

1 ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
2 DAVID R. ZARO (BAR NO. 124334)
TIM C. HSU (BAR NO. 279208)
3 865 South Figueroa Street, Suite 2800
Los Angeles, California 90017-2543
4 Phone: (213) 622-5555
Fax: (213) 620-8816
5 E-Mail: dzaro@allenmatkins.com
thsu@allenmatkins.com

6 ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
7 EDWARD G. FATES (BAR NO. 227809)
One America Plaza
8 600 West Broadway, 27th Floor
San Diego, California 92101-0903
9 Phone: (619) 233-1155
Fax: (619) 233-1158
10 E-Mail: tfates@allenmatkins.com

11 Attorneys for Receiver
12 THOMAS A. SEAMAN

13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **WESTERN DIVISION**

16 SECURITIES AND EXCHANGE
COMMISSION,

17 Plaintiff,

18 v.

19 STEVE CHEN, USFIA, INC.,
ALLIANCE FINANCIAL
20 GROUP, INC., AMAUCTION, INC.,
ABORELL MGMT I, LLC, ABORELL
21 ADVISORS I, LLC, ABORELL
REIT II, LLC, AHOME REAL
22 ESTATE, LLC, ALLIANCE
NGN, INC., APOLLO REIT I, INC.,
23 APOLLO REIT II, LLC, AMKEY, INC.,
US CHINA CONSULTATION
24 ASSOCIATION, and QUAIL RANCH
GOLF COURSE, LLC,

25 Defendants.

Case No. 2:15-CV-07425-RGK-PLA

**RECEIVER'S RESPONSE,
REPORT AND
RECOMMENDATIONS FOR
CONCLUDING THE
RECEIVERSHIP
[DOC. 501]**

26
27
28

1 Thomas A. Seaman ("Receiver"), Court-appointed receiver for Defendants
2 USFIA, Inc., Alliance Financial Group, Inc., Amauction, Inc., Aborell
3 Mgmt I, LLC, Aborell Advisors I, LLC, Aborell REIT II, LLC, Ahome Real
4 Estate, LLC, Alliance NGN, Inc., Apollo REIT I, Inc., Apollo REIT II, LLC,
5 Amkey, Inc., US China Consultation Association, Quail Ranch Golf Course, LLC,
6 and their subsidiaries and affiliates (collectively, "Receivership Entities"), hereby
7 responds to the Court order requesting a report addressing the timeframe to fully
8 resolve and close the receivership and outstanding issues that impede the resolution
9 of this case.

10 As detailed below, the closing of the case has primarily been impeded due to
11 extraordinary issues arising in the distribution of proceeds to the approximately 84%
12 of the investors who are located outside of the United States. The Receiver has
13 almost concluded the initial distribution but as a result of returned or unnegotiated
14 distributions, he has substantial sums on hand. As such, the Receiver can either
15 make a second distribution to the investors with Allowed Claims or turn these funds
16 over to the United States Treasury care of the Securities and Exchange Commission.
17 Given the amount of the funds on hand and cost of making another distribution, the
18 Receiver recommends making a second and final distribution to known Claimants
19 with Allowed Claims in accordance with the Distribution Plan.

20 Subject to this Court's approval, the Receiver proposes to close the
21 Receivership over the next 7 months as follows:

- 22 • Complete the first distribution on or before June 30, 2023;
- 23 • Commence a second distribution no later than July 15, 2023,¹
24 approximately two weeks following the conclusion of the first

25
26 ¹ Due to banking regulations, the Receiver can only send out a limited amount of
27 wire transfers and PayPal transfers per day. Therefore, the Receiver will begin
28 sending out wire transfers and PayPal transfers by July 31, 2023 and will
complete the process no later than August 31, 2023, such that all investors
receiving these transfers will have no less than 45 days to receive them before the
second distribution is concluded on October 15, 2023.

1 distribution with a relatively short deadline (45 days) for investors to
2 receive and cash their second distribution checks, or complete wire
3 transfer and Paypal transactions;

- 4 • Conclude the second distribution on October 15, 2023;
- 5 • No later than November 15, 2023, the Receiver shall file motions
6 seeking approval of a final accounting, final fee applications, the
7 discharge of the receiver and the closing of the receivership
8 (collectively, the "Closing Motions").

9 **I. STATUS**

10 Since resolving tax issues with the IRS in the summer of 2022, the Receiver
11 has diligently been making distributions to investors and others with allowed claims
12 in accordance with the Distribution Plan approved by this Court. [Doc. 455.] The
13 first checks and payments went out in August, 2022.

14 With approximately 84% of investors located in 50 countries outside of the United
15 States, the Receiver has faced extraordinary and time consuming obstacles in
16 making payments. While typical distributions involve sending checks which have
17 fixed dates as to when the checks are stale, here checks have taken weeks and in
18 some cases months to arrive and were then not able to be negotiated. In China,
19 where hundreds of investors are located, the Receiver has had to resort to
20 complicated wire transfers, often to accounts located outside of China. The
21 Receiver has previously described these and other difficulties encountered in
22 making distributions to those with Allowed Claims in his reports to the Court. [See
23 Doc. 490 and Doc. 497-1.] Notwithstanding these impediments, the Receiver has
24 distributed \$56,046,264.17 or 88% of the \$63,893,475.22 established for
25 distribution. These payments have been made to 6,282 investors and claimants with
26 Allowed Claims.

27
28

1 The Receiver has also faced several untoward attempts to cheat the
2 distribution fund, including stolen checks being remotely deposited by non-
3 claimants, and fraudulent ACH (Automated Clearing House) withdrawals by non-
4 claimants. These and other duplicitous efforts have delayed distributions and
5 required the Receiver to diligently monitor disbursement activity.

6 The Receiver has determined that unfortunately there are certain Claimants
7 with Allowed Claims who will simply not be paid because they could not be located
8 or have failed to negotiate their distribution payment because of, among other
9 things, restrictions on foreign currency transactions, foreign banks that do not have
10 correspondent banking relationships with a U.S. bank, or other issues that simply
11 cannot be resolved.

12 The Receiver has pursued a myriad of solutions to the foregoing issues and
13 has been able to successfully transmit funds via wire transfers and Paypal. There
14 are presently Paypal and wire payments in process for approximately 270 Claimants
15 in the total amount of \$2,248,874.73 which should clear in the coming weeks and
16 well within the next 30 days.

17 However, even with all of these efforts, the Receiver still holds an estimated
18 \$5,598,336.32 in undistributed distribution proceeds (or more depending on whether
19 all of the foregoing Paypal payments are successfully negotiated.) At this time, the
20 Receiver can either make a second distribution to those investors with Allowed
21 Claims to whom payment of the first distribution was successful, or turn these funds
22 over to the Securities and Exchange Commission for payment to the United States
23 Treasury.

24 The Receiver believes it is important to distribute as much money as possible
25 to the victims of this financial fraud. With the knowledge gained from the first
26 distribution and placing strict time limits on negotiating payments, the Receiver can
27 conclude a second distribution in less than 75 days, including allowing 45 days for
28 payments to clear, following the conclusion of the first distribution. Accordingly,

1 the Receiver recommends making a second and final distribution to Claimants with
2 Allowed claims in accordance with the Distribution Plan.

3 It should be noted that the Receiver is also contending with collection notices
4 from the IRS. Most recently, on March 20, 2023, he received a collection notice
5 seeking approximately \$245,000 from the IRS arising out of the operations of
6 Amkey Global, an entity that had taxable income and tax liabilities which the
7 Receivership Entities had previously paid. However, after exploring the issue with
8 the IRS the matter was reduced to \$164. The Receiver will be filing the 2022 QSF
9 (Qualified Settlement Fund) return in the coming 90 days. The Receiver will
10 provide for a reserve to prepare and file the 2023 QSF return following conclusion
11 of the second and final distribution in his Closing Motions.

12 **II. RECEIVERSHIP ACCOUNTING**

13 Total receipts from inception of the receivership through March 31, 2023, are
14 \$79,425,316.26. The Receiver has disbursed \$70,146,216.33 from inception of the
15 receivership through March 31, 2023, including payments to allowed claimants of
16 \$56,046,264.17, hotel operating expenses of \$1,893,782, real property taxes and
17 expenses of \$2,828,139, the first mortgage on the Alhambra property of \$2,231,124,
18 and Receiver and professional fees of \$6,503,236.84.

19 The Receiver was holding cash in the amount of \$\$9.279.099.93 as of
20 March 31, 2023. As set forth above, the Receiver will distribute a total of
21 \$7,847,211.05, leaving \$1,431,888.08 to fund the remaining administrative expenses
22 of the receivership, with the excess being added to the second and final distribution.

23 **III. RECEIVER'S PROPOSED PLAN AND TIMING** 24 **FOR CONCLUDING THE RECEIVERSHIP**

25 The Receiver proposes to conclude the receivership within the next 7 months.
26 This includes making a second distribution, addressing the remaining receivership
27 tasks including addressing an IRS claim and final tax returns, preparing the final
28 accounting and the Closing Motions.

1 Over the next 30 days, the Receiver will cease further efforts to locate and
2 deliver payments to those Allowed Claimants who have not already received and
3 negotiated the distribution payments made in accordance with the Distribution Plan.
4 Notice will be immediately sent to all known Allowed Claimants that all payments
5 in process will be stopped (and funds returned to the Receiver) as of June 30, 2023,
6 including but not limited to any uncashed check, any wire, PayPal payment, or
7 payment which not been negotiated and paid or cleared the Receiver's bank account.
8 Further, in accordance with Section III. C. of the Distribution Plan, those Claimants
9 with Allowed Claims who have not been located or have not otherwise timely
10 negotiated their distribution payments, as provided herein above, shall have their
11 claims extinguished and shall not participate in any future distributions. [Doc. 444,
12 Exh. E, Page 374.] For avoidance of doubt, in accordance with the Distribution
13 Plan, all those Claimants with Allowed Claims that could not be located or have not
14 negotiated their initial distributions as of June 30, 2023, shall no longer have an
15 Allowed Claim and will not be eligible to participate in the second distribution.

16 On or before July 31, 2023, the Receiver proposes to commence making the
17 second distribution as contemplated by the Distribution Plan to those Claimants with
18 Allowed Claims, (i.e., those Claimants with Allowed Claims whose addresses are
19 known and whose claims have not been otherwise extinguished, as described
20 above.) In accordance with the Distribution Plan, the second distribution shall be
21 made on a pro rata basis to those Claimants with Allowed Claims. The recipients of
22 the second distribution shall have 45 days to negotiate their checks or have their
23 wires or PayPal payments clear the Receiver's account. Those distributions that
24 have not cleared the Receiver's accounts (bank, PayPal or otherwise) on or before
25 October 15, 2023, shall be void and the funds will be returned to the Receiver.

26
27
28

1 After completion of the first distribution on June 30, 2023, the Receiver
2 estimates that the cost to complete the second distribution will be in the range of
3 \$140,000 to \$170,000. The work will be done primarily by a Mandarin-speaking
4 staff member and senior financial analyst staff member of the Receiver's office at
5 significantly lower hourly rates than the Receiver. The Receiver expects his future
6 fee applications to be as follows:

7	Quarter 4, 2022	\$110,799
8	Quarter 1 2023	\$103,213
9	Quarter 2 2023	\$110,000
10	Quarter 3 2023	\$125,000
11	Quarter 4 2023	\$60,000

12 The Receiver does not anticipate incurring significant attorneys' fees with regard to
13 the second distribution. It is anticipated that the attorney's fees will be limited to
14 addressing legal issues that may arise in connection with the second distributions, if
15 any, and the Closing Motions. On or before November 15, 2023, the Receiver shall
16 file the Closing Motions. Following the Court's approval of the Closing Motions
17 and payment of approved administrative expenses of the receivership estate, the
18 balance of funds shall be turned over to the Securities and Exchange Commission
19 for payment to the United States Treasury.

20 The Receiver and his counsel have met and conferred with counsel for the
21 Securities and Exchange Commission. The SEC supports the proposed plan and the
22 Receiver's good faith efforts to see that receivership funds get distributed to investor
23 victims (as opposed to having a larger percentage of the receivership funds go to the
24 United States Treasury), and believes that the estimated costs of completing the
25 second distribution are reasonable under the circumstances.

26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IV. CONCLUSION

Based upon his investigation and findings, the Receiver recommends and requests the Court order him to continue to perform his duties pursuant to the Appointment Orders. The Receiver also requests the Court approve the foregoing recommendations and timeline for concluding the receivership.

Dated: April 14, 2023

By: *Thomas A. Seaman*

THOMAS A. SEAMAN
Receiver

Dated: April 14, 2023

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

By: */s/ David R. Zaro*

DAVID R. ZARO
Attorneys for Receiver
THOMAS SEAMAN