

**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, et al.,

Relief Defendants.

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**NOTICE OF FILING EXEMPLAR SETTLEMENT AGREEMENT**

Comes now the Receiver Burton W. Wiand and pursuant to the Court's request in its Order noted at Docket number 331, hereby files the attached exemplar Settlement Agreement he proposes to use in the settlement of clawback claims with EquiAlt investors who have received false profits.

Respectfully submitted,

**/s/ Katherine C. Donlon**

Katherine C. Donlon, FBN 0066941

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Attorneys for Burton W. Wiand Receiver

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on June 16, 2021, I electronically filed the foregoing with the Clerk of this Court by using the CM/ECF system which will send notification of electronic filing to all counsel of record.

**/s/ Katherine C. Donlon**

**ATTACHMENT**

**SETTLEMENT AGREEMENT**

WHEREAS, by order dated February 14, 2020, the Court in Securities and Exchange Commission v. Brian Davison, et al., Case No. 8:20-cv-325-T-35AEP (M.D. Fla.) (the “EquiAlt Receivership Action”), appointed Burton W. Wiand as Receiver (the “Receiver”) for (1) corporate defendants EquiAlt LLC, EquiAlt Fund, LLC, EquiAlt Fund II, LLC, EquiAlt Fund III, LLC and EA SIP, LLC (“**Corporate Defendants**”) and (2) 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**”) and all of their subsidiaries, successors, and assigns (collectively, the “**Receivership Entities**”); and

WHEREAS, the Receiver has commenced a lawsuit in the United States District Court for the Middle District seeking the return of funds (i.e., “false profits”) received from or at the direction of one or more of the Receivership Entities (*Wiand v. Adamek, et al.*, Case No. 8;21-cv-00360-TPB-CPT);

WHEREAS, \_\_\_\_\_, without admitting liability, wishes to resolve these matters amicably; and

WHEREAS, the settlement set forth in this agreement has been authorized and approved by the Court presiding over the EquiAlt Receivership Action;

1. NOW, THEREFORE, pursuant to the approval of the EquiAlt Receivership Court, \_\_\_\_\_ has agreed to cause the Receiver to be paid and the Receiver has agreed to accept principal of \$ \_\_\_\_\_ [plus interest of \$ \_\_\_\_\_] for a total of \$ \_\_\_\_\_ (the

“Settlement Amount”) in full settlement of the Receiver’s claims. The Settlement Amount shall be paid pursuant to the following payment schedule:

*[insert specific information as to payment plan – (1) single payment, (2) payment over six months without interest, or (3) payment over longer time (maximum 24 months) at 6% simple interest]*

2. Each payment towards the Settlement Amount shall be made payable to “Burton W. Wiand, as Receiver” and sent to the Receiver’s counsel, Katherine C. Donlon, Esq., Johnson Cassidy, Newlon & DeCort, 2802 N. Howard Avenue, Tampa, Florida 33607.

3. If the full Settlement Amount is not received by \_\_\_\_\_, \_\_\_\_\_ agrees that he/she shall be in default of his/her obligations, and he/she now consents to – and agrees not to oppose – the immediate entry of a judgment against him/her, in the amount of \$\_\_\_\_\_, less any payments already made, plus reasonable attorneys’ fees and post-judgment interest, upon the filing of an affidavit from the Receiver certifying failure of payment.

4. Upon receipt and clearing of the full Settlement Amount and interest, if any, the Receiver, on behalf of the Receivership Entities and their employees, agents, representatives, beneficiaries, and assigns, shall be deemed to have released and forever discharged \_\_\_\_\_ of and from any liability for the claims asserted by the Receiver in his demand letter of January 25, 2021 or in the lawsuit *Wiand v. Adamek, et al.*, regarding the receipt of “false profits.”

5. In further consideration of the release of claims described above, \_\_\_\_\_ agrees to waive and does hereby waive any claim that he/she had, has, or hereafter may have

against the Receiver and/or assets of the Receivership Entities in connection with the EquiAlt Receivership Action.

6. The Receiver and \_\_\_\_\_ understand and agree that the payment of the aforesaid total sum and waiver of claims is in full accord and satisfaction of and in compromise of disputed claims regarding the receipt of “false profits,” and the payment and waiver are not an admission of liability, which is expressly denied, but are made for the purpose of terminating a dispute and avoiding litigation.

7. \_\_\_\_\_ understands and agrees that each party to this agreement shall bear his/her own individual costs and attorneys’ fees incurred in the resolution of this matter and \_\_\_\_\_ agrees to assist the Receiver should any additional steps be necessary to effectuate this agreement.

8. The Receiver and \_\_\_\_\_ agree that this agreement shall be governed by and be enforceable under Florida law, without reference to Florida’s choice-of-law rules, through a summary proceeding in the United States District Court for the Middle District of Florida, Tampa Division.

9. The Receiver and \_\_\_\_\_ also agree that electronically transmitted copies of signature pages will have the full force and effect of original signed pages.

In witness whereof, the parties have set their hands as of the dates indicated.

By: \_\_\_\_\_

By: \_\_\_\_\_

Burton W. Wiand, as Receiver  
For the Receivership Entities

Date: \_\_\_\_\_

Date: \_\_\_\_\_