

1 Alise Johnson, Esq.  
2 Email: [johnsonali@sec.gov](mailto:johnsonali@sec.gov)  
3 Attorney for Plaintiff  
4 Securities and Exchange Commission  
5 801 Brickell Avenue, Suite 1950  
6 Miami, FL 33131  
7 Telephone: (305) 982-6300  
8 Florida Bar No. 0003270

8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10 SECURITIES AND EXCHANGE  
11 COMMISSION,

12 Plaintiff,

13 v.

14 ROBERT JOSEPH ARMIJO AND  
15 JOSEPH FINANCIAL, INC.,

16 Defendants.

Case No.: '21CV1107 TWR RBB

**COMPLAINT FOR INJUNCTIVE  
AND OTHER RELIEF AND  
DEMAND FOR JURY TRIAL**

17  
18 Plaintiff Securities and Exchange Commission (“Commission”) alleges:

19 **INTRODUCTION**

20 1. From approximately February 2016 through February 2020, Defendants  
21 Robert Joseph Armijo (“Armijo”) and his company Joseph Financial, Inc. (“Joseph  
22 Financial”) acted as unregistered brokers on behalf of investment funds (“EquiAlt  
23 Funds”) managed by EquiAlt, LLC (“EquiAlt”). They raised at least \$4.85 million from  
24 the unregistered offer and sale of securities of the EquiAlt Funds to more than 50 retail  
25 investors located in Arizona, California, Texas, and Oregon. From these sales, the  
26 Defendants received approximately \$1.1 million in transaction-based sales commissions.

27 2. At all relevant times, the Defendants were not registered as broker-dealers  
28 with the Commission or associated with a registered broker-dealer. EquiAlt’s securities

1 offerings were not registered with the Commission and there was no applicable  
2 exemption from registration for these offerings.

3 3. By engaging in this conduct, the Defendants each violated Sections 5(a) and  
4 5(c) of the Securities Act of 1933 (“Securities Act”), [15 U.S.C. §§ 77e(a) and 77e(c)],  
5 and Section 15(a)(1) of the Securities Exchange Act of 1934 (“Exchange Act”), [15  
6 U.S.C. § 78o(a)(1)]. Unless enjoined, the Defendants are reasonably likely to continue to  
7 violate the federal securities laws. The Commission also seeks against all Defendants  
8 disgorgement of ill-gotten gains along with prejudgment interest thereon, and civil money  
9 penalties.

### 10 DEFENDANTS

11 4. **Robert Joseph Armijo**, 40, is a resident of La Mesa, California. During the  
12 relevant period, Armijo operated and controlled Joseph Financial. Armijo is not currently  
13 registered with the Commission or the Financial Industry Regulatory Authority  
14 (“FINRA”), nor was he during the time period relevant to the allegations contained  
15 herein.

16 5. **Joseph Financial, Inc.** is a California corporation located in San Diego,  
17 California. During the relevant period, Armijo owned and controlled Joseph Financial,  
18 and treated it as his alter ego. Joseph Financial has never been registered with the  
19 Commission or FINRA.

### 20 JURISDICTION

21 6. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d)  
22 and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d) and 77v(a)]; and Sections  
23 21(d), 21(e) and 27(a) of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78aa(a)].

24 7. This Court has personal jurisdiction over the Defendants and venue is proper  
25 in the Southern District of California because Defendants transacted business in this  
26 District relating to the sale of the EquiAlt Funds.

27 8. In connection with the conduct alleged in this Complaint, the Defendants,  
28 directly and indirectly, singly or in concert with others, made use of the means or

1 instrumentalities of interstate commerce, the means or instruments of transportation or  
2 communication in interstate commerce, and of the mails.

3 **FACTUAL ALLEGATIONS**

4 9. From at least 2016 through February 11, 2020 (when the Commission filed  
5 an emergency action against EquiAlt and others), EquiAlt orchestrated a massive Ponzi  
6 scheme relating to its management of the EquiAlt Funds. The scheme involved at least  
7 1,100 investors who invested approximately \$170 million in the EquiAlt Funds.

8 **A. The EquiAlt Ponzi Scheme and Other Fraudulent Conduct**

9 10. At all relevant times, Brian Davison controlled EquiAlt, whose primary  
10 business purpose was the management of the EquiAlt Funds. Davison, along with  
11 EquiAlt's Vice President Barry Rybicki, told investors that the EquiAlt Funds would use  
12 their money to purchase real estate in distressed markets throughout the United States and  
13 that these real estate investments would generate revenues sufficient to pay investors  
14 interest rates of 8% to 10% per annum on their investments. The EquiAlt Funds,  
15 however, were unprofitable almost from inception.

16 11. Without sufficient revenues to pay the money owed to investors, EquiAlt  
17 soon resorted to fraud, using new investor money to pay the interest promised to existing  
18 investors in a Ponzi like scheme. EquiAlt perpetuated this fraud for several years until  
19 the Commission filed its emergency action in February 2020 and the Court entered a  
20 temporary restraining order, an asset freeze, and appointed a receiver over the EquiAlt  
21 Funds.

22 12. In furtherance of this fraudulent scheme, EquiAlt, Rybicki, and Davison also  
23 made numerous material misrepresentations and omissions to investors in connection  
24 with the offer and sale of investments in the EquiAlt Funds.

25 **B. EquiAlt Made Material Misrepresentations to Investors**

26 13. EquiAlt, through a network of unregistered sale agents including the  
27 Defendants in this action, sold investors 3-year or 4-year term debentures issued by the  
28 EquiAlt Funds providing a fixed annual return of 8% to 10%. Many of the investors

1 were elderly, retired, and used their IRAs to invest in the EquiAlt Funds. Moreover,  
2 many of the investors were unaccredited or unsophisticated in that they lacked knowledge  
3 or expertise in financial matters, were not capable of evaluating the merits or risks of the  
4 investment, and were not otherwise capable of bearing the economic risks of the  
5 investment. Many of the investors in this Ponzi scheme were attracted to investments in  
6 the EquiAlt Funds by representations that the investments were secure, low risk, and  
7 conservative.

8       14. In addition to the misrepresentations about the safety and security of  
9 investing in the EquiAlt Funds, EquiAlt made numerous other misrepresentations and  
10 omissions concerning the use of investor proceeds, registration with the Commission,  
11 compliance with applicable laws, and management of the EquiAlt Funds. In particular,  
12 EquiAlt misrepresented, or failed to disclose adequately to investors, that their  
13 investment proceeds were being used to pay substantial commissions to unregistered  
14 sales agents. Moreover, investors were told that 90% of their funds would be used to  
15 invest “in property.” Yet, less than 50% of investor funds were actually used for that  
16 purpose. In fact, most of the remaining funds were used for improper purposes such as  
17 the payment of millions of dollars in undisclosed fees and bonuses to EquiAlt, Davison  
18 and Rybicki.

19       **C. Defendants Offered and Sold EquiAlt Securities**

20       15. Over a period of several years, EquiAlt recruited a network of unregistered  
21 sales agents throughout the United States to sell the fixed rate debentures issued by the  
22 EquiAlt Funds. EquiAlt paid these unregistered sales agents, including the Defendants,  
23 commissions ranging from 6-12% of the amount invested in the EquiAlt Funds.

24       16. EquiAlt’s debentures are securities within the meaning of Section 2(a)(1) of  
25 the Securities Act and Section 3(a)(10) of the Exchange Act which defines a “security” to  
26 include, among other things, “any note, . . . bond, [or] debenture.” Moreover, EquiAlt’s  
27 debentures fall under Section 2(a)(1) of the Securities Act and Section 3(a)(10) of the  
28 Exchange Act which define “security” to include, among other things, “investment

1 contracts.” In *SEC v. W.J. Howey Co.*, 328 U.S. 293, 298-99 (1946), the Supreme Court  
2 defined an investment contract as (1) an investment of money, (2) in a common  
3 enterprise, (3) with the expectation of profits produced solely by the efforts of others.  
4 EquiAlt’s investments clearly involve an “investment of money.” Here, the investors had  
5 no role in selecting or analyzing the underlying properties and the expected profitability  
6 of the investments was derived solely from the efforts of EquiAlt, Davison, and Rybicki.  
7 Once investors sent their money, they had no control over how EquiAlt would use it. As  
8 such, EquiAlt’s investments are securities within the meaning of Section 2(a)(1) of the  
9 Securities Act and Section 3(a)(10) of the Exchange Act.

10 17. Armijo first became involved with EquiAlt in 2013 when he and another  
11 California based sales agent, who was also acting as an unregistered broker, agreed to  
12 share commissions paid by EquiAlt in connection with the sale of EquiAlt Funds’  
13 securities. This commission sharing arrangement continued for several years until  
14 Armijo and this other sales agent terminated their business relationship in early 2016.

15 18. Shortly thereafter, Armijo contacted Rybicki to discuss the possibility of  
16 Armijo selling EquiAlt Funds’ securities on his own. Rybicki agreed to work directly  
17 with Armijo to market and sell EquiAlt Funds’ securities. Pursuant to their agreement,  
18 Armijo’s company, Joseph Financial, began receiving commissions of 10% for selling  
19 EquiAlt Funds’ securities. Armijo also received bonuses if his sales of EquiAlt Funds’  
20 securities exceeded a specific amount during a particular month. Armijo also received  
21 commissions of up to 6% when investors he had solicited renewed their investments in  
22 the EquiAlt Funds.

23 19. Between February 2016 through February 2020, Armijo regularly  
24 participated in multiple securities transactions involving the EquiAlt Funds at key points  
25 in the chain of distribution. More specifically, Armijo repeatedly solicited investors for  
26 EquiAlt’s Funds; communicated directly with investors about EquiAlt’s Funds; described  
27 the merits of the EquiAlt Funds’ securities to investors; reassured investors about the risk  
28

1 of investing in the Funds or of EquiAlt’s business model; and received transaction-based  
2 compensation.

3 20. In fact, after reviewing their assets and investment time horizon, Armijo  
4 described the merits of investing in the EquiAlt Funds to investors, frequently describing  
5 the investments as low-risk. In addition to describing the investment as low-risk, Armijo  
6 explained important facts concerning EquiAlt’s business model as well as other material  
7 aspects of the investment, such as the annual interest rate paid to investors and the  
8 investment options offered by the EquiAlt Funds (which included a monthly interest  
9 payment option or a growth option offering a higher return on investment). While acting  
10 as an unregistered broker, Armijo repeatedly recommended the EquiAlt Funds to his  
11 clients claiming that the investment supposedly offered liquidity in three years, provided  
12 monthly income, and involved a “debt-free real estate fund.”

13 21. In addition to recommending investments in the EquiAlt Funds, Armijo also  
14 assisted investors with most aspects of the securities sales transactions. Among other  
15 things, he provided offering documents and marketing materials prepared by EquiAlt to  
16 prospective investors and helped process the paperwork necessary to complete the  
17 investment such as the subscription agreements executed by investors. He also  
18 participated in joint telephone calls between prospective investors and representatives of  
19 EquiAlt concerning the investment opportunity and even attempted to negotiate higher  
20 interest rates from EquiAlt for his clients. Ultimately, Defendants raised about \$4.85  
21 million from the unregistered offer and sale of securities of the EquiAlt Funds to more  
22 than 50 retail investors. From these sales, the Defendants received approximately \$1.1  
23 million in transaction-based sales commissions.

24 22. Although EquiAlt purportedly offered its securities under Rule 506(b) of  
25 Regulation D, a “safe harbor” under Section 4(a)(2) of the Securities Act, the safe harbor  
26 did not apply because EquiAlt engaged in general solicitation or advertised to market the  
27 securities. Furthermore, EquiAlt did not provide an audited balance sheet or financial  
28 statements to the unaccredited EquiAlt investors, and the information provided was false

1 and misleading. Consequently, the Defendants engaged in unregistered securities  
2 transactions for which an exemption from registration did not apply.

3 23. Moreover, when the Defendants sold the EquiAlt Funds' securities they held  
4 no securities licenses, were not registered with the Commission as broker-dealers, and  
5 were not associated with a registered broker-dealer.

6 **CLAIMS FOR RELIEF**

7 **COUNT I**

8 **Violations of Sections 5(a) and 5(c) of the Securities Act**

9 24. The Commission repeats and realleges paragraphs 1 through 23 of this  
10 Complaint as if fully set forth herein.

11 25. No registration statement was filed or in effect with the Commission  
12 pursuant to the Securities Act with respect to the securities offered and sold by the  
13 Defendants as described in this Complaint and no exemption from registration existed  
14 with respect to these securities.

15 26. From approximately 2016 and continuing through approximately February  
16 2020, the Defendants directly and indirectly:

- 17 (a) made use of any means or instruments of transportation or  
18 communication in interstate commerce or of the mails to sell  
19 securities, through the use or medium of a prospectus or otherwise;  
20 (b) carried or caused to be carried securities through the mails or in  
21 interstate commerce, by any means or instruments of transportation,  
22 for the purpose of sale or delivery after sale; or  
23 (c) made use of any means or instruments of transportation or  
24 communication in interstate commerce or of the mails to offer to sell  
25 or offer to buy through the use or medium of any prospectus or  
26 otherwise any security;

27 without a registration statement having been filed or being in effect with the Commission  
28 as to such securities.

1 27. By reason of the foregoing the Defendants violated and, unless enjoined, are  
2 reasonably likely to continue to violate Sections 5(a) and 5(c) of the Securities Act [15  
3 U.S.C. §§ 77e(a) and 77e(c)].

4 **COUNT II**

5 **Violations of Section 15(a)(1) of the Exchange Act**

6 28. The Commission repeats and realleges Paragraphs 1 through 23 of this  
7 Complaint as if fully set forth herein.

8 29. From approximately 2016 and continuing through approximately February  
9 2020, the Defendants, directly or indirectly, by the use of the mails or any means or  
10 instrumentality of interstate commerce effected transactions in, or induced or attempted  
11 to induce the purchase or sale of securities, while they were not registered with the  
12 Commission as a broker or dealer or when they were not associated with an entity  
13 registered with the Commission as a broker-dealer.

14 30. By reason of the foregoing, the Defendants, directly or indirectly, violated  
15 and, unless enjoined, are reasonably likely to continue to violate Section 15(a)(1) of the  
16 Exchange Act [15 U.S.C. § 78o(a)(1)].

17 **RELIEF REQUESTED**

18 **WHEREFORE**, the Commission respectfully requests the Court find the  
19 Defendants committed the violations alleged, and:

20 **A.**

21 **Permanent Injunctive Relief**

22 Issue a Permanent Injunction enjoining the Defendants from violating Sections  
23 5(a) and 5(c) of the Securities Act and Section 15(a)(1) of the Exchange Act.

24 **B.**

25 **Disgorgement and Prejudgment Interest**

26 Issue an Order directing Defendants Armijo and Joseph Financial to disgorge on a  
27 joint and several basis all ill-gotten gains or proceeds received as a result of the acts  
28 and/or courses of conduct complained of herein, with prejudgment interest thereon.



1 C.

2 **Civil Money Penalties**

3 Issue an Order directing the Defendants Armijo and Joseph Financial to pay civil  
4 money penalties on a joint and several basis pursuant to Section 20(d) of the Securities  
5 Act and Section 21(d) of the Exchange Act.

6 D.

7 **Further Relief**

8 Funding such other and further relief as may be necessary and appropriate.

9 E.

10 **Retention of Jurisdiction**

11 Further, the Commission respectfully requests that the Court retain jurisdiction  
12 over this action in order to implement and carry out the terms of all orders and decrees  
13 that it may enter, or to entertain any suitable application or motion by the Commission for  
14 additional relief within the jurisdiction of this Court.

15  
16 **DEMAND FOR JURY TRIAL**

17 The Commission hereby demands a trial by jury in this case.

18  
19 Dated: June 14, 2021

20 Respectfully submitted,

21 s/ Alise Johnson

22 Alise Johnson

23 Attorney for Plaintiff

24 Securities and Exchange Commission

25 Email: [johnsonali@sec.gov](mailto:johnsonali@sec.gov)

26 801 Brickell Avenue, Suite 1950

27 Miami, FL 33131

28 Telephone: (305) 982-6300

Florida Bar No. 0003270