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10 Attorneys for Defendant
 THOMVEST HOLDINGS LLC
 11 A Delaware Limited Liability Company

12 IN THE UNITED STATES DISTRICT COURT
 13 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 14 OAKLAND DIVISION

15 In re:
 16 WILLIAM JAMES DEL BIAGGIO, III,
 17 Debtor.

Case No. 4:11-cv-05180-YGR
 Case No. 4:13-cv-02794 -YGR
 Chapter 11
 ADV. PROC. NO. 11-03191

**[Proposed] STIPULATED ORDER FOR
 DISPOSITION OF INTERPLEADED FUNDS**

18
 19
 20 ROBERT J. THOMAS,
 21 Plaintiff,
 22 v.
 23 WILLIAM JAMES DEL BIAGGIO, III, et al.,
 24 Defendants.

Date: No Hearing Unless
 Time: Directed By Court
 Ctrm:
 Judge: Honorable Yvonne Gonzalez Rogers

1 This bankruptcy adversary proceeding involves competing claims to interpleaded funds now held
2 by the Clerk of this Court (the “Clerk of the District Court”) and the Clerk of the United States
3 Bankruptcy Court in the Northern District of California (the “Clerk of the Bankruptcy Court”) (together
4 the “Clerks of Court”), as follows (collectively, the “Deposited Funds”):

5 The Clerk of the District Court holds funds in connection with Civil Case No. 4:11-cv-5180,
6 pursuant to stipulated order issued and filed May 14, 2012 in Case No. 4:11-cv-5180, in the principal
7 amount of \$1,288,467.53 and accrued interest through February 28, 2015, in the amount of \$810.09 for a
8 total of \$1,289,277.62 as of February 28, 2015, and additional interest accruing after that date (the
9 “District Court Funds”). Case No. 4:11-cv-5180 was closed pursuant to order filed July 20, 2012, and
10 the Clerk of the District Court continued to hold the District Court Funds under that case number.

11 The Clerk of the Bankruptcy Court holds funds in connection with Adversary Proceeding No. 11-
12 3191 TC pursuant to Bankruptcy Court order entered August 26, 2013 in the principal amount of
13 \$9,920,947.97 and accrued interest through February 28, 2015, in the amount of \$11,285.74, for a total of
14 \$9,932,233.71 as of February 28, 2015, and additional interest accruing after that date (the “Bankruptcy
15 Court Funds”).

16 This adversary proceeding was tried before Bankruptcy Judge Thomas Carlson on February 12 –
17 13, 2013. It came before this Court as Case No. 4:13-cv-02794-YGR for *de novo* review of the Amended
18 Proposed Findings of Fact and Conclusions of Law (“Proposed Findings and Conclusions”) prepared and
19 submitted following trial by the Bankruptcy Judge [Bankruptcy Docket No. 99], upon timely objections
20 by Defendant R. Todd Neilson, as Liquidating Trustee for Debtor William James Del Biaggio III
21 (“Defendant Trustee”). The Court has considered *de novo* pursuant to Rule 9033(d) of the Federal Rules
22 of Bankruptcy Procedure the objections filed by Defendant Trustee, the response thereto filed by
23 Defendant and Counterclaimant Thomvest Holdings LLC (“Counterclaimant Thomvest”), and the
24 Proposed Findings and Conclusions and the record of the trial, and has issued its Order Accepting
25 Bankruptcy Court’s Amended Proposed Findings of Fact and Conclusions of Law upon such *de novo*
26 review, with modifications thereto, entered as Docket No. 11 on August 12, 2014.

27 On September 17, 2014, the Court granted the parties’ Stipulated Motion to Correct Final
28 Judgment Pursuant to Fed. R. Civ. P. 60(a) and entered the Corrected Judgment on De Novo Review and

1 Order Accepting Bankruptcy Court's Proposed Findings of Fact and Conclusions of Law (FRCP 60(a))
2 (the "Corrected Judgment") (Dkt. No. 20).

3 On September 19, 2014, Defendant Trustee filed a timely notice of appeal from the Corrected
4 Judgment and thereafter filed Appellant's Opening Brief. On February 20, 2015 the parties reached a
5 settlement agreement in principle and on March 16, 2015 the parties memorialized the terms of their
6 settlement in the Settlement Agreement. As set forth in the Settlement Agreement, Defendant Trustee
7 shall receive \$1,000,000.00 of the Deposited Funds, and Counterclaimant Thomvest shall receive the
8 remainder of the Deposited Funds.

9 On March 17, 2015, the parties filed their Stipulation Requesting Entry of Order for Disposition
10 of Interpleaded Funds (Dkt. No. 22), to implement the provisions of the Settlement Agreement.

11 Accordingly, pursuant to the Stipulation of the parties, **IT IS HEREBY ORDERED** that the
12 Clerks of Court are authorized and directed forthwith to disburse the Deposited Funds as follows:

- 13 (a) The Clerk of the District Court shall forthwith release and pay over to Defendant
14 Trustee **exactly \$1,000,000.00** from the District Court Funds. Such payment shall be
15 made to:


16 R. Todd Neilson, Liquidating Trustee
17 c/o Pachulski Stang Ziehl & Jones LLP
18 Attn: John D. Fiero, Esq.
19 150 California Street, 15th Floor
20 San Francisco, CA 94111
Phone: 415 263 7000
Fax: 415 263 7010
Email: jfiero@pszjlaw.com

- 21 (b) The Clerk of the District Court shall forthwith release and pay over to Counterclaimant
22 Thomvest the remaining amount of the District Court Funds, comprising the balance of
23 principal in the amount of \$288,467.53 and all accrued interest through February 28,
24 2015, in the amount of \$810.09, for a **total of \$289,277.62**, plus any amount of interest
25 accruing on the District Court Funds after February 28, 2015. Such payment shall be
26 made to:

1 THOMVEST HOLDINGS LLC
2 c/o Durie Tangrie LLP
3 217 Leidesdorff Street
4 San Francisco, CA 94111
5 Attn: Johanna Calabria, Esq.
6 Tel: 415.362.6666
7 Fax: 415.236.6300
8 jcalabria@durietangri.com

- 9 (c) The Clerk of the Bankruptcy Court shall forthwith release and pay over to
10 Counterclaimant Thomvest the full amount of the Bankruptcy Court Funds,
11 comprising the principal amount of \$9,920,947.97 and accrued interest through
12 February 28, 2015, in the amount of \$11,285.74, for a **total of \$9,932,233.71**, plus any
13 amount of interest accruing on the Bankruptcy Court Funds after February 28, 2015.
14 Such payment shall be made to the same entity and precisely in the same manner as is
15 set forth in (b) immediately above.
- 16 (d) As provided in the Corrected Judgment, any further amounts that may be distributed or
17 distributable to the holder of the Warrant which is the source of the Deposited Funds
18 shall be distributed to Counterclaimant Thomvest.
- 19 (e) Should either of the Clerks of Court required additional instruction from this Court in
20 connection with the disbursement of the Deposited Funds, the parties may seek such
21 instruction without motion or hearing by submission of a joint written request and a
22 stipulated form of order.
- 23 (f) This Order, or a copy hereof, shall be filed in both District Court Cases (No. 4:11-cv-
24 05180 and 4:13-cv-02794) and in the Bankruptcy Court in Adversary Proceeding
25 No. 11-3191.

26 Dated: March 20, 2015

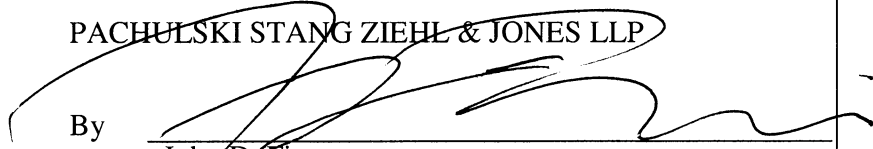
27 
28 THE HONORABLE YVONNE
GONZALEZ ROGERS
UNITED STATES DISTRICT JUDGE

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The undersigned, counsel of record for the parties, stipulate to entry of the foregoing Order.

Dated: March 7, 2015

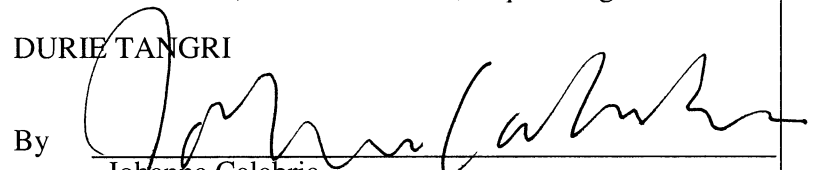
PACHULSKI STANG ZIEHL & JONES LLP

By 

John D. Fiero
Attorneys for Interpleader Defendant and Cross-Defendant, R. Todd Neilson, Liquidating Trustee

Dated: March 7, 2015

DURIE TANGRI

By 

Johanna Calabria
Attorneys for Interpleader Defendant and Third-Party/Cross-Plaintiff, Thomvest Holdings LLC