

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

Chapter 7

BUTH-NA-BODHAIGE, INC.,

Case No.: 24-10392 (DSJ)

Debtor.  
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**DECLARATION OF KENNETH P. SILVERMAN, ESQ. IN  
SUPPORT OF MOTION SEEKING AN ORDER (I) COMPELLING  
THE TURNOVER OF THE ACCOUNT BALANCE, (II)  
HOLDING PAYPAL, INC., IN CONTEMPT FOR  
FAILURE TO COMPLY WITH A BANKRUPTCY COURT ORDER AND (III)  
AWARDING COST AND EXPENSES ASSOCIATED WITH THIS MOTION**

I, Kenneth P. Silverman, Esq., declare as follows:

1. I am the chapter 7 trustee (the “Trustee”) of the bankruptcy estate (the “Estate”) of Buth-Na-Bodhaige, Inc. (the “Debtor”), with offices located at 100 Jericho Quadrangle, Suite 300, Jericho, New York 11753. I am duly admitted to practice before this Court and the courts of the State of New York.

2. I submit this declaration (this “Declaration”) in support of the motion (the “Motion”)<sup>1</sup> seeking entry of an order (i) compelling the turnover of the Account Balance, (ii) adjudging PayPal, Inc. in civil contempt for failure to comply with a Bankruptcy Court order and (iii) awarding costs and expenses associated with this Motion.

3. I have reviewed the Motion and relevant documents thereto and certify that its contents are true and correct to the best of my knowledge, and those facts are incorporated herein by reference.

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<sup>1</sup> All capitalized terms used but not defined herein shall have the meaning ascribed to them in the Application.



### The Bankruptcy Case

4. The Debtor was a cosmetic and skin care retailer that is a subsidiary of the Body Shop International Limited, a United Kingdom based company. Prior to the Petition Date (defined herein), the Debtor operated retail locations in more than forty (40) locations across the country.

5. On March 8, 2024 (the "Petition Date"), the Debtor filed a voluntary petition for relief pursuant to chapter 7 of the Bankruptcy Code.

6. On March 11, 2024, I was appointed the interim chapter 7 trustee of the Debtor's estate and has since duly qualified.

### Attempts to Have the Account Turned Over to the Estate

7. As a result of my investigation into the financial affairs, assets and liabilities of the Debtor, I was advised by the Debtor that the Debtor maintained a digital wallet account with PayPal, with an account balance as of the Petition Date in the amount of \$128,711.90 (the "Account Balance") and on April 8, 2024, an email to was sent to PayPal requesting the turnover of the account. A copy of which was attached to the Turnover Motion (as defined below) as Exhibit B.

8. PayPal responded by proposing a three-tranche turnover, the first amount of \$100,000 was to be turned over on April 15, 2024, \$20,000 was to be turned over on May 31, 2024, and the final balance was due to be released on August 29, 2024 in the amount of \$8,000.

9. My counsel contacted PapPal to advise that the proposed tranche plan was acceptable to me, and on April 17, 2024, wiring instructions were sent to and received by PayPal.

10. Thereafter, my counsel followed up through email correspondence with PayPal on April 18, 2024, April 19, 2024, April 22, 2024, April 25, 2024, April 29, 2024, May 7, 2024, and June 11, 2024.

11. On several occasions, employees of the Debtor's parent company, which had online access to the PayPal account, attempted to assist me in my attempts to have the Proceeds turned over. Those attempts were similarly fruitless.

12. Upon information and belief, at some point during the process, PayPal released the Proceeds to a closed bank account previously maintained by the Debtor with HSBC. The Proceeds were returned to PayPal by HSBC and remain in the Debtor's account with PayPal.

13. On June 27, 2024, counsel sent a final request for a turnover with the wiring instructions and PayPal responded by asking us to contact another department within PayPal to assist with the turnover.

#### The Entry of the Turnover Order

14. On September 12, 2024, I filed a motion for an order pursuant to Bankruptcy Code §542(a) directing the turnover of funds to the Trustee by PayPal, and an account of the transfer of any such funds to a third party (ECF Doc No. 108) (the "Turnover Motion").

15. On September 12, 2024, my claims and noticing agent, Kurtzman Carson Consultants, LLC dba Verita Global served the Turnover Motion on all parties, including PayPal, and filed and filed a Certificate of Mailing on September 18, 2024 (ECF No. 114).

16. Pursuant to the order entered on October 15, 2024, which granted the Turnover Motion (ECF Doc. No. 129) (the "Turnover Order"), PayPal was directed to (i) turnover the Account Balance to me within five (5) business days of entry of the Turnover Order and (ii) provide a full accounting of the Account Balance to me within fourteen (14) days of the entry of the Turnover Order. A copy of the Turnover Order is annexed hereto as **Exhibit A**.

17. Subsequently, on October 17, 2024, I served a copy of the Turnover Motion and Turnover Order on PayPal via FedEx. Attached hereto as **Exhibit B** is the Affidavit of Service (ECF Doc. No. 139).

18. On October 18, 2024, Fed Ex delivered the package to PayPal, and FedEx records indicate that it was signed for by “E. ED.” Attached hereto as **Exhibit C** is a copy of the FedEx proof of delivery.

19. To date, PayPal has not turned over the Account Balance to me, contacted me to make arrangements to do so, or otherwise attempted to comply with the Turnover Order.

20. PayPal’s immediate production of the Account Balance and the accounting of the Account Balance remains essential to the administration of the Debtor’s estate.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Jericho, New York on December 18, 2024.

s/ Kenneth P. Silverman  
Kenneth P. Silverman, Esq.

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
In re:

Chapter 7

BUTH-NA-BODHAIGE, INC.,

Case No.: 24-10392 (DSJ)

Debtor.  
-----X

**ORDER GRANTING TRUSTEE’S MOTION FOR AN ORDER  
PURSUANT TO BANKRUPTCY CODE § 542(a) DIRECTING THE  
TURNOVER OF FUNDS TO THE TRUSTEE BY PAYPAL, INC. AND AN  
ACCOUNTING OF THE TRANSFER OF ANY SUCH FUNDS TO THIRD PARTIES**

Upon consideration of the motion (ECF Doc. No. 108) (the “Motion”) filed by Rimon P.C., attorneys for Kenneth P. Silverman, the Chapter 7 Trustee of Buth-Na-Bodhaige, Inc. (the “Debtor”), directing PayPal, Inc. (“PayPal”) to turnover the proceeds of the Debtor’s account maintained in a digital wallet held with PayPal with an account balance as of the Petition Date in the amount of \$128,711.90 and adequate notice of the Motion having been given; and no objections having been filed with respect to the Motion; and sufficient cause having been shown therefore; and upon the Affidavit of Service of notice of hearing of the Motion on file with the Court; and upon the Certificate of No Objection filed on October 15, 2024 at ECF Doc. No. 124; and the Court having determined the legal and factual bases set forth in the Motion establishes sufficient cause for the relief requested; it is hereby

**ORDERED**, that the Motion is granted to the extent provided herein; and it is further

**ORDERED**, that PayPal, is directed to turnover the proceeds in the amount of \$128,711.90 to the Trustee within five (5) business days of entry of this Order; and it is further

**ORDERED**, that PayPal is directed to provide a full accounting of all of the proceeds maintained in the account to the Trustee within fourteen (14) days of the entry of this Order; and it is further

**ORDERED**, that the Trustee be, and hereby is, authorized to do such things, execute such documents, and expend such funds as may be necessary to effectuate the terms and conditions of this Order.

Dated: New York, New York  
October 15, 2024

*s/ David S. Jones*  
\_\_\_\_\_  
HONORABLE DAVID S. JONES  
UNITED STATES BANKRUPTCY JUDGE

Rimon P.C.  
Attorneys for Kenneth P. Silverman, Esq.,  
The Chapter 7 Trustee  
100 Jericho Quadrangle, Suite 300  
Jericho, New York 11753  
(516) 479-6300  
Brian Powers  
Courtney Roman

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
In re: Chapter 7  
  
BUTH-NA-BODHAIGE, INC., Case No.: 24-10392 (DSJ)  
  
Debtor.  
-----X

**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF NASSAU )

I, **Linda Tumino**, being duly sworn, depose and say that I am not a party to this action. I am over 18 years of age and I am employed by Rimon P.C.

On October 17, 2024, deponent served the within:

- Demand letter to PayPal for turnover of a digital account to the Bankruptcy Trustee in accordance with Bankruptcy Court Order dated October 15, 2024 and
- A copy of the Bankruptcy Court Order dated October 15, 2024, along with all exhibits.

by **FedEx** overnight delivery to the addresses listed below, said address designated for that purpose, by depositing a true copy of same enclosed in a properly addressed wrapper, in an official depository under the exclusive care and custody of FedEx within the State of New York.

\*\*\* See Attached Service List \*\*\*

s/ Linda Tumino  
**LINDA TUMINO**

Sworn to before me this  
23<sup>rd</sup> day of October, 2024

s/ Gina Meyers  
Notary Public

Gina Meyers  
Notary Public, State of New York  
No.: 01ME6377839  
Qualified in Suffolk County  
Commission Expires July 16, 2026

**TO:**

PayPal, Inc.  
Court Orders  
2211 North First Street  
San Jose, California 95131

October 17, 2024

**Via FedEx**

PayPal, Inc.  
Court Orders  
2211 North First Street  
San Jose, California 95131

**Re: Buth-Na-Bodhaige, Inc.  
Chapter 7  
Case No. 24-10392 (DSJ)  
Our File No. 061845**

Dear Sir/Madam:

Please be advised that on March 8, 2024, the above-referenced Debtor filed a Chapter 7 petition for relief with the United States Bankruptcy Court, Southern District of New York. Thereafter, Kenneth P. Silverman, Esq., was appointed as the Chapter 7 Trustee.

Please be further advised that on October 15, 2024, the Trustee obtained a Bankruptcy Court Order directing PayPal, Inc., to turn over the Debtor's funds maintained in a digital wallet held by PayPal, Inc., to the Bankruptcy Trustee. Enclosed please find a copy of the Order, along with the underlying motion for your convenience.

Please have the funds wired to the Trustee, and/or forward a check payable to "Kenneth P. Silverman, Esq., as Trustee of the estate of Buth-Na-Bodhaige, Inc." for the full amount of the funds contained in the digital wallet, along with an accounting of same, within the next five business days.

I have enclosed the wire instructions, and you can either contact me at the number below, or Lynne Manzolillo at (516) 479-6316 to confirm the instructions upon payment.

Thank you and if you have any questions, please do not hesitate to contact me.

Very truly yours,

*Linda Tumino*  
Linda S. Tumino

cc: Kenneth P. Silverman, Esq., Chapter 7 Trustee  
Brian Powers, Esq., counsel to the Chapter 7 Trustee



Dear Customer,

The following is the proof-of-delivery for tracking number: 280750725135

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**Delivery Information:**

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<b>Status:</b>	Delivered	<b>Delivered To:</b>	Shipping/Receiving
<b>Signed for by:</b>	E.ED	<b>Delivery Location:</b>	
<b>Service type:</b>	FedEx Priority Overnight		
<b>Special Handling:</b>	Deliver Weekday		SAN JOSE, CA,
		<b>Delivery date:</b>	Oct 18, 2024 10:08

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**Shipping Information:**

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<b>Tracking number:</b>	280750725135	<b>Ship Date:</b>	Oct 17, 2024
		<b>Weight:</b>	0.5 LB/0.23 KG
<b>Recipient:</b>		<b>Shipper:</b>	
SAN JOSE, CA, US,		Jericho, NY, US,	

<b>Reference</b>	13637-61845
<b>Purchase Order</b>	PayPal, Inc.

FedEx Express proof-of-delivery details appear below; however, no signature is currently available for this shipment. Please check again later for a signature.

Thank you for choosing FedEx

# Express

ORIGIN ID:BPAA (516) 479-6300  
MAIL ROOM  
RIMON P-C  
100 JERICHO QUADRANGLE  
STE 300  
JERICHO, NY 11753  
UNITED STATES US

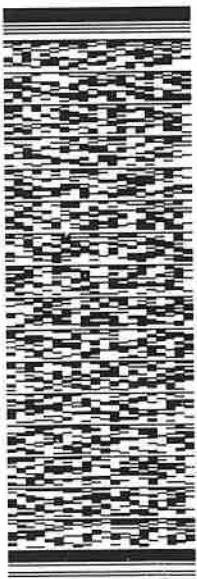
SHIP DATE: 17OCT24  
ACTWT: 0.47 LB  
CAD: 259472732/MSX13600

BILL SENDER

TO **COURT ORDERS**  
**PAYPAL, INC.**  
**2211 N 1ST ST**

**SAN JOSE CA 95131**

(516) 479-6300 REF: 13637-61845  
DEPT: PAYPAL, INC. DEPT:



J24402409T001ev

TRK# 2807 5072 5135  
0201

**FRI - 18 OCT 10:30A**  
**PRIORITY OVERNIGHT**

# XW RBKA

95131  
CA-US SJC



58CJ5/4FB6/C6C4



October 23, 2024

Dear Customer,

The following is the proof-of-delivery for tracking number: 280750725135

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**Delivery Information:**

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<b>Status:</b>	Delivered	<b>Delivered To:</b>	Shipping/Receiving
<b>Signed for by:</b>	E.ED	<b>Delivery Location:</b>	
<b>Service type:</b>	FedEx Priority Overnight		
<b>Special Handling:</b>	Deliver Weekday		SAN JOSE, CA,
		<b>Delivery date:</b>	Oct 18, 2024 10:08

---

**Shipping Information:**

---

<b>Tracking number:</b>	280750725135	<b>Ship Date:</b>	Oct 17, 2024
		<b>Weight:</b>	0.5 LB/0.23 KG

<b>Recipient:</b>	<b>Shipper:</b>
SAN JOSE, CA, US,	Jericho, NY, US,

<b>Reference</b>	13637-61845
<b>Purchase Order</b>	PayPal, Inc.

FedEx Express proof-of-delivery details appear below; however, no signature is currently available for this shipment. Please check again later for a signature.

Thank you for choosing FedEx

# FedEx Express

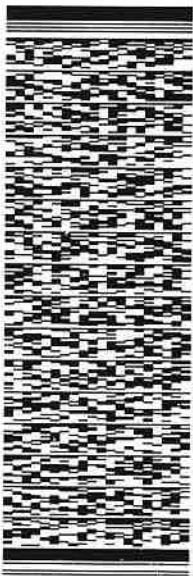
ORIGIN ID:BPAA (518) 479-8300  
MAIL ROOM  
RINDN, P.C.  
100 JERICHO QUADRANGLE  
STE 300  
JERICHO, NY 11753  
UNITED STATES US

SHIP DATE: 12OCT24  
ACTWT: 0.47 LB  
CAD: 259422732/MSX13800  
BILL SENDER

TO  
**COURT ORDERS**  
**PAYPAL, INC.**  
**2211 N 1ST ST**

**SAN JOSE CA 95131**

(518) 479-8300 REF: 13637-61845  
PO: PAYPAL, INC. DEPT:



J244024091001uv

TRK# 2807 5072 5135  
0201

**FRI - 18 OCT 10:30A**  
**PRIORITY OVERNIGHT**

**XW RBKA**

95131  
CA-US SJC

