

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

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

v.

EQUITYBUILD, INC., EQUITYBUILD
FINANCE, LLC, JEROME H. COHEN, and
SHAUN D. COHEN,

Defendants.

Case No. 1:18-cv-5587

Hon. Manish S. Shah

**ORDER APPROVING DISTRIBUTION OF PROCEEDS
FROM THE SALE OF PROPERTY 107 (1422-24 E. 68TH STREET)**

WHEREAS, this matter came before the Court on the Joint Motion filed by Kevin B. Duff, as the Receiver for the Estate of Defendants EquityBuild, Inc., EquityBuild Finance, LLC, their affiliates, and the affiliate entities of Defendants Jerome Cohen and Shaun Cohen (“Receiver”), UBS AG, Fixed Slice LLC, and Dan Behm (collectively the “Moving Parties”) for approval of an agreed plan and order for the distribution of the proceeds from the sale of 1422-24 East 68th Street (hereinafter the “Subject Property”). (Dkt. 1569, the “Motion”);

WHEREAS, pursuant to the Court’s order entered April 5, 2021 (Dkt. 966), the Receiver sold the Subject Property free and clear of all liens for \$400,000, and the net proceeds of sale in the amount of \$365,372.11 were deposited into an interest-bearing account held by the Receiver, and additional deposits and withdrawals have been made into and out of this property account, *e.g.*, as reported in the Receiver’s quarterly status reports (Dkt. 839, 930, 985, 1017, 1077, 1164, 1243, 1280, 1328, 1379, 1448, 1516, 1535), and summarized in Exhibit A to the Motion;

WHEREAS, settlement discussions occurred before Magistrate Judge Kim and subsequently among and between the Receiver and each of the claimants asserting an interest in the Subject Property, namely UBS AG, Fixed Slice LLC, Dan Behm, and Domenic Simone;

WHEREAS, Claimant Simone subsequently conceded that that he has been repaid 100% of his principal of the loan secured by 1422-24 E 68th Street and notified the Receiver that he has withdrawn his claims against the Subject Property;

WHEREAS, the Moving Parties reached a negotiated agreement regarding the distribution of the funds in the account held for 1422-24 East 68th Street (Property 107), as set forth in Exhibit A to the Motion, which provides for: (i) payment to the Receiver's law firm for contested and uncontested fees allocated to the property, constituting the allocation of fees submitted in the Receiver's Twenty-First Fee Application for the Third Quarter of 2023, which is pending before the Court, plus an estimate of fees incurred during the Fourth Quarter of 2023, plus the 20% of fees previously held back from payment pursuant to Court orders (Dkt. 1372, 1452, 1469, 1510, 1511, 1539), and (ii) distributions to the Moving Parties of the amount negotiated for the settlement of their claims against Property 107;

WHEREAS, UBS AG has agreed that it withdraws its objections to the Receiver's lien entered by the Court as to the Subject Property (Dkt. 1030) and to the Receiver's pending fee application as to the Subject Property (Dkt. 1538, 1568), subject to the agreements reached by the Receiver and UBS AG, as set forth in the Motion, and the Court's granting of the Motion; and

WHEREAS, the Moving Parties have agreed that the distributions approved in this Order resolve all disputes between and among the Moving Parties with respect to the Subject Property, that the Moving Parties will not appeal from or collaterally attack any rulings associated with the Subject Property, and that any and all other claims that might exist between or among the Moving Parties regarding the Subject Property are waived. These agreements are a compromise of disputes and

disagreements between and among the various Moving Parties, and do not constitute an admission of the validity of any claim, defense, argument, or position made or taken by any Moving Party. The agreements over the Subject Property will not prejudice, impair, or waive any Moving Party's position regarding any other property, and the agreement does not establish a precedent as to any other property.

NOW, THEREFORE, the Court, having considered the Motion and the record of this receivership case and being otherwise duly advised in the premises, hereby finds and ORDERS:

1. The Motion is GRANTED.
2. The agreed distribution plan is reasonable, fair, and equitable.
3. Adequate and fair notice has been provided to all interested and potentially interested parties (including but not limited to all lienholders in the chain of title) of the claims process, the Receiver's fees and proposed fee allocations, the agreed distributions, and the Motion, and that each interested or potentially interested party has had a full and fair opportunity to assert its interests and any objections.
4. The Court approves the portion of the receiver's and attorneys' fees set forth in the Receiver's 21st fee application (Dkt. 1538) that the Receiver has allocated to the Subject Property for the third quarter of 2023.
5. No later than five (5) business days after entry of this order, or as soon as such distributions can be reasonably achieved, the Receiver shall disburse the following amounts from the account held for 1422-24 East 68th Street:
 - a) \$9,139.66 to Rachlis Duff & Peel, LLC for fees allocated to the Subject Property, constituting the allocation of fees submitted in the Receiver's Twenty-First Fee Application for the Third Quarter of 2023, which is pending before the Court, plus an estimate of fees incurred during the Fourth Quarter of 2023, plus the 20%

of fees previously held back from payment for all previous fee applications pursuant to Court orders (*e.g.*, Dkt. 1372, 1452, 1469, 1510, 1511, 1539),

- b) \$25,334.00 as a distribution to Dan Behm, as agreed resolution of his claim against Property 107;
- c) \$14,666.00 as a distribution to Fixed Slice, LLC, as agreed resolution of its claim against Property 107; and
- d) \$342,000.00 as a distribution to UBS AG, as agreed resolution of its claim against Property 107;

6. The remaining \$25,961.53 balance in the account held for Property 107, plus any interest accruing after December 5, 2023, shall be transferred to the Receiver's account for use in the administration of the Receivership Estate and/or as otherwise ordered by the Court.

Entered:



Manish S. Shah
United States District Court Judge

Date: December 18, 2023