

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
FOR THE THIRTEENTH JUDICIAL CIRCUIT

Andrew P. (Andy) Ballard,
Plaintiff,

vs.

Tim Roberson, Rick Thoennes, Rick
Thoennes III, and Warpath Development,
Inc.,

Defendants.

Case Number: 2008-CP-23-5739

**ORDER TRANSFERRING DEFENDANT
ROBERSON'S LLC INTERESTS TO
RECEIVER**

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SC Court of Appeals

This matter is before the Court on the motion of the Receiver previously appointed by this Court to transfer the interests of Defendant Tim Roberson in certain limited liability companies into the possession of the Receiver. The motion was heard by the Court on January 27, 2017, along with several other motions. All parties were represented at the hearing by their respective counsel, and the Receiver was also present at the hearing. The Court granted the Receiver's motion at the hearing, and now enters this Order to memorialize the Court's decision.

On April 23, 2014, this Court entered an Order appointing the Receiver for the purpose of investigating, marshalling, and protecting the assets of the Defendants pending their appeal from this Court's Judgment of October 3, 2013 (the "Judgment"). On July 15, 2015, the South Carolina Court of Appeals affirmed the Judgment (with a reduction of the amount to \$3,125,000.00). On September 8, 2016, the South Carolina Supreme Court denied Defendants' petition for certiorari to review the decision of the Court of Appeals, and on September 12, 2016, the Court of Appeals issued the remittitur to this Court.

Defendants have exhausted their appeals, and the Judgment is now final. It is undisputed that the Judgment is wholly unsatisfied and that the Defendants have failed to apply their assets toward satisfaction of the Judgment. Accordingly, by separate Order the Court has granted Plaintiff's motion to modify the receivership so as to enable the Receiver to take action to carry the Judgment (as modified by the Court of Appeals) into effect, to take action in aid of execution of the Judgment, and to continue to take control of assets of the Defendants for the purpose of applying them to the Judgment.

The Receiver's motion is directed to Defendant Roberson's ownership interests in three South Carolina limited liability companies: TRG, LLC; Greenville Gateway Developers, LLC; and Sozo7, LLC. To the extent these interests have value that may be applied to the Judgment, it is appropriate that the Receiver take possession and control of the interests. Section 504(a) of the South Carolina Code provides as follows:

On application by a judgment creditor of a member of a limited liability company or of a member's transferee, a court having jurisdiction may charge the distributional interest of the judgment debtor to satisfy the judgment. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances may require to give effect to the charging order.

S.C. Code § 504(a) (emphasis added).

Accordingly, pursuant to this provision of the Code as well as S.C. Code § 15-65-10(2) and (3), Defendant Roberson's interests in TRG, LLC; Greenville Gateway Developers, LLC; and Sozo7, LLC, are hereby transferred into the possession and control of the Receiver, Forensics Research Group, Inc. ("FRG") in care of its principal Michael F. O'Shea, to be applied as the Receiver sees fit toward payment of the Judgment. Pursuant to this Order, the Receiver shall have all of the rights appurtenant to those interests, including the right to receive distributions and the right to vote those interests on matters put to the respective members of

those limited liability companies, as necessary to give effect to this Order, the Order Modifying Order for Receivership, and the Charging Order entered April 23, 2014.

Except as modified by the above and by the Order Modifying Order for Receivership, the terms and provisions of the Order Appointing Receiver and the Charging Order, shall remain in full force and effect. Further, this Order shall be construed so as to add to, and not take away from, the authority granted the Receiver in those Orders.

IT IS SO ORDERED.

Edward W. Miller
Judge, South Carolina Circuit Court

_____, 2017
Greenville, South Carolina



Greenville Common Pleas

Case Caption: Andrew P Andy Ballard , plaintiff, et al vs. Tim Roberson ,
defendant, et al
Case Number: 2008CP2305739
Type: Order/Other

So Ordered

s/ Edward W. Miller