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“The Cold Never Bothered Me Anyway!” SEC Again Uses Its Power To Freeze An Alleged EB-5 Scam

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Like Elsa, the Princess in Disney’s classic *Frozen*, once again the Securities and Exchange Commission (SEC) has utilized its power to freeze. In this case, the freezing of assets. In what has become an increasingly common tactic, the SEC successfully sought to freeze assets of several individuals and corporate entities in a complaint it recently brought alleging fraud in connection with securities offerings for projects under the EB-5 immigration program. [As we have reported previously](#), particularly in the EB-5 space, the SEC has in recent years utilized the asset freeze as an enforcement tool. The EB-5 program allows foreign investors to apply for green cards in exchange for a minimum \$500,000 investment in a job-creating enterprise.

In its case against Edward and Jean Chen, both residents of Arcadia, California, the SEC alleged that the Chens engaged in a “staggering” misappropriation of investor funds – diverting to themselves at least \$8.6 million of the \$9.5 million they raised from investors in one project, and another \$3.5 million of investor funds from a second project. Rather than use the investors’ money for the EB-5 approved projects, the SEC claimed that the Chens took it for their own use, purchasing numerous foreclosed residential real estate properties.

Last week, Judge Anderson in the US District Court for the Central District of California agreed with the SEC, “that good cause exists to believe that, unless restrained and enjoined by order of this Court, Defendants will dissipate, conceal, or transfer assets which could be the subject to an order directing disgorgement or the payment of civil money penalties in this action” and froze 16 separate bank accounts controlled by the Chens. In addition, Judge Anderson appointed a receiver to take control of the several related corporate entity defendants the Chens controlled and also ordered the Chens and the corporate defendants to submit an accounting of all property valued at \$5,000.00 or more.

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