

1 ORDR

2 DISTRICT COURT

3 CLARK COUNTY, NEVADA

4 IN THE MATTER OF:

Case No.: A-14-709484-P

5 BUSINESS, VN, INC., A NEVADA  
6 CORPORATION.

Dept. No. IX

7  
8 **ORDER DENYING RECEIVER'S MOTION TO ASSIGN INTEREST; ORDER**  
9 **GRANTING IN PART AND DENYING IN PART MOTION TO SEAL EXHIBIT 1 TO**  
10 **RECEIVER'S FINAL REPORT AND REQUEST FOR DISCHARGE; ORDER**  
11 **RESTRAINING THE RECEIVER FROM TAKING ANY FURTHER ACTION ON**  
12 **BEHALF OF OR IN THE NAME OF THE RECEIVERSHIP; AND**  
13 **ORDER TO SHOW CAUSE WHY THE RECEIVER SHOULD NOT BE HELD IN**  
14 **CONTEMPT OF COURT AND SANCTIONED**

15 On November 8, 2022, Receiver Robert L. Stevens filed a motion to assign  
16 interest, order issuer compliance, and clarify ownership. On December 14, 2022, the  
17 court held a hearing on the assignment motion, at which Colleen E. McCarty, Esq. of  
18 the law firm Fox Rothschild appeared on behalf of the receiver. The receiver was not  
19 present. The court asked Ms. McCarty certain questions about this receivership,  
20 which has been pending for several years, with little to no activity on the court's  
21 docket. Ms. McCarty could not respond to the questions as she is not the receiver's  
22 primary counsel from the law firm of Fox Rothschild. Accordingly, the court  
23 continued the hearing to December 21, 2022, directing that both primary counsel and  
24 the receiver appear to answer the court's questions.

25 Ahead of the December 21, 2022, hearing, on December 19, 2022, Mr. Stevens  
26 filed what he titled as his final report and request for discharge; he also filed Exhibit  
27 1 to the report under seal and a concurrent motion to seal. At the December 21, 2022,  
28 hearing the court addressed the report, as well as the pending motion to seal. With  
regard to the sealing motion, the court advised that it was not inclined to seal the  
entirety of Exhibit 1—which consists of the receiver's time entries from October 14,  
2019, through December 15, 2022—given the nature and purpose of a receivership.

1           The court indicated that if there were attorney-client communications  
2 encapsulated within the time entries, it would allow redaction of such  
3 communications to preserve privilege. Later that same day Mr. Stevens filed a  
4 redacted version of Exhibit 1, which the court has reviewed. The court finds that the  
5 redactions are overbroad. Mr. Stevens is a court-appointed officer, and thus, the  
6 nature of his work is presumptively open to public scrutiny. The court appreciates  
7 that when a receivership is ongoing and the receiver is in the midst of his  
8 investigation, there may be reasons to seal and/or redact information from public  
9 view to protect the work of the receivership. That, however, is not the case here  
10 where Mr. Stevens seeks to be discharged as receiver.

11           Accordingly, the court allows redactions only for those entries concerning  
12 attorney-client communications, such as the entries on 11/4/2019, 12/29/2019,  
13 1/27/2020, and 8/3/2020, and even then Mr. Stevens must leave unredacted enough  
14 information so that the reader knows why there is a redaction. For instance, on the  
15 8/3/2020 entry, Mr. Stevens should leave unredacted at least the portion that reads  
16 “Counsel.” The fact that Mr. Stevens spoke to his counsel on any given day is not  
17 protected given that only the communications themselves are protected.

18           The court now turns to Mr. Steven’s request for discharge. The court denies  
19 the request at this time because it is ordering Mr. Stevens to appear and show cause  
20 as to why he should not be held in contempt of court and sanctioned for his actions  
21 and inactions as the court-appointed receiver. The court has serious concerns about  
22 the work Mr. Stevens performed on behalf of the receivership estate, his failure to  
23 communicate with the court, his unilateral decision to forgo a formal claims process,  
24 his unilateral subordination of creditors, and his failure to apply to this court to pay  
25 himself and his professionals before doing so. In short, he has violated the law  
26 governing receivers and the receivership order.

27           The court starts with the receivership order entered on October 8, 2019,  
28 appointing Mr. Stevens as receiver for the second time in this case. That order

1 required Mr. Stevens to investigate the assets, liabilities, and financial situation of  
2 Blockchain Industries, Inc., and its subsidiaries, and report to this court, within 90  
3 days after entry of the order regarding the nature of the assets, liabilities, and  
4 financial situation of the receivership property.

5 Mr. Stevens did not report to the court within 90 days. Instead, he filed a  
6 belated report on July 8, 2020, along with a motion to ratify the modification of the  
7 company's reorganization and to limit the receiver's power in connection with that  
8 reorganization. The report generally identified his activities but did not actually  
9 identify any assets or liabilities.

10 In doing so, Mr. Stevens violated NRS 78.670, which provides that "[t]he  
11 receiver, as soon as convenient, shall lay before the district court a full and complete  
12 inventory of all of the estate, property and effects of the corporation, its nature and  
13 probable value, and an account of all debts due from and to it, as nearly as the same  
14 can be ascertained, and make a report to his or her proceedings at least every 3  
15 months thereafter ...."

16 Indeed, even upon receipt of the Receiver's second and final report, it is not  
17 clear to the court whether it has a full and complete inventory and valuation of the  
18 estate as collected prior to the liquidation of assets, which Mr. Stevens also did  
19 without obtaining court approval. Nor does the court have a full appreciation of the  
20 work that Mr. Stevens did for the estate, as well as the progression of the estate,  
21 given that Mr. Stevens failed to file periodic reports as NRS 78.670 demands. The  
22 best information the court has is Mr. Steven's time entries, which hardly provide  
23 sufficient information.

24 Returning to Mr. Stevens's first report, the Receiver advised that at that point  
25 he and his staff had spent 191.5 hours in furtherance of the receivership and had paid  
26 himself \$34,195.60, leaving approximately half his hours unpaid. He advised that he  
27 anticipated that the liquidation of the estate's assets and the put financing he had  
28 arranged would be sufficient to meet his additional costs and fees.

1           On July 29, 2020, the court held an in chambers' hearing on the report and the  
2 accompanying ratification motion. The court granted the motion but remained silent  
3 on the report. Drawing every reasonable inference in Mr. Stevens's favor, the court  
4 can only presume that the judge presiding over this case at that time implicitly  
5 approved Mr. Stevens's \$34,195.60 self-pay compensation. The court cannot,  
6 however, draw a reasonable inference that the court's silence meant that Mr. Stevens  
7 was free to stop reporting to the court and continue compensating himself and his  
8 professionals without court approval.

9           Although the receivership order states that Mr. Stevens's compensation for his  
10 services shall be paid on a monthly or a practical basis, it does not provide that Mr.  
11 Stevens is permitted to pay himself from the receivership estate absent court  
12 approval. Moreover, the Nevada law demands otherwise.

13           NRS 32.330(4) contemplates that the court must approve a receiver's fees and  
14 expenses when it provides that a receiver may file a report that includes "[f]ees and  
15 expenses of the receiver and, if not filed separately, a request for approval of payment  
16 of the fees and expenses." Mr. Stevens has violated NRS 32.330(4), having failed to  
17 seek approval for the payment of the majority of the fees and expenses he paid  
18 himself and others from the receivership estate.

19           There is also NRS 78.705, which provides that "[b]efore distribution of the  
20 assets of an insolvent corporation among the creditors or stockholders, the district  
21 court shall allow a reasonable compensation to the receiver for his or her services and  
22 the costs and expenses of the administration of the trust, and the cost of the  
23 proceedings in the court, to be first paid out of the assets." This provision also  
24 contemplates that the court must approve a receiver's compensation, including so  
25 that it can ascertain whether such compensation is reasonable. Mr. Stevens has  
26 violated NRS 78.705.

27           Mr. Stevens has also violated NRS 78.675, NRS 78.680, NRS 78.685, and  
28 78.710, which contemplate a formal claims process approved by the court whereby

1 creditors are paid proportionality to their debts. Mr. Stevens admits he did not run a  
2 formal claims process. Instead, he advises that he discussed the situation with each  
3 of the creditors and offered all creditors the opportunity to file a claim. He states he  
4 only received claims from 3 creditors. Of those 3 creditors, Mr. Stevens unilaterally  
5 deemed one creditor a “hardship creditor,” whatever that means, paying that creditor  
6 \$22,000 while paying the others nothing.

7       There is no such thing as a “hardship creditor,” despite Mr. Stevens’s attempt  
8 to draw direction from the case against Bernie Madoff, which is not a receivership,  
9 and certainly not one under Nevada law. Instead, Mr. Stevens effectively  
10 subordinated all other creditors in favor of one creditor. The court understands that  
11 subordination of creditors occurs from time to time in bankruptcy and in equity  
12 receiverships that draw upon the principles of bankruptcy, but, even then, it does not  
13 happen without court approval.

14       At bottom, Mr. Stevens, although a court-appointed officer, is not the court,  
15 and he cannot unilaterally modify the statutes (which even the court cannot do,  
16 unless the statutes allow it to do so.) Given the foregoing, the court finds and orders  
17 and follows:

- 18       1. Robert L. Stevens and all those acting in concert with him are restrained  
19       and enjoined from taking any further action as receiver on behalf of or in  
20       the name of the receivership without permission of the court, to include  
21       payment of any fees, costs, and expenses, whether to himself or another  
22       party;
- 23       2. The court appoints Geoff Winkler of American Fiduciary Services, LLC, as a  
24       successor receiver, to take charge of the receivership estate; by close of  
25       business on January 27, 2023, Mr. Stevens shall turn over title, possession,  
26       and control, of all receivership property and information to Mr. Winkler, to  
27       include without limitation, the crypto assets valued at approximately  
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- \$14,397.78; the October 8, 2019 receivership order shall govern unless and until Mr. Winkler may submit an amended receivership order to this court;
3. Mr. Stevens shall appear **on March 2, 2023, at 9:30 AM** and show cause as to why he should not be held in contempt of court for violating the laws governing receivership and this court's receivership order and thereby sanctioned;<sup>1</sup>
  4. The December 19, 2022, motion to seal is granted in part and denied in part, and Mr. Stevens may file a modified redacted copy of Exhibit 1 to his final report and request for discharge, consistent with the above, by January 26, 2023; the court shall set an **in chambers' status check for January 27, 2023**, to ensure that a modified redacted copy has been filed; if a modified redacted copy, consistent with the above, has not been filed by January 26, 2023, the court shall order the sealed copy of Exhibit 1 to be unsealed; and
  5. The November 8, 2022, motion to assign interest is denied without prejudice given the foregoing.

IT IS SO ORDERED.

Dated this 20th day of January, 2023

  
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819 299 99F5 3EC0  
Maria Gall  
District Court Judge

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<sup>1</sup> Mr. Stevens may, of course, have counsel present at the February 23, 2023, hearing but he may not charge or attempt to charge his counsel's fees to the receivership estate. Moreover, the court typically requires in person appearances at show cause hearings, but given that Mr. Stevens resides out-of-state, the court will allow him to appear by Bluejeans should he choose to do so.

1 **CSERV**

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3 DISTRICT COURT  
CLARK COUNTY, NEVADA

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6 In the Matter of the Petition of | CASE NO: A-14-709484-P  
7 Ketcher Industries LLC | DEPT. NO. Department 9

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9 **AUTOMATED CERTIFICATE OF SERVICE**

10 This automated certificate of service was generated by the Eighth Judicial District  
11 Court. The foregoing Order was served via the court's electronic eFile system to all  
12 recipients registered for e-Service on the above entitled case as listed below:

13 Service Date: 1/20/2023

14 Peter Chasey .	peter@chaseylaw.com
15 Peter Dubowsky .	peter@dubowskylaw.com
16 Shannon .	shannon@chaseylaw.com
17 William Thompson .	william@dubowskylaw.com
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