

**Confidential Attorney-Client Privileged Communication and Work Product.  
Please do not forward except as set forth below.**

**CONTINUED LITIGATION HOLD / PRESERVATION NOTICE**

**FROM:** ATTORNEYS DARREN K. INDYKE AND BENNET J. MOSKOWITZ

**TO:**

**MATTER:** STEVEN JUDE HOFFENBERG, INDIVIDUALLY, AND AS CONSTRUCTIVE TRUSTEE OF THE NOTEHOLDERS AND BONDHOLDERS OF TOWERS FINANCIAL CORPORATION, PLAINTIFFS, AGAINST JEFFREY E. EPSTEIN, INDIVIDUALLY, AND AS PRESIDENT AND CHIEF EXECUTIVE OFFICER OF THE FINANCIAL TRUST COMPANY, THE FINANCIAL TRUST COMPANY, XYZ CORP., AND ABC, INC., DEFENDANTS, INDEX NO. 1:16-cv-03989-RJS (S.D.N.Y.)

**\*\*NOTE:** YOU MUST COMPLETE THE WRITTEN ACKNOWLEDGEMENT ATTACHED TO THIS NOTICE

**Confidential Attorney-Client Privileged Communication and Work Product.  
Please do not forward except as set forth below.**

This Continued Litigation Hold/Preservation Notice is issued to memorialize your document preservation obligations in connection with a lawsuit commenced by Steven Jude Hoffenberg ("Hoffenberg"), individually, and as Constructive Trustee of the Noteholders and Bondholders of Towers Financial Corporation (collectively, "Plaintiffs"), on the one hand, against Jeffrey E. Epstein ("Epstein"), individually, and as President and Chief Executive Officer of The Financial Trust Company ("FTC"), FTC, XYZ Corp., and ABC, Inc. (collectively, "Defendants"), on the other hand, concerning Defendants' alleged role in a "Ponzi" scheme in which the bondholders and noteholders of Towers Financial Corporation ("Towers") were defrauded.

As a matter of background, until April 1993, Hoffenberg was the CEO, President and Chairman of the Board of Towers. In 1997, U.S. District Court Judge Robert W. Sweet sentenced Hoffenberg to a term of twenty years imprisonment and ordered that Hoffenberg pay \$475,157,340.00 in restitution following Hoffenberg's conviction for defrauding the bondholders and noteholders of Towers through an extensive Ponzi scheme.

On May 27, 2016, Plaintiffs sued Defendants in the United States District Court for the Southern District of New York by filing a Complaint. Plaintiffs' Complaint essentially alleges that Epstein is one of the "co-conspirators" referenced throughout Judge Sweet's 1997 opinion sentencing Hoffenberg, and, accordingly, that Hoffenberg, acting as a constructive trustee on behalf of the victims of the Towers Ponzi scheme, is entitled to recover damages from Defendants, including Epstein and FTC, for the benefit of the victims. *Hoffenberg v. Epstein*, 16-cv-03989, Complaint [Doc. 1] (S.D.N.Y. May 27, 2016).

Hoffenberg alleges that FTC and Defendants XYZ Corp. and ABC, Inc. (which are fictitious names for unidentified financial and real estate companies, or subsidiaries thereof, including, but not limited to, holding companies, trust companies and hedge funds, which Epstein allegedly

**Confidential Attorney-Client Privileged Communication and Work Product.**  
**Please do not forward except as set forth below.**

created, owned or managed) were incorporated and created with funds that were fraudulently acquired through various Ponzi schemes involving Towers, which Hoffenberg and Epstein carried out. *Id.* at ¶¶4-6. Plaintiffs have asserted causes of action for fraud, conversion and unjust enrichment, breach of fiduciary duty, and negligence. *Id.* at ¶¶43-71.

During the course of the lawsuit, Epstein and FTC may be asked to produce documents relating to the parties' claims and/or defenses. **It is critical that you continue to preserve documents potentially relevant to such requests.**

In particular, it is essential that you and members of your staff continue to preserve and not delete, discard, or otherwise destroy documents related to/concerning Towers and/or Hoffenberg; and/or otherwise related to/concerning the subject matter of Plaintiffs' allegations described above. This instruction to continue to preserve documents supersedes and takes precedence over your standard document retention policies and practices. Failure to preserve documents that are relevant to the lawsuit could provide significant obstacles to Epstein's and/or FTC's claims and defenses and could result in serious penalties.

The documents, which must be preserved, include hard copy paper documents as well as electronically stored information ("ESI") on your computers or other electronic storage devices. ESI should be afforded the broadest possible meaning and includes potentially relevant information stored in central repositories (such as file servers, e-mail servers, databases, voicemail systems, websites, social networking sites, SharePoint sites, eRooms, and similar collaborative workspaces), as well as locally stored information including on work and personal computers, mobile phones, portable drives, "thumb drives," CDs, DVDs, and other portable media.

Preserved documents should include, but are not limited to, e-mail messages and attachments, presentations, sound recordings, faxes, pictures, images, word processing documents, spreadsheets, databases, calendar entries, voicemail messages, instant messages, text messages, memoranda, correspondence, website posts, or any other documents or files related to/concerning Towers and/or Hoffenberg; and/or otherwise related to/concerning the subject matter of Plaintiffs' allegations described above.

To preserve electronic documents and information, you (or your assistant) should suspend features of your information systems and devices that, in routine operation, operate to cause the loss of potentially relevant ESI. Examples of such features and operations include:

- Purging the contents of e-mail repositories by age, capacity, or other criteria;
- Using data or media wiping, disposal, erasure utilities, or devices;
- Using metadata stripper utilities; and,
- Executing drive or file defragmentation or compression programs.

As long as this hold is in place, please notify Bennet Moskowitz, Esq. in the event you have any technical problems with your computer that could result in the loss of data. For example, if you experience problems with your computer that require it or its hard drive to be defragmented, replaced, or overwritten, or if you are scheduled for an upgrade that will result in your old

**Confidential Attorney-Client Privileged Communication and Work Product.  
Please do not forward except as set forth below.**

computer being removed, replaced, or modified, then please contact Mr. Moskowitz before any such action is taken so that proper steps can be taken to preserve any potentially relevant data.

If you have questions about whether a particular document or information is relevant to this case, please err on the side of including such document or information within the scope of this hold. Also, if you are aware of anyone else who may have relevant information, please promptly bring that person to Mr. Moskowitz's attention so that he may directly notify her/him.

If you have any questions regarding the scope of your preservation obligations or regarding how to comply with those obligations and/or would like assistance, please contact Mr. Moskowitz. In addition, if you are aware of any other persons, including your staff, who might possess documents relating to the subjects discussed above, please notify Mr. Moskowitz. Please do not simply forward this notice to other individuals.

Finally, please refrain from commenting on this litigation to anyone, either internally or externally, unless specifically directed to do so by Mr. Moskowitz.

You will be promptly informed when these procedures are no longer in place. In the meantime, thank you in advance for your cooperation with these important instructions.

**Confidential Attorney-Client Privileged Communication and Work Product.**

**Written Acknowledgement**

By my signature below, I certify that I have read and understand the terms of this notice, and that I will comply with the same.

Date: \_\_\_\_\_

\_\_\_\_\_

Print Name: \_\_\_\_\_