

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

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**v.**

**Case No: 8:20-cv-325-T-35AEP**

**BRIAN DAVISON, BARRY M. RYBICKI,  
EQUIALT LLC, EQUIALT FUND, LLC,  
EQUIALT FUND II, LLC, EQUIALT  
FUND III, LLC, EA SIP, LLC, 128 E.  
DAVIS BLVD, LLC, 310 78TH AVE, LLC,  
551 3D AVE S, LLC, 604 WEST  
AZEEL, 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, and  
TB OLDEST HOUSE EST. 1842, LLC,**

**Defendants.**

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**ORDER**

**THIS CAUSE** came before the Court for a hearing on May 21, 2020, upon Non-Party, Bank of America, N.A.'s Motion for Clarification, (Dkt. 93), and the Court having reviewed the Motion and exhibits, heard argument of counsel for the Defendants and Relief Defendants, counsel for the accountholders listed in paragraph 2 below, counsel for the Securities and Exchange Commission, counsel for the Court-appointed Receiver, and counsel for Bank of America, N.A. and being otherwise duly advised in the premises, hereby **ORDERS**, as follows:

1. Non-Party, Bank of America, N.A.'s Motion for Clarification, (Dkt. 93), is hereby **GRANTED** to the extent set forth herein.

2. Bank of America, N.A. (hereinafter, "Bank of America" or the "Bank") froze the following accounts and funds therein and the safe deposit box and the contents therein, in response to the Sealed Order Granting Emergency *Ex Parte* Motion for Temporary Restraining Order, Asset Freeze, and Other Injunctive Relief (the "Temporary Restraining Order"), (Dkt. 10), and the Agreed Order Extending and Modifying Asset Freeze (the "Asset Freeze Order"), (Dkt. 31), (collectively referred to as the "Freeze Orders"):

- a. the account ending in -8441 (titled in the name of Equialt Qualified Zone Fund, LLP) (the "QOZ 8441 Account");
- b. the account ending in -4079 (titled Equialt Secured Income Portfolio REIT, Inc.) (the "4079 REIT Account");
- c. the account ending in -5648 (titled Equialt Secured Income Portfolio REIT Inc./Equialt REIT) (the "5648 REIT Account", and together with the 4079 REIT Account, the "REIT Accounts");
- d. the account ending in -4150 (titled in the name of Equialt Capital Advisors);
- e. the account ending in -4082 (titled in the name of Equialt Property Management LLC);
- f. the account ending in -4008 (titled in the name of Equialt Secured Income Portfolio Limited Partnership);
- g. the account ending in -6911 (titled in the name of Equialt Property Management, LLC);

- h. the account ending in -5126 (titled in the name of Equialt Property Management, LLC);
  - i. the account ending in -5113 (titled in the name of Equialt Property Management, LLC);
  - j. the account ending in -8041 (titled in the name of The Brian D. Davison Revocable Trust);
  - k. the account ending in -4147 (titled in the name of Equialt Holdings, LLC);
  - l. the account ending in -4011 (titled in the name of Equialt Secured Income Portfolio) (all accounts listed in sections a through l, inclusive, are collectively referred herein, including the funds therein, as the "Accounts");
- and
- m. the safe deposit box ending in -3300 (titled in the name of Brian Davison and Nicole Davison) (including contents, referred herein as the "Box").

3. Except as set forth herein, Bank of America shall keep the Accounts and the Box frozen in compliance with the Freeze Orders until further ordered from this Court.

4. Bank of America is hereby authorized and directed to temporarily lift the hold/freeze on the QOZ 8441 Account and issue a check from the QOZ 8441 Account in the amount of \$20,000.00 payable to Park Point Advisors, LLC and send the same to the attention of Brent P. Metzler at 410 S. Cedar Avenue Tampa, FL 33606, on or before **Friday, May 29, 2020 at 12:00 PM.**

5. Bank of America is also hereby authorized and directed to temporarily lift the hold/freeze on the 4079 REIT Account and issue a check from the 4079 REIT Account in the amount of \$80,000.00 payable to Park Point Advisors, LLC and send the same to

the attention of Brent P. Metzler at 410 S. Cedar Avenue Tampa, FL 33606, on or before **Friday, May 29, 2020 at 12:00 PM.**

6. Park Point Advisors, LLC (hereinafter “PPA”) shall have full authority to manage the Equialt Qualified Zone Fund, LLP (hereinafter “QOZ”) and Equialt Secured Income Portfolio REIT, Inc. (hereinafter “REIT”) until such time as there is a final order of the Court determining whether or not these entities are included within the scope of the Receiver’s exclusive authority. PPA’s management of the QOZ and REIT Entities is to exclude management and/or access to the QOZ 8441 Account and/or the REIT Accounts or any funds therein, with the exception of the funds encompassed by the checks referenced in Paragraphs 4 and 5. The management of QOZ and REIT includes the following: (a) making all payments for the effective management of those entities, either in the ordinary course of their business or otherwise; (b) entering into whatever contracts are needed, in the judgment of PPA, in connection with the management of the QOZ and REIT Entities; (c) employing whatever persons PPA deems useful to the management of the QOZ and REIT Entities, except that until such final determination of the Court it shall **NOT HIRE** Brian Davison in any capacity, and (d) taking whatever other actions PPA determines are needed in connection with the properties of the QOZ and REIT Entities, including, but not limited to, making improvements to properties or leasing properties. However, PPA shall not encumber, sell or dispose of, or promise to sell or dispose of, any properties, absent prior approval of the Court. The Receiver shall promptly make available to PPA all information requested by PPA to manage the properties of the QOZ and REIT. This includes promptly taking such steps to ensure that PPA has online access to the AppFolio interface.

7. In connection with its management of QOZ and REIT, PPA shall open accounts at a financial institution other than Bank of America. Brian Davison shall not have signatory authority over any account associated with PPA's management of QOZ and REIT.

8. Bank of America shall not be held liable to anyone for temporarily releasing the hold/freeze on the QOZ 8441 Account and the 4079 REIT Account to issue checks pursuant to Paragraphs 4 and 5 of this Order and for any resulting transactions being posted on the QOZ 8441 Account and/or the 4079 REIT Account as a result of temporarily lifting the hold/freeze on said accounts.

9. Upon the issuance of the checks from the QOZ 8441 Account and the 4079 REIT Account, Bank of America is hereby directed to reinstate the freeze on the QOZ 8441 Account and the 4079 REIT Account until further order of this Court instructing otherwise.

10. Upon the entry of an order by this Court determining whether the Accounts are subject to the Receivership, Bank of America will be directed as to the proper disposition of the Accounts.

11. With regards to the Box, Bank of America is hereby directed and authorized to permit access to and inventory of the Box, located at the Davis Island Financial Center at 337 E Davis Blvd, Tampa, FL 33606.

12. Counsel representing Defendant Brian Davison and Counsel for the Receiver, shall mutually coordinate the date and time for the inspection of the Box, along with counsel for Bank of America.

13. The Receiver's counsel, the SEC's counsel or an agent of their choosing shall be present at the time of the inspection of the Box. The identity of the counsel or agent that will be attending the inspection is to be provided in writing to Bank of America's counsel five (5) days prior to the date of the inspection.

14. Bank of America and/or Bank of America's agent may be present at the time of the inspection of the Box.

15. Non-party, Nicole Davison and/or her counsel and/or Davison's counsel or other designee may be present at the time of the inspection of the Box and will procure the key to open the Box. The identity of the counsel or other designee that will be attending the inspection is to be provided in writing to Bank of America's counsel five (5) days prior to the date of the inspection.

16. If a key to the Box is not procured by Defendant, Brian Davison or non-party, Nicole Davison, Bank of America is authorized to permit drilling of the Box, if necessary, and the drilling costs will be borne as agreed by Brian Davison's counsel and counsel for the Receiver in advance of the inventory.

17. Any additional costs incurred in accessing and inspecting the contents of the Box will be borne as agreed by counsel for the Receiver and counsel for Brian Davison in advance of the inventory.


18. Upon inventory of the Box, the contents, if any, are to be immediately returned to the Box. No contents from the Box are to be removed from the Box until ordered by this Court.

19. Bank of America, a non-party, shall not be held liable to anyone, including but not limited to, the SEC, the Receiver, the non-party, Nicole Davison and Defendant,

Brian Davison for complying with this Order with respect to the inventory contents of the Box.

20. This Court shall retain jurisdiction over this matter, the Defendants, and the Relief Defendants in order to implement and carry out the terms of all Orders and Decrees that may be entered.

**DONE** and **ORDERED** in Tampa, Florida, this 26th day of May, 2020.

  
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MARY S. SCRIVEN  
UNITED STATES DISTRICT JUDGE

**Copies furnished to:**

Counsel of Record

Counsel for Non-Party, Bank of America, N.A.