

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

_____)
In the Matter of:)

Flagship Mortgage of Alabama LLC,)

Respondent.)
_____)

HUDALJ 10-E-194-MR/130

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 (“Notice”) dated August 19, 2010, initiating this matter and withdrawing Respondent’s HUD/FHA approval for one year. Respondent, through Manager John Herzog, filed a response on August 30, 2010. The undersigned issued a Notice of Hearing and Prehearing Order, requiring the parties to submit Prehearing Exchanges on or before September 16, 2010, and scheduling the hearing for September 28, 2010.

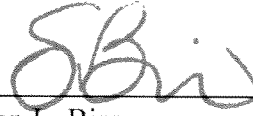
On September 7, 2010, John Herzog faxed the undersigned a copy of his previously filed response, along with a note stating that he “will not be attending the hearing.” On September 9, 2010, the parties filed a Joint Motion to Dismiss with Prejudice, signed by Government counsel and John Herzog, wherein they allege that Respondent informed Government counsel that it does not desire a hearing and intends to comply with the one-year withdrawal imposed by the Notice.

The applicable regulations at 24 C.F.R. parts 25 and 26 provide as follows:

If a party fails to prosecute or defend an action brought under subpart B of this part, *the ALJ may dismiss the action* or may issue a decision against the non-prosecuting or defending party. Such decision of the ALJ shall constitute final agency action and shall not be appealable to the Secretary under § 26.52 of this part.

24 C.F.R. § 26.34(d) (emphasis added).

Consistent with Section 26.34(d) and with the general authorities of the presiding Administrative Law Judge in 24 C.F.R. § 26.32, the parties’ Joint Motion to Dismiss with Prejudice is hereby **GRANTED**. Accordingly, it is hereby **ORDERED** that the Mortgagee Review Board’s withdrawal of Respondent’s HUD/FHA approval for one year as set forth in the Notice of Administrative Action is hereby **AFFIRMED** without further proceedings.



Susan L. Biro
Chief Administrative Law Judge¹

Dated: September 14, 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.