

2000-3 Arapaho Road  
R.O.W. Litigious Documents (Nile) - 2004

25th Anniversary 1978-2003

COWLES & THOMPSON A Professional Corporation ATTORNEYS AND COUNSELORS

Nile



FACSIMILE COVER PAGE

Date: February 19, 2004 Time: \_\_\_\_\_

Total Number of Pages (including this sheet): 12

Normal/Rush: Normal Client/Matter #: 3305/60552

TO: (1) Ron Whitehead, City Manager FAX: 972.450.7043 PHONE: (2) Mike Murphy, Dir. of Pub. Works FAX: 972.450.2837 PHONE:

FROM: Kenneth C. Dippel Direct Dial #: (214) 672-2158

MESSAGE: RE: Nile Properties Mediation Information - Mediation Scheduled for Tuesday, February 24, 2004 at 10:00 a.m. at 2911 Turtle Creek Blvd. #300, Dallas, Texas.

IF YOU HAVE ANY PROBLEMS WITH THIS TRANSMISSION, PLEASE CALL

Yolanda Rodriguez at (214) 672-2629

Thank you.

IMPORTANT/CONFIDENTIAL: This message is intended only for the use of the individual or entity to which it is addressed. This message contains information from the law firm of Cowles & Thompson which may be privileged, confidential, and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee, or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately at our telephone number (214) 672-2000. We will be happy to arrange for the return of this message to us, via the United States Postal Service, at no cost to you.

DALLAS TYLER

901 MAIN STREET SUITE 4000 DALLAS, TEXAS 75202-3793 TEL 214.672.2000 FAX 214.672.2020 WWW.COWLESTHOMPSON.COM

LAW OFFICES OF  
JOE H. STALEY, JR.

5849 Sherry Lane, Suite 501  
Dallas, Texas 75225  
(214) 739-3700  
Fax: (214) 739-1919

February 19, 2004

Ken Dippel  
Cowles & Thompson  
901 Main Street  
Suite 4000  
Dallas, TX 75202-3793

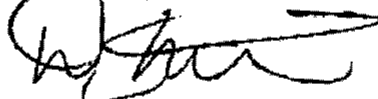
In Re: *City of Addtson v. Nile Properties, Ltd.*; Cause No. 01-04552-A

Dear Mr. Dippel,

Attached hereto is the letter from Maxine Aaronson concerning our mediation next week. Feel free to call me if you have any questions or concerns.

Will you get a check for \$1,000 cut for us to pay Ms. Aaronson?

Sincerely,



Donya Witherspoon

02/19/2004 12:46  
FEB-15-2004 10:572142212009  
MAXINE AARONSON

CISSY HEALY

214 230 2066  
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Mr. Michael M. Barron  
Mr. Joe H. Staley, Jr.  
Page 2  
January 28, 2004

and

3. An attorney's expense check or a cashier's check from your client, payable to Maxine Aaronson in the amount of \$1000.00. My firm's Federal Tax Identification number is 75-2156676. Note: due to the delay in sending this letter, you may alternatively bring the check with you to the mediation if you prefer.

I will also take the liberty of addressing two other issues at this time which might possibly otherwise delay a productive mediation.

1. Conflicts. I presently know of no reason why I would not be able to conduct this mediation in a manner other than what you and your client would feel is fair, impartial and neutral. Certainly, if you are aware of any information relevant in this regard, please advise me immediately. A copy of my resume is attached.

2. Information. In my opinion, a mediation will be productive if (a) the proceeding is conducted by a person trained and experienced as a Mediator, and (b) the parties have sufficient information to bargain intelligently. I can fulfill the first condition. With respect to the second, please determine now what further discoverable information you must have to evaluate your client's position and then seek to obtain such information. I trust that each party will voluntarily produce discoverable information that is requested by another party. Please note that I am not suggesting that you even seek further discovery unless the information cannot be obtained in any other manner and is absolutely crucial to an evaluation of the case. Oftentimes discovery does not produce further useful information and merely confirms what is already known.

Further, please review the addressees of this letter. I have tried to identify all counsel of record in this case and to include them in this communication. However, I may have inadvertently neglected to forward this letter to each counsel, pro se party intervenor or to any guardian ad litem. If you know of any other counsel, pro se party or intervenor to this case to whom I ought to have addressed this letter, or if a guardian ad litem has been appointed, please let me know right away.

I thank you in advance for your cooperation and for this engagement. I will do everything possible to facilitate the settlement of this case on terms acceptable to all concerned.

Sincerely yours,

  
Maxine Aaronson

MA/cmb

Enclosure

02/19/2004 12:46  
FEB-19-2004 10:57

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NO. 01-04553-A

TOWN OF ADDISON

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§  
§

IN THE COUNTY COURT

V.

AT LAW NUMBER 1

NILE PROPERTIES, LTD., ET AL

DALLAS COUNTY, TEXAS

AGREEMENT FOR MEDIATION

This case has been referred to mediation pursuant to an Order of the Court designating Maxine Aaronson as the mediator.

Accordingly, it is **AGREED** as follows:

1. Maxine Aaronson has been designated to mediate this case and is authorized to conduct the mediation of this case.

2. In all respects the mediation shall be governed by and conducted in accordance with this Agreement, Chapter 154 of the Texas Civil Practices and Remedies Code, *et seq.* and the "Rules for Mediation", a copy of which is attached hereto.

3. All mediation sessions shall be private, confidential and privileged from discovery. The mediator shall not be required to disclose any information revealed to him/her, unless authorized by the parties or as otherwise required by law. Each participant agrees not to make any effort to compel any testimony whatsoever of the mediator regarding any communications, written or oral, made in connection with the mediation. Likewise, each person agrees not to make any effort to compel the mediator to produce any information or documents provided to him/her by any party to the mediation.

AGREEMENT FOR MEDIATION

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4. The parties acknowledge that the mediator shall be serving as a neutral intermediary only and will not act as an attorney or advocate for any party.

5. Each participant is advised that if an agreement is reached as a result of this mediation and the mediator assists in the preparation of a written settlement agreement, then each participant should have the settlement agreement independently reviewed by their own counsel before executing the settlement agreement.

6. The mediator is expressly permitted to meet privately with any of the parties and have such *ex parte* communications with any of the parties before, during or after the mediation as the mediator determines is necessary and appropriate.

7. The mediator has the discretion to terminate the mediation at any time if s/he believes that an impasse has been reached, or that the mediation should not be continued for any other reason. The Court will be advised by the mediator only whether the case settled or not, or whether the mediation was recessed or was reset.

8. In the event any party to this Agreement makes any effort to involve the mediator in litigation relating to this mediation, or attempts to compel his/her testimony, or attempts to have him/her divulge any information or produce any documents relating to the mediation, such party agrees to pay all fees and expenses of the mediator in resisting such efforts, including reasonable attorney's fees.

Executed in multiple counterparts.

Agreed, this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
ATTORNEY FOR PLAINTIFF

\_\_\_\_\_  
ATTORNEY FOR DEFENDANT

C:\WP51\DOC5\Mediate\01\No Properties\Mediate\Agreement1.wpd

## RULES FOR MEDIATION

**1. Definition of Mediation.** Mediation is a process under which an impartial person, the mediator, facilitates communication between the parties to promote reconciliation, settlement or understanding among them. The mediator may suggest ways of resolving the disputes, but may not impose his own judgment on the issues for that of the parties.

**2. Agreement of Parties.** Whenever the parties have agreed to mediation they shall be deemed to have made these rules, as amended and in effect as of the date of the submission of the dispute, a part of their agreement to mediate.

**3. Consent to Mediator.** The parties consent to the appointment of the individual named as mediator in their case. The Mediator shall act as an advocate for resolution and shall use his best efforts to assist the parties in reaching a mutually acceptable settlement.

**4. Conditions Precedent to Serving As Mediator.** The Mediator will only serve in cases in which the parties are represented by attorneys. The mediator shall not serve as a mediator in any dispute in which he has any financial or personal interest in the result of the mediation. Prior to accepting an appointment, the Mediator shall disclose any circumstances likely to create a presumption of bias or prevent a prompt meeting with the parties. In the event that the parties disagree as to whether the Mediator shall serve, the Mediator shall not serve.

**5. Authority of the Mediator.** The Mediator does not have the authority to decide any issue for the parties, but will attempt to facilitate the voluntary resolution of the dispute by the parties. The Mediator is authorized to conduct joint and separate meetings with the parties and to offer suggestions to assist the parties achieve settlement. If necessary, the Mediator may also obtain expert advice concerning technical aspects of the dispute, provided that the parties agree and assume the expenses of obtaining such advice. Arrangements for obtaining such advice shall be made by the Mediator or the parties, as the Mediator shall determine.

**6. Commitment to Participate in Good Faith.** While no one is asked to commit to settle their case in advance of mediation, all parties commit to participate in the proceedings in good faith with the intention to settle, if at all possible.

**7. Parties Responsible for Negotiating Their Own Settlement.** The parties understand that the Mediator will not and cannot impose a settlement in their case and agree that they are responsible for negotiating a settlement acceptable to them. The Mediator, as an advocate for settlement, will use every effort to facilitate the negotiations of the parties. The Mediator does not warrant or represent that settlement will result from the mediation process.

**8. Authority of Representatives. PARTY REPRESENTATIVES MUST HAVE AUTHORITY TO SETTLE AND ALL PERSONS NECESSARY TO THE DECISION TO SETTLE SHALL BE PRESENT.** The names and addresses of such persons shall be communicated in writing to all parties and to the Mediator prior to the mediation.

**9. Time and Place of Mediation.** The Mediator shall fix the time of each mediation session. The mediation shall be held at the office of the Mediator, or at any other convenient location agreeable to the Mediator and the parties, as the Mediator shall determine.

**10. Identification of Matters in Dispute.** Prior to the first scheduled mediation session, each party shall provide the Mediator with confidential information in the form requested by the Mediator setting forth its position with regard to the issues that need to be resolved.

At or before the first session, the parties will be expected to produce all information reasonably required for the Mediator to understand the issues presented. The Mediator may require any party to supplement such information.

**11. Privacy.** Mediation sessions are private. The parties and their representatives may attend mediation sessions. Other persons may attend only with the permission of the parties and with the consent of the Mediator.

**12. Confidentiality.** Confidential information disclosed to a Mediator by the parties or by witnesses in the course of the mediation shall not be divulged by the Mediator. All records, reports or other documents received by a mediator while serving in that capacity shall be confidential. The Mediator shall not be compelled to divulge such records or to testify in regard to the mediation in any adversary proceeding or judicial forum. Any party that violates this agreement shall pay all fees and expenses of the Mediator and other parties, including reasonable attorney's fees incurred in opposing the efforts to compel testimony or records from the Mediator.

The parties shall maintain the confidentiality of the mediation and shall not relay on, or introduce as evidence in any arbitral, judicial, or other proceeding: a) views expressed or suggestions made by another party with respect to a possible settlement of the dispute; b) admissions made by another party in the course of the mediation proceedings; c) proposals made or views expressed by the Mediator; or d) the fact that another party had or had not indicated willingness to accept a proposal for settlement made by the Mediator.

**13. No Stenographic Record.** There shall be no stenographic record made of the mediation process.

**14. No Service of Process at or near the Site of the Mediation Session.** No subpoenas, summons, complaints, citations, writs or other process may be served upon any person at or near the site of any mediation session upon any person entering, attending or leaving the session.

**15. Termination of Mediation.** The mediation shall be terminated: a) by the execution of a



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settlement agreement by the parties; b) by declaration of the Mediator to the effect that further efforts at mediation are no longer worthwhile; or c) after the completion of one full mediation session, by a written declaration of a party or parties to the effect that the mediation proceedings are terminated.

**16. Exclusion of Liability.** The Mediator is not a necessary or proper party in judicial proceedings relating to the mediation. Neither Mediator nor any law firm employing Mediator shall be liable to any party for any act or omission in connection with any mediation conducted under these rules.

**17. Interpretation and Application of Rules.** The Mediator shall interpret and apply these rules.

**18. Fees and Expenses.** The Mediator's daily fee shall be agreed upon prior to mediation and shall be paid in advance of each mediation day. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including fees and expenses of the Mediator, and the expenses of any witness and the cost of any proofs or expert advice produced at the direct request of the Mediator, shall be borne equally by the parties unless they agree otherwise.

Form **W-9**  
(Rev. November 1997)  
Department of the Treasury  
Internal Revenue Service

### Request for Taxpayer Identification Number and Certification

Give form to the  
requester. Do NOT  
send to the IRS.

Main: If a joint account or you changed your name, see Special Instructions on page 2.

Name of requester: **Maxine Farronson**

Business name, if different from above. (See Special Instructions on page 2.)

Check appropriate box:  Individual sole proprietor  Corporation  Partnership  Other P.

Address (number, street, and apt. or box no.)  
**3131 McKinney Avenue, Suite 420**

City, state, and ZIP code:  
**Dallas, Texas 75204**

Requester's name and address (optional)

Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). However, if you are a resident alien OR a sole proprietor, see the instructions on page 2. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN on page 2.

Social security number: [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ] [ ]

OR

Employer identification number: **752156676**

For Payees Exempt From Backup Withholding (See the instructions on page 2.)

**Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am asking for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding.

Certification instructions: You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 2.)

Sign Here: Signature: *Maxine Farronson* Date: **12/10/03**

**Purpose of form.** A person who is required to file an information return with the IRS must get your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9, if you are a U.S. person (including a resident alien), to give your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are an exempt payee.

If you are a foreign person, IRS prefers you use a Form W-9 (certificates of foreign status). After December 31, 2000, foreign persons must use an appropriate Form W-9.

Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**What is backup withholding?** Persons making certain payments to you must withhold and pay to the IRS 31% of such payments under certain conditions. This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

If you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return, payments you receive will not be subject to backup withholding if:

- You do not furnish your TIN to the requester, or
- You do not certify your TIN when required (see the Part II instructions on page 2 for details), or
- The IRS tells the requester that you furnished an incorrect TIN, or
- The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
- You do not certify to the requester that you are not subject to backup withholding under 3 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the Part II instructions and the separate instructions for the Requester of Form W-9.

**Penalties**

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of Federal law, the requester may be subject to civil and criminal penalties.

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214 220 2006 PAGE 11  
P.11/11**MAXINE AARONSON  
ATTORNEY AT LAW**

Suite 420  
3131 McKinney Avenue  
Dallas, Texas 75204  
Telephone (214) 220-2050

Suite 200  
5100 Westheimer Road  
Houston, Texas 77056  
Telephone (713) 968-9205

Fax (214) 220-2066  
email: maxine-aaronson@art.net

**BIOGRAPHICAL INFORMATION****EDUCATION:**

B.F.A. Southern Methodist University, Meadows School of the Arts, 1976  
J.D. Southern Methodist University, School of Law, 1980

**DISPUTE RESOLUTION TRAINING:**

Mediation Workshop, Program of Instruction for Lawyers, Harvard Law School, June 8-12, 1998  
Basic Mediator Training, Attorney-Mediator Institute, Inc., January 9-11, 1998  
Negotiation Workshop, Program of Instruction for Lawyers, Harvard Law School, November 3-7, 1997  
Advanced Negotiation Workshop, State Bar of Texas Professional Development Program, September 3-9, 1994  
Negotiating Tradeoffs and Looking for Trade Ups, Lincoln Institute for Land Policy, January 25-30, 1998

**PROFESSIONAL CERTIFICATIONS:**

Board Certified in Tax Law, Texas Board of Legal Specialization, 1986, recertified through 2006.  
Approved Neutral, Internal Revenue Service Roster of Neutrals, Washington, D.C.  
Approved Neutral, Office of Mediation, The World Bank Group, Washington, D.C.  
Approved Neutral, United States District Court, Southern District of Texas

**TEACHING EXPERIENCE:**

Program Developer and Principal Trainer, Negotiation Skills Training Session, El Paso Chapter Texas Society of Certified Public Accountants, July 1999

**PROFESSIONAL ACTIVITIES:**

Chair, ADR and Tax Committee, American Bar Association, Section of Dispute Resolution (2000-present)

Course Director, 15th Annual Advanced Tax Law Course, State Bar of Texas Professional Development Program; September 1997

Chair, CLE Committee, State Bar of Texas Taxation Section 1996-97

Chair, Subcommittee on Tax Issues Relating to Damages and Settlements, Individual Tax Committee, American Bar Association Section on Taxation (1998-2001)

Member: American Bar Association, Section of Taxation (Administrative Practice Committee) and Section of Dispute Resolution (Tax & ADR and Mediation Committees); State Bar of Texas, Taxation and Real Property, Probate, and Trust Law Sections; Dallas and Houston Bar Associations

**PUBLICATIONS AND HONORS:**

Contributing Author, Chapter 0:4, "Expenses for the Production of Income" CCH Federal Tax Service, Business Expenses, Deduction and Credits Volume, Commerce Clearing House, Inc.

Author, The Case for Mediation of Tax Controversies, 3 IRS Practice Advisor Report 51 (BNA) (November 12, 1999), Reprinted in the Texas Tax Lawyer, May 2000.

Author, Navigating Your Way Through The Process Of A Negotiation, 28 State Bar of Texas Taxation Section Newsletter 3 (February 1999)

**REPRESENTATIVE MEDIATION EXPERIENCE:**

Bank fraud, 6 figures

Computer services contract, 6 figures

Condemnation case, major Texas school district, 6 parties, 7 figures

Construction defect case, 6 parties, 7 figures

Dispute over finder's/brokerage fee, 6 figures

Disputed worker classification, low 6 figures, federal court

ERISA disability claim, Fortune 500 company, federal court, low 6 figures

ERISA welfare benefits claim, federal court

Fee dispute, property tax services, 6 figures

Interstate Motor Vehicle Sales and Use Tax, 7 figures

Lost profits case, Fortune 100 and Fortune Global 500 companies, 7 figures

Professional liability, business/financial advice, 7 figures

Sales tax case, Fortune 100 company, 7 figures

Suit for accounting, publicly traded retailer, 6 figures

Toxic tort case, 33 parties, resolved entirely through telephone mediation

Wrongful levy by Internal Revenue Service, federal court

TOTAL P.11

TOTAL P.12