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 7
 8 IN THE UNITED STATES DISTRICT COURT FOR THE
 9 EASTERN DISTRICT OF CALIFORNIA
 10

11 UNITED STATES OF AMERICA,

2:12-CV-00811-JAM-EFB

12 Plaintiff,

STIPULATION TO STAY FURTHER
 PROCEEDINGS AND ORDER

13 v.

14 REAL PROPERTY LOCATED AT 705
 15 THROUGH 709 SOUTH CALIFORNIA
 STREET, STOCKTON, CALIFORNIA,
 16 SAN JOAQUIN COUNTY, APN: 149-
 084-06, INCLUDING ALL
 17 APPURTENANCES AND
 IMPROVEMENTS THERETO,

18 Defendant.
 19

20 The United States of America and claimants Sam Luigi Toccoli, Lisa Toccoli
 21 Stenard and Albert Toccoli, by and through their respective counsel, hereby stipulate
 22 that a stay is appropriate in the above-entitled action, and request that the Court enter
 23 an order staying further proceedings until November 6, 2012. The basis for the
 24 proposed stay is the related criminal action against two individuals charged with
 25 cultivating marijuana at the defendant property, United States v. Brandon Conley,
 26 Case No. 2:12-CR-00077-JAM, and the ongoing criminal investigation into marijuana
 27 cultivation at the defendant property.

28 1. The Beverly J. Toccoli Marital Deduction Trust U/A/D 8/11/99 is record

1 owner of a one-half undivided seventh-eighths interest. The S.L. Toccoli Survivor
2 Trust U/A/D 8/11/99 is the record owner of a one-half undivided seventh-eighths
3 interest. Allyal Properties, a California General Partnership, is the record owner of an
4 undivided one-eighth interest. Each of the claimants has filed a claim to the defendant
5 property based on various interests connected to the above-identified trusts and/or
6 business entities.

7 2. The stay is requested pursuant to 18 U.S.C. §§ 981(g)(1), 981(g)(2), and 21
8 U.S.C. § 881(i).

9 3. To date, two individuals have been charged with federal criminal crimes
10 related to marijuana cultivation at the defendant property, United States v. Brandon
11 Conley, Case No. 2:12-CR-00077-JAM. (None of the claimants have been charged with
12 any criminal offense by state, local, or federal authorities.) It is the United States'
13 position that the statute of limitations has not expired on potential criminal charges
14 relating to the marijuana grow at the defendant property. The United States intends
15 to depose those charged with crimes connected to the marijuana grow at the defendant
16 property regarding their knowledge and/or participation in the large scale marijuana
17 cultivation and property ownership. If discovery proceeds at this time, these
18 individuals, or some of them, will be placed in the difficult position of either invoking
19 their Fifth Amendment rights against self-incrimination or waiving their Fifth
20 Amendment rights and submitting to a deposition and potentially incriminating
21 themselves (at least one individual prior to a criminal trial). If they invoke their Fifth
22 Amendment rights, the United States will be deprived of the ability to explore the
23 factual basis for the claims they filed with this court.

24 4. In addition, claimants intend to depose, among others, the agents
25 involved with this investigation, including but not limited to the agents with the Drug
26 Enforcement Administration and the Internal Revenue Service. Allowing depositions
27 of the law enforcement officers at this time would adversely affect the ability of the
28 federal authorities to prepare for the criminal trial and/or further investigate the

1 alleged underlying criminal conduct.¹

2 5. The parties recognize that proceeding with these actions at this time
3 could have potential adverse effects on the investigation of the underlying criminal
4 conduct and/or upon the claimants' ability to prove their claim to the property and to
5 assert any defenses to forfeiture. For these reasons, the parties jointly request that
6 these matters be stayed until November 6, 2012, in accordance with the terms of this
7 stipulation. At that time the parties will advise the court of the status of the criminal
8 investigation and will advise the court whether a further stay is appropriate.²

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10 Dated: September 5, 2012

BENJAMIN B. WAGNER
United States Attorney

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By: /s/ Kevin C. Khasigian
KEVIN C. KHASIGIAN
Assistant U.S. Attorney

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15 Dated: September 5, 2012

/s/ Kenneth C. Mennemeier
KENNETH C. MENNEMEIER, JR.
Attorney for claimants

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(Authorized by phone)

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25 ¹ Claimants have issued written discovery to the United States concerning the
26 marijuana evidence used to support the forfeiture complaint. The United States has
27 obtained an extension until September 28, 2012. Any discovery obligations are stayed in
light of this Stipulation. The claimants reserve the right to summarily adjudicate the
issues relative to their interest in the defendant property once the stay has been lifted and
discovery completed.

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² The parties filed a joint status report in the case on July 25, 2012. ECF No. 14.
The parties will file an amended joint status report once the stay is lifted.

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ORDER

For the reasons set forth above, this matter is stayed pursuant to 18 U.S.C. §§ 981(g)(1), 981(g)(2), and 21 U.S.C. § 881(i) until November 6, 2012. On or before November 6, 2012, the parties will advise the court whether a further stay is appropriate.

IT IS SO ORDERED.

Dated: 9/6/2012

/s/ John A. Mendez
JOHN A. MENDEZ
United States District Court Judge