

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

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

MOTION TO EXTEND DATE TO FILE WITNESS AND EXHIBIT LIST AND CONTINUE JULY 10TH HEARING OR TO STRIKE EXHIBITS AND WITNESS FROM RECEIVER’S LIST

Jerome H. Cohen (“Defendant”) respectfully files this Motion (“Motion”) to **EXTEND DATE TO FILE WITNESS AND EXHIBIT LIST AND CONTINUE JULY 10TH HEARING OR TO STRIKE EXHIBITS AND WITNESS FROM RECEIVER’S LIST** in Response to the Receiver’s WITNESS AND EXHIBIT LIST FILED ON MAY 31ST 2019. In support of its Motion, the Defendant states as follows:

BACKGROUND

The Receiver’s Witness and Evidence List identifies Ann Tushaus who is an SEC accountant as a witness and his Exhibit list includes Exhibit numbers 16, 25, 26 and 27 as Exhibits he intends to introduce into evidence all in an effort to prove the funds used to pay for the down payment, improvement and purchase of the Naples House were Investor Monies.

The witness and exhibits should either be stricken or an adequate extension of time for the Defendant to file his own witness and Exhibits lists along with a continuance of the evidentiary hearing scheduled for July 10th should be granted to allow the Defendant

opportunity to properly respond to Exhibits and testimony the Defendant could not have anticipated would be introduced.

ARGUMENT

I. THE RECEIVER LISTS ANN TUSHAUS, AN SEC ACCOUNTANT ALONG WITH EXHIBITS 16, 25, 26 AND 27 WHICH SHOULD BE STRICKEN OR ADEQUATE TIME SHOULD BE GRANTED DEFENDANT TO SUBMIT A WITNESS AND EXHIBIT LIST ALONG WITH A CONTINUANCE OF THE EVIDENTIARY HEARING SCHEDULED FOR JULY 10TH TO AFFORD THE DEFENDANT A FAIR OPPORTUNITY TO RESPOND TO MATTERS NOT BROUGHT AS PART OF THE RECEIVER'S ORIGINAL MOTION NOR IN ANY SUBSEQUENT RELATED FILING.

The Receiver's intention to introduce Exhibits 25, 26 and 27 which are transcripts of the Defendant's testimony before the SEC and witness Ann Tushaus derive entirely or in part from the matter introduced as Exhibit 16 which is a case filed May 29th, 2019 (only two days before the deadline to submit witness and exhibit lists) against a 3rd party who is not a party to the case before this court. The Defendant could not have anticipated the introduction of the Exhibits therefore making it impossible for the Defendant to have submitted a witness or exhibit list to properly respond to this surprise by the Receiver by the deadline. The Receiver seeks to use the above detailed exhibits and witness in an effort to "taint" the money the Defendant used to pay for the down payment to purchase the Naples house and the overwhelming majority of improvements having failed to show the money used was investor monies in his original motion and subsequent arguments.

CONCLUSION

The Receiver has improperly and unfairly sought to introduce Exhibits and a witness to pursue an argument not pursued in his original motion or any subsequent argument. The Defendant respectfully requests the witness and exhibits be stricken by the court. If the court determines it will not strike the witness and exhibits, the Defendant respectfully requests an extension of two weeks to submit his Witness and Exhibits list and a continuance of 30 days for the Evidentiary hearing to provide for a fair opportunity for the Defendant to respond to this new argument.

June 12th, 2019

Respectfully submitted,

DEFENDANT JEROME H. COHEN

By:

Jerome H. Cohen

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CERTIFICATE OF SERVICE

I hereby certify that on March 29th, 2019, a copy of the foregoing **RESPONSE TO RECEIVER'S MOTION TO AMEND ORDER APPOINTING RECEIVER TO EXPRESSLY IDENTIFY AND INCLUDE SPECIFIC RECEIVERSHIP ASSETS** was served by filing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to counsel of record.



Shaun D. Cohen



Jerome H. Cohen