

TRULINCS 02555506 - CAMMARATA, JOSEPH - Unit: FAI-E-A

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FROM: 02555506  
TO:  
SUBJECT: Asset Freeze Motion - Part 1  
DATE: 04/16/2025 03:39:46 PM

UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

Securities and Exchange Commission  
Plaintiff-Appellee,  
v.  
Joseph Cammarata  
Defendant-Appellant.

District Court Case No. 21-cv-4845  
Court of Appeals Case No. 24-1381

EMERGENCY MOTION FOR THE IMMEDIATE RELEASE OF IMPROPERLY FROZEN ASSET

Defendant-Appellant Joseph Cammarata, appearing pro se, respectfully submits this Emergency Motion seeking immediate release of improperly frozen assets pursuant to the district court's November 4th, 2021 asset freeze order. Multiple filings including pending appeals, motions and a petition for a writ of mandamus have been pending before this Court since June 2024. The central appeal, Docket 24-1381 (ECF No. 22), challenges the district court's failure to recuse itself due to demonstrable bias, and alleged constitutional violations and misconduct by the Securities and Exchange Commission (SEC).

Despite the gravity of these allegations, the SEC has failed to respond to ECF# 22 and has instead sought procedural delays, thereby maintaining a corrupted final judgment and prolonging the enforcement of a facially invalid and expired asset freeze. This motion seeks immediate relief from the continued deprivation of property and due process rights, and at a minimum, unfreeze assets that were never subject to the freeze, including a foreign irrevocable life insurance trust ("ILIT") that falls entirely outside the district court's jurisdiction.

Mr. Cammarata respectfully moves this Court to immediately dissolve the unlawful asset freeze and at least unfreeze assets that were never subject to it and fall outside the district court's jurisdiction.

STATEMENT OF FACTS:

On November 3rd, 2021, Mr. Cammarata was arrested in Miami Florida on criminal charges of wire and mail fraud conspiracy (21-cr-427-CFK, ECF No. 1). On the same day, the SEC filed a civil complaint for allegations "securities fraud" (21-cv-4845-CFK) and requested an ex parte temporary restraining order ("TRO"), freezing all of Mr. Cammarata's assets of over \$78 million without notice or justification. No evidence of irreparable harm was presented, as critically required by Fed. R. Civ. P. 65(b), nor was Mr. Cammarata served or present at the TRO show cause hearing.

The next day on November 4th, 2021 the district court granted the SEC an ex parte TRO to freeze all of Mr Cammarata's assets without any valuation of the assets, tainted analysis, determination of property ownership, or tribunal or personal jurisdiction over them. The district court's granting the TRO (ECF No. 4), ordered that the required Fed. R. Civ. p. 65(b)(2) show cause hearing was to be held on November 9th, 2021 at 9am, in his Philadelphia courtroom. The order also mandated that "the parties must meet and confer at least 24 hours before the show cause hearing (on November 9th, 2021 at 9am)" (this was in bold font as well).

On the same morning of November 4th, Mr. Cammarata was unaware of the the SEC compliant or any TRO, as he was in a Miami court for his criminal bail hearing, for the Philadelphia criminal case, also before Judge Kenney. Since the criminal bail hearing was out of the Philadelphia district and the government denied bail, the honorable Jonathan Goodman, needed to wait 3 business days before he was able to intervene, so the next criminal bail hearing was set for November 9th, 2021 at 8:30am in Miami. Mr. Cammarata remained detained at FDC Miami and was unaware of the TRO or any hearing scheduled for the same day of November 9th. This detainment was during covid-19 where Mr. Cammarata was locked in a cell for 23.5 hours a day and had no access to legal calls or a way to know that he had all his assets frozen in another baseless case against him, now by the SEC.

The SEC, in their own alleged "certification of service" (ECF No. 10 of 21-cv-4845), admitted to not sending out the mailed notice to Mr. Cammarata in Miami, via Standard U.S. Mail, until November 8th, 2021, despite the district court's order being issued on November 4th, and requiring at least 24 hours to meet and confer prior to the TRO hearing. The SEC did however provide a USM-285, purporting to have personally served the notice of the TRO hearing to Mr. Cammarata in the US Marshals

Service cellblock on November 8th, 2021 at 10:50am. The problem with that is Mr. Cammarata never received any such notice on November 8th, and was at no time in the U.S. Marshals Service ("USMS") cellblock on November 8th. Mr. Cammarata was however, in the USMS cellblock on November 9th, when he was there for his criminal bail hearing. Mr. Cammarata was in fact personally served with the notice of the 9am Philadelphia TRO hearing, but it was on November 9th, at 10:50am and was \*after\* the TRO hearing had already occurred in Philadelphia (while he was waiting to go back to FDC Miami after his bail hearing there). Notably, if the notice is inspected, it appears that the date of November 8th, was actually forged from a "9". Even if the SEC wanted to falsely claim the notice was somehow served on Mr. Cammarata on November 8th, 2021 at 10:50am, which is physically impossible, it was still untimely and in violation of the court's order to meet and confer at least 24 hours before the hearing. One undeniable fact that has been unrefuted and never addressed was the denial of due process and how two of the most important hearing of Mr. Cammarata's life, occurred simultaneously in Philadelphia and Miami, when he was never noticed or able to be present or represented. Both of these cases were overseen by the same district court judge, who is being charged with the appearance of bias and abuses of discretion in ECF No. 22 of 24-1381.

On November 10th, 2021, the day after the simultaneous hearings (in two cities, 1,000 miles away), the district court then ordered that he would extend the terms of the asset freeze (ECF No. 16), without due process or Mr. Cammarata being represented. The order even stated that good cause and consent was found only for the parties "that had appeared for the hearing" (ECF# 17), conceding that Mr. Cammarata had not appeared or provided consent. All of the deprivation of due process and other constitutional issues aside, the district court also improperly ordered the hearing to exceed the 14 day "like period" of Rule 65(b)(2), without Mr. Cammarata's consent which was admitted to be missing by the court. The orders in ECF No. 16-17 extended the TRO and terms of the asset freeze from November 9th, 2021 (the day of the hearing) to December 14th, 2021. An extension beyond November 23rd or even November 24th at 11:59 is only permitted under Rule 65(b)(2), if there was another hearing, or consent provided by Mr. Cammarata, of which neither occurred. Remarkably, much of these suggestions were presented to the district court in the SEC's "proposed order", in which contained the exact same typographical, pagination, font, and legal errors that appeared identically in the "proposed order" (ECF No. 14) and the district court's actual order (ECF No. 17).

Notably for this Court, the district court has never held another hearing in which Mr. Cammarata could attend, even though many were scheduled, but never occurred, despite numerous motions pursuant to Fed. R. Civ. P. 65(b)(4) all filed by Mr. Cammarata on the docket. One such example of the overly broad and impermissible overreach of the asset freeze is a foreign irrevocable life insurance trust ("ILIT") which the district court has always improperly maintained as part of the asset freeze. In February 2023, when Mr. Cammarata was trying to obtain sixth amendment criminal defense fees for an appellate attorney to unfreeze \$255,000, the government and the district court objected. At a hearing on the subject, the DOJ and SEC both denied the release of any sixth amendment fees, citing that "Mr. Cammarata was convicted and all of his assets are now the assets of the United States government" and that he had no further rights. When the proposed counsel, Mr. Goldberger, explained how preposterous that was the government then told the court that they would release the \$255,000 only if Mr. Cammarata repatriated his multimillion dollar private island in the Bahamas, to the United States Court registry account. When Mr. Cammarata object and told the district court that there were over \$5 million of untainted funds held in his Merrill Lynch account the judge asked the government if that was true. The government conceded that, but then immediately suggested to the court that there is a Life Insurance policy in the Bahamas, that had \$2.6 million of stock holdings and that if the court ordered that all of that stock be liquidated and all \$2.6 million repatriated to the courts registry account, then they would agree to provide the \$255,000 sixth amendment legal fees. Mr. Cammarata again objected stating that the government conceded there was sufficient untainted funds at Merrill Lynch and available and the court, instead ordered the liquidation of a third party life insurance trust. The \$2.6 million was all of the life insurance trust's holding of 364,667 shares of Palantir stock ("PLTR") in which the district court unlawfully ordered to be liquidated and was sold at \$7 a share. When the stock had recently been trading at \$124 a share, the district court's act in the absence of all jurisdiction has caused the ILIT another \$38 million in documented damages.

FROM: 02555506

TO:

SUBJECT: Asset Freeze Motion - Part 2

DATE: 04/16/2025 03:42:45 PM

STANDARD OF LAW:

I. Federal Rule of civil Procedure 65 (Emphasis added)

(b) Temporary Restraining Order

(1) Issuing Without Notice. The court may issue a temporary restraining order without written or oral notice to the adverse party ONLY IF:

(A) specific facts in an affidavit or a verified complaint clearly show that immediate AND IRREPARABLE injury, loss or damage will result to the movant before the adverse party can be heard in opposition; AND

(B) the movant's attorney certifies in writing ANY efforts made to give NOTICE AND WHY it should NOT be REQUIRED.

(2) Contents, Expiration; Every temporary restraining order issued without notice MUST state the date and hour it was issued; DESCRIBED the injury AND state WHY IT IS IRREPARABLE; state why the order was issued without notice; and be promptly filed in the clear's office and entered in the record. THE ORDER EXPIRES at the time after entry - NOT TO EXCEED 14 days - that the court sets, unless before that time, the court for good cause, extends it FOR A LIKE PERIOD OR the adverse party CONSENTS to a LONGER extension. The REASON for an extension MUST be entered on the record.

II. 28 U.S.C. 1292(a)(1)

This court has appellate jurisdiction pursuant to 28 U.S.C. 1292(a)(1), over all interlocutory orders of a district court which grant, continue, modify, refuse, or dissolve injunctions.

III. As the Supreme Court has observed, 'our entire jurisprudence runs counter to the notion of a court action taken before reasonable notice and an opportunity to be heard has been granted [to] both sides of a dispute". *Granny Goose Foods Inc. v Bhd. of Teamsters*, 415 U.S. 423, 439, 94 S. Ct. 1113, 39 L. Ed. 2d 435 (1974). And the Court has described due process in the way:

"Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified. It is equally fundamental that the right to notice and an opportunity to be heard must be granted at a meaningful time and in a meaningful manner". *Fuentes v. Shevin*, 407 U.S. 67, 80, 92, S. Ct. 1983, 32 L. Ed. 2d 556 (1972)

IV. A district court's determination as to the freeze of third party funds [the ILIT] was improper because in no case referenced by the SEC has it been granted a freeze ex parte of assets where those assets were anything other than property of a defendant or a culpable third party. See, e.g. *SEC v. Cherif*, 993 F.2d 403, 413-14 (7th Cir. 1991)("Nothing in the statute or case law suggests that 15 U.S.C. 15u(d) or (e) authorizes a court to freeze the assets on a non-party, one against whom no wrongdoing is alleged.")

ARGUMENT:

The district court lacked jurisdiction to enforce or extend the ex parte TRO and asset freeze. The original TRO failed to meet Rule 65's requirements, was issued without notice, lacked a showing of irreparable harm, and has since expired. Moreover, the freeze improperly included assets not belonging to Mr. Cammarata, including an Irrevocable life Insurance Trust.

I. The TRO and Asset Freeze Were Improperly Granted without Notice, Due Process, or Jurisdiction

The district court's issuance of the TRO and subsequent extensions of the asset freeze order violated Fed. R. Civ. P. 65(b) and longstanding constitutional principles. The TRO was issued ex parte, without timely notice to Mr. Cammarata, and without the required showing of "immediate and irreparable injury". The failure to provide notice is not merely a procedural misstep; it constitutes a due process violation under clearly established Supreme Court precedent. As held in *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976), "[t]he fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'"

In *the United States v. James Daniel Good Real Property*, 510 U.S. 43 (1993), the Court held that even the government's seizure of property must typically be preceded by notice and a meaningful opportunity to be heard especially where the property is not per se contraband. The circumstances here do not meet that constitutional threshold.

Likewise, in *Connecticut v. Doehr*, 501 U.S. 1, 18 (1891), the Court warned that an ex parte prejudgment remedies significantly impairing property interests must meet stringent due process safeguards that were wholly absent here.

#### II. The Irrevocable Life Insurance Trust ("ILIT")

The Irrevocable Life Insurance Trust is a third-party foreign entity governed by trust and insurance law. It was established in 2004, well before any alleged wrongdoing. It has always maintained independent directors, no connection to Mr. Cammarata's finances, and no receipt of any allegedly tainted funds. Freezing or liquidating its assets is a jurisdictional overreach. The district court has never allowed these issues to be addressed and he unlawfully ordered \$2.6 million of PLTR stock to be liquidated in 2023 from the ILIT, despite no showing of ownership, control, or benefit by Mr. Cammarata. This act alone caused documented damages of approximately \$38 million to a non-party which is entirely outside of the district court's jurisdiction.

Under the supporting law, such as *Cherif*, and the constitutional protections, such actions, exceed the district court's authority and have already caused substantial financial damage to an entity completely related to the litigation.

#### III. The District Court Lacked Authority to Freeze Assets Outside Its Jurisdiction and Belonging to Third Parties

The inclusion of assets not owned by, controlled, or for the benefit of Mr. Cammarata, particularly the ILIT located in the Bahamas exceeds the statutory and equitable authority granted under 15 U.S.C. 78u(d). As the Seventh Circuit correctly recognized in *SEC v. Cherif*, 933 F.2d 403, 414 (7th Cir. 1991), "Nothing in the statute or case law suggests that 15 USC 78u(d) or (e) authorized a court to freeze assets of a non-party, one against whom no wrongdoing is alleged."

Additionally, the Supreme Court in *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 94 (1998), held that "[w]ithout jurisdiction the court cannot proceed in any cause." The district court's exercise of control over the ILIT, a foreign independent entity with no nexus to the alleged wrongdoing violates this bedrock principle.

#### CONCLUSION:

This Court is respectfully urged to finally intervene. The district court's actions have deprived Mr. Cammarata of due process, ignored jurisdictional limits, and imposed irreparable harm to non-parties, inter alia. The continued enforcement of an invalid and expired asset freeze violates constitutional protections, Fed. R. Civ. P. 65, and fundamental fairness that is still unchallenged by Mr. Cammarata's various motions, appeals and pending petition for a writ of mandamus.

The ILIT, a non-party foreign trust, must be immediately released from the freeze to prevent further unjust harm. In the alternative, this Court should order an immediate and full evidentiary hearing on the propriety and scope of the freeze and address the significant due process violations that have remained unremedied for over three years.

For the reasons stated above, Mr. Cammarata respectfully requests that this Court:

1. Immediately dissolve the unlawful asset freeze pursuant to 28 USC 1291(a)(1); or
2. At a minimum, unfreeze all assets not subject to the district court's jurisdiction, including any accounts owned by the ILIT and other unrelated third party property; and
3. Grant any such other and further relief as this Court deems just and proper.

The issues raised herein implicate fundamental constitutional protections, repeated violations of procedural due process, and tens of million of dollars in irreversible harm. Swift and decisive action from this Court is both necessary and appropriate.

Respectfully submitted,

Joseph Cammarata



Dated: April 16th, 2025