

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU

In the matter of:

EQUIALT, LLC,
Unregistered;

Complaint No. 340869

and

EQUIALT FUND, LLC,
Unregistered;

Complaint No. 342150

Respondents.

Issued ~~and~~ entered
this 18th day of March, 2020

**ADMINISTRATIVE CONSENT AGREEMENT
AND ORDER**

A. RELEVANT INFORMATION AND STATUTORY PROVISIONS, under the Michigan Uniform Securities Act (2002) (the “Act”), 2008 PA 551, MCL 451.2101 *et seq.*:

1. On January 9, 2020, the Director of the Corporations, Securities & Commercial Licensing Bureau of the Michigan Department of Licensing and Regulatory Affairs (the “Department”), as the Administrator of the Act (the “Administrator”), issued a separate Notice and Order to Cease and Desist against each of the above-captioned Respondents. For purposes of this Administrative Consent Agreement and Order (“Consent Order”):

- (a) The above-captioned Respondents are referred to individually by name or generally as “EquiAlt,” and are referred to collectively as the “EquiAlt Entities.” The term “EquiAlt Entity” means and includes any successor business entity or any business entity owned, operated, or controlled by

an EquiAlt Entity, including but not limited to any successor business entity that is formed or emerges in the future.

- (b) The two (2) separate Notices and Orders to Cease and Desist issued against each of the EquiAlt Entities on January 9, 2020 are referred to collectively as the “C&D Orders”; and
- (c) The EquiAlt Entities and Department staff are referred to individually as a “Party” and collectively as the “Parties.”

2. The C&D Orders allege that the EquiAlt Entities:

- (a) Offered or sold debenture securities to an investor in Michigan and used a publicly available website in connection with advertising the offer of the securities; and
- (b) The securities offered or sold in Michigan were not registered pursuant to the Securities Act, nor has Respondent identified any applicable exemption, exception, preemption, or exclusion from the Securities Act.

3. Based on these alleged violations of the Act, the C&D Orders, *inter alia*:

- (a) Ordered the EquiAlt Entities to immediately cease and desist from violating the Act; and
- (b) Notified the EquiAlt Entities of the Administrator’s intention to impose a separate civil fine in the amount of \$10,000 against each EquiAlt Entity pursuant to MCL 451.2604(4).

4. The C&D Orders were immediately effective pursuant to MCL 451.604(2); however, the EquiAlt Entities, through counsel, timely requested an administrative hearing on the C&D Orders pursuant to the Act (including section 604, MCL 451.2604) and the Michigan Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 *et seq.* (including section 71, MCL 24.271) (the “Hearing Request”).

5. The EquiAlt Entities are not registered in any capacity under the Act. See MCL 451.2401 through MCL 451.2404.

6. The Parties agreed to hold the Hearing Request in abeyance and began settlement negotiations.

7. On February 14, 2020, the United States District Court for the Middle District of Florida entered an order appointing a Receiver over the EquiAlt Entities. The Receiver is authorized to defend and/or settle legal actions in which the EquiAlt Entities are a party.

9. The Parties have continued to negotiate a potential resolution and discussed outstanding issues to ensure that the terms of this Consent Order are consistent with applicable law and procedures.

10. The EquiAlt Entities were represented by, and had the advice of, legal counsel throughout the process of resolving the C&D Orders through this Consent Order.

B. AGREEMENT

The Parties agree to resolve the C&D Orders pursuant to the following terms and conditions:

1. The EquiAlt Entities agree to permanently cease and desist all new and renewal offers and sales of debenture securities to Michigan residents.

2. The EquiAlt Entities agree to permanently cease and desist offering or selling any securities in Michigan.

3. All claims of Michigan residents holding any EquiAlt Entity investments (“Michigan Claimants”) are subject to the resolution process in the EquiAlt Receivership. This Paragraph (B.3) is not intended to and legally cannot waive, limit, or otherwise alter any rights of Michigan Claimants to pursue rescission and repayment through the EquiAlt Receivership or under other applicable law.

4. The Department will impose no civil fines against the EquiAlt Entities as part of this Consent Order in an effort to maximize recoveries by Michigan and other consumer investors.

5. The Department will report and publish this Consent Order according to its current policy, as follows:

This Consent Order is a public record required to be published and made available to the public, consistent with section 11 of the Michigan Freedom of Information Act, MCL 15.241. The Department will publish this Consent Order consistent with its current policy, whereby copies of orders issued under the Act are posted to the Department’s website and a summary of order content is included in monthly disciplinary action reports separately published on the Department’s website.

6. Notwithstanding the potential application of MCL 451.2412(9), this Consent Order expressly preserves the Department’s and Administrator’s ability to rely on and assert, in any future proceeding under the Act, all activities, conduct, and alleged Act violations by the EquiAlt Entities contained in or relating to the C&D Orders.

7. The EquiAlt Entities neither admit nor deny any allegations in the C&D Orders or any wrongdoing in connection with this matter, and consent to entry of this Consent Order only for the purpose of resolving the C&D Orders in an expeditious

fashion that avoids the time and expense associated with an administrative proceeding on the Hearing Request and any appeals therefrom. The Parties agree that this Consent Order is automatically admissible in a proceeding to enforce its provisions or in any administrative proceeding under the Act.

As part of this Consent Order, and for purposes of the above statement that the EquiAlt Entities “neither admit nor deny any allegations in the C&D Orders or any wrongdoing in connection with this matter,” the EquiAlt Entities agree that they:

- (a) Will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the Consent Order or creating the impression that the Consent Order is without factual basis; and
- (b) Will not make or permit to be made any public statement to the effect that the EquiAlt Entities do not admit the allegations of the Consent Order, or that this Consent Order contains no admission of the allegations, without also stating that Respondents do not deny the allegations.

If the EquiAlt Entities breach the agreement in this immediate paragraph, the Administrator may vacate this Consent Order and restore the administrative proceeding under the C&D Orders.

Nothing in this Paragraph B.7 affects the EquiAlt Entities’: (a) testimonial obligations; or (b) right to take differing legal or factual positions in litigation or other legal proceedings. Moreover, nothing in this Consent Order shall be, or deemed to be, an admission or a declaration against interest by the EquiAlt Entities or used in any way by the EquiAlt Entities or any party to their cases in the

EquiAlt Receivership to prejudice any rights or claims made by any party in these cases.

8. This Consent Order is not intended by the Department or the Administrator to subject, Burton Wiand, Esq., or any of his officers, employees, service providers, or agents, to any disqualifications under the laws of the United States, any state, the District of Columbia, or Puerto Rico, including, without limitation, any disqualifications from current or future reliance upon applicable state or federal registration exemptions or safe harbor provisions, including but not limited to 17 CFR §§ 230.506(d)(1) or 230.262(a). The application of this Paragraph (B.8) is limited solely to this Consent Order and the conduct resolved in connection therewith, and it does not otherwise limit or affect application of the referenced laws and rules in any other respect.

9. The EquiAlt Entities agree that, effective upon entry of this Consent Order, their Hearing Request is automatically revoked without further action by the Parties.

10. The EquiAlt Entities agree to cooperate with the Department and comply with any reasonable investigative demands made by the Department in the future for purposes of ensuring compliance with this Consent Order or the Act.

11. The EquiAlt Entities acknowledge and agree that: (a) the Administrator has jurisdiction and authority to enter this Consent Order; (b) the Administrator may enter this Consent Order without any further notice to the EquiAlt Entities; and (c) upon entry of this Consent Order, it is final and binding, and the EquiAlt Entities

waive any right to a hearing or appeal of this Consent Order and the C&D Orders under the Act, the rules promulgated under the Act or the predecessor Act, and the Michigan Administrative Procedures Act of 1969,.

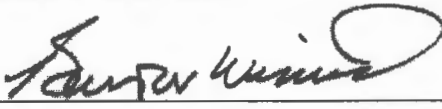
12. The Parties acknowledge and agree that the Administrator retains the right to pursue any action or proceeding permitted by law to enforce the provisions of this Consent Order.

13. The Parties agree that facsimile or electronically-transmitted signatures may be submitted in connection with this Consent Order and are binding on that Party to the same extent as an original signature.

[This space left intentionally blank; Signature Page and Order follow]

Through their signatures, the Parties agree to the above terms and conditions.

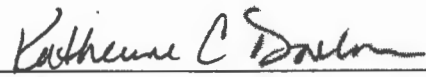
EQUIALT, LLC
EQUIALT FUND, LLC

By: 
Burton Wiand, Esq.

Dated: 3/3/2020

Title: Receiver

Acknowledged and Reviewed by:

Signed: 
Katherine Donlon
Attorney for the EquiAlt Entities

Dated: 3/3/2020

Approved by:

Signed: _____
Timothy L. Teague
Securities & Audit Division Director
Corporations, Securities & Commercial
Licensing Bureau

Dated: _____

Through their signatures, the Parties agree to the above terms and conditions.

EQUIALT, LLC
EQUIALT FUND, LLC

By: _____
Burton Wiand, Esq.

Dated: _____

Title: Receiver

Acknowledged and Reviewed by:

Signed: _____
Katherine Donlon
Attorney for the EquiAlt Entities

Dated: _____

Approved by:

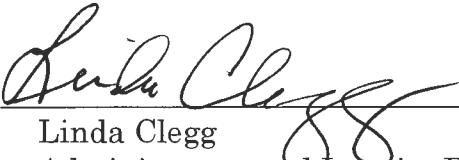
Signed: Timothy L. Teague
Timothy L. Teague
Securities & Audit Division Director
Corporations, Securities & Commercial
Licensing Bureau

Dated: 3-12-20

C. ORDER

The Administrator NOW, THEREFORE, ORDERS:

THE TERMS AND CONDITIONS IN THE FOREGOING FULLY EXECUTED
CONSENT AGREEMENT ARE INCORPORATED BY REFERENCE AND MADE
BINDING AND EFFECTIVE THROUGH THIS CONSENT ORDER.

By:  _____

Linda Clegg
Administrator and Interim Director
Corporations, Securities & Commercial Licensing Bureau

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU

In the Matter of:

Complaint No. 342150

EQUIALT FUND, LLC
Unregistered

Respondent.

Issued and entered
This 9th day of January, 2020

NOTICE AND ORDER TO CEASE AND DESIST

Linda Clegg, the Interim Director (“Administrator”) of the Corporations, Securities & Commercial Licensing Bureau (the “Bureau”), pursuant to her statutory authority and responsibility to administer and enforce the Michigan Uniform Securities Act (2002), 2008 PA 551, as amended, MCL 451.2101 *et seq.* (“Securities Act”), hereby orders Equialt Fund, LLC (“Respondent”) to cease and desist from offering or selling unregistered securities, contrary to the Securities Act. Respondent is notified of the opportunity to request a hearing in this matter.

I. BACKGROUND

A. The Respondent

1. Equialt, LLC was organized in Nevada in or around May 2011. Respondent is not registered in any capacity under the Securities Act, nor has it registered any securities offerings under the Securities Act.

B. Findings of Fact

1. The Bureau investigated Respondent’s activities in the securities industry in Michigan.
2. The investigation developed evidence that Respondent, through its affiliated entity manager, Equialt, LLC, offered or sold debenture securities to an investor in Michigan, and used Equialt, LLC’s publicly available internet site in connection with advertising the offer of the securities.

3. The securities offered or sold in Michigan were not registered pursuant to the Securities Act, nor has Respondent identified any applicable¹ exemption, exception, preemption, or exclusion from the Securities Act.

II. RELEVANT STATUTORY PROVISIONS

1. Section 102c(c) of the Securities Act, MCL 451.2102c(c), defines “Security”, in part, as:

a note; stock; treasury stock; security future; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit-sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in oil, gas, or other mineral rights; put, call, straddle, option, or privilege on a security, certificate of deposit, or group or index of securities, including an interest in or based on the value of that put, call, straddle, option, or privilege on that security, certificate of deposit, or group or index of securities, put, call, straddle, option, or privilege entered into on a national securities exchange relating to foreign currency, an investment in a viatical or life settlement agreement; or, in general, an interest or instrument commonly known as a “security”; or a certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing...

2. Section 301 of the Securities Act, MCL 451.2301, states:

A person shall not offer or sell a security in this state unless 1 or more of the following are met:

- (a) The security is a federal covered security.
- (b) The security, transaction, or offer is exempted from registration under sections 201 to 203.
- (c) The security is registered under this act.

¹ Respondent claimed reliance on 17 CFR 230.506(b) (“Rule 506(b)”), a federal exemption from registration under the Securities Act of 1933 which would, if applicable, make the securities federal covered securities, preempting state securities registration requirements and bringing the offers or sales of securities in compliance with MCL 451.2301(a). Rule 506(b) prohibits the use of general solicitation or general advertising by an issuer in connection with the offer or sale of securities exempt under it; a generally available website which advertises a securities offering constitutes a general solicitation. In this instance, Equialt, LLC’s website advertised securities offerings by it and its affiliates, which constituted a general solicitation, precluding Respondent from relying on Rule 506(b) to comply with MCL 451.2301. Respondent has not identified another relevant exemption, exception, preemption, or exclusion justifying the failure to register the securities.

3. Section 503(1) of the Securities Act, MCL 451.2503(1), states:

In a civil action or administrative proceeding under this act, a person claiming an exemption, exception, preemption, or exclusion has the burden to prove the applicability of the exemption, exception, preemption, or exclusions.

III. CONCLUSIONS OF LAW

1. Respondent, Equialt Fund, LLC, offered or sold securities in Michigan, and has not identified a relevant exemption, exception, preemption, or exclusion from Securities Act registration requirements, contrary to section 301 of the Securities Act, MCL 451.2301.

IV. ORDER

IT IS THEREFORE ORDERED, pursuant to section 604 of the Securities Act, MCL 451.2604, that:

- A. Respondent shall immediately CEASE AND DESIST from continuing to offer or sell unregistered, non-exempt securities, contrary to the Securities Act.
- B. Pursuant to section 604(2) of the Securities Act, this Notice and Order to Cease and Desist is IMMEDIATELY EFFECTIVE.
- C. In her Final Order, the Administrator, under section 604(4) of the Securities Act, MCL 451.2604(4), intends to impose civil fines of \$10,000.00 against Respondent.
- D. Pursuant to section 508 of the Securities Act, MCL 451.2508, a person that willfully violates the Securities Act, or an order issued under the Securities Act, is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$500,000.00 for each violation, or both. An individual convicted of violating a rule or order under this act may be fined, but shall not be imprisoned, if the individual did not have knowledge of the rule or order.
- E. The Administrator retains the right to pursue further administrative action against Respondent under the Securities Act if the Administrator determines that such action is necessary and appropriate in the public interest, for the protection of investors and is authorized by the Securities Act.

V. NOTICE OF OPPORTUNITY FOR HEARING

Section 604 of the Securities Act, MCL 451.2604, provides that Respondent has 30 days beginning with the first day after the date of service of this Notice and Order to Cease

and Desist to submit a written request to the Administrator asking that this matter be scheduled for a hearing. If the Administrator receives a written request in a timely manner, the Administrator shall schedule a hearing within 15 days after receipt of the request. The written request for a hearing must be addressed to:

Corporations, Securities & Commercial Licensing Bureau
Regulatory Compliance Division
P.O. Box 30018
Lansing, MI 48909

VI. ORDER FINAL ABSENT HEARING REQUEST

- A. Under section 604 of the Securities Act, MCL 451.2604, the Respondent's failure to submit a written request for a hearing to the Administrator within 30 days after the service date of this **NOTICE AND ORDER TO CEASE AND DESIST** shall result in this order becoming a **FINAL ORDER** by operation of law. The **FINAL ORDER** includes the imposition of the fines cited described in section IV.C., and the fine amounts set forth below will become due and payable to the Administrator within sixty (60) days after the date this order becomes final:

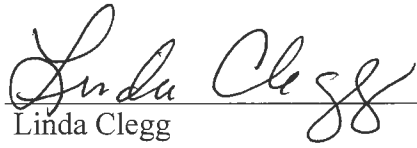
\$10,000.00 – Equialt Fund, LLC, under section 604 of the Securities Act, MCL 451.2604.

- B. CIVIL FINE payments should be payable to the STATE OF MICHIGAN and contain identifying information (e.g., names and complaint numbers) and mailed to the following address:

Corporations, Securities & Commercial Licensing Bureau
Final Order Monitoring
P.O. Box 30018
Lansing, MI 48909

- C. Failure to comply with the terms of this Order within the time frames specified may result in additional administrative penalties, including the summary suspension or continued suspension of all registrations held by Respondent under the Securities Act, the denial of any registration renewal, and/or the denial of any future applications for registration, until full compliance is made. Respondent may voluntarily surrender or withdraw a registration under the Securities Act; however, the surrender or withdrawal will not negate the summary suspension or continued suspension of the relevant registrations or any additional administrative proceedings if a violation of this Order or the Securities Act occurred.
- D. Failure to pay the civil fines within six (6) months after this Order becomes final may result in the referral of the civil fines to the Michigan Department of Treasury for collection action against Respondent.

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
CORPORATIONS, SECURITIES & COMMERCIAL LICENSING BUREAU



Linda Clegg
Interim Director, Corporations, Securities &
Commercial Licensing Bureau

1-9-2020
Date