

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

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,

Plaintiff,

v.

EQUITYBUILD, INC., EQUITYBUILD
FINANCE, LLC, JEROME H. COHEN, and
SHAUN D. COHEN,

Defendants.

Case No. 1:18-cv-5587

Hon. Manish S. Shah

**ORDER APPROVING DISTRIBUTION OF PROCEEDS FROM THE SALE OF
PROPERTIES 67 (1131-41 E 79TH PLACE) AND 72 (7024-32 S PAXTON AVENUE)**

WHEREAS, this matter came before the Court on the Motion filed by Kevin B. Duff, as receiver for the Estate of Defendants EquityBuild, Inc., EquityBuild Finance, LLC, their affiliates, and the affiliate entities of Defendants Jerome Cohen and Shaun Cohen (“Receiver”), for approval of an agreed plan and order for the distribution of the proceeds from the sale of 1131-41 E 79th Place (“1131 E 79th” or “Property 67”) and 7024-32 S Paxton Avenue (“7024 Paxton” or “Property 72”) (collectively, the “Subject Properties”). (Dkt. 1653, the “Motion”)

WHEREAS, with the Court’s approval and over the objection of claimant Federal National Mortgage Association (“Fannie Mae”), on December 22, 2020, the Receiver sold the property located at 1131 E 79th for \$1,150,000. (Dkt. 910 at 2-3) The net proceeds of sale in the amount of \$1,055,876.12 were deposited into an interest-bearing account held by the Receiver, and additional deposits and withdrawals have been made into and out of this property account pursuant to Court orders, as reported in the Receiver’s quarterly status reports. (Dkt. 839, 930, 985, 1017, 1077, 1164, 1243, 1280, 1328, 1379, 1448, 1516, 1535, 1589, 1652)

WHEREAS, with the Court's approval and over the objection of claimant Federal Home Loan Mortgage Corporation ("Freddie Mac"), the Receiver sold the property located at 7024 Paxton for \$1,775,000. (Dkt. 966 at 7-9) The net proceeds of sale in the amount of \$1,657,501.17 were deposited into an interest-bearing account held by the Receiver, and additional deposits and withdrawals have been made into and out of this property account pursuant to Court orders, as reported in the Receiver's quarterly status reports. (Dkt. 839, 930, 985, 1017, 1077, 1164, 1243, 1280, 1328, 1379, 1448, 1516, 1535, 1589, 1652)

WHEREAS, settlement discussions occurred between the Receiver and counsel for the Federal Housing Finance Agency ("FHFA"), the Conservator for Fannie Mae and Freddie Mac (collectively "the Parties"), and the Parties reached a negotiated agreement as to the amount of the distribution to be made to Fannie Mae from the funds held in the property account for 1131 E 79th, and the amount of the distribution to be made to Freddie Mac from the funds held in the property account for 7024 Paxton, as set forth in Exhibit 1 to the Motion, in the event the motion was granted consistent with the relief requested.

WHEREAS on May 1, 2024 the Receiver submitted the Motion with recommendations for distribution with regards to the Subject Properties which included, *inter alia*, the Receiver's recommendations regarding the secured or unsecured nature of each claim asserting an interest in these properties, as well as for distributions to be made to Fannie Mae and Freddie Mac consistent with the settlement discussions discussed above.

WHEREAS, on May 2, 2024, the Court entered an order providing that any claimants to the proceeds from the Subject Properties (Group 9) may submit objections to the Motion by May 22, 2024. (Dkt. 1656)

WHEREAS, the Motion, the agreed distribution plan set forth in Exhibit 1 to the Motion, and the Court's order setting a May 22, 2024 deadline for objections were served by electronic

mail upon all claimants who have asserted claims against the Subject Properties, and upon all individuals or entities that submitted a proof of claim in this action (sent to the e-mail address each claimant provided on the claim form or subsequently updated).

WHEREAS, no objections to the Motion or the agreed distribution plan set forth in Exhibit 1 to the Motion were filed or submitted to the Receiver on or before May 22, 2024.

WHEREAS, the Parties have agreed that the distributions and other relief approved in this Order resolve all disputes of any kind or nature between the Receiver and the FHFA, and between the Receiver, on the one hand, and Fannie Mae and Freddie Mac, on the other hand, with respect to the Subject Properties only, that the Parties will not appeal from or collaterally attack any rulings associated with the Subject Properties, and that any and all other claims that might exist between or among the Parties regarding the Subject Properties are compromised and waived, provided however that Fannie Mae and Freddie Mac will retain unsecured claims for amounts they claim are due but not paid as part of the distributions granted by this Order. These agreements are a compromise of disputes and disagreements between and among the various Parties, and do not constitute an admission of the validity of any claim, defense, argument, or position made or taken by any Party. The agreements over the Subject Properties will not prejudice, impair, or waive any Party's position regarding any other property, and the agreement does not establish a precedent as to any other property.

NOW, THEREFORE, the Court, having considered the Motion and the record of this receivership case and being otherwise duly advised in the premises, hereby finds and ORDERS:

1. The Motion is GRANTED.
2. The agreed distribution plan is fair, reasonable, and in the best interests of the Receivership Estate.

3. Adequate and fair notice has been provided to all interested and potentially interested parties (including but not limited to all lienholders in the chain of title) of the claims process, the Receiver's fees and proposed fee allocations, the agreed distributions, and the Motion, and that each interested or potentially interested party has had a full and fair opportunity to assert its interests and any objections.

4. Freddie Mac and Fannie Mae are granted relief from the stay imposed in the Order Appointing Receiver (Dkt. 16) to the extent that they may liquidate any reserve or escrow accounts held with respect to the Subject Properties and transfer any remaining balances to their designee(s).

5. No later than five (5) business days after entry of this Order, or as soon as such distributions can be reasonably achieved, the Receiver shall disburse from the accounts held for the Subject Properties: \$1,113,381.83 to Fannie Mae, as agreed resolution of its secured claim against Property 67; and \$1,541,000.00 to Freddie Mac, as agreed resolution of its secured claim against Property 72.

6. No later than five (5) business days after entry of this Order, or as soon as such distributions can be reasonably achieved, the Receiver shall disburse the following amounts from the account held for 1131-41 E 79th Place:

- a) \$29,736.32 to the Receiver's account for Payment of Held Back Expense Restoration (Dkt. 1393, 1420, 1432);
- b) \$126,107.27 to Rachlis Duff & Peel, LLC for Payment of Fees Held Back pursuant to Court Orders (Dkt. 1372, 1452, 1469, 1510, 1511, 1539, 1573).

7. No later than five (5) business days after entry of this Order, or as soon as such distributions can be reasonably achieved, the Receiver shall disburse the following amounts from the account held for 7024-32 S Paxton Avenue:

- a) \$19,528.49 to the Receiver's account for Payment of Held Back Expense Restoration (Dkt. 1393, 1420, 1432);
- b) \$86,241.15 to Rachlis Duff & Peel, LLC for Payment of Fees Held Back pursuant to Court Orders (Dkt. 1372, 1452, 1469, 1510, 1511, 1539, 1573).

8. Following the distributions ordered herein, the net of the remaining balances of property accounts for the Subject Properties, including any interest hereafter accruing, shall be transferred to the Receiver's account for use in the administration of the Receivership Estate and/or as otherwise ordered by the Court.

9. The Court's previous orders solely with respect to FHFA's, Fannie Mae's, and Freddie Mac's objections related to the Subject Properties, and only as to those portions of Dkt. 1258, 1325, 1366, 1452, 1490, 1510, 1511, 1539, 1573, 1618 that specifically relate to fees allocated to the Subject Properties, are hereby vacated and voided. These orders remain in effect and are expressly not vacated with respect to all properties other than the Subject Properties.

10. FHFA, Fannie Mae, and Freddie Mac shall dismiss with prejudice the consolidated appeals pending in the Seventh Circuit Court of Appeals as Case Nos. 23-2668 and 22-3073 without delay following the entry of the distribution order by the Court and Fannie Mae's and Freddie Mac's receipt of distributions consistent with this Order.

Entered:



Manish S. Shah
United States District Court Judge

Date: May 28, 2024