

A. Marie Villafana
Assistant United States Attorney
WPB

Re Jeffrey Epstein

Dear Ms Villafana

Thank you for your letter of July 27, 2011 in regards to the request by the New York District Attorney for copies of the NPA and the "victim list" in regards to Mr. Epstein. We continue for the reasons stated herein to believe that any such disclosure would violate the confidentiality agreement between your Office and Mr. Epstein as well as the provisions of F.R.Crim.P 6(e).

As to the NPA, you have repeatedly asserted in *Doe v United States* 9:08cv80736-KAM that the NPA was a confidential document. For instance, in par 6 of document 14, your own declaration, you stated that the NPA contained "an express confidentiality provision". In opposing the Motion to Unseal the NPA that was filed by Jane Doe, you stated that you had informed Judge Marra of the confidentiality provision during an earlier telephonic status conference occurring on August 14, 2008 which "the United States was obligated to honor", Doc 29, pg 1, and that "the parties who negotiated the Agreement, the United States Attorney's Office and Jeffrey Epstein, determined that the Agreement should remain confidential", Doc 29, pg 2. The New York District Attorney, Ms Morse, is representing the prosecution in an appeal regarding a sex offender registration determination and any disclosure of the NPA to her has the potential to result in its use in that appeal and the real risk that the appellate court will unseal it. Both Mr. Lefkowitz, who is co-signing this letter, and myself believe it to violate both the spirit and the most logical interpretation of the NPA, par 13, for you to disclose it absent a subpoena (which we could oppose in the jurisdiction from which it emanated), and also believe that when parol evidence supplements the text of the paragraph it is perfectly apparent from your prior submissions that you as well as we believed the NPA to contain "an express confidentiality provision" that your willingness to disclose absent court process violates.

As to the "victim" list, again, your own prior letters tie the list to the Federal Grand Jury investigation and thus to the non-disclosure

provisions of F.R.Crim.P 6(e). On July 8, 2008 you wrote to Jack A Goldberger and informed him that on June 30, 2008 “the United States Attorney’s Office provided {him} with a list of thirty-one individuals ‘whom it was prepared to name in an Indictment as victims of an enumerated offense by Mr. Epstein’”. On July 9, 2008 you wrote to Mr. Goldberger in a followup letter that “the U.S. Attorney’s modification of the 2255 portion of the Agreement now limits our victim list to those persons whom the United States was prepared to include in an indictment. This means that, pursuant to Justice Department policy, these are individuals for whom the United States believes it has proof beyond a reasonable doubt that each of them was a victim of an enumerated offense.” (emphasis added). The names of witnesses that either testified or were identified during Grand Jury proceedings are subject to the secrecy provisions of F.R.Crim.P 6(e), SEC v Dresser Industries Inc 628 F2d 1368, 1382 (DC Cir, 1982), Fund for Constitutional Gov’t v Nat’l Archives & Records Serv. 656 F2d 856, 869 (DC Cir, 1983).