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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

vs.

RICHARD VU NGUYEN, A/K/A
NGUYEN THANH VU, and NTV
FINANCIAL GROUP, INC.,

Defendants,

and

MAI DO,

Relief Defendant

Civil Action No.: 8:19-cv-01174-AG-KES

**Honorable Andrew J. Guilford
Courtroom 10D**

**OPPOSITION TO *EX PARTE*
APPLICATION AND MOTION TO
AMEND PRELIMINARY
INJUNCTION ORDER**

**DECLARATION OF RICHARD
NGUYEN FILED CONCURRENTLY
HEREWITH**

**Complaint Filed: 6/13/18
Trial Date: None Set**

Defendants Richard Nguyen and Mai Do (“Defendants”) hereby submit the following Opposition to *Ex Parte* Application and Motion to Amend Preliminary Injunction Order filed by Plaintiff Securities and Exchange Commission (“Plaintiff” or “SEC”).

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION.

Defendants Richard Nguyen and Mai Do were served with the summons and complaint on June 26, 2019. (Decl. Nguyen ¶3.) At the time of service, the Court had already issued a temporary restraining order freezing the accounts (all business and all personal accounts) and assets of Defendants and appointed a temporary Receiver who took possession of Defendant NTV Financial Group, Inc.’s office condo. (Dkts 14, 20.) Since these events, Defendants Nguyen and Do have been unable to access their accounts and records, whether online or hard copies, to rebut the allegations asserted by the SEC and the Receiver in the Complaint and subsequent motion for preliminary injunction. (Decl. Nguyen ¶4.) Plaintiff now seeks ex parte relief to amend the preliminary injunction order, without cause, to include assets that Defendants obtained from income sources unrelated to NTV Financial Group, Inc., and depriving Defendants of the opportunity to be fully heard on this issue. Without available documents to establish and support Defendants’ other income sources unrelated to the events at issue, Defendants are unable to submit an adequate Opposition to the instant Ex Parte Motion. As such, Defendants request that the Court deny the ex parte relief and set this matter for hearing on shortened notice so that Defendants can assemble documents and prepare a fully briefed Opposition.

II. NO BASIS FOR EX PARTE RELIEF.

In moving for ex parte relief, the moving party must establish good cause why it must be allowed to “go to the head of the line in front of all other litigants and receive special treatment. *Mission Power Engineering Co. v. Continental Cas. Co.* (CD CA 1995) 883 F. Supp.488, 492. Good cause is established where the moving party shows *irreparable injury* if the underlying motion is heard according to regular noticed motion procedures. *Id.* The moving party must also establish that it is without fault in creating the crisis or the crisis occurred a result of excusable neglect. *Horne v. Wells Fargo Bank, N.A.* (CD CA 2013) 969 F.Supp.2d 1203, 1205.

Here, Plaintiff has not established good cause why it should be entitled to ex parte relief. The Miller Declaration is devoid of any facts why Plaintiff’s motion cannot be heard as a regularly noticed motion. The Court has already issued a Preliminary Injunction Order that is comprehensive in scope to address assets related to NTV Financial Group, Inc. Any amendment thereto, can and should be heard by way of regularly noticed motion to allow time for Defendants to submit a properly briefed Opposition.

III. DEFENDANTS’ ASSETS ARE SUBJECT TO FORECLOSURE AND CREDITOR REPOSSESSION IF NOT SOLD TO CANCEL ANY DEBT OBLIGATIONS.

On July 25, 2019, Defendants complied with the Preliminary Injunction Order and submitted their list of assets. (Dkt 38.) The asset list identified real property and personal property that were obtained from income sources outside of NTV Financial Group. Many of the identified assets, including the real property at located at 2506 Monte Carlo Dr., Santa Ana, CA, are under mortgage or lien with various banks and lending institutions. Due to the freeze over Defendants’ bank

1 accounts, many of the identified assets are or will be in default and subject to
 2 foreclosure or repossession. (Decl. Nguyen ¶¶7, 8.) The selling of these assets
 3 will provide Defendants with the opportunity to repay the related mortgage or debt
 4 and prevent further loss of property or harm to Defendants' financial credit rating.
 5 These assets are unrelated to this action and the activities of NTV Financial Group,
 6 Inc., and should not be put at risk through no fault of Defendants. The amending
 7 of the Preliminary Injunction Order to include these additional non-related assets
 8 would effectively deprive Defendants of due process and property rights.
 9

10 **IV. CONCLUSION.**

11 Based upon the foregoing, Defendants respectfully request that the Court
 12 deny the ex parte in its entirety, or in the alternative, set this matter for hearing on
 13 shortened notice so that Defendants may file a proper Opposition.
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 16
 17 Dated: August 9, 2019

LAW OFFICES OF MIKE N. VO, APLC

/Mike N. Vo/

Mike N. Vo

Attorneys for Defendants Richard Nguyen
 and Mai Do

CERTIFICATE OF SERVICE

I hereby certify that on August 9, 2019, I electronically filed the foregoing
“**OPPOSITION TO EX PARTE APPLICATION AND MOTION TO
AMEND PRELIMINARY INJUNCTION ORDER**” with the Clerk of the Court
using the CM/ECF system which will send notification of such filing via electronic
mail to all counsel of record.

/s/ Mike N. Vo

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