

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

IN RE:

PROVIDENCE FINANCIAL
INVESTMENTS, INC.,
PROVIDENCE FIXED INCOME
FUND, LLC.,

Debtors.

Case No. 16-20516-AJC
Chapter 7
(Jointly Administered)

Case No. 16-20517-AJC

NOTICE OF RULE 2004 EXAMINATION *DUCES TECUM*
(DOCUMENTS ONLY)

Maria Yip, the Chapter 7 Trustee (the “Trustee”), for the jointly administered estates of Providence Financial Investments, Inc. and Providence Fixed Income Fund, LLC (the “Debtors”), by and through undersigned counsel, requests that **Espirito Santo Bank, n/k/a Brickell Bank**, produce and deliver on or before **4:30 p.m., Friday, October 7, 2016**, to Joan Levit, Esq. at the law offices of Akerman LLP, Las Olas Centre II, 350 East Las Olas Boulevard, Suite 1600, Fort Lauderdale, Florida 33301, all of the documents as detailed in the Amended Subpoena for Rule 2004 Examination (Duces Tecum) included with this Notice, attached hereto and incorporated herein.

This request for production of documents is pursuant to Rule 2004, *Federal Rules of Bankruptcy Procedure*, and Local Rule 2004-1, *Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of Florida*. The scope of the request is as described in Bankruptcy Rule 2004. Pursuant to Local Rule 2004-1 no order shall be necessary.

Dated: September 22, 2016

Respectfully submitted,

AKERMAN LLP

Las Olas Centre II, Suite 1600
350 East Las Olas Boulevard
Fort Lauderdale, Florida 33301
Telephone: 954-463-2700;
Facsimile: 954-463-2224

By: /s/ Joan Levit

Joan Levit, Esq.

Florida Bar Number: 987530

Email: joan.levit@akerman.com

Counsel for Trustee

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via e-mail and/or U.S. Mail, on September 22, 2016 to all parties as reflected on the attached Service List.

By: /s/ Joan Levit

Joan Levit

SERVICE LIST

16-20516-AJC and 16-20517-AJC Notice will be electronically mailed to:

Eyal Berger, Esq. on behalf of Trustee Maria Yip
eyal.berger@akerman.com, jeanette.martinez@akerman.com

Richard J Cole on behalf of Creditor Violetta Lvov
rcole3@gmail.com, rc3@colecolelaw.com

Catherine E Douglas on behalf of Trustee Maria Yip
catherine.douglas@akerman.com, jeanette.martinez@akerman.com

James D Gassenheimer on behalf of Trustee Maria Yip
jgassenheimer@bergersingerman.com, efile@bergersingerman.com;efile@ecf.inforuptcy.com

Joan M Levit, Esq on behalf of Trustee Maria Yip
joan.levit@akerman.com, charlene.cerda@akerman.com

James B Miller, Esq on behalf of Debtor Providence Financial Investments, Inc.
bkcmiami@gmail.com

Office of the US Trustee
USTPRegion21.MM.ECF@usdoj.gov

Susan R Sherrill-Beard, Esq on behalf of Creditor U.S. Securities and Exchange Commission
sherrill-beards@sec.gov, atltreorg@sec.gov;berlina@sec.gov;martinc@sec.gov

Maria Yip
trustee@yipcpa.com, myip@ecf.epiqsystems.com

Maria Yip on behalf of Trustee Maria Yip
trustee@yipcpa.com, myip@ecf.epiqsystems.com

Via U.S. Mail:

Lawrence Buskee
4862 School St #1130
Acworth, GA 30101

Julie H Firestone
Briggs and Morgan, PA
2200 IDS Center
80 South 8 Street
Minneapolis, MN 55402

The Providence Companies, LLC
2020 Ponce de Leon Blvd., #901
Coral Gables, FL 33134
{39345046;1}

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**SUBPOENA FOR RULE 2004 EXAMINATION
(DUCES TECUM)**

To: **Espirito Santo Bank n/k/a Brickell Bank (via FedEx)**
395 Brickell Ave.
Miami, FL 33131

[] YOU ARE COMMANDED to appear and testify at an examination at the place, date, and time specified below.

PLACE OF TESTIMONY	DATE AND TIME
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The examination will be recorded by this method: _____.

[X] *Production:* You, or your representatives, must also bring with you to the examination the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material: **PLEASE SEE ATTACHED SCHEDULE "A".**

PLACE	DATE AND TIME
AKERMAN LLP 350 East Las Olas Blvd., 16th Floor, Ft. Laud., FL 33301	Friday, October 7, 2016 by 4:30 p.m.


The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 9016, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 9/22/16

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR


Attorney's signature

The name, address, email address, and telephone number of the attorney representing Maria Yip, Trustee, who issues or request: **Joan Levit, Esq., Akerman, LLP, 350 E. Las Olas Blvd., Suite 1600, Ft. Laud., FL 33301, Telephone: 954-463-2700.**

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for (name of individual and title, if any): _____
on (date) _____.

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on (date) _____; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true and correct.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information concerning attempted service, etc.:

Federal Rule of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)
(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)

(c) Place of compliance.

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises, at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.* The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For Access to Subpoena Materials
 Fed. R. Civ. P. 45(a) Committee Note
 (2013)

- Parties desiring access to information produced in response to this subpoena will need to follow up with the party serving the subpoena to obtain such access.

The party serving the subpoena should make reasonable provisions for prompt access.

- The court for the district where compliance with the subpoena is required has authority to order notice of receipt of produced materials or access to them.

SCHEDULE "A"

DEFINITIONS

1. "You" and/or "Your" shall mean Espirito Santo Bank n/k/a Brickell Bank and any agent or other third party acting on its behalf.
2. "Debtor" shall mean Providence Financial Investments, Inc., including any of its predecessors, affiliates, assigns, employees, agents, and others purporting to act on its behalf as filed in the United States Bankruptcy Court, Southern District of Florida, Case No. 16-20516-AJC.
3. "Maria Yip" shall mean the Chapter 7 Trustee for the estate of Providence Financial Investments, Inc. (the "Debtor" as referenced above) and Providence Fixed Income Fund, LLC as filed in the United States Bankruptcy Court, Southern District of Florida, Case No. 16-20517-AJC.

INSTRUCTIONS

1. In responding to these document requests, You are required to obtain and furnish all information available to You and any of Your employees, agents, representatives, or attorneys and to obtain and furnish all documents, written and/or electronic, that are in Your possession or under Your control, or in the possession or under the control of any of Your employees, agents, representatives or attorneys,
2. If any privilege is asserted as to any document required to be produced hereby:
 - (a) identify each such document by stating (i) the type of document, (ii) its general subject matter, (iii) the date of the document, and (iv) the identity of each person who prepared, signed or participated in the preparation of the document, as well as each addressee and recipient;
 - (b) state the precise nature of the privilege claimed;
 - (c) state the basis for the privilege claimed relative to the specific information contained in the document; and
 - (d) state all facts contained within the document, deleting only opinions, theories,

mental impressions and non-factual statements.

3. If any document was, but is no longer, in Your possession, custody or control, provide the following information:

- (a) identify the document;
- (b) state the disposition of the document and the date such disposition was made;
- (c) identify the present custodian of the document and state his address or, if the document no longer exists, so state; and
- (d) identify the person who made the decision regarding the disposition of the document.

4. All documents that exist in electronic format shall be produced in the format in which they are maintained, including all meta-data, unless the parties agree to an alternative means of production,

5. Time period requested is from January 1, 2010 through the present.

DOCUMENTS TO BE PRODUCED

The Trustee requests production of the following:

1. Account forms, signature cards, client agreements, and/or account opening documents;
2. Bank account statements;
3. Deposits;
4. Cancelled checks (front and back);
5. Withdrawals, debits and credits;
6. Wire transfers;
7. Cashier's checks' and
8. Account closing documents for the accounts listed below.

The Trustee requests documents from the date the accounts were opened through and including the date the accounts were closed.

The account names and/or numbers are provided below:

- a. Providence Financial Investments, Inc.
- b. Providence Fixed Income Fund, LLC
- c. The Providence Companies, LLC (accounts ending in # 600019 and 106200897)