

1 BENJAMIN B. WAGNER
 United States Attorney
 2 KRISTIN S. DOOR, SBN 84307
 Assistant U.S. Attorney
 3 501 I Street, Suite 10-100
 Sacramento, CA 95814
 4 Telephone: (916) 554-2723
 5 Attorney for Plaintiff

6
 7

8 IN THE UNITED STATES DISTRICT COURT
 9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10

11 UNITED STATES OF AMERICA,)	2:07-CV-00692-FCD/KJM
)	
12 Plaintiff,)	EX PARTE APPLICATION TO STAY
)	FURTHER PROCEEDINGS
13 v.)	AND ORDER
)	
14 APPROXIMATELY \$129,707.00 IN U.S.)	
CURRENCY,)	
15)	
APPROXIMATELY \$100,700.54 IN MONEY)	
16 ORDERS,)	
)	
17 APPROXIMATELY \$108,460.00 IN U.S.)	
CURRENCY, AND)	
18)	
APPROXIMATELY \$251,911.00 IN U.S.)	
19 CURRENCY,)	
)	
20 Defendants.)	
)	

21

22 Plaintiff United States of America, by and through undersigned
 23 counsel, requests that the stay in this action be extended an
 24 additional six months to May 23, 2010, pending the outcome of a
 25 related criminal investigation against claimant Abdurrahman Yousuf.

26 ///
 27 ///

28

1 Abdurrahman Yousuf and Khatiza Madha Yousuf are the claimants
2 in this forfeiture action. Plaintiff was unable to secure the
3 consent of claimants' attorney of record, Bryan Altman, to this
4 extension. Mr. Altman has advised undersigned counsel that his
5 clients notified him many months ago that they have retained new
6 counsel. Mr. Altman advised me that he has attempted to contact
7 his clients, but they do not respond. In addition, the attorney
8 who has purportedly taken over this case has not responded to his
9 letters seeking to confirm which attorney is representing
10 claimants. ¹ Accordingly, Mr. Altman advised me on November 23,
11 2009, that he will be filing a motion to withdraw as attorney of
12 record. For that reason Mr. Altman does not believe he has
13 authority to agree to an extension of the current stay. Plaintiff
14 therefore makes this request ex parte. The reasons for this
15 request are set forth below.

16 1. Each claimants has filed a claim to the defendant property
17 and an Answer to the Verified Complaint for Forfeiture In Rem.

18 2. The stay is requested pursuant to 18 U.S.C. §§ 981(g)(1)
19 and 981(g)(2). The plaintiff contends that Abdurrahman Yousuf and
20 others were involved in a scheme to defraud the California Board of
21 Equalization out of excise taxes due on the sale of tobacco
22 products. The plaintiff further contends that proceeds of the

23

24

¹
On May 22, 2009, plaintiff submitted a stipulation to extend the
25 stay to November 23, 2009. Attorney Anthony Brooklier, the
26 attorney who represented to undersigned counsel that he would be
substituting into this case to represent the claimants, authorized
undersigned counsel to sign his name to the stipulation. However,
27 no substitution has ever been filed. Attorney Bryan Altman is
still the attorney of record.

28

1 fraud scheme are traceable to the property that is the subject of
2 this forfeiture action. Claimants denied these allegations in
3 their Answers to the forfeiture complaint.

4 3. To date no one has been charged with any criminal offense
5 by state, local, or federal authorities, and the statute of
6 limitations has not expired on potential criminal charges relating
7 to the fraud scheme. Nevertheless, the plaintiff intends to depose
8 claimants regarding their claims, their ownership of a business
9 called "A to Z Cash & Carry," and their involvement in the sale of
10 tobacco products into California. If discovery proceeds at this
11 time, claimants will be placed in the difficult position of either
12 invoking their Fifth Amendment rights against self-incrimination
13 and losing the ability to pursue their claims to the defendant real
14 property, or waiving their Fifth Amendment right and submitting to
15 a deposition and potentially incriminating themselves. If they
16 invoke their Fifth Amendment rights, the plaintiff will be deprived
17 of the ability to explore the factual basis for the claims they
18 filed with this court.

19 4. In addition, in previous stipulations to stay these
20 proceedings, claimants represented that they intend to depose the
21 agents involved in this investigation, including but not limited to
22 the agents with the Bureau of Alcohol, Tobacco, Firearms &
23 Explosives and the California Board of Equalization. Allowing
24 depositions of the law enforcement officers at this time would
25 adversely affect the ability of federal authorities to investigate
26 the underlying criminal conduct.

27 5. Based on these facts, plaintiff contends that proceeding
28

1 with this action at this time has potential adverse affects on the
2 investigation of the underlying criminal conduct and/or upon
3 claimants' ability to prove their claim to the property and assert
4 any defenses to forfeiture. For these reasons, the plaintiff
5 requests that this matter be stayed for an additional six months.
6 At that time plaintiff will advise the court of the status of the
7 criminal investigation and will advise the court whether a further
8 stay is necessary.

9
10 Dated: November 23, 2009

BENJAMIN B. WAGNER
United States Attorney


11
12 By /s/ Kristin S. Door
13 KRISTIN S. DOOR
14 Assistant U.S. Attorney
Attorneys for Plaintiff
United States of America

15 **ORDER**

16 For the reasons set forth above, this matter is stayed
17 pursuant to 18 U.S.C. §§ 981(g)(1) and 981(g)(2) for a period of
18 six months. On or before May 23, 2010, the plaintiff will advise
19 the court whether a further stay is necessary.

20 IT IS SO ORDERED.

21 Dated: November 25, 2009

22 
23 _____
FRANK C. DAMRELL, JR.
24 UNITED STATES DISTRICT JUDGE