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 9 Attorney for Petitioner

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 11
 12 UNITED STATES DISTRICT COURT
 13 FOR THE SOUTHERN DISTRICT OF CALIFORNIA
 14

15 OLIVIA GARCIA, Regional Director)
 16 of Region 21 of the National Labor)
 17 Relations Board, for and on behalf of)
 18 the NATIONAL LABOR)
 19 RELATIONS BOARD,

20 Petitioner,

21 v.

22 HIGH FLYING FOODS,

23 Respondent.

24 Case No. 15CV0039-GPC(JLB)

25 JOINT MOTION/STIPULATION OF
 26 DISMISSAL

27 Judge: Hon. Gonzalo P. Curiel

28 Courtroom: 2D

No hearing date requested

Background

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2 1. On January 8, 2015, Petitioner Olivia Garcia, Regional Director of
3 Region 21 of the National Labor Relations Board (NLRB), for and on behalf of the
4 NLRB, petitioned the Court for a temporary injunction in this matter under 29
5 U.S.C. Sec. 160(j), pending final determination of the charges filed with the
6 NLRB by UNITE HERE! Local 30 (Union), against High Flying Foods
7 (Respondent).

8 2. On February 12, 2015, the Court: (a) issued its Order granting the
9 petition (in part) for temporary injunction, and also (b) issued the temporary
10 injunction. The Court's Order is reported at 2015 WL 773054 (S.D. Cal. 2015).

11 3. On September 30, 2016, the NLRB issued its Order on the unfair
12 labor practice complaint underlying the petition for injunction, adopting the
13 findings and conclusions of the Administrative Law Judge as contained in his
14 Decision. A copy of the (unpublished) NLRB Order is attached as Exhibit A.

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16 **Discussion**

17 4. The issuance of the NLRB's Order renders the injunction proceeding
18 moot. *Johansen ex rel. NLRB v. Queen Mary Restaurant Corp.*, 522 F.2d 6 (9th
19 Cir. 1975). Accordingly, and under Rule 41(a)(1)(A)(ii) of the Federal Rules of
20 Civil Procedure, the parties hereby stipulate to the dismissal of this action, without
21 prejudice. Each party is to bear its own fees and costs.

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5. Pursuant to Section 2(f)(4) of the Electronic Case Filing Administrative Policies and Procedures Manual of the Southern District of California, this stipulation of dismissal is being filed as a joint motion, and is therefore subject to the Court's approval.

Respectfully submitted,

Dated: 10-19-16

By: 
Robert MacKay, Field Attorney
robert.mackay@nlrb.gov
Attorney for Petitioner
National Labor Relations Board

Dated: October 19, 2016

By: 
Karl Terrell, Attorney at Law
kterrell@stokeswagner.com
Jacqueline A. Godoy, Attorney at Law
jgodoy@stokeswagner.com
Attorneys for Respondent
High Flying Foods

Court approval

IT IS SO ORDERED, this ____ day of _____, 2016.

The Honorable Gonzalo P. Curiel
United States District Judge

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

HIGH FLYING FOODS

and

Case 21-CA-135596

UNITE HERE! LOCAL 30

ORDER

On May 19, 2015, Administrative Law Judge Charles J. Muhl of the National Labor Relations Board issued his Decision in the above-entitled proceeding and, on the same date, the proceeding was transferred to and continued before the Board in Washington, D.C. The Administrative Law Judge found that the Respondent has engaged in certain unfair labor practices, and recommended that it take specific action to remedy such unfair labor practices.

On June 16, 2015, the General Counsel filed exceptions to the decision of the Administrative Law Judge. By motion dated September 28, 2016, Counsel for the General Counsel seeks withdrawal of those exceptions. The motion is granted. Accordingly,

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, and Section 102.48 of the National Labor Relations Board Rules and Regulations, the Board adopts the findings and conclusions of the Administrative Law Judge as contained in his Decision, and orders that the Respondent, HIGH FLYING FOODS, its officers, agents, successors, and assigns, shall take the action set forth in the recommended Order of the Administrative Law Judge.

Dated, Washington, D.C., September 30, 2016.

By direction of the Board:

/s/ Farah Z. Qureshi

Associate Executive Secretary

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21 v.

22 HIGH FLYING FOODS,

23 Respondent.
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Case No. 15CV0039-GPC(JLB)

CERTIFICATE OF SERVICE

Judge: Hon. Gonzalo P. Curiel

Courtroom: 2D

1 I am employed in the City of San Diego, County of San Diego, California. I
2 am over the age of 18. My business address is 555 West Beech Street, Room 418,
3 San Diego, California.

4 On October 19, 2016, I served the following document described as:

5
6 "Joint Motion/Stipulation of Dismissal"

7 Upon the attorneys for Respondent High Flying Foods:

8 Jacqueline A. Godoy, Attorney at Law
9 Stokes, Wagner, Hunt, Maretz & Terrell
10 600 West Broadway, Suite 910
11 San Diego, CA 92101

12 Karl Terrell, Attorney at Law
13 Stokes, Wagner, Hunt, Maretz & Terrell
14 One Atlantic Center
15 1201 W. Peachtree Street, N.W.
16 Atlanta, GA 30309

17 Service on Ms. Godoy was by CM/ECF Notice of Electronic Filing. On
18 October 19, 2016, I caused the document to be served by means of this Court's
19 electronic transmission of the Notice of Electronic Filing through the Court's
20 transmission facilities, to Ms. Godoy, who is a registered CM/ECF User.

21 Service on Mr. Terrell (appearing Pro Hac Vice) was by United States Postal
22 Service (USPS) priority mail. On October 19, 2016, a copy of the filing was
23 served on Mr. Terrell by USPS priority mail on the following (last known) address:

24 Karl Terrell, Attorney at Law
25 Stokes, Wagner, Hunt, Maretz & Terrell
26 One Atlantic Center
27 1201 W. Peachtree Street, N.W.
28 Atlanta, GA 30309

1 I declare under penalty of perjury under the laws of the United States that
2 the foregoing is true and correct.

3 Dated at San Diego, California, this 19th day of October, 2016.

4
5 By: s/ Robert MacKay
6 Robert MacKay
7 robert.mackay@nlrb.gov
8 Attorney for Petitioner
9 National Labor Relations Board
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