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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 **UNITED STATES SECURITIES AND**
12 **EXCHANGE COMMISSION,**

13 Plaintiff,

14 v.

15 **EMVEST MORTGAGE FUND, LLC;**
16 **EMVEST, INC.; and MILON LYLE**
17 **BROCK,**

18 Defendants.

CASE NO.: 04CV2295-DMS (RBB)

JUDGE: Hon. Dana M. Sabraw

RECEIVER'S TWENTY-FIRST
VERIFIED REPORT AND
PETITION FOR INSTRUCTIONS

CTRM: 10

DATE: February 11, 2011

TIME: 1:30 p.m. (No Oral Argument)

19
20 **Emvest Mortgage Fund, LLC**

21 **Receiver's Twenty-First Verified Report and Petition for Instructions;**

22 **Prepared by Dennis Murphy, Permanent Receiver,**

23 **For the Period from August 11, 2010 to January 18, 2011**

24
25 This "Receiver's Twenty-First Verified Report and Petition for Instructions" is
26 filed on behalf of Emvest Mortgage Fund, LLC ("the Fund") in compliance with
27 reporting requirements for Receivers under Civil Rule 66.1 (Receivers). This twenty-
28 first report covers the period from August 11, 2010 to January 18, 2011.

1 **1. Summary of Operations of Receiver:**

2 The Receiver has focused for some time on expeditiously liquidating the Fund's
3 remaining assets, while making prudent business decisions in a very difficult financial
4 environment. The Receiver has also continued to be focused on preserving the Fund's
5 cash so that the liquidation process could be fully supported. The overwhelming
6 constraint has been an almost total lack of liquidity in the marketplace; this has
7 hindered transactions of every type and has greatly slowed the liquidation process.
8 The Receiver had hoped to have liquidated the portfolio by now, but this did not
9 happen. It has been difficult even to predict with any certainty an achievable planning
10 target for liquidating the Fund, but now the Receiver believes the end is finally in
11 sight.

12 As the Fund's operations have been winding down, accurate and timely
13 financial reports continue to be prepared, solid financial controls are in place,
14 information is posted on the Fund's website for all to see, and the Receiver continues
15 to run the business on a daily basis. The Fund's 2010 income tax return shall be filed,
16 as in the past, in a timely manner, and the Schedule K-1s shall be provided to the
17 Fund's members.

18 Here is a summary of operations related matters:

19 **1.1 Continued Moratorium on Monthly Distributions to Members:** The
20 Court Order entered on March 2, 2005 allowed the Receiver, at his discretion, to
21 "resume making monthly distributions to the Members of up to 6% annually, as long
22 as justified by the Fund's revenue." The Receiver resumed making regular monthly
23 distributions in March 2005 at an annual rate of 6%, and this policy continued through
24 the March 2010 distribution. However, since revenue dropped substantially as the
25 portfolio of loans has been reduced, distributions have now been halted as a
26 conservative and prudent business decision to preserve the Fund's cash for such things
27 as repairs to Real Estate Owned ("REO"), and for payment of REO utilities,
28 insurance, and property taxes.

1 **1.2 Continued Moratorium on Emergency Hardship Refunds to**
2 **Members:** The Receiver initially received permission under the Court Order entered
3 on March 2, 2005 to “make distributions to Members based on a showing of extreme
4 hardship or emergency, not to exceed 20% of those Members’ original capital.” The
5 Court subsequently gave permission to the Receiver in extreme cases to refund up to
6 75% of a Member’s original capital. Most recently, in its Order entered on August 8,
7 2006, the Court granted the Receiver’s request to be able “to disburse up to the book
8 value of a Member’s equity for Members of not more than \$15,000 who face extreme
9 hardship, in order to provide additional help.” This policy continued successfully for
10 an extended period of time, but the Receiver has now halted making hardship
11 disbursements to Members in order to preserve cash.

12 **1.3 Further Voluntary Reduction of Receiver’s Fees as of February 1,**
13 **2011:** With Court approval, to conserve Fund assets, the Receiver voluntarily reduced
14 his fixed Fund management fee from \$12,500.00 per month down to \$9,000.00 per
15 month starting in January 2008. With Court approval, as of January 2010, the
16 Receiver voluntarily further reduced that monthly fee down to \$5,000.00. As of
17 February 1, 2011, the Receiver shall reduce his fixed Fund management fee down to
18 \$2,000.00 per month. This reduced fixed-fee arrangement has yielded significant
19 savings to the Fund. Non-operations fees continue to be excluded from this fixed fee.
20 This fee payment process continued through March 2010, but the cash payment policy
21 has been temporarily halted.

22 To further preserve cash, starting in April 2010, the Receiver and his attorneys
23 have not received any cash payments. All fees are being accrued until sufficient cash
24 is available, and a payment shall be made when sufficient cash is available after the
25 Concord property closes escrow. Since cash distributions were halted to Emvest
26 members, the Receiver and his attorneys believe it is only fair that they should also be
27 subject to the same cash distribution constraints.

28 **1.4 Loan Portfolio Status:** The Fund’s loan portfolio continues to be

1 negatively affected by very weak market conditions, and fund management continues
2 to require substantial close attention. Slow but steady progress continues to be made
3 towards liquidation of the portfolio, as shown on the attached financial statements.
4 The portfolio principal balance was \$14,968,831 as of December 31, 2006; it has been
5 reduced to \$95,000 as of December 31, 2010, plus Real Estate Owned ("REO") of
6 \$1,420,500. The Receiver has continued to market the foreclosed properties
7 aggressively, but continued uncertainty plus the overwhelming lack of liquidity in the
8 market (which means that new mortgages are more difficult to obtain and old loans
9 cannot be refinanced) means that finding qualified buyers for REO continues to be
10 very difficult.

11 **1.5 "Member's Equity to Buy REO" Plan:** In the "Order Re: Receiver's
12 Thirteenth Report," the Receiver obtained Court approval for a new plan by which
13 Members could use their current equity towards the purchase of any of the Fund's
14 Real Estate Owned ("REO"). The Receiver's Fifteenth Report describes the details of
15 this plan. One property was successfully sold to a Member under this plan. Although
16 this offer theoretically remains in effect (since it would not diminish the Fund's cash
17 reserves), there has been no interest in it recently.

18 **1.6 Continued Moratorium on "Discounted Cash-Out" Plan:** In the
19 "Order Re: Receiver's Fourteenth Report," the Receiver obtained Court approval for a
20 new plan by which Members could cash-out their equity at a discount. This plan has
21 been halted since it would diminish the Fund's cash reserves.

22 **2. Financial Statements:**

23 Monthly financial statements which conform to Generally Accepted
24 Accounting Principles ("GAAP") continue to be prepared on a timely basis, and
25 continue to be posted regularly on the Fund's website (<http://emvest.info>). In
26 addition, these financial statements are included with the Receiver's periodic reports
27 sent to Members. Attached are Financial Statements as of December 31, 2010 for the
28 Fund, including a Balance Sheet, Income Statement, Recap of Members' Equity, and a



1 Schedule of Accrued Interest.

2 Since the size of the Fund's loan portfolio has been reduced from about \$15
3 million on December 31, 2006 to about \$95,000 on December 31, 2010 (plus about
4 \$1.4 million of Real Estate Owned "REO"), and since more than \$8 million has been
5 paid to withdrawing Members since the start of 2007, simply comparing current net
6 income to historical net income is no longer a meaningful approach to assessing the
7 Fund's performance. As discussed below, even the approach of tracking the Book
8 Value of a \$10,000 Investment is no longer a reliable metric.

9 As a continued reminder, since this is an accrual (rather than cash based)
10 Income Statement, the net income also includes expenses for 100% of the fees billed
11 by the Receiver and his attorney although they were not actually paid. The accrued
12 unpaid fees are shown as Current Liabilities on the Balance Sheet.

13 **2.1. Income Statement:** For the twelve months ended December 31, 2010,
14 the Fund recorded negative net income of \$1,345,033 which includes REO Costs of
15 \$379,270 and Bad Debt write-off of \$883,709.

16 **2.2. Balance Sheet:** For the period ending December 31, 2010, the loan
17 portfolio is valued at \$95,000 and the amount of "Real Estate Owned" ("REO") of
18 \$1,420,500 reflects real estate which has been taken back by the Fund through
19 foreclosures. The sale of certain REO is expected.

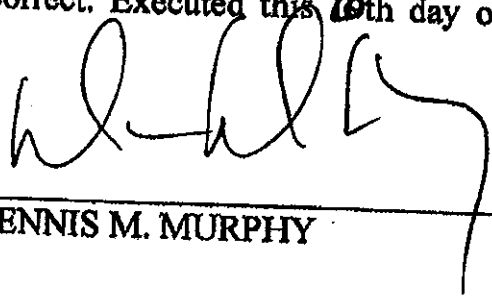
20 **2.3. Recap of Members' Equity:** As of December 31, 2009, the book value
21 of a \$10,000 original investment was estimated to be \$3,802 (i.e. about 38.6% of
22 Members' original investment) based on the Receiver's good faith estimate of the
23 "fair market value" of the Fund's remaining assets. As the Fund's portfolio has
24 dropped and as market conditions have become more uncertain, it has become more
25 and more difficult for the Receiver to try to provide an accurate "fair market value"
26 estimate of the Fund's assets. Hence, this metric shall no longer be provided since it
27 has become more speculative and could possibly be misleading to the Fund's
28 members.

VERIFICATION OF DENNIS M. MURPHY

I, Dennis M. Murphy, declare as follows:

I am the Court appointed Permanent Receiver in this matter. I have read The Twenty-First Report of Receiver to be filed concurrently with this Verification and know the contents thereof. The information contained therein is true and correct of my own personal knowledge.

I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct. Executed this 10th day of January, 2011 at Pasadena, California.



DENNIS M. MURPHY

G&B
GREENBERG & BASS LLP

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EXHIBIT A

**EMVEST MORTGAGE FUND LLC
(A LIMITED LIABILITY COMPANY)
BALANCE SHEET
December 31, 2010**

ASSETS

Current Assets		
Cash in Bank	\$ 261,503	
Accrued Interest Receivable	-	
Total Current Assets		\$ 261,503
Loan Portfolio		
Mortgage Loans held	\$ 95,000	
Allowance for Foreclosed Assets	(11,455)	
		\$ 83,545
Other Assets		
Real Estate Owned	\$ 1,420,500	
Bond - Certificate of Deposit	10,000	
		\$ 1,430,500
Total Other Assets		\$ 1,430,500
Total Assets		\$1,775,548

LIABILITIES AND EQUITY

Current Liabilities		
Accrued Expenses - Attorney for Receiver	\$ 61,383	
Accrued Expenses - Receiver	207,133	
		\$ 268,516
Total Current Liabilities		\$ 268,516
Long Term Liabilities		
Prior Years Uncleared Checks	\$ 6,188	
		\$6,188
Total Long Term Liabilities		\$6,188
Total Liabilities		\$274,704
Total Members' Equity		\$1,500,844
Total Liabilities and Members' Equity		\$ 1,775,548

*OK
wa 1/14/11*

**EMVEST MORTGAGE FUND LLC
(A LIMITED LIABILITY COMPANY)
INCOME STATEMENT
FOR THE TWELVE MONTHS ENDED DECEMBER 31, 2010**

Revenue		
Interest Income	\$	45,655
		<hr/>
Total Revenue	\$	45,655
Operating Expenses		
Accounting/Bus Operations - Receiver		84,004
Attorney Expenses - Receiver		29,590
Bad Debt		883,709
Bank Service Charges		4,011
Foreclosed Asset Expense		3,226
Licenses, Fees & Permits		250
Loan Servicing - FCI		600
Miscellaneous		2,712
Office Expense		12,571
REO Costs		379,270
Taxes		-
Tax Issues - Receiver		-
		<hr/>
Total Operating Expenses	\$	1,399,943
		<hr/>
Net Ordinary Income		(1,354,288)
Other Income/(Expense)		
Other Income		9,255
Interest Other		-
Other Expense		-
		<hr/>
Net Other Income/(Expense)		9,255
		<hr/>
Net Income		\$ (1,345,033)
		<hr/> <hr/>

EMVEST MORTGAGE FUND LLC
(A LIMITED LIABILITY COMPANY)
RECAP OF MEMBERS EQUITY
FOR THE TIME PERIOD 01/01/02 THROUGH 12/31/10

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>Totals</u>
Members' Equity at Beginning of Year	-0-	\$ 3,774,359	\$ 10,646,176	\$ 15,269,624	\$ 15,003,527	\$ 15,840,643	\$ 9,105,176	\$ 5,421,079	\$ 2,960,982	
Capital Contributions	\$ 4,215,807	8,080,495	8,014,408	0	0	0	0	0	0	20,310,710
Net Income	97,702	520,460	721,953	1,147,862	2,790,958	70,881	(1,842,715)	(1,412,698)	(1,345,033)	749,370
Distributions to Members	(124,574)	(908,462)	(1,570,242)	(857,856)	(992,290)	(687,881)	(532,188)	(486,199)	(115,105)	(6,319,057)
Withdrawals to Members	(182,734)	(426,570)	(2,140,175)	(556,103)	(973,373)	(6,214,386)	(1,309,194)	(561,200)	0	(12,522,146)
Rounding						1	0	0	(1)	2
Syndication Costs	(231,842)	(394,106)	(402,496)	-	11,821	95,918	0	0	0	(920,705)

Members' Equity at End of Year	\$ 3,774,359	\$ 10,646,176	\$ 15,269,624	\$ 15,003,527	\$ 15,840,643	\$ 9,105,176	\$ 5,421,079	\$ 2,960,982	\$ 1,500,843	\$ 1,298,174
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Book Value of \$10,000 Investment	\$ 9,359	\$ 9,109	\$ 8,695	\$ 8,817	\$ 9,811	\$ 9,275	\$ 6,491	\$ 3,802	\$ -	
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action. My business address is **16000 Ventura Boulevard, Suite 1000, Encino, California 91436.**

On January 20, 2011, I served the foregoing document described as **RECEIVER'S TWENTY-FIRST VERIFIED REPORT AND PETITION FOR INSTRUCTIONS** on the interested parties in this action.

- by placing the original and/or a true copy thereof enclosed in (a) sealed envelope(s), addressed as follows:

SEE ATTACHED SERVICE LIST

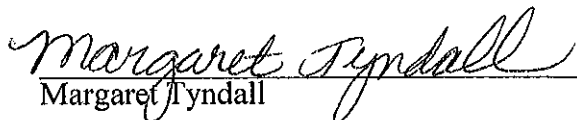
- BY REGULAR MAIL:** I deposited such envelope in the mail at 16000 Ventura Boulevard, Suite 1000, Encino, California. The envelope was mailed with postage thereon fully prepaid.

I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.

- BY FACSIMILE MACHINE:** I transmitted a true copy of said document(s) by facsimile machine, and no error was reported. Said fax transmission(s) were directed as indicated on the service list.
- BY OVERNIGHT MAIL:** I deposited such documents at the Overnite Express or Federal Express Drop Box located at 16000 Ventura Boulevard, Suite 1000, Encino, California. The envelope was deposited with delivery fees thereon fully prepaid.
- BY PERSONAL SERVICE:** I caused such envelope(s) to be delivered by hand to the above addressee(s).

I declare that I am employed in the office of a member of the Bar of this Court, at whose direction the service was made. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 20, 2011, at Encino, California.


Margaret Tyndall

SERVICE LIST

United States Securities and Exchange Commission
v. Emvest Mortgage Fund, et al.
Case No. 04CV2295-DMS(RBB)

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Notices

3:04-cv-02295-DMS -RBB SEC v. Emvest Mortgage Fund, et al CASE CLOSED on 05/17/2006

REFER, SEALDC, TERMED, TRIAL

U.S. District Court**Southern District of California****Notice of Electronic Filing**

The following transaction was entered by Felton, James on 1/20/2011 at 3:10 PM PST and filed on 1/20/2011

Case Name: SEC v. Emvest Mortgage Fund, et al

Case Number: 3:04-cv-02295-DMS -RBB

Filer: Dennis M Murphy

WARNING: CASE CLOSED on 05/17/2006

Document Number: 512

Docket Text:

NOTICE by Dennis M Murphy Receiver's Twenty-First Verified Report and Petition for Instructions (with exhibit and Proof of Service) (Felton, James)

3:04-cv-02295-DMS -RBB Notice has been electronically mailed to:

David Robert Clark Drclarklaw@att.net

James R Felton jfelton@greenbass.com, twilliams@greenbass.com

Joseph Jr Scanlan , A jas@millermorton.com, lac@millermorton.com

Molly M White whitem@sec.gov

Raymond Roy Lee leesd@aol.com

Robert Anthony Cocchia rcocchia@mckennalong.com, lwhitaker@mckennalong.com

3:04-cv-02295-DMS -RBB Electronically filed documents must be served conventionally by the filer to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1106146653 [Date=1/20/2011] [FileNumber=4817229-0]
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