

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

*CLARKE v. LINDEMAN, et al.*

Case No. C 09-03467-JAM-DAD

**STIPULATION AND AGREEMENT OF SETTLEMENT**

This Stipulation and Agreement of Settlement (the “Stipulation”) is entered into among Edward Clarke (“Plaintiff” or “Class Representative”), on behalf of himself and all others similarly situated (“the Class” or “Class Members”) and Defendants Michael Lindeman, Lorraine Lindeman, David Nickum, Valley Aggregate Transport, Inc., the Board of Directors of Valley Aggregate Transport, Inc. and the Administration Committee for the Valley Aggregate Transport, Inc. Employee Stock Ownership Plan (“Defendants”) (collectively the “Parties”).

The purpose of this Stipulation and Agreement of Settlement is to fully, finally and forever settle the above-entitled litigation on the terms set forth herein. The Parties agree its provisions should be construed such that, in consideration for the payment of the Settlement Amount (as defined below) to or for the benefit of Class Members, the Class will provide Defendants with a release of all claims set forth in Section 5 of this Stipulation and a dismissal with prejudice of the First Amended Complaint.

It is therefore STIPULATED AND AGREED among the Parties, without any concession by Plaintiff and/or Class Members that the Action lacked merit, and without any concession by Defendants of any liability or wrongdoing or lack of merit in their defenses, that all claims against Defendants shall be settled, released and dismissed with prejudice on the following terms:

1. Definitions:

a. “Action” means *Clarke v. Lindeman, et al.*, No. C 09-03467-JAM-DAD, pending in the United States District Court for the Eastern District of California.

b. "Class" is defined as all persons who were participants or beneficiaries in the Valley Aggregate Transport, Inc. Employee Stock Ownership Plan (ESOP) on January 9, 2004, or at any time thereafter, and/or beneficiaries of ESOP participants on January 9, 2004, or at any time thereafter. Excluded from the Class are the individual Defendants Michael Lindeman, Lorraine Lindeman and David Nickum and the immediate family, legal representatives and assigns of any such excluded persons.

c. "Class Exemption" means: Prohibited Transaction Exemption 2003-39, "Release of Claims and Extensions of Credit in Connection with Litigation," issued December 31, 2003, by the United States Department of Labor, 68 Fed. Reg. 75,632.

d. "Class Counsel" means Lewis, Feinberg, Lee, Renaker & Jackson, P.C.

e. "Class Member" means a person who falls within the definition of the Class.

f. "Court" means the United States District Court for the Eastern District of California.

g. "Effective Final Approval" means the first court day following the last of each of the following occurrences:

1. Entry by the Court of a Notice and Preliminary Approval Order as described in Section 6 of this Stipulation; and
2. Entry by the Court of a Final Judgment as described in Section 8 of this Stipulation; and
3. The occurrence of the "Effective Date of Judgment," which shall be deemed to be the last to occur of the following:

- (a) Five court days after the date and time to appeal or to seek permission to appeal or to seek other judicial review of the entry of the Final Judgment approving the Settlement has expired with no appeal or other judicial review having been filed,

taken or sought; or

- (b) If an appeal or other judicial review has been filed, taken or sought, five court days after the date on which the Final Judgment is finally affirmed by an appellate court with no possibility of subsequent appeal or other judicial review therefrom, or ten court days after the date the appeal(s) or other judicial review therefrom are finally dismissed with no possibility of a subsequent appeal or other judicial review. Provided, however, that an appeal or other judicial review of Class Counsel's application for attorneys' fees and costs shall have no effect on the Effective Date of Judgment or Effective Final Approval.

h. "ESOP" means the Valley Aggregate Transport, Inc. Employee Stock Ownership Plan and the trust for the Valley Aggregate Transport, Inc. Employee Stock Ownership Plan.

i. "Final Judgment" means the Court's entry of an order finally approving the settlement.

j. "Forfeiture Amount" means the portion of the Settlement Amount attributable to the forfeiture of the ESOP accounts of Defendants Michael Lindeman and David Nickum pursuant to ERISA Section 206(d)(4).

k. "Independent Fiduciary" means an ESOP fiduciary selected and retained by Defendant Valley Aggregate Transport, Inc. to review and approve the settlement set forth in this Stipulation. Such fiduciary shall also determine the allocation among the ESOP participants and beneficiaries of the amounts received by the ESOP pursuant to Section 3(d) hereunder. Such fiduciary shall have no relation to or interest in any of the Defendants. The parties agree that Defendant Valley Aggregate Transport,

Inc. may select the current Trustee of the ESOP, Alan Weissman, who has no relation to or interest in any of the Defendants, to act as the Independent Fiduciary.

l. "Net Settlement Amount" means the amount remaining of the Settlement Amount after payment of Class Counsel's fees and costs, the Plaintiff incentive award, and any costs of settlement administration are deducted from the Settlement Amount.

m. "Plaintiff" means class representative Edward Clarke.

n. "Settled Claims" means any and all legal or beneficial claims, rights, demands, obligations, controversies, debts, damages, losses, costs, expenses (including attorneys' fees and costs), causes of action or liabilities of any kind or nature whatsoever in law or in equity, known or unknown, asserted, unasserted, or which could have been asserted, against any of the Released Persons (as Released Persons is defined in Section 5 (a) of this Stipulation), under federal or state law, arising between January 1, 2003 and the date of Effective Final Approval out of the facts, claims, transactions and allegations in the Action, held by Plaintiff and/or Class Members or held by any past, present or future trustee of the ESOP on behalf of or for the benefit of Plaintiff and Class Members, including, but not limited to any claims arising out of (a) the purchase of Valley Aggregate Transport, Inc. stock by the ESOP in January 2004, (b) the alleged failures of Defendants David Nickum, Valley Aggregate Transport, Inc., the Board of Directors of Valley Aggregate Transport, Inc., and the Administration Committee for the Valley Aggregate Transport, Inc. Employee Stock Ownership Plan to pursue claims against the ESOP's prior fiduciaries for the purchase of Valley Aggregate Transport, Inc. stock by the ESOP in January 2004, (c) the purchase of the ESOP Note by David Nickum and the ESOP's associated pre-payment of \$1.5 million on the ESOP Note in December 2004 or January 2005, and (d) the alleged failures of Defendants Valley Aggregate Transport Inc., the Board of Directors of Valley Aggregate Transport Inc., and the Administration Committee for the Valley Aggregate Transport Inc. Employee Stock Ownership Plan to pursue claims against the ESOP's other fiduciaries for the purchase of the ESOP Note by David Nickum and the ESOP's associated pre-payment of \$1.5 million

on the ESOP Note in December 2004 or January 2005. Additionally, "Settled Claims" includes any and all legal or beneficial claims, rights, demands, obligations, controversies, debts, damages, losses, costs, expenses (including attorneys' fees and costs), causes of action or liabilities of any kind or nature whatsoever in law or in equity, including both known or unknown, held by Plaintiff in his individual capacity. "Settled Claims" does not include any claims relating to or arising out of the sale of the assets of Valley Aggregate Transport Inc. to Fresno Trucking Center or the termination of the ESOP.

2. Settlement Amount and Payment.

a. Defendants and XL Specialty Insurance Company agree to collectively pay two million, two hundred thousand dollars (\$2,200,000.00) in cash and to forfeit certain rights and benefits as follows:

1. Defendants Michael Lindeman and Lorraine Lindeman shall pay one hundred thousand dollars (\$100,000.00) in cash toward the Settlement Amount and, in addition, forfeit any right, title and/or benefit related to shares allocated to the account of either of the Lindemans or any family member of the Lindemans in the ESOP Trust (the "Lindeman Forfeiture");
2. Defendant David Nickum shall pay one hundred thousand dollars (\$100,000.00) in cash toward the Settlement Amount and, in addition, forfeit any right, title and/or benefit related to his shares in his account in the ESOP Trust (the "Nickum Forfeiture");
3. XL Specialty Insurance Company shall pay two million dollars (\$2,000,000.00) in cash toward the Settlement Amount; and
4. The aggregate of the cash payments by Defendants Michael and Lorraine Lindeman, by David Nickum and by XL

Specialty Insurance Company, together with the Lindeman Forfeiture and the Nickum Forfeiture shall constitute the total consideration for the settlement and releases of claims set forth in this Stipulation (“Settlement Amount”).

b. The Settlement Amount includes any and all attorneys’ fees, consultants’ fees, expert witness fees and litigation costs payable to the Class, Class Members and/or Class Counsel.

c. The Parties agree that Defendants may characterize said payment of the total Settlement Amount or any portion of the Settlement Amount in any fashion that the Defendants deem appropriate, provided such characterization does not adversely affect the ESOP or the ESOP Trust.

3. Actions of Independent Fiduciary.

a. Defendant Valley Aggregate Transport, Inc. shall retain an Independent Fiduciary within ten (10) days of the execution of this document to review this Stipulation in light of Prohibited Transaction Exemption 2003-39. Plaintiff will not object if Defendant Valley Aggregate Transport, Inc. retains the current ESOP Trustee, Alan Weissman, as the Independent Fiduciary.

b. Plaintiff, Class Members, and Defendants will comply with reasonable requests for information made by the Independent Fiduciary for the purpose of reviewing this Stipulation. Any disputes shall be referred to the Court for decision. Such decision by the Court is non-appealable.

c. At least five (5) days before the final fairness and approval hearing referenced in Section 8 of this Stipulation is held, the ESOP, acting by and through the Independent Fiduciary engaged for the specific purpose of reviewing this Stipulation, and the Independent Fiduciary, in its capacity as a fiduciary of the ESOP, shall have agreed in writing, in consideration of the terms herein, to grant, effective upon the entry by the Court of a Final Judgment as described in Section 11 of this Stipulation, the releases set forth herein, which releases (i) shall release the same claims as the Releases set forth in Section 5 of this Stipulation; and (ii) shall be determined by the Independent Fiduciary to

meet the requirements of the Class Exemption.

d. The ESOP, acting by and through the Independent Fiduciary, in its capacity as a fiduciary of the ESOP, shall allocate the Settlement Amount, including the Lindeman Forfeiture and the Nickum Forfeiture, among the ESOP participants and beneficiaries.

4. Attorneys' Fees and Costs and Incentive Awards for Class Representatives.

a. Class Counsel will apply for, and Defendants will not oppose, an award of attorney's fees in an amount up to, but not to exceed twenty-five percent (25%) of the cash component of the Settlement Amount (*i.e.*, 25% of \$2,200,000.00 which is five hundred and fifty thousand dollars (\$550,000.00)), and costs of up to, but not to exceed, fifty thousand dollars (\$50,000), all of which shall be paid exclusively from the Settlement Amount, and will compensate Class Counsel for all of the work already performed, and expenses already incurred, in the Action and all work remaining to be performed in consummating the Settlement. The substance of Class Counsel's application for attorneys' fees and costs is not part of this Stipulation, and is to be considered separately from the Court's consideration of the fairness, reasonableness, adequacy, and good faith of the settlement of the Action.

b. Class Counsel will apply for, and Defendants will not oppose, an incentive award of five thousand dollars (\$5,000) to the Plaintiff, which payment shall be paid exclusively from the Settlement Amount.

5. Releases.

a. Upon Effective Final Approval of the Settlement, Plaintiff acting in his individual capacity, and Plaintiff and Class Members acting for the benefit of the ESOP, on behalf of themselves, and each of their respective dependents, heirs, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, personal representatives, successors-in-interest, predecessors, agents, attorneys, lienholders, assigns, partners, officers, directors or employees, past, present, and future (collectively the "Releasing Persons"), by operation of the Final Judgment, hereby forever and

completely release and discharge each and every one of the Defendants, each past and present individual member of the Board of Directors of Valley Aggregate Transport, Inc., each past and present individual member of the Administration Committee for the Valley Aggregate Transport, Inc. Employee Stock Ownership Plan, and the Defendants' past and present and direct and indirect predecessors, successors and assigns, parents, subsidiaries, affiliates, divisions, officers, directors, trustees, agents, employees, attorneys, contractors, representatives partners, heirs, executors, conservators, guardians, beneficiaries, assigns, insurers and administrators (together the "Released Persons") from each and every of the Settled Claims and shall forever be barred and enjoined from commencing, instituting or maintaining any of the Settled Claims against any of the Released Persons.

b. Each of the Defendants for himself, herself and itself and for his, her or its respective dependents, heirs, beneficiaries, devisees, legatees, executors, administrators, trustees, conservators, guardians, personal representatives, successors-in-interest, predecessors, agents, attorneys, lienholders, assigns, partners, officers, directors or employees, past, present, and future (collectively, the "Releasing Defendants") by operation of the Final Judgment, hereby forever and completely releases and discharges each and every of the Defendants, each past and present individual member of the Board of Directors of Valley Aggregate Transport, Inc., each past and present individual member of the Administration Committee for the Valley Aggregate Transport, Inc. Employee Stock Ownership Plan, and the Defendants' past and present and direct and indirect predecessors, successors and assigns, parents, subsidiaries, affiliates, divisions, officers, directors, trustees, agents, employees, attorneys, contractors, representatives partners, heirs, executors, conservators, guardians, beneficiaries, assigns insurers and administrators (together the "Persons Released by Defendants") from each and every of the Settled Claims and shall forever be barred and enjoined from commencing, instituting, pursuing or maintaining any of the Settled Claims against any of the Persons Released by Defendants.

c. The Releasing Persons and the Releasing Defendants acknowledge that

they each may have claims that are presently unknown and that the release contained in this Stipulation and Agreement of Settlement, upon its final approval and entry of the Final Judgment is intended to, and will, fully and finally, and forever discharge all Settled Claims, whether now asserted or unasserted, known or unknown, disclosed or undisclosed. Each Releasing Person and each Releasing Defendant expressly understands and agrees to waive the provisions of, and relinquish all rights and benefits afforded by, California Civil Code Section 1542 and any law of any state or territory of the United States, or any principle of common law which is similar, comparable or equivalent to California Civil Code Section 1542. California Civil Code Section 1542 provides as follows:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.**

In making this waiver, the Releasing Persons acknowledge that they may hereafter discover facts in addition to or different from those which they now believe to be true with respect to the subject matters released herein, but agree that they have taken that possibility into account in reaching this Stipulation and Agreement for Settlement and that, notwithstanding the discovery or existence of any such additional or different facts as to which the Releasing Persons expressly assume the risk, they fully, finally and forever settle and release any and all such Settled Claims, known or unknown, suspected or unsuspected, disclosed or undisclosed, contingent or non-contingent, whether or not concealed or hidden, which now exist, or heretofore have existed.

6. Motion for Preliminary Approval. Within 30 days of execution of this Stipulation, Class Counsel shall move the Court for entry of a notice and preliminary approval order. The Parties shall attempt in good faith to agree on a proposed form of notice to the Class. If, despite the Parties' best efforts to do so, they are unable to agree on a proposed form of notice, the Plaintiff and each Defendant shall have the right to submit a separate proposed form of notice to the Court together with a brief in support

thereof.

7. Stipulation to Class Certification. The Parties agree to stipulate to the certification of the Action as a class Action pursuant to Fed. R. Civ. P. 23(b)(1) and/or (b)(2) for purposes of settlement with the Plaintiff as the named Class Representative, and Lewis, Feinberg, Lee, Renaker & Jackson, P.C., as Class Counsel. The Parties agree that the Class Members are not entitled to opt out of a settlement approved by the Court and that a provision so specifying will be included in any notice to the Class. Obtaining certification of the Action as a class action and obtaining preliminary and final approval of the Court of a settlement without opt-out rights is an express and integral condition of this Stipulation that, if not satisfied, will entitle any of the Defendants, in its sole and unconditional discretion, to withdraw from the Stipulation, in which case the deposit of the Settlement Amount in escrow, including all accrued interest, shall be immediately returned to Defendants and to XL such that each shall receive the amount each paid in settlement per paragraphs 2.a.(1)-(3) above plus all accrued interest on their respective settlement payment.

8. Amendment and Termination of the ESOP. Following preliminary approval of the settlement, but before the final fairness and approval hearing, Defendants Valley Aggregate Transport, Inc. and the Administration Committee for the Valley Aggregate Transport, Inc. Employee Stock Ownership Plan shall take any and all necessary steps to amend the ESOP to permit the Lindeman Forfeiture and the Nickum Forfeiture. Defendant Valley Aggregate Transport, Inc. shall not terminate the ESOP or cause the ESOP to be terminated until at least fifteen (15) days after the date of Effective Final Approval.

9. Motion for Entry of Final Judgment, Order of Dismissal, and Payment of Settlement Amount.

a. Following notice to the Class and the final fairness and approval hearing, if the Court approves this Stipulation on a finding that the settlement is fair, reasonable and adequate, Class Counsel and counsel for Defendants shall jointly request that the Court enter the Final Judgment.

b. The Parties shall jointly request that the Final Judgment dismiss Defendants from the Action with prejudice. If the Court denies this request, as soon as practicable but no later than fourteen (14) calendar days after entry of Final Judgment, the Plaintiff shall seek an order dismissing the Defendants from the Action with prejudice.

c. Within thirty (30) calendar days of execution of this Stipulation, Defendants and XL Specialty Insurance Company shall deposit the Settlement Amount, including the cash payments from the Defendants and XL Specialty Insurance Company and the documents implementing the Lindeman Forfeiture and the Nickum Forfeiture, into escrow with instructions to the escrow agent to deposit the cash in an interest-bearing escrow account specified by counsel for Plaintiff. In the event such deposit is not made, interest shall accrue on the Settlement Amount at the annual rate of 10%, compounded daily, until paid. Any interest on the Settlement Amount will accrue to the benefit of the ESOP until the date of the Effective Final Approval. Within fifteen (15) calendar days of Effective Final Approval, Defendants Michael Lindeman and David Nickum shall take any steps necessary to effect the forfeiture of their ESOP accounts, approved attorneys' fees and costs shall be paid directly to Class Counsel from the escrow account, the incentive award shall be paid to Plaintiff from the escrow account, costs of settlement administration shall be paid from the escrow account and the remainder of the Settlement Amount held in the escrow account after such payments shall be paid to the ESOP Trust.

10. Settlement Administration. Plaintiff shall select a Settlement Administrator to send notice to Class Members by first class mail and undertake other settlement administration tasks as necessary. Settlement administration costs shall be paid from the Settlement Amount.

11. Binding and Enforceable Agreement. The Parties intend this to be a binding and enforceable agreement that contains all material terms of the Parties' agreement. To the extent clarification or agreement on non-material terms is necessary or desirable, the Parties will negotiate in good faith to reach agreement on such terms; provided, however, in the event that they are unable to reach agreement with respect to

such terms, they will submit any such dispute to the Court whose decision shall be binding and non-appealable. Class Counsel and counsel for Defendants agree to cooperate with one another in good faith in seeking Court approval of the notice and preliminary approval order, and the Stipulation, and to promptly agree upon and execute all such other documentation as reasonably may be required to obtain final approval by the Court of the settlement set forth in this Stipulation.

12. Termination or Disapproval.

a. The settlement described herein and this Stipulation shall terminate and shall be void and of no further effect, without any further action by Defendants or Class Counsel upon either (i) the Court's refusal to approve this Stipulation, (ii) the refusal of the Independent Fiduciary to provide any approval or certification required of the Independent Fiduciary by the terms of the Stipulation or (iii) the failure of this Stipulation to result in Effective Final Approval of settlement on the terms set forth herein.

b. Except as otherwise provided herein, in the event the Settlement is terminated, vacated, or fails to become effective for any reason, then: (1) nothing in this Stipulation shall be construed as a determination, admission, or concession of any issue in the Action, and nothing in this Stipulation may be offered into evidence in any trial on the merits of the claims asserted in the Action or in any subsequent pleading; (2) the Parties to this Stipulation shall be deemed to have reverted to their respective status in the Action as of April 10, 2011, and except as otherwise expressly provided, the Parties shall proceed in all respects as if this Stipulation and any related orders had not been entered; and (3) the deposit of the Settlement Amount in escrow, including all accrued interest, shall be immediately returned to Defendants and to XL such that each shall receive the amount each paid in settlement per paragraphs 2.a.(1)-(3) above plus all accrued interest on their respective settlement payment.

13. Jurisdiction. The administration and consummation of the settlement as embodied in this Stipulation shall be under the authority of the Court and the Court shall retain jurisdiction over all Parties for the purpose of taking such other actions as may be

necessary to administer, implement or enforce this Stipulation.

14. Binding Effect. This Stipulation shall be binding when signed, but the settlement shall be effective only upon Effective Final Approval. This Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

15. This document may be executed in counterparts.

IN WITNESS WHEREOF, the Parties hereto have executed this Stipulation as of Aug. 23, 2011.

Dated: 08/11/11 By: Edward Clarke  
Edward Clarke  
Plaintiff

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
David Nickum  
Defendant

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Kevin Cotter  
On behalf of Defendant Valley  
Aggregate Transport, Inc.

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Kevin Cotter  
On behalf of Defendant Board of  
Directors of Valley Aggregate  
Transport, Inc.

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Kevin Cotter  
On behalf of Defendant  
Administration Committee for the  
Valley Aggregate Transport, Inc.  
Employee Stock Ownership Plan

Dated: \_\_\_\_\_ By: \_\_\_\_\_  
Michael Lindeman  
Defendant

necessary to administer, implement or enforce this Stipulation.

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15. This document may be executed in counterparts.

**IN WITNESS WHEREOF**, the Parties hereto have executed this Stipulation as of **DATE**.

Dated: \_\_\_\_\_

Dated: 2/29/11

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Edward Clarke  
*Plaintiff*

By: \_\_\_\_\_

David Nickum  
*Defendant*

By: \_\_\_\_\_

Kevin Cotter  
*On behalf of Defendant Valley  
Aggregate Transport, Inc.*

By: \_\_\_\_\_

Kevin Cotter  
*On behalf of Defendant Board of  
Directors of Valley Aggregate  
Transport, Inc.*

By: \_\_\_\_\_

Kevin Cotter  
*On behalf of Defendant  
Administration Committee for the  
Valley Aggregate Transport, Inc.  
Employee Stock Ownership Plan*

By: \_\_\_\_\_

Michael Lindeman  
*Defendant*

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**IN WITNESS WHEREOF**, the Parties hereto have executed this Stipulation as of DATE.

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Edward Clarke  
*Plaintiff*

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
David Nickum  
*Defendant*

Dated: 7/29/11

By: \_\_\_\_\_  
Kevin Cotter  
*On behalf of Defendant Valley  
Aggregate Transport, Inc.*

Dated: 7/29/11

By: \_\_\_\_\_  
Kevin Cotter  
*On behalf of Defendant Board of  
Directors of Valley Aggregate  
Transport, Inc.*

Dated: 7/29/11

By: \_\_\_\_\_  
Kevin Cotter  
*On behalf of Defendant  
Administration Committee for the  
Valley Aggregate Transport, Inc.  
Employee Stock Ownership Plan*

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Michael Lindeman  
*Defendant*

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15. This document may be executed in counterparts.

IN WITNESS WHEREOF, the Parties hereto have executed this Stipulation as of DATE.

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Edward Clarke  
*Plaintiff*

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
David Nickum  
*Defendant*

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Kevin Cotter  
*On behalf of Defendant Valley  
Aggregate Transport, Inc.*

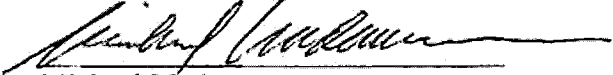
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By: \_\_\_\_\_  
Kevin Cotter  
*On behalf of Defendant Board of  
Directors of Valley Aggregate  
Transport, Inc.*

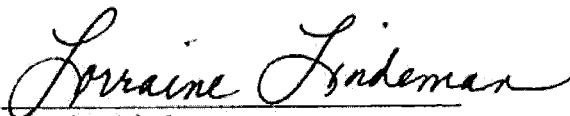
Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Kevin Cotter  
*On behalf of Defendant  
Administration Committee for the  
Valley Aggregate Transport, Inc.  
Employee Stock Ownership Plan*

Dated: 8/18/11

By:   
Michael Lindeman  
*Defendant*

Dated: 8/18/11

By:   
Lorraine Lindeman  
*Defendant*

Dated: \_\_\_\_\_

LEWIS, FEINBERG, LEE,  
RENAKER & JACKSON

By: \_\_\_\_\_  
Nina Wasow  
*On behalf of the Class*

Approved as to form:


Dated: \_\_\_\_\_

TRUCKER HUSS

By: \_\_\_\_\_  
R. Bradford Huss  
*Attorneys for Defendants David  
Nickum, Valley Aggregate  
Transport, Inc., the Board of  
Directors of Valley Aggregate  
Transport, Inc., and the  
Administration Committee for the  
Valley Aggregate Transport, Inc.  
Employee Stock Ownership Plan*

Dated: AUG 18, 2011

WEINTRAUB GENSHLEA &  
CHEDIAK Law Corporation

By:   
Zachary Smith  
*Attorneys for Defendants Michael  
Lindeman and Lorraine Lindeman*

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Lorraine Lindeman  
*Defendant*

Dated: \_\_\_\_\_

LEWIS, FEINBERG, LEE,  
RENAKER & JACKSON

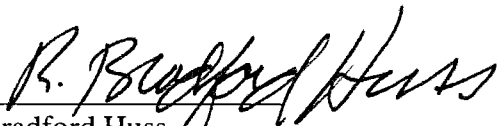
By: \_\_\_\_\_

Nina Wasow  
*On behalf of the Class*

Approved as to form:

Dated: 8-22-2011

TRUCKER HUSS

By: 

R. Bradford Huss  
*Attorneys for Defendants David  
Nickum, Valley Aggregate  
Transport, Inc., the Board of  
Directors of Valley Aggregate  
Transport, Inc., and the  
Administration Committee for the  
Valley Aggregate Transport, Inc.  
Employee Stock Ownership Plan*

Dated: \_\_\_\_\_

WEINTRAUB GENSHEA &  
CHEDIAK Law Corporation

By: \_\_\_\_\_

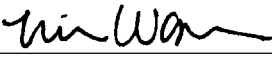
Zachary Smith  
*Attorneys for Defendants Michael  
Lindeman and Lorraine Lindeman*

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Lorraine Lindeman  
*Defendant*

Dated: 8/23/11

LEWIS, FEINBERG, LEE,  
RENAKER & JACKSON

By:   
Nina Wasow  
*On behalf of the Class*

Approved as to form:

Dated: \_\_\_\_\_

TRUCKER HUSS

By: \_\_\_\_\_  
R. Bradford Huss  
*Attorneys for Defendants David  
Nickum, Valley Aggregate  
Transport, Inc., the Board of  
Directors of Valley Aggregate  
Transport, Inc., and the  
Administration Committee for the  
Valley Aggregate Transport, Inc.  
Employee Stock Ownership Plan*

Dated: \_\_\_\_\_

WEINTRAUB GENSHEA &  
CHEDIAK Law Corporation

By: \_\_\_\_\_  
Zachary Smith  
*Attorneys for Defendants Michael  
Lindeman and Lorraine Lindeman*