

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

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

Case No.: 8:20-cv-00325-T-35-MSS-UAM

BRIAN DAVISON, et al.,

Defendants.

**SUPPLEMENTAL UNOPPOSED MOTION FOR ENTRY OF ORDER
AUTHORIZING THE PAYMENT OF ATTORNEY'S FEES AND COSTS
TO RECEIVER'S SPECIAL LITIGATION COUNSEL**

This supplemental unopposed motion is filed by firm Johnson Pope Bokor Ruppel & Burns, LLP, that acted as Receiver's Special Litigation Counsel ("Special Counsel") to initiate and prosecute a case or cases against certain Lawyer Defendants for alleged breach of fiduciary duty, negligence, aiding and abetting fraud, and aiding and abetting breach of fiduciary duty relating to the activities of EquiAlt, LLC, its principals and affiliates.

Special Counsel initiated a lawsuit against the Lawyer Defendants in state court in Los Angeles, CA and was successful in achieving settlement of that case. That settlement was in the total amount of \$44,000,000; one half of which

was allocated to the Receiver's claims, and one half of which was allocated to the claims brought by certain investor plaintiffs in a putative class action. The entire settlement amount of \$44,000,000 was wire transferred into the trust account of the Receiver's law firm on March 4, 2024. The Receiver will make disbursements to the EquiAlt investors under a plan approved by this Court when Special Counsel has been paid. The settlement has been fully funded; the Lawyer Defendants have received full releases; and the Receiver's California state court case was dismissed with prejudice on March 8, 2024. With the exception of the amount due to Special Counsel, \$4,318,261.67, the Receiver has paid all costs, expenses and attorneys' fees associated with the settlement (including attorneys' fees to counsel for the Investors plaintiffs).

The contingency fee arrangement with Special Counsel was approved by this Court on July 1, 2020, and all that is necessary for the payment of Special Counsel is for this Court to enter an order approving a disbursement by the Receiver to Special Counsel in the amount requested.

In February 2024, the Securities and Exchange Commission ("SEC") requested that a court order be entered for the disbursement of the Special Counsel's fees and costs. At the behest of the Securities and Exchange Commission, Special Counsel filed a "Report of Receiver's Special Counsel Regarding Fees, Costs and Motion Authorizing Payment" on February 15,

2024, in which Special Counsel certified that the Receiver had no objection to the requested order. (See Docket No. 1088) Thereafter, the SEC gave its consent to the Report and Motion of Special Counsel. On February 19, 2024, Special Counsel filed an Amended and Unopposed Report of Receiver's Special Counsel Regarding Fees, Costs and Motion Authorizing Payment, which amended only the Local Rule 3.01(g) Certification to indicate that the SEC also had no objection to the requested order. (See Docket No. 1090) These filings were made approximately two weeks before the Receiver collected the \$44,000,000 of settlement proceeds.

When the Receiver collected the \$44,000,000 payment, Special Counsel completed the settlement by having the Receiver's California state court lawsuit against the Lawyer Defendants dismissed with prejudice. The Receiver has paid all other costs, expenses and fees associated with the settlement with the exception of the fees and costs due to Special Counsel. Special Counsel has completed its work; and all conditions to the payment of the fees and costs to Special Counsel have been satisfied. It is the Receiver's position that payment of \$4,318,261.67 was due and payable pursuant to the previous Order of the Court dated July 1, 2020, and the subsequent Orders approving the settlement with the Lawyer Defendants. The funds have been deposited in a Receivership money market account and have been earning

interest since the date of receipt. It is the Receiver's position that the interest earned with respect to the fees owed to the Johnson Pope firm should be included in the payment to Special Counsel.

Therefore, Johnson Pope Bokor Ruppel & Burns, as Special Litigation Counsel for the Receiver requests the entry of an order by the Court approving the disbursement by the Receiver to Special Counsel of the agreed-upon fees and costs in the amount of \$4,318,261.67, plus money market interest earned since March 4, 2024.

CERTIFICATION UNDER LOCAL RULE 3.01(g)

This motion has been discussed with the Receiver and the SEC, who are the only remaining parties, and this motion is unopposed by both of them.

Dated: April 4, 2024

Respectfully submitted,

/s/ Guy M. Burns

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*Special Litigation Counsel to Receiver,
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been electronically filed with the Clerk of the Court and furnished to all counsel of record by using the CM/ECF system on this 4th day of April 2024.

/s/ Guy M. Burns
Guy M. Burns, FBN 0160901