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6 Attorneys for Defendants
 JKA ENTERPRISES, LLC, NICHOLAS JOHNSON,
 7 TIMOTHY KIM AND JARED ACOSTA

8 UNITED STATES DISTRICT COURT
 9 FOR THE EASTERN DISTRICT OF CALIFORNIA

11 MICHAEL VASILE, an individual; SALLY) Case No.: 2:12-cv-02912-KJM-CKD
 ANN BURT KELSH, an individual,)

12 Plaintiffs,)

13 v.)

14 FLAGSHIP FINANCIAL GROUP, LLC, a))
 Utah Limited Liability Company; JKA))
 15 ENTERPRISES, LLC, a California Limited))
 Liability Company; NICHOLAS JOHNSON,))
 16 an individual; TIMOTHY KIM, an individual;))
 17 JARED ACOSTA, an individual; MICHAEL))
 BALLATYNE, an individual; and))
 18 STEPHANIE LUKE, an individual,)
 19 Defendants.)

**STIPULATION AND ORDER
 REGARDING THE DISMISSAL AND
 MODIFICATION OF CERTAIN CLAIMS
 AND AMENDMENT OF PLEADINGS**

Complaint Filed: November 30, 2012

Judge: Hon. Kimberly J. Mueller

22 Plaintiffs Michael Vasile and Sally Ann Burt Kelsch, and Defendants JKA Enterprises,
 23 LLC, Jared Acosta, Timothy Kim, and Nicholas Johnson and Defendant Flagship Financial
 24 Group, LLC, by and through counsel of record, hereby stipulate as follows:

25 1. Plaintiffs Michael Vasile and Sally Ann Burt Kelsch dismiss without prejudice
 26 the Ninth Cause of Action for Conversion against Defendants JKA Enterprises, LLC, Jared
 27 Acosta, Timothy Kim, Nicholas Johnson, and Flagship Financial Group, LLC.

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1 2. Plaintiffs Michael Vasile and Sally Ann Burt Kelsch dismiss without prejudice
2 the Fourth Cause of Action for Overtime Violations (Cal. Labor Code §§510 and 1194) against
3 only Defendants JKA Enterprises, LLC, Jared Acosta, Timothy Kim, and Nicholas Johnson.
4 Plaintiffs further agree to dismiss without prejudice their punitive damages request in the Fourth
5 Cause of Action against Defendant Flagship Financial Group, LLC, by deleting the language in
6 Paragraph 86 in the First Amended Complaint and the relevant parts of Paragraph 4 of the
7 Prayer. Further, Plaintiff Vasile agrees that he is not claiming statutory penalties that were added
8 with the enactment of the Private Attorney General Act, and that the language of Paragraph 85 in
9 the body and Paragraph 4 of the Prayer in the First Amended Complaint will be amended to
10 reflect same.

11 3. Plaintiffs Michael Vasile and Sally Ann Burt Kelsch dismiss without prejudice
12 the Fifth Cause of Action for Waiting Time Penalties (Cal. Labor Code §§210-203) against only
13 Defendants JKA Enterprises, LLC, Jared Acosta, Timothy Kim, and Nicholas Johnson.

14 4. Plaintiffs Michael Vasile and Sally Ann Burt Kelsch dismiss without prejudice
15 the Eleventh Cause of Action for Unfair Competition/Business Practices (Cal. Bus. & Prof. Code
16 §17200 *et seq.*) against only Defendants JKA Enterprises, LLC, Jared Acosta, Timothy Kim, and
17 Nicholas Johnson. Plaintiffs further agree to add a paragraph to the Prayer for Relief consistent
18 with Paragraph 140 in the First Amended Complaint as against Defendant Flagship Financial
19 Group, LLC.

20 5. In Counts 1 and 2, Plaintiffs agree to change the language of Paragraphs 55 and
21 61, as well as, Paragraph 2 of the Prayer in the First Amended Complaint from “double
22 damages” to “double back pay” consistent with the statutory language of 31 U.S.C.A.
23 §3730(h)(2).

24 Plaintiffs and all Defendants have reached consensus in regards to the above stipulated
25 points. However, the above points do not resolve all of the pleading issues of the Defendants
26 and same will require resolution by the court by motions from the Defendants. The parties agree
27 that the Defendants will file their Motions to Dismiss on or before the current responsive
28 pleading date of **May 24, 2013**.

1 All parties further stipulate that Plaintiffs Michael Vasile and Sally Ann Burt Kelsch will
2 file a Second Amended Complaint after the Court's ruling on the Motions to Dismiss which will
3 incorporate the stipulated points as expressly set forth above, as well as, any further
4 modifications as Ordered by the Court after said Motions are heard, if any. Finally, the parties
5 agree that Plaintiffs may not add any new causes of action to a Second Amended Complaint
6 unless a further written stipulation is entered into by the parties, or by Order of the Court.
7

8 Dated: May 22, 2013

/s/ A. ALEXANDER GORMAN
A. Alexander Gorman
Attorney for Plaintiffs
Michael Vasile and Sally Ann Burt Kelsch

11
12 Dated: May 22, 2013

/s/ DEREK C. DECKER
Derek C. Decker
Attorney for Defendants
JKA Enterprises, LLC, Nicholas Johnson,
Timothy Kim, and Jared Acosta

15
16 Dated: May 22, 2013

/s/ JERE RENEER
Jere Reneer
Attorney for Defendant
Flagship Financial, LLC

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19 THE TERMS OF THE FOREGOING STIPULATION ARE HEREBY ORDERED:
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21
22 Date: May 28, 2013


UNITED STATES DISTRICT JUDGE