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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
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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 PENDING
 BANKRUPTCY COURT APPROVAL OF
 SETTLEMENT; ORDER**

28 1380830v4 / 18027.0004

FURTHER STIPULATION TO ENLARGE TIME TO FILE APPELLANTS' OPENING BRIEF PENDING
 BANKRUPTCY COURT APPROVAL OF SETTLEMENT; and [PROPOSED] ORDER

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

10 **RECITALS**

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

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

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

26 D. On August 27, 2013, the parties timely filed a Further Stipulation to Enlarge
27 Time to File Appellants' Opening Brief ("Fourth Stipulation"). The Fourth Stipulation sought a

1 further thirty (30) day enlargement of time for Appellants to file their opening brief. On August
2 28, 2013, the Court granted the Fourth Stipulation and ordered that Appellants' opening brief be
3 filed by September 27, 2013.

4 E. On September 25, 2013, the parties timely filed a Further Stipulation to
5 Enlarge Time to File Appellants' Opening Brief ("Fifth Stipulation"). The Fifth Stipulation sought
6 a further thirty (30) day enlargement of time for Appellants to file their opening brief. On
7 September 26, 2013, the Court granted the Fifth Stipulation and ordered that Appellants' opening
8 brief be filed by October 28, 2013.

9 F. As previously reported to the Court, Appellants, the Creditors' Committee
10 and the Debtor (collectively, "Parties") had reached a tentative settlement of this matter and were
11 in the process of negotiating terms for a written settlement agreement. On or about September 27,
12 2013, the Parties executed a written settlement agreement ("Settlement"). On September 30, 2013,
13 the Creditor's Committee and Debtor jointly filed in U.S. Bankruptcy Court a motion to approve
14 the Settlement. That motion is currently scheduled to be heard on October 29, 2013.

15 G. The Settlement provides in relevant part:

16 Effective on the date this Agreement is approved by
17 the Bankruptcy Court by entry of a final and non-
18 appealable order (the "Effective Date"), the Parties
19 wish to resolve their disputes related to the Debtor
20 and the Chapter 11 Case....

19 ¶ ...Upon the Effective Date, the [instant Appeal]
20 shall be deemed withdrawn. Immediately after the
21 Effective Date, [Appellants] shall take all actions
22 necessary to cause the [instant Appeal] to be
23 dismissed with prejudice.

22 H. Rule 8002 of the Federal Rules of Bankruptcy Procedure provides, in
23 relevant part: "The notice of appeal shall be filed ... within 14 days of the date of the entry of the
24 judgment, order, or decree appealed from."

25 I. Because (1) the motion to approve the Settlement is scheduled to be heard
26 the day after Appellants' opening brief is due, and (2) if the motion to approve the Settlement is
27 granted by the U.S. Bankruptcy Court, Appellants will dismiss the appeal once said order becomes

1 final, the Parties desire to once again enlarge the time within which Appellants may file their
2 opening brief. This time, the requested enlargement is expected to allow sufficient time for the
3 U.S. Bankruptcy Court to issue its order on the motion to approve the Settlement and, if approved
4 and not appealed, to become final. This will serve to avoid unnecessary expense and effort on the
5 part of the Parties in prosecuting and defending the appeal, and the unnecessary expenditure of
6 judicial resources in hearing and deciding the Appeal in the event the Settlement is approved by
7 the U.S. Bankruptcy Court. Accordingly, the Parties have entered into this further Stipulation.

8 **STIPULATION**

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

- 10 1. The Parties fully incorporate herein the Recitals set forth above.
- 11 2. The Parties acknowledge that Federal Rules of Bankruptcy Procedure, Rule
12 9006(b)(1) provides, in relevant part:

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

- 21 3. The Parties acknowledge that good cause exists for a further enlargement of
22 time within which Appellants may file their opening brief . Appellants assert that a further
23 enlargement of time, as requested, will allow sufficient time for the U.S.
24 Bankruptcy Court to consider and rule upon the motion for approval of the Settlement and, if
25 approved, to allow sufficient time to determine whether an appeal to said Settlement has been
26 timely filed. If an order approving the Settlement becomes final, Appellants will dismiss the
27 instant appeal with prejudice. Thus, a further enlargement of time is expected to result in the
28 economical use of judicial resources in that the District Court will be able to avoid hearing and

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1 deciding the instant appeal and the Parties will be spared the added and unnecessary expense of
2 prosecuting or defending the instant appeal.

3 4. The Parties are requesting that the time to file Appellants' opening
4 brief be further enlarged by 50 days.

5 5. Accordingly, the Parties agree, subject to the District Court's approval, that
6 Appellants' opening brief shall be due no sooner than December 17, 2013.

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8 DATED: October 23, 2013.

BAKER MANOCK & JENSEN, PC

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10

By: /s/ Peter G. Fashing
Joseph M. Marchini
Carl R. Refuerzo
Peter G. Fashing
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: October 11, 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: October 14, 2013.

THE LAW OFFICES OF THOMAS H.
ARMSTRONG

6

7

By: /s/ Thomas H. Armstrong

Thomas H. Armstrong

8

Attorneys for Big Feather Ranch, LLC, Lucky

9

Wishbone Ranch, LLC and American Huntsman, LLC

10

11 DATED: October 22, 2013.

FELDERSTEIN FITZGERALD WILLOUGHBY &
PASCUZZI, LLP

12

13

By: /s/ Thomas A. Willoughby

Thomas A. Willoughby

14

Attorneys for Zacky Farms, LLC

15

16 DATED: October 14, 2013.

LOWENSTEIN SANDLER LLP

17

18

By: /s/ Wojciech F. Jung

Wojciech F. Jung

19

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 December 17, 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: October 23, 2013

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