

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

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

Case No. 8:20-CV-325-T-35MRM

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 UNOPPOSED MOTION TO APPROVE  
PRIVATE SALE OF REAL PROPERTY —  
4303 WEST VISTA AVENUE, GLENDALE, ARIZONA**

Burton W. Wiand, as Receiver over the assets of the above-captioned  
Corporate Defendants and Relief Defendants,<sup>1</sup> moves the Court to approve the

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<sup>1</sup> The (“**Receiver**” and the “**Receivership**” or “**Receivership Estate**”) has been expanded to include not only the Corporate and Relief Defendants but also 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.

sale of real property located at 4303 West Vista Avenue, Glendale, Arizona 85301 (the “**Property**”). The buyer of the Property is Armando Melo (the “**Buyer**”), and the purchase price is \$310,000. A copy of the Purchase and Sale Agreement is attached as **Exhibit 1** (the “**Contract**”). Selling the Property in the manner described in this motion will result in a fair and equitable recovery for the Receivership Estate.

### **BACKGROUND**

At the request of the Securities and Exchange Commission (“**SEC**”), the Court appointed the Receiver on February 14, 2020. On March 4, 2022, this Court entered an Order Approving the Plaintiff’s Unopposed Motion for Entry of Final Judgment against Defendant Barry Rybicki (Doc. 528) (“Final Judgment”) which referenced assets that Rybicki was to turn over to the Receiver in satisfaction of the judgment against him. One of those properties was 4303 W. Vista Avenue, Glendale, Arizona. The Property is owned by 4303 West Vista Avenue, LLC, an Arizona limited liability company formerly under the control of Defendant Barry M. Rybicki. Pursuant to the Final Judgment, as well as the filing of Amended and Restated Articles of Organization with the Arizona Secretary of State, the Receiver is the sole member of 4303 West Vista Avenue, LLC.

### **The Procedures Applicable to Sales of Real Property**

The procedures applicable to private sales of receivership real estate are set forth in 28 U.S.C. § 2001(b) (“**Section 2001(b)**”) <sup>2</sup>:

After a hearing, of which notice to all interested parties shall be given by publication or otherwise as the court directs, the court may order the sale of such realty or interest or any part thereof at private sale for cash or other consideration and upon such terms and conditions as the court approves, if it finds that the best interests of the estate will be conserved thereby. Before confirmation of any private sale, the court shall appoint three disinterested persons to appraise such property or different groups of three appraisers each to appraise properties of different classes or situated in different localities. No private sale shall be confirmed at a price less than two-thirds of the appraised value. Before confirmation of any private sale, the terms thereof shall be published in such newspaper or newspapers of general circulation as the court directs at least ten days before confirmation. The private sale shall not be confirmed if a bona fide offer is made, under conditions prescribed by the court, which guarantees at least a 10 per centum increase over the price offered in the private sale.

28 U.S.C. § 2001(b).

The Receiver can move the Court to waive strict compliance with these procedures, but as explained below, the Receiver has substantially and materially complied with the statute.

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<sup>2</sup> Section 2001(b) governs here because this is a private sale of real property and because 28 U.S.C. §§ 2001(a) and 2004 deal with public auctions and personal property, respectively.

**The Property, the Receiver's Marketing Efforts,  
and the Proposed Sale**

The Property was purchased in 2018 for \$115,000. Defendant Barry M. Rybicki owned the Property through a limited liability company, 4303 West Vista Avenue, LLC, until he agreed to turn over various assets to the Receiver. The Property is a single-family residence consisting of three bedrooms and one and three-quarter baths and is approximately 1,040 square feet.

The Receiver engaged Launch Real Estate, an Arizona based real estate firm, to list the Property for sale. The Property was listed on Multiple Listing Service ("**MLS**"), the industry standard listing service for real estate professionals. MLS listings reach essentially every real estate broker and agent in the United States. The Receiver believes the transaction described in this motion is the most beneficial to the Receivership Estate.

In compliance with Section 2001(b), the Receiver obtained valuations from three disinterested sources (collectively, the "**Valuations**"), which are attached as **Exhibits 2, 3, and 4**. These Valuations estimate the value of the Property between \$270,000 and \$305,000. The average total value for the Property is \$287,500. The sale price of \$310,000 is comparable to the valuations and is thus fair and reasonable.

The Receiver has determined that selling the Property in the manner described in this motion is in the best interest of the Receivership. The sale of

the Property would constitute a \$310,000 gross recovery for the Receivership Estate. The Property is free of any significant liens or encumbrances, such as a mortgage. Should any administrative liens be discovered during a title search, they will be resolved routinely at closing.

### **Section 2001(b) Publication**

To satisfy the publication requirement of Section 2001(b), the Receiver will publish the terms of the sale in The Arizona Republic, which is regularly issued and of general circulation in the district where the Property is located. A copy of the notice of sale is attached as **Exhibit 5**, which will be published shortly after this motion is filed. Pursuant to Section 2001(b), after the 10-day statutory window for “bona fide offers” has elapsed, the Receiver will advise the Court whether he received any such offer and appropriate steps in response thereto. Absent such an offer, the Receiver submits that approval of the proposed sale pursuant to the Order and Section 2001(b) is commercially reasonable, fair and equitable, and will ensure a cost-effective recovery for the ultimate benefit of the Receivership Estate.

### **ARGUMENT**

The Court’s power to supervise an equity receivership and to determine the appropriate actions to be taken in the administration of the receivership is extremely broad. *S.E.C. v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992); *S.E.C. v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986). The Court’s wide discretion

derives from the inherent powers of an equity court to fashion relief. *Elliott*, 953 F.2d at 1566; *S.E.C. v. Safety Finance Service, Inc.*, 674 F.2d 368, 372 (5th Cir. 1982). A court imposing a receivership assumes custody and control of all assets and property of the receivership, and it has broad equitable authority to issue all orders necessary for the proper administration of the receivership estate. *See S.E.C. v. Credit Bancorp Ltd.*, 290 F.3d 80, 82-83 (2d Cir. 2002); *S.E.C. v. Wencke*, 622 F.2d 1363, 1370 (9th Cir. 1980). The court may enter such orders as may be appropriate and necessary for a receiver to fulfill his duty to preserve and maintain the property and funds within the receivership estate. *See, e.g., Official Comm. Of Unsecured Creditors of Worldcom, Inc. v. S.E.C.*, 467 F.3d 73, 81 (2d Cir. 2006). Any action taken by a district court in the exercise of its discretion is subject to great deference by appellate courts. *See United States v. Branch Coal*, 390 F.2d 7, 10 (3d Cir. 1969). Such discretion is especially important considering that one of the ultimate purposes of a receiver's appointment is to provide a method of gathering, preserving, and ultimately liquidating assets to return funds to creditors. *See S.E.C. v. Safety Fin. Serv., Inc.*, 674 F.2d 368, 372 (5th Cir. 1982) (court overseeing equity receivership enjoys "wide discretionary power" related to its "concern for orderly administration") (citations omitted).

Given these principles, the Court should approve the proposed sales for at least four reasons. First, the Receiver is complying with Section 2001(b).

Specifically, he obtained the Valuations, and the total sale price is comparable to the range of the estimates disclosed in those valuations. *See* Exs. 2–4. Section 2001(b) provides that “[n]o private sale shall be confirmed at a price less than two-thirds of the appraised value” — here, \$191,667 based on the average of the Valuations. The \$310,000 sale price for the Property is well above that amount. The Receiver will arrange for the terms of the proposed sale to be published in *The Arizona Republic*. *See* Ex. 5. If no one objects to this motion or submits a “bona fide offer” pursuant to Section 2001(b), to conserve resources, the Receiver asks that the Court grant the motion without a hearing.

Second, as noted above, the sale price represents a gross recovery of \$310,000 for the benefit of the Receivership Estate, and ultimately its creditors, including the victim investors. Third, the Receiver’s independent evaluation of the transaction demonstrates that it is commercially reasonable. The Receiver is not aware of any other association between the Receivership and the Buyer. As such, this is an arm’s-length transaction. Fourth, the existence of a ready-and-willing buyer ensures an efficient and cost-effective recovery for the Receivership Estate, and in the Receiver’s opinion, the sale price is at or near the maximum price that can be anticipated for the sale of the Property.

## CONCLUSION

For the reasons discussed above, this transaction is commercially reasonable, fair and equitable, and will ensure a cost-effective recovery for the ultimate benefit of the Receivership Estate. As such, the Receiver requests an order (1) approving the transaction and the Contract, and (2) ordering that the Receiver may transfer title to the Property by Receiver's Deed to the Buyer, free and clear of all claims, liens, and encumbrances. Pursuant to the Court's earlier Order (Doc. 640), the Receiver has attached a proposed order as Exhibit 6.

Communications with underwriters and title counsel have indicated that including the legal description in the Court's order could promote a quicker closing and avoid potential questions about the chain of title in an abundance of caution. As such, if the Court grants this motion, the Receiver asks the Court include the legal description for the Property in the order granting this motion. The legal description for the Property is as follows:

The South 142.47 feet of the West 112 feet of the East 145 feet of the North 1/2 of the South 1/2 of the South 1/2 of the Southeast 1/4 of the Northeast 1/4 of Section 4, Township 2 North Range 2 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

Excluding therefrom rights of way for canals, ditches, and appurtenant structures of the S.R.V.W.U.A.



**LOCAL RULE 3.01(G) CERTIFICATION**

Counsel for the Receiver has conferred with counsel for the SEC and the SEC consents to the relief sought herein and waives any right to appeal an Order granting this Motion.

Respectfully submitted,

**s/ Katherine C. Donlon**

Katherine C. Donlon, FBN 0066941

[kdonlon@jclaw.com](mailto:kdonlon@jclaw.com)

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

3242 Henderson Blvd., Ste. 210

Tampa, FL 33609

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**GUERRA KING P.A.**

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Tampa, FL 33607

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*Attorney 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.

**s/ Burton W. Wiand**  
Burton W. Wiand,  
Court-Appointed Receiver

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on October 11, 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, FBN 0066941

# **EXHIBIT 1**

## PURCHASE AND SALE AGREEMENT



This Purchase and Sale Agreement (hereinafter “Agreement”), is entered into this the ~~2nd~~ <sup>2nd</sup> of October ~~day of September~~ 2022, by and between Armando Melo (hereinafter, the “Buyer”) and Burton W. Wiand, Receiver for and Sole Member of 4303 West Vista Avenue, LLC (hereinafter “Seller”, and collectively with Buyer, the “Parties”) by and through its sole member, Burton W. Wiand, court-appointed Receiver in the matter of 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 (hereinafter, the “Action”).

### BACKGROUND

WHEREAS, 4303 West Vista Avenue, LLC is an Arizona limited liability company under the control of Burton W. Wiand and it is the owner of the Property located at 4303 West Vista Avenue, Glendale, Arizona 85301 better known as Maricopa County Property Assessor’s Parcel Id Number: 147-06-041E. Burton W. Wiand as Receiver appointed in the afore mentioned Action is the sole member of 4303 West Vista Avenue, LLC pursuant to the Amended and Restated Articles of Organization of 4303 West Vista Avenue, LLC as well as the Order Approving the Plaintiff’s Unopposed Motion for Entry of Final Judgment Against Defendant Barry Rybicki entered in the Action (Doc. 528) on March 4, 2022.

WHEREAS, the Seller has full power and authority to market and enter into an agreement to sell the Property pursuant to an Action by Written Consent of Sole Member of 4303 West Vista Avenue, LLC;

WHEREAS, subject to approval by the Court, compliance with the publication requirements of 28 U.S.C. § 2001(b), and the non-receipt of a Bona Fide Offer (defined below), Seller desires to sell and Buyer desires to purchase the Property pursuant to the terms and conditions set forth herein, and,

WHEREAS, the Buyer desires to purchase the Property and Seller desires to sell the Property, all on the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the Parties agree as follows

### AGREEMENT

**1. Property:** The Seller agrees to sell and convey, and Buyer agrees to purchase and pay for, all pursuant to the terms and conditions hereinafter set forth, the Property consisting of all of Seller’s right, title, and interest in and to the Property, more particularly described on Exhibit “A” attached hereto. The Property shall include all appurtenant rights, privileges, and easements, all buildings and improvements, free from all encumbrances whatsoever, except restrictions and ease-

ments of record, zoning ordinances, and taxes and assessments, both general and special, not currently due and payable. PROPERTY SOLD “AS IS”.

**2. Purchase Price & Contingencies:** The Purchase Price shall be Three Hundred Ten Thousand Dollars (\$310,000.00).

This Agreement is contingent upon (1) compliance with the publication procedures required by 28 U.S.C. § 2001(b), and (2) the non-receipt by Seller of a bona fide offer, under conditions prescribed by the Court, as described in 28 U.S.C. § 2001(b) (a “Bona Fide Offer”). Buyer understands and acknowledges that 28 U.S.C. § 2001(b) prohibits the Court’s approval and confirmation of the transaction contemplated by this Agreement if Seller receives a Bona Fide Offer. As such upon receipt of a Bona Fide Offer, Seller shall provide the Buyer with 10 days notice of such offer prior to filing a motion with the Court to approve any transaction. Buyer shall have the opportunity to make a competitive offer and the Seller agrees to recommend the acceptance of Buyer equal or better offer to the Court absent any material deficiencies in Buyer’s offer. Should the Seller or the Court determine that a Bona Fide Offer is superior to any final offer of the Buyer, Seller may terminate this agreement and the Buyer exclusive remedy for such termination is limited to the return of its Earnest Money Deposit, as defined and set forth below. If the Seller does not receive a Bona Fide Offer after compliance with the publication procedures required by 28 U.S.C. § 2001(b), this Agreement is further contingent upon Seller obtaining an Order in substantially the form as Exhibit “B” attached hereto (the “Order”) approving: (1) the sale of the Property described in Exhibit “A” to Buyer free and clear of all liens, claims, encumbrances, and restrictions as provided for in the order of the United States District Court approving this transaction and (2) Buyer’s quiet enjoyment of all assets assigned to and assumed by Buyer (collectively, the “Contingencies”).

In the event that Seller receives a Bona Fide Offer or the Court does not approve of the sale of the Property, i.e., if the Contingencies are not satisfied on or before the Closing Date, Buyer acknowledges and agrees that its sole and exclusive remedy is to seek return of the Earnest Money Deposit, as defined below, from Seller. This Agreement, when duly executed by the Parties, constitutes the express waiver in writing of any other remedy, whether legal or equitable, that may be available to the Buyer.

**3. Escrow Agent and Earnest Money Deposits:** Security Title of 7055 W. Bell Road, #121, Glendale, Arizona 85308 shall serve as the Escrow Agent. Within three (3) business days after full execution of this Agreement by the Parties the Buyer shall deposit the sum of Six Thousand Dollars (\$6,000.00) in readily available funds as an earnest money deposit (“Earnest Money Deposit”) into the IOTA trust account of Security Title. Subsequent to the expiration or waiver of the Inspection Period outlined in this Agreement, the Earnest Money Deposit shall only be refundable if the United States District Court refuses to approve the motion for sale or if the United States District Court approves the sale of the Property to a competing bidder.

Upon the satisfaction of the contingencies relating to financing and inspection, pending approval by the Court of this transaction the Buyer may not cancel the transaction and any attempt thereto shall cause the deposit made pursuant to this contract to immediately become the property

of the Receiver.

The Earnest Money Deposit shall be credited at Closing towards the Purchase Price to be paid to Seller by Buyer for the Property under the terms of this Agreement. The terms of this Agreement shall serve as the escrow instructions for this transaction.

**4. Conditions of Escrow:** Seller shall, on or before the date of Closing, make reasonable efforts to obtain approval from The United States District Court, Middle District of Florida to sell the Property pursuant to the terms of this Agreement. After the satisfaction of the contingencies in this Agreement if the Buyer withdraw from this Agreement prior to the approval of the sale, or if the Court approves the sale of the Property pursuant to the terms of this Agreement and the Buyer fail to perform under this Agreement except as to any rights the Buyer may have under paragraphs 5, 8, 9 or 10, the Earnest Money Deposit shall be delivered immediately to Seller as liquidated damages for Buyer's failure to perform. In the event that the Court fails to approve this Agreement or the Buyer terminates the Agreement solely as provided for in paragraphs 5, 8, 9 or 10, this Agreement shall be null and void and of no further force and effect and neither Seller nor the Buyer shall have any further obligations hereunder to the other and the Earnest Money Deposit shall be delivered immediately to Buyer. Should Seller fail to perform any obligation under this Agreement for any other reason, the Buyer's sole remedy shall be to seek return of all funds deposited in connection with this Agreement.

**5. Financing:** Buyer has presented to Seller a loan approval notice from Capital Fund 1, LLC dated September 27, 2022 indicating that Buyer has been approved for funding in the amount up to Three Hundred Ten Thousand Dollars (\$310,000.00). If the Buyer fails to perform under this Agreement, the Earnest Money Deposit shall be delivered immediately to Seller as liquidated damages for Buyer's failure to perform.

**6. Closing and Closing Agent:** Unless extended by mutual agreement of the Parties, Closing shall take place within thirty (30) days after The United States District Court, Middle District of Florida's approval of the sale, with Buyer to provide written notice specifying the actual closing date at least three (3) business days before such closing date. All funds and documents required to be deposited hereunder shall be deposited into escrow prior to Closing. The term "Closing" as used herein shall mean the date all contingencies provided in this Agreement shall be satisfied or waived by written instrument and the date the Receiver's Deed in substantially the form as Exhibit "B" attached hereto has been recorded. Security Title shall serve as the Closing Agent.

**7. Conveyance of Title:** When the funds to be paid by Buyer together with all documents required to be deposited by Buyer pursuant to this Agreement have been deposited into escrow, then Seller shall deliver into escrow title to the Property. Seller will convey title via Receiver's Deed in substantially the form as Exhibit "B" attached hereto.

**8. Evidence of Title, Survey and Closing Costs:** Buyer, at Buyer's cost and expense, may obtain evidence of title, a title abstract, title insurance and/or a survey of the Property. At Closing, Buyer shall pay: (i) all title examination fees; (ii) survey costs or any costs to update surveys; (iii) to update recording costs on documents necessary for Seller to clear title (to the extent

such action is required); (iv) any premiums for a title insurance policy; (v) all transfer taxes payable in connection with the delivery for recording of any title transfer instrument or document by Seller provided in or contemplated by this Agreement; (vi) all charges for escrow services; (vii) all survey and appraisal costs; (viii) mortgage taxes (if any); (ix) the cost of any environmental reports; (x) all fees of the Closing Agent; and (xi) Buyer's legal, accounting and other professional fees and expenses and the cost of all certificates, instruments, documents and papers required to be delivered, or to cause to be delivered, by Buyer hereunder, including without limitation, the cost of performance by Buyer and the obligations hereunder.

At Closing, Seller shall pay: (i) Seller's legal, accounting and other professional fees and expenses and the cost of all certificates, instruments, documents and papers required to be delivered, or to cause to be delivered, by Seller hereunder, including without limitation, the cost of performance by Seller of its obligations hereunder.

Except as otherwise expressly provided for in this Agreement, Buyer shall be responsible for any and all other costs and expenses, regardless of custom or practice in the county where the Property is located, in connection with the consummation of this Agreement.


**9. Condition of Premises and Inspection Period:** Buyer acknowledges and agrees to purchase the property on an "As Is" "Where Is" basis, with all faults and without representations, express or implied, of any type, kind, character or nature, including but not limited to the suitability of the Property for any use, and without warranties, express or implied, of any type, kind, character or nature, including but not limited to, suitability of the Property for any use, and without recourse, express or implied, of any type, kind, character or nature. Buyer waives the inspection contingency.

**10. Damage or Destruction:** In the event the Property, or any portion thereof, is damaged or destroyed by fire or other cause prior to the date of transfer of title, Buyer may declare this Agreement null and void or Buyer may complete the purchase and receive the proceeds from any insurance otherwise payable to or for the benefit of Seller with respect to such destruction, together with a credit against the purchase price for any "deductible" under such insurance. If Buyer declares this Agreement null and void due to damage or destruction as described in this Paragraph 10, the Earnest Money Deposit shall be delivered immediately to Buyer.

**11. Taxes, Assessments & Utilities:** Real Estate Taxes, assessments, if any, and any assessments, insurance premiums, charges, and other items attributable to the Property shall be prorated as of the date of Closing, based upon an actual three hundred and sixty-five (365) day year, as is customary. Meters for all public utilities (including water) being used on the Property shall be ordered read on the day prior to closing and all charges to said date shall be paid by Seller.

**12. Real Estate Brokers:** Seller and Buyer represent and warrant each to the other that they have not dealt with any real estate broker, salesperson or finder in connection with this transaction other than Adam Bowman and Mathew Rowley of Launch Real Estate. At Closing, Seller agrees to a two-percent (2%) commission to Launch Real Estate pursuant to a separate written agreement by and between Seller and Launch Real Estate. In no event shall the total sales commission owed by the Seller exceed two percent (2%) of the Purchase Price.

**13. General Provisions:**

- (a) This Agreement shall be governed by the laws of Arizona.
- (b) Buyer and Seller hereby (i) agree that all disputes and matters whatsoever arising under, in connection with, or incident to this Agreement shall be exclusively litigated as a summary proceeding in *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 the exclusion of the courts of or in any other state or country, and (ii) irrevocably submit to the exclusive jurisdiction of the United States District Court, Middle District of Florida, in any action or proceeding arising out of or relating to this Agreement, and hereby irrevocably waive any objection to the laying of venue of any such action or proceeding in any such court and any claim that any such action or proceeding has been brought in an inconvenient forum. A final judgment in any such action or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law.
- (c) Captions of the several items of this Agreement are not a part of the context hereof and shall not be used in construing this Agreement, being intended only as aids in locating the various provisions hereof.
- (d) This Agreement shall inure to the benefit of, and be binding upon, the Buyer's successors and assigns, executors and administrators.
- (e) In the event that this Agreement shall terminate in accordance with the provisions hereof, and in the absence of breach, all funds and documents deposited shall be returned to the depositor thereof and neither party shall be under any further obligation to the other by reason of this Agreement.
- (f) This offer is open for acceptance by delivery of a fully executed original hereof, up to and including 5:00 p.m. EST on ~~XXXXXX~~ **October 3, 2022**, and shall thereafter be withdrawn without notice. This Agreement, and any notices required or permitted to be given pursuant to this Agreement, shall be in writing and sent by overnight courier, prepaid, or hand delivered, transmitted by facsimile or e-mail, delivered personally or served by certified or registered mail, return receipt requested. Any facsimile or electronic signature shall be deemed to be an original. 
- (g) Notices may be delivered to Seller at the email address burt@burtonwwiandpa.com and to Buyer at the email address V0ch1t021@gmail.com.
- (h) This transaction is a Judicial Sale by a Receiver. This Agreement contains the entire agreement between the parties hereto and they shall not be bound by any terms, warranties or representations, oral or written, not herein contained.



**BUYER**

Authentisign



Armando Melo

Date: 10/01/22, 2022

**SELLER**



Burton W Wiand as Receiver for and as sole  
Member of 4303 West Vista Avenue, LLC

Date: ~~September 30, 2022~~  
October 2, 2022

**EXHIBIT A TO PURCHASE AND SALE AGREEMENT**

**LEGAL DESCRIPTIONS (subject to change)**

4303 West Vista Avenue, Glendale, Arizona 85301  
better known as Maricopa County Property Assessor's Parcel Id Number: 147-06-041E

**Legal Description:**

The South 142.47 feet of the West 112 feet of the East 145 feet of the North 1/2 of the South 1/2 of the South 1/2 of the Southeast 1/4 of the Northeast 1/4 of Section 4, Township 2 North Range 2 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

Excluding therefrom rights of way for canals, ditches, and appurtenant structures of the S.R.V.W.U.A.

**EXHIBIT B TO PURCHASE AND SALE AGREEMENT**

**RECEIVER'S DEED**

THIS INDENTURE, made as of the \_\_\_\_ day of \_\_\_\_\_ 2022, by and between 4303 West Vista Avenue, LLC (hereinafter referred to as the "Grantor"), having a mailing address of 114 Turner St., Clearwater, Florida 33756, and \_\_\_\_\_ (hereinafter referred to as the "Grantee") having an address of \_\_\_\_\_.

**WITNESSETH:**

That Burton W. Wiand was appointed as Receiver for the Property known as 4303 West Vista Avenue, Glendale, Arizona 85301 better known as Maricopa County Property Assessor's Parcel Id Number: 147-06-041E, as hereinafter described, pursuant to that certain Order Appointing Receiver in *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. The sale having been duly approved by Order of The United States District Court, Middle District of Florida, entered \_\_\_\_\_, 2022 (hereinafter referred to as the "Order" and attached hereto as Exhibit 1 and incorporated herein by this reference).

That for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, Grantor has granted, bargained, sold, aliened, conveyed and confirmed and does hereby grant, bargain, sell, alien, convey and confirm unto Grantee all of Grantor's right, title and interest in and to all that certain tract or parcel of land lying and being in Maricopa County, Arizona, being more particularly described in Exhibit 2 attached hereto and by this reference made a part hereof (hereinafter referred to as the "Property").

TO HAVE AND TO HOLD said Property, together with all and singular the rights, members and appurtenances thereof, to the same being, belonging or in anywise appertaining, to the only proper use, benefit and behoof of Grantee forever, in as full and ample a manner as the same was held by Grantor.

IN WITNESS WHEREOF, Grantor has signed and sealed this Receiver's Deed, the day and year first above written.

*Signed, sealed and delivered in the presence of:*

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Burton W Wiand as Receiver for and sole  
Member of 4303 West Vista Avenue, LLC

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Printed name

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2022, by  
Burton W. Wiand as Receiver for and sole Member of 4303 West Vista Avenue, LLC

\_\_\_\_\_  
Notary Public

Print Name:

My Commission Expires:

Personally Known \_\_\_\_\_ (OR) Produced Identification \_\_\_\_\_

Type of identification produced

**EXHIBIT 1 TO RECEIVER'S DEED**

**COURT ORDER**

**IN THE UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA (TAMPA)**

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;  
310 78TH AVE, LLC;  
551 3D 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;  
ILVER SANDS TI, LLC;  
TB OLDEST HOUSE EST. 1842, LLC.

Relief Defendants.

\_\_\_\_\_ /

## **ORDER**

Before the Court is the Receiver’s Unopposed Verified Motion for Approval of Private Sale of Real Property Located in Maricopa County, Arizona – Specifically, 4303 West Vista Avenue, Glendale, Arizona 85301 better known as Maricopa County Property Assessor’s Parcel Id Number: 147-06-041E; (the “Motion”) (Dkt. \_\_\_\_). Upon due consideration of the Receiver’s powers as set forth in the Order Granting Emergency Ex Parte Motion for Temporary Restraining Order, Asset Freeze, and Other Injunctive Relief entered February 14, 2020 (Doc 10) and in the Order Granting Plaintiff’s Emergency Ex Parte Motion for Appointment of Receiver and Memorandum of Law entered February 14, 2020, and applicable law, it is **ORDERED AND ADJUDGED** that the Motion is **GRANTED**.

The sale of the real property located at 4303 West Vista Avenue, Glendale, Arizona 85301 better known as Maricopa County Property Assessor’s Parcel Id Number: 147-06-041E; pursuant to the Purchase and Sale Agreement attached as Exhibit \_\_\_\_ to the Motion, is hereby **APPROVED**. The Court finds the sale commercially reasonable, fair and equitable, and in the best interests of the Receivership Estate.

The Receiver is hereby directed to transfer free and clear of all claims, liens, and encumbrances to Armando Melo by way of a Receiver’s Deed, pursuant to Purchase and Sale Agreement, title to the real property located in Maricopa County, Arizona.

**DONE and ORDERED** in chambers in Tampa, Florida this \_\_\_\_ day of \_\_\_\_\_ 2022.

\_\_\_\_\_  
MARY S. SCRIVEN  
UNITED STATES DISTRICT JUDGE

**COPIES FURNISHED TO:**  
Counsel of Record

**EXHIBIT 2 TO RECEIVER'S DEED**

**LEGAL DESCRIPTIONS (subject to change)**

4303 West Vista Avenue, Glendale, Arizona 85301  
better known as Maricopa County Property Assessor's Parcel Id Number: 147-06-041E

**Legal Description:**

The South 142.47 feet of the West 112 feet of the East 145 feet of the North 1/2 of the South 1/2 of the South 1/2 of the Southeast 1/4 of the Northeast 1/4 of Section 4, Township 2 North Range 2 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

Excluding therefrom rights of way for canals, ditches, and appurtenant structures of the S.R.V.W.U.A.

# **EXHIBIT 2**



Date: October 4, 2022

**SUBJECT PROPERTY:** [4303 W Vista Ave Glendale, AZ 85301](#)

**PROPERTY TYPE:** Single Family Detached, 1 Stories, 3 Bedrooms, 1.75 Baths, 1,040sqft

**COMPARABLES:**

1. [4227 W VISTA AVE, Phoenix, AZ 85051](#). Closed 4/8/2022

300,777k \$287 sq ft.

2. [3802 W ORANGEWOOD AVE, Phoenix, AZ 85051](#). Closed 9/23/2022

225,000k \$187 sq ft

3. [4228 W Vista AVE, Phoenix, AZ 85051](#). Closed 4/12/2022

327,500 \$312 sq ft

**VALUE ESTIMATION:**

As you can see above, there has been a drastic shift in the market over the last few months. My opinion is the today this property could be valued safely at:

**RETAIL MARKET:** \$275k to \$305K. The influx of inventory and interest rates rising has created a flood of new inventory to the market and a lot of competition.

**CASH INVESTOR:**

\$200k-235k– Considering that the cash investor is looking to pay a wholesale price, and the amount of renovations needed. Please let me know if you have any questions



RENO PACCIONI  
Real Estate Agent, Dwellings Realty Group

602-384-1831

[16412 N 92nd St #115, Scottsdale, AZ 85260](#)

[renopaccioni@dwellingsaz.com](mailto:renopaccioni@dwellingsaz.com)

[www.reno.dwellingsaz.com](http://www.reno.dwellingsaz.com)

# **EXHIBIT 3**



**Date: October 4, 2022**

**Broker Property Summary Opinion**

**Subject Property: 4303 W Vista Ave, Glendale, AZ 85301**

**Property Type: Single Family Detached, 1 story, 3 bedrooms, 1.75 baths, 12,406sf lot**

**Neighborhood / City**

Glendale is a city in Maricopa County, Arizona, located approximately 9 miles northwest of Downtown Phoenix. As of the 2020 census, it had a population of 248,325. Glendale is widely known for being the city where the Phoenix Cardinals stadium is located. The median income for a household in the city was \$45,015 as of the last census, and the median income for a family was \$51,162. The per capita income for the city was \$19,124. About 8.8% of families and 11.9% of the population were below the poverty line, including 15.3% of those under age 18 and 9.5% of those age 65 or over.

**Value Estimation**

The range of sales of similar sized homes in the direct area of the subject property are between a low of \$198,000 to a high of \$407,000 in the past 6 months. The average sales price in the area is \$329,815, the average list to sales price is 99% and average days on market is 31. This indicates that there continues to be steady demand in this area even though the market in general is cooling and prices softening from the peak of March/April 2022.

My opinion is that today the property could be valued at:

**Market: \$275,000 to \$285,000.** Phoenix since its peak has seen a dramatic increase in inventory from our lows as well as very quick, and large increases in mortgage rates. This has had an impact on affordability of many. However, the location of this home and proximity to downtown, ease of access to the freeway, and lower price point of entry for homeownership compared to other parts of the Valley for single family homes, the data has shown that homes are still trading relatively quickly and prices are still solid.

**Investor: \$215,000-225,000.** This is also a very popular neighborhood for investors to pick up rental properties, or fix and flips. Investor pricing is lower for a number of reasons, properties could be in poor condition that the average consumer would turn down, or they pay wholesale prices and the owner is not having to pay real estate fees or the worry of preparing and putting the house on the market. This is a very popular option for a lot of sellers because of the ease of the transaction.

Prepared by:

DocuSigned by:  
  
755109DF157045B...

Mike Steck

# **EXHIBIT 4**



*Jaysen Morse – Realtor since 2003*

**Subject Property:** 4303 W Vista Ave, Glendale AZ 85301

The property is out of date and has a fair amount of distress and deferred maintenance. In my opinion the property is a remodel opportunity for a flipper or an end user who doesn't mind a fair amount of cosmetic work.

**City / Neighborhood**

The City of Glendale is located just north and west of Phoenix. This area hosts sports stadiums as well as large industrial parks throughout the city. The residential component of Glendale is largely low income and housing prices are below the median Phoenix home price.

**Market Value Estimation:**

In my professional opinion the property is worth between \$270,000 to \$295,000. The comparables suggest the home is worth \$225,000 but due to the large size of the lot I believe the home would garner a larger number than comparables suggest.

**Contract Price: \$310,000**

The contract price is a very attractive value for this property.

**Comparables (Analysis attached):**

- 1). 4637 W PALMAIRE AVE
- 2). 6630 N 61ST AVE
- 3). 5432 W MYRTLE AVE
- 4). 4918 W SIERRA VISTA DR
- 5). 4616 W PALMAIRE AVE

# Comparable Market Analysis

Friday, September 30, 2022



**Jaysen**

**North & Co**

5635 E Thomas Rd

Phoenix, AZ 85018

602-377-6797

[jaysenyouragent@gmail.com](mailto:jaysenyouragent@gmail.com)

License #: SA567917000

*This report is not an appraisal and is not intended to meet the requirements set out in the Uniform Standards of Appraisal Practice. If an appraisal is desired, the services of a licensed appraiser should be obtained.*

# Comparable Properties

6380907



4637 W PALMAIRE AVE  
Glendale AZ

6358229



6630 N 61ST AVE  
Glendale AZ

6381173



5432 W MYRTLE AVE  
Glendale AZ

List Price	\$199,999	\$320,000	\$249,000
Original List Price	\$199,999	\$320,000	\$249,000
Sold Price	\$231,800	\$313,000	\$260,000
Status	Closed	Closed	Closed
Status Date	07/08/2022	04/01/2022	05/09/2022
Agent Days on Market	3	4	3
Cumulative Days on Market	3	4	3
# Bedrooms	3	3	3
# Bathrooms	1	1	1
Approx SQFT	1,160	1,280	1,300
Approx Lot SqFt	7,301	6,852	7,000
Year Built	1955	1953	1947
Price	\$231,800	\$313,000	\$260,000





4918 W SIERRA VISTA DR  
Glendale AZ



4616 W PALMAIRE AVE  
Glendale AZ

List Price	\$280,000	\$274,900	
Original List Price	\$280,000	\$286,900	
Sold Price	\$280,000		
Status	Closed	Pending	
Status Date	08/25/2022	09/30/2022	
Agent Days on Market	34	23	undefined
Cumulative Days on Market	34	23	undefined
# Bedrooms	3	3	
# Bathrooms	1	1	
Approx SQFT	1,300	936	
Approx Lot SqFt	7,231	8,085	
Year Built	1962	1955	
Price	\$280,000	\$274,900	

Price Analysis



# List, Sold and Adjusted Prices



## Low, Average, Median, and High Sold Prices



Summary of Closed Listings

MLS #	Address	List Price	ADOM	CDOM	Encoded Features	Approx SQFT	Price per		Sold Date	Sold Price	Total Adjusts	Adjusted Price
							Approx	Approx				
6380907	4637 W PALMAIRE AVE, Glendale AZ	\$199,999	3	3	31RX1C	1,160		\$199.83	07/07/2022	\$231,800	-	\$231,800
6358229	6630 N 61ST AVE, Glendale AZ	\$320,000	4	4	31RO1C3S	1,280		\$244.53	03/31/2022	\$313,000	-	\$313,000
6381173	5432 W MYRTLE AVE, Glendale AZ	\$249,000	3	3	31R1C2S	1,300		\$200.00	04/24/2022	\$260,000	-	\$260,000
6438732	4918 W SIERRA VISTA DR, Glendale AZ	\$280,000	34	34	31FRO4S	1,300		\$215.38	08/24/2022	\$280,000	-	\$280,000

Summary of Pending Listings

MLS #	Address	Orig. List Price	ADOM	CDOM	Encoded Features	Approx SQFT	Price per		List Price	Total Adjusts	Adjusted Price
							Approx	Approx			
6460410	4616 W PALMAIRE AVE, Glendale AZ	\$286,900	23	23	31B1C2S	936		\$293.70	\$274,900	-	\$274,900

Low, Average, Median, and High Comparisons

	Closed	Pending	Overall
Low	\$231,800	\$274,900	\$231,800
Average	\$271,200	\$274,900	\$271,940
Median	\$270,000	\$274,900	\$274,900
High	\$313,000	\$274,900	\$313,000

Overall Market Analysis (Unadjusted)

Status	#	List Vol.	Avg. List		Avg. Sold		Avg. Approx SQFT	Avg. List \$/Approx SQFT		Avg. Sold \$/Approx SQFT		Avg. ADOM	Avg. CDOM
			Price	Sold Vol.	Price	Sale/List Price							
Closed	4	1,048,999	262,250	1,084,800	271,200	1.05	1,260	207.33		214.94		11	11
Pending	1	274,900	274,900	0	0	0.00	936	293.70		0.00		23	23
Overall	5	1,323,899	264,780	1,084,800	271,200	1.05	1,195	224.61		214.94		13	13

# **EXHIBIT 5**

NOTICE OF SALE

4303 West Vista Avenue  
Glendale, Arizona 85301

LEGAL NOTICE: Pursuant to 28 U.S.C. § 2001, Burton W. Wiand, as the Court-appointed Receiver in SECURITIES AND EXCHANGE COMMISSION V. BRIAN DAVISON, et al., CASE NO. 8:20-CV-325-T-35MRM (M.D. Fla.), will conduct a private sale of the property located at 4303 West Vista Avenue, Glendale, Arizona 85301 to Armando Melo and/or a related entity for

\$310,000. The sale is subject to approval by the U.S. District Court. Pursuant to 28 U.S.C. § 2001, bona fide offers that exceed the sale price by 10% must be submitted to the Receiver within 10 days of the publication of this notice. All offers or inquiries regarding the property or its sale should be made to the Receiver at 114 Turner St. Clearwater, FL 33756. Telephone: (727) 235-6769. Email: [Burt@BurtonWWiandPA.com](mailto:Burt@BurtonWWiandPA.com).

# **EXHIBIT 6**

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

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

Case No. 8:20-cv-00325-MSS-MRM

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.

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**ORDER**

**THIS CAUSE** comes before the Court for consideration of the Receiver's Verified Unopposed Motion to Approve Private Sale of Real Property — 4303 West Vista Avenue, Glendale, Arizona (the "Property"). (Dkt. \_\_\_\_). At the request of the Securities and Exchange Commission ("SEC"), the Court appointed the Receiver on February 14, 2020 (Dkt. 11). On March 4, 2022, this Court entered an Order Approving the Plaintiff's Unopposed Motion for Entry of Final Judgment against Defendant Barry Rybicki [Doc. 528] ("Final



Judgment”) which referenced assets that Rybicki was to turn over to the Receiver in satisfaction of the judgment against him. One of those properties was 4303 W. Vista Avenue, Glendale, Arizona.

The Receiver requests that the Court approve the sale of the Property to Armando Melo. (Dkt. \_\_\_\_). The SEC consents to the relief sought in the Motion and has waived any right to appeal this Order. (Id. at \_\_) The Receiver provided the Purchase and Sale Agreement for the Court’s review. (Dkt. \_\_\_\_)

Accordingly, it is hereby **ORDERED AND ADJUDGED** that:

1. The Receiver’s Motion, (Dkt. \_\_\_\_), is **GRANTED**.
2. Transfer of title to the Property located at 4303 West Vista Avenue, Glendale, Arizona 85301, better known as Maricopa County Property Assessor’s Parcel Id Number: 147-06-041E to Armando Melo is

**APPROVED**. The Property’s legal descriptions is as follows:

The South 142.47 feet of the West 112 feet of the East 145 feet of the North 1/2 of the South 1/2 of the South 1/2 of the Southeast 1/4 of the Northeast 1/4 of Section 4, Township 2 North Range 2 East, of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;

Excluding therefrom rights of way for canals, ditches, and appurtenant structures of the S.R.V.W.U.A.

3. Said transfer shall be free of any and all liens and encumbrances.

**DONE and ORDERED** in Tampa, Florida, this \_\_ day of \_\_\_\_\_ 2022.

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MARY S. SCRIVEN  
UNITED STATES DISTRICT JUDGE

**COPIES FURNISHED TO:**  
Counsel of Record