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8 **UNITED STATES DISTRICT COURT**
 9 **EASTERN DISTRICT OF CALIFORNIA**
 10 **FRESNO DIVISION**

11 TAMMY L. MISHAL,)
 12 Plaintiff,)
 13 v.)
 14 CAROLYN W. COLVIN, Acting)
 Commissioner of Social Security,*)
 15 Defendant.)
 16
 17 _____)

No. 1:11-cv-00985-BAM

STIPULATION AND ORDER TO REOPEN CASE

18 IT IS HEREBY STIPULATED by the parties, through their undersigned attorneys, and with
19 the approval of the Court, that this case shall be reopened.

20 On February 7, 2012, the Court remanded this case for further administrative proceedings,
21 and retained jurisdiction pursuant to sentence six of 42 U.S.C. § 405(g). The parties stipulated to
22 remand this case so that Plaintiff could have a new hearing before the administrative law judge
23 (ALJ) and receive a new decision, as portions of her January 2009 hearing were inaudible. On
24 August 28, 2012, the ALJ issued a partially favorable decision. This became the final decision of the
25 Commissioner when the Appeals Council declined to assume jurisdiction of the case within 60 days

26
27 * Carolyn W. Colvin became the Acting Commissioner of Social Security on February 14, 2013. Pursuant to
 Rule 25(d) of the Federal Rules of Civil Procedure, Carolyn W. Colvin should be substituted for Michael J.
 Astrue as the defendant in this suit. No further action need to be taken to continue this suit by reason of the last
 28 sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1 of the ALJ's decision.

2 Now that the administrative proceedings have concluded, reopening is necessary. In a
3 sentence-six remand case, the Court retains jurisdiction following the remand. *See Melkonyan v.*
4 *Sullivan*, 501 U.S. 89, 98; 111 S.Ct. 2157; 115 L.Ed. 78 (1991) (District Court retains jurisdiction
5 over Social Security cases remanded under 42 U.S.C. § 405(g), sentence six, and where the final
6 administrative decision is favorable to one party or the other, the Commissioner is to return to Court
7 following completion of the administrative proceedings on remand so that the Court may enter a
8 final judgment or, as in this case, a dismissal); *see also Shalala v. Schaefer*, 509 U.S. 292, 298-300;
9 113 S.Ct. 2625; 125 L.Ed.2d 239 (1993). It is therefore appropriate to reopen this case. Upon
10 reopening, Defendant will file her answer and certified administrative record within 30 days of this
11 Court's order.

12 Dated: March 14, 2013

By: /s/ Laura E. Krank*
LAURA E. KRANK
*As authorized by email on March 11, 2013
Attorney for Plaintiff

15 Dated: March 14, 2013

BENJAMIN B. WAGNER
United States Attorney

17 By: /s/ Annabelle J. Yang
ANNABELLE J. YANG
Special Assistant U.S. Attorney
19 Attorneys for Defendant

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ORDER

Based on the above, the parties' stipulation is **GRANTED**. The Court's February 7, 2012, order remanding this action is **VACATED** and the Clerk of the Court is **ORDERED** to **REOPEN** the action. The Commissioner shall file an administrative record and an answer on or before **April 18, 2013**.

IT IS SO ORDERED.

Dated: March 18, 2013

/s/ **Barbara A. McAuliffe**
UNITED STATES MAGISTRATE JUDGE