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California State Bar No. 60543
2 Department of Real Estate
P. O. Box 187000
3 Sacramento, CA 95818-7000

4 Telephone: (916) 227-0789
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FILED
MAY - 1 2001

DEPARTMENT OF REAL ESTATE

Laurie A. Jones
By _____

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 TO:) No. H-3564 SAC
12)
KLAMATH RIVER DEVELOPMENT CO.,) STIPULATION AND AGREEMENT ON
13 a California corporation, and) ORDER TO DESIST AND REFRAIN
PHILIP JOHN CICALA,)
14)

15 It is hereby stipulated by and between Respondents
16 KLAMATH RIVER DEVELOPMENT CO., a corporation, and PHILIP JOHN
17 CICALA ("Respondents"), by and through Anthony Ciasulli, Esq.,
18 attorney of record herein for Respondents, and the DEPARTMENT OF
19 REAL ESTATE ("the Department"), acting by and through James L.
20 Beaver, Counsel for the Department, as follows for the purpose of
21 settling and disposing of the pending proceedings on the Order To
22 Desist and Refrain filed herein on February 7, 2001 ("the Desist
23 And Refrain Order"):

24 1. Except as specifically stated herein, this
25 Stipulation and Agreement shall in no way effect any rights of the
26 parties in the related proceedings entitled "In the Matter of the
27 Accusation of KLAMATH RIVER DEVELOPMENT CO., a California

1 corporation, and PHILIP JOHN CICALA, Respondents", Case No. H-3563
2 SAC ("Accusation Case No. H-3563 SAC") now pending before the
3 Department of Real Estate. Respondents reserve any right
4 Respondents may have to contest the allegations of the Accusation
5 in Case No. H-3563 SAC.

6 2. On March 2, 2001, Respondents timely filed a
7 written request pursuant to Section 11019 of the Business and
8 Professions Code ("the Code") for the purpose of contesting the
9 Desist And Refrain Order.

10 3. Respondents hereby freely and voluntarily withdraw
11 said request for hearing and waive any right to hearing on the
12 Desist And Refrain Order. This waiver shall in no way effect the
13 rights of the parties to a hearing in Accusation Case No. H-3563
14 SAC. Respondents do not admit to any wrongdoing or acknowledge the
15 accuracy of any of the allegations in the Desist And Refrain
16 Order.

17 4. The Department hereby acknowledges:

18 (a) Respondents have paid in full the assessments
19 referred to in Paragraph X of the Desist And Refrain Order,
20 corrected the conditions described in Paragraphs X through XII,
21 inclusive, in the Desist And Refrain Order, and corrected the
22 conditions described in Paragraphs XIII through XVII, inclusive,
23 in the Desist And Refrain Order.

24 (b) Consequently, Respondents and their agents and
25 employees may engage in selling, exchanging or leasing, offering
26 for sale, exchange or lease, soliciting purchasers or lessees, or
27 negotiating for sale, exchange or lease, lots in the subdivision

1 under authority of the Subdivision Public Reports issued in File
2 No. 008143 SA, 008184 SA, 008478 SA, 008639 SA, and 008865 SA as
3 renewed and amended February 17, 1999, notwithstanding the Desist
4 And Refrain Order, but only if Respondents comply with Section
5 11012 of the Code and Section 2800 of the Regulations.

6 5. Each person executing this Stipulation And
7 Agreement on behalf of any party represents that such person is
8 duly authorized to execute it on behalf of such party.

9 6. This Stipulation And Agreement shall be maintained
10 by the Department as part of the public record of the proceedings
11 conducted by the Department on the Desist And Refrain Order.

12 April 30, 2001

DATED

Anthony Casulli

ANTHONY CASULLI
Attorney for Respondents

14 April 26, 2001

DATED

James L. Beaver
JAMES L. BEAVER, Counsel
Department of Real Estate

1 JAMES L. BEAVER, Counsel (SBN 60543)
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FILED

MAR 12 2001

DEPARTMENT OF REAL ESTATE

By Paul J. Z...

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 TO:) No. H-3564 SAC
12)
13 KLAMATH RIVER DEVELOPMENT CO.,) AMENDED NOTICE OF HEARING ON
14 a California corporation, and) ORDER TO DESIST AND REFRAIN
15 PHILIP JOHN CICALA,)
16)
17)

18 On February 2, 2001, the Real Estate Commissioner of
19 the State of California issued his Order, directing the above-
20 named party to desist and refrain from certain alleged
21 activities; and

22 ANTHONY CIASULLI, Attorney for KLAMATH RIVER
23 DEVELOPMENT CO. and PHILIP JOHN CICALA, made a request on
24 March 2, 2001, for hearing pursuant to Sections 11019 of the
25 Business and Professions Code of the State of California.

26 YOU ARE HEREBY NOTIFIED that a hearing on the Order to
27 Desist and Refrain will be held before the Department of Real
Estate at the Office of Administrative Hearings, 560 J Street,
Suite 340/360, Sacramento, CA 95814 on Thursday, May 3, 2001,
commencing at 9:00 AM, or as soon thereafter as the matter can be

1 heard, upon the matters contained in the ORDER TO DESIST AND
2 REFRAIN filed February 2, 2001.

3 You may be present at the hearing and may be
4 represented by counsel, but you are neither required to be
5 present at the hearing, nor are you required to be represented by
6 counsel.

7 You may present any relevant evidence and will be given
8 full opportunity to cross-examine all witnesses testifying
9 against you. You are entitled to the issuance of subpoenas to
10 compel the attendance of witnesses and the production of books,
11 documents, or other things by applying to the Department of Real
12 Estate.

13 DATED: March 12, 2001

14 PAULA REDDISH ZINNEBANN
15 Real Estate Commissioner

16
17 BY: 
18 JAMES L. BEAVER
19 Counsel
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FILED
MAR - 5 2001

DEPARTMENT OF REAL ESTATE

Laurie A. [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 TO:)	No. H-3564 SAC
12 KLAMATH RIVER DEVELOPMENT CO.,)	<u>NOTICE OF HEARING ON</u>
13 a California corporation, and)	<u>ORDER TO DESIST AND REFRAIN</u>
14 PHILIP JOHN CICALA,)	

15 On February 2, 2001, the Real Estate Commissioner of
16 the State of California issued his Order, directing the above-
17 named party to desist and refrain from certain alleged
18 activities; and

19 ANTHONY CIASULLI, Attorney for KLAMATH RIVER
20 DEVELOPMENT CO. and PHILIP JOHN CICALA, made a request on
21 March 2, 2001, for hearing pursuant to Sections 11019 of the
22 Business and Professions Code of the State of California.

23 YOU ARE HEREBY NOTIFIED that a hearing on the Order to
24 Desist and Refrain will be held before the Department of Real
25 Estate at the Office of Administrative Hearings, 560 J Street,
26 Suite 340/360, Sacramento, CA 95814 on Friday, April 13, 2001,
27 commencing at 9:00 AM, or as soon thereafter as the matter can be

1 heard, upon the matters contained in the ORDER TO DESIST AND
2 REFRAIN filed February 2, 2001.

3 You may be present at the hearing and may be
4 represented by counsel, but you are neither required to be
5 present at the hearing, nor are you required to be represented by
6 counsel.

7 You may present any relevant evidence and will be given
8 full opportunity to cross-examine all witnesses testifying
9 against you. You are entitled to the issuance of subpoenas to
10 compel the attendance of witnesses and the production of books,
11 documents, or other things by applying to the Department of Real
12 Estate.

13 DATED: March 5, 2001

14 PAULA REDDISH ZINNEMANN
15 Real Estate Commissioner

16
17 By: 

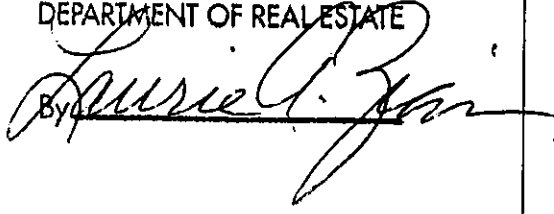
18 JAMES L. BEAVER
19 Counsel
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FEB - 7 2001

DEPARTMENT OF REAL ESTATE

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8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 TO:) No. H-3564 SAC
12)
13 KLAMATH RIVER DEVELOPMENT CO.,) ORDER TO DESIST AND REFRAIN
14 a California corporation, and) (B&P Code Section 11019)
15 PHILIP JOHN CICALA)
16)
17)

18 RE: KLAMATH RIVER COUNTRY ESTATES, UNITS 1 - 5,
19 Siskiyou County, California
20 Subdivision Public Report File Numbers 008143 SD,
21 008184 SA, 008478 SA, 008639 SD, and 008865 SA
22

23 The Real Estate Commissioner of the State of
24 California (hereinafter "the Commissioner") has determined from
25 evidence available to her that you, KLAMATH RIVER DEVELOPMENT
26 CO., a California corporation, and you, PHILIP JOHN CICALA
27 (hereinafter jointly referred to as "you"), as the owners or
subdividers, within the meaning of Section 2801.5 of Chapter 6,
Title 10, California Code of Regulations (hereinafter "the
Regulations"), of a Subdivision as defined in Sections 11000,
11003, and 11004.5 of the Code, have:

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1 (a) Violated Section 11012 of the Code and
2 subsections (a) and (p)(2) of the Regulations;

3 (b) Failed to fulfill representations and assurances
4 given by you upon which the Department of Real Estate of the
5 State of California (hereinafter "the Department") relied in
6 issuing a Subdivision public report referred to herein; and

7 (c) Failed to inform the Department of material
8 changes that have occurred in a Subdivision or Subdivision
9 offering which have caused a Subdivision public report referred
10 to herein to be misleading or inaccurate and/or which would have
11 caused the Department to deny a public report if the condition
12 had existed at the time of issuance.

13 I

14 At all times mentioned herein you were the owners
15 and/or subdividers and/or agents of the owners or subdividers of
16 subdivided lands as defined in Sections 11000, 11003, and
17 11004.5 of the Code.

18 II

19 Said subdivided lands are known as or commonly called
20 KLAMATH RIVER COUNTRY ESTATES UNIT NO. 1, UNIT NO. 2, UNIT
21 NO. 3, UNIT NO. 4 and UNIT NO. 5, and are located in Siskiyou
22 County, State of California, at Hornbrook - Copco Road and
23 Hornbrook - Ager Road approximately 2 miles northeast of
24 Hornbrook (hereinafter "the Subdivision"), and are identified in
25 the records of the Department under the Department's Subdivision
26 File Numbers 008143 SA, 008184 SA, 008478 SA, 008639 SA, and
27 008865 SA.

1 III

2 Between December 17, 1993, and March 17, 1994, in the
3 Department's files identified in Paragraph II, above, you
4 applied to the Department for, and, on March 17, 1994, caused
5 the Department to issue, an amended and renewed final public
6 report authorizing you to sell or lease and offer to sell or
7 lease lots in the Subdivision.

8 IV

9 In connection with your application, referred to in
10 Paragraph III, above, for the amended and renewed final public
11 report issued March 17, 1994, you represented to the Department
12 that you would pay to the Klamath River Country Estates Owners
13 Association, the community association (hereinafter "the
14 Association") serving the Subdivision, the regular annual
15 assessments levied by the Association for maintenance and
16 operation of the common areas and facilities for each lot owned
17 by you in the Subdivision. The amended and renewed final public
18 report issued March 17, 1994, was issued by the Department in
19 reliance upon this representation.

20 V

21 Between December 23, 1998, and February 17, 1998, in
22 the Department's files identified in Paragraph II, above, you
23 applied to the Department for, and, on February 17, 1998, caused
24 the Department to issue, an amended and renewed final public
25 report authorizing you to sell or lease and offer to sell or
26 lease lots in the Subdivision.

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VI

In connection with your application, referred to in Paragraph V, above, for the amended and renewed final public report issued February 17, 1998, you represented to the Department that you would pay to the Association the regular annual assessments levied by the Association for maintenance and operation of the common areas and facilities for each lot owned by you in the Subdivision. The amended and renewed final public report issued February 17, 1998, was issued by the Department in reliance upon this representation.

VII

The amended and renewed final public report issued February 17, 1998 states in part: "THE SUBDIVIDER MUST PAY ALL THE ANNUAL ASSESSMENTS WHICH IT OWES TO THE HOMEOWNERS ASSOCIATION FOR UNSOLD LOTS."

VIII

At all times mentioned herein, you offered for sale, negotiated for sale, and sold lots in the Subdivision.

IX

In addition to such other lots that may have been or now are owned by you, at all times mentioned herein from on or about October 9, 1997, you owned Lots 81, 84, 137, 138, 139, and 141 in Unit 5 in the Subdivision, and at all times mentioned herein between on or about October 9, 1997 and on or about May 6, 2000, you owned Lots 275, 276 and 277 in Unit 1, Lots 73, 78, 79, 106 and 107 in Unit 3, Lots 494, 505, 506, 507 and 517, in
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1 Unit 4, and Lots 83, 85, 138, 140 and 142 in Unit 5 in the
2 Subdivision.

3 X

4 You have failed to fulfill the representations given
5 by you to the Department described in Paragraphs IV and VI,
6 above, in that, at all times mentioned herein, you failed to pay
7 or cause to be paid assessments described in Paragraphs IV and
8 VI, above, on the lots identified in Paragraph IX, above, and as
9 of June 30, 2000, you were in arrears in the payment of such
10 assessments in the amount of approximately \$7,093.80.

11 XI

12 Your failure, described in Paragraph X, above, to pay
13 assessments on lots owned by you in the Subdivision, constitutes
14 a material change in the setup of the Subdivision and/or the
15 offering of interests in the Subdivision within the meaning of
16 subsection (p)(2) of Section 2800 of the Regulations that caused
17 the amended and renewed final public report described in
18 Paragraph VI, above, to be misleading or inaccurate and which
19 would have caused the Department to deny a public report
20 pursuant to the provisions of Section 11018.5(d) and 11018.5(e)
21 of the Code in conjunction with Section 2792.16(c) of the
22 Regulations.

23 XII

24 At no time mentioned herein have you informed the
25 Department of the facts described in Paragraph X, above.

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XIII

On or about June 8, 1999, you conveyed Lots 114, 137, 138, 139, 140, 141, and 142 in Unit 1 in the Subdivision to Francisco J. and Gladys M. Rivas.

XIV

On or about May 6, 2000, you caused, suffered or permitted Lots 505, 506 and 507 in Unit 4, and Lots 138, 140 and 142 in Unit 5 in the Subdivision to be conveyed to Realvest, Inc.

XV

The conveyance of five or more lots in the Subdivision to Francisco J. and Gladys M. Rivas, as described in Paragraph XIII, above, and the conveyance of five or more lots in the Subdivision to Realvest, Inc., as described in Paragraph XIV, above, each constitutes a material change in the setup of the Subdivision and/or the offering of interests in the Subdivision within the meaning of subsection (a) of Section 2800 of the Regulations.

XVI

At no time mentioned herein prior to September 13, 2000, have you informed the Department of the facts described in Paragraph XIII, above, and at no time mentioned herein have you informed the Department of the facts described in Paragraph XIV, above.

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XVII

In acting as described in Paragraphs X through XII, above, and in acting as described in Paragraphs XIII through XVI, above, you violated Section 11012 of the Code.

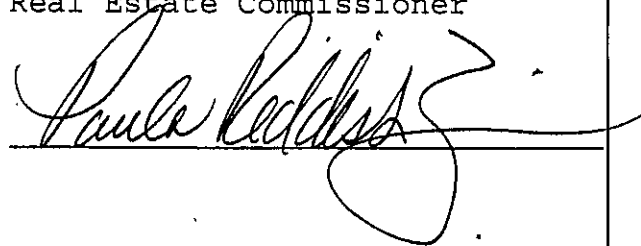
NOW THEREFORE, YOU, KLAMATH RIVER DEVELOPMENT CO., AND YOU, PHILIP JOHN CICALA, AND YOUR AGENTS AND EMPLOYEES, ARE HEREBY ORDERED TO DESIST AND REFRAIN from selling, exchanging or leasing, offering for sale, exchange or lease, soliciting purchasers or lessees, or negotiating for sale, exchange or lease, lots in the Subdivision:

(a) Unless and until you comply with Sections 11012 of the Code and Section 2800 of the Regulations; and

(b) Until such time as you have paid in full the assessments referred to in Paragraph X hereof in the amount of \$7,093.80 and any other amounts which have come due after June 30, 2000, or have made financial arrangements satisfactory to the Commissioner to assure such payment within a reasonable time as determined by the Commissioner.

DATED: February 2, 2001.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



cc: PHILIP CICALA
KLAMATH RIVER DEVELOPMENT CO.
1436 Queen Summit Drive
West Covina, CA 91791