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Jeffrey Brandlin, Receiver

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

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

Defendants.

Case No.: 8:19-cv-01174-SVW-KES

Assigned to: Hon. Stephen V. Wilson

**NOTICE OF AMENDED
MOTION AND AMENDED
MOTION OF RECEIVER FOR
ORDER AUTHORIZING THE
RECEIVER TO DISTRIBUTE
FUNDS ON HAND AND FOR
RELATED RELIEF**

**[Memorandum of Points and
Authorities and Declarations of
Jeffrey Brandlin and Kyra
Andrassy in Support Filed
Concurrently]**

Date: April 15, 2024
Time: 1:30 p.m.
Ct rm: 10A

**TO THE HONORABLE STEPHEN V. WILSON, UNITED STATES
DISTRICT JUDGE, AND ALL PARTIES AND THEIR COUNSEL OF
RECORD:**

PLEASE TAKE NOTICE that unless appearances are excused prior to
the hearing, on April 15, 2024, at 1:30 p.m. in Courtroom 10A of the above-
captioned Court, located at 350 W. 1st Street, Los Angeles, CA 90012, Jeffrey E.

1 Brandlin, the Court-appointed receiver (“Receiver”) of NTV Financial Group,
 2 Inc., and related assets will and hereby does move this Court for an order
 3 authorizing the Receiver to distribute funds on hand using the rising tide
 4 methodology and for related relief. Investors and creditors are not required to
 5 attend the hearing unless they have filed written objection to the relief sought in
 6 the Motion. Please consult with Kyra Andrassy or Michael Simon, counsel for
 7 the Receiver, before attending the hearing to make sure that it is going forward.
 8 The Receiver previously filed a similar motion, but the Court recently denied that
 9 motion as moot and directed the Receiver to file an amended motion after the
 10 Court reduced the fees allowed to the Receiver and his counsel, thereby
 11 increasing the amount available for distribution.

12 **PLEASE TAKE FURTHER NOTICE** that any opposition to the relief
 13 sought in this Motion must be filed with the Court and served on counsel for the
 14 Receiver no later than twenty-one (21) days prior to the hearing on the Motion.
 15 Failure to timely file and serve a written opposition may be deemed by the Court
 16 to be consent to the granting of the relief sought in the Motion.

17 This Motion is based on this Notice of Amended Motion and Amended
 18 Motion, the concurrently-submitted declarations of Jeffrey Brandlin and Kyra
 19 Andrassy, and any argument or evidence presented to the Court at any hearing on
 20 the Motion.

21 22 **SUMMARY OF THE RELIEF BEING SOUGHT**

23 The Receiver requests authority to distribute \$716,988.18 such that each
 24 investor will have received at least 44.19% of their original investment back,
 25 which includes distributions to investors made prior to the Receiver’s
 26 appointment. The Receiver is currently holding \$898,100.33 and is expecting a
 27 check for \$7,227.50 for payments being made on a settlement. Once those funds
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1 are received and the Receiver pays the fees and costs that were recently allowed
2 by the Court, the Receiver will be holding \$730,677.51. The Receiver is
3 expecting another \$26,810.67 in future settlement payments and is proposing to
4 use that and an additional \$13,689.33 of the funds on hand to pay up to \$22,500
5 in additional fees and costs to the Receiver and \$18,000 to his counsel for fees
6 and costs incurred from August 22, 2023, through the conclusion of the
7 receivership. Fees and costs in excess of those sums will be written off. Thus,
8 this leaves \$716,988.18 available for distribution.

9 The claims submission process is complete and the Receiver has
10 consensually resolved all disputes with non-insiders regarding the amounts of
11 their claims. In the interest of equity and in accordance with the rising tide
12 distribution methodology detailed in the concurrently filed memorandum of
13 points and authorities, investors who have already received more than 44.19% of
14 their investment back will not participate in the distribution, and investors who
15 received distributions pre-receivership of less than 44.19% will receive a smaller
16 distribution than investors who did not receive distributions pre-receivership so
17 that all non-insider investors will have received 44.19% of their original amount
18 invested back. Attached to the concurrently-filed memorandum of points and
19 authorities as Exhibit "1" is a spreadsheet with the timely-filed claims, the
20 allowed amount of each claim, any withdrawals received during the scheme, and
21 the proposed amount to be distributed in this distribution. The investor names
22 and addresses are not included in order to protect their privacy. Instead, the only
23 identifying information is their account number and the claim number. Investor
24 claim numbers are on the mailing label affixed to the envelopes with the
25 pleadings being served on investors. Investors with questions about their
26 proposed distribution can call or email the Receiver's office for assistance.

1 The Receiver also requests that the Court impose a constructive trust
2 against the Receivership Estate's assets for the benefit of investors, and
3 subordinate all unsecured creditor claims against the Receivership Estate to all
4 investor claims against the Receivership Estate. The Receivership Entity's sole
5 source of income was funds traceable to investors. Even though no alleged
6 creditors submitted claims, because of the hypothetical possibility of an alleged
7 creditor asserting a claim in the future, out of an abundance of caution, the
8 Receiver believes it is appropriate to impose a constructive trust.

9 For the four investors who have more than one account with the
10 Receivership Entity, the Receiver requests authority to consolidate the accounts
11 for purposes of calculating the distribution to the investor. Often, investors with
12 multiple accounts received one or more distributions from at least one of their
13 accounts but no distributions from the other, or a much smaller distribution. For
14 example, assume that there is an investor who had one account where they had
15 received 90% of their original \$100,000 investment and another account into
16 which they invested another \$100,000 and received no distributions. If the
17 accounts are consolidated, then the investor would not participate in this
18 distribution because they have already received \$90,000 on account of the
19 \$200,000 they invested, or 45%. However, if the accounts are not consolidated,
20 then the investor would participate in the distribution for the account on which
21 they received no distributions, receiving approximately \$41,140 for the account
22 where there were no distributions, in addition to having already received \$90,000
23 for the other account. The Receiver believes that this would be inequitable. The
24 Receiver seeks to avoid this result by consolidating the accounts of investors
25 with two accounts, whether or not the accounts were closed. This ensures that
26 each investor has one account that accurately represents the amount that they
27 invested and the amount that was distributed to them.

1 Once the distributions to investors clear and the Receiver and his
2 professionals are paid any allowed balance of their approved fees and costs, the
3 Receiver believes that the administration of the Receivership Estate will be
4 substantially complete. At that time, the only remaining asset will be the
5 judgment against relief defendant Mai Do in the amount of \$372,380.90. The
6 Receiver believes this judgment is unlikely to be collectible, although an abstract
7 of judgment was recorded. If by the time the remaining settlement is paid in full
8 there has been no collection on the Mai Do judgment, then the Receiver believes
9 that the Receivership Estate should nonetheless be concluded, with the judgment
10 considered an unadministered asset as it would in a chapter 7 bankruptcy case. If
11 a recovery is obtained in the future, the Receiver can seek to reopen this case and
12 to be reappointed solely for the purpose of making a further distribution to
13 investors.

14 Therefore, upon the clearing of the investor distributions and the payment
15 of any allowed balance of fees and costs to the Receiver and his professionals,
16 the Receiver believes it would be appropriate to discharge the Receiver.
17 Procedurally, the Receiver requests that he be discharged upon his filing of a
18 Notice of Discharge and Exoneration of Bond once investor distributions and the
19 payments to the Receiver and his professionals are made. This notice will not be
20 filed for some time, so the Receiver will file semi-annual reports with the Court
21 regarding the progress of collection of the settlement.

22 As an administrative matter, the Receiver is also seeking Court approval to
23 employ Raines Feldman Littrell LLP as his counsel to assist him through the
24 conclusion of this case. His prior firm, Smiley Wang-Ekvall, LLP, is winding
25 down its operations and its lawyers handling this matter moved to Raines
26 Feldman Littrell LLP effective January 16, 2024. It will represent the Receiver
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1 on the same terms as Smiley Wang-Ekval, LLP, so there is no impact on
 2 investors or creditors.

3
 4 **RELIEF BEING REQUESTED IN ANY ORDER GRANTING THE**
 5 **MOTION**

6 Based on the foregoing, the Receiver respectfully requests that the Court
 7 enter an order:

- 8 (1) Granting the Motion in its entirety;
- 9 (2) Imposing a constructive trust over the assets of the Receivership
 10 Estate for the benefit of the investors in the Receivership Entity;
- 11 (3) Authorizing the subordination of unsecured creditor claims against
 12 the Receivership Estate to the claims of the investors against the Receivership
 13 Estate;
- 14 (4) Authorizing the Receiver to make a distribution of \$716,988.18, or
 15 such other amount as the Court may order, from the *res* of the constructive trust
 16 to non-insider investors who timely filed claims with the Receiver, utilizing the
 17 rising tide methodology, as set forth in detail in Exhibit "1";¹
- 18 (5) Authorizing the Receiver to reserve \$13,689.33 from the cash on
 19 hand and to use the \$26,810.67 net amount due from Michelle Nguyen to pay
 20 fees and costs in an amount not to exceed \$22,500 for the Receiver and \$18,000
 21 for his counsel for their fees and costs incurred from August 22, 2023, through
 22 the conclusion of this case, with any portion of those set asides not used to pay
 23 fees and costs to be distributed to investors in the same manner used in this
 24 Motion and any fees and costs in excess of those amounts to be written off;
- 25 (6) Approving the consolidation of multiple accounts held for the
 26 benefit of a single investor;

27 ¹ If the amount to be distributed is altered, the Receiver will recalculate the
 28 distributions accordingly.

1 (7) Approving the employment of Raines Feldman Littrell LLP as the
2 Receiver's counsel effective January 16, 2024;

3 (8) Providing that the Receiver shall be discharged and his bond
4 exonerated upon his filing of a Notice of Discharge of Receiver and Exoneration
5 of Bond, which he will file after the distributions authorized hereto clear the
6 Receiver's accounts and payments to the Receiver and his professionals are
7 made; and

8 (9) Granting such other and further relief as the Court deems just and
9 proper.

10
11 Respectfully submitted,
12 Dated: March 6, 2024 RAINES FELDMAN LITRELL LLP

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14 By: /s/ Kyra E. Andrassy
15 Attorneys for
16 Jeffrey Brandlin, Receiver
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PROOF OF SERVICE

I am over the age of 18 and not a party to the within action; I am employed by Raines Feldman Littrell LLP and its business address is 3200 Park Center Drive, Suite 250, Costa Mesa, California 92626.

On **March 6, 2024**, I served the following document(s) described as

NOTICE OF AMENDED MOTION AND AMENDED MOTION OF RECEIVER FOR ORDER AUTHORIZING THE RECEIVER TO DISTRIBUTE FUNDS ON HAND AND FOR RELATED RELIEF

☒ by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list.

SEE ATTACHED SERVICE LIST

☒ **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 **March 6, 2024**, 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 placed said envelope(s) for collection and mailing, following ordinary business practices, at the business offices of Raines Feldman Littrell LLP, and addressed as shown on the attached service list, for deposit in the United States Postal Service. I am readily familiar with the practice of Raines Feldman Littrell LLP for collection and processing correspondence for mailing with the United States Postal Service, and said envelope(s) will be deposited with the United States Postal Service on said date in the ordinary course of business.

☐ **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses listed in the attached service list.

☐ **BY OVERNIGHT DELIVERY:** I placed said documents in envelope(s) for collection following ordinary business practices, at the business offices of Raines Feldman Littrell LLP, and addressed as shown on the attached service list, for collection and delivery to a courier authorized by _____ to receive said documents, with delivery fees provided for. I am readily familiar with the practices of Raines Feldman Littrell LLP for collection and processing of documents for overnight delivery, and said envelope(s) will be deposited for receipt by _____ on said date in the ordinary course of business.

☐ **BY FACSIMILE:** I caused the above-referenced document to be transmitted to the interested parties via facsimile transmission to the fax number(s) as stated on the attached service list.

☐ **BY PERSONAL SERVICE:** I delivered such envelope(s) by hand to the offices of the addressee(s) in the attached service list.

☐ (State) I declare under penalty of perjury under the laws of the State of California

that the above is true and correct.

☒ (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. I declare under penalty of perjury that the above is true and correct.

Executed March 6, 2024 at Costa Mesa, California.

Ja'Nita Fisher

Type or Print Name

/s/ Ja'Nita Fisher

Signature

SERVICE LIST

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

- **Kyra E Andrassy**
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BY MAIL:

| | | |
|--|---|--|
| Richard Nguyen & Mai Do 12632 Jerome Lane Garden Grove, CA 92841 | Employment Development Department Legal Office 800 Capital Mall MIC 53 Sacramento, CA 95814 | Wells Fargo Bank N.A. c/o CSC Lawyers 2710 Gateway Oaks Dr., Suite 150N Sacramento, CA 95833 |
| Trish Nguyen 15191 Middleborough St. Westminster, CA 92683 | Khanh Hoang Do 4437 Watermoor Dr. Riverside, CA 92505 | Henry Pham 10517 Garden Grove Blvd. Garden Grove, CA 92843 |

| | | |
|--|---|--|
| Jacquelin Thientan Nguyen 1804 W. Palais Rd. Anaheim, CA 92804 | Asian World Media 7171 Fenwick Lane Westminster, CA 92843 | Wellington Square Association 950 W. 17 th St #B Santa Ana, CA 92706 |
| JPMorgan Chase Bank, N.A. c/o CT Corporation 818 Seventh Street, Suite 930 Los Angeles, CA 90017 | Franchise Tax Board Chief Counsel c/o General Counsel Section P.O. Box 1720, MS:A-260 Rancho Cordova, CA 95741- 1720 | Internal Revenue Service P.O. Box 7346 Philadelphia, PA 19101-7346 |
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Attorneys for
Jeffrey Brandlin, Receiver

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

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

Defendants.

Case No.: 8:19-cv-01174-SVW-KES

Assigned to: Hon. Stephen V. Wilson

**ORDER GRANTING AMENDED
MOTION OF RECEIVER FOR
ORDER AUTHORIZING THE
RECEIVER TO DISTRIBUTE
FUNDS ON HAND AND FOR
RELATED RELIEF**

**[Memorandum of Points and
Authorities and Declarations of
Jeffrey Brandlin and Kyra
Andrassy in Support Filed
Concurrently]**

Date: April 15, 2024
Time: 1:30 p.m.
Ctvm: 10A

At the above date and time, the Court held a hearing on the *Amended Motion of Receiver for Order Authorizing the Receiver to Distribute Funds on Hand and for Related Relief* (the "Motion"). Appearances were as set forth on the record. For the reasons set forth in the Motion and supporting declarations and as set forth on the record,

IT IS ORDERED AS FOLLOWS:

1 (1) The Motion is granted;

2 (2) A constructive trust is imposed over the assets of the Receivership
3 Estate for the benefit of the investors in the Receivership Entity;¹

4 (3) Any unsecured creditor claims against the Receivership Estate are
5 subordinated to the claims of the investors against the Receivership Estate;

6 (4) The Receiver is authorized to make a distribution of \$716,988.18
7 from the *res* of the constructive trust to the non-insider investors who timely filed
8 claims with the Receiver, utilizing the rising tide methodology, as set forth in
9 detail in Exhibit "1" to the Motion;

10 (5) The Receiver is authorized to reserve \$13,689.33 from the cash on
11 hand and to use the \$26,810.67 net amount due from Michelle Nguyen to pay
12 fees and costs in an amount not to exceed \$22,500 for the Receiver and \$18,000
13 for his counsel for their fees and costs incurred from August 22, 2023, through
14 the conclusion of this case, with any portion of those set asides not used to pay
15 fees and costs to be distributed to investors in the same manner used in this
16 Motion, and any fees and costs in excess of those amounts to be written off;

17 (6) The consolidation of multiple accounts held for the benefit of a
18 single investor is approved;

19 (7) The Receiver's employment of Raines Feldman Littrell LLP as the
20 Receiver's counsel effective January 16, 2024, is approved; and

21 (8) The Receiver shall be discharged and his bond exonerated upon his
22 filing of a Notice of Discharge of Receiver and Exoneration of Bond, which he
23 shall file after the distributions authorized hereto clear the Receiver's accounts
24 and payments to the Receiver and his professionals are made. Pending that
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27 ¹ Capitalized terms not otherwise defined in this Order shall have the same
28 meaning as in the Motion.

1 discharge, the Receiver shall file semi-annual status reports with the Court.

2 Dated: _____

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5 Stephen V. Wilson, United States District
6 Judge
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