

# EXHIBIT D

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

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

ARTHUR NADEL;  
SCOOP CAPITAL, LLC;  
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.

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**THE RECEIVER'S RESPONSE TO OBJECTION  
RELATING TO DETERMINATION OF CLAIM NUMBER 445**

On March 6, 2012, Burton W. Wiand, as court-appointed Receiver (the "**Receiver**") for Valhalla Investment Partners, L.P.; Viking Fund, LLC; Viking IRA Fund, LLC; Victory Fund, Ltd.; Victory IRA Fund, Ltd.; and Scoop Real Estate, L.P. (collectively, the "**Hedge Funds**," and along with all other entities placed in receivership, the "**Receivership Entities**"), among other entities, received an objection from Fulcrum Distressed Opportunities Fund I, LP ("**Fulcrum**"), through its counsel, Kevin M. Eckhardt of Hunton &

Williams LLP (the “**Objection**”), to the determination for Claim Number 445 (“**Claim 445**”) (a copy of the Objection is attached as **Exhibit A**). According to information provided to the Receiver over time, Canrol Finance Limited (“**Canrol**”) submitted Claim 445 in its capacity as nominee for the account of two investment funds which invested in one of the Hedge Funds: Genium AI Fund Series 1 Ltd. Standard Portfolio and Genium Trading Company Ltd. (collectively, “**Genium**”). That claim was denied and the Objection purports to “provide to the Receiver the ... lists of beneficial holders for the Genium funds and request[s] that the Receiver deem any objections to these claims cured.”<sup>1</sup> Ex. A at 2. For the reasons discussed below in Sections I, II, and III, the Receiver opposes the Objection and will not change his determination of Claim 445. In the event the Court ultimately may allow Claim 445 in whole or in part, then, as discussed below in Section IV, the claim should be equitably subordinated to other investors’ claims. As is clear from this response, Fulcrum’s Objection seeks preferential treatment of Claim 445, yet it fails to identify any reason whatsoever why that claim should be treated any differently than all other similarly situated claims.

#### **BACKGROUND**

On April 20, 2010, the Receiver filed an Unopposed Motion to (1) Approve Procedure to Administer Claims and Proof of Claim Form, (2) Establish Deadline for Filing Proofs of Claim, and (3) Permit Notice by Mail and Publication and Incorporated

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<sup>1</sup> According to Fulcrum, it purchased Claim 445 from Genium, and the Objection also seeks “recognition of its transfer to Fulcrum.” The transfer of that claim, however, is governed by a private arrangement between Fulcrum and Genium, and Fulcrum has never identified any reason why the Receiver has to “recognize it,” and thus expose the Receivership to potential disputes relating to that transfer, for Fulcrum to enforce its rights under its agreement with Genium.

Memorandum of Law (the “**Claims Form Motion**”) (Doc. 390). The following day, the Court entered an Order approving the Claims Form Motion in its entirety (Doc. 391). This motion and order established a procedure to administer claims and a Proof of Claim Form which required claimants to provide certain specified information.

The Receiver subsequently received a Proof of Claim Form from representatives of Canrol Finance Ltd. (“**Canrol**”), claiming total losses of \$1,195,000.00 (a copy of that Proof of Claim Form is attached as **Exhibit B**). In response to question 17 of the Proof of Claim Form, Canrol indicated that it was its “client’s decision to invest in this Fund,” but Canrol did not provide the name(s) of or any other details about the client.

After reviewing the Proof of Claim Form, on February 8, 2011, the Receiver sent correspondence to Canrol identifying deficiencies in the Proof of Claim Form (a copy of the correspondence is attached as **Exhibit C**). Essentially, the correspondence noted that the investment underlying Claim 445 appeared to be a custodial arrangement, and consequently Canrol needed to provide information about the beneficial owner or owners of the investment. Specifically, the letter explained,

As this appears to be a custodial account, you must identify the beneficial owner(s) of this account and any other parties with an interest in this account and specify the nature of each such person’s or entity’s interest. If the beneficial owner(s) is an entity, you must provide the information requested in question 3 of the Proof of Claim Form. Further, I require an original signature of an authorized beneficial owner on the submitted Proof of Claim Form certifying under penalty of perjury that the information provided on the Proof of Claim Form is true and correct for the beneficial owner(s) and the [pertinent] ... account.

Alternatively, an officer of the Bank may provide a notarized document attesting to the following: (1) the identities of the beneficial owner(s) of the [pertinent] ... account and any other parties with an interest in the account; (2) the nature of the interest of each person or entity identified in

(1); (3) the beneficial owner(s) agrees that the Exhibit A attached to the Proof of Claim Form accurately reflects the amount of the investment and all amounts received from that account and any other funds received from the Receivership Entities; (4) the beneficial owner(s) and/or any other interested parties have not commenced any litigation or other proceedings relating in any way to his/her investment as specified in question 12 of the Proof of Claim Form; and (5) the beneficial owner(s) and/or any other parties with an interest in the [pertinent] ... account did not receive anything of value other than money from any Receivership Entity at any point in time.

Ex. C. The letter provided Canrol 30 days to supplement its Proof of Claim Form and explained that “failure to provide the original signature of an authorized beneficial owner or the notarized documentation requested [in the letter] ... may have an impact on your claim.”

*Id.*

On or about March 11, 2011, Canrol submitted a revised Proof of Claim Form which, for the first time, stated that Canrol was acting as nominee for the account of two Genium investment funds. However, in response to Proof of Claim Form question 3, which, in relevant part, sought the identity of the persons or entities with an interest in Genium, Canrol stated in the revised form that Genium did “not intend to provide/disclose the requested information” (a copy of Canrol’s revised Proof of Claim Form is attached as **Exhibit D**).<sup>2</sup>

On December 7, 2011, the Receiver filed his Unopposed Motion to (1) Approve Determination and Priority of Claims, (2) Pool Receivership Assets and Liabilities, (3)

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<sup>2</sup> Although Mr. Eckhardt later attempted to “cure” the deficiency, he did so only (i) after he was informed by the Receiver that the Receiver intended to deny Claim 445 (*see* June 10, 2011, letter from Receiver to Mr. Eckhardt, attached at **Exhibit E**) and (ii) on the condition that the Receiver enter into a confidentiality agreement. In response, on June 28, 2011, the Receiver informed Mr. Eckhardt that: Canrol had not complied with the requirements for the submission of claims established by the Court, the time for submission of additional information had long since passed, and he would make a determination of Claim 445 based upon the information available at that time (a copy of this letter is attached as **Exhibit F**).

Approve Plan of Distribution, and (4) Establish Objection Procedure (the “**Claims Determination Motion**”) (Doc. 675). In relevant part, that motion recommended denial of Claim 445, explaining that Canrol had failed and refused to provide requested information, which would have revealed the beneficial owners of the investment underlying the claim and any other party with an interest in that investment. *See* Claims Determination Mot. at 23 & Ex. G. As explained in that motion, the refusal to provide the requested information impeded the Receiver from determining whether Claim 445 should be allowed. For example, without the requested information, the Receiver could not determine whether the beneficial owners of the investment (i) held other investment accounts or other interests with any Receivership Entity; (ii) profited from any other such investment or interest in Receivership Entities; (iii) received any money from Receivership Entities through transactions that were not apparent from an investigation of the investment accounts underlying Claim 445 (for example, through “commissions” for referral of investors); or (iv) were “insiders” in the scheme or a Receivership Entity.<sup>3</sup> On March 2, 2012, in relevant part the Court entered an Order granting the Claims Determination Motion as it relates to Claim 445 (Doc. 776). Further, the Order directed any claimant wishing to object to the determination of a claim to submit a written objection to the Receiver by March 27, 2012.

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<sup>3</sup> Three weeks after the Receiver filed the Claims Determination Motion, Mr. Eckhardt finally forwarded to the Receiver a purported list of shareholders of Genium. In response, counsel for the Receiver informed Mr. Eckhardt that, as evidenced from the Claims Determination Motion, the Receiver had finalized his claims review and determinations and that an opportunity to object would be available once the Court established an objections procedure.

On March 6, 2012, the Receiver received the Objection. The Objection, submitted by Fulcrum's outside counsel, stated that it was Fulcrum's understanding that Claim 445 had been denied "on the grounds that the Genium funds have failed to provide a full list of beneficial holders as required." Ex. A. The Objection included a purported list of beneficial holders of Genium, and "request[ed] that the Receiver deem any objections to these claims cured." *Id.*

As discussed in detail below, however, the Objection should be overruled for several independent reasons. First, it should be overruled because the claimant failed to comply with claims procedures and deadlines. Second, it should be overruled because the additional information provided with the Objection still does not cure the deficiency. Third, it should be overruled because at all relevant times Genium was a sophisticated institutional investment professional and it either had inquiry or actual notice of fraud. Further, even if the claim is ultimately allowed, in terms of priority, it should be equitably subordinated to the claims of other investors.<sup>4</sup>

## ARGUMENT

### **I. THE SUBMISSION OF A DEFICIENT PROOF OF CLAIM FORM AND REFUSAL TO CORRECT THE DEFICIENCY BY THE APPLICABLE DEADLINE WARRANTS DENIAL OF THE CLAIM**

As previously noted, the Proof of Claim Form submitted by Canrol required it to, among other things, identify the beneficial owner (or owners) of the investment underlying

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<sup>4</sup> On April 27, 2012, the Receiver filed an Unopposed Motion to (1) Approve First Interim Distribution, (2) Establish Reserves, and (3) Approve Revisions to Certain Claim Determinations (the "**Distribution Motion**") (Doc. 825), and on May 7, 2012, the Court granted it (Doc. 838). As indicated in that motion, for Claim 445 the Receiver reserved \$239,000.00 (or 20% of the claimed amount) in case the claim ultimately is allowed.

Claim 445 and any other party claiming an interest in the investment. This information was important for several reasons (and was requested from all similarly situated claimants). First, the same beneficial owner may have held multiple accounts with the Hedge Funds (or other Receivership Entities), which in turn would have required the accounts to be “netted” so that any profits in an account would offset losses in another account. Second, the beneficial owner could have received money from Receivership Entities through transfers that were not specifically tied to the purported performance of the investment (for example, a beneficial owner could have received “commissions” for referring other investors). Third, a beneficial owner could have been an “insider” in the scheme or a Receivership Entity, or otherwise in a position warranting a greater level of scrutiny, which in turn would have impacted that beneficial owner’s right to receive distributions from the Receivership estate. As discussed above in the Background Section, the pertinent information was not provided, and that deficiency was identified in a February 8, 2011, letter from the Receiver to Canrol. *See* Ex. C. That letter asked Canrol to correct the deficiency within thirty days, and warned that failure to provide the requested information could impact the claim.

Although in response, on or about March 11, 2011, Canrol submitted a revised Proof of Claim Form, it did not correct the noted deficiency. To the contrary, the revised Proof of Claim Form stated that Genium “[did] not intend to provide/disclose the requested information.” *See* Ex. D. In other words, Canrol and Genium unequivocally refused to comply with the Court-approved procedures for submitting claims. This alone justified denial of Claim 445.



Three months later, and only after the Receiver informed Mr. Eckhardt that the Receiver intended to deny Claim 445 because of the deficiency, Mr. Eckhardt offered to disclose the list of beneficial owners of Genium on the condition that the Receiver enter into a confidentiality agreement. Because of the public nature of the receivership, the Receiver's obligations to present matters to the Court, and the burdens imposed by confidentiality agreements (especially if the Receiver were to have different agreements with different claimants), it was not feasible for the Receiver to agree to any confidentiality limitations. As a result, in a letter dated June 28, 2011, the Receiver iterated to Mr. Eckhardt that Canrol had failed to comply with the requirements established by court order for submitting claims, that the deadline for submitting additional information had long since passed, and that the Receiver would make a determination of Claim 445 based on the information available at that time. *See* Ex. F. Only after the Receiver filed his Claims Determination Motion, which in relevant part recommended denial of Claim 445, was a purported list of beneficial owners of the investment underlying Claim 445 finally provided to the Receiver (that list, however, was deficient for the same reasons the list addressed in Section II below is deficient).

Although the Objection implicitly treats Canrol's, Genium's, and Fulcrum's refusal to timely provide necessary information as a minor matter, in reality it is a material and significant failure to comply with the claims procedures established by the Court. As an initial matter, in these proceedings equity requires that similarly situated investors be treated in a similar fashion. *See, e.g., Quilling v. Trade Partners, Inc.*, 2006 WL 3694629, \*1 (W.D. Mich. 2006); *Homeland Commc'ns. Corp.*, 2010 WL 2035326 at \*2 ("[I]n deciding what claims should be recognized and in what amounts, the fundamental principle which emerges

from case law is that any distribution should be done equitably and fairly, with similarly situated investors or customers treated alike....”). To achieve this, procedures and deadlines were established to uniformly apply to all claimants. Canrol, Genium, and Fulcrum failed to comply with those procedures and deadlines, yet they offered no reason whatsoever why they should be subjected to a different set of rules than all other similarly situated investors. Notably, they even unequivocally refused to comply with their obligations after the Receiver provided them an additional 30 days to so. *See* Ex. C. These deadlines and procedures are critical to bringing finality to the number and value of claims asserted so determinations can be made and assets distributed. Claimants here (1) failed to comply with the obligation to provide requested information by a deadline and (2) then rejected the same opportunity provided to other similarly situated claimants to provide the information by an extended deadline. As such, the Objection is implicitly premised on Fulcrum’s belief that Claim 445 should be treated in a preferential manner - one which differs from the manner in which all other similarly situated claims were treated. Fulcrum, however, has provided no justification for this, and none exists. The preferential treatment sought by Fulcrum is inconsistent with the equitable principles that govern this proceeding.<sup>5</sup> *Cunningham v. Brown*, 265 U.S. 1, 13 (1924) (as among “equally innocent victims, equality is equity.”).

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<sup>5</sup> Aside from being inequitable, the relief sought by the Objection is problematic for another reason. The Objection seeks to modify and supplement the information submitted for Claim 445 long after the claims bar date, and sustaining it and allowing the modification and supplementation could undermine the finality and absolute nature of the claims bar date. So, for example, claimants holding allowed in part or denied claims could argue that they too should be allowed to supplement and modify their submissions. Notably, one of the very reasons that uniform deadlines and procedures are established, and claimants are required to comply with them, is to avoid these precise issues.

## **II. THE INFORMATION PROVIDED WITH THE OBJECTION DOES NOT CURE THE DEFICIENCY OF CLAIM NUMBER 445**

As mentioned above, the Objection purports to include a list of beneficial holders of the Genium investment funds which invested in the scheme through Canrol: Genium AI Fund Series 1 Ltd. Standard Portfolio and Genium Trading Company Ltd. *See* Ex. A. In reality, however, the Objection and list do not cure the claim deficiency because they do not provide all (or necessarily any) of the relevant information. First, the list included with the Objection only references “Genium AI Fund Leveraged Portfolio” and “Genium AI Fund Standard Portfolio,” and makes no reference to any purported interest holder in Genium Trading Company Ltd. Second, although the list purports to identify the current beneficial owners of the “Genium funds,” neither the list nor the Objection states that any of the listed beneficial owners was also a beneficial owner at any point in time from when Genium invested in the scheme in the middle of 2008 until the scheme collapsed in late 2008 and early 2009. Third, and even ignoring these deficiencies with the list included with the Objection, no verification (under penalty of perjury as required by the Proof of Claim Form, or otherwise) was submitted to confirm the accuracy and completeness of that list. As such, the Objection should be overruled for this reason as well.

## **III. GENIUM’S SOPHISTICATION AND STATUS AS AN INSTITUTIONAL INVESTMENT PROFESSIONAL ALSO WARRANT DENIAL OF CLAIM 445**

Even assuming *arguendo* (i) claimant’s failure to comply with its deadlines and obligations with respect to the submission of Claim 445 is ignored and (ii) the additional information provided by Fulcrum cures the deficiencies, the Objection still should be overruled because the underlying holder of the investment – Genium – had actual or inquiry

notice of fraud, and thus it would be inequitable to allow a claim based on Genium's investment. Specifically, Genium was a sophisticated institutional investment professional and, at a minimum, should have recognized at least some of the numerous and easily discernible "red flags" surrounding Arthur Nadel, the Receivership Entities, and the purported investment opportunities underlying this claim. In turn, it should have conducted a diligent and reasonable investigation, which would have uncovered fraud or, at a minimum, failed to ameliorate matters. As a result, Genium was, at a minimum, on inquiry notice of fraud. Importantly, this is the same treatment the Receiver recommended, and the Court adopted, for other institutional investment professionals.

District Courts sit as courts of equity over federal receiverships. *See, e.g., S.E.C. v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992). As such, the Court has "broad powers and wide discretion" to fashion appropriate relief, including in devising a plan for distribution of receivership assets. *See, e.g., id.* In resolving claims submitted in a claims process, courts consider a wide variety of factors with the ultimate goal of fashioning an equitable system that treats similarly situated claimants equally. *See, e.g., Homeland Commc'ns. Corp.*, 2010 WL 2035326 at \*2 ("[I]n deciding what claims should be recognized and in what amounts, the fundamental principle which emerges from case law is that any distribution should be done equitably and fairly, with similarly situated investors or customers treated alike...") (quotation omitted); *Cunningham*, 265 U.S. at 13 (as among "equally innocent victims, equality is equity"); *Elliot*, 953 F.2d at 1570 (same). One consideration is whether the claimant acted in "good faith" or, put differently, whether the claimant knew or should have

known of fraud. *See, e.g., SEC v. Megafund Corp.*, 2007 WL 1099640, \*2 (N.D. Tex. 2007) (claims disallowed because claimants did not show they acted in good faith).

In pertinent part, the concept of good faith derives from fraudulent conveyance statutes, including the Florida Uniform Fraudulent Transfer Act, Fla. Stats. §§ 726.101 *et seq.* (“FUFTA”). Under FUFTA, the Receiver may recover transfers for the benefit of the Receivership estate that were made with “actual intent to hinder, delay, or defraud” creditors (Fla. Stats. § 726.105(1)(a)), which intent is established as a matter of law when a transfer is made during a Ponzi scheme. *See, e.g., In re Christou*, 2010 WL 4008191, \*3 (Bankr. N.D. Ga. 2010) (“Any transfers made during the course of a Ponzi scheme are presumptively made with intent to defraud.”); *Wing v. Horn*, 2009 WL 2843342 at \*4-5 (D. Utah 2009) (“[I]nference of fraudulent intent applies to all transfers from a Ponzi scheme”; categorizing transactions “is inconsistent with fraudulent transfer law’s focus on the transferor”); *Quilling v. Schonsky*, 247 Fed. App’x 583, 586 (5th Cir. 2007) (“[T]ransfers made from a Ponzi scheme are presumptively made with intent to defraud . . . .”); *Warfield v. Byron*, 436 F.3d 551, 558 (5th Cir. 2006) (same). FUFTA provides an affirmative defense, however, under which the Receiver may not recover a transfer if the transferee can demonstrate: (1) that it received the transfer in “good faith” and (2) that it provided reasonably equivalent value for the transfer. *See Fla. Stats. §§ 726.109(1), (2)(b).*

Consistent with this equitable principal that claimants who cannot satisfy the good faith standard should have their claims denied, in his “clawback” lawsuits against sophisticated investors who knew or should have known of fraud, the Receiver has tailored his FUFTA claims to require those defendants to show they satisfied the good faith standard.

*See, e.g., Wiand, as Receiver v. Buhl*, Case No. 8:10-cv-00075-T-17MAP (M.D. Fla.); *Wiand, as Receiver v. EFG Bank et al.*, 8:10-cv-00241-T-17MAP (M.D. Fla.). Specifically, rather than presuming those defendants acted in good faith, the Receiver has sought to recover all transfers received by them from Nadel's scheme, thus requiring them to prove, *inter alia*, their respective good faith before being allowed to keep an amount of distributions equivalent to their principal investment. *See, e.g., Forte*, 2010 WL 939042 at \*6 ("If a winning investor should have known [his] or her investment was 'too good to be true,' the court will void the return of principal to that investor. That principal will then be redistributed *pro rata* to all defrauded investors.").

Just as "winning" investors (*i.e.*, investors who received more than they invested, or so-called "False Profits") who cannot satisfy the good faith standard are not entitled to retain any distributions they received under FUFTA, it would be inequitable to distribute Receivership assets based on investments made by investors, like Genium, that cannot satisfy the good faith standard. *See CFTC v. PrivateFX Global One*, 2011 WL 888051, \*9-10 (S.D. Tex. 2011) ("Sitting in equity, the district court is a court of conscience.") (quotations omitted); *S.E.C. v. Sunwest Mgmt., Inc.*, 2009 WL 3245879, \*9 (D. Or. 2009) ("In approving a plan of distribution in an SEC receivership case, the court must determine the most equitable distribution result for all claimants, including investors."); *Megafund Corp.*, 2007 WL 1099640 at \*2 (overruling objection to magistrate's recommendation that claim be denied due to claimant's lack of good faith).

Good faith is an objective standard. *See Terry v. June*, 432 F. Supp. 2d 635, 641 (W.D. Va. 2006). "The relevant inquiry is what the transferee objectively knew or should

have known instead of examining the transferee's actual knowledge from a subjective standpoint." See *Quilling v. Stark*, 2007 WL 415351, \*3 (N.D. Tex. 2007). "[I]f the circumstances would place a reasonable person on inquiry notice of a debtor's fraudulent purpose, and *diligent* inquiry would have discovered the fraudulent purpose, then the transfer is fraudulent." *In re World Vision Entertainment, Inc.*, 275 B.R. 641, 659 (Bankr. M.D. Fla. 2002). "Importantly, a transferee may not remain willfully ignorant of facts which would cause it to be on notice of a debtor's fraudulent purpose, and then put on 'blindness' prior to entering into transactions with the debtor and claim the benefit of [the good faith defense]." *Id.* (internal citations and quotations omitted). In turn, a diligent inquiry "must ameliorate the issues that placed the transferee on inquiry notice in the first place" and cannot consist of merely inquiring with the transferor about the suspicious circumstances. *In re Bayou Group*, 396 B.R. 810, 846 (Bankr. S.D.N.Y. 2008). In short, if an investor's reasonable conduct would have revealed any questions or concerns about any Receivership Entity or Nadel or anyone else associated with a Receivership Entity, that investor could not have acted in good faith unless it subsequently conducted a diligent and reasonable inquiry which ameliorated those questions or concerns. Without satisfying these obligations, the investor was on inquiry notice of fraud.

As noted above, Genium was a sophisticated institutional investment professional, and it was experienced and knowledgeable about investing, reasonable investment practices, and realistic investment performance. Had it acted in a manner that was reasonable and diligent for its sophistication, experience, and knowledge, it would have easily discovered or recognized red flags, which in turn would have required it to further investigate Nadel,

Receivership Entities, and the purported investment opportunity. Had it complied with these obligations, Genium would have readily discovered fraudulent conduct. Given the numerous and easily discoverable red flags, Genium did not act in good faith. *See, e.g., In re Pearlman*, 440 B.R. 569, 577 (Bankr. M.D. Fla. 2010) (lenders to Ponzi scheme that ignored red flags did not act in good faith); *S.E.C. v. Basic Energy & Affiliated Res.*, 273 F.3d 657, 660 (6th Cir. 2001) (affirming distribution plan that prohibited defendants from recovering at all, and reduced recovery of employees based on level of involvement in fraudulent scheme).

Here, the red flags were numerous and easily discoverable. For example, before perpetrating the scheme,

- Nadel had been disbarred from the practice of law in New York State for engaging in “dishonesty, fraud, deceit and misrepresentation” by misusing money that had been deposited in his escrow account.

That determination was made in a published opinion. Further, the following relevant information was in the public records of Sarasota County – the same county in which Nadel, the Hedge Funds, and almost all other Receivership Entities were based:

- Nadel had at least eight money judgments entered against him in Sarasota County courts for failure to pay amounts owed; and
- Nadel had gone through a divorce in which in publicly filed documents he: was alleged to have defrauded “numerous individuals and/or businesses;” swore he was a “self employed” “musician” and later unemployed, had monthly gross income of \$889.00 and later none, had monthly expenses of \$2,894.00, had total assets of \$1,650.00 and later of only \$1,000.00, and had total liabilities of \$129,075.00; and he otherwise represented to the court that he was “financially impoverished” and had “no assets, no liquidity, no money in the bank, and no resources of any kind.”



There were also many other red flags directly connected to the Hedge Funds, including the following:

- The consistently high reported rates of return, including the fact that marketing materials showed the Hedge Funds never reported a single quarter with a negative return and only had five months of reportedly negative returns over the span of almost ten years, and those months were barely negative;
- For the nearly 8 years during which Valhalla Investment Partners, L.P., was in existence before the investment underlying this case, that fund only reported 4 months with a negative return (and the biggest decline was only -1.30%) – in contrast, the S&P index had 42 months of negative returns during the same period;
- Marketing materials and statements sent to Canrol/Genium showed the Hedge Funds reported unusually high investment returns - for example, they reported yields between 11.43% and 55.12% per year, and in most years between 20% and 50%;
- The Hedge Funds' reported returns were implausible in light of the types of securities and trading strategy that Nadel purportedly used;
- The Hedge Funds were not audited;
- Nadel had no previous experience as an investment adviser;
- The Hedge Funds did not employ the types of professionals with appropriate skills and experience needed to operate a successful hedge fund;
- The Hedge Funds purported to be operated in an identical manner, to have identical trading strategies, and to trade securities collectively through a master trading platform, each of which raised integration issues and violations of federal securities laws, including the 100-investor limit imposed by Section 3(c)(1) of the Investment Company Act of 1940 for exemption from registration;
- As the Hedge Funds' marketing materials and the statements Canrol/Genium received showed, even though the various Hedge Funds purportedly had the same investment strategy, their purported rates of return differed;

- Nadel was not registered as an investment adviser under the Investment Advisers Act of 1940 even though the exemptions from registration were not satisfied as a result of a number of factors, including the manner in which investors were solicited and the way Nadel was represented to the investing public;
- The Hedge Fund offerings were not registered under the Securities Act of 1933 even though the exemptions from registration were not satisfied as a result of a number of factors, including the manner in which investors were solicited, the Hedge Funds' integration issue, and the presence of unaccredited investors;
- The Hedge Funds were not registered as investment companies under the Investment Company Act of 1940 even though the exemptions from registration were not satisfied as a result of a number of factors, including the Hedge Funds' integration issue noted above, the nature of the investors, and the manner in which investors were solicited; and
- The Hedge Funds' purported accountant had been misidentified as a "CPA" - in reality, his license had been "null and void" since 1989. Further, he had been the subject of an investigation and a cease and desist notice from state regulators for improperly identifying himself as a CPA, all of which information was publicly available.

Because Genium would have discovered red flags had it acted in a reasonable and diligent manner, it was on inquiry notice of fraud. *In re Old Naples Securities, Inc.*, 311 B.R. at 612-13; *In re Manhattan Inv. Fund Ltd.*, 397 B.R. 1, 23 (S.D.N.Y. 2007) (sophisticated claimant cannot claim ignorance to support its argument that it acted in good faith); *In re M & L Business Machine Co.*, 84 F.3d at 1330, 1339 (10th Cir. 1996) (experienced investor should have realized excessive annual returns as a red flag, and acted in accordance with such information). In short, Claim 445 should remain denied also because Genium failed to act in good faith and thus it would be inequitable to distribute any Receivership assets based on Genium's investment. As such, also for this reason the Objection should be overruled.

#### IV. EVEN IF CLAIM 445 IS ALLOWED, EQUITY REQUIRES THAT IT BE SUBORDINATED TO CLAIMS OF NON-INSTITUTIONAL INVESTORS

Even assuming both the Proof of Claim Form deficiencies and Genium's status as an institutional investment professional are ignored, and Claim 445 is allowed, in terms of priority the claim should be equitably subordinated to all Class 1 Claims.<sup>6</sup> As such, if the Objection is sustained and Claim 445 is allowed in any part, it should only be paid after all allowed amounts of all Class 1 Claims are paid in full.

Plans of distribution of receivership assets to victims of a scheme are governed by the fundamental principle that the plan should be equitable and treat similarly-situated investors alike. *U.S. v. Petters*, 2011 WL 281031, \*7 (D. Minn. 2011). The power afforded to a district court supervising an equity receivership includes the authority to subordinate the claims of certain investors to ensure equal treatment. *S.E.C. v. Wealth Mgmt. LLC*, 628 F.3d 323, 333 (7th Cir. 2010). "Subordination is an equitable power and is therefore governed by equitable principles." *In re Westgate Cal. Corp.*, 642 F.2d 1174, 1177 (9th Cir. 1981). "Equitable subordination does not deal with the existence or non-existence of the debt, but rather involves the question of order of payment." *In re Lockwood*, 14 B.R. 374, 380–81 (Bankr. E.D.N.Y. 1981). "The fundamental aim of equitable subordination is to undo or offset any inequality in the claim position of a creditor that will produce injustice or unfairness to other creditors..." *Id.* (internal quotations omitted).

Here, investors holding Class 1 Claims were not sophisticated institutional investment professionals like Genium with the skill, experience, knowledge, and resources available to

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<sup>6</sup> "Class 1 Claims" consist of all allowed and allowed in part claims submitted by investors in the scheme underlying this matter. *See* Claims Determination Mot. at 34.

Genium for conducting reasonable due diligence. Because of its failure to act in a reasonable manner, Genium failed to identify (or, even worse, ignored) a multitude of red flags and to satisfy its diligence obligations. Had it acted appropriately, it would have uncovered fraud or, at a minimum, failed to ameliorate concerns. As a result, Genium was, at a minimum, on inquiry notice of fraud, and placing Genium on par with claimants holding Class 1 Claims would be inequitable. *See 80 Nassau Assocs. V. Crossland Fed. Sav. Bank*, 169 B.R. 832, 837 (Bankr. S.D.N.Y. 1994) (even if inequitable conduct may be lawful, it can still shock good conscience and give rise to claim for equitable subordination) (quotations omitted). Indeed, in other proceedings involving distributions to victims of investment fraud, courts have treated individual investors in a preferential manner as compared to institutional investors. *See U.S. v. Pearlman*, Case No. 6:07-cr-00097-GKS-DAB (M.D. Fla. 2008) Forfeiture Money Judgment (“It is further ordered that all proceeds collected by the United States of America pursuant to this judgment be returned to the defendant’s victims, proportionate to each investor’s loss; with priority given to compensate individual investors fully prior to compensating institutional investors.”) (emphasis added). As such, even assuming *arguendo* Claim 445 was allowed, it nonetheless should be equitably subordinated to all Class 1 Claims and be paid only after all allowed amounts for Class 1 Claims are paid in full.

### CONCLUSION

For the foregoing reasons, the Objection relating to the determination denying Claim Number 445 should be overruled, and that claim should remain denied. Alternatively, to the

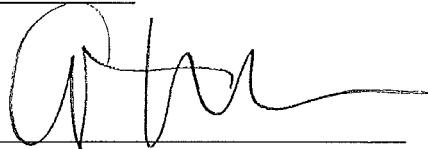
extent that claim is allowed (in whole or in part), it should be subordinated to all Class 1 Claims.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and accurate copy of The Receiver's Response to Objection Relating to Determination of Claim Number 445 is being furnished to the following on this 15<sup>th</sup> day of August, 2012, in the manner reflected below:

Canrol Finance Ltd.  
Attn: Fund Desk Corporate Actions Team  
c/o Pascal Voide  
96-98 Rue du Rhone  
CH-1211 Geneve  
Switzerland  
*Via U.S. Mail*

Kevin M. Eckhardt, Esquire  
Hunton & Williams LLP  
101 South Tryon Street  
Suite 3500  
Charlotte, NC 28280  
*Via U.S. Mail and E-Mail: [keckhardt@hunton.com](mailto:keckhardt@hunton.com)*



Gianluca Morello, FBN 034997  
Email: [gmorello@wiandlaw.com](mailto:gmorello@wiandlaw.com)  
Michael S. Lamont FBN 0527122  
Email: [mlamont@wiandlaw.com](mailto:mlamont@wiandlaw.com)  
Jared J. Perez, FBN 0085192  
Email: [jperez@wiandlaw.com](mailto:jperez@wiandlaw.com)  
Wiand Guerra King P.L.  
3000 Bayport Drive, Suite 600  
Tampa, FL 33607  
Tel: (813) 347-5100  
Fax: (813) 347-5198  
*Attorneys for the Receiver, Burton W. Wiand*

**HUNTON &  
WILLIAMS**

HUNTON & WILLIAMS LLP  
101 SOUTH TRYON STREET  
SUITE 3500  
CHARLOTTE, NC 28280

TBL 704 • 378 • 4700  
FAX 704 • 331 • 4239

KEVIN M. ECKHARDT  
DIRECT DIAL: 704-378-4729  
EMAIL: keckhardt@hunton.com

FILE NO: 74319.009006

March 6, 2012

**VIA FEDEX  
AND ELECTRONIC MAIL**

Burton W. Wiand  
c/o Maya M. Lockwood, Esq.  
Wiand Guerra King P.L.  
3000 Bayport Drive  
Suite 600  
Tampa, Florida 33607  
mlockwood@wiandlaw.com

**RECEIVED**  
MAR - 9 2012  
BY: \_\_\_\_\_

**Re: SEC v. Nadel et al., Case No. 8:09-cv-87-T-26TBM  
United States District Court, Middle District of Florida**

Dear Sirs:

As you may recall, Hunton & Williams LLP represents Fulcrum Distressed Opportunities Fund I, LP ("Fulcrum") in the above-referenced matter. To refresh your memory, I have enclosed with this letter copies of email messages detailing my correspondence with Mr. Morello and others at Wiand Guerra King P.L. from a few months ago.

The purpose of this letter is to object to the proposed Claim Determination of the claims of the Genium funds against the receivership entities in this matter, to formally provide you with requested documents relating to such claims (as instructed in our correspondence and in the claims objection and response procedures recently approved by the Court), and to request allowance of this claim and recognition of its transfer to Fulcrum.

In summary, Fulcrum has acquired certain claims against and interests in the receivership entities from the original claimants/investors, the Genium funds. A copy of the Evidence of Transfer evidencing this transaction is enclosed herein for your reference. According to the Receiver's Unopposed Motion filed December 7, 2011 in the receivership proceeding [DE 675] and our prior discussions, the Receiver objects to the claims of the Genium funds on the grounds that the Genium funds have failed to provide a full list of beneficial holders as required.

**EXHIBIT A**

Pursuant to the claims objection procedures approved by the Court through its Order dated March 2, 2012 [DE 776] and related provisions of the Unopposed Motion, we hereby provide to the Receiver the enclosed lists of beneficial holders for the Genium funds and request that the Receiver deem any objections to these claims cured.

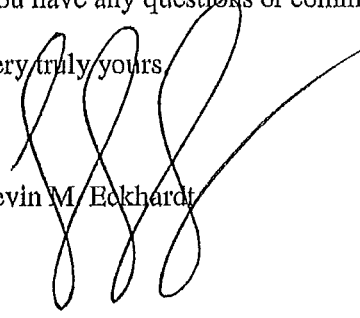
These documents, along with the evidence of transfer, were previously provided to your counsel via email on December 30, 2011. We are hereby re-submitting these documents as requested in such correspondence and in the Unopposed Motion.

We request that the Receiver acknowledge receipt of these documents, withdraw the objection to the Genium funds' claims, and recognize the transfer of these claims to Fulcrum as indicated in the enclosed documents.

Please do not hesitate to contact me if you have any questions or comments.

Very truly yours,

Kevin M. Eckhardt



**Eckhardt, Kevin**

---

**From:** Gianluca Morello [GMorello@wlandlaw.com]  
**Sent:** Wednesday, January 04, 2012 10:55 PM  
**To:** Eckhardt, Kevin; Jordan Maglich  
**Cc:** Maya Lockwood; Mary Gura; Burton Wland; Paget, Justin F.; Carrie Rehus  
**Subject:** RE: SEC v. A Nadel et al. - Claims

Kevin, I'm not sure I understand your email. But just so there is no confusion, my email was not intended to convey that once the objections procedure is in place and the Receiver reviews the beneficiary list, your client's claim will be approved if nothing on the beneficiary list raises a concern. I was simply explaining the objection procedure. Once it is in place, he will then be able to review your client's objection.

Regards

Gianluca

:::

**WIAND GUERRA KING**

**GIANLUCA MORELLO**

WIAND GUERRA KING P.L.  
3000 BAYPORT DRIVE | SUITE 600 | TAMPA, FL 33607  
PHONE: 813.347.5105 | FAX: 813.347.5155  
EMAIL: [gmorello@wlandlaw.com](mailto:gmorello@wlandlaw.com) | [www.wlandlaw.com](http://www.wlandlaw.com)

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If you desire a formal opinion on a particular tax matter for the purpose of avoiding the imposition of any penalties, we will discuss the additional Treasury requirements that must be met and whether it is possible to meet those requirements under the circumstances, as well as the anticipated time and additional fees involved.

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---

**From:** Eckhardt, Kevin [mailto:keckhardt@hunton.com]  
**Sent:** Wednesday, January 04, 2012 9:54 AM  
**To:** Gianluca Morello; Jordan Maglich  
**Cc:** Maya Lockwood; Mary Gura; Burton Wland; Paget, Justin F.; Carrie Rehus  
**Subject:** RE: SEC v. A Nadel et al. - Claims

I understand. To be clear, I was not implying that there was anything improper in your dealings with me relating to provision of the beneficiary list, I was simply concerned there might be more to the objection than just the

3/6/2012



beneficiary list issue. Thank you for the clarification.

Kevin M. Eckhardt  
Hunton & Williams LLP  
305 536 2696  
704 378 4729

---

**From:** Gianluca Morello [mailto:GMorello@wlandlaw.com]  
**Sent:** Wednesday, January 04, 2012 1:24 AM  
**To:** Eckhardt, Kevin; Jordan Maglich  
**Cc:** Maya Lockwood; Mary Gura; Burton Wland; Paget, Justin F.; Carrie Rehus  
**Subject:** RE: SEC v. A Nadel et al. - Claims

Kevin,

While I do not believe that your statement that you have been trying to provide my firm with a list of beneficiaries since May fully reflects the interaction between you and my firm, that is not relevant at this point. The relevant matter is that the Receiver has filed his motion relating to claims determinations and now has to wait for the Court to adopt an objection procedure before working to resolve your client's objection.

Further, I think you have misunderstood the objection procedure proposed by the Receiver in the motion submitted to the Court. Your client will not be obligated to incur substantial fees and expenses filing and prosecuting a reply or going through the process of filing pleadings and attending a hearing. Rather, it will simply have to serve its objection on the Receiver in writing in accordance with a specified deadline, and then it will have the opportunity to resolve the objection with the Receiver before the Court has to intervene in any dispute. In other words, the Receiver will be able to consider the list you provided in your email (and any other information you believe is relevant) and work to resolve this matter with your client without Court intervention. But without an objection procedure in place yet, it is premature for the Receiver to review the additional information that you attached to your email. While I understand you are frustrated with the process, the Receiver received and reviewed over 500 claims, and an organized and uniform procedure for dealing with objections which applies to all claimants is necessary for the Receivership to proceed in an efficient manner and to ensure that all claimants are treated in the same manner.

I'm happy to discuss this process with you and to also answer your other questions over the phone. So feel free to call me at your convenience.

Gianluca

:::

WIAND GUERRA KING

GIANLUCA MORELLO

WIAND GUERRA KING P.L.  
3000 BAYPORT DRIVE | SUITE 800 | TAMPA, FL 33607  
PHONE: 813.347.5105 | FAX: 813.347.5155  
EMAIL: gmorello@wlandlaw.com | www.wlandlaw.com

3/6/2012

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If you desire a formal opinion on a particular tax matter for the purpose of avoiding the imposition of any penalties, we will discuss the additional Treasury requirements that must be met and whether it is possible to meet those requirements under the circumstances, as well as the anticipated time and additional fees involved.

---

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---

**From:** Eckhardt, Kevin [mailto:keckhardt@hunton.com]  
**Sent:** Tuesday, January 03, 2012 12:10 PM  
**To:** Gianluca Morello; Jordan Maglich  
**Cc:** Maya Lockwood; Mary Gura; Burton Wland; Diane Burnette; Paget, Justin F.  
**Subject:** RE: SEC v. A Nadel et al. - Claims

Is there a specific reason why the Receiver absolutely will not consider resolving the objection without obligating my client to incur substantial fees and expenses filing and prosecuting a reply despite the fairly simple issue involved? Several months ago, your firm informed me that this claim was problematic because the list of beneficiaries was not provided. I have now been trying to provide your firm with the list of beneficiaries to resolve this objection since last May. I was told over the summer that the Receiver had made up his mind and to wait for the motion to take any action, yet the motion was not filed for almost six months. Now the motion has been filed, and you still will not consider resolving this objection without going through the process of filing pleadings and holding a hearing.

Why must both my client and the estate undertake the cost of filing papers and going through litigation if provision of the list of beneficiaries might resolve the matter? Are there other issues or objections that may be interposed? Apologies, but I am a bit frustrated by this process. If the issue is the list of beneficiaries, why not accept it?

Kevin M. Eckhardt  
Hunton & Williams LLP  
305 536 2696  
704 378 4729

---

**From:** Gianluca Morello [mailto:GMorello@wlandlaw.com]  
**Sent:** Friday, December 30, 2011 3:29 PM  
**To:** Eckhardt, Kevin; Jordan Maglich  
**Cc:** Maya Lockwood; Mary Gura; Burton Wland; Diane Burnette; Paget, Justin F.  
**Subject:** SEC v. A Nadel et al. - Claims

Kevin,

As you may know from the Receiver's motion relating to claims determinations and claim priorities filed on

3/6/2012

December 7, 2011, the Receiver finalized his claim review and determinations, submitted those determinations to the Court, and proposed a procedure for the submission of claimants' objections. The Receiver's claim determinations, including with respect to the claims underlying your email, were complete as of prior to the filing of that motion.

Once the Court Issues an order on that motion and institutes an objection procedure, your client will have the opportunity to submit its objection in accordance with the terms of the objection procedure ultimately established by the Court. At this time, however, no objection procedure is in place and the Receiver is not engaging in any discussions relating to objections. Again, the Receiver's claim determinations are complete, and at the appropriate time objections may be submitted in accordance with the procedure ultimately adopted by the Court. As such, please note that your email and its attachments will not be considered by the Receiver. Of course, you remain free to resubmit any information provided in your email in accordance with the objection procedure ultimately established by the Court.

Regards,

Gianluca

:::

[REDACTED]

**GIANLUCA MORELLO**

WIAND GUERRA KING P.L.  
3000 BAYPORT DRIVE | SUITE 600 | TAMPA, FL 33607  
PHONE: 813.347.5105 | FAX: 813.347.5155  
EMAIL: [gmorello@wlandlaw.com](mailto:gmorello@wlandlaw.com) | [www.wlandlaw.com](http://www.wlandlaw.com)

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**From:** Eckhardt, Kevin [<mailto:keckhardt@hunton.com>]

**Sent:** Friday, December 30, 2011 1:39 PM

**To:** Jordan Maglich

**Cc:** Maya Lockwood; Mary Gura; Burton Wland; Diane Burnette; [MHamilton@fulcrumInv.com](mailto:MHamilton@fulcrumInv.com); Paget, Justin F.; Gianluca Morello

**Subject:** RE: Valhalla Claim Transfer - Proposed Indemnification Agreement

Jordan - Thank you again for your assistance in this matter. In furtherance of our discussion of the Receiver's objection to the Genium claims filed in the receivership, please see attached the requested lists of shareholders for the Genium funds, as provided by the fund administrator. We are providing these in confidence from filing for the time being in order to attempt to resolve the claim objection. Please provide us with sufficient notice before

3/6/2012

contacting any of the shareholders directly or filing these lists (if either should become necessary).

Further, as also previously discussed, the claims at issue have been transferred to my client, Fulcrum Distressed Opportunities Fund I, LP. We are hoping that the Receiver might clear the objection to the claims based on the provided information and confirm a transfer of the claims into the name of this entity for distribution purposes in connection with the pending motion. To this end, a copy of the Evidence of Transfer evidencing the transfer is also attached, again provided in confidence for the time being in the anticipation of a potential resolution of any objection and transfer issues.

Please let me know if you have any questions or issues, and thank you in advance for your cooperation.

Kevin M. Eckhardt  
Hunton & Williams LLP  
305 536 2696  
704 378 4729

---

**From:** Jordan Maglich [mailto:[JMaglich@wlandlaw.com](mailto:JMaglich@wlandlaw.com)]  
**Sent:** Tuesday, June 28, 2011 6:17 PM  
**To:** Eckhardt, Kevin  
**Cc:** Maya Lockwood; Mary Gura; Burton Wland; Diane Burnette; [MHamilton@fulcruminv.com](mailto:MHamilton@fulcruminv.com); Paget, Justin F.; Gianluca Morello  
**Subject:** RE: Valhalla Claim Transfer - Proposed Indemnification Agreement

Kevin,

Please find attached correspondence from the Receiver. Thank you.

Sincerely,

Jordan Maglich

!!!

WLAND GUERRA KING

JORDAN D. MAGLICH

3000 BAYPORT DRIVE | SUITE 600 | TAMPA, FL 33607  
PHONE: 813.347.5115 | CELL: 941-320-7284 | FAX: 813.347.5198  
EMAIL: [jmaglich@wlandlaw.com](mailto:jmaglich@wlandlaw.com) | [www.wlandlaw.com](http://www.wlandlaw.com)

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---

**From:** Eckhardt, Kevin [<mailto:keckhardt@hunton.com>]  
**Sent:** Tuesday, June 28, 2011 10:27 AM  
**To:** Jordan Maglich  
**Cc:** Maya Lockwood; Mary Gura; Burton Wland; Diane Burnette; [MHamilton@fulcrumInv.com](mailto:MHamilton@fulcrumInv.com); Paget, Justin F.  
**Subject:** RE: Valhalla Claim Transfer - Proposed Indemnification Agreement

Jordan - Any update? We would like to resolve this issue and get the Receiver the documents he needs without having to file any papers, if possible. Thanks.

Kevin M. Eckhardt  
Hunton & Williams LLP  
305 536 2696  
704 378 4729  
Admitted to Practice in Florida, New York and California  
Not Admitted to Practice in North Carolina

---

**From:** Jordan Maglich [<mailto:JMaglich@wlandlaw.com>]  
**Sent:** Tuesday, June 21, 2011 6:00 PM  
**To:** Eckhardt, Kevin  
**Cc:** Maya Lockwood; Mary Gura; Burton Wland; Diane Burnette; [MHamilton@fulcrumInv.com](mailto:MHamilton@fulcrumInv.com); Paget, Justin F.  
**Subject:** RE: Valhalla Claim Transfer - Proposed Indemnification Agreement

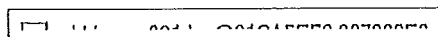
Kevin,

We are currently discussing this issue with the Receiver; and will get back to you shortly.

Thank you,

Jordan Maglich

:::



JORDAN D. MAGLICH

3000 BAYPORT DRIVE | SUITE 600 | TAMPA, FL 33607  
PHONE: 813.347.5115 | CELL: 941-320-7284 | FAX: 813.347.5198  
EMAIL: [jmaglich@wlandlaw.com](mailto:jmaglich@wlandlaw.com) | [www.wlandlaw.com](http://www.wlandlaw.com)

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---

**From:** Eckhardt, Kevin [<mailto:keckhardt@hunton.com>]  
**Sent:** Tuesday, June 21, 2011 8:17 AM  
**To:** Jordan Maglich  
**Cc:** Maya Lockwood; Mary Gura; Burton Wland; Diane Burnette; [MHamilton@fulcrumlnv.com](mailto:MHamilton@fulcrumlnv.com); Paget, Justin F.  
**Subject:** Re: Valhalla Claim Transfer - Proposed Indemnification Agreement

Jordan - I have not heard back on this. Just following up. I am out of the office, but you can email or contact Matt Hamilton at Fulcrum (512 473 2776) or Justin Paget at my office, both of whom are copied on this message. Again, we have the information you need, we just need some assurance of confidentiality. We also need any comments on the proposed consent to transfer agreement.

---

**From:** Jordan Maglich [<mailto:JMaglich@wlandlaw.com>]  
**Sent:** Tuesday, June 14, 2011 06:47 PM  
**To:** Eckhardt, Kevin  
**Cc:** Maya Lockwood <[MLockwood@wlandlaw.com](mailto:MLockwood@wlandlaw.com)>; Mary Gura <[MGura@wlandlaw.com](mailto:MGura@wlandlaw.com)>; Burton Wland <[BWland@wlandlaw.com](mailto:BWland@wlandlaw.com)>; Diane Burnette <[DBurnette@wlandlaw.com](mailto:DBurnette@wlandlaw.com)>  
**Subject:** RE: Valhalla Claim Transfer - Proposed Indemnification Agreement

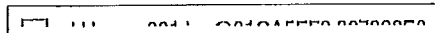
Kevin,

I will have an answer to you shortly on this.

Thanks,

Jordan

☺



**JORDAN D. MAGLICH**

3000 BAYPORT DRIVE 1 SUITE 600 1 TAMPA, FL 33607  
PHONE: 813.347.5115 1 CELL: 941-320-7284 1 FAX: 813.347.5198  
EMAIL: [jmaglich@wlandlaw.com](mailto:jmaglich@wlandlaw.com) 1 [www.wlandlaw.com](http://www.wlandlaw.com)

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If you desire a formal opinion on a particular tax matter for the purpose of avoiding the imposition of

3/6/2012

any penalties, we will discuss the additional Treasury requirements that must be met and whether it is possible to meet those requirements under the circumstances, as well as the anticipated time and additional fees involved.

---

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---

**From:** Eckhardt, Kevin [<mailto:keckhardt@hunton.com>]  
**Sent:** Tuesday, June 14, 2011 12:27 PM  
**To:** Jordan Maglich  
**Cc:** Maya Lockwood; Mary Gura; Burton Wiand; Diane Burnette  
**Subject:** RE: Valhalla Claim Transfer - Proposed Indemnification Agreement

Jordan - Any word on this? A simple confidentiality agreement would suffice here - we simply want to make sure that the list will not be disclosed publicly or investors contacted directly without some kind of further notice and opportunity to be heard.

Kevin M. Eckhardt  
Hunton & Williams LLP  
305 536 2696  
704 378 4729  
Admitted to Practice in Florida, New York and California  
Not Admitted to Practice in North Carolina

---

**From:** Eckhardt, Kevin  
**Sent:** Monday, June 13, 2011 1:05 PM  
**To:** Jordan Maglich  
**Cc:** Maya Lockwood; Mary Gura; Burton Wiand; Diane Burnette  
**Subject:** RE: Valhalla Claim Transfer - Proposed Indemnification Agreement

Jordan - We may be able to produce the information sought to you under certain conditions. Specifically, we will require a confidentiality agreement or protective order before providing that information. Is there any existing order that might provide for such protection? Do you have a preferred form of confidentiality agreement? Please let me know.

Kevin M. Eckhardt  
Hunton & Williams LLP  
305 536 2696  
704 378 4729  
Admitted to Practice in Florida, New York and California  
Not Admitted to Practice in North Carolina

3/6/2012

---

**From:** Jordan Maglich [mailto:JMaglich@wiandlaw.com]  
**Sent:** Friday, June 10, 2011 3:17 PM  
**To:** Eckhardt, Kevin  
**Cc:** Maya Lockwood; Mary Gura; Burton Wiand; Diane Burnette  
**Subject:** RE: Valhalla Claim Transfer - Proposed Indemnification Agreement

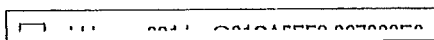
Kevin,

I have spoken to the Receiver about your request. Please find attached correspondence from Mr. Wiand in response. Thank you.

Sincerely,

Jordan Maglich

:::



**JORDAN D. MAGLICH**

3000 BAYPORT DRIVE I SUITE 600 I TAMPA, FL 33607  
PHONE: 813.347.5115 I CELL: 941-320-7284 I FAX: 813.347.5198  
EMAIL: [jmaglich@wiandlaw.com](mailto:jmaglich@wiandlaw.com) I [www.wiandlaw.com](http://www.wiandlaw.com)

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**From:** Eckhardt, Kevin [mailto:keckhardt@hunton.com]  
**Sent:** Friday, June 10, 2011 10:59 AM  
**To:** Jordan Maglich  
**Cc:** Maya Lockwood; Mary Gura  
**Subject:** RE: Valhalla Claim Transfer - Proposed Indemnification Agreement



Jordan - Any progress? Thanks in advance.

---

**From:** Jordan Maglich [<mailto:JMaglich@wiandlaw.com>]  
**Sent:** Thursday, June 02, 2011 2:08 PM  
**To:** Eckhardt, Kevin  
**Cc:** Maya Lockwood; Mary Gura  
**Subject:** RE: Valhalla Claim Transfer - Proposed Indemnification Agreement

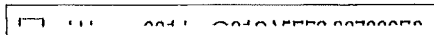
Kevin,

We are in receipt of the document and will get back to you shortly.

Thank you,

Jordan Maglich

:::



**JORDAN D. MAGLICH**

3000 BAYPORT DRIVE I SUITE 600 I TAMPA, FL 33607  
PHONE: 813.347.5115 I CELL: 941-320-7284 I FAX: 813.347.5198  
EMAIL: [jmaglich@wiandlaw.com](mailto:jmaglich@wiandlaw.com) I [www.wiandlaw.com](http://www.wiandlaw.com)

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**From:** Eckhardt, Kevin [<mailto:keckhardt@hunton.com>]  
**Sent:** Thursday, June 02, 2011 1:25 PM  
**To:** Jordan Maglich  
**Subject:** RE: Valhalla Claim Transfer - Proposed Indemnification Agreement

Jordan - Have you the opportunity to review? Please let me know if you have any questions.

Kevin M. Eckhardt  
Hunton & Williams LLP  
305 536 2696  
704 378 4729  
Admitted to Practice in Florida, New York and California  
Not Admitted to Practice in North Carolina

---

**From:** Eckhardt, Kevin  
**Sent:** Wednesday, June 01, 2011 10:24 AM  
**To:** [jmaglich@wiandlaw.com](mailto:jmaglich@wiandlaw.com)  
**Subject:** Valhalla Claim Transfer - Proposed Indemnification Agreement

Jordan - As you may recall, on Friday we discussed a transfer of some claims in the Valhalla receivership to my client Fulcrum Capital. I have prepared a proposed "Consent to Transfer Agreement" for your review and comment. See attached. Please let me know if you have any questions or comments.

Kevin M. Eckhardt  
Hunton & Williams LLP  
305 536 2696  
704 378 4729  
Admitted to Practice in Florida, New York and California  
Not Admitted to Practice in North Carolina  
<< File: Valhalla Receivership - Consent to Transfer Agreement - Genium Funds to Fulcrum\_ (35789720)\_ (2) >>

EVIDENCE OF TRANSFER

TO: THE RECEIVER, THE RECEIVERSHIP ENTITIES, THE CLAIMS AGENT AND THE COURT

Genium AI Fund Series T Ltd. and Genium Trading Company, Ltd. ("Sellers"), transfer unto Rulerum Distressed Opportunities Fund I, LP, its successors and assigns ("Buyer"), pursuant to the terms of that certain Purchase and Sale Agreement for Receivership Claims of even date herewith, all of their right, title and interest in and to their claims (the "Claim") against the Receivership Entities and their affiliates, subsidiaries and/or assigns (the "Receivership Entities") in the receivership case styled *Securities and Exchange Commission v. Arthur Nadel et. al.* currently pending in the United States District Court for the Middle District of Florida (the "Court"), Case No. 8:09-cv-87-T-26-TBM.

Sellers hereby waive to the fullest extent permitted by law any notice or right to a hearing as may be imposed by Rule 3001 of the Federal Rules of Bankruptcy Procedure, applicable local bankruptcy rules or other applicable law or rules. Sellers acknowledge and understand, and hereby stipulate, that an order of the Court may be entered without further notice to Sellers transferring to Buyer the foregoing Claim and recognizing the Buyer as the sole owner and holder of the Claim. Sellers further direct the Receiver, the Receivership Entities, the Court and all other interested parties that all further notices relating to the Claim, and all payments or distributions of money or property in respect of the Claim, shall be delivered or made to the Buyer.

IN WITNESS WHEREOF, the Sellers and the Buyer have caused this Evidence of Transfer to be duly executed as of May 12, 2011.

SELLER:

GENIUM GLOBAL FUND LTD.

By: Its Subsidiary

GENIUM AI FUND SERIES T STANDARD PORTFOLIO LTD.

In its capacity as beneficial holder of Shares through CANROL FINANCE LTD

By: \_\_\_\_\_

Name: Roland Pfiborsky

Title: Director

GENIUM TRADING COMPANY LTD.

In its capacity as beneficial holder of Shares through CANROL FINANCE LTD

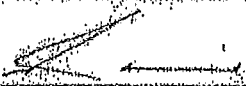
By: \_\_\_\_\_

Name: Roland Pfiborsky

Title: Director

BUYER:

EDL CRUM DISTRESSED OPPORTUNITIES FUND I, LP

By: 

Name: Matthew W. Hamilton

Title: Authorized Signatory



Company Shareholder Information Report

Fund Name

Senium AJ Fund Leveraged Portfolio Class C1

Shareholder Name

Shares

Mailing Address 1

Mailing Address 2

Mailing Address 3

Mailing Address 4

Relationship Manager

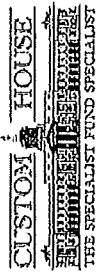
Agent Name

Telephone Number

Fax Number

Email Address

Redacted



Company Shareholder Information Report

Fund Name: Gentium AI Fund Leveraged Portfolio Class D1

Shareholder Name

Shares

Mailing Address 1

Mailing Address 2

Mailing Address 3

Mailing Address 4

Relationship Manager

Agent Name

Telephone Number

Fax Number

Email Address

Redacted



Company Shareholder Information Report

Fund Name  
Genium AI Fund Standard Portfolio Class B  
Genium AI Fund Standard Portfolio Class B

Shares

Mailing Address 1

Mailing Address 2

Mailing Address 3

Mailing Address 4

Relationship Manager

Agent Name

Telephone Number

Fax Number

Email Address

**Redacted**



Company Shareholder Information Report

Fund Name: Custom AI Fund Leveraged Portfolio Class B1

Four Number

Telephone Number

Agent Name

Relationship Manager

Mailing Address 1

Mailing Address 2

Mailing Address 3

Shares

Shareholder Name

Relationship Manager

Mailing Address 4

Email Address

Redacted

Custom AI Fund Leveraged Portfolio Class B1

Custom AI Fund Leveraged Portfolio Class B1

Custom AI Fund Leveraged Portfolio Class B1

Custom AI Fund Leveraged Portfolio Class B1

Custom AI Fund Leveraged Portfolio Class B1

Custom AI Fund Leveraged Portfolio Class B1

Custom AI Fund Leveraged Portfolio Class B1

Custom AI Fund Leveraged Portfolio Class B1

Custom AI Fund Leveraged Portfolio Class B1





Company Shareholder Information Report

Fund Name: Itemum AI Fund Standard Portfolio Class      Shareholder Name: [REDACTED]      Shares: [REDACTED]      Mailing Address 1: [REDACTED]      Mailing Address 2: [REDACTED]      Mailing Address 3: [REDACTED]      Mailing Address 4: Relationship Manager: [REDACTED]      Agent Name: [REDACTED]      Telephone Number: [REDACTED]      Fax Number: [REDACTED]      Email Address: [REDACTED]

**Redacted**

## PROOF OF CLAIM FORM

<p style="text-align: center;">SECURITIES AND EXCHANGE COMMISSION, Plaintiff,</p> <p style="text-align: center;">v.</p> <p>ARTHUR NADEL, SCOOP CAPITAL, LLC, SCOOP MANAGEMENT, INC., Defendants,</p> <p>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.</p> <hr style="width: 30%; margin-left: 0;"/> <p>Case Number: 8:09-CV-00087-T-26TBM U.S. District Court Middle District of Florida (Tampa Division)</p>	<p>Name and address of Claimant (Please print or type):</p> <p>Account Name: Canrol Finance Ltd. Fund Name: VAL</p> <p>Canrol Finance Ltd. 8, rue du Robert Estienne Case postale 3249 CH-1211 Geneve 3</p>
--	---

**ATTENTION:**

The Honorable Richard A. Lazzara of the United States District Court, Middle District of Florida, entered Orders appointing Burton W. Wland as Receiver of SCOOP CAPITAL, LLC; SCOOP MANAGEMENT, INC.; SCOOP REAL ESTATE, L.P.; VALHALLA INVESTMENT PARTNERS, L.P.; VALHALLA MANAGEMENT, INC.; VICTORY FUND, LTD.; VICTORY IRA FUND, LTD.; VIKING IRA FUND, LLC; VIKING FUND, LLC; VIKING MANAGEMENT, LLC; VENICE JET CENTER, LLC; TRADEWIND, LLC; LAUREL MOUNTAIN PRESERVE, LLC; LAUREL PRESERVE, LLC; THE MARGUERITE J. NADEL REVOCABLE TRUST UAD 8/2/07; THE LAUREL MOUNTAIN PRESERVE HOMEOWNERS ASSOCIATION, INC.; THE GUY-NADEL FOUNDATION, INC.; LIME AVENUE ENTERPRISES, LLC; A VICTORIAN GARDEN FLORIST, LLC; VIKING OIL & GAS, LLC; and HOME FRONT HOMES, LLC (individually, "Receivership Entity," and collectively, "Receivership Entities"). On April 21, 2010, the Court issued an Order establishing a Claim Bar Date for all claims and approving this Proof of Claim Form and the basic procedures to administer any claims. In order to be eligible to receive a distribution from the Receivership Entities' assets, you must complete and return this Proof of Claim Form and, if applicable, provide the requested documentation, so that it is received on or before **September 2, 2010**, to **Burton W. Wland, Receiver, c/o Maya M. Lockwood, Esquire, Wland Guerra King P.L., 3000 Bayport Drive, Suite 600, Tampa, Florida 33607**. *The proper filing of this completed claim form may entitle you to receive a distribution from the Receivership. Altered forms will not be accepted.*

The information provided in this Proof of Claim Form will be used to calculate your distribution, if any, from the Receivership. The Receiver has the right to dispute and/or verify any information you have provided in order to determine the proper distribution amount, if any, to which you may be entitled. The Receiver further has the right to amend any information he may have provided as to your Net Investment Amount. **By identifying and providing a Net Investment Amount for an account the Receiver does not waive any right to (1) deny, contest the validity of, or otherwise object to a claim or (2), if warranted, amend the provided Net Investment Amount.**

**IMPORTANT INFORMATION TO READ PRIOR TO SUBMITTING THIS FORM**

ANY PERSON OR ENTITY SUBMITTING THIS PROOF OF CLAIM FORM SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA FOR ALL PURPOSES, INCLUDING, WITHOUT LIMITATION, AS TO ANY CLAIMS, OBJECTIONS, DEFENSES, OR COUNTERCLAIMS THAT COULD BE OR HAVE BEEN ASSERTED BY THE RECEIVER AGAINST SUCH CLAIMANT OR THE HOLDER OF SUCH CLAIM IN CONNECTION WITH THIS RECEIVERSHIP, INCLUDING THOSE ARISING OUT OF (1) ANY DEALING OR BUSINESS TRANSACTED BY OR WITH ANY RECEIVERSHIP ENTITY OR (2) ANY DEALING OR BUSINESS TRANSACTED THAT RELATES IN ANY WAY TO ANY RECEIVERSHIP PROPERTY. FURTHER, CLAIMANTS WAIVE ANY RIGHT TO A JURY TRIAL WITH RESPECT TO SUCH CLAIMS, OBJECTIONS, DEFENSES, AND COUNTERCLAIMS. IF THIS COMPLETED FORM, SIGNED UNDER PENALTY OF PERJURY, IS NOT RECEIVED BY THE RECEIVER AT THE ABOVE-REFERENCED ADDRESS BY **SEPTEMBER 2, 2010**, YOU WILL BE FOREVER BARRED FROM ASSERTING ANY CLAIM AGAINST THE RECEIVERSHIP ENTITIES' ASSETS AND YOU WILL NOT BE ELIGIBLE TO RECEIVE ANY DISTRIBUTIONS FROM THE RECEIVER.

**General Instructions:**

You must answer each and every question. Please answer each question as fully as possible. If you need additional space to complete an answer, please attach a separate sheet of paper and indicate the number of the question for which you are providing the additional information. If the question does not apply to you, please write "not applicable." Do not write "NA," "N/A" or the like. If the answer to the question is "no" or "none," please answer as such.

1. Full name of person completing this form. Mr. SCHOTT, Eric
2. If this form is being completed on behalf of a person or entity other than the person listed in question 1, please provide the name of the person or entity with an interest in the Recevlership Entities' assets.

**CANROL FINANCE LTD.**

3. If this form is being completed on behalf of an entity, please provide the full name of the entity and all of its trustees, officers, directors, managing agents, shareholders, partners, beneficiaries, and any other party with an interest in the entity.

**CANROL FINANCE LTD.**

4. Current address and telephone number of person completing this form.

96-98, Ave du Rhône / Case postale 1320  
CH-1211 GENEVE 1 (Switzerland) // Phone: +4158 819 3542

5. Current address and telephone number of person or entity with an interest in the Recevlership Entities' assets (if different from answer to question 4).

Mailing Address	Registered Address
<u>CANROL FINANCE LTD.</u>	<u>CANROL FINANCE LTD.</u>
<u>8, rue du Robert Estienne</u>	<u>P.O. Box 3175</u>
<u>Case postale 3249</u>	<u>Road Town, Tortola</u>
<u>CH-1211 GENEVE 3</u>	<u>British Virgin Islands</u>

6. Provide one mailing address where you (or the person/entity on whose behalf you are acting) authorize the receipt of all future communications relating to this claim, including any possible distribution payment you may receive. It is your responsibility to advise the Receiver of any change to this address after the submission of this form.

Mailing Address	
<u>UNION BANCAIRE PRIVÉE</u>	<u>AHM: FUND DESK COROLATIE ACTIONS TEAMS</u>
<u>96-98, rue du Rhône</u>	
<u>Case postale 1320</u>	
<u>CH-1211 GENEVE 1</u>	

7. Please refer to Exhibit A attached to this document. If sufficient information is available, this Exhibit provides the following information for the identified "account": (1) the total amount invested; (2) the total amount received; and (3) the Net Investment Amount. If you received funds unrelated to your investment in an "account" (for example incentive fees), those amounts will also appear in the attached Exhibit. Do the amounts listed in the Exhibit accurately represent the amount of your investment into and all amounts received from that account and any other funds you received from the Recevlership Entities? Failure to respond to this question will mean that you agree with the amounts listed in the Exhibit.

Yes     No.

If you answered yes, you do not have to respond to questions 8 and 9.

8. Please provide the following information regarding your investment in or with, or interest in, any Receivership Entity, and attach copies of all checks, bank or other financial account statements, invoices, wire transfer confirmations, and other documents relating to your answer:

1<sup>st</sup> Investment in or with the Receivership Entities:

totaled \$ \_\_\_\_\_  
was made on \_\_\_\_\_ (date);  
through a check (or wire transfer) made payable to \_\_\_\_\_ and drawn on account number \_\_\_\_\_ with \_\_\_\_\_ (Identify financial institution); for \_\_\_\_\_ (Identify the purported fund or other entity through which your investment in or with the Receivership Entities was made).

If applicable, 2<sup>nd</sup> Investment in or with the Receivership Entities:

totaled \$ \_\_\_\_\_  
was made on \_\_\_\_\_ (date);  
through a check (or wire transfer) made payable to \_\_\_\_\_ and drawn on account number \_\_\_\_\_ with \_\_\_\_\_ (Identify financial institution); for \_\_\_\_\_ (Identify the purported fund or other entity through which your investment in or with the Receivership Entities was made).

If additional investments were made, please attach a separate sheet identifying (1) those amounts, (2) the dates on which they were made, (3) the payee (or recipient) of the check (or wire transfer), (4) the account number and financial institution holding the account, and (5) the purported fund or other entity through which your investment in or with the Receivership Entities was made.

**Total amount you are claiming you invested in the Receivership Entities: \$** \_\_\_\_\_

9. Have you ever received any amount from a Receivership Entity, either as a distribution on your investment or for any other reason? \_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, please provide the following information for each amount received, and attach copies of all checks, bank or other financial account statements, wire transfer confirmations, and other documents relating to your answers.

	<u>Date</u>	<u>Amount</u>	<u>Payor/Payee of check/wire</u>
A.	_____	_____	_____
B.	_____	_____	_____
C.	_____	_____	_____

If any additional amounts were received from any Receivership Entity, please attach a separate sheet identifying those amounts, the dates on which they were received, and the payor and payee of the check(s) or wire transfers.

**Total amount you are claiming you received from the Receivership Entities: \$** \_\_\_\_\_

10. Was any deposit into this account transferred from any other account with any Receivership Entity? \_\_\_\_\_ Yes  No. If yes, please identify the date of any such transfer(s), the account name(s) and Receivership Entity from which the funds were transferred, and the amount of the transfer(s).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Was your investment funded in any part with an investment in or funds received or transferred from any "investment club" operated by Arthur Nadel, such as Harmony Investment Club, Indigo Investment Club, or Traders Investment Club? Yes  No

If you answered yes, please identify with specificity the funds received or transferred, the date of any such transfer, and the name of the investment club from which the funds originated.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. Have you filed or otherwise commenced any lawsuits, arbitrations, actions, or other proceedings; or made any demands against any person or entity, relating in any way to your investment in or with any Receivership Entity, including against (i) financial institutions; (ii) employees, officers, directors, representatives, other investors, or shareholders of any Receivership Entity; (iii) brokers or agents; or (iv) any other person or entity? Yes  No

If you answered yes, please identify with specificity the nature and status of any lawsuits, arbitrations, actions, other proceedings or demands that you have filed, made or otherwise commenced. Please include the name of the attorney and/or firm who commenced any such proceeding or made any such demand on your behalf.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

13. If you were not an investor in a Receivership Entity, state how you claim an interest in any distribution by the Receivership Entities (for example, if you are the beneficiary of a deceased investor, the investment was assigned or sold to you, or you provided services or goods to the Receivership Entities for which you have not been paid).

NOT APPLICABLE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. Did you receive anything of value other than money from any Receivership Entity at any point in time (for example, fax machines, shares of stock)? Yes  No . If yes, please identify what you received, from whom, and the date on which you received it.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

15. Identify your primary contact person(s) at the Receivership Entities.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

16. List any other employees or other representatives of any Receivership Entity or anyone else associated with a Receivership Entity, including any accountant (such as Michael Zucker), lawyer (such as lawyers associated with Holland & Knight LLP), or investment or trading representative (such as anyone associated with Shoreline Group, LLC) with whom you communicated or dealt.

NOT APPLICABLE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

17. Please identify with specificity the way in which you came to learn about the Receivshp Entities and thereafter invest in or with any of them, including the person who introduced you to the Receivshp Entities, the statements made by that person, any documents provided by that person, meetings you had with the representative(s) of the Receivshp Entities, information that you relied on, and any other information.

Client's decision to invest in this fund

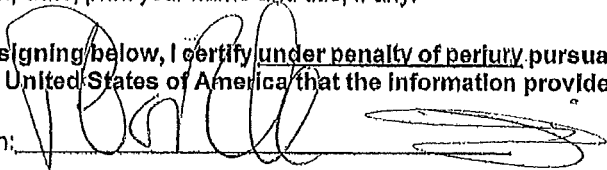
Please submit this completed and signed, under penalty of perjury, Proof of Claim Form and legible copies of any documentation requested in this form to **Burton W. Wiand, Receiver, c/o Maya M. Lockwood, Esquire, Wiand Guerra King P.L., 3000 Bayport Drive, Suite 600, Tampa, Florida 33607** SO THAT IT IS RECEIVED NO LATER THAN SEPTEMBER 2, 2010.

IF YOU DO NOT AGREE WITH ANY AMOUNTS PROVIDED ON EXHIBIT A OR NO AMOUNTS WERE PROVIDED ON EXHIBIT A, YOU MUST PROVIDE ALL DOCUMENTS OR OTHER MATERIAL THAT IS RELATED IN ANY WAY TO YOUR INVESTMENT IN THE RECEIVERSHIP ENTITIES, OR, IF YOU ARE NOT AN INVESTOR, TO YOUR CLAIM AGAINST A RECEIVERSHIP ENTITY, INCLUDING COPIES OF YOUR CANCELLED CHECKS, BANK OR OTHER FINANCIAL ACCOUNT STATEMENTS SHOWING THE TRANSFER OF FUNDS INVESTED AND RECEIVED, STATEMENTS FROM THE RECEIVERSHIP ENTITIES, WIRE TRANSFER CONFIRMATIONS, AND ANY OTHER DOCUMENTS REGARDING YOUR CLAIM(S).

Sign, date, print your name and title, if any.

By signing below, I certify under penalty of perjury pursuant to 28 U.S.C. § 1746 which forms part of the laws of the United States of America that the information provided in this form is true and correct.

Sign:



Print Name: Pascoal VOIDE Joel DUBI

Date: August 27, 2010

Title: SENSOR VICE-PRESIDENT / VICE-PRESIDENT

**EXHIBIT A**

**Account Name:** Canrol Finance Ltd.  
**Fund Name:** VAL

<b>Amount Invested:</b>	<b>\$1,195,000.00</b>
<b>Total Payments:</b>	<b>\$0.00</b>
<b>Net Investment Amount:</b>	<b>\$1,195,000.00</b>

THE RECEIVER HAS PROVIDED THE ABOVE INFORMATION BASED UPON DOCUMENTS AVAILABLE TO HIM. THESE FIGURES ARE BELIEVED TO BE ACCURATE AND REASONABLE CONCLUSIONS. PLEASE CAREFULLY REVIEW THE ABOVE AMOUNTS. IF THE NUMBERS PROVIDED ARE NOT CONSISTENT WITH YOUR RECORDS, IT IS YOUR OBLIGATION TO PROVIDE TRUE AND CORRECT INFORMATION TO THE RECEIVER. IF YOU CONFIRM THAT THE ABOVE AMOUNTS ACCURATELY REPRESENT THE AMOUNT INVESTED INTO AND ALL AMOUNTS RECEIVED FROM THE ABOVE-NAMED ACCOUNT AND ANY OTHER FUNDS YOU RECEIVED FROM THE RECEIVERSHIP ENTITIES, YOU ARE DOING SO UNDER PENALTY OF PERJURY.

BY IDENTIFYING AND PROVIDING THE ABOVE FIGURES, THE RECEIVER DOES NOT WAIVE ANY RIGHT TO (1) DENY, CONTEST THE VALIDITY OF, OR OTHERWISE OBJECT TO A CLAIM OR, (2) IF WARRANTED, AMEND ANY OF THE PROVIDED FIGURES.

# CANROL FINANCE LIMITED

Registered address:  
P.O. Box 3175  
Road Town / Tortola  
British Virgin Islands

Mailing address:  
c/o P.O. Box 3249  
CH-1211 Geneva 3

Tortola, June 21<sup>st</sup>, 2010

TO WHOM IT MAY CONCERN

**CERTIFIED TRUE COPY**  
DATE: August 27, 2010



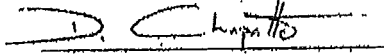
Dear Sirs,

We are giving you hereafter the names of the persons authorised to sign jointly by two on behalf of  
**CANROL FINANCE LIMITED :**

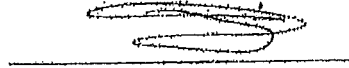
Alex BUSCHI



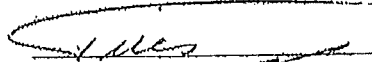
Daniel CHAPATTE



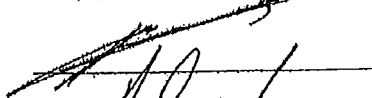
Joël DUBI



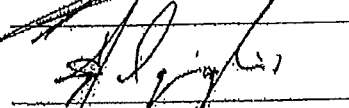
Daniel FRIES



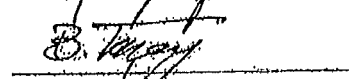
Claude HENRIOUD



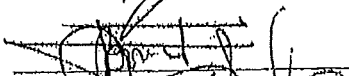
Sébastien MALGIOGLIO



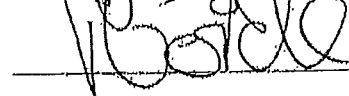
Barkon TACOY



Eric VERNET

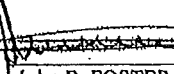


Pascal VOIDE



Very truly yours,  
**CANROL FINANCE LIMITED**

  
Andrés M. SANCHEZ  
Director

  
John B. FOSTER  
Director

Incorporation No 497078



**BURTON W. WIAND, RECEIVER FOR**  
**VALHALLA INVESTMENT PARTNERS, L.P.**  
**VIKING FUND, LLC**  
**VIKING IRA FUND, LLC**  
**VICTORY FUND, LTD.**  
**VICTORY IRA FUND, LTD.**  
**and SCOOP REAL ESTATE, L.P.**

February 8, 2011

**U.S. MAIL**

Canrol Finance Ltd.  
8, rue du Robert Estienne  
Case postale 3249  
CH-1211 Geneve 3

Re: Account Name: Canrol Finance Ltd.  
Fund Name: VAL

Dear Mr. Schott:

Enclosed please find a copy of the Proof of Claim Form submitted for the above account. I have not yet made any determination regarding the validity of your claim or the sufficiency of your submission. However, upon initial review of this Proof of Claim Form, I have determined that I need more information. Specifically, you have not identified the beneficial owner(s) of the above account. As this appears to be a custodial account, you must identify the beneficial owner(s) of this account and any other parties with an interest in this account and specify the nature of each such person's or entity's interest. If the beneficial owner(s) is an entity, you must provide the information requested in question 3 of the Proof of Claim Form. Further, I require an original signature of an authorized beneficial owner on the submitted Proof of Claim Form certifying under penalty of perjury that the information provided on the Proof of Claim Form is true and correct for the beneficial owner(s) and the above account.

Alternatively, an officer of the Bank may provide a notarized document attesting to the following: (1) the identities of the beneficial owner(s) of the above account and any other parties with an interest in the account; (2) the nature of the interest of each person or entity identified in (1); (3) the beneficial owner(s) agrees that the Exhibit A attached to the Proof of Claim Form accurately reflects the amount of the investment and all amounts received from that account and any other funds received from the Receivership Entities; (4) the beneficial owner(s) and/or any other interested parties have not commenced any litigation or other proceedings relating in any way to his/her investment as specified in question 12 of the Proof of Claim Form; and (5) the beneficial owner(s) and/or any other parties with an interest in the above account did not receive anything of value other than money from any Receivership Entity at any point in time.

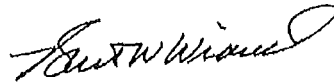
3000 BAYPORT DRIVE | SUITE 600 | TAMPA, FL 33607  
TELEPHONE (813) 347-5100 | FAX (813) 347-5198 | [www.nadelreceivership.com](http://www.nadelreceivership.com)

**EXHIBIT C**

Your failure to provide the original signature of an authorized beneficial owner or the notarized documentation requested above may have an impact on your claim. I am sending you this letter to allow you to supplement your Proof of Claim. Please be advised that you have **thirty days** from the date of this letter for the supplemented Proof of Claim to be received by my office for it to be considered timely.

If you have any questions, please feel free to call or email Jordan D. Maglich at (813) 347-5115, [jmaglich@wlandlaw.com](mailto:jmaglich@wlandlaw.com).

Sincerely yours,



Burton W. Wland

MML/jdm  
Enclosures

## PROOF OF CLAIM FORM

SECURITIES AND EXCHANGE COMMISSION,  
Plaintiff,  
v.  
ARTHUR NADEL, SCOOP CAPITAL, LLC, 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.

Name and address of Claimant  
(Please print or type):

Account Name: Canrol Finance Ltd.  
Fund Name: VAL

Canrol Finance Ltd.  
8, rue du Robert Estienne  
Case postale 3249  
CH-1211 Geneve 3

Case Number: 8:09-CV-00087-T-26TBM  
U.S. District Court Middle District of  
Florida (Tampa Division)

### ATTENTION:

The Honorable Richard A. Lazzara of the United States District Court, Middle District of Florida, entered Orders appointing Burton W. Wland as Receiver of SCOOP CAPITAL, LLC; SCOOP MANAGEMENT, INC.; SCOOP REAL ESTATE, L.P.; VALHALLA INVESTMENT PARTNERS, L.P.; VALHALLA MANAGEMENT, INC.; VICTORY FUND, LTD.; VICTORY IRA FUND, LTD.; VIKING IRA FUND, LLC; VIKING FUND, LLC; VIKING MANAGEMENT, LLC; VENICE JET CENTER, LLC; TRADEWIND, LLC; LAUREL MOUNTAIN PRESERVE, LLC; LAUREL PRESERVE, LLC; THE MARGUERITE J. NADEL REVOCABLE TRUST UAD 8/2/07; THE LAUREL MOUNTAIN PRESERVE HOMEOWNERS ASSOCIATION, INC.; THE GUY-NADEL FOUNDATION, INC.; LIME AVENUE ENTERPRISES, LLC; A VICTORIAN GARDEN FLORIST, LLC; VIKING OIL & GAS, LLC; and HOME FRONT HOMES, LLC (individually, "Receivership Entity," and collectively, "Receivership Entities"). On April 21, 2010, the Court issued an Order establishing a Claim Bar Date for all claims and approving this Proof of Claim Form and the basic procedures to administer any claims. In order to be eligible to receive a distribution from the Receivership Entities' assets, you must complete and return this Proof of Claim Form and, if applicable, provide the requested documentation, so that it is received on or before **September 2, 2010, to Burton W. Wland, Receiver, c/o Maya M. Lockwood, Esquire, Wland Guerra King P.L., 3000 Bayport Drive, Suite 600, Tampa, Florida 33607**. *The proper filling of this completed claim form may entitle you to receive a distribution from the Receivership. Altered forms will not be accepted.*

The information provided in this Proof of Claim Form will be used to calculate your distribution, if any, from the Receivership. The Receiver has the right to dispute and/or verify any information you have provided in order to determine the proper distribution amount, if any, to which you may be entitled. The Receiver further has the right to amend any information he may have provided as to your Net Investment Amount. **By identifying and providing a Net Investment Amount for an account the Receiver does not waive any right to (1) deny, contest the validity of, or otherwise object to a claim or (2), if warranted, amend the provided Net Investment Amount.**

### IMPORTANT INFORMATION TO READ PRIOR TO SUBMITTING THIS FORM

ANY PERSON OR ENTITY SUBMITTING THIS PROOF OF CLAIM FORM SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA FOR ALL PURPOSES, INCLUDING, WITHOUT LIMITATION, AS TO ANY CLAIMS, OBJECTIONS, DEFENSES, OR COUNTERCLAIMS THAT COULD BE OR HAVE BEEN ASSERTED BY THE RECEIVER AGAINST SUCH CLAIMANT OR THE HOLDER OF SUCH CLAIM IN CONNECTION WITH THIS RECEIVERSHIP, INCLUDING THOSE ARISING OUT OF (1) ANY DEALING OR BUSINESS TRANSACTED BY OR WITH ANY RECEIVERSHIP ENTITY OR (2) ANY DEALING OR BUSINESS TRANSACTED THAT RELATES IN ANY WAY TO ANY RECEIVERSHIP PROPERTY. FURTHER, CLAIMANTS WAIVE ANY RIGHT TO A JURY TRIAL WITH RESPECT TO SUCH CLAIMS, OBJECTIONS, DEFENSES, AND COUNTERCLAIMS. IF THIS COMPLETED FORM, SIGNED UNDER PENALTY OF PERJURY, IS NOT RECEIVED BY THE RECEIVER AT THE ABOVE-REFERENCED ADDRESS BY **SEPTEMBER 2, 2010**, YOU WILL BE FOREVER BARRED FROM ASSERTING ANY CLAIM AGAINST THE RECEIVERSHIP ENTITIES' ASSETS AND YOU WILL NOT BE ELIGIBLE TO RECEIVE ANY DISTRIBUTIONS FROM THE RECEIVER.

**General Instructions:**

You must answer each and every question. Please answer each question as fully as possible. If you need additional space to complete an answer, please attach a separate sheet of paper and indicate the number of the question for which you are providing the additional information. If the question does not apply to you, please write "not applicable." Do not write "NA," "N/A" or the like. If the answer to the question is "no" or "none," please answer as such.

1. Full name of person completing this form. \_\_\_\_\_
  
2. If this form is being completed on behalf of a person or entity other than the person listed in question 1, please provide the name of the person or entity with an interest in the Recevlership Entitles' assets.  
\_\_\_\_\_
  
3. If this form is being completed on behalf of an entity, please provide the full name of the entity and all of its trustees, officers, directors, managing agents, shareholders, partners, beneficiaries, and any other party with an interest in the entity.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
4. Current address and telephone number of person completing this form.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
5. Current address and telephone number of person or entity with an interest in the Recevlership Entitles' assets (if different from answer to question 4).  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
6. Provide one mailing address where you (or the person/entity on whose behalf you are acting) authorize the receipt of all future communications relating to this claim, including any possible distribution payment you may receive. It is your responsibility to advise the Receiver of any change to this address after the submission of this form.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
7. Please refer to Exhibit A attached to this document. If sufficient information is available, this Exhibit provides the following information for the identified "account:" (1) the total amount invested; (2) the total amount received; and (3) the Net Investment Amount. If you received funds unrelated to your investment in an "account" (for example, incentive fees), those amounts will also appear in the attached Exhibit. Do the amounts listed in the Exhibit accurately represent the amount of your investment into and all amounts received from that account and any other funds you received from the Recevlership Entitles? Failure to respond to this question will mean that you agree with the amounts listed in the Exhibit.  
  
\_\_\_\_\_ Yes      \_\_\_\_\_ No.

**If you answered yes, you do not have to respond to questions 8 and 9.**

8. Please provide the following information regarding your investment in or with, or interest in, any Receivship Entity, and attach copies of all checks, bank or other financial account statements, invoices, wire transfer confirmations, and other documents relating to your answer:

1<sup>st</sup> Investment In or with the Receivship Entities:

totaled \$ \_\_\_\_\_  
 was made on \_\_\_\_\_ (date);  
 through a check (or wire transfer) made payable to \_\_\_\_\_ and drawn on account number \_\_\_\_\_ with \_\_\_\_\_ (Identify financial institution); for \_\_\_\_\_ (Identify the purported fund or other entity through which your investment in or with the Receivship Entities was made).

If applicable, 2<sup>nd</sup> Investment In or with the Receivship Entities:

totaled \$ \_\_\_\_\_  
 was made on \_\_\_\_\_ (date);  
 through a check (or wire transfer) made payable to \_\_\_\_\_ and drawn on account number \_\_\_\_\_ with \_\_\_\_\_ (Identify financial institution); for \_\_\_\_\_ (Identify the purported fund or other entity through which your investment in or with the Receivship Entities was made).

If additional investments were made, please attach a separate sheet identifying (1) those amounts, (2) the dates on which they were made, (3) the payee (or recipient) of the check (or wire transfer), (4) the account number and financial institution holding the account, and (5) the purported fund or other entity through which your investment in or with the Receivship Entities was made.

**Total amount you are claiming you invested in the Receivship Entities: \$ \_\_\_\_\_**

9. Have you ever received any amount from a Receivship Entity, either as a distribution on your investment or for any other reason?        Yes        No. If yes, please provide the following information for each amount received, and attach copies of all checks, bank or other financial account statements, wire transfer confirmations, and other documents relating to your answers.

	<u>Date</u>	<u>Amount</u>	<u>Payor/Payee of check/wire</u>
A.	_____	_____	_____
B.	_____	_____	_____
C.	_____	_____	_____

If any additional amounts were received from any Receivship Entity, please attach a separate sheet identifying those amounts, the dates on which they were received, and the payor and payee of the check(s) or wire transfers.

**Total amount you are claiming you received from the Receivship Entities: \$ \_\_\_\_\_**

10. Was any deposit into this account transferred from any other account with any Receivship Entity?        Yes        No. If yes, please identify the date of any such transfer(s), the account name(s) and Receivship Entity from which the funds were transferred, and the amount of the transfer(s).

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

11. Was your investment funded in any part with an investment in or funds received or transferred from any "Investment club" operated by Arthur Nadel, such as Harmony Investment Club, Indigo Investment Club, or Traders Investment Club? \_\_\_\_\_ Yes \_\_\_\_\_ No.

If you answered yes, please identify with specificity the funds received or transferred, the date of any such transfer, and the name of the investment club from which the funds originated.

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12. Have you filed or otherwise commenced any lawsuits, arbitrations, actions, or other proceedings; or made any demands against any person or entity, relating in any way to your investment in or with any Receivership Entity, including against (i) financial institutions; (ii) employees, officers, directors, representatives, other investors, or shareholders of any Receivership Entity; (iii) brokers or agents; or (iv) any other person or entity? \_\_\_\_\_ Yes \_\_\_\_\_ No.

If you answered yes, please identify with specificity the nature and status of any lawsuits, arbitrations, actions, other proceedings or demands that you have filed, made or otherwise commenced. Please include the name of the attorney and/or firm who commenced any such proceeding or made any such demand on your behalf.

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13. If you were not an investor in a Receivership Entity, state how you claim an interest in any distribution by the Receivership Entities (for example, if you are the beneficiary of a deceased investor, the investment was assigned or sold to you, or you provided services or goods to the Receivership Entities for which you have not been paid).

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14. Did you receive anything of value other than money from any Receivership Entity at any point in time (for example, fax machines, shares of stock)? \_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, please identify what you received, from whom, and the date on which you received it.

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15. Identify your primary contact person(s) at the Receivership Entities.

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16. List any other employees or other representatives of any Receivership Entity or anyone else associated with a Receivership Entity, including any accountant (such as Michael Zucker), lawyer (such as lawyers associated with Holland & Knight LLP), or investment or trading representative (such as anyone associated with Shoreline Group, LLC) with whom you communicated or dealt.

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17. Please identify with specificity the way in which you came to learn about the Receivership Entities and thereafter invest in or with any of them, including the person who introduced you to the Receivership Entities, the statements made by that person, any documents provided by that person, meetings you had with the representative(s) of the Receivership Entities, information that you relied on, and any other information.

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Please submit this completed and signed, under penalty of perjury, Proof of Claim Form and legible copies of any documentation requested in this form to **Burton W. Wiand, Receiver, c/o Maya M. Lockwood, Esquire, Wiand Guerra King P.L., 3000 Bayport Drive, Suite 600, Tampa, Florida 33607** SO THAT IT IS RECEIVED NO LATER THAN **SEPTEMBER 2, 2010**.

IF YOU DO NOT AGREE WITH ANY AMOUNTS PROVIDED ON EXHIBIT A OR NO AMOUNTS WERE PROVIDED ON EXHIBIT A, YOU MUST PROVIDE ALL DOCUMENTS OR OTHER MATERIAL THAT IS RELATED IN ANY WAY TO YOUR INVESTMENT IN THE RECEIVERSHIP ENTITIES, OR, IF YOU ARE NOT AN INVESTOR, TO YOUR CLAIM AGAINST A RECEIVERSHIP ENTITY, INCLUDING COPIES OF YOUR CANCELLED CHECKS, BANK OR OTHER FINANCIAL ACCOUNT STATEMENTS SHOWING THE TRANSFER OF FUNDS INVESTED AND RECEIVED, STATEMENTS FROM THE RECEIVERSHIP ENTITIES, WIRE TRANSFER CONFIRMATIONS, AND ANY OTHER DOCUMENTS REGARDING YOUR CLAIM(S).

Sign, date, print your name and title, if any.

By signing below, I certify under penalty of perjury pursuant to 28 U.S.C. § 1746 which forms part of the laws of the United States of America that the information provided in this form is true and correct.

Sign: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A**

**Account Name:** Canrol Finance Ltd.  
**Fund Name:** VAL

<b>Amount Invested:</b>	<b>\$1,195,000.00</b>
<b>Total Payments:</b>	<b>\$0.00</b>
<b>Net Investment Amount:</b>	<b>\$1,195,000.00</b>

THE RECEIVER HAS PROVIDED THE ABOVE INFORMATION BASED UPON DOCUMENTS AVAILABLE TO HIM. THESE FIGURES ARE BELIEVED TO BE ACCURATE AND REASONABLE CONCLUSIONS. PLEASE CAREFULLY REVIEW THE ABOVE AMOUNTS. IF THE NUMBERS PROVIDED ARE NOT CONSISTENT WITH YOUR RECORDS, IT IS YOUR OBLIGATION TO PROVIDE TRUE AND CORRECT INFORMATION TO THE RECEIVER. IF YOU CONFIRM THAT THE ABOVE AMOUNTS ACCURATELY REPRESENT THE AMOUNT INVESTED INTO AND ALL AMOUNTS RECEIVED FROM THE ABOVE-NAMED ACCOUNT AND ANY OTHER FUNDS YOU RECEIVED FROM THE RECEIVERSHIP ENTITIES, YOU ARE DOING SO UNDER PENALTY OF PERJURY.

BY IDENTIFYING AND PROVIDING THE ABOVE FIGURES, THE RECEIVER DOES NOT WAIVE ANY RIGHT TO (1) DENY, CONTEST THE VALIDITY OF, OR OTHERWISE OBJECT TO A CLAIM OR, (2) IF WARRANTED, AMEND ANY OF THE PROVIDED FIGURES.



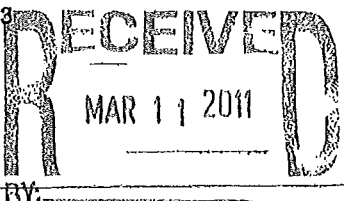
**PROOF OF CLAIM FORM**

SECURITIES AND EXCHANGE COMMISSION,  
Plaintiff,  
  
v.  
ARTHUR NADEL, SCOOP CAPITAL, LLC, SCOOP  
MANAGEMENT, INC.,  
Defendants,

Name and address of Claimant  
(Please print or type):  
  
Account Name: Canrol Finance Ltd.  
Fund Name: VAL

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.

Canrol Finance Ltd.  
8, rue du Robert Estienne  
Case postale 3249  
CH-1211 Geneva 3



Case Number: 8:09-CV-00087-T-26TBM  
U.S. District Court Middle District of  
Florida (Tampa Division)

**ATTENTION:**

The Honorable Richard A. Lazzara of the United States District Court, Middle District of Florida, entered Orders appointing Burton W. Wland as Receiver of SCOOP CAPITAL, LLC; SCOOP MANAGEMENT, INC.; SCOOP REAL ESTATE, L.P.; VALHALLA INVESTMENT PARTNERS, L.P.; VALHALLA MANAGEMENT, INC.; VICTORY FUND, LTD.; VICTORY IRA FUND, LTD.; VIKING IRA FUND, LLC; VIKING FUND, LLC; VIKING MANAGEMENT, LLC; VENICE JET CENTER, LLC; TRADEWIND, LLC; LAUREL MOUNTAIN PRESERVE, LLC; LAUREL PRESERVE, LLC; THE MARGUERITE J. NADEL REVOCABLE TRUST UAD 8/2/07; THE LAUREL MOUNTAIN PRESERVE HOMEOWNERS ASSOCIATION, INC.; THE GUY-NADEL FOUNDATION, INC.; LIME AVENUE ENTERPRISES, LLC; A VICTORIAN GARDEN FLORIST, LLC; VIKING OIL & GAS, LLC; and HOME FRONT HOMES, LLC (individually, "Receivership Entity," and collectively, "Receivership Entities"). On April 21, 2010, the Court issued an Order establishing a Claim Bar Date for all claims and approving this Proof of Claim Form and the basic procedures to administer any claims. In order to be eligible to receive a distribution from the Receivership Entities' assets, you must complete and return this Proof of Claim Form and, if applicable, provide the requested documentation, so that it is received on or before **September 2, 2010, to Burton W. Wland, Receiver, c/o Maya M. Lockwood, Esquire, Wland Guerra King P.L., 3000 Bayport Drive, Suite 600, Tampa, Florida 33607.** *The proper filing of this completed claim form may entitle you to receive a distribution from the Receivership. Altered forms will not be accepted.*

The information provided in this Proof of Claim Form will be used to calculate your distribution, if any, from the Receivership. The Receiver has the right to dispute and/or verify any information you have provided in order to determine the proper distribution amount, if any, to which you may be entitled. The Receiver further has the right to amend any information he may have provided as to your Net Investment Amount. **By identifying and providing a Net Investment Amount for an account the Receiver does not waive any right to (1) deny, contest the validity of, or otherwise object to a claim or (2), if warranted, amend the provided Net Investment Amount.**

**IMPORTANT INFORMATION TO READ PRIOR TO SUBMITTING THIS FORM**

ANY PERSON OR ENTITY SUBMITTING THIS PROOF OF CLAIM FORM SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA FOR ALL PURPOSES, INCLUDING, WITHOUT LIMITATION, AS TO ANY CLAIMS, OBJECTIONS, DEFENSES, OR COUNTERCLAIMS THAT COULD BE OR HAVE BEEN ASSERTED BY THE RECEIVER AGAINST SUCH CLAIMANT OR THE HOLDER OF SUCH CLAIM IN CONNECTION WITH THIS RECEIVERSHIP, INCLUDING THOSE ARISING OUT OF (1) ANY DEALING OR BUSINESS TRANSACTED BY OR WITH ANY RECEIVERSHIP ENTITY OR (2) ANY DEALING OR BUSINESS TRANSACTED THAT RELATES IN ANY WAY TO ANY RECEIVERSHIP PROPERTY. FURTHER, CLAIMANTS WAIVE ANY RIGHT TO A JURY TRIAL WITH RESPECT TO SUCH CLAIMS, OBJECTIONS, DEFENSES, AND COUNTERCLAIMS. IF THIS COMPLETED FORM, SIGNED UNDER PENALTY OF PERJURY, IS NOT RECEIVED BY THE RECEIVER AT THE ABOVE-REFERENCED ADDRESS BY SEPTEMBER 2, 2010, YOU WILL BE FOREVER BARRED FROM ASSERTING ANY CLAIM AGAINST THE RECEIVERSHIP ENTITIES' ASSETS AND YOU WILL NOT BE ELIGIBLE TO RECEIVE ANY DISTRIBUTIONS FROM THE RECEIVER.

**General Instructions:**

You must answer each and every question. Please answer each question as fully as possible. If you need additional space to complete an answer, please attach a separate sheet of paper and indicate the number of the question for which you are providing the additional information. If the question does not apply to you, please write "not applicable." Do not write "NA," "N/A" or the like. If the answer to the question is "no" or "none," please answer as such.

1. Full name of person completing this form. PASCAL VOIDE
  
2. If this form is being completed on behalf of a person or entity other than the person listed in question 1, please provide the name of the person or entity with an interest in the Receivership Entities' assets.  
Carrol Finance Ltd. is acting as nominee for the account of (i) Genium All Fund Series 1 Ltd Standard portfolio, and (ii) Genium Trading Company Ltd. both investment funds
3. If this form is being completed on behalf of an entity, please provide the full name of the entity and all of its trustees, officers, directors, managing agents, shareholders, partners, beneficiaries, and any other party with an interest in the entity.  
Genium All Fund Series 1 Ltd Standard portfolio and Genium Trading Company Ltd. do not intend to provide/describe the requested information.
  
4. Current address and telephone number of person completing this form.  
Pascal Voide c/o Union Bancaire Privée, UBP SA  
attn: Fund Desk 26, 38 rue de Rhodé  
10 box 1320 1211 Geneva 1 (Switzerland) +41 58 819 33 50
  
5. Current address and telephone number of person or entity with an interest in the Receivership Entities' assets (if different from answer to question 4).  
Same as 4, as Carrol Finance is acting as nominee for UBP it self acting as nominee for Genium All Fund Series 1 Ltd Standard portfolio and Genium Trading Company Ltd. the account of
  
6. Provide one mailing address where you (or the person/entity on whose behalf you are acting) authorize the receipt of all future communications relating to this claim, including any possible distribution payment you may receive. It is your responsibility to advise the Receiver of any change to this address after the submission of this form.  
Union Bancaire Privée, UBP SA, 26-38, rue de Rhodé, 10 box 1320,  
1211 Geneva 1, Switzerland  
attn: FundDesk - Corporate Action Team
  
7. Please refer to Exhibit A attached to this document. If sufficient information is available, this Exhibit provides the following information for the identified "account:" (1) the total amount invested; (2) the total amount received; and (3) the Net Investment Amount. If you received funds unrelated to your investment in an "account" (for example, incentive fees), those amounts will also appear in the attached Exhibit. Do the amounts listed in the Exhibit accurately represent the amount of your investment into and all amounts received from that account and any other funds you received from the Receivership Entities? Failure to respond to this question will mean that you agree with the amounts listed in the Exhibit.

Yes  No.

If you answered yes, you do not have to respond to questions 8 and 9.

8. Please provide the following information regarding your investment in or with, or interest in, any Receivership Entity, and attach copies of all checks, bank or other financial account statements, invoices, wire transfer confirmations, and other documents relating to your answer:

1<sup>st</sup> investment in or with the Receivership Entities:

totaled \$ \_\_\_\_\_

was made on \_\_\_\_\_ (date);

through a check (or wire transfer) made payable to \_\_\_\_\_ and drawn on account number \_\_\_\_\_ with \_\_\_\_\_ (Identify financial institution); for \_\_\_\_\_ (Identify the purported fund or other entity through which your investment in or with the Receivership Entities was made).

If applicable, 2<sup>nd</sup> investment in or with the Receivership Entities:

totaled \$ \_\_\_\_\_

was made on \_\_\_\_\_ (date);

through a check (or wire transfer) made payable to \_\_\_\_\_ and drawn on account number \_\_\_\_\_ with \_\_\_\_\_ (Identify financial institution); for \_\_\_\_\_ (Identify the purported fund or other entity through which your investment in or with the Receivership Entities was made).

If additional investments were made, please attach a separate sheet identifying (1) those amounts, (2) the dates on which they were made, (3) the payee (or recipient) of the check (or wire transfer), (4) the account number and financial institution holding the account, and (5) the purported fund or other entity through which your investment in or with the Receivership Entities was made.

Total amount you are claiming you invested in the Receivership Entities: \$ \_\_\_\_\_

9. Have you ever received any amount from a Receivership Entity, either as a distribution on your investment or for any other reason? \_\_\_\_\_ Yes \_\_\_\_\_ No. If yes, please provide the following information for each amount received, and attach copies of all checks, bank or other financial account statements, wire transfer confirmations, and other documents relating to your answers.

	<u>Date</u>	<u>Amount</u>	<u>Payor/Payee of check/wire</u>
A.	_____	_____	_____
B.	_____	_____	_____
C.	_____	_____	_____

If any additional amounts were received from any Receivership Entity, please attach a separate sheet identifying those amounts, the dates on which they were received, and the payor and payee of the check(s) or wire transfers.

Total amount you are claiming you received from the Receivership Entities: \$ \_\_\_\_\_

10. Was any deposit into this account transferred from any other account with any Receivership Entity? \_\_\_\_\_ Yes  No. If yes, please identify the date of any such transfer(s), the account name(s) and Receivership Entity from which the funds were transferred, and the amount of the transfer(s).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

11. Was your investment funded in any part with an investment in or funds received or transferred from any "investment club" operated by Arthur Nadel, such as Harmony Investment Club, Indigo Investment Club, or Traders Investment Club? \_\_\_\_\_ Yes  No.

If you answered yes, please identify with specificity the funds received or transferred, the date of any such transfer, and the name of the investment club from which the funds originated.

12. Have you filed or otherwise commenced any lawsuits, arbitrations, actions, or other proceedings; or made any demands against any person or entity, relating in any way to your investment in or with any Receivership Entity, including against (i) financial institutions; (ii) employees, officers, directors, representatives, other investors, or shareholders of any Receivership Entity; (iii) brokers or agents; or (iv) any other person or entity? \_\_\_\_\_ Yes  No.

If you answered yes, please identify with specificity the nature and status of any lawsuits, arbitrations, actions, other proceedings or demands that you have filed, made or otherwise commenced. Please include the name of the attorney and/or firm who commenced any such proceeding or made any such demand on your behalf.

13. If you were not an investor in a Receivership Entity, state how you claim an interest in any distribution by the Receivership Entities (for example, if you are the beneficiary of a deceased investor, the investment was assigned or sold to you, or you provided services or goods to the Receivership Entities for which you have not been paid).

*not applicable*

14. Did you receive anything of value other than money from any Receivership Entity at any point in time (for example, fax machines, shares of stock)? \_\_\_\_\_ Yes  No. If yes, please identify what you received, from whom, and the date on which you received it.

15. Identify your primary contact person(s) at the Receivership Entities.

*Christopher D. Noody*  
*Vice-President and Treasurer - Valhalla Management Inc.*  
*Co-Managing Member - Viking Management, LLC*

16. List any other employees or other representatives of any Receivership Entity or anyone else associated with a Receivership Entity, including any accountant (such as Michael Zucker), lawyer (such as lawyers associated with Holland & Knight LLP), or investment or trading representative (such as anyone associated with Shoreline Group, LLC) with whom you communicated or dealt.

*not applicable*

17. Please identify with specificity the way in which you came to learn about the Receivership Entities and thereafter invest in or with any of them, including the person who introduced you to the Receivership Entities, the statements made by that person, any documents provided by that person, meetings you had with the representative(s) of the Receivership Entities, information that you relied on, and any other information.

*Carrol Finance Ltd maintains a portfolio of investments including hedge funds, and made investment in Valhalla Investment Partners LP in a nominee capacity after receiving indicia by the usual offering and subscription documents in applicable.*

Please submit this completed and signed, under penalty of perjury, Proof of Claim Form and legible copies of any documentation requested in this form to Burton W. Wiand, Receiver, c/o Maya M. Lockwood, Esquire, Wiand Guerra King P.L., 3000 Bayport Drive, Suite 600, Tampa, Florida 33607 SO THAT IT IS RECEIVED NO LATER THAN SEPTEMBER 2, 2010.

IF YOU DO NOT AGREE WITH ANY AMOUNTS PROVIDED ON EXHIBIT A OR NO AMOUNTS WERE PROVIDED ON EXHIBIT A, YOU MUST PROVIDE ALL DOCUMENTS OR OTHER MATERIAL THAT IS RELATED IN ANY WAY TO YOUR INVESTMENT IN THE RECEIVERSHIP ENTITIES, OR, IF YOU ARE NOT AN INVESTOR, TO YOUR CLAIM AGAINST A RECEIVERSHIP ENTITY, INCLUDING COPIES OF YOUR CANCELLED CHECKS, BANK OR OTHER FINANCIAL ACCOUNT STATEMENTS SHOWING THE TRANSFER OF FUNDS INVESTED AND RECEIVED, STATEMENTS FROM THE RECEIVERSHIP ENTITIES, WIRE TRANSFER CONFIRMATIONS, AND ANY OTHER DOCUMENTS REGARDING YOUR CLAIM(S).

Sign, date, print your name and title, if any.

By signing below, I certify under penalty of perjury pursuant to 28 U.S.C. § 1746 which forms part of the laws of the United States of America that the information provided in this form is true and correct.

*for Genium Al Fund Series A Ltd Standard portfolio:*

Sign: \_\_\_\_\_

Print Name: *Zinuid Pribosky, Director*

Date: *07.03.2011*

Title: *Director*

*for Genium Trading Company Limited:*

EXHIBIT A

Account Name: Canrol Finance Ltd.  
Fund Name: VAL

Amount Invested:	\$1,195,000.00
Total Payments:	\$0.00
Net Investment Amount:	\$1,195,000.00

THE RECEIVER HAS PROVIDED THE ABOVE INFORMATION BASED UPON DOCUMENTS AVAILABLE TO HIM. THESE FIGURES ARE BELIEVED TO BE ACCURATE AND REASONABLE CONCLUSIONS. PLEASE CAREFULLY REVIEW THE ABOVE AMOUNTS. IF THE NUMBERS PROVIDED ARE NOT CONSISTENT WITH YOUR RECORDS, IT IS YOUR OBLIGATION TO PROVIDE TRUE AND CORRECT INFORMATION TO THE RECEIVER. IF YOU CONFIRM THAT THE ABOVE AMOUNTS ACCURATELY REPRESENT THE AMOUNT INVESTED INTO AND ALL AMOUNTS RECEIVED FROM THE ABOVE-NAMED ACCOUNT AND ANY OTHER FUNDS YOU RECEIVED FROM THE RECEIVERSHIP ENTITIES, YOU ARE DOING SO UNDER PENALTY OF PERJURY.

BY IDENTIFYING AND PROVIDING THE ABOVE FIGURES, THE RECEIVER DOES NOT WAIVE ANY RIGHT TO (1) DENY, CONTEST THE VALIDITY OF, OR OTHERWISE OBJECT TO A CLAIM OR, (2) IF WARRANTED, AMEND ANY OF THE PROVIDED FIGURES.

**BURTON W. WIAND, RECEIVER FOR**  
**VALHALLA INVESTMENT PARTNERS, L.P.**  
**VIKING FUND, LLC**  
**VIKING IRA FUND, LLC**  
**VICTORY FUND, LTD.**  
**VICTORY IRA FUND, LTD.**  
**and SCOOP REAL ESTATE, L.P.**

June 10, 2011

**VIA ELECTRONIC MAIL**

Kevin M. Eckhardt  
Hunton & Williams LLP  
1111 Brickell Avenue, Suite 2500  
Miami, Florida 33131  
[keckhardt@hunton.com](mailto:keckhardt@hunton.com)

Re: Account Name: Canrol Finance Ltd.  
Fund Name: VAL

Dear Mr. Eckhardt:

I have been advised of your request to transfer ownership of the above-referenced claim in the pending Receivership Action. Specifically, you seek to transfer all interests in the "Canrol Finance Ltd." claim from Genium AI Fund Series 1 Ltd. and Genium Trading Company (collectively, the "Transferors") to Fulcrum Distressed Opportunities Fund I, LP (the "Transferee"). After reviewing the details of the referenced claim, I decline to authorize or participate in such a transaction.

On June 4, 2010, I sent correspondence to the above-referenced account detailing the claims process and enclosing a Proof of Claim Form. I received a completed Proof of Claim Form from Canrol Finance Ltd. on September 1, 2010. In reviewing the claim, I noted that Question 3 had not been answered. Question 3 seeks the identity of any beneficial owner(s) and any other parties with an interest in the account for which the Proof of Claim is being submitted. Additionally, I required an original signature of an authorized beneficial owner on the submitted Proof of Claim Form certifying under penalty of perjury that the information provided on the Proof of Claim Form is true and correct for the beneficial owner(s) and the above account. On February 8, 2011, I sent correspondence detailing these deficiencies and enclosing a Proof of Claim Form to allow an opportunity to correct these deficiencies.

I received an Amended Proof of Claim Form for the above-referenced account on March 11, 2011. While the Amended Proof of Claim identified the Transferors as beneficial owners, the response failed to provide the identity of any individuals with a legal interest in the beneficial owners. The response further indicated that the Transferors "do not intend to provide/divulge the requested information."

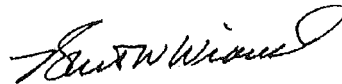
**EXHIBIT E**

Kevin M. Eckhardt  
June 10, 2011

While the transfer in ownership of a Claim would not normally be an issue, I cannot authorize or participate in such a transaction when the identities of the individuals with a legal interest in the beneficial owners remain unknown. Indeed, should this information continue to be withheld, I intend to deny the claim. These requirements exist not as a burden, but as assurance that funds are properly returned to those experiencing actual losses.

Should you wish to discuss this matter further, please contact Jordan D. Maglich at 813-347-5115 or [jmaglich@wiandlaw.com](mailto:jmaglich@wiandlaw.com).

Sincerely yours,



Burton W. Wiand

BWW/jdm



# WIAND GUERRA KING

WIAND GUERRA KING P.L. // 3000 BAYPORT DRIVE, SUITE 600 | TAMPA, FL 33607 | PHONE: 813.347.5100

BURTON W. WIAND  
DIRECT DIAL: 813-347-5101  
BWIAND@WIANDLAW.COM

June 28, 2011

VIA ELECTRONIC MAIL

Kevin M. Eckhardt  
Hunton & Williams LLP  
1111 Brickell Avenue, Suite 2500  
Miami, Florida 33131  
[keckhardt@hunton.com](mailto:keckhardt@hunton.com)

Re: *SEC v. Arthur Nadel et al.*, Case No. 8:09-cv-0087-T-26TBM (M.D. Fla.)  
Claim Account Name: Canrol Finance Ltd.  
Fund Name: VAL

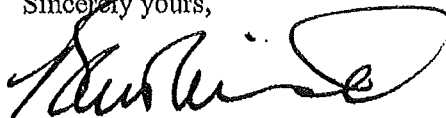
Dear Mr. Eckhardt:

Today I have reviewed a series of emails and communications from you relating to a claim made in the above-referenced Receivership by Canrol Finance Ltd. During the course of this claims process, Canrol Finance Ltd. has not complied with the requirements for Proofs of Claim that were specified by the United States District Court. The time for submission of additional information has long since passed. I will make a determination with respect to this claim based upon the information in hand at this time.

I understand that you have also requested guidance from the Receivership relating to a potential transfer of this claim. The Receivership will not provide guidance with respect to any intended transfers. In this letter I am not indicating to you that such transfers may not occur, but I make no representation to you with respect to the validity of any such transfer and any such transfer is done at your own risk. In that regard, please refer to my prior letter of June 10, 2011.

Any further submissions or objections with respect to the processing of claims by the Receivership should be made in the claims process before the United States District Court.

Sincerely yours,



Burton W. Wiand

BWW/djb

EXHIBIT F