UNITED STATES OF AMERICA DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of:)	
Trustworthy Mortgage Corp.,)	HUDALJ 10-E-089-MR-54
Respondent.)	

ORDER GRANTING JOINT MOTION TO DISMISS WITH PREJUDICE

This action was initiated on March 24, 2010, by the United States Department of Housing and Urban Development ("Government") filing a Notice of Administrative Action ("Notice") against Respondent Trustworthy Mortgage Corp. under Section 202 of the National Housing Act of 1934, 12 U.S.C. § 1708(c). Receipt of the Notice effected an immediate withdrawal of Respondent's HUD/FHA approval for one year, for which Respondent requested an appeal on April 1, 2010. The undersigned set the hearing in this matter to commence on April 30, 2010. In response, on April 15, 2010, the parties filed a Joint Motion to Stay Proceedings, requesting a thirty day stay, which was granted. The parties were thereafter ordered to file and serve their Prehearing Exchanges by May 24, 2010.

On May 24, 2010, the parties filed a Joint Motion to Dismiss with Prejudice ("Motion"), on the basis that Respondent's President, Linn Chien, informed counsel for the Government that Respondent does not desire a hearing, is not in a position to settle the matter, and intends to comply with the one year withdrawal imposed upon it.

As to dismissal of a proceeding, the applicable regulations provide that "[w]hen a motion to dismiss the proceeding is granted, the ALJ shall make and file a determination and order in accordance with the provisions of § 26.50." 24 C.F.R. § 26.40(g). In turn, 24 C.F.R. § 26.50(a) provides in pertinent part as follows:

The ALJ shall issue an initial decision based only on the record, which shall contain findings of fact, conclusions of law, and the relief granted. The ALJ's initial decision shall not become effective unless it becomes or is incorporated into final agency action in accordance with §§ 26.50(c) or 26.52(l).

24 C.F.R. § 26.50(a).

In accordance with Section 26.50(a), I make the following findings of fact and

conclusions of law based upon the documents of record:

- 1. Respondent (FHA ID: 28312-0000-7 (Title II)) held HUD/FHA approval to participate in the HUD/FHA insured mortgage programs under Title II of the National Housing Act of 1934, 12 U.S.C. § 1709. See Notice of Administrative Action; 24 C.F.R. Part 202.
- 2. Pursuant to 24 C.F.R. Part 202, Respondent was required to submit in a timely and appropriate manner acceptable audited financial statements and supplementary reports through HUD's Lender Assessment Sub-system ("LASS") within ninety days after the close of its fiscal year. See 24 C.F.R. §§ 202.5(g), (i); HUD Handbook 4700.2 REV-2, Chapter 7; HUD Handbook 4060.1 REV-2, Chapter 4; and HUD Handbook IG 2000.4 REV-2, Chg-1, Consolidated Audit Guide for Audit of HUD Programs, December, 2001.
- 3. Respondent failed to submit, in a timely and appropriate manner, acceptable audited financial statements through LASS, as alleged in the Notice of Administrative Action. See Notice of Administrative Action.
- 4. In response thereto, on October 23, 2009, the Mortgagee Review Board ("Board") of the Department of Housing and Urban Development issued a Notice of Violation to Respondent. See Notice of Administrative Action.
- 5. On March 24, 2010, more than 30 days after the issuance of the Notice of Violation, as required by 12 U.S.C. § 1708(c)(4)(A), the Board issued Respondent a Notice of Administrative Action imposing an immediate one year withdrawal of Respondent's HUD/FHA approval based upon Respondent's "serious violation of HUD/FHA's regulations and requirements," as authorized by 12 U.S.C. § 1708(c)(3)(D) and 24 C.F.R. § 25.6. See Notice of Administrative Action.
- 6. Respondent intends to comply with the one year withdrawal of its HUD/FHA approval. *See* Joint Motion to Dismiss with Prejudice.
- 7. Respondent's failure to submit in a timely and appropriate manner acceptable audited financial statements constitutes a violation of 24 C.F.R. Part 202, HUD Handbook 4700.2 REV-2, Chapter 7, HUD Handbook 4060.1 REV-2, Chapter 4, and HUD Handbook IG 2000.4 REV-2, Chg-1, for which its HUD/FHA approval may be withdrawn by the Board pursuant to Section 202 of the National Housing Act of 1934, 12 U.S.C. § 1708(c)(3)(D).

ORDER

Based upon the foregoing, for good cause shown, the parties' Joint Motion to Dismiss with Prejudice is hereby **GRANTED**, and further, it is concluded that the Mortgagee Review Board's withdrawal of Respondent's HUD/FHA approval under Title II of the National Housing Act (FHA ID: 28312-0000-7) continues in effect for one year from the date of Respondent's receipt of the Notice of Administrative Action dated March 24, 2010.

Susan L. Biro

Chief Administrative Law Judge¹

Date: May 24, 2010

Washington, D.C.

¹ The Administrative Law Judges of the United States Environmental Protection Agency are authorized to hear cases pending before the United States Department of Housing and Urban Development pursuant to an Interagency Agreement in effect beginning March 4, 2010.