

**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.

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**RECEIVER'S RESPONSE TO THE COURT'S ORDER REGARDING PDR**

On May 11, 2020, the Court entered an endorsed order approving the retention of PDR CPAs ("PDR") and directing Burton W. Wiand, as receiver over the assets of the above-captioned Corporate Defendants and Relief Defendants (the "Receiver" and the "Receivership"), to provide the maximum number of hours anticipated to be incurred by PDR (Doc. 85). The Court requested this information to maintain accountability and directed that it be provided to the Court within seven days. *Id.*

On February 14, 2020, the Court entered an order appointing Mr. Wiand as Receiver ("Order Appointing Receiver") (Doc.11). Paragraph 6 of the Order Appointing Receiver provides for the Receiver to engage persons "to assist the Receiver in carrying out the Receiver's duties and responsibilities, including . . . accountants . . ." To that end, the Receiver retained PDR to assist with general accounting and tax services for the Receivership. Out of an abundance of caution, the Receiver filed an unopposed motion to approve the retention of PDR on April 9, 2020 (the "Motion") (Doc. 76).

As stated in the Motion, PDR is an accounting firm that has provided internal accounting services for a number of receiverships and has extensive experience with the tax treatment of settlement funds. Doc. 76. PDR's role involves internal Receivership accounting, financial reporting, tax preparation and filing, and internal accounting for EquiAlt. The Court's May 11, 2020 Order specifically approved the retention of PDR for these purposes. (Doc. 85) Given the nature of these services, it is anticipated that PDR will provide such services throughout the duration of the Receivership. For instance, PDR prepared the accounting reports for the Receiver's First Quarterly Status Report (Doc. 84), which are required by the Order Appointing

Receiver and the Securities and Exchange Commission (“SEC”).<sup>1</sup> Doc. 11, ¶ 29. The Receiver will continue to use PDR’s services to prepare these accounting reports throughout the Receivership. Further, the Receiver intends to use PDR to prepare all necessary tax returns, including a final tax return as well as a final accounting. Also, the Receiver will utilize PDR to provide additional accounting resources for the Receivership Entities’ day to day operations. This would include accumulation of and review of accounting data generated by EquiAlt staff to assist the Receiver with operational decisions.

Given the early stage of this Receivership it is not possible to predict when the Receiver will have completed his responsibilities under the Order Appointing Receiver and will be able to request that the Court enter an order to close the Receivership. Because PDR will be providing accounting and tax services for the duration of the Receivership, it is likewise not possible to predict the maximum number of hours PDR will incur.

However, to achieve the Court’s purpose of maintaining accountability, Bill Price, a principal of PDR, has agreed to a maximum of \$15,000 for PDR’s services for each of the first three months of the Receivership and then a maximum of \$6,000 for each month thereafter.<sup>2</sup> The Receiver does not expect that PDR will incur the maximum amount every month as the Receivership progresses. The maximum of \$6,000 for later months allows for those months where PDR is preparing accounting reports, tax returns, and expected distributions to victim

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<sup>1</sup> The SEC provided the Receiver with detailed Billing Instructions for Receivers in Civil Actions Commenced by the Commission (the “**Billing Instructions**”). A Standardized Accounting Report is one of the requirements contained in the Billing Instructions.

<sup>2</sup> Given the range of hourly rates for various PDR personnel, the Receiver thought it might be more reasonable to provide an anticipated billing amount rather than number of hours.

investors. Although the Receivership is nascent, given his experience in other receiverships, the Receiver believes that the maximum amounts set forth above are a reasonable estimation of the maximum monthly amounts PDR will incur for its services throughout the duration of the Receivership.

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 May 18, 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