

1 TROUTMAN SANDERS LLP
Terrence R. McInnis, Bar No. 155416
2 terrence.mcinnis@troutmansanders.com
Kevin F. Kieffer, Bar No. 192193
3 kevin.kieffer@troutmansanders.com
Peter R. Lucier, Bar No. 246397
4 peter.lucier@troutmansanders.com
5 Park Plaza, Suite 1400
5 Irvine, CA 92614-2545
Telephone: 949.622.2700
6 Facsimile: 949.622.2739

7 *Attorneys for Plaintiffs Allied World National*
Assurance Company and Allied World Assurance
8 *Company (U.S.) Inc.*

9 Please see continuation page for a complete list
of parties and their counsel
10

11
12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA

14 ALLIED WORLD NATIONAL
ASSURANCE COMPANY, a New
15 Hampshire corporation, and ALLIED
WORLD ASSURANCE COMPANY (U.S.)
16 INC., a Delaware corporation,

17 Plaintiffs,

18 v.

19 SK PM CORP., a California corporation aka
"S.K. Foods PM Corp.," SK FOODS, L.P., a
20 California limited partnership, FREDERICK
SCOTT SALYER, an individual,
21 BLACKSTONE RANCH, a California
corporation aka "Blackstone Ranch Calif 'S'
22 Corp.," SCOTT SALYER REVOCABLE
TRUST, a trust, THE CAROLINE GAZELLE
23 SALYER IRREVOCABLE TRUST, a trust,
THE STEFANIE ANN SALYER
24 IRREVOCABLE TRUST, a trust, SS FARMS,
LLC, a California limited liability company,
25 SK FOODS, LP

26 (caption continued on next page)
27
28

Case No. 1:10-CV-01262-LJO-JLT

Hon. Lawrence J. O'Neill
Hon. Jennifer L. Thurston

**NOTICE OF SETTLEMENT AND
STIPULATION AND ORDER
CONTINUING DEADLINES**

***COURT LANGUAGE ADDED
TO ORDER***

Trial set for: April 1, 2014

1 401K PLAN, an ERISA plan aka “SK Foods
2 L.P. Blackstone Ranch & SK Foods L.P. 401K
3 Plan,” SARS, LLC, a California limited
4 liability company, CSSS LP, a California
5 limited partnership d/b/a Central Valley
6 Shippers, SK FOODS LLC, a Nevada limited
7 liability company, S.K. FOODS PM CORP., an
8 entity or a d/b/a of unknown legal capacity,
9 SKF AVIATION, LLC, a California limited
10 liability company, SSC FARMING, LLC, a
11 California limited liability company, RHM
12 INDUSTRIAL/SPECIALTY FOODS, INC., a
13 California corporation d/b/a Colusa County
14 Canning Company and d/b/a SK Foods –
15 Colusa Canning, CARMEL WINE
16 MERCHANTS LLC, a California limited
17 liability company, CIRCLE PACIFIC LTD., a
18 New Zealand company, SUNRISE COAST
19 JAPAN, an entity or a d/b/a of unknown legal
20 capacity, SSC FARMS I, LLC, a California
21 limited liability company, SSC FARMS II,
22 LLC, a California limited liability company,
23 SK FARM SERVICES, LLC, a California
24 limited liability company, SK FROZEN
25 FOODS, LLC, a California limited liability
26 company, SALYER AMERICAN
27 INSURANCE SERVICES, a California limited
28 liability company, SSC FARMS III, LLC, a
California limited liability company, SALYER
AMERICAN COOLING, a general
partnership, , and SALYER AMERICAN
FRESH FOODS, a California corporation,

Defendants.

Continuation Page

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Gregory C. Nuti (CSBN 151754)
gnuti@schnader.com
Kevin W. Coleman (CSBN 168538)
kcoleman@schnader.com
Kathryn N. Richter (CSBN 100129)
krichter@schnader.com
SCHNADER HARRISON SEGAL & LEWIS LLP
One Montgomery Street, Suite 2200
San Francisco, California 94104-5501
Telephone: 415.364.6742
Facsimile: 415.364.6785

*Attorneys for Bradley D. Sharp, Chapter 11
Trustee*

LAW OFFICES OF DAVID C. WINTON
David C. Winton, Bar No. 152417
david@dcwintonlaw.com
2 Ranch Drive, Suite 8
Novato, CA 94945
415.421.5800 Tel
415.358.4122 Fax

*Counsel for Frederick Scott Salyer individually
and as trustee for the Scott Salyer Revocable
Trust, Robert Pruett, Trustee for the Caroline
Gazelle Salyer 1999 Irrevocable Trust, the
Caroline Gazelle Salyer 2007 Irrevocable
Trust, the Stefanie Ann Salyer 1999 Irrevocable
Trust and the Stefanie Ann Salyer 2007
Irrevocable Trust, SK PM Corp., aka "S.K.
Foods PM Corp.," Blackstone Ranch, aka
"Blackstone Ranch Calif 'S' Corp.," SS Farms,
LLC, SARS, LLC, CSSS LP, d/b/a Central
Valley Shippers, SK Foods LLC, S.K. Foods
PM Corp., SKF Aviation, LLC, SSC Farming
LLC, SSC Farms I, LLC, SSC Farms II, LLC,
SSC Farms III, LLC, SK Farm Services, LLC,
SK Frozen Foods, LLC*

TROUTMAN SANDERS LLP
5 PARK PLAZA
SUITE 1400
IRVINE, CA 92614-2545

1 TO THE COURT, ALL PARTIES, AND/OR THEIR ATTORNEYS OF RECORD:
2 PLEASE TAKE NOTICE THAT Plaintiffs Allied World National Assurance Company
3 (“Allied World”) and Allied World Assurance Company (U.S.) Inc. (“AWAC”) (collectively
4 “Plaintiffs”) have reached a settlement in principle with all remaining defendants in the above-
5 captioned action, with the exception of the defendants against whom the Clerk has already
6 entered default.¹ Accordingly, as set forth below, the parties stipulate and respectfully request
7 that the Court enter an Order continuing certain upcoming deadlines to allow time to complete the
8 settlement and dismissal of this action.

9
10 WHEREAS, the Plaintiffs have reached separate agreements with two groups of
11 defendants. First, Plaintiffs have reached a settlement in principle with the Chapter 11 Trustee for
12 SK Foods, L.P. and RHM Industrial/Specialty (collectively the “Debtors”). Second, the Plaintiffs
13 have reached a settlement in principle with the following parties, who are referred to collectively
14 as the “Salyer Parties”:

- 15 1) Frederick Scott Salyer, individually and as trustee for the Scott Salyer
16 Revocable Trust,
- 17 2) Robert Pruett, Trustee for the Caroline Gazelle Salyer 1999 Irrevocable Trust
18 and the Caroline Gazelle Salyer 2007 Irrevocable Trust (sued as The Caroline
19 Gazelle Salyer Irrevocable Trust), the Stefanie Ann Salyer 1999 Irrevocable
20 Trust and the Stefanie Ann Salyer 2007 Irrevocable Trust (sued as The
21 Stefanie Ann Salyer Irrevocable Trust),
- 22 3) SK PM Corp., aka “S.K. Foods PM Corp.,”
- 23 4) Blackstone Ranch, aka “Blackstone Ranch Calif ‘S’ Corp.,”
- 24 5) SS Farms, LLC,
- 25 6) SARS, LLC,

26
27 ¹ On May 5, 2011, the Clerk entered default against Defendants Circle Pacific Ltd., SK Foods, LP
28 401K Plan, and Sunrise Coast Japan. (Doc. # 62.) On May 6, 2011, the Clerk entered default
against Salyer American Fresh Foods, Salyer American Insurance Services. (Doc. No. 65.)

- 1 7) CSSS LP, d/b/a Central Valley Shippers,
- 2 8) SK Foods LLC,
- 3 9) S.K. Foods PM Corp.,
- 4 10) SKF Aviation, LLC,
- 5 11) SSC Farming LLC,
- 6 12) SSC Farms I, LLC,
- 7 13) SSC Farms II, LLC,
- 8 14) SSC Farms III, LLC,
- 9 15) SK Farm Services, LLC,
- 10 16) SK Frozen Foods, LLC,
- 11 17) Carmel Wine Merchants LLC, and
- 12 18) Salyer American Cooling;

13 WHEREAS, the parties are in the process of preparing formal settlement documentation.
14 The parties anticipate that the settlements will be finalized within the next two weeks;

15 WHEREAS, upon finalization of Plaintiffs' settlement with the Salyer Parties, Plaintiffs
16 and the Salyer Parties shall file a dismissal of the present action as to the Salyer Parties;

17 WHEREAS, Plaintiffs' settlement with the Chapter 11 Trustee will be contingent on the
18 issuance of orders from the Bankruptcy Court approving the settlement agreement in the Debtors'
19 consolidated bankruptcy proceedings, captioned *In re SK Foods, L.P.*, No. 09-29162-D-11
20 (Bankr. E.D. Cal.), and *In re RHM Industrial/Specialty Foods, Inc.*, No. 09-29161-D-11 (Bankr.
21 E.D. Cal.) (collectively the "Bankruptcy Proceedings").

22 WHEREAS, as soon as Plaintiffs' settlement with the Chapter 11 Trustee is finalized, the
23 Chapter 11 Trustee shall file a motion to approve the settlement in the Bankruptcy Proceedings
24 pursuant to Rule 9019 of the Federal Rules of Bankruptcy Procedure ("Motion to Approve
25 Compromise"). Subject to the Bankruptcy Court's calendar, the Parties anticipate that the Motion
26 to Approve Compromise will be heard on January 16, 2012.

27
28

1 WHEREAS, as soon as possible after the Bankruptcy Courts' approval of the settlement
2 with the Chapter 11 Trustee, Plaintiffs and the Chapter 11 Trustee shall file a dismissal of this
3 action as to the Chapter 11 Trustee.

4 WHEREAS, in light of the anticipated settlement of the present action, which is
5 contingent on a Bankruptcy Court order approving the Plaintiffs' settlement with the Chapter 11
6 Trustee, the parties believe that good cause exists to modify certain upcoming deadlines in this
7 action, as described below;

8
9 NOW THEREFORE, the parties, through counsel, hereby STIPULATE and REQUEST
10 that the Court enter an Order that:

11 1. That the deadline for the Chapter 11 Trustee to respond to the First Amended
12 Complaint is extended until 14 days after the Bankruptcy Court rules on the Motion to Approve
13 Compromise, and all rights to appeal have elapsed;

14 2. That the deadline for Plaintiffs and the Chapter 11 Trustee to exchange initial
15 disclosures pursuant to Fed. R. Civ. P. 26(a)(1) is extended until 14 days after the Bankruptcy
16 Court rules on the Motion to Approve Compromise, and all rights to appeal have elapsed;

17 3. That the deadline for the Salyer Parties to respond to the First Amended Complaint
18 is extended until February 1, 2013;

19 4. That the deadline for Plaintiffs and the Salyer Parties to exchange initial
20 disclosures pursuant to Fed. R. Civ. P. 26(a)(1) is extended to February 1, 2013;

21 5. That the Mid-Discovery Status Conference currently set for January 11, 2013, at
22 9:15 a.m., is continued until further Order of the Court; and

23 6. That the Settlement Conference currently set for January 17, 2013, at 1:30 p.m., is
24 continued until further Order of the Court.

25
26
27
28

1 Dated: December 19, 2012

TROUTMAN SANDERS LLP

2

3

By: /s/ Peter R. Lucier

4

Terrence R. McInnis
Kevin F. Kieffer
Peter R. Lucier

5

*Attorneys for Plaintiffs Allied World National
Assurance Company and Allied World Assurance
Company (U.S.) Inc.*

6

7

Dated: December 19, 2012

LAW OFFICES OF DAVID C. WINTON

8

9

By: /s/ David C. Winton (as authorized 12/14/2012)

10

David C. Winton

11

Counsel for the "Salyer Defendants," listed above

12

Dated: December 19, 2012

SCHNADER HARRISON SEGAL & LEWIS LLP

13

By: /s/ Kathryn N. Richter (as authorized 12/13/2012)

14

Gregory C. Nuti
Kevin W. Coleman
Kathryn N. Richter

15

*Attorneys for Bradley D. Sharp, Chapter 11
Trustee*

16

17

CERTIFICATION

18

19

Pursuant to Local Rule 131(e), I, PETER R. LUCIER, certify that on December 13 and
20 14, 2012 David C. Winton and Kathryn N. Richter authorized me to submit this Notice of
21 Settlement and Stipulation and [Proposed] Order Continuing Deadlines on their behalf.

22

23

24

25

26

27

28

ORDER

Pursuant to the foregoing, this Court hereby Orders:

1. That the deadline for the Chapter 11 Trustee to respond to the First Amended Complaint is extended until 14 days after the Bankruptcy Court rules on the Motion to Approve Compromise, and all rights to appeal have elapsed;
2. That the deadline for Plaintiffs and the Chapter 11 Trustee to exchange initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) is extended until 14 days after the Bankruptcy Court rules on the Motion to Approve Compromise, and all rights to appeal have elapsed;
3. That the deadline for the Salyer Parties to respond to the First Amended Complaint is extended until February 1, 2013;
4. That the deadline for Plaintiffs and the Salyer Parties to exchange initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) is extended to February 1, 2013;
5. That the Mid-Discovery Status Conference currently set for January 11, 2013, at 9:15 a.m., is continued until further Order of the Court; and
6. That the Settlement Conference currently set for January 17, 2013, at 1:30 p.m., is continued until further Order of the Court.

This Court FURTHER ORDERS the parties to diligently complete settlement and to file status reports every 45 days, starting January 30, 2013, to address the completion of settlement.

IT IS SO ORDERED.

Dated: December 20, 2012

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE