

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION**

IN RE: LANDAMERICA 1031 EXCHANGE)
SERVICES, INC. INTERNAL REVENUE)
SERVICE § 1031 TAX DEFERRED)
EXCHANGE LITIGATION)
_____)

Angela M. Arthur, as Trustee of the Arthur)
Declaration of Trust, dated December 29, 1988;)
Vivian R. Hays, an individual; Leapin Eagle, LLC,)
a limited liability company; Denise J. Wilson, an)
individual; Ann T. Robins, an individual; and)
Jane T. Evans, an individual; on their own behalf)
and on behalf of a class of others similarly)
situated,)

Plaintiffs,)

v.)

SunTrust Bank; Theodore L. Chandler, Jr.;)
G. William Evans; Stephen Conner; Ronald B.)
Ramos; Devon M. Jones; and Brenton J. Allen,)

Defendants.)
_____)

Case No.: MDL No. 2054

Southern District of California
C.A. No. 3:09-cv-00054

District of South Carolina
C.A. No.: 8:09-cv-00415

SUNTRUST BANKS, INC’S MOTION TO STAY PROCEEDINGS

Defendant SunTrust Banks, Inc. (“SunTrust”) moves this Court for an Order staying all claims in Plaintiffs’ Amended Consolidated Complaint against SunTrust until the stay as to the Individual Defendants¹ is lifted.

In November 2008, LES filed for bankruptcy. Pursuant to section 362(a) of the Bankruptcy Code, LES’s bankruptcy filing automatically stayed all actions, proceedings, and

¹ The term “Individual Defendants” refers to former officers of LES named in Plaintiffs’ Amended Consolidated Complaint. These individuals include Theodore L. Chandler, Jr., Stephen Conner, G. William Evans, Ronald B. Ramos, Devon M. Jones, and Brenton J. Allen. See Compl. ¶¶ 22 - 27.

claims against LES. 11 U.S.C. § 362(a). On January 20, 2010, this Court stayed this case as to the non-debtor Individual Defendants, leaving SunTrust, the alleged aider and abettor and co-conspirator, as the only active defendant in this action. (Doc. No. 100.) The Court has requested that SunTrust submit a brief to the Court on whether this action should also be stayed as to SunTrust.²

This Court should exercise its inherent authority to stay this action as to SunTrust until the stay as to the Individual Defendants is lifted. Proceeding as to SunTrust risks redundant discovery and multiple proceedings on “inextricably interwoven” claims, resulting in unnecessary expense and effort on the part of the Court and the litigants, not to mention the heightened prospect of inconsistent rulings on substantially overlapping facts. These myriad concerns will be avoided if this litigation proceeds on a single track.

Further, Plaintiffs will not suffer prejudice from a stay which prevents multiple proceedings on substantially overlapping claims. Staying this litigation until the stay as to the Individual Defendants is lifted will not shield SunTrust and the Individual Defendants from liability. Rather, a stay will merely require Plaintiffs to pursue their claims against all defendants at the same time. This delay in pursuing claims against SunTrust does not outweigh the litany of countervailing considerations in favor of the entry of a stay.

Thus, as more fully explained in the accompanying Brief in Support, in the interests of judicial economy, efficiency, and the consistent resolution of substantially overlapping claims among SunTrust and the Individual Defendants, SunTrust requests that this Court stay this case until the stay as to the Individual Defendants is lifted.

² On January 11, 2010, this Court held a scheduling conference in which it indicated to the parties that it would consider SunTrust’s pending Motion to Dismiss prior to its consideration of SunTrust’s Motion to Stay. Therefore, if SunTrust’s Motion to Dismiss is granted, this Motion to Stay will be rendered moot.

Respectfully submitted, this 21st day of January, 2010.

KING & SPALDING LLP

/s/ Cory Hohnbaum

Michael R. Smith
mrsmith@kslaw.com
Georgia Bar No. 661689
Cory Hohnbaum
chohnbaum@kslaw.com
North Carolina Bar No. 17453
Justin C. Jeffries
jjeffries@kslaw.com
Georgia Bar No. 390029
1180 Peachtree St., NE
Atlanta, Georgia 30309
Tel: 404-572-4600
Fax: 404-572-5139

NEXSEN PRUET, LLC
Susan P. McWilliams
smcwilliams@nexsenpruet.com
Fed. ID No. 3351
Nikole Setzler Mergo
nmergo@nexsenpruet.com
Fed. ID No. 7410
1230 Main Street, Suite 700 (29201)
Post Office Drawer 2426
Columbia, South Carolina 29202
Tel: 803-253-8221
Fax: 803-727-1476

Counsel for Defendant SunTrust Banks, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing MOTION TO STAY PROCEEDINGS was electronically filed with the Clerk of Court using the CM/ECF system, which serves notification of such filing to all counsel of record.

This 21st day of January, 2010.

/s/ Cory Hohnbaum
Cory Hohnbaum