

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

In the Matter of:)	
)	
Interstate Capital Corporation,)	HUDALJ 10-E-164-MR/110
)	
Respondent.)	
)	

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, against Respondent Interstate Capital Corporation under Section 202 of the National Housing Act of 1934, 12 U.S.C. § 1708(c). Respondent requested a hearing in response to the Notice of Administrative Action on July 9, 2010. The undersigned issued a Corrected Notice of Hearing and Prehearing Order, scheduling the hearing for August 3, 2010. The parties filed a Joint Motion to Stay Proceedings on July 22, 2010, requesting a thirty day stay in this matter in order to allow Respondent sufficient time to consider the terms of a settlement agreement, which the undersigned granted.

On August 23, 2010, the parties filed a Joint Motion to Dismiss with Prejudice (“Joint Motion”), on the basis that Respondent’s President, Patrick Fisher, informed counsel for the Government that Respondent does not desire a hearing and will comply with the one year withdrawal imposed upon it by the Mortgagee Review Board as set forth in the Notice of Administrative Action. The parties jointly request 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).

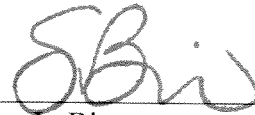
24 C.F.R. § 26.50(a).

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: 26080-0000-8 (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. §§ 1701 *et seq.* See Notice of Administrative Action.
2. 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 through HUD'S Lender Assessment Sub-system ("LASS") within ninety days after the close of its fiscal year. See 24 C.F.R. Part 202.
3. Respondent failed to submit, in a timely and appropriate manner, acceptable audited financial statement(s) and supplemental reports through LASS within ninety days after the close of its fiscal year. See Notice of Administrative Action.
4. In response thereto, the Mortgagee Review Board issued a Notice of Violation dated October 23, 2009, to Respondent. See Notice of Administrative Action.
5. More than thirty 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 dated June 18, 2010, 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.
6. On August 23, 2010, Respondent filed a request that its appeal of the Mortgagee Review Board's action be dismissed, stating that it does not desire a hearing and intends to comply with the withdrawal imposed. See Joint Motion.
7. Respondent's failure to submit in a timely and appropriate manner acceptable audited financial statement(s) and supplemental reports constitutes a violation of 24 C.F.R. Part 202, for which its HUD/FHA approval may be withdrawn by the Mortgagee Review Board pursuant to Section 202 of the National Housing Act of 1934, 12 U.S.C. § 1708(c)(3)(D), and 24 C.F.R. Part 25.

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 Mortgage Review Board's withdrawal of the HUD/FHA Title II approval of Interstate Capital Corporation, FHA ID: 26080-0000-8, continues in effect for one year from the date of Respondent's receipt of the Notice of Administrative Action dated June 18, 2010.



Susan L. Biro
Chief Administrative Law Judge¹

Dated: August 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.