

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO.: 21-61176-CIV-SINGHAL

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

PROPERTY INCOME INVESTORS, LLC,
EQUINOX HOLDINGS, INC.,
PROPERTY INCOME INVESTORS 26, LLC,
PROPERTY INCOME INVESTORS 304, LLC,
PROPERTY INCOME INVESTORS 201, LLC,
PROPERTY INCOME INVESTORS 3504, LLC,
PROPERTY INCOME INVESTORS 1361, LLC,
PROPERTY INCOME INVESTORS 4020, LLC,
PROPERTY INCOME INVESTORS 9007, LLC,
PROPERTY INCOME INVESTORS 417, LLC,
PROPERTY INCOME INVESTORS 4450, LLC,
PROPERTY INCOME INVESTORS 3050, LLC,
LARRY B. BRODMAN and ANTHONY
NICOLOSI (f/k/a ANTHONY PELUSO),

Defendants.

RECEIVER'S THIRTEENTH INTERIM QUARTERLY REPORT

(Period Covered: April 1, 2024 – June 30, 2024)

Miranda L. Soto, Esq., solely in her capacity as Receiver (the “Receiver”) for Defendants, Property Income Investors, LLC; Equinox Holdings, Inc.; Property Income Investors 26, LLC; Property Income Investors 304, LLC; Property Income Investors 201, LLC; Property Income Investors 3504, LLC; Property Income Investors 1361, LLC; Property Income Investors 4020, LLC; Property Income Investors 9007, LLC; Property Income Investors 417, LLC; Property Income Investors 4450, LLC; and Property Income Investors 3050, LLC (collectively, the “Receivership Entities”), and pursuant to the Order Granting Plaintiff Securities and Exchange Commission’s (the “Commission”) Motion for Appointing Receiver, dated June 15, 2021 (Doc.

10), hereby files her Thirteenth Interim Report to inform this Court, investors, and interested parties of the significant activities undertaken from **April 1, 2024 to June 30, 2024 (the “Reporting Period”)**, as well as proposed prospective courses of action.

TABLE OF CONTENTS

	Page
I. INTRODUCTION	1
A. Overview of Significant Activities During Reporting Period.....	1
II. BACKGROUND	1
A. Procedure and Chronology	1
B. The Receiver’s Role and Responsibilities	3
III. THE RECEIVER’S PROGRESS AND PRELIMINARY FINDINGS DURING THE RELEVANT PERIOD	3
A. Actions Taken By the Receiver During Reporting Period.....	4
i. Continued Efforts to Finalize First Interim Distribution	4
ii. Continued Efforts to ReCoup Loss from Restored Receivership Website Including Obtaining Court Directing Prior Web Host to Pay All Related Fees and Costs.....	5
IV. THE NEXT QUARTER	6
A. Third Party Claims	6

I. INTRODUCTION

A. Overview of Significant Activities During Reporting Period

During the time period covered by this Report (April 1, 2024 through June 30, 2024), the Receiver and her counsel have engaged in significant activities including but not limited to:

- Worked with Claimants and Receiver's CPA professionals to resolve minor issues relating to the distributions;
- Obtained an order from this Court requiring the Receivership's former web host and its manager to pay the \$20,641.50 in fees and expenses of the Receiver, her counsel, and the web consultant the Receiver was forced to retain as a result of the web hosts unwillingness and inability to address the website outage;
- Extended efforts to collect on judgment entered by Court against former web host and its manager for the \$20,641.50 in fees and expenses;
- Updated Receiver's newly rebuilt website and communicated regularly with investors regarding status of the Interim Distribution and Receivership;
- Responded to phone calls and written communications from investors, other interested parties and/or their representatives; and,
- Continued review of potential third-party claims and identification of potential counsel to recover investor assets wrongfully misappropriated and/or fraudulently transferred;
- Prepared and filed the Receiver's Twelfth Interim Report on April 30, 2024 (Doc. 138), which provided a comprehensive summary, analysis, and supporting documentation of the Receiver's observations, continuing investigation, and contemplated next steps.

The above referenced activities are discussed in more detail in the pertinent sections of this Report.

II. BACKGROUND

A. Procedure and Chronology

On June 7, 2021, the Commission filed a complaint (Doc. 1) (the "Complaint") in the United States District Court for the Southern District of Florida (the "Court") against Defendants Larry Brodman, Anthony Nicolosi f/k/a Anthony Peluso, and the Receivership Entities. The Commission alleged that Defendant Brodman and the Receivership Entities raised at least \$9 million from over 150 investors who were told that their funds would be used almost entirely

to purchase “turnkey, multifamily properties” in South Florida which would then be renovated, rented to tenants, and eventually sold. *Id.* ¶ 3. Investors were also told that they would be entitled to receive a portion of the rental income and any sale proceeds generated from the Properties they were investing in.

Although a portion of investor funds was used to purchase various properties in the South Florida area, the Commission alleged that Defendant Brodman and the PII entities misappropriated and diverted over \$2 million in investor funds, extensively commingled investor funds, and in some instances used investor funds to make purported “profit” payments and distributions to other investors. (Doc. 10 ¶¶ 4, 70-71.) The Commission also alleged that, despite statements in the offering materials that commissions would only be paid to licensed brokers, PII and Brodman used at least \$1.2 million in investor funds to pay undisclosed sales commissions to unlicensed sales agents including Defendant Nicolosi. *Id.* ¶¶ 68-69.

On June 15, 2021, this Court granted the Commission’s Motion for Appointment of Receiver and entered an Order appointing Miranda L. Soto as the Receiver over the Receivership Entities (“Order Appointing Receiver”) (Doc. 10). The Commission and the individual Defendants mediated this case on April 5, 2022, which resulted in an impasse. (Doc. 47.) Subsequently, on October 3, 2022, the Commission reached an agreement with each individual Defendant. Pursuant to this settlement, this Court entered judgments against both individual Defendants as follows: (1) \$414,813.00 against Defendant Nicolosi and (2) \$1,594,265.00 against Defendant Brodman. (Doc. 104-105). Pursuant to the Judgments, the Defendants were ordered to pay the above-stated amounts to the Receiver. Since these judgments have been entered, the Receiver and her staff have communicated with the Commission that the Receiver is willing assist

in any request to help enforce the judgments against the Defendants and collect for the Receivership Estate.

B. The Receiver's Role and Responsibilities

As an independent agent of this Court, the Receiver's powers and responsibilities are set forth in the Order Appointing Receiver which provides, in relevant part, that the Receiver:

- “[S]hall have all powers, authorities, rights and privileges heretofore possessed by the officers, directors, managers and general and limited partners of the Receivership Entities under applicable state and federal law...” and “shall assume and control the operation of the Receivership Entities and shall pursue and preserve all of their claims.” (Doc. 10 ¶¶ 4-5);
- Shall “take custody, control, and possession of all Receivership Property and records relevant thereto from the Receivership Entities...” and “manage, control, operate and maintain the Receivership Estates and hold in Receiver's possession, custody and control all Receivership Property, pending further Order of the Court.” *Id.* ¶ 7(b)-(c);
- Is “authorized, empowered, and directed to investigate the manner in which the financial and business affairs of the Receivership Entities were conducted and (after obtaining leave of this Court) to institute such actions and legal proceedings...as the Receiver deems necessary and appropriate...” *Id.* ¶ 37; and,
- Is directed to “develop a plan for the fair, reasonable, and efficient recovery and liquidation of all remaining, recovered, and recoverable Receivership Property...and to “file and serve a full report and accounting of each Receivership Estate” for each calendar quarter. *Id.* ¶¶ 46, 48.

III. RECEIVER'S PROGRESS AND PRELIMINARY FINDINGS DURING THE REPORTING PERIOD

The Receiver's issuance of interim quarterly reports is intended to, among other things, present a detailed summary of actions taken by the Receiver during the reporting period as well as to share the status of her various preliminary findings and ongoing investigation. Unless specifically indicated herein, any previously expressed preliminary findings are incorporated herein and remain consistent with the Receiver's ongoing investigation. The Receiver reserves the right to revise, amend, and/or supplement these conclusions as the investigation progresses.

The Receiver presents the following non-exclusive conclusions that she continues to supplement

based on her ongoing investigation and document review and with the assistance of her Retained Professionals.

A. Actions Taken By the Receiver During Reporting Period

i. Continued to Work on Fielding Issues Related to First Interim Distribution of \$2,860,000.00 to Claimant Investors

The Receiver and her professionals filed her Interim Distribution Motion (Doc. 130) on February 13, 2024, and received Court approval of same (Doc. 136) on February 21, 2024, and implemented the First Interim Distribution to investor claimants in March 2024. The First Interim Distribution of **\$2,860,00.00** represents a recovery of **41.5%** of the Allowed Amounts of Investor Claims and a pro rata distribution of **60%** of the available Receivership funds in the Receiver's bank account to date. As of the date of the filing of this Interim Report, all distribution checks have been cashed by the investor claimants. Throughout the Reporting Period, the Receiver worked diligently and addressed any mailing issues with the distributed distribution checks. The check numbers for the cashed First Distribution checks are reflected in the First and Second Reporting Quarter Standardized Fund Accounting Report (SFAR). The final outstanding distribution check was cashed during the Third Reporting Quarter and will be reflected in the Q3 SFAR.

At present, the Receiver is in the process of moving for a Second Interim Distribution of \$1,000,000, which will be filed with the Court in the Third Reporting Quarter of 2024. As the Receiver moves forward with her Second Interim Distribution, she and her staff counsel continue the negotiations and analysis regarding the viability of third-party claims.

ii. Obtained Court Ruling Directing Prior Web Host to Pay All Related Fees and Costs and Began Process of Initiating Collection from Prior Web Host.

On January 19, 2024, the Receiver learned that the Receivership website was no longer

accessible to claimants, the general public, or the Receiver and her counsel. The Receiver's counsel immediately contacted the website hosting provider, K. Tek Systems Inc. ("K. Tek") to determine the reason for the outage and to assist in bringing the website back online.

On January 22, 2024, K. Tek's manager reported that she and her husband were going through a contentious divorce and that her husband had allegedly taken control of and sabotaged several websites that K. Tek hosted, including the PII Receivership website. K. Tek's manager offered no evidence to support her claims, and refused to communicate with the Receiver via telephone. After multiple unsuccessful attempts to get K. Tek to provide help in restoring the website, the Receiver retained a web consultant, Emilio Yopez of Lighthouse Internet Media ("LIM"), who worked tirelessly to successfully rebuild the Receivership website from scratch. The parties, including K. Tek's manager and her husband, attended a status conference regarding the matter before this Court on February 15, 2024, at which time this Court ordered K. Tek and its manager to pay all fees and costs related to the restoration of the Receivership website. On June 20, 2024, the Court entered an order commanding the web hosts to, within 30 days, pay **\$20,641.50** in fees and expenses of the Receiver, her counsel, and for the retention of the web consultant the Receiver was forced to retain as a result of the web hosts unwillingness and inability to address the website outage ("Sanctions Order"). The Receiver's counsel promptly contacted Ms. During regarding the collection of the owed sum but, to date, K. Tek and Ms. During have failed to comply with the Sanctions Order. Accordingly, the Receiver has prepared a motion seeking further sanctions against Ms. During and K. Tek and will be filing the motion shortly.

iii. Securing Receivership Estate Personal Property

a. Bank Accounts and Cash Proceeds

As reported in detail in previous Reports, the Receiver opened fiduciary bank accounts at ServisFirst Bank (the “ServisFirst Accounts”) following her appointment and coordinated the freeze and closure of the Receivership Entities’ existing bank accounts with JP Morgan Chase Bank, N.A. (“Chase Bank”). The ServisFirst Accounts allow the pool of Receivership funds to continue to gain interest while the Receiver determines the appropriate method to distribute funds. As of the date of the filing of this Report, the total balance of the ServisFirst Accounts was **\$1,815,729.50.**

b. Other Personal Property

The Receiver continues to store various company document and collectible items that were previously removed from the storage unit. The Receiver has been working to liquidate the remaining Personal Property in the most cost-effective manner to bring in funds to the Receivership Estate including appropriate donations when tax benefits can be obtained.

iv. Securing and Maintaining Receivership Real Property

a. Managing and Maintaining Real Property Assets

At the time of the Receiver’s appointment, the Receivership Entities owned seven multifamily residential properties in the South Florida area. Further details on each of these properties, including purchase and property information is discussed in previous Interim Status Reports. (Doc. 63, 81, 99). All of the Receivership properties have been sold and the money has been brought into the pool of funds in the Receivership.

IV. THE NEXT QUARTER

A. Third Party Claims

The Receiver continues to analyze the viability of potential claims against third parties that may have received payments or transfers to which they were not entitled to receive or persons or entities that provided services to or otherwise improperly benefitted from their affiliation with the Receivership Entities. The Receiver has aggressively worked to hold those accountable who worked with the Receivership Entities and mismanaged funds in such a manner that perpetuated the fraud. Specifically, the Receiver has negotiated and executed a Tolling Agreement of the Statute of Limitations for accounting malpractice with the accountants (Anthony Coleman and David Cohen) who were the accountants for the Receivership Entities as well as Mr. Brodman, personally. This agreement preserved the Receiver's ability to litigation against the accountants if it is determined that malpractice existed. The information provided at the depositions in a prior Reporting Period validated the Receiver's suspicion that the accountants were involved in the accounting of the Receivership Defendants beyond the mere preparation of tax returns. While securing the tolling agreements for Accountants Coleman and Cohen, it was discovered that neither accountant had malpractice insurance. The Tolling Agreement terminates January 23, 2025. As detailed in prior reports, one of the accounts, David Cohen, has passed away. The Receiver is determining whether any estate action will be warranted involving Mr. Cohen's estate. In the meantime, the Receiver is in discussions with potential counsel to assess and pursue any claims. If such discussions lead to an agreement in principle, the Receiver will file the appropriate motion with the Court seeking approval of the engagement and pursuit of legal remedies. The Receiver has also negotiated a Tolling Agreement of the Statute of Limitations for legal malpractice for the attorneys involved in the real estate transactions of Receivership Defendants prior to Receiver's appointment. The Receiver has initiated negotiations with their counsel

regarding potential recovery from these legal professionals. The Receiver and her team will continue to vigorously work to recover funds from third-parties who properly owe money to the Receivership estate.

Once negotiations and the analysis of viable claims has been completed, Receiver will make a determination whether to proceed with litigation for the benefit of the Receivership. In proceeding with making the determination whether to proceed with litigation, the Receiver continues to consider several factors, including the cost-benefit analysis of bringing any potential claim. Thus, the Receiver is not yet able to predict the likelihood, amount, or effectiveness of any particular claim or the claims as a whole. The Receiver may plan to first offer those who are required to return money to the Receivership Estate the opportunity to do so cooperatively to avoid costly litigation for all involved. The Receiver intends to seek Court approval before instituting any such third-party actions.

Date: July 31, 2024

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY PC

One Biscayne Tower
2 S. Biscayne Blvd, Suite 1500
Miami, FL 33131-1822
T: 305-347-4080
F: 305-347-4089

A handwritten signature in blue ink that reads "Lauren Humphries". The signature is written in a cursive style and is positioned above a horizontal line.

Lauren V. Humphries, Esq.
Florida Bar No. 117517
lauren.humphries@bipc.com

BUCHANAN INGERSOLL & ROONEY PC

One Biscayne Tower
2 S. Biscayne Blvd, Suite 1500
Miami, FL 33131-1822
T: 305-347-4080
F: 305-347-4089

/s/ Raquel A. Rodriguez _____

Raquel A. Rodriguez, Esq.

Florida Bar No. 511439

raquel.rodriguez@bipc.com

Attorneys for Receiver, Miranda L. Soto

CERTIFICATE OF SERVICE

I hereby certify that on July 31, 2024, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a Notice of Electronic Filing to the following counsel of record:

Alice Sum, Esq.
Securities and Exchange Commission
801 Brickell Avenue, Suite 1950
Miami, Florida 33131
Counsel for Plaintiff

Mark C. Perry, Esq.
2400 East Commercial Blvd., Ste 201
Fort Lauderdale, Florida 33308
Counsel for Defendant, Anthony Nicolosi, fka Anthony Peluso

I further certify that on July 30, 2024, a true and correct copy of the foregoing was sent via electronic mail to the following:

Carl F. Schoeppl, Esq.
Schoeppl Law, P.A.
4651 North Federal Highway Boca
Raton, Florida 33431-5133
E-mail: carl@schoeppllaw.com
Counsel for Defendant Larry Brodman



Lauren V. Humphries, Esq.