

**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,
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.

_____ /

**NOTICE OF FILING PROPOSED REPORT AND
RECOMMENDATIONS**

Upon the District Court's request to hold a Status Conference to discuss the winding down of the Receivership in this matter, the Court convened a Status Conference on February 11, 2026. Per the Magistrate Judge's request during that Status Conference, the Receiver submits the

attached proposed Report and Recommendations for the Court's review and consideration. *See* Exhibit 1. Undersigned counsel circulated the proposed Report to counsel for the SEC, Alice Sum, and the SEC does not object to its submission for the Court's consideration.

Respectfully submitted,

/s/ Katherine C. Donlon

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*Attorneys for Receiver Burton W.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 25, 2026, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

/s/ Katherine C. Donlon
Katherine C. Donlon, FBN 0066941

**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.

PROPOSED REPORT AND RECOMMENDATIONS

Upon the District Court's request to hold a Status Conference to discuss the winding down of the Receivership in this matter, the Court convened a Status Conference on February 11, 2026. In attendance at the Status Conference was Receiver Burton W. Wiand and his counsel Katherine C. Donlon and Jared J. Perez; Alice Sum, counsel for the SEC, and Stan Padgett, counsel for Brian Davison.

BACKGROUND

Mr. Wiand was appointed as Receiver in this case on February 14, 2020. Doc. 11. Since that time, the Receiver has marshalled and liquidated assets, brought successful lawsuits for the benefit of the aggrieved investors, and operated existing businesses. Through these efforts, the Receiver has netted over \$168 million for the benefit of the claimants to this receivership.

Through the Court-approved claims process, the Court approved claims of investors and general creditors of \$149 million. The “value” of these claims or “net allowed amounts” are based on money invested less any monies received back by the investors. This value does not account for the lost time value of money or the market adjusted values had the investors’ monies been invested in the market rather than the ponzi scheme at issue. Taking into account such a market adjustment, the value of these claims would exceed \$210 million. The Receiver has distributed \$160 million to the approved claimants in this case, or 107% of the net allowed amount of their claims, but only 76% of the market adjusted amount.

Although this recovery is exceedingly successful, the Receiver has identified three projects that are still pending within the Receivership that he believes can bring greater value to the Receivership Estate if allowed to progress further for a period of eighteen months. Specifically, these projects are (1) the conversion of two apartment buildings to condominiums in Treasure Island, (2) the continued development of Commerce Brewery (Largo, FL) of which the Receivership holds a 20% interest as well as the real estate on which it sits; and (3) the monitoring of the Receivership’s 5% stake in Bolero Snort Brewery (Carlstadt, NJ) and the attendant real property.

ONGOING RECEIVERSHIP PROJECTS

Condominium Conversion on Treasure Island

The Receivership Estate owns two apartment buildings in Treasure Island, Florida. Based on comparable values in the area, the current value of the buildings is approximately \$3.25 million. The Receiver estimates that with a \$2.5 million construction budget, the value of the converted condominiums with additional boat docks could be sold for \$9.5 million. Based on these estimates, this project could net an additional \$3.75 million for the investors if the project is allowed to proceed.

The estimated timeline for construction, renovation and sales is 18 months. The Receiver anticipates marketing the condos during the construction period so as to tighten the timeline as much as possible and provide buyers with input into the construction process.

Commerce Brewery and Related Real Estate

The Receivership owns the real estate and building which houses Commerce Brewery in Largo, Florida. Additionally, the Receivership holds a 20% interest in the brewery. The Receiver is actively involved on the board in progressing this business. The Receiver believes that selling either the brewery interest or the real estate in the near-term would greatly devalue the price the Receiver could get for either his interest in the brewery or the property. However, if Commerce continues on its current path, it is anticipated that its

owners will work with an investment bank to bring in future investors and the Receiver will be able to sell his 20% interest and be able to sell the real estate with a growing brewery as a tenant.

Bolero Snort Brewery and Related Real Estate

Similar to Commerce, the Receivership owns the property and the building where Bolero Snort operates in Carlstadt, New Jersey. Also, the Receivership owns a 5% interest in the brewery. Unlike Commerce, the Receiver is not active in the management of the brewery but has asserted leverage as the landlord. To that end, there have been recent management changes at the brewery which could have a positive impact on operations, but the future of this brewery is much less optimistic.

Oldsmar Property

The Receivership is invested in a joint venture regarding certain real estate in Oldsmar. The initial plan, prior to the appointment of the Receiver, was to develop the property for townhomes. It is the Receiver's opinion that the development is not in the best interest of the Receivership. The Receiver has negotiated a buyout of the Receivership's investment with the joint venture partner. Once finalized, the repayment obligation should be completed within twelve months.

Estimated Timeline for Winding Down the Receivership

The Receiver estimates that the construction, renovation and sales of the condominium conversion will take approximately eighteen months. During that same time period, the Receiver will make his best efforts to maximize the values of the breweries and their respective properties for sale for the benefit of the Receivership Estate. As the Receivership goes forward the Receiver may recommend distribution to claimants if in his opinion sufficient cash is available to allow such a distribution and continue the projected activities of the Receivership. Any such distribution will be made mindful of the expense of a distribution. Once the properties discussed herein have been liquidated the Receiver will proceed to close the Receivership and make a final distribution. This closure must take into account the resolution of all potential tax liabilities and any regulatory obligations that may exist at that time.

In order to keep the Court apprised of any material events that occur between required quarterly reports, the Receiver shall promptly file with the court a supplemental report if in the Receiver's judgment an event or events have occurred that could alter the projections of the completion of the projects outlined herein.

Anticipated Ongoing Fees and Expenses of the Receivership

Receiver

The projects described above will require on a continuing basis the Receiver's attention and time which, of course, results in fees to the estate. These activities include among other things, the oversight and review of the operations of the breweries and the approval of the plans and construction of the future condominium buildings. He will also review and approve all activities of the legal, accounting and other professionals working for the Receivership. He also maintains direct personal control of all funds, expenses and incurrance of obligations of the Receivership.

Legal Team

It is anticipated that the legal fees will decrease during the requested timeline to wind down the Receivership. However, there are areas where legal services will still be required during this time frame:

- Motion for Entry of a Money Judgment – related to the ongoing issue of Brian Davison's failure to turn over platinum coins;
- Pending and ongoing motions related to the Merrill Lynch accounts;
- Motions to approve sale of breweries and attendant real estate;
- Participate in due diligence related to sale of brewery interests;
- Motions to approve sale of Treasure Island condominiums;

- Quarterly Status Reports and Fess Motions (as required by the appointing Order);
- Coordinate with the SEC regarding payments from sales agents;
- Motions to Transfer Title of last residential property and one mobile home trailer;
- Final Distribution Motion, Distribution and follow up regarding any distribution issues;
- Final Receiver Report and Final Accounting;
- Motion to Close the Receivership with Closing Declaration; and
- Respond to any motions or requests directed to the Receiver.

To the extent any other legal work is deemed necessary, the Receiver must seek the Court's approval prior to such activity.

Accounting Professionals

The Court approved the retention of PDR CPAs + Advisors as the Receiver's accounting professionals. PDR's role expanded as it took over accounting functions for the ongoing real estate business of the receivership. While much of that portion of its work has been completed, PDR is still responsible for the quarterly Fund Accountings that are required by the Court and provides the Receiver monthly financial reports. During the wind down period, PDR will continue to be responsible for tax reporting and submission of the Receivership's state and federal tax returns.

EquiAlt General Manager

At the Receiver's direction, Tony Kelly has served as the General Manager for EquiAlt since early in the Receivership. His efforts and expertise have been invaluable to the Receiver, especially in real estate, construction and brewery matters. His efforts relieve the Receiver of daily time-consuming management of the Receivership's business activities and the expense that the Receivership would incur if the Receiver had to perform these tasks. Mr. Kelly's employment will continue through the end of the Receivership at his current salary of \$7,500 per month.

Other Professionals

- Yip Associates, the Court-approved forensic accountants for the Receivership, have billed minimal fees over the last two years. It is anticipated that any such billings would continue to be nominal.
- The fees for Omni Agents, the claims administrator, will only spike when the Receiver makes a distribution to claimants.
- The costs associated with E-Hounds Computer Forensics is largely associated with platform fees and licenses. The Receiver will work to lower those costs as appropriate.

SEC Position Regarding the Winding Down of the Receivership

In February 2020, the Securities and Exchange Commission ("SEC") moved this Court for the appointment of a receiver and recommended three

candidates for the position. Since Mr. Wiand's appointment, the SEC has been active in monitoring the Receiver's activities and progress. At the Status Conference, Alice Sum, counsel for the SEC, stated that the SEC does not oppose the Receiver's request to continue the Receivership to complete these projects based on the proposed timeline.

CONCLUSION

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

1. The Receivership be allowed to continue for a period of twenty-one months:
 - a. Eighteen months to complete the Treasure Island condominium conversion and sale, as well as the sale of the Receivership's interests in Commerce Brewing and Bolero Snort Brewery and the real property associated with those breweries, and the buyout of the Oldsmar property; and
 - b. Three months to complete the final distribution to claimants and submit the Receiver's Final Report, Final Accounting, and Motion to Close the Receivership.
2. The Receiver be required to submit supplemental reports related to the occurrence of any significant events that could

alter the projections of the completion of the projects outlined herein.

3. The Receiver will remain mindful of the fees and costs associated with the continuation of the Receivership as he implements the plan described herein.

RESPECTFULLY SUBMITTED ON _____, 2026.

NATALIE HIRT ADAMS
UNITED STATES MAGISTRATE JUDGE