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9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA

11 In the Matter of) OAH No. 2011080429
	) Agency No. 10782
12 THE CALIFORNIA CORPORATIONS)
COMMISSIONER,)
13	) STIPULATION TO DESIST AND REFRAIN
Complainant,	) ORDER (CORP CODE §25532) AND TO PAY
14	) ADMINISTRATIVE PENALTIES (CORP
v.	) CODE §25252) AND ANCILLARY RELIEF
15	) (CORP CODE §25254) FOR VIOLATIONS OF
RALPH O. BERRY III, aka Ralph O. Berry, aka	) CORPORATIONS CODE §§ 25110, 25210,
16 Ralph Berry, BILL LAWRENCE, BERRY	) 25401 AND COMMISSIONER’S ORDER
RESOURCES, INC., and BERRY PROSPECT)
17 #21, KENTUCKY LIMITED PARTNERSHIP,	) Date: February 21, 2012
	) Time: 9:00 a.m.
18 Respondents.) Place: 2349 Gateway Oaks Drive, Suite 200
) Sacramento, CA 95833

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20 IT IS HEREBY STIPULATED BY AND BETWEEN THE RESPONDENTS RALPH O. BERRY
21 III, aka Ralph O. Berry, aka Ralph Berry (“BERRY”), BERRY RESOURCES, INC. (“BERRY
22 RESOURCES”), and BERRY PROSPECT #21, KENTUCKY LIMITED PARTNERSHIP (“BERRY
23 PROSPECT”) AND JAN LYNN OWEN, COMMISSIONER OF CORPORATIONS OF THE
24 STATE OF CALIFORNIA (“COMMISSIONER”), THROUGH THEIR COUNSEL OF RECORD
25 AS FOLLOWS:

26 On April 5, 2011, the COMMISSIONER issued a Statement in Support of Order Levying
27 Administrative Penalties (Corporations Code section 25252); Claim for Ancillary Relief

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STIPULATION TO DESIST AND REFRAIN ORDER (CORP CODE § 25532) AND TO PAY ADMINISTRATIVE
PENALTIES (CORP CODE §25252) AND ANCILLARY RELIEF (CORP CODE §25254) FOR VIOLATIONS OF
CORPORATIONS CODE §§ 25110, 25210, 25401 AND COMMISSIONER’S ORDER

1 (Corporations Code section 25254); and a Desist and Refrain Order (Corporations Code section
2 25532) (“COMMISSIONER’S Action”) against RESPONDENTS requiring them to pay
3 administrative penalties, restitution, and attorneys fees for violations of the Commissioner’s Desist
4 and Refrain Order issued on October 24, 2007 and for violations of Corporations Code sections
5 25110, 25210 and 25401.

6 On June 24, 2011, RESPONDENTS BERRY, BERRY RESOURCES, and BERRY
7 PROSPECT made a request pursuant to Corporations Code section 25532 for an administrative
8 hearing to challenge the COMMISSIONER’S Action. The hearing is set for February 21, 2012.

9
10 WHEREFORE, RESPONDENTS BERRY, BERRY RESOURCES, and BERRY
11 PROSPECT hereby voluntarily withdraw their request for a hearing and agree to waive any rights to
12 challenge or appeal the COMMISSIONER’S Action, and without admitting or denying do hereby
13 stipulate as follows:

14 A. RESPONDENTS represent that:

- 15 1.) they have ceased from offering or selling securities in the State of California, including
16 but not limited to investment contracts in the form of units in BERRY PROSPECT, unless
17 and until qualification has been made under the law, or unless exempt;
- 18 2.) they have ceased from effecting any transaction in, or inducing or attempting to induce the
19 purchase or sale of, any security in this state, unless and until they have applied for and
20 secured from the Commissioner a certificate, then in effect, authorizing these person to act
21 in that capacity, or unless exempt.
- 22 3.) They have ceased from offering or selling or buying or offering to buy any security in the
23 State of California by means of any written or oral communication which includes an
24 untrue statement of material fact or omits to state a material fact necessary in order to
25 make the statements made, in the light of the circumstances under which they were made,
26 not misleading.

1 B. RESPONDENTS agree to the pay restitution by cashier’s check no later than August 14,
2 2012 in the amount of \$21,700.00 (twenty-one thousand seven-hundred) to California
3 resident Thomas J. Murphy for the return of his investment of \$14,000 plus the legal rate
4 of interest of ten percent (10%) per year since February, 2008. Respondents agree to
5 provide a copy of the cashier’s check as proof of payment to the Department no later than
6 August 14, 2012 to:

7 Lindsay B. Herrick, Corporations Counsel
8 California Department of Corporations
9 1515 K Street, Suite 200
10 Sacramento, CA 95814

11 C. RESPONDENTS agree to pay administrative penalties by cashier’s check made payable
12 to the California Department of Corporations no later than August 14, 2012 in the amount
13 of \$5,000.00 for their violation of the Commissioner’s Desist and Refrain Order issued
14 October 24, 2007 and for their violations of Corporations Code sections 25110, 25210,
15 and 25401 of the Corporate Securities Law of 1968. Respondents agree to submit their
16 payment to the attention of Lindsay B. Herrick, Corporations Counsel, at address stated
17 above.

18 D. RESPONDENTS agree that if they violate any term of this Stipulation, they hereby
19 consent to a final order of the Commissioner as provided in the COMMISSIONER’S
20 Action issued on April 5, 2011, and waive any right to challenge or appeal such final
21 order. RESPONDENTS understand and agree that any final order of the
22 COMMISSIONER may result in a civil judgment against them, individually, jointly or
23 severally pursuant to the terms of the COMMISSIONER’S Action and/or any civil
24 judgment. RESPONDENTS further understand and agree that the COMMISSIONER is
25 not precluded from taking future action against any of the RESPONDENTS if they are
26 found to have committed any future violations.

In return, the COMMISSIONER will withdraw from calendar this matter before the Office of Administrative Hearings, and waive her right to proceed with the hearing as a default under California Code of Regulations section 1014(c) whereby a decision and public evidentiary record in support of the final order may be obtained.

Dated: February 14, 2012

JAN LYNN OWEN
California Corporations Commissioner

By: _____
ALAN S. WEINGER
Deputy Commissioner

Dated: 2/29/12

By: _____
RALPH O. BERRY III, aka Ralph O. Berry, aka Ralph Berry
Respondent

Dated: 2/29/12

By: _____
BERRY RESOURCES, INC. by Ralph O. Berry, President
Respondent

Dated: 2/29/12

By: _____
BERRY PROSPECT #21, KENTUCKY LIMITED PARTNERSHIP by Ralph O. Berry on behalf of Berry Resources, Inc., Managing General Partner
Respondent

By: _____
HUNTER DURHAM
Attorney for Respondents
Approved as to Form