

December 2, 2015

Via Federal Express

Joe Wearmouth
Legal Counsel's Office for the
Department of Homeland Security
Customs and Border Protection
9434 Viscount Blvd.
Suite 200
El Paso, TX 79925

**RE: Seizure and Search of Computer of Jeffrey Epstein
Detention Notice and Custody Receipt No. 986291**

Dear Mr. Wearmouth:

This letter is authored to set forth the chronology of my efforts to seek the return of Jeffrey Epstein's computer which was seized, manually searched, and then detained for a further forensic search by the Customs Border Service at Albuquerque, New Mexico on November 24, 2015. On that date, Mr. Epstein flew from the U.S. Virgin Islands to Albuquerque in the early afternoon. Mr. Epstein's laptop computer was manually searched upon his entry. Mr. Epstein was informed that there was a file on the laptop that the Customs Border agents could not open. Mr. Epstein offered to try to open it himself. His offer was refused. Over his objection, the laptop was seized rather than being returned to him. When, at my direction, he asked what reasonable suspicion existed to warrant the seizure following the initial search, the Customs agents advised him that the seizure did not require reasonable suspicion and was part of their border search. Later that day, at 4:09 pm, I emailed Port Director Tracy S. Thorpe saying:

Mr. Thorpe:

I am sending you this email to memorialize our conversation of a few minutes ago and to respectfully object to any further search of my client Jeffrey Epstein's computer. You informed me that the computer was being sent to a centralized lab where the principal objective would be to search for child pornography. I want to clearly through this email reinforce Mr. Epstein's own objection to the seizure and retention of his computer by objecting to any further search of any kind for any

information from of his computer. Any legitimate "border search" justification for the initial search has ended and any further search particularly a forensic search at your lab for child pornography is a search that can and should only occur with probable cause and a warrant or at minimum with reasonable suspicion, *see United States v. Cotterman*, 709 F.3d 952, (9th Cir.2013), both of which are absent in this case. Also, as I informed you, Mr. Epstein's computer has a great deal of privileged communications with his attorneys relating to both past and current legal matters, communications that are carefully protected from disclosure to third parties by the attorney-client privilege. The computer also contains private business information that is highly confidential. I would ask for your assurance that anyone searching through his computer will not review and not disclose this information. If you or anyone from your agency's legal department want to reach me I am always available to discuss these matters by cellphone listed below.

Sincerely yours,

Martin Weinberg.

Later that evening, at 6:40 pm, I wrote another email to Director Thorpe saying:

Director,

Without waiving the objections raised below to any further search at all of my client Jeffrey Epstein's computer, I would specifically request that any secondary forensic search that has been authorized or directed be solely limited to the file or folder that could not be opened during the initial search. If the predicate for the second level computer search is focused on the unopened file, then a second search of other portions of the computer which as I referenced below include significant amounts of confidential and privileged information would not occur if the forensic search is narrowed to the single unopened file in question. Again, I must object to any forensic search or any further search but to the extent that a further search has been ordered and will not be reconsidered, I would then ask that you exercise your authority and direct that any further search be narrowly limited and particularized to the specific file that could not be reviewed today.

Sincerely,

Martin G. Weinberg.

Director Thorpe informed me during a telephone conversation that preceded my emails that he was not going to be in charge Friday, November 27, 2015, but that I could call Supervisor Peter Fabian to check on whether the laptop was ready to be returned. Director Thorpe also emailed me advising that I contact his Legal Counsel. On November 25, 2015, I called the Legal Counsel's office, spoke with you and asked for your email so I could forward my legal objections to the continued detention of Mr. Epstein's laptop computer. You informed me that

you would not provide me with your email, but would note my objections – specifically the ones detailed in my emails to Director Thorpe and quoted above. On November 30, 2015, I spoke with Supervisor Fabian who informed me that the laptop would, to his knowledge, be available to be returned in the afternoon but that he did not yet have physical possession of it and wanted to first speak with Legal Counsel regarding returning it to a designated employee of Mr. Epstein rather than to Mr. Epstein himself. Later that afternoon, my office received a call from you and you informed me during my return call that the laptop would not be available to be returned on that date. You declined to provide me with any further details or a schedule for its return

As I stated in my earlier emails to the Port Director, I object to any continued detention or further forensic search of Mr. Epstein's laptop and request its expedited return on the basis that 1) reasonable particularized suspicion that the laptop contains evidence of a crime is needed but lacking, 2) that a Warrant based on Probable Cause, which is also lacking, should be required for computer searches occurring after the initial manual border search, 3) that an unreasonable amount time has passed for any such forensic or secondary computer search, 4) that if any search occurs, it must be particularized to the specific file that could not be manually opened, 5) that the confidential and privileged communications contained on the laptop should be protected and not accessed by any third parties and 6) that any copying of any portions of the computer for any purpose should be destroyed pursuant to your guidelines and the computer returned to Mr. Epstein or his designee without any further delay.

Yours truly,

Martin G. Weinberg