

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

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

Case No: 8:20-cv-325-MSS-AEP

**BRIAN DAVISON, BARRY M.
RYBICKI, EQUIALT LLC,
EQUIALT FUND, LLC, EQUIALT
FUND II, LLC, EQUIALT FUND III,
LLC, EA SIP, LLC, 128 E. DAVIS
BLVD, LLC, 310 78TH AVE, LLC,
551 3D AVE S, LLC, 604 WEST
AZEELE, LLC, 2101 W. CYPRESS,
LLC, 2112 W. KENNEDY BLVD,
LLC, 5123 E. BROADWAY AVE,
LLC, BLUE WATERS TI, LLC,
BNAZ, LLC, BR SUPPORT
SERVICES, LLC, BUNGALOWS TI,
LLC, CAPRI HAVEN, LLC, EA NY,
LLC, EQUIALT 519 3RD AVE S.,
LLC, MCDONALD REVOCABLE
LIVING TRUST, SILVER SANDS TI,
LLC and TB OLDEST HOUSE EST.
1842, LLC,**

Defendants.

ORDER

THIS CAUSE comes before the Court for consideration of Plaintiff's Unopposed Motion for Entry of Final Judgment Against Defendant Brian Davison.

(Dkt. 353) Plaintiff Securities and Exchange Commission advises that the entry of the proposed Final Judgment would resolve Plaintiff's claims against Defendant Brian Davison. (Id.) Plaintiff therefore requests that the Court enter its proposed Final Judgment against Defendant Brian Davison. (Id.) Defendant Brian Davison consents to the entry of the proposed Final Judgment against him without admitting or denying the allegations of the Amended Complaint unless otherwise stated in his Consent. (Dkt. 353-2)


Upon consideration and review, the Court approves Plaintiff's proposed Final Judgment Against Defendant Brian Davison. Notwithstanding any language contained in the proposed Final Judgment, this Order is entered on the consent of Defendant Brian Davison, not based on any independent review or findings by the Court other than as to venue and jurisdiction. More specifically and pursuant to Federal Rule of Civil Procedure 65(d)(1)(A) and Defendant Brian Davison's Consent, this Order is entered to fully resolve the issues raised by this case as between Plaintiff and Defendant Brian Davison only.

Accordingly, it is hereby **ORDERED** that:

1. Plaintiff's Unopposed Motion for Entry of Final Judgment Against Defendant Brian Davison, (Dkt. 353), is **APPROVED**. The Final Judgment Against Defendant Brian Davison, (Dkt. 354-1), attached as an Exhibit hereto and incorporated by reference herein, is **ENTERED** by the Court.

2. Plaintiff's claims against Defendant Barry Rybicki shall proceed in the normal course.

DONE and **ORDERED** in Tampa, Florida, this 5th day of August 2021.



MARY S. SORIVEN
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record
Any Unrepresented Person

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

CIVIL ACTION NO. 20-cv-00325-MSS-AEP

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

BRIAN DAVISON, BARRY RYBICKI,
EQUIALT et al.,

Defendants.

FINAL JUDGMENT AGAINST DEFENDANT BRIAN DAVISON

The Securities and Exchange Commission having filed an Amended Complaint and Defendant Brian Davison (“Davison”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Amended Complaint (except as to jurisdiction and except as otherwise provided herein in paragraph VI); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment.

I.

PERMANENT INJUNCTIVE RELIEF

A. Section 5 of the Securities Act of 1933 (“Securities Act”)

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Davison is

permanently restrained and enjoined from violating Section 5 of the Securities Act (15 U.S.C. § 77e) by, directly or indirectly, in the absence of any applicable exemption:

(a) Unless a registration statement is in effect as to a security, making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;

(b) Unless a registration statement is in effect as to a security, carrying or causing to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale; or

(c) Making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed with the Commission as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act (15 U.S.C. § 77h).

IT IS FURTHER ORDERED AND ADJUDGED that, as provided in

Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Judgment by personal service or otherwise: (a) Davison's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Davison or with anyone described in (a).

B. Section 17(a) of the Securities Act

IT IS FURTHER ORDERED AND ADJUDGED that Davison is permanently restrained and enjoined from violating Section 17(a) of the Securities Act (15 U.S.C. § 77q(a)) in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of material fact or any omission of a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser,

with respect to:

- (A) any investment strategy or investment in securities,

- (B) the prospects for success of any product or company,
- (C) the use of investor funds,
- (D) compensation to any person, or
- (E) the misappropriation of investor funds or investment proceeds.

IT IS FURTHER ORDERED AND ADJUDGED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Judgment by personal service or otherwise: (a) Davison's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Davison or with anyone described in (a).

C. Section 10(b) and Rule 10b-5 of the Securities Exchange Act of 1934 ("Exchange Act")

IT IS FURTHER ORDERED AND ADJUDGED that Davison is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Exchange Act (15 U.S.C. § 78j(b)) and Rule 10b-5 promulgated thereunder (17 C.F.R. § 240.10b-5), by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the

light of the circumstances under which they were made, not misleading; or

- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person,

with respect to:

- (A) any investment strategy or investment in securities,
- (B) the prospects for success of any product or company,
- (C) the use of investor funds,
- (D) compensation to any person, or
- (E) the misappropriation of investor funds or investment proceeds.

IT IS FURTHER ORDERED AND ADJUDGED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Judgment by personal service or otherwise: (a) Davison's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Davison or with anyone described in (a).

D. Section 15(a) of the Exchange Act

IT IS FURTHER ORDERED AND ADJUDGED that Davison is permanently restrained and enjoined from violating, directly or indirectly, Section 15(a) of the Exchange Act, [15 U.S.C. § 78o(a)], by using the mails or other means

or instrumentalities of interstate commerce, to effect transactions in, or to induce or attempt to induce the purchase or sale of securities, without being associated with a broker or dealer that was registered with the Commission in accordance with Section 15(b) of the Exchange Act (15 U.S.C. § 78o(b)).

IT IS FURTHER ORDERED AND ADJUDGED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Judgment by personal service or otherwise: (a) Davison's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Davison or with anyone described in (a).

II.

DISGORGEMENT, PREJUDGMENT INTEREST, AND CIVIL PENALTY

IT IS FURTHER ORDERED AND ADJUDGED that Davison is liable to the Commission for disgorgement of \$24,600,000, representing net profits gained as a result of the conduct alleged in the Amended Complaint, together with prejudgment interest on disgorgement of \$913,060, and a civil penalty of \$1,500,000 pursuant to Section 20(d) of the Securities Act and Section 21(d)(3) of the Exchange Act, for a total of \$27,013,060.

IT IS FURTHER ORDERED AND ADJUDGED that any obligation of Davison to satisfy the disgorgement, prejudgment interest, and civil penalty

payments, due to the Commission as set forth above, shall be deemed satisfied by Davison if he, within 30 days of entry of this Final Judgment, disgorges the following assets to the Court-appointed Receiver (and in the case of the real property set out below in (ii), execute any necessary quitclaims as appropriate):

(i) Bank Accounts

Bank of America XX4008 - EquiAlt Secured Income Portfolio LP - \$380.20
Bank of America XX4011 - EquiAlt Secured Income Portfolio - \$380.20
Chase XX2758 - Brian Davison - \$114.23
Chase XX9319 - Brian Davison - \$194.15

(ii) Real Property

128 Biscayne Ave, Tampa, Florida (Davison family to vacate the premises by 08/31/21)
21 20th St, #5, New York, New York
2101 W. Cypress Avenue, Tampa, Florida
2112 W. Kennedy Blvd., Tampa, Florida
Ritz-Carlton Destination Club - Aspen Highlands (Member #10221246)
Club Wyndham Bonnet Creek (Member #00999151231)
5123 E. Broadway Trailer Park
5 Grindstaff Cove, Sylva, NC

(iii) Watches and Jewelry

As listed in Exhibit A hereto.

(iv) Funds Held By The Receiver In Trust

\$53,500 - Return of Stovall House Deposit
\$45,834 - return of escrow payment
\$193,911.19 - return of deposits from Miller Motorcars
\$310,000 - return of Simwest deposits
\$327,856.47 - net proceeds from sale of 2009 Ferrari 430 Scuderi M16, 2015 Ferrari F12 Berlinetta, and 2015 Ferrari 458 Speciale
\$45,994.78 - net proceeds from sale of 2020 Bentley Convertible GTC V8
\$75,551.74 - net proceeds from sale of 2019 Rolls Royce Cullinan

- (v) Interest in Breweries
Commerce Brewing
Nantahala Brewing Company, including any security interest held in NBC
equipment
Bolero Snort

- (vi) Cars
2018 Pagani Huayra
1995 Land Rover Defender
2016 Mazda MX5 (Chassis #79)
1977 Ferrari 308 GTB

- (vii) Safes
Dottling "The Gallery"
Dottling "The Liberty"

- (viii) Coins
Platinum American Eagles (480)
Gold American Eagles (61)
Elizabeth II (2)
US Liberty (13)

- (ix) Investments
Sight Shore House, LLC
Merrill Lynch - Accounts ending in 1294, 1295, 9944, 9964, 9965, 9966, with
the exception of \$500,000 from those accounts.

As part of his disgorgement obligation Davison shall execute a general assignment of assets to be provided to the Receiver warranting that he has disclosed all owned assets valued at more than \$5,000 to the Receiver and assigned all owned assets except those excluded in the assignment. The Assignment shall be signed and notarized and contain a statement by Davison under oath that all of the information contained therein is true and correct.

Davison shall in good faith and expeditiously execute all documents and

take any other necessary steps to effectuate the turnover of the aforementioned real property and other assets. Davison agrees that once he turns over the aforementioned property and assets, he relinquishes all legal and equitable right, title and interest in the property and assets (“Funds”), and no part of the Funds shall be returned to him. Should Davison discover or uncover assets that have not been disclosed or delivered to the Receiver he shall promptly advise the Receiver and forthwith deliver and or transfer such assets to the Receiver.

The Commission may enforce the Court’s judgment for penalties by the use of all collection procedures authorized by law, including the Federal Debt Collection Procedures Act, 28 U.S.C. § 3001 *et seq.*, and moving for civil contempt for the violation of any Court orders issued in this action. Defendant shall pay post judgment interest on any amounts due after 30 days of the entry of this Final Judgment pursuant to 28 U.S.C. § 1961.

The Commission along with the Receiver may propose a plan to distribute the Funds, subject to the Court’s approval. Such a plan may provide that the Fund shall be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. The Court shall retain jurisdiction over the administration of any distribution of the Funds and the Fund may only be disbursed pursuant to an Order of the Court.

Regardless of whether any such Fair Fund distribution is made, amounts

ordered to be paid as civil penalties pursuant to this Judgment shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Davison shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on Davison's payment of disgorgement in this action, argue that he is entitled to, nor shall he further benefit by, offset or reduction of such compensatory damages award by the amount of any part of Davison's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Davison shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this Judgment. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Davison by or on behalf of one or more investors based on substantially the same facts as alleged in the Amended Complaint in this action.

III.

INCORPORATION OF CONSENT

IT IS FURTHER ORDERED AND ADJUDGED that the Consent is

incorporated herein with the same force and effect as if fully set forth herein, and Davison shall comply with all of the undertakings and agreements set forth therein.

IV.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED AND ADJUDGED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

V.

ASSET FREEZE

IT IS FURTHER ORDERED AND ADJUDGED that, upon receipt of confirmation from the Commission and the Receiver that Davison has satisfied his obligations under Section II of this Final Judgment, the Asset Freeze this Court previously entered against Davison shall be lifted and extinguished in its entirety.

VI.

BANKRUPTCY NONDISCHARGEABILITY

IT IS FURTHER ORDERED AND ADJUDGED that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the allegations in the Amended Complaint are true and admitted by Davison, and further, any debt for disgorgement, prejudgment interest, or civil penalty or other amounts due by Davison under this Final Judgment or any other

judgment, order, consent order, decree, or settlement agreement entered in connection with this proceeding, is a debt for the violation by Davison of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

VII.

RULE 54(b) CERTIFICATION

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

DONE and ORDERED in Tampa, Florida this ____ day of August 2021.

MARY SCRIVEN
UNITED STATES DISTRICT JUDGE

Copies to all parties and counsel of record

EXHIBIT A

Patek Philippe

		Movement	Case #
1	Set of 3 torpedo-boat navigator's trio silver openface pocket watches with power reserve and fitted box (lot #46)		
2	1463A, stainless steel with Breguet numerals	867'604	653'507
3	1463, yellow gold with Breguet numerals	863'087	629'720
4	2499 3rd (Tiffany stamped)		
5	2497, pink gold perpetual calendar with moon phases		
6	3448 Senza Luna, 18k white gold automatic perpetual calendar without moon phases	1'119'585	332'625
7	5980R, 18k rose gold Nautilus chronograph (Tiffany stamped)	5983712	6135259
8	5650G, M18W Aqua	7027674	6146390
9	5270G, 18k "Grand Complications" (Tiffany stamped)	5770755	4659430
10	5204P, platinum "Grand Complications"	5253266	6181686
11	7018/1A, stainless steel ladies' Nautilus bracelet watch	7063334	6187578
12	4936G, 18k white gold and diamond, lady's Complications strap watch (Tiffany stamped)	5891781	6064369
13	5208P sealed, Platinum men's Grand Complication strap watch	5175821	6156013
14	5524G, 18k white gold men's Calatrava Pilot Travel Time watch (Tiffany stamped)	7098556	6177478
15	5522A, stainless steel and 18k white gold, men's Calatrava strap watch	7061574	6192124
16	7099R, Gongola Rose Gold Diamond Paved lady's watch		

17	5960/1A, Stainless steel men's Complications	7127703	6077581
18	5270R, rose gold men's Grand Complications manual wound (Tiffany stamped)	7079275	5216800
19	5270/1R, 18k rose gold Grand Complications, moon phase and leap year, black dial (Tiffany stamped)		
20	5270P, Platinum Grand Complications, moon phase and salmon dial, strap watch (Tiffany stamped)	7079278	6287743
21	5070P, Chronograph, platinum case, manual wind Lemania caliber 27-70 movement; sunburst blue dial with applied Arabic charcoal numerals		
22	5370P, platinum split-seconds chronograph with Breguet numerals and enamel dial		
23	18k pink gold split-seconds chronograph openface pocket watch (lot #29)	66'04	
AT SOTHEBYS			
24	5131P , Platinum and 18k white gold men's Complications world time bracelet watch	7117302	6224488
25	5726A, stainless steel Nautilus annual calendar strap watch (Tiffany stamped)(sealed)	5994109	6127751
26	5990A, Stainless steel, men's Nautilus travel time chronograph bracelet watch (Tiffany stamped)	7125339	6207977
27	5168G, 18k white gold men's Aquanaut strap watch (Tiffany stamped)	7257033	6350618
28	5196P, Platinum men's Calatrava strap watch (Tiffany stamped)	7072030	6174218

29	5204R, 18k rose gold "Grand Complications"	5253454	6176883
30	5524R, 18k rose gold men's Complications Calatrava Pilot Travel Time strap watch (Tiffany stamped)	7217077	6275116
31	5088P, Tiffany platinum Calatrava "Volutes and Arabesques" limited ed. W/cuff links	5929241	6122613
32	5170P, Platinum and diamond men's Complications strap watch (Tiffany stamped)	7079337	6232284
AT PHILLIPS			
33	5304R, pink gold automatic semi-skeletonized minute repeating perpetual calendar with retrograde date, moon phases, leap year indication (Grand Complication)		
34	2499, 4th Series, 18k yellow gold perpetual calendar chronograph wristwatch with moon phase	869'252	2'792'108
35	5040G, 18k white gold perpetual calendar with moon phase, salmon dial, Breguet numerals, sealed	5'738'781	4'722'319
36	5070J, yellow gold with certificate of origin and presentation box	3'146'500	4'086'664

Audemars Piguet

37	Rose Gold Royal Oak Perpetual Calendar	26584OR.OO <u>1220OR.01</u>	
38	Titanium and platinum automatic with date and integrated bracelet (Royal Oak "Jumbo" Extra-Thin	15202IP.OO.1240IP.01	
39	Royal Oak Jumbo, anthracite colored waffled dial, silver baton hands	067296-A296	
40	AP, stainless steel perpetual calendar wristwatch with moon phase, leap year indicator with green dial (Royal Oak Perpetual Calendar)	26606ST.OO.1220ST.01	
41	Grand Complications; special order, entirety is ceramic		
42	TiPC		
43	Royal Oak Ceramic Perpetual Calendar Openworked		
44	Millenary Rose Gold Mother of Pearl Roman Dial	772470OR.ZZ.A812CR.01	Ladies
45	Stainless steel Royal Oak Double Balance Wheel Openworked (41MM)	15407ST.OO.1220ST.01	
	AT PHILLIPS		
46	Royal Oak 18k pink gold skeletonized wristwatch with integrated bracelet		
47	Royal Oak Offshore, titanium perpetual calendar with moon phase	25854.TI.OO.1150TI	561'118
48	Royal Oak, custom made 18k pink gold with diamond bezel		

Rolex

49	SubmarinerC 40mm #1		
50	Submariner C 40mm #2		
51	Datejust 41 MM	MODEL - 126300	P305U848
52	Daytona 18k yellow gold, ceramic bezel, Paul Newman dial oysterflex		
53	Cosmograph Daytona 40MM 18k Everose Baguette-Cut Rainbow Sapphire Bezel, Diamond-Paved Dial With Baguette-Cut Rainbow Sapphires, 18k Everose Gold Oyster Bracelet	MODEL - 116595RBOW	
54	Deep Sea Seadweller James Cameron	M116660-0003	
55	GMT-Master II 40MM 18k Everose Bidirectional Rotatable Black & Brown Cerachrom Bezel, Black Dial, 18k Everose Oyster Bracelet	MODEL - 126715CHNR	
56	Day Date 40 mm platinum ice blue	17302753	
57	Yacht Master 18k rose gold, ceramic bezel, oysterflex	MODEL 116655	01X329C6
58	Day date Sub dial (1o1)		
59	Datejust J '79		
60	Daytona 6265, stainless steel with metal bezel	6'197'309	
61	Stainless Steel Datejust		
62	Rolex Cosmograph Daytona 40MM 18k Yellow Gold , Tachymeter Black Monobloc Cerachrom Bezel, Screw-Down Push Buttons, Black Index Dial With Champagne Subdials With Oyster Flex Strap	MODEL: 116515LN	70L79151
	AT SOTHEBYS		

63	ROL GMT Master II, white gold with diamond and sapphire-set bezel	116749SABLNR	
64	ROL Submariner, white gold with diamond and sapphire-set bezel, diamond-set lugs	116659SABR	
65	Rolex Sky Dweller, Blue Rolex Sky-Dweller Oyster, 42mm, oystersteel and white gold		
	AT PHILLIPS		
66	GMT-Master, 1675/8 from Tiffany, yellow gold dual-time		
	AT JOYCE LEE		
67	Daytona Stainless Steel, white index dial, ceramic bezel		

Other Watches				
68	Blancpain Tribute to Fifty Fathoms Mil-Spec	5008A-1130-NABA		
69	F.P. Journe platinum tourbillon 13/20 b&p	Numbered 13/20		
70	Richard Mille 11-03			
71	Tudor Black Bay	17770727	M79360DK-001	I990442
AT PHILLIPS				
72	A. Lange & Sohne	147.025		
AT MANUFACTURER				
73	DeWitt Academia			

Jewelry

18k Diamond Calatrava Cross Ring	275.7/1AJ3 SQ 7	
18k Tanzanite Diamond Pendant		
3 stone ring with pink diamonds, 18k rose gold		
Platinum Tanzanite Diamond prong ring		
Platinum Morganite diamond ring		
Platinum 18k Drop Diamond earrings		
18k diamond fringe necklace		
2 Ring rose gold, 2.7 and 2.6 weight		
Necklace, 18k gold diamond and sapphire collar necklace, 513 diamonds with combined weight of 8.03 carats, F-G, VS2-SI1, 82 sapphires, combined weight 9.03		
18k yellow gold ring combining 14.5 by 29 mm brown baroque South Sea pearl set with 1.98 ct. natural cognac diamonds	258118	R-115LO-BR2Y