SUMMARY OF MISCONDUCT ISSUES IN THE MATTER OF JEFFREY E. EPSTEIN

The manner in which federal prosecutors have pursued the allegations against Mr. Epstein is highly irregular and warrants full review by the Department. While we repeatedly have raised our concerns regarding misconduct with the United States Attorney's Office in Miami (the "USAO"), not only has it has remained unwilling to address these issues, but Mr. Epstein's defense counsel has been instructed to limit its contact to the very prosecutors who are the subject of this misconduct complaint. For your review, this document summarizes the USAO's conduct in this case.

Background

1. In March 2005, the Palm Beach Police Department opened a criminal investigation of Palm Beach resident, Jeffrey E. Epstein. The press has widely reported that Mr. Epstein is a close friend of former President Bill Clinton.

2. In July 2006, after an intensive probe, including interviews of dozens of witnesses, returns of numerous document subpoenas, multiple trash pulls and the execution of a search warrant on his residence, Mr. Epstein was indicted by a Florida Grand Jury on one count of felony solicitation of prostitution.

3. In a publicly released letter, Palm Beach Police Chief Michael Reiter criticized the Grand Jury's decision and the State Attorney's handling of the case. Shortly after the Grand Jury's indictment, the Chief took the unprecedented step of releasing his Department's raw police reports of the investigation (including Detective Recarey's unedited written reports of witness statements and witness identification information), that were later proven to be highly inaccurate transcriptions of witnesses' actual statements. The Chief also publicly asked federal authorities to prosecute the case.

Jeffrey [redacted] Becomes Involved in Mr. Epstein's Case at the Earliest Stage

4. In early November of 2006, Epstein's lawyers had their initial contact with the newly assigned line federal prosecutor, [redacted]. Although it is extremely unusual for a First Assistant United States Attorney to participate in such a communication, FAUSA [redacted] was present on that very first phone call.

5. On November 16, 2006, despite that the fact that the investigation exclusively concerned illegal sexual conduct during massage sessions, AUSA [redacted] issued irrelevant official document requests seeking Mr. Epstein's 2004 and 2005 personal income-tax returns, and later subpoenaed his medical records. *See* Tab 16, November 16, 2006 Letter from M. [redacted].

[redacted] Becomes Personally Involved in a Dispute Over Another State Sex Case

6. In March 2007, FAUSA [redacted] reported to local police an attempted trespass by a 17-year-old male. Mr. [redacted] claimed that the individual had attempted to enter Mr. [redacted] home without invitation to make contact with his 16-year-old daughter, but he spotted the young man before the perpetrator had an opportunity to enter the house. The

same individual had previously fled the home of another neighbor after entering that house uninvited, when, looking for the bedroom of their 17-year-old daughter, he mistakenly entered the bedroom of their 14-year-old daughter, touched her on the leg and startled her awake. *State of Florida v. Johnathan Jeffrey Zirulnikoff*, Case No. F078646 (June 28, 2007).

7. After a thorough review by the Miami State Attorney's Office, and sex-crimes prosecutor Laura Adams, the investigation revealed that the defendant and both the neighbor's 17-year-old daughter and Mr. [redacted] daughter were previously acquainted. The defendant was charged with simple trespass in connection with his unauthorized entry into the neighbor's house. *Id.*

8. FAUSA [redacted] however, demanded that the young man be *registered as a sex offender* and objected to any sentence short of incarceration. The Assistant State Attorney in charge of the sex-crimes unit reported Mr. [redacted] conduct during the proceedings as "outrageous." The defendant's attorney described Mr. [redacted] as being "out of control." Shortly after, Mr [redacted] began publicly deriding the elected State Attorney, his office and the state process for prosecuting sex offenses, as "a joke."

Unauthorized Tactics in Disregard of the United States Attorney's Manual are Used

9. In June 2007, AUSA [redacted] subpoenaed the investigating agent of Epstein's attorney, Roy Black, in a clear effort to invade the defense camp. The subpoena was specifically drafted to discover the investigator's contacts, with all prospective witnesses, Mr. Epstein and his attorneys.[1] Not surprisingly, Ms. [redacted] issued this subpoena *without the requisite prior approval* by the DOJ's Office of Enforcement Operations. *See* United States Attorneys' Manual, § 9-13.410. When confronted, 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." *See* Tab 18, December 13, 2007 Letter from M. [redacted] at 4 n.1. This answer clearly suggests that Ms. [redacted] had intentionally misled the Department officials about the items that her subpoena sought.[2]

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[1] The subpoena sought, among other things: "All documents and information related to the nature of the relationship between [the investigator and/or his firm] and Mr. Jeffrey Epstein, including but not limited to . . . records of the dates when services were performed . . . telephone logs or records of dates of communications with Mr. Epstein (or with a third party on Mr. Epstein's behalf); appointment calendars/datebooks and the like (whether in hard copy or electronic form) for any period when work was performed on behalf of Mr. Epstein or when any communication was had with Mr. Epstein (or with a third party on Mr. Epstein's behalf) . *See* Tab 17, June 18, 2007 Subpoena to William Riley/ Riley Kiraly, ¶ 3.

[2] Indeed, we are aware of two other recent instances in which [redacted] placed serious misrepresentations before a court. On July 31, 2007, in the grand-jury litigation arising out of this case, she 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, she knew it contained numerous material misrepresentations, including gross misstatements of witness statements and other evidence. Second, we

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Mr. Epstein is Required to Agree to Civil Liability In Order to Avoid a Federal Indictment

10. On July 31, 2007, during negotiations over a possible federal plea agreement, FAUSA [redacted] and AUSA [redacted] demanded that Mr. Epstein agree to the imposition of civil liability under 18 U.S.C. § 2255 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. [redacted] demanded that Mr. Epstein waive the right to contest civil liability to a list of individuals she said were "victims" of § 2255, ***whose names, however, she refused to disclose,*** and agree to ***pay damages of a minimum of $150,000*** to each and every one of such undisclosed individuals, and ***hire an attorney to represent them if they decided to [redacted] him***. *See* Tab 20, July 31, 2007 Draft of Deferred Prosecution Agreement.

11. FAUSA [redacted] and AUSA [redacted] insisted that the identities of the individuals on the list not be disclosed to Mr. Epstein or his counsel ***until after Mr. Epstein was already sentenced*** in the state case.

    (a) Over the next two months, Mr. [redacted] refused to negotiate these terms. They ultimately became incorporated into the final deferred prosecution agreement. *See* Tab 21, September 24, 2007 Non-Prosecution Agreement, ¶¶ 7-11.

    (b) It was not until seven months later, in February 2008, that Epstein's lawyers were able to take their first official statement from one of the women FAUSA [redacted] alleged were minor victims of federal offenses.

    (c) This statement, a deposition of [redacted], the initial complainant in the state case, taken in the presence of her lawyer, proved that none of the necessary elements for any federal charge could be satisfied based on Ms. [redacted] brief contact with Mr. Epstein. The witness also admitted lying to Mr. Epstein, testifying that she told him that she was an adult and wanted him to believe that she was an adult. *See* Tab 13, [redacted] Tr. (deposition), p. 35 ("Q. So you told Jeff that you were 18 years old, correct? A. Yes."), 37 ("Q. You wanted Mr. Epstein to believe that you really were 18, right? A. Correct.").

    (d) Shortly after this deposition, the defense was able to obtain statements from other women on Mr. [redacted] so called "list of § 2255 victims" and, so far, all such statements also continue to demonstrate that Mr. [redacted] repeated representations to the defense about the existence of federal jurisdiction were false.

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understand that [redacted] was recently 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.

[3] In fact, Stephanie Thacker, a former deputy to CEOS Chief Drew Oosterbaan, has stated that she knew of no other case like this being prosecuted by CEOS.

12. In August 2007, in a clear attempt to coerce a state settlement, Ms. [redacted] threatened to broaden the investigation to include a money laundering violation (18 U.S.C. § 1956), though all the funds expended were simply Mr. Epstein's, and a violation for operating an unlicensed money-transmitting business (18 U.S.C. § 1960), though Mr. Epstein never had such a business. *See* Tab 22, August 31, 2007 Letter from M. [redacted] to [redacted] (reciting, in a target letter to one of 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).

13. On the very same day that the grand jury issued subpoenas to the records-custodian and employees of Epstein's businesses for ***all financial transactions*** from 2003 forward, Ms. [redacted] (who we were told was not authorized to act in this regard without supervisory approval) ***promised to close the money-laundering investigation*** "if the sex offense case is resolved." *See* Tab 23, August 16, 2007 Letter from M. [redacted] 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 Epstein and his six businesses from "January 1, 2003 to the present"] will not be withdrawn.").

14. Two weeks later, when Mr. Epstein continued to oppose federal prosecution during negotiations and Mr. Epstein's counsel sought a meeting with the United States Attorney, AUSA [redacted] then classified all of Mr. Epstein's assistants as targets (sending a target letter to one of them and promising the attorney of the other two that additional target letters would be served on them as well), dispatched FBI agents to the homes of two of his secretaries, and personally telephoned Mr. Epstein's largest business client to advise him of the nature of the investigation. *See* Tab 22, August 31, 2007 Letter from M. [redacted] to A. Ross.

FAUSA [redacted] Forces Mr. Epstein's Lawyers to Convince the State Prosecutors To Impose a More Severe Sentence Than They Believe Is Appropriate

15. Throughout the plea negotiations with the USAO, Mr. [redacted] and Ms. [redacted] continually insisted that the only way they would agree not to bring a federal indictment was if Epstein's lawyers, not the state prosecutors as required under the *Petite Policy*, convinced the state prosecutors to impose a more severe punishment than the state believed was appropriate under the circumstances.

16. FAUSA [redacted] version of the history with respect to the sentence he required Mr. Epstein's lawyers to seek from the State contradicts his later assertion, which is patently false—that "*the SDFL indicated a willingness to defer to the State the length of incarceration"* and *"considered a plea to federal charges that limited Epstein's sentencing exposure . . . " See* Tab 1, May 19, 2008 Letter from J. [redacted]. In fact, by a email dated August 3, 2007, Criminal Division Chief Matthew Menchel advised the defense that the federal government required a minimum term of two years of incarceration. See Tab 40, August 3, 2007 Email from M. Menchel. Subsequently, Ms.

[redacted] emailed the defense stating that United States Attorney Acosta would accept no less than 18 months of incarceration, following by a one-year term of house arrest.

Federal Prosecutors Misrepresented the Number of Alleged "Victims."

17. In September 2007, in order to add additional pressure on Mr. Epstein to execute a deferred prosecution agreement, AUSA [redacted] claimed that there were "40" minors on the government's list of purported § 2255 victims. To compound that misleading characterization, she continued to insist that a guardian-ad-litem be appointed to represent these purported "minors" in the proceedings. *See* Tab 24, September 19, 2007 Email from M. [redacted] to J. Lefkowitz.

18. When challenged as to whether there was a genuine need for a ***guardian,*** given that Ms. [redacted] continued to refuse to disclose the names or any other information about her putative list of "minors," she eventually conceded that ***only "1 is definitely under 18*** still, and ***I think*** there is another minor." *See* Tab 25, September 23, 2007 Email from M. [redacted] to J. Lefkowitz (emphasis added).

19. The next day, AUSA [redacted] retreated from the number "40," stating that she had now "compiled a list of ***34 confirmed minor victims with no definition of how they would be considered as such.***. 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." *See* Tab 26, September 24, 2007 Email from M. [redacted] to J. Lefkowitz (emphasis added). This statement indicated that, at least the "six others" (and, as it turns out, all those identified except two) had reached the age of majority, and, in fact, no guardian was necessary to represent their interests.

Defense Counsel was Falsely Advised That the Non Prosecution Agreement Would Be Kept Confidential.

20. On September 24, Epstein and the USAO executed a Non Prosecution Agreement.

21. His attorneys asked Ms. [redacted] to "please do whatever you can to keep this from becoming public." *See* Tab 27, September 24, 2007 Email from J. Lefkowitz to M. [redacted].

22. Ms. [redacted] replied that she had "forwarded your message **only to** Alex [Acosta], Andy [Lourie], and Rolando [redacted]. I don't anticipate it going any further than that." *Id.*

23. Ms. [redacted] stated that the agreement would be "placed in the case file, which will be kept confidential since it also contains identifying information about the girls." *Id.*

The Prosecution Immediately Notifies Three Plaintiffs That Mr. Epstein Has Executed A Non Prosecution Agreement

24. In direct violation of these representations, "shortly after the signing," the government notified "three victims" of the "general terms" of the Non Prosecution Agreement. *See*

Tab 18, December 13, 2007 Letter from M. [redacted] (admitting that the notification occurred "shortly after the signing").

AUSA [redacted] Misleads Mr. Epstein In An Attempt To Refer Plaintiffs to Her Boyfriend's Close Friend

25. On September 25, Ms. [redacted] recommended a local products-liability defense attorney, Humberto "Bert" Ocariz, Esq., for the highly lucrative post of attorney representative for the government's list of as-yet-undisclosed "victims."[4]

(a) Ms. [redacted] wrote to the defense, "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." *See* Tab 28, September 25, 2007 Email from M. [redacted] to J. Lefkowitz (bottom email) (emphasis added).

(b) Ms. [redacted] failed to disclose that this "***good friend*** in our appellate section" was her ***live-in boyfriend***. *See* Tab 18, December 13, 2007 Letter from M. [redacted] (conceding the "relationship" with "my boyfriend").

(c) Beyond her clear conflict-of-interest and affirmative effort to conceal it, it is unimaginable that AUSA [redacted] would have engaged in an *ex-parte* communication with a United States District Judge in the same district about the details of a pending grand-jury investigation without prior disclosure and supervisory approval.

(d) Later, it became clear that Ms. [redacted] also had at least one other *ex-parte* communication with that same United States District Judge about the grand jury's investigation. *See* Tab 29, October 5, 2007 Email from M. [redacted] to J. Lefkowitz (stating that "one of the District Judges in Miami mentioned [retired Judge Joseph Hatchett] as a good choice" to decide any fee disputes concerning Epstein's paying for a lawyer to represent the unnamed women in claims against Epstein).

26. The next day, AUSA [redacted] advised the defense that she was removing one of the alternatives to Mr. Ocariz from our consideration, on the basis that "one of his partners is married to an AUSA here," and explained that, because of that personal relationship,

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[4] These actions were improper. As you know, the Department prohibits employees from using any nonpublic information to secure private benefits of any kind: "An employee ***shall not … allow the improper use of nonpublic information to further his own private interest or that of another, whether through advice or recommendation, or by knowing unauthorized disclosure.***" 5 C.F.R. § 2635.703 (emphasis added). Among the examples of prohibited disclosure specifically illustrated by this regulation is the disclosure of nonpublic information to "friends" to further their financial interests, *id.*, at Example 1, and the disclosure of nonpublic information to a newspaper reporter, *id.*, at Example 5 (see allegations below regarding the leak to the *New York Times*). Furthermore, the Justice Department prohibits its employees from using their position to benefit friends or relatives. *See* 5. C.F.R. § 2635.702; *see also* 5. C.F.R. § 2535.502.

"[t]here is too great a chance of an appearance of impropriety." *See* Tab 28, September 26, 2007 Email from M. [redacted] to J. Lefkowitz.

27. The following day, Ms. [redacted] relayed that, and asked us to respond to, the very first concern raised Mr. Ocariz, which was "how are they going to get paid" and whether "there is any cap or other limitation on attorney's fees that [Epstein] will pay in the civil case." *See* Tab 30, September 27, 2007 Email from M. [redacted] to J. Lefkowitz.

28. Ms. [redacted] clearly contemplated that Mr. Epstein would be paying for Mr. Ocariz at his "hourly rate" to represent the alleged "victims" against Epstein even "if all [the] girls decide they want to [redacted]." *Id.*

29. When the defense complained of Ms. [redacted] undisclosed conflict-of-interest in selecting her boyfriend's friend to prosecute civil claims against Mr. Epstein on behalf of her undisclosed list of purported "victims," Ms. [redacted] later argued that Mr. Epstein had no right to complain because "the Non-Prosecution Agreement vested the Office with the exclusive right to select the attorney representative." *See* Tab 18, December 13, 2007 Letter from M. [redacted]. Shortly after being notified, however, United States Attorney Acosta removed Mr. Ocariz from consideration, and requested an amendment to the Non Prosecution Agreement.

30. In response to the many complaints about Ms. [redacted] misconduct and violations of the United States Attorney's Manual, Criminal Division Chief Matthew Menchel characterized her as "unsupervisable."

31. Contrary to the express agreement of United States Attorney Acosta that the federal government would not interfere in the administration of any state sentence, FAUSA [redacted] continued to try to deny the right of the State to issue work release and/or gain time by stating that Mr. Epstein must "make a binding recommendation that the Court impose" a sentence of 18 months of continuous confinement in the county jail. *See* Tab 21, September 24, 2007 Non Prosecution Agreement. Shortly thereafter, Mr. [redacted] sent the FBI to meet with the state sex-crimes prosecutor in an attempt to secure her commitment to oppose a work release option.

FAUSA [redacted] Attempts to Thwart Discovery

32. On October 31, Mr. [redacted] 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* Tab 41, October 31, 2007 Email from J. [redacted] to J. Lefkowitz (emphasis added).

33. On November 5, despite Mr. [redacted] having sent that email just one week before, after learning that the defense had begun to question women on their "list," Mr. [redacted] wrote Mr. Epstein's attorneys demanding that his plea and sentencing in the State case now ***be moved up to November*** 2007. *See* Tab 2, November 5, 2007 Letter from J. [redacted].

34. Mr. [redacted] 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 are represented by counsel. *Id.* As the women were all adults, there could be no lawful justification for Mr.

[redacted] demand, other than to protect prospective plaintiffs from being interviewed prior to their retaining an attorney (including, as it turned out, Mr. [redacted] former law partner) to bring civil lawsuits against Epstein.

35. Mr. [redacted] also demanded that Epstein "begin his term of incarceration not later than January 4, 2008," *id.,* which turned out to be just three weeks before the first civil lawsuit would be filed against Epstein.

36. Contrary to the express agreement of United States Attorney Acosta that the federal government would not interfere in the administration of any state sentence, Mr. [redacted] tried to limit gain time and or work release by stating that Mr. Epstein must "make a binding recommendation that the Court impose a sentence of 18 months of continuous confinement in the county jail." *Id.* (This followed Mr. [redacted] position that the Office would consider a state sentence ordering probation in lieu of incarceration to be a breach of the deferred-prosecution agreement.) Shortly thereafter, Mr. [redacted] sent the FBI to meet with the state sex-crimes prosecutor in an attempt to secure her commitment to oppose work release.

37. Mr. [redacted] insisted that Mr. Epstein not learn the identities of the government's list of alleged "victims" *until after Epstein was sentenced and incarcerated*.

38. We have reason to believe that, around this same time, Mr. [redacted] former law partner, Jeffrey Herman, had met with the father of one of the prospective plaintiffs, [redacted].[5] At the same time (and until as recently as March of 2008), the Official Florida Bar website continued to identify Mr. [redacted] as a named partner in Mr. Herman's firm. *See* Tab 31, Florida Bar Website page.

39. Mr. Herman, who is the named partner in the former firm of Herman, [redacted], & Mermelstein, filed five lawsuits, each asking for $50 million, against Mr. Epstein. Each lawsuit is entitled "*Jane Doe #_* vs. Jeffrey Epstein," despite the fact that each of the plaintiffs is an adult and not entitled to plead anonymously. *See* Tab 32, Examples of Federal Complaints.

40. Mr. Herman convened press conferences contemporaneously with filing three of the suits. In the most recent press conference, he admitted that all of the plaintiffs lied to Epstein about their ages. *See* Tab 33, Herman Public Statement. One of the supposedly traumatized "victims" actually pled in her complaint that she returned to Epstein's house "on many occasions for approximately three years." Another of these supposedly traumatized "victims" herself acted to introduce her friends and acquaintances to Mr.

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[5] The Justice Department rules disqualify employees from working on matters in which their former employers have an interest: "***an employee shall be disqualified for two years from participating in any particular matter in which a former employer is a party or represents a party if he received an extraordinary payment from that person prior to entering Government service***. The two-year period of disqualification begins to run on the date that the extraordinary payment is received." 5 C.F.R. § 2635.503(a) (emphasis added).

Epstein. All of these plaintiffs are apparently on the above-described government "victim" list.

FAUSA [redacted] Attempts to Encourage Civil Suits and the Hiring of the Government's Choice of Attorney

41. On November 27, Mr. [redacted] sent an email to Mr. Epstein's attorneys stating that "I intend to notify the victims by letter after COB Thursday [two days later]." *See* Tab 34, November 27, 2007 Email from J. [redacted] to J. Lefkowitz.

42. The morning of November 28, attorneys for Mr. Epstein faxed a letter to Assistant Attorney General Alice Fisher, requesting a meeting with her to discuss the impropriety of the USAO's encouraging civil lawsuits against Mr. Epstein under the guise of the terms of the Non Prosecution Agreement. *See* Tab 35, November 28, 2007 Letter from K. Starr to A. Fisher.

43. Late in the day on November 28, Epstein's attorneys received from AUSA [redacted] a copy of the USAO's proposed victim-notification letter that "***Jeff [redacted]*** asked that I forward." *See* Tab 36, November 28, 2007 Email from M. [redacted] to J. Lefkowitz.

(a) The proposed victim-notification letter cited as authority the "Justice for All Act of 2004" (which U.S. Attorney Acosta later agreed had no application to these circumstances). It referred to the addressees as minor "victims," suggested they make statements in state court, that they were not entitled to make, and referred incorrectly to Mr. Epstein as a "sexual predator." *Id.*

(b) FAUSA [redacted] also proposed advising recipients, in an underlined sentence that, "You have the absolute right to select your own attorney" to "assist you in making . . . a claim" for "damages from [Epstein]." But that "[i]f you do decide to use [two attorneys selected by the U.S. Attorney's "special master"] as your attorneys, Mr. Epstein will be responsible for paying attorney's fees incurred during the time spent trying to negotiate a settlement." *Id.*

The USAO Leaks Confidential Information to the *New York Times*

44. Perhaps most troubling of all, the USAO has repeatedly leaked information about this case to the media—including to Landon [redacted], the senior business correspondent for the *New York Times*. We have personally reviewed Mr. [redacted] own notes, and they are remarkably detailed about highly confidential aspects of the prosecution's theory of the case and the plea negotiations.

45. Mr. [redacted] calls to the USAO initially were referred to Assistant United States Attorney [redacted] AUSA [redacted] informed Mr. [redacted] that federal authorities were considering charging Mr. Epstein under 18 U.S.C. §§ 1591, 2422 and 2423, and told the reporter that Mr. Epstein had both lured girls over the telephone and traveled in interstate commerce for the purpose of engaging in sex with minors. AUSA [redacted] also divulged the terms and conditions of the USAO's negotiations with Mr. Epstein—including the fact that Mr. Epstein had proposed "house arrest" with extra

stringent conditions—which Mr. [redacted] could only have learned from FAUSA [redacted], AUSA [redacted] or United States Attorney Acosta himself.

46. AUSA [redacted] then asked why Mr. Epstein should … be treated differently than anyone else. Mr. [redacted] apparently stated that he understood that there was evidence that the women had lied about their ages. AUSA [redacted] replied that this was not a defense and that Mr. [redacted] should not believe "the spin" of Mr. Epstein's "high-priced attorneys." Indeed, Mr. [redacted] told Mr. [redacted] that the USAO was very concerned about a Palm Beach editorial that questioned whether Mr. Epstein would receive a rich man's justice. AUSA [redacted] then stated that, in fact, Mr. Epstein "doesn't have a defense."

47. Mr. Epstein's attorneys learned of the call and complained to the USAO. Counsel for Mr. Epstein then had an in-person meeting with FAUSA [redacted] and United States Attorney Acosta describing these leaks to the *New York Times*. During Mr. [redacted]' next call to the USAO, made two weeks later, AUSA [redacted] "admonished" him (in the words of Mr. [redacted]) for disclosing the contents of their prior conversation to the defense, and strongly "reminded" Mr. [redacted] that AUSA [redacted]s prior comments about Mr. Epstein had only been "hypothetical" in nature. That claim is sheer nonsense: AUSA [redacted]n had disclosed specific details of Mr. Epstein's case, including plea terms proposed by the defense, as revealed based on Mr. [redacted] own contemporaneous hand-written notes.

48. Shortly thereafter, Mr. [redacted] wrote to the defense that Mr. [redacted] was given, pursuant to his request, ***non-case specific information*** concerning ***specific*** federal statutes." *See* Tab 37, February 27, 2008 Email from J. [redacted]. Again, that claim was utterly false; Mr. [redacted] contemporaneous hand-written notes, reviewed by Jay Lefkowitz, confirm that the USAO had violated settled Department policy and ethical rules by providing case-specific information about the Department's legal theories and plea negotiations.

Conclusion

We bring these difficult and delicate matters of misconduct to your attention not to require any disciplinary action or review by the Office of Professional Responsibility. Although we have been told that some of this misconduct has been self-reported (only after we raised these complaints in writing), we feel confident that not all the facts were adequately presented. Rather, we believe that they are highly relevant to your decision whether to authorize a federal prosecution in this case. This pattern of overzealous prosecutorial activity strongly suggests improper motives in targeting Jeffrey Epstein, not because of his actions (which are more appropriately the subject of state prosecution), but, rather, because of who he is and who he knows. We also bring this pervasive pattern of misconduct to your attention because we believe it taints any ongoing federal prosecution. The misconduct pervades the evidence in this case. The offers of financial inducement to witnesses, improperly encouraged by the government, make their potential testimony suspect. The reliance on tainted evidence gathered by the state will require a careful sorting out of poisonous fruits.

Most important, however, is that the extraordinary nature of this misconduct, so unusual in ordinary federal prosecutions, raises the gravest of concerns about why prosecutors would go to such lengths in a case already being prosecuted by the State and with so little, if any, federal concern. Accordingly, we ask you to conduct your own investigation of these matters, because we believe that what we have provided you may constitute only the tip of a very deep iceberg. Without the power of subpoena, which we currently lack, we are unable to dig deeper. We strongly believe that there is far more exculpatory evidence that has not been disclosed, more leaks that we have not yet uncovered and more questionable behavior. This is a case that cries out for a deeper investigation than we are capable of conducting, before any decision to prosecute is permitted.