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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 GREGORY M. JORDAN, et al.

No. C 07-04496 SI

9 Plaintiffs,

**ORDER RE: EMERGENCY EX PARTE
APPLICATION**

10 v.

11 PAUL FINANCIAL, LLC, et al.

12 Defendants.
13 _____/

14 All three named plaintiffs have filed a motion to certify a class action. Plaintiffs Eli Goldhaber
15 and Josephina Goldhaber are the only plaintiffs seeking to represent a class against defendant RBS
16 Financial Products. Defendant RBS and defendant HSBC Bank USA have each filed motion for
17 summary judgment. All three motions are scheduled for hearing on June 17, 2011.

18 In RBS's motion for summary judgment, and in its opposition to plaintiffs' class certification
19 motion, RBS argues that the Goldhabers lack standing to bring their claims and are not adequate class
20 representatives because (1) they filed for Chapter 7 bankruptcy and (2) they failed to disclose their
21 interest in this litigation in their bankruptcy petition or schedules.

22 The Goldhabers wish to remedy this. They have successfully petitioned the bankruptcy court
23 to reopen their bankruptcy case and reappoint their former trustee. *See* Doc. 150. The bankruptcy court
24 gave the Goldhabers permission to file an emergency ex parte motion to approve a stipulation between
25 them and their trustee that would allow the Goldhabers to "work with and on behalf of [the] reappointed
26 trustee to prosecute an unadministered prepetition claim for the benefit of [the Goldhabers'] bankruptcy
27 estate": that is, the claim in this case. *See id.*

28 The Goldhabers now request a two-month stay of the pending motions to allow them to finalize

1 their arrangement with the trustee and the bankruptcy court. Doc. 351. RBS opposes the stay, arguing,
2 among other things, that the Goldhabers were not diligent in attempting to remedy their failure to
3 disclose their interest and that the Goldhabers' proposed solution does not remedy the problems RBS
4 has identified in terms of standing and adequacy for class representation. Doc. 352.

5 The Court hereby ORDERS that arguments on **all three pending motions** – plaintiffs' motion
6 for class certification, RBS's motion for summary judgment, and HSBC's motion for summary
7 judgment – will be heard at **9:00 a.m. on June 24, 2011**. The Court will address the motions under the
8 assumption that the Goldhabers' proposed solution will be approved by the bankruptcy court. The
9 parties shall proceed under the same assumption in their remaining briefs.¹ The Goldhabers shall work
10 diligently to obtain the relief that they are seeking from the bankruptcy court, and shall file a status
11 update with the Court **by 12:00 p.m. on June 21, 2011**.

12 The Goldhabers' emergency ex parte application is GRANTED IN PART and DENIED IN
13 PART. (Doc. 351.) RBS's motion to appear by telephone is DENIED AS MOOT. (Doc. 353.)

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15 **IT IS SO ORDERED.**

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17 Dated: May 20, 2011

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19 _____
20 SUSAN ILLSTON
21 United States District Judge

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24 _____
25 ¹ Neither party is prejudiced by this solution. RBS already argued in its opposition to
26 plaintiffs' motion for class certification that the Goldhabers' proposed solution is insufficient to remedy
27 the problem RBS identified in its motion for summary judgment. Additionally, RBS will have the
28 opportunity to address the Goldhabers' proposed solution in its reply brief in support of its motion for
summary judgment, which is now due June 10, 2011. The Goldhabers will have the opportunity to
address RBS's arguments in their reply brief in support of their motion for class certification, which is
now due June 10, 2011, and in their not-yet-filed opposition brief to RBS's motion for summary
judgment, which is now due June 3, 2011.