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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHRIS HARRIS,

Plaintiff,

v.

THE SECRETARY OF HOUSING AND URBAN
DEVELOPMENT OF WASHINGTON, D.C.,
HIS SUCCESSORS AND ASSIGNS; THAO
PHAM, an individual; MIGUEL A.
UGARTE, an individual; MID VALLEY
MORTGAGE SERVICES INC., a
California corporation, and DOES 1
through 30,

Defendants.

No. 2:14-cv-01769 JAM AC

**ORDER DENYING PLAINTIFF'S
APPLICATION FOR A
TEMPORARY RESTRAINING
ORDER**

This matter is before the Court on Plaintiff Chris Harris' ("Plaintiff") Ex Parte Motion for a Temporary Restraining Order ("TRO") (Doc. #21).¹ Defendant United States of America, on behalf of the Secretary of Housing and Urban Development ("Defendant" or "HUD"), filed an opposition (Doc. #23). For the

¹ This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g). No hearing was scheduled.

1 reasons stated below, Plaintiff's application for a TRO is
2 DENIED.

3
4 I. OPINION

5 A. Legal Standard

6 Federal Rule of Civil Procedure 65 provides authority to
7 issue either preliminary injunctions or temporary restraining
8 orders. A plaintiff seeking a preliminary injunction must
9 demonstrate that it is "[1] likely to succeed on the merits,
10 [2] that he is likely to suffer irreparable harm in the absence
11 of preliminary relief, [3] that the balance of equities tips in
12 his favor, and [4] that an injunction is in the public interest."
13 Am. Trucking Ass'ns v. City of Los Angeles, 559 F.3d 1046, 1052
14 (9th Cir. 2009) (quoting Winter v. Natural Res. Def. Council, 129
15 S. Ct. 365, 374 (2008)). The requirements for a temporary
16 restraining order are the same. Stuhlbarg Int'l Sales Co. v.
17 John D. Brush & Co., 240 F.3d 832, 839 n. 7 (9th Cir. 2001). A
18 TRO is an emergency measure, intended to preserve the status quo
19 pending a fuller hearing on the injunctive relief requested, and
20 the irreparable harm must therefore be clearly immediate. Fed.
21 R. Civ. Proc. 65(b)(1).

22 B. Analysis

23 Having reviewed Plaintiff's application for a TRO, the Court
24 concludes that Plaintiff has failed to establish a likelihood of
25 success on the merits. Specifically, Plaintiff has not shown
26 that, even if a HUD employee made an oral promise to sell
27 Plaintiff the property at a reduced price, such a promise would
28 be enforceable. Under the relevant guidelines, the "list price"

1 or "asking price" for a property to be resold by HUD must be
2 "based upon an appraisal conducted by an independent real estate
3 appraiser using nationally recognized industry standards for the
4 appraisal of residential property." 24 C.F.R. § 291.100. There
5 is no provision in these guidelines which authorizes the downward
6 adjustment of the list price for the reason alleged by Plaintiff.
7 24 C.F.R. § 291.100. Generally, a governmental agency will not
8 be "bound by its employees' unauthorized representations."
9 Wagner v. Dir., Fed. Emergency Mgmt. Agency, 847 F.2d 515, 519
10 (9th Cir. 1988); see also Teitelbaum v. U.S. Dep't of Hous. &
11 Urban Dev., 953 F. Supp. 326, 331 (D. Nev. 1996) (holding that an
12 oral promise in contradiction of regulatory procedures was
13 insufficient to support a claim against HUD). Thus, Plaintiff
14 has failed to establish that he is likely to succeed on the
15 merits of his claims against HUD. For this reason, Plaintiff's
16 application for a TRO is DENIED. This Order does not affect the
17 motion to dismiss (Doc. #6) and motion to remand (Doc. #7)
18 pending before Magistrate Judge Claire.

19
20 II. ORDER

21 For the reasons set forth above, the Court DENIES
22 Plaintiff's Motion for a Temporary Restraining Order.

23 IT IS SO ORDERED.

24 Dated: September 23, 2014

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26 
27 JOHN A. MENDEZ,
28 UNITED STATES DISTRICT JUDGE