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 7 Richard N. Zacky Irrevocable Trust dated 11/25/07, the
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 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 JAM
 Bankruptcy Court Case No. 12-37961

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

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 28 1337099v1 / 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 the time for Appellants to file their opening brief. On
18 July 3, 2013, the Court granted the Second Stipulation and ordered that Appellants' opening brief
19 be filed by July 19, 2013.

20 C. As previously reported to the Court, Appellants, the Creditors' Committee
21 and the Debtor (collectively, "Parties") have reached a tentative settlement of this matter. Since
22 the filing of the previous Stipulation, a change in management has occurred at Integrated Grain &
23 Milling, Inc. ("IGM"). IGM's new management needs additional time to evaluate the tentative
24 settlement. The Parties continue to believe that a final settlement will be forthcoming at which
25 time a suitable, written settlement agreement among the Parties will be finalized, and the Parties
26 will seek U.S. Bankruptcy Court approval of the settlement. Upon approval by the U.S.
27 Bankruptcy Court, Appellants will dismiss the appeal.

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

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

10 **STIPULATION**

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

- 12 1. The Parties fully incorporate herein the Recitals set forth above.
13 2. The Parties acknowledge that Federal Rules of Bankruptcy Procedure, Rule
14 9006(b)(1) provides, in relevant part:

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

- 23 3. The Parties acknowledge that good cause exists for a further enlargement of
24 time within which Appellants may file their opening brief . Appellants assert that a further
25 enlargement of time, as requested, will continue to allow the Parties time to finalize a settlement
26 and a suitable, written settlement agreement for presentment to the U.S. Bankruptcy Court for its
27 approval without having to incur the added and potentially unnecessary expense of prosecuting or
28 defending the appeal. Appellants assert that a further enlargement of time will also result in the
economical use of judicial resources in that the District Court will be able to avoid hearing and
deciding the appeal in the event a final settlement is approved by the U.S. Bankruptcy Court.

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

3 5. Accordingly, the Parties agree, subject to the District Court's approval, that
4 Appellants' opening brief shall be due no sooner than August 28, 2013.

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6 DATED: July 26, 2013.

BAKER MANOCK & JENSEN, PC

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By: /s/ Peter G. Fashing

Joseph M. Marchini

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Carl R. Refuerzo

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Peter G. Fashing

11

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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13

14 DATED: July 26, 2013.

BOUTIN JONES, INC.

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By: /s/ Tom Mouzes

Mark Gorton

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Tom Mouzes

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Attorneys for Intergrated Grain & Milling, Inc.

19

DATED: July 26, 2013.

THE LAW OFFICES OF THOMAS H.
ARMSTRONG

20

21

By: Thomas H. Armstrong

Thomas H. Armstrong

22

Attorneys for Big Feather Ranch, LLC, Lucky

23

Wishbone Ranch, LLC and American Huntsman, LLC

24 *[Signatures continued on next page.]*

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1
2 DATED: July 26, 2013.

FELDERSTEIN FITZGERALD WILLOUGHBY &
PASCUZZI, LLP

3
4 By: /s/ Thomas A. Willoughby
5 Thomas A. Willoughby
6 Attorneys for Zacky Farms, LLC

7 DATED: July 26, 2013.

LOWENSTEIN SANDLER LLP

8 By: /s/ Wojciech F. Jung
9 Wojciech F. Jung
10 Attorneys for the Official Committee of Unsecured
11 Creditors

12 **ORDER**

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

14 **HEREBY ORDERED:**

- 15 1. Appellants' opening brief shall be due on August 28, 2013.
- 16 2. The appellee's opening brief shall be due within fourteen (14) days after
17 service of Appellants' opening brief.
- 18 3. Appellants may file a reply brief with the District Court, within fourteen
19 (14) days after service of appellee's opening brief.
- 20 4. Once all briefs have been submitted, the Appellants are to notify the court
21 in writing, within fourteen (14) days after service of Appellants' reply brief, that the appeal is
22 ready for oral argument.

23 DATED: 7/26/2013

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