

Miami Attorneys File Class Action in \$170M EquiAlt Ponzi That Targeted Elderly

By [Lidia Dinkova](#)

The lawsuit lists many of the same allegations filed in a Securities and Exchange Commission civil complaint and goes on to accuse sales agents of aiding and abetting the alleged fraud.

An Arizona couple say they were duped into investing \$75,000 in a Tampa company that turned out to be a Ponzi scheme whose ringleaders siphoned off money for lavish expenses and broke their contract promises.

Steven and Tracey Rubinstein are two of seven plaintiffs in a class action filed against EquiAlt LLC, CEO Brian Davison, managing director Barry Rybicki and chief investment officer Tony Kelly in Tampa federal court.

They also sued four companies and their principals, accusing them of selling EquiAlt securities by promising their real estate investments were a safe opportunity while operating as a fraud.

Attorneys [Adam Moskowitz](#) of [The Moskowitz Law Firm](#) in Coral Gables, Jeffrey Sonn of Sonn Law Group in Aventura and Phoenix attorney Andrew Friedman, shareholder at Bonnett, Fairbourn, Friedman & Balint, filed the complaint Feb. 26. They are asking for the return of the investors' principal and interest as well as actual and punitive damages.

The lawsuit followed a Securities and Exchange Commission civil complaint naming EquiAlt, Davison, Rybicki and numerous affiliates over the same allegations. Most investors are from Florida, Arizona and California.

In eight years, EquiAlt collected \$170 million from 1,100 investors, many of them elderly who put in their retirement savings, the SEC charged. The company promised 90% would go for residential real estate investments but less than half was spent on purchases.

Davison and Rybicki are accused of taking out \$11 million in 2017 and 2018 plus more last year. The defendants said the money was used to repay loans, but Davison spent \$2.7 million on high-end cars, watches and charter jet flights, according to the class action. He took another \$1.8 million to pay personal federal income taxes.

Attorneys for EquiAlt, Davison and Rybicki in the SEC case didn't return request for comment by deadline. Michael Kelly, the EquiAlt investment officer, declined comment.

Trenam shareholders Charles Harris and Gerald Davis in St. Petersburg are representing EquiAlt and along with Shutts & Bowen partner Lonnie Simpson in Tampa are representing Davison. Sidley Austin partners David Rody in New York and Stephen Cohen in Washington, D.C., and Brinkley Morgan partner Mark Levy in Fort Lauderdale represent Rybicki.

The class action also names sales agents as defendants. Among them are Arizona-based Family Tree Estate Planning LLC, principal Jason Wootten and certified estate planning consultant Tim LaDuca.

The company wouldn't have sold EquiAlt investments if it knew there was any sort of fraud, but it had no idea of any wrongdoing, Wootten said.

"We at Family Tree Planning were as shocked as anyone to learn of the action being taken by the SEC against EquiAlt. We had no knowledge of any wrongdoing by Mr. Davison and Mr. Rybicki," Wootten said in an email. "Obviously, we would not have allowed our family, friends and clients to invest in this company if we knew of any wrongdoing."

Burton Wiand, a Tampa attorney at Wiand Guerra King ,is serving as EquiAlt's receiver in the SEC case. Until that case progresses, the class action will be stayed.

Typically in these types of cases, Moskowitz said liability may extend to accountants, banks and law firms that did business with the company.

"We definitely will be amending our complaint over time as we continue our investigation over time as to exactly what happened, who knew what was happening and who helped participate in these activities," he said.

The suit says DLA Piper produced offering materials for EquiAlt and scrubbed references to the work from its website. A Google search shows links about the law firm's EquiAlt work on an opportunity zone fund, but the pages are dead.

DLA Piper, which isn't a defendant, didn't respond to a request for comment by deadline.

Sales Agents

Family Tree introduced the Rubinsteins to EquiAlt with LaDuca telling them Wootten's mother invested, according to the suit.

Steven Rubinstein, a retired physical education teacher, and his wife had been looking for a retirement income.

The suit claims either Family Tree or Wootten also introduced Arizona plaintiffs Cary Toone and Harold Hammon to EquiAlt. Toone bought a \$90,000 debenture from two EquiAlt funds for his individual retirement account, and Hammon bought over \$955,000 in debentures individually and through his IRA.

Other sales-related defendants are Ronald Stevenson, his Arizona-based American Financial Security LLC and American Financial Investments LLC, Robert Joseph Armijo and his California-based Joseph Financial Investment Advisors LLC.

Stevenson is accused of persuading plaintiffs Ronald Webb to invest \$889,600 and Judith Tuggle to put in \$70,000. Armijo is accused of presenting the opportunity to Georgia Murphy, who made a \$250,000 investment.

The investors were told they were making three- to four-year commitments earning 8-10% annual interest.

The suit accuses the sales agents of illegally acting as EquiAlt broker-dealers selling unregistered securities and aiding and abetting a breach of fiduciary duty.

Stevenson and his companies raised \$15.18 million and received \$1.5 million based on 10% commissions. This is “much higher than industry averages for the sale of investments and a red flag for any investment adviser,” the suit said.

The suit lists counts against the defendants under Arizona and California securities laws, negligent misrepresentation, breach of fiduciary duties and sale of unregistered securities.

Marketing materials promised the real estate was immune to market conditions. EquiAlt, which created four funds for real estate acquisitions, bought properties but didn't generate enough to pay back investors, resorting to the Ponzi. Holdings amount to \$55.3 million, according to the suit.

One of the properties paid with investor money is a \$2.7 million Manhattan condo that Davison stayed in, but it never generated income for investors, the lawsuits claim.

U.S. District Judge Mary Scriven, who presides over the SEC case in Tampa, issued a temporary restraining order against EquiAlt and froze its assets.