

BANKING & FINANCIAL SERVICES

Investors in alleged \$170 million Tampa-based Ponzi scheme file class action lawsuit seeking \$5 million 🔑



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Some of the largest investors in an alleged \$170 million real estate Ponzi scheme have filed a class action lawsuit against Tampa's EquiAlt LLC and its leadership, claiming that their funds were in the red by \$82 million.

In a federal lawsuit filed Wednesday, the investors demand \$5 million and a jury trial and allege that EquiAlt, CEO Brian Davison and managing director Barry Rybicki "scammed more than 1,100 mostly senior citizens from across the country of much of their life savings."

The legal filings contain new information on EquiAlt's financials, including an exhibit from the U.S. Securities and Exchange Commission that says that EquiAlt's revenues "would need to increase over threefold in one year to cover the anticipated deficit in 2020." That same exhibit shows that the funds were facing an insolvency of \$82 million.

Davison was not immediately available for comment Thursday.

The lawsuit alleges that Davison, Rybicki and EquiAlt Chief Investment Officer Tony James Michael Kelly "knew that they were running a Ponzi scheme," citing a spreadsheet Kelly prepared that shows \$360,000 in total monthly revenue at a time when the fund had raised \$104 million in investor money.

When Kelly prepared that spreadsheet, annual revenue was about \$4.32 million against \$104 million of investor funds – representing a gross return of 4.1 percent, while investors were promised 8 percent net of operating revenues and commissions, the lawsuit claims.

"At that point in time, Kelly and Davidson knew that there was not enough income to pay investors, meaning the only way they could pay investors was by raising new money from new investors," the lawsuit alleges.

"I've worked on a lot of these cases, and the math doesn't lie," [Jeffrey Sonn](#), a South Florida attorney representing some of the investors, told the Tampa Bay Business Journal. "It doesn't take long for a Ponzi scheme to burn out like this, because you can't bring in money fast enough."

The investors allege that EquiAlt claimed its debentures were exempt from registration with the SEC, but they were non-exempt – meaning the sale of those unregistered securities violated state and federal laws.

"We look forward to coordinating our efforts with the receiver that was appointed by the SEC, as our team has been doing for the past two years with the receiver in the 1st Global fraud case," [Adam Moskowitz](#), lead counsel on the class action lawsuit, said in a statement, "where we have already recovered millions of dollars in damages for thousands of investors around the country."

Rybicki and Kelly could not be reached for comment.