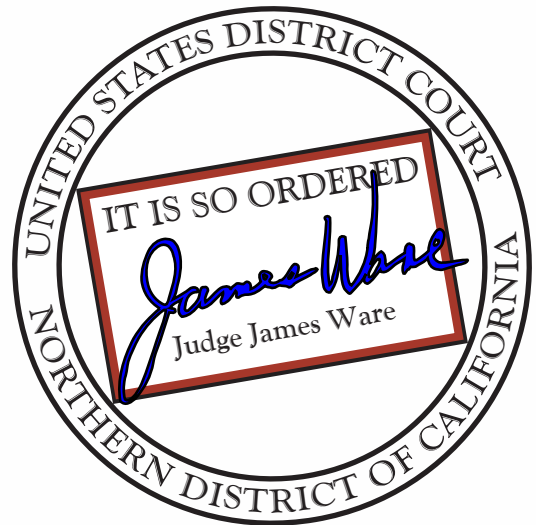


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Attorneys for Plaintiff



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

CHARLIE'S ENTERPRISES, INC. dba
OK PRODUCE,

Plaintiff,

vs.

KIMOMEX MARKETS, INC. dba
MERCADOS SUVIANDA; ALBERT T.
LUJAN and BYRON E. FETTERS,

Defendants.

Case No. 5:08-cv-04167-RS

**ORDER APPROVING STIPULATION
FOR SETTLEMENT UNDER
PERISHABLE AGRICULTURAL
COMMODITIES ACT OF 1930;
SETTING STATUS CONFERENCE;
STAYING ACTION**

Presently before this Court is the Stipulation For Settlement Under The Perishable Agricultural Commodities Act of 1930, as amended, 7 U.S.C. §499e filed by Plaintiff, Charlie's Enterprises, Inc. dba OK Produce, and Defendants, Kimomex Markets, Inc. dba Mercados Suviana, Albert T. Lujan and Byron E. Fetters. Having considered the Stipulation and being otherwise fully advised in the premises,

IT IS HEREBY ORDERED:

A. OK Produce is a valid trust beneficiary of Kimomex Markets under

1 Section 5(c) of the PACA, 7 U.S.C. §499e(c), in the aggregate amount of \$526,846.14,
2 inclusive of pre-judgment interest and attorneys' fees as of the date of this Order (the
3 "Settlement Amount").

4 B. The Settlement Amount shall be paid in accordance with the terms of the
5 Parties' Settlement Agreement and Mutual Release ("Agreement").


6 C. Upon full payment of \$526,846.14, plus post-judgment interest, OK
7 Produce will dismiss the instant Action with Prejudice.

8 D. In the event of a Default (as defined in ¶7 of the Agreement), upon
9 Plaintiff's filing of an ex-parte verified motion seeking entry of the Final Judgment, the
10 Final Judgment attached hereto as Exhibit "A" shall be issued by this Court in favor of
11 Plaintiff and against Kimomex Markets, Albert T. Lujan and Byron E. Fetters, jointly
12 and severally, in the amount of Five Hundred Twenty Six Thousand, Eight Hundred
13 Forty Six Dollars and 14/100 Dollars (\$526,846.14), plus attorneys' fees incurred in
14 enforcing the terms of this Agreement, less any payments made (the "Outstanding
15 Balance").

16 The Court sets a Status Conference for **December 15, 2008 at 10 a.m.** On or before
17 **December 5, 2008**, Plaintiff shall submit a Status Report re: Payments in accordance with the
18 terms of the Settlement Agreement.

19 In light of this Order, the Court STAYS all other deadlines in the case.

20 Dated: September 12, 2008

21 
22 _____
23 JAMES WARE
24 United States District Judge