

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

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

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

Defendants,

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, EANY, 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 UNOPPOSED MOTION FOR LEAVE TO RETAIN JOHNSON  
CASSIDY NEWLON & DECORT AS CO-COUNSEL**

Burton W. Wiand, as Receiver over the assets of the above-captioned corporate and relief defendants (the “**Receiver**”), moves the Court for leave to retain Johnson Cassidy Newlon & Decort (“**Johnson Cassidy**”) as co-counsel to the Guerra King firm to represent the Receiver. In support of his unopposed motion, the Receiver states as follows:

1. On February 14, 2020, this Court appointed Burton Wiand as Receiver over the Corporate and Relief Defendants in this action. [Doc. 11]

2. In that same Order, the Court approved the retention of the law firm Wiand Guerra King (n/k/a Guerra King) to act as counsel for the Receiver. [Doc. 11 at ¶16]

3. Since the date of appointment, Katherine C. Donlon of the Guerra King firm has acted as lead counsel for the Receiver. Other professionals at the Guerra King firm have also provided legal services to the Receiver including Jared Perez, Max McKinley, Maya Lockwood, Jeffrey Rizzo, and Amanda Stephens.

4. Ms. Donlon is leaving the Guerra King firm and joining the Tampa law firm of Johnson Cassidy Newlon & Decort, effective March 15, 2021. Johnson Cassidy is a litigation firm with extensive experience in federal court practice.

5. Given Ms. Donlon's knowledge regarding this matter, the Receiver believes that it is in the best interest of the Receivership and the defrauded investors that both Ms. Donlon and other professionals at her new firm and the professionals at Guerra King continue to provide legal services to the Receiver as required by Ms. Donlon and the Receiver.

6. Ms. Donlon's rate at Johnson Cassidy will be the same as those approved by the Court previously.

7. Further, given the roles of the various legal professionals providing services to the Receiver, it is not anticipated that there will be any duplication of services provided by the two firms.

#### **MEMORANDUM OF LAW**

The Court's power to supervise an equity receivership and to determine the appropriate actions to be taken in the administration of the receivership is extremely broad. *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).

Based on the discretionary powers of this Court in receivership and Ms. Donlon's role in this case, the Receiver requests that the Court grant the Receiver

leave to retain Johnson Cassidy as co-counsel providing legal services to the Receiver.

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

Undersigned counsel has conferred with counsel for the SEC and the individual defendants and there is no objection to the relief sought.

Dated: March 10, 2021

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 March 10, 2021, I electronically filed the foregoing with the Clerk of Court by using the Court's CM/ECF system, thereby serving this document on all attorneys of record in this case.

**/s/ Katherine C. Donlon**

Attorney