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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

In re:

SK FOODS, L.P., a California  
limited partnership,

Debtors.

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BRADLEY D. SHARP, et al.,

Plaintiffs,

v.

CIV. NO. S-11-1839 LKK

FRED SALYER IRREVOCABLE  
TRUST, et al.,

Defendants.

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In re:

SK FOODS, L.P., a California  
limited partnership,

Debtors.

\_\_\_\_\_  
BRADLEY D. SHARP, et al.,

Plaintiffs,

v.

CIV. NO. S-11-1840 LKK

SKF AVIATION, LLC, et al.,

Defendants.

1 In re:

2 SK FOODS, L.P., a California  
3 limited partnership,

4 Debtors.

5 \_\_\_\_\_/

6 BRADLEY D. SHARP, et al.,

7 Plaintiffs,

8 v.

CIV. NO. S-11-1841 LKK

9 SCOTT SALYER, as trustee of  
10 the Scott Salyer Revocable  
11 Trust, et al.,

12 Defendants.

13 \_\_\_\_\_/

14 In re:

15 SK FOODS, L.P., a California  
16 limited partnership,

17 Debtors.

18 \_\_\_\_\_/

19 BRADLEY D. SHARP, et al.,

20 Plaintiffs,

21 v.

CIV. NO. S-11-1842 LKK

22 SSC FARMS 1, LLC, et al.,

23 Defendants.

24 \_\_\_\_\_/

25 In re:

26 SK FOODS, L.P., a California  
limited partnership,

Debtors.

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BANK OF MONTREAL, as  
Administrative Agent, successor  
by Assignment to Debtors SK Foods,  
L.P. and RHM Industrial  
Specialty Foods, Inc, a  
California corporation, d/b/a  
Colusa County Canning Co.,

1 Appellant,

2 v.

CIV. NO. S-11-1845 LKK

3 SCOTT SALYER, et al.,

4 Appellees.

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In re:

6 SK FOODS, L.P., a California  
7 limited partnership,

8 Debtors.

9 \_\_\_\_\_/  
10 BANK OF MONTREAL, as  
11 Administrative Agent, successor  
12 by Assignment to Debtors SK Foods,  
13 L.P. and RHM Industrial  
14 Specialty Foods, Inc, a  
15 California corporation, d/b/a  
16 Colusa County Canning Co.,

17 Appellant,

18 v.

CIV. NO. S-11-1846 LKK

19 INTERNAL REVENUE SERVICE, et al.,

20 Appellees.

21 \_\_\_\_\_/  
In re:

22 SK FOODS, L.P., a California  
23 limited partnership, et al.,

24 Debtors.

25 BANK OF MONTREAL, as  
26 Administrative Agent, successor  
by Assignment to Debtors SK Foods,  
L.P. and RHM Industrial  
Specialty Foods, Inc, a  
California corporation, d/b/a  
Colusa County Canning Co.,

Appellant,

27 v.

CIV. NO. S-11-1847 LKK

28 CSSS, L.P.,

1 Appellee.

2 In re:

3 SK FOODS, L.P., a California  
4 limited partnership, et al.,

5 Debtors.

6 BANK OF MONTREAL, as  
7 Administrative Agent, successor  
8 by Assignment to Debtors SK Foods,  
9 L.P. and RHM Industrial  
10 Specialty Foods, Inc, a  
11 California corporation, d/b/a  
12 Colusa County Canning Co.,

13 Appellant,

14

15 v.

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17 CALIFORNIA FRANCHISE TAX  
18 BOARD, et al.,

19 Appellees.

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21 In re:

22 SK FOODS, L.P., a California  
23 limited partnership, et al.,

24

25 Debtors.

26 BANK OF MONTREAL, as  
Administrative Agent, successor  
by Assignment to Debtors SK Foods,  
L.P. and RHM Industrial  
Specialty Foods, Inc, a  
California corporation, d/b/a  
Colusa County Canning Co.,

Appellant,

v.

CALIFORNIA FRANCHISE TAX

BOARD, et al.,

Appellees.

CIV. NO. S-11-1849 LKK

CIV. NO. S-11-1850 LKK

1 In re:

2 SK FOODS, L.P., a California  
3 limited partnership, et al.,

4 Debtors.

5 BANK OF MONTREAL, as  
6 Administrative Agent, successor  
7 by Assignment to Debtors SK Foods,  
8 L.P. and RHM Industrial  
9 Specialty Foods, Inc, a  
10 California corporation, d/b/a  
11 Colusa County Canning Co.,

12 Appellant,

13 v.

14 CARY SCOTT COLLINS, et al.,

15 Appellees.

16 \_\_\_\_\_/

17 In re:

18 SK FOODS, L.P., a California  
19 limited partnership, et al.,

20 Debtors.

21 BANK OF MONTREAL, as  
22 Administrative Agent, successor  
23 by Assignment to Debtors SK Foods,  
24 L.P. and RHM Industrial  
25 Specialty Foods, Inc, a  
26 California corporation, d/b/a  
Colusa County Canning Co.,

Appellant,

v.

CARY SCOTT COLLINS, et al.,

Appellees.

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CIV. NO. S-11-1853 LKK

CIV. NO. S-11-1855 LKK

O R D E R

1 **I. BACKGROUND**

2 On June 28, 2011, the Bankruptcy Court implemented this  
3 court's December 10, 2010 and April 14, 2011 remand orders<sup>1</sup> by  
4 issuing stays in the above-referenced adversary proceedings. This  
5 court's remand order, in turn, was predicated upon the pendency of  
6 the federal criminal prosecution against F. Scott Salyer,<sup>2</sup> and the  
7 factors set forth in Keating v. Office of Thrift Supervision, 45  
8 F.3d 322, 324 (9th Cir. 1995).

9 Salyer has now pled "guilty" in his criminal case, although  
10 the case is still pending, with sentencing yet to be determined.  
11 The Keating factors therefore do not appear to weigh in favor of  
12 a continued stay, especially those factors relating to the public  
13 interest in protecting the constitutionally protected right of  
14 presumed innocence, and the obligation of proof, which falls only  
15 on the prosecution.

16 The court is aware that Salyer pled guilty under a procedure  
17 that permits him to withdraw his guilty plea if this court rejects  
18 the plea agreement reached by the prosecution and the defense.<sup>3</sup>  
19 The court is also aware, however, that both the government and  
20 Salyer are represented by highly competent counsel who know far  
21 more about this criminal case than does the court, including the  
22 respective likelihoods of success at trial. The remote chance that

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23 <sup>1</sup> See SSC Farms I, LLC v. Sharp, 11-cv-1492-LKK (Dkt. Nos. 56  
24 and 74).

25 <sup>2</sup> See U.S. v. Salyer, 10 Cr. 61 (E.D. Cal.).

26 <sup>3</sup> See Fed. R. Crim. P. 11(c)(3) & 11(c)(5)(B).

1 this court would reject the sentencing range under these conditions  
2 does not appear sufficient to justify a continued stay of the  
3 Bankruptcy Court proceedings.

4 Accordingly, these matters are remanded to the Bankruptcy  
5 Court with instructions to vacate the stays, or to explain why the  
6 stays should remain in place in light of Salyer's guilty pleas.

7 IT IS SO ORDERED.

8 DATED: June 6, 2012.

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LAWRENCE K. KARLTON  
SENIOR JUDGE  
UNITED STATES DISTRICT COURT