

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

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 4161/September 16, 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 (OIP) on March 30, 2015. The OIP alleges that Respondents violated the antifraud provisions of the Investment Advisers Act of 1940 in their operation of three collateral loan obligation funds (known as the Zohar Funds) by reporting misleading values for the assets held by the funds and failing to disclose a conflict of interest arising from Lynn Tilton's undisclosed approach to categorization of assets. 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. The hearing is currently scheduled to commence on October 24, 2016.

Under consideration are Respondents' August 22, 2016, "Motion for Limited Modification of May 7, 2015 Order"; the Division of Enforcement's August 29, 2016, opposition; and Respondents' September 1, 2016, reply. The motion relates to the May 7, 2015, order that set the procedural schedule with the consent of the parties. *Lynn Tilton*, Admin. Proc. Rulings Release No. 2647, 2015 SEC LEXIS 1773 (A.L.J. May 7, 2015). The order scheduled the hearing to begin on October 13, 2015; set the prehearing procedural schedule; and specified that the expert witnesses' direct testimony will be via expert report. *Id.* The order further provided that, at the hearing, the experts will present a brief summary of their testimony and be made available for cross examination. *Id.* The schedule included the following dates for expert reports:

July 10, 2015	Division's Expert Reports
August 10, 2015	Respondents' Expert Reports, including Rebuttal Reports
August 31, 2015	Division's Rebuttal Expert Reports

Id. The parties exchanged their expert reports and rebuttal expert reports in compliance with that schedule.

Respondents now wish to substitute or add new experts. Specifically, Respondents previously submitted the expert report of Marti P. Murray in response to the report of Division expert Ira Wagner and the expert report of J. Richard Dietrich in response to the report of Division expert Steven L. Henning. Respondents state that Murray will be, and Dietrich may be, unavailable to testify during the dates when hearing sessions are expected to be held. Respondents propose to substitute Peter Vinella and Steven L. Schwarcz for Murray. Depending on Dietrich's actual availability, Respondents propose to substitute, and/or add, Charles Lundelius, Jr. Respondents have not submitted new expert reports but suggest September 26, 2016, as the due date for such reports. The Division opposes Respondents' request, essentially on the ground that expert reports and rebuttal reports were exchanged long ago in compliance with the parties' agreed-on prehearing schedule and that allowing such new developments shortly before the hearing commences would significantly prejudice the Division. It notes that – under the agreed-on schedule – the Respondents' expert reports, including rebuttal reports, were due two months before the scheduled start of the hearing and that the Division's rebuttal reports were due three weeks after Respondents' reports. Further, the Division notes that, based on Respondents' representations, while Murray and Dietrich have busy schedules, their schedules do not render them totally unavailable to testify. In reply, Respondents suggested the September 26, 2016, date for their new reports, two weeks earlier than the October 10 date they originally proposed.

Insofar as Respondents propose to introduce new expert reports, their motion will be denied. It is noted that Respondents previously expressed concerns about the schedules of hearing participants, and the undersigned ruled that they could arrange for their expert witnesses to appear by video teleconference, if necessary. *Lynn Tilton*, Admin. Proc. Rulings Release No. 4004, 2016 SEC LEXIS 2499 (A.L.J. July 20, 2016). Further, such video conference sessions could be held within a reasonable time after the live hearing sessions, if necessary. Finally, since the Division has not raised any objection to the expertise of Vinella, Schwarcz, or Lundelius, Respondents may consider having one or more of them adopt the opinions of the existing expert report[s] as his own and being examined by the Division on those opinions.

IT IS SO ORDERED.

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