

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, and

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.

**BRIAN DAVISON'S LIMITED OPPOSITION IN RESPONSE
TO RECEIVER'S SUPPLEMENT TO THE FIRST QUARTERLY FEE
APPLICATION FOR ORDER AWARDING FEES, COSTS, AND
REIMBURSEMENT OF COSTS TO RECEIVER AND HIS PROFESSIONALS**

BRIAN DAVISON ("Davison"), by and through his undersigned counsel, hereby files this limited objection (the "Limited Objection") to the Receiver's Supplement to the First

Quarterly Fee Application for Order Awarding Fees, Costs, and Reimbursement of Costs to Receiver and His Professionals (Doc. 122) (“Receiver’s Supplement”), filed by Burton Wiand, as receiver over the assets of the corporate and relief defendants (the “Receiver”) requesting the Court to approve certain professional fees and costs. While Davison does not object to the Receiver’s Supplement as a general matter, he does object to the Receiver’s contention that a 20% holdback of fees is not justified. In support of the Limited Objection, Davison respectfully states as follows:

1. At the onset of this case, the Court entered an Order Granting Plaintiff’s Emergency Ex Parte Motion for Appointment of Receiver that provided “Quarterly Fee Applications may be subject to a holdback in the amount of 20% of the amount of fees and expenses for each application filed with the Court. The total amounts held back during the course of the receivership will be paid out at the discretion of the Court as part of the final fee application submitted at the close of the receivership (Doc. 11, ¶35).

2. On May 18, 2020, the Receiver filed his First Quarterly Fee Application for Awarding Fees, Costs, and Reimbursement of Costs to Receiver and his Professionals (the “Application”)(Doc. 88).

3. Subsequent, Davison timely filed his Response to the Application. (Doc. 97).

4. On June 17, 2020, a hearing was held before Magistrate Judge Anthony E. Porcelli on the Application. The Clerk’s Minutes from the hearing (Doc. 112) indicate that the “Court to recommend withholding the 20%, as directed in paragraph 35 of Judge Scriven’s order.” (See Doc. 11, ¶35)

5. After the hearing, the Receiver filed his Supplement to the Application (Doc.

122) in which he has taken the position that there is no reason for the holdback.

6. Davison believes that the 20% holdback is reasonable and necessary for the Court to maintain additional control and oversight of the Receivership's assets until the Receivership is concluded and a hearing is held on the Receiver's final fee application. Given that these funds are ultimately those of the investors, it is appropriate for the Court to exercise its authority over the amount incurred by the Receiver to ensure that these expenses were to their benefit.

WHEREFORE, Brian Davison respectfully requests that if the Court approves the Receiver's Application that the requirement of a 20% holdback for fees and expenses be required.

/s/ Gerald D. Davis

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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