

MEMORANDUM

TO: Ms. S. Pinney
Virgin Islands Department of Justice

CC: Monica Carbon, Esq.

FROM: Darren K. Indyke

DATE: September 5, 2012

RE: Jeffrey Epstein's Qualification as a Tier 1 Sex Offender

Among other amendments implemented by Act No. 7372, an Act amending the sex offender registration laws set forth in Chapter 86 of Title 14 of the Virgin Islands Code, 14 V.I.C. Section 1724(d) was amended to require those who qualify as tier 1 sex offenders to appear in person once every year for 15 years, and those who qualify as tier 2 sex offenders to appear in person once every 180 days for 25 years, at the Department of Justice for the purposes of verification and keeping their sex offender registrations current. As explained more fully below, it is the opinion of counsel that Mr. Jeffrey Epstein, a registered sex offender in the United States Virgin Islands, qualifies as a tier 1 sex offender who is required under Section 1724(d) to appear in person at the Department of Justice once every year for 15 years for the purposes of verification and keeping his sex offender registration current.

As amended, 14 V.I.C. Section 1721(u) defines a "tier 1 sex offender" as "one who has been convicted of a "tier 1" sex offense as defined in Section 1721B(a)." Section 1721B(a)(3) provides that "any sex offense covered by this act where punishment was limited to one year in jail shall be considered a "Tier 1" sex offense." Under Section 1721A(e), a covered sex offense includes a sex offense in another jurisdiction in the United States (including the State of Florida) pertaining to prostitution, where it involves force, fraud or coercion.

Mr. Epstein was convicted in the State of Florida on June 30, 2008 of violating Florida Statutes Section 796.03, procuring a person under 18 for prostitution, for which Mr. Epstein was sentenced to 6 months in the Palm Beach County Jail, followed by a year of enhanced probation. Mr. Epstein successfully completed his sentence without incident in July 2010.

In connection with his conviction for procuring a person under 18 for prostitution, Mr. Epstein was required to and did register as a sex offender in the State of Florida, being designated in the lowest offender category under the Florida

registration regime. On the basis of this same conviction, Mr. Epstein subsequently registered as a sex offender in the United States Virgin Islands on March 5, 2010.

Inasmuch as Mr. Epstein's punishment for the procurement offense upon which his Virgin Islands registration was based was less than one year in jail, under the express terms of Section 1721B(a)(3), Mr. Epstein's qualifying sex offense was a "tier 1" sex offense.

Consistent with this analysis, Section 1721B(a)(3) includes within its illustrative list of Virgin Islands "tier 1" offenses:

"(iii) 14 V.I.C. §1622(2),(3) &(4) (Prohibition on solicitation and use of minors in prostitution)"

Thus, based on Section 1721B(a)(3)(iii), it appears that even if Mr. Epstein's offense had been committed in the Virgin Islands, it would have been classified as a "tier 1" offense in any event.

Having been convicted in Florida of a "tier 1" offense, Mr. Epstein qualifies as a Tier 1 sex offender under Section 1721(u) and, as such he is required under Section 1724(d) to appear in person at the Department of Justice once every year for 15 years for the purposes of verification and keeping his sex offender registration current.