

FILED
April 17, 2001

March 17, 2021

ST-2021-RV-00005

TAMARA CHARLES

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

**GOVERNMENT OF THE UNITED STATES VIRGIN ISLANDS'
NOTICE OF APPEAL & PETITION FOR REVIEW
OF MAGISTRATE JUDGE'S ORDERS**

The Government of the United States Virgin Islands (“Government”) hereby petitions pursuant to V.I. Super. Ct. R. 322(b)(1) and/or 322.1(b) for review of the Magistrate Judge’s February 26, 2021 orders (published March 1, 2021)¹ in *In Re: The Estate of Jeffrey E. Epstein*, No. ST-2019-PB-00080, which: (1) Denied the Government’s Motion to Intervene in the Probate action as a claimant against the Estate (order attached as Exhibit 1); and (2) Struck the Government’s Emergency Motion to Freeze All Estate Assets and Cash on Hand (order attached as Exhibit 2). In support thereof, the Government states as follows:

BACKGROUND & LEGAL ARGUMENT

Jeffrey Epstein was found dead on August 10, 2019, while in custody in New York for sex crimes. Compl., *Gov't U.S. Virgin Islands v. Estate of Jeffrey Epstein, et al.*, No. ST-2020-CV-14, ¶ 7 (V.I. Super Ct. Jan. 15, 2020). On August 15, 2019, the Estate of Jeffrey Epstein (“the Estate”) was created. *Id.* ¶ 8.

¹ Although the orders are dated February 26, 2021, the Government did not learn of them until it received a press inquiry on March 12, 2021. The Government contacted the Clerk of the Court, who confirmed that it appears that the Government had not been electronically served with the orders. The Clerk of the Court then served the Government with notice of the orders on March 17, 2021. Therefore, the time to appeal under Rule 322(b)(1) and/or Rule 322.1(b)(2)(A) should be calculated from March 17, 2021, making the Government's Petition timely.

On November 14, 2019, the Executors of the Estate filed an *Expedited* Motion for Establishment of a Voluntary Claims Resolution Program (“Epstein Fund” or “Fund”). The Motion asked the Magistrate Judge to “establish an independent and voluntary claims resolution program . . . for purposes of resolving sexual abuse claims against Jeffrey E. Epstein[.]” *Id.* at 1.

On January 15, 2020, the Government filed a lawsuit against the Estate, the 1953 Trust, and numerous Epstein business affiliates and associates for violation of the Criminally Influenced and Corrupt Organization Act (“CICO”), 14 V.I.C. § 600 *et seq.*, and civil conspiracy, seeking forfeiture and divestment of assets in favor of the Government, civil penalties, damages, and other remedies.²

The Probate Court’s ruling not only fails to recognize the Government’s interest, which supports mandatory or permissive intervention, but also ignores the complexity of this proceeding and its significance to Epstein’s victims and to the people of the Virgin Islands more broadly. As Plaintiff in its CICO litigation, the Government has an interest in the assets of the Estate, as well as in ensuring that the laws of the Virgin Islands are enforced for the benefit of the Government, the People of the Virgin Islands, and the victims of Epstein’s crimes. The Executors of the Estate, who are alleged to have been affiliated with various entities that participated in Epstein’s criminal enterprise, cannot adequately stand in for the Government. Therefore, the Government should be allowed to intervene. *In re the Estate of Small*, 57 V.I. 416, 423 (2012); *Hendricks v. Clyne*, No. ST-16-CV-147, 2019 WL 918607, at *2 (V.I. Super. Ct. Feb. 20, 2019); V.I. R. Civ. P. 24.

² The Government filed its operative First Amended Complaint in its CICO action on February 10, 2020 and its Second Amended Complaint on February 20, 2021.

Finally, with or without intervention, the Probate Court had jurisdiction to decide the Government's Emergency Motion. It should be noted that the Presiding Judge in its March 12, 2021 Order in the CICO action (Exhibit 3) recognized the overlapping issues in the CICO and Probate matters. As a result, the Court has asked the parties to brief whether this case should be designated as complex and transferred to the same Superior Court Judge assigned to the CICO matter so the Probate and CICO matters can be "coordinated together" to avoid "inconsistent rulings."

ISSUES PRESENTED FOR REVIEW

1. Whether the Magistrate Judge properly denied the Government's Motion to Intervene as a claimant against the Estate of Jeffrey E. Epstein.
2. Whether the Magistrate Judge properly denied the Government's Emergency Motion to Freeze All Estate Assets and Cash on Hand based on lack of standing because the Government is not a party to and was denied intervention in the Probate action, even though it has a claim against the Estate.

Respectfully Submitted,

DENISE N. GEORGE, ESQUIRE
ATTORNEY GENERAL

Dated: March 17, 2021

By: /s/ Carol Thomas-Jacobs
CAROL THOMAS-JACOBS, ESQUIRE
Chief Deputy Attorney General
Virgin Islands Department of Justice
Office of the Attorney General
34-38 Kronprindsens Gade
G.E.R.S. Complex, 2nd Floor
St. Thomas, U.S. Virgin Islands 00802
Email: carol.jacobs@doj.vi.gov
(340) 774-5666 ext. 10101

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that the foregoing Petition complies with the word-count requirement of V.I. Super. Ct. R. 322(b)(2) (773 words) and that a true and correct copy of this petition was served via the electronic filing system and by email to counsel of record on March 17, 2021 to:

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WILLIAM BLUM, ESQ.
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By: */s/ Carol Thomas-Jacobs*
CAROL THOMAS-JACOBS, ESQUIRE

FILED

March 17, 2021
 ST-2019-PB-00080
 TAMARA CHARLES
 CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
 DIVISION OF ST. THOMAS AND ST. JOHN

IN THE MATTER OF THE ESTATE OF:)
 JEFFREY E. EPSTEIN,)
 deceased.)
)
 PROBATE NO. ST-2019-PB-00080
 ACTION FOR TESTATE
 ADMINISTRATION

ORDER

THIS MATTER is before the Court on a Motion to Intervene filed on January 23, 2020, by the Government of the United States Virgin Islands (hereinafter the "Government"), by and through Ariel Smith, Esq., Chief of the Civil Division, Virgin Islands Department of Justice, wherein, in pertinent part, the Government moved to intervene in *In the Matter of the Estate of Jeffrey E. Epstein*, Super. Ct. Prob. No. 80/2019 (STT), pursuant to Rule 24 of the Virgin Islands Rules of Civil Procedure. This Motion was argued before the Court on February 4, 2020, on which date the Government was represented by Attorneys Ariel Smith and Pamela Tepper. Consistent with the Court's ruling on even date, this Motion is denied without prejudice.¹ Accordingly, it is hereby

ORDERED that the Motion to Intervene filed January 23, 2020, is **DENIED without prejudice**; and it is further

ORDERED that a copy of this Order shall be directed to counsel of record.

Dated: February 26th, 2021

Nunc pro tunc to February 4, 2020

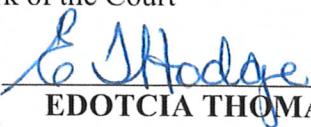

 CAROLYN P. HERMON-PERCELL

Magistrate Judge of the Superior Court of the Virgin Islands

ATTEST:

TAMARA CHARLES
 Clerk of the Court

By:


 EDOTCIA THOMAS-HODGE
 Court Clerk Supervisor 3/1/2021

¹ Notwithstanding the Court's denial of said Motion at the February 4, 2020 hearing, the Government continued to file pleadings with the Court concerning its requested intervention. The Court considers the pleadings filed subsequent to the February 4, 2020 hearing to be advisory or informational in nature. Therefore, the Court will take no action upon said pleadings. The Court notes that at said hearing, it requested that the Co-Executors and the Government resolve their differences concerning the Voluntary Claims Resolution Program.

FILED

March 17, 2021

ST-2019-PB-00080

TAMARA CHARLES

CLERK OF THE COURT

2

**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS AND ST. JOHN**

IN THE MATTER OF THE ESTATE OF:)	PROBATE NO. ST-2019-PB-00080
)	
JEFFREY E. EPSTEIN,)	ACTION FOR TESTATE
	deceased.	ADMINISTRATION
)	

ORDER

THIS MATTER is before the Court on an Emergency Motion to Immediately Freeze All Estate Assets and Cash on Hand (hereinafter the “Emergency Motion”) filed on February 4, 2021, by the Government of the United States Virgin Islands (hereinafter the “Government”), by and through Carol Thomas-Jacobs, Esq., Chief Deputy Attorney General, wherein, the Government moves to freeze the assets of the Estate of Jeffrey E. Epstein based upon its contention that the Estate has breached its commitment to fund the Epstein Victims’ Compensation Program.

Claimant Alice Poe, by and through A.J. Weiss and Associates (A. Jeffrey Weiss, Esq., as counsel), as well as WESTFALL LAW PLLC (Melody Westfall, Esq., as counsel) and Sean Foster, Esq., attorneys for various sexual abuse claimants, each filed a Joinder in Support of the Emergency Motion.¹ Thereafter, on February 10, 2021, the Co-Executors of the Estate of Jeffrey E. Epstein, Darren K. Indyke and Richard D. Kahn, by and through KELLERHALS FERGUSON KROBLIN PLLC (Christopher Kroblin, Esq., as counsel) filed the Co-Executors’ Opposition to Attorney General’s Emergency Motion to Immediately Freeze All Estate Assets and Cash on Hand. Subsequently, on February 12, 2021, the Government, by and through Attorney Thomas-Jacobs, filed the Government’s Notice of Complaint Filing Related to Emergency Motion to Immediately Freeze All Estate Assets and Cash on Hand.

¹ WESTFALL LAW PLLC’s Joinder in Support of Emergency Motion was filed on February 5, 2021 and on February 9, 2021; Attorney Foster’s Joinder in Emergency Motion to Immediately Freeze All Estate Assets and Cash on Hand was filed on February 5, 2021; and Claimant Alice Poe’s Notice of Joinder in Support of Emergency Motion to Immediately Freeze All Estate Assets and Cash on Hand was filed on February 9, 2021. WESTFALL LAW PLLC also filed a Reply Joinder in Further Support of Emergency Motion on February 22, 2021.

On February 4, 2020, the Court held a hearing on various motions in this case, including the Government's Motion to Intervene filed on January 23, 2020. The Motion to Intervene was argued before the Court on February 4, 2020, on which date the Government was represented by Attorneys Ariel Smith and Pamela Tepper. After considering arguments from Counsel on even date, the Court orally denied the Motion to Intervene without prejudice.² Therefore, because the Government is not a party to this action and is not permitted to intervene, the Government does not have standing to move the Court to freeze the Estate's assets and all its cash on hand. As such, the Court need not address the Government's arguments arising thereunder.

For these reasons, the Court will use its inherent authority to strike the Emergency Motion and all responses thereto from the record.³ Accordingly, it is hereby

ORDERED that the: (1) Emergency Motion to Immediately Freeze All Estate Assets and Cash on Hand filed by the Government of the United States Virgin Islands, by and through Carol Thomas-Jacobs, Esq., Chief Deputy Attorney General, on February 4, 2021; (2) Joinder in Support of Emergency Motion filed by WESTFALL LAW PLLC (Melody Westfall, Esq., as counsel), on February 5, 2021; (3) Joinder in Emergency Motion to Immediately Freeze All Estate Assets and Cash on Hand filed by Sean Foster, Esq., on February 5, 2021; (4) Notice of Joinder in Support of Emergency Motion to Immediately Freeze All Estate Assets and Cash on Hand filed by Claimant Alice Poe, by and through A.J. Weiss and Associates (A. Jeffrey Weiss, Esq., as counsel) on February 9, 2021; (5) Joinder in Support of Emergency Motion filed by WESTFALL LAW PLLC (Melody Westfall, Esq., as counsel) on February 9, 2021; (6) Co-Executors' Opposition to Attorney General's Emergency Motion to Immediately Freeze All Estate Assets and Cash on Hand filed by the Co-Executors, Darren K. Indyke and Richard D. Kahn, by and through KELLERHALS FERGUSON KROBLIN PLLC (Christopher Allen Kroblin, Esq., as counsel) on February 10, 2021; (7) Government's Notice of Complaint Filing Related

² An Order memorializing this ruling was entered on February 24, 2021, *nunc pro tunc* to the date of the February 4, 2020 hearing.

³ See, e.g., *Der Weer v. Hess Oil V.I. Corp.*, 64 V.I. 107, 126, (V.I. Super. Ct. 2016) ("a court has 'inherent authority to strike any filed paper which it determines to be abusive or otherwise improper under the circumstances.'") (quoting *Sierra v. United States*, Civ. No. 97-9329, 1998 U.S. Dist. LEXIS 14135, at *27 (S.D.N.Y. Sept. 9, 1998) (unpublished)).

In the Matter of the Estate of **Jeffrey E. Epstein**, deceased.

Case No. **ST-2019-PB-00080**

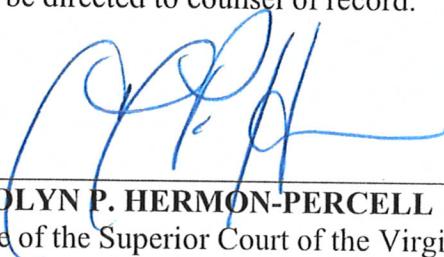
Order

Page 3 of 3

to Emergency Motion to Immediately Freeze All Estate Assets and Cash on Hand filed by the Government of the United States Virgin Islands, by and through Carol Thomas-Jacobs, Esq., Chief Deputy Attorney General, on February 12, 2021; and (8) Reply Joinder in Further Support of Emergency Motion filed by WESTFALL LAW PLLC (Melody Westfall, Esq., as counsel) on February 22, 2021, are **STRICKEN** from the record; and it is further

ORDERED that a copy of this Order shall be directed to counsel of record.

DATED: February 26th, 2021



CAROLYN P. HERMON-PERCELL
Magistrate Judge of the Superior Court of the Virgin Islands

ATTEST:

TAMARA CHARLES

Clerk of the Court

By: E. Hodge

EDOTCIA THOMAS-HODGE

Court Clerk Supervisor 3 / 1 / 2021

FILED

March 17, 2021

ST-2019-PB-00080

TAMARA CHARLES

LERK OF THE COURT

EXHIBIT**3****SUPERIOR COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. THOMAS / ST. JOHN****GOVERNMENT OF THE UNITED STATES VIRGIN
ISLANDS,****PLAINTIFF,****v.****DARREN K. INDYKE, IN HIS CAPACITY AS THE
EXECUTOR FOR THE ESTATE OF JEFFREY
E. EPSTEIN AND ADMINISTRATOR OF THE
1953 TRUST; RICHARD D. KAHN, IN HIS
CAPACITY AS THE EXECUTOR FOR THE
ESTATE OF JEFFREY E. EPSTEIN, AND
ADMINISTRATOR OF THE 1953 TRUST;
ESTATE OF JEFFREY E. EPSTEIN; THE 1953
TRUST; PLAN D, LLC; GREAT ST. JIM, LLC;
NAUTILUS, INC.; HYPERION AIR, LLC;
POPLAR, INC.; SOUTHERN TRUST
COMPANY, INC.; AND JOHN AND JANE
DOES,****DEFENDANTS.****Case No. ST-2020-CV-00014****Action for Damages****Jury Trial Demanded****ORDER**

THIS MATTER was referred to the Complex Litigation Division to determine whether to designate this case as complex pursuant to Rule 92 of the Virgin Islands Rules of Civil Procedure. The co-executors of the Estate of Jeffrey E. Epstein filed a motion on February 1, 2021 for complex treatment and the Court (Tejo, J.) granted the motion and referred this matter for a determination. In order to avoid delay, and to ensure that all issues relevant to the determination are addressed, the Court will set a briefing schedule for the parties to follow. The Court acknowledges that, in their February 1, 2021 motion, the Co-Executors reference the related probate matter, *In re: Estate of Jeffrey E. Epstein*, Case No. ST-2019-PB-00080. The Court will also direct the parties to address whether the probate matter should be designated complex so that both matters can be coordinated together in the event that the Court, in its administrative

capacity in the absence of a judge assigned to the Complex Litigation Division, concludes that the litigation involving the Estate of Jeffrey E. Epstein should be treated as complex.

Accordingly, it is hereby

ORDERED that the movants, the Co-Executors of the Estate of Jeffrey E. Epstein, have leave to **SERVE and FILE** a supplemental brief **within seven (7) days** from the date of entry of this Order, to address, if not already addressed in their February 1, 2021 motion, whether *In re: Estate of Jeffrey E. Epstein*, Case No. ST-2019-PB-00080, should be designated as complex, or reassigned to the same judge to avoid delay and inconsistent rulings, *cf. V.I. R. Civ. P. 92(g)*; and (2) to identify whether, in their capacity as executors, any other civil actions or proceedings are currently pending in the Superior Court of the Virgin Islands that also should be reassigned to the same judge to avoid delay, *cf. In re Procedure for the Assignment & Reassignment of Related Cases & Proceedings*, Case No. SX-2020-MC-00087, 2020 V.I. LEXIS 75 (V.I. Super. Ct. Dec. 3, 2020). It is further

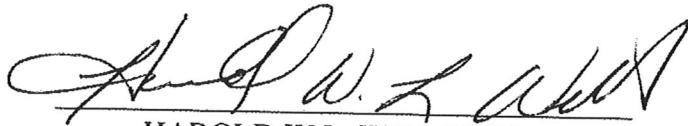
ORDERED that all parties to this case, except the Co-Executors, and any parties to the probate matter, except the Co-Executors, **MAY SERVE** and **FILE** a response in writing no later than **fifteen (15) days** after the supplemental response requested above is filed to respond to the February 1, 2021 motion, as supplemented. Failure to respond will be treated as no opposition to the Co-Executor's motion. It is further

ORDERED that the Co-Executors **MAY SERVE** and **FILE** a consolidated reply to any and all arguments raised in opposition to their motion, as supplemented, **within seven (7) calendar days** after the last response is filed. It is further

ORDERED that no extensions of time will be granted as the time for filing an opposition has already passed. All parties are further advised that the Court will decide the motion on the papers without oral argument. It is further

ORDERED that the Clerk's Office shall **SERVE** a copy on all parties who appeared in this case as well as any attorneys who appeared in the probate matter, and **DOCKET** a copy of this order and the accompanying notice of entry in the probate matter.

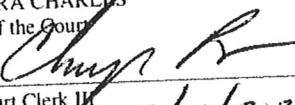
DONE and so ORDERED this 12th day of March, 2021.



HAROLD W.L. WILLOCKS
Presiding Judge of the Superior Court

ATTEST:

TAMARA CHARLES
Clerk of the Court

By: 

Court Clerk III

Dated: 3/12/2021

FILED

March 12, 2021

ST-2020-CV-00014

TAMARA CHARLES

CLERK OF THE COURT

IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS
District of St. Thomas/St. John

GOVERNMENT OF THE UNITED STATES
 VIRGIN ISLANDS,

Plaintiff,

v.

DARREN K. INDYKE, in his capacity as the
 EXECUTOR FOR THE ESTATE OF JEFFREY
 E. EPSTEIN and ADMINISTRATOR OF THE
 1953 TRUST, et al.,

Defendants.

Case Number: ST-2020-CV-00014
 Action: Damages

**NOTICE of ENTRY
 of
ORDER**

To:

John-Russell B. Pate,
 Linda Jill Singer,
 Carol Laura Thomas-Jacobs,
 Ariel M. Smith
 Gordon C. Rhea,
 Christopher A. Kroblin,
 William L. Blum,
 Marjorie Beth Whalen
 Andrew Heymann,
 Shari Natalya D'Andrade,
 Sean Foster, Esq.
 Robert Glassman, Esq.

John H. Benham, Esq.
 Rosalie Simmonds Ballentine, Esq.
 Douglas B. Chanco, Esq.
 John K. Dema, Esq.
 Kevin F. D'Amour, Esq.
 Melody D. Westfall, Esq.
 A. Jeffrey Weiss, Esq.
 Richard Bourne-Vanneck, Esq.
 Denise N. George, Esq.
 Gaylin Vogel, Esq.
 Kevin Boyle, Esq.

Please take notice that on March 12, 2021

a(n) ORDER
 dated March 12, 2021 was/were entered
 by the Clerk in the above-titled matter.

Dated: March 12, 2021

Tamara Charles
 Clerk of the Court

By:



Cheryl Parris
 Court Clerk III