



"[REDACTED]"  
(USAFLS)"

[REDACTED] sdoj.

09/24/2007  
01:27 PM

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

cc "Martin Weinberg" <owlmgw@worldnet.att.net>, [REDACTED]

bcc [REDACTED]

Subject RE: Epstein agreement as reviewed by the U.S. Attorney

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).

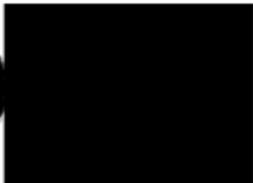
After you get the green light, let's discuss the potential representative. The person I am thinking of has run a preliminary conflicts check and it looks alright.

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]



To "Jay Lefkowitz" [redacted]  
cc  
bcc  
Subject RE: Other attorneys

09/26/2007 11:01 AM

History This message has been forwarded.

Hi Jay – Can you give me a call at 561 209-1021 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.



Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone [redacted]

Fax [redacted]

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**From:** [redacted]  
**Sent:** Tuesday, September 25, 2007 8:37 PM  
**To:** 'Jay Lefkowitz'  
**Subject:** Other attorneys

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.searcyllaw.com/CHRISTIANDSEARCY/tabid/935/default.aspx>

Lake Lytal, Jr. -- [http://www.lytalreiter.com/index.php?page\\_id=37](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.

[REDACTED]

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone [REDACTED]

Fax [REDACTED]



[REDACTED]  
(USAFLS)"

[REDACTED]  
j.gov>

09/27/2007 10:52 AM

To "Jay Lefkowitz" <[REDACTED]>

cc

bcc

Subject Conference Call with Bert Ocariz

History: This message has been replied to and forwarded.

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)?

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 contemplated procedure for, and timing of, the payment of attorney's fees and costs?

~~4. Maria Tilly's~~

Assistant U.S. Attorney

500 S. Australian Ave, Suite 400

West Palm Beach, FL 33401

Phone



Fax 56



U.S. Department of Justice

United States Attorney  
Southern District of FloridaR. ALEXANDER ACOSTA  
UNITED STATES ATTORNEY39 N.E. 4 Street  
Miami, FL 33133  
(305) 961-9100 - Telephone  
(305) 330-6444 - FacsimileDELIVERY BY FACSIMILEKenneth W. Starr, Esq.  
Kirkland & Ellis LLP

[REDACTED]

Re: Jeffrey Epstein

Dear Mr. Starr:

I write in response to your November 28<sup>th</sup> 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,<sup>1</sup> 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

<sup>1</sup> 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.<sup>2</sup>

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 Davis. 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;

<sup>2</sup> Your letter references *U.S. v Boehm*, No. 3:04CR00003 (D. Ala 2004) as a model for a restitution fund settlement. I asked our prosecutor to contact the AUJA 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 Davis, 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 FAUS [REDACTED], Criminal Chief Menchel, West Palm Beach Chief Lourie, AUSA [REDACTED] 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.

In mid August 2007, your defense team, dissatisfied with my staff's review of the case, asked to meet with me. Mr. Lefkowitz 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 7<sup>th</sup> 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 [REDACTED] 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 7<sup>th</sup> 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 7<sup>th</sup> meeting. Indeed, according to AUSA Villafañe'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 7<sup>th</sup> 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 11<sup>th</sup> 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

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.<sup>3</sup>

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 7<sup>th</sup> and that certain events must take place no later than December 14<sup>th</sup>), 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

<sup>3</sup> 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 Villafana 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.

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,



R. ALEXANDER ACOSTA  
UNITED STATES ATTORNEY

cc:





U.S. Department of Justice

*United States Attorney  
Southern District of Florida*

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December 13, 2007

DELIVERY BY ELECTRONIC MAIL

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 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.

EFTA00213822

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 Davis. 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 Davis. We have had no further contact since then and I have never had contact with Judge Davis. I understand from you that Mr. Ocariz contacted Judge Davis. You criticize his decision to do so, yet you feel that you and your co-counsel were entitled to contact Judge Davis 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. Acosta and Sloman, 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, Menchel, Sloman, and Acosta 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.<sup>1</sup>

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<sup>1</sup>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 Palm Beach Police Department's probable cause affidavit "with the court knowing that the public could access it," I do not know to what you are referring. All documents related to the grand jury investigation have been filed under seal, and the Palm Beach Police Department's probable cause affidavit has never been filed with the Court. If, in fact, you are referring to the *Ex Parte* Declaration of Joseph Recarey that was filed in response to the motion to quash the grand jury subpoena, it was filed both under seal and *ex parte*, so no one 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 grand jury subpoenas."

With respect to Ms. [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 Ms. [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 Ms. [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. Ms. [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, Ms. [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,

R. Alexander Acosta  
United States Attorney

By: s [REDACTED]  
A [REDACTED]  
Assistant United States Attorney

cc: R. Alexander Acosta, U.S. Attorney  
Jeffrey Sloman, First Assistant U.S. Attorney

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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.



02/27/2008 09:45 PM

To [REDACTED]

cc [REDACTED]

bcc [REDACTED]

Subject Fw: Epstein

History This message has been forwarded

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Sent from my BlackBerry Wireless Handheld

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

From: [REDACTED] >  
To: Sloman, Jeff (USAFLS)  
Sent: Wed Feb 27 21:37:02 2008  
Subject: Epstein

Jay,

You have renewed your request for certain information which this Office does not generally make available in similar pre-indictment situations. After carefully considering your request, I have decided, in my capacity as the First Assistant U.S. Attorney, not to make an exception here.

Regarding the Landon Thomas matter, Mr. Thomas was given, pursuant to his request, non-case specific information concerning specific federal statutes.

Regarding the offer to extend the current deadline of March 3, 2008 contained in my February 25th email. That offer was based on counsel for Mr. Epstein meeting with CEOS the week of March 3rd. You indicate that you are unavailable. It is hard to imagine that some or all of the other attorneys representing Mr. Epstein cannot serve this function. After all, Mr. Epstein is also represented by Dean Kenneth Starr, Martin Weinberg, Roy Black, Gerald Lefcourt, Harvard Professor Alan Dershowitz, Lily Ann Sanchez, and Guy Lewis.

That being said, the Southern District of Florida will only renew the offer to extend the current deadline if you and the CEOS Section Chief mutually agree on a timetable by close of business on Friday, February 29, 2008 to meet and complete presentations no later than March 19, 2008. Given that CEOS is ready to proceed

immediately, this seems like more than ample time. As I indicated in my previous email, if CEOS subsequently decides that a federal prosecution should not be undertaken against Mr. Epstein, this Office will close its investigation. However, should CEOS disagree with Mr. Epstein's position, Mr. Epstein shall have one week to abide by the terms and conditions of the September 24, 2007 Agreement as amended by letter from United States Attorney Acosta.

  
First Asst. US Attorney

Southern District of Florida