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E-Mail: [REDACTED]

October 21, 2009

[REDACTED], Esq.
U.S. Attorney's Office
500 South Australian Avenue, Suite 400
West Palm Beach, FL 33401

RE: Jeffrey Epstein

Dear [REDACTED]:

I am in receipt of your letter dated Sept 18, 2009, and believe it is necessary to correct certain inaccuracies contained in that communication.

First, you state that the Non-Prosecution Agreement "called for Mr. Epstein to serve eighteen months in county jail followed by twelve months of community control." In fact, the Non-Prosecution Agreement, at ¶ 2 (a) and (b) required, instead, that Mr. Epstein "shall be sentenced," as in fact he was, to consecutive sentences of 12 and 6 months followed by a 12-month community control probation sentence. Additionally, ¶ 12 of the Non-Prosecution Agreement specifically states that Epstein is entitled to "eligibility for gain time credit based on standard rules and regulations that apply in the state of Florida," thus clearly contemplating that the 18-month jail sentence would be reduced by standard gain time credit. In short, the Agreement expressly contemplated gain time and in no respect contained a requirement that Epstein "serve" 18 months in county jail. As in the federal system, there is no day-to-day conformity between the length of an imposed sentence and the number of days that such a sentence obligates a defendant to serve.

Second, you state that Mr. Epstein's gain time was "based upon Mr. Epstein's 'work release.'" Mr. Epstein's gain time was not in any way tied to or dependent upon his work release; instead, it was calculated according to the same state law and procedures applicable to each sentenced state prisoner as contemplated by the Non-Prosecution Agreement, ¶ 12 quoted above.

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██████████, Esq.

October 21, 2009

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Third, the facts that you recite regarding the single occasion where Mr. Epstein "was found . . . walking to work" are at odds with what actually occurred. Epstein had specific authorization to walk to work, this authorization was verified by the police with Epstein's probation officer, and the street on which Epstein was actually stopped was in a direct route to Epstein's office. Epstein was stopped on the sidewalk at the intersection of South Ocean Boulevard and Clarke Avenue. In order to avoid walking through town, Epstein took a street that was one block east, in what is generally a less populated route. The matter was fully investigated, and Epstein was found to be in total compliance with his community control probation restrictions. Moreover, the distance to Epstein's office from the location where he was stopped is, according to our calculations, less than three miles, not the eight miles as you allege.

Finally, it is important to stress that my letter to you of September 1, 2009, was another example of Epstein (and his counsel's) commitment to conform to the requirements of the Non-Prosecution Agreement. Agreements between the government and its citizens "are generally construed according to the principles of contract law, and the government, as drafter, must be held to an agreement's literal terms," *United States v. Anglin*, 215 F.3d 1064, 1066 (9th Cir, 2000). We believe Epstein has conformed to the Agreement's requirements and would welcome the opportunity to meet with you to make sure each party has a common view of its obligations and rights.

Very truly yours,


Roy Black

RB/wg

cc: ██████████, Esq., Acting U.S. Attorney

IN THE FOURTH DISTRICT COURT OF APPEAL
FOR THE STATE OF FLORIDA

JEFFREY EPSTEIN,

Petitioner,

CASE NO: 4D09-2554

vs.

L.T. No. 20098CF009381A (Palm
Beach)

STATE OF FLORIDA,

Respondent.

RESPONDENT ■■■'S MOTION TO SUPPLEMENT THE RECORD

Respondent ■■■. moves to supplement the record before the Court on
Petitioner Jeffrey Epstein's petition for writ of certiorari and states as follows:

1. Petitioner Epstein filed an emergency petition for writ of certiorari requesting that this Court quash the order of Fifteenth Judicial Circuit Judge Jeffrey Colbath unsealing a nonprosecution agreement between Petitioner Epstein and the United States Attorney's Office.
2. One of Petitioner Epstein's arguments for quashing the lower court order is that Respondent ■■■. is able to obtain the sealed nonprosecution agreement from the United States Attorney's Office pursuant to the terms of a federal order issued by Judge Marra of the Southern District of Florida:

As Mr. Epstein's counsel stated at the June 25, 2009 hearing in front of Judge Colbath, ■■■., as an alleged victim, is entitled to production of the document subject to the conditions in Judge Marra's orders (A-18:41).

Reply Brief, p. 21, ¶ 3.

3. Respondent [REDACTED], in fact, is not able to obtain the nonprosecution agreement from the United States Attorney's Office. Late yesterday afternoon, counsel for [REDACTED] received the attached letter from the United States Attorney advising that he cannot disclose the nonprosecution agreement to [REDACTED] because she was not identified by the USAO as one of Epstein's victims.
4. Although this letter was not before the trial court prior to the issuance of the order unsealing the agreement, it directly bears on the proceedings before this Court. It should also be noted that Petitioner Epstein submitted a supplemental appendix with his reply brief that includes documents created after the order under review here and were not, therefore, considered by Judge Colbath when unsealing the nonprosecution agreement.
5. The undersigned counsel for Respondent [REDACTED] has conferred with Jane Kreuzler-Walsh, counsel for Petitioner Epstein, regarding this motion to supplement. Ms. Walsh advised that she is on vacation and would refer the matter to trial counsel. Undersigned counsel has not yet heard from trial counsel regarding Petitioner Epstein's position on this motion to supplement. As briefing in this case has been completed and the Court might rule at any time, Respondent [REDACTED] is filing this motion without knowledge of whether opposing counsel opposes the relief requested. Respondent will file an

amended motion upon opposing counsel advising of the Petitioner's position on this motion.

WHEREFORE, Respondent [REDACTED] respectfully requests the Court supplement the record before the Court on Petitioner Epstein's petition for writ of certiorari with the attached letter to Respondent [REDACTED] from the United States Attorney's Office.

Dated: August 5, 2009

By: 

Diana L. Martin
Florida Bar No. [REDACTED]
LEOPOLD~KUVIN, P.A.
2925 PGA Blvd., Suite 200
Palm Beach Gardens, FL 33410
Telephone: [REDACTED]
Facsimile: [REDACTED]

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served via U.S. Mail on August 5, 2009, on the following:

Jack A. Goldberger, Esq.
Attorney For: Jeffrey Epstein
250 Australian Avenue
Suite 1400
West Palm Beach, FL 334101
Phone: [REDACTED]
Fax: [REDACTED]

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Barbara J. Compiani, Esq.
Attorneys For: Jeffrey Epstein
Kreuzler-Walsh, Compiani & Vargas,
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Diana L. Martin
Florida Bar No. [REDACTED]



U.S. Department of Justice

United States Attorney
Southern District of Florida

500 South Australian Ave., Suite 400
West Palm Beach, FL 33401

Facsimile: [REDACTED]

August 4, 2009

VIA ELECTRONIC MAIL

Spencer T. Kuvin, Esq.
Leopold-Kuvin, P.A.
2925 PGA Boulevard
Suite 200
Palm Beach Gardens, FL 33410

Re: Jeffrey Epstein [REDACTED] – Requested Disclosure of Non-Prosecution Agreement

Dear Mr. Kuvin:

Thank you for your letter regarding the disclosure of the Non-Prosecution Agreement signed by Jeffrey Epstein. I understand that you are asking for a copy of that Agreement in connection with your representation of "[REDACTED]." As you are aware, the Agreement contains a confidentiality provision. Based upon a lawsuit filed by some of Mr. Epstein's victims, U.S. District Judge Kenneth Marra has issued a Protective Order requiring the U.S. Attorney's Office to provide copies of the Agreement to certain individuals under certain circumstances. The Order states:

If any individuals who have been identified by the USAO [U.S. Attorney's Office] as victims of Epstein and/or any attorney(s) for those individuals request the opportunity to review the Agreement, then the USAO shall produce the Agreement to those individuals, so long as those individuals also agree that they shall not disclose the Agreement or its terms to any third party absent further court order, following notice to and an opportunity for Epstein's counsel to be heard . . .

(Court File No. 08-CV-80737-MARRA, DE 26, ¶ (e).)

The language "individuals who have been identified by the USAO as victims of Epstein" refers to a specific list of individuals who were the subject of the federal investigation. A list of those individuals was provided to Mr. Epstein's attorney. Your client, [REDACTED], was not identified during that investigation, and, therefore was not on the list. By stating this I am not, in any way, denigrating any harm that your client may have suffered. I am simply stating that, given time and resource limitations that we faced during the investigation, [REDACTED] was not a person who was positively identified, such that she would have been the subject of charges within a

SPENCER T. KUVIN, ESQ.
AUGUST 4, 2009
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possible federal indictment.

For this reason, your client is not covered by the Court's Protective Order and the Agreement's confidentiality provision remains intact. If you are unable to get a copy of the Agreement via the civil discovery process in the lawsuit that you have filed against Mr. Epstein, please ask his counsel if they will consent to my production of the Agreement to you and I will send a copy to you.

Sincerely,

Jeffrey H. Sloman
Acting United States Attorney

By:


Assistant U.S. Attorney

cc:  Esq.