

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

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

Case No. 8:20-CV-325-T-35MRM

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.

---

**RECEIVER'S RESPONSE TO MOTION BY  
ESTATE OF JUDITH ESSLING (DOC. 819)**

Burton W. Wiand, as Receiver over the assets of the Corporate and Relief Defendants,<sup>1</sup> hereby serves his Response to the Motion filed by the Estate of Judith Essling (“Essling Estate”) for Permission to File a Late Proof

---

<sup>1</sup> The (“**Receiver**” and the “**Receivership**” or “**Receivership Estate**”) has been expanded to include not only the Corporate and Relief Defendants but also the following entities: EquiAlt Qualified Opportunity Zone Fund, LP; EquiAlt QOZ Fund GP, LLC; EquiAlt Secured Income Portfolio REIT, Inc.; EquiAlt Holdings LLC; EquiAlt Property Management LLC; and EquiAlt Capital Advisors, LLC [Doc. 184, at 6–7] and EquiAlt Fund I, LLC [Doc. 284].

of Claim Form (Doc. 819). The Receiver does not oppose the motion filed by the Essling Estate. However, in not opposing the motion, the Receiver is not agreeing with the statements in the motion that “it appears that there are enough funds to pay all ‘normal’ claimants in full” and “it appears that the recovery for investors seeking the return of their net investment amount the recovery will be 100%.” The Receiver has not published any information that supports these statements and knows of no source upon which Mr. Essling could be relying. The Receiver is achieving success in marshalling assets and operating Receivership businesses, but it is still too early in the Receivership to make any predictions as to the amount of recovery or distributions for claimants from the Receivership Estate. Moreover, it is unlikely that the Receiver will be able to distribute to investors sums that would recompense claimants for net investments, contractual losses and interest.

Dated: March 14, 2023.

Respectfully submitted,

/s/ Katherine C. Donlon

Katherine C. Donlon, FBN 0066941

[kdonlon@jclaw.com](mailto:kdonlon@jclaw.com)

Johnson, Cassidy, Newlon & Decort P.A.

3242 Henderson Blvd., Ste 210

Tampa, FL 33609

Tel: (813) 291-3300

and

Jared J. Perez, FBN 0085192

[jared.perez@jaredperezlaw.com](mailto:jared.perez@jaredperezlaw.com)

Law Office of Jared J. Perez  
301 Druid Rd. W  
Clearwater, FL 33759  
Tel: (727) 641-6562

and

R. Max McKinley, FBN 119556  
[mmckinley@guerraking.com](mailto:mmckinley@guerraking.com)  
Guerra King P.A.  
The Towers at Westshore  
1408 N. Westshore Blvd., Ste. 1010  
Tampa, FL 33607  
Tel: (813) 347-5100

*Attorneys for Receiver Burton W. Wiand*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on March 14, 2023, I electronically filed the foregoing with the Clerk of this Court by using the CM/ECF system which will send notification of electronic filing to all counsel of record.

/s/ Katherine C. Donlon