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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

In re:

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

Debtors.

BRADLEY D. SHARP, et al.,

Plaintiffs,

v.

CIV. NO. S-11-1839 LKK

FRED SALYER IRREVOCABLE
TRUST, et al.,

Defendants.

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.

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25 In re:

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

Debtors.

_____/

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.

5 _____/
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.

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In re:

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

24 Debtors.

25 _____/
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.

CSSS, L.P.,

CIV. NO. S-11-1847 LKK

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.

16

17 CALIFORNIA FRANCHISE TAX
18 BOARD, et al.,

19 Appellees.

20

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
27 Colusa County Canning Co.,

28 Appellant,

29 v.

30 CARY SCOTT COLLINS, et al.,

31 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 orders¹ 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,² 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.³
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

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

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

26 ³ 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