

SEP 03 2008

ALAN SLATER, Clerk of the Court

  
BY R. BURNS

1 EDMUND G. BROWN JR.  
Attorney General of the State of California  
2 MARK J. BRECKLER  
Senior Assistant Attorney General  
3 JON M. ICHINAGA  
Supervising Deputy Attorney General  
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Deputy Attorney General  
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Attorneys for People of the State of California  
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10 SUPERIOR COURT OF CALIFORNIA  
11 COUNTY OF ORANGE  
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14 **PEOPLE OF THE STATE OF CALIFORNIA, ex**  
15 **rel. EDMUND G. BROWN JR., Attorney General of**  
16 **the State of California,**

Plaintiff,

17 v.

18 **INTERWALL DEVELOPMENT SYSTEMS, INC,**  
19 **FELTS CONSTRUCTION COMPANY, INC.,**  
20 **CINCO CONSTRUCTION, INC., ANCCA**  
21 **CORPORATION dba N-U ENTERPRISE**

Defendants.  
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Case No. 30-2008-00108409-  
CU-BT-CJC

[Assigned for all purposes to the  
Honorable Judge Sheila Fell,  
Dept. C-22]

**STIPULATION FOR ENTRY  
OF JUDGEMENT AND  
[Proposed] ORDER THEREON**

Trial Date: Not Yet Set  
Action Filed: 01/14/08

25 IT IS HEREBY STIPULATED by and among Plaintiff, the People of the State of  
26 California ("People" or "Plaintiff"), through its attorney, Attorney General Edmund G. Brown  
27 Jr., by Deputy Attorney General Timothy J. Kolesnikow, Defendants Interwall Development  
28 Systems, Inc., Felts Construction Company, Inc., Cinco Construction, Inc. (collectively,

- 1 “Defendants”), and Ancca Corporation Dba “N-U Enterprise”, through their attorneys, that:
- 2 1. The Final Judgment and Permanent Injunction (hereafter “Judgment”), a copy of
- 3 which is attached hereto as Exhibit 1, shall be entered by the Clerk upon payment by Defendants
- 4 of the amounts set forth below in paragraphs 5 through 8;
- 5 2. The Judgment may be signed by a judge, commissioner or judge pro tem of the
- 6 Orange County Superior Court;
- 7 3. The Judgment resolves only the matters specifically described in the civil
- 8 complaint filed in Orange County Superior Court Case number 30-2008-00108409-CU-BT-CJC;
- 9 4. Defendants agree to make all payments set forth below within 30 days of the entry
- 10 of the Order on this Stipulation, and agree that Plaintiff or his agents may negotiate all checks
- 11 prior to entry of any Judgment in this matter;
- 12 5. Pursuant to California Business and Professions Code §17203, Defendants shall
- 13 pay ONE MILLION FOUR HUNDRED AND FOUR THOUSAND DOLLARS (\$1,404,000) as
- 14 restitution to those employees/former employees who claim to be owed unpaid wages and
- 15 thereby suffered pecuniary losses because of Defendants’ violation of Business and Professions
- 16 Code §17200 et. seq. as described in the Complaint. Defendants shall, by means of certified
- 17 check payable to a restitution administrator designated by Plaintiff, make payment within 30 days
- 18 of the entry of the Order on this Stipulation.
- 19 a. Plaintiff, in its discretion, may determine the eligibility of any individual for
- 20 restitution, pay restitution directly to eligible individuals in accordance with
- 21 any reasonable plan or method, including restitution to all eligible
- 22 individuals, or to groups of eligible individuals reasonably selected by
- 23 Plaintiff in its discretion, on a full, pro rata, or differential basis, and
- 24 distribute any remaining restitution as additional civil penalties after payment
- 25 of restitution as set forth in this paragraph.
- 26 b. So that Plaintiff may determine which employees/former employees are
- 27 entitled to restitution, and in what amount, Defendants shall make a good
- 28 faith effort to cooperate with Plaintiff in determining which

- 1 employees/former employees claim to be entitled to restitution and how best  
2 to locate those employees to effect payment to the employees.
- 3 c. The \$1,404,000 amount of restitution for unpaid wages will be allocated as  
4 follows: \$674,396.85 for claims for unpaid overtime, \$303,607.06 for claims  
5 for interest on unpaid overtime, and \$425,996.09 for claims for unpaid rest  
6 period violation premium pay.
- 7 d. Defendants shall, in addition to the amount of \$1,404,000 in restitution, pay  
8 to the restitution administrator the amount of \$131,000 for estimated  
9 employer-share payroll taxes (including FICA, FUTA, Medicare, California  
10 State Unemployment and Employment Training Taxes). Upon conclusion of  
11 administration, the restitution administrator shall refund to Defendants any  
12 amount of the \$131,000 which is not used towards employer-side payroll  
13 taxes.
- 14 6. Pursuant to California Business and Professions Code §17206, Defendants shall  
15 pay TWO HUNDRED THOUSAND DOLLARS (\$200,000.00) as and for civil penalties.  
16 Defendants shall, by means of certified check payable to the People of the State of California,  
17 make payment within 30 days of the entry of the Order on this Stipulation.
- 18 7. Defendants shall pay TWENTY SIX THOUSAND DOLLARS (\$26,000.00) as  
19 and for the fees and costs of a restitution administrator designated by the Attorney General's  
20 Office. Defendants shall, by means of certified check payable to the restitution administrator  
21 designated by the Attorney General's Office, make payment within 30 days of the entry of the  
22 Order on this Stipulation. If the total costs of such administration is less than \$26,000, the  
23 remaining balance shall be paid by the restitution administrator to the People of the State of  
24 California as civil penalties, in addition to the \$200,000 in civil penalties as set forth in ¶6.
- 25 8. Defendants shall pay SEVENTY THOUSAND DOLLARS (\$70,000.00) as and  
26 for attorney fees and costs related to the investigation and the prosecution of this matter.  
27 Defendants shall, by means of certified check payable to the California Attorney General, make  
28 payment within 30 days of the entry of the Order on this Stipulation.

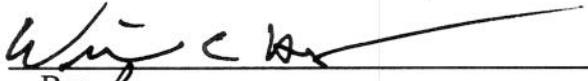
1           9. The checks described in paragraphs 5 through 8, above, shall be delivered to  
2 Plaintiff at the following address: California Attorney General's Office, 300 South Spring Street,  
3 Suite 1702, Los Angeles California 90013, Attn: Deputy Attorney General Timothy J.  
4 Kolesnikow.

5           10. After the checks described in paragraphs 5 through 8 have been paid to Plaintiff,  
6 but before entry of judgment, Plaintiff shall file a request for dismissal of Defendant ANCCA  
7 Corporation dba "N-U Enterprise." Upon dismissal, Plaintiff and Defendant ANCCA  
8 Corporation dba "N-U Enterprise" are to bear their own costs and attorney fees as to claims  
9 alleged against ANCCA Corporation.

10           11. This Stipulation for Entry of Final Judgment and Permanent Injunction may be  
11 executed in counterparts with the same force and effect as if executed in one complete document  
12 by all parties.  
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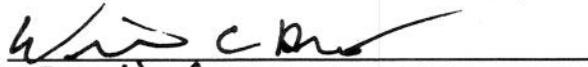
15 DATED: 8/23/08

INTERWALL DEVELOPMENT SYSTEMS, INC.

  
By: Pres.

18 DATED: 8/23/08

FELTS CONSTRUCTION COMPANY, INC.

  
By: Vice Pres.

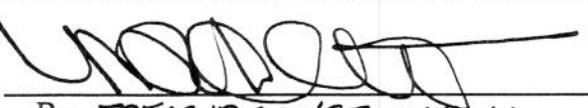
21 DATED: 8/23/08

CINCO CONSTRUCTION, INC.

  
By: Pres.

25 DATED: 8/23/08

ANCCA CORPORATION dba N-U ENTERPRISE

  
By: TREASURER/SECRETARY

1 DATED: 8/22/08

NOSSAMAN LLP



3 By: E. George Joseph, Esq.  
4 Counsel for Defendants Interwall Development Systems,  
5 Inc., Felts Construction Company, Inc., Cinco  
6 Construction, Inc., Ancca Corporation DbA "N-U  
7 Enterprise"

7 DATED: \_\_\_\_\_

EDMUND G. BROWN JR., Attorney General of the State of  
California

9 \_\_\_\_\_  
10 By: Timothy J. Kolesnikow,  
11 Deputy Attorney General, Attorneys for Plaintiff, the  
12 People of the State of California

13 **ORDER**

14 Pursuant to the foregoing stipulation, and good cause appearing thereto, IT IS HEREBY  
15 ORDERED that the case is stayed, and that no later than 35 days after entry of the instant Order,  
16 Plaintiff shall file a declaration notifying the Court regarding the status of payments made  
17 pursuant to the instant stipulation and Order.

18 IT IS FURTHER ORDERED THAT, upon Plaintiff's filing a declaration stating that all  
19 payments have been made as set forth in the above stipulation, Judgment in the form attached  
20 hereto as Exhibit "1" shall be entered, as set forth in the above stipulation of the parties.

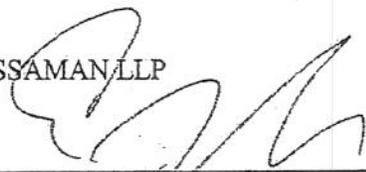
22 DATE: \_\_\_\_\_

23 \_\_\_\_\_  
24 Hon. Judge Sheila Fell,  
25 Judge of the Superior Court

27 Stip for settlement - final ver 60318098.wpd  
28 SA2007701158

1 DATED: 8/22/08

NOSSAMAN/LLP



By: E. George Joseph, Esq.  
Counsel for Defendants Interwall Development Systems,  
Inc., Felts Construction Company, Inc., Cinco  
Construction, Inc., Ancca Corporation Dba "N-U  
Enterprise"

7 DATED: 08/25/08

EDMUND G. BROWN JR., Attorney General of the State of  
California



By: Timothy J. Kolesnikow,  
Deputy Attorney General, Attorneys for Plaintiff, the  
People of the State of California

13 **ORDER**

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15 ORDERED that the case is stayed, and that no later than 35 days after entry of the instant Order,  
16 Plaintiff shall file a declaration notifying the Court regarding the status of payments made  
17 pursuant to the instant stipulation and Order.

18 IT IS FURTHER ORDERED THAT, upon Plaintiff's filing a declaration stating that all  
19 payments have been made as set forth in the above stipulation, Judgment in the form attached  
20 hereto as Exhibit "1" shall be entered, as set forth in the above stipulation of the parties.

22 DATE: Sept. 3, 2008

JUDGE SHEILA FELL

Hon. Judge Sheila Fell,  
Judge of the Superior Court

27 Stip for settlement - final ver 60318098.wpd  
28 SA2007701158



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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE

**PEOPLE OF THE STATE OF CALIFORNIA, ex  
rel. EDMUND G. BROWN JR., Attorney General of  
the State of California,**

Plaintiff,

v.

**INTERWALL DEVELOPMENT SYSTEMS, INC,  
FELTS CONSTRUCTION COMPANY, INC.,  
CINCO CONSTRUCTION, INC.**

Defendants.

Case No.  
30-2008-00108409-CU-BT-CJC

[Assigned for all purposes to the  
Honorable Judge Sheila Fell,  
Dept. C-22]

**[proposed] Final Judgment and  
Permanent Injunction**

Plaintiff, the People of the State of California ("People" or "Plaintiff"), through its Attorney General Edmund G. Brown Jr., by Deputy Attorneys General Timothy J. Kolesnikow and Maurice Jourdane, Defendants Interwall Development Systems, Inc., Felts Construction Company, Inc., Cinco Construction, Inc. (collectively, "Defendants") through their counsel, having stipulated that this Final Judgment and Permanent Injunction (hereafter "Judgment") may be entered, with each party waiving the right to an adjudicative trial, without the taking of evidence on any issue of fact or law, or any factual finding by the Court or any admission or denial of wrongdoing or guilt;

Now, therefore, in order to resolve this case, 30-2008-00108409-CU-BT-CJC, and only this case,

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IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. This Court has jurisdiction over the allegations and subject matter of the People's Complaint filed in this action, and the parties thereto; venue is proper in this County; and this Court has jurisdiction to enter this Judgment.

2. Pursuant to Business and Professions Code §17203, Defendants and their agents, employees, former employees, officers, former officers, directors, former directors, representatives, successors, partners, assigns, and those acting in concert or in participation with them, are enjoined from committing, recommending, or counseling any person or legal entity to perform any of the following acts:

- a Failing to pay employees overtime pay required by contract or by law (Labor Code section 510 and applicable Industrial Welfare Commission Orders including but not limited to Industrial Welfare Commission Wage Order No. 16);
- b. Failing to provide employees with rest periods required by Labor Code section 226.7 and applicable Industrial Welfare Commission Orders including but not limited to Industrial Welfare Commission Wage Order No. 16;
- c. Failing to timely pay employees all uncontested wages due, in violation of Labor Code sections 202 through 204c;
- d. Failing to provide employees with an accurate itemized written statement reflecting their gross wages, the number of hours the employee worked, rate of pay, piece-rates, all deductions taken, net wage earned, the inclusive dates of the pay period, the name of the employee and his or her social security number, and the hourly rate in effect during the pay period, in violation of Labor Code section 226;
- e. Failing to pay employees the prevailing wage while working on public works projects as required by law; and

///

- 1 f. Utilizing multiple legal entities to avoid:
- 2 i. Paying employees overtime pay required by law or contract;
- 3 ii. Providing employees with rest periods required by law;
- 4 iii. Payment of all wages owed employees when due;
- 5 iv. Providing employees with accurate pay check stubs or other required
- 6 accurate written information on the number of hours worked and sums
- 7 deducted from their pay;
- 8 v. Paying employees the prevailing wage as required by law for time they
- 9 work on public works projects; and
- 10 vi. Any prohibition set forth in this judgment.
- 11 3. The payments required pursuant to paragraphs 5-8 of the Stipulation For Entry of
- 12 Judgement And Order Thereon are not dischargeable in bankruptcy.
- 13 4. Payment having been made as set forth in the Stipulation For Entry of Judgement
- 14 And Order Thereon, Defendants' employees, officers, and directors, as well as Defendants, are
- 15 deemed to have satisfied all requirements for monetary payments for any matters actually alleged
- 16 in the Complaint.
- 17 5. The Court retains jurisdiction as the ends of justice may require for the purpose of
- 18 enabling any party to this Judgment to apply to the Court at any time for such further orders and
- 19 directions as may be necessary or appropriate (a) for the construction or carrying out of this Final
- 20 Judgment and Permanent Injunction and/or the Stipulation For Entry of Judgement And Order
- 21 Thereon; (b) for Plaintiff to apply at any time for enforcement of any provision of this Final
- 22 Judgment and Permanent Injunction and/or the Stipulation For Entry of Judgement And Order
- 23 Thereon; (c) for modification of the injunctive provisions of this Judgment and Permanent
- 24 Injunction; and (d) for punishment of any violations of this Judgment and Permanent Injunction
- 25 and/or the Stipulation For Entry of Judgement And Order Thereon.
- 26 6. Defendants shall provide, within twenty (20) days of receipt of a request,
- 27 information requested by Plaintiff for the purpose of enabling Plaintiff to determine compliance
- 28 with the provisions of this Judgment and/or the Stipulation For Entry of Judgement And Order

1 Thereon.

2 7. ANCCA Corporation doing business as N-U Enterprise is dismissed with  
3 prejudice from the action, with ANCCA Corporation to bear its own fees and costs.

4 8. The clerk shall enter this Final Judgment and Permanent Injunction forthwith, but  
5 only after Plaintiff informs the Court that Defendants have made all payments specified in the  
6 Stipulation For Entry of Judgement And Order Thereon.

7

8 DATE: \_\_\_\_\_

\_\_\_\_\_  
Hon. Judge Sheila Fell,  
Judge of the Orange County Superior Court

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12 Dated: 8/15, 2008 Submitted by,

13 EDMUND G. BROWN JR.  
Attorney General of the State of California

14 MARK J. BRECKLER  
Senior Assistant Attorney General  
15 JON M. ICHINAGA  
Supervising Deputy Attorney General

16 MAURICE R. JOURDANE  
Deputy Attorney General

17

18 TIMOTHY J. KOLESNIKOW  
Deputy Attorney General  
19 Attorneys for People of the State of California

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prop Jmt - Final Ver 60318077.wpd  
SA2007701158

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1 **PROOF OF SERVICE**

2 The undersigned declares:

3 I am employed in the County of Orange, State of California. I am over the age of 18 and  
4 am not a party to the within action; my business address is c/o Nossaman LLP, 18101 Von  
5 Karman Avenue, Suite 1800, Irvine, California 92612-0177.

6 On August 25, 2008, I served the foregoing STIPULATION FOR ENTRY OF  
7 JUDGMENT AND [Proposed] ORDER THEREON on parties to the within action as follows:

8 Edmund G. Brown, Jr. Counsel for Plaintiff State of California  
9 Attorney General ~ State of California  
10 Timothy J. Kolesnikow  
11 Deputy Attorney General  
12 300 South Spring Street, Suite 1702  
13 Los Angeles, CA 90013  
14 Tel: (213) 897-4482  
15 Fax: (213) 897-2801  
16 Email: Timothy.Kolesnikow@doj.ca.gov

17  (By U.S. Mail) On the same date, at my said place of business, an original enclosed in a  
18 sealed envelope, addressed as shown on the attached service list was placed for  
19 collection and mailing following the usual business practice of my said employer. I am  
20 readily familiar with my said employer's business practice for collection and processing  
21 of correspondence for mailing with the United States Postal Service, and, pursuant to that  
22 practice, the correspondence would be deposited with the United States Postal Service,  
23 with postage thereon fully prepaid, on the same date at Irvine, California.

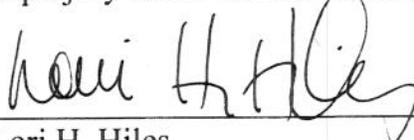
24  (By Facsimile) I served a true and correct copy by facsimile pursuant to C.C.P. 1013(e),  
25 to the number(s) listed on the attached sheet. Said transmission was reported complete  
26 and without error. A transmission report was properly issued by the transmitting  
27 facsimile machine, which report states the time and date of sending and the telephone  
28 number of the sending facsimile machine. A copy of that transmission report is attached  
hereto.

(By Overnight Service) I served a true and correct copy by overnight delivery service for  
delivery on the next business day. Each copy was enclosed in an envelope or package  
designated by the express service carrier; deposited in a facility regularly maintained by  
the express service carrier or delivered to a courier or driver authorized to receive  
documents on its behalf; with delivery fees paid or provided for; addressed as shown on  
the accompanying service list.

(By Electronic Service) By emailing true and correct copies to the persons at the  
electronic notification address(es) shown on the accompanying service list. The  
document(s) was/were served electronically and the transmission was reported as  
complete and without error.

Executed on August 25, 2008.

(STATE) I declare under penalty of perjury under the laws of the State of California that  
the foregoing is true and correct.

  
\_\_\_\_\_  
Lori H. Hiles