

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
NICOLSI (f/k/a ANTHONY PELUSO),

Defendants.

RECEIVER'S FIFTEENTH INTERIM QUARTERLY REPORT

(Period Covered: October 1, 2024 – December 31, 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 Fifteenth Interim Report to inform this Court, investors, and interested parties of the significant activities undertaken from **October 1, 2024 to December 31, 2024 (the “Reporting Period”)**, as well as proposed prospective courses of action.

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I. INTRODUCTION

A. Overview of Significant Activities During Reporting Period

During the time period covered by this Report (October 1, 2024 – December 31, 2024), the Receiver and her counsel have engaged in significant activities including but not limited to:

- Worked with Investor Claimants and Receiver's CPA professionals to effectuate and continue to address claimant issues with the Second Interim Distribution of \$1,000,000.00 to approved Investor Claimants;
- Worked with Investor Claimants and Receiver's CPA professionals to resolve any issues involving deceased investors, IRA issues, changes in custodians for accounts, and returned checks due to mailing address changes;
- Worked with Receiver's CPA professionals regarding tax issues of Receivership entities including completion of annual tax records;
- Received authority from Court to move forward with litigation against Third Parties Kelley & Grant P.A. and Jerron L. Kelley, former attorneys for Receivership entities;
- Initiated litigation against Third Parties Kelley & Grant P.A. and Jerron L. Kelley;
- Continued the Receiver's work to recover funds from the Receivership's former web host; (Receiver previously obtained an order from this Court requiring the Receivership's former web host 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 host's unwillingness and inability to address a website outage);
- Updated Receiver's website and communicated regularly with investors regarding status of the Second Interim Distribution and Receivership overall;
- Responded to phone calls and written communications from investors, other interested parties and/or their representatives;
- Continued review of additional third-party claims and identification of potential counsel to recover investor assets wrongfully misappropriated and/or fraudulently transferred;
- Continued to engage in negotiations with counsel for Third Parties to recover additional funds for the benefit of Investor Claimants;
- Worked with Midland Trust and Claimants to address custodian issues with IRA and non-IRA accounts; and,

- Prepared and filed the Receiver’s Fourteenth Interim Report on October 31, 2024 (Doc. 149), 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 Facilitate Second Interim Distribution of \$1,000,000.00 to Approved Investor Claimants

The Receiver and her team have worked diligently to facilitate and address all issues with both the First and Second Interim Distributions in this Receivership. On February 13, 2024, the Receiver and her professionals filed her First Interim Distribution Motion (Doc. 130) and received Court approval of the Motion (Doc. 136) on February 21, 2024. The Receiver promptly implemented the First 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. In regard to the First Interim Distribution, all distribution checks were cashed by investor claimants.

Approximately seven months later, on September 12, 2024, the Receiver filed her Motion to Approve Second Interim Distribution of \$1,000,000.00 to approved Investor Claimants and to

Amend Custodian of Midland Trust Claimants. (Doc. 147.) On September 24, 2024, and the Court granted the Motion (Doc. 148) and the Receiver promptly mailed the Second Interim Distribution checks and communicated, via mail, the distribution breakdown for the Second Distribution. The Second Interim Distribution represented a recovery of 14.5% of the Allowed Amounts of Investor Claims, which means that the Receiver has returned a total of 56% of the Allowed Amounts of Investor Claims to Investor Claimants at this time. At present, more than 90% of the checks in the Second Interim Distribution have been cashed by Investor Claimants. The Receiver and her team are working diligently with several investor claimants who have experienced issues receiving or cashing their checks or have recently changed addresses. At present, the Receiver and her team will continue to work with Investor Claimants until all checks from the Second Interim Distribution have been negotiated and cashed.

ii. Continued work to enforce Court Order on Prior Web Host Paying All Fees and Costs related to Re-Construction of Receivership Website

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 and her team are in the process of obtaining a Final Judgment from the Court via a Motion for Contempt against Ms. During and K. Tek. The Receiver and her team will move forward with obtaining and effectuating this Judgment in the next Reporting Period.

iii. Moved Forward with Action on 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. During the course of negotiations with the counsel for the accountants, the Receiver extended the deadline for the Tolling Agreement by providing an Amended Tolling Agreement that extends the termination date to July 23, 2025. The Receiver believes the extension of the tolling period will permit the Receiver to engage in further negotiations and to determine whether litigation against the accountants will result in recovery of funds or assets for the Receivership Estate.

As detailed in prior reports, one of the accountants, David Cohen, has passed away. The Receiver is determining whether any estate action will be warranted involving Mr. Cohen's estate. Counsel for the spouse of Mr. Cohen has been in communication with the Receiver's counsel and has signed the Amended Tolling Agreement as to the claims related to his Estate. The Receiver has been in discussions with outside counsel to pursue such claims and will be determining whether the Receiver will seek authority from this Court to retain counsel to pursue those claims on behalf of the Receivership.

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 initiated negotiations with their counsel regarding potential recovery from these legal professionals, but negotiations have since fallen through. The Receiver has begun seeking additional paper discovery and depositions from the law firm to determine the full extent of the potential claims and is moving as swiftly as possible to resolve the matter in a cost-efficient manner. During this Reporting Period, the Receiver filed her Motion for Approval to Pursue Claims against Third-Parties Kelley & Grant, P.A. and Jerron

Kelley. On January 15, 2025, the Court granted the Receiver's Motion for Approval, providing authority for the Receiver to move forward with full litigation against Mr. Kelley and Kelley & Grant P.A. At present, the Receiver has filed her Supplemental Third-Party Complaint against Mr. Kelley and Kelley & Grant, P.A. The Receiver and her team are in the process of setting depositions and conducting discovery with there third party defendants.

In proceeding with formal litigation, the Receiver continues to consider several factors, including the cost-benefit analysis of litigating this 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 will continue to update the Court regarding the status of this litigation and negotiations with all third parties.

iv. 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 **\$778,880.57.**

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.

v. **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. Finalizing Action Regarding Third Party Claims

The Receiver and her legal counsel have aggressively pursued third parties who were privy to the activities of Mr. Brodman and Mr. Nicolosi concerning the Receivership Entities. The aim of the Receiver is to recover as much funds as possible that were paid to these third parties or misappropriated to these individuals and return these funds rightfully to the Receivership Estate. While negotiations, as represented above in Section A(iii), have been ongoing with various third parties, the Receiver is in the process of setting depositions of Kelley & Grant, P.A. and Jerron Kelley to determine the extent of their involvement with the Receivership Defendants.

On January 16, 2025, the Receiver received Court approval granting the Receiver's Motion for Approval to Pursue Claims Against Third-Parties Kelley & Grant P.A. and Jerron Kelley. The Receiver is in the process of determine the best action to efficiently recover the funds from these third parties in litigation. The Receiver anticipates that the information gained from discovery will demonstrate how and why funds are owed to the Receivership Estate from these third parties.

B. Facilitating Steps Toward Final Distribution of Estate Accounts

The Receiver and her team are in the final stages of addressing the marshalling and collection of assets related to the Receivership Entities. In the next Quarter, the Receiver

anticipates making final decisions regarding the negotiations and pending Third Party Claims, taking all action to recover funds from Third Parties, and addressing any further issues with the Second Interim Distribution. At this stage, the Receiver anticipates making one final distribution to approved Investor Claimants and formally closing the Receivership during the 2025 calendar year. While the Receiver and her team continue to work diligently to resolve all issues related to the Second Interim Distribution and the Third Party Claims, the Receiver strives to be in a position to formally close the estate during the Third Quarter of this calendar year (2025).

Date: January 31, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 31, 2025, 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:

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I further certify that on January 31, 2025, a true and correct copy of the foregoing was sent via electronic mail to the following:

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