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UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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12 BAY AREA PAINTERS AND TAPERS
 PENSION TRUST FUND, et al.,

Case No.: C08-4717 MHP

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Plaintiffs,

STIPULATED JUDGMENT

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v.

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16 ALBERT WHITE CO., INC., dba WHITE
 COMPANY,

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Defendant.

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IT IS HEREBY STIPULATED and AGREED (the “Stipulation”) by and between

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Plaintiffs BAY AREA PAINTERS & TAPERS PENSION TRUST FUND, et al. (“Plaintiffs”) and

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Defendants ALBERT WHITE CO., INC., dba WHITE COMPANY (“Defendant”), as follows:

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1. Defendant entered into a valid Collective Bargaining Agreement with the

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District Council 16 of the International Union of Painters and Allied Trades (hereinafter

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"Bargaining Agreement"). This Bargaining Agreement has continued in full force and effect to

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the present time.

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2. Defendant has become indebted to the Trust Funds as follows:

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|------------------------|---|--------------------|
| October, 2008 | Liquidated Damages | \$75.60 |
| November, 2008 | Liquidated Damages / Interest through 3/20/09 | \$407.32 |
| December, 2008 | Liquidated Damages / Interest through 3/20/09 | \$243.54 |
| January, 2009 | Contributions | \$1,624.56 |
| | Liquidated Damages | \$162.45 |
| | Interest (through 3/31/09) | \$13.71 |
| February, 2009 | Contributions | \$2,166.08 |
| | Liquidated Damages | \$216.61 |
| | Interest (through 3/31/09) | \$6.65 |
| SUBTOTAL | | \$4,916.52 |
| | | |
| Attorney's Fees | Through March 18, 2009 | \$4,374.00 |
| Costs | Through January 20, 2009 | \$841.81 |
| | | |
| TOTAL DUE | | \$10,132.33 |

3. Defendants shall pay the amount of **\$10,132.33** as follows:

(a) Beginning on March 25, 2009, and no later than the 25th day of each month thereafter for a period of 12 months, through and including February 25, 2010, Defendant shall pay to Plaintiffs the amount of **\$877.00** per month. Payments may be made by joint check, to be endorsed prior to submission;

(b) Defendant shall have the right to increase the monthly payments at any time and there is no penalty for early payment. Defendant may request a "payout demand" at any time during the payment period;

(c) Payments shall be applied first to unpaid interest and then to unpaid principal. The unpaid principal balance shall bear interest at the rate of 7% per annum in accordance with Plaintiffs' Trust Agreements.

(d) Payments shall be made payable to the "***District Council 16 Health and Welfare Trust Fund***," and delivered to Michele R. Stafford at Saltzman & Johnson Law Corporation, 44 Montgomery Street, Suite 2110, San Francisco, California 94104, **to be received**

1 on or before the 25th day of each month, or to such other address as may be specified by
2 Plaintiffs.

3 (e) Prior to the last payment pursuant to this Stipulation, Plaintiffs will
4 advise Defendant as to the final amount due, including interest and additional attorneys' fees and
5 costs.

6 4. Albert White acknowledges that he is the RMO/CEO/President of ALBERT
7 WHITE CO., INC., dba WHITE COMPANY and that he specifically consents to the Court's
8 jurisdiction. Mr. White (hereinafter "guarantor") confirms that he is personally guaranteeing the
9 amounts due pursuant to the terms of this Stipulation and further acknowledges that all of
10 Defendant's successors in interest, assigns, and affiliated entities (including, but not limited to
11 parent or other controlling companies), if any, shall also be bound by the terms of this Stipulation
12 as Guarantors. Defendant, Guarantor(s) and all such entities specifically consent to the Court's
13 jurisdiction as well as all other terms herein and specifically consent to the authority of a
14 Magistrate Judge for all proceedings, including, but not limited to, Plaintiffs' obtaining a writ of
15 execution.
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18 5. For any work performed by employees of Defendant, beginning with hours worked
19 by Defendant's employees, if any, during the month of March 2009, Defendant shall timely pay
20 contributions due on April 15, 2009, and delinquent if not received by April 30, 2009. For every
21 month thereafter during the stipulated payment term herein, Defendant will remain current in
22 contributions and all other obligations due to Plaintiffs under the terms of the Collective
23 Bargaining Agreement by timely submitting monthly reports and contributions to the Trust Funds.
24 A copy of the contribution report and payment check must be faxed timely to Michele R. Stafford
25 at 415-882-9287.

26 In the event that additional amounts are found due, by pay stubs, certified payroll, audit or
27 in any other manner, for hours worked during the time period covered by this Stipulation as
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1 referenced above, or due for hours worked for any time during the stipulated payment period,
2 these amounts shall be added to, and become part of this Judgment.

3 6. In the event that Defendant/Guarantor fails to make any payment referenced herein
4 in a timely manner as required, or if payment is made and fails to clear the bank, or is unable to be
5 negotiated for any reason, Defendant/Guarantor shall be considered to be in default of this
6 Stipulation.

7 7. In the event of a default, Plaintiffs will provide Defendant/Guarantor with written
8 notice of the default, allowing seven (7) days from the date of the notice in which to cure the
9 default. All future payments shall be made by cashier's check if the default was caused by a failed
10 check. In the event that a default is *not timely cured*, the following will occur:

11 (a) The entire balance of **\$10,132.33** as specified in paragraph 3, plus interest
12 as specified above, but reduced by principal payments received from Defendant/Guarantor, in
13 addition to any unpaid contributions then due plus 10% liquidated damages and 7% per annum
14 interest thereon, shall be immediately due and payable, together with any additional attorneys'
15 fees and costs incurred in this matter.

16 (b) A Writ of Execution may be obtained against Defendant/Guarantor *without*
17 *further notice* in the amount of the unpaid balance, plus any additional amounts due under the
18 terms herein, upon declaration by a duly authorized representative of the Plaintiffs setting forth
19 any payment theretofore made by or on behalf of Defendant/Guarantor and the balance due and
20 owing as of the date of default.

21 (c) Defendant/Guarantor expressly waives all rights to stay of execution and
22 appeal. The declaration or affidavit of a duly authorized representative of Plaintiffs as to the
23 balance due and owing as of the date of default shall be sufficient to secure the issuance of a Writ
24 of Execution, without notice to Defendant/Guarantor.

25 (d) Defendant/Guarantor shall pay all additional attorneys' fees and costs
26 incurred by plaintiffs in connection with collection and allocation of the amounts owed to
27 plaintiffs under this Stipulation regardless of whether or not Defendant/Guarantor defaults herein.

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1 8. In the event of the filing of a bankruptcy petition by the Defendant/Guarantor, the
2 parties agree that any payments made pursuant to the terms of this Judgment, shall be deemed to
3 have been made in the ordinary course of business as provided under 11 U.S.C. Section 547(c)(2)
4 and shall not be claimed by Defendant/Guarantor as a preference under 11 U.S.C. Section 547 or
5 otherwise. Defendant/Guarantor nevertheless represents that no bankruptcy filing is anticipated.

6 9. Any failure on the part of the Plaintiffs to take any action against
7 Defendant/Guarantor as provided herein in the event of any breach of the provisions of this
8 Stipulation shall not be deemed a waiver of any subsequent breach by the Defendant/Guarantor of
9 any provisions herein.

10 10. Should any provision of this Stipulation be declared or determined by any court of
11 competent jurisdiction to be illegal, invalid, or unenforceable, the legality, validity, and
12 enforceability of the remaining parts, terms or provisions shall not be affected thereby and said
13 illegal, unenforceable or invalid part, term, or provision shall be deemed not to be part of this
14 Stipulation.

15 11. This Stipulation is the entire agreement between the parties and is expressly limited
16 to the delinquent contributions and related sums enumerated herein, owed by Defendant/Guarantor
17 to the Plaintiffs. This Stipulation does not in any manner relate to withdrawal liability claims, if
18 any. Defendant/Guarantor acknowledges that the Plaintiffs expressly reserve their right to pursue
19 withdrawal liability claims, if any, against Defendant/Guarantor as provided by the Plaintiffs' Plan
20 Documents, Trust Agreements incorporated into their Collective Bargaining Agreement, and the
21 law.

22 12. All parties represent and warrant that they have had the opportunity to be or have
23 been represented by counsel of their own choosing in connection with entering this Stipulation
24 under the terms and conditions set forth herein, and that they enter into this Stipulation voluntarily.

25 13. This Stipulation may be executed in any number of counterparts and by facsimile,
26 each of which shall be deemed an original and all of which shall constitute together one and the
27 same instrument.

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1 14. Plaintiffs reserve all rights available under the applicable Bargaining Agreement
2 and Declarations of Trust of the Trust Funds for collection of current and future contributions, and
3 for any additional past contributions not included herein as may be determined by Plaintiffs,
4 pursuant to employee timecards or paystubs, by audit, or other means, and the provisions of this
5 agreement are in addition thereto. Defendants specifically waive the defense of the doctrine res
6 judicata as to any such additional amounts determined as due.

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Dated: March 24, 2009

**ALBERT WHITE CO., INC., dba WHITE
COMPANY**

By: _____ /s/
Albert White, its RMO/CEO/President

Dated: March 24, 2009

ALBERT WHITE

_____/s/
Individually

Dated: March 26, 2009

**SALTZMAN AND JOHNSON LAW
CORPORATION**

_____/s/
Michele R. Stafford
Attorneys for Plaintiffs

IT IS SO ORDERED.

Dated: April 6 , 2009



UNITED STATES DISTRICT COURT JUDGE