

1 BENJAMIN B. WAGNER
 United States Attorney
 2 KRISTIN S. DOOR, SBN 84307
 Assistant United States Attorney
 3 501 I Street, Suite 10-100
 Sacramento, CA 95814
 4 Telephone: (916)554-2723
 5 Attorneys for Plaintiff
 United States of America
 6
 7

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

11 UNITED STATES OF AMERICA,)
)
 12 Plaintiff,)
)
 13 v.)
)
 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)
 16 WHOLESALE,)
)
 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)
 APPROXIMATELY 4,952 BOXES OF)
 28 SMOKEABLE OTP RECOVERED FROM)

2:08-cv-02753 JAM-GGH

**STIPULATION TO STAY
 FURTHER PROCEEDINGS AND
 ORDER**

DATE: N/A
 TIME: N/A
 COURTROOM: N/A

1 PAY-LESS WHOLESALE,)
)
2 APPROXIMATELY 11,584 CANS OF)
SMOKEABLE OTP RECOVERED FROM)
3 PAY-LESS WHOLESALE,)
)
4 APPROXIMATELY 6,914 TUBS OF)
SMOKEABLE OTP RECOVERED FROM)
5 PAY-LESS WHOLESALE,)
)
6 APPROXIMATELY 15,141 UNITS OF)
SMOKEABLE OTP IN PACKS OF 5, 10,)
7 AND 20 RECOVERED FROM PAY-LESS)
WHOLESALE,)
8)
APPROXIMATELY 136,221 BAGS/POUCHES)
9 OF SMOKEABLE OTP RECOVERED FROM)
PAY-LESS WHOLESALE,)
10)
APPROXIMATELY 855 CASES)
11 (CONTAINING APPROXIMATELY 10,608)
UNITS) OF AL FAKHER TOBACCO)
12 SMOKEABLE OTP EVIDENCE RECOVERED)
FROM PAY-LESS WHOLESALE,)
13)
APPROXIMATELY 272 CASES)
14 (CONTAINING APPROXIMATELY 6,676)
UNITS) OF AL WAHA MOLASSES TOBACCO)
15 SMOKEABLE OTP EVIDENCE RECOVERED)
FROM PAY-LESS WHOLESALE,)
16)
APPROXIMATELY 995 CASES)
17 (CONTAINING APPROXIMATELY 46,112)
UNITS) OF EVA MODSAL TOBACCO)
18 SMOKEABLE OTP EVIDENCE RECOVERED)
FROM PAY-LESS WHOLESALE,)
19)
APPROXIMATELY 420 CASES)
20 (CONTAINING APPROXIMATELY 5,040)
UNITS) OF JAWATTER TOBACCO)
21 SMOKEABLE OTP EVIDENCE RECOVERED)
FROM PAY-LESS WHOLESALE,)
22)
APPROXIMATELY 1,473 CASES)
23 (CONTAINING APPROXIMATELY 16,674)
UNITS) OF LAYALINA TOBACCO)
24 SMOKEABLE OTP EVIDENCE RECOVERED)
FROM PAY-LESS WHOLESALE,)
25)
APPROXIMATELY 352 UNITS OF)
26 MISCELLANEOUS SMOKEABLE OTP)
EVIDENCE RECOVERED FROM PAY-LESS)
27 WHOLESALE,)
)
28 APPROXIMATELY 2,124 CASES)

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

20 Plaintiff United States of America, and Claimants Adib Sirope
21 and Rimoun Mansour (hereafter collectively "Claimants"), by and
22 through their respective counsel, hereby stipulate that a stay is
23 necessary in the above-entitled action, and request that the Court
24 enter an order staying further proceedings for an additional six
25 months pending the outcome of a related criminal investigation
26 against claimants. The stay currently in effect expires August 1,
27 2010.

28 1. Claimants filed a claim to the defendant property on

1 December 30, 2008, and filed an Answer to the complaint on January
2 13, 2009.

3 2. The stay is requested pursuant to 18 U.S.C. §§ 981(g)(1)
4 and 981(g)(2). The plaintiff contends that claimants and others
5 conspired to defraud the California Board of Equalization out of
6 excise taxes due on the sale of tobacco products in California.
7 The plaintiff alleges that the U.S. mail and interstate
8 communications systems were used to perpetrate the fraud.
9 Claimants deny these allegations.

10 3. To date claimants, the owners of the property, have not
11 been charged with any criminal offense by state, local, or federal
12 authorities, and the statute of limitations has not expired on
13 potential criminal charges relating to the fraud scheme.
14 Nevertheless, the plaintiff intends to depose claimants regarding
15 their claim to the defendant property, their operation of Pay-Less
16 Wholesale Tobacco, and their business dealings with others in the
17 tobacco industry. If discovery proceeds at this time, claimants
18 will be placed in the difficult position of either invoking their
19 Fifth Amendment rights against self-incrimination and losing the
20 ability to pursue their claim to the defendant property, or waiving
21 their Fifth Amendment right and submitting to a deposition and
22 potentially incriminating themselves. If either person invokes his
23 Fifth Amendment right, the plaintiff will be deprived of the
24 ability to explore the factual basis for the claims they filed with
25 this court.

26 4. In addition, claimants intend to depose the law
27 enforcement agents involved in this investigation. Allowing
28 depositions of the law enforcement officers at this time would

1 adversely affect the ability of federal authorities to investigate
2 the underlying criminal conduct.

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

11
12 Dated: July 29, 2010

BENJAMIN B. WAGNER
United States Attorney

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

17
18 Dated: July 29, 2010

GERAGOS & GERAGOS

19
20 By /s/ Mark J. Geragos
21 MARK J. GERAGOS
(As authorized on 7/29/10)
22 Attorneys for claimants
Adib Sirope and Rimoun Mansour

23 //

24 //

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 an additional six months. On or before March 1, 2011, the parties will advise the court whether a further stay is necessary.

IT IS SO ORDERED.

Dated: July 29, 2010

/s/ John A. Mendez
JOHN A. MENDEZ
UNITED STATES DISTRICT JUDGE