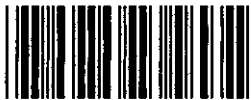


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DECL.

Ed

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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: *[Signature]* DEPUTY

1 MOLLY M WHITE, Cal. Bar No. 116037
 2 KELLY BOWERS, Cal. Bar No. 164007
 3 VICTORIA A. LEVIN, Cal. Bar No. 166616
 4 SUSAN F. HANNAN, Cal. Bar No. 097604

5 Attorneys for Plaintiff
 6 Securities and Exchange Commission
 7 Randall R. Lee, Regional Director
 8 Sandra J. Harris, Associate Regional Director
 9 Briane Nelson Mitchell, Associate Regional Director
 10 5670 Wilshire Boulevard, 11th Floor
 11 Los Angeles, California 90036
 12 Telephone: (323) 965-3998
 13 Facsimile: (323) 965-3908

9 UNITED STATES DISTRICT COURT
 10 SOUTHERN DISTRICT OF CALIFORNIA

11 SECURITIES AND EXCHANGE
 12 COMMISSION,

13 Plaintiff,

14 vs.

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

18 Defendants.

Case No. 04 CV 2295 DMS (LSP)

**DECLARATION OF MOLLY M.
 WHITE IN SUPPORT OF THE
 COMMISSION'S SUPPLEMENTAL
 BRIEF**

CA

1 that the defendants were in violation of the Order.

2 4. At about 12:15 p.m. on Friday, November 19, 2004, the receiver
3 sent Messrs. Cocchia and Brock a letter, with a copy to me, stating that he and
4 his computer expert would be in Emvest's offices on Monday, November 22,
5 2004; reminding defendants that the scope of receivership included Emvest's
6 subsidiaries and affiliates; and indicating that he expected full cooperation with
7 respect to any matters relating to Emvest's subsidiaries and affiliates, including
8 Emerald Bay Financial, Inc., Emerald Bay Funding, Inc., Emerald Bay Financial
9 of Southern California, Inc., Unified Mortgage Service, Inc., etc. Attached
10 hereto as Exhibit 2 is a true and correct copy of the receiver's November 19,
11 2004 letter.

12 5. At approximately 12:30 p.m. on Friday, November 19, 2004, I
13 received a call from Mr. Cocchia, counsel for defendants, regarding the
14 receiver's letter. Mr. Cocchia indicated that 1) he had no reason to believe that
15 the entities listed in the receiver's letter were actually "subsidiaries or
16 affiliates," and 2) based on the court's comments during the hearing, it was his
17 position that the Court did not intend for the receiver to have any control over
18 entities other than the Fund and Emvest, Inc. I told Mr. Cocchia that I would try
19 to find some documentation showing that the entities listed in the receiver's
20 letter were subsidiaries or affiliates of the Fund or Emvest, Inc. I also explained
21 to Mr. Cocchia that although, during the hearing on November 16, the Court
22 explored the possibility of ordering a total asset freeze and limiting the scope of
23 the receivership, it appeared from a plain reading of the Order, that the Court
24 instead imposed a limited asset freeze over the Fund and Emvest, Inc. and gave
25 the receiver the full powers of an equitable receiver over the Fund, Emvest, Inc.,
26 and their affiliates and subsidiaries. I asked Mr. Cocchia whether he would
27 contact the receiver directly to inform the receiver of the defendants' position.

28

1 Mr. Cocchia said he was on his way into a client meeting and asked that I
2 contact the receiver.

3 6. Minutes after I spoke with Mr. Cocchia, I called Dennis Murphy,
4 the receiver in this matter, and explained what had transpired in my call with
5 Mr. Cocchia. The receiver stated that he would send Mr. Cocchia a copy of
6 Emvest's Annual Report, which lists the above entities as "subsidiaries and
7 affiliates" of Emvest, Inc. Later that afternoon, I received a copy of a letter that
8 the receiver sent Mr. Cocchia, which included a copy of the Fund's 2003
9 financial statements. Note 12 of the financial statements (Related Party
10 Transactions) states that Emvest, Inc. "has common ownership and management
11 of affiliated companies doing business with the Emvest Mortgage Fund, LLC"
12 and lists those affiliates as Emerald Bay Financial, Inc., Emerald Bay Funding,
13 Inc., Emerald Bay Financial of Southern California, Inc., Unified Mortgage
14 Service, Inc., and CNA Foreclosure Services, Inc. Note 4 to the financial
15 statements indicates that Emvest, Inc. has common management and ownership
16 with Emerald Bay Financial, Inc., which is in turn general partner of Tristar
17 Mortgage Fund Ltd. and Heritage Mortgage Fund Ltd., which are related loan
18 portfolios. Attached hereto as Exhibit 3 is a true and correct copy of the
19 receiver's November 19, 2004 letter attaching the Fund's 2003 financial
20 statements. The Fund's 2003 financial statements are also attached as Exhibit
21 14 to the Declaration of Susan F. Hannan in Support of Plaintiff Securities and
22 Exchange Commission's Ex Parte Application for Temporary Restraining
23 Orders, which the Commission filed with the Court on November 16, 2004.

24 7. On Friday, November 19, 2004, at about 6:00 p.m., our offices
25 received a copy of a letter that Mr. Pistorius sent the receiver. In that letter, Mr.
26 Pistorius set forth his clients' position that they are not violating the Order
27 because: 1) they are aware of no facts that suggest that the entities are
28 "affiliates," as defined by federal securities laws; and 2) they should be deemed

1 to be affiliates "simply because an outside accountant labeled them as such."

2 Attached hereto as Exhibit 4 is a true and correct copy of Mr. Pistorius's
3 November 19, 2004 letter.

4 8. On Monday, November 22, 2004, at about 1:30 p.m., I sent a letter
5 to Messrs. Cocchia and Pistorius, reiterating what I had told Mr. Cocchia during
6 our conversations on Friday, and responding to the content of Mr. Pistorius's
7 letter. I explained why it is the Commission's position that: 1) the defendants'
8 are violating the Order; 2) the Fund's 2003 financial statements are competent
9 evidence of the identity of the Fund's and Emvest, Inc.'s affiliates; and 3) the
10 defendants have elsewhere admitted, and told investors, that the entities in
11 question are "affiliates." I asked Messrs. Cocchia and Pistorius to reconsider
12 their position and to let me know, by the close of business on Monday,
13 November 22, 2004, whether the defendants would give the receiver access to
14 the affiliates' records. Attached hereto as Exhibit 5 is a true and correct copy of
15 my November 22, 2004 letter. Counsel for defendants did not contact me in
16 response to my November 22, 2004 letter.

17 9. At about 2:00 p.m. on Monday, November 22, 2004, I received a
18 call from Bob Semmer, who represents Kornfeld and Levy, the Fund's former
19 accountants. Mr. Semmer said that his client had received a letter from the
20 receiver requesting access to certain files regarding Emvest. Attached hereto as
21 Exhibit 6 is a true and correct copy of the letter that the receiver sent Harlan
22 Levy, the accountant for Emvest. During our conversation, Mr. Semmer stated
23 that although his client wanted to cooperate with the Commission, he did not
24 believe that the Order pertained to his client because his client is not a "current
25 agent" of the Fund or Emvest, Inc. He told me that his client had withdrawn
26 from their representation of the Fund. Immediately after my conversation with
27 Mr. Semmer, I relayed this information to the receiver.

28



1 MOLLY M. WHITE, Cal. Bar No. 171448
KELLY BOWERS, Cal. Bar No. 164007
2 VICTORIA A. LEVIN, Cal. Bar No. 166616
SUSAN F. HANNAN, Cal. Bar No. 97604

3 Attorneys for Plaintiff
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Randall R. Lee, Regional Director
5 Sandra J. Harris, Associate Regional Director
Briane Nelson Mitchell, Associate Regional Director
6 5670 Wilshire Boulevard, 11th Floor
Los Angeles, California 90036
7 Telephone: (323) 965-3998
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8

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

11 **SECURITIES AND EXCHANGE**
12 **COMMISSION,**

13 Plaintiff,

14 vs.

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

17 Defendants.
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Case No. 04-CV-2295 DMS (LSP)

**ACKNOWLEDGMENT OF
SERVICE OF SUMMONS,
COMPLAINT, APPLICATION FOR
TEMPORARY RESTRAINING
ORDER AND OTHER RELATED
PAPERS**

B. LUKE PISTORIUS

1 I, ~~Robert A. Cocchia~~, Esq., am employed as an attorney by McKenna Long
2 & Aldridge LLP, Symphony Towers, 750 B Street, Suite 3300, San Diego,
3 California 92101, which represents defendants Emvest Mortgage Fund, LLC,
4 Emvest, Inc., and Milon Lyle Brock ("defendants") in this action. The firm is
5 authorized by the defendants to accept service of the Summons and Complaint in
6 this action. On November 17, 2004, I was personally served with the following
7 documents which I accepted on behalf of the defendants:

- 8 1. Civil Cover Sheet; Summons;
- 9 2. Complaint for Violations of the Federal Securities Laws;
- 10 3. Recommendation by Plaintiff Securities and Exchange Commission

11 That Dennis M. Murphy Be Appointed Receiver;

12 4. Plaintiff Securities and Exchange Commission's *Ex Parte* Application
13 for Temporary Restraining Order and Orders: (1) Freezing Assets; (2) Appointing
14 a Temporary Receiver; (3) Prohibiting the Destruction of Documents; (4)
15 Expediting Discovery; and (5) Requiring Accountings; and an Order to Show
16 Cause re Preliminary Injunction and Appointment of a Permanent Receiver;

17 5. Memorandum of Points and Authorities in Support of *Ex Parte*
18 Application by Plaintiff Securities and Exchange Commission for Temporary
19 Restraining Order and Orders: (1) Freezing Assets; (2) Appointing a Temporary
20 Receiver; (3) Prohibiting the Destruction of Documents; (4) Expediting Discovery;
21 and (5) Requiring Accountings; and an Order to Show Cause re Preliminary
22 Injunction and Appointment of a Permanent Receiver;


23 6. Declarations of: Chester A. Sable, Susan F. Hannan, and Kelly
24 Bowers;

25 7. Temporary Restraining Order and Orders: (1) Freezing Assets; (2)
26 Appointing a Receiver; (3) Prohibiting the Destruction of Documents; (4)
27 Expediting Discovery; (5) Requiring Accountings; and Order to Show Cause re
28 Preliminary Injunction and Appointment of a Receiver; and

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8. Plaintiff Securities and Exchange Commission's Notice of Deposition
of Sylvia De Anda.

DATED: November 17, 2004



Robert A. Cocchia, Esq.
McKenna Long & Aldridge
Attorney for Defendants
Emvest Mortgage Fund, Emvest, Inc.,
and Milon Lyle Brock



DENNIS M. MURPHY

Certified Public Accountant
Certified Insolvency & Restructuring Advisor

Stephen J. Baumgartner
Dickson Hung, C.P.A.
Douglass L. Montgomery
Ed Cantrell

November 19, 2004

Milon L. Brock
Emvest Mortgage Fund, LLC
Emvest Incorporated
591 Camino De La Reina, Suite 900
San Diego, CA 92108
Facsimile: 619-294-2134

Robert A. Cocchia, Esq.
McKenna, Long & Aldridge LLP
750 B Street, Suite 3300
Symphony Towers
San Diego, CA 92101
Facsimile: 619-595-5450

Re: Anticipated Schedule for Week of November 22nd

Dear Messrs. Brock and Cocchia:

I will be in the Emvest office only on Monday, November 22nd due to the Thanksgiving holiday and will be accompanied by my computer expert Mr. Nathan Wiebe. Together, we will:

- Review files in process
- Review collateral loan files
- Sign checks
- Review mail
- Any other items deemed necessary and not mentioned above

In order that we may expect and anticipate your full cooperation, I remind you that according to the Court order as filed on November 16, 2004 at 4:57 p.m. and identified as part IV.:

IT IS FURTHER ORDERED that Dennis M. Murphy is appointed as temporary receiver of **Emvest Funds, LLC and Emvest, Inc., and their subsidiaries and affiliates**, with full powers of an equity receiver, including (but not limited to) full power of all funds, assets, collateral, premises (whether owned, leased, occupied, or otherwise

controlled) choses in action, books, records, papers, and other real or personal property, including notes, deeds of trust, and other interests in real property belonging to, managed by, or in the possession of their subsidiaries and affiliates, and that Mr. Murphy is immediately authorized, empowered, and directed to...

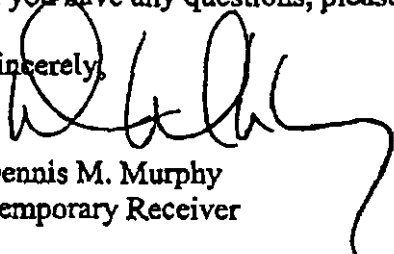
Unless I hear from you to the contrary before 1:00 p.m. today, I will assume that full cooperation will be given to both Mr. Wiebe and me regarding any matters to do with the above-mentioned entities including any and all subsidiaries and affiliates and especially:

- Emerald Bay Financial, Inc.
- Emerald Bay Funding, Inc.
- Emerald Bay Financial of Southern California, Inc.
- Unified Mortgage Service, Inc.
- CAN Foreclosure Services, Inc.
- In-House Escrow Company (name unknown)
- Tri-Star
- Heritage
- Any other entities not presently known or listed above

A copy of this letter has been forwarded to the Securities and Exchange Commission who will retain the document for review by the Court.

If you have any questions, please contact me immediately at 626-794-0288.

Sincerely,



Dennis M. Murphy
Temporary Receiver

cc: Victoria A. Levin, Esq., Molly M. White, Esq., Securities & Exchange Commission

DENNIS M. MURPHY
 Certified Public Accountant
 Certified Insolvency & Restructuring Advisor

DENNIS M. MURPHY
Certified Public Accountant
Certified Insolvency and Reorganization Accountant

630 N. Rosemead Blvd., Suite 100
 Pasadena, CA 91107

Telephone: (626) 794-0288
 Facsimile: (626) 794-7298

FAX TRANSMITTAL -- PLEASE DELIVER IMMEDIATELY

DATE: 11-19-04	CLIENT CODE:
TO: VICTORIA A. LEVIN, ESQ. Molly M. White, ESQ.	
FAX NO: 323-965-3908	
FROM: Dennis M. Murphy	
NUMBER OF PAGES TO FOLLOW THIS COVER PAGE: 2	
COMMENTS:	

If your facsimile machine has any difficulty receiving this document, or if you do not receive the indicated number of pages, please call (626) 794-0288.

NOTICE: THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. IT MAY CONTAIN INFORMATION WHICH IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, NOR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.



DENNIS M. MURPHY

Certified Public Accountant
Certified Insolvency & Restructuring Advisor

Stephen J. Baumgartner
Dickson Hung, C.P.A.
Douglass L. Montgomery
Ed Cantrell

November 19, 2004

Robert A. Cocchia, Esq.
Mckenna, Long & Aldridge, LLP
750 B Street, Suite 3300
Symphony Towers
San Diego, CA 92101
Facsimile: 619-595-5450

Re: Financial Statements from Kornfeld & Levy
Dated December 31, 2003

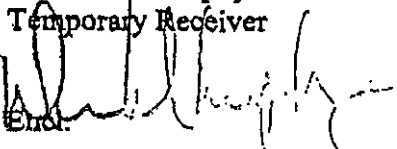
Dear Mr. Cocchia:

Please review the Financial Statements as indicated above and particularly review note 4 *Contributed Funds from Offering* and note 12 *Related Party Transactions and Common Control*. These notes openly mention Heritage Mortgage Fund Ltd. And Tristar Mortgage Fund Ltd. as well as Emerald Bay Financial, Inc., Emerald Bay Funding, Inc., Emerald Bay Financial of Southern California, Inc., United Mortgage Service, Inc., and CAN Foreclosure Services, Inc.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Dennis M. Murphy
Temporary Receiver



cc: Molly M. White, Esq. Securities & Exchange Commission w/o encl.

KORNFELD AND LEVY
CERTIFIED PUBLIC ACCOUNTANTS

HARLAN LEVY, C.P.A.
GARY KORNFELD, C.P.A.

2727 CAMINO DEL RIO SOUTH
SUITE 315
SAN DIEGO, CALIFORNIA 92108
TELEPHONE (619) 583-8000
Fax: (619) 563-7878

To the Members
Emvest Mortgage Fund LLC
591 Camino De La Reina, Suite 103
San Diego, CA 92108

We have compiled the accompanying balance sheet of Emvest Mortgage Fund LLC, A Limited Liability Company as of December 31, 2003, and the related statements of income, members' equity, and cash flows for the year then ended, in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants.

A compilation is limited to presenting in the form of financial statements information that is the representation of management. We have not audited or reviewed the accompanying financial statements and, accordingly, do not express an opinion or any other form of assurance on them.

We are not independent with respect to Emvest Mortgage Fund LLC.

Very truly yours,

Kornfeld and Levy

KORNFELD AND LEVY
CERTIFIED PUBLIC ACCOUNTANTS

February 24, 2004

**EMVEST MORTGAGE FUND LLC
(A LIMITED LIABILITY COMPANY)
BALANCE SHEET
DECEMBER 31, 2003**

ASSETS

Current Assets

Cash in Bank	\$ 1,325,206
Other Receivables (Note 7)	119,132
Accrued Interest Receivable (Note 1)	70,747
Prepaid Expenses	<u>811</u>

Total Current Assets \$ 1,515,896

Loan Portfolio (Notes 1, 2 and 8) 12,056,598

Other Assets

Bond - Certificate of Deposit (Note 1)	\$ 10,000
Software - Net of Amortization	<u>15,618</u>

Total Other Assets 25,618

Total Assets \$ 13,598,112

LIABILITIES AND EQUITY

Current Liabilities

Notes Payable Collateralized (Note 8)	\$ 2,831,000
Accrued Management Fees (Note 10)	106,746
Accrued Wages Payable	8,564
Payroll Taxes Payable	1,078
Other Payable	<u>4,548</u>

Total Current Liabilities \$ 2,951,936

Total Members' Equity 10,646,176

Total Liabilities and Members' Equity \$ 13,598,112

**EMVEST MORTGAGE FUND LLC
(A LIMITED LIABILITY COMPANY)
INCOME STATEMENT
FOR THE YEAR ENDED DECEMBER 31, 2003**

Revenue	
Interest Income	\$ 642,177
Gain on Sale of Loan Portfolio	<u>155,310</u>
Total Revenue	\$ 797,487
Operating Expenses	
Amortization	\$ 1,419
Bank Charges	133
Filing Fees	417
Licenses and Permits	250
Dues and Subscriptions	1,125
Meals and Entertainment	939
Interest - Collateralized Notes (Note 8)	115,576
Office	832
Postage and Delivery	519
Outside Services	7,194
Other	3,300
Professional Fees (Note 12)	21,009
Management Fees (Note 11)	107,529
Rent and Overhead Support	3,557
Service Fees	9,928
Taxes and Licenses	<u>3,300</u>
Total Operating Expenses	\$ <u>277,027</u>
Net Income	\$ <u>520,460</u>

EMVEST MORTGAGE FUND LLC
(A LIMITED LIABILITY COMPANY)
STATEMENT OF MEMBERS' EQUITY
FOR THE YEAR ENDED DECEMBER 31, 2003

Members' Equity at Beginning of Year	\$ 3,774,359
Capital Contributions (Note 4)	8,080,495
Net Income	520,460
Distributions (Note 3)	(908,462)
Withdrawals (Note 6)	(426,570)
Syndication Costs (Notes 1 and 10)	<u>(394,106)</u>
Members' Equity End of Period	<u>\$ 10,646,176</u>

5

EMVEST MORTGAGE FUND LLC
(A LIMITED LIABILITY COMPANY)
STATEMENT OF CASH FLOWS
FROM APRIL 30, 2002 (START OF OPERATIONS) TO
DECEMBER 31, 2003

Cash Flows From Operating Activities		
Net Income		\$ 520,460
Changes in operating assets and liabilities:		
(Increase) Decrease in:		
Other Current Assets	\$ (68,047)	
Increase (Decrease) in		
Accrued Liabilities	<u>2,832,946</u>	<u>(68,047)</u>
Net Cash Provided By Operating Activities		\$ 452,413
Cash Flows From Investing Activities		
Loan Portfolio and Funds in Transit (Net) (Notes 1 and 2)	\$(17,101,481)	
Bond - Certificate of Deposit	<u>(20,000)</u>	
Net Cash (Used in) Investing Activities		(17,121,481)
Cash Flows From Financing Activities		
Capital Contributed (Note 4)	\$ 11,140,371	
Withdrawals (Note 5)	(1,180,105)	
Syndication Costs (Notes 1 and 7)	<u>(544,446)</u>	
Net Cash Provided By Financing Activities		<u>9,415,821</u>
Net Increase In Cash		\$ (7,253,248)
Cash At Beginning of Year		<u>133,128</u>
Cash At End of Period		<u>\$ 1,225,177</u>
Income taxes paid during the period \$800		

**EMVEST MORTGAGE FUND, LLC
(A CALIFORNIA LIMITED LIABILITY COMPANY)
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2003**

Note 1 - Nature of Activities and Summary of Significant Accounting Policies:

Nature of Activities

Emvest Mortgage Fund LLC (Company) was organized in March of 2002 by its Manager, Emvest Incorporated (Manager) to engage in the organization, funding, purchase, and sale of loans secured by real property. The Company started operations on April 30, 2002.

Emvest Incorporated is a privately held California corporation whose principals have been engaged in the funding, purchase and sale of loans secured by real property for a number of years.

The Company's business consists principally of attracting investor funds and using those funds to originate loans secured by one- to four-family residential loans, and to a lesser extent, commercial real estate loans and land loans. These loans are usually sold within the first six months of origination.

Unless waived by the Manager, the existence of the Company shall terminate on December 31, 2008. If such date of termination is waived by the Manager, the term of the Company shall expire on the date designated by the Manager or, if designated by the Manager, shall be perpetual, subject to termination under the provisions of this Agreement.

The principal executive offices of the Company are located at 591 Camino de la Reina, Suite 103, San Diego, California 92108.

Significant Accounting Policies

Basis of Accounting

The accompanying financial statement has been prepared on the accrual basis of accounting, which is in conformity with generally accepted accounting principles.

Cash and Cash Equivalents

Cash includes cash in checking and savings accounts.

Accrued Interest Receivable

Accrued Interest Receivable includes accrued interest on purchased loans.

Loan Portfolio

The Company's Loan Portfolio is selected at the sole discretion of the Manager. Furthermore, the quantity of any type of Loan (e.g., construction, residential, commercial, land, etc.) to be held in the Loan Portfolio, and indeed whether or not any amount at all of any type of Loan will be acquired for the Loan Portfolio, is at the sole discretion of the Manager. The company plans to utilize at least eighty percent (80%) of the invested funds for investments in Loans secured by property located in California. The Loans (which may include undivided fractional interests in Loans) will be subject to an underwriting process to assess the prospective borrower's (and any guarantors') credit history and/or the value of the real property securing the Loan. In many instances, Loans may be made or acquired by the Company based solely upon the value of the property securing the Loan, and not upon the credit of the borrower.

EMVEST MORTGAGE FUND, LLC
(A CALIFORNIA LIMITED LIABILITY COMPANY)
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2003

Note 1 - Nature of Activities and Summary of Significant Accounting Policies:

Significant Accounting Policies (continued)

Loan Portfolio (continued)

Loans are stated at unpaid principal balances plus funds advanced, less the allowance for loan losses and net deferred loan fees and unearned discounts. In addition to interest earned on loans, the Company receives loan origination fees or "points" for originating loans. Loan points are a percentage of the principal amount of the mortgage loan and are charged to the borrower in connection with the origination of the loan.

In accordance with Statement of Financial Accounting Standards No. 91, which deals with the accounting for non-refundable fees and costs associated with originating or acquiring loans, the Company's loan origination fees are amortized as interest income over the contractual life of the related loans as an adjustment to the yield of such loans and are, accordingly reported as Interest Income on the Statement of Income.

Loans are placed on non-accrual status when management believes the probability of collection of interest is insufficient to warrant further accrual. Individual loans are considered impaired when, based on available information, it is probable that the Company will be unable to collect principal and interest when due in accordance with the contractual terms of the loan agreement. All non-accrual loans are considered impaired loans. The measurement of impaired loans may be based on the present value of expected cash flows discounted at the historical effective interest rate, the market price of the loan or based on the fair value of the underlying collateral.

The Company's allowance for loan losses is based on management's continuing review and evaluation of the loan portfolio and intended to maintain an allowance adequate to absorb probable inherent losses on outstanding loans.

As of December 31, 2003, management had placed no loans on non-accrual status and classified no loans as being impaired. The Allowance for loan losses as of December 31, 2003 was zero.

Bond - Certificate of Deposit

The Company maintains a Certificate of Deposit totaling \$10,000 as required by the California Department of Corporations.

Income Taxes

The Company has been formed as a "limited liability company" under California law. The Company further desires to be treated as a "partnership" for federal income tax purposes. Therefore, the Company is not a taxpaying entity for federal income tax purposes, and thus no income tax expense has been recorded in the statements. Income of the Company is taxed to the members in their respective returns.

For California, every "limited liability company" is subject to a minimum tax of \$800 and an annual fee based on total gross revenue of the "limited liability company" ranging from \$900 to \$11,970. For the 2003 tax year, the annual fee, based on total gross revenue, will be \$2,500.

**EMVEST MORTGAGE FUND, LLC
(A CALIFORNIA LIMITED LIABILITY COMPANY)
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2003**

Note 1 - Nature of Activities and Summary of Significant Accounting Policies:

Significant Accounting Policies (continued)

Use of Estimates

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

The determination of the adequacy of the allowance for loan losses is based on estimates that are particularly susceptible to significant changes in the economic environment and market conditions.

Syndication Costs

The company treats all Syndication and Offering Costs as a reduction of Member's Equity. Included in these costs are the 4% sales commissions, related payroll taxes and worker's compensation insurance, advertising costs, other offering costs, including printing, legal fees, and filing fees.

Note 2 - Loan Portfolio

As of December 31, 2003, the Company's Loan Portfolio totaled \$12,056,598 net of \$91,654 deferred loan origination fees. The following table presents loans by collateral type and the percentage of each category of collateral to total loans as of December 31, 2003.

Loan Type	Amount	% of Portfolio
Owner-Occupied Residential Units:	\$10,011,665	82.4%
1-4 non owner-occupied residential units:	1,307,494	10.8%
Commercial, industrial, and other residential		
Income-producing properties	208,000	1.7%
Other Real Estate Loans	<u>621,092</u>	<u>5.1%</u>
Total Loans	\$12,148,151	<u>100.0%</u>
Less Deferred Loan Origination Fees	<u>(91,653)</u>	
Net Loans	<u>\$12,056,598</u>	

As of December 31, 2003, \$3,694,075 of the loan portfolio was collateralized against Notes Payable totaling \$2,831,000 (See Note 8).

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EMVEST MORTGAGE FUND, LLC
(A CALIFORNIA LIMITED LIABILITY COMPANY)
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2003

Note 2 – Loan Portfolio (continued)

As of December 31, 2003, there was \$77,215 of funds advanced on previous or existing loans. \$39,124 of the funds advanced, are on loans that have been either sold and \$38,091 of the funds advanced, are on one outstanding loan totaling \$134,000. Also as of December 31, 2003, there were four loans (including the one loan above) totaling \$153,078 (See Note 14, Subsequent Event) in which the deed of trusts are in foreclosure. (See Note 12, Related Party Transactions) As of December 31, 2003, management has not classified these loans as impaired and these loans remain on full accrual status.

Note 3 – Distribution of Securities

The Offering

The Company has offered up to 50,000 Shares ("Maximum Funding") for \$1,000 per Share, or an aggregate of \$50,000,000. The Offering price and the terms of the Shares have been set by the Manager and do not necessarily bear a relationship to the Company's earnings or to other established methods of pricing securities. As of December 31, 2003, the Company had received subscriptions totaling \$11,686,998 net of withdrawals totaling \$609,304.

Plan of Distribution

The Company itself is making this Offering. The Company will pay sales commissions equal to 4 % of all gross proceeds from sales of the Shares in connection with the distribution of the Shares. The Company will not pay any other commissions or finder's fees except to the extent permitted by applicable law. The Manager has the right to acquire for its own account and/or to permit its affiliates to acquire for their respective own accounts any number of the Shares.

Suitability

This Offering is limited to natural persons whose principal residence is located in California and to entities organized under the laws of California (collectively, "bona fide California residents") who meet certain minimum financial criteria.

Limitations on Transfer

The Shares are limited to their transferability and require consent of the Company and or the Commissioner of Corporations of the State of California.

Note 4 – Contributed Funds from Offering

Contributed Funds to the Company totaled \$12,296,302 through December 31, 2003, representing 12,296,302 shares. 10

EMVEST MORTGAGE FUND, LLC
(A CALIFORNIA LIMITED LIABILITY COMPANY)
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2003

Note 4 – Contributed Funds from Offering (continued)

Included in this total were investor capital transferred, with related Loan Portfolios, from Limited Partnership's, Tristar Mortgage Fund Ltd. and Heritage Mortgage Fund Ltd. The General Partners of the Limited Partnerships, Emerald Bay Financial, Inc., has common ownership and management as the Manager of the Company, Emvest Incorporated.

The related Loan Portfolio transferred were at their unpaid principal balances with no loans being impaired or in non-accrual status.

The investor shares received from the transferred capital exceeded by 4% the value of the Loan Portfolios transferred. This 4% represented the sales commissions in connection with the distribution of the Shares. This 4% has therefore been treated as being paid to the investor and returned to the Company, thereby, increasing the investor's initial investment.

New Investor's Contributed Funds	\$10,106,248
Transfer from Tristar Mortgage Fund Ltd. – 10/15/02	938,657
Transfer from Heritage Mortgage Fund Ltd. – 10/31/02	1,185,417
Transfer from Tristar Mortgage Fund Ltd. – 12/11/02	22,733
Transfer from Heritage Mortgage Fund Ltd – 6/30/03	23,247
Transfer from Tristar Mortgage Fund Ltd – 6/30/03	<u>20,000</u>
Total Contributed Funds through 12/31/03	<u>\$12,296,302</u>

Note 5 – Distributions

12% Per Annum Priority Return Distributions to Shareholders.

Shareholders are entitled on a cumulative but non-compounding basis, payable monthly in arrears, to a 12% per annum priority return on their original invested capital, as reduced by cumulative priority return distributions to the Shareholders. No distributions may be made to Manager except to the extent that all accrued (with partial years pro rated) Priority Operating Return Distributions have been paid.

Distributions from Operations After Priority Return.

Once all Priority Operating Return Distributions have been made, distributions from operations shall generally be made 50% to the Company's Shareholders and 50% to the Manager subject to certain limitations.

Liquid Distributions to Shareholders and Managers.

Upon dissolution of the Company, all distributions will be made first to the Shareholders until they have received aggregate distributions (crediting all previously made Distributions) equal to the sum of all Priority Operating Return Distributions due and their investments in the Company (the "Priority Liquidation Distributions"). Once all Priority Liquidation Distributions have been made, distributions upon liquidation will be made 50% to the Shareholders and 50% to the Manager.

**EMVEST MORTGAGE FUND, LLC
(A CALIFORNIA LIMITED LIABILITY COMPANY)
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2003**

Note 5 – Distributions (continued)

For the year ended December 31, 2003, the Company paid distributions totaling \$908,462. The distributions were in excess of the 12% Priority Return Distributions. The Company's Managers have elected not to take their 50% share as provided for.

Note 6 – Withdrawals

For the year ended December 31, 2003 investor funds withdrawn totaled \$426,570. Of the total funds withdrawn during the year, \$289,970 represented full return of the investor's original contribution with no reduction for allocated syndication costs or the difference in the cumulative annual priority return distributions versus the actual cumulative net income of the fund. The remaining \$136,600 of investor funds withdrawn also represented a full return of the investor's original contribution net of syndication costs totaling \$3,400, with no reduction for the actual allocated syndication costs (less the \$3,400) or the difference in the cumulative annual priority return distributions versus the actual cumulative net income of the fund. If the actual determination for the reduction of allocated syndication costs or the reduction for the difference of the cumulative priority distributions versus the cumulative net income of the fund was made, the funds available for withdrawal to the investor would have been less. The actual extent of the excess investor withdrawals has not been determined, but the impact would result in a reduction of capital to the remaining investors. The Company's management has determined the impact of the excess withdrawals to be minor. The Company's management approved the \$426,570 in withdrawals.

Note 7 – Other Receivables

As of December 31 2003, Other Receivables totaled \$119,132, and consisted of funds due from Tristar Mortgage Fund Ltd., and Heritage Mortgage Fund Ltd., resulting from loans sold and funds transferred to the Company.

Note 8 – Notes Payable Collateralized

As of December 31, 2003, the Company had Collateralized Notes Payable totaling \$2,831,000 secured by specific individual trust deeds in its Loan Portfolio (Note 2) totaling \$3,694,075. The Notes bear interest at 9.0% to 13% with monthly interest only payments. Any unpaid interest and outstanding principal on the notes are due at the earlier of either the payoff of the collateralized trust deed or its maturity date, which range from April 12, 2004 to January 1, 2005.

EMVEST MORTGAGE FUND, LLC
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NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2003

Note 9 – Concentration of Credit Risk

Over 80% of the Company's funds are required to be invested in the State of California, and accordingly, most of the properties which are directly a part of the Loan Portfolio or secure debt investments that are a part of the Loan Portfolio, is located in California. In certain instances, the Company relies entirely on the value of the real property securing the Loan, and not upon the credit of the borrower, in its loan underwriting analysis. Should California real property values decline in the future, equity investments will be placed at risk, the default rate on real estate loans is likely to increase, and the recovery rate on foreclosures is likely to decrease.

The Company maintains their cash in bank deposit accounts at one financial institution. The balance, at times, may exceed federally insured limits. As of December 31, 2003, the Company exceeded the insured limit by \$608,215.

Note 10 – Syndication Costs

Syndication Costs for the year ended December 31, 2003, totaled \$394,106.

4% Sales Commission	\$305,051
Related Payroll Taxes and Worker's Comp Ins	29,800
Sales Commission on transferred Capital from Tristar Mortgage Fund Ltd.	800
Sales Commission on transferred Capital from Heritage Mortgage Fund Ltd.	747
Advertising Expense	44,261
Other Offering Costs	<u>13,447</u>
Total Syndication Costs	<u>\$394,106</u>

Since inception, Syndication Costs have totaled \$625,948 through December 31, 2003.

Note 11 – Compensation to Manager

The Manager will on January 15th of each year receive a management fee equal to .5% (one-half of 1%) of the book value on the last day of the prior year. In addition, once all Priority Operating Return Distributions have been made, the Manager is also entitled to 50% of the Distributions from Operations (the other 50% being distributed to the Company's Shareholders), provided, however, that no such distributions from operations may be made to except to the extent that all accrued (with partial years pro-rated) Priority Operating Return Distributions have been paid. The Company will reimburse the Manager and/or its manager(s) and member(s) for any Company expenses advanced by them.

As of December 31, 2003, accrued Management Fees totaled \$106,746.

**EMVEST MORTGAGE FUND, LLC
(A CALIFORNIA LIMITED LIABILITY COMPANY)
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2003**

Note 12 – Related Party Transactions and Common Control

The Company's Manager, Emvest Incorporated, has common ownership and management of affiliated companies doing business with the Emvest Mortgage Fund, LLC.

Emerald Bay Financial, Inc.

A California Corporation with common ownership and management to Emvest, Incorporated. Through December 31, 2003, Emerald Bay Financial, Inc. originated loans on behalf of the Company, receiving loan origination, broker's finder's, and /or other fees from third parties. The Company also pays a monthly rent and overhead charge to Emerald Bay Financial, Inc. on a month-to-month basis.

Emerald Bay Funding, Inc.

A split off of Emerald Bay Financial, Inc., a California Corporation, with common ownership and management to Emvest, Incorporated. Through December 31, 2003, Emerald Bay Funding, Inc. originated loans, which are later sold to the Company, receiving loan origination, broker's finders, and /or other fees from third parties.

Emerald Bay Financial of Southern California, Inc.

A California Corporation, operating a loan origination unit in Orange County, California, with common ownership and management to Emvest, Incorporated. Through December 31, 2003, Emerald Bay Financial of Southern California, Inc. originated loans, which are later sold to the Company, receiving loan origination, broker's finders, and /or other fees from third parties.

Unified Mortgage Service, Inc.

A California Corporation with common ownership and management to Emvest, Incorporated. Unified Mortgage Service, Inc. provides loan servicing and management of real estate (upon loan conversion to real property) services on behalf of mortgage trust deed lenders.

Through December 31, 2003, the Company had entered into a "Lender Servicing and Equity Interest Agreement" with Unified Mortgage Service, Inc. to provide these services on 100% of the Loan Portfolio activity.

CNA Foreclosure Services, Inc.

A California Corporation with common ownership and management to Emvest, Incorporated. CNA Foreclosure Services, Inc. provides foreclosure services on behalf of mortgage trust deed lenders with non-performing loans. CNA Foreclosure, Inc. will act as the service provider to the Company if at any time loans within the portfolio become non-performing. Fees for such services will be paid directly from the Company to CNA Foreclosure Services, Inc.

**EMVEST MORTGAGE FUND, LLC
(A CALIFORNIA LIMITED LIABILITY COMPANY)
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 2003**

Note 12 – Related Party Transactions and Common Control (continued)

Since the Manager and/or its affiliates may earn substantial fees in the manners set forth above and irrespective of whether or not the Company recognizes profits, the Manager and/or its members will have a conflict of interest with respect to decisions made in connection with the fee-generating activities set forth above. In addition, the Company may enter into transactions with affiliates of the Manager, which transactions will raise conflicts of interest in connection with such transactions. In each instance, the Manager will seek to resolve any potential conflicts of interest in accordance with applicable law.

Emvest Mortgage Fund, LLC - Investors

In several instances there are owner's, officers and directors of the affiliated companies as mentioned above, including Emvest Incorporated, who are also investors in the Company. During the year ended December 31, 2003, family members, of the President of Emvest Incorporated, contributed \$38,400 in funds, receiving credit for \$40,000 in Capital. The difference of \$1,600 represents the 4% Syndication fee not incurred, but credited to the investor. The investor is treated as receiving other income for the 4% Syndication Fee.

Gregg A. Johnson

Gregg A. Johnson is a shareholder and director of Emvest Incorporated. For the year ended December 31, 2003, Mr. Johnson received \$23,079, from Emvest Mortgage Fund LLC, for legal services rendered in connection with the offering, organization and day-to-day operations (professional fees) of the Company.

Professional Fees – Offering	\$ 2,500
Professional fees	<u>20,759</u>
Total	<u>\$23,079</u>

Note 13 – Government Licenses

Emvest Mortgage Fund, LLC is licensed by the California department of corporations as a California finance lender/broker. Under that authority the company is required to file an annual report of activity and financial information.

Note 14 – Contingencies

The company sometimes is involved in various disputes arising in the ordinary course of business. In the opinion of management, there are no outstanding matters, which will have a material adverse impact on the financial position of the company.

Note 15 – Subsequent Events

In January of 2004 three of the loans referred to in Note 2 (Originating loan balance of 19,078 with deed of trust in foreclosure) were sold with no balances remaining to the loan portfolio.

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DENNIS M. MURPHY
Certified Public Accountant
Certified Insolvency and Reorganization Accountant

630 N. Rosemead Blvd., Suite 100
Pasadena, CA 91107

Telephone: (626) 794-0288
Facsimile: (626) 794-7298

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TO: <u>Molly M. White, ESQ</u>	
FAX NO: <u>323-965-3908</u>	
FROM: <u>Ed Cantrell</u>	
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COMMENTS:	

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B. LUKE PISTORIUS
(619) 595-8015

EMAIL ADDRESS
lpistorius@mckennalong.com

November 19, 2004

BY FACSIMILE (626) 794-7298

Dennis M. Murphy
630 North Rosemead Blvd., Ste. 100
Pasadena, CA 91107

Re: SEC v. Emvest Mortgage Fund, LLC, et al.

Dear Mr. Murphy:

This letter responds to your letters of today's date concerning your desire to access the records of certain entities you believe to be "subsidiaries" or "affiliates" of Emvest Mortgage Fund, LLC and Emvest, Inc. ("the Emvest Defendants").

As a preliminary matter, the Defendants are in full compliance, and intend to remain so, with the November 16, 2004 Temporary Restraining Order ("the TRO"). Additionally, the Defendants will continue to cooperate with you and the SEC in good faith, as evidenced by their conduct this week during your visit to the Emvest facilities.

However, we respectfully disagree with your contention that you are entitled to view or obtain the records relating to the entities listed in your letter to Messrs. Brock and Cocchia ("the Non-Defendant Entities"). While you correctly note that the TRO appoints you as temporary receiver of the Emvest Defendants "and their subsidiaries and affiliates," you fail to provide any support for your contention that the Non-Defendant Entities are either subsidiaries or affiliates of the Emvest Defendants. It is true that the 2003 Emvest Mortgage Fund LLC financial reports prepared by the fund's outside accountants refer to the Non-Defendant Entities as "affiliated companies." However, we are aware of no facts that would suggest that these entities are either (1) "affiliates," as defined by federal securities laws, or (2) deemed under federal securities laws to be "affiliates" simply because an outside accountant labeled them as such. Indeed, we understand from our clients that none of the Non-Defendant Entities are subsidiaries of the Emvest Defendants, and that none of the Non-Defendant Entities are under common "control," as that term is defined by federal securities laws, with the Emvest Defendants.

Dennis M. Murphy
November 19, 2004
Page 2

Accordingly, the TRO does not provide you with authority to obtain the records of (or otherwise exercise control over) the Non-Defendant Entities, and you will not be granted access to those entities. Notwithstanding, if you possess any information that you believe affects this analysis, we would be happy to consider it.

Very truly yours,

McKENNA LONG & ALDRIDGE LLP



B. Luke Pistorius

BLP:rd

cc: Victoria A Levin, Esq.
Molly M. White, Esq.

McKenna Long & Aldridge^{LLP}

Attorneys at Law

Atlanta
Denver
Los Angeles
Philadelphia

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Tel: 619.595.5400 • Fax: 619.595.5450
www.mckennalong.com

San Diego
San Francisco
Washington, DC
Brussels

FACSIMILE TRANSMITTAL

Date: November 19, 2004

To: Name/Company	Fax No.	Phone No.
Victoria A. Levin, Esq. Molly M. White, Esq.	(363) 965-3908	(323) 965-3998

From: B. Luke Pistorius, Esq.
Phone: (619) 595-8015
Re: SEC vs. Emvest Mortgage Fund, LLC, et al.

Number of Pages (Including cover): 3 **Originals Will Not Follow By Regular Mail**

COMMENTS

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
PACIFIC REGIONAL OFFICE
11TH FLOOR
5670 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90036-3648

DIRECT DIAL: 323-965-3250
FAX NUMBER: 323-965-3812

November 22, 2004

Robert Cocchia, Esq.
B. Luke Pistorius, Esq.
McKenna Long & Aldridge
Symphony Towers
750 B Street, Suite 3300
San Diego, California 92101

Re: SEC v. Emvest Mortgage Fund, LLC, et al.

Dear Messrs. Cocchia and Pistorius:

I am writing to follow-up on my telephone conversations with Mr. Cocchia last Friday, and to respond to Mr. Pistorius's November 19, 2004 letter. As I stated during my call with Mr. Cocchia, it is our position that by refusing to allow the receiver access to the entities identified in the receiver's November 19 letter, your clients are in violation of the Court's November 16, 2004 Temporary Restraining Order ("Order").

The Order clearly directs that:

"Dennis M. Murphy is appointed as temporary receiver of Emvest Mortgage Funds, LLC, and Emvest, Inc. **and their subsidiaries and affiliates**, with full powers of an equity receiver, including (but not limited to) full power of all funds, assets, . . . belonging to, managed by, or **in the possession or control of** Emvest Mortgage Fund, LLC, and Emvest, Inc., **and any other of their subsidiaries and affiliates . . .**" (Order ¶ IV (emphasis added).)

The Order also directs:

"that Defendants **and their subsidiaries and affiliates**, and their officers, agents . . . and any other persons who are in custody, possession, or control of any assets, collateral, books, records, . . . or other property of, or managed by Emvest Mortgage Fund, LLC and Emvest, Inc., **shall forthwith give access to and control of such property to the temporary receiver.**" (Order ¶ IX (emphasis added).)

Robert Cocchia, Esq.
B. Luke Pistorius, Esq.
November 22, 2004
Page 2

You raise the question whether the entities that the receiver identified in his November 19, 2004 letter are affiliates "as defined by federal securities laws." Although the Order does not indicate that the term "affiliate" should be "defined by the federal securities laws," nor do you specifically identify the federal securities laws to which you refer, Rule 405 of the Securities Act of 1933 states: "An 'affiliate' of, or person 'affiliated' with, a specified person is a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified."¹ 17 C.F.R. § 230.405 (emphasis added).

By this definition, the entities listed in the receiver's November 19, 2004 letter are "affiliates." The receiver took his list of affiliated companies from the Fund's financial statements, which clearly state that "The Company's Manager, Emvest Incorporated, *has common ownership and management of affiliated companies* doing business with the Emvest Mortgages Fund, LLC." (emphasis added). (The Fund's 2003 financial statements were attached as Exhibit 14 to the Declaration of Susan F. Hannan in Support of the Commission's Ex Parte Application. See Exh. 14, p. 227.)

You claim that the entities that the receiver has listed as affiliates are not affiliates "simply because an outside accountant labeled them as such." But the "outside accountant" labeled them as such in the Fund's financial statements, which are part of the Fund's Annual Report. Both the Prospectus and Article 4.4 of the Fund's Operating Agreement, which is attached to and incorporated into the Fund's Prospectus, require the Fund to send investors the Annual Report and the Fund's financial statements. (You can find the relevant language in Exhibits that are attached to the Declaration of Sue Hannan that was filed with our Ex Parte Application. See Exhibit 6, pages 58 & 72; Exhibit 7, pages 98-99 & 120; and Exhibit 8, pages 147 & 174.) Please let me know whether it is your position that the Fund's financial statements and Annual Report were inaccurate or contained false and misleading information.

Moreover, your clients have repeatedly identified these same entities as affiliates of Emvest, Inc. and Emvest Mortgage Fund, LLC, in their sales literature. I have included with this letter samples of promotional literature that were sent to one of the Fund's investors, Chester A. Sable. (The referenced materials were attached to the Declaration of Chester A. Sable that was filed in support of our Ex Parte Application. See Sable Declaration, Exh. 9, p. 22; Exh. 10, p. 23; Exh. 11, p. 25; Exh. 12, p. 26.) One advertisement states that:

"Emerald Bay Financial/ Emvest Incorporated is a group of affiliated companies and businesses that are designed to provide you, the investor, with great value and excellent investment opportunities. Here's a synopsis of the companies and the way they work."

The brochure then lists: 1) Emerald Bay Financial, Inc.; 2) Emvest Incorporated and Emvest Mortgage Fund, LLC; 3) Unified Mortgage Service, Inc., and 4) CNA Foreclosure Service, as

¹ If you had in mind a different provision of the federal securities laws, please let me know.

Robert Cocchia, Esq.
B. Luke Pistorius, Esq.
November 22, 2004
Page 3

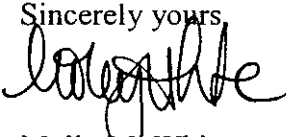
part of that "group of affiliated companies." (See Sable Dec. Exh. 9, p. 22.) The next solicitation, entitled "Answers to Frequently Asked Questions," states:

"The Prospectus for Emvest only takes into account Emvest Mortgage Fund, LLC the corporation. There is however, a broader picture of the company than just Emvest LLC. The company has *four other divisions* that occupy 2 floors and three suites in the San Diego office." (emphasis added)

That flyer then describes Emerald Bay Financial, Inc., Unified Mortgage Services, Inc., Emvest Mortgage Fund, LLC, Inc., and CNA Foreclosures as those other "divisions." (See Sable Dec. Exh. 11, p. 25.) As another example, the August 2004 newsletter that was sent to Fund investors lists the following companies as "Manager and Affiliates": Emvest Incorporated, Emerald Bay Funding, Inc., Lenders Reconveyance, Inc., and Unified Mortgage Service, Inc. (See Sable Dec. Ex. 12, p.26.)

For ease of reference, I have only mentioned materials that we already filed with the Court. If you are in need of additional evidence that the companies listed in the receiver's November 19, 2003 letter are affiliates of the Fund and Emvest, Inc., I am certain we can locate additional examples of similar advertisements in the files we produced to you last week. Again, please let me know if it your position that the various advertisements that the defendants used to solicit investments in the Fund contain false or misleading information.

Please let me know, by the close of business today, whether you will reconsider your position and give the receiver access and control of the affiliated entities.

Sincerely yours

Molly M. White
Trial Counsel

Enclosures

cc: Dennis M. Murphy, CPA, CIRA
Susan F. Hannan, Esq.

"Our Companies..."

Emerald Bay Financial, Inc.; Emvest Mortgage Fund, LLC; Emvest Incorporated; Unified Mortgage Service; CNA Foreclosure Service.

Emerald Bay Financial / Emvest Incorporated is a group of affiliated companies and businesses that are designed to provide you, the investor, with great value and excellent investment opportunities. Here's a synopsis of the companies and the way they work.

Emerald Bay Financial, Inc. Emerald Bay Financial, Inc. is a real estate broker (CA Dept of Real Estate, Lic. #01237295). We specialize in private investment lending in Southern CA. As a real estate broker, EBF arranges individual loans, sells existing notes to private investors, and sells hypothecated loans.

Emvest Incorporated and Emvest Mortgage Fund, LLC. Emvest Incorporated is the managing entity of Emvest Mortgage Fund, LLC (the Fund), and provides management services for the Fund. Emvest Mortgage Fund, LLC is a CFL (California Finance Lender) Lender, and funds the loans arranged by Emerald Bay Financial, Inc, which are then held in the Fund or sold out to private investors. Emvest Mortgage Fund, LLC is also a *mortgage pool* designed to maximize investor yield. At present, the Fund's yield is in the 12% range, and the Fund is able to provide these excellent yields because of a combination of factors, including collected interest, discounts to the Fund, and additional income from other sources.

Unified Mortgage Service, Inc. A good servicing / collection company is crucial to maintaining the quality of your investments, and we're proud to say that we have an affiliation with Unified Mortgage Service, Inc (Unified). Unified collects the mortgage loans for a host of private investors, and for the Fund. Each investor is assured of the interest and attention of the people who work in servicing, and all the people at Unified are dedicated to making your investment profitable and trouble-free.

CNA Foreclosure Service. There are always a few borrowers who don't pay, and the purpose of CNA is to keep your investment a good one. When a borrower fails to pay his mortgage, the account is turned over to CNA, where it is placed in foreclosure, so that your investment can be recovered, with your interest and other monies due you. If you've purchased an individual note, one of three things will happen when the foreclosure process is completed:

1. The borrower will *reinstate* his mortgage, and pay what is due you, and will then make his payments going forward (otherwise, CNA will foreclose again);
2. You will be *paid off* (meaning you get your principal, interest, and other monies due you, in a lump sum);
3. The *property* could revert to you, as the "benefit of the bargain," to satisfy your loan. In most cases, investors simply get paid or paid off. Very few properties go back to lenders, and when one does, there's normally someone waiting to buy it.

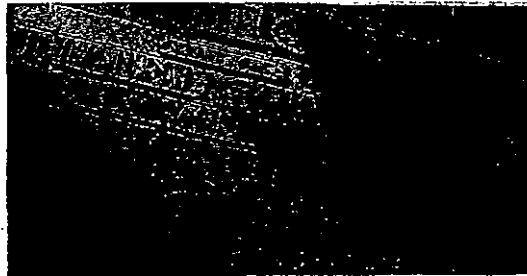
In summary, our companies are designed to make your investments with us profitable and trouble-free. We want you to be satisfied, and we work hard to make that happen.

Emvest Incorporated

—A note about us and our companies

Emvest Incorporated is the managing entity of Emvest Mortgage Fund LLC—and Emvest Incorporated is the brainchild and investment arm of Emerald Bay Financial, Inc. Our people have been in the lending and real estate businesses for a generation, and we know our market. You can participate in the opportunities in real estate lending, earn a handsome rate of return, and still have a low risk of losing your capital, because your investment is ultimately secured by Southern California residential real estate. We want your money, because we can make money with your money, and we will pay you well for its use. The following "Summary of Prospectus" is only the beginning of our story.

Look at the rest of the information we've provided to see how you can earn a double-digit return, with checks every month.



Summary of Prospectus (see p. 2)

The following Summary of the Prospectus (see p. 2) is not intended as an offering; the offering is made ONLY by prospectus, and if you wish to invest, please request a prospectus, read it carefully, and then fill out the subscription agreement, which is included with the prospectus. The information contained in this summary of prospectus is deemed reliable, but not guaranteed. The information in this document is not an offer to sell a security, nor a solicitation of an offer to buy a security. Such offering is made only by prospectus.

Call 619-297-4844
To Request a Prospectus

For the Summary, see page 2

EMVEST INCORPORATED
**Emvest Mortgage Fund,
LLC, Prospectus Summary**

Emvest Mortgage Fund, LLC, Prospectus Summary

Offering	\$50,000,000 of 12% Participating Shares; Share price, \$1,000 (50,000 total shares available)
What is "12%?"	"12% Participating shares" means that you earn 12%, or we do not participate in the rate. 12% is a "minimum target."
Minimum Investment	\$10,000 (10 shares)— Available ONLY to CA residents
Investment Objectives	<ul style="list-style-type: none"> *Produce Interest income from our mortgage Loans; *Provide Monthly checks to our investors; *Preserve and return your capital contributions; *Reinvest Payoffs and other proceeds, as available
Portfolio	Mortgage loans, primarily on Southern California real estate; our target market is the owner-occupied home in areas of solid value; we receive 3 rd party appraisals on our loans; Emerald Bay Financial, Inc. will originate the majority of these loans for The Fund. Loans will be selected by Fund management.
Distributions	We distribute monthly checks to our investors. You may request direct deposit, if you wish. Simply provide us with a deposit slip.
Designed for	Individual investors; IRA's, Pension / Profit Sharing Plans; SEP's, 401K's, Partnerships and Trusts that seek interest income on loans secured by real property and capital preservation.
Liquidity	The Fund will operate for 6 years from inception, unless extended; investors may petition management for withdrawal after the first year. Withdrawals are at the discretion of management. The "wind-up date" of the fund is December 31, 2008.
Suitability and risk	Please refer to the prospectus.
Tax Reporting	Income information is reported on a Schedule K-1.
Management	The Fund is managed by Emvest Incorporated, a California Corporation.
How to Invest	The offering is made through the prospectus. After reading the prospectus, complete the subscription agreement and return with your check, made payable to Emvest Mortgage Fund, LLC for the amount of your investment.

This information is designed as a guide for prospective investors. It is a summary of information contained in the prospectus for The Fund. This information is deemed reliable, but not guaranteed. For specifics, please see your prospectus. The information in this document is not an offer to sell a security, nor a solicitation of an offer to buy a security. Such offering is made only by the prospectus, which may be requested by writing or calling
 Emvest Incorporated
 591 Camino De La Reina #103
 San Diego, CA 92108
 619-297-4844.

Answers to Frequently Asked Questions

- The principals bring a combined experience of 63 years in real estate and mortgages.
(see Principals on page 7 of Prospectus)
- "Emvest" is the third fund offering, and is substantially large enough and attracting enough attention that it warranted the spin off of it's own corporate entity. The first two funds, Heritage and TriStar which are several years old now both sold out, and have performed as advertised.
- The Prospectus for Emvest only takes into account Emvest Mortgage Fund, LLC the corporation. There is however, a broader picture of the company than just Emvest LLC. The company has four other divisions that occupy 2 floors and three suites in the San Diego office. We have offices in Orange County as well. The offices in Orange County at this time are specifically for Loan Origination, and don't sell any Trust Deeds or Funds to the public. The offices in San Diego are the company headquarters. This is where even Orange County originated Trust Deeds are sold to investors. We deal with many residents of Orange County, Los Angeles County, San Bernardino County, Riverside County and Temecula.

Corporate Structure

- **Emerald Bay Financial, Inc.** - The company that blankets all other divisions including Emvest and our Orange County offices. Emerald Bay is our loan origination company that our borrowers deal with to structure loans that would be described as "hard money loans". While these loans are expensive to the borrower, we represent their only hope. Most of the loans represent a bridge loan so that a borrower can protect the ownership and equity in their homes, while they pursue clearing up credit issues, or locate more affordable financing. After one year, should the borrower meet the terms of their loan, Emerald Bay Financial will review the loan and frequently get the borrower a loan more competitive terms.
- **Unified Mortgage Services, Inc.** - is the division that services all of our borrower and investor clients. It manages \$45 million in loans per month. Most of the loans are in San Diego County, and are in the amounts of \$20- \$60,000.
- **Emvest Mortgage Fund LLC, Inc.** - is now officially the corporations investment division. The "Emvest Fund" as well as individual Trust Deeds are sold to private investors here. Presently, Emvest has over 2000 private investors in Trust Deeds and Fund offerings.
- **CNA Foreclosures** - handles the less-than-10% of loans in which borrowers fail to perform, and Unified Mortgage Services is forced to turn the collections over for foreclosure proceedings in order to protect the financial interests of our investors. Our intention is always to have our investors in a position to recover all of their investment as well as any owed interest. Foreclosure when investing with us "usually" means loss of stream of income, but not loss of principal or interest. Just a delay in getting it. (usually around 6 months). We rarely have to go to this extreme, but all lenders face it, including banks who only do A paper loans to the most qualified of borrowers. It's not a guarantee, we can't offer a guarantee. But a worthwhile track record to note when deciding whether to invest in southern California real estate.

AUGUST 2004

Looking to the Future

An important part of managing the Emvest Funds is strategic planning for the future. We would like to share our view of the Southern California real estate market today, in the near future, the measures we have taken:

The common fear of any mortgage firm is deflation. We are now enjoying a very strong real estate market, but are still anticipating a slowdown at the end of the year. We do not expect values to decline - just not go up rapidly. Our strategy is three pointed: Stay in the majority of the market, Maintain sufficient equity protection, Plan for challenges with proactive servicing and management.

The majority of our funds are in mortgages on homes valued at below 125% of the mean value of their markets. This is because the "affordable" portion of the market tends to be less affected in a market downturn. Trophy properties are nice to look at, but do not perform as well as the salt-of-the-earth homes we make loans on.

(Cont. next column)

The old "Three C's" of lending were Character, Capacity, and Collateral. Modern banks ignore these rules at their peril - stated income loans for the entire value of the property are a disaster in the making. We verify payment capacity for each borrower and make sure they have equity in the property. We lowered our maximum loan to value on first mortgages to 75% two months ago to assure greater protection. Our borrowers have their equity at stake to motivate them to solve future problems or sell the home.

Our servicing is a great advantage. We make every effort to encourage our borrowers to make their payments on time - even allowing them to make them in person if needed. If payments are not made, and our mail and phone calls get no response, we immediately file a notice default to shorten the time horizon of our exposure. During the process we keep the borrower's situation in mind as well as our goal of collection. Having a philosophy instead of a policy helps us to keep thinking in everyone's best interest.

We have set the monthly distribution at 12% and are confident it will continue for the foreseeable future due to these measures.

We continue to be proud of the job we are doing to grow a healthy, strong company responsible to our investors, borrowers, employees and the communities we serve.



Emvest Mortgage Fund LLC is now closed to new investors. The final day for existing investors to increase their shares is August 16, 2004

Manager and Affiliates

Emvest Incorporated

Provides result-driven management for Emvest Mortgage Fund, LLC

Emerald Bay Funding, Inc.

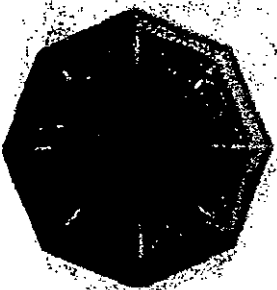
Originates Real Estate Loans California Finance Lender

Lenders Reconveyance, Inc.

Trustee

Unified Mortgage Service, Inc.

Loan servicing/collection is crucial to maintaining the highest yield and security for your investment. Unified services the mortgage loans for lenders, private investors and Emvest Mortgage Fund, LLC.



Call your Account Executive for details of the upcoming Opportunities and Events!

11/10/2004

Emvest Joins Father Joe

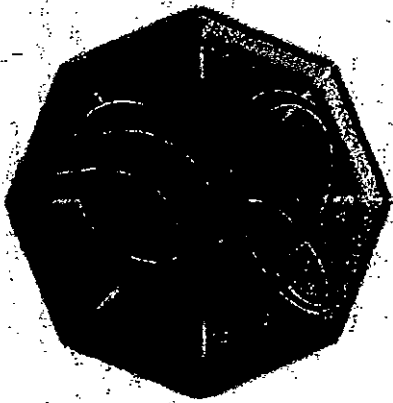
Emvest Incorporated is proud to announce that we and our affiliates have been chosen by Father Joe Carroll to be the Title Sponsor for the 2004 Thanksgiving Day Run-Walk, a feature fundraising event by St. Vincent De Paul / Father Joe's Villages. While we have been supporters of Father Joe for years, this is a substantial increase in commitment for us. It will give us an opportunity to make a prominent contribution in San Diego, to provide some 20,000 meals for people who need them and garner recognition for our efforts. The Thanksgiving Run-Walk is to be held Thanksgiving Day 2004, and we expect to see over 4,000 people there. Plan to see us there Thanksgiving Day (November 25, 2004)



For more info, go to
www.thanksgivingrun.org

Emvest Incorporated

Emvest Newsletter



Future Solutions Now...



591 Camino De La Reina
Suite 900
San Diego, CA 92108
Phone (619) 294-2264
Fax (619) 294-2134

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LOS ANGELES, CALIFORNIA 90036-3648

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TO: Robert A. Cocchia	FAX: (619) 595-5450
COMPANY: McKenna Long & Aldridge	PHONE: (619) 595-8007
TO: B. Luke Pistorius	FAX: (619) 595-5450
McKenna Long & Aldridge	PHONE: (619) 595-8015

FROM: Molly M. White PHONE: (323) 965-3250

REFERENCE NO.: DATE: 11/22/04

RE: SEC v. Emvest Mortgage Fund, LLC, et al.

TOTAL NO. PAGES: 9 (including cover sheet)

TELEPHONE CONFIRMATION:

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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
PACIFIC REGIONAL OFFICE**

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5670 WILSHIRE BOULEVARD
LOS ANGELES, CALIFORNIA 90036-3648

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FROM: Molly M. White **PHONE:** (323) 965-3250

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DENNIS M. MURPHY

Certified Public Accountant
Certified Insolvency & Restructuring Advisor

Stephen J. Baumgartner
Dickson Hung, C.P.A.
Douglass L. Montgomery
Ed Cantrell

November 22, 2004

Harlan Levy, CPA
Kornfeld and Levy
Certified Public Accountants
2727 Camino Del Rio South
Suite 315
San Diego, CA 92108
Facsimile: 619-563-7878

Re: SEC v. Emvest Mortgage Fund, LLC, et al.

Dear Mr. Levy:

As we discussed earlier this morning, we serve as the temporary receiver in the above-entitled case. We are in need of reviewing paper and electronic files for not only Emvest, Inc. and Emvest Funds, LLC but also, for their subsidiaries and affiliates as listed on your December 31, 2003 compilation.

We have been denied access by Emvest, Inc. and Emvest Funds, LLC to the entities as listed below and we would appreciate your assistance in providing the linkage necessary to show the relationship between these entities and Emvest, Inc. and Emvest Funds LLC:

Tristar Mortgage Fund Ltd.
Heritage Mortgage Fund Ltd.
Emerald Bay Financial, Inc.
Emerald Bay Funding, Inc.
Emerald Bay Financial of Southern California, Inc.
United Mortgage Service, Inc.
CNA Foreclosure Services, Inc.

I have enclosed a copy of the Temporary Restraining Order and my appointment as temporary receiver, a copy of the letter dated Friday, November 19, 2004 to Robert Cocchia, Esq. attorney for Emvest, Inc. and Emvest Funds, LLC advising him of the files that we intend to review on Monday, November 22nd, and the subsequent denial from B. Luke Pistorius, Esq. attorney for Emvest, Inc. and Emvest Funds, LLC sent on Friday, November 19, 2004.

As my assistant Ed Cantrell is preparing this letter at my request, upon receipt, please call me on my cell phone at 626-482-2274 so that we may discuss this matter further.

Your cooperation to this request is appreciated and I look forward to hearing from you shortly.

Sincerely,

Ed Cantrell for Dennis M. Murphy
Dennis M. Murphy
Temporary Receiver

Encls.

cc: Molly M. White w/o encls.

DENNIS M. MURPHY

Certified Public Accountant
Certified Insolvency & Restructuring Advisor

Exhibit 6 Page 38

DENNIS M. MURPHY
Certified Public Accountant
Certified Insolvency and Reorganization Accountant

630 N. Rosemead Blvd., Suite 100
Pasadena, CA 91107

Telephone: (626) 794-0288
Facsimile: (626) 794-7298

FAX TRANSMITTAL - - PLEASE DELIVER IMMEDIATELY

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FAX NO: 323 - 965 - 3908	
FROM: Ed Cantrell	
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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 **MOLLY M. WHITE 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
facsimile transmission. The transmission was reported as complete and
23 without error.

24 **(Federal)** 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
25 penalty of perjury that the foregoing is true and correct.

26 Date: November 24, 2004

Magnolia M. Marcelo
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***