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5 Attorney for Plaintiffs G & H Farms, LLC; John S. Tamagni & Sons, Inc.; Pedrazzi Farms, Inc.; Ed  
Mehl; and C&G Farms, Inc.,  
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7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
9 SAN JOSE DIVISION

10 HIGASHI FARMS, INC., a corporation; K&S  
11 Farms, LLC, a limited liability company; M.  
12 NISHIMORI FARMS, INC., a corporation; MANN  
PACKING CO., INC., a corporation; MARTIN  
13 JEFFERSON & SONS, a partnership; MERRILL  
FARMS, LLC, a limited liability company; NEW  
14 STAR FRESH FOODS, LLC, a limited liability  
15 company; TAYLOR FARMS CALIFORNIA, INC.,  
a corporation;

16 Plaintiffs,  
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18 v.

19 BANK OF THE WEST, a California banking  
corporation, As Administrative Agent for itself,  
20 AGSTAR FINANCIAL SERVICES, PCA/FLCA,  
21 and FCS FINANCIAL, PCA; STEVE FRANSON,  
as Receiver for SALYER AMERICAN FRESH  
22 FOODS, a California corporation,  
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24 Defendants.  
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Case No. 09-cv-04983 JW

**STIPULATION AND AGREED  
ORDER ON INTERVENING  
PLAINTIFFS' MOTION FOR  
LEAVE TO INTERVENE AS PARTY  
PLAINTIFFS AND TO FILE  
COMPLAINT IN INTERVENTION**

1 G&H FARMS, LLC, a California limited liability  
2 company; JOHN S. TAMAGNI & SONS, INC., a  
3 California corporation; PEDRAZZI FARMS,  
4 INC., a California corporation; ED MEHL, an  
individual; and C&G Farms, Inc.,

5 Intervening Plaintiffs

6 v.

7 BANK OF THE WEST, a California banking  
8 corporation, As Administrative Agent for itself,  
9 AGSTAR FINANCIAL SERVICES, PCA/FLCA,  
10 and FCS FINANCIAL, PCA; STEVE FRANSON,  
11 as Receiver for SALYER AMERICAN FRESH  
FOODS, a California corporation; and DOES 1  
through 50, Inclusive.

12 Defendants.

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14 COME NOW, Intervening Plaintiffs G&H Farms, LLC; John S. Tamagni & Sons, Inc.;  
15 Pedrazzi Farms, Inc.; Ed Mehl; and C&G Farms, Inc., (“Intervening Plaintiffs”) and Plaintiffs  
16 Higashi Farms, Inc.; K&S Farms, LLC; Mann Packing Co., Inc.; Martin Jefferson & Sons;  
17 Merrill Farms, LLC; New Star Fresh Foods, LLC; and Taylor Farms California, Inc.  
18 (“Plaintiffs”), by and through their respective undersigned counsel of record, jointly submit this  
19 stipulation to allow the Intervening Plaintiffs leave to intervene, and file their Complaint in  
20 Intervention in this case.

21 **IT IS HEREBY STIPULATED AND AGREED**, between the Plaintiffs and  
22 Intervening Plaintiffs as follows:

23 A. Plaintiffs commenced this action seeking to enforce their rights under the  
24 Perishable Agricultural Commodities Act of 1930 as amended, 7 U.S.C. §499e(c) (“PACA”) as  
25 trust beneficiaries against Defendants;

26 B. Intervening Plaintiffs also claim that they are trust beneficiaries of Defendants  
27 under PACA;

1 C. As potential PACA trust beneficiaries, the Intervening Plaintiffs claim an interest  
2 relating to the property or transactions which are the subject of this action and they are so situated  
3 that the disposition of this action in their absence may impair or impede their ability to protect  
4 that interest, within the meaning of Fed. R. Civ. P. Rule 24(a).

5 D. The courts have consistently held that all PACA creditors are entitled to pro-rata  
6 distribution of trust assets. In re Milton Poulos, Inc., 107 B.R. 715 (9<sup>th</sup> Cir. B.A.P. 1989); In re  
7 United Fruit & Produce, 86 B.R. 14 (Bankr. D. Conn. 1988).

8 E. Since all PACA trust creditors are entitled to their pro-rata distribution of the trust  
9 assets, they must be joined pursuant to Federal Rule of Civil Procedure 19(a) because, in their  
10 absence, complete relief cannot be accorded among those already parties to the action.

11 F. The Intervening Plaintiffs and Plaintiffs agree and consent to the Intervening  
12 Plaintiffs' filing of the Complaint in Intervention, filed contemporaneously, in this action and to  
13 the Intervening Plaintiffs' participation in this action as permitted by Fed. R. Civ. P. Rule 24(a)  
14 because the Intervening Plaintiffs' claim of interest herein as PACA trust creditors.

15 **ORDER**

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17 Based on the stipulation and consent of the parties, it is ORDERED and ADJUDICATED  
18 that Intervening Plaintiffs G&H Farms, LLC; John S. Tamagni & Sons, Inc.; Pedrazzi Farms,  
19 Inc.; Ed Mehl; and C&G Farms, Inc., are granted leave to intervene in this action pursuant to  
20 Rules 19(a) and 24(a) of the Federal Rules of Civil Procedure and may file their Complaint in  
21 Intervention.

22 Dated this \_\_\_\_\_ day of December  
23 10th day of November 2009.

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26 DISTRICT COURT JUDGE

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**STIPULATED AND CONSENTED TO BY THE PARTIES**

Dated this 18<sup>th</sup> day of November 2009.

By: /s/ Paul Hart  
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