

1 **Lawrence H. Meuers, Esq. (SBN: 197663)**
 2 **MEUERS LAW FIRM, P.L.**
 3 **5395 Park Central Court**
 4 **Naples, FL 34109**
 5 **Telephone: (239) 513-9191**
 6 **Facsimile: (239) 513-9677**
 7 **lmeuers@meuerslawfirm.com**

8 *Attorneys for the Pacific Tomato Group*

9 **UNITED STATES DISTRICT COURT**
 10 **CENTRAL DISTRICT OF CALIFORNIA**
 11 **WESTERN DIVISION**

12 **PACIFIC TOMATO GROWERS,**
 13 **LTD., et al.,**
 14 **Plaintiffs,**
 15 **vs.**
 16 **KIRBY T. TANIMURA, et al.**
 17 **Defendants.**

18 **Case No.: CV 08-5100-GW(FFMx)**
 19 **HONORABLE GEORGE H. WU**
 20 **JUDGMENT**

21 **S & H PACKING & SALES CO.,**
 22 **INC., et al.,**
 23 **Plaintiffs,**
 24 **vs.**
 25 **KIRBY T. TANIMURA, et al.**
 26 **Defendants.**

27 **Case Nos. CV 08-5250-GW(FFMx)**

28 **x)**
 29 **NATIONAL COMMERCIAL**
 30 **RECOVERY, INC.**
 31 **Plaintiffs,**
 32 **vs.**
 33 **KIRBY T. TANIMURA, et al.**
 34 **Defendants.**

35 **Case Nos. CV 08-6046-GW(FFMx)**

1 This matter is before this Court upon the Joint Motion for Entry of Consent
2 Judgment and declaration filed by Plaintiffs' counsel that Defendants, Kirby T.
3 Tanimura and Yolanda Tanimura, have failed to make payment in compliance with
4 the Stipulation for Settlement in Consolidated Cases filed in this action [DE 171].
5 Under the terms of the Stipulation for Settlement in Consolidated Cases previously
6 filed with the Court, this Court is to enter the Consent Judgment upon the filing of a
7 declaration by Plaintiffs' counsel, which state that payment has not been made by
8 Defendants as required by the Order Approving Stipulation for Settlement in
9 Consolidated Cases [DE 172]. Based upon the filing of the declaration previously
10 noted, the disclosure of distributions made to the PACA Trust Beneficiaries, and
11 being otherwise fully advised in the premises, the Court now enters judgment
12 pursuant to Federal Rule of Civil Procedure 58(a):

15 **ORDERED, ADJUDGED AND DECREED** that Judgment is hereby
16 entered in these consolidated actions, in favor of the PACA Trust Creditor Plaintiffs
17 and against Kirby T. Tanimura and Yolanda Tanimura, jointly and severally, as to
18 each plaintiff, for liability arising under Section 5(c) of the Perishable Agricultural
19 Commodities Act, 7 U.S.C. §499(e)(c) ("PACA"), as follows:

- 21 1. Judgment in favor of Pacific Tomato Growers, Ltd., a Florida limited
22 partnership with its principal place of business located at 503 10th Street West,
23 Palmetto, Florida 34221, in the aggregate amount of \$252,124.75, plus interest at
24 the legal rate in effect on the date of this judgment, all of which qualifies for
25 protection under PACA, until satisfied, for which let execution issue;

1 2. Judgment in favor of Malena Produce, Inc., an Arizona corporation
2 with its principal place of business located at 947 E. Frontage Rd., Rio Rico,
3 Arizona, in the aggregate amount of \$426,614.55, plus interest at the legal rate in
4 effect on the date of this judgment, all of which qualifies for protection under
5 PACA, until satisfied, for which let execution issue;
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7 3. Judgment in favor of Westlake Distributors, Inc. d/b/a Westlake
8 Produce Company, a California corporation with its principal place of business
9 located at 5301 Rivergrade Road, Suite 200, Irwindale, California, in the aggregate
10 amount of \$80,106.69, plus interest at the legal rate in effect on the date of this
11 judgment, all of which qualifies for protection under PACA, until satisfied, for
12 which let execution issue;
13

14 4. Judgment in favor of Tomato Thyme Corporation, a Florida
15 corporation with its principal place of business located at 6811 78th Street, Tampa,
16 Florida, in the aggregate amount of \$76,742.13 , plus interest at the legal rate in
17 effect on the date of this judgment, all of which qualifies for protection under
18 PACA, until satisfied, for which let execution issue;
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20 5. Judgment in favor of Maui-Fresh International, LLC, a California
21 limited liability company with its principal place of business located at 333 North
22 Euclid Way, Anaheim, California, in the aggregate amount of \$77,717.42, plus
23 interest at the legal rate in effect on the date of this judgment, all of which qualifies
24 for protection under PACA, until satisfied, for which let execution issue;
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26 6. Judgment in favor of MJ International Marketing, LLC d/b/a Fresh
27 Farms, an Arizona limited liability company with its principal place of business
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1 located at 15 Avenida Acaponeta, Rio Rico Industrial Park, Rio Rico, Arizona, in
2 the aggregate amount of \$74,822.65, plus interest at the legal rate in effect on the
3 date of this judgment, all of which qualifies for protection under PACA, until
4 satisfied, for which let execution issue;

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6 7. Judgment in favor of Go-Fresh Produce, Inc., a California corporation
7 with its principal place of business located at 1601 E Olympic Blvd., Ste 204, Los
8 Angeles, California, in the aggregate amount of \$348.14, plus interest at the legal
9 rate in effect on the date of this judgment, all of which qualifies for protection under
10 PACA, until satisfied, for which let execution issue;

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12 8. Judgment in favor of Natural Selection Foods, LLC d/b/a Earthbound
13 Farms, a California limited liability company with its principal place of business
14 located at 1721 San Juan Highway, San Juan Bautista, California, in the aggregate
15 amount of \$10,082.66, plus interest at the legal rate in effect on the date of this
16 judgment, all of which qualifies for protection under PACA, until satisfied, for
17 which let execution issue;

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19 9. Judgment in favor of Cris-P Produce Co., Inc., an Arizona corporation
20 with its principal place of business located at 2811 N Palenque Ave., Ste. 3,
21 Nogales, Arizona, in the aggregate amount of \$6,534.49, plus interest at the legal
22 rate in effect on the date of this judgment, all of which qualifies for protection under
23 PACA, until satisfied, for which let execution issue;

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25 10. Judgment in favor of Giumarra Brothers Fruit Company, LLC, a
26 California limited liability company with its principal place of business located at
27 11220 Edison Hwy., Edison, California, in the aggregate amount of \$7,323.49, plus
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1 interest at the legal rate in effect on the date of this judgment, all of which qualifies
2 for protection under PACA, until satisfied, for which let execution issue;

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4 11. Judgment in favor of Interfresh, Inc., a California corporation with its
5 principal place of business located at 2019 W. Orangewood Ave., Orange,
6 California, in the aggregate amount of \$5,218.53, plus interest at the legal rate in
7 effect on the date of this judgment, all of which qualifies for protection under
8 PACA, until satisfied, for which let execution issue;

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10 12. Judgment in favor of S & H Packing & Sales Co., Inc., a California
11 corporation d.b.a. Season Produce Co., in the aggregate amount of \$91,371.42, plus
12 interest at the legal rate in effect on the date of this judgment, all of which qualifies
13 for protection under PACA, until satisfied, for which let execution issue;

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15 13. Judgment in favor of Abbate Family Farms Limited Partnership, a
16 California Limited Partnership d.b.a. Abbate Farms, in the aggregate amount of
17 \$176,736.77, plus interest at the legal rate in effect on the date of this judgment, all
18 of which qualifies for protection under PACA, until satisfied, for which let
19 execution issue;

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21 14. Judgment in favor of Apache Produce Co., Inc., an Arizona corporation
22 d.b.a. Plain Jane, in the aggregate amount of \$172,528.40, plus interest at the legal
23 rate in effect on the date of this judgment, all of which qualifies for protection under
24 PACA, until satisfied, for which let execution issue;

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26 15. Judgment in favor of Baloian Packing Co., Inc., a California
27 corporation d.b.a.. Baloian Farms, in the aggregate amount of \$365,165.56, plus
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1 interest at the legal rate in effect on the date of this judgment, all of which qualifies
2 for protection under PACA, until satisfied, for which let execution issue;

3 16. Judgment in favor of Bionova Produce, INC., an Arizona corporation,
4 in the aggregate amount of \$195,475.77, plus interest at the legal rate in effect on
5 the date of this judgment, all of which qualifies for protection under PACA, until
6 satisfied, for which let execution issue;

7 17. Judgment in favor of Central California Tomato Growers Cooperative,
8 Inc., a California corporation, in the aggregate amount of \$221,173.68, plus interest
9 at the legal rate in effect on the date of this judgment, all of which qualifies for
10 protection under PACA, until satisfied, for which let execution issue;

11 18. Judgment in favor of Delta Fresh, LLC, an Arizona limited liability
12 company, in the aggregate amount of \$319,090.93, plus interest at the legal rate in
13 effect on the date of this judgment, all of which qualifies for protection under
14 PACA, until satisfied, for which let execution issue;

15 19. Judgment in favor of Expo Fresh, LLC, a California limited liability
16 company, in the aggregate amount of \$514,915.42, plus interest at the legal rate in
17 effect on the date of this judgment, all of which qualifies for protection under
18 PACA, until satisfied, for which let execution issue;

19 20. Judgment in favor of Yolanda Torre, an individual d.b.a.. Far Side
20 Farms, in the aggregate amount of \$73,155.85, plus interest at the legal rate in effect
21 on the date of this judgment, all of which qualifies for protection under PACA, until
22 satisfied, for which let execution issue;

1 21. Judgment in favor of Frank Donio, Inc., a New Jersey corporation, in
2 the aggregate amount of \$147,124.11, plus interest at the legal rate in effect on the
3 date of this judgment, all of which qualifies for protection under PACA, until
4 satisfied, for which let execution issue;
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6 22. Judgment in favor of Guy E. Maggio, Jr., Inc., a California corporation
7 d.b.a.. GM Distributing, in the aggregate amount of \$72,659.73, plus interest at the
8 legal rate in effect on the date of this judgment, all of which qualifies for protection
9 under PACA, until satisfied, for which let execution issue;
10

11 23. Judgment in favor of Horwath & Co., Inc., a California corporation
12 d.b.a. Gonzales Packing Co., in the aggregate amount of \$32,396.08, plus interest at
13 the legal rate in effect on the date of this judgment, all of which qualifies for
14 protection under PACA, until satisfied, for which let execution issue;
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16 24. Judgment in favor of I&T Produce Company, Inc., a California
17 corporation, in the aggregate amount of \$30,484.96, plus interest at the legal rate in
18 effect on the date of this judgment, all of which qualifies for protection under
19 PACA, until satisfied, for which let execution issue;
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21 25. Judgment in favor of Wayne M. Nakaji, an individual d.b.a. J.
22 Michael & Co., in the aggregate amount of \$28,811.52, plus interest at the legal rate
23 in effect on the date of this judgment, all of which qualifies for protection under
24 PACA, until satisfied, for which let execution issue;
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26 26. Judgment in favor of J & A International, Inc., a California corporation,
27 in the aggregate amount of \$92,244.45, plus interest at the legal rate in effect on the
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1 date of this judgment, all of which qualifies for protection under PACA, until
2 satisfied, for which let execution issue;

3 27. Judgment in favor of J.P.M. Sales Co., Inc., an Arizona corporation, in
4 the aggregate amount of \$300,736.89, plus interest at the legal rate in effect on the
5 date of this judgment, all of which qualifies for protection under PACA, until
6 satisfied, for which let execution issue;

7 28. Judgment in favor of Keber Distributing, Inc., a California corporation,
8 in the aggregate amount of \$38,792.78, plus interest at the legal rate in effect on the
9 date of this judgment, all of which qualifies for protection under PACA, until
10 satisfied, for which let execution issue;

11 29. Judgment in favor of Kern Ridge Growers, LLC, a California limited
12 liability company, in the aggregate amount of \$54,735.40, plus interest at the legal
13 rate in effect on the date of this judgment, all of which qualifies for protection under
14 PACA, until satisfied, for which let execution issue;

15 30. Judgment in favor of Live Oak Farms, a California limited partnership,
16 in the aggregate amount of \$395,718.71, plus interest at the legal rate in effect on
17 the date of this judgment, all of which qualifies for protection under PACA, until
18 satisfied, for which let execution issue;

19 31. Judgment in favor of M & M Distributors, Inc., a California
20 corporation, in the aggregate amount of \$92,008.32, plus interest at the legal rate in
21 effect on the date of this judgment, all of which qualifies for protection under
22 PACA, until satisfied, for which let execution issue;

1 32. Judgment in favor of O.P. Murphy Produce Co., Inc., a Texas
2 corporation d.b.a.. O.P. Murphy & Sons, in the aggregate amount of \$95,505.73,
3 plus interest at the legal rate in effect on the date of this judgment, all of which
4 qualifies for protection under PACA, until satisfied, for which let execution issue;
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6 33. Judgment in favor of Oceanside Produce, Inc., a California corporation,
7 in the aggregate amount of \$321,776.98, plus interest at the legal rate in effect on
8 the date of this judgment, all of which qualifies for protection under PACA, until
9 satisfied, for which let execution issue;
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11 34. Judgment in favor of Orange County Produce, LLC, in the aggregate
12 amount of \$77,742.91, plus interest at the legal rate in effect on the date of this
13 judgment, all of which qualifies for protection under PACA, until satisfied, for
14 which let execution issue;
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16 35. Judgment in favor of Doud And Associates, Inc., a California
17 corporation d.b.a.. Pacific Coast Produce, in the aggregate amount of \$159,569.57,
18 plus interest at the legal rate in effect on the date of this judgment, all of which
19 qualifies for protection under PACA, until satisfied, for which let execution issue;
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21 36. Judgment in favor of Produce Supply, Inc., a California corporation, in
22 the aggregate amount of \$88,048.12, plus interest at the legal rate in effect on the
23 date of this judgment, all of which qualifies for protection under PACA, until
24 satisfied, for which let execution issue;
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26 37. Judgment in favor of Riverside Distributing, Inc., a Texas corporation,
27 in the aggregate amount of \$44,168.57, plus interest at the legal rate in effect on the
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1 date of this judgment, all of which qualifies for protection under PACA, until
2 satisfied, for which let execution issue;

3 38. Judgment in favor of Royal Flavor, LLC, a California limited liability
4 company, in the aggregate amount of \$698,215.48, plus interest at the legal rate in
5 effect on the date of this judgment, all of which qualifies for protection under
6 PACA, until satisfied, for which let execution issue;

7 39. Judgment in favor of Seacoast Distributing, Inc., a California
8 corporation, in the aggregate amount of \$85,339.97, plus interest at the legal rate in
9 effect on the date of this judgment, all of which qualifies for protection under
10 PACA, until satisfied, for which let execution issue;

11 40. Judgment in favor of Sunrise Growers, Inc., a California Corporation,
12 in the aggregate amount of \$253,880.70, plus interest at the legal rate in effect on
13 the date of this judgment, all of which qualifies for protection under PACA, until
14 satisfied, for which let execution issue;

15 41. Judgment in favor of Valmar International Produce Growers, Inc., a
16 California corporation, in the aggregate amount of \$9,041.47, plus interest at the
17 legal rate in effect on the date of this judgment, all of which qualifies for protection
18 under PACA, until satisfied, for which let execution issue;

19 42. Judgment in favor of Veggifruit, Inc., a Florida corporation, in the
20 aggregate amount of \$17,556.48, plus interest at the legal rate in effect on the date
21 of this judgment, all of which qualifies for protection under PACA, until satisfied,
22 for which let execution issue;

1 43. Judgment in favor of Wilson Produce, LLC, an Arizona limited liability
2 company, in the aggregate amount of \$108,006.81, plus interest at the legal rate in
3 effect on the date of this judgment, all of which qualifies for protection under
4 PACA, until satisfied, for which let execution issue;

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6 44. Judgment in favor of G.W. Palmer & Co., Inc., a Tennessee
7 corporation, with its principal place of business located at 1080 W. Rex Road,
8 Memphis, Tennessee 38119-3820, in the aggregate amount of \$367,698.18, plus
9 interest at the legal rate in effect on the date of this judgment, all of which qualifies
10 for protection under PACA, until satisfied, for which let execution issue;

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12 45. Judgment in favor of Andrew & Williamson Sales Co., Inc. d/b/a
13 Andrew & Williamson Fresh Produce, a California corporation with its principal
14 place of business located at 9940 Marconi Drive, San Diego, California 92154-7270,
15 in the aggregate amount of \$104,618.40, plus interest at the legal rate in effect on
16 the date of this judgment, all of which qualifies for protection under PACA, until
17 satisfied, for which let execution issue;

18
19 46. Judgment in favor of East Coast Brokers & Packers, Inc., a Florida
20 corporation with its principal place of business located at 5050 Hwy 60 W, Plant
21 City, Florida 33564-2636, in the aggregate amount of \$642,959.19, plus interest at
22 the legal rate in effect on the date of this judgment, all of which qualifies for
23 protection under PACA, until satisfied, for which let execution issue;

24
25 47. Judgment in favor of Gargiulo, Inc., a Florida corporation with its
26 principal place of business located at 1500 Old 41 North, Naples, Florida 34110-
27 8415, in the aggregate amount of \$262,820.92 plus interest at the legal rate in effect

1 on the date of this judgment, all of which qualifies for protection under PACA, until
2 satisfied, for which let execution issue;

3 48. All pending motions are denied as moot and all counterclaims and
4 cross-claims are dismissed. The Clerk shall enter judgment forthwith.
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6 DATED: August 15, 2017



7 GEORGE H. WU, U.S. District Judge

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