94104 SAN FRANCISCO,

MEYERS LAW GROUP, P.C. 1 MERLE C. MEYERS, ESQ., CA Bar #66849 D. CLARKE SUGAR, ESQ., CA Bar #251681 44 Montgomery Street, Suite 1010 San Francisco, CA 94104 Telephone: (415) 362-7500 4 Facsimile: (415) 362-7515 5

Attorneys for Plaintiff John Van Curen, Trustee

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION

In re

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JOHN VAN CUREN, as Trustee of the Chapter 11 Estate of MICHAEL HAT, a/k/a MICHAEL HAT FARMING COMPANY,

Case No. CV-09-3509

Plaintiff.

v.

FEDERAL CROP INSURANCE CORPORATION; and RISK MANAGEMENT AGENCY.

Defendants.

STIPULATION AND PROPOSED ORDER TO CONTINUE HEARING ON MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM AND FOR LACK OF JURISDICTION AND IN THE ALTERNATIVE TO DISMISS FOR IMPROPER VENUE

THE PARTIES HEREBY STIPULATE AND AGREE AS FOLLOWS:

- 1. On July 30, 2009, JOHN VAN CUREN, the plaintiff herein (the "Plaintiff") filed the Complaint For Breach Of Contract And For Damages Under 7 C.F.R. § 400.96 (the "Complaint").
- On October 15, 2009, the FEDERAL CROP INSURANCE CORPORATION and the 2. RISK MANAGEMENT AGENCY, the defendants herein (the "Defendants"), responded to the Complaint by filing the Motion To Dismiss For Failure To State A Claim And For Lack Of Jurisdiction, And In The Alternative To Dismiss For Improper Venue (the "Motion"), which is presently scheduled for hearing on Thursday, January 7, 2010 at 10:00 a.m. (the "Scheduled Hearing")

STIPULATION AND [PROPOSED] ORDER TO CONTINUE HEARING ON MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM AND FOR LACK OF JURISDICTION AND IN THE ALTERNATIVE TO DISMISS FOR IMPROPER VENUE 20044/24512

3. Based on scheduling conflicts, the Plaintiff and Defendants have agreed through their respective counsel, subject to Court approval, to vacate the Scheduled Hearing and reset the Motion for hearing on Thursday, February 25, 2010 at 10:00 a.m., the next available hearing date on the Court's schedule that accommodates both parties. The parties' stipulation includes an agreement to postpone the filing dates for plaintiff's opposition and defendant's reply papers to correspond to the new hearing date.

SO STIPULATED

DATED: December 17, 2009

MEYERS LAW GROUP, P.C.

By <u>/s/ Merle C. Meyers</u> Attorneys for Plaintiff John Van Curen

DATED: December 17, 2009

JOSEPH P. RUSSONIELLO
United States Attorney

By ____/s/ Jonathan U. Lee
Jonathan U. Lee
Assistant United States Attorney
Attorneys for Defendants Federal Crop Insurance
Corporation and Risk Management Agency

PURSUANT TO STIPULATION, IT IS SO ORDERED

DATED: 12/30/2009

