

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

SECURITIES AND EXCHANGE  
COMMISSION,  
Plaintiff,

v.  
ARTHUR NADEL; SCOOP CAPITAL, LLC;  
and SCOOP MANAGEMENT, INC.,  
Defendants,

SCOOP REAL ESTATE, L.P.; VALHALLA  
INVESTMENT PARTNERS, L.P.;  
VALHALLA MANAGEMENT, INC.;  
VICTORY IRA FUND, LTD.; VICTORY  
FUND, LTD.; VIKING IRA FUND, LLC;  
VIKING FUND, LLC; and VIKING  
MANAGEMENT, LLC,  
Relief Defendants.

Case No: 8:09-cv-87-T-26TBM

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**QUEST ENERGY MANAGEMENT GROUP, INC.'S  
MOTION FOR LEAVE TO FILE SUR-REPLY**

Quest Energy Management Group, Inc. ("Quest"), by and through the undersigned counsel and pursuant to Local Rule 3.01(c) and (d), hereby files this Motion for Leave to File Sur-Reply. This motion is directed at The Receiver's Reply (Doc. 1007) to Quest Energy Management Group, Inc.'s Opposition (Doc. 1003) to the Receiver's Motion to Expand the Scope of the Receivership (Doc. 993) ("The Receiver's Reply"), filed with this Court on April 26, 2013. A sur-reply is warranted to address new issues and allegations, as well as incorrect information and misstatements, raised for the first time in The Receiver's Reply.

**MEMORANDUM OF LEGAL AUTHORITY AND ARGUMENT**

The Court should grant leave to file a Sur-Reply when a reply, for the first time, raises new facts, issues or arguments, makes misstatements, or applies inapplicable case law. *See Signal Technology, Inc. v. Pennsummit Tubular, LLC*, 2009 U.S. Dist. LEXIS 81344

(S.D. Fla. 2009) (granting leave to file Sur-Reply to address new issues raised in the reply); Ottaviano v. Nautilus Ins. Co., 660 F. Supp. 2d 1315 (M.D. Fla. 2009)(filing of reply memorandum warranted where movant argued that response memorandum contained misstatements and inapplicable case law).

The Receiver's Reply asserts that due to substitution of counsel, "it appears Quest is in financial straits, and "its financial position is now so precarious." These statements are inaccurate, both because financial reasons did not cause or contribute to the change in counsel, and because Quest's financial picture is improving. Quest has established a track record of being able to raise money. With an additional 60 days, Quest expects to close on the current raise and will be able to pay off the note and accrued interest. Quest is confident that this would be the best solution for all parties, as the receiver and Quests' investors will realize a better return than if the receiver were to try to liquidate Quest.

Further, The Receiver's Reply incorrectly states that "Quest admits those proceeds represented the vast majority of its initial funding," in regards to receipt of \$5.1 million in proceeds from the Ponzi scheme. The initial offering raised \$750,000 from twenty-three (23) investors for four (4) leases. None of those funds involved the Nadal funds. Rather, the Nadal funds were received in a subsequent offering and placed in subsequent investments, but the business was not originated as a "scheme." In total, of the more than \$21.3 million in funds Quest has raised from approximately 135 investors, a total of \$5.1 million was invested by Nadal parties. [Affidavit of Paul Downey, ¶ 29].

The Receiver also wrongly asserts that Quest "should be included in this Receivership to preserve and enable the Receiver to extract its remaining value—otherwise, in all

likelihood the Receivership (and Quest's other investors) will be left with nothing." Ironically, because of the Receiver's lack of experience in managing oil and gas leases and production therefrom, Quest believes that granting the Receiver's request will minimize Quest's opportunity for success in a business that currently is being effectively managed by current management of Quest. More than \$545,000 has been repaid to date by Quest.

[Affidavit of Paul Downey, ¶ 44]

The aforesaid inaccurate statements are prejudicial as they might encourage this Court to act when such action is not otherwise appropriate or necessary. Quest therefore requests leave to more fully address these matters in a Sur-Reply.

**LOCAL RULE 3.01(g) CERTIFICATION OF COMPLIANCE**

The undersigned counsel for Quest has conferred with counsel for the Commission and is authorized to represent to the Court that the Commission does not oppose the relief requested in this motion. Counsel for Quest has also conferred with counsel for the Receiver and the Receiver opposes the relief requested in this motion.

Respectfully submitted,  
LEWIS BRISBOIS BISGAARD & SMITH LLP

s/John A. Rine

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Attorneys for Quest Management Group, Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 23<sup>rd</sup> day of May, 2013, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

**s/John A. Rine**

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Attorney