

1 Thomas W. McNamara
tmcnamara@mcnamarallp.com
2 501 West Broadway, Suite 2020
San Diego, California 92101
3 Telephone: 619-269-0400
Facsimile: 619-269-0401

4 *Court-Appointed Receiver*
5 *& Liquidator*

6 Daniel M. Benjamin (SBN 209240)
dbenjamin@mcnamarallp.com
7 Andrew W. Robertson (SBN 62541)
arobertson@mcnamarallp.com
8 McNamara Benjamin LLP
501 West Broadway, Suite 2020
9 San Diego, California 92101
Telephone: 619-269-0400
10 Facsimile: 619-269-0401

11 *Attorneys for Receiver*
12 *& Liquidator*

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA

15
16 FEDERAL TRADE COMMISSION,

17 Plaintiff,

18 v.

19 TATTO, INC., et al.,

20 Defendants.

Case No. LACV13-8912 DSF (FFM_x)

**FINAL ACCOUNT AND REPORT
OF RECEIVER AND
LIQUIDATOR**

JUDGE: Hon. Dale S. Fischer
CTRM: 7D

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1 The work of the Receivership and Liquidatorship is now complete.
2 Accordingly, the Receiver files this Final Account and Report (“Final Report”) and
3 is concurrently filing an Application for Discharge and Final Fee Application.

4 This has been a challenging receivership. At the outset, we confirmed that
5 Receivership Defendants had minimal active operations and only \$12,000 in
6 identifiable bank accounts. We ultimately accumulated \$4.5 million in assets for
7 the Receivership and \$6.1 million in assets for the Liquidatorship. In aggregate,
8 the Receivership and Liquidatorship will ultimately disburse net funds of nearly
9 \$10 million to the FTC for consumer redress.

10 **I. Introduction and Procedural Contexts**

11 Thomas W. McNamara was appointed Receiver of the Corporate
12 Defendants¹ by the Temporary Restraining Order (“TRO”) entered December 5,
13 2013 (ECF No. 22), which appointment was confirmed by the Preliminary
14 Injunction (“PI”) entered January 6, 2014 (ECF No. 69). The FTC’s claims were
15 resolved as to all Defendants, but the Orders and Judgments implementing that
16 resolution continued the Receivership and expanded the duties of the Receiver to
17 include a Liquidatorship:

18 (1) Stipulated Order entered June 11, 2014 (ECF No. 114) as to
19 Individual Defendant Lin Miao (“Miao”) and his related entities (all
20 Corporate Defendants except Bullroarer) (“Miao Order”): (i) continues the
21 Receivership as to the Corporate Defendants except Bullroarer and directs
22 the Receiver to wind them down and liquidate assets; and (ii) appoints the
23 Receiver as Liquidator of identified personal assets of Miao to be liquidated
24 through a Liquidatorship separate from the Receivership and remit the net
25 proceeds to the FTC.

26 _____
27 ¹ Defined to include Tatto, Inc., Bullroarer, Inc., Shaboom Media, LLC,
28 Bune, LLC, Mobile Media Products, LLC, Chairman Ventures, LLC, Galactic
Media, LLC, Virtus Media, LLC, and their d/b/a’s, successors, and assigns. (See
TRO, page 3, paragraph 2; PI, page 3, paragraph 2.)

1 (2) Stipulated Order entered August 5, 2014 (ECF No. 123) as to
2 Individual Defendant Andrew Bachman (“Bachman Order”): orders
3 Bachman to surrender identified automobiles, jewelry, and stocks to the
4 Receiver and directs the Receiver to sell them and remit \$50,000 of the net
5 proceeds to the IRS as partial payment of Bachman’s federal tax liability and
6 the remainder to the FTC;

7 (3) Default Judgment entered August 14, 2014 (ECF No. 124) as to
8 Defendant Bullroarer, Inc. (“Bullroarer Judgment”): continues the
9 Receivership as to Bullroarer and directs the Receiver, to the extent
10 practicable, to wind it down and liquidate assets.

11 By this Final Report, we report to the court on the completion of all duties as
12 Receiver and Liquidator. References in this report to Receiver include services
13 related to the Receivership and Liquidatorship.

14 **II. Receivership**

15 A. Corporate Defendants

16 My initial appointment was to be the Receiver of the Corporate Defendants
17 with the duties and powers typically granted to equity receivers to secure and
18 preserve their premises, assets, and business records and pursue any available
19 claims that could enhance the Receivership estate.

20 The Preliminary Report filed December 16, 2013 (ECF No. 47) detailed our
21 initial efforts to implement the TRO and our conclusions that, given the absence of
22 any active operations, the primary mission of the Receivership was to accumulate
23 assets. We have also filed additional reports and motions which updated the Court
24 and/or sought specific authorization regarding the identification and pursuit of
25 clawback claims to recover funds disbursed from Defendants’ businesses to third
26 parties, including: Supplemental Reports on December 17, 2013 (ECF No. 56),
27 January 3, 2014 (ECF No. 66), and January 21, 2014 (ECF No. 80), which reported

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1 on funds flowing into other non-party businesses operated by Miao (Scambook and
2 Be Great Partners) and Bachman (Game Plan Holdings).

3 With the exception of Bullroarer, the Corporate Defendants stipulated to
4 liability in June, 2014 (Stipulated Order entered June 11, 2014, ECF No. 114) and
5 Bullroarer was defaulted in August, 2014 (Default Judgment entered August 14,
6 2014, ECF No. 124). The Receivership over these Corporate Defendants
7 continued, however, as we sought to accumulate additional assets and investigate
8 claims against third parties.

9 The Corporate Defendants' most significant asset was ultimately identified
10 as an account at HSBC Bank in Hong Kong ("HSBC Account") in the name of
11 True Merchant, Ltd. ("True Merchant"), which received approximately \$5 million
12 from Bullroarer for its participation in the Premium SMS business. By Order
13 entered May 6, 2014 (ECF No. 107), the Court granted our application for
14 authorization (filed April 29, 2014) to retain Kobre & Kim, Hong Kong counsel,
15 on a contingency fee basis with a success fee, to pursue litigation in Hong Kong to
16 recover the HSBC Account. These activities were further updated in the Interim
17 Report filed October 30, 2014 (ECF No. 126). Although the process was complex
18 and protracted, we ultimately recovered net funds of \$3.7 million, after paying the
19 fees and expenses of our Hong Kong counsel.

20 The fees and expenses of Hong Kong counsel have been withheld from the
21 collected funds and placed in that firm's trust account until the Court approves
22 payment. \$528,018 is presently being held in the trust account subject to approval
23 of the Final Fee Application submitted with this Final Report.²

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26 ² By Order of December 7, 2015 (ECF No. 181), the Court approved a
27 previous payment of \$537,598 to Kobre & Kim, which funds had been held in their
28 trust account until that approval. The fee arrangement with Kobre & Kim and
details of their services are set forth in the Declaration of Thomas W. McNamara
filed with the Final Fee Application.

1 We also collected a total of \$328,317 from the liquidation of real estate
2 projects in California in which True Merchant had invested Bullroarer funds –
3 Bloc Priya Avatar I, LLC, which owned an interest in a Santa Clara senior living
4 center (the “Santa Clara project”), and Bloc DT 1, LLC, which owned two
5 condominiums in Berkeley, California (the “Berkeley project”). In order to
6 achieve this recovery, we were compelled to bring contempt applications as to the
7 General Partner of both projects. The General Partner had transmitted returns on
8 investment to True Merchant in violation of the asset freeze. In resolution of the
9 contempt application, the General Partner remitted \$85,356 from his personal
10 retirement account and we collected another \$74,585 of his personal assets.

11 The Receivership also recovered \$162,500 in liquidation of True Merchant’s
12 remaining equity interest in the Santa Clara project. Another \$162,500 was
13 recovered by the Liquidatorship from the same project, as discussed below.

14 Receivership Defendant Shaboom Media held a small interest in India
15 Ecommerce Corporation, which was sold for \$15,000.

16 B. Bachman Assets

17 Some assets of Individual Defendant Andrew Bachman became subject to
18 the Receivership through the Stipulated Order of August 5, 2014 (“Bachman
19 Order,” ECF No. 123). Consistent with that Order, Bachman delivered designated
20 personal property (a Ferrari 458 Italia, a Mercedes SUV G550, and luxury
21 watches) to the Receiver which were liquidated for aggregate sales proceeds of
22 \$366,843. Bachman also assigned all his shares in companies which were
23 liquidated with net proceeds as follows: Seva Search, LLC (\$11,684), League
24 Nation, LLC (\$1,000), and Little Things, formerly known as Pet Flow (\$14,000).
25 The proceeds from the sale of Bachman’s shares in Game Plan Holdings
26 (\$159,300) were transferred to a Bachman account subject to the FTC’s asset
27 freeze (ECF No. 91). As directed by the Bachman Order, we also transmitted
28 \$50,000 to the Internal Revenue Service for credit to Bachman’s account.

1 **III. Liquidatorship – Miao Assets**

2 The Miao Order directed Miao to deliver to the Liquidatorship five pieces of
3 real property, four automobiles, 12 pieces of luxury jewelry, and all his interests in
4 Miao Partners LLC and its holdings. Where possible, we managed the
5 Liquidatorship, and recorded related fees and expenses, separately from the
6 Receivership.

7 A. Real Property

8 We sold the five Miao real properties for aggregate net proceeds of
9 \$4,653,865.75: 6660 Colgate Avenue, Los Angeles, California (\$2,492,837.44);
10 9508 Gloaming Drive, Beverly Hills, California (\$1,580,951.74); 200 North
11 Dearborn, Unit 3201, Chicago, Illinois (\$157,537.18); 200 North Dearborn, Unit
12 3202, Chicago, Illinois (\$277,884.85); and 327 East 25th Street, Unit 1W, Chicago,
13 Illinois (\$144,654.54).

14 B. Automobiles

15 The four automobiles (Range Rover, Audi, Bentley, and Mercedes) were
16 returned to the lenders or liquidated with total net proceeds of \$121,800.

17 C. Jewelry

18 The luxury jewelry and watches (a total of 12 pieces) were sold at auction
19 through Sotheby's for net proceeds of \$647,980. The Miao Order (Section E, page
20 11) included a provision that the Liquidator use the sales proceeds to pay off a loan
21 from Tiffany Co. owed by Lin Miao, but Tiffany forgave and wrote off that loan in
22 August, 2014.

23 D. Miao Partners, LLC

24 Miao Partners was transferred to the Liquidator. Its primary assets were
25 investments in the same two California real estate projects in which Bullroarer
26 funds had also been invested (*see* above at pages 2-3). We ultimately recovered
27 \$162,500 for the sale of Miao's remaining equity interest in the Santa Clara project
28 and \$469,803 in funds which had been improperly withheld by the General Partner

1 (\$268,970 related to the Berkeley project and \$200,833 to the Santa Clara project).
2 This recovery was achieved only after the successful pursuit of the protracted
3 contempt application against the General Partner described above.

4 Miao Partners also held minority positions in two small ventures – Skinny
5 Bikini, which our due diligence indicated had no discernible value, and MPE
6 Partners, which was liquidated for \$3,000.

7 **IV. Accounting**

8 A. Receivership

9 Exhibit A to this Final Report is a Receipts and Disbursements Summary for
10 the Receivership period December 5, 2013 through November 30, 2016. It shows
11 receipts of \$4,515,141, less disbursements of \$291,819, less the transfer of
12 \$2,386,751 to the Liquidatorship account, for current net cash of \$1,836,570.

13 B. Liquidatorship

14 Exhibit B to this Final Report is a Receipts and Disbursements Summary for
15 the Liquidatorship for the period June 11, 2014 through November 30, 2016. It
16 show receipts of \$6,109,883, plus \$2,386,751 transferred from the Receivership,
17 less disbursements of \$124,009, and less payment to the FTC of \$8 million, for net
18 cash of \$372,625.

19 C. \$8 Million Transfer to the FTC

20 Pursuant to Order entered May 3, 2016 (ECF No. 191), the Liquidatorship
21 transferred \$8 million to the FTC. In order to fund that disbursement, \$2,386,751
22 was transferred from the Receivership account to the Liquidatorship account.

23 **V. Final Fee Application**

24 Simultaneous with this Final Report, the Receiver has filed a Final Fee
25 Application which requests fees and expenses of the Receiver, both as Receiver
26 and Liquidator, and his counsel and other professionals for the period December 1,
27 2015 through November 30, 2016 as detailed in the Declaration of Thomas W.
28 McNamara. These fees and expenses total \$568,336. The largest portion is

1 \$528,018 due to Hong Kong counsel, Kobre & Kim, which amount is being held in
2 their trust account subject to the Court’s approval of payment.

3 The Receiver has also requested a reserve hold back of \$1,500 to cover out-
4 of-pocket administrative costs post-termination.

5 Upon payment of approved invoices and withholding of the approved
6 reserve, the aggregate net funds of the Receivership and the Liquidatorship,
7 totaling \$1,639,360.52, will be disbursed to the FTC.

8 **VI. Discharge of the Receiver**

9 The Receiver has completed his duties as set forth in the following Orders:
10 (1) Preliminary Injunction entered January 6, 2014 (ECF No. 69); (2) Stipulated
11 Order for Permanent Injunction and Monetary Judgment entered June 11, 2014
12 (ECF No. 114) as to Individual Defendant Lin Miao and his related entities (all the
13 Corporate Defendants except Bullroarer); (3) Stipulated Order for Permanent
14 Injunction and Monetary Relief entered August 5, 2014 (ECF No. 123) as to
15 Individual Defendant Andrew Bachman; (4) Default Judgment entered August 14,
16 2014 (ECF No. 124) as to Defendant Bullroarer, Inc.

17 Accordingly, the Receiver respectfully requests to be discharged upon the
18 terms of the proposed Order submitted with the Application for Discharge.

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20 Dated: December 2, 2016

MCNAMARA BENJAMIN LLP

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By: /S/ Andrew W. Robertson
Andrew W. Robertson
Attorneys for Thomas W. McNamara,
Court-Appointed Receiver and
Liquidator

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CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2016, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of the filing to all participants in the case who are registered CM/ECF users.

/s/ Andrew W. Robertson