

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

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

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

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, et al.,

Relief Defendants.

**NOTICE OF COMPLIANCE WITH COURT'S ORDER REGARDING
THIRD DISTRIBUTION AND UNOPPOSED MOTION TO CONDUCT
DISTRIBUTION FOR CLAIM 1046**

Burton W. Wiand, as Receiver over the assets of the above-captioned corporate and relief defendants (the "Receiver"), provides this notice of compliance with the Court's September 11, 2025 Order on the Receiver's Unopposed Motion to Approve Third Distribution of \$20 Million (Doc. 1360) (the "Order") and moves for the Court's approval to send the third distribution for Claim 1046 as stated below. In support thereof, the Receiver states as follows:

1. On May 23, 2025, the Receiver filed his Motion to Approve Third Interim Distribution, Including Additional Funds (the “Motion”) (Doc. 1326). On September 11, 2025, the Court granted the Motion as modified in the Order. Doc. 1360. In pertinent part, the Court authorized the Receiver to conduct the third interim distribution as set forth in the Motion and in its Exhibits 1 and 2, with the exception of three claims – the Douglas Family’s Claim, Claim 1046, and Claim 1333.

2. Regarding the Douglas Family Claim, the Court directed the Receiver to expedite payment of this claim, if practicable, given the claimant advising the Court of dire circumstances warranting an expeditious distribution. Upon receipt of this Order, the Receiver ascertained the Claim number for the Douglas Family Claim is Claim 305. Claim 305 is held in the name of a custodian for the benefit of the claimant, who is now deceased. The custodial IRA account, however, is still open and able to disburse funds to the appropriate beneficiary.

3. All checks for the Receivership claims distribution bank account had been provided to Omni Agent Solutions (“Omni”), the Receivership’s claims processing agent, in advance of the Order. In order to not disrupt and possibly delay the distributions for all other undisputed, non-contingent claims, the Receiver issued a check from the Burton W. Wiand P.A. (“Wiand P.A.”) bank account for the amount of the third distribution Claim 305 was

entitled to receive. *See* Doc. 1326, Ex. 1. This check was then sent by Federal Express directly to the senior vice president of the custodian company. The Receiver's professionals contacted the senior vice president in advance of mailing and advised that the check required expedited processing. The Receiver obtained confirmation that Claim 305's distribution was delivered to the custodian on September 15, 2025. The Receiver's professionals have been in contact with the beneficiary trustee and have confirmed that the beneficiary has received the distribution. The Receiver reimbursed Wiand P.A. for the amount of Claim 305's distribution.

4. On September 17, 2025, on the Receiver's behalf, Omni mailed the vast majority of the third interim distribution checks to those claimants entitled to receive a third distribution and non-investor claimants entitled to a distribution.

5. Per the Order, the Receiver did not mail the third distribution checks for Claims 1046 and 1333. Specifically, the Order modified the Third Distribution Notes for these claims to the following:

After filing the Second Distribution Motion, the Receiver received sufficient information and verification that the claimant is deceased. *Upon approval by the Court*, the Receiver will only send any distribution this claim is entitled to receive to an authorized person which the Receiver will determine, in his discretion, upon being provided with substantiation of the recipient's authority or right to the distribution.

See Order, at 1.a. (emphasis in original). The modification is the addition of “upon approval by the Court.”

6. Claim 1046 was submitted by an individual who is now deceased. Before filing the Motion, the Receiver had not obtained appropriate documentation to substantiate the recipient’s authority or right to the distribution. Since that time, the Receiver has obtained reasonable substantiation of the deceased claimant’s son’s right to receive the third interim distribution, and all subsequent distributions Claim 1046 is entitled to receive. As such, the Receiver requests the Court’s approval to send the claimant’s son the third distribution and any subsequent distributions for this claim.

7. Claim 1333 was also submitted by an individual who is now deceased. The Receiver’s professionals are working on this matter to determine the appropriate recipient of these funds and will submit a request to the Court to allow the Receiver to send the third distribution for this Claim when the Receiver believes he has reasonable and adequate support for the same.

MEMORANDUM OF LAW

The Court’s power to supervise an equity receivership and to determine the appropriate actions to be taken in the administration of the receivership

is extremely broad. *S.E.C. v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992); *S.E.C. v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986). The Court’s wide discretion derives from the inherent powers of an equity court to fashion relief. *Elliott*, 953 F.2d at 1566; *S.E.C. v. Safety Finance Service, Inc.*, 674 F.2d 368, 372 (5th Cir. 1982). A court imposing a receivership assumes custody and control of all assets and property of the receivership, and it has broad equitable authority to issue all orders necessary for the proper administration of the receivership estate, including the distribution of its assets. *See, e.g., Elliott*, 953 F.2d at 1566; *S.E.C. v. Credit Bancorp Ltd.*, 290 F.3d 80, 82-83 (2d Cir. 2002); *S.E.C. v. Wencke*, 622 F.2d 1363, 1370 (9th Cir. 1980). The Court has wide latitude in exercising its inherent equitable power to approve the distribution of Receivership funds. *See, e.g., S.E.C. v. Forex Asset Mgmt. LLC*, 242 F.3d 325, 331 (5th Cir. 2001) (affirming district court’s approval of plan of distribution because court used its discretion in “a logical way to divide the money”). In approving a distribution plan, “the district court, acting as a court of equity, is afforded the discretion to determine the most equitable remedy.” *Forex*, 242 F.3d at 332. The Court may adopt any plan of distribution that is logical, fair, and reasonable. *S.E.C. v. Wang*, 944 F.2d 80, 83-84 (2d Cir. 1991); *S.E.C. v. Basic Energy & Affiliated Res., Inc.*, 273 F.3d 657, 671 (6th Cir. 2001); *Quilling v. Trade Partners*, 2007 WL 107669 at *1 (W.D. Mich. 2006). “Therefore, any action by a trial court in

supervising an equity receivership is committed to his sound discretion and will not be disturbed unless there is a clear showing of abuse.” *Safety Fin. Serv.*, 674 F.2d at 373 (quotation omitted). A primary purpose of an equity receivership is to promote the orderly and efficient administration of the estate for the benefit of the creditors. *Hardy*, 803 F.2d at 1038. The relief requested by the Receiver serves this purpose.

LOCAL RULE 3.01(g) CERTIFICATION

Undersigned counsel for the Receiver has conferred with counsel for the SEC and the SEC does not object to the relief sought.

Respectfully submitted,

/s/ Katherine C. Donlon

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on September 23, 2025, I electronically filed a true and correct copy of the foregoing with the Clerk of the Court through the CM/ECF system, which served counsel of record.

/s/ Katherine C. Donlon