

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

Case No: 8:20-cv-325-T-35AEP

BRIAN DAVISON, BARRY M. RYBICKI,
EQUIALT LLC, EQUIALT FUND, LLC,
EQUIALT FUND II, LLC, EQUIALT
FUND III, LLC, EA SIP, LLC, 128 E.
DAVIS BLVD, LLC, 310 78TH AVE, LLC,
551 3D AVE S, LLC, 604 WEST
AZEEL, 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,

Defendants.

ORDER

THIS CAUSE comes before the Court for consideration of the Non-Party, Bank of America, N.A.'s Motion for Reconsideration of the Order on Receiver's Unopposed Motion to Approve Sale of Personal Property (High-End Vehicles) and Limited Opposition in Response to Receiver's Motion to Approve Sale of Personal Property (High-End Vehicles), (Dkt. 216), and the Receiver's Opposition to Bank of America's Motion for Reconsideration. (Dkt. 234) On November 2, 2020, the Court entered an Order authorizing the Receiver to sell three high-end vehicles, including a 2020 Bentley

Convertible GTC V8 (“Bentley”). (Dkt. 210) Non-party Bank of America N.A. filed its motion due to its concern that the Court’s “November 2, 2020 Order does not provide any safeguards to protect the Bank’s interest in the Bentley.” (Dkt. 216 at 2) In his response in opposition, the Receiver advises that the auction website being used to list the vehicle for sale states as follows:

All funds wired to Burton W. Wiand receiver will be held in a trust account with Wiand Guerra King, PA and used to satisfy any incumbrances on the items sold. No funds shall be released to the Burton W. Wiand Receiver until all encumbrances and liens are satisfied and the item and or title there to is delivered to the buyer.


(Id. at 2). Thus, the Receiver and Bank of America N.A. agree that Bank of America’s lien on the Bentley must be satisfied prior to the release of funds to the receivership. To the extent that the Order provided that the vehicle would be sold free and clear of all encumbrances and liens, it was not intended by the Receiver or the Court that secured creditors’ interests would be not be protected. Accordingly, to this extent, Non-party Bank of America N.A.’s motion for reconsideration/clarification is **GRANTED**.

Upon consideration of all relevant filings and case law, and being otherwise fully advised, the Court hereby **ORDERS** as follows:

1. The Receiver is **DIRECTED** to proceed as planned with the sale of the Bentley **subject to Bank of America N.A.’s lien**. The Receiver shall not sell the Bentley for any amount less than the opening bid price of \$185,000 without further leave of Court.
2. Bank of America N.A. may bid in its lien amount and may participate in the auction above that amount as well, if it chooses.

3. Upon receipt of any proceeds, the Receiver must satisfy any secured lien interest of the secured creditor, Bank of America N.A. The contract will dictate whether that secured interest includes attorney's fees and interest or other costs.
4. If the Receiver and Bank of America N.A. are unable to reach agreement as to the issue of attorney's fees and costs, they may file a motion after the sale is complete. Fees incurred in bringing this motion for reconsideration are not compensable from the proceeds of the sale in any event.

DONE and **ORDERED** in Tampa, Florida, this 2nd day of December 2020.



MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record
Any Unrepresented Person