

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

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

**v.**

**Case No: 8:20-cv-325-MSS-AEP**

**BRIAN DAVISON, BARRY M.  
RYBICKI, EQUIALT LLC,  
EQUIALT FUND, LLC, EQUIALT  
FUND II, LLC, EQUIALT FUND III,  
LLC, EA SIP, LLC, 128 E. DAVIS  
BLVD, LLC, 310 78TH AVE, LLC,  
551 3D AVE S, LLC, 604 WEST  
AZELEE, 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 and TB OLDEST HOUSE EST.  
1842, LLC,**

**Defendants.**

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**ORDER**

**THIS CAUSE** comes before the Court for consideration of the Receiver's Unopposed Fourth Motion to Approve Settlement of Investor Clawback Claims. (Dkt. 424) Therein, the Receiver advises that he has identified 251 investors who have


received false profits from their investments with Defendants Brian Davison and Barry Rybicki, whom he denotes as “Net Winners”. (Id.) The Receiver represents that he has agreed to settle his claims against three (3) Net Winners for the total amount of \$113,070.54. (Id.; see Dkt. 424-1) The Receiver advises that he has settled for 90% of false profits for Net Winners who settled prior to commencement of the Receiver’s suit and for 100% of false profits for Net Winners who settled after the Receiver commenced his suit. (Dkt. 424) The Receiver provides the Court a list of the Net Winners and their agreed settlement amounts. (Dkt. 424-1) The Receiver seeks the Court’s approval of the settlements, advising that all 3 settlement agreements follow the exemplar Settlement Agreement, (Dkt. 333), previously provided to the Court. (Dkt. 364)

The Court having reviewed the Motion, the exemplar Settlement Agreement, (Dkt. 333), the record in this action, noting that Plaintiff Securities and Exchange Commission and Defendants Brian Davison and Barry Rybicki do not object to the requested relief, and being otherwise fully advised in the premises, and finding it appropriate to approve the Motion, it is hereby **ORDERED** and **ADJUDGED** as follows:

1. The Motion, (Dkt. 424), is **GRANTED**. The Court finds that the exemplar Settlement Agreement, (Dkt. 333), is fair, adequate, and reasonable and is thus approved in its entirety.
2. The Receiver and the Net Winners, (Dkt. 424-1), are authorized and directed to comply with the terms of their Settlement Agreement.

3. The Net Winners are directed to pay the Receiver in the amount listed by the Receiver in the Motion. The list of the Net Winners and their agreed settlement amounts, (Dkt. 424-1), is attached as an Exhibit hereto.
4. **Failure to comply with the terms of the Settlement Agreement may subject the noncompliant Net Winner to an immediate entry of judgment against them for the amount listed in the corresponding Settlement Agreement.**
5. The Court shall retain jurisdiction to enforce the specific terms of the Settlement Agreements.

**DONE** and **ORDERED** in Tampa, Florida, this 20th day of October 2021.

  
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MARY S. SCRIVEN  
UNITED STATES DISTRICT JUDGE

**Copies furnished to:**  
Counsel of Record  
Any Unrepresented Person

<b>Name</b>	<b>Settlement Amount</b>	<b>False Profits</b>
Flynn, James	\$32,000.00	\$32,000.00
Rothstein, Patricia	\$10,450.00	\$10,450.00
Smisek, Richard	\$70,620.54	\$70,620.54
	\$113,070.54	\$113,070.54