

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

CASE NO. 8:20-cv-325-T-35AEP

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

BRIAN DAVISON,  
BARRY M. RYBICKI,  
EQUIALT LLC,  
EQUIALT FUND, LLC,  
EQUIALT FUND II, LLC,  
EQUIALT FUND III, LLC,  
and 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,  
SILVER SANDS TI, LLC,  
and TB OLDEST HOUSE EST. 1842, LLC,

Relief Defendants.

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**AGREED JOINT MOTION FOR MODIFICATION OF ASSET FREEZE**

The undersigned counsel hereby files the Agreed Joint Motion for Modification of Asset Freeze, and states:

The Court originally imposed a Temporary Restraining Order, Asset Freeze and Other Injunctive Relief on February 14, 2020 and extended that Order on February 28, 2020 (Dkt. No 31).

On December 23, 2022, the Commission filed an application for an Agreed Order Extending and Modifying Asset Freeze in order to provide for release of funds to Davison pursuant to the settlement between Davison and the Commission. (Dkt. No 746). On December 30, 2022, M&S opposed the application to modify the asset freeze and simultaneously served and filed a Notice of Charging Lien on Davison. (Dkt. No 755). On January 17, 2023, Davison filed an objection to M&S's charging lien (the "Objection"). (Dkt. No 765). Following the parties submission of papers concerning Davidson's objection, Magistrate Judge Mac R. McCoy issued a Report and Recommendation (the "R&R") dated March 21, 2023, inter alia, denying Davidson's Objection and directing that that the assets currently held in Bank of America Account No. XXXXX8041 remain frozen without prejudice to Davison and M&S requesting to unfreeze the account and "direct[] that the proceeds be made payable to an agreeable person or entity in light of the charging lien and potential for future arbitration." . (Dkt. No 860).

Accordingly, the assets currently held in Bank of America Account No. XXXXX8041 remain frozen pending further disposition. Having since conferred regarding disposition of the frozen assets, Davison and M&S jointly submit this Agreed Order Modifying Asset Freeze.

This Motion is brought in good faith and is not intended to unduly delay proceedings in the above-styled action. This Motion is accompanied by a proposed Order attached hereto as Exhibit "A."

WHEREFORE, the undersigned, with the consent of all applicable parties, respectfully request that this Court modify the asset freeze as set forth in the annexed proposed Order.

LOCAL RULE 3.01(g) CERTIFICATE

Pursuant to Local Rule 3.01(g), counsel has conferred with current counsel for Mr. Davison, who joins in the requested relief.

Dated: New York, New York  
May 30, 2023

Respectfully submitted,  
Howard Fischer

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New York, NY 10174  
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By: /Howard Fischer  
HOWARD A. FISCHER  
New York Bar No. 2644052

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing has been filed via the Court's CM/ECF system, which will send an electronic copy of the foregoing and a notice of filing same to all counsel of record, on this 30th day of May, 2023.

  
Howard Fischer

**EXHIBIT A**

UNITED STATES DISTRICT  
COURT MIDDLE DISTRICT OF  
FLORIDA TAMPA DIVISION

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CASE NO. 20-cv-00325-MSS-MRM

BRIAN DAVISON, et al.,

Defendants.

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**AGREED ORDER MODIFYING ASSET FREEZE**

THIS CAUSE comes before the Court upon the Joint Motion by Defendant Brian Davison (“Davison”) and his former counsel, Moses & Singer LLP (“M&S”), and with the consent of the Securities and Exchange Commission (“SEC”).

The Court originally imposed a Temporary Restraining Order, Asset Freeze and Other Injunctive Relief on February 14, 2020 and extended that Order on February 28, 2020 (Dkt. No 31).

On December 23, 2022, the Commission filed an application for an Agreed Order Extending and Modifying Asset Freeze to provide for release of funds to Davison pursuant to the settlement between Davison and the Commission. (Dkt. No 746). On December 30, 2022, M&S opposed the application to modify the asset freeze and simultaneously served and filed a Notice of Charging Lien on Davison. (Dkt. No 755). On January 17, 2023, Davison filed an objection to M&S’s charging lien (the “Objection”). (Dkt. No 765). Following the parties submission of papers concerning Davidson’s objection, Magistrate

Judge Mac R. McCoy issued a Report and Recommendation (the "R&R") dated March 21, 2023, *inter alia*, denying Davidson's Objection and directing that that the assets currently held in Bank of America Account No. XXXXX8041 remain frozen without prejudice to Davison and M&S requesting to unfreeze the account and "direct[] that the proceeds be made payable to an agreeable person or entity in light of the charging lien and potential for future arbitration." (Dkt. No 860). Accordingly, the assets currently held in Bank of America Account No. XXXXX8041 remain frozen pending further disposition. Having since conferred regarding disposition of the frozen assets, Davison and M&S jointly submit this Agreed Order Modifying Asset Freeze.

I.

**MODIFICATION OF  
ORDER FREEZING ASSETS**

**IT IS HEREBY ORDERED** that, subject to any further application and Court Order, for the period from the date of this Order through the Court's final disposition of this matter:

(1) The account held at Bank of America, Account Number XXXXX8041, held in the name of The Brian D. Davison Revocable Trust, with a balance of \$ \$322,480.86, is no longer frozen. Bank of America is directed to mail two checks comprising the full amount in that account pursuant to the instructions below and thereafter close the account:

- a. One check, made payable to "Moses & Singer LLP" in the amount of \$236,000.00, shall be mailed to Moses & Singer LLP, 405 Lexington Avenue, 12<sup>th</sup> Floor, New York, NY 10174 (attn: Howard Fischer, Esq.).
- b. One check, made payable to "Padgett Law, P.A. Trust Account f/b/o Brian Davison," in the amount of the remaining balance

in the account after disbursement to Moses & Singer as described in subsection "a" above (believed to be \$86,480.86), shall be mailed to Davison's counsel, Stanley T. Padgett, Padgett Law, P.A., 201 E. Kennedy Blvd., Ste. 600, Tampa, FL 33602.

(2) The actions described above shall not be deemed a violation of the Court's Asset Freeze Orders, this Order, or the Charging Lien.

**II.**

**RETENTION OF JURISDICTION**

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

**DONE and ORDERED** in Tampa, Florida this \_\_\_\_ day of \_\_\_\_\_, 2023.

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**MARY S. SCRIVEN**  
**UNITED STATES DISTRICT JUDGE**