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8 IN THE UNITED STATES DISTRICT COURT
 9 FOR THE EASTERN DISTRICT OF CALIFORNIA
 10

11	UNITED STATES OF AMERICA,)	2:08-cv-02753 JAM-GGH
)	
12	Plaintiff,)	JOINT STATUS REPORT AND
)	STIPULATION FOR STAY AND
13	v.)	ORDER
)	
14	APPROXIMATELY \$23,032.07 IN U.S.)	
	CURRENCY SEIZED FROM BANK OF)	
15	AMERICA ACCOUNT NO. 03842-03399,)	
	HELD IN THE NAME OF PAY-LESS)	DATE: N/A
16	WHOLESALE,)	TIME: N/A
)	COURTROOM: N/A
17	APPROXIMATELY 135,455 CIGARS,)	
	(SMOKEABLE OTP) IN PACKS OF 5, 10,)	
18	AND 20 RECOVERED FROM PAY-LESS)	
	WHOLESALE,)	
19)	
	APPROXIMATELY 2,297 CIGARS)	
20	(SMOKEABLE OTP) IN PACKS OF 50)	
	RECOVERED FROM PAY-LESS WHOLESALE,)	
21)	
	APPROXIMATELY 151 CIGARS)	
22	(SMOKEABLE OTP) IN PACKS OF 240)	
	RECOVERED FROM PAY-LESS WHOLESALE,)	
23)	
	APPROXIMATELY 326,942 INDIVIDUAL)	
24	CIGARS (SMOKEABLE OTP) RECOVERED)	
	FROM PAY-LESS WHOLESALE,)	
25)	
	APPROXIMATELY 57 CASES OF)	
26	SMOKEABLE OTP RECOVERED FROM)	
	PAY-LESS WHOLESALE,)	
27)	

1 APPROXIMATELY 4,952 BOXES OF)
SMOKEABLE OTP RECOVERED FROM)
2 PAY-LESS WHOLESALE,)
3 APPROXIMATELY 11,584 CANS OF)
SMOKEABLE OTP RECOVERED FROM)
4 PAY-LESS WHOLESALE,)
5 APPROXIMATELY 6,914 TUBS OF)
SMOKEABLE OTP RECOVERED FROM)
6 PAY-LESS WHOLESALE,)
7 APPROXIMATELY 15,141 UNITS OF)
SMOKEABLE OTP IN PACKS OF 5, 10,)
8 AND 20 RECOVERED FROM PAY-LESS)
WHOLESALE,)
9 APPROXIMATELY 136,221 BAGS/POUCHES)
10 OF SMOKEABLE OTP RECOVERED FROM)
PAY-LESS WHOLESALE,)
11 APPROXIMATELY 855 CASES)
12 (CONTAINING APPROXIMATELY 10,608)
UNITS) OF AL FAKHER TOBACCO)
13 SMOKEABLE OTP EVIDENCE RECOVERED)
FROM PAY-LESS WHOLESALE,)
14 APPROXIMATELY 272 CASES)
15 (CONTAINING APPROXIMATELY 6,676)
UNITS) OF AL WAHA MOLASSES TOBACCO)
16 SMOKEABLE OTP EVIDENCE RECOVERED)
FROM PAY-LESS WHOLESALE,)
17 APPROXIMATELY 995 CASES)
18 (CONTAINING APPROXIMATELY 46,112)
UNITS) OF EVA MODSAL TOBACCO)
19 SMOKEABLE OTP EVIDENCE RECOVERED)
FROM PAY-LESS WHOLESALE,)
20 APPROXIMATELY 420 CASES)
21 (CONTAINING APPROXIMATELY 5,040)
UNITS) OF JAWATTER TOBACCO)
22 SMOKEABLE OTP EVIDENCE RECOVERED)
FROM PAY-LESS WHOLESALE,)
23 APPROXIMATELY 1,473 CASES)
24 (CONTAINING APPROXIMATELY 16,674)
UNITS) OF LAYALINA TOBACCO)
25 SMOKEABLE OTP EVIDENCE RECOVERED)
FROM PAY-LESS WHOLESALE,)
26 APPROXIMATELY 352 UNITS OF)
27 MISCELLANEOUS SMOKEABLE OTP)

1 EVIDENCE RECOVERED FROM PAY-LESS)
WHOLESALE,)
2)
APPROXIMATELY 2,124 CASES)
3 (CONTAINING APPROXIMATELY 14,740)
UNITS) OF MOLASSES TOBACCO)
4 SMOKEABLE OTP EVIDENCE RECOVERED)
FROM PAY-LESS WHOLESALE,)
5)
APPROXIMATELY 640 CASES)
6 (CONTAINING APPROXIMATELY 19,884)
UNITS) OF PRIME TIME CIGARS)
7 SMOKEABLE OTP EVIDENCE RECOVERED)
FROM PAY-LESS WHOLESALE,)
8)
APPROXIMATELY 113 CASES)
9 (CONTAINING APPROXIMATELY 5,112)
UNITS) OF ERIK CIGARS SMOKEABLE)
10 OTP EVIDENCE RECOVERED FROM)
PAY-LESS WHOLESALE,)
11)
APPROXIMATELY 11 CASES)
12 (CONTAINING APPROXIMATELY 440)
UNITS) OF HAV-A-TAMPA JEWLS)
13 CIGARS SMOKEABLE OTP EVIDENCE)
RECOVERED FROM PAY-LESS)
14 WHOLESALE,)
15)
APPROXIMATELY 5,906 POUCHES OF)
16 MOLASSES SMOKEABLE OTP EVIDENCE)
RECOVERED FROM PAY-LESS)
17 WHOLESALE,)
18)
APPROXIMATELY 1,200 PACKS OF)
19 PHILLIES CIGARILLOS SMOKEABLE)
OTP EVIDENCE RECOVERED FROM)
PAY-LESS WHOLESALE,)
20 Defendants.)
21 _____)
22)

23 Plaintiff United States of America, and Claimants Adib Siropo
24 and Rimoun Mansour (hereafter referred to collectively as
25 "Claimants"), by and through their respective counsel, submit the
26 following Joint Status Report and Stipulation for Stay of Further
27 Proceedings and Order [Proposed].

1 **G. ANTICIPATED DISCOVERY AND THE SCHEDULING THEREOF,**
2 **INCLUDING:**

3 (1) what changes, if any, should be made in the timing,
4 form, or requirements for disclosure under Rule 26(a),
5 including a statement as to when disclosures under Rule
6 26(a)(1) were made or will be made;

7 (2) the subjects on which discovery may be needed,
8 when discovery should be completed, and whether
9 discovery should be conducted in phases or be limited
10 to or focused upon particular issues;

11 (3) what changes, if any, should be made in the limitations
12 on discovery imposed under the Civil Rules and what other
13 limitations, if any, should be imposed;

14 (4) the timing of the disclosure of expert witnesses and
15 information required by Rule 26(a)(2);

16 See Paragraph F above.

17 **H. FUTURE PROCEEDINGS, INCLUDING SETTING APPROPRIATE**
18 **CUT-OFF DATES FOR DISCOVERY, LAW AND MOTION, AND THE**
19 **SCHEDULING OF PRETRIAL AND TRIAL:**

20 (1) The stay is requested pursuant to 18 U.S.C. §§ 981(g)(1)
21 and 981(g)(2). The plaintiff contends that Sirope and Mansour and
22 other conspired to defraud the California Board of Equalization out
23 of excise taxes due on the sale of tobacco products in California.
24 The plaintiff alleges that the U.S. mail and interstate
25 communications systems were used to perpetrate the fraud.
26 Claimants Sirope and Mansour deny these allegations.

27 (2) To date claimants Sirope and Mansour, the owners of the
28 property, have not been charged with any criminal offense by state,
29 local, or federal authorities, and the statute of limitations has
30 not expired on potential criminal charges relating to the fraud
31 scheme. Nevertheless, the plaintiff intends to depose Sirope and

1 Mansour regarding their claim to the defendant property, their
2 operation of Pay-Less Wholesale Tobacco, and their business
3 dealings with others in the tobacco industry. If discovery
4 proceeds at this time, Sirope and Mansour will be placed in the
5 difficult position of either invoking their Fifth Amendment rights
6 against self-incrimination and losing the ability to pursue their
7 claim to the defendant real property, or waiving their Fifth
8 Amendment right and submitting to a deposition and potentially
9 incriminating themselves. If either person invokes his Fifth
10 Amendment right, the plaintiff will be deprived of the ability to
11 explore the factual basis for the claims they filed with this
12 court.

13 (3) In addition, claimants intend to depose the law
14 enforcement agents involved in this investigation. Allowing
15 depositions of the law enforcement officers at this time would
16 adversely affect the ability of federal authorities to investigate
17 the underlying criminal conduct.

18 (4) The parties recognize that proceeding with this action at
19 this time has potential adverse affects on the investigation of the
20 underlying criminal conduct and/or upon claimant's ability to prove
21 his claim to the property and assert any defenses to forfeiture.
22 For these reasons, the parties jointly request that this matter be
23 stayed for six months. At that time the parties will advise the
24 court of the status of the criminal investigation, if any, and will
25 advise the court whether a further stay is necessary.

26 **I. APPROPRIATENESS OF SPECIAL PROCEDURES:**

27 None.

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J. ESTIMATE OF TRIAL TIME:

Unknown at this time.

K. MODIFICATION OF STANDARD PRETRIAL PROCEDURES SPECIFIED BY THE RULES DUE TO THE RELATIVE SIMPLICITY OR COMPLEXITY OF THE ACTION OF PROCEEDINGS:

None.

L. WHETHER THE CASE IS RELATED TO ANY OTHER CASE, INCLUDING ANY MATTERS IN BANKRUPTCY:

This case is related to five other cases: United States v. 12001 Victory Boulevard, 2:08-cv-2074 JAM-GGH; United States v. 6525 South Bruce Street, 2:08-cv-2075 JAM-GGH; United States v. \$23,770.87 et al., 2:08-cv-2752 JAM-GGH; and United States v. \$23,032.07 et al., 2:08-cv-2753 JAM-GGH; United States v. \$4,023 et al., 2:09-cv-0111 JAM-GGH; and United States v. \$6,085 et al., 2:09-cv-151 JAM-GGH. A Notice of Related Cases was filed on January 16, 2009, and a Related Case Order was entered on January 21, 2009.

M. WHETHER A SETTLEMENT CONFERENCE SHOULD BE SCHEDULED:

The parties do not believe a settlement conference is appropriate in this case.

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N. ANY OTHER MATTERS THAT MAY ADD TO THE JUST AND EXPEDITIOUS DISPOSITION OF THIS MATTER:

None.

Dated: January 30, 2009 LAWRENCE G. BROWN
Acting United States Attorney

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

Dated: February 4, 2009 GERAGOS & GERAGOS

By /s/ Shepard S. Kopp
SHEPARD S. KOPP
Attorneys for claimants
Adib Sirope and Rimoun Mansour

ORDER

For the reasons set forth above, this matter is stayed pursuant to 18 U.S.C. §§ 981(g) (1) and 981(g) (2) for a period of six months. On or before August 1, 2009, the parties will advise the court whether a further stay is necessary.

IT IS SO ORDERED.

Dated: February 5, 2009

/s/ John A. Mendez

JOHN A. MENDEZ
UNITED STATES DISTRICT JUDGE