

**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. Manish S. Shah
)	
EQUITYBUILD, INC., et al.,)	Mag. Judge Young B. Kim
)	
Defendants.)	

**BMO BANK N.A.’S MOTION FOR LEAVE TO TAKE DISCOVERY RELATED TO
THE RECEIVER’S AVOIDANCE CLAIM**

BMO Bank N.A. f/k/a BMO Harris Bank N.A. (“BMO”), by its attorneys, and pursuant to the Court’s Order Regarding Summary Proceedings for Group 7 (Dkt. 1638) and the schedule set by the Court regarding Group 7 (Dkt. 1707), requests leave to take discovery with respect to the allegations set forth in the Receiver’s Submission on Group 7 Claims (“Group 7 Submission” at Dkt. 1772), and in support states as follows:

1. BMO is classified as an Institutional Lender with a secured claim on property to be adjudicated in Group 7 of the claims process, specifically property located at 4533-47 S Calumet Ave (“Property 2”).

2. On April 1, 2024, the Court entered an Order Regarding Summary Proceedings for Group 7. (Dkt. 1638.) On July 16, 2024, the Court entered a minute entry setting the deadline for the Receiver to file his Group 7 recommendations to October 28, 2024 and also setting the deadline of November 12, 2024 to request additional Group 7 discovery related to avoidance claims. (Dkt. 1707.) On September 11, 2024, the Court entered a minute entry ordering the Receiver to “provide

a preview of possible avoidance claims as to Group 7 in his opening Group 7 brief.” (Dkt. 1750.) The minute entry also ordered that briefing on avoidance claims as to Group 7 would be deferred pending resolution of any priority disputes. (*Id.*) On November 4, 2024, the Court entered a minute entry setting “[t]he current Group 7 schedule remains in place.” (Dkt. 1780.)

3. On October 28, 2024, the Receiver filed the Group 7 Submission. (Dkt. 1772.) In its Group 7 Submission, the Receiver states that it plans to make an avoidance claim against BMO.

4. As BMO is now aware that the Receiver plans to make an avoidance claim against it, BMO requests additional time to investigate, identify, and disclose an expert witness to testify regarding the Receiver’s avoidance claim.

5. The Court should grant BMO’s request for leave to conduct further discovery, because denying the request would deprive BMO of its due process rights. As the briefing on the Receiver’s avoidance claims for Group 7 have been deferred pending resolution of any priority disputes, this request will not delay these proceedings or prejudice any party.

WHEREFORE, BMO respectfully requests that the Court grant its request for leave to take further discovery on the Receiver’s possible avoidance claim, allowing 90 days for such discovery, and such further and other relief as this Court deems just and proper.

Respectfully submitted,

BMO Bank N.A. f/k/a BMO Harris Bank N.A.

By: /s/ Bradley S. Anderson

One of its attorneys

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CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2024 I caused BMO Harris Bank N.A.'s Motion for Leave to Take Discovery Related to the Receiver's Avoidance Claim to be electronically filed with the Clerk of the Court through the Court's CM/ECF system, which sent electronic notification of such filing to all parties of record, and emailed to the Receiver at equitybuildclaims@rdaplaw.net.

BMO BANK N.A. f/k/a BMO HARRIS
BANK, N.A.

By: /s/ Bradley S. Anderson
One of its attorneys