

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 3997/July 18, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-16462

In the Matter of	:	
	:	
LYNN TILTON;	:	
PATRIARCH PARTNERS, LLC;	:	
PATRIARCH PARTNERS VIII, LLC;	:	ORDER
PATRIARCH PARTNERS XIV, LLC; and	:	
PATRIARCH PARTNERS XV, LLC	:	

The Securities and Exchange Commission instituted this proceeding with an Order Instituting Proceedings on March 30, 2015. The proceeding was stayed by order of the U.S. Court of Appeals for the Second Circuit between September 17, 2015, and June 2016. *See Tilton v. SEC*, No. 15-2103, 2016 U.S. App. LEXIS 9970, at *37 (2d Cir. June 1, 2016); *Tilton v. SEC*, No. 15-2103, ECF Nos. 76, 125. A subpoena *duces tecum* was issued to Natixis North America LLP at the request of Respondents. Under consideration is Natixis's Motion on Consent for Issuance of a Protective Order. Natixis requests a protective order to prevent public disclosure of certain documents that it produced to Respondents pursuant to the subpoena and that contain and reflect trade secrets or other proprietary, confidential, or commercially sensitive information (highly confidential material). Natixis's highly confidential material will be subject to the attached Protective Order¹ pursuant to 17 C.F.R. § 201.322. Although the record in a public hearing is presumed to be public, the harm resulting from disclosure of the material would outweigh the benefit. *See* 17 C.F.R. § 201.322(b). Disclosure of such information is presumed harmful. It is specifically limited in various statutes, for example, Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552(b)(4). There is no benefit from disclosure in this case.

IT IS SO ORDERED.

/S/ Carol Fox Foelak
Carol Fox Foelak
Administrative Law Judge

¹ The attached Protective Order is as proposed by Natixis. Minor editorial additions are in bold face.

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of

LYNN TILTON,
PATRIARCH PARTNERS, LLC,
PATRIARCH PARTNERS VIII, LLC,
PATRIARCH PARTNERS XIV, LLC, and
PATRIARCH PARTNERS XV, LLC,

Respondents.

Administrative Proceeding
File No. 3-16462

Hon. Judge Carol Fox Foelak

PROTECTIVE ORDER

WHEREAS, the Court in the above-captioned action (the “Proceeding”) issued a subpoena *duces tecum* to non-party Natixis North America LLP (“Natixis”), on May 27, 2015 (the “Natixis Subpoena”) on behalf of Respondents in the Proceeding;

WHEREAS, the Respondents and Natixis have entered into a Confidentiality Agreement concerning the production, handling and use of all documents produced pursuant to the Natixis Subpoena;

WHEREAS, Natixis seeks the entry of this Protective Order because it believes that certain of the documents it produced to Respondents in response to the Natixis Subpoena contain trade secrets or other proprietary, confidential, or commercially sensitive information (the “Highly Confidential Material”);

WHEREAS, Natixis has completed its production of documents in response to the Natixis Subpoena and has designated Highly Confidential Material as “Highly Confidential” with a stamp on the face of the document so indicating;

IT IS THEREFORE ORDERED that the following provisions shall govern the production, handling, and use of the Highly Confidential Material produced by Natixis to the Respondents in response to the Natixis Subpoena, which include the following:

- (a) Highly confidential and proprietary internal credit memoranda reflecting the valuation assigned by Natixis to the Zohar Notes; and
- (b) Highly confidential Spread Lock Agreements between Goldman Sachs & Co. and Natixis.

1. Highly Confidential Material shall not be used or disclosed by any person or entity for any purpose whatsoever other than the preparation for and hearing of this Proceeding, including appeals, if any.

2. Highly Confidential Material and all information contained therein shall not be shown to, reviewed by, or discussed with, any person except:

- (a) Counsel to the Respondents and their employees;
- (b) The Respondents and only those employees of the Respondents directly involved in instructing or assisting counsel in connection with this Proceeding, except that disclosure to the persons specified in this paragraph shall be limited to such information as is reasonably required to be disclosed to instruct or assist counsel;
- (c) the Division of Enforcement of the Securities and Exchange Commission (the “Division” and, together with the Respondents, the “Parties” and each individually a “Party”);
- (d) The presiding Administrative Law Judge, including necessary administrative, **legal**, stenographic, secretarial, and clerical personnel

assisting the Administrative Law Judge; or the Securities and Exchange Commission (the “Commission”) **or its employees or agents**; or any other judicial body hearing an appeal of the Proceeding;

- (e) Witnesses in any proceedings in this Proceeding, along with their counsel, if the witness is indicated on the face of the Highly Confidential Material as its originator, author, or recipient of a copy thereof or who would be reasonably expected to have had prior access to the Highly Confidential Material, or who is otherwise familiar with the Highly Confidential Material, but only to the extent of the person’s familiarity with the Highly Confidential Material, or persons whom counsel reasonably believes may have testimony relevant to the Highly Confidential Material, or if the Administrative Law Judge determines that the witness should have access to the Highly Confidential Material, on such terms as the Administrative Law Judge may order;
- (f) Persons whom counsel in good faith believe are likely to be called as trial or other witnesses in this Proceeding as well as their counsel, provided, however, that counsel shall not disclose any Highly Confidential Material to any such person unless counsel in good faith believes such material to be reasonably related to that person’s likely testimony and, in that event, only to the extent so related;
- (g) Consultants or experts and their staff to the extent deemed reasonably necessary by counsel for the prosecution or defense of the Proceeding;

- (h) Outside vendors providing copying and/or exhibit preparation services in connection with this Proceeding;
- (i) Any other person only upon written consent of Natixis or its counsel of record or upon order of the Administrative Law Judge.

With respect to the persons referenced in paragraphs 2(e), (f), (g), (h) and (i), prior to the disclosure of any Highly Confidential Material, the receiving Party shall (i) provide that person with a copy of this Protective Order, and (ii) obtain from that person written agreement to be bound by the terms of this Order in the form attached hereto as Exhibit A.

3. If the Respondents or the Division file any of the Highly Confidential Material with the Commission without first providing advance notice to Natixis, those documents filed shall be (a) clearly labeled on the cover page as containing confidential information subject to this Protective Order and (b) filed in sealed envelopes or other appropriate sealed containers on which shall be listed the title of this proceeding, an indication of the nature of its contents, and a statement substantially in the following terms:

CONFIDENTIAL. Filed Pursuant to Protective Order. Not to be opened nor the contents revealed except (1) to the Commission or its employees or agents, (2) by agreement of the submitting Party and Natixis, or (3) by prior order of the Administrative Law Judge or the Commission.

Further, if a party intends to make a filing (such as a brief or motion) that incorporates any of the Highly Confidential Material in the written text, the party must: 1) file a version clearly labeled “under seal,” with the Highly Confidential Material subject to this order noted by brackets, bold typeface, or some other clear indication; and 2) file a public redacted version that removes the Highly Confidential Material.

4. Respondents or the Division may publicly file any Highly Confidential Material that has previously been admitted at any hearing in the Proceeding, so long as Respondents or the Division provide reasonable advance notice of such anticipated public filing to Natixis to allow Natixis to seek a protective order or other appropriate remedy to protect the confidentiality of such Highly Confidential Material. In the event of a dispute between Respondents' counsel or the Division, on the one hand, and Natixis, on the other hand, as to whether any Highly Confidential Material, or the information derived from those documents should be filed without sealing, that dispute shall be submitted to the Administrative Law Judge for a ruling.

5. Notwithstanding the foregoing, nothing in this Order shall prevent any Party from seeking to admit as evidence or otherwise using any Highly Confidential Material in connection with any hearing or trial held in this Proceeding, subject to the requirements concerning the filing of Highly Confidential Material in paragraphs 4 and 5.

6. Notwithstanding the foregoing, nothing in this Order shall prevent any Party from complying with any disclosure required by law, regulation or rule (including any rule of any industry or self-regulatory organization) whether pursuant to a subpoena or other similar process in connection with a litigation, arbitration, or other proceeding, or otherwise. If any Party in possession of Highly Confidential Material receives a subpoena or other such process or discovery device seeking production or other disclosure of such Highly Confidential Material, if allowed under applicable law, that Party shall give written notice to counsel for Natixis together with a copy of the subpoena or other process and shall object to producing the Highly Confidential Material until an appropriate confidentiality stipulation or order can be entered into with the requesting party. Unless otherwise ordered by a court or appropriate tribunal, **or required by applicable law, regulation or rule**, the receiving party shall not produce any of the

Highly Confidential Material, or information contained therein for a period of at least ten (10) days after providing the required notice to Natixis. During that ten day period, Natixis may seek protection from, or file objections to, the production of the Highly Confidential Material, or information contained therein in the appropriate forum. Provided that the appropriate notice set forth in this Paragraph was given, only Natixis shall be responsible for asserting any objection to the requested production. Nothing herein shall be construed as requiring the receiving party or anyone else covered by this Protective Order to (a) challenge or appeal any order issued in another proceeding that requires production or disclosure of any Highly Confidential Material, or information contained therein, (b) subject himself/itself to any penalties for non-compliance with any legal process, order, or statutory or regulatory obligation, or (c) seek any relief in the appropriate forum.

7. In the event of any unauthorized use or disclosure of any Highly Confidential Material, or any information contained therein, the Party responsible for such use or disclosure shall notify counsel for Natixis immediately and make good faith efforts to remedy the unauthorized use or disclosure and prevent further unauthorized use or disclosure.

8. The restrictions on dissemination of the Highly Confidential Material, or the information contained therein, shall not apply to information that is public knowledge or that, after disclosure, becomes public knowledge other than through a violation of the terms of this Protective Order or any applicable confidentiality agreement.

9. All Highly Confidential Material or other papers containing such information remain the property of, and under the custody and control of the party or other person producing that Highly Confidential Material, subject to further order of the Administrative Law Judge or the Commission. Upon the conclusion of this Proceeding (including compliance with any

judgment and any appeal relating to this Proceeding), the receiving Parties shall return to Natixis all copies of Highly Confidential Material that was produced pursuant to this Protective Order (including all copies, abstracts, and summaries of the Highly Confidential Material) or the parties may destroy such Highly Confidential Material and certify to Natixis in writing that all such Highly Confidential Material has been destroyed. Notwithstanding the foregoing, counsel for the Parties may retain copies of pleadings, briefs, motions, memoranda and any other paper filed in this Proceeding together and correspondence exchanged in this Proceeding, copies of all hearing transcripts, admitted exhibits and copies of any attorney work product. **Highly Confidential Material or other papers containing such information filed in this proceeding and in the possession of the Commission or its employees or agents shall not be subject to the requirements of this paragraph.**

10. This Protective Order shall remain in force and effect until modified, superseded, or terminated on the record by agreement of the Parties and Natixis or by order of the Administrative Law Judge.

11. Any notice required or permitted herein shall be made to counsel of record in this proceeding or such other persons as subsequently may be designated by a party or by Natixis. Notice may be made by either facsimile or email, provided that a hard copy is provided by hand delivery or overnight courier.

Dated: _____

So Ordered:

Hon. Judge Carol Fox Foelak

Exhibit A

I have read the Protective Order entered by the Administrative Law Judge in the Matter of Lynn Tilton, et al., Administrative Proceeding File No. 3-16462 (Hon. Judge Carol Fox Foelak) (the “Order”) concerning documents produced by Natixis. I understand the provisions of such Order and I understand the responsibilities and obligations such Order imposes on persons viewing the material encompassed by the Order. Pursuant to the Order, I hereby agree to be bound by all the provisions of the Order so as to enable me to review the material encompassed by the Order, and I hereby consent to the personal jurisdiction of the United States Securities and Exchange Commission, for any proceedings involving the enforcement of the Order.

EXECUTED this ____ day of _____, ____.

Name / Title