

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

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

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

BRIAN DAVISON,  
BARRY M. RYBICKI,  
EQUIALT LLC,  
EQUIALT FUND, LLC,  
EQUIALT FUND II, LLC,  
EQUIALT FUND III, LLC,  
and 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,  
and TB OLDEST HOUSE EST. 1842, LLC,

Relief Defendants.

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**AGREED MOTION FOR CONTINUANCE OF SHOW CAUSE HEARING**

The Defendant BRIAN DAVISON (“Davison”), by and through undersigned counsel, files this Agreed Motion for Continuance of Show Cause Hearing and states:

1. On May 20, 2020, the Court ordered that a show cause hearing (on the Plaintiff’s Preliminary Injunction motion) would be held by Zoom on June 16, 2020. Paperless Order (ECF 92). On June 2, 2020, Defendant Rybicki sought a motion to continue the hearing for 30 days, which the Court granted. Motion to Continue (ECF 103); Order Continuing Hearing (ECF 104). The Court’s Order provided that the hearing would take place on July 16, 2020, but would take place in the Court’s Tampa, Florida courtroom. Id.

2. In the intervening month since the Court issued this Order, the number of coronavirus cases in Florida, including in the Tampa Bay area, has spiked dramatically. See, e.g., “Tampa Cancels Boom By the Bay 4<sup>th</sup> of July Celebration Because of Recent COVID-19 Spike,” <https://www.wtsp.com/article/news/health/coronavirus/tampa-cancels-boom-by-the-bay/67-647139bc-03b0-4cb1-b57e-8037a59587bf> (last accessed on June 30, 2020). Furthermore, New York and New Jersey, where Davison’s counsel Howard Fischer lives and practices, have imposed new restrictions relating to travel to and from Florida.

3. In light of the unprecedented situation and potential health risks due to the parties’ travel to Tampa and to save financial resources, Davison and Rybicki respectfully request that the Court allow the parties to participate in the upcoming Show Cause hearing through the use of a court-authorized videoconference system. Counsel for Davison and Rybicki have spoken with counsel for Plaintiff, SEC Trial Attorney Alise Johnson, who has authorized movant to state that she agrees to this relief.

4. In addition, Davison seeks a short continuance of the July 16, 2020 hearing to July 30, 2020 or July 31, 2020, for personal reasons. That week appears to be the only week that,

because of the various commitments of family members, and availability of housing, Howard Fischer would be able to spend a week with his parents and children at a family cottage to celebrate his mother's 80<sup>th</sup> birthday. Mr. Fischer's parents, like him, have been sheltering in place since the beginning of the pandemic in early March. New York City, where his office is located, and New Jersey, where he and his parents live, has been the epicenter of the pandemic until recently. Because of that, Mr. Fischer has seen his parents only once since early February. Mr. Fischer's son will shortly return to his law school after that date. As this is Mr. Fischer's mother's 80th birthday and she is in ill-health, he would like the opportunity for what might be a last family vacation together, even if it is simply to shelter in place in another location.

5. Davison has spoken with counsel for Rybicki and counsel for Plaintiff, and all parties agree with Davison's request to move the hearing to either July 30, 2020 or July 31, 2020.<sup>1</sup>

6. This Motion is brought in good faith and is not intended to unduly delay proceedings in the above-styled action. This Motion is accompanied by a proposed Order attached hereto as **Exhibit "A."**

WHEREFORE, Defendant Brian Davison, along with Defendant Barry Rybicki respectfully request that this Court grant this agreed motion and enter an order continuing the Order to Show Cause hearing until July 30, 2020 or July 31, 2020 and to allow the parties to participate in the upcoming Show Cause hearing through the use of a court-authorized videoconference system

LOCAL RULE 3.01(g) CERTIFICATE

Pursuant to Local Rule 3.01(g), counsel for Defendant Brian Davison has conferred with counsel for Plaintiff, Alise Johnson, and counsel for Co-Defendant Barry Rybicki, Adam Fels,

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<sup>1</sup> We understand that counsel for the SEC has other obligations, including key depositions in other matters, during the week of July 20.

both of whom join in the requested relief. We have also conferred with counsel for the Receiver, who has agreed to a continuance to either of these two dates.

/s/ Gerald D. Davis

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Attorneys for Defendant Brian Davison

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that the foregoing has been filed via the Court's CM/ECF system, which will send an electronic copy of the foregoing and a notice of filing same to all counsel of record, on this 2nd day of July, 2020.

/s/ Gerald D. Davis \_\_\_\_\_  
Attorney

# **EXHIBIT “A”**

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**ORDER ON AGREED MOTION TO CONTINUE SHOW CAUSE HEARING**

THIS MATTER came before the Court upon consideration of Defendant Brian Davison's Agreed Motion for Continuance of Show Cause Hearing (the "Motion"), and the Court being advised of the agreement of the parties, it is hereby:

ORDERED and ADJUDGED that the Motion is GRANTED. The Order to Show Cause Hearing shall be reset to July \_\_\_\_\_, 2020. Due to the current COVID-19 spike, the Court will allow the parties to participate by video conference.

DONE AND ORDERED in Tampa, Florida this \_\_\_\_\_ day of July, 2020.

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HON. MARY S. SCRIVEN  
UNITED STATES DISTRICT JUDGE

Copies to:  
Counsel of Record  
Any Unrepresented Parties