

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

**In the Matter of:**

**Mainstreet Mortgage Services, Inc.,  
d/b/a Asset Mortgage & Financial Services, Inc.,**

**Respondent.**

**HUDALJ 10-E-163-MR/109**

**ORDER GRANTING JOINT MOTION TO DISMISS WITH PREJUDICE**

The Mortgagee Review Board of the United States Department of Housing and Urban Development (“the Government”) filed a Notice of Administrative Action dated June 18, 2010, initiating this matter and withdrawing Respondent’s HUD/FHA approval for one year. Respondent appealed the Government’s action, and the undersigned scheduled the hearing for August 2, 2010. On July 16 and August 23, 2010, the parties filed motions for stays on the basis that more time was required for Respondent to determine whether it could fulfill the terms of a discussed settlement agreement. On September 22, 2010, the parties filed a Joint Motion to Further Stay Proceedings for an additional fourteen days on the same basis.

On October 8, 2010, the parties filed a Joint Motion to Dismiss with Prejudice (“Motion”), on the basis that Respondent’s representative, Jeffrey Garbinski, informed counsel for the Government that Respondent no longer desires a hearing to contest the Government’s withdrawal action. The parties request in the Motion that the pending hearing be cancelled, that the Mortgagee Review Board’s action become final as if the hearing was not requested, and that this matter be dismissed with prejudice.

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: 12970-0000-3 (Title 2)) 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 acceptable audited financial statement(a) and supplementary reports entered and submitted through HUD's Lender Assessment Sub-system (LASS) within ninety days after the close of the mortgagee's fiscal year (December 31, 2008). *See* 24 C.F.R. § 202.5(g) and (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 dated December 31, 2001.
3. Pursuant to 24 C.F.R. Part 202, Respondent was required to submit in a timely and appropriate manner acceptable audited financial statement(s) and supplementary reports entered and submitted through HUD'S Lender Assessment Sub-system (LASS). *See* 24 C.F.R. §§ 202.5(g) and (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 dated December 31, 2001.
4. Respondent failed to submit acceptable audited financial statement(a) and supplementary reports entered and submitted through HUD's Lender Assessment Sub-system (LASS) within ninety days after the close of the mortgagee's fiscal year (December 31, 2008), as alleged in the Notice. *See* Notice of Administrative Action.
5. Respondent failed to submit, in a timely and appropriate manner, acceptable audited financial statement(s) and supplemental reports within 90 days after the close of its fiscal year, as alleged in the Notice. *See* Notice of Administrative Action.
6. In response, on October 23, 2009, the Mortgagee Review Board issued a Notice of Violation to Respondent. *See* Notice of Administrative Action.
7. On June 18, 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 Mortgagee Review Board issued Respondent a Notice of Administrative Action imposing an immediate one year withdrawal of Respondent's HUD/FHA approval based upon its "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.

8. On October 8, 2010, Respondent withdrew its appeal of the Mortgage Review Board's one year withdrawal of Respondent's HUD/FHA approval. *See* Motion.
9. Respondent's failure to submit in a timely and appropriate manner acceptable audited financial statement(s) and supplemental reports within 90 days after the close of its fiscal year constitutes a violation of 24 C.F.R. §§ 202.5(g) and (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 dated December 31, 2001.

### **ORDER**

Based upon the foregoing, the parties' Joint Motion to Dismiss with Prejudice is hereby **GRANTED**, and further, it is concluded that the Mortgage Review Board's withdrawal of the HUD/FHA approval of Main Street Mortgage Services, Inc., under Title II of the National Housing Act (FHA ID: 12970-0000-3 (Title 2)) continues in effect for one year from the date of Respondent's receipt of the Notice of Administrative Action dated June 18, 2010.



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Susan L. Biro  
Chief Administrative Law Judge<sup>1</sup>

Dated: October 13, 2010  
Washington, D.C.

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<sup>1</sup> 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.