

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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

RECEIVER’S MOTION FOR COURT APPROVAL OF: (1) INVOICES OF CLAIMS SERVICES VENDOR; AND (2) CONTINUED RETENTION OF CLAIMS VENDOR FOR ONGOING SERVICES

Kevin B. Duff, as the 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 as defined in the Order Appointing Receiver (Docket No. 16) and Order granting the Receiver’s Motion to Amend and Clarify Order Appointing Receiver to Specifically Identify Additional Known Receivership Defendants (Docket No. 290) (collectively, the “Receivership Defendants”), and pursuant to the powers vested in him by Order of this Court entered on August 17, 2018, seeks Court approval of: (1) invoices for the Receiver’s claims services vendor, Axos Fiduciary Services (“Axos”); and (2) continued retention of Axos for ongoing services, and states as follows:

1. Pursuant to the Securities Act of 1933 and the Securities Exchange Act of 1934, the Securities and Exchange Commission sought and obtained the appointment of Receiver. Under the order appointing the Receiver, the Receiver has authority in equity, as well as under 28 U.S.C.

§§ 754, 959, and 1692, and Fed. R. Civ. P. 66, and was given broad powers to investigate and safeguard the assets of Receivership Defendants. Among other powers, the Receiver is authorized to retain Axos. (*See* Order Appointing Receiver, Docket No. 16, ¶ 54)

Approval of Invoices for Services Provided

2. In his motion to establish a claims process, the Receiver sought court approval to retain a third-party vendor – Axos – to setup and host a claims portal. (Docket No. 241 at 6)

3. The Receiver determined it would be cost effective to retain Axos to provide services and support in connection with efforts to gather all proof of claims forms and supporting documents and organize data from submitted claims in a useable fashion for the Receiver, including the extraction of data from the claims forms. (Docket No. 241 at 6-8)

4. In the Court’s order establishing a claims process, this Court approved of the retention of Axos to send notices by U.S. mail and host a claims portal for the Receiver. (Docket No. 349)

5. While the claims portal was live, the Receiver and his staff received hundreds of emails to the dedicated claims account, many of which were technical questions that required assistance from Axos to address. (Docket No. 468 at 3)

6. At this time, more than 2,000 claims have been submitted through the Axos claims portal, by email, by courier, and through U.S. mail. (Docket No. 477)

7. Axos has continued working with the Receiver to organize this information in a useable fashion in several ways that are beneficial to the Receiver’s ability to work through the claims and the claims process.

8. Axos is also hosting a database (at no additional charge) for all claims data (information such as claimant name, claimed amount, type of claim, proof of claim forms, and supporting documents). (Docket No. 468 at 4, n.1)

9. For those claimants who submitted claim forms and/or documents in hard copy,¹ Axos is assisting by uploading claimant information and documents to the database. The Receiver has further determined it is both time and cost-effective for Axos to undertake this hard copy data upload to the database for the Receiver's use during the claims review.

10. Axos' invoice in connection with hosting a claims portal for the Receiver in the amount of \$14,494.09 is attached as **Exhibit A** and a copy of an invoice in connection with uploading hard copy data to the database in the amount of \$2,310.00 is attached as **Exhibit B**.

11. The Receiver requests this Court approve payment of Axos' invoices attached as Exhibits A and B.

Ongoing Support and Services

12. The Receiver requests the Court's approval to continue to use the services and support of Axos where possible for efficiency and cost-effectiveness purposes with respect to data input and claims submissions review at rates substantially similar to those reflected for its personnel in Exhibits A and B.

13. To that end, the Receiver requests court approval to continue with his retention of Axos to provide ongoing and future services and support in connection with the claims process where the Receiver determines in his business judgment it is cost-effective for Axos to assist and provide services.

¹ As stated previously, approximately 150 submissions were submitted to the Receiver directly, in either hard copy or through e-mail. (Docket No. 468 at 4)

14. Ongoing services are expected to include, for example and without limitation, uploading hard copy submissions and documents to the claims database, data input, document review, and preparing claims spreadsheets for the Receiver, as needed.

15. Axos does not hold or represent an interest materially adverse to the interests of the Receivership Estate.

WHEREFORE, the Receiver respectfully requests that this Court grant this Motion, approve payment of the invoices for services provided by the Receiver's claims vendor Axos Fiduciary Services (Exhibits A & B), approve the Receiver's continuing retention of Axos for ongoing support and services in connection with the claims process, and grant such other relief as the Court deems just and proper.

Dated: September 13, 2019

Kevin B. Duff, Receiver

By: /s/ Nicole Mirjanich

Michael Rachlis
Nicole Mirjanich
Rachlis Duff Peel & Kaplan, LLC
542 South Dearborn Street, Suite 900
Chicago, IL 60605
Phone (312) 733-3950; Fax (312) 733-3952
nm@rdaplaw.net

Exhibit A



INVOICE
93005

Bill-to

Mr. Kevin Duff
542 S Dearborn Street
Suite 900
CHICAGO, IL 60605.

Transaction 93005
Invoice Date 8/8/19
Legal Entity Axos Bank

Line Total 14,494.09
Sales Tax 0.00
Shipping 0.00

Total 14,494.09
Payments 0.00
Credits 0.00
Financial Charges 0.00

Payment Terms 30 Net

Due Date 9/7/19

Balance Due \$14,494.09

No.	Product	Description	UOM	Quantity	Unit Price	Amount
1		Portal Setup Fee With \$500.00 Discount	Each	1	3,000.00	3,000.00
2		Online Claims Portal Monthly Hosting Fee	Each	2	200.00	400.00
3		Project Manager	Each	12	80.00	960.00
4		Monthly Claims Extraction	Each	53	100.00	5,300.00
5		Director/V.P. Consulting	Each	4	190.00	760.00
6		Senior Consultant II	Each	.4	185.00	74.00
7		Senior Consultant I	Each	5.5	175.00	962.50
8		Senior Case Manager III	Each	1.8	165.00	297.00
9		Senior Case Manager II	Each	1.4	160.00	224.00
10		Senior Case Manager I	Each	7.3	150.00	1,095.00

Remit to

4350 La Jolla Village Drive
Suite 140
SAN DIEGO, CALIFORNIA 92122.

Comments

Additional charges may apply if check disbursement services are requested



INVOICE
93005

No.	Product	Description	UOM	Quantity	Unit Price	Amount
11		Case Manager I	Each	.1	70.00	7.00
12		Admin. Support III	Each	.4	45.00	18.00
13		Noticing (per page)	Each	9735	0.10	973.50
14		Noticing In State	Each	418	0.10	41.80
15		Envelopes (per envelope)	Each	923	0.05	46.15
16		Postage	Each	609.35	0.55	335.14
					Line Total	14,494.09

Remit to

4350 La Jolla Village Drive
Sulte 140
SAN DIEGO, CALIFORNIA 92122

Comments

Additional charges may apply if check disbursement services are requested

Exhibit B



INVOICE
95001

Bill-to

Mr. Kevin Duff
542 S Dearborn Street
Suite 900
CHICAGO, IL 60605.

Transaction 95001
Invoice Date 8/23/19
Legal Entity Axos Bank

Line Total 2,310.00
Sales Tax 0.00
Shipping 0.00

Total 2,310.00
Payments 0.00
Credits 0.00
Financial Charges 0.00

Payment Terms 30 Net **Due Date** 9/22/19 **Balance Due** \$2,310.00

No.	Product	Description	UOM	Quantity	Unit Price	Amount
1		Project Planning	Each	7	70.00	490.00
2		Data Import (hourly rate)	Each	26	70.00	1,820.00
Line Total						2,310.00

Remit to
4350 La Jolla Village Drive
Suite 140
SAN DIEGO, CALIFORNIA 92122.

Comments

Claims Data Entry Project