

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.

AGREED ORDER MODIFYING ASSET FREEZE

**THIS CAUSE** comes before the Court for consideration of 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”). (Dkt. 922) Upon consideration of all relevant filings, case law, and being otherwise fully advised, the Parties’ Joint Motion is **GRANTED**.

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. 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. 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. 755) On January 17, 2023, Davison filed an objection to M&S's charging lien (the "Objection"). (Dkt. 765)

Following the Parties' submission of papers concerning Davison's objection, United States Magistrate Judge Mac R. McCoy issued a Report and Recommendation (the "R&R") dated March 21, 2023, inter alia denying Davison's Objection and directing that the assets within the 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. 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.

Upon consideration of the Report and Recommendation, (Dkt. 860), in conjunction with an independent examination of the file, the Court is of the opinion that the Report and Recommendation should be adopted with respect to Bank of America accounts XXXXX4008 and XXXXX5126. Accordingly, it is **ORDERED** that:

1. The Report and Recommendation, (Dkt. 860), is **CONFIRMED** and **ADOPTED only as** to Bank of America Account Numbers XXXXX4008 and XXXXX5126. The Court declines to adopt the remainder of the Report and Recommendation in light of the Parties' agreement. (Dkt. 922)
2. The Parties' Agreed Order Modifying Asset Freeze, (Dkt. 922), is **GRANTED**.
3. Moses & Singer LLP's construed Motion to Adjudicate Charging Lien, (Dkt. 755), is **TERMINATED AS MOOT**.
4. Plaintiff's Request for Entry of Proposed Agreed Order Extending and Modifying Asset Freeze, (Dkt. 746), is **GRANTED in PART**.
5. Moses & Singer LLP's Application for Telephonic Status Conference, (Dkt. 971), is **DENIED as MOOT**.

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 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.

(3) The accounts held at Bank of America, Account number XXXXX4008, held in the name of EquiAlt Secured Income Portfolio Limited

Partnership, and Account number XXXXX4011, held in the name of EquiAlt Secured Income Portfolio, are no longer frozen. Bank of America is directed to mail a check(s) for the proceeds of these accounts to Receiver Burton Wiand's counsel, Katherine Donlon, Johnson, Cassidy, Newlon & DeCort, 3242 Henderson Blvd., Ste. 210, Tampa, FL 33609, and close the accounts; and


(4) The account held at Bank of America, Account number XXXXX5126, held in the name of EquiAlt Property Management, LLC, is no longer frozen. At the time the Receiver was appointed and this account was frozen, there was a zero balance. Assuming that is still the case, Bank of America is directed to close the account. If there is any balance, Bank of America is directed to mail a check(s) for the proceeds of that account to Receiver Burton Wiand's counsel, Katherine Donlon, Johnson, Cassidy, Newlon & DeCort, 3242 Henderson Blvd., Ste. 210, Tampa, FL 33609, and close the account.

## II.

### **RETENTION OF JURISDICTION**

**IT IS 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 16th day of August 2023.



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MARY S. SCRIVEN  
UNITED STATES DISTRICT JUDGE

**Copies furnished to:**  
Counsel of Record  
Any Unrepresented Person