

52. The very next day, on April 20, 1994, Hoffenberg was indicted in the Southern District of New York on numerous charges resulting from the SEC investigation and lawsuit, including mail fraud, securities fraud in connection with the sale of the TFC Promissory Notes and TFC Bonds, unlawful conspiracy and obstruction of justice. The indictment pending in the Northern District of Illinois was transferred to the Southern District of New York in April 1995.

53. In the course of the trial, Prosecutors in this District offered Hoffenberg a reduced sentence in exchange for information about his co-conspirators in the TFC Ponzi Scheme – namely Defendant Epstein’s role. However, Hoffenberg did not disclose any details about Defendant Epstein’s involvement, let alone orchestration, of the fraudulent scheme. It was only in May 2016 that Hoffenberg provided the first insight to the public and authorities regarding Defendant Epstein’s role.⁶

54. As a result of Hoffenberg’s refusal to implicate Defendant Epstein, Epstein was never indicted for his role in the TFC Ponzi Scheme. Epstein was never charged with any crime in connection with the TFC Ponzi Scheme. Rather, Epstein has been permitted to use the ill-gotten gains and misappropriated investor funds from his role in the TFC Ponzi Scheme to start and grow Defendant TFTC.

55. On April 20, 1995, Hoffenberg pled guilty to conspiracy to violate the securities laws by fraudulently selling securities, in violation of 18 U.S.C. § 371; mail fraud, in violation of 18 U.S.C. § 1341; conspiracy to obstruct justice, in violation of 18 U.S.C. § 371; and tax evasion, in violation of 26 U.S.C. § 7201. Hoffenberg also pled guilty to one count of the indictment transferred from the Northern District of Illinois.

⁶ In May 2016, Hoffenberg through his attorneys, filed a Complaint in this District, docket number 1:16-cv-03989, alleging similar causes of action against Epstein and the Defendant Entities, seeking relief on behalf of himself and as a constructive trustee of the Noteholders and Bondholders of TFC.