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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 Plaintiff,

16 vs.

17 MICHAEL R. NEELY, an individual, PERRY
 18 J. NEELY, an individual; GARY NEELY, an
 19 individual; MICHAEL R. NEELY, PERRY J.
 20 NEELY and GARY NEELY dba MIKE'S ONE
 21 HOUR CLEANERS; CHARLES FREDERICK
 22 HARTZ dba PAUL'S SPARKLE CLEANERS;
 23 CHARLES F. HARTZ, an individual;
 24 MULTIMATIC CORPORATION, a New
 25 Jersey corporation; WESTERN STATES
 26 DESIGN, a California corporation;
 27 MCCORDUCK PROPERTIES LIVERMORE,
 28 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 MHP

**STIPULATION AND ~~PROPOSED~~
 ORDER] CONTINUING CASE
 MANAGEMENT CONFERENCE**

Hon. Marilyn H. Patel

Date: June 28, 2010

Time: 2:00 p.m.

Courtroom: 15, 18th floor

1 THE KIRBERG CORPORATION, formerly
2 known as MULTIMATIC CORPORATION, a
3 New Jersey corporation; and STARK
INVESTMENT COMPANY, L.P., a California
limited partnership,

4 Third Party Plaintiffs,

5 v.

6 MELINDA ELLIS EVERS, Successor Trustee
7 of the Harold A. Ellis, Jr. Revocable Inter Vivos
Trust Dated July 13, 2000; MARIAN L. ELLIS,
8 Trustee of the Marian L. Ellis Revocable Inter
Vivos Trust Dated October 31, 2003; MARIAN
9 L. ELLIS, an individual; JAMES R. PROUD,
an individual; DEAN BANKS, an individual;
10 EMMETT R. DEMOSS JR., an individual;
JOHN E. HYJER, an individual; THE
11 ANDERSON MARITAL TRUST dated
February 28, 1979, as amended and restated
12 August 31, 1994; and THE ANDERSON TAX
DEFERRAL TRUST, dated February 28, 1979,
13 as amended and restated August 31, 1994,

14 Third Party Defendants.

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16 The parties who have appeared in the above-captioned action have met and conferred and
17 jointly submit the following Stipulation and Proposed Order continuing the Case Management
18 Conference currently scheduled for June 28, 2010 at 2:00 p.m. to September 20, 2010 at 4:00 p.m.

19 As explained more fully below, the Plaintiff and Defendants, with the exception of Grubb
20 & Ellis Realty Income Trust, Liquidating Trust, (“Responding Parties”) have been mediating this
21 matter with Timothy Gallagher, Esq., along with other potentially responsible parties, and are
22 continuing to do so, while simultaneously working cooperatively to respond to the Regional Water
23 Quality Control Board’s (“RWQCB”) directives.

24 1. On June 19, 2010, Mediator Gallagher submitted an Interim Case Management
25 Statement to the Court, which was thereafter filed on June 22, 2010 and appears as document 67 on
26 the Court’s docket.

27 2. In Mediator Gallagher’s Interim Case Management Statement, he described the
28 Responding Parties’ substantial and continuing progress in settling among themselves and with

1 other potentially responsible third parties.

2 3. Mediator Gallagher also described the Responding Parties' ongoing cooperative
3 efforts at site characterization and compliance with the RWQCB's directives. As Mediator
4 Gallagher stated, the Responding Parties recently submitted a Work Plan to the RWQCB which
5 will be carried out this year. It is anticipated that the final report will be submitted in the second
6 quarter of 2011 and thereafter, a Remedial Action Plan will be submitted to the RWQCB for
7 approval.

8 4. Because of the ongoing site characterization work, the Responding Parties do not
9 yet have a complete understanding of the anticipated remediation costs, which is needed by some
10 of the Responding Parties in order to agree on final settlement terms. The Responding Parties,
11 however, are diligently working with their technical consultants and the RWQCB to determine, as
12 quickly as possible, the best course of action for remediating the site.

13 5. Even though the cost figures necessary for a final settlement is not currently known,
14 the Responding Parties are continuing to advance discussions among themselves and resolve
15 matters with other parties. The Responding Parties would like to resolve this case by mediation
16 but is cognizant of the Court's desire for a schedule. The Responding Parties believe that a
17 continuation of the currently scheduled case management schedule to September 20, 2010 will
18 allow them to prepare a realistic plan and schedule to present to the Court at that time.

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DATED: June 25, 2010

GONSALVES & KOZACHENKO

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

Attorneys for Defendant & Third Party
Plaintiff Stark Investment Company, a
California general partnership

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DATED: June 25, 2010

The Costa Law Firm

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

Attorneys for Defendant & Third Party
Plaintiff Stark Investment Company, a
California general partnership

DATED: June 25, 2010

Cox, Castle & Nicholson, LLP

By: /s/ Chad Hales
Chad Hales

Attorneys for Plaintiff
Palmtree Acquisition Corporation

DATED: June 25, 2010

BASSI, EDLIN, HUIE & BLUM LLP

By: /s/ Noel Edlin
Noel Edlin

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

DATED: June 25, 2010

Dongell Lawrence Finney, LLP

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

Attorneys for Defendant & Third Party
Plaintiff The Kirrberg Corporation f/k/a
Multimatic Corporation

DATED: June 25, 2010

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: June 25, 2010

Foley McIntosh Frey & Claytor

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

Attorneys for Defendant Western State Design

DATED: June 25, 2010

Gordon, Watrous, Ryan, Langley, Bruno & Paltenghi

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

Attorneys for Defendant McCorduck Properties Livermore, LLC

ORDER

The Case Management Conference scheduled for June 28, 2010 at 2:00 p.m. is continued to September 20, 2010 at 4:00 p.m. The Stipulation and Order entered by the Court on September 15, 2008 remains in effect, including the stay on discovery.

Dated: 6/25/2010

