

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,)	
)	
Plaintiff,)	Civil Action No. 18-cv-5587
)	
v.)	Judge John Z. Lee
)	
EQUITYBUILD, INC., EQUITYBUILD FINANCE, LLC, JEROME H. COHEN, and SHAUN D. COHEN,)	
)	
Defendants.)	

RECEIVER’S OPPOSITION TO INTERVENORS’ MOTION TO INTERVENE

Article VIII of the Order Appointing Receiver stays any and all actions against the Receivership Defendants. (Docket No. 16) The Intervenor¹ have moved to lift that stay in order to file state court actions to foreclose on certain non-receivership properties, which will require EquityBuild, Inc. and EquityBuild Finance, LLC (collectively, “EquityBuild”) to be named as necessary parties pursuant to the Illinois Mortgage Foreclosure Law. The Receiver worked in

¹ The intervenors have been identified to the Receiver as Equity Trust Company Custodian FBO Joseph Kennedy IRA, Alison Schankman, Horizon Trust Company, Custodian FBO Melvin Shurtz IRA Account #599991402, Horizon Trust Company, Custodian FBO Russell Shurtz IRA Account #599991402, Arthur L and Dinah Bertrand, Michael Alden Schankman, Edge Investments, LLC – Janet Turco, Alan Schankman, and PlanGroup Agent for Custodian FBO Jacqueline Rowe IRA, as mortgagees and “investor lenders” in connection with the real property and improvements located at 107-111 North Laramie Avenue, Chicago, IL 60644; Zin Investments, LLC, R.D. Meredith General Contractors, and Adam Epstein, as mortgagees and “investor lenders” in connection with the real property and improvements located at 7107-29 South Bennett Avenue, Chicago, IL 60649; RE Solutions MD Employee Profit Sharing Plan 401K, as mortgagee and investor-lender in connection with the real property and improvements located at 400-02 South Kilbourn Avenue, Chicago, IL 60624; and Dennis McCoy, as mortgagee and investor-lender in connection with the real property and improvements located at 5201-07 West Washington Boulevard, Chicago, IL 60644.

good faith, but without success, in an effort to negotiate a stipulation that would resolve the motion. Although the Intervenor has (1) agreed to forego the pursuit of a deficiency judgment against EquityBuild (as borrower) and (2) committed to not propounding any third-party discovery requests to the Receivership estate, they have not agreed to indemnify the Estate against any cost or expense that may be incurred as a result of naming EquityBuild in the foreclosure actions, including without limitation responding to third-party discovery propounded by the defendants in the foreclosure actions.

In addition to the financial costs that would be imposed on the Estate, an unconditional lifting of the stay may also end up diverting the attention, time, and resources of the Receiver from such critical activities as the disputed claims process, the single lien claims process, and the offensive claims of the Receiver. In short, the relief the Intervenor has requested may prejudice the Estate without providing any concomitant benefit.

Accordingly, the Receiver proposes a limited lifting of the stay in order to permit the Intervenor to name EquityBuild in the state court foreclosure actions, but to preclude the entry of a deficiency judgment against EquityBuild or the imposition of any discovery obligations upon the Estate unless the party propounding the discovery agrees to reimburse the Receiver for all cost and expense, including reasonable attorneys' fees, associated with responding to the requests.

Alternatively, the Receiver suggests a limited lifting of the stay solely for purposes of allowing the naming of EquityBuild in the aforementioned state court foreclosure actions, but leaving the stay in place for all other purposes including with respect to any response to the foreclosure complaint or any discovery by any person in connection with the foreclosure action. Should any person seek further leave of this Court to require EquityBuild or the Receiver to take or respond to any action in connection with the state court foreclosure proceedings, the

Court could at that time determine who should bear the fees and costs of EquityBuild and the Receiver.

Dated: November 22, 2021

Respectfully submitted,

Kevin B. Duff, Receiver

By: /s/ Michael Rachlis
Michael Rachlis
Jodi Rosen Wine
Rachlis Duff & Peel, LLC
542 South Dearborn Street, Suite 900
Chicago, IL 60605
Phone (312) 733-3950
mrachlis@rdaplawn.net
jwine@rdaplawn.net

CERTIFICATE OF SERVICE

I hereby certify that I provided service of the foregoing Receiver's Opposition to Intervenor's Motion to Intervene, via the Court's CM/ECF system, to all counsel of record on November 22, 2021.

/s/ Michael Rachlis

Michael Rachlis
Rachlis Duff & Peel, LLC
542 South Dearborn Street, Suite 900
Chicago, IL 60605
Phone (312) 733-3950
Fax (312) 733-3952
mrachlis@rdaplw.net