

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.

AGREED MOTION FOR EXTENSION OF TIME TO RESPOND TO COMPLAINT

The Defendant BRIAN DAVISON, by and through undersigned counsel, files the Agreed Motion for an extension of time to respond to the Complaint of the Securities and Exchange Commission (“Commission”) and states:

1. Brian Davison (“Davison”) submitted an agreed upon motion with the consent of the Commission to extend Davison’s time to submit a response to the Commission’s Complaint to August 6, 2020 [Docket Entry 108]. On June 15, 2020, the Court ordered that this response would be due on or before July 14, 2020 [Docket Entry 110].

2. Counsel for Davison had sought that extension for several reasons. Most importantly, the pandemic, and the consequent work-from-home orders in New York where Mr. Fischer practices, have complicated the defense of the case. Among other things, Counsel has not been able to travel since early March of this year, and has not been able to meet with Davison or any witnesses in person.

3. There are additional, personal reasons. The week of July 13, 2020 appears to be the only week that, because of the various commitments of family members, and availability of housing, Mr. Fischer would be able to spend a week with his parents and children at a family cottage, to celebrate his mother’s 80th birthday. Both Mr. Fischer and his parents 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 his 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 to shelter in place in another location.

4. For that reason, Davison requests until July 31, 2020, to submit his response – unless in the interim the Commission files an Amended Complaint. The Commission has indicated in its Motion for Extension of Time to File its Response to Rybicki’s Motion to Dismiss that it intends to file a First Amended Complaint on or before July 9, 2020 (Docket Entry 130, ¶¶3, 6).

5. In the event the Commission files an Amended Complaint, Davison would request 30 days from its filing in which to submit any response thereto. Thus, Davison requests he be allowed *either* to submit his response on or before July 31, 2020, *or* thirty days after the Commission submits an Amended Complaint, should it choose to do so.

6. We are submitting this request now, rather than waiting for the Amended Complaint to be filed, in an abundance of caution so this request for relief is expeditiously submitted.

7. Davison has spoken with counsel for Plaintiff, who consents to the relief sought.

8. 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 respectfully requests that this Court grant this agreed motion and enter an order allowing Defendant Davison to submit his response to the Complaint on or before July 31, 2020, *or* thirty days after the Commission submits an Amended Complaint, should it choose to do so.

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, who consents to the relief sought.

s/ Gerald D. Davis

GERALD D. DAVIS, ESQ.

Florida Bar No. 764698
gdavis@trenam.com
bshepard@trenam.com
ohoepner@trenam.com
CHARLES M. HARRIS, JR., ESQ.
Florida Bar No. 967459
TRENAM, KEMKER, SCHARF, BARKIN,
FRYE, O'NEILL & MULLIS, P.A.
200 Central Avenue, Suite 1600
St. Petersburg, FL 33701
Tel: (727) 896-7171
Attorneys for Defendant Brian Davison

/s/ Howard Fischer

GREGORY J. FLEESLER, ESQ.
New York Bar No. 2810745
gfleesler@mosessinger.com
HOWARD FISCHER, ESQ.
New York Bar No. 2644052
hfisher@mosessinger.com
MOSES & SINGER, LLP
405 Lexington Avenue
New York, NY 10174
Telephone: 212-554-7800
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

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
Case No. 8:20-cv-00325-T-35AEP

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

BRIAN DAVISON, BARRY M. RYBICKI,
EQUIALT LLC, EQUIALT FUND, LLC,
EQUIALT FUND II, EQUIALT FUND III,
EA SIP, LLC,

Defendants,

128 E. DAVIS BLVD, LLC, 310 78TH
AVE, LLC, 551 3D AVE S, LLC, 604
WEST AZEELE, LLC, BLUE WATERS
TI, LLC, 2101 W. CYPRESS, LLC, 2112
W. KENNEDY BLVD, LLC, BNAZ, LLC,
BR SUPPORT SERVICES, LLC, CAPRI
HAVEN, LLC, EANY, LLC, BUNGALOWS
TI, LLC, EQUIALT 519 3RD AVE S., LLC,
MCDONALD REVOCABLE LIVING TRUST,
5123 E. BROADWAY AVE, LLC, SILVER SANDS
TI, LLC, TB OLDEST HOUSE EST. 1842, LLC,

Relief Defendants.

EXHIBIT A

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION
Case No. 8:20-cv-00325-T-35AEP

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

BRIAN DAVISON, BARRY M. RYBICKI,
EQUIALT LLC, EQUIALT FUND, LLC,
EQUIALT FUND II, EQUIALT FUND III,
EA SIP, LLC,

Defendants,

128 E. DAVIS BLVD, LLC, 310 78TH
AVE, LLC, 551 3D AVE S, LLC, 604
WEST AZEELE, LLC, BLUE WATERS
TI, LLC, 2101 W. CYPRESS, LLC, 2112
W. KENNEDY BLVD, LLC, BNAZ, LLC,
BR SUPPORT SERVICES, LLC, CAPRI
HAVEN, LLC, EANY, LLC, BUNGALOWS
TI, LLC, EQUIALT 519 3RD AVE S., LLC,
MCDONALD REVOCABLE LIVING TRUST,
5123 E. BROADWAY AVE, LLC, SILVER SANDS
TI, LLC, TB OLDEST HOUSE EST. 1842, LLC,

Relief Defendants.

**AGREED ORDER ON DEFENDANT BRIAN DAVISON'S
AGREED MOTION FOR ENLARGEMENT
OF TIME TO SERVE RESPONSE TO PLAINTIFF'S COMPLAINT**

THIS MATTER came before the Court upon consideration of Defendant, Brian Davison's Agreed Motion for Enlargement of Time for Defendants to Serve Responses to Plaintiff's Complaint (the "Motion"), and the Court being advised of the agreement of the

parties, and being otherwise fully advised in the premises, it is hereby:

ORDERED and ADJUDGED that the Motion is GRANTED. Defendant Davison shall file and serve responses to Plaintiff's Complaint on or before July 31, 2020, unless the Plaintiff files an Amended Complaint, in which case Defendant Davison shall file and serve responses to Plaintiff's Complaint within thirty days thereafter.

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

The Honorable Mary S. Scriven
United States District Judge

Copies to:
Counsel of Record
Any Unrepresented Parties