

IN THE MATTER OF

GAC CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket C-2523. Complaint, July 23, 1974—Decision, July 23, 1974

Consent order requiring a Miami, Fla., land developer and two of its subsidiaries, among other things to cease using false, misleading, deceptive and unfair practices in connection with the sale of land and to cease misrepresenting the qualities, characteristics or state of present or planned development of their land; misrepresenting the nature and purpose of events or activities used to solicit land sales; misrepresenting endorsements or connections with agencies of the U.S. Government; and misrepresenting the legal significance of signing a contract. The order further provides comprehensive consumer protection to future purchasers, including mandatory affirmative disclosures and a cooling-off period; benefits to past purchasers which could cost the company more than \$17 million; and relief from the contractual provision under which defaulting purchasers forfeit all payments previously made to GAC under the contract (liquidated damages). The order requires GAC to offer to many purchasers of lots in two of its subdivisions, an option to exchange them for property in other GAC subdivisions; and undertake a redevelopment program for Golden Gate Estates subdivision in particular. The order further requires GAC to clearly disclose in contracts the uncertainty of the future value of land, the difficulty of reselling it and other material factors, and suggest the purchaser consult a qualified professional; and allow the purchaser a ten calendar day cooling-off period within which to cancel the contract with full refund rights.

Appearances

For the Commission: *Eugene Kaplan* and *Jeffrey Tureck*.

For the respondents: *Earl W. Kintner* and *Daniel C. Smith*, *Arent, Fox, Kintner, Plotkin & Kahn*, Wash., D.C.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that GAC Corporation, a corporation, and its wholly-owned subsidiary corporation, GAC Properties, Inc., (formerly Gulf American Corporation), a corporation, and GAC Properties, Inc.'s, wholly-owned subsidiary, GAC Properties, Inc. of Arizona, (formerly Gulf American Corporation of Arizona), a corporation, and their subsidiaries, hereinafter sometimes referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public

interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent GAC Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 7880 Biscayne Boulevard, Miami, Fla.

PAR. 2. Respondent GAC Corporation acquired, on Jan 1, 1969, all of the stock of the predecessor corporation to GAC Properties, Inc. Respondent GAC Corporation, from its aforementioned principal place of business, operates through, dominates and controls the acts and practices of its aforementioned subsidiary, GAC Properties, Inc. and its subsidiary, GAC Properties, Inc. of Arizona, and their subsidiaries, and derives pecuniary and other benefits from the acts and practices of the said wholly-owned subsidiaries.

PAR. 3. Respondent GAC Properties, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida with its principal office and place of business located at 7880 Biscayne Boulevard, Miami, Fla.

PAR. 4. Respondent GAC Properties, Inc. of Arizona is a corporation organized, existing and doing business under and by virtue of the laws of the State of Arizona with its principal office and place of business located at 7880 Biscayne Boulevard, Miami, Fla.

PAR. 5. Respondents are now, and for some time last past have been, engaged, directly or through their wholly-owned subsidiaries, in the business of acquiring undeveloped land, subdividing said land into lots, and advertising, offering for sale, and selling said lots to the public.

PAR. 6. Among the subdivisions in which lots have been and/or are being offered for sale by respondents are the subdivisions known as Barefoot Bay, Cape Coral, Golden Gate, Golden Gate Estates, North Golden Gate, Poinciana, Remuda Ranch Grants, River Ranch Acres, and River Ranch Shores, all located in the State of Florida, and Rio Rico, located in the State of Arizona. The acreage of each of these subdivisions is substantial.

PAR. 7. Respondents usually sell the lots in their subdivisions to purchasers, who have not seen the property, by means of standard form contracts, titled "Contract for Deed" or "Agreement for Deed," herein-after referred to in this complaint as a "contract," whereby the purchaser pays monthly installments over a term of approximately ten years. According to the provisions of the contract, title to and possession of the lot remain in the respondents until final payment is made, at which time title to the lot is to pass to the purchaser. As to most of their

subdivisions, respondents agree in the contract to make certain improvements of benefit to the lot, said improvements to be completed before title passes. Purchasers do not, during the term of the contract, enjoy any rights of enjoyment of the lot. The contract provides that the purchaser pays interest to the respondents during the contract term on the unpaid balance owing under the contract.

PAR. 8. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their promotional materials, contracts and various business papers to be transmitted through the U.S. mails and other interstate instrumentalities from their places of business in Arizona and Florida to their agents, representatives, employees, customers and prospective customers in various other States and Territories of the United States and the District of Columbia and foreign nations, and now maintain and operate, and for some time last past have maintained and operated, places of business and have made substantial sales to purchasers in the various other States of the United States and the District of Columbia and in foreign nations, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said land in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 9. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and individuals in the sale of land.

PAR. 10. In the course and conduct of the aforesaid business, respondents disseminate advertisements in various publications of general circulation, distribute promotional materials through the mails and in person to members of the public, and make sales presentations by means of oral and written statements, slides and movies. By and through such means, respondents have made and are making various statements and representations, directly or by implication, concerning the size and diversity of the assets of GAC Corporation, the backing of respondents' land sale business by those assets, the ownership by GAC Corporation of banking, insurance and public utility subsidiaries, and the good reputation and integrity of GAC Corporation.

PAR. 11. By and through the use of such representations and statements, respondent GAC Corporation has permitted and participated in the use of its name and the prestige and diversification of its holdings for the purpose of selling its subsidiaries' land and deriving pecuniary benefits therefrom.

I

PAR. 12. In the further course and conduct of the aforesaid business, respondents disseminate advertisements in various publications of general circulation, distribute promotional materials to members of the public, and make sales presentations by means of oral and written statements, movies and slides. By and through such means, respondents have made and are making various statements and representations concerning the supply of and demand for land; the liquidity or marketability of land; land prices and values; land as an investment; personal financial security; the stock market, banks and insurance; population growth and movement; the location of industrial, commercial and recreational facilities; the present and future development of respondents' subdivisions; the present or future suitability of lots in respondents' subdivisions for homesites; the financial terms for real estate investment; the size and diversity of respondents' assets; and various options or financial protections afforded purchasers of respondents' land, including but not limited to respondents' commitment to buy back from or resell for purchasers.

PAR. 13. By and through the statements and representations alleged in Paragraph 12 herein, respondents have represented and are representing, directly or by implication, that the lots which respondents are offering for sale are, at the price at which respondents are offering them for sale, an excellent investment, and that there are little or no financial risks involved in the purchase of said lots at said price.

PAR. 14. In truth and in fact, in a significant number of instances the lots which respondents are offering for sale, at the price at which respondents are offering them for sale, are not an excellent investment involving little or no financial risk to purchasers from respondent. Therefore, the acts and practices alleged in Paragraph 13 herein are deceptive.

II

PAR. 15. In the further course and conduct of the aforesaid business, respondents have offered and are offering for sale lots in their subdivisions without disclosing to prospective purchasers that the lots being offered are, at the price at which respondents are offering them, a risky investment in that, *inter alia*, the future value of the lots being offered is uncertain and the purchaser probably will be unable to sell his lot, or his interest in it under the contract, at or above the purchase price. Respondents therefore have failed to disclose material characteristics of their lots which, if known to certain consumers, would be likely to

affect their consideration of whether or not to purchase a lot from respondents. Such failure to disclose is a deceptive or unfair act or practice.

III

PAR. 16. In the further course and conduct of the aforesaid business, respondents have made and are making various statements and representations to members of the public, by means of advertisements in various publications of general circulation, promotional materials, provisions in respondents' contracts for the purchase of land, telephone calls and sales presentations involving oral statements, written statements, movies and slides, concerning the present and future development of Golden Gate and Cape Coral; the suitability of lots in Golden Gate Estates, River Ranch Acres and Remuda Ranch Grants for homesites or recreational use; the present or future availability of improvements or utilities at lots being offered to purchasers; and the inclusiveness of the purchase price of a lot.

PAR. 17. By and through the statements and representations alleged in Paragraph 16 herein, respondents have represented and are representing, directly or by implication, that River Ranch Acres and Remuda Ranch Grants will be developed at least to the extent of lots being made accessible by conventional means of transportation, and that Golden Gate Estates will be developed so that purchasers will be able to use their lots as homesites upon passage of title.

PAR. 18. In truth and in fact:

(a) River Ranch Acres and Remuda Ranch Grants have not, apart from limited, central recreation facilities, been developed at all, and Golden Gate Estates has not been developed so that many purchasers are able to use their lots as homesites upon passage of title.

(b) It is not part of respondents' express contractual obligation, nor is it part of respondents' land development program, to develop River Ranch Acres and Remuda Ranch Grants at all, apart from limited, central recreation facilities, or to develop Golden Gate Estates so that many purchasers will be able to use their lots as homesites upon passage of title.

Therefore, the acts and practices alleged in Paragraph 17 herein are deceptive.

IV

PAR. 19. By and through the statements and representations alleged in Paragraph 16 herein, respondents have further represented and are representing, directly or by implication, that

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(a) in Cape Coral and Golden Gate central water and sewer systems are presently available at all lots where title has passed to the purchaser, and will be available at all other lots by the date for completion of improvements stated in the contract;

(b) Golden Gate is a developed community with complete shopping and resort facilities and public services;

PAR. 20. In truth and in fact:

(a) in Cape Coral and Golden Gate:

(1) central water and sewer systems are not presently available at all lots where title has passed to the purchaser.

(2) It is not part of respondents' express contractual obligation to purchasers, nor is it part of respondents' land development program, to take such measures as are necessary to make central water and sewer systems available at all lots by the date for completion of improvements stated in the contract.

(b) Golden Gate is not a developed community. Golden Gate consists primarily of vacant land, and has shopping facilities which are incomplete and inadequate, and resort facilities which are incomplete. There are few amenities and public services available; Therefore, the acts and practices alleged in Paragraph 19 herein are deceptive.

V

PAR. 21. By and through the statements and representations alleged in Paragraph 16 herein, respondents have further represented and are representing, directly or by implication, that the purchase price in the contract includes all expenses which must be incurred by a purchaser in order to purchase the lot and render it suitable for use, with the exception of nominal hook-up or installation charges for utilities.

PAR. 22. In truth and in fact, at many of the lots referred to in Paragraph 21 herein, it is necessary in order to purchase the lot and render it suitable for use for a purchaser to incur, in addition to nominal hook-up or installation charges, substantial expenses which are not included in the purchase price under the contract. Therefore, the acts and practices alleged in Paragraph 21 herein are deceptive.

VI

PAR. 23. In making the statements and representations alleged in Paragraph 16 herein containing express reference to the present or future availability of utilities, respondents have failed to disclose clearly and conspicuously, and in reasonable conjunction with such statements and representations, the fact that in order to obtain certain utilities, it

is necessary for a purchaser to incur, in addition to nominal hook-up or installation charges, substantial additional expenses which are not included in the purchase price. The necessity of incurring such expenses is a material fact, knowledge of which would be likely to affect the decision of certain consumers whether or not to sign a contract for the purchase of respondents' land.

PAR. 24. Therefore, the failure to disclose the aforesaid substantial additional expenses, clearly and conspicuously and in reasonable conjunction with the statements and representations alleged in Paragraph 16 herein, containing express reference to the present or future availability of utilities, is a deceptive or unfair act or practice.

VII

PAR. 25. In the further course and conduct of the aforesaid business, respondents have made and are making statements and representations in advertisements in publications of general circulation, promotional materials, and sales presentations by means of oral and written statements, concerning the accessibility from respondents' subdivisions and certain lots therein of open water, including the Atlantic Ocean and/or the Gulf of Mexico; the navigability of canals in respondents' subdivision; the present or future availability to purchasers of recreational facilities; the utility of purchasers' lots for vacationing; and the ability of purchasers to lease or otherwise enjoy their lots during the contract term.

PAR. 26. By and through the representations alleged in Paragraph 25 herein, respondents have represented and are representing, directly or by implication, that:

(a) Open water, including the Atlantic Ocean and/or the Gulf of Mexico, are accessible by boat from all waterfront lots;

(b) All canals in respondents' subdivisions are navigable and otherwise suitable for recreational uses;

(c) Purchasers of lots in respondents' subdivisions are entitled to free country club membership and free use of all recreational facilities located in the same subdivision or community;

(d) Purchasers of lots in respondents' subdivisions have the right during the contract term to lease to third persons the lots which they have agreed to purchase or otherwise have rights of enjoyment or possession in said lots during the contract term.

PAR. 27. In truth and in fact:

(a) Open water, including the Atlantic Ocean and the Gulf of Mexico, are not accessible by boat from all the waterfront lots in respondents' subdivisions.

(b) Many canals in respondents' subdivisions are not navigable or are suitable for recreational uses only to a limited extent.

(c) Purchasers of lots in respondents' subdivisions must pay a substantial sum of money to become members of the country club located in their subdivision or community, and must pay to use many of the recreational facilities located in their subdivision or community.

(d) Purchasers of lots in respondents' subdivisions do not during the contract term have the right to lease to third persons the lots which they have agreed to purchase and do not otherwise have any rights of enjoyment or possession during the contract term in said lots.

Therefore, the acts and practices alleged in Paragraph 26 herein are deceptive.

VIII

PAR. 28. By and through the representations alleged in Paragraph 25 herein, respondents further have represented, and are representing, directly or by implication, that certain recreational facilities in Rio Rico, River Ranch and Barefoot Bay will be available in the near future.

PAR. 29. In truth and in fact, the recreational facilities referred to in Paragraph 28 herein were not made available in the near future and are not presently available. Therefore, the acts and practices alleged in Paragraph 28 herein are deceptive.

IX

PAR. 30. Respondents, in the further course and conduct of the aforesaid business, have offered and are offering for sale lots in different subdivisions having similar names.

PAR. 31. The practices alleged in Paragraph 30 herein have the capacity and tendency to lead significant numbers of consumers into the belief that the development plan for one subdivision is the same as the development plan for another subdivision of similar name, or that the subdivisions bearing similar names are a single subdivision to which all respondents' representations concerning planned development are applicable.

PAR. 32. In truth and in fact, respondents offer for sale and do sell under similar names subdivisions which are not intended by respondents to receive the same degree of development. Therefore, the acts or practices alleged in Paragraph 31 herein are deceptive.

X

PAR. 33. In the further course and conduct of the aforesaid business respondents have made and are making statements orally in sales

presentations concerning free or low cost transportation to respondents' subdivisions to be provided to purchasers.

PAR. 34. By and through the statements alleged in Paragraph 33 herein, respondents have represented, and are representing, directly or by implication, that they would provide purchasers with free or low-cost transportation to the subdivision in which the purchaser's lot is located prior to the expiration of the purchaser's six-month cancellation privilege.

PAR. 35. In truth and in fact, in many cases respondents have failed and are failing to provide this transportation until after the expiration of the purchaser's cancellation privilege. In other cases, respondents failed to provide such transportation at all. Therefore, the acts and practices alleged in Paragraph 34 herein are deceptive.

XI

PAR. 36. In the further course and conduct of the aforesaid business, respondents have made and are making various statements orally and through slides in sales presentations and in promotional materials concerning "credit checks" and other payments which respondents will make to purchasers to help defray the cost of a visit to the purchaser's lot.

PAR. 37. By and through the statements alleged in Paragraph 36 herein, respondents have represented and are representing, directly or by implication, that the "credit checks" or other payments promised by respondents are actual payments to be made to purchasers in the form of cash or check upon completion of a visit to the lot as reimbursement for the purchaser's expenses.

PAR. 38. In truth and in fact, the credit checks or other payments promised by respondents upon a visit by purchasers to the lot are not actual payments in the form of cash or check, but are deductions from the unpaid balance of the contract price. Therefore, the acts and practices alleged in Paragraph 37 herein are deceptive.

XII

PAR. 39. In the further course and conduct of the aforesaid business, respondents have made and are making statements in promotional materials concerning the filing of their sales materials with various state and federal agencies, and the regulation thereof by such agencies.

PAR. 40. By and through the statements alleged in Paragraph 39 herein, respondents have represented and are representing, directly or by implication, that their sales materials have been determined to be truthful by the State of Florida, state real estate commissions, and the

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United States Department of Housing and Urban Development.

PAR. 41. In truth and in fact, respondents' sales materials have not been determined to be truthful by the State of Florida, state real estate commissions, or the United States Department of Housing and Urban Development. Therefore, the acts and practices alleged in Paragraph 40 herein are deceptive.

XIII

PAR. 42. In the further course and conduct of the aforesaid business, respondents have made and are making statements in promotional materials concerning the Armed Forces Property Planning Committee.

PAR. 43. By and through the statements alleged in Paragraph 42 herein, respondents have represented and are representing, directly or by implication, that GAC Properties, Inc. is affiliated with the Armed Forces of the United States.

PAR. 44. In truth and in fact, GAC Properties, Inc. is not affiliated with the Armed Forces of the United States. Therefore, the acts and practices alleged in Paragraph 43 herein are deceptive.

XIV

PAR. 45. In the further course and conduct of the aforesaid business, respondents have made and are making various representations by means of oral statements, slides and movies in sales presentations, and by promotional materials concerning a purchaser's right for six months after signing a contract to rescind and obtain a full refund of all monies paid thereunder.

PAR. 46. By and through the statements alleged in Paragraph 45 herein, respondents have represented, and are representing, directly or by implication, that the purchaser has an unconditional right to rescind and obtain full refund.

PAR. 47. In truth and in fact, there are significant conditions attached by respondents to the aforesaid right of rescission. Therefore, the acts and practices alleged in Paragraph 46 herein are deceptive.

XV

PAR. 48. In the further course and conduct of the aforesaid business, respondents have made and are making various oral or written statements in sales presentations concerning the import or significance of signing a contract for the purchase of respondents' land.

PAR. 49. By and through the statements alleged in Paragraph 48, respondents (a) have represented and are representing, directly or by implication, that by signing a contract, the purchaser is not entering into

a binding obligation to purchase land, or (b) have obscured and are obscuring the legal or practical significance of signing a contract.

PAR. 50. In truth and in fact, a person signing a contract has thereupon entered into a binding obligation to purchase land. Therefore, the acts or practices alleged in Paragraph 49 are deceptive or unfair.

XVI

PAR. 51. In the further course and conduct of the aforesaid business, respondents have made and are making various statements in promotional materials and orally concerning their purpose in contacting members of the public and holding "dinner parties" or other gatherings or in offering goods or services free or at low cost.

PAR. 52. By and through the statements alleged in Paragraph 51 herein, respondents have represented and are representing, directly or by implication, that their purpose in inviting members of the public to dinner parties or other gatherings, or in offering goods or services free or at low cost, is, *inter alia*, to participate in local community programs, to inform people of vacation opportunities, to celebrate respondents' anniversary, and to encourage more people to vacation in Florida and see respondents' accomplishments for themselves.

PAR. 53. In truth and in fact, respondents' purpose in contacting or making offers to members of the public or holding dinner parties or other gatherings or in offering goods or services free or at low cost is to induce the signing of contracts for the purchase of respondents' land. Therefore, the acts and practices alleged in Paragraph 52 herein are deceptive.

XVII

PAR. 54. In the further course and conduct of respondents' business, in obtaining a purchaser's signature on a contract, respondents have presented and are presenting purchasers with a contract, a property report required to be provided to the purchaser by federal law, and in some instances additional lengthy or detailed documents. These documents contain information and provisions likely to affect the decision of certain consumers as to whether to sign a contract for the purchase of respondents' land.

PAR. 55. Respondents frequently have made and are making available the aforesaid documents at dinner parties or other gatherings sponsored by respondents in circumstances where it is likely that many purchasers will not read such documents because they are insufficiently aware of their utility or significance, or it is likely that many purchasers will not read such documents carefully, completely or with full compre-

hension of their meaning and import. The soliciting or obtaining under such circumstances of an agreement to purchase respondents' land, involving a substantial financial commitment by the purchaser, is an unfair or deceptive act or practice.

XVIII

PAR. 56. In the further course and conduct of the aforesaid business, respondents have utilized and are utilizing a contract the provisions of which are not understandable to many consumers or cannot be evaluated by many consumers to determine if they are fair or unfair. Respondents have made and are making available the contract to prospective purchasers, and solicit and obtain signatures to the contract from purchasers, in circumstances where the purchaser has not had the opportunity to seek assistance or counsel in understanding the provisions or making the aforesaid determination.

PAR. 57. The soliciting or obtaining of an agreement to purchase respondents' land, involving a substantial financial commitment by the purchaser, where the purchaser has not had opportunity to seek assistance or counsel for the purposes referred to in Paragraph 56 herein, is an unfair act or practice.

XIX

PAR. 58. In the further course and conduct of the aforesaid business respondents have utilized and are utilizing a form entitled "Buyers' Understanding And Declaration of Intention." Through use of this form, respondents solicit and obtain the declaration of purchasers that the purchasers do not expect to use their property as their principal residence and that by so declaring they will not have the right to rescind the agreement as provided by Regulation Z of the Federal Reserve Board.

PAR. 59. The form alleged in Paragraph 58 herein, in the circumstances in which it has been and is being presented to purchasers, has the capacity and tendency to induce the purchaser into an erroneous or unintended waiver of his rights, because (i) the aforesaid declaration is situated between two other declarations dealing with unrelated matters of benefit to the purchaser so that the purchaser is likely to assent to them routinely; (ii) the form does not contain a means for the purchaser to indicate that he does intend to use the property as his principal residence; and (iii) the caption "Principal Residence Declaration" has the capacity and tendency to mislead purchasers into the mistaken belief that they are declaring that they do intend to use the property as their principal residence whereas in fact they are declaring that they do

not so intend. Therefore, the use of the aforesaid form is an unfair or deceptive act or practice.

XX

PAR. 60. In the further course and conduct of the aforesaid business, respondents have made and are making statements orally in sales presentations concerning the price and location of the lots they are offering for sale and will offer for sale.

PAR. 61. By and through the statements alleged in Paragraph 60 herein, respondents have represented and are representing, directly or by implication, that prospective purchasers must purchase a lot immediately to insure that the price will not increase and that the location they desire will be available.

PAR. 62. In truth and in fact, most prospective purchasers do not have to purchase immediately to insure that prices will not increase or that desired locations will be available. Therefore, the acts and practices alleged in Paragraph 61 herein are deceptive.

XXI

PAR. 63. Respondents, in the further course and conduct of the aforesaid business, have utilized and are utilizing standard form contracts.

PAR. 64. The aforesaid contracts contain a provision describing contingencies under which a purchaser is entitled to a refund, including default by respondents of their obligation to make certain improvements, or the occurrence of unforeseen problems in the development of the land, or the determination by respondents for any reason that development is not feasible. No obligation is imposed by the aforesaid contract upon respondents to inform purchasers that the contingency has occurred.

PAR. 65. The absence of the aforesaid obligation to inform purchasers renders the use by respondents of the aforesaid contract provision an unfair act or practice because purchasers can thereby remain unaware indefinitely, and in the context of interstate land sales, are likely so to remain unaware, of the occurrence of a contingency which affects the value of their lot, and its potential utility to them, and can therefore fail to assert their legal rights or take other steps to protect themselves.

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PAR. 66. The aforesaid contracts also contain a declaration by the purchaser that no oral or implied representations have been made as an

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inducement to enter the contract other than those expressly contained in the contract.

PAR. 67. The use by respondents of the aforesaid declaration is an unfair or deceptive act or practice because respondents make representations, through advertisements in publications of general circulation, in promotional materials, and in sales presentations by means of oral statements, slides and movies which differ in material respects from the obligations of respondents or purchasers under said contracts.

XXIII

PAR. 68. The aforesaid contracts also contain a declaration by the purchaser that the purchaser has had an opportunity to examine any property reports or offering statements required to be made available to prospective purchasers by state or federal law, and that the purchaser understands that he has the right to cancel the contract within a time period which is stated.

PAR. 69. The use of respondents of the aforesaid declaration is an unfair or deceptive act or practice because respondents frequently fail to give the purchaser the property report or offering statement prior to the signing by the purchaser of the contract, or frequently make available the property report or offering statement in circumstances where it is likely that many purchasers will not read such documents because they are insufficiently aware of their utility or significance, or it is likely that many purchasers will not read such documents carefully, completely or with full comprehension of their meaning and import.

XXIV

PAR. 70. The aforesaid contracts also provide that upon a failure of the purchaser to pay any installment due under the contract, the seller shall be entitled to retain all sums previously paid thereunder by the purchaser.

PAR. 71. The use by respondents of the aforesaid provision is an unfair act or practice because the sums retained by the respondents are not calculated to bear any relation to the actual damages, if any, sustained by respondents by reason of the purchaser's default.

XXV

PAR. 72. The aforesaid contracts also provide that the purchaser will take title at the end of the contract term subject to any restrictions, easements and reservations, including oil, gas and mineral rights or leases of record.

PAR. 73. The use by respondents of the aforesaid provision is an unfair act or practice because the contract does not limit the right of the seller during the contract term to sell or otherwise create in persons other than the purchaser restrictions, easements or reservations which can limit the purchaser's use or enjoyment of his lot.

XXVI

PAR. 74. The aforesaid contracts also contain a six month refund provision according to the terms of which the purchaser must personally complete a company-guided tour of the subdivision in which his lot is located in order to obtain a refund of all moneys paid under the contract. Most of the lots sold by respondents are physically inaccessible within six months of the signing of the contract, and thus the purchaser completing this tour will not be able to see his lot.

PAR. 75. The use by respondents of the aforesaid provision is an unfair act or practice because it requires a tour of the subdivision in which the lot is located in order to cancel the contract, thereby requiring the purchaser to incur the expense of traveling to Florida or Arizona, but does not materially aid the purchaser in the decision of whether to retain the lot.

XXVII

PAR. 76. In the further course and conduct of the aforesaid business, and after a purchaser has signed a contract, respondents have made and are making various statements and representations to such previous purchasers, in promotional materials, concerning the benefits to the purchaser of accelerating the schedule of payments provided in the contract.

PAR. 77. By and through the statements alleged in Paragraph 76, respondents have represented and are representing, directly or by implication, that a purchaser, by increasing the monthly payment, will take title to his lot years sooner than if he continues paying at his present rate, and that the completion of improvements will be accelerated to coincide with the new date for passage of title.

PAR. 78. In truth and in fact:

(a) By the terms of the contracts for respondents' Florida subdivisions, respondents are not obligated to accelerate the passage of title or the completion of improvements in cases where the purchaser completes all payments prior to the date the final payment is due under contract.

(b) By terms of the contracts for respondents' Arizona subdivision, respondents are not obligated to accelerate the completion of improve-

ments in cases where the purchaser completes all payments prior to the date the final payment is due under contract.

Therefore, the acts and practices alleged in Paragraph 77 herein are deceptive.

XXVIII

PAR. 79. In the further course and conduct of the aforesaid business, and after a purchaser has signed a contract, respondents have made and are making various statements and representations to such previous purchasers and others, through oral statements, and by written materials, concerning the current value of lots which have previously been purchased from respondents.

PAR. 80. By and through the representations alleged in Paragraph 79 herein, respondents have represented and are representing, directly or by implication, that the value of lots typically has increased significantly since the time of their purchase from respondents.

PAR. 81. In truth and in fact, the value of lots typically does not increase significantly after their purchase from respondents. Therefore, the acts and practices alleged in Paragraph 80 herein are deceptive.

XXIX

PAR. 82. Respondents, in the further course and conduct of the aforesaid business, and after a purchaser has signed a contract, have changed and are changing the dates for the completion of improvements included in the contract at the time of signing by the purchaser to a date years later than the aforesaid date. The date at which improvements are promised to be completed would be likely to affect the decision of certain consumers whether or not to maintain the transaction by continuing to make payments under the contract, and is therefore a material fact.

PAR. 83. It is an unfair or deceptive act or practice for respondents to change this date while attempting or purporting to bind the purchaser to the contract and without making clear to the purchaser that he no longer is bound by the contract he signed and may decide not to accept the changed date without incurring any loss, obligation, penalty or expense.

XXX

PAR. 84. In the further course and conduct of the aforesaid business, respondents as aforesaid have induced and are inducing members of the public through unfair and deceptive acts and practices to pay to them in advance of passage of title or the obtaining of any rights of enjoyment

or possession, substantial sums of money towards the purchase of lots in Golden Gate Estates, River Ranch Acres and Remuda Ranch Grants which are of little or no use or value to the purchasers as investments or for any other purpose. Respondents have received and are receiving the said sums and have failed to offer to refund or refused to refund such money to purchasers.

PAR. 85. The use by respondents of the aforesaid practices and their continued retention of the sums, as aforesaid, is an unfair act or practice.

XXXI

PAR. 86. In the course and conduct of the aforesaid business respondents as aforesaid, have engaged and are engaging in an unfair practice by utilizing in their standard form contracts a provision whereby defaulting purchasers forfeit all payments previously made to respondents under the contract. Respondents have received and are receiving the said payments and have failed to offer to refund or refused to refund to defaulting purchasers all payments in excess of respondents' reasonable damages caused by the purchaser's default.

PAR. 87. The use by the respondents of the aforesaid contract provision and their continued retention of payments in excess of reasonable damages, as aforesaid, is an unfair act or practice.

XXXII

PAR. 88. Respondents have as aforesaid (i) induced and are inducing members of the public through unfair and deceptive acts and practices to pay to respondents substantial sums of money towards the purchase of lots in Golden Gate Estates, River Ranch Acres and Remuda Ranch Grants, and (ii) have continued to retain substantial sums in excess of their reasonable damages as a result, as aforesaid, of the unfair forfeiture provision in their contracts.

PAR. 89. The effect of using the aforesaid acts and practices to secure and retain substantial sums of money is or may be to substantially hinder, lessen, restrain or prevent competition between respondent and the aforesaid competitors.

Therefore, the said acts and practices constitute an unfair method of competition.

XXXIII

PAR. 90. The use by respondents of the aforementioned unfair and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead and deceive a substantial portion of the purchasing public into the erroneous and mistaken belief

that such statements were, and are, true, and into the purchase of substantial numbers of respondents' lots because of said mistaken and erroneous belief.

XXXIV

PAR. 91. The aforementioned acts and practices, as herein alleged, were and are all to the prejudice and injury of the public and respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the facts as alleged in the complaint are true or that any law has been violated, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter pursuant to Section 2.34 (b) of its rules, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent GAC Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of

Delaware, with its office and principal place of business located at 7880 Biscayne Boulevard, Miami, Fla.

2. Respondent GAC Properties, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Florida, with its office and principal place of business located at 7880 Biscayne Boulevard, Miami, Fla.

3. Respondent GAC Properties, Inc. of Arizona, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Arizona with its office and principal place of business located at 7880 Biscayne Boulevard, Miami, Fla.

4. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

For purposes of this order the following definitions shall be applicable:

"Land" shall mean real property subdivided into parcels without any house or building constructed thereon, but shall not include anything defined below as "other real property."

"Other real property" shall mean a house or building constructed for residential purposes and the land upon which it is situated, including land upon which, pursuant to a purchase agreement or contract, a house or building is to be constructed within 12 months and with respect to which no consideration will pass to respondents until closing other than moneys held in escrow or a minimal earnest money deposit.

"Consumer" shall mean a natural person to whom respondents offer to sell or sell land or other real property; *Provided, however*, That the term "consumer" shall not include a natural person who purchases land in a single transaction for a sum in excess of \$50,000.

I.

As used in this section of the order, a requirement to cease and desist from representing or misrepresenting shall, unless otherwise indicated, include representing or misrepresenting directly or by implication, and by any manner or means.

It is ordered, That respondents GAC Corporation, GAC Properties, Inc. and GAC Properties, Inc. of Arizona, corporations, and their officers, and their subsidiaries and the said subsidiaries' officers, and respondents' successors, assigns, agents, representatives and employees, directly or through any corporate or other device in connection with

the advertising, offering for sale, or sale of land and other real property to consumers in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. (a) Failing to disclose, clearly and conspicuously, in any written or oral invitation or other initial communication to consumers concerning any event or activity, including but not limited to dinner parties or other gatherings, contests, awards of free or low cost gifts or vacations, and sightseeing tours, or for any other goods or services, which invitation or communication is in any manner a part of a plan or procedure to sell land, the following statement:

The purpose of [the event or activity] is to attempt to sell you land presently undeveloped in [name of State in which land is located].

(b) (i) If the invitation or communication is in writing, such disclosure shall be in writing and shall be made clearly and conspicuously and in conjunction with the invitation or communication; (ii) if the invitation or communication is oral and delivered in person, such disclosure shall be both oral and in writing and shall be made clearly and conspicuously and in conjunction with the invitation or communication; and (iii) if the invitation or communication is made by telephone, such disclosure shall be made orally and clearly and conspicuously in conjunction with the telephone invitation or communication and in writing by mail to be received by the prospective purchaser at least 24 hours prior to the event or activity; *Provided however*, with respect to subpart (iii) above, that if the event or activity is a sales presentation to be conducted in the home of the consumer, such written disclosure may be made at any time prior to the sales presentation, but in no event shall such disclosure be made later than the introductory remarks of the salesman; and *Further provided*, with respect to subpart (iii) above, that if the invitation or communication is received at a place other than the consumer's residence or place of employment, such written disclosure may be made at any time prior to the consumer's attendance at the sales presentation.

2. Misrepresenting the true nature and purpose of any event or activity, including but not limited to dinner parties or other gatherings, contests, awards of free or reduced gifts or vacations, and sightseeing tours.

3. Failing to furnish the purchaser with a fully completed copy of the contract at the time of its signing by the purchaser, which is in the same language as that principally used in the oral sales presen-

tation, if any, and which shows the date of the transaction, and contains the name and address of the respondent; *Provided, however*, That a foreign language copy of the contract need not be furnished if the purchaser is literate in the English language; and *Further provided*, That the contract need not at this time contain the signature of respondents.

4. Failing to set forth as the title of any contract for the purchase of land, in boldface type, the following language: "Contract for Deed for the Purchase of Land."

5. (a) Failing to print clearly and conspicuously in 12-point boldface type on the top half of the first page of all contracts for the sale of land, in addition to that language required by Paragraph 4 above, the following:

THIS IS A CONTRACT BY WHICH YOU AGREE TO PURCHASE LAND. YOU HAVE 10 DAYS IN WHICH TO DETERMINE WHETHER TO CONTINUE THIS CONTRACT OR CANCEL IT WITH FULL REFUND. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT. USE THIS TIME TO EXAMINE WITH CARE THE PROPERTY REPORT (SOMETIMES CALLED A PUBLIC OFFERING STATEMENT) WHICH MUST BE GIVEN TO YOU AT OR BEFORE THE TIME YOU SIGN THIS CONTRACT.

THE FUTURE VALUE OF THIS LAND, LIKE ALL UNDEVELOPED REAL ESTATE, IS UNCERTAIN. IT IS UNLIKELY THAT A PURCHASER WILL BE ABLE TO RESELL HIS LAND WITHOUT SUBSTANTIAL COMMUNITY DEVELOPMENT AND POPULATION GROWTH, WHICH MAY NOT OCCUR FOR A NUMBER OF YEARS AFTER YOU HAVE COMPLETED YOUR CONTRACT PAYMENTS, IF AT ALL. IT IS SUGGESTED THAT YOU HAVE BOTH THIS CONTRACT AND THE PROPERTY REPORT REVIEWED BY A LAWYER, REALTOR OR OTHER QUALIFIED PROFESSIONAL.

(b) In addition, there shall appear, in the form and place described in subparagraph (a), such of the following statements as are applicable:

(i) For contracts for the sale of lots to which respondents are not obligated to make a central sewer system available at the time title passes to the purchaser, add the following, including the second and third sentence only where applicable:

A central sewer system will not be available when you have completed your contract payments. Installation of a septic tank would be at your expense. However, the use of a septic tank on your lot is contingent on passing a soil test and approval by governmental authorities.

(ii) For contracts for the sale of lots to which respondents are not obligated to make a central water system

available at the time title passes to the purchaser, add the following, including the second sentence only where applicable:

A central water system will not be available when you have completed your contract payments. Installation of a well would be at your expense.

(iii) For contracts for the sale of lots to or on which respondents are not obligated to provide any improvements, add the following in lieu of any of the above:

This completely undeveloped land is being sold "as is." No improvements are planned for this subdivision. Your lot is probably inaccessible by conventional means of transportation, and has no use in the present or in the foreseeable future.

6. Failing to include in any contract for the sale of land a provision whereby the seller agrees not to create during the contract term, without the express written permission of the purchaser, by sale, lease or any other means, any restriction, easement or reservation of any kind which can substantially limit the purchaser's use or enjoyment of his lot after the maturity date of said contract.

7. Including in any contract for the sale of land, or in any document shown or provided to purchasers or prospective purchasers of land, whether or not signed by such purchasers or prospective purchasers, language stating expressly or by implication:

(a) That no express or implied representations have been made in connection with the sale of respondents' land, or that any particular representation has not been made in connection therewith; and

(b) That the purchaser has had an opportunity to examine or understand any property report, offering statement or similar document required by state or federal law to be made available to him; *Provided, however*, That such language may be included when authorized by the Interstate Land Sales Full Disclosure Act, presently codified at 15 U.S.C. §§1701-20 (1970).

8. Changing a contract in any respect after signature by the purchaser unless such change is made by mutual agreement in writing, and unless it is clearly and conspicuously disclosed to the purchaser that he can refuse to accept such change and in lieu thereof receive a full refund of all moneys paid under the contract.

9. Making any statement or representation concerning the rights or obligations of respondents or the purchaser which differs in any

material respect from the rights or obligations of the parties as stated in the contract.

10. (a) Representing that respondents will provide, or that respondents' subdivisions will have available, any recreational facility, improvement (roads or drainage) or utility (central sewage and water systems, electricity, or telephone service), unless respondents' contracts at the time of the representation contain a legal obligation on the part of respondents to provide or make available (i) said recreational facilities and improvements at a date certain, not later than 12 years from the date of purchase, set out clearly and conspicuously in the contract; (ii) said utilities within 90 days after respondents' receipt of written notification of the issuance of a building permit, provided that, if so represented, the time for installation of central water and sewer systems may be stated in the contract in terms of population density rather than as a specific date or time; and (iii) without, in the case of improvements or utilities, any cost to the purchaser in excess of the purchase price stated in the contract, except hook-up or installation charges for utilities as estimated in the contract on a current cost basis, subject to future local adjustments in accordance with regulations of and tariffs filed with appropriate public authorities.

(b) Failing to express the aforesaid contractual obligation set out in subparagraph (a) above in the contract with the purchaser in the following manner:

(i) An adequate description of each improvement, utility or recreational facility to be provided;

(ii) A provision that in the event any of the improvements, utilities or recreational facilities specified in the contract are not available to the lot which is the subject of the contract or are not completed within six months of the time provided in the contract, respondents will immediately, upon the expiration of said six-month period, provide the purchaser by certified mail, return receipt requested, with notice of such unavailability of or failure to complete the aforesaid improvements, utilities or recreational facilities and of the purchaser's right to exercise within 30 days of receipt of said notice his option to receive an exchange or to cancel and receive a full refund as set out in subparagraph (iii) below;

(iii) An option to the purchaser stated substantially as follows:

In the event that any of the improvements, utilities or recreational facilities specified by the seller in this contract are not available to the lot which is the subject of this contract or are not completed within six months of the time provided in this contract, the buyer may elect, at his option, to (1) receive an exchange acceptable to the buyer of the contracted-for homesite property for another of at least equal price, equivalent size, with equivalent zoning classification and same promised improvements and utilities, and located in the same general geographic area of the subdivision, or (2) cancel this contract and receive from the seller a full refund of all moneys paid under the contract. To exercise this option, the buyer must give notice to the seller by registered or certified mail within 30 days after receipt of notice from the seller of such unavailability of or failure to complete the aforesaid improvements, utilities or recreational facilities. Where the buyer has received a deed or other evidence of interest in the contracted-for property other than this contract, the buyer must, as a condition of obtaining an exchange or a refund hereunder, reconvey to the seller such evidence of interest in the title to such property by General Warranty Deed in recordable form. In the event only the contract has been recorded in the Public Records, the buyer must quit claim in recordable form his interest to the seller to remove any clouds on the title to said property.

(c) Failing to make the exchange or refund requested by a purchaser under the terms of this paragraph of the order within 60 days of receipt of notification from the purchaser.

(d) Soliciting or obtaining the purchaser's assent to or otherwise imposing any condition, waiver or limitation upon the right of a purchaser to an exchange or a refund as set forth in this paragraph of the order; *Provided, however*, That respondents may require purchasers to request an exchange or a refund within a stated time period of not less than 30 days after receipt by the purchaser of the notice required by subparagraph (b)(ii) above.

11. (a) Failing to furnish each purchaser of land, at the time he signs the contract, with a completed form in duplicate, captioned "NOTICE OF CANCELLATION," which shall contain

in boldface type of a minimum size of 10 points the following statement:

NOTICE OF CANCELLATION

(date of transaction)

(print Purchasers' names)

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, AT ANY TIME PRIOR TO MIDNIGHT OF THE TENTH (10th) DAY AFTER THE ABOVE DATE.

IF YOU CANCEL, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT WILL BE REFUNDED WITHIN TEN (10) BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM, TO (name of respondent), AT (address of respondent's place of business) NOT LATER THAN MIDNIGHT OF _____
(date)

I (WE) HEREBY CANCEL THIS TRANSACTION. (EACH PURCHASER MUST SIGN THIS NOTICE).

(Date)

(Purchasers' signatures)

(b) Failing, before furnishing copies of the "Notice of Cancellation" to the purchaser, to complete both copies by entering the name of the respondent, the address of the respondent's place of business, the date of the transaction, and the date, not earlier than the tenth day following the date of the transaction, by which the purchaser may give notice of cancellation.

12. Failing, in any instance where a timely notice of cancellation as required by Paragraph 11 above is received, and said notice is not properly signed, and respondents do not intend to honor the notice, immediately to notify the purchaser by certified mail, return

receipt requested, enclosing the notice, informing the purchaser of his error, and stating clearly and conspicuously that a notice signed by each purchaser must be mailed by midnight of the third day following the purchaser's receipt of said mailing if such purchasers are to obtain a refund.

13. Failing or refusing to honor any signed and timely notice of cancellation by a purchaser, including any such notice received in accordance with Paragraph 12 above, and within ten business days after the receipt of such notice, to (i) refund all payments collected under the contract, and/or (ii) cancel and return any negotiable instrument executed by the purchaser and retained by respondents in connection with the contract.

14. Negotiating, transferring, selling or assigning any note or other evidence of indebtedness of a purchaser of land to a finance company or other third party prior to midnight of the fifteenth business day following the day the contract was signed.

15. Whenever the signature of a prospective purchaser of land is solicited during the course of a sales presentation, failing to inform each purchaser orally, prior to or at the time he signs the contract, of his right to cancel as provided for in Paragraph 11 above.

16. Requiring the purchaser to make a personal inspection of his lot, the subdivision in which it is located, or any other property, as a condition precedent to the cancellation of any contract or the refund of any moneys paid thereunder, unless respondents (a) allow such purchaser two business days following the date of inspection within which to cancel, and (b) provide the purchaser at the time of inspection with a notice which clearly and conspicuously states (i) that the purchaser has two business days within which to cancel, (ii) that, in order to cancel, the purchaser must give respondents written notification by registered or certified mail of his desire to cancel, (iii) the final date by which the purchaser must mail such notice of cancellation, and (iv) the address where such notice must be sent; *Provided, however*, That nothing in this paragraph of the order shall permit respondents to condition any other cancellation rights provided for in this order on the purchaser's inspection of any property.

17. Failing to comply with Section 226.9 of Regulation Z, 12 C.F.R. §226.9 or its successor regulation.

18. Failing to disclose, clearly and conspicuously, in all promotional materials and advertisements relating to the sale of land, the following statement: "Since land values are uncertain, you should

consult a qualified professional before purchasing." *Provided, however*, That the above statement shall not be required in the following:

- (a) billboards;
- (b) radio and television advertisements of ten seconds or less;
- (c) the following advertisements when limited to soliciting requests for information through the mail:
 - (i) Magazine advertisements of 1/4 page or less in size;
 - (ii) Newspaper advertisements of 1/8 page or less in size;
 - (iii) Radio advertisements of more than ten seconds but not more than 45 seconds in duration.

19. Representing:

- (a) That the purchase of a lot in one of respondents' subdivisions is a way to insure financial security or to become wealthy;
- (b) That real estate is a good or safe investment, or that the purchase of a lot in one of respondents' subdivisions is a good or safe investment;
- (c) That land is becoming scarce; or
- (d) That the value of any land, including lots being offered for sale or previously sold by respondents, has increased, or will or may increase, or that purchasers have made, or will or may in the future make, a profit by reason of having purchased respondents' land.

20. Misrepresenting the past, present or future sales price of lots in respondents' subdivisions.

21. Making any representation in connection with the sale of land which in any manner refers to or concerns, directly or by implication, investment in stocks, insurance, banks, or any other form of investment other than respondents' land.

22. (a) Directly stating that airports, Walt Disney World, tourism or industry may or will increase the price or value of any land or other real property sold or being offered for sale by respondents.

- (b) Representing data or statistics concerning the growth or development of any geographic area or the business or industry in any geographic area, unless such representations are true and respondents have at the time of making such representations, and maintain for three years thereafter, adequate substantiation for such representations; *Provided, however*, That in the event such substantiation consists of data or statis-

tics compiled by any governmental agency which are readily available to respondents, respondents need not retain such substantiation in their possession.

23. (a) Representing in any written promotional or advertising materials relating to the sale of respondents' land, including written materials prepared for use by respondents' salesmen in oral sales presentations, that the population of any geographic area other than respondents' subdivisions has increased, is increasing, or will increase unless respondents have, at the time of making such representation, and maintain for three years thereafter, a valid study or report which demonstrates that respondents' subdivisions within such geographic area or in the general vicinity thereof will materially benefit from said population increase.

(b) Making any representation concerning the population of any geographic area, including the representations referred to in Subparagraph (a) above, unless such is the fact and unless respondents have at the time of making such representation, and maintain for three years thereafter, substantiating data which will consist of a valid census or other valid report or study; *Provided, however*, That in the event such substantiation consists of data or statistics compiled by any governmental agency which are readily available to respondents, respondents need not retain such substantiation in their possession.

24. Representing that respondents will buy back lots from or resell lots for purchasers, unless such is the fact.

25. Representing that respondents will provide, or that respondents' subdivisions will have available, any recreational facility, without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such representation (a) the year by which such recreational facility will be completed, and (b) the current approximate cost to purchasers and to their families of membership in and use of such facilities; or misrepresenting the recreational facilities available at respondents' subdivisions generally or from individual lots therein.

26. Representing that waterfront property provides access by boat to the Atlantic Ocean, Gulf of Mexico, or any other body of water, or that canals are navigable or can be used for any recreational activity, unless such is the fact and unless all significant qualifications pertaining to such access, navigability or use are clearly disclosed in immediate conjunction therewith and with the same conspicuousness as such representation.

27. Representing that Golden Gate:

(a) has shopping facilities or stores without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such representation the nature or extent of these facilities;

(b) has resort facilities without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such representation that Golden Gate does not have beaches or fishing and boating facilities, unless the contrary is in fact true.

28. Representing:

(a) That River Ranch Acres or Remuda Ranch Grants will be developed in any manner;

(b) That all purchasers of lots in River Ranch Acres or Remuda Ranch Grants can make substantial use of their lots in the present or in the future; or

(c) That purchasers of land have the right to lease to third persons or otherwise have any rights of enjoyment or possession during the contract term in the lots which they have agreed to purchase, unless such is the fact.

29. Assigning similar names to new subdivisions in which the facilities, improvements, and utilities available in such subdivisions are not substantially identical.

30. (a) Making any representation concerning Cape Coral or any other homesite subdivision at a sales presentation at which one or more lots not located in a homesite subdivision are being offered for sale; or

(b) Making any representation concerning any improvement, utility or recreational facility at one subdivision at a sales presentation for another subdivision at which respondents have not provided and are not obligated to provide similar improvements, utilities, or recreational facilities unless respondents disclose in immediate conjunction therewith and with the same conspicuousness as such representation that similar improvements, utilities, or recreational facilities will not be provided at the subdivision to which the advertisement or sales presentation is directed.

31. Misrepresenting the amount, proportion or magnitude of roads or canals completed or under construction in any subdivision.

32. Misrepresenting the qualities, characteristics, location or state of present or planned development of any subdivision or portion thereof.

33. Making any statement or representation concerning the proximity of any city or place to a subdivision or a part thereof without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such representation the approximate distance in road miles from the geographic center of the subdivision or part thereof to the other city or place referred to.

34. Making any statement or representation concerning the purchase price of land without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such statement or representation the nature and estimated amount of any additional payments, including but not limited to payments for property taxes, which must be made by the purchaser to respondents or to any third party in order to purchase such land.

35. Representing that central sewage and/or water systems will be available in a subdivision when a given level of population density is reached unless it is clearly disclosed in immediate conjunction therewith and with the same conspicuousness as such representation that purchasers will be required to install, at their own expense, wells and septic tanks until said level of population density is reached.

36. (a) Representing that free or low cost transportation to or accommodations at respondents' subdivisions will be provided unless such is the fact and without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such representation all conditions or limitations applicable thereto.

(b) Failing to provide the aforesaid transportation or accommodations on the date or within the time period stated or agreed upon; *Provided, however*, That it shall not be a violation of this paragraph of the order if such transportation or accommodations are not available due to conditions beyond the control of respondents.

(c) In the event the aforesaid transportation or accommodations are not provided on the date or within the time period stated or agreed upon, failing within 30 days to offer to refund and, upon request by the purchaser, to refund all moneys paid (i) under a contract entered into prior to said failure to provide such transportation or accommodations, and (ii) toward such transportation or accommodations; *Provided, however*, That respondents shall not be required to make refunds under subpart (i) above if such transportation or accommodations are not available due to conditions beyond the control of respondents.

37. Making any statement concerning any credit, refund or other monetary benefit or remuneration to purchasers or prospective purchasers unless such is the fact and without clearly disclosing in immediate conjunction therewith and with the same conspicuousness as such statement all conditions and limitations applicable to such credit, refund, benefit, or remuneration.

38. Referring to any instrument or document as a "credit check" or otherwise representing that a credit toward a purchaser's account is an actual payment to the purchaser in the form of cash, check, or other negotiable instrument.

39. Representing that persons being solicited to purchase respondents' land are being asked to take the first step, or are reserving the land, or are not making a final decision, or are not buying the land; or otherwise misrepresenting the legal significance of signing a contract.

40. Representing that prospective purchasers must sign a contract immediately in order to assure purchasing property in a choice location, or that property similar to that being offered for sale may not or will not be available or available at the same price in the foreseeable future, unless such is the fact.

41. In connection with the sale of land:

(a) Representing that increasing the amount of the monthly payment will speed up passage of title, unless such is the fact;

(b) Representing that increasing the amount of the monthly payment will speed up completion of improvements; or

(c) Misrepresenting the benefits to be obtained by increasing the amount of the monthly payment or by completing payment of the purchase price prior to the date the final payment is due under the contract.

42. Representing that any document, sales presentation, advertisement or promotional material has been filed with or approved by any State, the Federal Department of Housing and Urban Development, the Armed Forces, or any other governmental agency, unless such is the fact; or representing that governmental regulation means that respondents' representations are true, complete, or should be relied upon; or representing that respondents are affiliated in any manner with the Armed Forces of the United States or any government or governmental agency.

43. Including in any contract or other document any waiver, limitation or condition on the right of a purchaser to cancel a transaction or receive a refund under any provision of this order, except as such waiver, limitation or condition is by this order

expressly allowed; *Provided, however*, That this paragraph shall not be construed as prohibiting respondents from conditioning the purchaser's right to cancel and receive a refund under any provision of this order on the purchaser's relinquishing and, where appropriate, reconveying to respondents his interest in the land which is the subject of the transaction being cancelled.

44. Misrepresenting the right of a purchaser to cancel a transaction or receive a refund under any provision of this order or any applicable statute or regulation.

45. Making any representation or taking any action which is inconsistent with or detracts from the effectiveness of this order.

It is further ordered, That respondents, upon receipt of a complaint from a purchaser alleging facts that indicate this order may have been violated and requesting a refund or cancellation of the purchaser's contract, refund all moneys paid by such purchaser where respondents determine, after a good faith investigation, that one or more of the paragraphs in Section I of this order have been violated in connection with such purchaser's transactions with respondents; *Provided, however*, That in the event respondents refund any money pursuant to this paragraph of the order, the sole fact of such refund shall not be admissible against respondents in any proceeding brought to recover penalties for alleged violation of any other paragraph of this order; and *Further provided*, That this paragraph shall not be applicable to transactions in which the contract was entered into prior to the date this order became final.

II

It is further ordered, in connection with the refund of moneys forfeited under contracts in default prior to the date this order becomes final:

A. That respondents compile a list of the last known name and address of all persons entering into contracts for the purchase of respondents' land who defaulted on said contracts and forfeited moneys paid in excess of the sum of the downpayment plus an amount equal to 30 standard monthly payments as stated in the contract, said list to contain all such forfeitures from July 1, 1968 to the date this order becomes final; *Provided, however*, That for contracts which were entered into or amended as a result of an exchange by which land purchased pursuant to a single contract was exchanged for land with a higher total price, the terms of the original contract entered into by the purchaser prior to such ex-

change shall be used to compute the sum of the downpayment and an amount equal to 30 standard monthly payments.

B. That respondents send a letter within 12 months of the date this order becomes final, by first class mail, to each person referred to in Paragraph A above, advising them of their right to a refund as set out below, the approximate time period and manner in which such refund will be made, and the need for notifying respondents of any future change of residence or address where such refund can be delivered; *Provided, however*, That with respect to those purchasers whose letters are returned to respondents undelivered, respondents shall seek to obtain, prior to the date respondents are obligated to commence making refunds to purchasers as set out in Paragraph D below, a current mailing address for such purchasers by a method acceptable to the Federal Trade Commission, such as but not limited to contacting credit bureaus and telephone and utilities companies, and, where the foregoing are unsuccessful and the amount to be refunded exceeds \$50, employment of an independent contractor engaged in the business of skip-locating; and *Further provided*, That with respect to those purchasers entitled to a refund under this section of the order whose letters are returned to respondents undelivered, respondents' obligation to make refunds shall terminate after respondents' efforts as outlined above have been unsuccessful, but in no event shall respondents' obligations with respect to such purchasers expire prior to 24 months after the date this order becomes final.

C. That respondents refund to each purchaser for whom a current mailing address has been obtained pursuant to Paragraph B above all moneys paid by such purchaser to respondents in excess of the sum of the downpayment plus an amount equal to 30 standard monthly payments as stated in the contract; *Provided, however*, That for contracts which were entered into or amended as a result of an exchange by which land purchased pursuant to a single contract was exchanged for land with a higher total price, the terms of the original contract entered into by the purchaser prior to such exchange shall be used to compute the sum of the downpayment and an amount equal to 30 standard monthly payments.

D. That respondents' obligation to make refunds under this section of the order shall commence 24 months after the date this order becomes final, such refunds to be payable over a period of not more than eight years after said 24-month period.

E. That the total refund payments made each year during said eight-year period referred to in Paragraph D above shall be ap-

proximately equal; *Provided, however*, That in the event respondents accelerate such refund schedule, each year's total payments under such accelerated schedule shall equal at least one-eighth (1/8) of the total refunds to be made.

F. That the refund payments made to purchasers pursuant to this section of the order shall be made in either of the following manners:

1. All refund payments shall equal the entire sum due a purchaser, such payments to be made in chronological order by date of forfeiture, the purchasers forfeiting at the earliest dates receiving the first refunds; or

2. All purchasers shall receive proportionately equal annual installments of the sums due them; *Provided, however*, That respondents may at their discretion make payment in full in a single payment to purchasers to whom only a small sum is due.

G. That respondents maintain, for 12 years after the date this order becomes final or three years after the last refund payment is made pursuant to an accelerated refund schedule, whichever occurs first, records which are adequate to disclose respondents' compliance with this section of the order, such records to be furnished by respondents to the Federal Trade Commission upon request.

III.

It is further ordered, in connection with the future development of Golden Gate Estates:

A. That respondents assure the availability of an adequate supply of potable water and an adequate sewage system to each homesite in Golden Gate Estates by means of a well or central water system and a septic tank or central sewage system.

B. That in the event it becomes necessary for respondents to install or have installed central water and/or central sewage systems with respect to one or more homesites in Golden Gate Estates:

1. Respondents may condition the hook-up of said central water and sewage systems to each homesite upon the respective purchasers' payment of a reasonable and customary mainline extension fee as approved by the appropriate governmental body; *Provided, however*, That no purchaser shall be assessed in any manner for the extension of main lines to or past one or more lots which such purchaser does not own; and

2. Such systems must be made available to each homesite not then served by a septic tank and well within 90 days after

respondents' receipt of written notice of the issuance of a building permit with respect to such homesite.

C. That in the event an adequate supply of potable water or an adequate sewage system is not available to any homesite in Golden Gate Estates as set out in Paragraphs (A) and (B) above, respondents, upon written notification of such unavailability by the purchaser of such homesite, shall (1) reimburse said purchaser for his cost of any test or procedure used to determine the unavailability of water or sewage disposal; and (2) exchange said homesite for another homesite of equivalent zoning classification and located in the same general geographic area of Golden Gate Estates to which an adequate supply of potable water and an adequate sewage system are available; *Provided, however*, That in the event no lots are available in Golden Gate Estates for purposes of such exchange, respondents shall offer the purchaser, at respondents' option, either a refund of all moneys paid under the contract or an alternative exchange acceptable to the purchaser.

D. That respondents make available to each lot in Golden Gate Estates within 180 days after receipt of written notice of the issuance of a building permit, at no initial cost to the purchaser other than nominal hook-up and installation fees and thereafter at customary and usual rates:

1. standard electrical service from an authorized local utility; and
2. standard telephone service from an authorized local utility.

Provided, however, That in the event either electrical service or telephone service is not available as set out above to any lot in Golden Gate Estates, respondents, upon written notification of such unavailability by the purchaser of such lot, shall exchange said lot for another lot of equivalent zoning classification and located in the same general geographic area of Golden Gate Estates to which such electrical service and telephone service are available; and *Further provided*, That in the event no lots are available in Golden Gate Estates for purposes of such exchange, respondents shall offer the purchaser, at respondents' option, either a refund of all moneys paid under the contract or an alternative exchange acceptable to the purchaser.

E. Respondents, within 13 years after the date this order becomes final, shall convey the fee simple title of not less than eleven hundred (1100) acres in Golden Gate Estates to Collier County, Fla., or any other appropriate public agency free and clear of any debt, obligation, encumbrance, or impediment to the title thereof to be used for any public purpose of benefit to Golden Gate Estates;

Provided, however, That if by the end of said 13-year period any portion of said eleven hundred (1100) acres has not been dedicated to and accepted by the Commissioners of Collier County, Fla., or any other appropriate public agency, respondents shall dedicate the remaining acreage as a private park for the use of the general public.

F. That respondents complete the installation of roads and drainage improvements in Golden Gate Estates as provided in the plats and bonding agreements on file with Collier County, Fla., on Dec. 31, 1973.

G. That respondents send a letter or notice within 90 days after the date this order becomes final to all purchasers in Golden Gate Estates who are making monthly payments as of the date this order becomes final, advising them of the development program set out in this section of the order.

IV.

For purposes of this section of the order, the following definitions shall be applicable:

When used in reference to land at Remuda Ranch Grants or River Ranch Acres, "lot" shall mean a parcel of land approximately 1-1/4 acres in size, and "lots" shall mean a parcel or parcels of land purchased pursuant to a single contract with respondent GAC Properties Inc. or its predecessor Gulf American Corporation, the total acreage of which is a multiple of the approximately 1-1/4 acre parcel comprising a lot.

It is further ordered, in connection with the exchange of land purchased in Remuda Ranch Grants and River Ranch Acres:

A. That respondents compile a list containing the last known name and address of the purchaser and date of purchase for each contract for the purchase of a lot or lots in Remuda Ranch Grants or River Ranch Acres where the purchaser is either deeded or has an outstanding contract not in default, said list to be arranged in chronological order by subdivision and grouped according to the number of lots purchased.

B. That respondents send a letter as set out in Appendix A or B, as applicable, within six (6) months of the date this order becomes final and thereafter in accordance with Paragraph G below, by certified mail, return receipt requested, to the following of the purchasers referred to in Paragraph A above: (1) all purchasers whose date of purchase is Jan. 1, 1969 or later; (2) all purchasers of 3 or more lots whose date of purchase is prior to Jan. 1, 1969; and (3) as many purchasers of 1 or 2 lots whose date of purchase is prior

to Jan. 1, 1969 as the inventory of lots set aside for this exchange offer will permit, in accordance with the schedule set out in Sub-paragraph E (6) below.

C. That respondents enclose together with the letter referred to in Paragraph B above the following material:

1. A notice of acceptance form as set out in Appendix C;
2. A document listing (a) the contract number and date of purchase for the lot or lots in which the purchaser's interest will be relinquished if the exchange offer is accepted, and (b) the legal and/or other adequate description and approximate size concerning both the lot or lots being offered in exchange and the lot or lots in which the purchaser's interest will be relinquished if the exchange offer is accepted;
3. The applicable property report for the lot or lots being offered in exchange; and
4. A map or maps showing the location in the subdivision and, where available, the block or unit of the lot or lots being offered in exchange.

D. That with respect to any letter referred to in Paragraph B above which is returned to respondents undelivered, respondents, within 60 days of receipt of such undelivered letter, shall take measures which are reasonably calculated to obtain the current address of the purchaser and shall deliver said letter to him; *Provided, however*, That in the event respondents are unable to deliver such letter within said 60-day period, said offer of exchange shall be deemed rejected by the purchaser for purposes of this order.

E. That respondents, upon receipt of a notice of acceptance of the exchange offer provided for in this section of the order, shall exchange the lot or lots purchased in Remuda Ranch Grants and/or River Ranch Acres for land in certain of respondents' other subdivisions according to the following schedule:

1. Remuda Ranch Grants—date of purchase Jan. 1, 1969 or later:(a) A purchaser of 3 or more lots may exchange such lots for lots in Cape Coral which had, or would have had if offered for sale, a selling price on July 1, 1973 equal to or greater than the purchase price of his lots as stated in the contract of purchase; *Provided, however*, That no such purchaser shall be offered less than 2 adjacent Cape Coral lots (1 homesite) in exchange for the lots he has purchased.
(b) A purchaser of 1 or 2 lots may exchange such lots for 1 homesite lot in Golden Gate Estates.

2. River Ranch Acres - date of purchase Jan. 1, 1969 or later:

(a) A purchaser of 3 or more lots may exchange such lots for lots in Cape Coral which had, or would have had if offered for sale, a selling price on July 1, 1973 equal to or greater than the purchase price of his lots as stated in the contract of purchase; *Provided, however*, That no such purchaser shall be offered less than 2 adjacent Cape Coral lots (1 homesite) in exchange for the lots he has purchased.

(b) A purchaser of 1 or 2 lots may exchange such lot or lots for 1 homesite lot in River Ranch Shores.

3. Date of purchase prior to Jan. 1, 1969:

(a) Remuda Ranch Grants - A purchaser of 3 or more lots may exchange such lots for lots in Golden Gate Estates which had, or would have had if offered for sale, a selling price on July 1, 1973 equal to or greater than the purchase price of his lots as stated in the contract of purchase; *Provided, however*, That no such purchaser shall be offered less than 1 Golden Gate Estates lot in exchange for all the lots he has purchased.

(b) River Ranch Acres - A purchaser of 3 or more lots may exchange such lots for lots in Cape Coral which had, or would have had if offered for sale, a selling price on July 1, 1973 equal to or greater than the purchase price of his lots as stated in the contract of purchase; *Provided, however*, That no such purchaser shall be offered less than 2 adjacent Cape Coral lots (1 homesite) in exchange for the lots he has purchased.

(c) Remuda Ranch Grants and River Ranch Acres - A purchaser of 1 or 2 lots may exchange such lot or lots for 1 lot, to be located in either Golden Gate Estates or River Ranch Shores at the discretion of respondents, subject to the inventory of lots set aside for the exchange offer as provided for in Subparagraph 4 below.

4. For purposes of the exchange offer provided for in this section, respondents shall make available 3,429 lots in Golden Gate Estates, 7,058 lots in River Ranch Shores, and enough lots in Cape Coral to meet the demands of Subparts 1(a), 2(a), and 3(b) above; *Provided, however*, That in the event respondents' inventory of lots in Cape Coral should prove insufficient to meet the demands of the exchange offer provided in this section, lots in Poinciana shall be substituted; and *Further provided*, That in the event any governmental regulation pre-

vents the use of any portion of Golden Gate Estates as provided for in this section of the order, respondents may offer to the applicable purchasers an alternative exchange, acceptable to the Commission, of a homesite lot in another subdivision.

5. (a) The lots in Golden Gate Estates to be offered in exchange pursuant to this section of the order shall be developed in accordance with Section III above.

(b) The lots in Cape Coral, River Ranch Shores, and Poinciana to be offered in exchange pursuant to this section of the order shall be developed in accordance with the most recent applicable property report on file on the date this order becomes final with the Office of Interstate Land Sales Registration of the U.S. Department of Housing and Urban Development; *Provided, however*, That in the event no property report is on file with the Office of Interstate Land Sales Registration with respect to any lot in Cape Coral, River Ranch Shores, or Poinciana which is being offered in exchange pursuant to this section of the order, such lot shall be developed in accordance with the most recent applicable property report or offering statement on file with the State of Florida.

6. For purposes of the exchange offer set out in Subpart 3(c) above, such exchanges shall be made until the inventory of lots in Golden Gate Estates and River Ranch Shores set out in Subparagraph 4 above is exhausted, subject to the following conditions:

(a) the exchanges shall be offered to all purchasers of 2 lots prior to being offered to purchasers of 1 lot; and

(b) the exchanges shall be offered to purchasers by date of purchase in reverse chronological order (most recent purchase exchanged first).

F. That in the event a purchaser fails to mail a notice of acceptance to respondents within 60 days of his receipt of the letter referred to in Paragraph B above, then for purposes of this order such purchaser shall be deemed to have rejected the exchange offer.

G. That within 120 days of the initial exchange offer set out in Paragraph B above, respondents shall offer all lots referred to in Subparagraph E(4) above for which an exchange offer has been rejected to the next purchasers eligible to receive said exchange offer in accordance with subparagraph E(6) above; and respondents shall thereafter continue, at intervals not to exceed 120 days, to

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offer all lots for which an exchange offer has been rejected to the next eligible purchasers until either all the aforesaid lots have been exchanged or the list of purchasers eligible to receive the exchange offer has been exhausted.

H. That the ten-day right of cancellation provided for in Paragraphs 6 through 10 of Section I of this order shall not be applicable to lots exchanged pursuant to this section of the order.

I. That respondents may condition the exchange offer under this section of the order on the purchaser's execution of a quit-claim deed and/or other documents necessary to release his interest in the lot or lots being given up in exchange, such document or documents to be prepared by respondents.

J. That respondents maintain, for three years after the final exchange is made pursuant to this section of the order, records which are adequate to disclose respondents' compliance with this section of the order, such records to be furnished by respondents to the Federal Trade Commission upon request.

APPENDIX A

(Date)

Dear Customer:

GAC Properties Inc. (formerly Gulf American Corporation) has entered into an agreement with the Federal Trade Commission pursuant to which GAC Properties is required to offer to purchasers of lots in River Ranch Acres an option to exchange their lots for property in certain of GAC Properties' other subdivisions. Under the terms of the agreement, you are entitled to exchange your lot or lots in River Ranch Acres for the property described in the attached material.

In deciding whether to accept this offer, you should be aware that whereas River Ranch Acres will not be developed in any manner and virtually all lots therein are inaccessible by conventional means of transportation, the property being offered in exchange has been or will be developed, with roads, drainage and utilities, for use as homesites. Also note that the property being offered in exchange may not be as large as your present lot or lots. A property report and other materials which describe in detail the property to be received in exchange are enclosed and should be examined with care. In addition, it is recommended that you consult a lawyer, realtor or other qualified professional before making your decision.

If you are still making monthly payments under the terms of your original contract, you must continue to do so. On the other hand, if you have completed your payments and have received a deed or Certificate for Deed for one or more lots at River Ranch Acres, you will be required, as a condition to accepting this offer, to reconvey to GAC your interest in such lot or lots, and you will receive in return a deed to the new property which you will receive in exchange. In either event, by accepting this offer you will thereby relinquish

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any and all rights to the lot or lots which you purchased under your original contract. Furthermore, if you accept this offer, any legal claims which you may otherwise have against the seller or developer arising out of your original purchase may be adversely affected.

To accept this offer, you must sign and return to GAC by certified mail the enclosed NOTICE OF ACCEPTANCE not later than 60 days from the date you receive this letter. Any inquiries regarding this offer should be directed to GAC Properties Inc. at _____ (respon-

dent's telephone number), or write the Office of the Secretary, Federal Trade Commission, Washington, D. C. 20580.

Very truly yours,

(Signed)
President, GAC PROPERTIES INC.

* * * * *

APPENDIX B

(Date)

Dear Customer:

GAC Properties Inc. (formerly Gulf American Corporation) has entered into an agreement with the Federal Trade Commission pursuant to which GAC Properties is required to offer to purchasers of lots in Remuda Ranch Grants an option to exchange their lots for property in certain of GAC Properties' other subdivisions. Under the terms of the agreement, you are entitled to exchange your lot or lots in Remuda Ranch Grants for the property described in the attached material.

In deciding whether to accept this offer, you should be aware that whereas Remuda Ranch Grants will not be developed in any manner and virtually all lots therein are inaccessible by conventional means of transportation, the property being offered in exchange has been or will be developed, with roads, drainage and utilities, for use as homesites. Also note that the property being offered in exchange may not be as large as your present lot or lots. A property report and other materials which describe in detail the property to be received in exchange are enclosed and should be examined with care. In addition, it is recommended that you consult a lawyer, realtor or other qualified professional before making your decision.

If you are still making monthly payments under the terms of your original contract, you must continue to do so. On the other hand, if you have completed your payments and have received a deed or Certificate for Deed for one or more lots at Remuda Ranch Grants, you will be required, as a condition to accepting this offer, to reconvey to GAC your interest in such lot or lots, and you will receive in return a deed to the new property which you will receive in exchange. In either event, by accepting this offer you will thereby relinquish any and all rights to the lot or lots which you purchased under your original contract. Furthermore, if you accept this offer, any legal claims which you may otherwise have against the seller or developer arising out of your original purchase may be adversely affected.

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To accept this offer, you must sign and return to GAC by certified mail the enclosed NOTICE OF ACCEPTANCE not later than 60 days from the date you receive this letter. Any inquiries regarding this offer should be directed to GAC Properties Inc. at

_____, or write the Office of the Secretary, Federal Trade Commission, Washington, D. C. 20580. (respondents' telephone number)

Very truly yours,

(Signed)
President, GAC PROPERTIES INC.

* * * * *

APPENDIX C

NOTICE OF ACCEPTANCE

Contract Number _____

(To be filled in by Purchaser)

I hereby accept the exchange offer described in the materials sent to me by GAC Properties Inc.

I understand that I will be required to execute one or more documents, to be prepared by GAC Properties Inc., relinquishing all rights in the lot or lots purchased under the above contract number. In return, I will be sent a deed or other evidence of interest in the property which I will receive in exchange.

ALL PURCHASERS MUST SIGN BELOW

(Date)

(Purchaser's Signature)

(Purchaser's Signature)

NOTE: This Notice of Acceptance must be returned to GAC Properties Inc., _____, by CERTIFIED MAIL. (respondent's address)

* * * * *

V.

For purposes of this section of the order, the following definition shall be applicable:

"Residential property" shall mean land located in a subdivision in which the majority of lots are sold or offered for sale for use as homesites.

It is further ordered:

A. (1) That respondents shall include the following language, or words of similar import and meaning, in all installment contracts for the sale of residential property to consumers which are entered

into after the date this order becomes final, and shall make refunds in accordance therewith:

In the event of buyer's default, seller shall refund to buyer within 180 days of the date of default principal payments (not interest, finance charges or taxes) made pursuant to this contract in accordance with the following schedule of refunds:

a. If Buyer's total principal payments do not exceed 30 percent of the cash price, buyer shall not receive any refund whatsoever.

b. If buyer's total principal payments exceed 30 percent but are less than $66\frac{2}{3}$ percent of the cash price, buyer shall receive a refund of two-thirds of all principal payments made in excess of 30 percent of the cash price.

c. If buyer's total principal payments are in excess of $66\frac{2}{3}$ percent of the cash price, buyer shall receive a refund of one-half of all principal payments made in excess of $66\frac{2}{3}$ percent of the cash price, together with and in addition to all sums refundable to buyer under subpart b. above.

(2) That in the event the rate of default for all contracts for the sale of respondents' land to consumers in which the amount of principal paid exceeds 30 percent of the cash price due thereunder, which are entered into during the ten-year period after the date this order becomes final, does not exceed by more than ten percent the rate of default, computed in the same manner, for all such contracts for the three-year period immediately preceding the date this order becomes final, the following schedule of refunds shall be included by respondents in all installment contracts for the sale of residential property to consumers which are entered into more than 90 days after the expiration of said ten-year period, in lieu of the schedule of refunds set out in Subparagraph A(1) above:

a. If buyer's total principal payments do not exceed 30 percent of the cash price, buyer shall not receive any refund whatsoever.

b. If buyer's total principal payments exceed 30 percent of the cash price, buyer shall receive a refund of 75 percent of all principal payments made in excess of 30 percent of the cash price.

(3) That respondents submit to the Federal Trade Commission within 90 days after the date this order becomes final, data disclosing the rate of default referred to in Subparagraph A(2) above for the three-year period immediately preceding the date this order becomes final, and documentation in support thereof.

B. That respondents shall include the following language, or words of similar import and meaning, in all installment contracts for the sale of land other than residential property to consumers which are entered into after the date this order becomes final, and shall make refunds in accordance therewith:

In the event of buyer's default, seller shall refund to buyer within 180 days of the date of default principal payments (not interest, finance charges or taxes) made pursuant to this contract in accordance with the following schedule of refunds:

1. If buyer's total principal payments do not exceed 30 percent of the cash price, buyer shall not receive any refund whatsoever.

2. If buyer's total principal payments exceed 30 percent of the cash price, buyer shall receive a refund of 75 percent of all principal payments made in excess of 30 percent of the cash price.

C. That respondents may condition their payment of refunds under this section of the order on the purchaser's execution of a quit-claim deed and/or other documents necessary to release his interest in the land purchased from respondents pursuant to the contract in default, such document or documents to be prepared by respondents.

D. That in the event the Federal Trade Commission promulgates a valid Trade Regulation Rule applicable to respondents' sale of land to consumers which regulates the amount or percentage of moneys paid by a purchaser which may be retained by the seller in the event of the purchaser's default, then this section of the order shall be deemed modified by said Trade Regulation Rule; *Provided, however*, That this paragraph shall not be construed as waiving or in any way limiting respondents' legal rights or standing to challenge or otherwise contest such a Trade Regulation Rule.

VI.

It is further ordered:

(a) That in the event respondents fail to correct any default under a contract entered into prior to the effective date of this order within six months after receiving notice in writing from the purchaser of said default, respondents shall, within ten days after completion of said six-month period, notify the purchaser that, at his option, he may receive a refund of all moneys paid under the contract or an exchange acceptable to him of the contracted-for property for another of at least equal price, equivalent size, with equivalent zoning classification and same promised improvements and utilities, and located in the same general geographic area of the subdivision.

(b) That respondents shall make the exchange or refund requested by the purchaser under the terms of Paragraph (a) above within 60 days of receipt of the purchaser's acceptance of said exchange or refund; *Provided, however*, That in the event the purchaser has received a deed or other evidence of interest in the contracted-for property other than the contract, the purchaser must, as a condition of obtaining such refund or exchange, reconvey to the seller such evidence of interest by General Warranty Deed in recordable form; and *Further provided*, That in the event only the contract has been recorded in the Public Records, the purchaser must quit claim in recordable form his interest to the seller to remove any clouds on the title to such property.

VII.

It is further ordered:

(a) That respondents herein deliver, by hand or by certified mail, a copy of Sections I and VI through X of this order to each of their present or future salesmen, independent brokers, and employees who sell or promote the sale of land or other real property to consumers, and all others so engaged;

(b) That respondents provide each person so described in Paragraph (a) above with a form, returnable to respondents, clearly stating his intention to be bound by and to conform his sales practices to the requirements of this order;

(c) That respondents inform each person described in Paragraph (a) above that respondents shall not use any such party, or the services of any such party, unless such party agrees to and does file notice with respondents that it will be bound by the provisions contained in this order;

(d) That in the event such party will not agree to so file notice with respondents and to be bound by the provisions of this order, respondents shall not use such party, or the services of such party;

(e) That respondents so inform the persons described in Paragraph (a) above that respondents are obligated by this order to discontinue dealing with those persons who engage on their own in the acts or practices prohibited by this order;

(f) That respondents institute a program of continuing surveillance adequate to reveal whether the sales practices of each of said persons described in Paragraph (a) above conform to the requirements of this order; and

(g) That respondents discontinue dealing with any person described in Paragraph (a) above, revealed by the aforesaid program

of surveillance, who engages on his own in the acts or practices prohibited by this order; *Provided, however*, That violation of any provision of this order by present or future employees of independent brokers shall not be deemed a violation of this order by respondents unless respondents, upon knowledge of such violation, fail to take, within a reasonable time, corrective action to insure that such act or practice is terminated; and *Further provided*, That in the event remedial action is taken, the sole fact of such dismissal or termination shall not be admissible against respondents in any proceeding brought to recover penalties for alleged violation of any other paragraph of this order.

VIII.

It is further ordered:

(a) That in the event the Interstate Land Sales Full Disclosure Act, presently codified at 15 U.S.C. §§1701-20 (1970), or any regulation promulgated pursuant thereto by the Office of Interstate Land Sales Registration of the U.S. Department of Housing and Urban Development, requires an act or practice which is prohibited by any provision of this order, such order prohibition shall be inoperative.

(b) That in the event any provision of this order requires an act or practice which is prohibited by the Interstate Land Sales Full Disclosure Act, presently codified at 15 U.S.C. §§1701-20 (1970), or any regulation promulgated pursuant thereto by the Office of Interstate Land Sales Registration of the U.S. Department of Housing and Urban Development, such order requirement shall be inoperative.

IX.

It is further ordered, That this order shall become effective in accordance with standard Commission procedure; *Provided, however*, That all written advertising and promotional materials, and form contracts, which must be filed with and accepted for dissemination by state or federal agencies, shall not be subject to the provisions of this order, except for those provisions which prohibit or limit the use of any statement, representation, or misrepresentation, for a period of six months from the date this order becomes final or until said acceptance for dissemination is obtained from all applicable state or federal agencies, whichever occurs first; and *Further provided*, That until said six-month period expires or said acceptance for dissemination is obtained, whichever occurs first, respondents shall file with the Federal Trade Commission monthly reports detailing respondents' progress toward

obtaining the aforementioned acceptance for dissemination by the applicable state or federal agencies.

X.

It is further ordered, That respondent corporations shall forth-with distribute a copy of this order to each of their operating divisions engaged in the sale of land or other real property to consumers.

It is further ordered, That respondents herein shall, within 60 days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondents, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this order.

IN THE MATTER OF

WASEM'S, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT