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Attorney for Appellant,
PENNY NEWMAN GRAIN CO.

FILED
DEC 02 2013
CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY *[Signature]*
DEPUTY CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

In re:
JOHN VISSER and GRACE VISSÉR, *et al.*,

Debtors-In-Possession.

District Court Case No. 1-13-CV-01769-AWI
Bankruptcy Case No.: 12-17310-A-11
Chapter 11
Jointly Administered With:
Case No. 12-17311
Case No. 12-17315
Case No. 12-17316

PENNY NEWMAN GRAIN CO., a California
Corporation,

Appellant,

v.
WELLS FARGO BANK, N.A., a National
Association,

Appellees.

Adv. Proc. No. 13-01060
DCN: BAS-1
**STIPULATION FOR VOLUNTARY
DISMISSAL OF APPEAL PURSUANT TO
FRBP 8001(c)(2)**

Wells Fargo Bank N.A. v. Penny Newman Grain Company

Doc. 5

1 This Stipulation is entered into by and between Penny Newman Grain Co. ("Penny
2 Newman") and Wells Fargo Bank, N.A. ("Wells Fargo"), through their respective counsel of record,
3 based upon the following facts:

4 WHEREAS, on or about May 29, 2013, Penny Newman filed a complaint against Wells
5 Fargo in the instant adversary action asserting causes of action under §§ 506(c) and 552(b)(1) of the
6 Bankruptcy Code (the "Complaint").

7
8 WHEREAS, on August 21, 2013, Wells Fargo filed a motion to dismiss the Complaint for
9 lack of jurisdiction and for failure to state a claim upon which relief can be granted (the "Motion to
10 Dismiss").

11 WHEREAS, the Bankruptcy Court entered an order granting the Motion to Dismiss on
12 October 7, 2013 (the "Order Dismissing the Complaint").

13
14 WHEREAS, Penny Newman filed a notice of appeal of the Order Dismissing the Complaint
15 on October 21, 2013.

16
17 WHEREAS, on October 22, 2013, the Court Clerk served that Notice of Referral of Appeal
18 to the Bankruptcy Appellate Panel of the Ninth Circuit.

19
20 WHEREAS, on October 28, 2013, Wells Fargo filed and served that Appellee Wells Fargo
21 Bank, N.A.'s Statement of Election To Have Appeal Heard by District Court Instead of Bankruptcy
22 Appellate Panel Pursuant to 28 U.S.C. § 158(c)(1)(B).

23
24 WHEREAS, on November 4, 2013, Penny Newman filed and served that Statement of Issues
25 and that Appellant Designation of Contents for Inclusion on Record on Appeal.

26
27 WHEREAS, Penny Newman has determined that it no longer desires to pursue the present
28 appeal, which determination is not, in any way, a reflection or admission regarding the merits of the
appeal.

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WHEREAS, Wells Fargo has no objection with the voluntary dismissal of the present appeal by Penny Newman.

NOW, THEREFORE,

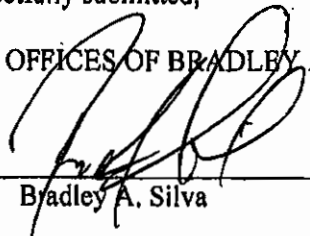
Penny Newman and Wells Fargo, hereby stipulate and agree that, subject to this Court's approval of the same, the instant appeal filed by Penny Newman will be dismissed, with each party to bear its own costs and Penny Newman shall pay any and all court costs or fees with respect to the instant appeal.

A proposed form of Order granting this relief has been approved by all parties, through their respective counsel of record, and is being submitted concurrently with this Stipulation.

Respectfully submitted,

Dated: November 21, 2013

LAW OFFICES OF BRADLEY A. SILVA

By: 
Bradley A. Silva

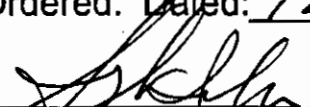
Attorney for Appellant, Penny Newman Grain Co.

Dated: November 25, 2013

PILLSBURY WINTHROP SHAW PITTMAN LLP

By: 
M. David Minnick
Attorney for Appellee, Wells Fargo Bank, N.A.

It is so Ordered. Dated: 12-2-13


United States District Judge