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28**NOT FOR CITATION**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
EUREKA DIVISION

DOLLAR TREE STORES, INC.,

No. CV 10-0325 SI (NJV)

Plaintiff,

**ORDER DENYING DEFENDANT'S
MOTION FOR STAY: CLARIFYING
ORDER OF OCTOBER 28, 2011**

v.

TOYAMA PARTNERS LLC, *et al.*,**(Doc. No. 369)**

Defendants.

Defendants request a stay of this Court's order granting Plaintiff's motion to compel discovery under the crime-fraud exception (Doc. No. 341). That order only required Defendants to supplement their privilege logs through April 22, 2011, and to "add a description sufficient to describe the subject matter of the communication" withheld on privilege grounds; it did not require Defendants to produce any documents for *in camera* review. Doc. No. 341 at 13. The Court will not order the production of any documents until it reviews the updated logs. Defendants' appeal to Judge Illston therefore will not be rendered moot by the production of supplemental privilege logs on November 14, 2011. Moreover, a stay would prejudice Plaintiff, as it would preclude Plaintiff from including information gleaned from the supplemental privilege logs in its reply in support of its motion for summary judgment as to the fraudulent transfer claim. *See* Doc. No. 371 at 2. The request for a stay is denied.

1 Defendants have not argued that the Court's order was unduly burdensome and have not
2 sought relief on that ground, but their request for clarification implies they would find the order
3 would impose an undue burden if it applied to all entries on their privilege logs. The Sale
4 Agreement for the Mowry Crossing Shopping Center was dated January 18, 2011, and evidence in
5 the record establishes that Defendants Pau and Toyama contemplated the sale of the shopping center
6 before that date. The order requiring Defendants to supplement their privilege logs therefore applies
7 to *all the entries* listed between January 18, 2011 and April 22, 2011. The order also applies to *any*
8 *specific entries* predating January 18, 2011 that relate to the transfer of the Dollar Tree lease from
9 any purchaser back to Toyama as part of or after the sale of the shopping center.

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IT IS SO ORDERED

Dated: November 10, 2011



NANDOR J. VADAS
United States Magistrate Judge