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17
18 UNITED STATES DISTRICT COURT

19 DISTRICT OF NEVADA

20 GOLDEN BOY PROMOTIONS, INC.,

21 *Plaintiff,*

CASE NO. 10-cv-1619

22 - against -

23 ROBERT ARUM, DAVID LOPEZ, and TOP
24 RANK, INC.,

COMPLAINT (REDACTED)

Defendants.

DEMAND FOR JURY TRIAL

25
26 COMES NOW Golden Boy Promotions, Inc. for its Complaint and alleges as follows:
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1 **JURISDICTION AND VENUE**

2 1. This Court has subject matter jurisdiction over this action pursuant to 18 U.S.C. §
3 1964(c) and 28 U.S.C. § 1332(a)(1). With respect to § 1332(a)(1) jurisdiction, this is an action
4 between citizens of different states in which the amount in controversy exceeds \$75,000.

5 2. Venue lies in this District pursuant to 18 U.S.C. § 1965(a) and 28 U.S.C. § 1391(a)
6 and/or (b) in that, on information and belief, all of the Defendants reside in this District.

7 **PARTIES**

8 3. Plaintiff Golden Boy Promotions, Inc. (“GBP”) is a corporation organized under the
9 laws of the State of California. Its principal offices are located in Los Angeles, California.

10 4. Defendant Robert Arum (“Arum”) is a citizen of the State of Nevada.

11 5. On information and belief, Defendant David Lopez (“Lopez”) is a citizen of the
12 State of Nevada.

13 6. Defendant Top Rank, Inc. (“TR”) is a corporation organized under the laws of the
14 State of Nevada. Its principal offices are located in the State of Nevada.

15 **ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF**

16 **BACKGROUND**

17 7. GBP is a boxing promotional company.

18 8. TR is also a boxing promotional company.

19 9. Arum is the founder of and CEO of TR. He directly controls all of TR’s significant
20 financial affairs, particularly with respect to boxer Manny Pacquiao (“Pacquiao”) and TR’s
21 relations with GBP.

22 10. Since the Summer of 2008, Lopez has been the CFO of TR, and has played a direct
23 role in the fraud perpetrated upon GBP.

24 11. None of Lopez’s acts of fraud, as alleged herein, would have been committed
25 absent Arum’s knowledge, direction and control.

26 12. In or about September of 2006, TR entered into a “Co-Promotion Agreement” (“M-
27 P Agreement”) with M-P Promotions, Inc. (“M-P”), a company owned by Pacquiao. The M-P
28 Agreement is annexed hereto as Exhibit A and incorporated by reference herein. Pursuant to the

1 M-P Agreement, TR gained the exclusive right to promote Pacquiao's bouts through November
2 30, 2010. On information and belief, Pacquiao, M-P and TR have agreed to the terms of a contract
3 extension for a number of years.

4 13. In relevant part, the M-P Agreement provides as follows:

5 a. For each bout under the M-P Agreement, Pacquiao would receive the
6 greater of (i) a guaranteed purse of at least \$2 million (with the amount to be negotiated in good
7 faith for each bout) or (ii) 45% of the net profits of the proceeds of the events in which Pacquiao
8 fought.

9 b. All remaining net profits would be equally divided 50/50 between TR and
10 M-P.

11 14. According to the customs and practices of the professional boxing industry, the goal
12 of a guaranteed purse for a marquee fighter, such as Pacquiao, with a "percentage deal" is to
13 provide the boxer a floor for compensation should an event turn out to be a financial disaster. In
14 the case of the M-P Agreement, this was particularly so because Pacquiao was entitled to earn
15 money both as a result of his purse and as the owner of M-P. Hence, the plain intent of the M-P
16 Agreement was to give Pacquiao 72.5% of the net profits from his events (45% as his purse and
17 50% of the remaining 55% to M-P), and for TR to retain 27.5% of the net profits.

18 15. Indeed, under the M-P Agreement, it would make no short term economic sense for
19 TR to provide Pacquiao with a guaranteed purse anywhere near 45% of the expected net profits
20 from an event because if Pacquiao's guaranteed purse exceeded 45% of the net profits, Pacquiao
21 and M-P collectively would end up with more than 72.5% of the net profits.

22 16. In December of 2006, GBP, TR, Pacquiao and M-P became embroiled in two
23 litigations involving GBP's claim that the M-P Agreement was invalid because Pacquiao had
24 signed an earlier exclusive promotional agreement with GBP.

25 17. In June of 2007, GBP, TR, Pacquiao and M-P settled their litigations pursuant to a
26 term sheet ("2007 Agreement"), which also involved the settlement of other disputes. The 2007
27 Agreement is annexed hereto as Exhibit B and incorporated by reference herein.

1 18. Pursuant to the 2007 Agreement, TR agreed to share its profits from Pacquiao
2 events with GBP. The profit split could vary depending upon whether Pacquiao's opponent was
3 promoted by GBP. At issue in this case are the provisions for bouts that did not involve a fighter
4 promoted by GBP as Pacquiao's opponent.

5 19. Paragraph 6 of the 2007 Agreement provided that (a) GBP would "receive a [REDACTED]
6 interest in Manny Pacquiao's present promotional contract with TR" (*i.e.*, the M-P Agreement), (b)
7 TR would "retain a [REDACTED] % interest," (c) GBP would "retain its [REDACTED] interest regardless of Top
8 Rank's interest," (d) the proceeds from each Pacquiao fight not co-promoted with GBP would be
9 held in a separate bank account for such fight, and (e) GBP would still receive [REDACTED] % of net profits
10 from Pacquiao bouts if TR's promotional rights as to Pacquiao were extended.

11 20. Even absent the fraud alleged in this Complaint, the parties acknowledged and
12 understood that TR might have reasons – such as fostering a long term relationship – for giving
13 Pacquiao an excessively high guaranteed purse, thereby giving M-P and Pacquiao collectively
14 more than 72.5% of the net profits from a given event. The provision of the 2007 Agreement
15 confirming that GBP would "retain its [REDACTED] % interest regardless of Top Rank's interest" was
16 specifically designed, *inter alia*, to prevent TR from reducing monies due to GBP by paying a high
17 guaranteed purse to Pacquiao that increased Pacquiao's and M-P's combined 72.5% share of the
18 pie.

19 21. Since 2007, GBP has co-promoted a number of fights between GBP's fighters and
20 Pacquiao, including bouts against Ricky Hatton ("Hatton Bout") and Oscar de la Hoya ("DLH
21 Bout"). Pursuant to the 2007 Agreement, GBP maintained control of the finances and provided
22 accountings to TR for these bouts.

23 **DEFENDANTS' FIRST SCHEME TO DEFRAUD**

24 22. Commencing sometime in the Summer or Fall of 2008, but no later than November
25 4, 2008, and continuing through the date of the filing of this Complaint, TR, Arum and Lopez have
26 knowingly participated in a scheme to defraud GBP out of monies due to GBP from the June 28,
27 2008 bout between Pacquiao and David Diaz ("Diaz"; "Diaz Bout") by (a) intentionally failing to
28 report all revenue from the event and (b) falsely inflating expenses ("Diaz Scheme").

1 23. Although GBP has been denied access to TR's records to confirm its suspicions, as
2 well as find other instances of fraud, the generalized accountings provided to GBP for the Diaz
3 Bout were intentionally fraudulent in at least one respect.

4 24. Defendants have sent numerous accountings to GBP which falsely claim that TR
5 received no income from sponsorships even though pictures of the Diaz Bout show that Tecate
6 beer, Affliction (a clothing company) and a company known as Smart were featured as sponsors,
7 and that Tecate had a "flag" above the ring. As reflected by GBP's accountings showing \$630,000
8 in sponsorship income from the Hatton Bout and \$870,000 from the DLH Bout, it is inconceivable
9 that Tecate, Affliction and Smart did not pay hundreds of thousands of dollars for the opportunity
10 to sponsor the Diaz Bout. Plaintiff does not know whether TR is also seeking to defraud Pacquiao
11 and M-P, or whether they are participating in the fraud and are receiving payments based upon the
12 unreported sponsorship income.

13 25. Lopez emailed separate accountings, with the false information about the absence
14 of sponsorship income from the Diaz Bout, to GBP on or about (a) August 5, 2008, (b) November
15 4, 2008, (c) December 8, 2008, (d) December 29, 2008, (e) February 24, 2009, (f) March 17, 2009,
16 (g) April 15, 2009, (h) May 14, 2009, (i) June 18, 2009, (j) July 6, 2009, (k) August 5, 2009, (l)
17 September 15, 2009, (m) November 19, 2009, (n) February 4, 2010, (o) June 29, 2010, and (p)
18 July 17, 2010. Each of these emails was a separate violation by Lopez of 18 U.S.C. § 1343 in that
19 they were interstate wire communications which were incident to, and furthered, the Diaz Scheme.

20 26. In addition, this same conduct constitutes separate violations of § 1343 by Arum
21 because, on information and belief – the source of which includes years of GBP/TR dealings
22 concerning Pacquiao that have demonstrated that Arum controls TR and, in particular, financial
23 matters that relate to Pacquiao – Arum authorized and directed the scheme to defraud GBP, and the
24 emails described above were reasonably foreseeable to Arum as a part of the ordinary business of
25 accounting to GBP under the 2007 Agreement even if he did not know about the communications
26 at the time they were made. Moreover, Lopez would have engaged in the fraud only if Arum was
27 in league with him.

1 27. Further, on or about (a) November 4, 2008, (b) December 1, 2008, (c) December
2 29, 2008, (d) March 19, 2009, (e) April 17, 2009, (f) July 6, 2009, and (g) August 1, 2009,
3 Defendants sent checks to GBP, by a private or commercial interstate carrier, in payment of some
4 of TR's obligations with respect to the Diaz Bout. Each of these mailings was a separate violation
5 by Lopez of 18 U.S.C. § 1341 in that they were interstate communications sent by a private or
6 commercial interstate carrier which were incident to, and furthered, the Diaz Scheme.

7 28. In addition, this same conduct constitutes separate violations of § 1341 by Arum
8 because, on information and belief – the source of which includes years of GBP/TR dealings
9 concerning Pacquiao that have demonstrated that Arum controls TR and, in particular, financial
10 matters that relate to Pacquiao – Arum authorized and directed the scheme to defraud GBP, and the
11 sending of the checks described above was reasonably foreseeable to Arum as a part of the
12 ordinary business of accounting to GBP under the 2007 Agreement. Moreover, Lopez would have
13 engaged in the fraud only if Arum was in league with him.

14 **TR'S BREACH OF THE 2007 AGREEMENT AS TO THE COTTO BOUT**

15 29. On November 14, 2009, Pacquiao fought Miguel Cotto ("Cotto") at the MGM
16 Grand in Las Vegas ("Cotto Bout").

17 30. As of the last accounting it sent to GBP, TR's calculation and payment of monies
18 due to GBP are in breach of the 2007 Agreement even absent the fraud detailed below.

19 31. According to TR, GBP is entitled to share in only 65% of the profits of the Cotto
20 Bout because Pacquiao supposedly agreed to give up his contractual right to share in 100% of the
21 net profits so that TR and Cotto could share 35% of those profits. In other words, according to TR,
22 Pacquiao agreed to allow TR to earn separate monies solely on Cotto. Plaintiff alleges below that
23 this claim about a 65/35 split is itself fraudulent.

24 32. But even taking this fraudulent proposition at face value, TR is still in breach of the
25 2007 Agreement by reason of its calculations.

26 33. According to TR, 65% of the net profits from the event amount to \$24,069,927.

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1 34. TR then reduced those net profits by a purported \$15,000,000 guaranteed purse to
2 Pacquiao, plus an unexplained \$4,450,697 in “Additional net profit share to Pacquiao,” leaving
3 \$4,619,230 in net profits to TR, of which TR claimed GBP was entitled to \$ [REDACTED].

4 35. This calculation is in violation of the 2007 Agreement. Under that Agreement, the
5 proper amount would be calculated by reducing the 65% net profit figure by 72.5% to take into
6 account M-P/Pacquiao’s joint share of the revenue, thereby giving TR \$ [REDACTED] for its 27.5%
7 share of profits. Of that amount, GBP would be entitled to \$ [REDACTED].

8 36. Thus, purely based upon the numbers claimed to be accurate by TR, GBP has been
9 underpaid by approximately \$ [REDACTED],000.

10 37. TR has further breached the 2007 Agreement by calculating monies due to GBP
11 based upon the claim that only 65% of the net profits from the Cotto Bout are available for
12 division with Pacquiao/M-P. In fact, the M-P Agreement entitles Pacquiao/M-P to 72.5% of 100%
13 of all of the net profits from the Cotto Bout. Hence, depending upon the amount of money directly
14 paid to Cotto as his purse, there is at least another \$6 million available to distribute to TR and
15 GBP.

16 **DEFENDANTS’ SECOND SCHEME TO DEFRAUD**

17 38. Commencing sometime in late December of 2009, but no later than March 3, 2010,
18 and continuing through the date of the filing of this Complaint, TR, Arum and Lopez have
19 knowingly participated in a scheme to defraud GBP out of monies due from the Cotto Bout by (a)
20 falsely inflating Pacquiao’s actual guaranteed purse for the fight, (b) falsely excluding TR’s and
21 Pacquiao’s share of an additional 35% of profits left after paying Cotto’s purse and (c) falsely
22 inflating expenses (“Cotto Scheme”).

23 39. Lopez has sent, by a private or commercial interstate carrier, separate purported
24 accountings (with cover letters) for the Cotto Bout on (a) March 3, 2010, (b) April 9, 2010, (c)
25 May 11, 2010, (d) June 18, 2010, and (e) July 23, 2010. Arum was cc’d on these letters.
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1 40. Although GBP has been denied access to TR's records to confirm its suspicions, as
2 well as find other instances of fraud, the generalized accountings provided to GBP for the Cotto
3 Bout were intentionally fraudulent with respect to at least the following.

4 **The Fraudulent Claim as to Pacquiao's Purse**

5 41. Each of the five Cotto accountings sent by TR to GBP were intentionally fraudulent
6 in that they all show Pacquiao's guaranteed contractual purse as \$15,000,000. In fact, the official
7 Nevada State Bout Agreement for the Cotto Bout that was submitted, as required by Nevada law,
8 to the Nevada State Athletic Commission (and is a public record) shows that Pacquiao's
9 guaranteed purse was only \$7,500,000.

10 **The Fraudulent 65/35 Split**

11 42. On information and belief, each of the five Cotto accountings sent by Lopez to GBP
12 (with a cc to Arum) were intentionally fraudulent in that they falsely claimed that M-P/Pacquiao
13 were entitled to share in just 65% of the net profits from the Cotto Bout, thereby permitting TR a
14 separate share of profits on the Cotto side of the ledger, and cutting out GBP from the monies it
15 would earn were the calculations made on the basis of 100% of the net profit. The source of this
16 information and belief is that, according to the customs and practices of professional boxing, as
17 well as the terms of the M-P Agreement, a star of Pacquiao's magnitude would never knowingly
18 agree to allow his promoter to participate in profits without giving him a share of those profits.
19 Plaintiff does not know whether TR is also seeking to defraud Pacquiao and M-P, or whether they
20 are participating in the fraud and are receiving payments based upon 100% of the event income.

21 **The Fraudulent Undercard/Co-Promotional Expense Entries**

22 43. All of the accountings sent by TR to GBP contain one or two line items, totaling
23 \$1,709,560 for "undercard and co-promotion fees." The first two accountings lumped the two
24 items together. The last three accountings still retain the same "undercard and co-promotion fees"
25 line entry, but reduce that amount by \$500,000, which is then added back as "Co-Promotional
26 fees." In fact, as demonstrated by the official Nevada State Bout Agreements for the entire Cotto
27 Bout undercard that were submitted to the Nevada State Athletic Commission (and are a matter of

1 public record), the actual purses paid to the undercard fighters totaled only \$421,000. Thus,
2 Defendants have knowingly and intentionally inflated this line item by approximately \$800,000 in
3 an effort to show less profit for the bout, thereby fraudulently reducing the amount of money due
4 to GBP. Plaintiff does not know whether TR is also seeking to defraud Pacquiao and M-P, or
5 whether they are participating in the fraud and are receiving payments based upon the true costs of
6 the undercard.

7 **The Fraudulent Sanction Fees Expense Entry**

8 44. All of the accountings sent to GBP for the Cotto Bout list an expense item of
9 \$259,066 for sanction fees. Sanction fees for championship bouts are payable to various
10 sanctioning organizations, both by a promoter and by the fighter. As a general rule, according to
11 the customs and practices of the sport of professional boxing, sanction fees for boxers are deducted
12 from their purses, and are not a promotional expense. Under Nevada law, a “Payment Verification
13 and Breakdown Sheet” (“Payout Sheet”) must be filed with the Nevada State Athletic Commission
14 after a bout in Nevada. There is a specific column on the Payout Sheet form for “SANCTION
15 FEES” deducted from a fighter’s purse.

16 45. As detailed below, on or about April 9, 2010, TR claimed in writing that the line
17 item for “SANCTION FEES” on all of the Cotto accountings reflects the supposed fact that TR
18 paid Pacquiao’s and Cotto’s sanction fees. However, as revealed by the Payout Sheet for the Cotto
19 Bout, Pacquiao’s sanction fee was deducted from his purse. The Payout Sheet does not reflect a
20 similar deduction for Cotto, but, on information and belief, the source of which is the fact that the
21 “SANCTION FEES” entry for Pacquiao far exceeded any sanction fee he might possibly have
22 owed for his own purse, Pacquiao paid Cotto’s sanction fee.

23 46. In any event, even if TR did pay Cotto’s sanction fee, the amount due under the
24 rules of the World Boxing Organization, which sanctioned the Cotto Bout, could not have
25 exceeded \$120,000.

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1 47. Further, the highest possible amount that TR might have owed as promoter's
2 sanction fees to the organizations sanctioning the Cotto Bout and the related undercard fights was
3 \$34,284, for a total of \$154,284 in "SANCTION FEES."

4 48. Hence, even if one assumes that TR did pay Cotto's sanction fee, all of the Cotto
5 accountings nonetheless fraudulently overstated TR's claimed "SANCTION FEES" expense by
6 \$104,782. Plaintiff does not know whether TR is also seeking to defraud Pacquiao and M-P, or
7 whether they are participating in the fraud and are receiving payments based upon 100% of the
8 event income.

9 **The Fraudulent Training Expense Entry**

10 49. All of the accountings sent to GBP for the Cotto Bout list an expense item of
11 \$195,356 for "Training expense." On information and belief, the source of which is the customs
12 and practices in the industry, each of the fighters on the Pacquiao/Cotto card were responsible for
13 their own training expenses, which were possibly advanced to the fighters as part of their
14 respective purses. Defendants thereby fraudulently increased expenses by adding a separate line
15 item for an expense that was ultimately paid by the fighters on the card. Plaintiff does not know
16 whether TR is also seeking to defraud Pacquiao and M-P, or whether they are participating in the
17 fraud and are receiving payments based upon the true costs of the event.

18 50. Each of the accountings, referenced above in Paragraph 39, that was sent to GBP
19 was a separate violation by Lopez of 18 U.S.C. § 1341 in that each was an interstate
20 communication sent by a private or commercial interstate carrier which was incident to, and
21 furthered, the Cotto Scheme.

22 51. Further, this same conduct constitutes separate violations of § 1341 by Arum
23 because, on information and belief – the source of which includes years of GBP/TR dealings
24 concerning Pacquiao that have demonstrated that Arum controls TR and, in particular, financial
25 matters that relate to Pacquiao – Arum authorized and directed the scheme to defraud GBP, and the
26 communications described above were reasonably foreseeable to Arum as a part of the ordinary
27 business of accounting to GBP under the 2007 Agreement. Indeed, Arum was cc'd on each of

1 these accountings, and therefore knew of the fraud before the next accounting was sent out.
2 Moreover, Lopez would have engaged in the fraud only if Arum was in league with him.

3 52. In addition, the communication sent by Lopez to GBP on or about April 9, 2010
4 was fraudulent for a separate and distinct reason in that it included a chart listing questions asked
5 by GBP about the Cotto financials (“April 9 Chart”), and TR’s responses. Moreover, on
6 information and belief, Arum had knowledge of the fraudulent April 9 Chart. The source of this
7 information and belief includes (a) the fact that Arum had been cc’d on prior accountings
8 containing the information underlying the April 9 Chart, and (b) Lopez would not have sent the
9 April 9 Chart unless Arum was aware of its contents and directed that it be sent to GBP.

10 53. The April 9 Chart was intentionally fraudulent in at least the following respects:

11 a. It falsely claimed that the line item for purses was accurate in that the figure
12 included co-promotion fees supposedly paid to three promotional companies. However, in
13 the next accounting sent to GBP, TR created a separate line entry of \$500,000 for co-
14 promotion expenses. As noted above, this left a line item of approximately \$1.2 million for
15 undercard purses, a figure approximately \$800,000 in excess of the undercard purses that
16 were actually paid;

17 b. It falsely claimed that TR had paid the sanction fees for Pacquiao and Cotto,
18 when in fact TR had, at most, paid Cotto’s sanction fee; and

19 c. It falsely claimed that TR had paid the fighters’ training expenses, when in
20 fact, on information and belief, TR had not paid for these expenses.

21 **TR’S BREACH OF THE 2007 AGREEMENT AS TO THE CLOTTEY FIGHT**

22 54. On March 13, 2010, Pacquiao fought Joshua Clottey (“Clottey”) at Cowboys
23 Stadium in Dallas, Texas (“Clottey Bout”).

24 55. According to TR, GBP is entitled to share in only 80% of the net profits of the
25 Clottey Bout because Pacquiao supposedly agreed to give up his contractual right to share in 100%
26 of the net profits so that TR and Clottey could share 20% of those profits. In other words,
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1 according to TR, Pacquiao agreed to allow TR to earn separate monies solely on Clotley. Plaintiff
2 alleges below that this claim about an 80/20 split is itself fraudulent.

3 56. But even taking this fraudulent proposition at face value, TR is still in breach of the
4 2007 Agreement by reason of its calculations.

5 57. According to TR, 80% of the net profits from the event amounts to \$13,030,449.

6 58. TR then reduced those net profits by a purported \$12,000,000 guaranteed purse to
7 Pacquiao, leaving \$1,030,448 in net profits to TR, of which TR has claimed GBP is entitled to
8 only \$ [REDACTED].

9 59. This calculation is in violation of the 2007 Agreement. Under that Agreement, the
10 proper amount would be calculated by reducing the 80% net profit figure by 72.5% to take into
11 account M-P/Pacquiao's joint share of the revenue, thereby giving TR \$3,583,373 for its 27.5%
12 share of profits. Of that amount, GBP would be entitled to \$ [REDACTED].

13 60. Thus, purely based upon the numbers claimed to be accurate by TR, GBP has been
14 underpaid by approximately \$ [REDACTED],000.

15 61. TR has further breached the 2007 Agreement by calculating monies due to GBP
16 based upon the claim that only 80% of the net profits from the Clotley Bout are available for
17 division with Pacquiao/M-P. In fact, the M-P Agreement entitles Pacquiao/M-P to 72.5% of 100%
18 of all of the net profits from the Clotley Bout. Hence, depending upon the amount of money
19 directly paid to Clotley as his purse, there is at least an additional \$1 million available to distribute
20 to TR and GBP.

21 **DEFENDANTS' THIRD SCHEME TO DEFRAUD**

22 62. Commencing sometime in the Spring of 2010, but no later than August 9, 2010, and
23 continuing through the date of the filing of this Complaint, TR, Arum and Lopez have knowingly
24 participated in a scheme to defraud GBP out of monies due to GBP from the Clotley Bout by (a)
25 understating income, (b) falsely inflating Pacquiao's actual guaranteed purse for the fight, and (c)
26 falsely inflating expenses ("Clotley Scheme").

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1 63. On August 9, 2010, Lopez sent, by a private or commercial interstate carrier, a
2 purported accounting for the Clotley Bout.

3 64. Although GBP has been denied access to TR's records to confirm its suspicions, as
4 well as find other instances of fraud, the generalized accountings provided to GBP for the Clotley
5 Bout were intentionally fraudulent with respect to at least the following.

6 **The Understatement of Sponsorship Income**

7 65. The Clotley accounting sent by Defendants to GBP lists only \$66,300 in
8 "Sponsorship Income." Yet, Pacquiao's own website acknowledged that Tecate beer was a
9 sponsor of the Clotley Bout. As reflected by GBP's accountings showing \$630,000 in sponsorship
10 income from the Hatton Bout and \$870,000 from the DLH Bout, it is inconceivable that the
11 Clotley Bout yielded only \$66,300 in sponsorship income. Plaintiff does not know whether TR is
12 also seeking to defraud Pacquiao and M-P, or whether they are participating in the fraud and are
13 receiving payments based upon the unreported sponsorship income.

14 **The Fraudulent Claim as to Pacquiao's Purse**

15 66. On information and belief, the Clotley accounting sent by Defendants to GBP was
16 intentionally fraudulent in that it falsely showed Pacquiao's guaranteed contractual purse as
17 \$12,000,000. The sources of this information and belief are that (a) on August 17, 2010, TR
18 refused GBP's request for a copy of the Pacquiao bout agreement that would have been required to
19 be filed in Texas, thereby suggesting that the bout agreement has a different figure in it and (b)
20 there is definitive proof that the bout agreement for the Cotto Bout on file with the Nevada State
21 Athletic Commission was inconsistent with Defendants' accountings of Pacquiao's purse, as
22 provided to GBP.

23 **The Fraudulent 80/20 Split**

24 67. On information and belief, the Clotley accounting was intentionally fraudulent in
25 that it falsely claimed that M-P/Pacquiao were entitled to share in just 80% of the net profits from
26 the Clotley Bout, thereby permitting TR a separate share of profits on the Clotley side of the
27 ledger, and cutting out GBP from the monies it would earn were the calculations made on the basis
28 of 100% of the net profit. The source of this information and belief is that, according to the

1 customs and practices of professional boxing, as well as the terms of the M-P Agreement, a star of
2 Pacquiao's magnitude would never knowingly agree to allow his promoter to participate in profits
3 without giving him a share of those profits. Plaintiff does not know whether TR is also seeking to
4 defraud Pacquiao and M-P, or whether they are participating in the fraud and are receiving
5 payments based upon 100% of the event income.

6 **The Fraudulent Sanction Fee Expense Entry**

7 68. The Clotley accounting sent to GBP for the Clotley Bout lists an expense item of
8 \$222,080 for sanction fees. Sanction fees for championship bouts are payable to various
9 sanctioning organizations. Although a promoter has an obligation to pay a small promoter's
10 sanction fee for each championship bout, such fees are minimal and could never possibly amount
11 to \$222,080. Hence, this line item relates to fighter sanction fees, which can be as high as 3% of a
12 fighter's purse. On information and belief, the source of which is the customs and practices in the
13 industry, as well as the documented fraud with respect to sanction fees for the Cotto Bout, each of
14 the fighters on the Pacquiao/Clotley card were responsible for their own sanction fees, which were
15 deductible from their own purses. Defendants thereby fraudulently increased expenses by adding a
16 separate line item for an expense that was paid by the undercard fighters out of their own purses.
17 Plaintiff does not know whether TR is also seeking to defraud Pacquiao and M-P, or whether they
18 are participating in the fraud and are receiving payments based upon the true costs of the event.

19 **The Fraudulent Travel Expense Entries**

20 69. The accounting sent to GBP for the Clotley Bout lists "[t]ravel" expense items in
21 the amount of \$583,249, and "[a]irplane" costs in the amount of \$141,279, for total travel costs of
22 \$724,528. On information and belief, Defendants have knowingly and intentionally inflated one or
23 both of these line items by hundreds of thousands of dollars in an effort to show less profit for the
24 bout, thereby fraudulently reducing the amount of money due to GBP. Plaintiff does not know
25 whether TR is also seeking to defraud Pacquiao and M-P, or whether they are participating in the
26 fraud and are receiving payments based upon the true travel costs for the event.

27 70. The source of this information and belief is GBP's knowledge of the economics of
28 the sport of professional boxing, as well as its history of co-promoting Pacquiao bouts with TR. It

1 is essentially unheard of for a promoter to incur more than \$700,000 in travel expenses. This is
2 demonstrated by GBP's history of co-promoting the four bouts between Pacquiao and GBP
3 fighters. Of those four fights, the highest amount in travel costs was a total of \$236,905, including
4 air travel costs, for the December 6, 2008 bout between Pacquiao and Oscar de la Hoya. A travel
5 expense of almost three times this amount is undoubtedly fraudulent.

6 **The Fraudulent Training Expense Entry**

7 71. The accounting sent to GBP for the Clotney Bout lists an expense item of \$117,740
8 for "Training expense." On information and belief, the source of which is the customs and
9 practices in the industry, each of the fighters on the Pacquiao/Clotney card were responsible for
10 their own training expenses, which were possibly advanced to the fighters as part of their
11 respective purses. Defendants thereby fraudulently increased expenses by adding a separate line
12 item for an expense that was ultimately paid by the fighters on the card. Plaintiff does not know
13 whether TR is also seeking to defraud Pacquiao and M-P, or whether they are participating in the
14 fraud and are receiving payments based upon the true costs of the event.

15 72. The August 9, 2010 accounting was a violation by Lopez of 18 U.S.C. § 1341 in
16 that it was an interstate communication sent by a private or commercial interstate carrier that was
17 incident to, and furthered, the Clotney Scheme.

18 73. In addition, this same conduct constituted a separate violation of § 1341 by Arum
19 because, on information and belief – the source of which includes years of GBP/TR dealings
20 concerning Pacquiao that have demonstrated that Arum controls TR and, in particular, financial
21 matters that relate to Pacquiao – Arum authorized and directed the scheme to defraud GBP, and the
22 August 9, 2010 accounting was reasonably foreseeable to Arum as a part of the ordinary business
23 of accounting by TR to GBP under the 2007 Agreement. Moreover, Lopez would have engaged in
24 the fraud only if Arum was in league with him.

25 **FIRST CLAIM FOR RELIEF**
26 **(Violation of 18 U.S.C. § 1962(c) against Arum and Lopez)**

27 74. Plaintiff repeats and realleges all allegations set forth above as if fully restated
28 herein.

1 75. TR is an “Enterprise” (“TR Enterprise”) as that term is defined by 18 U.S.C. §
2 1961(4).

3 76. TR is engaged in interstate commerce and its activities affect interstate commerce.

4 77. From the Summer of 2008 through the filing of this Complaint, and still
5 continuing, Defendants Lopez and Arum have knowingly and intentionally participated in the
6 three schemes to defraud Plaintiff, as alleged above. Defendants caused at least those deliveries
7 and wire communications specifically detailed above, and each of those deliveries and wire
8 communications violated either 18 U.S.C. § 1341 or 18 U.S.C. § 1343. Each such delivery or
9 wire communication was foreseeable to both Lopez and Arum as part of and in furtherance of
10 their three schemes to defraud.

11 78. Each of the violations of 18 U.S.C. §§ 1341 and 1343 detailed above were
12 separate acts of racketeering activity within the meaning of 18 U.S.C. § 1961(1).

13 79. These acts of racketeering were related in that they were pursuant to schemes
14 directed at the same victim and used similar means.

15 80. These acts of racketeering were continuous in that they spanned more than two
16 years.

17 81. There is also a threat of continuing racketeering activity through the schemes
18 detailed above, as well as through additional new schemes, because (a) future accountings and
19 monies are due to GBP as income is received for the Diaz, Cotto and Clottey Bouts, (b) Pacquiao
20 is scheduled to fight again in November 2010, and TR will be obligated to account to GBP for
21 yet another fight, and (c) TR will be promoting additional Pacquiao bouts, and therefore will be
22 obligated to account to GBP pursuant to the 2007 Agreement, because, on information and
23 belief, the M-P Agreement has been extended.

24 82. As a result thereof, Defendants have engaged in a pattern of racketeering activity.

25 83. Arum and Lopez are employed by and/or are associated with the TR Enterprise.

26 84. Arum participated in the operation and management of TR through his role as
27 CEO of the Company, which put him at the top of TR’s chain of command.

1 85. Lopez participated in the operation and management of TR through his role as
2 CFO of the Company, and was a vital and knowing conduit for implementation of the fraud.

3 86. Defendants Arum and Lopez thereby participated in the affairs of the TR
4 Enterprise through the pattern of racketeering activity alleged above.

5 87. By reason thereof, GBP has been injured in its property and business, and is
6 entitled to recover three times its actual damages plus reasonable attorneys' fees.

7 **SECOND CLAIM FOR RELIEF**
8 **(Violation of 18 U.S.C. § 1962(d) against Arum and Lopez)**

9 88. Plaintiff repeats and realleges all allegations set forth above as if fully restated
10 herein.

11 89. Arum's and Lopez's conduct manifested their agreement to participate in the
12 affairs of the TR Enterprise through a pattern of racketeering.

13 90. By reason thereof, GBP has been injured in its property and business, and is
14 entitled to recover three times its actual damages plus reasonable attorneys' fees.

15 **THIRD CLAIM FOR RELIEF**
16 **(Breach of Fiduciary Duty Against TR)**

17 91. Plaintiff repeats and realleges all allegations set forth above as if fully restated
18 herein.

19 92. TR is GBP's fiduciary with respect to maintaining, distributing and accounting for
20 net income from the Diaz, Cotto and Clotney Bouts.

21 93. TR has breached its fiduciary duty to GBP.

22 94. GBP has thereby been damaged in an amount that exceeds \$75,000.

23 95. In addition, because TR's conduct has been willful, outrageous, malicious and
24 totally without justification, punitive damages should be awarded to GBP.

25 **FOURTH CLAIM FOR RELIEF**
26 **(Aiding and Abetting a Breach of Fiduciary Duty Against Arum and Lopez)**

27 96. Plaintiff repeats and realleges all allegations set forth above as if fully restated
28 herein.

1 B. On GBP's Third Claim for Relief against TR, its actual damages, which are in
2 excess of \$75,000, as well as punitive damages.

3 C. On GBP's Fourth Claim for Relief against Arum and Lopez, its actual damages,
4 which are in excess of \$75,000, as well as punitive damages.

5 D. On GBP's Fifth Claim for Relief against TR, Arum and Lopez, its actual
6 damages, which are in excess of \$75,000, as well as punitive damages.

7 E. On GBP's Sixth Claim for Relief against TR, its actual damages, which are in
8 excess of \$75,000.

9 F. On GBP's Seventh Claim for Relief, an accounting from TR.

10 G. Costs and Disbursements of this Action.

11 H. Such other and further relief as deemed just and proper by this Court.

12 Dated this 21st day of September, 2010

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Respectfully submitted:

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LIONEL SAWYER & COLLINS

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By: /s/ Todd E. Kennedy

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