

[TO BE PRINTED ON HODGE & FRANCOIS LETTERHEAD]

July 26, 2012

Honorable Vincent Frazer  
Office of the Attorney General of the Virgin Islands  
Department of Justice  
St. Thomas, VI  
Via Hand Delivery and Email

Re: July 25, 2012 Letter Regarding Act No. 7372 Travel Notice Request

Dear Attorney General Frazer:

We are in receipt of your letter of July 25, 2012 agreeing to grant the Attorney General's waiver, pursuant to the provisions of Act No. 7372, of the 21-day prior notice requirement under that Act with respect to Mr. Epstein's travels outside of the Virgin Islands. We appreciate the consideration given to Mr. Epstein's frequent travel requirements. However, we have serious concerns regarding the undue restrictions placed on Mr. Epstein's travel and the conduct of his business and professional activities by certain of the specific conditions imposed as part of this waiver and respectfully request that your office reconsider those specific conditions.

Specifically, we believe that the waiver conditions requiring Mr. Epstein to provide 72 hours notice before traveling out of the Virgin Islands and requiring Mr. Epstein to provide a specific address of temporary lodging locations when traveling within the United States will have an unduly restrictive effect on Mr. Epstein's right to travel and conduct his legitimate business and professional activities. As clearly stated by both Senator Russell and Your Honor during the consideration of Act 7372, and particularly the travel notification provisions thereof, at the Rules and Judiciary Committee hearing on June 21, 2012, the travel notification requirements of this Act were specifically not intended to be penal in nature. Both Your Honor and Senator Russell agreed that this was meant to be a notice provision, nothing more. However, as explained below, the restrictive effect of the 72-hour notice requirement and the requirement that Mr. Epstein disclose the specific address of his temporary lodging while in the United States would impede Mr. Epstein's right to travel and conduct business and professional activities in a manner that is indeed penal in nature.

Further, both Senator Russell and Your Honor agreed at that June 21, 2012 hearing that the law must be flexible to enable those who must travel frequently and on short notice to do so. In fact, when the travel notification amendment was revised for the Rules and Judiciary Committee vote on June 25, 2012, the Attorney

General discretion was inserted into the law, rather than a specific 72-hour short notice exception to the 21-day notice requirement, to provide your office with the flexibility to make decisions on a case-by-case basis. In the case of frequent travelers, such as Mr. Epstein, who travel for business, professional and other legitimate purposes several times a month, both on short notice and under circumstances where travel plans frequently change on short notice, the law provides your office with the flexibility to grant a waiver that will not unduly restrict their travel and business and professional activities.

From the beginning of Mr. Epstein's registration in March 2010, Mr. Epstein has a demonstrated history of frequent travel and a flawless record of fully compliant travel notification to your office. Even at times when the email servers at the Department of Justice were not operating, Mr. Epstein's counsel took measures to ensure alternative notification by providing telephonic and fax notification of the travel notice emails that were sent to the Department of Justice. Mr. Epstein's record clearly demonstrates that he is diligent in ensuring that the Virgin Islands is provided with timely notice of his travels outside of the Territory, and he will remain so in the future under this new law.

Mr. Epstein has always previously provided the necessary travel notice, through his counsel, immediately prior to Mr. Epstein's departure. He has done this because, as a general matter, his travel dates and destinations are not known with certainty until a few hours prior to departure or can and frequently do change on little or no notice for reasons that are not within his control. For example, meeting schedules and locations for business or professional trips evolved constantly and Mr. Epstein has had to remain flexible to accommodate these changes. Moreover, unexpected changes in weather patterns and mechanical issues with the aircraft have also accelerated or delayed travel plans. Instead of providing a constant flow of notices to the Department of Justice in anticipation of possible or changed travel, Mr. Epstein has provided notice immediately prior to departure to ensure that the notice he provided was as accurate as possible. It was and still is believed that this avoids unnecessary administrative burden to the Department of Justice, which we understand would be required to update its notices to other jurisdictions every time a new or changed notice is received from Mr. Epstein.

In addition, to the extent that notification by Mr. Epstein of his entry into another jurisdiction is even required by that jurisdiction, the notice is not required from Mr. Epstein until after Mr. Epstein's arrival in that jurisdiction, in some cases for a period of as much as several days after arrival. It is our understanding that notification immediately prior to Mr. Epstein's departure from the Virgin Islands would still provide the Virgin Islands with ample time to inform jurisdictions of Mr. Epstein's arrival, particularly when notification is done through electronic means and is instantaneous. Moreover, in light of Mr. Epstein extensive record of diligence in providing notice of his travels and complying with his other registration obligations, there are ample grounds to conclude that Mr. Epstein would continue to

be fully compliant in both the Virgin Islands and in all other jurisdictions to which the Virgin Islands may have to give notice of Mr. Epstein's travels.

Requiring 72 hours notice of Mr. Epstein prior to his travel would unduly restrict his right to travel freely. More importantly it would severely restrict his ability to remain flexible to accommodate ever-evolving meeting schedules and locations and the schedules of Mr. Epstein's business and professional colleagues. For example, not infrequently, Mr. Epstein is asked in the early morning to meet in a particular jurisdiction later in the day. Because of the 72-hour notice requirement, in the future, Mr. Epstein would have to wait three days before he could accommodate such a request for a meeting. As another example, assuming Mr. Epstein gave the proper 72-hour notice of a trip to New York, but learned on the day of his intended departure that the persons with whom he was to meet in New York later that day desired to meet in a different location, Mr. Epstein would not be able to meet at the alternative location because of the 72-hour notice requirement. In Mr. Epstein's business and professional life, situations like this occur with frequency and regularity and even a 72-hour notice requirement would obviously have a significantly deleterious effect on his business and professional activities.

For this reason, we respectfully request that Mr. Epstein be permitted to provide notice immediately prior to his departure when traveling outside of the Virgin Islands, provided that Mr. Epstein will endeavor to provide 24-hours notice to the extent he has such advance knowledge of his travel. We understand your desire that notices come from Mr. Epstein, himself, when he is in the Virgin Islands and providing notice of his travel outside of the Territory, and we obviously have no objection to Mr. Epstein providing that notice.

Another waiver condition contained your the July 25, 2012 letter is that Mr. Epstein provide your office with the address of his temporary lodging while traveling within the United States. Mr. Epstein has absolutely no issue with providing notice to the Department of Justice of the location of temporary lodging that are his own homes. In fact, as the extensive volume of Mr. Epstein's travel notification emails to the Department of Justice demonstrate, Mr. Epstein has regularly stayed at his vacation homes when traveling and has so advised the Department of Justice in his travel notifications. Inasmuch as the Department of Justice already has a complete listing of the addresses of all of Mr. Epstein's vacation homes in the registration information Mr. Epstein has provided and updates to the Department of Justice, it was not thought necessary to include the specific addresses of Mr. Epstein's vacation homes in each of the notices. We obviously have no objection to providing the specific addresses of Mr. Epstein's vacation homes in the travel notices in the future.

However, frequently when Mr. Epstein travels to locations in the United States at which he does not have a vacation home, he has stayed as a guest in the homes of third parties, including business and professional associates. Many times these invitations have been and are extended to Mr. Epstein after arriving in these

locations as plans change and meetings extend beyond scheduled times. Thus, originally scheduled hotel reservations are cancelled and new lodging arrangements have to be made (which would again require further notices to the Department of Justice, which would presumably have to send updates to the jurisdictions to which notice was previously given). Many of these hosts would be uncomfortable with Mr. Epstein having to provide the addresses of their homes in the travel notifications to the Department of Justice, particularly when the hosts are oftentimes prominent figures whose addresses are not a matter of public knowledge and there is no guarantee that their addresses would not be disclosed in response to FOIA or other Sunshine Law requests. Requiring Mr. Epstein to provide these addresses would likely deter potential hosts from offering Mr. Epstein lodging and thus again interfere with his ability to travel and be flexible in the conduct his business, professional and other legitimate activities.

It is for this reason that we respectfully request that the waiver condition requiring Mr. Epstein to provide the addresses of his temporary lodging in his notification of travel within the United States be eliminated, provided that when Mr. Epstein stays at his vacation homes while traveling in the United States he will so advise the Department of Justice, and include in the notice the specific address of his vacation home at which he is staying. In all other cases, Mr. Epstein will provide the general geographic area of his temporary lodging and will provide a cell telephone number at which Mr. Epstein may be contacted at all times while travelling.

We believe that the foregoing proposals are consistent with the balance intended to be achieved in the travel notice amendment as described by both Senator Russell and Your Honor at the Rules and Judiciary Committee hearing on June 21, 2012. As has always been the case, Mr. Epstein would continue to provide timely notification to the Department of Justice of his travel before departing the Virgin Islands, so as to enable the Virgin Islands to electronically inform the necessary jurisdictions of this travel. Notice of Mr. Epstein's general geographic location and a contact number to reach him at all times would be provided, as well as his specific address when he stays at his vacation homes. With this balance, the notice and the content of Mr. Epstein's travel notification would be such as not to impede Mr. Epstein's right to travel and conduct his business, professional and other legitimate activities, and would thereby avoid transforming a notice provision into a punitive measure contrary to express legislative intent.

Once again, we appreciate the grant to Mr. Epstein by the Office of the Attorney General of the travel notification waiver as described in your letter of July 25, 2012, and request that the waiver conditions imposed in that letter be modified as described above. If our request to modify the waiver conditions meets with the approval of your office, please confirm that approval of the modifications as described above by signing this letter below.

If you have any questions or require anything further for a favorable response to this request, please do not hesitate to contact me.

Respectfully,

Maria Tankenson Hodge

Modification of Waiver Conditions As Described Above  
Accepted and Agreed To:

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Honorable Vincent F. Frazer  
Office of the Attorney General of the United States  
Virgin Islands