

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

SECURITIES AND EXCHANGE
COMMISSION,

CASE NO. 8:20-CV-325-T-35AEP

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.

RECEIVER’S UNOPPOSED MOTION TO APPROVE RETENTION OF PDR

Burton W. Wiand, as receiver over the assets of the above-captioned Corporate Defendants and Relief Defendants (the “**Receiver**” and the “**Receivership**”), moves the Court to approve his engagement of PDR CPAs (“**PDR**”), a tax accounting firm. As explained below, the Receiver seeks assistance from this accounting firm because this Receivership involves complex facts and circumstances, including at least 1100 investors, ongoing business operations and complex accounting and tax issues related to the numerous interrelated corporate entities involved in this case.

BACKGROUND

This case was filed on February 11, 2020. On February 14, 2020, the Court entered a temporary restraining order and an asset freeze [Doc. 10] and an order appointing Mr. Wiand as Receiver over the Corporate and Relief Defendants named in the action (“Order Appointing Receiver”) [Doc.11]. This Order directed the Receiver to “[t]ake immediate possession of all property, asset 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, . . . 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 asset pending further order of this Court.” Order Appointing Receiver, Doc. 11 at ¶1. The Order also specifically authorized the retention of certain professionals to assist the Receiver in meeting his duties – forensic accountants Yip and Associates, information technology consultants E-Hounds, counsel

specializing in IT research – Robert Stines, RWJ Group, and investigators and counsel in Phoenix. *Id.* at ¶3. The Order Appointing Receiver also authorizes the Receiver to “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, . . . accountants. . . .” *Id.* at ¶ 6. It is unclear whether Court approval is required, but in an abundance of caution, the Receiver is seeking the Court’s approval in the retention of PDR.

PDR CPAs

PDR is an accounting firm that specializes in tax matters, and Bill Price is one of its principals. Mr. Price’s biographical information is attached as **Exhibit A**, and additional information about PDR is available at www.pdr-cpa.com. As distinct from the forensic accounting work which Yip and Associates is performing for the Receiver, PDR’s role will involve internal Receivership accounting, financial reporting, and tax preparation and filing. Additionally, PDR will assist in certain internal accounting for EquiAlt. Mr. Price and his firm have provided internal accounting services for a number of receiverships and have extensive experience with the tax treatment of settlement funds. Because PDR’s proposed role is relatively discrete, the Receiver has not requested Mr. Price or the firm’s other accountants to discount their standard rates. Their rates are as follows:

- Partner/principal \$320
- Manager \$210
- Senior \$180
- Staff \$125
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MEMORANDUM OF LAW

The Court’s power to supervise an equity receivership and to determine the appropriate actions to be taken in the administration of the receivership is extremely broad. *See, e.g., S.E.C.*

v. Elliott, 953 F.2d 1560, 1566 (11th Cir. 1992); *S.E.C. v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986). The Court's wide discretion derives from the inherent powers of an equity court to fashion relief. *Elliott*, 953 F.2d at 1566; *S.E.C. v. Safety Finance Service, Inc.*, 674 F.2d 368, 372 (5th Cir. 1982).

As noted above, the Order Appointing Receiver authorizes the Receiver to retain professionals to assist him in carrying out his mandate, but requires the Receiver to seek the Court's approval of that retention. The Receiver thus seeks the Court's approval of his retention of PDR to provide the above-described services. As demonstrated by the exhibit attached to this motion, PDR has extensive experience in its field and has had prior experience with federal equity receiverships. Because of the size and complexity of this Receivership, the Receiver seeks PDR's assistance to accomplish his mandate as set forth in the Order Appointing Receiver.

LOCAL RULE 3.01(G) CERTIFICATION

Undersigned counsel for the Receiver has conferred with counsel for the SEC and the individual Defendants and is authorized to represent to the Court that these parties do not object to the relief requested in this motion.

Respectfully submitted,

/s/Katherine C. Donlon

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Attorneys for the Receiver, Burton W. Wiand

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 9, 2020, I electronically filed a true and correct copy of the foregoing with the Clerk of the Court through the CM/ECF system, which served counsel of record.

/s/ Katherine C. Donlon
Katherine C. Donlon, FBN 0066941

EXHIBIT A

Bill Price, CPA

Managing Principal

Phone: 727.785.4447

Email: bprice@pdr-cpa.com



EMPLOYMENT

- Principal, PDR CPAs + Advisors - Clearwater, Florida, 1974-Present

EXPERIENCE

- Corporate tax planning
- Mergers and acquisitions
- Buy/sell agreements
- Expert witness in mediation and litigation
- Retirement planning
- Estate and gift planning
- Analysis of real estate and other investments
- Accounting and tax compliance for multiple Federal and State receiverships

EDUCATION

- BS-Accounting, Florida State University

PROFESSIONAL AFFILIATIONS

- Licensed Certified Public Accountant in Florida
- Life Member Florida Institute of Certified Public Accountants

COMMUNITY AFFILIATIONS

- Career Services Pinellas Post Board Chair

