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Receiver

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

RICHARD VU NGUYEN, A/K/A
NGUYEN THANH VU, AND NTV
FINANCIAL GROUP, INC.,

Defendants,

and

MAI DO,

Relief Defendant.

Case No. SACV19-1174-SVW
(KESX)

**THIRD STATUS REPORT OF THE
RECEIVER AS REQUIRED BY
LOCAL RULE 66-6.1**

[No hearing scheduled]

JUDGE: Hon. Stephen V. Wilson

**TO THE HONORABLE STEPHEN V. WILSON, UNITED STATES
DISTRICT JUDGE, AND ALL PARTIES IN INTEREST:**

As required by Local Rule 66-6.1, Jeffrey Brandlin, the receiver (the
"Receiver") appointed by the Court over NTV Financial Group, Inc. and
certain assets and bank accounts held by or for the benefit of Richard

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1 Nguyen and Mai Do, submits the following status report to inform the Court
 2 of what has been accomplished to date, the receipts and expenditures to
 3 date, and what is expected in the coming months. Because this case was
 4 reassigned after the retirement of Judge Guilford, this status report contains
 5 the narrative from the beginning of the Receiver's administration.

6 7 **I. SUMMARY OF OPERATIONS**

8 **A. Retention of Counsel and Forensic Accounting Firm**

9 Shortly after the Receiver's appointment in June 2019, the Court
 10 approved the Receiver's retention of (1) Smiley Wang-Ekvall, LLP, as his
 11 counsel in this matter and (2) Brandlin & Associates as the forensic
 12 accountant. Pursuant to their agreement with the Securities and Exchange
 13 Commission ("SEC"), both firms reduced their billing rates. Smiley Wang-
 14 Ekvall, LLP, was asked to provide a blended hourly rate for counsel, and
 15 based on how it expected to staff the case, offered a blended rate of \$495
 16 that was approved by the Court (subject to approval of fees and costs by the
 17 Court). However, based on how the case has been staffed, this blended
 18 rate has proven too high. Accordingly, when it seeks fees, it intends to
 19 instead offer to reduce its regular hourly rates by 10%, which will result in a
 20 smaller amount of fees than the blended rate.

21 **B. Field Operations**

22 **1. Control of the Office Location, Books and Records,** 23 **and the Freezing of Accounts**

24 The same day that the Receiver was appointed, he and his agents,
 25 including counsel, went to NTV's office location at 900 W. 17th Street, Unit B,
 26 Santa Ana, California, to secure the location and the books and records in it.
 27 The Receiver had the locks changed and redirected the mail. He took
 28

1 possession of the books and records at that location, including four
 2 computers and a cell phone. The Receiver had the computers imaged and
 3 reviewed data that was related to the investors, including the list of investors
 4 and communications with them. He and his team reviewed all the books
 5 and records that were seized. From these records, the Receiver identified
 6 investors and trade creditors and additional assets. In addition, the Receiver
 7 immediately notified all of the financial institutions listed in the asset freeze
 8 order of his appointment, requested turnover of funds in the bank accounts,
 9 and requested documents to understand the activity in each of the accounts.
 10 With respect to the funds that were in the brokerage accounts, the Receiver
 11 was concerned about the volatility of the investments and the reality that
 12 doing nothing could result in their becoming worthless. In order to avoid
 13 incurring further losses and to preserve the value of the investments for
 14 investors, the Receiver instructed the firms to liquidate the investments in
 15 the account and to turn over the proceeds.

16 The Receiver collected \$458,095.57 as a result of these efforts.

17 **2. The Listing of the Office Condominium For Sale**

18 After verifying that NTV owned the office condominium from which it
 19 operated and determining that it appeared to have sufficient equity to justify
 20 its administration, the Receiver sought and obtained Court approval (1) to
 21 retain a broker to list the office condominium for sale and (2) of sale
 22 procedures to ensure that the highest bid is received. The Receiver has
 23 received a couple of offers for significantly below the list price but is
 24 continuing to market the condominium for sale.

25 **3. Lacking Cooperation from the Defendant and Relief** 26 **Defendant, the Receiver Reviewed the Bank** 27 **Statements and Conducted Discovery Which Resulted** 28

**in the Identification of Additional Assets Acquired with
NTV Funds and the Determination That the Disclosure
of Assets Provided by Richard Nguyen and Mai Do
Was Not Complete**

Neither Mai Do nor Richard Nguyen has been cooperative with the Receiver in his administration of the estate and they did not accurately identify their assets as required by Court orders. When they have provided information, it has been the bare minimum of information and it has taken much effort to obtain it. Thus, the Receiver was forced to do a thorough forensic accounting under which he analyzed the bank statements and transactions and served subpoenas on third parties who received funds from NTV but appeared to be suspicious. These third parties included two escrow companies, two car dealers, and several jewelers. The Receiver then compared the records to the information contained in the disclosure of assets provided by Mr. Nguyen and Ms. Do. As listed in the Receiver's declarations submitted in connection with the motion of the Securities and Exchange Commission to expand the scope of the preliminary injunction and the motion for an order to show cause why Mr. Nguyen and Ms. Do should not be held in civil contempt, the Receiver has determined that the disclosure of assets was substantially inaccurate, omitting at least 14 bank accounts and misrepresenting the source of funds used to acquire at least two real properties and two luxury cars. The Receiver determined that both properties and the cars were acquired with funds belonging to NTV that are traceable to NTV investors.

As a result of this accounting and discovery and in order to bring the assets acquired with investor funds into the receivership estate, the Receiver filed a motion to expand the scope of the receivership estate to

1 include two real properties, jewelry, and two luxury cars. The Court granted
2 that motion and, for any of these assets that were no longer in their
3 possession, required Mr. Nguyen and Ms. Do to file a disclosure to that
4 effect. Through this process, the Receiver learned that after this case was
5 filed and the Receiver was appointed, Mr. Nguyen sold the two luxury cars
6 and two expensive watches and retained the proceeds. Thus, the only
7 additional assets that were ultimately brought into the receivership estate
8 are the two real properties. The Receiver has taken possession of both
9 properties and is in the process of selling them both. The Court approved
10 the Receiver's retention of Keller Williams Realty to list them. One is in
11 escrow, with a sale hearing scheduled for July 6, 2020, at 1:30 p.m., and the
12 Receiver has received an offer on the other and is close to having an
13 executed sale agreement, after which he will file a second sale motion to
14 approve that sale. Both sales are subject to overbid. These efforts are
15 expected to bring in approximately \$400,000 for the receivership estate.

16 **4. Investor Identification and Communication**

17 Using hard copies of statements provided by Mr. Nguyen as well as
18 books and records obtained at NTV's office and bank records obtained from
19 banks, the Receiver has determined compiled a list of investors with the
20 amounts of their investment and any distributions. The Receiver has
21 identified a total of 99 investors with a net investment of \$1,770,104
22 (\$2,935,200 was received and \$1,165,096 was distributed to investors). The
23 Receiver mailed a letter to these investors (i.e., investor letter) to notify them
24 of the receivership, to answer some basic questions, and to direct them to a
25 website that the Receiver set up to provide information to investors. The
26 website is at: <https://www.donlinrecano.com/Clients/brandlin/Index>. The
27 Receiver redirected NTV's website to the Receiver's website.
28

1 Because the Receiver has determined that the majority of the
2 investors are fluent in Vietnamese but speak and/or read limited English, the
3 website was also made available in Vietnamese. The investor letter was
4 translated into Vietnamese, as are key pleadings.

5 **C. Identification of Litigation Claims and Proposed Retention**
6 **of Special Counsel**

7 As a result of the forensic accounting and discovery described above,
8 the Receiver compiled a list of potential litigation targets. There are three
9 categories of potential claims. The first category is comprised of claims
10 against a handful of investors who received more than they invested. The
11 total amount these potential claims is approximately \$112,400, although only
12 about \$86,948 would be worth litigating. The second category is made up of
13 claims against third parties who received funds from NTV who either were
14 not entitled to those funds or who received funds from NTV for items
15 purchased by Richard Nguyen or Mai Do or for payment of expenses that
16 were not incurred by NTV. Under the case of *Henry v. Official Comm. of*
17 *Unsecured Creditors of Walldesign, Inc. (In re Walldesign, Inc.)*, 872 F.3d
18 954 (9th Cir. 2017), the Receiver believes that these payments are
19 recoverable for the benefit of the receivership estate. The total amount of
20 this potential category of claims is approximately \$850,000. The third
21 category is comprised of claims against third parties who received funds that
22 should have been property of the receivership estate, without the consent of
23 the Receiver. More specifically, after the appointment of the Receiver, Mai
24 Do did a cash out refinance of a property that she owned on Jerome Lane in
25 Garden Grove. Pursuant to the terms of the relevant orders, upon the
26 deposit of this cash into a bank account belonging to Mai Do, they became
27 property of the receivership estate. When the Receiver learned about this
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1 transaction, he conducted discovery to identify where the proceeds were
2 deposited but, by the time that documents were produced, the funds had
3 been moved through several banks and used to pay various parties and
4 debts unrelated to NTV. These claims total approximately \$152,000.

5 Because this is a smaller receivership estate, there are concerns
6 about collectability from some of the potential defendants, and the Receiver
7 did not want to dissipate the funds he anticipates having on hand from
8 liquidation of assets, the Receiver determined that having these claims
9 pursued on a contingency fee basis is in the best interests of the
10 receivership estate. Because the Receiver's general counsel limits the
11 amount of contingency fee work it is doing at any given time, the Receiver is
12 seeking to retain Ervin, Cohen & Jessup to handle the contingency fee
13 litigation at a reduced contingency rate. The Receiver filed this motion,
14 which was set for a hearing on June 8, 2020, but advanced by the Court to
15 June 4, 2020. The Court has not yet ruled on that motion, as it requested
16 additional information from the Receiver and his general counsel prior to
17 doing so.

18 19 **II. ANTICIPATED NEXT STEPS**

20 With the liquidation of assets nearing its conclusion, the Receiver is
21 now focused on making an interim distribution to the investors. The first
22 step in this process is obtaining Court approval of a procedure for the
23 investors to file claims with the Receiver and a procedure for resolving any
24 objections to those claims. A draft of that motion has been prepared and is
25 being finalized. If approved, the deadline for investors to submit claims will
26 be 90 days from the date that the notice of the deadline is served upon
27 them. As claims are received, the Receiver will review them and attempt to
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1 informally resolve any discrepancies. Disputes that cannot be informally
 2 resolved will be presented to the Court if it makes financial sense to do so.
 3 Once that process is complete, the Receiver expects to seek Court approval
 4 to make an interim distribution. As the litigation proceeds, the Receiver
 5 expects to make either another interim distribution or to wait until the
 6 conclusion of the case to make a final distribution.

8 **III. RECEIPTS AND EXPENDITURES OF THE RECEIVERSHIP**

9 Attached to this report is the Standardized Fund Accounting Report
 10 required by the Securities & Exchange Commission showing all receipts and
 11 expenditures to date. In sum, the Receiver has thus far collected
 12 \$458,206.98, disbursed \$7,808.03 in ordinary costs of the receivership
 13 estate, and is holding \$450,398.95. There are accrued professional
 14 expenses through May 31, 2020, of \$333,062.42, which includes the
 15 Receiver's fees and the fees of the forensic accountants (\$155,686.00 in
 16 fees), and the fees and costs of the Receiver's counsel, calculated at the
 17 Firm's standard hourly rates less a 10% reduction (\$168,163.65 and
 18 \$9,212.77, respectively). These fees are subject to review and approval by
 19 the Court.

20
 21 Respectfully submitted,

22 DATED: June 18, 2020

SMILEY WANG-EKVALL, LLP

23
 24
 25 By: /s/ Kyra E. Andrassy

26 Kyra E. Andrassy
 27 Counsel for Jeffrey E. Brandlin,
 28 Receiver

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Orange, State of California. My business address is 3200 Park Center Drive, Suite 250, Costa Mesa, CA 92626.

On **06/18/20**, I served true copies of the following document(s) described as

THIRD STATUS REPORT OF THE RECEIVER AS REQUIRED BY LOCAL RULE 66-6.1

on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

(X) (BY COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")) – Pursuant to United States District Court, Central District of California, Local Civil Rule 5-3, the foregoing document will be served by the court via NEF and hyperlinked to the document. On **06/18/20**, I checked the CM/ECF docket for this case and determined that the aforementioned person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated.

() (BY MAIL). I enclosed the document(s) in a sealed envelope or package and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of Smiley Wang-Ekvall, LLP for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid. I am a resident or employed in the county where the mailing occurred. The envelope was placed in the mail at Costa Mesa, California.

() (BY E-MAIL). By scanning the document(s) and then e-mailing the resultant pdf to the e-mail address indicated above per agreement. Attached to this declaration is a copy of the e-mail transmission.

() (BY FACSIMILE). I caused the above-referenced documents to be transmitted to the noted addressee(s) at the fax number as stated. Attached to this declaration is a "TX Confirmation Report" confirming the status of transmission. Executed on _____, at Costa Mesa, California.

() STATE I declare under the penalty of perjury under the laws of the State of California that the above is true and correct.

(X) FEDERAL I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on June 18, 2020, at Costa Mesa, California.

/s/ Lynnette Garrett
Lynnette Garrett

SERVICE LIST

BY COURT VIA NOTICE OF ELECTRONIC FILING ("NEF"):

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STANDARDIZED FUND ACCOUNTING REPORT for **NTV Financial Group, Inc.** - Cash Basis
 Receivership; Case No. SACV19-1174-AG (KESX)
 Reporting Period **06/23/2019** to **5/31/2020**

FUND ACCOUNTING (SEE INSTRUCTIONS):			
	Detail	Subtotal	Grand Total
Line 1	Beginning Balance (As of 06/23/2019):		\$ -
	<i>Increases in Fund Balance:</i>		
Line 2	Business Income		
Line 3	Cash and Securities	\$ 643.02	
Line 4	Interest/Dividend Income		
Line 5	Business Asset Liquidation	\$ 457,452.55	
Line 6	Personal Asset Liquidation		
Line 7	Third-Party Litigation Income		
Line 8	Miscellaneous - Other	\$ 111.41	
	Total Funds Available (Lines 1 - 8):	\$ 458,206.98	\$ 458,206.98
	<i>Decreases in Fund Balance:</i>		
Line 9	Disbursements to Investors	\$ -	\$ -
Line 10	Disbursements for Receivership Operations		
Line 10a	Disbursements to Receiver or Other Professionals		
Line 10b	Business Asset Expenses (Locksmith, HOA Fees, and other)	\$ 4,759.35	
Line 10c	Personal Asset Expenses		
Line 10d	Investment Expenses		
Line 10e	Third-Party Litigation Expenses		
	1. Attorney Fees		
	2. Litigation Expenses		
	Total Third-Party Litigation Expenses	\$ -	
Line 10f	Tax Administrator Fees and Bonds		
Line 10g	Federal and State Tax Payments		
	Total Disbursements for Receivership Operations	\$ 4,759.35	\$ 4,759.35
Line 11	Disbursements for Distribution Expenses Paid by the Fund:		
Line 11a	Distribution Plan Development Expenses:		
	1. Fees:		
	Fund Administrator.....		
	Independent Distribution Consultant (IDC)..		
	Distribution Agent.....		
	Consultants.....		
	Legal Advisers.....		
	Tax Advisers.....		
	2. Administrative Expenses		
	3. Miscellaneous		
	Total Plan Development Expenses	\$ -	\$ -
Line 11b	Distribution Plan Implementation Expenses:		
	1. Fees:		
	Fund Administrator.....		

		Detail	Subtotal	Grand Total
Independent Distribution Consultant (IDC)..				
Distribution Agent.....				
Consultants.....				
Legal Advisers.....				
Tax Advisers.....				
2. Administrative Expenses				
3. Investor Identification:				
Notice/Publishing Approved Plan.....				
Claimant Identification.....				
Claims Processing.....				
Web Site Maintenance/Call Center.....			\$ 3,048.68	
4. Fund Administrator Bond				
5. Miscellaneous				
6. Federal Account for Investor Restitution				
(FAIR) Reporting Expenses				
Total Plan Implementation Expenses			\$ 3,048.68	\$ 3,048.68
Total Disbursements for Distribution Expenses Paid by the Fund				\$ 3,048.68
Line 12 Disbursements to Court/Other:				
Line 12a	Investment Expenses/Court Registry Investment			
	System (CRIS) Fees			
Line 12b	Federal Tax Payments			
	Total Disbursements to Court/Other:			\$ -
	Total Funds Disbursed (Lines 9 - 11):			\$ 7,808.03
Line 13	Ending Balance (As of 5/30/2020):			\$ 450,398.95

Line 14 Ending Balance of Fund - Net Assets:				
Line 14a	Cash & Cash Equivalents		\$ 450,398.95	
Line 14b	Investments			
Line 14c	Other Assets or Uncleared Funds			
	Total Ending Balance of Fund - Net Assets			

OTHER SUPPLEMENTAL INFORMATION:				
		Detail	Subtotal	Grand Total
Report of Items NOT To Be Paid by the Fund:				
Line 15 Disbursements for Plan Administration Expenses Not Paid by the Fund:				
Line 15a	Plan Development Expenses Not Paid by the Fund:			
	1. Fees			
	Fund Administrator			
	IDC			
	Distribution Agent			
	Consultants			
	Legal Advisers			
	Tax Advisers			
	2. Administrative Expenses			
	3. Miscellaneous			
	Total Plan Development Expenses Not Paid by the Fund			
Line 15b	Plan Implementation Expenses Not Paid by the Fund:			
	1. Fees:			
	Fund Administrator			
	IDC			

		Detail	Subtotal	Grand Total
Distribution Agent				
Consultants				
Legal Advisers				
Tax Advisers				
2. Administrative Expenses				
3. Investor Identification:				
Notice/Publishing Approved Plan				
Claimant Identification				
Claims Processing				
Web Site Maintenance/Call Center				
4. Fund Administrator Bond				
5. Miscellaneous				
6. FAIR Reporting Expenses				
<i>Total Plan Implementation Expenses Not Paid by the Fund</i>				
Line 15c	Tax Administrator Fees & Bonds Not Paid by the Fund			
<u>Total Disbursements for Plan Administration Expenses Not Paid by the Fund</u>				
Line 16	Disbursements to Court/Other Not Paid by the Fund:			
Line 16a	Investment Expenses/CRIS Fees			
Line 16b	Federal Tax Payments			
<u>Total Disbursements to Court/Other Not Paid by the Fund:</u>				
Line 17	DC & State Tax Payments			
Line 18	No. of Claims:			
Line 18a	# of Claims Received This Reporting Period			
Line 18b	# of Claims Received Since Inception of Fund			
Line 19	No. of Claims/Investors:			
Line 19a	# of Claimants/Investors Paid This Reporting Period			0
Line 19b	# of Claimants/Investors Paid Since Inception of Fund			0

Receiver:

By: Jeffrey E. Brandlin
(signature)

Jeffrey E. Brandlin
(printed name)

President, Brandlin & Associates
(title)

Date: 6.17.20