

1 **TIFFANY LENA, ESQ.; SBN 185603**

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6 UNITED STATES DISTRICT COURT

7 EASTERN DISTRICT OF CALIFORNIA

8 **BOARD OF TRUSTEES OF THE KERN**  
9 **COUNTY ELECTRICAL PENSION FUND,**  
10 **BOARD OF TRUSTEES OF THE KERN**  
11 **COUNTY ELECTRICAL WORKERS**  
12 **HEALTH & WELFARE TRUST, AND**  
13 **BOARD OF TRUSTEES OF THE KERN**  
14 **COUNTY ELECTRICAL JOURNEYMAN &**  
15 **APPRENTICESHIP TRAINING TRUST,**

16 **Plaintiffs,**

17 **v.**

18 **ATKINS SPECIALTY SERVICES, INC.**

19 **Defendant.**

Civil Case No.: 1:16-CV-01925-LJO-SKO

**STIPULATED JUDGMENT AND  
ORDER THEREON**

20 WHEREAS, Plaintiffs Board of Trustees of the Kern County Electrical Workers' Pension  
21 Fund, Board of Trustees of the Kern County Electrical Workers' Health & Welfare Trust, and  
22 Board of Trustees of the Kern County Electrical Journeyman & Apprenticeship Training Trust  
23 (hereinafter "Plaintiffs") and Defendant Atkins Specialty Services, Inc (hereinafter  
24 "Defendant"), collectively referred to as "the Parties," have agreed to settle this lawsuit on the  
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28 **STIPULATED JUDGMENT AND ORDER THEREON**  
CAED Case No.: 1:16-CV-01925-LJO-SKO

1 terms set forth in this Stipulated Judgment. The Parties understand that each party has the right  
2 to a trial, the right to see a judge at any time and the right not to enter into a settlement.

3 However, after a review of all the issues, the Parties agree that they do not want to go to trial and  
4 instead agree to the following Stipulation in settlement of the issues in this matter.  
5

6 On or about December 23, 2016, a civil Complaint was filed against the above-mentioned  
7 Defendant, alleging that Defendant owed a certain sum of money to Plaintiffs for contractually  
8 obligated delinquent fringe benefit contributions. Defendant was properly served with the  
9 Complaint and Summons on or about January 10, 2017. Prior to answering the Complaint, the  
10 Defendant filed an Petition for Voluntary Bankruptcy under Chapter 11 of Title 11 of the United  
11 States Code thereby staying this action under U.S.C. §362(a)(1) and (a)(3). Plaintiffs are  
12 unsecured creditors with a priority claim under the Bankruptcy Code.  
13

14 Defendant now wishes to settle the instant matter as well as dismiss the Bankruptcy  
15 matter to avoid incurring further professional fees and costs. In consideration thereof, Defendant  
16 has offered to settle both matters in full for the total sum of \$153,526.31 which includes  
17 contributions, liquidated damages and interest. A copy of the payment schedule detailing the  
18 monthly payments is attached hereto as Exhibit "A" and incorporated herein by reference.  
19

20 The parties acknowledge that this Court has jurisdiction over the subject matter of this  
21 action and over each of the parties to this Stipulated Judgment, and that this Court shall retain  
22 jurisdiction for the purposes of implementing and enforcing this Stipulated Judgment. The  
23 parties agree to present any disputes under this Stipulated Judgment, including without limitation  
24 any claims for breach or enforcement of this Stipulated Judgment, exclusively to this Court.  
25  
26  
27

1 Parties thereby agree that a judgment shall be entered in the sum of \$153,526.31 against  
2 Defendant. An initial payment of \$5,000 shall be made to Plaintiffs on or before the third  
3 business day after the Effective Date of this Stipulated Judgment. The remainder shall be paid to  
4 Plaintiffs over a 72-month period with each periodic payment being made on or before the tenth  
5 of each month in the sum of \$2,072.74, commencing July 10, 2017. The final payment shall be  
6 in the amount of \$1,361.77 on June 10, 2023.

8 Defendant shall have the right to cure any default under this Stipulation within 14 days of  
9 Plaintiffs' notice of default to Defendant.

11 All payments by Defendant to Plaintiffs shall be made payable to Construction Benefits  
12 Administration, Inc. at the following address:

13 Construction Benefits Administration, Inc.  
14 3805 North Sillect Avenue, Suite B  
15 Bakersfield, CA 93308

16 So long as Defendant makes timely payments to Plaintiffs as required by this Stipulated  
17 Judgment, Plaintiffs may not engage in any other methods of enforcing the judgment not  
18 described by above. Should Defendant fail to make any payment in the time and manner  
19 specified, the total remaining sum of the judgment shall become immediately due and payable.  
20 Upon such default, Plaintiffs are authorized to enter a Revised Final Judgment in their favor, if  
21 such default continues after ten (10) days written notice to the defaulting party by regular mail  
22 for the amount due as demanded, less any sums paid on account, plus accrued interest in the  
23 amount of 10% per annum.  
24  
25  
26  
27

1 The Effective Date of this Stipulation is the date that an order dismissing Defendant's  
2 Chapter 11 Case becomes a final order. Defendants shall use commercially reasonable efforts to  
3 cause the Chapter 11 Case to be dismissed as soon as reasonable practical.  
4

5 This Stipulation may be executed in any number of counterparts, delivered by facsimile  
6 or electronic mail, each of which when so executed and delivered shall be deemed an original,  
7 and such counterparts shall together constitute one and the same instrument.

8 DATED: May \_\_\_\_, 2017

9 Plaintiffs BOARD OF TRUSTEES OF THE  
10 KERN COUNTY ELECTRICAL PENSION  
11 FUND, BOARD OF TRUSTEES OF THE KERN  
12 COUNTY ELECTRICAL WORKERS HEALTH  
13 & WELFARE TRUST, AND BOARD OF  
14 TRUSTEES OF THE KERN COUNTY  
15 ELECTRICAL JOURNEYMAN &  
16 APPRENTICESHIP TRAINING TRUST

17 \_\_\_\_\_  
18 Tiffany Lena, on behalf of  
19 Plaintiffs

20 Defendant ATKINS SPECIALTY SERVICES,  
21 INC.

22 DATED:

23 \_\_\_\_\_  
24 Rhonda Atkins, Chief Executive Officer, on behalf  
25 of Defendant

26 DATED:

27 \_\_\_\_\_  
28 Jeff Atkins, Chief Operating Officer, on behalf of  
29 Defendant

30 IT IS SO ORDERED.

31 Dated: July 24, 2017

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