

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

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

Plaintiff,

v.

BRIAN DAVISON, BARRY M.
RYBICKI, EQUIALT LLC,
EQUIALT FUND, LLC, EQUIALT
FUND II, LLC, EQUIALT FUND III,
LLC, EA SIP, LLC,

Defendants,

128 E. DAVIS BLVD, LLC, 310 78TH
AVE, LLC, 551 3D AVE S, LLC, 604
WEST AZEELE, LLC, BLUE
WATERS TI, LLC, 2101 W.
CYPRESS, LLC, 2112 W. KENNEDY
BLVD, LLC, BNAZ, LLC, BR
SUPPORT SERVICES, LLC, CAPRI
HAVEN, LLC, EANY, LLC,
BUNGALOWS TI, LLC, EQUIALT
519 3RD AVE S., LLC, MCDONALD
REVOCABLE LIVING TRUST, 5123
E. BROADWAY AVE, LLC, SILVER
SANDS TI, LLC, TB OLDEST
HOUSE EST. 1842, LLC,

Relief Defendants.

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NOTICE OF PROCEEDINGS TO APPROVE:

- (1) SETTLEMENT AMONG RECEIVER, INVESTOR PLAINTIFFS, PAUL WASSGREN, DLA PIPER LLP (US), AND FOX ROTHSCHILD LLP;**
- (2) SETTLEMENTS AMONG RECEIVER, INVESTOR PLAINTIFFS, AND SETTLING SALES AGENTS;**
- (3) SETTLEMENT AMONG INVESTOR**

**PLAINTIFFS AND BRIAN DAVISON; (4) BAR ORDERS; AND (5) FEE
AND EXPENSE MOTIONS OF SPECIAL COUNSEL FOR RECEIVER
AND COUNSEL FOR INVESTOR PLAINTIFFS**

PLEASE TAKE NOTICE that Burton W. Wiand, as the Court-appointed receiver (the “**Receiver**”) of the entities (the “**Receivership Entities**”) in the above-captioned civil enforcement action (the “**SEC Action**”) and a group of investors who filed a complaint in the United States District Court for the Middle District of Florida (the “**Investor Plaintiffs**”) have filed a request for approval of a series of proposed settlement agreements (collectively, the “**Settlement Agreements**”) between or among:

- (1) The Receiver and the Investor Plaintiffs and Paul Wassgren, DLA Piper LLP (US), and Fox Rothschild LLP (collectively the “**Lawyers**”) in accordance with a Settlement Agreement (the “**Lawyer Settlement Agreement**”);
- (2) The Receiver and the Investor Plaintiffs and the following persons and entities formerly engaged in the offer and sale of EquiAlt securities (the “**Settling Sales Agents**”): Ronald F. Stevenson, Barbara Stevenson, American Financial Security, LLC, American Financial Investments, LLC, Tim LaDuca, Marketing Dynamics, Inc., Jason Wooten, Family Tree Estate Planning, LLC, Dale Tenhulzen, and Live Wealthy Institute, LLC (the “**Sales Agent Settlement Agreements**”); and
- (3) The Investor Plaintiffs have entered into a settlement agreement with former EquiAlt CEO Brian Davison requiring entry of a bar order in exchange for his agreement to release the Lawyers (the “**Davison Settlement Agreement**”).

The proposed Settlement Agreements will settle and resolve all claims that were and could have been asserted against the Lawyers and the Settling Sales Agents by the Investor Plaintiffs and/or the Receiver, and against Davison by the Investor Plaintiffs.

The Lawyer Settlement Agreement, the Sales Agent Settlement Agreements, and the Davison Settlement Agreement are expressly conditioned on the Court entering an order permanently barring, restraining and enjoining any person or entity from pursuing claims, including claims you may possess, against the Lawyers, Davison and the Settling Sales Agents (“the **Released Parties**”) relating to the SEC Action or any of the other EquiAlt Actions (as defined therein), or otherwise relating in any way to any of the Receivership Entities, the Receivership Estate, or which arise directly or indirectly from Released Parties’ activities, omissions, or services, or alleged activities, omissions, or services, in connection with the Receivership Entities, the Receivership Estate, EquiAlt or the EquiAlt Securities, to the broadest extent permitted by law (the “**Bar Orders**” or “**Bar Order**”).

PLEASE TAKE FURTHER NOTICE that the material terms of the Lawyer Settlement Agreement are that DLA Piper LLP (US) and Fox Rothschild LLP, in exchange for releases from the Investor Plaintiffs, Davison, Barry Rybicki, certain of the Settling Sales Agents, the Receiver, and the Receivership Entities, and entry of the Bar Order in their favor, will each pay or cause to be paid the sum of \$22 million, for a total of \$44 million.

PLEASE TAKE FURTHER NOTICE that the material terms of the Sales Agent Agreements are that the Settling Sales Agents, in exchange for releases from the Investor Plaintiffs, the Receiver, and the Receivership Entities, and entry of the Bar Orders in favor of certain of the Settling Sales Agents, (a) are obligated to make payments aggregating approximately \$5.7 million (subject to collectability and certain setoff for payments made to the Securities and Exchange Commission or the Arizona Corporation Commission), (b) waive any claim to share in any proceeds of the Receivership Estates, and (c) release any and all claims they have and covenant not to sue the Lawyers. Davison will agree to release any all claims he has and covenants not to sue the Lawyers, in exchange for releases from the Investor Plaintiffs and entry of the Bar Order in his favor.

Importantly, entry of the Bar Orders is a required condition to certain of the Settlement Agreements, including the Lawyer Settlement Agreement by which the Lawyers have agreed to pay into the Receivership Estate \$44 million, and the Settlement Agreements with certain of the Sales Agents and with Davison, who have agreed to release claims against the Lawyers in exchange for a Bar Order.

PLEASE TAKE FURTHER NOTICE that copies of the Settlement Agreements and the joint motion of the Receiver and the Investor Plaintiffs for Court approval of the Settlement Agreements [Dkt. 760] (the “**Approval Motion**”); the proposed Bar Orders; and other supporting and related papers, may be obtained from the Court’s docket in the SEC Action or from the website created by the Receiver (www.equialtreceivership.com).

PLEASE TAKE FURTHER NOTICE that counsel for the Investor Plaintiffs have filed a motion for an award of attorneys’ fees and expenses (the “**Fee and Expense Motion**”). In the Fee and Expense Motion, counsel for the Investor Plaintiffs have applied for an award of attorneys’ fees to be paid from the \$22 million in settlement funds allocated to the Investor Action under a Joint Prosecution Agreement between counsel for the Investors and Special Litigation Counsel for the Receiver. Counsel for the Investor Plaintiffs have applied for a fee award equal to 25% of the settlement funds allocated to the Investors Plaintiffs’ action against the Lawyers, which amounts to \$5,500,000 plus expenses currently estimated to be approximately \$275,000.

PLEASE TAKE FURTHER NOTICE that Special Counsel for the Receiver, who

represents the Receiver pursuant to a contingency fee agreement previously approved by the Court, has filed a motion for an award of expenses (the “**Receiver Expense Motion**”) currently estimated to be approximately \$25,000.

PLEASE TAKE FURTHER NOTICE that the final hearing on the Approval Motion, at which time the Court will consider final approval of the Settlement Agreements (including the grant of the releases and the issuance of the Bar Orders), is set by Zoom before the Honorable Mary S. Scriven, at the Sam M. Gibbons United States Courthouse, 801 North Florida Avenue, Tampa, Florida 33602, in Courtroom 7A, at 9:30 a.m. on May 3, 2023 (the “**Final Approval Hearing**”). The Court will also consider the Fee and Expense Motion and the Receiver Expense Motion at the Final Approval Hearing. The link for the Zoom hearing will be circulated before the Final Approval Hearing in accordance with the Court’s normal protocols and procedures.

Any objection to the Settlement Agreements, the Approval Motion, the Fee and Expense Motion, the Receiver Expense Motion or any related matter, including, without limitation, entry of the Bar Orders, must be filed, *in writing*, with the Court in the SEC Action, on or before the Objection Deadline (defined below) and served by email and regular mail, on the following:

| Name | Address | Email Address |
|---------------------|---|--|
| Burton W. Wiand | Law Office of Burton W. Wiand, P.A. 114 Turner Street Clearwater, FL 33756 | Burt@BurtonWWiandPA.com |
| Guy M. Burns | Johnson Pope, Bokor Ruppell & Burns, LLP 401 East Jackson St. Suite 3100 Tampa, FL 33601 | guyb@jpfirm.com |
| Katherine C. Donlon | Johnson, Cassidy, Newlon & DeCort 3242 Henderson Blvd., Ste. 210 Tampa, FL 33609 | kdonlon@jclaw.com |

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|-----------------------|--|--|
| Vidya A. Mirmira | Williams & Connolly LLP 680 Maine Avenue SW, Washington, DC 20024 | vmirmira@wc.com |
| Stephen C. Richman | Gunster, Yoakley & Stewart, P.A. 777 South Flagler Dr. Suite 500 East West Palm Beach, FL 33401 | srichman@gunster.com |
| Simon A. Gaugush | Carlton Fields Corporate Center Three at International Plaza 4221 W. Boy Scout Blvd. Suite 1000 Tampa, Florida 33607 | sgaugush@carltonfields.com |
| Howard M. Bushman | The Moskowitz Law Firm, PLLC 2 Alhambra Plaza Suite 601 Coral Gables, FL 33134 | howard@moskowitz-law.com |
| Andrew S. Friedman | Bonnett Fairbourn Friedman & Balint, P.C. 7301 N. 16 th St. Suite 102 Phoenix, AZ 85020 | afriedman@bffb.com |

NO LATER THAN April 3, 2023 (the “Objection Deadline”), any objection to the Settlement Agreements, the Approval Motion, the Fee and Expense Motion, the Receiver Expense Motion or any related matter must be filed with the Court, and such objection must be made in accordance with the Court’s Orders preliminarily approving the Settlement Agreements [Dkt. 787 and 788] (the “Preliminary Approval Orders”).

PLEASE TAKE FURTHER NOTICE that any person or entity failing to file an objection on or before the Objection Deadline and in the manner required by the Preliminary Approval Orders will not be heard by the Court, will be deemed to have waived the right to object (including any right to appeal) as well as to appear at the Final Approval Hearing, and will be forever barred from raising such objection in this action or any other action or proceeding, subject to the discretion of this Court. Those wishing to appear and present objections at the Final Approval Hearing must include a request to appear in their written objection. **If no objections are timely filed, the Court may cancel the Final Approval Hearing without further notice.**

This matter may affect your rights. You may wish to consult an attorney.

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