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3:04-CV-02295 SEC V. EMVEST MORTGAGE FUND

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U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

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MOLLY M WHITE, Cal. Bar No. 171448  
KELLY BOWERS, Cal. Bar No. 164007  
VICTORIA A. LEVIN, Cal. Bar No. 166616  
SUSAN F. HANNAN, Cal. Bar No. 097604

Attorneys for Plaintiff  
Securities and Exchange Commission  
Randall R. Lee, Regional Director  
Sandra J. Harris, Associate Regional Director  
Briane Nelson Mitchell, Associate Regional Director  
5670 Wilshire Boulevard, 11th Floor  
Los Angeles, California 90036  
Telephone: (323) 965-3998  
Facsimile: (323) 965-3908

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

BY FAX

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

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

Defendants.

Case No. 04 CV 2295 DMS (LSP)

**DECLARATION OF SUSAN F.  
HANNAN IN SUPPORT OF THE  
COMMISSION'S SUPPLEMENTAL  
BRIEF**

*[Handwritten mark]*

16

**DECLARATION OF SUSAN F. HANNAN**

I, Susan F. Hannan, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am an attorney admitted to practice law by the State Bar of California and by this Court. I am a Staff Attorney with Plaintiff Securities and Exchange Commission ("Commission") in the Office of Enforcement. I make this declaration in support of the Commission's Supplemental Brief Supporting Entry of a Preliminary Injunction and Appointment of a Permanent Receiver. I have personal knowledge of each of the matters set forth below, and, if called as a witness, I could and would competently testify to the facts stated herein.

2. On Monday, November 22, 2004, I took the deposition of Sylvia De Anda, the Fund's controller, in order to obtain additional information regarding the Fund's books and records for September 2004. Although I initially noticed the deposition for Friday, November 19, 2004, we were told that Ms. De Anda would not be available until the morning of Monday, November 22, 2004. Mr. Milton Lyle Brock was present and sat beside Ms. De Anda and her counsel during the entire deposition. Attached hereto as Exhibit 1 is a true and correct copy of excerpts from the deposition transcript of Sylvia De Anda taken on November 22, 2004.

3. Attached hereto as Exhibit 2 is a true and correct copy of Emvest Mortgage Fund, LLC check number 8109, dated September 23, 2004, in the amount of \$1,520,000 which was marked as Exhibit 20 during the deposition of Sylvia De Anda. Attached hereto as Exhibit 3 is a true and correct copy of Emvest Mortgage Fund, LLC check number 8110, dated September 23, 2004, in the amount of \$30,000, which was marked as Exhibit 21 during the deposition of Sylvia De Anda. De Anda testified that these checks were for a loan to her and her

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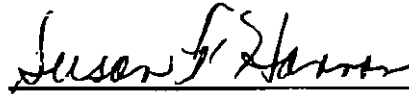
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1 husband for a hotel that they purchased in Arizona. (Ex. 1 (De Anda Test.) pp.  
2 17:14-18:15, 19:25-22:7, 23:21-27:8, 28:13-29:11.)

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

4 Executed this 24th day of November, 2004, in Los Angeles, California.

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6 \_\_\_\_\_  
7 Susan F. Hannan

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**EXHIBIT 1**

1 Q Have you spoken to anyone about the testimony  
2 you gave to the Commission on September 20th, 2004?  
3 A Yes.  
4 Q Who did you speak to about that?  
5 A Mr. Brock.  
6 Q What did you and Mr. Brock talk about?  
7 A Specifically about one, the XO Communications.  
8 Q The what?  
9 A XO.  
10 Q XL?  
11 A Uh-huh. And it's not a foreign company. It's  
12 a phone company.  
13 Q Can you spell the name of the company?  
14 A X-O.  
15 Q XO. I'm sorry. XO is a phone company?  
16 A It's a communication.  
17 Q So any checks made out to XO Company is for the  
18 phone bills; is that correct?  
19 A Yes.  
20 Q Wait until -- try to wait until I finish so the  
21 court reporter can get the answer. Let's try it one  
22 more time.  
23 Any checks made out to XO Company is for phone  
24 bills; is that right?  
25 A Yes.

14

1 Q Okay. Did you and Mr. Brock talk about  
2 anything else regarding your prior testimony?  
3 A No.  
4 Q Did you speak to anyone else besides Mr. Brock  
5 about your prior testimony?  
6 A My counsel.  
7 Q Okay. Anyone else?  
8 A No.  
9 Q Has anyone told you what to say in your  
10 testimony today?  
11 A No.  
12 Q Have you had any names besides De Anda, like a  
13 maiden name before you were married?  
14 A Yes.  
15 Q What was your maiden name?  
16 A I will spell it. M-a-c-u -- h-u-c-a.  
17 Q Can you pronounce that for us, please?  
18 A Machuca.  
19 Q Have you ever been known by any other names  
20 besides Machuca and De Anda?  
21 A No.  
22 Q Have you had any other first names besides  
23 Sylvia?  
24 A Maria.  
25 Q When did you use the name Maria?

15

1 A When I was in school.  
2 Q Okay. Have you used -- and was it Maria  
3 Machuca or Sylvia Maria or --  
4 A It was Maria Sylvia.  
5 Q Maria Sylvia Machuca. As an adult you just go  
6 by Sylvia De Anda?  
7 A Yes.  
8 Q What is your date of birth?  
9 A 10/29/48.  
10 Q And the place of birth?  
11 A Ensenada.  
12 Q That was in Mexico?  
13 A Yes.  
14 Q Are you an American citizen?  
15 A Yes.  
16 Q When did you become an American citizen? Do  
17 you recall what year?  
18 A Two years ago.  
19 Q What is your current residential address where  
20 you live?  
21 A 330 Crestview Drive, Bonita. 91912 -- 91902.  
22 Q And your telephone number there?  
23 A (619)421-0541.  
24 Q Do you have any other residential addresses?  
25 A Where I live?

16

1 Q Yes.  
2 A No.  
3 Q Do you have a second home anywhere?  
4 A Rental, yes.  
5 Q Well, do you own the property and rent it out?  
6 Is that what you're saying?  
7 A Yes.  
8 Q Where is that property located?  
9 A Chula Vista.  
10 Q And what kind of a property is that?  
11 A House.  
12 Q And right now it's rented out?  
13 A Yes.  
14 Q Do you own any other property?  
15 A In California?  
16 Q Let's start with California.  
17 A No.  
18 Q Anyplace else?  
19 A Phoenix.  
20 Q What do you own in Phoenix?  
21 A Motel.  
22 Q What's the name of the hotel?  
23 A Budget Inn.  
24 Q Budget Inn?  
25 A Uh-huh.

17

5

1 Q And it's in the city of Phoenix?  
 2 A Yes.  
 3 Q What's the address?  
 4 A I don't know.  
 5 Q Do you own any other property anywhere?  
 6 A No.  
 7 Q How long have you owned the house in  
 8 Chula Vista?  
 9 A 26 years.  
 10 Q And how long have you owned the house in  
 11 Bonita?  
 12 A Two and a half.  
 13 Q And how long have you owned the hotel in  
 14 Phoenix?  
 15 A A month.  
 16 Q Is there anyone else on title to your house in  
 17 Bonita?  
 18 A My husband.  
 19 Q Anyone else?  
 20 A That's it.  
 21 Q Is there anyone else on title to the house in  
 22 Chula Vista?  
 23 A My husband.  
 24 Q Anyone else? I'm just trying to be complete.  
 25 A Husband and wife.

18

1 you have a manager there or does your husband run it  
 2 or -  
 3 A No, there's a manager.  
 4 Q What is the manager's name?  
 5 A Enrique.  
 6 Q Enrique. Last name?  
 7 A Solo.  
 8 Q How do you spell that?  
 9 A S-o-l-o.  
 10 Q Why did you buy a Budget Inn in Phoenix?  
 11 A Because it's cheaper in Phoenix than  
 12 California.  
 13 Q How much did you pay for it?  
 14 A A million five.  
 15 Q A million five?  
 16 A Uh-huh.  
 17 MR. CASAS: Answer "yes" or "no," please.  
 18 THE WITNESS: Yes.  
 19 BY MS. HANNAN:  
 20 Q What was the source of the money for the hotel?  
 21 A When you say "the source," what do you mean by  
 22 that?  
 23 Q Did you borrow it? Did you have it saved up in  
 24 a bank? Did you get it from a family member?  
 25 A A loan.

20

1 Q Right, okay. And the hotel in Phoenix, who is  
 2 on title?  
 3 A Husband and wife.  
 4 Q And what is your husband's name?  
 5 A Mario.  
 6 Q Mario De Anda?  
 7 A Uh-huh, yes.  
 8 Q Does anybody else live with you and your  
 9 husband in the house in Bonita?  
 10 A No.  
 11 Q Do you have any children?  
 12 A Yes.  
 13 Q What are their names?  
 14 A Sergio.  
 15 Q Sergio De Anda?  
 16 A Yes.  
 17 Q How old is he?  
 18 A 29.  
 19 Q Any other children?  
 20 A Claudia.  
 21 Q How old is she?  
 22 A 32.  
 23 Q Any other children?  
 24 A No.  
 25 Q Who is running the Budget Inn in Phoenix? Do

19

1 Q Who gave you the loan?  
 2 A Emvest.  
 3 Q Emvest Mortgage Fund?  
 4 A Yes.  
 5 Q Who located the property in Phoenix?  
 6 A Husband.  
 7 Q What does your husband do for a living?  
 8 A He's a real estate investor.  
 9 Q Did he ever buy a hotel before?  
 10 A No.  
 11 Q Does he do anything other than real estate  
 12 investment?  
 13 A No.  
 14 Q Does he have properties in his name that you're  
 15 not on title?  
 16 A No.  
 17 Q How long has your husband been a real estate  
 18 investor?  
 19 A 30 years. Or more or less.  
 20 Q And what kind of real estate has he invested  
 21 in?  
 22 A We used to have apartments.  
 23 Q Where were the apartments located?  
 24 A San Diego.  
 25 Q Do you still have those?

21

6

1 A We sold them.  
 2 Q When did you sell them?  
 3 A Three months ago.  
 4 Q When did your husband locate the Budget Inn in  
 5 Phoenix?  
 6 A It's been months. I don't know exactly the  
 7 date.  
 8 Q You have to speak up a little bit more.  
 9 A It's been months that he started looking for  
 10 properties.  
 11 Q He's been looking for months. And when did he  
 12 locate this particular Budget Inn that you became  
 13 interested in purchasing?  
 14 A Probably about two months.  
 15 Q Two months ago?  
 16 A Uh-huh, yes.  
 17 Q Did your husband have a real estate agent in  
 18 Phoenix?  
 19 A Yes.  
 20 Q What was the name of that company?  
 21 A I don't know.  
 22 Q How long was the escrow?  
 23 A How long in time to close or how long did it  
 24 take us?  
 25 Q Once you made an offer on the property -- you

22

1 A I believe so.  
 2 Q Do you have documentation of this transaction?  
 3 A Yes.  
 4 Q Where is that kept, just for -- in case we need  
 5 it?  
 6 A In Emvest Mortgage Fund.  
 7 Q Well, the documentation of your title and all  
 8 that, do you have that at the office is what you're  
 9 saying or do you have it at home?  
 10 A The documentation, there's some at home, and  
 11 everything else should be in the file in Emvest.  
 12 Q When did you make a request of Emvest to borrow  
 13 from them?  
 14 A About two months. Prior to the loan, two  
 15 months.  
 16 Q When did the loan fund?  
 17 A October 12.  
 18 Q And about two months before that you applied.  
 19 So you applied in August for the loan?  
 20 A No.  
 21 Q When did you apply for the loan?  
 22 A I don't remember exactly the date.  
 23 Q Was it before your testimony on September 20th,  
 24 2004?  
 25 A No, it was afterwards.

24

1 said a couple of months ago. Once you made an offer on  
 2 the property, when did the escrow close?  
 3 A It closed a month ago.  
 4 Q So escrow closed -- escrow closed about four  
 5 weeks ago, is that what you're saying? So middle of  
 6 October?  
 7 A Yes.  
 8 Q So escrow closed about the middle of October?  
 9 A It closed about October 12.  
 10 Q And how long had the escrow been open?  
 11 A I don't know.  
 12 Q Did you have to sign any of the documents?  
 13 A Yes.  
 14 Q So your name is on title?  
 15 A Yes.  
 16 Q How much of your own money was put into the  
 17 transaction, you and your husband's own money, and how  
 18 much was a loan?  
 19 MR. CASAS: Objection; compound question.  
 20 BY MS. HANNAN:  
 21 Q How much of your own money did you put in?  
 22 A Put in a million.  
 23 Q A million. And how much was borrowed?  
 24 A A million five.  
 25 Q So was the total price 2.5 million then?

23

1 Q It was after your testimony?  
 2 A Uh-huh, yes.  
 3 Q Do you know how many days after?  
 4 A No.  
 5 Q Did you and Mr. Brock discuss the purchase of  
 6 the Budget Inn in Phoenix?  
 7 A Yes, we did.  
 8 Q What was said between the two of you?  
 9 A I presented all the documents to Mr. Brock.  
 10 Q And then what was done?  
 11 A To analyze if it was worth it.  
 12 Q What did you present to Mr. Brock?  
 13 A Appraisal, a copy of the property.  
 14 Q A copy of the property?  
 15 A Uh-huh.  
 16 Q What do you mean by that?  
 17 A The picture of the --  
 18 Q Picture of the property? Who did the  
 19 appraisal?  
 20 A I don't know the name.  
 21 Q It was somebody in Phoenix?  
 22 A Yes.  
 23 Q Did your husband talk to Mr. Brock about buying  
 24 the property?  
 25 A Yes.

25

1 Q And so you showed Mr. Brock an appraisal and a  
 2 picture of the Budget Inn. Did you show Mr. Brock  
 3 anything else?  
 4 A I don't recall, but if you need that, every  
 5 information is in the file.  
 6 Q Okay. What did you and Mr. Brock talk about as  
 7 far as whether it was worth getting invested in it?  
 8 A He needed to see the file and see if it was to  
 9 the benefit of the fund to do that loan.  
 10 Q So Mr. Brock analyzed whether it was a good  
 11 investment for Emvest. And what did he -- is that sort  
 12 of what you mean?  
 13 A If it is for the benefit of Emvest and the loan  
 14 is good, then it was going to be approved.  
 15 Q It was going to be up to who?  
 16 A Approved.  
 17 Q Oh, it was going to be approved. When you say  
 18 "Emvest," you mean Emvest Mortgage Fund LLC?  
 19 A Yes.  
 20 Q This was Fund No. I, right?  
 21 A Yes.  
 22 Q And there's a second Emvest Mortgage Fund II;  
 23 is that correct?  
 24 A Yes.  
 25 Q So Mr. Brock was considering your purchase as a

26

1 books and records showing you what the income of the  
 2 Budget Inn was?  
 3 A Yes.  
 4 Q Okay. How many years' records did you have?  
 5 A I don't know.  
 6 Q Who had those, your husband?  
 7 A My husband, yes.  
 8 Q And did Mr. Brock see any of those records?  
 9 A All the records required are in the file.  
 10 Q Well, did Mr. Brock see any of the records  
 11 of --  
 12 A Yes, he did.  
 13 Q So all the records Mr. Brock saw are in a file  
 14 at Emvest Mortgage Fund?  
 15 A Yes.  
 16 Q Where is that file located?  
 17 A In the office.  
 18 Q Where in the office?  
 19 A Should be in the servicing office.  
 20 Q Who in the servicing department is in charge of  
 21 those files?  
 22 A It should be -- you can ask Lupita or Janet,  
 23 they can give you the information.  
 24 Q Who is in charge of the servicing department?  
 25 A Jessica.

28

1 potential loan by Emvest Mortgage Fund I; is that  
 2 correct?  
 3 A Yes.  
 4 Q All right. What questions did Mr. Brock have  
 5 about the property?  
 6 A He talked to my husband and see where the  
 7 property was, what was worth it, where was the location,  
 8 the map.  
 9 Q Did they look at records -- let me ask you  
 10 this: How old is the Budget Inn in Phoenix?  
 11 MR. CASAS: Objection; calls for speculation.  
 12 BY MS. HANNAN:  
 13 Q You can answer if you know.  
 14 A I don't know.  
 15 Q Did you have records for any income -- I guess  
 16 my question, was it -- let ask you this: Was it a brand  
 17 new Budget Inn?  
 18 A No.  
 19 Q Do you know approximately how old it was?  
 20 A No.  
 21 Q I just want to remind you, I am entitled to  
 22 your best knowledge. You're not expected to guess, but  
 23 if you, for example, know that it was built many years  
 24 ago versus very recently, I am entitled to that. But  
 25 the thrust of my question is this: Did you have any

27

1 Q What's her last name?  
 2 A Lecrone.  
 3 Q L-e-c-r-o-n-e?  
 4 A Yes.  
 5 Q What's the monthly payment on the loan?  
 6 A 15,500.  
 7 Q Is the loan current?  
 8 A Yes.  
 9 Q Has there been enough cash flow to cover the  
 10 loan from the Budget Inn?  
 11 A Yes.  
 12 MR. CASAS: Wait for her questions, please.  
 13 BY MS. HANNAN:  
 14 Q The answer was "yes"?  
 15 A Yes.  
 16 Q Have you and your husband had to add any  
 17 additional money to what you make from the Budget Inn to  
 18 make a monthly payment to Emvest Mortgage Fund?  
 19 A Can you repeat the question?  
 20 Q Have you or your husband had to put any of your  
 21 own money in with money coming from running of the  
 22 Budget Inn to make the payment to Emvest Mortgage Fund?  
 23 A No.  
 24 Q How much is the current cash on an average  
 25 basis -- well, let me see. You closed this in October.

29

1 A Yeah, and I continued.  
 2 Q And you continued to work with the next company  
 3 that Mr. Brock owned; is that correct?  
 4 A Yes.  
 5 Q What were your duties at the next company?  
 6 A Basically the same thing except that I have to  
 7 do the documents for the lenders.  
 8 Q And who were the lenders? Private individuals?  
 9 A I don't know at the time.  
 10 Q What kind of a business was it? What did the  
 11 business do? Was it a mortgage broker?  
 12 A Mortgage brokers.  
 13 Q Was Golden Pacific also a -- you said that was  
 14 a mortgage banker, right?  
 15 A Yeah, it's the same.  
 16 Q So it's the same business, just a different  
 17 name?  
 18 A Yes.  
 19 Q Do you know why the name changed?  
 20 A No.  
 21 Q What was the next company that you worked for?  
 22 A I worked for Emerald Bay Funding.  
 23 Q Emerald Bay Funding?  
 24 A Not Emerald. Golden Pacific Funding.  
 25 Q Golden Pacific Funding?

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1 deposits to the computer, payroll. And do you also  
 2 print out the checks for Emerald Bay Financial?  
 3 A Yes.  
 4 Q Now, I -- from your prior testimony I  
 5 understand that you've also done work for Emvest  
 6 Mortgage Fund. Are you doing that as part of your job  
 7 as controller at Emerald Bay Financial?  
 8 A Yes.  
 9 Q And what do you do for Emvest Mortgage Fund?  
 10 A Same thing.  
 11 Q Okay. What do you do for Emvest Mortgage  
 12 Fund II?  
 13 A Same thing.  
 14 Q Do you do any work for any of Mr. Brock's  
 15 companies other than Emerald Bay Financial, Emvest  
 16 Mortgage Fund or Emvest Mortgage Fund II?  
 17 A No.  
 18 Q Do you do bookkeeping for Unified --  
 19 A No.  
 20 Q Unified Mortgage Service I believe is the name  
 21 of the company, do you do any bookkeeping for them?  
 22 A No.  
 23 Q Do you do any work for Emerald Bay Funding?  
 24 A Yes.  
 25 Q What do you do for Emerald Bay Funding?

40

1 A Uh-huh. And then it changed to -- I don't know  
 2 who it changed -- I don't remember the name.  
 3 Q But since approximately the late 1990s you've  
 4 worked for either Mr. Brock or one of his companies; is  
 5 that correct?  
 6 A Yes.  
 7 Q Where do you currently work?  
 8 A I currently work at 591 --  
 9 Q But what's the name of the company?  
 10 A Emerald Bay Financial.  
 11 Q What is your title for Emerald Bay?  
 12 A My title now is controller.  
 13 Q How long have you been controller?  
 14 A Probably for the past two and a half years,  
 15 three years.  
 16 Q What are your duties as controller?  
 17 A Bookkeeping, making deposits, inputting  
 18 deposits in computer, payroll.  
 19 Q Okay. So as controller -- have you finished  
 20 the list?  
 21 A Yes.  
 22 Q As controller -- I'm just going to put it into  
 23 one sentence.  
 24 As controller your current duties include  
 25 bookkeeping, making deposits at the bank, inputting

39

1 A Same thing.  
 2 Q The bookkeeping -- just let me put it into a  
 3 sentence. So for Emerald Bay Funding you do  
 4 bookkeeping, including entry into the computer of  
 5 information about deposits and paying checks and you  
 6 write the checks and you do the payroll?  
 7 A Yes.  
 8 Q So you are doing bookkeeping for Emerald Bay  
 9 Financial, Emerald Bay Funding, Emvest Mortgage Fund I  
 10 and Emvest Mortgage Fund II. Is that the complete world  
 11 of the companies that you're doing bookkeeping for now?  
 12 A Yes.  
 13 Q And who pays your salary? How do you get paid?  
 14 A Emerald Bay Financial.  
 15 Q Emerald Bay Financial. What is your current  
 16 salary?  
 17 A About 60,000.  
 18 Q Per year?  
 19 A Per year.  
 20 Q Do you have any other -- does Emerald Bay  
 21 Financial pay for anything else such as a car, health  
 22 insurance?  
 23 A My car.  
 24 Q What kind of car are you driving?  
 25 A Mercedes, 2003.

41

11

1 Q What model?  
 2 A E320.  
 3 Q Do they pay the insurance on that car?  
 4 A No.  
 5 Q Do they pay health insurance for you?  
 6 A No.  
 7 Q Do you get bonuses?  
 8 A Yes.  
 9 Q Have you received any bonuses this year?  
 10 A No.  
 11 Q When was the last time you got a bonus?  
 12 A Last year.  
 13 Q At the end of the year?  
 14 A Yes.  
 15 Q How much was the bonus at the end of the year?  
 16 A I think it was 10,000.  
 17 Q Are you including that in this 60,000 salary?  
 18 A Yes.  
 19 Q So when you said you made about 60,000 a year,  
 20 you're including your monthly salary plus the bonus?  
 21 A Yes.  
 22 Q Okay. For the record, have you testified in  
 23 any investigation by the Securities and Exchange  
 24 Commission or its staff other than the time you  
 25 testified on September 20th, 2004?

42

1 A No.  
 2 Q Have you ever testified for any other federal  
 3 or state agency or stock exchanges?  
 4 A No.  
 5 Q Have you ever been named as a defendant in any  
 6 action brought by any federal agency, including the  
 7 Securities and Exchange Commission?  
 8 A No.  
 9 Q Have you been a defendant in any civil  
 10 litigation, any kind of civil litigation, any lawsuits?  
 11 A No.  
 12 Q Have you ever been indicted, convicted or pled  
 13 guilty for any criminal matter?  
 14 A No.  
 15 Q What is the current business address that you  
 16 work at?  
 17 A 591 Camino De La Reina.  
 18 Q Can you spell that for the court reporter?  
 19 A C-a-m-i-n-o, D-e, L-a, R-e-i-n-a.  
 20 Q In San Diego?  
 21 A San Diego.  
 22 Q And the zip code?  
 23 A 92108.  
 24 Q What is your telephone number at the office?  
 25 A (619)297-5014.

43

1 Q And what are the names of all the businesses  
 2 located at that premises that you know of?  
 3 MR. CASAS: Objection; calls for speculation,  
 4 vague and ambiguous.  
 5 MS. HANNAN: Just the names of the businesses  
 6 that she knows of, whatever she can recall.  
 7 THE WITNESS: Name -- can you repeat the  
 8 question?  
 9 BY MS. HANNAN:  
 10 Q The names of the businesses that are located at  
 11 591 Camino De La Reina. Let me ask you this by  
 12 background: How many businesses operate at that  
 13 address?  
 14 A Three.  
 15 Q How large is the building, story-wise? How  
 16 many stories is it?  
 17 A 12.  
 18 Q 12 stories. Now, when you say three, do you  
 19 mean three -- three businesses total work there?  
 20 A Three offices.  
 21 Q Three offices of what? Involving Emvest?  
 22 A No. Involving Emvest, only one.  
 23 Q And what are the other two offices?  
 24 A Emerald Bay Financial.  
 25 Q And what is the other one?

44

1 A Emerald Bay Funding. Including Emvest, that's  
 2 three.  
 3 Q But in that building are there other businesses  
 4 that aren't related to Mr. Brock or to Emvest Mortgage  
 5 Fund or to Emvest, Inc.? I don't know the building.  
 6 Are there like attorney offices or are there other  
 7 businesses run by other people?  
 8 A There are different people in different  
 9 offices.  
 10 Q There are different people in different  
 11 offices?  
 12 A Yes, uh-huh.  
 13 Q What other offices -- what other names of other  
 14 businesses can you recall?  
 15 A When you say "businesses," are you referring to  
 16 our business or are you referring to --  
 17 Q Any business.  
 18 MR. CASAS: Calls for speculation.  
 19 BY MS. HANNAN:  
 20 Q Just what you know. What other businesses do  
 21 you know that work there? Is there a Century 21 office  
 22 there? Is there a computer services company there?  
 23 A Oh, there's a Weight Watchers.  
 24 Q Okay. So there's a Weight Watchers. Anything  
 25 else?

45

1 where we have all the investors. That information comes  
 2 from -- this information comes from that page.  
 3 Q Okay. So another record, there's another  
 4 record of what each investor should be paid?  
 5 A Yes.  
 6 Q What is that record called? Is there a name  
 7 for it?  
 8 A No, not necessarily. I call it distribution.  
 9 Q Okay. Let me show you -- let's mark one so  
 10 that we have an example.  
 11 I'm going to ask the court reporter to mark as  
 12 Exhibit No. 2 a copy of the October list of  
 13 distributions. And it has been Bates stamped numbers  
 14 EM 11529 to EM 11536, as Exhibit 2.  
 15 (Exhibit 2 was marked for identification.)  
 16 BY MS. HANNAN:  
 17 Q Is Exhibit 2 a record that you keep for Emvest  
 18 Mortgage Fund?  
 19 A Yes.  
 20 Q And what is that a record of?  
 21 A Are we talking about --  
 22 Q Exhibit 2, what is Exhibit 2?  
 23 A Exhibit 2 is the name of all the investors, how  
 24 much they have invested and how much is the monthly  
 25 distribution.

70

1 Q Right. So you see both of those; you see the  
 2 check and the subscription agreement?  
 3 A Yes.  
 4 Q And then from the check and the subscription  
 5 agreement, you create a list which started at the very  
 6 beginning and is updated each month so that each month,  
 7 whoever the members of the fund are show up on the  
 8 distribution list; is that correct?  
 9 A Yes. As long as I have a copy of the check,  
 10 that's when it goes there.  
 11 Q Okay. And then you use this list to determine  
 12 who gets a monthly check; is that correct?  
 13 A Yes.  
 14 Q And that's how the information gets into the  
 15 check register; is that also correct?  
 16 A Yes. Well, first of all, it goes into the  
 17 register, the computer at the bank, and then it goes to  
 18 my list. This is a way of me keeping track of what is  
 19 going on.  
 20 Q Well, you're saying the check goes to the bank?  
 21 A Yes.  
 22 Q And when the check clears, then you add them to  
 23 the distribution list?  
 24 A No. As soon as I receive the check, okay, I  
 25 make a copy of the check and I put it in my QuickBooks

72

1 Q Is there a name for this document?  
 2 A We can call it distribution.  
 3 Q The distribution list?  
 4 A Uh-huh.  
 5 Q And has one of these been prepared every month  
 6 since Emvest Mortgage Fund started?  
 7 A Yes.  
 8 Q Where does the information come from?  
 9 A You should have a list that I sent you, pages,  
 10 that it has -- since the fund started, it starts with 1,  
 11 2, 3, 4, 5. That is the numbers that I assign to the  
 12 investors, and then I put next to it how much money they  
 13 have invested. And whatever is in that page is in this  
 14 one.  
 15 Q And who gives you that information? Who gives  
 16 you the information each month about who the new  
 17 investors are and how much they've invested?  
 18 A When they invest, there's a subscription, and  
 19 with the subscription comes the check which is how much  
 20 they have invested.  
 21 Q So you see a copy of the subscription agreement  
 22 for each investor with the actual investor check; is  
 23 that correct?  
 24 A They give me -- they give me the check and I  
 25 put in the subscription.

71

1 and I put it on my book. Then whenever I have time,  
 2 then I put it in this list.  
 3 Q So you actually enter into QuickBooks the  
 4 deposit the day that you put it into the bank?  
 5 A Yes.  
 6 Q Okay. And so the records that you keep of  
 7 investor investments are the QuickBooks and the  
 8 distribution lists, correct?  
 9 A Yes.  
 10 Q And you update the monthly distribution list as  
 11 soon as you can after you deposit the checks?  
 12 A Yes.  
 13 Q And usually how long is that? Couple days  
 14 or --  
 15 A I try to do it on a daily basis.  
 16 Q Okay.  
 17 A I don't succeed always, but --  
 18 Q So this is your regular practice that you've  
 19 described?  
 20 A Yes.  
 21 Q Looking at the check register then, this was  
 22 downloaded -- Exhibit 1 was downloaded from QuickBooks,  
 23 correct?  
 24 A Yes.  
 25 Q And the -- all of the investors' names are

73

1 shown next to the amount of money that was paid to them?  
 2 For example, these started October 1st, correct?  
 3 A Yes.  
 4 Q Have investors been paid also in November?  
 5 A Yes.  
 6 Q When were the November checks --  
 7 A What is --  
 8 Q This is November 20 --  
 9 A Oh, no, they haven't been paid yet.  
 10 Q You didn't send out November checks?  
 11 A No, because they don't get paid until the 1st  
 12 of December.  
 13 Q Well, did they get paid at all during November?  
 14 Not November distributions, but did they get October  
 15 distributions paid in November?  
 16 A This is it.  
 17 Q This says October 1st. We don't have the  
 18 November.  
 19 A Oh, okay, I'm sorry. Yeah, they get paid the  
 20 1st of November for the month of October.  
 21 Q Okay. And did those checks go out this month?  
 22 A Yes.  
 23 Q And were they paid 12-percent distributions in  
 24 November?  
 25 A Yes.

74

1 Q And it's for Emvest Mortgage Fund II; is that  
 2 correct?  
 3 A Yes.  
 4 Q Have you been doing the records, the banking  
 5 records for Emvest Mortgage Fund II?  
 6 A Yes.  
 7 Q How have you set those records up?  
 8 A What do you mean?  
 9 Q In QuickBooks?  
 10 A How --  
 11 Q For example, you said for Exhibit 1 that you  
 12 have the checking and banking in QuickBooks. Have you  
 13 set Emvest Mortgage Fund II up the same way?  
 14 A No.  
 15 Q How have you set up Emvest Mortgage Fund II?  
 16 A We're trying a new system.  
 17 Q And what is that? You think Exhibit 3 is --  
 18 A This one.  
 19 Q That's the new system?  
 20 A Uh-huh.  
 21 Q What is the new system called?  
 22 A Office Mortgage.  
 23 Q Office Mortgage. Are you familiar with that  
 24 program?  
 25 A I'm trying to learn.

76

1 Q Okay. Let me have Exhibit 1, please. Hold  
 2 onto Exhibit 2 for a moment.  
 3 I'm going to ask the court reporter to mark as  
 4 Exhibit 3 a document which is Bates stamped EM 11537 and  
 5 EM 11538. The top of it unfortunately is cut off, but I  
 6 think it is a register or a record of Emvest Mortgage  
 7 Fund II for October of 2004.  
 8 (Exhibit 3 was marked for identification.)  
 9 BY MS. HANNAN:  
 10 Q I hand you what's been marked as Exhibit 3. Do  
 11 you recognize that document?  
 12 A Is this Emvest II?  
 13 Q I believe it is, but the top of it is cut off.  
 14 It was produced to us when we asked for -- and the  
 15 second page relates to Emvest II, is the lender  
 16 statement of account for Emvest II. It was produced to  
 17 the SEC. And my question to you, because we -- it's not  
 18 exactly in the same format as the other, as the way you  
 19 did Emvest I. But it was what was produced to us when  
 20 we asked for records relating to the banking activities  
 21 of Emvest II. And my question to you is, do you  
 22 recognize page 1 or page 2 of Exhibit 3?  
 23 A I do recognize page 2.  
 24 Q What is page 2?  
 25 A Is the lender's statement.

75

1 Q You're trying to learn?  
 2 A Yeah.  
 3 Q Are you inputting information into Office  
 4 Mortgage?  
 5 A I am trying to input information in it.  
 6 Q Did you print out any documents to send to the  
 7 SEC when the SEC requested the account records for  
 8 Emvest Mortgage II?  
 9 A I don't remember.  
 10 Q At the top of this page there is a number,  
 11 7340026734. Do you know if that's the account number  
 12 for Emvest Mortgage II?  
 13 A It seems like it.  
 14 Q Actually, we have a document that shows that it  
 15 is. Okay.  
 16 A It seems like it.  
 17 Q All right. And then to the left-hand side, the  
 18 first entry under "From Whom Received or To Whom Paid,"  
 19 it says "Emvest II (Partnership)." Do you see that?  
 20 A Yes, uh-huh.  
 21 Q And next to that it shows "\$1,240.20 taxes."  
 22 Do you know what that stands for?  
 23 A Yes. Yes. It has to be what -- the taxes, the  
 24 payroll taxes, because there's another one over here.  
 25 So it has to be that.

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1 A Yes.  
 2 Q And the deposit slip that's on Exhibit 8 shows  
 3 \$10,000. Does that deposit of \$10,000 refer to check  
 4 8970?  
 5 A Yes.  
 6 Q Does it appear then that the investment of  
 7 Mary Jane Laws or John Bradley, who are assigned  
 8 No. 247, was made in September of 2004?  
 9 A Correct.  
 10 Q And then would it also mean that No. 248 and  
 11 249 on Exhibit 2 occurred after -- on or after  
 12 September 2nd, 2004?  
 13 A Yes.  
 14 Q So at least those three people or those three  
 15 entities were allowed into the fund in September. Do  
 16 you know why they were allowed in in September?  
 17 MR. CASAS: Objection; compound question.  
 18 BY MS. HANNAN:  
 19 Q Do you know why investors 247, 248 and 249 were  
 20 allowed to invest in September?  
 21 A I don't know.  
 22 Q Who gave you the check for Lewis and Bradley --  
 23 I'm sorry, Laws, it's L-a-w-s. Who gave you the check  
 24 for investor No. 247?  
 25 A The account executive.

1 check into the Emvest Mortgage Fund account on  
 2 September 9th, 2004. Do you have any knowledge of why  
 3 \$8,712 was deposited by Emvest Mortgage Fund into  
 4 Emerald Bay Financial -- I'm sorry, the opposite. Do  
 5 you have any knowledge of why Emerald Bay Financial paid  
 6 Emvest Mortgage Fund \$8,712?  
 7 A Because we overpaid Ms. Lee out of Emvest, so  
 8 we had to reimburse Emvest the money.  
 9 Q There was testimony about that in Mr. Brock's  
 10 prior testimony and yours. How was the figure of \$8,712  
 11 determined as the amount to reimburse?  
 12 A I was given this.  
 13 Q You were just given that check?  
 14 A Yes.  
 15 Q You don't know how they determined how much it  
 16 should be?  
 17 A No.  
 18 Q And whose handwriting is it on there that says,  
 19 "To reimburse overpayment to Vadee Lee withdrawal of  
 20 funds"?  
 21 A Mine.  
 22 Q Why did you write that?  
 23 A To know what it is for.  
 24 Q Did anybody tell you why it was being paid out  
 25 of Emerald Bay Financial's account?

110

112

1 Q Who was the account executive for Laws and  
 2 Bradley?  
 3 A I don't remember.  
 4 Q Were you given any instructions by Mr. Canty or  
 5 Mr. Brock to not allow any investors into Emvest  
 6 Mortgage Fund after any particular point in time?  
 7 A No.  
 8 Q Did you know that they had decided to stop  
 9 taking new investments into Emvest Mortgage Fund?  
 10 A No.  
 11 Q How do you know, when an investor check comes  
 12 in, whether it should go into the first fund or Emvest  
 13 Mortgage Fund II?  
 14 A Because of the subscription.  
 15 Q Okay. I'll take the two exhibits. Why don't  
 16 you hold onto 7 just in case you need it.  
 17 As Exhibit 9 I'll ask the court reporter to  
 18 mark what's previously been marked as EM 11607. It's a  
 19 copy of a deposit slip and a cashier's check.  
 20 (Exhibit 9 was marked for identification.)  
 21 BY MS. HANNAN:  
 22 Q I've handed you what's been marked as  
 23 Exhibit 9. This is a cashier's check from Emvest  
 24 Mortgage Fund LLC to Emerald Bay Financial, Inc. for  
 25 \$8,712 and a deposit slip showing the deposit of that

1 A No.  
 2 Q Do you know why it was paid out of Emerald Bay  
 3 Financial's account?  
 4 A No.  
 5 MS. HANNAN: Next I'm going to ask the court  
 6 reporter to mark as Exhibit 10 a check from Arne and  
 7 Carolyn Halvarson and deposit slip for \$30,000. It's  
 8 previously been marked as EM 11608, and we'll mark that  
 9 as Exhibit 10.  
 10 (Exhibit 10 was marked for identification.)  
 11 BY MS. HANNAN:  
 12 Q My question on this one is whether that  
 13 investor's funds were invested in Emvest Mortgage Fund I  
 14 or II? Because I see the check is made out just to  
 15 Emvest Mortgage Fund LLC for \$30,000, but the investor  
 16 number is 27. So I didn't know if that meant he was  
 17 previously No. 27 where we have to look at your list, or  
 18 is he like a new 27 in the new fund?  
 19 A Let me see the exhibit.  
 20 THE REPORTER: Excuse me?  
 21 THE WITNESS: LLC.  
 22 MS. HANNAN: I believe the witness said "LLC."  
 23 Q When you said LLC, did you mean that the  
 24 \$30,000 invested by the Halvarsons on September 8th was  
 25 invested in the first fund?

111

113

1 A Yes.  
 2 Q Do you know who took that subscription?  
 3 A I don't remember.  
 4 Q And do you know whether the fund was closed to  
 5 investors as of September 8th, 2004?  
 6 A No.  
 7 Q You don't know one way or the other?  
 8 A No.  
 9 MS. HANNAN: I'm going to ask the court  
 10 reporter to mark as Exhibit 11 a deposit of 40,000 on  
 11 September 10th, 2004 for the account of Edward S.  
 12 Weltman, and that's been marked as EM 11609.  
 13 (Exhibit 11 was marked for identification.)  
 14 BY MS. HANNAN:  
 15 Q Looking at Exhibit 11, this check stub, it  
 16 appears to be from Pensco Trust Company for account of  
 17 Edward S. Weltman, and it is dated September 7, 2000 for  
 18 \$40,000. It has investor No. 248. Was this check  
 19 deposited on behalf of Mr. Weltman as an investor in  
 20 Emvest Mortgage Fund I or Emvest Mortgage Fund II?  
 21 A I.  
 22 Q And how do you know that?  
 23 A Because of the number.  
 24 Q No. 248?  
 25 A And the deposit.

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1 Q And the deposit showing it? And what numbers  
 2 did you assign to Emvest Mortgage Fund II? What number  
 3 did you start with?  
 4 A 500.  
 5 Q So if we see a check with an investor number  
 6 of -- under 500, does that mean that that investment  
 7 went into Emvest Mortgage Fund I?  
 8 A No, because I do not have anything -- I don't  
 9 have any 400s.  
 10 Q There's no 400s. So if it's 399 or lower, does  
 11 that mean it went -- if an investor's number is 399 or  
 12 lower -- or we could be exact and look at your list if  
 13 you want. I'm just sort of ballparking it. If it's in  
 14 the 100s, 200s or 300s, it's Emvest Mortgage Fund I  
 15 investors, correct?  
 16 A Right.  
 17 Q And if it's 500 or higher, then it means the  
 18 investor has been -- has invested in Mortgage Fund II,  
 19 correct?  
 20 A Correct.  
 21 MS. HANNAN: As Exhibit 12 I'm going to ask the  
 22 court reporter to mark a copy of, it looks to be, three  
 23 checks and a deposit slip. The deposit slip is dated  
 24 9/13/04 and the Bates number is EM 11610, and that's  
 25 Exhibit 12.

115

1 (Exhibit 12 was marked for identification.)  
 2 BY MS. HANNAN:  
 3 Q And this shows a check -- these show checks  
 4 that have varying amounts, 40,000, 50,000 and 18,500.  
 5 What were those checks for?  
 6 A That was the purchase of the trust deed.  
 7 Q These were not investors?  
 8 A No.  
 9 Q Thank you.  
 10 MR. CASAS: Do you have a copy of that for me,  
 11 please?  
 12 MS. HANNAN: I'd like the court reporter to  
 13 mark as Exhibit 13 a photocopy of checks starting with a  
 14 check from Steven Kaplan on September 9th, 2004. The  
 15 document has previously been marked as EM 11611.  
 16 (Exhibit 13 was marked for identification.)  
 17 BY MS. HANNAN:  
 18 Q And I direct your attention to the two  
 19 checks -- to the cashier's check that is the third item  
 20 on page 11611, Exhibit 13. And it's a check to Emvest  
 21 Mortgage Fund LLC for \$125,000 and it's dated  
 22 September 8, 2004 for the account of Ernest and  
 23 Elizabeth Holt, and there's a number there for No. 249.  
 24 Was this a check for an investment in Emvest Mortgage  
 25 Fund on behalf of the Holts?

116

1 A Yes.  
 2 Q And was that check deposited in September of  
 3 2004?  
 4 A September 8th.  
 5 Q And then right underneath that, we have a  
 6 question about what that last item is on this page.  
 7 It's a check, and it appears to be from First American  
 8 Title Insurance Company in the amount of \$279,870, and  
 9 there's some handwriting there. It looks like it says  
 10 "loan XCLD." Does that mean loan cancelled?  
 11 A Uh-huh.  
 12 Q So is that a return of funds to the fund from  
 13 the title company for a loan that did not go through?  
 14 A Yes, it is.  
 15 Q Do you know why the loan didn't fund?  
 16 A I have no idea.  
 17 Q And whose handwriting is on that slip?  
 18 A Mine.  
 19 Q Okay. I just wanted to read it into the  
 20 record. It shows a loan No. EB 4055/Ramirez. Is that a  
 21 loan that the borrower would have been Ramirez?  
 22 A Yes.  
 23 Q It says "Loan cancelled and FATCO cashed our  
 24 check"?  
 25 A Yes.

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**EXHIBIT 2**

**EMVEST MORTGAGE FUND LLC**  
 A CALIFORNIA LIMITED LIABILITY COMPANY  
 891 CAMINO DE LA REINA, SUITE 103  
 SAN DIEGO, CA 92108  
 (619) 297-4844

**UNION BANK OF CALIFORNIA**  
 3800 Fifth Ave., Suite 100  
 San Diego, CA 92103  
 16-48-81220  
 0820031849

8106

PAY TO THE ORDER OF **EMVEST MORTGAGE FUND II LLC** \$ 34,510.00  
 Thirty-Four Thousand Five Hundred Ten and 00/100 DOLLARS

EMVEST MORTGAGE FUND II LLC

MEMO CORRECT DEPOSIT/E4093/TONES

⑈008106⑈ ⑆122000496⑆ 0820031849⑈ /0003451000⑈

**EMVEST MORTGAGE FUND LLC**  
 A CALIFORNIA LIMITED LIABILITY COMPANY  
 891 CAMINO DE LA REINA, SUITE 103  
 SAN DIEGO, CA 92108  
 (619) 297-4844

**UNION BANK OF CALIFORNIA**  
 3800 Fifth Ave., Suite 100  
 San Diego, CA 92103  
 16-48-81220  
 0820031849

8107

PAY TO THE ORDER OF **HIGGS, FLETCHER & MACK, LLP** \$ 11,000.00  
 Eleven Thousand and 00/100 DOLLARS

HIGGS, FLETCHER & MACK, LLP  
 401 WEST "A" STREET #2600  
 SAN DIEGO, CA 92112-4117

MEMO E40523/ENTERPRISE GROUP

⑈008107⑈ ⑆122000496⑆ 0820031849⑈ /0001100000⑈

**EMVEST MORTGAGE FUND LLC**  
 A CALIFORNIA LIMITED LIABILITY COMPANY  
 891 CAMINO DE LA REINA, SUITE 103  
 SAN DIEGO, CA 92108  
 (619) 297-4844

**UNION BANK OF CALIFORNIA**  
 3800 Fifth Ave., Suite 100  
 San Diego, CA 92103  
 16-48-81220  
 0820031849

8108

PAY TO THE ORDER OF **JOHN AND MARY CRIPPEN, TRUSTEES** \$ 750.00  
 Seven Hundred Fifty and 00/100 DOLLARS

JOHN AND MARY CRIPPEN, TRUSTEES  
 7873 NORMAL AVE  
 LA MESA, CA 91941

MEMO AUGUST DIST / REPLACES CK#7860 (PENGE)

⑈008108⑈ ⑆122000496⑆ 0820031849⑈ /0000075000⑈

**EMVEST MORTGAGE FUND LLC**  
 A CALIFORNIA LIMITED LIABILITY COMPANY  
 891 CAMINO DE LA REINA, SUITE 103  
 SAN DIEGO, CA 92108  
 (619) 297-4844

**UNION BANK OF CALIFORNIA**  
 3800 Fifth Ave., Suite 100  
 San Diego, CA 92103  
 16-48-81220  
 0820031849

8109

PAY TO THE ORDER OF **UNION BANK/CASHTER'S CHECK** \$ 1,520,000.00  
 One Million Five Hundred Twenty Thousand and 00/100 DOLLARS

UNION BANK/CASHTER'S CHECK  
 FIRST FINANCIAL TITLE OF ARIZONA  
 ESCROW #38662-030-JB

MEMO E40937/DE ANDA

⑈008109⑈ ⑆122000496⑆ 0820031849⑈ /0152000000⑈

*Deanda*  
 EXHIBIT NO. 20  
 J. HOSTETLER

**EXHIBIT 3**

EMVEST MORTGAGE FUND LLC  
A CALIFORNIA LIMITED LIABILITY COMPANY  
591 CAMINO DE LA REINA, SUITE 103  
SAN DIEGO, CA 92108  
(619) 297-4844

UNION BANK OF CALIFORNIA  
3900 FISH AVE., SUITE 100  
SAN DIEGO, CA 92103  
16-49-41220  
0620031849

8110

PAY TO THE ORDER OF UNION BANK/CASHIER'S CHECK \*\*30,000.00

Thirty Thousand and 00/100 DOLLARS

UNION BANK/CASHIER'S CHECK

EMVEST MORTGAGE FUND LLC

MEMO E40917/DE ANDA

⑈008110⑈ ⑆122000496⑆ 0820031849⑆ ⑈000300000⑈

EMVEST MORTGAGE FUND LLC  
A CALIFORNIA LIMITED LIABILITY COMPANY  
591 CAMINO DE LA REINA, SUITE 103  
SAN DIEGO, CA 92108  
(619) 297-4844

UNION BANK OF CALIFORNIA  
3900 FISH AVE., SUITE 100  
SAN DIEGO, CA 92103  
16-49-41220  
0620031849

8111

PAY TO THE ORDER OF COMMERCE TITLE COMPANY \*\*3,000.00

Thirty-Five Thousand and 00/100 DOLLARS

COMMERCE TITLE COMPANY  
356153

655064299 09-24-04 839 1359 02

MEMO E40910/WYNN

⑈008111⑈ ⑆122000496⑆ 0820031849⑆ ⑈000350000⑈

EMVEST MORTGAGE FUND LLC  
A CALIFORNIA LIMITED LIABILITY COMPANY  
591 CAMINO DE LA REINA, SUITE 103  
SAN DIEGO, CA 92108  
(619) 297-4844

UNION BANK OF CALIFORNIA  
3900 FISH AVE., SUITE 100  
SAN DIEGO, CA 92103  
16-49-41220  
0620031849

8112

PAY TO THE ORDER OF COMMERCE TITLE COMPANY \*\*30,000.00

Fifty Thousand and 00/100 DOLLARS

COMMERCE TITLE COMPANY  
316242

851091220 09-27-04 819 1354 10

MEMO E40918/CHAVEZ

⑈008112⑈ ⑆122000496⑆ 0820031849⑆ ⑈000500000⑈

EMVEST MORTGAGE FUND LLC  
A CALIFORNIA LIMITED LIABILITY COMPANY  
591 CAMINO DE LA REINA, SUITE 103  
SAN DIEGO, CA 92108  
(619) 297-4844

UNION BANK OF CALIFORNIA  
3900 FISH AVE., SUITE 100  
SAN DIEGO, CA 92103  
16-49-41220  
0620031849

8113

PAY TO THE ORDER OF SOUTHLAND TITLE COMPANY \*\*15,000.00

Thirty-Five Thousand and 00/100 DOLLARS

SOUTHLAND TITLE COMPANY  
34334609

MEMO E40911/BOWIE

⑈008113⑈ ⑆122000496⑆ 0820031849⑆ ⑈000050000⑈

De Anda  
EXHIBIT NO. 24  
J. HOSTETLER

**PROOF OF SERVICE**

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

3  U.S. SECURITIES AND EXCHANGE COMMISSION, 5670 Wilshire  
4 Boulevard, 11th Floor, Los Angeles, California 90036-3648  
Telephone No. (323) 965-3998; Facsimile No. (323) 965-3908.

5 On November 24, 2004, I served the document entitled **DECLARATION OF**  
6 **SUSAN F. HANNAN IN SUPPORT OF THE COMMISSION'S**  
7 **SUPPLEMENTAL BRIEF** upon the parties to this action addressed as stated on  
the attached service list:

8  **OFFICE MAIL:** By placing in sealed envelope(s), which I placed for  
9 collection and mailing today following ordinary business practices. I am  
10 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.

11  **PERSONAL DEPOSIT IN MAIL:** By placing in sealed  
12 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.

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

16  **HAND DELIVERY:** I caused to be hand delivered each such envelope to  
the office of the addressee.

17  **FEDERAL EXPRESS BY AGREEMENT OF ALL PARTIES:** By  
18 placing in sealed envelope(s) designated by Federal Express with delivery  
fees paid or provided for, which I deposited in a facility regularly maintained  
19 by Federal Express or delivered to a Federal Express courier, at Los  
Angeles, California.

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

22  **FAX (BY AGREEMENT ONLY):** By transmitting the document by  
23 facsimile transmission. The transmission was reported as complete and  
without error.

24  **(Federal)** I declare that I am employed in the office of a member of the bar  
25 of this Court, at whose direction the service was made. I declare under  
penalty of perjury that the foregoing is true and correct.

26 Date: November 24, 2004

*Magnolia M. Marcelo*  
27 \_\_\_\_\_  
MAGNOLIA M. MARCELO

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 (LSP)**  
4                   **(LA-2894)**

5   SERVICE LIST

6                   **Robert A. Cocchia, Esq.**  
7                   **B. Luke Pistorius, Esq.**  
8                   **McKenna Long & Aldridge LLP**  
9                   **Symphony Towers**  
10                   **750 B Street, Suite 3300**  
11                   **San Diego, CA 92101**  
12                   **Facsimile: (619) 595-5450**  
13                   ***Attorney for Defendants Emvest Mortgage Fund, LLC, Emvest, Inc.,***  
14                   ***and Milon Lyle Brock***

15                   **David Adelman, Esq.**  
16                   **James R. Felton, Esq.**  
17                   **Greenberg & Bass, LLP**  
18                   **16000 Ventura Boulevard, Suite 1000**  
19                   **Encino, CA 91436**  
20                   **Facsimile: (818)986-6534**  
21                   ***Attorney for Temporary Receiver Dennis M. Murphy***

22                   **Dennis M. Murphy, CPA, CIRA**  
23                   **630 N. Rosemead Boulevard, Suite 100**  
24                   **Pasadena, CA 91107**  
25                   **Facsimile: (626) 794-7298**  
26                   ***Temporary Receiver***

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ST. TIME	11/24 11:07
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