

1 Dennis M. Murphy, CPA, CIRA  
630 N Rosemead Bl #100  
2 Pasadena, CA 91107  
3 voice: (626) 794-0288  
4 fax: (626) 794-7298  
5 email: dmurphy@dennismurphycpa.com  
6 web site: www.emvest.info

Electronically  
Filed 1-10-2011

7 Permanent Receiver for:  
8 Emvest Mortgage Fund, LLC and  
9 Emvest, Inc.

10 UNITED STATES DISTRICT COURT  
11 SOUTHERN DISTRICT OF CALIFORNIA

11	UNITED STATES SECURITIES AND	)	Case No. 04CV2295-DMS (RBB)
12	EXCHANGE COMMISSION,	)	
13		)	MONTHLY FEE APPLICATION
14	Plaintiff,	)	FOR PAYMENT OF
15	vs.	)	PROFESSIONAL FEES AND
16		)	REIMBURSEMENT OF COSTS AND
17	EMVEST MORTGAGE FUND, LLC,	)	EXPENSES FOR DENNIS M.
18	EMVEST, INC., AND MILTON LYLE	)	MURPHY, RECEIVER;
19	BROCK,	)	DECLARATION OF DENNIS M.
		)	MURPHY IN SUPPORT THEREOF
		)	
		)	DATE: [No Hearing Required]
		)	TIME:
	Defendants.	)	PLACE: Courtroom 10
		)	(Hon. Dana M. Sabraw)

20 TO THE HONORABLE DANA M. SABRAW, UNITED STATES DISTRICT  
21 JUDGE, AND TO ALL PARTIES IN INTEREST:

22 Dennis M. Murphy (hereinafter "Applicant") respectfully  
23 represents:

24 1. Appointment. The Applicant is Dennis M. Murphy, CPA,  
25 CIRA (Certified Insolvency and Restructuring Advisor). The  
26 Applicant is a sole practitioner, who employs five accountants  
27 and has a practice specializing in forensic accounting, taxes,  
28 and general business consulting. Members of the firm have

1 extensive experience in representing creditors, debtors,  
2 trustees, and committees in litigation and bankruptcy cases. The  
3 Applicant's address is 630 N Rosemead Bl, #100, Pasadena, CA  
4 91107.

5 The appointment of Applicant as Temporary Receiver for  
6 Emvest Mortgage Fund, LLC, and for Emvest, Inc. was granted by an  
7 Order from this Court which was entered on November 16, 2004.  
8 The Applicant was appointed as Permanent Receiver by an Order  
9 entered by this Court on December 3, 2004.

10 2. Summary of Advance Fees Paid and Costs Reimbursed.

11 No advance fees or costs were paid or reimbursed.

12 3. Professional Fees. The firm charges for its

13 professional services based upon time, nature, extent, and value  
14 of such services and the cost of comparable services in the  
15 Southern California area. Presently, the expenses for which the  
16 firm customarily charges its clients include only photocopying  
17 and telecopying charges, long distance telephone (at cost),  
18 outside tax/computer services (at cost), postage and any unusual  
19 expenses (i.e. travel, court costs, special mailing charges and  
20 messenger services).

21 4. Time Reports. The names, actual hours spent, hourly

22 rates, and dollar totals of the individuals whose services form  
23 the basis for the fees requested in the application are provided  
24 for the period December 2010:

25 / / /  
26 / / /  
27 / / /  
28 / / /

1 Schedule of Fees:

2 <u>Name</u>	<u>Hours</u>	<u>Rate</u>	<u>Total</u>
Dennis M Murphy	.6	400	\$240.00
3 Stephen J Baumgartner	<u>.9</u>	350	<u>315.00</u>
4 <b>Totals</b>	<b><u>1.5</u></b>		<b><u>\$555.00</u></b>

5 5. Schedule of Expenses. As itemized in Exhibit "B", for  
6 the period December 2010, expenses were:

7 - Copying - internal (.20/page)	\$ 17.60
- Postage	3.42
- Travel	496.77
8 - Yahoo Emvest.info	12.95
- Storage	<u>400.00</u>
9 <b>Total</b>	<b><u>\$930.74</u></b>

10 6. Detailed Billing Report. Exhibit "A" includes a copy  
11 of the firm's time reports and records kept in the regular course  
12 of business, reflecting the services rendered and the expenses  
13 incurred by the firm in connection with representing the client in  
14 this case. The firm's time reports are prepared by the accountant  
15 performing the described service. The time reports are organized  
16 on a daily basis and no entry is made for a service until at least  
17 one-tenth of an hour is spent separately or in aggregate with  
18 other services performed for that client by the reporting  
19 individual.

20 For the billing period December 2010 my firm expended  
21 1.5 hours in connection with the rendering of professional  
22 services to the client. The value of these services is  
23 \$555.00. Expenses for the period December 2010 were \$930.74 as  
24 itemized above.

25 7. Disinterested Person. I have made diligent inquiry  
26 into this matter and after such inquiry I have determined that  
27 neither I nor any of the other members of my firm have any  
28 connection with the client herein, its members, its creditors or

1 any other party in interest in this case.

2           Neither I, nor any employee of my firm has any interest  
3 adverse to the client in any matter related to this case. I have  
4 also made inquiry and have determined that my employees and I are  
5 considered "disinterested persons", and accordingly I am qualified  
6 to act in the capacity as Receiver for the client in this case.

7           8. Posting on Web Site. As done for the previous Fee  
8 Applications, in lieu of serving this Fee Application on all of  
9 the approximately 200 investors in the Emvest Mortgage Fund, this  
10 Fee Application is being posted on the Receiver's web site  
11 (www.emvest.info).

12           WHEREFORE, based upon Judge Sabraw's Order dated  
13 Unknown at this time, the Receiver would be moved to a fixed Fund  
14 management fee of \$5,000.00 per month for the duration of the  
15 Fund's tenure, the Receiver is drawing seventy-five percent (75%)  
16 of his monthly fees (75% x \$5,000.00) \$4,166.25 plus one hundred  
17 percent (100%) of his costs \$930.74 or a total of \$5,096.99. The  
18 fee, however, would not cover non-operation activities such as  
19 court appearances and claims litigation. At the end of the  
20 litigation, the Receiver and his Counsel shall submit their final  
21 comprehensive fee application(s).

22 DATED: January 6, 2011

  
\_\_\_\_\_  
Dennis M. Murphy, CPA, CIRA

DECLARATION OF DENNIS M. MURPHY

I, Dennis M. Murphy, declare:

1. I am a Certified Public Accountant (CPA) and a Certified Insolvency and Restructuring Advisor (CIRA), employed as Permanent Receiver for Emvest Mortgage Fund, LLC and for Emvest, Inc., which was approved by this Court by Order entered on or about December 3, 2004. My business is located at 630 N Rosemead Bl, #100, Pasadena, CA 91107.

2. I have read the foregoing MONTHLY FEE APPLICATION FOR PAYMENT OF PROFESSIONAL FEES AND REIMBURSEMENT OF COSTS AND EXPENSES FOR DENNIS M. MURPHY; DECLARATIONS OF DENNIS M. MURPHY IN SUPPORT THEREOF. The matters stated herein relating to my own hours are true of my own personal knowledge, and upon information and belief, the hours spent by other employees and the costs incurred are also accurate.

3. I am the designated professional responsible for overseeing the billing in this matter and for assuring compliance.

4. No arrangement has been made, directly or indirectly, and no understanding exists, for a division of compensation herein between Applicant and any other person, contrary to federal or state law.

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EXHIBIT "A"

PROFESSIONAL ACTIVITY SUMMARY

CASE NAME: EMVEST

CASE NO: 04cv2295-DMS(LSP)

	1 Total Hours 12/01/10 - 12/31/10	2 Total Amt. Avg. Billing Rate: \$370.00
LITIGATION CONSULTING	1.50	\$555.00
Dennis M Murphy.	0.60	\$240.00
Stephen J Baumgartner..	0.90	\$315.00
Total	1.50	\$555.00

PROFESSIONAL ACTIVITY SUMMARY

CASE NAME: EMVEST

CASE NO: 04cv2295-DMS(LSP)

	1 Total Amount Dec 2010
LITIGATION CONSULTING	\$555.00
Dennis M Murphy.	\$240.00
Stephen J Baumgartner..	\$315.00
Total	\$555.00

# EMVEST LITIGATION CONSULTING

1:29:24PM

1/6/2011

Page 1

Amount

**Activity: LITIGATION CONSULTING**

12/3/2010	Dennis M Murphy. EMVEST	Hours	0.30	120.00
		Rate	400.00	
	Read and sign Stipulation on Zohn case (.3 hr.).			
12/10/2010	Dennis M Murphy. EMVEST	Hours	0.30	120.00
		Rate	400.00	
	Call w/Stephen Baumgartner on modification to Woody Sellers 1st TD on Oakland property (.3 hr.).			
12/10/2010	Stephen J Baumgartner.. EMVEST	Hours	0.90	315.00
		Rate	350.00	
	Call w/Dennis Murphy on modification to Woody Sellers 1st TD on Oakland property (.3 hr.); call w/David Adelman Esq on correct procedure to follow for Sellers' loan modification (.3 hr.); meeting w/John Yates Esq on determining status of Foothill litigation to assess going forward plan (.3 hr.).			

**Total Time Charges** **555.00**

**Activity: LITIGATION CONSULTING** **555.00**

**Grand Total:** **555.00**

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EXHIBIT "B"

	A	B	C	D	E	F
1						
2	<b>MONTH/YEAR</b>	<b>COPIES</b>	<b>POSTAGE</b>	<b>TRAVEL</b>	<b>YAHOO</b>	<b>STORAGE</b>
3						
4	DECEMBER 2010	17.60				
5	DECEMBER 2010		\$3.42			
6	DECEMBER 2010			\$496.77		
7	DECEMBER 2010				\$12.95	
8	DECEMBER 2010					\$400.00
9						
10	<b>COL. TOTAL</b>	<b>\$17.60</b>	<b>\$3.42</b>	<b>\$496.77</b>	<b>\$12.95</b>	<b>\$400.00</b>
11	<b>GRAND</b>					
12						
13	<b>Column</b>	<b>88 copies</b>	<b>Fee App;</b>	<b>12/4/10</b>	<b>Emvest.info</b>	
14	<b>Explanations</b>	<b>x \$0.20 =</b>	<b>Pmts</b>			
15		<b>\$17.60</b>				
16						
17						
18	<b>RECAP:</b>					
19	<b>COPIES</b>	<b>\$17.60</b>				
20	<b>POSTAGE</b>	<b>\$3.42</b>				
21	<b>TRAVEL</b>	<b>\$496.77</b>				
22	<b>YAHOO</b>	<b>\$12.95</b>				
23	<b>STORAGE</b>	<b>\$400.00</b>				
24	<b>TOTAL</b>	<b>\$930.74</b>				

**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 10, 2011, I served the foregoing document described as **MONTHLY FEE APPLICATION FOR PAYMENT OF PROFESSIONAL FEES AND REIMBURSEMENT OF COSTS AND EXPENSES FOR DENNIS M. MURPHY, RECEIVER; DECLARATION OF DENNIS M. MURPHY IN SUPPORT THEREOF** 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 10, 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)

Molly M. White, Esq.  
Securities and Exchange Commission  
5670 Wilshire Blvd., 11th Floor  
Los Angeles, CA 90036  
(323) 965-3908 (FAX)

Magnolia Marcelo, Esq.  
Securities and Exchange Commission  
5670 Wilshire Blvd., 11th Floor  
Los Angeles, CA 90036  
(323) 965-3908 (FAX)

David R. Clark, Esq.  
The Clark Law Firm, APLC  
1520 Wood Duck Lane  
Meadow Vista, CA 95722  
(530) 878-3609 (FAX)

Dennis M. Murphy, CPA, CIRA  
630 N. Rosemead Blvd., Suite 100  
Pasadena, CA 91107  
(626) 794-7298 (FAX)

**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 1/10/2011 at 1:52 PM PST and filed on 1/10/2011

**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:** 510

**Docket Text:**

**NOTICE by Dennis M Murphy *Monthly Fee Application for Payment of Professional Fees and Reimbursement of Costs and Expenses for Dennis M. Murphy, Receiver (December 2010); Declaration of Dennis M. Murphy in Support Thereof (with exhibits 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=1/10/2011] [FileNumber=4791680-0  
] [bf4ef5ec0555f8abb125f06928bcb646a7c672ca57123d2f977e02f4e9b36b6f5b0  
efdb6f1ac329d794e0a1a28d63652206060423ed4a20d08fa0e793d5c2982]]