

**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'S EMERGENCY *EX PARTE* MOTION FOR APPOINTMENT
OF RECEIVER AND MEMORANDUM OF LAW**

Plaintiff Securities and Exchange Commission moves this Court for an Order appointing a Receiver over Defendants EquiAlt LLC, EquiAlt Fund, LLC EquiAlt Fund II, LLC, EquiAlt Fund III, LLC, and EA SIP, LLC (collectively the “Corporate Defendants”) and all of the Relief Defendants in this action, with full and exclusive power, duty, and authority to: administer and manage the business affairs, funds, assets, causes of action and any other property of the Corporate Defendants and Relief Defendants; marshal and safeguard all of the assets of these parties; and take whatever actions are necessary for the protection of investors. The grounds for this motion are fully set forth in the memorandum of law below. As additional support for this motion, the Commission incorporates the factual discussion in its Emergency Motion and Memorandum of Law in Support of Temporary Restraining Order and Other Emergency Relief (“TRO Motion”).

In connection with this request to appoint a Receiver over the Corporate Defendants and Relief Defendants, the Commission’s staff solicited expressions of interest from potential receivers it believes are well-qualified to handle this matter. The Commission attaches the credentials of the top three candidates as Exhibits 1 through 3 to this motion.

After considering each of these excellent candidates, the Commission’s staff believes the interests of investors would best be served by appointing Burton Wiand, Esq. to serve as Receiver over the Corporate Defendants and Relief Defendants. Mr. Wiand, whose credentials are attached as Exhibit 1, is a partner in the law firm of Wiand Guerra King PA in Tampa, Florida. His letter indicates that he has previously served as a Receiver

on multiple occasions in similar matters. Mr. Wiand has been a Receiver on behalf of the Commission, Commodity Futures Trade Commission, and Florida Office of Financials Regulation. Most recently, he served as Receiver on behalf of the Commission in *SEC v HKW Trading, LLC et al.*, Case No.: 8:05-cv-1076-T-24TBM and *Securities and Exchange Commission v Arthur Nadel, Scoop Capital, LLC, et al*, Case No.: 8:09-cv-87-T-26TBM. Because of the size and scope of the Receivership, which will involve continuing to manage the Funds' business operations and determining a long-term exit strategy for the Funds, among other tasks, a Receiver with Mr. Wiand's extensive experience is required.

Moreover, Mr. Wiand is willing to significantly discount his and his firm's current hourly rates. He is willing to discount his normal hourly rate by 30% from \$500 an hour to a capped rate of \$360 an hour. Additionally, the firm's partners normally charge from \$360 to \$475.00 per hour, but he will reduce and cap those rates at \$350 an hour. He will also cap his associates' rates at \$240 per hour. Not only will these considerable rate reductions substantially reduce the costs of the Receivership to defrauded investors, they are lower rates than the other candidates offered.

For these reasons, the Commission recommends that the Court appoint Mr. Wiand as the Receiver over the Corporate Defendants and Relief Defendants. As discussed above, we sought expressions of interest to serve as Receiver from two additional candidates, both of whom are extremely well-qualified and prepared to serve. Both, along with their respective firms, have also agreed to discount their fees. If the Court does not agree with the Commission's recommendation, the Commission respectfully requests that the Court

appoint either of these candidates. Their credentials are attached as Exhibits 2 and 3, respectively.

MEMORANDUM OF LAW

The Court should appoint a Receiver over the Corporate Defendants and Relief Defendants with full and exclusive power, duty, and authority to: administer and manage their business affairs, funds, assets, causes of action and any other property of the Corporate Defendants and Relief Defendants; marshal and safeguard all of the assets of the Corporate Defendants and Relief Defendants; and take whatever actions are necessary for the protection of the investors.

The appointment of a Receiver is a well-established equitable remedy available to the Commission in civil enforcement proceedings for injunctive relief. *See, e.g., SEC v. First Financial Group of Texas*, 645 F.2d 429, 438 (5th Cir. 1981); *see also* Section 22(a) of the Securities Act of 1933, 15 U.S.C. § 77v(a), and Section 27 of the Securities Exchange Act of 1934, 15 U.S.C. § 78aa. The appointment of a Receiver is particularly appropriate in cases such as this where a corporation, through its management, has defrauded members of the investing public. *First Financial Group of Texas*, 645 F.2d at 438. In such cases, without the appointment of a Receiver to maintain the status quo, the corporate assets will be subject to diversion and waste to the detriment of those who were induced to invest in the fraudulent scheme. *Id.* *See also SEC v. R.J. Allen & Associates, Inc.*, 386 F. Supp. 866, 891 (S.D. Fla. 1974). A Receiver is appropriate to protect the public interest when it is obvious that those in control of an entity who have inflicted serious detriment in the past must be ousted. *SEC v. Bowler*, 427 F.2d 190, 198 (4th Cir. 1970).

Here, as discussed in more detail on the TRO Motion and the Complaint, the Defendants in this action have misappropriated and misused millions of dollars belonging to investors. At this juncture, the Corporate Defendants and Relief Defendants need a Court-appointed Receiver to act in their best interests and to maximize value for defrauded investors.

Certification of Counsel

Counsel for the Commission did not confer with the Corporate Defendants or Relief Defendants regarding the requested relief, since in order to prevent further dissipation of assets, we are seeking this relief in connection with an *ex parte* Temporary Restraining Order that we are filing under seal.

CONCLUSION

For the foregoing reasons, the Commission requests that the Court grant its request for the appointment of Mr. Wiand, Esq., as Receiver over the Corporate Defendants and Relief Defendants. A proposed order is submitted herewith.

Respectfully submitted,

February 11, 2020

By: 

Alise Johnson, Esq.
Senior Trial Counsel
Fla. Bar No. 0003270
Direct Dial: (305) 982-6385
Email: johnsonali@sec.gov

Attorney for Plaintiff
**SECURITIES AND EXCHANGE
COMMISSION**

801 Brickell Avenue, Suite 1950
Miami, Florida 33131
Telephone: (305) 982-6300
Facsimile: (305) 536-4154



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Burton W. Wiand
Direct Dial: 813.347.5101
bwiand@wiandlaw.com

January 30, 2020

VIA EMAIL

Alise M. Johnson
Senior Trial Counsel
Securities and Exchange Commission
801 Brickell Ave., No. 1800
Miami, FL 33131

Re: *Equialt*

Dear Ms. Johnson:

This letter is submitted to provide you with further information regarding my experience as a Federal Equity Receiver and the experience of Wiand Guerra King P.A.

I have substantial experience acting as a Federal Equity Receiver. My legal practice includes complex litigation and regulatory defense. In addition, I regularly serve as a Receiver in cases brought by both state and federal regulatory agencies. These cases have related to consumer frauds involving mortgage schemes, time share resale frauds, interest rate reduction schemes, Ponzi schemes, and securities violations. A list of the receiverships I have administered is attached hereto as Exhibit A. The list includes the names of those who are familiar with my activities as a Receiver. I am also a member and Director of the National Association of Federal Equity Receivers ("NAFER").

I have been asked by multiple federal and state agencies, including the FTC and SEC, to serve as a Receiver in those agencies' enforcement cases. The first of these cases was many years ago in a case styled *SEC v. Captain Crab* where I collected and distributed funds on behalf of the District Court for the Southern District of Florida. More recently I have served as Receiver in *SEC v. HKW Trading, LLC et al.*, Case No. 8:05-cv-1076-T-24TBM and *Securities and Exchange Commission v. Arthur Nadel, Scoop Capital, LLC, et al.*, Case No.: 8:09-cv-87-T-26TBM. These latter two cases were both Ponzi schemes involving hundreds of millions of dollars. I have served as Receiver in several recent FTC enforcement cases brought in the Middle District of Florida, including *FTC v. Mortgage Foreclosure Solutions et al.*, Case No.

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8:08-cv-388-T-23EAJ; *FTC v. National Solutions, et al.*, Case No. 6:11-cv-1131-ORL-22GJK; *FTC v. EM Systems & Services, LLC et al.*, Case No. 8:15-cv-01417-SDM-AEP. I recently served as both a Liquidating Receiver and as Receiver over a judgment defendant's personal assets in an FTC enforcement action styled *FTC v. NPB Advertising, Inc. et al.*, Case No. 8:14-cv-1155-T-23TGW (M.D. Fla.). I have also been appointed as Receiver in the matter *CFTC v. Oasis International Group, Ltd., et al.*, Case No. 8:19-CV-886-T-33SPF. Through my efforts and those of my Wiand Guerra King counsel, some of these cases have resulted in significant precedential caselaw on both the district and appellate levels. The SEC cases have resulted in large recoveries for victims.

On other occasions, I served as a Receiver, Conservator and Independent Arbiter for matters instituted by the State of Florida. For instance, the State of Florida appointed me as Independent Arbiter for *In re Olde Discount* which involved the resolution of individual claims that had been uncovered by an action brought by the State against Olde Discount, a national brokerage firm. In this capacity, I reviewed and evaluated over 400 claims for eligibility. I then administered the claims process for those eligible claimants who elected to participate in the process. At the present time, I am serving as a Receiver at the request of the Florida Office of Financial Regulation in another Ponzi scheme case *State of Florida, Office of Financial Regulation v. Tri-Med Corporation, et al.*, Pinellas County Circuit Court, FL, Case No. 14-001695-CI. This case involves a fraudulent investment scheme that raised over \$17 million primarily from elderly investors. I am also serving as Receiver in another State of Florida action involving a securities scam, *State of Florida, Office of Financial Regulation, v. Universal Luxury Coaches, LLC*, Case No. 04-CA-2130-16-W (18th Judicial Circuit Court, Seminole County, Florida).

In connection with Receivership Appointments, I bill for my services on an hourly basis. My standard rate is \$500 per hour, but I discount approximately 30% which will reduce my rate to \$360. For legal services, should that be necessary, I retain Wiand Guerra King P.A., ("WGK") and other lawyers to perform administrative and litigation services. You can visit the Firm's website at www.wiandlaw.com for more information. The lawyers of "WGK" are experienced in handling Receivership matters. It is likely that Jared Perez, Esq. and Katherine Donlon, Esq. will serve as primary counsel. Their brief resumes are attached hereto as Exhibit B. I anticipate that I will rely on associates working within the firm and shall retain their services at a blended discount billing rate not to exceed \$240 per hour. Should partners of the firm work on this matter, their hourly rate will be \$350 as opposed to standard rates from \$360 to \$475. A schedule of our proposed fees for this matter is attached as Exhibit C. On particular matters, I may employ other outside counsel, but would seek the assent of the SEC and the Court before doing so.

Should matters develop where accounting assistance is required, WGK has access to a broad array of accounting service providers that have substantial experience in forensic accounting, fraud examinations, and auditing. In matters that are complex and need forensic work, I have used the firms of Kapila Mukamal and Yip and Associates. Information about these firms can be reviewed at <http://www.kapilamukamal.com> and <http://www.yipcpa.com>. Barring

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any conflicts, I am confident each firm can provide any services necessary with respect to the receivership.

We work regularly with forensic information technology specialists that may be necessary in a matter of this nature. If such services are needed, I will use them at a reasonable cost. Our cases often involve cooperation with criminal law enforcement agencies. We are well versed in assisting law enforcement and the use of appropriate procedures to preserve evidence.

In connection with matters, WGK utilizes, where appropriate, the services of the RWJ Group, LLC ("RWJ"). This company, through its Principal, Roger Jernigan, provides on the ground services of securing property and assets; investigation activities and certain business management services where necessary. Mr. Jernigan's CV is included as Exhibit D. Mr. Jernigan is a licensed private investigator, a certified law enforcement officer and an experienced businessman. We find that the services of RWJ are effective and economical. RWJ is retained as an independent contractor to WGK to handle these matters for the firm. WGK bills for services of RWJ at a rate of \$90 per hour.

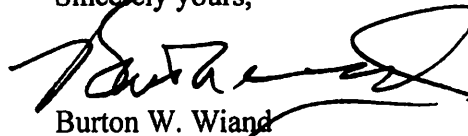
We have had experience recovering assets from international jurisdictions, including the British Virgin Islands, the United Kingdom and other countries. I am a member of INSOL – the International Association of Restructuring, Insolvency, and Bankruptcy Professionals – which provides a broad array of experienced professionals to assist in international recovery efforts throughout the world.

Many of our receiverships have involved the liquidation and management of businesses and real property. We have developed a substantial expertise in both areas and also work with professionals such as realtors, business consultants, etc., who bring substantial expertise to our projects.

Through a combination of these professionals I am able to provide prompt, efficient and economical services to receiverships. We work hard to gather and conserve receivership assets with a view to maximizing proceeds for victims and enhancing the effectiveness of a regulatory action.

Thank you for contacting me and allowing me the opportunity to submit this proposal. I would be delighted to serve as Receiver in this matter. Please do not hesitate to contact me if I can provide you with any additional information.

Sincerely yours,



Burton W. Wiand

BWW/djb
Enclosures

Exhibit A

Exhibit A

Recent Receiverships

- *Commodity Futures Trading Commission v. Oasis International Group, Limited et al.*, Case No. 8:19-cv-00886 (M.D. Fla)
- *Federal Trade Commission v. National Solutions, LLC, et al.*, Case No. 11-cv-1131-ORL-22-GJK (M.D. Fla.)
- *Federal Trade Commission v. Resort Solution Trust, Inc., Lincoln Renwick II, & Anthony Talavera*, Case No. 8:13-cv-01329-T-33TMB (M.D. Fla.).
- *Federal Trade Commission v. Mortgage Foreclosure Solutions et al.*, Case No. 8:08-cv-388-T-23EAJ (M.D. Fla.)
- *Federal Trade Commission v. NPB Advertising, Inc. et al.*, Case No. 8:14-cv-1155-T-23TGW (M.D. Fla.)
- *FTC v. EM Systems & Services, LLC et al.*, Case No. 8:15-cv-01417-SDM-AEP (M.D. Fla.)
- *Securities and Exchange Commission v. HKW Trading, LLC, Howard Waxenberg Trading, L.L.C., et al.*, Case No. 8:05-cv-1076-T-24MSS (M.D. Fla.)
- *Securities and Exchange Commission v. A. Nadel, et al.*, Case No. 8:09-cv-0087-T-26TBM (M.D. Fla.)
- *State of Florida, Office of Financial Regulation v. Tri-Med Corp. et al.*, Case No. 14-1695-CI (Sixth Judicial Cir. Court, Florida)
- *State of Florida, Office of Financial Regulation, v. Universal Luxury Coaches, LLC*, Case No. 04-CA-2130-16-W (18th Judicial Circuit Court, Seminole County, Florida)

Persons with knowledge of Mr. Wiand's and Wiand Guerra King's efforts:

- Honorable Susan C. Bucklew, Senior United States District Judge
Sam M. Gibbons U.S. Courthouse, 801 North Florida Avenue, Tampa, FL 33602
- Honorable Elizabeth A. Kovachevich, United States District Judge
Sam M. Gibbons U.S. Courthouse, 801 North Florida Avenue, Tampa, FL 33602
- Honorable Richard A. Lazzara, Senior United States District Judge
Sam M. Gibbons U.S. Courthouse, 801 North Florida Avenue, Tampa, FL 33602
- Honorable James D. Whittemore, United States District Judge
Sam M. Gibbons U.S. Courthouse, 801 North Florida Avenue, Tampa, FL 33602
- Honorable Steven D. Merryday, United States District Chief Judge
Sam M. Gibbons U.S. Courthouse, 801 North Florida Avenue, Tampa, FL 33602
- Honorable Mark A. Pizzo, United States Magistrate Judge
Sam M. Gibbons U.S. Courthouse, 801 North Florida Avenue, Tampa, FL 33602

- Honorable Anthony E. Porcelli, United States Magistrate Judge
Sam M. Gibbons U.S. Courthouse, 801 North Florida Avenue, Tampa, FL 33602
- Harold E. Kirtz, FTC Southeast Region
Federal Trade Commission, 225 Peachtree Street NE, Suite 1500, Atlanta, GA 30303
- Barbara Bolton, FTC Southeast Region,
Federal Trade Commission, 225 Peachtree Street NE, Suite 1500, Atlanta, GA 30303
- Nicholas May, FTC Southeast Region,
Federal Trade Commission, 225 Peachtree Street NE, Suite 1500, Atlanta, GA 30303
- Anna Burns, FTC Southeast Region,
Federal Trade Commission, 225 Peachtree Street NE, Suite 1500, Atlanta, GA 30303
- Elizabeth Sanger, FTC Bureau of Consumer Protection
Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580
- Mary Johnson, FTC Bureau of Consumer Protection
Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580
- Sydney Knight, FTC Bureau of Consumer Protection
Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580
- Tawana Davis, FTC Bureau of Consumer Protection
Federal Trade Commission, 600 Pennsylvania Ave., NW, Washington, DC 20580
- William Hodor, FTC Midwest Region
Federal Trade Commission, 55 West Monroe Street, Suite 1825, Chicago, IL 60603
- Robert K. Levenson, Miami Regional Trial Counsel
Securities and Exchange Commission, 801 Brickell Avenue, Suite 1800, Miami, FL 33131
- Scott A. Masel, Attorney-Advisor
Securities and Exchange Commission, 801 Brickell Avenue, Suite 1800, Miami, FL 33131
- Christopher Martin, Senior Trial Counsel
Securities and Exchange Commission, 801 Brickell Avenue, Suite 1800, Miami, FL 33131
- A. Gregory Melchior, Assistant General Counsel
Florida Office of Financial Regulation, 1313 Tampa Street; Suite 615; Tampa, FL 33602

- **Honorable Anthony Rondolino, Circuit Court Judge**
Pinellas County Courthouse, St. Petersburg Judicial Building, 545 1st Avenue North,
Room 400, St. Petersburg, FL 33701
- **Honorable Cynthia J. Newton, Circuit Court Judge**
Pinellas County Courthouse, St. Petersburg Judicial Building, 545 1st Avenue North,
Room 211, St. Petersburg, FL 33701

Exhibit B

KATHERINE C. DONLON



Kacy Donlon has practiced in the area of commercial and securities litigation for over 20 years. Her practice is based on the principles instilled in her during her clerkship with a federal judge in Alabama – work hard for your client, be honest, and look for creative ways to win or resolve cases. Her main concentration is the defense of businesses and individuals involved in the securities and financial services industries, and she also has experience in a broad spectrum of commercial litigation matters, including employment disputes, class actions, business torts, and contract disputes. Kacy has handled complex matters in federal and state court as well as in arbitration, including the successful defense of numerous matters involving allegations relating to the sale of variable and equity-indexed annuities and other insurance product sales practices.

Kacy's experience includes the representation of national and regional brokerage and insurance firms in arbitration and court proceedings brought by customers involving variable products, mutual funds, REITs, TICs, equity securities, viaticals, oil and gas partnerships, and other investment products. In addition to litigation, Kacy has represented many clients in investigations and enforcement actions by regulatory bodies such as the SEC, FINRA, CFP, and state securities and insurance regulators. She also counsels' clients on compliance issues.

Kacy is originally from Alabama where she graduated summa cum laude from Birmingham-Southern College. She then attended the University of St. Andrews in Scotland on a Rotary Scholarship. After working as a paralegal for a prominent securities litigator, she continued her education at Washington & Lee University School of Law where she was the Securities Editor of the Washington & Lee Law Review and graduated cum laude.

Kacy is the President of the Florida Securities Dealers Association for 2020. She is also actively involved with the Business Law Section of the Florida Bar. She is currently the Treasurer of this 5000 member organization. She is a past president of the Federal Bar Association, Tampa Bay Chapter. In 2010, the Chapter awarded her its highest award, the George C. Carr award, for excellence in federal practice and service to the Federal Bar. Admitted in both Florida and

Alabama, Kacy is AV Peer Review Rated by Martindale-Hubbell and has been recognized as one of the Best Lawyers in America and a Super Lawyer.

REPRESENTATIVE EXPERIENCE

- Defended numerous FINRA arbitration claims related to the suitability of variable annuity purchases. See *Guin v. InterSecurities*, 2005 WL 2044617; *Oliver v. InterSecurities*, 2006 WL 954102; *Johnston v. InterSecurities*, 2005 WL 1140251 (directed verdict); *Apichino v. InterSecurities*, 2006 WL 3716863.
- Defended financial institutions against former employees. See *Darden v. Ameriprise Financial Services, Inc.*, 2018 WL 5299741; *Piston v. Transamerica Capital, Inc.*, 2018 WL 3063603; *Variable Annuity Life Ins. Co. v. Hausinger*, 927 So.2d 243 (Fla. 2d DCA 2006) (raiding); *Amon v. InterSecurities*, 2007 WL 4079432; *Heller v. InterSecurities*, 2007 WL 2493125 (compensation).
- Obtained dismissal by summary judgment of fraud claims against insurance company related to variable annuity disclosures. See *Greening v. Western Reserve Life Assurance Co. of Ohio*, 439 F. Supp.2d 612 (M.D. La. 2006).
- Successfully argued motions to dismiss based on eligibility. See *Martini v. ProEquities, Inc.*, 2014 WL 2154611; *Klein v. Transamerica Financial Advisors, Inc.*, 2015 WL 4100430; *Columbus-Sierra LLC v. Transamerica Financial Advisors, Inc.*, 2018 WL 2980920; *Beja Finance Int'l v. RBC Dain Rauscher*, 2010 WL 3072256.
- Argued before Third District Court of Appeals and obtained affirmance of lower court dismissal of claims against insurance company for denial of death benefit. See *Solorzano v. Old Mutual International (Isle of Man) Ltd.*, 772 So. 2d 1175 (Fla. 3d DCA 2000).
- Represented insurers in state court litigation related to the suitability of the sale of equity indexed annuities.
- Successfully defended negligence and fraud claims in arbitration. See *Pavonia Investments, SA v. RBC Capital Markets Corp.*, 2012 WL 5962562 (directed verdict in fraud and churning case); *Knaub v. ProEquities*, 2007 WL 2893308 (sale of variable annuities and mutual funds); *Nagda v. New England Securities*, 2004 WL 1047928 (sale of stocks, commission issues).
- Summary judgment granted in favor of client in securities-related legal malpractice action. See *Steffen v. Gray, Harris & Robinson*, 283 F. Supp.2d 1272 (M.D. Fla. 2003), *aff'd*, 138 Fed. Appx. 297 (11th Cir. 2005).
- Defeated motion to dismiss under PSLRA in federal securities action. See *Anderson v. Transglobe Energy Corp.*, 35 F. Supp.2d 1363 (M.D. Fla. 1999).

PRESENTATIONS

- “FINRA Arbitration 2018: Tips, Tricks and Considerations”, Current Issues in FINRA Arbitration and Enforcement, ABA Section of Litigation, February 2018
- “Law & Order SVU: Securities Veterans United Lessons from the Street”, ProEquities OSJ Conference, July 2015
- “A Penny for Your Thoughts; Recent AML Enforcement Cases,” Co-presenter with Dionne Fajardo, Financial Services Institute Webinar, January 2015
- “Orange is Not the New Black,” National Association of Insurance and Financial Advisors, Tampa Chapter, How to Avoid Being Sued, May 2014
- “The Duke Lacrosse Team of Investments,” Co-presenter with Burt Wiand, Nationwide CLE Seminar, Variable Annuities and Variable Products, September 2007

PROFESSIONAL AFFILIATIONS

- Florida Securities Dealers Association: President 2020; Vice-President 2019; Treasurer 2018; Secretary 2017; Board Member 2013-present.
- The Business Law Section of The Florida Bar: Treasurer 2019-2020; Secretary 2018-2019; Chair, Legislation Committee, 2017-2018; Chair, Communications Committee, 2014-2015; Chair, State/Federal Judicial Liaison Committee, 2006-2007; Chair, Business Litigation Committee, 2005-2006; Executive Council, 2004-present.
- Federal Bar Association: President, Tampa Bay Chapter, 2006-2007; Executive Board, 2000-2008.
- Florida Bar Special Committee on Chapter 517, 2005-2007
- Florida Supreme Court: Committee on Standard Jury Instruction-Contract and Business Cases, Member, 2006-2008
- Hillsborough County Bar Association
- Securities Industry and Financial Markets Association: Member, Compliance and Legal Division
- American Bar Association: Securities Litigation Committee; Section of Litigation
- Southeastern Women in Financial Services

COMMUNITY INVOLVEMENT

- Birmingham-Southern College National Alumni Association: Vice-President, Service and Outreach, 2007-2009
- Leadership Tampa: Class of 2004
- Bayshore Christian School Athletic Boosters

EDUCATION

- J.D., *cum laude*, Washington and Lee University School of Law, 1994 (Securities Editor, Law Review)
- Attended University of St. Andrews, Scotland on Rotary International Scholarship, 1989-1990
- B.A., *summa cum laude*, Birmingham-Southern College, 1989 (Phi Beta Kappa, Mortar Board, Omicron Delta Kappa)

BAR ADMISSIONS

- Florida
- Alabama

COURT ADMISSIONS

- U.S. Supreme Court
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, Middle District of Florida
- U.S. District Court, Northern District of Florida
- U.S. District Court, Southern District of Florida

DISTINCTIONS

- AV Preeminent Peer Review Rating by Martindale-Hubbell®
- The Best Lawyers in America, 2009-2019
- Tampa Bay's Top Lawyers by *Tampa Bay Magazine*, July/August 2010
- Tampa's Top Attorneys 2011 by *The National Law Journal*, November 2010
- George C. Carr Memorial Award by the Tampa Bay Chapter of the Federal Bar Association, November 2010
- Florida Super Lawyers, Florida Super Lawyers Magazine, 2011-2019
- Outstanding Member of the Year by the Business Law Section of the Florida Bar, June 2015

JARED J. PEREZ



Jared Perez concentrates his practice on complex commercial litigation with a focus on financial services and securities matters, including securities fraud litigation, SEC and FINRA investigations, shareholder derivative litigation, and federal equity receiverships.

Martindale-Hubbell has rated Jared AV Preeminent®, which represents the “highest level of professional excellence for ... legal knowledge, communication skills and ethical standards,” and Super Lawyers has designated him a “Rising Star” in business litigation for 2015 and 2016.

Most recently, Jared has represented a number of companies in “business divorce” cases – *i.e.*, disputes or litigation among partners or shareholders of closely-held entities. Such cases require experience and special attention because the parties have often worked with each other for many years or founded a company together, which can raise complicated factual and legal issues regarding invested capital, management authority, and distribution of profits (or allocation of losses). Jared has also represented defendants in securities fraud class action lawsuits and in SEC and FINRA enforcement proceedings. Finally, Jared is a member of the legal team representing the receiver appointed over Arthur Nadel’s \$400 million Ponzi scheme. In that capacity, he helped to recover tens of millions of dollars for defrauded investors through dozens of cases in the United States District Court for the Middle District of Florida and before the Eleventh Circuit Court of Appeals.

Jared is a Tampa native and graduated from Florida State University, *cum laude*, in 2002. He received his law degree in 2005 from Columbia Law School. At Columbia, Jared served as the Managing Editor of the Science & Technology Law Review. He also interned with the Rackets Bureau of the Manhattan District Attorney’s Office, the Hon. Robert Patterson, Jr., of the United States District Court for the Southern District of New York, and the Hon. Sonia Sotomayor, then of the Second Circuit Court of Appeals and, presently, a member of the United States Supreme Court.

Jared is admitted to practice in New York and Florida.

REPRESENTATIVE EXPERIENCE

- Representing banking executive in litigation regarding alleged breaches of restrictive covenants
- Representing federal receiver appointed in SEC enforcement action in connection with approximately \$400 million fraudulent scheme operated through multiple hedge funds
- Representing state receiver appointed in enforcement action brought by the Florida Office of Financial Regulation in connection with \$17 million fraudulent investment scheme
- Representing state receiver appointed in enforcement action by the Florida Attorney General's Office in connection with multi-million dollar travel club operation
- Represented federal receiver appointed in FTC enforcement action in connection with approximately \$6 million telemarketing and timeshare resale scheme
- Represented federal receiver appointed in second FTC enforcement action in connection with multi-million dollar telemarketing and timeshare resale scheme
- Represented major insurance company in breach of contract and fraud action arising from M&A transaction
- Represented large shareholder in derivative action against biotechnology company and its directors
- Represented defendants in two securities fraud class actions alleging market manipulation
- Represented investment adviser in civil action brought by SEC for securities fraud
- Represented M&A broker in compensation dispute with former employer and related FINRA investigation
- Represented monoline bond insurer in state and federal court actions for fraud and breach of contract against the sponsors of eight mortgage-backed securitizations with an insured value of approximately \$4 billion
- Represented major insurance company in an arbitration concerning the firing of its Chief Executive Officer for various acts of malfeasance and mismanagement
- Represented leading pharmaceutical company in connection with internal investigations to determine compliance with the Foreign Corrupt Practices Act
- Represented national retailer in a lawsuit alleging violations of the securities and antitrust laws in connection with a proxy fight launched by two "activist" hedge funds

SIGNIFICANT REPORTED DECISIONS

- *S.E.C. v. Quest Energy Management Group, Inc.*, 768 F. 3d 1106 (11th Cir. 2014)
- *Wiand v. Lee*, 2012 WL 6923664 (M.D. Fla. 2012), adopted 2013 WL 247361 (M.D. Fla. 2013) (granting summary judgment), affirmed 753 F.3d 1194 (11th Cir. 2014)
- *Wiand v. Dancing \$, LLC*, 2013 WL 246731 (M.D. Fla. 2013) (granting summary judgment), affirmed 578 Fed. App'x 938 (11th Cir. 2014)
- *Wiand v. Meeker*, 2012 WL 6930504 (M.D. Fla. 2012), adopted 2013 WL 298335 (M.D. Fla. 2013) (granting summary judgment), affirmed 572 Fed. App'x 689 (11th Cir. 2014)
- *Wiand v. Morgan*, 2012 WL 831538 (M.D. Fla. 2012), adopted 2013 WL 247072 (M.D. Fla. 2013) (granting summary judgment)
- *Wiand v. Mason*, 2012 WL 7071455 (M.D. Fla. 2012), adopted 2013 WL 542857 (M.D. Fla. 2013) (granting summary judgment)
- *Wiand v. Cloud*, 2013 WL 247004 (M.D. Fla. 2013) (granting summary judgment)

- *Morgan Stanley & Co., LLC v. The Core Fund*, 2012 WL 3292408 (M.D. Fla. 2012)
- *MBIA Ins. Co. v. Residential Funding Co., LLC*, 906 N.Y.S.2d 781 (N.Y. Sup. Ct. 2009)
- *Radian Ins., Inc. v. Deutsche Bank Nat'l Trust Co.*, 638 F. Supp. 2d 443 (E.D. Pa. 2009)

PAST EXPERIENCE

- Cadwalader, Wickersham & Taft LLP, New York, NY
- Litigation Associate
- 2005-2011

PROFESSIONAL AFFILIATIONS

- American Bar Association
 - Business Law Section
 - Section of Litigation
- National Association of Federal Equity Receivers
 - Member of Amicus and Publications Committees
- Federal Bar Association – Tampa Chapter
- Florida Bar Business Law Section
- Hillsborough County Bar Association
 - Initial Co-Chair of HCBA Securities Law Section
- Clearwater Bar Association

EDUCATION

- J.D., Columbia Law School, 2005 (Science and Technology Law Review, Managing Editor)
- B.A., Florida State University, 2002 (Phi Beta Kappa)

BAR ADMISSIONS

- Florida
- New York

COURT ADMISSIONS

- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, Middle District of Florida
- U.S. District Court, Southern District of Florida
- U.S. District Court, Southern District of New York

DISTINCTIONS

- AV Preeminent Peer Review Rating by Martindale-Hubbell®
- Florida Super Lawyers, Rising Stars (2015-2019)

Exhibit C



WIAND GUERRA KING

5 5 0 5 W . G R A Y S T R E E T | T A M P A , F L 3 3 6 0 9 | P H O N E : 8 1 3 . 3 4 7 . 5 1 0 0

FIRM MEMBERS	STANDARD RATES	PROPOSED RATE
Burton Wiand (Sr. Member)	\$500	\$360
Members	\$315-\$475	\$350
Associates	\$235-\$290	\$240
Paralegals	\$165-\$170	\$135

We carry malpractice (\$5 million) as well as fidelity and general liability coverage.

Exhibit D

Roger Wright Jernigan

The RWJ Group, LLC
1181 S. Sumter Blvd
Suite 312
North Port, Florida 34287
Phone: (941) 915-0044

Scope of Management:

Working directly with the Court Appointed Receiver on locating, Investigating, taking possession and maintaining assets including managing businesses as well as acting under the Courts direction on Estate cases.

Experience:

- 30 years of Law Enforcement and Investigative Experience
- State of Florida Licensed Private Investigator Agency Owner with Class A, C and G Licenses
- Managed and owned businesses with yearly gross figures over \$5m
- Over 10,000 hours as a Professional Pilot
- Lifetime residents of Sarasota County, Florida (52 Years)

Receiverships:

- *Securities and Exchange Commission v. Arthur Nadel, Scoop Capital, LLC, et al., Case No.: 8:09-cv-87-T-26TBM.*
- *FTC v. Mortgage Foreclosure Solutions et al., Case No. 8:08-cv-388-T-23EAJ*
- *FTC v. National Solutions, et al., Case No. 6:11-cv-1131-ORL-22GJK.*
- *State of Florida, Office of Financial Regulation v. Tri-Med Corporation; Tri-Med Associates Inc Case No. 14-001695-CI (Fla. 6th Jud. Ct.)*
- *Office of the Attorney General, State of Florida, Department of Legal Affairs v. Map Destinations, LLC, et al.*
Case No. 2015-CA-011413-

Estates:

- Court Appointed Administrator for the Bogdan Jakubowski Estate
- Court Appointed Administrator for the Eula L. Dyet Estate

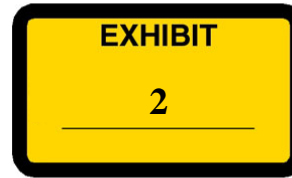
Current and Past Principal Responsibilities:

- Retail Stores
- Gas and Oil Company
- Gas Stations
- Cooperate Buildings
- Jewelry
- Personal Property
- Large Land Developments
- Jet Aircraft
- Airport Fixed Base Operators
- Airport Hangar Operations
- Vehicles
- Vessels
- Apartment / Condominiums
- Home Manufacturing Factory
- Single Family Residents

References:

- Richard L. Richards
Board Certified in Aviation Law, RICHARDS & ASSOCIATES 232 Andalusia Avenue, Suite 202, Coral Gables, Florida 33134 Phone: 305-448-2228
- Sheriff William Cameron (Retired)
Charlotte County Sheriff's Office 7474 Utilities Road Punta Gorda, FL 33982
- Burton Wiand
Wiand Guerra King 5505 W. Gray Street Tampa, FL 33609 Phone: 813-347-5101
- George Guerra
Wiand Guerra King 5505 W. Gray Street Tampa, FL 33609 Phone: 813-847-5102
- Ann Thompson
Farr and Farr Law Firm 4130 Woodmere Park Blvd #12, Venice, FL 34293 941-484-1996

akerman



Mark J. Bernet

Akerman LLP
401 E. Jackson Street
Suite 1700
Tampa, FL 33602-5250

D: 813 209 5026
T: 813 223 7333
F: 813 223 2837
mark.bernet@akerman.com

February 3, 2020

Via E-mail: johnsonali@sec.gov
Alise Johnson, Senior Trial Counsel
Securities and Exchange Commission
Miami Regional office
801 Brickell Avenue, Suite 1950
Miami, Florida 33131

Re: Potential Receivership

Dear Alise:

Thank you for speaking with me concerning a possible receivership appointment in a new lawsuit to be filed by the Securities and Exchange Commission within the next few weeks. I am certainly interested in being considered a candidate.

I am a partner with Akerman LLP ("Akerman"), and I have completed a conflict check in Akerman's conflict checking system for the following potential defendants:

- Equialt, LLC
- Brian Davison
- Barry Rybicki

Neither I nor Akerman represent any of the persons identified above presently, nor have we ever. Accordingly, there are no conflicts that would preclude me from serving as receiver or Akerman from serving as my counsel.

RECEIVERSHIP APPOINTMENTS AND RELEVANT EXPERIENCE

I am an attorney licensed to practice in the State of Florida. I hold an AV rating from Martindale-Hubbell. I am admitted to practice in the United States District Courts for the Middle and Southern Districts of Florida. I am also admitted to practice in the 11th Circuit Court of Appeals, and in the United States Supreme Court. Geographically, I can effectively cover receivership cases in all jurisdictions in which Akerman maintains offices. A copy of my CV is enclosed.

Alise Johnson, Esquire
February 3, 2020
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I have served as a federal equity receiver in several different lawsuits, many requiring significant asset recovery work, since 2003. These are listed on the enclosed schedule.

I have served as a federal equity receiver for companies engaged in numerous types of fraudulent activity. In the *Hoffman* and *Berger* matters, I served as receiver for law firms that bilked consumers out of a total of almost \$20 million by violating the MARS (Mortgage Assistance Relief Services) Rule. In the *All US Marketing* and *Life Management Services* matters, I served as receiver for a series of companies operating telemarketing "call rooms" pitching credit repair, lower-interest rate and debt-elimination scams. The *Pro Credit Group* case involved a debt-collection scam, whereby consumers were threatened with incarceration if they did not immediately pay non-existent debts. The *MOBE* case involves an international biz-op scam where the defendants sold an online education product. The cases in which I have been involved include frauds perpetrated through unlawful direct mail, telemarketing and internet businesses.

Several of the receivership/trustee positions I held required significant asset-recovery work involving real estate, foreign-held assets and homestead exemptions, and several required that I prosecute claims on behalf of the receivership estates to recover fraudulent transfers of assets. Several of the matters have been quite complex. For example:

- In *MOBE*, I recovered funds from entities in Panama, Canada, Australia, Malaysia, Hong Kong, the United Kingdom, Costa Rica and other foreign jurisdictions. I presently am in the process of liquidating real estate assets in Costa Rica, Kuala Lumpur, Malaysia and Fiji.
- In *Peoples Credit First*, I successfully moved the court to expand the receivership to include six-non-party companies. This was important because the non-party companies owned, among other things, four Ferraris and other vehicles worth approximately \$1 million, real estate worth over \$2.5 million, and a significant amount of other property, including more than \$500,000 cash. I also obtained a contempt order against the individual Defendants in the case for violating the court's preliminary injunction.
- In *USA Financial*, I traced "dirty" money to several upscale automobiles and real estate, which I then recovered and liquidated for the benefit of the receivership estates.
- In *Life Management Services*, I obtained a "break order" directing the marshals to assist me with entering into an individual defendant's home to search for records, guns, and money he was concealing;

I have recovered yachts, boats, vehicles, cash, construction and office equipment, intellectual property, credit card reserves, jewelry, guns, watches, real property, gemstones,

Alise Johnson, Esquire
February 3, 2020
Page 3

collectible coins and artwork. I routinely take control of defendant-company websites, where I post notices directing consumers to my website, www.bernet-receiver.com, on which I post relevant information for victims. I have also been involved in several appeals to the 11th Circuit Court of Appeals (all as appellee) as Receiver.

Akerman and I also have successfully litigated numerous securities fraud and common law fraud matters, most of which involve substantial assets and sizeable claims. As receiver, I have prosecuted numerous "clawback" claims on behalf of receivership estates.

I graduated from the Notre Dame Law School in 1986. I was a member of the Notre Dame Law Review and published two articles. I have been recognized by the Best Lawyers in America guide for Commercial Litigation and Bankruptcy Litigation, while many others, including my partner Brian Miller, have been recognized in the same categories and in the Litigation – Securities category.

My firm, Akerman, is a national law firm that routinely conducts business for clients in jurisdictions within and outside of the United States. Domestically, we have offices in all major Florida cities. We also have offices in Atlanta, Las Vegas, New York, Chicago, Los Angeles, Denver, Houston and other major cities. I personally work primarily out of the Tampa and Orlando offices, although I can work out of any of our firm's offices.

I have never been subject to any disciplinary action by any professional or licensing authority at any time, and I have not been subject to any government sanctions at any time. I certify the foregoing statements contained in this paragraph to be true and correct.

PROPOSED STAFFING

I take my fiduciary responsibilities as an equity receiver very seriously. My task is to protect the interests of the victims of the fraud that forms the basis of the lawsuit by, first, assuring that the fraudulent conduct is stopped, and second, recovering as much as possible for victims. I strive to limit expenses to the receivership estates. I generally try to handle most of the legal issues that arise personally, although there are instances where I need to hire a law firm to represent me, such as when I testify in court or at a deposition; in those circumstance, the Rules Regulating the Florida Bar can preclude me from serving as both a "material" witness and an attorney. I also may utilize attorneys to handle appellate or certain other matters if I think it is more cost-effective to do so. My partners, Brian Miller and Naim Surgeon, would serve as my primary attorneys.

Also, and depending on the state of the Defendants' financial records, I generally do not hire accountants in connection with receivership cases. Ordinarily I will work with the Defendant's bookkeeper or existing accountants to assure that quarterly and annual tax returns are filed, and that W-2 and 1099 forms are distributed. With regard to forensic accounting

Alise Johnson, Esquire
February 3, 2020
Page 4

issues, I have substantial experience tracing assets and I have brought innumerable fraudulent transfer actions over the past 30 years. It is possible that I could determine that it would be in the best interest of the receivership estates to employ tax professionals or fraud investigators if I feel that the estates would benefit from a level of expertise of that magnitude; I would consult with you before hiring accountants.

PROPOSED FEE STRUCTURE

My standard "attorney" billing rate for 2020 is \$560 per hour. However, while serving as a receiver I generally reduce my rate. In this particular case, I propose to reduce my hourly rate to \$400. All Akerman professionals (attorneys and paralegals) would be billed at a 15 percent discount off of their standard hourly rates, and I also would require similar discounts from other professionals I may hire, such as accountants. Hourly rates for Akerman's partners would be in the range of \$400 - \$550, while hourly rates for associates would be in the range of \$300 - \$400. Of course, the Court ultimately will determine my compensation, as well as compensation for professionals. Payment would be solely from the assets of the receivership estate.

I thank you sincerely for providing me the opportunity to be considered as a potential receiver in your upcoming case. Please call me should you have any questions or comments. I look forward to hearing from you.

Very truly yours,



Mark J. Bernet

MJB:tm
Enclosures

Mark James Bernet
2410 Buckhorn Run Drive
Valrico, Florida 33596
Cell: (813) 690-2652
E-mail: mbernet@outlook.com

Employment History

February, 2013, to present: Partner with **Akerman LLP**, formerly **Akerman Senterfitt**, Tampa, Florida. Hold AV rating from Martindale-Hubbell. Practice concentrates in bankruptcy and complex commercial and business litigation, class action defense and appellate work in both state and federal court. Routinely document commercial and real estate loan workouts. Represent local, regional and national banks and financial institutions. Expertise in fraud investigations and recoveries, including tracing and recovering transfers of funds and other property. Appointed as a federal equity receiver for hundreds of companies in dozens of federal court cases brought by the FTC, CFPB and various state attorneys general, charging those companies and their principals with defrauding consumers, in violation of state and federal law.

July, 2007, to January, 2013: Shareholder with **Kass Shuler, P.A.**, Tampa, Florida. Practice concentrated in bankruptcy and complex commercial and business litigation, as well as appellate work in both state and federal court. Routinely documented commercial and real estate loan workouts. Handled fraud investigations and recoveries, including tracing and recovering transfers of funds and other property. Recovered over \$1 million worth of Ferraris. Appointed as federal equity receiver in federal court cases for numerous companies in several lawsuits brought by government agencies.

November, 2006, to June, 2007: General Counsel for **Mirabilis Ventures, Inc.**, a venture capital firm, Orlando, Florida (and elsewhere). Supervised staff of three attorneys and three paralegals. Engaged in negotiations and documentation of acquisitions and divestitures of franchise, consulting, mortgage lending, PEO, insurance, sports franchise, real estate development and construction, manufacturing and temporary staffing companies. Supervised outside counsel in connection with extensive litigation matters. Extensive experience dealing with US Attorney in connection with grand jury investigation.

August, 2002, to November, 2006: Shareholder, **Buchanan Ingersoll & Rooney PC**, Tampa, Florida. Practice concentrated in bankruptcy, creditors' rights and complex commercial and business litigation. Represented major banks and financial institutions. Appointed as Chapter 11 Bankruptcy Trustee to replace management that had operated a Ponzi scheme relating to the acquisition of mobile home parks. Appointed by a federal district court as Receiver for eight companies in a case brought by the FTC charging those companies and their principals with engaging in an "advance-fee credit card scam" that defrauded consumers of over \$12 million, in violation of the FTC Act. Developed expertise in fraud investigations and recoveries. Routinely handled appeals. Handled loan and workout documentation matters.

July, 1992, to August, 2002: Shareholder, **Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.**, Tampa, Florida. Supervised Bankruptcy and Creditors' Rights practice group of five attorneys. Practice focused on representing Debtors, Creditors, Creditors' Committees and Bankruptcy Trustees in bankruptcy cases. Served as Debtors' counsel in a consolidated bankruptcy case in which the Debtors successfully reorganized \$73 million in secured hotel debt. Co-authored a plan of reorganization that successfully afforded bank-client a release from all potential liability in approximately 55 securities fraud lawsuits that had been consolidated before the Federal Judicial Panel on Multidistrict Litigations.

June, 1986, to July 1992: Associate, **Carlton Fields Ward Emmanuel Smith & Cutler, P.A.**, Tampa, Florida. At Carlton Fields practice concentrated on representing creditors, including principally financial institutions, in commercial litigation and bankruptcy matters. Developed a specialty in Truth-in-Lending matters, both as a litigator and in connection with developing consumer loan documentation in compliance with Regulation Z.

Education

Bachelor of Arts, Journalism and Political Science (double major), from the **University of Wisconsin**, May, 1983.

Juris Doctor, from the **Notre Dame Law School**, May, 1986. Member of Notre Dame Law Review. Wrote and published two articles in the Notre Dame Law Review.

Admissions and Professional Organizations

Admitted to the Florida Bar in 1986, and have been a member in good standing continuously since.

Admitted to practice in the United States Supreme Court, 11th Circuit Court of Appeals, United States District Courts for the Middle and Southern Districts of Florida, and United States Bankruptcy Courts for the Middle and Southern Districts of Florida.

Member of the Business Law Sections of the American Bar Association and the Florida Bar Association. Member of the American Bankruptcy Institute and National Association of Federal Equity Receivers. Member of the Tampa Bay Bankruptcy Bar Association. Recognized in *The Best Lawyers in America 2020 Guide* for Litigation and Bankruptcy.

RELEVANT EXPERIENCE – RECEIVERSHIP APPOINTMENTS

Since 2003 I have served as a federal equity receiver in the following lawsuits:

1. *FTC v. Peoples Credit First, LLC, et al.*, case no. 8:03 CV-2353-T17-TBM, United States District Court, Middle District of Florida;
2. *FTC v. USA Financial, LLC, et al.*, case no. 8:08 CV-0899-T-MAP, United States District Court, Middle District of Florida;
3. *FTC v. Group One Networks, LLC, et al.*, case no. 8:09 CV 352-T26-MAP, United States District Court, Middle District of Florida;
4. *FTC v. F & F Payment Processing, Inc., et al.*, case no. 10 C 7194, United States District Court, Eastern District of Illinois;
5. *FTC v. Vacation Property Services, Inc., et al.*, case no. 8:11-cv-595-MAP, United States District Court, Middle District of Florida;
6. *FTC v. Pro Credit Group, LLC, et al.*, case no. 8-12-cv-586-T35-EAJ, United States District Court, Middle District of Florida;
7. *FTC and State of Florida, Office of the Attorney General v. Information Management Forum, Inc., et al.*, case no. 6:12-cv-00986-GAP-KSS, United States District Court, Middle District of Florida;
8. *FTC v. Innovative Wealth Builders, Inc.*, case no. 8:13-cv-00123-VMC-EAJ, United States District Court, Middle District of Florida;
9. *FTC v. Resort Property Depot, Inc., et al.*, case no. 8:13-cv-1328-T-35-TBM, United States District Court, Middle District of Florida;
10. *CFPB and The State of Florida, Office of Attorney General v. Michael Harper, et al.*, case no. 9:14 CV 80931/COHN/SELTZER, United States District Court, Southern District of Florida;
11. *Office of the Attorney General, State of Connecticut and State of Florida, Office of the Attorney General v. Berger Law Group, P.A., et al.*, case no. 8:14-cv-01825-JSM-MAP, United States District Court, Middle District of Florida;
12. *FTC and State of Florida, Office of the Attorney General v. All US Marketing LLC, f/k/a Payless Solutions, LLC, et al.*, case no. 6:15-cv-1016-ORL-28GJK, United States District Court, Middle District of Florida;
13. *FTC and The State of Florida, Office of the Attorney General v. Loyal Financial Services of Orange County, LLC, et al.*, case no. 6:16-cv-982-Orl-41TBS, United States District Court, Middle District of Florida;

14. *FTC v. Higher Goals Marketing, LLC, et al.*, case no. 6:17-cv-2048-OEL-31-KRS, United States District Court, Middle District of Florida;

15. *FTC v. MOBE, Ltd., et al.*, case no. 6:18-cv-862, United States District Court, Middle District of Florida; and

16. *FTC v. First Choice Horizon, LLC, et al.* case no. 6:19-cv-1028-40LRM, United States District Court, Middle District of Florida.

17. I also served as a Chapter 11 Bankruptcy Trustee in a case styled *In re: Northmont Mobile Village, Inc.*, case no. 8:02-10021-8G1, United States Bankruptcy Court, Middle District of Florida.

Holland & Knight

200 South Orange Avenue, Suite 2600 | Orlando, FL 32801 | T 407.425.8500 | F 407.244.5288
Holland & Knight LLP | www.hklaw.com

EXHIBIT

3

February 4, 2020

Brian A. McDowell
407 244 5143-Direct Dial
brian.mcdowell@hklaw.com

Alise Johnson, Esq.
Senior Trial Counsel
Securities and Exchange Commission
Miami Regional Office
801 Brickell Avenue, Suite 1800
Miami, FL 33131

Re: Receiver Candidate for Equialt, Inc.

Dear Ms. Johnson:

It was a pleasure speaking with you, and following up on our conversation, I am very interested in serving as receiver for Equialt, Inc.

I am a partner in the Bankruptcy and Creditors' Rights Group at Holland & Knight LLP's Orlando office. I am a commercial litigator by background, with experience in insolvency law, bankruptcy, fraudulent transfers, commercial foreclosure and collection. I routinely represent a variety of financial institutions in litigation and collection matters. Also, I represent litigants involved in disputes arising from failed or improper business transactions. I have been appointed as a receiver and have represented receivers in actions brought by regulatory agencies in the Middle District of Florida.

I most recently concluded my service as the court-appointed receiver in the case captioned *Federal Trade Commission v. J. William Enterprises, et al.*, Case No. 6:16-cv-02123-ORL-31DCI, in the United States District Court of Florida, Orlando Division. In that case, immediately following my appointment as receiver I took possession of the assets of a timeshare advertising telemarketing company for violation of the Federal Trade Commission Act by making misrepresentations to its customers regarding the potential sale of its customer's timeshare. At the inception of the case I testified at the injunction hearing and was cross-examined vigorously by counsel for the defendants. Based in part on my testimony, the Court entered a preliminary injunction against the defendants. I recovered significant funds and assets, and after the entry of a judgment in favor of the FTC, I oversaw an auction sale of the bulk of the assets recovered through the receivership. These efforts resulted in a significant recovery for the defrauded consumers.

I also served as the receiver in *Federal Trade Commission v. Hardco Holding Group, et al.*, Case No. 6:17-cv-01257-ORL-37TBS, in the United States District Court of Florida,

Alise Johnson
February 4, 2020
Page 2

Orlando Division. In that case, I took possession of the assets of a company engaging in a scheme to defraud consumers through the collection of payments for debts that the consumers did not owe or that the defendants did not have the authority to collect. I ceased all operations at the business and quickly liquidated the assets of the company. The case was resolved through the entry of a consent final judgment against the primary operator of the business.

I also served as receiver in the case captioned *Federal Trade Commission, et al., v. Vacation Communications Group, LLC, et al.*, Case No. 6:13-cv-789-ORL-37DAB, in the United States District Court of Florida, Orlando Division. In that case, I took possession of a telemarketing company selling timeshare related products, and liquidated its assets for purposes of distribution to defrauded customers. I also successfully sought and obtained a civil contempt order and bench warrant for the arrest of an individual defendant. The FTC ultimately obtained a permanent injunction against the defendants.

I also served as receiver in the case captioned *Federal Trade Commission v. Direct Benefits Group, LLC, et al.*, Case No. 6:11-cv-1186-JA-TBS, in the United States District Court of Florida, Orlando Division. In that case I took possession of an internet marketing company located in Bluffdale, Utah. I recovered assets from the defendants' primary business location, and liquidated its assets. I also successfully recovered assets located in Wyoming, and halted the defendants' operations at various off-site data centers. At both the injunction hearing and at trial, I testified as to the business activities of the defendants. Based in part on my testimony and the results of my investigation, the court entered a preliminary injunction and a final judgment in favor of the FTC.

I also served as receiver in the case captioned *Federal Trade Commission v. Holloway, et al.*, Case No. 3:02-CV-343-J20TEM, in the United States District Court for the Middle District of Florida, Jacksonville Division. In that case, I took possession of a telemarketing company in connection with its violation of certain telemarketing sales rules. Over the course of the case, I recovered assets from the defendant's primary business location in Jacksonville, Florida, as well as an additional business location located in Miami, Florida. In addition, I recovered a number of assets that had been transferred out of the defendant's business accounts for personal use. Such assets included a horse farm operated by the receivership defendant in Colleton County, South Carolina, which I caused to be auctioned and sold. As a consequence of the investigation I performed concerning the defendant's alleged violation of the telemarketing sales rules, I was able to advise the court of the facts which I observed at the time of the seizure of the defendant's business. In that matter, I was challenged by the defendant and cross examined vigorously by its attorneys at the hearing on the motion for preliminary injunction. Based in part on my testimony concerning the results of my investigation, the court entered a preliminary injunction.

I also served as receiver in a case captioned *Federal Trade Commission v. TNT Talks, et al.*, Case No. 6:00-CV-1410-ORL-28-B, in the United States District Court for the Middle District of Florida, Orlando Division. In that case, I took possession of a telemarketing company, terminated its operation, and liquidated its assets for purposes of distribution to

Alise Johnson
February 4, 2020
Page 3

defrauded customers. In addition, I recovered property that had been transferred by a corporate defendant to its individual principal and liquidated the property.

I also served as receiver in the case captioned *Federal Trade Commission v. Metro Data*, Case No. 6:96 CV 641-ORL-22-DAB, in the United States District Court for the Middle District of Florida, Orlando Division. In that matter, I took possession of the assets and business of the defendant and terminated its operation.

I also recently served as counsel for the receiver in the case captioned *Federal Trade Commission v. D & S Marketing Solutions LLC*, Case No. 8:16-cv-01435-MSS-AEP, in the United States District Court for the Middle District of Florida, Tampa Division. In that case, I served as counsel to receiver Anthony DiResta, also a partner at Holland & Knight, in connection with taking possession of the assets of a telemarketing company that allegedly violated the Federal Trade Commission Act with its sale of government workplace safety regulation posters. The receiver's efforts in that case resulted in the recovery of money and assets, including the sale of a business interest in a night club belonging to a principal of one of the defendants.

I also served as counsel for the receiver in the case captioned *Commodity Futures Trading Commission v. Keith Dominick, et al.*, Case No. 94-661-CIV-ORL-18, United States District Court for the Middle District of Florida, Orlando Division. In the course of that engagement I assisted receiver Charles Stutts, and through our engagement we identified and collected assets to distribute to defrauded investors and recovered property that had been fraudulently transferred by the defendant.

I again represented Mr. Stutts, as receiver, in an action styled *Commodity Futures Trading Commission v. Colton*, Case No. 98-2575-CW-T-26C, United States District Court for the Middle District of Florida, Tampa Division. In that engagement, we collected assets to distribute to defrauded investors and pursued property that had been transferred by the receivership defendant to foreign jurisdictions.

In addition to these matters, I have been responsible for many matters involving the foreclosure and disposition of real estate and other assets, as well as numerous matters involving insolvent defendants, many of which have concealed assets or have engaged in some form of fraudulent or deceptive business practice.

If appointed, I would expect to engage Holland & Knight LLP as counsel to the receiver. My understanding is that the respective receivership defendant maintains a business location in Tampa. Accordingly, I anticipate that the receivership would be primarily staffed with attorneys and paralegals from our Orlando and Tampa offices. Accordingly, I have attached biographies for me and for the lawyers I would engage for this matter. At this time, I anticipate the primary attorney at Holland & Knight LLP who would be responsible for this matter would be Suzanne Gilbert. Ms. Gilbert is a litigation partner and practice group leader of the Central Florida Litigation Group at Holland & Knight, and is located in the firm's Orlando office. I would also primarily utilize Edward Fitzgerald and

Alise Johnson
February 4, 2020
Page 4

Robert Davis from the Orlando office. Mr. Fitzgerald is a senior counsel, and Mr. Davis is an associate, in the litigation group of the firm. Ms. Gilbert, Mr. Fitzgerald, and Mr. Davis have all previously represented me in my capacity as receiver. Also, I would utilize partner Lee Smith from the Orlando office for his expertise regarding real estate matters. From the Tampa office, I would utilize litigation partners Joseph Varner and Bradford Kimbro, and litigation associates Jessica Kramer and Anthony Palermo, all as necessary and to maximize efficiency. I may also engage additional associates so that I am utilizing the most qualified but lowest rate person available. Partners and senior counsel would be billed at discounted rates between \$450.00 and \$500.00, and associates would be billed at discounted rates between \$375.00 and \$450.00. Paralegals would be billed at discounted rates between \$200.00 and \$250.00.

I have also enclosed the signed Conflict of Interest and Background Information form and the Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and Exchange Commission form. Please do not hesitate to contact me if you require any additional information, and thank you for your consideration.

Very truly yours,

HOLLAND & KNIGHT LLP



Brian A. McDowell

CONFLICTS OF INTEREST AND BACKGROUND INFORMATION

I am providing the Securities and Exchange Commission ("Commission") with the following conflict of interest and background information concerning Brian A. McDowell, the Receiver candidate for Equialt, Inc., *et al.* I agree to supplement this information if any of the information herein changes, within thirty days of such change. I agree to provide such other Conflict of Interest information as requested by the Commission or its staff, and to take such steps as reasonably requested by the Commission or its staff in order to mitigate any conflicts that the Commission or its staff determine may exist, in their sole discretion.

Except where otherwise noted, for purposes of the information request below, "you" means you as an individual, as well as any spouse or dependents, and separately, any firm, partnership, joint venture, or other business in which you are an officer or director, or in which you have a substantial financial interest.

Except where otherwise noted, this information is requested for any responsive matters existing during the last five years. Also, if during the course of your duties you become aware of responsive information concerning a potential claimant in the matter listed above, you must promptly supplement your response to disclose that information:

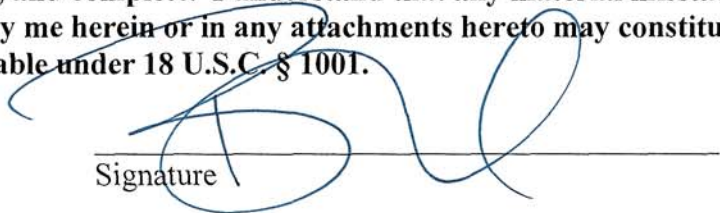
1. List all contracts, consulting engagements, employment, service as an officer or director, or other work of any kind you have performed for any defendant/respondent in this matter, or any of its parents, subsidiaries, or other affiliates, or any claimant in this matter. Include any responsive matters existing during the last ten years.
2. List any financial interests in or with the defendant/respondent, its parents, subsidiaries, or other affiliates, or any claimant in this matter (e.g., stocks, bonds, options, other debt or equity interests, partnerships, retirement plans).
3. List all other personal or professional relationships or interests in or with the defendant/respondent, its parents, subsidiaries, or other affiliates, or with any of their officers or directors, or any claimant in this matter, not listed above.
4. List all matters in which you have been retained as a Receiver, Distribution Fund Administrator, Distribution Consultant, or as a subcontractor, agent or other service provider, in connection with any civil action or administrative proceeding by the Commission.
5. List all other prior or existing cases, matters, or proceedings in which the Commission has an interest, in which you have been retained or served as a witness, consultant, or other expert.
6. Identify any disciplinary proceedings, felony criminal indictment or information (or equivalent formal charge) or a misdemeanor criminal information (or equivalent formal charge), civil proceedings or actions against you personally by any Federal, state, local, or foreign entities and the results of those proceedings. Include any responsive matters regardless of when they arose.

7. Identify any actual or potential conflicts of which you are aware, regardless of when they arose, that are not identified or addressed in paragraphs 1 through 5 above, but that may affect the performance of your duties under this appointment.

If you believe any of the information provided in response to these requests is non-public or confidential, you may request confidential treatment by the Commission pursuant to the procedures set forth at 17 C.F.R. § 200.83.

Under penalty of perjury, I declare that I have examined the information given in this statement, and attached hereto, and, to the best of my knowledge and belief, it is true, correct, and complete. I understand that any material misstatements or omissions made by me herein or in any attachments hereto may constitute criminal violations, punishable under 18 U.S.C. § 1001.

By:


Signature

Name: Brian A. McDowell

Title: Partner, Holland & Knight LLP

Holland & Knight



Brian A. McDowell

PARTNER

Brian.McDowell@hklaw.com

Orlando

407.244.5143

PRACTICES

Bankruptcy, Restructuring and Creditors' Rights |
Litigation and Dispute Resolution

Brian A. McDowell is a partner in Holland & Knight's Orlando office. He practices in the areas of bankruptcy, insolvency litigation and receiverships. In bankruptcy, Mr. McDowell primarily focuses on representing debtors, secured and unsecured creditors, tenants, landlords, asset purchasers, defendants in adversary proceedings and trustees. These matters have arisen in both voluntary and involuntary Chapter 11 cases. Mr. McDowell has conducted two jury trials in the United States Bankruptcy Court.

In addition to his debtor and creditor representation, Mr. McDowell has also represented clients in a variety of litigation matters including foreclosure, fraud, Lantham Act, Interstate Land Sales Act, real estate and collections actions, as well as fraudulent transfer and preference actions.

Mr. McDowell has handled a wide range of cases in different industries including hotel and hospitality, aviation, maritime, manufacturing, pharmaceutical, retail and real estate.

Mr. McDowell has also had the occasion to serve as equity receiver and counsel for the receiver in matters involving various federal agencies. In these roles, Mr. McDowell has been responsible for the management and liquidation of a variety of businesses, the pursuit of claims of the receivership estates, and the evaluation and disposition of claims of creditors. Mr. McDowell has also been responsible for securing the turnover of assets by defendants.

Mr. McDowell has spoken on various issues, including construction, finance, corporate renewal and turnaround management. Additionally, he has spoken at various continuing legal education seminars regarding bankruptcy and insolvency issues.

Representative Engagements

Mr. McDowell has represented clients in hospitality related matters, including:

- representing secured lenders in the foreclosure of mortgages on operating hotels, including preservation of franchise affiliation and operating license in each matter
- representing secured lenders in Chapter 11 cases of hotel operations
- representing franchise holders in case against hotel owner
- representing hotel in litigation brought by trade show vendor under commercial tort law

Pro Bono Work

Mr. McDowell has performed pro bono work on behalf of the following organizations:

Holland & Knight

- Mad Cow Theatre
- Orlando Opera
- Orlando Philharmonic Orchestra

Credentials

Education

- University of Florida Levin College of Law, J.D., *with honors*
- University of Florida, B.S., Accounting, *with high honors*

Bar Admissions/Licenses

- Florida

Court Admissions

- U.S. District Court for the Middle District of Florida
- U.S. District Court for the Northern District of Florida
- U.S. District Court for the Southern District of Florida
- U.S. Court of Appeals for the Eleventh Circuit

Memberships

- American Bar Association
- Central Florida Bankruptcy Law Association
- Orlando Philharmonic Orchestra, Board of Directors
- Gator Club of Central Florida
- Ninth Judicial Circuit, former Chair, Grievance Committee "A"
- The Florida Bar, former Member, Uniform Commercial Code/Bankruptcy Committee
- Boys and Girls Club of Central Florida, Inc., former Chairman, Board of Directors
- American Inns of the Court, former Member
- Order of the Coif
- Mad Cow Theatre, Chairman, Board of Directors

Honors & Awards

- *Who's Who Legal 100: Insurance & Reinsurance*, 2014
- *The Best Lawyers in America* guide, Bankruptcy and Creditor-Debtor Rights Law/Insolvency and Reorganization, Litigation - Bankruptcy, 2008-2020
- Florida *Super Lawyers* magazine, 2010, 2012-2019
- Best Lawyers, Orlando Magazine

Publications

Holland & Knight

- Secured Creditors Beware: File An Unsecured Proof of Claim, or Forever Hold Your Peace, *Holland & Knight Alert*, November 29, 2011

Speaking Engagements

- Financing Third Party Logistics Providers, Citizens Financial Group, Inc., October 3, 2019
- Strategies for Recovering Money from Troubled or Insolvent Owners, AGC's 91st Annual Convention & Pavilion, March 19, 2010
- No Good Deed Goes Unpunished: Avoiding Lender Liability Claims in Workouts, Seminar for Commercial Real Estate Loan and Special Assets Officers, April 21, 2009

Holland & Knight



Suzanne E. Gilbert

PARTNER

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Orlando

407.244.1142

PRACTICES

Litigation and Dispute Resolution | Financial Services |
Bankruptcy, Restructuring and Creditors' Rights |
TCPA Class Action Litigation | Class Action Litigation and Arbitration |
Financial Services Litigation

Suzanne Gilbert is a partner in Holland & Knight's Orlando office and practices in the areas of financial and real estate litigation, business litigation and creditors' rights.

Ms. Gilbert has experience representing clients in complex commercial disputes in federal, state and bankruptcy courts. Ms. Gilbert has substantial experience representing financial institutions and other lenders in a variety of matters, including complex commercial foreclosures, loan workouts, defense of lender liability claims, and in fraudulent transfer and preferential transfer actions. Additionally, a significant portion of her practice involves real estate litigation, including contract disputes, title issues, environmental issues and mortgage fraud. She also has significant experience in matters involving Article 3 and Article 9 of the Uniform Commercial Code. In addition to her focus on financial and real estate litigation, Ms. Gilbert has also defended class actions involving Florida's Deceptive and Unfair Trade Practices Act and the Telephone Consumer Protection Act. She has also represented one of the world's largest biotechnology companies in disputes and arbitrations relating to product licensing arrangements.

Since 2007, Ms. Gilbert has served as the practice group leader for the firm's Central Florida Litigation Group. She previously served as the Orlando office coordinator of Holland & Knight's Women's Initiative Group, a firmwide program aimed at enhancing opportunities for female attorneys, as well as promoting marketing and client development programs for Central Florida businesswomen and community leaders. In addition, in 2003, Ms. Gilbert was selected to participate in the inaugural class of the firm's Rising Stars program, a year-long economic development program which encourages women attorneys towards community and firm leadership, as well as their advancement in the legal profession.

In college, Ms. Gilbert was a manager for the men's basketball team at Duke University. During her tenure as head manager, the team won the 1991 and 1992 NCAA National Championships.

Credentials

Education

- University of Florida Levin College of Law, J.D., *with honors*
- Duke University, B.A., Political Science

Bar Admissions/Licenses

Holland & Knight

- Florida

Court Admissions

- U.S. District Court for the Northern District of Florida
- U.S. District Court for the Middle District of Florida
- U.S. District Court for the Southern District of Florida
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. Supreme Court

Memberships

- American Bar Association, Standing Committee on the Federal Judiciary
- American Bar Association, House of Delegates, Drafting Committee
- American Bar Association, Standing Committee on Meetings and Travel, Chair
- American Bar Association, Board of Governors, former Member
- American Bar Association, Young Lawyers Division, Executive Board, former Member
- 11th Circuit Historical Society, Inc., Vice President-Florida
- Orlando Shakespeare Theater, Board of Directors, President
- American Counsel Association, Past President
- Orange County Bar Association, ABA House of Delegates
- Florida Blue Key
- Florida Hospital Foundation Cardiovascular Institute, Board Member
- Greater Orlando Sports Commission, Board Member and Secretary
- Frederick Leadership Institute, Board Member
- Duke Club of Central Florida
- Junior League of Greater Orlando
- The American Law Institute

Honors & Awards

- "Women Who Mean Business," *Orlando Business Journal*, 2019
- Florida Legal Elite Hall of Fame, *Florida Trend* magazine, 2016-2019
- Florida Legal Elite, *Florida Trend* magazine, 2009-2019
- *The Best Lawyers in America* guide, Orlando Banking & Finance Litigation Lawyer of the Year, 2012
- *The Best Lawyers in America* guide, Orlando Banking & Finance Lawyer of the Year, 2017
- *The Best Lawyers in America* guide, Commercial Litigation, Litigation - Real Estate, 2013-2020; Litigation - Banking and Finance, 2012-2020, Banking and Finance Law, 2015-2020
- Martindale-Hubbell AV Preeminent Peer Review Rated
- Florida *Super Lawyers* magazine, 2010-2019
- Florida *Super Lawyers* magazine, Top 50 Women, 2011, 2014-2016, 2018; Top 100 Attorney, 2014-2016

Holland & Knight

- Florida Legal Elite "Up & Comer," *Florida Trend* magazine, 2005-2008
- Star of the Bar Award, Orange County Bar Association, 2015
- "40 Under 40," *Orlando Business Journal*, 2008
- Best of the Bar, *Orlando Business Journal*, 2005
- University of Florida Law Student of the Year, 1996

Publications

- Following the meeting of the G-7 Finance Ministers and Central Bank Governors Treasury Secretary Henry M. Paulson, Jr. outlined broad principles., *Holland & Knight Alert*, October 16, 2008

Speaking Engagements

- From the Halls of Justice, Faster Than a Speeding Bullet: Blockchain, Predictive Coding and Artificial Intelligence, ACC Central Florida Chapter, April 18, 2018
- No Good Deed Goes Unpunished: Avoiding Lender Liability Claims in Workouts, Seminar for Commercial Real Estate Loan and Special Assets Officers, April 21, 2009
- Retail Bankruptcies Have Arrived—More Are Coming, What You Need to Know Now: Practical Answers for Dealing With Troubled Retail Tenants, December 2, 2008

Holland & Knight



Edward M. Fitzgerald

SENIOR COUNSEL

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Orlando

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PRACTICES

Litigation and Dispute Resolution |
Bankruptcy, Restructuring and Creditors' Rights

Edward M. Fitzgerald is a senior counsel in Holland & Knight's Orlando office. Mr. Fitzgerald practices in the area of bankruptcy, creditors' rights and commercial litigation. He focuses on the representation of financial institutions and other creditors, including commercial banks, corporations and receivers. In his bankruptcy practice, Mr. Fitzgerald has experience representing creditors in complex Chapter 7, 11 and 13 cases. He also frequently represents creditors in state and federal court litigation, including suits to recover monies owed, real estate and personal property foreclosures, and injunction and replevin actions. Additionally, Mr. Fitzgerald often represents lenders in connection with the workout of problem loans and debt restructuring.

Credentials

Education

- Stetson University College of Law, J.D., *with honors*
- University of Florida, B.S., Business Administration

Bar Admissions/Licenses

- Florida

Court Admissions

- U.S. District Court for the Northern District of Florida
- U.S. District Court for the Middle District of Florida
- U.S. District Court for the Southern District of Florida
- All State Courts in Florida

Memberships

- American Bar Association Young Lawyers Division, Bankruptcy Committee, Chair, 2012-2013; Vice Chair, 2011-2012
- American Bar Association, Delegate for the State of Florida to the Young Lawyers Division General Assembly, 2010-2013
- American Bar Association, Business Law Section, Fellow, 2014-2016 Class

Holland & Knight

- Orange County Bar Association
- Central Florida Bankruptcy Law Association
- American Lung Association, Central Florida Advisory Board Member

Honors & Awards

- Rising Star, Florida *Super Lawyers* magazine, 2013-2018
- "Up and Comer," Florida Legal Elite, *Florida Trend* magazine, 2015, 2016

Publications

- First Circuit Rules That Parents' Payment of Adult Child's College Tuition is Subject to Claw Back, *American Bar Association (ABA) Business Law Today*, November 2019
- Eleventh Circuit Issues Opinion on New Value Defense to a Preference Claim, *Pratt's Journal of Bankruptcy Law*, November/December 2018
- Eleventh Circuit Issues Opinion on New Value Defense to a Preference Claim, *Holland & Knight Alert*, August 20, 2018
- Treatment of Student Loans in Bankruptcy, *ABA Young Lawyer's Division 101 Practice Series*

Speaking Engagements

- Down to Business: A Tour of Recent Supreme Court Rulings All Young Lawyers Need to Know About, American Bar Association Young Lawyers Division Annual Meeting, July 31, 2015
- DOMA, Detroit, and Bankruptcy: Recent and Major Developments in Bankruptcy Law and How They Can Affect Your Practice, American Bar Association Young Lawyers Division Spring Conference, May 15-17, 2014
- Ethics and Bankruptcy: Tips and Traps for New Lawyers and Non-Bankruptcy Practitioners, Moderator, American Bar Association CLE Program, February 28, 2013
- Ethics and Bankruptcy: Tips and Traps for New Lawyers and Non-Bankruptcy Practitioners, Moderator, American Bar Association Young Lawyers Division Fall Conference, Charleston, SC, October 19, 2012

Holland & Knight



Robert W. Davis Jr.

ASSOCIATE

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407.244.5176

PRACTICES

Bankruptcy, Restructuring and Creditors' Rights |
Litigation and Dispute Resolution | Energy Restructuring

Robert Davis is a litigation attorney in Holland & Knight's Orlando office who focuses his practice in the areas of corporate bankruptcies, bankruptcy appeals, insolvency litigation and asset recovery.

Mr. Davis represents financial institutions and other secured and unsecured creditors, including commercial banks, corporations, landlords and court-appointed receivers. He has experience representing clients in state and federal court litigation, including suits to recover monies owed, real property foreclosures, garnishments and foreign judgment domestications. Mr. Davis has also handled problem loan workouts, matters involving financial fraud and shareholder disputes, and routinely serves as a trustee in non-judicial foreclosures.

Credentials

Education

- University of Florida Levin College of Law, J.D., *cum laude*
- University of Florida, B.H.S., Health Science, *cum laude*
- University of Florida, B.A., Political Science, *cum laude*

Bar Admissions/Licenses

- Florida

Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. District Court for the Northern District of Florida
- U.S. District Court for the Middle District of Florida
- U.S. District Court for the Southern District of Florida
- U.S. Bankruptcy Court for the Northern District of Florida
- U.S. Bankruptcy Court for the Middle District of Florida
- U.S. Bankruptcy Court for the Southern District of Florida
- All State Courts in Florida

Holland & Knight

Memberships

- Central Florida Partnership, Young Professionals Advisory Committee, former Member
- The Florida Bar Leadership Academy, Fellow, 2015-2016
- American Bankruptcy Institute
- American Bar Association
- Central Florida Bankruptcy Law Association
- Florida Blue Key
- March of Dimes Central Florida Division Board of Directors, former Member
- Orange County Bar Association, Young Lawyers Division; Scholarship Committee, Former Co-Chair
- University of Florida Law Alumni Council

Honors & Awards

- Holland & Knight Public and Charitable Service All-Star, 2014, 2017
- Order of the Barristers
- March of Dimes, President's Award for Volunteer Excellence
- Florida Moot Court Team Final Four Competition, Best Overall Competitor (Panel: U.S. Supreme Court Chief Justice John Roberts, Eleventh Circuit Court of Appeals Judges Rosemary Barkett, Susan H. Black and Peter T. Fay)
- University of Florida Levin College of Law 2010 Commencement Student Speaker

Publications

- Secured Creditors Beware: File An Unsecured Proof of Claim, or Forever Hold Your Peace, *Holland & Knight Alert*, November 29, 2011

Lee Stuart Smith



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Practices

Real Estate | Residential and Master-Planned Communities

Lee Stuart Smith is a partner in Holland & Knight's Orlando office and a member of the firm's Real Estate Section. Mr. Smith represents owners and developers of master plan mixed use residential and multifamily projects in numerous areas of real estate and land use law, including land acquisition, master infrastructure agreements, ground leases, construction contract negotiations, builder agreements, financings, including derivative swap agreements, site plan negotiations and approvals, developers agreements, easements, variances, conditional uses, impact fee agreements and community development districts, including the first community development district ever approved by the City of Orlando.

Mr. Smith represents state and national financial institutions in connection with their Florida and multi-state commercial and real estate lending activities. His lending representation has included financings for hotels and timeshare resorts, retirement and assisted living facilities, shopping centers, office buildings, industrial centers, apartment communities and residential subdivision development, including borrowing base and asset based loans and loan participations and syndications. Mr. Smith also has significant experience representing lenders in loan workouts, including loan modifications and restructurings, deeds in lieu of foreclosure, forbearance agreements, foreclosures and sales of REO.

Honors & Awards

- *The Best Lawyers in America* guide, Real Estate Law, 2013-2020
- Martindale-Hubbell AV Preeminent Peer Review Rated
- Order of the Coif
- *Law Review*
- Florida Supreme Court Internship

Memberships

- American Bar Association

Holland & Knight

- The Florida Bar, Real Property, Probate and Trust Law Section
- Children's Wish Foundation, former Director
- Community Coordinated Child Care for Central Florida, former Director
- Metro Orlando Economic Development Commission
- Leadership Orlando, Graduate

Education

- Florida State University College of Law, J.D., *with high honors*
- Rollins College, B.A., Chemistry

Bar Admissions/Licenses

- Florida

Joseph H. Varner III



Partner
Tampa
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Practices

Litigation and Dispute Resolution | Mergers and Acquisitions Disputes

Industries

Legal Profession | Transportation & Infrastructure | Healthcare & Life Sciences

Joseph H. Varner III is a partner in Holland & Knight's Tampa office. He is the Practice Group Leader for the Tampa Litigation group and he serves on the firm's Directors Committee.

Mr. Varner is an experienced and accomplished trial lawyer and has focused on civil trial practice in Florida for his entire career. He is a Fellow in the American College of Trial Lawyers, has been named one of the Top 10 lawyers in Florida by Florida Super Lawyers, and has been Board Certified In Civil Trial Law for more than 20 years. Mr. Varner has received much other recognition for his professional accomplishments, including *Chambers USA*, *The Best Lawyers In America*, and the *Florida Trend Legal Elite Hall of Fame*. Mr. Varner is also the recipient of the Hillsborough County Bar Association's Michael Fogarty Memorial In The Trenches Award for excellence in civil litigation.

Mr. Varner is experienced in complex commercial litigation, business torts, securities litigation, professional negligence, and personal injury and wrongful death litigation. Mr. Varner has obtained significant jury verdicts and settlements in commercial and personal injury litigation and has conducted numerous jury trials in state and federal court. Mr. Varner is also a certified mediator in state and federal court.

Mr. Varner has held numerous positions of bar leadership, including President of the Tampa Bay Chapter of the Federal Bar Association and President of the J. Clifford Cheatwood American Inn of Court. He has also been appointed to several positions of service to the courts, including chair of the Middle District of Florida Local Rules Advisory Committee, the Merit Selection Panel for U.S. Magistrates, the Civil Justice Reform Act Advisory Group for the Middle District of Florida, and Special Counsel for the Florida Judicial Qualifications Commission.

Holland & Knight

In addition to his trial practice and professional activities, Mr. Varner has been active in community and charitable activities his entire career, including Visit Tampa Bay, Copperhead Charities, the United Way Keel Club, Voices for Children, Metropolitan Ministries, the Cystic Fibrosis Foundation, Leadership Tampa, Leukemia Society/Brooks Brothers Man of the Year, the University of Tampa Board of Counselors, and The Tampa Connection.

Honors & Awards

- Top Lawyers, *Tampa Magazine*, Professional Malpractice Law: Defendants, 2018
- Thirteenth Judicial Circuit Professionalism Award, Hillsborough County Bench/Bar, 2017
- Power 100, *Tampa Bay Business Journal*, 2017
- George C. Carr Memorial Award, Tampa Bay Chapter of the Federal Bar Association, 2015
- American College of Trial Lawyers, Fellow
- *The Best Lawyers in America* guide, Bet-the-Company Litigation, Commercial Litigation, 1999-2020; Legal Malpractice Law - Defendants, 2016-2020
- [*Chambers USA – America's Leading Business Lawyers*](#) guide, Litigation: General Commercial, 2012-2019
- Florida Legal Elite Hall of Fame, *Florida Trend* magazine, 2009-2019
- Florida Legal Elite, *Florida Trend* magazine, 2002-2019
- Florida *Super Lawyers* magazine, 2006-2019
- Florida *Super Lawyers* magazine, Top 10 Lawyers in Florida, 2010, 2013-2015, 2017, 2018
- Florida *Super Lawyers* magazine, Top 100 Lawyers in Florida, 2006-2015, 2017, 2018
- Florida *Super Lawyers* magazine, Top 50 in Tampa, 2015, 2017
- Hillsborough County Bar Association Michael Fogarty Memorial In The Trenches Award for excellence in civil litigation, 2006
- Martindale-Hubbell AV Preeminent Peer Review Rated

Memberships

- Visit Tampa Bay, Board of Directors, 2011-2013
- Copperhead Charities, Inc., Board of Directors, 2010-present
- Hillsborough County Bar Association, Active Member and Trial Lawyers Section Director, 2000-2009, 1991-1992
- Hillsborough County Bar Association, Judicial Liaison Committee, Chairperson, 2000-2002
- Hillsborough County Bar Association, Professional Courtesy Committee, 1991-1994
- Hillsborough County Bar Association, Young Lawyers Division President, 1990-1991 and Director, 1988-1990
- Federal Bar Association, Active Member and President 2001-2002, President-Elect 2000-2001; Vice President 1999-2000; Treasurer 1998-1999; Secretary 1997-1998
- American Bar Association

Holland & Knight

- American Association for Justice
- American College of Trial Lawyers, Florida State Committee
- J. Clifford Cheatwood Inn of Court, Immediate Past President
- United States District Court Middle District of Florida, Local Rules Advisory Committee

Publications

- Clear! Reviving the Right to Removal, Co-Author, *The Federal Lawyer*, June 2017
- I think I know my Client is Lying, *Hillsborough County Bar Association Lawyer Magazine*, December 2008
- A Trial Lawyer By Any Other Name, *Hillsborough County Bar Association Lawyer Magazine*, February 2007
- Expert Testimony Federal Court: The Trial Judge's Role In Weighing Credibility, *Hillsborough County Bar Association Lawyer Magazine*, June 2004
- The Sad Case of the Kurzban Brothers, *Hillsborough County Bar Association Lawyer Magazine*, November 2000
- A Practitioner's Introduction to Rule 11 of the Federal Rules of Civil Procedure, *The Florida Bar Journal*, December 1989

Speaking Engagements

- Recent Developments In Business Litigation, Florida Bar Trial Lawyers Section, Civil Trial Update & Board Certification Review 2018, February 1, 2018
- Jury Selection, Wm. Reece Smith Inn Of Court, January 30, 2018
- The Effective Cross Examination of Expert Witnesses: An Art Not A Science, American Bankruptcy Institute, 42nd Annual Alexander L. Paskay Memorial Bankruptcy Seminar, January 18, 2018
- Cross Examination of Witnesses to Expose Bias, 21st Annual HCBA Bench Bar Conference: Perception is Reality, October 25, 2017
- Practicing With Professionalism, The Florida Bar Association, August 4, 2017
- Deposition Boot Camp: Basics to Advanced, The Florida Bar, Business Law Section, May 19, 2017
- Accounting Litigation Support: Document Retention Strategies and Traps for the Unwary, Florida Institute of CPAs Mega CPE Conference, June 13, 2014
- State Court Trial Seminar, Hillsborough County Bar Association, June 6, 2014
- Cutting Edge Cross Examination Techniques, Hillsborough County Bar Association Annual Bench Bar Conference, November 2010
- Direct and Cross Examination of Witnesses, Hillsborough County Bar Association Annual State Court Civil Trial Seminar, June 2010
- Privilege Issues - All The Other Privileges, Hillsborough County Bar Association, February 2009
- Taking And Defending Effective Depositions In Florida: Expert Depositions, Lorman Education Services, April 2008
- Discovery Strategies for Trial Lawyers - Discovery Abuses and Sanctions, Hillsborough County Bar Association, December 2007

- Taking And Defending Effective Depositions In Florida: Expert Depositions, Lorman Education Services, April 2007
- Effective Advocacy In Civil Litigation, Hillsborough County Bar Association, February 2006
- Opening Statements: Plaintiff's Perspective, HCBA Young Lawyers Section Annual State Court Trial Seminar, June 2005
- Do's and Don'ts of Expert Witnesses, Hillsborough County Bar Association, May 2004
- Basic Discovery Practice-Topic: Discovery Abuses-Compliance, Sanctions, and Remedies, The Florida Bar, September 2002
- Commercial Litigation: Litigation of Dissenters Rights Issues, Hillsborough County Bar Association, September 2002
- Expert Witnesses In State And Federal Court: Daubert, Frye, and Beyond, Hillsborough County Bar Association, September 2002
- Trial Techniques-Topic: Cross-Examination of Expert Witnesses, Hillsborough County Bar Association Trial Lawyers Section, April 2002
- Fifth Annual Bench/Bar Conference-Organizer, Moderator and Panel Speaker on Civil Practice and Procedure, Hillsborough County Bar Association, November 2001
- Fourth Annual Bench/Bar Conference-Organizer and Panel Speaker on Civil Practice and Procedure, Hillsborough County Bar Association, November 2000
- Basic Discovery Practice-Topic: Discovery Abuses-Compliance, Sanctions, and Remedies, The Florida Bar, September 2000
- Mass Torts and Class Action Litigation, Tampa Bay Chapter of American Association of Legal Nurses, Annual Meeting, September 2000
- The Emerging Frontier in Trial Practice, Moderator, Hillsborough County Bar Association Trial Lawyers Section, September 2000
- Stetson College of Law Closing Argument Competition-Judge, Stetson College of Law, November 1999
- The Evolution of Trial Technology in the New Millennium-Topic: Case law Update, Hillsborough County Bar Association, Clearwater Bar Association, St Petersburg Bar Association, September 1999
- State Court Trial Seminar-Topic: Closing Arguments, Hillsborough County Bar Association, June 1999
- Basic Discovery Practice-Topic: Discovery Abuses-Compliance, Sanctions, and Remedies, The Florida Bar, February 1999
- Top Ten Ways to Improve Your Trial Practice-Topic: Pleadings and Discovery, Hillsborough County Bar Association Trial Lawyers Section, October 1998
- Civil Litigation in the 90's-Topic: Discovery Abuse and Sanctions, Hillsborough County Bar Association, May 1998
- Back to the Future: The Latest Developments in Recurring Trial Practice-Topic: Medical Malpractice: A Perfunctory Primer on Pre-suit Requirements, Hillsborough County Bar Association Trial Lawyers Section, May 1997
- The Monsters that Ate Torts: The Economic Loss Rule and Beyond - Topic: The Economic Loss Rule, Hillsborough County Bar Association Trial Lawyers Section, May 1996

Education

- University of Virginia School of Law, J.D.
- Samford University, B.S.B.A., *magna cum laude*

Bar Admissions/Licenses

- Florida

Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. District Court for the Middle District of Florida
- All State Courts in Florida

Bradford D. Kimbro



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Practices

Litigation and Dispute Resolution

Industries

Legal Profession | Healthcare & Life Sciences

Brad Kimbro is the executive partner of Holland & Knight's Tampa Bay region. Mr. Kimbro is an experienced and accomplished trial lawyer who focuses on civil trial practice in Florida. He has been named one of the top 100 lawyers in the state of Florida since 2009, as well as one of the top 50 lawyers in Tampa by Florida *Super Lawyers* magazine, the top sports lawyer in Tampa by *Tampa Magazine*, and one of Tampa Bay's most influential business leaders in the *Tampa Bay Business Journal* Power 100 list.

Mr. Kimbro is experienced in complex commercial litigation, including business torts, securities, professional negligence, noncompetition agreements, petroleum marketing, and creditors' rights litigation. He is a member of the firm's Healthcare & Life Sciences Industry Sector Group and has significant experience representing medical professionals and medical centers. He also has significant trial experience and is a certified mediator in both state and federal court.

In addition, Mr. Kimbro has held numerous positions of bar leadership, including President of the Tampa Bay Chapter of the Federal Bar Association, Chair of the Hillsborough County Bar Association's Trial and Litigation Section, and Chair of The Florida Bar's Thirteenth Circuit Grievance Committee. He currently serves on the executive council of the Wm. Reece Smith Inn of Court and as a trustee of the Hillsborough County Bar Foundation. Mr. Kimbro has been a frequent speaker for The Florida Bar, including numerous presentations at the Bar's Practicing with Professionalism seminars.

Mr. Kimbro graduated first in his law school class at the University of Florida, where he was a member of Florida Blue Key, Omicron Delta Kappa, and Order of the Coif, and he served as Managing Editor of the Florida Law Review. He has received the highest rating assigned by Martindale-Hubbell.

Mr. Kimbro has been a certified public accountant licensed in the State of Florida since 1988.

In addition to his trial practice and professional activities, Mr. Kimbro has served as President of the University Club of Tampa and is a former board member of the Tampa Theatre. He earned his private pilot's license in 1988.

Holland & Knight

Mr. Kimbro is a Florida Bar Board Certified Business Litigation attorney.

Honors & Awards

- *Chambers USA - America's Leading Business Lawyers* guide, Recognized Practitioner, Litigation: General Commercial, 2017
- Florida Legal Elite Hall of Fame, *Florida Trend* magazine, 2017-2019
- Power 100, *Tampa Bay Business Journal*, 2016, 2017
- Top Sports Law Attorney in Tampa, *Tampa Magazine*, 2016
- Corporate LiveWire Global Awards, Professional Negligence, 2015
- *The Best Lawyers in America* guide, Litigation - Securities, 2006-2018; Bet-the-Company Litigation, Commercial Litigation, Litigation - Mergers and Acquisitions, 2006-2020; Litigation - Real Estate, 2019, 2020; Litigation - Banking and Finance, 2020
- Florida Legal Elite, *Florida Trend* magazine, 2007-2019
- Florida *Super Lawyers* magazine, 2006-2019; Top 100 Lawyers in Florida beginning in 2009; Top 50 in Tampa Bay beginning in 2013
- Martindale-Hubbell AV Preeminent Peer Review Rated

Memberships

- Second District Court of Appeal Judicial Nominating Commission, 2015-2019; Chair, 2018-2019
- 13th Judicial Circuit Professionalism Committee 2014-2016
- Federal Bar Association, Tampa Bay Chapter, former President
- Hillsborough County Bar Association, Trial and Litigation Section, former Chair
- Hillsborough County Bar Foundation, Trustee
- The Florida Bar, Thirteenth Circuit Grievance Committee "B," former Chair
- American Bar Association
- American Bar Foundation, Fellow
- Litigation Counsel of America, Fellow
- Million Dollar Advocates Forum, 2006-present
- University Club of Tampa, former President
- Tampa Theatre, former Board of Directors member
- William Reece Smith Inn of Court, Master and former President

Publications

- Rule Amendments Provide for Electronic Service, Filing and Discovery, Co-Author, *Lawyer Magazine*, Hillsborough County Bar Association, September - October 2012
- Limits on Using Requests for Admission to Shift Attorneys' Fees, Co-Author, *Lawyer Magazine*, Hillsborough County Bar Association, Summer 2012

Holland & Knight

Speaking Engagements

- Florida Disrupted: How Game Changers Are Turning Industry Disruption into Opportunity in Tampa Bay, Closing Remarks and Insights, Holland & Knight Program, October 3, 2019
- Social Media Evidentiary Issues, Moderator, Tampa Bay Bankruptcy Bar Association CLE Program, May 14, 2019
- Practicing with Professionalism Seminar, The Florida Bar, Young Lawyers Division, March 29, 2019
- The Current Status of Tampa Bay Sports in 2019 – from Water Street to Rays 2020, Moderator, Holland & Knight and Sports Business and Leadership Association (SBLA) Program, March 28, 2019
- Deposition Boot Camp: Basics to Advanced, The Florida Bar, Business Law Section, May 19, 2017
- Staying in the Game: Getting to the Top, Moderator, Federal Bar Association Tampa Bay Chapter, April 4, 2017
- Team Physicians: Employee vs. Independent Contractor, Association of Corporate Counsel, Sports and Entertainment Committee Legal Quick Hit, December 16, 2014
- Accounting Litigation Support: Document Retention Strategies and Traps for the Unwary, Florida Institute of CPAs Mega CPE Conference, June 13, 2014

Education

- University of Florida Levin College of Law, J.D., *with high honors*
- University of Florida, M.A., Accounting
- University of Florida, B.S., Accounting, *with high honors*

Bar Admissions/Licenses

- Florida

Court Admissions

- All State Courts in Florida
- U.S. District Court for the Middle District of Florida
- U.S. District Court for the Southern District of Florida

Jessica Kramer



Associate
Tampa
813.227.6578
Jessica.Kramer@hklaw.com

Practices

Litigation and Dispute Resolution

Jessica Kramer is a litigation attorney in Holland & Knight's Tampa office.

Prior to joining Holland & Knight, Ms. Kramer served as a federal law clerk for two years to the Honorable James S. Moody, Jr. of the U.S. District Court for the Middle District of Florida. As a law clerk, Ms. Kramer's responsibilities included intensive analysis and application of various federal and state laws for cases involving alleged breaches of contract, class actions, employment discrimination, and many other claims.

Ms. Kramer has competed in national advocacy competitions and won several awards for brief-writing and oral argument. As a member of the Florida Moot Court Team at the University of Florida Levin College of Law, she competed at the 2016 John J. Gibbons National Criminal Procedure Moot Court Competition. Ms. Kramer and her teammate placed first at the competition out of 43 other law schools and Ms. Kramer was awarded best final round oralist. Ms. Kramer and her teammate also placed first at the 29th Annual Zimmerman Kiser Sutcliffe Final Four competition, and Ms. Kramer was awarded best overall competitor, best brief, and best oralist.

Ms. Kramer is passionate about community service and pro bono work. In law school, she received the Helen Gibel Blechman Memorial Award for earning the most community service hours in her graduating class. In 2017, she founded the University of Florida Levin College of Law's Bar Prep Mentoring Program, which provides support to University of Florida law school graduates studying for the Florida Bar examination. She also mentors a local high school student through the Hillsborough Education Foundation's Take Stock in Children Program.

Honors & Awards

- University of Florida Hall of Fame Inductee
- The Order of Barristers
- William C. Gaither Award, Most Outstanding Moot Court Team Member, 2016
- Girl Scout Gold Award

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Memberships

- The Florida Bar
- Wm. Reece Smith Jr. Litigation American Inn of Court
- Florida Blue Key, President, 2016; Vice President of Membership, 2015-2016
- Florida Moot Court Team, Executive Board Member

Education

- University of Florida Levin College of Law, J.D., *cum laude*
- University of Florida, B.S., Journalism and Psychology, *cum laude*

Bar Admissions/Licenses

- Florida

Court Admissions

- U.S. District Court for the Middle District of Florida

Holland & Knight



Anthony J. Palermo

ASSOCIATE

Anthony.Palermo@hklaw.com

Tampa

813.227.6320

PRACTICES

Litigation and Dispute Resolution | Regulatory and Federal Litigation |
Consumer Protection Defense and Compliance | Financial Services |
Financial Services Litigation | Financial Services Regulations |
Data Strategy, Security & Privacy | TCPA Class Action Litigation

INDUSTRIES

Healthcare & Life Sciences | Transportation & Infrastructure |
Technology & Telecommunications

Anthony J. Palermo is a Tampa litigation attorney who represents clients in complex commercial disputes, governmental investigations, enforcement actions, and administrative proceedings, arbitrations, and state and federal court litigation, including through trial and appeal. Mr. Palermo also advises clients on regulatory compliance and corporate governance issues with a particular focus on consumer protection and financial services laws and regulations. He has significant experience in the financial services, transportation, healthcare, and telecommunications industries.

Mr. Palermo has been recognized as one of the top lawyers in Tampa for commercial litigation by *Tampa Magazine*, one of the "Rising Stars" in the state of Florida by *Super Lawyers*, and as a "Legal Elite Up & Comer" for commercial litigation by *Florida Trend* magazine. In addition, he was previously recognized nationally as one of only five consumer protection attorneys to be honored as a *Law360 Rising Star* and named to its list of top attorneys "whose legal accomplishments transcend their age."

As part of his litigation practice, Mr. Palermo has represented multiple professional sports teams in Florida, including Major League Baseball and National Hockey League franchises, in various business disputes. As part of his regulatory practice, Mr. Palermo has been appointed a Special Assistant Attorney General to advise a state-run lending institution on compliance with consumer protection and banking laws.

In addition, Mr. Palermo has held various positions of bar leadership and is currently the Vice Chair of The Florida Bar's Consumer Protection Law Committee. He is a frequent speaker for The Florida Bar, and has presented at continuing legal education courses with state and federal judges on a range of substantive and procedural aspects of commercial litigation, consumer protection laws, and professionalism. He also has authored articles for multiple legal publications in these areas, and his published work has been quoted in law review articles, cited as support in appellate briefs by other lawyers before courts throughout Florida, and cited with approval in a [recent decision](#) by Florida's Second District Court of Appeal, which has appellate jurisdiction over the state courts in Hillsborough County, Florida, including Tampa.

Mr. Palermo's recent representative matters include:

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- defending a Florida-based international company, individual employee, and director in federal court in North Carolina and obtaining a final judgment in the defendants' favor and full dismissal of action seeking treble damages, punitive damages, and attorneys' fees based on claims of alleged fraud, misrepresentation, and violations of the Unfair and Deceptive Trade Practices Act (UDTPA) and Racketeer Influenced and Corrupt Organizations Act (RICO)
- represented a Major League Baseball (MLB) franchise in multiyear litigation subject to local and national media coverage
- represented an operator of a professional sports arena in a breach of contract action in federal court
- represented a National Hockey League (NHL) franchise in a trademark infringement dispute
- defending a surgery center in federal court against a putative class action arising from a data breach involving an alleged 142,000 patients; obtained an order dismissing all claims regarding a "novel" issue of law for which "circuit courts have reached conflicting conclusions" and that had "not been addressed by the Eleventh Circuit"
- prosecuting a breach of contract action on behalf of a business broker; obtained dismissal of counterclaims for fraud in the inducement and rescission, and obtained an order compelling the production of key discovery and subject of the claim for breach and awarding attorneys' fees and costs
- defending a financial services corporation against a putative class action based on alleged violations of the Florida Consumer Collection Practices Act (FCCPA) and Fair Debt Collection Practices Act (FDCPA); resolved on an individual basis with the plaintiff after filing a dispositive motion
- defending a debt-buying company and account-servicing corporation in seven different lawsuits filed by multiple plaintiffs in Florida state court and defeated claims of alleged FCCPA and FDCPA violations after removing to federal court, consolidating cases, and prevailing on a motion for summary judgment and obtaining an order granting final judgment in the defendants' favor
- representing a national bank in a three-day trial; obtained final judgment declaring that the client had a top priority security interest in the collateral
- prosecuting an action on behalf of a transportation and logistics company for breach of option contract and conversion; obtained order striking opposing party's responsive pleading
- defending a real estate development company against claims of alleged business torts and breach of contract; obtained dismissal with prejudice of multiple claims, including for civil theft

Mr. Palermo has twice received the President's Award from The Young Lawyers Division of The Florida Bar. In June 2019, he earned the honor for "outstanding service to the young lawyers of Florida and his contributions to the betterment of the legal profession." In June 2018, Mr. Palermo received the recognition for distinguished leadership, service and contributions to the legal profession for coordinating a statewide response to Hurricane Irma between the Federal Emergency Management Agency (FEMA), the American Bar Association (ABA), The Florida Bar, and legal aid providers and volunteer attorneys. As a result, more than 460 attorney volunteers provided free legal assistance to over 2,000 Floridians who could not afford to retain an attorney to address legal issues resulting from the storm.

While attending law school, Mr. Palermo was a teaching fellow at Harvard in the government department and received the Harvard University Certificate of Distinction in Teaching. Prior to law school, Mr. Palermo worked for the National Geospatial-Intelligence Agency, a combat support agency for the U.S. Department of Defense, where he held Top Secret/SCI level security clearance and traveled internationally as part of a U.S. delegation to the Global Dialogues on Emerging Science and Technology conference in Cape Town, South Africa.

Experience

Holland & Knight

Banking and Financial Services Litigation

- Represented a national bank in a three-day trial in an action for a breach of loan agreement, breach of promissory note, and breach of guaranty; obtained final judgment declaring that the client had a top priority security interest in fees payable to the borrower
- Defended former officers and directors of multiple community banks in three separate actions filed by the Federal Deposit Insurance Corp. (FDIC) for claims of alleged negligence, gross negligence, and breach of fiduciary duty
- Represented a business broker and a mergers and acquisitions (M&A) advisory firm in multistate litigation; obtained a publicly filed stipulation from the opposing party admitting contract was valid and enforceable, acknowledging liability under the contract, and withdrawing all prior allegations against the client
- Defended a bank against claims of breach of contract, fraud in the inducement, misleading advertisement, and negligent misrepresentation; obtained an order striking the claim for punitive damages and awarding attorneys' fees
- Defended multiple insurance companies against claims of tortious interference and unjust enrichment in a putative class action in a Florida state court; obtained order granting motion for sanctions and dismissal with prejudice

Probate Litigation

- Obtained final judgment in favor of individual clients in probate litigation after full evidentiary hearing

Healthcare Litigation

- Defended a surgery center against a putative class action; obtained dismissal of multiple claims and denial of motion for class certification in order where the federal court found "there is no clear consensus as to how the issue should be resolved," but "[c]onsidering the arguments on both sides, the Court agrees with [defendant]" as to "novel" issue of "whether a data breach on its own is an 'injury in fact'" and, therefore, "[t]he Court concludes the action should be dismissed" and plaintiffs "lack standing to sue"
- Defended a healthcare facility during a binding, two-day arbitration regarding a joint venture buyout dispute with a minority owner that implicated Stark Law and Anti-Kickback Statute; argued evidentiary issues and cross-examined opposing expert witness
- Obtained temporary injunction, then a permanent injunction and final judgment in favor of an assisted-living facility, allowing the facility to terminate a contract after full evidentiary hearing

Public Contracts and Public Finance Litigation

- Represented a client selected for an award of public contract in its response to request for a proposal and the ensuing evaluation process by the Hillsborough County Aviation Authority
- Represented a government-control district and body corporate of the State of Florida in a bond validation action; obtained final judgment that found the financing at issue was valid, legal, and binding, which validated and confirmed related proceedings by district

Corporate Compliance and Regulatory Guidance

- Appointed Special Assistant Attorney General and advised the state-run housing and lending authority regarding compliance with rules implemented by the Consumer Financial Protection Bureau (CFPB) under the Dodd-Frank Act and regulations enacted under the Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA)
- Advising a multinational pharmaceutical and medical-device company regarding compliance with the Telephone

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Consumer Protection Act (TCPA) and negotiated healthcare-related product delivery arrangements with multiple different companies on the client's behalf to reduce risk based on structuring agreement to qualify for relevant safe harbors and exceptions pursuant to regulations and orders of the Federal Trade Commission (FTC) and Federal Communications Commission (FCC)

- Advised a publicly traded retailer regarding regulatory compliance risks regarding the acquisition of a financial services company
- Advising one of the largest healthcare clinics in the Southeastern United States regarding compliance with various consumer protection laws and assisting with patient intake forms, privacy policies, and financial agreements
- Advising a multistate supermarket chain and pharmacy regarding compliance with TCPA and other privacy and consumer-related laws and regulations, as well as providing guidance for developing content of customer communications and messaging, preparing consent forms, and online and app-based terms of use and privacy policies

Governmental Investigations, Regulatory Examinations, and Administrative Proceedings

- Defended a leading company in the hospitality industry in an investigation by the CFPB, resulting in the government's closing of its investigation, withdrawal of its civil investigative demand and document-retention obligations, and a decision not to take enforcement action
- Represented a regional bank in Florida under examination by the Office of the Comptroller of the Currency (OCC) after the OCC questioned whether the bank's lending practices for foreign nationals complied with the Equal Credit Opportunity Act (ECOA); submitted an analysis of the practices in question resulting in the OCC concluding that the bank's practices did not present any fair lending issues
- Represented a storage corporation in an administrative appeal of a stop-work order and order of penalty assessment based on alleged violations of workers' compensation laws; obtained order significantly reducing assessed penalty
- Represented a construction company in an administrative appeal of a stop-work order and order of penalty assessment based on alleged violations of workers' compensation laws; obtained an order significantly reducing assessed penalty

Transportation Litigation

- Defended a hauling company and obtained an order denying a claim for punitive damages after multiple evidentiary hearings based upon, among other things, compliance with the U.S. Department of Transportation (DOT) standards, despite the court allowing the claim of punitive damages to proceed against the driver after the trucking accident
- Represented multiple transportation and logistics companies in various disputes related to noncompetition, nondisclosure, and nonsolicitation provisions in agreements with subcontractors
- Represented a transportation and logistics company in an indemnity action against a sub-hauler stemming from a prior personal injury action
- Represented a transportation and logistics company in a dispute with a former customer arising from a multiyear business relationship governed by tariffs and multiple contractual arrangements
- Defended a transportation and logistics company in a dispute with a shipping agency regarding invoices arising under an intermodal interchange and facilities access agreement

Telecommunications Litigation

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- Represented a telecommunications company in an adversary proceeding in bankruptcy court in a constructive fraudulent transfer action
- Represented a telecommunications company in a tax controversy and obtained summary judgment defeating the IRS' claim of a superior creditor interest in the client's real property
- Represented a telecommunications company in a multimillion-dollar, international dispute relating to multiple breach of contract claims and business torts
- Representing a leading global mobile and network communications company in an international contractual dispute with a national public telecommunications company operated by a foreign government

Credentials

Education

- Harvard Law School, J.D.
- The University of North Carolina at Chapel Hill, B.A., Political Science, minor in Philosophy, *with highest distinction*

Bar Admissions/Licenses

- Florida

Court Admissions

- U.S. District Court for the Middle District of Florida
- U.S. District Court for the Northern District of Florida
- U.S. Bankruptcy Court for the Middle District of Florida
- U.S. District Court for the Southern District of Florida
- U.S. Court of Appeals for the Fourth Circuit

Memberships

- The Florida Bar, Consumer Protection Law Committee, Vice Chair, 2019-Present; CLE Subcommittee Chair, 2018-2019; Appointed Member, 2016-Present
- The Florida Bar Young Lawyers Division (YLD), Board of Governors, 2017-2019
- American Bar Association Young Lawyers Division (YLD), District Representative for Florida, 2017-2019; Corporate Counsel Committee, Co-Chair, 2017-2019; Vice Chair 2015-2017; Litigation Committee, Vice Chair, 2014-2015
- The Florida Bar, Leadership Academy, Fellow, 2015-2016
- Hillsborough County Bar Association, Leadership Institute, Chair, 2014-2015
- Tampa Bay Carolina Club, President, 2016-2019
- Harvard College, Admissions Office, Interviewer
- Harvard Club of Tampa Bay, President, 2015-2017
- Best Buddies Tampa Bay, Advisory Board, 2012-2014
- Tampa Hispanic Bar Association

Honors & Awards

Holland & Knight

- Rising Star, Consumer Protection, *Law360*, 2018
- Top Lawyer, Commercial Litigation & Transactions Law, *Tampa Magazine*, 2017-2018
- President's Award, The Florida Bar YLD, 2018-2019
- Rising Star, Florida *Super Lawyers* magazine, 2015-2019
- Up & Comer, Florida Legal Elite, *Florida Trend* magazine, 2016-2019
- Star of the Quarter, American Bar Association YLD, Fall 2017
- Public and Charitable Service All-Star, Holland & Knight, 2018; Pro Bono All-Star, 2017-2019
- Proven Pro Bono Producer Award, Hillsborough County Bar Association, 2016-2019
- ABA Military Pro Bono Project Outstanding Services Award, 2018
- Up & Comer, Under 30 Category, *Tampa Bay Business Journal*, 2015
- Certificate of Distinction in Teaching, Harvard University
- Order of the Bell Tower, University of North Carolina at Chapel Hill

Publications

- Lessons Learned in Providing Disaster Legal Services in Florida, *ABA Law Practice Today*, December 2017
- The Parental Leave Rule: A Procedural Rule for Effecting Change, *Corporate Counsel ABA Young Lawyers Division Newsletter*, Fall 2017
- Watch Your Standing: Don't Trip on a Litigation "Oddity", Hillsborough County Bar Association, Vol. 28, No. 1, *Lawyer Magazine*, September 7, 2017
- 4 Things To Remember About Refill Reminder Compliance, *Law360*, July 13, 2017
- A Prescription for Complying with the TCPA's Proscriptions: *Zani v. Rite Aid Headquarters Corp.*, *Holland & Knight Publication*, July 6, 2017
- How To Respond When CFPB Comes Knocking, *Law360*, October 5, 2016
- Highlights from Seminar on Governmental Investigations Involving the Debt Collection Industry, *Holland & Knight Alert*, September 14, 2016
- Attention Lenders! The TILA-RESPA Integrated Disclosure Rule Is Taking Effect: Two New Disclosure Forms Are Required for Most Closed-End Consumer Mortgage Loans, *Corporate Counsel ABA Young Lawyers Division Newsletter*, Fall 2015
- Doctors as Debt Collectors? Healthcare Providers and the Florida Consumer Collection Practices Act, *Florida Law Review Forum*, Volume 67, September 2015

Speaking Engagements

- Protecting Consumers Who Have Unconventional Needs with Conventional Strategies: Making Florida Safe for Military and Elderly Consumers, Co-Presenter, The Florida Bar Consumer Protection Law Committee and the Elder Law Section, June 29, 2019
- Depositions, The Florida Bar Basic Discovery CLE, April 25, 2019
- Lending and Leasing to Servicemembers, Holland & Knight Webinar, April 4, 2019
- Practicing with Professionalism, The Florida Bar Continuing Legal Education Committee and YLD, March 29, 2019

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- Providing Pro Bono Assistance to Survivors of A Natural Disaster, ABA Consumer Financial Services Committee Meeting, January 10-13, 2019
- Insights and Perspective on Navigating Between In-House and Outside Counsel, ABA YLD Corporate Counsel Committee and Labor & Employment Committee, August 1, 2018
- Let's Work Together: Meeting a Corporate Client's Goals in a Representation, Moderator, ABA YLD Corporate Counsel and Litigation Committees Teleconference, July 25, 2018
- Doing Well While Doing Good: Public-Private Partnerships, Moderator, Florida Bar Consumer Protection Law Committee CLE, June 15, 2018
- Hot Topics in Corporate Law: The Telephone Consumer Protection Act, ABA YLD Corporate Counsel Committee Teleconference, February 28, 2018
- Business Torts and Remedies, The Florida Bar Basic Business Litigation 2018, February 23, 2018
- Practicing with Professionalism, The Florida Bar Continuing Legal Education Committee and YLD, August 4, 2017
- You've Heard from the CFPB and FTC: Now What?, Holland & Knight Webinar, October 19, 2016
- Basic Consumer Protection Law, The Florida Bar's Basic Business Law 2016, May 20, 2016
- You've Got the Right Stuff, Baby: What Corporate Counsel Look for in Outside Counsel, ABA YLD Corporate Counsel Committee Teleconference, Panelist, March 7, 2016
- Law Firm Management, ABA YLD Litigation Committee Teleconference, Moderator, January 27, 2015
- Careers in Criminal Law, ABA YLD Litigation Committee Teleconference, Moderator, November 14, 2014
- Practicing with Professionalism, The Florida Bar Continuing Legal Education Committee and YLD, Panelist, September 11, 2014

**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

ORDER GRANTING PLAINTIFF'S EMERGENCY EX PARTE MOTION FOR

APPOINTMENT OF RECEIVER AND MEMORANDUM OF LAW

WHEREAS, Plaintiff Securities and Exchange Commission has filed an emergency motion for the appointment of a Receiver over Defendants EquiAlt LLC, EquiAlt Fund, LLC EquiAlt Fund II, LLC, EquiAlt Fund III, LLC, and EA SIP, LLC (collectively the “Corporate Defendants”), and all of the Relief Defendants in this action with full and exclusive power, duty and authority to: administer and manage the business affairs, funds, assets, choses in action and any other property of the Corporate Defendants and Relief Defendants; marshal and safeguard all of the assets of the Corporate Defendants and Relief Defendants and take whatever actions are necessary for the protection of investors;

WHEREAS, the Court has found Plaintiff Securities and Exchange Commission has made a sufficient and proper showing of the relief requested by evidence demonstrating a *prima facie* case of violations of the federal securities laws by the Defendants.

WHEREAS this Court has subject matter jurisdiction over this action and personal jurisdiction over the Defendants, and venue properly lies in this district.

WHEREAS, the Commission has submitted the credentials of a candidate to be appointed as Receiver of all of the assets, properties, books and records, and other items of the Corporate Defendants and the Relief Defendants and the Commission has advised the Court that this candidate is prepared to assume this responsibility if so ordered by the Court.

NOW, THEREFORE, IT IS ORDERED AND ADJUDGED that Burton Wiand, Esq. is hereby appointed the Receiver over the Corporate Defendants and Relief Defendants,

each of their subsidiaries, successors and assigns, and is hereby authorized, empowered, and directed to:

1. Take immediate possession of all property, assets and estates of every kind of the Corporate Defendants and Relief Defendants whatsoever and wheresoever located, including but not limited to all offices maintained by the Corporate Defendants and Relief Defendants, rights of action, books, papers, data processing records, evidences of debt, bank accounts, savings accounts, certificates of deposit, stocks, bonds, debentures and other securities, mortgages, furniture, fixtures, office supplies and equipment, and all real property of the Corporate Defendants and Relief Defendants, wherever situated, and to administer such assets as is required in order to comply with the directions contained in this Order, and to hold all other assets pending further order of this Court;

2. Investigate the manner in which the affairs of the Corporate Defendants and Relief Defendants were conducted and institute such actions and legal proceedings, for the benefit and on behalf of the Corporate Defendants and Relief Defendants and their investors and other creditors as the Receiver deems necessary against those individuals, corporations, partnerships, associations and/or unincorporated organizations which the Receiver may claim have wrongfully, illegally or otherwise improperly misappropriated or transferred money or other proceeds directly or indirectly traceable from investors in EquiAlt Fund, LLC, EquiAlt Fund II, LLC, EquiAlt Fund III, LLC, and EA SIP, LLC, their officers, directors, employees, affiliates, subsidiaries, or any persons acting in concert or participation with them, or against any transfers of money or other proceeds directly or indirectly traceable from investors in EquiAlt Fund, LLC, EquiAlt Fund II, LLC, EquiAlt

Fund III, LLC, and EA SIP, LLC; provided such actions may include, but not be limited to, seeking imposition of constructive trusts, disgorgement of profits, recovery and/or avoidance of fraudulent transfers, rescission and restitution, the collection of debts, and such orders from this Court as may be necessary to enforce this Order;

3. Present to this Court a report reflecting the existence and value of the assets of the Corporate Defendants and Relief Defendants and of the extent of liabilities, both those claimed to exist by others and those the Receiver believes to be legal obligations of the Corporate Defendants and Relief Defendants;

4. Appoint one or more special agents, employ legal counsel, actuaries, accountants, clerks, consultants and assistants as the Receiver deems necessary and to fix and pay their reasonable compensation and reasonable expenses, as well as all reasonable expenses of taking possession of the assets and business of the Corporate Defendants and Relief Defendants and exercising the power granted by this Order, subject to approval by this Court;

5. Engage persons in the Receiver's discretion to assist the Receiver in carrying out the Receiver's duties and responsibilities, including, but not limited to, the United States Marshal's Service, accountants, or a private security firm;

6. Defend, compromise or settle legal actions, including the instant proceeding, in which the Corporate Defendants, the Relief Defendants, or the Receiver are a party, commenced either prior to or subsequent to this Order, with authorization of this Court; except, however, in actions where the Corporate Defendants or Relief Defendants are a nominal party, where the action does not effect a claim against or adversely affect the assets of Corporate

Defendants or Relief Defendants, the Receiver may file appropriate pleadings at the Receiver's discretion. The Receiver may waive any attorney-client or other privilege held by the Corporate Defendants or Relief Defendants;

7. Assume control of, and be named as authorized signatory for, all accounts at any bank, brokerage firm or financial institution which has possession, custody or control of any assets or funds, wherever situated, of the Corporate Defendants or Relief Defendants and, upon, order of this Court, of any of their subsidiaries or affiliates, provided that the Receiver deems it necessary;

8. Make or authorize such payments and disbursements from the funds and assets taken into control, or thereafter received by the Receiver, and incur, or authorize the incurrence of, such expenses and make, or authorize the making of, such agreements as may be reasonable, necessary, and advisable in discharging the Receiver's duties;

9. Have access to and review all mail of Corporate Defendants or Relief Defendants (except for mail that appears on its face to be purely personal or attorney-client privileged) received at any office or address of Corporate Defendants or Relief Defendants.

IT IS FURTHER ORDERED AND ADJUDGED that, in connection with the appointment of the Receiver provided for above:

10. The Corporate Defendants or Relief Defendants and all of their directors, officers, agents, employees, attorneys, attorneys-in-fact, shareholders, and other persons who are in custody, possession, or control of any assets, books, records, or other property of the Defendants and Relief Defendants shall deliver forthwith upon demand such property,

money, books and records to the Receiver, and shall forthwith grant to the Receiver authorization to be a signatory as to all accounts at banks, brokerage firms or financial institutions which have possession, custody or control of any assets or funds in the name of or for the benefit of the Corporate Defendants and Relief Defendants;

11. All banks, brokerage firms, financial institutions, and other business entities which have possession, custody or control of any assets, funds or accounts in the name of, or for the benefit of the Corporate Defendants and Relief Defendants shall cooperate expeditiously in the granting of control and authorization as a necessary signatory as to said assets and accounts to the Receiver;

12. Unless authorized by the Receiver, the Corporate Defendants and Relief Defendants and their principals shall take no action, nor purport to take any action, in the name of or on behalf of the Corporate Defendants and Relief Defendants;

13. The Corporate Defendants and Relief Defendants, their principals, and their respective officers, agents, employees, attorneys, and attorneys-in-fact, shall cooperate with and assist the Receiver. The Corporate Defendants and Relief Defendants and their principals and respective officers, agents, employees, attorneys, and attorneys-in-fact shall take no action, directly or indirectly, to hinder, obstruct, or otherwise interfere with the Receiver in the conduct of the Receiver's duties or to interfere in any manner, directly or indirectly, with the custody, possession, management, or control by the Receiver of the funds, assets, premises, and choses in action described above;

14. The Receiver, and any counsel whom the Receiver may select, are entitled to reasonable compensation from the assets now held by or in the possession or control of or which may be received by the Corporate Defendants and Relief Defendants; said amount or amounts of compensation shall be commensurate with their duties and obligations under the circumstances, subject to approval of the Court;

15. During the period of this receivership, all persons, including creditors, banks, investors, or others, with actual notice of this Order, are enjoined from filing a petition for relief under the United States Bankruptcy Code without prior permission from this Court, or from in any way disturbing the assets or proceeds of the receivership or from prosecuting any actions or proceedings which involve the Receiver or which affect the property of the Corporate Defendants and Relief Defendants;

16. The Receiver is fully authorized to proceed with any filing the Receiver may deem appropriate under the Bankruptcy Code as to the Corporate Defendants and Relief Defendants;

17. Title to all property, real or personal, all contracts, rights of action and all books and records of the Corporate Defendants and Relief Defendants and their principals, wherever located within or without this state, is vested by operation of law in the Receiver;

18. Upon request by the Receiver, any company providing telephone services to the Corporate Defendants or Relief Defendants shall provide a reference of calls from any number presently assigned to the Defendants and Relief Defendants to any such number

designated by the Receiver or perform any other changes necessary to the conduct of the receivership;

19. Any entity furnishing water, electric, telephone, sewage, garbage or trash removal services to the Corporate Defendants or Relief Defendants shall maintain such service and transfer any such accounts to the Receiver unless instructed to the contrary by the Receiver;

20. The United States Postal Service is directed to provide any information requested by the Receiver regarding the Corporate Defendants or Relief Defendants as directed by the Receiver;

21. No bank, savings and loan association, other financial institution, or any other person or entity shall exercise any form of set-off, alleged set-off, lien, or any form of self-help whatsoever, or refuse to transfer any funds or assets to the Receiver's control without the permission of this Court;

22. No bond shall be required in connection with the appointment of the Receiver. Except for an act of gross negligence or greater, the Receiver shall not be liable for any loss or damage incurred by the Corporate Defendants or Relief Defendants, or by the Receiver's officers, agents or employees, or any other person, by reason of any act performed or omitted to be performed by the Receiver in connection with the discharge of the Receiver's duties and responsibilities;

23. Service of this Order shall be sufficient if made upon the Corporate Defendants or Relief Defendants and their principals by facsimile or overnight courier;

24. In the event the Receiver discovers that funds of persons who have invested in EquiAlt Fund, LLC EquiAlt Fund II, LLC, EquiAlt Fund III, LLC, and EA SIP, LLC have been transferred to other persons or entities, the Receiver shall apply to this Court for an Order giving the Receiver possession of such funds and, if the Receiver deems it advisable, extending this receivership over any person or entity holding such investor funds;

25. This Court shall retain jurisdiction of this matter for all purposes;

26. Within thirty (30) days after the end of each calendar quarter, the Receiver shall file and serve a full report and accounting of each Receivership Estate (the “Quarterly Status Report”), reflecting (to the best of the Receiver’s knowledge as of the period covered by the report) the existence, value, and location of all Receivership Property, and of the extent of liabilities, both those claimed to exist by others and those the Receiver believes to be legal obligations of the Receivership Estates;

27. The Quarterly Status Report shall contain the following:

- A. A summary of the operations of the Receiver;
- B. The amount of cash on hand, the amount and nature of accrued administrative expenses, and the amount of unencumbered funds in the estate;
- C. A schedule of all the Receiver’s receipts and disbursements (attached as Exhibit A to the Quarterly Status Report), with one column for the quarterly period covered and a second column for the entire duration of the receivership;
- D. A description of all known Receivership Property, including approximate or actual valuations, anticipated or proposed dispositions, and reasons for retaining assets where no disposition is intended;

- E. A description of liquidated and unliquidated claims held by the Receivership Estate, including the need for forensic and/or investigatory resources; approximate valuations of claims; and anticipated or proposed methods of enforcing such claims (including likelihood of success in: (i) reducing the claims to judgment; and, (ii) collecting such judgments);
- F. A list of all known creditors with their addresses and the amounts of their claims;
- G. The status of Creditor Claims Proceedings, after such proceedings have been commenced; and,
- H. The Receiver's recommendations for a continuation or discontinuation of the receivership and the reasons for the recommendations.

28. Subject to Paragraphs 29 - 35 immediately below, the Receiver need not obtain Court approval prior to the disbursement of Receivership Funds for expenses in the ordinary course of the administration and operation of the receivership. Further, prior Court approval is not required for payments of applicable federal, state or local taxes;

29. Subject to Paragraph 30 immediately below, the Receiver is authorized to solicit persons and entities ("Retained Personnel") to assist him in carrying out the duties and responsibilities described in this Order. The Receiver shall not engage any Retained Personnel without first obtaining an Order of the Court authorizing such engagement;

30. The Receiver and Retained Personnel are entitled to reasonable compensation and expense reimbursement from the Receivership Estates as described in the "Billing Instructions for Receivers in Civil Actions Commenced by the U.S. Securities and Exchange Commission" (the "Billing Instructions") agreed to by the Receiver. Such

compensation shall require the prior approval of the Court;

31. Within forty-five (45) days after the end of each calendar quarter, the Receiver and Retained Personnel shall apply to the Court for compensation and expense reimbursement from the Receivership Estates (the “Quarterly Fee Applications”). At least thirty (30) days prior to filing each Quarterly Fee Application with the Court, the Receiver will serve upon counsel for the SEC a complete copy of the proposed Application, together with all exhibits and relevant billing information in a format to be provided by SEC staff;

32. All Quarterly Fee Applications will be interim and will be subject to cost benefit and final reviews at the close of the receivership. At the close of the receivership, the Receiver will file a final fee application, describing in detail the costs and benefits associated with all litigation and other actions pursued by the Receiver during the course of the receivership;

33. Quarterly Fee Applications may be subject to a holdback in the amount of 20% of the amount of fees and expenses for each application filed with the Court. The total amounts held back during the course of the receivership will be paid out at the discretion of the Court as part of the final fee application submitted at the close of the receivership;

34. Each Quarterly Fee Application shall:

- A. Comply with the terms of the Billing Instructions agreed to by the Receiver; and,
- B. Contain representations (in addition to the Certification required by the Billing Instructions) that: (i) the fees and expenses included therein were incurred in the best interests of the Receivership Estate; and, (ii) with the exception of the Billing Instructions, the Receiver has not entered into any agreement, written or oral,

express or implied, with any person or entity concerning the amount of compensation paid or to be paid from the Receivership Estate, or any sharing thereof.

35. At the close of the Receivership, the Receiver shall submit a Final Accounting, in a format to be provided by SEC staff, as well as the Receiver's final application for compensation and expense reimbursement;

36. On the request of the Commission, the Receiver shall provide the Commission with any documentation that the Commission deems necessary to meet its reporting requirements, that is mandated by statute or Congress, or that is otherwise necessary to further the Commission's mission.

37. The Receiver has a continuing duty to ensure that there are no conflicts of interest between the Receiver, his Retained Personnel, and the Receivership Estate.

DONE AND ORDERED this ____ day of February 2020, in Tampa, Florida.

UNITED STATES DISTRICT JUDGE

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