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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

<b>MARK BANFIELD, et al.,</b>	:	
	:	
<b>Petitioners,</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>PEDRO CORTÉS,</b>	:	<b>Docket No. 442 M.D. 2006</b>
	:	
<b>Respondent.</b>	:	

**[PROPOSED] ORDER GRANTING RESPONDENT'S UNOPPOSED APPLICATION FOR STAY OF PROCEEDINGS**

AND NOW this \_\_\_\_\_ day of \_\_\_\_\_, 2007, upon consideration of all papers filed in connection with the Unopposed Application Of Respondent Pedro A. Cortés, Secretary Of The Commonwealth ("Secretary"), For Stay Of Proceedings Pending His Appeal Of This Court's April 12, 2007 Order ("Application"), it is **HEREBY ORDERED** that the Secretary's Application is **GRANTED**.

IT IS FURTHER ORDERED that these proceedings are stayed pending resolution of the Secretary's appeal of this Court's April 12, 2007 Order before the Supreme Court of Pennsylvania.

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J.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

<b>MARK BANFIELD, <i>et al.</i>,</b>	:	
	:	
<b>Petitioners,</b>	:	
	:	
<b>v.</b>	:	
	:	
<b>PEDRO CORTÉS,</b>	:	<b>Docket No. 442 M.D. 2006</b>
	:	
<b>Respondent.</b>	:	

**UNOPPOSED APPLICATION OF RESPONDENT SECRETARY OF THE COMMONWEALTH, PEDRO A. CORTÉS, FOR A STAY OF PROCEEDINGS PENDING HIS APPEAL OF THIS COURT'S APRIL 12, 2007 ORDER**

Pursuant to the agreement reached among all parties, Rules 4002 and 4012 of the Pennsylvania Rules of Civil Procedure and Rule 123 of the Pennsylvania Rules of Appellate Procedure, Respondent Secretary of the Commonwealth, Pedro A. Cortés (“Respondent” or “Secretary”) respectfully requests that this Court enter an order staying all proceedings before this Court in this matter pending final resolution of the Secretary’s appeal of this Court’s April 12, 2007 Order.

Good cause exists for granting this Application because the parties have agreed to the entry of a stay of all proceedings before this Court in the form of

# **EXHIBIT A**

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May 4, 2007

**Via Facsimile and First Class Mail**

Marian K. Schneider, Esquire  
295 E. Swedesford Road, #348  
Wayne, PA 19087

**Re: Mark Banfield, et al. v. Pedro Cortés, Secretary of the Commonwealth  
Commonwealth Court of PA, No. 442 M.D. 2006**

Dear Marian:

As we discussed on the telephone on Wednesday and again in more detail this morning, the parties have agreed that the Respondent Secretary of the Department of State ("Secretary") will review and produce certain documents that are responsive to the Petitioners' requests for production, and that otherwise the proceedings before the Commonwealth Court are stayed.

Under our agreement, the Secretary will review and produce documents as follows. Without waiver of any objections or privileges, including but not limited to those based on privilege, confidentiality agreements, or responsiveness, the Secretary will search and review the files of the following personnel in the Department of State: the Secretary; his former Deputy of Regulatory Programs; the department's policy director; the Commissioner of the Bureau of Commissions, Elections and Legislation; and the files of the HAVA administrator. The search and review will also include various general files maintained by the Bureau of Commissions, Elections and Legislation. Further, in accordance with your specific request, we will contact the examiners, Glenn Newkirk and Dr. Michael Shamos, in order to obtain materials provided to them, in their capacity as examiners appointed by the Secretary, by the vendors, and will produce any such materials that are responsive to the document requests without waiver of any objections or privileges. All of the aforementioned review and production is limited to paper/hard-copy files and will not include the more burdensome search and review of emails and other electronic files. The responsive documents will be provided on or before June 29, 2007.

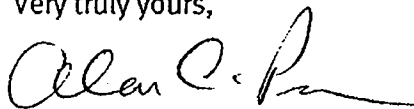
Marian K. Schneider  
May 4, 2007  
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Also under our agreement, all proceedings in the case in the Commonwealth Court are stayed pending the disposition of the Secretary's interlocutory appeal efforts before the Pennsylvania Supreme Court. This stay is effective immediately and lasts until the Supreme Court concludes its consideration of the Secretary's soon-to-be-filed Petition for Permission to Appeal, and, if that Petition is granted, through the Pennsylvania Supreme Court's disposition of the appeal.<sup>1</sup> In order to avoid ambiguity, and consistent with our conversation, we further agree that the Secretary need not respond to the Cross-Motion to Compel that the Petitioners filed in the fall of 2006, but the Petitioners do not waive any rights to renew that motion at an appropriate time or to file another motion to compel after the stay expires; nor does the Secretary waive any rights to later seek a protective order. Further, if the Petition for Permission to Appeal is not granted or the preliminary objections are not sustained by the Pennsylvania Supreme Court and the case therefore continues, the parties agree that the answer to the Petition for Review, and the responses to the outstanding discovery requests, are due 30 days after either the rejection of the Petition for Permission to Appeal or the overruling of the preliminary objections on such an appeal.

As we discussed on the telephone, I will take care of apprising the Commonwealth Court of our agreement. I will do that by presenting to the Commonwealth Court early next week an unopposed application for a stay that attaches this letter.

I thank you for your cooperation in resolving these issues.

Very truly yours,



Alan C. Promer

ACP:ck

cc: Michael Churchill, Esquire  
Lowell Finley, Esquire  
Mary E. Kohart, Esquire  
(all via facsimile)

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<sup>1</sup> The Secretary does not hereby intend to waive any right or entitlement to an automatic supersedeas and/or stay of the case by operation of the granting of the Petition for Permission to Appeal.