

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

\_\_\_\_\_  
WESTERN RESERVE LIFE ASSURANCE )  
CO. OF OHIO, )  
Plaintiff, )

vs. )

C.A. No. 09-470-S

JOSEPH CARAMADRE, RAYMOUR )  
RADHAKRISHNAN, ESTATE PLANNING )  
RESOURCES, INC., HARRISON CONDIT, )  
and FORTUNE FINANCIAL SERVICES, )  
INC., )  
Defendants; )

\_\_\_\_\_  
TRANSAMERICA LIFE INSURANCE )  
COMPANY, )  
Plaintiff, )

vs. )

C.A. No. 09-471-S

JOSEPH CARAMADRE, RAYMOUR )  
RADHAKRISHNAN, ESTATE PLANNING )  
RESOURCES, INC., ESTELLA )  
RODRIGUES, EDWARD MAGGIACOMO, )  
JR., LIFEMARK SECURITIES CORP., and )  
PATRICK GARVEY, )  
Defendants; )

\_\_\_\_\_  
WESTERN RESERVE LIFE ASSURANCE )  
CO. OF OHIO, )  
Plaintiff, )

vs. )

C.A. No. 09-472-S

JOSEPH CARAMADRE, RAYMOUR )  
RADHAKRISHNAN, ESTATE PLANNING )  
RESOURCES, INC., ADM ASSOCIATES, )  
LLC, EDWARD HANRAHAN, THE )  
LEADERS GROUP, INC., and CHARLES )  
BUCKMAN, )  
Defendants; )

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WESTERN RESERVE LIFE ASSURANCE )  
CO. OF OHIO, )

Plaintiff, )

vs. )

C.A. No. 09-473-S

JOSEPH CARAMADRE, RAYMOUR )  
RADHAKRISHNAN, ESTATE PLANNING )  
RESOURCES, INC., DK LLC, EDWARD )  
HANRAHAN, THE LEADERS GROUP, )  
INC., and JASON VEVEIROS, )

Defendants; )

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WESTERN RESERVE LIFE ASSURANCE )  
CO. OF OHIO, )

Plaintiff, )

vs. )

C.A. No. 09-502-S

JOSEPH CARAMADRE, RAYMOUR )  
RADHAKRISHNAN, ESTATE PLANNING )  
RESOURCES, INC., NATCO PRODUCTS )  
CORP., EDWARD HANRAHAN, and THE )  
LEADERS GROUP, INC., )

Defendants; )

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TRANSAMERICA LIFE INSURANCE )  
COMPANY, )

Plaintiff, )

vs. )

C.A. No. 09-549-S

LIFEMARK SECURITIES CORP., JOSEPH )  
CARAMADRE, RAYMOUR )  
RADHAKRISHNAN, ESTATE PLANNING )  
RESOURCES, INC. and EDWARD )  
MAGGIACOMO, JR., )

Defendants; and )

WESTERN RESERVE LIFE ASSURANCE )	
CO. OF OHIO, )	
Plaintiff, )	
)	
vs. )	
)	C.A. No. 09-564-S
JOSEPH CARAMADRE, RAYMOUR )	
RADHAKRISHNAN, ESTATE PLANNING )	
RESOURCES, INC., HARRISON CONDIT, )	
and FORTUNE FINANCIAL SERVICES, )	
INC., )	
Defendants. )	
)	

**MEMORANDUM IN SUPPORT OF PLAINTIFFS’ OBJECTION TO DEFENDANTS’  
MOTIONS FOR AN INDEFINITE STAY OF DISCOVERY**

Plaintiffs Western Reserve Life Assurance Co. of Ohio and Transamerica Life Insurance Company (together “Plaintiffs”) object to motions for a stay of proceedings filed by various defendants.<sup>1</sup>

Plaintiffs file herewith a supporting memorandum of law.

Respectfully submitted on this 6<sup>th</sup> day of January, 2012.

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<sup>1</sup> See Doc. 125 in C.A. No. 09-470, filed by Joseph Caramadre, Raymour Radhakrishnan, Estella Rodrigues, ADM Associates LLC; Doc. 127 in C.A. No. 09-471, filed by Edward Maggiasco; Doc. 128 in C.A. No. 09-470, filed by Edward Hanrahan.

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

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CO. OF OHIO, )  
Plaintiff, )  
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JOSEPH CARAMADRE, RAYMOUR )  
RADHAKRISHNAN, ESTATE PLANNING )  
RESOURCES, INC., HARRISON CONDIT, )  
and FORTUNE FINANCIAL SERVICES, )  
INC., )  
Defendants; )  

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TRANSAMERICA LIFE INSURANCE )  
COMPANY, )  
Plaintiff, )  
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vs. )  
 ) C.A. No. 09-471-S  
JOSEPH CARAMADRE, RAYMOUR )  
RADHAKRISHNAN, ESTATE PLANNING )  
RESOURCES, INC., ESTELLA )  
RODRIGUES, EDWARD MAGGIACOMO, )  
JR., LIFEMARK SECURITIES CORP., and )  
PATRICK GARVEY, )  
Defendants; )  

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WESTERN RESERVE LIFE ASSURANCE )  
CO. OF OHIO, )  
Plaintiff, )  
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vs. )  
 ) C.A. No. 09-472-S  
JOSEPH CARAMADRE, RAYMOUR )  
RADHAKRISHNAN, ESTATE PLANNING )  
RESOURCES, INC., ADM ASSOCIATES, )  
LLC, EDWARD HANRAHAN, THE )  
LEADERS GROUP, INC., and CHARLES )  
BUCKMAN, )  
Defendants; )

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WESTERN RESERVE LIFE ASSURANCE )  
CO. OF OHIO, )

Plaintiff, )

vs. )

C.A. No. 09-473-S

JOSEPH CARAMADRE, RAYMOUR )  
RADHAKRISHNAN, ESTATE PLANNING )  
RESOURCES, INC., DK LLC, EDWARD )  
HANRAHAN, THE LEADERS GROUP, )  
INC., and JASON VEVEIROS, )

Defendants; )

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WESTERN RESERVE LIFE ASSURANCE )  
CO. OF OHIO, )

Plaintiff, )

vs. )

C.A. No. 09-502-S

JOSEPH CARAMADRE, RAYMOUR )  
RADHAKRISHNAN, ESTATE PLANNING )  
RESOURCES, INC., NATCO PRODUCTS )  
CORP., EDWARD HANRAHAN, and THE )  
LEADERS GROUP, INC., )

Defendants; )

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TRANSAMERICA LIFE INSURANCE )  
COMPANY, )

Plaintiff, )

vs. )

C.A. No. 09-549-S

LIFEMARK SECURITIES CORP., JOSEPH )  
CARAMADRE, RAYMOUR )  
RADHAKRISHNAN, ESTATE PLANNING )  
RESOURCES, INC. and EDWARD )  
MAGGIACOMO, JR., )

Defendants; and )

WESTERN RESERVE LIFE ASSURANCE	)	
CO. OF OHIO,	)	
Plaintiff,	)	
	)	
vs.	)	
	)	C.A. No. 09-564-S
JOSEPH CARAMADRE, RAYMOUR	)	
RADHAKRISHNAN, ESTATE PLANNING	)	
RESOURCES, INC., HARRISON CONDIT,	)	
and FORTUNE FINANCIAL SERVICES,	)	
INC.,	)	
Defendants.	)	
	)	

**MEMORANDUM IN SUPPORT OF PLAINTIFFS’ OBJECTION TO DEFENDANTS’  
MOTIONS FOR AN INDEFINITE STAY OF DISCOVERY**

Plaintiffs Western Reserve Life Assurance Co. of Ohio and Transamerica Life Insurance Company (together “Plaintiffs”) object to motions for a general stay of proceedings<sup>2</sup> filed by various defendants (“Movants”).<sup>3</sup> For the reasons set forth in Plaintiffs’ Consolidated Memorandum of Law in Support of [Plaintiffs’] Objection to Defendants’ Motions to Stay filed on July 13, 2010 (attached hereto as Exhibit A and incorporated herein by reference), a stay of proceedings is not warranted. If the Court is inclined to grant any relief as a result of the pending criminal action against defendant Joseph Caramadre and Raymour Radhakrishnan, however, the limited stay of discovery outlined in the Initial Case Management Order (“ICMO”), attached

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<sup>2</sup> Movants seek to stay all proceedings except the Court’s ruling on the pending motions to dismiss. Although the motions purport to request a “partial stay of proceedings,” given the breadth of the requested stay, Plaintiffs refer to the request as one for a general stay.

<sup>3</sup> See Doc. 125 in C.A. No. 09-470, filed by Joseph Caramadre, Raymour Radhakrishnan, Estella Rodrigues, ADM Associates LLC (hereafter “Caramadre Motion”); Doc. 127 in C.A. No. 09-471, filed by Edward Maggiacomo; Doc. 128 in C.A. No. 09-470, filed by Edward Hanrahan.

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hereto as Exhibit B, provides adequate protections to defendants while minimizing unfair prejudice to Plaintiffs.<sup>4</sup>

**I. General Stays of Proceedings Are Disfavored.**

Although the Court has “discretionary power to stay civil proceedings in deference to parallel criminal proceedings,” a defendant “must carry a heavy burden to succeed in” convincing a court to stay a concurrent civil action. *Microfinancial, Inc. v. Premier Holidays Int’l, Inc.*, 385 F.3d 72, 77 (1st Cir. 2004). Even when “there is essentially a complete overlap of issues present in the criminal and civil cases,” blanket stays of discovery are disfavored. *See In re CFS-Related Securities Fraud Litigation*, 256 F. Supp. 2d 1227, 1240 (N.D. Okla. 2003).

The scope of stays of discovery pending criminal proceedings has been the subject of considerable judicial attention. Speaking about parallel civil and criminal proceedings, the late Judge Milton Pollack offered that:

A general stay of all civil discovery is not by any means the best option available to the court or to the litigants. Stays can and should be tailored to avoid undue prejudice. By limiting both the time and subject matter covered in temporary deferrals of particular discovery, a court can allow civil proceedings to progress as much as possible without prejudicing the relative interests of the litigants.

*Parallel Civil and Criminal Proceedings*, Transferee Judges’ Conference, October 17-19, 1989, 129 F.R.D. 201, 211 (Pollack, J.).

“[I]t ‘is the rule, rather than the exception’ that civil and criminal cases proceed together.... And the complete stay of a pending civil action until the conclusion of a related

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<sup>4</sup> Plaintiffs express qualified support for the continuation of the ICMO only because the Court urged Plaintiffs to offer an alternative to a complete stay of discovery. Plaintiffs maintain that Defendants’ ability to invoke the Fifth Amendment in response to any discovery request provides them with adequate protections and obviates the need for any stay. The Court, however at the December 9, 2011 conference urged Plaintiffs to offer a “middle ground” between a complete stay and no stay.

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criminal proceeding is considered to be an ‘extraordinary remedy.’” *Alcala v. Texas Webb County*, 625 F. Supp. 2d 391, 397 (S.D. Tex. 2009) (citation omitted).

In lieu of a general stay, the court may “impose protective orders, seal interrogatories, impose a stay for a finite period of time, or limit a stay to a particular subject matter.” *Digital Equip. Corp. v. Currie Enterprises*, 142 F.R.D. 8, 12 (D. Mass. 1991). *See also In re CFS-Related Securities Fraud Litigation*, 256 F. Supp. 2d at 1240 (“Less drastic methods in lieu of a stay include sealing answers to interrogatories, sealing answers to depositions, imposing protective orders, imposing a stay for a finite period of time, limiting a stay to a particular subject, or limiting disclosure only to counsel.”). Indeed, the First Circuit has acknowledged that narrowly tailored protective orders may provide sufficient protections to civil defendants who are facing criminal prosecution. *See U.S. v. Parcels of Land*, 903 F.2d 36, 44 (1<sup>st</sup> Cir. 1990) (protective order prohibiting use of forfeiture claimant’s deposition transcripts and interrogatories except for perjury and impeachment).

In determining whether or how to limit civil proceedings because of a parallel criminal action, the Court must balance competing interests and “take a careful look at the idiosyncratic circumstances of the case before it.” *Microfinancial*, 385 F.3d at 77. Several factors must be considered in evaluating the competing interests at stake:

- (i) the interests of the civil plaintiff in proceeding expeditiously with the civil litigation, including the avoidance of any prejudice to the plaintiff should a delay transpire;
- (ii) the hardship to the defendant, including the burden placed upon him should the cases go forward in tandem;
- (iii) the convenience of both the civil and criminal courts;
- (iv) the interests of third parties;
- (v) the public interest;
- (vi) the good faith of the litigants (or the absence of it); and
- (vii) the status of the cases.

*Id.* Each of these factors militates against the blanket stay of proceedings.



## **II. A Blanket Stay of Proceedings is Not Warranted.**

The circumstances of this case do not warrant a blanket stay of proceedings.

### **A. *Plaintiffs' Interest In Proceeding Expeditiously***

Plaintiffs have a compelling interest in prosecuting their claims expeditiously. This Court has recognized the importance of allowing civil plaintiffs to seek justice through litigation: “Justice is meted out in both civil and criminal litigation. The overall interest of the courts that justice be done may very well require that the compensation and remedy due a civil plaintiff should not be delayed . . . .” *Driver v. Helms*, 402 F. Supp. 683, 685 (D.R.I. 1975). The First Circuit has found that potential financial damage to a plaintiff is enough to tip the balance toward denying a motion to stay: “[t]he damage to the plaintiff would be the financial hardship of being forced to wait for an undefined but potentially lengthy period before receiving the money to which she may be entitled.” *Austin v. Unarco Indus., Inc.*, 705 F.2d 1, 5 (1st Cir. 1983). Plaintiffs are entitled to a speedy discovery process, particularly in the context of complex litigation which must proceed in an efficient manner. *Digital Equip. Corp.*, 142 F.R.D. at 12 (citing *Arden Way Assocs. v. Boesky*, 660 F. Supp. 1494, 1497 (S.D.N.Y. 1987)).

A defendant’s limited assets, and the potential for the dispersal and dissipation of assets, are additional burdens that weigh on a plaintiff and weigh against a stay of civil proceedings. *See Sterling Nat’l Bank v. A-1 Hotels Int’l, Inc.*, 175 F. Supp. 2d 573, 579 (S.D.N.Y. 2001) (“It is unclear whether defendants have sufficient assets to permit any meaningful recovery, and permitting a further delay during which assets can be dispersed or hidden — or called upon for the expensive business of defending a grand jury investigation and potential criminal litigation — will increase the risks that plaintiff could succeed in the litigation, without being able to

collect on any judgment.”); *Arden Way*, 660 F. Supp. at 1497 (“Stalling the case for a defendant who has ample means to protect himself . . . would be counter-productive and prejudicial to plaintiffs, especially where there are so many claimants to the potentially limited funds for satisfaction of the potential damages in this and related litigation . . .”). Here, Caramadre and Radhakrishnan’s claims of fleeting resources underscores the need to proceed expeditiously to increase the likelihood of satisfying any judgment that may enter. Plaintiffs have calculated their losses resulting from defendants’ conduct to be in the millions of dollars, and any ability to collect on a judgment Plaintiffs obtain will be prejudiced by a granting of the requested stay.

Moreover, the granting of the blanket and indefinite stay sought by Movants could undermine Plaintiff’s ability to present its case. These civil actions have been pending since 2009, but discovery remains in its early stages due to the uncertainty of the criminal charges against the Target Defendants and the multiple motions to dismiss that defendants have filed. “[D]elay can lead to the loss of evidence and duly frustrate a plaintiff’s ability to put on an effective case.... With the passage of time, witnesses become unavailable, memories of conversations and dates fade, and documents can be lost or destroyed.” *Alcala*, 625 F. Supp. 2d at 405. Any further delay of discovery would be unfairly prejudicial to Plaintiffs.

***B. Hardship to Caramadre and Radhakrishnan***

Caramadre and Radhakrishnan contend that a blanket stay of the civil action is necessary because they “face an enormous and unfair burden if forced to defend both the criminal indictment and the civil actions simultaneously.” Caramadre Motion at p.6. However, they fail to distinguish in any meaningful way how they are experiencing greater burdens than those faced by a defendant in any large scale fraud case involving parallel proceedings. Caramadre and Radhakrishnan’s alleged “burden” is not by any measure extraordinary but simply reflects the

challenges faced by defendants accused of substantial fraud: “[t]he only unfairness that the Court perceives is the moving party’s assertion that it would be unfair to treat him normally. The defendant seems to be seeking privileged litigating status because of his own delinquencies.” *Arden Way*, 660 F. Supp. at 1497.

Caramadre and Radhakrishnan allege that “defense of the civil and criminal complaints simultaneously will unfairly stretch their resources.” Caramadre Motion at 8. Courts, however, have not found the burden imposed on defendants’ finances to be a compelling factor. *See Digital Equip. Corp.*, 142 F.R.D. at 14 (“Although proceeding in two forums may burden the defendants’ finances (citation omitted), the strain upon the defendants’ finances does not outweigh other interests that militate in favor of proceeding expeditiously.”) *See also Paine, Webber, Jackson & Curtis, Inc. v. Malon S. Andrus, Inc.*, 486 F. Supp. 1118, 1118-19 (S.D.N.Y. 1980) (rejecting defendant’s complaints about limited financial resources). This is particularly true here, where it is alleged in the indictment that Caramadre and Radhakrishnan have obtained tens of millions of dollars through their criminal activities and that Caramadre owns valuable assets, including a lavish home, a Rolls-Royce Phantom and other luxury automobiles.

Defendants also complain that a complete stay of discovery is necessary because other parties might provide discovery responses that harm their defense in the criminal action. Specifically, Defendants complain that Estate Planning Resources (“EPR”) has been ordered to respond to Plaintiffs’ interrogatories and “[r]esponses to those interrogatories by EPR will unfairly prejudice Mr. Caramadre and Mr. Radhakrishnan by granting the prosecution in the criminal matter access to discovery that it might otherwise not be able to obtain in the criminal proceeding.” Caramadre Motion at p.6. These concerns are unfounded.

First, this is not a case in which the government is in control of both the civil and criminal proceedings, a scenario “where the fear of prejudice to a defendant is more pressing” than the situation at hand. *United Tech. Corp., Hamilton Standard Div. v. Dean*, 906 F. Supp. 27, 29 (D. Mass. 1995); *see also Sterling*, 75 F. Supp. 2d at 579 (“Plaintiff is a private entity, with interests distinct from those of the government. There is no reason to assume that its civil case is simply a stalking horse for the government’s criminal inquiry, rather than a good faith effort to obtain compensation for its own private injuries.”); *Citibank, N.A. v. Hakim*, 92-CIV-6233, 1993 WL 481335, at \*2 (S.D.N.Y. Nov. 18, 1993) (“[T]he potential for prejudice is diminished where, such as here, a private party, not the government, is the plaintiff in the civil action; it is less likely in such cases that the civil discovery process will be used a cloak to conduct criminal discovery.”)

Second, with respect to the interrogatories propounded to EPR, Magistrate Judge Martin has already acknowledged much of the information sought by Plaintiffs’ is readily available through “company records or sources other than Target Defendants.” Memorandum and Order filed November 1, 2011, p.8. The interrogatories also seek information that has already been provided to the government. Therefore, the government already has much of the information requested of EPR or has the means to obtain it regardless of the status of discovery in this case.

Third, Caramadre and Radhakrishnan have taken advantage civil discovery tools to obtain information that he would not otherwise have been able to obtain in the criminal action. Through civil discovery, the Target Defendants have obtained documents from Plaintiffs and the broker-dealer defendants, among other parties. Caramadre also has take advantage of a loophole in the ICMO by having EPR propound interrogatories to Plaintiffs that he otherwise could not obtain individually. Having used discovery tools as a sword in this litigation, Caramadre should

not be permitted to use the pending criminal as a shield to protect him from further participation in the civil action.

Caramadre and Radhakrishnan also contend that a general stay should be imposed so they can avoid “assisting with the litigation of the civil actions by other parties that rely upon them.” Caramadre Motion at p.6. The ICMO already affords this protection to them and the other Target Defendants, however. Indeed, Magistrate Judge Martin’s Order expressly permits them to invoke the privileges of the ICMO rather than furnishing information to assist EPR (or any other party) respond to discovery. Memorandum and Order filed November 1, 2011, p.10-11.

Finally, a repeated theme throughout this action has been Target Defendants’ complaints that participation in civil discovery may impact their privilege against self incrimination. The ICMO ameliorates those concerns, however, by insulating Caramadre, Radhakrishnan and other Target Defendants from providing testimonial discovery until further order of the Court. Therefore, to the extent any of the Targets seek a stay in order to preserve their ability to remain silent for the foreseeable future, their concerns are unfounded. The ICMO provides them with all the protections they need.

### ***C. Convenience to the Court***

Caramadre and Radhakrishnan contend that a complete stay will conserve Court resources because resolution of the criminal action may resolve “at least some of the claims in the civil cases.” Caramadre Motion at p.7. They overstate the utility of a complete stay, however. There are many aspects to Plaintiffs’ claims asserted in the civil actions and the theories of liability vary based on the status of each defendant. Although a criminal conviction doubtlessly factors into the claims against the broker-dealers, there are other components to those claims that have no bearing on specific criminal activity that the government alleges alleged. For

example, a central component of the claims against the broker-dealers is that they failed to properly oversee the agents' activities – criminal or otherwise. There is no compelling reason why a pending criminal action should prevent discovery of issues that are relevant only to the contract claims asserted to other defendants in the civil action. *See Note, Using Equitable Powers to Coordinate Parallel Civil and Criminal Actions*, 98 Harv. L. Rev. 1023, 1041 (1985).

In other cases, the need for a court to issue repeated rulings related to a defendant's invocation of Fifth Amendment privileges may weigh in favor of a broad stay. Here, however, the ICMO obviates that need by shielding the Target Defendants from providing testimonial discovery. Therefore, this theoretical concern does not weigh in favor of a blanket stay of discovery in this case. *Alcala*, 625 F. Supp. 2d at 407 (concluding that the court's interests did not weigh in favor of a blanket stay because "it does not appear, at this time, that the Court will have to expend any significant amount of time and effort ruling on any claims of privilege").

#### ***D. Interests of Third Parties***

The interests of third parties do not favor a broad stay in this case. To the extent the government has concerns about the continuation of discovery in connection with these civil actions, Plaintiffs have made, and will continue to make, reasonable accommodations to avoid interfering with the government's prosecution. Plaintiffs also have no objection to a requirement that all the prosecution be consulted on future discovery requests so it can determine whether it objects to a particular request. This procedure has been followed informally without imposing unreasonable burdens on the parties or the Court. Indeed, the government historically has been aware of the status of discovery in this case and has not previously objected. Thus, it is apparent that discovery may continue under limitations of the ICMO without unnecessarily interfering with the criminal case.

Although some non-moving defendants have generally supported Movants' request for a blanket stay, none have articulated (even informally) a compelling basis for their position. All concerns of non-moving defendants have focused on a desire to minimize their litigation costs. These concerns are unfounded, however. If a criminal defendant's financial concerns are insufficient to justify a blanket stay, so too are the concerns of a defendant who is not facing parallel criminal and civil actions. Moreover, as discussed above, in addition to the conduct at issue in the criminal action, these cases also focus on conduct that is beyond the scope of the criminal case. Therefore, discovery in connection with these issues must occur irrespective of the outcome of the criminal action. A blanket stay will simply serve to delay, rather than avoid, much of the costs attendant to the civil action.

Looking more broadly at the public interest also supports moving forward with the civil cases. *See, e.g., Hakim*, 1993 WL 481335, at \*3 (“[T]he public interest in financial institutions promptly recovering misappropriated funds is significant, particularly when weighed against the interest in a merely conjectural criminal prosecution”). Likewise, the “public interest in the integrity of securities markets militates in favor of the efficient and expeditious prosecution of these civil litigations.” *Arden Way*, 660 F. Supp. at 1500. Furthermore, “[t]he public has a vital stake in rooting out fraud and ensuring that aggrieved parties are made whole as rapidly as possible.” *Starlight Int’l, Inc. v. Herlihy*, No. CIV-A-97-2329, 1998 WL 560045, at \*3 (D. Kan. Aug. 4, 1998). There is without question a compelling public interest in exposing and remediating these types of STAT schemes in order to protect unwary individuals who might be targeted under similar schemes in the future. Based on the facts at hand, the public interest cuts strongly in favor of Plaintiffs being permitted to move forward with the civil litigation.

***E. Good Faith of the Litigants***

Plaintiffs have acted in good faith throughout this litigation and have accommodated reasonable requests for discovery limitations. Indeed, as Caramadre's counsel has acknowledged, the ICMO was negotiated by the parties and entered with the consent of Plaintiffs. *See* Memorandum and Order filed November 1, 2011, at p.6. Plaintiffs' agreement to voluntarily curtail certain discovery efforts counsels against a blanket stay of all proceedings.

***F. Status of the Criminal and Civil Cases***

The status of the criminal and civil cases also militates against a blanket stay of discovery. As discussed above, the civil cases have been pending for over two years with relatively little discovery completed. The government and Radhakrishnan's criminal defense counsel have indicated that the criminal trial could not realistically begin until Fall 2012 at the earliest and may last up to three months. In these circumstances, if a blanket stay were issued, it is unlikely that discovery in these civil actions could be resumed until late 2012 at the earliest. If Plaintiffs are permitted to pursue discovery in accordance with the ICMO while the criminal actions progresses, however, then the discovery period could be shortened significantly.

Ultimately, the uncertain timeline of the criminal action counsels against an indefinite, blanket stay of the civil action. *Digital Equip. Corp.*, 142 F.R.D. at 14 ("Although resolution of the criminal proceedings may possibly obviate contentions in this proceeding, this court finds it unrealistic to rely upon fortuitous events to manage its docket.") (citation omitted); *Sterling*, 75 F. Supp. 2d at 580 ("[t]he stay requested would substantially halt the civil litigation indefinitely, without any predictability as to when the case would return to the Court's active docket").



**CONCLUSION**

Plaintiffs respectfully request that the Court deny Movants' motion for a blanket stay of discovery.

Respectfully submitted on this 6<sup>th</sup> day of January, 2012.

/s/ Brooks R. Magratten  
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**CERTIFICATE OF SERVICE**

I certify that the within document was electronically filed with the clerk of the court on January 6, 2012, and that it is available for viewing and downloading from the Court's ECF system. Service by electronic means has been effectuated on all counsel of record.

/s/ Brooks R. Magratten