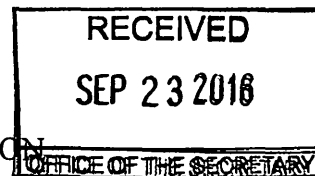


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UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION



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In the Matter of, :  
 :  
 :  
 LYNN TILTON : Administrative Proceeding  
 PATRIARCH PARTNERS, LLC, : File No. 3-16462  
 PATRIARCH PARTNERS VIII, LLC, :  
 PATRIARCH PARTNERS XIV, LLC and : Judge Carol Fox Foelak  
 PATRIARCH PARTNERS XV, LLC :  
 :  
 Respondents. :  
 :  
 :  
----- X

**REPLY MEMORANDUM OF LAW IN FURTHER SUPPORT OF RESPONDENTS'  
MOTION *IN LIMINE* TO PRECLUDE THE INTRODUCTION OF DIVISION  
EXHIBITS 118-123 (LETTERS FROM RESPONDENTS' COUNSEL)**

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*Counsel for Respondents*

September 22, 2016

Respondents Lynn Tilton, Patriarch Partners, LLC, Patriarch Partners VIII, LLC, Patriarch Partners XIV, LLC, and Patriarch Partners XV, LLC (collectively, “Patriarch” or “Respondents”), respectfully submit this reply brief in support of their motion *in limine* to preclude the Securities and Exchange Commission (“SEC”) Division of Enforcement (the “Division”) from introducing into evidence Exhibits 118-123 from the Division’s August 22, 2016 Amended Witness List.

### **INTRODUCTION**

The Division’s Exhibits 118-123 are letters from Respondents’ counsel to the Division concerning various aspects of the Division’s investigation of this matter. Because the letters are from counsel, not from a fact or expert witness, they do not aid in the resolution of the factual issues to be decided at the hearing. Your Honor should therefore exclude them.

### **ARGUMENT**

The Division presumes that if the letters from counsel at times address “factual matters [that] are at issue in this proceeding,” then the letters must be admissible. Opposition (“Opp.”) 2. But that leap of logic is unsupported in the case law. *See* Opening Br. 2 (citing *Sluka v. Landau Uniforms, Inc.*, No. 04 CV 2987, 2006 WL 379176 (D.N.J. Jan. 20, 2006) (granting motion to exclude letter written by counsel)). The subjects addressed in the letters, to the extent they are relevant, would be more appropriately addressed through witnesses at trial and through admission of the underlying documents. Exhibit 121, for example, is a letter from Ms. Tilton’s counsel to the SEC answering questions about Ms. Tilton, such as her name, address, and educational history. As stated in the letter itself, those topics may be appropriate for testimony (and as the letter also notes, many of the same questions had already been asked and answered during Ms. Tilton’s prior testimony). But letters from counsel—as opposed to testimony from

fact or expert witnesses or admission of the underlying documents—do not aid in the resolution of the factual issues to be decided at the hearing.

Instead of addressing the case law cited in Respondents' Opening brief, the Division relies on *United States v. Joseph*, 483 F. App'x 146, 150 (6th Cir. 2012). That unpublished summary order found no abuse of discretion where a court admitted into evidence counsel's statements to the IRS that were "directly related to the management of the litigation at issue." *Id.* It is unclear from that summary order what the content of counsel's statements were, and what, if anything, they were used to prove at trial. Here, the counsel letters at issue clearly concern facts that, if relevant, would be more appropriately established through testimony or the underlying documents themselves. Your Honor should therefore exclude the letters.

### CONCLUSION

For the foregoing reasons, Respondents respectfully move for an order precluding the Division from introducing into evidence its proposed Exhibits 118-123.

Dated: New York, New York  
September 22, 2016

GIBSON, DUNN & CRUTCHER LLP

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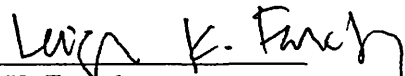
**CERTIFICATE OF SERVICE**

I hereby certify that I served true and correct copies of Respondents' Reply Memorandum of Law in Further Support of Respondents' Motion *In Limine* to Preclude the Introduction of Division Exhibits 118-123 (Letters from Respondents' Counsel) on this 22nd day of September, 2016, in the manner indicated below:

United States Securities and Exchange Commission  
Office of the Secretary  
Attn: Secretary of the Commission Brent J. Fields  
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Mail Stop 1090  
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Fax: (202) 772-9324  
(By Facsimile and original, and three copies by Federal Express)

Hon. Judge Carol Fox Foelak  
100 F Street, N.E.  
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Dugan Bliss, Esq.  
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Leigh K. Fanady