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24 UNITED STATES DISTRICT COURT
25 EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION

26 PATRICIA FRANCO and LILIA CASTRO, on
27 behalf of themselves and on behalf of all other
28 similarly situated individuals,

Case No. 1:10-CV-02354-SKO
[CLASS ACTION]

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Plaintiffs,

v.

RUIZ FOOD PRODUCTS, INC., and DOES 1-50, inclusive,

Defendants.

**JOINT STIPULATION AND ORDER
re: ALLOCATION OF *CY PRES*
FUNDS TO ADDITIONAL CLASS
MEMBERS**

Judge: Sheila K. Oberto

THE PARTIES STIPULATE AND AGREE as follows:

1. On November 27, 2012, the Court entered its “Order Granting Final Approval of Class Action Settlement” (hereinafter the Final Order).
2. The Parties have discovered two class members whose desire to participate in the class settlement came to light after the Court’s Final Order.
 - a. Subsequent to the distribution of Settlement Award checks, Class Counsel were contacted by Class Member Andres Chavez (“Chavez”). Although Chavez was on the list of Class Members and was sent a Class Notice package, Chavez was not considered an eligible Class Member because the original Class Notice package mailed to him at his last-known address was returned by the United States Postal Service as undeliverable, and attempts to locate his current address were unsuccessful. To afford Chavez the opportunity to participate in the settlement, the Parties propose that a check be issued to Chavez in the amount of \$1,101.21 (after withholdings).
 - b. On May 23, 2013, the Parties learned that Class Member Maria Luisa Garcia (“Garcia”) did not receive her Settlement Award check. For reasons unknown, the Class database did not reflect Garcia’s newly changed address and, thus, her check had been returned as undeliverable and voided. To address this situation, the Parties propose that a Settlement Award check in the sum of \$110.52 be promptly re-issued to Garcia.
3. The Parties agree that Chavez and Garcia are entitled to participate in the Class Settlement. However, because accounting for all other Class Action Settlement

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Members has already been finished, the Parties propose that the payments to Chavez and Garcia be drawn from remaining *cy pres* funds account.

4. The *cy pres* funds contain sufficient funds to provide payment to Chavez and Garcia. Providing for payments to Chavez and Garcia will permit them to recover on the same basis as all other class members without requiring a mass recalculation of all awards allocated to class members.

5. The Parties request that: (1) the Court authorize the Settlement Administrator to draw from the *cy pres* reserve and issue the final two checks to Chavez and Garcia; and, (2) the Settlement Administrator then issue said checks and prepare a supplemental declaration to the Court confirming that such checks have been issued and cashed prior to the Court’s issuance of its Final Judgment and Dismissal. Alternatively, the Parties request that the Court deem Chavez and Garcia as class members subject to all terms of its Final Order and Final Judgment and Dismissal.

The Parties, by and through their counsel of record, hereby knowingly and voluntarily enter this Joint Stipulation on the date(s) set forth below:

Shepherd, Finkelman, Miller & Shah, LLP

DATED: May 28, 2013

By: /s/ Rose F. Luzon
Rose F. Luzon
Attorneys for Plaintiffs and Class Counsel (on behalf of Plaintiffs, the Class, Shepherd, Finkelman, Miller & Shah, LLP and all other Class Counsel)

DATED: May 28, 2013

Jackson Lewis LLP

By: /s/ Mitchell F. Boomer
Mitchell F. Boomer
Attorneys for Ruiz Food Products, Inc.

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ORDER

GOOD CAUSE appearing, the Settlement Administrator is authorized and directed to draw funds from the *cy pres* reserve in this matter and prepare checks made out to Andres Chavez and Maria Luisa Garcia in the net sums of \$1,101.21 and \$110.52 respectively, to draw any additional funds necessary to provide for required withholdings and tax allocations, and to report back to the Court as soon as receipt and cashing of those checks by Mr. Chavez and Ms. Garcia is confirmed. Mr. Chavez and Ms. Garcia shall be deemed Class Members bound by the Court's Order Granting Final Approval of Class Action Settlement and Final Judgment and Dismissal. (Doc. 53.)

IT IS SO ORDERED.

Dated: May 30, 2013

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE