

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

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

Case No: 8:20-cv-00325-T-35AEP

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

Defendants,

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

Relief Defendants.

AGREED ORDER MODIFYING ASSET FREEZE

THIS CAUSE comes before the Court upon the Joint Motion by Plaintiff Securities and Exchange Commission, the Receiver, and Defendant Brian Davison, for Entry of Proposed Agreed Order Extending and Modifying Asset Freeze. (Dkt. 52) The Court having originally imposed a Temporary Restraining Order, Asset Freeze and Other Injunctive Relief on February 14, 2020, having extended that Order on February 28, 2020, (Dkt. 31), and having now been advised that the Commission and the Parties have agreed

that the asset freeze be modified as detailed below. The Court therefore **ORDERS** as follows:

I.

MODIFICATION OF ORDER FREEZING ASSETS

IT IS ORDERED that, subject to any further application and Court Order, for the period from the date of this Order through the Court's disposition of the Preliminary Injunction:

A. Defendants and the Relief Defendants and their respective directors, officers, agents, servants, employees, attorneys, depositories, banks, and those persons in active concert or participation with any one or more of them, and each of them, who receive notice of this order by personal service, mail, email, facsimile transmission or otherwise, be and hereby are, restrained from, directly or indirectly, transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating or otherwise disposing of, or withdrawing any assets or property, including but not limited to cash, free credit balances, fully paid for securities, personal property, real property, and/or property pledged or hypothecated as collateral for loans, or charging upon or drawing from any lines of credit, owned by, controlled by, or in the possession of, whether jointly or singly, and wherever located:

1. BRIAN DAVISON,
2. BARRY M. RYBICKI,
3. EQUIALT LLC,
4. EQUIALT FUND, LLC,
5. EQUIALT FUND II, LLC,

6. EQUIALT FUND III, LLC,
7. EA SIP, LLC,
8. 128 E. DAVIS BLVD, LLC,
9. 310 78TH AVE, LLC,
- 10.551 3D AVE S, LLC,
- 11.604 WEST AZEELE, LLC,
- 12.2101 W. CYPRESS, LLC,
- 13.2112 W. KENNEDY BLVD, LLC,
- 14.5123 E. BROADWAY AVE, LLC,
- 15.BLUE WATERS TI, LLC,
- 16.BNAZ, LLC,
- 17.BR SUPPORT SERVICES, LLC,
- 18.BUNGALOWS TI LLC,
- 19.CAPRI HAVEN, LLC,
- 20.EA NY, LLC,
- 21.EQUIALT 519 3RD AVE S., LLC,
- 22.MCDONALD REVOCABLE LIVING TRUST,
- 23.SILVER SANDS TI, LLC,
- 24.TB OLDEST HOUSE EST. 1842, LLC,

B. Notwithstanding the foregoing:

1. The account held at JP Morgan Chase, N.A., Account number XXXXX8545, held in the name of Brian Davison which currently holds \$46,888.98 is no longer

- frozen and may be used by Brian Davison to pay for his personal living expenses.
2. Of the monies held in Brian Davison's account held at JP Morgan Chase Account number XXXXX3995, \$75,000 shall no longer be frozen and may **only** be used toward legal fees incurred on behalf of Brian Davison in this action on or after February 14, 2020 — when the asset freeze was imposed in this lawsuit. Further, the unfrozen assets may only be used to retain counsel who counsel intend to represent Defendant Davison in this action. The funds may not be used to represent Defendant Davison in any other action, including in defense of any civil suits that have arisen or may arise out of his involvement in matters giving rise to the instant action.
 3. The actions described in paragraphs 1-2 above shall not be deemed a violation of this Order.
 4. Upon request of the Commission, the parties shall within seven days produce to the Commission bank records relating to how the funds were expended pursuant to paragraphs 1-2 above.

Accordingly, upon consideration of the foregoing, it is **IT IS FURTHER ORDERED** that:

1. The Parties' Joint Request for Entry of Proposed Agreed Order Extending and Modifying Asset Freeze, (Dkt. 52), is **GRANTED. These funds shall only be used for Defendant Davison's legal expenses incurred ON OR AFTER THE DATE THE ASSET FREEZE WAS IMPOSED BY THE COURT, and only at reasonable local rates not to exceed \$400.00 per**

hour for the most experienced counsel and \$320.00 for a second lawyer. Further the unfrozen assets may only be used by counsel who intend to stay on for the defense of this case. The funds may not be used to defend Defendant Davison in any separate civil, putative class action case, nor may the funds be used to recoup fees for work performed prior to the asset freeze. If counsel does not intend to stay on as counsel in the case, the funds must be returned immediately and in full, no matter when they were incurred.

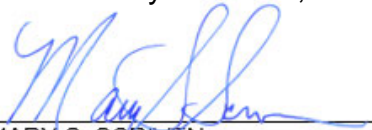
2. Counsel who intend to stay on as counsel in the instant case shall provide a budget for the case and submit it to the Court for review, *in camera*. Thereafter, the Court will determine whether additional funds are needed and should be paid from the assets frozen by the Court's prior Orders.

II.

RETENTION OF JURISDICTION

IT IS HEREBY FURTHER ORDERED that this Court shall retain jurisdiction over this matter, the Defendants, and the Relief Defendant in order to implement and carry out the terms of all Orders and Decrees that may be entered and/or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court, and will order other relief that this Court deems appropriate under the circumstance.

DONE and ORDERED in Tampa, Florida, this 16th day of March, 2020.



MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record
Any Unrepresented Person