

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 UNOPPOSED MOTION FOR LEAVE TO EXCEED THE
PAGE LIMITATION FOR THE CLAIMS DETERMINATION MOTION**

Burton W. Wiand, the Court-appointed receiver over the assets of the corporate defendants and relief defendants (the “**Receiver**” and the “**Receivership**”), moves the Court for an order pursuant to Local Rule 3.01(a) permitting him to file no more than 45 pages of argument and explanation (excluding items like captions, tables of contents or authorities, certifications

or certificates, and exhibits) in support of his Motion to (1) Approve Determination and Priority of Claims, (2) Approve Plan of Distribution, and (3) Establish Objection Procedure (the “**Claims Determination Motion**”). *See* Docs. 335, 347 (establishing claims process). The Receiver requires the additional pages for at least four independent reasons.

First, the Receiver’s professionals have analyzed several thousand claims alleging millions of dollars in losses. Each claim is identified and discussed in exhibits to the motion, but the Receiver must also explain the general factual and legal reasons underlying his determinations in the body of the motion. Claims will be allowed in full, allowed in part, or denied, but claims can fall into each of those categories for numerous reasons. The undersigned has attempted to explain those reasons in an economical fashion but, given the extreme volume of claims and the prevalence of unique circumstances, it is not possible to do so in 25 pages or less.

Second, to begin distributions to claimants with approved claims, the Receiver is, of course, required to analyze the claims, but he also must develop and justify a priority of claim payments, a plan of distribution, and a procedure for claimants to object to the Receiver’s determinations and to obtain redress from the Court consistent with the claimants’ due process rights. This too necessitates additional pages.

Third, the objection procedure requires claimants who disagree with the Receiver's proposed determinations to submit an objection to the Receiver and to engage in, essentially, a more fulsome version of Local Rule 3.01(g) before presenting unresolved objections to the Court. In the Receiver's experience, most objections can be resolved without judicial intervention. Providing claimants with pertinent facts, authorities, and explanation will allow them to (1) determine whether to submit objections, (2) formulate cogent, documented objections that the Receiver's professionals can efficiently evaluate, and (3) narrow issues for judicial determination, if ultimately necessary. Again, this requires additional pages.

Fourth and finally, the requested relief is consistent with procedures that have proven effective in this district in similar circumstances. *See, e.g., S.E.C. v. Nadel et. al.*, Case No. 8:09-cv-00087-RAL-TBM, Docs. 664, 665, 675, 776 (M.D. Fla. 2012) (Lazzara, J.); *S.E.C. v. Nadel et. al.*, Case No. 8:09-cv-00087-RAL-TBM, Docs. 1383, 1384 (M.D. Fla. 2019) (Covington, J.; "Quest Receivership"); *C.F.T.C. v. Oasis International Group, Ltd et al.*, Case No. 8:19-cv-886-T-33SPF, Docs. 439, 482 (Covington, J.; "Oasis Receivership").

WHEREFORE, the Receiver respectfully requests leave to file a Claims Determination Motion not to exceed 45 pages of argument and explanation (excluding items like captions, tables of contents or authorities, certifications or certificates, and exhibits).

LOCAL RULE 3.01(G) CERTIFICATE OF COUNSEL

The undersigned counsel for the Receiver has conferred with counsel for the SEC and is authorized to represent to the Court that the SEC has no objection to the relief sought herein.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 28, 2022, I electronically filed a true and correct copy of the foregoing with the Clerk of the Court through the CM/ECF system, which served counsel of record.

s/ Jared J. Perez

Jared J. Perez, FBN 0085192

JARED J. PEREZ P.A.

jared.perez@jaredperezlaw.com

Tel: (727) 641-6562

Katherine C. Donlon, FBN 0066941

kdonlon@jclaw.com

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

3242 Henderson Blvd., Ste. 210

Tampa, FL 33609

Tel: (813) 291-3300

Fax: (813) 324-4629

R. Max McKinley, FBN 119556

mmckinley@guerraking.com

GUERRA KING P.A.

1408 N. Westshore Blvd., Suite 1010

Tampa, FL 33607

Tel: (813) 347-5100

Fax: (813) 347-5198

Attorneys for Receiver Burton W. Wiand