

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND**

IN RE:)	
)	Chapter 7
Antonio L. Giordano,)	
)	Case No. 1:11-bk-13943
Debtor.)	
_____)	

UNITED STATES’ MOTION FOR DETERMINATION THAT THE AUTOMATIC STAY DOES NOT BAR THE UNITED STATES’ CLAIM UNDER 12 U.S.C. § 1715z-4a OR, IN THE ALTERNATIVE, FOR RELIEF FROM THE AUTOMATIC STAY

The United States of America, on behalf of the Department of Housing and Urban Development (“HUD”), seeks an order under 11 U.S.C. §§ 362 and 105, Fed. R. Bankr. P. 4001 and 9014, and Local Bankruptcy Rule 4001-1, that the automatic stay does not bar the United States from continuing to judgment its prepetition lawsuit against Antonio L. Giordano (“Debtor”) under 12 U.S.C. § 1715z-4a, which the parties have actively litigated for more than two years in the United States District Court for the District of Rhode Island. *See United States v. Antonio L. Giordano, et al.*, Case No. 09-00432-ML-DLM (D.R.I.).

In the alternative, the United States seeks relief from the automatic stay for cause to allow the ongoing litigation to proceed without delay to judgment. The merits of the United States’ claim—which is non-dischargeable under 11 U.S.C. § 523(a)(7)—should be adjudicated by the district court. Courts consider many factors in deciding whether cause exists to lift the automatic stay so that a creditor can pursue pending litigation in another forum. Relevant factors include the interests of judicial economy, the degree of connection or interference with the bankruptcy case, prejudice to the bankruptcy case or other creditors, the presence of non-debtor third parties, the Debtor’s misconduct, and the probability that the creditor will prevail in the pending litigation. *In re Ulpiano Unanue-Casal*, 159 B.R. 90, 95-96 (D.P.R. 1993), *aff’d* by 23 F.3d 395

(1st Cir. 1994). Here, cause exists to lift the stay because all of these factors weigh strongly in the United States' favor.

BACKGROUND

A. The Equity Skimming Statute Codified At 12 U.S.C. § 1715z-4a

On September 16, 2009, the United States, acting on behalf of HUD, filed a complaint against the Debtor and three other defendants in the United States District Court for the District of Rhode Island.¹ *See United States v. Antonio L. Giordano, et al.*, Case No. 09-00432 (D.R.I.), Dkt. No. 1. The United States alleged a massive scheme, sometimes referred to as “equity skimming,” to divert millions of dollars from two HUD-insured nursing homes to the Debtor and his family in violation of 12 U.S.C. § 1715z-4a. *See* Exh. 1 (Amended Complaint). Under § 1715z-4a(a)(1), the United States may recover any assets or income “used by any person in violation of a regulatory agreement that applies to a . . . nursing home . . . whose mortgage is or, at the time of the violations, was insured or held by the Secretary under Title II of the National Housing Act.”

Section 1715z-4a provides for severe penalties. “[T]he Attorney General may recover double the value of the assets and income of the property that the court determines to have been used in violation of the regulatory agreement, . . . plus all costs relating to the action, including but not limited to reasonable attorney and auditing fees.” 12 U.S.C. § 1715z-4a(c). The double damages provision is meant to provide a greater deterrent to violations of the statute. *United States v. Cofield*, 215 F.3d 164, 171 (1st Cir. 2000). The legislative history for § 1715z-4a makes clear that the statute is primarily an enforcement mechanism aimed at penalizing and deterring the use of assets and income in violation of HUD regulatory agreements. *See* H.R.

¹ The other defendants are John Montecalvo, Pasquale Confreda, and Coventry Health Center Associates. Confreda passed away in October 2010, and is no longer a defendant in the pending litigation.

Comm. On Banking, Finance and Urban Affairs, Housing Act of 1985, H. Rep. No. 99-230, at 52-23 (1985) (noting that the double damages provision is a deterrent that makes it consistent with other enforcement statutes); H.R. Comm. On Banking, Finance and Urban Affairs, Housing, Community Development, and Homelessness Prevention Act of 1987, H. Rep. 100-122, at 64 (1987), *reprinted in* 1987 U.S.C.C.A.N. 3317, 3380 (noting that “[t]he bill contains several provisions recommended by the Secretary that would strengthen the penalties for violations of HUD’s insurance program”); H.R. Conf. Rep. on Housing and Community Development Act of 1987, H. Rep. 100-426, at 216 (1987), *reprinted in* 1987 U.S.C.C.A.N. 3458, 3513 (the double damages provision was intended to “expand the ability of the Secretary to deter the use of the assets and income”).

B. The United States’ Pending Lawsuit Against Debtor

The United States’ complaint against the Debtor and other defendants is based on facts uncovered by HUD’s Office of Inspector General (“OIG”). OIG auditors conducted audits of two nursing homes previously owned by entities controlled by the Debtor, Mt. Saint Francis Health Center and Coventry Health Center. The Debtor entered separate regulatory agreements with HUD, in which he agreed that he would not “assign, transfer, dispose of, or encumber any personal property of the project, including rents, or pay out any funds except from surplus cash, except for reasonable operating expenses and necessary repairs.” *See* Exh. 2, at ¶ 6(b); Exh. 3, at ¶ 6(b).

The OIG auditors published separate audit reports detailing their findings. *See* Exs. 4 and 5. They discovered numerous and repeated violations of the regulatory agreements. For Mt. Saint Francis, OIG auditors concluded that the Debtor disregarded prudent business practices and exploited weak management controls, thereby using \$4,402,305 in nursing home assets in

violation of the regulatory agreement. Exh. 4, at 2. For Coventry Health Center, the OIG auditors concluded that the Debtor circumvented established policies and procedures to divert funds to pay for ineligible, unsupported, and unnecessary expenses, resulting in \$1,858,100 in nursing home assets used in violation of the regulatory agreement. Exh. 5, at 2. Thus, between the two nursing homes, the Debtor made over \$6 million in improper payments. And the Debtor made most of these improper payments—almost \$5 million of the \$6 million—to himself or companies that were owned and/or operated by his children or close friends (referred to in the audit reports as “identity-of-interest” payments).

Both sides have actively litigated this lawsuit in the district court. Discovery has been ongoing since mid-2010. The parties exchanged written discovery and documents, and the United States has taken depositions. The parties have also engaged in motions practice, including a motion to dismiss the complaint (*see* Dkt Nos. 28-29), and participated in court-ordered mediation before Magistrate Judge Lovegreen (*see* Dkt. No. 37). Fact discovery closed on October 17, 2011, and dispositive motions and pretrial memoranda are due by December 16, 2011.² *See* 9/19/11 Docket Text Order. Thus, after more than two years of litigation, all that remains is dispositive motions and, if necessary, trial.

ARGUMENT

A. The United States’ Equity Skimming Claim Is Not Subject To The Automatic Stay Under 11 U.S.C. § 362(b)(4)

The automatic stay does not apply to government actions to “enforce such governmental unit’s . . . police and regulatory power.” 11 U.S.C. § 362(b)(4). Congress intended that the “police and regulatory powers” exception would combat the risk that the stay would be

² The district court’s Pretrial Order set September 16, 2011, as the close of discovery. *See* Dkt. No. 44. That date was extended to October 17, 2011 at the request of Debtor’s litigation counsel. *Id.* at Dkt. No. 48. The United States noticed two depositions for October 14, but agreed to suspend those depositions once the Debtor filed for bankruptcy protection on October 13.

“vulnerable to abuse by debtors improperly seeking refuge under the stay in an effort to frustrate necessary governmental functions.” *United States v. Nicolet, Inc.*, 857 F.2d 202, 207 (3d Cir. 1988). In construing this exception, the First Circuit has employed the so-called “public policy” and “pecuniary purpose” tests. *In re McMullen*, 386 F.3d 320, 324-25 (1st Cir. 2004). “These inquiries contemplate that the bankruptcy court, after assessing the totality of the circumstances, determine whether the particular regulatory proceeding at issue is designed primarily to protect the public safety and welfare, *or* represents a governmental attempt to recover from property of the debtor estate, whether on its own claim, or on the nongovernmental debts of private parties.” *Id.*

Here, the United States’ claim under § 1715z-4a is an exercise of HUD’s regulatory power, thus bringing it within the exception to the automatic stay. The purpose of § 1715z-4a is to deter violations of HUD regulatory agreements by requiring those who divert funds to repay HUD double the amount of the misdirected funds. *Cf. Cofield*, 215 F.3d at 171 (First Circuit noting that “double damages are not required to make a plaintiff whole nor, where the government can collect its full costs including attorney’s fees, are double damages likely to be a critical incentive for bringing suit. Rather, as the legislative history confirms, the double damages provision was adopted simply to provide a greater ‘deterrent’ to violations”). Section 1715z-4a is designed to protect public safety and welfare. The statute is part of HUD’s nationwide policy to provide affordable nursing home care, and the stiff penalties are designed to protect vulnerable residents against the very conduct alleged in the United States’ complaint.

Although the applicability of the stay exception in § 362(b)(4) to the equity skimming statute has not been heavily litigated, one court has relied on § 362(b)(4) to hold that HUD did not violate the automatic stay when it issued subpoenas as part of an equity skimming

investigation into a debtor and its management agent. *See Olsen v. HUD*, No. 95-3389, 1995 U.S. Dist. LEXIS 17659 (E.D. La. Nov. 16, 1995). Moreover, courts routinely hold that civil enforcement statutes that impose severe penalties fall within the exception, and the reasoning of those cases applies here. *See, e.g., In re Commonwealth Cos.*, 913 F.2d 518, 526 (8th Cir. 1990) (“we conclude that civil actions by the government to enforce the [False Claims Act] serve to inflict the ‘sting of punishment’ on wrongdoers and, more importantly, deter fraud against the government, . . . The fact that the statute’s chief purpose is to make the government whole does not reduce the weight of these interests so as to make their vindication insufficient to qualify for the § 362(b)(4) exception from the automatic stay.”); *In re W.R. Grace & Co.*, 412 B.R. 657, 664 (D. Del. 2009) (holding that a state civil fraud suit for double damages was not subject to the automatic stay because “efforts to fix a penalty constitute a permissible exception to the automatic stay”).

B. Cause Exists For Relief From The Automatic Stay Under 11 U.S.C. § 362(d)(1)

Even if the Court were to conclude that the stay exception in 11 U.S.C. § 362(d)(4) does not apply, cause exists to lift the stay under § 362(d)(1) of the Bankruptcy Code so that the United States can litigate the case to judgment without delay in the district court. The term “cause” is determined on a case-by-case basis. Courts have set forth various multi-factor tests. *See In re Granati*, 271 B.R. 89, 93 (Bankr. E. D. Va. 2001) (four factor test); *In re Johnson*, 115 B.R. 634, 636 (Bankr. D. Minn. 1989) (seven factor test); *In re Pro Football Weekly, Inc.*, 60 B.R. 824, 826 (N.D. Ill. 1986) (three factor test); *In re Curtis*, 40 B.R. 795, 799-800 (Bankr. D. Utah 1984) (twelve factor test). Courts have relied on only a few factors, or even a single factor, in deciding to lift the stay. “In weighing these factors, this Court does not need to specifically address each of the various factors, but instead only needs to consider those factors relevant to

the particular case, and this Court does not need to assign them equal weight.” *In re R.J. Groover Construction, LLC*, 411 B.R. 460, 464 (S.D. Ga. 2008) (citations omitted).

In *In re Ulpiano Unanue-Casal*, 159 B.R. 90 (D.P.R. 1993)—a district court decision that the First Circuit affirmed—the court took guidance from the following factors:

(1) Whether the relief will result in a partial or complete resolution of the issues; (2) The lack of any connection with or interference with the bankruptcy case; (3) Whether the non-bankruptcy proceeding involves the debtor as a fiduciary; (4) Whether a specialized tribunal has been established to hear the particular cause of action and that tribunal has the expertise to hear such cases; (5) Whether the debtor’s insurance carrier has assumed full financial responsibility for defending the litigation; (6) Whether the action primarily involves third parties; (7) Whether litigation in another forum would prejudice the interests of other creditors, the creditors’ committee or other interested parties; (8) Whether the judgment claim arising from the foreign action is subject to equitable subordination under Section 510(c); (9) Whether movant’s success in the foreign proceeding would result in a judicial lien avoidable by the debtor under Section 522(f); (10) The interest of judicial economy and the expeditious and economical determination of litigation for the parties; (11) Whether the non-bankruptcy proceedings have progressed to the point where the parties are prepared for trial; and (12) The impact of the stay on the parties and the “balance of hurt.”

159 B.R. at 95-96 (D.P.R. 1993) *aff’d* by 23 F.3d 395 (1st Cir. 1994). The court also relied on two additional factors; namely, the misconduct of the debtor and whether the creditor has a probability of prevailing on the merits. *Id.* at 96.

Here, numerous factors weigh strongly in favor of lifting the stay. The considerations most compelling here are (1) the interests of judicial economy and the advanced nature of the district court litigation, which has been pending for over two years, (2) the lack of any interference or connection with the bankruptcy proceedings, (3) the absence of prejudice to the Debtor or other creditors, (4) the district court litigation includes non-debtor third parties, (5) the

Debtor's misconduct, and (6) the probability of success in the district court case. These factors, each of which supports lifting the stay, are discussed below.

1. Judicial Economy And The Advanced Nature Of The District Court Litigation Favor Lifting The Stay

Judicial economy and the advanced nature of the litigation are critical elements that weigh heavily in favor of lifting the stay. *Ulpiano Unanue-Casal*, 159 B.R. at 95 (factors 10 and 11). "Where the stayed non-bankruptcy litigation has reached an advanced stage, courts have shown a willingness to lift the stay to allow the litigation to proceed." *In re Fernstrom Storage and Van Co.*, 938 F. 2d 731, 737 (7th Cir. 1991); *see also In re S. Kemble*, 776 F.2d 802 (9th Cir. 1985) (affirming lower court's decision to lift the stay due to judicial economy and noting that "[t]he decision to lift the stay could be upheld on this ground alone"); *R.J. Groover Construction*, 411 B.R. at 464 (relief from stay granted where "the state court proceeding has been pending for almost three years and much of the discovery has been completed"); *Peerless Ins. Co. v. Rivera*, 208 B.R. 313 (D.R.I. 1997) (holding that the efficient administration of justice weighed in favor of lifting stay because it would remove the possibility of inconsistent verdicts and eliminate duplicative and needless litigation); *Ulpiano Unanue-Casal*, 159 B.R. at 96-98 (judicial economy favored lifting the stay because the state court had expertise on non-bankruptcy law and was more familiar with the background of the case); *Pro Football Weekly, Inc.*, 60 B.R. at 826-27 (judicial economy strongly supported modifying the automatic stay).

Here, lifting the stay promotes judicial economy. The United States' claims are set forth in a 23-page complaint that alleges a complex scheme of misconduct involving over a dozen companies and more than 1,000 separate payments. The United States' claim under § 1715z-4a has been pending in the district court for over two years, and the district court is knowledgeable about the facts and claims at issue in the litigation. Moreover, the case can be resolved

expeditiously in the district court. The parties have largely completed discovery and already engaged in face-to-face meetings, motions practice, and court-ordered mediation. Dispositive motions are due by December 16, 2011. In addition, if this action is litigated in the bankruptcy court, an appeal by either side would be to the district court, so it makes most sense to have the claim decided there in the first instance. In short, allowing the district court to adjudicate the pending lawsuit will lead to the most expeditious resolution of the United States' claim. *See In re Aquarius Disk Services, Inc.*, 254 B.R. 253, 260, (Bankr. N.D. Cal. 2000) (stay lifted to allow a creditor to proceed with pending litigation in part due to the fact that the claim needed to be liquidated and judicial economy militated in favor of the non-bankruptcy forum).

2. Lack Of Connection Or Interference With The Bankruptcy Case

Litigation in the district court will not interfere with this Court's handling of the bankruptcy. The litigation in the district court does not involve bankruptcy law or require the expertise of a bankruptcy judge. Leaving the adjudication of the merits to the district court will enable this Court to focus its attention and expertise on the bankruptcy proceedings. Thus, far from interfering with the bankruptcy case, allowing the district court to adjudicate the amount of the debt *advances* the bankruptcy case. *See, e.g., Ulpiano Unanue-Casal*, 159 B.R. at 99 (allowing the non-bankruptcy court to determine the parties' liability advanced the bankruptcy case because it would resolve the creditor's claim). Moreover, because the debt owed the United States under § 1715z-4a is a non-dischargeable "fine, penalty, or forfeiture" under § 523(a)(7) of the Bankruptcy Code, the bankruptcy case will not resolve the United States' claim.³

³ Under § 523(a)(7), a debt is non-dischargeable "to the extent such debt is for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit, and is not compensation for actual pecuniary loss." Thus, a debt is not discharged under § 523(a)(7) if it is based on "(i) a fine, penalty, or forfeiture, (ii) payable to and for the benefit of a governmental unit, and (iii) not compensation for actual pecuniary loss." *Whitehouse v. Laroche*, 277 F.3d 568, 573 (1st Cir. 2002). So long as a penalty "serve[s] *some* 'punitive' or 'rehabilitative' governmental aim, rather than a *purely* compensatory purpose," it satisfies the penal requirement for the non-dischargeability of a debt.

3. No Prejudice To The Debtor Or Other Creditors

Lifting the stay will not prejudice the Debtor or other creditors. *See id.* at 95-96 (factors 7 and 12). As reflected in the legislative history to § 362(d)(1), Congress believed that “it will often be more appropriate to permit proceedings to continue in their place of origin, when no great prejudice to the bankruptcy estate would result, in order to leave the parties to their chosen forum and to relieve the bankruptcy court from many duties that may be handled elsewhere.” H.R. Rep. No. 95–595, at 341 (1977); S.Rep. No. 95–989, at 50 (1978), *reprinted in* 1978 U.S.C.C.A.N. 5787, 5836.

With respect to the Debtor, he is not prejudiced by having to litigate in the district court. Litigating the case to judgment will not tie up estate assets that might be used to satisfy claims or pay administrative costs. As the Debtor disclosed in his bankruptcy petition, the costs associated with the administration of the bankruptcy estate, presumably including the defense of the district court litigation, are being funded by an entity called the Potter Road Trust. *See* Dkt. 1, at 32. The petition states that the Potter Road Trust has set aside \$100,000 for legal fees to cover, among other things, negotiations with creditors, dischargeability actions, relief from stay actions, or other adversary proceedings. *See id.* Thus, because the Debtor’s estate is not bearing the costs, there is no prejudice. *See R.J. Groover Construction*, 411 B.R. at 465 (the debtors’ estate was not prejudiced because the cost of defending the pending litigation would be borne by the debtors’ insurance group).

As far as other creditors, there are none who will be prejudiced if the case proceeds to judgment in the district court. The largest scheduled claim is the United States Internal Revenue

Id. (emphasis added). The equity skimming provisions of 12 U.S.C. § 1715z-4a fall well within this exception to discharge, an issue that the United States will present to the appropriate forum once its claim has been adjudicated.

Service's \$788,932 unsecured priority claim.⁴ *See* Dkt. No. 1, at 15. The United States, of course, does not prejudice itself by proceeding with litigation in the district court. With respect to the small handful of other unsecured creditors (*see id.* at 16), the litigation in the district court will not interfere with any distribution of assets because currently there are no estate assets.

Finally, although lifting the stay will not prejudice the Debtor or other creditors, leaving the stay in place *will* prejudice the United States. The United States, like any creditor, is entitled to an expeditious adjudication of its claim, and as long as the stay remains in place, adjudication is delayed. *See Ulpiano Unanue-Casal*, 159 B.R. at 100 (“We find there is prejudice to the [creditor] because without the stay they could return sooner to [the state court] and resolve the remaining issues.”).

4. The United States' Action Involves Third Parties

The Debtor is not the only defendant in the district court litigation, another factor that weighs in favor of lifting the stay. *Ulpiano Unanue-Casal*, 159 B.R. at 95 (factor 6). In addition to the Debtor, John Montecalvo and Coventry Health Center Associates are named defendants in the district court action. *See* Exh. 1. The automatic stay does not apply to non-debtors. *See* 11 U.S.C. 362(a)(1); *In re Carlson*, 265 B.R. 346, 348 (Bankr. D.R.I. 2001) (“Section 362(a)(1) stays actions or proceedings *against the debtor*.”); *Seiko Epson Corp. v. Nu-Kote International, Inc.*, 190 F.3d 1360, 1364 (Fed. Cir. 1999) (“It is clearly established that the automatic stay does not apply to non-bankrupt co-defendants of a debtor even if they are in a similar legal or factual nexus with the debtor.”) (quotations omitted). Lifting the stay will enable the district court to adjudicate the United States' claims against all defendants in a single proceeding, rather than the piecemeal adjudication that could result in the absence of relief from the stay. *See* Collier on

⁴ For reasons unknown to the United States, the Debtor opted not to schedule the United States' approximately \$12 million claim related to the pending district court litigation. The Debtor did, however, acknowledge the pending lawsuit in the Statement of Financial Affairs. *See* Dkt. No. 1, at 23.

Bankruptcy § 362.07[3][a] (“relief [from the automatic stay] may be granted when necessary to permit litigation to be concluded in another forum, *particularly if the nonbankruptcy suit involves multiple parties or is ready for trial*”) (emphasis added).

5. The Debtor’s Misconduct

The Debtor’s misconduct also weighs in favor of lifting the stay. *Ulpiano Unanue-Casal*, 159 B.R. at 96. In this case, the timing of the Debtor’s bankruptcy petition, just one day before two of the Debtor’s children were to be deposed, suggests that his motivation was to prevent the depositions and to avoid an unfavorable judgment in the district court. The Debtor filed for bankruptcy on October 13, 2011, just hours before counsel for the United States was scheduled to depart for Rhode Island. Misconduct occurs when the Debtor shows “an intent to abuse the judicial process.” *Id.* at 101 (citations omitted). Courts consider the timing of the filing of the bankruptcy petition and whether the debtor was trying to circumvent non-bankruptcy litigation and avoid a judgment in another forum. *Id.*

The bankruptcy petition also comes just two months before the United States was to file its dispositive motion. As another court has stated in similar circumstances, the timing of the bankruptcy petition “has every appearance of being the sole result of the Debtor’s or his attorney’s perceptions that he was going to lose in [the non-bankruptcy forum]” and “[w]e cannot turn our backs on this manipulation of the judicial system.” *Ulpiano Unanue-Casal*, 159 B.R. at 102; *see also, e.g., In re Am. Telecom Corp.*, 304 B.R. 867, 873 (Bankr. N.D. Ill. 2004) (dismissing Chapter 7 case where debtor’s two shareholders filed bankruptcy petition only to avoid paying a judgment to the debtor’s sole creditor).

6. Probability Of Success In The District Court Case

Finally, the United States is likely to prevail on the merits of its case. *Ulpiano Unanue-Casal*, 159 B.R. at 96 (citing *Pro Football Weekly*, 60 B.R. at 824). “Even a slight probability of success on the merits may be sufficient to support lifting an automatic stay in an appropriate case.” *In re Tribune Co.*, 418 B.R. 116, 129 (Bankr. D. Del. 2009) (quotation omitted).

Here, the United States has a strong probability of prevailing on its claim against the Debtor. The alleged violations of the regulatory agreements are based on the OIG auditors’ detailed audit reports. The audit reports were the result of a lengthy and thorough review of the nursing homes’ books, records, and accounts, as well as interviews of nursing home personnel. *See* Exh. 4 at 8-9; Exh. 5, at 6-7. In addition, the Debtor has already pled guilty to the conduct related to a portion of the payments at issue in the district court litigation. *Emich Motors Corp. v. General Motors Corp.*, 340 U.S. 558, 568 (1951) (“It is well established that a prior criminal conviction may work an estoppel in favor of the Government in a subsequent civil proceeding.”); *United States v. One Parcel of Real Prop., Etc.*, 900 F.2d 470, 475 (1st Cir. 1990) (guilty plea admissible as admission in civil case). Thus, although the exact amount of recovery has not been determined, the United States will likely obtain a judgment against the Debtor.

CONCLUSION

For the reasons stated above, the United States respectfully requests that this Court issue an order holding that the automatic stay does not bar the United States from continuing its pending lawsuit against the Debtor. In the alternative, the United States seeks relief from the automatic stay for cause to allow the ongoing litigation to proceed to judgment.

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October 26, 2011

Respectfully submitted

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CERTIFICATE OF SERVICE

Pursuant to Local Bankruptcy Rule 4001-1(c), copies of the foregoing **UNITED STATES' MOTION FOR DETERMINATION THAT THE AUTOMATIC STAY DOES NOT BAR THE UNITED STATES' CLAIM UNDER 12 U.S.C. § 1715z-4a OR, IN THE ALTERNATIVE, FOR RELIEF FROM THE AUTOMATIC STAY** was served via the Court's EM/ECF electronic service and/or First Class Mail to the following individuals:

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