

**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, 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.

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**CLAIMS PROCESS INSTRUCTIONS**

TO ALL PERSONS AND ENTITIES WITH CLAIMS AGAINST THE DEFENDANTS  
AND/OR RELIEF DEFENDANTS:

On February 11, 2020, the Securities Exchange Commission (“SEC”) initiated this action against the Defendants and Relief Defendants seeking emergency relief to stop a fraudulent real estate investment Ponzi scheme and requested that the Court appoint a Receiver. As a result of this action, the Court appointed Burton W. Wiand as Receiver over the assets of the Corporate Defendants and Relief Defendants.<sup>1</sup>

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<sup>1</sup> 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. *See also*, Doc. 284 (expanding the Receivership to

The Receiver and his professionals have spent considerable time and resources examining voluminous documents relating to the Receivership Entities. Based on this examination and to the extent possible, the Receiver has determined a “**Net Investment Amount**” for most of the known investors. The Net Investment Amount for each investor’s investment is calculated by adding all amounts contributed by the pertinent investor and subtracting all payments made to that investor and/or in connection with that investment, regardless of whether those payments were characterized as “interest,” “earnings,” “distributions,” “returns or redemptions of principal or any other terminology. For example, an investor who invested \$100,000 and received \$50,000 in distributions in connection with that investment would have a Net Investment Amount of \$50,000. If an investor made multiple investments over time, the investor will receive a Proof of Claim for each individual investment. The investor will need to file a Proof of Claim for each investment.

The Net Investment Amount will serve as the basis for determining the recipients and amounts of distributions for victim investors. **By identifying and providing a Net Investment Amount (as may be provided in the Proof of Claim Forms mailed to investors where the Receiver has determined to do so), the Receiver does not waive any right to (1) deny, contest the validity of, or otherwise object to a claim or (2) if warranted, amend the provided Net Investment Amount.** If amendment of a Net Investment Amount is warranted, the Receiver will amend the Net Investment Amount and may provide notice of the amendment to the investor either through a direct communication to the investor or through a motion seeking the Court’s approval of the Receiver’s recommended claim determinations.

On July 8, 2021, the Court entered an Order establishing **December 22, 2021** (the “**Claims Bar Date**”) as the last date for each person or entity (including individuals, partnerships, corporations, joint venturers, estates, trusts, and governmental units) to submit a claim against the Receivership Entities. On July 6, 2021, the Receiver filed a motion seeking the Court’s approval to pool all Receivership assets and claims. As stated in that motion, the Receiver intends to use pooled Receivership assets to make distributions to all claimants who were damaged by this fraudulent scheme and timely and properly submit claims.

Any person or entity that submits a claim submits to the exclusive jurisdiction of the United States District Court for the Middle District of Florida for all purposes, including, without limitation, as to any claims, objections, defenses, or counterclaims that could be or have been asserted by the Receiver against such Claimant or the holder of such claim in connection with this Receivership, including those arising out of (1) any dealing or business transacted by or with any Receivership Entity or (2) any dealing or business transacted that relates in any way to any Receivership property. Further, Claimants waive any right to a jury trial with respect to such claims, objections, defenses, and counterclaims.

The Claims Bar Date and the procedures set forth below for filing a claim apply to all creditors and victims of the EquiAlt scheme.

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include EquiAlt Fund I, LLC). The Receivership Estate does not include the individual Defendants.

## 1. WHO MUST FILE A PROOF OF CLAIM FORM

If you think that you are owed money by any of the Receivership Entities or that you may otherwise have a claim against them, you **MUST** file a Proof of Claim Form before you may potentially share in distributions from the Receivership. A claim based on acts or omissions of any Receivership Entity must be filed on or before the Claims Bar Date, even if such claim is not now mature, fixed, liquidated, or certain, or does not become mature, fixed, liquidated, or certain before the Claims Bar Date.

## 2. WHAT TO FILE

To make the process less burdensome for investors, the Court authorized the Receiver to provide a Net Investment Amount on an attachment to the Proof of Claim Form for each investor for whom the Receiver has sufficient reliable information to do so. If you were provided a Net Investment Amount on the attachment to the Proof of Claim Form you received and you agree with the amounts identified, then you do not need to provide to the Receiver any documentation supporting your claim. However, you **must still complete** and sign the Proof of Claim Form under penalty of perjury and return it to the Receiver so that it is **received** on or before the Claims Bar Date, as specified in section 3 below.

If you disagree with the Net Investment Amount provided on the attachment to the Proof of Claim Form that you received or no Net Investment Amount was identified on the attachment to the Proof of Claim Form, you must provide to the Receiver by the Claims Bar Date (1) the amounts you contend are the correct amounts you invested in and received from any Receivership Entity and (2) legible copies of all documents on which you base your claim or, if documents are not available, a detailed explanation as to why the documents are not available.

If you were not an investor but believe you are or may be a creditor of one or more of the Receivership Entities, you must provide to the Receiver by the Claims Bar Date (1) the amount you contend you are owed from any Receivership Entity; (2) any amounts received from any Receivership Entity; and (3) legible copies of all documents on which you base your claim (i.e., all invoices for goods or services provided, loan documents, etc., as applicable) or, if documents are not available, a detailed explanation as to why the documents are not available.

If you made multiple investments over time, you will receive multiple Proof of Claim Forms. You **must** complete, sign, and return each Proof of Claim Form you receive to preserve all of your claims. Failure to timely return a completed and signed Proof of Claim Form for a claim will forever bar any claim related to that investment.

If the Receiver discovers that the Net Investment Amount provided on an attachment to the Proof of Claim Form is not accurate, he will amend the Net Investment Amount and may provide notice of the amendment to the Claimant either through a direct communication to the Claimant or through a motion seeking the Court's approval of the Receiver's recommended claim determinations. Similarly, subject to the Receiver's discretion, the Receiver may provide notice of a deficiency in a submitted Proof of Claim Form to the submitting Claimant by mail, electronic communication, or telephone call. The Claimant will then have the later of either the Claims Bar Date or thirty (30) days from the date the notice of deficiency was provided to correct the

deficiency as directed by the Receiver to preserve his or her claim. If the Receiver determines that it is in the best interest of the Receivership, he may choose to address deficiencies through the objection procedure, which will be discussed in a future motion. The Receiver also may request additional information from a Claimant. Failure to cure a deficiency or provide additional information may result in denial of your claim.

Each claim must be submitted either (1) on the Proof of Claim Form that was mailed to you along with these instructions or (2) through the online portal. If you did not receive a Proof of Claim Form by mail, you may obtain one from the Receiver's website, [www.equialtreceivership.com](http://www.equialtreceivership.com), or from Mary E. Gura, Johnson, Cassidy, Newlon & DeCort, 2802 N. Howard Avenue Tampa, FL 33607, (813) 321-0513. The Receiver reserves the right to reject any altered Proof of Claim Form.

Each Proof of Claim Form **must** be signed by the Claimant or, if the Claimant is not an individual, by an authorized agent of the Claimant. If the claim is being submitted by more than one person (i.e., a joint claim by husband and wife), all persons submitting the claim must sign the Proof of Claim Form. The Claimant must attest under penalty of perjury that the information, including any information provided by the Receiver, is true and correct. Each Proof of Claim Form **must** be legible, written in English, and denominated in United States currency.

It is your sole responsibility to advise the Receiver of any change to your mailing address, email address, and telephone number after you submit a claim to ensure that you receive any and all future communications regarding your claim, including any possible distribution payment you may be entitled to receive.

The Receiver will recommend to the Court that any properly completed and timely filed claim be considered allowed if it is established that: (1) the claim arises from or in connection with the fraudulent investment scheme set forth in the Amended Complaint filed by the SEC in this action; (2) losses recognized by law resulted from such activities; (3) any alleged claim and losses are supported by appropriate documentation and are consistent with the books and records available to the Receiver; and (4) no ground exists for denying the claim.

### **3. WHEN AND WHERE TO FILE**

All Proof of Claim Forms must be sent (or submitted online) so as to be **received on or before December 22, 2021**. Proof of Claim Forms may be submitted by one of the following options: (1) online, through the Receiver's eClaims portal which can be accessed at [www.omniagentsolutions.com/equialt](http://www.omniagentsolutions.com/equialt) (in order to submit a claim through the eClaims portal, the Claimant will need a Personal Identification Code which is provided below the preprinted contact information on the first page of the Proof of Claim Form sent to Claimants or one can be requested from the Receiver's Claims Agent, Omni Agent Solutions ("Omni")); (2) electronically, by uploading the completed Proof of Claim Form to [www.omniagentsolutions.com/equialt](http://www.omniagentsolutions.com/equialt); or (3) by submitting the completed Proof of Claim Form by mail, overnight delivery or courier to Omni at the following address:

EquiAlt Receiver Claims Processing  
c/o Omni Agent Solutions  
5955 De Soto Avenue, Suite 100  
Woodland Hills, CA 91367

DO NOT SEND YOUR PROOF OF CLAIM FORM TO THE COURT OR JUDGE PRESIDING OVER THIS CASE. It is the Claimants' responsibility to ensure that Proof of Claim Forms are delivered to Omni.

**4. CONSEQUENCES OF FAILURE TO FILE A CLAIM BY THE CLAIMS BAR DATE**

ANY HOLDER OF A CLAIM OR POTENTIAL CLAIM THAT FAILS TO FILE A PROOF OF CLAIM FORM (1) THAT FULLY COMPLIES WITH ALL REQUIREMENTS SET FORTH HEREIN AND IN THE PROOF OF CLAIM FORM **AND** (2) BY THE CLAIMS BAR DATE WILL BE FOREVER BARRED, ESTOPPED, AND ENJOINED FROM ASSERTING SUCH CLAIM AGAINST THE RECEIVERSHIP ENTITIES, THEIR SUCCESSORS, THEIR RESPECTIVE PROPERTY, THE RECEIVER, OR THE RECEIVERSHIP, AND FROM PARTICIPATING IN ANY DISTRIBUTION FROM THIS RECEIVERSHIP.

A holder of a claim or potential claim against a Receivership Entity may wish to consult an attorney regarding this claims process. The firms of Johnson, Cassidy, Newlon & DeCort P.A. and Guerra King P.A. act as attorneys for the Receiver and those lawyers cannot give personal legal or other advice to Claimants.

Dated September 23, 2021, Tampa, Florida.