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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 BOB TRAGNI AND WILLIAM T.)
BARROW, AS TRUSTEES OF THE)
11 INTERNATIONAL BROTHERHOOD OF)
ELECTRICAL WORKERS LOCAL 332)
12 HEALTH AND WELFARE AND PENSION)
TRUST FUNDS, NEBF, JEIF, NECA)
13 SERVICE CHARGE, NECA, DUES)
CHECK OFF AND APPRENTICESHIP)
14 TRAINING TRUST FUNDS,)

15 Plaintiffs,

16 vs.

17 ELCO ELECTRIC, INC., A California)
Corporation)

18 Defendant(s).
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CASE NO.: 10-CV-02718 PVT

REQUEST FOR CONDITIONAL
DISMISSAL PENDING PAYMENT IN
FULL UNDER SETTLEMENT
AGREEMENT AND ORDER
THEREON

20 All parties having appeared and executed a Stipulation for Entry of Judgment, the parties
21 hereby request that the Court order a conditional dismissal of the entire action. The dismissal is
22 conditional upon payment in full under the Stipulation for Entry of Judgment attached hereto as
23 Exhibit "A". The court shall retain jurisdiction in this matter. In the event Defendant defaults
24 in performance of the terms of the Stipulation for Entry of Judgment, judgment shall be entered
25 upon ten (10) days' written notice to Defendant, and a declaration filed by Plaintiffs' attorney
26 as to default by the Defendant. Pursuant to the stipulation of the parties, the judgment to be
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1 entered shall be for the balance owed in contributions for the period November 2009 - May 2010
2 in the amount of \$96,079.23, attorney's fees of \$2,500.00, Costs of \$350.00, Liquidated damages
3 for the months of November 2009 - May 2010 in the amount of \$13,330.00, Interest in the
4 amount of \$586.73 plus interest on the declining balance due at 10%, plus current contributions
5 due, less any amounts paid in accordance with the Stipulation for Entry of Judgment.

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8 Dated: 10/26/10


SUE CAMPBELL
Attorney for Plaintiffs

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11 Dated: 10/26/2010


ELCO ELECTRIC,
A CALIFORNIA CORPORATION

BY: RASKA COLIC

14 **ORDER**

15 In accordance with the settlement and request of the parties, and good cause
16 appearing therefor,

17 IT IS HEREBY ORDERED that a conditional dismissal with prejudice of the
18 entire action be entered. The dismissal is conditional upon payment in full under the Stipulation
19 for Entry of Judgment attached hereto as Exhibit "A" and for the Contributions due and unpaid
20 to the TRUST FUNDS for the period September 2010 - June 2012. The Court shall retain
21 jurisdiction over this matter. In the event Defendant defaults in performance of the settlement
22 agreement or payment schedule, and upon ten (10) days' written notice to Defendant, and a
23 declaration filed by Plaintiffs' attorney as to default by the Defendant, pursuant to the parties'
24 stipulation, the Court authorizes entry of judgment for the balance owed in contributions for the
25 period November 2009 - May 2010 in the amount of \$96,079.23, attorney's fees of \$2,500.00,
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1 Costs of \$350.00, Liquidated damages for the months of November 2009 - May 2010 in the
2 amount of \$13,330.00, Interest in the amount of \$586.73 plus interest on the declining balance
3 due at 10%, plus current contributions due, less any amounts paid in accordance with the
4 Stipulation for Entry of Judgment. The clerk shall close the file. It may be re-opened on
5 application by a party contemporaneously with a request to enter judgment pursuant to the
6 stipulation for entry of judgment.

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Dated: 12/1/10


U.S. DISTRICT COURT JUDGE

1 SUE CAMPBELL
Attorney at Law, State Bar Number 98728
2 1155 North First Street, Suite 101
San Jose, California 95112
3 Phone: (408) 277-0648
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4 Attorney for Plaintiffs
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 BOB TRAGNI AND WILLIAM T.)
BARROW, AS TRUSTEES OF THE)
11 INTERNATIONAL BROTHERHOOD OF)
ELECTRICAL WORKERS LOCAL 332)
12 HEALTH AND WELFARE AND PENSION)
TRUST FUNDS, NEBF, JEIF, NECA)
13 SERVICE CHARGE, NECA, DUES)
CHECK OFF AND APPRENTICESHIP)
14 TRAINING TRUST FUNDS,)

15 Plaintiffs,

16 vs.

17 ELCO ELECTRIC, INC., A California)
Corporation)

18 Defendant(s).)
19

CASE NO.: 10-CV-02718 PVT
STIPULATION FOR ENTRY OF
JUDGMENT, JUDGMENT PAYABLE
IN INSTALLMENTS

20 IT IS HEREBY STIPULATED and agreed by and between Plaintiffs BOB
21 TRAGNI and WILLIAM T. BARROW as trustees and fiduciaries of the INTERNATIONAL
22 BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 332 HEALTH AND WELFARE
23 AND PENSION TRUST FUNDS, NEBF, JEIF, NECA SERVICE CHARGE, NECA, DUES
24 CHECK OFF AND APPRENTICESHIP TRAINING TRUST FUNDS. (hereinafter referred to
25 as "TRUST FUNDS") and Defendant ELCO ELECTRIC, INC., A California Corporation,
26 ("Elco") as follows:
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1 1. ELCO shall make all payments on the Contributions due and unpaid to the TRUST
2 FUNDS for the period November 2009 - May 2010 in the amount of \$96,079.23, plus interest
3 at 10% in the amount of \$1,883.62 for a total of \$97,962.85 on or before March 28, 2011, and
4 liquidated damages of \$13,330.00 on or before June 28, 2012 as set forth below:

5 A. \$10,376.47 will be paid through money received from the Foothill College
6 project on market recovery. Elco will sign over the market recover checks
7 to the trust funds as they are received. Elco will comply with all reporting
8 requirements in order to receive these funds. Elco will timely file all
9 necessary documentation in order to obtain payments from I.B.E.W. Local
10 332 for the Foothill College project.

11 B. \$10,368.00 will be paid through money received from the Pueblo Plaza
12 project on market recovery. Elco will sign over the market recover checks
13 to the trust funds as they are received. Elco will comply with all reporting
14 requirements in order to receive these funds. Elco will timely file all
15 necessary documentation in order to obtain payments from I.B.E.W. Local
16 332 for the Pueblo Plaza project.

17 C. The remaining balance in the amount of \$75,334.76 will be paid in seven
18 monthly payments. The first four payments will be in the amount of
19 \$10,747.83. The first payment will be due on September 28, 2010. The
20 final payment will be in the amount of \$10,847.78 and will be due on
21 March 28, 2011.

22 D. Thereafter, ELCO shall pay liquidated damages of \$13,330.00 at \$1,000
23 per month for the next thirteen months. The first payment shall be on April
24 28, 2011. The final payment on June 28, 2012 shall be in the amount of
25 \$330.00.

26 E. On April 1, 2011, if ELCO is current with the payment schedule as set
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forth above in "C", and is current on all contributions, they may request a waiver or reduction of liquidated damages. Any waiver will be granted at the discretion of the board. Any modifications of payments or modifications including the reduction of liquidated damages must be agreed to in writing by both ELCO and the Trust Funds.

2. Any modification of payments must be made in writing and agreed to by both the Trust Funds and ELCO.

IT IS FURTHER AGREED that ELCO shall make payments of all ongoing amounts to become due to the Trust Funds pursuant to contract between ELCO and Trust Funds for covered hours worked by defendant employees commencing with payment for September hours due on or before October 15, 2010 and continuing until the full amount of the reduced judgment as set forth below is paid. Checks will be made payable to: "I.B.E.W. Local 332 Employee Benefit Trust Funds" and sent to Sue Campbell at: 1155 N. First St., Suite 101 San Jose, CA 95112.

IT IS FURTHER AGREED by the parties hereto that upon failure of the Defendant to make any of their monthly contribution payments pursuant to the collective bargaining agreement in the timely manner as required above, and pursuant to the terms of this stipulation as set forth above, the stipulated judgment attached as Exhibit "A" shall be entered in the amount set forth below:

- A. Contributions due and unpaid to the TRUST FUNDS for the period November 2009 - May 2010 in the amount of \$96,079.23.
- B. Liquidated damages due and unpaid to the TRUST FUNDS for the months of March - May 2010 in the amount of \$13,330.00
- C. Attorney's fees due pursuant to contract in the amount of \$2,500.00
- D. Costs of suit incurred in this action in the amount of \$350.00.

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- E. Contributions from September 2010 through March 2011, reduced by any offsets for payments made.
- F. Interest at 10% from April 15, 2010 in the amount of \$586.73 plus interest on the declining balance due on the payment schedule at 10%.

Said Judgment shall issue upon ten days written notice to ELCO, upon the filing of a declaration by Trust Funds' attorney stating that a default has occurred.

Upon payment of Contributions due and unpaid to the TRUST FUNDS for the period November 2009 - May 2010 in the amount of \$96,079.23, plus interest at 10% in the amount of \$1,883.62 for a total of \$97,962.85 plus liquidated damages in the amount of \$13,330.00 for a total of \$111,292.85, the TRUST FUNDS shall file a Request for Dismissal with prejudice in the lawsuit filed in the U.S. District Court, Northern District of California, case number: 10-CV-02718 PVT entitled BOB TRAGNI AND WILLIAM T.BARROW, AS TRUSTEES OF THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS LOCAL 332 HEALTH AND WELFARE AND PENSION TRUST FUNDS, NEBF, JEIF, NECA SERVICE CHARGE, NECA, DUES CHECK OFF AND APPRENTICESHIP TRAINING TRUST FUNDS vs. ELCO ELECTRIC, INC., A California Corporation and shall provide a file endorsed copy of that Request for Dismissal via U.S. Mail to ELCO ELECTRIC, INC., A California Corporation at: 1957 O'TOOLE AVENUE, SAN JOSE, CA 95131.

This Stipulation covers the delinquent amounts due to the Plaintiffs for the time period: November 2009 - May 2010 only, and does not include any amounts for any other time period that the collective bargaining agreement is in effect between the signatory parties. By entering into this Stipulation, Trust Funds do not waive their right to audit the employer for the above time period, or any other time period, and to collect through a subsequent legal action any additional monies found by an audit to be delinquent because of unreported hours.

1 additional monies found by an audit to be delinquent because of unreported hours.

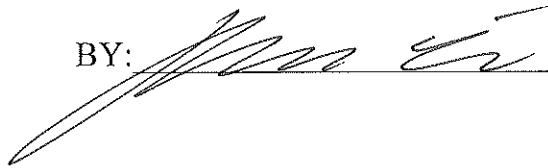
2 This agreement may be executed in multiple counterparts, each of which shall
3 constitute an original, and all of which taken together shall constitute one and the same
4 agreement.

5 In witness thereof, Plaintiff and Defendant have executed this stipulation for
6 judgment this _____ day of _____ 2010, at San Jose, California.

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DATED: 10/26/2010

RAJKA COLIC
ELCO ELECTRIC,
A CALIFORNIA CORPORATION

BY: 

DATED: _____

I.B.E.W. LOCAL 332 EMPLOYEE
BENEFIT TRUST FUND

By: _____

DATED: _____

I.B.E.W. LOCAL 332 EMPLOYEE
BENEFIT TRUST FUND

By: _____

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This agreement may be executed in multiple counterparts, each of which shall constitute an original, and all of which taken together shall constitute one and the same agreement.

In witness thereof, Plaintiff and Defendant have executed this stipulation for judgment this _____ day of _____ 2010, at San Jose, California.

DATED: _____

ELCO ELECTRIC,
A CALIFORNIA CORPORATION

BY: _____

DATED: 11/2/10

I.B.E.W. LOCAL 332 EMPLOYEE
BENEFIT TRUST FUND

By: *Robert L. Ryan*

DATED: _____

I.B.E.W. LOCAL 332 EMPLOYEE
BENEFIT TRUST FUND

By: _____

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This agreement may be executed in multiple counterparts, each of which shall constitute an original, and all of which taken together shall constitute one and the same agreement.

In witness thereof, Plaintiff and Defendant have executed this stipulation for judgment this _____ day of _____ 2010, at San Jose, California.

DATED: _____

ELCO ELECTRIC,
A CALIFORNIA CORPORATION

BY: _____

DATED: _____

I.B.E.W. LOCAL 332 EMPLOYEE
BENEFIT TRUST FUND

By: _____

DATED: 11/2/2010


I.B.E.W. LOCAL 332 EMPLOYEE
BENEFIT TRUST FUND

By: William T. Barrow