

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS)
Sent: Wednesday, September 19, 2007 6:27 PM
To: Lourie, Andrew
Subject: RE: epstein

Hi Andy – Can you give me a call on my cell? Ja is supposed to be calling me at around 7:00. Cell is 561 601-2301. I'll be in my car in 2 minutes.

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

From: Lourie, Andrew [mailto:Andrew.Lourie2@usdoj.gov]
Sent: Wednesday, September 19, 2007 4:21 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: epstein

I will reach out to Alex to discuss.

From: Villafana, Ann Marie C. (USAFLS) [mailto:Ann.Marie.C.Villafana@usdoj.gov]
Sent: Wednesday, September 19, 2007 4:13 PM
To: Villafana, Ann Marie C. (USAFLS); Lourie, Andrew
Cc: Garcia, Rolando (USAFLS)
Subject: RE: epstein

Oh, and they took out the appeal waiver.

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

From: Villafana, Ann Marie C. (USAFLS)
Sent: Wednesday, September 19, 2007 4:05 PM
To: 'Lourie, Andrew'
Cc: Garcia, Rolando (USAFLS)
Subject: RE: epstein
Importance: High

I just got their "red-lined" version. I will forward it to you. Here are the issues that Rolando and I specifically discussed with them and rejected, that they have re-inserted into the agreement.

1. We agree to recommend that no PSI be prepared.
2. [REDACTED] have converted it into an ABA plea – as though we wouldn't notice?
3. They want us to agree to the incorrect calculation of the guidelines
4. Instead of agreeing that the girls can sue Epstein, they cannot sue him and instead are bound to apply to a trust administered by the State Court (Jay and I have addressed this at least three times and it keeps appearing in his versions)
5. They changed the state charge that he has to plead guilty to to a non-registrable offense and he doesn't have to plead to that charge until after he has finished serving his federal sentence.
6. They want us not to oppose a request for a prison camp designation.
7. They have re-added paragraphs 17 through 19, all of which are addressed by paragraph 2.

There are other problems too, but these are the highlights. This is NOT good faith negotiations.

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

From: Lourie, Andrew [mailto:Andrew.Lourie2@usdoj.gov]
Sent: Wednesday, September 19, 2007 3:50 PM
To: Villafana, Ann Marie C. (USAFLS)
Cc: Garcia, Rolando (USAFLS)
Subject: RE: epstein

Good job. A few thoughts:

I would eliminate the first sentence of para 2. Is there another way to deal with the issue in para 3 without this in the plea agreement? Do we need para 10? Isn't para 11 sufficient without 10? Is it our place to include para 13 in this agreement? I think it belongs in the state agreement and it looks out of place here.

I think you should include Roy or another member of the FL Bar on the plea agreement so we are not slowed down at the last minute by Pro Hac stuff.

From: Villafana, Ann Marie C. (USAFLS) [mailto:Ann.Marie.C.Villafana@usdoj.gov]
Sent: Wednesday, September 19, 2007 2:36 PM
To: Lourie, Andrew
Subject: RE: epstein

FYI – The Palm Beach Post reported the whole deal in today's paper and claimed to have a "federal source" and a "spy" in Epstein's camp.

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

From: Lourie, Andrew [mailto:Andrew.Lourie2@usdoj.gov]
Sent: Wednesday, September 19, 2007 2:33 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: RE: epstein

Can you send me copy of the last thing you sent them? Thanks.

From: Villafana, Ann Marie C. (USAFLS) [mailto:Ann.Marie.C.Villafana@usdoj.gov]
Sent: Wednesday, September 19, 2007 2:31 PM
To: Lourie, Andrew; Garcia, Rolando (USAFLS)
Subject: RE: epstein

We are still waiting for a "redline" of the agreement that they seemed happy with yesterday. Barry and Lanna and Epstein's attorneys are coming to our office on [REDACTED] to finalize everything with the plan of getting him at least arraigned on Monday afternoon. They tried to drag it into Tuesday and I said no.

A. Marie Villafaña
Assistant U.S. Attorney

561 209-1047

From: Lourie, Andrew [mailto:Andrew.Lourie2@usdoj.gov]
Sent: Wednesday, September 19, 2007 2:25 PM
To: Villafana, Ann Marie C. (USAFLS); Garcia, Rolando (USAFLS)
Subject: epstein

What is the latest?

3037

08-80736-CV-MARRA

P-014110

EFTA00189134

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS)
Sent: Wednesday, September 19, 2007 4:48 PM
To: 'Lourie, Andrew'
Cc: Garcia, Rolando (USAFLS)
Subject: RE: epstein

Hey Andy – Thanks for your comments. Here are my thoughts: the first sentence of paragraph 2 comes from the Office's standard plea agreement. I can change it, but Epstein's group seems to want me to be even more detailed (as in their paragraphs 17, 18, and 19).

Paragraph 3 also was added at their insistence. I don't think it hurts us.

I think I can combine my paragraphs 10, 11, and 13 to make one overarching statement that doesn't dictate too many of the terms of the state plea agreement.

I have kept your notes and will incorporate them into any future draft.

Thanks.

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

From: Lourie, Andrew [mailto:Andrew.Lourie2@usdoj.gov]
Sent: Wednesday, September 19, 2007 3:50 PM
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Cc: Garcia, Rolando (USAFLS)
Subject: RE: epstein

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To: Lourie, Andrew
Subject: RE: epstein

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Sent: Wednesday, September 19, 2007 2:31 PM
To: Lourie, Andrew; Garcia, Rolando (USAFLS)
Subject: RE: epstein

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

From: Lourie, Andrew [mailto:Andrew.Lourie2@usdoj.gov]
Sent: Wednesday, September 19, 2007 2:25 PM
To: Villafana, Ann Marie C. (USAFLS); Garcia, Rolando (USAFLS)
Subject: epstein

What is the latest?

Tracking:

3039

08-80736-CV-MARRA

P-014112

EFTA00189136

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS)
Sent: Wednesday, September 19, 2007 2:31 PM
To: Lourie, Andrew
Subject: RE:

I hadn't planned on it.

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

From: Lourie, Andrew [mailto:Andrew.Lourie2@usdoj.gov]
Sent: Wednesday, September 19, 2007 2:26 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject:

Is CEOS going to be a party to the plea agreement?

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS)
Sent: Wednesday, September 19, 2007 11:21 AM
To: Garcia, Rolando (USAFLS)
Subject: RE: Meeting with Epstein's attorneys

Will you be available by phone in case of problems? I want to make sure he is arraigned by Monday, so that if this falls apart we can still present the indictment on Tuesday.

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

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

From: Garcia, Rolando (USAFLS)
Sent: Wednesday, September 19, 2007 11:19 AM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Meeting with Epstein's attorneys

Thursday and Monday morning are bad.

Sent from my BlackBerry Wireless Handheld

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

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
To: Barry Krischer <Bkrische@sa15.state.fl.us>; Lanna Belohlavek
(lbelohla@sa15.state.fl.us) <lbelohla@sa15.state.fl.us>; Garcia, Rolando (USAFLS)
<RGarcia@usa.doj.gov>
Sent: Wed Sep 19 11:17:05 2007
Subject: Meeting with Epstein's attorneys

Hi all - Just received an e-mail from Jay Lefkowitz agreeing that a joint meeting is needed to finalize all of the agreements. Are all of you available tomorrow (Thursday)? If not, how does very early on Monday sound?

Thank you.

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

Tracking:

3083

08-80736-CV-MARRA

P-014114

EFTA00189138

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS)
Sent: Tuesday, September 18, 2007 2:45 PM
To: Acosta, Alex (USAFLS)
Cc: Garcia, Rolando (USAFLS)
Subject: RE: Tomorrow re Epstein

Hi Alex -- Lefkowitz now seems happy with the same language we proposed last week. Jay agreed we should do a sit down to finalize the language but, because of the upcoming holiday, my guess is that it might not happen until Monday. Rolando and I also conferred with Barry Krisher who agrees with us regarding the timing issues.

Tracking:

3091

08-80736-CV-MARRA

P-014115

EFTA00189139

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS)
Sent: Tuesday, September 18, 2007 1:53 PM
To: Acosta, Alex (USAFLS)
Subject: RE: Tomorrow re Epstein

That is fine. Rolando and I will nail everything down, we just want to get a final blessing. Thank you.

Tracking:

3093

08-80736-CV-MARRA

P-014116

EFTA00189140

Villafana, Ann Marie C. (USAFLS)

From: Acosta, Alex (USAFLS)
Sent: Tuesday, September 18, 2007 1:52 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Tomorrow re Epstein

But I don't think I should be part of negotiations. I'd rather leave it to you if that's ok.

Sent from my BlackBerry Wireless Handheld

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

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
To: Acosta, Alex (USAFLS) <AAcosta@usa.doj.gov>
Sent: Tue Sep 18 13:34:05 2007
Subject: Tomorrow re Epstein

Hi Alex - Sorry to bother you when you are traveling. I would like to recommend to Mr. Epstein's attorneys that we all get together tomorrow to hash out the language. Will you be available tomorrow via fax or phone if we need final approval on an agreement? Thanks.

Villafana, Ann Marie C. (USAFLS)

From: Acosta, Alex (USAFLS)
Sent: Tuesday, September 18, 2007 1:52 PM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Re: Tomorrow re Epstein

All day.

Sent from my BlackBerry Wireless Handheld

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

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
To: Acosta, Alex (USAFLS) <AAcosta@usa.doj.gov>
Sent: Tue Sep 18 13:34:05 2007
Subject: Tomorrow re Epstein

Hi Alex - Sorry to bother you when you are traveling. I would like to recommend to Mr. Epstein's attorneys that we all get together tomorrow to hash out the language. Will you be available tomorrow via fax or phone if we need final approval on an agreement? Thanks.

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS)
Sent: Tuesday, September 18, 2007 1:34 PM
To: Acosta, Alex (USAFLS)
Subject: Tomorrow re Epstein

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Tracking:

3097

08-80736-CV-MARRA

P-014119

EFTA00189143

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS)
Sent: Tuesday, September 18, 2007 12:26 PM
To: Acosta, Alex (USAFLS); Lourie, Andrew (USAFLS); Garcia, Rolando (USAFLS)
Cc: Atkinson, Karen (USAFLS); McMillan, John (USAFLS)
Subject: Revised Plea Agreement

I have attached a revised plea agreement. It contains the 18/12 split that Jay and Andy agreed to. I have included language that addresses some of Epstein's concerns that Jay and I discussed, so it is not identical to the previous version. You will notice that there is some highlighted language about the state time. John and I talked and I think that Epstein can avoid the problem of possibly spending extra time in state prison if the state just puts him on probation and he will serve part of that probationary term in a federal prison. Please let me know how to proceed. Jay has asked for a conference call this afternoon.

Thank you.



070918 12.22
1 Plea Agreement

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

Tracking:

3106

08-80736-CV-MARRA

P-014120

EFTA00189144

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS)
Sent: Tuesday, September 18, 2007 11:43 AM
To: 'Lourie, Andrew'; Garcia, Rolando (USAFLS)
Cc: Atkinson, Karen (USAFLS)
Subject: RE: Draft Agreements?

He also removed any promise to plead to a registrable offense and the promise related to the girls' damages claims.

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

From: Villafana, Ann Marie C. (USAFLS)
Sent: Tuesday, September 18, 2007 11:18 AM
To: 'Lourie, Andrew'; Garcia, Rolando (USAFLS)
Cc: Atkinson, Karen (USAFLS)
Subject: FW: Draft Agreements?
Importance: High

Andy and Rolando: Please see below so you understand my frustration. This document is completely different from what Jay just told Andy that he would agree to. He has it written as 16 months' imprisonment followed by 8 months federal supervised release. He wants us to recommend an improper calculation of the guidelines, and he wants to waive the PSI so he can keep all of his information confidential. I have already told Jay that the PSI language and other language in this agreement was unacceptable to our office. I will send back a plea agreement that reads consistent with what Jay represented to Andy but I don't believe that this will be resolved by Tuesday unless they come down here and we have a group contract writing session with the state attorney's office and the decision-makers.

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

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

Confidential -- For Settlement purposes only.

Marie -- 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 - (taking Nadia and Sarah out of the jurisdiction to avoid process.)

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

"Villafana, Ann Marie C. \{USAFLS\}"
<Ann.Marie.C.Villafana@usdoj.gov>

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

09/18/2007 09:14 AM

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

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

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.

"Villafana, Ann Marie C. \{USAFLS\}" <Ann.Marie.C.Villafana@usdoj.gov>

09/18/2007 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.

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 Ms. Groff. 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 grand jury subpoenas, we could consider that.

Hope that helps.

A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Tracking:

3114

08-80736-CV-MARRA

P-014123

EFTA00189147

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS)
Sent: Tuesday, September 18, 2007 11:18 AM
To: 'Lourie, Andrew'; Garcia, Rolando (USAFLS)
Cc: Atkinson, Karen (USAFLS)
Subject: FW: Draft Agreements?
Attachments: Agreement updated.doc.rtf

Importance: High

Andy and Rolando: Please see below so you understand my frustration. This document is completely different from what Jay just told Andy they would agree to. He has it written as 16 months' imprisonment followed by 8 months federal supervised release. He wants us to recommend an improper calculation of the guidelines, and he wants to waive the PSI so he can keep all of his information confidential. [REDACTED] told Jay that the PSI language and other language in this agreement was unacceptable to our office. I will send back a plea agreement that reads consistent with what Jay represented to Andy but I don't believe that this will be resolved [REDACTED] Tuesday unless they come down here and we have a group contract writing session with the state attorney's office and the decision-makers.

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Subject: RE: Draft Agreements?

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

To "Jay Lefkowitz" <JLefkowitz@kirkland.com>
cc

3116

08-80736-CV-MARRA

P-014124

EFTA00189148

09/18/2007 09:14 AM

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

09/18/2007 08:44 AM

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

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A. Marie Villafaña

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone 561 209-1047

Fax 561 820-8777

Tracking:

3118

08-80736-CV-MARRA

P-014126

EFTA00189150

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS)
Sent: Tuesday, September 18, 2007 10:05 AM
To: 'Lourie, Andrew'
Subject: RE: Epstein

Hi Andy – Can you give me a call?

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

From: Lourie, Andrew [mailto:Andrew.Lourie@crm.usdoj.gov]
Sent: Tuesday, September 18, 2007 9:54 AM
To: Garcia, Rolando (USAFLS)
Cc: Villafana, Ann Marie C. (USAFLS)
Subject: RE: Epstein

I just spoke to Jay. I agreed to two fed obstructions charges (24 month cap) with nonbinding recommendation for 18 months. When he gets out, he has to plead to state offenses, including against minor, registerable, and then take one year house arrest/community confinement.

From: Garcia, Rolando (USAFLS) [mailto:Rolando.Garcia@usdoj.gov]
Sent: Tuesday, September 18, 2007 9:47 AM
To: Lourie, Andrew
Subject: Epstein

Maybe you should talk to Epstein and close the deal.

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS)
Sent: Tuesday, September 18, 2007 9:31 AM
To: Acosta, Alex (USAFLS); Lourie, Andrew (USAFLS); Garcia, Rolando (USAFLS)
Cc: Atkinson, Karen (USAFLS); McMillan, John (USAFLS)
Subject: Epstein Negotiations

Importance: High

Hi all – I think that we may be near the end of our negotiations with Mr. Epstein, and not because we have reached a resolution. As I mentioned yesterday, I spent about 12 hours over the weekend drafting Informations, changing plea agreements, and writing factual proffers. I was supposed to receive a draft agreement from them yesterday, which never arrived. At that time, they were leaning towards pleading only to state charges and doing all of the time in state custody.

Late last night I talked to Jay Lefkowitz who asked about Epstein pleading to two twelve-month federal charges with half of his jail time being spent in home confinement pursuant to the guidelines. I told him that I had no objection to that approach but, in the interest of full disclosure, I did not believe that Mr. Epstein would be eligible because he will not be in Zone A or B. This morning Jay called and said that I was correct but, if we could get Mr. Epstein down to 14 months, then he thought he would be eligible.

My response: have him plead to two separate Informations. On the first one he gets 12 months' imprisonment and on the second he gets twelve months, with six served in home confinement, to run consecutively.

I just received an e-mail asking if Mr. Epstein could just do 12 months imprisonment instead.

As you can see, Mr. Epstein is having second thoughts about doing jail time. I would like to send Jay an e-mail stating that if we do not have a signed agreement by tomorrow at 5:00, negotiations will end. I have selected tomorrow at 5:00 because it gives them enough time to really negotiate an agreement if they are serious about it, and, if not, it gives me one day before the Jewish holiday to get witnesses lined up for Tuesday's grand jury appearance, when I plan to present the indictment, and it gives the office sufficient time to review the indictment package.

Do you concur?

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

Tracking:

3123

08-80736-CV-MARRA

P-014128

EFTA00189152

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS)
Sent: Monday, September 17, 2007 11:44 AM
To: Acosta, Alex (USAFLS)
Subject: RE: Latest update

Absolutely. There were a lot of problems with their last attempt. They tried to re-open all the loopholes that I had sewn shut.

Tracking:

3135

08-80736-CV-MARRA

P-014129

EFTA00189153

Villafana, Ann Marie C. (USAFLS)

From: Acosta, Alex (USAFLS)
Sent: Monday, September 17, 2007 11:43 AM
To: Villafana, Ann Marie C. (USAFLS); Garcia, Rolando (USAFLS); Lourie, Andrew (USAFLS)
Cc: Atkinson, Karen (USAFLS); McMillan, John (USAFLS)
Subject: Re: Latest update

Pls make sure they know its only a draft, and that we still need to approve final. The form and language may need polishing.

Sent from my BlackBerry Wireless Handheld

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

From: Villafana, Ann Marie C. (USAFLS) <AVillafana@usa.doj.gov>
To: Garcia, Rolando (USAFLS) <RGarcia@usa.doj.gov>; Acosta, Alex (USAFLS) <AAcosta@usa.doj.gov>; Lourie, Andrew (USAFLS) <ALourie@usa.doj.gov>
CC: Atkinson, Karen (USAFLS) <KAtkinson@usa.doj.gov>; McMillan, John (USAFLS) <JMcMillan@usa.doj.gov>
Sent: Mon Sep 17 11:33:14 2007
Subject: Latest update

Hi all - Just spoke with Jay Lefkowitz, he reports that, as of now, they are leaning back towards pleading only to state charges with a Non-Prosecution agreement. They are doing some legal research and talking with the state, and Jay thinks that they should have a proposed agreement by late tonight or early tomorrow morning. I am going to send him our last version of the Non-Prosecution Agreement so that he has a template to work from. Jay has my numbers in case I need to go home early and any questions come up.

As soon as I know something, I will pass it along.

A. Marie Villafaña
Assistant U.S. Attorney
500 S. Australian Ave, Suite 400
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Phone 561 209-1047
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Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS)
Sent: Monday, September 17, 2007 11:33 AM
To: Garcia, Rolando (USAFLS); Acosta, Alex (USAFLS); Lourie, Andrew (USAFLS)
Cc: Atkinson, Karen (USAFLS); McMillan, John (USAFLS)
Subject: Latest update

Hi all – Just spoke with Jay Lefkowitz, he reports that, as of now, they are leaning back towards pleading only to state charges with a Non-Prosecution agreement. They are doing some legal research and talking with the state, and Jay thinks that they should have a proposed agreement by late tonight or early tomorrow morning. I am going to send him our last version of the Non-Prosecution Agreement so that he has a template to work from. Jay has my numbers in case I need to go home early and any questions come up.

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A. Marie Villafaña
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Tracking:

3138

08-80736-CV-MARRA

P-014131

EFTA00189155

Villafana, Ann Marie C. (USAFLS)

From: Villafana, Ann Marie C. (USAFLS)
Sent: Monday, September 17, 2007 10:35 AM
To: Garcia, Rolando (USAFLS); Lourie, Andrew (USAFLS)
Subject: RE: Epstein

Hi Rolando – Here is the last e-mail that I sent to Jay last night. Jay talked with his client about it and reports that they are leaning towards options 1 or 4. They are going to try to make that decision today (there seems to be some dissension in the ranks because Jack Goldberger gave some incorrect information), and draft a proposed either Non-Prosecution Agreement or Plea Agreement. As you can see from my list below, there are a number of things in their last draft that were unacceptable. All of the loopholes that I sewed up they tried to open. So, Jay is supposed to be consulting with Roy Black regarding the correct state information and then will give me a call.

I agreed to ask the Judge to take the hearing off calendar tomorrow and to postpone the grand jury appearances that were scheduled from tomorrow, but I told him in no uncertain terms that I am indicting on the 25th so this needs to be resolved early this week. Andy and I talked about all of this as well. Long answer to a short question, sorry.

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 Andy 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 Andy's): 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. Andy 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 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 colloquy, 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 Ms. Ross or Ms. Marcinkova.

Also, on the grand jury subpoenas, 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 grand jury's investigation has ended and there can be no more use of the grand jury's subpoena power.

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 and 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.

A. Marie Villafaña
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Fax 561 820-8777

From: Garcia, Rolando (USAFLS)
Sent: Monday, September 17, 2007 10:26 AM
To: Villafana, Ann Marie C. (USAFLS)
Subject: Epstein

Marie,

Where are we at in the plea negotiations?

Tracking:

3142

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