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11 Attorneys for Defendants

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13 UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

14 AUTOMOTIVE INDUSTRIES PENSION
15 TRUST FUND, JAMES H. BENO, Trustee,
BILL BRUNELLI, Trustee, STEPHEN J.
16 MACK, Trustee, CHRIS CHRISTOPHERSEN,
Trustee, DON CROSATTO, Trustee, MARK
17 HOLLIBUSH, Trustee, GEORGE HALL, JR.,
Trustee, CHARLES J. DI BARI, Trustee, RON
18 NELSON, Trustee, and JAMES V.
CANTERBURY, Trustee,

19 Plaintiffs,

20 v.

21 FREMONT MOTORS, INC., a California
22 corporation, doing business as FREMONT
LINCOLN MERCURY, MARK D.
23 HAMILTON, an Individual, and as Trustee of
the MARK HAMILTON TRUST, and as
24 Trustee of the MARK AND HOLLY
HAMILTON 1984 TRUST,

Case No.: C 09-02547 SBA

~~RECEIVED~~ JUDGMENT PURSUANT
TO STIPULATION

DATE:

TIME:

JUDGE: HON. SAUNDRA BROWN
ARMSTRONG

26 IT IS STIPULATED by and between the parties hereto, that Judgment may be entered in
27 the within action in favor of Plaintiffs AUTOMOTIVE INDUSTRIES PENSION TRUST FUND,
28

JUDGMENT PURSUANT TO STIPULATION

Case No.: C09-2547 SBA

1 et al., ("Plaintiffs") and against Defendant FREMONT MOTORS, INC., a California corporation,
2 doing business as FREMONT LINCOLN MERCURY ("FREMONT"), or successor entities, as
3 follows:

4 1. Defendant FREMONT entered into a series of valid collective bargaining
5 agreements with Machinists Automotive Trades District Lodge No. 190 of Northern California for
6 and on behalf of East Bay Automotive Machinists Lodge No. 1546 (hereinafter "Bargaining
7 Agreement"). FREMONT ceased paying contributions and had a complete withdrawal from
8 Plaintiff Automotive Industries Pension Trust Fund ("Fund") in January 2007.

9 2. Pursuant to the effective Bargaining Agreement, the Trust Agreements of Plaintiff
10 Fund as amended, and ERISA, as amended by the Multiemployer Pension Plan Amendments Act
11 of 1980 (29 U.S.C §§ 1001-1461 (1982)), FREMONT is indebted to Plaintiff Fund for unpaid
12 withdrawal liability, liquidated damages in the amount of 20%, interest at the rate of 7% per
13 annum, attorneys' fees and costs.

14 3. Pursuant to this Stipulated Judgment, Defendant FREMONT agrees as follows:

15 a. The Court will enter Judgment against FREMONT in the amount
16 \$1,235,157.70 (one million two hundred thirty five thousand one hundred fifty seven dollars and
17 seventy cents) representing unpaid withdrawal liability, liquidated damages, interest at the rate of
18 7%, reasonable attorneys' fees and costs.

19 b. FREMONT waives any and all defenses to the claims of Plaintiffs for
20 withdrawal liability, liquidated damages, interest and reasonable attorneys' fees and costs.

21 c. A writ of execution may be obtained against FREMONT without further
22 notice, in the amount of the unpaid balance of this Stipulated Judgment, plus any additional
23 amounts under the terms herein, upon declaration of a duly authorized representative of the
24 Plaintiffs setting forth any payment theretofore made by or on behalf of FREMONT and the
25 balance due and owing.

26 d. FREMONT waives notice of entry of judgment and expressly waives all
27 rights to stay of execution and appeal.

28

1 e. FREMONT shall pay all additional costs and attorneys' fees incurred by
2 Plaintiffs in connection with collection of the amounts owed by FREMONT to Plaintiffs pursuant
3 to this Stipulated Judgment.

4 4. Pursuant to this Stipulated Judgment, PLAINTIFFS and Defendant FREMONT
5 agree as follows:

6 a. All notices to FREMONT shall be made to Littler Mendelson, 650
7 California Street, 20th Floor, San Francisco, California, 94108.

8 b. In the event of the filing of a bankruptcy petition by FREMONT, the parties
9 agree that any payments made by or on behalf of FREMONT as payment on this Judgment, shall
10 be deemed to have been made in the ordinary course of business as provided under 11 U.S.C.
11 §547(c)(2) and shall not be claimed as a preference under 11 U.S.C. §547 or otherwise. Defendant
12 nevertheless represents that no bankruptcy filing is anticipated.

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

18 6. This Stipulation contains all of the terms agreed by PLAINTIFFS and FREMONT
19 and no other agreements have been made between those parties. Any changes to this Stipulation
20 shall be effective only if made in writing and signed by all parties hereto.

21 8. This Stipulation may be executed in any number of counterparts and by facsimile,
22 each of which shall be deemed an original and all of which shall constitute the same instrument.

23 9. The parties further agree that the Court shall retain jurisdiction of this matter until
24 this Judgment is satisfied. The parties each specifically consent to the authority of a Magistrate
25 Judge for all future proceedings relating to this judgment.

26 Dated: March 18, 2010

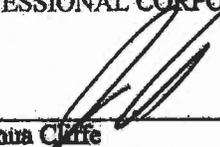
SALTZMAN & JOHNSON LAW CORPORATION

27 By: Michelle L. Sicula
28 Michelle L. Sicula
Attorneys for Plaintiffs

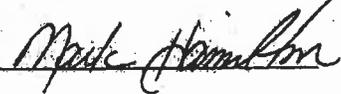
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Dated: March 17, 2010.

LITTLER MENDELSON
A PROFESSIONAL CORPORATION

By: 
Joshua Cliffe
Attorney for Defendant Fremont Motors Inc. and
Defendant Mark D. Hamilton, as an individual
and as Trustee of the MARK AND HOLLY
HAMILTON 1984 TRUST

Dated: March 5, 2010

By: 
Mark D. Hamilton
Owner, Fremont Motors, Inc.

IT IS SO ORDERED AND ADJUDGED.

Dated: 3/30/10


SANDRA BROWN ARMSTRONG
United States District Judge