

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

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

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

v.

BRIAN DAVISON, BARRY M.  
RYBICKI, EQUIALT LLC, EQUIALT  
FUND, LLC, EQUIALT FUND II,  
LLC, 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, EA NY, 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.

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**RECEIVER'S MOTION TO APPROVE  
INVESTOR CLAWBACK LITIGATION**

Burton W. Wiand, as receiver over the assets of the above-captioned defendants and relief defendants (the “**Receiver**” and the “**Receivership**” or “**Receivership Estate**”) moves the Court to approve his filing of “clawback” claims against EquiAlt investors who received false profits.

### **BACKGROUND**

At the request of the Securities Exchange Commission (“SEC”), the Court appointed the Receiver on February 14, 2020, and directed him, in relevant part, to “[t]ake immediate possession of all property, assets and estates of every kind of the Corporate Defendants and Relief Defendants,” which includes “all real property of the Corporate Defendants and Relief Defendants, wherever situated, and to administer such assets as is required in order to comply with the directions contained in this Order.” Doc. 11 ( the “**Order Appointing Receiver**”) at 2-3, ¶ 1.

The Court directed the Receiver to

Investigate the manner in which the affairs of the Corporate Defendants and Relief Defendants were conducted and institute such actions and legal proceedings, for the benefit and on behalf of the Corporate Defendants and Relief Defendants and their investors and other creditors as the Receiver deems necessary . . . ; provided such actions may include, but not be limited to, seeking imposition of constructive trusts, disgorgement of profits, recovery and /or avoidance of fraudulent transfers, rescission and restitution, the collection of debts, and such orders from this Court as may be necessary to enforce this Order;

*Id.* ¶ 2. Given the law and facts discussed below, the Receiver has a clear right to recover fraudulent transfers under governing and well-settled law. To recover such transfers, the Receiver is seeking the Court's approval to bring investor clawback claims in one action against those EquiAlt investors who have received false profits.

**This Court's Order on SEC's Motion for Preliminary Injunction**

On July 30, 2020, this Court held a hearing on the SEC's Motion for Preliminary Injunction and the Court granted that motion on August 17, 2020 [Doc. 184]. In that Order the Court made the following findings:

- “the evidence shows that the Defendants most likely operated as a Ponzi scheme using new investor funds to pay old investor obligations while simultaneously siphoning funds for their own benefit far and above any amount that anyone might reasonably believe was disclosed to investors.”

*Id.* at 2.

- “the Commission has demonstrated a substantial likelihood of proving that it will prevail on its Section 5 and Section 10(b) registration claims based on the affirmative evidence developed to date demonstrating fraud,

the sale of unregistered securities, and representations to investors that were materially false.” *Id.* at 3.

- “the Commission will likely be able to prove . . . that Defendants Davison and Rybicki also falsely touted that the ‘investments’ had earned millions of dollars in profits, all the time knowing that since at least 2016 the investment funds’ revenues failed to cover even their own expenses.” *Id.*

### **The Receiver’s Investigation Confirms EquiAlt Ponzi Scheme**

The Receiver’s forensic accountants, Yip Associates, have conducted an analysis of 56 bank and brokerage accounts held in the name of the Defendants and Relief Defendants. *See* Declaration of Maria Yip (“Yip”) at ¶4 [Doc. 164-2], attached hereto as **Exhibit 1**. Additionally, they have reviewed general ledgers, financial statements, tax returns, investor files, sales agents files and other contracts and agreements. *Id.* at ¶3. Yip analyzed non-investor funds deposited to EquiAlt accounts as compared to distributions made to EquiAlt investors to determine the use of investor funds to meet obligations to other investors. Based on Yip’s analysis of data from December 2016 to December 2019, at least as early as December 2016, EquiAlt made distributions to investors using other investors’ funds. *Id.* at ¶8. Such activity is the definition of a Ponzi scheme. *See, e.g., Wiand*

*v. Lee*, 753 F.3d 1194, 1201 (11th Cir. 2014) (“A Ponzi scheme uses the principal investments of newer investors, who are promised large returns, to pay older investors what appear to be high returns, but which are in reality a return of their own principal or that of other investors.”).

The Receiver’s forensic accountants have generally determined the amount of funds contributed by each investor to the scheme and the amount of funds paid to each investor from the scheme. Amounts received in excess of amounts invested are typically referred to as “**false profits**” because the so-called profits were not derived from legitimate activity but from other investors’ principal investment amounts. To date, the Receiver has identified approximately 248 investors (“**Net Winners**”) who received a total of approximately \$4,299,028.09 in false profits. The Receiver is seeking the Court’s approval to bring claims against these Net Winners for violation of Florida’s Uniform Fraudulent Transfer Act, Fla. Stat. 726.105, and, alternatively, for Unjust Enrichment. **Given the statute of limitations for these claims, time is of the essence.**

## **ARGUMENT**

### **I. THE REQUESTED RELIEF IS CONSISTENT WITH THE COURT'S EQUITABLE POWERS AND WILL CONSERVE RESOURCES**

Importantly, the Receiver is not asking the Court to decide ultimate issues of fact or law through this motion; he is only asking the Court to approve the institution of clawback litigation, given the principles discussed above. The requested relief is consistent with the Court's extremely broad power to supervise this equity Receivership and to determine the appropriate actions to be taken in the administration of the Receivership. *S.E.C. v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992); *S.E.C. v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986). The Court's wide discretion derives from the inherent powers of an equity court to fashion relief. *Elliott*, 953 F.2d at 1566; *S.E.C. v. Safety Finance Service, Inc.*, 674 F.2d 368, 372 (5th Cir. 1982). A court imposing a receivership assumes custody and control of all assets and property of the receivership, and it has broad equitable authority to issue all orders necessary for the proper administration of the receivership estate. *See S.E.C. v. Credit Bancorp Ltd.*, 290 F.3d 80, 82-83 (2d Cir. 2002); *S.E.C. v. Wencke*, 622 F.2d 1363, 1370 (9th Cir. 1980).

The court may enter such orders as may be appropriate and necessary for a receiver to fulfill his duty to preserve and maintain the property and funds

within the receivership estate. *See, e.g., Official Comm. Of Unsecured Creditors of Worldcom, Inc. v. S.E.C.*, 467 F.3d 73, 81 (2d Cir. 2006). Any action taken by a district court in the exercise of its discretion is subject to great deference by appellate courts. *See United States v. Branch Coal*, 390 F. 2d 7, 10 (3d Cir. 1969). Such discretion is especially important considering that one of the ultimate purposes of a receiver's appointment is to provide a method of gathering, preserving, and ultimately liquidating assets to return funds to creditors. *See S.E.C. v. Safety Fin. Serv., Inc.*, 674 F.2d 368, 372 (5th Cir. 1982) (court overseeing equity receivership enjoys "wide discretionary power" related to its "concern for orderly administration") (citations omitted). The Receiver believes the relief requested in this motion is consistent with both his mandate under the Order Appointing Receiver and the Court's equitable powers. The Receiver anticipates bringing these claims in one action as was done in *Commodity Futures Trading Commission v. Oasis International Group, et al.*, Case No. 8:19-CV-886-T-33SPF (M.D. Fla.) which has proven to be a cost-effective and efficient means of litigating this type of claim. Additionally, the Receiver will exercise his discretion to possibly exclude *de minimis* claims that may not be economical for the Receiver to pursue.

## II. THE ELEVENTH CIRCUIT HAS EXPRESSLY ADOPTED THE PONZI PRESUMPTION AND RECOGNIZED A RECEIVER'S RIGHT TO RECOVER FALSE PROFITS

Again, the Receiver is not asking the Court to decide ultimate issues of fact or law through this motion. This section is included only to demonstrate that the Receiver's claims are well-founded and that the proposed pre-suit settlement is fair and reasonable. As noted above, "[a] Ponzi scheme uses the principal investments of newer investors, who are promised large returns, to pay older investors what appear to be high returns, but which are in reality a return of their own principal or that of other investors." *See, e.g., Lee*, 753 F.3d at 1201. Given this Court's Order on the Motion for Preliminary Injunction and his own investigation, the Receiver believes the scheme underlying this action qualifies as a Ponzi scheme.<sup>1</sup> The Eleventh Circuit has expressly adopted the "Ponzi presumption," which provides that transfers from Ponzi schemes are recoverable under pertinent fraudulent transfer law:

Other circuits have held that in a receiver's suit under a state uniform fraudulent transfer law, proof that a transfer was made from an entity used to perpetrate a Ponzi scheme is sufficient to establish the transfer was made with actual fraudulent intent without a consideration of the badges of fraud. *See Donell v. Kowell*, 533 F.3d 762, 770 (9th Cir. 2008) (applying California's UFTA); *S.E.C. v. Res. Dev. Int'l, LLC*, 487 F.3d 295,

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<sup>1</sup> Even if it did not, fraudulent transfers are nevertheless recoverable using statutory "badges of fraud." *See, e.g., Lee*, 753 F.3d at 1200.

301 (5th Cir. 2007) (applying Texas's UFTA); *Warfield v. Byron*, 436 F.3d 551, 558-59 (5th Cir. 2006) (applying Washington's UFTA); *see also Wing v. Dockstader*, 482 Fed. Appx. 361, 363 (10th Cir. 2012) (applying Utah's UFTA). This court has embraced the so-called "Ponzi scheme presumption" in applying the Bankruptcy Code's fraudulent transfer provisions. *Perkins v. Haines*, 661 F.3d 623, 626 (11th Cir.2011) ("With respect to Ponzi schemes, transfers made in furtherance of the scheme are presumed to have been made with the intent to defraud for purposes of recovering the payments under [11 U.S.C.] §§ 548(a) and 544(b).") (citations omitted). We now clarify that, under FUFTA's actual fraud provision, proof that a transfer was made in furtherance of a Ponzi scheme establishes actual intent to defraud under § 726.105(1)(a) without the need to consider the badges of fraud.

*Lee*, 753 F.3d at 1200-01.

Courts recognize a receiver's right to recover, at minimum, "false profits" from investors because "[t]he investors who profited ... did not receive income from their investments, but received principal funds from other investors." *Id.* at 1200; *see also Wiand v. Lee*, 2012 WL 6923664, at \*17 (M.D. Fla. Dec. 13, 2012), *adopted* 2013 WL 247361 (M.D. Fla. Jan. 23, 2013) ("[A]s the Receiver indicates, it is well-settled that a receiver is entitled to recover from winning investors profits above the initial outlay, also known as 'false profits,' and an investor in a scheme does not provide reasonably equivalent value for any amounts received from [the] scheme that exceed the investor's principal investment."); *Perkins v. Haines*, 661 F.3d 623, 627 (11th Cir. 2011) ("Any transfers over and above the amount of the principal—*i.e.*, for fictitious profits—are not made for 'value' because they

exceed the scope of the investors' fraud claim and may be subject to recovery...."). Given the Receiver's own investigation, and this well-settled, governing law, the Receiver respectfully requests that the Court allow him to pursue these claims.

### **CONCLUSION**

For the foregoing reasons, the Receiver requests the Court's approval to pursue clawback litigation against those investors who received false profits.

### **LOCAL RULE 3.01(G) CERTIFICATION**

Counsel for the Receiver has conferred with counsel for the SEC and the SEC does not object to the relief sought. Counsel for the individual defendants do not agree to the relief sought.

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 January 20, 2021, 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

# **EXHIBIT 1**

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

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**vs.**

**CASE NO. 8:20-CV-00325-MSS-AEP**

**BRIAN DAVISON; BARRY M. RYBICKI;  
EQUALT LLC; EQUALT FUND, LLC;  
EQUALT FUND II, LLC; EQUALT FUND  
III, LLC; EA SIP, LLC,**

**Defendants, and**

**128 E. DAVIS BLVD, LLC; 310 78<sup>TH</sup> 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; EQUALT  
519 3<sup>RD</sup> AVE SO., LLC; MCDONALD  
REVOCABLE LIVING TRUST; SILVER  
SANDS TI, LLC; TB OLDEST HOUSE EST.  
1842, LLC,**

**Relief Defendants.**

**/**

**DECLARATION OF MARIA YIP, CPA, CFE, CFF, CIRA**

I, Maria Yip, declare that the following information is true and correct and that I make this declaration under the penalties of perjury ("Declaration").

1. I am over the age of 18 and have personal knowledge of the following facts.
2. I was retained as the forensic accountant by the Receiver in this matter pursuant to this

Court's Order dated February 14, 2020. (ECF 11)

3. In performing our forensic accounting work, my team and I reviewed and analyzed various types of documents and information of the Defendants and Relief Defendants, including, but not limited to:
  - a. Bank records;
  - b. General Ledgers;
  - c. Financial Statements;
  - d. Income Tax Returns;
  - e. Contracts and agreements;
  - f. Investor files; and
  - g. Sales agents files.
4. More specifically, as it relates to bank activity, we analyzed the transactions of 56 bank and brokerage accounts held in the name of the Defendants and Relief Defendants across seven banking institutions and brokerage firms.
5. Based on our review and analysis of the bank and brokerage accounts, we prepared a master database containing over 84,000 bank transactions covering a period of over eight years, from August 2011 through February 2020. From this master database, I prepared the analyses attached to this Declaration as **Attachments 1 through 6**, which are described in the following sections of this Declaration.

**Equialt Fund LLC**

6. In order to determine whether Equialt Fund LLC (“Fund I”) made distributions<sup>1</sup> to its investors using other investors’ funds on any given month, I analyzed the source of the funds that were in the beginning balance in the bank accounts, the sources of funds that

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<sup>1</sup> Unless specified otherwise, the term “distributions” refers to interest payments and/or return of principal.

came in during the month and ultimately, the payments to existing investors. More specifically, I looked at the beginning balance in Fund I's bank accounts for a given month and classified the sources of funds that came into that account in the prior month as either investor funds or non-investor funds. Investor funds consisted of deposits from investors ("Investor Funds"). Non-investor funds included monies collected from rental business operations, sales of real estate properties, and all other sources not classified as Investor Funds ("Non-Investor Funds").

7. Next, I traced and identified the Non-Investor Funds deposited in the bank accounts during the month to arrive at the total amount of Non-Investor Funds included in the available bank balance. I then compared the Non-Investor Funds available to the actual distributions made to investors and determined that Fund I made distributions to investors in excess of Non-Investor Funds available and these distributions were made using other investors' funds.
8. I performed the analysis described above at six-month intervals, starting at December 2016 and ending at December 2019. Based on my analysis, Fund I made distributions to investors using other investors' funds as early as December 2016, and in all subsequent months analyzed. This analysis is included as **Attachment 1**.
9. In addition to the analysis described above, I used the same methodology to determine the extent to which Fund I had made distributions to investors using other investors' funds during the entire 2019 year. That is, we performed the analysis for the entirety of the year, rather than monthly basis. Once again, I identified the Non-Investor Funds included in Fund I's beginning bank balances as of January 1, 2019; traced all the Non-Investor Funds

deposited during 2019; and then compared the sum of the two to the total distributions made to investors made during 2019.

10. Based on my analysis, Fund I made distributions to investors of \$8,646,882.81 in excess of Non-Investor Funds available from which to make distributions during 2019. In other words, Fund I made distributions to investors of \$8,646,882.81 using other investors' funds. This analysis is included in this Declaration as **Attachment 2**.

### **Equialt Fund II LLC**

11. I performed the same analysis previously described to determine whether Equialt Fund II LLC ("Fund II") had made distributions to investors using other investors' funds. Based on my analysis, I determined that Fund II made distributions to investors using other investors' funds as early as December 2017. The subsequent months analyzed also shows that Fund II made distributions to investors using other investors' funds. My analysis is included in this Declaration as **Attachment 3**.

12. In addition, my analysis of the bank activity for Fund II during 2019 also shows that Fund II made distributions to investors of at least \$3,384,083.74 using other investors' funds. This analysis is included in this Declaration as **Attachment 4**.

### **EA SIP, LLC**

13. In determining whether EA SIP, LLC ("EA SIP") had made distributions to its investors using other investors' funds, I applied the same methodology previously described. I performed my analysis for the months of December 2016, 2017, 2018 and 2019. Based on my analysis, EA SIP made distributions to investors of \$193,558.20 using other investors' funds during December 2018. My analysis is included in this Declaration as **Attachment 5**.

14. In addition, my analysis of the bank activity for EA SIP during the entire 2019 year shows that EA SIP made distributions to investors of at least \$209,110.81 using other investors' funds during 2019. This analysis is included in this Declaration as **Attachment 6**.

**I DECLARE** under penalty of perjury that the foregoing is true and correct and is executed on this July 30, 2020.

A handwritten signature in black ink, appearing to read "Maria M. Yip". The signature is fluid and cursive, with the first name "Maria" and last name "Yip" being clearly legible.

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Maria M. Yip, CPA, CFE, CFF CIRA  
Yip Associates

## **ATTACHMENT 1**

## Securities and Exchange Commission v. Equialt, LLC, et al.

## Analysis of Ponzi Activity for Equialt Fund LLC

	For the Month of:							
	December 2016*	June 2017	October 2017**	December 2017	June 2018	December 2018	June 2019	December 2019
<b>Non-Investor Funds at the Beginning of the Month</b>								
Funds in Wells Fargo x1045	\$ 415,615.99	\$ 243,570.76	\$ 248,509.93	\$ 202,972.60	\$ 127,929.73	\$ 234,930.31		
Funds in Wells Fargo x5670	155,720.80	173,763.35	186,411.88	185,248.06	222,587.68	228,091.29		
Funds in Bank of America x3190							\$ 522,636.99	\$ 202,405.32
Funds in Bank of America x3200							248,585.78	284,391.89
Total Non-Investor Funds at the Beginning of the Month	571,336.79	417,334.11	434,921.81	388,220.66	350,517.41	463,021.60	771,222.77	486,797.21
Plus: Non-Investor Funds Deposited During the Month	157,278.00	170,573.31	145,614.78	168,214.26	223,085.31	311,256.87	228,245.11	309,478.03
Total Amount of Non-Investor Funds for the Month	728,614.79	587,907.42	580,536.59	556,434.92	573,602.72	774,278.47	999,467.88	796,275.24
Distributions to Investors During the Month	(2,146,878.35)	(1,219,006.56)	(590,763.43)	(688,628.72)	(691,185.03)	(964,160.94)	(1,267,105.01)	(2,382,017.55)
Distributions to Investors from Other Investor Funds	\$ (1,418,263.56)	\$ (631,099.14)	\$ (10,226.84)	\$ (132,193.80)	\$ (117,582.31)	\$ (189,882.47)	\$ (267,637.13)	\$ (1,585,742.31)
<b>Note(s):</b>								
*Earliest month in which Distributions to Investors During the Month (including principal and interest) were paid from other investor funds.								
**Earliest month in which Distributions to Investors During the Month (interest only) were paid from other investor funds.								

## **ATTACHMENT 2**

Securities and Exchange Commission v. Equialt, LLC, et al.	
Analysis of Ponzi Activity for Equialt Fund LLC	
For the Year 2019	
	Amount
<b>Non-Investor Funds at the Beginning of the Year</b>	
Funds in Bank of America x3190	\$ 203,510.43
Funds in Bank of America x3200	177,370.31
Total Non-Investor Funds at the Beginning of the Year	380,880.74
Plus: Non-Investor Funds Deposited During 2019	4,364,507.79
Total Amount of Non-Investor Funds for the Year 2019	4,745,388.53
Distributions to Investors During 2019	(13,392,271.34)
<b>Distributions to Investors from Other Investor Funds</b>	<b>\$ (8,646,882.81)</b>

## **ATTACHMENT 3**

Securities and Exchange Commission v. Equialt, LLC, et al.								
Analysis of Ponzi Activity for Equialt Fund II LLC								
	For the Month of:							
	December 2016	June 2017	December 2017*	February 2018**	June 2018	December 2018	June 2019	December 2019
<b>Non-Investor Funds at the Beginning of the Month</b>								
Funds in Wells Fargo x1717	\$ 298,066.05	\$ 133,381.09	\$ 73,726.58	\$ 25,043.74	\$ 124,763.85	\$ 149,851.11		
Funds in Wells Fargo x4073	51,548.75	60,545.36	77,683.18	69,826.89	76,684.20	76,440.14		
Funds in Bank of America x3284							\$ 118,215.53	\$ 201,887.97
Funds in Bank of America x3297							95,740.22	114,443.33
Total Non-Investor Funds at the Beginning of the Month	349,614.80	193,926.45	151,409.76	94,870.63	201,448.05	226,291.25	213,955.75	316,331.30
Plus: Non-Investor Funds Deposited During the Month	53,925.06	59,410.93	81,031.95	84,712.34	133,670.43	123,969.70	105,417.10	145,610.91
Total Amount of Non-Investor Funds for the Month	403,539.86	253,337.38	232,441.71	179,582.97	335,118.48	350,260.95	319,372.85	461,942.21
Distributions to Investors During the Month	(146,609.23)	(248,125.54)	(474,193.85)	(180,226.68)	(424,752.60)	(623,667.08)	(389,791.95)	(597,418.10)
<b>Distributions to Investors from Other Investor Funds</b>	<b>\$ 256,930.63</b>	<b>\$ 5,211.84</b>	<b>\$ (241,752.14)</b>	<b>\$ (643.71)</b>	<b>\$ (89,634.12)</b>	<b>\$ (273,406.13)</b>	<b>\$ (70,419.10)</b>	<b>\$ (135,475.89)</b>
<b>Note(s):</b>								
*Earliest month in which Distributions to Investors During the Month (including principal and interest) were paid from other investor funds.								
**Earliest month in which Distributions to Investors During the Month (interest only) were paid from other investor funds.								

## **ATTACHMENT 4**

Securities and Exchange Commission v. Equialt, LLC, et al.	
Analysis of Ponzi Activity for Equialt Fund II LLC	
For the Year 2019	
	Amount
<b>Non-Investor Funds at the Beginning of the Year</b>	
Funds in Bank of America x3284	\$ 142,854.50
Funds in Bank of America x3297	54,791.21
Total Non-Investor Funds at the Beginning of the Year	197,645.71
Plus: Non-Investor Funds Deposited During 2019	2,042,574.95
Total Amount of Non-Investor Funds for the Year 2019	2,240,220.66
Distributions to Investors During 2019	(5,624,304.40)
<b>Distributions to Investors from Other Investor Funds</b>	<b>\$ (3,384,083.74)</b>

## **ATTACHMENT 5**

Securities and Exchange Commission v. Equialt, LLC, et al.				
Analysis of Ponzi Activity for EA SIP, LLC				
	For the Month of:			
	December 2016	December 2017	December 2018	December 2019
<b>Non-Investor Funds at the Beginning of the Month</b>				
Funds in Wells Fargo x7000	\$ 109.46	\$ 29,158.28	\$ 7,389.52	
Funds in Bank of America x3213				\$ 28,057.99
Funds in Bank of America x5716				23,481.11
Total Non-Investor Funds at the Beginning of the Month	109.46	29,158.28	7,389.52	51,539.10
Plus: Non-Investor Funds Deposited During the Month	4,120.37	1,581.76	9,480.89	14,272.28
Total Amount of Non-Investor Funds for the Month	4,229.83	30,740.04	16,870.41	65,811.38
Distributions to Investors During the Month	-	(7,030.00)	(210,428.61)	(19,401.49)
<b>Distributions to Investors from Other Investor Funds</b>	<b>\$ 4,229.83</b>	<b>\$ 23,710.04</b>	<b>\$ (193,558.20)</b>	<b>\$ 46,409.89</b>

## **ATTACHMENT 6**

Securities and Exchange Commission v. Equialt, LLC, et al.	
Analysis of Ponzi Activity for EA SIP, LLC	
For the Year 2019	
	Amount
<b>Non-Investor Funds at the Beginning of the Year</b>	
Funds in Bank of America x3213	\$ 9,480.89
Funds in Bank of America x5716	-
Total Non-Investor Funds at the Beginning of the Year	9,480.89
Plus: Non-Investor Funds Deposited During 2019	366,508.86
Total Amount of Non-Investor Funds for the Year 2019	375,989.75
Distributions to Investors During 2019	(585,100.56)
<b>Distributions to Investors from Other Investor Funds</b>	<b>\$ (209,110.81)</b>

## **ATTACHMENT 1**

## Securities and Exchange Commission v. Equialt, LLC, et al.

## Analysis of Ponzi Activity for Equialt Fund LLC

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	December 2016*	June 2017	October 2017**	December 2017	June 2018	December 2018	June 2019	December 2019
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Plus: Non-Investor Funds Deposited During the Month	157,278.00	170,573.31	145,614.78	168,214.26	223,085.31	311,256.87	228,245.11	309,478.03
Total Amount of Non-Investor Funds for the Month	728,614.79	587,907.42	580,536.59	556,434.92	573,602.72	774,278.47	999,467.88	796,275.24
Distributions to Investors During the Month	(2,146,878.35)	(1,219,006.56)	(590,763.43)	(688,628.72)	(691,185.03)	(964,160.94)	(1,267,105.01)	(2,382,017.55)
Distributions to Investors from Other Investor Funds	\$ (1,418,263.56)	\$ (631,099.14)	\$ (10,226.84)	\$ (132,193.80)	\$ (117,582.31)	\$ (189,882.47)	\$ (267,637.13)	\$ (1,585,742.31)
<b>Note(s):</b>								
*Earliest month in which Distributions to Investors During the Month (including principal and interest) were paid from other investor funds.								
**Earliest month in which Distributions to Investors During the Month (interest only) were paid from other investor funds.								

## **ATTACHMENT 2**

Securities and Exchange Commission v. Equialt, LLC, et al.	
Analysis of Ponzi Activity for Equialt Fund LLC	
For the Year 2019	
	Amount
<b>Non-Investor Funds at the Beginning of the Year</b>	
Funds in Bank of America x3190	\$ 203,510.43
Funds in Bank of America x3200	177,370.31
Total Non-Investor Funds at the Beginning of the Year	380,880.74
Plus: Non-Investor Funds Deposited During 2019	4,364,507.79
Total Amount of Non-Investor Funds for the Year 2019	4,745,388.53
Distributions to Investors During 2019	(13,392,271.34)
<b>Distributions to Investors from Other Investor Funds</b>	<b>\$ (8,646,882.81)</b>

## **ATTACHMENT 3**

Securities and Exchange Commission v. Equialt, LLC, et al.								
Analysis of Ponzi Activity for Equialt Fund II LLC								
	For the Month of:							
	December 2016	June 2017	December 2017*	February 2018**	June 2018	December 2018	June 2019	December 2019
<b>Non-Investor Funds at the Beginning of the Month</b>								
Funds in Wells Fargo x1717	\$ 298,066.05	\$ 133,381.09	\$ 73,726.58	\$ 25,043.74	\$ 124,763.85	\$ 149,851.11		
Funds in Wells Fargo x4073	51,548.75	60,545.36	77,683.18	69,826.89	76,684.20	76,440.14		
Funds in Bank of America x3284							\$ 118,215.53	\$ 201,887.97
Funds in Bank of America x3297							95,740.22	114,443.33
Total Non-Investor Funds at the Beginning of the Month	349,614.80	193,926.45	151,409.76	94,870.63	201,448.05	226,291.25	213,955.75	316,331.30
Plus: Non-Investor Funds Deposited During the Month	53,925.06	59,410.93	81,031.95	84,712.34	133,670.43	123,969.70	105,417.10	145,610.91
Total Amount of Non-Investor Funds for the Month	403,539.86	253,337.38	232,441.71	179,582.97	335,118.48	350,260.95	319,372.85	461,942.21
Distributions to Investors During the Month	(146,609.23)	(248,125.54)	(474,193.85)	(180,226.68)	(424,752.60)	(623,667.08)	(389,791.95)	(597,418.10)
<b>Distributions to Investors from Other Investor Funds</b>	<b>\$ 256,930.63</b>	<b>\$ 5,211.84</b>	<b>\$ (241,752.14)</b>	<b>\$ (643.71)</b>	<b>\$ (89,634.12)</b>	<b>\$ (273,406.13)</b>	<b>\$ (70,419.10)</b>	<b>\$ (135,475.89)</b>
<b>Note(s):</b>								
*Earliest month in which Distributions to Investors During the Month (including principal and interest) were paid from other investor funds.								
**Earliest month in which Distributions to Investors During the Month (interest only) were paid from other investor funds.								

## **ATTACHMENT 4**

Securities and Exchange Commission v. Equialt, LLC, et al.	
Analysis of Ponzi Activity for Equialt Fund II LLC	
For the Year 2019	
	Amount
<b>Non-Investor Funds at the Beginning of the Year</b>	
Funds in Bank of America x3284	\$ 142,854.50
Funds in Bank of America x3297	54,791.21
Total Non-Investor Funds at the Beginning of the Year	197,645.71
Plus: Non-Investor Funds Deposited During 2019	2,042,574.95
Total Amount of Non-Investor Funds for the Year 2019	2,240,220.66
Distributions to Investors During 2019	(5,624,304.40)
<b>Distributions to Investors from Other Investor Funds</b>	<b>\$ (3,384,083.74)</b>

## **ATTACHMENT 5**

Securities and Exchange Commission v. Equialt, LLC, et al.				
Analysis of Ponzi Activity for EA SIP, LLC				
	For the Month of:			
	December 2016	December 2017	December 2018	December 2019
<b>Non-Investor Funds at the Beginning of the Month</b>				
Funds in Wells Fargo x7000	\$ 109.46	\$ 29,158.28	\$ 7,389.52	
Funds in Bank of America x3213				\$ 28,057.99
Funds in Bank of America x5716				23,481.11
Total Non-Investor Funds at the Beginning of the Month	109.46	29,158.28	7,389.52	51,539.10
Plus: Non-Investor Funds Deposited During the Month	4,120.37	1,581.76	9,480.89	14,272.28
Total Amount of Non-Investor Funds for the Month	4,229.83	30,740.04	16,870.41	65,811.38
Distributions to Investors During the Month	-	(7,030.00)	(210,428.61)	(19,401.49)
<b>Distributions to Investors from Other Investor Funds</b>	<b>\$ 4,229.83</b>	<b>\$ 23,710.04</b>	<b>\$ (193,558.20)</b>	<b>\$ 46,409.89</b>

## **ATTACHMENT 6**

Securities and Exchange Commission v. Equialt, LLC, et al.	
Analysis of Ponzi Activity for EA SIP, LLC	
For the Year 2019	
	Amount
<b>Non-Investor Funds at the Beginning of the Year</b>	
Funds in Bank of America x3213	\$ 9,480.89
Funds in Bank of America x5716	-
Total Non-Investor Funds at the Beginning of the Year	9,480.89
Plus: Non-Investor Funds Deposited During 2019	366,508.86
Total Amount of Non-Investor Funds for the Year 2019	375,989.75
Distributions to Investors During 2019	(585,100.56)
<b>Distributions to Investors from Other Investor Funds</b>	<b>\$ (209,110.81)</b>