

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

In the Matter of:	)	
	)	
Top Mortgage Bankers Corp.,	)	HUDALJ 10-F-075-MR/41
	)	
Respondent.	)	
	)	

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

On March 24, 2010, the Mortgagee Review Board of the United States Department of Housing and Urban Development (“the Government”) filed a Notice of Administrative Action initiating this matter, withdrawing Respondent’s HUD/FHA approval for one year. Respondent submitted a response dated March 29, 2010. A Corrected Notice of Hearing and Prehearing Order was issued by the undersigned, requiring the parties to submit Prehearing Exchanges on or before April 22, 2010, and scheduling the hearing for April 27, 2010. On April 20, 2010, the parties submitted a Joint Motion to Stay Proceedings for a period of 30 days, on the basis that Respondent requires additional time to consider its options. The undersigned granted the Joint Motion to Stay Proceedings on April 20, 2010.

On May 10, 2010, the parties filed a Joint Motion to Dismiss with Prejudice, on the basis that Respondent’s representative, Yaritza Deya, informed counsel for the Government that Respondent does not desire a hearing and intends to comply with the one year withdrawal imposed upon it in the March 24, 2010, Notice of Administrative Action.

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: 24329-0000-5) 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 the mortgagee's 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; HUD Handbook IG 2000.4 REV-2, Chg-1.
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 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 Mortgagee Review 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 the National Housing Act of 1934, 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.

**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: 24329-0000-5) continues in effect for one year from the date of Respondent's receipt of the Notice of Administrative Action dated March 24, 2010.



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

Dated: May 11, 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 effective for a period beginning March 4, 2010.