

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO.: 0:21-cv-61176-AHS

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

PROPERTY INCOME INVESTORS LLC, et al.

Defendants.

**PLAINTIFF’S UNOPPOSED MOTION FOR EXTENSION
OF TIME ON CERTAIN PRE-TRIAL DEADLINES**

Pursuant to Federal Rule of Civil Procedure 6(b), Plaintiff Securities and Exchange Commission (the “SEC”) respectfully moves to extend certain pre-trial deadlines, and states:

1. In June 2021, the SEC filed this lawsuit against Property Income Investors, LLC, Larry Brodman, other entities they controlled (collectively, the “Property Entities”) based on violations of the offering registration and antifraud provisions of the federal securities laws, and against one of Property Entities’ sales agents, Anthony Nicolosi, for violations of the offering registration provisions and for acting as an unregistered broker. Brodman and Nicolosi consented to the entry of Judgments providing for permanent injunctive relief, which were entered by the Court on June 14, 2021.¹ [DE 8 and 9]. The Judgments further order Defendants Brodman and Nicolosi to pay disgorgement of ill-gotten gains, prejudgment interest and civil penalties in amounts determined by the Court upon the SEC’s motion. Thus, the only issues remaining against

¹ The Court appointed a Receiver over the Property Entities. A Judgment was entered against the Property Entities. [DE 7].

Brodman and Nicolosi are the determination of the amounts of these monetary remedies. Pursuant to the Judgments, in connection with the SEC's motion to set disgorgement and civil penalties against Brodman and Nicolosi, the defendants are precluded from arguing that they did not violate the federal securities laws alleged, and the allegations of the Complaint shall be accepted as and deemed true by the Court.

2. On November 29, 2021, the Court entered its Order Setting Trial and Pre-Trial Schedule, Requiring Mediation, and Referring Certain Matters to Magistrate Judge ("Trial Order") [DE 34].

3. The parties have been diligently conducting discovery in compliance with the Court's Trial Order, but recent developments have necessitated extending certain of the pre-trial deadlines.

4. In October 2021, Nicolosi produced a "consulting agreement" between Equinox Holdings, Inc. (one of the Property Entities controlled by Brodman) and Capital Market Partners, LLC (an entity controlled by Nicolosi), purportedly executed by Brodman and Nicolosi on August 1, 2016. The "consulting agreement" provides that Equinox would pay Nicolosi \$15,000 per month for certain consulting work.

5. During the course of the litigation, Nicolosi has taken the position that the disgorgement amount sought by the SEC should be significantly reduced, or that there should be no disgorgement at all, because the amounts he received were payments for work performed pursuant to the purported "consulting agreement" and not sales commissions.

6. On April 5, 2022, Nicolosi produced a different version of the purported "consulting agreement," which is identical in all respects except that the word spacing is slightly different, it contains a completely different signature by Brodman, and it is dated August 1, 2021.

7. The different signatures for Brodman on the two versions of the “consulting agreement” produced by Nicoloi raise authenticity issues.



8. Accordingly, the SEC seeks to engage a handwriting/questioned document expert to opine on the authenticity of the purported “consulting agreement” and the signatures affixed thereto.

9. Pursuant to the Trial Order, the SEC’s expert disclosures was due by March 11, 2022.

10. Because the SEC only learned of a potential document/signature authenticity issue on April 5, 2022, when Nicolosi produced the second version of the “consulting agreement,” the SEC did not engage/disclose a handwriting/questioned document expert by the deadline.

11. Because of the changed circumstances and the newly learned of need to engage a handwriting/questioned document expert, the SEC requests the that the Court extend the following pre-trial deadlines:

- a. Plaintiff’s expert disclosures (limited to authenticity of the questioned documents and signatures): June 7, 2022;
- b. Defendant’s expert disclosure (limited to authenticity of the questioned documents and signatures): June 21, 2022;
- c. Expert Rebuttals (limited to authenticity of the questioned documents and

signatures): July 5, 2022;

d. Discovery cutoff: July 19, 2022; and

e. Pre-trial/dispositive motions: August 2, 2022.

5. No party will be prejudiced by the proposed enlargement. Although the Trial Order contains a trial date in August 2022, a trial is not necessary because the remaining issues in the case will be resolved through the SEC's motions to set disgorgement and civil penalties against Brodman and Nicolosi. *See* Judgment against Nicolosi at p. 6. [DE #9]

6. Pursuant to Local Rule 7.1(a)(2), a proposed Order is attached for the Court's consideration.

WHEREFORE, the SEC respectfully requests that the Court grant its motion for an extension of certain pre-trial deadlines as listed above, and grant such other relief that the Court deems just and proper.

RULE 7.1.A.3 CERTIFICATE OF CONFERRAL

Pursuant to Southern District of Florida Local Rule 7.1.A.3, undersigned counsel has conferred with Defendant Larry Brodman and Receiver Miranda L. Soto, who do not oppose the relief sought in this Motion. Counsel for Anthony Nicolosi does not oppose the requested extensions, but he does not agree with the reasons stated by the SEC.

Respectfully submitted,

/s/Alice Sum

Alice Sum, Esq.

Trial Counsel

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Attorney for Plaintiff

SECURITIES AND EXCHANGE COMMISSION

801 Brickell Avenue, Suite 1950

Miami, Florida 33131

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on April 11, 2022, I electronically filed the foregoing document using CM/ECF. I also certify that the foregoing document is being served this day on all counsel and parties of record in the manner denoted below.

/s/Alice Sum
Alice Sum, Esq.

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TEXT OF PROPOSED ORDER

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 0:21-cv-61176-AHS

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

PROPERTY INCOME INVESTORS LLC, et al.

Defendants.

**ORDER GRANTING UNOPPOSED MOTION FOR EXTENSION OF TIME
ON CERTAIN PRE-TRIAL DEADLINES**

THIS CAUSE is before the Court upon Plaintiff Securities and Exchange Commission's ("SEC") unopposed motion to extend certain pre-trial deadlines, and based on good cause appearing on the record, the motion is **GRANTED**.

IT IS HEREBY ORDERED that the pre-trial deadlines are extended as follows:

- (1) Plaintiff's expert disclosures (limited to authenticity of the questioned documents and signatures) until June 7, 2022;
- (2) Defendant's expert disclosure (limited to authenticity of the questioned documents and signatures) until June 21, 2022;
- (3) Expert Rebuttals (limited to authenticity of the questioned documents and signatures) until July 5, 2022;
- (4) All discovery, including expert discovery shall be completed by July 19, 2022; and
- (5) Pre-trial/dispositive motions, motions *in limine*, and *Daubert* motions (which include motions to strike experts) shall be filed by August 2, 2022.

DONE AND ORDERED in Chambers in Ft. Lauderdale, Florida, this ____ day of _____, 2022.

RAAG SINGHAL
UNITED STATES DISTRICT JUDGE