

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

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<b>In the Matter of:</b>	)	
	)	
<b>Equity United Mortgage Corp.,</b>	)	<b>HUDALJ 10-M-084-MR/49</b>
	)	
<b>Respondent.</b>	)	
	)	

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

The Mortgagee Review Board (“Board”) of the United States Department of Housing and Urban Development (“HUD”) filed a Notice of Administrative Action dated March 24, 2010, withdrawing Respondent’s HUD/FHA approval for one year. On March 31, 2010, Respondent requested the opportunity to appeal the Board’s action. HUD Administrative Law Judge J. Jeremiah Mahoney issued a Notice of Hearing and Order, scheduling the hearing for April 30, 2010. On April 7, June 3, and July 7, 2010, the parties filed requests to stay the matter pending settlement negotiations, each of which were granted. On July 21, 2010, the Government filed a Status Report indicating that negotiations had stalled and proposing a hearing date and prehearing schedule.

On October 16, 2010, Judg Mahoney issued a Notice of Disqualification to the parties. On October 22, 2010, the undersigned was designated to preside in this proceeding. On November 8, 2010, a Notice of Hearing and Prehearing Order was issued, superceding Judge Mahoney’s Notice of Hearing and Order. The hearing was scheduled for December 2, 2010, and the parties were ordered to file and serve Prehearing Exchanges by November 19, 2010. HUD timely filed its Prehearing Exchange on November 16, 2010. Respondent did not file a Prehearing Exchange.

On November 22, 2010, counsel for Respondent, Victor Berger, and HUD counsel executed and filed a Joint Motion to Dismiss with Prejudice, wherein they state that “Respondent does not desire a hearing” and “intends to comply with the one year withdrawal imposed upon it.”

The applicable regulations at 24 C.F.R. Part 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 Joint Motion to Dismiss with Prejudice is hereby **GRANTED**. Accordingly, it is **ORDERED** that the Mortgage Review Board's withdrawal of Equity United Mortgage Corp.'s HUD/FHA approval (FHA ID: 24153-0000-2 (Title 2)) for one year as set forth in the Notice of Administrative Action is hereby **AFFIRMED** without further proceedings.



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

Dated: November 22, 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.