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6  
 7 IN THE UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

8 CONDIES FOODS, INC.,

9 Plaintiff,

10 v.

11 POPLAR VILLAS, LLC dba ISIS AND  
 12 SANFORD; POPLAR VILLAS, LLC dba  
 ISIS FOOD; ISIS FOOD COMPANY;  
 13 HUSSEIN TAWFIK; and DOES 1 through  
 14 10,

15 Defendants.

CASE NO. C09-05674 VRW

~~PROPOSED~~ ORDER, JUDGMENT  
 AGAINST ISIS FOOD COMPANY, AND  
 JUDGMENT IN THE EVENT OF  
 DEFAULT UNDER THE STIPULATION  
 FOR ENTRY OF JUDGMENT

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16 Upon consideration of Plaintiff Condies Foods, Inc.’s (“Condies Foods”) and Defendants  
 17 Poplar Villas, LLC dba Isis and Sanford, Poplar Villas, LLC dba Isis Food, Isis Food Company,  
 18 and Hussein Tawfik’s (“Defendants”) Stipulation for Entry of Judgment (“Stipulation”), it is:

19 ORDERED that Defendant Isis Food Company and Isis and Sanford (a dba of Isis Food  
 20 Company)(jointly “Defendant Isis”) owe Plaintiff Condies Foods \$215,000.00, all of which is  
 21 past due to Condies Foods, for perishable agricultural commodities sold to Defendant Isis from  
 22 on or about December 1, 2008 through May 10, 2010.

23 ORDERED that, in addition to the \$215,000.00 owed by Defendant Isis to Plaintiff  
 24 Condies Foods, because the invoices between Defendant Isis and Plaintiff Condies Foods

1 provided for interest on the past due balance at eighteen percent (18%) per annum and attorneys'  
2 fees and costs incurred in this action, the contract between these two parties included interest at  
3 18% per year and attorneys' fees and costs incurred in this action. Cal. Com. Code § 2207(2).  
4 If, however, Defendant Isis timely makes *all* payments to Plaintiff Condies Foods according to  
5 the payment schedule below (with an opportunity to cure after notice, as provided in this Order,  
6 should it default), no interest or attorneys' fees are due (pursuant to Plaintiff's stipulation to  
7 waive these sums) from Defendant Isis, except as otherwise stated in this Order.

8 ORDERED THAT JUDGMENT BE AND IS HEREBY ENTERED in favor of Plaintiff  
9 Condies Foods and against Defendant Isis in the sum of \$215,000.00, which shall be paid as  
10 follows:

- 11 a. \$10,000.00 by July 20, 2010,
- 12 b. \$10,000.00 by August 20, 2010,
- 13 c. A minimum of \$3,000.00 on or before the 20<sup>th</sup> day of each month  
14 beginning on July 20, 2010, until the entire \$215,000.00 Judgment is  
15 paid in full, and
- 16 d. A \$60,000 lump sum payment, plus 6% interest (the \$60,000 will be  
17 credited against the \$215,000 judgment, but not the interest), on or  
18 before July 2, 2012 (if Defendant Hussein Tawfik fails to make the  
19 payment, as provided below).

20 ORDERED that Defendant Hussein Tawfik ("Defendant Tawfik") shall pay the  
21 following sum, on or before the date stated, to reduce Defendant Isis' \$215,000.00 Judgment and  
22 that Defendant Tawfik shall provide the following security for the \$60,000.00 payment (plus 6%  
23 interest):

- 24 a. on or before July 2, 2012, Defendant Tawfik shall pay \$60,000.00 to

1 Plaintiff Condies Foods, plus 6% interest (from the date the Stipulation  
2 was signed by all parties until paid), of which the \$60,000.00 (but not  
3 the interest) shall be applied to the outstanding debt still owed by  
4 Defendant Isis to Condies Foods, and

5 b. Defendant Tawfik will provide security to Plaintiff Condies Foods for  
6 the payment of this \$60,000.00, plus 6% interest, by granting – within  
7 5 business days – a deed of trust signed by Defendant Tawfik’s wife  
8 (Heidi Tawfik) to Condies Foods, on the real property known as 1988  
9 Annette Lane, Los Altos, California 94024; however, although  
10 Plaintiff may record the deed, it may not foreclose on or otherwise  
11 take any other action to enforce its security interest, unless Defendant  
12 Tawfik is in default of his obligation to timely pay the \$60,000.00 and  
13 the 6% interest. Further, neither Defendant Tawfik nor his wife may  
14 further encumber this property in any way until payment in full is  
15 made to Plaintiff Condies Foods of the \$60,000.00 and the 6% interest.  
16 Upon payment in full of this sum, Plaintiff shall immediately reconvey  
17 the deed of trust to Defendant Tawfik’s wife.

18 ORDERED that Judgment may be entered against Defendant Hussein Tawfik  
19 (“Defendant Tawfik”), *but only in the event* that (1) Defendant Isis fails to timely pay any of the  
20 payments due on the first \$165,000.00 of the Judgment against it, which are guaranteed by  
21 Defendant Tawfik, in which case Judgment may be entered against Defendant Tawfik for any  
22 outstanding sums still owed on the first \$165,000.00 of the Judgment or (2) Defendant Tawfik  
23 fails to timely pay the \$60,000.00 and the 6% interest, ordered above, in which case Judgment  
24 may be entered against Defendant Tawfik for all sums owed or guaranteed by him which have

1 not been paid, including the sums unpaid on the first \$165,000.00 owed by Defendant Isis to  
2 Plaintiff.

3           ORDERED that Defendants Isis and Tawfik shall not be in default on any payment  
4 unless Plaintiff gives notice to Isis and Tawfik that they are in default (i.e., late making a  
5 payment), which will be deemed given by Plaintiff to Defendants Isis and Tawfik (a) upon  
6 faxing the notice to Defendants' attorney at fax number (408) 292-1257 or at such other fax  
7 number as Defendants may notify Plaintiff's attorney in writing and (b) upon faxing the notice to  
8 Defendant Tawfik at fax number (510) 505-1007 or at such other fax number as Defendants my  
9 notify Plaintiff's attorney in writing. Defendants Isis and Tawfik shall then have five (5)  
10 business days from such notification within which to cure the default. If the default is not cured  
11 within five business days of the notice (by delivery or wire to insure *receipt* of the payment  
12 within the five business days), Defendants Isis and Tawfik will be in default.

13           ORDERED that if a default is not timely cured after notice of default, the entire  
14 Judgment against Defendant Isis, less payments made, shall become due and payable and  
15 Plaintiff may immediately take whatever action it deems appropriate to collect the Judgment  
16 against Isis, plus interest (@ 18% per year from the date of default) and attorneys' fees incurred  
17 in enforcing the judgment and collecting the sums owed in the Judgment. In addition, if default  
18 is not timely cured after notice of default on Defendant Tawfik's obligations under this Order  
19 and Judgment or the Stipulation for Entry of Judgment (including payment of the first  
20 \$165,000.00 of Defendant Isis' Judgment should Isis default on any payment of this sum), (1) the  
21 entire sum still outstanding from Tawfik, less payments made, shall become due and payable,  
22 plus attorneys' fees incurred in obtaining entry of the judgment against Defendant Tawfik and in  
23 thereafter collecting the judgment, and (2) judgment may be entered immediately – against  
24 Defendant Tawfik for all outstanding sums due from him under this Order and Judgment or the

1 Stipulation for Entry of Judgment – on an ex parte basis, with 24 hours notice to Defendants’  
2 attorney and upon a Declaration under penalty of perjury by Plaintiff Condis Foods or its  
3 attorneys (stating that a payment has not been received, as required, and the amount still unpaid),  
4 for the entire sum due, less payments made, and attorneys’ fees and costs incurred in enforcing  
5 the judgment and in collecting the sums owed in the Judgment.

6 ORDERED that the occurrence of any one of the following events prior to payment in  
7 full of the sums due under this Order and Judgment or the Stipulation for Entry of Judgment  
8 shall be deemed an event of default entitling Plaintiff to seek immediate enforcement of the  
9 Judgment against Defendant Isis and to request that the Court enter judgment against Defendant  
10 Tawfik, on an ex parte basis as provided in this Order, without further notice or a right to cure:  
11 Defendant Isis or Tawfik is named in a petition in bankruptcy, filed voluntarily or involuntarily,  
12 or otherwise seeks the protection of the bankruptcy laws of any competent jurisdiction.

13 ORDERED that Plaintiff Condis Foods shall be entitled to actual attorneys’ fees and  
14 costs incurred by it to enforce this Order and Judgment or to force Defendants to perform their  
15 obligations under the Stipulation for Entry of Judgment.

16 ORDERED that nothing in this Order and Judgment, the Stipulation for the Entry of  
17 Judgment, or the installment nature of the payments made under this Order and Judgment shall  
18 be deemed, interpreted, or otherwise construed as a waiver of any rights Plaintiff may have under  
19 the PACA, including, but not limited to, its PACA trust rights.

20 ORDERED that upon full payment of all sums due under this Order and Judgment  
21 Plaintiff’s attorneys shall prepare and file with the Court a Satisfaction of the Judgment against  
22 Defendant Isis.

23 ORDERED that the United States District Court for the Northern District of California  
24 shall retain exclusive jurisdiction over Defendant Isis Food Company and Isis and Sanford (a dba

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1 of Isis Food Company), Defendant Hussein Tawfik, and Plaintiff Condis Foods, Inc. to enforce  
2 and interpret this Order and Judgment and the Stipulation for Entry of Judgment.

3 ORDERED that Poplar Villas, LLC (including Poplar Villas, LLC dba Isis and Sanford  
4 and Poplar Villas, LLC dba Isis Food) shall be dismissed from this action with prejudice, with all  
5 parties to bear their own costs and attorneys' fees.

6 ORDERED that following entry of this Order and Judgment, this action shall be  
7 dismissed, without prejudice as to Defendants Isis, subject to reopening only for the limited  
8 purpose of interpreting and enforcing this Order and Judgment and the Stipulation for Entry of  
9 Judgment.

10  
11 Date: August 13, 2010

HON. VAUGHN R. WALKER  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
