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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re: : Chapter 11
Extended Stay, Inc., *et al.*, : Case No. 09-13764 (JMP)
Debtors. : (Jointly Administered)
-----X

**EXAMINER'S *EX PARTE* MOTION FOR ORDER PERMITTING EXAMINER
TO FILE UNDER SEAL NOTICE OF PRODUCING PARTY OBJECTIONS TO
ALTERNATIVE A DOCUMENT LIST AND ALTERNATIVE B DOCUMENT
LIST IN FURTHERANCE OF MOTION FOR ORDER GRANTING CERTAIN
RELIEF AND ESTABLISHING CERTAIN PROCEDURES RELATED TO
CONCLUSION OF EXAMINATION**



Ralph R. Mabey, in his capacity as examiner (the "Examiner") pursuant to this Court's order dated September 29, 2009 [Docket No. 455], hereby requests the entry of an *ex parte* order allowing the Examiner to file under seal the following document: "Examiner's Notice of Producing Party Objections to Alternative A Document and Alternative B Document List in Furtherance of Motion For Order Granting Certain Relief and Establishing Certain Procedures Related to Conclusion of Examination" ("*Ex Parte* Motion").

In support of this *Ex Parte* Motion, the Examiner respectfully represents as follows:

1. The Examiner completed his Court-order investigation and on April 8, 2010, publicly filed his report exhibits, which details his factual and legal conclusions [Docket No, 913] and a separate volume of exhibits.
2. On May 25, 2010 the Examiner filed the "Examiner's Motion for Order Granting Certain Relief and Establishing Certain Procedures Related to Conclusion of Examination" (the "Motion") [Docket No. 1012]. As discussed in the Motion, to maintain the viability of each of the alternative proposals regarding the disposition of the document repository created in the course of the Examiner's investigation, the Examiner provided an Alternative A Document List and an Alternative B Document List (each as defined in the Motion, and, collectively, the "Lists")¹ to each party that produced documents under a confidentiality agreement. In paragraphs 10 and 13 of the Motion, the Examiner indicated that he would notify the Court of any objections to the inclusion of any List in a Master Document List or Report Document List (each as defined in the Motion), and provide copies of the disputed lists to the Court. The disputed Lists must be filed under seal pending this Court's determination of whether they contain confidential

¹ As detailed in the Motion, each of the Lists sets forth the names of the documents that a party has produced to the Examiner, and does not provide the name of any other party's documents. The Examiner provided the Lists each party as described in the Motion.

information to preserve confidentiality, if any. The following parties object to any disclosure of their respective Lists:

- Extended Stay Inc. and its debtor affiliates, as debtors and debtors in possession;²

- David Lichtenstein and Lightstone Holdings LLC; and

- BHAC IV, L.L.C. and BRE/HV Holdings L.L.C.

3. The Examiner hereby requests permission to file the Lists under seal with the Court or in the alternative to allow Examiner's Counsel to hand them up at the hearing regarding the Motion, currently scheduled for June 17, 2010 at 10:00 a.m.

CONCLUSION

Based on the forgoing, the Examiner respectfully requests that the Court enter an order, substantially in the form annexed hereto as Exhibit "A", (i) allowing the Examiner to file the Lists under seal; or (ii) allowing Counsel for the Examiner to hand the lists up at the hearing regarding the Motion; and (ii) granting such other and further relief as is appropriate under the circumstances

DATED: June 14, 2010

/s/ Margreta M. Morgulas

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² A list of the debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, is attached to the "Debtor's Limited Response" to the Motion [Docket No. 1038] as "Exhibit A."

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
In re: : Chapter 11
Extended Stay, Inc., *et al.*, : Case No. 09-13764(JMP)
Debtors. : (Jointly Administered)
-----X

ORDER GRANTING EXAMINER’S *EX PARTE* MOTION FOR ORDER PERMITTING THE EXAMINER TO FILE UNDER SEAL EXAMINER’S NOTICE OF PRODUCING PARTY OBJECTIONS TO ALTERNATIVE A DOCUMENT LIST AND ALTERNATIVE B DOCUMENT LIST IN FURTHERANCE OF MOTION FOR ORDER GRANTING CERTAIN RELIEF AND ESTABLISHING CERTAIN PROCEDURES RELATED TO CONCLUSION OF EXAMINATION

Upon the “Examiner’s *Ex Parte* Motion For Order Permitting the Examiner to File Under Seal Examiner's Notice of Producing Party Objections to Alternative A Document List and Alternative B Documents in Furtherance of Motion for Order Granting Certain Relief and Establishing Certain Procedures Related to Conclusion of Examination” (“Motion”)³; the Court having jurisdiction over this matter and the relief requested in the Motion pursuant to 28 U.S.C. §§ 157 and 1334; it appearing that this is a core proceeding pursuant to 28 U.S.C. §§ 157(b); and after due deliberation and sufficient cause appearing therefore, it is hereby **ORDERED**:

1. The Motion is granted.
2. The Examiner is allowed to file the Lists under seal.

³ Unless otherwise defined herein, capitalized terms shall have the meanings ascribed thereto in the Motion.

3. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

Dated: New York, New York
June _____, 2010

UNITED STATES BANKRUPTCY JUDGE