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KAMALA D. HARRIS
Attorney General of California
ERIC M. KATZ
Supervising Deputy Attorney General
MICHAEL T. ZARRO
State Bar No. 110171
Deputy Attorney General
300 South Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2651
Fax: (213) 897-2802
E-mail: Michael.Zarro@doj.ca.gov
Attorneys for Plaintiff
State Water Resources Control Board

[EXEMPT FROM FILING FEES -
GOV. CODE SECTION 6103]

VENTURA
SUPERIOR COURT
FILED

SEP 10 2015

MICHAEL D. PLANET
Executive Officer and Clerk
BY: C. RIOS, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF VENTURA

STATE WATER RESOURCES CONTROL BOARD,

Plaintiff,

v.

JORDAN - BOTKE ENTERPRISES, A CALIFORNIA CORPORATION, DOING BUSINESS AS PW ENVIRONMENTAL, WILLIAM RICHARD JORDAN, AN INDIVIDUAL, RICHARD EDWARD BOTKE, AN INDIVIDUAL, KIM MARIE JORDAN, AN INDIVIDUAL, AND DOES 1 THROUGH 100, INCLUSIVE,

Defendants.

Case No. 56-2015-00463585 CU-FR-VTA
STIPULATED JUDGMENT

Plaintiff, the STATE WATER RESOURCES CONTROL BOARD (hereinafter Plaintiff), and Defendants, JORDAN - BOTKE ENTERPRISES, doing business as PW ENVIRONMENTAL, WILLIAM RAY JORDAN [erroneously named in the caption as William Richard Jordan], RICHARD EDWARD BOTKE, and KIM MARIE JORDAN (hereinafter

1 Defendants), hereby stipulate and consent to the entry of this injunction and final judgment
2 pursuant to this Stipulation (hereinafter Stipulated Judgment).

3 Upon the consent of the parties hereto, and it appearing to the Court that **GOOD CAUSE**
4 exists for the entry of this Stipulated Judgment,

5 **IT IS ORDERED, ADJUDGED AND DECREED** that Plaintiff have judgment against
6 Defendants as follows:

7 **JURISDICTION**

8 1. This Court has jurisdiction over the subject matter of this action and over each of the
9 parties hereto, and has jurisdiction to enter this Stipulated Judgment as a full and final resolution
10 of all claims that were alleged in the Complaint filed by Plaintiff based upon the facts alleged
11 therein. This Court will retain jurisdiction, under California Code of Civil Procedure section
12 664.6, until final performance of this Stipulated Judgment.

13 **APPLICABILITY**

14 2. The provisions of this Stipulated Judgment, including the injunctive provisions
15 contained herein, are applicable to Defendants, their subsidiaries, divisions, alter egos and/or sole
16 proprietorships and any agent, employee, or representative thereof, and all persons, partners,
17 corporations, heirs, assigns, lessees, devisees or other entities acting by, through, under, or on
18 behalf of Defendants and all persons in concert with or participating with Defendants, with actual
19 or constructive knowledge of this injunction, insofar as they are doing business in the State of
20 California.

21 **RECITALS**

22 3. On February 2, 2015, Plaintiff filed a Complaint for Damages and Injunctive Relief, and
23 stated causes of action for intentional misrepresentation and negligent misrepresentation, alleging
24 that Defendants received monies from the Barry Keene Underground Storage Tank Cleanup Trust
25 Fund based on false, misleading and over-stated invoices.

26 4. Defendants neither admit nor deny any of the allegations in the Complaint, except as
27 specifically stated in this Stipulated Judgment.

1 5. Plaintiff and Defendants waive all rights to appeal or otherwise challenge or contest the
2 validity of this Stipulated Judgment.

3 **INJUNCTION**

4 6. Defendants, and each of them, are enjoined from performing any further work for or in
5 connection with claimants who seek reimbursement from the State Water Board pursuant to the
6 Cleanup Fund. This includes, but is not limited to, corrective action work and associated work,
7 including preparation of reimbursement requests.

8 7. Defendants, and each of them, are enjoined from participating in any work overseen,
9 directed, funded, submitted to or administered by the State Water Board.

10 8. Defendants may no longer be employed by, own in whole or in part, or consult on behalf
11 of any entity that seeks payment or reimbursement from the State Water Board, including but not
12 limited to any entity providing services that may be considered for reimbursement from the
13 Cleanup Fund or paid by any other fund administered by the State Water Board.

14 **MONETARY RELIEF**

15 9. Defendants are jointly and severally liable to Plaintiff in the sum of \$281,000 for all
16 outstanding administrative or civil claims as of the date of this judgment. Defendants
17 acknowledge the assignment of claims in the amount of \$130,726 as partial satisfaction of this
18 monetary judgment; State Water Board acknowledges receipt of \$90,774 from Defendants as of
19 the date this Stipulated Judgment is signed by the parties. The remaining sum of \$59,500 is due
20 and payable to the State Water Board within 30 days of entry of this judgment. If this remaining
21 portion of the monetary judgment is not satisfied on that date, interest shall accrue on the unpaid
22 sum at the statutory rate from the date the judgment is entered by the Court.

23 10. Defendants, and each of them, are not entitled to any further payment based upon any
24 reimbursement request submitted to the State Water Board's Cleanup Fund, whether submitted
25 and not yet processed by the State Water Board, submitted but pending on appeal before the State
26 Water Board, or for work completed but not yet submitted or appeals not yet submitted.

27 11. The Court finds that any and all work performed, supervised by and/or directed by
28 Defendants that has not been reimbursed by the Cleanup Fund as of October 31, 2014 is not

1 reasonable and necessary corrective action and, therefore, not subject to reimbursement from the
2 Cleanup Fund. This includes, but is not limited to, work performed by a third party or
3 subcontractor.

4 **RELEASE AND CLAIMS COVERED**

5 12. This Stipulated Judgment is a full, final, and binding resolution between Plaintiff and
6 Defendants of all claims, known or unknown, arising out of reimbursement requests submitted to
7 the State Water Board's UST Cleanup Fund. The findings made in this Stipulated Judgment are
8 final, and shall be res judicata in any subsequent action by Plaintiff or any Defendant based upon
9 any work done prior to the date of entry of judgment as stipulated hereto. Nothing in this
10 Stipulated Judgment shall prejudice, waive or impair any right, remedy, or defense that Plaintiff
11 or Defendants may have in any other ongoing or future legal proceedings unrelated to this
12 Stipulated Judgment. However, this paragraph shall not diminish or otherwise affect the
13 obligations, responsibilities, and duties of the parties under this Stipulated Judgment.

14 **COURT APPROVAL**

15 13. This Stipulated Judgment shall be submitted to the Court for entry. If this Stipulated
16 Judgment is not approved by the Court, it shall be of no force or effect.

17 14. This Stipulated Judgment may be executed by the parties and counsel in counterpart
18 and by facsimile transmission, any combination of which shall be deemed an original and may be
19 filed with the Court.

20 15. This Stipulated Judgment shall go into effect immediately upon entry hereof. Entry is
21 authorized immediately upon filing.

22 **IT IS SO ORDERED**, this 8th day of September, 2015.

23
24 **KEVIN G. DENOCE**

25 _____
26 Honorable Tari Cody
27 Judge of the Superior Court
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STIPULATION APPROVED AS TO FORM AND CONTENT:

DATED: AUGUST 25, 2015

JORDAN - BOTKE ENTERPRISES

By: 

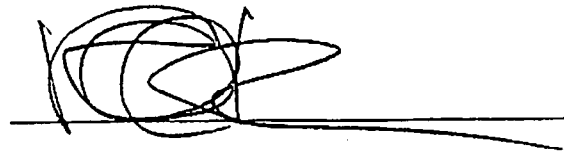
DATED: AUGUST 25, 2015

WILLIAM RAY JORDAN



DATED: AUGUST 25, 2015

RICHARD EDWARD BOTKE



DATED: AUGUST 25, 2015

KIM MARIE JORDAN



DATED: _____, 2015

STATE WATER RESOURCES CONTROL BOARD

By: _____

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STIPULATION APPROVED AS TO FORM AND CONTENT:

DATED: _____, 2015

JORDAN - BOTKE ENTERPRISES

By: _____

DATED: _____, 2015

WILLIAM RAY JORDAN

DATED: _____, 2015

RICHARD EDWARD BOTKE

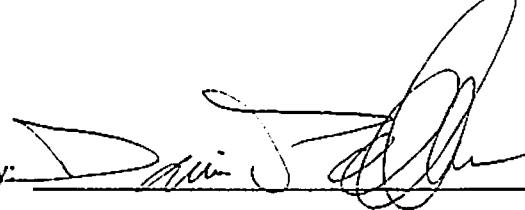
DATED: _____, 2015

KIM MARIE JORDAN

By: _____

DATED: 3/24, 2015

STATE WATER RESOURCES CONTROL BOARD

By:  _____

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APPROVED AS TO FORM ONLY:

DATED: 4/25, 2015

KAMALA D. HARRIS
Attorney General of California
ERIC M. KATZ
Supervising Deputy Attorney General



MICHAEL T. ZARRO
Deputy Attorney General
Attorneys for Plaintiff
State Water Resources Control Board

DATED: Aug 25, 2015

Orrick, Herrington & Sutcliffe LLP



MARK MERMELSTEIN
Attorneys for Defendants