From: [redacted]

Subject: 2021.02.15 - NOTES Call with Jason Foy & Eric Sarraga re [redacted]

Date: Tue, 16 Feb 2021 15:40:43 +0000

2021.02.15 - NOTES Call with Jason Foy & Eric Sarraga re [redacted]

JL, NR, JF, ES

- NR: checking in re June trial date
- JF: would expect that court is going to adjourn this
- JL: understanding is that some trials will start up beginning in February, but limited number
- JF: suspect that this case will not take priority and will be adjourned; if the Court doesn't want to adjourn, will move forward in June
- JF: may find out more information at the March conference
- NR: had previously mentioned wanting to put in a DP application; has not been a standard DP/misdemeanor application process; if you are interested in making application, should make it sooner rather than later
- JF: got sense that likelihood of them changing their minds was remote—is that still the case?
- NR: pre-charge, you had mentioned misdemeanor (1018); have been some changes in leadership, there's a currently a pandemic, could supply additional information about what your client has been doing, collateral consequences of felony conviction, life plans, even in last year
- JL: no predictions about the outcome, but here are some things to consider including: [redacted] life plans, how she spent the past year, her familial responsibilities, etc.; less need to address litigation risk, because we are aware of those issues, but can include; in terms of selective prosecution argument, can make it, but in a more informational tone, rather than an accusatory tone
- JF: not her formal position; goal was to put her in a position to cooperate and discuss disfunction at NYC BOP; no criminal intent on her part; now that reviewed discovery, do not believe that she should take a misdemeanor; believe that she was "not up to no good"; would recommend to her DP or trial; expect her to follow my lead, but she may compromise and accept misdemeanor; have found instances of similar conduct that haven't been prosecuted; understand that someone died, which makes it different; in case in Texas, COs weren't truthful to Inspector General; not the case here; no one tried to trick or do anything to frustrate anything; did not try to avoid what happened; said that they messed up in the moment; will not succeed if we (JL & NR) don't support it; have seen from discovery, that when it comes to Epstein, things are always different; did not really emphasize Epstein-related argument at last conversation; she can be held accountable without having a criminal record—people don't usually get fired for this, so being fired would be a way of holding her accountable
- JL: not previewing our position, but Nick and I have an open mind and will consider what you submit
- JF: my duty to submit something; think it's a defensible case, but if I can get her the right result without all the drama, should do that; will do my best to stay away from fighting the case; emphasize fairness and change of circumstance; how long is process?
- JL: explanation of DP process, including appeals
- JF: same people who were at last meeting?
- NR: some change in leadership
- JL: not sure if the standard process will be followed or if brass will be involved earlier given that brass previously considered DP in this case
- JF: this would be first formal DP application; prior meeting was about potential cooperation pre-charge
- JL: may want to drop a FN that this is first formal application and a different posture than last time
- JF: should discuss with Montell as well
- JL: we have had a similar conversation with Montell
- JF: Ds can be viewed as differently situated
- JL: at least at this point, Ds will each be analyzed separately

- JF: can see how Ds' interests diverge, given seniority and reality of who was doing and not doing what on day in question; include this?
- JL: should include anything that mitigates her conduct

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