

**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;

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;
TB OLDEST HOUSE EST. 1842, LLC;

Relief Defendants.

**RESPONSE TO ORDER DIRECTING THE RECEIVER TO PROVIDE ADDITIONAL
INFORMATION REGARDING THE PROPOSED SALE OF
2236 GABARONE BOULEVARD**

Burton W. Wiand, as Receiver over the assets of the above-captioned Corporate Defendants and Relief Defendants,¹ submits this Response to the Court’s Order Directing Receiver to Advise the Court Within Seven (7) Days of the Date of this Order, of Any Known Liens or Encumbrances Upon the Property, 2236 Gabarone Boulevard, Auburndale, FL and to Clarify the Name of the Buyer (Doc. 236) (the “**Order**”).

The Order directs the Receiver to provide additional information regarding the proposed sale of real property located at 2236 Gabarone Boulevard, Auburndale, FL 33823 (the “**Property**”) as discussed in the Receiver’s motion to approve the sale of the Property (Doc. 231) (the “**Motion**”). The Order also directs the Receiver to inform the Court whether any liens or encumbrances exist on other property that the Receiver has obtained Court approval to sell, and to do so in future requests.

Liens or Encumbrances Upon the Property

At the time the Receiver filed a motion to sell the Property his team was not aware of any liens on the property. The Property was not subject to a mortgage or other financing encumbrance. During a routine lien search as part of the preparation for the closing of the sale, a \$110 lien in favor of the City of Auburndale was discovered. The lien was apparently from a 2011 Code violation. The City of Auburndale has been paid and the Receiver is awaiting release documents from the City.

¹ The (“**Receiver**” and the “**Receivership**” or “**Receivership Estate**”) has been expanded to include not only the Corporate and Relief Defendants but also the following entities: EquiAlt Qualified Opportunity Zone Fund, LP; EquiAlt QOZ Fund GP, LLC; EquiAlt Secured Income Portfolio REIT, Inc.; EquiAlt Holdings LLC; EquiAlt Property Management LLC; and EquiAlt Capital Advisors, LLC. *See* Doc. 184, at 6–7.

The Property, along with practically all other real property within the Receivership Estate, was purchased with investor funds and there is no mortgage. Aside from the \$110 lien, there are no other liens or encumbrances upon the Property.

The Identity of the Buyer

The Order directs the Receiver to clarify the name of the buyer as discussed in the Motion. As the Court points out, “The buyer is listed as ‘Nik’ Miller in the Receiver’s Motion and proposed draft order, but he is listed as ‘Nick’ Miller in Exhibit 2 to that Motion.” Doc. 236 at 2. The buyer’s full name is Nik Dwayne Miller. The reference to the buyer as “Nick” in Exhibit 2 of the Motion is an error. Exhibit 2 of the Motion is an appraisal that was performed by a real estate professional retained by the Receiver. Nik Dwayne Miller is the purchaser of the Property. If the Motion is granted, the Property will be appropriately titled by professionals at closing.

Liens or Encumbrances Upon Other Property

The Receiver is not aware of any substantial liens or encumbrances, or of any secured creditors whose interests have been affected by prior motions or orders approving the sale of property, aside from those already disclosed to the Court. The Court is aware that Ferrari Financial Services had liens on various vehicles that the Receiver obtained Court approval to sell. These liens were satisfied. *See* Docs. 109, 116, 128, and 156. The Court is also aware of the liens on various other high-end vehicles. *See* Docs. 208 and 210.

Future Requests for Court Approval to Sell Receivership Assets

When requesting Court approval to sell Receivership Assets, the Receiver will continue to inform the Court of any known encumbrances or security interests in property that is proposed to be sold. Should the Receiver become aware of any minor encumbrances like the City of

Auburndale lien in future transactions, they will as a general matter be resolved in the regular course in the closing of the sale of the properties.

Respectfully submitted,

s/Katherine C. Donlon

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Attorneys for the Receiver, Burton W. Wiand

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 09, 2020, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

s/Katherine C. Donlon

Katherine C. Donlon, FBN 0066941