

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for transfer of )  
Certificate No. 281-S from RealNor )  
Hallandale, Inc. to Bonita Springs )  
Utilities, Inc. )  
\_\_\_\_\_ )

DOCKET NO. 020707-SU

Filed: *August 29, 2002*

MOTION TO DISMISS

RealNor Hallandale, Inc. (RNH), the transferor in Docket No 020707-SU, hereby moves to dismiss the objections of Michael J. Miceli, Bonita Country Club Utilities, Inc. (BCCU) and Platinum Coast Financial Corp. (PCFC) and in support states as follows:

1. None of the objectors is a customer of RNH and cannot rely upon status as a customer as a basis for establishing standing to object to the transfer application from RNH to Bonita Springs Utilities, Inc.
2. The objectors seek assistance from the Commission to collect alleged indebtedness. The FPSC has no jurisdiction to resolve any claim for money damages. *Southern Bell Telephone and Telegraph Company v. Mobile America Corporation, Inc.* 291 So. 2d 199 (Fla. 1974). Consequently, none of the objectors has standing to participate in this transfer application proceeding. It is the law in Florida that intervenors must have standing to participate in a proceeding. *Agrico Chem. Co. v. Dept. of Environmental Regulation*, 406 So. 2d 478 (Fla. 2d DCA 1981). In the *Agrico* case, one of the two prongs of the test for "substantial interest," to establish standing to participate is that the petitioner's substantial injury is of a type or nature which the proceeding is designed to protect. The transfer application proceeding could not protect any of the objectors interests in having loans paid. That could only be done by a court.
3. One court has already addressed the issues raised by the objectors insofar as they relate to the allegations of money being allegedly due to BCCU. (NOTE: Every invoice attached to the PCFC objection shows that it has been billed to BCCU.) In the Circuit Court of the Twentieth Judicial Circuit, Case No. 98-6969-CA-WCM, *Northern Trust Bank of Florida, N. A. v. Bonita Country Club Utilities, Inc.*, a Florida Corporation, Thomas Heidkamp, Chapter 7, Trustee, and all persons having or claiming by through, under, or against any of the above parties and all parties having any right, title or interest in the subject property, the judge issued his "Amended Summary Final Judgment of Foreclosure on April 6, 1999. The order is attached hereto as Attachment 1.) Ordering paragraph 11, page 9, states as follows:

11. Upon a sale being had in accordance with Chapter 45 of the Florida Statutes, and upon the Clerk filing the certificate of sale, and the certificate of title, the sale shall stand confirmed and the

DOCUMENT NUMBER 020707-SU

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- FPSC-COMMISSION CLERK

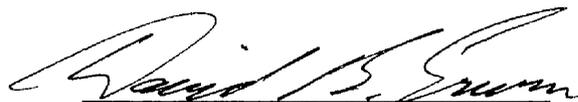
Defendants and all persons claiming by, through or under them, shall be forever barred and foreclosed of any equity or right of redemption whatsoever in and to the above-described property, and the purchaser at the sale shall be let into possession of the property; further any and all persons whosoever claiming against the subject property by virtue of any liens or other interests unrecorded as to the date of the filing of Plaintiff's Lis Pendens with the Clerk of the Court shall be forever barred from asserting any such liens or other interests, and any such liens or other interests shall be discharged forever, in accordance with the Florida Statutes. (Emphasis supplied.)

It would appear that even if the PSC had jurisdiction over money claims, which it does not, the PSC would have no right to review or interfere with the order of the Circuit Court for the Twentieth Judicial Circuit.

4. Neither Michael J. Miceli, BCCU, PCFC or any other entity in which Michael J. Miceli has a controlling interest has clean hands so as to have any right to request help from the PSC for any reason. By Order No. PSC-00-2264-SC-SU, issued November 29, 2000, in Docket No. 990975-SU, BCCU was required to show cause why it should not be fined for failure to timely pay regulatory assessment fees and interest. Mr. Miceli failed to respond and failed to pay the sum of \$7,570.52 to the state of Florida. (Pertinent correspondence is attached hereto as Attachment 2.)

WHEREFORE and in consideration of the above, RNH moves that the Commission dismiss the objections of each of the objectors herein above set forth.

Respectfully submitted,



David B. Erwin  
Young, van Assenderp, Varnadoe &  
Anderson, P.A.  
225 South Adams Street  
Suite 200, P. O. Box 1833  
Tallahassee, Florida 32302-1833  
(850) 222-7206 or (850) 926-9331

**CERTIFICATE OF SERVICE**

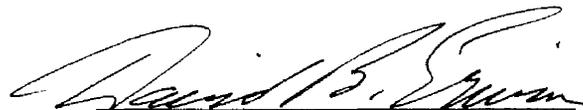
I HEREBY CERTIFY that a copy of the foregoing has been sent by U. S. Mail or hand-delivery this 29<sup>th</sup> day of August, 2002 to the following parties of record:

Michael J. Miceli, President  
Bonita Country Club Utilities, Inc.  
10200 Maddox Lane  
Bonita Springs, FL 34135  
(239) 992-6564

Michael J. Miceli, President  
Platinum Coast Financial Corporation  
9517 Gulf Shore Drive #201  
Naples, FL 34108

Katherine Echternact  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Joseph Miceli  
9517 Gulf Shore Drive #302  
Naples, FL 34108

  
David B. Erwin

**COPY**

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT  
IN AND FOR LEE COUNTY, FLORIDA  
CIVIL ACTION

NORTHERN TRUST BANK OF FLORIDA, N.A.  
a National Banking Association

Plaintiff,

v.

CASE NO. 98-6169-CA-WCM

BONITA COUNTRY CLUB UTILITIES, INC.  
a Florida Corporation, THOMAS HEIDKAMP,  
CHAPTER 7, TRUSTEE, and all persons having  
or claiming by, through, under, or against any of  
the above parties and all parties having any right,  
title or interest in the subject property.

Defendants.

AMENDED SUMMARY FINAL JUDGMENT OF FORECLOSURE

THIS CAUSE having come before the Court, upon the Motion of Plaintiff, Northern Trust Bank of Florida ("Northern Trust"), for the entry of an Amended Summary Final Judgment of Mortgage Foreclosure, and the Court having reviewed the pleadings, affidavits, having heard argument of counsel, and being otherwise fully advised in the premises, the Court finds as follows:

- A. Each Defendant has been duly and regularly served, and the Court has jurisdiction over the parties and the subject matter of this action.
- B. The Note, Mortgage, and Security Agreements sued upon in this action are in default as alleged in the complaint.

ATTACHMENT 1

C. The Mortgage and Security Agreement sued upon by Northern Trust in this action constitute a valid lien upon the property therein described and further described as:

TRACT "A"  
(Fee Simple Title)  
(PART OF BONITA SPRINGS COUNTRY CLUB UNIT 2, LOT 1)

A PARCEL OF LAND, BEING PART OF LOT 1 OF BONITA SPRINGS COUNTRY CLUB UNIT 2, ACCORDING TO PLAT BOOK 30, PAGE 132 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 14, TOWNSHIP 47S, RANGE 25E AND LOT 1, PER THE RECORDED PLAT OF BONITA SPRINGS COUNTRY CLUB UNIT 2;  
THENCE NORTHERLY ALONG THE WEST PROPERTY LINE OF SAID LOT 1, N 00°46'57" E A DISTANCE OF 502.35 FEET TO THE POINT OF BEGINNING;  
THENCE CONTINUE ALONG THE WEST SIDE OF LOT 1 N 00°46'57" E A DISTANCE OF 164.19 FEET;  
THENCE N 88°03'31" E A DISTANCE OF 674.93 FEET;  
THENCE S 00°44'16" W A DISTANCE OF 164.18 FEET;  
THENCE S 88°03'31" W A DISTANCE OF 675.06 FEET TO THE POINT OF BEGINNING.  
CONTAINING 2.541 ACRES OF LAND MORE OR LESS.  
SUBJECT TO THE EASEMENTS AND RESTRICTIONS OF RECORD.

TRACT "B"  
(Leasehold Estate)  
(PART OF BONITA SPRINGS COUNTRY CLUB UNIT 2, LOT 1)

A PARCEL OF LAND, BEING PART OF LOT 1 OF BONITA SPRINGS COUNTRY CLUB UNIT 2, ACCORDING TO PLAT BOOK 30, PAGE 132 OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:  
COMMENCING AT THE SOUTHWEST CORNER OF SECTION 14, TOWNSHIP 47S, RANGE 25 E AND LOT 1, PER THE RECORDED PLAT OF BONITA SPRINGS COUNTRY CLUB UNIT 2; THENCE EASTERLY ALONG THE SOUTH PROPERTY LINE OF SAID LOT 1 N 87°29'57" E A DISTANCE OF 440.42 FEET TO THE POINT OF BEGINNING;  
THENCE CONTINUE ALONG THE SOUTH LINE OF LOT 1 N 87°29'57" E A DISTANCE OF 235.38 FEET;  
THENCE N 00°44'16" E A DISTANCE OF 495.73 FEET;  
THENCE S 88°03'31" W A DISTANCE OF 235.26 FEET;  
THENCE S 00°44'16" W A DISTANCE OF 498.03 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.681 ACRES OF LAND MORE OR LESS.  
SUBJECT TO THE EASEMENTS AND RESTRICTIONS OF RECORD.

TOGETHER WITH ALL OF THE LEASEHOLD INTEREST IN AND TO THAT CERTAIN LEASE, DATED NOVEMBER 9, 1995, OF THE REAL PROPERTY DESCRIBED ABOVE AS TRACT B, WHICH LEASE HAS BEEN EXECUTED BY BONITA COUNTRY CLUB UTILITIES AS THE LESSEE AND BY PLATNIUM COAST FINANCIAL CORP., A FLORIDA CORPORATION AS LESSOR;

TRACT "A" AND TRACT "B" WILL BE HEREINAFTER REFERRED TO AS THE "PREMISES" OR "PROPERTY".

TOGETHER WITH ANY AND ALL BUILDINGS AND OTHER IMPROVEMENTS, AND ALL FIXTURES IN OR ON SUCH BUILDINGS AND OTHER IMPROVEMENTS, NOW OR HEREAFTER SITUATED ON THE PROPERTY AND ALL ADDITIONS THERETO AND ALL RENEWALS, REPLACEMENTS AND REPLENISHMENTS THEREOF, INCLUDING ALL PERSONAL PROPERTY, THE HEATING AND AIR CONDITIONING UNITS, EQUIPMENT, MACHINERY, DUCTS AND CONDUITS, WHETHER DETACHABLE OR NOT, NOW OR HEREAFTER LOCATED IN AND ABOUT THE PROPERTY AND ALL ADDITIONS THERETO AND ALL RENEWALS, REPLACEMENTS AND REPLENISHMENTS THEREOF, AND PERSONAL PROPERTY NOW OR HEREAFTER LOCATED THEREON; AND

TOGETHER WITH ALL AND SINGULAR THE TENEMENTS, HEREDITAMENTS AND APPURTENANCES THERETO BELONGING OR IN ANYWISE THEREUNTO APPERTAINING, INCLUDING RIPARIAN AND/OR LITTORAL RIGHTS, ALL PERMITS AND LICENSES FOR MAINTAINING AND USING THE PREMISES, ANY EASEMENTS BENEFITING OR SERVING THE PROPERTY, ANY REVERSIONARY INTEREST IN ANY ROADS OR STREETS, AND ANY RIGHTS IN ANY EASEMENTS BENEFITING AND SERVING THE PROPERTY OR ANY PORTIONS THEREOF, AND THE RENTS, ISSUES AND PROFITS THEREOF, AND ALSO ALL THE ESTATE, RIGHT, TITLE, INTEREST AND ALL CLAIM AND DEMAND WHATSOEVER, AS WELL IN LAW AS IN EQUITY, OF BONITA COUNTRY CLUB UTILITIES, INC. IN AND TO THE SAME, INCLUDING, BUT NOT LIMITED TO, ALL RENTS, ISSUES, PROFITS, REVENUES, ROYALTIES, RIGHTS AND BENEFITS DERIVED FROM THE PREMISES FROM TIME TO TIME ACCRUING, WHETHER NOW EXISTING OR HEREAFTER CREATED, RESERVING TO BONITA COUNTRY CLUB UTILITIES, INC.

TOGETHER WITH ANY AND ALL IMPROVEMENTS (COLLECTIVELY THE "IMPROVEMENTS") NOW OR HEREAFTER ATTACHED TO OR PLACED, ERECTED, CONSTRUCTED OR DEVELOPED ON THE REAL PROPERTY ("PROPERTY"); (B) ALL FIXTURES, FURNISHINGS, EQUIPMENT, INVENTORY, AND OTHER ARTICLES OF PERSONAL

PROPERTY (COLLECTIVELY THE "PERSONAL PROPERTY") THAT ARE NOW OR HEREAFTER ATTACHED TO OR USED IN OR ABOUT THE IMPROVEMENTS OR THAT ARE NECESSARY OR USEFUL FOR THE COMPLETE AND COMFORTABLE USE AND OCCUPANCY OF THE IMPROVEMENTS FOR THE PURPOSES FOR WHICH THEY WERE OR ARE TO BE ATTACHED, PLACED, ERECTED, CONSTRUCTED OR DEVELOPED, OR THAT ARE OR MAY BE USED IN OR RELATED TO THE PLANNING, DEVELOPMENT, FINANCING OR OPERATION OF THE IMPROVEMENTS, AND ALL RENEWALS OF OR REPLACEMENTS OR SUBSTITUTIONS FOR ANY OF THE FOREGOING, WHETHER OR NOT THE SAME ARE OR SHALL BE ATTACHED TO THE IMPROVEMENTS OR THE PROPERTY; (C) ALL WATER AND WATER RIGHTS, TIMBER, CROPS, AND MINERAL INTERESTS PERTAINING TO THE PROPERTY; (D) ALL BUILDING MATERIALS AND EQUIPMENT NOW OR HEREAFTER DELIVERED TO AND INTENDED TO BE INSTALLED IN OR ON THE IMPROVEMENTS OR THE PROPERTY; (E) ALL PLANS AND SPECIFICATIONS FOR THE IMPROVEMENTS; (F) ALL CONTRACTS RELATING TO THE PROPERTY, THE IMPROVEMENTS OR THE PERSONAL PROPERTY; (G) ALL DEPOSITS (INCLUDING, WITHOUT LIMITATION, TENANTS' AND PURCHASERS' SECURITY DEPOSITS), BANK ACCOUNTS, FUNDS, DOCUMENTS, CONTRACT RIGHTS, ACCOUNTS, ACCOUNTS RECEIVABLE, COMMITMENTS, CONSTRUCTION AGREEMENTS, ARCHITECTURAL AGREEMENTS, GENERAL INTANGIBLES (INCLUDING, WITHOUT LIMITATION, TRADEMARKS, TRADE NAMES AND SYMBOLS), INSTRUMENTS, NOTES AND CHATTEL PAPER ARISING FROM OR BY VIRTUE OF ANY TRANSACTIONS RELATED TO THE PROPERTY, THE IMPROVEMENTS OR THE PERSONAL PROPERTY; (H) ALL PERMITS, LICENSES, FRANCHISES, CERTIFICATES, AND OTHER RIGHTS AND PRIVILEGES OBTAINED IN CONNECTION WITH THE PROPERTY, THE IMPROVEMENTS OR THE PERSONAL PROPERTY; (I) ALL PROCEEDS ARISING FROM OR BY VIRTUE OF THE SALE, LEASE OR OTHER DISPOSITION OF THE PROPERTY, THE IMPROVEMENTS, THE PERSONAL PROPERTY OR ANY PORTION THEREOF OR INTEREST THEREIN; (J) ALL PROCEEDS, IF ANY, (INCLUDING, WITHOUT LIMITATION, PREMIUM REFUNDS) OF EACH POLICY OF INSURANCE RELATING TO THE PROPERTY, THE IMPROVEMENTS OR THE PERSONAL PROPERTY; (K) ALL PROCEEDS, IF ANY, FROM THE TAKING OF ANY OF THE PROPERTY, THE IMPROVEMENTS, THE PERSONAL PROPERTY OR ANY RIGHTS APPURTENANT THERETO BY RIGHT OF EMINENT DOMAIN OR BY PRIVATE OR OTHER PURCHASE IN LIEU THEREOF (INCLUDING, WITHOUT LIMITATION, CHANGE OF GRADE OF STREETS, CURB CUTS OR OTHER RIGHTS OF ACCESS), FOR ANY PUBLIC OR QUASI PUBLIC USE UNDER ANY LAW; (L) ALL RIGHT, TITLE AND INTEREST OF BONITA COUNTRY CLUB UTILITIES, INC. IN AND TO ALL STREETS, ROADS, PUBLIC PLACES, EASEMENTS AND RIGHTS-OF-WAY, EXISTING OR PROPOSED, PUBLIC OR PRIVATE, ADJACENT TO OR USED IN CONNECTION WITH, BELONGING OR PERTAINING TO THE PROPERTY; (M) ALL OF THE LEASES, LICENSES,

OCCUPANCY AGREEMENTS, RENTS (INCLUDING WITHOUT LIMITATION, ROOM RENTS), ROYALTIES, BONUSES, ISSUES, PROFITS, REVENUES OR OTHER BENEFITS OF THE PROPERTY, THE IMPROVEMENTS OR THE PERSONAL PROPERTY, INCLUDING, WITHOUT LIMITATION, CASH OR SECURITIES DEPOSITED PURSUANT TO LEASES TO SECURE PERFORMANCE BY THE LESSEES OF THEIR OBLIGATIONS THEREUNDER; (N) ALL CONSUMER GOODS LOCATED IN, ON OR ABOUT THE PROPERTY OR THE IMPROVEMENTS OR USED IN CONNECTION WITH THE USE OR OPERATION THEREOF; (O) ALL RIGHTS, HEREDITAMENTS AND APPURTENANCES PERTAINING TO THE FOREGOING; AND (P) OTHER INTERESTS OF EVERY KIND AND CHARACTER THAT BONITA COUNTRY CLUB UTILITIES, INC. NOW HAS OR AT ANY TIME HEREAFTER ACQUIRES IN AND TO THE PROPERTY, IMPROVEMENTS, AND PERSONAL PROPERTY DESCRIBED HEREIN AND ALL PROPERTY THAT IS USED OR USEFUL IN CONNECTION THEREWITH, INCLUDING RIGHTS OF INGRESS AND EGRESS AND ALL REVERSIONARY RIGHTS OR INTERESTS OF BONITA COUNTRY CLUB UTILITIES, INC. WITH RESPECT THERETO.

D. The Court finds that \$11,443.50 is an appropriate and reasonable attorneys' fee for this action, and that 0 enhancement or reduction of the fee as requested is appropriate. Florida Patient's Compensation Fund v. Rowe, 472 So.2d 1145 (Fla. 1985). Accordingly, attorneys' fees in the amount of \$11,443.50 are awarded the attorney for Plaintiff. The Court finds that \$289.50 is an appropriate and reasonable amount of costs for this action. Accordingly, costs in the amount of \$289.50 are awarded to the Plaintiff.

E. As to each Defendant, there are no genuine issues and material facts, and Plaintiff is entitled to a judgment in its favor as a matter of law; accordingly, it is

**ORDERED AND ADJUDGED** that Northern Trust's Motion for the Entry of Final Summary Judgment of Mortgage Foreclosure against all Defendants is hereby **GRANTED**, and that Summary Final Judgment of Foreclosure (the "Judgment"), is hereby entered in accordance with the terms that follow:

1. There is due and owing from Defendant, BONITA COUNTRY CLUB UTILITIES, INC., ("BCCU"), to Plaintiff, Northern Trust, as of February 1, 1999, under the Note, Mortgage, and Security Agreement, the following sums:

a.) Principal balance:	\$478,013.10
b.) Accrued and unpaid Interest:	\$64,930.11
c.) Late Fees:	\$2,060.73
d.) Attorneys' fees and costs:	\$11,733.00
e.) Total amount due:	\$556,736.94

Which total is due as of the date hereof with interest thereafter at the legal rate, for which let execution issue.

2. If the total sum with interest at the rate prescribed by law and all costs of this action accrued subsequent to this Judgment are not paid within five (5) days from the date of this order, the Clerk of the Court, after publication of notice required by Chapter 45 of Florida Statutes, shall sell the property at public sale on ~~April 20, 1999~~ <sup>May 13, 1999</sup>, between 11:00 a.m. and 2:00 p.m., to the highest bidder for cash, by the north front door of the Lee County Courthouse, 1700 Monroe Street, in Fort Myers, Lee County, Florida, in accordance with the Florida Statutes §45.031, except the Clerk shall not conduct the sale unless Plaintiff or Plaintiff's representative is present to bid.

3. Plaintiff shall advance all subsequent costs of this action. If Plaintiff is not the successful bidder for the property at the sale, then the Clerk of this Court shall reimburse Plaintiff all costs advanced from the sale proceeds.

4. Plaintiff may be a bidder and a purchaser of the property at the foreclosure sale and, if the successful bidder of the property at the sale, then the Clerk shall credit Plaintiff's bid with all or any part of the following sums to pay the bid in full:

- (a) The full amount of the outstanding principal judgment amount;
- (b) All accrued interest;
- (c) Any and all additional costs; and
- (d) Reasonable attorneys' fees accruing subsequent to the date of the judgment in this cause.

5. If Plaintiff is not the successful bidder at such sale, then, immediately following the sale, the successful bidder shall pay the Clerk of the Court \$5,000 in cash or by cashier's check. If the successful bidder does not immediately tender the \$5,000, then the Clerk of the Court shall promptly recommence the bidding without further advertising that the sale will continue. The successful bidder shall have until 4:30 p.m. on <sup>May 17,</sup> ~~May 9,~~ 1999, to pay the clerk the full amount of its bid in cash or cashier's check.

6. If the clerk has not received the full amount of the bid in cash or cashier's check by 4:30 p.m. on <sup>May 17,</sup> ~~May 9,~~ 1999, then at 11:00 a.m.; on <sup>May 18,</sup> ~~May 4,~~ 1999, the clerk shall reopen the bidding to complete the foreclosure sale without providing any further notice or advertisement except as hereafter provided. Plaintiff or Plaintiff's representative must be present to bid at the reopened foreclosure sale. If the sale is reopened, then the Clerk shall distribute the \$5,000 tendered following the 11:00 a.m. bidding in the manner and order prescribed for distributing the proceeds of the sale as described in paragraph 10 of this Order. The public and all bidders who are present at 11:00 a.m. when the sale was first held are invited to contact the clerk's office between the date of the first sale and 4:30 p.m. on <sup>May 17,</sup> ~~May 3,~~ 1999, to determine whether the

successful bidder has paid the clerk the full amount of the successful bid and the public and all bidders who are present at the first sale are invited to return to the location of this sale at 11:00 a.m. on ~~May 4~~<sup>May 18</sup>, 1999, in the event the bidding is reopened. The provisions in this paragraph shall be published as part of the notice of the foreclosure and shall be read by the clerk at the close of the bidding.

7. If Plaintiff is not the successful bidder at the reopened foreclosure sale, then, at the close of all bidding, the successful bidder shall pay the Clerk the full amount of its bid in cash or cashier's check.

8. Upon issuance of the certificate of sale at the earliest time provided by Chapter 45, Florida Statutes, Defendants, Bonita Country Club Utilities, Inc. a Florida Corporation, Thomas Heidkamp, Chapter 7, Trustee, and all persons claiming by, through, under, or against them since the filing of the Notice of Lis Pendens in this action shall be forever foreclosed of all right, title, interest, estate or claim in the property being sold, all rights of redemption shall expire and the purchaser at the sale shall be let into possession of the property.

9. Immediately after the conformation of the sale, whether occurring by the Clerk's issue of the certificate of title or upon the Court's order ruling on any objection to the sale, the Clerk shall, at Plaintiff's or the successful bidder's request, immediately issue a writ of possession of the property.

10. On filing the certificate of title, the Clerk shall distribute the proceeds of the sale in the following order:

- (a) By paying all of Plaintiff's cost of sale;
- (b) By paying Plaintiff's attorneys fees;
- (c) If Plaintiff is not the successful the bidder, by paying Plaintiff the full

outstanding principal amount, accrued interest, and any unpaid litigation costs and attorneys' fees;

(d) By paying for the documentary stamps affixed to the certificate.

11. Upon a sale being had in accordance with Chapter 45 of the Florida Statutes, and upon the Clerk filing the certificate of sale, and the certificate of title, the sale shall stand confirmed and the Defendants and all persons claiming by, through or under them, shall be forever barred and foreclosed of any equity or right of redemption whatsoever in and to the above-described property, and the purchaser at the sale shall be let into possession of the property; further any and all persons whosoever claiming against the subject property by virtue of any liens or other interests unrecorded as to the date of the filing of Plaintiff's Lis Pendens with the Clerk of the Court shall be forever barred from asserting any such liens or other interests, and any such liens or other interests shall be discharged forever, in accordance with the Florida Statutes.

12. This court retains jurisdiction of this cause for the purposes of making all other orders and judgments as may be necessary and proper, including but not limited to, deficiency judgments, writs of assistance, determining claims to any surplus, awarding supplementary attorneys' fees and granting such other relief as may be appropriate.

DONE AND ORDERED in Chambers, Lee County, Florida, this 6 day of April 1999.

S/ WILLIAM C. McIVER

Honorable William C. McIver  
Circuit Court Judge

Conformed Copies to:  
Michael Miceli  
Michael Brundage, Esq.  
D. Keith Wickenden, Esq.

CHARLIE GREEN, CLERK CIRCUIT COURT  
S/Charlie Green

STATE OF FLORIDA

Commissioners:  
E. LEON JACOBS, JR., CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI



DIVISION OF LEGAL SERVICES  
NOREEN S. DAVIS  
DIRECTOR  
(850) 413-6199

Public Service Commission

January 17, 2001

Mr. Michael J. Miceli  
Bonita Country Club Utilities, Inc.  
10200 Maddox Lane  
Bonita Springs, Florida 34135

VIA CERTIFIED MAIL

Re: Docket No. 990975-SU - Application for transfer of Certificate No. 281-S in Lee County from Bonita Country Club Utilities, Inc. to RealNor Hallandale, Inc.

Dear Mr. Miceli:

On November 29, 2000, the Florida Public Service Commission issued Order No. PSC-00-2264-SC-SU requiring you to show cause, in writing, why Bonita Country Club Utilities, Inc., (BCCU) should not remit a statutory penalty of \$2,466.44 and interest in the amount of \$986.86, for its failure to timely pay regulatory assessment fees for 1998 in apparent violation of Section 350.113, Florida Statutes, and Rule 25-30.120(7)(a), Florida Administrative Code. This Order provided that your written response must be received by the Director, Division of Records and Reporting, Florida Public Service Commission, by the close of business on December 20, 2000. Pursuant to the Order, your failure to file a timely written response constitutes a waiver of any right to a hearing and an admission of the facts alleged in the Order. Further, the penalties and interest are deemed assessed with no further action required by the Commission.

Please be advised that the Commission will proceed with collection of this fine by appropriate action unless payment of the statutory penalty of \$2,466.44 and interest in the amount of \$986.86, is received by February 16, 2001. If BCCU fails to respond to staff's collection efforts, the collection of the penalties and interest shall be referred to the Department of Banking and Finance, Comptroller's Office, for further collection efforts. Please be guided accordingly.

DOCUMENT NUMBER - DATE

00690 JAN 17 2001

FPSC-RECORDS/REPORTING

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850

An Affirmative Action/Equal Opportunity Employer

PSC Website: <http://www.floridapsc.com>

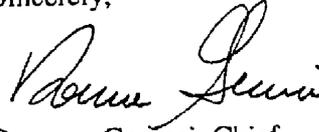
Internet E-mail: [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us)

ATTACHMENT 2

Mr. Michael J. Miceli  
Page 2  
January 17, 2001

Should you have any questions, please contact me at (850) 413-6224.

Sincerely,



Rosanne Gervasi, Chief  
Bureau of Water and Wastewater  
Division of Legal Services

DTV/dm

cc: Division of Records and Reporting  
Division of Water and Wastewater (Hoppe; Daniel, Messer, Johnson, Redemann)  
Division of Administration (Sewell)

1 090915TT DTV

STATE OF FLORIDA

Commissioners:  
E. LEON JACOBS, JR., CHAIRMAN  
J. TERRY DEASON  
LLA A. JABER  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI



DIVISION OF LEGAL SERVICES  
NOREEN S. DAVIS  
DIRECTOR  
(850) 413-6199

Public Service Commission

March 1, 2001

Mr. Michael J. Miceli, President  
Bonita Country Club Utilities, Inc.  
10200 Maddox Lane  
Bonita Springs, Florida 34135

VIA CERTIFIED MAIL  
FINAL NOTICE

Re: Docket No. 990975-SU - Application for transfer of Certificate No. 281-S  
in Lee County from Bonita Country Club Utilities, Inc. to RealNor  
Hallandale, Inc.

Dear Mr. Miceli:

This letter is final notice that by Order No. PSC-00-2264-SC-SU, issued November 29, 2000, in the above-referenced docket, Bonita Country Club Utilities, Inc. (BCCU) was required to show cause, in writing within 21 days, why it should not remit a statutory penalty in the amount of \$2,466.44 and interest in the amount of \$986.86, for its failure to timely pay regulatory assessment fees for 1998. That Order provided that your written response must have been received by the Commission's Division of Records and Reporting by the close of business on December 20, 2000. Pursuant to the Order, BCCU's failure to timely respond constituted an admission of the facts alleged and a waiver of any right to a hearing.

By letter dated January 17, 2001, we notified you of the above and advised you that the Commission would proceed with collection of the penalty and interest unless payment was received by February 16, 2001.

If payment is not received by April 1, 2001, this matter will be referred to the Department of Banking and Finance, Office of the Comptroller, for further collection efforts. Please be guided accordingly.

Should you have any questions, please contact me at (850) 413-6224.

Sincerely,

Rosanne Gervasi, Chief  
Division of Legal Services  
Bureau of Water and Wastewater

RG/dm

cc: Division of Records and Reporting  
Division of Regulatory Oversight (Johnson, Redemann, Welch)  
Division of Economic Regulation (Moniz)  
Division of Administrative (Tribble)

1:990975-L.RG

DOCUMENT NUMBER - DATE  
02790 MAR-15  
FPSC-RECORDS/REPORTING

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD • TALLAHASSEE, FL 32399-0850

An Affirmative Action/Equal Opportunity Employer

PSC Website: <http://www.floridapsc.com>

Internet E-mail: [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us)

Commissioners:  
E. LEON JACOBS, JR., CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI



STEVE TRIBBLE, DIRECTOR  
DIVISION OF ADMINISTRATION  
(850) 413-6330

### Public Service Commission

May 23, 2001

Mr. Robert D. Joyce  
Bureau of Accounting  
Office of the Comptroller  
101 East Gaines Street  
Tallahassee, Florida 32399-0350

Dear Mr. Joyce:

The Public Service Commission has exercised reasonable efforts to collect penalties and interest from the utility referenced below. However, no response has been received, and we believe that further collection efforts would not be cost effective.

DOCKET NUMBER	UTILITY NAME	AMOUNT
990975-SU	Bonita Country Club Utilities, Inc.	\$3,453.02

We respectfully submit the enclosed Delinquent Accounts Receivable Transmittal form, along with a memorandum from the Commission's Division of Legal Services and other supporting documentation. We request that, at your discretion, you either attempt further collection or grant this agency permission to write off the debt.

Sincerely,  
  
Steve Tribble

- ST:jk
- Enclosures
- c: Division of Legal Services (Gervasi)
- Division of Records and Reporting
- Division of Regulatory Oversight (Daniel, Messer, Johnson, Redemann)
- Division of Economic Regulation (Devlin, Tudor, Mailhot, Peacock)
- Division of Administration (Knight)

DOCUMENT NUMBER - DATE  
06546 MAY 24 01  
PSC-RECORDS, REPORTING

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PSC Website: <http://www.floridapsc.com>

Internet E-mail: [contact@psc.state.fl.us](mailto:contact@psc.state.fl.us)

Memo to Mr. Tribble  
Page 3  
April 25, 2001

**STATE OF FLORIDA  
OFFICE OF THE COMPTROLLER  
BUREAU OF AUDITING  
DELINQUENT ACCOUNTS RECEIVABLE TRANSMITTAL**

(PLEASE PRINT OR TYPE)

AGENCY: FLORIDA PUBLIC SERVICE COMMISSION DATE: 4/25/01

CONTACT: KAREN BELCHER, CHIEF, BUREAU OF FISCAL SERVICES

PHONE NUMBER: 413-6273

SAMAS ACCOUNT CODE: 61 20 2 573003 610000 00 000300  
61 74 1 000331 610000 00 001200

SU 285  
990975-SU Bonita Country Club Utilities, Inc.

AGENCY REFERENCE # LAST NAME FIRST MIDDLE SOCIAL SECURITY NUMBER COMPTROLLER USE ONLY

Bonita Country Club Utilities, Inc., 10200 Maddox Lane, Bonita Springs, Florida,  
34135

LAST KNOWN ADDRESS (INCLUDE ZIP)

HOME TELEPHONE WORK TELEPHONE PRINCIPLE AMOUNT PENALTY/INTEREST AMOUNT TOTAL

		\$0	\$2,466.44/\$986.58	\$3,453.02
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\$ 367.145, F.S.				
\$ 350.113, F.S.	Rule 25-30.120, F.A.C.	11/29/2000		8

PENALTY/INTEREST AUTHORITY DATE DEBT INCURRED DEBT TYPE

1998 REGULATORY ASSESSMENT FEE Penalty and Interest

DEBT DESCRIPTION, e.g., DRIVER LICENSE, SALARY OVERPAYMENT, PROPERTY DAMAGE

ADDITIONAL INFORMATION, e.g., DATE OF BIRTH, DRIVER LICENSE NUMBER, ETC.

STATE OF FLORIDA

ORIGINAL

Commissioners:  
E. LEON JACOBS, JR., CHAIRMAN  
J. TERRY DEASON  
LILA A. JABER  
BRAULIO L. BAEZ  
MICHAEL A. PALECKI



STEVE TRIBBLE, DIRECTOR  
DIVISION OF ADMINISTRATION  
(850) 413-6330

Public Service Commission

June 5, 2001

Mr. Bob Joyce  
Bureau of Accounting  
Office of the Comptroller  
101 East Gaines Street  
Tallahassee, FL 32399

Dear Mr. Joyce,

We inadvertently omitted \$4,117.50 as additional uncollectible penalty fees from Bonita Country Club Utilities, Inc. Docket number 990975-SU. (This amount is referenced in letter dated April 25, 2001, which was addressed to Mr. Steve Tribble, from Richard Redemann. 1st paragraph, line 7). It should be added to \$3,453.02 which was referred to your office for write off on May 23, 2001. This brings the total amount to \$7,570.52.

Attached is an amended transmittal form with the corrected amount.

We apologize for any inconvenience.

  
Jackie Knight  
Professional Accountant

- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- OMP \_\_\_\_\_
- COM \_\_\_\_\_ c: Division of Legal Services (Gervasi)
- STR \_\_\_\_\_ Division of Records and Reporting
- ERR \_\_\_\_\_ Division of Regulatory Oversight (Daniel, Messer, Johnson, Redemann)
- LEG \_\_\_\_\_ Division of Economic Regulation (Devlin, Tudor, Mailhot, Peacock)
- OPC \_\_\_\_\_
- PAI \_\_\_\_\_
- RGD \_\_\_\_\_
- SEC \_\_\_\_\_
- SEP \_\_\_\_\_
- OTH \_\_\_\_\_

DOCUMENT NUMBER DATE  
07085 JUN-6 2001

**STATE OF FLORIDA  
OFFICE OF THE COMPTROLLER  
BUREAU OF AUDITING  
DELINQUENT ACCOUNTS RECEIVABLE TRANSMITTAL**

(PLEASE PRINT OR TYPE)

AGENCY: FLORIDA PUBLIC SERVICE COMMISSION DATE: 6/6/01

CONTACT: KAREN BELCHER, CHIEF, BUREAU OF FISCAL SERVICES

PHONE NUMBER: 413-6273

SAMAS ACCOUNT CODE: 61 20 2 573003 610000 00 000300  
61 74 1 000331 610000 00 001200

SU 285		
990975-SU	Bonita Country Club Utilities, Inc.	1004930
AGENCY REFERENCE#	LAST NAME FIRST MIDDLE	SOCIAL SECURITY NUMBER COMPTROLLER USE ONLY

Bonita Country Club Utilities, Inc., 10200 Maddox Lane, Bonita Springs, Florida 34135

LAST KNOWN ADDRESS (INCLUDE ZIP)

	\$0	\$4117.50 + \$2,466.44/\$986.58	\$7,570.52
HOME TELEPHONE	WORK TELEPHONE	PRINCIPLE AMOUNT PENALTY/INTEREST	AMOUNT TOTAL

\$ 367.145, F.S.  
\$ 350.113, F.S. Rule 25-30.120, F.A.C. 11/29/2000 8

PENALTY/INTEREST AUTHORITY	DATE DEBT INCURRED	DEBT TYPE
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1998 REGULATORY ASSESSMENT FEE Penalty and Interest and Annual Report Penalty  
DEBT DESCRIPTION, e.g., DRIVER LICENSE, SALARY OVERPAYMENT, PROPERTY DAMAGE

ADDITIONAL INFORMATION, e.g., DATE OF BIRTH, DRIVER LICENSE NUMBER, ETC.