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3 IN THE UNITED STATES DISTRICT COURT
4 FOR THE NORTHERN DISTRICT OF CALIFORNIA

5 SUSSEX FINANCIAL ENTERPRISES,) Case No. 08-4791 SC
6 INC.,)
7 Plaintiff,) ORDER DENYING PLAINTIFF'S
8 v.) OBJECTIONS TO MAGISTRATE'S
9 BAYERISCHE HYPO-UND VEREINSBANK) ORDER; GRANTING IN PART
10 AG, et al.,) DEFENDANTS' MOTION FOR
11 Defendants.) RELIEF FROM THE STATUS
12) CONFERENCE ORDER
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13 Now before the Court is Plaintiff's Objection to a discovery
14 order entered by a magistrate in this matter -- the second such
15 objection filed by Plaintiff in less than a month. Docket No. 171
16 ("Objection"). By an Order dated March 2, 2010, the magistrate to
17 whom all discovery matters have been assigned granted Defendants'
18 motion to compel two further depositions, and to require Plaintiff
19 to produce documents related to its finances and tax information.
20 Docket No. 170 ("Magistrate's Order").

21 Also before the Court is Defendants' Motion for Relief from
22 the Status Conference Order ("Motion"), Docket No. 172, to which
23 Plaintiff has filed an Opposition, Docket No. 178. Having
24 considered all of the papers submitted by both parties, this Court
25 concludes that the issues presented by Plaintiff's Objection and
26 Defendants' Motion are appropriate for determination without oral
27 argument.
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1 As to Plaintiff's Objection, the Court AFFIRMS the
2 Magistrate's Order and adopts it in full. The Magistrate's Order
3 fairly and persuasively explains the relevance of the material that
4 Defendants seek to compel, and the role that it could plausibly
5 play in establishing a defense to Plaintiff's claims. Because
6 Plaintiff is claiming that it was innocent and unaware of the fraud
7 that it alleges Defendants were perpetrating upon Plaintiff and its
8 clients, Plaintiff's tax information and the tax information of its
9 two sole shareholders is highly probative as to whether Plaintiff
10 was aware of the admittedly wrongful activity at the time it
11 occurred.

12 Plaintiff's Objection is based on legal arguments that this
13 Court finds spurious. For example, Plaintiff argues that this
14 Court lacks original jurisdiction in this matter, and assumes
15 jurisdiction solely on the basis of the parties' diversity.
16 Objection at 2-3. However, as noted in the Magistrate's Order,
17 this Court has original jurisdiction based upon Plaintiff's RICO
18 claims. Plaintiff cites case law that establishes that such claims
19 "may" be heard in state court as well as federal court, however
20 this is simply not a reasonable basis for arguing that a federal
21 court does not have original jurisdiction over RICO claims,
22 especially where RICO's provisions explicitly state that any
23 aggrieved party "may sue therefor in any appropriate United States
24 district court" 18 U.S.C. § 1964(c). The existence of
25 concurrent jurisdiction by the state courts does not destroy
26 original jurisdiction in this Court.

27 Similarly, Plaintiff presents novel arguments, not presented
28 to the magistrate, that state law should control this discovery

1 dispute because "Defendant's discovery was directed to Plaintiff's
2 state law fraud claims." Objection at 4. Even if this Court were
3 to entertain this argument, Plaintiff is incorrect in that its RICO
4 questions are invariably intertwined with its fraud-based claims.
5 Plaintiff is seeking treble damages that are ultimately premised
6 upon these state law claims, as predicates to its RICO claim, and
7 this Court cannot reasonably discount federal law in reaching the
8 discovery issues that surround them.

9 The Court is therefore convinced that the Magistrate's Order
10 was correct in its reasoning and conclusion. The Court is also
11 persuaded that counsel for Plaintiff was not faultless in its delay
12 in providing the contested information, and it concludes that there
13 would be no harm in allowing the parties additional time to prepare
14 their summary judgment motions in light of the new evidence that
15 Defendants seek. For this reason, the final hearing date for
16 motions is extended to June 25, 2010. All motions must be filed in
17 accordance with Civil Local Rule 7-2. However, this Court is not
18 persuaded that this development warrants further delay in the
19 previously established trial date. All other dates, including the
20 final deadline for trial briefs and pretrial statements, the
21 pretrial conference, and the trial date of August 2, 2010, remain
22 undisturbed by this Order. Defendants' Motion to Shorten Time,
23 Docket No. 174, is DENIED as moot.

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25 IT IS SO ORDERED.

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27 Dated: March 17, 2010

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UNITED STATES DISTRICT JUDGE