**Template Letter Informing ICE of Automatic Stay Based on (Late Filed) BIA Appeal**

Information requiring modification is highlighted in yellow

[ATTORNEY LETTERHEAD]

[NAME], District Director

[LOCATION] District Office

U.S. Immigration and Customs Enforcement

Department of Homeland Security

[Address]

 RE: [Respondent’s Name]

 [A Number]

 **Notification of Automatic Stay of Deportation**

Dear [Name]:

This office represents [Respondent’s Name] as evidenced by the enclosed Form G-28 (Notice of Entry of Appearance as Attorney or Accredited Representative). [Respondent’s Name] is currently in the custody of U.S. Immigration and Customs Enforcement (ICE) at [name and place of detention facility].

On [date], [Respondent’s Name] filed a Notice of Appeal (Form EOIR-26) with the Board of Immigration Appeals. [Attach and cite proof of filing, if available]. **By this letter, we are reminding your office that the regulation at 8 C.F.R. § 1003.6(a) provides an automatic stay of [Respondent’s Name]’s deportation while the appeal is pending.** Itprovides:

Except as provided under § 236.1 of this chapter, § 1003.19(i), and paragraph (b) of this section, the decision in any proceeding under this chapter from which an appeal to the Board may be taken shall not be executed during the time allowed for the filing of an appeal unless a waiver of the right to appeal is filed, *nor shall such decision be executed while an appeal is pending* or while a case is before the Board by way of certification.

8 C.F.R. § 1003.6(a) (emphasis added). [Respondent’s Name]’s appeal fits squarely within the plain language of the regulation. ICE is bound by the plain language of this regulation. As a result, unless and until the BIA dismisses the appeal, ICE cannot deport [Respondent’s Name]. Please take all necessary and appropriate steps to ensure compliance with this regulation.

Thank you for your immediate attention to this matter.

Sincerely,

[Attorney’s Name]

Enclosure:Form G-28

 [Proof of filing Notice of Appeal]