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United States Attorney  
Southern District of Florida

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November 30, 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. Some of these issues also are addressed in the U.S. Attorney's letter to Mr. Starr, but in light of our discussions, I believe a separate response is needed.

In a recent e-mail, you write that you were surprised at the tone of my e-mail of November 27, 2007. That tone was engendered by the continuing failures to abide by the terms of the Non-Prosecution Agreement, unfounded allegations of misconduct on the part of our office, attacks upon our investigation and the victims in the press, and the mounting evidence that you did not enter into our plea negotiations in good faith. This letter and U.S. Attorney Acosta's letter are the last opportunity for your client and his entire defense team to conform unwaveringly to all of the terms of the Non-Prosecution Agreement. As stated by the U.S. Attorney in his letter:

Accordingly, 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 Tuesday, December 4, 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. If we do not receive these items by that time, we will deem the agreement to be rescinded and will proceed with the prosecution. There must be closure in this matter.

Before I address your continued allegations of some sort of misconduct on the part of the Office for trying to abide by both the letter of the Agreement and of the law, I need to address you and your client's failure to comply with the Agreement.

Three weeks ago we spoke about the failure to set a timely plea and sentencing date. At that time, you assured me that a new prompt date would be set, and that the delay in scheduling the date 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 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, 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 told [REDACTED] that "there is no date."

I have repeatedly told you that a delayed guilty plea and sentencing – now more than two months beyond the original deadline – is unacceptable to the Office. Contrary to your past assertions, the Non-Prosecution Agreement does not contemplate a staggered plea and sentencing. Instead, the Agreement contemplates a combined plea and sentencing followed by a later surrender date for Mr. Epstein to begin serving his jail sentence. 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. You have provided no showing of how you and your client have used your best efforts to insure that the plea and sentencing occur in November. In fact, 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. The only conclusion that we can draw is that you are trying to avoid providing the Office with adequate time to review your agreement prior to the change of plea and sentencing to determine whether Mr. Epstein is complying with the terms of the Non-Prosecution Agreement.

Your letters make reference to a failure by the United States to abide by the "spirit" of the Agreement, but recent correspondence shows that Mr. Epstein hopes to serve his sentence on "work release." This is plainly contrary to both the terms and spirit of the Agreement. The Agreement clearly indicates that Mr. Epstein is to be incarcerated, and during your joint meeting with representatives of our office and the State Attorney's Office, the parties specifically discussed that Mr. Epstein would serve his time in solitary confinement at the Palm Beach County Jail to obviate your safety concerns. In addition to the terms of the Agreement, the Florida Department of Corrections does not allow persons who are registered sex offenders to participate in "community release" (which includes "work release"). Since Mr. Epstein will have to register as a sex offender promptly after his guilty plea and sentencing, he will not be eligible for such a program. Thus, the U.S. Attorney's Office is simply putting you on notice that it intends to make certain that Mr. Epstein is "treated no better and no worse than anyone else" convicted of the same offense. If Mr. Epstein is somehow allowed to participate in a work release program despite the Department of Corrections' rules and practices, the Office intends to investigate the reasons why an exception was granted in Mr. Epstein's case.

Next, let me address various accusations that you and Mr. Starr, amongst others, have raised. You have repeatedly alleged 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. As you have been told before, prior to that, the press had provided information to the FBI, but no comment was ever made about the ongoing investigation, it was simply referred to as an "open investigation." Your accusations on this point are ironic in light of the amount of information that Mr. Epstein's team has provided to the press, much of which is completely inaccurate and which is obviously intended to intimidate your client's victims. 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.

Mr. Starr's letter to Assistant Attorney General [REDACTED] contains several false statements and accusations. First, Mr. Epstein was never forced to enter into any agreement and all terms of the agreement were fully negotiated, including the terms regarding the payment of monetary damages to the victims under 18 U.S.C. § 2255. In fact, some of those terms were re-negotiated as part of the Addendum. Second, if Mr. Epstein's cadre of attorneys was concerned about a way to test the validity of the victims' claims prior to placing the names of those victims on the list prepared by our office, that term could have been negotiated. In fact, at one of our early meetings, Roy Black raised that concern, and possible solutions were contemplated by our office prior to the negotiations. However, since none of Mr. Epstein's team of attorneys requested the inclusion of such a term, it was omitted from the Agreement.

To the extent that you now object to the Agreement that you negotiated, this is akin to "buyer's remorse." However, you and Mr. Starr have, instead, made claims to the Justice Department that these thoroughly negotiated terms "leave[] wide open the opportunity for misconduct by federal investigators."

You then misinterpret 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 what Mr. Starr refers to as 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. Each of the victims' claims was corroborated – again, prior to anyone being notified of a potential civil claim for damages. In fact, after the Agreement was signed, the FBI only had the opportunity to inform three victims of the resolution of the matter before you raised complaints and, in deference to your request, the Office asked that they defer further notifications. 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 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. At your request, that number was removed. The Office repeatedly confirmed that the number would not exceed 40, after conducting additional investigation, it was reduced to 34, and we recently removed another name because, despite the fact that Mr. Epstein offensively touched the victim, in our opinion, the touching was not "sexual" enough to properly include her as a victim as defined in Section 2255. 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 if you convince us of your position.

Mr. Starr also asserts that the Office has "improperly insisted that the chosen attorney representative should be able to litigate the claims of individuals, which violates the terms of the Agreement and deeply infringes upon the spirit and nature of the Agreement." Again, this was a term that could have been discussed and negotiated prior to entering into the Agreement. At least five extremely experienced attorneys reviewed the Agreement prior to its execution. Your failure to consider what would happen if a victim refused to accept the minimum settlement you offered to her does not render the Agreement void, unconscionable, or violative of Due Process. Whether counsel for the victims decides that there is a conflict is something to be addressed by him, but the Agreement speaks for itself.

Finally, let me address your objections to the draft Victim Notification Letter.

Your concerns regarding the § 2255 litigation are unfounded. As you know, Mr. Ocariz had been told that he would be the attorney representative for the victims. As a matter of professional courtesy, he was informed that the Office decided to use a Special Master in the selection of the attorney representative. His decision to contact Judge Davis to express his interest in continuing to work on the case was no more "lobbying" than contacts made by your colleagues to Judge Davis to persuade him to select your choice of an attorney and to persuade him that the non-prosecution agreement's terms did not contemplate litigation. You state that you are concerned that the Office has continued to insist that a primary criteria for the appointment of counsel is the ability to handle litigation against Mr. Epstein, yet your continued reference to challenging the "veracity" of the victims' claims, your contacting of victims whom you knew were soon to be represented, your attempts to muzzle the Office's and the FBI's abilities to comply with victim notification rules, and your client's consistent attacks upon the victims in the press all confirm the need for appointed counsel to be prepared for such litigation.

Lastly, the statement at the end of your letter that you "reserve [the] right to object to certain aspects of the §2255 provisions of the Agreement" needs explanation. The provisions regarding §2255 appeared in the first statement of terms and every draft of the Non-Prosecution Agreement. By signing the Agreement, your client gave up the right to "object" to its provisions. Mr. Epstein entered into a binding contract, and the breach of any of its terms is a breach of the entire Agreement, as summarized at the top of page 6 of the Agreement. Please clarify your position on this point.

Please provide me with the terms of the agreement(s) with the State Attorney's Office and the new date for the change of plea and sentencing by Friday, November 16, 2007.

Sincerely,  
R. Alexander Acosta  
United States Attorney

By:

J [REDACTED]  
First Assistant United States Attorney

cc: R. Alexander Acosta, U.S. Attorney  
AUSAA. Marie Villafañá