UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

U.S. SECURITIES AND EXCHANGE COMMISSION,	
Plaintiff,	**Civil Action No. 18-CV-5587**
v.	**Judge John Z. Lee**
EQUITYBUILD, INC., *et al.*,	**Magistrate Judge Young B. Kim**
Defendants.	

SEC'S RESPONSE TO MOTION TO STAY PROPERTY SALES PENDING APPEAL

The SEC hereby supports the Receiver's opposition (ECF No. 854) to Citibank and Fannie Mae's motion to stay the Receiver's property sales while they pursue an interlocutory appeal. (ECF No. 832). As the Receiver notes, the stay motion fails in the first instance, because the Seventh Circuit expressly holds that it lacks jurisdiction over interlocutory appeals of receivership property sales. *United States v. Antiques Ltd. P'ship*, 760 F.3d 668, 671 (7th Cir. 2014).

The motion also fails because the substance of the appeal is likewise devoid of merit. The lenders simply cannot show that the Court abused its discretion by authorizing property sales, at market prices, resulting from an open and competitive bidding process. While the market prices the Receiver obtained may have been lower than the prices Equitybuild paid for the properties, the Receiver notes that this resulted from the component of the Cohens' scheme whereby they purchased or refinanced the properties at overinflated values. (*See* ECF No. 790, pp. 5-6 ("the Cohens' scheme involved overinflated values of the various properties and promises of multiple first secured interests in the same property…there is also no surprise that the amounts generated from sales (based on actual market values) would not coalesce with the inflated figures and fabric of liens created by the Cohens.")).

Beyond being doomed by lack of merit and the absence of appellate jurisdiction, a stay should also be denied because consummating the property sales will not result in irreparable harm to the lenders. To that end, the sales proceeds will be segregated until the Court has resolved the competing claims of the lenders and investors. On the other hand, staying the sales would harm the Receiver and his creditors, by requiring substantial additional resources to maintain the properties and exposing the properties to significant risk of devaluation.

Finally, staying the property sales is not in the public interest. Rather, the public interest supports equity receivers being able to liquidate property pursuant to their reasonable business judgment and under the supervision of the district court. Staying the Receiver's property sales would thwart his Court-approved liquidation efforts and provide a roadmap for future litigants seeking to interfere with a receiver's work.

For these reasons, and those discussed in the Receiver's brief, the Court should deny the lenders' motion, and allow the Receiver's liquidation efforts to continue.

Dated: November 9, 2020

Respectfully submitted,

/s/ Benjamin Hanauer

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CERTIFICATE OF SERVICE

I hereby certify that I provided service of the foregoing Response, via ECF filing, to all counsel of record and Defendant Shaun Cohen, on November 9, 2020. I further certify that I caused the foregoing Response to be served on Defendant Jerome Cohen, via email at jerryc@reagan.com.

/s/ Benjamin Hanauer

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