

USDC SCAN INDEX SHEET



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3:04-CV-02295 SEC V. EMVEST MORTGAGE FUND

\*295\*

\*M.\*

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FILED

06 APR - 7 PM 4: 05

CLERK, U.S. DISTRICT COURT,  
SOUTHERN DISTRICT OF CALIFORNIA

5 Attorneys for Defendants EMVEST MORTGAGE FUND,  
6 LLC; EMVEST, INC.; and MILON LYLE BROCK BY: DEPUTY

7  
8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA

10  
11 SECURITIES AND EXCHANGE  
12 COMMISSION,

13 Plaintiff,

14 v.

15 EMVEST MORTGAGE FUND, LLC;  
16 EMVEST, INC.; and MILON LYLE  
17 BROCK,

18 Defendants.

CASE NO. 04 CV 2295 DMS (POR)

NOTICE OF MOTION AND MOTION BY  
DEFENDANTS' TO TERMINATE THE  
RECEIVERSHIP

[SPECIAL BRIEFING SCHEDULE  
ORDERED]

Date: April 28, 2006  
Time: 1:30 p.m.  
Judge: Hon. Dana M. Sabraw  
Courtroom: 10

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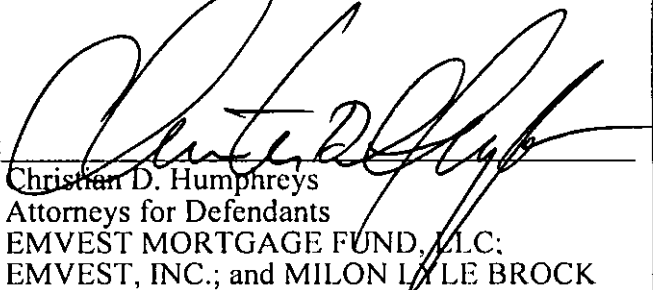
**TO: ALL PARTIES AND THEIR COUNSEL OF RECORD:**

**PLEASE TAKE NOTICE** that on April 28, 2006, at 1:30 p.m., or as soon thereafter as counsel may be heard by the above-entitled Court, located at 940 Front Street, San Diego, California, Defendants Emvest Mortgage Fund, LLC, Emvest, Inc., and Milon Lyle Brock (“Defendants”) will and do hereby move the Court to Terminate the Receivership. This motion is being sought in light of the fact that a receiver is no longer necessary and pursuant to the Court’s direction for briefing on the issue; and is based on the concurrently filed Memorandum of Points and Authorities, Declaration of Timothy J. Canty, III, the Court’s file in this action, and any evidence and arguments presented by counsel at the hearing on this motion.

Dated: April 7, 2006

McKENNA LONG & ALDRIDGE LLP

By:



Christian D. Humphreys  
Attorneys for Defendants  
EMVEST MORTGAGE FUND, LLC;  
EMVEST, INC.; and MILON LYLE BROCK

SD:22144927.1

3 **PROOF OF SERVICE**

4 I, Lisa Whitaker, declare:

5 I am a citizen of the United States and employed in San Diego County, California. I am  
6 over the age of eighteen years and not a party to the within-entitled action. My business address  
7 is Suite 3300, Symphony Towers, 750 B Street, San Diego, California 92101. On **April 7,**  
8 **2006,** I served a copy of the within document(s):

- 9 • **NOTICE OF MOTION AND MOTION BY DEFENDANTS' TO TERMINATE**  
10 **THE RECEIVERSHIP [SPECIAL BRIEFING SCHEDULE ORDERED];**  
11 • **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF**  
12 **DEFENDANTS' MOTION TO TERMINATE THE RECEIVERSHIP; AND**  
13 • **DECLARATION OF TIMOTHY J. CANTY, III IN SUPPORT OF**  
14 **DEFENDANTS' MOTION TO TERMINATE THE RECEIVERSHIP.**

15  by transmitting via facsimile the document(s) listed above to the fax number(s) set  
16 forth below.

17  by placing the document(s) listed above in a sealed envelope with postage thereon  
18 fully prepaid, in the United States mail at San Diego, California addressed as set  
19 forth below.

20  by personally delivering the document(s) listed above to the person(s) at the  
21 address(es) set forth below.

22 Molly White, Esq.  
23 Susan F. Hannan, Esq.  
24 Jose Sanchez, Esq.  
25 Securities and Exchange Commission  
26 5670 Wilshire Boulevard, 11th Floor  
27 Los Angeles, CA 90036  
28 Tel. (323) 965-3998 / Fax (323) 965-3908

*Attorneys for Plaintiff SECURITIES  
AND EXCHANGE COMMISSION*

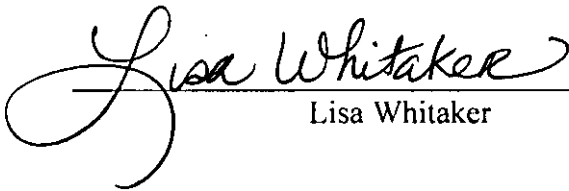
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*Attorneys for Receiver*  
**DENNIS MURPHY**

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. Executed on **April 7, 2006**, at San Diego, California.

  
\_\_\_\_\_  
Lisa Whitaker