

**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.

**RECEIVER'S UNOPPOSED *TIME SENSITIVE* MOTION FOR
EXPEDITED RULING REGARDING THE SALE OF 12315 GULF
BLVD, TREASURE ISLAND, FLORIDA**

This motion is being filed as Time Sensitive pursuant to Local Rule 3.01(e) because the buyer of the real estate referenced in the Receiver's pending unopposed motion – Docket Number 545 – is facing an immovable IRS deadline for the funding of the transaction as detailed more clearly

below. The Receiver respectfully requests that the Court rule on the pending motion (Doc. 545) on or before April 25, 2022.

On April 6, 2022, Burton W. Wiand, as Receiver (the “**Receiver**”) over the assets of the above-captioned corporate defendants and relief defendants,¹ filed the Receiver’s Verified Unopposed Motion to Approve Private Sale of Real Property — 12315 Gulf Blvd, Treasure Island, Florida (Doc. 545) (the “**Motion**” and the “**Property**”). The motion involves the sale of an eight unit vacation rental property known as Silver Sands for \$2.2 million. The motion was not opposed by the SEC and after publication of the required notice, the Receiver did not receive any bona fide offers. (Doc. 554)

The buyer of the Property (“**Buyer**”) is using funds from a 1031 exchange to fund the transaction. This refers to an IRS provision that allows property owners to roll over proceeds from the sale of one property into the purchase of another without tax consequences if certain requirements are met. There are strict timelines for such an exchange, including the fact that

¹ The (“**Receiver**” and the “**Receivership**” or “**Receivership Estate**”) has been expanded to include the Corporate Defendants, Relief Defendants and 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.

the Buyer must close on the new property within 180 days of the sale of the previously owned property. Monday April 25th is day 180 for the Buyer.

Additionally, Old Republic Title will not issue title insurance until the day of or after the Court's order approving the sale. The parties to the transaction had hoped to close the transaction "in escrow" with the deed and funds to be held until the Court had ruled. However, Old Republic Title has taken the position that the Receiver cannot sign a deed until after the Court rules. The 1031 administrators need the deed to be signed on or before the 25th of April in order to satisfy IRS regulations.

Given these circumstances, the Receiver respectfully requests that the Court enter its ruling on the pending unopposed motion (Doc. 545) on or prior to April 25, 2022.

LOCAL RULE 3.01(G) CERTIFICATION

Counsel for the Receiver has conferred with counsel for the SEC who does not object to the relief sought herein.

Respectfully submitted,

s/R. Max McKinley

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*Attorneys for Receiver Burton W.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 21, 2022, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

s/ Katherine C. Donlon

Katherine C. Donlon