

Memorandum

SubjectDate

MemorandumApril 21, 2008

Office of Professional Responsibility: **Self-Report of Allegation of Conflict of Interest**

ToFrom

H. Marshall Jarrett, Counsel [REDACTED]
Office of Professional ResponsibilityAssistant U.S. Attorney

Southern District of Florida

cc:

R. Alexander Acosta
United States Attorney
Southern District of Florida

Introduction

This memorandum sets forth an allegation of a conflict of interest in connection with an ongoing investigation of Jeffrey Epstein (“Epstein”). The investigation is named Operation Leap Year. As part of pre-indictment plea negotiations, the parties agreed that the victims would be allowed to collect civil damages from Epstein and that Epstein would provide counsel for the victims. I provided Epstein’s counsel with a series of possible attorneys, including Humberto Ocariz (“Ocariz”), who is a friend of my boyfriend, [REDACTED]. At the time, I identified Ocariz as a friend of a close friend. Epstein’s attorneys rejected the other suggestions and selected Ocariz. After conferring with the First Assistant and the U.S. Attorney, we decided that, despite the terms of the non-prosecution agreement, the Office should not be responsible for selecting the attorney to represent the victims, and that a Special Master, working pro bono, should make the selection. Accordingly, the matter was submitted to a Special Master, and Ocariz was not selected as the attorney for the victims. Despite this resolution, Epstein’s counsel continue to allege that my suggestion of Ocariz to serve as counsel for the victims represents a conflict of interest. Therefore, I am self-reporting this allegation for review by the Office of Professional Responsibility.

Background of Investigation

Operation Leap Year is a child exploitation investigation where the main target, Jeffrey Epstein, used his personal assistants and others as “recruiters” who would find high school girls, most of whom were minors, to travel to his home in Palm Beach, where they would perform “sexual massages.” The sexual behavior ranged fondling the girls, placing [REDACTED] on them, asking them to engage in sexual activity with Epstein’s girlfriend, and engaging in [REDACTED] with them. In all cases, Epstein [REDACTED] in the presence of the minor females. More than twenty-five minor victims have been identified.

The case was originally investigated by the City of Palm Beach Police Department, and was presented to the Palm Beach County State Attorney’s Office. Epstein immediately hired “high-powered” attorneys with connections to the State Attorney and pressured the State Attorney’s Office to forego filing charges. As part of their presentation to the State Attorney’s Office, Epstein’s attorneys raised allegations of misconduct on the part of the lead investigator from the Palm Beach Police Department. They also presented information from the “MySpace” pages of several victims that portrayed them as [REDACTED]

The Palm Beach Police Department, seeing that the State Attorney’s Office was likely to do nothing about Epstein, approached the FBI, who, in turn, approached me. We met with the police detective, Joe Recarey, and discussed the investigation. When the State Attorney’s Office

presented the case to a grand jury (an extremely unusual step for a non-murder case) and obtained an indictment charging only three counts of solicitation of adults to engage in prostitution, we decided to open an investigation.

The investigation was lengthy and extensive. Because we were aware of the allegations of wrongdoing by the police department, we consciously decided to undertake an independent investigation, which involved an independent review of the audio and videotaped interviews of the victims, subsequent interviews by FBI agents, and obtaining and reviewing extensive documentary evidence.

From the start, Epstein's attorneys tried to convince me to stop the investigation and defer to the state prosecution. As part of this, they presented the same allegations of wrongdoing by the police detective and by the victims that they had presented to the State Attorney's Office. I assured them that we would do an independent review of the evidence before making a decision. As part of the investigation, I asked the FBI to follow up on the allegations of wrongdoing by the police detective. They did so, and determined that, with the exception of one error in a police report, the allegations were false. We also reviewed the "MySpace" pages and considered how they would affect the prosecution of the case.

When it became evident that I would not stop the investigation, Epstein's attorneys complained to others in my chain of command that I was harassing Epstein, violating various rules, and was simply trying to advance my career. In the press, his counsel even suggested that he was being persecuted based upon his religion or because he was wealthy. Epstein also began to hire additional attorneys with connections to our Office (a series of former Assistant U.S. Attorneys and a former U.S. Attorney) to try to influence the Office's decision.

I prepared an indictment package for review by the Office. By this time, Epstein's counsel had already met with the head of the West Palm Beach office (██████████) and I, and was demanding the opportunity to meet with the Chief of the Criminal Division (██████████) and the First Assistant (██████████). The four of us met with counsel for Epstein and rejected their proposed resolution of the case, which involved no jail time. A counter-proposal was made by the Chief of the Criminal Division, which included a plea to a state charge that carried a sex offender registration requirement, a jail term, and the payment of damages to the victims pursuant to a federal law that would have been implicated if we had proceeded on the federal charges.

Epstein's counsel asked to meet with the U.S. Attorney (Alexander Acosta) and the Chief of the Child Exploitation and Obscenity Section at the Department of Justice. After that meeting, Epstein's counsel was again informed that we intended to proceed. At that point, Epstein's counsel asked for the opportunity to "appeal" the decision to Washington, D.C. The U.S. Attorney agreed to give them two weeks for that appeal. At the same time, Epstein's counsel asked to begin negotiations to resolve the dispute in accordance with the terms set forth by the Chief of the Criminal Division.

At the Office's request, I began crafting an agreement containing those terms. Epstein's counsel expressed concerns about Epstein's safety while incarcerated, and asked if there was a way to plead to a federal charge that would bring about the desired outcome. I, therefore, undertook drafting two separate sets of documents: (1) a Non-Prosecution Agreement setting forth a plea to state offenses; and (2) a federal Plea Agreement with a federal Information to be filed with the Court. The negotiations were difficult and tedious. Whenever Epstein's attorneys and I reached an impasse, they would "appeal" to the powers above me, starting with the head of the West Palm Beach office, then to the Chief of the Criminal Division, then to the First Assistant and the U.S. Attorney. The U.S. Attorney asked Epstein's attorneys to negotiate with me,

Conclusion

For the foregoing reasons, I ask the Office of Professional Responsibility to make a finding that I neither intentionally misled the district court nor erred in my judgment in not "highlighting"

for the court [REDACTED]'s past instances of lawful consensual sexual conduct. I remain ready to provide any additional information you might require.

APPENDIX A

Professional Background and Memberships

I graduated from the University of California at Berkeley School of Law (Boalt Hall) in 1993. Following graduation, I served as a judicial clerk to United States District Judge David F. Levi in Sacramento, California. After my clerkship, I worked at the law firms of Morrison & Foerster in San Francisco, California; Rosen, Bien & Asaro in San Francisco, California; and Dorsey and Whitney in Minneapolis, Minnesota, and London, England. I joined the U.S. Attorney's Office in Miami, Florida in September 2001, and transferred to the West Palm Beach Office in January 2004. I have never held a supervisory position, but I served as the District's first Project Safe Childhood Coordinator.

I was admitted to the California Bar in 1995. I currently am on inactive status.

I was admitted to the Minnesota Bar in 1997. I currently am on inactive status.

I was admitted to the Florida Bar in 2005. This status is active.

I also am admitted to practice in 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.

APPENDIX B

List of Persons with Knowledge

Special Agent [REDACTED], Immigration and Customs Enforcement, [REDACTED]

Special Agent [REDACTED], Federal Bureau of Investigation [REDACTED]

Assistant Federal Public Defender [REDACTED]

U.S. Probation Officer [REDACTED]

Assistant U.S. Probation Officer [REDACTED]

APPENDIX C

List of Requested and Additional Documents

Tab	Description
1	Initial Presentence Investigation Report
2	Revised Presentence Investigation Report
3	Transcript of Change of Plea Hearing
4	Transcript of Sentencing Hearing
5	Transcript of Hearing on Motion to Amend Court's Order
6	Document bearing Bates No. 1112
7	Report of Interview of [REDACTED]
8	Handwritten Notes of Special Agents [REDACTED] and [REDACTED] of Interview of [REDACTED]
9	United States' Emergency Motion to Revoke Bond (DE 9)
10	United States' Response to Motion to Reinstate Bond (DE 26)
11	United States' Response to Standing Discovery Order (DE 30) [with attachments]
12	Notice of Filing Detention Hearing Transcript (DE 31)
13	Draft Statement of [REDACTED] provided to me in advance of sentencing
14	[REDACTED]'s Blog (unredacted)