

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION
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JANE DOE #2,

CASE NO.: 08-CV-80119-MARRA/JOHNSON

Plaintiff,

v.

JEFFERY EPSTEIN,

Defendant.

**ROTHSTEIN ROSENFELDT ADLER, P.A.'S RESPONSE TO DEFENDANT'S
EMERGENCY MOTION FOR ORDER FOR THE PRESERVATION OF EVIDENCE**
[D.E. 405]

The Honorable Herbert Stettin ("Stettin"), the State Court appointed¹ receiver ("Receiver") and Chief Restructuring Officer ("CRO") of Rothstein Rosenfeldt Adler, P.A.'s ("RRA"), hereby responds to the Defendant's Emergency Motion For Order For The Preservation of Evidence [D.E.405], and states:

1. Certain lawyers previously employed by RRA represent the Plaintiff in this matter. As has been well documented in the media, towards the end of October of this year, RRA was rocked by allegations of financial scandal. As a result of these allegations, on November 2, 2009, Stuart A. Rosenfeldt ("Rosenfeldt"), on behalf of himself and RRA, filed a lawsuit against his partner Scott W. Rothstein ("Rothstein"), alleging multiple wrongful acts on the part of Rothstein, RRA's former Chief Executive Officer (the "Receivership Action") in the Circuit Court of Broward County.

¹ On November 4, 2009, Judge Streitfeld appointed Stettin as the Receiver of RRA. Broward County Case No. 09-059301.

2. On November 4, 2009, The Honorable Jeffrey Streitfeld, presiding over the Receivership Action: (a) removed Rothstein as the Chief Executive Officer, and (b) appointed Stettin as the Receiver for RRA. Promptly thereafter, Stettin assumed stewardship of RRA and since then, has handled a very broad set of problems, virtually of which have been on an emergency basis, including this matter.

3. On November 11, 2009, Rosenfeldt, as the sole officer and director of RRA, executed a resolution appointing Stettin as the CRO of RRA and delegated to Stettin all operational and managerial control over RRA. This effectively removed Rosenfeldt from all managerial roles at RRA and Stettin, as CRO, is now the only executive of RRA.

4. As it pertains to this matter, since his appointment in accordance with his duties as Receiver and as CRO, Stettin has moved quickly and carefully to secure all assets and records of RRA. In the midst of doing so however, the Department of Justice executed search warrants on the offices of RRA, removing, among things, in excess of forty (40) boxes of documents. It is believed the Department of Justice also sequestered about thirteen (13) boxes of documents related to this case. This action occurred before Stettin could complete his inventory and accounting of the vastly disorganized office and record keeping systems of RRA.

5. Stettin assures both the Defendant as well as this Court that he understands fully the gravity of document and evidence preservation. It is his charge. Stettin has and intends to continue to fully comply with his fiduciary duties both as Receiver and now as CRO of an alleged bankruptcy debtor. In fact, security at the firm's computer system and its documents is one of his foremost present concerns and tasks.

6. The Bankruptcy Code (11 U.S.C. §101 et seq.), requires that a debtor in possession behave and function with the same types of responsibilities as a trustee. 11 U.S.C.

§1107. RRA is currently an alleged debtor in possession and Stettin is executing on the fiduciary duties that are imposed upon him as the executive of RRA. In light of the foregoing, Stettin has no objection to the entry of an order that is consistent with his fiduciary obligations. Notwithstanding, to the extent the Defendant wishes for Stettin to produce documents or sit for a deposition on November 19, 2009, Stettin respectfully requests that this Court extend that date for at least 45 days, so that he may attend to the continuing critical, pressing needs of stabilizing RRA and resolving the outstanding issues that occur when a law firm of 150 employees suddenly implodes overnight.

WHEREFORE, Herbert Stettin respectfully requests that: (1) any order entered conform with his statutorily imposed duties; (2) any deposition of Stettin be postponed for at least 45 days; and (3) granting such other relief as the Court deems just and proper.

Dated: November 16, 2009

Respectfully submitted,

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