

SMILEY WANG-EKVALL, LLP
3200 Park Center Drive, Suite 250
Costa Mesa, California 92626
Tel 714 445-1000 • Fax 714 445-1002

SMILEY WANG-EKVALL, LLP

Kyra E. Andrassy, State Bar No. 207959

kandrassy@swelawfirm.com

Michael L. Simon, State Bar No. 300822

msimon@swelawfirm.com

3200 Park Center Drive, Suite 250

Costa Mesa, California 92626

Telephone: 714 445-1000

Facsimile: 714 445-1002

Proposed Attorneys for Jeffrey E.
Brandlin, 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-AG (KESX)

**DECLARATION OF JEFFREY E.
BRANDLIN IN SUPPORT OF
MOTION OF RECEIVER, JEFFREY
E. BRANDLIN, FOR ORDER IN
AID OF RECEIVERSHIP**

[Notice of Motion and Motion, and
Memorandum of Points and
Authorities submitted concurrently
herewith]

DATE: September 9, 2019

TIME: 10:00 a.m.

CTRM: 10D

JUDGE: Hon. Andrew J. Guilford

I, Jeffrey E. Brandlin, declare:

1. I know the following facts to be true of my own personal
knowledge and, if called as a witness, could and would competently testify
with respect thereto. I make this declaration in support of the *Motion of*

1 *Receiver, Jeffrey E. Brandlin, for Order in Aid of Receivership* (the "Motion").
2 Unless otherwise defined in this declaration, all terms defined in the Motion
3 are incorporated herein by this reference.

4 2. I was appointed as the receiver in the above-referenced matter
5 by order entered on June 24, 2019. This litigation was initiated on June 13,
6 2019, by the Securities and Exchange Commission ("SEC"). The SEC
7 alleged that NTV Financial Group, Inc. ("NTV Financial") and its founder,
8 executive director and president, Richard Nguyen perpetrated a fraud
9 targeting primarily Vietnamese speaking individuals by luring them into
10 investing in, among other things, two fraudulent investments: a purported
11 fund that traded stocks and options, and the chance for Nguyen to
12 personally manage clients' brokerage accounts. Based on the evidence
13 presented to the Court by the SEC, on June 14, 2019, the Court issued a
14 temporary restraining order and asset freeze order (the "TRO"), and on June
15 24, 2019, extended the TRO until July 10, 2019 and appointed me as the
16 temporary receiver. On July 3, 2019, pursuant to a stipulation between
17 myself, Defendant Richard Nguyen, Relief Defendant Mai Do, and the SEC,
18 the Court entered a preliminary injunction and a continuation of the orders
19 (1) freezing assets; (2) requiring accountings; and (3) prohibiting the
20 destruction of documents, and appointed me as the permanent receiver
21 [Docket No. 25].

22 3. On June 24, 2019, immediately following my appointment as
23 receiver, myself and a team of agents went to NTV Financial's office located
24 at 900 W. 17th St, #B, Santa Ana, CA, to gain control over that location,
25 including over the assets and books and records on hand. My team and I
26 had the locks changed and the mail re-routed, and took possession of the
27 equipment, books and records, and computers. I am having the computers
28

1 imaged and analyzed for data removal, and the books and records are being
2 reviewed in order to help me identify and locate the Estate's assets.

3 4. I have taken a number of other steps to locate and account for all
4 of the Estate's assets. My counsel gave notice of the asset freeze order and
5 my appointment as receiver to all banks and financial institutions where I am
6 informed the Defendants and parties acting on their behalf have accounts. I
7 am informed that all accounts that have been identified thus far as being
8 held by or on behalf of the Defendants or their affiliates have been frozen,
9 and we have obtained or are in the process of obtaining turnover of the
10 funds in these accounts that are part of the Estate. To date, approximately
11 \$457,000 in funds have been liquidated and turned over.

12 5. Through counsel, I also gave notice of the asset freeze order
13 and the order of my appointment as receiver to the Defendants and all prior
14 NTV Financial employees who I am aware of. Through counsel, I also
15 requested the immediate turnover of NTV Financial files from them.

16 6. In my opinion, Mr. Nguyen has been minimally cooperative in
17 assisting me in my investigation, and in fulfilling his Court-ordered
18 obligations. Mr. Nguyen, through his counsel, has slowly responded to
19 requests for information, often taking several weeks to provide basic
20 information or unhelpful responses. For example, after my counsel
21 requested the login information for NTV Financial's Dropbox account
22 multiple times, it took Mr. Nguyen over two weeks to claim he does not
23 remember the password. Mr. Nguyen has not adequately explained how
24 business records were maintained, what computer programs, services and
25 email accounts were used, and how to access such.

26 7. I also believe that Mr. Nguyen has been dishonest with me and
27 the Court. On July 15, 2019, the Defendants filed the *Notice of Defendants*
28

1 *Richard V. Nguyen and Mai Do's Assets Pursuant to Preliminary Injunction*
2 *Order* [Docket No. 38] ("Notice of Assets"). I have reviewed the Notice of
3 Assets and an un-redacted version of the Notice of Assets that was provided
4 by the Defendants' counsel. Based on my investigation of the Estate's
5 assets and my review of the Notice of Assets, I believe the Notice of Assets
6 contains false statements regarding both the scope of the Defendants'
7 assets and the source of those assets.

8 8. Despite the lack of cooperation from the Defendants, I have
9 assembled preliminary lists of Receivership assets and a preliminary list of
10 NTV Financial investors. The investigation remains quite active.

11 9. I have also made a significant effort to provide investors with
12 accurate information regarding the Receivership Entities. To that end, I
13 have caused to be established a website for investors and creditors located
14 at <https://www.donlinrecano.com/NTVFinancial>, and, pursuant to a
15 stipulation and order thereon, received Court authority to have NTV
16 Financial's website re-directed to the new website. The majority of the
17 investors appear to be Vietnamese and based on interactions so far and the
18 fact that communications between NTV Financial and the investors appear
19 to have often been conducted in Vietnamese, I believe it may be helpful to
20 have the new website made available in both English and Vietnamese, and
21 to have key documents, such as letters to investors and certain pleadings,
22 available in Vietnamese so that investors have access to information and the
23 case's status. In addition, through counsel, I have requested and received
24 written assurances from Vietface Media Group and Radio Bolsa Corporation
25 that they have ceased running all advertisements and media on behalf of
26 NTV Financial.

1 10. Thus far, my team has identified approximately 100 NTV
2 Financial investors. I caused a letter to be sent to these investors to notify
3 them of the receivership and the website that I had created in order to
4 provide them with a ready source of information.

5 11. Consistent with the June 24, 2019 order appointing me as
6 receiver, I am seeking approval for the retention of the following: (a) Smiley
7 Wang-Ekvall, LLP ("Smiley Wang-Ekvall") as my general receivership
8 counsel; (b) Brandlin & Associates ("B&A") as my forensic accountant; (c)
9 Coast Business Technologies ("Coast Business") for data recovery and
10 computer imaging; (d) Donlin Recano to design and host a website on my
11 behalf to provide a source of information for investors and creditors; (e) and
12 Day Translations to translate key documents for posting on the new website
13 for investor information, if I determine that doing so would be helpful. In my
14 business judgment, I believe that the retention of these professionals will
15 help promote the orderly and efficient administration of the estate for the
16 benefit of investors. Because certain of their services were required
17 immediately upon my appointment, I am seeking approval for the
18 employment of these professionals effective as of the date of my
19 appointment on June 24, 2019.

20 12. As represented to the Court in connection with the
21 recommendation of the SEC regarding my appointment, I request authority
22 to retain Smiley Wang-Ekvall as my general counsel to assist me with the
23 recovery of assets and administration of the Estate. Smiley Wang-Ekvall
24 has a significant amount of experience in identifying and recovering assets
25 for investors and creditors in receiverships, bankruptcy cases, and judgment
26 enforcement proceedings. Smiley Wang-Ekvall has agreed to provide a
27 blended rate of \$495 and I have obtained its acknowledgement that the firm
28

1 is familiar with and will comply with the SEC's billing guidelines. True and
2 correct copies of the profiles of the members of the firm who will be primarily
3 responsible are attached to the Motion as Exhibit "1." Its fee applications
4 will be submitted in accordance with the requirements of the Receivership
5 Order and the SEC's billing guidelines.

6 13. As represented to the Court in connection with the
7 recommendation of the SEC regarding my appointment, I request authority
8 to retain B&A as my forensic accountants. B&A has a wide range of
9 experience in forensic accounting matters, including experience in SEC- and
10 FTC-related matters. The SEC has shared its analysis of the bank accounts
11 utilized by the Defendants with me, and I do not intend to duplicate its
12 efforts, although I believe a supplement may be required. I am also focused
13 on investor identification and the quantification of the investors' claims after
14 interest is eliminated and any withdrawals are taken into account. B&A has
15 agreed to discount by fifteen percent the standard hourly rates of all
16 associates and personnel. True and correct copies of B&A's proposal and
17 its associates' profiles are attached to the Motion as Exhibit "2." Its fee
18 applications will be submitted in accordance with the requirements of the
19 Receivership Order and the SEC's billing guidelines.

20 14. At the Santa Ana office, my team and I took possession of
21 computers, a phone, and other electronic files. In order to preserve this
22 information, I utilized the services of Coast Business, a firm that specializes
23 in data recovery, to image the computers and phone, recover data, and to
24 provide access to as many electronic files as possible. In my opinion, this
25 work is particularly important given the lack of cooperation from Mr. Nguyen.
26 Coast Business has also been able to identify where additional information
27 is stored and accounts with various services that appear to have been used
28

1 by NTV Financial. I believe that this information will prove critical to the
2 administration of the Estate. Coast Business charges \$150 an hour. I seek
3 authority to pay Coast Business in the ordinary course, as invoiced.

4 15. Having a website that investors and creditors can access for
5 information and updates is an important tool in this case. Accordingly, I am
6 seeking authorization for the retention of Donlin Recano to develop the
7 website and to update it as directed by me and my team on a regular basis.
8 For these services, Donlin Recano charges a \$75 monthly fee for hosting
9 the website and an hourly charge for the time incurred setting it up and then
10 updating it when directed to do so. Donlin Recano estimated that setting up
11 the English-language website would take a couple of hours at the outset. If
12 asked, Donlin Recano will also provide a Vietnamese-language website.
13 This may be necessary if I determine that the majority of investors and
14 creditors involved in this matter are not fluent in English. The website is
15 located at www.donlinrecano.com/NTVFinancial. Donlin Recano will invoice
16 the Estate on a monthly basis, and I seek formal authority to pay its monthly
17 invoices as they come due as an ordinary cost of the Estate. A true and
18 correct copy of its engagement agreement is attached to the Motion as
19 Exhibit "3."

20 16. As set forth above, the majority of the affected investors are
21 Vietnamese and a significant portion are not fluent in English. Accordingly, I
22 seek authorization for my retention of Day Translation as necessary to
23 translate key documents for investors when I determine that would be
24 helpful. If I determine that a sizeable number of the investors are fluent in
25 Vietnamese and not in English, then it will likely be appropriate to have key
26 documents, such as letters from myself to the investors and certain key
27 pleadings, translated into Vietnamese in order to efficiently and accurately
28

1 administer the estate. For translation services Day Translation charges \$.11
2 per word. I am informed that this firm has been used in similar cases before
3 with success and I am confident in its ability to accurately translate the key
4 documents. I seek authorization to pay any invoices from Day Translations'
5 invoices in the ordinary course.

6 17. In my business judgment, I believe that the proposed procedures
7 in the Motion to abandon personal property will promote the efficient
8 administration of the estate for the benefit of investors.

9
10 I declare under penalty of perjury that the foregoing is true and correct.

11 Executed this 31st day of July, 2019, at Los Angeles,
12 California.

13
14 
15 JEFFREY E. BRANDLIN
16
17
18
19
20
21
22
23
24
25
26
27
28

SMILEY WANG-EKVALL, LLP
3200 Park Center Drive, Suite 250
Costa Mesa, California 92626
Tel 714 445-1000 • Fax 714 445-1002

SMILEY WANG-EKVALL, LLP
3200 Park Center Drive, Suite 250
Costa Mesa, California 92626
Tel 714 445-1000 • Fax 714 445-1002

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 **08/09/19**, I served true copies of the following document(s) described as **DECLARATION OF JEFFREY E. BRANDLIN IN SUPPORT OF MOTION OF RECEIVER, JEFFREY E. BRANDLIN, FOR ORDER IN AID OF RECEIVERSHIP** 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 **08/09/19**, 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 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 August 09, 2019, at Costa Mesa, California.

/s/ Lynnette Garrett
Lynnette Garrett

SMILEY WANG-EKVALL, LLP
3200 Park Center Drive, Suite 250
Costa Mesa, California 92626
Tel 714 445-1000 • Fax 714 445-1002

SERVICE LIST

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

- Kyra E Andrassy
kandrassy@swelawfirm.com,jchung@swelawfirm.com,lgarrett@swelawfirm.com,g
cruz@swelawfirm.com
- Julie Haram Lin
jlin@mikevolaw.com
- Douglas M Miller
millerdou@sec.gov,caseview.ECF@usdoj.gov,usacac.criminal@usdoj.gov,longoa
@sec.gov,irwinma@sec.gov
- Mike N Vo
mvo@mikevolaw.com