

1 Christopher Jagard, Chief Counsel, CSB#191147  
 Christopher Frick, Assistant Chief Counsel, CSB#83432  
 2 State of California  
 Department of Industrial Relations  
 3 1515 Clay Street, Suite 701  
 Oakland, CA 94612  
 4 Telephone No. (510) 286-3800  
 Fax No. (510) 286-1220

5 Attorneys for California Department of Industrial Relations,  
 6 Edward Kunnes and Evan Adams

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 9 IN THE UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 10 OAKLAND DIVISION

11 MILLARD W. TONG

12 Appellant,

13 v.

14 THE CALIFORNIA DEPARTMENT OF  
 15 INDUSTRIAL RELATIONS,

16 Appellee.

CASE NO. 4:17-cv-01201-HSG

Appeal from Bankruptcy Case No. 15-30275

CHAPTER 11

Judge Hon. Haywood S. Gilliam, Jr.

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 20 **STIPULATION RE DISMISSAL AND ORDER**

21 This Stipulation (or "Agreement") is made between and among Millard W. Tong,  
 22 individually and as Debtor-in-Possession, herein "Debtor," and California Department of Industrial  
 23 Relations, Edward Kunnes and Evan Adams, herein "DIR," being the parties to the above referenced  
 24 appeal arising from a motion for contempt in the bankruptcy court proceedings.

25 As the results of a judicially supervised settlement conference, the Debtor and DIR have  
 26 entered into agreements memorialized in stipulation entitled "Stipulation for Issuance of Order for  
 27 Distribution of Proceeds from the Sale of 1620 Mason Street, San Francisco, CA (After BDRP  
 28 Mediation)" that, among other matters, settled the issues pending before this Court. The bankruptcy

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court has authorized settlement of these issues and the parties have performed all agreements under the settlement. Accordingly, Debtor and DIR stipulate as follows:

Debtor and DIR jointly request that the United States District Court, sitting as the court of appeal, regarding Debtor's motion for contempt, dismiss said appeal with each party to bear their own costs and attorney's fees.

Dated: November 27, 2017

/s/ Christopher W. Frick  
Christopher W. Frick  
Counsel for Appellees,  
CA Dept. of Industrial Relations, Edward Kunnes and  
Evan Adams

Dated: November 27, 2017

/s/ Lawrence A. Jacobson  
Lawrence A. Jacobson  
Counsel for Appellant Millard Tong

**ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 11/28/2017

  
Hon. Haywood S. Gilliam, Jr.

1 **PROOF OF SERVICE**

2 I am employed in the County of Alameda, California. I am over the age of eighteen years  
3 and not a party to the within action; my business address is 1515 Clay Street, 7<sup>th</sup> Floor, Oakland,  
4 CA 94612. On November 27, 2017, I served the following documents:

5 **STIPULATION RE DISMISSAL AND ORDER**

6 on the parties listed below, through their attorneys of record, by placing true copies thereof in  
7 sealed envelopes addressed as shown below for service as designated below:

8 (A) **By personal service.** I personally delivered the documents to the persons at the  
9 addresses listed below. For a party represented by an attorney, delivery was made to the attorney or  
10 at the attorney’s office by leaving the documents in an envelope or package clearly labeled to  
11 identify the attorney being served with a receptionist or an individual in charge of the office.

12 (B) **By United States mail.** I enclosed the documents in a sealed envelope or package  
13 addressed to the persons at the address below and:

14 (1)  deposited the sealed envelope with the United States Postal Service, with the postage  
15 fully prepaid.

16 (a)  and the sealed envelope was prepared for Certified Mail, Return Receipt  
17 Requested, with appropriate fees for such service fully prepaid.

18 (b)  and the sealed envelope was prepared for Registered Mail, with appropriate  
19 fees for such service fully prepaid.

20 (2)  placed the envelope for collection and mailing, following our ordinary business  
21 practices. I am readily familiar with this business’s practice for collecting and processing  
22 correspondence for mailing. On the same day that correspondence is placed for collection  
23 and mailing, it is deposited in the ordinary course of business with the United States Postal  
24 Service, in a sealed envelope with postage fully prepaid.

25 (a)  and the sealed envelope was prepared for Certified Mail, Return Receipt  
26 Requested, with appropriate fees for such service fully prepaid.

27 (b)  and the sealed envelope was prepared for Registered Mail, with appropriate  
28 fees for such service fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or  
package was placed in the mail at Sacramento, California.

**(C) By overnight delivery:**

(1)  I enclosed the documents in an envelope or package provided by an overnight  
delivery carrier and addressed to the persons at the addresses below. I placed the envelope or  
package for collection and overnight delivery at an office or a regularly utilized drop box of the  
overnight delivery carrier.

(2)  The documents were delivered to an authorized courier or driver authorized to  
receive documents by an overnight delivery carrier, in an envelope or package designated by the  
carrier with delivery fees paid or provided for, addressed to the person to whom it is to be  
served, at the office address as last given by that person on the document filed in the cause and

1 served on the party making service. I declare under penalty of perjury under the laws of the State of  
2 California that the foregoing is true and correct.

3 (D) **By fax transmission.** Based on an agreement of the parties to accept service by fax  
4 transmission, I faxed the documents to the persons at the fax numbers listed below. No error was  
5 reported by the fax machine that I used. A copy of the record of the fax transmission, which I  
6 printed out, is attached.

7 (E)  **By e-mail or electronic transmission.** Based on a court order or an agreement of  
8 the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent  
9 to the persons at the e-mail addresses listed below. I did not receive, within a reasonable time after  
10 transmission, any electronic message or other indication that the transmission was unsuccessful.

11 (F) **By messenger service.** I served the documents by placing them in an envelope or  
12 package addressed to the persons at the addresses listed below and providing them to a professional  
13 messenger service. (*A declaration by the messenger service is attached.*) I declare under penalty of  
14 perjury under the laws of the State of California that the foregoing is true and correct.

<u>TYPE OF SERVICE</u>	<u>ADDRESS/FAX NO. (IF APPLICABLE)</u>
(C1) & (E)	LAWRENCE A. JACOBSON, SBN 057393 SEAN M. JACOBSON, SBN 227241 COHEN AND JACOBSON, LLP 66 Bovet Road, Suite 285 San Mateo, CA 94402 Telephone: (650) 261-6280 Facsimile: (650) 368-6221

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17 I declare under penalty of perjury under the laws of the State of California that the  
18 foregoing is true and correct.

19 Date: November 27, 2017

20 /s/ Winnie Inigo-Rock  
21 Winnie Inigo-Rock