

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION**
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IN RE: CASE NO. 09-34791-RBR
ROTHSTEIN ROSENFELDT ADLER, P.A., CHAPTER 11
Debtor.

SCOTT J. LINK'S SWORN DECLARATION OF FACT

1. My name is Scott Jeffrey Link and I am a founding partner of the law firm of Link & Rockenbach, PA. I have been a member of the Florida Bar since 1986 and I have been a Board Certified Specialist in Business Litigation by the Florida Bar since 1999. I currently represent Jeffrey Epstein, the Plaintiff and Counter-Defendant in the lawsuit styled *Epstein v. Rothstein, Edwards, and [REDACTED]*, No. 2009CA040800XXXXMBAG pending before the Fifteenth Judicial Circuit in and for Palm Beach County, Florida (the "state court proceeding"), and in these show cause proceedings.
2. In November 2017, Epstein retained Link & Rockenbach to represent him in the state court proceeding. As part of my due diligence in representing him, I learned that one of the firms that represented Epstein, through May 2012, was Fowler White Burnett, P.A. ("Fowler White"). My law firm contacted Epstein's former attorneys, including Fowler White, to review their files.
3. When Link & Rockenbach appeared in the state court proceeding, the only documents it had received were from Epstein's immediate former counsel (not Fowler White). This set of documents contained a subset of documents produced on May 7, 2012, which contained 89 documents (163 pages), 84 of which were identified on Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, P.L.'s ("Farmer Jaffe") February 23, 2011 privilege log. The May 7, 2012 production had been used in the state court proceeding, including as evidence in summary judgment filings. I also learned that there had been testimony in the state court proceeding by Epstein's opponent, Bradley Edwards, stating that he had reviewed 26,000 pages of e-mails and produced them to Epstein.
4. On January 10, 2018, I traveled to Fowler White's office in Miami, Florida, to review its files associated with the state court proceeding. There, I observed approximately thirty-six boxes of files related to the case. However, representatives of Fowler White informed me that Fowler White was not willing to release its boxes at that time. Therefore, with the assistance of my paralegal, Tina Campbell, I flagged items for Fowler White to reproduce and provide to Link & Rockenbach.

5. A compact disc (“CD”) labeled “Epstein Bate Stamp” was in one of the boxes. This CD was flagged, but not reviewed at that time.
6. On February 1, 2018, Link & Rockenbach received three boxes from Fowler White containing copies of the items flagged for reproduction.
7. On February 25, 2018, Link & Rockenbach began to review the CD. The CD contained 27,542 pages of e-mails that were consecutively Bates stamped, and had no confidential, privilege or watermark designations. There was also no prefix indicating who produced the documents.
8. Link & Rockenbach reviewed approximately 5,000 pages of the 27,542 pages of e-mails.
9. From the approximately 5,000 pages reviewed, I distilled the relevant and material items to Epstein’s defense to forty-seven e-mails. Upon discovery of this evidence, I decided to prepare an Appendix in Support of Epstein’s Response in Opposition to Edwards’ Second Supplement to Motion in Limine Addressing Scope of Admissible Evidence, and a newly disclosed trial exhibit list.
10. Before filing the Appendix, Epstein’s current lawyers reviewed the state court’s and bankruptcy court’s files for Confidentiality Stipulations or Orders, searched former counsels’ records, spoke with former counsel from Fowler White, and asked Edwards’ counsel (David Vitale), if he was aware of any confidentiality orders that would govern the use of exhibits at trial. I found reference to confidentiality discussions in 2011 relating to how documents would be produced, but no Confidentiality Agreement was in effect. While I recognized that some documents were listed on a Farmer Jaffe’s privilege log, the documents we already had in our possession and were used in summary judgment filings were also listed on the privilege log. As such, I did not believe we were in possession of any documents that had not been produced in the case. Moreover, the number of pages on the CD (27,542), approximately corresponded with the number of pages that Edwards had testified were produced (26,000).
11. With that Appendix, I filed an illustrative sample of the forty-seven e-mails, and provided the documents, and others, to Edwards’ counsel as supplemental trial exhibit production.
12. On Sunday, March 4, 2018, Edwards’ counsel wrote to me via e-mail and claimed that I had obtained all 27,542 pages of e-mails improperly and unethically, and requested that Link & Rockenbach immediately destroy all such e-mails in our possession and remove them from the Court docket.
13. At this point, because whether I had complied with my ethical obligations as an attorney had been called into question, my law firm engaged a former ethics director of the Florida Bar, Mr. Timothy Chinaris, to review the circumstances under which Link & Rockenbach discovered the CD and its contents, and its subsequent actions. Mr. Chinaris opined that the documents (CD) in question were not wrongfully obtained or retained by Link &

Rockenbach, that Link & Rockenbach did nothing wrong, and acted in an ethical and proper manner in bringing the matter to the state court's attention.

14. I attended a hearing in the state court proceeding before The Honorable Donald W. Hafele on March 8, 2018, involving these issues, including the circumstances in which Fowler White obtained or retained the CD, Link & Rockenbach's receipt of the documents on the CD, Epstein's ability to use the materials in the state court proceeding moving forward and whether further confidentiality measures were needed. Judge Hafele commented that the state court found no fault with Link & Rockenbach in terms of how it obtained the CD, or in any other action taken by Link & Rockenbach in furtherance of its defense of Epstein.
15. Moreover, Judge Hafele ordered that all counsel who represent Epstein are subject to directives of the state court concerning confidentiality, sealing and non-dissemination of materials derived from the CD that Edwards claims are privileged. Specifically, Judge Hafele instructed Link & Rockenbach not to further disseminate any documents contained on the CD that Edwards claims are privileged, to file the CD under seal and to file the stricken exhibits from the CD under seal. I have complied with those directions from Judge Hafele.
16. I have not made any further dissemination of the documents, including those identified on the Appendix which had been filed in the state court proceeding, the disclosed trial exhibits, or any other documents from the CD that Farmer Jaffe, Edwards, and the Intervenors asserted a privilege over.
17. On March 6, 2018, on behalf of Epstein, I did not object to the Intervenors' Motion to Seal Court Records Until the Court Makes a Determination on How the Documents Shall be Treated.
18. On March 10, 11, and 12, 2018, I worked diligently with Edwards' counsel, the duty judge, and later, Judge Hafele, to ultimately obtain an order sealing the two docket entries which had been open to the public for over 48 hours.
19. Link & Rockenbach destroyed its paper copy of the Redacted Appendix that was filed in the state court proceeding and deleted the electronic version of it from its system.
20. Link & Rockenbach placed the Unredacted Appendix that had been served, but not filed, in a sealed box that has been maintained in its West Palm Beach office, unopened, for appellate purposes.
21. Link & Rockenbach placed an exhibit sticker on the trial exhibits that were newly disclosed on Epstein's March 5, 2018 Clerk's Trial Exhibit List which were printed from the CD and placed them in a sealed envelopes. On March 21, 2018, Link & Rockenbach, on Epstein's behalf, moved to make the records confidential. On April 6, 2018, the state court entered an Agreed Order Directing Clerk to Seal Filings and those records have now been filed under seal. Link & Rockenbach retained a set of the exhibits in a sealed envelope in a sealed box maintained in its offices for appellate purposes.

22. Link & Rockenbach placed Fowler White's original CD in a sealed envelope and will maintain it with Fowler White's original records at Link & Rockenbach's offices until further rulings by the state court.
23. Excepting the items identified above which are maintained in a sealed box, Link & Rockenbach has destroyed all hard copies of the documents it had reproduced from the CD obtained from Fowler White.
24. Link & Rockenbach deleted the electronic duplicate of the CD and the electronic version of the alleged privileged exhibits from Dropbox, the online service by which those documents were transmitted to counsel of record. Link & Rockenbach also began deleting saved electronic documents from its computer system, and planned to work with IT personnel to remove copies of any documents in which Edwards and the Intervenors claimed a privileged from its e-mail servers. However, in an abundance of caution, and in light of Edwards' and the Intervenors' objections to the deletion of electronic documents, Link & Rockenbach has not taken further steps to delete electronic documents.
25. Epstein believes that Edwards waived any privilege claims over the entire CD and he has asked the state court judge to conduct an *in camera* review of the 47 exhibits and make a determination on relevance, privilege and waiver. Those issues are currently set for hearing in the state court proceeding on August 22 and 23, 2018.

Executed in West Palm Beach, Florida, August __, 2018. I declare under penalty of perjury that the foregoing is true and correct.

Scott J. Link, Esq.