

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 07-21093-CIV-KING

JOHN AND BARBARA JAFFE,

Plaintiffs,

v.

BANK OF AMERICA, N.A.,
and AGRICULTURAL BANK OF CHINA,

Defendants.

ORDER DENYING MOTION TO STAY

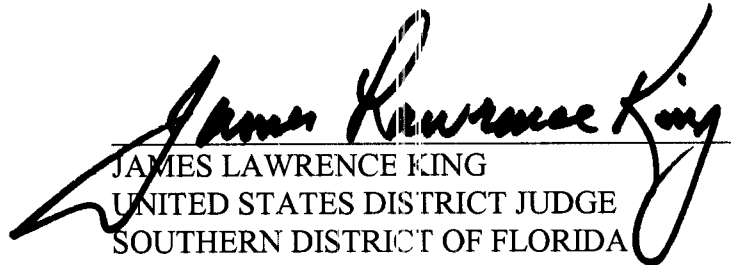
THIS CAUSE comes before the Court upon Plaintiffs' Motion to Stay/Restore Injunction Pending Appeal (DE #277). Both Bank of America and the Agricultural Bank of China have responded (DE #278 & 279).

A motion under Federal Rule of Civil Procedure 62(c) seeking to stay an injunction pending an appeal is "extraordinary relief" for which the moving party bears a "heavy burden." *Winston Salem/Forsyth County Bd. Of Edu. v. Scott*, 404 U.S. 1221, 1231 (1971); *Garcia-Mir v. Meese*, 781 F.2d 1450, 1453 (11th Cir. 1986) ("Such motions are disfavored and granted only in exceptional circumstances."). In determining whether to grant such a motion, the court considers: 1) whether the applicant made a strong showing that it is likely to prevail on the appeal; 2) whether the applicant will be irreparably injured absent a stay; 3) whether the issuance of the stay will substantially injure the other parties interested in the proceeding; and 4) where

the public interest lies. *Hilton v. Braunskill*, 481 U.S. 770 (1987). Moreover, the burden to demonstrate circumstances warranting imposition of a stay is on the movant.

Here, Plaintiffs have failed to brief or attempt to demonstrate how Plaintiffs meet any of the factors which would entitle them to the relief they seek. Moreover, Federal Rule of Civil Procedure 62(d) provides: "If an appeal is taken the appellant may obtain a stay by supersedeas bond" Here, no motion for a supersedeas bond has been filed. Accordingly, after careful consideration and the Court being otherwise fully advised, it is **ORDERED, ADJUDGED and DECREED** that Plaintiffs' Motion to Stay/Restore Injunction Pending Appeal (DE #277) be, and the same is hereby, **DENIED**.

DONE and ORDERED in chambers at the James Lawrence King Federal Justice Building and United State Courthouse, Miami, Florida, this 28th day of August, 2009.


JAMES LAWRENCE KING
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF FLORIDA

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