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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE TERRAVIA HOLDINGS, INC.,
SECURITIES LITIGATION

Case No. [16-cv-06633-JD](#)

ORDER RE MOTION TO LIFT STAY

Re: Dkt. No. 50

In this putative class action on behalf of purchasers of securities in TerraVia Holdings, Inc., the defendants are TerraVia Holdings, Inc., its former CEO, its current CEO, and its CFO/COO. On August 2, 2017, the corporate entity filed a voluntary bankruptcy petition under Chapter 11 of the United States Bankruptcy Code on behalf of itself and two affiliated companies not named in this action. The individual defendants have not filed for bankruptcy.

“As a general rule, the automatic stay of section 362(a) protects only the debtor, property of the debtor or property of the estate. It does not protect non-debtor parties or their property.” *In re Chugach Forest Products, Inc.*, 23 F.3d 241, 246 (9th Cir. 1994) (internal quotation marks omitted). This Court does not have jurisdiction to extend the automatic stay to a non-debtor party. *Boucher v. Shaw*, 572 F.3d 1087, 1093 n.3 (9th Cir. 2009). That is entrusted to the bankruptcy court. “Such extensions, although referred to as extensions of the automatic stay, are in fact injunctions issued by the bankruptcy court [under Section 105] after hearing and the establishment of unusual need to take this action to protect the administration of the bankruptcy estate.” *Id.* (internal quotation marks and citation omitted); *In re Ripon Self Storage, LLC*, 2011 WL 330087, at *6 (9th Cir. BAP 2011) (“[A]ny extension of the automatic stay to nondebtors does not occur automatically but requires the filing of an adversary proceeding requesting the bankruptcy court to act under [Section] 105(a).”).

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The Court has not been advised that the bankruptcy court has extended the stay.
Consequently, this case may proceed against the non-debtor defendants and the previously entered
stay is modified to that extent.

IT IS SO ORDERED.

Dated: October 4, 2017



JAMES DONATO
United States District Judge