

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

WESTERN RESERVE LIFE	:	
ASSURANCE CO. OF OHIO,	:	
	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 09-470/S
	:	
JOSEPH CARAMADRE, RAYMOUR	:	
RADHAKRISHNAN, ESTATE PLANNING	:	
RESOURCES, INC., HARRISON CONDIT,	:	
and FORTUNE FINANCIAL SERVICES, INC.,	:	
	:	
Defendants.	:	

RESPONSE BY DEFENDANT FORTUNE FINANCIAL SERVICES, INC. TO PLAINTIFFS’ OBJECTION TO DEFENDANTS’ MOTION TO STAY DISCOVERY

Defendants Joseph Caramadre, Raymour Radhakrishnan, and Estate Planning Resources, Inc. have requested that this Court stay the proceedings in this case and all related civil cases (C.A. Nos. 09-471/S, 09-472/S, 09-473/S, 09-502/S, 09-549/S, and 09-564/S) until the resolution of the pending related criminal matter, *United States v. Caramadre, et al.*, CR No. 11-186 (the “Criminal Case”). Plaintiff Western Reserve Assurance Co. of Ohio has objected to the requested relief in the Motion to Stay.

In a recent chambers conference with the Court, the United States Attorney’s Office urged the Court to stay discovery in the civil litigation pending resolution of the Criminal Case. Defendant Fortune Financial Services, Inc. (“Fortune Financial”) and the other defendants in the civil cases that are not defendants in the Criminal Case also urged the Court to stay discovery, because it would be patently unfair for a civil case to move forward against some defendants, but not others, when the operative facts of the civil lawsuits primarily involve allegations concerning the defendants who are also defendants in the Criminal Case. See Moore’s Federal Practice 3d Edition § 26.105[3][c] at 26-537 (when parallel civil and criminal cases are pending, discovery

in the civil case is frequently stayed pending the outcome of the criminal proceedings). Additionally, Fortune Financial's Motion to Dismiss Plaintiff's Second Amended Complaint remains pending before the Court for determination, and Plaintiff should not conduct additional discovery until this Court determines the pending Motion to Dismiss.

As a practical matter, Fortune Financial has already provided documents to Plaintiff in response to Requests for Production of Documents. Fortune Financial has also answered multiple sets of interrogatories. Therefore, it is not surprising that Plaintiff's Objection to the Motion to Stay fails to articulate anything specific that it seeks in discovery from Fortune Financial. Accordingly, this Court should grant the requested stay. In the event that Plaintiff seeks specific discovery in the future before the resolution of the Criminal Case, Plaintiff can seek modification of the stay without prejudice.

Defendant,
FORTUNE FINANCIAL SERVICES, INC.,
By their Attorneys,

/s/ Jeffrey S. Brenner
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Dated: January 17, 2012

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of January, 2012, an exact copy of the within document was electronically filed with the Electronic Case Filing System of the United States District Court for the District of Rhode Island. Service by electronic means has been effectuated on all counsel of record.

/s/ Jeffrey S. Brenner