

**VIRGINIA:**

**IN THE CIRCUIT COURT FOR THE COUNTY OF FAIRFAX**

**ALEX BOYAR, *et al.*,**

**Plaintiffs**

**v.**

**Civil Action No. 2019-8719**

**BLACKACRE 1031 EXCHANGE SERVICES, LLC, *et al.*,**

**Defendants.**

**ORDER**

**THIS MATTER CAME ON** motion of Plaintiffs Alex Boyar, Nancy Cohen aka Nancy Boyar, Anthill Capital Group LLC, Fells Point Bond LLC, and PS25 Investments LLC (collectively the "Plaintiffs"), by and through counsel, pursuant to Virginia Code § 8.01-620 for an Order enjoining Defendants Blackacre 1031 Exchange Services, LLC, 6711 Lee Highway Suite 208, Arlington, Virginia, 22207, and Robert Levenson, Esq., 4926 28th N, Arlington, Virginia, 22207, from disbursing the funds held in their trust account numbered 00001361415934 (the "Trust Account") at Defendant Capital One, N.A., 1680 Capital One Drive, McLean, Virginia, 22102, until Plaintiffs' funds held in the Trust Account are delivered to them.

IT APPEARING THAT prior notice of this hearing was given to the Defendants; and

IT FURTHER APPEARING from the evidence and argument of counsel that the Plaintiffs are likely to succeed on the merits, have suffered and will continue to suffer irreparable injuries unless the injunction is granted, that their irreparable harm outweighs any harm caused to the Defendants by an injunction, and that the requested injunction is in the public interest; and

IT FURTHER APPEARING from the evidence and argument of counsel that the Plaintiffs will likely succeed in showing their entitlement to \$416,005.79 currently held in the Trust Account; and

IN CONSIDERATION in setting the injunction bond, that economic consequences to the Defendant for the foreseeable duration of the injunction is minimal, especially in light of the nature of the relief sought by Plaintiff, a modest injunction bond should be set: it is therefore ORDERED, ADJUDGED, and DECREED that Plaintiffs' Motion for a Preliminary Injunction is hereby GRANTED.

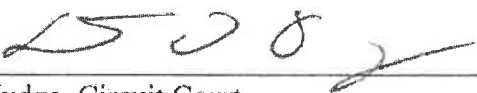
IT IS HEREBY ORDERED:

1. The Court FINDS that plaintiffs have carried their burden of showing (a) that Plaintiffs will likely succeed on the merits of their claims of breach of contract, wrongful conversion, and breach of fiduciary duty, (b) that Plaintiffs have suffered and will continue to suffer irreparable harm if a preliminary injunction is not granted, (c) that the balance of hardships between Plaintiffs and Defendants favors the Plaintiffs and (d) that the public interest would be served by issuing a preliminary injunction in the present case.
2. Pursuant to Virginia Code § 8.01-620 and the inherent equitable powers of the Court, the Court hereby temporarily RESTRAINS AND ENJOINS Defendants Blackacre 1031 Exchange Services, LLC and Robert Levenson, Esq., and their officers, agents, servants, employees, attorneys, and all other persons or entities who are in active concert or participation with any of them, who receive actual notice of this Order by personal service or otherwise, from disbursing any funds held in the Trust Account, except where the transaction at issue has been first authorized by this Court.

3. Defendants may petition the Court to release funds held in the Trust Account upon the request of Defendants' 1031 exchange customers, such petition to include documentation evidencing said customers' traceable funds to money deposited in the Trust Account by said customers.
4. Judge Ortiz shall hear all such petitions to release funds held in the Trust Account made pursuant to Paragraph 3 above unless and until a receiver is appointed, whereupon such receiver will assume such responsibility.
5. The three 1031 exchange transfers scheduled for September 20, 2019 in the amounts of \$249,132.51, \$156,634.31, and \$52,613.90 are authorized by consent of the parties, without prejudice to Plaintiffs.
6. This temporary injunction shall continue until further order of the court or the trial of this matter, whichever first occurs, and shall become effective upon Plaintiff's posting of \$500.00 bond with the Clerk of this Court. The Defendants shall accept an email copy of the filed copy of the bond as proof that the Plaintiff has posted this bond. *See* Va. Code §§ 8.01-624, -631.
7. Defendants Blackacre 1031 Exchange Services, LLC and Robert Levenson, Esq. accept service by signature of their counsel in open court.
8. Plaintiffs are required to serve Defendant Capital One, N.A. with a copy of this Order, if they are so advised.

IT IS SO ORDERED.

Entered this 20 day of September, 2019.

  
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Judge, Circuit Court

**Daniel E. Ortiz**


I ASK FOR THIS:



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***Counsel for Plaintiffs***

SEEN AND OBJECTED (see objections below):



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**Steven Krieger Law, PLLC**  
**Katrina A. Nguyen, Esq., VSB No. 89445**  
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***Counsel for Defendants***

Defendants' Objections:

1. Objection on the ground that Plaintiffs failed to meet their burden of proof to show irreparable harm in the absence of preliminary relief, that the balance of equities tips in the favor of Plaintiffs, and that a preliminary injunction is in the interest of public policy.
2. Objection on the ground that Plaintiffs' have an adequate remedy available through an award of monetary damages.
3. Objection on the ground that the funds held in Defendant Blackacre's Trust Account are traceable funds belonging to third parties, and therefore, it is against the public interest to freeze their funds.
4. Objection on the ground that a preliminary injunction freezing Defendant Blackacre's Trust Account will result in the business ceasing to operate and, as a result, destroy Defendant Levenson's livelihood.