## 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 VERIFIED MOTION FOR AN ORDER TO SHOW CAUSE WHY BRIAN DAVISON SHOULD NOT BE HELD IN CONTEMPT FOR FAILURE TO COMPLY WITH THE COURT'S ORDERS

Pursuant to Rule 66 of the Federal Rules of Civil Procedure, Rule 3.01 of the Local Rules for the Middle District of Florida, and the Court's Order (Doc. 11) Appointing Burton W. Wiand as Receiver (the "**Receiver**"), Order Granting a Preliminary Injunction (Doc. 184), and Order Entering Final Judgment Against Brian Davison ("Davison") (Docs. 355 and 355-1) (collectively, the "Final Judgment"), the Receiver hereby files this Motion For An Order To Show Cause Why Brian Davison Should Not Be Held In Contempt For Failure To Comply With The Court's Orders. Pursuant to the Final Judgment, this Court ordered Davison to disgorge 480 Platinum American Eagle coins (the "Platinum Coins") to the Receiver. See Doc. 355-1 at 6-8.1 Davison has not delivered the Platinum Coins. Instead, Davison delivered 480 Silver Liberty coins (the "Silver Coins") to the Receiver, asserting that they were platinum. On the day designated for delivery of the coins, the Silver Coins were worth approximately \$11,000 and the Platinum Coins were worth approximately \$489,000. Therefore, Davison failed to deliver approximately \$478,000 as required by the Final Judgment. This Court has retained jurisdiction of this matter for the purposes of enforcing the terms of the Final Judgment. See Doc. 355-1 at 11.

### BACKGROUND

At the request of the Securities and Exchange Commission ("SEC"), the Court appointed the Receiver on February 14, 2020, and directed him, in relevant part, to "[t]ake immediate possession of all property, assets and estates of every kind of the Corporate Defendants and Relief Defendants . . ."

 $<sup>^{\</sup>rm 1}$  Unless otherwise indicated, citations to the Court record are to page number designations in the header of the docket filings.

which includes "all real property of the Corporate Defendants and Relief Defendants, wherever situated, and to administer such assets as is required in order to comply with the directions contained in this Order  $\dots$ ." Doc. 11 at 2–3, ¶ 1. The Court also ordered that "[t]itle to all property, real or personal, all contracts, rights of action and all books and records of the Corporate Defendants and Relief Defendants and their principals wherever located within or without this state, is vested by operation of law in the Receiver." Doc.

11 at 7, ¶ 19.

In the Amended Complaint, the SEC alleged that the Defendants and Relief Defendants received over \$170 million in investor funds as part of a real estate investment fraud. *See* Doc. 138 at 2,  $\P$  1.

Despite receiving over \$170 million in investor funds, the revenues generated by EquiAlt's real estate portfolio have been significantly less than the amounts of interest owed to investors. Without sufficient revenues to pay the money owed to investors, the Defendants, in classic Ponzi scheme fashion, resorted to using new investor money to pay the returns promised to existing investors. Meanwhile, Davison and Rybicki paid themselves millions from the EquiAlt companies and spent this money on luxury automobiles, fine jewelry and chartering private jets, among other expenditures.

Doc. 138 at  $2.^2$ 

The SEC reached a negotiated, unopposed resolution of its claims against Davison and this Court has entered the Final Judgment against him.

<sup>&</sup>lt;sup>2</sup> As defined in the Amended Complaint, "EquiAlt" refers to EquiAlt, LLC, a Defendant and Receivership entity. *See* Doc. 138 at 2. "Rybicki" refers to Defendant Barry Rybicki. *See id.* 

See Docs. 355 and 355-1. See also, Docs. 353, 354, and 354-1. The Final Judgment orders Davison to, among other things, pay disgorgement of \$24,600,000, interest of \$913,060, and a civil penalty of \$1,500,000, for a total amount of \$27,013,060. See Doc. 355-1 at 6. In order to satisfy this obligation Davison was directed to deliver specified assets to the Receiver, including the Platinum Coins. See id. at 6–8.

The Final Judgment also directs Davison to enter into an assignment (the "Assignment") with the Receiver whereby Davison agreed to, within 30 days, turn over all of his assets to the Receiver other than certain assets listed in the Assignment that Davison could retain. See Exhibit 1, the Assignment. See also, Doc. 355-1 at 8. Pursuant to the Assignment, the Receiver waived tens of millions of dollars of claims against Davison as part of a global resolution against him. See Ex. 1 at 2, ¶ 4. Paragraph 7 of the Assignment reads in part:

Mr. Davison agrees that **any material misrepresentation** concerning any of the matters contained herein . . . **or his failure to satisfy any of the obligations contained in this Assignment** . . . **shall constitute a material breach** hereof and as such, may entitle the Receiver to seek such remedies as may be appropriate, including, but not limited to . . . **sanctions for Contempt**.

Ex. 1 at 3,  $\P$  7 (emphasis added). To date, the Platinum Coins have not been delivered to the Receiver.

On August 31, 2021, during the scheduled turnover of assets Davison turned over 480 coins which he represented as the Platinum Coins. During the turnover, Davison commented that he received a "really good deal" on the purportedly platinum coins. See Declaration of Carlos Lopez,<sup>3</sup> Exhibit 2 at 1– 2, ¶ 4. Davison also commented on the shiny, reflective quality of the coins in an apparent attempt to pass them off as genuine. However, Mr. Lopez inspected the 480 coins and immediately determined that they were silver, not platinum as Davison had described. See Receiver's Acknowledgement of Receipt of Items, **Exhibit 4** at 1. See also, Doc. 441 at 20. Davison insisted the coins were platinum until he was confronted with the text on the coins themselves which read "1 OZ. FINE SILVER." Initially, Davison blamed the discrepancy on the dealer who sold him the coins. However, Davison was not able to identify where he bought the coins or otherwise explain the obvious misidentification. See Ex. 2 at 1–2,  $\P$  4. Instead, he was not sure how that happened. See id.

This was not the only instance of Davison's lack of full cooperation with the terms of the Final Judgment. *See* Doc. 441 at 18–19 (Davison's lack of candor regarding the provenance documents for certain watches caused items to be pulled from scheduled auctions, and others to be severely limited.).

<sup>&</sup>lt;sup>3</sup> Carlos Lopez was present during the turnover as the Receiver's consultant as a gemological and precious metals expert. *See* Curriculum Vitae of Carlos Lopez, **Exhibit 3**.

Additionally, Davison only turned over 58 American Eagle gold coins rather than the 61 coins referenced in the Assignment. *See* Doc. 563 at 19. The three missing gold coins have a total value of approximately \$6,000.

Immediately upon discovering these discrepancies, the Receiver made a demand that they be resolved. Subsequently, the watch provenance documents were provided.<sup>4</sup> However, none of the other problems have been remedied. Counsel for the Receiver has communicated with counsel for Davison in an attempt to resolve these issues. *See, e.g.*, **Exhibit 5**. *See also*, Docs. 441 at 20; 490 at 19–20; 563 at 19. These efforts have been unsuccessful as Davison has not produced any documentation or receipts for the purchase of the coins to explain the apparent misrepresentation, nor has he provided the missing coins or equivalent value.

Davison's willful noncompliance with various Court orders has resulted in Davison failing to deliver approximately \$484,000 of assets or funds<sup>5</sup> owed

<sup>&</sup>lt;sup>4</sup> Davison initially claimed that he left the documents in an envelope in a specific place in the warehouse on Cypress Avenue, and indicated that these documents had been lost by the Receiver. This claim was false as, upon gaining access to the warehouse, the Receiver had the entire warehouse contents inventoried by retired law enforcement officers employed by RWJ Group, LLC, and the documents were not in the Warehouse. Subsequent searches by the Receiver, his staff, and an employee of Sotheby's confirmed the documents were not where Davison claimed. Davison was confronted with this information and belatedly produced the documents, claiming that he found them in his personal effects while moving. The absence of these documents significantly reduced the value of the corresponding watches. The documents had significant value themselves to a subsequent purchaser of the watches.

<sup>&</sup>lt;sup>5</sup> This figure includes the difference in value between the Platinum Coins and the Silver Coins (\$478,000), and the three missing gold coins (\$6,000).

to the Receiver. Therefore, the Receiver respectfully requests that this Court issue an order directing Davison to appear and show cause as to why he should not be held in contempt for his willful noncompliance with various Court orders. Alternatively, the Receiver requests that this Court issue an order finding Davison in contempt and directing that \$484,000 of the funds held in frozen accounts that were to be retained by Davison be transferred to the Receiver.<sup>6</sup>

### ARGUMENT

## I. Legal Standard

A court has the inherent power to enforce compliance with its lawful orders and mandates by civil contempt. *Shillitani v. United States*, 384 U.S. 364, 370 (1966); *S.E.C. v. Pension Fund of America, L.C.*, 2006 WL 1104768, \*7 (S.D. Fla. 2006); *see also*, Fed. R. Civ. P. 70 (in proper cases, courts may adjudge a party in civil contempt for failure to perform specific acts required by a judgment). This inherent power is in addition to the Court's broad authority in supervising an equity receivership and determining the appropriate actions to be taken in the administration of the receivership. *S.E.C. v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992).

<sup>&</sup>lt;sup>6</sup> The Assignment describes several Merrill Lynch accounts and excluded \$500,000 in liquidated positions that were intended to be transferred to Davison. *See* Ex. 1 at 8, 30.

Civil contempt is "wholly remedial," and is intended to coerce compliance with an order of the court. McComb v. Jacksonville Paper Co., 336 U.S. 187, 191 (1949). A sanction is considered "civil" and "remedial" if it either coerces the defendant into compliance with a court order or compensates the complainant for losses sustained. International Union, United Mine Workers of America v. Bagwell, 512 U.S. 821, 827 (1994). This power is essential to the proper conduct of the judicial function; without it, courts would be unable to preserve decorum or assert their authority by order or decree. See e.g., In re Williams, 306 F. Supp. 617, 618 (D.D.C. 1969). "Without the power to punish noncompliance with its orders, this Court's authority to issue judgments would be nothing more than a mere mockery." S.E.C. v. Yun, 208 F. Supp. 2d 1279, 1288 (M.D. Fla. 2002) guoting United States v. United Mine Workers, 330 U.S. 258, 290 n. 56, 67 S.Ct. 677, 91 L. Ed. 884 (1947) (internal quotation marks omitted). After recounting the contumacious judgment debtor's actions, the Yun court noted that through "months of deception, [contemnor] has taken deliberate strides to make a mockery of the jury verdict against her and the judgment of this Court. [Contemnor] has flouted the authority of this Court for far too long. It ends here." Yun, 208 F. Supp. 2d at 1288.

A party commits contempt when it or he "violates a definite and specific court order requiring him to perform or refrain from performing a particular act or acts with knowledge of that order." *Whitfield v. Pennington*, 832 F.2d 909, 913 (5th Cir 1987), cert. denied 487 U.S. 1205 (1988), quoting S.E.C. v. First Financial Group of Texas, Inc., 659 F.2d 660, 669 (5th Cir. 1981). In a civil contempt proceeding, the movant has the burden of establishing by clear and convincing evidence that: (1) a court order was in effect; (2) the order required certain conduct by the respondent; and (3) the respondent failed to comply with the court's order. *Petroleos Mexicanos v. Crawford Enterprises*. Inc., 826 F.2d 392, 401 (5th Cir. 1987). Contempt is established where there is clear and convincing evidence that the "violated order was valid and lawful; ... . the order was clear and unambiguous; and the . . . alleged violator had the ability to comply." FTC v. Leshin, 618 F.3d 1221, 1232 (11th Cir. 2010) (ellipses original); McGregor v. Chierico, 206 F.3d 1378, 1383 (11th Cir. 2000) (citation omitted). This question does not focus on the subjective belief or intent of the alleged contemnor, but rather simply whether or not they complied with the order at issue. S.E.C. v. Solow, 682 F.Supp.2d 1312, 1325 (S.D. Fla. 2010); Howard Johnson Co., Inc. v. Khimani, 892 F.2d 1512, 1516 (11th Cir. 1990).

## II. Davison Has Repeatedly Failed To Comply With His Obligations Under Various Court Orders

A review of Davison's conduct demonstrates that each of the *Petroleos Mexicanos* factors are easily satisfied. The Order Appointing Receiver (Doc. 11), Order Granting a Preliminary Injunction (Doc. 184), and Final Judgment (Docs. 355 and 355-1) are in effect and were agreed to by Davison. These orders

require certain conduct from Davison, including his obligations to turn over the Platinum Coins and to fully cooperate with the Receiver's information requests and the reporting requirements. *See, e.g.*, Doc. 355-1 at 8–9 ("Davison shall in good faith and expeditiously execute all documents and take any other necessary steps to effectuate the turnover of the aforementioned real property and other assets."). Davison has failed to comply with the Court's orders by not providing the Platinum Coins as required. Nor has Davison provided, or explained the absence of the three gold coins.

The circumstances leading up to the turnover of the Silver Coins demonstrate that Davison willfully violated this Court's orders. He knowingly entered into the Assignment wherein he agreed to provide the Platinum Coins, and swore to the accuracy of their description, yet he failed to produce them. The reasonable conclusion is that Davison's conduct was willful and intentional, and that his representations were fraudulent and material breaches of the Assignment.

It is important to stress that the relief requested in this motion is based on Davison's lack of cooperation with the Receiver and willful obstruction of the Receiver's duties pursuant to the various Court orders and the Assignment. While Davison might characterize his noncompliance as either inadvertent, unintentional, or immaterial, that is not the case. The difference between the Platinum Coins and the Silver Coins was an intentional misrepresentation by Davison. As described above, the coins themselves bear writing that make it obvious they are silver, not platinum.<sup>7</sup> Additionally, the difference between the two metals is immediately apparent to an informed observer. Indeed, "[any] coin dealer would not have made a mistake by giving a buyer silver instead of platinum." Ex. 2 at 2. Davison was an astute collector of precious metals especially high-end luxury watches — as evident from the 74 watches and 76 precious coins (excluding the Platinum Coins) described in the Assignment. *See* Ex. 1 at 7–16. The Assignment also called for the delivery of several pieces of high-end jewelry, including three made of genuine platinum. *See* Ex. 1 at 17.

Davison swore to the accuracy of the description of the assets to be turned over to the Receiver in the Assignment, including the Platinum Coins and the three missing gold coins. *See* Ex. 1 at 6. To date, Davison has not produced either the Platinum Coins or the three missing gold coins, equivalent value in cash, or an adequate explanation for his failure to deliver approximately \$484,000 to the Receiver as required by the Final Judgment and the Assignment. As such, Davison should be found in contempt of the Final Judgment and other Court orders, and ordered to disgorge certain assets that were initially to be retained by him pursuant to the Assignment.

<sup>&</sup>lt;sup>7</sup> Davison possessed the Silver Coins until they were turned over to the Receiver on August 31, 2021.

### **CONCLUSION**

The Receiver asks that the Court enter an Order to Show Cause why Davison should not be held in contempt for his repeated failure to comply with his disgorgement obligations pursuant to the Final Judgement and the Receiver's subsequent demands and requests for information pursuant to the various Court orders. Alternatively, the Receiver requests that this Court issue an order directing that \$484,000 of the funds held in frozen accounts that were to be retained by Davison be transferred to the Receiver. Additionally, the Receiver requests that Davison be subject to an appropriate fine for his conduct and the payment of the Receiver's costs and attorney's fees in bringing this motion. Moreover, should Davison fail to cure his contempt he should be subject to a continuing fine and/or imprisonment until his contempt is cured.

### CERTIFICATE UNDER LOCAL RULE 3.01(g)

Counsel for the Receiver has conferred with counsel for the parties and is authorized to represent to the Court that the SEC does not object to the relief sought. Brian Davison objects to the relief sought.

Respectfully submitted,

<u>s/ R. Max McKinley</u> R. Max McKinley, FBN 119556 <u>mmckinley@guerraking.com</u> GUERRA KING P.A. **Guerra King P.A.** 1408 N. Westshore Blvd., Suite 1010 Tampa, FL 33607 Tel.: (813) 347-5100 Fax: (813) 347-5198

and

Katherine C. Donlon, FBN 0066941 kdonlon@jclaw.com JOHNSON, CASSIDY, NEWLON & DECORT P.A. 2802 N. Howard Avenue Tampa, FL 33607 Tel: (813) 291-3300 Fax: (813) 324-4629

Attorneys for the Receiver Burton W. Wiand

## **VERIFICATION OF THE RECEIVER**

I, Burton W. Wiand, Court-Appointed Receiver in the above-styled matter, hereby certify that the information contained in this motion is true and correct to the best of my knowledge and belief.

## <u>s/ Burton W. Wiand</u>

Burton W. Wiand, Court-Appointed Receiver

## **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on June 27, 2022, I electronically filed the

foregoing with the Clerk of the Court by using the CM/ECF system.

<u>s/R. Max McKinley</u> R. Max McKinley, FBN 119556 Case 8:20-cv-00325-MSS-AEP Document 587-1 Filed 06/27/22 Page 1 of 34 PageID 11948

# **EXHIBIT 1**

# docverify<sup>\*</sup>



# Assignment.pdf

Pages:

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#### **E-Signature Summary**

#### E-Signature 1: Burton W. Wiand (BW)

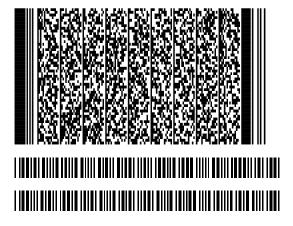
May 14, 2021 12:07:18 -8:00 [5964417D307A] [200.5.63.76] burt@burtonwwiandpa.com (Principal) (Personally Known)

#### E-Signature Notary: Jeffrey C. Rizzo (Jri)

May 14, 2021 12:07:18 -8:00 [47959159F9D6] [47.197.31.145]

jrizzo@guerraking.com

I, Jeffrey C. Rizzo, did witness the participants named above electronically sign this document.



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#### **ASSIGNMENT**

WHEREAS, by orders dated February 14, 2020 and August 17, 2020, the Court in *Securities & Exch. Comm'n v. Brian Davison, et al.*, Case No. 8:20-cv-325-T-35AEP (M.D. Fla.) (the "SEC Receivership Action"), appointed Burton W. Wiand as Receiver (the "Receiver") for 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 3rd 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, 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 and all of their subsidiaries, successors, and assigns (collectively, the "Receivership Entities"); and

WHEREAS, Brian Davison has consented to a judgment ("Judgment") with the Securities and Exchange Commission in the SEC Receivership Action. As part of the disgorgement required in the Judgment, Mr. Davison is ordered to enter into this Assignment of assets;

WHEREAS, Brian Davison represents that he has the express authority to enter into this Assignment on behalf of himself, his wife and those entities which he controls, including, but not limited to FL DAV LLC;

**NOW, THEREFORE,** Brian Davison, intending to be legally bound, and in consideration of the covenants and other good and valuable consideration set forth below, agrees as follows:



(1) Mr. Davison assigns and shall deliver and turn over all assets reflected on Exhibit "A" (List of Specified Assets to Assign and Turn Over to Receiver) attached hereto and made a part hereof or, where necessary, execute the appropriate quitclaim in connection with real estate properties. Mr. Davison will keep all assets reflected on Exhibit "B" (List of Assets to be Retained by Davison) attached hereto and made a part hereof. This General assignment serves to assign to the Receiver the Specified Assets and all assets owned or controlled by Davison other that those assets specifically excluded in Exhibit B. As of those assets described in the accounts included in Exhibit B(i) and (vii), those sums shall be turned over to attorneys at Moses & Singer LLP, counsel for Davison, for disbursement as directed by Davison.

(2) The assets listed on Exhibit "A" shall be turned over to the Receiver within 30 days of the Court's entry of the Judgment in the SEC Receivership Action. As to the physical assets to be turned over, they shall be deemed turned over by being made available to the Receiver for collection at Mr. Davison's residence or such other place where the assets are located.

(3) Mr. Davison represents and warrants that the assets listed on Exhibits A and B are the only assets owned by him, his wife or the entities he controls that exceed \$5,000 in value, other than potential claims against professionals and professional services firms that might be asserted in his or his family's personal capacity, as set out in Exhibit B hereto.

(4) By virtue of this Assignment, the Receiver foregoes any claims that the Receiver would have against Davison, his wife, or the entities he controls except as provided below.

(5) Mr. Davison shall execute a Power of Attorney and such other documentation as may be necessary in order to effectuate the transfer of the assets to be turned over by him pursuant to this Assignment.

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(6) Mr. Davison shall also execute the necessary forms and documents, including but not limited to IRS Form 2848, to effectuate an assignment to the Receiver of any tax refund to which any entity under the Receiver's current control may be entitled.

(7) Mr. Davison agrees that any material misrepresentation concerning any of the matters contained herein or the affidavit executed by him in connection with this Assignment, or his failure to satisfy any of the obligations contained in this Assignment, unless such failure is occasioned by the intervening act of a governmental authority, shall constitute a material breach hereof and as such, may entitle the Receiver to seek such remedies as may be appropriate, including, but not limited to, entry of judgment for any unpaid sums of the amount entered in the order of disgorgement entered by the Court in Case No. 8:20-ev-325-T-35AEP, or seeking an order from the Receivership Court for the immediate turnover of any undisclosed property and, where appropriate, sanctions for Contempt.

The Receiver and Davison agree that this Assignment shall be governed by and be enforceable under Florida law in the United States District Court for the Middle District of Florida, Tampa Division.

## INTENTIONALLY LEFT BLANK

In witness whereof the parties have set their hands as of the dates indicated.

Brian D. Davison

Date

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

The foregoing instrument was sworn to and subscribed before me this \_\_\_\_\_ day of May, 2021, by Brian D. Davison, who [] is personally known to me or [] has produced a driver's license as identification.

Signature

Printed Name

Date

05/14/2021

Burton W. Wiand Signed on 2021/05/14 12:07:18-8:00

Burton W. Wiand, Receiver for EquiAlt Receivership Entities

STATE OF FLORIDA

COUNTY OF PASCO

The foregoing instrument was sworn to and subscribed before me by means of [] physical presence or **[X] online notarization**, this 14<sup>th</sup> day of May 2021, by Burton W. Wiand, Receiver who **[X] is personally known** or [] has produced a driver's license as identification.

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Notary Public	Signed on 2021/05/14 12:07:18 -8:00	

Printed Name: Jeffrey C. Rizzo <u>Commission #GG 303016</u>

My Commission Expires: April 30, 2023



In witness whereof the parties have set their hands as of the dates indicated.

Brian D. Davison

05/17/21

STATE OF FLORIDA

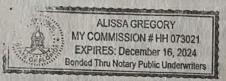
MY COMMISSION # HH 07302 EXPIRES: December 16, 2024

Notary Public I

ALISSA GREGORY

## COUNTY OF HILLSBOROUGH

The foregoing instrument was sworn to and subscribed before me this  $11^{44}$  day of May, 2021, by Brian D. Davison, who [] is personally known to me or [4] has produced a driver's license as identification. FLDL-  $D123 \cdot 064 \cdot 71 - 391 \cdot 0$ 



Signature

Burton W. Wiand, Receiver for EquiAlt Receivership Entities

Date

STATE OF FLORIDA

COUNTY OF PASCO

The foregoing instrument was sworn to and subscribed before me by means of [] physical presence or **[X] online notarization**, this 14<sup>th</sup> day of May 2021, by Burton W. Wiand, Receiver who **[X] is personally known** or [] has produced a driver's license as identification.

4

Notary Public

Printed Name: Jeffrey C. Rizzo Commission #GG 303016

My Commission Expires: April 30, 2023

# EXHIBIT A - LIST OF SPECIFIED ASSETS TO BE ASSIGNED TO AND TURNED OVER TO RECEIVER

- (i) <u>Bank Accounts</u> Bank of America XX4008 – EquiAlt Secured Income Portfolio LP - \$380.20 Bank of America XX4011 – EquiAlt Secured Income Portfolio - \$380.20 Chase XX2758 – Brian Davison - \$114.23 Chase XX9319 – Brian Davison - \$194.15
- (ii) <u>Real Property</u>
  128 Biscayne Ave, Tampa, Florida
  21 20<sup>th</sup> St, #5, New York, New York
  2101 W. Cypress Avenue, Tampa, Florida
  2112 W. Kennedy Blvd., Tampa, Florida
  Ritz-Carlton Destination Club Aspen Highlands (Member #10221246)
  Club Wyndham Bonnet Creek (Member #00999151231)
  5123 E. Broadway Trailer Park
  5 Grindstaff Cove, Sylva, NC
- (iii) <u>Watches and Jewelry</u> As listed in Exhibit 1 hereto.
- (iv) <u>Funds Held By The Receiver In Trust</u>
  \$53,500 Return of Stovall House Deposit
  \$45,834 return of escrow payment
  \$193,911.19 return of deposits from Miller Motorcars
  \$310,000 return of Simwest deposits
  \$327,856.47 net proceeds from sale of 2009 Ferrari 430 Scuderi M16, 2015 Ferrari F12
  Berlinetta, and 2015 Ferrari 458 Speciale
  \$45,994.78 net proceeds from sale of 2020 Bentley Convertible GTC V8
  \$75,551.74 net proceeds from sale of 2019 Rolls Royce Cullinan
- (v) <u>Interest in Breweries</u> Commerce Brewing
   Nantahala Brewing Company, including any security interest held in NBC equipment Bolero Snort
- (vi) <u>Vehicles</u>
  - 2018 Pagani Huayra (VIN ZA9H12UA3JSF76050) 1995 Land Rover Defender VIN SALLDHAF7MA94233) 2016 Mazda MX5 (Chassis #79) (VIN JM1NDAB78G0110587) 1977 Ferrari 308 GTB (VIN 22473)

## EXHIBIT A Page 1 of 2



- (vii) <u>Safes</u> Dottling "The Gallery" Dottling "The Liberty"
- (viii) <u>Coins (to be sorted out with Howard)</u> 1 oz Gold American Eagles (61) 1 oz Platinum American Eagles (480) Elizabeth II (2) 1 oz US Liberty (13)
- (ix) <u>Investments</u> Sight Shore House, LLC
   Merrill Lynch – Accounts ending in 1294, 1295, 9944, 9964, 9965, 9966 (excluding \$500,000 in liquidated positions)
- (x) <u>Domains</u> Domains listed on the attached Exhibit 2.
- (xi) The contents and assets located on the premises of all properties owned or controlled by the Receivership Entities or entities under the Receiver's control.
- (xii) All other assets, tangible or intangible, not specifically designated on Exhibit B

EXHIBIT A Page 2 of 2



EXHIBIT 1 TO EXHIBIT A

# Patek Philippe

	Patek Philippe	Movement	C
1		Movement	Case #
1	Set of 3 torpedo-boat		
	navigator's trio silver openface		
	pocket watches with power		
	reserve and fitted box (lot #46)		_
2	1463A, stainless steel with	867'604	653'507
	Breguet numerals		
3	1463, yellow gold with Breguet	863'087	629'720
	numerals		
4	2499 3rd (Tiffany stamped)		
5	2497, pink gold perpetual		
	calendar with moon phases		
6	3448 Senza Luna, 18k white	1'119'585	332'625
	gold automatic perpetual		
	calendar without moon phases		
7	5980R, 18k rose gold Nautilus	5983712	6135259
	chronograph (Tiffany stamped)		
		7007674	
8	5650G, M18W Aqua	7027674	6146390
9	5270G, 18k "Grand	5770755	4659430
	Complications" (Tiffany		
	stamped)	5252266	
10	5204P, platinum "Grand	5253266	6181686
	Complications"	700000	
11	7018/1A, stainless steel ladies'	7063334	6187578
	Nautilus bracelet watch		
12	4020C 18k white cold and	F001701	6064369
12	4936G, 18k white gold and	5891781	0004309
	diamond, lady's Complications		
	strap watch (Tiffany stamped)		
13	5208P sealed, Platinum men's	5175821	6156013
	Grand Complication strap	5175021	0150015
	watch		
14	5524G, 18k white gold men's	7098556	6177478
<u> </u>	Calatrava Pilot Travel Time	,050550	
	watch (Tiffany stamped)		
15	5522A, stainless steel and 18k	7061574	6192124
	white gold, men's Calatrava		
	strap watch		
	Istrap watch		1

16	7099R, Gongola Rose Gold		
	Diamond Paved lady's watch		
17	5960/1A, Stainless steel men's	7127703	6077581
	Complications	, 12, , 00	0077001
18	5270R, rose gold men's Grand	7079275	5216800
	Complications manual wound	, , , , , , , , , , , , , , , , , , , ,	0110000
	(Tiffany stamped)		
19	5270/1R, 18k rose gold Grand		
	Complications, moon phase		
	and leap year, black dial		
	(Tiffany stamped)		
20	5270P, Platinum Grand	7079278	6287743
	Complications, moon phase		
	and salmon dial, strap watch		
	(Tiffany stamped)		
21	5070P, Chronograph, platinum		
	case, manual wind Lemania		
	caliber 27-70 movement;		
	sunburst blue dial with applied		
	Arabic charcoal numerals		
22	5370P, platinum split-seconds		
	chronograph with Breguet		
	numerals and enamel dial		
23	18k pink gold split-seconds	66'04	
	chronograph openface pocket		
	watch (lot #29)		
	AT SOTHEBYS		
24	5131P , Platinum and 18k	7117302	6224488
	white gold men's Complications	, 11, 001	
	world time bracelet watch		
25	5726A, stainless steel Nautilus	5994109	6127751
	annual calendar strap watch		
	(Tiffany stamped)(sealed)		
26	5990A, Stainless steel, men's	7125339	6207977
	Nautilus travel time		
	chronograph bracelet watch		
	(Tiffany stamped)		
27	5168G, 18k white gold men's	7257033	6350618
	Aquanaut strap watch (Tiffany		
	stamped)		

28	5196P, Platinum men's	7072030	6174218
	Calatrava strap watch (Tiffany		
	stamped)		
29	5204R, 18k rose gold "Grand	5253454	6176883
	Complications"		
30	5524R, 18k rose gold men's	7217077	6275116
	Complications Calatrava Pilot		
	Travel Time strap watch		
	(Tiffany stamped)		
31	5088P, Tiffany platinum	5929241	6122613
	Calatrava "Volutes and		
	Arabesques" limited ed.		
	W/cuff links		
32	5170P, Platinum and diamond	7079337	6232284
	men's Complications strap		
	watch (Tiffany stamped)		
	AT PHILLIPS		
33	5304R, pink gold automatic		
	semi-skeletonized minute		
	repeating perpetual calendar		
	with retrograde date, moon		
	phases, leap year indicuation		
	(Grand Complication)		
24		0001252	217021400
34	2499, 4th Series, 18k yellow	869'252	2'792'108
	gold perpetual calendar		
	chronograph wristwatch with		
25	moon phase	E17201701	4/722/240
35	5040G, 18k white gold	5'738'781	4'722'319
	perpetual calendar with moon		
	phase, salmon dial, Breguet		
20	numerals, sealed		410001004
36	5070J, yellow gold with	3'146'500	4'086'664
	certificate of origin and		
	presentation box		

	<u>Audemars Piguet</u>		
37	Rose Gold Royal Oak Perpetual	26584OR.OO1220OR.01	
	Calendar		
38	Titanium and platinum	15202IP.OO.1240IP.01	
	automatic with date and		
	integrated bracelet (Royal Oak		
	"Jumbo" Extra-Thin		
39	Royal Oak Jumbo, anthracite	067296-A296	
	colored waffled dial, silver		
	baton hands		
40	AP, stainless steel perpetual	26606ST.00.1220ST.01	
	calendar wristwatch with moon		
	phase, leap year indicator with		
	green dial (Royal Oak Perpetual		
	Calendar)		
41	Grand Complications; special		
	order, entirety is ceramic		
			_
42	TIPC		
43	Royal Oak Ceramic Perpetual		
	Calendar Openworked		
44	Millenary Rose Gold Mother of	772470OR.ZZ.A812CR.01	Ladies
••	Pearl Roman Dial	//24/001.22.A01201.01	Laures
45	Stainless steel Royal Oak	15407ST.OO.1220ST.01	
	Double Balance Wheel		
	Openworked (41MM)		
	AT PHILLIPS		
46	Royal Oak 18k pink gold		
	skeletonized wristwatch with		
	integrated bracelet		
47	Royal Oak Offshore, titanium	25854.TI.00.1150TI	561'118
	perpetual calendar with moon		
	phase		
48	Royal Oak, custom made 18k		
	pink gold with diamond bezel		

<u>Rolex</u>			
SubmarinerC	40mm #1		
Submariner C	40mm #2		
Datejust 41 N	M	MODEL - 126300	P305U848
Daytona 18k y	ellow gold,		
ceramic bezel	, Paul Newman		
dial oysterfle>			
Cosmograph	Daytona 40MM	MODEL - 116595RBOW	
18k			
Everose Bagu	ette-Cut Rainbow		
Sapphire			
Bezel, Diamor	nd-Paved Dial		
With Baguette	e-Cut		
Rainbow Sapp	hires, 18k		
Everose Gold			
Bracelet			
Deep Sea Sea	dweller James	M116660-0003	
Cameron			
GMT-Master	I 40MM 18k	MODEL - 126715CHNR	
Everose			
Bidirectional I	Rotatable Black &		
Brown			
Cerachrom Be	zel, Black Dial,		
18k Everose C	yster Bracelet		
Day Date 40 r	nm platinum ice	17302753	
blue			
Yacht Master	18k rose gold,	MODEL 116655	01X329C6
ceramic bezel	, oysterflex		
Day date Sub	dial (1o1)		
Datejust J '79			
Daytona 6265	, stainless steel	6'197'309	
with metal be	zel		
Stainless Stee	l Datejust		
Rolex Cosmog	raph Daytona	MODEL: 116515LN	70L79151
40MM 18k Ye	llow		
Gold , Tachym	eter Black		
Monobloc			
Cerachrom Be	zel, Screw-Down		
Push Buttons,			
Black Index D			
Champagne S			
With Ovster F			
AT SOTHEBYS			

63	ROL GMT Master II, white gold	116749SABLNR	
	with diamond and sapphire-set		
	bezel		
64	ROL Submariner, white gold	116659SABR	
	with diamond and sapphire-set		
	bezel, diamond-set lugs		
65	Rolex Sky Dweller, Blue Rolex		
	Sky-Dweller Oyster, 42mm,		
	oystersteel and white gold		
	AT PHILLIPS		
66	GMT-Master, 1675/8 from		
	Tiffany, yellow gold dual-time		
	AT JOYCE LEE		
67	Daytona Stainless Steel, white		
	index dial, ceramic bezel		

	Other Watches			
69	Blancpain Tribute to Fifty Fathoms Mil-Spec	5008A-1130-NABA		
70	F.P. Journe platinum tourbillon 13/20 b&p	Numbered 13/20		
71	Richard Mille 11-03			
72	Tudor Black Bay	17770727	M79360DK-001	1990442
	AT PHILLIPS		-1	
73	A. Lange & Sohne	147.025		
	AT MANUFACTURER			
74	DeWitt Academia			

# Jewelry

18k Diamond Calatrava Cross	275.7/1AJ3 SQ 7	
Ring		
18k Tanzarite Diamond		
Pendant		
3 stone ring with pink		
diamonds, 18k rose gold		
Platinum Tanazanite		
Diamond prong ring		
Platinum Morganite		
diamond ring		
Platinum 18k Drop Diamond		
earrings		
18k diamond fringe necklace		
2 Ring rose gold, 2.7 and 2.6		
weight		
Necklace, 18k gold diamond		
and sapphire collar necklace,		
513 diamonds with		
combined weight of 8.03		
carats, F-G, VS2-SI1, 82		
sapphires, combined weight		
9.03		
18k yellow gold ring	258118	R-115LO-BR2Y
combining 14.5 by 29 mm		
brown baroque South Sea		
pearl set with 1.98 ct.		
natural cognac diamonds		

# EXHIBIT 2 TO EXHIBIT A

DOMAINS TO BE TRANSFERRED TO RECEIVER
5193rdaves.com
5193rdavesstpete.com
5193rdavs.com
ACCREDINVEST.COM
AFFINITY-CAPITAL.COM
ALTEQUITY.COM
ALTSE.COM
averagerich.com
averarich.com
baysideresorts.com
betterthanaverarich.com
BLOG.THECASHFLOWSTORE.COM
bluewatersflorida.com
bluewaterstreasureisland.com
briandavison reit.info
briandavisonreit.net
briandavisonreit.org
briandavisonreit.us, tampabayreit.us, reitreviews.us,
nodebtsfrreit.us, zerodebtsfrreit.us, debtfreesfrreit.us,
sfrreit.us
BUILDSVS.COM
bungalowstreasureisland.com
bwflorida.com
bwflorida.com
bwtreasureisland.com
bwtreasureisland.com
cashflow.com
ceotb.org
citrustrust.com
commercebrewing.com
commercebrewingtampa.com
CONSTRUCTSVS.COM
davisisland.net
davisislandcompany.com
davisislandrentals.com
davisislands.co
davisislandscompany.com
davisislandsrentals.com
debtadversereit.info
debtadversereit.net
debtadversereit.org
debtfreereit.com

DOMAINS TO BE TRANSFERRED TO RECEIVER
debtfreereit.info
debtfreereit.net
debtfreereit.org
debtfreereit.us
debtfreesfrreit.com
deferredtaxfund.com
deferredtaxfund.net
deferredtaxfund.org
deferredtaxfund.us
DEFERREDTAXREIT.COM
deferredtaxreit.info
DEFERREDTAXREIT.NET
deferredtaxreit.net
DEFERREDTAXREIT.ORG
DEVELOPERLENDING.COM, DEVELOPERMONEY.COM,
INVESTINGARTS.COM, SAFEYIELD.COM
DEVELOPERLENDING.INFO
DEVELOPERLENDING.NET
DEVELOPERLENDING.ORG
DEVELOPERMONEY.COM
developsvs.com
eaqof.com
eaqozf.com
egsip.com
equialt.com
EQUIALTASSETMANAGEMENT.COM
EQUIALTCAPITAL.COM
equialt capital advisors.com
EQUIALTEDGE.COM, SECUREDEDGE.COM,
EQUIALTCAPITAL.COM, EQUIALTFUNDING.COM
EQUIALTEDGE.COM, SECUREDEDGE.COM,
EQUIALTCAPITAL.COM, EQUIALTFUNDING.COM,
KRAVRIP.COM, KRAVSHREAD.COM
EQUIALTFUNDING.COM
equial thistoric preservations.com
equial thistoric preservations. info
equial thistoric preservations.net
equialthistoricpreservations.org
equial thistoric preservations. us
equial thistoric preservations. us,
oldesthouse intampabay.us

EQUIALTMANAGEMENT.COM equialtnodebtreit.com equialtnodebtsecuredincomeportfolioreit.com equialtpoperties.com equialtpopertymanagement.com equialtqoz.com equialtqoz.com equialtqualifiedopportunityfund.com equialtqualifiedopportunityfund.info equialtqualifiedopportunityfund.org equialtqualifiedopportunityfund.org equialtqualifiedopportunityzonefund.com equialtqualifiedopportunityzonefund.org equialtqualifiedopportunityzonefund.org equialtqualifiedopportunityzonefund.org equialtqualifiedopportunityzonefund.org equialtqualifiedopportunityzonefund.org equialtreit.com equialtreit.com equialtreit.com equialtreitholdings.com equialtreitpopertymanagement.com equialtsecuredincomeportfolio.com equialtsecuredincomeportfolioneit.com equialtsecuredincomeportfolioreit.com equialtspreit.com equialtrust.com equialtrust.com equialtrust.com equialtreit.com equialtreitpropertymanagement.com equialtsecuredincomeportfolioreit.com equialtsecuredincomeportfolioreit.com equialtsecuredincomeportfolioreit.com equialtsecuredincomeportfolioreit.com equialtsecuredincomeportfolioreit.com equialtsecuredincomeportfolioreit.com equialtsecuredincomeportfolioreit.com equialtsecuredincomeportfolioreit.com equialtsecuredincomeportfolioreit.com equialtsecuredincomeportfolioreit.com equialtsecuredincomeportfolioreit.com equialtsecuredincomeportfolioreit.com equialtsecuredincomeportfolioreit.com equialtsecuredincomeportfolioreit.com equialtsecuredincomeportfolioreit.com equialtsecuredincomeportfolioreit.com equistecuredincomeportfolioreit.com equistecuredincomeportfolioreit.com evergreen.vork EVERGREENAFFILIATES.COM EVERGREENAFFILIATES.COM EVERGREENPROPERTYPRESERVATION.COM evergreensecuredincome.com fl-man.com floridacoastalresorts.com	DOMAINS TO BE TRANSFERRED TO RECEIVER
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RIGHTYIELD.COM
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#### **EXHIBIT B - LIST OF ASSETS TO BE RETAINED BY BRIAN DAVISON**

(i) Bank Accounts

Bank of America XXX8041 – The Brian D. Davison Revocable Trust - \$322,480.86 Chase XXS5756 – Davison Capital - \$24,639.50 Chase XXX3995 – Brian and Nicole Davison - \$169,642.20

- (ii) <u>Real Property</u> None
- (iii) <u>Watches and Jewelry</u> Patek Philippe 5711A Patek Philippe 5711R Rolex Sub LV Rolex DJ 31 RG N. Davison ring, 6.51 ct

(iv)<u>Interest in Breweries</u>Sunshine MeaderySmell the Made (to be held in a blind trust)Rock Brothers

(v) <u>Vehicles</u>

2019 Toyota 4Runner (VIN JTEBU5JR3K5685197)
2012 Ford Fiesta (VIN 3FADP4BJ5CM134343)
2015 Mercedes ML 350 (VIN 4JGDA5JB9FA616063)
2012 SeaRay 300 (SERV1690I112)

(vi) <u>Coins</u> 5 Krugerrands

#### (vii) <u>Investments</u>

\$500,000 from positions to be liquidated in the Davisons' Merrill Lynch accounts; liquidation decisions will be determined jointly between counsel for Mr. Davison, the Receiver and Mr. Davison's financial advisor at Merrill Lynch.

- (viii) <u>Domains</u> Domains listed on the attached Exhibit 1.
- (ix) <u>Other Personal Items</u> Red Lantern (painting) by Michael Brown
- (x) Davison shall be allowed to retain any personal property (including, but not limited to, clothing, mementos, furniture, personal items, housewares, etc.) located at 128 Biscayne Ave, Tampa, Florida and 21 20<sup>th</sup> St, #5, New York, New York, with the exception of any

#### EXHIBIT B Page 1 of 2

such property that exceeds an individual value of \$5,000.

(xi) Any claims or causes of action that Davison and or his family might have in their individual capacity against any professionals or professional service firms, with the proviso that any such claim is not in the same coverage pool as any claim made by the Receiver. Should any claim made by Davison or his family be part of the same coverage pool as any claim made by the Receiver, such claim shall be subordinated to that of the Receiver; that is, any claims made by Davison or his family shall only be paid once those of the Receiver are satisfied.

#### EXHIBIT 1 TO EXHIBIT B

DOMAINS TO BE TRANSFERRED TO B.			
DAVISON			
ALEXADAVISON.COM			
briandavison.biz			
briandavison.CO			
briandavison.com			
briandavison.INFO			
BRIANDAVISON.ME			
briandavison.net			
briandavison.us			
briandavisongroup.com			
briandavisonofficial.com			
brianddavison.com			
cashflowfranchise.com			
cashflowstorefranchise.com			
CASHREO.COM			
cynerj.com			
dancersrejuvenate.com			
davison.design			
DAVISON.WS			
davisoncapital.com			
davisonfam.com			
davisonholdings.com			
davisonorg.com			
davisonservices.com			
EOCENTRALFLORIDA.COM			
evergreengo.com			
evotrust.com			
GrowYourDealership.com			
hubke.com			
icashflow.com			
ingubytr.com			
Invest REO			
INVESTALT.COM, THECASHFLOWSTORE.COM,			
LIQUIDCASHFLOW.COM, YIELDSTORE.COM			
INVEST-REO.COM			
KRAVRIP.COM			
LIQUIDCASHFLOW.COM,			
mainst.com			
THECASHFLOWSTORE.COM			
TOP10PITFALLSOFTRUSTDEEDINVESTING.COM			
TRUALT.COM			
VESTALT.COM			
VESTALT.COM,			
TOP10PITFALLSOFTRUSTDEEDINVESTING.COM,			
zanegdavison.com			
LaneBaarison.com			

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## **EXHIBIT 2**

## **DECLARATION OF CARLOS LOPEZ**

I, Carlos Lopez, declare that the following information is true and correct and that I make

this declaration under the penalties of perjury.

1. I am over the age of eighteen and have personal knowledge of the following facts.

2. I am a 2007 graduate of the Gemological Institute of America, a licensed Gemologist and

expert appraiser of rare coins and jewelry. I have been the owner of RockShop Fine

Gems & Jewelry in St. Petersburg, Florida since 2014.

3. I was hired by Burton W. Wiand, the court-appointed Receiver over various entities in the matter known as Securities and Exchange Commission v. Brian Davison, et al., United States District Court, Middle District of Florida, Tampa Division, Case No.: 8:20-

cv-00325-T-35AEP to review and analyze certain rare coins and jewelry which were to

be turned over to the Receiver from Brian Davison. Specifically, I was informed by the Receiver that Brian Davison would be turning over four hundred and eighty (480), oneounce (1oz) Platinum American Eagle coins. At that time, four hundred and eighty (480), one-ounce (loz) Platinum American Eagle coins had a value of approximately \$489,000.00.

4. On August 31, 2021, I met with the Receiver and Brian Davison at 128 Biscayne Avenue, Tampa, Florida 33606 to review and analyze the Platinum American Eagle coins and other coins and jewelry. The Platinum American Eagle coins were contained in a green mint box. When I began my initial review of the coins, Mr. Davison commented to me that he got a "really good deal" on the Platinum American Eagle coins from the Gold &

Diamond Source. Mr. Davison's counsel was present when he said this. Upon my review, I determined that all the coins in the green mint box were not Platinum American Eagles, but instead Silver Liberty coins. At that time four hundred and eighty (480), one-ounce (1oz) Silver Liberty coins had a value of approximately \$11,000.00. I informed Mr. Davison and his counsel of this and asked him where he purchased them. He indicated again he bought them from the Gold and Diamond Source. I explained that

Gold and Diamond Source or any other coin dealer would not have made a mistake by giving a buyer silver instead of platinum. Mr. Davison indicated he was not certain how

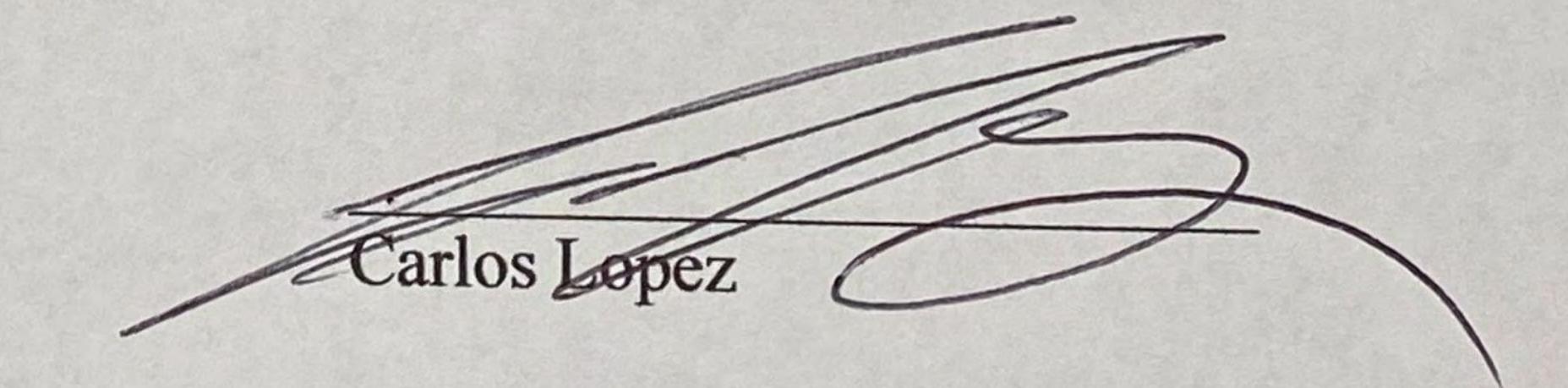
this happened. He then indicated that maybe he bought the coins from IDC Coin & Bullion instead.

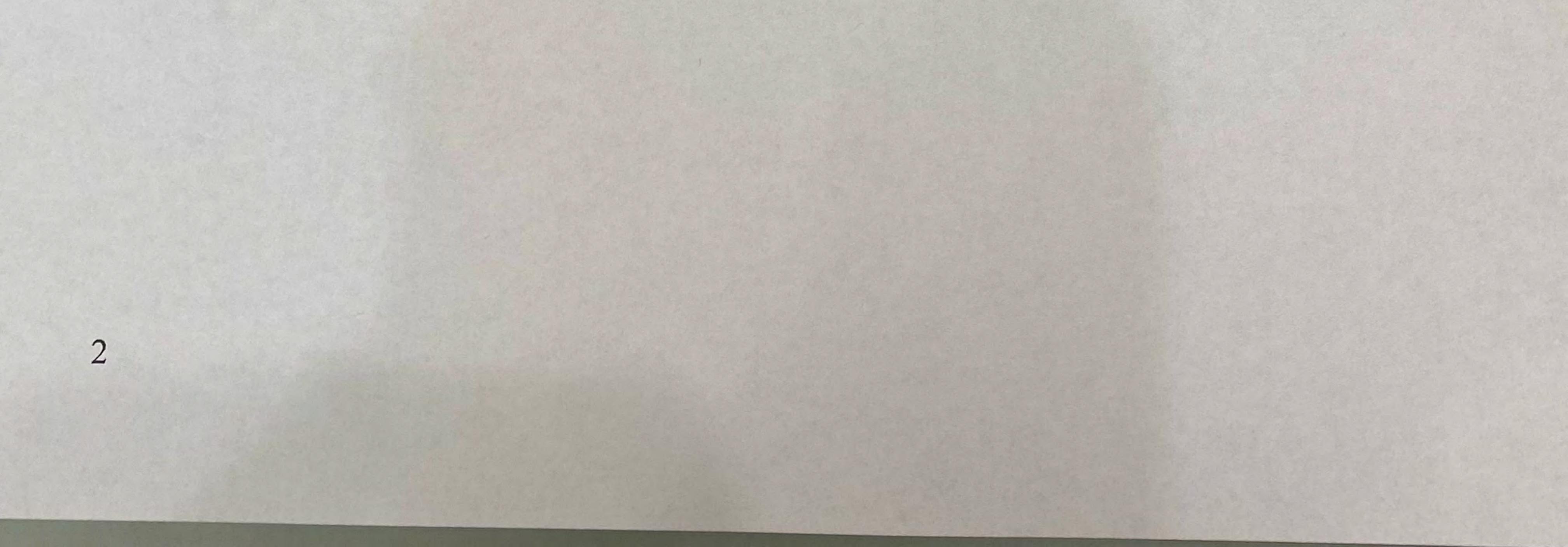
5. There is a significant difference in the value of Platinum American Eagles coins and Silver Liberty coins. In this instance, given the number of coins (480), the difference in

value at the time of my review was approximately \$478,000.00.

## I DECLARE under penalty of perjury that the foregoing is true and correct and is executed

on this October 2, 2021.





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## **EXHIBIT 3**

#### **CARLOS LOPEZ**

- S29 Central Avenue St. Petersburg, FL 33701
- +1 727 310 7360
- Carlos@CoastalGemsInc.com

OBJECTIVE	Idenitfying, grading and appraising of jewelry, watches, diamonds and precious gemstones. I provide services for private individuals, jewelry dealers, insurance companies and banks.	
SKILLS	<ul> <li>Gemologist: Expert</li> <li>Apprasier: Expert</li> <li>Bench Jeweler: Expert</li> <li>Diamond Grading: Expert</li> </ul>	
WORK EXPERIENCE	<b>PRODUCTION MANAGER, QUALITY CONTROL</b> Oct 2007 / Sep 2009 <i>Liberty Gems, Inc.</i> , New York, NY Quality control jewelry production on an international market. Managed jewelry production faciliteis in Bangkok, Thailand and Guanzhou, China. Responsible for working with US Customs to deliver orders and meet customer dealines while in accordance to US and international guidelines.	
	APPRASIER, BUYER, JEWELRY MANUFACTURING Oct 2010 / In progress Coastal Gems, Inc., Chicago, IL and St. Petersburg, FL Development and design of brands prodcuts on an international market, Import and Export of Diamonds, Gems and Jewelry. Contract Apprasials, Gold Buyer, CAD-CAM design and 3D printing.	
	<b>OWNER, APPRASIER, BUYER</b> Oct 2014 / In progress <b>RockShop Fine Gems &amp; Jewelry</b> , St. Petersburg, FL. Full Service Retail Jewelry Store in St. Petersburg, FL. State of Florida licensed Second Hand Dealer and Gold Buyer we are fully insured to appraise and provide jewelry services. Registered with the Jewelers Board of Trade we specialize in diamonds, watches, estate and antique jewelry. Working in cooperastion with GIA, AGL, JBT, Rapnet and Polygon.	

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Graduate Diamonds, Graduate Colored Stones, Acredited Jewelry Professional, Jewelry Essentials

**Colorado Mountain College**, Steamboat Colorado, 2005 **Business** 

Le Arti Orafe, Florence, Italy, 2009 Jewelry Design Comprehensive Jewelry Design, Stone Setting and Manufacturing

-----

Studio Jewelers, Ltd., New York, NY, 2008 Bench Jeweler Comprehensive Jewelry Training

LANGUAGES

• **English**: Native

# Gemological Institute of America

Awards this Diploma to

Carlos Patrick Lopez

who has successfully met the requirements, thus earning recognition as a

**Graduate** Gemologist Issued by the Board of Governors, upon recommendation of the faculty, with all the rights and privileges belonging thereto.

> Ginen at 270 Madison Avenue New York, New York, on August 10, 2007

Reph Stuis

Chairman of the Institute

Hanna Baher President of the Institute

Brook Ellis

Vice President of Education

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## **EXHIBIT 4**

Case 8:20-cv-00325-MSS-AEP Document 587-4 Filed 06/27/22 Page 2 of 14 PageID 11990

#### ACKNOWLEGEMENT OF RECEIPT OF ITEMS / HAND DELIVERY RECEIPT

TO: Brian Davison c/o Gerald Davis, Esq. Trenam Law 200 Central Avenue, Suite 1600 St. Petersburg, FL 33701

> RE: SEC v. Davison, et al. Case No.: 8:20-cv-000325-T-35AEP

I Birts W. W. W. W. Receiver confirm that I have examined the items described here and that the same is/are in good order and condition, and to my satisfaction in every respect and that I have taken delivery of the items at this time.

Description of items:

SEE ATTACHED LIST

58- 102 Gold American Eagles (57-2016) (1-2017) 480 - 102 Silver Liberty

Dated this the 31 day of August, 2021.

RECEIVED BY:

el, Recemen

8/31/2021

See Attached List of Jeweley

\* No P/Alinimi Eagles

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#### Jewelry

18k Diamond Calatrava Cross	275.7/1AJ3 SQ 7	
Ring		
18k Tanzarite Diamond		
Pendant		
3 stone ring with pink		
diamonds, 18k rose gold		
Platinum Tanazanite		
Diamond prong ring	and the second	
Platinum Morganite		
diamond ring		
Platinum 18k Drop Diamond		
earrings		
18k diamond fringe necklace		
2 Ring rose gold, 2.7 and 2.6 weight		
Necklace, 18k gold diamond and sapphire collar necklace, 513 diamonds with		
combined weight of 8.03		
carats, F-G, VS2-SI1, 82		
sapphires, combined weight		
9.03		
18k yellow gold ring	258118	R-115LO-BR2Y
combining 14.5 by 29 mm		
brown baroque South Sea		
pearl set with 1.98 ct. natural		
cognac diamonds		

payments, due to the Commission as set forth above, shall be deemed satisfied by Davison if he, within 30 days of entry of this Final Judgment, disgorges the following assets to the Court-appointed Receiver (and in the case of the real property set out below in (ii), execute any necessary quitclaims as appropriate):

(i) Bank Accounts

Bank of America XX4008 – EquiAlt Secured Income Portfolio LP - \$380.20 Bank of America XX4011 – EquiAlt Secured Income Portfolio - \$380.20 Chase XX2758 – Brian Davison - \$114.23 Chase XX9319 – Brian Davison - \$194.15

(ii) Real Property

128 Biscayne Ave, Tampa, Florida (Davison family to vacate the premises by 08/31/21)
21 20<sup>th</sup> St, #5, New York, New York
2101 W. Cypress Avenue, Tampa, Florida
2112 W. Kennedy Blvd., Tampa, Florida
Ritz-Carlton Destination Club – Aspen Highlands (Member #10221246)
Club Wyndham Bonnet Creek (Member #00999151231)
5123 E. Broadway Trailer Park
5 Grindstaff Cove, Sylva, NC

- (iii) <u>Watches and Jewelry</u> As listed in Exhibit A hereto.
- (iv) <u>Funds Held By The Receiver In Trust</u>
  \$53,500 Return of Stovall House Deposit
  \$45,834 return of escrow payment
  \$193,911.19 return of deposits from Miller Motorcars
  \$310,000 return of Simwest deposits
  \$327,856.47 net proceeds from sale of 2009 Ferrari 430 Scuderi M16, 2015
  Ferrari F12 Berlinetta, and 2015 Ferrari 458 Speciale
  \$45,994.78 net proceeds from sale of 2020 Bentley Convertible GTC V8
  \$75,551.74 net proceeds from sale of 2019 Rolls Royce Cullinan

- (v) <u>Interest in Breweries</u> Commerce Brewing Nantahala Brewing Company, including any security interest held in NBC equipment Bolero Snort
- (vi) <u>Cars</u>
  2018 Pagani Huayra
  1995 Land Rover Defender
  2016 Mazda MX5 (Chassis #79)
  1977 Ferrari 308 GTB
- (vii) <u>Safes</u>Dottling "The Gallery"Dottling "The Liberty"
- (viii) <u>Coins</u> Platinum American Eagles (480) Gold American Eagles (61) Elizabeth II (2) US Liberty (13)
- (ix) <u>Investments</u>
   Sight Shore House, LLC
   Merrill Lynch Accounts ending in 1294, 1295, 9944, 9964, 9965, 9966, with the exception of \$500,000 from those accounts.

As part of his disgorgement obligation Davison shall execute a general assignment of assets to be provided to the Receiver warranting that he has disclosed all owned assets valued at more than \$5,000 to the Receiver and assigned all owned assets except those excluded in the assignment. The Assignment shall be signed and notarized and contain a statement by Davison under oath that all of the information contained therein is true and correct.

Davison shall in good faith and expeditiously execute all documents and

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### **EXHIBIT** A

#### Patek Philippe

	<u>Patek Philippe</u>		<b>Ca</b> #
4		Movement	Case #
1	Set of 3 torpedo-boat		
	navigator's trio silver openface		
	pocket watches with power		
	reserve and fitted box (lot #46)		
2	1463A, stainless steel with	867'604	653'507
	Breguet numerals		
3	1463, yellow gold with Breguet	863'087	629'720
	numerals		
4	2499 3rd (Tiffany stamped)		
5	2497, pink gold perpetual		
	calendar with moon phases		
6	3448 Senza Luna, 18k white	1'119'585	332'625
	gold automatic perpetual		
	calendar without moon phases		
7	5980R, 18k rose gold Nautilus	5983712	6135259
	chronograph (Tiffany stamped)		
8	5650G, M18W Aqua	7027674	6146390
9	5270G, 18k "Grand	5770755	4659430
	Complications" (Tiffany		
	stamped)		
10	5204P, platinum "Grand	5253266	6181686
	Complications"		
11	7018/1A, stainless steel ladies'	7063334	6187578
	Nautilus bracelet watch		
12	4936G, 18k white gold and	5891781	6064369
	diamond, lady's Complications		
	strap watch (Tiffany stamped)		
13	5208P sealed, Platinum men's	5175821	6156013
	Grand Complication strap		
	watch		
14	5524G, 18k white gold men's	7098556	6177478
	Calatrava Pilot Travel Time		
	watch (Tiffany stamped)		
15	5522A, stainless steel and 18k	7061574	6192124
	white gold, men's Calatrava		
	strap watch		
16	7099R, Gongola Rose Gold		
	Diamond Paved lady's watch		

17	5960/1A, Stainless steel men's	7127703	6077581
	Complications		
18	5270R, rose gold men's Grand	7079275	5216800
	Complications manual wound		
	(Tiffany stamped)		
19	5270/1R, 18k rose gold Grand		
	Complications, moon phase		
	and leap year, black dial		
	(Tiffany stamped)		
20	5270P, Platinum Grand	7079278	6287743
	Complications, moon phase		
	and salmon dial, strap watch		
	(Tiffany stamped)		
21	5070P, Chronograph, platinum		
	case, manual wind Lemania		
	caliber 27-70 movement;		
	sunburst blue dial with applied		
	Arabic charcoal numerals		
22	5370P, platinum split-seconds		
	chronograph with Breguet		
	numerals and enamel dial		
23	18k pink gold split-seconds	66'04	
	chronograph openface pocket		
	watch (lot #29)		
	AT SOTHEBYS		
24	5131P , Platinum and 18k	7117302	6224488
	white gold men's Complications		
	world time bracelet watch		
25	5726A, stainless steel Nautilus	5994109	6127751
	annual calendar strap watch		
	(Tiffany stamped)(sealed)		
26	5990A, Stainless steel, men's	7125339	6207977
	Nautilus travel time		
	chronograph bracelet watch		
	(Tiffany stamped)		
27	5168G, 18k white gold men's	7257033	6350618
	Aquanaut strap watch (Tiffany		
	stamped)		
28	5196P, Platinum men's	7072030	6174218
	Calatrava strap watch (Tiffany	, 0, 2000	01/ 7210
	stamped)		

29	5204R, 18k rose gold "Grand	5253454	6176883
	Complications"		
30	5524R, 18k rose gold men's	7217077	6275116
	Complications Calatrava Pilot		
	Travel Time strap watch		
	(Tiffany stamped)		
31	5088P, Tiffany platinum	5929241	6122613
	Calatrava "Volutes and		
	Arabesques" limited ed.		
	W/cuff links		
32	5170P, Platinum and diamond	7079337	6232284
	men's Complications strap		
	watch (Tiffany stamped)		
	AT PHILLIPS		
33	5304R, pink gold automatic		
	semi-skeletonized minute		
	repeating perpetual calendar		
	with retrograde date, moon		
	phases, leap year indicuation		
	(Grand Complication)		
34	2499, 4th Series, 18k yellow	869'252	2'792'108
	gold perpetual calendar		
	chronograph wristwatch with		
	moon phase		
35	5040G, 18k white gold	5'738'781	4'722'319
	perpetual calendar with moon		
	phase, salmon dial, Breguet		
	numerals, sealed		
36	5070J, yellow gold with	3'146'500	4'086'664
	certificate of origin and		
	presentation box		

	Audemais Figuet		
37	Rose Gold Royal Oak Perpetual	26584OR.OO <u>1220OR.01</u>	
	Calendar		
38	Titanium and platinum	15202IP.OO.1240IP.01	
	automatic with date and		
	integrated bracelet (Royal Oak		
	"Jumbo" Extra-Thin		
39	Royal Oak Jumbo, anthracite	067296-A296	
	colored waffled dial, silver		
	baton hands		
40	AP, stainless steel perpetual	26606ST.00.1220ST.01	
	calendar wristwatch with moon		
	phase, leap year indicator with		
	green dial (Royal Oak Perpetual		
	Calendar)		
41	Grand Complications; special		
	order, entirety is ceramic		
42	TiPC		
43	Royal Oak Ceramic Perpetual		
	Calendar Openworked		
44	Millenary Rose Gold Mother of	772470OR.ZZ.A812CR.01	Ladies
	Pearl Roman Dial		
45	Stainless steel Royal Oak	15407ST.OO.1220ST.01	
	Double Balance Wheel		
	Openworked (41MM)		
	AT PHILLIPS		
46	Royal Oak 18k pink gold		
	skeletonized wristwatch with		
	integrated bracelet		
47	Royal Oak Offshore, titanium	25854.TI.00.1150TI	561'118
	perpetual calendar with moon		
	phase		
48	Royal Oak, custom made 18k		
	pink gold with diamond bezel		

#### **Audemars Piguet**

#### <u>Rolex</u> Submariner( 40mm #1

	KUIEX		
49	SubmarinerC 40mm #1		
50	Submariner C 40mm #2		
51	Datejust 41 MM	MODEL - 126300	P305U848
52	Daytona 18k yellow gold,		
	ceramic bezel, Paul Newman		
	dial oysterflex		
53	Cosmograph Daytona 40MM	MODEL - 116595RBOW	
	18k		
	Everose Baguette-Cut Rainbow		
	Sapphire		
	Bezel, Diamond-Paved Dial		
	With Baguette-Cut		
	Rainbow Sapphires, 18k		
	Everose Gold Oyster		
	Bracelet		
54	Deep Sea Seadweller James	M116660-0003	
	Cameron		
55	GMT-Master II 40MM 18k	MODEL - 126715CHNR	
	Everose		
	Bidirectional Rotatable Black &		
	Brown		
	Cerachrom Bezel, Black Dial,		
	18k Everose Oyster Bracelet		
56	Day Date 40 mm platinum ice	17302753	
	blue		
57	Yacht Master 18k rose gold,	MODEL 116655	01X329C6
	ceramic bezel, oysterflex		
58	Day date Sub dial (101)		
59	Datejust J '79		
60	Daytona 6265, stainless steel	6'197'309	
	with metal bezel		
61	Stainless Steel Datejust		
62	Rolex Cosmograph Daytona	MODEL: 116515LN	70L79151
	40MM 18k Yellow		
	Gold , Tachymeter Black		
	Monobloc		
	Cerachrom Bezel, Screw-Down		
	Push Buttons,		
	Black Index Dial With		
	Champagne Subdials		
	With Oyster Flex Strap		
	AT SOTHEBYS		

63	ROL GMT Master II, white gold	116749SABLNR	
	with diamond and sapphire-set		
	bezel		
64	ROL Submariner, white gold	116659SABR	
	with diamond and sapphire-set		
	bezel, diamond-set lugs		
65	Rolex Sky Dweller, Blue Rolex		
	Sky-Dweller Oyster, 42mm,		
	oystersteel and white gold		
	AT PHILLIPS		
66	GMT-Master, 1675/8 from		
	Tiffany, yellow gold dual-time		
	AT JOYCE LEE		
67	Daytona Stainless Steel, white		
	index dial, ceramic bezel		

	Other Watches			
68	Blancpain Tribute to Fifty Fathoms	5008A-1130-NABA		
	Mil-Spec			
69	F.P. Journe platinum tourbillon 13/20 b&p	Numbered 13/20		
70	Richard Mille 11-03			
71	Tudor Black Bay	17770727	M79360DK-001	1990442
	AT PHILLIPS			
72	A. Lange & Sohne	147.025		
	AT MANUFACTURER			
73	DeWitt Academia			

#### Jewelry

18k Diamond Calatrava Cross	275.7/1AJ3 SQ 7	
Ring	2, 3, 7 2, 33 3 4 7	
18k Tanzarite Diamond		
Pendant		
3 stone ring with pink		
diamonds, 18k rose gold		
Platinum Tanazanite		
Diamond prong ring		
Platinum Morganite		
diamond ring		
Platinum 18k Drop Diamond		
earrings		
18k diamond fringe necklace		
2 Ring rose gold, 2.7 and 2.6		
weight		
Necklace, 18k gold diamond		
and sapphire collar necklace,		
513 diamonds with		
combined weight of 8.03		
carats, F-G, VS2-SI1, 82		
sapphires, combined weight		
9.03		
18k yellow gold ring	258118	R-115LO-BR2Y
combining 14.5 by 29 mm		
brown baroque South Sea		
pearl set with 1.98 ct. natural		
cognac diamonds		

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## **EXHIBIT 5**



#### JOHNSON, CASSIDY, NEWLON & DECORT

#### ATTORNEYS AT LAW

Katherine C. Donlon, Esquire

E-mail: kdonlon@jclaw.com Direct Dial: 813-291-3300

September 10, 2021

Via Email Howard A. Fisher, Esq. Kent Kolbig, Esq. Moses & Singer, LLP 405 Lexington Avenue New York, NY 10174

Gerald D. Davis, Esq. Trenam Law 200 Central Avenue, Suite 1600 St. Petersburg, FL 33701

Re: *Securities and Exchange Commission v Brian Davison, et al.*, Case No.8:20-cv-325-T-35-AEP (M.D.Fla.)

Gentlemen:

On August 5, 2021, Judge Mary Scriven entered a Final Judgment against your client Brian Davison in the SEC action against him. Pursuant to that judgment, he was required to turn over a substantial amount of assets to the Court-appointed Receiver. Pursuant to an Assignment that is referenced in the Final Judgment, a specific list of assets were required to be delivered to the Receiver. In addition to these specific items, the Judgment and the Assignment provided that Mr. Davison turn over to the Receiver all assets except those specifically excluded from turnover in an Exhibit to the Assignment. Mr. Davison was ordered to deliver all of these assets to the Receiver within 30 days of the entry of the final judgment. Also, as part of this settlement, several assets were to be delivered to or retained by Mr. Davison.

Pursuant to the agreement of the parties and the Receiver, a turnover of assets was to occur on August 31. At that time, Mr. Davison was to deliver assets to the Receiver and the Receiver was to provide to Mr. Davison certain assets that were excluded from his turnover. On August 31, the Receiver delivered to Mr. Davison titles to certain vehicles as well as two watches. The Receiver was prepared to execute corporate documents necessary for Mr. Davison to retain the permitted entities. However, you failed to provide such documents for execution. The Receiver indicated then that he was ready to execute the necessary documents and continues to stand ready to do so.

On August 31st, a quit claim deed to the residence at 128 Biscayne Boulevard fully executed by Mr. and Mrs. Davison was delivered to the Receiver. Additionally, Mr. Davison delivered certain watches and coins that were required by the Assignment and the Final Judgment.

September 10, 2021 Page 2

During the turnover of documents on August 31, it became apparent that Mr. Davison's turnover of assets was significantly deficient.

Pursuant to the Final Judgment, Mr. Davison was to turn over specific coins. Included among those coins were 480 Platinum American Eagles. Rather that turning over Platinum American Eagles, Mr. Davison turned over to the Receiver 480 silver coins asserting that these were Platinum American Eagles. An examination by an expert who accompanied the Receiver during the turnover alerted the Receiver that the coins were silver and not platinum. The spot price of a Platinum American Eagle is approximately \$1,025. The value of the silver coins delivered by Mr. Davison is approximately \$35.00 each. Mr. Davison materially breached the terms of the Assignment and has failed to comply with the provisions of the Final Judgment entered against him. The difference in the value of the coins he turned over and the value of the coins he was required to turn over is approximately \$475,000.

Mr. Davison also failed to deliver the watches that were required. As part of the turnover of these watches, certain certifications with respect to the provenance of the watches should have been delivered. They are integral to the value of the watches. These documents are irreplaceable and were in Mr. Davison's possession. These documents have a dramatic impact upon the value of the watches. We have been advised by the auction company that has been retained to sell the watches that the absence of these documents will impact the auction value of those watches by approximately 25-35%, or potentially \$2,000,000. Mr. Davison's failure to deliver these certificates constitutes a material breach of the Assignment and violates the Final Judgment.

On the 31<sup>st</sup>, Mr. Davison also failed to turnover a watch specified in the Assignment. Initially, he stated that the watch was at the Cypress warehouse. When the Receiver told him that was not the case, he later indicated that the watch was held by Westime. This was never disclosed during our discussions. I have reached out to Mr. Davis regarding this issue on several occasions and have received no update. Late yesterday, I heard from my contact at Westime's parent company. Previously he had reviewed all records for Westime and found no evidence of a watch being held there. However, they had now located the watch and that it was being held by Greg Simonian. Please provide the circumstances and timing of the transfer of that watch to Mr. Simonian. Westime is now shipping the watch to Sotheby's.

These failures by Mr. Davison to comply with the Court's Final Judgment and the Assignment are extremely material to the agreements that Mr. Davison entered into with the Securities & Exchange Commission and the Receiver. Either Mr. Davison misled the SEC and the Receiver in reaching a resolution of the enforcement action against him or he has willfully defied the terms of the Final Judgment.

Unless Mr. Davison cures his breaches of the Assignment and his violation of the Final Judgment within ten (10) days from the date of the receipt of this letter, the Receiver will begin appropriate action to secure compliance with the Court's Order and the Assignment as well as other appropriate relief. Please review paragraph 7 of the Assignment regarding potential remedies. In the absence of Mr. Davison curing these deficiencies, the Receiver will seek available

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remedies including contempt. Further, in light of this conduct, Mr. Davison should take no action to secure any of the monetary assets mentioned in the Assignment and he should not dispose of any of the property the Receiver has delivered to him.

In addition to demanding that Mr. Davison cure the aforementioned deficiencies, we would like to schedule Mr. Davison's deposition in the immediate future. The deposition will be directed at Mr. Davison's assets and the matters referenced in this letter. I look forward to hearing from you at your earliest convenience with respect to these matters.

Sincerely,

JOHNSON, CASSIDY, NEWLON & DECORT, P.A.

/s/ Kacy Donlon

Katherine C. Donlon

KCD/mm

cc: Burton W. Wiand Alise Johnson