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

10 SECURITIES AND EXCHANGE
COMMISSION,

11 Plaintiff,

12 v.

13 EMVEST MORTGAGE FUND, LLC,
14 EMVEST, INC., and MILON LYLE BROCK,

15 Defendants.

Case No. 04 CV 2295 DMS (RBB)

**SECURITIES AND EXCHANGE
COMMISSION'S RESPONSE TO
RECEIVER'S 23RD VERIFIED REPORT
AND REQUEST FOR INSTRUCTIONS**

Special Briefing Schedule Ordered

Date: January 27, 2012
Time: 1:30 p.m.
Courtroom: 10 (Hon. Dana M. Sabraw)

1 Pursuant to the Court's July 6, 2011 Order Re: Receiver's Twenty-Second Report, the
2 Securities and Exchange Commission ("Commission") files this Response to the Receiver's 23rd
3 Verified Report and Request for Instructions (the "Twenty-Third Report"), which was filed on
4 December 28, 2011.

5 The Commission supports the Receiver's proposal regarding the sequence of actions to
6 close this matter, as set forth on page 7 of the Twenty-Third Report. The method for winding
7 down the receivership appears reasonable.

8 It is the Commission's position that the Receiver's requested fees are reasonable. The
9 Commission appreciates the Receiver's proposal to voluntarily accept a discount of 20% from the
10 accrued fee amounts, and recommends that the Court approve the reduction in fees. Moreover,
11 given the complexities involved with the Fund, a flat fee of \$5,000 for preparing and filing the
12 Fund's state and federal income tax returns is reasonable.

13 The Commission does not object to the Receiver's continued monitoring of the two
14 outstanding judgments, as long as the Receiver does not incur any fees for monitoring the
15 judgments. In the unlikely event that the judgment debtors pay on the outstanding judgments, the
16 Commission would not oppose the payment of a reasonable fee to the Receiver in connection with
17 any subsequent distribution.

18
19 DATED: January 18, 2012

Respectfully submitted,

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21 /s/ Molly M. White
22 Attorney for Plaintiff
23 Securities and Exchange Commission
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25
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PROOF OF SERVICE

I am over the age of 18 years and not a party to this action. My business address is:

U.S. SECURITIES AND EXCHANGE COMMISSION, 5670 Wilshire Boulevard, 11th Floor, Los Angeles, California 90036-3648

Telephone No. (323) 965-3998; Facsimile No. (323) 965-3908.

On January 18, 2012, I caused to be served the document entitled **SECURITIES AND EXCHANGE COMMISSION'S RESPONSE TO RECEIVER'S 23RD VERIFIED REPORT AND REQUEST FOR INSTRUCTIONS** on all the parties to this action addressed as stated on the attached service list:

OFFICE MAIL: By placing in sealed envelope(s), which I placed for collection and mailing today following ordinary business practices. I am readily familiar with this agency's practice for collection and processing of correspondence for mailing; such correspondence would be deposited with the U.S. Postal Service on the same day in the ordinary course of business.

PERSONAL DEPOSIT IN MAIL: By placing in sealed envelope(s), which I personally deposited with the U.S. Postal Service. Each such envelope was deposited with the U.S. Postal Service at Los Angeles, California, with first class postage thereon fully prepaid.

EXPRESS U.S. MAIL: Each such envelope was deposited in a facility regularly maintained at the U.S. Postal Service for receipt of Express Mail at Los Angeles, California, with Express Mail postage paid.

HAND DELIVERY: I caused to be hand delivered each such envelope to the office of the addressee as stated on the attached service list.

UNITED PARCEL SERVICE: By placing in sealed envelope(s) designated by United Parcel Service ("UPS") with delivery fees paid or provided for, which I deposited in a facility regularly maintained by UPS or delivered to a UPS courier, at Los Angeles, California.

ELECTRONIC MAIL: By transmitting the document by electronic mail to the electronic mail address as stated on the attached service list.

E-FILING: By causing the document to be electronically filed via the Court's CM/ECF system, which effects electronic service on counsel who are registered with the CM/ECF system.

FAX: By transmitting the document by facsimile transmission. The transmission was reported as complete and without error.

I declare under penalty of perjury that the foregoing is true and correct.

Date: January 18, 2012

/s/ Molly M. White
MOLLY M. WHITE

1 **SEC v. EMVEST MORTGAGE FUND, LLC, et al.**
2 **United States District Court – Southern District of California**
3 **Case No. 04 CV 2295 DMS (POR)**
4 **LA-2864**

5 **SERVICE LIST**

6 James R. Felton, Esq. (**served via CM/ECF only**)
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12 ***Attorney for Permanent Receiver Dennis M. Murphy***

13 Dennis M. Murphy, CPA, CIRA (**served by email and U.S. Mail**)
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18 ***Permanent Receiver***

Responses and Replies

[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 White, Molly on 1/18/2012 at 1:32 PM PST and filed on 1/18/2012

Case Name: SEC v. Emvest Mortgage Fund, et al
Case Number: [3:04-cv-02295-DMS -RBB](#)
Filer: Securities and Exchange Commission
WARNING: CASE CLOSED on 05/17/2006
Document Number: [545](#)

Docket Text:

[RESPONSE re \[542\] Notice \(Other\) Response to Receiver's 23rd Verified Report and Request for Instructions filed by Securities and Exchange Commission. \(White, Molly\)](#)

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

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

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Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1106146653 [Date=1/18/2012] [FileNumber=5848651-0]
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d0fc62a8c891e8609949baeb2f20d630c76575b648a6a29955394480eec38]]