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8 Attorneys for Defendant
 9 Stark Investment Company, a
 10 California general partnership

11 UNITED STATES DISTRICT COURT
 12 NORTHERN DISTRICT OF CALIFORNIA

13 PALMTREE ACQUISITION
 14 CORPORATION, a Delaware corporation,
 15
 16 Plaintiff,

17 vs.

18 MICHAEL R. NEELY, an individual, PERRY
 19 J. NEELY, an individual; GARY NEELY, an
 20 individual; MICHAEL R. NEELY, PERRY J.
 21 NEELY and GARY NEELY dba MIKE'S ONE
 22 HOUR CLEANERS; CHARLES FREDERICK
 23 HARTZ dba PAUL'S SPARKLE CLEANERS;
 24 CHARLES F. HARTZ, an individual;
 25 MULTIMATIC CORPORATION, a New
 26 Jersey corporation; WESTERN STATES
 27 DESIGN, a California corporation;
 28 MCCORDUCK PROPERTIES LIVERMORE,
 LLC, a Delaware limited liability company
 individually and as the successor to JOHN
 MCCORMICK, KATHLEEN MCCORDUCK,
 PAMELA MCCORDUCK, SANDRA
 MCCORDUCK MARONA, and IMA
 FINANCIAL CORPORATION, a California
 corporation; STARK INVESTMENT
 COMPANY, a California general partnership;
 GRUBB & ELLIS REALTY INCOME TRUST,
 LIQUIDATING TRUST, a California trust; and
 DOES 1-20, inclusive,

Defendants.

Case No. CV 08 3168 EMC

**JOINT CASE MANAGEMENT
 STATEMENT AND [PROPOSED
 ORDER] OF RESPONDING PARTIES**

Hon. Edward M. Chen

Date: September 16, 2009

Time: 1:30 p.m.

Courtroom: C, 15th Floor

1 The parties to the above captioned action, with the exception of Grubb & Ellis Realty
2 Income Trust, Liquidating Trust (“Responding Parties”), jointly submit the following Joint Case
3 Management Statement and request that the Court reschedule this matter for a further Case
4 Management Conference in six months to allow the parties to continue mediation efforts and add
5 potential new parties.

6 1. This action is a “reopener” of a prior action that was conditionally settled. The prior
7 action was filed on February 3, 1993 in the United States District Court for the Northern District of
8 California and entitled *Grubb & Ellis Realty Income Trust, Liquidating Trust v. Catellus*
9 *Development Corp., et al.*, and related cross-actions, Case No. C93-0383 SBA (“Prior Action”).
10 The Prior Action concerned the alleged release of dry cleaning solvent perchloroethylene (“PCE”)
11 by dry cleaning establishments in two shopping centers in Livermore, California. The California
12 Regional Water Quality Control Board (“RWQCB”) had issued an Order to the potentially
13 responsible parties consisting of dry cleaning operators and property owners to remediate the soil
14 and groundwater impacted by PCE contamination from the centers. Following settlement of the
15 Prior Action, certain parties requested, and the RWQCB granted the establishment of a
16 Containment Zone with a Contingency Plan and the RWQCB issued a new order in 1996 to that
17 effect.

18 2. On March 17, 2008, the RWQCB issued a Directive requiring specified parties (the
19 “1994 PRPs”) to submit a Technical Report to address the contamination outside of the
20 Containment Zone and ordered further investigation work to define the leading edge of the plume.
21 On March 21, 2008, the RWQCB issued another Directive requiring the 1994 PRPs to continue
22 groundwater monitoring and revise the “Contingency Plan.”

23 3. On February 4, 2009, this Court entered a stipulation (Document 17 in the Court’s
24 docket) signed by all parties to the action to continue the Initial Case Management Conference to
25 September 16, 2009 to (1) allow the Responding Parties’ joint environmental consultant to
26 complete investigative work and technical analysis and to submit an environmental report to the
27 RWQCB in response to the RWQCB’s Directives; and (2) engage in mediation. The order issued
28 by the Court on February 4, 2009 also left in effect all provisions of the parties’ Stipulation entered

1 by this Court on September 15, 2008 (Document 13 in the Court's docket) not affected by the
2 February 4, 2009 order, including the stay on discovery.

3 4. The Responding Parties' joint environmental consultant submitted a Draft Interim
4 Groundwater Investigation Report to the RWQCB on July 20, 2009. It is expected that the
5 Responding Parties' consultant will submit additional data and addenda to the RWQCB within the
6 next month or two to complete the Report.

7 5. On August 18 and 19, 2009, the Responding Parties attended mediation before
8 Timothy Gallagher, Esq. Also in attendance was counsel for the Grubb & Ellis Realty Income
9 Trust, Liquidating Trust and three additional entities who may be named in this action. The
10 Responding Parties believe that substantial progress was and is being made in attempting to
11 amicably resolve this matter; however, more work is required by all interested parties. The
12 Responding Parties anticipate participating in further mediation activities over the next 3-6 months,
13 in an effort to resolve this matter.

14 5. The Responding Parties are continuing to work together jointly through a
15 coordinating counsel group to supervise the joint environmental consultant. In addition, most of
16 the Responding Parties are working together to pursue a contribution from additional responsible
17 parties who participated in the mediation. The Responding Parties anticipate adding these
18 responsible parties to this action within the next 30-60 days unless the parties agree to a tolling
19 agreement. The Responding Parties' goal is still to resolve this complex environmental case
20 through alternative dispute resolution and they have been working diligently to position the matter
21 for such resolution. In light of the foregoing, the Responding Parties request that the Court
22 schedule a further Case Management Conference in April 2010 and that in all other respects the
23 Stipulation entered by the Court on September 15, 2008 remains in effect.

24 DATED: September 9, 2009

GONSALVES & KOZACHENKO

25
26 By: /s/ Selena P. Ontiveros
Selena P. Ontiveros

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28 Attorneys for Defendant Stark Investment
Company, a California general partnership

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DATED: September 9, 2009

The Costa Law Firm

By: /s/ Daniel P. Costa
Daniel P. Costa

Attorneys for Defendant Stark Investment
Company, a California general partnership

DATED: September 9, 2009

Cox, Castle & Nicholson, LLP

By: /s/ Peter M. Morrisette
Peter M. Morrisette

Attorneys for Plaintiff
Palmtree Acquisition Corporation

DATED: September 9, 2009

Wendel, Rosen, Black & Dean, LLP

By: /s/ Christine K. Noma
Christine K. Noma

Attorneys for Defendants
Michael R. Neely, Perry J. Neely, and
Gary Neely, dba Mike's One Hour Cleaners

DATED: September 9, 2009

Dongell Lawrence Finney, LLP

By: /s/ Thomas A. Vandenberg
Thomas A. Vandenberg

Attorneys for Defendant Multimatic
Corporation

DATED: September 9, 2009

Rogers Joseph O'Donnell

By: /s/ Robert C. Goodman
Robert C. Goodman

Attorneys for Defendant Charles Frederick
Hartz, dba Paul's Sparkle Cleaners

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DATED: September 9, 2009

Foley McIntosh Frey & Claytor

By: /s/ James D. Claytor
James D. Claytor

Attorneys for Defendant Western State Design
Gordon, Watrous, Ryan, Langley, Bruno & Paltenghi

DATED: September 9, 2009

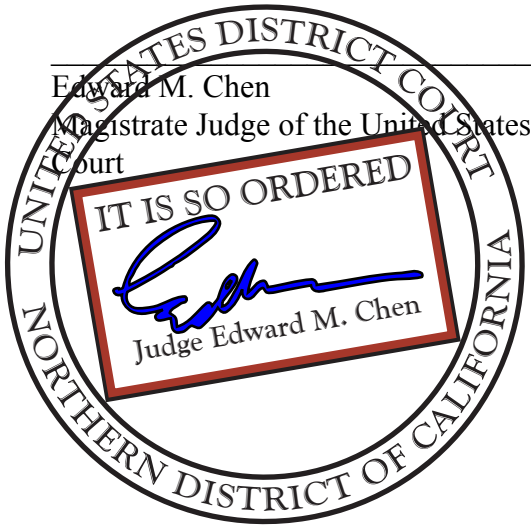
By: /s/ Bruce C. Paltenghi
Bruce C. Paltenghi

Attorneys for Defendant McCorduck
Properties Livermore, LLC

ORDER

The Case Management Conference scheduled for September 16, 2009 at 1:30 p.m. is continued to April 7, 2010 at 1:30 p.m. The Stipulation and Order entered by the Court on September 15, 2008 remains in effect, including the stay on discovery.

Dated: September 14, 2009



Edward M. Chen
Magistrate Judge of the United States District
Court