

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

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

ORDER REGARDING CLAIMS RESOLUTION PROCESS NO. 2

This cause coming to be heard on the Receiver’s Motion for Approval of Process for Resolution of Disputed Claims (Dkt. No. 638), and pursuant to the Court’s prior orders and oral rulings on July 15, 2020, August 13, 2020, September 23, 2020, October 27, 2020, December 17, 2020 and January 29, 2021;

IT IS HEREBY ORDERED:

1. All parties who have submitted Proofs of Claims in these proceedings are subject to the jurisdiction of the Court.
2. Actual and live controversies exist between claimants.
3. Through Proofs of Claims submitted in these proceedings, claims against properties in the receivership estate have been submitted by various parties in interest in this matter, as set forth in Exhibit A to Docket No. 911.

4. The Proofs of Claims effectively will serve as the pleadings, which the Receiver has identified as in conflict based on the Proofs of Claims and supporting documents.
5. All objections to the legality, validity, classification, amount, or priority of claims against the same property, and all other related issues which are subject to further review and discovery, will be decided in a single summary proceeding involving that property.
6. Resolution by Groups of Properties.
 - a. The Claims Process will focus on properties grouped together to allow for the resolution of a manageable number of claims in each proceeding. Each group of properties, referred to herein as a “Group,” will include all claimants who submitted Proofs of Claim with respect to one or more properties in the Group.
 - b. The Court has approved the Receiver’s proposed Groups, which are attached as Exhibit A. The first Group will consist of the properties numbered 74-78 (3074 Cheltenham Place, 7625-33 S East End Avenue, 7635-43 S East End Avenue, 7750-58 S Muskegon Avenue, and 7201 S Constance Avenue). A schedule for the remaining Groups will be put in place following the commencement of the first Group, subject to the Court’s approval.
7. Framing Report.
 - a. After the EquityBuild Documents and Proofs of Claims are made available to Claimants pursuant to the Court’s Order (Dkt. No. 940), and consistent with the schedule entered by the Court, the Receiver will file with the Court a Framing Report for the first Group. This and each subsequent Framing Report will identify the properties in the Group and all claimants who submitted Proofs of Claims with respect to any property in that Group. The Framing Reports will include for each claimant the total amount claimed and the amount claimed to have been loaned or invested in each property in the Group.
 - b. The Framing Reports will also include a proposed schedule for the summary proceedings for that Group (consistent with the process set forth below).
 - c. The Framing Reports will each include a service list containing the email contact information for each claimant in the Group (the “Email

Service List.”) and will provide a single email address (such as EBGroup1service@rdaplawn.net) for use for service purposes only that will automatically forward the service communication and attachments to everyone on the Email Service List.

- d. The Receiver will serve the Framing Report for each Group on all claimants included on the Email Service List for that Group.
8. Order commencing the summary proceeding for a given Group.
 - a. After the Framing Report is submitted, the Court will enter an order approving the Group and setting the schedule for the summary proceedings for the Group. Within two (2) business days of entry of the Order approving the Group, the Receiver will serve the order on all claimants included on the Email Service List for the Group.
9. Expedited discovery.
 - a. Within two (2) business days of entry of the Order approving the Group, the Receiver will also serve the approved standard discovery requests on all claimants included on the Email Service List for the Group.
 - i. All claimants will have 28 days to respond to the approved standard discovery requests in accordance with the instructions set forth in the requests.
 - b. Additional written discovery may not be served on a claimant before the earlier of the receipt of that claimant’s discovery responses or the expiration of the deadline for responding.
 - i. Limits: Additional written discovery shall be limited to 10 interrogatories and 10 requests for production per participant. Multiple discovery requests to a Claimant or group of commonly represented Claimants may be answered in a consolidated response, provided that the response makes clear the response of each Claimant.
 - ii. Such discovery is limited to any matter, not privileged, that is relevant to the claim or defense of any claimant.
 - iii. Additional written discovery must be served within 14 days after the deadline for responses to standard discovery.

- iv. Claimants will have 28 days to respond to additional discovery.
- v. If any participant believes more than 10 interrogatories or 10 requests for production are necessary, the party seeking the additional discovery shall propose such additional requests to the party from whom the information is sought. If that party does not agree to the requests within 3 business days of their proposal, then the parties shall meet-and-confer on the requests within 7 days of their proposal. If the issue is not resolved through that meet-and-confer, then the parties may file a joint status report seeking resolution of the discovery dispute or the party seeking the discovery can move the Court to authorize the additional discovery.

c. Availability of EquityBuild Documents

- i. The Court has approved the retention of CloudNine and Teamwerks to provide data acquisition, software, hosting, and other related services for the electronic documents found in the possession of EquityBuild.
- ii. Claimants may gain access to these documents in accordance with terms set forth in the Court's Order Relating to Electronic Discovery of EquityBuild Documents. (Dkt. No. 940)
- iii. Once the Receiver notifies the Claimants via email that the EquityBuild documents are available online, all Claimants will have access to the electronic documents only for a period of six months, regardless of the Group to which their claims are assigned. After the six-month period, access to the EquityBuild electronic documents will be terminated.

d. Depositions

- i. Each participant is limited to a total of no more than three depositions per property in the Group. If any participant believes additional depositions are needed, the procedure set forth in subsection 9(b)(v) shall apply.
- ii. Notice of all depositions shall be provided to everyone on the Email Service List and, to the extent possible, depositions

shall be scheduled for a time convenient for all parties wishing to attend.

- iii. All depositions shall be limited to 3 hours, and shall take place by telephone or video-conference, except by agreement or with leave of Court.

e. Third-party discovery

- i. Subpoenas to a title company and/or the originator of a loan (if different than the claimant) seeking documents and depositions relating to the properties in the Group may be issued without leave of court.
- ii. Any third-party depositions shall be limited to 3 hours, and shall take place by telephone or video-conference, except by agreement or with leave of Court.
- iii. No other third-party discovery may be issued without leave of court.

f. Deadline for completion of discovery

- i. Discovery to be completed within 120 days from the order commencing proceedings for the Group.

10. Expert Witnesses.

- a. Any party that wants to rely on expert testimony shall seek leave of court before the completion of discovery to include the expert disclosure in its position statement. A party may seek leave to include a rebuttal expert disclosure in its responsive statement as soon as practicable after leave for expert testimony is granted.

11. Receiver's Disclosure of Avoidance Claims

- a. Within 14 days of completion of all discovery (written and oral) for the Group, Receiver must disclose to all lienholders for a particular property if he seeks to avoid one or more liens against a property in the Group, and, if so, the factual basis of his avoidance theory. Contemporaneously, the Receiver shall identify with specificity the documents related to his claim and produce any such documents in his possession or control to which access has not already been provided to claimants.

- b. Within 7 days thereafter, any of the lienholders may request leave of Court to take additional discovery relevant to the Receiver's claim, and the Court will adjust the schedule as needed.

12. Position Statements By Claimants and SEC.

- a. Within 21 days after the deadline for the Receiver to disclose avoidance claims, the claimants and the SEC may submit written submissions and supporting evidence to the Court either in support of their claim or in opposition to any other claimants' claim.
- b. To the extent that an avoidance action is filed and additional discovery is sought, the time to file a Position Statement with respect to such avoidance action will be determined by the Court when ruling on the request to take additional discovery
- c. To streamline the proceedings and ensure consistency, the Receiver proposes to provide claimants with a standard form for their Position Statements which includes:
 - i. The case caption
 - ii. A title with the words "Position Statement" and the name of claimant.
 - iii. The Property or Properties to which each portion of the statement pertains
 - iv. A section to describe facts and evidence supporting claim. A claimant who is relying on documents or transcripts will attach the relevant pages to the Position statement.
 - v. A section for legal authority and argument.
- d. Where appropriate, a claimant's Position Statement may also include an opposition to the Receiver's avoidance claim and/or any basis for summary determination.
- e. All claimants shall serve their Position Statements via email on all claimants included on the Email Service List for the Group. All claimants with appearances on file shall file their Position Statement using the Court's ECF system. The Receiver will file any Position Statements not otherwise filed using the Court's ECF system (to the extent it is clearly labeled as a Position Statement) with the Court.

The Receiver may either redact any confidential information from a claimant's Position Statement before filing it in the public record, or return the Position Statement to claimant for redaction in accordance with the Court's order.

13. Receiver Submission.

- a. Within 21 days after the deadline for submissions by claimants and the SEC, the Receiver may file his recommendations regarding the claims and his submission in support of his avoidance actions. The Receiver does not represent any of the claimants and does not advocate on their behalf.
- b. The Receiver will serve his submission via email on all claimants included on the Email Service List for the Group.

14. Response from Parties to Position Papers.

- a. Within 14 days after the deadline for the Receiver's submission, the claimants and the SEC shall have the opportunity to file responses to all previous submissions regarding the Claims and the Receiver's avoidance actions ("Responsive Statements").
- b. Responsive Statements shall be filed and served in the same manner as the Position Statements as set forth in Section 7(d) above.

15. Hearing.

- a. Unless it determines that competing claims or avoidance claims may be summarily determined without a hearing consistent with due process, the Court will set a time for a hearing (notice of which will be provided), which, if necessary, will include the opportunity to present evidence to the extent material factual disputes exist in the manner that the Court deems necessary.

16. Ruling.

- a. The Court will issue a written ruling as to each Group. The ruling as to any particular Group of properties identified in any of the Receiver's Framing Reports will not have preclusive effect with respect to any property or claimant that is not the subject of the pending Framing Report.

17. Interim Distribution Plan

- a. Except to the extent addressed in the Court's ruling, within 42 days of the Court's ruling, the Receiver will submit an interim distribution plan to the Court based on such ruling, subject to a final plan of distribution.

18. Time Frames.

- a. Pursuant to separate order (Docket No. 931), the summary claims resolution process with respect to the first Group of properties is scheduled to begin on 5/4/21.
- b. The parties shall confer and attempt to propose to the Court a mutually acceptable plan to address the resolution of issues concerning properties against which only one Claimant has asserted a claim.
- c. The time frames set forth above are based on good faith estimates prior to the commencement of the proceedings. Such time frames may be adjusted by the Court upon good cause shown.

19. Receiver's Lien.

- a. Pursuant to separate order (Docket No. 931), a briefing schedule has been set in regards to a plan to resolve the priority of the Receiver's Lien.

Entered: 2/9/21



John Z. Lee
United State District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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

NOTICE OF FILING
OF RECEIVER’S PROPOSED GROUPING OF PROPERTIES

Kevin B. Duff, as receiver for the Estate of Defendants EquityBuild, Inc. and related entities (“Receiver”), hereby provides Notice of Filing of **Receiver’s Proposed Grouping of Properties**, attached hereto as Exhibit A.

Dated: February 5, 2021

Respectfully submitted,

Kevin B. Duff, Receiver

By: /s/ Michael Rachlis

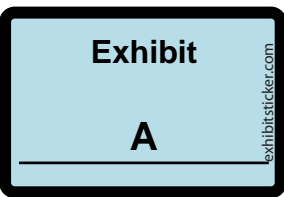
Michael Rachlis (mrachlis@rdaplawn.net)
Jodi Rosen Wine (jwine@rdaplawn.net)
Rachlis Duff & Peel, LLC
542 South Dearborn Street, Suite 900
Chicago, IL 60605
Phone (312) 733-3950; Fax (312) 733-3952

CERTIFICATE OF SERVICE

I hereby certify that I provided service of the Receiver's Notice of Filing of Receiver's Proposed Grouping of Properties (attached as Exhibit A), via ECF filing to all counsel of record on February 5, 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@rdaplaw.net



SEC v. EquityBuild, Inc., et al., Case No. 18 CV 5587
Receiver's Proposed Grouping of Properties for Claims Resolution Process

Group	Number of Claims	Number of Properties	Property Number	Property Addresses	Alternative Addresses	Institutional Lender(s)
1	175	5	74	3074 Cheltenham Place	7836 S Shore Drive	BC57, LLC
			75	7625-33 S East End Avenue		
			76	7635-43 S East End Avenue		
			77	7750-58 S Muskegon Avenue	2818-36 E 78th Street	
			78	7201 S Constance Avenue	1825-31 E 72nd Street	
2	299	5	1	1700-08 Juneway Terrace		Shatar Capital Inc. (4,5) Thorofare Asset Based Lending REIT Fund IV, LLC (1, 101) Direct Lending Partner LLC (79)
			4	5450-52 S Indiana Avenue	118-132 E Garfield	
			5	7749-59 S Yates Boulevard		
			79	6160-6212 S Martin Luther King Drive		
			101	6949-59 S Merrill Avenue		
3	194	11	10	7301-09 S Stewart Avenue		n/a
			11	7500-06 S Eggleston Avenue		
			12	3030-32 E 79th Street		
			13	2909-19 E 78th Street		
			14	7549-59 S Essex Avenue		
			15	8047-55 S Manistee Avenue		
			102	7927-29 S Essex Avenue		
			103	7933-35 S Essex Avenue		
			104	7937-39 S Essex Avenue		
			105	7943-45 S Essex Avenue		
			106	7947-49 S Essex Avenue		
4	385	12	6	6437-31 S Kenwood Avenue		n/a
			8	1414 & 1418 East 62nd Place		
			9	8100 S Essex Avenue		
			58	5955 S Sacramento Avenue	2948-56 W 60th Street	
			59	6001-05 S Sacramento Avenue	2945-51 W 60th Street	
			60	7026-42 S Cornell Avenue		
			61	7237-43 S Bennett Avenue		
			62	7834-44 S Ellis Avenue		
			71	701-13 S 5th Avenue, Maywood	414 Walnut	
			100	11117-11119 S Longwood Drive		
			116	1102 Bingham St, Houston TX 77007		
5	262	10	3	5001 S Drexel Boulevard	909 E 50th Street	Wilmington Trust National Association (3) Citibank N.A., Trustee (64, 68, 69, 73) Federal National Mortgage Association (67) US Bank National Association (7, 63, 65, 66)
			7	7109-19 S Calumet Avenue		
			63	4520-26 S Drexel Boulevard		
			64	4611-17 S Drexel Boulevard		
			65	6749-59 S Merrill Avenue	2136 East 68th Street	
			66	7110-16 S Cornell Avenue		
			67	1131-41 E 79th Place		
			68	6217-27 S Dorchester Avenue	1408-10 E. 62nd Place	
			69	6250 S Mozart Avenue	2832-36 W 63rd Street	
			73	7255-57 S Euclid Avenue	1940-44 E 73rd Street	
6	131	10	2	4533-47 S Calumet Avenue		BMO Harris Bank N.A. (2) Federal Home Loan Mortgage Corporation (70, 72) UBS AG (107 - 113)
			70	638-40 N Avers Avenue		
			72	7024-32 S Paxton Avenue		
			107	1422-24 East 68th Street		
			108	2800-06 E 81st Street		
			109	4750-52 S Indiana Avenue		
			110	5618-20 S Martin Luther King Drive		
			111	6558 S Vernon Avenue	416-24 E 66th Street	
			112	7450 S Luella Avenue	2220 East 75th Street	
			113	7840-42 S Yates Avenue		
7	104	42	16	1017 W 102nd Street		Midland Loan Services (16-57)
			17	1516 E 85th Place		
			18	2136 W 83rd Street		
			19	417 Oglesby Avenue		
			20	7922 S Luella Avenue		
			21	7925 S Kingston Avenue		
			22	7933 S Kingston Avenue		
			23	8030 S Marquette Avenue		
			24	8104 S Kingston Avenue		
			25	8403 S Aberdeen Street		
			26	8405 S Marquette Avenue		
			27	8529 S Rhodes Avenue		
			28	8800 S Ada Street		
			29	9212 S Parnell Avenue		
			30	10012 S LaSalle Avenue		
			31	11318 S Church Street		
			32	3213 S Throop Street		
			33	3723 W 68th Place		
34	406 E 87th Place					
35	61 E 92nd Street					
36	6554 S Rhodes Avenue					
37	6825 S Indiana Avenue					
38	7210 S Vernon Avenue					

SEC v. EquityBuild, Inc., et al., Case No. 18 CV 5587
 Receiver's Proposed Grouping of Properties for Claims Resolution Process

Group	Number of Claims	Number of Properties	Property Number	Property Addresses	Alternative Addresses	Institutional Lender(s)
			39	7712 S Euclid Avenue		
			40	7953 S Woodlawn Avenue		
			41	8107 S Kingston Avenue		
			42	8346 S Constance Avenue		
			43	8432 S Essex Avenue		
			44	8517 S Vernon Avenue		
			45	2129 W 71st Street		
			46	9610 S Woodlawn Avenue		
			47	5437 S Laffin Street		
			48	6759 S Indiana Avenue		
			49	7300-04 St Lawrence Avenue	547-49 E 73rd	
			50	7760 S Coles Avenue		
			51	1401 W 109th Place		
			52	310 E 50th Street		
			53	6807 S Indiana Avenue		
			54	8000-02 S Justine Street	1541 E 80th Street	
			55	8107-09 S Ellis Avenue		
			56	8209 S Ellis Avenue		
			57	8214-16 S Ingleside Avenue		
8	463	20	80	2736 W 64th Street		
			81	4317-19 S Michigan Avenue		
			82	6355-59 S Talman Avenue	2616-22 W 64th Street	
			83	6356 S California Avenue	2804 W 64th Street	
			84	7051 S Bennett Avenue		
			85	7201-07 S Dorchester Avenue	1401 E 72nd Street	
			86	7442-48 S Calumet Avenue		
			87	7508 S Essex Avenue	2453-59 E 75th Street	
			88	7546-48 S Saginaw Avenue		
			89	7600-10 S Kingston Avenue	2527 E 76th Street	
			90	7656-58 S Kingston Avenue	2514-20 E 77th Street	
			91	7701-03 S Essex Avenue		
			92	7748-52 S Essex Avenue	2450-52 E 78th Street	
			93	7957-59 S Marquette Road	2708-10 E 80th Street	
			94	816-20 E Marquette Road		
			95	8201 S Kingston Avenue		
			96	8326-32 S Ellis Avenue		
			97	8334-40 S Ellis Avenue		
			98	8342-50 S Ellis Avenue		
			99	8352-58 S Ellis Avenue		
9	149	n/a	n/a	Equity Funds		n/a
10	229	n/a	n/a	Unsecured, former properties, general trade creditors, "other"		n/a
Total	2391	115				