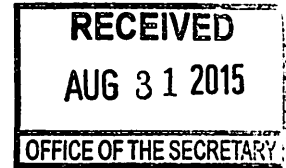


**UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION**



**ADMINISTRATIVE PROCEEDING
File No. 3-16462**

In the Matter of

**LYNN TILTON;
PATRIARCH PARTNERS, LLC;
PATRIARCH PARTNERS VIII, LLC;
PATRIARCH PARTNERS XIV, LLC;
AND
PATRIARCH PARTNERS XV, LLC,**

Respondents.

**DIVISION OF ENFORCEMENT'S
BRIEF IN OPPOSITION TO
RESPONDENTS' MOTION TO
ADJOURN THE TRIAL**

The Division of Enforcement ("Division") opposes Respondents' motion to adjourn the trial, and files the below brief in opposition. Lynn Tilton and her entities, the respondents in this proceeding ("Respondents"), have raised two grounds for an adjournment: that time is needed to allow the Second Circuit to decide their appeal of the dismissal by the district court of their challenge to this proceeding; and that they need additional time to prepare for trial in light of the Division's identification of additional witnesses at trial. Neither argument has merit and the trial should proceed as scheduled.

ARGUMENT

1. The ongoing federal court proceedings do not warrant an adjournment.

Two days after the Commission issued its OIP, Tilton brought suit in federal district court to enjoin this proceeding on the grounds that the Commission's scheme for appointing and removing ALJs violates the Constitution. Complaint, *Tilton v. SEC*, No. 15-cv-2472 (S.D.N.Y. April 1, 2015), ECF No. 1. The district court dismissed the case on jurisdictional grounds without

reaching the merits. *Tilton v. SEC*, No. 15-cv-2472, 2015 WL 4006165 (S.D.N.Y. June 30, 2015), *appeal pending*, No. 15-2103 (2d Cir.). The court held that under the review scheme Congress established, Tilton must litigate her challenge in the first instance before the Commission and, if ultimately aggrieved by a final Commission order, she may seek review in an appropriate court of appeals. *Id.* at *1. Tilton appealed this ruling to the Second Circuit.

Respondents' argument that an adjournment is necessary due to the ongoing proceedings in federal court should be rejected. As noted above, the district did not enjoin this proceeding, after being presented with many of the same arguments raised by Respondents in the instant motion. And the Second Circuit is progressing with this case on the very schedule requested by Tilton in an unopposed motion and is poised to hear argument on September 16, 2015. Neither the fact of the federal court proceeding nor these developments in Tilton's federal court litigation warrants an adjournment of her hearing in this Court.

2. The identification of the investor witnesses does not provide a basis to adjourn the hearing.

Respondents next contend that the trial should be adjourned due to the need to obtain documents from four allegedly "new" investor witnesses. But any delay in obtaining information from investor witnesses was caused by Respondents' own failure to subpoena them in a timely manner.

Consistent with this Court's May 7, 2015 Prehearing Order, and as Respondents themselves recognize (Mot. at 6 n.3), the Division notified them of the existence of the investor witnesses referenced in their present motion and other investor witnesses in a May 29, 2015 letter.¹

¹ Respondents presumably could have contacted their own investors and/or requested subpoenas for their documents long before the Division identified them on May 29, as Respondents' own

Yet, Respondents waited nearly *eleven weeks* (until August 13, 2015, after the Division submitted its formal witness list) to request subpoenas for certain investor witnesses contacted by the Division and included in the May 29 letter. Respondents do not represent that, during the 11-week period that preceded their August 13 requests for subpoenas, they made any effort to obtain information informally from any of these investors. Moreover, once requested, the subpoenas were promptly issued and contain a return date of September 4, 2015, more than a month in advance of trial, providing sufficient time for review of the documents. Document discovery relating to the investor witnesses identified by Respondents therefore provides no basis for an adjournment.

CONCLUSION

For the reasons stated above, Respondents' motion to adjourn trial should be denied.

Dated: August 28, 2015

Respectfully Submitted,



Dugan Bliss, Esq.
Nicholas Heinke, Esq.
Amy Sumner, Esq.
Division of Enforcement
Securities and Exchange Commission
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investors are self-evidently known or knowable to them. Further, the Division notes that, earlier in May, Respondents did request subpoenas for investors who were identified in the Division's investigative files produced to Respondents, and Respondents could have done the same with respect to the additional investor witnesses identified on May 29. *See* Exh. 1 (May 26, 2015 Sung E-mail requesting subpoenas).

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served on the following on this 28th day of August, 2015, in the manner indicated below:

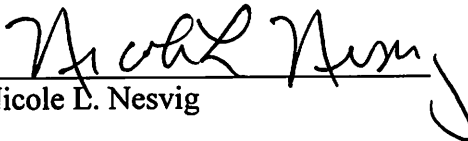
Securities and Exchange Commission
Brent Fields, Secretary
100 F Street, N.E.
Mail Stop 1090
Washington, D.C. 20549
(By Facsimile and original and three copies by UPS)

Hon. Judge Carol Fox Foelak
100 F Street, N.E.
Mail Stop 2557
Washington, D.C. 20549
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Nicole L. Nesvig

Bliss, Dugan

From: MaryAnn Sung <msung@bruneandrichard.com>
Sent: Tuesday, May 26, 2015 5:36 PM
To: Bliss, Dugan
Cc: Sumner, Amy A.; Heinke, Nicholas; Bruno, Anthony; ALJ; David.Zornow@skadden.com; Christopher.Gunther@skadden.com; Susan Brune; Martin Auerbach
Subject: In the Matter of Lynn Tilton, et al. (File No. 3-16462)
Attachments: 5.26.2015 Letter.pdf; Barclays Subpoena.pdf; Goldman Subpoena.pdf; MBIA Subpoena.pdf; Natixis Subpoena.pdf; Rabobank Subpoena.pdf; Certificate of Service.pdf

Counsel,

Please see the attached request for issuance of document subpoenas submitted today.

Regards,

MaryAnn

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BRUNE & RICHARD LLP

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