

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

Civil Action File No.:
6:06-CV-137-Orl-19KRS

EDWARD S. DIGGES, JR.; NEXSTAR
COMMUNICATIONS, LLC; TMT
EQUIPMENT COMPANY, LLC; TMT
MANAGEMENT GROUP, LLC; POSA,
LLC; POSA TMT, LLC; TELEVEST
COMMUNICATIONS, LLC; TELEVEST
GROUP, LLC; and SPIN DRIFT, LLC,

Defendants.

**MOTION BY SECURITIES AND EXCHANGE COMMISSION FOR ORDER
REQUIRING DEFENDANT EDWARD S. DIGGES TO SHOW CAUSE
WHY HE SHOULD NOT BE HELD IN CONTEMPT OF THE COURT
ORDERED ASSET FREEZE AND SUPPORTING
MEMORANDUM OF LAW**

The Securities and Exchange Commission hereby submits this Motion for an Order Requiring Defendant Edward S. Digges to Show Cause Why He Should Not Be Held in Contempt, and Supporting Brief based on Digges violating the February 14, 2006 asset freeze ordered by this Court. In support thereof, the SEC states as follows:

1. On February 14, 2006, following the filing of a complaint by the Securities and Exchange Commission ("S.E.C."), this Court entered the an Order that

ordered that “all assets of, or under the control of, Defendants are frozen”

February 14 2006 Order (“Order Freezing Assets”) at ¶ IV.

2. Digges admitted in deposition that he was the Managing Director of Chilham, LLC, a Maryland entity (“Chilham”), and has been since Chilham’s inception. See excerpt of Digges June 27, 2006 Deposition, attached hereto as Exhibit “A,” at 280. He also admitted that he “made the material decisions relating to [Chilham] and its assets” and “made the decisions relating to monetary transfers out of Chilham and into Chilham.” Exhibit “A” at 301.

3. Chilham owned interests in several parcels of real property in Charles County, Maryland.

4. Digges knew that the Order Freezing Assets likely applied to Chilham’s assets, including its real estate holdings. On June 19, 2006, Digges filed a Motion for Relief from Injunction, specifically asking this Court remove Chilham’s property from the asset freeze and allow Digges to sell Chilham’s interest to fund his legal fees and living expenses. See Motion for Relief From Injunction (D.E. #53) (“Carve-Out Motion”).

5. The Carve-Out Motion was stricken by this Court on technical procedural grounds.

6. Rather than re-filing the Carve-Out Motion, in July, Digges surreptitiously conveyed Chilham’s interest in one parcel of real estate for \$830,000. See Exhibit “B” hereto. Digges signed that deed as Chilham’s “Managing Member.”

7. In July 2006, Digges also encumbered other real estate that Chilham owned to secure certain debts owed by Digges and his wife, Katherine Kerr, including a new \$50,000 line of credit that was extended to Digges and Kerr contemporaneous with the execution of the document. See Exhibit "C" attached hereto. Digges again signed the security deed as Chilham's managing member.

8. Digges concealed his conduct from the SEC and the Receiver, testifying falsely at his recent deposition in September 2006 that he had not conveyed or otherwise encumbered any property owned by Chilham. See Excerpts of Digges' September 26, 2006 Deposition, attached hereto as Exhibit "D," at 4-6.

9. Digges' only excuse for his misconduct is that he believes the freeze should not apply to Chilham's assets, because those assets were not acquired or maintained with proceeds from the fraud. However, the Order Freezing Assets applied to all assets under Digges' control and was not limited in the manner Digges suggests. An order freezing assets that are not traceable to the fraud is completely proper. SEC v. Grossman, 887 F. Supp. 649 (S.D.N.Y. 1995) ("[i]t is irrelevant whether the funds affected by the Asset Freeze are traceable to the illegal activity..."). See also SEC v. Belmonte, 1991 U.S. Dist. LEXIS 16659 (S.D.Fla. 1991) (denying the defendant's motion for release of funds from the sale of his home, despite the fact that the home had been acquired prior to the alleged fraud); SEC v. ETS Payphones, 408 F.3d 727 (11th Cir. 2005)(upholding a three-year old blanket freeze not limited to assets traceable to the fraud).

WHEREFORE, the Commission respectfully requests this Court (1) issue an Order requiring Digges to show cause why he should not be held in contempt of the Asset Freeze Order; (2) find Digges in contempt of the Order Freezing Assets, (3) order Digges to account for the proceeds from the conveyance and encumbrances of the Chilham property, (3) order Digges to place the proceeds from the sale of any Chilham property in escrow account with the Receiver pending the resolution of this litigation, and (4) impose fines and/or incarceration until Digges complies with the contempt order.

The Commission requests that the Court convene this hearing on an expedited basis to prevent Digges' further violation of the Order Freezing Assets and/or Digges' further dissipation of the proceeds from the sale of the Chilham property, and granting any further relief this Court deems just and proper.

CERTIFICATE OF CONFERRAL

Pursuant to Local Rule 3.01(g), undersigned counsel certifies that he contacted Defendant Digges via e-mail on October 6, 2006 in an effort to confer in good faith to resolve the issues presented in this motion. As of the time the SEC filed this motion, Digges had not responded. Counsel for the SEC will continue his attempts to confer with Defendant Digges and will promptly thereafter certify to the Court whether the parties have resolved any of the issues presented by this motion.

This 9th day of October, 2006

Respectfully submitted,

s/M. Graham Loomis
SENIOR TRIAL COUNSEL
Georgia Bar No. 457868

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been uploaded this 9th day of October, 2006 to the Court's CM/ECF system which will send a notice of electronic filing to the following counsel of record:

Robert N. Gilbert
Carlton Fields, P.A.
222 Lakeview Avenue
Post Office Box 150
West Palm Beach, Florida 33402-0150

I further certify that I mailed the foregoing via electronic mail and U.S. Mail to the following non-CM/ECF participant: **Edwards S. Digges, Jr.**, One Sandy Acres, Cambridge, Maryland 21613.

This 9th day of October, 2006

s/ M. Graham Loomis