

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

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

CASE NO. 8:20-CV-325-T-35NHA

BRIAN DAVISON;

Defendants, and

128 E. DAVIS BLVD, LLC; et al.,

Relief Defendants.

**RECEIVER'S UNOPPOSED MOTION TO
SELL DOMAINS THROUGH RECEIVERSHIP AUCTIONS**

Burton W. Wiand, as Receiver (the “**Receiver**”) over the assets of the corporate and relief defendants, moves the Court to approve the sale of the internet domains held by the Receiver through Receivership Auctions (www.receivership-auctions.com). Previously the Court had approved the Receiver’s plan to sell the domains through the purported auction facilities provided by GoDaddy. However, those efforts have proven unsuccessful. After investigating other options which proved more expensive, the Receiver is seeking the Court’s approval to market and sell the domains through Receivership Auctions.

As part of the Final Judgment against Brian Davison, Mr. Davison turned over to the Receiver several hundred internet domains. In April 2023, the Receiver sought the Court's approval for the sale of various miscellaneous assets, including the domains. (Doc. 872) In that motion, the Receiver notified the Court that based on the advice of the Receiver's counsel, Robert Stines, and Robert Rohr of E-Hounds, the Receiver was seeking the Court's approval to sell the domains through GoDaddy. The Court granted the motion. However, the Receiver's efforts through the Go Daddy platform have been unsuccessful, producing no interest in or sales of the domains.

The Court's Order authorizing the sale gave the Receiver broad discretion in selling the domains according to the proposed procedures in the motion, which was through GoDaddy. Doc. 890. This motion is to clarify that the Receiver can use an auction method other than GoDaddy to liquidate these assets.

Since the Court's Order, the Receiver has not renewed less desirable domains as they came up for renewal so as to limit further expenses. Currently, the Receiver is holding approximately 200 domains, some of which are more marketable than others.¹ After the unproductive efforts with GoDaddy, the Receiver has looked at other vendors to use to sell the

¹ For example, the following domains may be of value to a targeted audience: rentfl.com, davisislandrentals.com, fl-man.com, and floridacoastalresorts.com.

remaining domains. One such vendor was Rightofthedot Auctions. This vendor required a non-refundable set-up fee of \$5,000, which clearly was not appropriate given the potential value of the domains. Moreover, a subsequent review of the auction results of this company raises questions as to the effectiveness of the service.

The Receiver created and has been using Receivership Auctions to sell many of the assets in this case, including several hundred real estate properties, vehicles, and miscellaneous office items. The Receiver recommends using Receivership Auctions to try to sell the remaining domains. In using Receivership Auctions, there is limited costs to marketing the domains as there are hundreds of individuals who have already registered for past auctions in this case. Receivership Auctions can also use inexpensive social media marketing to target potential purchasers.

Since the Court's Order authorized the Receiver "to proceed with the procedure outlined in the Motion" (i.e. GoDaddy), out of an abundance of caution, the Receiver is seeking this Court's approval to market and sell the domains through Receivership Auctions. If such auction is unsuccessful, the Receiver further requests that the Court allow the Receiver to pursue any other efficient and economical method of liquidation as he sees fit as well as authority to abandon any individual domain should he determine that future sales efforts will not benefit the Receivership.

ARGUMENT

I. THE COURT HAS BROAD POWER OVER THIS RECEIVERSHIP

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. *See 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 may enter such orders as may be appropriate and necessary for a receiver to fulfill his duty to preserve and maintain the property and funds within the receivership estate. *See, e.g., Official Comm. Of Unsecured Creditors of Worldcom, Inc. v. S.E.C.*, 467 F.3d 73, 81 (2d Cir. 2006). Any action taken by a district court in the exercise of its discretion is subject to great deference by appellate courts. *See United States v. Branch Coal*, 390 F. 2d 7, 10 (3d Cir. 1969). Such discretion is especially important

considering that one of the ultimate purposes of a receiver's appointment is to provide a method of gathering, preserving, and ultimately liquidating assets to return funds to creditors. *See S.E.C. v. Safety Fin. Serv., Inc.*, 674 F.2d 368, 372 (5th Cir. 1982) (court overseeing equity receivership enjoys "wide discretionary power" related to its "concern for orderly administration") (citations omitted).

II. SELLING THESE ASSETS IN THIS MANNER IS IN THE BEST INTEREST OF THE RECEIVERSHIP ESTATE

The practical problems of selling these domains separately and pursuant to federal statutes would generate significant expense for the Receivership. The procedures suggested by the Receiver will allow the domains to be sold efficiently and economically with limited up front costs to the Receivership Estate. Further, as described below in Section III, the Receiver's proposal substantially complies with the relevant statutes.

III. THE REQUIREMENTS OF 28 U.S.C. §§ 2001(a) and 2002

Personal property sold by a federal court receiver should be done in compliance with 28 U.S.C. § 2001(a) ("**Section 2001(a)**") and 28 U.S.C. § 2004 ("**Section 2004**"). Section 2001(a) reads as follows:

Any realty or interest therein sold under any order or decree of any court of the United States shall be sold as a whole or in separate parcels at public sale at the courthouse of the county, parish, or city in which the greater part of the property is located, or upon the premises or some parcel thereof located therein, as the court directs. **Such sale shall be upon such terms and conditions as the court directs.** Property in the possession of a receiver or receivers appointed by one

or more district courts shall be sold at public sale in the district wherein any such receiver was first appointed, at the courthouse of the county, parish, or city situated therein in which the greater part of the property in such district is located, or on the premises or some parcel thereof located in such county, parish, or city, as such court directs, unless the court orders the sale of the property or one or more parcels thereof in one or more ancillary districts.

28 U.S.C. § 2001(a) (emphasis added). Section 2004 reads in relevant part as follows:

Any personalty sold under any order or decree of any court of the United States shall be sold in accordance with Section 2001 of this title, **unless the court orders otherwise.**

28 U.S.C. § 2004 (emphasis added). Sections 2001(a) and 2004 impose relatively onerous and costly procedures, including an in-person auction at the courthouse (or other property as the Court directs).

The Court has the discretion to waive strict compliance. Pursuant to Section 2001(a), the auctions shall occur “as the court directs” and “[s]uch sale shall be upon such terms and conditions as the court directs.” 28 U.S.C. § 2001(a). Additionally, Section 2004 indicates that personal property “shall be sold in accordance with section 2001 of this title, **unless the court orders otherwise**” 28 U.S.C. § 2004 (emphasis added). Here, using the discretion afforded by Sections 2001(a) and 2004, the Court should “order otherwise” in approving the Receiver’s proposal. The Receiver’s use of Receivership Auctions online auction provides the protection that would be provided by an auction on the courthouse steps and, through modern technology, provides

vastly greater notice of the auctions and participation by interested buyers. Moreover, allowing the Receiver to utilize this process is efficient, cost-effective and benefits the Receivership estate.

This Court has approved such waivers previously in this case. Additionally, such waivers routinely occur in enforcement actions and receiverships, including those in this district. *See F.T.C. et al. v. E.M. Systems & Services, LLC et al.*, Case No. 8:15-cv-1417-T-23EAJ, Order (M.D. Fla. March 4, 2016) (finding good cause to excuse receiver from judicial sale procedures of 28 U.S.C. § 2001); *S.E.C. v. A. Nadel et. al.*, Case No. 8:09-cv-00087-RAL-TBM, Order (M.D. Fla. Aug. 13, 2013) (authorizing receiver to sell automobile and deviate from appraisal and publication requirements under 28 U.S.C. § 2001); *S.E.C. v. Kirkland*, 2008 WL 4264532, *2 (M.D. Fla. 2008) (approving sale of personal property without appraisals or publication where costs of compliance would significantly offset sale proceeds). Therefore, the Receiver requests that these additional procedures under 28 USC § 2001 be waived.

CONCLUSION

For the foregoing reasons, the Receiver moves the Court for entry of an order granting the Receiver the authority to sell the domains through Receivership Auctions, or other means that, in the Receiver's judgment, provide the most efficient and economical method of liquidation of these

items. The Receiver also asks to be authorized to abandon any individual Domain should he determine that future sales efforts will not benefit the Receivership.

LOCAL RULE 3.01(G) CERTIFICATION

Counsel for the Receiver has conferred with counsel for the SEC who does not object to the relief sought herein.

Respectfully submitted,

/s/ Katherine C. Donlon

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 14, 2026, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

/s/ Katherine C. Donlon