

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI**

LIGTT REGIONAL CENTER, LLC	)	
	)	
Plaintiff,	)	
	)	Civil Action No. _____
v.	)	
	)	
UNITED STATES CITIZENSHIP AND	)	
IMMIGRATION SERVICES;	)	
LEÓN RODRIGUEZ, in his official capacity	)	
As Director of United States Citizenship and	)	
Immigration Services; and	)	
JILL A. EGGLESTON, in her official capacity	)	
as Director of FOIA Operations of United	)	
States Citizenship and Immigration Services	)	
	)	
Defendants.	)	
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**VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**  
**and**  
**PETITION FOR TEMPORARY RESTRAINING ORDER**

**PARTIES**

1. Plaintiff LIGTT Regional Center, LLC (“LIGTT”) is a Delaware limited liability doing business in Baton Rouge, Louisiana.

2. Defendant United States Citizenship and Immigration Services (“USCIS”) is a federal agency with its principal office located at 20 Massachusetts Ave., NW, Washington, D.C. 20529. USCIS maintains an office, stores its records, and receives, tracks, and processes all requests it receives pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), at the National Records Center located at 200 Space Center Drive, Lee’s Summit, Missouri 64064-1182.

3. Defendant León Rodriguez is the Director of USCIS. His offices are located at 20 Massachusetts Ave., NW, Washington, D.C. 20529.

4. Defendant Jill A. Eggleston is the Director of FOIA Operations for USCIS. Her offices are located at the National Records Center located at 200 Space Center Drive, Lee's Summit, Missouri 64064-1182.

### **JURISDICTION AND VENUE**

5. This action arises under the Declaratory Judgment Act, which is codified as 28 U.S.C. § 2201-2202, and the Administrative Procedure Act ("APA"), which is codified as 5 U.S.C. §§ 701-706.

6. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (action arising under the laws of the United States), 28 U.S.C. §§ 2201-22012 (injunctive and declaratory relief), and 5 U.S.C. §§ 701-706 (judicial review to compel or enjoin agency action).

7. The Court may issue injunctive and declaratory relief, 28 U.S.C. §§ 2201-2202, other relief to compel or enjoin agency action, 5 U.S.C. § 706.

8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) because (i) Defendant USCIS is an agency of the United States and maintains an office in Lee's Summit, Missouri; (ii) Defendant Eggleston maintains her office in Lee's Summit; (iii) the records that are the subject matter of this action are located at the National Records Center in Lee's Summit, (iv) and a substantial part of the events giving rise to the claims herein have occurred and will occur in Lee's Summit, Missouri.

### **FACTUAL BACKGROUND**

9. This case involves USCIS's EB-5 Regional Center program. USCIS's webpage (<https://www.uscis.gov/eb-5>) describes the EB-5 Program as follows:

USCIS administers the EB-5 Program. Under this program, entrepreneurs (and their spouses and unmarried children under 21) are eligible to apply for a green card (permanent residence) if they:

- Make the necessary investment in a commercial enterprise in the United States; and
- Plan to create or preserve 10 permanent full-time jobs for qualified U.S. workers.

This program is known as EB-5 for the name of the employment-based fifth preference visa that participants receive.

Congress created the EB-5 Program in 1990 to stimulate the U.S. economy through job creation and capital investment by foreign investors. In 1992, Congress created the Immigrant Investor Program, also known as the Regional Center Program. This sets aside EB-5 visas for participants who invest in commercial enterprises associated with regional centers approved by USCIS based on proposals for promoting economic growth.

10. USCIS has designated LIGTT as an EB-5 Immigrant Investor Regional Center to solicit foreign investors to invest in United States businesses.

11. As part of LIGTT's petition for designation as a Regional Center, USCIS required LIGTT to submit various documents regarding its business and project plans, as well as various transactional documents. Among the transactional documents USCIS required LIGTT to submit was a Private Confidential Placement Memorandum (the "PPM") that LIGTT is currently using to offer securities to qualified foreign investors. The PPM contains "business information" as defined by USCIS. 6 C.F.R. § 5.8(b)(1) ("Business information means commercial or financial information obtained by the Department from a submitter that may be protected from disclosure under Exemption 4 of the FOIA." Thus, LIGTT is a "submitter" to USCIS, which USCIS defines as "any person or entity from whom the Department obtains business information, directly or indirectly." 6 C.F.R. § 5.8(b)(2).

12. On February 8, 2016, LIGTT received notice of the USCIS' receipt of a FOIA request for various documents filed in connection with LIGTT's petition to become an EB-5 Regional Center. This request included the PPM.

13. On June 30, 2016, after extended discussions with LIGTT regarding the disclosure of the PPM and related materials, USCIS mailed LIGTT a Notice of Intent to Disclose, a copy of which is attached hereto as **Exhibit A**. The Notice of Intent to Disclose informed LIGTT that various pages comprising the PPM would not be withheld from disclosure, and that “[u]nless action is initiated to enjoin [USCIS], the information will be released to the requester 15 days from the date of this letter.”

14. The PPM constitutes a trade secret, and contains financial, commercial and pricing information, return on investment projections, business plans, business operation projections, and other confidential and proprietary information.

15. Disclosure of the PPM will cause substantial harm to LIGTT’s competitive position.

16. In addition, as discussed below, 15 U.S.C. § 77e(a) & (b) prohibit Defendants’ disclosure of the PPM.

17. The offering and sale of securities to foreign investors is regulated by, among other statutes, the Securities Act of 1933, which is codified as 15 U.S.C. § 77a, *et seq.* (the “33 Act”). The 33 Act states:

Unless a registration statement is in effect as to a security, it shall be unlawful for *any person, directly or indirectly . . .* to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise . . . .”

15 U.S.C. § 77e(a) (emphasis added).

18. The 33 Act also requires a registration statement to be filed before offering a security for sale. The 33 Act states:

It shall be unlawful for *any person, directly or indirectly . . .* to make use of any means or instruments of transportation or

communication in interstate commerce or of the mails to carry or transmit any prospectus relating to any security with respect to which a registration statement has been filed under this subchapter, unless such prospectus meets the requirements of section 77j of this title.

15 U.S.C. § 77e(b) (emphasis added).

19. The 33 Act defines “security” as “stock, treasury stock, . . . or, in general, any interest or instrument commonly known as a “security” . . . .” 15 U.S.C. § 77b(a)(1). The Securities and Exchange Commission (the “SEC”), which is the United States agency that enforces the 33 Act, deems the memberships interests such as those LIGTT is currently offering to qualified foreign investors utilizing the PPM to be securities pursuant to the 33 Act. See, *e.g.*, <https://www.sec.gov/news/pressrelease/2015-274.html> and *SEC v. Hui Feng*, Case No. 2:15-cv-09420 (Cal. C. Dist. Filed Dec. 7, 2015).

20. The 33 Act defines “person” as “an individual, a corporation, a partnership, an association, a joint-stock company, a trust, any unincorporated organization, or *a government or political subdivision thereof.*” 15 U.S.C. § 77d(a)(2). The 33 Act’s definition of “person” includes Defendants Rodriguez and Eggleston (as individuals), and Defendant USCIS (as a government agency).

21. There is no “registration statement” in effect or any prospectus that “meets the requirements of section 77j” regarding the membership interests described in the PPM. Accepting the SEC’s position that the membership interests are securities, the 33 Act prohibits, without discretion, Defendants Rodriguez and Eggleston and Defendant USCIS from using “any means or instruments of transportation or communication in interstate commerce or of the mails to carry or transmit” any information regarding those securities.

22. The 33 Act contains an exception from the above registration requirement, which states, “The provisions of section 77e of this title shall not apply to . . . transactions by an issuer

*not involving any public offering.*” 15 U.S.C. § 77d(a)(2). This exemption is known as the “Private Placement Exemption.”

23. LIGTT has drafted and is currently using the PPM in reliance on the Private Placement Exemption from the 33 Act’s registration requirement. The Private Placement Exemption requires that LIGTT’s offering to qualified foreign investors remain non-public, that is, confidential. See, 17 C.F.R. §§ 230.152 and §§ 230.500-230.508.

24. Taken together, 15 U.S.C. § 77e(a) & (b) and 15 U.S.C. § 77d(a)(1) operate to prohibit, without discretion, Defendants from disclosing the PPM.

25. In light of USCIS’s decision to disclose the PPM, LIGTT seeks a declaration from the Court that the PPM is exempt from disclosure and preliminary and permanent injunctive relief consistent therewith to prevent the PPM’s disclosure.

**COUNT I: Declaration that the PPM is exempt from FOIA disclosure pursuant to 5 U.S.C. § 552(b)(3) and injunctive relief.**

26. Plaintiff hereby re-alleges and incorporates each and every allegations in the preceding paragraphs hereof.

27. FOIA’s disclosure requirements do not apply to matters that are specifically exempted from disclosure by statute if the exempting statute “requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue.” 5 U.S.C. § 552(b)(3)(A)(ii).

28. Generally, as stated above, the 33 Act requires all issuers of securities to file a registration statement with the SEC prior to offering the securities and prohibits any person (which includes Defendants) from disclosing to the public any information related to any security for which no registration statement has been filed. 15 U.S.C. § 77e(a), (b), and (c).

29. However, the 33 Act provides an the Private Placement Exemption, which allows issuers such as LIGTT to make offerings that remain non-public at all times.

30. By definition, all information concerning offers of securities made pursuant to the Private Placement Exemption must be withheld from the public. The statute leaves no discretion on this issue—if any person (including Defendant USCIS) discloses any information related to an offer to sell securities that is not compliant with Private Placement Exemption without having first filed a registration statement, that person violates 15 U.S.C. § 77e.

31. To aid issuers in complying with the requirements of the Private Placement Exemption, the SEC promulgated Regulation D, 17 C.F.R. § 230.500, et seq., and Regulation S, 17 C.F.R. § 230.901, et seq. These regulations operate as safe harbors, which means if LIGTT complies with those regulations, the SEC will deem LIGTT to have complied with the Private Placement Exemption and not be in violation of 15 U.S.C. § 77e when it offers to sell securities to qualified foreign investors.

32. LIGTT has complied with these safe harbor provisions by only making offers and disclosing confidential information related to those offers in a private, confidential manner to select, qualified foreign investors. LIGTT is in the midst of using the PPM in that manner.

33. However, disclosure by any person (including Defendants) of all or any portion of the PPM could violate the Private Placement Exemption by making the offering a “public offering.” Therefore, 15 U.S.C. § 77e prohibits, without any discretion, Defendants from disclosing to the public any information whatsoever that is contained in the PPM.

34. While LIGTT currently maintains control over every instance in which the information contained in the PPM has been disclosed, if USCIS discloses all or any portion of

the PPM, USCIS will violate 15 U.S.C. § 77e, and, furthermore, LIGTT will have no ability to control further dissemination of the disclosed information.

35. Because, as the Private Placement Exemption allows, LIGTT has not registered its offering with the SEC, if USCIS discloses any of the PPM's contents, LIGTT's current offering would become public, and USCIS would violate 15 U.S.C. § 77e. USCIS's disclosure, in addition, could subject LIGTT to SEC investigation, fines, and potential criminal prosecution.

36. Because the Private Placement Exemption requires that securities be offered privately in order to avoid violating 15 U.S.C. § 77e, the Private Placement Exemption requires the information provided in the PPM to be withheld from the public. 15 U.S.C. § 77e provides no discretion for either LIGTT or Defendants—because no registration statement has been filed neither LIGTT nor USCIS may disclose the contents of the PPM without violating 15 U.S.C. § 77e.

37. Accordingly, LIGTT requests a declaration that 5 USC § 552(b)(3) exempts the PPM from FOIA disclosure and an injunction consistent therewith preventing USCIS from disclosing the PPM in this case and in the future. USCIS' determination that the PPM is not exempt from FOIA disclosure and the threatened disclosure are arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law. 5 U.S.C. § 706(2)(A). An injunction to protect LIGTT is appropriate.

**COUNT II: Declaration that the PPM is exempt from FOIA disclosure pursuant to 5 U.S.C. § 552(b)(4) and injunctive relief.**

38. Plaintiff hereby re-alleges and incorporates each and every allegations in the preceding paragraphs hereof.



39. FOIA's disclosure requirements do not apply to matters that are "trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. § 552(b)(4).

40. While FOIA does not define the term "trade secret," generally, "[a] trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which give him an opportunity to obtain an advantage over competitors, who do not know or use it . . . ." *Martin Marietta Corp. v. Federal Trade Com.*, 475 F. Supp. 338, 342 (D.D.C. 1979). Courts consider the following six factors in determining whether information constitutes a trade secret:

(1) the extent to which the information is known outside of his business; (2) the extent to which it is known by employees and others involved in his business; (3) the extent of measures taken by him to guard the secrecy of the information; (4) the value of the information to him and to his competitors; (5) the amount of effort or money expended by him in developing the information; (6) the ease or difficulty with which the information could be properly acquired or duplicated by others.

*Id.*

41. With regard to "financial or commercial information," courts draw a distinction between information voluntarily provided and information provided under compulsion.

42. Where "financial or commercial information [is] provided to the Government on a voluntary basis [it is] 'confidential' for the purpose of [5 U.S.C. § 552(b)(4)] if it is of a kind that would customarily not be released to the public by the person from whom it was obtained." *Contract Freighters v. Sec'y of United States DOT*, 260 F.3d 858, 2001 U.S. App. LEXIS 18071 (8th Cir. 2001)(citing *Critical Mass Energy Project v. Nuclear Regulatory Comm'n*, 975 F.2d 871, 879 (D.C. Cir. 1992)).

43. Where information is submitted to the government under compulsion, “a commercial or financial matter is confidential when ‘disclosure of the information is likely to have either of the following effects: (1) to impair the Government's ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained.’” *Contract Freighters v. Sec'y of United States DOT*, 260 F.3d 858, 2001 U.S. App. LEXIS 18071 (8th Cir. 2001)(citing *Nat'l Parks & Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974)).

44. The PPM fits each of these standards.

45. First, the PPM constitutes a trade secret—as a whole, it is a compilation of confidential and proprietary information which is used in LIGTT’s business, and it gives LIGTT an advantage over its competitors by allowing LIGTT to attract investors and secure funding for its projects on terms and conditions advantageous to LIGTT as compared to other competing regional centers in the USCIS’s EB-5 Program. The confidential information in the PPM was compiled through extensive research and at considerable expense. This information is highly valuable to LIGTT’s competitors, it is not known outside of LIGTT and its offerees, and LIGTT takes great care to guard the secrecy of the information.

46. Second, to the extent LIGTT provided the PPM to USCIS on a voluntary basis, as described herein, the PPM comprises confidential and proprietary information that LIGTT does not, and would not release to the public.

47. Finally, to the extent LIGTT provide the PPM to USCIS under compulsion, disclosure of the PPM is likely to cause substantial harm to LIGTT’s competitive position. As set forth above, the PPM itself constitutes a trade secret containing financial, commercial and pricing information, return on investment projections, business plans, business operation

projections, and other confidential and proprietary information. If LIGTT's competitors were to gain access to the PPM, LIGTT's competitive position would be harmed as a result. With the information contained in the PPM, LIGTT's competitors would be armed with knowledge, projections, information and strategies that have taken LIGTT years to formulate. Furthermore, it would give competitors a view of the terms of LIGTT's offer, thereby allowing the competitors to strategically vary the terms their own investment products in order to make such products more attractive to investors.<sup>1</sup>

48. Furthermore, as described in Count I above, dissemination of the PPM to the public in general would subject LIGTT to SEC investigation, fines, and potential criminal prosecution, all of which LIGTT would be forced to expend time and resources defending. These issues, along with the fact that the PPM is public, will likely cause LIGTT to lose credibility with investors, and may even result in the termination of LIGTT's EB-5 Regional Center designation.

49. Despite USCIS' insistence that the PPM "will not cause any competitive harm," *See Ex. A.*, each of these events would cause substantial harm to LIGTT's competitive position.

50. In light of the foregoing, LIGTT requests a declaration that 5 USC § 552(b)(4) exempts the PPM from FOIA disclosure and an injunction consistent therewith preventing USCIS from disclosing the PPM in this case and in the future. USCIS' determination that the PPM is not exempt from FOIA disclosure and the threatened disclosure are arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law. 5 U.S.C. § 706(2)(A). An injunction to protect LIGTT is appropriate.

### **COUNT III: Temporary Restraining Order**

51. Plaintiff hereby re-alleges and incorporates each and every allegations in the preceding paragraphs hereof.

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<sup>1</sup> LIGTT suspects that the FOIA request at issue originated from a competitor for exactly these reasons.

52. Pursuant to Fed. R. Civ. P. 65(b), Plaintiff respectfully requests that the Court enter a temporary restraining order preventing USCIS' disclosure of the PPM until a hearing on a preliminary injunction may be held.

53. While the Notice of Intent to Disclose states that the PPM will be released to the requester on July 15, 2016, the day of this filing, USCIS has assured Plaintiff that USCIS will allow Plaintiff until 5:00 pm on July 15 to file an action seeking injunctive relief. If no injunctive relief is sought or obtained, USCIS will release the PPM first thing in the morning on Monday, July 18.

54. Counsel for Plaintiff has informed counsel for Defendants of the filing of this action. However, while respective counsel has been in communication, counsel for Defendants has made no assurances that the act of filing this action alone will prevent the PPM's release. Accordingly, Plaintiff requests that this injunction be granted *ex parte* to ensure Plaintiff's interest is protected. However, in the event the Court desires to hold a telephonic hearing on this issue, counsel for Plaintiff will make all efforts to ensure counsel for Defendant has an opportunity to participate. *See* Affidavit of Aaron M. Heffington, attached hereto as Exhibit B.

55. Applications for temporary restraining orders are generally measured against the factors articulated in *Dataphase Systems, Inc. v. C L Systems, Inc.*, 640 F.2d 109, 113 (8th Cir. 1981). The "*Dataphase* factors include the following: (1) the movant's probability of success on the merits, (2) the threat of irreparable harm to the movant absent the injunction, (3) the balance between the harm and the injury that the emergency injunction's issuance would inflict on other interested parties, and (4) the public interest. *Id.* at 114.

56. When applying the *Dataphase* factors, the moving party carries the burden to establish that the temporary restraining order is appropriate. *See Lankford v. Sherman*, 451 F.3d

496, 503 (8th Cir. 2006). “No single factor in itself is dispositive; in each case all the factors must be weighed to determine whether on balance they weigh towards granting the injunction.”

*Baker Elec. Co-op v. Chaske*, 28 F.3d 1466, 1472 (8th Cir. 1994).

**A. Plaintiff is likely to succeed on the merits.**

57. LGTT claims that USCIS’ determination that the PPM is not exempt from FOIA disclosure and the PPM’s pending disclosure are arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

58. Courts have recognized and granted trade secrets and other commercial and financial proprietary and confidential information protection from FOIA disclosure since the 1970’s. Here, the PPM and the information it contains fits squarely within the type of information 5 U.S.C. § 552(b)(4) was intended to, and has been interpreted, to protect. More specifically, the PPM constitutes a trade secret, it is comprised of confidential and proprietary information that LGTT does not release to the public, and disclosure of the information is likely to cause substantial harm to LGTT’s competitive position. Accordingly, LGTT’s claim that the Defendants have acted arbitrarily, capriciously, and otherwise not in accordance with the law finds clear support in the governing law.

59. In addition, the 5 U.S.C. § 552(b)(3)’s impact on the interaction between FOIA and the private placement requirements of Section 4(2) is a question of first impression. However, because Section 4(2) requires that securities be offered privately in order to avoid violation of 15 U.S.C. § 77e, matters involving LGTT’s issuance of securities, including the PPM, must be withheld from the public, and there is no discretion on the issue.

60. In light of both of these exemptions, it is likely that USCIS has acted, and, absent injunctive relief, will act in a manner that is arbitrary, capricious and not in accordance with the law. As a result, LIGTT is likely to succeed on the merits.

**B. Plaintiff will face irreparable harm without a restraining order to enjoin Defendants' disclosure of the PPM.**

61. To justify the temporary restraining order, Plaintiffs must “demonstrate a sufficient threat of irreparable harm.” *Adam-Mellang v. Apartment Search, Inc.*, 96 F.3d 297, 299 (8th Cir. 1996). As set forth herein, if the PPM is disclosed, LIGTT would be subject to SEC investigation, fines, and potential criminal prosecution. Dissemination of the PPM will also likely cause LIGTT to lose credibility with investors, severely hurt its competitive position, and may even result in the termination of LIGTT's EB-5 Regional Center designation. Each of these harms to LIGTT is irreparable and cannot be remedied with monetary damages.

**C. The balance of equities for issuing a temporary restraining order tips decidedly in Plaintiff's favor.**

62. In order to sustain a motion for temporary injunctive relief, LIGTT must show that the equities, or balance of harms, tips in their favor. This analysis generally requires an examination of the “harm of granting or denying the [restraining order] upon both of the parties to the dispute and upon other interested parties including the public.” *Glenwood Bridge v. City of Minneapolis*, 940 F.2d 367, 372 (8th Cir. 1991).

63. As set forth above, absent immediate injunctive relief Defendants intend to release the PPM on Monday, July 18. Once the PPM is released, further dissemination of the information contained therein is completely out of LIGTT's control. Consequently, if absent a temporary restraining order, LIGTT will be susceptible to the liability and damages described herein as soon as the information is released. Moreover, once the information is released, there

is no way to get it back or to control how it is further disseminated. As a result, a temporary restraining order is crucial to the protection of LIGTT's confidential and proprietary information.

64. On the other hand, with a temporary restraining order in place, Defendants face no prejudice whatsoever. They will be under order of the Court to refrain from disclosure, maintaining the status quo, until the issue can be properly addressed at hearing, and will face no penalty for obeying the Court's order. LIGTT faces a real threat of irreparable harm, whereas Defendants face, at worst, a simple delay in disclosure. Accordingly, the balance of equities weighs heavily in LIGTT's favor.

**D. The temporary restraining order is in the public's interest.**

65. If private placement memoranda are subject to disclosure under the FOIA, it jeopardizes the efficacy of the EB-5 Immigrant Investor Program. Allowing these private placement offers to be available to the public would destroy an EB-5 Regional Center's ability to raise capital through private placements under Section 4(2). Instead, Regional Centers would be required to conduct much more expensive and labor-intensive public offerings. This would have a chilling effect on the development of Regional Centers nationwide. More generally, the public has an interest in the protection of private, proprietary, and confidential information. Consequently, the public has an interest in seeing that the exemptions to FOIA are honored and upheld.

**REQUEST FOR RELIEF**

WHEREFORE, Plaintiff respectfully request that this Court:

(a) Declare that Plaintiff's Confidential Private Placement Memorandum, and the information contained therein, are subject to exemption from FOIA disclosure pursuant to 5 U.S.C. § 552(b)(3) and 5 U.S.C. § 552(b)(4).

(b) Declare that Defendants failure to recognize Plaintiff's Confidential Private Placement Memorandum's exemption from FOIA disclosure is arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law.

(c) Preliminarily and permanently enjoin the Defendants from disclosing Plaintiff's Confidential Private Placement Memorandum or the information contained therein to any person or entity pursuant to FOIA.

(d) Grant a temporary restraining order pursuant to Fed. R. Civ. P. 65(b) enjoining the Defendants from disclosing Plaintiff's Confidential Private Placement Memorandum and maintaining the status quo until a hearing on preliminary injunctive relief may be held.

(e) Grant Plaintiff all other further and additional relief as the Court deems just and proper.

Respectfully submitted,

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By:       /s/ Joshua Neally        
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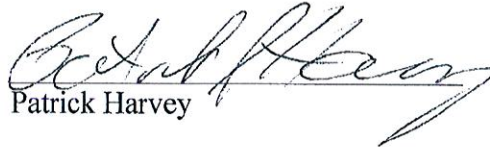
By:       /s/ Heartsill Ragon III        
Heartsill Ragon III Ark. Bar No. 82131  
Aaron M. Heffington Ark. Bar No. 13227  
(pro hac vice admission pending)



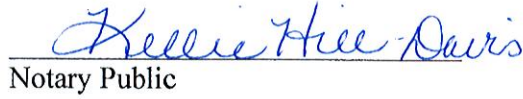
VERIFICATION

STATE OF Arkansas )  
  )SS.  
COUNTY OF Pulaski )

I, Patrick Harvey, Managing Member of LIGTT Regional Center, LLC, do state under oath, that the foregoing Verified Complaint and Petition for Temporary Restraining Order is true and correct to the best of my information, knowledge and belief.

  
Patrick Harvey

SUBSCRIBED AND SWORN to before me, a Notary Public, this 15th day of July, 2016.

  
Notary Public

My Commission Expires:

1-28-2025  
(SEAL)





U.S. Citizenship  
and Immigration  
Services

June 30, 2016

COW2015000438

Jeffrey Aibara  
LIGTT Regional Center, LLC  
15 Fisher Lane, Suite 200  
White Plains, NY 10303

**Notice of Intent to Disclose**

This letter is in reference to the notice of request letter sent to you on January 14, 2016 which informed you of the receipt of a Freedom of Information Act request for documents relating to the approval of Regional Center status by USCIS for Louisiana International Gulf Transfer Terminal (LIGTT), LLC.

The requested documents have been reviewed by this office and after careful consideration of your arguments for withholding; we have determined the following information will be disclosed:

Pages 1, 10 86-111 and 237, you have failed to specifically identify the additional business information you are requesting to be withheld.

Pages 1252-1452, you are claiming that this information is exempt from release under regulation D and regulation S of securities law and FINRA and SEC non solicitation rules. These regulations do not provide a legal basis for USCIS to withhold the above records. Records are exempt from disclosure if a specific statute prohibits disclosure. No statute specifically prohibits disclosure of these records.

We are required by law to release information in the possession of USCIS unless it is exempt from disclosure under one of nine exemptions. You have failed to identify additional proprietary or confidential business information that is exempt from disclosure under exemption B(4).

Exemption 4 of the FOIA protects "trade secrets and commercial or financial information obtained from a person that is privileged or confidential."

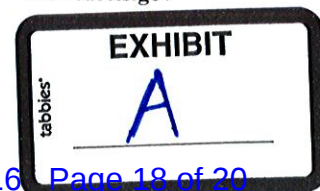
The documents above are subject to disclosure because they have been previously released in the public domain or the release of the document will not cause any competitive harm. Based upon these facts the documents listed above can no longer be considered privileged or confidential and cannot be protected from disclosure under exemption 4. Unless action is initiated to enjoin the agency, the information will be released to the requester 15 days from the date of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Jill A. Eggleston".

Jill A. Eggleston  
Director, FOIA Operations

www.uscis.gov



**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI**

LIGTT REGIONAL CENTER, LLC )

Plaintiff, )

v. )

UNITED STATES CITIZENSHIP AND )  
IMMIGRATION SERVICES; )  
LEÓN RODRIGUEZ , in his official capacity )  
as Director of United States Citizenship and )  
Immigration Services; and )  
JILL A. EGGLESTON, in her official capacity )  
as Director of FOIA Operations of United )  
States Citizenship and Immigration Services )

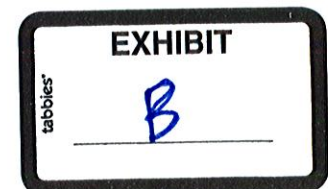
Defendants. )  
\_\_\_\_\_ )

Civil Action No. \_\_\_\_\_

**AFFIDAVIT OF AARON M. HEFFINGTON**

My name is Aaron M. Heffington, and all statements made herein are true, and based on my personal knowledge:

1. I am an adult resident of the State of Arkansas.
2. I am employed at GILL RAGON OWEN, P.A., of Little Rock, Arkansas, the law firm representing the Plaintiff in the above captioned action.
3. I am a member in good standing of the Bar of the State of Arkansas (admitted 2013) and the U.S. District Court for the Eastern and Western Districts of Arkansas (2013).
4. On July 14, 2016, I spoke with Alan Hughes, Associate Counsel at Defendant USCIS' National Records Center and FOIA Office, regarding the issues set forth in Plaintiff's Verified Complaint for Declaratory and Injunctive Relief and Petition for Temporary Restraining Order, and I notified him of Plaintiff's intent to file same.



5. During this conversation, Mr. Hughes informed me that USCIS will release the documents and information at issue in this matter on the morning of next Monday, July 18, 2016.

6. Mr. Hughes also informed me that the act of filing this action alone would prevent the action Plaintiff seeks to enjoin.

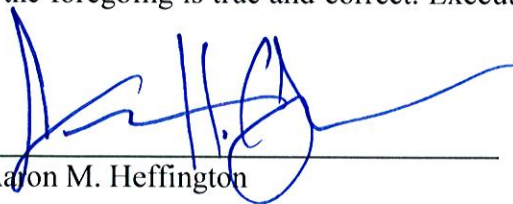
7. Because of the time constraints, waiting for service of a Summons and Complaint upon the Defendants and scheduling a hearing on a preliminary injunction is impossible, as it will not prevent Defendants from releasing the information before a preliminary injunction hearing can be held.

8. Accordingly, Plaintiff has no choice but to request temporary injunctive relief ex parte in order to maintain the status quo until a full hearing and argument on a preliminary injunction can be held.

9. Defendants were notified and that Plaintiff is seeking ex parte injunctive relief.

10. I am in possession of Alan Hughes' contact information, including his cell phone number, and, in the event the Court desires to hold a telephonic hearing on this issue, I will make all efforts to ensure Mr. Hughes, or his appointee, has an opportunity to participate.

11. I declare under penalty of perjury that the foregoing is true and correct. Executed on July 15, 2016.

  
\_\_\_\_\_  
Aaron M. Heffington

SUBSCRIBED AND SWORN before me this 15th day of July, 2016.

COUNTY OF PULASKI     )  
  )ss  
STATE OF ARKANSAS    )

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 1-28-2025

