

EPSTEIN – WHITE PAPER TO DOJ RE CVRA AND NPA

1. Summarize the history of the federal involvement in investigating JE focusing on the state investigation, the hand-off to the FBI by Palm Beach Chief, the federal GJ investigation, and the weaknesses of the basis of each federal statute (1591, 2422(b), 2423(b), money laundering) –from White Paper I
2. NPA – its terms and conditions – JE fully performing his obligations – asymmetrical obligations on Govt to maintain its promise not to indict – scope of protections – 2255 provisions – unique – JE full performance of even these civil provisions – payment of atty rep – payment of 2255 claimants – payment of other civil lawsuits that relied on NPA – White Paper 1
3. NPA – JE entitled to a good faith expectation in its finality particularly when he fully performed all criminal and incorporated civil obligations as required by the contract – under both constitutional (Santobello) and contractual principles JE entitled to the Govts honoring its promises/commitments regardless of whether it did or did not breach CVRA rights of third parties – rely on SD Fla pleadings in CVRA, law
4. NPA – practical – impossibility of undoing the NPA – cannot rescind the jail sentence JE served as a causal result of the NPA – cannot require that atty rep and 2255 claimants and all other civil litigants pay back all the funds received as result of NPA – does Govt de-list JE from sex offender registry?
5. CVRA – timeline – showing how Jane Does rejected emergency provisions that would have “allowed” rescission before JE served majority of his sentence (July 2008), show how Jane Does did not assert rescission remedy for 18 months as they exploited NPA to settle monetary cases (August 2008 Tr, Govt 3771 filings unsealed in July of 2013), show how neither statute, its history, its caselaw support rescission remedy requested by Jane Doe and apparently still within remedies being considered by Court – rely on Govt filings in CVRA case to support each proposition
6. USAO attempts to circumvent the NPA and invite victims to proactively catalyze prosecutions for very same conduct in NJ, NY based on interstate elements of each statute – see 6(e) Order redacted, Attachments “B” and “F” to unsealed pleadings – rely on Govt pleadings unsealed as result of 6-19 Order – include caselaw (US v Barone, US v Bryant) prohibiting Govt from causing prosecutions in

- other jurisdictions, sovereigns in conflict with their contractual duty of good faith
7. USAO violation of 6(e) rights of JE and others in its privilege log
 8. document DOJ's historic institutional duty to support its exercise of its full discretion in entering and then honoring the letter and spirit of its contracts (plea agreement law, NPA law, DOJ Guidelines)
 9. Objective – to have DOJ supervise if not endorse the SD Fla commitment, expressed to court in 3771 case, that whatever the CVRA decision by J Marra, it will honor its NPA commitments not to prosecute JE and that the recusal of SD Fla will not cause the DOJ (or the MD Fla) to deviate from their constitutional, contractual, and institutional obligation to maintain or if ordered to consult and then re-enter the NPA