

**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 Defendant Rybicki's Renewed Motion to Modify the Asset Freeze (Dkt. 532) On May 31, 2022, United States Magistrate Judge Anthony E. Porcelli issued a Report and Recommendation,

recommending Defendant's Motion be granted in part and denied in part, to the extent that an authorization of \$50,000 be approved to pay for Defendant Rybicki's attorneys' fees. (Dkt. 577) On June 3, 2022, the Parties filed a Joint Notice of Non-Objection to Judge Porcelli's Report and Recommendation. (Dkt. 581)

In the Eleventh Circuit, a district judge may accept, reject, or modify the magistrate judge's report and recommendation after conducting a careful and complete review of the findings and recommendations. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732, 732 (11th Cir. 1982). A district judge "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C). This requires that the district judge "give fresh consideration to those issues to which specific objection has been made by a party." Jeffrey S. v. State Bd. of Educ., 896 F.2d 507, 512 (11th Cir.1990) (quoting H.R. 1609, 94th Cong. § 2 (1976)). In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo*, Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject, or modify, in whole or in part, the findings and recommendations. 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions *de novo*, even in the absence of an objection. See Cooper-Houston v. Southern Ry., 37 F.3d 603, 604 (11th Cir. 1994).

Upon consideration of the Report and Recommendation, in conjunction with an independent examination of the file, the Court is of the opinion that the Report and

Recommendation should be adopted, confirmed, and approved in all respects.

Accordingly, it is **ORDERED** that:

1. The Report and Recommendation (Dkt. 577) is **CONFIRMED** and **ADOPTED** as part of this Order.
2. Defendant Rybicki's Renewed Motion to Modify the Asset Freeze (Dkt. 532) is **GRANTED in PART and DENIED in PART**.
3. **MODIFICATION OF ORDER FREEZING ASSETS**

For the period from the date of this Order through the Court's disposition of the Preliminary Injunction:

- A. Defendants and the Relief Defendants and their respective directors, officers, agents, servants, employees, attorneys, depositions, banks, and those persons in active concert or participation with any one or more of them, and each of them, who receive notice of this order by personal service, mail, email, facsimile transmission or otherwise, be and hereby are, restrained from, directly or indirectly, transferring, setting off, receiving, changing, selling, pledging, assigning, liquidating or otherwise disposing of, or withdrawing any assets or property, including but not limited to cash, free credit balances, fully paid for securities, personal property, real property, and/or property pledged or hypothecated as collateral for loans, or charging upon or drawing

from any lines of credit, owned by, controlled by, or in the possession of, whether jointly or singly and wherever located:

1. BRIAN DAVISON,
2. BARRY M. RYBICKI,
3. EQUIALT LLC,
4. EQUIALT FUND, LLC,
5. EQUIALT FUND II, LLC,
6. EQUIALT FUND III, LLC,
7. EA SIP, LLC,
8. 128 E. DAVIS BLVD, LLC,
9. 310 78TH AVE, LLC,
10. 551 3D AVE S, LLC,
11. 604 WEST AZEELE, LLC
12. 2101 W. CYPRESS, LLC,
13. 2112 W. KENNEDY BLVD, LLC
14. 5123 E. BROADWAY AVE, LLC
15. BLUE WATERS TI, LLC
16. BNAZ, LLC,
17. BR SUPPORT SERVICES, LLC
18. BUNGALOWS TI LLC
19. CAPRI HAVEN, LLC,
20. EA NY, LLC,

21. EQUIALT 519 3RD AVE S., LLC,
22. MCDONALD REVOCABLE LIVING TRUST,
23. SILVER SANDS TI, LLC,
24. TB OLDEST HOUSE EST. 1842, LLC,
25. TB OLDEST HOUSE EST. 1842, LLC,


B. Notwithstanding the foregoing:

1. Of the amounts held in the accounts listed below, \$50,000 shall not be frozen and may be applied as attorneys' fees incurred on behalf of Barry Rybicki:
  - a. E\*TRADE Account Number XXXX6205
  - b. BR Support Services, LLC XXXX9906
  - c. JP Morgan Chase, Barry Rybicki XXXX8993
  - d. Comerica Bank, Barry Rybicki XXXX7306
  - e. Comerica Bank, Barry Rybicki XXXX7314
2. The actions described in paragraph 1 above shall not be deemed a violation of this Order.
3. Upon request of the Commission, the parties shall within seven days produce to the Commission bank records relating to how the funds were expended pursuant to paragraph 1, herein.

**4. RETENTION OF JURISDICTION**

**IT IS HEREBY FURTHER ORDERED** that this Court shall retain jurisdiction over this matter, the Defendants, and the Relief Defendants in order to implement and carry out the terms of all Orders and Decrees that may be entered and/or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court and will order other relief that this Court deems appropriate under the circumstances.

**DONE and ORDERED** in Tampa, Florida, this 7th day of June 2022.

  
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MARY S. SCRIVEN  
UNITED STATES DISTRICT JUDGE

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