

EXHIBIT A

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement, including its exhibits (the "Settlement Agreement"), dated November 1, 2011, is entered into by and among Kathleen Miller, Sondre Bilet, Mark J. Holland and Katherine Doolittle ("Plaintiffs"), for themselves and on behalf of the Settlement Class¹ on the one hand, and Defendants Palm Desert Investments, Palm Desert National Bank and Kevin McGuire ("Defendants") on the other.

I. RECITALS

- 1.1 The litigation captioned *Miller v. Palm Desert Investments, et al.*, Case No. CV-11-02454 CBM, was filed on March 23, 2011, and is pending in the U.S. District Court for the Central District of California before the Honorable Consuelo B. Marshall.
- 1.2 The Complaint alleged breaches of Defendants' duties under the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1001, *et seq.* ("ERISA").
- 1.3 Plaintiffs brought this action on behalf of a proposed class of all persons, other than named Defendants, who were participants in or beneficiaries of the BSOP (as defined in Section 2.14, *infra*) at any time between September 30, 2006 through September 1, 2011 (the Settlement Class is defined in Section 2.34, *infra*).
- 1.4 On April 25, 2011, the named defendants moved to dismiss Plaintiffs' complaint.
- 1.5 The District Court issued an Amended Minutes Order granting in part and denying in part the motion to dismiss (the "Order") on July 19, 2011. The Order dismissed, without prejudice, Plaintiffs' co-fiduciary claim, the failure to monitor claim as asserted against defendant Kevin McGuire, and all claims asserted against Rhonda Swanson. The Order further dismissed with prejudice Count III, which asserted alleged conflicts of interest. The Court denied the remainder of the motion to dismiss and allowed all remaining

¹ Capitalized terms have the meanings defined below.

claims to proceed, including Plaintiffs' claim that Defendants failed to prudently manage the assets of the Plan.

- 1.6 Defendants have denied and continue to deny the allegations in the Complaint and all other charges of wrongdoing, violation of law, fault, liability, or damage arising out of any conduct, statements, acts, or omissions that were or could be alleged in the Action. Defendants believe that they acted properly at all times and that the allegations in the Complaint are without merit.
- 1.7 The Parties mediated this case on September 29, 2011 in a private formal mediation session conducted by independent mediator Jeffrey Lewis. After an all day negotiation, the Parties reached the terms of a settlement, as embodied in this Settlement Agreement.
- 1.8 Plaintiffs and Defendants wish to promptly and fully resolve and settle, with finality, all of the claims that were or could have been asserted by Plaintiffs, for themselves and on behalf of the Settlement Class, in this action.

NOW THEREFORE, as a result of settlement negotiations amongst counsel for the Parties, the Parties have agreed to settle this matter on the terms and conditions set forth below.

2. DEFINITIONS

As used in this Settlement Agreement, capitalized terms not otherwise defined have the meanings provided below:

- 2.1 "Action" shall mean the litigation captioned *Miller v. Palm Desert Investments, et al.*, Case No. CV-11-02454 CBM, pending in the U.S. District Court for the Central District of California before the Honorable Consuelo B. Marshall.
- 2.2 "Administrator" shall mean Nicholas L. Saakvitne.
- 2.3 "Business Day" shall mean any day other than Saturday or Sunday.
- 2.4 "Class Counsel" shall mean Snyder Miller & Orton LLP.

- 2.5 “Class Member” shall mean any member of the Settlement Class, as defined in Section 2.34.
- 2.6 “Class Notice” shall mean the Notice of Settlement of Class Action approved by the District Court in the Preliminary Approval Order and substantially conforming to Exhibit I.
- 2.7 “Class Period” shall mean the period from September 30, 2006 through September 1, 2011, both dates inclusive.
- 2.8 “Class Settlement Amount” shall mean the gross amount of nine hundred fifty thousand dollars (\$950,000).
- 2.9 “Company Stock” shall mean Palm Desert Investments common stock.
- 2.10 “Complaint” shall mean the Class Action Complaint for Breach of Fiduciary Duties Under ERISA filed in this case on March 23, 2011.
- 2.11 “Defendants” shall mean Palm Desert Investments, Palm Desert National Bank, and Kevin McGuire.
- 2.12 “District Court” shall mean the United States District Court for the Central District of California.
- 2.13 “Effective Date” shall mean the date, established pursuant to Section 10.1, on which all of the conditions of the Settlement Agreement have been fully satisfied and the Settlement has become final as provided in Section 4.
- 2.14 “ESOP” shall mean the Palm Desert Investments Employee Stock Ownership Plan and Trust.
- 2.15 “Final Fairness Hearing” shall mean the hearing in which the District Court determines whether to enter the Final Approval Order of the Settlement as provided in Section 3.8.

- 2.16 "Final Approval Order" shall mean the order from the District Court as described in Section 3.8 and substantially conforming to Exhibit 3. The Administrator is responsible for administering the Settlement in accord with this agreement.
- 2.17 "Final Order" shall mean a) any judgment or order as to which the time to appeal, petition for certiorari, move for reconsideration or rehearing, or seek any other form of judicial review ("Review Proceeding") has expired and as to which no Review Proceeding shall then be pending; or, b) if a Review Proceeding has been sought, such judgment or order shall have been affirmed by the highest court to which the judgment or order was or could be appealed, or certiorari shall have been denied or re-argument or rehearing shall have been denied or resulted in no modification of the judgment or order, and the time to take any further Review Proceeding shall have expired. Notwithstanding the foregoing, the Final Order shall be deemed Final without regard to whether (a) the District Court has entered an order regarding the award of legal fees and expenses to Class Counsel as requested by the process described in Section 10.3; (b) any such attorneys' fee or expense order (i) if entered, has become a Final Order; or (ii) is reversed or modified on appeal.
- 2.18 "Implementation Notice" shall mean the a notice to the District Court of the implementation of the Settlement as provided in Section 10.5 and substantially conforming to Exhibit 4.
- 2.19 "Independent Fiduciary" shall mean Nicholas L. Saakvitne.
- 2.20 "Insurer" shall mean St. Paul Mercury Insurance Company.
- 2.21 "Net Settlement Amount" shall mean the balance of the Settlement Fund after payment of (a) any taxes and expenses incurred by the Settlement Fund's income as discussed in Section 9.3; (b) the cost of administration of the settlement, including the cost of

providing Class Notice and implementing the Plan of Allocation, which costs shall not exceed \$25,000; and (c) any fees and expenses to Class Counsel awarded by the Court.

- 2.22 "Parties" shall mean Plaintiffs and Defendants.
- 2.23 "Person" shall mean an individual, partnership, corporation, governmental entity or any other form of entity or organization.
- 2.24 "Plaintiffs" shall mean the following persons, as plaintiffs on behalf of themselves and on behalf of all members of the Settlement Class: Kathleen Miller, Sondre Bilet, Mark J. Holland, Katherine Doolittle, and each of their Successors-in-Interest. Plaintiffs intend that all rights and obligations that are binding on Plaintiffs under this Settlement Agreement, including each and every covenant, agreement, and warranty, shall also be binding on all members of the Settlement Class.
- 2.25 "Plaintiff Releasor(s)" shall mean each Plaintiff and each Class Member, individually and collectively, as well as his, her, or its predecessors, successors, attorneys, partners, heirs, executors, administrators, beneficiaries, representatives, agents, and assigns.
- 2.26 "Plan" shall mean the ESOP as defined in Section 2.14.
- 2.27 "Plan of Allocation" means the terms and procedures by which the Settlement Fund shall be distributed among the Class Members, as proposed in the Class Notice and attached as Exhibit 5.
- 2.28 "Preliminary Approval Motion" shall mean a motion filed by Class Counsel as described in Section 3 below.
- 2.29 "Preliminary Approval Order" shall mean the order from the District Court sought by the process described in Section 3 below, and substantially conforming to Exhibit 2.
- 2.30 "Releasees" shall mean each of the Defendants, previously named defendant Rhonda Swanson, and, as applicable by the nature of those entities, each of their respective

agents, insurers, co-insurers, third party administrators, accountants, actuaries, advisors, auditors, professional advisors, Representatives, partners, co-venturers, spouses, marital communities, as well as the predecessors, successors and assigns of all such persons or entities.

- 2.31 "Released Claims" shall have the meaning ascribed to it in Section 5.2 of this Settlement Agreement.
- 2.32 "Representatives" shall mean representatives, attorneys, agents, directors, officers, employees, insurers and reinsurers.
- 2.33 "Settlement" or "Settlement Agreement" shall mean the agreement manifested in this document entered into by and among the Parties.
- 2.34 "Settlement Class" shall mean all Persons who were participants in or beneficiaries of the ESOP and whose individual ESOP Share Accounts held vested shares of Company Stock during the Class Period; provided, however, that Defendants, former and present directors of Palm Desert Investments and/or Palm Desert National Bank and their heirs, Successors-in-Interest, or assigns, to the extent such Persons acquire an interest held by Defendants, are excluded from the Settlement Class.
- 2.35 "Settlement Fund" shall have the meaning ascribed to it in Section 9.2 of this Settlement Agreement.
- 2.36 "Successor-in-Interest" shall mean a Person's estate, legal representatives, heirs, successors or assigns.

3. JUDICIAL APPROVAL PROCESS

- 3.1 Motion for Preliminary Approval of Settlement and Class Notice. By November 14, 2011, Class Counsel will file a Preliminary Approval Motion with the District Court seeking the District Court's issuance of an order (a) preliminarily approving this

Settlement Agreement; (b) directing the time and manner of the Class Notice to be served upon the Settlement Class; (c) approving the appointment of Nicholas L. Saakvitne as (i) Administrator for the purpose of implementing the Settlement and (ii) Independent Fiduciary for the purpose of reviewing the terms of the Settlement for compliance with Prohibited Transaction Class Exemption 2003-29, as amended; (d) finding that: the proposed form of Class Notice fairly and adequately (i) describes the terms and effect of this Settlement Agreement; (ii) provides notice to the Settlement Class of the time and place of the Final Fairness Hearing; and (iii) describes how the recipients of the Class Notice may object to the settlement; and (e) finding that the proposed manner of serving the Class Notice to the members of the Settlement Class is the best notice practicable under the circumstances.

3.1.1 The Preliminary Approval Motion shall be drafted by Class Counsel. The Preliminary Approval Motion will ask the District Court to conditionally certify the class for settlement purposes only. Plaintiffs have asserted that the Action should be certified as a class action as defined in the Federal Rules of Civil Procedure. For settlement purposes only, and to effectuate this Settlement Agreement, Defendants do not object to such certification on the terms set forth in this Settlement Agreement. Class Counsel shall move the District Court for class certification of the Settlement Class under Fed. R. Civ. P. 23(b)(1) and/or 23(b)(2) as a non-opt-out class, with the Plaintiffs as the Settlement Class representatives, and Class Counsel as counsel for the Settlement Class.

3.1.2 Defendants' Reservation of Rights. The Parties agree that, if the District Court does not enter the Final Approval Order or the Final Approval Order does not become a Final Order, then the agreements and stipulations in this Settlement Agreement concerning the class definition, class period, or class certification shall not be used as evidence or

argument to support class certification, class definition, or any class period, and Defendants will retain all rights to oppose class certification, including certification of a class identical to that provided for in this Settlement Agreement.

- 3.2 Issuance of Class Notice. The Administrator shall cause the Class Notice to be transmitted as set forth in this Section 3.
- 3.2.1 The Administrator shall mail the Class Notice to all Class Members not later than seven (7) days following the District Court's entry of the Preliminary Approval Order by first-class mail. The Parties will ask the District Court to approve the Class Notice in a form substantially conforming to Exhibit 1.
- 3.2.2 Any individual or entity that believes he, she, or it is a Class Member and who did not receive a copy of the Class Notice may request a copy of the Class Notice by submitting a written request to the Administrator containing all of the following information: (a) the full name and Social Security Number of (i) the person making the request and (ii) the employee through whose services the person claims to be a Class Member; (b) the name used by the employee as of the time that his or her employment with Palm Desert National Bank or Palm Desert Investments ended; and (c) the years during which the employee was employed with Palm Desert National Bank or Palm Desert Investments. The request must be mailed by first-class mail to Nicholas L. Saakvitnc, Administrator, 532 Colorado Avenue, 2nd Floor, Santa Monica, CA 90401-2408. The request must be postmarked on or before thirty (30) days following the entry of the District Court's Preliminary Approval Order. The Administrator shall cause a copy of the Class Notice to be promptly sent by first-class mail to each person or entity who submits a timely written request conforming to the requirements of this Paragraph.

3.3 In the event that a Class Notice sent by mail is returned as undeliverable, the Administrator shall make reasonable efforts to obtain a valid mailing address within five (5) days of the date of the return of the Class Notice. In any event, such efforts must be completed no later than thirty-five (35) days after the Preliminary Approval Order is issued. Following each search that results in a corrected address, the Administrator shall promptly resend the Class Notice to the Class Member by first-class mail.

3.4 Class Counsel shall file with the District Court a declaration by the Administrator averring compliance with the requirements provided in Sections 3.2 and 3.3 no later than ninety (90) days after the Preliminary Approval Order is issued.

3.5 Class Counsel shall file with the District Court the written assessment of the Independent Fiduciary's decision to approve or decline to approve the Settlement no later than ninety (90) days after the Preliminary Approval Order is issued.

3.6 Objection Process. Any Class Member who wishes to object to this Settlement or otherwise to be heard concerning this Settlement, shall timely file with the District Court a statement of his, her or its objections, specifying the reasons for each objection, including any legal support or evidence that the objector wishes to bring to the District Court's attention. The objector must also mail the objection and all supporting law and evidence to Class Counsel and Defendants' Counsel at the following addresses:

Peter P. Meringolo
Snyder Miller & Orton LLP
180 Montgomery Street, Suite 700
San Francisco, CA 94104

Nicole A. Diller
Morgan Lewis & Bockius LLP
One Market, Spear Street Tower
San Francisco, CA 94105

3.6.1 Objection Timeliness. To be considered timely, the objection must be received no later than sixty (60) days after the Preliminary Approval is issued. If an objector hires an attorney to object pursuant to this Paragraph, the attorney both must effect service of a

notice of appearance on counsel listed above and file it with the District Court by no later than sixty (60) days after the Preliminary Approval Order is issued. Any person or entity who fails to submit such a timely written notice shall be barred from making any statement objecting to this Settlement, including at the Final Fairness Hearing, and shall forever waive his, her, or its objection(s), except by special permission of the District Court.

- 3.6.2 Response to Objections. Any Party may submit a response to an objection may file with the Court and serve on the remaining Parties a written response by no later than ninety (90) days after the Preliminary Approval Order is issued.
- 3.6.3 Objector Appearance at the Final Fairness Hearing. Any objector who files and serves a timely, written objection may appear at the Final Fairness Hearing either in person or through counsel retained at the objector's expense. Objectors or their attorneys intending to appear at the Final Fairness Hearing must effect service of a notice of intention to appear setting forth the name, address, and telephone number of the objector (and, if applicable, the name, address, and telephone number of the objector's attorney) on Class Counsel and on Defendants' Counsel. The objector must also file the notice of intention to appear with the District Court by no later than sixty (60) days after the Preliminary Approval Order is issued. Any objector who does not timely file and serve a notice of intention to appear in accordance with this paragraph shall not be permitted to appear at the Final Fairness Hearing, except for good cause shown.
- 3.7 Motion for Final Approval. Class Counsel will file a Motion for Final Approval Motion with the District Court no later than ninety (90) days after the Preliminary Approval Order is issued. The Motion for Final Approval will ask the District Court to: (a) approve this Settlement Agreement; (b) approve the appointment of Nicholas L.

Saakvitne as Administrator for the purposes of implementing the terms of the Settlement while maintaining the Plan's tax-qualified status and ensuring full ERISA compliance; and (d) permanently enjoin the members of the Settlement Class from bringing in any forum any Released Claim against any Releasee, either derivatively or on behalf of themselves, or through any Person acting or purporting to act on their behalf.

- 3.8 The Final Fairness Hearing. On or after the date set by the District Court for the Final Fairness Hearing, Class Counsel will ask the District Court to enter the Final Approval Order in substantially the form attached as Exhibit 3. At that time, Class Counsel will also request that the District Court enter orders approving the proposed Plan of Allocation, and awarding attorneys' fees and expenses to Class Counsel. The Parties agree to support entry of the Final Approval Order as contemplated by this Section. Defendants will urge the District Court to enter the Final Approval Order, but will take no position concerning Class Counsel's request for attorneys' fees and expenses. The Parties agree that they will reasonably cooperate with one another in seeking the Final Approval Order.

4. CONDITIONS TO THE SETTLEMENT

The Settlement provided for in this Settlement Agreement is contingent upon each of the following conditions having been satisfied or waived:

- 4.1 Preliminary Approval. The District Court's entry of the Preliminary Approval Order in a form substantially conforming to the document attached as Exhibit 2;
- 4.2 Class Certification. The District Court's certification of the Settlement Class as a non-opt-out class pursuant to Fed. R. Civ. P. 23(b)(1) or 23(b)(2);
- 4.3 Issuance of Class Notice. The Administrator's causing the Class Notice to be served in accordance with the Preliminary Approval Order;

- 4.4 Independent Fiduciary Appointment. The District Court's appointment of the Independent Fiduciary;
- 4.5 Independent Fiduciary Approval. The Independent Fiduciary's approval of the Settlement as conforming to the requirements of Prohibited Transaction Class Exemption 2003-39, as amended;
- 4.6 Final Approval Order. The District Court's issuance of the Final Approval Order in a form substantially conforming to the document attached as Exhibit 3, and that order becoming a Final Order; and,
- 4.7 Funding of the Settlement Fund. Defendants shall have caused the Class Settlement Amount to be deposited in accord with Section 9.2.

5. RELEASES

- 5.1 Releases of the Releasees. Effective when the Final Approval Order becomes a Final Order, each Plaintiff, and each member of the Settlement Class, irrevocably, absolutely, unconditionally, fully, finally, and forever release, acquit and discharge the Releasees from Released Claims (as defined in Section 5.2) that such persons or entities directly, indirectly, derivatively, or in any other capacity ever had or have based upon, related to, arising out of or in connection with the claims or allegations asserted in the Complaint. Without limiting the foregoing, on and effective as of the Effective Date, each Plaintiff Releasor shall be deemed to have irrevocably, absolutely and unconditionally waived any and all rights to (a) receive with regard to the Released Claims any consideration in excess of that portion of the Net Settlement Amount that shall be allocated and payable to or for the benefit of such Plaintiff Releasor in accordance with the terms and provisions of the Plan of Allocation; (b) seek relief against the Releasees in the Action or with respect to the claims asserted or that could have been asserted in the Action

beyond that provided in this Settlement Agreement; and (c) file any such claims in any court or adjudicatory forum.

5.2 Released Claims. Subject to Section 5.1, the Released Claims shall be any and all claims, demands, rights or causes of action of any and every kind, character or nature whatsoever (including claims for any and all losses, damages, unjust enrichment, attorneys' fees, disgorgement of fees, litigation costs, injunction, declaration, contribution, indemnification or any other type or nature of legal or equitable relief), whether accrued or not, whether known or unknown, in law or equity, that have been, could have been, or could be brought by the Plaintiff Releasers and arise out of or are related in any way to the acts, omissions, facts, matters, transactions, or occurrences alleged in the Complaint (whether or not dismissed), including but not limited to, claims based on: (a) breach of fiduciary duties under ERISA; (b) claims for negligence, gross negligence, breach of fiduciary duty or care and/or breach of loyalty, fraud, or violations of any state or federal statutes, rules or regulations arising out of, based upon, or relating to the ESOP during the Class Period; (c) failure to provide information to the Plan's fiduciaries or the Plan's participants and beneficiaries regarding Company Stock or any transaction or event referred to directly or indirectly in the Complaint; (d) failure to appoint, remove and/or adequately monitor the Plan's fiduciaries; (e) claims that would be barred by principles of *res judicata* had the claims asserted in the Action been fully litigated and resulted in a final judgment or order; and (f) the allocation of the Settlement Fund. The Parties stipulate and agree that, by the terms of the Final Approval Order, each member of the Settlement Class shall have and be deemed to have waived and relinquished, to the fullest extent permitted by law, any and all provisions, rights and benefits conferred by Cal. Civ. Code § 1542 or any federal, state, or foreign

law, rule, regulation or common law doctrine that is similar, equivalent, or identical to, or which has the effect of Cal. Civ. Code § 1542, which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his settlement with the debtor.

Notwithstanding the provisions of § 1542 and any similar provisions, rights and benefits conferred by any law, rule, regulation or common law doctrine of California or in any federal, state or foreign jurisdiction, the Parties understand and agree that the releases to be given pursuant to this Settlement Agreement shall include Released Claims that are not known or suspected to exist at the time such releases are given.

5.3 Release and Discharge by the Plan. In consideration for the other terms of this Settlement, upon the filing of the Implementation Notice, the Independent Fiduciary, on behalf of the Plan, fully, completely, and finally settles and discharges the Released Persons from the Released Claims. Upon the filing of the Implementation Notice, the Plan shall be bound by this Settlement, shall have exclusive recourse to the benefits, rights, and remedies provided by this Settlement regarding the Released Claims, and shall be precluded from pursuing any other action, demand, suit, or other claim in any judicial or administrative forum whatsoever, against the Released Persons with respect to the Released Claims.

5.4 Defendants' Releases of Plaintiffs, the Settlement Class and Class Counsel. Effective when the Final Approval Order becomes a Final Order, Defendants absolutely and unconditionally release and forever discharge each other, Plaintiffs, the Settlement Class, and Class Counsel from any and all claims relating to the institution or prosecution or settlement of this Action, as well as any and all claims for contribution,

indemnification, or any other claims relating to payment of the Class Settlement Amount.

6. INDEPENDENT FIDUCIARY

- 6.1 An Independent Fiduciary, who has no relation to or interest in any of the Parties, will be appointed to ensure compliance with Prohibited Transaction Class Exemption 2003-39, as amended, and to provide a release on behalf of the Plan as referenced in Section 5.3, above. In so doing, the Independent Fiduciary will submit a written report providing determinations that shall include whether: (a) there is a genuine controversy involving the Plan; (b) the conditions for the application of Prohibited Transaction Class Exemption 2003-39, as amended, are satisfied, including whether: (i) the Settlement, including the scope of the release and amount of the attorney's fee award to be paid from the recovery, is reasonable in light of the Plan's likelihood of full recovery, the risks and costs of litigation, and the value of the claims foregone; (ii) the terms and conditions of the transaction are no less favorable to the Plan than comparable arms-length terms and conditions that would have been agreed to by unrelated parties in similar circumstances; and (iii) the transaction is not part of an agreement, arrangement, or understanding designed to benefit a party in interest; and (c) the Independent Fiduciary approves and authorizes the Plan to participate in the Settlement and approves the releases set forth in the Settlement Agreement on behalf of the Plan. The appointment of the Independent Fiduciary is subject to the District Court's approval.
- 6.2 All Parties shall cooperate in providing such information to the Independent Fiduciary as may be required or requested in order for the fiduciary to assess the fairness of the Settlement. The failure of the Independent Fiduciary to approve this Settlement shall

render this Settlement null and void and only Section 11.2 of the Settlement Agreement shall remain in effect.

- 6.3 The Independent Fiduciary shall be paid by the Insurer in accordance with the Preliminary Approval Order.
- 6.4 Written notice of the Independent Fiduciary's decision to approve or decline to approve the Settlement shall be given to counsel for each Party no later than eighty-two (82) days after the Preliminary Approval Order is issued.

7. REPRESENTATIONS AND WARRANTIES

- 7.1 Representations and Warranties. The Parties represent and warrant that:
 - 7.1.1 They are voluntarily entering into this Settlement Agreement as a result of arms-length negotiations among their counsel.
 - 7.1.2 This Settlement and its accompanying exhibits set forth the entire agreement and understanding of the Parties concerning the subject matter hereof, and supersede and replace all prior negotiations, proposed agreements, and any other agreements, written or oral. Each of the Parties acknowledges that no other Party to this Settlement, nor any agent or attorney of any such Party, has made any statement, promise, representation, or warranty whatsoever, express or implied, not contained in this Settlement, to induce any Party to execute this Settlement. The Parties further acknowledge that they are not executing this Settlement in reliance on any promise, representation, or warranty not contained in this Settlement.
 - 7.1.3 They assume the risk of mistake as to facts or law.
 - 7.1.4 They have carefully read this Settlement Agreement, and this Settlement Agreement is signed freely by each individual executing it.

7.1.5 They have made whatever investigation of the facts pertaining to the settlement and this Settlement Agreement as they deem necessary.

7.2 Plaintiffs' Representations and Warranties. Plaintiffs jointly and severally represent and warrant: (a) that none of the claims that were asserted or could have been asserted in the Action have been assigned, encumbered or in any manner transferred in whole or in part; and (b) that they were participants in the Plan during the Class Period and are members of the Settlement Class.

8. NO ADMISSION OF LIABILITY

8.1 The Parties understand and agree that this Settlement Agreement embodies a compromise of disputed claims, and nothing in this Settlement Agreement, including the furnishing of consideration for this Settlement Agreement, shall be deemed to constitute any finding of wrongdoing by any of Defendants, or give rise to any inference of wrongdoing or admission of wrongdoing or liability in this or any other proceeding. This Settlement Agreement and the consideration provided in connection with it are made in compromise of disputed claims solely for the purpose of avoiding continued litigation costs and are not admissions of liability of any kind, whether legal or factual. Defendants have denied, and continue to deny, that they have committed any violation of ERISA or other laws and enter into this Settlement Agreement solely for the purpose of avoiding the cost and inefficiency inherent in further litigation of this Action. Neither the facts nor the terms of this Settlement Agreement shall be offered or received in evidence in any action or proceeding for any purpose, except (a) in an action or proceeding to enforce this Settlement Agreement or arising out of or relating to the Preliminary Approval Order or the Final Approval Order, or (b) in an action or proceeding where the release of the Released Claims may serve as a bar to recovery.

**9. COSTS OF NOTICE; THE SETTLEMENT FUND;
DELIVERIES INTO THE SETTLEMENT FUND**

- 9.1 Costs of Notice. The reasonable costs of Class Notice will be paid from the Settlement Fund and in accordance with Section 10.4 upon the Court's approval.
- 9.2 Settlement Fund. Within ten (10) Business Days after entry of the Preliminary Approval Order, Defendants shall cause the Insurer to pay the Class Settlement Amount into an interest-bearing escrow account maintained by the Administrator; provided, however, that no disbursements shall be made from the Settlement Fund (including any payments of Class Counsel's fees and expenses or otherwise) until all provisions set forth in Section 4 have been satisfied. The resulting Settlement Fund shall be considered a common fund created as a result of the Action, any interest on which will be added to the Class Settlement Amount.
- 9.3 Taxes and Expenses of the Settlement Fund. The Settlement Fund may bear interest for the benefit of the Settlement Class. The Administrator shall use best efforts to treat and manage the Settlement Fund to qualify as a Qualified Settlement Fund under Section 468B of the Internal Revenue Code and Treasury regulations promulgated thereunder. The Plan's trust shall be kept open for this purpose if administratively feasible. All income realized by the fund will be deemed received by the Plan. The Settlement Fund will pay any federal, state or local taxes that may apply to the income of the Settlement Fund. The Administrator shall arrange for the preparation and filing of all required tax reports and tax returns including any information returns and payee statements required to be filed or furnished by the Settlement Fund and for the payment from the Settlement Fund of any taxes owed. All taxes on the income of the Settlement Fund, all taxes with respect to distributions from the Settlement Fund, and all tax-related expenses incurred

in connection with the taxation of and distributions from the Settlement Fund shall be paid out of the Settlement Fund.

- 9.4 The Administrator shall be fully responsible for overseeing the distribution of the proceeds to the Settlement Class, including all related tax issues, and Defendants shall bear no responsibility with respect to the distribution of the Settlement proceeds.

10. EFFECTIVE DATE OF SETTLEMENT; IMPLEMENTATION AND DISTRIBUTION OF THE SETTLEMENT FUND

- 10.1 Effective Date. This Settlement Agreement shall be effective on and as of the first day when each and every condition in Section 4 has been fully satisfied.

- 10.2 Attorneys' Fees and Expenses. Class Counsel may apply to the District Court for an award of attorneys' fees and for reimbursement of expenses to be paid solely from the Settlement Fund. Class Counsel's request for attorneys' fees and for reimbursement of expenses shall not exceed 33 1/3% of the Class Settlement Amount. Apart from their responsibility, if any, for causing the Class Settlement Amount to be paid to the Settlement Fund, in no event shall any Releasee be responsible in any way for the payment of any of Class Counsel's attorneys' fees or expenses, regardless of the amount of any attorneys' fees or expenses approved by the District Court, and regardless of any termination of this Settlement Agreement.

- 10.2.1 Class Counsel's Fee Application. No later than thirty-five (35) days after the Preliminary Approval Order is issued, Class Counsel shall submit a motion to the District Court for an award of attorneys' fees for legal services rendered, plus reimbursement of their expenses incurred in connection with the Action or implementation of this Settlement Agreement, which motion shall be heard at the time of the Final Fairness Hearing. As soon as practicable following the Effective Date, the

Administrator shall disburse to Class Counsel from the Settlement Fund any amounts awarded by the District Court for attorneys' fees and expenses.

10.2.2 Defendants will take no position with respect to any application for attorneys' fees and costs to be paid out of the Settlement Fund, provided that Class Counsel does not seek to recover more than 33 1/3% of the Class Settlement Amount for attorneys' fees.

10.2.3 The effectiveness of this settlement is not contingent upon the District Court awarding Class Counsel's attorneys' fees or expenses, and the settlement shall become final when all of the conditions in Section 4 are satisfied, regardless of the amount of any attorneys' fees or expenses approved by the District Court.

10.3 Plan of Allocation. Class Counsel shall submit the Plan of Allocation to the District Court in connection with the Preliminary Approval Motion for the District Court's consideration of that motion. The costs of implementing the Plan of Allocation shall be paid from the Settlement Fund without further order of the District Court.

10.4 Administrative Costs. All the Administrator's fees and expenses incurred for administration of this settlement, including costs of notice pursuant to Section 9.1 and costs of implementing the Plan of Allocation pursuant to Section 10.3, shall be paid from the Settlement Fund in an amount not to exceed \$25,000. The Administrator will be paid in accordance with the Final Approval Order.

10.5 Implementation. Implementation of this Settlement shall take place following the Effective Date as follows: Attorneys' fees and expenses awarded by the District Court shall be paid by the Administrator from the Settlement Fund to Class Counsel within ten (10) Business Days after the Effective Date. The Administrator shall provide distribution notice and election forms to Class Members within thirty (30) days after the Effective Date. When this Settlement has been fully implemented, the Administrator will certify to

the District Court by way of a declaration filed by Defendants: (1) that the Administrator has used its best and reasonable efforts to properly identify and locate each Class Member; (2) that the amount due to each Class Member has been accurately calculated; and (3) that the Net Settlement Fund has been fully distributed to Class Members. The Parties shall jointly file an Implementation Notice with the Court, substantially in the form attached as Exhibit 4. The Implementation Notice shall be accompanied by the declaration described in this Paragraph.

11. TERMINATION OF THE SETTLEMENT AGREEMENT

- 11.1 Termination. This Settlement Agreement may automatically terminate or be terminated by the Parties, and thereupon become null and void, in the following circumstances: (a) if the District Court declines to enter the Final Approval Order, then this Settlement Agreement shall automatically terminate and become null and void; (b) if the Preliminary Approval Order or the Final Approval Order does not materially satisfy the terms and conditions of this Settlement Agreement such that it materially and adversely affects any Party's rights hereunder, that Party may, within ten (10) Business Days after the District Court's entry of the order, give the other Parties written notice of his, her or its objections. If, within fifteen (15) Business Days after the giving of such written notice or, within fifteen (15) Business Days after the date of the District Court's order following a motion for reconsideration of any such ruling, whichever is later, the Parties have not agreed in writing to proceed with all or part of the Settlement Agreement pursuant to the order as entered by the District Court, then this Settlement Agreement shall automatically terminate, and thereupon become null and void; (c) if the Final Approval Order entered by the District Court is reversed or modified on appeal in a manner that materially and adversely affects a Party's rights, and if within thirty (30)

days after that reversal or modification becomes a Final Order the Parties have not agreed in writing to proceed with all or part of the Settlement Agreement in light of that ruling, then this Settlement Agreement shall automatically terminate and become null and void; or (d) if the Settlement Agreement does not become final as set forth in Section 4, and the Parties have not agreed in writing to proceed with all or part of the Settlement Agreement, then this Settlement Agreement shall automatically terminate and become null and void.

- 11.2 Consequences of Termination of the Settlement Agreement. If the Settlement Agreement is terminated and rendered void for any reason specified in Section 11.1, the following shall occur: (a) the Action shall for all purposes revert to its status as of September 29, 2011; except that the Parties shall jointly submit a revised scheduling order for the District Court's consideration within thirty (30) days after the date of the termination of the Settlement that, among other things, provides additional time for discovery; (b) all releases given under or pursuant to Section 5 of this Settlement Agreement shall be void; none of the terms of the Settlement Agreement shall be effective or enforceable, except the terms set forth in Section 11; neither the fact nor the terms of this Settlement Agreement shall be offered or received in evidence in the Action, or in any other action or proceeding for any purpose, except in an action or proceeding arising under this Settlement Agreement; and (c) the Administrator shall within thirty (30) days after the date of termination of the Settlement cause the return of the entire Settlement Fund to the Insurer, less any taxes and/or expenses paid pursuant to Section 9.3 of this Settlement Agreement, including any interest earned thereon.

12. COVENANTS

- 12.1 Cooperation. The Parties shall reasonably cooperate with each other to effectuate this Settlement and to implement the Class Notice program and the Plan of Allocation.
- 12.2 Covenants Not to Sue. Plaintiffs covenant and agree on their own behalf, and on behalf of the Settlement Class: (a) not to file against any Releasee any claim based on, related to or arising from any Released Claim; and (b) that the foregoing covenants and agreements shall be a complete defense to any such claims against any of the respective Releasees. Defendants covenant and agree: (a) not to file against any Plaintiff any claim based on, related to or arising from claims relating to the institution or prosecution or settlement of this Action, as well as any and all claims for contribution, indemnification or any other claims relating to payment of the Class Settlement Amount; and (b) that the foregoing covenants and agreements shall be a complete defense to any such claims against any of the respective Plaintiffs.
- 12.3 Publicity. Neither the Parties nor their counsel shall issue a press release relating to the Settlement or otherwise publicly comment on the Settlement. Class Counsel agrees to limit all website references to the Action to the Class Notice, case filings (including motions and District Court orders) and updates on the progress of the proposed Settlement.

13. MISCELLANEOUS PROVISIONS

- 13.1 Governing Law. This Settlement Agreement shall be governed by the laws of the State of California without giving effect to the conflict of laws or choice of law provisions thereof, except to the extent that the law of the United States governs any matter set forth in the Settlement Agreement.
- 13.2 Severability. The provisions of this Settlement Agreement are not severable.

- 13.3 Amendment. The Settlement Agreement may be modified, amended, or supplemented only by written agreement signed by the Parties. If such modification, amendment or supplement is material, it may be effectuated only by written agreement signed on behalf of all Parties and only with the approval of the District Court if executed after the entry of the Final Approval Order.
- 13.4 Waiver. The provisions of this Settlement Agreement may be waived only by an instrument in writing executed by the waiving party. The waiver by any Party of any breach of this Settlement Agreement shall not be deemed to be or construed as a waiver of any other breach, whether prior, subsequent, or contemporaneous, of this Settlement Agreement.
- 13.5 Construction. None of the Parties shall be considered to be the drafter of this Settlement Agreement for the purpose of any statute, case law or rule of construction that would or might cause any provision to be construed against the drafter.
- 13.6 Further Assurances. Each of the Parties agrees, without further consideration, and as part of finalizing the settlement, that they will in good faith execute and deliver such other documents and take such other actions as may be reasonably necessary to effectuate this Settlement Agreement.
- 13.7 Survival. Except as set forth in Section 11, all representations, warranties and covenants set forth in this Settlement Agreement shall be deemed continuing.
- 13.8 Notices. Any notice, demand or other communication under this Settlement Agreement (other than the Class Notice or other notices given at the direction of the District Court) shall be in writing and shall be deemed duly given upon receipt if it is addressed to each of the intended recipients as set forth below and personally delivered, sent by registered

or certified mail (postage prepaid), sent by email, or delivered by reputable express overnight courier:

IF TO PLAINTIFFS:

Peter P. Meringolo
Rebecca L. Kassekert
SNYDER MILLER & ORTON LLP
180 Montgomery Street, Suite 700
San Francisco, CA 94104
Telephone: (415) 962-4400
Email: pmeringolo@smollp.com
rkassekert@smollp.com

IF TO DEFENDANTS:

Nicole A. Diller
Alison B. Willard
MORGAN LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 94105
Telephone: (415) 442-1000
Email: ndiller@morganlewis.com
awillard@morganlewis.com

With a copy to:

Gregory C. Braden
MORGAN LEWIS & BOCKIUS LLP
1111 Pennsylvania Avenue, N.W.
Washington D.C. 20004
Telephone: (202) 739-3000
Email: gbraden@morganlewis.com

IF TO THE ADMINISTRATOR:

Nicholas L. Saakvitne
Administrator of Employee Benefit Plan
532 Colorado Avenue, 2nd Floor
Santa Monica, CA 90401-2408
Telephone: (310) 451-3225
Email: saaklaw@aol.com

LETTER TO INSURER:

James T. Hynes
St. Paul Mercury Insurance Company
385 Washington Street, NB03F
St. Paul, MN 55102
Telephone: (651) 310-2682
Email: jhynes@travelers.com

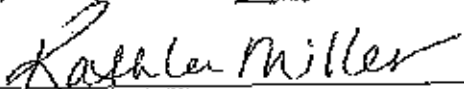
- 13.9 Change of Address: Any Party may change the address at which it is to receive notice by written notice delivered to the other Parties in the manner described above.
- 13.10 Entire Agreement. This Settlement Agreement contains the entire agreement among the Parties relating to this settlement. It specifically supersedes any terms or agreements that were previously agreed upon orally or in writing by any of the Parties including, without limitation, the Settlement Deal Points executed on September 29, 2011 by Plaintiffs and Defendants, by and through their respective counsel.
- 13.11 Counterparts. This Settlement Agreement may be executed by exchange of faxed or emailed executed signature pages, and any signature transmitted by facsimile or email for the purpose of executing this Settlement Agreement shall be deemed an original signature for purposes of this Settlement Agreement. This Settlement Agreement may be executed in counterparts, but all of which, taken together, shall constitute the same instrument.

1.1 Binding Effect. This Settlement Agreement binds and inures to the benefit of the Parties, their assigns, and heirs.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the dates set forth below.

PLAINTIFFS

DATED: November 2, 2011


Kathleen Miller

DATED: November ____, 2011

Sondra Bilet

DATED: November ____, 2011

Mark J. Holland

DATED: November ____, 2011

Katherine Doolittle

1.1 Binding Effect. This Settlement Agreement binds and inures to the benefit of the Parties, their assigns, and heirs.

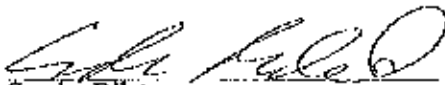
IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the dates set forth below.

PLAINTIFFS

DATED: November ____, 2011

Kathleen Miller

DATED: November 3, 2011



Sondre Bilet

DATED: November ____, 2011

Mark J. Holland

DATED: November ____, 2011

Katherine Doolittle

1.1 Binding Effect. This Settlement Agreement binds and inures to the benefit of the Parties, their assigns, and heirs.

IN WITNESS WHEREOF, the Parties have executed this Settlement Agreement on the dates set forth below.

PLAINTIFFS

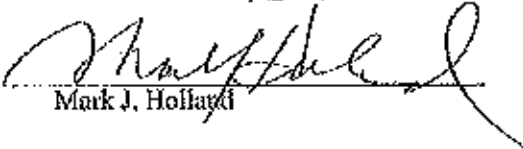
DATED: November ____, 2011

Kathleen Miller

DATED: November ____, 2011

Sondra Rilot

DATED: November 3, 2011



Mark J. Holladay

DATED: November ____, 2011

Katherine Doolittle

1.1 Binding Effect. This Settlement Agreement binds and inures to the benefit of the Parties, their assigns, and heirs

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PLAINTIFFS

DATED: November _____, 2011

Kathleen Miller

DATED: November _____, 2011

Sondra Bllet

DATED: November _____, 2011

Mark J. Holland

DATED: November 3, 2011

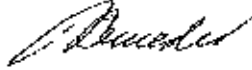
Katherine Doolittle
Katherine Doolittle

DEFENDANTS

DATED: November 4, 2011

PALM DESERT INVESTMENTS

BY:

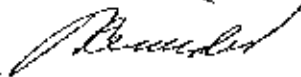


Richard Schneider, President and Chief Executive Officer

DATED: November 4, 2011

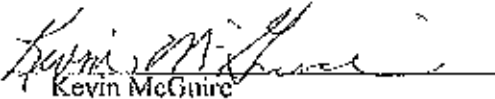
PALM DESERT NATIONAL BANK

BY:



Richard Schneider, President and Chief Executive Officer

DATED: November 2nd, 2011


Kevin McGuire

DATED: November , 2011

APPROVED AS TO FORM:
ST. PAUL MERCURY INSURANCE
COMPANY

BY:

James T. Hynes

DB17 68429056.1

DEFENDANTS

DATED: November _____, 2011

PALM DESERT INVESTMENTS

BY:

Richard Schneider, President and Chief
Executive Officer

DATED: November _____, 2011

PALM DESERT NATIONAL BANK

BY:

Richard Schneider, President and Chief
Executive Officer


DATED: November _____, 2011

Kevin McGuire

DATED: November 2, 2011

APPROVED AS TO FORM:
ST. PAUL MERCURY INSURANCE
COMPANY

BY:



James T. Hynes

DBI/68429056.1

EXHIBIT 1

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

<p>KATHLEEN MILLER, SONDRÉ BILET, MARK J. HOLLAND AND KATHERINE DOOLITTLE</p> <p>Plaintiffs,</p> <p>vs.</p> <p>PALM DESERT INVESTMENTS, PALM DESERT NATIONAL BANK, KEVIN MCGUIRE and DOES 1- 10,</p> <p>Defendants.</p>	<p>Case No. CV-11-02454 CBM (RZx)</p>
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NOTICE OF CLASS ACTION SETTLEMENT

**Your legal rights might be affected
if you are a member of the following Class:**

All Persons who were participants in or beneficiaries of the Palm Desert Investments Employee Stock Ownership Plan (the "Plan") and whose individual Share Accounts held vested shares of stock of Palm Desert Investments from September 30, 2006 through September 1, 2011 (the "Settlement Class"); provided, however, that Defendants, former and present directors of Palm Desert Investments and/or Palm Desert National Bank and their heirs, Successors-in-Interest, or assigns, to the extent such Persons acquire an interest held by Defendants, are excluded from the Settlement Class.

**A FEDERAL COURT AUTHORIZED THIS NOTICE.
THIS IS NOT A SOLICITATION.
YOU HAVE NOT BEEN SUED.
PLEASE READ THIS NOTICE CAREFULLY.**

U.S. District Court Consuelo B. Marshall of the United States District Court for the Central District of California (the "Court") has preliminarily approved a proposed settlement of a class action ("Lawsuit") brought under the Employee Retirement Income Security Act ("ERISA") (the "Settlement"). The Settlement will provide for payments to the Palm Desert Investments Employees Stock Ownership Plan (the "Plan") and for allocation of those payments to the accounts of members of the Settlement Class. The Settlement is summarized below.

The Court has scheduled a hearing on final approval of the Settlement and award of attorneys' fees and expenses. The hearing before Judge Marshall has been scheduled for _____, at _____ a.m. in Courtroom 2 of the United States District Court for the Central District of California, 312 N. Spring Street, Los Angeles, California 90012.

Any objections to the Settlement or the motion(s) for attorneys' fees and expenses must be filed with the Court, served in writing on Class Counsel for the Settlement Class identified on page 9

of this Notice, and served in writing on Defendants' attorneys, who are identified on page 9 of this Notice. The procedure for objecting is described below.

This Notice contains summary information with respect to the Settlement. The terms and conditions of the Settlement are set forth in a Class Action Settlement Agreement (the "Settlement Agreement"). Capitalized terms used in this Notice but not defined in this Notice have the meanings assigned to them in the Settlement Agreement. The Settlement Agreement, and additional information with respect to this Lawsuit and the Settlement, are available from Class Counsel via www.smollp.com.

PLEASE READ THIS NOTICE CAREFULLY. IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS TO WHOM THIS NOTICE IS ADDRESSED, THE SETTLEMENT WILL AFFECT YOUR RIGHTS. YOU ARE NOT BEING SUED. YOU DO NOT HAVE TO APPEAR IN COURT, AND YOU DO NOT HAVE TO HIRE AN ATTORNEY IN THIS CASE. IF YOU ARE IN FAVOR OF THE SETTLEMENT, YOU NEED NOT DO ANYTHING. IF YOU DISAPPROVE, YOU MAY OBJECT TO THE SETTLEMENT PURSUANT TO THE PROCEDURES DESCRIBED BELOW.

YOUR LEGAL RIGHTS AND OPTIONS UNDER THE SETTLEMENT	
YOU CAN DO NOTHING. NO ACTION IS NECESSARY TO RECEIVE PAYMENT.	<p>If the Settlement is approved by the Court and you are a member of the Settlement Class, you will not need to do anything to receive a payment, if any. The portion of the Net Settlement Fund to be allocated to your Plan account, if any, will be calculated as part of the implementation of the Settlement.</p> <p>You will have an opportunity to elect whether to roll your individual recovery into a qualified retirement plan or individual retirement account OR to receive a check for your share of the settlement, which will be taxed according to the federal tax code.</p> <p>You will give up any rights you may have to sue any of the Released Parties for any Released Claims you may have against them.</p>
FILE AN OBJECTION. (POSTMARKED ON OR BEFORE _____)	<p>If you wish to object to any part of the Settlement, you may write to the Court and counsel and explain why you object to the Settlement.</p>
FILE AN INTENTION TO APPEAR AT THE FAIRNESS HEARING. (POSTMARKED ON OR BEFORE _____)	<p>If you submit a written objection to the Court and counsel before the Court-approved deadline, you may (but do not have to) attend and ask to speak in Court about the fairness of the Settlement and present your objection to the Court. If you wish to speak at the hearing, you must include in your objection your intention to speak at the hearing.</p>

- These rights and options — **and the deadlines to exercise them** - are explained in this Notice.
- The Court still has to decide whether to approve the Settlement. Payments will be made only if the Court approves the Settlement and that approval is upheld in the event that anybody appeals from the Court's approval.
- Further information regarding the lawsuit and this notice may be obtained by contacting Class Counsel:

Peter Meringolo
 Rebecca Kassckert
 Snyder Miller & Orton LLP
 180 Montgomery Street, Suite 700
 San Francisco, CA 94104
 (415) 962-4400
 www.smollp.com

WHY YOU RECEIVED THIS NOTICE (CONTENTS)		
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1. WHY YOU RECEIVED THIS NOTICE

You received this notice because Plan records indicate that you were a participant in or beneficiary of the Plan at any time from September 30, 2006 through September 1, 2011 whose individual Share Accounts held vested shares of stock of Palm Desert Investments. The Court caused this Notice to be sent to you because, if you fall within that group, you have a right to know about the Lawsuit, the Settlement, and all of your options before the Court decides whether to approve the Settlement. If the Court approves the Settlement, the net amount of the Settlement Fund will be allocated among eligible Settlement Class Members by the Settlement Administrator. This Notice describes the Lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

2. DESCRIPTION OF THE LAWSUIT

The Plaintiffs filed this lawsuit on March 23, 2011 (the "Lawsuit"). This case stems from the investment of assets of the Plan in stock of Palm Desert Investments ("PDI") the bank holding company for Palm Desert National Bank (the "Bank"). Plaintiffs assert that Defendants acted improperly in investing Plan assets in PDI stock while the Bank allegedly was engaged in unsafe and unsound banking practices.

Plaintiffs claim that Defendants PDI, Bank and Kevin McGuire were the fiduciaries of the Plan and breached their duties of loyalty and prudence under ERISA by continuing Plan investments in PDI stock when the stock was an imprudent investment, and by misrepresenting and failing to disclose to plan participants material information concerning the Plan's investment in PDI stock. Plaintiffs asked the Court to order the Defendants to restore the losses to the Plan that Plaintiffs allege resulted from Defendants' breaches of fiduciary duty.

Defendants deny any and all wrongdoing and maintain that the PDI stock was never "imprudent" and the decline in PDI stock was caused by the unforeseeable global economic collapse. The Defendants deny that they have liability to the Plan or its participants or beneficiaries. Defendants have raised numerous defenses to liability, including that there was no market on which to sell the PDI stock, even if it was "imprudent" to hold, that they fully discharged all fiduciary duties imposed on them by ERISA and that the Plan's investments were at all times prudent.

The parties have engaged in discovery and Class Counsel invested significant time and effort investigating and analyzing the allegations set forth in the Complaint. Through that investigation and through discovery of additional information in the Lawsuit, Class Counsel have obtained and reviewed many documents, including documents and materials governing the Plans, communications with Plan participants, internal Company documents regarding the Plans, press releases, public statements, and news articles.

On April 25, 2011, the Defendants moved to dismiss Plaintiffs' complaint. The Plaintiffs aggressively defended against the Motion and extensively briefed the issues before the Court. On July 19, 2011, the Court issued an order granting in part and denying in part Defendants' motion to dismiss. The Court dismissed claims that the fiduciaries failed to monitor one another, that the fiduciaries acted under a conflict of interest and dismissed all claims against previously named defendant Rhonda Swanson. The Court allowed all remaining claims to proceed, including Plaintiffs' claim that the Defendants failed to prudently manage the Plan's assets. A copy of that order is available at www.smollp.com.

In September 2011, the parties and their lawyers attended a full-day mediation with the assistance of professional mediator Jeffrey Lewis, a well-respected attorney who has

served as class counsel in similar ERISA cases. Mr. Lewis was instrumental in the parties' assessment of the risks involved in this case and the ultimate settlement of this matter. This Settlement is the product of arms-length negotiations between Class Counsel and defense counsel, with the assistance and participation of the professional mediator.

3. THIS CASE IS A CLASS ACTION

This is a class action lawsuit, where the Named Plaintiffs have sued on behalf of people who have similar claims. All of the individuals on whose behalf the Named Plaintiffs are suing are "Settlement Class Members." One court will resolve the issues for all Settlement Class Members. The lawsuit is pending in the District Court for the Central District of California before U.S. District Judge Consuelo B. Marshall. In an order dated _____, the Court granted preliminary approval of the Settlement and certified a class on Plaintiffs' claims. Copies of the Complaint, Order Granting Preliminary Approval of Settlement, Class Counsel's motion for attorneys' fees and expenses, and other documents filed in the Lawsuit are available at www.smollp.com.

4. POTENTIAL OUTCOME OF THE LAWSUIT

In reaching a settlement, the parties have avoided the cost, time and risk associated with a trial. As with any litigated case, Plaintiffs would face an uncertain outcome if the Lawsuit were to continue against the Defendants. Continued prosecution of the Lawsuit against these Defendants could result in a judgment or verdict greater or lesser than the recovery under the Settlement, or in no recovery at all. Defendants are covered by a fiduciary liability insurance policy with a coverage limit of \$5 million for all fiduciary claims -- including potential claims by the FDIC. The policy is a "wasting policy," meaning that the legal costs of defending this lawsuit erode the amount of insurance funds available to satisfy a judgment and significant defense costs have already been incurred over the past year. Had this case not settled, there was a significant risk that defense costs would have eroded the insurance policy limit of \$5 million, and the Plaintiffs would have a difficult time collecting on a judgment if they were successful in winning at trial.

Throughout this Lawsuit, the Plaintiffs and the Defendants have disagreed on both liability and damages, and they do not agree on the amount that would be recoverable even if the Plaintiffs were to win the case.

The Defendants have denied and continue to deny the claims and contentions alleged by the Plaintiffs, that they are liable at all to the Class, and that the Class or the Plan has suffered any damages for which the Defendants could be legally responsible. Nevertheless, the Defendants have taken into account the uncertainty and risks inherent in any litigation, particularly in a complex case such as this, as well as the costs of litigation, and have concluded that it is desirable that the case be fully and finally settled as to them on the terms and conditions set forth in the Settlement.

The Plaintiffs and their attorneys believe that they have strong claims against the Defendants. However, they recognize that there is uncertainty and risk in any litigation. In addition, they understand that even if they win the case, they could recover for the Plan and its participants less than the Settlement amount, and that any recovery could be delayed for as much as several years or even voided by an appeal. As a result, the Plaintiffs and their attorneys have concluded that it is desirable to settle the case on the terms set forth in the Settlement.

5. WHO IS AFFECTED BY THIS LAWSUIT

On _____, the Court certified the following class ("the Settlement Class"):

All Persons who were participants in or beneficiaries of the Palm Desert Investments Employee Stock Ownership Plan (the "Plan") and whose individual Share Accounts held vested shares of stock of Palm Desert Investments from September 30, 2006 through September 1, 2011; provided, however, that Defendants, former and present directors of Palm Desert Investments and/or Palm Desert National Bank and their heirs, Successors-in-Interest, or assigns, to the extent such Persons acquire an interest held by Defendants, are excluded from the Settlement Class.

Any individual who is a member of the Settlement Class will be affected by this Lawsuit.

6. HOW YOU MAY BE AFFECTED BY THIS LAWSUIT

You have been sent this notice because you may be a member of the class described above. If so, the outcome of the case will affect your rights with respect to your benefits under the Plan. As a member of the class, you are automatically included as a plaintiff in these claims and do not have the right to withdraw yourself from this litigation. You will be bound by any judgment made by the Court, whether favorable or unfavorable to you.

You do not need to do anything in order to be a class member in this lawsuit. You do not need to affirmatively state your intent to participate, nor can you exclude yourself from the litigation.

7. SUMMARY OF SETTLEMENT

The following is a summary of the terms of the settlement:

- A Settlement Fund consisting of \$950,000 in cash will be established.
- If the Court approves the Settlement and no appeals are taken, or if the Court's approval is affirmed on appeal, then any Court-approved attorneys' fees and costs (requested in the amount of approximately \$325,000), Settlement Administrator's fees and costs (not to exceed \$25,000), and any fees and taxes, will be paid out of this fund. The remaining amount, including interest ("Net Settlement Fund") will be paid to the Plan. The amount paid to the Plan will be allocated among members of the Settlement Class in accordance with the Plan of Allocation.
- Nicholas L. Saakvitne, an experienced pension attorney and professional Trustee with experience in administering terminated plans, will serve as the Settlement Administrator. He will provide notice to class members; prepare tax forms, as necessary; compute and distribute the Net Settlement Fund among Settlement Class Members; provide distribution election forms and tax information to each Settlement Class Member; respond to Settlement Class Member inquiries regarding distributions; and complete tax reports of distributions. The cost of the administration of the Settlement will come from the Settlement Fund. This cost will be paid from the Settlement, up to a maximum \$25,000. Costs of the Settlement Administrator exceeding \$25,000 will be paid by Defendants.
- In exchange for these things, the Named Plaintiffs and each of the Settlement Class Members are deemed to fully release the "Released Persons" from the "Released Claims." The Released Persons are the Defendants and certain persons and entities

affiliated with Defendants, as defined in the Settlement. The Released Claims generally include all claims that could have been asserted against the Defendants for their actions (or inaction) in relation to the Plan. By way of examples, the Released Claims include claims based on (a) imprudent investment of Plan assets, (b) improper investigation of Plan investments, (c) improper monitoring of Plan investments, (d) plan communications, and (e) the Defendants' actions in relation to administration of the Plan. This means that Settlement Class members will not have the right to sue the Releasees for any such claims if the settlement is approved.

The above description of the operation of the Settlement is only a summary. The full terms and conditions of the Settlement are contained in a Stipulation and Agreement of Compromise and Settlement of Class Action (the "Settlement"). Capitalized terms used in this Notice, but not defined in this Notice, have the meanings assigned to them in the Settlement. The governing provisions are set forth in the Settlement (including its exhibits), which may be obtained at www.smollp.com, by contacting Class Counsel, or by contacting the Settlement Administrator.

8. YOUR SHARE OF THE SETTLEMENT

On _____, Class Counsel submitted a detailed Plan of Allocation to the Court for approval at or after the Fairness hearing. The Plan of Allocation, which may be obtained at www.smollp.com or by contacting Class Counsel, describes how the Settlement will be paid into the Plan and how the Net Settlement Amount will be distributed to Settlement Class Members.

Your share of the Net Settlement Fund paid into the Plan will depend on your proportionate share of the Plan's loss attributed to the Plan's investment in shares of stock in Palm Desert Investments from September 30, 2006 through September 1, 2011, excluding those assets allocated to the accounts of persons excluded from the allocation (such as Defendants). If your Plan Share Account did not have a vested balance of shares of stock in Palm Desert Investments from September 30, 2006 through September 1, 2011, or if your Share Account did not experience a loss based on the vested balance of shares of stock in Palm Desert Investments from September 30, 2006 through September 1, 2011, you will not receive an allocation from the Net Settlement Fund.

Because the Net Settlement Fund is less than the total investment losses alleged by the Settlement Class, each Settlement Class Member's proportionate recovery will be less than the amount of the Plan's loss attributable to his or her former employer stock fund account. Because Settlement Fund distributions represent additional benefits under the Plan, it is anticipated that they will be eligible for rollover to an individual retirement account or another employer's qualified plan that accepts rollovers.

You are not responsible for calculating the amount you may be entitled to receive under the Settlement. This calculation will be done as part of the implementation of the Settlement. In general, your proportionate share of the Net Settlement Fund will be calculated as follows:

- Using the Plan's records and other records as necessary, the Settlement Administrator will identify each member.
- The Settlement Administrator will use Plan records to determine the amount of loss of each Settlement Class Member's Share Account from September 30, 2006 through September 1, 2011.

- Each Settlement Class Member with a vested balance will be assigned a Loss Percentage, which shall be his or her Share Account loss as a percentage of the loss by the entire Settlement Class from September 30, 2006 through September 1, 2011.
- The Settlement Administrator will allocate to each Settlement Class Member a share by multiplying the Net Settlement Fund by the Settlement Class Member's Loss Percentage.

If you are entitled to a share of the Net Settlement Fund, you will receive a statement showing the amount of your share, together with paperwork to elect a form of distribution. If you have questions regarding the Settlement or the Plan of Allocation, please contact Class Counsel.

Payment is conditioned on several things, including the Court's approval of the settlement and that approval becoming a Final Order and no longer subject to appeal. Depending on Court process, distribution could take several months or more than a year; please be patient.

9. LEGAL REPRESENTATION

The Court has determined that the interests of the members of the Settlement Class will be represented by Plaintiffs Miller, Bilet, Holland and Doolittle through their attorneys, as counsel for the Settlement Class. Because the Court has approved these attorneys as Class Counsel, and because this is a mandatory class, you do not have the right to change counsel for the class.

Attorneys for Plaintiffs and the Settlement Class are:

Peter Meringolo
Rebecca Kassekert
Snyder Miller & Orton LLP
180 Montgomery Street, Suit 750
San Francisco, CA 94104
Telephone: (415) 962-4400
Facsimile: (415) 962-4401
Email: pmeringolo@smollp.com
rkassekert@smollp.com

Class members may enter appearances in this lawsuit. However, class members are responsible for compensating any attorney that they hire for this purpose and will not receive any reimbursement from Plaintiffs or the Settlement Class.

10. PAYMENT OF ATTORNEYS' FEES

Class Counsel are being paid for their time on a contingency basis, which means that if there is no recovery on the class claims, there will be no attorneys' fees awarded and the attorneys will not be paid for their time. If there is a recovery on one or more of the claims, Class Counsel will receive attorneys' fees as determined by the Court, which may be a part of any settlement obtained or money judgment in favor of the members of the Settlement Class.

Class Counsel have applied to the Court for an order awarding to Class Counsel, from the proceeds of the Settlement Fund, attorneys' fees of 33 1/3% of the amount recovered in the Settlement (\$316,000), plus reimbursement of the expenses they have incurred to litigate the case

(approximately \$9,000). The motion for attorneys' fees will be available on Class Counsel's website, www.smollp.com, as of [INSERT DATE] (thirty-five days after the Preliminary Approval Order is issued).

You will not be charged directly by these attorneys. If you choose to be represented by your own lawyer, you may hire one at your own expense.

11. OBJECTING TO THE SETTLEMENT OR THE ATTORNEYS' FEES

You can tell the Court that you do not agree with the Settlement or some part of it, including the attorneys' fees and expenses the attorneys intend to seek. If you are a Settlement Class Member, you can object to the Settlement if you do not like any part of it. You can give reasons why you think the Court should not approve it.

To object, you must send a letter or other written statement saying that you object to the Settlement of *Miller v. Palm Desert Investments, et al.*, Case No. CV 11-2454. Be sure to include your name, address, telephone number, signature, and a full explanation of all reasons you object to the Settlement. Your written objection must be filed with the District Court, and sent to the lawyers listed below by _____ :

File with the Clerk of the Court:

Clerk of the Court
United States District Court for the Central District of California
312 N. Spring Street, Los Angeles, California 90012
Re: *Miller v. Palm Desert Investments, et al.*, Case No. CV 11-2454

And, by the same date, send copies of all such papers to each of the following:

Plaintiffs' Settlement Class Counsel:

Peter Meringolo
Rebecca Kassekert
Snyder Miller & Orton LLP
180 Montgomery Street, Suite 750
San Francisco, CA 94104
Re: *Miller v. Palm Desert Investments, et al.*, Case No. CV 11-2454

Defendants' Counsel:

Nicole Diller
Alison Willard
Morgan Lewis & Bockius, LLP
One Market, Spear Street Tower, San Francisco CA 94105
Re: *Miller v. Palm Desert Investments, et al.*, Case No. CV 11-2454

UNLESS OTHERWISE ORDERED BY THE COURT, ANY SETTLEMENT CLASS MEMBER WHO DOES NOT OBJECT IN THE MANNER DESCRIBED ABOVE WILL BE DEEMED TO HAVE WAIVED ANY OBJECTION AND SHALL BE FOREVER FORECLOSED FROM OBJECTING TO THE PROPOSED SETTLEMENT AND THE APPLICATION FOR ATTORNEYS' FEES AND EXPENSES.

12. THE COURT'S FAIRNESS HEARING

The Court will consider whether to approve the Settlement as fair, adequate, and reasonable (the "Fairness Hearing"). The Fairness Hearing, before United States District Judge Consuelo B. Marshall, has been scheduled for _____, at _____ a.m. at the United States District Court for the Central District of California, 312 N. Spring Street, Los Angeles, California 90012. **YOU ARE NOT REQUIRED TO ATTEND THE FAIRNESS HEARING.**

You may attend the Fairness Hearing in person or through an attorney retained at your expense. If there are objections, the Court will consider them. After the Fairness Hearing, the Court will decide whether to approve the Settlement. The Court also will rule on the motions for attorneys' fees and expenses, as well as the proposed Plan of Allocation. We do not know how long after the Fairness Hearing the Court will issue its decisions.

You do not have to attend the fairness hearing. Class Counsel will answer any questions Judge Marshall may have. But you are welcome to come at your own expense. If you send an objection, you do not have to come to Court to talk about it. As long as you mail your written objection on time, it will be before the Court when the Court considers whether to approve the Settlement as fair, adequate, and reasonable. You also may have your own lawyer attend the Fairness Hearing, but such attendance is not necessary. If you wish to speak at the Fairness Hearing, you must state in your objection your intention to do so, and must identify any witnesses you intend to call or evidence you intend to present.

13. FURTHER INFORMATION

Further information regarding the Lawsuit and this Notice may be obtained by contacting Class Counsel:

Peter Meringolo
Rebecca Kassekert
Snyder Miller & Orton LLP
180 Montgomery Street, Suite 750
San Francisco, CA 94104
Telephone: (415) 962-4400
Facsimile: (415) 962-4401
Email: pmeringolo@smollp.com
rkassekert@smollp.com
www.smollp.com

THIS NOTICE AND ITS CONTENT HAS BEEN AUTHORIZED BY THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, THE HONORABLE CONSUELO B. MARSHALL, UNITED STATES DISTRICT COURT JUDGE. THE COURT HAS MADE NO DECISION ABOUT THE MERITS OF THE CLAIMS OR DEFENSES ASSERTED BY ANY PARTY IN THIS CASE.

EXHIBIT 2

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION – LOS ANGELES

KATHLEEN MILLER, SONDRÉ
BILLET, MARK J. HOLLAND and
KATHERINE DOOLITTLE,

Plaintiffs,

v.

PALM DESERT INVESTMENTS,
PALM DESERT NATIONAL BANK,
KEVIN McGUIRE, and DOES 1-10,

Defendants.

Case No. CV-11-02454 CBM (RZx)

**[PROPOSED] ORDER GRANTING
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT**

Courtroom: 2 – 2nd Floor
Judge: Hon. Consuelo B. Marshall

1 This Action involves claims for alleged violations of the Employee
2 Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1001 *et seq.*
3 (“ERISA”), with respect to the Palm Desert Investments Employee Stock
4 Ownership Plan and Trust (the “Plan”).

5 Presented to the District Court for preliminary approval is a settlement
6 between the Parties. The terms of the Settlement are set out in a Class Action
7 Settlement Agreement (“Settlement Agreement”) filed with the Court on November
8 14, 2011.

9 The Court has preliminarily considered the Settlement to determine, among
10 other things, whether it warrants the issuance of notice to members of the
11 Settlement Class. Upon reviewing the Settlement Agreement, it is hereby
12 ORDERED, ADJUDGED AND DECREED as follows:

13 1. Class Certification. The Court preliminarily finds that the
14 requirements of the United States Constitution, the Federal Rules of Civil
15 Procedure and any other applicable laws have been met as to the Settlement Class¹
16 defined below in that:

- 17 a. The Settlement Class is cohesive and well defined;
- 18 b. The members of the Settlement Class are reasonably
19 ascertainable from records kept with respect to the Plan, and the members of
20 the Settlement Class are so numerous that their joinder before the Court
21 would be impracticable;
- 22 c. Based on allegations in the Complaint, the Court preliminarily
23 finds that there are one or more questions of fact and law common to the
24 Settlement Class;
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27 ¹ The initial capitalization of terms not defined in this order shall have the meanings assigned to
28 them in the Settlement Agreement.

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d. Based on the terms of the Complaint and the proposed Settlement, the Court finds that Plaintiffs' claims are typical of the claims of the Settlement Class;

e. Plaintiffs will fairly and adequately protect the interests of the Settlement Class in that: (i) the interests of Plaintiffs in the nature of the alleged claims and the Settlement are consistent with those of the members of the Settlement Class; (ii) there appear to be no conflicts between or among Plaintiffs and the Settlement Class; and (iii) Plaintiffs and the Settlement Class are represented by qualified counsel who are experienced in preparing and prosecuting large, complicated class actions;

f. Based on the Complaint, the prosecution of separate actions with individual members of the Settlement Class would create a risk of: (i) inconsistent or varying adjudications as to individual Settlement Class members that would establish incompatible standards of conduct for the parties opposing the claims asserted in the Action; or (ii) adjudications as to individual Settlement Class members that would, as a practical matter, be dispositive of the interests of the other Settlement Class members not parties to the adjudications, or substantially impair or impede the ability of those persons to protect their interests; and

2. Based on the findings set out in Paragraph 1, the Court preliminarily certifies the following class for settlement purposes only under Federal Rule of Civil Procedure 23(b)(1):

All Persons who were participants in or beneficiaries of the Palm Desert Investments Employee Stock Ownership Plan and whose individual Share Accounts held vested shares of stock of Palm Desert Investments from September 30, 2006 through September 1, 2011; provided, however, that Defendants, former and present directors of Palm Desert Investments and/or Palm Desert National Bank and their heirs, Successors-in-Interest, or assigns, to the extent such Persons acquire an interest held by Defendants, are excluded from the Settlement Class.

1 3. Appointments.

2 a. The Court preliminarily appoints Plaintiffs Kathleen Miller,
3 Sondre Bilet, Mark J. Holland and Katherine Doolittle as class representatives for
4 the Settlement Class. The Court also preliminarily appoints Snyder Miller and
5 Orton LLP as Class Counsel for the Settlement Class.

6 b. The Court appoints Nicholas L. Saakvitne as Administrator for
7 the purpose of implementing the Settlement. The Administrator shall be fully
8 responsible for overseeing the distribution of the proceeds to the Settlement Class,
9 including all related tax issues. The Administrator's fees and expenses incurred for
10 administration of this settlement, including costs of administering the Class Notice
11 pursuant to Section 3c shall be paid from the Settlement Fund in an amount not to
12 exceed \$25,000. The Administrator will be paid in accordance with the Final
13 Approval Order.

14 c. The Court further appoints Nicholas L. Saakvitne as
15 Administrator of the Settlement for purposes of transmitting the Class Notice to the
16 Settlement Class. Payment for these services shall be deferred until the Effective
17 Date of the Settlement. In the event the Settlement does not become effective, Mr.
18 Saakvitne shall be reimbursed by the Insurer for his reasonable costs of
19 administering the Class Notice in conformance with the Settlement, which amount
20 shall not exceed \$5,000.

21 d. The Court appoints Nicholas L. Saakvitne as Independent
22 Fiduciary to review the Settlement Agreement under the Department of Labor's
23 Prohibited Transaction Class Exemption 2003-29, as amended. Mr. Saakvitne will:
24 (i) review and evaluate the terms and conditions of the Settlement, including the
25 consideration received by the Plan, proposed attorneys fees and other sums paid
26 from the Settlement Fund, the proposed plan of allocation and the scope of the
27 release; (ii) determine whether the terms and conditions of the transaction are no

1 less favorable to the Plan than comparable arms-length terms and conditions that
2 would have been agreed to by unrelated parties under similar circumstance; (iii)
3 determine if the transaction is part of an agreement, arrangement, or understanding
4 designed to benefit a party in interest to the Plan; and (iv) determine whether the
5 Plan should approve of the release required under the Settlement. Mr. Saakvitne
6 shall undertake this review and analysis for the sum of \$10,000, which will be paid
7 by the Insurer within ten (10) days of the date of this Order.

8 4. Preliminary Findings Concerning Proposed Settlement. The Court
9 preliminarily finds that the proposed Settlement should be approved as: (i) the
10 result of serious, extensive arms-length and non-collusive negotiations; (ii) fair,
11 reasonable, and adequate; (iii) having no obvious deficiencies; (iv) not improperly
12 granting preferential treatment to Plaintiffs or segments of the Settlement Class; (v)
13 falling within the range of possible approval; and (vi) warranting notice to
14 Settlement Class members of a formal fairness hearing, at which evidence may be
15 presented in support of and in opposition to the proposed Settlement.

16 5. Final Fairness Hearing. A hearing is scheduled for March 5, 2012 or
17 after (the "Final Fairness Hearing") to determine, among other things:

18 a. Whether the Settlement should be finally approved as fair,
19 reasonable, and adequate;

20 b. Whether the litigation should be dismissed with prejudice
21 pursuant to the terms of the Settlement Agreement;

22 c. Whether the Class Notice and the means of dissemination
23 provided for by the Settlement Agreement: (i) constituted the best practicable
24 notice; (ii) constituted notice that was reasonably calculated, under the
25 circumstances, to apprise members of the Settlement Class of the pendency
26 of the litigation, their right to object to the Settlement, and their right to
27 appear at the Final Fairness Hearing; (iii) was reasonable and constituted due,
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1 adequate, and sufficient notice to all Persons entitled to notice; and (iv) met
2 all applicable requirements of the Federal Rules of Civil Procedure and any
3 other applicable law;

4 d. Whether Class Counsel adequately represented the Settlement
5 Class for purposes of entering into and implementing the Settlement
6 Agreement;

7 e. Whether the Plan of Allocation should be approved; and

8 f. Whether the application for attorneys' fees and expenses filed
9 by Class Counsel should be approved.

10 6. Notices. The Court approves the form of class notice attached to the
11 Motion for Preliminary Approval. The Court finds that the form fairly and
12 adequately: (i) describes the terms and effect of the Settlement Agreement and of
13 the Settlement; (ii) notifies the Settlement Class concerning the proposed Plan of
14 Allocation; (iii) notifies the Settlement Class that Class Counsel will seek
15 attorneys' fees and expenses not to exceed 33 1/3% of the Settlement Fund; (iv)
16 gives notice to the Settlement Class of the time and place of the Final Fairness
17 Hearing; and (v) describes how the recipients of the Class Notice may object to any
18 of the relief requested. The Court directs that, pursuant to the Settlement
19 Agreement:

20 a. Within seven (7) days of the date of this Order, the
21 Administrator shall cause the Class Notice attached as Exhibit 1, with blanks
22 completed and such non-substantive modifications as may be agreed upon by the
23 Parties, to be sent to each member of the Settlement Class listed in the records of
24 the Plan's record keeper. The notice shall be sent by first-class mail to each of the
25 Settlement Class member's last known address.
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1 b. At or before the Final Fairness Hearing, Class Counsel shall file
2 with the Court a declaration of the Administrator's proof of timely compliance with
3 the foregoing requirements.

4 7. Objections to Settlement. Any member of the Settlement Class who
5 wishes to object to the fairness, reasonableness, or adequacy of the Settlement, to
6 the Plan of Allocation, to any term of the Settlement Agreement, or to the proposed
7 award of attorneys' fees and expenses may file an objection. An objector must file
8 with the Court a statement of his, her or its objections, specifying the reasons for
9 each objection, including any legal support or evidence that the objector wishes to
10 bring to the Court's attention. The objector must also mail the objection and all
11 supporting law and evidence to Class Counsel and to Defendants' Counsel. The
12 addresses for filing objections with the Court and service on counsel are as follows:
13

14 **To the Court:**

15 Clerk of the Court
16 U.S. District Court for the Central District of California, Western
17 Division
18 Spring Street Courthouse, 2-2nd Floor
19 312 N. Spring Street, Los Angeles, CA 90012

20 **To Class Counsel:**

21 Peter P. Meringolo
22 Rebecca L. Kassekert
23 SNYDER MILLER & ORTON LLP
24 180 Montgomery Street, Suite 700
25 San Francisco, CA 94104

26 **To Defendants' Counsel:**

27 Nicole A. Diller
28 MORGAN LEWIS & BOCKIUS LLP
29 One Market, Spear Street Tower
30 San Francisco, CA 94105

31 The objector or his, her or its counsel (if any) must effect service of the
32 objection on counsel listed above and file it with the Court within sixty (60) days of
33 the date of this Order. If an objector hires an attorney to object pursuant to this

1 Paragraph, the attorney must both effect service of a notice of appearance on
2 counsel listed above and file it with the Court within sixty (60) days of the date of
3 this Order. Except for good cause shown, any member of the Settlement Class or
4 other person who does not timely file and serve a written objection complying with
5 the terms of this paragraph shall be deemed to have waived, and shall be foreclosed
6 from raising, any objection to the Settlement, and any untimely objection shall be
7 barred.

8 8. Appearance at Final Fairness Hearing. Any objector who files and
9 serves a timely, written objection may appear at the Fairness Hearing either in
10 person or through counsel retained at the objector's expense. Any objector
11 intending to appear at the Final Fairness Hearing shall indicate that intention in the
12 objection filed and served in accordance with Paragraph 7.

13 9. Service of Papers. If it appears that any objections were not properly
14 filed or served, Defendants' Counsel and Class Counsel shall promptly furnish each
15 other with copies of any and all such objections that come into their possession and
16 file them with the Court.

17 10. Fee Petition. Class Counsel shall file an application for attorneys' fees
18 and expenses within thirty-five (35) days of the date of this Order.

19 11. Injunction. Pending the final determination of the fairness,
20 reasonableness and adequacy of the proposed Settlement, all members of the
21 Settlement Class are enjoined from instituting or commencing any action against
22 Defendants and Releasees based on the Released Claims, and all proceedings in this
23 action, except those related to approval of the Settlement, are stayed.

24 12. Termination of Settlement. This Order shall become void and shall be
25 without prejudice to the rights of the Parties, all of whom shall be restored to their
26 respective positions existing as of September 29, 2011 pursuant to Section 11.1 of
27 the Settlement Agreement, if the Settlement is terminated in accordance with the
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Settlement Agreement or does not receive final approval. In such event, Section 11 of the Settlement Agreement shall govern the rights of the Parties.

13. Use of Order. Neither the fact nor the terms of this Order shall be construed or used as an admission, concession, or declaration by or against Defendants of any fault, wrongdoing, breach, or liability or as a waiver by any Party of any arguments, defenses, or claims he, she, or it may have, including but not limited to any objections by Defendants to class certification in the event that the Settlement Agreement is terminated or not given final approval.

14. Continuance of Hearing. The Court may in its discretion continue the Fairness Hearing without further written notice.

IT IS SO ORDERED.

Dated: _____

Honorable Consuelo B. Marshall
United States District Court Judge

EXHIBIT 3

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION – LOS ANGELES

KATHLEEN MILLER, SONDRÉ
BILET, MARK J. HOLLAND and
KATHERINE DOOLITTLE,

Plaintiffs,

v.

PALM DESERT INVESTMENTS,
PALM DESERT NATIONAL BANK,
KEVIN McGUIRE, and DOES 1-10,

Defendants.

Case No. CV-11-02454 CBM (RZx)

**[PROPOSED] FINAL ORDER AND
JUDGMENT**

Courtroom: 2 – 2nd Floor

Judge: Hon. Consuelo B. Marshall

(00037451.DOC; 1)

**[PROPOSED] FINAL ORDER AND JUDGMENT
CASE NO. CV-11-02454 CBM (RZX)**

1 This Action involves claims for alleged violations of the Employee
2 Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1001 *et seq.*
3 (“ERISA”), with respect to the Palm Desert Investments Employee Stock
4 Ownership Plan and Trust (the “Plan”).

5 This matter came before the Court for a hearing on the Parties’ application
6 for approval of the Settlement set forth in the Class Action Settlement Agreement
7 (the “Settlement Agreement”) filed with the Court on November 14, 2011.

8 Before the Court are: (1) Plaintiffs’ Motion for Final Approval of the Class
9 Action Settlement, for Settlement Class Certification, and for approval of Plan of
10 Allocation; and (2) Class Counsel’s Motion for Award of Attorneys’ Fees and
11 Expenses.

12 The Court has received Nicholas L. Saakvitne’s declaration attesting to the
13 mailing of the Class Notice in accordance with the Preliminary Approval Order.¹

14 Due and adequate notice has been given to the Settlement Class as required
15 by the Preliminary Approval Order, and the Court has considered all papers filed
16 and proceedings in this case, and is otherwise fully informed in the premises.

17 IT IS ORDERED, ADJUDGED AND DECREED as follows:

18 1. This Court has jurisdiction over the subject matter of this action and
19 over all Parties to the action, including all members of the Settlement Class,
20 pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 1132(e).

21 2. On _____, 2011, _____ copies of the Class Notice
22 were mailed to Settlement Class members.

23 3. The Class Notice fully informed Settlement Class members of their
24 rights with respect to the Settlement, including the right to object to the Settlement
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27 ¹ The initial capitalization of a term used in this Final Order and Judgment and not defined in this
28 order indicates that the term has the meaning assigned to it in the Class Action Settlement
Agreement.

1 or Class Counsel's application for an award of attorneys' fees and reimbursement
2 of expenses from the Settlement Fund.

3 4. The Class Notice met the statutory requirements of notice under the
4 circumstances, including the individual notice to all members of the Settlement
5 Class, and fully satisfied the requirements of Federal Rule of Civil Procedure 23
6 and the requirement of due process.

7 5. This Action and all claims asserted in it, as well as all of the Released
8 Claims, are dismissed with prejudice as to the Plaintiffs, the Settlement Class
9 members, and the Plan, and as against the Releasees. The Parties are to bear their
10 own costs, except as otherwise provided in this order.

11 6. The Court finds that the Settlement is fair, reasonable, and adequate as
12 to each member of the Settlement Class and was reached through vigorous arms-
13 length negotiation and is not the product of collusion among the Parties or their
14 counsel. Accordingly, the Court also finds that the terms of the Settlement are fair,
15 reasonable, and adequate as to the Plan and no less favorable to the Plan than
16 comparable arms-length terms and conditions that would have been agreed to by
17 unrelated parties under similar circumstances.

18 7. The Settlement is finally approved in all respects. The Parties are
19 directed to implement the Settlement in accordance with the terms and conditions
20 of the Settlement Agreement. The Action is dismissed on the merits with prejudice.
21 This dismissal shall and does include any and all claims that were asserted in the
22 Complaint or are expressly covered by the Settlement Agreement. The Court
23 further finds that, in order to render the Settlement fully effective as to Defendants,
24 the Plan's claims that were asserted by Plaintiffs in this action must be extinguished
25 and dismissed with prejudice, and the Court so orders.

26 8. Plaintiffs and each member of the Settlement Class, individually and
27 on behalf of the Plan and any other Person that claims or might claim through or on
28 behalf of or for the benefit of the foregoing, are deemed to have, and by operation

1 of this Order and Judgment shall have, absolutely and unconditionally released and
2 forever discharged the Releasees from the Released Claims.

3 9. All members of the Settlement Class are forever barred and enjoined
4 from prosecuting the Released Claims against Releasees, either derivatively or on
5 behalf of themselves, or through any person purporting to act on their behalf or
6 purporting to assert a Released Claim under or through them, in any forum, action
7 or proceeding of any kind.

8 10. Each Defendant, by operation of this Order and Judgment, is forever
9 barred and enjoined from prosecuting against the Plaintiffs, the Settlement Class,
10 and Class Counsel any and all claims relating to the institution or prosecution of the
11 Action as well as any and all claims for contribution, indemnification, or any other
12 claims relating to payment of the Class Settlement Amount.

13 11. The Plan of Allocation is approved as fair and reasonable. Any
14 modification or change in the Plan of Allocation that may hereafter be approved
15 shall in no way disturb or affect this Judgment and shall be considered separate
16 from this Judgment.

17 12. The Court appoints Nicholas L. Saakvitne as Administrator of the
18 Settlement. Mr. Saakvitne shall administer the settlement by (1) overseeing the
19 distribution from the Settlement Fund to Plan participants or beneficiaries; (2)
20 performing all tasks as may be necessary to maintain the qualified tax status of the
21 Plan; and (3) carrying out other tasks he may deem necessary to protect the interests
22 of the Plan and its participants. Mr. Saakvitne shall perform these tasks, and
23 receive compensation for his mailing of the Class Notice, for a sum not to exceed
24 \$25,000, payable from Settlement Fund upon issuance of this Order.

25 13. Class Counsel is awarded attorneys' fees in the amount of ____% of
26 the Settlement Fund, which the Court finds to be fair and reasonable, and
27 \$_____ in reimbursement of Class Counsel's reasonable expenses
28 incurred in prosecuting the Action. The attorneys' fees and expenses so awarded

1 shall be paid from the Class Settlement Amount pursuant to the terms of the
2 Settlement Agreement, with interest on such amounts from the date the Class
3 Settlement Amount was funded to the date of payment at the same net rate that the
4 Class Settlement Amount earns. All fees and expenses paid to Class Counsel shall
5 be paid pursuant to the timing requirements described in the Settlement Agreement.

6 14. In making this award of attorneys' fees and reimbursement of
7 expenses, the Court has considered and found that:

8 a) The Settlement achieved as a result of the efforts of Class Counsel has
9 created a fund of \$950,000 in cash that is already on deposit, plus any interest
10 accrued thereon, and will benefit the Settlement Class members;

11 b) Class Counsel have conducted the litigation and achieved the
12 Settlement with skill, perseverance, and diligent advocacy;

13 c) The Action involves complex factual and legal issues and, in the
14 absence of a Settlement, would involve further lengthy proceedings with uncertain
15 resolution of the complex factual and legal issues;

16 d) Had Class Counsel not achieved the Settlement, there would remain a
17 significant risk that Plaintiffs and the Settlement Class may have recovered less or
18 nothing from Defendants; and

19 e) The amount of attorneys' fees awarded and expenses reimbursed from
20 the Settlement Fund are consistent with awards in similar cases.

21 15. Neither the Settlement Agreement nor the terms of the Settlement
22 Agreement shall be offered or received in any action or proceeding for any
23 purposes, except (i) in an action or proceeding arising under the Settlement
24 Agreement or arising out of or relating to the Preliminary Approval Order or the
25 Final Order and Judgment or (ii) in any action or proceeding where the releases
26 provided pursuant to the Settlement Agreement or the terms of this Order may serve
27 as a bar to recovery.

1 16. Without affecting the finality of this Judgment in any way, this Court
2 retains continuing jurisdiction over: (a) implementation of the Settlement and any
3 award or distribution of the Settlement Fund, including interest earned thereon; (b)
4 disposition of the Settlement Fund; and (c) all Parties for the purpose of construing,
5 enforcing and administering the Settlement and all actions that are or may be barred
6 by this Order.

7 17. This Order and Judgment shall not be considered or used as an
8 admission, concession, or declaration by or against Defendants of any fault,
9 wrongdoing, breach or liability and this Court makes no such finding or
10 determination. Neither the Settlement Agreement nor any of the proceedings in
11 connection therewith shall be offered or received in evidence for any purpose,
12 except that Defendants may submit this Final Order and Judgment to support a
13 claim of *res judicata*, collateral estoppel, release or any theory of claim or issue
14 preclusion, or the Parties may submit this Final Order and Judgment in any action
15 to enforce the injunctive provisions of Paragraphs 9 and 10 of this Order.

16 18. In the event that the Settlement does not become effective in
17 accordance with the terms of the Settlement Agreement, then this Judgment shall be
18 rendered null and void to the extent provided by and in accordance with the
19 Settlement Agreement and shall be vacated, and in such event, all orders entered
20 and releases delivered shall be void to the extent provided by and in accordance
21 with the Settlement Agreement.

22 19. The Court directs the Clerk to enter final Judgment.

23 **IT IS SO ORDERED.**

24
25
26 Dated: _____

27 _____
Honorable Consuelo B. Marshall
United States District Court Judge

EXHIBIT 4

1 MORGAN, LEWIS & BOCKIUS LLP
Gregory C. Braden (admitted *pro hac vice*)
2 gbraden@morganlewis.com
1111 Pennsylvania Avenue, NW
3 Washington, DC 20004
Tel: 202.739.3000
4 Fax: 202.739.3001

5 MORGAN, LEWIS & BOCKIUS LLP
Nicole A. Diller, State Bar No. 154842
6 ndiller@morganlewis.com
Alison B. Willard, State Bar No. 6276174
7 awillard@morganlewis.com
One Market, Spear Street Tower
8 San Francisco, CA 94105-1126
Tel: 415.442.1000
9 Fax: 415.442.1001

10 Attorneys for Defendants
Palm Desert Investments, Palm Desert National
11 Bank, and Kevin McGuire

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 WESTERN DIVISION – LOS ANGELES

16 KATHLEEN MILLER, SONDRÉ
17 BILET, MARK J. HOLLAND and
KATHERINE DOOLITTLE,

18 Plaintiffs,

19 v.

20 PALM DESERT INVESTMENTS,
21 PALM DESERT NATIONAL BANK,
KEVIN MCGUIRE, and DOES 1-10,

22 Defendants.

Case No. CV-11-02454 CBM (RZx)

**NOTICE OF SETTLEMENT
IMPLEMENTATION**

Courtroom: 2 – 2nd Floor
Judge: Hon. Consuelo B. Marshall

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28 NOTICE OF SETTLEMENT IMPLEMENTATION
CASE NO. CV-11-02454 CBM (RZX)

1 Pursuant to the Court's Final Approval Order and Judgment dated
2 _____, 2012 (the "Order"), the Parties hereby give notice and
3 attest that the implementation of the Settlement as set forth in Section 10 of the
4 Class Action Settlement Agreement has been completed.

5
6 _____ Date _____
7 Peter P. Meringolo
8 Rebecca L. Kassekert
9 SNYDER MILLER & ORTON LLP
10 180 Montgomery Street, Suite 700
11 San Francisco, CA 94104
12 Attorneys for Plaintiffs
13 Kathleen Miller, Sondre Bilet,
14 Mark J. Holland and Katherine Doolittle

15 _____ Date _____
16 Gregory C. Braden
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20 One Market, Spear Street Tower
21 San Francisco, CA 94105
22 Attorneys for Defendants
23 Palm Desert Investments, Palm Desert
24 National Bank and Kevin McGuire

EXHIBIT 5

PLAN OF ALLOCATION

The Parties¹ have agreed to settle this matter according to the terms set forth in the Settlement Agreement. Plaintiffs propose the below manner for distributing the Net Settlement Amount to the Settlement Class.

I. Class Member

A Class Member shall be any Person who was a participant in or beneficiary of the Palm Desert Investments Employee Stock Ownership Plan (the "Plan") and whose individual Share Account held vested shares of stock of Palm Desert Investments from September 30, 2006 through September 1, 2011 (the "Settlement Class"); provided, however, that Defendants, former and present directors of Palm Desert Investments and/or Palm Desert National Bank and their heirs, Successors-in-Interest, or assigns, to the extent such Persons acquire an interest held by Defendants, are excluded from the Settlement Class.

II. Net Settlement Amount

The Net Settlement amount will be the balance of the \$950,000 after payment of (a) any taxes and expenses incurred by the Settlement Fund's income as discussed in Section 9.3 of the Class Action Settlement Agreement; (b) the cost of administration of the settlement, including the cost of providing Class Notice and implementing the Plan of Allocation, which costs shall not exceed \$25,000; and (c) any fees and expenses to Class Counsel awarded by the Court.

III. Amount of Distribution

For each Class Member there shall be calculated a Net Loss, which shall be calculated as follows:

1. Each Class Member's Net Loss shall be equal to $(A + B - C - D) \times E$, provided that if $(A + B - C - D) \times E$ shows no loss for a Class Member, such Class Member's Net Loss will be zero.

A = the dollar amount invested in PDI stock for each Class Member at the beginning of the Class Period

B = the dollar amount of additional PDI stock added to each Class Member's share account during the Class Period

C = the dollar amount of any PDI stock disposed from each Class Member's share account during the Class Period

¹ Capitalized terms have the meaning provided in the Settlement Agreement.

D = the dollar amount invested in PDI stock for each Class Member at the end of the Class Period

H = the percentage vested either at the last date that the Class Member was a participant in the Plan or at Plan termination if the Class Member remained a Plan participant up to the date of Plan termination

2. To the extent data is not available to determine the account balances of Class members at the beginning or end of the Class Period, the foregoing calculations may be performed using data as of the nearest date for which data is available after the beginning or end of the applicable event, unless such different amount was actually distributed, in which case the actual distribution amount shall be used.
3. There shall be calculated for each Class Member his or her "Net Loss Percentage" by dividing each Class member's Net Loss by the aggregate of all Class members' Net Losses.
4. There shall then be calculated for each Class Member his "Dollar Recovery" by multiplying the Class Member's Net Loss Percentage by the Distribution Amount.
5. All calculations required to implement this Plan of Allocation shall be performed by the Administrator.

IV. Distribution of the Allocated Amounts.

As soon as practicable after the deposit of the Dollar Recoveries into the trust for the Plan, there shall be deposited into each Class Member's account his or her Dollar Recovery. To the extent that any Class Member no longer has an account, the Administrator will establish an account for each former Plan Participant, and each former Plan Participant will be notified of such account with further instructions. The Administrator shall invest each Class Member's Dollar Recovery in a suitable short term investment vehicle, the primary purpose of which is the preservation of assets, pending distribution to the Class Member.

V. Continuing Jurisdiction.

The Court will retain jurisdiction over this Plan of Allocation to the extent necessary to ensure that it is fully and fairly implemented.