

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

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<b>UNITED STATES SECURITIES</b>	)	
<b>AND EXCHANGE COMMISSION,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>Civil Action No. 18-cv-5587</b>
	)	
<b>v.</b>	)	<b>Hon. Manish S. Shah</b>
	)	
<b>EQUITYBUILD, INC., EQUITYBUILD</b>	)	<b>Magistrate Judge Young B. Kim</b>
<b>FINANCE, LLC, JEROME H. COHEN,</b>	)	
<b>and SHAUN D. COHEN,</b>	)	
	)	
<b>Defendants.</b>	)	

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**RECEIVER'S TWENTY-SIXTH STATUS REPORT  
(Fourth Quarter 2024)**

Kevin B. Duff, as receiver (“Receiver”) for the Estate of Defendants EquityBuild, Inc., EquityBuild Finance, LLC, their affiliates, and the affiliate entities of Defendants Jerome Cohen and Shaun Cohen (collectively, the “Receivership Defendants”), and pursuant to the powers vested in him by Order of this Court, respectfully submits this Twenty-Sixth Status Report for the quarter ending December 31, 2024.

**I. CREDITORS AND CLAIMS AGAINST THE RECEIVERSHIP ESTATE**

During the Fourth Quarter 2024, claims were resolved for the property located at 6217 S Dorchester (Property 68), resulting in an additional \$2,280,000.00 distributed to claimants during the quarter, bringing the aggregate total of distributions to claimants as a result of resolved claims to \$39,534,519.87.

In addition, during the Fourth Quarter 2024, the following activities transpired with respect to the process to resolve the claims by groups of properties:

**Group 1**

There are 179 claims asserting an interest in the five properties in Group 1:

1. 3074 Cheltenham Place (Property 74)
2. 7625-33 S East End Avenue (Property 75)
3. 7635-43 S East End Avenue (Property 76)
4. 7750-58 S Muskegon Avenue (Property 77)
5. 7201 S Constance Avenue (Property 78)

The Group 1 proceedings have concluded and all Group 1 distributions have been made.

Despite our efforts we have been unable to locate or distribute funds from Property 76 to one of the Group 1 claimants.

**Group 2**

There are 309 claims asserting an interest in the five properties in Group 2:

1. 1700-08 W Juneway Terrace (Property 1)
2. 5450-52 S Indiana Avenue (Property 4)
3. 7749-59 S Yates Boulevard (Property 5)
4. 6160-6212 S Martin Luther King Drive (Property 79)
5. 6949-59 S Merrill Avenue (Property 101)

The Group 2 proceedings have concluded with respect to the properties located at 1700 W Juneway (Property 1), 6160 S MLK (Property 79), and 6949 S Merrill (Property 101). All distributions for these three properties have been made. Despite our efforts we have been unable to locate or distribute funds from Property 79 to one Group 2 claimant.

The properties located at 5450 S Indiana (Property 4) and 7749 S Yates (Property 5) are the subject of an appeal filed by institutional lender claimant Shatar Capital, and distributions on claims relating to these two properties have been stayed by the Court's order (Dkt. 1750) pending resolution of the appeal. Accordingly, no distributions will be made on 5450 S Indiana (Property 4) or 7749 S Yates (Property 5) until after the appeal is resolved. During the quarter, the Receiver

participated in mandatory mediation pursuant to Circuit Rule 33, which began on October 7, 2024 and continued past the end of the quarter.

### **Group 3**

There are 204 claims asserting an interest in the Group 3 properties, which include:

1. 7301-09 S Stewart Avenue (Property 10)
2. 7500-06 S Eggleston Avenue (Property 11)
3. 3030-32 E 79th Street (Property 12)
4. 2909-19 E 78th Street (Property 13)
5. 7549-59 S Essex Avenue (Property 14)
6. 8047-55 S Manistee Avenue (Property 15)
7. 7927-49 S Essex Avenue (Properties 102-106)

The three properties in Chicago Capital Fund I (“CCF1”) are Properties 10, 11, and 12.

The three properties in Chicago Capital Fund II (“CCF2”) are Properties 13, 14, and 15.

The Group 3 proceedings have concluded and all Group 3 distributions have been made.

### **Group 4**

There are 402 claims asserting an interest in the eleven properties in Group 4:

1. 6437-41 S Kenwood Avenue (Property 6)
2. 8100 S Essex Avenue (Property 9)
3. 5955 S Sacramento Avenue (Property 58)
4. 6001-05 S Sacramento Avenue (Property 59)
5. 7026-42 S Cornell Avenue (Property 60)
6. 7237-43 S Bennett Avenue (Property 61)
7. 7834-44 S Ellis Avenue (Property 62)
8. 701-13 S 5th Avenue, Maywood, Illinois (Property 71)
9. 11117-19 S Longwood Drive (Property 100)
10. 1102 Bingham Street, Houston, Texas (Property 116)
11. 431 E 42nd Place (Property 141)

The Group 4 proceedings have concluded and all Group 4 distributions have been made.

Despite our efforts we were not able to distribute funds from Property 9 to one Group 4 claimant or from Property 61 to another Group 4 claimant.

During the quarter, the Receiver participated in a mandatory mediation pursuant to Circuit Rule 33 in the Seventh Circuit appeal of AMark Investment Trust (“AMark”), which took place

on October 7-8, 2024. Pursuant to this mediation, AMark's claims were resolved in their entirety, and the Receiver prepared and filed a motion to approve the settlement (Dkt. 1774), which was granted by the Court on November 4, 2024 (Dkt. 1776, 1780), and an order approving an additional distribution to AMark was entered on November 12, 2024 (Dkt. 1782). Pursuant to the Court's order, an additional distribution in the amount of \$197,000.00 was made to AMark, the appeal was dismissed with prejudice, and \$203,443.14 was transferred to the Receiver's account for the benefit of unsecured claimants and the administration of the estate.

### **Group 5**

There are 83 claims asserting an interest in the four properties in Group 5:

1. 5001 S Drexel Boulevard (Property 3)
2. 7300-04 St Lawrence Avenue (Property 49)
3. 310 E 50th Street (Property 52)
4. 4520-26 S Drexel Boulevard (Property 63)

The Group 5 proceedings have concluded and all Group 5 distributions have been made.

### **Group 6**

There are 151 claims asserting an interest in the sixteen properties in Group 6:

1. 1414 & 1418 East 62nd Place (Property 8)
2. 6217-27 S Dorchester Avenue (Property 68)
3. 2800-06 E 81st Street (Property 108)
4. 4570-52 S Indiana Avenue (Property 109)
5. 5618-20 S Martin Luther King Drive (Property 110)
6. 6558 S Vernon Avenue (Property 111)
7. 7450 S Luella Avenue (Property 112)
8. 7840-42 S Yates Avenue (Property 113)
9. 7760 S Coles Avenue (Property 50)
10. 1401 W 109th Place (Property 51)
11. 6807 S Indiana Avenue (Property 53)
12. 8000-02 S Justine Street (Property 54)
13. 8107-09 S Ellis Avenue (Property 55)
14. 8209 S Ellis Avenue (Property 56)
15. 8214-16 S Ingleside Avenue (Property 57)

The claims process for Group 6 is nearly complete. During the quarter, the Receiver participated in settlement discussions with institutional lender Citibank N.A. and counsel for certain of the investor lenders regarding the resolution of the claims asserting an interest in 6217 Dorchester (Property 68) and 1414 E 62nd (Property 8). The parties reached an agreement regarding these distributions, and on October 22, 2024, the Receiver filed a motion to approve distribution of proceeds from the sale of these properties. (Dkt. 1770) For the reasons stated in open court and with there having been no objection, the Court granted the motion on November 4, 2024 (Dkt. 1780) and entered a distribution order on November 13, 2024 (Dkt. 1788). Distribution of the proceeds from the sale of these properties pursuant to that order were made during the quarter.

As to the remaining Group 6 properties, the briefing on the priority disputes was completed during the quarter, with the SEC (Dkt. 1765), Certain Investor Lenders (Dkt. 1766), UBS AG (Dkt. 1767), Midland Loan Services (Dkt. 1768), and the Receiver (Dkt. 1769) filing replies on October 15, 2024, and Midland and UBS moving to file a surreply on November 1, 2024 (Dkt. 1778), which was granted by the Court on November 4, 2024 (Dkt. 1780). On December 9, 2024, the Receiver filed an amended Exhibit 2 to his Group 6 submission to add a claim that had been discovered subsequent to the filing of his original submission. (Dkt. 1800) On December 23, 2024, the Court entered a Memorandum Opinion and Order finding that the individual investor's liens have priority, except for 4750 S Indiana (Property 109), where the Court found that UBS AG has a first position lien. (Dkt. 1818) On December 24, 2024, claimants Midland Loan Service and UBS AG moved for an administrative stay of disbursements (Dkt. 1821), which was granted by the Court on January 3, 2025 (Dkt. 1825). Briefing and resolution of the Receiver's avoidance claims on these remaining Group 6 properties has also been stayed. (Dkt. 1750)

Subsequent to the Court's priority determination, the Receiver participated in discussions with both UBS and Midland with respect to the potential resolution of their claims and the Receiver's avoidance claims. The Receiver and UBS were able to reach agreement, and the Receiver will soon file a Motion to Approve Distributions on the properties located at 2800 E 81st (Property 108), 4750 S Indiana (Property 109), 5618 S Martin Luther King (Property 110), 6558 S Vernon (Property 111), 7450 S Luella (a/k/a 2220 E 75th (Property 112), and 7840 S Yates (Property 113), which will result in the investor lender claimants receiving 100% of their maximum recommended distributions and approximately \$1.1 million transferred to the Receiver's account for Estate administration and distributions on unsecured claims after distribution to UBS.

The discussions with Midland are ongoing.

### **Group 7**

There are 192 claims asserting an interest in the six properties in Group 7:

1. 4533-47 S Calumet Avenue (Property 2)
2. 7109-19 S Calumet Avenue (Property 7)
3. 4611-17 S Drexel Boulevard (Property 64)
4. 6250 S Mozart Avenue (Property 69)
5. 638-40 N Avers Avenue (Property 70)
6. 7255-57 S Euclid Avenue (Property 73)

The claims process for Group 7 is proceeding. During the quarter, the Receiver's team completed the review of discovery materials and worked on finalizing the recommendations and preparing his submission for the Group 7 claims, which was filed on October 28, 2024. (Dkt. 1772) On November 25, 2024, position statements were filed by the SEC (Dkt. 1795), Certain Individual Investors (Dkt. 1796), BMO (Dkt. 1794), Citibank N.A. (Dkt. 1797), and Sabal Capital (Dkt.

1798).<sup>1</sup> On December 11, 2024, the Receiver filed position statements submitted by DeeAnn Nason, Steven Bald, Terry and Rhonda McDonald and Thomas M. Walsh (Dkt. 1802); and on December 17, 2024, the Receiver filed a position statement submitted by Double Portion Foundation c/o Hubert Yu (Dkt. 1815). On December 16, 2024, responsive statements were filed by the Receiver (Dkt. 1811), the SEC (Dkt. 1806), Certain Individual Investors (Dkt. 1810), Citibank (Dkt. 1807), Sabal (Dkt. 1808), and BMO (Dkt. 1809). The Court has stayed discovery and briefing on the Receiver's avoidance claim against BMO Bank pending resolution of the Group 7 priority disputes. (Dkt. 1750, 1787)

During the Quarter, the Receiver engaged in successful settlement discussions with claimant U.S. Bank National Association, as Trustee, which lead to the resolution of U.S. Bank's claim with respect to the Group 7 property located at 7109 S Calumet and the Receiver's avoidance claim against U.S. Bank. On December 23, 2024, the Receiver filed a motion to approve distributions from the sale that property. (Dkt. 1819) No objections to the motion were made at the January 7, 2025 motion hearing, and the Court granted the motion (Dkt. 1826) and entered a distribution order on January 24, 2025 (Dkt. 1830), which will result in approximately \$350,000 being transferred to the Receiver's account for Estate administration and distributions on unsecured claims.

During the quarter, the Receiver also engaged in discussions regarding the resolution of claims with Group 7 claimants Citibank (with respect to the properties located at 4611 S Drexel, 6250 S Mozart, and 7255 S Euclid), BMO (with respect to the property located at 4533 S Calumet),

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<sup>1</sup> The deadline for the filing of position statements with respect to 4611 S Drexel (Property 64) was extended several times in light of ongoing settlement discussions (Dkt. 1793, 1801, 1827), and Citibank N.A. filed a position statement on January 24, 2025 (Dkt. 1832). Despite this filing, the settlement discussions remain ongoing.

and Sabal Capital (with respect to the property located at 638 N Avers). These discussions are ongoing.

**Group 8**

There are 470 claims asserting an interest in the 17 properties in Group 8:

1. 2736 W 64th Street (Property 80)
2. 4317-19 S Michigan Avenue (Property 81)
3. 6355-59 S Talman Avenue (Property 82)
4. 6356 S California Avenue (Property 83)
5. 7051 S Bennett Avenue (Property 84)
6. 7201-07 S Dorchester Avenue (Property 85)
7. 7442-48 S Calumet Avenue (Property 86)
8. 7508 S Essex Avenue (Property 87)
9. 7546-48 S Saginaw Avenue (Property 88)
10. 7600-10 S Kingston Avenue (Property 89)
11. 7656-58 S Kingston Avenue (Property 90)
12. 7701-03 S Essex Avenue (Property 91)
13. 7748-52 S Essex Avenue (Property 92)
14. 7957-59 S Marquette Road (Property 93)
15. 816-20 E Marquette Road (Property 94)
16. 8201 S Kingston Avenue (Property 95)
17. 8326-58 S Ellis Avenue (Property 96-99)

On November 4, 2024, the Court entered a scheduling order for the claims process with respect to the seventeen Group 8 properties, whereby the Receiver filed a framing report on November 12, 2024, third party discovery commenced on November 19, 2024, and the Receiver will file the schedules calculating his recommendations with respect to the individual claims on or before January 30, 2025. Interested parties may submit confidential settlement statements regarding Group 8 to the Court by email to [proposed\\_order\\_shah@ilnd.uscourts.gov](mailto:proposed_order_shah@ilnd.uscourts.gov) by February 10, 2025, and the Court has scheduled an off-the-record settlement conference on February 13, 2025 at 10:00 a.m. in Courtroom 1919, to see if the Group 8 claims can be resolved more expeditiously without requiring the complete claims process ordered for prior claim groups. (Dkt. 941)



**Group 9**

Group 9 consists of two properties located at:

1. 1131-41 E 79th Place (Property 67)
2. 7024-32 S Paxton Avenue (Property 72)

The claims process for the Group 9 properties has concluded and distribution of the proceeds from the sale of these two properties have been made. As to the individual investor lender claimants with respect to these Group 9 properties, the Court found that these claims were not secured by the properties (Dkt. 1666), and therefore will be considered in either Group 10 or one of the other groups, as indicated in Exhibits 2 and 3 to the Receiver's Motion to Approve Distributions for Properties 67 and 72 (Dkt. 1653).

**Group 10**

The final claims group, Group 10, consists of unsecured claims asserting an interest in equity funds or unsecured promissory notes, as well as trade creditors, other types of non-lender creditors, and claimants whose loans were determined to be unsecured or who have not recovered the maximum amount of approved distributions from secured funds. During the quarter, the Receiver worked with his team, including the accounting firm KMA, on distribution planning. A distribution plan for these claims will be addressed after the priority disputes and claims secured by the liquidated properties of the Estate have been resolved.

\* \* \*

In addition to the activity reported above, during the quarter, the Receiver participated in a status hearing held by the Court on November 4, 2024 to discuss the Court's rulings with respect

to a number of the motions and issues discussed herein, and the status of proceedings with respect to all claim groups.<sup>2</sup>

Finally, the Receiver repeats the following reminders regarding claims and the claims process. Claimants may want to consider whether to hire counsel to assist them with the claims process. Claimants do not have an obligation to retain counsel in order to participate in the claims process, but the Receiver and his counsel cannot provide legal advice to any claimant, nor can the Receiver advise claimants regarding whether or not they should retain counsel. Any claimant that chooses to proceed without counsel should visit the section of the Court's website ([www.ilnd.uscourts.gov](http://www.ilnd.uscourts.gov)) named "[Information for People Without Lawyers \(Pro Se\)](#)" which provides useful information and also states the following: "The rules, procedures and law that affect your case are very often hard to understand. With that in mind, you should seriously consider trying to obtain professional legal assistance from an attorney instead of representing yourself as a pro se party." Claimants may also want to speak with a lawyer to assist them in determining for themselves whether or not to retain counsel.

All claimants have a continuing responsibility to ensure that the Receiver at all times has current and up-to-date contact information so that the Receiver may provide important information relating to the claims process, the claimant's claim, or the Receivership Estate, as well as mail distribution checks for approved claims. Additionally, any claimants who have closed their retirement accounts and transferred their interests to a different IRA or 401k custodian, or to themselves individually, should notify the Receiver and provide documentation of the transfer or distribution from their former custodian. Claimants may provide updated information and documentation to the Receiver at [equitybuildclaims@rdaplawn.net](mailto:equitybuildclaims@rdaplawn.net).

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<sup>2</sup> A transcript of the November 4, 2024 proceedings is attached hereto as **Exhibit 5**.

## II. ADDITIONAL OPERATIONS OF THE RECEIVER

### a. Identification and Preservation of Assets

During the Fourth Quarter 2024, the Receiver continued efforts to identify, preserve, and recover assets, including, *inter alia*, through claims asserted against former EquityBuild professionals and insiders.

### b. Financial Reporting of Receipts and Expenditures

The Receiver only needed to devote a minimal amount of work during the quarter to financial reporting.

### c. Open Litigation

The Receiver is aware of four actions currently pending in the Circuit Court of Cook County in which an EquityBuild entity is a named defendant, including:

- *Equity Trust Co. Custodian FBO Joseph Kennedy IRA v. EquityBuild Inc., et al.*, Case No. 2022 CH 02709. This foreclosure action on 107-11 N. Laramie was filed March 25, 2022 pursuant to this Court's Order partially lifting the stay of litigation. (Dkt. 1176) On November 6, 2024, an alias summons and complaint was served upon Defendant PP P24 1, LLC, which the complaint alleges is the legal title holder of the property. To date, no answer has been filed.
- *Jerrine Pennington for Valerie Pennington, Deceased v. 4533 Calumet, LLC*, Case No. 2021 L 10115. An order indefinitely transferring this matter to the circuit court's special stay calendar pursuant to this Court's Order Appointing Receiver (Dkt. 16) was entered on January 27, 2022. At a Trial Setting Call on February 15, 2024, the case was placed on the Law Division's insurance stay calendar.

- *Bauer Latoza Studio Ltd. v. EquityBuild Inc.*, Case No. 2019 L 000787. An order indefinitely transferring this matter brought by a trade-creditor claimant to the circuit court's special stay calendar pursuant to this Court's Order Appointing Receiver (Dkt. 16) was entered on March 21, 2019.
- *Michigan Shore Apartments, LLC v. EquityBuild, Inc., et al.*, Case No. 2018 CH 09098. The stay of this matter pursuant to this Court's Order Appointing Receiver (Dkt. 16), was continued to December 2, 2025, by court order entered December 3, 2024.

d. Claimant Communications

The Receiver has provided and continues to maintain numerous resources to keep claimants informed about proceedings in this action. To provide basic information, the Receiver established and regularly updates a webpage (<http://rdaplawnet.com/receivership-for-equitybuild>) for claimants and other interested parties to obtain information and certain court filings related to the Receivership Estate. A copy of this Status Report will be posted on the Receivership web site.

Court filings and orders are also available through PACER, which is an electronic filing system used for submissions to the Court. Investor claimants and others seeking court filings and orders can visit [www.ilnd.uscourts.gov](http://www.ilnd.uscourts.gov) for information about accessing filings through PACER.

Beyond those avenues, the Receiver keeps claimants informed regarding major occurrences in the Receivership and in the claims process for specific Groups through regular email communications. Additionally, the Receiver continues to receive and respond to numerous emails and voicemails from claimants and their representatives. The Receiver and his staff responded in writing to approximately 194 such inquiries during the Fourth Quarter 2024, and sent an additional 78 emails confirming distribution payee and address information, in addition to conducting a number of oral communications. The Receiver will continue to work to ensure that

information is available and/or otherwise provided as quickly and completely as practicable, asks all stakeholders and interested parties for patience during this lengthy process, and reiterates that responding to individual inquiries depletes Receivership assets. These quarterly status reports and the Receiver's other court filings remain the most efficient means of communicating information regarding the activities of the Receivership Estate.

e. Control of Receivership Property and Records

The Receiver has continued efforts to preserve all EquityBuild property and records. The Receiver continues to undertake efforts to maintain, preserve, and utilize EquityBuild's internal documents during the pendency of this matter, as well as for use in document productions and investigations in the matters brought by the Receiver against the former EquityBuild professionals.

f. Factual Investigation

The Receiver and his retained professionals have continued to review and analyze the following: (i) documents and correspondence sent to or received from the EquityBuild principals, to whose email accounts the Receiver has access; (ii) bank records from EquityBuild and its affiliate entities; (iii) EquityBuild documents; (iv) available underlying transaction documents received to-date from former Chicago-based EquityBuild counsel; (v) files produced by former EquityBuild counsel, accountants, and employees; and (vi) files produced pursuant to subpoenas issued by the Receiver.

g. Tax Issues

During the Third Quarter of 2024, the Receiver's tax administrator, Miller Kaplan, assisted with certain tax issues relating to property distributions, and worked on preparation of the Receiver's 2023 tax returns and 2024 estimated tax filings.

The Receiver has informed investors that he cannot provide advice on tax matters. Moreover, the Receiver and his retained professionals do not plan to issue Forms 1099-INT or other tax forms to investors. However, Forms 1099-R may or have been issued to investors who held investments through retirement accounts and received distributions therefrom. With respect to valuation, loss, or other tax issues, investors and their tax advisors may wish to seek independent tax advice and to consider IRS Rev. Proc. 2009-20 and IRS Rev. Rul. 2009-9.

h. Accounts Established by the Receiver for the Benefit of the Receivership Estate

The Receiver established custodial accounts at a federally insured financial institution to hold all cash proceeds from the sale of the Receivership properties. These interest-bearing checking accounts are used by the Receiver to collect liquid assets of the Estate and to pay portfolio-related and administrative expenses. The Receiver also established separate interest-bearing accounts to hold funds from the sale of real estate, as directed by Court order, until such time as it becomes appropriate to distribute such funds, upon Court approval, to the various creditors of the Estate, including but not limited to the defrauded investors or lenders. The Receiver identified an issue with respect to the amount of interest paid by the bank for September 2024 which the bank has agreed to remedy.

Attached as **Exhibit 1** is a schedule reflecting the balance of funds in all of the property specific accounts as of December 31, 2024, with a description of any changes to the account balance during the quarter.

### **III. RECEIVER'S FUND ACCOUNTING**

The Receiver's Standardized Fund Accounting Report ("SFAR") for the Fourth Quarter 2024 is attached hereto as **Exhibit 2**. The SFAR discloses the funds received and disbursed from the Receivership Estate during this reporting period. As reported in the SFAR, cash on hand as of December 31, 2024 equaled \$9,382,619.41. The information reflected in the SFAR is based on

records and information currently available to the Receiver. The Receiver and his advisors are continuing with their evaluation and analysis.

#### **IV. RECEIVER'S SCHEDULE OF RECEIPTS AND DISBURSEMENTS**

The Receiver's Schedule of Receipts and Disbursements ("Schedule") for the Fourth Quarter 2024 is attached hereto as **Exhibit 3**. This Schedule reflects \$4,606,024.82 in total receipts and \$1,583,481.04 in total disbursements to and from the Receiver's (non-property) accounts during the quarter.

#### **V. RECEIVERSHIP PROPERTY**

All known Receivership Property is identified and described in the Master Asset List attached hereto as **Exhibit 4**. The Master Asset List identifies 56 checking accounts in the names of the affiliate entities identified as Receivership Defendants, reflecting transfers of \$213,249.56 to the Receiver's account. (*See also* Dkt. 348 at 23-24 for additional information relating to these funds) The Master Asset List also identifies funds in the Receiver's account in the amount of \$9,382,619.41.

The Master Asset List does not include funds received or recovered after December 31, 2024. Nor does it include potentially recoverable assets for which the Receiver is still evaluating the value, potential value, and/or ownership interests. The Receiver is in the process of evaluating certain other types of assets that may be recoverable by the Receivership Estate.

Additionally, the balances of the 46 remaining property-specific interest-bearing accounts established to hold the proceeds from sold real estate are reflected in Exhibit 1.<sup>3</sup> These accounts cumulatively contained \$28,977,612.71 as of December 31, 2024.

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<sup>3</sup> Several of these 46 accounts have balances remaining on account of uncashed distribution checks (see Section I above). Accounts with less than \$10 residual interest are not included in this count, as these small balances will be transferred to the Receiver's account pursuant to the Court's orders.

## **VI. LIQUIDATED AND UNLIQUIDATED CLAIMS HELD BY THE RECEIVERSHIP ESTATE**

During the Fourth Quarter 2024, the Receiver reached a settlement with both sets of defendants in the case of *Duff v. Rock Fusco & Connelly, LLC, Ioana Salajanu, and Bregman Berbert Schwartz & Gilday, LLC ("BBS&G")*, Case No. 20-L-8843 (Cir. Ct. Cook Cty.), following separate mediations with the BBS&G Defendants and the Rock Fusco Defendants. As to the BBS&G Defendants, the District Court approved the \$4,000,000.00 (four million dollar) settlement on October 10, 2024 (Dkt. 1763), the settlement payment has been made and these defendants dismissed from the action. The BBS&G Defendants moved for a good faith finding before the state court, which was granted by the state court on January 21, 2025.

As to the Rock Fusco Defendants, on December 12, 2024, the Receiver filed a motion to approve a settlement with the Rock Fusco Defendants for the \$9,733,000.00 remaining on the firm's insurance policy. (Dkt. 1803, 1829) No objections to the motion were filed in the 21-day period for objections allowed by the Court (Dkt. 1816), and the motion was granted on January 24, 2025. (Dkt. 1828, 1829)

## **VII. PROFESSIONAL FEES AND EXPENSES**

During the quarter, the Receiver prepared and submitted his 25th Fee Application (Dkt. 1789), to which objections were filed by the institutional lenders (Dkt.1798), and a statement in support of the application was filed by the SEC (Dkt. 1805). On January 7, 2025, the Court granted the Receiver's 25th Fee Application, approving the allocations to properties, and imposing a 20% holdback on all fees. (Dkt. 1826, 1831) The net amounts will be transferred from the individual property accounts during the First Quarter of 2025.



## VIII. CONCLUSION

At this time, the Receiver recommends the continuation of the Receivership for at least the following reasons:

1. The continued investigation and analysis of current assets and potentially recoverable assets for which the Receiver is still evaluating the value, potential value, and/or ownership interests;
2. The continued investigation, analysis, and recommendations regarding the claims against the Receivership Estate, including, but not limited to, the claims and records of investors;
3. The continued investigation, analysis, and recovery of potential fraudulent transfer claims and claims against third parties;
4. The continued analysis and formulation, in consultation with the SEC and the Court, of a just and fair distribution plan for the creditors of the Receivership Estate; and
5. The discharge of any other legal and/or appointed duties of the Receiver as identified in the August 17, 2018 Order Appointing Receiver, or as the Court deems necessary.

Dated: January 30, 2025

Respectfully submitted,

Kevin B. Duff, Receiver

By: /s/ Michael Rachlis  
Michael Rachlis (mrachlis@rdaplawn.net)  
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*Attorneys for Kevin B. Duff, Receiver*

**CERTIFICATE OF SERVICE**

I hereby certify that I provided service of the foregoing Receiver's Twenty-Sixth Status Report, via ECF filing, to all counsel of record on January 30, 2025.

I further certify that I caused true and correct copies of the foregoing to be served by electronic mail to all known 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).

I further certify that the Receiver's Twenty-Sixth Status Report will be posted to the Receivership webpage at: <http://rdaplawnet.com/receivership-for-equitybuild>

/s/ Michael Rachlis

Michael Rachlis  
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# Exhibit 1

## SEC v. EquityBuild, Inc., et al.

No. 18-cv-5587

## Balances of Funds in Property Specific Accounts as of December 31, 2024

Account Number	Account Name	Property Number	Account Balance as of 12/31/24 (including December 2024 interest posted December 2, 2024)	Date of Settlement	Date of Distribution	Reason for Change (if any) 10/1/24-12/31/24
0462	1700 Juneway	1	\$27,232.64	10/20/2020	8/22/2024	Interest earned, \$1,597.15
0603	4533 S. Calumet	2	\$2,356,536.98	12/1/2020		Interest earned, \$25,942.38
0033	5001-05 S Drexel	3	\$0.00	5/22/2019	9/25/2024	Interest earned, \$2.54; transfer balance of account to Receiver's account per 9/11/24 Order (Dkt. 1752), (\$2.54)
0371	5450 S. Indiana	4	\$1,857,780.05	6/25/2020		Interest earned, \$20,451.48
0231	7749-59 S. Yates	5	\$603,362.06	4/22/2020		Interest earned, \$6,642.16
0389	6437 S. Kenwood	6	\$1.84	6/25/2020	7/25/2024	Interest earned, \$65.13; transfer funds to Receiver's account per 7/10/24 Order (Dkt. 1695) (\$3,128.74)
0280	7109 S. Calumet	7	\$1,554,182.92	2/28/2022		Interest earned, \$17,109.50

## SEC v. EquityBuild, Inc., et al.

No. 18-cv-5587

## Balances of Funds in Property Specific Accounts as of December 31, 2024

Account Number	Account Name	Property Number	Account Balance as of 12/31/24 (including December 2024 interest posted December 2, 2024)	Date of Settlement	Date of Distribution	Reason for Change (if any) 10/1/24-12/31/24
0991	1414 E. 62nd Place	8	\$6,051.10	5/26/2021	N/A	Interest earned, \$99.18; transfer to RDP for fees per 11/13/24 Order (Dkt. 1788), (\$3,722.18)
0058	8100-14 S Essex	9	\$9,057.49	4/30/2019	7/25/2024	Interest earned, \$160.56; claimant's distribution check returned, \$7,279.84
0405	7760 S. Coles	50	\$85,345.28	6/26/2020		Interest earned, \$939.61
0843	1401 W. 109th	51	\$16,828.20	5/26/2021		Interest earned, \$185.25
1114	6807 S. Indiana	53	\$106,558.70	5/26/2021		Interest earned, \$1,173.13
0413	8000 S. Justine	54	\$163,893.34	6/26/2020		Interest earned, \$1,804.32
0421	8107-09 S. Ellis	55	\$79,626.18	6/30/2020		Interest earned, \$876.66
0439	8209 S. Ellis	56	\$234,755.92	7/1/2020		Interest earned, \$2,584.39
0447	8214-16 S. Ingleside	57	\$194,371.71	6/30/2020		Interest earned, \$2,139.84

## SEC v. EquityBuild, Inc., et al.

No. 18-cv-5587

## Balances of Funds in Property Specific Accounts as of December 31, 2024

Account Number	Account Name	Property Number	Account Balance as of 12/31/24 (including December 2024 interest posted December 2, 2024)	Date of Settlement	Date of Distribution	Reason for Change (if any) 10/1/24-12/31/24
0116	5955 S. Sacramento	58	\$0.00	11/5/2019	7/26/2024	Interest earned, \$0.20; transfer balance of account to Receiver's account per 7/10/24 Order (Dkt. 1695) (\$0.20)
0124	6001-05 S. Sacramento	59	\$0.37	11/5/2019	7/26/2024	Interest earned, \$32.21; transfer funds to Receiver's account per 7/10/24 Order (Dkt. 1695) (\$638.43)
0132	7026-42 S. Cornell	60	\$1.26	11/6/2019	7/26/2024	Interest earned, \$98.21; transfer funds to Receiver's account per 7/10/24 Order (Dkt. 1695) (\$2,140.51)
0140	7237-43 S. Bennett	61	\$5,721.40	6/30/2021	7/26/2024	Interest earned, \$62.96; claimant's distribution check returned, \$4,672.89
0157	7834-44 S. Ellis	62	\$0.00	11/4/2019	7/26/2024	Interest earned, \$0.81; transfer balance of account to Receiver's account per 7/10/24 Order (Dkt. 1695) (\$0.81)

## SEC v. EquityBuild, Inc., et al.

No. 18-cv-5587

## Balances of Funds in Property Specific Accounts as of December 31, 2024

Account Number	Account Name	Property Number	Account Balance as of 12/31/24 (including December 2024 interest posted December 2, 2024)	Date of Settlement	Date of Distribution	Reason for Change (if any) 10/1/24-12/31/24
0868	4611 S. Drexel	64	\$5,316,282.91	5/14/2021		Interest earned, \$58,524.88
0876	6217 S. Dorchester	68	\$46,734.83	7/6/2021	12/3/2024	Interest earned, \$20,087.20; distributions to claimants per 11/13/24 Order (Dkt. 1788) (\$2,280,000.03); fees paid to RDP per 11/13/24 Order (Dkt. 1788) (\$16,350.28)
0512	6250 S. Mozart	69	\$878,187.47	12/22/2020		Interest earned, \$9,667.86
0363	638 N. Avers	70	\$526,562.64	10/15/2021		Interest earned, \$5,796.95
0165	701-13 S. 5th Avenue	71	\$0.69	3/31/2020	7/26/2024	Interest earned, \$14.74; transfer funds to Receiver's account per 7/10/24 Order (Dkt. 1695) (\$1,176.19)
0884	7255 S. Euclid	73	\$1,118,211.94	6/29/2021		Interest earned, \$12,310.25
0496	3074 Cheltenham	74	\$10,046.15	9/24/2020	8/23/2024	Interest earned, \$441.36

## SEC v. EquityBuild, Inc., et al.

No. 18-cv-5587

## Balances of Funds in Property Specific Accounts as of December 31, 2024

Account Number	Account Name	Property Number	Account Balance as of 12/31/24 (including December 2024 interest posted December 2, 2024)	Date of Settlement	Date of Distribution	Reason for Change (if any) 10/1/24-12/31/24
0199	7625 S. East End	75	\$137.22	12/20/2019	8/23/2024; 10/8/24	Interest earned, \$1,989.45; distributions to claimant per 9/11/24 Order (Dkt. 1750) (\$125,000.00); transfer funds to Receiver's account per 9/11/24 Order (Dkt. 1750) (\$231,976.21)
0207	7635 S. East End	76	\$11,819.27	12/20/2019	8/23/2024	Interest earned, \$1,036.19
0223	7750 S. Muskegon	77	\$2.09	12/18/2019	8/23/2024	Interest earned, \$141.95; transfer funds to Receiver's account per 7/23/24 Order (Dkt. 1717) (\$3,551.18)
0561	7201 S. Constance	78	\$4.54	9/30/2020	8/23/2024	Interest earned, \$190.87; transfer funds to Receiver's account per 7/23/24 Order (Dkt. 1717) (\$7,674.07)
0066	6160-6212 S King	79	\$3,682.64	4/30/2019	8/23/2024	Interest earned, \$106.47
0488	2736 W. 64th	80	\$342,013.80	9/29/2020		Interest earned, \$3,765.00



## SEC v. EquityBuild, Inc., et al.

No. 18-cv-5587

## Balances of Funds in Property Specific Accounts as of December 31, 2024

Account Number	Account Name	Property Number	Account Balance as of 12/31/24 (including December 2024 interest posted December 2, 2024)	Date of Settlement	Date of Distribution	Reason for Change (if any) 10/1/24-12/31/24
0900	4317 S. Michigan	81	\$861,810.84	12/2/2020		Interest earned, \$9,487.32
0520	6355 S. Talman	82	\$468,482.11	9/29/2020		Interest earned, \$5,157.22
0538	6356 S. California	83	\$274,414.04	9/29/2020		Interest earned, \$3,020.84
0553	7051 S. Bennett	84	\$426,873.48	9/23/2020		Interest earned, \$4,699.11
0579	7201-07 S. Dorchester	85	\$356,104.53	10/20/2020		Interest earned, \$3,919.96
0975	7442-48 S. Calumet	86	\$556,515.49	11/16/2020		Interest earned, \$6,126.20
0587	7508 S. Essex	87	\$728,977.33	10/28/2020		Interest earned, \$8,024.93
0355	7546 S. Saginaw	88	\$553,480.76	5/13/2020		Interest earned, \$6,093.02
0298	7600 S. Kingston	89	\$1,409,804.60	12/3/2020		Interest earned, \$15,519.85

## SEC v. EquityBuild, Inc., et al.

No. 18-cv-5587

## Balances of Funds in Property Specific Accounts as of December 31, 2024

Account Number	Account Name	Property Number	Account Balance as of 12/31/24 (including December 2024 interest posted December 2, 2024)	Date of Settlement	Date of Distribution	Reason for Change (if any) 10/1/24-12/31/24
0306	7656 S. Kingston	90	\$89,537.03	12/2/2020		Interest earned, \$985.70
0918	7701 S. Essex	91	\$766,919.21	11/16/2020		Interest earned, \$844.27
0215	7748 S. Essex	92	\$1,240,687.11	12/18/2019		Interest earned, \$13,658.14
0595	7957 S. Marquette	93	\$213,574.12	9/21/2020		Interest earned, \$2,351.11
0926	816 E. Marquette	94	\$872,169.84	11/18/2020		Interest earned, \$9,601.35
0314	8201 S. Kingston	95	\$272,117.72	5/21/2020		Interest earned, \$2,995.55
0322	8326-58 S. Ellis	96-99	\$1,363,576.70	6/11/2020		Interest earned, \$15,010.94
0454	11117 S. Longwood	100	\$2.31	7/8/2020	7/26/2024	Interest earned, \$318.67; transfer funds to Receiver's account per 7/10/24 Order (Dkt. 1695) (\$3,919.13); claimant's distribution check returned, \$270.00

*SEC v. EquityBuild, Inc., et al.*

No. 18-cv-5587

**Balances of Funds in Property Specific Accounts as of December 31, 2024**

<b>Account Number</b>	<b>Account Name</b>	<b>Property Number</b>	<b>Account Balance as of 12/31/24 (including December 2024 interest posted December 2, 2024)</b>	<b>Date of Settlement</b>	<b>Date of Distribution</b>	<b>Reason for Change (if any) 10/1/24-12/31/24</b>
0330	6949-59 S. Merrill	101	\$0.00	12/1/2020	7/17/2024	
0942	2800 E. 81st	108	\$456,428.09	4/30/2021		Interest earned, \$5,024.64
0959	4750 S. Indiana	109	\$778,116.89	4/21/2021		Interest earned, \$8,566.03
0504	5618 S. Martin Luther King	110	\$636,597.23	9/29/2020		Interest earned, \$7,008.14
0546	6554-58 S. Vernon	111	\$530,531.47	10/15/2020		Interest earned, \$5,840.47
0249	7450 S. Luella	112	\$196,733.54	5/7/2020		Interest earned, \$2,165.85
0967	7840 S. Yates	113	\$369,044.29	4/23/2021		Interest earned, \$4,062.79

*SEC v. EquityBuild, Inc., et al.*

No. 18-cv-5587

Balances of Funds in Property Specific Accounts as of December 31, 2024

Account Number	Account Name	Property Number	Account Balance as of 12/31/24 (including December 2024 interest posted December 2, 2024)	Date of Settlement	Date of Distribution	Reason for Change (if any) 10/1/24-12/31/24
0983	431 E. 42nd Place	115	\$0.01	11/5/2020	8/9/2024	Interest earned, \$0.01
0074	1102 Bingham	116	\$120.34	10/6/2021	7/26/2024; 11/14/24	Interest earned, \$2,731.68; distribution to claimant per 11/12/24 Order (Dkt. 1782), (\$197,000.00); transfer funds to Receiver's account per 11/12/24 Order (Dkt. 1782) (\$203,443.14)
	<b>TOTAL FUNDS HELD:</b>		<b>\$28,977,612.71</b>			

# Exhibit 2

STANDARDIZED FUND ACCOUNTING REPORT for EQUITYBUILD, INC., et al. - Cash Basis  
 Receivership; Civil Court Docket No. 18-cv-05587  
 Reporting Period 10/1/2024 to 12/31/2024

Fund Accounting (See Instructions):				
		<u>Detail</u>	<u>Subtotal</u>	<u>Grand Total</u>
Line 1	<b>Beginning Balance (As of 10/1/2024):</b>	\$6,360,075.63		\$6,360,075.63
	<b><i>Increases in Fund Balance:</i></b>			
Line 2	<b>Business Income</b>			
Line 3	<b>Cash and unliquidated assets</b>			
Line 4	<b>Interest/Dividend Income</b>	\$82,117.87		
Line 5	<b>Business Asset Liquidation</b>			
Line 6	<b>Personal Asset Liquidation</b>			
Line 7	<b>Net Income from Properties</b>			
Line 8	<b>Miscellaneous - Other<sup>1</sup></b>	\$4,523,906.95		
	<b>Total Funds Available (Line 1-8):</b>			<b>\$10,966,100.45</b>
	<b><i>Decrease in Fund Balance:</i></b>			
Line 9	<b>Disbursements to Investors</b>			
Line 10	<b>Disbursements for receivership operations</b>			
Line 10a	Disbursements to receiver or Other Professionals <sup>2</sup>	(\$1,583,481.04)		
Line 10b	Business Asset Expenses			
Line 10c	Personal Asset Expenses			
Line 10d	Investment Expenses			
Line 10e	Third-Party Litigation Expenses			
	1. Attorney Fees			
	2. Litigation Expenses			
	<b>Total Third-Party Litigation Expenses</b>		\$0.00	
Line 10f	Tax Administrator Fees and Bonds			
Line 10g	Federal and State Tax Payments			
	<b>Total Disbursements for Receivership Operations</b>		(\$1,583,481.04)	
Line 11	<b>Disbursements for Distribution Expenses Paid by the Fund:</b>			
Line 11a	Distribution Plan Development Expenses:			
	1. Fees:			
	Fund Administrator.....			
	Independent Distribution Consultant (IDC).....			
	Distribution Agent.....			
	Consultants.....			
	Legal Advisers.....			
	Tax Advisers.....			
	2. Administrative Expenses			
	3. Miscellaneous			
	<b>Total Plan Development Expenses</b>		\$0.00	
Line 11b	Distribution Plan Implementation Expenses:			
	1. Fees:			
	Fund Administrator.....			
	IDC.....			

STANDARDIZED FUND ACCOUNTING REPORT for EQUITYBUILD, INC., et al. - Cash Basis  
 Receivership; Civil Court Docket No. 18-cv-05587  
 Reporting Period 10/1/2024 to 12/31/2024

	Distribution Agent.....		
	Consultants.....		
	Legal Advisers.....		
	Tax Advisers.....		
	2. Administrative Expenses		
	3. Investor identification		
	Notice/Publishing Approved Plan.....		
	Claimant Identification.....		
	Claims Processing.....		
	Web Site Maintenance/Call Center.....		
	4. Fund Administrator Bond		
	5. Miscellaneous		
	6. Federal Account for Investor Restitution (FAIR) reporting Expenses		
	Total Plan Implementation Expenses		
	<b>Total Disbursement for Distribution Expenses Paid by the Fund</b>		<b>\$0.00</b>
<b>Line 12</b>	<b>Disbursement to Court/Other:</b>		
Line 12a	<i>Investment Expenses/Court Registry Investment     System (CRIS) Fees</i>		
Line 12b	<i>Federal Tax Payments</i>		
	Total Disbursement to Court/Others:		
	<b>Total Funds Disbursed (Lines 1-12):</b>		<b>(\$1,583,481.04)</b>
<b>Line 13</b>	<b>Ending Balance (As of 12/31/2024):</b>		<b>\$9,382,619.41</b>
<b>Line 14</b>	<b>Ending Balance of Fund - Net Assets:</b>		
Line 14a	<i>Cash &amp; Cash Equivalents</i>	\$9,382,619.41	
Line 14b	<i>Investments (unliquidated EquityBuild investments)</i>		
Line 14c	<i>Other Assets or uncleared Funds</i>		
	<b>Total Ending Balance of Fund - Net Assets</b>		<b>\$9,382,619.41</b>

<sup>1</sup> Settlement payment from BBSG, \$4,000,000.00; transfers from property accounts for allocated fees for 24th fee app per 9/30/24 Order, Dkt. 1758, \$45,317.11; transfers in of remaining funds and residual interest for resolved properties (1102 Bingham; 11117 Longwood; 431 E 42nd; 5001 Drexel; 5955 Sacramento; 6001 Sacramento; 6437 Kenwood; 6949 Merrill; 701 S 5th; 7026 Cornell; 7201 Constance; 7625 East End; 7750 Muskegon; 7834 Ellis), \$472,047.12; void check 20045 (lost check) \$6,542.72 = Total: \$4,523,906.95

STANDARDIZED FUND ACCOUNTING REPORT for EQUITYBUILD, INC., et al. - Cash Basis  
Receivership; Civil Court Docket No. 18-cv-05587  
Reporting Period 10/1/2024 to 12/31/2024

<sup>2</sup> Payments to RDP, Miller Kaplan, KMA, and Prometheum relating to 24th fee app per 9/30/24 Order, Dkt. 1758, (\$101,962.21); reissue check 20051 to replace lost check 20045 to Miller Kaplan for 23rd fee app (\$6,542.72); contingent fees and expenses from BBSG settlement payment per 10/10/24 Order, Dkt. 1763, (\$1,474,976.11) =  
Total: (\$1,583,481.04)

Receiver:

/s/ Kevin B. Duff

(Signature)

Kevin B. Duff, Receiver EquityBuild, Inc., et al.

(Printed Name)

Date:

01/21/25



# Exhibit 3

## EQUITYBUILD RECEIVERSHIP ESTATE ACCOUNT #0181

October-December 2024

## Schedule of Receipts and Disbursements

<b>Beginning Balance</b> <b>10/1/24</b>				<b>\$6,360,075.63</b>
<b>RECEIPTS</b>				
		<b>Received From</b>	<b>Amount</b>	
Interest	10/1/2024	Interest	\$21,850.00	
Transfer In	10/1/2024	Transfers from property accounts of allocated fees for 24th fee app (9/30/24 Order, Dkt 1758)	\$45,317.11	
Transfer In	10/2/2024	Transfer residual interest on resolved properties (431 E 42nd; 5001 Drexel; 5955 Sacramento; 6949 Merrill; 7834 Ellis; Receiver's auxiliary account)	\$14,395.97	
Deposit	10/21/2024	Settlement check from BBS&G (insurer)	\$4,000,000.00	
Interest	11/1/2024	Interest	\$28,033.92	
Interest	12/2/2024	Interest	\$32,233.95	
Void 20045	12/4/2024	Void check 20045 to Miller Kaplan (lost check)	\$6,542.72	
Transfer In	12/5/2024	Transfer remaining funds & residual interest on resolved properties (5001 Drexel; 1102 Bingham; 5955 Sacramento; 6001 Sacramento; 7026 Cornell; 7834 Ellis; 701 S 5th; 7625 East End; 7750 Muskegon; 6437 Kenwood; 11117 Longwood; 7201 Constance)	\$457,651.15	
		<b>TOTAL RECEIPTS</b>		<b>\$4,606,024.82</b>
		<b>Paid To</b>	<b>Amount</b>	
Wire Out	10/1/2024	Transfer allocated & unallocated fees and expenses to RDP for 24th fee app (9/30/24 Order, Dkt 1758)	(\$99,335.11)	
20048	10/4/2024	Miller Kaplan Arase LLP (24th fee app, Inv 707163 minus 20%)	(\$483.20)	
20049	10/4/2024	KMA, SC (24th fee app - Inv CH607180 minus 20%)	(\$1,346.40)	
20050	10/4/2024	Prometheum (24th fee app - Inv 18517)	(\$797.50)	
Wire Out	10/23/2024	Spellmire Bruck for contingent fees & expenses for BBS&G settlement (Dkt 1763)	(\$1,474,976.11)	

EQUITYBUILD RECEIVERSHIP ESTATE ACCOUNT #0181

October-December 2024

Schedule of Receipts and Disbursements

20051	12/4/2024	Reissue check to Miller Kaplan for fees for 23rd fee app (less 20% holdback)	(\$6,542.72)	
		TOTAL DISBURSEMENTS:		(\$1,583,481.04)
		<b>Grand Total Cash on Hand at 12/31/2024:</b>		<b>\$9,382,619.41</b>

# Exhibit 4

**Master Asset List**

<b>Receiver's Account (as of 12/31/2024)</b>		
<b>Institution</b>	<b>Account Information</b>	<b>Amount</b>
AXOS Fiduciary Services	Checking #0181	\$9,382,619.41

<b>Receivership Defendants' Accounts</b>			
<b>Institution</b>	<b>Account Information</b>	<b>Current Value</b>	<b>Amount Transferred to Receiver's Account</b>
Wells Fargo	Checking (53 accounts in the names of the affiliates and affiliate entities included as Receivership Defendants)		\$190,184.13 <sup>1</sup>
Wells Fargo	Checking (account in the names of Shaun Cohen and spouse)		\$23,065.43 <sup>2</sup>
Byline Bank	Checking (2 accounts in names of Receivership Defendants)	\$21,918.84 <sup>3</sup>	
			Total: \$213,249.56

<b>EquityBuild Real Estate Portfolio</b>	
For a list of the properties within the EquityBuild portfolio identified by property address, alternative address (where appropriate), number of units, and owner, <i>see</i> Exhibit 1 to the Receiver's First Status Report, Docket No. 107.	
<b>Other, Non-Illinois Real Estate</b>	
<b>Description</b>	<b>Appraised Market Value</b>
Single family home in Plano, Texas	±\$450,000.00
	Approximate mortgage amount: \$400,000.00 Approximate value less mortgage: \$50,000.00

<sup>1</sup> This amount reflects the total value of all of the frozen bank accounts held by Wells Fargo that were transferred to the Receiver's account; the final transfer was made on 1/22/20, and included as part of the Receiver's Account as of 3/31/20.

<sup>2</sup> This amount was transferred to the Receiver's Account as of 8/27/18, and is included as part of the total balance of the Receiver's Account as of 3/31/19.

<sup>3</sup> The Receiver is investigating whether these accounts are properly included within the Receivership Estate.

# Exhibit 5

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES SECURITIES AND  
EXCHANGE COMMISSION, et al.,

Plaintiffs,

vs.

EQUITYBUILD, INC.,  
EQUITYBUILD FINANCE, L.L.C.,  
JEROME H. COHEN, SHAUN D. COHEN,  
and CITIBANK, N.A., as Trustee,

Defendants.

No. 18 C 5587

Chicago, Illinois  
November 4, 2024  
10:00 o'clock a.m.

TRANSCRIPT OF PROCEEDINGS -  
Status and Motion Hearing  
BEFORE THE HONORABLE MANISH S. SHAH

APPEARANCES:

For Plaintiff SEC: U.S. SECURITIES AND EXCHANGE  
COMMISSION  
BY: MR. BENJAMIN J. HANAUER  
175 West Jackson Boulevard, Suite 1450  
Chicago, Illinois 60604  
(312) 353-8642

For Certain Trustees U.S. Bank, Fannie Mae,  
Citibank, Wilimington Trust, and Creditor  
SABAL TL1: DENTONS U.S., L.L.P.  
BY: MR. ANDREW T. McCLAIN  
233 South Wacker Drive, Suite 5900  
Chicago, Illinois 60606-6361  
(312) 876-8170

For Citibank, Trustee and Northeast Bank,  
Institutional Lender: DICKINSON WRIGHT, P.L.L.C.  
BY: MR. RONALD A. DAMASHEK  
55 West Monroe Street, Suite 1200  
Chicago, Illinois 60603  
(312) 641-0060

1 APPEARANCES (Continued):

2

3 For Certain Individual TOTTIS LAW  
4 Investors: BY: MR. MAX A. STEIN  
(by phone) 401 North Michigan Avenue, Suite 530  
Chicago, Illinois 60611  
5 (312) 527-1448

6

7 For the Receiver: RACHLIS DUFF & PEEL, L.L.C.  
(by phone) BY: MR. MICHAEL RACHLIS  
MS. JODI ROSEN WINE  
8 MR. KEVIN B. DUFF  
542 South Dearborn Street, Suite 900  
9 Chicago, Illinois 60605  
(312) 733-3950

10

11 Also Present (by phone): MR. DAVID MARCUS, Group 8 claimant

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COLLEEN M. CONWAY, CSR, RMR, CRR  
Official Court Reporter  
219 South Dearborn Street, Room 1918  
Chicago, Illinois 60604  
(312) 435-5594  
*colleen\_conway@ilnd.uscourts.gov*



1 (Proceedings available by phone/heard in open court:)

2 THE CLERK: 18 CV 5587, Securities And Exchange  
3 Commission versus EquityBuild.

4 THE COURT: Good morning, everyone.

5 We have the attorneys in the courtroom, their  
6 appearances noted for the record, as well as counsel that's on  
7 the phone as well. When you speak, just state your name so the  
8 court reporter can get that right in the transcript. But I  
9 won't take roll right now.

10 We're here primarily this morning just to talk a  
11 little bit about Group 8 and get a status on a plan there, but  
12 there are a number of other pending issues that we should  
13 address as well.

14 Big picture. I look at the calendar, and I see that  
15 it's November, and we still have Groups 6, 7, and 8 to fully  
16 resolve on the claims process, and then that will leave Group  
17 10. So I am not so hopeful that all of that will get done  
18 before the end of the year, which was a goal that we all had  
19 earlier this year.

20 Unless the lawyers for the institutional lenders, the  
21 receiver, and others, unless there is some thought that some  
22 sort of global settlement effort can be had at this point to  
23 resolve these remaining groups, I am not feeling so hopeful  
24 that we can get everything else done before the end of the  
25 year.

1           But I know from the pending appeals that there  
2 continue to be efforts to discuss and mediate individual issues  
3 in some of these claims, and I wonder if people are learning  
4 more about how to compromise, that maybe there is some  
5 opportunity for bigger picture global resolution of these  
6 groups. I'll leave that thought lingering out there, and maybe  
7 we can circle back to that.

8           There is a motion to approve the distributions for  
9 property 68 and property 8. And objections were due on  
10 November 1st. I didn't see any objections.

11           On behalf of the receiver, are you aware of any  
12 objections?

13           MR. RACHLIS: No, Your Honor.

14           THE COURT: I do grant that motion, which is docket  
15 No. 1770.

16           I agree with the receiver that there are no valid  
17 secured claims left on property 8, and that the promoter  
18 claimant ought not to receive anything. And then a compromise  
19 as between Citibank and the remaining claimants is a fair and  
20 reasonable compromise in order to move that distribution along.  
21 That motion is granted.

22           Then there is a motion to approve the distributions  
23 for property 116, which is the 1102 Bingham in Texas. That's  
24 docket 1774.

25           Is the receiver aware of any objections to that?

1 MR. RACHLIS: No, Your Honor.

2 THE COURT: I have not received word of any  
3 objections either.

4 And this resolves the appeal with respect to AMark.  
5 And I see counsel for AMark in the courtroom.

6 (Counsel stands.)

7 THE COURT: Unless you feel the need to say anything,  
8 I am about to grant the motion.

9 (Counsel gives a thumbs-up.)

10 THE COURT: The motion is granted.

11 I agree that, again, as I noted in the docket entry  
12 with respect to this motion, it's a compromise, but a  
13 reasonable one in light of the potential costs to the overall  
14 receivership from pressing the appeal. And so that motion is  
15 granted.

16 (Counsel waves.)

17 THE COURT: May I ask what the status is of the  
18 Shatar appeal? I'll turn to the receiver's counsel for that.

19 MR. RACHLIS: Yeah. Your Honor has likely seen from  
20 the docket that there is a suspended schedule, which has been  
21 initiated by the Seventh Circuit Mediation section.

22 The discussions, as we understand, with regards to  
23 resolution of the Shatar appeal are ongoing.

24 (Counsel exits.)

25 THE COURT: I was wondering if that was suspended

1 only because of the consolidation with the AMark appeal. But  
2 there are at least actual discussions with respect to the  
3 Shatar appeal as well?

4 MR. RACHLIS: Yes. We are -- as far as the  
5 receiver's aware, those discussions are ongoing. They're  
6 ongoing, obviously, between the appellant, which is the Shatar  
7 claimants/institutional lenders, and counsel of these -- for  
8 certain of the investors. They're all involved in those  
9 discussions.

10 THE COURT: Let me talk about Group 6 for a moment.  
11 Midland and UBS want to file a surreply, and I  
12 understand that the individual investors object to the  
13 surreply.

14 That may be Mr. Stein. And I understand, Mr. Stein,  
15 you are on the line.

16 I have looked at the surreply that they want to file.  
17 The idea that the individual investors are arguing that a  
18 release needs to be requested or there needs to be litigation  
19 is not quite what I took the individual investors' argument to  
20 be. I took the individual investors' argument to be that there  
21 needs to be a valid release, and that, I think, is the thrust  
22 of the individual investors' argument.

23 So I don't know, Mr. Stein, if you'd like to chime in  
24 on what your objection may be to the filing of the surreply in  
25 light of my comments there?

1 MR. STEIN: Certainly. Thank you, Your Honor. And,  
2 again, Max Stein on behalf of certain individual investors.

3 My objection was really that I wanted the  
4 opportunity, if this was going to be allowed, to file a brief  
5 response to explain the arguments that we intended to make that  
6 we don't think that they are actually responding to.

7 I floated that with counsel for the institutional  
8 lenders, and they indicated that while they still wanted to  
9 proceed -- pardon me, I should also say, I also explained the  
10 substance of my disagreement, and said that even if they were  
11 going to proceed, which I expected they would, because that's  
12 how we lawyers generally work, that I would like the  
13 opportunity to file a brief response, and asked that they  
14 include that in their motion. They responded that they were,  
15 indeed, going to file, but they didn't think that a response  
16 from me was necessary. And so that is the reason for my  
17 objection.

18 THE COURT: And do you still think a response from  
19 you is necessary?

20 MR. STEIN: Yes. I would like the opportunity to  
21 file a very short, probably no-more-than-two-page response that  
22 further clarifies the point that we were making.

23 THE COURT: Do you really think I have missed the  
24 point that you were making?

25 MR. STEIN: You got half of it, Your Honor.

1 THE COURT: Okay. Can you tell me what the other  
2 half is this morning?

3 MR. STEIN: Certainly. I'd be happy to.

4 THE COURT: Go ahead.

5 MR. STEIN: The other half of the point is that when  
6 the institutional lenders did not receive their releases within  
7 30 days of the closing of their loans, the Mortgage Act  
8 provides that they then had a right to bring a cause of action  
9 to obtain those releases, and their failure to do so between  
10 the closing of their loans and the initiation of this  
11 receivership by the SEC resulted in potentially additional  
12 harms. Because had they brought that action within 30 days --  
13 or shortly after the expiration of that 30-day period, it is  
14 possible that their having done so would have resulted in the  
15 house of cards falling earlier than it otherwise did.

16 And so since the institutional lenders make the  
17 argument that they're the, quote, innocent parties here, this,  
18 we would suggest, demonstrates that they're not as innocent as  
19 they would like the Court to believe. And, in fact, they do --  
20 their actions -- or inactions, in this instance -- did play a  
21 role in the house of cards surviving for as long as it did.

22 And so the relevant period that we were talking about  
23 in our response was really the period between -- and I think  
24 it's about 15 months -- the 15-month period between 30 days  
25 after their -- the closing of their loans and the initiation of

1 this receivership.

2 THE COURT: Understood.

3 The motion to file the surreply is granted, but I am  
4 not allowing leave for any further briefs.

5 I appreciate the point, Mr. Stein, and I'll keep that  
6 in mind as I do my own work through Group 6.

7 MR. STEIN: Thank you, Your Honor.

8 THE COURT: Group 7. We've got the schedule in  
9 place. I saw the position statement from the receiver.

10 There was one property in Group 7, property 64, where  
11 the position of the receiver is that both Citibank and the  
12 individual investors are secured and can all be paid out under  
13 the rubric that we have used in other distributions without  
14 having to even resolve a priority dispute.

15 The other properties in Group 7 have issues with  
16 respect to priority and possible avoidance claims, but that one  
17 property, 64, I was wondering if we can't resolve that now  
18 without having to wait for the rest of Group 7.

19 So I was wondering if Citibank's counsel is present  
20 and can speak on that.

21 MR. McCLAIN: Good morning, Your Honor. Andrew  
22 McClain on behalf of the institutional lender.

23 I have not had a chance to discuss that specifically  
24 with my clients, but we are hopeful to do so this week.

25 I am happy to, if my client is willing to do it,

1 continue discussions with the receiver to potentially settle  
2 that, but I can't make any commitments without consulting with  
3 my client.

4 THE COURT: Understood. I guess I would urge you to  
5 do that. Because, right now, Group 7's schedule is taking us  
6 well into December. This one property within that looks like  
7 it could be resolved without waiting. And while I understand  
8 that there are administrative issues with maybe taking one  
9 property out of a group and doing that on the side, it still  
10 might be worth it to at least resolve that.

11 So -- and if the parties want to either file a status  
12 report about that property or even communicate via email that a  
13 resolution along the lines of what had been proposed in the  
14 receiver's position statement is acceptable to everyone, I can  
15 take that into account and maybe direct a proposed order with  
16 respect to that, that property. So that, at least, would give  
17 us some sense of progress with Group 7 on an expedited basis.

18 I don't think there's anything else to say about  
19 Group 7. We've got the schedule in place. So I am going to  
20 move to Group 8 at this point.

21 We don't have a schedule for Group 8.

22 (Receiver's counsel nods.)

23 THE COURT: So I understand that it's 17 properties,  
24 some 470 claims.

25 What's the current thought from the receiver about



1 how to handle Group 8?

2 MR. RACHLIS: We were going to recommend the  
3 following schedule. We would issue a framing report next week.  
4 I think we would -- I have 11/11 as the date, but that's  
5 Veterans Day. We could say 11/12 for purposes of that.

6 But, obviously, consistent with what was foreshadowed  
7 during our last status conference, further discussions have  
8 gone on in an effort to try and get the parties to settlement  
9 on these issues before Your Honor.

10 As Your Honor knows, it's a large group, and there  
11 are more counsel than -- that may be involved among the 470  
12 individual investors. So having some additional opportunity  
13 perhaps to meet with the Court for purposes of simply just  
14 corraling everyone may be a help.

15 In that vein, we are continuing to look at the  
16 individual claims and work towards preparation of the sheets  
17 that Your Honor is familiar with that have the maximum  
18 recommended amounts for the individual claims, for the  
19 institutional claims. And we were going to propose that those  
20 sheets be produced by January 30th, given both the number of  
21 claims and we think that we can do that within that time.

22 In conjunction with some discussions among certain of  
23 the counsel, we had thought that it made sense to schedule  
24 perhaps a settlement conference shortly after those submissions  
25 are made, but after perhaps a two-week period where any

1 claimant in Group 8 wishes to present Your Honor with a  
2 position statement on settlement, so Your Honor would be aware  
3 of where these individuals, whether entities or parties, may  
4 lie on their -- on the recommendations from the -- on those  
5 separate sheets.

6 So that would -- that breaks down, essentially, to  
7 some type of conference, hopefully, or an effort to reach that  
8 point by sometime in probably the latter part of February,  
9 would be probably where that would go, if Your Honor would be  
10 available at that point.

11 THE COURT: Are you anticipating any discovery  
12 process?

13 MR. RACHLIS: Yes. So for purposes of the process,  
14 we thought that this could work much more like Groups 3 and 4  
15 where we would work informally, other than subpoenas to third  
16 parties, the title companies involved, as we've done before.  
17 We would initiate that very soon after the framing report is  
18 done, if not like right around that same time, in order to be  
19 sure that that is accomplished, irrespective of whether or not  
20 a settlement can be achieved.

21 So that would be the more formal discovery, if you  
22 will. But otherwise we would just work, as we have before, on  
23 an informal basis to try and nail down any points that we'd  
24 need to nail down.

25 So that would be our -- so, as I say, similar to

1 Groups 3 and 4.

2 THE COURT: I think we have, in the past, set a  
3 formal deadline for discovery to be issued in support of the  
4 group process. So would you recommend that that deadline also  
5 tag along with starting on November 12th, after the framing  
6 report gets issued?

7 MR. RACHLIS: Yeah, there would be really no  
8 formal -- we are not recommending formal discovery at this  
9 point. The only discovery would be the third-party discovery  
10 that could issue to the title insurer at this point.

11 THE COURT: Do you think I should set that as a  
12 deadline?

13 MR. RACHLIS: Oh, sure, absolutely. We could set  
14 that for -- it should tag along, we could say, a week or ten  
15 days after the framing report is out, just to make sure that  
16 that's done.

17 But the intent, certainly, is to get that out  
18 quickly.

19 THE COURT: And for Group 8, are you anticipating,  
20 then, that it would be useful to have a settlement conference?  
21 So, as opposed to a formal court hearing, get a date on my  
22 calendar where I can meet with whoever needs to be met with to  
23 discuss Group 8?

24 MR. RACHLIS: Yes, Your Honor.

25 THE COURT: How would either Thursday, February 13th,

1 in the morning, or Friday, February 14th work?

2 MR. DAMASHEK: Judge, if I may? Ron Damashek on  
3 behalf of Northeast Bank, the institutional lender here,  
4 previously held by Liberty Federal.

5 I think what Mr. Rachlis was proposing was having his  
6 documentation and the schedules in by the end of January. And  
7 then for the settlement position statements, which I understand  
8 to be nothing like the position statements in litigation but a  
9 few pages, I think you were talking about a couple of weeks.

10 MR. RACHLIS: Yes.

11 MR. DAMASHEK: So that would probably take us until  
12 mid-February to submit those to the Court. So we'd be looking  
13 at something after that date.

14 MR. RACHLIS: That is correct, Your Honor. I  
15 certainly think that those would be helpful for the Court to  
16 see in advance of a settlement conference.

17 THE COURT: Well, do you think you could get those  
18 position statements in earlier, then?

19 Because -- the reason is I am looking at my calendar.  
20 I've got back-to-back criminal trials all through January,  
21 February, March. I've got a sliver of time in the middle of  
22 February where I could carve out a few hours to talk to you.  
23 But that's my limitation.

24 So I guess I wonder -- I know there are clients to  
25 consult and bureaucracy to navigate before you formulate a

1 position that you'd want to submit to me, but if the receiver  
2 is going to submit something by the 30th of January, which is a  
3 Thursday, if I gave everybody a week from then, to the  
4 following Thursday, and then I saw you the following week, that  
5 would be the schedule that I would recommend.

6 Or, you get me what you can get me a day or two  
7 before we meet, and I'll do what I can to be helpful to you.

8 MR. RACHLIS: I'm going to let others speak to that.  
9 The receiver would likely submit something as well, but we  
10 think that if it'll -- we think it will be beneficial for the  
11 Court to have these. So having -- at least from the receiver's  
12 perspective, getting that to you a week in advance would make  
13 sense from our perspective.

14 MR. DAMASHEK: It will be cutting it close just  
15 because of the people we have to deal with. But if the Court  
16 is understanding and if we need -- we'll -- if we need an extra  
17 day or two, we could let the Court know.

18 THE COURT: Well, let's get on the books, then, the  
19 actual settlement conference itself for either February 13th or  
20 February 14th.

21 As to those two dates -- I'll start with the  
22 receiver -- is there a preference?

23 (Receiver's counsel confers with receiver.)

24 MR. RACHLIS: Either would be fine, Your Honor.

25 MR. DAMASHEK: The same for Northeast Bank.

1 THE COURT: So then I'll ask our court clerk to break  
2 that tie.

3 THE CLERK: Everyone, let's start with Thursday, the  
4 13th. I would suggest 10:00 a.m.

5 (Counsel nod.)

6 THE CLERK: Everyone? That works for both of you?

7 MR. DAMASHEK: That works.

8 MR. RACHLIS: Yes, that's fine.

9 THE CLERK: Thank you.

10 THE COURT: Ms. Wine, is that okay with you?

11 (No response.)

12 THE COURT: You might be on mute.

13 MS. ROSEN WINE: Yes, Your Honor. Yes, I was on  
14 mute. That would be fine with me. Thank you.

15 THE COURT: So the schedule, then, for Group 8 right  
16 now is that the receiver will file a framing report by November  
17 12th. Any third-party discovery may be initiated starting on  
18 November 19th. And then on January 30th, the receiver will  
19 file a position statement.

20 MR. RACHLIS: We were going to file the schedules.

21 THE COURT: Correct.

22 MR. RACHLIS: So that everyone will know -- basically  
23 the exhibits that you've seen to all of the position  
24 statements. That's what we intend on filing.

25 THE COURT: So on January 30th, the receiver will

1 file the schedules calculating the receiver's position about  
2 potential distribution --

3 MR. RACHLIS: Distribution.

4 THE COURT: -- values for all of the claimants in  
5 Group 8. Then anyone wanting to submit something to me in a  
6 settlement posture of a settlement statement can email -- not  
7 file on the docket, but can email -- your settlement position  
8 statements to our *proposed\_order* email address by Monday,  
9 February 10th. And then I will read all of that so that I can  
10 talk to you on Thursday, February 13th at 10:00 a.m.

11 MR. RACHLIS: One addition or footnote on that.

12 As Your Honor knows, some claimants may just send  
13 that to the receiver at times. And we're happy to receive  
14 those and then present them to the Court along the time  
15 schedule you've just set.

16 THE COURT: I appreciate that. Thank you.

17 Is there anything else we should do about Group 8?

18 (Receiver's counsel nods.)

19 THE COURT: Then let me turn to, since we're now  
20 talking about 2025, what we think things will look like for the  
21 first couple of quarters of 2025.

22 I, unfortunately, cannot give you a timeline for a  
23 ruling on Group 6. And then Group 7 will have issues fully  
24 briefed in December, so -- of 2024. I don't know how long it  
25 will take me to resolve that.

1           We were talking about Group 8. Now into the first  
2 quarter of 2025. And then Group 9 is done, but then we need  
3 Group 10, which is the unsecured claims process.

4           One question I had was, on that schedule, what do we  
5 expect there to be with respect to any other asset recovery  
6 activity that might be underway?

7           So there's litigation out there. The Rock Fusco  
8 litigation looks to me like it may be settled, and that's  
9 working through. There are some pending foreclosure actions in  
10 the Circuit Court of Cook County that have been stayed.

11           So I am trying to start wrapping my mind around,  
12 other than property claims, what else is there for the receiver  
13 to accomplish so that we can close things out?

14           MR. RACHLIS: Well, Your Honor's correct. There  
15 are -- there's been work, significant work towards the  
16 resolution of the Rock Fusco claim. It's not been finalized  
17 yet, but we're working to achieve that.

18           There are foreclosure -- there are a series of  
19 actions that are stayed. I think we do list those out in the  
20 status reports. We're not actively involved in any of those  
21 matters.

22           So really there is no other pending action, for  
23 purposes of asset recovery, other than what Your Honor is aware  
24 of. And so there really -- and as you're trying to think about  
25 those sort of tangentially-related items, other than Group 10,



1 or that may affect Group 10, there aren't any more to report on  
2 at this point.

3 THE COURT: And should we be thinking about what  
4 happens when the stay gets lifted?

5 MR. RACHLIS: We would think that those actions --  
6 because there's agreements, essentially, they can't take any  
7 step or action of default, or there's no recovery that could be  
8 had from EquityBuild, there should not be an impact on the  
9 unsecured claimants in Group 10.

10 But we -- and we know that one -- you know, one of  
11 those matters has been up on appeal. So there's a foreclosure  
12 action that's been resolved, I guess. But we'll have to take a  
13 look back to see if there's any further activity that may  
14 implicate through those actions.

15 So we -- and I'd probably say, either through our  
16 next status report or our next status, we could probably  
17 provide the Court with further detail, if there's anything more  
18 that would need to be considered in regards to those -- to how  
19 it may impact Group 10.

20 THE COURT: Is it then the receiver's expectation  
21 that by the time we get to Group 10, those will be the last  
22 distributions that the receiver and this whole estate will need  
23 to make, and that would then close the estate?

24 MR. RACHLIS: The hope would be that as you're going  
25 through the groups, there will -- we'd have to have all of the

1 remain -- other groups, other than Group 10, resolved before  
2 that distribution's made. So that's one thing.

3 I'm reminded that there is a personal injury matter  
4 that is stayed in Cook County. So we'd have to consider if  
5 that has any impact on the issues in Group 10.

6 THE COURT: Can you just remind me a little bit more  
7 about that? What is that personal injury matter? And --

8 MR. RACHLIS: I don't recall the details of that  
9 other than -- you know, we've worked to keep them staying  
10 against the receivership once that's done. We've stayed out of  
11 those actions for a host of reasons.

12 But when we get -- I would say that outside of  
13 these -- once the claimants are done through the remaining  
14 groups, we will certainly take a further look at any of these  
15 other -- well, any other asset recovery, if that's all done.  
16 And if there's anything that's -- from these other actions,  
17 that assume those don't have an impact, there wouldn't be  
18 anything left for the receiver to do other than the final  
19 distribution.

20 This is not a situation -- we don't have any other  
21 assets that are being held for disposition. There's no stock,  
22 there's no other property that's being managed, which sometimes  
23 occurs in receivership settings. So we don't have anything of  
24 that nature. And, as I indicated, there's no other asset  
25 recovery action that's pending. So we don't have to wait for

1 that either.

2 So it would really just be -- by the time -- and to  
3 be fair about it -- we were thinking through the fact that  
4 Group 6 and Group 7 still remain unresolved, as does Group 8,  
5 almost by natural -- by time. A lot of these matters may  
6 conclude in conjunction with these others. So obviously we do  
7 monitor those for purposes of our status reports and things of  
8 that nature.

9 So I would say that as a whole, there would not --  
10 the hope would be, once we got to Group 10, there would not be  
11 any further activity that would need to be done other than a  
12 final distribution.

13 THE COURT: And I think I mentioned this maybe two  
14 statuses ago. But the other thing to keep in mind is what a  
15 final order would look like, to make sure everyone who would  
16 want to appeal from a variety of interlocutory decisions that  
17 have been made in this case will have that formal judgment  
18 order at the end.

19 MR. RACHLIS: We are working -- obviously, that is a  
20 very important issue for the receivership.

21 One other -- it's not a footnote, but Your Honor  
22 knows that with respect to groups -- there's a currently  
23 pending appeal in Group 2, which would need to get resolved, of  
24 course. And if there are any other appeals from any of the  
25 groups on any issues or whatnot, that impacts what may occur in

1 regards to Group 10. So we really can't have that proceed  
2 until those are there.

3 So our discussion about this assumes that all of  
4 those have been resolved.

5 THE COURT: And it's the appellate posture that is  
6 what got me thinking about my comments at the very beginning of  
7 this morning's hearing, which is now that you've been through  
8 the appellate -- some of you have been through the appellate  
9 process, all the way through an opinion, and then now through a  
10 couple of -- at least one mediation that has resolved and then  
11 another mediation that's still pending, I am just wondering if  
12 enough experience now has been had with that angle on things to  
13 think through the potential savings to the overall receivership  
14 through compromise to avoid the appellate piece of this. That  
15 does take time and does incur expense, receiver expense that  
16 ultimately then is to the detriment of everybody in terms of  
17 the assets available for everybody else.

18 And so now that you've had the assistance of the  
19 Seventh Circuit mediators on a piece of this, and have been  
20 through the process on the merits, I am wondering whether there  
21 is a way now to think through all of this in a more global  
22 approach.

23 We've been so wed to the groups and the group  
24 processes, and there are a lot of individual properties in all  
25 of that, and the individual properties have individual issues,

1 but with the passage of time and the idea of, big picture, that  
2 there's only so much we can do, and there's a lot of risk out  
3 there that is a source of delay, and if people value time, then  
4 maybe we should be compromising on a global level.

5 And I was thinking that, in that sense, these  
6 priority disputes, and those who have prior disputes, have a  
7 form of leverage in all of this, which is the: Well, we can  
8 appeal, and that will take time, and that's a valid factor in  
9 evaluating these cases. And so maybe we should be thinking  
10 about, can we compromise now, having gone through all of this?  
11 So that we don't continue down the road with each group and  
12 then having to see how the priority dispute shakes out so that  
13 we then know whether we need to deal with an avoidance claim.  
14 That's all time and effort, and time is just no one's friend in  
15 this case.

16 I don't know how to put that thought in the form of a  
17 question to everybody that could be useful this morning. But  
18 it's definitely on my mind as I look at the calendar and I  
19 think about all the people who are out there that are  
20 listening, and some of whom, I assume, are not listening, but  
21 want to know when this will be over. And in some ways, I think  
22 the only way to speed that up is if we can compromise.

23 So I'll end with the idea of inviting all of you to  
24 think about what I have just said and invite any settlement  
25 communications as to the prospects of an even bigger approach

1 to compromise.

2 You can communicate that to the receiver or you can  
3 email our *proposed\_order* email address by Monday, December  
4 16th, if anyone has any ideas about a framework to resolve all  
5 of the groups on a more global level through compromise and  
6 settlement.

7 It may be that it's just not possible, that too many  
8 stakeholders have too many represented interests to be able to  
9 think about the big picture beyond their own individual  
10 interests. But I think it's part of my obligation, as I think  
11 about the overall receivership here, is to think about the  
12 overall picture and see if we can't find a way through it at a  
13 higher level of generality, because I think that will save  
14 everybody time. But hope springs eternal, I guess.

15 Before I open it up for any other comments, I know  
16 that Mr. Marcus wanted to be heard, and he made arrangements to  
17 be heard. And why don't I give Mr. Marcus a chance to address  
18 me.

19 And, Mr. Marcus, I believe you're on the phone, and  
20 we've opened up your phone line.

21 MR. MARCUS: Your Honor, thank you very much, Your  
22 Honor. Can you hear me?

23 THE COURT: I can hear you just fine.

24 MR. MARCUS: Okay, Your Honor. Good morning, Your  
25 Honor. How are you, first of all?

1 THE COURT: I am doing fine. Thank you.

2 MR. MARCUS: Okay. Well, I tell you, you answered  
3 part of my question. Because, originally, you thought it --  
4 I'm in Group 8. And originally you thought it would be done by  
5 December, the end of December. I'm just thinking now -- of  
6 course, now we're told it's February/March.

7 Do you have any kind of a time frame, like March or  
8 April, when you think this could be resolved?

9 And also, does it have to -- does Groups 6 and 7 have  
10 to be completely resolved before you get to Group 8?

11 THE COURT: Groups 6 and 7 do not have to be  
12 completely resolved before I resolve Group 8.

13 The idea for Group 8 right now is to see if we can't  
14 find a way to compromise on Group 8 in the first quarter of  
15 2025. If we can't -- and I'll know more about that in the  
16 middle of February. But if I am unable to broker some sort of  
17 resolution in mid-February for Group 8, then we would be  
18 looking at probably another couple of months to get the  
19 process, like the process we have done for Groups 6 and 7,  
20 done.

21 So our hope is that if everyone comes in with an open  
22 mind and flexible thinking in the middle of February, then  
23 maybe we can resolve Group 8 before the end of March of 2025,  
24 at least in principle.

25 I don't think that will mean that checks will be able

1 to go out that quickly. But that's the kind of timetable we're  
2 looking at. And it's dependent on people's flexibility in the  
3 middle of February once we know a little bit more.

4 Does that answer your question, Mr. Marcus?

5 MR. MARCUS: Yes. I just wanted to say one last  
6 thing. I wanted to thank you. Because I know you have had  
7 this case for a little over two years. It's such a complicated  
8 case, unbelievable. And I thank you for trying to do this as  
9 quickly as possible. I know it's not easy.

10 But I am looking forward to sometime in the spring,  
11 Your Honor. Maybe I'll be -- we'll be lucky to get checks sent  
12 out to Group 8, you know? And that's my hope.

13 And I want to, again, thank you for your time. And I  
14 want to wish you happy holidays, and to everyone on the line.  
15 And so I'll -- hopefully, we'll talk next year.

16 THE COURT: Thank you, Mr. Marcus.

17 MR. MARCUS: Take care. Bye.

18 (Mr. Marcus muted.)

19 THE COURT: I'll open it up to the floor here in the  
20 courtroom.

21 On behalf of the receiver, are there any other agenda  
22 items on your mind?

23 MR. RACHLIS: No, Your Honor.

24 I guess I don't know who's on the line, but we know  
25 that Mr. Damashek represents Group 8 and Mr. Stein has Group 8



1 representatives. But is there anyone else on the line for --  
2 attorney-wise who's representing any Group 8 individuals?

3 We know Mr. Marcus is a Group 8 claimant. But if  
4 there's attorneys, it would be interesting to know that they  
5 would participate in that settlement conference or have any  
6 other thoughts in terms of who we would expect or who we could  
7 expect to have contact with. Because we will certainly make  
8 effort, as we've done with Mr. Damashek and Mr. Stein, to speak  
9 with them in advance in an effort to advance the ball.

10 THE COURT: We haven't heard from any other counsel  
11 who wanted to appear by phone, other than Ms. Wine and  
12 Mr. Stein.

13 So if there are counsel on behalf of Group 8 that are  
14 on the line listening, I'll just urge you to contact the  
15 receiver, and I also am ordering you to comply with the  
16 schedule that I have set for the Group 8 process.

17 MR. RACHLIS: Thank you. Thank you, Your Honor.  
18 But nothing further from the receiver.

19 THE COURT: Mr. Stein, anything on your mind or on  
20 your agenda on behalf of the clients you represent?

21 MR. STEIN: No, not at this time, Your Honor. We're  
22 fully prepared to participate in that settlement process.

23 I will just note that my participation as the parties  
24 who have been involved in the discussions thus far is a little  
25 unusual because I'm representing so many individuals who have

1 individual rights. But we're fully prepared to see how we can  
2 try to help move things forward.

3 THE COURT: Thank you.

4 Any other counsel in the room that wanted to make  
5 sure I covered something today?

6 MR. DAMASHEK: Ron Damashek again for Northeast Bank.

7 Just for perhaps Mr. Marcus' benefit, since I don't  
8 think he's representing, are you -- represented. Are you  
9 anticipating that he should be coming in person to the  
10 settlement conference? Or any other individual investors who  
11 are not represented?

12 THE COURT: My guess is it will not likely be  
13 necessary, but I'll need to know more as we get closer into  
14 February. And we can make telephonic arrangements for  
15 individuals who might want to be sure to be present and heard  
16 in that context. But I appreciate the point.

17 On behalf of the SEC, anything that you'd like to  
18 say?

19 MR. HANAUER: No. Thank you, Your Honor.

20 THE COURT: Ms. Wine, I want to make sure I give you  
21 an opportunity to make sure I haven't forgotten something.

22 MS. ROSEN WINE: Thank you, Your Honor.

23 Nothing further from me on this.

24 THE COURT: Okay. So try to think globally while  
25 you're also in the weeds on all of these groups. And if you

1 can come up with something globally, let me know by December  
2 16th.

3 In the meantime, we've got the schedule for the  
4 formal processes and the informal settlement processes for  
5 Group 8, and that's what we'll do.

6 And that will conclude our status hearing this  
7 morning. Thank you, everyone, for being here and for calling  
8 in.

9 MR. DAMASHEK: Thank you.

10 MR. RACHLIS: Thank you, Your Honor.

11 (Proceedings concluded.)

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C E R T I F I C A T E

I, Colleen M. Conway, do hereby certify that the foregoing is a complete, true, and accurate transcript of the Status and Motion Hearing proceedings had in the above-entitled case before the HONORABLE MANISH S. SHAH, one of the Judges of said Court, at Chicago, Illinois, on November 4, 2024.

/s/ Colleen M. Conway, CSR, RMR, CRR

11/19/2024

Official Court Reporter  
United States District Court  
Northern District of Illinois  
Eastern Division

Date