

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
)
v.)
)
TLC Investments & Trade Co.; TLC)
America, Inc. d.b.a. Brea Development)
Company; TLC Brokerage, Inc., d.b.a.)
TLC Marketing; TLC Development, Inc.;)
TLC Real Properties, RLLP-1; Ernest F.)
Cossey a.k.a. Frank Cossey; Gary W.)
Williams; Cloud & Associates Consulting,)
Inc.; and Thomas G. Cloud,)
)
Defendants,)
)
_____)

CASE NO. SA CV 00-960 DOC (EEEx)

ORDER CONTINUING THE
HEARING ON ORDER TO SHOW
CAUSE WHY A PRELIMINARY
INJUNCTION SHOULD NOT ISSUE
AND EXTENDING THE TEMPORARY
RESTRAINING ORDER TO
OCTOBER 30, 2000

On October 4, 2000, the Court granted Plaintiff Securities and Exchange Commission ("SEC")'s motion for a temporary restraining order in this matter. The Court's Order also constituted an Order to Show Cause why a preliminary injunction should not issue, set for hearing on October 16, 2000 at 8:30 a.m. The TLC Defendants filed an Opposition to the entry of a preliminary injunction, joined by Defendants Gary Williams and E. Frank Cossey. This Opposition consists of a three-page statement of facts and argument that does not offer any response to most of the allegations in the Complaint. In the alternative, Defendants request a continuance of the matter so that they can have more time "to make the showing that the value of the real property owned by TLC is sufficient to secure the interests of its investors." TLC's Opp'n to Mot. for a Prelim. Inj. at 4:3-5. To allow Defendants ample time to brief the preliminary injunction motion fully, the Court CONTINUES the hearing on the preliminary injunction for two weeks, to October 30, 2000 at 8:30 a.m. Defendants may file and serve via facsimile an additional opposition by October 23, 2000. The SEC may file and serve via facsimile a reply to such an opposition by October 26, 2000.

Defendants request that the freeze on their assets be lifted until the preliminary injunction motion is heard. This request is DENIED. Further, the temporary restraining order is EXTENDED in its entirety until 5:00 p.m. on October 30, 2000. All of the terms, conditions, and provisions of the temporary restraining order remain in full force and effect, including the freeze on assets and the temporary appointment of the receiver, until 5:00 p.m. on October 30, 2000. Although in the interests of justice, the Court will allow Defendants more time to make a showing before entering a preliminary injunction, the showing already made by the SEC in its application for the temporary restraining order and the documentary evidence it submitted with its application demonstrate that there is good cause to continue the temporary restraining order, including the asset freeze, so that Defendants will not dissipate investors' funds. See Fed. R. Civ. P. 65(b) (stating that a temporary restraining order can be extended beyond the initial ten-day period upon a showing of good cause).

Defendants Williams and Cossey have filed *ex parte* applications regarding the existing asset freeze. First, they request that some funds be released from the freeze for their use in retaining counsel to defend themselves in this action. The Court will rule on this request when it rules on the preliminary injunction. Second, Williams and Cossey request a determination from the Court as to whether funds transferred to trust accounts created by their criminal defense attorneys just prior to the entry of the temporary restraining order are subject to the existing freeze. The Court's ruling on this issue is forthcoming. Third, Williams and Cossey have requested the release of some funds for living expenses. The Court will rule on this request when it rules on the preliminary injunction. If Williams and Cossey can reach a stipulation with the SEC regarding the release of a conservative amount of funds to be used for necessary living expenses prior to the hearing on the preliminary injunction, the Court Will consider such a request.

IT IS SO ORDERED.

DATED: October 13, 2000

DAVID O. CARTER

UNITED STATES DISTRICT JUDGE
