

EXHIBIT

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"Villafana, Ann Marie
C. (USAFLS)"

To "Jay Lefkowitz" <JLefkowitz@kirkland.com>

cc

bcc

09/21/2007 02:12 PM

Subject Revised Non-Prosecution Agreement

History: This message has been forwarded.

Hi Jay – Here is my attempt at combining our thoughts. I need to talk to the office about the immigration language before I put it in here. I know that we have not and don't plan to ask immigration to do that, but let me see if they are okay with including it in writing.

I spent about an hour with a former corporate counsel from a hospital who now works here to go over the 2255 language. I think that the attached addresses the concern about having an unlimited number of claimed victims, without me trying to bind girls whom I do not represent. This language hasn't been approved by the office yet, so consider it a draft.

These are all the same document, just in different formats.

<<070921 Epstein Non-Prosecution Agreement.wpd>> <<070921 Epstein Non-Prosecution Agreement.doc>> <<070921 Epstein Non-Prosecution Agreement.pdf>>

Thanks. If you have any immediate thoughts before you leave, please let me know.

A. Marie Villafana

Assistant U.S. Attorney

<<< Attachment '070921 Epstein Non-Prosecution Agreement.wpd' has been archived by user 'CommonStore/IT/Kirkland-Ellis' on '11/26/2007 01:17:28'. >>>

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**IN RE:
INVESTIGATION OF
JEFFREY EPSTEIN**

NON-PROSECUTION AGREEMENT

IT APPEARING that the City of Palm Beach Police Department and the State Attorney's Office for the 15th Judicial Circuit in and for Palm Beach County (hereinafter, the "State Attorney's Office") have conducted an investigation into the conduct of Jeffrey Epstein (hereinafter "Epstein");

IT APPEARING that the State Attorney's Office has charged Epstein with three counts of solicitation of prostitution, in violation of Florida Statutes Section 796.07;

IT APPEARING that the United States Attorney's Office and the Federal Bureau of Investigation have conducted their own investigation of the offenses and Epstein's background;

IT APPEARING that Jeffrey Epstein (hereinafter "Epstein") has committed offenses against the United States from in or around 2001 through in or around October 2005, including:

- (1) knowingly and willfully conspiring with others known and unknown to commit an offense against the United States, that is, to use a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution, in violation of Title 18, United States Code, Section 2422(b); all in violation of Title 18, United States Code, Section 371;
- (2) knowingly and willfully conspiring with others known and unknown to travel in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females, in violation of Title 18, United States Code, Section 2423(b); all in violation of Title 18, United States Code, Section 2423(e);
- (3) using a facility or means of interstate or foreign commerce to knowingly persuade, induce, or entice minor females to engage in prostitution; in violation of Title 18, United States Code, Sections 2422(b) and 2;
- (4) traveling in interstate commerce for the purpose of engaging in illicit sexual conduct, as defined in 18 U.S.C. § 2423(f), with minor females; in violation of Title 18, United States Code, Section 2423(b); and
- (5) knowingly, in and affecting interstate and foreign commerce, recruiting, enticing,

and obtaining by any means a person, knowing that the person had not attained the age of 18 years and would be caused to engage in a commercial sex act as defined in 18 U.S.C. § 1591(c)(1); in violation of Title 18, United States Code, Sections 1591(a)(1) and 2; and

IT APPEARING that Epstein has accepted responsibility for his behavior by his signature on this Agreement; and

IT APPEARING, after an investigation of the offenses and Epstein's background, that the interest of the United States pursuant to the *Petite* policy will be served by the following procedure;

THEREFORE, on the authority of R. Alexander Acosta, United States Attorney for the Southern District of Florida, prosecution in this District for these offenses shall be deferred in favor of prosecution by the State of Florida, provided that Epstein abides by the following conditions and the requirements of this Agreement set forth below.

If the United States Attorney should determine that Epstein has violated any of the conditions of this Agreement, then the United States Attorney may at any time initiate prosecution against Epstein for any offense. In this case, the United States Attorney will furnish Epstein with notice specifying the condition(s) of the Agreement that he has violated.

After timely fulfilling all the terms and conditions of the Agreement, no prosecution for the offenses set out on pages 1 and 2 of this Agreement, nor any other offenses that have been the subject of the joint investigation by the Federal Bureau of Investigation and the United States Attorney's Office will be instituted in this District, and the charges against Epstein if any, will be dismissed.

Terms of the Agreement:

1. Epstein shall plead guilty (not nolo contendere) to an Information filed by the State Attorney's Office charging Epstein with an offense that requires him to register as a sex offender, that is, the solicitation of minors to engage in prostitution, in violation of Florida Statutes Section 796.03;
2. Epstein and the State Attorney's Office shall make a joint, binding recommendation that the Court impose a thirty (30) month sentence to be divided as follows:
 - (a) Epstein shall begin by serving at least eighteen (18) months in county jail for all charges, without any opportunity for withholding adjudication or sentencing, and without probation or community control in lieu of imprisonment; and

- (b) following the term of imprisonment, Epstein shall serve twelve (12) months of community control.
3. Epstein shall waive all challenges to the Information filed by the State Attorney's Office and shall waive the right to appeal his conviction and sentence.
 4. Epstein shall provide to the U.S. Attorney's Office copies of all proposed agreements with the State Attorney's Office prior to entering into those agreements.
 5. The United States shall provide Epstein's attorneys with a list of individuals whom it has identified as victims, as defined in 18 U.S.C. § 2255, after Epstein has signed this agreement and been sentenced. Upon the execution of this agreement, the United States will file a motion with the United States District Court for the Southern District of Florida for the appointment of a guardian ad litem for these persons. Epstein's counsel may contact the identified individuals through that guardian.
 6. If any of the individuals referred to in paragraph (5), *supra*, elect to file suit pursuant to 18 U.S.C. § 2255, Epstein will not contest the jurisdiction of the United States District Court for the Southern District of Florida over his person and/or the subject matter, and Epstein waives his right to contest liability and also waives his right to contest damages up to an amount as agreed to between the identified victim and Epstein. Epstein's signature on this agreement is not to be construed as an admission of civil or criminal liability as to any person whose name does not appear on the list provided by the United States. As to those individuals whose names appear on the list provided by the United States, Epstein's signature on this agreement likewise is not to be construed as an admission of any civil liability other than that contained in 18 U.S.C. § 2255.
 7. Epstein shall enter his guilty plea and be sentenced not later than October 19, 2007, and shall self-report to begin serving his sentence not later than December 1, 2007.
 8. With credit for gain time, Epstein shall serve at least 450 days in the county jail.

Epstein understands that the United States Attorney has no authority to require the State Attorney's Office to abide by any terms of this agreement. Epstein understands that it is his obligation to undertake discussion with the State Attorney's Office to ensure compliance with these procedures, which compliance will be necessary to satisfy the United States' interest, pursuant to the *Petite* policy.

In consideration of Epstein's agreement to plead guilty and to provide compensation to victims, if Epstein successfully fulfills all of the terms and conditions of this agreement, the United States also agrees that it will not institute any criminal charges against any potential co-conspirator of Epstein, including

Further, upon execution of this agreement and a plea agreement with the State Attorney's Office, investigation will be suspended, and all pending federal will be held in abeyance unless and until the defendant violates any term of this agreement. The defendant likewise agrees to withdraw his pending motion to intervene and to quash. Both parties agree to maintain their evidence, including certain computer equipment, inviolate until all of the terms of this agreement have been satisfied.

By signing this agreement, Epstein asserts and certifies that each of these terms is material to this agreement and is supported by independent consideration and that a breach of any one of these conditions allows the United States to elect to terminate the agreement and to investigate and prosecute Epstein and any other individual or entity for any and all federal offenses.

By signing this agreement, Epstein asserts and certifies that he is aware of the fact that the Sixth Amendment to the Constitution of the United States provides that in all criminal prosecutions the accused shall enjoy the right to a speedy and public trial. Epstein further is aware that Rule 48(b) of the Federal Rules of Criminal Procedure provides that the Court may dismiss an indictment, information, or complaint for unnecessary delay in presenting a charge to the , filing an information, or in bringing a defendant to trial. Epstein hereby requests that the United States Attorney for the Southern District of Florida defer such prosecution. Epstein agrees and consents that any delay from the date of this Agreement to the date of initiation of prosecution, as provided for in the terms expressed herein, shall be deemed to be a necessary delay at his own request, and he hereby waives any defense to such prosecution on the ground that such delay operated to deny him rights under Rule 48(b) of the Federal Rules of Criminal Procedure and the Sixth Amendment to the Constitution of the United States to a speedy trial or to bar the prosecution by reason of the running of the statute of limitations for a period of months equal to the period between the signing of this agreement and the breach of this agreement. Epstein further asserts and certifies that he understands that the Fifth Amendment and Rule 7(a) of the Federal Rules of Criminal Procedure provide that all felonies must be charged in an indictment presented to a Epstein hereby agrees and consents that, if a prosecution against him is instituted, it may be by way of an Information signed and filed by the United States Attorney, and hereby waives his right to be indicted

By signing this agreement, Epstein asserts and certifies that the above has been read and explained to him. Epstein hereby states that he understands the conditions of this Non-Prosecution Agreement and agrees to comply with them.

Dated: _____

JEFFREY EPSTEIN

Dated: _____

GERALD LEFCOURT, ESQ.
COUNSEL TO JEFFREY EPSTEIN

Dated: _____

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY