

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

Case No. 8:20-cv-00325-MSS-AEP

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

BRIAN DAVISON, *et al.*,

Defendants,

**PLAINTIFF'S NOTICE OF FILING PROPOSED ORDER GRANTING
MOTION FOR PRELIMINARY INJUNCTION, ASSET FREEZE AND OTHER
INJUNCTIVE RELIEF PURSUANT TO COURT ORDER [Dkt. 184]**

Please take notice that Plaintiff Securities and Exchange Commission is hereby filing the attached proposed Order Granting Motion for Preliminary Injunction, Asset Freeze and Other Injunctive Relief pursuant to the Court's Order dated August 17, 2020 (Dkt. 184).

Dated: August 31, 2020

Respectfully submitted,

By: s/ Alise Johnson
Alise Johnson
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Fla. Bar No. 0003270
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Lead Attorney

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EXCHANGE COMMISSION**
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CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2020, I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which will send a notice of such filing to all counsel of record.

s/ Alise Johnson

Ave S., LLC, McDonald Revocable Living Trust, Silver Sands TI, LLC, and TB Oldest House Est. 1842, LLC (collectively, “Relief Defendants”) (D.E. 4).

The Court has considered the Commission’s Amended Complaint, its Emergency Motion for a Temporary Restraining Order and Other Relief and Memorandum of Law in Support, the declarations and exhibits filed in support of that motion, the responses in opposition to the Motion filed by Defendants Davison and Rybicki, and the consents of the remaining Defendants and Relief Defendants.

Having fully reviewed the record, the Court finds the Commission has made a sufficient and proper showing in support of the relief granted herein by: (i) presenting a *prima facie* case of securities laws violations by Defendants; and (ii) showing a reasonable likelihood Defendants will harm the investing public by continuing to violate the federal securities laws unless they are immediately restrained. The Court also finds good cause to believe that unless immediately restrained and enjoined by Order of this Court, Defendants and Relief Defendants will continue to dissipate, conceal or transfer from the jurisdiction of this Court assets which could be subject to an Order of Disgorgement.

Accordingly, the motion is **GRANTED**, and the Court hereby orders as follows:

I.
PRELIMINARY INJUNCTION

IT IS ORDERED AND AJUDGED that until further Order of the Court, Defendants Brian Davison, Barry M. Rybicki, EquiAlt LLC, EquiAlt Fund, LLC, EquiAlt Fund II, LLC, EquiAlt Fund III, LLC and EA SIP, LLC, and their respective directors, officers, agents, servants, employees, attorneys, representatives and those persons in active

concert or participation with them, and each of them, are hereby restrained and enjoined from violating:

Section 17(a) of the Securities Act

In the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:
 - (A) any investment in or offering of securities,
 - (B) the registration status of such offering or of such securities,
 - (C) the prospects for success of any product or company,

(D) the use of investor funds; or

(E) the misappropriation of investor funds or investment proceeds,

in violation of Section 17(a) of the Securities Act [15 U.S.C. 77q(a)]; and

Section 10(b) of the Exchange Act and Rule 10b-5

Directly or indirectly, by use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any securities: (a) employing devices, schemes or artifices to defraud; (b) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) engaging in acts, practices and courses of business which operates, or would operate as a fraud or deceit upon any person by, directly or indirectly, (i) creating a false appearance or otherwise deceiving any person, or (ii) disseminating false or misleading documents, materials, or information or making, either orally or in writing, any false or misleading statement in any communication with any investor or prospective investor, about:

(A) any investment in or offering of securities,

(B) the registration status of such offering or of such securities,

(C) the prospects for success of any product or company,

(D) the use of investor funds; or

(E) the misappropriation of investor funds or investment proceeds, in violation of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Exchange

Act Rule 10b-5 [17 C.F.R. § 240.10b-5].

Section 15(a)(1) of the Exchange Act

IT IS FURTHER ORDERED that Brian Davison, Barry Rybicki, and their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from violating Section 15(a)(1) of the Exchange Act [15 U.S.C. § 78o(a)(1)], by making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security.

Section 5 of the Securities Act

IT IS FURTHER ORDERED that Brian Davison, Barry Rybicki and their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise are hereby restrained and enjoined from violating Section 5 of the Securities Act [15 U.S.C. § 77e], by, directly or indirectly, in the absence of any applicable exemption:

- (a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;
- (b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of

sale or for delivery after sale; or

- (c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act, 15 U.S.C. § 77h.

II.

ASSET FREEZE

IT IS FURTHER ORDERED that until further order of this Court:

A. Defendants and Relief Defendants and their respective directors, officers, agents, servants, employees, attorneys, depositories, banks, and those persons in active concert or participation with any one or more of them, and each of them, who receive notice of this order by personal service, mail, email, facsimile transmission or otherwise, be and hereby are, restrained from, directly or indirectly, transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating or otherwise disposing of, or withdrawing any assets or property, including but not limited to cash, free credit balances, fully paid for securities, personal property, real property, and/or property pledged or hypothecated as collateral for loans, or charging upon or drawing from any lines of credit, owned by, controlled by, or in the possession of, whether jointly or singly, and wherever

located:

1. BRIAN DAVISON,
2. BARRY M. RYBICKI,
3. EQUIALT LLC,
4. EQUIALT FUND, LLC,
5. EQUIALT FUND II, LLC,
6. EQUIALT FUND III, LLC,
7. EA SIP, LLC,
8. 128 E. DAVIS BLVD, LLC,
9. 310 78TH AVE, LLC,
10. 551 3D AVE S, LLC,
11. 604 WEST AZEELE, LLC,
12. 2101 W. CYPRESS, LLC,
13. 2112 W. KENNEDY BLVD, LLC,
14. 5123 E. BROADWAY AVE, LLC,
15. BLUE WATERS TI, LLC,
16. BNAZ, LLC,
17. BR SUPPORT SERVICES, LLC,
18. BUNGALOWS TI LLC,
19. CAPRI HAVEN, LLC,
20. EA NY, LLC,
21. EQUIALT 519 3RD AVE S., LLC,

- 22. MCDONALD REVOCABLE LIVING TRUST,
- 23. SILVER SANDS TI, LLC,
- 24. TB OLDEST HOUSE EST. 1842, LLC,
- 25. EQUIALT QOZ FUND, LLC
- 26. EQUIALT SECURED INCOME PORT REIT, INC.

B. Any financial or brokerage institution or other person or entity holding any such funds or other assets, in the name, for the benefit or under the control of Defendants and Relief Defendants or indirectly, held jointly or singly, and wherever located, and which receives actual notice of this order by personal service, mail, email, facsimile, or otherwise, shall hold and retain within its control and prohibit the withdrawal, removal, transfer, disposition, pledge, encumbrance, assignment, set off, sale, liquidation, dissipation, concealment, or other disposal of any such funds or other assets, including, but not limited to, the following presently known bank accounts and other assets:

Financial Institution	Name of Account	Account Number
Bank of America	EquiAlt Capital Advisors	xxxxxxxx4150
Bank of America	Brian Davison Revocable Trust	xxxxxxxx8041
Bank of America	EquiAlt Secured Income Port. REIT, Inc.	xxxxxxxx4079
Bank of America	EquiAlt Secured Income Port. LP	xxxxxxxx4008
Bank of America	EquiAlt Secured Income Port. REIT Holdings, LLC	xxxxxxxx4011
Bank of America	EquiAlt Secured Income Port. REIT, Inc.	xxxxxxxx5648
Bank of America	EquiAlt Property Management, LLC	xxxxxxxx4082
Bank of America	EquiAlt Property Management, LLC	xxxxxxxx6911
Bank of America	EquiAlt Property Management, LLC (Berkley Operational)	xxxxxxxx5113
Bank of America	EquiAlt Property Management, LLC (Berkley Escrow)	xxxxxxxx5126
Bank of America	EquiAlt Holdings, LLC	xxxxxxxx4147

Financial Institution	Name of Account	Account Number
Bank of America	Equialt Capital Advisors, LLC	xxxxxxxx4150
Bank of America	Equialt QOZ Fund, LP	xxxxxxxx8441
Comerica Bank	Rosenbarry Properties, LLC	xxxxxx7261
Comerica Bank	Barry Rybicki	xxxxxx7721
Comerica Bank	Barry Rybicki	xxxxxx7306
Comerica Bank	Barry Rybicki	xxxxxx7314
JP Morgan Chase	Brian Davison	xxxxx8545
JP Morgan Chase	Brian Davison/Nicole Davison	xxxx3995
JP Morgan Chase	Brian Davison	xxxx2758
JP Morgan Chase	Rosenbarry Holdings LLC	xxxx5807
Coinbase	Barry M. Rybicki	n/a
E*Trade	Barry Rybicki	xxxxxxxx6205
Merrill Lynch	Brian Davison and Nicole Davison JTWROS	xxxxxxxx9444
Merrill Lynch	Brian Davison and Nicole Davison JTWROS	xxxxxxxx9964
Merrill Lynch	Brian Davison and Nicole Davison JTWROS	xxxxxxxx9965
Merrill Lynch	Brian Davison and Nicole Davison JTWROS	xxxxxxxx9966
Merrill Lynch	Brian Davison and Nicole Davison JTWROS	xxxxxxxx1294
Merrill Lynch	Brian Davison and Nicole Davison JTWROS	xxxxxxxx1295
Gold and Silver	Held by Barry Rybicki	Estimated value \$108,000
Watches	Held by Barry Rybicki	Estimated value \$310,000
Jewelry	Held By Barry Rybicki	Estimated value \$95,000
TD Ameritrade	Barry Rybicki	
2019 Porsche 911	Barry Rybicki	
2018 Porsche 911	Barry Rybicki/BR Support Services	
2017 Chevy Tahoe	Barry Rybicki	
1981 Land Rover	Barry Rybicki	
2017 Porsche 911 Targa GT4S	Barry Rybicki	Approx. value \$100,000
2018 Mercedes G Wagon AMG 63	Barry Rybicki	Approx. valued over \$100,000
2016 Porsche 911 GT3RS	Barry Rybicki	Approx. value over \$200,000
1973 Porsche 914 GT	Barry Rybicki	Approx. value \$90,000

Financial Institution	Name of Account	Account Number
2018 Land Rover Defender 110	Barry Rybicki	Approx. value \$200,000
Allianz Life Ins.	Barry Rybicki	Cash value approx. \$75,000
2018 Pagani	Brian Davison	Valued at over \$3 million in 2019
Watches/Jewelry	Brian Davison	Estimated value over \$8 million
2004 Ferrari 360	Brian Davison	approx. value \$100,000
2015 Ferrari 458	Brian Davison	Approx. valued \$390,000
2018 Ferrari 488	Brian Davison	Approx. value \$350,000
2019 Ferrari 488	Brian Davison	
2019 Ferrari GTC4	Fl. Dav. LLC	
2017 MBZ G63	Brian Davison	Approx. value \$150,000
2015 MBZ ML 350	Brian Davison	Approx. value \$30,000
2018 Mercedes-Benz GLA	Brian Davison	
1977 Ferrari 308	Brian Davison	
2019 Rolls Royce Cullinan	Brian Davison/Nicole Davison	
2019 Toyota 4 Runner	Brian Davison	
2018 ECD Land Rover	Brian Davison	Approx. value \$100,000
2012 Sea Ray 30 ft.	Brian Davison	Approx. value \$70,000
2020 Bentley GTC	Brian Davison	
128 Biscayne Ave, Tampa, Fl.	Brian Davison/Nicole Davison	Est. Value \$2-3 Million
3313 E Daley Lane, Phoenix, AZ	Barry Rybicki/Rosemarie Rybicki	Est. Value \$1-2 Million
Gold/Coins	Brian Davison	\$140,000
Allianz Life Ins.	Brian Davison	
2012 Ford Fiesta	Brian Davison	

III.
RECORDS PRESERVATION

IT IS FURTHER ORDERED that, pending further order of this Court, Defendants and Relief Defendants, their directors, officers, agents, servants, employees, attorneys, depositories, banks, and those persons in active concert or participation with any one or more of them, and each of them, be and they hereby are restrained and enjoined from, directly or indirectly, destroying, mutilating, concealing, altering, disposing of, or otherwise rendering illegible in any manner, any of the books, records, documents, correspondence, brochures, manuals, papers, ledgers, accounts, statements, obligations, files and other property of or pertaining to Defendants wherever located and in whatever form, electronic or otherwise, until further Order of this Court.

IV.
RETENTION OF JURISDICTION

IT IS HEREBY FURTHER ORDERED that this Court shall retain jurisdiction over this matter and Defendants and Relief Defendants in order to implement and carry out the terms of all Orders and Decrees that may be entered and/or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court, and will order other relief that this Court deems appropriate under the circumstances.

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

MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record
Any Unrepresented Person