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 7 Richard N. Zacky Irrevocable Trust dated 11/25/07, the  
 Survivor's Trust of Albert and Beverly Zacky Trust Dated  
 8 2/10/88, and the Barbara Jean Zacky Irrevocable Trust Dated  
 12/30/06, and ZF Enterprises, LLC,

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 19 American Huntsman, LLC

20 UNITED STATES DISTRICT COURT  
 21 EASTERN DISTRICT OF CALIFORNIA

22 In re  
 23 ZACKY FARMS, LLC,  
 24 Debtor,  
 25 RICHARD ZACKY, ET AL.,  
 26 Appellants.

CASE No. 2:13-CV-00455  
 Bankruptcy Court Case No. 12-37961

**FURTHER STIPULATION TO ENLARGE  
 TIME TO FILE APPELLANTS'  
 OPENING BRIEF; ORDER**

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 28 1367103v2 / 18027.0004

1 This Further Stipulation to Enlarge Time to File Appellants' Opening Brief  
2 ("Stipulation") is entered into by and between appellants Richard Zacky (individually and in his  
3 capacity as trustee of the Richard N. Zacky Irrevocable Trust dated 11/25/07, the Survivor's Trust  
4 of Albert and Beverly Zacky Trust Dated 2/10/88, and the Barbara Jean Zacky Irrevocable Trust  
5 Dated 12/30/06), ZF Enterprises, LLC, Integrated Grain & Milling, Inc., American Huntsman,  
6 LLC, Big Feather Ranch, LLC, and Lucky Wishbone Ranch, LLC (collectively, "Appellants"), the  
7 Official Committee of Unsecured Creditors ("Creditors' Committee"), and Zacky Farms, LLC  
8 ("Debtor"), by and through their respective attorneys of record.

9 **RECITALS**

10 A. On May 9, 2013, the Clerk of Court for the United States District Court,  
11 Eastern District of California ("District Court") filed its Briefing Schedule in Bankruptcy Appeal  
12 ("Briefing Schedule"). A previous Stipulation to Enlarge Time to File Appellants' Opening Brief  
13 was timely filed by the parties to this Stipulation on May 22, 2013. The Court granted the  
14 stipulation on May 23, 2013, and ordered that Appellants' opening brief be filed by July 8, 2013.

15 B. On July 2, 2013, the parties timely filed a Further Stipulation to Enlarge  
16 Time to File Appellants' Opening Brief ("Second Stipulation"). The Second Stipulation sought a  
17 further twenty-one (21) day enlargement of time for Appellants to file their opening brief. On July  
18 3, 2013, the Court granted the Second Stipulation and ordered that Appellants' opening brief be  
19 filed by July 29, 2013.

20 C. On July 26, 2013, the parties timely filed a Further Stipulation to Enlarge  
21 Time to File Appellants' Opening Brief ("Third Stipulation"). The Third Stipulation sought a  
22 further thirty (30) day enlargement of time for Appellants to file their opening brief. On July 26,  
23 2013, the Court granted the Third Stipulation and ordered that Appellants' opening brief be filed  
24 by August 28, 2013.

25 D. As previously reported to the Court, Appellants, the Creditors' Committee  
26 and the Debtor (collectively, "Parties") have reached a tentative settlement of this matter. Since  
27 the filing of the Second Stipulation, a change in management had occurred at Integrated

1 Grain & Milling, Inc. ("IGM") and IGM's new management needed additional time to evaluate the  
2 tentative settlement. The Parties are still working toward final settlement and continue to believe  
3 that a final settlement will be forthcoming at which time a suitable, written settlement agreement  
4 among the Parties will be finalized, and the Parties will seek U.S. Bankruptcy Court approval of  
5 the settlement. Upon approval by the U.S. Bankruptcy Court, Appellants will dismiss the appeal.

6 E. The Parties desire to again further enlarge the time within which Appellants  
7 may file their opening brief. As with the prior enlargements, the requested enlargement will serve  
8 to avoid unnecessary expense and effort on the part of the Parties in prosecuting and defending the  
9 appeal, and the unnecessary expenditure of judicial resources in hearing and deciding the Appeal  
10 in the event a final settlement is approved by the U.S. Bankruptcy Court. Accordingly, the Parties  
11 have entered into this further Stipulation.

12 F. The Committee is willing to stipulate to Appellants' request for a further  
13 enlargement of time within which to file Appellant's opening brief but the Committee does not  
14 stipulate to other assertions made in this Stipulation.

### 15 STIPULATION

16 **IT IS HEREBY STIPULATED** as follows:

- 17 1. The Parties fully incorporate herein the Recitals set forth above.  
18 2. The Parties acknowledge that Federal Rules of Bankruptcy Procedure, Rule  
19 9006(b)(1) provides, in relevant part:

20 ...[W]hen an act is required or allowed to be done at  
21 or within a specified period by these rules or by a  
22 notice given thereunder or by order of court, the court  
23 for cause shown may at any time in its discretion (1)  
24 with or without motion or notice order the period  
25 enlarged if the request therefor is made before the  
26 expiration of the period originally prescribed or as  
27 extended by a previous order....

- 28 3. The Parties acknowledge that good cause exists for a further enlargement of  
time within which Appellants may file their opening brief . Appellants assert that a further  
enlargement of time, as requested, will continue to allow the Parties time to finalize a settlement  
and a suitable, written settlement agreement for presentment to the U.S. Bankruptcy Court for its

1 approval without having to incur the added and potentially unnecessary expense of prosecuting or  
2 defending the appeal. Appellants assert that a further enlargement of time will also result in the  
3 economical use of judicial resources in that the District Court will be able to avoid hearing and  
4 deciding the appeal in the event a final settlement is approved by the U.S. Bankruptcy Court.

5 4. The Parties are requesting that the time to file Appellants' opening brief be further  
6 enlarged by 30 days.

7 5. Accordingly, the Parties agree, subject to the District Court's approval, that  
8 Appellants' opening brief shall be due no sooner than September 27, 2013.

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10 DATED: August 23, 2013.

BAKER MANOCK & JENSEN, PC

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By: /s/ Joseph M. Marchini

Joseph M. Marchini

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Carl R. Refuerzo

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Peter G. Fashing

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Attorneys for Richard Zacky, individually and in his  
capacity as trustee of the Richard N. Zacky Irrevocable  
Trust dated 11/25/07, the Survivor's Trust of Albert and  
Beverly Zacky Trust Dated 2/10/88, and the Barbara  
Jean Zacky Irrevocable Trust Dated 12/30/06, and ZF  
Enterprises, LLC,

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*[Signatures continued on next page.]*

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1 DATED: August 23, 2013.

BOUTIN JONES, INC.

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By: /s/ Mark Gorton

Mark Gorton

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Attorneys for Intergrated Grain & Milling, Inc.

5 DATED: August 23, 2013.

THE LAW OFFICES OF THOMAS H.  
ARMSTRONG

6

7

By: /s/ Thomas H. Armstrong

Thomas H. Armstrong

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Attorneys for Big Feather Ranch, LLC, Lucky

9

Wishbone Ranch, LLC and American Huntsman, LLC

10

11 DATED: August 27, 2013.

FELDERSTEIN FITZGERALD WILLOUGHBY &  
PASCUZZI, LLP

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13

By: /s/ Thomas A. Willoughby

Thomas A. Willoughby

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Attorneys for Zacky Farms, LLC

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16 DATED: August 23, 2013.

LOWENSTEIN SANDLER LLP

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By: /s/ Wojciech F. Jung

Wojciech F. Jung

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Attorneys for the Official Committee of Unsecured  
Creditors

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**ORDER**

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Having read the Stipulation of the Parties, and good cause appearing, **IT IS**

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**HEREBY ORDERED:**

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1. Appellants' opening brief shall be due on September 27, 2013.

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2. The appellee's opening brief shall be due within fourteen (14) days after

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service of Appellants' opening brief.

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3. Appellants may file a reply brief with the District Court, within fourteen (14) days after service of appellee's opening brief.

4. Once all briefs have been submitted, the Appellants are to notify the court in writing, within fourteen (14) days after service of Appellants' reply brief, that the appeal is ready for oral argument.

DATED: 8/27/2013

/s/ John A. Mendez  
United States District Court Judge