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May 27, 2008

VIA FACSIMILE [REDACTED]

CONFIDENTIAL

Honorable Mark Filip
Office of the Deputy Attorney General
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Dear Judge Filip:

This letter briefly supplements our prior submission to you dated May 19, 2008. In that communication, we urgently requested that your Office conduct an independent review of the proposed federal prosecution of our client, Jeffrey Epstein. The dual reasons for our request that you review this matter are (i) the bedrock need for integrity in the enforcement of federal criminal laws, and (ii) the profound questions raised by the unprecedented extension of federal law by the United States Attorney's Office in Miami (the "USAO") to a prominent public figure who has close ties to former President Clinton.

The need for review is now all the more exigent. On Monday, May 19, 2008, First Assistant [REDACTED] of the USAO responded to an email from Jay Lefkowitz informing U.S. Attorney Alex Acosta that we would be seeking your Office's review. [REDACTED] letter, which imposed a deadline of June 2, 2008 to comply with all the terms of the current Non-Prosecution Agreement (the "Agreement"), plus new unilateral modifications, on pain of being deemed in breach of that Agreement, appears to have been deliberately designed to deprive us of an adequate opportunity to seek your Office's review in this matter.

The USAO's desire to foreclose a complete review is understandable, given that the Child Exploitation and Obscenity Section ("CEOS") has already determined that our substantive arguments regarding why a federal prosecution of Mr. Epstein is not warranted were "compelling." However, in contradiction to [REDACTED] assertion that CEOS had provided an independent, *de novo* review, CEOS made clear that it did not do so. Indeed, CEOS declined to examine several of the more troubling aspects of the investigation of Mr. Epstein, including the deliberate leak to the *New York Times* of numerous highly confidential aspects of the investigation and negotiations between the parties as well as the recent crop of civil lawsuits filed against Mr. Epstein by [REDACTED] former law partner.

The unnecessary and arbitrarily imposed deadline set by the USAO was done without any respect for the normal functioning and scheduling of state judicial matters. It requires that Mr. Epstein's counsel persuade the State Attorney of Palm Beach to issue a criminal information

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to a charge that the State Attorney has not, despite a two year investigation, determined to be appropriate. Mr. Epstein's counsel must also successfully expedite a plea of guilty to this charge on a date prior to July 8, 2008, which is the date presently set by the state court Judge.

Further, the unnecessary deadline is even more problematic because Mr. Epstein's effort to reconcile the state charge and sentence with the terms of the Agreement requires an unusual and unprecedented threatened application of federal law. Thus, it places Mr. Epstein in the highly unusual position of having to demand that the State acquiesce to a more severe punishment than it had already determined was appropriate.

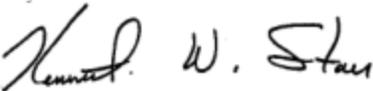
We have attempted to resolve these and other issues through the USAO and CEOS, including raising our concerns about the USAO's inappropriate conduct with respect to this matter. But those avenues have now been shut down. [REDACTED] letter purports to prohibit any further contact between Mr. Epstein's defense team and U.S. Attorney Acosta, and instead requires us to communicate with the USAO only through [REDACTED] subordinates.

While it pains us to say this, this misguided prosecution from the outset gives the appearance that it may have been politically motivated. Mr. Epstein is a highly successful, self-made businessman and philanthropist who entered the public arena only by virtue of his close personal association with former President Bill Clinton. There is little doubt in our minds that the USAO never would have contemplated a prosecution in this case if Mr. Epstein were just another "John."

U.S. Attorney Acosta previously has stated that he is "sympathetic" to our federalism-related concerns, but he has taken the position that his authority is limited by enforcement policies set forth in Washington, D.C. As expressed in our prior communication to you, we believe that a complete and independent appraisal and resolution of this case most appropriately would be undertaken by your Office—beginning with the rescission of the arbitrary, unfair, and unprecedented deadline that [REDACTED] demands to have imposed in this case. At the very least, we would appreciate a tolling of the arbitrary timeline imposed on our client by the USAO in order to allow time for your office to consider our request that you undertake a review of this case.

Thank you for your time and attention.

Respectfully submitted,


Kenneth W. Starr
Kirkland & Ellis LLP


Joe D. Whitley
Alston & Bird LL

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Honorable Mark Filip	Office of the Deputy Attorney General United States Department of Justice	[REDACTED]	[REDACTED]	
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Kenneth W. Starr	May 27, 2008	3	[REDACTED]	[REDACTED]

Message: