

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE:	§	Case No. 11-35165-7
	§	
RETIREMENT VALUE, LLC,	§	Involuntary Chapter 7
	§	
DEBTOR.	§	

JOINDER OF STATE COURT INTERVENORS IN THE MOTION TO ABSTAIN OR DISMISS FILED BY THE STATE COURT-APPOINTED RECEIVER

Gary Cain, Barry Edelstein and Qvest III Master Fund, LLC, together with Grant W. Bejcek and Opal E. Bejcek and Intervenor LaDell Harrison, on behalf of Matthew C. Allen, Jr., Teddie J. Allen and The Matthew and Teddie Allen Charitable Remainder Annuity Trust (collectively, the “State Court Intervenor”) join in the Motion to Abstain or Dismiss filed by Eduardo S. Espinosa (the “Receiver”) as follows:

1. The State Court Intervenor comprise 100% of the RV investors who have actually intervened into the State Court Receivership action many months ago and have actively participated in the formal and informal proceedings of the Receivership. The State Court Intervenor do not necessarily always agree on all aspects of the Receivership and have at times, taken different positions in hearings before the State Court Judge who has patiently and firmly presided over this Receivership.¹ The State Court Intervenor do agree however on one point – efficiency, economy and the best interests of the investors mitigates strongly on the side of

¹ The Bejceks, for instance, currently have a motion pending before the Court to seek the return of their funds. The Bejceks contend, among other things, that their money should be returned since their funds were sent to RV within days of the State’s cease and desist order, and RV never executed the Policy Participation Agreement. This motion has been argued before the Court, and was set to be reheard in light of new developments the Monday following the filing of the involuntary bankruptcy petition. This motion was previously not agreed to by the remaining State Court Intervenor.

granting the Receiver's Motion to Abstain or Dismiss this involuntary Chapter 11 Bankruptcy case.

2. Through three separate law firms, the State Court Intervenors have taken an active role, appearing at depositions, scheduling conferences, witness interviews, meetings with the Receiver and Court hearings. Through this active effort, the State Court Intervenors have had a positive effect on this Receivership. The efforts of the State Court Intervenors have served to be a check and balance on the Receivership, have helped Judge Triana-Doyal keep the Receivership on a fast track, and have proven to be a great asset in promoting settlements that are actually putting money back in the Receivership for the benefit of the investors. These efforts have also assisted the Receiver into the process of seeking recoveries from responsible third parties.

3. Unfortunately, the involuntary bankruptcy has delayed the pursuit of recoveries for the investors, delayed administration of the Receivership and left many items pending without Court determination. Frankly, the prospect of starting over in a new court system, with new schedules, new rules and procedures new to the case is deeply concerning to the State Court Intervenors particularly after so much time, effort and expense has been expended to get the Receivership to this point. The filing of the involuntary petition in bankruptcy has now delayed court approval of the settlement with Dick Gray, which was stayed due to the bankruptcy filings. Resolution of the Bejcek's motion has been delayed. Further, potential distributions to investors were stayed, as was a significant set of motions seeking to determine the extent of the securities fraud involved in the RV scheme. These rulings were important to the pursuit of third parties that appeared to be actively involved with Dick Gray in defrauding a large group of investors, significantly comprised of retirees living on fixed incomes. (Hence the name – Retirement Value.) Along these lines, several lawsuits in pursuit of recoveries for the investors have been

delayed. For instance, attached hereto is the lawsuit filed by the Receiver early in the day of the bankruptcy filing. The bankruptcy filing has delayed any movement forward in this case, which is expected to provide significant recoveries for the investors. A second such recovery suit was set to be filed later in the day the bankruptcy was filed, and due to the bankruptcy filing, has gone unfiled. These recovery efforts are very important to the investors, and the delay and now uncertainty related to the bankruptcy court filing is affecting investor recoveries.

4. Issues pertinent to the Receivership, which were set to be heard by the State Court, have now been delayed by the bankruptcy filing. Judge Triana-Doyal has taken great care to handle this Receivership and the ancillary lawsuits on an assigned docket, so she could rule on all matters and cases efficiently, correctly and in an effort to avoid duplicative rulings. The loss of Judge Triana-Doyal's efforts and perseverance toward this Receivership and the related cases will require many matters, schedules and orders to be revisited and repeated at additional expense to the Receivership and State Court Intervenors. Needless to say, a complete forum change for this Receivership will only increase the time and expense for the State Court Intervenors.

5. Thus far, notices have been sent to investors, and information has been made available to investors. To date, no investor has lodged any complaint or objection to the State Court's jurisdiction in this case, and the State Court Intervenors have acknowledged the State Court's jurisdiction over the assets and claims of the Receivership. The State Court investors want the most efficient process possible to allow the Receivership to maximize the recovery for investors – this means efficiently proceeding to maximize the value of the insurance policies and to maximize the recovery of the two third party lawsuits. A tremendous amount of effort has

taken place by the State Court Intervenors to assist the State Court in putting this process in place, and it would be a waste for such efforts to have to be repeated.

6. The opinions, positions and efforts of the investors who filed the involuntary bankruptcy are very welcome by the State Court Intervenors in the State Court action. Even though these investors delayed past the filing deadlines to intervene, the State Court Intervenors do not wish to exclude these investors from participating in the State Court Receivership. To the contrary, their input is welcome.

7. Unfortunately, the investors who filed the involuntary petition did not attempt to collaborate with the State Court Intervenors, or even attempt to appear in Court to express their concerns to Judge Triana-Doyal. Had they done so, they would have found a judge who has proven thus far to be extremely capable of keeping the Receivership issues in balance, making decisive and well balanced decisions, and keeping a multitude of lawyers dedicated to the goal of resolution for the benefit of RV and its investors.

8. The State Court Intervenors urge this Court to very carefully consider whether wise justice mandates replacing the State Court receivership process with a bankruptcy proceeding. Furthermore, the Court is also urged to reflect upon the effect this possible bankruptcy will have upon the very important lawsuits filed in the recovery efforts for investors. Does this Court have jurisdiction over these suits? Will potential defendants seek to use this proceeding as a safe haven? Will this proceeding delay these recovery efforts or create confusion over the State Court's jurisdiction over these claims. As this Court knows, bankruptcy court jurisdiction over claims such as these creates multiple arguments, appeals and uncertainty.

9. There is no question that the State Court Receivership has jurisdiction over the recovery lawsuits, jurisdiction over the State of Texas Receivership action and interference of

that jurisdiction will not work to the investors' benefit. Consequently, for the foregoing reasons, the State Court Investors urge the Court to dismiss the bankruptcy filing or abstain from exercising jurisdiction.

Respectfully submitted,

HANCE SCARBOROUGH, LLP
111 Congress Avenue, Suite 500
Austin, Texas 78701
(512) 479-8888
(512) 482-6891 (fax)

By: /s/ Geoffrey D. Weisbart
Geoffrey D. Weisbart
State Bar No. 21102645
Terry L. Scarborough
State Bar No. 17716000
Tonia L. Lucio
State Bar No. 00793080

**ATTORNEYS FOR GARY CAIN, BARRY EDELSTEIN,
AND QVEST III MASTER FUND, LLC**

SHANNON, GRACEY, RATLIFF & MILLER, LLP
301 Congress Avenue, Suite 1500
Austin Texas 78701
(512) 610-2714
(512) 499-8669 fax

By: /s/ Patrick S. Richter
Patrick S. Richter
State Bar No. 00791524

ATTORNEY FOR GRANT W. AND OPAL E. BEJCEK

GARCIA & MARTINEZ, L.L.P

5211 W. Mile 17½ Road

Edinburg, Texas 78541

(956) 380-3700

(956) 380-3703 fax

By: /s/ Alberto E. Garcia, III

Alberto T. Garcia, III

State Bar No. 00787515

**ATTORNEY FOR MATTHEW C. ALLEN, JR., TEDDIE
J. ALLEN AND THE MATTHEW AND TEDDIE ALLEN
CHARITABLE REMAINDER ANNUITY TRUST**

