IN THE SUPREME COURT
OF THE STATE OF FLORIDA

SCHICKEDANZ BROS. RIVIERA, LTD., a Florida Limited Partnership, and SCHICKEDANZ BROS. PALM BEACH, LTD., a Florida Limited Partnership, and SCHICKEDANZ ENTERPRISES, INC., the corporate general partner of SCHICKEDANZ BROS. RIVIERA, LTD., and SCHICKEDANZ BROS. PALM BEACH, LTD.,

Petitioners,

Supreme Court Case No. SC00-221
4th DCA Case No. 98-3854

vs.

ROBERT HARRIS and REAL ESTATE MARKETING AND CONSULTING INC.

Respondents
_____/

PETITIONERS' BRIEF ON THE MERITS

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CERTIFICATE OF INTERESTED PERSONS

Counsel for Petitioners certifies that the following persons and entities have or may have an interest in the outcome of this case.

1. Thomas F. and Michael J. Ryan (Attorneys for Plaintiffs/Respondents)

2. Robert Harris (Plaintiff/Respondent)

3. Real Estate Marketing and Consulting, Inc. (Plaintiff wholly owned by Robert Harris)

4. Rod Tennyson (Attorney for Defendants/Petitioners)

5. Schickedanz Bros.-Riviera, Ltd. (Defendant-Petitioner)

6. Schickedanz Bros-Palm Beach, Ltd. (Defendant-Petitioner)

7. Schickedanz Enterprises, Inc. (Defendant-Petitioner)

8 Waldemar Schickedanz (A principal of Defendant-Petitioner)

9. Gerhard Schickedanz (A principal of Defendant-Petitioner)

10. The Honorable Moses Baker (Trial Judge)

11. Fourth District Court of Appeal Panel
The Honorable Frederick A. Hazouri
The Honorable Bobby W. Gunther
The Honorable Robert M. Gross

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STATEMENT OF THE CASE

All references to the record below shall be designated as "(R-___)." Reference to Petitioners' Appendix shall be by ("Appendix p.____"). Petitioners/Defendants, (SCHICKEDANZ), was sued by the Respondent/Plaintiff (HARRIS) alleging unpaid commissions were owed him and his company Respondent/Plaintiff Real Estate Marketing and Consultants Inc. (REMAC). Neither HARRIS nor REMAC were licensed real estate brokers at the time the alleged contracts or services were performed and to this day are not licensed under Chapter 475 F.S. The original contract between the parties was also executed by a licensed real estate broker by the name of David Paley but HARRIS and REMAC never named or brought Mr. Paley into the litigation.

The Trial Court gave HARRIS and REMAC three (3) separate opportunities to amend its complaint to state a cause of action in compliance with Chapter 475 F.S. Like in baseball "three strikes and your out" HARRIS and REMAC failed three (3) times to state a cause of action which complied with Chapter 475 F.S. The trial court finally dismissed their second amended complaint with prejudice. HARRIS and REMAC then appealed to the Fourth District who reversed the trial court's dismissal with an opinion dated

November 17, 1999 (Appendix, p.14). SCHICKEDANZ filed a timely Motion for Rehearing which the Fourth District denied on January 6, 2000 and this Petition followed. This Court granted Jurisdiction on September 15, 2000.

The Fourth District's opinion generally describes the contracts in question. However the Petitioner's Appendix contains a more detailed summary of the contracts at issue. These contracts did not provide HARRIS and REMAC compensation in the form of a contract set price, salary or fee for service. The compensation formula was directly tied to the successful closing of real estate transactions or "gross sales." These contract services and compensation were all interrelated to the sale of real estate.

SUMMARY OF ARGUMENT

All Counts, including Counts II, IV and V, were properly dismissed with prejudice by the Trial Court as the Second Amended Complaint violated the provisions of Section 475.42, Florida Statutes, the parties' contracts and the Statute of Frauds.

ARGUMENT

I. THE TRIAL COURT WAS CORRECT IN DISMISSING HARRIS' CLAIM FOR PAYMENT OF A MARKETING BONUS (COUNT II), AND THE AUGUST 1993 MARKETING CONSULTANT AGREEMENT (COUNT IV), AS BOTH CLAIMS VIOLATED SECTION 475.42, F.S.

The Second Amended Complaint incorporated the three written contracts outlined in the Petitioner's Appendix. Although it is difficult to interpret, it appears HARRIS was claiming that all these written contracts, plus some parole agreements, plus some mysterious lost "second contract" somehow all combined to produce an "arrangement" which is the basis of Counts II and IV. Somehow, this "arrangement" was supposed to give Mr. HARRIS a "bonus" over a period of time extending from July 31, 1993 through March of 1997, all of which is alleged in the Second Amended Complaint.

The vagaries of this "arrangement" as plead in the Second Amended Complaint demonstrates the dilemma of HARRIS in trying to plead a cause of action. If HARRIS were to plead some form of verbal employment agreement during these alleged time periods with a claim that he was not compensated for his services, then he runs afoul of Section 725.01, Florida Statutes. This Statute of Frauds prohibits the enforcement of agreements which cannot be performed within one year unless such agreements are in

"writing." Agreements which on their face extend over one year or are for an indefinite period of time, violate this Statute of Frauds provision. See Chong v. Milano, 623 So.2d 536 (Fla. 4th DCA 1993) and Johnson v. Edwards, 569 So.2d 928 (Fla. 1st DCA 1990).

The Second Amended Complaint is based upon several contracts including: (a) the August 1993 Marketing Consultant Agreement which was attached as Exhibit A in the Second Amended Complaint and referenced therein as the "Consulting Contract" (Appendix p.10); (b) the "Original Contract" (Appendix p.7); and (c) the "Contract for Marketing Services" (Appendix p.12). The relevant portions of these contracts are outlined in Petitioners' Appendix p. 7-12.

The "Consulting Contract" provides that SCHICKEDANZ pay to HARRIS a "consulting fee of 1% of the gross sales price of each residential unit" ..."where title is transferred to a third party for full consideration during the term of this agreement." In other words, HARRIS' sole consideration and payment for all services was based upon the sale and closing of residential property. Under the contract, HARRIS was required to "prepare budgets for all proposed advertising ... oversee development of actual advertisements ... design and prepare promotional brochures ... design billboards ... design and

place all radio and advertising" ... and oversee the "grand opening events" (Appendix p.10-11). On its face, the Consulting Contract clearly applies to the sale and promotion of real property with payment conditioned upon a real estate closing. Paragraph V. D. specifically states that "In the event OWNER fails to convey a residential unit for failure of marketable title or other title issue, no commission shall be deemed earned." The "Original Contract" and "Contract for Marketing Services" also provide for similar services with commissions paid only after a real estate closing.

HARRIS is placed between the proverbial "rock and a hard place" with his pleadings. To avoid the Statute of Frauds problem of verbal contracts over one year in length, HARRIS resorted to the attachment and incorporation of the three written agreements outlined in Petitioner's Appendix. The attachment of the written agreements, while avoiding the Statute of Frauds, runs smack into the regulatory provisions of Chapter 475, Florida Statutes. These contracts on their face, are contracts for commissions in the sale of real property which can only be enforced by a licensed broker. This pleading dilemma was readily recognized by the Trial Court after three specially set hearings on three Motions to Dismiss.

Section 475.42(1)(d), F.S., states in part:

> No salesman shall collect any money in connection with any real estate brokerage transaction, whether as a commission, deposit, payment, rental, or otherwise, except in the name of the employer and with the express consent of the employer; and no real estate salesman, whether the holder of a valid and current license or not, shall commence or maintain any action for a commission or compensation in connection with a real estate brokerage transaction against any person except a person registered as his employer at the time the salesman performed the act or rendered the service for which the commission or compensation is due.

All three contracts were clearly real estate commission contracts governed by the provisions of Chapter 475, Florida Statutes. And yet, HARRIS did not allege that he was a licensed real estate broker under Chapter 475, Florida Statutes. If on its face the alleged contract is governed by Chapter 475, Florida Statutes, then the Complaint must allege HARRIS to be a licensed broker or be subject to a Motion to Dismiss. See Fla. Boca Raton Housing Assoc. v. Margusee, 177 So.2d 370 (Fla. 3rd DCA, 1965).

The "Original Contract," (also incorporated into Count IV) states that HARRIS is a licensed "Florida Real Estate Sales Associate" while the same contract lists David Paley as the qualifying licensed "Real Estate Broker." (Appendix p.7) Sales associates may not sue for a commission except against their qualifying broker:

> The threshold issue is whether Marks and Pembroke are proper plaintiffs. Apparently, the trial court found neither was a proper party by virtue of section 475.42(1)(d). Florida Statutes (1983)

which provides in part that no salesman shall commence an action for a commission against any party except his broker at the time the cause of action is alleged to have arisen. When the commission agreement was made, Marks's real estate license was registered with a broker, L.K. Edwards & Associates (Edwards). Real estate salesmen are prohibited from operating without brokers; commission agreements made by salesmen are enforceable by the broker who is their employer at the time the services entitling the salesman to compensation are rendered.
...
Section 475.42(1)(d), Florida Statutes (1983), provided that a salesman may not sue anyone other than his employer-broker at the time the cause of action is alleged to have arisen. Subsequent clarifying legislation indicates that the cause of action arises at the time when the services giving rise to the commission are rendered. See Laws 1985, c. 85-90, @ 1, eff. Oct. 1, 1985. Only Marks's broker at the time he performed the services can sue the seller directly. Thus, the summary judgment as to Counts I, II, III, V, VI (claims by Marks directly against Central Florida for the commission based upon breach of contract, quantum meruit, reformation, and fraudulent inducement) was correct because of the statutory bar under the 1983 statute (as construed by the subsequent clarification). **Despite the shotgun approach and varied labels for these multifarious counts, Marks cannot do indirectly that which he is forbidden to do directly: sue Central Florida (MSF) for his commission rather than suing Edwards for it.** (E.S.)
Marks v. M.S.F. Management Corp., 540 So. 2d 138; (Fla. 5th DCA, 1989)

Subsequently the corporation with which appellant was associated purchased the park. Three days before the transaction was closed, appellant wrote appellee a letter in which he agreed to pay her $ 10,000 "for services rendered in connection with feasibility studies in the State of Florida."
.....
Appellee's services regardless of how characterized were clearly that of a real estate salesman or broker under Section 475.01(2),

> Florida Statutes (1977).
> ...
> Since appellee operated as a real estate salesman in the subject transaction, we hold that suit in her own name to collect the "finder's fee" is prohibited by Section 475.42(1)(d), Florida Statutes...
> Fuller v. Alberts, 382 So. 2d 113 (Fla. 2nd DCA, 1980)

HARRIS argued that the above cases and Section 475.42, Fla. Stat., are not applicable because the "Consulting Contract" does not provide for "real estate sales services." But the contracts clearly require HARRIS to oversee and place all advertising, promotional brochures, billboards, and all other promotions to sell residential properties. HARRIS' job was to find prospective purchasers and he only got paid a commission if the real estate sold. HARRIS' services were real estate services requiring a broker's license.

The Florida Real Estate Commission has reviewed and concluded that an advertising program for sale of residential properties falls under Chapter 475, F.S.:

> All officers and directors of a corporation, domestic or foreign, required to register, and maintain registration, shall be registered. All officers and directors who perform, or personally **direct, sales or sales forces, advertising, soliciting or who come in contact with the owners of property listed or to be listed or with the investing public, in connection with brokerage transactions, shall be licensed and renew as active.** Officers who perform no duties, or only clerical duties, are not required to be licensed or renew as active. ... (e.s.)
> Rule 61J2-5.015, Florida Administrative Code.

In Allgood v. Florida Real Estate Commission, 156 So. 2d 705 (Fla. 2nd DCA, 1963), the Court reviewed a sales promotion where unlicensed persons used telephone solicitations directed to the general public which invited them to the developer's project to see home sites. No details were given over the phone, just an invitation. The developer's phone solicitors were not licensed and the Commission brought the action. The trial court found the solicitors' actions to be governed by Chapter 475, Florida Statutes, because the solicitors received $3 for each person who accepted the invitation just to view the lands. The Appellate Court affirmed, stating:

> It was the intent of these statutes to define and regulate the real estate brokerage and sales profession. It appears that the legislature intended to encompass a variety of services, which if performed in this state, for another, for compensation, would require licensing. **One of such services is the obtaining of prospects for the purchase of real estate.**
> ...
> The legislature has seen fit to provide that **one who directs or assists in the procuring of prospects for the purchase of real estate shall be registered, or licensed, as a real estate salesman,** or broker.
> ...
> The "bonus" of $3.00 for each prospect the plaintiff produced is a material factor in this determination. This element takes the job out of the classification of simple clerical employment and indicates the importance of the salesmanship element. **True, she makes no direct effort at sales but like the circus "drummer" she gets them in the tent for the show.**
>
> The ultimate consideration is that these prospects who are the

> object of extensive exposure to the sales program at some considerable expense are those determined by the efforts of the plaintiff to be at least interested in the project. She certainly is taking part in the procuring of prospective customers. The specific activities of the appellant constituted the first and very important step in a field of endeavor which lends itself logically to the safeguards of the regulatory measures of the Florida Real Estate Commission. Foulk v. Fla. Real Estate Commission (1959 Fla.App.) 113 So.2d 714; Section 475.01(2), Fla. Statutes, 1961, F.S.A.; 5 Fla.Jur. Brokers, Section 5, Page 26. (e.s.)

In Florida Real Estate Commission v. McGregor, 268 So.2d 529 (Fla. 1972), this Court expressly approved of Allgood:

> No better exposition of the meaning and purpose of F.S. Section 475.01(2), F.S.A. is to be found than is expressed by the Second District Court of Appeal itself in the case of Alligood v. Florida Real Estate Commission, 156 So.2d 705. The court there on page 707 said: ...
> **The legislature has seen fit to provide that one who directs or assists in the procuring of prospects for the purchase of real estate shall be registered, or licensed, as a real estate salesman, or broker. The language which is pertinent to this case is admittedly broad, but it is equally clear and unambiguous**.

See also Florida Real Estate Commission v. Reliable Rental Agency, Inc., 209 So. 2d 675 (Fla. 3rd DCA 1968) wherein the Court stated:

> **We hold that in so ruling the trial judge was in error. We agree with the contention of the appellant that the compensation paid to the appellees on the basis of a percentage of rents collected was compensation for all of their services and not for the rental collections only. This is so because rental of the units of these housing properties is**

> **the sine qua non to the production of income and to the creation of rentals to be collected from which the compensation and amount of compensation to Reliable depends.** The fact that Reliable may be compensated on the same percentage of collected rentals from owners who handle their own leases as is paid by owners for whom Reliable undertakes also to negotiate and make leases does not cause the leasing services for the latter group of owners to be done gratis. **Where undertaken and performed, the handling of the leases is a substantial and integral part of the employment and services performed**. **(E.S.)**

In its Opinion of November 17th, the Fourth District determined in this case that the Original Contract (dated July 31, 1993) was a brokerage and marketing agreement consisting of three different services, including: (a) the procurement of purchasers and contract offers for sales in the Woodbine project; (b) marketing Woodbine and preparing budgets for advertising, creating advertisements and soliciting bids; and (c) a bonus incentive program wherein Harris was to be paid a bonus commission if he kept marketing expenses (the first and second service) below a certain percentage of gross real estate sales.[1] The Fourth District then concluded

[1] The bonus formula is directly tied to "gross real estate sales" which was the first service under the Original Contract. The more purchasers Harris procures, the greater the closings and increased "gross" sales which in turn affects his bonus. Of course, to procure more purchasers and increase gross sales, Harris must increase expenditures on marketing. The formula includes all three(3) services which cannot be segregated when computing the "bonus." The "Bonus Incentive" as the third service to the Original Contract is not just incidental to the sale of real estate with paid commissions. The "Bonus" is "sine qua non" to the whole bundle of services under the Original Contract.

that the second and third services were not governed by the provisions of Chapter 475, F.S. In reaching this decision, the Fourth District opined that the Original Contract was a binding and valid contract between the parties and that the statutory definition of real estate broker or salesman is confined to "one who directly procures a purchaser, not whose services incidentally result in a real estate brokerage transaction." The Fourth District also concluded that the so-called "Consulting Contract" dated August 1993 was a contract not subject to the provisions of Section 475, F.S.

The Supreme Court, the Third District and the Second District definitions of real estate broker include persons who only "**assist in procuring prospects**" while the Fourth District opinion in this case substantially restricts the definition to only a person who "**directly procures a purchaser**." One who only "assists" is much different than one "directly" involved. A real estate "prospect" is much different than a "purchaser".

The term "assist" is defined in Black's Law Dictionary, Revised Fourth Edition, West Publishing Company, 1968, as: "To help; aid; succor; lend continence or encouragement to; participate in as an auxiliary.... to contribute effort in complete accomplishment of an ultimate purpose intended to be affected by those engaged." However, the phrase "directly involved" has a

much different meaning than "assist." Black's Law Dictionary, Revised Fourth Edition, again defines "directly" to mean: "In a direct way without anything intervening; not by secondary, but by direct, means." The term "prospect" is undefined in Black's Law Dictionary, Revised Fourth Edition, but is defined in the Random House Webster's Dictionary to mean: "An apparent probability of advancement, success, profit, etc.; the outlook for the future; good business prospects; anticipation; expectation; a looking forward; something in view as source of profit; a potential or likely customer, client, candidate, etc." However, the term "purchaser" is something quite different as defined in Black's Law Dictionary, Revised Fourth Edition, to mean: "One who acquires real property in any mode than by dissent. One who acquires either real or personal property by buying it for a price in money; a buyer; vendee."

It is clear from the different definitions of these terms that the Fourth District's opinion in this case dramatically restricts and limits the definition of a licensed real estate broker as compared with the definition in the previously cited cases in the other District Courts of Appeal and in the Florida Supreme Court. This Court's broader definition of a real estate broker expressed in McGregor and Allgood is a much better expression of legislative intent.

Even assuming that HARRIS has performed valuable services without just compensation, he is not without remedy. Chapter 475 specifically gives HARRIS, as a real estate sales person, the right to sue his qualifying broker (David Paley) for unpaid commissions. But David Paley is not a party to this litigation and, for whatever reason, HARRIS has not pursued an action against his qualifying broker.

II. THE TRIAL COURT PROPERLY DISMISSED WITH PREJUDICE, HARRIS/REMAC'S COUNT V CLAIM FOR "MONEY LENT" BASED ON THE PARTIES' CONTRACTS AND THE STATUTE OF FRAUDS.

Count V of the Second Amended Complaint attempted to state an independent cause of action for "Money Lent." The relevant portions of Count V of the Second Amended Complaint are included at pages 5 and 6 of Petitioners' Appendix.

Note that Count V realleges and includes paragraphs 1 through 15 of the Second Amended Complaint. These paragraphs incorporate and cite to three separate written contracts, including the so-called "Original Contract" dated July 31, 1993 (Appendix p.7); the so-called "Consulting Contract," Exhibit A, dated August 1993 (Appendix p.10); and the so-called "Contract for Marketing Services" attached as Exhibit B to the Second Amended Complaint and dated September 16, 1996 (Appendix p.12). Count V also makes reference to an Exhibit C as a basis of its "Money Lent" claim, which consists of nothing more than hand written notes without signature of any party to this litigation (Appendix p.13).

The exhibits and documents referred to in Count V of the Second Amended Complaint prohibit any extension of credit or obligation for debt unless specifically reduced in writing by the parties. The so-called "Original

Contract" dated July 31, 1993, actually anticipated incurrence of debt or extension of credit:

> V. OWNER AGREEMENTS.
> ...
> F. OWNER shall make such loans from time to time to MARKETING BROKERS during the period of time that this Agreement is in full force and effect as requested by MARKETING BROKERS for the purposes of MARKETING BROKERS maintaining good records of contract offers and good administration of executed contracts. Said loans shall be evidenced by written promissory demand notes at market interest rate signed by either partner of MARKETING BROKERS. The proceeds of said loans shall be made payable to DAVID PALEY and ROBERT HARRIS.
> ...
> X. ENTIRE AGREEMENT.
> The Agreement contains the entire agreement of the parties hereto and no representations, inducements, promises or agreements, all or otherwise, between the parties not embodied herein shall be of any force or effect. This Agreement shall not be recorded in the Clerk's office in and for Palm Beach County, Florida. (e.s., Appendix p.7-9)

The "Consulting Contract," Exhibit A to the Second Amended Complaint, states as follows:

> IX. ENTIRE AGREEMENT.
>
> The Agreement contains the entire agreement of the parties hereto and no representations, inducements, promises or agreements, all or otherwise, between the parties not embodied herein shall be of any force or effect. This Agreement shall not be recorded in the Clerk's office in and for Palm Beach County, Florida. (Appendix p.10-11)

Clearly, the written agreements incorporated and referenced in Count V exclude any other oral agreements or representations between the parties. More specifically, the contracts require "said loans shall be evidenced by written promissory demand notes." On the face of the pleadings, HARRIS/REMAC assert that the hand-written, unsigned notes of Exhibit C somehow supersede the specific written contracts between the parties and obligate SCHICKEDANZ to a debt in excess of $33,000. These written contracts exclude any form of oral contracts or parol representations unless reduced to writing and signed by the parties.

Even if Count V could be construed as a cause of action for an oral obligation to pay money, the action on the face of the pleadings violates the Statute of Frauds. An action based upon oral agreement as an obligation to pay a debt may be dismissed by Motion when on the face of the pleadings the statute is violated. See Cohodas v. Russell, 289 So.2d 55 (Fla. 2d DCA 1974). Furthermore, the Trial Court did not abuse its discretion in dismissing the Second Amended Complaint, Count V, with prejudice as HARRIS/REMAC filed three separate Complaints in an attempt to state a cause of action and failed each time. See Johnson v. Edwards, 569 So.2d 928 (Fla. 1st DCA 1990).

There are several Statute of Frauds which are applicable to Count V of the Second Amended Complaint. Count V alleges that: "REMAC advanced sums [$33,508.42] on behalf of the Defendant, which sums were to be reimbursed. See Exhibit C." But Exhibit C does not reflect a $33,508.42 figure. The handwritten figures in Exhibit C only add up to about $17,888 (Appendix p.13). At the same time, Count V incorporates paragraph 15.D. of the Second Amended Complaint which alleges: "Harris has incurred reimbursable expenses in the amount of $33,508.42, which have not been reimbursed." The pleading seems to state that both HARRIS and REMAC advanced the very same $33,508.42, even through Exhibit C reflects a figure of $17,888.

Viewing Count V in its best light, it certainly could be construed that the alleged advanced sums were for the purchase of personal property which clearly puts the allegations within Section 671.206, Florida Statutes, and a violation of the Statute of Frauds. Because Count V also alleges that both HARRIS and REMAC advanced the same sums on behalf of SCHICKEDANZ the pleading can also be construed to mean HARRIS borrowed these funds from REMAC in order to make the advancements. This interpretation makes sense because REMAC is not a party to any of the previously cited written

agreements which are attached to and made a part of Count V. However, HARRIS is a party to those contracts. Therefore, advancing sums from REMAC's treasury would create a debt between HARRIS and REMAC. Count V is in effect alleging that SCHICKEDANZ verbally assumed the debt of HARRIS to REMAC. However, Section 725.01, Florida Statutes, prohibits the assumption of any debt by a third person unless the assumption is in written form. Furthermore, a verbal promise to extend credit would violate the provisions of Section 687.304, Florida Statutes, which also requires a "writing."

In summary, Count V of the Second Amended Complaint cannot stand because the written documents attached as exhibits and referenced in said Count do not allow the extension of credit without a "written promissory demand note." Any allegation of a verbal agreement violates both the attached written agreements, and the Statute of Frauds. The Trial Court was correct in dismissing Count V with prejudice.

CONCLUSION

HARRIS' Second Amended Complaint was properly dismissed as it failed to state a cause of action under Chapter 475, Florida Statutes. The Second Amended Complaint and its attachments were clear and unambiguous on their face and subject to dismissal with prejudice for failure to state a cause of action. HARRIS is not without remedy as he still may have an action for any alleged unpaid compensation against the employing licensed real estate broker as provided in Chapter 475, Florida Statutes.

The above cited cases conflict with the Fourth District Court of Appeal's Opinion in this case. These conflicts will create havoc in the real estate-related industries because under the Fourth District's new definition of licensed real estate broker, unlicensed persons are now free to “market” and to otherwise indirectly sell real estate without the public protections of the Florida Real Estate Commission and Chapter 475, Florida Statutes. For these reasons, it is imperative that this Court reverse the Fourth District Court of Appeal's Opinion in this cause and reassert the validity of Allgood as the appropriate definition of real estate broker services.

CERTIFICATE OF SERVICE/FONT

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Michael Ryan, Esq., Thomas F. Ryan, P.A., 14041 U.S. Highway 1, Suite E, Juno Beach, FL 33408 this 3rd day of October, 2000, and that this brief was prepared in Arial 14 pt. which is a proportionally spaced type.

Respectfully submitted,

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By _____
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