

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA,

Plaintiff,

v.

CASA RUBY, INC., et al.,

Defendants.

Case No. _____

**THE DISTRICT OF COLUMBIA’S EMERGENCY *EX PARTE* MOTION FOR
TEMPORARY RESTRAINING ORDER**

INTRODUCTION

Plaintiff the District of Columbia (“the District”), by and through the Office of the Attorney General, moves for entry of an emergency *ex parte* temporary restraining order because of ongoing violations of the Nonprofit Corporations Act (“NCA”), D.C. Code §§ 29-401.01–29-414.04, and the common law, requiring the freezing of all bank accounts and PayPal accounts registered to Defendant Casa Ruby, Inc., preventing Defendant Ruby Corado from making any withdrawals from any of those accounts, removing Corado’s authorization to control any of those accounts, and requiring Corado to keep any funds already withdrawn from those accounts in the United States. This preliminary and emergency relief is needed to prevent the ongoing misuse of Casa Ruby’s charitable funds by Corado, who is the only individual authorized to access Casa Ruby’s accounts, despite purporting to resign from the organization in the Fall of 2021.

As set forth below, preliminary relief is warranted because the District is likely to prevail on the merits of its claims given Defendants’ diversion of funds away from their legitimate use by the organization to illegitimate uses, including the personal benefit of Corado, leaving the

organization unable to operate, including it being unable to pay rent on the transitional housing it is designed to provide to vulnerable communities and it being unable to pay its employees and vendors for services rendered. The balance of equities and the public interest clearly favor granting the requested relief, because the relief would protect rather than burden the nonprofit and the harm to the nonprofit and to the District caused by the loss of charitable funds will be irreparable if relief is not granted immediately. For these reasons, this Court should grant the District's motion and enter an *ex parte* temporary restraining order providing that:

1. Defendants are temporarily restrained and enjoined from directly or indirectly withdrawing, spending, transferring, or otherwise disposing of funds in all bank and PayPal accounts held in Casa Ruby's name until the appointment of a receiver,
2. Corado's signature power and other access to or control over any account held in Casa Ruby's name be removed,
3. Corado be removed from any position, including membership on the Board of Directors, at Casa Ruby,
4. Defendants shall keep all funds withdrawn from accounts held in Casa Ruby's name prior to the issuance of the order in accounts in the District of Columbia.
5. A receiver or other Court-supervised official shall be appointed on a provisional basis to maintain and control the funds of Casa Ruby.

FACTUAL BACKGROUND

Defendant Casa Ruby is a District nonprofit corporation. *See* Ex. 1, Declaration of Cara Spencer (Spencer Decl.) ¶ 5 & Ex. 4, Latin@s en Acción September 2013 Certificate of Amendment. It is organized for the nonprofit purpose of strengthening and improving the welfare and well-being of the Latino LGBTQ+ community in the District of Columbia and

surrounding areas. Compl. ¶ 8; *see also* <https://casaruby.org/about-us-2/>. Until recently, Casa Ruby provided transitional housing and other services to LGBTQ+ youth in the District of Columbia. Compl. ¶ 1. Casa Ruby has since approximately 2015 received grants from various District government agencies and has also received donations from the public for the purpose of supporting these vulnerable communities in the District. Compl. ¶ 3; Spencer Decl. ¶ 7 & Ex. 6. On its 2020 IRS form 990 Casa Ruby reported \$3,832,704 in total contributions and grants, and \$3,456,018 for the prior year. Spencer Decl. ¶ 8 & Ex. 7. Over the last five years, Casa Ruby has received over \$9.6 million in grants from various District agencies. Compl. ¶ 3; Spencer Decl. ¶ 7 & Ex. 6.

In 2020, Casa Ruby reported its Board consisted of eight Directors. Spencer Decl. ¶ 8 & Ex. 7. However, from 2012 until late 2020, the board apparently never met, and it generated no records or minutes to document any action. Compl. ¶¶ 15-18. Defendant Ruby Corado, then the executive director, acted without any Board oversight. Compl. ¶¶ 15-22; *see generally* Ex. 2, Declaration of Holly Goldmann (“Goldmann Decl.”) Beginning in late 2020, through mid-2021, certain Board members attempted to conduct meetings and engage in oversight, however no minutes were ever produced or approved by the Board, and Corado continued to act without meaningful oversight. Compl. ¶¶ 19-24. Additionally, during this time frame, Corado had exclusive control over Casa Ruby’s bank and PayPal accounts. Compl. ¶¶ 37-40; Goldmann Decl. ¶¶ 6, 12. Thus, for more than a decade, the Board ceded full operational and financial control of the organization to a single officer and utterly failed to fulfill its duty of appropriate oversight. Since March 2022, Casa Ruby has been unable to produce to the District documentation, including a current board or organizational chart, required to continue to receive grant money. Goldmann Decl. ¶ 10.

Board members John Harrison-Quintana, Meredith Voltick, and Hassan Naveed resigned from Casa Ruby's Board by emails on September 29, 2021, February 23, 2022, and April 24, 2022, respectively. Any remaining members on Casa Ruby's Board are inactive. Goldmann Decl. ¶ 9; Compl. ¶¶ 20-21. Since May 2022 some employees have not been paid. Goldmann Decl. ¶ 11; Compl. ¶ 53. As of July 17, 2022, all of Casa Ruby's programs have ended, and all its shelters have shuttered. Compl. ¶ 4. This has left substantial amounts of confidential and personal information potentially abandoned or accessible by persons unknown—information such as therapy records, reports of domestic violence, and records of treatments sought. Compl. ¶ 51.

Starting at least in 2021, Corado withdrew tens of thousands of dollars from Casa Ruby's bank and PayPal accounts. Goldmann Decl. ¶ 6; Compl. ¶¶ 36-38. She used over \$60,000 to pay credit card bills and used Casa Ruby's funds to pay for meals in, and transportation to, El Salvador. Compl. ¶ 36; Compl. ¶ 56. These expenditures were never approved by the Board. Compl. ¶ 39. Two of Casa Ruby's accountants stated in an email in March 2022 that they needed documentation from Ruby Corado to support expenses and withdrawals, and credit card payments from Casa Ruby's bank accounts from September to December 2021. The accountants were unable to complete reports Casa Ruby needed to submit to District government agencies because they could not obtain this documentation. Goldmann Decl. ¶ 10; Ex. 2, 3.

Corado has maintained exclusive control over Casa Ruby's accounts since at least May 2021, and continued to make withdrawals, sign checks, and direct the payment of funds, even after Casa Ruby ceased operations. Compl. ¶¶ 31-33; Goldmann Decl. ¶ 6. Although Corado told the District Department of Human Services that the Casa Ruby Board authorized the use of \$500,000 in Casa Ruby's funds to establish youth housing in El Salvador, no Board minutes or

any other documentation indicate the Board approved this expense, nor would Casa Ruby's stated charitable purpose, as articulated in its articles of incorporation, have supported that use.

Compl. ¶ 39

As recently as July 19, 2022, Corado made withdrawals of at least \$604 from PayPal accounts held in Casa Ruby's name and into which donations collected from the public via Casa Ruby's website are funneled. Goldmann Decl. ¶ 6; Compl. ¶ 38. She placed these funds in Casa Ruby's bank account which she alone controls, and she has not been seen or heard from in weeks. Goldmann Decl. ¶ 13; Compl. ¶ 9. The District continues to investigate her whereabouts, although social media posts indicate Corado is in El Salvador. Compl. ¶ 9.

LEGAL STANDARD

Where the District seeks to exercise its authority to enjoin violations of the law, the District is entitled to a temporary restraining order if (1) the District is substantially likely to succeed on the merits; (2) the balance of hardships tips in the District's favor; and (3) the public interest favors granting the injunctive relief. *See District of Columbia v. Eastern Trans-Waste of Maryland, Inc.*, 751 A.2d 1, 14 (D.C. 2000) (also noting the same standards apply in motions for temporary restraining orders as preliminary injunctions); *District of Columbia v. Town Sports International, LLC*, Case No. 2020 CA 003691 B, at *8 (D.C. Sup. Ct. Oct. 8, 2020); *see also F.T.C. v. Consumer Defense, LLC*, 926 F.3d 1208, 1212-14 (9th Cir. 2019) (upholding preliminary injunction for the government because irreparable harm was correctly presumed in action alleging deceptive representations and material misrepresentations in violation of

consumer protection laws); *F.T.C. v. Mallett*, 818 F. Supp. 2d 142, 146 (D.D.C. 2011) (collecting cases).

To grant an *ex parte* motion for a temporary restraining order, the District must demonstrate (1) specific facts that show irreparable harm will result before the adverse party can be heard in opposition; and (2) that the District has made reasonable efforts to furnish that adverse party with notice of the hearing on the motion. Sup. Ct. Civ. R. 65(b)(1). Additionally, in the context of a motion for preliminary relief, the Court may consider evidence that may not be admissible under the evidentiary rules applicable at trial. *See In re Estate of Riley*, 933 A.2d 830, 839 n.5 (D.C. 2007) (when considering motions for preliminary injunction, courts “need not apply the procedural rigor that the trial court would to each piece of evidence as presented at trial”).

ARGUMENT

There is an urgent need for the limited relief requested by the District here. The District is likely to succeed on the merits of its claims, the equities favor granting this motion, and granting this motion is in the public interest. Although the District need not prove irreparable harm, this immediate relief is necessary to protect the District and the nonprofit—not to mention members of the public who may still be contributing to Casa Ruby—from the irreparable harm that it will suffer if the motion is not granted.

I. The District Is Substantially Likely to Succeed on the Merits of Its Claims.

The District is likely to succeed on its claims. The NCA and the common law grant the District broad authority to seek injunctive or equitable relief upon a showing that a nonprofit corporation exceeded or abused the authority conferred on it by law or that the corporation has continued to act contrary to its nonprofit purposes. D.C. Code § 29-412.20(a)(1)(A)-(B). A nonprofit board’s cession of control and failure to oversee the operations and finances of the

organization and the misuse of nonprofit funds for either private benefit or for purposes other than the nonprofit purpose that the organization has been incorporated for clearly violate both the NCA and the common law.

Corado has likely absconded to a foreign jurisdiction while retaining sole control over a significant amount of nonprofit funds provided by both government grants and public donations for the express purpose of supporting the Latino and LGBTQ+ communities here in the District. The Board has ceded full control over these funds to Corado and has not overseen her use of them or her removal of them to another country. The District is still investigating the full extent of the misuse here, but knows that significant nonprofit funds have been used for Corado to travel to, live in, and eat in El Salvador, as well as to pay charges on a credit card she controlled that were never reviewed or approved by the organization's Board. Indeed, inquiries by the nonprofit's accountants to Corado as to her use of the funds have not been materially responded to and the accountants have received no documentation supporting the legitimacy of the expenses or the board's authorization of them. Meanwhile, Casa Ruby has effectively failed to function in the District: its Board has resigned, its shelters have been shuttered, and it has failed to pay its vendors, landlords, and employees.

It is a clear violation of the NCA and common law for a nonprofit to divert nonprofit funds from its nonprofit purpose, or to allow a current or former officer or director to enrich themselves with nonprofit funds. Casa Ruby has allowed Corado, a former executive director, to maintain exclusive access to the corporate bank account and donations and grant monies. Casa Ruby has allowed Corado to use funds in the corporate account for personal or unauthorized purposes, without oversight of the Board. Each of these acts is a violation of the NCA and common law. Therefore, the District is substantially likely to succeed on the merits of its claims.

II. **The Balance of Harms Supports the District’s Requested Relief.**

The balance of harms clearly favors granting the temporary restraining order sought by the District.

The District has a substantial interest in ensuring nonprofit funds, especially those donated by District residents or granted by District agencies, are used for their proper nonprofit purposes rather than diverted into the pockets of individuals, including (ex-)officers. Many nonprofits that provide great benefits to District residents rely on donations by individuals in the District, and the incentive to make those donations may be chilled if the public lacks confidence in the District’s ability to ensure funds are used appropriately. The District is statutorily charged with ensuring grants to the nonprofit made by the District itself are used for their proper purpose. All these interests will be substantially harmed if the requested temporary restraining order is not granted.

Defendants can show no hardship from a grant of a temporary restraining order. Defendant Casa Ruby is currently not operating, so any inability to access or transfer funds without prior approval of the District will not harm it. Defendant Corado cannot claim any hardship as the requested temporary restraining order only prohibits her from acting unlawfully—that is, from taking for her own benefit the assets of Casa Ruby.

Because the District has multiple substantial interests that will be harmed if the requested temporary restraining order is not granted, and Defendants will suffer no or minimal harm, the balance of harms clearly favors granting the District’s motion.

III. **The Public Interest Weighs Heavily in the Districts Favor, and the Harm to the District and the Nonprofit Absent Requested Relief Would Be Irreparable.**

Where the government shows a likelihood of success on the merits, a court may “presume . . . that the public interest will be served by interim relief.” *FTC v. Mallett*, 818 F.

Supp. 2d 142, 149 (D.D.C. 2011) (quoting *FTC v. Weyerhaeuser Co.*, 665 F.2d 1072, 1082 (D.C. Cir. 1981)). As discussed above, the District has several strong interests in ensuring nonprofit funds are used appropriately, especially when those funds are granted by the District itself or donated by District residents. Each of those interests is implicated here. A temporary restraining order would further the public's interest in protecting nonprofit funds.

Although the District need not prove irreparable harm to justify the grant of a temporary restraining order, such harm is likely to arise absent the requested relief. Even when the harm to a party is financial, that harm may be irreparable if that party is unlikely to be able to recover money in a final judgement. *Brown v. Pearson*, 241 A.3d 265, 274 (D.C. 2020) (reversing a trial court's refusal to grant injunctive relief when, while in theory a party could recover later in a money judgement, that possibility was "purely hypothetical," and thus the requirement to pay must therefore be "now or never," and stating when a party will "possibly" be "unable to satisfy a future judgement," the other party "will suffer irreparable harm if denied injunctive . . . relief.").

Here, there is every reason to believe that nonprofit funds will be unrecoverable should the requested relief not be granted. Corado, the only individual with access to Casa Ruby's bank and PayPal accounts, has been making withdrawals from those accounts for at least the last year and a half and as recently as July 19. However, on information and belief, Corado cannot be found within the jurisdiction of this Court and is likely in El Salvador. Even should she be found within the United States (and within the jurisdiction of this Court), Corado has claimed she established an organization in El Salvador, and has been moving nonprofit funds from Casa Ruby in the District to El Salvador. Once in El Salvador, those funds may be unrecoverable.

Thus, absent a temporary restraining order, the District is unlikely to be able to obtain any relief, as any judgement entered by this Court, whether equitable or legal, will go unpaid.

Moreover, the potential that substantial amounts of confidential and personally identifiable information that Casa Ruby collected as part of its provision of services to vulnerable LGBTQ+ people may be exposed is a substantial harm, not only to the nonprofit but to the individuals identified by this information. The requested appointment of a receiver is necessary to ensure this information is protected, as absent a receiver there is no one with the authority and obligation to take steps reasonably necessary to safeguard this information.

IV. **Emergency and Ex Parte Relief is Appropriate and Necessary.**

Absent the requested relief, the District and a nonprofit will suffer ongoing harm. Corado had engaged in unlawful diversion of nonprofit funds as recently as July 19 and continues to have sole and exclusive access to Casa Ruby's bank and PayPal accounts. Among the nonprofit's funds are District funds provided by grants, meaning that government funds may be diverted to unauthorized uses, including Corado's personal use. Accordingly, emergency relief is appropriate. Additionally, public donations provided for support of vulnerable communities here in the District may be irrevocably lost.

The Court should also grant the District's motion *ex parte*. A court may issue a temporary restraining order *ex parte* where:

(A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and

(B) the court finds that the movant has made reasonable efforts under the circumstances to furnish to the adverse party or its attorney, at the earliest practicable time prior to the hearing on the motion for such order, actual notice of the hearing and copies of all pleadings and other papers filed in the action or to be presented to the court at the hearing.

Super. Ct. Civ. R. 65(b)(1).

The District meets both requirements of Rule 65(b). The foregoing makes clear the harm that the District and its nonprofit and public interest will suffer, and that the harm is likely to occur immediately. Indeed, any opportunity given to Corado to respond risks her using that time to divert additional funds. Further, an *ex parte* temporary restraining order is appropriate because the District has made reasonable efforts to provide notice under the circumstances. Casa Ruby's registered agent for service is Corado, and the District has been unable to locate her, although it has sent investigators to the address listed for Corado as registered agent to receive service of process. The District has also sent investigators to the location listed as the principal address of Casa Ruby on July 29, 2022 and found it locked and inaccessible, with no one on the premises to accept service. The active Board of Casa Ruby has resigned, and the District is unaware of any officers who have continued in their position. Given the immediate and ongoing nature of the harm, these efforts are reasonable under the circumstances, and further delay would substantially increase the harm the District suffers without any reasonable chance of providing notice.

CONCLUSION

For the foregoing reasons, the District's Motion for an emergency *ex parte* temporary restraining order should be granted.

Dated: August 1, 2022

Respectfully Submitted,

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Civil Division

DISTRICT OF COLUMBIA,

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[PROPOSED] ORDER GRANTING EX PARTE TEMPORARY RESTRAINING ORDER

This matter came before the Court on _____, 2022 for a hearing on the District of Columbia’s (District) Emergency Motion for a Temporary Restraining Order (Motion) filed on August 1, 2022.

The District filed this Motion and the underlying complaint because of ongoing violations of the District’s Nonprofit Corporations Act (the NCA), D.C. Code § 29-401.01, *et seq*, seeking injunctive and other relief to protect the assets of Casa Ruby Inc. (“Casa Ruby”), a District of Columbia nonprofit corporation.

The District alleges in its petition that Defendant violated the Act by: failing to maintain a lawfully constituted Board of Directors, failing to maintain control and oversight of the Corporation, permitting Ruby Corado, the executive director, to have exclusive access to bank and

PayPal accounts held in the name of Casa Ruby, and permitting Corado to expend hundreds of thousands of dollars of nonprofit funds without board oversight and for unknown reasons.

Upon consideration of the District's Motion, and the entire record, the Court finds that the District has met its burden for an *ex parte* temporary restraining order, and finds that:

- 1) There is a substantial likelihood that the Defendant violated the NCA;
- 2) The harm that may result from the order is clearly outweighed by the risk of harm to the nonprofit and the District if it is not issued;
- 3) Issuing the order is in the public interest.
- 4) Immediate and irreparable harm will result to the District and the nonprofit before Defendants can be heard in opposition
- 5) The District has made reasonable efforts under the circumstances to furnish Defendants with notice of the hearing and with all pleadings and papers filed in this action.

Accordingly, it is on this _____ day of _____,

ORDERED that the District's motion is granted; and it is

FUTHER ORDERED that all bank or PayPal account held in Casa Ruby's name shall be temporarily frozen until such time as a court-appointed receiver gains access and control over those accounts; and it is

FURTHER ORDERED that Defendants remove Ruby Corado's signature power and all other access or control over all accounts held in Casa Ruby's name; and it is

FURTHER ORDERED that Defendants remove Ruby Corado from any position, including membership on the Board of Directors, at Casa Ruby; and it is

FURTHER ORDERED that Defendants shall keep all funds withdrawn from accounts held in Casa Ruby's name prior to the issuance of this order in accounts in the District of Columbia; and it is

FURTHER ORDERED that _____ is appointed as receiver over Casa Ruby; and it is

FURTHER OREDERD that within 24 hours of the issuance of this order, the District will provide a copy of this order to M&T Bank, PayPal, and any other bank Defendants maintain an account with; and it is

FURTHER ORDERED that unless extended for good cause shown, this Order shall expire in 14 days; and it is

FURTHER ORDERED prior to the expiration of this Order, the parties shall appear for a hearing on the District's motion for Preliminary Injunction before Judge _____ on _____.

SO ORDERED.

Judge in Chambers