SUMMARY

In March 2005, the Palm Beach Police Department opened a criminal investigation of Palm Beach homeowner, Jeffrey E. Epstein when the father and stepmother of [redacted] complained to police about a visit by their daughter to Mr. Epstein's Palm Beach home. After the police investigated the matter and interviewed Ms. Gonzales, no charges were brought. [redacted] true motivation for going to the police later became apparent when they held a press conference on the courthouse steps announcing their civil lawsuit seeking substantial monetary damages from Mr. Epstein. [redacted] apparently seeking her own payday, denied that her parents had any authorization to file the lawsuit, which was ultimately dismissed. Before filing her own lawsuit against Mr. Epstein, [redacted] confirmed to the police that she lied to Mr. Epstein, specifically telling him that she was 18 years old and in high school, when in actuality she was 14 years old.

The Palm Beach Police began an intensive probe, including conducting multiple trash pulls and executing a search warrant at Mr. Epstein's Palm Beach home. They conducted interviews of dozens of females between the ages of 17 and 62, who had gone to Mr. Epstein's home in Palm Beach to perform massages in each case for money. Seven of the females interviewed told police that they were under 18 when they voluntarily went to Mr. Epstein's home for the money. Each of the women said she was brought to Mr. Epstein's home by a good friend. Mr. Epstein, himself, never left his Palm Beach home in connection with any of the conduct that was investigated. This was at all times exclusively a local Palm Beach matter about exclusively local Palm Beach conduct.

At the conclusion of this 13-month investigation, the State of Florida offered a plea bargain which would impose only a probationary sentence on Mr. Epstein. After personally interviewing many of the women, herself, the prosecutor for the Florida State Attorney's Office, who served 13 years as an experienced sex crimes prosecutor, stated categorically that there were "no real victims" in this case, and that some of the women were "causing trouble in the hopes of getting money" from Mr. Epstein. Palm Beach Police Chief Michael Reiter disagreed, and he refused to sign off on a Probable Cause Affidavit. Because of the high profile nature of the case, the State Attorney and his prosecutor brought the case before a grand jury. The grand jury came back with an indictment for only a single count of solicitation of prostitution, carrying with it a mandatory sentence of benign pre-trial intervention.

However, in a publicly released letter, Chief Reiter criticized the grand jury's decision and the State Attorney's handling of the case. The day after the grand jury's indictment of Mr. Epstein, the Chief took the unprecedented step of releasing the department's raw police reports of the Epstein investigation to the press at the same time that he publicly called for federal authorities to prosecute Mr. Epstein. The raw police reports included Detective Joseph Recarey's unedited written reports of witness statements and witness identification information that were later proven to be highly inaccurate transcriptions of the witnesses' actual recorded statements, rife with glaring misquotes and misleading omissions. It was Detective Recarey who took the case to the

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FBI. These actions undermined the credibility of everything that followed in the federal investigation.

The case was then assigned to AUSA Anne Marie Villafana, who was supervised by AUSA Andy Lourie and then First AUSA Jeffrey Sloman. Each of Mr. Epstein's attorneys, including Roy Black, Gerald Lefcourt, Alan Dershowitz, Alan Dershowitz's brother, Nat Dershowitz, Ken Starr, Jay Lefkowitz, Lilly Sanchez, Jack Goldberger, Bruce Lyons, Martin Weinberg, Stephanie Thacker, Guy Lewis, Mike Tein, Joe Whitley and Herb Rosen, have expressed sincere outrage over this wholly unwarranted and duplicative 18-month federal investigation of purely local conduct for which the State of Florida had already determined the most appropriate charge and punishment and each was astonished that any evidence Ms. Villafana purported to have was not shared with the State or made available to Mr Epstein's attorneys as *Brady* evidence.

Ms. Villafana launched a totally unsupportable and vastly overreaching sex trafficking investigation without providing notification to the Department of Justice's Civil Rights Division and CEOS, as required pursuant to Section 8-3.120 of the USAM. Ms. Villafana then threatened to indict Mr. Epstein for sex trafficking and internet luring, although Mr. Epstein never contacted a single one of the women over the internet, or, for that matter, by telephone, to meet him. As sex trafficking is a financial crime, the flight logs of Mr. Epstein's private planes were thoroughly examined, and the government agreed that there had never been an underage girl on Mr. Epstein's planes. Incredibly, Ms. Villafana claimed that telephone calls by Mr. Epstein's secretary to merely make or reconfirm appointments with local women (some of whom worked the local massage parlors) to come to Mr. Epstein's Palm Beach home were sufficient to satisfy the very narrow statutory elements of these offenses. Ms. Villafana then threatened to indict Mr. Epstein for "travel for the purpose of engaging in sex with underage girls", an international sex tourism statute, even though that statute was only used to combat sex tourism to third world nations which have no ability to enforce their own sex laws. In her distorted threatened application of this statute, Ms. Villafana chose to ignore the fact that Mr. Epstein had traveled to his Florida home of 20 years virtually every weekend to see his mother or brother or to conduct business.

Upon initiating the investigation, without any coordination with the Florida State Attorney's Office and in clear conflict with the Justice Department's Petite Policy, Ms. Villafana immediately issued irrelevant official document requests seeking, among other things, Mr. Epstein's 2004 and 2005 personal income-tax returns, caused the FBI to interview Mr. Epstein's personal physician and subpoenaed Mr. Epstein's medical records. *See* November 16, 2006 Letter from M. Villafana. In June 2007, again without the requisite Justice Department approval, and in a highly irregular move, Ms. Villafana subpoenaed the investigator/agent of Mr. Epstein's attorney, Roy Black, in a clear effort to invade the defense camp. The subpoena specifically sought to discover the investigator's contacts with all prospective witnesses, Mr. Epstein and his attorneys. *See* United States Attorneys' Manual, § 9-13.410. When Ms. Villafana was ultimately confronted about this misconduct, she misleadingly responded that she had consulted with the Department of Justice and *was not required to obtain OEO approval* because her subpoena was not directed to "an office physically located within an attorney's office."

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See December 13, 2007 Letter from M. Villafana at 4 n.1. This answer clearly suggests that Ms. Villafana had intentionally misled Justice Department officials about the items that her subpoena sought.[1] As a weak explanation of the many complaints about Ms. Villafana's misconduct and her flagrant violations of the USAM, her Criminal Division Chief, Matthew Menchel, eventually characterized her as "unsupervisable."

In August 2007, Ms. Villafana demanded that, in exchange for a deferral of federal prosecution, Mr. Epstein would be required under his own initiative to convince the State Attorney to allow him to enter into a plea agreement with the State of Florida substantially more onerous than the State Attorney thought was justified or required, or determined was warranted on the facts of this case. If Mr. Epstein refused, Ms. Villafana threatened to broaden the investigation to include violations for money laundering (18 U.S.C. § 1956), though all the funds expended were legally obtained and simply belonged to Mr. Epstein, and for operating an unlicensed money-transmitting business (18 U.S.C. § 1960), though Mr. Epstein never had such a business. *See* August 31, 2007 Letter from M. Villafana to Ross (reciting, in a target letter to one of Mr. Epstein's employees, that the investigation concerns "suspected violations of federal law, including but not limited to, possible violations of Title 18, United States Code, Sections . . . ***1591, . . . 1956, 1960*** . . . .") (emphasis added).

On the very same day that Ms. Villafana caused the grand jury to issue document subpoenas to the records-custodian and employees of Mr. Epstein's businesses relating to ***all financial transactions*** from 2003 forward, Ms. Villafana (who we were told was not authorized to act in this regard without supervisory approval) ***promised to close the money-laundering investigation*** only "if the sex offense case is resolved." *See* August 16, 2007 Letter from M. Villafana to G. Lefcourt ("In other words, if the sex offense case is resolved, the Office would close its investigation into other areas as well. The matter has not been, and it does not appear that it will be, resolved so the money laundering investigation continues, and Request Number 6 [seeking records of every financial transaction conducted by Mr. Epstein and his six businesses from "January 1, 2003 to the present"] will not be withdrawn.").

Two weeks later, when Mr. Epstein's defense team rightfully continued to oppose the unwarranted federal prosecution and Mr. Epstein's counsel sought a meeting with the United States Attorney, Ms. Villafana then classified all of Mr. Epstein's secretaries and assistants, his girlfriend and unnamed others as targets

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[1] Indeed, knowing of no bounds, Ms. Villafana has a documented history of such deception. We are aware of two other recent instances in which Ms. Villafana placed serious misrepresentations before a federal court. On July 31, 2007, in the grand-jury litigation arising out of this case, Ms. Villafana filed the "Declaration of Joseph Recarey," attaching the state detective's affidavit in support of a search warrant for Epstein's house. *See In Re Grand Jury Subpoenas Duces Tecum OLY-63 and OLY-64*, No. FGJ 07-103(WPB) (S.D. Fla. July 31, 2007). At the time she filed Detective Recarey's affidavit, Ms. Villafana knew it contained numerous material misrepresentations, including gross misstatements of witness statements and other innocuous evidence. In addition, we understand that Ms. Villafana was also reprimanded at a special hearing convened by a United States District Judge in the West Palm Beach Division of the Southern District of Florida for making misrepresentations during a prior sentencing proceeding.

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(sending a target letter to one of them and promising the attorney of two others that additional target letters would be served on them as well). In addition, Ms. Villafana dispatched FBI agents to the homes of two of Mr. Epstein's secretaries, and personally telephoned the attorneys of Mr. Epstein's largest business client to advise that client of the nature of the investigation. *See* August 31, 2007 Letter from M. Villafana to A. Ross.

Ms. Villafana refused to provide Mr. Epstein's defense counsel with any evidence from her investigation and eventually demanded that Mr. Epstein go to the State and insist that the State Attorney charge Mr. Epstein with the additional offense of procuring prostitution (i.e., pimping) of a person under 18 years of age, which would require Mr. Epstein to register as a sex offender. This Florida charge required that Mr Epstein be paid money for causing underage girls to engage in prostitution and was a charge that Ms. Villafana said she could support. However, she never provided Mr. Epstein's attorneys with any facts that could justify this charge. Although the State had already determined, after its own intensive 13-month investigation, that Mr. Epstein was merely a john who solicited prostitution, and it had absolutely no factual support of its own to charge him with a pimping offense, Ms. Villafana also refused to provide any evidence to or even consult with the State Attorney for this additional charge. This represented a clear violation of the Justice Department's Petite Policy. As codified in Section 9-2.031A of the USAM, among other things, the Petite Policy provides that "federal prosecutors should, as soon as possible, ***consult with their state counterparts*** to determine the most appropriate single forum in which to proceed . . ." (emphasis added).

Even more outrageously, on July 31, 2007, during negotiations over a possible federal plea agreement, Ms. Villafana also demanded that Mr. Epstein agree to the imposition of civil liability under 18 U.S.C. § 2255[2] as a pre-condition to deferral of federal prosecution. To the best of our knowledge, the inclusion of such a term in a deferred prosecution agreement of this kind is absolutely unprecedented.[3] Specifically, Ms. Villafana threatened that she would defer prosecution of Mr. Epstein only if he would agree to waive jurisdictional challenges, waive the right to contest liability and pay a minimum of $50,000 each to a secret list of women that she maintained were "victims" of § 2255. Ms. Villafana further demanded that the identities of these women must remain a secret and must not be disclosed to Mr. Epstein or his attorneys until after Mr. Epstein was successful in getting the State to charge him with the additional offense, pleaded guilty to all State charges, was sentenced,

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[2] 18 U.S.C. § 2255 is a civil remedy designed to provide financial benefits to victims of certain enumerated federal offenses, including those for which Ms. Villafana improperly threatened to prosecute Mr. Epstein.

[3] In fact, Stephanie Thacker, a former deputy to CEOS Chief, Drew Oosterbaan, stated that she knew of no other case like this being prosecuted by CEOS. See also page 2 of the Memorandum of former United States Assistant Attorney General Joe Whitley of Alston & Bird LLP to J. Lefkowitz dated December 5, 2007 ("To my knowledge . . . settlement of civil claims under 18 U.S.C. § 2255 has never been required as a condition precedent to the satisfaction of a criminal plea agreement prior to the Agreement of Epstein.")

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and actually in jail. Ms. Villafana continually referred to these women as minors and insisted that, as minors, they required representation by a guardian ad litem. Mr. Epstein's counsel later established that all but one of these women were actually adults, and not minors.

Moreover, as an additional component of her unprecedented and highly unorthodox requirements to defer prosecution, Ms. Villafana also demanded that Mr. Epstein pay to hire an attorney for each of the unidentified women on Ms. Villafana's secret list, if any of them decided to sue Mr. Epstein. Ms. Villafana then proposed sending a "victim" notification to the women which cautioned them, in an underlined sentence, that should they choose their own attorney (instead of the one chosen by Ms. Villafana), then Mr. Epstein would not be required to pay their attorneys' fees. As her choice for the civil attorney to represent the women, Ms. Villafana recommended Burt Ocariz, an attorney who she failed to disclose and who Mr. Epstein's defense attorneys subsequently discovered on their own was closely and personally connected to Ms. Villafana's own live-in boyfriend. Upon learning of this fact, United States Attorney Alex Acosta removed Mr. Ocariz from consideration.

Mr. Epstein's attorney, Joe Whitley, a former United States Assistant Attorney General, predicted that the unprecedented incorporation of these civil remedy provisions in the federal government's Non-Prosecution Agreement with Mr. Epstein (the "NPA") would create (1) the potential for the federal government's entanglement in private civil suits, including the use of government resources and potential for improper influence on such suits, (2) due process implications of requiring a defendant to waive the right to contest jurisdiction, civil liability and damages in future suits by as yet unnamed plaintiffs, and (3) the risk that the promise of uncontested damages may compromise so called "victim" testimony, all of which Mr. Whitley advised made it important that the NPA be reviewed at the highest levels of the Justice Department. See December 5, 2007 Memorandum of J. Whitley to J. Lefkowitz. Mr. Whitley's was absolutely correct as all three of his predictions came to pass. The NPA's civil remedy provisions created myriad opportunities for substantial abuse. It created a direct line of communication between the United States Attorney's Office (the "USAO") and the attorney representative ultimately selected to represent the women on Ms. Villafana's secret list, Bob Josefsberg. It enabled Mr. Josefsberg, in connection with the performance of his duties under the NPA, to seek information, guidance and assistance from Ms. Villafana and the USAO in the civil cases against Mr. Epstein. Clearly, participation in civil litigation by the criminal enforcement branch of the federal government in this manner was highly improper.

Once the NPA was disclosed, initially to the women on Ms. Villafana's list and ultimately to the public at large, the civil remedy provisions in the NPA encouraged other plaintiffs' attorneys, such as First AUSA Sloman's former law partner, Jeffrey Herman (see below), and Ms. Villafana's confidential informant, Brad Edwards (see below), to obtain assistance from Ms. Villafana and the USAO in their cases against Mr. Epstein. Moreover, during the course of the civil litigation against Mr. Epstein, plaintiffs' counsel regularly threatened to complain to the USAO about the manner in which Mr. Epstein's attorneys defended the litigation. No matter how spurious, those complaints created ever-

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increasing concern among Mr. Epstein's defense team that he could be declared in breach of the NPA and face renewed efforts by Ms. Villafana to indict him. This, combined with Ms. Villafana's numerous declarations of breach without justification (see below), had a chilling effect on the ability of Mr. Epstein's attorneys to effectively represent him in the civil litigation.

In attempting to ensure compliance with the NPA's civil remedy provisions, both Ms. Villafana and Mr. Sloman repeatedly acted well beyond the scope of their authority as federal criminal prosecutors to assist civil litigants in the Epstein cases. Ms. Villafana filed a Declaration in federal court, under penalty of perjury, stating that after the execution of, but before Mr. Epstein began to perform, the NPA, Ms. Villafana, herself, secured counsel for Courtney Wilde (as well as other women on Ms. Villafana's secret list) to assist Ms. Wilde in resisting deposition subpoenas from Mr. Epstein's counsel. Through her interactions with Ms. Villafana and the counsel Ms. Villafana secured for Ms. Wilde, Ms. Wilde was persuaded to bring suit against Mr. Epstein to collect her contractual payday under the NPA. Shortly thereafter, Ms. Wilde hired Brad Edwards to file her own claims against Mr. Epstein.

In addition, Ms. Villafana's investigator at the FBI, Special Agent Nesbitt Kuyrkendall, made repeated contact with witnesses to persuade them that they were victims of federal crimes by Mr. Epstein, even when the sworn testimony of these women clearly established that no federal crime occurred and the women themselves made it perfectly clear from the beginning that they were not victims. For example, according to the sworn testimony of [redacted], [redacted] was introduced to Mr. Epstein by [redacted]. [redacted] contacted [redacted] personally and not by telephone or other electronic means. [redacted] who was a couple of months shy of her 18th birthday when she first met Mr. Epstein, was told by [redacted] to lie about her age and admitted to lying about her age directly to Ms. Epstein. [redacted] never had sexual intercourse with Mr. Epstein. She came to Mr. Epstein's home between five and ten times, and with respect to a number of those visits, it was [redacted] who initiated contact with Mr. Epstein's assistants to let them know that she was available. There was never any telephone or other electronic contact by Mr. Epstein. Mr. Epstein's assistants did call [redacted] at times to find out if she was available for a massage, but there was never any discussion during those calls about any sexual contact with Mr. Epstein. Nor was there any pattern of behavior which guaranteed that a telephone call for a massage necessarily meant sexual contact as well. [redacted] was emphatic that anything that occurred at Mr. Epstein's Palm Beach home was entirely spontaneous and consensual, and that there was absolutely and unequivocally no force or coercion employed by Mr. Epstein. In short, [redacted] sworn testimony clearly establishes that nothing about [redacted] interaction with Mr. Epstein constituted a federal offense.

It as against this factual background that Special Agent Kuyrkendall repeatedly contacted [redacted] to persuade [redacted] that she was a victim of federal crimes. According to [redacted]'s sworn testimony, the FBI personally met with [redacted] 5 or 6 times and made additional telephone calls to [redacted]. From the outset, [redacted] advised Special Agent Kuyrkendall that everything that occurred at Mr. Epstein's home

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was completely consensual, and, most importantly, that [redacted] was not a victim of Mr. Epstein. Nevertheless, Special Agent Kuyrkendall repeatedly contacted [redacted] whether by telephone or to meet in person, each time telling [redacted] that [redacted] was a victim, offering [redacted] counseling, and providing victim's rights information to [redacted]. Not surprisingly, as a result of this constant barrage by Special Agent Kuyrkendall, [redacted] engaged the attorney representative, Mr. Josefsberg, to obtain a settlement payment from Mr. Epstein under the NPA.

On October 31, 2007, First AUSA Sloman emailed Mr. Epstein's counsel, confirming that "I understand that the plea and sentence will occur on or before the ***January*** 4th [2008] date." *See* October 31, 2007 Email from J. Sloman to J. Lefkowitz (emphasis added). On November 5, 2007, despite Mr. Sloman's having sent the October 31 email only a week earlier, after learning that Mr. Epstein's attorneys had begun to question certain women who, unbeknownst to Epstein, were on Ms. Villafana's list, Mr. Sloman wrote Mr. Epstein's attorneys demanding that his plea and sentencing in the State case now ***be moved up to November*** 2007. *See* November 5, 2007 Letter from J. Sloman. Mr. Sloman further demanded in the letter that Mr. Epstein's attorneys "confirm that there will be no further efforts to contact any victims" until the victims were represented by counsel. *Id.* As all but one of the women were then adults, there could be no lawful justification for Mr. Sloman's demand, other than to protect prospective plaintiffs from being interviewed prior to their retaining an attorney (including, as it turned out, Mr. Sloman's former law partner, Jeffrey Herman) to bring civil lawsuits against Mr. Epstein.

Around this same time, Mr. Sloman's former law partner, Jeffrey Herman, had met with the father of one of the prospective plaintiffs, [redacted] who was one of the women on Ms. Villafana's "secret" list. At the same time (and for almost five months thereafter), the Official Florida Bar website continued to identify Mr. Sloman as a named partner in Mr. Herman's firm. *See* Florida Bar Website page. Mr. Herman, who was a named partner in the former firm of Herman, Sloman, & Mermelstein, subsequently filed five lawsuits on behalf of the individuals on Ms. Villafana's then "secret" list, each seeking $50 million from Mr. Epstein. In connection with unrelated matters, Mr. Herman was subsequently suspended from the practice of law and his former partners continued to represent his clients in the cases against Mr. Epstein.

Before and after the execution of the NPA, Mr. Epstein's defense counsel repeatedly expressed concerns to the USAO that by refusing to disclose until after Mr. Epstein was in jail both the identities of the women on the secret list or the allegations of misconduct with respect to such women, the NPA exposed Mr. Epstein to virtually unlimited liability to an unlimited number of undisclosed persons. In response, by fax letter dated December 4, 2007, then United States Attorney Acosta, expressly represented to Ken Starr, a member of Mr. Epstein's Defense team that: (1) it was not the USAO's position that the civil remedy provisions of NPA provided a blanket waiver of liability with respect to any number of unnamed and undisclosed victims, (2) if any the women on Ms. Villafana's list proceed to trial, they would have some burden to prove they are

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victims, (3) as plaintiffs, the only thing that they would not have to prove is that Mr. Epstein committed a violation of a single enumerated section of title 18. However, if the plaintiffs proceeded to trial, Mr. Epstein's legal team would be entitled to conduct due diligence to confirm that the plaintiffs in fact had inappropriate contact with Mr. Epstein, (4) the USAO's interpretive principle would be only to place such persons in the same position as if Mr. Epstein proceeded to trial, and (5) the USAO would interpret the waiver of jurisdiction over Mr. Epstein's person and/or subject matter contained in the NPA as relating exclusively to issues of venue, and the USAO would not interpret that waiver as a waiver of subject matter jurisdiction. Moreover, by letter dated December 6, 2007, then First AUSA Sloman expressly represented to Mr. Epstein's defense counsel that all the women on Ms. Villafana's list had then already been identified as victims, after a thorough and proper investigation, and that Ms. Villafana's list included only those persons as to whom the USAO was then "prepared to indict Mr. Epstein."

Despite the written representations and in direct contradiction of Mr. Acosta and Mr. Sloman, by the time Ms. Villafana provided Mr. Epstein's attorneys with her final list on July 10, 2008, the list had been changed to include some thirty-one women (including several who to this day remain unknown to Mr. Epstein, at least one whose claims had already been barred by the applicable statute of limitations and at least one, [redacted], who, as admitted by Ms. Villafana, herself, in her own Declaration filed with the court, the federal government did not identify as a victim until May 28, 2008. – a full eight months after Mr. Epstein executed the NPA). *See* Declaration of M. Villafana, dated July 9, 2008. In addition, Mr. Sloman and Ms. Villafana had previously represented to Mr. Epstein's counsel that they had determined that all the women on the list were entitled to receive the civil payment required under the NPA because they all were identified and rechecked as "victims" that qualified for payment under 18 U.S.C. § 2255. Through subsequent discovery in the civil cases, Mr. Epstein's counsel later learned that many of the women on the list could not possibly qualify under §2255. The reason was that they, themselves, gave sworn testimony that they did not suffer any type of harm whatsoever from Mr. Epstein, a prerequisite for civil recovery under § 2255. Moreover, many of the women testified that they did not, now or in the past, consider themselves to be victims. Although Ms. Villafana required that Mr. Epstein waive the right to contest liability under §2255 as to all of the women on the secret list, the USAO eventually asserted that it could not vouch for the veracity of any of the claims that these women might make.

Moreover, the USAO repeatedly gave information about this case directly to the media—including to Landon Thomas, the senior business correspondent for the *New York Times*. AUSA David Weinstein spoke about the case in great detail to Mr. Thomas, and, although the USAO refused to provide any of this information to Mr. Epstein's defense team, Mr. Weinstein revealed highly confidential information about the government's allegations against Mr. Epstein, and also disclosed the substance of confidential plea negotiations with Mr. Epstein. When counsel for Mr. Epstein complained about the media leaks, Mr. Sloman responded by asserting that "Mr. Thomas was given, pursuant to his request, non-case specific information concerning specific

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federal statutes." However, based on Mr. Thomas's contemporaneous notes, which were personally reviewed by members of Mr. Epstein's defense team, that assertion was patently false. For example, Mr. Weinstein told Mr. Thomas that federal authorities believed that Mr. Epstein lured underage women over the telephone and traveled in interstate commerce for the purpose of engaging in underage sex. Mr. Weinstein recounted to Mr. Thomas the USAO's theory of prosecution against Mr. Epstein, replete with an analysis of the key statutes being considered. Furthermore, after Mr. Epstein's defense team complained to the USAO about the leak, Mr. Weinstein, in Mr. Thomas's own description, then admonished Mr. Thomas for talking to the defense, and getting him in trouble. Mr. Weinstein further told Mr. Thomas not to believe the "spin" of Mr. Epstein's "high-priced attorneys," and then, according to Mr. Thomas, forcefully "reminded" Mr. Thomas that all prior conversations were merely hypothetical.

In March 2008, Mr. Epstein's defense team ultimately requested and United States Attorney Acosta, himself, agreed that the case and defense counsel's complaints of prosecutorial misconduct by Mr. Acosta's staff be submitted for de novo review to CEOS in Washington, D.C. (Astonishingly, Ms. Villafana later characterized the United States Attorney's agreement with defense counsel to submit the matter to CEOS as a breach of the NPA by Mr. Epstein, claiming that Mr. Epstein was obligated under the NPA not to delay performance of the NPA's terms). Without providing even a hearing at which Mr. Epstein's counsel could present its evidence, CEOS refused to consider any prosecutorial misconduct and refused to perform any meaningful review other than to determine whether prosecuting the case would constitute an abuse of discretion, a much lower threshold and narrower review than that promised by Mr. Acosta. Although conceding that Mr. Epstein's counsel had "many compelling arguments" and that expansion of the applicable statutes to prosecute on the underlying facts of this case would be a "novel" interpretation of federal law, CEOS nevertheless decided that it would not be an abuse of prosecutorial discretion for the USAO to move forward.

However, Mr. Epstein's conduct—including his misconduct—fell within the heartland of historic state police and prosecutorial powers. Absent a significant federal nexus, matters involving prostitution have always been treated as state-law crimes even when they involve minors. Mr. Epstein's conduct lacked ***any*** of the hallmarks that would convert this quintessential state crime into a federal one under any of the applicable statutes raised by the USAO. For example, there were no allegations of internet luring, trafficking, violence, physical force or other forms of coercion. By all accounts, Mr. Epstein was an ordinary john and not a pimp. The evidence is replete with women giving sworn testimony that they had no sex with Mr. Epstein, and that they lied about their age and carried fake identification. Women testified that they were strippers, had multiple johns, and were illegal drug users (though they unanimously conceded that Mr. Epstein never gave them or even approved of any drugs at his Palm Beach home). They testified that they came to Mr. Epstein's home voluntarily, and returned on numerous occasions, often bringing their friends, and even their boyfriends.

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In short, without "novel" interpretive expansions—a description used by CEOS itself—it could not be shown that Mr. Epstein violated any of the three federal statutes identified by prosecutors. Federal law may not be stretched in that manner, and the USAO's investigation relied, as its foundation, on impermissibly elastic stretches of each statute beyond any reported precedent; beyond the essential elements of each statute; well outside the ordinary construction of each statute's limitations; and on a selective, extraordinary, and unwarranted expansion of federal law to cover conduct that has always been exclusively within the core of state powers.

At a minimum, the USAO's unprecedented attempt to stretch federal law in this manner made this a case of "national interest" under USAM 8-3.130. Under USAM 8-3.130, a case is of "national interest" if, among other things, "it is a case that presents important public policy considerations; a novel issue of law; [or is] a case that because of peculiar facts and circumstances, may set important precedent." If it is case of "national interest", then the Assistant Attorney General for the Civil Rights Division, who has ultimate authority to make such a determination, may require that both the USAO and the Civil Rights Division participate in the case jointly from the initiation of the investigation through prosecution. According to USAM 8-3.130, in making that determination, the Assistant Attorney General is supposed to consider all relevant factors and circumstances.

After CEOS failed to perform the full "de novo" review promised by United States Attorney Acosta, or consider any of the USAO misconduct which Mr. Epstein's team brought to CEOS's attention, in May 2008, Epstein's defense attorneys sought a higher review at the Justice Department in Washington, D.C. Despite the important public policy considerations, including those raised by the equally unprecedented incorporation of the civil remedy provisions in the NPA, the peculiar facts and circumstances of the Epstein matter, and the novel interpretive expansion of federal law in the case, the Justice Department refused to even consider whether it was appropriate to bring the Civil Rights Division into this case. Once again, it left the decision to proceed with the case to the discretion of United States Attorney Acosta and his office, the very same persons against whom Mr. Epstein's defense team raised serious complaints of prosecutorial misconduct. Thereafter, Ms. Villafana and Mr. Sloman demanded that Mr. Epstein immediately begin performing his obligations under the NPA or face federal indictment on charges carrying a minimum sentence of 10 years in federal prison.

Consequently, in June 2008, Mr. Epstein's defense team went to the Florida State Attorney and asked that Mr. Epstein be charged with a procuring offense for which the State had no evidence and the USAO would provide none. Mr. Epstein pleaded guilty to both the solicitation offense and the procuring offense, was sentenced to 18 months in Palm Beach County Jail, followed by a year of community control, began serving his sentence immediately and registered as a sex offender. In addition, as a direct result of the civil remedy provisions contained in the NPA, and the disclosure of those provisions to both the women on Ms. Villafana's list and their lawyers, the civil cases against Mr. Epstein mounted. Ultimately, Mr. Epstein was forced to hire Bob Critten and numerous other attorneys to represent him in 35 separate

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civil cases in which Mr. Epstein was forced to pay not only for his own attorneys, but, in many cases, for the attorney representative of the plaintiffs.

Although Ms. Villafana and the USAO stated both to Mr. Epstein's counsel and in civil court that the USAO could not and would not involve itself in the civil cases against Mr. Epstein (or for that matter in the administration of Mr. Epstein's Florida sentence), Ms. Villafana did so repeatedly. Throughout the duration of the civil cases, Ms. Villafana maintained a constant and real threat of indictment to ensure that Mr. Epstein would ultimately make substantial payments to both the plaintiffs her list, as well as any additional plaintiff who brought claims against Mr. Epstein. All the while that Mr. Epstein was in jail and after he was released, Ms. Villafana threatened at various times and for various improper reasons to hold Mr. Epstein in breach of the NPA.

In one instance, Ms. Villafana telephoned Ms. Epstein's defense attorney, Roy Black, to advise that Mr. Epstein's disparagement of the women in the press was a violation of the NPA, though there is absolutely no proscription in the NPA against Mr. Epstein refuting the false allegations made against him in the press. In another instance, Ms. Villafana telephoned Mr. Black to advise him that Mr. Epstein's request for and grant of work release constituted another breach of the NPA. Ms. Villafana then gave written notice of that breach to Mr. Epstein's counsel, even though Mr. Epstein was granted work release on the same terms as are granted to any other similarly situated inmate. It was not until Mr. Epstein's defense counsel learned of an email directly from Ms. Villafana expressly conceding the Palm Beach County Sheriff's authority to grant work release to Mr. Epstein that Ms. Villafana finally withdrew her claim of breach.

Ms. Villafana also appeared in open federal court and suggested that if Mr. Epstein fights the civil cases fully, she would declare a breach and nullify the NPA. In connection with a motion by Mr. Epstein to stay certain of the civil cases while the USAO's obligations under the NPA not to prosecute Epstein still remained open, Ms. Villafana submitted an amicus curae brief to Judge Marra stating in her own words that the protections Mr. Epstein thought he bargained for in the NPA were "illusory", and indicating that the federal government could always find a way to indict Mr. Epstein even well after he completed the sentence required of him under the NPA. *See* United States' Response to Court's Order Requesting Position on Defendant's Motion to Stay, fn. 5, pp. 14-15.

Moreover, Ms. Villafana served written notice on Mr. Epstein's counsel that Mr. Epstein's filing of a motion to dismiss another of the civil complaints against him was a breach of the NPA, even though the grounds asserted by Mr. Epstein's defense counsel in the motion to dismiss were consistent with the guidance previously provided by United States Attorney Acosta, and the claims alleged in that complaint were improper, inaccurate and did not satisfy the conditions in the NPA that might otherwise have required Mr. Epstein to waive the right to contest liability and minimum damages. Ms. Villafana further advised in that notice that she is continuing to review the filings in the other civil cases filed against Mr. Epstein to determine if other breaches have occurred.

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In addition, when Mr. Epstein reasonably and properly contested demands by the attorney representative, Bob Josefsberg, for millions of dollars of attorneys fees to simply represent the women on Ms. Villafana's list in settling their claims against Mr. Epstein, Ms. Villafana advised defense counsel in writing that she would give timely notice of any additional breaches when she completed her review of that matter as well. Mr. Josefsberg then hired his own daughter, a Florida State prosecutor to work on the Epstein cases. Mr. Josefsberg's daughter billed approximately $800,000 on the Epstein cases while at the same time maintaining her official position with the State Attorney's Office. Ms. Villafana suggested that contesting even those fees would also be a breach of the NPA.

Ms. Villafana further stated that she was not bound by any guidance previously provided by United States Attorney Acosta regarding the civil remedy or attorney payment provisions in the NPA, and that such provisions, which Mr. Acosta, himself, acknowledged were far from clear, were not that difficult to comprehend. Despite many requests from Mr. Epstein's counsel, Ms. Villafana refused to engage in any discussions regarding what claims or defenses by Mr. Epstein's counsel were permissible under the NPA in defending the civil cases or what were the proper limits of the attorney representative's billings under the NPA. In response to such requests, Ms. Villafana cavalierly stated that Mr. Epstein has a "highly skilled" defense team to assist him, that the duty lies with Mr. Epstein to ensure that he does not breach the NPA and that Mr. Epstein should err on the side of caution in making decisions that relate to the performance of his duties under the NPA.

Additionally, Ms. Villafana continued to coordinate with plaintiffs' counsel throughout the course of the civil cases. She even went so far as to use an attorney who represented a number of the plaintiffs on her list as her confidential informant in order to arrest and convict Mr. Epstein's houseman for obstruction of justice in connection with both the criminal and civil cases against Mr. Epstein. **[THE FOLLOWING COMMENT IS INSERTED BY DKI ON OCTOBER 6, 2011 FOR PURPOSES OF DISCUSSION WITH JEE → DIDN'T JE LEARN THAT BRAD WAS NOT THE INFORMANT? IF SO, WHO IS THE INFORMANT AND IS THERE A USEFUL CONNECTION TO MAKE HERE FOR THE NARRATIVE?]** Unbeknownst to Mr. Epstein, that houseman had stolen a phone book of Mr. Epstein's girlfriend from Mr. Epstein's Palm Beach home, and did not disclose it either to federal investigators or in response to civil discovery requests by the confidential informant. The confidential informant was none other than Brad Edwards **[THE FOLLOWING COMMENT IS INSERTED BY DKI ON OCTOBER 6, 2011 FOR PURPOSES OF DISCUSSION WITH JEE → PLEASE VERIFY NAME OF INFORMANT AND IF IT WOULD BE OF USE IN THE NARRATIVE.]**, a partner of Scott Rothstein at the law firm of Rothstein, Rosefeldt and Adler ("RRA"). RRA, Mr. Rothstein and others at RRA perpetrated the largest Ponzi scheme in Florida's history, using the very same civil cases that Mr. Edwards litigated against Mr. Epstein to fleece investors out of millions of dollars. Incredibly, Ms. Villafana was working with Mr. Edwards on this obstruction case only days before the FBI raided the offices of the RRA. Despite Mr. Edwards'

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obvious connection to the Epstein civil cases used in the Rothstein Ponzi scheme, Mr. Edwards has yet to be charged with any misconduct.

As predicted by Mr. Epstein's attorney, former United States Asistant Attorney General Joe Whitley, Ms. Villafana's entanglement in the civil cases against Mr. Epstein thwarted defense counsel's ability to effectively defend Mr. Epstein in those cases, forcing Mr. Epstein to settle those cases for millions of dollars, including by making settlement payments to women who had previously given sworn testimony that they were not victims, to at least one plaintiff whose claims were barred by applicable statutes of limitations and to other plaintiffs who Mr. Epstein never even met before.

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