

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.

**NOTICE OF FILING AND REQUEST FOR ENTRY OF PROPOSED AGREED ORDER
EXTENDING AND MODIFYING ASSET FREEZE**

Comes now, Defendant Barry Rybicki, seeking the Court's approval of the sale of his 2017 Porsche Targa 4S. The SEC and Receiver consent to this motion. In support of the motion, Mr. Rybicki states as follows:

1. Mr. Rybicki owns a 2017 Porsche Targa 4S, VIN number WP0BB2A94HS136630 ("the Porsche"). The purchase of the automobile was financed through Chase Bank. He is currently making a monthly payment of \$1999.89 on the loan.

2. As of September 12, 2020, the payoff of the loan was \$38,901.10.

3. In an effort to reduce his monthly expenses and pay off the loan, Mr. Rybicki sought a buyer for the Porsche.

4. Additionally, Mr. Rybicki wanted to use a portion of the proceeds (approximately \$23,000) to purchase a truck that he could use for his personal vehicle as well as his pool cleaning business.

5. On or about September 11, 2020, he received an offer of \$100,000 for the vehicle from a car dealership in the Phoenix area.

6. Rybicki's counsel sought the consent of the SEC and the Receiver to the sale.

7. The Receiver sought another bid for the car. The Receiver received a bid for \$89,000.

8. Receiver's counsel also researched Blue Book and other online values for similar vehicles and determined that a reasonable valuation for the private sale of the vehicle was between \$110,000 and \$120,000.

9. On September 29, 2020, the Receiver communicated to the undersigned that if Rybicki could get Scottsdale Ferrari to increase the offer to \$105,000 that he would not object to the sale of the vehicle and use of proceeds for a truck for Mr. Rybicki's use.

10. The Receiver did not waive any rights he may have to the truck should the Receiver determine that the Porsche had been purchased with investor funds.

11. The dealership increased its offer to \$105,000; however, the offer is only valid for a few additional days.

12. Therefore, Rybicki moves this Court to approve the lifting of the asset freeze in order for Mr. Rybicki to sell the Porsche with the proceeds of the transaction being provided to the Receiver. The dealership will make the payoff to Chase Bank and send the remainder to the Receiver, who will then provide Mr. Rybicki \$23,000 for the purchase of a personal vehicle.

13. This Motion is accompanied by a proposed Order attached hereto as Exhibit "A."

WHEREFORE, Defendant Barry Rybicki respectfully requests that this Court grant the instant agreed motion.

Respectfully submitted,

/s/ Adam S. Fels
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Attorney for Defendant Barry Rybicki

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 30th day of September, 2020.

s/Adam S. Fels

EXHIBIT “A”

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

CIVIL ACTION NO. 20-cv-00325-MSS-AEP

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

**BRIAN DAVISON, BARRY RYBICKI,
EQUIALT et al.,**

Defendants.

AGREED ORDER MODIFYING ASSET FREEZE

This cause comes before the Court upon the Agreed Motion by Plaintiff Securities and Exchange Commission, the Receiver and Defendant Barry Rybicki. The Court having originally imposed a Temporary Restraining Order, Asset Freeze and Other Injunctive Relief on February 14, 2020 and having extended that Order, and having now been advised that the Commission and the parties have agreed that the asset freeze be modified as detailed below. The Court therefore orders as follows:

I.

MODIFICATION OF ORDER FREEZING ASSETS

IT IS ORDERED that, for the period from the date of this Order through the Court's disposition of the Preliminary Injunction:

A. Defendants and the 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. TB OLDEST HOUSE EST. 1842, LLC,

B. Notwithstanding the foregoing:

1. Barry Rybicki is authorized to sell a 2017 Porsche Targa 4S, VIN number WP0BB2A94HS136630 for \$105,000.00; the net proceeds of this sale shall be sent to the Receiver, who will then provide Mr. Rybicki with \$23,000 for the purchase of a personal vehicle.
2. The actions described in paragraph 1 above shall not be deemed a violation of this Order.

II.

RETENTION OF JURISDICTION

IT IS HEREBY FURTHER ORDERED that this Court shall retain jurisdiction over this matter, the Defendants, and the Relief Defendant 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 circumstance.

DONE and **ORDERED** in Chambers this ____ day of _____, 2020.

MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record