

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

MIKE FOOTE OIL & GAS PROPERTIES,)
FOOTE OIL & GAS PROPERTIES, L.L.C.)
and JOHN MICHAEL FOOTE, Individually)
and in their representative capacity)

Plaintiffs,)

v.)

TOKAI FINANCIAL SERVICES INC.;)
DE LAGE LANDEN FINANCIAL SERVICES,)
INC.; DE LAGE LANDEN FINANCIAL)
SERVICES, INC., as Successor in interest to)
TOKAI FINANCIAL SERVICES, INC., and)
E.H. DEVINE COMPANY, INC.,)
MEEKER SHARKEY DEVINE COMPANY,)
INC. and SUMMIT INSURANCE ADVISORS,)
LLC)

Defendants.)

MAR 26 2002

CIVIL ACTION NO.
CV-00-782

CIRCUIT COURT
BALDWIN COUNTY, AL.
FILED

MAR 22 2002

JACKIE N. CALHOUN
CIRCUIT COURT CLERK

STIPULATION OF SETTLEMENT

This Stipulation of Settlement (the "Stipulation") is made by Plaintiffs as representatives of the Classes, as defined herein, and Defendants De Lage Landen Financial Services, Inc., E. H. Devine Co., Inc., Meeker Sharkey Devine Company, Inc., and Summit Insurance Advisors, LLC, as defined herein, by and through their respective attorneys of record, in the above-captioned action. Subject to the following terms and conditions, and subject to the approval of this Court, the above-captioned action is compromised and settled and shall be dismissed on the merits with prejudice and without costs as to all members of the Classes.

I.

DEFINITIONS

As used herein, the following terms have the following meanings:

A. "Account" means the records kept by DLLFS reflecting all amounts due from and paid by Class Members to DLLFS in connection with their respective leases for equipment owned by DLLFS.

B. "Active Lease" means any lease for equipment owned by DLLFS that an "Injunctive Relief Class Member" entered into prior to April 1, 2002 and for which DLLFS maintains property insurance after April 1, 2002 and bills an "Insurance Charge" to their Account.

C. "Attorneys' Fees" means reasonable attorneys' fees for which Class Counsel plan to seek reimbursement by filing an application pursuant to Section IX.C. of this Stipulation. "Attorneys' Fees" does not include "Attorneys' Costs and Expenses" or "Notice and Administration Costs."

D. "Attorneys' Costs and Expenses" means the costs of litigation and expenses for which Class Counsel plan to seek reimbursement by filing an application pursuant to Section IX.C. of this Stipulation.

E. "Calculation Date" means the date as of which Class Payments will be calculated. The Calculation Date is the "Preliminary Approval Date."

F. "Classes" means, collectively, the "Insurance Charge Class" and the "Injunctive Relief Class."

G. "Class Counsel" means Edward A. Dean, Esq., Armbrrecht Jackson LLP, Julian B. Brackin, Esq. and Brackin & McGriff, P.C., who are counsel to the Plaintiffs and the Classes.

H. "Class Member" means a member of the Insurance Charge Class and/or a member of the Injunctive Relief Class.

I. "Class Payment" means the payment or credit from the "Settlement Fund" to which an Insurance Charge Class Member is entitled, in either cash or credit. DLLFS' records shall conclusively determine entitlement to, and the amount of, any Class Payment.

J. "Closeout Date" means One Hundred and Thirty-Five (135) days after the Distribution Date.

K. "Common Fund" means the fund of Six Million Seven Hundred and Thirty Thousand Dollars (\$6,730,000) in cash and credits to be created by Defendants pursuant to the terms of this Stipulation, as follows: (i) Six Million Five Hundred Thousand Dollars (\$6,500,000) in cash and credits to be paid by DLLFS; (ii) One Hundred Fifty Thousand Dollars (\$150,000) in cash to be paid by Devine, which Devine shall pay to the Administrator thirty (30) days before the Distribution Date and which the Administrator shall hold in escrow in order to make Class Payments; and (iii) Eighty Thousand Dollars (\$80,000) in cash to be paid by Meeker and Summit, which Meeker and Summit shall pay to the Administrator thirty (30) days before the Distribution Date and which the Administrator shall hold in escrow in order to make Class Payments. Defendants will not be required to hold in escrow or otherwise set aside specific monies to create the Common Fund. Even if, at any of the Defendants' respective option, monies are placed in an interest bearing account or accounts, any interest accruing on any such

monies shall belong at all times exclusively to the particular Defendant who so places such monies.

L. “Complaint” means the Third Amended Class Action Complaint filed by Plaintiffs as Civil Action No. CV-00-782 in the Circuit Court of Baldwin County, Alabama.

M. “Court” means the Circuit Court of Baldwin County, Alabama.

N. “Defendants” means DLLFS, Devine, Meeker and Summit, collectively.

O. “Defendants’ Counsel” means DLLFS’ Counsel, Devine’s Counsel, and Meeker and Summit’s Counsel, collectively.

P. “DLLFS” means Defendant De Lage Landen Financial Services, Inc. and its predecessors, successors, subsidiaries, and affiliates, and all of its present and former officers, directors, employees, representatives, agents, attorneys and all other persons acting on its behalf, including, but not limited to, Tokai Financial Services, Inc. and each of their present and former officers, inside and outside directors, attorneys, accountants, agents, representatives, employees, heirs and assigns.

Q. “DLLFS’ Counsel” means the law firm of Morrison & Foerster LLP and Kenneth J. Riemer, Esq.

R. “Devine” means Defendant E. H. Devine Company, Inc. and its predecessors, successors, subsidiaries, and affiliates, and all of its present and former officers, directors, employees, representatives, agents, attorneys and all other persons acting on its behalf.

S. “Devine’s Counsel” means Carroll H. Sullivan, Esq. and Clark, Scott & Sullivan, P.C.

T. “Distribution Date” means thirty (30) days after the Effective Date.

U. “Effective Date,” or the date upon which this Stipulation becomes effective, means the date on which the Court’s Final Judgment and Order of Dismissal with Prejudice (“Final Judgment”), approving the Stipulation, dismissing with prejudice the claims of the Representative Plaintiffs and the Class Members, awarding Attorneys’ Fees and Attorneys’ Costs and Expenses, and awarding the cash and credits and injunctive relief to the Representative Plaintiffs and the Class Members, substantially in the form of a proposed Final Judgment Order to be drafted by the Parties, becomes Final.

V. “Fairness Hearing” means the hearing the Court must hold pursuant to ARCP 23(e), which provides, in pertinent part, that “a class action shall not be dismissed or compromised without the approval of the court.”

W. “Final” means the last date by which all of the following have occurred: (1) entry of the Court’s Final Judgment and Order of Dismissal with Prejudice approving this Stipulation, substantially in the form of a proposed Final Judgment Order to be drafted by the Parties; and (2) forty-two (42) days have passed after entry of Final Judgment and Order of Dismissal with Prejudice without any appeals being taken, or if appeals or requests for review have been taken, the entry of final orders affirming the Final Judgment and Order of Dismissal with Prejudice or denying review after exhaustion of all appellate remedies.

X. “First Notice Date” means the date on which Notice of Proposed Class Action Settlement and Hearing (substantially in the form of Exhibit “B”) is sent out to the Class Members. The First Notice Date is thirty (30) days after the Preliminary Approval Date.

“Second Notice Date” means the date on which the second Notice of Proposed Class Action Settlement and Hearing is sent out to those Class Members for whom the first Notice of Proposed Class Action Settlement and Hearing was returned unopened to the Administrator by

the U.S. Postal Service as undeliverable and for whom the Administrator was subsequently able to determine an address correction pursuant to Section IX.K.2. ("Class Settlement Procedures") below. The Second Notice Date is thirty (30) days after the First Notice Date.

Y. "Injunctive Relief" means the total value to the Injunctive Relief Class of the injunctive relief provided for in Exhibit D attached hereto. The Parties have estimated, based upon appropriate due diligence, that the value of the Injunctive Relief is approximately

\$1,927,979.00

Z. "Injunctive Relief Class" means all persons with Active Leases. Notwithstanding the foregoing, all such lessees who file a timely request for exclusion are excluded from the Injunctive Relief Class.

AA. "Injunctive Relief Class Member" means a member of the Injunctive Relief Class as defined above.

BB. "Insurance Charge" means the fixed monthly charge (in dollars and cents) that DLLFS added to the Accounts of Class Members for property insurance between January 1, 1997 and March 31, 2002, inclusive, that was not fully canceled and all charges associated therewith refunded.

CC. "Insurance Charge Class" means Class Members that DLLFS billed for an Insurance Charge. Notwithstanding the foregoing, all such lessees who file a timely request for exclusion are excluded from the Insurance Charge Class.

DD. "Insurance Charge Class Member" means a member of the Insurance Charge Class as defined above.

EE. “Meeker” means Meeker Sharkey Devine Company, Inc. and its predecessors, successors, subsidiaries, and affiliates, and all of its present and former officers, directors, employees, representatives, agents, attorneys and all other persons acting on its behalf.

FF. “Meeker and Summit’s Counsel” means Henry A. Callaway III, Esq. and Hand Arendall, L.L.C.

GG. “Notice and Administration Costs” means the appropriate and reasonable costs of ascertaining Class Members and their addresses, providing notice to the Class Members, publishing of the legal notice, preparing and mailing payments and paying the reasonable fees and expenses of the Administrator. Notice and Administration Costs shall not include legal fees.

HH. “Opt-Out Date” means the deadline for Class Members to opt out of and be excluded from the Settlement. The Opt-Out Date is thirty (30) days following the Second Notice Date. Any Class Members desiring to opt out must comply with the opt-out procedure set forth in Section IX.K.1. (“Class Settlement Procedures”) by the Opt-Out Date.

II. “Owing Class Members” means all Insurance Charge Class Members entitled to Class Payments who are not Paid Class Members.

JJ. “Paid Class Members” means, as of the Calculation Date, all Insurance Charge Class Members entitled to Class Payments as to whom all Account charges have been paid in full to DLLFS as of the Calculation Date.

KK. “Parties” means, collectively, the Representative Plaintiffs, the Classes and Defendants.

LL. "Person" means any individual, corporation, partnership, association, joint stock company, trust, incorporated association, entity, government and any political subdivision thereof, or any other type of legal entity, and his, her or its heirs, successors and assigns.

MM. "Plaintiffs," "Representative Plaintiffs" or "Representatives" means Mike Foote Oil & Gas Properties, Foote Oil & Gas Properties, L.L.C. and John Michael Foote, the named representatives of the Classes.

NN. "Preliminary Approval Date" means the date the Court enters an Order Preliminarily Approving Settlement, Certifying the Temporary Classes and Approving the Form and Manner of Notice to the Classes.

OO. "Released Parties" means Defendants (as defined above).

PP. "Settled Claims" means all claims identified in Section IX.L.1. and L.2. ("Releases") below, including, but not limited to, any and all causes of action, demands, rights, damages, liabilities, fees, costs or claims of any nature whatsoever, known or unknown, that have been, could have been, or in the future might be, asserted by any Class Members against any of the Released Parties based upon the facts, transactions, events, occurrences, acts, representations or omissions alleged in, arising out of, or in any way related to the allegations in the Complaint, or based on, related to, or arising out of the subject matter of the Complaint and based on, related to, or arising out of any Insurance Charge and/or the placement by Defendants of insurance on leased equipment owned by DLLFS.

QQ. "Settlement Administrator" or "Administrator" means the settlement administration firm of Tilghman & Co., P.C. ("Tilghman"), engaged by the Parties for the purpose of assisting in the administration of the terms and provisions of this Stipulation.

Tilghman's address is P.O. Box 11250, Birmingham, AL 35202.

RR. "Settlement Claim Factor" means the factor that the Settlement Administrator will use to determine the amount to which each Insurance Charge Class Member is entitled under the settlement. The Settlement Administrator will calculate a ratio of the amount of the Settlement Fund to the total amount of Insurance Charges billed to all Insurance Charge Class Members during the Relevant Period, which ratio shall be the Settlement Claim Factor. To determine the Class Payment to which each Insurance Charge Class Member is entitled, the Administrator shall multiply the Settlement Claim Factor by the amount of Insurance Charges billed to that Insurance Charge Class Member.

SS. "Settlement Fund" means the Common Fund less any Attorneys' Fees and Attorneys' Costs and Expenses to be paid from the Common Fund pursuant to Section IX.C. ("Attorneys' Fees") of this Stipulation.

TT. "Summit" means Summit Insurance Advisors, LLC and its predecessors, successors, subsidiaries, and affiliates, and all of its present and former officers, directors, employees, representatives, agents, attorneys and all other persons acting on its behalf.

II.

DESCRIPTION OF THE LITIGATION

Mike Foote Oil & Gas Properties, Foote Oil & Gas Properties, L.L.C. and John Michael Foote are the named Plaintiffs in the Complaint and the Representatives of the Classes. The Complaint arises from the imposition of Insurance Charges on the Accounts of lessees of equipment owned by DLLFS in connection with property insurance coverage that was purchased by DLLFS in order to protect its interest in equipment it leased to lessees who failed to purchase or maintain the insurance on the leased equipment. This insurance was required under the terms

of the leases for the equipment. Plaintiffs' Complaint alleges that Defendants engaged in unlawful practices relating to the placement of such insurance, including the imposition of excessive Insurance Charges, and asserts claims against Defendants for breach of contract, tortious interference with contract, fraud, negligence, wantonness, conspiracy, money had and received, injunctive relief and compensatory and punitive damages.

Defendants have asserted and continue to assert that each of their conduct with respect to the matters complained of was in all respects, and at all times, entirely proper and lawful.

Defendants assert that Plaintiffs' claims are without merit, and deny all allegations of wrongdoing and deny any liability whatsoever to Plaintiffs and all other members of the Classes arising from the transactions at issue in the Complaint. Specifically, Defendants assert that the insurance benefited the lessees and was placed on an Account only after each lessee received a notice reminding such lessee of its obligation to purchase such insurance coverage and stating that, if such lessee did not purchase the requisite insurance, such insurance would be purchased for it and a fixed monthly charge would be added to the lessee's account balance to cover the premium and a related service charge.

III.

CLASS CERTIFICATION

Plaintiffs' amended motion for class certification was served October 19, 2001 (the "Class Certification Motion"). The Class Certification Motion was fully briefed by the parties and the Court heard argument and live testimony on November 30, 2001 and January 14, 2002. The Class Certification Motion is currently *sub judice*. By this Stipulation, all Parties agree to conditional certification of the Classes. Promptly following the execution of this Stipulation, the Parties shall seek from the Court an Order Preliminarily Approving Settlement, Certifying

Classes for Settlement and Approving the Form and Manner of Notice, substantially in form and substance set forth in Exhibit "A" hereto. In the event that the Stipulation shall terminate pursuant to its terms for any reason, any Order certifying the Classes shall be vacated by its terms. All Class Members hereby consent to the jurisdiction of this Court over their claims only for purposes of this settlement.

IV.

INVESTIGATION

Defendants have provided Class Counsel with documents and other information concerning the Insurance Charges and will respond to additional requests for specific documents and information. Class Counsel have investigated the facts and the law and have, with expert assistance, engaged in sufficient additional investigation to verify the accuracy of the information provided by Defendants. Class Counsel also have fully analyzed and evaluated the relative merits of the Parties' contentions and the impact thereof on the claims of the Classes. Class Counsel and its expert assistants will continue their investigation and analysis to ensure the accuracy of all information they have received from DLLFS. Class Counsel have engaged with Defendants' Counsel in extensive arms-length negotiations in order to evaluate and reach a settlement which is fair and equitable to the Classes.

V.

BENEFITS OF SETTLEMENT TO THE CLASSES

Class Counsel recognize the expense and duration of continued proceedings necessary to continue the litigation against Defendants through trial and possible appeals. Class Counsel also have taken into account the uncertainty and risk of the outcome of the litigation and the difficulties and delays inherent in such litigation. Class Counsel are aware of the burden of proof

necessary to establish liability for the alleged claims and of Defendants' defenses thereto. Class Counsel also have considered the arms-length settlement negotiations conducted by the Parties. Based upon their investigation, their understanding of the law, and an analysis of the benefits which the Stipulation affords to the Classes, Class Counsel have determined that the settlement set forth in this Stipulation is in the best interest of the Classes.

VI.

DEFENDANTS' REASONS FOR SETTLEMENT

Defendants have each concluded that further defense of this litigation would be protracted and expensive and the outcome uncertain. Much time, energy and resources of each Defendant have been, and will continue to be, devoted to the defense of the claims asserted. Defendants each have, therefore, agreed to settle the Complaint upon the terms set forth in this Stipulation to put to rest all claims which are, or could have been, asserted in the Complaint.

VII.

DEFENDANTS' DENIAL OF WRONGDOING AND LIABILITY

Defendants deny the allegations of the Complaint. Defendants have repeatedly asserted, and continue to assert, defenses and affirmative defenses thereto. Defendants have expressly denied, and continue to deny, any wrongdoing or legal liability arising from any of the facts or conduct alleged in the Complaint. Neither this Stipulation, nor any document referred to herein, nor any action taken to effect this Stipulation, is an admission that any claim which was brought or could have been brought against Defendants has any merit whatsoever.

VIII.

CLAIMS OF THE CLASSES

The Classes have claimed, and continue to claim, that all contentions made in the Complaint have merit and give rise to liability by Defendants for damages and for injunctive relief. Neither this Stipulation, nor any document referred to herein, nor any action taken to effect this Stipulation is, may be construed as, or may be used as an admission, by or against the Classes, that any of their claims are without merit.

IX.

SETTLEMENT TERMS

A. Settlement Fund

1. Subject to the approval of the Court of this Stipulation, and in consideration for the release and compromise of all Settled Claims by Insurance Charge Class Members, Defendants will establish a Common Fund consisting of Six Million Seven Hundred Thirty Thousand Dollars (\$6,730,000) in cash and credit for the payment to Insurance Charge Class Members, as follows: (i) Six Million Five Hundred Thousand Dollars (\$6,500,000) in cash and credits to be paid by DLLFS; (ii) One Hundred Fifty Thousand Dollars (\$150,000) in cash to be paid by Devine, which Devine shall pay to the Administrator thirty (30) days before the Distribution Date and which the Administrator shall hold in escrow in order to make Class Payments; and (iii) Eighty Thousand Dollars (\$80,000) in cash to be paid by Meeker and Summit, which Meeker and Summit shall pay to the Administrator thirty (30) days before the Distribution Date and which the Administrator shall hold in escrow in order to make Class Payments. A Settlement Fund shall be created from the Common Fund by deducting Attorneys' Fees and Attorneys' Costs and Expenses from the Common Fund in accordance with Section

IX.C. ("Attorneys' Fees") of this Stipulation and pursuant to Section IX.E. of this Stipulation. Subject to the terms of this Stipulation, Insurance Charge Class Members entitled to Class Payments shall be paid cash or receive credits from the Settlement Fund by the Distribution Date pursuant to the formulas set forth in Section IX.A.2.

2. The Settlement Fund shall be divided by the sum of the total Insurance Charges billed to all Insurance Charge Class Members, resulting in the calculation of the Settlement Claim Factor. Each Insurance Charge Class Member shall receive as damages a share of the Settlement Fund equal to the dollar value of the Insurance Charges billed to that Insurance Charge Class Member multiplied by the Settlement Claim Factor.

3. If any amount remains in the Settlement Fund after the payment of all Class Payments approved by Class Counsel and DLLFS, the excess amount will be distributed in accordance with Section IX.D.

B. Injunctive Relief

1. Subject to the approval of the Court of this Stipulation, and in consideration for the release and compromise of all Settled Claims by Injunctive Relief Class Members, DLLFS will agree to the terms of the injunction attached hereto as Exhibit D. This injunction shall take effect on April 1, 2002.

C. Attorneys' Fees

1. The Parties agree that Plaintiffs and/or Class Counsel will make an application to the Court for an award of reasonable attorneys' fees ("Attorneys' Fees"). Class Counsel plan to seek Attorneys' Fees not to exceed twenty-eight percent (28%) of the aggregate value of the Common Fund and the Injunctive Relief. Any decision by the Court to award

Attorneys' Fees in an amount less than twenty-eight percent (28%) of the total of the Common Fund and the Injunctive Relief shall not affect the enforceability of this Stipulation.

2. The Parties agree that Plaintiffs and/or Class Counsel will make an application to the Court for reimbursement of Class Counsel's reasonable costs of litigation and expenses ("Attorneys' Costs and Expenses"). Any decision by the Court to award Attorneys' Costs and Expenses in an amount less than the amount sought by Class Counsel shall not affect the enforceability of this Stipulation.

3. The Attorneys' Fees and Attorneys' Costs and Expenses awards will be deducted from the Common Fund before any other distributions are made from the Common Fund. Any distribution of Attorneys' Fees and Attorneys' Costs and Expenses will be made in accordance with Section IX.K.4. ("Class Settlement Procedures") herein.

D. Notice and Administration Costs

1. Defendants agree to pay all reasonable Notice and Administration Costs incurred in connection with administering the settlement, as follows: (i) DLLFS will pay 96.59% of such Notice and Administration Costs, (ii) Devine will pay 2.67% of such Notice and Administration Costs and, (iii) Meeker and Summit will pay 0.74% of such Notice and Administration Costs.

2. If, as of the Closeout Date, the total amount of the Settlement Fund is not distributed because (1) Insurance Charge Class Members cannot be found or (2) Paid Class Members' checks fail to clear within ninety (90) days after issuance, any funds remaining in the Settlement Fund will be used to reimburse Defendants for Notice and Administration Costs, on a *pro rata* basis, based on their payments to the Common Fund. In the event that any Funds

remain in the Settlement Fund after such reimbursement, they shall revert to Defendants on a *pro rata* basis, based on their payments to the Common Fund.

E. Distributions From Settlement Fund

1. Payments or Credits From the Settlement Fund

As appropriate, the Insurance Charge Class Member will be paid cash or the Insurance Charge Class Member's Account will be issued credit from the Settlement Fund when the Insurance Charge Class Member is determined to be entitled to a Class Payment based on the Administrator's and/or DLLFS' review of the records of DLLFS.

2. Cash Payments to Paid Class Members

Payments by check shall be sent to Paid Class Members entitled to Class Payments by first class United States mail, by the Distribution Date, to a "last-known" address as verified by the Administrator. If the Account containing an Insurance Charge was for a joint or co-obligation, any cash payment hereunder shall be made jointly payable to the respective joint or co-obligor Insurance Charge Class Members and sent to the last-known address of any one of them as verified by the Administrator, and the Administrator will then be responsible for the proper delivery or attempted delivery of such cash payment. Those Paid Class Members whose checks fail to clear within ninety (90) days after they are issued shall be ineligible to share in the Settlement Fund. The amount of any check that fails to so clear within ninety (90) days shall be distributed in accordance with Section IX.D.2. ("Notice and Administration Costs") above.

3. Credits to Owing Class Members

Any Insurance Charge Class Member entitled to a Class Payment who as of the Calculation Date has an outstanding Account balance to DLLFS shall receive on the Distribution Date, as the distribution to the Owing Class Member, a credit against such outstanding obligation

to DLLFS. A record of such credit shall be sent to the Owing Class Member at his, her or its address as verified by the Administrator. In the event that the total amount due to said Owing Class Member exceeds the outstanding obligation to DLLFS, that Owing Class Member shall be entitled to a cash payment in the amount by which the total amount exceeds said outstanding obligation to DLLFS in the same manner as cash payments are made to Paid Class Members as set forth in Section IX.E.2. ("Cash Payments to Paid Class Members"). DLLFS' records for the Account of each Owing Class Member receiving a credit hereunder shall be adjusted to reflect the credit made as if the Owing Class Member had made a cash payment to DLLFS as of the Calculation Date.

4. Insurance Charge Class Members and Bankruptcy

Those Insurance Charge Class Members who are currently in a bankruptcy proceeding or whose obligations to DLLFS were discharged in bankruptcy for less than one hundred cents on the dollar and whose Insurance Charges were billed pre-petition shall only be eligible to receive credit, not cash, from the Settlement Fund.

5. Problem or Disputed Class Payments

All problem or disputed Class Payments shall be resolved by the Court.

F. Compensation to Representative Plaintiffs

Subject to Court approval, DLLFS will pay the sum of Twenty-Five Thousand Dollars (\$25,000) jointly to Representative Plaintiffs Mike Foote Oil & Gas Properties, Foote Oil & Gas Properties, L.L.C. and John Michael Foote as compensation for their time and energy. This payment shall not be made from the Settlement Fund and shall be made in addition to any cash or credit that such named Plaintiffs may be entitled to pursuant to Section IX.A. ("Settlement Fund") of this Stipulation.

G. Public Comments on Stipulation

The Parties and their respective counsel and representatives may not publicly comment on the settlement, provided, however, that DLLFS, its counsel and representatives may respond to inquiries regarding the settlement by the media and by DLLFS' customers and potential customers and further provided that Class Counsel may respond to inquiries from Class Members regarding the settlement.

H. Effect of Non-Approval, Cancellation and Termination

1. If the Court does not enter the Order Preliminarily Approving Settlement, Certifying Temporary Class for Settlement, and Approving the Form and Manner of Notice to the Class substantially in form and substance as Exhibit "A" hereto, or does not enter a Final Judgment and Order of Dismissal with Prejudice approving the Stipulation substantially consistent with this Stipulation and in the form and substance set forth in a proposed Final Judgment Order to be drafted by the Parties, or if the Court enters a Final Judgment and appellate review is sought, and upon such review, such Final Judgment is reversed, or is modified to change any of the material terms of this Stipulation, then this Stipulation shall be automatically canceled and terminated unless the Parties hereto otherwise agree in writing at such time.

2. If this Stipulation is not approved or is canceled or terminated, or fails to become effective for any reason, then the Parties to this Stipulation shall be deemed to have their respective status as of the date and time immediately prior to this Stipulation, and they shall proceed in all respects as if this Stipulation and any related orders had not been executed and/or entered.

3. In the event this Stipulation is not approved, or is canceled or terminated, or fails to become effective for any reason, then this Stipulation, except with respect to

Sections IX.H. ("Effect of Non-Approval, Cancellation and Termination"), IX.J. ("Return of Documents") and IX.M. ("Miscellaneous Provisions"), shall be void and have no continuing effect, and no reference to the fact of a Stipulation or the terms thereof shall be made in this Court or in any other court nor sought to be used by any person in any proceeding against any of the Released Parties as an admission or indication or evidence of any wrongdoing or liability or lack thereof. Similarly, in such an event, the Stipulation shall not be used as an admission by Class Members.

I. Settlement Administrator

Tilghman, a firm that the Parties agree to be experienced in administering settlements, shall be designated as Settlement Administrator in connection with the settlement. DLLFS will pay any reasonable fees owed to the Administrator and will reimburse the Administrator for its reasonable costs and expenses, provided that such fees, costs and expenses are approved in advance by DLLFS. Any fees, costs or expenses that DLLFS advances, reimburses or pays to the Administrator shall constitute Notice and Administration Costs. The Administrator shall oversee the class settlement procedures set forth in Section IX.K. ("Class Settlement Procedures") below. Within thirty (30) days of the Closeout Date, Devine, Meeker and Summit will pay to DLLFS their share of the total Notice and Administration Costs as set forth in Section IX.D.1.

J. Return of Documents

Within 30 days of the Closeout Date, all documents produced by any of the Parties, whether by formal or informal discovery, or in connection with the negotiation and execution of this Stipulation, shall either be: (a) returned by all receiving Parties to the producing Party; or (b) destroyed by counsel for the receiving Party, who shall then certify in a letter to counsel for

the producing Party that all such documents provided by that producing Party have been destroyed.

K. Class Settlement Procedures

1. As soon as possible following execution of this Stipulation, the Parties shall jointly present to the Court this Stipulation and an Order, in the form of attached Exhibit "A," "Order Preliminarily Approving Settlement, Certifying Temporary Classes for Settlement and Approving the Form and Manner of Notice."

(a) By the First Notice Date, DLLFS and/or the Administrator will mail Notice of Settlement to all Class Members, postage-paid by first class United States Mail, using the last known address obtainable from DLLFS' records, as verified by the Administrator. Such Notice of Settlement shall be substantially in the form attached hereto as Exhibit "B".

(b) Within fourteen (14) days of the First Notice Date, DLLFS and/or the Administrator will publish the Summary Notice of Settlement of Class Action (the "Summary Notice"), substantially in form and substance as set forth in Exhibit "C" hereto, once in the sports section of *USA Today*.

(c) Class Members who intend to opt out of the settlement must do so by sending a written request for exclusion from the Class to the Administrator, such notice to be received on or before the Opt-Out Date. The written request must contain the excluded person's name, address and account number, and must be signed by that person. A Class Member who desires to be excluded but who fails to comply with the opt-out procedure set forth herein shall not be excluded from the Class. The Administrator, together with Class Counsel and Defendants' Counsel, shall compile a list of all Class Members who timely send such a written

request for exclusion and provide a copy of that list to the Clerk of the Court fifteen (15) days before the Fairness Hearing.

(d) Class Members who intend to object to, but not opt out of, the settlement must do so by sending a written objection to the Clerk of the Court, Circuit Court of Baldwin County, Bay Minette, Alabama, with a copy to the Administrator, such notice to be received no later than forty-five (45) days before the Fairness Hearing. The written objection must contain the objecting Class Member's name, address and account number; must state in detail the factual basis and legal grounds for the person's objection to the settlement; and must be signed by that person. A Class Member who desires to object but who fails to comply with the objection procedure set forth herein shall not be deemed to have objected.

(e) The Administrator shall keep track of all Notices of Settlement returned as "undeliverable" or words to that effect.

(f) For all Notices of Settlement that are returned as "undeliverable," or words to that effect, the Administrator, with the assistance of DLLFS, shall use a reasonable process, to be agreed upon by the Parties, to seek an address correction for the addressee. If an address correction is so obtained, a Notice of Settlement will be sent to the new address by the Second Notice Date. Any returned mail that is received 10 days or less before the Opt-Out Date shall give rise to no obligation to seek an address correction or to resend.

(g) With respect to the second mailing, the Administrator shall keep track of Notices of Settlement returned as "undeliverable" or words to that effect. There shall be no further obligation to attempt to locate a Class Member whose Notice of Settlement is returned after being mailed to a corrected address or if there is no such corrected address available via the

procedure agreed upon by the Parties pursuant to Section IX.K(1)(f) ("Class Settlement Procedures").

(h) Prior to the Distribution Date, the Administrator shall work with DLLFS to reasonably ensure that the awards, in cash payments or account credits, due to Insurance Charge Class Members have accurately been transcribed from DLLFS' books and records.

2. At or before the Fairness Hearing, the Parties shall request that the Court grant a Final Judgment and Order of Dismissal with Prejudice and enter judgment in accordance with this Stipulation in the form of a proposed Final Judgment Order to be drafted by the Parties, approving this Stipulation as final, fair, reasonable, adequate and binding on all Class Members, awarding Attorneys' Fees and Attorneys' Costs and Expenses, ordering the compensation to the Class Representatives be paid, ordering the cash payment be made to the Paid Class Members and credits to the Owing Class Members' Accounts and dismissing the Complaint with prejudice.

3. Within ten (10) business days following the Effective Date, the Administrator and/or DLLFS shall pay to Class Counsel the Attorneys' Fees and Attorneys' Costs and Expenses awarded by the Court.

4. As of the Calculation Date, the Administrator and/or DLLFS shall calculate, in accordance with the provisions of this Stipulation, the payment amounts for those Insurance Charge Class Members whom the Parties agree are entitled to Class Payments and for those Insurance Charge Class Members who the Court finds are entitled to Class Payments.

5. By the Distribution Date, the Administrator and/or DLLFS shall:

(a) distribute from, or charge against, the Settlement Fund to Insurance Charge Class Members who did not opt out of the Class their respective cash payments and/or credits;

(b) pay to the Class Representatives the compensation set forth in Section IX.F. ("Compensation to Representative Plaintiffs"); and

6. By the Closeout Date, the Administrator and/or Defendants shall:

(a) if applicable, use any excess amount in the Settlement Fund to reimburse Defendants, *pro rata*, for any Notice and Administration Costs they have paid to the Administrator pursuant to Section IX.D; and

(b) if applicable, any remaining monies in the Settlement Fund shall revert to Defendants as follows: (i) 96.59% of such remaining monies shall revert to DLLFS, (ii) 2.67% of such remaining monies shall revert to Devine, and (iii) 0.74% of such remaining monies shall revert to Meeker and Summit.

7. Within thirty (30) days of the Closeout Date, the Administrator and/or DLLFS shall make a report to the Court, with copies to Class Counsel and Defendants' Counsel, of all the cash payments made, credits issued, payments of Notice and Administrative Costs, payments of Attorneys' Fees, Attorneys' Costs and Expenses and any returned, non-negotiated checks.

L. Releases

1. Upon the Effective Date, all Class Members who have not timely opted out from the settlement, including the Representative Plaintiffs, shall be deemed to have covenanted and agreed that:

(a) the Released Parties shall be forever released and discharged from any and all claims, actions, liens, suits, obligations, debts, demands, rights, causes of action, defenses, counterclaims, liabilities, controversies, costs, expenses, and attorneys' fees whatsoever, known or unknown, that the non-excluded Class Members now have or have ever had or might at any future time have based, upon or in connection with any alleged or actual violation of any state or federal law, other statutory or common law, regulations, or any other allegation or proof relating to Insurance Charges, and/or the placement of insurance on leased equipment owned by DLLFS based upon any or all of the facts alleged in the Complaint, including, but not limited to, those claims with respect to (i) any premium charges included in any Insurance Charges assessed Class Members; (ii) any administrative charges included in any Insurance Charges assessed Class Members; (iii) any violations which might be alleged of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1961, *et seq.*, the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*, and any regulations promulgated thereunder, and/or any other federal or state statutes, laws, rules or regulations (including, but not limited to, federal antitrust laws, state laws concerning breach of contract, breach of implied covenants of good faith and fair dealing, fraud, negligence, wantonness, restitution, unjust enrichment, money had and received, civil conspiracy, or any state insurance statutes and unfair trade practices statutes) relating, directly or indirectly, in whole or in part, in any way to Insurance Charges and/or the placement of insurance on leased equipment owned by DLLFS; (iv) the scope of any insurance coverage obtained by or on behalf of Class Members in connection with the leasing of equipment owned by DLLFS; (v) any purported unfair business practices or false and misleading advertising, or other allegedly unlawful acts or omissions, relating to Insurance Charges and/or the placement of insurance on leased equipment owned by DLLFS; (vi) any expense reimbursements.

management fees, licensing fees, profit center allocations, retroactive transfers, and other fees or payments received by Defendants with regard to the placement of insurance on leased equipment owned by DLLFS; (vii) licensing of Defendants and/or their employees, agents and representatives in connection with the receipt of income from Insurance Charges; and (viii) the method for computing the Insurance Charges for Class Members which was or could have been asserted in the Complaint or any other action based on the facts alleged in the Complaint.

(b) all Class Members who did not timely opt out, including the Representative Plaintiffs, shall be forever barred and enjoined from instituting, maintaining, or prosecuting, as well as aiding or abetting any of the preceding activities, against any of the Released Parties any Settled Claims and demands, actions, causes of action or liabilities of any nature, whether known or unknown, suspected or unsuspected, based, directly or indirectly, in whole or in part, any or all of (i) any violation of any state or federal law, other statutory or common law, including, but not limited to, claims for punitive, exemplary or multiple damages, fines or penalties (including all damages, fines or penalties of any kind or character the purpose of which is to deter, punish or penalize under state or federal, statutory or common law) relating in any way to Insurance Charges and/or the placement of insurance on leased equipment owned by DLLFS (including, but not limited to, the scope of any policy placed by any of the Defendants either prior to, on or after the Effective Date); or (ii) the facts alleged or that could have been alleged in the Complaint.

2. The Representative Plaintiffs expressly acknowledge that they have released and forever discharged the Released Parties, and shall be barred and enjoined from suing the Released Parties, to the extent provided for in Sections IX.L.1(a) and (b) above.

3. The Representative Plaintiffs, Class Members and Defendants expressly understand and acknowledge that it is possible that unknown losses or claims exist or might come to exist or that present losses may have been underestimated in amount, severity, or both. The Representative Plaintiffs and Defendants explicitly took that into account in entering into this Stipulation. A portion of the consideration and the mutual covenants contained herein, having been bargained for between the Representative Plaintiffs and Defendants, with the knowledge of the possibility of such unknown claims, were given in exchange for a full accord, satisfaction, and discharge of all such claims.

4. (a) The failure of a Class Member to opt out by the Opt-Out Date in accordance with the provisions of Section IX.K.2. ("Class Settlement Procedures") or to obtain payment or credit in accordance with the provisions of Sections IX.A. ("Settlement Fund") and IX.K.2. ("Class Settlement Procedures") for damages shall not affect the releases herein, including, without limitation, the release of such Class Member's claims, and the Stipulation shall retain its full, binding effect.

(b) As to any Class Member who fails to opt out by the Opt-Out Date in accordance with the provisions of Section IX.K.2. ("Class Settlement Procedures") or who otherwise would be entitled to a cash payment or a credit pursuant to Section IX.A. ("Settlement Fund") but cannot be located after performance of the procedures described at Section IX.K. above, all rights of such Class Member to payment in this action shall lapse and be forfeited. Defendants shall not be required to pay any additional sums of money to the Administrator and/or the Court for any such Class Member on account of the forfeiture of payments by such Class Member.

(c) Class Members shall be deemed to have authorized the release to Class Counsel, the Administrator and such other persons necessary to effectuate this Stipulation, of any and all information known and/or held by Defendants that is necessary to effectuate this Stipulation.

(d) Some persons will be notified of this Stipulation by the Notice of Settlement who may later be determined by Defendants' records and/or the records provided to Defendants by insurance providers not to be Class Members because Insurance Charges to their Account were fully canceled upon proof of insurance coverage, and thus will not be entitled to the benefits hereunder.

5. Notwithstanding anything in this Stipulation to the contrary, DLLFS specifically reserves its right to collect any balance (including, but not limited to, principal, interest, attorneys' fees and other costs and charges) owed by any Owing Class Member, including the Representative Plaintiffs, pursuant to the terms of the Owing Class Members' lease for equipment owned by DLLFS. Neither Defendants nor any successor-in-interest or assignee of Defendants release herein or hereby any legally enforceable claim which any or all of them may have against any Class Member or any other person, and do not release any legally enforceable lien which any of them may have against any or all Class Members or any other person. This Stipulation in no way voids or abrogates the contractual obligations of any Class Member, including the Representative Plaintiffs, regarding the full, complete and timely performance of any and all terms of their lease agreements for equipment owned by DLLFS.

M. Miscellaneous Provisions

1. Defendants deny any and all charges alleged in the Complaint and deny any wrongdoing whatever. This Stipulation is not a concession or admission and shall not be

used as an admission or indication with respect to any claim of any fault or omission by Defendants or any of the Released Parties, or any other person or entity, there being no intended or unintended third party beneficiary(ies) of the Stipulation. Whether or not the Stipulation is finally approved, neither this Stipulation nor any related document nor proceedings taken pursuant to this Stipulation, nor any reports or accounts thereof, shall be:

(a) construed as, offered in evidence as, received in evidence as, and/or deemed to be, evidence of a presumption, concession, indication or an admission by Defendants or any of the Released Parties of the truth of any fact alleged or the validity of any claim which has been, could have been, or in the future might be asserted in any litigation, or of the deficiency of any defense which has been, could have been, or in the future might be asserted in any litigation, or of any liability, fault, wrongdoing or otherwise of Defendants or any of the Released Parties; or

(b) construed as, offered in evidence as, received in evidence as, and/or deemed to be, evidence of a presumption, concession, indication or an admission of any fault, breach of duty, wrongful act, or misrepresentation or omission in any statement or written document approved or made by Defendants or any of the Released Parties or the approval or making of which was participated in by Defendants or any of the Released Parties; or

(c) construed by anyone for any purpose whatever as evidence of a presumption, concession, indication or an admission of any liability, fault, wrongdoing or otherwise on the part of Defendants or any of the Released Parties; or

(d) construed as, offered in evidence as, received as, and/or deemed to be, evidence of a presumption, concession or an admission that Plaintiffs and the Class Members have in fact suffered any damage, or that any of the Defendants or any of the Released Parties are liable to any of the Defendants or any Class Members or any other person; or

(e) referred to, or offered or received in evidence in any other civil, criminal or administrative action or proceeding, other than, if admitted by this Court or other tribunal, in such proceedings as may be necessary to implement or enforce the provisions of this Stipulation and/or all releases given thereunder, or proceedings to determine whether Defendants are, or any insurer (or reinsurer) of Defendants are, entitled to be reimbursed or indemnified for any payments made and/or costs and expenses associated with this litigation, including, but not limited to, attorneys' fees and costs, or to establish the affirmative defenses of res judicata or collateral estoppel; or

(f) construed as, offered in evidence as, received in evidence as, and/or deemed to be, evidence of a presumption, concession, indication or admission that Class Members are properly members of any class that could be certified in this action or in any other action without Defendants' and Defendants' Counsel's express and specific prior written consent; or

(g) construed as, offered in evidence as, received in evidence as, and/or deemed to be, evidence against the named Plaintiffs and the Class Members as to any lack of merit of their claims.

2. The terms of this Stipulation include the terms set forth in each of the Exhibits which are attached hereto and incorporated by reference. All of the Exhibits to this Stipulation are integral parts of the Stipulation and any reference to them shall be deemed and construed to include such Exhibits and each of them. The descriptive headings of any paragraphs or sections of this Stipulation are inserted for reference only.

3. The Parties agree to request the Court to enter an order that all proceedings in this action, except such proceedings necessary to implement and complete the Stipulation, be stayed pending further order of this Court.

4. This Stipulation may be amended or modified only by written instrument signed by all Parties or their successors-in-interest or signed by counsel on behalf of the Parties or their successors-in-interest.

5. This Stipulation and its Exhibits constitute the entire agreement among these Parties, and no representations, warranties or inducements have been made to any party concerning this Stipulation or its Exhibits other than the representations, warranties and covenants contained and memorialized in such documents.

6. The waiver by one party of any provision or breach of this Stipulation shall not be deemed a waiver of any other provision or breach of the Stipulation. All waivers of any provision or breach by a party shall be in writing, duly signed by or on behalf of such party, and any alleged waiver not strictly conforming to this requirement shall not be deemed or construed to be a waiver for any purpose whatsoever.

7. Plaintiffs, Class Counsel, Defendants and Defendants' Counsel agree that no single party shall be deemed to have drafted this Stipulation or any portion thereof. This Stipulation is the collaborative effort of the undersigned attorneys and no statutory and/or case law construing any ambiguity against the party drafting it shall be involved or invocable for any purpose whatsoever.

8. As used herein, the plural of any defined term includes the singular thereof, and the singular of any defined term includes the plural thereof, as the case may be.

9. Counsel for all Parties are expressly authorized by the Parties whom they represent to enter into this Stipulation, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Stipulation to effectuate its terms, and to execute any other documents required to effectuate the terms of this Stipulation. Class Counsel are also expressly

authorized to enter into any modifications or amendments to this Stipulation, with Court approval. The Parties and their counsel will cooperate with each other in good faith to effect the implementation of the Stipulation. In the event of a disagreement as to the form or substance of any additional documents needed to implement the Stipulation, the Parties and their counsel will submit such disagreement to the Court whose determination will be final and binding on the Parties.

10. This Stipulation shall be binding upon the successors and assigns of the Parties hereto and shall inure to the benefit of the foregoing and to the benefit of the successors and assigns of the Released Parties.

11. This Stipulation may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument provided that counsel for the Parties to this Stipulation shall exchange among themselves original signed counterparts.

12. Upon the Preliminary Approval Date, this Stipulation shall be in all respects self-effectuating such that, except as expressly required hereunder, no document need be created or delivered, no filing(s) or recording(s) need be made, and no other action need be pursued for the purpose of validating, ratifying, effectuating, preserving or perfecting any and all rights contemplated by this Stipulation. All Parties and counsel shall use their best efforts to cause the Court to give preliminary approval to this Stipulation as promptly as possible, to take all steps contemplated by the Stipulation to effectuate the Stipulation on the stated terms and conditions, and further to obtain final approval of the settlement contained in this Stipulation. Specifically, the Plaintiffs and Class Counsel agree to recommend the settlement contained in this Stipulation as being in the best interests of the Class Members under the circumstances. No

Class Member, however, other than the Plaintiffs, shall be precluded from questioning or objecting to the Stipulation at the hearing for final approval thereof by the Court, notwithstanding Class Counsel's recommendation. The Parties and their counsel agree not to directly or indirectly solicit, request, or advise or solicit, request or advise any other person or entity to advise Class Members to object to the Stipulation or to arrange representation for Class Members objecting to the Stipulation.

13. Defendants shall have the sole and exclusive right to withdraw from this Stipulation if a total of more than fifty (50) Class Members have elected to be excluded from, or opt out of, the settlement. If any of the Defendants elects to exercise this right, they must do so in writing, with copies to Class Counsel, and to the Court, no less than five (5) days before the date set by the Court, including any adjournment thereof, for the hearing on final approval of this Stipulation. If any of the Defendants exercises this right, this Stipulation shall be null and void for all purposes, except with respect to Sections IX.H. ("Effect of Non-Approval, Cancellation and Termination"), IX.J. ("Return of Documents") and IX.M. ("Miscellaneous Provisions").

14. The time periods and dates described in this Stipulation with respect to the giving of notices and hearings are subject to approval and change by the Court or by agreement of the Parties through their respective counsel.

15. The Plaintiffs, Class Counsel, and Defendants believe that this Stipulation is fair and reasonable and have arrived at this Stipulation in arms-length and lengthy negotiations.

16. This Stipulation is intended to and shall be governed by the laws of the State of Alabama, exclusive of its choice of law rules.

AGREED TO AND APPROVED:

ON BEHALF OF NAMED REPRESENTATIVES,
THE CLASSES AND CLASS COUNSEL:

DATED: March 22, 2002

ARMBRECHT JACKSON LLP

By: 

Edward A. Dean, Esq. (DEA005)

Class Counsel and Counsel for Plaintiffs John M.
Foote, Mike Foote Oil & Gas Properties, and Foote
Oil & Gas Properties, L.L.C., individually
Post Office Box 290
Mobile, Alabama 36601
(251) 405-1300

and

DATED: March 22, 2002

BRACKIN & McGRIFF, P.C.

By: 

Julian B. Brackin, Esq. (BRA033)

Class Counsel and Counsel for Plaintiffs John M.
Foote, Mike Foote Oil & Gas Properties, and Foote
Oil & Gas Properties, L.L.C., individually
Post Office Box 998
Foley, Alabama 36536
(251) 943-4040

ON BEHALF OF DLLFS:

DATED: March 22, 2002

MORRISON & FOERSTER LLP

By: Ch. E. H. L.

Mark P. Ladner, Esq.

Counsel for De Lage Landen Financial Services, Inc.
1290 Avenue of the Americas
New York, New York 10104-0012
(212) 468-8000

and

DATED: March 22, 2002

KENNETH J. RIEMER, ESQ.

By: Kenn Riemer

Kenneth J. Riemer, Esq. (RIE003)

Counsel for De Lage Landen Financial Services, Inc.
169 Dauphin Street, Suite 206
Mobile, Alabama 36602
(251) 432-9212

DATED: March 21, 2002

ON BEHALF OF E.H. DEVINE CO.:

CLARK, SCOTT & SULLIVAN, P.C.

By: 

Carroll H. Sullivan, Esq. (SUL013)
Counsel for E. H. Devine Co. Inc.
P.O. Box 1034
Mobile, Alabama 36633
(251) 433-1346

DATED: March 23, 2002

ON BEHALF OF MEEKER SHARKEY DEVINE
CO., INC., AND SUMMIT INSURANCE
ADVISORS, LLC:

HAND ARENDALL, L.L.C.

By: 

Henry A. Callaway, III, Esq. (CAL018)
Counsel for Meeker Sharkey Devine Company, Inc.,
and Summit Insurance Advisors, LLC
3000 AmSouth Bank Building
P.O. Box 123
Mobile, Alabama 36602
(251) 694-6224

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

MIKE FOOTE OIL & GAS PROPERTIES,)
FOOTE OIL & GAS PROPERTIES, L.L.C.)
and JOHN MICHAEL FOOTE, Individually)
and in their representative capacity)

Plaintiffs,)

v.)

TOKAI FINANCIAL SERVICES INC.;)
DE LAGE LANDEN FINANCIAL SERVICES,)
INC.; DE LAGE LANDEN FINANCIAL)
SERVICES, INC., as Successor in interest to)
TOKAI FINANCIAL SERVICES, INC., and)
E.H. DEVINE COMPANY, INC.,)
MEEKER SHARKEY DEVINE COMPANY,)
INC. and SUMMIT INSURANCE ADVISORS,)
LLC)

Defendants.)

CIVIL ACTION NO.
CV-00-782

CIRCUIT COURT
BALDWIN COUNTY, ALA.
FILED

MAR 22 2002

JACKIE N. CALHOUN
CIRCUIT COURT CLERK

SUMMARY NOTICE

TO: ALL PERSONS WHO HAVE BEEN OR MAY BE CHARGED BY
DE LAGE LANDEN FINANCIAL SERVICES, INC. FOR PROPERTY
INSURANCE COVERING LEASED EQUIPMENT. PLEASE
READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE
AFFECTED.

The Parties have proposed a settlement of this action. If the settlement is
approved by the Court, it will permanently settle this case. This is a Summary Notice.
You may request a complete Class Notice by contacting the Automated Settlement Line
at 1-800-_____, or by consulting the Internet web page of the settlement
administration firm of Tilghman & Co., P.C. ("Tilghman"), engaged by the Parties for the

purpose of assisting in the administration of the terms and provisions of this settlement, at www._____.

The Plaintiffs have filed a class action lawsuit alleging that Defendant De Lage Landen Financial Services, Inc. ("DLLFS") and its insurance agents and brokers, Defendants E. H. Devine Co., Inc., Meeker Sharkey Devine Company, Inc., and Summit Insurance Advisors, LLC (together with DLLFS, "Defendants"), engaged in improper practices in connection with the placement of property insurance coverage on leased equipment, which was purchased by DLLFS to protect its ownership interest in such leased equipment for lessees who failed to purchase or maintain the required insurance on the leased equipment. Defendants deny any and all allegations of wrongdoing or liability. Defendants assert that the placement of insurance coverage was in all ways lawful and benefited lessees of equipment owned by DLLFS.

The Parties have agreed that the proposed settlement is a reasonable resolution of the matters in dispute. If you reside in the United States and have had an account with DLLFS between January 1, 1997 and the present and if DLLFS has charged or may charge any amount on your Account for insurance as a result of insurance being placed by DLLFS, and the charges for the insurance have not been fully refunded to your account, you may be eligible to participate in this settlement.

Pursuant to the terms of the Stipulation of Settlement (the "Settlement Agreement"), and in consideration for the release of the Class Members' claims against Defendants in connection with the placement of insurance on leased equipment owned by DLLFS, Defendants will make available a fund, referred to as the "Common Fund," consisting of \$6,730,000 in cash and credits to be applied to amounts due to DLLFS from

Class Members. In addition, beginning April 1, 2002, DLLFS will reduce the Insurance Charge of any Class Member that has an Active Lease by Two Dollars (\$2.00) per month for the duration of any such lease.

Class Counsel are entitled to an award of Attorneys' Fees in an amount to be determined by the Court, as well reimbursement for their Attorneys' Costs and Expenses incurred in connection with this Action. Class Counsel plans to seek Attorneys' Fees, which will be deducted from the Common Fund, along with the Attorneys' Costs and Expenses described above, prior to any other distributions from the Common Fund. For purposes of this Notice, the Common Fund following deduction of such Class Counsel's fees and expenses shall be referred to as the "Settlement Fund." The Settlement Fund distributed to individual Class Members will be based on the amount of insurance charges billed to the individual Class Member's account as a proportion of the total amount of insurance charges billed by DLLFS to the Accounts of all Class Members, as set forth in greater detail in the Settlement Agreement.

You may be eligible to exclude yourself from or to object to this settlement. If you wish to do either, you should call the number listed above to request a copy of the complete Class Notice which explains the requirements for doing so, or consult Tilghman's Internet web page at the website listed above. Any request for exclusion must be in writing and must be received by June 21, 2002 by Tilghman.

Tilghman's address is P.O. _____, Birmingham, AL 35202. Any objection to the settlement must be in writing and must be received by Tilghman by July 22, 2002.

the Clerk of Court,
Baldwin County,
Bay Minette, AL 36507
with copies to

IF YOU HAVE RECENTLY CHANGED YOUR ADDRESS:

IN ORDER TO ENSURE THAT YOU RECEIVE ANY PAYMENT UNDER THIS
SETTLEMENT THAT YOU MAY BE ENTITLED TO, SEND YOUR NEW
ADDRESS TO:

DLLFS Settlement Claims Center
c/o Tilghman & Co., P.C.
P.O. Box _____
Birmingham, AL 35202
www. _____

TO RECEIVE A COPY OF THE SETTLEMENT AGREEMENT OR IF YOU HAVE

ANY QUESTIONS?

CALL: 1-800- _____

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

MIKE FOOTE OIL & GAS PROPERTIES,)
FOOTE OIL & GAS PROPERTIES, L.L.C.)
and JOHN MICHAEL FOOTE, Individually)
and in their representative capacity)

Plaintiffs,)

v.)

TOKAI FINANCIAL SERVICES INC.;)
DE LAGE LANDEN FINANCIAL SERVICES,)
INC.; DE LAGE LANDEN FINANCIAL)
SERVICES, INC., as Successor in interest to)
TOKAI FINANCIAL SERVICES, INC., and)
E.H. DEVINE COMPANY, INC.,)
MEEKER SHARKEY DEVINE COMPANY,)
INC. and SUMMIT INSURANCE ADVISORS,)
LLC)

Defendants.)

CIVIL ACTION NO.
CV-00-782

CIRCUIT COURT
BALDWIN COUNTY, AL.
FILED

MAR 22 2002

WILLIE N. CALHOUN
CIRCUIT COURT CLERK

[PROPOSED] FINAL JUDGMENT

A hearing having been held before this Court on _____, pursuant to this Court's Preliminary Approval Order of March __, 2002 (the "Order"), to determine whether this Court should approve as fair, adequate and reasonable a settlement of the claims asserted in this action against Defendants, upon the terms and conditions of the Stipulation of Settlement dated March __, 2002, and executed by counsel for all parties ("Settlement Agreement"); it appearing that due notice of said hearing was given in accordance with the terms of the aforesaid Order and Settlement Agreement; the Court having conducted said hearing and no objectors nor their counsel having appeared at said hearing; the respective parties having appeared by their attorneys of record; the Court having received and considered arguments and evidence in connection with the proposed settlement of said claims; the attorneys for the respective parties

having been heard; and the Settlement Agreement and all other matters of record in this Action having been heard and considered by the Court; it is therefore ORDERED, ADJUDGED AND DECREED as follows:

1. For purposes of this Final Judgment, the Court adopts and incorporates the "Definitions" contained in Section (I) of the Settlement Agreement.
2. This Court has jurisdiction over the subject matter of this action, and over all parties to this action, including all members of the Classes.
3. This Court decrees that neither the Settlement Agreement, nor this Final Judgment, nor the fact of the settlement is an admission or concession on the part of Defendants of any claim or any fault or liability or any wrongdoing or damage whatsoever. As set forth more fully in Section (IX)(L) of the Settlement Agreement, which is incorporated herein by reference, this Final Judgment is not a finding of the validity or invalidity of any claims in the Complaint as to Defendants or of any wrongdoing by Defendants. Neither the Settlement Agreement, nor this Final Judgment, nor the fact of settlement, nor the settlement proceedings, nor the settlement negotiations, nor any related documents shall be used or construed as an admission of any fault, liability, or wrongdoing by Defendants or any person. Neither the Settlement Agreement, nor this Final Judgment, nor the fact of settlement, nor the settlement negotiations, nor any related documents shall be offered or received in evidence as an admission, concession, presumption or inference against any party in any proceeding, other than such proceedings as may be necessary to effectuate or enforce the Settlement Agreement.
4. For purposes of considering, approving and effectuating the Settlement Agreement, and to fairly and adequately protect the interests of the members of the Insurance Charge Class, this Court has previously ordered, and hereby orders and affirms, that this action is

to be maintained as a class action pursuant to Ala.R.Civ.P. 23(b)(3), for a Class (the "Insurance Charge Class") consisting of the following:

All persons who leased equipment owned by DLLFS that were billed for an Insurance Charge by DLLFS between January 1, 1997 and March 31, 2002, inclusive, that was not fully canceled and all charges associated therewith refunded. All such lessees who filed a timely request for exclusion are excluded from the Insurance Charge Class.

5. For purposes of considering, approving and effectuating the Settlement Agreement, and to fairly and adequately protect the interests of the members of the Injunctive Relief Class, this Court has previously ordered, and hereby orders and affirms, that this action is to be maintained as a class action pursuant to Ala.R.Civ.P. 23(b)(2), for a Class (the "Injunctive Relief Class") consisting of the following:

All persons who entered into a lease for equipment owned by DLLFS prior to April 1, 2002, pursuant to which DLLFS maintains property insurance after April 1, 2002 on such leased equipment and bills them for an Insurance Charge pursuant to the terms of their lease agreements. All such lessees who filed a timely request for exclusion are excluded from the Injunctive Relief Class.

6. The Court has heretofore found and hereby finds and reaffirms for purposes of settlement that the Representative Plaintiffs are adequate representatives of the Classes and that all requirements of Ala.R.Civ.P. 23(b)(3) and 23(b)(2) are met. This Court expressly finds for purposes of settlement that the Classes are so numerous that joinder of all members is impracticable; that there are questions of law and fact common to the Classes; that the claims of the Representative Plaintiffs are typical of the claims of the Classes; that Class Counsel and the Representative Plaintiffs have fairly and adequately protected the interests of the Classes and will continue to do so; that, assuming the allegations of the Complaint (which Defendants deny) to be true, the questions of law or fact common to the members of the Classes predominate over any questions affecting only individual members; and that a class action is superior to other available methods for the fair and efficient adjudication of this controversy. The Court finds that

with respect to the Insurance Charge Class the maintenance of this action as a class action pursuant to Ala.R.Civ.P 23(b)(3) is superior to any other means of adjudicating the claims herein raised. The Court further finds that with respect to the Injunctive Relief Class, assuming the allegations of the Complaint (which Defendants deny) to be true, the maintenance of this action as a class action pursuant to Ala.R.Civ.P 23(b)(2) is appropriate because Defendants have acted or refused to act on grounds generally applicable to that Class, thereby making appropriate with respect to that Class as a whole the final injunctive relief provided by the Permanent Injunction this Court previously entered on March __, 2002, and hereby orders and affirms that Preliminary Injunction. The terms of said Permanent Injunction are hereby incorporated herein in their entirety.

7. This Court hereby approves the settlement set forth in the Settlement Agreement and finds, in accordance with Rule 23 of the Alabama Rules of Civil Procedure, that said settlement is, in all respects fair, reasonable and adequate as to the Classes and all of their members and directs the effectuation and implementation of the settlement in accordance with the terms and provisions of the Settlement Agreement, which is incorporated herein by reference in its entirety.

8. Subject to this Court's retention of jurisdiction to enforce this Final Judgment and the Settlement Agreement, all claims asserted in the Complaint, and all claims which have been or could have been asserted (by intervention or otherwise) by or on behalf of the Representative Plaintiffs and/or any member of the Classes relating to facts alleged in the Complaint (as more particularly defined in Section (IX)(L) of the Settlement Agreement), are DISMISSED in their entirety on the merits, with prejudice, and Defendants and the other Released Parties set forth in the Settlement Agreement are hereby RELEASED from all claims, actions, causes of actions and

liabilities which could be asserted by or on behalf of the Representative Plaintiffs and/or any member of the Classes, which are set forth in the Releases contained in Section (IX)(L) of the Settlement Agreement. The Releases provided for in Section (IX)(L) of the Settlement Agreement are hereby approved and made effective and incorporated herein by reference.

9. The Representative Plaintiffs and each and all members of the Classes are hereby permanently enjoined and restrained from instituting, maintaining or prosecuting (as well as aiding and abetting any of the preceding activities), pursuant to Section (IX)(L) of the Settlement Agreement, which is incorporated herein by reference, any arbitration or action or proceeding of any kind against Defendants or their parent companies, subsidiaries, affiliates, successors or assigns, asserting any of the claims outlined in Section (IX)(L) of the Settlement Agreement.

10. The Court hereby finds that only the individuals listed on the attached Exhibit "A" have timely elected to be excluded from the Classes and are therefore not bound by this Final Judgment. This Court specifically finds that no other persons have elected to be excluded from the Classes.

11. The notice given to the Classes of the pendency of this action and of the settlement with Defendants as set forth in the Settlement Agreement and Order was the best notice practicable under the circumstances. Said notice provided fair and reasonable notice to the Classes of the nature of this action and the proposed settlement with Defendants and the hearing with respect thereto, and provided due and adequate notice of those matters to all persons entitled to such notice. Said notice fully satisfied the requirements of Rule 23(c)(2) and 23(e) of the Alabama Rules of Civil Procedure and the Alabama and United States Constitutions.

12. There being no reason for delay, the Clerk of the Court is hereby directed to enter this Order as a FINAL JUDGMENT. Subject to the terms and conditions of the Settlement

Agreement, Class Counsel, being Edward A. Dean, Esq., Armbrecht Jackson LLP, Julian B. Bracken, Esq. and Bracken & McGriff, P.C., are awarded Attorneys' Fees in the amount of ____% of the of the total of the Common Fund and the Injunctive Relief. Subject to the terms and conditions of the Settlement Agreement, Class Counsel, being Edward A. Dean, Esq., Armbrecht Jackson LLP, Julian B. Bracken, Esq. and Bracken & McGriff, P.C., are further awarded Attorneys' Costs and Expenses in the amount of \$_____. Said fees, costs and expenses have been determined by the Court to be fair, reasonable, and appropriate. Said fees, costs and expenses will be paid from the Common Fund to Armbrecht Jackson LLP in accordance with the terms of the Settlement Agreement. In addition, subject to the terms and conditions of the Settlement Agreement, Representative Plaintiffs Mike Foote Oil & Gas Properties, Foote Oil & Gas Properties, L.L.C. and John Michael Foote are jointly awarded the sum of Twenty-Five Thousand Dollars (\$25,000) as compensation for their time and energy, to be paid by DLLFS. This payment shall be made in addition to any cash or credit that such named Plaintiffs may be entitled to pursuant to the Settlement Agreement and shall not be made from the Settlement Fund.

13. Except as specifically provided by the Settlement Agreement, each party shall be responsible for its, his or her own costs, attorneys' fees and expenses.

14. E.H. Devine Company, Inc.'s Cross-Claim Against DLLFS, dated July 30, 2001, and DLLFS' Second Amended Cross-Claim Against E.H. Devine Company, Inc., dated October 31, 2001, are both dismissed, with prejudice.

15. This Court reserves and maintains continuing jurisdiction over all matters relating to the Settlement Agreement or the implementation or enforcement of the Settlement Agreement; the validity of the Settlement Agreement and any Orders entered pursuant thereto; any disputes which may arise with respect to any Class Members entitled to receive the proceeds of any amounts payable to members of the Insurance Charge Class under the Settlement Agreement; and the entry and enforcement of this Final Judgment including, without limitation, in the event of reversal, vacation, or modification of this Final Judgment, jurisdiction to reinstate all claims dismissed or claims, actions, causes of actions and liabilities released pursuant to paragraph 8 hereof.

DONE and ORDERED this _____ day of _____, _____.

CIRCUIT JUDGE

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

MIKE FOOTE OIL & GAS PROPERTIES,)
FOOTE OIL & GAS PROPERTIES, L.L.C.)
and JOHN MICHAEL FOOTE, Individually)
and in their representative capacity)

Plaintiffs,)

v.)

TOKAI FINANCIAL SERVICES INC.;)
DE LAGE LANDEN FINANCIAL SERVICES,)
INC.; DE LAGE LANDEN FINANCIAL)
SERVICES, INC., as Successor in interest to)
TOKAI FINANCIAL SERVICES, INC., and)
E.H. DEVINE COMPANY, INC.,)
MEEKER SHARKEY DEVINE COMPANY,)
INC. and SUMMIT INSURANCE ADVISORS,)
LLC)

Defendants.)

CIVIL ACTION NO.
CV-00-782

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING

YOU MAY HAVE BEEN CHARGED OR MAY BE CHARGED BY DE LAGE LANDEN FINANCIAL SERVICES, INC. FOR INSURANCE COVERING EQUIPMENT LEASED THROUGH THEM. IF SO, PLEASE READ THIS NOTICE CAREFULLY. YOUR RIGHTS MAY BE AFFECTED.

Purpose Of This Notice

A proposed settlement has been reached of all claims alleged in the Complaint in *Foote Oil & Gas Properties, L.L.C., et al. v. Tokai Financial Services, Inc., Civil Action No. CV-00-782* (the "Action"), now pending in the Circuit Court of Baldwin County, Alabama. The Court has certified the Action to proceed as a class action, for purposes of settlement only, on behalf of the two Classes described below. The purpose of this Notice is to inform you about the settlement – how to participate in it, how to object to it,

if you wish, and how to get more information about the settlement. As stated below, a hearing is scheduled for the Court to consider the settlement.

General Nature of the Action

The Action concerns claims in connection with property insurance coverage which was purchased by De Lage Landen Financial Services, Inc. ("DLLFS") in order to protect DLLFS' interest in equipment it leased to Class Members who failed to purchase or maintain the insurance on the leased equipment. This insurance was required under the terms of the Class Members' leases for the equipment. Plaintiffs contend that DLLFS and its insurance brokers and agents, Defendants E. H. Devine Co., Inc., Meeker Sharkey Devine Company, Inc., and Summit Insurance Advisors, LLC (together with DLLFS, the "Defendants") engaged in unlawful practices relating to the placement of such insurance, including the imposition of excessive charges, which will be called "Insurance Charges" for purposes of this Notice. Among other things, the plaintiffs allege that Defendants have engaged in breach of contract, fraud and conspiracy.

Defendants have denied all allegations of wrongdoing, asserting that the insurance was placed on an account only after that lessee received a notice reminding the lessee of its obligation to purchase such insurance coverage and stating that, if such lessee did not purchase the requisite insurance, such insurance would be purchased for it and a fixed monthly charge would be added to the lessee's account balance to cover the premium and a related service charge. Defendants assert that the insurance benefited the lessees and that their conduct in connection with such insurance has been entirely lawful, proper, and in compliance with the lease agreements signed and terms agreed to by the lessees.

Definition of the Classes

The Court has certified two Classes in this Action for the purpose of settlement. The first, the Insurance Charge Class, which is formed under ARCP 23(b)(3), consists of all persons who leased equipment owned by DLLFS that were billed for an Insurance Charge by DLLFS between January 1, 1997 and March 31, 2002, inclusive, that was not fully canceled and all charges associated therewith refunded.

The second class, the Injunctive Relief Class, which is formed under ARCP 23(b)(2), consists of all persons who entered into a lease for equipment owned by DLLFS prior to April 1, 2002, pursuant to which DLLFS maintains property insurance after April 1, 2002 on such leased equipment and bills them for an Insurance Charge pursuant to the terms of their lease agreements (which will be called "Active Leases" for purposes of this Notice).

No person who files a timely request for exclusion shall be included within either Class.

The Settlement Agreement

Pursuant to the terms of the Stipulation of Settlement (the "Settlement Agreement"), and in consideration for the release of the Insurance Charge Class Members' claims, Defendants will make available a fund, referred to as the "Common Fund," consisting of \$6,730,000 in cash and credits to be applied to amounts due to DLLFS from Class Members.

Pursuant to the terms of the Settlement Agreement, and in consideration for the release and compromise of the Injunctive Relief Class Members' claims, DLLFS agrees that, beginning April 1, 2002, DLLFS will reduce the Insurance Charges for the Active

Leases of any Injunctive Relief Class Member by Two Dollars (\$2.00) per month, for the duration of such Active Lease. The Parties have estimated, based upon appropriate due diligence, that the value of this reduction in Insurance Charges to the Injunctive Relief Class is approximately \$ 1,927,929.

Proposed Distribution of Funds to the Insurance Charge Class

Under the terms of the settlement, the Common Fund will be allocated as follows:

(1) Class Counsel are entitled to an award of Attorneys' Fees in an amount to be determined by the Court, as well reimbursement for their Attorneys' Costs and Expenses incurred in connection with this Action. Class Counsel plans to seek Attorneys' Fees not to exceed twenty-eight percent (28%) of the aggregate total of the Common Fund and the above-described Injunctive Relief. The amount of Attorneys' Fees and Attorneys' Costs and Expenses that the Court awards shall be deducted from the Common Fund prior to any other distributions from the Common Fund. The "Settlement Fund" is the remainder of the Common Fund following deduction of Class Counsel's fees and expenses.

(2) The Settlement Fund will be made available for payment of claims, in accordance with the terms of the Settlement Agreement, to Insurance Charge Class Members. The Settlement Fund distributed to individual Insurance Charge Class Members will be based on the amount of Insurance Charges billed to the individual Insurance Charge Class Member's Account during the applicable period as a proportion of the total amount of Insurance Charges billed by DLLFS to the accounts of all Class Members during that period, as set forth in greater detail in the Settlement Agreement.

(3) Each of those Insurance Charge Class Members who have fully paid or satisfied all amounts owed to DLLFS ("Paid Class Members") will receive a check representing their share of the Common Fund. Each of those Class Members who have not fully paid or satisfied its obligation to DLLFS ("Owing Class Members") will receive a credit, representing their share of the settlement, against his or her account balance, whether charged-off or not, with DLLFS. For purposes of determining their respective shares, Paid Class Members and Owing Class Members will be treated on an equivalent basis.

Methods of Distribution

(1) The cash portion of the Settlement Fund will be distributed by checks issued in the name of each Paid Class Member.

(2) Those Insurance Charge Class Members who exclude themselves from the Class or who fail to cash the check mailed to them within ninety (90) days after the check is issued and those to whom the settlement administrator mails a check which is returned as "undeliverable," shall become ineligible to share in the Settlement Fund.

(3) The credit portion of the Settlement Fund will be credited to the accounts of Owing Class Members as described above. If the balance on the account of any Owing Class Member is less than the Class Payment allocable to such Class Member, a check in the amount of the balance will be mailed to the last known address for such Owing Class Member.

(4) Subject to Court approval, DLLFS will pay the sum of Twenty-Five Thousand Dollars (\$25,000) jointly to Representative Plaintiffs Mike Foote Oil & Gas Properties, Foote Oil & Gas Properties, L.L.C. and John Michael Foote as compensation

for their time and energy. This payment shall be made in addition to any cash or credit that such named Plaintiffs may be entitled to pursuant to the Settlement Agreement and shall not be made from the Settlement Fund.

Release of Claims

As part of the settlement, the Representative Plaintiffs will dismiss with prejudice the Third Amended Complaint ("Complaint") in the Action, which includes the claims of the Classes. This dismissal must be approved by the Court in a final judgment approving the settlement. All Class Members who have not filed a timely request for exclusion will be bound by any final judgment entered by the Court. All claims of the Classes against Defendants and their respective affiliates, and any other claim which was or could have been asserted in the Complaint relating to insurance for leased equipment owned by DLLFS, will be released, as provided in the Settlement Agreement, and Class Members will be forever barred from seeking other or further relief on such claims.

Defendants reserve, and do not release, the right to assert any legally enforceable claims, including liens or set-offs, against any member of the Class or any other person, including the Representative Plaintiffs.

Judgment in the Action will apply to and bind all Class Members who have not filed a timely request for exclusion.

Request for Exclusion

If you are an individual who comes within the definition of either the Insurance Charge Class and/or the Injunctive Relief Class, you will automatically be considered a Class Member unless you request to be excluded. The Court will exclude you from the Class or Classes if your written request for exclusion is received by June 21, 2002 by the

settlement administration firm of Tilghman & Co., P.C. ("Tilghman"), engaged by the Parties for the purpose of assisting in the administration of the terms and provisions of this settlement. Tilghman's address is P.O. Box _____, Birmingham, AL 35202. The request should state: "I DO NOT WANT TO BE PART OF THE PLAINTIFF CLASS IN *Foot Oil & Gas Properties, L.L.C., et al. v. Tokai Financial Services, Inc.*, Civil Action No. CV-00-782." The request must be signed and must also have your name, address and account number printed below your signature. The request for exclusion must be submitted in your own name; no individual Class Member may request that other Class Members be excluded from the Class.

IF YOU EXCLUDE YOURSELF FROM THE CLASSES, YOU WILL NOT BE ENTITLED TO SHARE IN ANY BENEFITS THAT THE CLASSES MAY OBTAIN. IF YOU DO NOT EXCLUDE YOURSELF, YOU WILL NOT BE ABLE TO FILE A SEPARATE CLAIM AGAINST DEFENDANTS BASED ON THE EVENTS, CIRCUMSTANCES AND/OR PRACTICES ALLEGED IN THE PLAINTIFFS' COMPLAINT.

Judgment in the Action will apply to and bind all Insurance Charge Class Members and Injunctive Relief Class Members who have not excluded themselves. If you properly and timely request exclusion from the Classes, then you will not be eligible for any benefits available to Class Members under the settlement, but you will retain any rights you may have against Defendants.

Right to Object

Any Class Member who objects to any of the terms of the settlement, and who has not excluded himself, herself or itself from the settlement may file a written objection with the Clerk of the Court, Circuit Court of Baldwin County, Bay Minette, Alabama, with copies to Tilghman, P.O. Box _____, Birmingham, AL 35202. ANY SUCH

OBJECTION MUST BE RECEIVED BY THE CLERK AND TILGHMAN ON OR BEFORE July 22, 2002 OR THE OBJECTION WILL NOT BE CONSIDERED.

IT MUST ALSO BEGIN WITH THE FOLLOWING STATEMENT: "I OBJECT TO THE PROPOSED SETTLEMENT IN *Footo Oil & Gas Properties, L.L.C., et al. v. Tokai Financial Services, Inc., Civil Action No. CV-00-782.*" All objections must state the objector's name, address, and account number, and the name and number of this case, and must state in detail the factual basis and legal grounds for the objection. If you wish, you may retain your own counsel, at your expense, to represent you in connection with your objection to the settlement.

The Court Hearing

The proposed Settlement Agreement must be finally approved by the Court. A hearing will be held on whether the proposed settlement should be approved as fair, reasonable and adequate on Sept. 5, 2002 1.30 p.m., 2002 at 9 a.m., before the Honorable James H. Reid, Baldwin County Courthouse, Bay Minette, Alabama.

If you timely file a written objection and have not previously requested exclusion, you may appear at the hearing, in person or through an attorney retained at your own expense. If you wish to appear at the hearing to object to the settlement, you or your counsel must file a written Notice of Intention to Appear to Tilghman, by July 22, 2002 at the address set forth above.

Examination of Papers

You may inspect the Settlement Agreement, the Complaint, and other papers filed in the Action during regular business hours at the office of the Clerk of the Court, Baldwin County Courthouse, Bay Minette, Alabama.

Additional Information

DO NOT CONTACT THE COURT CONCERNING THIS NOTICE OR THE LAWSUIT. If you have any questions, contact either your own attorney or Class Counsel. YOU MAY ALSO CONTACT THE AUTOMATED SETTLEMENT INFORMATION LINE AT 1-800-_____, at any time, to request information about the settlement.

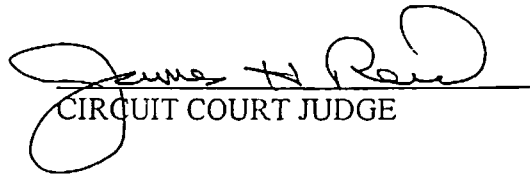
Class Counsel

Edward A. Dean, Esq.
Armbrecht Jackson, LLP
Post Office Box 290
Mobile, Alabama 36601

Julian B. Brackin, Esq.
Brackin & McGriff, P.C.
P.O. Box 998
Foley, Alabama 36536

THE COURT HAS NOT RULED IN FAVOR OF OR AGAINST THE PLAINTIFFS OR THE DEFENDANTS ON THE MERITS OF ANY OF THEIR CLAIMS, DENIALS, OR DEFENSES IN THIS CASE.

DATED this the 22nd day of March, 2002.


CIRCUIT COURT JUDGE

CIRCUIT COURT
DADE COUNTY, FL
FILED

MAR 22 2002

M. CALHOUN
COURT CLERK

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

MIKE FOOTE OIL & GAS PROPERTIES,)
FOOTE OIL & GAS PROPERTIES, L.L.C.)
and JOHN MICHAEL FOOTE, Individually)
and in their representative capacity)

Plaintiffs,)

v.)

TOKAI FINANCIAL SERVICES INC.;)
DE LAGE LANDEN FINANCIAL SERVICES,)
INC.; DE LAGE LANDEN FINANCIAL)
SERVICES, INC., as Successor in interest to)
TOKAI FINANCIAL SERVICES, INC., and)
E.H. DEVINE COMPANY, INC.,)
MEEKER SHARKEY DEVINE COMPANY,)
INC. and SUMMIT INSURANCE ADVISORS,)
LLC)

Defendants.)

CIVIL ACTION NO.
CV-00-782

PERMANENT INJUNCTION

The Stipulation of Settlement ("Stipulation") between Plaintiffs and Defendants
having been considered and for good cause shown,

IT IS ORDERED, ADJUDGED AND DECREED that:

1. The definition of terms set forth in the Stipulation of Settlement are hereby
incorporated herein as though fully set forth in this Order.
2. Subject to the approval of the Court of the Stipulation, and in consideration for the
release and compromise of all Settled Claims by Injunctive Relief Class Members, beginning
April 1, 2002 DLLFS shall reduce the Insurance Charge for each Active Lease of any Injunctive

Relief Class Member by Two Dollars \$2.00 per month, for the duration of any such Active Lease.

3. Subject to the approval of the Court of the Stipulation, and in consideration for the release and compromise of all Settled Claims by Injunctive Relief Class Members, for new leases beginning April 1, 2002 DLLFS shall modify the insurance provision contained in its lease forms, which currently states, in substance:

INSURANCE. During the term of this Lease, you will keep equipment insured against all risks of loss or damage in an amount not less than the replacement cost of the equipment, without deductible and without co-insurance. You will also obtain and maintain for the term of this Lease comprehensive public liability insurance covering both personal injury and property damage of at least \$100,000 per person and \$300,000 per occurrence for bodily injury and \$50,000 for property damage. We will be the sole named loss payee on the property insurance and named as an additional insured on the public liability insurance. You will pay all premiums for such insurance and must deliver proof of insurance coverage satisfactory to us. If you do not provide such insurance, you agree that we have the right, but not the obligation, to obtain such insurance and charge you for all costs.

Beginning April 1, 2002 and for five (5) years thereafter, the insurance provision in DLLFS' lease

forms shall state:

INSURANCE. During the term of this Lease, you will keep equipment insured against all risks of loss or damage in an amount not less than the replacement cost of the equipment, without deductible and without co-insurance. You will also obtain and maintain for the term of this Lease comprehensive public liability insurance covering both personal injury and property damage of at least \$100,000 per person and \$300,000 per occurrence for bodily injury and \$50,000 for property damage. We will be the sole named loss payee on the property insurance and named as an additional insured on the public liability insurance. You will pay all premiums for such insurance and must deliver proof of

insurance coverage satisfactory to us. If you do not provide such insurance, you agree that we have the right, but not the obligation, to obtain such insurance, and charge you an insurance fee on which we may make a profit.

4. If any statute or regulation changes or becomes effective during the five (5) year term of this Injunction, or if any governing or regulatory agency adopts guidelines which would be applicable to DLLFS, then any such statutes, regulations and guidelines shall preempt any of the provisions of this Injunction and shall thereafter govern DLLFS' conduct.

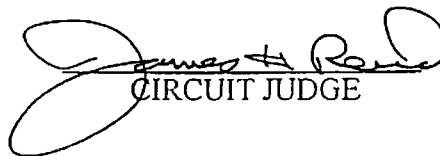
5. If the Settlement does not become effective in accordance with the terms of the Stipulation of Settlement, or if the Stipulation of Settlement is not finally approved, or is terminated, canceled or fails to become effective for any reason, this Injunction shall be rendered null and void and shall be vacated, and the parties shall revert to their respective positions as of the date prior to the entry of this Order, with DLLFS retaining the right to recover from the Injunctive Relief Class all reductions in Insurance Charges on Active Leases that were made pursuant to the terms of this Order.

SO ORDERED this 22nd day of March, 2002

CIRCUIT COURT
BALDWIN COUNTY, ALA.
FILED

MAR 22 2002

JACKIE M. CALHOUN
CIRCUIT COURT CLERK


CIRCUIT JUDGE

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

MIKE FOOTE OIL & GAS PROPERTIES,)
FOOTE OIL & GAS PROPERTIES, L.L.C.)
and JOHN MICHAEL FOOTE, Individually)
and in their representative capacity)

Plaintiffs,)

v.)

TOKAI FINANCIAL SERVICES INC.;)
DE LAGE LANDEN FINANCIAL SERVICES,)
INC.; DE LAGE LANDEN FINANCIAL)
SERVICES, INC., as Successor in interest to)
TOKAI FINANCIAL SERVICES, INC., and)
E.H. DEVINE COMPANY, INC.,)
MEEKER SHARKEY DEVINE COMPANY,)
INC. and SUMMIT INSURANCE ADVISORS,)
LLC)

Defendants.)

CIVIL ACTION NO.
CV-00-782

ORDER PRELIMINARILY APPROVING SETTLEMENT,
CERTIFYING TEMPORARY CLASSES FOR SETTLEMENT,
AND APPROVING THE FORM AND MANNER OF NOTICE

The Court, having been informed about the Stipulation of Settlement to which the parties have agreed, finds as follows:

1. This Court has jurisdiction over this action and over the Classes as defined in the Stipulation of Settlement.
2. The definition of terms set forth in the Stipulation of Settlement are hereby incorporated herein as though fully set forth in this Order.

3. Class Counsel are authorized to act on behalf of all Class Members with respect to all actions or consents required by, or which may be given pursuant to the Stipulation of Settlement and to take any other actions reasonably necessary to consummate the proposed Settlement set forth in the Stipulation of Settlement.

4. The parties have presented to the Court the following documents:

A. Stipulation of Settlement between the parties, a copy of which has been filed with the Court;

B. Notice of Proposed Class Action Settlement and Hearing, a copy of which is attached as Exhibit B to the Stipulation of Settlement;

C. Summary Notice, a copy of which is attached as Exhibit C to the Stipulation of Settlement;

D. Permanent Injunction, a copy of which is attached as Exhibit D to the Stipulation of Settlement; and

E. [Proposed] Final Judgment, a copy of which is attached as Exhibit E to the Stipulation of Settlement.

5. Certification of the Classes for settlement purposes is appropriate in this action. In particular, it is appropriate under Alabama Rule of Civil Procedure 23(b)(3) with respect to the Insurance Charge Class, and under Alabama Rule of Civil Procedure 23(b)(2) with respect to the Injunctive Relief Class.

6. Pursuant to Alabama Rule of Civil Procedure 23, the Court finds that the form and manner of giving notice by the mailing and publication required by this Order

is, under the circumstances, the most practicable notice to all Class Members. The notice procedure provides due and sufficient notice of these proceedings and of the matters described in the Stipulation of Settlement to all persons entitled to such notice, and said notice procedure satisfies all requirements of Alabama Rule of Civil Procedure 23 and the requirements of state and federal constitutional due process.

The Court, having considered all the documents listed above, the attached exhibits, and all of the other pleadings, papers and filings herein, and using terms as they have been defined in the Stipulation of Settlement, hereby orders as set forth below.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. The Court preliminarily approves the proposed Settlement set forth in the Stipulation of Settlement as fair, reasonable and adequate. Final approval is subject to the right of any Class Member to challenge the fairness, reasonableness and adequacy of the Stipulation of Settlement and to show cause, if any exists, why a final judgment dismissing with prejudice all claims for damages and injunctive relief of all Class Members, should not be entered at the Fairness Hearing ordered herein, after due and adequate notice to the Classes has been given in conformity with this Order.

2. The Insurance Charge and Injunctive Relief Classes are temporarily certified for the purpose of authorizing the dissemination of notice to the Classes as defined below.

3. The Insurance Charge Class, as defined in the Stipulation of Settlement, is temporarily certified under Alabama Rule of Civil Procedure 23(b)(3). The Class

includes all persons who leased equipment owned by DLLFS that were billed for an Insurance Charge by DLLFS between January 1, 1997 and March 31, 2002, inclusive, that was not fully canceled and all charges associated therewith refunded. All such lessees who file a timely request for exclusion are excluded from the Insurance Charge Class.

4. The Insurance Charge Class is formed under Alabama Rule of Civil Procedure 23(b)(3), and is comprised of Class Members who are residents of any state in the United States, and who leased equipment owned by DLLFS and were billed for an Insurance Charge by DLLFS pursuant to their lease agreement between January 1, 1997 and March 31, 2002, inclusive, and who have compensatory and/or punitive damages claims against Defendants as a result.

5. The Injunctive Relief Class, as defined in the Stipulation of Settlement, is temporarily certified under Alabama Rule of Civil Procedure 23(b)(2). The Class includes all persons who entered into a lease for equipment owned by DLLFS prior to April 1, 2002, pursuant to which DLLFS maintains property insurance after April 1, 2002 on such leased equipment and bills them for an Insurance Charge pursuant to the terms of their lease agreements (which will be called "Active Leases" for purposes of this Order). All such lessees who file a timely request for exclusion are excluded from the Injunctive Relief Class.

6. The Injunctive Relief Class is formed under Alabama Rule of Civil Procedure 23(b)(2), and is comprised of Class Members who are residents of any state in the United States and who entered into an Active Lease.

7. This Court hereby schedules a Fairness Hearing for Sept 5, 2002, At 1.30 P.M. that time, the Court will hear arguments of counsel and objections, if any, of Class Members who do not opt out of the proposed Settlement. Subsequently, this Court will render a final decision regarding certification of the Classes and final approval of the Settlement.

8. Pending resolution of these settlement proceedings, the Court asserts jurisdiction over all Class Members for purposes of effectuating this Settlement.

9. In order to facilitate the efficient, uniform and fair adjudication of claims against Defendants, all Class Members, until further order of the Court, are hereby enjoined from commencing or maintaining actions against Defendants or any of the Released Parties, as defined in Section IX.L of the Stipulation of Settlement, for injunctive relief or for compensatory and/or punitive damages that arise from or in connection with DLLFS' billing of Insurance Charges for the placement of insurance pursuant to a lease for equipment owned by DLLFS. Pending resolution of these settlement proceedings, no other action, whether now pending or hereafter filed, which arises from the subject matter of the Complaint shall be maintained as a class action and all persons are hereby enjoined during the pendency of these settlement proceedings from filing or prosecuting purported class actions against Defendants or any of the Released

Parties with respect to any of the Settled Claims. Any person affected by this Order may apply to this Court for modification or relief.

10. The Stipulation of Settlement does not constitute a concession or an admission and shall not be used as an admission or indication with respect to any claim of any fault or omission of Defendants or any of the Released Parties or of any wrongdoing by Defendants or the Released Parties, or of any liability or any violation of law by Defendants or the Released Parties. Whether or not the Settlement is finally approved, neither the Stipulation of Settlement nor any related document or proceedings or actions taken pursuant to the Stipulation of Settlement, nor any reports or accounts thereof, shall be:

A. construed as, offered in evidence as, received in evidence as, and/or deemed to be, evidence of a presumption, concession, indication or an admission by Defendants or any of the Released Parties of the truth of any fact alleged or the validity of any claim which has been, could have been, or in the future might be asserted in any litigation, or of the deficiency of any defense which has been, could have been, or in the future might be asserted in any litigation, or of any liability, fault, wrongdoing or otherwise of Defendants or any of the Released Parties; or

B. construed as, offered in evidence as, received in evidence as, and/or deemed to be, evidence of a presumption, concession, indication or an admission of any fault, breach of duty, wrongful act, or misrepresentation or omission in any statement or written document approved or made by Defendants or any of the Released

Parties, or the approval or making of which was participated in by Defendants or any of the Released Parties; or

C. construed by anyone for any purpose whatsoever as evidence of a presumption, concession, indication or an admission of any liability, fault, wrongdoing or otherwise on the part of Defendants or any of the Released Parties; or

D. construed as, offered in evidence as, received as, and/or deemed to be, evidence of a presumption, concession or an admission that Plaintiffs and the Class Members have in fact suffered any damage, or that Defendants or any of the Released Parties are liable to Plaintiffs or any Class Members or any other person; or

E. referred to, or offered or received in evidence in any other civil, criminal or administrative action or proceeding, other than, if admitted by this Court or other tribunal, in such proceedings as may be necessary to implement or enforce the provisions of the Stipulation of Settlement and/or the Settlement and/or all releases given thereunder, or proceedings to determine whether Defendants are, or any insurer (or reinsurer) of Defendants are, entitled to be reimbursed or indemnified for any payments made and/or costs and expenses associated with this litigation, including, but not limited to, attorneys fees and costs, or to establish the affirmative defenses of res judicata or collateral estoppel; or

F. construed as, offered in evidence as, received in evidence as, and/or deemed to be, evidence of a presumption, concession, indication, or an admission

that Class Members are properly members of any class that could be certified in this action without Defendants' consent.

11. This Court approves the Notice of Proposed Class Action Settlement and Hearing, and the Summary Notice which are attached as Exhibits B and C to the Stipulation of Settlement.

12. Class Members are entitled to opt out, in a timely manner, from the Classes, and the Notice of Settlement accordingly notifies Class Members of this right.

13. Class Members are also entitled to remain in the Classes and object to the terms of the Settlement, and the Notice of Settlement accordingly notifies Class Members of this right.

14. Defendants or their designee are hereby directed to:

A. Mail, or cause to be mailed, using the last known address obtainable from DLLFS' records, within thirty (30) days of the entry of this Order and as provided in the Stipulation of Settlement, a copy of the Notice of Settlement; and

B. Publish the Summary Notice once in the sports section of *USA Today* within fourteen (14) days of the First Notice Date, as defined in the Stipulation of Settlement.

15. Any Class Member may enter an appearance through counsel of such Class Member's own choosing and at such Class Member's own expense. Any Class Member who does not enter an appearance or appear on his or her own will be represented by Class Counsel.

16. Elections to opt out must be submitted in writing to the settlement administration firm of Tilghman & Co., P.C. ("Tilghman"), engaged by the Parties for the purpose of assisting in the administration of the terms and provisions of this Stipulation of Settlement. Tilghman's address is P.O. Box 11250, Birmingham, AL 35202. Such elections to opt out must be submitted to Tilghman on or before the Opt-Out Date, which is defined in the Stipulation of Settlement as thirty (30) days following the date the Notice of Settlement is mailed on the Second Notice Date, as defined in the Stipulation of Settlement. The written request for exclusion must contain the excluded person's name, address and account number, and must be signed by that person.

17. Tilghman, together with Class Counsel and Defendants' Counsel, shall compile a list of all Class Members who timely send such a written request for exclusion and provide a copy of the list to the Clerk of the Court fifteen (15) days before the Fairness Hearing.

18. On Sept. 5, 2002 at 1.30 p.m., or as soon thereafter as counsel may be heard, at the Courthouse for the County of Baldwin, Alabama, the Fairness Hearing will be conducted by this Court to determine whether the Court should approve the fairness, reasonableness and adequacy of the terms and conditions of the proposed settlement set forth in the Stipulation of Settlement, including the reasonableness and fairness of fees and costs requested by Class Counsel, and enter a final judgment thereon.

19. Any Class Member who did not opt out of the proposed Settlement, may appear personally or by counsel at the Fairness Hearing, may express the Class Member's

views regarding the proposed Stipulation of Settlement and any of its terms, and may present evidence and file briefs or other papers relevant to the issues to be heard and determined by this Court, all at the Class Member's own expense. However, no Class Member shall be heard at these hearings, or be entitled in any way to contest the approval by this Court of the proposed Settlement or any of the terms of the Stipulation of Settlement, unless no later than forty-five (45) days before the Fairness Hearing, such Class Member's written objections, and grounds therefor, or the reasons for such Class Member's desire to appear and be heard, along with proof of membership in one of the Classes, are received by the Clerk of the Court, Circuit Court of Baldwin County, Bay Minette, Alabama, with a copy to Tilghman, together with all papers to be submitted to this Court at the Fairness Hearing.

20. Seven (7) days before the Fairness Hearing, Class Counsel shall file with this Court, and serve on Defendants' Counsel, copies of all submissions in support of the proposed Settlement and Class Counsel's application for Attorneys' Fees and Attorneys' Costs and Expenses. In addition, seven (7) days before the Fairness Hearing, Defendants' Counsel shall file with this Court, and serve on Class Counsel, copies of all submissions in support of the proposed Settlement. Counsel for the parties may contact any Class Member who is requesting exclusion or such Class Member's counsel to discuss the Member's request for exclusion.

21. Upon the Effective Date, all Class Members, unless they timely opt out, shall be barred and permanently enjoined from prosecuting, commencing or continuing

any Settled Claim, as defined in the Stipulation of Settlement, against Defendants or any of the other Released Parties, and all such Class Members shall be conclusively deemed to have released any and all such Settled Claims. All Class Members who do not timely opt out shall be conclusively deemed to have released any and all such Settled Claims for punitive or exemplary damages (including all damages of any kind or character the purpose of which is to deter, punish or penalize under state or federal statutory or common law).

22. The Fairness Hearing and any fee hearing, and all dates provided for herein, may from time to time, and without further notice to the Class, be continued or adjourned by order of the Court.

23. If the Settlement does not become effective in accordance with the terms of the Stipulation of Settlement, or if the Stipulation of Settlement is not finally approved, or is terminated, canceled or fails to become effective for any reason, this Order, except for Paragraph 10 above, shall be rendered null and void and shall be vacated, and the parties shall revert to their respective positions as of the date prior to the entry of this Order.

SO ORDERED this 22nd day of March, 2002.


CIRCUIT JUDGE

SUBMITTED BY:

ON BEHALF OF NAMED
REPRESENTATIVES, THE CLASSES
AND CLASS COUNSEL:

CIRCUIT COURT
BALDWIN COUNTY, ALA.
FILED

MAR 22 2002

JACKIE N. CALHOUN
CIRCUIT COURT CLERK

DATED: March 22, 2002

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ON BEHALF OF DLLFS:

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DATED: March 21, 2002

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ON BEHALF OF MEEKER SHARKEY
DEVINE CO., INC. AND SUMMIT
INSURANCE ADVISORS, LLC:

DATED: March 21, 2002

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