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

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|---------------------------------------|---|---------------------------------|
| 11 UNITED STATES OF AMERICA, |) | 2:07-CV-00692-FCD/KJM |
| |) | |
| 12 Plaintiff, |) | <u>EX PARTE</u> APPLICATION FOR |
| |) | STAY OF FURTHER PROCEEDINGS; |
| 13 v. |) | 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. |) | |
| |) | |

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22 Plaintiff United States of America applies ex parte to extend
 23 the current stay in the above-entitled action, and requests that
 24 the Court enter an order staying all further proceedings for a
 25 period of six months pending the outcome of a related criminal case
 26 pending against claimant Abdurrahman Yousuf. Yousuf was indicted
 27 by a federal grand jury in the Central District of California
 28 (United States v. Abdurrahman Yousuf, 10-824 PA) and is scheduled

EX PARTE APPLICATION FOR STAY OF FURTHER
 PROCEEDINGS; ORDER 1

1 to start trial on December 7, 2010.

2 1. Claimants Abdurrahman Yousuf and Khatiza Madha Yousuf,
3 (hereafter referred to collectively as "claimants") are not parties
4 to this stipulation for the following reasons:

5 a. In late 2009 Bryan C. Altman, attorney of record for
6 claimants, moved to withdraw as claimants' counsel. On November
7 25, 2009, this Court denied the motion.

8 b. On November 23, 2010, undersigned counsel spoke with Mr.
9 Altman who advised her that he has not had any contact with
10 claimants and does not know their current whereabouts.

11 c. Mr. Altman further stated that under these circumstances
12 he does not believe he has authority to consent to a stay.

13 d. Plaintiff therefore submits this request ex parte.

14 2. Each of the claimants has filed a claim to the defendant
15 property and an Answer to the Verified Complaint for Forfeiture In
16 Rem.

17 3. The stay is requested pursuant to 18 U.S.C. § 981(g)(1).
18 The plaintiff contends that Abdurrahman Yousuf and others were
19 involved in a scheme to defraud the California Board of
20 Equalization out of excise taxes due on the sale of tobacco
21 products. The plaintiff further contends that proceeds of the
22 fraud scheme are traceable to the property that is the subject of
23 this forfeiture action. Claimants deny these allegations.

24 4. Plaintiff intends to depose claimants regarding their
25 claims, their ownership of a business called "A to Z Cash & Carry,"
26 and their involvement in the sale of tobacco products into
27 California. If discovery proceeds at this time, claimants will be
28 placed in the difficult position of either invoking their Fifth

1 Amendment rights against self-incrimination and losing the ability
2 to pursue their claims to the defendant real property, or waiving
3 their Fifth Amendment right and submitting to a deposition and
4 potentially incriminating themselves. If they invoke their Fifth
5 Amendment rights, the plaintiff will be deprived of the ability to
6 explore the factual basis for the claims they filed with this
7 court.

8 5. In addition, claimants intend to depose, among others,
9 the agents involved in this investigation, including but not
10 limited to the agents with the Bureau of Alcohol, Tobacco, Firearms
11 & Explosives and the California Board of Equalization. Allowing
12 depositions of the law enforcement officers at this time would
13 adversely affect the ability of federal authorities to prosecute
14 claimant Yousuf in the Central District of California.

15 6. Plaintiff contends that proceeding with this action at
16 this time has potential adverse affects on the prosecution of the
17 related criminal case and/or upon claimants' ability to prove their
18 claim to the property and assert any defenses to forfeiture. For
19 these reasons, plaintiff requests that this matter be stayed for
20 six months. At that time the parties will advise the court of the
21 status of the criminal case and will advise the court whether a
22 further stay is necessary.

23

24 Dated: November 23, 2010

BENJAMIN B. WAGNER
United States Attorney

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

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ORDER

For the reasons set forth above, this matter is stayed pursuant to 18 U.S.C. § 981(g)(1) for a period of six months. On or before **May 24, 2011**, the parties will advise the court whether a further stay is necessary.

IT IS SO ORDERED.

Dated: November 23, 2010



FRANK C. DAMRELL, JR.
UNITED STATES DISTRICT JUDGE