### State of Florida



# ORIGINAL Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: September 10, 1999

TO: Division of Records and Reporting

FROM: Stephanie Clapp, Division of Water and Wastewater

RE: Docket No. 950823-WS, Request for exemption from Florida Public Service Commission

regulation for provision of water and wastewater service in Marion County by Oak Trace

Villas Homeowner Association.

Please add the following to the docket file:

Letter from Donald L. DeVane, Jr., Receiver for IRS, transmitting copies of:

- 1. Order Appointing Receiver
- 2. Receiver's motion for leave to abandon interest in water and wastewater facilities

Please note that two copies are provided.

Thank you.

Attachments

cc: Division of Water and Wastewater (Messer)

Division of Legal Services (Crosby)

AFA _	
APP .	
CAF _	<del></del>
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Donald L. DeVane, Jr. Receiver

# RECEIVED

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Florida Public Service Commission Division of Water and Wastewater

# **MEMORANDUM**

TO:

Stephanie Clapp

Florida Public Service Commission

FROM:

Donald L. DeVane, Jr.

Receiver

RE:

Oak Trace Villas

DATE:

September 2, 1999

As requested, please find enclosed copies of the receivership appointment order and the motion concerning the utility deed to Marion County.

I will forward a copy of the order concerning the utility when it is received.

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Please feel free to contact me if you should have any questions or require further information.

Donald L. DeVane, Jr.

Receiver

DLD/lt

enclosures

FILED

# IN THE UNITED STATES DISTRICT COURT FOR THE9 JUN 24 PM 6: 32 MIDDLE DISTRICT OF FLORIDA

OCALA DIVISION

CLERK, U.S. DISTRICT COURT MIDDLE DISTRICT OF FLORIDA JACKSONVILLE, FLORIDA

UNITED STATES OF AMERICA,

Plaintiff.

CIVIL ACTION NO. 99-161-CIV-OC-21C

WILLARD M. ARNOLD, DOROTHY N. ARNOLD, ROBERT B. ARNOLD, DBA MARKETING, INC., as successor in interest to Carnegie Multi International Corporation, DBA MARKETING, INC., as successor in interest to Carnegie Mortgage Securities, Inc., DBA MARKETING, INC., as successor in interest to Murtaugh Corporation, DBA MARKETING, INC., as successor in interest to Thoroughbred Sales, Inc., NAHAMA LIMITED COMPANY, THE ARNOLD GROUP, INC., MULTI-HOUSING OF FLORIDA, INC., R.B. AND ASSOCIATES, INC., THE CHESTERTOWN BANK OF MARYLAND, BARNETT BANK OF MARION COUNTY, N.A., and COLONIAL BANK, as successor to First Family Federal Savings & Loan Association,

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### ORDER APPOINTING RECEIVER

The Court having reviewed the Application and other submissions of the Plaintiff for appointment of a receiver, and after hearing held this day, and it appearing that there exist outstanding Federal tax assessments against defendants Willard M. Arnold; Willard M. and Dorothy N. Arnold; Robert B. Arnold; and DBA Marketing, Inc., as

successor in interest to Carnegie Multi International Corporation; and that there also exist outstanding Federal transferee tax assessments against defendant DBA Marketing, Inc., as successor in interest to Carnegie Multi International Corporation, Murtaugh Corporation, and Thoroughbred Sales, Inc., transferees of Willard M. and Dorothy N. Arnold; and against defendant Nahama Limited Company as transferee of Willard M. and Dorothy N. Arnold, Robert B. Arnold and DBA Marketing, Inc.; and

It appearing that several parcels of real property, including unimproved land, multi-family housing facilities, residences, office buildings, and commercial buildings, located within the States of Florida, Ohio, Maryland, Connecticut and Pennsylvania, are owned by or titled to defendants Robert B. Arnold, DBA Marketing, Inc., Nahama Limited Company, The Arnold Group, Inc., Multi-Housing of Florida, Inc., and R.B. and Associates, Inc.; and

It appearing that, on various dates, Notices of Federal Tax Liens were filed in the public records of the following jurisdictions:

Marion County, Florida (Middle District of Florida, Ocala Division)
Brevard County, Florida (Middle District of Florida, Orlando Division)
Orange County, Florida (Middle District of Florida, Orlando Division)
Duval County, Florida (Middle District of Florida, Jacksonville Division)
Hillsboro County, Florida (Middle District of Florida, Tampa Division)
Broward County, Florida (Southern District of Florida)
Palm Beach County, Florida (Southern District of Florida)
Winsted, Connecticut (District of Connecticut)
Kent County, Maryland (District of Maryland, Northern Division)
Portage County, Ohio (Northern District of Ohio, Eastern Division)
Franklin County, Pennsylvania (Middle District of Pennsylvania)

and that said Federal tax liens encumber all property and rights to property of the aforesaid defendants; and

It appearing that, in accordance with the Certification by a delegate of the Secretary of the Treasury, it is in the public interest that a receiver, with all the powers of a receiver in equity, be appointed in this action in order to take possession of and manage the subject real property; protect the tenants' interests; preserve the value of the real property subject to the Government's Federal tax liens; provide for the orderly sale of the real property in a manner and on terms, as directed by this Court, which will maximize the proceeds available to satisfy the tax debts due the United States; and take possession and control of, and liquidate as necessary, any personal property of the defendants Willard M. Arnold, Dorothy N. Arnold, Robert B. Arnold, and their nominees, alter egos and transferees; and

Upon consideration of the foregoing, it is hereby **ORDERED**:

1. Donald L. DeVane, Jr., of VRS Realty Services-Florida, Inc., in Maitland, Florida, is qualified, ready and willing to serve as receiver. He is hereby appointed receiver with all the powers of a receiver in equity, pursuant to 26 U.S.C. § 7403(d), for the defendants Willard M. Arnold; Dorothy N. Arnold; Robert B. Arnold; DBA Marketing, Inc., as successor in interest to Carnegie Multi International Corporation, Carnegie Mortgage Securities, Inc., Murtaugh Corporation, and Thoroughbred Sales, Inc.; Nahama Limited Company; The Arnold Group, Inc.; Multi-Housing of Florida, Inc.;

and R.B. and Associates, Inc., for the purpose of managing and conserving said assets and businesses pending sale of said assets and businesses in foreclosure of the aforesaid Federal tax liens and in such manner as to realize the greatest and best sale price for the assets of the said defendants to maximize the recovery by the plaintiff United States of America on its Federal tax liens, and senior claimants. The receiver appointed herein shall be authorized to act as such receiver immediately upon entry of this Order.

- 2. Initially, this will be a temporary receivership in the following sense. The receiver shall serve pending the completion of service of process upon all Defendants and their opportunity to appear herein and seek termination of the receivership. Any Defendant who seeks such termination shall file herein a properly supported motion seeking such relief. Following the expiration of the response time provided by Local Rule 3.01(b), the Court will either set the matter for hearing or rule on the basis of the written submissions. If no Defendant seeks termination of the receivership, the receiver shall serve during the remainder of the pendency of this action or until further order of the Court.
- 3. The receiver shall file herein quarterly (or at such other intervals as the Court may require) reports of income and expenditures and such other matters that are necessary to apprise the Court of the financial status of the subject properties. The first such report shall be filed on or before September 1, 1999.

- 4. The receiver shall, on or before July 1, 1999, file with the Clerk of the United States District Court for the Middle District of Florida his bond to the United States of America in the amount of \$200,000.00, executed by a surety company authorized to do business in this district and conditioned on his faithful performance of his duties as the receiver herein, giving as obligee on the bond the Clerk of the United States District Court for the Middle District of Florida.
- 5. The receiver shall, within ten (10) days after the entry of this Order of appointment, file copies of the Complaint and this Order, with Civil Cover Sheets if appropriate, in the district court for each district in which property is located, and shall promptly notify this Court of said filings and any case numbers then assigned. In accordance with 28 U.S.C. § 754, failure to file such copies in any district shall divest the receiver of jurisdiction and control over all such property in said district.
- 6. Reasonable compensation of such receiver shall be determined by this Court after application therefor.

7. The Plaintiff shall forthwith serve copies of this Order upon all Defendants.

DONE AND ORDERED, at Jacksonville, Florida, this 24 day of June, 1999

at 6:30P.M.

RALPH W. NIMMONS, JR.

UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of record
Pro se party, if any
Courtroom Deputy Clerk
Judicial Assistant

CODINA

REAL ESTATE

MANAGEMENT, INC.

A SUBSIDIARY OF

CODINA GROUP



900 Winderly

Place

Suite 148

Maitland

Florida 32751

407 • 660 • 9555

407 • 660 • 0252 F

## **MEMORANDUM**

TO:

Codina - Orlando/Tampa Staff

FROM:

Donald L. DeVane

RE:

Bill Wassey - Vacation Days

DATE:

August 24, 1999

For your information the following is Bill Wasseys vacation days:

Off on Friday September 3<sup>rd</sup>, back in the office September 8<sup>th</sup> and 9<sup>th</sup>.

Off on Friday, September 10th, back in the office Monday, September 20th.

Please keep the above dates in mind when considering approval of correspondence, etc.

Donald L. DeVane

DLD/lt

# IN THE UNITED STATES DISTRICT COURT OF THE MIDDLE DISTRICT OF FLORIDA OCALA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

V.

CIVIL ACTION NO. 99-161-CIV-00-10C

WILLIAM M. ARNOLD, DOROTHY N.
ARNOLD, ROBERT B. ARNOLD,
DBA MARKETING, INC., as successor in interest
to Carnegie Multi International Corporation,
DBA MARKETING, INC., as successor in interest
to Carnegie Mortgage Securities, Inc.,
DBA MARKETING, INC., as successor in interest
to Murtaugh Corporation, DBA MARKETING, INC.,
as successor in interest to Thoroughbred Sales, Inc.,
NAHAMA LIMITED COMPANY, THE ARNOLD
GROUP, INC., MULTI-HOUSING OF FLORIDA, INC.,
R.B. AND ASSOCIATES, INC., THE CHESTERTOWN
BANK OF MARYLAND, BARNETT BANK OF MARION
COUNTY, N.A., and COLONIAL BANK, as successor
to First Family Federal Savings & Loan Association,

Defendants.

## RECEIVER'S MOTION FOR LEAVE TO ABANDON AND TRANSFER INTEREST IN REAL ESTATE, TO CREATE EASEMENTS AND FOR RATIFICATION OF ACTIONS TAKEN ON BEHALF OF DBA MANAGEMENT. INC.

Receiver, Donald L. DeVane ("Receiver"), by and through his undersigned counsel, petitions this Court for leave: (1) to abandon and transfer to Marion County, Florida, an interest in a water treatment facility, a sewage treatment facility and a lift station which service the Oak Trace subdivision in Ocala, Florida; (2) to encumber certain other property of the receivership estate with

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easements which, in the judgement of the Receiver, will enhance the value of such property; and (3), in support of this motion, the Receiver states as follows:

- 1. Pursuant to the Order of this Court dated June 24, 1999 ("Receivership Order"), the Receiver has taken control of the assets of Robert B. Arnold, Nahama Limited Company, DBA Marketing, Inc., The Arnold Group, Inc., Multi Housing of Florida, Inc., and R.B. & Associates, Inc., for the purpose of managing and conserving such assets until such time as the Court may order their liquidation.
- 2. The Order Appointing Receiver confers on the Receiver authority to manage and conserve the property of the defendants, but not to dispose of any interests in such property. The Receiver seeks authority to dispose of certain property interests which would be in the interest of conserving the overall value of the property in receivership.

### Dedication of Water and Sewage Treatment Facilities

- 3. R.B. & Associates owns undeveloped and unsold lots in a residential subdivision known as Oak Trace Villa in Ocala, Florida, as well as therwater treatment facility, sewage treatment facility and lift station which service the residential properties within the subdivision. The legal descriptions of the real property on which the water treatment facility, sewage facility and lift station are located are attached hereto as Exhibits "A", "B" and 'C", respectively.
- 4. The sewage treatment facility has fallent into disrepair as a result of a lack of maintenance and are virtually inoperative, resulting in inconvenience and health hazards to the property owners within the subdivision.
- 5. The Receiver has been advised by the Florida Department of Environmental Protection that the Department is on the verge of condenning the sewage treatment plant, which

would render legally uninhabitable parcels within the subdivision. The Department has advised that if immediate and extensive repairs are not made, the condemnation will likely occur within the next sixty (60) days. If the condemnation occurs, current residents of the subdivision, most of whom are retired persons, would be required to move out of their residences.

- 6. The receiver has been advised by the Utilities Department of Marion County, Florida, that Marion County will not repair or maintain the water and sewage treatment facilities or the lift station so long as they are privately owned. The Receiver is advised that Marion County is willing to assume responsibility for repairing and maintaining the water and sewage plants if the plants, and the real property on which they are situated, are deeded to the county.
- 7. The water and sewage treatment facilities and lift station are not income producing at the present time. If they were in an operable condition, upon information and belief, the monthly income, consisting of fees from the residents' association, would not be sufficient to effect the necessary repairs to the facilities. The most recent fees paid to R.B. & Associates for water and sewer service were \$87.50 per year for 46 homes, or an innual total of \$4,025.
- 8. The Receiver has been advised by representatives of Home Owners of Oak Trace, Inc., the residents' homeowners association, that the necessary repairs to the sewage treatment plant are estimated at approximately \$30,000. The homeowners association has already expended \$36,000 of its own funds in an effort to keep the facilities operating.
- 9. Based on his experience as a commercial property manager, the Receiver is of the opinion that, considering the cost of necessary repairs and the right of the homeowners to recoup from their payment obligations to R.B. & Associates the monies they have advanced for repairs, the continued ownership of the water and sewer treatment facilities and lift station would be

uneconomical and would not make good business sense. The water and sewer treatment facilities and lift station are a burden on the receivership estate, rather than a valuable asset.

- In the opinion of the Receiver, the value and saleability of these lots would be enhanced by having access to water and sewage treatment facilities and a lift station which are operated by the Marion County, rather than by a private developer. In the opinion of the Receiver, the value of the remaining lots owned by RB Associates would be enhanced if ownership of the water and sewage treatment facilities and lift station were transferred to Marion County, Florida. Further, the increase in future value to the lots remaining to be sold would be greater than the present value of the plants if sold to a prospective developer, who intended to sell water and sewer services to homesite purchasers.
- 11. The Marion County Department of Public Utilities has offered to bear the cost of surveying the property on which the water and sewer facilities are situated and of preparing the necessary deeds of dedication.
- 12. For the above-stated reasons, it would be in the best interest of the receivership estate, as well as in the interest of the residents of the Oak Trace Subdivision, to transfer the real and personal property which comprise the water and sewer treatment facilities and lift station owned by RB Associates to Marion County, Florida, and Receiver requests that this Court enter an Order authorizing such actions by Receiver.

### Dedication of Easements

- The City of Orlando, Florida, has requested a sidewalk easement over real property known as the Orange Manor Apartments, which property is titled in the name of DBA Marketing, Inc. The City of Orlando recently completed construction of a new sidewalk on that property.
- 14. It is the opinion of the Receiver that construction of the sidewalks has enhanced the value of the property through the benefits that sidewalks provide to residents, and therefore has enhanced the value of the receivership estate.
- 15. The City of Orlando did not follow its normal procedure of first seeking an easement before constructing the sidewalk. Because the sidewalk has benefitted the receivership estate, it would be equitable to grant an easement over the property so improved.
- 16. Receiver seeks authority to execute and deliver to the City of Orlando an easement dedication over that land which was improved by the construction of the sidewalk. The Receiver will seek to have the City of Orlando agree to maintain the sidewalk.
- 17. Receiver seeks authority to take such actions and to enter into such agreements as he feels are necessary to properly manage the real and personal property in the receivership estate, and as he determines are in the best interest of the receivership estate, such as to grant easements or to make repairs to said properties, without further order of Court.

# DBA Management, Inc.

18. Plaintiff has seized all of the issued stock of DBA Management, Inc. ("Stock"), which is listed in the names of Kimberly Arnold, Steve Arnold and Vincent Arnold, who are the children of Robert B. Arnold. According to the affidavits filed in this case by Plaintiff, Robert B. Arnold is

the owner of the said Stock, and it appears that Kimberly Arnold, Steve Arnold, and Vincent Arnold, are merely holding the Stock for the benefit of Robert B Arnold.

- 19. Plaintiff has delivered the Stock to Receiver, in his capacity as receiver for the assets of Defendant, Robert B. Arnold.
- 20. Plaintiff believes that Receiver is authorized to vote the Stock at meetings of the shareholders of DBA Management, Inc. ("Company") and elect directors and officers of the Company. A meeting of the shareholders was held by Plaintiff on June 25, 1999, and Donald Devane was elected the sole director of the Company, and Tom Smith and Eldridge J. Watson, employees of DBA Management, Inc., were elected President and Controller, respectively.
- DBA Management, Inc., operates, leases and manages residential and commercial properties owned by Defendants. Plaintiff and Receiver believe it to be in the best interest of the receivership estate to have DBA Management, Inc., continue to act in the capacity of leasing and management agent for the properties in the receivership estate. To properly act as leasing agent and manager, it will be necessary to continue to employ some or all of the employees of DBA Management, Inc., or to hire new employees or to terminate existing employees, as indicated. DBA Management, Inc. is ready, willing and able to manage the receivership property.
- DBA Management, Inc., and confirm that Receiver is authorized and empowered to continue to take any and all reasonable and necessary actions to continue the business operations of DBA Management, Inc. and take any actions in respect thereto that may be taken by the shareholders of DBA Management, Inc.

### CONSENT TO MOTION

Counsel for Plaintiff, United States of America, have consented to the relief requested in the foregoing motion.

ROBERT I. HIGGINS

Florida Bar No. 0150244

DAVID E PETERSON

Florida Bar No. 373230

Lowndes, Prosdick, Doster, Kantor & Reed, Professional Association
215 North Fola Drive
Post Office Box 2809
Orlando, Florida 32802-2809

Telephone: (407) 843-4600

Telefax: (407) 423-4495

Attorneys for Receiver

Oak Trace Villa Ocala, Florida Tract #2 (Well site)

The following described land being part of Tract "A" Unit #1 Kingsland Country Estates as found in the public records of Marion County, Plat Book "L" Pages #3-6, located in Section 25, Township 16 South, Range 20 East, in Marion County, Florida. And more particularly described as follows:

Commencing at the Southeast corner of the North ½ of Section 25, Township 16 South, Range 20 East, said point also being the Southeast corner of Tract "A" Unit #1 Kingsland Country Estates as found in the public records of Marion County, Plat Book 'L" Pages #3-6. Thence N. 89-36-01 W. Along the South line of said North ½ of Section 25 a distance of 2366.78 feet. Thence N. 00-23-59 E. a distance of 73.62 feet to the Point of Beginning. Thence continuing N. 00-23-59 E. a distance of 90.00 feet. Thence S. 89-36-01 E. a distance 85.00 feet. Thence S. 00-23-59 W. a distance of 90.00 feet. Thence N. 89-36-01 W. to the Point of Beginning, a distance of 85.00 feet. The above described property contains 0.18 acres more or less.

EXHIBIT "A"

# Oak Trace Villa Ocala, Florida Tract #1 (Sewer treatmen: facility)

The following described land being part of tract "A" Unit #1 Kingsland Country Estates as found in the public records of Marion County, Plat Book "L", Pages #3-6, located in Section 25, Township 16 South, Range 20 East, in Marion County, Florida. And more particularly described as follows:

Commencing at the Southeast corner of the North ½ of Section 25, Township 16 South, Range 20 East, said point also being the Southeast corner of Tract "A" Unit #1 Kingsland Country Estates as found in the public records of Marion County, Plat Book L" Pages #3-6. Thence N. 89-36-01 W. along the South line of said North ½ of Section 25 a listance of 1012.64 feet to the Point of Beginning. Thence N. 17-05-43 E. to the westerly most corner of Lot #6 Kingsland Country Lots as found in the public records of Marion County, Plat Book "2" Pages #41&2, a distance of 96.91 feet. Thence continue N. 17-05-43 E. along the west line of said Lot #6 to the southerly Right of Way of S.W. 103rd Street Road (having a Right of Way of 100.00 feet) a distance of 200.18 feet. Thence N. 72-54-16 W. along said southerly Right of Way of S.W. 103rd Street Road to the Northeast corner of Lot #5 of said Kingsland Country Lots a distance 100.00 feet. Thence S. 17-05-43 W. along the west line of said Lot #5 a distance of 199.78 feet. Thence N. 72-40-36 W. a distance of 324.40 feet. Thence S. 89-36-01 E. along thet South line of North ½ of said Section 25 to the Point of Beginning a distance of 401.78 feet. The above described property contains 1.93 acres more or less.

EXHIBIT

### Oak Trace Villa Ocala, Florida Tract #3 (Lift station)

The following described land being part of Tract "A" Unit #1 Kingsland Country Estates as found in the public records of Marion County, Plat Book "L" Pages #3-6, located in Section 25, Township 16 South, Range 20 East, in Marion County, Florida. And more particularly described as follows:

Commencing at the Southeast corner of the North ½ of Section 25, Township 16 South, Range 20 East, said point also being the Southeast corner of Tract "A" Unit #1 Kingsland Country Estates as found in the public records of Marion County, Plat Book "L" Pages #3-6. Thence N. 89-36-01 W. along the South line of said North ½ of Section 25 a distance of 3595.09 feet. Thence N. 01-00-01 W. a distance of 94.04 feet to the Point of Beginning. Thence N. 52-25-33 E. a distance of 17.68 feet. Thence N. 33-37-24 W. a distance 8.12 feet. Thence N. 46-44-20 W. a distance of 13.72 feet. Thence S. 01-00-17 E. to the Point of Beginning, a distance of 26.96 feet. The above described property contains 204 sq. feet more or less.

EXHIBIT.

### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and complete copy of the foregoing Receiver's Motion for Leave to Abandon Interest in Real Estate and to Creat: Easements has been furnished by U.S. Mail/Hand Delivery this \_\_\_\_\_\_\_\_, 1999 to those on the attached service list:

SERVICE LIST

# ROBERT L. WELSH, ESQUIRE CAROL KOEHLER IDE, ESQUIRE

U.S. Department of Justice Tax Division Post Office Box 14198 Ben Franklin Station Washington, D.C. 20044

### JOHN C. McDOUGAL, ESQUIRE

Special Litigation Assistant
Office of Chief Counsel
Internal Revenue Service
District Counsel
2727 Enterprise Parkway
Suite 100
Richmond, Virginia 23294-6341
(804) 771-8142 phone

#### WILLARD M. ARNOLD

133 Island Drive Ocean Ridge, Florida 33435

### DOROTHY N. ARNOLD

133 Island Drive Ocean Ridge, Florida 33435

### ROBERT B. ("Brad") ARNOLD

3501 N.E. 10th Street Ocala, Florida 34470-6423 -and-

### ROBERT B. ("Brad") ARNOLD

P.O. Box 7776 Christie Terrace Leyford Cay, Nassau Bahamas

### DBA MARKETING, INC.

c/o Michael D. Gallinar, Esquire 1200 Brickell Avenue, Suite 900 Miami, Florida 33131

#### NAHAMA LIMITED COMPANY

c/o Michael D. Gallinar, Esquire 1200 Brickell Avenue, Suite 900 Miami, Florida 33131

### THE ARNOLD GROUP, INC.

c/o Michael J. Cooper, Esquire 321 N.W. 3rd Avenue Ocala, Florida 34475

### MULTI-HOUSING OF FLORIDA, INC.

c/o Michael J. Cooper, Esquire 321 N.W. 3rd Avenue Ocala, Florida 34475

### R.B. & ASSOCIATES, INC.

c/o Michael J. Cooper, Esquire 321 N.W. 3rd Avenue Ocala, Florida 34475

### THE CHESTERTOWN BANK OF MARYLAND

c/o Matthew W. Oakey, Esquire Gallagher, Evelius & Jones, LLP Park Charles, Suite 400 218 N. Charles Street Baltimore, Maryland 21201

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## BARNETT BANK OF MARION COUNTY, N.A.

(NationsBank) 9000 Southside Boulevard Jacksonville, Florida 32256

### **COLONIAL BANK**

c/o G. Michael Mahoney, Esquire McLin, Burnsed, Morrison, Johnson, Newman & Roy, P.A. P.O. Box 491357 Leesburg, Florida 34749

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