostly no. We saw one or two young ones in the last year. Before that, it was all adults . . . I remember one girl was young. We never asked how old she was. It was not in my job . . . But I imagine she was 16, 17".
- Police Report at 57: "[T]he bed would almost always have to be made after the massage". Sworn Statement at 11-12: ". . . At the end, it was a few times that the bed was undone. You know, we make the beds three or four times a

[11] We have not reviewed a recording of the Alessi interview. However, we were provided with a certified transcript of it.

day. And sometimes we went to clean up the massage to put it back, the massage table, to pick up the towels, but the bed was undone again. So either he took a nap or he went for a nap, I don't know. Q. Or something else occurred? A. Or something else. I cannot [say]".[12]

8. (Sworn Statement of 10/11/05)[13]

- Probable Cause Affidavit at 11: " advised that during her frequent visits Epstein asked for her real age, stated she was 16. Epstein advised her not to tell anyone her real age". There is no such statement in her recording.
- Police Report at 40: Hall recounted how Epstein was "naked in the bedroom, she entered and removed her clothing . . . [redacted] [redacted] [Epstein's girlfriend] entered the room from the steam room area already naked." These events are not described in statement.
- Probable Cause Affidavit at 12 " stated Epstein would photograph [redacted] and her naked and having sex and proudly display the photographs within the home". Sworn Statement: ". . . it was me standing in front of a big white marble bathtub . . . it wasn't like, I was, you know, spreading my legs or anything for the camera. I was like, I was standing up. I think I was standing up and I just like, it was me kind of like looking over my shoulder kinda smiling, and that was that".
- Police Report at 40: " stated that on one occasion she] continued rubbing his legs, thigh, and feet. . . . [and then Epstein] turned over onto his back. She continued to rub his legs with the oils. Epstein touched her breasts and began to masturbate". These events appear to be synthesized from account of two separate incidents. However, concerning neither did make mention of rubbing Epstein's legs, thighs, and feet or of Epstein turning over onto his back.

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[12] This statement is also directly contradicted by other witnesses, who never made any accusation that any activity ever occurred on the bed.

[13] was interviewed by Detective Recarey twice, once by telephone, and once in person. The portions of the Police Report to which we refer specifically cite the in-person interview of as the source for the information reported. We have reviewed the recording of that interview and base the comparison on that. We have never heard a recording of the telephone interview.

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- Police Report at 40: "Epstein had purchased [redacted] from her family in Yugoslavia . . . [and] bragged he brought her to the United States to be his Yugoslavian sex slave". No such statement is made by who refers to [redacted] as Epstein's "girlfriend" and refers offhandedly to other women in the home as "slaves".

III. Material Omissions from the Police Report

In addition to the misstatements in the Police Report and Probable Cause Affidavit as to the evidentiary record, there were also material omissions, both of facts known to the PBPD and also of facts not known by the PBPD though known by the State's Attorney. In the latter instance, the lack of knowledge was the result of the PBPD's refusal to receive the evidence. Thus, anyone relying on the Police Report or Probable Cause Affidavit would have a skewed view of the facts material to this matter. Examples follow.

1. ***The Video Surveillance Equipment Located in Epstein's Office and Garage.*** Both the Police Report (at 43) and the Probable Cause Affidavit (at 18) make particular mention of the "discovery" of video surveillance equipment (or "covert cameras" as they are called) in Epstein's garage and library/office. Inclusion of this information insinuates a link between the equipment and the events at issue: the Probable Cause Affidavit notes (at 18) that "on the first floor of the [Epstein] residence I [Detective Recarey] found two covert cameras hidden within clocks. One was located in the garage and the other located in the library area on a shelf behind Epstein's desk . . . The computer's hard drive was reviewed which showed several images of and other witnesses that have been interviewed. All of these images appeared to come from the camera positioned behind Epstein's desk".

   Clearly omitted from both the Police Report and the Probable Cause Affidavit is the fact that the PBPD, and specifically Detective Recarey, knew about the cameras since the cameras were installed in 2003, **with the help of the PBPD**, to address the theft of cash from Epstein's home. This fact is detailed in a Palm Beach Police Report prepared in October 2003 detailing the thefts, the installation of video equipment, the video recording capturing Alessi (then Epstein's house manager) "red handed", and the incriminating statements made by Alessi when he was confronted at the time. *See* Alessi Police Report (annexed at Tab 3) at 5, 8. The contemporaneous police report confirms the fact that the video footage was turned over to Detective Recarey himself.

2. ***Polygraph Examination and Report.*** On May 2, 2006, Epstein submitted to a polygraph examination by [redacted] Slattery, a highly respected polygraph examiner who is regularly used by the State Attorney. The examination was done at a time when we were told that the sole focus of the investigation was the conduct with A copy of the Report is annexed at Tab 4.

Epstein was asked (a) whether he had "sexual contact with (b) whether he "in anyway threaten[ed] ; (c) whether he was told by "that she was 18 years old"; and (d) whether he "believed was 18 years old". As set forth in the Report of the examination, the term "sexual contact" was given an extremely broad meaning in order to capture any inappropriate conduct that could have occurred.[14] The results of the examination confirmed that (i) no such conduct occurred; (ii) Epstein never threatened (iii) told Epstein she was 18 years old; and (iv) Epstein believed was 18 years old. Though the results of the examination were given to the PBPD and a meeting scheduled for the PBPD to meet with the polygraph examiner to satisfy itself as to the *bona fides* of the exam, representatives of the PBPD refused to attend the meeting and no information concerning the fact of the exam or the results appeared in the Police Report or the Probable Cause Affidavit.

3. ***Broken "Sex Toys" in Epstein's Trash.*** The Police Report details the police finding in Epstein's trash what is described as broken pieces of a "sex toy" and that this "discovery" purportedly corroborated witness statements. Omitted from both the Police Report and the Probable Cause Affidavit is the fact that during the course of executing the search warrant in Epstein's home, the police discovered the other piece of that key "sex toy" and realized it was in fact only the broken handle of a salad server. Though "sex toys" play a prominent role in the Police Report and Probable Cause Affidavit, the Police Report was never amended to reflect the discovery of this new and highly relevant evidence.

4. ***Meetings with the State Attorney's Office.*** On multiple occasions, attorneys representing Epstein met with prosecutors and investigators in the State Attorney's Office. Though there is vague reference to one or more meetings with counsel (*see,*

[14] The definition included: "sexual intercourse, oral sex acts (penis in mouth or mouth on vagina), finger penetration of the vagina, finger penetration of the anus, touching of the vagina for sexual gratification purposes, touching of the penis for sexual gratification purposes, masturbation by or to another, touching or rubbing of the breasts, or any other physical contact involving sexual thoughts and/or desires with another person".

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e.g., Police Report at 64, 87), virtually no information provided or evidence turned over to them regarding the alleged witnesses is included in the Police Report or Probable Cause Affidavit. Instead, there are misleading or false references to such meetings. For example, the briefest reference is made to a conversation Detective Recarey had on June 1, 2006, with ASA [redacted] regarding a meeting earlier that day between representatives of the State Attorney's Office and defense attorney Jack Goldberger (Police Report at 87). Omitted are the facts of the meeting (Police Report at 87): In addition to the presence of other defense counsel, there was in attendance both Slattery, who administered the polygraph examination, and a psychiatrist who had performed a rigorous psycho-sexual evaluation of Epstein and who concluded that Epstein not unhealthy and posed no danger. Both experts were made available for questioning by the State Attorney and the PBPD; unfortunately, the PBPD refused to attend the meeting. Nor is there any mention of the presentation made by defense counsel in which the claims being made with respect to [redacted] (then the sole focus of any potential prosecution) were rebutted.

5. ***Failure to Consider Exculpatory or Impeaching Evidence.*** Other exculpatory and impeaching evidence known by the PBPD was omitted from the Police Report and Probable Cause Affidavit by, in our view, manipulating the date the investigation was allegedly closed. According to the Police Report (at 85), Detective Recarey "explained [to ASA [redacted]] that the PBPD had concluded its case in December of 2005". That assertion, which is false, conveniently resulted in the omission of all information adduced subsequent to that date. Thus, though the Police Report in fact contains information obtained after December 2005, the PBPD purported to justify its refusal to consider, or even to include, in the Police Report, the Probable Cause Affidavit or what it released to the public, all the exculpatory and impeaching evidence presented on behalf of Epstein, most of which was provided after December 2005. That evidence is listed below.

6. ***Unreported Criminal Histories and Mental Health Problems of the Witnesses Relied on in the Police Report and Probable Cause Affidavit.*** Evidence obtained concerning the witnesses relied upon to support the Probable Cause Affidavit casts significant doubt on whether these witnesses are sufficiently credible to support a finding of probable cause, let alone to sustain what would be the prosecution's burden

of proof at a trial.[15] Though such evidence was submitted to the PBPD, none of it was included in the Police Report or the Probable Cause Affidavit.

a. **Juan Alessi:** While the Police Report (at 57) and the Probable Cause Affidavit (at 21) contain assertions by Alessi which allegedly support the bringing of a criminal charge, omitted is the evidence revealing Alessi's evident mental instability; prior criminal conduct against Epstein; and bias towards Epstein.

   - **Juan Alessi Admitted Burglarizing Epstein's Home and Mental Health Issues.** As detailed above (at 12-13), in 2003, Alessi was filmed taking money from Epstein's home. After being caught on videotape unlawfully entering Epstein's home and stealing cash from a briefcase, Alessi admitted to the PBPD that he entered the house unlawfully on numerous occasions, stealing cash and attempting to steal Epstein's licensed handgun to commit suicide. Though this information was known by Detective Recarey at the time the Police Report and Probable Cause Affidavit were prepared, and is clearly material to any determination of credibility, it was omitted.

b. [redacted] was the source of the vast majority of the serious allegations made against Epstein. While the Police Report and Probable Cause Affidavit rely on [redacted] numerous assertions, there are two significant problems with that reliance. First there is no mention of material admissions made by [redacted] during her interview, as well as on her MySpace webpage (discovered by defense investigators and turned over to the State Attorney). A copy of the webpage is annexed at Tab 5. Second, all but omitted from the Police Report is any reference to the facts known about her by the PBPD, specifically, that at the time [redacted] was making these assertions **she had been arrested by the PBPD and was being prosecuted for possession of marijuana and drug paraphernalia.** A copy of the Police Report documenting Hall's arrest is

[15] While we have never intended to and do not here seek gratuitously to cast aspersions on any of the witnesses, in previously asking the State and now asking you to evaluate the strength of any case that might be brought, we have been constrained to point out the fact that the alleged victims chose to present themselves to the world through MySpace profiles with self-selected monikers such as "Pimp Juice" [redacted] Tab 5) and [redacted] Tab 13) or with nude photos [redacted] ab 9).

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annexed at Tab 6. We take each in turn.

- [redacted] **Admits Voluntary Sexual Conduct With Epstein, Refuses to Disclose the Disposition of the Monies She Earned, and Lies About Being "Given" a Car by Epstein**: Detective Recarey failed to include in the Police Report [redacted] admission that on one occasion she engaged in sexual conduct with Epstein's girlfriend as her birthday "gift" to Epstein. Nor does Detective Recarey include the fact that [redacted] flatly refused to discuss with him the disposition of the thousands of dollars she said she was given by Epstein, or that she falsely claimed not to use drugs, despite her MySpace entries that scream "I can't wait to buy some weed!!!!!!!". Detective Recarey was aware the car had been rented, not purchased, and only month to month for two months. While [redacted] fanciful claim that she was given a car appears in the Police Report, it is never corrected.

- [redacted] **Was Arrested for Possession of Marijuana and Drug Paraphernalia.** As noted, on September 11, 2005, [redacted] was arrested for possession of marijuana and drug paraphernalia. *See* Tab 6. In response to this arrest, [redacted] "came forward" (as the Probable Cause Affidavit implies at 10-11), claiming she had knowledge of "sexual activity taking place" at Epstein's residence and misconduct by Epstein. (This "coming forward" appears no where in the Police Report.) Thus, it becomes clear that [redacted] assertions of misconduct by Epstein were motivated by a desire to avoid the repercussions of her own criminal conduct, which should have been taken into account when assessing her credibility as a witness.

- [redacted] **Steals From a Victoria's Secret Store**. An investigation by private investigators working for the defense revealed that in late 2005 [redacted] was employed at a Victoria's Secret store in Florida. Three days after her marijuana case was terminated, [redacted] was caught by a store manager as [redacted] attempted to leave the store with merchandise in her purse, the security tag still attached. *See* Incident Report annexed at Tab 7. Seeing the manager, [redacted] claimed "someone is trying to set me up". Following an internal investigation, which disclosed additional thefts from both the store and a customer, she was fired. In a recorded interview, [redacted] admitted to stealing and asserted that her reason for doing so was that "she was not getting paid enough". This information and supporting documentation

was presented to the PBPD, but was never included in the Police Report or Probable Cause Affidavit.

- [redacted] **Lies on MySpace About Victoria's Secret Store Termination.** Also uncovered by defense investigators is [redacted] dissembling version of the Victoria's Secret debacle on her "MySpace" webpage. There, [redacted] announced that she ". . . forgot to let everyone know I quit my job at [redacted]. They said they suspected me of 'causing losses to their company' – which by the way is bullshit. I was 'by the book' on EVERYTHING!!! . . . I got so fed up in that office that I handed the Loss Prevention lady back my keys and walked out". This information and supporting documentation was provided by the defense to the PBPD, but was not included in the Police Report or Probable Cause Affidavit.

- [redacted] **Was 18 at the Time She Alleges to Have Engaged in Sexual Conduct with Epstein.** Epstein denies he ever had sex with [redacted] However, even if he did, evidence, in the form of a credit card receipt,[16] was presented to the PBPD and the State Attorney's Office which confirms that any such encounter occurred at a time when [redacted] was already 18 years of age. (Indeed, it is our understanding that it was this information, combined with a theft report of her employer that highlighted her lack of credibility, that led the State Attorney to conclude that [redacted] was neither credible nor a proper complainant.) This information, though known to the PBPD, was omitted from the Police Report or the Probable Cause Affidavit.

- [redacted] **Lies on her Victoria's Secret Job Application.** Additional information on Hall's MySpace webpage casts further doubt on her credibility. For example, she boasts to having engaged in a fraudulent scheme to get hired by Victoria's Secret, explaining, "Oh, it was so funny – I used [my boyfriend] as one of my references for my Victoria's Secret job and the lady called me back and told me that William Tucker gave me such an outstanding reference that she did not need to call anyone else back, . . . he got me the job! Just like that . . . I lied and said he was the old stock manager at Holister – she bought it. . ." This information and

[16] A copy is annexed at Tab 8.

supporting documentation was provided by the defense to the PBPD, but was not included in the Police Report or Probable Cause Affidavit.

- [redacted] **Boasts About Her Marijuana Use.** Also on her MySpace webpage can be found [redacted] admissions of purchasing and using marijuana and marijuana paraphernalia. Specifically, [redacted] states she "can't wait to buy some weed!!! . . . I can't wait!!! . . . (Hold on: let me say that again) I can't wait to buy some weed!!!. . . I also want to get a vaporizer so I can smoke in my room because apparently there are 'narcs' everywhere". [redacted] also posted a photograph of a marijuana cigarette and labeled it "what heaven looks like to me". This information and supporting documentation was provided by the defense to the PBPD, was not included in the Police Report or Probable Cause Affidavit (although there is both a fleeting reference in the Police Report to [redacted] use of marijuana with her boyfriend (at 67) and in the Probable Cause Affidavit to [redacted] marijuana arrest (at 10-11)).

- [redacted] **Lies, Alleging Defense Investigators Impersonated Police Officers.** During the course of the investigation, the defense was notified that an unidentified witness claimed that defense investigators had impersonated police officers in an effort to get her statement. The defense subsequently concluded that these accusations were made by [redacted] (A reference to this accusation was included in the Police Report (at 67) and the Probable Cause Affidavit). Defense counsel immediately questioned the investigators and learned the accusation was baseless; the investigators gave [redacted] a business card clearly identifying them as private investigators. [redacted] initially declined to speak to the investigators because she said she "does not speak to cops", to which the investigators responded they were not "cops". Despite having this information from defense counsel, the PBPD failed to include it in the Police Report or Probable Cause Affidavit, instead citing only [redacted] claims.

c. [redacted] While the Police Report and Probable Cause Affidavit contain numerous assertions intended to negate [redacted] admission she told Epstein she was 18, omitted from these documents is reference to [redacted] MySpace webpage, where **she affirmatively represented to the world that she was 18,** thereby corroborating her lie to Epstein. A copy of [redacted] MySpace webpage is annexed at Tab 9. Also omitted is any reference to her long history of run-ins

with law enforcement. Among those are multiple runaway complaints by her parents and her assignment to a special high school for drug abusers.

- [redacted] **MySpace Webpage States She Drinks, Uses Drugs, Gets into Trouble, Has Beaten Someone Up, Shoplifts, Has Lost her Virginity, Earns $250,000 and Higher, and Contains Naked and Provocative Photographs.** The first image seen on [redacted] MySpace webpage, the photo [redacted] chose to represent her, is that of a naked woman provocatively lying on the beach. The illuminating webpage also contains [redacted] assertions that of all her body parts, she "love[s] her ass", she drinks to excess, uses drugs, "gets into trouble", has beaten someone up, has shoplifted "lots", "already lost" her virginity, and earns "$250,000 and higher". As with the other impeaching information, this material, vital to determining credibility, was provided by the defense to the PBPD but was never included in the Police Report or Probable Cause Affidavit.

- [redacted] **Police Contacts – Drugs, Alcohol, Running Away From Home.** [redacted] has a history of running away/turning up missing from her parents' various homes; of using drugs and alcohol; and of associating with unsavory individuals. For example, a Palm Beach County Sheriff's Office Report (annexed at Tab 10) details how only two days after she returned to Florida to live with her father, on March 31, 2006, police were called to the home in response to her father's report that she and her twin sister were missing. The Police Report describes her as "under the influence of a narcotic as [she] could barely stand up, [her] eyes were bloodshot, and [her] pupils were diluted [sic]". It further documents that [redacted] and her sister had stayed out all night and were returned home by a "drug dealer". This event coincided with [redacted] having been found at an "inappropriate location" by Georgia police in response to a call about [redacted] disappearance. Although this information, material to determining credibility, was provided by the defense and known to the PBPD, it was never included in the Police Report or Probable Cause Affidavit.

d. Daniel [redacted] While the Police Report and Probable Cause Affidavit rely on statements of Daniel [redacted] father, omitted is Daniel [redacted] federal bank fraud conviction (annexed at Tab 11), which defense

investigators discovered and turned over to the PBPD during the course of the investigation. [redacted] served 21 months in federal prison for his offense.

e. [redacted] While the Police Report and Probable Cause Affidavit rely on statements of [redacted] step-mother, omitted is [redacted] state conviction for identity fraud (annexed at Tab 12). This information, uncovered by defense investigators, was also turned over to the PBPD during the course of the investigation.

IV. The Facts of This Case Militate Against Bringing a Federal Prosecution

A. Declining To Prosecute as an Exercise of Discretion

Epstein is being prosecuted by state authorities in Florida. Even if we assume *arguendo* that Epstein's conduct constitutes a federal crime that can be proven, nevertheless no "substantial Federal interest" would be served by prosecuting him. On this question, the United States Attorney's Manual (USAM) itself gives specific guidance. Section 9-27.230 provides:

> In determining whether prosecution should be declined because no substantial Federal interest would be served by prosecution, the attorney for the government should weigh all relevant considerations, including: Federal law enforcement priorities; the nature and seriousness of the offense; the deterrent effect of prosecution; the person's culpability in connection with the offense; the person's history with respect to criminal activity; the person's willingness to cooperate in the investigation or prosecution of others; and the probable sentence or other consequences if the person is convicted.[17]

Each of these factors militates against prosecution. As indicated, federal law enforcement priorities focus on particular phenomena involving the sexual abuse of minors, the use of the

[17] Each of these factors is discussed in greater detail in USAM 9-27.230(B).

internet to lure minors to engage in prohibited sexual activity, child pornography, or trafficking. The conduct in which Epstein is alleged to have engaged fits nowhere in these categories. Given its essentially *sui generis* character, its prosecution would have little or no general deterrent effect.

If prosecuted under statutes designed to address far more serious conduct and far more dangerous offenders, he would be subject to punishment that is grossly disproportionate to his alleged behavior. Even though society has a legitimate interest in preventing and punishing sexual exploitation of minors, under our federal system, that interest is one that is shared between the federal government and the states, and one in which there is a division of responsibility. Under our system of federalism, the states, and only the states, act where the concern is local, and the federal government only where there is a federal interest at stake. This is just as true with respect to sexual activity involving minors as it is with respect to murder, which can be prosecuted, federally, only in special circumstances where there is a genuine federal interest to be served.

Most importantly, there is no identifiable federal interest to be served by prosecuting the conduct at issue in this case. The federal interest lies in addressing the problem of internet predators, a problem of uniquely federal interest. As the Director of the Office for Victims of Crime of the DOJ has stated, ". . .the nature of Internet crimes presents complex new challenges for law enforcement agencies and victim service providers with regard to investigating crimes, collecting evidence, identifying and apprehending offenders, and assisting child victims and their families." U.S.D.O.J., Office of Justice Programs, OVC Bulletin, Internet Crimes Against Children, December 2001. Federal lawmakers recognized that while the internet presents wonderful opportunities for young people, at the same time "criminals are also using modern technology – to prey on innocent victims." *Id.*

That should be sufficient to end the matter, as Epstein's case has nothing whatever to do with internet predation, or the type of predators to which the legislation is addressed.

After all, it is a first principle that the Constitution creates a federal government of enumerated powers. *See United States v. Lopez*, 514 U.S. 549, 552 (1995) ("Just as the separation and independence of the coordinate branches of the Federal Government serve to prevent the accumulation of excessive power in any one branch, a healthy balance of power between the States and the Federal Government will reduce the risk of tyranny and abuse from either front.") (*quoting Gregory v. Ashcroft*, 501 U.S. 452, 458 (1997)). Thus, Congress's power to legislate in this area is constrained by the Commerce Clause. As *Lopez* demonstrates, the

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Clause imposes real limitations on Congress's power to criminalize essentially local behavior. *See United States v. Morrison*, 529 U.S. 598 (2000) (Violence Against Women Act exceeded Congressional power under the Commerce Clause or § 5 of the Fourteenth Amendment).

Lopez, of course, recognizes Congress's power to regulate "the use of the channels of interstate commerce" and "to keep the channels of interstate commerce free from immoral and injurious uses." *Lopez*, 514 U.S. at 558. But this confirms that the *legitimate federal interest* is in the misuse of instrumentalities or channels of interstate commerce. This suggests that, in defining and weighing the federal interest, the focus should be on *the use of interstate travel,* and not upon the sexual conduct itself. Clearly, Epstein's interstate travel can be of no legitimate or significant federal interest. He spent a great deal of his time in Florida because he has owned a home there for seventeen years and has many professional, social and personal interests centered there, none of which has anything to do with sexual conduct. Given the attenuated relationship between sexual conduct with any person under 18 and interstate travel, the federal interest in this matter is negligible.

The conduct at issue is not an example of a widespread or growing phenomenon that in general crosses state or international lines (like internet sexual predators or sex tourism) that is difficult to police or prosecute and that the United States has a special interest in eliminating. It does not involve the special targeting of children. It does not involve organized prostitution, sex trafficking, or organized crime. It does not involve violence or the threat of violence, nor physical harm or threat of harm. It does not involve child pornography. Indeed, the circumstances of this case are so idiosyncratic that its pursuit would not significantly advance the protection of minors. Instead, the conduct at issue here is precisely the conduct that is primary interest to the state. And it is the state that has the authority, and the right, to establish and rely on reasonable criteria for deciding which cases to bring and which to forego.

To the extent that the federal statutes in this area are broadly drafted, this is to confer on the authorities sufficient leeway to exercise their discretion and "get the bad guys" who *do* exploit minors, often on a massive scale or for financial rewards. The very breadth of the statutory language places on federal prosecutors the weighty responsibility of insuring that their discretion is exercised thoughtfully. Certainly, the fact that conduct arguably falls within the broad scope of a broadly worded federal criminal statute cannot itself establish that a *substantial* federal interest is at stake.

Nor does the statutory breadth mean that prosecutors should strive to test the statutes' outer boundaries. This is particularly true here, where private conduct is at issue; where the

federal statutes, broadly read, would criminalize sexual conduct that state law may permit; and where the question of whether federal legislation in this area exceeds Commerce Clause authority, in light of *United States v. Lopez, supra*, remains unresolved by the Supreme Court. It is well to remember that hard cases make bad law – for the government as well as for its citizens. Indeed, if the use of a handgun that traveled in interstate commerce does not allow a federal prosecution by invocation of the Commerce Clause, as the Supreme Court ruled in *Lopez*, then surely purely local sexual activity would not, either.

B. *Petite* Policy

In addition to the factors discussed above, the *Petite* Policy (regarding dual and successive prosecutions), a limitation on prosecutorial authority, may also stand as a bar to federal prosecution. If it is arguable whether the policy applies, the policy itself may require that Justice Department authorization to proceed be obtained.

The Policy, which takes its name from *Petite v. United States*, 361 U.S. 529 (1960), is set forth in the USAM at 9-2.031. The *Petite* Policy "establishes guidelines for the exercise of discretion by appropriate officers of the Department of Justice in determining whether to bring a federal prosecution based on substantially the same act(s) or transactions involved in a prior state or federal proceeding."

The purpose of the policy "is to vindicate substantial federal interests through appropriate federal prosecutions, to protect persons charged with criminal conduct from the burdens associated with multiple prosecutions and punishments for substantially the same acts or transactions, to promote efficient utilization of Department resources, and to promote coordination and cooperation between federal and state prosecutors." USAM 9-2.031(A). Though the Policy does not create any substantive or procedural rights enforceable by law, *see, e.g., United States v. Snell*, 592 F.2d 1083 (9th Cir. 1979), it nevertheless provides a valid basis for arguing against the institution of charges in this matter.

The crux of the Policy is this:

> This policy precludes the initiation or continuation of a federal prosecution, following a prior state or federal prosecution based on substantially the same act(s) or transaction(s) unless three substantive prerequisites are satisfied: first, the matter must

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> involve a substantial federal interest; second, the prior prosecution must have left that interest demonstrably unvindicated; and third, applying the same test that is applicable to all federal prosecutions, the government must believe that the defendant's conduct constitutes a federal offense, and that the admissible evidence probably will be sufficient to obtain and sustain a conviction by an unbiased trier of fact. In addition, there is a procedural prerequisite to be satisfied, that is, the prosecution must be approved by the appropriate Assistant Attorney General.
>
> Satisfaction of the three substantive prerequisites does not mean that a proposed prosecution must be approved or brought. The traditional elements of federal prosecutorial discretion continue to apply.

Whether the matter involves a substantial federal interest is a determination to be made on a case-by-case basis, applying the considerations applicable to all federal prosecutions. The second prerequisite is that the prior prosecution must have left that substantial federal interest "demonstrably unvindicated." "In general, the Department will presume that a prior prosecution, regardless of result, has vindicated the relevant federal interest." USAM 9-2.031(D).[18]

The presumption may be overcome when the prior prosecution resulted in a conviction if the prior sentence was manifestly inadequate in light of the federal interest involved or if the choice of charges in the prior prosecution was affected by certain inappropriate or irrelevant factor such as "incompetence, corruption, intimidation, or undue influence."

No such factors operated here. The negotiations between the State Attorney were conducted at arms length, and at times in an atmosphere of mutual hostility. At no point was Epstein granted any sort of break in his case due to his wealth, his political affiliations, or the prominence of his lawyers. If anything, those factors worked against him. The state prosecutors devoted enormous resources to a lengthy investigation, refused to reveal the nature of the charges

[18] All three substantive pre-requisites for approval of a prosecution governed by the *Petite* Policy are discussed in greater detail in USAM 9-2.031(D).

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they were considering, refused to speak with Epstein's attorney of choice, and tried to strong-arm Epstein to plead guilty to a violent felony by threatening to place witnesses, whom the State knew were not credible, on the stand before a grand jury.

In determining the charges, the State Attorney took into account the fact that both of the principal victims – [redacted] and [redacted] – have serious credibility problems, including damaging histories of lies, illegal drug use, and crime. The State Attorney, quite appropriately, took into account the substantial possibility that, with witnesses of their ilk, it might not be able to make any case against Epstein at all. In fact, according to [redacted], the State Attorney for Palm Beach County, his reason to take the case to the grand jury, rather than proceed by information, was to determine whether his witnesses would testify under oath, even without being subjected to cross-examination. Tellingly, though subpoenaed to testify at the grand jury, Ms. [redacted] failed even to appear.

The charging decision was not an act of favoritism, but a rather harsh exercise of the State Attorney's discretion. The State Attorney had never before prosecuted a case involving erotic touching unless the victim was exceedingly young, vulnerable, or in a trust relationship with the perpetrator. Cases brought by the State Attorney previously involved far more egregious conduct, including the videotaping of sexual activity, multiple rapes, and keeping minors as sex slaves, including tattooing them to indicate ownership and control over them. Any suggestion that Epstein received preferential treatment – or that the State prosecutors were corrupt – would be utterly without merit.

For all of these reasons, we submit that no prosecution can or should be brought against Jeffrey Epstein. We would like to reserve the opportunity to make a further submission in which we address more specifically the applicable law once we have had the benefit of narrowing the focus at our meeting.

Very truly yours,

Gerald B. Lefcourt

cc: Roy Black, Esq.
Lilly Ann Sanchez, Esq.

EXHIBIT

44

"Villafana, Ann [redacted] C." To "Jay Lefkowitz" <JLefkowitz@kirkland.coi
cc
bcc
09/19/2007 12:14 PM Subject RE: Meeting

History: This message has been replied to.

Judge Johnson has duty next week.

Jay – I hate to have to be firm about this, but we need to wrap this up by Monday. I will not miss my indictment date when this has dragged on for several weeks already and then, if things fall apart, be left in a less advantageous position than before the negotiations. I have had an 82-page pros memo and 53-page indictment sitting on the shelf since May to engage in these negotiations. There has to be an ending date, and that date is Monday.

A. Marie Villafaña
Assistant U.S. Attorney

[redacted]

----- Original Message -----
From: "[redacted]. \(USAFLS\)"

Sent: 09/19/2007 11:51 AM AST
To: Jay Lefkowitz
Subject: Meeting

Barry is available Monday morning. Our most flexible West Palm Beach magistrate is on duty on Monday, so, assuming we have signed documents by 1:30 or so, we should be able to get Mr. Epstein arraigned on Monday. I doubt that we will be able to get everything finished up here, get down to Miami, and try to find a Miami mag by close of business on Monday.

A. [redacted] Villafaña

US_Atty_Cor_004

EXHIBIT

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U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
[redacted]
Facsimile: [redacted]

June 7, 2007

DELIVERY BY HAND
Miss [redacted]

Re: Crime Victims' and Witnesses' Rights

Dear Miss [redacted]

Pursuant to the Justice for All Act of 2004, as a victim and/or witness of a federal offense, you have a number of rights. Those rights are:

(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.

Members of the U.S. Department of Justice and other federal investigative agencies, including the Federal Bureau of Investigation, must use their best efforts to make sure that these rights are protected. If you have any concerns in this regard, please feel free to contact me at [redacted], or Special Agent [redacted] from the Federal Bureau of Investigation at [redacted]. You also can contact the Justice Department's Office for Victims of Crime in Washington, D.C. at [redacted]. That Office has a website at www.ovc.gov.

You can seek the advice of an attorney with respect to the rights listed above and, if you believe that the rights set forth above are being violated, you have the right to petition the Court for relief.

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In addition to these rights, you are entitled to counseling and medical services, and protection from intimidation and harassment. If the Court determines that you are a victim, you also may be entitled to restitution from the perpetrator. A list of counseling and medical service providers can be provided to you, if you so desire. If you or your family is subjected to any intimidation or harassment, please contact Special Agent [redacted] or myself immediately. It is possible that someone working on behalf of the targets of the investigation may contact you. Such contact does not violate the law. However, if you are contacted, you have the choice of speaking to that person or refusing to do so. If you refuse and feel that you are being threatened or harassed, then please contact Special Agent [redacted] or myself.

You also are entitled to notification of upcoming case events. At this time, your case is under investigation. If anyone is charged in connection with the investigation, you will be notified.

Sincerely,

[redacted]
United States Attorney

By: A. Villafaña
A. [redacted] Villafaña
Assistant United States Attorney

cc: Special Agent [redacted], F.B.I.

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EXHIBIT

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July 6, 2007

BY FEDERAL EXPRESS

Jeffrey [redacted], Esq., First Assistant United States Attorney
Matthew [redacted], Esq., Chief, Criminal Division
The United States Attorney's Office
Southern District of Florida
99 NE 4th Street
Miami, Florida 33132

Andrew Lourie, Deputy Chief, Northern Region
[redacted], Assistant United States Attorney
The United States Attorney's Office
Southern District of Florida
[redacted]

Jeffrey Epstein

Dear Messrs. [redacted], [redacted] and Lourie and Ms. Villafaña:

We write as counsel to Jeffrey Epstein to follow-up on our meeting on June 26, 2007. We thought the meeting was extremely productive and appreciate your giving us the opportunity to engage you on the facts, law and policy that will inform any decision you make on how and whether to proceed.

I. 18 U.S.C. §2422(b) Has No Applicability to the Facts Here.

Even assuming the facts as you believe them to be, as demonstrated below, a prosecution under 18 U.S.C. §2422(b) would violate the explicit terms of the statute, pose insurmountable constitutional barriers, and be unprecedented, unwise, and utterly inappropriate. This statute, with its mandatory minimum sentence[1] was designed to reach

[1] The statute in effect during the events at issue carries a mandatory five-year period of incarceration. The current ten-year mandatory minimum was instituted in 2006.

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those who deliberately, knowingly, and intentionally target and exploit children through the internet. Though the literal language may superficially apply to a wider variety of behaviors, we submit that the statute cannot properly be used to prosecute what have traditionally been viewed as state offenses, even if some facility or means of interstate commerce can be said to have been used by someone at some point during the course of events.

1. Congress's Purpose

Section 2422(b), the so-called "Internet Luring Statute", addresses online enticement of children. The subsection was included in Title [redacted] of the Telecommunications Act of 1996, entitled "Obscenity and Violence", after the Senate Judiciary Committee held a hearing regarding child endangerment via the internet. *See* H.R. Conf. Rep. No. 104-458, at 193 (1996), *quoted in United States v. Searcy*, 418 F.3d 1193, 1197 (11th Cir. 2005); *see also* K. Seto, "Note: How Should Legislation Deal with Children and the Victims and Perpetrators of Cyberstalking?" 9 *Cardozo Women's L.J.* 67 (2002).

In enacting the statute, Congress recognized that young people were using the internet in ever-increasing numbers, and it was proving to be a dangerous place. According to a DOJ study, one in five youths (aged 10 to 17) had received a sexual approach or solicitation over the internet in the previous year. One in 33 had received an "aggressive sexual solicitation", in which a predator had asked a young person to meet somewhere or called a young person on the phone. U.S.D.O.J., Office of Justice Programs, *OVC Bulletin*," Internet Crimes Against Children" (12/2001); www.ojp.usdoj.gov/ovc/publications/bulletons/internet_" 2_2001/internet _2_01_6.html.

Congress saw that, with so many children online, the internet created a new place – cyberspace – where predators could easily target children for criminal acts. Use of the internet, which occurs in private, and the secrecy and deception that acting in cyberspace permits, eliminated many of the risks predators face when making contact in person, and presented special law enforcement problems that are difficult for any local jurisdiction to tackle. The mandatory minimum sentence for a violation of this section was increased from five years to ten years in 2006, by virtue of the Adam Walsh Child Protection and Safety Act of 2006, which also eliminated any statute of limitations. *See* 18 U.S.C.

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§3299.[2] The law was named in memory of Adam Walsh who, 25 years earlier, had been abducted from a department store and was later found murdered, and whose parents had become advocates for missing children. In his signing statement, President Bush noted that it increased federal penalties for crimes against children, imposing "tough mandatory minimum penalties for **the most serious crimes against our children.**" 2006 U.S.C.C.A.N. S35, 2006 WL 3064686 (emphasis added). The five-year mandatory minimum it replaced was itself established as part of the PROTECT Act of 2003, another law designed to strengthen the government's ability to deal with certain dangerous sexual predators who exploited children in ways the states had been unable to address fully.[3]

2. General Overview

It must be remembered that §2422(b), by using the phrase "any sexual activity for which any person can be charged with a criminal offense",[4] in some sense incorporates all the sex offense laws of all 50 states, in all their variety and in all their ambiguity. This in itself raises questions of the utmost seriousness, implicating fairness and the due process clause. It also constitutes an extreme example of federal pre-emption, or, more precisely, the wholesale annexation of the enforcement responsibility of each of the 50 states' sex-related crime statutes – whether felony, misdemeanor or violation – wherever there has been use of the ever-present wires. To make every state sex "offense" involving a person under 18 potentially into a mandatory minimum ten-year federal felony without any statute of limitations is certainly not what Congress had in mind when it enacted §2422(b).

---

[2] Other federal crimes with ten-year mandatory minimum involve very serious acts. *See, e.g.*, 18 U.S.C. §2113(e) (bank robbery where a person is killed or kidnapped); 18 U.S.C. §924 (involving discharge of firearm).

[3] Section 2422(b) has always carried a substantial penalty. When first enacted, the maximum sentence it permitted was ten years. Pub.L. 104-104, Title [redacted], Sec. 508, 110 Stat. 137. After that, the maximum was increased to 15 years. Pub.L. 105-314, Title I, sec, 102, 112 Stat. 2975 (Oct. 30, 1998 to April 29, 2003).

[4] A phrase which, by itself, and in the context of the remainder of the statute, raises mind-numbing questions as to what, exactly, is proscribed.

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The bulk importation of complex bodies of state law is highly problematic, and strongly counsels that such matters should be left to the states except in those rare circumstances where both a federal interest is clear and weighty, and the states are for some reason incapable of acting. Like issues of family law, these issues are quintessentially of state concern within our federal system.

State laws regarding both sexual activity and the age of consent to engage therein are hugely varied, reflecting different histories, values, politics, and personalities. *See* Richard A. Posner & Katharine B. Silbaugh, *A Guide to America's Sex Laws* (1996). The various and shifting societal reasons underlying those laws, and the societal pressures operating in the area, where sexual mores change over time, complicate the matter even further. *See generally* Richard A. Posner, *Sex and Reason* (1992). The history of the Mann Act confirms the caution with which the federal government should approach this entire area. For example, historically, the Act was used by some prosecutors in some jurisdictions to prosecute acts -- such as a man traveling with his paramour -- which, we submit, never implicated a legitimate federal concern. *See generally* D.J. Langum, *Crossing the Lines: Legislating Morality Under the Mann Act* (1994).

Even where there is broad agreement that certain conduct should be criminalized, the various states treat the very same conduct differently; to apply such laws selectively by different federal prosecutors would undermine further what uniformity does exist. In New York, for example, a 50 year old man who patronizes a 15 year old prostitute is guilty of a Class A misdemeanor. New York Penal Law §230.04. If §2422(b) were read expansively, then such person would face a 10-year mandatory minimum if he used the telephone to set-up his date with the young prostitute, **even if the date never happened**. And that would be so even if the prostitute were 17 ½ (and despite the fact that in New York the age of consent is 17, since prostitution is a "sexual offense" in New York). Clearly, these are applications and outcomes Congress did not contemplate when it enacted the law.

Instead, these are matters best left to state law and state law enforcement. In the state, prosecutors and law enforcement authorities, who have far more experience dealing with sexual crimes, can exercise their discretion as to whom to prosecute and for what charges, taking into account both local attitudes and the wide range of circumstances that may exist when sexual offenses, or possible sexual offenses, involving minors were, or may have been, committed. That is particularly so since state laws generally permit the exercise of sentencing discretion, allowing the punishment to fit both the crime and the

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perpetrator. Section 2422(b), with its ten-year mandatory minimum is far too blunt a tool to use in any circumstances except the narrow, clear-cut, and egregious circumstances Congress had in mind when it enacted this law.[5]

Though §2422(b) is susceptible to multiple interpretations, it was designed to address a specific a problem with which Mr. Epstein's case has nothing in common. If stretched to reach beyond the core concern of the statute, a host of problems immediately arise. A simple reading of the words of the statute leaves any reasonable reader with far more questions than answers as to what is illegal. Any attempt to apply the statute to Mr. Epstein's situation highlights the many problems of vagueness, overbreadth, and simple incomprehensibility lurking in or just below the statute's text.

3. The Statute's Text And Its Thrust

Section 2422(b) currently provides:

> Whoever, using the mail or any facility or means of interstate or foreign commerce, or within the special maritime and territorial jurisdiction of the United States knowingly persuades, induces, entices or coerces any individual who has not attained the age of 18 years, to engage in prostitution or any sexual activity for which any person can be charged with a criminal offense, or attempts to do so, shall be fined under this title and imprisoned not less than ten years or for life.

The statutory language and reported decisions confirm the statute's important, but narrow, focus: the luring of children over the internet. Unlike 18 U.S.C. §§2241 *et seq.*,

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[5] Penalties under state statutes criminalizing online enticement also vary widely. According to the National Center for Missing and Exploited Children, though the offense can be a felony in all states, 15 states permit misdemeanor sentences in some cases (generally where the victim is 14 or older). Nineteen states classify online enticement as a felony, but grant judges statutory discretion to sentence offenders to less than one year in prison /missingkids/servlet/NewsEventServlet?LanguageCountry=en... 6/28/2007.

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§2422(b) does not establish any federal sex crimes with a minor. Section 2422's subject is not sex or sexual activity or face-to-face sexual exploitation of minors. Such behavior remains a matter of *state*, not *federal*, concern. The plain language of the statute mandates focus on the *communication* and demands that the knowing "persuasion", "inducement", "enticement" or "coercion" be done "**using** the mail or any facility or means of interstate . . .commerce" (emphasis added). Any other reading would violate constitutional principles of fair warning, notice, lenity and due process. Additionally, any broader reading would violate the clearly stated intent of Congress that enacted the law and the President who signed it. It would also exceed the authority of Congress under the Commerce Clause by federalizing virtually all state sex offenses involving people under the age of 18.

Section 2422(b) defines a crime of *communication*, not of contact. It makes unlawful a narrow category of communications, ones not protected by the First Amendment. Both the attempt and the substantive crime defined by §2422 are complete at the time when *communication* with a minor or purported minor takes place; the essence of the crime occurs *before* any face-to-face meeting or any sexual activity with a minor, and regardless of whether any meeting or activity ever occurs.

Turning the statute on its head by first looking at the alleged sexual activities and then seeking to find a mailing, a use of the wires, or the involvement of another facility or means of interstate commerce as a pretext for the invocation of federal jurisdiction would be without precedent and make a narrowly-focused statute into virtually a complete federalization of all state sex offenses involving minors.

4. The Statute Is Violated Only If A Facility Or Means Of Interstate Commerce Is Used To Do the Persuading Or Inducing

Though the statute raises several difficult issues of construction, on one point it is clear and unambiguous: To be guilty of a crime under §2422(b), the mail or a facility or means of interstate commerce must be used **to do the persuading or inducing**. As the Court wrote in *United States* [redacted], 165 F.3d Appx. 586, 2006 WL 226038 (10th Cir. 2006), to prove a violation, the government must show "(1) **the use of a facility of interstate commerce**; (2) **to knowingly persuade**, induce, entice or coerce, as well as the other elements. *See also United States* [redacted] *Bolen*, 136 Fed. Appx. 325, 2005 WL 1475845 (11th Cir. 2005).

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The statutory language can bear no other construction. The words "whoever, using . . . knowingly persuades . . ." necessarily requires that the "whoever" must "use" the interstate facility to knowingly persuade. That is, the word "using" is in the present, not the past, tense. Thus, the "using" must occur at the same time as the "persuading". If the statute meant otherwise, it could and would have been drafted differently: "whoever having used the mail and knowingly persuades" or "whoever uses the mail and knowingly persuades". But, as it is written, the actor must use the interstate facility ***to*** persuade or ***to*** entice, or to attempt to do so; use of the instrumentality cannot be incidental or peripheral.

Indeed, assuming, *arguendo*, that the grammar and structure of the statute would allow another interpretation – which we believe it does not – nevertheless the obvious, straightforward reading controls. Anything else would violate the rule of lenity, requiring strict construction of penal statutes, as well as the requirement of fair notice guaranteed by the due process clause. [6] As Thomas Jefferson put it in 1823: "Laws are made for men of ordinary understanding, and should therefore be construed by the ordinary rules of common sense. Their meaning is not to be sought for in metaphysical subtleties, which may make any thing mean every thing or nothing, at pleasure".

According to one of the world's leading experts on grammar and specifically, the syntax and semantics of verbs, these rules of "ordinary understanding" and "common sense" dictate that

> . . . an English speaker, reading the statute, would naturally understand it as applying only to persuasion (etc.) that is done while "using the mail" (etc.). To understand it as applying to persuasion (etc.) done subsequent to the use of

[6] We note that the structure of this statute is radically different from the structure of §1341, the mail fraud statute. There, the statute first describes the fraud and recognizes the federal concern by requiring, for purposes of executing such scheme or artifice, that the defendant use the mail. Section 2422(b) on the other hand defines the crime as using the mail to knowingly persuade, etc. The difference in the language and structure of the two crimes clearly shows that with §2422(b), using the mail to knowingly persuade is the essence of the crime.

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> the mail, phone, etc., would be an unnatural and grammatically inaccurate reading of the language.[7]

That the statute is so limited is also confirmed by the fact that prosecutors have clearly understood this limitation. After conducting extensive research, we find no case of a defendant being prosecuted under §2422(b) where he has used the internet or the telephone, and then, by *some other means*, such as personal contact, attempted to persuade, induce, or entice. On the contrary, all §2422(b) prosecutions we have reviewed are **premised** on a defendant's use of the internet (or occasionally the text messaging on a phone) **as the vehicle of the inducement**. *See, e.g., United States v. Murrel*, 368 F.3d 1283, 1286 (11th Cir. 2004) (government must ... prove that Murrell, using the internet, acted with a specific intent to persuade a means to engage in unlawful sex).

In fact, we have reviewed every indictment filed in the Southern District of Florida in which there is at least one allegation of a violation of §2422(b). To the extent the facts could be discerned from the indictment, we found no case brought where the use of the means of communication was remote from the persuading, coercion, etc.[8]

Such prosecutorial restraint is in full accord with the legislative intent, which, as set forth above, was to go after internet predators who use the means of communication to persuade, coerce, etc. That the statute also makes reference to the mails and facilities or means of interstate commerce other than the internet does not suggest that the statutory purpose was broader: it is a common *modus operandi* of internet predators to continue to pursue young people whom they first contact on the internet. If the statute were read to make it a crime to induce or persuade where the inducement or persuasion did not occur over the wires, the statute would sweep within it conduct that Congress had no intention of making a federal crime. Given the ubiquity of the telephone in modern life, especially

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[7] To confirm our view of the "plain meaning" of the words, we asked Steven Pinker, Johnstone Family Professor at Harvard University's Department of Psychology and a noted linguist, to analyze the statute to determine the natural and linguistically logical reading or readings of the section. Specifically, we asked whether the statute contemplates necessarily that the means of communication must be the vehicle through which the persuading or enticing directly occurs. According to Dr. Pinker, that is the sole rational reading in the English language. *See* Letter annexed at Tab "A" at 3.

[8] Annexed at Tab "B" is a chart in which each of the cases and its relevant facts are listed.

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in the lives of young people, de-coupling the "persuasion/enticement" element from the "use of the interstate facility" would make virtually any sexual activity with a minor, chargeable under state law, a federal offense – with no statute of limitations and a mandatory ten-year minimum sentence.

Indeed, given that the interstate highway system is itself an avenue of interstate commerce, *United States* v. *Horne*, 474 F.2d 1004, 1006 (7th Cir. 2007), allowing a prosecution wherever a means or facility of interstate commerce is used and a forbidden inducement later occurs, would mean that anyone who used the interstate highways, and then, at some other time, induced a minor face-to-face to engage in forbidden activity (or attempted to do so), would be subject to the mandatory ten years. The complete federalization of sex crimes involving children would have occurred, though there is no indication whatsoever that such a sea change in the federal/state balance was intended or is even needed.

Moreover, such an expansive reading, even if permissible, would very likely exceed the Commerce Clause power as the Supreme Court presently construes it. In *United States* v. *Lopez*, 514 U.S. 549 (1995), the Supreme Court struck down the Gun-Free School Zones Act, holding that it exceeded Congress's Commerce Clause authority. In so ruling, the Court reaffirmed a set of fundamental principles, including that the powers delegated to the federal government are few and defined, and that this "constitutionally mandated division of authority was adopted by the Framers to ensure protection of our fundamental liberties." *Id.* at 552, *quoting Gregory* v. *Ashcroft*, 501 U.S. 452, 458 (1991). The *Lopez* majority concluded that the statute before the Court "upsets the federal balance to a degree that renders it an unconstitutional assertion of the commerce power." *Id.* at 580. In so ruling, the Court expressed its concern that an overly expansive view of the interstate Commerce Clause "would effectively obliterate the distinction between what is national and what is local and create a completely centralized government." *Id.* at 557.

Making it clear that the Court meant what it said in *Lopez*, five years later, in *United States* v. *Morrison*, 529 U.S. 598 (2000), the Court struck down the civil remedy provision of the Violence Against Women Act of 1994, ruling that it, too, was beyond Congress's Commerce Clause powers. Once again, the majority expressed concern that "Congress might use the Commerce Clause to completely obliterate the Constitution's distinction between national and local authority." *Id.* at 615.

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To the extent that §2422(b) criminalizes the use of the internet (or telephone) by a sexual predator to target a vulnerable minor and to convince, or to try to convince, her to engage in conduct proscribed by law, the statute may not be unconstitutional on its face. *See United States v. Tykarsky*, 446 F.3d 458, 470 (3d Cir. 2006) (both §§ 2422(b) and 2423(b) "fall squarely within Congress's power to regulate the first two categories of activities described in *Lopez*"). The statute would, however, be plainly unconstitutional if it were applied to situations like Mr. Epstein's, where neither the telephone nor the internet was used in that fashion, and where the use of the telephone was, *at most*, a tenuous link in a chain of events that may, or may not, have preceded or followed sexual contact with a minor.[9] In other words, if the instrumentality of commerce is not the vehicle used to facilitate the harm Congress is trying to address, but is simply a "jurisdictional hook," the hook is too weakly connected to the problem (sexual crimes against minors) to sustain the statute as a proper exercise of Commerce Clause power.

Questions about the nature of federalism, and, specifically, just how far the federal government may go into matters of traditionally state concern, will continue to arise and will be answered case-by-case. As Justice O'Connor said in her dissent in *Gonzales v. Raich*, 545 U.S. 1, 47 (2005), ". . . the task is to identify a mode of analysis that allows Congress to regulate more than nothing . . . and less than everything. . ." (O'Connor, J. dissenting). *United States v. Ballinger*, 395 F.3d 1218 (11th Cir. 2005), illustrates the difficulty of the task. In that case, the deeply split *en banc* Court considered whether and to what extent the Commerce Clause authority included the power to punish a church arsonist who had traveled in interstate commerce to commit his arsons.

Though clearly not settled, what is clear is that Congress's specification of a jurisdictional element such as the use of an instrumentality or channel of interstate

[9] As can be readily noted on the chart at Tab "B", to the extent discernable, **every** case brought under §2422(b) in this district includes use of the internet. There are only four reported cases in the Eleventh Circuit involving use of the phones only: three of them concern telephone calls to travel agencies advertising overseas underage sex tours and involved explicit talk of sexual activity with known minors. A fourth is *United States v. Evans*, 476 F.3d 1176 (11th Cir. 2007) (11th Cir, 2007). But there, in facts far different from those presented here, the defendant "**admitted** using both a cellular telephone and a land-line telephone to entice Jane Doe to engage in prostitution" (emphasis added). That admission makes *Evans* no precedent for a prosecution here, since there is no evidence the phones were used "to entice".

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commerce does not, in and of itself, end the inquiry. Where the use of such instrumentality is far removed from the conduct being targeted (in the case of §2422(b), sexual exploitation of children), the lack of any basis for federal jurisdiction presents itself squarely.

In Mr. Epstein's case, since the crime being considered (as Congress intended) is the use of the internet by internet predators to target and lure vulnerable children to engage in illicit sex, the law is arguably within Congress' Commerce Clause powers. But Mr. Epstein's conduct would be outside the law's scope. If you were to contend that *any* use of the telephone which is connected in any fashion to an act of sexual misconduct with a minor is within the statute's scope, Congress would then have reached well into traditional state spheres, and there is a powerful argument that Congress would have been acting in excess of its Commerce Clause authority.

Elimination of Constitutional uncertainty regarding §2422(b) depends upon confining it to situations where an instrumentality of interstate commerce has **itself** been used for an immoral or injurious purpose. Statutes must be read to eliminate serious doubts as to Constitutionality, as long as such a reading is not plainly contrary to the intent of Congress. *United States v. X-Citement Video, Inc.*, 513 U.S. 64, 78 (1994), *citing* [redacted] *J. DeBartolo Corp. v. Florida Gulf Coast Building & Constr. Trades Council*, 485 U.S. 568 (1988). At the least, to eliminate questions as to its constitutionality, §2422(b)'s reach must be limited to situations where there is a **very close connection** between the use of an instrumentality of interstate commerce and the persuasion or attempted persuasion that the statute makes a crime.

Moreover, even if, *arguendo*, the expansive reading of the statute would not violate the Commerce Clause -- which current case law strongly suggests it would -- nevertheless the **federal interest** in prosecuting sexual offenses involving minors where the facility or means of interstate commerce was not the vehicle for committing the crime is so attenuated that no such federal prosecution should be brought.

Here, there is no evidence that Mr. Epstein himself ever persuaded, induced, enticed, or coerced anyone under the age of 18 over the telephone or internet to engage in prostitution or other illegal conduct. Any prosecution would therefore have to be predicated on a theory that he was criminally culpable for a telephone call made by a third party. Such a theory of vicarious liability requires proof beyond a reasonable doubt that the person making the telephone call and Mr. Epstein shared the same criminal intent

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and knowledge and, critically, that the shared intent and knowledge existed *at the time* of the communication in question. Absent proof beyond a reasonable doubt that Mr. Epstein had actual knowledge that the person making a telephone call would induce or persuade a specific underage person during the telephone call to engage in unlawful sexual activity or to engage in prostitution, there can be no federal crime.

If the telephone call in question were simply to *schedule* a topless massage, then the call lacked the essential element of inducement, persuasion, enticement, or coercion. If the telephone call in question was to schedule a topless massage (or even more) with a woman whose age was not known by Mr. Epstein to be under 18, it also fails to satisfy the requirements of §2422(b). If Mr. Epstein had not formed the intent to engage in unlawful sexual activity as of the time of the communication (even if he did form the intent thereafter), an essential element of the federal statute is again lacking. If the person making the call had knowledge or a criminal intent or belief not fully shared by Mr. Epstein (for example, Mr. Epstein did not know the telephone call was intended to induce a minor to engage in unlawful activity), the essential element of shared intent and shared knowledge is again lacking.[10] Finally, even if there were a call to schedule a second meeting with someone who had previously been to the Epstein residence, this call lacks the necessary element of persuasion, inducement, or enticing even if the person receiving the call hoped or expected remuneration from the return visit. That is so because the statute focuses on the content of the communication, not on any *quid pro quo* that occurs thereafter at a meeting. The latter conduct is exclusively within the ambit of state prosecution.

5. Other Reasons Why § 2422(b) Does Not Apply

As we demonstrate above, this statute is addressed to those who purposely and intentionally target children. Here, there was no such targeting. As the Sixth Circuit said in rejecting a First Amendment challenge to the statute: "The statute only applies to those who 'knowingly' persuade or entice, or attempt to persuade or entice, minors. *United States v. Bailey*, 228 F.3d 637, 639 (6th Cir. 2000). *See United States v. Panfil*, 338 F.3d

[10] Indeed, this last problem is best illustrated by any calls [redacted] may claim to have made to solicit persons to massage Mr. Epstein. Though Ms. [redacted] may have known the actual ages of the women whom she called at the time she called, and may therefore have known that one or more was in fact under 18, she was clear in speaking to detectives that she never communicated such information to Mr. Epstein. Rather, she understood Mr. Epstein wanted massages from women at least 18 years of age. (Video Interview of [redacted] on October 3, 2005).

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1299 (11th Cir. 2003) (scienter requirement discourages "unscrupulous enforcement" and clarifies §2422(b)). Directed towards those who commit "the most serious crimes against children," it cannot properly be used as a trap for the unwary, sweeping within its net all who may – even unwittingly and unintentionally – communicate or otherwise interact improperly with persons who turn out to be minors.

A prosecution of Mr. Epstein would violate the teachings of *Bailey* and *Panfil*. As we believe we persuaded you at the June 26th meeting, Mr. Epstein never targeted minors. On the contrary, what he did – at worst – was akin to putting up a sign saying to all, come in if you are interested in giving a massage for $200. A few among those who accepted the general invitation may have in fact been under 18 (though they lied about that age and said they were 18), but that is, at its worst, comparable to "post[ing] messages for all internet users, either adults or children, to seek out and read at their discretion," which the courts have held does not violate §2422(b).

Thus, for this reason as well, Mr. Epstein's case is far outside the parameters of the §2422(b) cases that have been prosecuted. A key factor common to cases brought under §2422(b) is not present here: Prosecutions under this statute have focused on a sexual predator who used the internet to identify and to communicate with a child or purported child (or a person with influence over such child or purported child), and did so with the intent to arrange to engage in sexual activity with the child, with full knowledge that sexual activity with an individual of that age was illegal. In light of this common and well-accepted understanding, the cases decided under §2422(b) take as a given that its proper application lies ***only*** where the defendant knows or believes the person with whom he is interacting is a child.

Virtually all of the prosecutions brought under §2422(b) resulting in published decisions have involved undercover "sting" operations, involving an essentially standard fact pattern in which over an extended period of time and in the course of multiple conversations on line an undercover agent pretends to be a young teenager. In each of the cases, the prosecution had, from the very words used by the defendant, an all but irrefutable case showing the clear knowledge and intent of the defendant. A prototypical case is *United States v. Farner*, 251 F.3d 510 (5th Cir. 2001), where the defendant participated, over time, in instant messaging, e-mail, and follow-up telephone calls with a person who identified herself as 14 years old, engaged in explicit internet conversation, sent her pornographic pictures, persuaded her to meet with him for sexual activity, arranged such a meeting, and traveled to the meeting place. The Fifth Circuit held that

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defendant's §2422(b) attempt conviction was valid; it mattered not that the 14 year old was really an adult FBI agent engaged in a sting operation, for the defendant "believed Cindy to be a minor and acted on that belief." 251 F.3d at 512. Our own survey of the cases brought in this district under §2422(b) confirms that prosecutions in this District have also been all but limited to internet sting cases. *See* Tab "B".

In the context of this standard fact pattern involving the internet's use by predators, other Circuits, including the Eleventh, have been unanimous in holding that the non-existence of an actual minor was of no moment; defendant's **belief** that he was dealing with a minor was sufficient to make out the crime. *See United States* [redacted] *Root*, 296 F.3d 1222, 1227-32 (11th Cir. 2002); *United States* [redacted] *Sims*, 428 F.3d 945, 959 (10th Cir. 2005); *United States* [redacted] *Helder*, 452 F.3d 751 (8th Cir. 2006); *United States* [redacted] *Meek*, 366 F.3d 705, 717-20 (9th Cir. 2004). Likewise, the Circuits have rejected void for vagueness, overbreadth, and First Amendment challenges to the statute, brought in the context of these prototypical prosecutions where the internet was the vehicle of communication and enticement, and the defendant demonstrated in writing his belief that he was dealing with a child well below the age of consent. *E.g., United States* [redacted] *Tykarsky*, 446 F.3d 458, 473 (3d Cir. 2006); *United States* [redacted] *Thomas*, 410 F.3d 1235, 1243-44 (10th Cir. 2005); *United States* [redacted] *Panfil, supra,* 338 F.3d at 1300-01 (11th Cir. 2003).[11]

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[11] There are approximately two dozen Eleventh Circuit cases that include a prosecution under §2422(b), most of which involve the prototypical fact pattern. *See, e.g., United States* [redacted] *Morton*, 364 F.3d 1300 (11th Cir. 2004), *judgment vacated for Booker consideration*, 125 S. Ct. 1338 (2006); *United States* [redacted] *Orrega*, 363 F.3d 1093 (11th Cir. 2004); *United States* [redacted] *Miranda*, 348 F.3d 1322 (11th Cir. 2003); *United States* [redacted] *Tillmon*, 195 F.3d 640 (11th Cir. 1999); *United States* [redacted] *Panfil, supra*, 338 F.3d 1299 (11th Cir. 2003); *United States* [redacted] *Garrett*, 190 F.3d 1220 (11th Cir. 1999); *United States* [redacted] *Burgess*, 175 F.3d 1261 (11th Cir. 1999); *United States* [redacted] *Rojas*, 145 Fed. Appx. 647 (11th Cir. 2005); *United States* [redacted] *Root*, 296 F.3d 1222 (11th Cir. 2002).

United States [redacted] *Murrell*, 368 F.3d 1283 (11th Cir. 2004), is in the same mold, except that, in that sting operation, the defendant communicated, not with the purported 13 year old girl, but with an undercover agent holding himself out to be the imaginary girl's father. The initial contacts between Murrell and the agent occurred in internet chatrooms named "family love" and "Rent F Yry Yng." Over time, Murrell sought to make arrangements with the girl's father to make his daughter available for sex in exchange for money. After the initial internet communications concerning renting the girl for sexual purposes, further negotiations between the defendant and the undercover occurred via the phone, per the defendant's suggestion. The Eleventh Circuit, framing the issue to be whether the defendant must communicate directly with the minor or supposed minor to violate §2422(b), answered the question in the negative, reasoning that "the

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In light of this common and well-accepted understanding, the cases decided under §2422(b) take **as a given** that its proper application lies *only* where the facts demonstrate beyond dispute that the defendant knows or believes the person with whom he is interacting is a minor.

The Ninth Circuit has so held. *United States v. Meek*, 366 F.3d 705, 718 (9th Cir. 2004), held that the term "knowingly" refers both to the **verbs** – "persuades", "induces", "entices", or "coerces" – as well as to the **object** – "a person who has not achieved the age of 18 years," *citing United States v. X-Citement Video, Inc.*, 513 U.S. 64 (1994), and *Staples v. United States*, 511 U.S. 606 (1994). The *Meek* Court wrote:

> The statute requires mens rea, that is, a guilty mind. The guilt arises from the defendant's knowledge of what he intends to do. In this case, knowledge is subjective – it is what is in the mind of the defendant.[12]

The very lengthy sentence under §2422(b) speaks against strict liability, especially since it applies in cases where there is no sexual contact **at all** with **any person**, let alone with a real minor. The Eleventh Circuit's decision in *United States v. Murrell, supra*, reflects this same understanding of the statute. The *Murrell* court wrote that, under the "plain language" of §2422(b), "to prove an attempt the government must

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efficacy of §2422(b) would be eviscerated if a defendant could circumvent the statute simply by employing an intermediary to carry out his intended objective. *Id.* at 1287. Fact patterns similar to Murrell's exist in *United States v. Hornaday*, 392 F.3d 1306 (11th Cir. 2004); *United States v. Houston*, 177 Fed. Appx. 57 (11th Cir. 2006); *United States v. Searcy*, 418 F.3d 1193 (11th Cir. 2005); *United States v. Scott*, 426 F. 3d 1324 (11th Cir. 2005); and *United States v. Bolen*, 136 Fed. Appx. 325 (11th Cir. 2002).

[12] Several Courts of Appeal have held that, in a prosecution under **§2422(a)**, the defendant need not know that the individual that a defendant has persuaded, induced, enticed, or coerced **to travel in interstate commerce** is under the age of 18. *United States v. Jones*, 471 F.3d 535 (4th Cir. 2006), is one of these cases, though its facts are very different, and much more egregious than Mr. Epstein's. Assuming *Jones* was correctly decided and that the government need not prove defendant's knowledge under §2422(a), that still does not answer the question under §2422(b). The two are very different statutes, with different histories and different purposes. And §2422(a), unlike subsection (b), carries no mandatory minimum sentence, let alone ten years.

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first prove that Murrell, using the internet, acted **with a specific intent to persuade a minor to engage in unlawful sex.**" 368 F.3d at 1286 (emphasis added).[13] *United States* [redacted] *Root, supra*, 296 F.3d at 1227, follows this pattern, and confirms that, at the time the defendant induces or entices the minor, he must intend to have sexual conduct with a minor or one he believes to be a minor *and* know that such conduct is proscribed. ("Root's statement to task force agents upon his arrest confirmed that he believed he would meet a 13-year-old girl for sex, which he said he knew was wrong but 'exciting'"). *See also United States* [redacted] *Rojas*, 145 Fed. Appx. 647 (11th Cir. 2005) (unpublished). This *mens rea* requirement applies equally where the completed crime occurs.[14]

Finally, *actus non facit reum, nisi mens sit rea* – the act alone does not amount to guilt; it must be accompanied by a guilty mind. This principle of concurrence mandates that the *actus reus* and the *mens reus* concur in time. *See* Paul H. Robinson, *Criminal Law* §4.1 at 217 (1997) (concurrence requirement "means that the required culpability as to the element must exist at the time of the conduct constituting the offense"); LaFave, *Substantive Criminal Law* §3.11(a) (West 1986) (noting that Concurrence is a basic principle of criminal law and "the better view is that there is concurrence when the defendant's mental state actuates the physical conduct"). *See also United States* [redacted] *Bailey, supra*, 444 U.S. at 402. In this case, the requisite *actus reus* is absent; likewise the required mental state. Even if those two fatal defects could be set aside, nevertheless, there was no concurrence of guilty mind and evil act, providing an additional reason why a successful prosecution under §2422(b) could not be brought.

6. Conclusion

In Mr. Epstein's case, there was no use of the internet to induce, etc., and, given the legislative history and purpose, that is itself dispositive. Nor does the case present any of the dangers associated with internet predators and cyberspace. Not surprisingly

[13] Otherwise, the police could, for example, conduct a sting operation with a 17 year-old pretending to be an 18 year-old. Such an absurd operation is surely not intended by the statute.

[14] Even the completed crime does not require any sexual activity. Arguably, one commits the attempt offense when the actor, on the internet, asks a known or believed-to-be minor to have sex, even if she says no. The **completed** offense occurs when he takes an additional step, even before any sexual activity and regardless of whether one ever takes place.

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Andrew Lourie, Esq.
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then, the statutory language does not fit: Mr. Epstein did not use any facility of interstate commerce to do the forbidden act – to persuade, entice, induce, or coerce – nor did he attempt to do so. Others did use the telephone to make a variety of arrangements for Mr. Epstein's residence in Palm Beach, including getting the house ready for his arrival, checking movie schedules, and making telephone calls to schedule doctor's appointments, personal training, physical therapy and massages. Even if Mr. Epstein could be held responsible for the use of the telephone on his behalf, nevertheless, calls made by others regarding massages were not the statutorily proscribed persuasions or enticements of a known minor to do acts known to be illegal. Within his home, even if Mr. Epstein may arguably have persuaded or induced individuals to engage in forbidden conduct with him, he did not violate §2422(b). If he engaged in such persuasion or inducement, it occurred only face to face and spontaneously.

If such conduct constituted a crime, it would be a classic state offense. The state is the appropriate forum for addressing these issues. Though in our meeting it was asserted that cases under §2422(b) are often brought where there was simply use of a telephone, and casual use at that, it would not from our survey appear to be so on either count – that is, use of a telephone rather than the internet, and use of the means of communication remote from the enticing, etc. This is neither the defendant, nor the factual context, to break new ground.

II. Mr. Epstein Warrants Declination to Prosecute as Exercise of Discretion.

We believe strongly that no federal case would lie under the facts here. Moreover, as we discussed, there is a pending state case against Mr. Epstein which can be resolved in a way that vindicates the state's rights and obligations in this matter.

In considering an appropriate disposition in a case such as this, where the applicability of the statute, both legally and as a matter of policy, raise serious questions, and both the reliability and admissibility of much of the evidence is in doubt, it is useful to consider how best to use the broad discretion you enjoy in choosing whether to prosecute. In this regard, we suggest that having a greater understanding of who Jeffrey Epstein is as a person may help inform how best to proceed.

Jeffrey Epstein was raised in a middle class neighborhood in Brooklyn, New York, by hardworking parents. His father was a laborer and his mother a secretary. They lived comfortably, but were by no means well off. Mr. Epstein's parents instilled a strong work ethic in him, and growing up he held a variety of jobs to support himself, from

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driving a taxi cab to working as a mechanic. Any notion that he was born with a "silver spoon in his mouth" should be dismissed.

Although Mr. Epstein is self-made and worked long and hard, he could not have achieved his successes without the personal guidance and support of others. These key people first identified the promise in Mr. Epstein and brought him to Bear Stearns and Company, Inc. There, starting in 1976 at the age of 23 as a floor trader's junior assistant, he became in 1980 a limited partner. Among the very many benefits that his experience there provided was an introduction to the people who ultimately became his clients.

Early in his professional career, Mr. Epstein realized the profound impact that even one person can have on the life of another. His gratitude for the assistance he personally received, and his sense of obligation to provide similar assistance and guidance to others, is in large part, the motive for the primacy of philanthropy in his life or his particular philanthropic interests. Mr. Epstein has devoted a substantial portion of his time, efforts and financial resources to helping others, both on an individual basis and on a more far reaching scope. Mr. Epstein gives generously, of both his time and his financial resources equally to individuals whom he knows personally and well and to those with whom he has had little or no personal contact. Just a few examples:

Some time ago, the two year old son of an employee was diagnosed with retinal blastoma. When told, Mr. Epstein not only gave the employee unlimited time off to attend to his son and promised whatever financial support was needed, but Mr. Epstein made the full list of his medical and research contacts available. The employee was put in contact with a former colleague who was then conducting eye research at Washington University. Mr. Epstein organized several meetings to determine how the colleague could be of assistance, including by arranging for further meetings with experts at Washington University. Though the employee's son lost one eye, he is now an otherwise normal twelve year old who attends private school along with his five siblings, the expenses of which are borne by Mr. Epstein.

Several years ago, a new employee with whom Mr. Epstein had little or no prior contact approached Mr. Epstein to request a change in his medical insurance. It was soon revealed that the employee and his wife were experiencing fertility problems and they were seeking treatments that cost nearly $15,000 per month. Mr. Epstein insisted on paying directly for the treatments, and did so month after month. After each unsuccessful cycle, Mr. Epstein sat with the employee, exploring available alternatives, including adoption, and encouraging the employee to continue additional cycles at Mr. Epstein's. Mr. Epstein referred the employee to medical experts with whom Mr. Epstein

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was acquainted and assigned personnel to assist the employee with administrative and secretarial needs that arose in seeking a solution to the problem. Mr. Epstein is now the godfather of the employee's seven-year old twins.

Recently, both a second employee and a consultant of Mr. Epstein each confided that they and their respective spouses were experiencing similar fertility problems. Again, Mr. Epstein offered to pay the uncovered medical costs. The consultant and his wife are now expecting their first child. The second employee continues with infertility treatments.

Two years ago, a building workman approached Mr. Epstein with news that the workman's wife needed a kidney transplant and that the workman's sister-in-law in Colombia was a willing donor. The non English speaking workman had neither the financial resources nor the know-how to get the sister-in-law to the United States. Mr. Epstein arranged for immigration counsel to expedite a visa for the sister-in-law and purchased the plane tickets for the sister-in-law's visit to the United States. The surgery was a success and both patients recovered completely. The sister-in-law flew back to Colombia at Mr. Epstein's expense.

Mr. Epstein is a devoted advocate of personal improvement through education. As a former board member of Rockefeller University, Mr. Epstein has made available academic scholarships to worthy students, most of whom he has had no prior connection to whatsoever. In addition, Mr. Epstein covers the tuition required to send the family members of his employees to nursery, private elementary, middle and secondary schools and colleges. He has funded and personally encouraged continuing education programs for his adult employees and professional consultants.

Among his other acts:

- On a trip to Rwanda to inspect the genocide camps, Mr. Epstein approached the President of Rwanda and offered to help identify and then to fund two worthy Rwandan students to earn undergraduate degrees in the United States. The students, whom Mr. Epstein did not meet until after their second year of studies, both are expected to graduate with honors from the City University of New York in 2008. Notes from each of them are annexed at Tab "C".
- Even to those with less lofty goals, seeking only to advance in their chosen paths, Mr. Epstein freely gives of his time to provide guidance and, when appropriate, financial support. For example, Mr. Epstein has been meeting

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monthly with a teenage building workman whose expenses of vocational school are being paid by Mr. Epstein. Each month, Mr. Epstein reviews the workman's school progress and discusses career opportunities. One of the monthly reports is annexed at Tab "D".

- In addition, Mr. Epstein blocks out time each week to meet with young professionals to discuss their career prospects and counsel them regarding appropriate next steps.

Although Mr. Epstein is deeply committed to helping others in very personal and meaningful ways, he has also sought to use his good fortune to help others on a broader basis. Mr. Epstein has sponsored more than 70 athlete wellness programs, building projects, scholarship funds and community interest programs in the United States Virgin Islands alone.

Moreover, Mr. Epstein has given generously to support philanthropic organizations across the United States and around the world, including America's Agenda; Robin Hood; Alliance for Lupus Research; Ovarian Cancer Research Fund; Friends of Israel Defense Forces; Seeds of Peace; the Jewish National Fund; the Hillel Foundation; the National Council of Jewish Women; and the Intrepid Fallen Heroes Fund – to name only a few.

In a feature article about Mr. Epstein in *New York Magazine*, former President Clinton aptly described Mr. Epstein as "a committed philanthropist with a keen sense of global markets and an in-depth knowledge of twenty-first-century science." President Clinton reached this conclusion during a month-long trip to Africa with Mr. Epstein, which Mr. Epstein hosted. The purpose of that trip was to increase AIDS awareness; to work towards a solution to the AIDS crisis; and to provide funding to reduce the costs of delivering medications to those inflicted with the disease.

Both before and after that trip to Africa, Mr. Epstein worked hard to achieve improvements in people's lives on a global basis. He actively sought advancement of his philanthropic goals through his participation and generous support of both the Trilateral Commission and the Council on Foreign Relations. As you may know, the Trilateral Commission was formed to foster closer cooperation among core democratic industrialized areas of the world in the pursuit of goals beneficial to the global population. The Council on Foreign Relations is an independent, national membership organization and a nonpartisan center for scholars dedicated to increase international understanding of world issues and the foreign policy decisions that affect those issues.

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Mr. Epstein was part of the original group that conceived the Clinton Global Initiative, which is described as a project "bringing together a community of global leaders to devise and implement innovative solutions to some of the world's most pressing challenges." Focuses of this initiative include poverty, climate change, global health, and religious and ethnic conflicts.

Mr. Epstein has sought to improve people's lives through active participation in worthy scientific and academic research projects, as well. He spent hundreds of hours researching the world's best scientists, and he himself studied as a Harvard Fellow in order to increase his own knowledge in fields that he believed could provide solutions to the world's most difficult problems. He is committed to helping the right researchers find those solutions, especially in the fields of medical science, human behavior and the environment.

In the past four years alone, Mr. Epstein has made grants to research programs at major institutions under the supervision of some of the most highly regarded research professionals and scholars in their fields, including Martin Nowak, a mathematical biologist who studies, among other things, the dynamics of infectious diseases and cancer genetics; Martin Seligman, known for his work on Positive Psychology – that is to say the psychology of personal fulfillment; Roger Schank, a leading researcher in the application of cognitive learning theory to the curricula of formal education; the renown physicist/cosmologist [redacted] Krauss, and many others. Institutions funded include Harvard University; Penn State University; Lenox Hill Hospital (New York); the Biomedical Research and Education Foundation; the Santa Fe Institute; Massachusetts Institute of Technology; Case Western Reserve University; and Harvard Medical School's Institute for Music and Brain Science.

Moreover, Mr. Epstein has sponsored and chaired symposia that have provided a rare opportunity for the world's leading scholars and research professionals to share ideas across interdisciplinary lines. These leaders gather to discuss important and complex topics, including the origin of life, systems for understanding human behavior, and personal genomics.

In order to expand the pool of qualified research professionals actively engaged in addressing the world's numerous problems, Mr. Epstein co-founded, and served as a trustee and actively participated in the selection committee of, the Scholar Rescue Fund. The Scholar Rescue Fund (SRF) is a program of the Institute of International Education, the group that, *inter alia*, administers the Fulbright Scholarship program. The SRF provides support and safe haven to scholars at risk from around the world. Over the past

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five years, SRF has made 155 grants to scholars from more than 37 countries. Scholars are placed at host universities in a safe country. More than 87 institutions around the world have hosted SRF scholars to date, including eight of the top ten universities in the United States. Most recently, SRF launched the Iraq Scholar Rescue Project to save scholars in Iraq, many of whom have been particularly targeted for kidnapping and death since the conflict there began. Mr. Epstein is a highly valued member of the selection committee. Just a few articles mentioning these and other projects are annexed at Tab "E".

Even a casual review of the good works large and small in which he has involved himself leads one to conclude that he has a powerful instinct to help others. He does this not simply because he can, but because he has a deeply ingrained desire to do so. In fact, he believes that, as a result of his good fortune, he is obligated to do so.

Since 2000, Mr. Epstein has funded educational assistance, science and research and community and civic activities. As you can see, his philanthropy is not limited to financial support. To the contrary, it has involved the dedication of a remarkable amount of his time and effort and has yielded admirable results. It is noteworthy that a majority of the people he has helped over the years have been those with whom he has had little or no contact, which further confirms that he derives no personal benefit from his good works, other than the personal satisfaction derived from using his good fortune to help others.

The sincere devotion to others evidenced by Mr. Epstein's philanthropic activities is no less apparent in his interpersonal relationships. Mr. Epstein has maintained both long term significant, intimate as well as professional relationships. He remains close personal friends with people with whom he went to high school and, to this day, maintains close business contacts with his former colleagues at Bear Stearns. Those who know Mr. Epstein well describe him admittedly as quirky but certainly not immoral; and overall as kind, generous and warm-hearted. They have remained staunch supporters despite the lurid media attention during this two-year investigation.

Mr. Epstein acknowledges that the activities under investigation, as well as the investigation itself, have had and continue to have an unfortunate impact on many people. With a profound sense of regret, Mr. Epstein hopes to end any further embarrassment to all who are and who may become involved in this serious matter. Resolution of the outstanding charges in the state would put an appropriate end to the matter for everyone.

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Again, we and our colleagues thank you for your attention at the June 26 meeting. I welcome any questions or comments you may have and am available to discuss this and any other issues at your earliest convenience.

Very truly yours,

Gerald B. Lefcourt

Gerald B. Lefcourt

Alan Dershowitz

Alan Dershowitz

cc: Lilly Ann Sanchez, Esq.
Roy Black, Esq.

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EXHIBIT

47

[redacted]. (USAFLS)

From: Jay Lefkowitz [JLefkowitz@kirkland.com]
Sent: Sunday, September 23, 2007 11:58 AM
To: [redacted], [redacted] (USAFLS)
Cc: Lourie, Andrew; [redacted], Jeff (USAFLS); [redacted]. (USAFLS)
Subject: Jeffrey Epstein - confidential

Dear Mr. [redacted],

I write to follow up on our conversation on Friday and to ask you to reconsider your decision to require that Mr. Epstein plead guilty to a registerable state charge. It appears that there was a misunderstanding at the meeting I had with Messrs. Lourie, Krischer, Goldberger, Lefcourt, Ms. [redacted] and Ms. [redacted]. Please confirm this with [redacted] Lourie.

Before the meeting, Mr. Krischer, and Ms. [redacted], a sex prosecutor for 13 years, told us that solicitation of a minor, under 796.03, is not a registerable offense. However, as it turned out, 796.03 is a registerable offense and our discussion at the meeting was based on a mistaken assumption. We suggest that Mr. Epstein enter two pleas -- one to the Indictment and a second to a non-registerable charge. This charge could still allow for restitution under chapter 796. Indeed, because the conduct at issue here involves woman under the age of majority, I would suggest that Mr. Epstein plead either to a charge of contributing to the delinquency of a minor, child abuse, and/or agree to a statement of facts that he should have known that women under the age of majority were involved. Such a statement combined with a plea should address any concerns you have regarding Mr. Epstein's accepting responsibility for his conduct.

To require registration based on the facts alleged in this case, however, simply does not make sense. Registration is a life sentence and the FBI's involvement in this case and their interest in vindication for their efforts cannot justify a punishment harsher than what Mr. Epstein deserves. I ask you to look at the manner in which the state settled the Kutun case last week. As you know, Mr. Kutun was a public figure who had videotaped sexual intercourse with a 16 year old. Consider the following factors, which we believe, indicate that registration is not justified in Mr. Epstein's case:

- Mr. Epstein has no prior criminal record and no previous history of sexual offenses;

- The vast majority of the girls alleged to be involved were over the age of 16, and many were months away from reaching the age of majority;

- There are no allegations of substance or alcohol abuse or that Mr. Epstein provided drugs or alcohol to anyone;

- There is no suggestion that Mr. Epstein is a pedophile;

EXHIBIT

48

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August 2, 2007

Mr. Matthew [redacted]
Chief, Criminal Division
United States Attorney's Office
Southern District of Florida
99 NE 4 Street
Miami, Florida 33132

Re: Jeffrey Epstein

Dear Matt:

As we discussed at Tuesday's meeting, and consistent with our view that no federal prosecution should lie in this matter, Mr. Epstein is prepared to resolve this matter via a state forum. We are in receipt of your memo regarding same and as the dynamics of the meeting did not allow for us to fully detail our proposal, we do so now. We believe that our respective positions are not very far apart and that a mutually agreeable resolution can be reached that will accomplish the interests of the United States Attorney's Office as well as those of the community.

We welcomed your recognition that a state prison sentence is neither appropriate for, nor acceptable to, Mr. Epstein, as the dangers of the state prison system pose risks that are clearly untenable. We acknowledge that your suggestion of a plea to two federal misdemeanors was an attempt to resolve this dilemma. Our proposal is significantly punitive, and if implemented, would, we believe, leave little doubt that the federal interest was demonstrably vindicated.

The Florida state judicial system, unlike the federal system, provides for numerous types of onerous sanctions after a defendant is remanded to the custody of the state. The sentence is tailored to the needs of the local community and the risk posed by a specific defendant. After a great deal of thought, our proposal consists of both a severe supervised custody, with an assurance that any violation would result in the immediate implementation of the two year period of incarceration. We must keep in mind that Jeffrey Epstein is a 54-year old man who has never been arrested before. He has lived an otherwise exemplary life, characterized by both many charitable contributions and philanthropic acts. His reputation has suffered significantly as a result of his poor judgment in these matters. He is well aware of the ramifications of his past behavior and, accordingly, there is no concern, whatsoever, that he will re-offend.

The following proposal is offered as an assurance to the community that the goals of appropriate punishment and rehabilitation are attained.

We will agree to a sentence of two years in state prison pursuant to Florida Statute 948.012(2) which permits a split sentence whereby Mr. Epstein will be sentenced to a term of supervised custody, followed by a period of incarceration. Supervised custody in the state system includes potential daily surveillance, administered by officers with restricted case loads. Supervised custody is an individualized program in which the freedom of Mr. Epstein is limited to the confines of his residence with specific sanctions imposed and enforced. *See* Florida Statute 948.001(2). Should Mr. Epstein successfully complete the terms and conditions of his custody, the Judge will eliminate the incarcerative portion of the sentence. If Mr. Epstein, however, fails to comply with the conditions of his supervised custody. The period of incarceration will be immediately implemented.

We, therefore, propose the following:

- Two years supervised custody with the following mandatory and special conditions:
  - Confinement to home
  - Report to a community control officer at least once a week or more often as directed by the officer
  - Permit a community control officer to visit him unannounced at home at any time, day or night
  - Obtain psychological counseling
  - No unsupervised contact with all the victims in the instant case
  - Perform community service
  - Payment of Restitution
  - Application of 18 U.S.C. § 2255[1]
  - Payment of a contribution of a defined amount to a charitable organization benefitting victims of sexual assault
  - Payment of Court and probationary costs
  - Payment of law enforcement investigative costs
  - Submit to random drug testing
  - Refrain from associating with persons engaged in criminal activities
  - Refrain from committing any new law offenses
  - Any other specific conditions that the Office may deem necessary

- Two additional years of reporting probation:

[1] 18 U.S.C. 2255 provides that any minor who suffers injury as a result of the commission of certain offenses shall recover actual damages and the cost of any suit. It is important to note that Mr. Epstein is prepared to fully fund the identified group of victims which are the focus of the Office – that is, the 12 individuals noted at the meeting on July 31, 2007. This 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.

- o Mandatory conditions as provided in Florida Statute § 948.03
- o Special conditions as stated above

If the terms of supervised custody and probation are successfully completed, then the two years of state prison is eliminated.

This proposal provides for the two year imposition of the state prison sentence if any violation of the supervised custody or probation occurs. Accordingly, the Office's position that Mr. Epstein agree to a resolution that includes jail time is satisfied by this proposal. It would immediately bring closure to a matter that has been pending for over two years, allows Mr. Epstein to commence with his sentence, and, most significantly, allow the victims to move forward with their lives. We are in process of scheduling a meeting with [redacted], United States Attorney, to further discuss this matter.

Sincerely,

Lilly Ann Sanchez

cc. [redacted]
Gerald Lefcourt
Roy Black

EXHIBIT

49

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
[redacted]

August 3, 2007

VIA FACSIMILE
Lilly Ann Sanchez, Esq.
Fowler White Burnett
1395 Brickell Ave Fl 14
Miami Florida 33131-3300

Re: Jeffrey Epstein

Dear Lilly:

Thank you for your letter of August 2nd regarding your proposal on how to resolve the Epstein matter.

As we explained at our meeting on July 31, 2007, the Office believes that the federal interest will not be vindicated in the absence of a two-year term of state imprisonment for Mr. Epstein. That offer was not meant as a starting point for negotiations, it is the minimum term of imprisonment that will obviate the need for federal prosecution. The Office has never agreed that a state prison sentence is not appropriate for Mr. Epstein. Rather we simply stated that if Mr. Epstein preferred to serve his sentence in a federal penetentiary, we would be willing to explore a federal conviction that may allow that in lieu of any state resolution. Further, as I made clear in our follow up telephone conversation after the meeting, a plea to two federal misdemeanors was never extended or meant as an offer.

We also would reiterate that the agreement to Section 2255 liability applies to all of the minor girls identified during the federal investigation, not just the 12 that form the basis of an initial planned charging instrument.

As you know, the ability to engage in flexible plea negotiations is dramatically changed upon the return of an indictment. Once an indictment is returned, the Office does not intend to file a Superseding Information containing a lesser charge or to dismiss the case in favor of state prosecution.

Please let us know your client's decision by no later than August 17. I have conferred with U.S. Attorney [redacted] who has asked me to communicate that the two-year term of incarceration is a non-negotiable minimum to vindicate a federal interest, and, at this time, he is not inclined to meet with counsel for Mr. Epstein.

Sincerely,

[redacted]
United States Attorney

By:
Matthew [redacted]
Chief, Criminal Division

cc: Roy Black
Gerald B. Lefcourt
[redacted]
Jeffrey [redacted]
Andrew Lourie
[redacted]

EXHIBIT

50

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Monday, September 10, 2007 5:23 PM
To: Gerald Lefcourt
Cc: [redacted], Jeff (USAFLS); Lourie, Andrew (USAFLS)
Subject: Jeffrey Epstein

Gerry:

As per your discussion with U.S. Attorney [redacted], I have attached the Office's written counterproposal. If you have any questions regarding its terms, please do not hesitate to call.

070910 Epstein Non-Prosecution..

A. [redacted]
Assistant U.S. Attorney
[redacted]

Tracking:

Recipient	Read
Gerald Lefcourt	
Sloman, Jeff (USAFLS)	Read: 9/10/2007 5:23 PM
Lourie, Andrew (USAFLS)	Read: 9/10/2007 10:47 PM
Yera, E.J. (USAFLS)	

IN RE:
INVESTIGATION OF
JEFFREY EPSTEIN
_____/

NON-PROSECUTION AGREEMENT

IT APPEARING that Jeffrey Epstein (hereinafter "Epstein") has committed offenses against the United States from in or around 2001 through in or around October 2005, 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 has accepted responsibility for his behavior by his signature on this Agreement; and

IT APPEARING, after an investigation of the offenses and Epstein's background, that the interest of the United States and Epstein's own interest and the interest of justice will be served by the following procedure;

THEREFORE, on the authority of [redacted], 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.

Should Epstein violate any of the conditions of this Agreement, the United States Attorney may at any time initiate prosecution against Epstein for any offense. In this case, the United States Attorney will furnish Epstein with notice specifying the condition(s) of the Agreement that he has violated.

After timely fulfilling all the terms and conditions of the Agreement, no prosecution for the offenses set out on page 1 of this Agreement 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 an Information filed by the State Attorney's Office for the 15th Judicial Circuit in and for Palm Beach County (hereinafter, the "State Attorney's Office") charging violations of the following Florida Statutes:

   (a) lewd and lascivious battery on a child, in violation of Fl. Stat. 800.04(4);

   (b) solicitation of minors to engage in prostitution, in violation of Fl. Stat. 796.03; and

   (c) engaging in sexual activity with minors at least sixteen years of age, in violation of Fl. Stat. 794.05.

2. Epstein and the State Attorney's Office shall make a joint, binding recommendation that the Court impose a thirty (30) month sentence to be divided as follows:

   (a) Epstein shall begin by serving at least twenty (20) months in prison, without any opportunity for withholding adjudication or sentencing, and without probation or community control in lieu of imprisonment; and

   (b) following the term of imprisonment, Epstein shall serve ten (10)

months of community control.

3. 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.

4. 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.

5. 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/or the subject matter, and Epstein will not contest that the identified victims are persons who, while minors, were victims of violations of Title 18, United States Code, Sections(s) 2422 and/or 2423.

6. The United States shall provide Epstein's attorneys with a list of the identified victims, which will not exceed forty, after Epstein has signed this agreement and has been sentenced. The United States shall make a motion with the United States District Court for the Southern District of Florida for the appointment of a guardian ad litem for the identified victims and Epstein's counsel may contact the identified victims through that counsel.

7. Epstein shall enter his guilty plea and be sentenced not later than September 28, 2007, and shall begin service of his sentence not later than October 15, 2007.

8. With credit for gain time, Epstein shall serve at least 17 months in a state correctional institution.

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 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

EFTA00184672

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. 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, 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.

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.

Dated: _____

_____
JEFFREY EPSTEIN

Dated: _____

_____
GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

_____
[redacted]
UNITED STATES ATTORNEY

RFP MIA 000063

EFTA00184673

EXHIBIT

51

[redacted]. (USAFLS)

From: Jay Lefkowitz [JLefkowitz@kirkland.com]
Sent: Wednesday, September 12, 2007 5:55 PM
To: [redacted]. (USAFLS)
Cc: Lourie, Andrew (USAFLS)
Subject: Re: Jeffrey Epstein

[redacted] - meant to copy you on my first attempt to respond to [redacted].

We appreciate the courtesy of today's meeting and your agreement and [redacted]. We understand the concerns you are raising and will work over the next few days to come up with a mutually acceptable solution. I will speak with you no later than Monday, and in the interim, if we come up with a solution, we will be in touch with you.

Best, Jay

----- Original Message -----
From: "[redacted], Ann [redacted] C. \(USAFLS\)" [redacted]
Sent: 09/12/2007 03:43 PM AST
To: Jay Lefkowitz
Cc: "Lourie, Andrew \(USAFLS\)" [redacted]
Subject: Jeffrey Epstein

[redacted]y – It was nice seeing you again. [redacted] and I talked with [redacted] and Jeff. We are all satisfied in principle with the agreement, but the Office is unc[redacted]table with the rec[redacted]ended federal charge. Specifically, we are concerned about the effect of taking the position that Mr. Epstein's house is in the special maritime and territorial jurisdiction of the United States, and we have no evidence of any assaults occurring either on Mr. Epstein's plane or offshore from his residence.

We are hoping that you can find an alternative federal statute that can be used. I also will wait to hear from Jack Goldberger to discuss logistics.

Thank you.

A. [redacted]

Assistant U.S. Attorney

[redacted]

[redacted]

[redacted]

****
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confidential, may be attorney-client privileged, may
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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.
****

EXHIBIT

52

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. _____

18 U.S.C. § 403
18 U.S.C. § 113(a)(5)

UNITED STATES OF AMERICA

vs.

JEFFREY EPSTEIN,

Defendant.

_____/

INFORMATION

The United States Attorney charges that:

COUNT 1

In or around August 2006, in Palm Beach County, in the Southern District of Florida, and elsewhere, the defendant,

JEFFREY EPSTEIN,

did knowingly and intentionally violate the privacy protection accorded by 18 U.S.C. § 3509 to a child victim, that is, Jane Doe #1; in violation of Title 18, United States Code, Sections 403 and 2.

COUNT 2

In or around _____ 2005, in the special territorial jurisdiction of the United States, that is, in an aircraft owned by a United States citizen while in flight over the high seas, and elsewhere, the defendant,

JEFFREY EPSTEIN,

EFTA00184678

did knowingly commit a simple assault on a person who was over the age of 16 years, that is, [redacted] in violation of Title 18, United States Code, Section 113(a)(5).

D

[redacted]NEY

A. [redacted] VILLAFAÑA
ASSISTANT UNITED STATES ATTORNEY

A

F

T

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. _____

UNITED STATES OF AMERICA

vs.

JEFFREY EPSTEIN,

Defendant.

_____/

PLEA AGREEMENT

The United States Attorney for the Southern District of Florida ("the United States"), and Jeffrey Epstein (hereinafter referred to as the "defendant") enter into the following agreement:

1. The defendant agrees to plead guilty to the Information which charges the defendant as follows: Count 1 charges that the defendant knowingly and intentionally violated the privacy protection accorded to child victims by 18 U.S.C. § 3509; in violation of Title 18, United States Code, Sections 403 and 2; and Count 2 charges that the defendant, while in an airplane over the high seas, did knowingly commit a simple assault on a person who was over the age of 16 years, that is, [redacted] in violation of Title 18, United States Code, Section 113(a)(5).

2. The defendant is aware that the sentence will be imposed by the Court after considering the Federal Sentencing Guidelines and Policy Statements (hereinafter

EFTA00184680

"Sentencing Guidelines"). The defendant acknowledges and understands that the Court will compute an advisory sentence under the Sentencing Guidelines and that the applicable guidelines will be determined by the Court relying in part on the results of a Pre-Sentence Investigation by the Court's probation office, which investigation will commence after the guilty plea has been entered. The defendant is also aware that, under certain circumstances, the Court may depart from the advisory sentencing guideline range that it has computed, and may raise or lower that advisory sentence under the Sentencing Guidelines. The defendant is further aware and understands that the Court is required to consider the advisory guideline range determined under the Sentencing Guidelines, but is not bound to impose that sentence; the Court is permitted to tailor the ultimate sentence in light of other statutory concerns, and such sentence may be either more severe or less severe than the Sentencing Guidelines' advisory sentence. Knowing these facts, the defendant understands and acknowledges that the Court has the authority to impose any sentence within and up to the statutory maximum authorized by law for the offenses identified in paragraph 1 and that the defendant may not withdraw the plea solely as a result of the sentence imposed.

3. The defendant further understands and acknowledges that, as to Count 1 of the Information, the Court may impose a statutory maximum term of imprisonment of up to one (1) year, to be followed by a term of supervised release of up to a maximum of one (1) year. In addition to terms of imprisonment and supervised release, the Court may impose a fine of up to $100,000. The defendant further understands and acknowledges that, as to Count 2 of the Information, the Court may impose a statutory maximum term of imprisonment of up to

EFTA00184681

six (6) months, to be followed by a term of supervised release of up to a maximum of one (1) year. In addition to terms of imprisonment and supervised release, the Court may impose a fine of up to $100,000.

4. The defendant further understands and acknowledges that, in addition to any sentence imposed under paragraph 3 of this Agreement, a special assessment in the amount of $50 will be imposed on the defendant, which must be paid at or before the time of sentencing.

5. The defendant understands that the Court will order that he must pay full restitution to all victims of the offense to which he is pleading guilty. The defendant understands that the amount of restitution owed to each victim will be determined at or before sentencing.

6. The parties agree to jointly recommend that the defendant receive a sentence of eighteen (18) months' imprisonment, to be followed by two (2) years of supervised release; and a fine of $200,000.

7. The defendant agrees that, if any of the victims identified in the federal investigation file suit pursuant to 18 U.S.C. § 2255, the defendant will not contest the jurisdiction of the U.S. District Court for the Southern District of Florida over his person and/or the subject matter, and the defendant will not contest that the identified victims are persons who, while minors, were victims of violations of Title 18, United States Code, Sections(s) 2422 and/or 2423. The United States agrees to provide the defendant's attorneys with a list of the identified victims, which will not exceed forty, after the defendant has

signed this agreement and has been sentenced. The United States further agrees to make a motion with the United States District Court for the Southern District of Florida for the appointment of a guardian ad litem for the identified victims and the defendant's counsel may contact the identified victims through that guardian.

8. The defendant agrees to plead guilty (not nolo contendere) to an Information filed by the Palm Beach County State Attorney's Office charging an offense for which the defendant must register as a sex offender, that is, solicitation of minors to engage in prostitution, in violation of Fl. Stat. 796.03. The defendant agrees that he and the Palm Beach County State Attorney's Office will make a joint, binding recommendation that the Court impose a sentence of at least thirty (30) months, to be divided as follows:

(a) the defendant shall begin by serving at least twenty (20) months in prison, without any opportunity for withholding adjudication or sentencing, and without probation or community control in lieu of imprisonment; and

(b) following the term of imprisonment, the defendant shall serve ten (10) months of community control/home confinement with electronic monitoring.

9. The defendant agrees to waive all challenges to the Information filed by the State Attorney's Office and to waive the right to appeal his conviction and sentence in the state court.

10. The defendant agrees that he will provide to the U.S. Attorney's Office copies

of all proposed agreements with the Palm Beach County State Attorney's Office prior to entering into those agreements.

11. The United States reserves the right to inform the Court and the probation office of all facts pertinent to the sentencing process, including all relevant information concerning the offenses committed, whether charged or not, as well as concerning the defendant and the defendant's background, and to respond to any questions from the Court and the Probation Office and to any misstatements of fact or law. Subject only to the express terms of any agreed-upon sentencing recommendations contained in this Agreement, this Office further reserves the right to make any recommendation as to the quality and quantity of punishment.

12. The defendant is aware that the sentence has not yet been determined by the Court. The defendant also is aware that any estimate of the probable sentencing range or sentence that the defendant may receive, whether that estimate comes from the defendant's attorney, the government, or the probation office, is a prediction, not a promise, and is not binding on the government, the probation office or the Court. The defendant understands further that any recommendation that the government makes to the Court as to sentencing, whether pursuant to this agreement or otherwise, is not binding on the Court and the Court may disregard the recommendation in its entirety. The defendant understands and acknowledges, as previously acknowledged in paragraph 2 above, that the defendant may not withdraw his plea based upon the Court's decision not to accept a sentencing recommendation made by the defendant, the government, or a recommendation made jointly

by both the defendant and the government.

13. **WAIVER OF RIGHT TO APPEAL AND COLLATERALLY ATTACK THE SENTENCE.** The defendant is aware that Title 18, United States Code, Section 3742 affords the defendant the right to appeal the sentence imposed in this case. Acknowledging this, in exchange for the undertakings made by the United States in this plea agreement, the defendant hereby waives all rights conferred by Section 3742 to appeal any sentence imposed, including any restitution order, or to appeal the manner in which the sentence was imposed, unless the sentence exceeds the maximum permitted by statute or is the result of an upward departure or upward variance from the guideline range that the Court establishes at sentencing. The defendant further voluntarily and expressly waives, to the maximum extent permitted by federal law, the right to collaterally attack his sentence in any post-conviction proceeding, including a motion on any ground brought under 28 U.S.C. § 2254, 28 U.S.C. § 2255, 18 U.S.C. § 3572, or 18 U.S.C. § 3771. The defendant further understands that nothing in this agreement shall affect the government's right and/or duty to appeal as set forth in Title 18, United States Code, Section 3742(b). However, if the United States appeals the defendant's sentence pursuant to Section 3742(b), the defendant shall be released from the above waiver of appellate rights. By signing this agreement, the defendant acknowledges that he has discussed the appeal waiver set forth in this agreement with his attorney.

14. If the defendant fails in any way to fulfill each one of his obligations under this Plea Agreement, the United States, and only the United States, may elect to be released from its commitments under this Plea Agreement. If the United States elects to void the Plea

Agreement because of a breach by the defendant, then the United States agrees not to use the defendant's guilty plea against him. However, the United States may prosecute the defendant for any and all Federal crimes that he has committed related to this case and may seek any sentence for such crimes up to and including the statutory maximums. The defendant expressly waives any statute of limitations defense and any constitutional or statutory speedy trial defense to such a prosecution, except to the extent that such a defense exists as of the date he signs this Plea Agreement. Finally, the defendant understands that his violation of the terms of this Plea Agreement would not entitle him to withdraw his guilty plea.

15. This is the entire agreement and understanding between the United States and the defendant. There are no other agreements, promises, representations, or understandings.

Date: _____ By: _____
R. ALEXANDER [redacted]
UNITED STATES ATTORNEY

Date: _____ By: _____
JEFFREY EPSTEIN, DEFENDANT

Date: _____ By: _____
JAY LEFKOWITZ, ESQ.
ATTORNEY FOR DEFENDANT

EXHIBIT

53

Gmail by Google

Ann [redacted]

Re: JE negotiations

1 message

Ann [redacted] Sun, Sep 16, 2007 at 11:41 AM

To: Jay Lefkowitz <JLefkowitz@kirkland.com>

Hi Jay -- I looked up some 11th Circuit cases on simple assault and found some good language. I also learned that, every moment that one is aboard an enclosed civil airplane, they are in the "special aircraft jurisdiction of the United States," so the assault charge is really a violation of 49 USC 46506, which doesn't change the penalties.

I have drafted up a factual proffer that I would use at the change of plea based upon our brief conversation and the agents' interaction with [redacted] at her home. The agents and I would need to speak with Ms. [redacted] briefly to confirm that these facts are true. Feel free to make suggestions.

On an "avoid the press" note, I believe that Mr. Epstein's airplane was in Miami on the day of the [redacted] telephone call. If he was in Miami-Dade County at the time, then I can file the charge in the District Court in Miami, which will hopefully cut the press coverage significantly. Do you want to check that out?

I will talk to you later. Thanks.

Epstein Plea Proffer.doc
21K

[redacted]

UNITED STATES vs. JEFFREY EPSTEIN
PLEA PROFFER

On August __, 2007, FBI Special Agents E. [redacted] and Jason [redacted] traveled to the home of [redacted] to serve her with a [redacted] subpoena in connection with an investigation pending in the Southern District of Florida. [redacted] works as the personal assistant of the defendant. [redacted] began speaking with the agents and then excused herself to go upstairs to check on her sleeping child. While upstairs, [redacted] telephoned the defendant, Jeffrey Epstein, and informed him that the FBI agents were at her home. Mr. Epstein was then aboard a civilian aircraft in the Southern District of Florida, and was about to return to Teterboro, New Jersey. Mr. Epstein instructed [redacted] not to speak with the agents and reprimanded her for allowing them into her home. Mr. Epstein then re-directed his airplane, traveling to the U.S. Virgin Islands instead of the New York City area, thereby keeping the Special Agents from serving target letters on [redacted]

During that flight, while in the special aircraft jurisdiction of the United States, the defendant telephoned [redacted] and applied pressure to keep her from complying with the [redacted] that the agents had served upon her. In particular, Mr. Epstein warned [redacted] against turning over documents and electronic evidence responsive to the [redacted] and pressured her to delay her appearance before the federal [redacted] in the Southern District of Florida.

Also during that flight, while in the special aircraft jurisdiction of the United States, the defendant became angry regarding the federal investigation and became verbally abusive and threatening towards his female companion, [redacted]

EFTA00184689

although he did not intend to strike her. Based upon Mr. Epstein's words, Ms. [redacted] reasonably was in fear that Mr. Epstein was about to touch her offensively.

EFTA00184690

EXHIBIT

54

"Ann [redacted] Villafana"

09/16/2007 11:41 AM

To "Jay Lefkowitz" <JLefkowitz@kirkland.com>
cc
bcc
Subject Re: JE negotiations

History: This message has been replied to and forwarded.

Hi Jay -- I looked up some 11th Circuit cases on simple assault and found some good language. I also learned that, every moment that one is aboard an enclosed civil airplane, they are in the "special aircraft jurisdiction of the United States," so the assault charge is really a violation of 49 USC 46506, which doesn't change the penalties.

I have drafted up a factual proffer that I would use at the change of plea based upon our brief conversation and the agents' interaction with Ms. at her home. The agents and I would need to speak with Ms. l f briefly to confirm that these facts are true. Feel free to make suggestions.

On an "avoid the press" note, I believe that Mr. Epstein's airplane was in Miami on the day of the [redacted] telephone call. If he was in Miami-Dade County at the time, then I can file the charge in the District Court in Miami, which will hopefully cut the press coverage significantly. Do you want to check that out?

I will talk to you later. Thanks.
<<< Attachment 'Epstein Plea Proffer.doc' has been archived by user 'CommonStore/IT/Kirkland-Ellis' on '11/26/2007 01:08:17'. >>>

EXHIBIT

55

Gmail by Google

Ann [redacted]

Re: JE negotiations

1 message

Jay Lefkowitz< JLefkowitz@kirkland.com> Sun, Sep 16, 2007 at 11:44 AM
To: Ann [redacted]

Yes. Will check it out this pm. Sending you various suggested edits shortly as well.

----- Original Message -----
From: "Ann [redacted]
Sent: 09/16/2007 11:41 AM AST
To: Jay Lefkowitz
Subject: Re: JE negotiations

Hi Jay -- I looked up some 11th Circuit cases on simple assault and found some good language. I also learned that, every moment that one is aboard an enclosed civil airplane, they are in the "special aircraft jurisdiction of the United States," so the assault charge is really a violation of 49 USC 46506, which doesn't change the penalties.

I have drafted up a factual proffer that I would use at the change of plea based upon our brief conversation and the agents' interaction with Ms. [redacted] at her home. The agents and I would need to speak with [redacted] briefly to confirm that these facts are true. Feel free to make suggestions.

On an "avoid the press" note, I believe that Mr. Epstein's airplane was in Miami on the day of the [redacted] telephone call. If he was in Miami-Dade County at the time, then I can file the charge in the District Court in Miami, which will hopefully cut the press coverage significantly. Do you want to check that out?

I will talk to you later. Thanks.

****
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[redacted]

EXHIBIT

56

UNITED STATES vs. JEFFREY EPSTEIN
PLEA PROFFER

On August __, 2007, FBI Special Agents E. [redacted] and Jason [redacted] traveled to the home of [redacted] to serve her with a [redacted] subpoena in connection with an investigation pending in the Southern District of Florida. [redacted] works as the personal assistant of the defendant. [redacted] began speaking with the agents and then excused herself to go upstairs to check on her sleeping child. While upstairs, [redacted] telephoned the defendant, Jeffrey Epstein, and informed him that the FBI agents were at her home. Mr. Epstein was then aboard a civilian aircraft in the Southern District of Florida, and was about to return to Teterboro, New Jersey. Mr. Epstein instructed [redacted] not to speak with the agents and reprimanded her for allowing them into her home. Mr. Epstein then re-directed his airplane, traveling to the U.S. Virgin Islands instead of the New York City area, thereby keeping the Special Agents from serving target letters on [redacted]

During that flight, while in the special aircraft jurisdiction of the United States, the defendant telephoned [redacted] and applied pressure to keep her from complying with the [redacted] that the agents had served upon her. In particular, Mr. Epstein warned [redacted] against turning over documents and electronic evidence responsive to the [redacted] and pressured her to delay her appearance before the federal [redacted] in the Southern District of Florida.

Also during that flight, while in the special aircraft jurisdiction of the United States, the defendant became angry regarding the federal investigation and became verbally abusive and threatening towards his female companion, [redacted]

EFTA00184696

although he did not intend to strike her. Based upon Mr. Epstein's words, Ms. [redacted] reasonably was in fear that Mr. Epstein was about to touch her offensively.

EFTA00184697

EXHIBIT

57

[redacted] (USAFLS)

From: [redacted] (USAFLS)
Sent: Monday, September 24, 2007 4:32 PM
To: Jay Lefkowitz
Subject: RE: Do you have a signed copy?

Thank you, Jay. I have forwarded your message only to [redacted] and Rolando. I don't anticipate it going any further than that. When I receive the originals, I will sign and return one copy to you. The other will be placed in the case file, which will be kept confidential since it also contains identifying information about the girls.

When we reach an agreement about the attorney representative for the girls, we can discuss what I can tell him and the girls about the agreement. I know that [redacted] promised Chief [redacted] an update when a resolution was achieved. (Something I wouldn't have promised in light of what happened last year.) Rolando is calling, but Rolando knows not to tell Chief [redacted] about the money issue, just about what crimes Mr. Epstein is pleading guilty to and the amount of time that has been agreed to. Rolando also is telling Chief [redacted] not to disclose the outcome to anyone.

From: Jay Lefkowitz [mailto:JLefkowitz@kirkland.com]
Sent: Monday, September 24, 2007 4:06 PM
To: [redacted] (USAFLS)
Subject: Re: Do you have a signed copy?

[redacted] - Please do whatever you can to keep this from becoming public.

thanks -- Jay

[redacted]

09/24/2007 04:04 PM

To "Jay Lefkowitz" <JLefkowitz@kirkland.com>
cc
Subject Do you have a signed copy?

Hi Jay – Sorry to be a bother, but do you have a copy that at least contains Mr. Epstein's signature? I need to pass it along to the powers that be. Thanks.

EXHIBIT

58

[redacted] (USAFLS)

10/11/2007 02:31 PM

To <lefkowitz@kirkland.com>
cc
bcc
Subject Fw: WPB Marriott 1001 Okeechobee Blvd. West Palm Beach, FL 33401

History ⇐ This message has been replied to.

Jay - see you at 7. Address is below. [redacted].

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Castillo, Annette (USAFLS)

To: [redacted], [redacted] (USAFLS)
Sent: Thu Oct 11 12:49:09 2007
Subject: WPB Marriott 1001 Okeechobee Blvd. West Palm Beach, FL 33401

EXHIBIT

59

[redacted] (USAFLS)

From: [redacted] (USAFLS)
Sent: Monday, September 17, 2007 1:09 PM
To: JLefkowitz@kirkland.com
Cc: Garcia, Rolando (USAFLS)
Subject: My whereabouts

Hi Jay – I am headed home. If a document is ready to be reviewed later today, can you send a copy to me and also to Rolando (who is stepping in for Andy). Please send to my home e-mail address - [redacted] and give me a call on my cell [redacted] so I can be ready for some discussions tomorrow. If anything else comes up, please don't hesitate to call.

Thanks,
[redacted]

EFTA00184703

EXHIBIT

60

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Thursday, September 20, 2007 6:42 PM
To: 'Jay Lefkowitz'
Subject: RE: Plea Agreement -- EPSTEIN

Jay -- The 18 and 12 has already been agreed to by our office, so that is not a problem.

On the issue about 18 USC 2255, we seem to be miles apart. Your most recent version not only had me binding the girls to a trust fund administered by the state court, but also promising that they will give up their 2255 rights.

I reviewed the e-mail that I sent you on Sunday with the comments on some of your other changes. In the context of a non-prosecution agreement, the office may be more willing to be specific about not pursuing charges against others. However, as I stated on Sunday, the Office cannot and will not bind Immigration.

Also, your timetable will need to move up significantly. As Barry said in our meeting last week, his office can put together a plea agreement, information, and get you all before the judge on a change of plea within a day.

I am headed out now, but you can get me on my cell or call me tomorrow in the office. Thank you.

A. [redacted]
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
Phone [redacted]
Fax [redacted]

From: Jay Lefkowitz [mailto:JLefkowitz@kirkland.com]
Sent: Thursday, September 20, 2007 6:12 PM
To: [redacted]. (USAFLS)
Subject: Plea Agreement -- EPSTEIN

[redacted] - Still looking it over and I may have some questions in the morning, but I have a few now regarding the state resolution

In your last draft, you put in 20 and 10, and I thought that we had agreed to 18 and 12. I assume this is not a serious issue, but wanted to call it to your attention. I also wonder if you have any flexibility on the language in the 2255 paragraphs. I don't think we are very far apart on this language. I had also suggested some language, to be included in the agreement on finality, provided that Jeffrey abided by all the terms of the agreement.

Please let me know your thoughts on these. I will continue to review the document and speak with you tomorrow.

Thanks -- Jay

****
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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

EXHIBIT

61

EXHIBIT

61

"Villafana, Ann Marie C. \(USAFLS\)"

09/21/2007 02:12 PM

To "Jay Lefkowitz" <JLefkowitz@kirkland.com>
cc
bcc
Subject Revised Non-Prosecution Agreement

History: This message has been forwarded.

Hi Jay – Here is my attempt at combining our thoughts. I need to talk to the office about the immigration language before I put it in here. I know that we have not and don't plan to ask immigration to do that, but let me see if they are okay with including it in writing.

I spent about an hour with a former corporate counsel from a hospital who now works here to go over the 2255 language. I think that the attached addresses the concern about having an unlimited number of claimed victims, without me trying to bind girls whom I do not represent. This language hasn't been approved by the office yet, so consider it a draft.

These are all the same document, just in different formats.

<<070921 Epstein Non-Prosecution Agreement.wpd>> <<070921 Epstein Non-Prosecution Agreement.doc>> <<070921 Epstein Non-Prosecution Agreement.pdf>>

Thanks. If you have any immediate thoughts before you leave, please let me know.

A. [redacted] Villafaña

Assistant U.S. Attorney

<<< Attachment '070921 Epstein Non-Prosecution Agreement.wpd' has been archived by user 'CommonStore/IT/Kirkland-Ellis' on '11/26/2007 01:17:28'. >>>
<<< Attachment '070921 Epstein Non-Prosecution Agreement.doc' has been archived by user 'CommonStore/IT/Kirkland-Ellis' on '11/26/2007 01:17:28'. >>>

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01:17:28', >>>
<<< Attachment '070921 Epstein Non-Prosecution Agreement.pdf' has been archived by user 'CommonStore/IT/Kirkland-Ellis' on '11/26/2007 01:17:29', >>>

US_Atty_Cor_0082

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 with three counts of 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 of the offenses and Epstein's background;

IT APPEARING that Jeffrey Epstein (hereinafter "Epstein") has committed offenses against the United States from in or around 2001 through in or around October 2005, 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,

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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 has accepted responsibility for his behavior by his signature on this Agreement; and

IT APPEARING, after an investigation of the offenses and Epstein's background, that the interest of the United States pursuant to the *Petite* policy will be served by the following procedure;

THEREFORE, on the authority of [redacted], 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 that Epstein has violated any of the conditions of this Agreement, then the United States Attorney may at any time initiate prosecution against Epstein for any offense. In this case, the United States Attorney will furnish Epstein with notice specifying the condition(s) of the Agreement that he has violated.

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 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 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 and the State Attorney's Office shall make a joint, binding recommendation that the Court impose a thirty (30) month sentence to be divided as follows:

   (a) Epstein shall begin by serving at least eighteen (18) 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) following the term of imprisonment, Epstein shall serve twelve (12) months of community control.

3. 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.

4. 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.

5. 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 will file a motion with the United States District Court for the Southern District of Florida for the appointment of a guardian ad litem for these persons. Epstein's counsel may contact the identified individuals through that guardian.

6. If any of the individuals referred to in paragraph (5), *supra*, elect 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 victim and Epstein. Epstein's signature on this agreement is not to be construed as an admission of civil or criminal liability as to any person whose name does not appear on the list provided by the United States. As to those individuals whose names appear on the list provided by the United States, Epstein's signature on this agreement likewise is not to be construed as an admission of any civil liability other than that contained in 18 U.S.C. § 2255.

7. Epstein shall enter his guilty plea and be sentenced not later than October 19, 2007, and shall self-report to begin serving his sentence not later than December 1, 2007.

8. With credit for gain time, Epstein shall serve at least 450 days in the county jail.

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 discussion with the State Attorney's Office to ensure compliance with these procedures, which compliance will be necessary to satisfy the United States' interest, pursuant to the *Petite* policy.

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In consideration of Epstein's agreement to plead guilty and to provide compensation to victims, 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 again any potential co-conspirator of Epstein, including . Further, upon execution of this agreement and a plea agreement with the State Attorney's Office, investigation will be suspended, and all pending federal 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 . Both parties agree to maintain their evidence, including certain computer equipment, inviolate until all of the terms of this agreement have been satisfied.

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 , 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. 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 Epstein hereby agrees and consents that, if a prosecution against him is instituted, it may be by way of an Information signed and filed by the United States Attorney, and hereby waives his right to be indicted

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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.

Dated: _____

_____
JEFFREY EPSTEIN

Dated: _____

_____
GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

[redacted]
UNITED STATES ATTORNEY

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EXHIBIT

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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 [redacted], 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.

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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

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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

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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] 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.

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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 [redacted]
UNITED STATES ATTORNEY

Dated: _____ By: _____
A. [redacted] VILLAFAÑA
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

EFTA00184723

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.

[redacted]
UNITED STATES ATTORNEY

Dated: _____ By: _____
A. [redacted] VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: _____
JEFFREY EPSTEIN

Dated: 9/24/07
GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

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.

[redacted]
UNITED STATES ATTORNEY

Dated: _____ By: _____
A. [redacted]
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 [redacted]
UNITED STATES ATTORNEY

Dated: _____

By: _____
A. [redacted] VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: 1/29/07

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.

[redacted]
UNITED STATES ATTORNEY

Dated: _____ By: _____
A. [redacted] VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: _____ _____
JEFFREY EPSTEIN

Dated: 10/29/07 _____
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.

[redacted]
UNITED STATES ATTORNEY

Dated: _____ By: _____
A. [redacted] VILLAFAÑA
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

Affirmation

I, Jeffrey E. Epstein do hereby re-affirm the Non-Prosecution Agreement and Addendum to same dated October 30, 2007.

Jeffrey E. Epstein

12/7/07
Date

EXHIBIT

63

THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-80736-CIV-MARRA

COPY

IN RE: JANE DOE,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.
_____/

Federal Courthouse
West Palm Beach, Florida
July 11, 2008
10:15 a.m.

The above entitled matter came on for Emergency Petitioner for Enforcement of Crime Victim Rights before the Honorable Kenneth A. Marra, pursuant to Notice, taken before Victoria Aiello, Court Reporter, pages 1-32.

For the Plaintiff: Bradley Edwards, Esquire

For the Defendant: Dexter Lee, AUSA

[redacted], AUSA

(Call to Order of the Court).

THE COURT: Good morning. Please be seated.

This is the case of In Re: Jane Doe, Case Number 08-80736-Civ-Marra. May I have counsel state their appearances, please?

MR. LEE: Good morning, Your Honor. May it please the Court, for the United States of America, we have [redacted] [redacted], Assistant United States Attorney and Dexter Lee, Assistant United States Attorney. And we have seated in the front row FBI Special Agent Becker Kendall and Jason [redacted]. Thank you, Your Honor.

MR. EDWARDS: Good morning, Your Honor. Brad Edwards on behalf of the petitioners. Petitioners are also in the courtroom today. This petition is styled on her behalf.

THE COURT: Good morning. All right. We're here on the petitioner's motion to enforce her rights as a victim under 18 USC 3771. I have received the petition, the government's response and the victim's reply, which was filed, I guess, this morning. So, You want to proceed, counsel?.

MR. EDWARDS: Yes, Your Honor. You prefer me at the podium?

THE COURT: It is easier for us to hear you.

MR. EDWARDS: Your Honor, as a factual background, Mr. Epstein is a billionaire that sexually abused and molested dozens and dozens of girls between the ages of 13 and 17 years old. And through cooperating victims, that evidence can be proven. Because of his deviant appetite for young girls, combined with his extraordinary wealth and power, he may just be the most dangerous sexual predator in U.S. history. This petitioner is one of the victims and she is in attendance today. Another one of Mr. Epstein's victims is also in attendance today. She would be able to provide evidence that she provided-- that Mr. Epstein paid her to provide him over 50 girls for the purposes of him to sexually abuse. Therefore, the undercurrents of the petition are clear. The plea bargain that was worked out for Mr. Epstein in light of the offenses that he committed is clearly unfair to the point that if anybody looks at the information, it is unconscionable.

THE COURT: Well, I mean, is that for me? That's not my role. That's the prosecutor's role to apply, would it not? I can't force them to bring criminal charges. What do I have to do with that.

MR. EDWARDS: Okay.

THE COURT: That may be your opinion, that may be your client's opinion, but I presume that the government is aware that that's your client's opinion. How does that change anything?

MR. EDWARDS: That's my problem. I'm not sure that the government is aware that is petitioner's opinion and that's why we're here today, just to enforce the victim's rights under 18 USC 3771, Crime Victims Rights Act, and all we are asking is to order that the plea agreement that has been negotiated in this case--

THE COURT: How do you know there is a plea agreement? The plea agreement is with the State of Florida, wasn't it?

MR. EDWARDS: There was a state charge with one victim that I'm aware of. And the plea agreement as to that one victim was 18 months in the county jail. But along with that, the Palm Beach County Sheriff investigating this case was getting no action out of the local authorities and sent this to the FBI.

THE COURT: It was actually the Palm Beach-- Town of Palm Beach Police, not the Sheriff's Office.

MR. EDWARDS: I'm sorry, Judge. And that's why the FBI got involved because Michael Feeter

wrote a scathing letter to the State Attorney about Mr. Epstein receiving preferencial treatment by local authorities.

Before the FBI took the case, they went behind the victim's back, and this is our motion, without the victim's input and allowing her the right to meaningfully confer with the government, which is a right that she can assert at this time. They worked out a plea deal where if Mr. Epstein would plead to this other charge regarding another victim in the state court case, they would agree to not prosecute him for all of the federal charges of what they were aware of in federal court..

THE COURT: So that's already apparently taken place, correct?

MR. EDWARDS: I don't know if it has taken place. I'm not sure exactly what stage it is in. I know it is supposed to be attached at some point in time to a state court plea.

THE COURT: Hasn't he already plead guilty, though?

MR. EDWARDS: If he did plead guilty, it is my understanding and belief that the agreement with the federal government and with the U.S. Attorney's Office wasn't signed on that day. So it is still my

belief, I could be wrong, but that that agreement hasn't been completed as of this time.

THE COURT: So let's assume it hasn't been completed.

MR. EDWARDS: Okay. Then petitioner would like the right to confer with--

THE COURT: You can go in the conference room. We've got the FBI agents, you've got the assigned prosecuting attorney. You have got a conference room. You've got your client. Go and talk. Confer. And then it is up government to decide what to do, correct?

MR. EDWARDS: In a way, Your Honor, that's very similar to what happened in In Re: Dean and PB case where there is a plea agreement negotiated and then the victim gets the right to confer.

THE COURT: It's already negotiated. What am I supposed to do?

MR. EDWARDS: Order that the agreement that was negotiated is invalid and it is illegal as it did not pertain to the rights of the victim.

THE COURT: I can order you into the conference room. Then the government can do what it chooses. It can agree to prosecute or it can agree to going forward with the agreement it had already

reached and after consulting your client and in taking into consideration your client's views, decide to go forward anyway. I can't make them prosecute him. I can't-- All I can do is, at best, say confer with the victim, consider the victim's input before you make a decision or reconsider the decision you already made in view of the victim's input, if it is possible for you to do that. So if I invalidate the agreement, what's the best you can get? The right to confer?

MR. EDWARDS: Exactly. That is all we can.

THE COURT: So why can't you go into the conference room now, take as much time as you feel you need and confer?

MR. EDWARDS: Judge, at this time I'd like to move ore tenus to add the victim that's in the courtroom to this conference with the U.S. Attorney's Office.

THE COURT: So is that Jane Doe 2 for purposes of this?

MR. EDWARDS: Exactly, Your Honor.

THE COURT: All right. Let me hear from the government then.

MR. LEE:. Good morning, Your Honor. May it please the Court.

Let me update the Court on the status of various matters. The agreement to defer prosecution to the State of Florida was signed and completed by December of 2007. Mr. Epstein's attorneys saught a higher review within the Department of Justice and it took a number of months for that to come to fruition. When it came to fruition, he ended up pleading guilty on June 30, 2008 to two charges in state court, and he was sentenced to a term of incarceration of 18 months, with another 12 months of community control after the completion of his sentence, and he is currently incarcerated as we speak.

We have two arguments, Your Honor. First, insofar as the right that they claim under 3771(a)(5), their right to confer in the case, we respectfully submit that there was no case in federal court and, indeed, none was contemplated if the plea agreement was to be successfully completed, since it contemplated the State of Florida sentence on the criminal charges. So as long as certain conditions were met and certain federal interests were vindicated, the federal government was satisfied that this was an appropriate disposition.

Insofar as the best effort, Your Honor, we

have cited the Attorney General's guidelines. The guidelines do say that you should normally advise victims of plea negotiations and the terms of the plea, but they recognize that there are times when they may not be appropriate or could cause some harm or prejudice, and they set out six factors which are to be considered, non-exhaustive factors.

We have advised, in the declaration of AUSA [redacted] that when the subject of having Mr. Epstein concede that he would be convicted of an enumerated offense for purposes of a cause of action under 18 USC 2255, there was a rather strenuous objection from Mr. Epstein's counsel that the federal government was inducing some effort to either fabricate claims, enhance claims or embellish claims and if this agreement ultimately could not be consumated, then we'd have a federal prosecution on our hands, and we did not want to be in a positin of creating additional impeachment material.

I can't say that the stand by Mr. Edwards that the arguments of inducement in a subsequent civil action can be made by any criminal victim, that is true. It is another thing for that inducement to have come before the prosecution arguing about the credibility and veracity of the

individual. That was a considerably strong point, in essence, in not discussing those terms with the victims as might ordinarily be done if those considerations did not exist.

So, first, Your Honor, we believe that 3771(a)(5) does not apply.

THE COURT: Well, what about the language in the statute that suggests that a victim can bring a claim or seek enforcement of his or her rights under the statute before a case is filed? What does that refer to?

MR. LEE: Your Honor, we believe that's a venue provision essentially telling an individual if there is no exigent case, there is no case of United States versus So And So, then you seek to enforce your rights, then you can go in and do so in the did court where the offense occurred. This is not saying, necessarily, that rights exist, but if you believe they exist, here is the place where you're going to have to lodge it, and the Court will have to decide.

Now, there are certain of the eight rights accorded in 3771(a) that could come up before any charge is filed. For instance, let's say somebody believes that the perpetrator of the crime is going

to try to harm them or threatened them or intimidated them into not testifying or cooperating with the government and, of course, no indictment has been returned. If an individual went to the government and believed that the individual had not acted appropriately, they can go to the district court and say I need to have my rights under 3771(a)(1) enforced because those people are threatening me, and the government hasn't done enough. That would be a situation.

But we're talking really here about (a)(5), which is the right to consult in the case and we respectfully submit that there is not case until a charge has been filed.

THE COURT: So, what about the circuit case that was actually pending case had to do with a plea agreement in a pending case?

MR. LEE: Yes. The distinction between the Dean case and the instant case, Your Honor, is this. In Dean, they had negotiated with BP Petroleum for a plea and it was always contemplated that there was going to be a federal prosecution. The distinction in this case was that there was already a pending state prosecution and the objective for both sides was to keep it in state

court and the federal government's objective was to ensure that there were sufficient safeguards in the state court proceedings and concessions made by Mr. Epstein so that federal interests, particularly a cause of action for damages for the victims of the sexual exploitation could be preserved. So that's the key distinction because there was no federal case, there was no federal criminal charge contemplate so long as the agreement could be reached.

THE COURT: All right. So they want me to invalidate your non-prosecution agreement.

MR. LEE: Your Honor, we respectfully submit that 3771 does not grant authority of this Court to do so. In the Dean case, for instance, Your Honor, there was a plea agreement that was entered into and district court, of course, entertained a plea agreement and exercised its judicial discretion in terms of whether to accept it or not. The victims were encouraged to go to district court and say, you know, we didn't hear about this. We should have, and we object to it for the following reasons. The district court take that into account. There is no plea agreement before this Court. There will be no plea proceedings in this court. That was all done

in state court several weeks ago. So that's another basis for distinguishing Dean.

THE COURT: All right. So is there any point in conferring with these victims?

MR. LEE: Your Honor, I will always confer, sit down with Jane Doe 1 and 2, with the two agents and Ms. [redacted]. We'll be happy to sit down with them.

THE COURT: But it wouldn't make any difference in terms of the outcome. Would maybe give them the benefit of your explanation of why you did what you did and why you came to the conclusion you did, but it is not going to change your decision in any way.

MR. LEE: If it is going to change, it would have to be done at a level higher than mine, Your Honor.

THE COURT: What was-- I didn't understand your statement earlier that Mr. Epstein wanted some kind of review of higher authority within the Department in terms of whether or not the federal government was going to insist on preserving any civil claims.

MR. LEE: Your Honor, of the agreement was consumated by the parties in December of 2007. Mr.

Epstein's attorneys wanted a further review of the agreement higher up within the Department of Justice and they exercised their ability to do that.

THE COURT: Meaning? Again, I'm trying to understand. He wasn't happy with the agreement that he had signed?

MR. LEE: Basically, yes. And was trying to maintain that the agreement should be set aside or more favorable terms.

THE COURT: Now, in terms of -- You don't dispute that Jane Doe 1 and 2-- First of all, do you have an objection to Jane Doe 2 being added as a petitioner in this case?

MR. LEE: No, I don't.

THE COURT: I'll grant that request.

You don't dispute that they're victims within the meaning of the Act.

MR. LEE: It depends to which -- There is one Jane Doe-- Well, there is one individual who is one of Mr. Edwards' clients who we do not believe to been a victim. If these are SN and CW, then we have no objection and I can discuss-- If I may have a moment, Your Honor.

Your Honor, thank you. I have been corrected. We have no objection.

THE COURT: Okay.

MR. LEE: We agree they're victims.

THE COURT: Now, what is your position, then, regarding the right of a victim of a crime that is potentially subject to federal prosecution to be, to have input with the prosecutor, your office, before a resolution or decision not to prosecute is made? Do you say that there is no right to confer under those circumstances because there is no "case pending" so any decision not to prosecute, there is no right to confer but that right to confer only is triggered once there is an indictment or an information filed?

MR. LEE: That is correct, Your Honor. The Attorney General guidelines which were published in May of 2005 provide that the rights in 3771(a)(1 through 8) accrue when a charge is filed in federal court. Now, that my change after the Dean decision. It is under consideration. But that's the government's position.

THE COURT: All right. And so -- Are you saying all of the rights--

MR. LEE: Your Honor, some of the rights clearly will only pertain after a charge has been filed. The one that pertains to notice of public

hearing, public proceedings, though, can't apply until there are public proceedings to be had.

Of course, these guidelines are a floor and not a ceiling. They're to be applied with common sense. If somebody-- If charges of assault were being investigated and somebody would come in and say the perpetrator whom you're investigating is getting ready to indict has been threatening me, following me, and I need help because he or she is going to do something bad to me and try to take care of me before I can testify in the grand jury, this person would not be turned away because a charge hasn't been filed yet. Those guidelines would be applied with common sense.

But specifically insofar as a (a)(5), which is the right to consult with the attorney for the government in the case, that would not accrue until there is a ~~days~~ case. And, in our view, a case doesn't come into being until charges are filed.

THE COURT: And are there any reported decisions that you are aware of where any court has found a right to confer before charges are filed?

MR. LEE: I'm not aware of any, Your Honor.

THE COURT: All right. Thank you.

MR. LEE: Thank you, Your Honor.

THE COURT: Counsel?

MR. EDWARDS: I would just like to address that Dean decision. They're asking you that you just simply ignore it because the decision clearly was a decision made because as it is a direct result of a plea deal being worked out prior to the victims being able to speak.

THE COURT: But there was a pending case, though, correct?

MR. EDWARDS: As I understand the decision--

THE COURT: As I understand the plea deal, it was negotiated prior to charges being filed. Then there was a filed case and then the court had the ability to accept the plea or not. And at that point, you would have the ability to entertain or assert an objection because you weren't consulted about the plea.

So there was a proceeding or case in which you can assert a right to confer. How do you do that before a case is filed? How do you enforce the government or force the government to consult about not filing a case? Every case they have to consult with the victim before they decide not to prosecute?

MR. EDWARDS: No, there are limitations. I think in my reply I refer to the case of U.S. [redacted].

Rubin where they discussed that very scenario stating there at least has to be criminal charges contemplate by the government before these rights kick in. The rights under (d)(3) and (a)(5), the right to confer and the Dean case clearly states clearly rights under the CBRA apply before prosecution is under way. Logically, this includes the CBRA establishments of a victim's reasonable right to confer with the attorney for the government. And, that's read in the plain reading of the statutes as well.

This first case in interpreting it, I think it's pretty clear the distinction they're making between BP and this case. Is it a distinction withoug a real difference in that the court is saying you have this right before the case is filed which is exactly what we are saying. And the result in that case was they filed the case, later let him plea out to some sweet deal. And in this case, what we have is they avoid that by deciding not to file. Either way, you deprive the victim of their right before making that decision.

And the main problem that the court had in Dean, as it states, the victims do have rights when there is an impact and the eventual sent is

substantially less. Whereas here, their input is received after the parties have reached a tentative deal. Well, the government just stated the deal was reached back in October of 2007. However, attached to their response is a letter to my client petitioner, dated January 10, 2008, after the time then counsel just put on the record that the deal was already finalized and it starts, the opening paragraph talks about whether they wanted the victims to have the right to confer. It says, this case is currently under investigation. This is January 2008. This case has been a lengthy process and we request your continued patience while we conduct a thorough investigation. Sounds like the exact opposite of, we want you to come in and confer and let us know what you really feel about this.

That is our biggest problem with what has happened here, is that she just wasn't given a voice and if somebody would have heard her, we believe there would have been a different outcome. To go back into a room right now and talk, after there has already been a plea negotiated without Your Honor ordering that in this case the plea deal needs to be vacated, it is illegal and give her her rights.

THE COURT: Well, would you agree or not

that Mr. Epstein plead guilty to the state charges probably at least, in part, in reliance upon the fact that he had an agreement with the federal government they weren't going to prosecute? Would you concede that or would would present evidence to that effect?

MR. EDWARDS: Of course we would. Yes, of course. Sure.

THE COURT: So you agree that Mr. Epstein is now sitting in the Palm Beach County Jail a convicted felon serving 18 months of imprisonment, at least in material part, because he relied upon the government's non-prosecution agreement?

MR. EDWARDS: Yes. I agree that he is sitting there because he is guilty and maybe he took the plea rather than going to trial and being found guilty later in part because of this non-prosecution agreement that was worked out behind the other victims' backs. I would agree with that.

THE COURT: So he accepted the State's deal in part because he knew he had an agreement from the federal government that they weren't going to prosecute.

MR. EDWARDS: I presume. I speculate that is true.

THE COURT: So you want me now, then, to set aside the government's agreement with him because there was no conferring, yet he has already accepted a plea agreement and is sitting in custody, in part, in reliance on that agreement. I mean, I can undo the agreement in your theory, but how do I-- Mr. Epstein, in a sense, would then be adversely affected by my actions when he acted in reliance upon the agreement. How does that work?

MR. EDWARDS: Certainly, we're only asking you to vacate the agreement. I understand and your point is well taken. And I believe that at that point in time his rights may kick in and say, wait, I was relying on this other deal so I wouldn't be prosecuted for these hundreds of other girls that I molested; that I plead guilty over here to the one girl that I will admit to molesting. So maybe I can get to withdraw my plea. But the last thing he wants to do because if he ends up going to trial, I'll be in prison for the rest of his life like any other person who ever did this crime would be. He could have that argument, I guess, but still wouldn't really work well for him.

THE COURT: All right. So you still think I should set aside the agreement, require the

government to confer?

MR. EDWARDS: Work out a plea negotiation commensorate with the crimes that he committed and that are favorable after they confer with the victims. And it is within their discretion. Of course, they can decide on their own that, hey, I think that the agreement was fair after they have talked with the victims. That could happen. I don't know if a reasonable person that would do that, but it could happen.

THE COURT: Apparently, you are not suggesting that that these person are not reasonable.

MR. EDWARDS: I'm suggesting they haven't conferred with the victims and that if they took into consideration what these two in the courtroom have to say, I don't think that we'd be in this same position right now.

THE COURT: They have never spoken to your client about what happened to them?

MR. EDWARDS: They have spoken to them about what happened. Maybe not about what the girls wanted to happen as a result of this case, which is part of conferring to decide that these girls wanted money on their own, which is basically what this--

this non-prosecution agreement entails that has language that he'll agree to liability in a civil case. That's not what these girls-- They want justice. They want him in prison now more than ever. The reason they stated they kept this agreement from the girls and they basically conceded we didn't tell the girls about this agreement, well, the reason is because they would have objected and they wouldn't have been able to sign off on this and the victims would have had a voice, and we'd still been going through litigation. The exact problem they tried to prevent, at least in their terms which was the impeachment of these girls at a later trial, is still available to anybody once the civil suits are filed anyway.

They have three arguments. One, we didn't have to talk to them. Two, we did talk to them sort of. And if you don't buy that, the reason we didn't talk to them, we were trying to prevent them from being impeached later. None of them trump the victims' rights to confer prior to plea negotiations. That's why, Your Honor, we would ask this Court to enter an order vacating that previous plea agreement as illegal, ask them to confer with the victims once again or for the first time and

work out a negotiated plea to that accord.

THE COURT: Well, all you can ask them to do is confer. I can't ask them to do anything beyond that. I mean, it is up to them to negotiate.

MR. EDWARDS: I wouldn't quarrel with that.

THE COURT: Now, having learned today, I guess, that the agreement was signed when, in October?

MR. EDWARDS: October 2007, I heard.

THE COURT: About eight or nine months ago, is there any need to rush to a decision in this matter? The decision has already been made. You filed this, I think, on the presumption that the agreement was about to take place and you wanted to be able to confer beforehand and you weren't sure what was going on.

MR. EDWARDS: Precisely, Your Honor. And I'm holding the letters that are exhibits that they were writing to my client during the year of 2008 telling her how lengthy of a process this was going to be and be patient. So, right, I was completely in the dark about when this agreement was signed.

THE COURT: In view of the fact that this agreement has already been consumated, and you want me to set it aside, as opposed to something that's

about to occur, would you agree that-- and I have done this very quickly because of the petition and your allegation that something was about to happen. I'm not blaming you.

MR. EDWARDS: I was mistaken.

THE COURT: I'm not blaming you for doing that. In view of what you know now, is there any need to treat this as an emergency that has to be decided by tomorrow?

MR. EDWARDS: I can't think of any reason in light of what we just heard.

THE COURT: Mr. Lee, do you have anything else you wanted to add? Does either side think I need to take evidence about anything? If I do, since this is not an emergency anymore, I can probably find a more convenient time to do that. I don't have the time today to take evidence. But if you do believe that I should take evidence on this issue.

MR. EDWARDS: It may be best if I conferred with the U.S. Attorney's Office on that and we can make a decision whether it is necessary or whether Your Honor deemed it was necessary for you to make a decision.

THE COURT: I want to know what your

respective positions are because it may be something in terms of having a complete record, and this is going to be an issue that's it going to go to the Eleventh Circuit, may be better to have a complete record as to what your position is and the government's is as to what actions were taken. And I don't know if I have enough information, based on Ms. [redacted] affidavit or I need additional information. And because it is not an emergency, I don't have to do something quickly, we can play it be ear and make this into a more complete record for the court of appeals.

MR. EDWARDS: If there is a time where it is necessary to take evidence, Your Honor is correct in stating that it is not an emergency and it doesn't need to happen today. And, I will confer with the government on this and if evidence needs to be taken, it be taken at a later date. It doesn't seem like there will be any prejudice to any party.

THE COURT: Mr. Lee, do you have any thoughts? You want to consult with Mr. Edwards?

MR. LEE: There may be a couple of factual matters that I need to chat with petitioner's counsel on. If we can reach agreement on those as to what was communicated to CW and what time, if

they don't dispute that, then we don't think it will be necessary to have an evidentiary hearing. But if we can agree, fine or maybe we can't. We'll talk about it.

THE COURT: All right. So why don't you let me know if you think an evidentiary hearing is necessary. If there are additional stipulations you want to enter into or supplement what has already been presented, you can do that.

Now, the other issue I want to take up, though, is the government filed its response to the petition under seal. And so I want to know why. What is in there that at this point needs to be under seal? Is there anything in there that's confidential, privileged, anything that's different from what you hve said here in open court that requires that to be sealed?

MR. LEE: Well, Your Honor, on our motion to seal was based on two reasons. One that dealt with individuals or minors at the time that the offense occurred. So we were attempting to protect the privacy of those individuals. And also it dealt with negotiations with Mr. Epstein which were in the nature of plea negotiations, which we treat as confidential. Normally, they're not aired out in

open court. So those were our two reasons.

THE COURT: All right. But I guess the letters you attached only related to Mr. Edwards' client.

MR. LEE: Three of them, yes, Your Honor.

THE COURT: Are you prepared, Mr. Edwards, to waive any issues regarding the release of those documents that relate to your clients?

MR. EDWARDS: Judge, I think it would be appropriate to redact the names of the clients as they have done.

THE COURT: I don't think the names are in there.

MR. EDWARDS: I think they're redacted. They're blacked out. I have no problem with releasing those documents. I'm not sure that's part of the deal. But if it is--

MR. LEE: It is.

MR. EDWARDS: Okay. I'll waive.

THE COURT: You really don't have any objection to those letters that were sent to them being released to the public?

MR. EDWARDS: Of course not, Judge.

THE COURT: Then what is there about the plea agreement or the negotiations that is in the

response that we really haven't already kind of--

MR. LEE: Your Honor, there was a confidentiality agreement in the deferral of prosecution to the State of Florida. So we were trying to maintain the confidentiality of the negotiations that occurred since we had discussions during those negotiations as one of the reasons why we decided not to tell all of the individuals what was going on.

THE COURT: But is that still necessary, that confidentiality or is that kind of moot at this point?

MR. LEE: Well, we would like it sealed. Admittedly, what happened today in open court has probably weakened our argument. I don't dispute that.

THE COURT: In your opinion, anything in particular, any paragraph in the response or in Ms. [redacted] affidavit that you think is particularly troublesome that should remain under seal?

MR. LEE: May I have a moment, Your Honor?

THE COURT: Yes.

MR. LEE: Thank you. Your Honor, one aspect of this in the notification letters that were dispatched to individuals which were attached to Ms.

[redacted] declaration, there is a citation to a clause in the agreement that was reached regarding the damages remedy under 18 USC 2255 that was subject to the constitutionality agreement, we believe that should still remain confidential.

THE COURT: But hasn't the fact that this provision was part of the agreement again been aired? Is there any secret to it anymore?

MR. LEE: The actual text of it has not been aired. The existence of it has been heard but the actual text has not and we believe it should still remain confidential.

THE COURT: Okay. Any other argument on that issue?

MR. LEE: No, Your Honor. Thank you.

THE COURT: Ms. [redacted] wants to speak to you.

MR. LEE: Your Honor, one item that I'd like to bring to the Court's attention. We had advised Mr. Epstein and his attorneys that if we were to dislose some of the agreement, we would give them advance notice and ability to lodge an objection. We would like an opportunity to do that.

THE COURT: All right. But you're not disclosing. It would be by my order that it would

be disclosed.

MR. LEE: Yes, Your Honor. And we just would like to register that we believe it should remain confidential.

THE COURT: All right.

MR. EDWARDS: Your Honor, I don't see any authority for keeping that under seal.

THE COURT: I agree. The fact that there is this preserved right on behalf of the victims to pursue a civil action is already a matter of public record; the exact text of the clause-- I don't see that disclosing the text of the clause when the fact that the clause exists is already a matter of public record. It is not harmful in any way to Mr. Epstein or the government and the letters to the victim that the victim can disclose those letters, they're not under any confidentiality obligation or restriction and they're free to disclose it themselves if they choose to. So I don't see that there is any real public necessity to keep the response sealed in view of what we discussed already on the record and the victim's ability to disclose those provisions of their own choosing, if they wish. So, in view of the public policy that matters filed in court proceedings should be open to the public and sealing

should only occur in circumstances that justife the need to restrict public access, I'm going to deny the motion to seal the response and allow that to be viewed.

All right. So I'll let both of you confer about whether there is a need for any additional evidence to be presented. Let me know one way or the other. If there is, we'll schedule a hearing. If there isn't and you want to submit some additional stipulated information, do that, and then I'll take care of this in due course.

MR. EDWARDS: Thank you, Your Honor.

THE COURT: All right.

MR. LEE: Thank you, Your Honor.

MS. [redacted]: Thank you, Your Honor.

THE COURT: You're welcome.

(Proceedings concluded.)

I hereby certify that the foregoing is true and correct to the best of my ability.

Victoria Aiello, Court Reporter

EXHIBIT

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

FILED by ___ D.C.
JUL 09 2008
STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA. - W.P.B.

IN RE: JANE DOE,

Petitioner.
_____/

DECLARATION OF A. [redacted] VILLAFAÑA IN SUPPORT OF UNITED STATES' RESPONSE TO VICTIM'S EMERGENCY PETITION FOR ENFORCEMENT OF CRIME VICTIM RIGHTS ACT, 18 U.S.C. § 3771

1. I, A. [redacted] 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 Hall) 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.

E/ RB

2. I am 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.

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 Bradley Edwards' three clients, T.M., C.W., and S.R.[1] Your Affiant's letter to C.W. was provided by the FBI. (Ex. 1). Your Affiant's letter to T.M. was hand-delivered by myself to T.M. at the time that she was interviewed (Ex. 2).[2] Both C.W. and T.M. also received letters from the FBI's Victim-Witness Specialist, which were sent on January 10, 2008 (Exs. 3 & 4). S.R. was identified via the FBI's investigation in 2007, but she initially refused to speak with investigators. S.R.'s status as a victim of a federal offense was confirmed when she was interviewed by

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[1]Attorney 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 C.W., T.M., and S.R. All three of those clients were victims of Jeffrey Epstein's while they were minors beginning when they were fifteen years old.

[2]Please note that the dates on the U.S. Attorney's Office letters to C.W. and T.M. are not the dates that the letters were actually delivered. Letters to all known victims were prepared early in the investigation and delivered as each victim was contacted.

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federal agents on May 28, 2008. The FBI's Victim-Witness Specialist sent a letter to S.R. on May 30, 2008 (Ex. 5).

4. Throughout the investigation, the FBI agents, the FBI's Victim-Witness Specialist, and your Affiant had contact with C.W. and S.R. 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.[3]

5. In the summer of 2007, Mr. Epstein and the U.S. Attorney's Office for the Southern District of Florida ("the Office") entered into negotiations to resolve the investigation. At that time, Mr. Epstein had been charged by the State of Florida with solicitation of prostitution, in violation of Florida Statutes § 796.07. Mr. Epstein's attorneys sought a global resolution of the matter. The United States subsequently agreed to defer federal prosecution in favor of prosecution by the State of Florida, so long as certain basic preconditions were met. One of the key objectives for the Government was to preserve a federal remedy for the young girls whom Epstein had sexually exploited. Thus, one condition of that agreement, notice of which was provided to the victims on July 9, 2008. 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

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

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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."

6. An agreement was reached in September 2007. The Agreement contained an express confidentiality provision.

7. Although individual victims were not consulted regarding the agreement, several had expressed concerns regarding the exposure of their identities at trial and they desired a prompt resolution of the matter. At the time the agreement was signed in September 2007, T.M. was openly hostile to the prosecution of Epstein. The FBI attempted to interview S.R. in October 2007, at which time she refused to provide any information regarding Jeffrey Epstein. None of Attorney Edwards' clients had expressed a desire to be consulted prior to the resolution of the federal investigation.

8. As explained above, one of the terms of the agreement deferring prosecution to the State of Florida was securing a federal remedy for the victims. In October 2007, shortly after the agreement was signed, four victims were contacted and these provisions were discussed. One of those victims was C.W. who at the time was not represented, and she was given notice of the agreement. Notice was also provided of an expected change of plea in October 2007. When Epstein's attorneys learned that some of the victims had been

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notified, they complained that the victims were receiving an incentive to overstate their involvement with Mr. Epstein in order to increase their damages claims. While your Affiant knew that the victims' statements had been taken and corroborated with independent evidence well before they were informed of the potential for damages, the agents and I concluded that informing additional victims could compromise the witnesses' credibility at trial if Epstein reneged on the agreement.

9. After C.W. had been notified of the terms of the agreement, but before Epstein performed his obligations, C.W. contacted the FBI because Epstein's counsel was attempting to take her deposition and private investigators were harassing her. Your Affiant secured pro bono counsel to represent C.W. and several other identified victims. Pro bono counsel was able to assist C.W. in avoiding the improper deposition. That pro bono counsel did not express to your Affiant that C.W. was dissatisfied with the resolution of the matter.

10. In mid-June 2008, Attorney Edwards contacted your Affiant to inform me that he represented C.W. and S.R. and asked to meet to provide me with information regarding Epstein. I invited Attorney Edwards to send to me any information that he wanted me to consider. Nothing was provided. I also advised Attorney Edwards that he should consider contacting the State Attorney's Office, if he so wished. I understand that no contact with that office was made. Attorney Edwards had alluded to T.M., so I advised him that, to my knowledge, T.M. was still represented by Attorney James Eisenberg.

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11. 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 and the Palm Beach Police Department attempted to provide notification to victims in the short time that Epstein's counsel had given us. Although all known victims were not notified, your Affiant specifically called attorney Edwards to provide notice to his clients regarding the hearing. Your Affiant believes that it was during this conversation that Attorney Edwards notified me that he represented T.M., and I assumed that he would pass on the notice to her, as well. 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.

12. On today's date, your Affiant provided the attached victim notifications to C.W. and S.R. via their attorney, Bradley Edwards (Exs. 6 & 7). A notification was not provided to T.M. because the U.S. Attorney's modification limited Epstein's liability to victims whom the United States was prepared to name in an indictment. In light of T.M.'s prior statements to law enforcement, your Affiant could not in good faith include T.M. as a victim in an indictment and, accordingly, could not include her in the list provided to Epstein's counsel.

13. Furthermore, with respect to the Certification of Emergency, Attorney Edwards did not ever contact me prior to the filing of that Certification to demand the relief that he requests in his Emergency Petition. On the afternoon of July 7, 2008, after your Affiant had

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already received the Certification of Emergency and Emergency Petition, I received a letter from Attorney Edwards that had been sent, via Certified Mail, on July 3, 2008. While that letter urges the Attorney General and the United States Attorney to consider "vigorous enforcement" of federal laws with respect to Jeffrey Epstein, it contains no demand for the relief requested in the Emergency Petition.

14. 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 9th day of July, 2008.

A. Marie Villafaña, Esq.

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EXHIBIT

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

JANE DOE No. 1 and JANE DOE No. 2

[redacted].

UNITED STATES
_____/

AFFIDAVIT OF BRADLEY J. EDWARDS, ESQ. REGARDING NEED FOR PRODUCTION OF DOCUMENTS

1. I, Bradley J. Edwards, Esq., do hereby declare that I am a member in good standing of the Bar of the State of Florida. Along with co-counsel, I represent Jane Doe No. 1 and Jane Doe No. 2 (as referred to as "the victims") in the above-listed action to enforce their rights under the Crime Victims Rights Act (CVRA). I also represented them (and several other victims) in civil suits against Jeffrey Epstein for sexually abusing them. I am also familiar with the criminal justice system, having served as state prosecutor in the Broward County State Attorney's Office.
2. This affidavit covers factual issues regarding the Government's assertions of privilege to more than 13,000 pages of documents it has produced for in camera inspection in this case. This affidavit provides factual information demonstrating that the Government's assertions of privilege are not well founded. It further demonstrates that the victims have a compelling and substantial need for the information requested and have no other way of obtaining the information.

Background Regarding Unsuccessful Efforts to Reach Stipulated Facts with the Government

3. On July 7, 2008, I filed a petition to enforce the CVRA rights of Jane Doe No. 1 and Jane Doe No. 2 with regard to sex offenses committed against them by Jeffrey Epstein while they were minors. The course of the proceedings since then is well-known to the Court. For purposes of this affidavit regarding privileges, it is enough to briefly recount the efforts of the victims to reach a stipulated set of facts with the Government – efforts that the Government has blocked.
4. The Court first held a hearing on victims' petition on July 11, 2008. The Court discussed a need to "hav[e] a complete record, and this is going to be an issue that's … going to go to the Eleventh Circuit, [so it] may be better to have a complete record as to what your position is and the government's is as to what actions were taken." Tr. at 25-26. The Court concluded the hearing with the following instructions: "So I'll let both of you confer about whether there is a need for any additional evidence to be presented." Tr. at 32.

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5. The victims and the U.S. Attorney's Office then attempted to reach a stipulated set of facts underlying the case. The U.S. Attorney's Office offered a very abbreviated set of proposed facts, and the victims responded with a detailed set of proposed facts. Rather than respond to the victims' specific facts, however, the U.S. Attorney's Office suddenly reversed course. On July 29, 2008, it filed a Notice to Court Regarding Absence of Need for Evidentiary Hearing (DE 17). The U.S. Attorney's Office took the following position: "After consideration, the Government believes that an evidentiary hearing is not necessary" (DE 17 at 1). The Office asserted that the Court need only take judicial notice of the fact that no indictment had been filed against Epstein to resolve the case.

6. On August 1, 2008, the victims filed a response to the Government's "Notice," giving a proposed statement of facts surrounding the case. DE 19 at 5. The victims' response also requested that the Court direct the Government to confer with the victims regarding the undisputed facts of the case, and produce the non-prosecution agreement and other information about the case. *Id.* at 14. On August 14, 2008, the Court held a hearing on the case regarding the confidentiality of the non-prosecution agreement. The Court ultimately ordered production of the agreement to the victims.

7. After the U.S. Attorney's Office made the non-prosecution agreement available to the victims, the victims reviewed it and pursued further discussions with the U.S. Attorney's Office. Ultimately, however, the U.S. Attorney's Office declined to reach a stipulated set of facts with the victims and declined to provide further information about the case.

8. With negotiations at an impasse, the victims attempted to learn the facts of the case in other ways. In approximately May 2009, counsel for the victims propounded discovery requests in both state and federal civil cases against Epstein, seeking to obtain correspondence between Epstein and prosecutors regarding his plea agreement – information that the U.S. Attorney's Office was unwilling to provide to the victims and information that was highly relevant both to the victims' civil suit and their CVRA enforcement action. Epstein refused to produce that information, and (as the Court is aware) extended litigation to obtain the materials followed. The Court rejected all of Epstein's objections to producing the materials.

9. On June 30, 2010, counsel for Epstein sent to counsel for the victims approximately 358 pages of e-mail correspondence between criminal defense counsel and the U.S. Attorney's Office regarding the plea agreement that had been negotiated between them. *See* DE48-Attachment 1/Exhibit A. These e-mails began to disclose for the first time the extreme steps that had been taken by the U.S. Attorney's Office to avoid prosecuting Epstein and to avoid having the victims in the case learn about the non-prosecution agreement that had been reached between Epstein and the Government. While the Court ordered that all of the correspondence be turned over to the victims, Epstein chose to disobey that order and instead only produced the correspondence authored by the Government and redacted all correspondence authored by him or his attorneys.

10. In mid-July 2010, Jane Doe No. 1 and Jane Doe No. 2 settled their civil lawsuits against Epstein. Then, armed with the new information, they turned to moving forward in the CVRA case. On September 13, 2010, the victims informed the Court that they were preparing new filings in the case.

11. On October 12, 2010, the Court entered an order directing the victims to provide a status report on the case by October 27, 2010. That same day, counsel for the victims again contacted

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the U.S. Attorney's Office about the possibility of reaching a stipulated set of facts in the case. That same day, the U.S. Attorney's Office responded: "*We don't have any problem with agreeing that a factual assertion is correct if we agree that is what occurred*" (DE 41 at 2).

12. On October 23, 2010, the victims e-mailed to the U.S. Attorney's Office a detailed proposed statement of facts, with many of the facts now documented by the correspondence between the U.S. Attorney's Office and Epstein's counsel. The victims requested that the U.S. Attorney's Office identify which facts it would agree to. In a letter to the U.S. Attorney's Office, the victims stated:

> If you believe that any of the facts they propose are incorrect, Jane Doe No. 1 and Jane Doe No. 2 would reiterate their long-standing request that you work with us to arrive at a mutually-agreed statement of facts. As you know, in the summer of 2008 Jane Doe No. 1 and Jane Doe No. 2 were working with you on a stipulation of facts when you reversed course and took that position that no recitation of the facts was necessary (*see* doc. No. 19 at 2). . . . I hope that your e-mail means that you will at least look at our facts and propose any modifications that you deem appropriate. Having that evidence quickly available to the Court could well help move this case to a conclusion.

That same day, the U.S. Attorney's Office agreed to forward the proposed statement of facts to the appropriate Assistant U.S. Attorney for review (DE 41 at 2-3).

13. On October 26, 2010, rather than stipulate to undisputed facts, the U.S. Attorney's Office contacted the victims' attorneys and asked them to delay the filing of their motion for a two-week period of time so that negotiations could be held between the Office and the victims in an attempt to narrow the range of disputes in the case and to hopefully reach a settlement resolution without the need for further litigation. Negotiations between the victims and the U.S. Attorney's Office then followed over the next two days. However, at 6:11 p.m. on October 27, 2010 – the date on which the victims' pleading was due – the U.S. Attorney's Office informed the victims that it did not believe that it had time to review the victims' proposed statement of facts and advise which were accurate and which were inaccurate. The Office further advised the victims that it believed that the victims did not have a right to confer with their Office under the CVRA in this case because in its view the case is "civil" litigation rather than "criminal" litigation (doc. No. 41 at 3). [1]

14. As a result, purely as an accommodation to the U.S. Attorney's Office, on October 27, 2010, the victims filed a report with the Court in which they agreed to delay filing their motion and accompanying facts for up to two-weeks to see if negotiations can resolve (or narrow) the disputes with the U.S. Attorney's Office (DE 41 at 4). Discussions with the U.S. Attorney's Office dragged on, including a personal meeting between Jane Doe No. 1 and the U.S. Attorney in December 2010.

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[1] In seeming contradiction to this position, on March 17, 2011, the U.S. Attorney's Office informed the victims that it would not be making any initial disclosures to the victims as required for civil cases by Fed. R. Civ. P. 26(a)(1). The U.S. Attorney's Office did not explain why they believe that this rule of civil procedure is inapplicable if they think this case is properly viewed as a "civil" case.

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15. After further discussions failed to produce any agreement or other visible progress, the victims informed the U.S. Attorney's Office that they would file their "summary judgment" motion with the Court on March 18, 2011 and requested further cooperation from the Office on the facts.

16. Ultimately, after months of discussion, the U.S. Attorney's Office informed counsel for the victims that – contrary to promises made earlier to stipulate to undisputed facts – no such stipulation would be forthcoming. Instead, on March 15, 2011, the U.S. Attorney for the Southern District of Florida, Wifredo A. [redacted], sent a letter to the victims declining to reach any agreement on the facts:

> Because, as a matter of law, the CVRA is inapplicable to this matter in which no federal criminal charges were ever filed, your requests for the government's agreement on a set of proposed stipulated facts is unnecessary and premature. That is, because whether the rights in 18 U.S.C. § 3771(a) attach prior to the filing of a charge in a federal court is a matter of statutory interpretation, resolution of that question is not dependent upon the existence of any certain set of facts, other than whether a charging document was ever filed against Jeffrey Epstein in the United States District Court for the Southern District of Florida. And while this Office remains willing to cooperate, cooperation does not mean agreeing to facts that are not relevant to the resolution of the legal dispute at issue . . . .

Letter from Wifredo A. [redacted] to Paul G. Cassell (March 15, 2011).

17. Accordingly, unable to work with the Government to reach a resolution of the facts, on March 21, 2011, the victims filed a Motion for Summary Judgment, alleging 53 undisputed facts along with some evidentiary support for each of the facts. DE 48. The victims also filed a motion to have their facts accepted because of the Government's failure to contest their facts. DE 49. The victims also filed a motion to have the Court direct the Government to not withhold relevant evidence. DE 50.

18. Following a hearing on the motions, on September 26, 2011, the Court rejected the Government's argument that the CVRA was inapplicable in this case because the Government had never filed charges against Epstein. DE 99. The Court, however, rejected the victims' argument that it should accept their facts because of the Government's failure to contest the facts. DE 99 at 11. Instead, the Court directed that discovery could proceed in the form of requests for admission and document production requests. *Id.* at 11. The Court reserved ruling on the victims' motion that the Government should be directed not to withhold evidence.

19. In light of the Court's order, on October 3, 2011, the victims filed requests for production with the Government. The requests included 25 specific requests, each of which linked very directly to the facts that the victims were attempting to prove in this case.

20. On November 7, 2011, the day when the Government's responses were due, rather than produce even a single page of discovery, the Government filed a motion to dismiss the victims' petitions. DE 119. On that same day, the Government filed a motion to stay discovery. DE 121. The victims filed a response, arguing that the Government's motion was a stall tactic. DE 129. The victims also filed a motion to compel production of all of their discovery requests. DE 130. The Government filed a reply, arguing that it was not stalling. Indeed, the Government told the Court that "the United States has agreed to provide some information to [the victims] even

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during the pendency of the stay [of discovery] and is undertaking a search for that information." DE 140 at 4. Contrary to that representation, however, over the next seventeen months, the Government did not produce any information to the victims, despite the victims reminding the Government of that statement made to the court.

21. Ultimately, after some additional motions and rulings, on June 19, 2013, the Court denied the Government's motion to dismiss and lifted any stay of discovery. DE 189. That same day, the Court entered an order granting the victims' motion to compel and directing the Government to produce (1) all correspondence between it and Epstein; (2) all communications between the Government and outside entities; and (3) every other document requested by the victims. DE 190 at 2. With respect to the third item, the Court allowed the Government to assert privilege by producing the items in question for in camera inspection and filing a contemporaneous privilege log. *Id.* The Court required that the privilege log must "clearly identify[] each document[] by author(s), addressee(s), recipient(s), date, and general subject matter . . . ." DE 190 at 2.

22. On July 19 and July 27, 2013, the Government made its production. With regard to item (1) – correspondence with Epstein, the Government withheld the correspondence pending a ruling from the Eleventh Circuit on Epstein's motion to stay production of these materials. With regard to the other items, the Government produced 14,825 pages of documents to the Court for in camera inspection, but turned over only 1,357 pages to the victims. Thus, the Government asserted privilege to more than 90% of the documents in question. The documents that the Government produced were almost worthless to the victims, as they included such things that the victims' own letters to the Government (Bates 0001-04), court pleadings filed by the victims themselves or other victims, by Epstein, or by news media organizations (*e.g.,* Bates 00142-88, 00229-31, 281-311, 00668-69), public court rulings on Epstein related matters (*e.g.*, Bates 0008-10, 0012-14. 0036-86, 00190-228), public newspaper articles (e.g., Bates 0011, 0030, 0032-33), and similar materials already available to the victims. It also included roughly four hundred pages of notices sent to the various other victims in this case – notices that were substantively indistinguishable from the notices the victims themselves in this case had already received. Almost without exception, the documents the Government produced do not go to the disputed issues in this case.

23. The Government made one last production of materials in this case on August 6, 2013. This involved roughly 1,500 pages of documents that were largely meaningless in the context of the contested issues in the case. They included public documents in the case such the crime victims' own pleadings, *see, e.g.,* Bates 000671-000711 (copy of the victims' redacted summary judgment motion). Curiously, while the Government has produced these documents that would likely fall into an "irrelevant" category of documents, they have simultaneously refused production of hundreds of other documents that are responsive to our requests on the basis of relevance.

24. The victims have tried to obtain information on all relevant subjects through requests for admission. The Government, however, has refused to admit many of the victims' central allegations in this case. A copy of the victims' requests for admissions and the Government's responses is attached to this affidavit so that the Court can see that the victims have diligently tried to pursue this avenue for developing the facts in this case.

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25. The victims have also tried to obtain information on subjects related to their suit by voluntary requests for interview with persons who are no longer employed by the Justice Department. For example, I have sent letters to both Bruce Reinhart and [redacted] [redacted], who both have information about the Epstein case, requesting an opportunity to discuss the case with them. Both of them have ignored my letters.

The Need for the Materials Requested by the Victims

26. The documents that the victims requested that the Government produce to them on October 3, 2011, are all highly relevant to their CVRA enforcement action. We would not have requested them otherwise. The victims also have no other means of obtaining the requested material. This section of the affidavit explains why the materials are needed by the victims. For the convenience of the Court, the affidavit will proceed on a section-by-section basis concerning the need for the materials. Also for the convenience of the Court, a copy of the October 3, 2011, request for production is attached to this Affidavit. Also attached is the victims' supplemental discovery request of June 24, 2013. As the Court will note from reviewing the requests for production, most of the requests specifically recount the allegations that the requested documents would support, in an effort to eliminate any dispute from the Government that the documents were not relevant to the case. Many of the requests for production link directly to specific paragraphs in the victims' previously-filed summary judgment motion. Accordingly, the victims have a very specific need for these documents to support the allegations in the summary judgment motion found at DE 48 at 3-23.

27. The Court has previously concluded that the victims' proof of their claims is, at this point in the case, inadequate. Instead, the Court has ruled: "Whether the evidentiary proofs will entitle [the victims] to that relief [of setting aside the non-prosecution agreement] is a question properly reserved for determination upon a fully developed evidentiary record." DE 189 at 11-12. The Court has further indicated that it will be considering an "estoppel" argument raised by the Government as a defense in this case. DE 189 at 12 n.6. The Court has noted that this argument "implicates a fact-sensitive equitable defense which must be considered in the historical factual context of *the entire interface between Epstein, the relevant prosecutorial authorities and the federal offense victims* – including an assessment of the allegation of a deliberate conspiracy between Epstein and federal prosecutors to keep the victims in the dark on the pendency of negotiations between Epstein and federal authorities until well after the fact and presentation of the non-prosecution agreement to them as *a* fait accompli." DE 189 at 12 n.6 (emphasis added). The victims have a compelling need for information about the Government's actions to show what the "entire interface" was and to respond to the Government's estoppel arguments, as well as other defenses that it appears to be preparing to raise. *See, e.g.,* DE 62 (52-page response from the Government to the victim's summary judgment motion, raising numerous factually-based and other arguments against the victim's position).

28. Request for Production ("RFP") No. 1 requests information regarding the Epstein investigation. These documents are needed to support the victims' allegations that the Government had a viable criminal case for many federal sex offenses that it could have pursued against Epstein. *See, e.g.,* DE 48 at 3-7.

29. RFP No. 2 requests information regarding crime victim notifications in this case. These documents are needed to support the victims' allegations that their rights under the CVRA, their

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right to notice and to confer with the Government, were violated in this case. In particular, these documents are needed to demonstrate that the victims were not properly notified about the non-prosecution agreement (NPA) entered into by the Government and Jeffrey Epstein and that the Government did not confer with the victims about the agreement. *See, e.g.,* DE 48 at 11-17.

30. RFP No. 3 requests information about the NPA, including in particular its confidentiality provision. These documents are needed to demonstrate that the confidentiality provision precluded disclosing the agreement to Jane Doe No. 1 and Jane Doe No. 2, as well as to other victims. *See, e.g.,* DE 48 at 10-17. These documents are further needed to demonstrate that Jeffrey Epstein specifically orchestrated the secrecy of the agreement, thereby deliberately causing the Government's CVRA violation in this case. *See, e.g.,* DE 48 at 13.

31. RFP No. 4 requests documents relating to negotiations between the Government and Jeffrey Epstein concerning the court and/or location in which Jeffrey Epstein would enter any guilty plea (including in particular any negotiations concerning concluding the plea in Miami or another location outside of West Palm Beach). These documents are relevant to the victims allegations that the Government was interested in finding a place to conclude any plea agreement that would effectively keep Epstein's victims (most of whom resided in or about West Palm Beach) from learning what was happening through the press. *See, e.g.,* DE 48 at 7-8.

32. RFP No. 5 requests documents pertaining to negotiations between the Government and Jeffrey Epstein regarding any legal representation of the victims in civil cases against Epstein. These documents are needed to prove the victims' allegation that part of the plea negotiations with Epstein involved Epstein's efforts to make sure that the victims would be represented in civil cases against Epstein by someone who was not an experienced personal injury lawyer or by someone familiar to Epstein or his legal team. *See, e.g.,* DE 48 at 9.

33. RFP No. 6 requests documents concerning the Government's and/or Epstein awareness or discussion of possible public criticism and/or victim objections to the non-prosecution agreement that they negotiated. The documents are needed to prove the victims' allegations that the Government wanted the non-prosecution agreement with Epstein concealed from public view because of the intense public criticism that would have resulted had the agreement been disclosed and/or the possibility that victims would have objected in court and convinced the judge not to accept the agreement. *See, e.g.,* DE 48 at 7-8, 11. They are also relevant to bias and motive by the authors or subjects of other documents in this case.

34. RFP No. 7 requests documents regarding the Government's awareness of its potential CVRA obligations in this case and regarding any discussions between the Government and Epstein concerning these CVRA obligations in this case. These documents are needed to prove the victims' allegations that the Government was aware that it potentially had obligations under the CVRA to notify the victims about the non-prosecution agreement and any related state court plea agreement. *See, e.g.,* DE 48 at 12-13.

35. RFP No. 8 requests documents regarding Epstein's lobbying efforts to persuade the Government to give him a more favorable plea arrangement and/or non-prosecution agreement, including efforts on his behalf by former President Bill Clinton, Prince Andrew, and Harvard Law Professor Alan Dershowitz. These materials are needed to prove the victims allegation that, after Epstein signed the non-prosecution agreement, his performance was delayed while he used his significant social and political connections to lobby the Justice Department to obtain a

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more favorable plea deal. *See, e.g.,* DE 48 at 16-18. These materials also are needed to establish the course of the proceedings in this case, which is necessary in light of the Government's letters to the victims (discussed in the next paragraph) concerning the status of the case.

36. RFP No. 9 requests documents regarding the letters sent to the victims by the FBI on January 10, 2008, Jane Doe No. 1 and Jane Doe No. 2 advising them that "this case is currently under investigation." These documents are needed to show that these letters were inaccurate or, at the very least, highly misleading, because they conveyed the impression that no plea arrangement (for example, a non-prosecution agreement) had been negotiated between Epstein and the Government. *See, e.g.,* DE 48 at 16. These documents are also needed to respond to the Government's "estoppel" defense, as noted in the Court's order DE 189 at 12 n.6.

37. RFP No. 10 requests documents regarding the victims' allegations that the FBI was led to believe that their investigation of Epstein was going to produce a federal criminal prosecution and that the FBI was also misled by the U.S. Attorney's office about the status of the case. The Government has argued that these documents are not relevant to the case, because the only issue is whether the Government misled the victims. But the Government fails to recognize that the victims received information about the case through the FBI. These documents are therefore needed to demonstrate that the victims received inaccurate information about the status of the case – inaccurate information caused by the U.S. Attorney's Office's negotiations with Epstein. If the FBI agents were not accurately informed about the progress of the cases, then they could not have accurately informed the victims about the progress of the case – a central point in the victims' argument. Moreover, these documents would show a common scheme or plan – something made admissible in a trial by operation of Fed. R. Evid. 404(b). Of course, if the U.S. Attorney's Office was misleading the FBI about the NPA, it would have been part of the same scheme or plan to mislead the victims as well. The documents are also needed to support specific allegations in the victims' summary judgment motion. *See, e.g.,* DE 48 at 16-17.

38. RFP No. 11 requests documents regarding various meetings that the Government (including FBI agents) had with the victims. These documents are needed to prove that during those meetings the Government did not disclose to the victims (or to their attorneys) that a non-prosecution agreement had been negotiated with Epstein, and even signed with Epstein, that related to their cases, allegations that the victims have advanced in their summary judgment motion. *See, e.g.,* DE 48 at 16-18.

39. RFP No. 12 requests all documents connected with a request from the U.S. Attorney's Office to me (Bradley J. Edwards) to write a letter concerning the need for filing federal charges against Epstein and follow-up to that letter. These documents are needed to show that this request was made to me without disclosing the existence of the non-prosecution agreement. Thus, just as Jane Doe No. 1 and Jane Doe No. 2 were deceived about the NPA, I was deceived as well. *See, e.g.,* DE 48 at 18-19. It is also needed to contradict the Government's apparent position that it disclosed the "existence' of the NPA to me and to the victims. *See, e..g.,* Gov't Answers to RFA ¶ 13(d) ("The government admits that, when Epstein was pleading guilty to the state charges discussed in the non-prosecution agreement, the USAO and Epstein's defense attorneys sought to keep the document memorializing the non-prosecution agreement confidential, but denies that they sought at that time to keep the existence of the non-prosecution agreement confidential.").

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40. RFP No. 13 requests documents regarding how, on or about June 27, 2008, the Government learned that Epstein would be entering his plea to state charges on or about June 30, 2008. The documents are needed to describe the course of proceedings in this case and to prove both the Government's and Epstein's awareness that he would be entering a guilty plea (and thus blocking prosecution of other crimes) without the victims' full knowledge of what was happening. *See, e.g.,* DE 48 at 19-20.

41. RFP No. 14 requests documents relating to the Government and Epstein working together to keep the existence of the non-prosecution agreement secret, including declining comment about the existence of such an agreement when asked about it when his guilty plea in state court became public knowledge. These documents are needed to prove the victims' allegations that the Government concealed the NPA from them, *see, e.g.,* DE 48 at 14-18,and to contradict what appears to be the Government's position, namely that the victims were aware of the NPA shortly after it was negotiated, *see, e.g.,* Gov't Answers to RFA ¶ 13(b) (claiming that "the USAO had communicated with Jane Doe #1 about the non-prosecution agreement prior to Epstein's June 30, 2008 guilty plea."). These documents are also necessary to contradict the Government's apparent claim that the NPA did not bar discussions with crime victims. *See, e.g.,* Gov't Answers to RFA ¶ 13(d) (Government denying request that it admit that "Epstein's defense attorneys had negotiated for a confidentiality provision in the non-prosecution agreement that barred conferring with victims about the agreement").

42. RFP No. 15 requests documents pertaining to the feasibility of notifying the victims about the NPA, along with information concerning how the victims came to receive a "corrected" notification letter on about September 3, 2008 – months after Epstein had pled guilty. These documents are needed to demonstrate that the Government had no valid reason for failing to provide notice to the victims. It is also needed to demonstrate why the victims at first received inaccurate information about the NPA, as well as Jeffrey Epstein's involvement in that inaccurate notice. *See, e.g.,* DE 48 at 15-16.

43. RFP No. 16 requests documents regarding Bruce Reinhart, a senior prosecutor who was present in the U.S. Attorney's Office during the time that the Office negotiated the NPA with Epstein, blocking his prosecution for federal crimes in the Southern Districdt of Florida. In RFP No. 16, the victims have sought documents showing that Reinhart learned confidential, non-public information about Epstein matter. The Court will recall that Reinhart has filed a sworn affidavit with this Court, in which he flatly declared that while he was a prosecutor in the Office: "I never learned any confidential, non-public information about the Epstein matter." DE 79-1 at 3 (¶ 12). When Reinhart made that statement, it seemed improbable to me, because Reinhart was in close contact with other prosecutors in the Office and would seem likely that he would have discussed the high-profile Epstein case with them. Additionally, I learned through public record that while still a prosecutor at the Office Mr. Reinhart established his criminal defense office at the exact address (and exact Suite number) as Jeffrey Epstein's personal business address. However, I did not have any direct way of contradicting Reinhart's sworn statement. Since then, however, in answering the victims' Requests for Admissions, the Government has admitted that it possesses information that Reinhart learned confidential, non-public information about the Epstein case and that he discussed the Epstein case with other prosecutors. Gov't Answers to RFA's ¶ 15(a) & (b). Of course, this means that the Government has documents that Reinhart

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filed a false affidavit with this Court. This gives rise to the reasonable inference that, if Reinhart was willing to provide false information about this subject, he may have additional information about the case that is being concealed as well.

44. Materials about Reinhart are also needed to support the victims' summary judgment motion. *See, e.g.,* DE 48 at 22-23 (raising allegations about Reinhart).

45. Reinhart's affidavit with the Court also states: "Because I did not have any, I did not share non-public confidential information about the Epstein investigation with any of Epstein's attorneys." DE 79-1 at 4 (¶ 17). Because the Government has information demonstrating that the first part of this statement is false, it may well be that the second part of the statement is false as well. Given that Mr. Reinhart established a business address identical to Epstein's business address, at a time while he was still working at the US Attorney's Office, and that Mr. Reinhart ultimately represented several of Epstein's co-conspirators, jet pilots, and staff, during the civil litigation, any involvement Mr. Reinhart had with the Epstein case while working at the Office is highly relevant.

46. The Government has further admitted that it possesses documents reflecting contacts between Bruce Reinhart and persons/entities affiliated with Jeffrey Epstein before Reinhart left his job at the U.S. Attorney's Office. Gov't Answers to RFA's ¶ 16. As stated above, Reinhart left the U.S. Attorney's Office to start a private firm that was located in the same address as Epstein's personal business where he was daily. This would appear to be a violation of the Florida rules of ethics for attorneys.

47. Information about Reinhart's connections to Epstein is critical to the victims' allegations in this case. If Reinhart was helping Epstein gain insight into the prosecutions efforts, that would provide a motive for Reinhart (and other prosecutors) not to properly notify the victims and not to confer with them. Also, if Epstein was improperly receiving information about the prosecution efforts against him (or lack thereof), that could be highly relevant to the remedies stage of this case, in which the victims will ask (among other things) to have the NPA agreement invalidated. Epstein has already indicated that he will raise a double jeopardy argument against that effort. However, double jeopardy considerations do not apply in situations where the defendant was not truly in jeopardy of prosecution. In addition, the Court may wish to consider, in crafting a remedy, Epstein's culpability for the violations of the NPA. Evidence that Epstein was improperly obtaining information about the prosecution efforts against him would be highly relevant to that culpability assessment. It is also relevant to the estoppel defense that the Government (and perhaps Epstein as well) intend to raise.

48. Evidence concerning Reinhart's connections, including improper connections, to Epstein is also relevant to bias and motive in this case. It would show, for example, the Reinhart had a reason to encourage others in the U.S. Attorney's Office to give Epstein a more lenient deal than the one he was entitled to.

49. RFP No. 16 requested information not only about improper connections between Epstein and Reinhart, but more broadly about such connections with any other prosecutors. Of course, if the Government possesses such information, it would be highly relevant to the victims' allegations for the reasons just discussed. In its answers to the victims' Requests for Admission, the Government admits that it has information about a personal or business relationship between Jeffrey Epstein and another prosecutor involved in the Epstein case, Matthew [redacted]. Answers

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to Requests for Admission at ¶ 20. The Government should be required to disclose all of those documents so that the victims can determine whether there was anything improper about those relationships. In my experience, it is highly unusual for federal prosecutors to work on a case prosecuting someone (such as Jeffrey Epstein) and then, shortly thereafter, leave the employment of the federal government and enter into a business relationship with the person who was being prosecuted.

50. RFP No. 17 asks for documents concerning an investigation into the Epstein prosecution undertaken by the Justice Department's Office of Professional Responsibility (OPR) in Washington, D.C. The investigation was undertaken at the request of the victims, who asked the Justice Department to determine whether "improper influences" were brought to bear during the negotiations involving the possible prosecution (and ultimately the non-prosecution) of Jeffrey Epstein. It is apparent from the privilege logs that the Government has produced that OPR generated a great deal of correspondence (at least 46 pages) regarding this request. *See* Bates P-013909 to P-013955. Of course, improper influences being brought to bear on the Epstein prosecution would support the victims' allegations that they were not being properly notified. Moreover, OPR may well have investigated the specific allegations that are at issue in this case – or directed others to undertake such an investigation. Here again, this information would be critical to supporting the victims' case. In fact, because OPR has presumably investigated many of the precise actions and actors, about which the victims complain in this litigation, and have already gathered many of the documents needed, the production of the OPR case file could probably short-cut this litigation and discovery process.

51. There is no other way to obtain this information from OPR. On May 6, 2011, nearly half a year after the victims' request of December 10, 2010, for an investigation, OPR sent a letter to my co-counsel, Professor Paul Cassell, in which it stated that it "regret[ted] it could not be of assistance" in providing information about the allegations.

52. RFP No. 18 asks for information about why the U.S. Attorney's Office for the Southern District of Florida was "conflicted out" of handling various issues related to the Epstein case. This information is needed to show why the victims did not receive proper notifications about the NPA that the Office negotiated with Epstein. It appears that the conflict of interest that has been recognized may have to do with the Office's treatment of the victims. Moreover, in its production of documents, and in follow-up correspondence, the U.S. Attorney's Office for the Southern District of Florida has indicated that there are no responsive documents being held by the U.S. Attorney's Office in the other district that is handling conflict matters. (It appears that this other office is the Middle District of Florida.) This appears to be improbable, because the conflict matters would presumably generate many documents covered by the victims' discovery requests, including the OPR investigative file. Accordingly, the conflict matter is highly relevant to determining whether the U.S. Attorney's Office has provided complete production to the victims. A conflict of interest would also be highly relevant to the motivations of the Government attorneys throughout the handling of the Epstein case.

53. RFP No. 19 asks for information supporting allegations made in March 2011, by former U.S. Attorney Alexander [redacted]. He sent a three-page letter to the news media in which he claimed that when Government attorneys began investigating Epstein, Epstein launched "a yearlong assault on the prosecution and the prosecutors." This information is needed to explain

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why the U.S. Attorney's Office would have withheld notifications from the victims about the NPA. If the prosecutors were being assaulted, as [redacted] has said they were, then they would have reason to disregard their obligations to crime victims. In addition, this would show improper behavior by Epstein, which would be relevant at the remedies stage of this case in determining the scope of any remedy. These allegations would also bear strongly on motive and bias.

54. RFP No. 20 requests documents between the Government and state and local prosecutors and police agencies (including The Palm Beach Police Department) regarding the non-prosecution agreement. Because this involves information outside of the Department, it is the victims understanding that the Government has already turned over all of this information to them, as the Court has directed. *See* DE 190 at 2 (requiring production of information with persons or entities outside the federal government). For the sake of completeness, however, it is worth noting that this information is needed to demonstrate that the victims were not properly informed that Epstein's plea to state charges would trigger the NPA and preclude prosecution for crimes committed against them.

55. RFP No. 21 requests correspondence regarding the NPA. Here again, the victims understand that the Government is prepared to produce all of this information to them (once the stay pending action by the Eleventh Circuit is lifted). Again, for the sake of completeness, it is worth noting that this correspondence is needed to demonstrate the victims' claims that the Government was concealing the existence of the NPA from them and that this was done at Epstein's behest. The Court has specifically noted that the victims have a need for information that will allow them to argue to the Court in support of their "allegation of a deliberate conspiracy between Epstein and federal prosecutors to keep the victims in the dark on the pendency of negotiations between Epstein and federal authorities until well after the fact and presentation of the non-prosecution agreement to them as a *fait accompli*." DE 189 at 12 n.6.

56. RFP No. 22 requests information about any considerations that Epstein provided, or offered to provide, to any individual within the Government. Here again, the victims understand that this information is being provided to them. It is again worth noting, however, that this information is highly relevant to explaining why the U.S. Attorney's Office would not have properly notified the victims about what was happening in their case, an allegation that is at the center of the victims' summary judgment motion. *See, e.g.,* DE 48 at 11 (noting allegation that Epstein pushed the U.S. Attorney's Office to keep the NPA secret from public view to avoid public criticism).

57. RFP No. 23 asks for documents that will assist Jane Doe No. 1 and Jane Doe No. 2 in protecting their rights under the CVRA. This request links to the Government's obligations under the CVRA to use its "best efforts" to protect victims' rights. 18 U.S.C. § 3771(c)(1). The direct connection between this request and the victims' case is self-explanatory.

58. RFP No. 24 request correspondence related to the Epstein prosecution that the Government had with entities outside the federal government. Here again, it is my understanding that these materials have already been ordered produced. *See* DE 190 at 2 (requiring production of information with persons or entities outside the federal government). For the sake of completeness, this information is again relevant to showing the course of the Epstein

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investigation and why the victims were not properly notified about event during that investigation.

59. RFP No. 25 requests all initial productions that are required under the Federal Rules of Civil Procedure. This is a protective request to ensure that, should it be determined that the Civil Rules apply, they then receive all materials to which they are entitled.

60. In June 2013, the victims sent a supplemental request for production, asking the Government to provide any information concerning any investigation that the Department undertook concerning the treatment of the victims during the investigation in this case, including any FBI, grand jury, OPR or other investigation in the Southern District of Florida, Middle District of Florida, or elsewhere. Here again, this information is critically needed, as it would go directly to proving the victims' allegations that their rights were violated during the investigation of Epstein. This information would also go directly to defeating the Government's "estoppel" argument. This information would also show motive and bias.

Inadequate Privilege Log

61. The Government has produced a privilege log that violates the Court's order in this case. I have been greatly hampered in responding to the Government's assertions of privilege because of that inadequate log. Indeed, in many cases, it is impossible to determine whether the Government's assertions of privilege are even plausible because of the inadequacy of the log.

62. The Court has directed the Government to produce a privilege log that "clearly identif[ies] each document[] [as to which privilege is asserted] by author(s), addressee(s), recipient(s), date, and general subject matter . . . ." DE 190 at 2. Many of the entries in the privilege log fail to meet this requirement.

63. A good illustration of the inadequacies of the privilege log comes from the very first entry in the log, covering Box No. 1 (P-000001 through P-000039), some 39 pages of documents. DE [redacted]-1. Yet the only description of these 39 pages is: "File folder entitled 'CORR RE GJ SUBPOENAS' containing correspondence related to various grand jury subpoenas and attorney (Villafaña) handwritten notes."

64. Another good illustration of the inadequacies of the privilege log is provided on page 20 of the first privilege log, with regard to Box No. 3 (P-012362 through P-012451). The Government asserts privilege here regarding 90 pages of documents. Yet the only description of these 90 pages is: "File folder entitled 'Key Documents' containing correspondence between AUSA and case agent regarding indictment prep questions, victim identification information, corrections to draft indictment, indictment preparation timeline, key grand jury materials."

65. There are many other illustrations of the inadequacies of the privilege log which the Court will see when it examines it. I have also filed contemporaneously a response to the government's privilege log, which identifies many situations of an inadequate privilege log, as well as other responses that are needed to respond to the Government's privilege log.

66. The Government has never contacted me or co-counsel about any burdens associated with producing a privilege log that complied with the Court's directives. At all times relevant to this case, I would have been willing to work with Government counsel to minimize any excessive burden from producing an adequate privilege log. The requests for production that I sent to the Government specifically invited discussion to avoid any excessive burden.

Failure to Prove Factual Underpinnings of Privilege Claim

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67. Many of the Government's privilege assertions require factual premises – such as the existence of an attorney-client relationship and the rendition of legal services within that relationship. Yet the Government has not provided the factual underpinnings for any of its privilege assertions.

68. An illustration of this problem is found on page 1 of the supplemental privilege log (DE 216-1), with regard to supplemental box No. 3 (P-013284). The entry here reads: "7/10/08 emails between J. [redacted] and A. [redacted] Villafaña, K. Atkinson, and FBI re proposed response to Goldberger's letter re victim notification." The log then indicates that the Government is asserting attorney-client privilege, work product privilege, and deliberative process privilege. The Government, however, does not provide any document for any of the factual underpinnings of any of these claims. For example, with regard to the attorney-client claim, the Government does not explain who the attorney is and who the client is. With regard to the work product claim, the Government does not explain what litigation this document contemplated. And with regard to deliberative process, the Government does not explain what deliberative process was involved.

69. There are many other illustrations of the Government's failure to prove the factual underpinnings of privilege assertions, which the Court will see when it examines the privilege log and the victims responsive log.

Waiver of Confidentiality

70. Some of the privileges that the Government has asserted have been waived. Of course, a requirement of a privilege is that confidentiality be maintained. Some of the materials have been circulated outside of any confidential circle, thereby waiving privilege.

71. An illustration of waiver found on page 1 of the supplemental privilege log (DE 216-1), with regard to supplemental box No. 3 (P-013282 to 83). The entry here reads: "7/08/08 email from [redacted] to A. [redacted], J. [redacted], Ki. Atkinson, and FBI re proposed response to Goldberger's letter re victim notification." The log then indicates that the Government is asserting attorney-client privilege regarding these emails. But the emails were not internal to the U.S. Attorney's Office, but were also sent to the "FBI." (This is another illustration of the inadequacies of the privilege log, because who in the FBI the materials were sent to is not disclosed.) But the FBI is a law enforcement investigative agency, not an agency that provides legal advice. Accordingly, any attorney-client privilege would be waived by dissemination of this e-mail outside the U.S. Attorney's Office.

72. Another illustration of waiver is found on page 3 of the supplemental privilege log (DE 216-1), with regard to supplemental box No. 3 (P-013504 to P-013507). The entry here reads: "File folder labeled 'Mtg w/ Ken Starr, RAA, JS, Drew' containing handwritten notes by A. [redacted] Villafaña." Kenn Starr, of course, is a *defense* attorney who represented defendant Epstein. Recording information provided by a defense attorney is not part of any governmental attorney-client privilege.

73. Another illustration of waiver is found on page 7 of the supplemental privilege log (DE 216-1), with regard to supplemental box No. 3 (P-013644 through P-013653). The entry here reads: "File folder entitled "Notes Re Plea Negotiations" containing 9/17/07 e-mail from A. [redacted] Villafaña to J. [redacted], N. [redacted] re status update; undated and typed handwritten notes by A. [redacted] Villafaña re items to be completed on case, strength of case, victim interviews,

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summary of evidence, guidelines calculations." The Government is asserting attorney-client privilege regarding this e-mail. I understand the reference to "[redacted]" and "[redacted]" to be references to FBI agents – not attorneys in the U.S. Attorney's Office. Accordingly, the attorney-client privilege would not extend to this e-mail.

The Government's Fiduciary Duty to Crime Victims Bars Any Privilege

74. I am familiar with the caselaw recited in our pleadings regarding a "fiduciary exception" (also known as the "*Garner* exception" in some settings) to privileges. In this case, the Government had a fiduciary obligation to protect the CVRA rights of Jane Doe No. 1 and Jane Doe No. 2. Specifically, because they were recognized "victims" under the CVRA, the Government had obligations to provide them rights under the CVRA, including the right to confer, the right to notice, and the right to be treated with fairness. Because of this fiduciary duty, an exception applies to many of the Government privilege claims regarding interactions with the victims.

75. The fiduciary duty of the Government to the victims in this case is clear. In 2007, the FBI determined that both Jane Doe No. 1 and Jane Doe No. 2 were victims of sexual assaults by Epstein while they were minors beginning when they were approximately fourteen years of age and approximately thirteen years of age respectively. These sexual assaults involved use of means of interstate commerce (i.e., a telephone) and travel in interstate commerce. Both Jane Does were initially identified through the Palm Beach Police Department's investigation of Epstein.

76. Confirming the fact that the Government had identified Jane Doe No. 1 as a victim in this case, on about June 7, 2007, FBI agents hand-delivered to Jane Doe No. 1 a standard CVRA victim notification letter. The notification promises that the Justice Department would make its "best efforts" to protect Jane Doe No. 1's rights, including "[t]he reasonable right to confer with the attorney for the United States in the case" and "to be reasonably heard at any public proceeding in the district court involving . . . plea . . . ." The notification further explained that "[a]t this time, your case is under investigation."

77. Similarly, on about August 11, 2007, FBI agents hand-delivered to Jane Doe No. 2 a standard CVRA victim notification letter. The notification promises that the Justice Department would make its "best efforts" to protect Jane Doe No. 1's rights, including "[t]he reasonable right to confer with the attorney for the United States in the case" and "to be reasonably heard at any public proceeding in the district court involving . . . plea . . . ." The notification further explained that "[a]t this time, your case is under investigation."

78. Early in the investigation, the FBI agents and the Assistant U.S. Attorney had several meetings with Jane Doe No. 1. Jane Doe No. 2 was represented by counsel that was paid for by Epstein and, accordingly, all contact was made through that attorney. These meetings occurred because the FBI had obligations to protect the victims' rights under the CVRA.

79. In October 2007, shortly after the initial non-prosecution agreement was signed between Epstein and the U.S. Attorney's Office for the Southern District of Florida, Jane Doe No. 1 was contacted to be advised regarding the investigation. On October 26, 2007, Special Agents E. [redacted] [redacted] and Jason [redacted] met in person with Jane Doe No. 1 because she was recognized as a "victim' of Epstein's crime.

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80. In all of these dealings between the Government and the victims, as well as other dealings of a similar nature, the Government had a fiduciary obligation to protect the interests of the victims under the Crime Victims Rights Act. Accordingly, the Government is precluded from raising any privilege claim to which a fiduciary exception applies or, at the very least, any privilege assertion would be outweighed by the victims' compelling need for the material.

81. An illustration of a situation where the fiduciary duty exception applies is found on page 1 of the supplemental privilege log (DE 216-1), with regard to supplemental box No. 3 (P-013282 to 83). The entry here reads: "7/08/08 email from [redacted] to A. [redacted], J. [redacted], K. Atkinson, and FBI re proposed response to Goldberger's letter re victim notification." In responding to defense attorney Goldberger's letter about victim notification, the U.S. Attorney's Office had a statutory duty under the CVRA to protect the victims' interests. Accordingly, the Office cannot assert privilege when questions about whether it fulfilled its obligations to the victims have arisen in this case or, at the very least, any privilege assertion would be outweighed by the victims' compelling need for the materials.

82. Another illustration of a situation where the fiduciary duty exception applies is found on page 16 of the first privilege log (DE [redacted]-1), with regard to Box #2 P-010526 to P-010641. The entry reads: "File folder entitled 'Rsrch re Crime Victims Rights' containing attorney research, handwritten notes, draft victim notification letter, and draft correspondence to Jay Lefkowitz." Here again, the materials at issue go to the heart of this case – what kind of notifications were made to the victims and how did the defense attorneys shape and limit those notifications. Moreover, in evaluating victims' rights issues and determining what kind of letter to send, the Government was fulfilling legal duties that it owed to the victims. Accordingly, the Office cannot now assert privilege when questions about whether it fulfilled its obligations to the victims have arisen in this case.

Communications Facilitating Crime-Fraud-Misconduct Not Covered

83. I am familiar with the cases cited in our brief regarding an exception to various privileges when the communications concern crime, fraud, or government misconduct. Many of the important documents about the treatment of the victims to which the Government is asserting privilege would fall within that exception.

84. With regard to fraud and government misconduct, a number of the documents in the Government's privilege log concern concealment from the victims of the existence of a non-prosecution agreement between the Government and Epstein. I have reviewed a copy of the non-prosecution agreement signed on about September 24, 2007, by Epstein and his attorneys and a representative of the U.S. Attorney's Office. The text of that agreement bars disclosure of the agreement to the victims.

85. On about January 10, 2008, my clients Jane Doe No. 1 and Jane Doe No. 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." The statement in the notification letter was deceptive, because it did not reveal that the case had previously been resolved by the non-prosecution agreement entered into by Epstein and the U.S. Attorney's Office discussed previously. Moreover, the FBI did not notify Jane Doe No. 1 or Jane Doe No. 2 that a plea agreement had been reached previously, and that part of the agreement was a non-prosecution agreement with the U.S. Attorney's Office for the

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Southern District of Florida and that the Non-Prosecution Agreement would resolve the federal case completely. (Whether the FBI itself had been properly informed of the non-prosecution agreement is also unclear. We are not alleging misconduct by the FBI, but rather that the FBI was not properly informed about the case or, in any event, was acting at the direction of the U.S. Attorney's Office.)

86. In about April 2008, Jane Doe No. 1 contacted the FBI because Epstein's counsel was attempting to take her deposition and private investigators were harassing her. Assistant U.S. Attorney [redacted] secured pro bono counsel to represent Jane Doe No. 1 and several other identified victims in connection with the criminal investigation. Pro bono counsel was able to assist Jane Doe No. 1 in avoiding the improper deposition. AUSA Villafaña secured pro bono counsel by contacting Meg Garvin, Esq. of the the National Crime Victims' Law Center in Portland, Oregon, which is based in the Lewis & Clark College of Law. During the call, Ms. Garvin was not advised that a non-prosecution agreement had been reached in this matter.

87. On May 30, 2008, another one of my clients who was recognized as an Epstein victim by the U.S. Attorney's Office, received letters from the FBI advising her 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." The statement in the notification letter was deceptive because it did not reveal that the case had been resolved by the non-prosecution agreement entered into by Epstein and the U.S. Attorney's Office in September 2007.

88. In mid-June 2008, I contacted AUSA Villafaña to inform her that I represented Jane Doe No. 1 and, later, Jane Doe No. 2. I 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 I discussed the possibility of federal charges being filed. At the end of the call, AUSA Villafaña asked me to send any information that I wanted considered by the U.S. Attorney's Office in determining whether to file federal charges. I was not informed that previously, in September 2007, the U.S. Attorney's Office had reached an agreement not to file federal charges. I was also not informed that any resolution of the criminal matter was imminent at that time. Presumably the reason the U.S. Attorney's Office withheld this information from me was because of the confidentiality provision that existed in the non-prosecution agreement. At this point it is clear that AUSA [redacted] was restricted in what she was being permitted to tell me.

89. On July 3, 2008, I sent to AUSA Villafaña a letter. In the letter, I indicated my client's desire that federal charges be filed against defendant Epstein. In particular, I wrote on behalf of my 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 I wrote this letter, I was still unaware that a non-prosecution agreement had been reached with Epstein – a fact that continued to be concealed from me (and the victims) by the U.S. Attorney's Office. I only learned of this fact later on.

90. As alleged in the preceding paragraphs, and elsewhere in this affidavit and in this case, deliberate concealment from crime victims and their legal counsel of the existence of a signed

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non-prosecution agreement would be a fraud and government misconduct. Documents relating to that fraud and misconduct would then fall outside of many of the privileges being asserted.

91. An illustration of a document to which the crime-fraud-misconduct exception applies on this basis is found on page 3 of the supplemental privilege log (DE 216-1), with regard to Suppl. Box #3 P-013342 to P-013350. The entry reads: "File folder entitled '12/05/07 Starr to [redacted]' containing drafts of 11/30/07 letters from A. [redacted] to K. Starr and from J. [redacted] to J. Lefkowitz re performance and victim notification with handwritten notes and edits by A. [redacted] Villafaña." Again, these materials are central to the dispute in this case, as they involve discussions between the U.S. Attorney's Office and defense attorneys about notifications to crime victims. And given the dates of the communications, in all likelihood they would be related to the deceptive notifications that the Government made to the victims a few weeks later.

92. Another illustration of a document to which the crime-fraud-misconduct exception applies is found on page 1 of the supplemental privilege log (DE 216-1), with regard to Suppl. Box #3 P-013282 to P-013283. The entry reads: "7/9/08 Email from A. [redacted] to A. [redacted], J. [redacted], K. Atkinson, and FBI re proposed response to Goldberger letter re victim notification." These communications would presumably reflect efforts by the government prosecutors and Epstein's defense attorneys (e.g., Goldberger) to keep the non-prosecution agreement secret.

93. Another illustration of where the crime-fraud-misconduct exception would apply is to information that the Government possesses that Bruce Reinhart learned private, non-public information about the Epstein case. This would show (at the very least) misconduct by Bruce Reinhart in later representing Epstein-related entities. Because the Government's (inadequate) privilege log does not reveal which entries relate to Reinhart, it is not possible to point the Court to the specific documents that demonstrate this misconduct. These documents, however, are covered by the crime-fraud-misconduct exception.

94. Another illustration of where the crime-fraud-misconduct exception could potentially apply is with regard to information that the Government possesses that Matthew [redacted] has a personal or business relationship with defendant Jeffrey Epstein. Gov't Answers to RFA's ¶ 20. This could potentially show misconduct by [redacted], and also potentially a motive to violate the victims' rights as explained previously. The Government's privilege log has numerous entries showing that Menchal was substantially and personally involved in making decisions related to the Epstein prosecution. *See, e.g.,* page 19 of the first privilege log (DE [redacted]-1), with regard to Box #3 P-011923 to P-011966. The victims have information suggesting that immediately after leaving his employment with the U.S. Attorney's Office, [redacted] was associated with Epstein-controlled entities or had some business relationship with him. The documents that the Government possesses showing a personal or business relationship between one of its prosecutors and the man he was charged with prosecuting should be produced.

95. The Government has admitted that its internal affairs component – the Office of Professional Responsibility – has collected information about possible improper behavior during the investigation of the Epstein matter. Gov't Answers to RFA ¶22 (government admits that "The Justice Department's Office of Professional Responsibility and/or other Government entities have collected information about . . . other government attorney's [apart from Bruce Reinhart's] possible improper behavior in the Epstein matter"). The fact that the Government's own investigating agencies have collected such information demonstrates that there is a prima facie

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case of improper behavior, which is enough to trigger the crime-fraud-misconduct exception to various privileges.

Factual Materials Not Privileged

96. As noted in the accompanying legal memorandum, factual materials are generally not covered by the privileges at issue in this case. Many of the materials to which the Government is asserting privilege are factual materials.

Assertions of Attorney-Client Privilege

97. The Government has asserted attorney client privilege regarding many documents. Yet with regard to most of these assertions, it is impossible to determine who is the attorney, who is the client, whether professional legal services are being rendered, and whether the communications were confidential to those involved in the delivery of legal services. Accordingly, it is very difficult for me to respond to many of the assertions of attorney client privilege and, in any event, the Government has failed to carry *its* burden of showing that the privilege applies.

98. An illustration of documents at to which attorney-client privilege appears to have been improperly asserted or inadequately described is found at page 7 of the first privilege log (DE 216-1), with regard to Suppl. Box #3 P-013811 to P-013833. The entry for these twenty-two pages of documents reads: "File folder entitled 'Information Packet Drafts' containing several drafts of Informations, and complete draft Information packet." It is impossible from this description to see how the attorney-client privilege applies to these documents. I could provide many other illustrations of the problem.

99. The Government's attorney-client privilege claim directly covers situations where it was in a fiduciary relationship with the victims and therefore is limited in now asserting privilege. For example, page 3 of the supplemental privilege log (DE 216-1) contains an entry concerning Suppl. Box #3 P-013342 through P-013350, which involves "File folder entitled '12/05/07 Starr to [redacted]' containing drafts of 11/30/07 letters from A. Acost to K. Starr and from J. [redacted] to J. Lefkowitz re performance and victim notification with handwritten notes and edits by A. [redacted] Villafaña." This information goes very directly to the issues involved in this case, as it goes directly to "victim notification." Yet the Government has asserted an attorney-client privilege to prevent the victims from learning what is in these documents. The fiduciary exception to the attorney-client privilege applies in this situation, and limits the government's ability to invoke a privilege. This also appears to be shared communications between the Government and Epstein's attorneys, and it is unclear how the attorney-client privilege could ethically apply to such documents.

100. As one example of why the victims have established a compelling need for the materials described in the preceding paragraph (and other materials like them) is the fact that the Court has indicated that it will be considering an "estoppel" argument raised by the Government as a defense in this case. DE 189 at 12 n.6. The Court has noted that this argument "implicates a fact-sensitive equitable defense which must be considered in the historical factual context of *the entire interface between Epstein, the relevant prosecutorial authorities and the federal offense victims* – including an assessment of the allegation of a deliberate conspiracy between Epstein and federal prosecutors to keep the victims in the dark on the pendency of negotiations between Epstein and federal authorities until well after the fact and presentation of the non-prosecution agreement to them as *a* fait accompli." DE 189 at 12 n.6 (emphasis added). The materials to

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which the Government is asserting attorney-client privilege go directly to that "interface" between *the victims,* the Government, and Epstein. The victims have a compelling need for this information and the fiduciary exception to the attorney-client privilege applies to permit the Court to provide these documents to the victims.

101. The Government has not explained any harm that would come from releasing the documents covered by attorney client privilege to the victims. If the Government raises any such harm, I respectfully request an opportunity to provide additional information on that alleged harm.

Deliberative Process Privilege

102. Some of the correspondence that is being withheld by the Government under the deliberative process privilege concerns an investigation that the Justice Department's Office of Professional Responsibility (OPR) opened with regard to the Epstein case. This investigation was undertaken at the request of the victims in this case. On December 10, 2010, co-counsel, Professor Paul Cassell of the University of Utah College of Law, and I met with the U.S. Attorney for the Southern District of Florida regarding this case in the U.S. Attorney's Office in Miami, Florida. At on that date, Professor Cassell presented a letter to the U.S. Attorney, Mr. [redacted], asking him to personally investigate what happened during the Epstein prosecution and how the victims were treated during that investigation. Based on the privilege log that has been provided, as well as subsequent correspondence sent to Professor Cassell, that request for investigation was turned over to OPR in Washington, D.C.

103. The ultimate outcome of the OPR investigation is unclear. What is clear is that many documents are being withheld about that investigation – documents that would go to the central issues in this case. Approximately three whole pages of the privilege log – pages 12 through 14 of the supplemental privilege log (DE 216-1) – relate to the OPR investigation of how the Epstein case was handled and how the victims were treated.

104. A deliberative *process* privilege claim can only be asserted with regard to the process of reaching a decision, not the ultimate decision itself. The Government here has apparently asserted a deliberative process claim over not only the OPR process, but also over the OPR decision. It is not clear which document embodies the final OPR decision (or, given the inadequacies of the Government's privilege log, whether that final decision has been produced). Given the limited descriptions of the documents that have been provided, it appears that the OPR decision may be reflected in a document found on page 13 of the supplemental privilege log (DE 216-1), with regard to Suppl. Box #3 P-013940 to P-013942. The description there reads: "Draft Letter, marked 'Confidential: To Be Opened by Addressee Only,' Robin C. Ashton to Wifredo A. [redacted], with handwritten corrections." No date is provided regarding this letter. Nor is there any indication as to whether the letter was or was not circulated to other persons. It is also noteworthy that this letter is described as a "draft" letter. Nowhere in the privilege log is the final version of the letter indicated, raising questions about what was "draft" and what was "final." If this is the final embodiment of OPR's conclusions, then this letter would not be protected by a "deliberative process" privilege, because the deliberations would have come to an end. (It is also worth noting that because OPR is an agency that investigates misconduct by federal prosecutors, it would not be providing attorney-client advice to prosecutors and its

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documents would not be attorney-client privileged with regard to, for example, the U.S. Attorney's Office for the Southern District of Florida.)

105. The fact that OPR has investigated many of the exact claims raised by Jane Does 1 and 2, and were able to gather documents unobstructed by the Government in order to reach its conclusion likely means that production of the OPR file to the victims in this case could significantly shortcut this discovery process and the litigation. Additionally, if OPR "needed" the documents to investigate and make findings regarding the victims' claims, then logically the victims share that "need" and have no other means through which to obtain the documents. The Government has not explained any harm that would come from releasing the documents covered by deliberative process privilege to the victims. If the Government raises any such harm, I respectfully request an opportunity to provide additional information on that alleged harm.

Investigative Privilege

106. The investigative privilege is a qualified privilege, which balances the need of particular litigate for access to information against any public interest in non-disclosure. That balancing process is ordinarily made with reference to factors discussed in *Frankenhauser* [redacted]. *Rizzo*, 59 F.R.D. 339, 344 (E.D.Pa.1973), specifically:

> (1) the extent to which disclosure will thwart governmental processes by discouraging citizens from giving the government information; (2) the impact upon persons who have given information of having their identities disclosed; (3) the degree to which governmental self-evaluation and consequent program improvement will be chilled by disclosure; (4) whether the information sought is factual data or evaluative summary; (5) whether the party seeking the discovery is an actual or potential defendant in any criminal proceeding either pending or reasonably likely to follow from the incident in question; (6) whether the police investigation has been completed; (7) whether any intradepartmental disciplinary proceedings have arisen or may arise from the investigation; (8) whether the plaintiff's suit is non-frivolous and brought in good faith; (9) whether the information sought is available through other discovery or from other sources; and (10) the importance of the information sought to the plaintiff's case.

On the facts of this case, these factors weigh in favor of disclosing the information the victims have requested.

107. With regard to factor (1) (the extent to which disclosure will thwart governmental processes by discouraging citizens from giving the government information), I represented four victims of Epstein's sex offenses in Federal Court – Jane Doe No. 1, Jane Doe No. 2, and a victim I will refer to as "S.R." and "M.J.", and other victims of Jeffrey Epstein's abuse as well. If further information is disclosed about this case, that will not discourage them from providing information, but rather will encourage them. I have also talked personally to attorneys for a number of other victims in this case. I have been told that many of these other victims hope that Jane Doe No. 1 and Jane Doe No. 2 are successful in their case.

108. With regard to factor (2) (the impact upon persons who have given information of having their identities disclosed), Jane Doe No. 1 and Jane Doe No. 2 are not asking for information that would identify any particular victim. Accordingly, there will be no effect on other victims. Additionally, I am aware of the true names of many of Epstein's victims and that information has

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not been disseminated to the public where those individual victims did not wish for their identities to be disseminated.

109. With regard to factor (3) (the degree to which governmental self-evaluation and consequent program improvement will be chilled by disclosure), this is a lawsuit to force the compliance by the Government with its CVRA obligations. Accordingly, the Government's "program" of providing victims' rights will be directly improved if the victims are able to enforce their rights in this lawsuit.

110. With regard to factor (4) (whether the information sought is factual data or evaluative summary), many of the items that the victims seeks are factual summaries. An example of this is found at page 18 of the first privilege log (DE [redacted]-1), with regard to Box #3 P-011778 to P-011788. The entry reads: "File folder entitled '6/12/09 Victim Notif. Log' containing chart with victim contact information and attorney notes regarding dates and type of contacts." This would include, for example, dates of contacts with Jane Doe No. 1 and Jane Doe No. 2, which would be purely factual information.

111. With regard to factor (5) (whether the party seeking the discovery is an actual or potential defendant in any criminal proceeding either pending or reasonably likely to follow from the incident in question), Jane Doe No. 1 and Jane Doe No. 2 are plainly *victims* of a crime, not criminal defendants. Indeed, as the Court is aware, it is the *criminal defendant* (Jeffrey Epstein) who has undertaken several "limited" intervention efforts to try and block disclosure of information to the victims.

112. With regard to factor (6) (whether the police investigation has been completed), the investigation of Epstein was completed years ago and the Government has not produced in its privilege log any information indicating recent investigative activity.

113. With regard to factor (7) (whether any intradepartmental disciplinary proceedings have arisen or may arise from the investigation), it appears than OPR investigation has arisen as a direct result of the victims' efforts in this case. However, it does not appear that release of any information to the victims would hamper any disciplinary proceedings. Indeed, to the extent that the victims are able to obtain information about this case and find information about misconduct, then they can provide that information to Government and other disciplinary entities as appropriate.

114. With regard to factor (8) (whether the plaintiff's suit is non-frivolous and brought in good faith), it should be clear at this juncture of a five-year long case that the victims have a substantial claim that is brought in good faith.

115. With regard to factor (9) (whether the information sought is available through other discovery or from other sources), as recounted throughout this affidavit, the victims have no other way to obtain the information at issue in this privilege debate, as it involves information internal to the Justice Department.

116. With regard to factor (10) (the importance of the information sought to the plaintiff's case), the information that the victims are seeking is highly important to their case. Indeed, without adequate proof, the Court has indicated that it may have to deny the victims' petition. DE 99 at 11. Throughout this affidavit, I have provided numerous examples and explanations of why the victims need the information that they are requesting. The documents to which the Government

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is asserting investigative privilege, for example, bear directly on the Government's alleged "estoppel" defense, which the victims need a complete evidentiary record to dispute.

Work-Product Doctrine

117. A work product claim can be defeated by a showing of substantial need and undue hardship to obtain the materials in other ways. In this affidavit, I have tried to articulate the specific and compelling need for all of the materials that victims are seeking. I will not repeat all of those assertions here, but simply note that I stand ready to provide any additional information that the Court may require to determine the compelling need that the victims have for the materials they have requested as well as the undue hardship (if not actual impossibility) of obtaining the materials in other ways. Any balancing of considerations tips decisively in the victims favor.

118. As one example, the victims have a compelling need for the materials that OPR collected as part of its investigation. Because Justice Department attorneys are generally required to talk to OPR investigators, OPR was apparently able to investigate the claims of misconduct related to the Epstein case by getting statements from the attorney's involved. These interviews appear to be recorded in materials found at page 14 of the supplemental privilege log (DE 216-1), with regard to Suppl. Box #3 P-013956 to P-013846 [sic – apparently should be P-013970, a total of 14 pages]. Judging from the entry, these notes would be factual statements from Justice Department prosecutors about how the Epstein case was handled and whether any misconduct occurred during the handling of the case. Those are central issues in this case. There is no other way for the victims to obtain information about these subjects, because the Justice Department has declined to provide information on this subject.

119. The victims have established a substantial need for the materials they are requesting in the previous paragraphs of this affidavit that review, request-by-request, their document production requests numbers 1 through 25 and supplemental request number 1.

120. As another example of why the victims have established a compelling need for the materials is the fact that the Court has indicated that it will be considering an "estoppel" argument raised by the Government as a defense in this case. DE 189 at 12 n.6. The Court has noted that this argument "implicates a fact-sensitive equitable defense which must be considered in the historical factual context of *the entire interface between Epstein, the relevant prosecutorial authorities and the federal offense victims* – including an assessment of the allegation of a deliberate conspiracy between Epstein and federal prosecutors to keep the victims in the dark on the pendency of negotiations between Epstein and federal authorities until well after the fact and presentation of the non-prosecution agreement to them as *a* fait accompli." DE 189 at 12 n.6 (emphasis added). The materials to which the Government is asserting work product protection go directly to that "interface" between the victims, the Government, and Epstein. The victims have no other way of showing what that interface is. The Government will not be harmed if the materials are provided to the victims.

Grand Jury Information

121. The victims' legal pleading has explained why the Government has not properly asserted any grand jury secrecy to the documents at issue. In addition, many of the Government's grand jury privilege assertions appear to broadly cover both grand jury and non-grand jury information. Even if the Court allows the Government to assert some form of grand jury privilege, it should require the Government to sever grand jury materials from non-grand jury materials.

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122. An illustration of this problem comes from page 12 of the first privilege log (DE [redacted]-1), with regard to Box #2 P-008616 to P-008686. The entry reads: "File folder entitled 'FBI Summary Charts' containing chart prepared at direction of AUSA, containing victims names, identifying information, summary of activity, and other information relevant to indictment." This does not appear to be a document that was ever presented to the grand jury or that directly discloses grand jury proceedings. Moreover, to the extent that it involves some kind of limited disclosure of grand jury proceedings, that limited disclosure could be redacted and the other information provided to the victims.

123. It does not appear that any of the alleged grand jury materials that the Government is asserting privilege involve on-going grand jury issues. Moreover, it does not appear that disclosing any of the materials would "tip off" a potential target to a Government investigation. Of course, Jeffrey Epstein (and his associates) are well aware of the Government's investigation into their crimes against young girls for sexual purposes.

124. The Government has not explained any harm that would come from releasing the documents to the victims. If the Government raises any such harm, I respectfully request an opportunity to provide additional information on that alleged harm.

Privacy Rights of Other Victims

125. Jane Doe No. 1 and Jane Doe No. 2 do not seek confidential or identifying information about any other victims. To clarify that fact, on July 31, 2013, I sent a letter to the Government stating, in part, that "to avoid any interference with any privacy rights of victims who are not parties to this litigation, Jane Doe #1 and Jane Doe #2 are not seeking any identifying information about other victims. In any of the documents that Jane Doe #1 and Jane Doe #2 have requested the Government produce, the Government should not produce the names of other victims or other identifying information (e.g., address or telephone number) but should instead redact that information."

* * * * *

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 16th day of August, 2013.

/s/ Bradley J. Edwards
BRADLEY J. EDWARDS, ESQ.

Attachments:
1. October 3, 2011, request for production;
2. June 24, 2013, supplemental request for production; and
3. Victims' Requests for Admissions and Government Answers

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EXHIBIT

66

"Villafana, Ann Marie C."

09/24/2007 04:34 PM

To "Jay Lefkowitz" <JLefkowitz@kirkland.co

cc

bcc

Subject RE: Do you have a signed copy?

Thank you, Jay. I have forwarded your message only to [redacted], [redacted], and Rolando. I don't anticipate it going any further than that. When I receive the originals, I will sign and return one copy to you. The other will be placed in the case file, which will be kept confidential since it also contains identifying information about the girls.

When we reach an agreement about the attorney representative for the girls, we can discuss what I can tell him and the girls about the agreement. I know that [redacted] promised Chief [redacted] an update when a resolution was achieved. (Something I wouldn't have promised in light of what happened last year.) Rolando is calling, but Rolando knows not to tell Chief [redacted] about the money issue, just about what crimes Mr. Epstein is pleading guilty to and the amount of time that has been agreed to. Rolando also is telling Chief [redacted] not to disclose the outcome to anyone.

[redacted]

[redacted] \(USAFLS\)"

09/24/2007 04:04 PM

To "Jay Lefkowitz" <JLefkowitz@kirkland.com>

cc

Subject Do you have a signed copy?

Hi Jay – Sorry to be a bother, but do you have a copy that at least contains Mr. Epstein's signature? I need to pass it along to the powers that be. Thanks.

US_Atty_Cor_00153

EXHIBIT

67

KIRKLAND & ELLIS LLP
AND AFFILIATED PARTNERSHIPS

Citigroup Center
[redacted]
New York, New York 10022-4611
[redacted]
www.kirkland.com

Jay P. Lefkowitz, P.C.
To Call Writer Directly:
[redacted]
lefkowitz@kirkland.com

Facsimile:
[redacted]

October 23, 2007

VIA E-MAIL

Honorable [redacted]
United States Attorney's Office
Southern District of Florida
[redacted]

Re: Jeffrey Epstein

Dear [redacted]:

I write in response to Mr. [redacted] email of October 22, 2007. First, I want to remind you that Mr. Epstein and your Office have agreed to the terms of the Federal Non Prosecution Agreement (the "Agreement"), which is a binding agreement between the parties. Mr. Epstein has every intention of honoring the terms of that Agreement in good faith, and pursuant to the Agreement, as modified recently, Mr. Epstein and his counsel will appear to enter his plea in state court on November 20, 2007. I also want to thank you for the commitment you made to me during our October 12 meeting in which you promised genuine finality with regard to this matter, and assured me that your Office would not intervene with the State Attorney's Office regarding this matter; or contact any of the identified individuals, potential witnesses, or potential civil claimants and their respective counsel in this matter; and that neither your Office nor the Federal Bureau of Investigation would intervene regarding the sentence Mr. Epstein receives pursuant to a plea with the State, so long as that sentence does not violate state law. Indeed, so long as Mr. Epstein's sentence does not explicitly violate the terms of the Agreement, he is entitled to any type of sentence available to him, including but not limited to gain time and work release. With that said, I must tell you that I am very troubled by Mr. [redacted] latest proposed draft letter to Judge [redacted].

First, Mr. [redacted] proposal suggests that the attorney representative may also litigate claims on behalf of the identified individuals in the event those individuals elect not to settle with Mr. Epstein pursuant to the Agreement. That seems to be directly at odds with the purpose of the Agreement, which is to facilitate out of court settlements in lieu of initiating adversarial proceedings. Indeed, it was our understanding at our October 12 meeting that those identified individuals who elect to sue Mr. Epstein are free to select their own lawyer, but the attorney representative would be restricted in this capacity due to the conflicts of interests that it would cause.

Second, Mr. [redacted] proposes language in our joint letter to Judge [redacted] referencing the $150,000 statutory limit under § 2255 while only referencing the pre-existing $50,000 limit in a footnote. To be sure, any of the women are free to seek whatever settlement they want, but given the question that exists about the proper statutory amount, the letter should state more clearly that the amount under the statute is either $50,000 or $150,000.

Third, Mr. [redacted] proposal now includes 24-year-old women to the government's list of identified individuals who it believes are eligible to settle 18 U.S.C. § 2255 claims pursuant to the Agreement. Such an inclusion goes beyond both the four corners of the statute as well as the intention of the parties.

I simply do not understand why these women have been included on the government's list since these women's § 2255 claims are time barred. According to § 2255, "[a]ny action commenced under this section shall be barred unless the complaint is filed within six years after the right of action first accrues." Moreover, the statute contemplates a right of action only for those who are victims of the related statutes "while a minor." That being the case, the women who are currently 24 years old cannot bring claims under § 2255 because these women were minors seven years ago, which is beyond the statute of limitations period. And the PROTECT Act does not apply here. According to the Act, which was enacted in 2003, "[n]o statute of limitations that would otherwise preclude prosecution for an offense involving the sexual or physical abuse, or kidnapping, of a child under the age of 18 years shall preclude such prosecution during the life of the child." *See* PROTECT Act, Pub. Law 108-21, §3283 (2003). The purpose of this provision, however, was to ease the barriers to criminal prosecution of sex offenders, which is precisely why the provision limits tolling to "prosecution" rather than simply all claims.

This conclusion is supported by *Smith* [redacted] *Husband*, 376 F.Supp.2d 603 (E.D. Va. 2005), which contemplated the statute of limitations period for 2255 claims and was decided after the PROTECT Act was enacted. In *Smith*, the Court did not even refer to the Act when noting that "only if Plaintiff can show that Defendant violated any of the listed statutes within six years of the filing of this Complaint…is this matter within the statute of limitations." *Id* at 615. Accordingly, Mr. [redacted] proposal should be revised and these women should be removed from the government's list as they are not "victims" under § 2255 and therefore are not eligible for settlement relief pursuant to the Agreement.

Given your Office's negotiating posture prior to the signing of the Agreement, it is a little surprising to see the inclusion of individuals who are 24 years old. Over the course of negotiations over the Agreement, [redacted] initially proposed appointing a guardian ad litem to represent the identified individuals, which gave the impression that these identified individuals were minors. Based on her insistence that a guardian be appointed to represent these individuals, we agreed to the appointment of an attorney representative. Now it appears that

many of these individuals are in fact over the age of 18, some as old as 24 years old, which largely obviates the need to appoint a representative for the identified individuals.

[redacted], this letter is not intended and is in no way a rescission or withdrawal from the terms of the Agreement. We instead request dialogue rather than the imperative of executing the addendum to the Agreement by 5:00 PM today. Absent such dialogue, and absent an extension of the deadline of 5:00 PM today, we have no choice except to adopt the Addendum as written and will do so. We do not, however, agree with all of the language in your draft letter to Judge [redacted]. Since this letter is neither an extension of the Agreement nor of its Addendum, we do object to its being sent to Judge [redacted] absent further discussion.

If there is any way we can promptly resolve the issues I address above, please let me know. I know that you have tired of working on this matter, and I certainly share your desire to put this Agreement to bed. But I simply do not know how to proceed at this point in light of the concerns raised by Mr. [redacted] proposal.

I look forward to resolving this matter as soon as possible.

Sincerely,

Jay P. Lefkowitz

EXHIBIT

68

March 20, 2011

To whom it may concern:

I served as U.S. Attorney for the Southern District of Florida from 2005 through 2009. Over the past weeks, I have read much regarding Mr. Jeffrey Epstein. Some appears true, some appears distorted. I thought it appropriate to provide some background, with two caveats: (i) under Justice Department guidelines, I cannot discuss privileged internal communications among Department attorneys and (ii) I no longer have access to the original documents, and as the matter is now nearly 4 years old, the precision of memory is reduced.

The Epstein matter was originally presented to the Palm Beach County State Attorney. Palm Beach Police alleged that Epstein unlawfully hired underage high-school females to provide him sexually lewd and erotic massages. Police sought felony charges that would have resulted in a term of imprisonment. According to press reports, however, in 2006 the State Attorney, in part due to concerns regarding the quality of the evidence, agreed to charge Epstein only with one count of aggravated assault with no intent to commit a felony. That charge would have resulted in no jail time, no requirement to register as a sexual offender and no restitution for the underage victims.

Local police were dissatisfied with the State Attorney's conclusions, and requested a federal investigation. Federal authorities received the State's evidence and engaged in additional investigation. Prosecutors weighed the quality of the evidence and the likelihood for success at trial. With a federal case, there were two additional considerations. First, a federal criminal prosecution requires that the crime be more than local; it must have an interstate nexus. Second, as the matter was initially charged by the state, the federal responsibility is, to some extent, to back-stop state authorities to ensure that there is no miscarriage of justice, and not to also prosecute federally that which has already been charged at the state level.

After considering the quality of the evidence and the additional considerations, prosecutors concluded that the state charge was insufficient. In early summer 2007, the prosecutors and agents in this case met with Mr. Epstein's attorney, Roy Black. Mr. Black is perhaps best known for his successful defense of William Kennedy Smith. The prosecutors presented Epstein a choice: plead to more serious state felony charges (that would result in 2 years' imprisonment, registration as a sexual offender, and restitution for the victims) or else prepare for a federal felony trial.

What followed was a year-long assault on the prosecution and the prosecutors. I use the word assault intentionally, as the defense in this case was more aggressive than any which I, or the prosecutors in my office, had previously encountered. Mr. Epstein hired an army of legal superstars: Harvard Professor Alan Dershowitz, former Judge and then Pepperdine Law Dean Kenneth Starr, former Deputy Assistant to the President and then Kirkland & Ellis Partner Jay Lefkowitz, and several others, including prosecutors who had formally worked in the U.S.

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Attorney's Office and in the Child Exploitation and Obscenity Section of the Justice Department. Defense attorneys next requested a meeting with me to challenge the prosecution and the terms previously presented by the prosecutors in their meeting with Mr. Black. The prosecution team and I met with defense counsel in Fall 2007, and I reaffirmed the office's position: two years, registration and restitution, or trial.

Over the next several months, the defense team presented argument after argument claiming that felony criminal proceedings against Epstein were unsupported by the evidence and lacked a basis in law, and that the office's insistence on jail-time was motivated by a zeal to overcharge a man merely because he is wealthy. They bolstered their arguments with legal opinions from well-known legal experts. One member of the defense team warned me that the office's excess zeal in forcing a good man to serve time in jail might be the subject of a book if we continued to proceed with this matter. My office systematically considered and rejected each argument, and when we did, my office's decisions were appealed to Washington. As to the warning, I ignored it.

The defense strategy was not limited to legal issues. Defense counsel investigated individual prosecutors and their families, looking for personal peccadilloes that may provide a basis for disqualification. Disqualifying a prosecutor is an effective (though rarely used) strategy, as eliminating the individuals most familiar with the facts and thus most qualified to take a case to trial harms likelihood for success. Defense counsel tried to disqualify at least two prosecutors. I carefully reviewed, and then rejected, these arguments.

Despite this army of attorneys, the office held firm to the terms first presented to Mr. Black in the original meeting. On June 30, 2008, after yet another last minute appeal to Washington D.C. was rejected, Epstein pled guilty in state court. He was to serve 18 months imprisonment, register as a sexual offender for life and provide restitution to the victims.

Some may feel that the prosecution should have been tougher. Evidence that has come to light since 2007 may encourage that view. Many victims have since spoken out, filing detailed statements in civil cases seeking damages. Physical evidence has since been discovered. Had these additional statements and evidence been known, the outcome may have been different. But they were not known to us at the time.

A prosecution decision must be based on admissible facts known at the time. In cases of this type, those are unusually difficult because victims are frightened and often decline to testify or if they do speak, they give contradictory statements. Our judgment in this case, based on the evidence known at the time, was that it was better to have a billionaire serve time in jail, register as a sex offender and pay his victims restitution than risk a trial with a reduced likelihood of success. I supported that judgment then, and based on the state of the law as it then stood and the evidence known at that time, I would support that judgment again.

Epstein's treatment, while in state custody, likewise may encourage the view that the office should have been tougher. Epstein appears to have received highly unusual treatment while in jail. Although the terms of confinement in a state prison are a matter appropriately left to the

EFTA00184806

State of Florida, and not federal authorities, without doubt, the treatment that he received while in state custody undermined the purpose of a jail sentence.

Some may also believe that the prosecution should have been tougher in retaliation for the defense's tactics. The defense, arguably, often failed to negotiate in good faith. They would obtain concessions as part of a negotiation and agree to proceed, only to change their minds, and appeal the office's position to Washington. The investigations into the family lives of individual prosecutors were, in my opinion, uncalled for, as were the accusations of bias and / or misconduct against individual prosecutors. At times, some prosecutors felt that we should just go to trial, and at times I felt that frustration myself. What was right in the first meeting, however, remained right irrespective of defense tactics. Individuals have a constitutional right to a defense. The aggressive exercise of that right should not be punished, nor should a defense counsel's exercise of their right to appeal a U.S. Attorney to Washington, D.C. Prosecutors must be careful not to allow frustration and anger with defense counsel to influence their judgment.

After the plea, I recall receiving several phone calls. One was from the FBI Special Agent-In-Charge. He called to offer congratulations. He had been at many of the meetings regarding this case. He was aware of the tactics of the defense, and he called to praise our prosecutors for holding firm against the likes of Messrs. Black, Dershowitz, Lefkowitz and Starr. It was a proud moment. I also received calls or communications from Messrs. Dershowitz, Lefkowitz and Starr. I had known all three individuals previously, from my time in law school and at Kirkland & Ellis in the mid 90s. They all sought to make peace. I agreed to talk and meet with each of them after Epstein pled guilty, as I think it important that prosecutors battle defense attorneys in a case and then move on. I have tried, yet I confess that has been difficult to do fully in this case.

The bottom line is this: Mr. Jeffrey Epstein, a billionaire, served time in jail and is now a registered sex offender. He has been required to pay his victims restitution, though restitution clearly cannot compensate for the crime. And we know much more today about his crimes because the victims have come forward to speak out. Some may disagree with the prosecutorial judgments made in this case, but those individuals are not the ones who at the time reviewed the evidence available for trial and assessed the likelihood of success.

Respectfully,

[redacted]
Former U.S. Attorney
Sothern District of Florida

EFTA00184807

EXHIBIT

69

"Villafana, Ann [redacted] C. \(USAFLS\)"

09/25/2007 12:11 PM

To "Jay Lefkowitz" <JLefkowitz@kirkland.co

cc

bcc

Subject Conference call

History: This message has been replied to and forwarded.

Hi Jay – Have you approved Mr. Ocariz as the girls' representative? And can we have a conference call to discuss what I may disclose to him and to the girls regarding the agreement?

Thank you.

A. Marie Villafaña

Assistant U.S. Attorney

US_Atty_Cor_00156

EXHIBIT

70

"[redacted]
\(USAFLS)"
[redacted]
09/25/2007 08:36 PM

To "Jay Lefkowitz" <JLefkowitz@kirkland.com>
cc
bcc
Subject Other attorneys

History: This message has been replied to and forwarded.

Hi Jay – These four people were recommended. I have not contacted them to find out what their rates are. All are very active in the plaintiffs' bar in the West Palm area. Ted Babbitt would be my first choice of these four but I think he is conflicted out because one of his partners is married to an AUSA here. Stuart Grossman is probably my second choice.

Ted Babbitt -- http://www.babbitt-johnson.com/tbabbitt.html

Stuart Grossman --
http://www.grossmanandroth.com/sgrossman.htm

Chris Searcy --
http://www.searcylaw.com/CHRISTIANDSEARCY/tabid/935/default.aspx

Lake Lytal, Jr. -- http://www.lytalreiter.com/index.php?page_id=37

Talk to Jack Goldberger about this group. They are all very good personal injury lawyers, but I have concerns about whether there would be an inherent tension because they may feel that THEY might make more money (and get a lot more press coverage) if they proceed outside the terms of the plea agreement. (Sorry – I just have a bias against plaintiffs' attorneys.) One nice thing about Bert is that he is in Miami where there has been almost no coverage of this case.

Just so you know, I have never met Bert, but a good friend in our appellate section and one of the district judges in Miami are good friends with him and recommended him.

Can you let me know tomorrow? I am going to be out for a while starting on Friday, and I would like to get this underway before I leave.

Thank you.

EFTA00184811

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 9:08-80736-Civ-Marra/Johnson

JANE DOE #1 and JANE DOE #2

[redacted]

UNITED STATES
_____/

NOTICE OF FILING EXHIBITS

Plaintiffs, JANE DOE #1 and JANE DOE #2, by though undersigned counsel hereby file the attached additional exhibits to their Consolidated Statement of Undisputed Material Facts and Motion for Partial Summary Judgment with Incorporated Memorandum of Law filed on February 10, 2016 as DE 361.

DATED: February 10, 2016

Respectfully Submitted,

/s/ Bradley J. Edwards
Bradley J. Edwards
FARMER, JAFFE, WEISSING,
EDWARDS, FISTOS & LEHRMAN, P.L.
425 North Andrews Avenue, Suite 2
Fort Lauderdale, Florida 33301
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And

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University of Utah*
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EFTA00184812

Salt Lake City, UT 84112
Telephone:801-585-5202
Facsimile:801-585-6833
E-Mail:cassellp@law.utah.edu

Attorneys for Jane Does No. 1, 2, 3 and 4

CERTIFICATE OF SERVICE

I certify that the foregoing document was served on February 10, 2016, on the following using the Court's CM/ECF system:

Dexter Lee
[redacted]
Fax:
E-mail:
E-mail:

Attorneys for the Government

Roy Eric Black
Jacqueline Perczek
Black Srebnick Kornspan & Stumpf
[redacted]
Fax:
Email:

Attorneys for Jeffrey Epstein

/s/ Bradley J. Edwards
Bradley J. Edwards

EFTA00184813

EXHIBIT

71

"Villafana, Ann Marie C."

To "Jay Lefkowitz" <JLefkowitz@kirkland.com>
cc
bcc
Subject RE: Other attorneys

09/26/2007 11:01 AM

[redacted]

Hi Jay – Can you give me a call at [redacted] this morning? I am meeting with the agents and want to give them their marching orders regarding what they can tell the girls.

Also, please remove Babbitt and Searcy from the list. There is too great a chance of an appearance of impropriety with Babbitt and I received a bad report about Searcy last night.

Thank you.

A. [redacted] *Villafaña*

Assistant U.S. Attorney

[redacted]

US_Atty_Cor_00359

EXHIBIT

72

[redacted]. (USAFLS)

From: [redacted])
Sent: Thursday, September 27, 2007 10:23 AM
To: [redacted]. (USAFLS)
Subject: RE: Contact Information for the agents

[redacted],

Thanks for the update and the info. In going through the process of getting final approval for this matter, I received a few follow-up questions from the powers that be at my firm:

1. Can we get a copy of the indictment (or can you tell me the nature of the crimes against the girls)?

2. When will it be possible to see the plea agreement so that we understand exactly what Epstein concedes to in the civil case?

3. Is there any cap or other limitation on attorney's fees that the defendant will pay in the civil case?

4. What is the conteplated procedure for, and timing of, the payment of attorney's fees and costs?

5. Depending on the nature of the crime/injury, the expectation from this end is that there will be a battle regarding the damages, including punitive damages, that will be demanded and that defense counsel will try to leverage payment of fees against a smaller demand from the girls or even seek a "haircut" on fees, effectively putting the firm in a position where it must chose whether to "contribute" to a settlement in order to resolve the case.

Given any of the possible scenarios regarding the payment of fees that the defendant could create (particularly given the strength and creativity of his legal team), my firm could be put in a position which arguably creates a conflict of interest with the clients. Is there a way to structure a payment by the defendant of a lump sum for costsand then my firm would simply handle the case on a contingency? And, this should also make it easier for us to comply with issues under the Bar's rules governing aggregate settlements with multiple clients. If the case is that strong, this may be the best solution to avoid any conflict of issue and/or independence arguments that could be raised by defendants while litigating the case.

Thanks,

Bert

From: [redacted]. (USAFLS) [redacted]
Sent: Wednesday, September 26, 2007 12:47 PM
To: [redacted])
Subject: Contact Information for the agents

Hi Bert – As per my voicemail, here is the contact info for the agents in the case. Their names are Jason [redacted] and [redacted] [redacted] (pronounced like Kirkendall and she is female). Both are Special Agents with the FBI and can be reached at [redacted]

They will be sending you the list of all the girls with their contact info in the next few days (probably by Monday). Mr. Epstein and his attorneys are barred from learning their names until after he enters his guilty plea on October 29th, so you will have a month to talk to them before you have to deal with defense counsel. As I mentioned in my voicemail, if you have a retainer agreement covering a situation where a client's representation is paid for by someone else, I would appreciate if you could send it to me. I will get Mr. Epstein or his lawyers to sign it so you know you will be paid. Having worked at a big firm I know that this is a

EFTA00184817

difficult request but, because of the sensitive nature of the case, and the high profile nature of the defendant and his lawyers, I would appreciate it if you could select one very hard-nosed associate to stay with the case.

Thank you.

A. [redacted] Villafaña
Assistant U.S. Attorney
[redacted]

Mail Gate made the following annotations on Thu Sep 27 2007 09:23:52

CONFIDENTIALITY NOTICE: This e-mail message including attachments, if any, is intended for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message. Thank you.

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EXHIBIT

73

[redacted]. (USAFLS)

From: Jay Lefkowitz [JLefkowitz@kirkland.com]
Sent: Thursday, September 27, 2007 2:53 PM
To: [redacted]. (USAFLS)
Subject: Re: Conference Call with Bert Ocariz

[redacted] - I will not be able to get back to you until tomorrow. However, some of the questions he raised cause me some serious concern.

1. Can we get a copy of the indictment (or can you tell me the nature of the crimes against the girls)?

Certainly he should not get a copy of any indictment.

2. When will it be possible to see the plea agreement so that we understand exactly what Epstein concedes to in the civil case?

I don't think he should get the plea agreement either.

3. Is there any cap or other limitation on attorney's fees that the defendant will pay in the civil case?

I can't imagine he would be entitled to anything other than an hourly fee.

4. What is the contemplated procedure for, and timing of, the payment of attorney's fees and costs?

In any event, I need to consider these issues carefully and I cannot agree to any of these issues before we speak. I would suggest we plan on talking tomorrow at 12 pm if you are available.

Jay

----- Original Message -----
From: "[redacted]. (USAFLS)" [redacted]
Sent: 09/27/2007 10:51 AM AST
To: Jay Lefkowitz
Subject: Conference Call with Bert Ocariz

Hi Jay – Bert's firm has raised a number of good questions about how they are going to get paid and setting up a procedure that avoids any conflict of interest with their clients. Are you around today to do a conference call? Let me know what times work for you because Bert wants to get their conflicts counsel on the call with us.

These are some of the questions he sent to me. I told Bert that as part of our agreement we (the federal government) are not going to indict Mr. Epstein, but gave him an idea of the charges that we had planned to bring as related to 18 USC 2255. With respect to question 2, do I have your permission to send Bert just that section of the plea agreement that applies to the damages claims (I would recommend sending paragraphs 7 through 10, or at least 7 and 8)? Can you talk with your client about items 3 and 4? I envisioned Shook Hardy sending regular bills to you, with any privileged information redacted, and being paid like every other client pays the bills.

1. Can we get a copy of the indictment (or can you tell me the nature of the crimes against the girls)?

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EXHIBIT

74

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Thursday, September 27, 2007 8:44 PM
To: [redacted]
Subject: Epstein

Hi [redacted] and Barry – Can you let me know when Mr. Epstein is going to enter his guilty plea and what judge that will be in front of? I know the agents and I would really like to be there, "incognito."

Thank you.

A. [redacted] *Villafaña*
Assistant U.S. Attorney
[redacted]

EXHIBIT

75

PROPOSED JOINT LETTER TO THE SPECIAL MASTER

Re: Special Master: Privileged and Confidential

Dear Sir:

The undersigned, as counsel for the United States of America and Jeffrey Epstein, jointly write to you to provide information relevant to your service as a Special Master in the selection of an attorney to represent several young women who may have civil damages claims against Mr. Epstein.

The U.S. Attorney's Office and the Federal Bureau of Investigation (jointly referred to as the "United States") have conducted an investigation of Jeffrey Epstein regarding his solicitation of minor females in Palm Beach County to engage in prostitution. Mr. Epstein, through his assistants, would recruit underage females to travel to his home in Palm Beach to engage in lewd conduct in exchange for money. Based upon the investigation, the United States has identified 40 young women who can be characterized as victims pursuant to 18 U.S.C. § 2255. Some of those women went to Mr. Epstein's home only once, some went there as much as 100 times or more. Some of the women's conduct was limited to performing a topless or nude massage while Mr. Epstein masturbated himself. For other women, the conduct escalated to full sexual intercourse.

As part of the resolution of the case, Mr. Epstein agreed that he would not contest jurisdiction in the Southern District of Florida for any victim who chose to sue him for damages pursuant to 18 U.S.C. § 2255. Mr. Epstein agreed to provide an attorney for victims who elected to proceed exclusively pursuant to that section, and agreed to waive any challenge to liability under that section up to an amount agreed to by the parties.

EFTA00184824

The parties have agreed to submit the selection of an attorney to a Special Master. Attached hereto is a list of five attorneys whom the parties have agreed should be considered by the Special Master for selection. Also attached hereto is a memorandum explaining the anticipated duties and responsibilities of the attorney who is selected, and that portion of the agreement between the United States and Mr. Epstein addressing the attorney's role. Each attorney has provided some background information regarding his or her practice, experience, and other relevant factors. The Special Master may contact any or all of those attorneys for additional information, as the Special Master deems appropriate. Each party will also provide the Special Master with a list of the criteria that the party believes should be considered in making the selection. If the Special Master has any questions regarding the criteria, he may contact the relevant party to inquire further, as he deems appropriate.

The parties ask that the Special Master "rank" the top three attorneys, in case one or more has a conflict that prevents him or her from accepting the representation.

The parties thank you for your willingness to conduct this task as a *pro bono publico* matter. Please do not hesitate to contact us if you need any further information.

EXHIBIT

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EXHIBIT

77

[redacted]. (USAFLS)

From: [redacted], Jeff (USAFLS)
Sent: Thursday, October 18, 2007 4:40 PM
To: Jay Lefkowitz
Cc: [redacted], [redacted] (USAFLS)
Subject: RE: Follow up

The change of plea will take place on November 20. Agreed.

-----Original Message-----
From: Jay Lefkowitz [mailto:JLefkowitz@kirkland.com]
Sent: Thursday, October 18, 2007 4:35 PM
To: [redacted], [redacted] (USAFLS)
Cc: [redacted], Jeff (USAFLS)
Subject: Re: Follow up

[redacted] - Thanks.

Jeff, are we all set?

Jay

----- Original Message -----
From: "[redacted], [redacted] (USAFLS)" [redacted]
Sent: 10/18/2007 12:15 PM AST
To: Jay Lefkowitz
Cc: "[redacted], Jeff (USAFLS)" [redacted]
Subject: RE: Follow up

Jeff -- Can you see any issues with this? If not, please confirm with Jay.

-----Original Message-----
From: Jay Lefkowitz [mailto:JLefkowitz@kirkland.com]
Sent: Thursday, October 18, 2007 10:12 AM
To: [redacted], [redacted] (USAFLS)
Subject: Follow up

[redacted] - I wanted to thank you for making the time for breakfast Friday. It was great to catch up.

Following up on our conversation about the date for Mr. Epstein's plea, where you said that you didn't want to dictate a schedule to the state, as we discussed I have a case where I represent an individual who is now the lead witness for the government, and openings are set

for next week. Accordingly, I have now confirmed with Mr. Epstein's Florida counsel that the state's attorney's office and the court will be available to have him enter his plea on November 20. So we will plan to proceed on one that date. Please confirm that this is ok.

Thanks, Jay

****
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.
****

****
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.
****

EXHIBIT

78

"Sloman, Jeff (USAFLS)"

10/24/2007 03:45 PM

To "Jay Lefkowitz" <JLefkowitz@kirkland.cor

cc "Villafana, Ann [redacted] C. (USAFLS)"

bcc

Subject Epstein - Addendum and Letter to Judge

History: This message has been forwarded.

<<Addendum.wpd>> <<071015 Special Master Letter4.wpd>>

Jay,

Pursuant to our conversation, here is the revised letter and a new addendum. Theonly changeto the addendumisthat I renumbered the new paragraphs from A,B, and C to 7A, 7B, and 7C.Once you approve,I will contact Judge [redacted] and send him the letter. Please execute the addendum,PDFthe executedoriginalto me as soon as possible and Fed Ex the original to me thereafter.

Jeff

<<< Attachment 'Addendum.wpd' has been archived by user 'CommonStore/IT/Kirkland-Ellis' on '12/25/2007 00:26:41'. >>>
<<< Attachment '071015 Special Master Letter4.wpd' has been archived by user 'CommonStore/IT/Kirkland-Ellis' on '12/25/2007 00:26:42'. >>>

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

EFTA00184832

Non-Prosecution Agreement and agrees to comply with them.

[redacted]
UNITED STATES ATTORNEY

Dated: _____ By: _____
A. [redacted] VILLAFAÑA
ASSISTANT U.S. ATTORNEY

Dated: _____

_____
JEFFREY EPSTEIN

Dated: _____ _____
GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____ _____
LILLY ANN SANCHEZ, ESQ.
ATTORNEY FOR JEFFREY EPSTEIN

U.S. Department of Justice

United States Attorney
Southern District of Florida

99 N.E. 4th Street
Miami, FL 33132-2111

October __, 2007

DELIVERY BY FACSIMILE
The Hon. [redacted] B. [redacted] (Ret.)
Akerman Senterfitt
One Southeast Third Avenue, 25th Floor
Miami, Florida 33131

Re: Service as a Special Master

Dear Judge [redacted]:

Thank you for agreeing to serve as a Special Master and for assisting the United States Attorney's Office in the selection of an attorney representative to represent a group of identified victims. This letter is meant to assist you in performing your duties by providing you with background information regarding the agreement between the United States and Jeffrey Epstein and the duties that the attorney representative will have to perform.

The Federal Bureau of Investigation and the U.S. Attorney's Office conducted an investigation of Mr. Epstein. As a result of that investigation, the U.S. Attorney's Office and Mr. Epstein entered into a Non-Prosecution Agreement and an Addendum that contains, *inter alia*, the following terms:

> 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 7C, 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. § 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 § 2255 to bear the costs of the attorney representative, shall cease.

8.If any of the individuals referred to [in the paragraphs above] 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 agreed to between Epstein and the identified individual, 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, with respect 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 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 [the above paragraphs], 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.

The most recent version of the statute referenced above, 18 U.S.C. § 2255, provides that:

> 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.[1]

Section 2422 prohibits the use of a facility of interstate commerce to induce minors to engage in sexual activity and prostitution, and section 2423 prohibits interstate travel for the purpose of engaging in sexual activity or prostitution with minors. The United States has identified 34 victims as defined by this statute.

Pursuant to this letter, the United States assigns to you the responsibility for consulting with and selecting the attorney representative for the individuals. The United States and Epstein retain the right to make good faith objections to the attorney representative you select prior to the final designation of the attorney representative. In that regard, after you have reached a decision regarding the attorney representative, please provide me with his or her name and contact information.

---

[1] An earlier version of this statute deems that any person described in the preceding sentence shall have sustained damages of no less than $50,000 in value.

If I can provide you with any further information, please do not hesitate to contact me. Thank you again for your assistance with this matter.

Sincerely,

[redacted]
United States Attorney

By:
Jeffrey [redacted]
First Assistant United States Attorney

cc: AUSA [redacted]

EXHIBIT

79

U.S. Department of Justice

United States Attorney
Southern District of Florida

99 N.E. 4th Street
Miami, Fl 33132
Telephone: (305) 961-9299
Facsimile: (305) 530-6444

October 25, 2007

DELIVERY BY FACSIMILE
The Hon. [redacted] B. [redacted] (Ret.)
Akerman Senterfitt
One Southeast Third Avenue, 25th Floor
Miami, Florida 33131

Re: Service as a Special Master

Dear Judge [redacted]:

Thank you for agreeing to serve as a Special Master and for assisting the United States Attorney's Office in the selection of an attorney representative to represent a group of identified victims. This letter is meant to assist you in performing your duties by providing you with background information regarding the agreement between the United States and Jeffrey Epstein and the duties that the attorney representative will have to perform.

The Federal Bureau of Investigation and the U.S. Attorney's Office conducted an investigation of Mr. Epstein. As a result of that investigation, the U.S. Attorney's Office and Mr. Epstein entered into a Non-Prosecution Agreement and an Addendum that contains, *inter alia*, the following terms:

> 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.

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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 7C, 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. § 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 § 2255 to bear the costs of the attorney representative, shall cease.

8.If any of the individuals referred to [in the paragraphs above] 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 agreed to between Epstein and the identified individual, 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, with respect 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 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 [the above paragraphs], neither Epstein's

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> 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.

The most recent version of the statute referenced above, 18 U.S.C. § 2255, provides that:

> 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.[1]

Section 2422 prohibits the use of a facility of interstate commerce to induce minors to engage in sexual activity and prostitution, and section 2423 prohibits interstate travel for the purpose of engaging in sexual activity or prostitution with minors. The United States has identified 34 victims as defined by this statute. The United States takes no position as to the validity of any such claim under this statute.

Due to the circumstances of the case and the number and caliber of the attorneys who represent Mr. Epstein, in selecting the victims' attorney representative, the United States suggests that you consider the following criteria:

1. Experience doing both plaintiffs' and defense litigation.

2. Experience with state and federal statutory and common law tort claims.

3. The ability to communicate effectively with young women.

4. Experience litigating against large law firms and high profile attorneys who

[1] An earlier version of this statute deems that any person described in the preceding sentence shall have sustained damages of no less than $50,000 in value.

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may test the veracity of the victims' claims.

5. Sensitivity to the nature of the suit and the victims' interest in maintaining their privacy.

6. Experience litigating in federal court in the Southern District of Florida.

7. The resources to hire experts and others, while working on a contingency fee basis, in order to prepare for trial, if a settlement cannot be reached (defense counsel has reserved the right to challenge such litigation).

8. The ability to negotiate effectively.

Pursuant to this letter, the United States assigns to you the responsibility for consulting with and selecting the attorney representative for the individuals. The United States and Epstein retain the right to make good faith objections to the attorney representative you select prior to the final designation of the attorney representative. In that regard, after you have reached a decision regarding the attorney representative, please provide me with his or her name and contact information.

If I can provide you with any further information, please do not hesitate to contact me and/or the U.S. Attorney and/or Jay Lefkowitz, Esq. on behalf of Epstein. Mr. Lefkowitz can be reached at [redacted] - Kirkland & Ellis LLP, Citigroup Center, 153 East 53rd Street, [redacted]. Thank you again for your assistance with this matter.

Sincerely,

[redacted]
United States Attorney

By: [signature]
Jeffrey [redacted]
First Assistant United States Attorney

cc: AUSA A. [redacted]

EFTA00184842

EXHIBIT

80

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

JANE DOES #1 AND #2,

Petitioners,

[redacted].

UNITED STATES OF AMERICA,

Respondent.
_____/

UNITED STATES' RESPONSE IN OPPOSITION TO JANE DOES #1 AND #2'S MOTION TO HAVE THEIR FACTS ACCEPTED BECAUSE OF THE GOVERNMENT'S FAILURE TO CONTEST ANY OF THE FACTS [DE49]

The United States, by and through the undersigned, hereby opposes Petitioners' Motion to have their "Statement of Undisputed Material Facts" accepted as true [DE49]. Petitioners argue that the Court should accept their Statement as true, despite its conclusory allegations and internal inconsistencies, solely because of the United States' failure to stipulate to the Statement. The Court should deny the motion because: (1) Petitioners have misstated that United States' efforts at reaching agreement on the Statement; (2) the "Undisputed Material Facts" are irrelevant, as Petitioners have previously acknowledged; (3) agreeing to the "Undisputed Material Facts" demanded by Petitioners would have required the United States to violated Federal Rule of Criminal Procedure 6(e) and/or constitutional and ethical mandates; and (4) the United States is not obligated to agree to any "facts," especially those that are incomplete or false.

BACKGROUND

In DE 49, Petitioners ask the Court to accept as true their proposed "Statement of Undisputed Material Facts" contained in DE48 because they claim that the United States has failed "to advise the victims of what facts they are contesting." Petitioners then spend several pages making unsupported assertions and reciting from letters and email correspondence in an attempt to persuade the Court to adopt as true the Petitioners' averments even when the falsity of some of those "facts" is apparent from the text itself.

Contrary to their assertions, the Petitioners have *not* been attempting to negotiate with the government for more than 30 months. As set forth in the Procedural History Section of the United States' Opposition to Jane Doe #1 and Jane Doe #2's Motion for Finding of Violations of the Crime Victim Rights Act ("CVRA"), at the last hearing on the Petitioners' Emergency Petition, on August 14, 2008, counsel for Petitioners stated to the Court, "I believe that you *do* have a sufficient record, in that I don't think that – I think that we're in agreement that additional evidence does *not* need to be taken in the case for Your Honor to make a ruling." (DE27 at 4 (emphasis added).)

Thereafter, there was no contact regarding the CVRA petitioner for years – until the Court issued its administrative order closing the case. A flurry of activity ensued. Efforts were made to resolve the matter amicably, without success, including allowing the Petitioners, that is Jane Does #1 and #2, and their counsel, the opportunity to meet with the U.S. Attorney, as Jeffrey Epstein's attorneys did.[1]

Despite the Petitioners' earlier statement to the Court that no additional facts were needed, many hours were spent trying to revise the Petitioners' proposed statement of facts so that it would

[1]Only Jane Doe #1 and her counsel elected to attend a meeting with the U.S. Attorney.

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contain only *facts*, not argument, not inferences, not incorrect innuendos.[2] Even after the U.S. Attorney's Office advised Petitioners that the Justice Department's position was that the CVRA's rights only attached upon the filing of federal criminal charges and, hence, that none of the Petitioners' proposed facts were relevant, further attempts were made. Petitioners' counsel, however, demonstrated no interest in proposed compromises. Specific factual corrections also were suggested and rejected.[3] Thus, counsel for Petitioners know that some of the proposed "undisputed material facts" are in fact disputed and, in many cases, wrong.

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[2]The U.S. Attorney's Office also repeatedly reminded Mr. Cassell of the Justice Department's policy not to comment on the guilt or innocence of an unconvicted person. The ABA's Model Rule of Professional Conduct on the Special Responsibilities of a Prosecutor contains similar guidance. For example, there has been no civil or criminal finding by any judge or jury that:

> defendant Jeffrey Epstein (a billionaire with significant with significant political connections) sexually abused more than 30 minor girls at his mansion in West Palm Beach (*sic*), Florida, and elsewhere. Epstein performed repeated lewd, lascivious, and sexual acts on them, including (but not limited to) masturbation, touching of their sexual organs, using vibrators or sexual toys on them, coercing them into sexual acts, and digitally penetrating them. Because Epstein used a means of interstate commerce and knowingly traveled in interstate commerce to engage in abuse of Jane Doe #1 and Jane Doe #2 (and the other victims), he committed violations of federal law, including repeated violations of 18 U.S.C. § 2422.

(DE48 at 3-4 ¶ 1.) Jane Does No. 1 and No. 2 had the opportunity to prove these allegations at trial but elected to sign confidential settlement agreements where, presumably, there was no acknowledgement of criminal or civil liability. Respectfully, the U.S. Attorney's Office cannot express a factual position, immaterial to the present litigation, on whether Jeffrey Epstein ("Epstein") committed crimes (other than those to which he pled guilty in Palm Beach County Circuit Court).

[3]For example, Petitioners were repeatedly advised the Epstein lived in Palm Beach, not West Palm Beach. Even this simple correction was ignored. (*See* DE48 at 3-4.)

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ARGUMENT

I. ALL OF THE "UNDISPUTED FACTS" ARE IRRELEVANT.

In their motion asking the Court to accept as true all of their purported "undisputed *material* facts," Petitioners rely on only two citations, the CVRA's "right to confer with the attorney *in the case*"[4] and Local Rule 88.10(O), which governs discovery in criminal cases.

Local Rule 88.10(O) reads: "The parties shall make every possible effort in good faith to stipulate to all facts or points of law the truth and existence of which is not contested and *the early resolution of which will expedite the trial*." (Emphasis added.) Contrary to Petitioners' suggestion, reaching agreement on Petitioners' "Statement of Undisputed Material Facts" would not expedite the resolution of this matter. As the United States has explained since August 1, 2008, at the very start of the litigation, (*see* DE19,) – and as *admitted by Petitioners* during the hearing on August 14, 2008, (*see* DE27 at 3) – no additional facts are needed for the Court to resolve the Emergency Petition and Petitioners' Motion seeking a finding that the CVRA was violated. The only material fact is that the United States Attorney's Office for the Southern District of Florida never filed federal

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[4]Whether or not the CVRA applies is the central question in dispute in this matter because no federal criminal case was ever filed against Jeffrey Epstein and one is certainly not pending now. The undersigned knows of no case where the "right to confer with the attorney in the case" has been interpreted to allow victims to demand that the Government confer repeatedly – even after good faith efforts at reaching compromise have failed – in a case filed by victims against the Government pursuant to the CVRA. Nonetheless, Petitioners' argument seems to be that, because they aver that the CVRA applies, the Government's failure to accord them their very expansive reading of the CVRA's "right to confer" is a further violation of the CVRA. At least one court has noted and rejected this Catch-22: "the Court refuses to adopt an interpretation of [the CVRA] that prohibits the government from raising legitimate arguments in support of its opposition to a motion simply because the arguments in support of its opposition to a motion may hurt a victim's feeling or reputation. More pointedly, such a dispute is precisely the kind of dispute a court should not involve itself in since it cannot do so without potentially compromising its ability to be impartial to the government and defendant, the only true parties to the trial of the indictment." *United States v. Rubin*, 558 F. Supp. 2d 411, 428 (E.D.N.Y. 2008).

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criminal charges against Jeffrey Epstein. That fact is undisputed.

Accordingly, all of the "facts" contained in Petitioners' statement are not "material" and the resolution of those "facts" will not "expedite the trial." Quite simply, all of the allegations, inferences, and innuendos contained in Petitioners' statement serve no purpose relevant to this litigation.

II. AGREEING WITH MANY OF PETITIONERS' "FACTS" WOULD HAVE VIOLATED FED. R. CRIM. P. 6(e) AND/OR CONSTITUTIONAL MANDATES.

Several of the "facts" that Petitioners include allege that Epstein and others have committed crimes for which they were never charged or convicted. Others refer to matters that were occurring before the grand jury. The Federal Rules of Criminal Procedure, constitutional mandates, and the ABA Model Rules on the Special Responsibilities of a Prosecutor address several of the items to which the Petitioners asked the Government to agree. The Government correctly refused to agree to those "facts," and the Petitioners cannot now use that refusal to ask the Court to adopt those "facts" as true.

A. Federal Rule of Criminal Procedure 6(e)

Rule 6(e) states that "an attorney for the government" "must not disclose a matter occurring before the grand jury." Fed. R. Crim. P. 6(e)(2)(B).[5] Courts have construed "a matter occurring before the grand jury" to include "events which have already occurred before the grand jury, such as a witness's testimony, [and] matters which will occur, such as statements which reveal the identity of persons who will be called to testify or which report when the grand jury will return an

[5]Petitioners have no similar obligation. *See* Fed. R. Crim. P. 6(e)(2)(A).

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indictment."[6] *In re Grand Jury Investigation*, 610 F.2d 202, 216-17 (5th Cir. 1980).

While Petitioners were merely asking the Government to agree with their assertions of "fact" based upon materials Petitioners had received from counsel for Epstein, rather than asking the Government to make affirmative disclosures of grand jury material, "Rule 6(e) does not create a type of secrecy which is waived once public disclosure occurs." *In re Motions of Dow Jones & Co.,* 142 F.3d 496, 505 (D.C. Cir. 1998) (quoting *In re North*, 16 F.3d 1234, 1245 (D.C. Cir. 1994)). "[E]ven if material concerning the grand jury investigation had been disclosed to the public, the Government attorney . . . had a duty to maintain grand jury secrecy. This attorney could neither confirm nor deny the information presented by the 'external party.'" *Senate of the Commonwealth of Puerto Rico* [redacted]. *United States Dep't of Justice*, 1992 WL 119127 at *3 (D.D.C. May 13, 1992) (citing *Barry* [redacted]. *United States*, 740 F. Supp. 888, 891 (D.D.C. 1990) ("Rule 6(e) does not create a type of secrecy

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[6]It is worth noting that, within the same case, a court can take differing positions on this. Compare:

> [T]he disclosure of information obtained from a source independent of the grand jury proceedings, such as a prior government investigation, does not violate Rule 6(e). A discussion of actions taken by government attorneys or officials, e.g., a recommendation by the Justice Department attorneys to department officials that an indictment be sought against an individual does not reveal any information about matters occurring before the grand jury. Nor does a statement of opinion as to an individual's potential criminal liability violate the dictates of Rule 6(e).

With:

> Disclosures which expressly identify when an indictment would be presented to the grand jury, the nature of the crimes which would be charged, and the number of persons who would be charged run afoul of the secrecy requirements codified in Rule 6(e).

In re Grand Jury Investigation, 610 F.2d at 217, 218. In light of such conflicting directives, the government must err, if at all, on the side of treating all information related to grand jury proceedings as "matters occurring before the grand jury."

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which is waived once public disclosure occurs. The Government is obligated to stand silent regardless of what is reported, accurate or not, by the press.").)

The reasons for Rule 6(e) are multiple:

> In addition to preventing adverse pretrial publicity about a person who may be indicted and subsequently tried, secrecy protects the reputation of a person under investigation who is not indicted. The secrecy requirement also encourages reluctant witnesses to testify without fear of reprisals from those against whom testimony is given, prevents tampering with grand jury witnesses in an effort to alter their trial testimony, and permits the grand jury to deliberate free from the influence of publicity. Finally, secrecy prevents disclosures to persons who may be interested in the investigation if the facts are known or might attempt to escape if they have reason to believe certain indictments will issue.

United States [redacted]. *Eisenberg*, 711 F.2d 959, 961 (11th Cir. 1983) (citing *United States* [redacted]. *Procter & Gamble Co.*, 356 U.S. 677, 681 n.6 (1958)).

Several of the "facts" contained in Petitioners' submission contain allegations related to matters occurring before the grand jury. Pursuant to Fed. R. Crim. P. 6(e), the Government cannot confirm or deny the accuracy of those allegations.

B. Due Process and the ABA Rule for Prosecutors

As noted above, one of the reasons behind 6(e) is to protect the reputations of persons who are under investigation but not indicted. This is a corollary to what the Court of Appeals found to be a due process protection afforded by the Fifth Amendment of the United States Constitution – namely, "that the liberty and property concepts of the Fifth Amendment protect an individual from being publicly and officially accused of having committed a serious crime, particularly where the accusations gain wide notoriety." *See In re Smith*, 656 F.2d 1101, 1106 (5th Cir. 1981) (citation

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omitted).[7] In *Smith*, the petitioner filed a motion seeking to have his name stricken from the factual proffers of two criminal defendants. Smith had not been criminally charged or convicted. The Court of Appeals agreed with Smith, castigating the Government:

> no legitimate governmental interest is served by an official public smear of an individual when that individual has not been provided a forum in which to vindicate his rights. . . .
>
> [W]e completely fail to perceive how the interests of criminal justice were advanced at the time of the plea hearings by such an attack on the Petitioner's character. The presumption of innocence, to which every criminal defendant is entitled, was forgotten by the Assistant United States Attorney in drafting and reading aloud in open court the factual resumes which implicated the Petitioner in criminal conduct without affording him a forum for vindication.

Id. at 1106, 1107. The Court of Appeals ordered the District Court Clerk's Office to "completely and permanently obliterate and strike from the records of the pleas of guilty . . . any and all identifying reference to or name of Mr. Smith, the Petitioner, so that such references may not be used as a public record to impugn the reputation of Petitioner." *Id.* at 1107. The Court further ordered that all of the pleadings in the case be sealed. *Id.*

Courts have interpreted *Smith* to apply not only to references to unindicted co-conspirators in indictments and factual proffers, but also to motion papers. *See, e.g., United States* [redacted]. *Anderson*, 55 F. Supp. 2d 1163, 1168 (D. Kan. 1999) ("After carefully reviewing the government's moving papers on the conflict of interest issue, the court can find no reason why the government might have 'forgotten' the presumption of innocence in such a public pleading . . .") (citing *Smith*, 656 F.2d at 1107); *United States* [redacted]. *Holy Land Foundation*, 624 F.3d 685 (5th Cir. 2010) (Fifth Amendment rights of organization were violated when its name was listed among 246 unindicted coconspirators

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[7]This opinion of the Fifth Circuit was made binding precedent in the Eleventh Circuit pursuant to *Bonner* [redacted]. *City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (*en banc*).

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in pre-trial brief).

The Model Rules further advise prosecutors not to engage in comments that "have a substantial likelihood of heightening public condemnation of the accused." (ABA Model Rule 3.8.)

In Petitioners' "Statement of Undisputed Material Facts," they included allegations related to crimes for which Epstein and several other individuals were neither charged nor convicted. Pursuant to *Smith* and its progeny, and as previously explained to Petitioners' counsel, the Government denies all such allegations, including but not limited to the allegations contained in paragraphs 1, 2, 4, 5, 10, 11, 17, 37, 52, and 53.[8]

III. THERE IS NO LEGAL OBLIGATION THAT THE UNITED STATES ADMIT OR DENY THE PETITIONERS' "FACTS," MANY OF WHICH ARE FALSE.

Although docketed as a Civil Case, the CVRA does not provide for a civil cause of action. *See*, e.g., 18 U.S.C. § 3771(d)(6). Rather, the CVRA creates rights for victims in federal criminal cases where criminal charges have already been filed. 18 U.S.C. § 3771(b)(1) ("In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a)."); *see also* Fed. R. Crim. P. 60 (incorporating CVRA into Federal Rules of Criminal Procedure). Thus, there is no obligation in this case, as there might be in a case governed by the Federal Rules of Civil Procedure where sovereign immunity was waived, that requires the United States to make any evidentiary disclosures.

Petitioners next rely on Local Rule 88.10(O), which governs discovery in criminal cases. First, no standing discovery order has been entered because no criminal proceedings are pending.

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[8]It should be noted that Petitioners preface many of these allegations with a *false* imprimatur of FBI findings. Compare, for example, paragraph 5 with the pages cited in support thereof.

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Second, victims are not "parties" to criminal proceedings. *See, e.g., In re Amy Unknown*, ___ F.3d ___, 2011 WL 988882 at *2 (5th Cir. Mar. 22, 2011). ("Crime victims have not been recognized as parties, and the Federal Rules of Criminal Procedure do not allow them to intervene as parties to a prosecution.); *United States v. Aguirre-Gonzalez*, 597 F.3d 46, 53 (1st Cir. 2010) ("Notwithstanding the rights reflected in the restitution statutes, crime victims are not parties to a criminal sentencing proceeding.). Third, many of Petitioners' asserted "facts" are not facts at all, but instead are inferences, legal conclusions, or innuendos. And, most importantly, many are plainly false.

As stated above, the United States does not believe that any of these issues are material to the resolution of the Emergency Petition or Jane Does #1 and #2's Motion for Finding of Violation of the CVRA [DE1 and DE48]. Nonetheless, to correct misstatements in the record, the United States points out the following examples of areas where Petitioners have included "undisputed facts" that are known to them to be in dispute.

Prior to Epstein's state court plea, Jane Doe #2 was represented by counsel for Epstein, was adverse to any investigation of Epstein, and contacted other potential victim-witnesses and advised them not to speak to investigators. When interviewed by the FBI and the U.S. Attorney's Office, Jane Doe #2 denied any sexual abuse by Epstein and said that Epstein was an "awesome man" and that she would marry him. Jane Doe #2 further expressed a belief to the government that Epstein should not be prosecuted.

Jane Doe #2 not only made the government's investigative efforts more difficult, she also made the victim notification process more difficult. A great deal of the complaints made by the Petitioners come from the delay between the time that Epstein signed the NPA on September 24,

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2007, and when he actually entered his guilty plea on June 30, 2008. (*See* DE 48 at ¶¶ 25, 32, *et seq.*) As set forth in their "Statement of Undisputed Facts," this was the period when Epstein "sought higher level review within the Department of Justice." (*Id.* at ¶ 32.) As is known to Petitioners, but as they neglected to mention in their "Statement of Undisputed Material Facts," one of the unfounded allegations made against AUSA Villafaña by Epstein's counsel during the "higher level review" was that she "wrongfully" tried to include Jane Doe #2 among the list of Epstein's victims. Ironically, these same attempts to protect Jane Doe #2's rights are now being used by Jane Doe #2 to allege violations of the CVRA.

Petitioners also allege that the letters sent to Jane Doe #1 and Jane Doe #2 during the period when Epstein was pursuing Justice Department review, which stated that their cases were still under investigation, were false. Yet Petitioners know that the investigation was ongoing because, as stated in their own "Statement of Undisputed Material Facts," on "January 31, 2008, Jane Doe #1 met with FBI Agents and AUSA's from the U.S. Attorney's Office." (DE48 at 17.) And another individual represented by Petitioners' counsel was interviewed on May 28, 2008. These and other interviews were conducted so that, if Epstein did not follow through with the NPA, the Office would be ready to address that situation as appropriate. Thus, the investigation was, in fact, continuing.

The Petitioners also know that the terms of the NPA were disclosed to Jane Doe #1 shortly after the NPA was signed. Jane Doe #1 avers that she believed that Epstein agreed to pay damages to her, but agreed that he would still be federally prosecuted for criminal charges based on crimes allegedly committed against her. Petitioners aver that it is a "fact" that this was a "quite reasonable understanding." (DE48 at 12.) The Government denies that this is what Jane Doe #1 was told (*see* DE14), although there could have been an honest misunderstanding. The Government denies,

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however, that it was "quite reasonable" to believe that a criminal defendant would agree to pay damages to Jane Doe #1 as part of his resolution of a criminal case involving another victim while still agreeing that he could be criminally charged for acts involving Jane Doe #1.

Furthermore, Petitioners know well that one of the reasons why the terms of the NPA were not disclosed to additional victims when Epstein began appealing to the Justice Department was because of concerns that, if Epstein did not follow through with the NPA and federal criminal charges were thereafter filed against him, Epstein's counsel would argue at trial that the victims had been told, *by the prosecution team*, that they would receive money if they claimed that they had been victimized by Epstein. This was not a frivolous concern; such allegations actually were raised by Epstein's counsel in depositions of some of the identified victims that were filed before this Court.

Petitioners also suggest that efforts were made to move proceedings to Miami to keep these Petitioners from learning of court proceedings. Yet, it is undisputed that Petitioners were notified, through counsel, of the only public court proceeding – Epstein's state court plea and sentencing – and were specifically invited to attend. The Petitioners also know that some of the victims in the case were terrified that their family members might learn of their connection to the investigation and that other victims had privacy concerns that were very different than those of Petitioners. Having the proceedings outside the glare of the victims' hometown press would have allowed those other victims to participate while maintaining some semblance of privacy.

Petitioners also reiterate baseless allegations made against AUSA Villafaña regarding the choice of the attorney-representative for the victims, despite knowing that: (1) the issue of the attorney-representative arose *after* the NPA was already negotiated; (2) the Justice Department investigated these allegations and found them to be meritless; and (3) the U.S. Attorney's Office

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elected to use a Special Master (retired U.S. District Court Judge [redacted]) to make the final selection.

The Petitioners also know that the AUSA, the agents, and the FBI's victim-witness coordinator obtained counseling services for some of the identified victims. And Petitioners are well aware that the AUSA even provided notifications of Epstein's work release status.

Paragraph 17 of Petitioners' filing also misstates a provision of the NPA. Petitioners stated that "[t]o obtain an attorney paid for by Epstein, the victim would have to agree to proceed exclusively under 18 U.S.C. § 2255 (i.e., under a law that provided presumed damages of $150,000 against Epstein[.]" Section 2255 actually provides *minimum* presumed damages of $150,000, not a "cap" of $150,000.

There are a number of additional inferences and legal conclusions interspersed in the "Statement of Undisputed Material Facts," which the Government denies. For example, contrary to Petitioners' contentions, the Government denies that notifying the victims about the NPA would have violated the NPA (DE48 at 10, ¶ 18); and that the U.S. Attorney's Office wanted the NPA to be kept confidential to avoid public criticism or to avoid victims from convincing "the judge reviewing the agreement not to accept it" (DE48 at 11, ¶ 19). The Government denies these and all other unsupported innuendos advanced by Petitioners.

CONCLUSION

For the reasons set forth herein and in the United States' Response to Jane Does #1 and #2's Motion for Finding of Violations of the Crime Victims Rights Act and Request for a Hearing on Appropriate Remedies, the Petitioners' "Statement of Undisputed Facts" is completely irrelevant to the Court's determination of the merits of this case. As both of the parties agreed shortly after the

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filing of the Emergency Petition, the Court had all of the relevant facts back in August 2008 and the matter was ready to be decided.

Petitioners cannot demand that the Government agree to their allegations, innuendos, and legal conclusions, especially when many of them would run afoul of Rule 6(e) and the Fifth Amendment and others are clearly false. Accordingly, Petitioners' Motion to Have Their Facts Accepted should be denied.

Respectfully submitted,

WIFREDO A. [redacted]
UNITED STATES ATTORNEY

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Attorney for Respondent

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 7, 2011, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF.

s/ Dexter A. Lee
DEXTER A. LEE
Assistant U.S. Attorney

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SERVICE LIST

Jane Does 1 and 2 [redacted]. United States,
Case No. 08-80736-CIV-MARRA/JOHNSON
United States District Court, Southern District of Florida

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EXHIBIT

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[redacted] emailed the defense stating that United States Attorney [redacted] would accept no less than 18 months of incarceration, following by a one-year term of house arrest.

Federal Prosecutors Misrepresented the Number of Alleged "Victims."

17. In September 2007, in order to add additional pressure on Mr. Epstein to execute a deferred prosecution agreement, AUSA [redacted] claimed that there were "40" minors on the government's list of purported § 2255 victims. To compound that misleading characterization, she continued to insist that a guardian-ad-litem be appointed to represent these purported "minors" in the proceedings. *See* Tab 24, September 19, 2007 Email from M. [redacted] to J. Lefkowitz.

18. When challenged as to whether there was a genuine need for a ***guardian,*** given that Ms. [redacted] continued to refuse to disclose the names or any other information about her putative list of "minors," she eventually conceded that ***only "1 is definitely under 18*** still, and ***I think*** there is another minor." *See* Tab 25, September 23, 2007 Email from M. [redacted] to J. Lefkowitz (emphasis added).

19. The next day, AUSA [redacted] retreated from the number "40," stating that she had now "compiled a list of ***34 confirmed minor victims with no definition of how they would be considered as such.***. There are six others, whose names we already have, who need to be interviewed by the FBI to confirm whether they were 17 or 18 at the time of their activity with Mr. Epstein." *See* Tab 26, September 24, 2007 Email from M. [redacted] to J. Lefkowitz (emphasis added). This statement indicated that, at least the "six others" (and, as it turns out, all those identified except two) had reached the age of majority, and, in fact, no guardian was necessary to represent their interests.

Defense Counsel was Falsely Advised That the Non Prosecution Agreement Would Be Kept Confidential.

20. On September 24, Epstein and the USAO executed a Non Prosecution Agreement.

21. His attorneys asked Ms. [redacted] to "please do whatever you can to keep this from becoming public." *See* Tab 27, September 24, 2007 Email from J. Lefkowitz to M. [redacted].

22. Ms. [redacted] replied that she had "forwarded your message **only to** [redacted] [[redacted]], [redacted] [Lourie], and Rolando [Garcia]. I don't anticipate it going any further than that." *Id.*

23. Ms. [redacted] stated that the agreement would be "placed in the case file, which will be kept confidential since it also contains identifying information about the girls." *Id.*

The Prosecution Immediately Notifies Three Plaintiffs That Mr. Epstein Has Executed A Non Prosecution Agreement

24. In direct violation of these representations, "shortly after the signing," the government notified "three victims" of the "general terms" of the Non Prosecution Agreement. *See*

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EXHIBIT

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"Sloman, Jeff (USAFLS)"

11/27/2007 01:55 PM

To "Jay Lefkowitz" <JLefkowitz@kirkland.com>
cc "[redacted]" (USAFLS)
bcc
Subject Epstein

History: This message has been replied to and forwarded.

Jay,

Please accept my apologies for not getting back to you sooner but I was a little under the weather yesterday. I hope that you enjoyed your Thanksgiving.

Regarding the issue of due diligence concerning Judge [redacted] selection, I'd like to make a few observations. First, Guy Lewis has known for some time that Judge [redacted] was making reasonable efforts to secure Aaron Podhurst and Bob Josephsberg for this assignment. In fact, when I told you of Judge [redacted] selection during our meeting last Wednesday, November 21st, you and Professor Dershowitz seemed very comfortable, and certainly not surprised, with the selection. Podhurst and Josephsberg are no strangers to nearly the entire Epstein defense team including Guy Lewis, Lili Ann Sanchez, Roy Black, and, apparently, Professor Dershowitz who said he knew Mr. Josephsberg from law school. Second, Podhurst and Josephsberg have long-standing stellar reputations for their legal acumen and ethics. It's hard for me to imagine how much more vetting needs to be done.

The United States has a statutory obligation (Justice for All Act of 2004) to notify the victims of the anticipated upcoming events and their rights associated with the agreement entered into by the United States and Mr. Epstein in a timely fashion. Tomorrow will make one full week since you were *formally* notified of the selection. I must insist that the vetting process come to an end. Therefore, unless you provide me with a *good faith* objection to Judge [redacted] selection by COB tomorrow, November 28, 2007, I will authorize the notification of the victims. Should you give me the go-ahead on Podhurst and Josephsberg selection by COB tomorrow, I will simultaneously send you a draft of the letter. I intend to notify the victims by letter after COB Thursday, November 29th. Thanks,

Jeff

"Villafana, Ann [redacted] C. (USAFLS)"

11/28/2007 04:46 PM

To "Jay Lefkowitz" <JLefkowitz@kirkland.com>
cc "[redacted], Jeff (USAFLS)"
"[redacted], [redacted] (USAFLS)"
bcc
Subject Epstein: Victim Notification Letter

History This message has been replied to and forwarded.

Dear Jay:

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

Thank you.

<<Victim Notification Ltr.pdf>>

A. [redacted]

Assistant U.S. Attorney

<<< Attachment 'Victim Notification Ltr.pdf' has been archived by user 'CommonStore/IT/Kirkland-Ellis' on '01/30/2008 00:30:02'. >>>

f2

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401

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 Mssrs. 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

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 [redacted] Kuyrkendall at

Sincerely,

[redacted]
United States Attorney

By:
A. [redacted] Villafaña
Assistant United States Attorney

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

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401

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 Mssrs. 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

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 [redacted] Kuyrkendall at [redacted].

Sincerely,

R. Alexander [redacted]
United States Attorney

By:
A. [redacted]
Assistant United States Attorney

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

EXHIBIT

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[redacted] (USAFLS)" [redacted]

11/29/2007 06:30 PM

To "Jay Lefkowitz" <JLefkowitz@kirkland.com>
cc
bcc
Subject RE: Epstein: Victim Notification Letter

History This message has been replied to.

Hi Jay – The only attachment is my letter, did I miss something?

Thanks.

[redacted]

[redacted]

[redacted]

[redacted] (USAFLS)" <Ann.Marie.C.Villafana@usdoj.gov>

11/28/2007 04:46 PM

To "Jay Lefkowitz" <JLefkowitz@kirkland.com>
cc "Sloman, Jeff (USAFLS)" [redacted]
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. [redacted] *Villafaña*

Assistant U.S. Attorney

EXHIBIT

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U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
[redacted]
Facsimile: [redacted]

November 29, 2007

DELIVERY BY UNITED STATES MAIL
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 that 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 offender 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 compensate you for damages you have suffered, under the following circumstances. That portion of the agreement that relates to those claims reads as follows:

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.

Pursuant to the terms of the agreement and an addendum, 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 may 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
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 [redacted] at [redacted].

Sincerely,

[redacted]
United States Attorney

By:
[redacted]
Assistant United States Attorney

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

EXHIBIT

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KIRKLAND & ELLIS LLP

AND AFFILIATED PARTNERSHIPS

Citigroup Center
[redacted]
New York, New York 10022-4611
[redacted]
www.kirkland.com

Jay P. Lefkowitz, P.C.
To Call Writer Directly:
[redacted]
lefkowitz@kirkland.com

Facsimile:
[redacted]

November 29, 2007

VIA E-MAIL

[redacted]
United States Attorney's Office
Southern District of Florida
[redacted]

Re: Jeffrey Epstein

Dear [redacted]

I am responding to the draft letter [redacted] sent to me last night, which purports to be a letter that you would sign and send to each of the individuals whom you have not even identified to us, and about whom the government has made clear it "takes no position" as to the validity of potential claims that these individuals may have against Mr. Epstein. I cannot reconcile your commitment to "take no position" regarding these potential claims with your intention to sign such a letter, which will surely find its way almost immediately into the press, refers to these individuals as "minor victims," refers to Mr. Epstein as a "sexual predator," misstates the terms of our federal non-prosecution agreement (the "Agreement"), and invites federal witnesses to attend Mr. Epstein's state sentencing in order to give victim impact statements, although they are in most respects not state victims at all.

More fundamentally, we don't understand the basis for your Office's belief that it is appropriate for any letter to be sent to these individuals at this stage – before Mr. Epstein has either entered a plea or been sentenced. We respectfully disagree with your view that you are required to notify the alleged victims pursuant to the Justice for All Act of 2004. First, 18 U.S.C. § 2255, the relevant statute under the Agreement for the settlement of civil remedies, does not have any connection to the Justice for All Act. The Justice for All Act refers to restitution, and § 2255 is a civil remedy, not a restitution statute.

We also believe that the draft letter could not diverge more dramatically from your statement last week that your Office would not intervene in the state process from this point forward, and that you would merely monitor it. Indeed, the letter as currently drafted invites federal witnesses to become participants in a state proceeding, thus federalizing the state plea and sentencing in the same manner as would the appearance and statements of a member of your Office or the FBI.

With that said, I respectfully identify below the specific objections we have with the proposed letter.

First, it states that "Mr. Epstein has agreed that he will not contest jurisdiction or liability if [the alleged victims] elect to seek damages from him . . ." This language implies that Mr. Epstein has agreed to concede jurisdiction and has waived liability whether or not each individual identified by the government as a "victim" of federal crimes ultimately settles her claim pursuant to the Agreement. The letter as drafted invites the witnesses to whom it is sent to believe that they can litigate their claims without Mr. Epstein being able to contest jurisdiction or liability – a construction of the Agreement that is in direct conflict with its terms. The Agreement we entered makes clear that Mr. Epstein's waiver of jurisdiction and liability is limited to those instances where the identified individual settles with him pursuant to Sections 7 through 8 of the Agreement and Addendum. As you are well aware, Mr. Epstein has no obligation or intention to concede jurisdiction or liability in any claim for damages – by an enumerated "victim" or anyone else – where that party fails to settle her claims pursuant to the terms of the Agreement.

Second, there is no basis to refer to Mr. Epstein as a "sexual predator." Pursuant to the terms of the Agreement, Mr. Epstein will be required to register as a "sexual offender," not a "sexual predator." Those are very different categories under Florida law. Mr. Epstein has agreed to enter a plea of guilty to two counts of violation of Florida Statutes §§ 796.03 and 796.07. Under Florida law, those charges do not classify him as a sexual predator. See Florida Statute § 775.21(4)(a). Rather, he is only a sexual offender as defined by Florida Statute § 943.0435(1)(a). To identify Mr. Epstein as a sexual predator, in this letter or elsewhere, is inaccurate and would irreparably harm him.

Third, we find no basis in law that provides the identified individuals with either a right to appear at Mr. Epstein's plea and sentence, or to submit a written statement to be filed by the State Attorney. According to Florida Statutes §§ 960.001(k) and 921.143(1), the sentencing court permits only "the victim of the crime for which the defendant is being sentenced . . . to [a]ppear before the sentencing court for the purpose of making a statement under oath for the record; and [s]ubmit a written statement under oath to the office of the state attorney, which statement shall be filed with the sentencing court." Florida Statute § 960.001(k) citing § 921.143(1) (emphasis added). Here, Mr. Epstein is pleading guilty to, and being sentenced for, state offenses, not the federal offenses under which the government has recognized these identified individuals as "victims." The state charges for which Mr. Epstein will be sentenced are not coextensive with the federal investigation. Under Florida law, only those persons identified as victims of the state offenses may make a statement at the hearing or submit a written statement.

With respect, encouraging these individuals to participate in the state sentencing will have the effect of creating a media frenzy that will surely impact the sentence Mr. Epstein receives – precisely what your Office promised to avoid. Such an intrusion into state affairs, when the identified individuals are not even victims of the crime for which Mr. Epstein is being sentenced is highly inappropriate. The federal investigation of Mr. Epstein has been concluded, and witnesses or civil claimants identified as purported victims of federal offenses have no place in the state proceeding. We also think it will likely promote spurious civil litigation against Mr. Epstein, a result that would be highly irresponsible to encourage.

Fourth, we take serious issue with the assertion in the letter that the government has identified each recipient of the letter as a "minor victim." The term "minor victim" is notably absent from the Agreement. Section 7 of the Agreement states only that the government will provide a list of individuals "whom it has identified as victims, as defined in 18 U.S.C. § 2255." Indeed, you have told us that at least one identified individual is currently 24 years old, and thus would appear not to have been a minor at the time of the alleged conduct (and therefore is presumably not eligible to settle her claims under the Agreement). To confer on these women the imprimatur of a government "finding" is both incendiary and unwarranted.

Fifth, your letter mischaracterizes the nature of Mr. Epstein's liability under the 18 U.S.C. § 2255 provisions of the Agreement. Your letter states that every individual who receives the letter is a victim of "certain 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." This construction implies that these individuals are all victims of both offenses (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.) Clearly that is not the case. Consequently, the language should be revised to reflect that the identified individuals may be victims of certain offenses, but not necessarily both offenses. Additionally, for the sake of fairness and candor, we believe the same language contained in your letter to Judge [redacted], stating that "[t]he United States takes no position as to the validity of any such claim under this statute," should be included in any proposed letter.

Sixth, your letter states that Mr. Podhurst and Mr. Josefsberg may "represent" the identified individuals. Since we have not yet had the opportunity to speak with Mr. Podhurst or Mr. Josefsberg (though we hope to do so this week), we do not know that they will even agree to serve in this capacity. Since I believe the role you are casting for these attorneys creates a significant ethical problem, specifically the conflict between counseling the clients to settle for the statutory amount and rewarding the attorneys for litigating rather than settling their claims, I would not assume that they, or any ethical attorney, would agree to accept this assignment as you define it. Whether that will mean that other attorneys will have to be sought, or you will realize that the role is untenable as described, either result will require modification of the letter.

Seventh, the identified individuals should not contact lawyers in your Office or agents of the FBI. To encourage these individuals to contact federal law enforcement officials is entirely inconsistent with your promise that there will be no further federal involvement in this case. Moreover, such contact can only invite the possibility for impermissible or partial communications. Recently, you asked the defense not to contact potential witnesses in this matter in part because the Agreement contemplated the selection of an attorney representative. For the same reason there should be no continuing invitation for the witnesses to remain in contact with either your Office or the FBI. Any questions these individuals may have regarding their rights under the Agreement should be answered by Judge [redacted] or the attorney representative.

Eighth, this letter should be mailed rather than delivered by hand. We see no reason for hand delivery, and mailing will ensure that there are no impermissible or partial communications made to the identified individuals upon delivery of the letter. If your Office insists on hand delivery of any such letter, however, it should only be made by a third party service, not by law enforcement agents.

Finally, as you know, Judge Starr has requested a meeting with Assistant Attorney General Fisher to address what we believe is the unprecedented nature of the § 2255 component of the Agreement. We are hopeful that this meeting will take place as early as next week. Accordingly, we respectfully request that we postpone our discussion of sending a letter to the alleged victims until after that meeting. We strongly believe that rushing to send any letter out this week is not the wisest manner in which to proceed. Given that Mr. Epstein will not even enter his plea for another few weeks, time is clearly not of the essence regarding any notification to the identified individuals.

Sincerely,

Jay P. Lefkowitz

EXHIBIT

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U.S. Department of Justice

United States Attorney
Southern District of Florida

[redacted]
UNITED STATES ATTORNEY

99 N.E. 4 Street
Miami, FL 33132
(305) 961-9100 - Telephone
(305) 530-6444 - Facsimile

DELIVERY BY FACSIMILE
Kenneth W. Starr, Esq
Kirkland & Ellis LLP
777 South Figueroa Street
Los Angeles, CA 90017

Re: Jeffrey Epstein

Dear Mr. Starr:

I write in response to your November 28th letter, in which you raise concerns regarding the Non-Prosecution Agreement between this Office and your client, Mr. Epstein. I take these concerns seriously. As your letter focused on the Section 2255 portion of the Agreement, my response will focus primarily on that issue as well. I do wish to make some more general observations, however.

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." Thus, had this Office proceeded to trial, and had Mr. Epstein been convicted, the victims of his actions would have been able to seek to relief under this Section.

The Non-Prosecution Agreement entered into between this Office and Mr. Epstein responds to Mr. Epstein's desire to reach a global resolution of his state and federal criminal liability. Under this Agreement, this District has agreed to defer prosecution for enumerated sections of Title 18 in favor of prosecution by the State of Florida, provided that the Mr. Epstein satisfies three general federal interests: (1) that Mr. Epstein plead guilty to a "registerable" offense; (2) that this plea include a binding recommendation for a sufficient term of imprisonment; and (3) that the Agreement not harm the interests of his victims. This third point deserves elaboration. The intent is to place the victims in the same position as they would have been had Mr. Epstein been convicted at trial. No more; no less.

With this in mind, I turn to the language of the Agreement. Paragraph 8 of the Agreement provides:

> 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,[1] 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 victim and Epstein, so long as the identified victim 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 is not to be construed as an admission of any criminal or civil liability other than that contained in 18 U.S.C. § 2255.

Although these two sentences are far from simple, they appear to incorporate our intent to narrowly tailor the Agreement to place the identified victims in the same position as they would have been had Mr. Epstein been convicted at trial. I would note that I have conferred with our prosecutors and have been told that Paragraph 8 was vigorously negotiated and that the final language was suggested largely by defense counsel.

The concerns raised in your letter with respect to Paragraph 8 fall within several general categories. First, you raise concerns regarding the nature of Section 2255. As you note,

> Section 2255 is a civil statute implanted in the criminal code; in contrast to other criminal statutes, Section 2255 fails to correlate payments to specific injuries or losses. Instead the statute presumes that victims have sustained damages of at least a minimum lump sum without regard to whether the complainants suffered actual medical, physiological or other forms of individualized harm.

These concerns were, I would expect, aired when Congress adopted this statute. Even if they were not, this provision is now law. Rule of law requires now requires this District to consider the victims' rights under this statute in negotiating this Agreement.

Second, you raise concerns regarding the identity-of-the-victims issue. Your concerns appear based on the belief that Paragraph 8 is a blanket waiver of liability with respect to any number of unnamed and undisclosed victims. I would invite you to confer with your co-counsel regarding this matter. Although the language of Paragraph 8 could be so construed, our First Assistant informed Mr. Lefkowitz some weeks ago that this was not our position. As Mr. Lefkowitz has noted, were Mr. Epstein convicted at trial, the plaintiff-victims in a subsequent Section 2255 suit would still have had some burden to prove that they were "victims." It is also the case, however, that were Mr. Epstein convicted at trial, the plaintiff-victims would not have to show that a violation of an enumerated section of Title 18 took place. Accordingly, our First Assistant informed Mr. Lefkowitz some weeks ago that we understood that if a victim-plaintiff elects to proceed to trial, Mr. Epstein's

[1] Although not identified as an issue by defense counsel, having reviewed this language, I note that Paragraph 8 raises the question of what is meant by "subject matter." I have conferred with the AUSA who negotiated this language, and have been informed that parties intended this to address issues of venue. This Office will not interpret this paragraph as any waiver of subject matter jurisdiction. Please inform me if defense counsel disagrees.

legal team might conduct due diligence to confirm the that victim-plaintiff in fact had inappropriate contact with Mr. Epstein. Once again, our interpretive principle is our intent to place the victim in the same position she would have been had Mr. Epstein proceeded to trial.

Third, you raise concerns regarding our decision not to create a restitution fund. Throughout the negotiations, defense counsel suggested several similar arrangements, including a Trust fund. Again, our decision not to create a fund flows from our belief that the Agreement should provide the same relief to the victims as they would have been entitled had we proceeded to trial. A restitution fund or trust fund would place an upper limit on the victims' recovery. It is not for this Office to make that decision for the victims. They may choose to walk away, they may choose to settle, or they may choose to sue. The choice should remain with each individual victim.[2]

Fourth, you raise concerns regarding the selection process for the attorney representative. As you may be aware, the suggestion that we appoint an attorney representative originated with defense counsel. Defense counsel, I believe, found it advantageous to attempt to negotiate a settlement of the many victims' claims with one attorney representative. My Office agreed to appoint such a representative, in part, because we too thought it valuable for the victims to have the advice of an attorney who could advise them of their choices: whether to walk away, to settle or to sue.

Since the signing of the Agreement, several issues have arisen with respect to this provision. First, I elected to assign this Office's right to appoint the representative to an independent third-party, former federal Judge [redacted]. I did this to avoid any suggestion that this Office's choice of representative was intended to influence the outcome of civil litigation. Second, your co-counsel expressed concerns similar to those raised in your letter regarding the criteria used to select the representative. These criteria were:

(1) Experience doing both plaintiffs' and defense litigation;
(2) Experience with state and federal statutory and common law tort claims;
(3) Ability to communicate effectively with young women;
(4) Experience litigating against large law firms and high profile attorneys who may test the veracity of the victims' claims;
(5) Sensitivity to the nature of the suit and the victims' interest in maintaining their privacy;
(6) Experience litigating in federal court in the Southern District of Florida;

[2] Your letter references *U.S.* [redacted] *Boehm*, No. 3:04CR00003 (D. Ala 2004) as a model for a restitution fund settlement. I asked our prosecutor to contact the AUSA in that case. In that matter, the District of Alaska sought out and obtained the consent of all the victims before entering into that settlement. In addition, they developed an elaborate procedure for deciding which victim would receive what. My view, in this case, is that those types of negotiations are better handled between Mr. Epstein and the victims' representatives, and that this Office should not act as intermediary. Finally, I would note that in *Boehm* as well, the victims' identities were not initially disclosed. As the AUSA wrote in that case: "This filing is made ex parte because Boehm, in his plea agreement, waived any rights he had pertaining to the selection of beneficiaries and the disbursement of funds to such beneficiaries."

(7) The resources to hire experts and others, while working on a contingency fee basis, in order to prepare for trial if a settlement cannot be reached (defense counsel has reserved the right to challenge such litigation); and
(8) The ability to negotiate effectively.

At my direction, our First Assistant provided our criteria to your co-counsel, Mr. Lefkowitz, in advance, and at co-counsel's request, he noted in our communication with Judge [redacted], defense counsel's objection to criteria 7. I have now reviewed these criteria and find them balanced and reasonable. They appear designed to provide the victims with an attorney who can advise them on all their options, whether it be to walk away, to settle (as your client prefers), or to litigate. Again, our intent is not to favor any one of these options, but rather to leave the choice to each victim.

Fifth, you assert that this Office "has improperly insisted that the chosen attorney representative should be able to litigate the claims of the individuals," should a resolution not be possible. This issue, likewise, has already been raised and addressed in discussions between your co-counsel and our First Assistant. We understand your position that it would be a conflict of interest for the attorney representative to subsequently represent victim-plaintiffs in a civil suit. Your interpretation of the ethics rules may be correct, or it may be wrong. Far from insisting that the attorney representative can represent victim-plaintiffs in subsequent litigation, our First Assistant and I have repeatedly told defense counsel that we take no position on this matter. Indeed, I fully expect your defense team to litigate this issue with the attorney representative if a resolution is not reached.

I have responded personally and in some detail to your concerns because I deeply care about both the law and the integrity of this Office. I have responded personally and in some detail as well because your letter troubled me on a number of levels. My understanding of the negotiations in this matter informs my concerns.

The Section 2255 provision issue was first discussed at a July 31, 2007, meeting between FAUSA [redacted], Criminal Chief [redacted], West Palm Beach Chief Lourie, AUSA Villafaña, and two FBI agents who met with Roy Black, Gerald Lefcourt, and Lilly Ann Sanchez. On that date, the prosecutors presented a written, four-bullet-point term sheet that would satisfy the federal interest in the case and discussed the substance of those terms. One of these four points was the following provision:

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, Sections(s) 2422 and/or 2423.

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In mid August 2007, your defense team, dissatisfied with my staff's review of the case, asked to meet with me. Mr. Lefkowtiz indicated your busy schedule, and asked me to put off until September 7, 2007, so that you could attend. Mr. Lefkowitz also indicated that he might appeal my decision to Washington D.C., if my decision was contrary to his client's interest. I agreed to the September 7th meeting, despite the fact that our AUSA had an indictment ready for presentation to the grand jury. An explicit condition of that agreement, however, was an understanding between Mr. Lefkowitz and myself that any appeal to Washington would be undertaken expeditiously.

On September 7, 2007, I, along with FAUSA [redacted] AUSAs McMillan and Villafaña, and FBI agents, met with you, Mr. Lefkowitz, and Ms. Sanchez. I understood that you wished to present federalism-based concerns regarding our prosecution. To ensure a full consideration of your arguments, I invited Drew Oosterbaan, Chief of the Criminal Division's Child Exploitation and Obscenity Section, to travel from Washington to attend our meeting. During the September 7th meeting, your co-counsel, Mr. Lefkowitz, offered a plea resolution. The inclusion of a Section 2255 remedy was specifically raised and discussed at the September 7th meeting. Indeed, according to AUSA Villafaña's notes, you thanked her for bringing it to your attention. Again, no objection to the Section 2255 issue was raised.

After considering the arguments raised at the September 7th meeting, and after conferring with the FBI and with Chief Oosterbaan, our Office decided to proceed with the indictment. At that time, I reminded Mr. Lefkowitz that he had previously indicated his desire to appeal such a decision to the Attorney General, the Deputy Attorney General, or the Assistant Attorney General for the Criminal Division, and I offered to direct our prosecutors to delay the presentation of the indictment to allow you or he to appeal our decision if you so chose. He decided not to do so.

Instead, Mr. Epstein elected to negotiate the Non-Prosecution Agreement. These negotiations were detailed and time-consuming. Mr. Epstein's defense team, including yourself, Professor Dershowitz, former United States Attorney Guy Lewis, Ms. Lilly Ann Sanchez and Messrs. Roy Black, Jack Goldberger, Gerry Lefcourt and Jay Lefkowitz had the opportunity to review and raise objections to the terms of the Agreement. Again, no one raised objections to the Section 2255 language.

Since the signing of the Agreement, the defense team and our Office have addressed several issues that have arisen under the Agreement. Although the exchanges were at times a bit litigious, it appears that these issues have been resolved by mutual consent, some in favor of your client, some not so.

It is against these many previous foregone opportunities to object that I receive with surprise your letter requesting an 11th hour, after-the-fact review of our Agreement. Although it happens rarely, I do not mind this Office's decision being appealed to Washington, and have previously directed our prosecutors to delay filings in this case to provide defense counsel with the option of appealing our decisions. Indeed, although I am confident in our prosecutors' evidence and legal analysis, I nonetheless directed them to consult with the subject matter experts in the Criminal

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Division's Child Exploitation and Obscenity Section to confirm our interpretation of the law before approving their indictment package. I am thus surprised to read a letter addressed to Department Headquarters that raises issues that either have not been raised with this Office previously or that have been raised, and in fact resolved, in your client's favor.

I am troubled, likewise, by the apparent lack of finality in this Agreement. The AUSAs who have been negotiating with defense counsel have for some time complained to me regarding the tactics used by the defense team. It appears to them that as soon as resolution is reached on one issue, defense counsel finds ways to challenge the resolution collaterally. My response thus far has been that defense counsel is doing its job to vigorously represent the client. That said, there must be closure on this matter. Some in our Office are deeply concerned that defense counsel will continue to mount collateral challenges to provisions of the Agreement, even after Mr. Epstein has entered his guilty plea and thus rendered the agreement difficult, if not impossible, to unwind.

Finally, I am most concerned about any belief on the part of defense counsel that the Agreement is unethical, unlawful or unconstitutional in any way.[3]

In closing, I would ask that you consult with co-counsel. If after consultations within the defense team, you believe that our Agreement is unethical, unlawful or unconstitutional, I would ask that you notify us immediately so that we can discuss the matter by phone or in person. I have consulted with the chief prosecutor in this case, who has advised me that she is ready to unwind the Agreement and proceed to trial if necessary or if appropriate.

I would reiterate that it is not the intention of this Office ever to force the hand of a defendant to enter into an agreement against his wishes. Your client has the right to proceed to trial. Although time is of the essence (I understand that certain filings are due to our Office no later than December 7th and that certain events must take place no later than December 14th), I am directing our prosecutors not to issue victim notification letters until this Friday at 5 p.m., to provide you with time to review these options with your client. We are available by phone or in person, in the interim, to

[3] It is not clear from your letter whether you believe that attorneys in this Office have acted improperly. Your letter, for example, alludes to the need to engage in an inquiry to assure that disclosures to potential witnesses did not undermine the reliability of the results of this federal investigation. As a former Department of Justice attorney, I am certain that you recognize that this is a serious allegation. I have raised this matter with AUSA [redacted]illafaña who informed me that the victims were not told of the availability of Section 2255 relief during the investigation phase of this matter. If you have specific concerns, I ask that you raise these with me immediately, so that I can make appropriate inquiries.

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address any matters that might remain unaddressed in this letter. We expect a written decision by this Friday at 5 p.m., indicating whether the defense team wishes to reaffirm, or to unwind, the Agreement.

Sincerely,

[redacted]
UNITED STATES ATTORNEY

cc: Alice Fisher, Assistant Attorney General
Jeffrey [redacted], First Assistant U.S. Attorney
AUSA A. [redacted]

EXHIBIT

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KIRKLAND & ELLIS LLP

AND AFFILIATED PARTNERSHIPS

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December 11, 2007

VIA FACSIMILE (305) 530-6444

Honorable R. Alexander [redacted]
United States Attorney
United States Attorney's Office
Southern District of Florida
99 NE 4th Street
Miami, FL 33132

Re: Jeffrey Epstein

Dear [redacted]

I thank you for the opportunity to express my concerns with the Section 2255 component of the Non-Prosecution Agreement (the "Agreement"). I provide this submission as a good faith effort to communicate all of our concerns on this matter. I respectfully request that you consider the issues I discuss below in conjunction with the ethics opinion of Mr. Joe D. Whitley that I faxed to your Office on December 7.

Background of Negotiations

I believe it is important for you to be aware of the full scope and substance of our communications with your Office with respect to first, the negotiations regarding the inclusion of the Section 2255 component and second, the process of implementation of its terms. Contrary to your Office's view, we do not raise our concerns about the Section 2255 component of the Agreement at the "eleventh hour." Since the very first negotiation of the Non-Prosecution Agreement between the USAO and Mr. Epstein, we have verbalized our objections to the inclusion of and specific language relating to Section 2255. Also, when negotiating the settlement portion of the federal plea agreement, we immediately sought an alternative to the 2255 language. In fact, for the sake of expediting any monetary settlements that were to be made and to allow for a quick resolution of the matter, we repeatedly offered that Mr. Epstein establish a restitution fund specifically for the settlement of the identified individuals' civil claims and that an impartial, independent representative be appointed to administer that fund. This option, however, was rejected by your Office. Notably, while in our December 4 letter to me, you indicate that the reason for the rejection of a fund was because it would place an upper limit on

the victims' recovery, we placed no such limit on the amount that the alleged victims could recover.

Our objections regarding the Section 2255 component of the Agreement began as early as August 2 when, after receiving the USAO's proposed Non-Prosecution Agreement, we suggested that the 2255 component of the Agreement could be satisfied by the creation of a restitution fund:

> . . .Mr. Epstein is prepared to fully fund the identified group of victims which are the focus of the Office -- that is, the 12 individuals noted at the meeting on July 31, 2007. This would allow the victims to be able to promptly put this behind them and go forwards 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 letter from Lily Ann Sanchez to Chief Matthew [redacted] dated August 2, 2007.[1] For the duration of the negotiations, we then continued to encourage the use of a restitution fund in place of civil liability under Section 2255. For example, in our draft plea agreement sent to your Office on September 16, 2007, we included the following paragraph:

> Epstein agrees to fund a Trust set up in concert with the Government and under the supervision of the 15th Judicial Circuit in and for Palm Beach County. Epstein agrees that a Trustee will be appointed by the Circuit Court and that funds from the Trust will be available to be disbursed at the Trustee's discretion to an agreed list of persons who seek reimbursement and make a good faith showing to the Trustee that they suffered injury as a result of the conduct of Epstein. Epstein waives his right to contest liability or damages up to an amount agreed to by the parties for any settlements entered into by the Trustee. Epstein's waiver is not to be construed as an admission of civil or criminal liability in regards to any of those who seek compensation from the Trust.

See draft proposal sent from Jay Lefkowitz to Andrew Lourie dated September 15, 2007. In response, Ms. Villafana demanded that the Agreement contain language considering the inclusion of a guardian ad litem in the proceedings, despite the fact that, we are now led to believe that all but one of the women in question are in fact not minors. Interestingly, Ms. Villafana not only raises the same concerns that now have become issues with respect to the implementation of the Section 2255 component, she also believes that the creation of a trust would be in the victims' best interests. Villafana writes:

[1] It was not until after receipt of this letter that Mr. Menchel indicated to us that the scope of liability would encompass not just the 12 individuals named in the indictment, but "all of the minor girls identified during the federal investigation." *See* Menchel e-mail to Sanchez dated August 3, 2007.

> As I mentioned over the telephone, I cannot bind the girls to the Trust Agreement, and I don't think it is appropriate that a state court would administer a trust that seeks to pay for federal civil claims. *We both want to avoid unscrupulous attorneys and/or litigants from coming forward, and I know that your client wants to keep these matters outside of public court filings*, but I just don't have the power to do what you ask. Here is my recommendation. During the period between Mr. Epstein's plea and sentencing, I make a motion for appointment of the Guardian Ad Litem. The three of us sit down and discuss things, and *I will facilitate as much as I can getting the girls' approval of this procedure because, as I mentioned, I think it is probably in their best interests.* In terms of plea agreement language, let me suggest the following:
>
> The United States agrees to make a motion seeking the appointment of a Guardian ad Litem to represent the identified victims. Following the appointment of such Guardian, the parties agree to work together in good faith to develop a Trust Agreement, subject to the Court's approval, that would provide for any damages owed to the identified victims pursuant to 18 U.S.C. Section 2255. Then include the last two sentences of your paragraph 8.

See email from Villafana to Lefkowitz dated September 16, 2007 (emphasis added). However, notably, in the draft agreement that follows, Ms. Villafana keeps the same objectionable language and only adds a portion of what was suggested in her communication to us:

> 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/or the subject matter, and Epstein will not contest that the identified victims are persons who, while minors, were victims of violations of Title 18, United States Code, Sections(s) 2422 and/or 2423.
>
> The United States shall provide Epstein's attorneys with a list of the identified victims, which will not exceed forty, after Epstein has signed this agreement and has been sentenced. The United States shall make a motion with the United States District Court for the Southern District of Florida for the appointment of a guardian ad litem for the identified victims and Epstein's counsel may contact the identified victims through that counsel.

See draft non-prosecution agreement e-mailed from [redacted] to Lefkowitz dated September 17, 2007. The inclusion of a guardian ad litem, however, only served to complicate matters. We continued to reiterate our objections to the inclusion of § 2255 in the Agreement repeatedly, as evidenced in an email from Ms. Villafana to myself on September 23, 2005 where she writes: "we have been over paragraph 6 [the then relevant 2255 paragraph] an infinite number of times." During negotiations, it was decided that an attorney representative be appointed in the place of a guardian ad litem -- not for the sake of litigating claims, but based on the belief that a guardian ad litem would not be appropriate for adults that are capable of making their own decisions. However, the USAO included into the Agreement that we pay for the attorney representative -- when originally Ms. [redacted] stated that the representative could be paid for by us or the federal court. *See* e-mail from Villafana to Lefkowitz dated September 23, 2007.

The final agreement was very similar to what was proposed by Ms. Villafana in her initial draft agreement on July 31, 2007:

> The United States shall provide Epstein's attorney's 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 has 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.
>
> 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 this 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.

See final plea agreement. The Agreement requires Mr. Epstein to waive jurisdiction and liability under 18 U.S.C. §2255 for the settlement of any monetary claims that might be made by alleged victims identified by the USAO (the "identified individuals"). Mr. Epstein is precluded from contesting liability as to civil lawsuits seeking monetary compensation for damages for those identified individuals who elect to settle the civil claims for the statutory minimum of either $50,000 (the amount set by Congress as of the date of the occurrences) or $150,000 (the amount currently set by statute) or some other agreed upon damage amount. Mr. Epstein must pay for the services of the selected attorney representative as long as they are limited to settling the claims of the identified individuals.

The implementation of the terms of the Agreement was just as contentious as was the drafting and negotiation this portion of the Agreement. The first major obstacle was a direct result of Ms. Villafana's improper attempt to appoint, Mr. Bert Ocariz, a close, person friend of her boyfriend's for the role of attorney representative. We objected in the strongest terms to such an appointment due to our serious concerns regarding the lack of independence of this and the appearance of impropriety caused by this choice. As a result, the USAO drafted an addendum to the Agreement. This addendum provides for the use of an independent third party to select the attorney representative and also specifies that Mr. Epstein is not obligated to pay the cost of litigation against him. Upon the decision that we would appoint an independent party to choose the attorney representative, we were engaged in consistent and constant dialogue with your staff as to the precise language that would be transmitted to the independent party to explain his or role.

At each juncture, the inclusion of a civil remedy in the Agreement has resulted in unending debates and disagreements with respect to the appropriate manner in which to implement the terms of the Section 2255 component. The main issues that have arisen since the drafting and execution of the final agreement include the process for the selection of an attorney representative; the scope of Mr. Epstein's waiver of liability and jurisdiction; the role of the attorney representative; the language contained in various drafts of the letter to the independent third party; the correct amount of minimum damages pursuant to Section 2255; the extent and substance of communications between the witnesses and alleged victims and the USAO and the FBI, particularly with respect to the settlement process; the language contained in the letters proposed to be sent to the alleged victims; and the extent of continued federal involvement in the state procedures of Mr. Epstein's state plea and sentence.

Notably, neither Section 2255, nor any other civil remedy statute, has been used as a pre-requisite to criminal plea agreement and it is clear that the use of these terms creates unanticipated issues. Furthermore, the waiver of rights of which the USAO insisted is also not a traditional aspect of criminal resolutions. While we were reluctant and cautious about a Non-Prosecution Agreement in which a *criminal* defendant gives up certain rights to contest liability for a *civil* settlement, we did not believe there was room for contention given the USAO's, and specifically, Ms. [redacted] ultimatums that required that we acquiesce to these unprecedented terms.

Concerns Regarding Section 2255

Mr Epstein unconditionally re-asserts his intention to fulfill and not seek to withdraw from or unwind the Agreement previously entered. He raises important issues regarding the implementation of the 2255 provisions not to unwind the provisions or invalidate the Agreement but instead to call attention to serious matters of policy and principles that you are requested to review.

As you will see below our main policy-related concerns are (1) the inclusion of Section 2255, a civil remedies statutes in a criminal plea agreement, (2) the blanket waiver of jurisdiction and liability as to certain unidentified individuals to whose claims the government has asserted they take no position, and (3) any communications between federal authorities, including your staff and the FBI, and witnesses and alleged victims and the nature of such communications. With respect to the interpretation of the terms of the Agreement, we do not agree with your Office's interpretation of the expansive scope of Mr. Epstein's agreement to waive liability and jurisdiction. Nor do we agree with your Office's view of the expansive role of the attorney representative. Below, I describe first, the policy implications and the practical problems that these terms have created or will create. Second, I describe points of contention as to the interpretation of various terms of the Section 2255 component of the Agreement.

1. Policy Considerations

The inclusion of Section 2255 in a criminal plea agreement is unprecedented and raises significant policy-related concerns. Some of these issues can create and have created problems as to the ability of this component to (1) maintain the integrity and independence of the USAO, (2) serve its purpose, namely to provide fair and appropriate recovery to any victims in a prompt fashion, and (3) protect the rights of the defendant. While we appreciate your consideration of our concerns described below, we are also confident that your commitment to justice and integrity will cause you to consider any additional policy and ethical issues that the Section 2255 component raises.

A. Government Involvement

The inclusion of Section 2255, a purely civil remedy, raises the risk of excessive government interference in private, civil matters. As Mr. Whitley states in his opinion, " . . .unnecessary entanglement of the government in such cases and the use of federal resources could improperly influence such cases and create the appearance of impropriety." It is well established that the government should refrain from getting involved in lawsuits. However, to include Section 2255 in a federal agreement inherently exacerbates the risk of federal involvement in civil litigation and thus far, in practice, the inclusion of this statute, as opposed to the creation of a restitution fund, has resulted in continued federal involvement in this matter.

Federal criminal investigators and prosecutors should not be in the business of helping alleged victims of state crimes secure civil financial settlements as a condition precedent to entering non-prosecution or deferred prosecution agreements. This is especially true where the defendant is pleading to state crimes for which there exists a state statute allowing victims to recover damages. *See* Florida Statutes § 796.09. The fact that state law accounts for the ability of victims to recover truly eliminates the need for a waiver of liability under a federal statute.

Furthermore, the vehicle for the financial settlement under the Agreement requires restitution in a lump sum without requiring proof of actual injury or loss federal authorities should therefore be particularly sensitive to avoid causing a prejudiced and unfair result. Section 2255 is a civil statute implanted in the criminal code that in contrast to all other criminal restitution statutes fails to correlate payments to specific injuries or losses and instead presumes that victims under the statute have sustained damages of at least a minimum lump sum without regard to whether the complainants suffered actual medical, psychological or other forms of individualized harm. We presume that it is for this reason that Section 2255 has never before been employed in this manner in connection with a non-prosecution or deferred prosecution agreement.

KIRKLAND & ELLIS LLP

[redacted]
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Mr. Epstein's blanket waiver of liability as to civil claims gives the appearance of impropriety. While your Office has, on several occasions, asserted that they take no position as to the claims of the individuals it identifies as "victims," the fact that they continue to promote the award of a civil settlement to these individuals is problematic. As you know, government contracts and plea agreement must not diminish or undermine the integrity of the criminal justice system. *See U.S. v. McGovern*, 822 F.2d 739, 743 (8th Cir. 1987) ("A plea agreement, however, is not simply a contract between two parties. It necessarily implicates the integrity of the criminal justice system and requires the courts to exercise judicial authority in considering the plea agreement and in accepting or rejecting the plea."). The requirement that Mr. Epstein blindly sacrifice his rights, as a civil litigant, to contest allegations made against him seem to contradict the principles of justice and fairness that are embedded in the tenets of the United States Attorney's Office.

I also assert that on both a principled and practical level, the mere involvement of your Office in the matter with respect to civil settlement is inappropriate. Even though we understood from you that federal involvement in this matter would cease after the attorney representative was selected, your Office continues to assert their obligation to be in contact with the alleged victims in this matter. Had we agreed to a restitution fund for the victims instead of the civil remedies provision, we would not have objected to your Office's communications with these individuals. However, because the alleged victims have the ability to recover damages based on a civil claim pursuant to the Agreement, we are concerned with your Office's ongoing efforts to stay involved in this matter. Contact with federal authorities at this point can only invite the possibility for impermissible or partial communications. Most recently, your Office sent us drafts of a letter that your Office proposed to send to the alleged victims (the "victim notification letter"). While the revised draft of this letter states that victims should contact the State Attorney's Office for assistance with their rights, there is no phone number provided for the office and instead, the letter provides the telephone number and an invitation to contact Special Agent [redacted] of the FBI. Indeed, the letter as currently drafted invites not only contact between your Office and the victims, it also asserts that federal witnesses may become participants in a state proceeding, thus federalizing the state plea and sentencing in the same manner as would the appearance and statements of a member of your Office or the FBI.[2]

[2] We are concerned with the fact that some of the victims were previously notified, as Mr. Jeffrey [redacted] states in his letter of December 6 letter. In your letter of December 4, you state that you would not issue the Victim Notification Letter until December 7. Thus, it is troubling to learn that some victims were notified prior to that date. Please confirm when the victims were notified, who was notified, the method of communication for the notification, and the individual who notified them.

The proposed victim notification letter asserts that the federal 'victims' have the right to appear at Mr. Epstein's plea and sentence or to submit a written statement to be filed by the State Attorney. However, as agreed to in the federal non-prosecution Agreement, Mr. Epstein will be pleading to *state charges* and he will be sentenced for the commission of *state offenses*. The 'victims' the government identifies relate only to the federal charges for which Mr. Epstein was under investigation. The draft victim notification letter cites Florida Statutes §§ 960.001(k) and 921.143(1) as the authority for allowing the alleged victims to appear or give statements, however these provisions apply only to "the victim of the crime for which the defendant is being sentenced . . . " Thus Florida law only affords victims of state crimes to appear or submit statements in criminal proceedings and the state charges for which Mr. Epstein will be sentenced are not coextensive with the federal investigation. Further, any questions at this point involving the charges against Mr. Epstein or the proper state procedures under which he will plead or be sentenced are appropriately made to the State Attorney's Office.

Continued federal involvement in this matter has led to an impropriety that was unanticipated as well. Ms. [redacted] attempted to manipulate the terms of Mr. Epstein's settlement so that persons close to her would personally profit. Ms. [redacted] inappropriately attempted to nominate Bert Ocariz for attorney representative, despite the fact that Mr. Ocariz turns out to be a very good personal friend of Ms. Villafana's boyfriend, a fact she assiduously kept hidden from counsel. We requested alternate choices immediately, but were told that Mr. Ocariz had been informed of the charges the government would bring against Epstein and in response, he asked in an e-mail whether his fees would be capped. Needless to say, we were alarmed that Ms. [redacted] would attempt to influence the settlement process on such improper grounds. And even after the USAO conceded that it was inappropriate for its attorneys to select the attorney representative, Ms. [redacted] continued to improperly lobby for Mr. Ocariz's appointment. On October 19, 2007, retired Judge [redacted] B. [redacted], who was appointed by the parties to select the attorney representative, informed Mr. Epstein's counsel that he received a telephone call from Mr. Ocariz directly requesting that Judge [redacted] appoint him as the attorney representative in this matter. Although it is unclear how Mr. Ocariz even knows that Judge [redacted] has been chosen to administer the settlement process, it can only be understood as Ms. Villafana's attempts to compromise the fairness of the settlement process.

B. Integrity of the Process and the Legitimacy of the Claims

The waiver of liability Mr. Epstein must make in relation to Section 2255 endangers the legitimacy of the claims made by the alleged victims. There is a heightened risk that the alleged victims will make false and exaggerated claims once they are informed of Mr. Epstein's waiver under Section 2255 for the settlement of claims pursuant to the Agreement. Indeed, Mr. Whitley states, " . . .the Department [of Justice] should consider developing processes and procedures to ensure that the investigative process is insulated from such risks." It is also well settled that witnesses cannot be given any special treatment due to the fact that it may affect the reliability of

their testimony. Any and all communications between the federal authorities and the alleged "victims" and witnesses in this matter has the ability to influence the reliability of the testimony obtained and the validity of the civil settlements that result.

Thus, there is still a real concern that some of the statements that federal prosecutors relied upon in its prosecution of this matter may have been tainted. An inquiry is required to confirm that at the time witness statements were given, there were no communications made by federal agents regarding potential civil remedies. The government should not provide promises of guaranteed monetary settlements to encourage cooperation because they run the risk of seriously tainting the reliability of witness statements. While we by no means are accusing your Office of making improper communications at this point the fact that the award of a civil settlement, without any requirement to prove liability, is available to the identified individuals, raises cause for concern as to the nature of all communications that are made to the 'victims.'

You previously stated that the USAO's main objective with respect to the Section 2255 component of the Agreement was to "place the victims in the same position as they would have been had Mr. Epstein been convicted at trial." However, to accomplish this goal, your Office rejected using traditional terms that allow for the restitution of victims. Instead, your Office chose to insert itself into the negotiations, settlement, and potential litigation of a civil suit. With all due respect, we object to your Office's attempt to make the victims whole by requiring that Mr. Epstein deprive himself of rights accorded to him as a potential civil defendant. While we are aware one of the responsibilities of your Office is to provide for restitution for victims of crimes, this does not give the government the responsibility to enable alleged victims to collect a civil settlement.

Despite this concern, it should also be noted that, the Agreement, both as written and as interpreted by your Office significantly enlarges the victims' ability to recover from Mr. Epstein. For instance, if the individuals attempted to litigate against Mr. Epstein, they would have been determined to be victims only after a lengthy trial, in which they would have been thoroughly deposed, their credibility tested and their statements subject to cross-examination. The defendant, under these circumstances, would not have had pay the plaintiffs' legal fees. Moreover, these individuals would face significant evidentiary hurdles, unwanted publicity, and most importantly, no certainty of success on the merits. Therefore, the notion that your Office is merely attempting to restore these " victims" to the same position as they would have been had Mr. Epstein been convicted at trial misunderstands the Agreement and your Office's implementation of its terms.

C. Rights of a Defendant

Requiring Mr. Epstein to make a blanket waiver of liability and jurisdiction as to unidentified victims whose claims to which the government takes no position can be construed as

violative of his Due Process rights. Furthermore, the fact that the statute at issue in this matter does not connect harm to the minimum amount available to the victim and simply includes a lump sum exacerbates the potential for injustice and an abridgement of Mr. Epstein's rights. At the very least, Mr. Epstein should be given the right to know the identity of the victims and the evidence upon which each one was identified as a victim by the government.

The USAO has provided no information as to the specific claims that were made by each identified individual, nor were we given the names or ages of the individuals or the time-frame of the alleged conduct at issue. The USAO's reluctance to provide Mr. Epstein with any information regarding the allegations against him leaves wide open the opportunity for misconduct by the federal investigators and eliminates the ability for Mr. Epstein and/or his agents to verify that the allegations at issue are grounded in factual assertions and real evidence. Indeed, the requirement that a target of federal criminal prosecution agree to waive his right to contest liability as to unnamed civil complainants creates at minimum an appearance of injustice, both because of the obvious Due Process concerns of waiving rights without notice of even the identity of the complainant and because of the involvement of the federal criminal justice system in civil settlements between private individuals. We reaffirm the right to test the veracity of the victims' claims as provided to us in the letter from you to Judge [redacted] dated October 25, 2007.

It has recently come to our attention that your staff has identified [redacted] as a "victim" for purposes of Section 2255 relief. [redacted] who initially and repeatedly refused to cooperate with federal authorities during the course of the investigation, only submitted to an interview after she was conferred with a grant of immunity. Surely this is not a demand typically made by someone who is a crime "victim". Moreover, [redacted] sworn testimony does not suggest that she is a victim. [redacted] has not only admitted that she lied to Mr. Epstein about her age claiming she was 18 years old, but that she counseled others to lie to Mr. Epstein in the same manner. [redacted] also states that Mr. Epstein was clear with her that he was only interested in "women" who were of age and that most of the young women she brought to his home were indeed over 18 years of age. Moreover, while [redacted] claims to have provided massages to Mr. Epstein, she does not allege to have engaged in sexual intercourse with Mr. Epstein; does not claim she provided him with oral sex; does not purport that Mr. Epstein penetrated her in any manner; denies Mr. Epstein ever used a vibrator, massager, or any type of "sex toy" on her; denies he touched her breasts, buttocks, or vagina; and states that she never touched Mr. Epstein's sexual organs – nor was she asked to do so by Mr. Epstein. Without a right to contest the liability of claims, [redacted] will likely receive far more in civil damages than what would be she would have had Mr. Epstein been convicted.

In addition, the Agreement with the USAO only defers federal prosecution of Mr. Epstein; it does not assert a declination to prosecute, as was first contemplated in the negotiation of the Agreement. Any payments made and/or settlement agreements reached with the alleged

victims prior to the foreclosure of any future federal prosecution carries the potential of being used as evidence against Mr. Epstein. Thus, to protect his rights as a defendant, Mr. Epstein should not be required to pay any of the alleged victims until after the threat of prosecution no longer exists.

II. Misinterpretations of the Agreement

The contentiousness caused by the implementation of the Section 2255 portion of the Agreement has also been caused by what we believe are misinterpretations of the terms by your Office. These problems, which I describe below, are a practical outgrowth of the fact that civil settlement, as opposed to restitution, is considered in the Agreement.

A. Role of the Attorney Representative

The USAO has improperly emphasized that the chosen attorney representative should be able to litigate the claims of individuals, which violates the terms, and deeply infringes upon the spirit and nature of, the Agreement. However, after the parties agreed to the appointment of an independent third party to select the representative, the government announced that the criteria for choosing an appropriate attorney representative would include that they be "a plaintiff's lawyer capable of handling multiple lawsuits against high profile attorneys." This interpretation of the scope of the attorney representative's role is far outside the common understanding that existed when we negotiated Mr. Epstein's settlement with the USAO. Moreover, we have made the USAO aware of the potential ethical problems that would arise should the selected representative be allowed to litigate *and* settle various claims against Mr. Epstein. The initial draft victim notification letter contained language that confirmed your Office's interpretation and indicated that Mr. Podhurst and Mr. Josefsberg, the selected attorney representatives, may "represent" the identified individuals. This language assumes that the selected representatives will agree to serve in the capacity envisioned by the USAO, which we believe is patently incorrect. To suggest this notion in a letter to victims who have limited or no knowledge of the ethical principles at issue will only lead to confusion, misunderstanding and disappointment among the identified individuals when they learn that such representation is foreclosed.

B. Scope of Mr. Epstein's Waiver

Your Office has taken the position that Mr. Epstein waives liability beyond the settlement of claims and that he will waive liability even in lawsuits brought by the identified individuals. However, this overstates the scope of Mr. Epstein's waiver pursuant to the Agreement. Mr. Epstein has only agreed that he will waive the right to contest liability and jurisdiction for the purpose of settling claims with the alleged victims pursuant to Sections 7 through 8 of the Agreement and Addendum. Mr. Epstein has no obligation to waive this right to contest liability

in any claim for damages -- by an enumerated "victim" or anyone else – where that party fails to settle her claims pursuant to the terms of the Agreement. The revised draft of the letter avoids this misinterpretation and directly quotes Paragraphs 7, 8, 9 and 10 of the Agreement. While we do not have any objection to including this portion of the Agreement in the proposed letter, we request that Paragraphs 7A, 7B, and 7C of the Addendum to the Agreement also be included because the language contained there in most clearly outlines the scope of Mr. Epstein's obligation to pay damages under the Agreement.

C. Right of the Alleged Victims to Be Notified

As we have expressed to you previously, we do not agree with your Office's assertion that it is either an obligation and even appropriate for the USAO to send a victims notification letter to the alleged victims. The Justice for All Act of 2004 only contemplates notification in relation to available restitution for the victims of crimes. However, since Section 2255 is only one of many civil remedies, there is no requirement that the USAO inform alleged victims pursuant to the Justice for All Act of 2004. Notably, if the USAO had agreed to include a restitution fund in the Agreement as opposed to a civil remedy statute, the alleged victims would have the right to be notified pursuant to the relevant Act.

Further, we note that the reasons you cite in favor of issuing the proposed Victims Notification letter in your correspondence of December 4 are also inapplicable to this scenario. For instance, you cite 18 U.S.C. § 3771 for the proposition that your Office is obligated to provide certain notices to the alleged victims. However, 18 U.S.C. § 3771(a)(2) & (3) provide:

> A crime victim has the following rights:
>
> (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, *involving the crime* or any release or escape of the accused.
>
> (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at the proceeding.

(emphasis added). Your interpretation of § 3771 is erroneous because the rights conferred by the statute indicate that these rights are for the notification and appearance at public proceedings involving the crime for which the relevant individual is a victim. As you know, the public proceeding in this matter will be in state court for the purpose of the entry of a plea on state charges. Therefore, 18 U.S.C. § 3771 clearly does not apply to "victims" who are not state "victims." You additionally cite your Office's obligations under § 3771(e)(1) of the Justice for All Act of 2004. However, this subsection relates back to the "rights described in subsection (a)." Thus, since the rights set forth in subsection (a) only apply to the victims of the crimes for

KIRKLAND & ELLIS LLP

which the public proceeding is being held, the individuals identified by your Office have no rights to notification or appearance under this Act.

You further cite 42 U.S.C. § 10607(c)(1)(B) and (c)(3) which, you state, obligates your Office to inform victims of "any restitution or other relief" to which that victim may be entitled and of notice of the status of the investigation; the filing of charges against a suspected offender; and the acceptance of a plea. Although we do not believe this applies here for the same reasons stated above, we further assert that your proposed Victims Notification letter seeks to go beyond what is prescribed under 42 U.S.C. § 10607. Indeed, there is nothing in the statute that requires your Office to solicit witness testimony or statements for the purposes of Mr. Epstein's sentencing hearing. Furthermore, we assert that any notification obligation you believe you have under this statute should be addressed by Judge [redacted].

We submit to you based on the policy concerns of including a civil remedies statute in a criminal agreement and requiring the waiver of a defendants' rights under that agreement creates a host of problems that, in this case, have led to a serious delay in achieving finality to the satisfaction of all parties affected. We appreciate your consideration of these issues and hope that we can find a solution that resolves our concerns.

Sincerely,

Jay P. Lefkowitz

EXHIBIT

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U.S. Department of Justice

United States Attorney
Southern District of Florida

99 N.E. 4th Street
Miami, FL 33132-2111

December 6, 2007

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

Re: Jeffrey Epstein

Dear Jay:

I write in response to your recent e-mails and letters regarding victim notification and other issues. Our Office is trying to perform our contractual obligations under the Agreement, which we feel are being frustrated by defense counsel's objections. The Office also is concerned about Mr. Epstein's nonperformance.

More than three weeks ago we spoke about the failure to set a timely plea and sentencing date. At that time, you assured me that the scheduling delay was caused by the unavailability of Judge McSorley. You promised that a date would be set promptly. On November 15th, Rolando Garcia met with Barry Krisher on another matter, and was told by Mr. Krisher that he had just spoken with Jack Goldberger, and that Mr. Epstein's plea and sentencing were set to occur on December 14, 2007. Since that time, we have tried to confirm the date and time of the hearing in order to include that information in the victim notification letters. You continue to refer to the plea and sentencing as though it will be in January; Mr. Krisher's office has not confirmed any date; and Mr. Goldberger recently told Marie Villafaña that "there is no date."

I must reiterate that a delayed guilty plea and sentencing – now more than two months beyond the original deadline – is unacceptable to the Office. As you will recall, the plea and sentencing hearing originally was to occur in early October 2007, but was delayed until October 26th to allow Mr. Goldberger to attend. It was delayed again until November to allow you to attend. Rather than using your best efforts to insure that the plea and sentencing occur in November, we recently learned that a plea conference had been scheduled with Judge McSorley for November 20, 2007, but was canceled at the request of the parties, not the judge. Judge McSorley has not been away for any extended period, and there is no basis for your assertion that the judge is the cause of

any past or future delay. Mr. Epstein currently has four Florida Bar members on his defense team, so attorney scheduling is not an adequate basis for delay.

Three weeks ago I also asked you to provide our Office with the terms of the Plea Agreement with the State Attorney's Office. It is now more than two months since the signing of the Non-Prosecution Agreement and we have yet to see any formal agreement, or even a list of essential terms of such an agreement.

Next, let me address your allegation that attorneys in our office and agents of the FBI have leaked information to the press in an effort to affect possible civil litigation with Mr. Epstein. This is untrue. There has been no contact between any member of the press and any employee of our office or the FBI since you incorrectly accused investigators of telling "Vanity Fair" about Mr. Starr's employment by Mr. Epstein several months ago. We intend to continue to refrain from commenting or providing information to the press. We would ask that your client and all of his representatives do the same.

I also want to address your interpretation of several statements that were included in correspondence – at your insistence – as proof that the designated victims have invalid claims. Let me make clear that each of the listed individuals are persons whom the Office identified as victims as defined in Section 2255, that is, as persons "who, while a minor, was a victim of a violation of section . . . 2422 or 2423 of this title." In other words, the Office is prepared to indict Mr. Epstein based upon Mr. Epstein's "interactions" with these individuals.[1] This conclusion is based upon a thorough and proper investigation – one in which none of the victims was informed of any right to receive damages of any amount prior to the investigation of her claim. The Office agrees that it is not a party to, and will not take a role in, any civil litigation, but the Office can say, without hesitation, that the evidence demonstrates that each person on the list was a victim of Mr. Epstein's criminal behavior. Mr. Starr's letter also suggests that the number of victims to whom Mr. Epstein is exposed by the Agreement is limitless. As you know, early drafts of the Agreement contained a numerical limit of 40 victims, which was removed at your request. The Office repeatedly confirmed that the number would not exceed 40; and the list is significantly shorter than that. Once the list is provided to you, if you have a good faith basis for asserting that a victim never met Mr. Epstein, we remain willing to listen and to modify the list if you convince us of your position.

Finally, let me address your objections to the draft Victim Notification Letter. You write that you don't understand the basis for the Office's belief that it is appropriate to notify the victims. Pursuant to the "Justice for All Act of 2004," crime victims are entitled to: "The right to reasonable, accurate, and timely notice of any public court proceeding . . . involving the crime" and the "right

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[1]Unlike the State's investigation, the federal investigation shows criminal conduct by Mr. Epstein at least as early as 2001, so all of the victims were minors at the time of the offense.

not to be excluded from any such public court proceeding . . ." 18 U.S.C. § 3771(a)(2) & (3). Section 3771 also commands that "employees of the Department of Justice . . . engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a)." 18 U.S.C. § 3771(c)(1).

Additionally, pursuant to the Victims' Rights and Restitution Act of 1990, our Office is obligated to "inform a victim of any restitution or other relief to which the victim may be entitled *under this or any other law* and [the] manner in which such relief may be obtained." 42 U.S.C. § 10607(c)(1)(B). With respect to notification of the other information that we propose to disclose, the statute requires that we provide a victim with the *earliest possible* notice of: the status of the investigation; the filing of charges against a suspected offender; and the acceptance of a plea. 42 U.S.C. § 10607(c)(3). Just as in 18 U.S.C. § 3771, these sections are not limited to proceedings in a *federal* district court. Our Non-Prosecution Agreement resolves the federal investigation by allowing Mr. Epstein to plead to a state offense. The victims identified through the federal investigation should be appropriately informed, and our Non-Prosecution Agreement does not require the U.S. Attorney's Office to forego its legal obligations.

With respect to your assertion that we are seeking to "federalize" the state plea, our office is simply informing the victims of their rights. It does not command them to appear at the hearing or to file a victim impact statement. In fact, the letter recommends the sending of any statement to the State Attorney's Office so that ASA Belohlavek can determine which, if any, statements are appropriate to file with the Court.

Next, you assert that our letter mischaracterizes Mr. Epstein's obligation to pay damages to the victims. To avoid that suggestion, I have asked AUSA Villafaña to simply quote the terms of the Agreement directly into the Notification Letter. We also have no objection to referring to Mr. Epstein as a "sexual offender" rather than a "predator."

We have no objection to using the conjunction "and/or" in referring to the particular offense(s) of which the recipient was a victim. We will not include the language that we take no position as to the validity of any claims. While the Office has no intention to take any position in any civil litigation arising between Mr. Epstein and any individual victim, as stated above, the Office believes that it has proof beyond a reasonable doubt that each listed individual was a victim of Mr. Epstein's criminal conduct while the victim was a minor. The law requires us to treat all victims "with fairness and with respect for the victim's dignity and privacy." 18 U.S.C. § 3771(a)(8). We will not include any language that demeans the harm they may have suffered.

The letter's assertions regarding representation by the Podhurst firm and Mr. Josefsberg are accurate. Judge [redacted] conferred with Messrs. Podhurst and Josefsberg to insure their willingness to undertake this assignment prior to finalizing his selection.

Lastly, you object to personal communication between the victims and federal attorneys or agents. We have no objection to sending the letters through the mail[2] but we will not remove the language about contacting AUSA Villafaña or Special Agent Kuyrkendall with questions or concerns. Again, federal law requires that victims have the "reasonable right to confer with the attorney for the Government in this case." 18 U.S.C. § 3771(a)(5). The three victims who were notified prior to your objection had questions directed to Mr. Epstein's punishment, not the civil litigation. Those questions are appropriately directed to law enforcement. If questions arise related to the civil litigation, AUSA Villafaña and Special Agent Kuyrkendall will recommend that the victims direct those questions to Mr. Josefsberg.

I have attached a revised letter incorporating the changes on which we can agree. Please provide any further comments by the close of business on Friday. In addition, please provide us with a definitive statement, signed by your client, of his intention to abide by each and every term of the Agreement by close of business on Friday, December 7, 2007. By that time, you must also provide us with the agreement(s) with the State Attorney's Office and a date and time certain for the plea and sentencing, which must occur no later than December 14, 2007. There must be closure in this matter.

Sincerely,

[redacted]
United States Attorney

By: Jeffrey H. Sloman
First Assistant United States Attorney

Enclosure

cc: [redacted], U.S. Attorney
AUSA A. Marie Villafaña

---

[2]This is contingent, however, on being able to provide adequate notice of the change of plea and sentencing. The sooner that you schedule that hearing with Judge McSorley, the sooner we can dispatch these letters. If you delay further, we will have to rely on telephone or personal notification.

EXHIBIT

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U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
[redacted]
Facsimile: [redacted]

December 6, 2007

DELIVERY BY UNITED STATES MAIL
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 that Mr. Epstein and the U.S. Attorney's Office have reached an agreement containing the following terms.

EXHIBIT

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FOWLERWHITE
ATTORNEYS AT LAW
BURNETT
MIAMI • FORT LAUDERDALE • WEST PALM BEACH • ST. PETERSBURG

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LILLY ANN SANCHEZ
DIRECT PHONE NO.: (305) 789-9279
DIRECT FACSIMILE NO.: (305) 728-7579
LSANCHEZ@FOWLER-WHITE.COM

December 7, 2007

Jeffrey Sloman
First Assistant United States Attorney
United States Attorney's Office
Southern District of Florida
[redacted]

Re: Jeffrey Epstein

Dear Jeff:

Pursuant to your letter dated December 6, 2007, attached is a signed Affirmation of the Non-Prosecution Agreement and Addendum to same dated October 30, 2007 (collectively "Agreement") signed by my client Jeffrey E. Epstein (see attached).

Moreover, pursuant to the terms of the Agreement, please note that the plea and sentencing hearing have been scheduled for January 4, 2008 at 8:30 a.m. before Judge Sandra McSorley (please see attached notice of hearing). In addition, as expressed in my voicemail message to you earlier, I would request that the Office hold off on sending any victim notification letters until we can further discuss the contents therein. Please call me at your earliest convenience.

Sincerely,

Lilly Ann Sanchez

cc. [redacted] A. [redacted]
Judge Kenneth Star

[illegible]

EXHIBIT

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Jay Lefkowitz/New York/Kirkland-Ellis
02/29/2008 03:11 PM

To [redacted]
cc
bcc
Subject Fw: Epstein

Dear [redacted],

I received the attached email from Jeff [redacted] this week and to put it mildly, I was shocked. As you will recall, back at the beginning of January, when we both agreed that there were significant irregularities with the deferred prosecution agreement, you called a time-out. You had decided to ask Drew's Office to take a look at the matter and suggested that we would be hearing him within days.

At that time, we welcomed the development -- especially given that we had reason to be concerned that some of the individuals in your Office were not acting appropriately in relation to this matter. In particular, we were very concerned that one of your prosecutors had given a substantial amount of information to a New York Times reporter -- telling him not only about specific aspects of our plea negotiations, but also sharing with him details about your Office's theory concerning what laws you believe Mr. Epstein has violated. In broad strokes, Mr. David Weinstein told Mr. Thomas that the Office was contemplating charging Mr. Epstein under Sections 2422(b) (with a full discussion of principal liability), 2423, and 1591. He also complained about Mr. Epstein's lawyers and told Mr. Thomas not to "believe the spin from Mr. Epstein's high priced attorneys." Mr. Weinstein even informed Mr. Thomas that we had "asked for privately paid armed guards" as part of a house arrest proposal we had made. Even more surprising, he subsequently told Mr. Thomas that we had learned of the conversation, complained about it and suggested an explanation. Needless to say, we were very troubled by these conversations.

At this same time, we agreed that in order to provide Drew a sufficient amount of time to evaluate the matter, it made sense to move the deadline for state plea to March, which we did. I was therefore quite surprised to receive, in rapid succession, a call from Drew asking to begin the review process and then only two days later, an email from Jeff informing me of new and extremely short and arbitrary deadlines.

The one thing I had become certain about in this case was that you were sincere in your desire to ensure that the DOJ took a proper and principled position with respect to this matter, and that you fully accepted our desire, and our right, to appeal any adverse decision by your Office to the DOJ. In fact, on several occasions -- including our meeting before Thanksgiving in your Office -- you stated precisely as much to me. That is why I am so surprised by Jeff's latest email. We are very interested in having the meetings you suggested with Drew. It would be very unfortunate to begin the review process that you have asked Drew to conduct and at the same time artificially constrict it. As you know, the timing of a thorough review would cause no prejudice to the government's prosecution of Mr. Epstein. To the contrary, we hope that our dialogue with Drew will allow for the government to make a more informed decision concerning this matter.

We have been waiting eagerly for a call from Drew for nearly two months. Now that he is prepared to meet with us, it is unfair for Jeff to seek to impose artificial deadlines. Since I will be in trial next week, we are planning to begin our meetings with Drew during the second week in March.

I sincerely hope we can resolve this matter in the near future. To be clear -- at this stage -- we are not asking for anything but the same due process that you promised to afford to us when we last spoke in early January.

Best, Jay

cc: Jeff

EFTA00184914

EXHIBIT

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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

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.[1] I write to you because I am not certain who among the defense team is the appropriate recipient of this letter. I address issues raised by several members of the defense team, and would thus ask that you please provide a copy of this letter to all appropriate defense team members.

First, I would like to address the Section 2255 issue.[2] As I stated in my December 4th letter, my understanding is that the Non-Prosecution Agreement entered into between this Office and Mr. Epstein responds to Mr. Epstein's desire to reach a global resolution of his state and federal criminal liability. Under this Agreement, this District has agreed to defer prosecution for enumerated sections

[1] Over the past two weeks, we have received several hundred pages of arguments and exhibits from defense counsel. This is not the forum to respond to the several items raised, and our silence should not be interpret as agreement; I would, however, like to address one issue. Your December 11th letter states that as a result of defense counsel objections to the appointment process, the USAO proposed an addendum to the Agreement to provide for the use of an independent third party selector. As I recall this matter, before I had any knowledge of defense counsel objections, I *sua sponte* proposed the Addendum to Mr. Lefkowitz at an October meeting in Palm Beach. I did this in an attempt to avoid what I foresaw would likely be a litigious selection process. It was only after I proposed this change that Mr. Lefkowitz raised with me his enumerated concerns.

[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."

of Title 18 in favor of prosecution by the State of Florida, provided that the Mr. Epstein satisfies three general federal interests: (1) that Mr. Epstein plead guilty to a "registerable" state offense; (2) that this state plea include a binding recommendation for a sufficient term of imprisonment; and (3) that the Agreement not harm the interests of his victims.

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."

Second, I would like to address the issue of victim's rights pursuant to Section 3771. I understand that the defense objects to the victims being given notice of time and place of Mr. Epstein's state court sentencing hearing. I have reviewed the proposed victim notification letter and the statute. I would note that the United States provided the draft letter to defense as a courtesy. In addition, First Assistant United States Attorney Sloman already incorporated in the letter several edits that had been requested by defense counsel. I agree that Section 3771 applies to notice of proceedings and results of investigations of federal crimes as opposed to the state crime. We intend to provide victims with notice of the federal resolution, as required by law. We 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.

Third, I would like to address the issue raised regarding Florida Statute Section 796.03. At our meeting, Professor Dershowitz took the position that Mr. Epstein believes that his conduct does not satisfy the elements of this offense. His assertion raises for me substantial concerns. This Office will not, and cannot, be a party to an agreement in which Mr. Epstein pleads guilty to an offense that he believes he did not commit. We are considering how best to proceed.

Finally, I would like to address a more general point. Our Agreement was first signed on September 24th, 2007. Pursuant to paragraph 11, Mr. Epstein was to use his best efforts to enter his guilty plea and be sentenced no later than October 26, 2007. As outlined in correspondence between our prosecutors and defense counsel, this deadline came and went. Our prosecutors reiterated to defense counsel several times their concerns regarding delays, and in fact, asked me several weeks ago to declare the Agreement in breach because of those delays. I resisted that invitation. I share this fact because it is background to my frustration with what appears to be an 11th hour appeal, weeks before the now scheduled January 4th plea date.

This said, the issues raised are important and must be fully vetted irrespective of timeliness concerns. We hope to preserve the January 4th date. I understand that defense counsel shares our desire not to move that appearance and will work with our office to expedite this process over the next several days. With this in mind, and in the event that defense counsel may wish to seek review of our determinations in Washington D.C., I spoke this past Monday with the Assistant Attorney General Fisher, to inform her of a possible appeal, to ask her to grant the potential request for review, and to in fact review this case in an expedited manner to attempt to preserve the January 4th plea date.

I want to again reiterate that it is not the intention of this Office ever to force the hand of a defendant to enter into an agreement against his wishes. Your client has the right to proceed to trial, and he should do so if he believes that he did not commit the elements of the charged offense.

I will respond to the pending issues shortly. In the interim, I would ask that you communicate your position with respect to the sections 2255 and 3371 issues as quickly as possible.

Sincerely,

R. ALEXANDER [redacted]
UNITED STATES ATTORNEY

cc: Alice Fisher, Assistant Attorney General
Jeffrey Sloman, First Assistant U.S. Attorney
AUSA A. Marie Villafaña

EXHIBIT

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U.S. Department of Justice

United States Attorney
Southern District of Florida

[redacted]
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
[redacted]

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.[1] I write to you because I am not certain who among the defense team is the appropriate recipient of this letter. I address issues raised by several members of the defense team, and would thus ask that you please provide a copy of this letter to all appropriate defense team members.

First, I would like to address the Section 2255 issue.[2] As I stated in my December 4th letter, my understanding is that the Non-Prosecution Agreement entered into between this Office and Mr. Epstein responds to Mr. Epstein's desire to reach a global resolution of his state and federal criminal liability. Under this Agreement, this District has agreed to defer prosecution for enumerated sections

[1] Over the past two weeks, we have received several hundred pages of arguments and exhibits from defense counsel. This is not the forum to respond to the several items raised, and our silence should not be interpret as agreement; I would, however, like to address one issue. Your December 11th letter states that as a result of defense counsel objections to the appointment process, the USAO proposed an addendum to the Agreement to provide for the use of an independent third party selector. As I recall this matter, before I had any knowledge of defense counsel objections, I *sua sponte* proposed the Addendum to Mr. Lefkowitz at an October meeting in Palm Beach. I did this in an attempt to avoid what I foresaw would likely be a litigious selection process. It was only after I proposed this change that Mr. Lefkowitz raised with me his enumerated concerns.

[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."

of Title 18 in favor of prosecution by the State of Florida, provided that the Mr. Epstein satisfies three general federal interests: (1) that Mr. Epstein plead guilty to a "registerable" state offense; (2) that this state plea include a binding recommendation for a sufficient term of imprisonment; and (3) that the Agreement not harm the interests of his victims.

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."

Second, I would like to address the issue of victim's rights pursuant to Section 3771. I understand that the defense objects to the victims being given notice of time and place of Mr. Epstein's state court sentencing hearing. I have reviewed the proposed victim notification letter and the statute. I would note that the United States provided the draft letter to defense as a courtesy. In addition, First Assistant United States Attorney [redacted] already incorporated in the letter several edits that had been requested by defense counsel. I agree that Section 3771 applies to notice of proceedings and results of investigations of federal crimes as opposed to the state crime. We intend to provide victims with notice of the federal resolution, as required by law. We 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.

Third, I would like to address the issue raised regarding Florida Statute Section 796.03. At our meeting, Professor Dershowitz took the position that Mr. Epstein believes that his conduct does not satisfy the elements of this offense. His assertion raises for me substantial concerns. This Office will not, and cannot, be a party to an agreement in which Mr. Epstein pleads guilty to an offense that he believes he did not commit. We are considering how best to proceed.

Finally, I would like to address a more general point. Our Agreement was first signed on September 24th, 2007. Pursuant to paragraph 11, Mr. Epstein was to use his best efforts to enter his guilty plea and be sentenced no later than October 26, 2007. As outlined in correspondence between our prosecutors and defense counsel, this deadline came and went. Our prosecutors reiterated to defense counsel several times their concerns regarding delays, and in fact, asked me several weeks ago to declare the Agreement in breach because of those delays. I resisted that invitation. I share this fact because it is background to my frustration with what appears to be an 11th hour appeal, weeks before the now scheduled January 4th plea date.

This said, the issues raised are important and must be fully vetted irrespective of timeliness concerns. We hope to preserve the January 4th date. I understand that defense counsel shares our desire not to move that appearance and will work with our office to expedite this process over the next several days. With this in mind, and in the event that defense counsel may wish to seek review of our determinations in Washington D.C., I spoke this past Monday with the Assistant Attorney General Fisher, to inform her of a possible appeal, to ask her to grant the potential request for review, and to in fact review this case in an expedited manner to attempt to preserve the January 4th plea date.

I want to again reiterate that it is not the intention of this Office ever to force the hand of a defendant to enter into an agreement against his wishes. Your client has the right to proceed to trial, and he should do so if he believes that he did not commit the elements of the charged offense.

I will respond to the pending issues shortly. In the interim, I would ask that you communicate your position with respect to the sections 2255 and 3371 issues as quickly as possible.

Sincerely,

[redacted]
UNITED STATES ATTORNEY

cc: Alice Fisher, Assistant Attorney General
Jeffrey [redacted], First Assistant U.S. Attorney
AUSA A. [redacted] Villafaña

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EXHIBIT

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December 21, 2007

VIA FACSIMILE (305) 530-6444

Honorable [redacted]
United States Attorney
United States Attorney's Office
Southern District of Florida
99 NE 4th Street
Miami, FL 33132

Re: Jeffrey Epstein

Dear Alex:

We again extend our appreciation for meeting with us on December 14 and for carefully considering the issues we have raised both at that meeting and in our submissions to your Office. Having received your letter of December 19, we can see that you have made a significant effort to address our concerns regarding the § 2255 portion of the non-prosecution agreement (the "Agreement"), and we recognize that you have proposed some substantial and important modifications. Respectfully, however, I would suggest that your proposal raises several troubling questions that require careful consideration. We are authoring this letter to respond to your request that we set forth our position regarding §§ 2255 and 3771 as quickly as possible.

As we have all discovered, the problem of integrating in an unprecedented manner what is at its core a $150,000 minimum lump sum damage federal civil statute (§ 2255 in its current form) into a federal deferred/non-prosecution agreement that requires pleas of guilty to state criminal offenses that are correlated to state criminal restitution statutes but not to a disparate federal civil non-restitution statute has proved very challenging. The concomitant problem of how fairly to implement the § 2255 portions of the Agreement so that real victims, if any, who in fact suffered "personal injury as a result of [the] violation" if any of specified federal criminal statutes such as 18 U.S.C. § 2422(b) are placed in the same position as if there had been a trial and conviction also requires serious and careful consideration. In this letter, I want to highlight some specific concerns. *See also* Whitley Opinion.

First, your proposal regarding the § 2255 remedy provisions continues to ask us to *assume* that each and every woman not only was a victim under § 2255, but that the facts alleged could have been proven to satisfy each element of either § 2422(b) (the Internet luring statute) or § 2423 (the sex-tourism statute), within § 2255 of Title 18. Although we have been denied the

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list of alleged "victims" (and lack definitive information as to which federal statutes would serve as a predicate for each particular alleged victim), or even a firm number as to how many you suggest there are, we strongly believe that the *provable* conduct of Mr. Epstein with respect to these individuals fails to satisfy the requisite elements of either 18 USC § 2422(b) (which we understand from prior discussions to be the principal predicate offense upon which the § 2255 provisions rely) or 18 USC § 2423(b) (another predicate of § 2255 that has been the subject of discussions between the parties). *See* Stern Opinion. We believe that the problem arises from the incongruity that exists when attempting to fit a federal civil remedies statute into a criminal plea agreement. Again, I note that this problem could have been avoided had the government opted instead for a restitution fund as we suggested.

Our knowledge of the "list" of alleged victims is limited. However a prototypical example of a witness whom the government has requested we compensate and we believe is inaccurately labeled as a "victim" of a federal crime is [redacted] (whom we have been told remains on the government's "list"). The transcript of her interview with the Palm Beach Police over a year before the FBI became involved in any investigation shows that Ms. [redacted] admitted to lying about her age, that she did not engage in sexual intercourse with Mr. Epstein, and that she was never induced over the telephone, computer or any other means of communication required by § 2422(b). In fact, Ms. [redacted] came to Mr. Epstein's home on only one occasion. She testified that she was informed about the opportunity to give a massage to Mr. Epstein not on a telephone, computer or any other facility of interstate commerce, but rather in a face-to-face discussion with a third party who was her friend (Ms. [redacted] and who told her to lie to Mr. Epstein about her age. As such, it is simply impossible to shoehorn this conduct into any of the above-discussed federal statutes.

In addition, Mr. Epstein did not know of Ms. [redacted] before she actually came to his home, did not induce or persuade her to come by phone, did not speak to her at all by phone prior to her visit, did not induce or persuade Ms. [redacted] to bring an underage girl to his residence, and did not otherwise violate either the federal statute § 2422(b) nor the travel for the purpose statute § 2423(b). Indeed, in her statement, Ms. [redacted] testified: ""Haley told me to say I was 18 because Haley said . . . if you're not then he [Epstein] won't really let you in his house. So I said I was 18." ([redacted] Sworn Statement at 38-39). In fact, there is no evidence that Mr. Epstein expected an underage girl to visit him prior to his regular travel to Florida, his home of fifteen years. Thus the travel could not have been for the purpose of having illegal sexual contact and § 2423(b) is no more available as a predicate for § 2255 recovery than is § 2422(b). Never having reached the threshold violations enumerated under of § 2255, Ms. [redacted] would still have to prove that she suffered a personal injury. Further, unknown to Mr. Epstein at the time, Ms. [redacted] represented herself to be 18 not only to him but also to the public on her web page where she posted a nude photo clearly looking at least 18 years old.

At the December 14 meeting, we also discussed Tatum Miller as emblematic of our concerns surrounding the government's selection of "victims." As you are aware, Ms. Miller

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was identified in previous correspondence as a person who remained on the Government's list of "victims" even after (at least according to Ms. Villafana's letter) the list was subjected to careful multi-party review. Ms.. Miller's sworn statement clearly reflects the fact that she is not a "victim" under § 2422(b). She plainly admits that she suffered no injury; the conduct was consensual; she lied to Mr.. Epstein about her age; she instructed others to lie about their ages: there was no sexual contact between herself and Mr. Epstein at any time; and there was never any inducement over the telephone, computer or through any other means of interstate commerce We ask that you consider the most relevant highlights from her testimony offered below:

- **Consent**

  A: I said. I told Jeffrey, I heard you like massages topless. And he's like, yeah, he said, but you don't have to do anything that you don't feel comfortable with. And I said okay, but I willingly took it off. (Miller Sworn Statement at 10)

- **Lied About Her Age**

  A: . . . I had a fake ID anyways, saying that I was 18. And she just said make sure you're 18 because Jeffrey doesn't want any underage girls. (Miller Sworn Statement at 8)

  * * * * *

  A: . . . of course, he thought I was 18. . . (Miller Sworn Statement at 13)

- **Instructed Others to Lie About Their Ages**

  A: . . . I would tell my girlfriends just like [redacted] approached me. Make sure you tell him you're 18. Well, these girls that I brought, I know that they were 18 or 19 or 20. And the girls that I didn't know and I don't know if they were lying or not, I would say make sure that you tell him you're 18. (Miller Sworn Statement at 22)

- **No Sexual Contact**

  Q: He never pulled you closer to him in a sexual way?

  A: I wish. No, no, never, ever, ever, no, never. Jeffrey is an awesome man, no. (Miller Sworn Statement at 21)

- **No Inducement**

  A: No, I gave Jeffrey my number. And I said, you know, any time you want me to give you a massage again, I'll more than welcome to. (Miller Sworn Statement at 8)

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* * * * *

> A: Every girl that I brought to Jeffrey, they said they were fine with it. And like, for instance, Courtney -- Courtney Wild, a lot of girls begged me to bring them back. They wanted to come back for the money. And as far as I know, we all had fun there. (Miller Sworn Statement at 45)

The sworn testimony of Tatum Miller contains explicit denials from the alleged "victim" herself that she suffered any physical, emotional, or personal injury as required by the express language of § 2255. Further, the sworn testimony of Ms. Miller contains a complete disavowal that Mr. Epstein or anyone on his behalf used a facility of interstate commerce to knowingly persuade, coerce, entice, or induce her to engage in sexual offenses as required by § 2422(b). Likewise, the transcript provides no basis for a § 2423(b) violation in that Mr. Epstein had a residence in Palm Beach for over 10 years at the time of these events, traveled to Palm Beach for a myriad of legitimate reasons ranging from medical appointments to business appointments having nothing to do with a sexual objective, and could not be legally charged with traveling to his own home particularly in the absence of any provable nexus between the travel and a dominant purpose to engage in illicit sexual conduct. Although Ms. [redacted] informed us during the December 14 meeting that she had a telephone toll record showing an out-of-state call to or from Ms. Miller's phone to a phone number associated with Mr. Epstein, such a record fails to prove the content of the call, the identity of the communicators, whether the call discussed or resulted in a plan for Ms. Miller to visit Mr. Epstein's residence, whether any inducement occurred on the out of state call or, more importantly for purposes of the sex tourism statute, whether any travel was planned to Florida or resulted from the phone call. Ms. Miller's testimony is that she believed that at any time she was called by Mr.. Epstein or anyone on his behalf, Mr. Epstein was already in Florida. She also testified to the absence of any sexual contact other than topless massages (topless massages are lawful in Florida at age 16, unless the definition of prostitution is unnaturally expanded). A complete transcript of the federal interview of Ms. Miller has previously been provided to you.

Your wish to put these women in the same position as they would have been had there been a federal conviction assumes they are each legitimate victims of at least one of the two specific federal crimes enumerated under § 2255. We respectfully have to disagree with that assumption, and even your current formulation of § 2255 would prejudice Mr. Epstein in this regard.

Second, your proposal also effectively deprives Mr.. Epstein of his opportunity to test the validity of these womens' claims claims that would have been extensively tested at trial. In light of what we have already learned about [redacted] and Tatum Miller, it is inappropriate to deny Mr.. Epstein and his counsel the right to test the merits of each of these womens' cases, in order to verify that they in fact suffered "personal injury" as required by § 2255 and to assess whether they are in fact victims of any violations of § 2422(b) or § 2423(b) as also required by

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[redacted]

§ 2255. Given your Office's informing us that [redacted] remained on a reduced list of federal "victims" and given our understanding that Ms. [redacted] as well was one of those who is also on the list of persons the Government contends were victims of Mr. Epstein's alleged violation of federal law, we have a principled concern about adopting your recommended language which would leave Mr. Epstein without a basis to challenge the good faith premise of an application to recover $150,000.

Third, the Agreement, even if modified in accord with your December 19 letter, would put the witnesses in a better position than if Mr. Epstein had been federally prosecuted rather than in an equal position and, in fact, encourages the witnesses to make unfounded claims with impunity. Had there been a conviction, these women would have been thoroughly cross-examined, for the veracity of their statements, their credibility and the foundations, if any, for claiming personal injury. Also, Mr. Epstein would have received, pursuant to either Brady or Jencks, material in the form of prior inconsistent statements made by these women before they learned of any financial benefit that may be available to them—evidence that should be considered in determining the credibility of their application for a substantial civil recovery. Furthermore, Mr. Epstein would be without the means to challenge whether the claimant could make out a prima facie case that she was a victim of a violation by Mr. Epstein of § 2422(b) or any other federal statute–a denial of his rights that would insulate potential claimants such as Ms. [redacted] and Ms. [redacted] from any challenge on this element even if under other circumstances a challenge would result in a summary judgment in Mr. Epstein's favor under Fed. R. Civ. P. 56. Lastly, the modified language recommended by you presupposes that Mr. Epstein would have been charged and convicted of substantive violations rather than charged and convicted of a conspiracy allegation. Conspiracy convictions are not amongst the predicates enumerated by § 2255 and do not, without more, result in the basis for a determination of "personal injury". Since our request to view the draft indictment was rejected on December 14, we have no means to know what it contained by way of allegations.

Fourth, I want to respond to several statements in your letter that we believe require immediate correction. With regard to your first footnote, I want to be absolutely clear. We do not believe for one moment that you had prior knowledge of the AUSA's attempt to require us to hire the friend of her live-in boyfriend, and pay his fees on a contingency basis to sue Mr. Epstein. We realize you corrected that irregular situation as soon as you discovered it. We thought this was precipitated by our complaint, but have no real knowledge as to the timing of events. Furthermore, your letter also suggests that our objection to your Office's proposed victims notification letter was that the women identified as victims of federal crimes should not be notified of the state proceedings. That is not true, as our previous letter clearly states. Putting aside our threshold contention that many of those to whom 377] notification letters are intended are in fact not victims as defined in the Attorney General's 2000 Victim Witness Guidelines—a status requiring physical, emotional or pecuniary injury of the defendant—it was and remains our position that these women may be notified of such proceedings but since they are neither witnesses nor victims to the state prosecution of this matter, they should not be informed of

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fictitious "rights" or invited to make sworn written or in-court testimonial statements against Mr. Epstein at such proceedings, as Ms.. Villafana repeatedly maintained they had the right to do. Additionally, it was and remains our position that any notification should be by mail and that all proactive efforts by the FBI to have communications with the witnesses after the execution of the Agreement should finally come to an end. We agree, however, with your December 19 modification of the previously drafted federal notification letter and agree that the decision as to who can be heard at a state sentencing is, amongst many other issues, properly within the aegis of state decision making.

Your December 19 letter references Professor Dershowitz's position on the inapplicability of Florida Statute § 796.03. Professor Dershowitz made such arguments in the context of saying that he had been unable to discern, after great effort, and supported by years of experience, any basis for the application of § 2422(b) or other federal sex statutes to Mr. Epstein's conduct and that the federal statutes required more of a stretch to fit the facts than the proposed state statute to which Ms. Villafana wanted Mr. Epstein to plead. Professor Dershowitz also stated that Ms. Villafana had represented that it was she who had the facts to support, both the threatened federal charges of § 2422 and/or § 2423 and the proposed state charge of § 796.03 (which the parties understood to be the state charge of soliciting a minor, as Ms. Villafana's last letter clearly states). Only last week we learned for the first time that Ms. [redacted] did not realize that the charge was actually for "procuring" not "soliciting". The charge (a pimp statute) of procuring a prostitute for a third party for financial gain is one for which Ms. Villafana now states she does not have the facts to support.

Furthermore, you suggest that we have purposefully delayed the date of Mr.. Epstein's plea and sentencing in breach of the Agreement and now seek an "11th hour appeal" in Washington. I believe we have already responded to this objection satisfactorily, both in our discussion earlier this week and in the email I sent to you two days ago in which I specifically addressed this issue. Indeed, any impediment to the resolution at issue is a direct cause of the disagreements between the parties as to a common interpretation of the Agreement, and we have at all times made and will continue to make sincere efforts to resolve and finalize issues as expeditiously as possible. In fact, since the initiation of negotiations between Mr.. Epstein's counsel and your Office, we have always proceeded in a timely manner and made several efforts to meet with the attorneys in your Office in person when we believed that a face-to-face meeting would facilitate a resolution.

Finally, the suggestion by your staff that you hold Mr. Epstein in breach of the Agreement by his failure to plea and be sentenced on October 26, 2007 is directly contradicted by Mr.. Sloman's e-mail to me dated October 31 in which he states, "Your understanding from Jack Goldberger conforms to my understanding that Mr.. Epstein's plea and sentence will take place on the same day. I understand that the plea and sentence will occur on or before the January 4th date." This has been our common understanding for some time, which we have now

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[redacted]

reiterated several times. With that said, please be advised that we are working for a quick resolution and do not seek to delay the proceedings.

Thank you again for your time and consideration. We look forward to your response to the concerns we have raised that have not yet been addressed.

I wish you a very happy and a healthy new year.

Sincerely,

[redacted]

Jay P. Lefkowitz

cc: Honorable Alice Fisher, Assistant Attorney General
Jeffrey H. Sloman, First Assistant U.S. Attorney

EXHIBIT

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December 26, 2007

VIA FACSIMILE (305) 530-6444

Honorable [redacted]
United States Attorney
United States Attorney's Office
Southern District of Florida
99 NE 4th Street
Miami, FL 33132

Re: Jeffrey Epstein

Dear [redacted]:

I write to address the questions you posed to me during a conversation we had late last week. Specifically, you requested a clarification of our position on two issues: (1) our view on your latest proposal regarding notification to the alleged victims under 18 U.S.C. § 3771; and (2) our response to your proposed language regarding the 18 U.S.C. § 2255 component of the deferred-prosecution agreement (the "Agreement"). Before I turn to these questions, I would like to reiterate that this letter responds to your invitation to discuss proposed modifications to the Agreement and should not be construed in any way as a breach of the Agreement. With that said, I must tell you that the more I look into these issues, the more difficulties I see in trying to tie the resolution of a federal criminal matter with a federal civil matter involving minors, and this is even further complicated when the premise of the resolution is a deferred federal prosecution conditioned on a plea to specific state offenses with a specific sentence pre-determined and required to be imposed by the state court, without consideration of the fact that the State view of this case differs dramatically from yours. With that in mind, I turn to each of your questions below.

First, although we appreciate your willingness to modify your Office's § 3771 notice, which is embodied in your latest proposal, we must still object to aspects of your proposal on the ground that notice under § 3771 is per se inapplicable to this case under the Attorney General's own guidelines, because the alleged victims are not "crime victims" under § 3771. The Attorney General Guidelines for Victim and Witness Assistance defines "crime victim" as follows:

> For the purpose of enforcing the rights enumerated in article I.B, a victim is 'a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia' (18 U.S.C. § 3771(e)) if the offense is **charged** in Federal district court. If a victim is under 18 years of age, incompetent, incapacitated, or

> deceased, a family member or legal guardian of the victim, a representative of the victim's estate, or any other person so appointed by the court may exercise the victim's rights, but in no event shall the accused serve as a guardian or representative for this purpose. (18 U.S.C. § 3771(e)).

The Attorney General Guidelines for Victim and Witness Assistance, at 9 (emphasis added).

Here, the women are clearly not "crime victims" under the Attorney General Guidelines definition. To be a "crime victim", a person or entity must be harmed by an offense that has been charged in Federal district court. *See U.S.* [redacted] *Guevara-Toloso*, 2005 WL 1210982 at *2 (E.D.N.Y. May 23, 2005) (noting that § 3771's reference to "the crime" suggests "a focus only on the crime with which a defendant is charged in the case in which a victim seeks to assert her statutory rights.") (emphasis added) Since there has been no offense charged in Federal district court in this matter, the identified individuals necessarily do not qualify as "crime victims". In addition, the Attorney General Guidelines further defines a "crime victim" as "a person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime. (42 U.S.C. § 10607(e)(2))" *Id.* As you know, we believe we have shown that at least some (if not all) of the identified individuals did not suffer any injury at all in connection with Mr. Epstein's alleged conduct.[1]

In addition, under the Attorney General Guidelines, notification must be balanced against any action that may impinge on Mr. Epstein's due process rights. The Attorney General Guidelines clearly call into question "the wisdom and practicality of giving notice" to a "possible witness in the case and the effect that relaying any information may have on the defendant's right to a fair trial." The Attorney General Guidelines for Victim and Witness Assistance, at 30. The Attorney General Guidelines caution federal prosecutors from providing notice to potential witnesses in instances where such notice could compromise the defendant's due process rights. This is particularly true, as here, if the notice includes confidential information, including the conditions of a confidential deferred-prosecution agreement or non-prosecution agreement. In light of these concerns, we respectfully request that you reconsider sending notices to the alleged victims pursuant to § 3771.

Our objection to § 3771 notwithstanding, we do not object (as we made clear in our letter last week) that some form of notice be given to the alleged victims. To that end, we request an opportunity to review the notification before it is sent in order to avoid any confusion or misunderstandings. We believe, however, that any and all notices with respect to the alleged victims of state offenses should be sent by the State Attorney rather than your Office, and we

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[1] See for example, our prior submissions regarding [redacted] and [redacted]

agree that your Office should defer to the discretion of the State Attorney regarding all matters with regard to those victims and the state proceedings.

Second, the more we work to resolve our mutual concerns regarding the § 2255 component of the Agreement, the more our growing fears are realized that the implementation of § 2255 in this case is inherently flawed and becoming truly unmanageable. In the first instance, the implementation of § 2255 in this matter causes manageability concerns because it appears the civil component of this case must be stayed until after all phases of a criminal action have been resolved. 18 U.S.C. § 3509(k), which codifies child victims' and child witnesses' rights, seems on its face to preclude any interference arising from a potential or pending civil action on a related criminal proceeding in order to protect a defendant's right to due process. The statute states:

> If, at any time that a cause of action for recovery of compensation for damage or injury to the person of a child exists, a criminal action is pending which arises out of the same occurrence and in which the child is the victim, the civil action shall be stayed until the end of all phases of the criminal action and any mention of the civil action during the criminal proceeding is prohibited. As used in this subsection, a criminal action is pending until its final adjudication in the trial court.

18 U.S.C. § 3509(k). *See also, John Doe 1* [redacted] *Francis*, 2005 WL 517847, at *2 (N.D. Fla. Feb. 10, 2005) ("the language of 18 U.S.C. § 3509(k) is clear that a stay is required in a case such as this where a parallel criminal action is pending which arises from the same occurrence involving minor victims. *See* 18 U.S.C. § 3509(k). Inasmuch as Plaintiffs have offered no authority or evidence to the contrary, the Court finds that the stay in this case must remain in effect until final adjudication of the criminal case by the state court.")

It appears that any attempt to resolve the civil component of this case (be it through structured settlements or civil litigation) may be precluded by § 3509(k) insofar as all phases of the criminal action have not yet been resolved. To allow for a civil cause of action while a related criminal action remains pending can unduly bias the witnesses who could be improperly incentivized by a potential monetary recovery. The prevention of such a result is precisely the reason that § 3509(k) was enacted. Indeed, there can be no such resolution of "all phases of the criminal action" here, until Mr. Epstein's state sentence is concluded and all opportunity for the initiation of a federal prosecution is foreclosed.

In addition, we have reiterated in previous submissions that Mr. Epstein does not believe he is guilty of the federal charges enumerated under § 2255. For this reason, we believe that your proposed language regarding an appropriate § 2255 procedure unfairly asks Mr. Epstein to agree that each and every alleged victim identified by the Government is a victim of an enumerated federal offense under § 2255 and should, therefore, be placed in the same position

she would have been had Mr. Epstein been convicted of such an offense. As we discussed last week, it is this requirement that makes your § 2255 proposal so problematic. As much as we appreciate your willingness to revisit the § 2255 issues, we cannot accept your language as proposed, because we believe that the conduct of Mr. Epstein with respect to these alleged victims fails to satisfy the requisite elements of any of the enumerated offenses, including 18 U.S.C. § 2422(b) or 18 U.S.C. § 2423(b). In light of the information we have presented to you regarding the two alleged victims whom we understand appear on your list, we hope you understand why your language presents us with these concerns. Essentially, you are asking us to help put these women in a position that may not be warranted.

In short, your proposed language regarding § 2255 states that Mr. Epstein should be treated "as if he had been convicted" of an enumerated federal crime. This requires Mr. Epstein to in essence admit guilt, though he believes he did not commit the requisite offense. The United States Attorney Manual ("USAM") 9-27.440, Principles of Federal Prosecution, sets forth a clear requirement when a defendant tenders a plea of guilty but subsequently denies committing the offense to which he has offered to plead. Specifically, 9-27.440 provides, in part:

> In a case in which the defendant tenders a plea of guilty but denies committing the offense to which he/she offers to plead guilty, the attorney for the government should make an offer of proof of all facts known to the government to support the conclusion that the defendant is in fact guilty. *See also* USAM 9-16.015.

To date, your Office has refused our requests to share such information with us. For the purposes of attempting to resolve the § 2255 issue, we once again request that your Office make this proof available. Specifically, your Office has represented that liability exists under § 2422(b) and § 2423(b), as well as the state offense, Florida Statute § 796.03. We would welcome this previously sought information at your earliest convenience to enable us to resolve this matter in a timely fashion.

Finally, I would like to address your request that we provide revised language to your Office regarding the appropriate § 2255 procedure. Given the inherent complexities described above, we have not been able to find language that comports with the Agreement and your stated goals, especially given your insistence that the women be placed in the same position as if Mr. Epstein "had been convicted".[2] However, if you so choose — and keeping in mind that we

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[2] In addition, we remind you that wholly and apart from the judicial stay that appears to be required under § 3509(k), we believe that the minimum damages amount referenced in § 2255 ($150,000) is subject to an ex-post facto motion, as the statutory minimum was $50,000 at the time of the alleged conduct and the statute is being implemented in a deferred-prosecution agreement.

intend to abide by the Agreement — we would be willing at you earliest convenience to discuss possible alternatives.

Thank you for your time and consideration. We remain available to work with you to resolve these difficult issues in a constructive manner, and we look forward to your response to the concerns we have raised that have not yet been addressed by your Office.

Sincerely,

Jay P. Lefkowitz

cc: Jeffrey H. [redacted], First Assistant U.S. Attorney

EXHIBIT

96

Kenneth W. Starr
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777 South Figueroa Street
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Fax: 202-654-4889
joe.whitley@alston.com

May 19, 2008

VIA FACSIMILE (202) 514-0467

CONFIDENTIAL

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

Dear Judge Filip:

In his confirmation hearings last fall, Judge Mukasey admirably lifted up the finest traditions of the Department of Justice in assuring the United States Senate, and the American people, of his solemn intent to ensure fairness and integrity in the administration of justice. Your own confirmation hearings echoed that bedrock determination to assure that the Department conduct itself with honor and integrity, especially in the enforcement of federal criminal law.

We come to you in that spirit and respectfully ask for a review of the federal involvement in a quintessentially state matter involving our client, Jeffrey Epstein. While we are well aware of the rare instances in which a review of this sort is justified, we are confident that the circumstances at issue warrant such an examination. Based on our collective experiences, as well as those of other former senior Justice Department officials whose advice we have sought, we have never before seen a case more appropriate for oversight and review. Thus, while neither of us has previously made such a request, we do so now in the recognition that both the Department's reputation, as well as the due process rights of our client, are at issue.

Recently, the Criminal Division concluded a very limited review of this matter at the request of U.S. Attorney [redacted]. Critically, however, this review deliberately excluded many important aspects of this case. Just this past Friday, on May 16, 2008, we received a letter from the head of CEOS informing us that CEOS had conducted a review of this case. By its own admission, the CEOS review was "limited, both factually and legally." Part of the self-imposed limitation was CEOS's abstention from addressing our "allegations of professional misconduct by federal prosecutors"—even though such misconduct was, as we contend it is, inextricably intertwined with the credibility of the accusations being made against Mr. Epstein by the United States Attorney's Office in Miami ("USAO"). Moreover, CEOS did not assess the terms of the Deferred Prosecution Agreement now in effect, nor did CEOS review the federal prosecutors' inappropriate efforts to implement those terms. We detail this point below.

By way of background, we were informed by Mr. [redacted] that, at his request, CEOS would be conducting a review to determine whether federal prosecution was both appropriate and, in his words, "fair." That is not what occurred. Instead, CEOS has now acknowledged that we had raised "many compelling arguments" against the USAO's suggested "novel application" of federal law in this matter. Even so, CEOS concluded, in minimalist fashion, that "we do not see anything that says to us *categorically* that a federal case should not be brought" and that the U.S. Attorney "would not be *abusing his prosecutorial discretion* should he authorize federal prosecution of Mr. Epstein," thus delegating back to Mr. [redacted] the decision of whether federal prosecution was warranted (emphasis added). Rather than assessing whether prosecution would be *appropriate*, CEOS, using a low baseline for its evaluation, determined only that "it would not be impossible to prove . . ." certain allegations made against Mr. Epstein. The CEOS review failed to address the significant problems involving the appearance of impermissible selectivity that would necessarily result from a federal prosecution of Mr. Epstein.

We respect CEOS's conclusion that its authority to review "misconduct" issues was precluded by Criminal Division practice. We further respect CEOS's view that it understood its mission as significantly limited. Specifically, the contemplated objective was to determine whether the USAO would be abusing its discretion by bringing a federal prosecution rather than making its own de novo recommendations on the appropriate reach of federal law. However, we respectfully submit that a full review of all the facts is urgently needed at senior levels of the Justice Department. In an effort to inform you of the nature of the federal investigation against Mr. Epstein, we summarize the facts and circumstances of this matter below.

The two base-level concerns we hold are that (1) federal prosecution of this matter is not warranted based on the purely-local conduct and the unprecedented application of federal statutes to facts such as these and (2) the actions of federal authorities are both highly questionable and give rise to an appearance of substantial impropriety. The issues that we have raised, but which have not yet been addressed or resolved by the Department, are more than isolated allegations of professional mistakes or misconduct. These issues, instead, affect the appearance and administration of criminal justice with profound consequences beyond the resolution in the matter at hand.

In a precedent-shattering investigation of Jeffrey Epstein that raises important policy questions—and serious issues as to the fair and honorable enforcement of federal law—the USAO in Miami is considering extending federal law beyond the bounds of precedent and reason. Federal prosecutors stretched the underlying facts in ways that raise fundamental questions of basic professionalism. 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. Federal prosecutors then leaked highly sensitive information about the case to a New York Times reporter.[1] The immediate result of this confluence of extraordinary circumstances is an onslaught of civil lawsuits, all save one brought by the First Assistant's former boutique law firm in Miami.

The facts in this case all revolve around the classic state crime of solicitation of prostitution.[2] The State Attorney's Office in Palm Beach County had conducted a diligent investigation, convened a Grand Jury that returned an indictment, and made a final determination about how to proceed. That is where, in our federal republic, this matter should rest. Mr. Epstein faces a felony conviction in state court by virtue of his conduct, and the only reason the State has not resolved this matter is that the federal prosecutors in Miami have continued to insist that we, Mr. Epstein's counsel, approach and demand from the State Attorney's Office a harsher charge and a more severe punishment than that Office believes are appropriate under the circumstances. Yet despite the USAO's refusal to allow the State to resolve this matter on the terms the State has determined are appropriate, the USAO has not made any attempt to coordinate its efforts with the State. In fact, the USAO mandated that any federal agreement would be conditioned on Mr. Epstein persuading the State to seek a criminal punishment unlike that imposed on other defendants within the jurisdiction of the State Attorney for similar conduct.

From the inception of the USAO's involvement in this case, which at the end of the day is a case about solicitation of prostitution within the confines of Palm Beach County, Florida, we have asked ourselves why the Department of Justice is involved. Regrettably, we are unable to suggest any appropriate basis for the Department's involvement. Mr. Epstein has no criminal history whatsoever. Also, Mr. Epstein has never been the subject of general media interest until a few years ago, after it was widely perceived by the public that he was a close friend of former President Bill Clinton.

The conduct at issue is simply not within the purview of federal jurisdiction and lies outside the heartland of the three federal statutes that have been identified by prosecutors—18 U.S.C. §§ 1591, 2422(b), and 2423(b).

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[1] One of the other members of Mr. Epstein's defense team, Jay Lefkowitz, has personally reviewed the reporter's contemporaneous notes.

[2] Although some of the women alleged to be involved were 16 and 17 years of age, several of these women openly admitted to lying to Mr. Epstein about their age in their recent sworn statements.

These statutes are intended to target crimes of a truly national and international scope. Specifically, § 1591 was enacted to combat human trafficking, § 2422 is aimed at sexual predation of minors through the Internet, and § 2423 deals with sex tourism. The nature of these crimes results in multi-jurisdictional problems that state and local authorities cannot effectively confront on their own. However, Mr. Epstein's conduct was purely local in nature and, thus, does not implicate federal involvement. After researching every reported case brought under 18 U.S.C. §§ 1591, 2422(b), and 2423(b), we found that not a single case involves facts or a scenario similar to the situation at hand. Our review of each precedent reflects that there have been no reported prosecutions under § 1591 of a 'john' whose conduct with a minor lacked force, coercion, or fraud and who was not profiting from commercial sexual trafficking. There have likewise been no cases under § 2422(b)—a crime of communication—where there was no use of the Internet, and where the content of phone communications did not contain any inducing or enticing of a minor to have illegal sexual activity as expressly required by the language of the statute. Furthermore, the Government's contention that "routine and habit" can fill the factual and legal void created by the lack of evidence that such a communication ever occurred sets this case apart from every reported case brought under § 2422(b). Lastly, there are no reported cases of violations of § 2423(b) of a person whose dominant purpose in traveling was merely to go to his own home.[3]

Although these matters were within the scope of the CEOS review, rather than considering whether federal prosecution is appropriate, CEOS only determined that U.S. Attorney [redacted] "would not be abusing his prosecutorial discretion should he authorize federal prosecution" in this case. The "abuse of discretion" standard constitutes an extremely low bar of evaluation and while it may be appropriate when the consideration of issues are exclusively factual in nature, this standard fails to address concerns particular to this situation, namely the "novel application" of federal statutes. The "abuse of discretion" standard in such pure legal matters of statutory application risks causing a lack of uniformity. The same federal statutes that would be stretched beyond their bounds in Miami have been limited to their heartland in each of the other federal districts. Also, because this case implicates broader issues of the administration of equal justice, federal prosecution in this matter risks the appearance of selectivity in its stretching of federal law to fit these facts.

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[3] Federal prosecution of a man who engaged in consensual conduct in his home that amounted to, at most, the solicitation of prostitution, is unprecedented. Since prostitution is fundamentally a state concern, (*see United States v. Evans*, 476 F.3d 1176, n.1 (11th Cir. 2007) (federal law "does not criminalize all acts of prostitution (a vice traditionally governed by state regulation)")), and there is no evidence that Palm Beach County authorities and Florida prosecutors cannot effectively prosecute and punish the conduct, there is no reason why this matter should be extracted from the hands of state prosecutors in Florida.

In fact, recent testimony of several alleged "victims" contradicts claims made by federal prosecutors during the negotiations of a deferred prosecution agreement. The consistent representations of key Government witnesses (such as Tatum Miller, [redacted] confirm the following critical points: *First*, there was no communication, telephonic or otherwise, that meets the requirements of § 2422(b). For instance, Ms. [redacted] confirmed that Mr. Epstein never emailed, text-messaged, or used any facility of interstate commerce whatsoever, before or after her one (and only) visit to his home. Gonzalez Tr. (deposition) at 30. *Second*, the women who testified admitted that they lied to Mr. Epstein about their age in order to gain admittance into his home. Indeed, the women who brought their underage friends to Mr. Epstein testified that they would counsel their friends to lie about their ages as well. Ms. Miller stated the following: "I would tell my girlfriends just like [redacted] approached me. Make sure you tell him you're 18. Well, these girls that I brought, I know that they were 18 or 19 or 20. And the girls that I didn't know and I don't know if they were lying or not, I would say make sure that you tell him you're 18." Miller Tr. at 22. *Third*, there was no routine or habit of improper communication expressing an intent to transform a massage into an illegal sexual act. In fact, there was often no sexual activity at all during the massage. Ms. Miller testified that "[s]ometimes [Mr. Epstein] just wanted his feet massaged. Sometimes he just wanted a back massage." Miller Tr. at 19. [redacted] also stated that Mr. Epstein "never touched [her] physically" and that all she did was "massage[ ] his back, his chest and his thighs and that was it." [redacted] Tr. at 12-13. *Finally*, there was no force, coercion, fraud, violence, drugs, or even alcohol present in connection with Mr. Epstein's encounters with these women. Ms. [redacted] stated that "[Mr. Epstein] never tried to force me to do anything." [redacted] Tr. A at 12. These accounts are far from the usual testimony in sex slavery, Internet stings and sex tourism cases previously brought. The women in actuality were not younger than 16, which is the age of consent in most of the 50 states, and the sex activity was irregular and in large part consisted of solo self-pleasuring.

The recent crop of civil suits brought against Mr. Epstein confirm that the plaintiffs did not discuss any sexually-related activities with anyone prior to arriving at Mr. Epstein's residence. This reinforces our contention that no telephonic or Internet persuasion, inducement, enticement or coercion of a minor, or of any other individual, occurred. In addition, Mr. Jeffrey Herman, the former law partner of one of the federal prosecutors involved in this matter and the attorney for most of the civil complainants (as described in detail below), was quoted in the Palm Beach *Post* as saying that "it doesn't matter" that his clients lied about their ages and told Mr. Epstein that they were 18 or 19.

Not only is a federal prosecution of this matter unwarranted, but the irregularity of conduct by prosecutors and the unorthodox terms of the deferred prosecution agreement are beyond any reasonable interpretation of the scope of a prosecutor's responsibilities. The list of improprieties includes, but is not limited to, the following facts:

EFTA00184942

- Federal prosecutors made the unprecedented demand that Mr. Epstein pay a minimum of $150,000 per person to an unnamed list of women they referred to as minors and whom they insisted required representation by a guardian ad litem. Mr. Epstein's counsel later established that all but one of these individuals were actually adults, not minors. Even then, though demanding payment to the women, the USAO eventually asserted that it could not vouch for the veracity of any of the claims that these women might make.

- Federal prosecutors made the highly unusual demand that Mr. Epstein pay the fees of a civil attorney chosen by the prosecutors to represent these alleged "victims" should they choose to bring any civil litigation against him. They also proposed sending a notice to the alleged "victims," stating, in an underlined sentence, that should they choose their own attorney, Mr. Epstein would not be required to pay their fees. The prosecutors further demanded that Mr. Epstein waive his right to challenge any of the allegations made by these "victims."

- The Assistant U.S. Attorney involved in this matter recommended for the civil attorney, a highly lucrative position, an individual that we later discovered was closely and personally connected to the Assistant U.S. Attorney's own boyfriend.

- Federal prosecutors represented to Mr. Epstein's counsel that they had identified (and later rechecked and re-identified) several alleged "victims" of federal crimes that qualified for payment under 18 U.S.C. § 2255, a civil remedy designed to provide financial benefits to victims. Only through state discovery provisions did we later learn that many of the women on the rechecked "victim list" could not possibly qualify under § 2255. The reason is that they, themselves, testified that they did not suffer any type of harm whatsoever, a prerequisite for the civil recovery under § 2255. Moreover, these women stated that they did not, now or in the past, consider themselves to be victims.

- During the last few months, Mr. Herman, First Assistant Sloman's former law partner, has filed several civil lawsuits against Mr. Epstein on behalf of the alleged "victims." It is our understanding that each of Mr. Herman's clients are on the

EFTA00184943

Government's confidential "list of victims." Most of these lawsuits seek $50 million in money damages.[4]

- Assistant U.S. Attorney David Weinstein spoke about the case in great detail to Landon Thomas, a reporter with the *New York Times*, and revealed confidential information about the Government's allegations against Mr. Epstein. The Assistant U.S. Attorney also revealed the substance of confidential plea negotiations.

- When counsel for Mr. Epstein complained about the media leaks, First Assistant Sloman responded by asserting that "Mr. Thomas was given, pursuant to his request, non-case specific information concerning specific federal statutes." Based on Mr. Thomas' contemporaneous notes, that assertion appears to be false. For example, Mr. Weinstein told Mr. Thomas that federal authorities believed that Mr. Epstein had lured girls over the telephone and traveled in interstate commerce for the purpose of engaging in underage sex. He recounted to Mr. Thomas the USAO's theory of prosecution against Mr. Epstein, replete with an analysis of the key statutes being considered. Furthermore, after Mr. Epstein's defense team complained about the leak to the USAO, Mr. Weinstein, in Mr. Thomas' own description, then admonished him for talking to the defense, and getting him in trouble. Mr. Weinstein further told him not to believe the "spin" of Mr. Epstein's "high-priced attorneys," and then, according to Mr. Thomas, Mr. Weinstein forcefully "reminded" Mr. Thomas that all prior conversations were merely hypothetical.

We are constrained to conclude that the actions of federal officials in this case strike at the heart of one of the vitally important, enduring values in this country: the honest enforcement of federal law, free of political considerations and free of the taint of personal financial motivations on the part of federal prosecutors that, at a minimum, raise the appearance of serious impropriety.

We were told by U.S. Attorney [redacted] that as part of the review he requested, the Department had the authority, and his consent, to make any determination it deemed appropriate regarding this matter, including a decision to decline federal prosecution. Yet, CEOS's only conclusion, based on its limited review of the investigation, is that U.S. Attorney [redacted] would not abuse his discretion by proceeding against Mr. Epstein. Thus, the decision of whether

[4] As recently as two months ago, Mr. Sloman was still listed publicly as a part of his former law firm. While we assume this was an oversight, Mr. Sloman's identification as part of the firm raises the appearance of impropriety.

prosecution *is fair and appropriate* has been placed, once again, in U.S. Attorney [redacted] hands.

In light of the foregoing, we respectfully ask that you review this matter and discontinue all federal involvement so that the State can appropriately bring this matter to closure. We would greatly appreciate the opportunity to meet with you to discuss these important issues. Such a meeting would provide the Department with an opportunity to review the paramount issues of federalism and the appearance of selectivity that are generated by the unprecedented attempts to broaden the ambit of federal statutes to places that they have never before reached. We sincerely appreciate your attention to this matter.

Respectfully submitted,

Kenneth W. Starr
Kirkland & Ellis LLP

Joe D. Whitley
Alston & Bird LLP

EXHIBIT 97

U.S. Department of Justice
Federal Bureau of Investigation
FBI - West Palm Beach
Suite 500
505 South Flagler Drive
West Palm Beach, FL 33401
[redacted]

January 10, 2008

[redacted]

Re: Case Number: [redacted]

Dear [redacted]

This case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation.

As a crime victim, you have the following rights under 18 United States Code § 3771: (1) The right to be reasonably protected from the accused; (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused; (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding; (5) The reasonable right to confer with the attorney for the Government 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.

We will make our best efforts to ensure you are accorded the rights described. Most of these rights pertain to events occurring after the arrest or indictment of an individual for the crime, and it will become the responsibility of the prosecuting United States Attorney's Office to ensure you are accorded those rights. You may also seek the advice of a private attorney with respect to these rights.

The Victim Notification System (VNS) is designed to provide you with direct information regarding the case as it proceeds through the criminal justice system. You may obtain current information about this matter on the Internet at WWW.Notify.USDOJ.GOV or from the VNS Call Center at 1-866-DOJ-4YOU (1-866-365-4968) (TDD/TTY: 1-866-228-4619) (International: 1-502-213-2767). In addition, you may use the Call Center or Internet to update your contact information and/or change your decision about participation in the notification program. If you update your information to include a current email address, VNS will send information to that address. You will need the following Victim Identification Number (VIN) "[redacted] Personal Identification Number (PIN) [redacted] anytime you contact the Call Center and the first time you log on to VNS on the Internet. In addition, the first time you access the VNS Internet site, you will be prompted to enter your last name (or business name) as currently contained in VNS. The name you should enter is [redacted]

[redacted]

If you have additional questions which involve this matter, please contact the office listed above. When you call, please provide the file number located at the top of this letter. Please remember, your participation in the notification part of this program is voluntary. In order to continue to receive notifications, it is your responsibility to keep your contact information current.

Sincerely,

Twiler Smith

Twiler Smith
Victim Specialist

EXHIBIT

98

U.S. Department of Justice
Federal Bureau of Investigation
FBI - West Palm Beach
Suite 500
505 South Flagler Drive
West Palm Beach, FL 33401
[redacted]

January 10, 2008

James Eisenberg
One Clearlake Center Ste 704 Australian South
West Palm Beach, FL 33401

Re: [redacted]

Dear James Eisenberg:

You have requested to receive notifications for [redacted]

This case is currently under investigation. This can be a lengthy process and we request your continued patience while we conduct a thorough investigation.

As a crime victim, you have the following rights under 18 United States Code § 3771: (1) The right to be reasonably protected from the accused; (2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused; (3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding; (4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding; (5) The reasonable right to confer with the attorney for the Government 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.

We will make our best efforts to ensure you are accorded the rights described. Most of these rights pertain to events occurring after the arrest or indictment of an individual for the crime, and it will become the responsibility of the prosecuting United States Attorney's Office to ensure you are accorded those rights. You may also seek the advice of a private attorney with respect to these rights.

The Victim Notification System (VNS) is designed to provide you with direct information regarding the case as it proceeds through the criminal justice system. You may obtain current information about this matter on the Internet at WWW.Notify.USDOJ.GOV or from the VNS Call Center at 1-866-DOJ-4YOU (1-866-365-4968) (TDD/TTY: 1-866-228-4619) (International: 1-502-213-2767). In addition, you may use the Call Center or Internet to update your contact information and/or change your decision about participation in the notification program. If you update your information to include a current email address, VNS will send information to that address. You will need the following Victim Identification Number ([redacted]' and Personal Identification Number ([redacted] anytime you contact the Call Center and the first time you log on to VNS on the Internet. In addition, the first time you access the VNS Internet site, you will be prompted to enter your last name (or business name) as currently contained in VNS. The name you should enter is Eisenberg.

If you have additional questions which involve this matter, please contact the office listed above. When you call, please provide the file number located at the top of this letter. Please remember, your participation in the notification part of this program is voluntary. In order to continue to receive notifications, it is your responsibility to keep your contact information current.

Sincerely,

Twiler Smith

Twiler Smith
Victim Specialist

EXHIBIT

99

Jack Goldberger

From: [redacted]
Sent:
To:
Subject:

[redacted]

On Jun 30, 2008, at 5:16 PM, "[redacted]. \(USAFLS\)" <
wrote:

Jack:

The FBI has received several calls regarding the Non-Prosecution Agreement. I do not know whether the title of the document was disclosed when the Agreement was filed under seal, but the FBI and our office are declining comment if asked.

A. [redacted] *Villafaña*

Assistant U.S. Attorney

US_Atty_Cor_00321

EFTA00184953

EXHIBIT 100

[redacted]. (USAFLS)

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

Hi [redacted],

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 Harrison 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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EXHIBIT 101

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
[redacted]
Facsimile: [redacted]

July 8, 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

Re: Jeffrey Epstein

Dear Mr. Goldberger:

In accordance with the terms of the Non-Prosecution Agreement, on June 30, 2008, the United States Attorney's Office provided you with a list of thirty-one individuals "whom it was prepared to name in an Indictment as victims of an enumerated offense by Mr. Epstein." Yesterday, I provided you with the identification of another victim whom I had erroneously left off of that list. At the time the list was provided, Special Agent [redacted] and I impressed upon you the need to finalize this last piece of the agreement as quickly as possible so that we could fulfill our victim notification obligations. In deference to your vacation, we allowed you a week to provide us with any objections or requested modifications to the list and/or the Notification language. Yesterday, I contacted you via telephone and e-mail, but received no response.

Accordingly, the United States hereby notifies you that it will distribute the victim notifications tomorrow, July 9, 2008, to each of the thirty-two identified victims, either directly or via their counsel. A carbon copy of each notification will be provided to you, and the notification will list you as the contact person for any civil litigation, if the victim decides

to pursue damages. If the United States learns that a civil suit has been filed against Mr. Epstein and he has denied that one of these victims is entitled to proceed under 18 U.S.C. § 2255, that will be considered a breach of the Non-Prosecution Agreement and the United States will proceed accordingly.

Sincerely,

[redacted]
United States Attorney

By: [signature]
[redacted]
Assistant United States Attorney

cc: Karen Atkinson, AUSA

EFTA00184958

EXHIBIT

102

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

JANE DOE No. 1 and JANE DOE No. 2

v.

UNITED STATES
_____/

AFFIDAVIT OF BRADLEY J. EDWARDS, ESQ. REGARDING NEED FOR PRODUCTION OF DOCUMENTS

1. I, Bradley J. Edwards, Esq., do hereby declare that I am a member in good standing of the Bar of the State of Florida. Along with co-counsel, I represent Jane Doe No. 1 and Jane Doe No. 2 (as referred to as "the victims") in the above-listed action to enforce their rights under the Crime Victims Rights Act (CVRA). I also represented them (and several other victims) in civil suits against Jeffrey Epstein for sexually abusing them. I am also familiar with the criminal justice system, having served as state prosecutor in the Broward County State Attorney's Office.
2. This affidavit covers factual issues regarding the Government's assertions of privilege to more than 13,000 pages of documents it has produced for in camera inspection in this case. This affidavit provides factual information demonstrating that the Government's assertions of privilege are not well founded. It further demonstrates that the victims have a compelling and substantial need for the information requested and have no other way of obtaining the information.

Background Regarding Unsuccessful Efforts to Reach Stipulated Facts with the Government

3. On July 7, 2008, I filed a petition to enforce the CVRA rights of Jane Doe No. 1 and Jane Doe No. 2 with regard to sex offenses committed against them by Jeffrey Epstein while they were minors. The course of the proceedings since then is well-known to the Court. For purposes of this affidavit regarding privileges, it is enough to briefly recount the efforts of the victims to reach a stipulated set of facts with the Government – efforts that the Government has blocked.
4. The Court first held a hearing on victims' petition on July 11, 2008. The Court discussed a need to "hav[e] a complete record, and this is going to be an issue that's … going to go to the Eleventh Circuit, [so it] may be better to have a complete record as to what your position is and the government's is as to what actions were taken." Tr. at 25-26. The Court concluded the hearing with the following instructions: "So I'll let both of you confer about whether there is a need for any additional evidence to be presented." Tr. at 32.

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5. The victims and the U.S. Attorney's Office then attempted to reach a stipulated set of facts underlying the case. The U.S. Attorney's Office offered a very abbreviated set of proposed facts, and the victims responded with a detailed set of proposed facts. Rather than respond to the victims' specific facts, however, the U.S. Attorney's Office suddenly reversed course. On July 29, 2008, it filed a Notice to Court Regarding Absence of Need for Evidentiary Hearing (DE 17). The U.S. Attorney's Office took the following position: "After consideration, the Government believes that an evidentiary hearing is not necessary" (DE 17 at 1). The Office asserted that the Court need only take judicial notice of the fact that no indictment had been filed against Epstein to resolve the case.

6. On August 1, 2008, the victims filed a response to the Government's "Notice," giving a proposed statement of facts surrounding the case. DE 19 at 5. The victims' response also requested that the Court direct the Government to confer with the victims regarding the undisputed facts of the case, and produce the non-prosecution agreement and other information about the case. *Id.* at 14. On August 14, 2008, the Court held a hearing on the case regarding the confidentiality of the non-prosecution agreement. The Court ultimately ordered production of the agreement to the victims.

7. After the U.S. Attorney's Office made the non-prosecution agreement available to the victims, the victims reviewed it and pursued further discussions with the U.S. Attorney's Office. Ultimately, however, the U.S. Attorney's Office declined to reach a stipulated set of facts with the victims and declined to provide further information about the case.

8. With negotiations at an impasse, the victims attempted to learn the facts of the case in other ways. In approximately May 2009, counsel for the victims propounded discovery requests in both state and federal civil cases against Epstein, seeking to obtain correspondence between Epstein and prosecutors regarding his plea agreement – information that the U.S. Attorney's Office was unwilling to provide to the victims and information that was highly relevant both to the victims' civil suit and their CVRA enforcement action. Epstein refused to produce that information, and (as the Court is aware) extended litigation to obtain the materials followed. The Court rejected all of Epstein's objections to producing the materials.

9. On June 30, 2010, counsel for Epstein sent to counsel for the victims approximately 358 pages of e-mail correspondence between criminal defense counsel and the U.S. Attorney's Office regarding the plea agreement that had been negotiated between them. *See* DE48-Attachment 1/Exhibit A. These e-mails began to disclose for the first time the extreme steps that had been taken by the U.S. Attorney's Office to avoid prosecuting Epstein and to avoid having the victims in the case learn about the non-prosecution agreement that had been reached between Epstein and the Government. While the Court ordered that all of the correspondence be turned over to the victims, Epstein chose to disobey that order and instead only produced the correspondence authored by the Government and redacted all correspondence authored by him or his attorneys.

10. In mid-July 2010, Jane Doe No. 1 and Jane Doe No. 2 settled their civil lawsuits against Epstein. Then, armed with the new information, they turned to moving forward in the CVRA case. On September 13, 2010, the victims informed the Court that they were preparing new filings in the case.

11. On October 12, 2010, the Court entered an order directing the victims to provide a status report on the case by October 27, 2010. That same day, counsel for the victims again contacted

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the U.S. Attorney's Office about the possibility of reaching a stipulated set of facts in the case. That same day, the U.S. Attorney's Office responded: "*We don't have any problem with agreeing that a factual assertion is correct if we agree that is what occurred*" (DE 41 at 2).

12. On October 23, 2010, the victims e-mailed to the U.S. Attorney's Office a detailed proposed statement of facts, with many of the facts now documented by the correspondence between the U.S. Attorney's Office and Epstein's counsel. The victims requested that the U.S. Attorney's Office identify which facts it would agree to. In a letter to the U.S. Attorney's Office, the victims stated:

> If you believe that any of the facts they propose are incorrect, Jane Doe No. 1 and Jane Doe No. 2 would reiterate their long-standing request that you work with us to arrive at a mutually-agreed statement of facts. As you know, in the summer of 2008 Jane Doe No. 1 and Jane Doe No. 2 were working with you on a stipulation of facts when you reversed course and took that position that no recitation of the facts was necessary (*see* doc. No. 19 at 2). . . . I hope that your e-mail means that you will at least look at our facts and propose any modifications that you deem appropriate. Having that evidence quickly available to the Court could well help move this case to a conclusion.

That same day, the U.S. Attorney's Office agreed to forward the proposed statement of facts to the appropriate Assistant U.S. Attorney for review (DE 41 at 2-3).

13. On October 26, 2010, rather than stipulate to undisputed facts, the U.S. Attorney's Office contacted the victims' attorneys and asked them to delay the filing of their motion for a two-week period of time so that negotiations could be held between the Office and the victims in an attempt to narrow the range of disputes in the case and to hopefully reach a settlement resolution without the need for further litigation. Negotiations between the victims and the U.S. Attorney's Office then followed over the next two days. However, at 6:11 p.m. on October 27, 2010 – the date on which the victims' pleading was due – the U.S. Attorney's Office informed the victims that it did not believe that it had time to review the victims' proposed statement of facts and advise which were accurate and which were inaccurate. The Office further advised the victims that it believed that the victims did not have a right to confer with their Office under the CVRA in this case because in its view the case is "civil" litigation rather than "criminal" litigation (doc. No. 41 at 3). [1]

14. As a result, purely as an accommodation to the U.S. Attorney's Office, on October 27, 2010, the victims filed a report with the Court in which they agreed to delay filing their motion and accompanying facts for up to two-weeks to see if negotiations can resolve (or narrow) the disputes with the U.S. Attorney's Office (DE 41 at 4). Discussions with the U.S. Attorney's Office dragged on, including a personal meeting between Jane Doe No. 1 and the U.S. Attorney in December 2010.

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[1] In seeming contradiction to this position, on March 17, 2011, the U.S. Attorney's Office informed the victims that it would not be making any initial disclosures to the victims as required for civil cases by Fed. R. Civ. P. 26(a)(1). The U.S. Attorney's Office did not explain why they believe that this rule of civil procedure is inapplicable if they think this case is properly viewed as a "civil" case.

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15. After further discussions failed to produce any agreement or other visible progress, the victims informed the U.S. Attorney's Office that they would file their "summary judgment" motion with the Court on March 18, 2011 and requested further cooperation from the Office on the facts.

16. Ultimately, after months of discussion, the U.S. Attorney's Office informed counsel for the victims that – contrary to promises made earlier to stipulate to undisputed facts – no such stipulation would be forthcoming. Instead, on March 15, 2011, the U.S. Attorney for the Southern District of Florida, Wifredo A. [redacted], sent a letter to the victims declining to reach any agreement on the facts:

> Because, as a matter of law, the CVRA is inapplicable to this matter in which no federal criminal charges were ever filed, your requests for the government's agreement on a set of proposed stipulated facts is unnecessary and premature. That is, because whether the rights in 18 U.S.C. § 3771(a) attach prior to the filing of a charge in a federal court is a matter of statutory interpretation, resolution of that question is not dependent upon the existence of any certain set of facts, other than whether a charging document was ever filed against Jeffrey Epstein in the United States District Court for the Southern District of Florida. And while this Office remains willing to cooperate, cooperation does not mean agreeing to facts that are not relevant to the resolution of the legal dispute at issue . . . .

Letter from Wifredo A. [redacted] to Paul G. Cassell (March 15, 2011).

17. Accordingly, unable to work with the Government to reach a resolution of the facts, on March 21, 2011, the victims filed a Motion for Summary Judgment, alleging 53 undisputed facts along with some evidentiary support for each of the facts. DE 48. The victims also filed a motion to have their facts accepted because of the Government's failure to contest their facts. DE 49. The victims also filed a motion to have the Court direct the Government to not withhold relevant evidence. DE 50.

18. Following a hearing on the motions, on September 26, 2011, the Court rejected the Government's argument that the CVRA was inapplicable in this case because the Government had never filed charges against Epstein. DE 99. The Court, however, rejected the victims' argument that it should accept their facts because of the Government's failure to contest the facts. DE 99 at 11. Instead, the Court directed that discovery could proceed in the form of requests for admission and document production requests. *Id.* at 11. The Court reserved ruling on the victims' motion that the Government should be directed not to withhold evidence.

19. In light of the Court's order, on October 3, 2011, the victims filed requests for production with the Government. The requests included 25 specific requests, each of which linked very directly to the facts that the victims were attempting to prove in this case.

20. On November 7, 2011, the day when the Government's responses were due, rather than produce even a single page of discovery, the Government filed a motion to dismiss the victims' petitions. DE 119. On that same day, the Government filed a motion to stay discovery. DE 121. The victims filed a response, arguing that the Government's motion was a stall tactic. DE 129. The victims also filed a motion to compel production of all of their discovery requests. DE 130. The Government filed a reply, arguing that it was not stalling. Indeed, the Government told the Court that "the United States has agreed to provide some information to [the victims] even

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during the pendency of the stay [of discovery] and is undertaking a search for that information." DE 140 at 4. Contrary to that representation, however, over the next seventeen months, the Government did not produce any information to the victims, despite the victims reminding the Government of that statement made to the court.

21. Ultimately, after some additional motions and rulings, on June 19, 2013, the Court denied the Government's motion to dismiss and lifted any stay of discovery. DE 189. That same day, the Court entered an order granting the victims' motion to compel and directing the Government to produce (1) all correspondence between it and Epstein; (2) all communications between the Government and outside entities; and (3) every other document requested by the victims. DE 190 at 2. With respect to the third item, the Court allowed the Government to assert privilege by producing the items in question for in camera inspection and filing a contemporaneous privilege log. *Id.* The Court required that the privilege log must "clearly identify[] each document[] by author(s), addressee(s), recipient(s), date, and general subject matter . . . ." DE 190 at 2.

22. On July 19 and July 27, 2013, the Government made its production. With regard to item (1) – correspondence with Epstein, the Government withheld the correspondence pending a ruling from the Eleventh Circuit on Epstein's motion to stay production of these materials. With regard to the other items, the Government produced 14,825 pages of documents to the Court for in camera inspection, but turned over only 1,357 pages to the victims. Thus, the Government asserted privilege to more than 90% of the documents in question. The documents that the Government produced were almost worthless to the victims, as they included such things that the victims' own letters to the Government (Bates 0001-04), court pleadings filed by the victims themselves or other victims, by Epstein, or by news media organizations (*e.g.,* Bates 00142-88, 00229-31, 281-311, 00668-69), public court rulings on Epstein related matters (*e.g.*, Bates 0008-10, 0012-14. 0036-86, 00190-228), public newspaper articles (e.g., Bates 0011, 0030, 0032-33), and similar materials already available to the victims. It also included roughly four hundred pages of notices sent to the various other victims in this case – notices that were substantively indistinguishable from the notices the victims themselves in this case had already received. Almost without exception, the documents the Government produced do not go to the disputed issues in this case.

23. The Government made one last production of materials in this case on August 6, 2013. This involved roughly 1,500 pages of documents that were largely meaningless in the context of the contested issues in the case. They included public documents in the case such the crime victims' own pleadings, *see, e.g.,* Bates 000671-000711 (copy of the victims' redacted summary judgment motion). Curiously, while the Government has produced these documents that would likely fall into an "irrelevant" category of documents, they have simultaneously refused production of hundreds of other documents that are responsive to our requests on the basis of relevance.

24. The victims have tried to obtain information on all relevant subjects through requests for admission. The Government, however, has refused to admit many of the victims' central allegations in this case. A copy of the victims' requests for admissions and the Government's responses is attached to this affidavit so that the Court can see that the victims have diligently tried to pursue this avenue for developing the facts in this case.

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25. The victims have also tried to obtain information on subjects related to their suit by voluntary requests for interview with persons who are no longer employed by the Justice Department. For example, I have sent letters to both Bruce Reinhart and [redacted], who both have information about the Epstein case, requesting an opportunity to discuss the case with them. Both of them have ignored my letters.

The Need for the Materials Requested by the Victims

26. The documents that the victims requested that the Government produce to them on October 3, 2011, are all highly relevant to their CVRA enforcement action. We would not have requested them otherwise. The victims also have no other means of obtaining the requested material. This section of the affidavit explains why the materials are needed by the victims. For the convenience of the Court, the affidavit will proceed on a section-by-section basis concerning the need for the materials. Also for the convenience of the Court, a copy of the October 3, 2011, request for production is attached to this Affidavit. Also attached is the victims' supplemental discovery request of June 24, 2013. As the Court will note from reviewing the requests for production, most of the requests specifically recount the allegations that the requested documents would support, in an effort to eliminate any dispute from the Government that the documents were not relevant to the case. Many of the requests for production link directly to specific paragraphs in the victims' previously-filed summary judgment motion. Accordingly, the victims have a very specific need for these documents to support the allegations in the summary judgment motion found at DE 48 at 3-23.

27. The Court has previously concluded that the victims' proof of their claims is, at this point in the case, inadequate. Instead, the Court has ruled: "Whether the evidentiary proofs will entitle [the victims] to that relief [of setting aside the non-prosecution agreement] is a question properly reserved for determination upon a fully developed evidentiary record." DE 189 at 11-12. The Court has further indicated that it will be considering an "estoppel" argument raised by the Government as a defense in this case. DE 189 at 12 n.6. The Court has noted that this argument "implicates a fact-sensitive equitable defense which must be considered in the historical factual context of *the entire interface between Epstein, the relevant prosecutorial authorities and the federal offense victims* – including an assessment of the allegation of a deliberate conspiracy between Epstein and federal prosecutors to keep the victims in the dark on the pendency of negotiations between Epstein and federal authorities until well after the fact and presentation of the non-prosecution agreement to them as *a* fait accompli." DE 189 at 12 n.6 (emphasis added). The victims have a compelling need for information about the Government's actions to show what the "entire interface" was and to respond to the Government's estoppel arguments, as well as other defenses that it appears to be preparing to raise. *See, e.g.,* DE 62 (52-page response from the Government to the victim's summary judgment motion, raising numerous factually-based and other arguments against the victim's position).

28. Request for Production ("RFP") No. 1 requests information regarding the Epstein investigation. These documents are needed to support the victims' allegations that the Government had a viable criminal case for many federal sex offenses that it could have pursued against Epstein. *See, e.g.,* DE 48 at 3-7.

29. RFP No. 2 requests information regarding crime victim notifications in this case. These documents are needed to support the victims' allegations that their rights under the CVRA, their

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right to notice and to confer with the Government, were violated in this case. In particular, these documents are needed to demonstrate that the victims were not properly notified about the non-prosecution agreement (NPA) entered into by the Government and Jeffrey Epstein and that the Government did not confer with the victims about the agreement. *See, e.g.,* DE 48 at 11-17.

30. RFP No. 3 requests information about the NPA, including in particular its confidentiality provision. These documents are needed to demonstrate that the confidentiality provision precluded disclosing the agreement to Jane Doe No. 1 and Jane Doe No. 2, as well as to other victims. *See, e.g.,* DE 48 at 10-17. These documents are further needed to demonstrate that Jeffrey Epstein specifically orchestrated the secrecy of the agreement, thereby deliberately causing the Government's CVRA violation in this case. *See, e.g.,* DE 48 at 13.

31. RFP No. 4 requests documents relating to negotiations between the Government and Jeffrey Epstein concerning the court and/or location in which Jeffrey Epstein would enter any guilty plea (including in particular any negotiations concerning concluding the plea in Miami or another location outside of West Palm Beach). These documents are relevant to the victims allegations that the Government was interested in finding a place to conclude any plea agreement that would effectively keep Epstein's victims (most of whom resided in or about West Palm Beach) from learning what was happening through the press. *See, e.g.,* DE 48 at 7-8.

32. RFP No. 5 requests documents pertaining to negotiations between the Government and Jeffrey Epstein regarding any legal representation of the victims in civil cases against Epstein. These documents are needed to prove the victims' allegation that part of the plea negotiations with Epstein involved Epstein's efforts to make sure that the victims would be represented in civil cases against Epstein by someone who was not an experienced personal injury lawyer or by someone familiar to Epstein or his legal team. *See, e.g.,* DE 48 at 9.

33. RFP No. 6 requests documents concerning the Government's and/or Epstein awareness or discussion of possible public criticism and/or victim objections to the non-prosecution agreement that they negotiated. The documents are needed to prove the victims' allegations that the Government wanted the non-prosecution agreement with Epstein concealed from public view because of the intense public criticism that would have resulted had the agreement been disclosed and/or the possibility that victims would have objected in court and convinced the judge not to accept the agreement. *See, e.g.,* DE 48 at 7-8, 11. They are also relevant to bias and motive by the authors or subjects of other documents in this case.

34. RFP No. 7 requests documents regarding the Government's awareness of its potential CVRA obligations in this case and regarding any discussions between the Government and Epstein concerning these CVRA obligations in this case. These documents are needed to prove the victims' allegations that the Government was aware that it potentially had obligations under the CVRA to notify the victims about the non-prosecution agreement and any related state court plea agreement. *See, e.g.,* DE 48 at 12-13.

35. RFP No. 8 requests documents regarding Epstein's lobbying efforts to persuade the Government to give him a more favorable plea arrangement and/or non-prosecution agreement, including efforts on his behalf by former President Bill Clinton, Prince Andrew, and Harvard Law Professor Alan Dershowitz. These materials are needed to prove the victims allegation that, after Epstein signed the non-prosecution agreement, his performance was delayed while he used his significant social and political connections to lobby the Justice Department to obtain a

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more favorable plea deal. *See, e.g.,* DE 48 at 16-18. These materials also are needed to establish the course of the proceedings in this case, which is necessary in light of the Government's letters to the victims (discussed in the next paragraph) concerning the status of the case.

36. RFP No. 9 requests documents regarding the letters sent to the victims by the FBI on January 10, 2008, Jane Doe No. 1 and Jane Doe No. 2 advising them that "this case is currently under investigation." These documents are needed to show that these letters were inaccurate or, at the very least, highly misleading, because they conveyed the impression that no plea arrangement (for example, a non-prosecution agreement) had been negotiated between Epstein and the Government. *See, e.g.,* DE 48 at 16. These documents are also needed to respond to the Government's "estoppel" defense, as noted in the Court's order DE 189 at 12 n.6.

37. RFP No. 10 requests documents regarding the victims' allegations that the FBI was led to believe that their investigation of Epstein was going to produce a federal criminal prosecution and that the FBI was also misled by the U.S. Attorney's office about the status of the case. The Government has argued that these documents are not relevant to the case, because the only issue is whether the Government misled the victims. But the Government fails to recognize that the victims received information about the case through the FBI. These documents are therefore needed to demonstrate that the victims received inaccurate information about the status of the case – inaccurate information caused by the U.S. Attorney's Office's negotiations with Epstein. If the FBI agents were not accurately informed about the progress of the cases, then they could not have accurately informed the victims about the progress of the case – a central point in the victims' argument. Moreover, these documents would show a common scheme or plan – something made admissible in a trial by operation of Fed. R. Evid. 404(b). Of course, if the U.S. Attorney's Office was misleading the FBI about the NPA, it would have been part of the same scheme or plan to mislead the victims as well. The documents are also needed to support specific allegations in the victims' summary judgment motion. *See, e.g.,* DE 48 at 16-17.

38. RFP No. 11 requests documents regarding various meetings that the Government (including FBI agents) had with the victims. These documents are needed to prove that during those meetings the Government did not disclose to the victims (or to their attorneys) that a non-prosecution agreement had been negotiated with Epstein, and even signed with Epstein, that related to their cases, allegations that the victims have advanced in their summary judgment motion. *See, e.g.,* DE 48 at 16-18.

39. RFP No. 12 requests all documents connected with a request from the U.S. Attorney's Office to me (Bradley J. Edwards) to write a letter concerning the need for filing federal charges against Epstein and follow-up to that letter. These documents are needed to show that this request was made to me without disclosing the existence of the non-prosecution agreement. Thus, just as Jane Doe No. 1 and Jane Doe No. 2 were deceived about the NPA, I was deceived as well. *See, e.g.,* DE 48 at 18-19. It is also needed to contradict the Government's apparent position that it disclosed the "existence' of the NPA to me and to the victims. *See, e..g.,* Gov't Answers to RFA ¶ 13(d) ("The government admits that, when Epstein was pleading guilty to the state charges discussed in the non-prosecution agreement, the USAO and Epstein's defense attorneys sought to keep the document memorializing the non-prosecution agreement confidential, but denies that they sought at that time to keep the existence of the non-prosecution agreement confidential.").

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40. RFP No. 13 requests documents regarding how, on or about June 27, 2008, the Government learned that Epstein would be entering his plea to state charges on or about June 30, 2008. The documents are needed to describe the course of proceedings in this case and to prove both the Government's and Epstein's awareness that he would be entering a guilty plea (and thus blocking prosecution of other crimes) without the victims' full knowledge of what was happening. *See, e.g.,* DE 48 at 19-20.

41. RFP No. 14 requests documents relating to the Government and Epstein working together to keep the existence of the non-prosecution agreement secret, including declining comment about the existence of such an agreement when asked about it when his guilty plea in state court became public knowledge. These documents are needed to prove the victims' allegations that the Government concealed the NPA from them, *see, e.g.,* DE 48 at 14-18,and to contradict what appears to be the Government's position, namely that the victims were aware of the NPA shortly after it was negotiated, *see, e.g.,* Gov't Answers to RFA ¶ 13(b) (claiming that "the USAO had communicated with Jane Doe #1 about the non-prosecution agreement prior to Epstein's June 30, 2008 guilty plea."). These documents are also necessary to contradict the Government's apparent claim that the NPA did not bar discussions with crime victims. *See, e.g.,* Gov't Answers to RFA ¶ 13(d) (Government denying request that it admit that "Epstein's defense attorneys had negotiated for a confidentiality provision in the non-prosecution agreement that barred conferring with victims about the agreement").

42. RFP No. 15 requests documents pertaining to the feasibility of notifying the victims about the NPA, along with information concerning how the victims came to receive a "corrected" notification letter on about September 3, 2008 – months after Epstein had pled guilty. These documents are needed to demonstrate that the Government had no valid reason for failing to provide notice to the victims. It is also needed to demonstrate why the victims at first received inaccurate information about the NPA, as well as Jeffrey Epstein's involvement in that inaccurate notice. *See, e.g.,* DE 48 at 15-16.

43. RFP No. 16 requests documents regarding Bruce Reinhart, a senior prosecutor who was present in the U.S. Attorney's Office during the time that the Office negotiated the NPA with Epstein, blocking his prosecution for federal crimes in the Southern Districdt of Florida. In RFP No. 16, the victims have sought documents showing that Reinhart learned confidential, non-public information about Epstein matter. The Court will recall that Reinhart has filed a sworn affidavit with this Court, in which he flatly declared that while he was a prosecutor in the Office: "I never learned any confidential, non-public information about the Epstein matter." DE 79-1 at 3 (¶ 12). When Reinhart made that statement, it seemed improbable to me, because Reinhart was in close contact with other prosecutors in the Office and would seem likely that he would have discussed the high-profile Epstein case with them. Additionally, I learned through public record that while still a prosecutor at the Office Mr. Reinhart established his criminal defense office at the exact address (and exact Suite number) as Jeffrey Epstein's personal business address. However, I did not have any direct way of contradicting Reinhart's sworn statement. Since then, however, in answering the victims' Requests for Admissions, the Government has admitted that it possesses information that Reinhart learned confidential, non-public information about the Epstein case and that he discussed the Epstein case with other prosecutors. Gov't Answers to RFA's ¶ 15(a) & (b). Of course, this means that the Government has documents that Reinhart

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filed a false affidavit with this Court. This gives rise to the reasonable inference that, if Reinhart was willing to provide false information about this subject, he may have additional information about the case that is being concealed as well.

44. Materials about Reinhart are also needed to support the victims' summary judgment motion. *See, e.g.,* DE 48 at 22-23 (raising allegations about Reinhart).

45. Reinhart's affidavit with the Court also states: "Because I did not have any, I did not share non-public confidential information about the Epstein investigation with any of Epstein's attorneys." DE 79-1 at 4 (¶ 17). Because the Government has information demonstrating that the first part of this statement is false, it may well be that the second part of the statement is false as well. Given that Mr. Reinhart established a business address identical to Epstein's business address, at a time while he was still working at the US Attorney's Office, and that Mr. Reinhart ultimately represented several of Epstein's co-conspirators, jet pilots, and staff, during the civil litigation, any involvement Mr. Reinhart had with the Epstein case while working at the Office is highly relevant.

46. The Government has further admitted that it possesses documents reflecting contacts between Bruce Reinhart and persons/entities affiliated with Jeffrey Epstein before Reinhart left his job at the U.S. Attorney's Office. Gov't Answers to RFA's ¶ 16. As stated above, Reinhart left the U.S. Attorney's Office to start a private firm that was located in the same address as Epstein's personal business where he was daily. This would appear to be a violation of the Florida rules of ethics for attorneys.

47. Information about Reinhart's connections to Epstein is critical to the victims' allegations in this case. If Reinhart was helping Epstein gain insight into the prosecutions efforts, that would provide a motive for Reinhart (and other prosecutors) not to properly notify the victims and not to confer with them. Also, if Epstein was improperly receiving information about the prosecution efforts against him (or lack thereof), that could be highly relevant to the remedies stage of this case, in which the victims will ask (among other things) to have the NPA agreement invalidated. Epstein has already indicated that he will raise a double jeopardy argument against that effort. However, double jeopardy considerations do not apply in situations where the defendant was not truly in jeopardy of prosecution. In addition, the Court may wish to consider, in crafting a remedy, Epstein's culpability for the violations of the NPA. Evidence that Epstein was improperly obtaining information about the prosecution efforts against him would be highly relevant to that culpability assessment. It is also relevant to the estoppel defense that the Government (and perhaps Epstein as well) intend to raise.

48. Evidence concerning Reinhart's connections, including improper connections, to Epstein is also relevant to bias and motive in this case. It would show, for example, the Reinhart had a reason to encourage others in the U.S. Attorney's Office to give Epstein a more lenient deal than the one he was entitled to.

49. RFP No. 16 requested information not only about improper connections between Epstein and Reinhart, but more broadly about such connections with any other prosecutors. Of course, if the Government possesses such information, it would be highly relevant to the victims' allegations for the reasons just discussed. In its answers to the victims' Requests for Admission, the Government admits that it has information about a personal or business relationship between Jeffrey Epstein and another prosecutor involved in the Epstein case, Matthew [redacted]. Answers

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to Requests for Admission at ¶ 20. The Government should be required to disclose all of those documents so that the victims can determine whether there was anything improper about those relationships. In my experience, it is highly unusual for federal prosecutors to work on a case prosecuting someone (such as Jeffrey Epstein) and then, shortly thereafter, leave the employment of the federal government and enter into a business relationship with the person who was being prosecuted.

50. RFP No. 17 asks for documents concerning an investigation into the Epstein prosecution undertaken by the Justice Department's Office of Professional Responsibility (OPR) in Washington, D.C. The investigation was undertaken at the request of the victims, who asked the Justice Department to determine whether "improper influences" were brought to bear during the negotiations involving the possible prosecution (and ultimately the non-prosecution) of Jeffrey Epstein. It is apparent from the privilege logs that the Government has produced that OPR generated a great deal of correspondence (at least 46 pages) regarding this request. *See* Bates P-013909 to P-013955. Of course, improper influences being brought to bear on the Epstein prosecution would support the victims' allegations that they were not being properly notified. Moreover, OPR may well have investigated the specific allegations that are at issue in this case – or directed others to undertake such an investigation. Here again, this information would be critical to supporting the victims' case. In fact, because OPR has presumably investigated many of the precise actions and actors, about which the victims complain in this litigation, and have already gathered many of the documents needed, the production of the OPR case file could probably short-cut this litigation and discovery process.

51. There is no other way to obtain this information from OPR. On May 6, 2011, nearly half a year after the victims' request of December 10, 2010, for an investigation, OPR sent a letter to my co-counsel, Professor Paul Cassell, in which it stated that it "regret[ted] it could not be of assistance" in providing information about the allegations.

52. RFP No. 18 asks for information about why the U.S. Attorney's Office for the Southern District of Florida was "conflicted out" of handling various issues related to the Epstein case. This information is needed to show why the victims did not receive proper notifications about the NPA that the Office negotiated with Epstein. It appears that the conflict of interest that has been recognized may have to do with the Office's treatment of the victims. Moreover, in its production of documents, and in follow-up correspondence, the U.S. Attorney's Office for the Southern District of Florida has indicated that there are no responsive documents being held by the U.S. Attorney's Office in the other district that is handling conflict matters. (It appears that this other office is the Middle District of Florida.) This appears to be improbable, because the conflict matters would presumably generate many documents covered by the victims' discovery requests, including the OPR investigative file. Accordingly, the conflict matter is highly relevant to determining whether the U.S. Attorney's Office has provided complete production to the victims. A conflict of interest would also be highly relevant to the motivations of the Government attorneys throughout the handling of the Epstein case.

53. RFP No. 19 asks for information supporting allegations made in March 2011, by former U.S. Attorney Alexander [redacted]. He sent a three-page letter to the news media in which he claimed that when Government attorneys began investigating Epstein, Epstein launched "a yearlong assault on the prosecution and the prosecutors." This information is needed to explain

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why the U.S. Attorney's Office would have withheld notifications from the victims about the NPA. If the prosecutors were being assaulted, as [redacted] has said they were, then they would have reason to disregard their obligations to crime victims. In addition, this would show improper behavior by Epstein, which would be relevant at the remedies stage of this case in determining the scope of any remedy. These allegations would also bear strongly on motive and bias.

54. RFP No. 20 requests documents between the Government and state and local prosecutors and police agencies (including The Palm Beach Police Department) regarding the non-prosecution agreement. Because this involves information outside of the Department, it is the victims understanding that the Government has already turned over all of this information to them, as the Court has directed. *See* DE 190 at 2 (requiring production of information with persons or entities outside the federal government). For the sake of completeness, however, it is worth noting that this information is needed to demonstrate that the victims were not properly informed that Epstein's plea to state charges would trigger the NPA and preclude prosecution for crimes committed against them.

55. RFP No. 21 requests correspondence regarding the NPA. Here again, the victims understand that the Government is prepared to produce all of this information to them (once the stay pending action by the Eleventh Circuit is lifted). Again, for the sake of completeness, it is worth noting that this correspondence is needed to demonstrate the victims' claims that the Government was concealing the existence of the NPA from them and that this was done at Epstein's behest. The Court has specifically noted that the victims have a need for information that will allow them to argue to the Court in support of their "allegation of a deliberate conspiracy between Epstein and federal prosecutors to keep the victims in the dark on the pendency of negotiations between Epstein and federal authorities until well after the fact and presentation of the non-prosecution agreement to them as a *fait accompli*." DE 189 at 12 n.6.

56. RFP No. 22 requests information about any considerations that Epstein provided, or offered to provide, to any individual within the Government. Here again, the victims understand that this information is being provided to them. It is again worth noting, however, that this information is highly relevant to explaining why the U.S. Attorney's Office would not have properly notified the victims about what was happening in their case, an allegation that is at the center of the victims' summary judgment motion. *See, e.g.,* DE 48 at 11 (noting allegation that Epstein pushed the U.S. Attorney's Office to keep the NPA secret from public view to avoid public criticism).

57. RFP No. 23 asks for documents that will assist Jane Doe No. 1 and Jane Doe No. 2 in protecting their rights under the CVRA. This request links to the Government's obligations under the CVRA to use its "best efforts" to protect victims' rights. 18 U.S.C. § 3771(c)(1). The direct connection between this request and the victims' case is self-explanatory.

58. RFP No. 24 request correspondence related to the Epstein prosecution that the Government had with entities outside the federal government. Here again, it is my understanding that these materials have already been ordered produced. *See* DE 190 at 2 (requiring production of information with persons or entities outside the federal government). For the sake of completeness, this information is again relevant to showing the course of the Epstein

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investigation and why the victims were not properly notified about event during that investigation.

59. RFP No. 25 requests all initial productions that are required under the Federal Rules of Civil Procedure. This is a protective request to ensure that, should it be determined that the Civil Rules apply, they then receive all materials to which they are entitled.

60. In June 2013, the victims sent a supplemental request for production, asking the Government to provide any information concerning any investigation that the Department undertook concerning the treatment of the victims during the investigation in this case, including any FBI, grand jury, OPR or other investigation in the Southern District of Florida, Middle District of Florida, or elsewhere. Here again, this information is critically needed, as it would go directly to proving the victims' allegations that their rights were violated during the investigation of Epstein. This information would also go directly to defeating the Government's "estoppel" argument. This information would also show motive and bias.

Inadequate Privilege Log

61. The Government has produced a privilege log that violates the Court's order in this case. I have been greatly hampered in responding to the Government's assertions of privilege because of that inadequate log. Indeed, in many cases, it is impossible to determine whether the Government's assertions of privilege are even plausible because of the inadequacy of the log.

62. The Court has directed the Government to produce a privilege log that "clearly identif[ies] each document[] [as to which privilege is asserted] by author(s), addressee(s), recipient(s), date, and general subject matter . . . ." DE 190 at 2. Many of the entries in the privilege log fail to meet this requirement.

63. A good illustration of the inadequacies of the privilege log comes from the very first entry in the log, covering Box No. 1 (P-000001 through P-000039), some 39 pages of documents. DE [redacted]-1. Yet the only description of these 39 pages is: "File folder entitled 'CORR RE GJ SUBPOENAS' containing correspondence related to various grand jury subpoenas and attorney ([redacted]) handwritten notes."

64. Another good illustration of the inadequacies of the privilege log is provided on page 20 of the first privilege log, with regard to Box No. 3 (P-012362 through P-012451). The Government asserts privilege here regarding 90 pages of documents. Yet the only description of these 90 pages is: "File folder entitled 'Key Documents' containing correspondence between AUSA and case agent regarding indictment prep questions, victim identification information, corrections to draft indictment, indictment preparation timeline, key grand jury materials."

65. There are many other illustrations of the inadequacies of the privilege log which the Court will see when it examines it. I have also filed contemporaneously a response to the government's privilege log, which identifies many situations of an inadequate privilege log, as well as other responses that are needed to respond to the Government's privilege log.

66. The Government has never contacted me or co-counsel about any burdens associated with producing a privilege log that complied with the Court's directives. At all times relevant to this case, I would have been willing to work with Government counsel to minimize any excessive burden from producing an adequate privilege log. The requests for production that I sent to the Government specifically invited discussion to avoid any excessive burden.

Failure to Prove Factual Underpinnings of Privilege Claim

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67. Many of the Government's privilege assertions require factual premises – such as the existence of an attorney-client relationship and the rendition of legal services within that relationship. Yet the Government has not provided the factual underpinnings for any of its privilege assertions.

68. An illustration of this problem is found on page 1 of the supplemental privilege log (DE 216-1), with regard to supplemental box No. 3 (P-013284). The entry here reads: "7/10/08 emails between J. [redacted] and [redacted], K. Atkinson, and FBI re proposed response to Goldberger's letter re victim notification." The log then indicates that the Government is asserting attorney-client privilege, work product privilege, and deliberative process privilege. The Government, however, does not provide any document for any of the factual underpinnings of any of these claims. For example, with regard to the attorney-client claim, the Government does not explain who the attorney is and who the client is. With regard to the work product claim, the Government does not explain what litigation this document contemplated. And with regard to deliberative process, the Government does not explain what deliberative process was involved.

69. There are many other illustrations of the Government's failure to prove the factual underpinnings of privilege assertions, which the Court will see when it examines the privilege log and the victims responsive log.

Waiver of Confidentiality

70. Some of the privileges that the Government has asserted have been waived. Of course, a requirement of a privilege is that confidentiality be maintained. Some of the materials have been circulated outside of any confidential circle, thereby waiving privilege.

71. An illustration of waiver found on page 1 of the supplemental privilege log (DE 216-1), with regard to supplemental box No. 3 (P-013282 to 83). The entry here reads: "7/08/08 email from A. [redacted] to A. [redacted], J. [redacted], Ki. Atkinson, and FBI re proposed response to Goldberger's letter re victim notification." The log then indicates that the Government is asserting attorney-client privilege regarding these emails. But the emails were not internal to the U.S. Attorney's Office, but were also sent to the "FBI." (This is another illustration of the inadequacies of the privilege log, because who in the FBI the materials were sent to is not disclosed.) But the FBI is a law enforcement investigative agency, not an agency that provides legal advice. Accordingly, any attorney-client privilege would be waived by dissemination of this e-mail outside the U.S. Attorney's Office.

72. Another illustration of waiver is found on page 3 of the supplemental privilege log (DE 216-1), with regard to supplemental box No. 3 (P-013504 to P-013507). The entry here reads: "File folder labeled 'Mtg w/ Ken Starr, RAA, JS, Drew' containing handwritten notes by [redacted]." Kenn Starr, of course, is a *defense* attorney who represented defendant Epstein. Recording information provided by a defense attorney is not part of any governmental attorney-client privilege.

73. Another illustration of waiver is found on page 7 of the supplemental privilege log (DE 216-1), with regard to supplemental box No. 3 (P-013644 through P-013653). The entry here reads: "File folder entitled "Notes Re Plea Negotiations" containing 9/17/07 e-mail from A. [redacted] Villafaña to J. [redacted], N. [redacted] re status update; undated and typed handwritten notes by A. [redacted] re items to be completed on case, strength of case, victim interviews,

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summary of evidence, guidelines calculations." The Government is asserting attorney-client privilege regarding this e-mail. I understand the reference to "[redacted]" and "[redacted]" to be references to FBI agents – not attorneys in the U.S. Attorney's Office. Accordingly, the attorney-client privilege would not extend to this e-mail.

The Government's Fiduciary Duty to Crime Victims Bars Any Privilege

74. I am familiar with the caselaw recited in our pleadings regarding a "fiduciary exception" (also known as the "*Garner* exception" in some settings) to privileges. In this case, the Government had a fiduciary obligation to protect the CVRA rights of Jane Doe No. 1 and Jane Doe No. 2. Specifically, because they were recognized "victims" under the CVRA, the Government had obligations to provide them rights under the CVRA, including the right to confer, the right to notice, and the right to be treated with fairness. Because of this fiduciary duty, an exception applies to many of the Government privilege claims regarding interactions with the victims.

75. The fiduciary duty of the Government to the victims in this case is clear. In 2007, the FBI determined that both Jane Doe No. 1 and Jane Doe No. 2 were victims of sexual assaults by Epstein while they were minors beginning when they were approximately fourteen years of age and approximately thirteen years of age respectively. These sexual assaults involved use of means of interstate commerce (i.e., a telephone) and travel in interstate commerce. Both Jane Does were initially identified through the Palm Beach Police Department's investigation of Epstein.

76. Confirming the fact that the Government had identified Jane Doe No. 1 as a victim in this case, on about June 7, 2007, FBI agents hand-delivered to Jane Doe No. 1 a standard CVRA victim notification letter. The notification promises that the Justice Department would make its "best efforts" to protect Jane Doe No. 1's rights, including "[t]he reasonable right to confer with the attorney for the United States in the case" and "to be reasonably heard at any public proceeding in the district court involving . . . plea . . . ." The notification further explained that "[a]t this time, your case is under investigation."

77. Similarly, on about August 11, 2007, FBI agents hand-delivered to Jane Doe No. 2 a standard CVRA victim notification letter. The notification promises that the Justice Department would make its "best efforts" to protect Jane Doe No. 1's rights, including "[t]he reasonable right to confer with the attorney for the United States in the case" and "to be reasonably heard at any public proceeding in the district court involving . . . plea . . . ." The notification further explained that "[a]t this time, your case is under investigation."

78. Early in the investigation, the FBI agents and the Assistant U.S. Attorney had several meetings with Jane Doe No. 1. Jane Doe No. 2 was represented by counsel that was paid for by Epstein and, accordingly, all contact was made through that attorney. These meetings occurred because the FBI had obligations to protect the victims' rights under the CVRA.

79. In October 2007, shortly after the initial non-prosecution agreement was signed between Epstein and the U.S. Attorney's Office for the Southern District of Florida, Jane Doe No. 1 was contacted to be advised regarding the investigation. On October 26, 2007, Special Agents E. [redacted] and Jason [redacted] met in person with Jane Doe No. 1 because she was recognized as a "victim' of Epstein's crime.

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80. In all of these dealings between the Government and the victims, as well as other dealings of a similar nature, the Government had a fiduciary obligation to protect the interests of the victims under the Crime Victims Rights Act. Accordingly, the Government is precluded from raising any privilege claim to which a fiduciary exception applies or, at the very least, any privilege assertion would be outweighed by the victims' compelling need for the material.

81. An illustration of a situation where the fiduciary duty exception applies is found on page 1 of the supplemental privilege log (DE 216-1), with regard to supplemental box No. 3 (P-013282 to 83). The entry here reads: "7/08/08 email from A. [redacted] to A. [redacted], J. [redacted], K. Atkinson, and FBI re proposed response to Goldberger's letter re victim notification." In responding to defense attorney Goldberger's letter about victim notification, the U.S. Attorney's Office had a statutory duty under the CVRA to protect the victims' interests. Accordingly, the Office cannot assert privilege when questions about whether it fulfilled its obligations to the victims have arisen in this case or, at the very least, any privilege assertion would be outweighed by the victims' compelling need for the materials.

82. Another illustration of a situation where the fiduciary duty exception applies is found on page 16 of the first privilege log (DE [redacted]-1), with regard to Box #2 P-010526 to P-010641. The entry reads: "File folder entitled 'Rsrch re Crime Victims Rights' containing attorney research, handwritten notes, draft victim notification letter, and draft correspondence to Jay Lefkowitz." Here again, the materials at issue go to the heart of this case – what kind of notifications were made to the victims and how did the defense attorneys shape and limit those notifications. Moreover, in evaluating victims' rights issues and determining what kind of letter to send, the Government was fulfilling legal duties that it owed to the victims. Accordingly, the Office cannot now assert privilege when questions about whether it fulfilled its obligations to the victims have arisen in this case.

Communications Facilitating Crime-Fraud-Misconduct Not Covered

83. I am familiar with the cases cited in our brief regarding an exception to various privileges when the communications concern crime, fraud, or government misconduct. Many of the important documents about the treatment of the victims to which the Government is asserting privilege would fall within that exception.

84. With regard to fraud and government misconduct, a number of the documents in the Government's privilege log concern concealment from the victims of the existence of a non-prosecution agreement between the Government and Epstein. I have reviewed a copy of the non-prosecution agreement signed on about September 24, 2007, by Epstein and his attorneys and a representative of the U.S. Attorney's Office. The text of that agreement bars disclosure of the agreement to the victims.

85. On about January 10, 2008, my clients Jane Doe No. 1 and Jane Doe No. 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." The statement in the notification letter was deceptive, because it did not reveal that the case had previously been resolved by the non-prosecution agreement entered into by Epstein and the U.S. Attorney's Office discussed previously. Moreover, the FBI did not notify Jane Doe No. 1 or Jane Doe No. 2 that a plea agreement had been reached previously, and that part of the agreement was a non-prosecution agreement with the U.S. Attorney's Office for the

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Southern District of Florida and that the Non-Prosecution Agreement would resolve the federal case completely. (Whether the FBI itself had been properly informed of the non-prosecution agreement is also unclear. We are not alleging misconduct by the FBI, but rather that the FBI was not properly informed about the case or, in any event, was acting at the direction of the U.S. Attorney's Office.)

86. In about April 2008, Jane Doe No. 1 contacted the FBI because Epstein's counsel was attempting to take her deposition and private investigators were harassing her. Assistant U.S. Attorney [redacted] secured pro bono counsel to represent Jane Doe No. 1 and several other identified victims in connection with the criminal investigation. Pro bono counsel was able to assist Jane Doe No. 1 in avoiding the improper deposition. AUSA Villafaña secured pro bono counsel by contacting Meg Garvin, Esq. of the the National Crime Victims' Law Center in Portland, Oregon, which is based in the Lewis & Clark College of Law. During the call, Ms. Garvin was not advised that a non-prosecution agreement had been reached in this matter.

87. On May 30, 2008, another one of my clients who was recognized as an Epstein victim by the U.S. Attorney's Office, received letters from the FBI advising her 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." The statement in the notification letter was deceptive because it did not reveal that the case had been resolved by the non-prosecution agreement entered into by Epstein and the U.S. Attorney's Office in September 2007.

88. In mid-June 2008, I contacted AUSA Villafaña to inform her that I represented Jane Doe No. 1 and, later, Jane Doe No. 2. I 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 I discussed the possibility of federal charges being filed. At the end of the call, AUSA Villafaña asked me to send any information that I wanted considered by the U.S. Attorney's Office in determining whether to file federal charges. I was not informed that previously, in September 2007, the U.S. Attorney's Office had reached an agreement not to file federal charges. I was also not informed that any resolution of the criminal matter was imminent at that time. Presumably the reason the U.S. Attorney's Office withheld this information from me was because of the confidentiality provision that existed in the non-prosecution agreement. At this point it is clear that AUSA [redacted] was restricted in what she was being permitted to tell me.

89. On July 3, 2008, I sent to AUSA Villafaña a letter. In the letter, I indicated my client's desire that federal charges be filed against defendant Epstein. In particular, I wrote on behalf of my 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 I wrote this letter, I was still unaware that a non-prosecution agreement had been reached with Epstein – a fact that continued to be concealed from me (and the victims) by the U.S. Attorney's Office. I only learned of this fact later on.

90. As alleged in the preceding paragraphs, and elsewhere in this affidavit and in this case, deliberate concealment from crime victims and their legal counsel of the existence of a signed

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non-prosecution agreement would be a fraud and government misconduct. Documents relating to that fraud and misconduct would then fall outside of many of the privileges being asserted.

91. An illustration of a document to which the crime-fraud-misconduct exception applies on this basis is found on page 3 of the supplemental privilege log (DE 216-1), with regard to Suppl. Box #3 P-013342 to P-013350. The entry reads: "File folder entitled '12/05/07 Starr to [redacted]' containing drafts of 11/30/07 letters from A. [redacted] to K. Starr and from J. [redacted] to J. Lefkowitz re performance and victim notification with handwritten notes and edits by [redacted]." Again, these materials are central to the dispute in this case, as they involve discussions between the U.S. Attorney's Office and defense attorneys about notifications to crime victims. And given the dates of the communications, in all likelihood they would be related to the deceptive notifications that the Government made to the victims a few weeks later.

92. Another illustration of a document to which the crime-fraud-misconduct exception applies is found on page 1 of the supplemental privilege log (DE 216-1), with regard to Suppl. Box #3 P-013282 to P-013283. The entry reads: "7/9/08 Email from [redacted] to A. [redacted], J. [redacted], K. Atkinson, and FBI re proposed response to Goldberger letter re victim notification." These communications would presumably reflect efforts by the government prosecutors and Epstein's defense attorneys (e.g., Goldberger) to keep the non-prosecution agreement secret.

93. Another illustration of where the crime-fraud-misconduct exception would apply is to information that the Government possesses that Bruce Reinhart learned private, non-public information about the Epstein case. This would show (at the very least) misconduct by Bruce Reinhart in later representing Epstein-related entities. Because the Government's (inadequate) privilege log does not reveal which entries relate to Reinhart, it is not possible to point the Court to the specific documents that demonstrate this misconduct. These documents, however, are covered by the crime-fraud-misconduct exception.

94. Another illustration of where the crime-fraud-misconduct exception could potentially apply is with regard to information that the Government possesses that Matthew [redacted] has a personal or business relationship with defendant Jeffrey Epstein. Gov't Answers to RFA's ¶ 20. This could potentially show misconduct by [redacted], and also potentially a motive to violate the victims' rights as explained previously. The Government's privilege log has numerous entries showing that Menchal was substantially and personally involved in making decisions related to the Epstein prosecution. *See, e.g.,* page 19 of the first privilege log (DE [redacted]-1), with regard to Box #3 P-011923 to P-011966. The victims have information suggesting that immediately after leaving his employment with the U.S. Attorney's Office, [redacted] was associated with Epstein-controlled entities or had some business relationship with him. The documents that the Government possesses showing a personal or business relationship between one of its prosecutors and the man he was charged with prosecuting should be produced.

95. The Government has admitted that its internal affairs component – the Office of Professional Responsibility – has collected information about possible improper behavior during the investigation of the Epstein matter. Gov't Answers to RFA ¶22 (government admits that "The Justice Department's Office of Professional Responsibility and/or other Government entities have collected information about . . . other government attorney's [apart from Bruce Reinhart's] possible improper behavior in the Epstein matter"). The fact that the Government's own investigating agencies have collected such information demonstrates that there is a prima facie

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case of improper behavior, which is enough to trigger the crime-fraud-misconduct exception to various privileges.

Factual Materials Not Privileged

96. As noted in the accompanying legal memorandum, factual materials are generally not covered by the privileges at issue in this case. Many of the materials to which the Government is asserting privilege are factual materials.

Assertions of Attorney-Client Privilege

97. The Government has asserted attorney client privilege regarding many documents. Yet with regard to most of these assertions, it is impossible to determine who is the attorney, who is the client, whether professional legal services are being rendered, and whether the communications were confidential to those involved in the delivery of legal services. Accordingly, it is very difficult for me to respond to many of the assertions of attorney client privilege and, in any event, the Government has failed to carry *its* burden of showing that the privilege applies.

98. An illustration of documents at to which attorney-client privilege appears to have been improperly asserted or inadequately described is found at page 7 of the first privilege log (DE 216-1), with regard to Suppl. Box #3 P-013811 to P-013833. The entry for these twenty-two pages of documents reads: "File folder entitled 'Information Packet Drafts' containing several drafts of Informations, and complete draft Information packet." It is impossible from this description to see how the attorney-client privilege applies to these documents. I could provide many other illustrations of the problem.

99. The Government's attorney-client privilege claim directly covers situations where it was in a fiduciary relationship with the victims and therefore is limited in now asserting privilege. For example, page 3 of the supplemental privilege log (DE 216-1) contains an entry concerning Suppl. Box #3 P-013342 through P-013350, which involves "File folder entitled '12/05/07 Starr to [redacted]' containing drafts of 11/30/07 letters from A. Acost to K. Starr and from J. [redacted] to J. Lefkowitz re performance and victim notification with handwritten notes and edits by A. [redacted] Villafaña." This information goes very directly to the issues involved in this case, as it goes directly to "victim notification." Yet the Government has asserted an attorney-client privilege to prevent the victims from learning what is in these documents. The fiduciary exception to the attorney-client privilege applies in this situation, and limits the government's ability to invoke a privilege. This also appears to be shared communications between the Government and Epstein's attorneys, and it is unclear how the attorney-client privilege could ethically apply to such documents.

100. As one example of why the victims have established a compelling need for the materials described in the preceding paragraph (and other materials like them) is the fact that the Court has indicated that it will be considering an "estoppel" argument raised by the Government as a defense in this case. DE 189 at 12 n.6. The Court has noted that this argument "implicates a fact-sensitive equitable defense which must be considered in the historical factual context of *the entire interface between Epstein, the relevant prosecutorial authorities and the federal offense victims* – including an assessment of the allegation of a deliberate conspiracy between Epstein and federal prosecutors to keep the victims in the dark on the pendency of negotiations between Epstein and federal authorities until well after the fact and presentation of the non-prosecution agreement to them as *a* fait accompli." DE 189 at 12 n.6 (emphasis added). The materials to

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which the Government is asserting attorney-client privilege go directly to that "interface" between *the victims,* the Government, and Epstein. The victims have a compelling need for this information and the fiduciary exception to the attorney-client privilege applies to permit the Court to provide these documents to the victims.

101. The Government has not explained any harm that would come from releasing the documents covered by attorney client privilege to the victims. If the Government raises any such harm, I respectfully request an opportunity to provide additional information on that alleged harm.

Deliberative Process Privilege

102. Some of the correspondence that is being withheld by the Government under the deliberative process privilege concerns an investigation that the Justice Department's Office of Professional Responsibility (OPR) opened with regard to the Epstein case. This investigation was undertaken at the request of the victims in this case. On December 10, 2010, co-counsel, Professor Paul Cassell of the University of Utah College of Law, and I met with the U.S. Attorney for the Southern District of Florida regarding this case in the U.S. Attorney's Office in Miami, Florida. At on that date, Professor Cassell presented a letter to the U.S. Attorney, Mr. [redacted], asking him to personally investigate what happened during the Epstein prosecution and how the victims were treated during that investigation. Based on the privilege log that has been provided, as well as subsequent correspondence sent to Professor Cassell, that request for investigation was turned over to OPR in Washington, D.C.

103. The ultimate outcome of the OPR investigation is unclear. What is clear is that many documents are being withheld about that investigation – documents that would go to the central issues in this case. Approximately three whole pages of the privilege log – pages 12 through 14 of the supplemental privilege log (DE 216-1) – relate to the OPR investigation of how the Epstein case was handled and how the victims were treated.

104. A deliberative *process* privilege claim can only be asserted with regard to the process of reaching a decision, not the ultimate decision itself. The Government here has apparently asserted a deliberative process claim over not only the OPR process, but also over the OPR decision. It is not clear which document embodies the final OPR decision (or, given the inadequacies of the Government's privilege log, whether that final decision has been produced). Given the limited descriptions of the documents that have been provided, it appears that the OPR decision may be reflected in a document found on page 13 of the supplemental privilege log (DE 216-1), with regard to Suppl. Box #3 P-013940 to P-013942. The description there reads: "Draft Letter, marked 'Confidential: To Be Opened by Addressee Only,' Robin C. Ashton to Wifredo A. [redacted], with handwritten corrections." No date is provided regarding this letter. Nor is there any indication as to whether the letter was or was not circulated to other persons. It is also noteworthy that this letter is described as a "draft" letter. Nowhere in the privilege log is the final version of the letter indicated, raising questions about what was "draft" and what was "final." If this is the final embodiment of OPR's conclusions, then this letter would not be protected by a "deliberative process" privilege, because the deliberations would have come to an end. (It is also worth noting that because OPR is an agency that investigates misconduct by federal prosecutors, it would not be providing attorney-client advice to prosecutors and its

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documents would not be attorney-client privileged with regard to, for example, the U.S. Attorney's Office for the Southern District of Florida.)

105. The fact that OPR has investigated many of the exact claims raised by Jane Does 1 and 2, and were able to gather documents unobstructed by the Government in order to reach its conclusion likely means that production of the OPR file to the victims in this case could significantly shortcut this discovery process and the litigation. Additionally, if OPR "needed" the documents to investigate and make findings regarding the victims' claims, then logically the victims share that "need" and have no other means through which to obtain the documents. The Government has not explained any harm that would come from releasing the documents covered by deliberative process privilege to the victims. If the Government raises any such harm, I respectfully request an opportunity to provide additional information on that alleged harm.

Investigative Privilege

106. The investigative privilege is a qualified privilege, which balances the need of particular litigate for access to information against any public interest in non-disclosure. That balancing process is ordinarily made with reference to factors discussed in *Frankenhauser* [redacted]. *Rizzo*, 59 F.R.D. 339, 344 (E.D.Pa.1973), specifically:

> (1) the extent to which disclosure will thwart governmental processes by discouraging citizens from giving the government information; (2) the impact upon persons who have given information of having their identities disclosed; (3) the degree to which governmental self-evaluation and consequent program improvement will be chilled by disclosure; (4) whether the information sought is factual data or evaluative summary; (5) whether the party seeking the discovery is an actual or potential defendant in any criminal proceeding either pending or reasonably likely to follow from the incident in question; (6) whether the police investigation has been completed; (7) whether any intradepartmental disciplinary proceedings have arisen or may arise from the investigation; (8) whether the plaintiff's suit is non-frivolous and brought in good faith; (9) whether the information sought is available through other discovery or from other sources; and (10) the importance of the information sought to the plaintiff's case.

On the facts of this case, these factors weigh in favor of disclosing the information the victims have requested.

107. With regard to factor (1) (the extent to which disclosure will thwart governmental processes by discouraging citizens from giving the government information), I represented four victims of Epstein's sex offenses in Federal Court – Jane Doe No. 1, Jane Doe No. 2, and a victim I will refer to as "S.R." and "M.J.", and other victims of Jeffrey Epstein's abuse as well. If further information is disclosed about this case, that will not discourage them from providing information, but rather will encourage them. I have also talked personally to attorneys for a number of other victims in this case. I have been told that many of these other victims hope that Jane Doe No. 1 and Jane Doe No. 2 are successful in their case.

108. With regard to factor (2) (the impact upon persons who have given information of having their identities disclosed), Jane Doe No. 1 and Jane Doe No. 2 are not asking for information that would identify any particular victim. Accordingly, there will be no effect on other victims. Additionally, I am aware of the true names of many of Epstein's victims and that information has

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not been disseminated to the public where those individual victims did not wish for their identities to be disseminated.

109. With regard to factor (3) (the degree to which governmental self-evaluation and consequent program improvement will be chilled by disclosure), this is a lawsuit to force the compliance by the Government with its CVRA obligations. Accordingly, the Government's "program" of providing victims' rights will be directly improved if the victims are able to enforce their rights in this lawsuit.

110. With regard to factor (4) (whether the information sought is factual data or evaluative summary), many of the items that the victims seeks are factual summaries. An example of this is found at page 18 of the first privilege log (DE [redacted]-1), with regard to Box #3 P-011778 to P-011788. The entry reads: "File folder entitled '6/12/09 Victim Notif. Log' containing chart with victim contact information and attorney notes regarding dates and type of contacts." This would include, for example, dates of contacts with Jane Doe No. 1 and Jane Doe No. 2, which would be purely factual information.

111. With regard to factor (5) (whether the party seeking the discovery is an actual or potential defendant in any criminal proceeding either pending or reasonably likely to follow from the incident in question), Jane Doe No. 1 and Jane Doe No. 2 are plainly *victims* of a crime, not criminal defendants. Indeed, as the Court is aware, it is the *criminal defendant* (Jeffrey Epstein) who has undertaken several "limited" intervention efforts to try and block disclosure of information to the victims.

112. With regard to factor (6) (whether the police investigation has been completed), the investigation of Epstein was completed years ago and the Government has not produced in its privilege log any information indicating recent investigative activity.

113. With regard to factor (7) (whether any intradepartmental disciplinary proceedings have arisen or may arise from the investigation), it appears than OPR investigation has arisen as a direct result of the victims' efforts in this case. However, it does not appear that release of any information to the victims would hamper any disciplinary proceedings. Indeed, to the extent that the victims are able to obtain information about this case and find information about misconduct, then they can provide that information to Government and other disciplinary entities as appropriate.

114. With regard to factor (8) (whether the plaintiff's suit is non-frivolous and brought in good faith), it should be clear at this juncture of a five-year long case that the victims have a substantial claim that is brought in good faith.

115. With regard to factor (9) (whether the information sought is available through other discovery or from other sources), as recounted throughout this affidavit, the victims have no other way to obtain the information at issue in this privilege debate, as it involves information internal to the Justice Department.

116. With regard to factor (10) (the importance of the information sought to the plaintiff's case), the information that the victims are seeking is highly important to their case. Indeed, without adequate proof, the Court has indicated that it may have to deny the victims' petition. DE 99 at 11. Throughout this affidavit, I have provided numerous examples and explanations of why the victims need the information that they are requesting. The documents to which the Government

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is asserting investigative privilege, for example, bear directly on the Government's alleged "estoppel" defense, which the victims need a complete evidentiary record to dispute.

Work-Product Doctrine

117. A work product claim can be defeated by a showing of substantial need and undue hardship to obtain the materials in other ways. In this affidavit, I have tried to articulate the specific and compelling need for all of the materials that victims are seeking. I will not repeat all of those assertions here, but simply note that I stand ready to provide any additional information that the Court may require to determine the compelling need that the victims have for the materials they have requested as well as the undue hardship (if not actual impossibility) of obtaining the materials in other ways. Any balancing of considerations tips decisively in the victims favor.

118. As one example, the victims have a compelling need for the materials that OPR collected as part of its investigation. Because Justice Department attorneys are generally required to talk to OPR investigators, OPR was apparently able to investigate the claims of misconduct related to the Epstein case by getting statements from the attorney's involved. These interviews appear to be recorded in materials found at page 14 of the supplemental privilege log (DE 216-1), with regard to Suppl. Box #3 P-013956 to P-013846 [sic – apparently should be P-013970, a total of 14 pages]. Judging from the entry, these notes would be factual statements from Justice Department prosecutors about how the Epstein case was handled and whether any misconduct occurred during the handling of the case. Those are central issues in this case. There is no other way for the victims to obtain information about these subjects, because the Justice Department has declined to provide information on this subject.

119. The victims have established a substantial need for the materials they are requesting in the previous paragraphs of this affidavit that review, request-by-request, their document production requests numbers 1 through 25 and supplemental request number 1.

120. As another example of why the victims have established a compelling need for the materials is the fact that the Court has indicated that it will be considering an "estoppel" argument raised by the Government as a defense in this case. DE 189 at 12 n.6. The Court has noted that this argument "implicates a fact-sensitive equitable defense which must be considered in the historical factual context of *the entire interface between Epstein, the relevant prosecutorial authorities and the federal offense victims* – including an assessment of the allegation of a deliberate conspiracy between Epstein and federal prosecutors to keep the victims in the dark on the pendency of negotiations between Epstein and federal authorities until well after the fact and presentation of the non-prosecution agreement to them as *a* fait accompli." DE 189 at 12 n.6 (emphasis added). The materials to which the Government is asserting work product protection go directly to that "interface" between the victims, the Government, and Epstein. The victims have no other way of showing what that interface is. The Government will not be harmed if the materials are provided to the victims.

Grand Jury Information

121. The victims' legal pleading has explained why the Government has not properly asserted any grand jury secrecy to the documents at issue. In addition, many of the Government's grand jury privilege assertions appear to broadly cover both grand jury and non-grand jury information. Even if the Court allows the Government to assert some form of grand jury privilege, it should require the Government to sever grand jury materials from non-grand jury materials.

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122. An illustration of this problem comes from page 12 of the first privilege log (DE [redacted]-1), with regard to Box #2 P-008616 to P-008686. The entry reads: "File folder entitled 'FBI Summary Charts' containing chart prepared at direction of AUSA, containing victims names, identifying information, summary of activity, and other information relevant to indictment." This does not appear to be a document that was ever presented to the grand jury or that directly discloses grand jury proceedings. Moreover, to the extent that it involves some kind of limited disclosure of grand jury proceedings, that limited disclosure could be redacted and the other information provided to the victims.

123. It does not appear that any of the alleged grand jury materials that the Government is asserting privilege involve on-going grand jury issues. Moreover, it does not appear that disclosing any of the materials would "tip off" a potential target to a Government investigation. Of course, Jeffrey Epstein (and his associates) are well aware of the Government's investigation into their crimes against young girls for sexual purposes.

124. The Government has not explained any harm that would come from releasing the documents to the victims. If the Government raises any such harm, I respectfully request an opportunity to provide additional information on that alleged harm.

Privacy Rights of Other Victims

125. Jane Doe No. 1 and Jane Doe No. 2 do not seek confidential or identifying information about any other victims. To clarify that fact, on July 31, 2013, I sent a letter to the Government stating, in part, that "to avoid any interference with any privacy rights of victims who are not parties to this litigation, Jane Doe #1 and Jane Doe #2 are not seeking any identifying information about other victims. In any of the documents that Jane Doe #1 and Jane Doe #2 have requested the Government produce, the Government should not produce the names of other victims or other identifying information (e.g., address or telephone number) but should instead redact that information."

* * * * *

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 16th day of August, 2013.

/s/ Bradley J. Edwards
BRADLEY J. EDWARDS, ESQ.

Attachments:
1. October 3, 2011, request for production;
2. June 24, 2013, supplemental request for production; and
3. Victims' Requests for Admissions and Government Answers

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EXHIBIT 103

U.S. Department of Justice

United States Attorney
Southern District of Florida

June 30, 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-009454AXXXMB and 2008-cf-009381AXXXMB) and was sentenced to a term of twelve months' imprisonment to be followed by eighteen months' of Community Control 1, the first six months of which must be served imprisoned at the Palm Beach County Detention Facility.

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."

Initials of Jeffrey Epstein _____ Initials of Jack Goldberger _____

US_Atty_Cor_00323

EXHIBIT 104

U.S. Department of Justice

United States Attorney
Southern District of Florida

A. Marie [redacted]
500 S. Australian Ave, 4th Floor
[redacted]
Facsimile [redacted]

FACSIMILE COVER SHEET

TO: Jack Alan Goldberger

DATE: July 8, 2008

FAX NO. [redacted] **# OF PAGES:** 3

PHONE NO. [redacted] **RE:** Jeffrey Epstein

FROM: A. [redacted] VILLAFAÑA, Assistant U.S. Attorney

PHONE NO. [redacted]

COMMENTS:

7/9/08 Correspondence w/Jack Goldberger

EFTA00184988

U.S. Department of Justice

Lewis

NOTIFICATION OF IDENTIFIED VICTIMS

NOTICE: IN ACCORDANCE WITH TITLE 18, UNITED STATES CODE, SECTION 3509(d) AND FLORIDA LAW, THE ATTACHED DOCUMENT IS TO BE TREATED AS CONFIDENTIAL AND SHALL NOT BE DISCLOSED EXCEPT IN CONNECTION WITH A LEGAL PROCEEDING.

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401

[redacted]

June 30, 2008

NOTIFICATION OF IDENTIFIED VICTIMS

On June 30, 2008, Jeffrey Epstein (hereinafter referred to as "Epstein) entered a plea ty to violations of Florida Statutes Sections 796.07 (felony solicitation of prostitution) 96.03 (procurement of minors to engage in prostitution), in the 15th Judicial Circuit in r Palm Beach County (Case Nos. 2006-cf-009454AXXXMB and 2008-cf-581AXXXMB) and was sentenced to a term of twelve months' imprisonment to be owed by eighteen months' of Community Control 1, the first six months of which must served imprisoned at the Palm Beach County Detention Facility.

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Initials of Jeffrey Epstein _____ Initials of Guy Lewis _____

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.

Identified Individuals

Courtney Wild

[redacted]
UNITED STATES ATTORNEY

Dated: _____ By:

A. [redacted] VILLAFAÑA
ASSISTANT U.S. ATTORNEY

ACKNOWLEDGMENT

I have received this Notification from my attorney, Guy Lewis, 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 regarding the notification and rights of identified victims. I understand

Initials of Jeffrey Epstein _____ Initials of Guy Lewis _____

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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: _____
Guy Lewis, Esquire

EFTA00184992

EXHIBIT

105

LAW OFFICE

Brad Edwards

AND ASSOCIATES

July 3, 2008

Ann[redacted] C.[redacted], AUSA
United States Attorney's Office
500 South Australian Avenue
[redacted]

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
7007 2680 0002 5519 8503

Dear Ms.[redacted]:

As you are aware, we represent several of the young girls that were victimized and abused by Jeffrey Epstein. While we are aware of his recent guilty plea and conviction in his State Court case, the sentence imposed in that case is grossly inadequate for a sexual predator of this magnitude. The information and evidence that has come to our attention in this matter leads to a grave concern that justice will not be served in this cause if Mr. Epstein is not aggressively prosecuted and appropriately punished. Based on our investigation and knowledge of this case, it is apparent that he has sexually abused more than 100 underage girls, and the evidence against him is overwhelmingly strong.

As former Assistant State Attorneys with seven years' prosecution experience, we believe that the evidence against Mr. Epstein is both credible and deep and that he may be the most dangerous sexual predator of children that our country has ever seen. The evidence suggests that for at least 4 years he was sexually abusing as many as three to four girls a day. It is inevitable that if he is not confined to prison, he will continue to manipulate and sexually abuse children and destroy more lives. He is a sexual addict that focused all of his free time on sexually abusing children, and he uses his extraordinary wealth and power to lure in poor, underprivileged little girls and then also uses his wealth to shield himself from prosecution and liability. We are very concerned for the health and welfare of the girls he has already victimized, and concerned that if justice is not properly served now and he is not imprisoned for a very long time, he will get a free pass to sexually abuse children in the future. Future abuse and victimization is obvious to anyone who really reviews the evidence in this case, and future sexual abuse of minors is inevitable unless he is prosecuted, tried and appropriately sentenced. Money and power should not allow a man to make his own laws, and he has clearly received preferential treatment at every step up to this point. If he were a man of average wealth or the abused girls were from middle or upper class families, then this man would spend the rest of his life in prison. In a country of true, blind justice, those distinctions are irrelevant, and we really hope he does not prove the point that a man can commit heinous crimes against children and buy his way out of it.

If the Department of Justice's recent commitment to the protection of our children from child molesters is to be more than rhetoric, then this is the time and the case where the Department must step forward. We urge the Attorney General and our United States

2028 HARRISON STREET, SUITE 202, HOLLYWOOD, FLORIDA 33020

OFFICE: 954-414-8033/305-935-2011
FAX: 954-924-1530/305-935-4227
BRAD@BRADDWARDSLAW.COM

Ann [redacted] C. [redacted], AUSA
United States Attorney's Office
Page Two

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 perpetrator. We will help you to do this in any way possible to ensure that true Justice is served in this case.

Sincerely,

Brad Edwards, Esquire
Jay Howell, Esquire

2028 HARRISON STREET, SUITE 202, HOLLYWOOD, FLORIDA 33020

OFFICE: 954-414-8033/305-935-2011
FAX: 954-924-1530/305-935-4227
BE@BRADEDWARDSLAW.COM

EXHIBIT 106

[redacted], Ann Marie C. (USAFLS)

From: [redacted] (USAFLS)
Sent: Monday, June 30, 2008 5:36 PM
To: [redacted]
Subject: Epstein Investigation

Hi Jason – Sorry we missed each other today. I wanted to inform you and (through you) your clients, of the resolution of the federal investigation of Mr. Epstein. He plead guilty today in state court to one charge of felony solicitation of prostitution and one charge of procurement of minors to engage in prostitution. He received 18 months' imprisonment to be followed by 12 months of community control with home confinement. He also must register as a sex offender for the remainder of his life.

His agreement with the U.S. Attorney's Office also required him to make certain concessions regarding possible civil suits brought by the victims. I was hoping to discuss this with you over the telephone. I also wanted to confirm the names of the victims whom you represent, and I wanted to see if you are in a position either to represent the victims in connection with such litigation or if you can refer them to someone who could perform that task, if the victims ask for recommendations.

Let's talk tomorrow in more detail. Thank you.

Please treat this e-mail as confidential.

A. [redacted] Villafaña
Assistant U.S. Attorney
500 S. Australian Ave. Suite 400
West Palm Beach, FL 33401
[redacted]

EXHIBIT 107

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 S. Australian Ave, Ste 400
West Palm Beach, FL 33401

December 13, 2007

DELIVERY BY ELECTRONIC MAIL
Jay P. Lefkowitz, Esq.
Kirkland & Ellis LLP
Citigroup Center
[redacted]
New York, New York 10022-4675

Re: Jeffrey Epstein

Dear Jay:

I am writing not to respond to your asserted "policy concerns" regarding Mr. Epstein's Non-Prosecution Agreement, which will be addressed by the United States Attorney, but the time has come for me to respond to the ever-increasing attacks on my role in the investigation and negotiations.

It is an understatement to say that I am surprised by your allegations regarding my role because I thought that we had worked very well together in resolving this dispute. I also am surprised because I feel that I bent over backwards to keep in mind the effect that the agreement would have on Mr. Epstein and to make sure that you (and he) understood the repercussions of the agreement. For example, I brought to your attention that one potential plea could result in no gain time for your client; I corrected one of your calculations of the Sentencing Guidelines that would have resulted in Mr. Epstein spending far more time in prison than you projected; I contacted the Bureau of Prisons to see whether Mr. Epstein would be eligible for the prison camp that you desired; and I told you my suspicions about the source of the press "leak" and suggested ways to avoid the press. Importantly, I continued to work with you in a professional manner even after I learned that you had been proceeding in bad faith for several weeks – thinking that I had incorrectly concluded that solicitation of minors to engage in prostitution was a registrable offense and that you would "fool" our Office into letting Mr. Epstein plead to a non-registrable offense. Even now, when it is clear that neither you nor your client ever intended to abide by the terms of the agreement that he signed, I have never alleged misconduct on your part.

The first allegation that you raise is that I "assiduously" hid from you the fact that Bert Ocariz is a friend of my boyfriend and that I have a "longstanding relationship" with Mr. Ocariz.

I informed you that I selected Mr. Ocariz because he was a friend and classmate of two people whom I respected, and that I had never met or spoken with Mr. Ocariz prior to contacting him about this case. All of those facts are true. I still have never met Mr. Ocariz, and, at the time that he and I spoke about this case, he did not know about my relationship with his friend. You suggest that I should have explicitly informed you that one of the referrals came from my "boyfriend" rather than simply a "friend," which is the term I used, but it is not my nature to discuss my personal relationships with opposing counsel. Your attacks on me and on the victims establish why I wanted to find someone whom I could trust with safeguarding the victims' best interests in the face of intense pressure from an unlimited number of highly skilled and well paid attorneys. Mr. Ocariz was that person.

One of your letters suggests a business relationship between Mr. Ocariz and my boyfriend. This is patently untrue and neither my boyfriend nor I would have received any financial benefit from Mr. Ocariz's appointment. Furthermore, after Mr. Ocariz learned more about Mr. Epstein's actions (as described below), he expressed a willingness to handle the case *pro bono*, with no financial benefit even to himself. Furthermore, you were given several other options to choose from, including the Podhurst firm, which was later selected by Judge [redacted]. You rejected those other options.

You also allege that I improperly disclosed information about the case to Mr. Ocariz. I provided Mr. Ocariz with a bare bones summary of the agreement's terms related to his appointment to help him decide whether the case was something he and his firm would be willing to undertake. I did not provide Mr. Ocariz with facts related to the investigation because they were confidential and instead recommended that he "Google" Mr. Epstein's name for background information. When Mr. Ocariz asked for additional information to assist his firm in addressing conflicts issues, I forwarded those questions to you, and you raised objections for the first time. I did not share any further information about Mr. Epstein or the case. Since Mr. Ocariz had been told that you concurred in his selection, out of professional courtesy, I informed Mr. Ocariz of the Office's decision to use a Special Master to make the selection and told him that the Office had made contact with Judge [redacted]. We have had no further contact since then and I have never had contact with Judge [redacted]. I understand from you that Mr. Ocariz contacted Judge [redacted] You criticize his decision to do so, yet you feel that you and your co-counsel were entitled to contact Judge [redacted] to try to "lobby" him to select someone to your liking, despite the fact that the Non-Prosecution Agreement vested the Office with the exclusive right to select the attorney representative.

Another reason for my surprise about your allegations regarding misconduct related to the Section 2255 litigation is your earlier desire to have me perform the role of "facilitator" to convince the victims that the lawyer representative was selected by the Office to represent their interests alone and that the out-of-court settlement of their claims was in their best interests. You now state that doing the same things that you had asked me to do earlier is improper meddling in civil litigation.

Much of your letter reiterates the challenges to Detective Recarey's investigation that have

already been submitted to the Office on several occasions and you suggest that I have kept that information from those who reviewed the proposed indictment package. Contrary to your suggestion, those submissions were attached to and incorporated in the proposed indictment package, so your suggestion that I tried to hide something from the reviewers is false. I also take issue with the duplicity of stating that we must accept as true those parts of the Recarey reports and witness statements that you like and we must accept as false those parts that you do not like. You and your co-counsel also impressed upon me from the beginning the need to undertake an independent investigation. It seems inappropriate now to complain because our independent investigation uncovered facts that are unfavorable to your client.

You complain that I "forced" your client and the State Attorney's Office to proceed on charges that they do not believe in, yet you do not want our Office to inform the State Attorney's Office of facts that support the additional charge nor do you want any of the victims of that charge to contact Ms. Belohlavek or the Court. Ms. Belohlavek's opinion may change if she knows the full scope of your client's actions. You and I spent several weeks trying to identify and put together a plea to federal charges that your client was willing to accept. Yet your letter now accuses me of "manufacturing" charges of obstruction of justice, making obscene phone calls, and violating child privacy laws. When Mr. Lourie told you that those charges would "embarrass the Office," he meant that the Office was unwilling to bend the facts to satisfy Mr. Epstein's desired prison sentence – a statement with which I agree.

I hope that you understand how your accusations that I imposed "ultimatums" and "forced" you and your client to agree to unconscionable contract terms cannot square with the true facts of this case. As explained in letters from Messrs. [redacted] and [redacted], the indictment was postponed for more than five months to allow you and Mr. Epstein's other attorneys to make presentations to the Office to convince the Office not to prosecute. Those presentations were unsuccessful. As you mention in your letter, I – a simple line AUSA – handled the primary negotiations for the Office, and conducted those negotiations with you, Ms. Sanchez, Mr. Lewis, and a host of other highly skilled and experienced practitioners. As you put it, your group has a "combined 250 years experience" to my fourteen. The agreement itself was signed by Mr. Epstein, Ms. Sanchez, and Mr. Lefcourt, whose experience speaks for itself. You and I spent hours negotiating the terms, including when to use "a" versus "the" and other minutiae. When you and I could not reach agreement, you repeatedly went over my head, involving Messrs. Lourie, [redacted], [redacted], and [redacted] in the negotiations at various times. In any and all plea negotiations the defendant understands that his options are to plead or to continue with the investigation and proceed to trial. Those were the same options that were proposed to Mr. Epstein, and they are not "persecution or intimidation tactics." Mr. Epstein chose to sign the agreement with the advice of a multitude of extremely noteworthy counsel.

You also make much of the fact that the names of the victims were not released to Mr. Epstein prior to signing the Agreement. You never asked for such a term. During an earlier meeting, where Mr. Black was present, he raised the concern that you now voice. Mr. Black and I did not have a chance to discuss the issue, but I had already conceived of a way to resolve that

issue if it were raised during negotiations. As I stated, it was not, leading me to believe that it was not a matter of concern to the defense. Since the signing of the Non-Prosecution Agreement, the agents and I have vetted the list of victims more than once. In one instance, we decided to remove a name because, although the minor victim was touched inappropriately by Mr. Epstein, we decided that the link to a payment was insufficient to call it "prostitution." I have always remained open to a challenge to the list, so your suggestion that Mr. Epstein was forced to write a blank check is simply unfounded.

Your last set of allegations relates to the investigation of the matter. For instance, you claim that some of the victims were informed of their right to collect damages prior to a thorough investigation of their allegations against Mr. Epstein. This also is false. None of the victims was informed of the right to sue under Section 2255 prior to the investigation of the claims. Three victims were notified shortly after the signing of the Non-Prosecution Agreement of the general terms of that Agreement. You raised objections to any victim notification, and no further notifications were done. Throughout this process you have seen that I have prepared this case as though it would proceed to trial. Notifying the witnesses of the possibility of damages claims prior to concluding the matter by plea or trial would only undermine my case. If my reassurances are insufficient, the fact that not a single victim has threatened to sue Mr. Epstein should assure you of the integrity of the investigation.[1]

---

[1]There are numerous other unfounded allegations in your letter about document demands, the money laundering investigation, contacting potential witnesses, speaking with the press, and the like. For the most part, these allegations have been raised and disproven earlier and need not be readdressed. However, with respect to the subpoena served upon the private investigator, contrary to your assertion, and as your co-counsel has already been told, I did consult with the Justice Department prior to issuing the subpoena and I was told that because I was not subpoenaing an attorney's office or an office physically located within an attorney's office, and because the business did private investigation work for individuals (rather than working exclusively for Mr. Black), I could issue a in the normal course, which is what I did. I also did not "threaten" the State Attorney's Office with a as the correspondence with their coordinator makes perfectly clear.

With regard to your allegation of my filing the [redacted] "with the court knowing that the public could access it," I do not know to what you are referring. All documents related to the investigation have been filed under seal, and the [redacted] it has never been filed with the Court. If, in fact, you are referring to the [redacted] should have access to it except the Court and myself. Those documents are still in the Court file only because you have violated one of the terms of the Agreement by failing to "withdraw [Epstein's] pending motion to intervene and to quash certain [redacted]"

With respect to [redacted] I contacted her attorney -- who was paid for by Mr. Epstein and was directed by counsel for Mr. Epstein to demand immunity -- and asked only whether he still represented [redacted] and if he wanted me to send the victim notification letter to him. He asked what the letter would say and I told him that the letter would be forthcoming in about a week and that I could not provide him with the terms. With respect to [redacted] status as a victim, you again want us to accept as true only facts that are beneficial to your client and to reject as false anything detrimental to him. [redacted] made a number of statements that are contradicted by documentary evidence and a review of her recorded statement shows her lack of credibility with respect to a number of statements. Based upon all of the evidence collected [redacted] is classified as a victim as defined by statute. Of course, that does not mean that [redacted] considers herself a victim or that she would seek damages from Mr. Epstein. I believe that a number of the identified victims will not seek damages, but that does not negate their legal status as victims.

I hope that you now understand that your accusations against myself and the agents are unfounded. In the future, I recommend that you address your accusations to me so that I can correct any misunderstandings before you make false allegations to others in the Department. I hope that we can move forward with a professional resolution of this matter, whether that be by your client's adherence to the contract that he signed, or by virtue of a trial.

Sincerely,

[redacted]
United States Attorney

By: s/A. [redacted]
A. [redacted] Villafaña
Assistant United States Attorney

cc: [redacted], U.S. Attorney
Jeffrey [redacted], First Assistant U.S. Attorney

You also accuse me of "broaden[ing] the scope of the investigation without any foundation for doing so by adding charges of money laundering and violations of a money transmitting business to the investigation." Again, I consulted with the Justice Department's Money Laundering Section about my analysis before expanding that scope. The duty attorney agreed with my analysis.

EXHIBIT 108

[redacted]. (USAFLS)

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

Hi [redacted] – 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
[redacted]

Tracking:

EXHIBIT 109

Villafana, Ann Marie C. (USAFLS)

From: Ted Leopold [TLeopold@rlcollaw.com]
Sent: Thursday, July 03, 2008 4:25 PM
To: Villafana, Ann [redacted] C. (USAFLS)
Cc: Spencer Kuvin
Subject: RE: Epstein Investigation

Ann Marie

Our two client names are:

1. [redacted]
2. [redacted]

If you need any other information please let me know.

Ted

-----Original Message-----
From: Villafana, Ann [redacted] C. (USAFLS) [redacted]
Sent: Monday, June 30, 2008 5:00 PM
To: Ted Leopold
Subject: Epstein Investigation

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

[redacted]

EXHIBIT 110

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

JANE DOE #1 and JANE DOE #2

[redacted].

UNITED STATES

_____/

JANE DOE #1 AND JANE DOE #2'S MOTION FOR FINDING OF VIOLATIONS OF THE CRIME VICTIMS' RIGHTS ACT AND REQUEST FOR A HEARING ON APPROPRIATE REMEDIES

COME NOW Jane Doe #1 and Jane Doe #2 (also referred to as "the victims"), by and through undersigned counsel, to move for a finding from this Court that the victims' rights under the Crime Victims Rights Act (CVRA), 18 U.S.C. § 3771, have been violated by the U.S. Attorney's Office, and to request a hearing on the appropriate remedies for these violations.

The victims have proffered a series of facts to the Government, which they have failed to contest. Proceeding on the basis of these facts,[1] it is clear that the U.S. Attorney's Office has repeatedly violated the victims' protected CVRA rights, including their right to confer with prosecutors generally about the case and specifically about a non-prosecution agreement the Office signed with the defendant, as well as their right to fair treatment. *See* 18 U.S.C. 3771(a)(5) & (8).

It is now beyond dispute, for example, that in September 2007, the U.S. Attorney's Office formally signed a non-prosecution agreement with Jeffrey Epstein that barred his

[1] The victims are contemporaneously filing a motion to have their facts accepted by the Court.

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prosecution for numerous federal sex offenses he committed against the victims (as well as against many other minor girls). Rather than confer with the victims about this non-prosecution agreement, however, the U.S. Attorney's Office and Jeffrey Epstein agreed to a "confidentiality" provision in the agreement barring its disclosure to anyone – including the victims. For the next nine months, as Epstein was well aware, the U.S. Attorney's Office assiduously concealed from the victims the existence of this signed non-prosecution agreement. Indeed, the Office went so far as to send (in January 2008) a false victim notification letter to the victims informing them that the "case is currently under investigation." In fact, the U.S. Attorney's Office had already resolved the case three months earlier by signing the non-prosecution agreement. Again on May 30, 2008, the U.S. Attorney's Office sent yet another victim notification letter to a recognized victim informing her that the "case is currently under investigation" and that it "can be a lengthy process and we request your continued patience while we conduct a thorough investigation." Then in June 2008, on the eve of consummating Epstein's state guilty plea that was part of the non-prosecution agreement, the U.S. Attorney's Office asked legal counsel for the victims to send a letter expressing the victims' views on why federal charges should be filed – not disclosing to the victims' legal counsel that this was a pointless exercise because the non-prosecution agreement had already been signed some nine months earlier.

These actions and many more like them constitute clear violations of Jane Doe #1 and Jane Doe #2's rights under the Crime Victims Rights Act, including the right to confer with prosecutors and the right to fair treament. The only argument that the U.S. Attorney's Office advances is that the CVRA does not apply because no indictment was formally filed in this case. But this position is inconsistent with both the CVRA's plain language, *see, e.g.*, 18 U.S.C. §

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3771(c)(1) (Justice Department agencies involved in the "detection" and "investigation" of federal crimes covered by CVRA), and with persuasive case law, *see, e.g., In re Dean*, 527 F.3d 391, 394 (5th Cir. 2008) (victims should have been notified before pre-indictment plea reached). Moreover, the U.S. Attorney's Office itself was fully aware of its obligations to notify the victims in this case, as e-mails from the Office and other evidence make perfectly clear. The only reason that the Office concealed the existence of the non-prosecution agreement from the victims was not to comply with some legal restriction, but rather to avoid a firestorm of public controversy that would have erupted if the sweetheart plea deal with a politically-connected billionaire had been revealed.

The Court should accordingly find that the U.S. Attorney's Office – in coordination with Jeffrey Epstein -- has violated the Act and set a briefing schedule and hearing on the proper remedy for those violations.

STATEMENT OF UNDISPUTED MATERIAL FACTS

Jane Doe #1 and Jane Doe #2 offer the following statement of undisputed material facts. If the Government disputes any of these facts, the victims request an evidentiary hearing to prove each and every one of them:[2]

1. Between about 2001 and 2007, defendant Jeffrey Epstein (a billionaire with significant political connections) sexually abused more than 30 minor girls at his mansion in West Palm

[2] The Court should accept all these facts as true for reasons the victims explain in their contemporaneously-filed Jane Doe #1 and Jane Doe #2's Motion to Have Their Facts Accepted Because of the Government's Failure to Contest Any of The Facts. The Court should also direct the Government to produce all evidence that it possesses supporting these facts, for reasons the victims explain in their contemporaneously-filed Jane Doe #1 and Jane Doe #2's Motion for Order Directing the U.S. Attorney's Office Not to Withhold Relevant Evidence.

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Beach, Florida, and elsewhere. Among the girls he sexually abused were Jane Doe #1 and Jane Doe #2. Epstein performed repeated lewd, lascivious, and sexual acts on them, including (but not limited to) masturbation, touching of their sexual organs, using vibrators or sexual toys on them, coercing them into sexual acts, and digitally penetrating them. Because Epstein used a means of interstate commerce and knowingly traveled in interstate commerce to engage in abuse of Jane Doe #1 and Jane Doe #2 (and the other victims), he committed violations of federal law, including repeated violations of 18 U.S.C. § 2422. *See, e.g.*, Complaint, E.W. [redacted]. Epstein, Case No. 50 2008 CA 028058 XXXXMB AB (15th Cir. Palm Beach County, Florida); Complaint, L.M. [redacted]. Epstein, Case No 50 2008 CA 028051 XXXXMB AB (15th Cir. Palm Beach Count, Florida).

2. Jeffrey Epstein flew at least one underage girl on his private jet for the purpose of forcing her to have sex with him and others. Epstein forced this underage girl to be sexually exploited by his adult male peers, including royalty, politicians, businessmen, and professional and personal acquaintances. Complaint, Jane Doe No. 102 [redacted]. Epstein, No. 9:09-CV-80656-KAM (S.D. Fla. May 1, 2009).

3. In 2006, at the request of the Palm Beach Police Department, the Federal Bureau of Investigation opened an investigation 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, 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. The Palm Beach County State Attorney's Office was also investigating

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the case. *See generally* U.S. Attorney's Correspondence, Exhibit "A" to this filing (hereinafter cited as "U.S. Attorney's Correspondence" and referenced by Bates page number stamp).

4. The FBI soon determined that both Jane Doe #1 and Jane Doe #2 were victims of sexual assaults by Epstein while they were minors beginning when they were approximately fourteen years of age and approximately thirteen years of age respectively. Jane Doe #1, for example, provided detailed information about her abuse (and the abuse of Jane Doe #2) to the FBI on August 7, 2007. Exhibit "B."

5. More generally, the FBI through diligent investigation established that Epstein operated a large criminal enterprise that used paid employees and underlings to repeatedly find and bring minor girls to him. Epstein worked in concert as part of the enterprise with others, including Ghislane Maxwell and Jean Luc Brunel, to obtain minor girls not only for his own sexual gratification, but also for the sexual gratification of others. The FBI determined that Epstein had committed dozens and dozens of federal sex crimes against dozens of minor girls between 2001 and 2007. They presented information to the U.S. Attorney's Office for criminal prosecution. *See* Exhibit "B"; U.S. Attorney's Correspondence at 47-55.

6. On about June 7, 2007, FBI agents hand-delivered to Jane Doe #1 a standard CVRA victim notification letter. The notification promised that the Justice Department would makes its "best efforts" to protect Jane Doe #1's rights, including "[t]he reasonable right to confer with the attorney for the United States in the case" and "to be reasonably heard at any public proceeding in the district court involving . . . plea . . . ." The notification further explained that "[a]t this time, your case is under investigation." That notification meant that the FBI had identified Jane Doe #1 as a victim of a federal offense and as someone protected by the CVRA. Jane Doe #1

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relied on these representations and believed that the Justice Department would protect these rights and keep her informed about the progress of her case. *See* Exhibit "C."

7. On about August 11, 2007, Jane Doe #2 received a standard CVRA victim notification letter. The notification promised that the Justice Department would makes its "best efforts" to protect Jane Doe #2's rights, including "[t]he reasonable right to confer with the attorney for the United States in the case" and "to be reasonably heard at any public proceeding in the district court involving . . . plea . . . ." The notification further explained that "[a]t this time, your case is under investigation." That notification meant that the FBI had identified Jane Doe #2 as a victim of a federal offense and as someone protected by the CVRA. Jane Doe #2 relied on these representations and believed that the Justice Department would protect these rights and keep her informed about the progress of her case. *See* Exhibit "D."

8. Early in the investigation, the FBI agents and an Assistant U.S. Attorney had several meetings with Jane Doe #1. Jane Doe #2 was represented by counsel that was paid for by the criminal target Epstein and, accordingly, all contact was made through that attorney.

9. In and around September 2007, plea discussions took place between Jeffrey Epstein, represented by numerous attorneys (including lead criminal defense counsel Jay Lefkowitz), and the U.S. Attorney's Office for the Southern District of Florida, represented by Assistant U.S. Attorney A. [redacted] Villafaña and others. The plea discussions generally began from the premise that Epstein would plead guilty to at least one federal felony offense surrounding his sexual assaults of more than 30 minor girls. From there, the numerous defense attorneys progressively negotiated more favorable terms so that Epstein would ultimately plead to only two state court

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felony offenses and would serve only county jail time. Many of the negotiations are reflected in e-mails between Lefkowitz and the U.S. Attorney's Office. *See generally* Exhibit "A."

10. [redacted] The evidence supporting these charges was overwhelming, including the interlocking consistent testimony of several dozen minor girls, all made automatically admissible in a federal criminal sexual assault prosecution by operation of Fed. R. Evid. 414. U.S. Attorney's Correspondence at 4.

11. [redacted]

12. The correspondence also shows that the U.S. Attorney's Office was interested in finding a place to conclude a plea bargain that would effectively keep the victims from learning what was happening through the press. The Office wrote in an e-mail to defense counsel: "[redacted] The

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U.S. Attorney's Office was aware that most of the victims of Epstein, including Jane Doe #1 and Jane Doe #2, resided well outside the Miami area in the West Palm Beach area. The Office was also aware that the chances of press coverage of a case filed in Miami would be significantly less likely to reach the Palm Beach area. U.S. Attorney's Correspondence at 29.

13. On about September 24, 2007, the U.S. Attorney's Office sent an e-mail to Jay Lefkowitz, criminal defense counsel for Epstein, regarding the agreement. The e-mail stated that the Government and Epstein's counsel [redacted]

U.S. Attorney's Correspondence at 153 (emphases added).

14. On about September 25, 2007, the U.S. Attorney's Office sent an e-mail to Lefkowitz stating: [redacted] U.S. Attorney's Correspondence at 156.

15. On about September 26, 2007, the U.S. Attorney's Office sent an e-mail to Lefkowitz in which she stated: [redacted]

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[redacted] Apparently the "[redacted] agreed to between the Government and Epstein's defense counsel was that no mention would be made of the non-prosecution agreement between the U.S. Attorney's Office and Epstein, as no subsequent mention was made to the victims of the non-prosecution agreement and a confidentiality provision was made part of that agreement (as discussed below). U.S. Attorney's Correspondence at 359.

16. On about September 25, 2007, the U.S. Attorney's Office sent a letter to Jay Jefkowitz in which it suggested that the victims should be represented in civil cases against Epstein by someone who was not an experienced [redacted]

[redacted] U.S. Attorney's Correspondence at 157. The U.S. Attorney's Office continued to push a different attorney in part because it would reduce publicity, explaining that [redacted]

Id.

17. On about September 24, 2007, Epstein and the U.S. Attorney's Office formally reached an agreement whereby the United States would defer federal prosecution in favor of prosecution by the State of Florida. Epstein and the U.S. Attorney's Office accordingly entered into a "Non-Prosecution Agreement" (NPA) reflecting their agreement. Most significantly, the NPA gave Epstein a promise that he would not be prosecuted for a series of federal felony offenses involving his sexual abuse of more than 30 minor girls. The NPA instead allowed Epstein to plead guilty to two state felony offenses for solicitation of prostitution and

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procurement of minors for prostitution. The NPA also set up a procedure whereby a victim of Epstein's sexual abuse could obtain an attorney to proceed with a civil claim against Epstein, provided that the victim agreed to limit damages sought from Epstein. To obtain an attorney paid for by Epstein, the victim would have to agree to proceed exclusively under 18 U.S.C. § 2255 (i.e., under a law that provided presumed damages of $150,000 against Epstein – an amount that Epstein argued later was limited to $50,000). The agreement was signed by Epstein and his legal counsel, as well as the U.S. Attorney's Office, on about September 24, 2007. Non-Prosecution Agreement, Exhibit "E."

18. Epstein insisted on, and the U.S. Attorney's Office agreed to, a provision in the non-prosecution agreement that made the agreement secret. In particular, the agreement stated: "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 the disclosure." By entering into such a confidentiality agreement, the U.S. Attorney's Office put itself in a position that conferring with the crime victims (including Jane Doe #1 and Jane Doe #2) about the non-prosecution agreement would violate terms of the agreement – specifically the confidentiality provision. Indeed, even notifying the victims about the agreement would presumably have violated the provision. Accordingly, from September 24, 2007 through at least June 2008 – a period of more than nine months -- the U.S Attorney's Office did not notify any of the victims of the existence of the non-prosecution agreement. Epstein was well aware of this failure to notify the victims and, indeed, arranged for this failure to notify the victims. *Id.*; U.S.

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Attorney's Correspondence at 270; Transcript of Hearing in this case on July 11, 2008, at 4-6, 18-19, 22-23, 28-29 (hereinafter cited as "Tr. July 11, 2008").

19. A reasonable inference from the evidence is that the U.S. Attorney's Office – pushed by Epstein – wanted the non-prosecution agreement kept from public view because of the intense public criticism that would have resulted from allowing a politically-connected billionaire who had sexually abused more than 30 minor girls to escape from federal prosecution with only a county court jail sentence. Another reasonable inference is that the Office wanted the agreement concealed at this time because of the possibility that the victims could have objected to the agreement in court and perhaps convinced the judge reviewing the agreement not to accept it.

20. The Non-Prosecution Agreement that had been entered into between the U.S. Attorney's Office and Epstein was subsequently modified by an October 2007 Addendum and a December 19, 2007, letter from the U.S. Attorney to Attorney Lilly Ann Sanchez. The U.S. Attorney's Office did not confer with any of the victims about these modifications of the agreement (or even notify them of the existence of these modifications) through at least June 2008 – a period of more than six months. *See* Supplemental Declaration of [redacted] (doc. #35, at 1); U.S. Attorney's Correspondence at 234-37; Tr. July 11, 2008, 18-19, 22-23, 28-29.[3]

21. In October 2007, shortly after the initial plea agreement was signed, FBI agents contacted Jane Doe #1. On October 26, 2007, Special Agents E. [redacted] and Jason [redacted] met in person with Jane Doe #1. The Special Agents explained that Epstein would

[3] On about August 14, 2008, Epstein's defense counsel told the U.S. Attorney's Office that they did not consider the December 19, 2007, letter to be operative.

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plead guilty to state charges involving another victim, he would be required to register as a sex offender for life, and he had made certain concessions related to the payment of damages to the victims, including Jane Doe #1. During this meeting, the Special Agents did not explain that an agreement had already been signed that precluded any prosecution of Epstein for federal charges against Jane Doe #1. The agents could not have revealed this part of the non-prosecution agreement without violating the terms of the non-prosecution agreement. Whether the agents themselves had been informed of the existence of the non-prosecution agreement by the U.S. Attorney's Office is not certain. Because the plea agreement had already been reached with Epstein, the agents made no attempt to secure Jane Doe #1's view on the proposed resolution of the case. Exhibit "E," Tr. July 11, 2008 at 4-6, 18-19, 22-23.

22. Jane Doe #1's (quite reasonable) understanding of the Special Agent's explanation 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. Jane Doe #1 also understood her own case was move forward towards possible prosecution. Tr. July 11, 2008, at 4-6, 18-19, 22-23, 28-29.

23. On about November 27, 2007, Assistant U.S. Attorney Jeff [redacted] sent an e-mail to Jay Lefkowitz, defense counsel for Epstein. The e-mail stated that the U.S. Attorney's Office had an obligation to notify the victims [redacted]

[redacted]

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[redacted]

U.S. Attorney's Correspondence at 255 (emphasis rearranged).

24. On about November 29, 2007, the U.S. Attorney's Office sent a draft of a crime victim notification letter to Jay Lefkowitz, defense counsel for Jeffrey Epstein. The notification letter would have explained: [redacted] The letter then would have gone on to explain that Epstein would [redacted] The letter would not have explained that, as part of the agreement with Epstein, the Justice Department had previously agreed not to prosecute Epstein for any of the numerous federal offenses that had been committed. U.S. Attorney's Correspondence at 256-59.

25. Because of concerns from Epstein's attorneys, the U.S. Attorney's Office never sent the proposed victim notification letter discussed in the previous paragraph to the victims. Instead, a misleading letter stating that the case was "currently under investigation" (described below) was sent in January 2008 and May 2008. At no time before reaching the non-prosecution agreement did the Justice Department notify any victims, including for example Jane Doe #1, about the non-prosecution agreement. The victims were therefore prevented from exercising their CVRA right to confer with prosecutors about the case and about the agreement. Epstein

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was aware of these violations of the CVRA and, indeed, pressured the U.S. Attorney's Office to commit these violations. Tr. July 11, 2008, at 9.

26. On about December 6, 2007, Jeffrey H. [redacted] First Assistant U.S. Attorney sent a letter to Jay Lefkowitz, noting the U.S. Attorney's Office's legal obligations to keep victims informed of the [redacted] The letter stated:

[redacted]

U.S. Attorney's Correspondence at 191-92 (emphasis added).

27. Despite this recognition of its obligation to keep victims [redacted] about the non-prosecution agreement, the U.S. Attorney's Office did not follow through and inform the victims of the non-prosecution agreement. To the contrary, as discussed below, it continued to tell the victims that the case was "under investigation." Tr. July 11, 2008, at 4-5, 18-19, 22-29.

28. On December 13, 2007, the U.S. Attorney's Office sent a letter to Jay Lefkowitz, defense counsel for Epstein, rebutting allegations that had apparently been made against the

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AUSA handling the case by the Epstein defense team. (The Justice Department concluded the allegations were meritless.) The letter stated that a federal indictment against Epstein [redacted] The letter also recounted that [redacted] U.S. Attorney's Correspondence at 269.

29. The December 13, 2007, letter also reveals that the Justice Department stopped making victim notifications because of [redacted] U.S. Attorney's Correspondence at 270 (emphasis added). It was a deviation from the Justice Department's standard practice to negotiate with defense counsel about the extent of crime victim notifications.

30. The December 13, 2007, letter also demonstrates that the Justice Department was well aware of who the victims of Epstein's sexual offenses were. The Justice Department was prepared to make notifications to the victims, but suspended those notifications only because objections from defense counsel. *Id.*

31. The December 13, 2007, letter reveals it would have been possible to confer with the victims about the Non-Prosecution Agreement. The U.S. Attorney's Office was fully able to

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confer with Epstein's counsel about the parameters of the Non-Prosecution Agreement, but refused to confer with Epstein's victims about the Agreement. *Id.*

32. Following the signing of the Agreement and the modifications thereto, Epstein's performance was delayed while he sought higher level review within the Department of Justice. *See* U.S. Attorney's Correspondence *passim.* A reasonable inference from the evidence is that Epstein used his significant political and social connections to lobby the Justice Department to avoid significant federal prosecution. The Justice Department has in its possession internal documents (i.e., phone logs, emails, etc.) that would reveal the event of those lobbying efforts. The Justice Department, however, has refused to make these materials available to the victims.

33. On 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." Exhibits "F" & "G." The statement in the notification letter was misleading and, in fact, false. The case was not currently "under investigation." To the contrary, the federal cases involving Jane Doe #1 and Jane Doe #2 had been resolved by the non-prosecution agreement entered into by Epstein and the U.S. Attorney's Office discussed previously. Moreover, the FBI did not notify Jane Doe #1 or Jane Doe #2 that a plea agreement had been reached previously, and that part of the agreement was a non-prosecution agreement with the U.S. Attorney's Office for the Southern District of Florida. Exhibit "E." Whether the FBI was aware of this fact at this time is unclear. In any event, the FBI was acting at the direction of the U.S. Attorney's Office, which clearly did not confer with Jane Doe #1 and Jane Doe #2 about the case and, by concealing the true state of affairs, and failed to treat Jane Doe #1 and Jane Doe #2 with fairness. Epstein was aware of

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these actions of the U.S. Attorney's Office and, indeed, solicited these actions of the U.S. Attorney's Office. U.S. Attorney's Correspondence at 191-92, 270.

34. Jane Doe #1 and Jane Doe #2 relied on the representations of the U.S. Attorney's Office to their detriment. Had they known the true facts of the case – i.e., that Epstein had negotiated a non-prosecution agreement – they would have taken steps to object to that agreement. Tr. July 11, 2008 at 4-6, 18-19, 28-29.

35. Undersigned counsel believes that the FBI was lead to believe that their investigation of Epstein was going to lead to a federal criminal prosecution and that the FBI was also mislead by the U.S. Attorney's office about the status of the case.

36. In early 2008, 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, they believed that a criminal investigation of Epstein was on-going – including investigation into Epstein's crimes against them -- and that they would be contacted before the federal government reached any final resolution of that investigation. Tr. July 11, 2008, at 4-6, 18-19, 22-23, 28-29.

37. On January 31, 2008, Jane Doe #1 met with FBI Agents and AUSA's from the U.S. Attorney's Office. She provided additional details of Epstein's sexual abuse of her. The AUSA's did not disclose to Jane Doe #1 at this meeting (or any other meeting) that they had already negotiated a non-prosecution agreement with Epstein. Exhibit "H."

38. On about February 25, 2008, Assistant U.S. Attorney [redacted] sent an e-mail to Jay Lefkowitz, Epstein's criminal defense counsel, explaining that the Justice Department's Child

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Exploitation Obscenity Section (CEOS) had agreed to review Epstein's objections to the proposed plea agreement that had been reached with the U.S. Attorney's Office for the Southern District of Florida. The letter indicated that, should CEOS reject Epstein's objections to the agreement, then [redacted] U.S. Attorneys Correspondence at 290-91.

39. On May 30, 2008, another of Mr. Edwards's clients who was recognized as an Epstein victim by the U.S. Attorney's Office, received a letter from the FBI advising her 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." Exhibit "I." The statement in the notification letter was misleading and, in fact, false. The case was not currently "under investigation." To the contrary, the case had been resolved by the non-prosecution agreement entered into by Epstein and the U.S. Attorney's Office discussed previously. Exhibit "E."

40. In mid-June 2008, Mr. Edwards contacted the AUSA handling the case 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 against these victims, hoping to secure a significant federal indictment against Epstein. The AUSA and Mr. Edwards discussed the possibility of federal charges being filed. At the end of the call, the AUSA 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 that existed in the plea agreement, Mr. Edwards was not informed that previously, in September 2007, the U.S. Attorney's Office had reached an agreement not to file federal charges. Mr. Edwards was

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also not informed that resolution of the criminal matter was imminent. This concealment prevented Edwards from (among other things) exercising his client's CVRA right to confer with the prosecutors about the case. Epstein was aware of this concealment – and, indeed, sought this concealment. Tr. July 11, 2008, at 4-6, 18-19, 22-23, 28-29.

41. On Friday, June 27, 2008, at approximately 4:15 p.m., the U.S. Attorney's Office received a copy of Epstein's proposed state plea agreement and learned that the plea was scheduled for 8:30 a.m., on Monday, June 30, 2008. The U.S. Attorney's Office and the Palm Beach Police Department attempted to provide notification to victims in the short time that Epstein's counsel had provided. The U.S. Attorney's Office called attorney Edwards to provide notice to his clients regarding the hearing. The notice, however, was only that Epstein was pleading guilty to state solicitation of prostitution charges involving another victim. The U.S. Attorney's Office did not tell Edwards that the guilty pleas in state court would bring an end to the possibility of federal prosecution pursuant to the plea agreement. Thus, there was no reason for attorney Edwards to believe that the guilty pleas in state court had any bearing on the cases of Jane Doe #1 and Jane Doe #2. As a result, Jane Doe #1 and Jane Doe #2 did not attend the plea hearing, as they did not think that it was pertinent to their particular cases. Had they known that the plea agreement made it impossible to prosecute Epstein federally for his crimes against them, they would have objected to this resolution. Jane Doe #1 and Jane Doe #2 thus detrimentally relied on the inaccurate representations of the U.S. Attorney's Office that their cases were still under investigation. Tr. July 11, 2008 at 4-6, 18-19, 22-23.

42. On June 30, 2008, the U.S. Attorney's Office sent an e-mail to Jack Goldberger, criminal defense counsel for Epstein, reflecting continuing efforts to keep the NPA secret: "[redacted]

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[redacted]

[redacted] U.S. Attorney's Correspondence at 321.

43. On July 3, 2008, as requested, Mr. Edwards sent to the U.S. Attorney's Office a letter. In the letter, Mr. Edwards indicated his client's 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." *See* Exhibit "J."

44. When Mr. Edwards wrote his July 3, 2008 letter, he was still unaware that a non-prosecution agreement had been reached with Epstein – a fact that continued to be concealed from him (and the victims) by the U.S. Attorney's Office. Mr. Edwards first saw a reference to the NPA 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 thus to Jane Doe #1 and Jane Doe #2) of the possible existence of a non-prosecution agreement. Tr. July 11, 2008 at 4-6, 18-19, 22-23, 28-29.

45. Mr. Edwards detrimentally relied on the misleading representations made by the U.S. Attorney's Office that the case was still under investigation when he was writing this letter. He would not have wasted his time undertaking a pointless exercise had he known that the U.S.

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Attorney's Office had previously negotiated a non-prosecution agreement. *See* Exhibits "E" & "J."

46. On July 7, 2008, Jane Doe #1 filed a petition for enforcement of her rights under the CVRA. At the time, Jane Doe #1 was not aware of the non-prosecution agreement, so she sought a court order directing the Justice Department to confer with her before reaching any such agreement. Epstein quickly became aware of this petition. Doc. #1 at 1-2.

47. On July 9, 2008, the U.S. Attorney's Office sent a victim notification to Jane Doe #1 via her attorney, Bradley Edwards. That notification contains a written explanation of some of the terms of the agreement between Epstein and the U.S. Attorney's Office. A full copy of the terms was not provided. 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. As a result, Jane Doe #2 never received a notification letter about the agreement. The notification did not mention the non-prosecution agreement with the U.S. Attorney's Office. Exhibits "E" & "K."

48. The notification that the U.S. Attorney's Office sent to Jane Doe #1 and other victims contained false and inaccurate information about the terms of the non-prosecution agreement. The false information was specifically approved by Epstein's attorneys. Supplemental Declaration of A. [redacted] Villafana, Dec. 22, 2008, doc. #35 at 2-3.

49. On July 11, 2008, the Court held a hearing on Jane Doe #1 and Jane Doe #2's Emergency Petition for Enforcement of Rights. During the hearing, the Government conceded that Jane Doe #1 and Jane Doe #2 were "victims" within the meaning of the Crime Victim's

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Rights Act. Epstein was aware of these and subsequent proceedings involving the CVRA. Tr. July 11, 2008, at 14-15.

50. During the July 11, 2008 hearing, the Government conceded that its agreement had been concluded months before the victims were notified about it. *See id.* at 12 (". . . the agreement was consummated by the parties in December of 2007.").

51. At all times material to this statement of facts, it would have been practical and feasible for the federal government to inform Jane Doe #1 and Jane Doe #2 of the details of the proposed non-prosecution agreement with Epstein, including in particular the fact that the agreement barred any federal criminal prosecution. *See* U.S. Attorney's Correspondence at 191-92.

52. One of the senior prosecutors in the U.S. Attorney's Office joined Epstein's payroll shortly after important decisions were made limiting Epstein's criminal liability – and improperly represented people close to Epstein. During the federal investigation of Epstein, Bruce Reinhart was a senior Assistant U.S. Attorney in the U.S. Attorney's Office for the Southern District of Florida. Within months after the non-prosecution agreement was signed, Reinhart left the Office and immediately went into private practice as a "white collar" criminal defense attorney. His office coincidentally happened to be not only in the same building (and on the same floor) as Epstein's lead criminal defense counsel, Jack Goldberger, but it was actually located right next door to the Florida Science Foundation – an Epstein-owned and -run company where Epstein spent his "work release." *See* http://www.brucereinhartlaw.com.

53. While working in this Office adjacent to Epstein's, Reinhart undertook the representation of numerous Epstein employees and pilots during the civil cases filed against

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Epstein by the victims -- cases that involved the exact same crimes and same evidence being reviewed by the U.S. Attorney's office when he was employed there. Specifically, he represented [redacted] (Epstein's number one co-conspirator who was actually named as such in the NPA), his housekeeper (Louella Ruboyo), his pilots Larry Morrison, Larry Visoski, David Rogers, William Hammond and Robert Roxburgh. (Hammond and Roxburgh were not deposed, but the others were.) *See* depositions of these individuals in various Epstein civil cases. On information and belief, Reinhart's representation of these individuals was paid, directly or indirectly, by Epstein. Such representations are in contravention of Justice Department regulations and Florida bar rules. Such representations also give, at least, the improper appearance that Reinhart may have attempted to curry with Epstein and then reap his reward through favorable employment.

LEGAL MEMORANDUM

The victims have previously briefed the issues of why they are entitled to entry of an order by this Court finding that the U.S. Attorney's Office violated their rights under the CVRA. *See* doc. #1; doc #9 at 3-11; doc. #19 at 3-9, 14. The victims specifically incorporate those pleadings by reference here. In short, as explained in the victims' earlier pleadings, the Office violated the victims' right to confer before reaching the non-prosecution agreement and also failed to use its best efforts to comply with the CVRA. The victims now provide additional briefing on two issues: (1) the CVRA applies to Jane Doe #1 and Jane Doe #2 even though no indictment was filed in their case; and (2) the Court should find that the government has clearly violated the CVRA in this case and set up a briefing schedule and hearing on the appropriate remedy.

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I. THE CVRA PROTECTS JANE DOE #1 AND JANE DOE #2 EVEN THOUGH THIS CASE WAS RESOLVED BY A NON-PROSECUTION AGREEMENT RATHER THAN INDICTMENT.

In this litigation, the Government is apparently taking the position that the Crime Victims' Rights Act does not extend rights to Jane Doe #1 and Jane Doe #2 because no indictment was ever filed in federal court and thus no federal court proceedings were ever held. This crabbed litigation position about the breadth of the CVRA cannot be sustained. Indeed, neither the FBI nor the U.S. Attorney's Office itself took this position during the Epstein investigation – until the victims in this case filed their petition requesting enforcement of their rights. Instead, both the FBI and the U.S. Attorney's Office recognized that because the U.S. Attorney's Office was negotiating a non-prosecution agreement that affected the rights of specifically identified victims, the CVRA was applicable. The Court should reject the Government's newly-contrived position.

A. The Plain Language of the CVRA Makes Clear that Victims Have Rights Before an Indictment is Filed.

The CVRA promises crime victims that they will have various rights, including "[t]he reasonable right to confer with the attorney for the Government *in the case*," 18 U.S.C. § 3771(a)(5) (emphasis added), and "the right to be treated with fairness," 18 U.S.C. § 3771(a)(8).. In earlier pleadings filed in this action, the Government has tried to narrowly construe the CVRA so that it applies only to a "court proceeding." *See* Gov't Response to Victim's Emergency Petition (doc. #13) at 1-2.

The Government's position contravenes the plain language of the CVRA. The CVRA guarantees to Jane Doe #1 and Jane Doe #2 the right to confer with prosecutors "in the case,"

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not in a "court proceeding." And the CVRA broadly extends a right to them "to be treated with fairness" – a right that is not circumscribed to just court proceedings. Indeed, the fact that (as the Government notes) the drafters of the CVRA used the term "court proceeding" elsewhere in the statute (i.e., 18 U.S.C. § 3771(a)(2) (victim's right to notice "of any public court proceeding")) makes it obvious that they intended to give victims a right to confer that extended beyond simple court proceedings – that is, the right to confer about "the case" – as well as a broad right to be treated fairly throughout the process.

Moreover, it is patently obvious that a criminal "case" against Epstein had been going on for months before the victims learned about the non-prosecution agreement. As recounted in the statement of facts above, both the FBI and the U.S. Attorney's Office for the Southern District of Florida had opened a "case" involving Epstein's sexual abuse of the victims well before they entered into plea negotiations with Epstein. Indeed, as early as June 7, 2007 – more than three months before they concluded the NPA with Epstein – the U.S. Attorney's Office sent a notice to Jane Doe #1 stating "your *case* is under investigation." *See* Exhibit "C" (emphasis added). The notice went on to tell Jane Doe #1 that "as a victim and/or witness of a federal offense, you have a number of rights." *Id.* at 1. Among the rights that the U.S. Attorney's Office itself told Jane Doe that she possessed was "[t]he right to confer with the attorney for the United States in the case." Of course, she would not have had those rights if she was not covered by the CVRA. Interestingly, the letter also advised Jane Doe #1 that "if you believe that the rights set forth above [e.g., the right to confer and other CVRA rights] are being violated, you have the right to petition the Court for relief." *Id.* at 1.

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The plain language of the CVRA makes clear that crime victims have right even before the filing of any indictment. The CVRA's instructs that crime victims who seeks to assert rights in pre-indictment situations should proceed in the court where the crime was committed: "The rights described in subsection (a) [of the CVRA] shall be asserted in the district in which a defendant is being prosecuted for the crime or, *if no prosecution is underway*, in the district court in the district in which the crime occurred." 18 U.S.C. § 3771(d)(3) (emphasis added). The victims have relied on this language through their pleadings, but the Government has not offered any response.

The CVRA also directs that "[o]fficers and employees of the Department of Justice and other departments and agencies of the United States engaged in the *detection, investigation*, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in [the CVRA]." 18 U.S.C. § 3771(c)(1) (emphasis added). Of course, there would be no reason to direct that agencies involved in the "detection" and "investigation" of crime have CVRA obligations if the Government's construction of the Act were correct. Plainly, Congress envisioned the victims' rights law applying during the "detection" and "investigation" phases of criminal cases.

For all these reasons, the Court need look no further than the language of the CVRA to conclude that the victims in this case had protected rights under the Act.

B. Other Courts Have Recognized That Crime Victims Have Rights Before An Indictment is Filed.

In its briefing to date, the Government has yet to cite a single case that has accepted its sweeping position that the CVRA only extends rights to victims after the formal filing of an

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indictment. This is because the case law all cuts the opposite way and recognizes that the CVRA does protect victims during the investigation of federal criminal cases.

In a case remarkably similar to this one, the Fifth Circuit has held that victims have a right to confer with federal prosecutors even before any charges are filed. In *In re Dean*, 527 F.3d 391, 394 (5th Cir. 2008), a wealthy corporate defendant reached a generous plea deal with the Government – a deal that the Government concluded and filed for approval with the district court without conferring with the victims. When challenged on a mandamus petition by the victims, the Fifth Circuit held:

> 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.

Id.

As we understand the Government's attempt to distinguish *Dean*, it asks this Court to decline to follow the Fifth Circuit's holding and create a split of authority on this important issue. See Gov't Response to Emergency Petn. at 2-3. Instead, the Government would have this Court deviate from the Fifth Circuit's well-reasoned opinion because the Circuit's "discussion of the scope of the right to confer was unnecessary because the court ultimately declined to issue mandamus relief." Gov't Response at 2 (citing *Dean*, 527 F.3d at 395). This is simply untrue. The Fifth Circuit faced a petition for mandamus relief from the victims in that case, asking the

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Court to reject a proposed "binding" plea agreement negotiated under Fed. R. Crim. P. 11(c)(1)(C) (i.e., a plea agreement obligating the judge to impose a specific sentence). The victims asked for that relief because of the Government's failure to confer with them before the charges and accompanying plea agreement were filed. The Fifth Circuit held that the victims' rights had been violated in the passages quoted above. It then went on to remand the matter to district court for further consideration of the effect of the violations of the victims' rights:

> We are confident, however, that the conscientious district court will fully consider the victims' objections and concerns in deciding whether the plea agreement should be accepted.
>
> The decision whether to grant mandamus is largely prudential. We conclude that the better course is to deny relief, confident that the district court will take heed that the victims have not been accorded their full rights under the CVRA and will carefully consider their objections and briefs as this matter proceeds.

In re Dean, 527 F.3d at 396. Obviously, the Fifth Circuit could not have instructed the District Court to "take heed" of the violations of victims' rights unless it has specifically held, as a matter of law, that the victims' rights had been violated.

The Government's next effort to deflect the force of the Fifth Circuit's decision is that the Circuit did not directly quote three words found in the CVRA's right to confer – the words "in the case." *See* Gov't Response to Emergency Petn. at 2. But the Fifth Circuit had received briefs totaling close to 100 pages in that case and was obviously well aware of the statute at hand. Indeed, in the very paragraph the Government claims is troublesome, the Fifth Circuit cited to the district court opinion under review, which had quoted all the words in the statute. *See United States v. BP Products*, 2008 WL 501321 at *7 (noting victims right to confer "in the case"), *cited in In re Dean*, 527 F.3d at 394.

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The Government finally notes that the Fifth Circuit stated that its ruling about the Government violating the right to confer applied "in the posture of this case." *In re Dean*, 527 F.3d at 394. But the posture of the case involving Epstein here – at least in its relevant aspects -- is virtually identical to the posture there. The Fifth Circuit held that the Government had an obligation to confer with the victims *before charges were filed and before a final plea arrangement was reached.* Without giving the victims a chance to confer before hand, the plea agreement might be fatally flawed because it did not consider the concerns of the victims. Thus, the Fifth Circuit emphasized the need to confer with victims before any disposition was finally decided: "The victims do have reason to believe that their impact on the eventual sentence is substantially less where, as here, their input is received after the parties have reached a tentative deal. As we have explained, that is why we conclude that these victims should have been heard at an earlier stage." *Id.* at 395. The posture in this case is exactly the same – the Government should have conferred before the parties "reached a tentative deal." The fact that the deal reached here is slightly different than the deal reached in the *Dean* case (a non-prosecution agreement versus a plea agreement) is truly a distinction without a difference. If anything, the facts here cry out for conferral even more than in that case. At least the defendant there agreed to plead guilty to a federal felony. Here, the wealthy defendant has escaped all federal punishment – a plea deal that Jane Doe #1 and Jane Doe #2 would have strenuously objected to . . . if the Government had given them the chance.

The Fifth Circuit's decision in *Dean* has been cited favorably in two recent District Court decisions, which provides further support for Petitioner's position here. In *United States v. Rubin*, 2008 WL 2358591 (E.D.N.Y. 2008), the victims argued for extremely broad rights under

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the CVRA. After citing *Dean*, the District Court agreed that the rights were expansive and could apply before indictment, but subject to the outer limit that the Government be at least "contemplating" charges:

> Quite understandably, movants perceive their victimization as having begun long before the government got around to filing the superseding indictment. They also believe their rights under the CVRA ripened at the moment of actual victimization, or at least at the point when they first contacted the government. Movants rely on a decision from the Southern District of Texas for the notion that CVRA rights apply prior to any prosecution. In *United States* [redacted] *BP Products North America, Inc.*, the district court reasoned that because § 3771(d)(3) provided for the assertion of CVRA rights "in the district court in which a defendant is being prosecuted for the crime or, if no prosecution is underway, in the district court in the district in which the crime occurred," the CVRA clearly provided for "rights . . . that apply before any prosecution is underway." (United States [redacted] BP Products North America, Inc., Criminal No. H-07-434, 2008 WL 501321 at *11 (S.D.Tex. Feb.21, 2008) (emphasis in original), mandamus denied in part, *In re Dean*, No. 08-20125, 2008 WL 1960245 (5th Cir. May 7, 2008). But, assuming that it was within the contemplation and intendment of the CVRA to guarantee certain victim's rights prior to formal commencement of a criminal proceeding, the universe of such rights clearly has its logical limits. For example, the realm of cases in which the CVRA might apply despite no prosecution being "underway," cannot be read to include the victims of uncharged crimes that the government has not even contemplated. It is impossible to expect the government, much less a court, to notify crime victims of their rights if the government has not verified to at least an elementary degree that a crime has actually taken place, given that a corresponding investigation is at a nascent or theoretical stage.

Id. at *6. Here, of course, the criminal investigation went far beyond the "nascent or theoretical stage" – to a point where the Government determined that crimes had been committed and that the defendant should plead guilty to either a state or federal offense.

Similarly, at least one other district court has reviewed the issue and agreed with the victims' position that crime victims can have rights before charges are filed. In rejecting an argument that the CVRA should be limited to cases in which a defendant has been convicted, *United States* [redacted] *Okun*, explained: "Furthermore, the Fifth Circuit has noted that victims acquire

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rights under the CVRA even before prosecution. *See In re Dean*, 527 F.3d 391, 394 (5th Cir.2008). This view is supported by the statutory language, which gives the victims rights before the accepting of plea agreements and, therefore, before adjudication of guilt. *See* 18 U.S.C. § 3771(a)(4)." 2009 WL 790042 at *2 (E.D.Va. 2009).

Accordingly, rather than create a split of authority, this Court should follow the Fifth Circuit's holding in *Dean* (and the view of the U.S. District Courts for the Eastern District of New York and the Eastern District of Virginia) and conclude that the CVRA extends rights to Jane Doe #1 and Jane Doe #2 under the facts of this case.

C. The U.S. Attorney's Office Has Previously Recognized that Jane Doe #1 and Jane Doe #2 Have Rights Under the CVRA.

A final reason for concluding that Jane Doe #1 and Jane Doe #2 are protected by the CVRA is that the U.S. Attorney's Office itself reached that conclusion – well before the victims filed this petition. The U.S. Attorney's Office arranged to have the FBI send a notice to, for example, Jane Doe #1 informing her that she had rights under the CVRA. Later, in discussions with defendant Epstein, the Office explained to Epstein their obligations to the victims under the CVRA. Indeed, it was only *after* Jane Doe #1 and Jane Doe #2 filed a petition with this Court seeking protection of their rights that the U.S. Attorney's Office reversed its position. The Court should reject this remarkable about-face.

As recounted in more detail above, the U.S. Attorney's Office made clear to both the victims and to Epstein that the victims had rights under the CVRA. For example, on about June 7, 2007, FBI agents hand-delivered to Jane Doe #1 a standard CVRA victim notification letter, promising that the Justice Department would makes its "best efforts" to protect Jane Doe #1's

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rights, including "[t]he reasonable right to confer with the attorney for the United States in the case" and "to be reasonably heard at any public proceeding in the district court involving . . . plea . . . ." Exhibit "C." Similarly, on about November 27, 2007, then First Assistant U.S. Attorney Jeff [redacted] sent an e-mail to Jay Lefkowitz, defense counsel for Epstein stating: [redacted]

[redacted] U.S. Attorney's Correspondence at 255 (emphasis rearranged). Apparently, this assertion produced some sort of objection from defendant Epstein. The U.S. Attorney's Office, however, rejected those objections In a letter on about December 6, 2007, Jeffrey H. [redacted], First Assistant U.S. Attorney again sent a letter to Jay Lefkowitz, reiterating the U.S. Attorney's Office's legal obligations to keep victims informed of the status of [redacted] The letter stated:

[redacted]

U.S. Attorney's Correspondence at 191-92 (emphasis added). What this correspondence shows is that the U.S. Attorney's Office quite clearly took the position with defendant Epstein that the CVRA extended rights to Epstein's victims. Yet when the victims in this case filed a petition in this Court asking those rights to be respected, the Government simply reversed course. The U.S. Attorney's Office had it right the first time – the CVRA does extend rights to Jane Doe #1 and Jane Doe #2 in this case.

D. The U.S. Attorney's Office Is Estopped From Arguing that the CVRA Does Not Apply in this Case.

For all the reasons just explained, it is clear that the CVRA applies to this case and the Jane Doe #1 and Jane Doe #2 had rights under the Act. In addition, however, the Government is simply stopped from arguing otherwise. *The Government told the victims that they had rights under the CVRA and would keep them informed about the progress of the case*. Exhibits "C," "D," "F," & "G." Having made those representations to the victims – and having induced reliance by the victims – the Government is stopped from taking a different position now.

As explained by the Eleventh Circuit, to make out a claim of estoppel against the Government, a party must adduce evidence of the following:

> (1) words, conduct, or acquiescence that induces reliance;
> (2) willfulness or negligence with regard to the acts, conduct, or acquiescence;
> (3) detrimental reliance; and
> (4) affirmative misconduct by the Government.

United States v. McCorkle, 321 F.3d 1292 (11th Cir. 2003). Each of these four factors is easily met here.

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First, the Government made statements to the victims that induced reliance. The victims received an official notice on Justice Department letterhead that they were crime victims in the Epstein case and that the Justice Department would use its "best efforts" to protect their rights.

Second, these statements were obviously not accidental – to the contrary, the Government specifically and deliberately sent these notices to the victims.

Third, the victims detrimentally relied on these statements. As explained at greater length in the victims proposed facts, the victims were lead to believe that their case was "under investigation." As a result, they did not take steps to object to Epstein's plea agreement and, indeed, did not even attend the court hearing where Epstein pled guilty. Similarly, their attorney (Mr. Edwards) was induced to spend an afternoon writing a letter to the U.S Attorney's Office about why Epstein should be federally prosecuted – time that was taken away from other matters at his busy law practice. This was a complete wild goose chase, as the U.S. Attorney's Office was concealing from Mr. Edwards at the time that a federal non-prosecution agreement had already been reached with Epstein.

Fourth, the U.S. Attorney's Office engaged in affirmative misconduct. We do not make this allegation lightly. But the facts recounted above demonstrate the following chain of events. The U.S. Attorney's Office first reached a non-prosecution agreement with Epstein, in which it agreed not to prosecute him for numerous crimes (including, for example, sex offenses committed by Epstein against Jane Doe #1). As part of that agreement, the U.S. Attorney's Office agreed to a "confidentiality" provision that forbade publicly disclosing the existence of the agreement. As a result, the U.S. Attorney's Office (and FBI agents acting under its

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direction[4]) kept the existence of the non-prosecution agreement secret from the victims and the public. The reasonable inference from the evidence is that the U.S. Attorney's Office wanted to keep the agreement a secret to avoid intense criticism that would have surely ensued had the victims and the public learned that a billionaire sex offender with political connections had arranged to avoid federal prosecution for numerous felony sex offenses against minor girls.

As part of this pattern of deception, the U.S. Attorney's Office discussed victim notification with the defendant sex offender and, after he raised objections, stopped making notifications. Then later in January 2008, the U.S. Attorney's Office arranged for letters to be sent to the victims – including Jane Doe #1 and Jane Doe #2 – that falsely stated that to each that your "case is currently under investigation." This was untrue, as the U.S. Attorney's Office had already resolved the federal case by signing a non-prosecution agreement with Epstein. Indeed, the pattern of deception continued even after Jane Doe #1 and Jane Doe #2 were represented by legal counsel. In May 2008, the Office sent a similar letter stating "your case is currently investigation" to another victim (represented by attorney Bradley J. Edwards). As late as the middle of June 2008 – more than eight months after the non-prosecution agreement had been signed -- the Assistant U.S. Attorney handling the case told Edwards to send information that he wanted the Office to consider in determining whether to file federal charges. The Office concealed from him that it had already made the determination not to file federal charges and that the Office had in fact signed a non-prosecution agreement long ago. The Office also concealed from him the fact that guilty pleas in state court were imminent. The Office disclosed

[4] It is unknown whether the U.S. Attorney's Office even made the FBI aware of the NPA in a timely fashion.

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the non-prosecution agreement only after Epstein had entered his guilty pleas in state court – in other words, only after the time for the victims to be able to object to the non-prosecution agreement during the plea process had come and gone. Even at that time, the Office did not disclose the provisions in the agreement. In short, the victims never learned about the non-prosecution agreement barring federal prosecution of their cases because of a deliberate decisions by the U.S. Attorney's Office, not mere "negligence or inaction." *McCorkle*, 321 F.3d at 1297. Accordingly, the Government is stopped from arguing that the Crime Victims' Rights Act does not apply to this case.

II. THE COURT SHOULD FIND THAT THE VICTIMS' RIGHTS HAVE BEEN VIOLATED AND THEN SET UP A BRIEFING SCHEDULE AND HEARING ON THE APPROPRIATE REMEDY.

This U.S. Attorney's Office's behavior in this case does not satisfy the Office's obligations under the CVRA to use its "best efforts" to insure that victims receive protection of their rights. 18 U.S.C. § 3771(c)(1). In particular, the undeniable chain of events makes clear that the victims were not afforded their right "to confer with the attorney for the Government in the case." 18 U.S.C. § 3771(a)(5). Whatever else may be said about the deception, it also starkly violates the victims' right "to be treated with fairness and with respect for the victim's dignity . . . ." 18 U.S.C. § 3771(a)(8). The pattern also denied the victims of timely notice of court proceedings, 18 U.S.C. § 3771(a)(3), including in particular the state court guilty plea.

As we understand the position of the Government, it does not truly contest that – if the CVRA applied – it managed to discharge its various obligations under the Act. Instead, the Government relies solely on a technical argument to reach the conclusion that it discharged its obligations – namely, the argument that the CVRA does not apply until a formal indictment is

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filed. As just explained, however, that technical argument must be rejected as inconsistent with the CVRA's plain language and interpretation by other courts. Accordingly, this Court should find that the Government has violated its CVRA obligations.

Once the Court finds such a violation, the next issue becomes what remedy should apply. Since the earliest days of our nation, it has been settled law that "where there is a legal right, there is also a legal remedy . . . .." *Marbury v. Madison*, 5 U.S. 137, 163 (1803) (internal quotation omitted). Moreover, "[i]f the right is created by a federal statute, the federal courts have the power to fashion an appropriate remedy." *Intracoastal Transp., Inc.* [redacted] *Decatur County, Georgia* 482 F.2d 361, 371 (5th Cir. 1973). As we understand the Government's position in this case, however, they believe that this Court is powerless to do anything to correct the palpable violation of victims' rights documented in this case.

Jane Doe #1 and Jane Doe #2 respectfully request that the Court set up a briefing schedule and a hearing on this important issue. The victims believe that they can establish that the appropriate remedy for the clear violations of their rights is to invalidate the Non-Prosecution Agreement. While the victims request an opportunity to provide more extensive briefing on this subject, they provide a few citations in support of their position here.

When other plea arrangements have been negotiated in violation of federal law, they have been stricken by the courts. For example, *United States* [redacted] *Walker*, 98 F.3d 944 (7th Cir. 1996), held that where a sentence on a new crime could not run concurrently with a probation revocation the defendant was then serving – contrary to the assumption of the parties to the plea agreement – the defendant was not entitled to specific performance of the plea agreement. The Court explained that the case was one "in which the bargain is vitiated by illegality . . . ." *Id.* at

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947. Here, of course, exactly the same is true: the non-prosecution agreement is vitiated by illegality – namely, the fact that it was negotiated in violation of the victims' rights. Other cases reach similar conclusions. *See, e.g., United States v. Cooper*, 70 F.3d 563, 567 (10th Cir. 1995) (prosecutor agreed to recommend probation, but it later appeared that would be an illegal sentence in this case, and thus only adequate remedy is to allow defendant to withdraw plea); *Craig v. People*, 986 P.2d 951, 959-60 (Colo. 1999) (because "neither the prosecutor nor the trial court have authority to modify or waive the mandatory parole period," such "is not a permissible subject of plea negotiations," and thus, even if "the trial court erroneously approves of such an illegal bargain" such plea is "invalid" and thus will not be specifically enforced). Nor can the defendant claim some right to specific performance of an illegal non-prosecution agreement. *See State v. Garcia*, 582 N.W.2d 879, 881-82 (Minn. 1998) (plea agreement for 81 months sentence, but court added 10-year conditional release term because, under facts of case, sentence without such release term "plainly illegal," and thus remedy of specific performance not available); *State v. Wall*, 348 N.C. 671, 502 S.E.2d 585, 588 (1998) (plea agreement was for sentence to be concurrent with one not yet completed, but state statute mandates consecutive sentence on facts of this case; "defendant is not entitled to specific performance in this case because such action would violate the laws of this state"); *Ex parte Rich*, 194 S.W.3d 508, 515 (Tex. Crim. App. 2006); (where "the plea bargain seemed fair on its face when executed, it has become unenforceable due to circumstances beyond the control of [the parties], namely the fact that one of the enhancement paragraphs was mischaracterized in the indictment, resulting in an illegal sentence far outside the statutory range," proper remedy is plea withdrawal, as "there is no way of knowing whether the State would have offered a plea bargain within the proper range of

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punishment that he deemed acceptable"); *State v. Mazzone*, [redacted] W.Va. 368, 572 S.E.2d 891, 897 (2002) (where plea agreement was that defendant would plead guilty to 2 felony counts of felon in possession of firearm and prosecutor would dismiss remaining 6 counts re other offenses with prejudice, and all parties erroneously believed these 2 crimes were felonies, lower court "correctly resolved this unfortunate predicament by holding that a plea agreement which cannot be fulfilled based upon legal impossibility must be vacated in its entirety, and the parties must be placed, as nearly as possible, in the positions they occupied prior to the entry of the plea agreement").

The Non-Prosecution Agreement that the Government entered into in this case was simply illegal. The Government did not protect the congressionally-mandated rights of victims before it entered into this Agreement. Perhaps it is for this reason that the Agreement is so shockingly lenient – blocking prosecution for dozens and dozens of federal felony sex offenses against several dozen minor girls. But regardless of the leniency, the only issue for the Court is whether the Agreement was lawful. It was not, and so the Court invalidate it.[5] The victims respectfully ask for a full briefing schedule and a hearing on this important issue.

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[5] Defendant Jeffrey Epstein was notified about this case long ago, and was notified on August 26, 2010, that the victims would be filing correspondence in support of their motions. He has not chosen to intervene in this action, and so he should not be heard to complain about remedy the Court might impose.

In any event, there are no double jeopardy barriers to invalidating the plea. As explained in a leading criminal procedure treatise:

> The review of defendant's sentence is also provided in federal cases upon application of a victim. The Crime Victim's Rights Act allows a victim to seek to reopen a sentence through a writ of mandamus, if the victim has asserted and been denied the right to be heard at sentencing. Like the prosecution's statutory right to appeal, the victim's statutory remedy should pose no double jeopardy

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CERTIFICATE OF CONFERENCE

As recounted above, counsel for Jane Doe #1 and Jane Doe #2 have approached the U.S. Attorney's Office for more than two and a half years in an effort to reach stipulated facts. The U.S. Attorney's Office ultimately terminated those efforts on March 15, 2011, taking the position that the facts of the case are irrelevant and that, on any set of facts, it did not violate the CVRA.

CONCLUSION

For all the foregoing reasons, the Court should find the U.S. Attorney's Office violated Jane Doe #1 and Jane Doe #2's rights under the Crime Victims Rights Act and then schedule an appropriate hearing on the remedy for these violations. The scope of the remedy that is appropriate may depend in part of the scope of the violations that the Court finds. For this reason, it makes sense for the Court to bifurcate the process and determine, first, the extent of the violations and then, second, the remedy appropriate for those violations. If the Court would prefer to see more immediate briefing on remedy issues, the victims stand prepared to provide that briefing at the Court's direction.

> difficulties if as the [*DiFrancesco]* Court explained . . . the defendant is 'charged with knowledge of the statute and its . . . provisions, and has no expectation of finality in his sentence until the [review by writ] is concluded . . . .'"

LAFAVE ET AL., CRIMINAL Procedure § 26.7(b) (Nov. 2010) (*quoting United States* [redacted]. *DiFrancesco*, 449 U.S. 117, 146 (1980)).

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DATED: March 21, 2011

Respectfully Submitted,

s/ Bradley J. Edwards
Bradley J. Edwards
FARMER, JAFFE, WEISSING,
EDWARDS, FISTOS & LEHRMAN, P.L.
425 North Andrews Avenue, Suite 2
Fort Lauderdale, Florida 33301
Telephone (954) 524-2820
Facsimile (954) 524-2822
Florida Bar No.: 542075
E-mail: brad@pathtojustice.com

and

Paul G. Cassell
Pro Hac Vice
S.J. Quinney College of Law at the
University of Utah
332 S. 1400 E.
Salt Lake City, UT 84112
Telephone: 801-585-5202
Facsimile: 801-585-6833
E-Mail: cassellp@law.utah.edu

Attorneys for Jane Doe #1 and Jane Doe #2

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CERTIFICATE OF SERVICE

The foregoing document was served on March 21, 2011, on the following using the Court's CM/ECF system:

[redacted]
Assistant U.S. Attorney
[redacted]
Fax: [redacted]
E-mail: ann.marie.c.villafana@usdoj.gov
Attorney for the Government

Joseph L. Ackerman, Jr.
Joseph Ackerman, Jr.
Fowler White Burnett PA
777 S. Flagler Drive, West Tower, Suite 901
West Palm Beach, FL 33401
Criminal Defense Counsel for Jeffrey Epstein
(courtesy copy of pleading via U.S. mail)

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EXHIBIT

111

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Monday, July 07, 2008 10:53 AM
To: Jack Goldberger
Cc: [redacted], E N. (FBI); [redacted], Jason R. (FBI); Atkinson, Karen (USAFLS)
Subject: Jeffrey Epstein

Importance: High

Dear Jack:

Special Agent [redacted] reminded me that I failed to include one of our identified victims. She is still a minor, and her initials are [redacted]

Please let me know when you are available, and I will provide you with the revised list. I would like to receive the signed notification by tomorrow so that I can begin distributing them to the victims.

Thank you.

A. Marie Villafaña
Assistant U.S. Attorney
[redacted]
Phone [redacted]
Fax [redacted]

EXHIBIT

112

FILED by DJ D.C.
ELECTRONIC
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

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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.

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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).

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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."

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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* [redacted].

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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* [redacted] *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* [redacted] *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* [redacted] *Patkar*, 2008 WL 233062 at *3 (D. Haw. 2008) (citing *United States* [redacted] *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).

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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.

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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 Harrison Street
Suite 202
Hollywood, Florida 33020
Telephone: 954-414-8033
Facsimile: 954-924-1530

EFTA00185061

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 [redacted] C. [redacted], AUSA, United States Attorney's Office, [redacted], [redacted], this 7th day of July, 2008.

Brad Edwards, Esquire
Attorney for Petitioner
Florida Bar No. 542075

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EXHIBIT

113

ATTERBURY GOLDBERGER & WEISS, P.A.

§ JOSEPH R. ATTERBURY
*† JACK A. GOLDBERGER
JASON S. WEISS
*Board Certified Criminal Trial Attorney
† Member of New Jersey & Florida Bars

July 9, 2008

A. [redacted] C. [redacted], Esq.
Assistant United States Attorney
United States Attorney's Office
500 South Australian Avenue
4th Floor, Suite 400
[redacted]

SENT VIA E-MAIL & FACSIMILE
[redacted]

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

EXHIBIT

114

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
[redacted]
Facsimile: [redacted]

July 9, 2008

VIA FACSIMILE
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 Mr. Goldberger:

Thank you for your letter of today's date regarding the proposed Victim Notification. Let me address some of the items in your letter.

We have no objection to doing individual mailings. The Notification was drafted in that way in order to minimize the number of documents that Mr. Epstein would sign. Now that you have raised an objection to signing the Acknowledgment, each notification will list only the victim who is being notified.

In light of Mr. Epstein's refusal to sign the Acknowledgment, the Acknowledgment portion has been deleted and the notification has been slightly modified in order to provide more complete information and it has been formatted as a letter rather than a more formal "Notification" document.

We will not be including any statement that the U.S. Attorney's Office is not vouching for the veracity of any claim. As you know, the U.S. Attorney's modification of the 2255 portion of the Agreement now limits our victim list to those persons whom the United States

was prepared to include in an indictment. This means that, pursuant to Justice Department policy, these are individuals for whom the United States believes it has proof beyond a reasonable doubt that each of them was a victim of an enumerated offense. There will be no statement one way or the other regarding the validity of any claim.

You have asked for an explanation of why I believe the Acknowledgment portion is required by the terms of the Agreement. Under a strict reading of the Agreement, it is not required, other than to Acknowledge that the United States has performed its obligation of providing Mr. Epstein with a list of identified victims following his guilty plea and sentencing. The purpose of the Acknowledgment was to create one single document incorporating the parties' agreement on the single topic of the right to proceed under 18 U.S.C. § 2255. This would avoid litigation regarding the victims' rights to have access to the original Non-Prosecution Agreement. Without such an express Acknowledgment by Mr. Epstein that the Notice contains the substance of that Agreement, I believe that the victims will have a justification to petition for the entire agreement, which is contrary to the confidentiality clause that the parties have signed. If you believe that particular words are objectionable, I am happy to consider a modification.

As I mentioned to you last week, I will provide you with the names of the attorneys currently representing the victims when we have compiled all of that information. Some of the victims are represented by attorneys from the South Carolina Victim Assistance Network and the Maryland Crime Victims Resource Center, both of which were recommended by a victims' rights organization that receives grants from the Justice Department.

If you have any suggestions for a modification of the Acknowledgment, please let me know.

Sincerely,

[redacted]
United States Attorney

By:
A. [redacted] Villafaña
Assistant United States Attorney

cc: Karen Atkinson, AUSA

EXHIBIT

115

U.S. Department of Justice

FILE COPY

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
(561) 820-8711
[redacted]

July 9, 2008

NOTIFICATION OF IDENTIFIED VICTIM

NOTICE: IN ACCORDANCE WITH TITLE 18, UNITED STATES CODE, SECTION 3509(d) AND FLORIDA LAW, THE ATTACHED DOCUMENT IS TO BE TREATED AS CONFIDENTIAL AND SHALL NOT BE DISCLOSED EXCEPT IN CONNECTION WITH A LEGAL PROCEEDING.

EFTA00185070

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
[redacted]
Facsimile: [redacted]

FILE COPY

July 9, 2008

VIA FACSIMILE
Brad Edwards, Esq.
The Law Offices of Brad Edwards & Associates, LLC
2028 Harrison Street, Suite 202
Hollywood, Florida 33020.

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

Dear Mr. Edwards:

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, [redacted]

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.

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

EFTA00185071

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 your client, [redacted] is an individual whom the United States was prepared to name as a victim of an enumerated offense.

Should your client decide to file a claim against Jeffrey Epstein, his attorney, Jack Goldberger, asks that you contact him at Atterbury Goldberger and Weiss, 250 Australian Avenue South, Suite 1400, West Palm Beach, FL 33401, [redacted].

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; however, if you do file a claim under 18 U.S.C. § 2255 and Mr. Epstein denies that your client is a victim of an enumerated offense, please provide notice of that denial to the undersigned.

Please thank your client for all of her assistance during the course of this examination and express the heartfelt regards of myself and Special Agents [redacted] and [redacted] for the health and well-being of Ms. [redacted]

[redacted]
UNITED STATES ATTORNEY

By: [redacted]
A. [redacted]
ASSISTANT U.S. ATTORNEY

cc: Jack Goldberger, Esq.

EFTA00185072

EXHIBIT

116

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
[redacted]

July 9, 2008

NOTIFICATION OF IDENTIFIED VICTIM

NOTICE: IN ACCORDANCE WITH TITLE 18, UNITED STATES CODE, SECTION 3509(d) AND FLORIDA LAW, THE ATTACHED DOCUMENT IS TO BE TREATED AS CONFIDENTIAL AND SHALL NOT BE DISCLOSED EXCEPT IN CONNECTION WITH A LEGAL PROCEEDING.

EFTA00185074

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401

[redacted]

July 9, 2008

VIA FACSIMILE
Brad Edwards, Esq.
The Law Offices of Brad Edwards & Associates, LLC
2028 Harrison Street, Suite 202
Hollywood, Florida 33020.

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

Dear Mr. Edwards:

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, [redacted]

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.

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

EFTA00185075

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 your client, [redacted] is an individual whom the United States was prepared to name as a victim of an enumerated offense.

Should your client decide to file a claim against Jeffrey Epstein, his attorney, Jack Goldberger, asks that you contact him at Atterbury Goldberger and Weiss, 250 Australian Avenue South, Suite 1400, West Palm Beach, FL 33401, [redacted].

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; however, if you do file a claim under 18 U.S.C. § 2255 and Mr. Epstein denies that your client is a victim of an enumerated offense, please provide notice of that denial to the undersigned.

Please thank your client for all of her assistance during the course of this examination and express the heartfelt regards of myself and Special Agents [redacted] and [redacted] for the health and well-being of Ms. [redacted]

[redacted]
UNITED STATES ATTORNEY

By: [signature]
A. [redacted]
ASSISTANT U.S. ATTORNEY

cc: Jack Goldberger, Esq.

EFTA00185076

EXHIBIT

117

U.S. Department of Justice

United States Attorney
Southern District of Florida

A. [redacted] Villafaña
500 S. Australian Ave. 4th Floor
[redacted]
Facsimile [redacted]

FACSIMILE COVER SHEET

TO: Jack Alan Goldberger

DATE: July 10, 2008

FAX NO. [redacted]

 # OF PAGES: 2

PHONE NO. [redacted]

RE: Jeffrey Epstein

FROM: A. [redacted] VILLAFAÑA, Assistant U.S. Attorney

PHONE NO. [redacted]

COMMENTS:

ATTERBURY GOLDBERGER & WEISS, P.A.

* JOSEPH R. ATTERBURY
*† JACK A. GOLDBERGER
JASON S. WEISS
* Board Certified Criminal Trial Attorney
† Member of New Jersey & Florida Bars

July 10, 2008

A. [redacted] C. [redacted], Esq.
Assistant United States Attorney
500 S. Australian Avenue
4th Floor, Suite 400
[redacted]

SENT VIA E-MAIL & FACSIMILE
[redacted]

Re: Jeffrey E. Epstein

Dear Ms. [redacted]:

Thank you for your letter of yesterday. Kindly allow me a few follow-up points.

First, we respectfully request a reasonable opportunity to review and comment on a draft of the modified notification letter you intend to mail before you send it.

Second, we respectfully ask that you provide us with the identity of the victims' rights organization described in your letter; the name and contact information of the person at that organization with whom the Government has been communicating; copies of any communications with that organization and the pro-bono lawyers/groups who were recommended by that organization; and a description of any non-written communications that the Government has had with that organization and the pro-bono lawyers/groups.

Third, while we appreciate your offer to disclose the names of the lawyers currently representing the individuals when you have finished compiling all of that information, we would be very grateful if you would provide any contact information you do have, on a rolling basis.

Fourth, would it be possible for you to advise us of the full name of the minor to whom you have referred by initials, as well as the identities of the three individuals whom the Government notified about the deferred-prosecution agreement shortly after its signing (as

One Clearlake Centre, Suite 1400 250 Australian Avenue South West Palm Beach, FL 33401
p [redacted]8300 f [redacted] www.agwpa.com

indicated in your letter of December 13, 2007)?

Fifth, please recall that Mr. [redacted] wrote to Judge [redacted] on October 25, 2007 that "The United States takes no position as to the validity of any such claim under this statute." To avoid any appearance that the United States is endorsing or encouraging litigation by the identified individuals, we believe that such a statement should be included in any notification letter.

I look forward to receiving your input on these issues. Until then, I remain,

Very truly yours,

Jack A. Goldberger

JAG/na
cc: Jeffrey E. Epstein

EFTA00185080

EXHIBIT

118

[redacted] (USAFLS)

From: Jack Goldberger [jgoldberger@agwpa.com]
Sent: Friday, July 11, 2008 1:18 PM
To: [redacted] (USAFLS)
Subject: RE: Notice of Disclosure

Please call me in regard to this
Jack goldberger

From: [redacted] (USAFLS) [redacted]
Sent: Friday, July 11, 2008 12:01 PM
To: Jack Goldberger
Cc: Lee, Dexter (USAFLS); Atkinson, Karen (USAFLS)
Subject: Notice of Disclosure

Dear Mr. Goldberger:

Today, Dexter Lee and I appeared before Judge Marra in connection with a suit filed by [redacted] and [redacted] asserting that their rights as victims were breached by our failure to consult with them before entering into the Non-Prosecution Agreement. In response to their petition, I filed a Declaration under seal that included the victim notification letters provided to their attorney, Brad Edwards. At today's hearing, and over our objection, Judge Marra denied our motion to seal and unsealed the declaration. Accordingly, one piece of the Non-Prosecution Agreement, specifically the paragraph that is quoted in the victim notification letters, has been disclosed.

A. [redacted]

Assistant U.S. Attorney

[redacted]

EXHIBIT

119

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
[redacted]

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 [redacted], 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 calls for *deferment* of federal prosecution "in favor of prosecution by the State of Florida, *provided* that Epstein abides by the [enumerated] conditions and the requirements of th[e] Agreement . . ." (Non-Prosecution Agreement, p. 2 (emphasis added).) One of those conditions is Epstein's agreement that the subject Jane Does, while minors, were victims of a violation of an offense enumerated in Title 18, United States Code Section 2255, and that they "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.)

If, in fact, your position is that the federal criminal action is still pending such that the Court must 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

federal investigation can continue. If, instead, Mr. Epstein intends to fully abide by the Non-Prosecution Agreement, then the "federal Grand Jury investigation will remain suspended, and all pending federal [redacted] 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 intend to correct the representations to the Court regarding the status of the federal investigation.

Sincerely,

[redacted]
United States Attorney

By: [signature]
[redacted]
Assistant United States Attorney

cc: Jack Goldberger, Esq.
Karen Atkinson, Esq.

EXHIBIT

120

ATTERBURY GOLDBERGER & WEISS, P.A.

JOSEPH R. ATTERBURY
JACK A. GOLDBERGER
JASON S. WEISS
Board Certified Criminal Trial Attorney
Member of New Jersey & Florida Bars

July 21, 2008

A. [redacted], AUSA
U.S. Department of Justice
United States Attorney
Southern District of Florida
[redacted]

SENT VIA FACSIMILE
[redacted]

Re: Jeffrey Epstein

Dear Ms. [redacted],

Enclosed please find a Motion For Return of Property that I filed in Mr. Epstein's state case. Out of abundance of caution, I am providing you a copy of the motion.

Please advise me as to what your position is on this matter.

Very truly yours,

Jack A. Goldberger

JAG/na
Enclosure

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT,
IN AND FOR PALM BEACH COUNTY, FLORIDA

STATE OF FLORIDA

CASE NO.: 2006CF009454AXX
DIVISON: "W"

vs.

JEFFREY EPSTEIN,

Defendant.
_____/

DEFENDANT'S MOTION FOR RETURN OF PROPERTY

COMES NOW the Defendant, JEFFREY EPSTEIN, by and through his undersigned attorney, and moves this Honorable Court to enter an Order for return of property seized on October 20, 2005 during execution of a search warrant at the Defendant's residence. In support thereof the Defendant states as follows:

1. On October 20, 2005, the Palm Beach Police Department executed a search warrant at the Defendant's residence. During the execution of the warrant, numerous items of the Defendant's personal property were seized and impounded by the Palm Beach Police Department. A copy of the search warrant return is attached to this motion (Exhibit A).

2. On June 30, 2008, the criminal charges arising from the search warrant were resolved through a negotiated plea agreement.

3. No legal justification exists for the continued impoundment of the Defendant's personal property. The Defendant is entitled to the return of all personal property listed in Exhibit A.

WHEREFORE, the Defendant, JEFFREY EPSTEIN, respectfully requests this Honorable Court to enter an Order for the return of his personal property.

EFTA00185088

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion was sent via FAX and U.S. MAIL to [redacted] Esq., Assistant State Attorney, 401 North Dixie Highway, [redacted] this 21st day of July, 2008.

ATTERBURY, GOLDBERGER & WEISS, P.A.
250 Australian Avenue South, Suite 1400
West Palm Beach, Florida 33401
(561) 659-8300

JACK A. GOLBERGER, ESQUIRE
Florida Bar Number 262013

EFTA00185089

Pg 1 of 6

PALM BEACH POLICE DEPARTMENT
PROPERTY RECEIPT
SEARCH WARRANT RETURN

DETECTIVE BUREAU

Form #52

☐ PROPERTY ☐ FOUND ☐ DECEASED (Probated) ☐ PERSONAL ☐ CONFISCATED ☐ DESTROY

☑ EVIDENCE ☐ TRIAL ☐ LABORATORY ☐ STOLEN/RECOVERED ☐ OTHER

INCIDENT/CITATION NUMBER	DATE/TIME RECOVERED	PROPERTY NUMBER (Leave Blank)	BIN NUMBER (Leave Blank)
05-368	10-20-2005	05-1024	

ADDRESS WHERE PROPERTY IMPOUNDED: 258 FL-Brillo

	ADDRESS Street City Zip	PHONE NUMBER
DISCOVERED BY / D.O.B.		
OWNER / VICTIM'S NAME / D.O.B.		PHONE NUMBER
SUSPECT'S NAME / D.O.B. (approx) Epstein Jeff	358 FL Brillo	PHON
ADDT'NL. SUSPECT / D.O.B.		PHON

EXHIBIT "A"

SPECIAL INSTRUCTIONS

FOUND PROPERTY 90 DAYS — CLAIM ☐ NOT CLAIM ☐

ITEM #	QUANTITY	VALUE	DESCRIPTION
1	1		Phone message book (kitchen)
2	3		Phone message book (office off kitchen)
3	3		file folder (messages) w/ 2 more files (Purple marked Blue + Clear)
4	1		shredded paper off kitchen + foyer
5	1		orange file folder marked "massage"
			* items 2-5 from office off kitchen
6	1	Beige	massage table off from closet off foyer
7	1	Brown	massage table
8	1	Black	Framed Photo of nude girl
9	99		Pictures in frame 1 to 6-8 from Yellow/Blue room off Kitchen foyer
10	8		Photos from office off Pool area
11	2		Photos from taken on left → living room
12	2		Photos table on right → Pool area
			TOTAL PACKAGE WEIGHT

I hereby acknowledge that the above list represents all property taken from me and that I have received a copy of this receipt.

SIGNATURE DATE

I hereby acknowledge that the above list represents all property impounded by me in the official performance of my duty as a police officer.

SIGNATURE 7915 ID# DZ UNIT

RECEIVED BY	REASON	DATE/TIME RECEIVED
I, Joseph Recarey, the officer by whom this warrant was executed, do swear that the above inventory contains a true and detailed account of all the property taken by me, under the authority of this warrant. Sworn to and subscribed before me	#7915 08-80736-CV-MARRA	Joseph A. Burns

RFP WPB 000484

EFTA00185090

PALM BEACH POLICE DEPARTMENT
PROPERTY RECEIPT
SEARCH WARRANT RETURN

DETECTIVE BUREAU

PBPD Form #52

☐ PROPERTY ☐ FOUND ☐ DECEASED (Probated) ☐ PERSONAL ☐ CONFISCATED ☐ DESTROY
☑ EVIDENCE ☑ TRIAL ☐ LABORATORY ☐ STOLEN/RECOVERED ☐ OTHER Lab

INCIDENT/CITATION NUMBER	DATE/TIME RECOVERED	PROPERTY NUMBER (Leave Blank)	BIN NUMBER (Leave Blank)
05-368	10-20-05	05-1024	

ADDRESS WHERE PROPERTY IMPOUNDED: 358 El Brillo

	ADDRESS Street	City	Zip	PHONE NUMBER
DISCOVERED BY / D.O.B.				
OWNER / VICTIM'S NAME / D.O.B.				
SUSPECT'S NAME / D.O.B. 07-20-53 Epstein Jeff	358 El Brillo			
ADDT'NL. SUSPECT / D.O.B.				

SPECIAL INSTRUCTIONS

FOUND PROPERTY 90 DAYS — CLAIM ☐ NOT CLAIM ☐

ITEM #	QUANTITY	VALUE	DESCRIPTION
13	2	✓	VHS tapes from (redacted) on Bed Proof
14	2	*	CD's marked Happy Birthday ↑ Credit Card Receipt (2)
15	3		Photos framed from (redacted)
16	1	✓	message book 1st floor S/W corner (redacted) desk
17	1	✓	message book (from inside)
18	3	✓	CD's from desk
19	1	*	DVD from desk (items # 1 & 19 ID 21)
20	unframed		Photos from desk from 1st floor S.W.
21	2		framed Photos from desk Corner
22	2	*	framed Photos from table in SW corner office
23	3		Soap on Rope (NE Bedroom) (with rope)
24	2		Tie in Torpedo in Broom box
25	2	*	Lamp in Rope (middle Bedroom) Bedroom
26	1		Large framed Picture (from foyer into Master Bedroom)
			TOTAL PACKAGE WEIGHT

I hereby acknowledge that the above list represents all property taken from me and that I have received a copy of this receipt.

SIGNATURE DATE

I hereby acknowledge that the above list represents all property impounded by me in the official performance of my duty as a police officer.

SIGNATURE 7915 ID# D2 UNIT

RECEIVED BY	REASON	DATE/TIME RECEIVED
	08-80736-CV-MARRA	RFP WPB 000485

LM BEACH POLICE DEPARTMEI

PROPERTY RECEIPT
SEARCH WARRANT RETURN

DETECTIVE BUREAU

PBPD Form #52

☐ PROPERTY ☐ FOUND ☐ DECEASED (Probated) ☐ PERSONAL ☐ CONFISCATED ☐ DESTROY
☒ EVIDENCE ☐ TRIAL ☐ LABORATORY ☐ STOLEN/RECOVERED ☐ OTHER Lab

INCIDENT/CITATION NUMBER	DATE/TIME RECOVERED	PROPERTY NUMBER (Leave Blank)	BIN NUMBER (Leave Blank)
05-368	10-20-05	05-1024	

ADDRESS WHERE PROPERTY IMPOUNDED: 258 El Brillo

DISCOVERED BY / D.O.B.	ADDRESS	Street	City	Zip	PHONE NUMBER
OWNER / VICTIM'S NAME / D.O.B.	ADDRESS	Street	City	Zip	PHONE NUMBER
SUSPECT'S NAME / D.O.B. 01-20-53 Epstein, Jeff	ADDRESS 358 EL Brillo	Street	City	Zip	PHONE NUMBER
ADDTNL. SUSPECT / D.O.B.	ADDRESS	Street	City	Zip	PHONE NUMBER

SPECIAL INSTRUCTIONS

FOUND PROPERTY 90 DAYS — CLAIM ☐ NOT CLAIM ☐

ITEM #	QUANTITY	VALUE	DESCRIPTION
27	1	NCV	School transcript, ALEXANDER HALL, MASTER BDROOM DESK
28	1	NCV	BOTTLE OF JOY JELLY, MASTER BEDROOM CREDENZA MASTER BEDROOM (2)
29	3	NCV	VIDEOTAPES ½", SEXIN CITY, EATIN JANINE, I LOVE LESBIANS FOR, MASTER BEDROOM
30	6	NCV	FRAMED PHOTOS FROM MENS BATHROOM - MASTER BDROOM → DNA tests 3 Grps
31	1	NCV	GREEN MASSAGE TABLE, MEN'S BATHROOM - MASTER BEDROOM
32	1	NCV	THRIFTY RENTAL AGREEMENT FROM CHEVROLET SUBURBAN (COPIED)
33	1	NCV	NOTE FROM JOHANNA FROM CHEVROLET SUBURBAN.
34	UKB	11	CD's from office desk, kitchen
35	6		ZIP CD's from Book case RETURN
36	2		8mm Video tapes from Bookcase RETURN
37	4		Compact flash cards from Book case RETURN
38	1		flash card from Camera on book case - RETURN TO OWN
39	3		ZIP CD's from Book case RETURN
40	30		CD's from Book case (items 35-40 from guest house) RETURN
			TOTAL PACKAGE WEIGHT

I hereby acknowledge that the above list represents all property taken from me and that I have received a copy of this receipt.

SIGNATURE _____ DATE _____

I hereby acknowledge that the above list represents all property impounded by me in the official performance of my duty as a police officer.

SIGNATURE _____ ID# 715 UNIT D2

RECEIVED BY	REASON	DATE/TIME RECEIVED

LM BEACH POLICE DEPARTMEI
PROPERTY RECEIPT
DETECTIVE BUREAU

PBPD Form #62

SEARCH WARRANT RETURN

☐ PROPERTY ☐ FOUND ☐ DECEASED (Probated) ☐ PERSONAL ☐ CONFISCATED ☐ DESTROY
☑ EVIDENCE ☑ TRIAL ☐ LABORATORY ☐ STOLEN/RECOVERED ☐ OTHER lab

INCIDENT/CITATION NUMBER	DATE/TIME RECOVERED	PROPERTY NUMBER (Leave Blank)	BIN NUMBER (Leave Blank)
05-368	10-20-05	05-1024	

ADDRESS WHERE PROPERTY IMPOUNDED: 358 El Brillo

	ADDRESS (Street / City / Zip)	PHONE NUMBER
DISCOVERED BY / D.O.B.		
OWNER'S NAME / D.O.B.		
SUSPECT'S NAME / D.O.B. 9-20-53 Epstein, Jeff	358 El Brillo	
ADDT'NL. SUSPECT / D.O.B.		

SPECIAL INSTRUCTIONS

FOUND PROPERTY: 90 DAYS — CLAIM ☐ NOT CLAIM ☐

ITEM #	QUANTITY	VALUE	DESCRIPTION
41	1	✓	Floppy disks from ~~desk~~ middle Shelf Return
42	1	✓	Zip drive disk from guest room Returned
43	1		Power Cord for CPU from Guest room
44	1		CPU from Guest Bedroom
45	10	✓	8mm video Tapes in Guest Bedroom Return
46	1	✓	maxell CD-R in Guest bedroom RETURN (COPIED)
47	80	✓	Disks in clear Box RETURN
48	7	✓	Zip Disks from Guest room RETURN
			Items # 35—48 from the guest bedroom
49	1		message book from Guesthouse office RETURN
50	1		message book RETURN
51	2		Compact flash cards from
52	6		CD's return #49-51 from Guesthouse office
53	1		CPU from Guest house office RETURN
			TOTAL PACKAGE WEIGHT

I hereby acknowledge that the above list represents all property taken from me and that I have received a copy of this receipt.

SIGNATURE _____ DATE _____

I hereby acknowledge that the above list represents all property impounded by me in the official performance of my duty as a police officer.

SIGNATURE _____ ID# 7915 UNIT D2

RECEIVED BY	REASON	DATE/TIME RECEIVED

PAGE 5 of 6

PALM BEACH POLICE DEPARTMENT
PROPERTY RECEIPT
DETECTIVE BUREAU

PBPD Form #52

~~SEARCH WARRANT RETURN~~

☐ PROPERTY ☐ FOUND ☐ DECEASED (Probated) ☐ PERSONAL ☐ CONFISCATED ☐ DESTROY

☒ EVIDENCE ☒ TRIAL ☐ LABORATORY ☐ STOLEN/RECOVERED ☐ OTHER Lab

INCIDENT/CITATION NUMBER	DATE/TIME RECOVERED	PROPERTY NUMBER (Leave Blank)	BIN NUMBER (Leave Blank)
05-368	10-20-05	05-1024	

ADDRESS WHERE PROPERTY IMPOUNDED: 358 El Brillo Palm Beach

	ADDRESS (Street / City / Zip)	PHONE NUMBER
DISCOVERED BY / D.O.B.		
OWNER'S NAME / D.O.B.		
SUSPECT'S NAME / D.O.B. 01-20-5 Epstein, Jeff	358 El Brillo	
ADDT'NL. SUSPECT / D.O.B.		

SPECIAL INSTRUCTIONS

FOUND PROPERTY: 90 DAYS. CLAIM ☐ NOT CLAIM ☐

ITEM #	QUANTITY	VALUE	DESCRIPTION
54	1		Power cord to CPU (#53) Returned
55	1		CPU from office off kitchen (Halyna Quikbraton) Returned
56	1		Power cord to item #55
57	3		CD's Adam #55-57 from office off kitchen Returned
58	1		Peach message table upstairs Returned (Rolodex)
			RETURN
			RETURN
			RETURN
			RETURN RETURN
			RETURN
			TOTAL PACKAGE WEIGHT

I hereby acknowledge that the above list represents all property taken from me and that I have received a copy of this receipt.

SIGNATURE DATE

I hereby acknowledge that the above list represents all property impounded by me in the official performance of my duty as a police officer.

SIGNATURE 7915 D2 ID# UNIT #

RECEIVED BY	REASON	DATE/TIME RECEIVED
	08-80736-CV-MARRA	REP WPB 000488

PAGE 6 of 6

PALM BEACH POLICE DEPARTMENT
PROPERTY RECEIPT

S/W RETURN

PBPD Form #52

DETECTIVE BUREAU

☐ PROPERTY ☐ FOUND ☐ DECEASED (Probated) ☐ PERSONAL ☐ CONFISCATED ☐ DESTROY

☐ EVIDENCE ☒ TRIAL ☐ LABORATORY ☐ STOLEN/RECOVERED ☐ OTHER lab

INCIDENT/CITATION NUMBER	DATE/TIME RECOVERED	PROPERTY NUMBER (Leave Blank)	BIN NUMBER (Leave Blank)
05-	10 2005 1410	-05-1024	

ADDRESS WHERE PROPERTY IMPOUNDED: 358 EL Bullo

	ADDRESS Street	City	Zip	PHONE NUMBER
DISCOVERED BY / D.O.B.				
OWNER'S NAME / D.O.B.				
SUSPECT'S NAME / D.O.B. KERSTEN Jeff 53	358 EL Bullo			
ADDT'NL. SUSPECT / D.O.B.				

SPECIAL INSTRUCTIONS

FOUND PROPERTY 90 DAYS — CLAIM ☐ NOT CLAIM ☐

ITEM #	QUANTITY	VALUE	DESCRIPTION
1	1		GREEN PHOTO ALBUM WITH GOLD TRIMMED EDGES
			RETURN
			RETURN
			RETURN
			RETURN
			RETURN
			RETURN
			RETURN
			RETURN
			RETURN
			RETURN
			RETURN
			TOTAL PACKAGE WEIGHT

I hereby acknowledge that the above list represents all property taken from me and that I have received a copy of this receipt.

SIGNATURE _____ DATE _____

I hereby acknowledge that the above list represents all property impounded by me in the official performance of my duty as a police officer.

SIGNATURE _____ ID# 7915 UNIT DZ

RECEIVED BY	REASON	DATE/TIME RECEIVED
AB 8328	6	10-20-05 1500 hrs
	08-80736-CV-MARRA	RFP WPB 000489

EXHIBIT

121

From: FAXmaker To: 15618208777 Page: 2/2 Date: 7/21/2008 6:38:17 PM

LEWIS TEIN PL
ATTORNEYS AT LAW

July 21, 2008

Copy via facsimile [redacted]

Ann[redacted] C.[redacted], Esq.
Office of the United States Attorney
500 S. Australian Avenue
[redacted]

RE: *Jeffrey Epstein*

Dear Ms.[redacted]:

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.
[redacted], Esq.

EFTA00185097

EXHIBIT

122

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 08-80736-CIV-MARRA/JOHNSON

JANE DOE #1 AND JANE DOE #2,

Petitioners,

v.

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

EFTA00185099

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

EFTA00185100

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

EFTA00185101

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 [redacted] 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

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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. [redacted] and Jason [redacted] 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.)

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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 [redacted] 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

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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.

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On about July 3, 2008, Jane Doe #1 and Jane Doe #2 learned, through telephones conversations had between Mr. Edwards and AUSA Villafaña, 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 [redacted] sent a victim notification to Jane Doe #1 via her attorney, Mr. Edwards, which is attached as Exhibit 6 to the [redacted] 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

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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 Villafaña 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.

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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

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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 Villafaña sent a victim notification to Jane Doe #1 via her attorney, Bradley Edwards, which is attached as Exhibit 6 to the Villafaña 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

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"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* [redacted]. *Epstein et al.*, No. 08-

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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.

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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

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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 Harrison Street
Suite 202
Hollywood, Florida 33020
Telephone: 954-414-8033
Facsimile: 954-924-1530
E-Mail: be@bradedwardslaw.com

Paul G. Cassell
Attorney for Petitioners
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

EFTA00185113

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

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EXHIBIT

123

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Thursday, August 07, 2008 3:58 PM
To: Roy BLACK
Cc: Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS)
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,
[redacted]

DE19_080801_Vi
tims' Resp to N..

A. [redacted] *Villafaña*
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
[redacted]

Tracking:

EXHIBIT

124

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Friday, August 08, 2008 5:25 PM
To: [redacted]
Cc: Atkinson, Karen (USAFLS)
Subject: RE: messages

Thank you, [redacted]. I think we are going to have to produce a copy of the agreement in a suit pending in the federal court, and I want to make sure that we are using the same document in both courthouses.

Thank you again, and have a good weekend.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
[redacted]

From: [redacted] Belohlavek [redacted]
Sent: Friday, August 08, 2008 5:13 PM
To: [redacted]. (USAFLS)
Subject: messages

[redacted],

Have gotten your messages but have been swamped and am just getting out of court. I will get with you on Monday

Have a good weekend.

[redacted]

Tracking:

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Thursday, August 07, 2008 4:36 PM
To: Roy BLACK
Subject: RE: Notification of Possible Compelled Disclosure of theNon-Prosecution Agreement

Thank you, Roy. Your help is greatly appreciated.

A. [redacted] Villafaña
Assistant U.S. Attorney
[redacted]

-----Original Message-----
From: Roy BLACK [mailto:RBLACK@royblack.com]
Sent: Thursday, August 07, 2008 4:34 PM
To: [redacted]. (USAFLS)
Subject: Re: Notification of Possible Compelled Disclosure of theNon-Prosecution Agreement

[redacted] I am working on this and will get back to you.
-----Original Message-----
From: "[redacted]. (USAFLS)" <[redacted]
To: Roy BLACK <RBLACK@royblack.com>
Cc: Dexter (USAFLS) L[redacted]
Cc: Karen (USAFLS) At[redacted]

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,
[redacted]

<<DE19_080801_Victims' Resp to Notice.pdf>>

A. [redacted]
Assistant U.S. Attorney
[redacted]

Tracking:

[redacted]. (USAFLS)

From: Roy BLACK [RBLACK@royblack.com]
Sent: Thursday, August 07, 2008 4:34 PM
To: [redacted]. (USAFLS)
Subject: Re: Notification of Possible Compelled Disclosure of theNon-Prosecution Agreement

[redacted] I am working on this and will get back to you.
-----Original Message-----
From: "[redacted]
To: Roy BLACK <RBLACK@royblack.com>
Cc: Dexter (USAFLS) Lee [redacted]
Cc: Karen (USAFLS) Atkinson [redacted]

Sent: 8/7/2008 3:57:52 PM
Subject: Notification of Possible Compelled Disclosure of the Non-Prosecution Agreement

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Thank you again for your assistance.

Regards,
[redacted]

<<DE19_080801_Victims' Resp to Notice.pdf>>

A. [redacted]
Assistant U.S. Attorney
[redacted]

[redacted]

Villafana, Ann [redacted] C. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Thursday, August 07, 2008 3:58 PM
To: Roy BLACK
Cc: Atkinson, Karen (USAFLS); Lee, Dexter (USAFLS)
Subject: Notification of Possible Compelled Disclosure of the Non-Prosecution Agreement

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Thank you again for your assistance.

Regards,
Marie

DE19_080801_Vi
:tims' Resp to N..

A. [redacted] *Villafaña*
Assistant U.S. Attorney
[redacted]

Tracking:

[redacted]. (USAFLS)

From: Roy BLACK [RBLACK@royblack.com]
Sent: Wednesday, August 06, 2008 1:49 PM
To: [redacted]. (USAFLS)
Subject: Re: Follow-up on last week's call

Ok. Will do.
-----Original Message-----
From: "[redacted]. (USAFLS)" [redacted]
To: Roy BLACK <RBLACK@royblack.com>
Cc: Karen (USAFLS) Atkinson <[redacted]

Sent: 8/6/2008 1:38:23 PM
Subject: RE: Follow-up on last week's call

Hi Roy -- Hope your trip is going well. Are you available today at 4:30 Eastern (1:30 Pacific)? If so, please call my office at the number below, and Karen and I can both be reached there.

Thank you.

A. [redacted]
Assistant U.S. Attorney
[redacted]

-----Original Message-----
From: Roy BLACK [mailto:RBLACK@royblack.com]
Sent: Tuesday, August 05, 2008 11:40 PM
To: [redacted]. (USAFLS)
Cc: Atkinson, Karen (USAFLS)
Subject: Re: Follow-up on last week's call

[redacted] I just got back to my computer. Sorry it took awhile to respond. I am available tomorrow to call you. Let me know what time to call.
Remember I am 3 hours behind you so email me the time in the am and I will call.
Thanks Roy

>>> "[redacted]. (USAFLS)" [redacted]
08/05/08 1:01 PM >>>
Hi Roy - Are you available late this afternoon to do a follow-up on last week's call? If today does not work, can you let us know about your availability tomorrow, as well?

Thank you.

A. [redacted] Villafaña
Assistant U.S. Attorney
[redacted]

[redacted]. (USAFLS)

From: Roy BLACK [RBLACK@royblack.com]
Sent: Tuesday, August 05, 2008 11:40 PM
To: [redacted]. (USAFLS)
Cc: Atkinson, Karen (USAFLS)
Subject: Re: Follow-up on last week's call

[redacted] I just got back to my computer. Sorry it took awhile to respond. I am available tomorrow to call you. Let me know what time to call.
Remember I am 3 hours behind you so email me the time in the am and I will call.
Thanks Roy

>>> "[redacted]. (USAFLS)" [redacted]
08/05/08 1:01 PM >>>
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Thank you.

A. [redacted] Villafaña
Assistant U.S. Attorney
[redacted]

Villafana, Ann [redacted] C. (USAFLS)

From: Villafana, Ann [redacted] C. (USAFLS)
Sent: Tuesday, August 05, 2008 3:29 PM
To: [redacted]
Subject: Question re Epstein -- Sorry to bother

Hi Lanna – Sorry to bother you, but a question has come up over here. I know that you filed the Non-Prosecution Agreement with the United States. Did you file the version that I emailed to you (the three-part agreement) or a different version?

Thank you.

A. [redacted] *Villafaña*
Assistant U.S. Attorney
[redacted]

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Tuesday, August 05, 2008 1:01 PM
To: Roy BLACK
Cc: Atkinson, Karen (USAFLS)
Subject: Follow-up on last week's call

Hi Roy – Are you available late this afternoon to do a follow-up on last week's call? If today does not work, can you let us know about your availability tomorrow, as well?

Thank you.

A. Marie Villafaña
Assistant U.S. Attorney
[redacted]

[redacted]. (USAFLS)

From: Roy BLACK [RBLACK@royblack.com]
Sent: Wednesday, July 30, 2008 2:45 PM
To: [redacted]. (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: "[redacted]. (USAFLS)" <[redacted]
To: Roy BLACK <RBLACK@royblack.com>
Cc: Karen (USAFLS) Atkinson [redacted]

Sent: 7/30/2008 2:43:11 PM
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 -- [redacted]

Thank you.

A. [redacted] Villafaña
Assistant U.S. Attorney
[redacted]

-----Original Message-----
From: Roy BLACK [mailto:RBLACK@royblack.com]
Sent: Wednesday, July 30, 2008 2:38 PM
To: [redacted]. (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: "[redacted]. (USAFLS)" [redacted]
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. [redacted]
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401
[redacted]

-----Original Message-----
From: Roy BLACK [mailto:RBLACK@royblack.com]
Sent: Wednesday, July 30, 2008 1:18 PM
To: [redacted]. (USAFLS)
Subject: Re: Jeffrey Epstein

I am out of town. What is it about?

>>> "[redacted]. (USAFLS)" [redacted]
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.

[redacted]
Assistant U.S. Attorney
[redacted]

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
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 -- [redacted]

Thank you.

A. [redacted] Villafaña
Assistant U.S. Attorney
[redacted]

-----Original Message-----
From: Roy BLACK [mailto:RBLACK@royblack.com]
Sent: Wednesday, July 30, 2008 2:38 PM
To: [redacted]. (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: "[redacted]. (USAFLS)" [redacted]
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. [redacted]
Assistant U.S. Attorney
[redacted]

-----Original Message-----
From: Roy BLACK [mailto:RBLACK@royblack.com]
Sent: Wednesday, July 30, 2008 1:18 PM
To: [redacted]. (USAFLS)

Subject: Re: Jeffrey Epstein

I am out of town. What is it about?

>>> "[redacted]. (USAFLS)" [redacted]
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. [redacted] Villafaña
Assistant U.S. Attorney
[redacted]

[redacted]. (USAFLS)

From: Roy BLACK [RBLACK@royblack.com]
Sent: Wednesday, July 30, 2008 2:38 PM
To: [redacted]. (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: [redacted]. (USAFLS)" [redacted]
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. [redacted]
Assistant U.S. Attorney
[redacted]
Phone [redacted]
Fax [redacted]

-----Original Message-----
From: Roy BLACK [mailto:RBLACK@royblack.com]
Sent: Wednesday, July 30, 2008 1:18 PM
To: [redacted]. (USAFLS)
Subject: Re: Jeffrey Epstein

I am out of town. What is it about?

>>> "[redacted]. (USAFLS)" <A[redacted]
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. [redacted]
Assistant U.S. Attorney
[redacted]

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Wednesday, July 30, 2008 2:32 PM
To: Roy BLACK
Subject: RE: Jeffrey Epstein

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

A. [redacted]
Assistant U.S. Attorney
[redacted]

-----Original Message-----
From: Roy BLACK [mailto:RBLACK@royblack.com]
Sent: Wednesday, July 30, 2008 1:18 PM
To: [redacted]. (USAFLS)
Subject: Re: Jeffrey Epstein

I am out of town. What is it about?

>>> "[redacted]. (USAFLS)" <[redacted]
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. [redacted]
Assistant U.S. Attorney
[redacted]

[redacted]. (USAFLS)

From: Atkinson, Karen (USAFLS)
Sent: Wednesday, July 30, 2008 2:27 PM
To: [redacted]. (USAFLS)
Subject: RE: Jeffrey Epstein

Sounds good

-----Original Message-----
From: [redacted]. (USAFLS)
Sent: Wednesday, July 30, 2008 1:42 PM
To: Atkinson, Karen (USAFLS)
Subject: FW: Jeffrey Epstein

FYI -- I was going to respond that it relates to the performance of the Non-Prosecution Agreement. What do you think?

A. [redacted] Villafaña
Assistant U.S. Attorney
[redacted]

-----Original Message-----
From: Roy BLACK [mailto:RBLACK@royblack.com]
Sent: Wednesday, July 30, 2008 1:18 PM
To: [redacted]. (USAFLS)
Subject: Re: Jeffrey Epstein

I am out of town. What is it about?

>>> '[redacted]. (USAFLS)" <[redacted]>
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. [redacted] Villafaña
Assistant U.S. Attorney
[redacted]

[redacted]. (USAFLS)

From: Roy BLACK [RBLACK@royblack.com]
Sent: Wednesday, July 30, 2008 1:18 PM
To: [redacted]. (USAFLS)
Subject: Re: Jeffrey Epstein

I am out of town. What is it about?

>>> "[redacted]. (USAFLS)" [redacted]
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. [redacted]
Assistant U.S. Attorney
[redacted]

EXHIBIT

125

[redacted]. (USAFLS)

From: Roy BLACK [RBLACK@royblack.com]
Sent: Monday, August 11, 2008 11:40 PM
To: [redacted]. (USAFLS)
Subject: Jeffrey Epstein

[redacted]: 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

EXHIBIT

126

[redacted]. (USAFLS)

From: Jay Lefkowitz [JLefkowitz@kirkland.com]
Sent: Wednesday, August 13, 2008 10:00 PM
To: [redacted]. (USAFLS)
Cc: Roy BLACK
Subject: Re: Electronic Copy of my Fax

Thx [redacted] - speak tomorrow. I will call you around 1130-1200.

Jay

From: "[redacted]. (USAFLS) [redacted]
Sent: 08/13/2008 06:20 PM AST
To: Jay Lefkowitz
Cc: "Roy BLACK" <RBLACK@royblack.com>
Subject: Electronic Copy of my Fax

Jay - Here is a scanned version of the fax, in case you have already left.

<<Lefkowitz 080813008.pdf>>

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

[redacted]

****
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****

[redacted]. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS)
Sent: Wednesday, August 13, 2008 6:21 PM
To: lefkowitz@kirkland.com
Cc: Roy BLACK
Subject: Electronic Copy of my Fax

Jay – Here is a scanned version of the fax, in case you have already left.

Lefkowitz
080813008.pdf

A. [redacted] *Villafaña*
Assistant U.S. Attorney
[redacted]

[redacted]. (USAFLS)

From: Jay Lefkowitz [redacted]
Sent: Wednesday, August 13, 2008 4:40 PM
To: [redacted]. (USAFLS)

[redacted] -

Are you reachable?

Thanks -- Jay

****
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****

[redacted]. (USAFLS)

From: [redacted], Ann [redacted] C. (USAFLS)
Sent: Wednesday, August 13, 2008 3:28 PM
To: Roy BLACK
Cc: Atkinson, Karen (USAFLS)
Subject: Jeffrey Epstein

Dear Roy -

Judge Marra has set us for a status conference tomorrow afternoon in Jane Doe [redacted]. United States. Given Judge Marra's past rulings, I anticipate that he may order us to turn over the agreement, so we need to get this issue resolved today, if at all possible.

Thank you,
[redacted]

A. [redacted] *Villafaña*
Assistant U.S. Attorney
[redacted]

Tracking:

[redacted]. (USAFLS)

From: Villafana, Ann [redacted] C. (USAFLS)
Sent: Tuesday, August 12, 2008 4:28 PM
To: Roy BLACK
Cc: Atkinson, Karen (USAFLS)
Subject: Full Agreement

Hi Roy – This is what I have provided to Lanna as representing the full agreement and it is what I have described in my Declaration with the Court.

Epstein Agrmt001.pdf

Thank you.

A. [redacted] *Villafaña*
Assistant U.S. Attorney
[redacted]

[redacted]. (USAFLS)

From: Roy BLACK [RBLACK@royblack.com]
Sent: Tuesday, August 12, 2008 3:45 PM
To: [redacted]. (USAFLS)
Subject: Re: Call

Ok. I will call at 4:15 your time.
-----Original Message-----
From: "[redacted]. (USAFLS)" [redacted]
To: Roy BLACK <RBLACK@royblack.com>

Sent: 8/12/2008 3:42:04 PM
Subject: Call

Hi Roy - Karen is tied up until 4:15. Can we call you then? Or would you like to call us?

A. [redacted] Villafaña
Assistant U.S. Attorney
[redacted]

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Tuesday, August 12, 2008 3:42 PM
To: Roy BLACK
Subject: Call

Hi Roy – Karen is tied up until 4:15. Can we call you then? Or would you like to call us?

A. [redacted] *Villafaña*
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
[redacted]

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Tuesday, August 12, 2008 12:07 PM
To: Roy BLACK
Subject: RE: Jeffrey Epstein

Hi Roy -- Can you give me a call? We need to discuss something.

A. [redacted] Villafaña
Assistant U.S. Attorney
[redacted]

-----Original Message-----
From: Roy BLACK [mailto:RBLACK@royblack.com]
Sent: Monday, August 11, 2008 11:40 PM
To: [redacted]. (USAFLS)
Subject: Jeffrey Epstein

[redacted]: 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

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Tuesday, August 12, 2008 11:12 AM
To: [redacted]
Subject: Epstein

Hi [redacted] – Sorry to be a bother, but we need to file our response with the Court this week, so I really need a copy of what was filed in your case and also the procedures to obtain the transcript of the change of plea hearing.

Thank you.

A. [redacted] *Villafaña*
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
[redacted]

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
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,
[redacted]

A. [redacted] Villafaña
Assistant U.S. Attorney
[redacted]

-----Original Message-----
From: Roy BLACK [mailto:RBLACK@royblack.com]
Sent: Monday, August 11, 2008 11:40 PM
To: [redacted]. (USAFLS)
Subject: Jeffrey Epstein

[redacted]: 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

Tracking:

EXHIBIT

127

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Thursday, August 14, 2008 12:43 PM
To: lefkowitz@kirkland.com
Cc: Atkinson, Karen (USAFLS)
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. [redacted] *illafaña*
Assistant U.S. Attorney
[redacted]

EXHIBIT

128

[redacted] (USAFLS)

From: [redacted] Ann [redacted] C. (USAFLS)
Sent: Thursday, August 14, 2008 12:28 PM
To: Jay Lefkowitz
Subject: RE: Telephone Call

Fine.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
[redacted]

From: Jay Lefkowitz [mailto:JLefkowitz@kirkland.com]
Sent: Thursday, August 14, 2008 12:26 PM
To: [redacted] (USAFLS)
Cc: Atkinson, Karen (USAFLS)
Subject: Re: Telephone Call

How about 10 minutes?

From: "[redacted] (USAFLS)" [redacted]
Sent: 08/14/2008 12:19 PM AST
To: Jay Lefkowitz
Cc: "Atkinson, Karen (USAFLS)" [redacted]
Subject: Telephone Call

Hi Jay – Can you give me a specific time for the call so that I can conference call you and Karen?

Thank you.

A. [redacted]

Assistant U.S. Attorney

500 S. Australian Ave. Suite 400

West Palm Beach, FL 33401

[redacted]

****
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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.
****

[redacted]. (USAFLS)

From: [redacted], Ann Marie C. (USAFLS)
Sent: Thursday, August 14, 2008 12:19 PM
To: lefkowitz@kirkland.com
Cc: Atkinson, Karen (USAFLS)
Subject: Telephone Call

Hi Jay – Can you give me a specific time for the call so that I can conference call you and Karen?

Thank you.

A. Marie Villafaña
Assistant U.S. Attorney
[redacted]

[redacted]. (USAFLS)

From: [redacted], Ann Marie C. (USAFLS)
Sent: Thursday, August 14, 2008 11:33 AM
To: Roy BLACK
Subject: Call with Jay Lefkowitz

Hi Roy – Sorry to bother you early in the morning. Jay Lefkowitz is supposed to call soon to discuss the agreement. We would prefer to have you on the call as well.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
West Palm Beach, FL 33401
[redacted]

EXHIBIT

129

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Thursday, August 14, 2008 4:21 PM
To: [redacted]; 'Roy BLACK'
Cc: Atkinson, Karen (USAFLS)
Subject: Hearing with Judge Marra

Dear Jay and Roy:

We just finished our hearing with Judge Marra. He has ordered us to make the Agreement available to the plaintiffs in this case pursuant to a protective order limiting the disclosure to the victims and their counsel only. He further has ordered that we have to make the agreement available to any other identified victim and her attorney, so long as they also agree to be bound by the protective order. Judge Marra stated that the plaintiffs can litigate the issue of further disclosure directly with Mr. Epstein in the context of their civil suits.

When I receive the Court's order and a signed protective order, I will provide them to you.

A. Marie Villafaña
Assistant U.S. Attorney
[redacted]

Tracking:

EXHIBIT

130

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 S. Australian Ave, Ste 400
West Palm Beach, FL 33401
[redacted]
Facsimile: [redacted]

August 15, 2008

DELIVERY BY ELECTRONIC MAIL
Jay P. Lefkowitz, Esq.
Kirkland & Ellis LLP
Citigroup Center
[redacted]
New York, New York 10022-4675

Roy Black, Esq.
Black Srebnick Kornspan & Stumpf P.A.
201 S. Biscayne Blvd, [redacted]
[redacted]

Re: Jeffrey Epstein

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, we will now consider that modification to be a nullity.

Pursuant to our Agreement, I will prepare an Amended Notification that contains the names of additional identified victims. In accordance with Paragraph 7B of the October Addendum, please provide me by Monday afternoon with a proposed written submission to the independent third-party who will select the attorney representative.

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.

Sincerely,

[redacted]
United States Attorney

By: [signature]
A. [redacted]
Assistant United States Attorney

cc: Karen Atkinson, Chief, Northern Division

EXHIBIT

131

KIRKLAND & ELLIS LLP

Fax Transmittal

Citigroup Center
[redacted]
Phone: [redacted]
Fax: [redacted]

Please notify us immediately if any pages are not received.

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

To:	*Company:*	*Fax #:*	*Direct #:*
A. [redacted] Villafana	United States Attorney's Office	[redacted]	
CC:	***Company:***	***Fax #:***	***Direct #:***
Karen Atkinson	United States Attorney's Office	[redacted]	
From:	***Date:***	***Pages w/cover:***	***Fax #:***	***Direct #:***
Jay P. Lefkowitz	August 18, 2008	3	[redacted]	[redacted]

Message:

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:
[redacted]) 446-4900

Jay P. Lefkowitz, P.C.
To Call Writer Directly:
[redacted]) 446-4970
lefkowitz@kirkland.com

August 18, 2008

VIA FACSIMILE ([redacted]) 820-8777

A. Marie Villafana
United States Attorney's Office
Southern District of Florida
[redacted]
West Palm Beach, Florida 33401

Re: Jeffrey Epstein

Dear [redacted]:

I write in response to your letter dated August 15, 2008 regarding the civil restitution portion of the Deferred Prosecution Agreement (the "Agreement"). Thank you for confirming our position that the December modification proposal is not part of the Agreement. As expressed by U.S. Attorney [redacted] in his December 19, 2007 letter, the unorthodox use of a civil restitution statute in a federal plea agreement, which resulted in state charges against Mr. Epstein, has caused several miscommunications with respect to the implementation of the terms of that Agreement. In order to avoid any further miscommunications and to ensure that the 18 U.S.C. § 2255 aspects of the Agreement are carried out in a proper manner, it would be useful to come to an agreement as to the implementation of the civil restitution portion of the Agreement. As we have previously stated, Mr. Epstein fully intends to abide by the terms of the Agreement, and we hope you appreciate that our efforts to resolve any misunderstandings between Mr. Epstein and the government about the terms of the Agreement are intended only to ensure that it is carried out fully and fairly.

In an effort to avoid having either party unintentionally breach the Agreement, we suggest that steps be taken to clarify the meaning of paragraphs 7-10. It would be extremely helpful to both sides to have an independent third party consider the Agreement and offer the final word on how certain clauses should be interpreted and satisfied. Because the government has already enlisted Judge [redacted] to select the attorney representative under the Agreement, we would be amenable to his serving in this role.

In order to come to an agreement on the exact procedure by which the identified individuals will obtain restitution, I am providing you with our thoughts on three issues below.

KIRKLAND & ELLIS LLP

Once we come to an agreement on the following and you provide a complete and final list of identified individuals, it will be appropriate to notify them.

First, I am concerned by your suggestion that you might want to increase the number of individuals on the government's list. I had expected the number to have become smaller, because when we spoke prior to signing the agreement, you told me that the government already had a list, and we were informed thereafter that the September 24, 2007 list had been narrowed. Certainly, anyone who was not on the list prior to September 24, 2007 cannot permissibly be added to the list.

Second, we will cooperate with the government to reach to an agreement as to substance of the notification to be sent to the government's list of individuals. Based on the Agreement, the information contained in the notification should be limited to (1) the language provided in the Agreement dealing with civil restitution (paragraphs 7-10) and (2) the contact information of the selected attorney representative. We object to the inclusion of additional information about the investigation of Mr. Epstein, the terms of the Agreement other than paragraphs 7-10, and the identity of other identified individuals.

Third, as you are aware, the Addendum requires that "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 customary hourly rate for representing such victims subject to the provisions of Paragraph C, infra." We will certainly cooperate with the government to draft such a joint submission and would be pleased to submit draft language to you for such a joint submission.

I look forward to working with you to resolve these matters. I believe we have a mutual interest in moving past all of these issues so that the civil restitution aspects of the Agreement can be fulfilled.

Sincerely,

Jay P. Lefkowitz

cc: Karen Atkinson, Chief, Northern Division

EFTA00185165

EXHIBIT

132

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 S. Australian Ave, Ste 400
West Palm Beach, FL 33401
[redacted]
Facsimile: [redacted]

August 21, 2008

DELIVERY BY ELECTRONIC MAIL
Jay P. Lefkowitz, Esq.
Kirkland & Ellis LLP
Citigroup Center
[redacted]
New York, New York 10022-4675

Roy Black, Esq.
Black Srebnick Kornspan & Stumpf P.A.
201 S. Biscayne Blvd, [redacted]
[redacted]

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.

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,

[redacted]
United States Attorney

By: Alain Villafaña
[redacted]
Assistant United States Attorney

cc: Karen Atkinson, Chief, Northern Division

EFTA00185168

EXHIBIT

133

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 S. Australian Ave, Ste 400
West Palm Beach, FL 33401
[redacted]

August 26, 2008

DELIVERY BY ELECTRONIC MAIL
Jay P. Lefkowitz, Esq.
Kirkland & Ellis LLP
Citigroup Center
[redacted]
New York, New York 10022-4675

Roy Black, Esq.
Black Srebnick Kornspan & Stumpf P.A.
201 S. Biscayne Blvd, [redacted]

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*,

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,

[redacted]
United States Attorney

By: A. Marie Villafaña
A. Marie Villafaña
Assistant United States Attorney

cc: Karen Atkinson, Chief, Northern Division

EXHIBIT

134

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Thursday, August 28, 2008 3:51 PM
To: Brad Edwards
Cc: Lee, Dexter (USAFLS)
Subject: RE: Epstein
Attachments: Epstein NonProsecution Agrmt w Addendum.pdf

Hi Brad – I received your fax with the signed Protective Order, so I have attached the Non-Prosecution Agreement. Please give me a call when you receive. And please send or fax over copies of the signed Protective Order as you receive them from your clients and co-counsel.

Thank you,

A. [redacted] *Villafaña*
Assistant U.S. Attorney
[redacted]
Phone [redacted]
Fax [redacted]

From: Brad Edwards [mailto:be@bradedwardslaw.com]
Sent: Thursday, August 28, 2008 9:33 AM
To: [redacted]. (USAFLS)
Subject: RE: Epstein

It has already been faxed to you. Please let me know if you do not receive it. Also, I would appreciate it if you could fax it to me as well as mail it, as I would really like to see it today if at all possible Thanks

Brad Edwards, Esquire
Law Office of Brad Edwards & Associates
2028 Harrison 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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EXHIBIT

135

[redacted]. (USAFLS)

From: [redacted]. Ann Marie C. (USAFLS)
Sent: Tuesday, September 02, 2008 1:16 PM
To: 'lefkowitz@kirkland.com'; 'Roy BLACK'
Cc: Atkinson, Karen (USAFLS)
Subject: Thank you for your fax

Dear Jay and Roy:

I have received your fax. I will start sending out the victim notifications today. In accordance with your request, I have changed the language regarding the victims' right to receive a copy of the Agreement.

Mr. Goldberger will be receiving copies as the letters go out.

Thank you.

A. [redacted] *Villafaña*
Assistant U.S. Attorney
[redacted]

Tracking:

EXHIBIT

136

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
[redacted]
Facsimile: [redacted]

September 3, 2008

NOTIFICATION OF IDENTIFIED VICTIM

NOTICE: IN ACCORDANCE WITH TITLE 18, UNITED STATES CODE, SECTION 3509(d) AND FLORIDA LAW, THE ATTACHED DOCUMENT IS TO BE TREATED AS CONFIDENTIAL AND SHALL NOT BE DISCLOSED EXCEPT IN CONNECTION WITH A LEGAL PROCEEDING.

EFTA00185177

U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401
[redacted]
Facsimile: [redacted]

September 3, 2008

VIA UNITED STATES MAIL
Brad Edwards, Esq.
2028 Harrison Street, Suite 202
Hollywood, Florida 33020

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

Dear Mr. Edwards:

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 9, 2008 letter to Ms. Wild 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

EFTA00185178

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, shall cease.

Mr. Josefsberg will be contacting you within the next two weeks to explain these terms and to determine if he may contact Ms. [redacted] directly. If you would like to contact Mr. Josefsberg directly, he can be reached at 305 358-2800.

EFTA00185179

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, Mr. Epstein's attorney, Jack Goldberger, asks that he be contacted at Atterbury Goldberger and Weiss, 250 Australian Avenue South, Suite 1400, West Palm Beach, FL 33401.

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.

[redacted]
UNITED STATES ATTORNEY

By: [signature]
A. [redacted]
ASSISTANT U.S. ATTORNEY

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

EFTA00185180

EXHIBIT

137

HERMAN & MERMELSTEIN PA
ATTORNEYS AT LAW

Jeffrey M. Herman
Tel 305.931.2200
Fax 305.931.0877
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18205 Biscayne Blvd.
Suite 2218
Miami, Florida 33160
www.hermanlaw.com

September 16, 2008

Via Fax and Regular Mail
[redacted], 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. [redacted] 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 inclu

Sincerely,

Jeffrey M. Herman

JMH/lr

EXHIBIT

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[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Wednesday, September 17, 2008 12:00 PM
To: [redacted]
Cc: [redacted] Garcia, Rolando (USAFLS); [redacted], Jeff (USAFLS); Atkinson, Karen (USAFLS)
Subject: Your inquiry regarding the Epstein case

Hi Barry – The Non-Prosecution Agreement contains a confidentiality provision that requires us to inform Mr. Epstein's counsel before making any disclosure – even a compulsory disclosure. I am cc'ing you on a letter to Jay Lefkowitz, Roy Black, and Jack Goldberger informing them of the request and asking them, as parties to the criminal case, to contact you regarding a possible suit by the Shiny Sheet.

On another note, I also will be informing them that I believe that they still have not filed the complete agreement with the Court, as required by the Judge at the hearing.

Thank you very much for reaching out to us when you received this request, and if you need any help from us, please let us know.

[redacted]
Assistant U.S. Attorney
[redacted]

EXHIBIT

139

[redacted]. (USAFLS)

From: [redacted]. (USAFLS)
Sent: Thursday, September 18, 2008 2:52 PM
To: KATHERINE W. EZELL
Subject: RE: Emailing: CI1066

Hi Kathy -- As far as I know, Judge Marra has not ever seen the agreement or these notification letters. The agreement was filed under seal in the state court, but it was filed after the fact, so I don't know if the sentencing judge ever reviewed it.

The letters were reviewed by my office and Jay Lefkowitz and Roy Black before they went out.

I am going to send my letter out by e-mail today, but I am just waiting to hear back from the higher-ups in Miami.

A. [redacted] Villafaña
Assistant U.S. Attorney
[redacted]

-----Original Message-----
From: KATHERINE W. EZELL [mailto:KEZELL@PODHURST.com]
Sent: Thursday, September 18, 2008 1:56 PM
To: [redacted]. (USAFLS)
Subject: Emailing: CI1066

<<CI1066.WPD>>
Here's the draft. One question I had here. Was this arrangement in any way "blessed" by Judge Marra? Can I mention the Court, as I did a couple of times, or should I take this out. By the way, I re-read the rules that would apply to emails, letters or calls from us-- and they will be awful to have to comply with.

EXHIBIT

140

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 08-80736-CIV-KAM

JANE DOE,

PETITIONER,

[redacted]

UNITED STATES OF AMERICA,

RESPONDENT.

West Palm Beach, Florida
November 23, 2015

TRANSCRIPT OF STATUS CONFERENCE PROCEEDINGS

BEFORE THE HONORABLE KENNETH A. MARRA

UNITED STATES DISTRICT JUDGE

Appearances:

FOR THE PETITIONER
Bradley J. Edwards, ESQ.,
Brittany Henderson, ESQ., AND
Paul G. Cassell, ESQ.
Farmer Jaffe Weissing, et al.
425 North Andrews Avenue, Suite 2
Fort Lauderdale, FL 33301

FOR THE RESPONDENT
Dexter Lee, AUSA, AND
Ed Sanchez, AUSA
United States Attorney's Office
99 Northeast 4th Street
Miami, FL 33132

Reporter
[redacted]
Stephen W. Franklin, RMR, CRR, CPE
Official Court Reporter
701 Clematis Street
[redacted]
E-mail: SFranklinUSDC@aol.com

(Call to the order of the Court.)

THE COURT: Good afternoon, please be seated.

MR. SANCHEZ: Good afternoon, Your Honor.

MR. LEE: Good afternoon, Your Honor.

THE COURT: We are here in the case of Doe versus United States, Case Number 08-80736-CIV-MARRA.

May I have counsel state their appearances.

MR. EDWARDS: Brad Edwards and Britney Henderson, as well as Paul Cassell on the telephone on behalf of the Petitioners.

THE COURT: Good afternoon.

MR. LEE: Good afternoon, Your Honor. May it please the Court. For the Respondents, Ed Sanchez and Dexter Lee, Assistant U.S. Attorneys. Good afternoon, Your Honor.

THE COURT: Thank you for being available on relatively short notice. I just thought we should get together and discuss where this case is going and how the parties thought we should proceed.

So Mr. Edwards why don't you tell me.

MR. EDWARDS: Sure. I don't mind taking the lead on that.

This is our plan, and I can tell you that Paul Cassell and I are being very careful in the way that we present what is going to be a 60-page summary judgment motion. We have set internally a deadline of filing, an artificial

deadline for ourselves, of December 15th. If Your Honor is okay with that, then that seems like it's going to fall in line. When I say we're being careful, we're being careful in how we're going to prepare and file the exhibits and what gets filed to make sure that we strictly comply with your prior orders in that regard.

That summary judgment, if granted, would take us, then, to the remedy stage, which I think is the next phase that would obviously be contested by parties in addition to the Government. If denied, then I would foresee requesting from Your Honor the ability to take several depositions, engage in some limited but additional discovery, and before requesting a jury trial, and I think that at least between my co-counsel and I, we envision getting this case resolved, if possible, by mid summer 2016. At least maybe that's overly optimistic, but that's my hope.

THE COURT: All right. Eight years later.

All right. So a 60-page summary judgment motion is going to take, I would think, the Government more than the normal 10 days to respond to that, especially if it's going to come on December 15th, and with the holidays.

MR. EDWARDS: And we're obviously going to work with them in that regard.

THE COURT: All right. So you just threw out a procedural issue that just stuck out as a jury trial. You

wanted to have a jury trial. I was wondering what would be the basis for a jury trial in this case? And not that we need to resolve that issue today, but is there any -- where do you see a right to a jury trial in this case? I guess we can deal with that down the road.

MR. EDWARDS: I think that's probably best.

THE COURT: Okay. All right. Mr. Lee, what do you foresee as how we should go forward with this case?

MR. LEE: Your Honor, we believe there's an issue about whether or not Jane Does 1 and 2 may have been complicit in the offenses, if you will. Specifically that they, themselves, procured additional young women for Mr. Epstein and were paid commissions or referral fees for it.

We're looking at a case that came out from the Eleventh Circuit, In Re Wellcare Health Plans, Incorporated, 754 F.3d 1234, June of 2014. We believe that issue is relevant because they found, the Court of Appeals, that if someone was complicit in the actual offense, that they are not entitled to be a victim and can invoke no victim rights under the Victim Rights Act.

So what we would propose to do is within the next week or so, to propound some very short requests for admissions and interrogatories directed to that specific issue. When the Petitioners file their 60-page summary judgment motion, we would anticipate, assuming we can get a

short extension of time to respond, we would file our own response and potentially a cross motion for summary judgment, Your Honor.

THE COURT: All right. Mr. Edwards, did you want to say something?

MR. EDWARDS: Yes.

Well, today is the first day that I've heard that the Government may attempt to argue that the victims were complicit in this and thus are disqualified, and I think that Your Honor has recognized all along that we represent not only Jane Doe 1 and 2, but all other similarly situated victims. There were numerous identified by the Government, some of which, in fact, many of which, because of the way that the crime and scheme was laid out from top to bottom, many of which were also recruiters. And so this additional, I will say, issue is going to likely lead to additional other issues, including what other victims can now be included; are there going to be additional Jane Does that may actually need to be joined by name, because they don't fall under the category of Jane Doe 1 and 2, to the extent that there's this latest argument gets any traction.

Like I said, today's the first day I've heard this, and so I have not read this case that's being cited, and I'm frankly surprised that now the victims who have been categorized as victims are now being considered something less

than that. But -- so that may change the timetable, I guess.

THE COURT: All right. Well, I guess we're not in a position to resolve that issue today.

MR. EDWARDS: We are not.

THE COURT: Okay. So Mr. Edwards, you mentioned if I deny your summary judgment motion, then you wanted to do some limited additional discovery in the nature of what? What are you foreseeing, again, looking down the road, if we get to that point.

MR. EDWARDS: So, for instance, if Your Honor were to determine that there was a genuine issue of material fact on the issue of did Jane Doe number 2 -- just taking her for example -- was she able to meaningfully confer with the Government? I would like to -- and the Government says, well, this is what we considered meaningfully conferring. It's she talked to X agent over here about something else. I would like to take the deposition of that agent, if that's something that they're going to rely upon. Or even the prosecutor, since it's actually the obligation is to give the victims the right to meaningfully confer with the prosecutor in the case. I'd just like to take the prosecutor's deposition to figure out what did you talk to her about, what did you not, so that we could hammer out whether that's meaningfully conferring under the statute.

THE COURT: So, again, if we get to the point where

a motion for summary judgment is denied, that's the extent of the additional discovery that you feel you would need to take, just the issue of what conferring the Government did with the victims in this case?

MR. EDWARDS: Yes, sir. That's all I can anticipate the right now.

THE COURT: Okay.

MR. EDWARDS: With this -- with the latest that I just heard, who knows.

THE COURT: Okay. From your standpoint.

MR. EDWARDS: Yes.

THE COURT: Mr. Lee, other than this limited discovery you just mentioned dealing with whether the Jane Does 1 and 2 were complicit in the underlying criminal conduct that Mr. Epstein was involved with, do you foresee any other additional discovery that you might need to take?

MR. LEE: No, Your Honor.

If I may comment briefly.

Your Honor, typically a CVRA action is part of a criminal proceeding in the normal course. Of course, there's really nothing normal about this case, but we all know that. But we don't believe that it is necessary or necessarily appropriate to ingraft the civil discovery rights onto this dispute. If there is a factual dispute that the Court finds would preclude a summary judgment motion, then the next step

is to go into an evidentiary hearing, much as would be held if there was a criminal case attached to this.

So we would object to any further discovery.

THE COURT: All right. But you just told me you wanted to take some discovery.

MR. LEE: Your Honor, you have already allowed them to do discovery, which is fine, and we have produced it. We want to exercise the same pre-summary judgment. But insofar as what goes on after summary judgment, in the event that it's denied, then it would go into -- straight into an evidentiary hearing.

THE COURT: All right. So, again, you don't -- other than this limited discovery that you just mentioned, you don't foresee or think it would be appropriate to have any additional discovery beyond that?

MR. LEE: That's correct, Your Honor.

THE COURT: Okay.

MR. CASSELL: Your Honor, this is Paul Cassell. If I could just mention -- Brad mentioned the limited discovery we would need. There is also one matter that Mr. Edwards may want to discuss with you at sidebar that could potentially surface at some point.

THE COURT: All right. I guess Mr. Edwards knows what you're talking about.

MR. EDWARDS: Sure, sure.

So we do have outstanding discovery requests that have been objected to by the Government. We have circulated a motion to compel to the Government, as well as to let's call them outside third parties. And there has been some discussion as to how we may be able to resolve it without the need of filing a motion to compel and putting anything back into a court record.

So we're trying to work that out amongst ourselves first. And if we can't, I guess we'd ask Your Honor if you could -- if you would indulge such an issue being filed under seal, even though it may be not technically appropriate to file under seal, and see it in camera so that it doesn't become kind of a sideshow.

THE COURT: All right. Well, again, that's something that may be necessary and might be worked out among the parties; is that correct?

MR. EDWARDS: Hopefully.

THE COURT: Is that what you were referring to, Mr. Cassell?

MR. CASSELL: Yes.

THE COURT: Okay. Well, I don't think I need to learn anything more specific at this point. If it become necessary, we'll deal with it.

So is there anything else we should talk about today?

MR. EDWARDS: No, except that, like I said, the time table we were planning to file this summary judgment motion was -- let's say it's already in draft form -- December 15th. If there is going to be additional discovery that's going to be allowed, propounded from the Government to our victims, I would just ask that we have kind of a discovery cutoff so that we could see the discovery, respond to the discovery and then file our summary judgment motion. Because it may help to frame what the issues are in those motions. That seams --

THE COURT: Well, again, there's no deadline by which you're supposed to file anything at this point. That's one of the reasons why I had the hearing, to see if we should set some deadlines and a scheduling order going forward so that, you know, we don't -- it doesn't linger.

I would suggest maybe that the parties get together and see if you can come to an agreement on putting together a schedule for whatever needs to be done before summary judgment, and assuming if the summary judgment's denied, when can an evidentiary hearing be held.

I guess we should talk about this issue of a jury trial that was just raised. And, again, I haven't researched it. I don't know precisely what the rules are for something like this, but my inclination would be this is not a jury issue. This is something for me to decide whether it was -- if it was in the criminal -- brought up in the criminal

context, I would think that the Judge would decide it. There wouldn't be any right to a jury trial. I don't know why, since this was filed as a separate civil proceeding, that that would change. But, again, I'm not prepared to make a ruling on that. I'm not saying that that's the ultimate outcome. I'm just giving you my initial impression.

And I'm just wondering if -- you know, if we're going -- if it's not going to be jury, then we can schedule something I think relatively quickly. I don't know how much is going to be needed beyond what's already undisputed in terms of factually what happened. I don't know what -- how much evidence would need to be taken at an evidentiary hearing.

Mr. Edwards, what do you think about if there was going to be an evidentiary hearing, jury or nonjury, I mean, how much time do you think it would take?

MR. EDWARDS: Well, it depends on, to me, what the Government's defenses are and whether -- and whether it's really going to come down into the nuance of what the Government did or did not say to victim A, and what they did or did not say to victim number 8, or number 9, or number 10. If it comes down -- if it really gets that specific, and it ultimately is going to require a determination that, yes, victim 2, 6 and 7's rights were violated in this regard, or -- I don't think that it should, but it sounds like it could.

And we have been contacted by other victims who do wish to testify and present evidence, and Your Honor said that's okay. So I think that all that kind of plays in.

I would think that if it's not going to be a jury trial -- so absent picking juries and those things -- then a couple days, two, three days we could probably get it done, I would think no matter how many victims testify, just because it's very narrow, the scope, I would think, of the examination.

THE COURT: That's what I would think, too, it would be very narrow.

So Mr. Lee?

MR. LEE: Yes, Your Honor.

And in so far as the jury trial, we believe there is no entitlement to a jury trial. It's based upon the Seventh Amendment. And this goes a little way back the last time I briefed this issue. It's basically whether, at the time of the founding of the Republic and common law, whether or not somebody was entitled to a jury trial at that time. This cause of action and this statute did not exist at that time, so therefore we submit that there is no right to a jury trial.

THE COURT: All right. Well, again, we don't need to decide that today. I was just -- since it was mentioned, I thought I would just raise that as an issue we're going to have to resolve at some point.

MR. LEE: Yes, sir.

THE COURT: So maybe that's something that should be briefed before we set a date for resolution one way or the other.

MR. EDWARDS: I think also that we would work with opposing counsel, send them what we have in terms of why we think it should be, and perhaps we could agree on that.

THE COURT: All right. So can I ask both sides to maybe get together and see if you can come up with some type of a proposed schedule going forward on whatever needs to be done, and if you can't agree on things you can tell me your respective positions, and then I can possibly set a -- an order going forward.

MR. EDWARDS: Absolutely.

Thank you, Your Honor.

MR. LEE: Yes, Your Honor, of course.

THE COURT: All right. Anything else we should or need to discuss today?

MR. LEE: Nothing for the Respondents. Thank you, Your Honor.

MR. EDWARDS: And nothing from the Petitioners. Thank you, Your Honor.

THE COURT: Mr. Cassell, anything else?

MR. CASSELL: No, Mr. Edwards capably conveyed our positions.

THE COURT: All right. Thank you, again, for being available on short notice, and we'll wait to hear back from both sides.

How much time do you think you need to put something together? A couple weeks?

MR. EDWARDS: I would say we could -- yeah, two or three weeks I think we'll put it together and we'll submit it.

MR. LEE: We agree.

THE COURT: Thank you. Take care.

(Proceedings concluded.)

* * * * *

CERTIFICATE

I, Stephen W. Franklin, Registered Merit Reporter, and Certified Realtime Reporter, certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Dated this 7th day of DECEMBER, 2015.

/s/Stephen W. Franklin

Stephen W. Franklin, RMR, CRR

MR. CASSELL: [3] 8/17 9/19 13/23
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THE COURT: [30]

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/

/s/Stephen [1] 14/19

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