

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 JACOBO LEVY,

12 Plaintiff,

13 vs.

14 JP MORGAN CHASE HOME,

15 Defendant.
16

CASE NO. 10CV1493 DMS (BLM)

**ORDER DENYING PLAINTIFF'S
MOTION FOR RESTRAINING
ORDER AND MOTION FOR
TEMPORARY INJUNCTION**

[Docs. 3-4.]

17 This matter comes before the Court on Plaintiff's motion for restraining order and motion for
18 temporary injunction.¹ Plaintiff Jacobo Levy, acting *pro se*, filed a complaint and the instant motions
19 on July 19, 2010. Defendant has not yet been served.

20 The purpose of a temporary restraining order is to preserve the status quo before a preliminary
21 injunction hearing may be held; its provisional remedial nature is designed merely to prevent
22 irreparable loss of rights prior to judgment. *See Granny Goose Foods, Inc. v. Brotherhood of*
23 *Teamsters & Auto Truck Drivers*, 415 U.S. 423, 439 (1974) (noting that a temporary restraining order
24 is restricted to its "underlying purpose of preserving the status quo and preventing irreparable harm
25 just so long as is necessary to hold a hearing, and no longer"). Injunctive relief is "an extraordinary
26 remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief."
27

28 ¹ Although Plaintiff filed two motions, one for restraining order and one for temporary
injunction, the motions are largely the same and seek the same relief. Accordingly, the Court construes
both motions as a motion for temporary restraining order.

1 *Winter v. Natural Res. Def. Council, Inc.*, ___ U.S. ___, 129 S. Ct. 365, 376 (2008). The standard
2 for issuing a temporary restraining order is identical to the standard for issuing a preliminary
3 injunction. *Lockheed Missile & Space Co., Inc. v. Hughes Aircraft Co.*, 887 F. Supp. 1320, 1323
4 (N.D. Cal. 1995). A party seeking injunctive relief under Federal Rule of Civil Procedure 65 must
5 show “that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the
6 absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in
7 the public interest.” *Am. Trucking Ass'ns v. City of Los Angeles*, 559 F.3d 1046, 1052 (9th Cir. 2009)
8 (quoting *Winter*, 129 S. Ct. at 374).

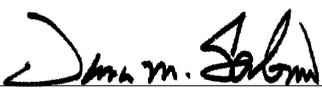
9 Here, Plaintiff has failed to show a likelihood of irreparable injury in the absence of
10 preliminary relief. Although it appears Plaintiff seeks an injunction to prevent a foreclosure, the only
11 date provided by Plaintiff indicates the foreclosure sale was scheduled for June 9, 2010. Presumably,
12 therefore, the foreclosure sale has already occurred.

13 Plaintiff also fails to establish a likelihood of success on the merits. Plaintiff’s complaint is
14 largely a general recitation of the history of the current “housing crisis.” Plaintiff fails, however, to
15 provide any factual allegations relating to his particular home loan. Plaintiff provides his address and
16 some figures relating to fees he paid, but there are no other factual allegations on which to base a claim
17 for relief.

18 Accordingly, Plaintiff’s motion for temporary restraining order is denied.

19 **IT IS SO ORDERED.**

20 DATED: July 20, 2010

21 
22 _____
23 HON. DANA M. SABRAW
24 United States District Judge
25
26
27
28