

the statement of the Receiver's position that the notice of appeal filed by AMark "should not change or delay the recommended distributions in the Proposed Order; the proposed distribution plan provides AMark with full recovery of its principal and any remainder of funds will be transferred to the Receiver's account." *Id.* at 2-3.

4. On July 10, 2024, the Court entered a minute order stating that "[t]he court also agrees that AMark's notice of appeal provides no just reason to delay Group 4 distributions" (Dkt. 1694), and entered a final order approving the distribution of proceeds from the sale of Group 4 properties, including Property 116 (Dkt. 1695).

5. From that date until after the close of business on July 31, 2024, AMark did not respond to the Court's finding or order, either in a filing to the Court or to the Receiver directly.

6. Meanwhile, during those three weeks, the Receiver worked diligently with representatives of the bank that holds the accounts for the proceeds of property sales to coordinate the distribution of the sales proceeds from the Group 4 properties in order to comply with the Court's distribution order. (Dkt.1695) The bank started making these distributions on July 23, 2024 and finished preparing the distribution checks on July 26, 2024. The distribution checks included two distributions from the property account held for Property 116—one to AMark in the amount of \$125,000 and the other to claimant Charles Michael Anglin in the amount of \$50,000. Both those checks were dated and signed on July 26, 2024.

7. On July 31, 2024, at 5:29pm Central, AMark filed a Motion to Stay Pending Appeal, requesting for the first time that the Court issue a stay of any distribution or disbursement of the proceeds from the sale of Property 116. (Dkt. 1723)

8. On August 1, 2024 at 9:32am Central, the Receiver's counsel asked a bank representative whether the checks had been mailed. The bank representative confirmed that the checks had been sent the previous day.

9. The approved transfer of \$394,373.44 to the Receiver's account from the Property 116 account, as well as the approved payments to Rachlis Duff & Peel, LLC, were also completed before AMark filed its July 31, 2024 motion or the Court entered its August 1, 2024 order.

10. On August 1, 2024, the Court entered a minute order directing as follows:

While the motion for a stay is under advisement, the distribution of Property No. 116 funds is stayed. Given the likelihood that the Receiver's priority lien for fees and costs against those proceeds will need to be assessed in light of the appeal, it likely makes most sense to stay distributions until the conclusion of the appeal.

(Dkt. 1725)

11. Because the distribution checks have been mailed, the Receiver is unable to comply with the Court's order staying the distribution of Property 116 funds. If the Court so orders, the Receiver could transfer back to the Property 116 account the \$394,373.44 surplus that has been transferred to the Receiver's account.

12. This statement is preliminary in order to expeditiously advise the Court and interested parties of the distributions described herein that have already been made. The Receiver intends to submit a more complete response to AMark's motion to stay in accordance with the schedule set by the Court.

Dated: August 2, 2024

Respectfully submitted,

Kevin B. Duff, Receiver

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CERTIFICATE OF SERVICE

I hereby certify that I provided service of the foregoing **Preliminary Statement Relating To The Court's August 1, 2024 Order Regarding Stay Of Distributions From Property 116**, via ECF filing, to all counsel of record on August 2, 2024.

I further certify that I caused true and correct copies of the foregoing to be served upon all claimants included on the Email Service List for Group 4 by electronic mail.

I further certify that the Statement will be posted to the Receivership webpage at: <http://rdaplawnet.com/receivership-for-equitybuild>

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