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UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 BAY AREA PAINTERS AND TAPERS  
 PENSION TRUST FUND, and its JOINT BOARD  
 12 OF TRUSTEES; LES PROTEAU and CHARLES  
 DEL MONTE, TRUSTEES; Et. Al.

Case No.: C08-5774 CW

**SECOND AMENDMENT TO STIPULATED JUDGMENT**

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Plaintiffs,

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v.

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16 TOP GUN ARCHITECTURAL FINISHES, INC.  
 dba TOP GUN FINISHES, a California Corporation;  
 RUBEN GONZALEZ, Individually; and MARCUS  
 17 DEAN CHARLES, Individually,

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Defendants.

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THIS SERVES TO AMEND the Stipulated Judgment and Consent to Magistrate

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21 previously entered into between Plaintiffs BAY AREA PAINTERS & TAPERS PENSION

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TRUST FUND, et al. (“Plaintiffs”) and Defendants TOP GUN ARCHITECTURAL FINISHES,

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INC. dba TOP GUN FINISHES, a California Corporation; RUBEN GONZALEZ, Individually;

24

and MARCUS DEAN CHARLES, Individually, (collectively “Defendants”).. The paragraphs /

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subsections below are the only ones to be amended, and refer to the paragraph / subsection in the

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initial Stipulated Judgment. Any other paragraph or provision not specifically identified and set

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1 forth herein remains unchanged.

2           2. **Original Stipulated Judgment:** The Northern California Painters Master Agreement  
3 between District Council 16 and the NCPFC (“Agreement”) requires at Article 19, Section 15, that  
4 Defendants post a bond “*within ten (10) days of the mailing of notice by the Administrator of the*  
5 *Trust Funds...(in) amounts to be determined by said Administrator.*” Pursuant to the terms of the  
6 initial Stipulated Judgment, Defendants were required to post a bond in the amount of \$147,760,  
7 within 45 days of the execution of this original Stipulated Judgment by Defendants. In the event  
8 Defendants were unable to obtain a bond, a cash deposit in lieu of bond was to be posted with the  
9 Trust Funds’ Administrator or other suitable / acceptable arrangements were to be made with  
10 Plaintiffs.

11           **Amendment:** The parties have agreed to amend this requirement as follows: Defendants  
12 shall post a bond in the amount of \$50,000 within 7 days of the execution of this Amendment by  
13 Defendants. In addition to providing the \$50,000 bond, defendants shall also deposit cash in the  
14 amount of \$25,000. If Defendants stay current in contributions owed to the Trust Funds (no further  
15 delinquencies) for 6 months (from hours worked in May, 2009 through November, 2009)  
16 hereafter, the \$25,000 cash will be returned to Defendants. The bond will remain in place.

17           3. In addition to the above amendment regarding the bond, Defendants shall pay  
18 the entire amount currently due under the initial Stipulated Judgment in one lump sum payment.  
19 This amount shall be paid within 7 days of the execution of this Amendment by Defendants. The  
20 total “payout” amount due is as follows:  
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22	Balance due on Stipulation (as of May 21, 2009)	\$43,802.61
23	Additional Interest on Stipulation (through May 31, 2009	\$84.00
24	Attorneys Fees and Costs (March 4, 2009 – May 21, 2009)	\$3,130.00
25	<b>TOTAL</b>	<b>\$47,016.61</b>

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Dated: June 5, 2009

**TOP GUN ARCHITECTURAL FINISHES,  
INC. dba TOP GUN FINISHES**

By: \_\_\_\_\_ /s/  
MICHAEL LAVOY  
President

Dated: June 5, 2009

**MICHAEL LAVOY**  
\_\_\_\_\_/s/  
Individually

Dated: June 5, 2009

**MIKE MARTINEZ**  
\_\_\_\_\_/s/  
Individually

Dated: June 11, 2009

**SALTZMAN AND JOHNSON LAW  
CORPORATION**  
\_\_\_\_\_/s/  
Michele R. Stafford  
Attorneys for Plaintiffs

**APPROVED AS TO FORM**

Dated: June 9, 2009

**LAW OFFICES OF GREGORY D.  
MCDONALD**  
\_\_\_\_\_/s/  
Gregory D. McDonald  
Attorneys for Defendants

**IT IS SO ORDERED.**

Dated: June 17, 2009

