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*Donald Gilbert, and Global Tech Industries Group, Inc.*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

WHITE ROCKS (BVI) HOLDINGS INC., et al. ) Case No. A-24-896359-B

Plaintiffs,

vs.

DAVID REICHMAN, KATHY M. GRIFFIN,  
FRANK BENINTENDO, DONALD  
GILBERT, DOES I THROUGH X,  
INCLUSIVE, and ROE CORPORATIONS I  
THROUGH X, inclusive,

Defendants,

) Dept. No. 16

) **HEARING REQUESTED**

) **DEFENDANTS DAVID REICHMAN,**  
) **KATHY M. GRIFFIN, FRANK**  
) **BENINTENDO, DONALD GILBERT, AND**  
) **GLOBAL TECH INDUSTRIES GROUP,**  
) **INC.'S MOTION TO RECONSIDER RE**  
) **COURT ORDER ON PLAINTIFFS' EX**  
) **PARTE APPLICATION TO APPOINT**  
) **RECEIVER**

COME NOW specially appearing Defendants David Reichman, Kathy M. Griffin, Frank Benintendo, Donald Gilbert, and Global Tech Industries Group, Inc. (hereinafter "Defendants") by and through their counsel of record, Robert A. Rabbat, Esq. and Teri T. Pham, Esq. of Enenstein Pham Glass & Rabbat LLP, and hereby file this Motion For Reconsideration Re Court Order on Plaintiffs' Ex Parte Application to Appoint Receiver.

1 This Motion is made and based upon the Memorandum of Points and Authorities attached hereto,  
2 the pleadings and papers on file herein, and any oral argument the Court wishes to entertain at the hearing  
3 on this Motion.

4 DATED this 6th day of September 2024.

5  
6 Respectfully submitted by:

7  
8 **ENENSTEIN PHAM GLASS & RABBAT LLP**

9  
10 By: 

11 Robert A. Rabbat, Esq.  
12 Nevada Bar Number 12633  
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20 *Attorneys for Specially Appearing Defendants,*  
21 *David Reichman, Kathy M. Griffin, Frank Benintendo,*  
22 *Donald Gilbert, and Global Tech Industries Group, Inc.*  
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiffs filed this action and brought an Ex Parte Motion to Appoint a Receiver claiming to be  
4 the holders of at least 10% of all the outstanding shares of Global Tech Industries Group, Inc. (“GTII”).  
5 That claim was false, and new evidence now confirms the falsity of those claims. For this reason,  
6 Defendants respectfully request that the Court reconsider and vacate its August 26, 2024 ruling appointing  
7 a receiver under NRS 32.010 and 78.650. Defendants further respectfully request clarification as to  
8 whether Afshin Luke Rahbari, who is neither a defendant in this action, nor a director or officer of GTII  
9 at the time of any of the events alleged in the Complaint or involved in any of the purported wrongdoing,  
10 may be appointed as the Receiver pending this litigation.

11 **II. SUMMARY OF PERTINENT FACTS**

12 Plaintiffs filed this action on June 27, 2024, claiming to be the holders of 55,731,408 shares of  
13 GTII. In support of their claims, Plaintiffs submitted declarations setting forth their respective purported  
14 share ownership. See Exhibit 3 to Plaintiffs’ Appendix in support of Ex Parte Motion to Appoint Receiver  
15 (“Appendix”). However, the purported shareholdings set forth in Plaintiffs’ own declarations only add up  
16 to a total of 42,220,331 shares. See Exhibit 3 to Appendix. Plaintiffs provided no other evidence of their  
17 purported share ownership.

18 The single largest purported Plaintiff shareholder is AI Commerce Group, LLC (“AI Commerce”),  
19 which claimed to own 20,000,000 shares of GTII. *See* Exhibit 3 to Appendix at p. 17. As discussed in the  
20 Declaration of Kathy Griffin (“Griffin Decl.”), filed August 5, 2024, AI Commerce is not the owner of  
21 those 20,000,000 shares, as it never consummated the transaction with GTII to receive those shares. *See*  
22 Griffin Decl. at ¶8-9. As of the date of the last hearing on August 7, 2024, those shares remained held in  
23 escrow and were not transferred or released to AI Commerce. *Id.* This issue was never addressed by  
24 Plaintiffs in their moving or supplemental papers, and was not addressed by the Court in its August 26,  
25 2024 Minute Order.

26 There is now new evidence as discussed further below, in that the time for AI Commerce to  
27 complete the transaction in order to actually receive the 20,000,000 shares expired on August 23, 2024,  
28 and AI Commerce failed to fulfill its obligations under the contract with GTII by that date. Therefore, as

of August 23, 2024, the 20,000,000 shares were returned from escrow to the Company’s transfer agent to be cancelled and returned to the Company’s treasury. *See* Supplemental Declaration of Kathy Griffin (“Supp. Griffin Decl.”), filed concurrently herewith, at ¶12-13, Exhibit D. Thus, no GTII stock was ever transferred to AI Commerce. As a result, Plaintiffs only hold, at most, 22,220,331 shares of GTII out of a total 331,662,569 total outstanding shares, well below the required 10% holdings. Accordingly, the Plaintiffs lack the requisite standing for appointment of a receiver and the Motion for Appointment of Receiver should be reconsidered and denied.

### **III. LEGAL ARGUMENT**

#### **A. Legal Standard for Reconsideration**

A party may seek reconsideration based upon substantially different evidence than originally presented, a change in the law, or if the original decision was clearly erroneous. *See, e.g., Masonry and Tile Contractors Ass’n v. Jolley, Urga & Wirth*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997). “A finding is ‘clearly erroneous’ when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.” *Unionamerica Mortg. & Equity Tr. v. McDonald*, 97 Nev. 210, 211-12, 626 P.2d 1272, 1273 (1981) (quoting *United States v. Gypsum Co.*, 333 U.S. 364, 395 (1948)).

As discussed below, Defendants respectfully request reconsideration of the Court’s August 26, 2024 Ruling based upon the clear law and new evidence and circumstances concerning the Plaintiffs’ purported shareholdings and standing, and on the ground that the ruling was clearly erroneous in light of this additional evidence. Furthermore, there is no actual prejudice to Plaintiffs if a Receiver is not appointed as no shares may be transferred or sold during the pendency of this dispute, as discussed in the declaration of securities counsel, Sasha Ablovatskiy. Defendants offered to stipulate prior to the hearing on the Motion for Receiver to an injunction prohibiting any further transfer or issuance of shares to any officers or directors or other insiders pending resolution of this dispute, and remain willing to enter into such a stipulation.

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1           **B.     New Evidence Establishes That Plaintiffs are Not the Holders of at Least 10% of the**  
2                           **Outstanding Shares of GTII.**

3           NRS 78.650 states specifically and clearly that only shareholders holding at least 10% of a  
4 corporation's outstanding shares may petition the court for the appointment of a receiver. This 10%  
5 threshold is a jurisdictional prerequisite that must be satisfied before the court can intervene in the  
6 corporation's affairs. If this requirement is not met, the court lacks the authority or jurisdiction to appoint  
7 a receiver, and any such appointment is void. *N5HYG, LLC v. Iglesias*, 511 P.3d 319., citing  
8 *Searchlight Dev., Inc. v. Martello*, 84 Nev. 102, 109, 437 P.2d 86, 90 (1968) ("The district court  
9 does not have jurisdiction to appoint a corporate receiver, unless the applicant holder or holders  
10 of one-tenth of the issued and outstanding stock has legal title at the time the court considers the  
11 application."). The plaintiffs, according to the definition of a holder under the statute, as indicated in NRS  
12 78.010 (i), must hold the shares in their name on the records of the company, and this definition does not  
13 apply to beneficial holders. Persons that hold the shares through a brokerage account, or third party  
14 structure, can only be considered beneficial holders and may not be included in the calculation of the 10%  
15 as the statute clearly states "...The term does not include a beneficial owner of shares who is not  
16 simultaneously the owner of record of such shares as indicated in the stock ledger." (NRS 78.010(i)).

17           As discussed above, Plaintiffs claimed to be the holders of 55,731,408 shares of GTII. The actual  
18 evidence Plaintiffs themselves submitted only show that they hold, at most, 42,220,331 shares of GTII.  
19 20,000,000 of those shares were never actually transferred to Plaintiffs and were held in escrow, and were  
20 not and are not owned by Plaintiffs. As of August 23, 2024, those 20,000,000 shares have been returned  
21 to GTII's transfer agent for cancellation pursuant to the express terms of the written agreement between  
22 AI Commerce and GTII. Thus, at most, Plaintiffs only hold 22,220,331 shares of GTII out of 331,662,569  
23 and do not meet the requisite 10% threshold for standing to seek appointment of a receiver.

24           At the very least, Defendants respectfully request an evidentiary hearing on this issue, especially  
25 in the event Plaintiffs attempt to submit new or additional evidence of their purported stock ownership.

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1           **C.     The Minute Order Should Be Clarified to Specify Appointment of Non-Negligent**  
2                               **Director Afshin Luke Rahbari.**

3           To the extent the Court nonetheless determines that Plaintiffs somehow are the holders of at least  
4 10% of the shares and a Receiver should be appointed, Defendants respectfully request that the Court  
5 clarify that Mr. Rahbari should be the Court-appointed receiver. The Court's August 26, 2024 Minute  
6 Order does not specify who is to be appointed as receiver and does not address Defendants' argument that  
7 Mr. Rahbari, who had no involvement in the alleged wrongdoing or mismanagement, should be appointed  
8 as Receiver, as required under Nevada law. *See* NRS 78.650(1); *Peri-Gil Corp. v. Sutton* (1968) 84 Nev.  
9 406 (holding that a non-negligent director is entitled to preferential consideration for appointment to  
10 receivership; such a non-negligent director can only be rejected if there is an appropriate reason to do so.)

11           Indeed, Mr. Rahbari was appointed as an independent director and CEO in August of this year,  
12 well after the events Plaintiffs complain of in their Complaint. In fact, it was Mr. Rahbari who determined  
13 that the shares previously issued to the officers and directors in 2023 in anticipation of the AI Commerce  
14 transaction closing should be canceled and returned. Mr. Rahbari also actively assisted in engaging a new  
15 auditor for the company and reviewing agreements and transactions with the company. Mr. Rahbari has  
16 also been actively pursuing outstanding debts owed to the company, as well as other positive changes on  
17 behalf of the company. *See* Supplemental Declaration of Afshin Luke Rahbari.

18           Plaintiffs have offered no evidence to show any negligence or mismanagement on the part of Mr.  
19 Rahbari to reject his appointment under these circumstances. Accordingly, Defendants respectfully  
20 request reconsideration and/or clarification on this ground, as well.

21 **IV.     CONCLUSION**

22           For all the foregoing reasons, the Court should grant reconsideration and deny the Motion for  
23 Receiver or clarify that Mr. Rahbari is appointed as Receiver for the company.

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1 Respectfully submitted by:

2  
3 By: 

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15 *Donald Gilbert, and Global Tech Industries Group, Inc.*

1 **CERTIFICATE OF SERVICE**

2 Pursuant to Nev.R.Civ.P. 5(b), I hereby certify that on September 6, 2024, I served a true and  
3 correct copy of the foregoing:

4 **DEFENDANTS DAVID REICHMAN, KATHY M. GRIFFIN, FRANK BENINTENDO,**  
5 **DONALD GILBERT, AND GLOBAL TECH INDUSTRIES GROUP, INC.'S MOTION TO**  
6 **RECONSIDER RE COURT ORDER ON PLAINTIFFS' EX PARTE APPLICATION TO**  
7 **APPOINT RECEIVER**

8 electronically via the court's e-filing system Odyssey eFileNV, including the following interested parties  
9 named below:

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20 /s/ Johnny G. Balbuena

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