

**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 RESPONSE TO INVESTORS, RICHARD BENTLEY,  
JOSEPH ALEXANDER, AND P&E PROPERTIES, LP’S MOTION FOR  
CLARIFICATION OF STAY ORDER**

Plaintiff Securities and Exchange Commission hereby responds to Investors Richard Bentley, Joseph Alexander, and P&E Properties, LP’s Motion for Clarification of Stay Order and states as follows:

1. Clarification is not needed because the Order granting the Commission’s Unopposed Motion for Appointment of Receiver (“Order”) (DE 10) is unambiguous that claims against potential defendants who are liable to the Investors, including the accountants for the receivership entities, are covered by the stay language and included in the stay of litigation.

2. As a starting point, the Order provides that the Receiver has the following general powers and duties:

a. To use reasonable efforts to determine the nature, location and value of all property interests of the Receivership Entities, including, but not limited to, monies, funds, securities, credits, effects, goods, chattels, lands, premises, leases, claims, rights and other assets, together with all rents, profits, dividends, interest or other income attributable thereto, of whatever kind, which the Receivership Entities own, possess, have a beneficial interest in, or control directly or indirectly (“Receivership Property” or, collectively, the “Receivership Estates”);

i. To bring such legal actions based on law or equity in any state, federal, or foreign court as the Receiver deems necessary or appropriate in discharging Receiver's duties;

j. To pursue, resist and defend all suits, actions, claims and demands which may now be pending or which may be brought by or asserted against the Receivership Estates.

Order at ¶ 7.

3. This Court issued a stay of litigation until further order of the Court covering:

All civil legal proceedings of any nature, including, but not limited to, bankruptcy proceedings, arbitration proceedings, foreclosure actions, default proceedings, or other actions of any nature involving: (a) the Receiver, in Receiver's capacity as Receiver; (b) any Receivership Property, wherever located; (c) any of the Receivership Entities, including subsidiaries and partnerships; or, (d) any of the Receivership Entities' past or present officers, directors, managers, agents, or general or limited partners sued for, or in connection with, any action taken by them while acting in such capacity of any nature, whether as plaintiff, defendant, third-party plaintiff, third-party defendant, or otherwise (such proceedings are hereinafter referred to as "Ancillary Proceedings").

Order at ¶ 26.

4. Because the Order covers proceedings involving the Receiver, Receivership Property, and Receivership Entities, as well as any claims or actions, and the Receiver's general powers and duties are "to sue for and collect, recover, receive and take into possession from third parties all Receivership Property," potential claims against the accountants for the Receivership entities (and other potential defendants) are included.

5. Investors' argument that the Order does not specifically identify potential defendants, such as the accountants for the Receiver Entities, is unavailing. It is neither feasible nor practical for the Commission or the Court to determine and include every single potential defendant or class of defendant at the outset of the filing of a lawsuit.

6. Instead, the Receiver is charged with the responsibility to investigate and marshal assets, including pursuing claims against third-parties. The purpose of the Receivership and stay

of litigation is to ensure that management of Receivership Entities and Property, including pursuit of claims, is centralized with the Receiver, who is in the best position to determine what, when and how regarding claims to pursue, and to avoid duplication of efforts.

7. While the Investors' desire to pursue claims to recover their investments is understandable, there is no basis to amend or interpret the Order to carve out an exception to allow the Investors – instead of the Receiver – to pursue potential claims against the accountants or other third-parties.

8. The Commission also notes that the Investors' counsel did not attempt to meet and confer with the Commission regarding the Motion.

9. For these reasons, the Motion should be denied.

Respectfully submitted,

/s/Alice Sum

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**SECURITIES AND EXCHANGE COMMISSION**

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**CERTIFICATE OF SERVICE**

I **HEREBY CERTIFY** that on June 22, 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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