

**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 ADDITIONAL DISTRIBUTION OF PROCEEDS  
FROM THE SALE OF PROPERTY 116 (1102 BINGHAM)**

WHEREAS, this matter came before the Court pursuant to the Receiver’s Motion to Approve Distribution of Proceeds from the sale of 1102 Bingham Street, Houston, Texas (“1102 Bingham” or “Subject Property”), pursuant to a settlement between the Receiver and AMark Investment Trust (“AMark”). (Dkt. 1774, the “Motion”);

WHEREAS, following the distribution of proceeds prior to the Court’s Order Approving Distribution of Proceeds from the Sale of Group 4 Properties (Dkt. 1695) and AMark’s Motion to Stay Pending Appeal (Dkt. 1723), the Receiver agreed to segregate, pending further order of the Court, the \$394,373.44 of funds that remained in the property account after the Property 116 distributions were made, and AMark agreed to withdraw its motion to stay;

WHEREAS, pursuant to the Mediation Program of the U. S. Court of Appeals for the Seventh Circuit, the Receiver and AMark reached a compromise that included the following terms, as set forth in the Motion:

- a) As between AMark and the Receiver, the agreement resolves all claims, issues, and disputes of any kind or nature between and among them, including but not limited to all claims, issues, and disputes relating to 1102 Bingham or AMark's proof of claim submitted in this action;
- b) Within five days of the approval of this motion, or as soon thereafter as practicable, the Receiver will distribute to claimant AMark, the amount of \$197,000.00 from the property account for 1102 Bingham. At that time, the remainder of the property account for 1102 Bingham (which is in excess of \$200,000) will be transferred to the Receiver's account and available for use to administer the receivership estate or pay unsecured claims;
- c) Any and all other claims, objections, or rights that might exist between or among the Receiver, on the one hand, and AMark, on the other hand, regarding 1102 Bingham or AMark's proof of claim submitted in this action are hereby compromised and waived, such that AMark will receive nothing further from the Receivership Estate;
- d) This agreement is a compromise of disputes and disagreements among or between the Parties;
- e) This agreement does not constitute an admission of the validity of any claim, defense, argument, or position made or taken by any Party;
- f) AMark withdraws and waives all objections it has asserted in this case and its appeals (Dkt. 1652, 1723), and agrees that any *lis pendens* recorded against any estate property, as well as the dismissed lawsuit filed in Harris County, Texas styled

*Anson Markwell (as Trustee for the AMark Investment Trust) v. EquityBuild Inc. (dba EquityBuild Capital Inc.)*, Case No. 201813722, are hereby resolved; and

- g) AMark further agrees that it will dismiss with prejudice the consolidated appeals pending in the Seventh Circuit Court of Appeals as Case Nos. 24-2121 and 24-2217, at its sole expense.

WHEREAS, the Motion was served by electronic mail upon all claimants who have asserted claims against the Subject Property, as well as upon all individuals or entities that submitted a proof of claim in this action (sent to the e-mail address each claimant provided on the claim form or subsequently updated);

WHEREAS, the Court ordered that any objections to the Motion and proposed settlement must be asserted before or at the previously scheduled status hearing held on November 4, 2024 (Dkt 1776);

WHEREAS, no objections to the Motion or the proposed settlement were made either before or at the November 4 hearing;


WHEREAS, the Court entered a minute order granting the Motion and requesting that the Receiver submit a proposed order for the agreed distribution (Dkt. 1780).

NOW, THEREFORE, the Court hereby finds and ORDERS:

1. The Motion is GRANTED.
2. The settlement described herein and in the Motion is fair, reasonable, and in the best interests of the Receivership Estate.
3. Adequate and fair notice of the Motion and an opportunity to object to the Motion has been provided to all interested and potentially interested parties.

4. 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 to AMark \$197,000.00 from the account held for the Subject Property,
5. Any approved fees that are allocated to the Subject Property in subsequent fee applications for the current quarter and any subsequent quarters may be paid from the Receiver's account;
6. Following the distributions ordered herein, the net of the remaining balance of the property account for the Subject Property, including any interest hereafter accruing, 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:

  
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Manish S. Shah  
United States District Court Judge

Date: November 12, 2024