

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

SECURITIES AND EXCHANGE	:
COMMISSION,	:
	:
Applicant,	:
	:
v.	:
	:
WOODBRIIDGE GROUP OF COMPANIES,	:
LLC,	:
	:
Respondent.	:

**SECURITIES AND EXCHANGE COMMISSION’S APPLICATION FOR AN ORDER
ENFORCING AN ADMINISTRATIVE SUBPOENA**

Applicant Securities and Exchange Commission applies for an order compelling Woodbridge Group of Companies, LLC, including parents, subsidiaries, affiliates, predecessors, successors, officers, directors, employees, agents, general partners, limited partners, partnerships and aliases, code names, or trade or business names used by any of the foregoing (hereinafter “Woodbridge” or “Respondent”), to comply with the Commission’s subpoena, lawfully issued on January 31, 2017, to produce documents in connection with an ongoing investigation. The Commission’s investigation seeks information regarding Woodbridge’s receipt of over \$1 billion of investor funds and whether the company is operating a fraud on its investors. Woodbridge’s operations are ongoing and it continues to raise funds from investors. Therefore, the Commission brings this summary proceeding to obtain key documents necessary to its investigation. Specifically, the Commission seeks an order requiring Woodbridge to produce (a) documents identifying its investors, (b) documents relating to sales agents’ compensation, (c)

emails of three high-level Woodbridge officials, and (d) a privilege log. In support of this application, the Commission states as follows:

I. INTRODUCTION

Over the course of the past eight months, the Commission's investigative team, first informally, and then via subpoena, has attempted to obtain documents critical to its investigation of Woodbridge. Now, despite Woodbridge's production of some documents, the Commission's investigative team is forced to file this application because Woodbridge has utterly failed to produce many of the crucial documents it was required to produce under a January 31, 2017 investigative subpoena (the "Subpoena"). Among other things, Woodbridge has failed to produce any of its e-mails, which are critical to the Commission's investigation. In support of this application, the Commission submits the attached Declaration of Scott A. Lowry, Senior Counsel at the Commission (Exhibit 1).

The Commission's investigative team issued the Subpoena to Woodbridge in the course of a formal investigation into possible violations of the federal securities laws pursuant to Section 20(a) of the Securities Act of 1933 ("Securities Act") and Section 21(a) of the Securities Exchange Act of 1934 ("Exchange Act"). Because Respondent has provided no legally justifiable argument for its refusal to comply with the targeted requests of the Subpoena, the Commission's investigative team requests that this Court enter an Order compelling Respondent to comply forthwith with the lawfully issued Subpoena.

II. STATEMENT OF FACTS

A. The Commission's Authority and Reason for Investigation

1. On September 27, 2016, the Commission issued a Formal Order Directing Private Investigation and Designating Officers to Take Testimony in the matter of *Woodbridge Mortgage Investment Fund III, LLC* (FL-04024) and on January 17, 2017, issued a Supplemental Order Designating Additional Officers (collectively, the “Formal Order”) [Exh. 1, ¶2].

2. The Commission is investigating possible ongoing violations of Sections 5(a), 5(c), and 17(a) of the Securities Act, and Section 15(a) and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, by Woodbridge and other persons and entities. Specifically, the Commission is investigating the offer and sale of unregistered securities, the sale of securities by unregistered brokers, and the commission of fraud in connection with the offer, purchase, and sale of securities. [*Id.*, ¶3].

3. The Formal Order directs the Commission’s staff to conduct a private investigation to determine whether, among others, Woodbridge and its “affiliates and/or other individuals or entities related thereto” have engaged in, or are about to engage in, the enumerated potential violations of the federal securities laws. [*Id.*, ¶4].

4. Under the Commission’s Formal Order in this case, members of the Commission’s staff are officers of the Commission empowered to administer oaths, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the investigation. [*Id.*, ¶5].

5. Woodbridge has raised more than \$1 billion from several thousand investors nationwide through multiple investment offerings using various forms and structures. In just one fund out of several, for example, Woodbridge Mortgage Investment Fund III, LLC, Woodbridge filed with the Commission on September 18, 2015, a Form D (Notice of Exempt Offering of

Securities) averring that it had raised \$36,330,251 out of a potential offering of \$50,000,000. A network of nationwide sales agents (both internal and external) market these various investments and these sales agents are paid various levels of commissions for their efforts. [*Id.*, ¶6].

6. As part of or in connection with these activities, Woodbridge, its officers, directors, employees, partners, subsidiaries, and/or affiliates and/or other persons or entities, directly or indirectly, may have been or may be, among other things, making false statements of material fact or failing to disclose material facts, to investors and others, concerning, among other things, the use of investor funds, the safety of the investments, the profitability of the investments, the sales fees, or other costs associated with the purchase of the investments. [*Id.*, ¶7].

B. The Commission's Subpoena

7. On November 30, 2016 and December 8, 2016, as a professional courtesy, members of the investigative team made informal requests of Woodbridge, verbally and written, respectively, through counsel, for the production of certain documents, including e-mail correspondence between: (1) Woodbridge and investors; (2) sales agents and investors; and (3) Woodbridge and sales agents, as well as other company related documents pertinent to the investigation. [*Id.*, ¶8].

8. Due to Woodbridge's non-responsiveness to these informal requests, on January 31, 2017, the investigative team issued Woodbridge the Subpoena, requiring it produce documents by February 15, 2017 (as well as for the testimony of certain individuals affiliated with Woodbridge). [*Id.*, ¶9].

9. The Subpoena requested a variety of documents, including the name, contact information and description of all investors, and all documents reflecting compensation (including all commission, referral or marketing fees) paid by or on behalf of Woodbridge to sales agents (or other Persons soliciting Investors). [*Id.*, ¶10].

10. The Subpoena further specifically required production of the following, from January 1, 2012 through the date of the response (with the identification of such persons and entities having been previously defined in the Subpoena): (1) correspondence, including e-mail, between Woodbridge and Investors; (2) correspondence, including e-mail, between sales agents (or other Persons soliciting Investors) and Investors; and (3) correspondence, including e-mail, between Woodbridge and sales agents (or other Persons soliciting Investors) [*Id.*, ¶11].

11. The Subpoena also required the submission of a list of documents, if any, responsive to the Subpoena that Woodbridge was withholding on account of a claim of privilege, identifying various characteristics of the document without violating the asserted privilege (hereinafter “Privilege Log”) [*Id.*, ¶12].

12. On January 31, 2017, members of the investigative team caused the Subpoena to be served via UPS overnight delivery on counsel for Woodbridge. [*Id.*, ¶13]. Counsel had previously represented it would accept service on Woodbridge’s behalf. [*Id.*].

C. The Commission’s Multiple Attempts to Confer

13. As noted in the investigative team’s correspondence to Woodbridge’s counsel dated February 28, 2017, March 7, 2017, March 22, 2017, April 7, 2017 and May 16, 2017, Woodbridge produced some categories of documents responsive to the Subpoena. [*Id.*, ¶14]. To date, Woodbridge has produced a voluminous number of documents. However, Woodbridge has failed to produce many of the requested documents critical to the investigation. Consistent

throughout this correspondence was the investigative team's insistence that Woodbridge identify whether responsive documents existed for many of the Subpoena requests, the number, data size, location, and number of custodians, and any other extraordinary circumstances affecting Woodbridge's ability to produce documents in a timely fashion. Notably Woodbridge has produced neither any company e-mails nor a Privilege Log. [*Id.*].

D. Commission Provides Prioritized Production Request

14. In an effort to assist Woodbridge in prioritizing its document production, on May 18, 2017, members of the investigative team provided a "Prioritized Production" cover letter to Woodbridge for immediate production. [*Id.*, ¶15].

15. The first category of Prioritized Production consisted of discrete documents (hereinafter "Prioritized Production Documents") that had been previously identified by various witnesses during their sworn investigative testimony, which included:

- Excel Chart First Position Commercial Mortgages ("FPCM") and Private Placement Memorandum ("PPM") (aka "Main Tracker").
- Chart of Sales Commissions (aka "Comp Submission Template").
- Biweekly Tracking Chart from Accounting with Sales Agent and Financial Planner Commissions.

[*Id.*, ¶16].¹

16. The second category of Prioritized Production identified the e-mails of three key employees, specifically, immediate production of company e-mails sent to, sent from, or received by: (1) Woodbridge's CEO and President, Robert Shapiro's company e-mail addresses;

¹ The Commission's investigative team has provided Woodridge the witness and page number in the witness' transcripts where these documents were identified.

(2) Mr. Shapiro's personal e-mail address; (3) D.R., Woodbridge's Managing Director of Investments; and (4) N.P., Woodbridge's Controller. The May 18, 2017 letter also reiterated the need to provide a Privilege Log. [*Id.*, ¶17].

17. As noted in the May 18, 2017 letter, in an effort to expedite production of the responsive e-mails, members of the investigative team proposed that Woodbridge use search terms Woodbridge had previously proposed (23 total) along with an additional 33 terms the investigative team proposed. [*Id.*, ¶18].

E. Respondent's Refusal and Failure to Comply With Prioritized Production Requests

18. On June 20, 2017, members of the investigative team had a conference call with Woodbridge's counsel to discuss the various outstanding production requests. As it pertained to the e-mail request, in sum, counsel informed members of the investigative team that Woodbridge had only one person in its IT department available to search for relevant e-mails. Counsel further informed that a search of the D.R.'s emails (the Managing Director of Investments) resulted in 23,000 hits for e-mails to or from Mr. Shapiro's company and personal e-mail addresses and Woodbridge's Controller's e-mail address. Counsel informed they had yet to run the search terms for this universe of e-mails as they thought the number of search terms was too broad, and that in any event, they would have to inspect each of these individually for privilege before being comfortable turning them over. [*Id.*, 19].

19. Members of the investigative team implored counsel to run a customary and routine search for privilege, including all e-mail addresses of any associated counsel, as well as common terms such as "advice, question and consult." Members of the investigative team also represented that to the extent that after this search was conducted and privileged documents were

still inadvertently turned over, they would not consider this a waiver of privilege and would either destroy or return the e-mails immediately. Counsel declared they were not comfortable with this approach. [*Id.*, ¶20].

20. Additionally, in an effort to address the purported burdensome nature of the search terms the parties had jointly recommended, members of the investigative team requested Woodbridge search for the 56 jointly recommended terms within the Managing Director of Investment's 23,000 responsive e-mails. Once completed, the investigative team requested Woodbridge inform it of the number of hits each word was returning, and in the event it became clear that certain words had too high of a return, the investigative team would agree to eliminate those search terms. The investigative team made this offer despite Woodbridge not even having attempted to search for the emails of Mr. Shapiro, the emails of N.P., the Controller, or any other of the e-mails requested pursuant to the Subpoena (other than those of D.R., the Managing Director of Investments). [*Id.*, ¶21].

21. Despite Woodbridge having raised more than \$1 billion through its various offerings, Woodbridge's counsel again stressed that only one person at Woodbridge was available and capable of searching for the requisite e-mails, and their client was not financially able to contract with a vendor to assist in the search. [*Id.*, ¶22].

22. Additionally, the investigative team reiterated the need to provide the Prioritized Production Documents identified during the testimonies of certain individuals subject to the Subpoena and a Privilege Log. [*Id.*, ¶23].

23. The conferral ended with counsel representing they would follow up with the investigative team in one week regarding the disclosure of the Prioritized Production Documents

and other documents responsive to the Subpoena still outstanding, the e-mail production, and the Privilege Log. [*Id.*, ¶24].

24. As of the date of this filing, counsel has not attempted to contact anyone on the investigative team via telephone or email regarding these outstanding Subpoena requests. While Woodbridge did provide additional documentation responsive to the Subpoena on June 30, 2017, it did not include any production of the Prioritized Production Documents identified during witness testimonies, the requested e-mails, or the Privilege Log. Further, while counsel has contacted members of the investigative team to arrange for an in-person meeting with senior leadership of the Miami Regional Office of the Commission to discuss the Commission's investigation in general, at no point during these communications did counsel acknowledge the deficiencies in Woodbridge's response to the Subpoena, or make any representations that it intended to cure them. [*Id.*, ¶25].

F. Woodbridge's Response to the Subpoena is Critical to the Commission's Investigation

25. The Prioritized Production Documents and e-mails, amongst other documents sought by the Subpoena, are necessary to the Commission's investigation of potential securities laws violations and are expected to provide additional relevant information that is currently unavailable from any other known source. Identifying all of the investors in Woodbridge's various investment platforms is critical to conducting a robust investigation and potentially protecting existing and prospective investors from further fraud. Understanding the breadth of the commissions, or other compensation, earned by sales agents and financial planners who sold Woodbridge's investments is also highly critical to the investigation. It will assist the investigative team in having a better understanding of the use, or misuse, of investor funds. It

will also equip the investigative team with all the necessary information to either speak to sales agents informally or subpoena them for testimony to learn more about their duties and responsibilities at Woodbridge, the instructions they were given by Woodbridge's President and CEO, Robert Shapiro and others, and how they earned commissions or other compensation. [*Id.*, ¶26].

26. Internal contemporaneous e-mail communications from key individuals at Woodbridge are highly relevant, as they would capture the real-time communications of those potentially engaged in fraud. Many key witnesses, including, but not limited to, Mr. Shapiro, D.R., Woodbridge's Managing Director of Investments, and N.P., Woodbridge's Controller, have invoked their Fifth Amendment rights in sworn investigative testimony, and have thus refused to answer any substantive questions or provide any of their e-mails. Other than via subpoena, the Commission does not have any other legal authority to obtain the company e-mails or personal emails used for work purposes of these key individuals. Finally, the Commission requires the Privilege Log to evaluate Woodbridge's claims of privilege and determine whether to challenge those claims. [*Id.*, ¶27].

27. Based on the investigation, the investigative team is aware that Woodbridge continues to solicit investors to invest in its various investment platforms, and investors continue to invest. [*Id.*, ¶28].

III. MEMORANDUM OF LAW

A. The Court Has Jurisdiction and Venue Properly Lies in This District

Congress gave the Commission broad authority to conduct investigations and require production of evidence and testimony relevant to those investigations. *See, e.g.*, Sections 21(a) and (b) of the Exchange Act, 15 U.S.C. §§ 78u(a) and (b) ("For the purpose of any such

investigation, or any other proceeding under this title, any member of the Commission or any officer designated by it is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence”); *see also SEC v. Jerry T. O’Brien, Inc.*, 467 U.S. 735, 745 (1984) (“It appears, in short, that Congress intended to vest the SEC with considerable discretion in determining when and how to investigate possible violations of the statutes administered by the Commission.”); *SEC v. Dresser Indus., Inc.*, 628 F.2d 1368, 1380 (D.C. Cir. 1980) (given the Commission’s broad statutory mandate to investigate, there was “virtually no possibility” the Commission exceeded its authority in issuing an investigative subpoena).

Furthermore, when parties refuse to comply with lawful Commission demands for documents or testimony issued pursuant to the Commission’s broad statutory authority to investigate, Congress has authorized the Commission to seek, and the federal courts to issue, orders compelling production or testimony. “In case of . . . refusal to obey a subpoena issued to any person, the Commission may invoke the aid of any court of the United States within which the jurisdiction of which such investigation or proceeding is carried on . . . in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records.” Section 21(c) of the Exchange Act, 15 U.S.C. § 78u(c).

That very language also provides that venue lies in the Southern District of Florida, as it provides the Commission may seek a court order “within which the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business.” 15 U.S.C. § 78u(c). Here, venue is proper in this district because the investigation is being carried on in and requires the production of responsive information in the Southern District of Florida. (*See* Exh. 1 ¶¶1, 3).

B. The Court Should Conduct A Summary Proceeding

Subpoena enforcement actions are generally summary in nature and the Court may therefore hear them in summary fashion without strict adherence to the Federal Rules of Civil Procedure. *United States v. Elmes*, 532 F. 3d 1138, 1143 (11th Cir. 2008) (under Rule 81(a)(3) of the Federal Rules of Civil Procedure “the district court has discretion to deny hearings or limit the applicability of discovery in a proceeding to compel the production of documents in accordance with a subpoena issued by an officer or agency of the United States”); *SEC v. Sprecher*, 594 F.2d 317, 320 (2d Cir. 1979) (upholding right of district court to enforce subpoenas in summary proceedings without the filing of a complaint pursuant to Section 22(b) of the Securities Act, 15 U.S. C. § 77v(b), which allows a district court to enforce a subpoena “upon application of the Commission”).

Accordingly, the Commission asks the Court to promptly hear and rule on the Commission’s application so that Respondent’s failure to properly and fully respond to the Subpoena is not allowed to continue. *SEC v. First Security Bank*, 447 F.2d 166, 168 (10th Cir. 1971).

C. The Commission’s Subpoena Satisfies All Requirements for Enforcement

A district court’s role in a proceeding to enforce an administrative subpoena “is limited.” *EEOC v. Tire Kingdom, Inc.*, 80 F.3d 449, 450 (11th Cir. 1996). Under that limited review, a court should enforce an administrative subpoena if it is reasonably relevant to an authorized investigation. *EEOC v. Technocrest Sys.*, 448 F.3d 1035, 1040 (8th Cir. 2006). *See also United States v. Morton Salt*, 338 U.S. 632, 652 (1950) (courts should only inquire into whether an administrative subpoena “is within the authority of the agency, the demand is not too indefinite, and the information sought is reasonably relevant”); *Tire Kingdom*, 80 F.3d at 450 (same).

Courts have generally looked at four criteria to determine whether to enforce a Commission subpoena: (1) the investigation is being conducted pursuant to a legitimate purpose; (2) the inquiry is relevant to that purpose; (3) the information the Commission seeks is not already in its possession; and (4) the Commission has fulfilled the necessary administrative steps. *United States v. Powell*, 379 U.S. 48, 57-58 (1964); *RNR Enterprises, Inc. v. SEC*, 122 F.3d 93, 96-97 (2d Cir. 1997); *SEC v. Howatt*, 525 F.2d 226, 229 (1st Cir. 1975); *SEC v. Brigadoon Scotch Distributing Co.*, 480 F.2d 1047, 1053 (2d Cir. 1973). Once the Commission satisfies these criteria, the burden shifts to a respondent to demonstrate the subpoena is unreasonable. *Brigadoon Scotch*, 480 F.2d at 1056. However, the burden of showing unreasonableness “is not easily met” as long as the Commission’s inquiry is legally authorized and the information it seeks is relevant to the inquiry. *Id.*

1. *The Commission’s Purpose is Lawful*

As discussed above, Congress has given the Commission broad authority to investigate whether the federal securities laws, rules, and regulations “have been or are about to be violated.” Section 20(a) of the Securities Act, 15 U.S.C. § 77t(a); Sections 21(a) and (b) of the Exchange Act, 15 U.S.C. § 78u(a) and (b). Pursuant to that authority, the Commission issued the Formal Order authorizing designated officers to conduct an investigation into possible violations of Sections 5(a), 5(c) and 17(a) of the Securities Act and Sections 15(a) and 10(b) of the Exchange Act and Rule 10b-5 thereunder by Woodbridge and related persons and entities. (Exh. 1, ¶¶2, 3).

Pursuant to the authority conferred under the Formal Order, the Commission’s investigative team issued the Subpoena to Woodbridge seeking documents. The Subpoena is within the parameters of the Commission’s broad discretion to investigate: “For the purpose of any such investigation, or any other proceeding under this title, any member of the Commission

or any officer designated by it is empowered to . . . require the production of any books, papers, correspondence, memoranda, or other records which the Commission deems relevant or material to the inquiry.” 15 U.S.C. § 78u(b); *see also O’Brien*, 467 U.S. at 745 (“It appears, in short, that Congress intended to vest the SEC with considerable discretion in determining when and how to investigate possible violations of the statutes administered by the Commission”).

Accordingly, the Commission’s purpose in issuing the Subpoena to Woodbridge to produce documents was lawful.

2. The Commission Seeks Relevant Information

The measure of relevance used in subpoena enforcement actions is “quite broad.” *United States v. Florida Azalea Specialists*, 19 F.3d 620, 624 (11th Cir. 1994). A district court may enforce a subpoena so long as “the materials sought are not clearly irrelevant or immaterial.” *SEC v. Arthur Young & Co.*, 584 F.2d 1018, 1029 (D.C. Cir. 1978) (upholding district court’s use of that language as standard for relevance).

The Commission is investigating possible ongoing violations of the federal securities laws, including fraud. The potential violations by Woodbridge and its entities and affiliates are serious and wide-ranging. There are numerous investors and a tremendous amount of money invested thus far. Woodbridge continues to solicit investors to invest in its various investment platforms, and investors continue to invest.

The Subpoena included a variety of document requests. The focus of this Application is those items the investigative team declared to be “Prioritized Production,” all falling under the ambit of the Subpoena. (Exh 1, ¶¶15-17). This includes specific documents identified during witness testimony that would identify investors in two separate types of investments, and specify the commissions, or other compensation, earned by sales agents and financial planners. (*Id.*,

¶15-16). These Prioritized Production requests clearly fall within the Subpoena, which requested, “the name, contact information and description of all investors,” and “all documents reflecting compensation (including all commission, referral or marketing fees) paid by or on behalf of Woodbridge to sales agents (or other Persons soliciting Investors), whether internally or externally distributed.” (*Id.*, ¶10).

The Subpoena further specifically required production of the following, from January 1, 2012 through the date of the response, (with all capitalized terms having been previously defined in the Subpoena): (1) correspondence, including e-mail, between Woodbridge and Investors; (2) correspondence, including e-mail, between sales agents (or other Persons soliciting Investors) and Investors; and (3) correspondence, including e-mail, between Woodbridge and sales agents (or other Persons soliciting Investors) (*Id.*, ¶11). Again, the Prioritized Production request was even narrower, requiring only specific e-mails of three key employees, specifically, immediate production of company e-mails sent to, from, or received by: (1) Woodbridge’s CEO and President, Robert Shapiro’s company e-mail addresses; (2) Mr. Shapiros’ personal e-mail address; (3) D.R., Woodbridge’s Managing Director of Investments; and (4) N.P., Woodbridge’s Controller (*Id.*, ¶17). The Subpoena and the Prioritized Production correspondence also required a Privilege Log. (*Id.*, ¶¶12, 17).

The relevance of all of the requests is indisputable. The Commission needs to identify the universe of Woodbridge investors to ensure the comprehensiveness of the investigation and to potentially protect them from further fraud. The compensation earned by sales agents and financial planners at Woodbridge is of high importance, as it could provide a window to the investigative team of how investor funds were used and dispersed. This will assist the investigative team in understanding Woodbridge’s operations and also provide the investigative

team the necessary background in its upcoming potential interactions with these sales agents during the course of the investigation.

Internal contemporaneous e-mail communications from key individuals at Woodbridge are highly relevant, and they would capture the real-time communications of CEO and President Shapiro, the Managing Director of Investments and Controller at Woodbridge potentially engaged in fraud. And finally, to ensure a comprehensive investigation, Woodbridge must specifically identify in a privilege log the documents, if any, it is withholding on account of privilege. *See e.g. SEC v. Condit et al.*, 2017 WL 2485383 (C.D. Cal. June 8, 2017) (mandating production of detailed privilege log, despite assertion of Fifth Amendment and attorney-client privileges, amongst others).

3. *Woodbridge Possesses Information the Commission Lacks*

The Prioritized Production is necessary to obtain the names of all investors, the commissions earned by sales agents, and internal e-mail communications. While the Commission's investigative team is aware of many investors, the information Woodbridge possesses will assist in either verifying its information or augmenting it. The investigative team does not have available to it the specific breakdown of the amount of commissions, or other compensation, earned and when they were earned by sales agents and financial planners that the tracking charts identified in sworn testimony would contain. And of course, the investigative team is not privy to the e-mails of Shapiro, Woodbridge's Managing Director of Investments and Controller, and cannot get these e-mails from another source or other legal means.

4. *The Commission Has Satisfied All Necessary Administrative Steps*

The Commission issued the Subpoena to Woodbridge in accord with all applicable administrative requirements. Section 19(b) of the Securities Act, 15 U.S.C. § 77s(b), and Section

21(b) of the Exchange Act, 15 U.S.C. § 78u(b), empower the Commission to subpoena documents and testimony in the course of investigations. Here, an attorney for the Division of Enforcement, designated as an officer of the Commission in the Formal Order, issued the Subpoena to Woodbridge. (Exh. 1 ¶9).

Furthermore, under the Commission's Rules Relating to Investigations and Rules of Practice, an officer of the Commission may serve an investigative subpoena by several methods, including by personal service.² The Commission's investigative team complied with those Rules in serving the Subpoena by serving Woodbridge's counsel at their law firm via UPS overnight delivery, who had previously agreed to accept service on Woodbridge's behalf. (*Id.*, ¶13).

IV. CONCLUSION

The Commission has satisfied all the requirements for enforcement of the administrative subpoena to Woodbridge. Furthermore, the Commission has shown there is no legal support to the contrary, as Woodbridge has failed to fully and properly respond to the Subpoena. Accordingly, the Commission requests this Court to expeditiously conduct a summary proceeding and issue an order directing Woodbridge to produce, within 14 days:

- (1) Excel Chart of FPCM and PPM Investors (aka "Main Tracker");
- (2) Chart of Sales Commissions (aka "Comp Submission Template");
- (3) Biweekly Tracking Chart from Accounting with Sales Agent and Financial Planner Commissions;

² Rule 8 of the Commission's Rules Relating to Investigations, 17 C.F.R. § 203.8, provides service of subpoenas in formal investigations shall be as prescribed in Rule 232(c) of the Commission's Rules of Practice, 17 C.F.R. § 201.232(c). Rule 232(c), in turn, provides the method of service shall be as set forth in Rule 150(b)-(d), 17 C.F.R. § 201.150(b)-(d), which allows service by either facsimile or express mail, either directly on a party or, if the party is represented by counsel, on counsel.

- (4) Woodbridge company e-mails sent to, from, or received by Woodbridge's CEO and President, Robert Shapiro's company e-mail address;
- (5) Any company e-mail sent to, received from or copied to Mr. Shapiro's personal e-mail address;
- (6) Woodbridge company e-mails sent to, from, or received by Woodbridge's Managing Director of Investments;
- (7) Woodbridge company e-mails sent to, from, or received by Woodbridge's Controller; and
- (8) Woodbridge's Privilege Log of documents responsive to the Subpoena but being withheld on claim of privilege.

Receipt of the Prioritized Production documents and emails and the Privilege Log will not be, by any means, satisfaction of the response to the Subpoena. Numerous other categories of documents remain outstanding. [Ex. 1, ¶29]. The Commission reserves the right to seek additional assistance from the Court, if necessary, to obtain the documents that remain outstanding, and respectfully requests the Court also retain jurisdiction and order any other relief that may be necessary.

Dated: July 17, 2017

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on July 17, 2017, a copy of the foregoing was served via email and U.S. Mail on counsel for Woodbridge, David Nelson, Esq., Boies Schiller & Flexner, LLP, 401 East Las Olas Blvd., Suite 200, Fort Lauderdale, FL 33301-22, dnelson@bsflfp.com.

/s/ Russell Koonin
Russell Koonin, Esq.