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**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
LIMITED RESPONSE TO
RESPONDENTS' MOTION TO
COMPEL MBIA TO PRODUCE
DOCUMENTS**

Introduction

The Division of Enforcement ("Division") respectfully submits this limited response to Respondents' Motion to Compel MBIA to Produce Documents Responsive to Respondents' Subpoenas, filed on October 5, 2016. ("Motion") While the Division takes no position on whether and to what extent MBIA should be compelled to produce documents, and while the Division withholds comment on Respondents' incendiary and improper commentary on purported "collusion" between the Division and MBIA (who was a victim of Respondents' fraud), the Division does file this limited response to object to Respondents' extraordinary request that the Division – which is not a party to this dispute between Respondents and MBIA – be precluded from presenting evidence related to MBIA at the upcoming hearing. *See, e.g.*, Motion at 1. The fact is that, for the last year and a half, Respondents have been aware of the potential that the Division would seek to rely on evidence from MBIA in connection with the presentation of its case, and has had that same amount of time to subpoena documents from MBIA. Indeed, Respondents

acknowledge that they initially subpoenaed MBIA in May of 2015, and MBIA reached “an agreement with Respondents’ prior counsel” on the scope of the response to that subpoena. Motion at 7. And the handwritten notes that undergird much of Respondents’ Motion have been in Respondents’ possession since May of 2015. That Respondents’ new counsel now believes there is even more information that it needs from MBIA is not a basis for the Respondents’ extraordinary request to preclude the Division from calling a long-disclosed witness at the upcoming hearing.

Argument

Respondents have long been aware of the possibility that the Division may seek to rely on witnesses and evidence from MBIA, which was an investor in and insurer of the Zohar deals. For example, on April 1, 2015, the Division produced to Respondents the documents it had received from third parties during the investigation, which included several hundred pages of documents received from MBIA. Shortly thereafter, on April 6, 2015, the Division produced to Respondents all of the transcripts of the investigative testimony in this matter, which included transcripts from two individuals employed by MBIA. And on August 7, 2015, the Division included two MBIA witnesses on its initial hearing witness list.¹

In addition, Respondents have long had the opportunity to subpoena documents from MBIA – and to seek to enforce any response they considered deficient. Indeed, Respondents admit that they issued a subpoena to MBIA in May of 2015 – four months before the Second Circuit stayed this matter and nearly a year and a half prior to the scheduled October 24, 2016 hearing. While the Division was obviously not involved in the negotiations between MBIA and Respondents over MBIA’s response, Respondents concede that there was “an agreement with Respondents’ prior counsel” as to MBIA’s response to that subpoena. *See* Motion at 7.

¹ The Division has recently informed Respondents that it will call only one of the two MBIA witnesses.

Finally, there is no merit to Respondents' claim of a "recent discovery" of information in the Division's handwritten notes. *See* Motion at 2. The Division produced these handwritten notes to Respondents in May of 2015 – nearly a year and a half ago. *See* Ltr. from D. Bliss to C. Gunther, dated May 27, 2015, attached hereto as Ex. 1. That Respondents' prior counsel did not glean the same purported "collusion" from these notes does not change the basic fact that there is nothing "recent" at all about the information in these notes. If Respondents had truly felt that these notes required additional information from MBIA, they have had since May of 2015 to seek that information.

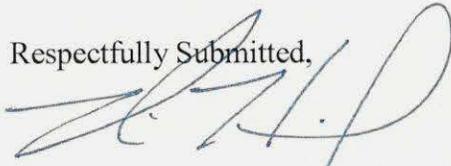
In light of these facts, and regardless of how Your Honor resolves the dispute between Respondents and MBIA over the sufficiency of MBIA's subpoena response, Your Honor should not "prohibit [the Division] from offering evidence or testimony at the hearing that MBIA was a victim or otherwise suffered financial losses as a result of its relationship with Respondents." Motion at 1. Not only would it be unfair and nonsensical to punish the Division for a dispute between Respondents and a third party, but Respondents have long been on notice of the fact that the Division may seek to offer evidence related to MBIA, and have long had the opportunity to subpoena documents from MBIA that Respondents felt were relevant to their defense. The Division should not be prejudiced by this dispute between MBIA and Respondents.

Conclusion

For the foregoing reasons, and regardless of how Your Honor rules on Respondents' Motion to Compel, the Division should not be precluded from presenting evidence related to MBIA in its case at the upcoming hearing.

Dated: October 13, 2016

Respectfully Submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the **DIVISION OF ENFORCEMENT'S LIMITED RESPONSE TO RESPONDENTS' MOTION TO COMPEL MBIA TO PRODUCE DOCUMENTS** was served on the following on this 13th day of October, 2016, in the manner indicated below:

Securities and Exchange Commission
Brent Fields, Secretary
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(By Facsimile and original and three copies by UPS)

Hon. Judge Carol Fox Foelak
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May 27, 2015

Christopher J. Gunther
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New York, NY 10036-6522

Re: *In the Matter of Lynn Tilton, et al (File No. 3-16462)*

Dear Mr. Gunther:

Enclosed please find a disc containing redacted copies of confidential internal witness interview notes being produced pursuant to SEC Rule of Practice 230(a)(2). This production is not intended to be a waiver of any applicable privilege or protection. The password for the disc has been sent to you by e-mail.

Please let me know if you have any questions.

Sincerely,

Dugan Bliss
Senior Trial Counsel

Enclosure
Cc: Nicholas Heinke
Amy Sumner

