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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

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11 SECURITIES AND EXCHANGE
12 COMMISSION,

13 Plaintiff,

14 vs.

15 RICHARD VU NGUYEN, A/K/A
16 NGUYEN THANH VU, and NTV
FINANCIAL GROUP, INC.,

17 Defendants,

18 and

19 MAI DO,

20 Relief Defendant.
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Case No. 8:19-cv-01174-SVW-KES

**[PROPOSED] FINAL JUDGMENT AS
TO DEFENDANT RICHARD VU
NGUYEN**

FINAL JUDGMENT AS TO DEFENDANT RICHARD VU NGUYEN

The Securities and Exchange Commission having filed a Complaint and Defendant Richard Vu Nguyen having entered a general appearance; consented to the Court's jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction and except as otherwise provided herein in paragraph VII); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant

1 or with anyone described in (a).

2 **II.**

3 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
4 that Defendant is permanently restrained and enjoined from violating Section 17(a)
5 of the Securities Act of 1933 (the “Securities Act”) [15 U.S.C. § 77q(a)] in the
6 offer or sale of any security by the use of any means or instruments of
7 transportation or communication in interstate commerce or by use of the mails,
8 directly or indirectly:

- 9 (a) to employ any device, scheme, or artifice to defraud;
10 (b) to obtain money or property by means of any untrue statement of a
11 material fact or any omission of a material fact necessary in order to
12 make the statements made, in light of the circumstances under which
13 they were made, not misleading; or
14 (c) to engage in any transaction, practice, or course of business which
15 operates or would operate as a fraud or deceit upon the purchaser.

16 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as
17 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also
18 binds the following who receive actual notice of this Final Judgment by personal
19 service or otherwise: (a) Defendant’s officers, agents, servants, employees, and
20 attorneys; and (b) other persons in active concert or participation with Defendant
21 or with anyone described in (a).

22 **III.**

23 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant
24 is permanently restrained and enjoined from violating, directly or indirectly, while
25 acting as an investment adviser, Sections 206(1) and (2) of the Investment
26 Advisers Act of 1940 (“Advisers Act”) [15 U.S.C. §§ 80b-6(1) and (2)] by using
27 the mails or any means or instrumentality of interstate commerce:

- 28 (a) to employ any device, scheme, or artifice to defraud any client or

prospective client; or

- (b) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

IV.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating, directly or indirectly, while acting as an investment adviser to a pooled investment vehicle, directly or indirectly, Section 206(4) of the Adviser Act [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8 promulgated thereunder [17 C.F.R. § 275.206(4)-8], by using the mails or means or instrumentalities of interstate commerce:

- (a) to make untrue statements of material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which there were made, not misleading, to any investor or prospective investor in the pooled investment vehicle; or
- (b) to engage in acts, practices, or courses of business that are fraudulent, deceptive, or manipulative with respect to any investor or prospective investor in the pooled investment vehicle.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant

1 or with anyone described in (a).

2 **V.**

3 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant
4 to Sections 21(d)(1) and 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(1) and
5 (5)], Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)] and Sections 209(d),
6 of the Advisers Act [15 U.S.C. § 80b-9(d)], Defendant is permanently restrained
7 and enjoined from directly or indirectly, including through any entity he owns or
8 controls, accessing any securities brokerage account of any third-party, including
9 doing so with the consent of the account holder.

10 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as
11 provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also
12 binds the following who receive actual notice of this Final Judgment by personal
13 service or otherwise: (a) Defendant's officers, agents, servants, employees, and
14 attorneys; and (b) other persons in active concert or participation with Defendant
15 or with anyone described in (a).

16 **VI.**

17 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED
18 that Defendant is liable for disgorgement of \$969,210.07, representing net profits
19 gained as a result of the conduct alleged in the Complaint, together with
20 prejudgment interest thereon in the amount of \$164,313.57, and a civil penalty in
21 the amount of \$1,133,523.63 pursuant to Section 20(d) of the Securities Act [15
22 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)],
23 and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)]. Defendant is
24 further jointly and severally liable with relief defendant Mai Do for disgorgement
25 of \$267,889.64, representing net profits gained as a result of the conduct alleged in
26 the Complaint, together with prejudgment interest thereon in the amount of
27 \$50,899.12. Defendant shall satisfy these obligations by paying \$2,585,836.03 to
28 the Securities and Exchange Commission within 30 days after entry of this Final

1 Judgment.

2 Defendant may transmit payment electronically to the Commission, which
3 will provide detailed ACH transfer/Fedwire instructions upon request. Payment
4 may also be made directly from a bank account via Pay.gov through the SEC
5 website at <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by
6 certified check, bank cashier's check, or United States postal money order payable
7 to the Securities and Exchange Commission, which shall be delivered or mailed to

8 Enterprise Services Center
9 Accounts Receivable Branch
10 6500 South MacArthur Boulevard
Oklahoma City, OK 73169

11 and shall be accompanied by a letter identifying the case title, civil action number,
12 and name of this Court; Richard Vu Nguyen as a defendant in this action; and
13 specifying that payment is made pursuant to this Final Judgment.

14 Defendant shall simultaneously transmit photocopies of evidence of
15 payment and case identifying information to the Commission's counsel in this
16 action. By making this payment, Defendant relinquishes all legal and equitable
17 right, title, and interest in such funds and no part of the funds shall be returned to
18 Defendant.

19 The Commission may enforce the Court's judgment for disgorgement and
20 prejudgment interest by using all collection procedures authorized by law,
21 including, but not limited to, moving for civil contempt at any time after 30 days
22 following entry of this Final Judgment.

23 The Commission may enforce the Court's judgment for penalties by the use
24 of all collection procedures authorized by law, including the Federal Debt
25 Collection Procedures Act, 28 U.S.C. § 3001 *et seq.*, and moving for civil
26 contempt for the violation of any Court orders issued in this action. Defendant
27 shall pay post judgment interest on any amounts due after 30 days of the entry of
28 this Final Judgment pursuant to 28 U.S.C. § 1961. The Commission shall hold the

1 funds, together with any interest and income earned thereon (collectively, the
2 “Fund”), pending further order of the Court.

3 The Commission may propose a plan to distribute the Fund subject to the
4 Court’s approval. Such a plan may provide that the Fund shall be distributed
5 pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act
6 of 2002. The Court shall retain jurisdiction over the administration of any
7 distribution of the Fund and the Fund may only be disbursed pursuant to an Order
8 of the Court.

9 Regardless of whether any such Fair Fund distribution is made, amounts
10 ordered to be paid as civil penalties pursuant to this Judgment shall be treated as
11 penalties paid to the government for all purposes, including all tax purposes. To
12 preserve the deterrent effect of the civil penalty, Defendant shall not, after offset or
13 reduction of any award of compensatory damages in any Related Investor Action
14 based on Defendant’s payment of disgorgement in this action, argue that he is
15 entitled to, nor shall he further benefit by, offset or reduction of such compensatory
16 damages award by the amount of any part of Defendant’s payment of a civil
17 penalty in this action (“Penalty Offset”). If the court in any Related Investor
18 Action grants such a Penalty Offset, Defendant shall, within 30 days after entry of
19 a final order granting the Penalty Offset, notify the Commission’s counsel in this
20 action and pay the amount of the Penalty Offset to the United States Treasury or to
21 a Fair Fund, as the Commission directs. Such a payment shall not be deemed an
22 additional civil penalty and shall not be deemed to change the amount of the civil
23 penalty imposed in this Judgment. For purposes of this paragraph, a “Related
24 Investor Action” means a private damages action brought against Defendant by or
25 on behalf of one or more investors based on substantially the same facts as alleged
26 in the Complaint in this action.

27 **VII.**

28 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, solely

1 for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy
2 Code, 11 U.S.C. § 523, the allegations in the complaint are true and admitted by
3 Defendant, and further, any debt for disgorgement, prejudgment interest, civil
4 penalty or other amounts due by Defendant under this Final Judgment or any other
5 judgment, order, consent order, decree or settlement agreement entered in
6 connection with this proceeding, is a debt for the violation by Defendant of the
7 federal securities laws or any regulation or order issued under such laws, as set
8 forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

9 **VIII.**

10 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this
11 Court shall retain jurisdiction of this matter for the purposes of enforcing the terms
12 of this Final Judgment.

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14 Dated: _____, _____

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17 HONORABLE STEPHEN V. WILSON
18 UNITED STATES DISTRICT JUDGE
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