

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-CIV-80119-MARRA/JOHNSON

JANE DOE NO. 2,

Plaintiff,

vs.

JEFFREY EPSTEIN,

Defendant.

Related cases:

08-80232, 08-80380, 08-80381, 08-80994,
08-80993, 08-80811, 08-80893, 09-80469,
09-80591, 09-80656, 09-80802, 09-81092

ORDER

THIS CAUSE is before the Court on Defendant Epstein's Emergency Motion for Order of the Preservation of Evidence (D.E. #405).

By this Motion, Epstein moves for an order requiring Herbert Stettin, the State Court appointed receiver ("Receiver") and Chief Restructuring Officer ("CRO") of the Rothstein, Rosenfeldt, Adler, P.A. ("RRA") law firm, to preserve all evidence relevant to the investment scheme referenced in the Motion and further prohibit the individuals at the RRA Law Firm from tampering, destroying or altering any such evidence.¹ In his response to the Motion,

¹ The Motion also sought to have the order apply and be directed to "Bradley J. Edwards, a 'partner' in [RRA and] Stuart Rosenfeldt as partner/shareholder and receiver of RRA" (Def's Emer. Mtn., p.1). However, on November 11, 2009, a resolution was entered appointing Stettin as the CRO of RRA and delegating to him all operational and managerial control over RRA. This Resolution effectively removed Rosenfeldt from all managerial roles at RRA, and to the extent Edwards had any managerial roles,

Stettin has represented that he intends to continue to fully comply with his fiduciary duties both as receiver and now as CRO of an alleged bankruptcy debtor, and to comply with 11 U.S.C. §101 et seq. ,which requires a debtor in possession to behave and function with the same types of responsibilities as a trustee. Stettin's Resp., pp. 2-3. Accordingly, Stettin contends he has no objection to the entry of an order consistent with his fiduciary obligations. Id. at 3. This language has been interpreted by counsel for Epstein and by this Court as Stettin having no objection to the entry of a preservation order consistent with his fiduciary/trustee duties for RRA.

However, Stettin goes on to state that to the extent Defendant wishes for Stettin to produce documents or to sit for deposition on November 19, 2009, he requests a continuance of at least forty-five (45) days so that he can attend to the continuing critical and pressing needs occasioned by RRA's collapse. While the Court understands the difficult position Stettin has been placed in and believes that he has been working expeditiously to deal with the onerous job of stabilizing the law firm, unfortunately there are deadlines in place in this case with respect to the exchange of expert witness reports, deposition discovery deadline, and so forth, that will expire before the requested forty-five (45) day extension lapses. Consequently, were the Court to agree to the extension requested, Epstein could be severely prejudiced.

Accordingly, counsel for Epstein and Stettin are hereby ordered to immediately confer and reach agreement on mutually acceptable terms for inclusion in a proposed agreed upon preservation of evidence order, which proposed order shall be filed with the

effectively removed him as well, resulting in Stettin, as CRO, being the only executive at RRA.

Court and a copy delivered to the undersigned for her signature within five (5) days from the date hereof. In the meantime the temporary order requiring the preservation of evidence and the maintenance of the status quo (D.E. #408) is hereby renewed and shall continue in effect until such time as the proposed order referred to above has been issued by the Court. As for the deposition and document production noticed for November 19, 2009, same shall be continued, but in view of the fast approaching scheduling deadlines, only for ten (10) days instead of the forty-five (45) days requested. In accordance with the foregoing, counsel for the parties are ordered to immediately confer and reach agreement upon a mutually acceptable date and time for deposition and document production to take place no later then (10) days from the date hereof. The Court observes that the District Court has before it a motion to continue the scheduling deadlines in this case (D.E. #361), and that if such motion is granted, the forty-five (45) day extension requested by Stettin shall be automatically granted and counsel for the parties are instructed to once again confer and reach agreement upon a date and time for deposition and document production to take place within forty-five (45) days from the date hereof.

DONE AND ORDERED this November 18, 2009, in Chambers, at West Palm Beach, Florida.



LINNEA R. JOHNSON
UNITED STATES MAGISTRATE JUDGE

CC: The Honorable Kenneth A. Marra
All Counsel of Record