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10 SCHOENBURG

11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF CALIFORNIA-FRESNO**

13 ONIONS ETC., INC. and DUDA FARM
14 FRESH FOODS, INC.,

15 Plaintiff,

16 v.

17 Z&S FRESH INC. fdba Z&S
18 DISTRIBUTING CO., INC.; MARTIN J.
19 ZANINOVICH; LOREN S.
20 SCHOENBURG; and MARGARET aka
21 MARGE SCHOENBURG,

22 Defendants.

Case Number 1:09-CV-00906-OWW-
MJS

ORDERS ON SCHOENBURG
DEFENDANTS' SUMMARY
JUDGMENT MOTIONS

23 **AND RELATED CROSS-ACTION.**

24 This action came on for hearing before the Court, on July 25, 2011, Hon. Oliver W.
25 Wanger, District Judge Presiding, on Defendants LOREN SCHOENBURG and
26 MARGARET SCHOENBURG's Motion for Summary Judgment, or Alternatively Summary
27 Adjudication, and the evidence presented having been fully considered, the issues having
28 fully been duly heard and a decision having been duly rendered,

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IT IS ORDERED AND ADJUDGED that:

The Schoenburgs' motion for summary judgment is GRANTED as to:

- i. claims based on the activities of business entity Defendants other than Z&S and ZM;
- ii. Unjust enrichment;
- iii. causes of action based on breaches of California Food & Agriculture Code §§56611, 56615, 56623 and 56620; and
- iv. The Schoenburgs do not claim an interest in the Property located at 39303 Road 56 in Dinuba, California.

The Schoenburgs' motion for summary judgment is DENIED as to:

- i. PACA liability; and
- ii. Fiduciary duty.

IT IS SO ORDERED.

Dated: August 9, 2011

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE