

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

Case No.: 8:20-cv-325-MSS-NHA

BRIAN DAVISON, *et al.*,

Defendants.

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**REPORT AND RECOMMENDATION**

Pending before the Court is the Receiver's Unopposed Nineteenth Quarterly Fee Application for Order Awarding Fees and Reimbursement of Costs to Receiver and His Professionals ("Nineteenth Quarterly Fee Application"). Doc. 1253. The Receiver seeks reimbursement of fees and costs for the period from July 1, 2024 through September 30, 2024. *Id.* at p. 2. The Securities and Exchange Commission ("SEC") does not oppose the request. For the reasons below, I recommend that the Nineteenth Quarterly Fee Application be **GRANTED**.

**I. Background**

The SEC brought this action against individual Defendants Brian Davison ("Davison") and Barry Rybicki ("Rybicki") (collectively, "Individual

Defendants”) and corporate Defendants EquiAlt LLC; EquiAlt Fund, LLC; EquiAlt Fund II, LLC; EquiAlt Fund III, LLC; and EA SIP LLC (collectively, “Corporate Defendants”), for violations of Sections 5(a) and 5(c) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. §§ 77e(a) and 77e(c); Section 17(a)(2) of the Securities Act, 15 U.S.C. § 77q(a); Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78j(b); and Exchange Act Rule 10b-5, 17 C.F.R. § 240.10b-5, regarding the alleged operation of a nationwide Ponzi scheme raising more than \$170 million from 1,100 investors through fraudulent, unregistered securities offerings. *See* Compl. (Doc. 1).

The SEC further alleged that Defendants 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 (collectively, “Relief Defendants”) all received proceeds of the fraud without any legitimate entitlement to the money. *Id.*

The District Court appointed Burton W. Wiand as the Receiver in this action over the Corporate Defendants, the Relief Defendants, and each of their subsidiaries, successors, and assigns.<sup>1</sup> Docs. 10, 11.

The District Judge outlined the Receiver's duties, the Court's basis for compensating those duties, and the requirements for the Receiver's status reports and applications for fees. Doc. 11 at ¶¶ 1-12, 16, 28-36. In accordance with the Court's directives, the Receiver now submits his Nineteenth Quarterly Fee Application, seeking compensation for the fees and costs incurred for the performance of his duties as well as the fees and costs incurred by the retained personnel he hired to assist in the performance of such duties. Doc. 1253. Specifically, the Receiver seeks an award of fees and costs incurred from July 1, 2024 through September 30, 2024, for: (1) the Receiver, in the amount of \$81,280.19; (2) Guerra & Partner, P.A. ("G&P"), in the amount of \$10,076.00; (3) Johnson, Newlon & DeCort ("JND"), in the amount of \$27,393.81; (4) Jared J. Perez, P.A., in the amount of \$6,090.00; (5) PDR CPAs ("PDR"), in the amount of \$25,825.03; (6) E-Hounds, Inc. ("E-

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<sup>1</sup> Subsequently, the District Judge granted the Receiver's motion seeking to expand the Receivership to include EquiAlt Qualified Opportunity Zone Fund, LP ("QOZ"); EquiAlt QOZ Fund GP, LLC; EquiAlt Secured Income Portfolio REIT, Inc. ("REIT"); EquiAlt Holdings LLC (sponsor of the QOZ and REIT); EquiAlt Property Management LLC (property manager of the QOZ and REIT); and EquiAlt Capital Advisors, LLC (manager of day-to-day operations for the QOZ and REIT). Doc. 184. EquiAlt Fund I, LLC was also later added. Doc. 284.

Hounds”), in the amount of \$7,998.00; (7) Omni Agent Solutions (“Omni”), in the amount of \$2,879.36; and (8) The RWJ Group, LLC (“RWJ”), in the amount of \$882.00. Doc. 1253 at pp. 30. The work of each entity warranting the fee is described below.

## II. Analysis

District courts maintain broad powers and wide discretion to award relief in an equity receivership. *S.E.C. v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992) (citations omitted). When a receiver reasonably and diligently discharges his or her duties, the receiver is entitled to compensation. *Id.* at 1577 (citation omitted); see *Stuart v. Boulware*, 133 U.S. 78, 82 (1890) (“Nor is there any doubt of the power of courts of equity to fix the compensation of their own receivers. That power results necessarily from the relation which the receiver sustains to the court; and, in the absence of any legislation regulating the receiver’s salary or compensation, the matter is left entirely to the determination of the court from which he derives his appointment.”).

A receiver must provide “specific and detailed evidence” in support of an application for fees. *Norman v. Hous. Auth. of City of Montgomery*, 836 F.2d 1292, 1303 (11th Cir. 1988). “Whether a receiver merits a fee is based on the circumstances surrounding the receivership, and results are always relevant.” *Elliott*, 953 F.2d at 1577 (citation omitted); see also *F.T.C. v. Worldwide Info Servs., Inc.*, No. 6:14-cv-8-Orl-41DAB, 2015 WL 144389, at \*4

(M.D. Fla. Jan. 12, 2015) (citation omitted) (noting that courts may consider several factors in determining the reasonableness of a fee award to a receiver, including “(1) the results achieved by the receiver; (2) the ability, reputation and other professional qualities of the receiver; (3) the size of the estate and its ability to afford the expenses and fees; and (4) the time required to conclude the receivership.”). “[W]here the time or fees claimed seem expanded or there is a lack of documentation or testimonial support the court may make the award on its own experience.” *Norman*, 836 F.2d at 1303 (citation omitted). “Where documentation is inadequate, the district court is not relieved of its obligation to award a reasonable fee, but the district court traditionally has had the power to make such an award without the need of further pleadings or an evidentiary hearing.” *Id.* (citing *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983)).

“The most useful starting point for determining the amount of a reasonable fee is the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate.” *Hensley*, 461 U.S. at 433. A “reasonable hourly rate” consists of “the prevailing market rate in the relevant legal community for similar services by lawyers of reasonably comparable skills, experience, and reputation.” *Norman*, 836 F.2d at 1299 (citations omitted). In this context, “market rate” means the hourly rate charged in the local legal market by an attorney with expertise in the

relevant area of law who is willing and able to take the case, if indeed such an attorney exists. *Am. Civil Liberties Union of Ga. v. Barnes*, 168 F.3d 423, 437 (11th Cir. 1999). After determining the reasonable hourly rate, courts must then determine the number of hours reasonably expended on the litigation. *Norman*, 836 F.2d at 1305. Both a receiver and his counsel must exercise proper “billing judgment,” that is, both should make a “good faith effort to exclude from a fee request hours that are excessive, redundant, or otherwise unnecessary. . . .” *Hensley*, 461 U.S. at 434.

As to claims for professional services, the receiver must also provide evidence that the hourly rate is reasonable and commensurate with rates paid for similar services and that the time expended by such professionals was reasonable. *See Norman*, 836 F.2d at 1303 (The “fee applicant bears the burden of establishing entitlement and documenting the appropriate hours and hourly rates.”). The receiver must present sufficient information to permit the Court to determine that any expenses were actually and necessarily incurred. *Id.*

The Court is an expert with respect to fee applications and therefore may consider a fee award based on its own experience and knowledge concerning reasonable and proper fees. *Norman*, 836 F.2d at 1303 (citations omitted).

Additionally, in considering a fee award to a receiver, “[o]pposition or acquiescence by the SEC to the fee application will be given great weight.” *S.E.C. v. Byers*, 590 F. Supp. 2d 637, 644 (S.D.N.Y. 2008); *see also S.E.C. v. Mgmt. Sols., Inc.*, 824 F. App’x 550, 553 n. 2 (10th Cir. 2020) (holding the same).

Upon review of the Nineteenth Quarterly Fee Application, including the accompanying fee and costs records (Doc. 1253), I find that the Receiver continued to properly perform his duties and employ professionals to help carry out those duties. Further, the Receiver and the retained personnel discharged their duties in a diligent and reasonable manner and did not incur unnecessary fees or costs. Importantly, as noted above, the SEC does not oppose the Receiver’s request for fees and costs. *Id.*

#### **A. Receiver**

The Receiver seeks \$81,280.19 for himself, for work performed from July 1, 2024 through September 30, 2024. Doc. 1253 at p. 9.

During the Nineteenth Quarter, the Receiver charged an hourly rate of \$360 for 161.40 hours expended on receivership activities, which included, for example, corresponding with agents, purchasers, and auction participants; reviewing inspection reports, price opinions, purchase agreements, and settlement statements; revising documents for real estate auctions;

coordinating with the professionals he contracted; and reviewing invoices, bank statements, and other financial documents. Doc. 1253-2.

Broken down by Activity Category,<sup>2</sup> the Receiver's time was allocated as follows:

<b>Activity Category</b>	<b>Hours Expended</b>	<b>Fee Amount</b>
Asset Disposition	66.10	\$23,796.00
Asset Analysis and Recovery	1.00	\$360.00
Business Operations	75.30	\$27,108.00
Case Administration	2.60	\$936.00
Claims Administration	16.40	\$5,904.00
<b>TOTAL</b>	<b>161.40</b>	<b>\$58,104.00</b>

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<sup>2</sup> The Activity Categories set forth by the Commission in the Billing Instructions are as follows: (1) Asset Analysis and Recovery, which is defined as “identification and review of potential assets including causes of action and non-litigation recoveries”; (2) Asset Disposition, which is defined as “sales, leases, abandonment and related transaction work” (where extended series of sales or other disposition of assets is contemplated, the Billing Instructions provide that a separate category should be established for each major transaction); (3) Business Operations, which is defined as “issues related to operation of an ongoing business”; (4) Case Administration, which is defined as “coordination and compliance activities, including preparation of reports to the court, investor inquiries, etc.”; (5) Claims Administration and Objections, which is defined as “expenses in formulating, gaining approval of and administering any claims procedure; and (6) Employee Benefits/Pensions, which is defined as “review [of] issues such as severance, retention, 401K coverage and continuance of pension plan.” Billing Instructions for Receivers in Civil Actions Commenced by the United States Securities and Exchange Commission, available at <https://www.sec.gov/oiea/Article/billinginstructions.pdf>. The Billing Instructions provide that time spent preparing motions for fees may not be charged to the Receivership Estate. *Id.* at p. 8. Per these instructions, the Receiver created an additional Activity Category for work on fees motions



The Receiver also charged 0.40 hours expended on recovery of false profits from investors. Doc. 1253 at p. 12. In addition, the Receiver seeks an hourly rate of \$125 per hour for 172.70 hours of paralegal work,<sup>3</sup> for a total of \$21,587.50. Doc. 1253 at p. 11; Doc. 1253-3. Specifically, as summarized in the Receiver's invoice (Doc. 1253-3), the Receiver's paraprofessional, Edwina Tate, spent 94 hours assisting with asset disposition, 44.9 hours helping with business operations, and 33.8 hours working on claims administration and objections. Doc. 1253-3.

Based on my own experience and the rates typically awarded to court-appointed receivers in the Middle District of Florida (*see* Docs. 586, 731), the Receiver's requested hourly rate of \$360, and his paralegal's requested hourly rate of \$125, are reasonable. *See, e.g., F.T.C. v. First Choice Horizon LLC*, Case No. 6:19-cv-1028-Orl-40LRH, 2020 WL 1431526, at \*2-3 (M.D. Fla. Jan. 15, 2020), *report and recommendation adopted*, 2020 WL 1431601 (M.D. Fla.

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and has accounted for time spent on such work but has not charged any amount for that work. Doc. 1253 at p. 10.

<sup>3</sup> Courts only reimburse work of paralegals and law clerks when such individuals perform work traditionally done by attorneys. *Jean v. Nelson*, 863 F.2d 759, 778 (11th Cir. 1988) (concluding that a district court properly reimbursed the time spent by paralegals and law clerks where the work was normally done by an attorney). In this instance, a review of the time records for the paralegal (Doc. 1253-3) indicates that the work performed by the paralegal constituted legal work normally performed by an attorney rather than clerical work. Accordingly, I recommend awarding the fees requested for work performed by the paralegal, as both the requested rate and the time expended on such work are reasonable.

Jan. 31, 2020) (considering several factors in concluding that an hourly rate of \$350 was reasonable for a court-appointed receiver in the Middle District of Florida); *F.T.C. v. MOBE Ltd.*, Case No. 6:18-cv-862-Orl-37DCI, 2018 WL 4782327, at \*3 (M.D. Fla. Sept. 17, 2018), *report and recommendation adopted*, 2018 WL 4774960 (M.D. Fla. Oct. 3, 2018) (finding a rate of \$330 per hour a reasonable rate for compensating a court-appointed receiver in the Middle District of Florida); *F.T.C. v. Life Mgmt. Serv. of Orange Cnty., LLC*, Case No. 6:16-cv-982-Orl-41TBS, 2017 WL 4861467, at \*3 (M.D. Fla. Aug. 9, 2017), *report and recommendation adopted*, 2017 WL 4877460 (M.D. Fla. Oct. 30, 2017) (finding a rate of \$325 per hour a reasonable rate for compensating a court-appointed receiver in the Middle District of Florida and finding reasonable 129.2 hours expended by such receiver).

Furthermore, the hours expended by the Receiver and his paralegal during the period from July 1, 2024 through September 30, 2024 do not appear excessive, redundant, or unnecessary. During the relevant period, the Receiver led the team that held two online auctions resulting in contracts on twenty properties; closed on the private sale of the remaining Arizona property for net proceeds of \$450,142.75; continued to market a single family home in Murfreesboro; continued to hold title to a brewery near the Meadowlands in New Jersey and made efforts to sell the property; closed on two final properties from the thirteenth auction, for net proceeds of \$251,058;

closed on the final property from the fourteenth auction, for net proceeds of \$201,055.77; closed on all seventeen properties from the Receiver's fifteenth auction for a total of \$3,627,666.54 in net proceeds; closed on three of six properties from the Receiver's sixteenth auction, for net proceeds of \$344,692.45; obtained Court approval to transfer title on properties sold during the Receiver's sixteenth and seventeenth auctions; worked to register clawback judgments in fourteen different district courts; and continued working with partners on the operation of Commerce Brewing and related activities. Doc. 1243 at pp. 4-16.

In addition to reimbursement for fees, the Receiver seeks reimbursement of costs in the amount of \$1,444.69, which he spent on delivery services, notary services, and insurance. Doc. 1253 at p. 11; *see also* Docs. 1253-2, 1253-3, 1253-4.

I find the 161.80 hours expended by the Receiver, the 172.70 hours expended by the paralegal, and the \$1,444.69 in costs incurred from July 1, 2024 through September 30, 2024 to be fair and reasonable, considering the activities performed and the results achieved. Thus, I recommend the Court award the Receiver the requested \$81,280.19.

## **B. G&P**

With respect to legal services, the Receiver retained G&P, which the District Judge specifically authorized in the Order Appointing the Receiver.

Doc. 11 at ¶ 16. The Receiver now seeks \$10,076.00 for services provided by G&P, which includes \$10,026.00 in fees and \$50.00 in costs incurred from July 1, 2024 through September 30, 2024 . Doc. 1253 at p. 13.

From July 1, 2024 through September 30, 2024, G&P liquidated assets for the benefit of the Receivership, investigated and pursued additional assets for the Receivership, and administered the claims process. *See* Doc. 1253 at p. 14. Specifically—and as further detailed in G&P’s description of services (Doc. 1253-6)—G&P spent 4.90 hours of business operations assistance, 1.10 hours of case administration, and 48.20 hours of claims administration and objections.<sup>4</sup> Doc. 1253-6.

For associated fees, G&P proposes hourly rates of \$240 for associates; and \$135 for paralegals. *Id* at pp. 14-15.; *see also* Doc. 1253-6. The requested rates are as follows:

<b>Professional</b>	<b>Position</b>	<b>Experience</b>	<b>Hours</b>	<b>Rate</b>	<b>Fees</b>
Maya Lockwood	Of Counsel	25 years	25.80	\$240.00	\$6,192.00
Kimberly Paulson	Paralegal		28.40	\$135.00	\$3,834.00
<b>TOTAL</b>					<b>\$10,026.00</b>

Doc. 1253 at p. 14; *see also* Doc. 1253-6.

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<sup>4</sup> G&P also spent 43.90 hours working on fee motions, time for which they did not charge the Court. Doc. 1253-6, pp. 15-19.

Given the parties' respective positions and Ms. Lockwood's level of experience level, the requested hourly rates appear reasonable. *See F.T.C. v. Hardco Holding Grp. LLC*, No. 6:17-cv-1257-Orl-37TBS, 2017 WL 4772624, at \*4-5 (M.D. Fla. Oct. 3, 2017), *report and recommendation adopted*, 2017 WL 4700396 (M.D. Fla. Oct. 19, 2017) (finding an hourly rate of \$210 for an attorney with two years' experience on the high side but not unreasonable; an hourly rate of \$325 for an associate with seven years' experience reasonable and at or below that charged by attorneys of comparable experience and skills in the Middle District of Florida; an hourly rate of \$400 for an attorney with twelve years' experience and particularized expertise reasonable; and a discounted hourly rate of \$400 for a partner with twenty-one years' experience reasonable); *Life Mgmt. Serv. of Orange Cnty., LLC*, 2017 WL 2869535, at \*2-4, *report and recommendation adopted*, 2017 WL 4877460 (concluding that hourly rates charged for legal services rendered on behalf of a court-appointed receiver in the amounts of \$310, \$360, and \$410 were reasonable and an hourly rate of \$125 for legal work performed by paralegals was reasonable). And, the hours expended by counsel and the paralegal do not appear unnecessary, excessive, or redundant but rather reflect a reasonable amount of time spent on this matter. Given that both the hourly rate and the hours expended are reasonable, I recommend that G&P be awarded \$10,026.00 in fees for the quarter.

In addition to its legal fees, G&P seeks reimbursement in the amount of \$50.00 for website-related expenses, identified in the Receiver's invoice as "Rad Technology Consulting LLC-Web related expenses-July 2024 Website hosting." Doc. 1253-6 at p. 18. The Receiver uses this website to update investors on the receivership's progress. Doc. 1253 at p. 27. Thus, these costs appear to have been necessarily incurred for the Receiver and the retained personnel to carry out their duties. Such costs are fair and reasonable and should be awarded. I recommend that G&P be awarded costs in the amount of \$50.00.

In sum, I recommend that the Court award G&P \$10,076.00, which represents \$10,026.00 in fees and \$50.00 in costs incurred between July 1, 2024 and September 30, 2024.

### **C. JND<sup>5</sup>**

The Receiver retained the law firm of JND to assist as co-counsel to G&P (*see* Doc. 278), which the Court approved (Doc. 282). As an accommodation to the Receiver and to conserve the resources of the Receivership Estate, JND agreed to the reduced rates for attorneys and paralegals as provided in the G&P fee schedule. Doc. 1253 at p. 15; *see also* Doc. 1253-5. Based on those rates, the Receiver asks the Court to award JND

\$27,393.81, which includes \$24,589.50 in fees for professional services rendered and \$2,804.31 in costs incurred from July 1, 2024 through September 30, 2024.

JND assisted the Receiver in investigating fraud and related activities; liquidating Receivership assets; investigating and pursuing additional assets for the Receivership; and administering the claims process. Doc. 1253 at p. 15; Doc. 1253-7. In this capacity, JND corresponded with the Receiver regarding several properties; reviewed and drafted motions to facilitate and approve sales and transfers of title; and monitored and recorded auction proceedings. Doc. 1253-7.

JND seeks the following fees and costs for those services:

<b>Professional</b>	<b>Position</b>	<b>Experience</b>	<b>Hours</b>	<b>Rate</b>	<b>Fees</b>
Katherine Donlon	Partner	28 years	37.70	\$350.00	\$13,195.00
Mary Gura	Paralegal		69.40	\$135.00	\$9,369.00
<b>Total Fees:</b>			107.10		\$22,564.00

<b>Costs</b>	<b>Total</b>
Publication Costs	\$660.34
Delivery/Mail	\$221.18
Certified Copies	\$120.78
<b>Total Costs:</b>	\$1,002.30

Doc. 1253 at p. 16.

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<sup>5</sup> The firm name changed from Johnson, Cassidy, Newlon & DeCort (*see* Doc. 975 at p. 3) to Johnson, Newlon & DeCort (“JND”) since entry of the

JND also assisted the Receiver in recovering false profits from investors who received monies in excess of their investments. Doc. 1253 at p. 17. Specifically, JND conducted telephone conferences and drafted and reviewed correspondences regarding the registration of judgments. R. 1253-8.

JND seeks the following fees and costs as to those services:

<b>Professional</b>	<b>Position</b>	<b>Experience</b>	<b>Hours</b>	<b>Rate</b>	<b>Fees</b>
Katherine Donlon	Partner	28 years	1.90	\$350.00	\$665.00
Emily Thompson	Associate	1	6.70	\$195.00	\$1,306.50
Mary Gura	Paralegal		0.40	\$135.00	\$54.00
<b>Total Fees:</b>			<b>9.00</b>		<b>\$2,025.50</b>

<b>Costs</b>	<b>Total</b>
Filing Fees	\$1,092.00
Delivery/Mail	\$273.01
Certification of Judgments	\$437.00
<b>Total Costs:</b>	<b>\$1,802.01</b>

Upon review of the billing records, the hours JND expended appear fair and reasonable for the services performed and present no redundancies or superfluties. Docs. 1253-7, 1253-8. While some of JND's services appear redundant to those of G&P, the Receiver explained that lead counsel of G&P (Ms. Donlon) left G&P to join JND. Doc. 278 at pp. 2-3. The Receiver believed that, due to her extensive experience, it would be in the best interest of the receivership to continue to use Ms. Donlon's services and to have JND act as

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Order Appointing the Receiver (*see* Doc. 936).



co-counsel to G&P on this matter. *Id.* The Receiver asserted “there will not be any duplication of services provided by the two firms.” *Id.* at p. 3.

As discussed above, the proposed rates are reasonable for the Middle District of Florida. *See Hardco Holding Grp. LLC*, No. 6:17-cv-1257-Orl-37TBS, 2017 WL 4772624, at \*4-5, *report and recommendation adopted*, 2017 WL 4700396; *Life Mgmt. Serv. of Orange Cnty., LLC*, 2017 WL 2869535, at \*2-4, *report and recommendation adopted*, 2017 WL 4877460.

In addition, the incurred costs for publishing, filing, obtaining certified copies, certifying judgments, and performing delivery services appear to be necessary and reasonable. Doc. 1253 at pp. 15-16.

I recommend that JND be awarded \$27,393.81, which includes \$24,589.50 in fees for professional services and \$2,804.31 in costs.

**D. Jared J. Perez, P.A.**

The Receiver also retained the services of Jared J. Perez, P.A. (Doc. 610) for services such as motion drafting and preparing for and attending case management and strategy meetings. Doc. 1253-9. The District Judge approved the retention of those services. Doc. 639. From July 1, 2024 to September 30, 2024, Jared J. Perez, P.A. expended: 12 hours writing the motion to approve the third interim distribution; 4.40 hours preparing for and attending monthly operations and case management meetings; and one hour preparing for and participating in a Zoom conference with the Receiver

regarding the motion to approve the third interim distribution. Doc. 1253-9 at pp. 2-3.

As an accommodation to the Receiver and to conserve the resources of the Receivership Estate, Mr. Perez, a partner with 17 years of experience (*see* Doc. 1253 at p. 19), has agreed to reduce his hourly rate to \$350, as provided in the G&P fee schedule. Doc. 1253 at pp. 18-19; *see also* Doc. 1253-5. Based on that rate, the Receiver now seeks a total of \$6,090.00 for the 17.40 hours of Mr. Perez's work. Doc. 1253 at p. 19.

Given Mr. Perez's experience and the work he performed, I find the hours expended and the hourly rate fair and reasonable. Therefore, I recommend that Jared J. Perez be awarded \$6,090.00.

#### **E. PDR**

The Receiver also retained the services of PDR to assist with accounting and tax matters. Doc. 1253 at p. 20. The District Judge approved the retention of PDR and limited its role to internal Receivership accounting, financial reporting, tax preparation and filing, and internal accounting for EquiAlt. *See* Doc. 85. The District Judge directed the Receiver to report the maximum number of hours it anticipated PDR would expend, and, should it become apparent that PDR's hours would exceed the anticipated maximum, to submit a motion to that effect. *Id.* In approving the retention of PDR, the District Judge approved the following hourly rates for PDR employees

working on this matter: \$320 for partners/principals; \$210 for managers; \$180 for senior associates; and \$125 for staff members. *Id.*

Originally, the Receiver reported that a principal of PDR agreed to a maximum of \$15,000 for PDR's services for each of the first three months and then a maximum of \$6,000 for each month thereafter. Doc. 87 at p. 3.

Subsequently, the Receiver filed a motion seeking fees for PDR in excess of the previously approved limits, because PDR had expanded its role in this case.<sup>6</sup> Doc. 572 at pp. 25-26. In that motion, the Receiver explained that the monthly limits were "no longer reflective of reasonable monthly fees." *Id.* The Court granted the motion and awarded fees in excess of the previous budget. Doc. 586. Since then, the Receiver has routinely requested fees in excess of the previously approved budget (Docs. 572 at p. 25; 614 at p. 27; 710 at p. 29; 804 at p. 27; 1089 at pp. 23-24), and the Court has routinely granted such requests (Docs. 586 at p. 3; 731 at p. 3; 830 at p. 3; 889 at p. 3; 1133 at p. 219).

Here, the Receiver again seeks an award far above the originally approved budget. The Receiver seeks \$25,825.03 in fees for accounting, auditing, consulting, and tax services provided by PDR during the relevant

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<sup>6</sup> PDR's role in the case expanded when EquiAlt's senior accounting employee was terminated at the end of February 2022. Doc. 572 at p. 25. Following the termination of this position, PDR assumed the duties of that

period. Doc. 1253-10. Specifically, PDR reviewed Florida tax notices, reviewed and approved accounts payable, entered invoices, printed checks, reviewed bank activities, processed payroll, updated account records, prepared for and attended monthly operations meetings, and researched Tennessee excise and franchise tax statuses for the 2024 filing year. Doc. 1253-10. The requested fees include hourly rates consistent with the original rate proposal: \$320 for Partner William Price, \$210 for Manager Matthew Low, \$155 for Manager Gail Heinold, and \$125 for Staff Members Sharon O'Brien, Andres Almanza Madrid, and Taylor Jones. Doc. 1253 at p. 21; Doc. 1253-10.

Upon review, the 149.45 hours PDR spent on accounting and tax matters over the three-month period appear reasonable. Doc. 1253 at p. 21. If the Court intended that its initial deviation from the budget would render void the originally proposed budget limit and would authorize exceeding the budget every quarter thereafter, I recommend fees be awarded in the amount of \$25,825.03 for the work performed by PDR.

#### **F. E-Hounds**

For computer forensics services, the Receiver retained E-Hounds, which the District Judge authorized in the Order Appointing the Receiver.

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position. *Id.* The Receiver has not specified which duties this encompasses. *Id.*

Doc. 11 at ¶ 3. Relevant here, E-Hounds maintains and updates a proprietary review platform, which collects and preserves electronic records. Doc. 1253 at p. 21.

The Receiver seeks an award of \$7,998.00 for services rendered and costs incurred by E-Hounds. Doc. 1253 at pp. 21-22. This award includes \$3,570.00 in charges for maintenance and use of the proprietary platform; \$3,375 in charges for use of the platform by additional users; and \$1,053.00 for computer forensic services such as managing updates and refunds relating to its collection and preservation of GoDaddy records. Doc. 1253 at p. 22; Doc. 1253-11.

The fees and costs are likely reasonable for collecting and preserving electronic records to facilitate review of electronic data. *See, e.g., SEC v. Kinetic Inv. Grp.*, Case No. 8:20-cv-394-MSS-SPF (M.D. Fla.) (Docs. 73 and 101); *CFTC v. Oasis Int'l Grp. Ltd.*, Case No. 8:19-cv-886-VMC-SPF (M.D. Fla.) (Docs. 203 and 207). I recommend that E-Hounds be awarded \$7,998.00 for services provided and costs incurred between July 1, 2024 and September 30, 2024.

### **G. Omni**

The Receiver retained Omni to assist with the administration of the claims process (*see* Doc. 335), which the District Judge approved (Doc. 347). According to the Receiver, “Omni is an information management company

that provides administrative services and technology solutions to simplify claims administration.” Doc. 1253 at p. 22.

Omni assists in mailing, determining the correct addresses for returned mail, addressing clerical deficiencies, performing data entry for the returned Proof of Claim Forms, and processing distributions. Doc. 1253 at pp. 22-23. The Standard Services Agreement between the Receiver and Omni indicates that Omni will generally charge hourly rates ranging from \$135 to \$205, representing a 5% discount (*see* Doc. 335-5), which the District Judge adopted in authorizing the Receiver to retain Omni (Doc. 347 at p. 4).

The Receiver now seeks fees in the amount of \$2,879.36 for 40.80 hours expended by several Omni employees. Doc. 1253 at p. 23. As detailed in Omni’s timesheet, Omni employees reviewed and responded to creditors’ email inquiries; prepared and sent communication logs to, and otherwise corresponded with, JND; worked on project-related communications and daily reports; and updated and quality-checked address information. Doc. 1253-12.

Upon review of the time records, the hours do not appear excessive, redundant, or unnecessary. Doc. 1253-12, 1253-13. Further, the fee amounts fall within those the District Judge has approved. Accordingly, I recommend that the Court award Omni \$2,879.36 in fees.

## H. RWJ

The Receiver retained RWJ, an asset management and investigation firm, to assist with the investigation and oversight of ongoing business operations and property recovered by the Receiver. Doc. 1253 at pp. 23-24. The District Judge specifically authorized the retention of RWJ in the Order Appointing the Receiver. Doc. 11 at ¶ 3. The Receiver now seeks an award of \$882.00 in fees for work performed by RWJ in this matter. Doc. 1253 at p. 23; Doc. 1243-14. The billing records indicate that RWJ billed for one employee, Roger Jernigan, who performed 9.80 hours of work at an hourly rate of \$90.00. Doc. 1253-14. Specifically, Mr. Jernigan monitored security cameras and responded to alerts for trespassers relating to the Arizona properties that were listed for sale during the last quarter. *Id.* Mr. Jernigan has more than 30 years of experience in law enforcement and more than 11 years of experience assisting on receivership matters. Doc. 122-11 at pp. 6-7.

Both the hourly rate and the hours expended by Mr. Jernigan appear fair and reasonable, given his experience and the services he performed. *See generally, SEC v. Kirkland*, No. 6:06-cv-183- Orl-28KRS, 2008 WL 3981434, at \*3 (Aug. 21, 2008), *report and recommendation adopted at* 2008 WL 4533931 (M.D. Fla. Sept. 29, 2008) (approving a rate of \$150 per hour for investigative services). I recommend that RWJ be awarded \$882.00 in fees.

### III. Conclusion

For these reasons, I respectfully **RECOMMEND**:

1. The Receiver's Unopposed Nineteenth Quarterly Fee Application for Order Awarding Fees and Reimbursement of Costs to Receiver and His Professionals (Doc. 1253) be **GRANTED**;
2. The requested fees and costs be awarded to:
  - a. The Receiver, in the amount of \$81,280.19;
  - b. G&P, in the amount of \$10,076.00;
  - c. JND, in the amount of \$27,393.81;
  - d. Jared J. Perez, P.A., in the amount of \$6,090.00;
  - e. PDR, in the amount of \$25,825.03, if the Court meant for its order permitting the initial request for deviation from the budget to render void the originally proposed budget;
  - f. E-Hounds, in the amount of \$7,998.00;
  - g. Omni, in the amount of \$2,879.36; and
  - h. RWJ, in the amount of \$882.00.



**RESPECTFULLY SUBMITTED** for consideration by the Honorable  
Mary S. Scriven, in Tampa, Florida, this 10th day of December, 2024.

  
NATALIE HIRT ADAMS  
UNITED STATES MAGISTRATE JUDGE

### **NOTICE TO PARTIES**

A party has fourteen days from this date to file written objections to the Report and Recommendation's factual findings and legal conclusions. A party's failure to file written objections waives that party's right to challenge on appeal any unobjected-to factual finding or legal conclusion the district judge adopts from the Report and Recommendation. *See* 11th Cir. R. 3-1. To expedite resolution, parties may file a joint notice waiving the 14-day objection period.