

**KIRKLAND & ELLIS LLP**

AND AFFILIATED PARTNERSHIPS

Jay P. Lefkowitz, P.C.  
To Call Writer Directly:Citigroup Center  
153 East 53rd Street  
New York, New York 10022-4611

www.kirkland.com

Facsimile:

**Confidential**  
**For Settlement Purposes Only**  
**Pursuant to Rule 408**

February 13, 2009

**VIA FACSIMILE**Robert C. Josefsberg, Esq.  
Podhurst Orseck, P.A.  
City National Bank Building  
25 West Flagler Street, Suite 800  
Miami, FL 33130

Dear Bob,

We have received copies of your firm's invoices for the last several months as related your representation of a select group of individuals in connection with a matter between Mr. Epstein and the United States Attorney's Office in the Southern District of Florida (the "USAO"). We write this letter to (1) address issues raised by those invoices and (2) suggest a resolution to this matter that would benefit all parties involved.

First and foremost, after thoroughly reviewing the invoices from your firm, it is clear that the services you have provided to the women at issue far exceed the scope of services for which Mr. Epstein agreed to pay under the federal Deferred Prosecution Agreement (the "Agreement") and Addendum. Pursuant to the relevant Agreement and Addendum, Mr. Epstein agreed to pay the attorney representative for his representation of a select group of individuals at "his or her regular customary hourly rate." Importantly, the Addendum limits the scope of this representation and specifies that the Agreement "shall not obligate Epstein to pay the fees and costs of contested litigation filed against him." The Addendum further provides that Mr. Epstein's obligation to pay the fees of an attorney representative ceases when the work performed is aimed at pursuing "a contested lawsuit pursuant to 18 U.S.C. § 2255" or "any other contested remedy." Simply put, the Agreement and Addendum only require Mr. Epstein to pay fees expended in connection with negotiating a settlement for each of the relevant individuals, not for services relating to any type of pre-litigation effort. Thus, any charges related to work performed beyond, or extraneous to, reaching a settlement should not be Mr. Epstein's responsibility. Mr. Epstein fully intends to fulfill his agreement and pay for all fees associated with settlement at your firm's regular hourly rates. However, Mr. Epstein will not pay for any services beyond those directed towards reaching a settlement. To resolve this matter, we are

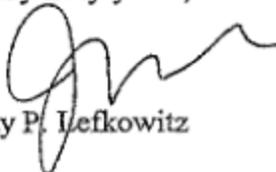
**Confidential**  
**For Settlement Purposes Only**  
**Pursuant to Rule 408**

Robert C. Josefsberg  
February 13, 2009  
Page 2

available and ready to discuss the invoices with you on a line-by-line basis and believe that we can come to an agreeable resolution as to the fees accumulated to date. During the same discussion, we hope to clarify with you the exact number of women who have agreed to utilize your services for the purpose of reaching a settlement with Mr. Epstein.

Second, upon serious consideration and discussion, Mr. Epstein is prepared to offer your clients a settlement that we believe will serve to compensate each individual appropriately. As a final resolution to this matter, Mr. Epstein would pay each individual who agrees to relinquish any and all potential civil claims against him \$50,000.00, which is the statutory amount provided by 18 U.S.C. § 2255, at the time of the alleged violations. Each individual would receive this amount, without any need to offer proof of claim or injury and without any further delay. We hope that you discuss this offer with your clients in the next 30 days, as Mr. Epstein's offer to settle will remain open until March 13, 2009.

Very truly yours,



Jay P. Lefkowitz

# PodhurstOrseck

TRIAL & APPELLATE LAWYERS

Aaron S. Podhurst  
Robert C. Josefsberg  
Joel D. Eaton  
Steven C. Marks  
Victor M. Diaz, Jr.  
Katherine W. Ezell  
Stephen F. Rosenthal  
Ricardo M. Martínez-Cid  
Ramon A. Rasco  
Alexander T. Rundlet  
John Gravante, III

Robert Orseck (1934-1978)

Walter H. Beckham, Jr.  
Karen Podhurst Dern  
Of Counsel

February 20, 2009

Jay P. Lefkowitz, P.C.  
Kirkland & Ellis LLP  
Citigroup Center  
153 East 53<sup>rd</sup> Street  
New York, NY 10022-4611

Dear Mr. Lefkowitz:

I received your letter dated February 13, 2009. What your client is doing is obvious, and it is in breach of his Non-Prosecution Agreement. The agreement speaks for itself. Enclosed is a copy of the marching orders I received from Mr. Sloman. Pursuant to these directions and the ethical requirements of the legal profession to zealously represent my clients, I have attempted to efficiently and effectively pursue my clients' claims against Mr. Epstein. Perhaps your client thought that he could victimize and intimidate countless underage girls, that he would then agree to provide minimal compensation to them for the damage he inflicted upon them and that I would then simply let them come in and "sign the paperwork" for the absolute minimum recovery. My role is not a clerical one where I merely document a settlement that simply offers the statutory *minimum* even though courts have provided recovery for *each occurrence*. What's more, your letter presumes that I should allow my clients to accept such an offer without fully evaluating their claims. Settling their cases in a vacuum would amount to malpractice.

As we see it, each of our 9 or 10 clients has three choices: to do nothing, to settle, or to sue your client. In order to make an educated decision, we are required to conduct a comprehensive review of each client's personal history, the events surrounding their abuse at the hands of Mr. Epstein and what has happened to them since he sexually exploited and abused them. Collateral interviews and psychological evaluations are crucial components of corroborating facts and assessing a fair damages calculation. Extensive legal research into their potential legal claims and resulting damages must also take place. Such an investigation is, of course, going to be helpful at trial if any of them choose to litigate their claims. This, however, does not change the fact that everything we've done is necessary in order to determine if we should settle. As a matter of fact, you and I discussed hiring Sandy Marks, a jury consultant. Again, such an exercise would be extremely helpful at trial, but an analysis of what would happen at trial is exceptionally beneficial at the settlement stage.

February 20, 2009  
Page 2

You are welcome to set up a conference call or visit us so we can go through my bills line by line in search of "any charges related to work performed beyond, or extraneous to, reaching a settlement." To be clear, *nothing* in our bills is extraneous to settlement of our clients' claims. Our bills represent our work on behalf of 9 or 10 clients. I will take this opportunity to remind you that of the \$412,827.76 that we have sent you itemized bills for, only \$163,992.15 has been paid. Mr. Black wrote on February 3<sup>rd</sup> that he was advised that a check had been sent out that day. It had not. By the time we got 50% of outstanding fees, outstanding bills were more than 90 days overdue. Failure to pay our fees jeopardizes your client's agreement with the United States Attorney's Office.

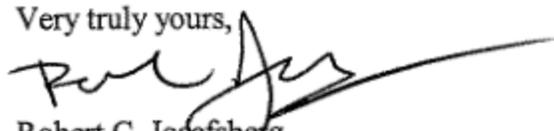
My exchange with Mr. Black (copies of e-mails are attached) illustrates that promises that have been written or said by you or Mr. Black have been breached. I find myself in a position where I do not know if Mr. Epstein is bound by what you or Mr. Black say. Before we go further, I need confirmation that you and/or Roy Black can commit Mr. Epstein.

One of Mr. Black's e-mails clearly states that "Jeffrey will not pay more for the fees and expenses without the start of settlement negotiations." I am frankly baffled by your client's misguided pretense. When I met with you on November 26, 2008, you said Mr. Epstein would not be ready to talk about settling until the end of January. Both you and Mr. Black did not return three or four calls to each of you between January 10 and approximately January 25. Just so the record is clear, we have diligently pursued reaching the stage of active settlement negotiations and have been stonewalled by your side, until your February 13<sup>th</sup> "take it or leave it" \$50,000 per client offer.

In addition, I have attempted to tackle any procedural and logistical problems in an efficient, economical and timely manner. At each step, I have either encountered delay or a complete lack of response. For example, I wasted a lot of time and energy on your client's frivolous claim that I cannot represent my clients at trial. You shocked me with that position on November 21<sup>st</sup> and promised to get back to me to discuss it. Since we met in November, we haven't received a response regarding this issue. You apparently have finally abandoned this position. In addition, at that November meeting, I told you that some victims have severe psychological problems and that their claims warranted far in excess of \$150,000 but that we are sensitive to concerns about them using the money otherwise. As a result, we discussed putting the money in special trusts expressly restricted for payment of psychological treatment. Again, I have received no response.

Finally, the March 13<sup>th</sup> cutoff date is nonsensical. I trust that you wouldn't dare be attempting to say that Mr. Epstein's offer is withdrawn after that. As I said before, your client is in clear breach of his Non-Prosecution Agreement. I am at a loss as to why he would be willing to face the prospect of numerous civil trials, which will be ugly for him, and a federal prosecution in order to avoid fairly compensating my clients for the harm he inflicted upon them.

Very truly yours,



Robert C. Josefsberg

cc: Roy Black  
Alan Dershowitz

EFTA01076126

**KIRKLAND & ELLIS LLP**

AND AFFILIATED PARTNERSHIPS

Citigroup Center  
153 East 53rd Street  
New York, New York 10022-4611Jay P. Lefkowitz, P.C.  
To Call Writer Directly:

Facsimile:

www.kirkland.com

**Confidential**  
**For Settlement Purposes Only**  
**Pursuant to Rule 408**

March 3, 2009

**VIA FACSIMILE**Robert C. Josefsberg, Esq.  
Podhurst Orseck, P.A.  
City National Bank Building  
25 West Flagler Street, Suite 800  
Miami, FL 33130

Dear Mr. Josefsberg,

I write in response to your letter dated February 20, 2009. First, there is no merit whatsoever to your contention that Mr. Epstein has breached the Non-Prosecution Agreement, and your implication that he has is simply unsupported by the facts. As you state in that letter, the "agreement speaks for itself" and should be honored as such. My February 13, 2009 letter to you was an attempt to ensure that the portion of the Agreement concerning restitution be carried out as intended and written. Indeed, our objections to your expanded role in representing the alleged victims and to Mr. Epstein's obligations to pay fees incurred outside of the settlement context are valid. Furthermore, nowhere in the Agreement or Addendum does it state that a fee dispute or contentions as to the exact role of the attorney representative constitute a breach of that Agreement. In fact, there is a requirement that fee disputes be resolved with a special master. As I further explain below, your letter and accompanying documents, as well as the description of services performed in your invoices, lead us to believe that there has been a misunderstanding as to your role.

With your letter, you enclosed a communication from Mr. Sloman to Judge Davis dated October 25, 2007 and an additional document, presumably also from Mr. Sloman, entitled "PROPOSAL FOR PROCEEDING ONCE ATTORNEY IS SELECTED." While you refer to these documents as your "marching orders," neither document is part of the signed Agreement between Mr. Epstein and the United States Attorney's Office ("USAO"). The October 25, 2007 letter was not even addressed to you, but rather to Judge Davis, the individual responsible for selecting an appropriate attorney representative. And since the October 2007 letter was drafted, there have been several communications between Mr. Epstein's defense team and the USAO which served to further clarify the Agreement with respect the role of the attorney representative.

## KIRKLAND &amp; ELLIS LLP

Confidential  
For Settlement Purposes Only  
Pursuant to Rule 408

Robert C. Josefsberg  
March 3, 2009  
Page 2

Thus, this document may have contributed to the apparent misunderstanding concerning your defined responsibilities in this matter. In any case, your purported reliance on this letter raises more questions than it answers. For example, the letter clearly indicates that the parties were to "*jointly prepare* a short written submission . . . regarding the role of the attorney representative and regarding Epstein's Agreement to pay such attorney representative his or her regular customary hourly rate . . ." (emphasis added). However, you never inquired as to the existence of such a joint statement to help inform you of your defined role. Indeed, you failed to reach out to anyone on Mr. Epstein's defense team to obtain such a document.

Even though the October 2007 letter does not provide any direct instructions as to your particular responsibilities, it does quote relevant portions of the Agreement which expressly limit Mr. Epstein's obligation to pay the attorney representative. Specifically, the Agreement "shall not obligate Epstein to pay the fees and costs of contested litigation filed against him." Furthermore, the proposed instructions are represented in a document that was not agreed upon between the USAO and Mr. Epstein's defense team. Indeed, we clearly rejected the notion that (1) the selected attorney be able to fulfill any role beyond negotiating a settlement, and (2) that Epstein would pay for any services beyond those incurred while trying to reach a settlement.

While we have no objections to your representation of the relevant individuals, we believe that your role, as made clear in the Agreement, is limited to settlement negotiations. In other words, under the Agreement, if an individual wants to consider any measure beyond settlement with Mr. Epstein, she must pursue those avenues through another lawyer. Based on the language of the Agreement, it is our position that you are not responsible for pursuing your clients' claims, as you state in your letter.

Furthermore, Mr. Epstein is certainly not trying to "victimize and intimidate" anyone. The offer to settle was an earnest effort to avoid any further delay in resolving this matter. Notably, the government has expressly provided that it takes no position regarding potential claims of government witnesses.<sup>1</sup> Given this lack of support, Mr. Epstein's offer of \$50,000 to resolve claims that are not time-barred (as we believe [REDACTED] claim to be), without any

<sup>1</sup> On several occasions, USAO representatives have asserted that the government takes no position as to the claims of the individuals identified as alleged victims. For the sake of confidentiality, we will not produce the relevant documents. One such communication, however, was made in a December 6, 2007 letter from United States Attorney Acosta to myself, in which he stated that "the Office has no intention to take any position in any civil litigation arising between Mr. Epstein and any individual victim . . ."

## KIRKLAND &amp; ELLIS LLP

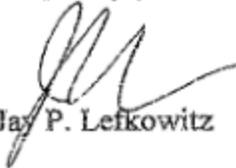
Confidential  
For Settlement Purposes Only  
Pursuant to Rule 408

Robert C. Josefsberg  
March 3, 2009  
Page 3

requirement to verify the allegations made, is more than reasonable.<sup>2</sup> And while you are surely entitled to your personal opinion as to the merits of our settlement offer, we remind you that you are under an obligation to discuss our offer with your clients and to allow each one to determine whether she would like to accept such an offer. If these individuals choose to reject Mr. Epstein's offer and consider potential litigation against Mr. Epstein, another lawyer, not paid by Mr. Epstein, will have to perform that work.

I hope these matters can be resolved in an amicable manner. I would welcome the opportunity to meet with you face-to-face so that we are able to move forward. I am certain that a great deal of the confusion can be resolved through an in-person meeting. Due to the fact that there are many lawyers involved, I fear that some your past correspondence was not returned in a timely manner. I will endeavor to make certain that this does not happen again.

Very truly yours,



Jay P. Lefkowitz

---

<sup>2</sup> \$50,000 represents the statutory minimum under 18 U.S.C. § 2255, a constitutionally questionable statute for reasons we will not address here, at the time of the alleged conduct. This is the amount for which Mr. Epstein agreed to settle claims with the relevant individuals pursuant to the terms of the Agreement.

# PodhurstOrseck

TRIAL & APPELLATE LAWYERS

Aaron S. Podhurst  
Robert C. Josefsberg  
Joel D. Eaton  
Steven C. Marks  
Victor M. Diaz, Jr.  
Katherine W. Ezell  
Stephen F. Rosenthal  
Ricardo M. Martínez-Cid  
Ramon A. Rasco  
Alexander T. Rundlet  
John Gravante, III

Robert Orseck (1934-1978)

Walter H. Beckham, Jr.  
Karen Podhurst Dern  
Of Counsel

June 8, 2009

**Via Fax and U.S. Mail**

Robert Critton, Esq.  
Burman, Critton, Luttier  
& Coleman, LLP  
515 North Flagler Drive, Suite 400  
West Palm Beach, FL 33401

Re: Epstein Case  
Our File No.: 30608

Dear Bob:

I was shocked when I heard from Bob Josefsberg that Jeffrey Epstein and counsel do not recall, or have decided to ignore, his contractual obligation to pay this firm's fees and costs relating to any of his victims/our clients who elect to settle their claims without filing suit. You asked Bob to put his position in writing, and this letter is our rough attempt to do so.

**The Agreement**

Paragraph 7 of the Non-Prosecution Agreement ("NPA") provides for the selection of an attorney representative ("Atty Rep") for the individuals who are on a list of individuals whom the United States has identified as victims, as defined in 18 U.S.C. § 2255 ("Victims"), which list was to be provided *and was* provided to Epstein's attorneys, Jack Goldberger and Michael Tien, after Epstein signed the NPA and was sentenced.

Subsequently, there was an Addendum to the Non-Prosecution Agreement ("Addendum"), the stated intent of which was to clarify certain provisions of page 4, paragraph 7 of the NPA. In paragraph 7A of the Addendum, it was agreed that the United States had the right to assign to an independent third-party, the responsibility of selecting the Atty Rep, subject to the good faith approval of Epstein's counsel. As you know, former Chief Judge Edward Davis was the independent third-party chosen by the United States in consultation with and with the good faith approval of

Robert Critton, Esq.  
June 8, 2009  
Page 2

Epstein's counsel. Judge Davis, in turn and in accordance with paragraph 7, selected our partner Robert C. Josefsberg as Atty Rep for the victims. Both parties had the right to object to his selection prior to his final designation. Mr. Josefsberg was formally designated as Atty Rep on or about September 2, 2008, without objection from either side.

Pursuant to paragraph 7 of the NPA, Mr. Josefsberg is to be paid for [his services as Atty Rep] by Epstein. Paragraph 7B of the Addendum directed the Parties to jointly prepare a short written submission to Judge Davis regarding the role of the Atty Rep and Epstein's Agreement to pay such Atty Rep his customary hourly rate for representing the victims. The United States prepared a proposal and submitted it to Judge Davis, to which Epstein apparently objected. Not only did neither Epstein nor his counsel deign to join with the United States in preparing such a proposal, but they failed and refused to submit their own proposed protocol. In that circumstance, Epstein clearly waived his right to submit a joint proposal or any proposal at all. Accordingly, he has no right to object to the proposal submitted by the United States. A clear reading of the Addendum at 7B demonstrates that there was no disagreement, nor could there have been any misunderstanding regarding what is referred to as "Epstein's Agreement to pay . . . [Mr. Josefsberg's] regular customary hourly rate."

This obligation is reiterated in the first sentence of paragraph 7C. Epstein's choosing not to submit a proposal as to the role of the Atty Rep in no way relieved him of his obligation to pay the Atty Rep his regular hourly rate for his representation of the designated victims, so long as they are engaged in the settlement process. This is particularly apt when Epstein chose to avail himself of this settlement opportunity so as to preclude the Atty Rep's filing of a lawsuit on behalf of the victim. Epstein's obligation to pay the Atty Rep's fees and costs pursuant to the NPA and its Addendum ceases only in the event that the Atty Rep files contested litigation against Epstein on behalf of a victim.

#### The Recent Settlement

During the last six months there have been meetings, emails and phone conversations between Roy Black, Jay Lefkowitz and Bob Josefsberg that corroborate our position. Please check with Jay and Roy as to their recollection of these matters.

Despite his putting up one road block after another, Mr. Epstein, through you as his counsel, and the Atty Rep recently settled the claim of one of Epstein's listed and identified victims, our client [REDACTED]. This firm is in the process of putting together our final bill relating to our representation of Ms. Patrick and will be submitting it to you or Mr. Goldberger as soon as the entitlement issue is resolved. We fully expect Jeffrey Epstein to honor his agreement by paying the fees and costs related to this representation according to the terms of the NPA and the Addendum. We are also prepared to make a second settlement proposal (for another client) and expect similar

Robert Critton, Esq.  
June 8, 2009  
Page 3

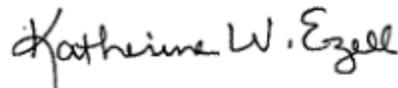
treatment of attorney fees in that matter.

Remedies

There are several alternatives available to us, should Jeffrey Epstein refuse to honor his agreement to pay according to those terms. Both our victim clients and the Atty Rep and his firm are and were intended to be third party beneficiaries of the NPA and the Addendum. As such, we have the right to bring suit for specific performance of and/or declaratory judgment regarding the terms of the agreement between Epstein and the United States. In the alternative, other Epstein counsel have stated that all fee disagreements should be resolved by a special master. We are not averse to that. I am sure that I need not remind you that with regard to the Atty Rep's work thus far, there has been complete performance on our side and partial performance by the Defendant. Epstein did make partial payment of our initially invoiced fees earlier in these proceedings. When he stopped paying, his counsel communicated that he would start paying again when there were settlements. This in itself constitutes an acknowledgment of his obligation to do so. Having initially paid and thus inducing continued performance by the Atty Rep, Epstein is now equitably estopped to deny his contractual obligation. The Atty Rep, on the other hand, has fully completed his part of the bargain by providing the necessary services to make it possible for [REDACTED] to settle her claim without filing a contested lawsuit, and the Atty Rep is entitled to be paid in full for those services by Epstein. Finally, there is the implied obligation of good faith and fair dealing inherent in every contract, including those intended to benefit third parties.

Please advise us of your position prior to Friday's hearing, because your position may influence our involvement at that hearing.

Very truly yours,



Katherine W. Ezell

KWE/mce