

**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.

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**REPLY TO OBJECTIONS TO PROPOSED REPORT AND  
RECOMMENDATIONS [DOC. 1402]**

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 submitted a

proposed Report and Recommendation. (Doc. 1401) Thereafter, Brian Davison, a former defendant in this case and the perpetrator of the fraud that is at the heart of this case, filed “Objections” to the proposed Report and Recommendations. As detailed below, Davison has no standing to assert any objections and he should be prevented from further impeding the Receivership and harassing the Receiver.

### **Davison Lacks Standing to Object**

On August 5, 2021, the Court entered a Final Judgment against Brian Davison.<sup>1</sup> Doc. 355. In connection therewith, Davison surrendered his rights to any and all assets valued at more than \$5,000 to the Receiver. *See* Doc. 355-1 at 8. He is thus no longer a party to this action and has no claim to the Receivership Estate. As a matter of law, he has no standing to object to receivership matters. *See Securities & Exchange Commission v. Nadel*, 2012 WL 12910648, at \*2 (M.D. Fla. Feb. 10, 2012) (finding that objectors to a

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<sup>1</sup> In that Judgment, he was permanently restrained and enjoined from violating Sections 5 and 17 (a) of the Securities Act of 1933 and Sections 15(a) and 10(b) of the Securities Exchange Act of 1934, as well as Rule 10b-5. The Court ordered disgorgement, interest and civil penalties against him in the amount of \$27,013,060 which was to be satisfied by turning over certain assets to the Receiver. This turnover included all of Davison’s assets other than household items valued at less than \$5000. To this day, Davison has failed to meet all of his obligations under the Final Judgment.

motion to approve settlement “allegedly received false profits and consequently are not creditors of the Receivership estate and are not otherwise entitled to distributions from it”); *see also In re Huggins*, 460 B.R. 714, 718 (E.D. Tenn. Bankr. 2011) (Court rejected objections filed as the objector was not a creditor and could not receive distributions from the estate.); *In re T.G. Morgan, Inc.*, 394 B.R. 478, 483 (B.A.P. 8th Cir. 2008), *aff’d*, 343 F. App’x 171 (8th Cir. 2009) (objector did not hold allowed claim and thus had no financial stake in the court’s approval of final report and no standing to object to it). Similarly, in this case, Brian Davison took more than \$24 million dollars from the coffers of EquiAlt and its associate entities, all of which came from aggrieved investors. He is the cause of and not a creditor of the Receivership. Further, if he ever had a claim, he never filed a claim in the Receivership and thus any claim has been barred for years. He has no standing to object.

Further, he has no standing to object to the proposed Report and Recommendation. It is clear from 28 U.S.C. § 636(b) and the Federal Rules of Civil Procedure that only a party can object to a Magistrate’s Report and Recommendation. So if Davison has no standing to object to an actual

Report and Recommendation, how would he have standing to object to the Receiver's proposed Report and Recommendation?

Some courts have allowed a non-party to object if the "non-party has a concrete interest which may be adversely affected by the magistrate's report." *See Carroll v. Thestreet.com, Inc.*, 2013 WL 9839118, at \*1 (S.D. Fla. Oct. 2, 2013). In this case, Davison has no interest, much less a concrete one, which is in any way impacted by the continuance of the Receivership to completion. Therefore, even as a non-party, he should not be allowed to object.

### **Order Appointing Receiver Prohibits Davison's Conduct**

The Order appointing the Receiver (Doc. 11) made clear that Mr. Davison was not to "hinder, obstruct, or otherwise interfere with the Receiver in the conduct of the Receiver's duties":

The Corporate Defendants and Relief Defendants, their principals, and their respective officers, agents, employees, attorneys, and attorneys-in-fact, *shall cooperate with and assist the Receiver*. The Corporate Defendants and Relief Defendants, their principals, and their respective officers, agents, employees, attorneys, and attorneys-in-fact *shall take no action, directly or indirectly, to hinder, obstruct, or otherwise interfere with the Receiver in the conduct of the Receiver's duties* or to interfere in any manner, directly or indirectly, with the custody, possession,

management, or control by the Receiver of the funds,  
assets, premise, and choses in action described above;

Doc. 11 at ¶15 (emphasis added). Davison has no bona fide purpose in filing his “Objections” to the Receiver’s proposed Report and Recommendations. As pointed out above, he has no claim to the Receivership Estate. His only purpose in inserting himself in this process is to harass the impede the Receiver’s work on behalf of the very people victimized by Davison. Davison, who is prison for tax fraud, should not be allowed to continue to suck any further air from this Receivership. There is no place for Monday morning quarterbacking or second-guessing diatribes from the perpetrator of the fraud that underlies this case.

**Davison Has Waived Any Right to Object to the Work of and the Costs Associated with the Receivership**

From the inception of this case until the February 2026 Status Conference, the Receiver filed, pursuant to the Court and the SEC’s requirements, quarterly applications for fees and quarterly status reports. Each motion for fees includes detailed invoices from the Receiver and his team as well as the Fund Accounting Report prepared by the Receiver’s accountants. The Fund Accounting Report shows information related to the finances of the Receivership for both that quarter as well as inception to date information. Mr. Davison, through counsel, objected to the Receiver’s

first motion for fees. Since that time, not once, has he objected to the Receiver's motion for fees or raised concerns related to the costs associated with the Receivership. Similarly, while he was a party to the case, he never objected or filed motions related to the work of the Receivership as set forth in the Receiver's quarterly status reports. The Receiver operates within the authority of the Court, receiving approvals for his actions and garnering an amazing return for the aggrieved victims. Davison's personal opinions regarding the Receiver's actions are not properly before this Court.

### **CONCLUSION**

Based on the foregoing, the Receiver respectfully requests that the Court give no credence to the Objections asserted by Mr. Davison and further prohibit him from harassing and impeding the work of the Receivership.

Respectfully submitted,

**/s/ Katherine C. Donlon**

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*Attorneys for Receiver Burton W.  
Wiand*

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on March 20, 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