

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

CIVIL ACTION NO. _____

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

**BRIAN DAVISON,
BARRY M. RYBICKI,
EQUIALT LLC,
EQUIALT FUND, LLC,
EQUIALT FUND II, LLC,
EQUIALT FUND III, LLC,
EA SIP, LLC,**

Defendants, and

**128 E. DAVIS BLVD, LLC,
310 78TH AVE, LLC,
551 3D AVE S, LLC,
604 WEST AZEELE, LLC,
2101 W. CYPRESS, LLC,
2112 W. KENNEDY BLVD, LLC,
5123 E. BROADWAY AVE, LLC,
BLUE WATERS TI, LLC,
BNAZ, LLC,
BR SUPPORT SERVICES, LLC,
BUNGALOWS TI, LLC,
CAPRI HAVEN, LLC,
EA NY, LLC,
EQUIALT 519 3RD AVE S., LLC,
MCDONALD REVOCABLE LIVING TRUST,
SILVER SANDS TI, LLC,
TB OLDEST HOUSE EST. 1842, LLC,**

Relief Defendants.

UNDER SEAL

**PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S CERTIFICATE
PURSUANT TO RULE 65(b) OF THE FEDERAL RULES OF CIVIL
PROCEDURE**

Plaintiff, Securities and Exchange Commission (the "Commission") files this certificate pursuant to Rule 65 of the Federal Rules of Civil Procedure in support of the Emergency *Ex Parte* Motion and Memorandum of Law for Temporary Restraining Order, Asset Freeze and Other Injunctive Relief ("TRO Motion").

The purpose of this certificate is to advise the Court that no notice has been given, and to explain why the Court should not require notice to Defendants Brian Davison ("Davison"), Barry M. Rybicki ("Rybicki"); EquiAlt, LLC ("EquiAlt"); EquiAlt Fund, LLC ("Fund 1"); EquiAlt Fund II, LLC ("Fund 2"); EquiAlt Fund III, LLC ("Fund 3"); and EA SIP, LLC ("EA SIP Fund") (collectively, the "Defendants") and Relief Defendants BR Support Services, LLC; BNAZ, LLC; McDonald Revocable Living Trust; 128 E. Davis Blvd, LLC; 310 78th Ave, LLC; 551 3d Ave S, LLC; 604 West Azeele LLC; 2101 W. Cypress, LLC; 2112 W. Kennedy Blvd, LLC; 5123 E. Broadway Ave, LLC; Blue Waters TI, LLC; BNAZ, LLC; BR Support Services, LLC; Bungalows TI LLC; Capri Haven, LLC; EA NY LLC ; EquiAlt 519 3d Ave S., LLC; McDonald Revocable Living Trust; Silver Sands TI, LLC; and TB Oldest House Est. 1842, LLC (collectively, the "Relief Defendants").¹

This certification is based upon the specific facts contained in the Complaint, TRO Motion, declarations and other documents presented to this Court as exhibits which show

¹ In addition, notice has not yet been provided to the Defendants and Relief Defendants of the Commission's Complaint, Motion to Appoint Receiver, and other ancillary motions.

that beginning in 2011 to the present, EquiAlt, Davison and Rybicki conducted a Ponzi scheme raising more than \$170 million from over 1,100 mostly elderly investors nationwide through fraudulent unregistered securities offerings. Defendants promised investors that substantially all of their money would be used to purchase real estate in distressed markets in the United States and their investments would yield generous returns. Instead, EquiAlt, Davison, and Rybicki misappropriated millions in investor funds for their own personal use and benefit. Despite receiving over \$170 million in investor funds, the revenues generated by the Funds during the last nine years has been less than the amounts of interest owed to investors. Without sufficient revenues to pay the money owed to investors, the Defendants resorted to fraud, using new investor money to pay the returns promised to existing investors. Meanwhile, Davison and Rybicki, who exercised control over the business operations of EquiAlt and its four real estate investment funds, paid themselves millions from the Funds and spent it on luxury automobiles, fine jewelry and chartering private jets. Because EquiAlt, Davison, and Rybicki have misappropriated millions of dollars belonging to investors, Fund 1, Fund 2 and the EA SIP Fund are in a precarious financial condition.

As a result of these actions, the Commission fears that immediate and irreparable injury and loss of investor funds may occur if the Commission provides notice of these emergency filings to the Defendants and the Relief Defendants before the Court has an opportunity to act and enter the emergency orders we seek. The undersigned certifies this is an emergency that has not been caused by a lack of due diligence on the Commission's part, but has been brought about only by the circumstances of this case.

For the foregoing reasons, the Commission respectfully requests that this Court grant the Commission's TRO Motion and the other proposed emergency relief sought therein and enter the proposed Order submitted herewith without requiring the Commission to provide prior notice to the Defendants and Relief Defendants.

Respectfully submitted,

February 11, 2020

By:



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