

**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.

THE RECEIVER'S SEVENTH QUARTERLY STATUS REPORT

Receivership Information and Activity from

July 1, 2021 through September 30, 2021

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INTRODUCTION

Burton W. Wiand, the Court-appointed receiver over the assets of the above-captioned corporate defendants and relief defendants (the “**Receiver**” and the “**Receivership**” or “**Receivership Estate**”), files this Sixth Quarterly Status Report to inform the Court, investors, creditors, and others interested in this Receivership of activities this quarter as well as the Receiver’s proposed course of action. For a complete report of the Receiver’s activities to date, the Receiver refers the reader to his previous reports. [Docs. 84, 179, 217, 265, 319, 352] These reports can also be found on the Receiver’s informational website, EquiAltreceivership.com. The Receiver will continue to update the website regarding the Receiver’s most significant actions, important Court filings, and other items that might be of interest to the public. This Seventh Quarterly Status Report, as well as all subsequent reports, will be posted on the Receiver’s website.

OVERVIEW OF SIGNIFICANT ACTIVITIES DURING THIS REPORTING PERIOD

During the time covered by this Seventh Quarterly Status Report, the Receiver and his professionals engaged in the following significant activities:

- Managed the turnover of assets by Brian Davison pursuant to the Final Judgment entered by the Court on August 5, 2021 (Doc.355);

- Participated with class action counsel in the *Gleinn, et al. v. Wassgren, et al.* case in a combined mediation in the lawsuits against Paul Wassgren, Fox Rothschild and DLA Piper;
- Sought and received the Court's approval to pool the assets and liabilities of the various Receivership entities (Doc. 351);
- Sought and received the Court's reappointment of the Receiver in order to gain jurisdiction over additional net winners (Doc. 350);
- Sought and received the Court's approval of an online auction for the sale of 30 real estate properties owned by the Receivership Estate (Doc. 349);
- Conducted an online auction for a ten-day period culminating on September 2, 2021, resulting in the sale of 24 of the 30 properties offered, for net proceeds of over \$3 million to the Receivership Estate;
- Solicited bids from three auction houses to market and sell the luxury watches turned over by Mr. Davison and then sought and obtained the Court's approval of the Receiver's retention of Sotheby's (Doc. 419);
- Successfully defended against multiple motions to dismiss filed in the investor clawback action, *Wiand v. Adamek*, Case No. 8:21-cv-00360 (M.D. Fla.);
- Obtained Clerk's Defaults against 51 defendants in the *Adamek* case, representing \$755,617 in false profits, subsequently three of these defendants settled with the Receiver;

- Received Court approval for the settlement of certain investor clawback claims, resulting in settlements in the amount of \$1,740,842.37 (Docs. 360, 363,392);
- Worked with Omni Agent Solutions to initiate the claims process, sending out over 3,370 proof of claim packets to investors, other potential creditors, and their counsel;
- Engaged in extensive efforts to market additional real estate properties and develop plans for marketing properties in efficient cost-effective manner;
- Entered into agreements to sell the New York apartment, Davison's Davis Island house and property, and the office location for EquiAlt at 2112 W. Kennedy Blvd., Tampa;
- Continued to renovate Jasmine Way property in Clearwater;
- Continued working with partners on the operations of Commerce Brewing and related entities;
- Continued development plans for St. Petersburg commercial land;
- Continued work to streamline Receivership administration and manage EquiAlt operations, including maintenance and leasing of over 300 real estate properties;

The above activities are discussed in more detail in the pertinent sections of this Seventh Quarterly Status Report.

ACTIONS TAKEN BY THE RECEIVER

Since his appointment, the Receiver has taken a number of steps to fulfill his mandates under the Order Appointing Receiver. These efforts are reported in the previous Quarterly Status Reports. This section describes actions taken in this Quarter.

I. The Financial Status of the Receivership Estate

A. Fund Accounting

Attached as Exhibit 1 is a cash accounting report showing the amount of money on hand from July 1, 2021, less operating expenses plus revenue, through September 30, 2021. This cash accounting report does not reflect non-cash or cash-equivalent assets. Thus, the value of all property discussed below is not included in the accounting report. From July 1, 2021 through September 30, 2021, the Receiver collected \$1,582,099.75 in business income with \$934,569.24 in business asset expenses. The ending fund balance is \$14,447,777.35.

B. Bank Accounts

1. Receivership Bank Account

The Receiver has opened a money market account for the Receivership at ServisFirst Bank.¹ To date, this account holds the following funds:

- Recovery of \$53,500 from Stovall House;
- Return of an escrow payment in the amount of \$45,834 on April 6, 2020;
- Return of \$193,911.19 in deposits from Miller Motorcars made by EquiAlt for the purchase of luxury vehicles for Mr. Davison.
- The Court ordered the return of \$310,000 in deposits made by EquiAlt to Audemars Piguet for watches for Mr. Davison and his wife (Doc. 155);
- The Court approved the private sale of three of Mr. Davison's Ferraris. The gross proceeds from these sales were \$638,300. After payment of the liens in the amount of \$310,443.53, the sales netted \$327,856.47;
- Proceeds from the sale of 4203 Bay Villa, Tampa - \$495,336.53;
- Mr. Rybicki sought and received the approval of the Court to sell his encumbered Porsche that he was driving. (Docs. 203 and 204) The sale price was \$105,000. After paying the lien, the net proceeds were \$65,844.35. The Court approved the use of \$23,000 of those proceeds for Mr. Rybicki to purchase a personal vehicle. However, Mr. Rybicki chose to leave all the proceeds with the Receiver;
- Proceeds from the sale of 5324 5th Avenue North, St. Petersburg - \$216,492.08;

¹ The Receiver also opened a checking/operating account for making disbursements.

- Proceeds from the sale of 6209 2nd Avenue North, St. Petersburg - \$256,599.29;
- Net proceeds from the sale of Mr. Davison's Bentley - \$45,896.13;
- Net proceeds from the sale of Mr. Davison's Rolls Royce - \$31,144.38;
- Net proceeds from the sale of 2236 Gabarone Blvd., Auburndale- \$160,941.87;
- \$50,000 from Commerce Brewing for sale of a portion of ownership;
- Net proceeds from the sale of 2111 W. Saint Louis Street, Tampa - \$186,421.46;
- Additional proceeds from sale of Bentley - \$44,506.01;
- Net proceeds from the sale of 3914 ½ N. Ridge Avenue, Tampa - \$780,578.62;
- Net proceeds from the sale of 2 Bahama Circle, Tampa - \$3,748,857.71;
- Investor clawback settlement payments of \$226,349.48; and
- Sales agent clawback settlement payments of \$32,000.

2. Accounts at ServisFirst

The Receiver holds the following bank accounts at ServisFirst on behalf of the Receivership Entities. The total balance for these accounts as of September 30, 2021 is \$14,447,777.35. Since the Court approved the pooling of assets and liabilities, the Receiver and his team are working to consolidate and close certain of these bank accounts to allow for the more efficient use of resources for the Receivership Estate.

Account No.	Account Title	9/30/21 Balance
XXXXXXXXXX7668	EquiAlt Fund, LLC	\$646,310.22
XXXXXXXXXX7650	EquiAlt Fund II, LLC	\$287,456.65
XXXXXXXXXX7643	EA SIP, LLC	\$150,038.50
XXXXXXXXXX7593	EquiAlt, LLC	\$89,979.73
XXXXXXXXXX7718	EquiAlt, LLC (Escrow)	\$2,703,013.51
XXXXXXXXXX6843	EquiAlt, LLC Operating	\$7,654.97
XXXXXXXXXX7635	Blue Waters TI LLC	\$62,403.26
XXXXXXXXXX7627	TB Oldest House Est. 1842, LLC	\$51,524.88
XXXXXXXXXX7601	Silver Sands TI LLC	\$42,282.09
XXXXXXXXXX7619	Bungalows TI LLC	\$33,215.30
XXXXXXXXXX8013	5123 E. Broadway Ave. LLC	\$126,535.99
XXXXXXXXXX8500	BR Support Services	\$15,096.40
XXXXXXXXXX6850	Receivership Account	\$7,907,161.51
XXXXXXXXXX6191	Rybicki Segregated Funds	\$158,428.82
XXXXXXXXXX1975	EquiAlt Property Management	\$1,414,533.67
XXXXXXXXXX1983	EquiAlt Property Management (money market)	\$449,381.06
XXXXXXXXXX2049	Qualified Opportunity Zone LP	\$4,660.27

Account No.	Account Title	9/30/21 Balance
XXXXXXXXXX1959	EquiAlt Secured Income Portfolio REIT, Inc.	\$298,100.52
XXXXXXXXXX1967	EquiAlt Secured Income Portfolio REIT, Inc. (money market)	\$0
Total		\$14,447,777.35

3. Accounts at Bank of America, N.A.

After the transfer of the above-referenced REIT and QOZ accounts, there are only four accounts still held at Bank of America. The disposition of these accounts is referenced in the settlement with Brian Davison. As the parties finalize the turnover associated with that settlement, it is anticipated that these accounts will be closed.

Account No.	Account Title	Original Frozen Balance	Notes
XXXXXXXXXX8041	The Brian D. Davison Revocable Trust	\$322,480.86	Remains Frozen
XXXXXXXXXX4008	EquiAlt Secured Income Portfolio Limited Partnership	\$380.20	Remains Frozen
XXXXXXXXXX5126	EquiAlt Property Management, LLC	\$0.00	Remains Frozen
XXXXXXXXXX4011	EquiAlt Secured Income Portfolio	\$380.20	Remains Frozen

4. Accounts at JPMorgan Chase, N.A.

The Receiver had identified 16 accounts at JPMorgan Chase, N.A. (“Chase”) that are or were associated with the Defendants and Relief Defendants. At this time, only 6_ accounts have an active balance. As with the Bank of America accounts, once the turnover associated with the Davison settlement is completed, it is anticipated that these accounts will be closed.

Account No.	Account Title	Original Frozen Balance	Court Ordered Withdrawals from Account
XXXXX3995	Brian Davison / Nicole Davison	\$417,762.15	*\$75,000 (Doc.54) *\$105,420 (Doc. 124) *\$67,700 (Doc. 201)
XXXXX2758	Brian Davison	\$114.23	Frozen
XXXXX8993	Barry Rybicki	\$2,469.64	Frozen
XXXXX5756	Davison Capital LLC	\$24,639.50	Frozen
XXXXX5807	Rosenbarry Holdings LLC	\$220,021.06	*\$85,000 (Doc. 31) *\$23,400 (Doc. 65) *\$19,865 (Doc. 83) *\$25,300 (Doc 124) \$16,576 (Doc. 171) *\$30,000 (Doc. 157)
XXXXX9319	Brian Davison	\$194.15	Frozen

5. Accounts at Comerica Bank, N.A.

The Receiver has identified 6 accounts at Comerica Bank, N.A. (“Comerica”) that were associated with the Defendant, Barry Rybicki.

Account No.	Account Title	Frozen Balance	Status
XXXXXX7306	Barry M. Rybicki	\$36,824.98	Frozen
XXXXXX7314	Barry M. Rybicki	\$30,577.31	Frozen
XXXXXX7261	Rosenbarry Properties, LLC	\$10,000.00	Frozen
XXXXXX7721	Rosenbarry Properties, LLC	\$500.00	Frozen
XXXXXX6792	Undetermined (possibly Rybicki-related)	\$36,824.98	Frozen
XXXXX2102	Barry M. Rybicki and Rosemarie Rybicki JT TEN	\$224.57	Frozen

6. Investments and Investment Accounts

The Receiver has identified and frozen three investment accounts associated with the individual defendants: Coinbase (Rybicki), E*Trade (\$225,744) (Rybicki), and Merrill Lynch (Davison). As of February 29, 2020, the balance in Davison’s Merrill Lynch accounts was \$1,350,771.36. Since then, approximately \$122,500 has been moved from Davison’s personal bank account to pay capital calls in the Merrill Lynch account. Going forward, the Court has ordered that the Merrill Lynch investment advisor “shall be authorized to liquidate equities in those accounts for the sole and exclusive purpose of meeting future capital calls as they might arise.” (Doc. 201 at 4) The value of the accounts as of July 30, 2021 was \$1,717,210.29. It is anticipated that the Receiver will receive approximately \$1.1 million in alternative investments from these accounts as a result of the Davison settlement.

II. Disposition of Receivership Real Property

A. Receiver's Auction of Real Property

On August 23, 2021, Receiver Burton W. Wiand held an auction for the purpose of selling 30 real estate properties related to the EquiAlt Receivership. Given the current housing market and the success of his earlier automobile auction, the Receiver chose this format with the belief that it would be the most efficient way to sell multiple properties. The Court approved the auction in an order dated July 14, 2021. (Doc. 349)

Prior to the start of the auction, the Receiver advertised and caused an article to be published in the Tampa Bay Times (online and print) in order to garner interest in the auction. The Receiver also listed the auction through the MLS service and other online services such as Zillow. The publicity was a huge success. The articles referencing the auction were the second most viewed of the Tampa Bay Times, only exceeded by Elon Musk's space flight. The articles were also picked up internationally, furthering our reach to prospective bidders. In the timeframe from the advertisements going public to the end of the auction, the receivership-auctions.com website gained over 400 registered users interested in the auction. Having this base of potential bidders, the Receiver can reach out directly to these users to inform them of upcoming auctions.

Due to the Receiver's marketing efforts and the current trends of the housing market, the auction proved a success. In the 10-day window that the auction was held, the Receiver was able to sell 24 of the 30 properties directly in the auction. Five of the six properties that did not meet the reserve during the course of the auction were placed under contract shortly thereafter and are set to be sold in the next 30 days. In total, the auction was able to generate an overall Bid amount of 105.5% of fair market value of the properties based on a third-party Broker Price Opinion. Using the auction format, the Receiver was able to avoid paying commissions that are typically paid to the buyer and seller agents. He was able to do this by adding a buyer's premium of 5% of the winning bid amount. The Receiver then used that 5% to cover the costs of agents and title expenses. The five of the remaining six properties have been placed under contract since the auction at 102.6% of their fair market value. The final property has received several competitive offers.

In order to make these properties appeal to private buyers, the Receiver employed an innovative provision in the auction terms that allowed a winning bidder to use a window of 30 days to acquire financing. This window, while not a contingency on a purchaser's obligation to complete the transaction gave buyers an opportunity to utilize financing. The Receiver believes that this accommodation to increased the pool of bidders and purchasers.

Given the results of this first real estate auction, the Receiver believes that this process will continue to provide him an efficient way to dispose of the real property assets while protecting the receivership through setting a proper reserve price. The Receiver's team is preparing for a second auction, and more are anticipated.

B. Efforts to Sell and Develop EquiAlt Properties

In addition to the auction of the single-family homes mentioned above, the Receiver has listed and is actively marketing a number of multi-family properties in Florida and Tennessee. Also, the Receiver's team is continuing the rehabilitation of certain Receivership properties including 403 Jasmine Way in Clearwater. Finally, the Receiver is continuing to pursue the development or structured sale of commercial land in downtown St. Petersburg on Third Avenue South.

C. Status of Sales of Davison-Related Property

1. New York Condo, 21 W. 20th St., #5, New York, NY

As reported previously, the Receiver had listed this property several months ago. On October 5, 2021, the Receiver entered into a Purchase and Sale Agreement on this property for \$2,346,215, just above Coldwell Banker's BPO of \$2,285,895. The Receiver filed a motion to approve the sale on October 20, 2021 (Doc. 425) which was granted on October 22, 2021 (Doc. 427).

2. EquiAlt Office, 2112 W. Kennedy Blvd., Tampa, FL

This property was originally purchased in the spring of 2018 for \$975,000 with monies being paid by EquiAlt LLC, EquiAlt Fund II and McDonald Revocable Living Trust. Thereafter, EquiAlt LLC renovated the premises for almost \$280,000. Initially after the Receiver was appointed, EquiAlt employees continued to work from this office. However, with the onset of the COVID 19 pandemic, employees began and continue to work from home. The BPO provided by Coldwell Banker on this property was \$1,125,000. On September 21, 2021, the Receiver entered into a Purchase and Sale Agreement for \$1,650,000. The Receiver has recently filed a motion with the Court to approve this transaction. The Receiver will move the operations office of the EquiAlt companies to the warehouse owned by the Receivership at 2101 West Cypress Street in Tampa.

3. Davison Home, 128 Biscayne Ave., Tampa, FL and 305 Bosphorous Ave., Tampa, FL

In February and March of 2013, Brian Davison used \$399,517.66 from Fund I to purchase the house at 128 Biscayne Avenue, Tampa, and, thereafter, used \$1,219,391.92 from EquiAlt LLC and Fund I to renovate the house. During the course of these renovations, in September of 2017, Davison bought the adjoining lot (305 Bosphorous) for \$913,412.51. This purchase was also made with investor funds by way of Relief Defendant McDonald Revocable

Trust. The Biscayne property was initially purchased and titled in the name of Fund I; later, it was moved to a single purpose LLC — 128 Biscayne, LLC. The Bosphorous lot was initially titled in the name of Relief Defendant BNAZ, LLC, but later was titled in the names of Brian Davison and his wife, Nicole Davison. Davison caused the Properties to be combined into a single, contiguous parcel. The previously combined parcel included a new single-family residence owned by Brian Davison and his wife, Nicole Davison, as well as a spacious backyard (the Vacant Property).

The Properties are currently owned by the Receiver, who took title pursuant to a settlement agreement between the SEC and Brian Davison. *See* Doc. 355-1 at 7. The Receiver and his professionals have evaluated the Properties, and the Receiver has determined that re-dividing and selling them separately is commercially reasonable and will ensure the greatest proceeds for the Receivership Estate.

On September 21, 2021, the Receiver entered into a Purchase and Sale Agreement for 128 Biscayne Avenue for \$2,000,000. The following day, the Receiver signed a similar agreement for the purchase of 305 Bosphorous for \$1,402,800. The Receiver has recently filed a motion with the Court for approval of these sales.

4. Timeshare Properties

As part of the Davison settlement, the Receiver now holds two timeshare properties. The Receiver's team is making efforts to market and sell these interests.

III. Disposition of Receivership Personal Property

A. Davison Watches, Jewelry, and Coins

As part of the negotiated settlement between the SEC and Mr. Davison, Mr. Davison was ordered to turnover 70+ high-end watches (Patek Philippe, Audemars Piguet, Rolex, etc.) to the Receiver. In July, the Receiver solicited proposals from three auction houses – Sotheby's Christie's and Phillips – to market and sell this vast collection of timepieces. After receipt of the proposals, the Receiver and his counsel met with the three firms to discuss their proposals. Based on these meetings and the revised proposals received by the Receiver, he chose Sotheby's as the exclusive auction house to market and sell the watches. The Receiver filed a motion with the Court to approve the retention (Doc. 393) which was granted on September 27, 2021. (Doc. 419) Sotheby's scheduled the various watches for three different auctions – Hong Kong (October), Geneva (November), and New York (December).

Mr. Davison turned over the watches to the Receiver and Sotheby's on August 31, 2021 at his house on Davis Island. Additionally, he turned over jewelry and coins that were part of his settlement. Many of the watches would

have had provenance documents that should accompany the timepiece at the time of any transfer. Unfortunately, Mr. Davison failed to produce those records. He was vehement that the documents were in the Cypress warehouse. Several members of the Receiver's team, including the Receiver and the Sotheby's representative, searched both the warehouse and the EquiAlt office to no avail. Davison remained steadfast that he did not have the documents. Because the Receiver did not have these documents, several items for the Hong Kong auction had to be pulled and the list of timepieces for the Geneva auction was severely limited. On the evening of October 5th, counsel for Mr. Davison informed the Receiver that Mr. Davison had found the provenance documents. The Receiver finally received the documents on October 6, 2021.

The Hong Kong auction was held on October 10, 2021. Of the 13 items auctioned for the Receiver, 12 of the lots exceeded the reserve price. The total reserve on the twelve lots sold was \$22,880,000 HKD. The proceeds to the Receiver on these items was \$48,261,360 HKD (approximately \$6.1 million). Sotheby's will recommend how best to market the one item that did not meet the reserve. These monies will be paid to the Receiver in late November.

At Sotheby's recommendation, the Receiver offered five watches in an auction in Las Vegas in late October. The total reserve on these five timepieces was \$248,000. All told, the Receiver will receive \$412,110 in proceeds from this auction in early December.

The Receiver had two lots in Sotheby's Geneva auction which was held on November 10, 2021. The reserve on these two watches was CHF 700,000.00. These two watches garnered CHF 976,050.00 (or approximately \$1,060,000) for the Receivership estate. It is anticipated that these proceeds will be received by the Receiver before year end.

In addition to the watches turned over by Mr. Davison, certain items of jewelry were turned over by the Davisons. Sotheby's has possession of these items and is working to recommend a marketing plan for those pieces.

Additionally, as part of the settlement, Mr. Davison was to turn over 61 gold American Eagle coins, 480 platinum American Eagle coins, 2 Elizabeth II coins, and 13 U.S. Liberty coins. At the time of the turnover, the Receiver's consultant inspected the coins and determined that the "platinum" coins were in fact silver. Counsel for the Receiver and Mr. Davison are continuing to discuss this discrepancy which equates to a diminution in value of over \$480,000 for the assets turned over.

B. Vehicles

1. Davison Vehicles

As described in earlier reports, the Receiver sold the 2018 Pagani Huayra to Miller Motorcars for \$2,300,000 on June 25, 2021 (Doc. 339), which was received in July.

As part of the Davison settlement, the Receiver is now in possession of a 1995 Land Rover Defender (D110 ECD) which was custom built for Mr. Davison. The purchase price on this vehicle was approximately, \$212,000. In addition to the Defender, the Receiver received a 2015 Mazda MX5 (Chassis #79), which is a car kept by the Davison family at the Monticello Motor Club. The Receiver is still obtaining records related to unpaid storage and repair bills for this vehicle. Additionally, the Receiver is still working to market the 1977 Ferrari 208 GTB. for sale.

2. Rybicki Vehicles

Mr. Rybicki owns the following vehicles of which he has possession for personal use: 2019 Porsche Turbo S Cabriolet (driven by his wife) and a 1981 Land Rover Defender (driven by one of his sons).

IV. Operating Businesses

Initially, from the Tampa office, under the supervision of the Receiver, eight full-time employees and one part-time employee of EquiAlt oversee the rental real estate activities for the properties owned by the Receivership Funds including the REIT and QOZ. Due to COVID 19 issues, most of the employees have been working remotely. Tony Kelly is the General Manager and oversees the operations and reports directly to the Receiver. EquiAlt employees continue to oversee certain development and construction projects that were begun prior to the Receiver being appointed as well as renovation

projects that are necessary as rental properties turn over. EquiAlt has employees dedicated to leasing and tenant matters as well as maintenance issues related to the rental real estate properties. EquiAlt's staff also includes several employees dedicated to accounting activities. Recently, two staff members have resigned. Their duties have been reassigned and are now being performed by the existing staff. One employee was added on a part time basis to assist with auction sales and asset liquidation. The Receiver believes that the current staffing is sufficient to support the real estate activities of the Receivership Entities as they continue to sell off properties. In addition to the Tampa employees, the Receivership also has one part-time employee in central Tennessee to manage the EquiAlt properties there.

At the end of June 2021, the Receivership has approximately \$14.4 million on hand in cash. These funds are sufficient for current operation including taxes, repairs, necessary renovations, personnel expense, insurance and general maintenance. Currently, the Receivership Entities are operating in a cash flow positive situation with the rental income of the properties covering EquiAlt's operational costs.

In addition to the real property operations of the Receivership Entities, the Receiver continues to manage the Receivership's interests in Commerce Brewing and another brewery Bolero Snort. More information regarding these businesses is included in earlier status reports.

V. Pending and Contemplated Litigation

A. Pending Litigation

1. Clawback Litigation

Based upon the forensic accountants' cash-in/cash-out analysis of the Receivership Entities, the Receiver has identified more than 270 investments where an investor received more money from a Receivership Entity than he or she contributed to the Receivership Entity. In Ponzi schemes, such amounts are generally referred to as "**false profits**" because the money transferred to the pertinent investor was not derived from legitimate activities but from other defrauded investors. Receivers in the Eleventh Circuit (and nationwide) have a clear right to recover false profits through fraudulent transfer or "**clawback**" litigation. *See, e.g., Wiand v. Lee, et al.*, 753 F.3d 1194 (11th Cir. 2014). Prior to filing any lawsuit, the Receiver sought to settle these claims to the extent possible.

On February 13, 2021, the Receiver filed a consolidated clawback action against 124 investors who received false profits. *See Wiand v. Adamek, et al.*, Case No. 8:21-cv-360-TPB-CPT. All told, the Receiver has settled his claims against 103 investors for a settlement recovery of \$1,844,065.52 (\$1,043,117.29 from *Adamek* defendants and \$840,948.23 from other net winner investors). Upon settling with various investors, the Receiver has sought and received approval by the Receivership court of those settlements.

In the *Adamek* case, the Receiver had defended against motions to dismiss filed by several defendants. The court denied those motions and the Receiver is continuing to pursue these claims. Currently, Clerk's Defaults have been entered against 51 Investor Defendants in the amount of \$755,617. The Receiver's legal team will proceed with filing for default judgments against these defendants.

Also on February 13, 2021, the Receiver filed a clawback case asserting tort claims against sales agents who aided and abetted the scheme or otherwise knew or should have known of fraudulent activity. The Receiver's claims in this case exceed \$18 million. Many of these sales agent defendants are also the subject of regulatory actions brought by the SEC and the Arizona Corporations Commission. The Receiver has received approval from the Receivership Court for a \$130,000 settlement with two of the Sales Agent Defendants. The Receiver is pursuing the claims as set forth in this action but is also working toward meeting the Court's deadline to conduct mediation with the defendants.

2. Class Action and Receiver's Action Against Law Firm Defendants

As discussed in more detail in the Receiver's Sixth Quarterly Status Report, both Class Action Investors (the *Gleinn* case) and the Receiver have asserted claims against attorney Paul Wassgren and his former law firms, DLA Piper, and Fox Rothschild, who provided legal services to certain Receivership

Entities. The *Gleinn* case is pending in the Middle District of Florida and the Receiver's action is pending in state court in California. The parties in these two cases participated jointly in a mediation in mid-August. Although a final settlement was not reached, the parties did not impasse. Rather, the parties are continuing to work through issues in hopes of achieving a favorable settlement for the Receivership Estate. The courts in both cases have issued a stay while the parties continue these efforts.

B. Contemplated Litigation

Having settled his potential claims against Brian Davison, the Receiver was focused on claims against Barry Rybicki. However, the SEC and Rybicki have continued efforts to reach a consent and judgment as it relates to Mr. Rybicki. The Receiver and his team have provided input into the process and anticipate that the proceeds of any resolution will benefit the Receivership Estate.

VI. Claims Process and Communications with EquiAlt Investors.

The Receiver, through Omni Agent Solutions, mailed out 3,370 proof of claim packets to EquiAlt investors, creditors and other related recipients on September 23, 2021. This date is important as it establishes the timeline for submission of proof of claim forms. To be eligible for review by the Receiver, all proof of claim forms must be received by Omni by the Claims Bar Date of **December 22, 2021**. Submission of a proof of claim does not necessarily mean

that the Receiver will accept or approve the claim. Further information related to the claims process can be found on the Receiver's website, www.equialtreceivership.com, or Omni's website for this case, www.omniagentsolutions.com/equialt. In addition to mailing out the proof of claim forms, pursuant to the Court's Order, the Receiver published a notice regarding the claims process in the *USA Today*, *Arizona Republic*, *Tampa Bay Times*, *San Francisco Chronicle* and the *Los Angeles Times*.

Claimants will have several different ways to submit their fully completed proof of claim form: (1) complete the form electronically and submit it through Omni's online portal; (2) complete the hard copy form and upload to Omni's portal; or (3) complete the hard copy form and mail back to Omni. All questions regarding the completion of the forms should be directed through Omni via email or telephone. As of September 30, 2021, 42 proof of claim forms had been submitted to Omni.

The Receiver's team will begin reviewing the submitted claim forms in order to submit a Claims Determination motion, hopefully in the first or second quarter of 2022. Once that motion is approved by the Court, it is anticipated that the Receiver would make his first distribution to the defrauded investors. As stated previously, the assets in this Receivership are of substantial value but is not possible or appropriate to estimate what the

total distributions will be. Continued Quarterly Status Reports will keep investors and creditors advised of the Receiver's progress and the liquidation of assets. Investors and creditors are encouraged to review these reports and the website

VII. The Next Ninety Days.

The Order Appointing Receiver requires each Quarterly Status Report to contain “[t]he Receiver’s recommendations for a continuation or discontinuation of the receivership and the reasons for the recommendations.” Doc. 11 ¶ 29.G. At this stage, the Receiver recommends continuation of the Receivership because he still has (1) the ongoing need to manage and in part develop, the real property business of the Receivership; (2) hundreds of properties to liquidate; (3) substantial personal property to liquidate, including watches and jewelry; (4) continuation of the claims process to determine eligible claimants and direct the distribution of funds; and (5) evaluate, liquidate or otherwise consolidate the business operations of the various business entities that the Receiver currently controls and/or operates.

Respectfully submitted,

/s/ Burton W. Wiand

Burton W. Wiand, Receiver

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on November 15, 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

kdonlon@jclaw.com

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Attorneys for Receiver Burton W. Wiand

EXHIBIT 1



REPORT OF STANDARDIZED FUND ACCOUNTING REPORT

EquiAlt, LLC et al. Receivership
Tampa, FL

We have compiled the standardized fund accounting report for Burton W. Wiand as Receiver for EquiAlt, LLC et al., cash basis, from the period of July 1, 2021 to September 30, 2021, included in the accompanying prescribed form (Civil Court Docket No 8:20-cv-325-T-35AEP). We have not audited or reviewed the accompanying standardized fund accounting report and accordingly, do not express an opinion or any assurance about whether the standardized fund accounting report is in accordance with the form prescribed by the Civil Court Docket No. 8:20-cv-325-T-35AEP)

EquiAlt LLC Receivership is responsible for the preparation and fair presentation of the standardized fund account report in accordance with requirements prescribed by the Civil Court Docket No 8:20-cv-325-T-35AEP and for designing, implementing, and maintaining internal control relevant to the preparation and fair presentation of the standardized fund accounting report.

Our responsibility is to conduct the compilation in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. The objective of a compilation is to assist EquiAlt LLC Receivership in presenting financial information in the form of a standardized fund accounting report without undertaking to obtain or provide any assurance that there are no material modifications that should be made to the standardized fund accounting report.

This standardized fund accounting report is presented in accordance with the requirements of the Civil Court Docket No. 8:20-cv-325-T-35AEP, which differ from accounting principles generally accepted in the United States of America. This report is intended solely for the information and use of the Civil Court Docket No 8:20-cv-325-T-35AEP and is not intended and should not be used by anyone other than this specified party.

Oldsmar, Florida
October 20, 2021

**Standardized Fund Accounting Report for
Burton W. Wiand as Receiver for EquiAlt, LLC et al. - Cash Basis
Receivership; Civil Court Docket No. 8:20-cv-325-T-35AEP
Reporting Period 07/01/2021 to 09/30/2021**

FUND ACCOUNTING (See Instructions):		Detail	Subtotal	Grand Total
Line 1	Beginning Balance (As of 07/01/2021):			\$ 11,762,589.12
	Increases in Fund Balance:			
Line 2	Business Income	1,582,099.75		
Line 3	Cash and Securities*	15,096.40		
Line 4	Interest/Dividend Income	7,511.53		
Line 5	Business Asset Liquidation	258,449.48		
Line 6	Personal Asset Liquidation	2,300,000.00		
Line 7	Third-Party Litigation Income			
Line 8	Miscellaneous - Other	(50,903.99)		
	Total Funds Available (Line 1 - 8):		4,112,253.17	15,874,842.29
	Decreases in Fund Balance:			
Line 9	Disbursements to Investors			
Line 10	Disbursements for Receivership Operations			
Line 10a	Disbursements to Receiver or Other Professionals	414,290.55		
Line 10b	Business Asset Expenses	934,569.24		
Line 10c	Personal Asset Expenses	4,000.00		
Line 10d	Investment Expenses	-		
Line 10e	Third-Party Litigation Expenses			
	1. Attorney Fees			
	2. Litigation Expenses			
	Total Third-Party Litigation Expenses	-		
Line 10f	Tax Administrator Fees and Bonds			
Line 10g	Federal and State Tax Payments	74,205.15		
	Total Disbursements for Receivership Operations		1,427,064.94	1,427,064.94
Line 11	Disbursements for Distribution Expenses Paid by the Fund			
Line 11a	Distribution Plan Development Expenses:			
	1. Fees:			
	Fund Administrator			
	Independent Distribution Consultant (IDC)			
	Distribution Agent			
	Consultants			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Miscellaneous			
	Total Plan Development Expenses			
Line 11b	Distribution Plan Implementation Expenses:			
	1. Fees:			
	Fund Administrator			
	IDC			
	Distribution Agent			
	Consultants			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan			
	Claimant Identification			
	Claims Processing			
	Web Site Maintenance/Call Center			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses			
	Total Plan Implementation Expenses			
	Total Disbursements for Distribution Expenses Paid by the Fund			
Line 12	Disbursements to Court/Other:			
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees			
Line 12b	Federal Tax Payments			
	Total Disbursements to Court/Other:			
	Total Funds Disbursed (Lines 9 - 11)			1,427,064.94
Line 13	Ending Balance (As of 09/30/2021)			14,447,777.35

**Standardized Fund Accounting Report for
 Burton W. Wiand as Receiver for EquiAlt, LLC et al. - Cash Basis
 Receivership; Civil Court Docket No. 8:20-cv-00394-WFJ-SPF
 Reporting Period 07/01/2021 to 09/30/2021**

FUND ACCOUNTING (See Instructions):		Detail	Subtotal	Grand Total
Line 14	Ending Balance of Fund - Net Assets:			
Line 14a	Cash & Cash Equivalents			14,447,777.35
Line 14b	Investments			
Line 14c	Other Assets or Uncleared Funds			-
	Total Ending Balance of Fund - Net Assets			14,447,777.35
OTHER SUPPLEMENTAL INFORMATION:		Detail	Subtotal	Grand Total
Report of Items Not To Be Paid by the Fund				
Line 15	Disbursements for Plan Administration Expenses Not Paid by the Fund:			
Line 15a	Plan Development Expenses Not Paid by the Fund			
	1. Fees:			
	Fund Administrator			
	IDC			
	Distribution Agent			
	Consultants			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Miscellaneous			
	Total Plan Development Expenses Not Paid by the Fund		-	
Line 15b	Plan Implementation Expenses Not Paid by the Fund			
	1. Fees:			
	Fund Administrator			
	IDC			
	Distribution Agent			
	Consultants			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan			
	Claimant Identification			
	Claims Processing			
	Web Site Maintenance/Call Center			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses			
	Total Plan Implementation Expenses Not Paid by the Fund		-	
Line 15c	Tax Administrator Fees & Bonds Not Paid by the Fund:			
	Total Disbursements for Plan Administration Expenses Not Paid by the Fund			-
Line 16	Disbursements to Court/Other Not Paid by the Fund:			
Line 16a	Investment Expenses/CRIS Fees			
Line 16b	Federal Tax Payments			
	Total Disbursements to Court/Other Not Paid by the Fund		-	
Line 17	DC & State Tax Payments			
Line 18	No of Claims			
	# of Claims Received This Reporting Period _____			
	# of Claims Received Since Inception of Fund _____			
Line 19	No of Claimants/Investors:			
Line 19a	# of Claimants/Investors Paid This Reporting Period _____			
	# of Claimants/Investors Paid Since Inception of Fund _____			

Receiver:
 By: _____
 Title _____
 Date _____

**Standardized Fund Accounting Report for
Burton W. Wiand as Receiver for EquiAlt, LLC et al. - Cash Basis
Receivership; Civil Court Docket No. 8:20-cv-325-T-35AEP
Reporting Period Since Inception to 09/30/2021**

FUND ACCOUNTING (See Instructions):		Detail	Subtotal	Grand Total
Line 1	Beginning Balance (as of 02/14/2020)			\$ -
	<i>Increases in Fund Balance:</i>			
Line 2	Business Income	10,329,992.07		
Line 3	Cash and Securities*	5,281,573.87		
Line 4	Interest/Dividend Income	134,612.38		
Line 5	Business Asset Liquidation	8,429,333.03		
Line 6	Personal Asset Liquidation	2,741,869.34		
Line 7	Third-Party Litigation Income			
Line 8	Miscellaneous - Other	84,708.79		
	Total Funds Available (Line 1 - 8):		27,002,089.48	27,002,089.48
	<i>Decreases in Fund Balance:</i>			
Line 9	Disbursements to Investors			
Line 10	Disbursements for Receivership Operations			
Line 10a	Disbursements to Receiver or Other Professionals	2,217,690.43		
Line 10b	Business Asset Expenses	8,940,009.43		
Line 10c	Personal Asset Expenses	1,269,510.08		
Line 10d	Investment Expenses	52,897.04		
Line 10e	Third-Party Litigation Expenses			
	1. Attorney Fees			
	2. Litigation Expenses			
	Total Third-Party Litigation Expenses	-		
Line 10f	Tax Administrator Fees and Bonds			
Line 10g	Federal and State Tax Payments	74,205.15		
	Total Disbursements for Receivership Operations		12,554,312.13	12,554,312.13
Line 11	Disbursements for Distribution Expenses Paid by the Fund			
Line 11a	Distribution Plan Development Expenses:			
	1. Fees:			
	Fund Administrator			
	Independent Distribution Consultant (IDC)			
	Distribution Agent			
	Consultants			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Miscellaneous			
	Total Plan Development Expenses			
Line 11b	Distribution Plan Implementation Expenses:			
	1. Fees:			
	Fund Administrator			
	IDC			
	Distribution Agent			
	Consultants			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan			
	Claimant Identification			
	Claims Processing			
	Web Site Maintenance/Call Center			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses			
	Total Plan Implementation Expenses			
	Total Disbursements for Distribution Expenses Paid by the Fund			
Line 12	Disbursements to Court/Other:			
Line 12a	Investment Expenses/Court Registry Investment System (CRIS) Fees			
Line 12b	Federal Tax Payments			
	Total Disbursements to Court/Other:			
	Total Funds Disbursed (Lines 9 - 11)			12,554,312.13
Line 13	Ending Balance (As of 09/30/2021)			14,447,777.35

**Standardized Fund Accounting Report for
 Burton W. Wiand as Receiver for EquiAlt, LLC et al. - Cash Basis
 Receivership; Civil Court Docket No. 8:20-cv-00394-WFJ-SPF
 Reporting Period Since Inception to 09/30/2021**

FUND ACCOUNTING (See Instructions):		Detail	Subtotal	Grand Total
Line 14	Ending Balance of Fund - Net Assets:			
Line 14a	Cash & Cash Equivalents			14,447,777.35
Line 14b	Investments			
Line 14c	Other Assets or Uncleared Funds			
	Total Ending Balance of Fund - Net Assets			14,447,777.35
OTHER SUPPLEMENTAL INFORMATION:		Detail	Subtotal	Grand Total
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Line 15	Disbursements for Plan Administration Expenses Not Paid by the Fund:			
Line 15a	Plan Development Expenses Not Paid by the Fund			
	1. Fees:			
	Fund Administrator			
	IDC			
	Distribution Agent			
	Consultants			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Miscellaneous			
	Total Plan Development Expenses Not Paid by the Fund		-	
Line 15b	Plan Implementation Expenses Not Paid by the Fund			
	1. Fees:			
	Fund Administrator			
	IDC			
	Distribution Agent			
	Consultants			
	Legal Advisors			
	Tax Advisors			
	2. Administrative Expenses			
	3. Investor Identification:			
	Notice/Publishing Approved Plan			
	Claimant Identification			
	Claims Processing			
	Web Site Maintenance/Call Center			
	4. Fund Administrator Bond			
	5. Miscellaneous			
	6. Federal Account for Investor Restitution (FAIR) Reporting Expenses			
	Total Plan Implementation Expenses Not Paid by the Fund		-	
Line 15c	Tax Administrator Fees & Bonds Not Paid by the Fund:			
	Total Disbursements for Plan Administration Expenses Not Paid by the Fund			-
Line 16	Disbursements to Court/Other Not Paid by the Fund:			
Line 16a	Investment Expenses/CRIS Fees			
Line 16b	Federal Tax Payments			
	Total Disbursements to Court/Other Not Paid by the Fund		-	
Line 17	DC & State Tax Payments			
Line 18	No of Claims			
	# of Claims Received This Reporting Period _____			
	# of Claims Received Since Inception of Fund _____			
Line 19	No of Claimants/Investors:			
Line 19a	# of Claimants/Investors Paid This Reporting Period _____			
	# of Claimants/Investors Paid Since Inception of Fund _____			

Receiver:
 By: _____
 Title _____
 Date _____