

8/15/08 AMCV LTR to Black + LEKONIZ



U.S. Department of Justice

United States Attorney
Southern District of Florida

[REDACTED]

August 15, 2008

DELIVERY BY ELECTRONIC MAIL

Jay P. Lefkowitz, Esq.
Kirkland & Ellis LLP

[REDACTED]

Roy Black, Esq.
Black Srebnick Kornspan & Stumpf P.A.

Re: Jeffrey Epstein

Dear Jay and Roy:

Thank you for your response to my earlier e-mail. Our communications with Mr. Black and later with Mr. Lefkowitz were solely to determine what Mr. Epstein considered to be the terms of the Non-Prosecution Agreement. We appreciate your answering our question with finality. You have now made clear that Mr. Epstein did not accept the December modification, and accordingly, the offer to make that modification is a nullity.

Pursuant to our Agreement, I will prepare an Amended Notification that contains the names of additional identified victims. As you know, Judge [REDACTED] had selected the Podhurst firm to serve as the attorney representative for the victims. Assuming that Mr. Josefsberg is still amenable to the appointment, we will provide him with the victim list so that he may begin his service.

Finally, as you are aware, the United States has been ordered to produce the Non-Prosecution Agreement. In accordance with that Order, we will produce the September Agreement with the October Addendum signed by your client. We understand that Mr.

EFTA00223602

JAY P. LEFKOWITZ, ESQ.
ROY BLACK, ESQ.
AUGUST 15, 2008
PAGE 2 OF 2

Goldberger did not provide the state court with a true copy of the complete Agreement, and he should take steps to correct that error.

Sincerely,

R. Alexander Acosta
United States Attorney

By: 

cc: 

[REDACTED] (USAFLS)

From: [REDACTED] (USAFLS)
Sent: Friday, August 15, 2008 2:12 PM
To: [REDACTED] Roy BLACK
Cc: [REDACTED] (USAFLS)
Subject: Response to your e-mail

Dear Jay and Roy:

Please see the attached. Thank you.



080815 [REDACTED]
Ltr to Lefkow...



Tracking:

Recipient



Roy BLACK



Read

Read: 8/15/2008 2:13 PM

Read: 8/15/2008 2:24 PM



U.S. Department of Justice

*United States Attorney
Southern District of Florida*

August 15, 2008

DELIVERY BY ELECTRONIC MAIL

Jay P. Lefkowitz, Esq.
Kirkland & Ellis LLP

Roy Black, Esq.
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Re: Jeffrey Epstein

Dear Jay and Roy:

Thank you for your response to my earlier e-mail. Our communications with Mr. Black and later with Mr. Lefkowitz were solely to determine what Mr. Epstein considered to be the terms of the Non-Prosecution Agreement. We appreciate your answering our question with finality. You have now made clear that Mr. Epstein did not accept the December modification, and accordingly, we will now consider that modification to be a nullity.

Pursuant to our Agreement, I will prepare an Amended Notification that contains the names of additional identified victims. In accordance with Paragraph 7B of the October Addendum, please provide me by Monday afternoon with a proposed written submission to the independent third-party who will select the attorney representative.

Finally, as you are aware, the United States has been ordered to produce the Non-Prosecution Agreement. In accordance with that Order, we will produce the September Agreement with the October Addendum signed by your client. We understand that Mr.

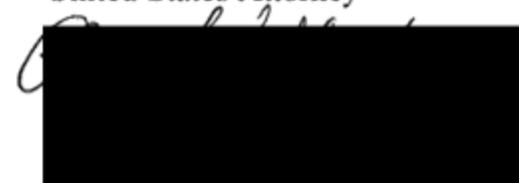
EFTA00223606

JAY P. LEFKOWITZ, ESQ.
ROY BLACK, ESQ.
AUGUST 15, 2008
PAGE 2 OF 2

Goldberger did not provide the state court with a true copy of the complete Agreement, and he should take steps to correct that error.

Sincerely,

R. Alexander Acosta
United States Attorney

By: 

cc: 

[REDACTED] (USAFLS)

From: [REDACTED] (USAFLS)
Sent: Friday, August 15, 2008 11:17 AM
To: Acosta, Alex (USAFLS); [REDACTED]
Subject: RE: Follow-up point

We either have to do the October Agreement or the December Agreement, I don't think we can let them get away with doing neither. Two-thirds of the victims do not have any representation.

The language of the agreement gives us the right to select the Special Master, and we should choose someone quickly. We then have to create a written submission, and we should give them a very short time frame to do so. If we keep their feet to the fire, this can be completed within a week.

[REDACTED]

From: Acosta, Alex (USAFLS)
Sent: Friday, August 15, 2008 11:12 AM
To: [REDACTED]
Subject: RE: Follow-up point

Are we really proposing the Special Master? Is he still on board?

I thought we had said that compliance with that was an impossibility given the passage of time?

From: [REDACTED] (USAFLS)
Sent: Friday, August 15, 2008 11:08 AM
To: Acosta, Alex (USAFLS); [REDACTED] (USAFLS)
Subject: FW: Follow-up point

Just received a response from Jay. I'm not sure what he means about talking "this morning," since I haven't spoken to him today.

I don't believe that we should wait two weeks for them to confer. They have the ability to confer over the telephone or to come and visit him (as reported in the Palm Beach Post).

Here is my proposed response:

Dear Jay:

Thank you for your response. It is our position that Mr. Epstein accepted the December modification by his performance. If you prefer to return to the language of the October addendum, we have no objection, but, as you know, I have been ordered to produce the Non-Prosecution Agreement and I cannot wait two weeks to do

so. Please advise me by noon on Monday in writing, preferably signed by your client, whether Mr. Epstein intends to perform according to the terms of the December modification or whether he elects to return to the October addendum.

If Mr. Epstein elects to perform according to the terms of the October addendum, then please prepare a proposed written submission to the Special Master, in accordance with Paragraph 7B, for my review by Monday afternoon. The extensive delays of the past will no longer be tolerated, and the Office will insist upon a showing of good faith performance in the selection of the attorney representative and all other terms of the Agreement.

Sincerely,



From: Jay Lefkowitz [REDACTED]
Sent: Friday, August 15, 2008 10:53 AM
To: [REDACTED] (USAFLS)
Cc: [REDACTED] S); Roy BLACK; Martin Weinberg
Subject: Re: Follow-up point

[REDACTED] - thanks for responding to my email. You have narrowed down some of the implementation issues.

As I told you this morning, we cannot accept your contention that Mr. Epstein is bound by an agreement he didn't sign as opposed to one he did sign, particularly in light of my written communications to your office dated December 21, 2007 and December 26, 2007. However, before we can make a determination whether to adopt the December language as you have now explained it, we need to confer with our client, which we will be able to do within the next two weeks.

I look forward to speaking with you soon to resolve these issues.

Jay

From: [REDACTED] (USAFLS)" [REDACTED]
Sent: 08/14/2008 03:27 PM AST
To: Jay Lefkowitz
Cc: [REDACTED]; "Roy BLACK"
<RBLACK@royblack.com>
Subject: RE: Follow-up point

Dear Jay:

The modification contained in the December letter is clear and simple, that is why we were not surprised by Mr. Epstein's and his attorneys' actions affirming acceptance of the modification. Mr. Epstein's acceptance of the modification by pleading guilty was equally clear and simple -- it followed written communications from [REDACTED] and myself that read: "Mr. Epstein has until the close of business on Monday, June 30, 2008, to comply with the terms and conditions of the agreement between the United States and Mr. Epstein (as modified by the U.S. Attorney's December 19th letter to Ms. Sanchez), including entry of a guilty plea, sentencing, and surrendering to begin his sentence of imprisonment."

As clearly stated in the December letter, only those "individuals whom [the United States] was prepared to name in an Indictment as victims of an enumerated offense" are the beneficiaries of the agreement. That is the list of names that I provided to Messrs. Goldberger and Tein following the change of plea. Under the September/October agreement, all "individuals whom [the United States] has identified as victims" are the beneficiaries, so I would prepare a supplement to the earlier list to include identified victims whom we were not yet prepared to name in an indictment.

Again, as stated in the letter, the modification replaces paragraphs 7 and 8 of the Agreement, including paragraphs 7A through 7C that are included in the October Addendum. This means that Mr. Epstein's waiver of "his right to contest damages up to an amount as agreed to between the identified individual and Epstein" will no longer exist, nor will Mr. Epstein's obligation to pay for the victims' counsel. Paragraphs 9 and 10 are still in effect. This includes the statement that there is no admission of civil or criminal liability, and that, "[e]xcept as to those individuals who elect to proceed EXCLUSIVELY under 18 USC § 2255, . . . Epstein's signature [cannot] be construed as admissions or evidence of civil or criminal liability." This addresses your question regarding exclusivity.

I don't think that Mr. Epstein has to make any constructive admissions of conviction. He only needs to admit that the 32 girls whose names I have provided to Mr. Goldberger are "victims" of an offense listed in 18 U.S.C. 2255.

Please let me know if you have any additional questions. Thank you.

[REDACTED]

From: Jay Lefkowitz [REDACTED]
Sent: Thursday, August 14, 2008 2:39 PM
To: [REDACTED]
Cc: Atkinson, Karen (USAFLS); jlefkowitz@hickland.com
Subject: Re: Follow-up point

[REDACTED] In reviewing your December proposal, there are a couple of things I don't understand.

What limits are placed upon individuals who proceed under 2255 as if "Mr. Epstein had been tried federally and convicted of an enumerated offense." In other words, what individuals would have this right? And would these individual only have this right if they proceeded exclusively under 2255? Also, to what enumerated offenses do you think would Mr. Epstein have to make constructive admissions of conviction? and how many such offenses? And against whom? Remember that while you may have investigated various offenses, he only plead guilty to certain state crimes.

communication in error, please notify us immediately by return e-mail or by e-mail to postmaster@kirkland.com, and destroy this communication and all copies thereof, including all attachments.

Tracking:

Recipient
Acosta, Alex (USAFLS)



Read

Read: 8/15/2008 11:17 AM