

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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UNITED STATES SECURITIES)		
AND EXCHANGE COMMISSION,)		
)		
Plaintiff,)	Civil Action No. 18-cv-5587	
)		
v.)	Hon. John Z. Lee	
)		
EQUITYBUILD, INC., EQUITYBUILD)	Mag. Judge Young B. Kim	
FINANCE, LLC, JEROME H. COHEN,)		
and SHAUN D. COHEN,)		
)		
Defendants.)		
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**RECEIVER’S MOTION FOR CLARIFICATION AND/OR PARTIAL
RELIEF FROM SECOND AMENDED GENERAL ORDER 20-0012
IN RE: CORONAVIRUS COVID-19 PUBLIC EMERGENCY**

As this Court is aware, immediately after the March 16, 2020 entry of the Amended General Order 20-0012 by the Chief Judge, the Honorable Rebecca Pallmeyer, which ordered that “in all civil cases, all deadlines, whether set by the court or by the Rules of Civil Procedure or Local Rules, are hereby extended 21 days from the current deadline set,” the Receiver filed his motion seeking relief from that order. (Docket No. 663) This Court granted the relief sought (Docket No. 665) and stated as follows:

MINUTE entry before the Honorable John Z. Lee: Receiver’s motion for partial relief from Amended General Order 20–0012 [663] is granted as follows: Any objections to Receiver’s motions 645 and 649 should be filed by 4/1/20, and replies to those objections should be filed no later than 4/15/20. Moreover, the Court anticipates resolving Receiver’s motion 618 within the next two weeks. (emphasis supplied)

On March 30, 2020, a Second Amended General Order 20-0012 was entered by the Chief Judge which provides, *inter alia*, as follows: “Amended General Order 20-0012 extended by 21

days all deadlines, in all civil cases and Executive Committee matters, whether set by the court, the Federal Rules of Civil Procedure, or the Local Rules. This Second Amended General Order extends all deadlines in civil cases and Executive Committee matters by an additional 28 days.”

As the Receiver’s earlier filed motion established, immediate relief was necessary and appropriate from the March 16, 2020 Amended General Order. Having granted relief from the Amended General Order, it appears that any extension of dates called for by the Second Amended General Order would not be applicable to those matters for which the Court has already granted relief. However, to avoid ambiguity and provide certainty, this motion for clarification is submitted as it remains imperative that the deadlines set by the Court be maintained as to all three motions set forth in Docket No. 665, which means that any opposition to the Single Family Residence Motion (Docket No, 645, the “SFR Motion”) and the Naples Property Motion (Docket No. 649, the “Naples Motion”) remain due on April 1, 2020 and a ruling on the Consolidated Motion (Docket No. 618) be issued consistent with the Court’s stated timeline. Such scheduling should not be an issue including but not limited to the fact that as to the SFR Motion, Midland is the servicer for 36 of the 37 properties at issue in the SFR Motion (*i.e.*, 97%), and Midland’s counsel has informed the Receiver that Midland has no objection to the SFR Motion. Further, as to the Naples Motion, which relates to the sale of the Naples residence, that too has been pending for some time, and if there is any objection, it will be addressed quickly by the Receiver which is imperative as a buyer remains waiting to close on this property, a closing that will provide needed capital to the Receivership.

Alternatively, to the extent it is necessary, the Receiver seeks partial relief from the Second Amended General Order for all of the reasons set forth in his March 17, 2020 motion seeking

partial relief from the Amended General Order, and requesting that the dates set forth by this Court in its order of March 18, 2020 (Docket No. 665) remain in place.

WHEREFORE, for each of these reasons, and those for which the Court can take judicial notice, the Receiver respectfully requests that the Court issue an order providing clarification that its order of March 18, 2020 which granted relief from the automatic extension occasioned by Amended General Order 20-0012 remains in effect, or alternatively that it will grant Receiver's request for immediate relief from the Second General Amended Order and enter an order as follows:

- (i) reinstate the briefing schedule set by this Court in its March 18, 2020 order (Docket No. 665) for the Naples Motion (**Docket No. 649**) so that objections are due on April 1, 2020, with replies due not later than April 15, 2020;
- (ii) reinstate the briefing schedule set by this Court in its March 18, 2020 order (Docket No. 665) for the SFR Motion (**Docket No. 645**) so that objections are due on April 1, 2020 and any replies to those objections filed not later than April 15, 2020;
- (iii) issue a ruling on the Receiver's fully-briefed Consolidated Motion (**Docket No. 618**) consistent with the Court's statements in Docket No. 665; and
- (iv) for such other relief as the Court deems equitable and just.

Dated: March 31, 2020

Kevin B. Duff, Receiver

By: /s/ Michael Rachlis

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