

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.

_____/

**RECEIVER'S FOURTEENTH INTERIM MOTION FOR ORDER
AWARDING FEES, COSTS, AND REIMBURSEMENT OF COSTS
TO RECEIVER AND HIS PROFESSIONALS**

Burton W. Wiand, as Receiver, by and through his undersigned counsel and pursuant to Rule 66 of the Federal Rules of Civil Procedure and the Court's Order Appointing Receiver dated January 21, 2009 (the "**Order Appointing Receiver**"; Doc. 8), respectfully moves this Court for the entry of an order awarding fees, costs, and reimbursement of costs to the Receiver and his professionals. This motion covers all fees and costs incurred for the five month period from October 1, 2012 through February 28, 2013. The Standardized Fund

Accounting Report (“SFAR”) for this period is attached hereto as **Exhibit 1**.¹ For the time covered by this Motion, the Receiver and Wiand Guerra King P.L. (“WGK”) seek total fees and costs of \$1,073,105.27 for their services. During this same time, the Receiver collected the gross amount of **\$26,592,418.83** in cash from settlements, business income, interest/dividend income, business asset liquidation, and other miscellaneous income. This amount includes \$25,000,000 received from Holland & Knight (“H&K”) in connection with the settlement of litigation brought against H&K by the Receiver.² From the inception of the Receivership through February 28, 2013, the Receiver has collected the gross amount of **\$76,538,508.65** in cash from these same sources, as well as securities and personal asset liquidation. During the time covered by this Motion, the Receiver obtained approval of a second interim distribution and distributed \$21,644,200.35 to Claimants entitled to participate in this interim distribution. To date, the Receiver has distributed a total of approximately **\$47 million** to victims of the scheme and as of June 26, 2013, has over **\$13.2 million** in various bank accounts.³ The Receiver has settled cases brought against Profiteers and non-profit organizations from which an additional \$2,183,586.86 remains to be paid.

¹ The Securities and Exchange Commission (the “**Commission**”) provided the Receiver with detailed Billing Instructions for Receivers in Civil Actions Commenced by the Commission (the “**Billing Instructions**”). The SFAR is one of the requirements contained in the Billing Instructions.

² The litigation against H&K was handled by Johnson, Pope, Bokor, Ruppel & Burns (“**Johnson Pope**”). Johnson Pope handled this litigation on a contingency fee basis and received \$6,767,016.41 in payment of its fees and costs.

³ The total amount of approximately \$13,102,162.99 includes \$2,919,110.57 being held in reserves for objections in the claims process and \$2,229,463.15 being held in escrow until a claim to these funds is resolved.

Since the appointment of the Receiver, he and those he has retained to assist him have engaged in substantial and continuing efforts for the benefit of the Receivership. As of the date of this Motion, among other things, the Receiver and his professionals have done the following:

- Pursued and/or continue to pursue litigation or post-judgment efforts for (1) the recovery of false profits or other transfers from investors (i.e., from “**Profiteers**”); (2) the recovery of transfers from Receivership Entities to Donald and Joyce Rowe, and certain of their affiliated entities; (3) the recovery of other transfers, such as commissions, from other individuals and/or entities; and (4) the recovery of certain charitable contributions made with scheme proceeds;
- Prevailed on six summary judgment motions in the District Court for the Middle District of Florida resulting in the entry of judgments against Profiteers for a total amount of **\$2,869,015.43**;
- Reached agreements to settle with **141** Profiteers and non-profit organizations and obtained 16 judgments against Profiteers and non-profit organizations for a total combined amount of **\$26,267,026.96** as of July 8, 2013;
- Reached an agreement to settle, provided notice of the settlement to all potentially interested parties, and obtained an order approving a settlement with H&K pursuant to which H&K paid **\$25,000,000** to the Receiver;
- Reached an agreement to settle, provided notice of the settlement to all potentially interested parties, and obtained an order approving the settlement between the Receiver and Goldman Sachs Execution & Clearing, L.P. (“**GSEC**”), pursuant to which GSEC paid **\$9,850,000** to the Receiver;
- Reached an agreement to settle, provided notice of the settlement to all potentially interested parties, and obtained an order approving a settlement with Shoreline Trading Group, LLC (“**Shoreline**”) pursuant to which Shoreline paid **\$2,500,000** to the Receiver;
- After extensive negotiations, reached a settlement agreement with Donald and Joyce Rowe and related entities (collectively the “**Rowe Defendants**”) pursuant to which (1) the Rows consented to entry of a joint and several judgment against the Rowe Defendants in favor of the Receiver in the amount of **\$4,028,385** on all claims; (2) the Rowe Defendants paid the Receiver **\$250,000** from the surrender of or a loan securitized by a \$400,000 annuity held by Rowe Defendants; and (3)

the Receiver used his best efforts to enjoin two proceedings against the Rowe Defendants brought by investors in Nadel's scheme;

- Entered into an agreement with Bonds.com to retire all Bonds.com's indebtedness to the Receivership in exchange for payment of **\$2,250,000** (which has been received) and, allow Bonds.com to repurchase all approximately 7.5 million shares of stock in exchange for a payment of \$5,000 (which has also been received);
- Sold or reached agreements in principle to sell Receivership assets that should result in approximately **\$7,550,994.90** for the Receivership and the waiver or resolution of more than **\$8 million** in debt obligations of Receivership Entities (this includes \$2,229,463.15 received from the sale of the "Rite-Aid Property" which is being held pending resolution of disputes with Wells Fargo Bank, N.A. ("**Wells Fargo**"));
- Filed the appropriate federal tax forms on behalf of Art Nadel, Chris Moody, Neil Moody, Marguerite Nadel, and Sharon Moody seeking refunds in the total amount of approximately **\$5,359,159.11** and demanded and recovered two tax refund checks totaling **\$1,261,359.33** from Mrs. Nadel which she had received as a result of improperly filed returns;
- Successfully recovered the total amount of approximately **\$5,038,702.93** in federal tax refunds issued for Marguerite and Art Nadel, Sharon Moody, Neil Moody, and Chris Moody;
- Expanded the Receivership to include **15** additional business entities and one trust, including Quest Energy Management Group, Inc.;
- Obtained possession of additional property in Georgia, North Carolina, Mississippi, Ohio, Colorado, Tennessee, and Florida bringing the Receivership's current real and personal property holdings to more than 426 acres; five residential properties; 31 aircraft hangars; and other miscellaneous items, including artwork and furniture;
- Assisted the Commission with obtaining the entry of judgments enjoining Neil V. Moody and Christopher D. Moody (at times collectively referred to as the "**Moody's**") from further violations of the anti-fraud provisions of the federal securities laws and allowing the Commission to seek disgorgement and/or civil penalties from the Moodys by motion to the Court;
- Finalized and obtained Court approval of a settlement agreement with Neil Moody to settle claims brought by the Receiver against him individually and in

his capacity as Trustee of the Neil Moody Revocable Trust and the Neil Moody Charitable Foundation, which provides in pertinent part, that all of the Receiver's claims are dismissed without prejudice and with an express waiver of any time bar defenses by Neil Moody in exchange for (1) the transfer of all of Neil Moody's meaningful assets identified in the settlement agreement, along with a sworn affidavit by Neil Moody verifying the extent of his assets; (2) transfer to the Receiver of his tax refunds, which included a check for \$365,284.99 received March 12, 2012; and (3) cooperation with and assistance to the Receivership in the Receiver's ongoing efforts to recover monies on behalf of investors subject to Neil Moody's Fifth Amendment rights;

- Worked on recovering assets in the possession of Neil Moody and Chris Moody;
- Instituted and continue to pursue an action against Wells Fargo to recover damages and fraudulent transfers relating to the bank's activities in connection with the Ponzi scheme underlying this case;
- Successfully opposed Wells Fargo's efforts to disqualify the Receiver and his counsel from all Receivership matters;
- Instituted the claims process and published notice of the same by (1) direct mail of more than 1250 packages to known investors and their attorneys, if any, and other known potential creditors of the Receivership estate; (2) global publication on one day in The Wall Street Journal and publication on one day in the Sarasota-Herald Tribune on June 15, 2010; and (3) web access to all pertinent claims process documents on the Receiver's website, www.nadelreceivership.com;
- Reviewed and analyzed more than 500 Proof of Claim Forms, identified deficiencies in numerous Proof of Claim Forms and sent more than 130 letters to claimants notifying them of deficiencies in their respective Proof of Claim Forms and allowing them an opportunity to timely return an amended Proof of Claim Form to preserve their claims;
- Filed the Receiver's Motion to (1) approve determination and priority of claims, (2) pool Receivership assets and liabilities, (3) approve plan of distribution, and (4) establish objection procedure and included the Receiver's recommended determination and priority of each of the 504 claims submitted, which was granted in all respects except for one claim submitted by Wells Fargo for which the Court reserved ruling;
- Sought and obtained approval of a first interim distribution which provided a 20% recovery of the Allowed Amounts of Claimants entitled to participate in the first

interim distribution and distributed 343 checks totaling \$25,520,133.79 to these Claimants;

- Sought and obtained approval of a second distribution which provided a 16.75% recovery of the Allowed Amounts of Claimants entitled to participate in the second interim distribution, bringing these Claimants' total recovery to 36.75% of their Allowed Amounts and distributed 346 checks totaling \$21,644,200.35 to these Claimants; and
- Continued to operate ongoing businesses, and where possible, enhance the value of those businesses resulting in the generation of more than \$4,629,646.70 in gross business income since the appointment of the Receiver.

Case Background and Status

As of the date of filing this Motion, the Court has appointed Burton W. Wiand as Receiver over the following entities and trust:

- a) Defendants Scoop Capital, LLC; and Scoop Management, Inc.;
- b) Relief Defendants Scoop Real Estate, L.P.; Valhalla Investment Partners, L.P.; Victory IRA Fund, Ltd.; Victory Fund, Ltd.; Viking IRA Fund, LLC; and Viking Fund LLC; Valhalla Management, Inc.; and Viking Management, LLC; and
- c) Venice Jet Center, LLC; Tradewind, LLC; Laurel Mountain Preserve, LLC; Laurel Preserve, LLC; Laurel Mountain Preserve Homeowners Association, Inc.; Marguerite J. Nadel Revocable Trust UAD 8/2/07; Guy-Nadel Foundation, Inc.; Lime Avenue Enterprises, LLC; A Victorian Garden Florist, LLC; Viking Oil & Gas, LLC; Home Front Homes, LLC; Traders Investment Club; Summer Place Development Corporation; Respiro, Inc.; and Quest Energy Management Group, Inc.

(See Docs. 8, 17, 44, 68, 81, 153, 172, 454, 911, 916, 1024.) The foregoing entities and trust are collectively referred to as the “**Receivership Entities.**”

On April 8, 2013, the Receiver filed the Thirteenth Interim Report (Doc. 1001). This Interim Report contains comprehensive and detailed information regarding the case background and status; the recovery and disposition of assets; financial information on

Receivership Entities; the proposed course of action to be taken regarding assets in the Receivership estate; the claims process; and related litigation involving Receivership Entities. The Receiver incorporates the Thirteenth Interim Report into this Motion for Fees and has attached a true and correct copy of the Thirteenth Interim Report as **Exhibit 2** for the Court's convenience. This Interim Report reports on all of the activity which resulted in the fees and costs sought in this Motion. Throughout this Motion, the Thirteenth Interim Report will be referred to as "**Interim Report.**"

Professional Services Rendered and Costs Incurred

Paragraph 4 of the Order Appointing Receiver authorizes the Receiver to

[a]ppoint one or more special agents, employ legal counsel, actuaries, accountants, clerks, consultants and assistants as the Receiver deems necessary and to fix and pay their reasonable compensation and reasonable expenses, as well as all reasonable expenses of taking possession of the assets and business of the Defendants and Relief Defendants, and exercising the power granted by this Order, subject to approval by this Court at the time the Receiver accounts to the Court for such expenditures and compensation.

Pursuant to this paragraph, the Receiver retained, among others,⁴ (1) PDR Certified Public Accountants ("**PDR**") to provide accounting services; (2) Riverside Financial Group ("**Riverside**") to provide financial analyses; (3) E-Hounds, Inc. ("**E-Hounds**") to provide

⁴ The others retained in more limited capacities, which are pertinent to this motion, include: (1) James, Hoyer, Newcomer, & Smiljanich ("**James Hoyer**") to provide assistance with disputes involving Wells Fargo; (2) two firms to provide expert assistance in connection with clawback litigation: Yip & Levi, LLC and EIM Consulting, LLC; (3) Allen Dell, P.A. to provide legal services in connection with healthcare licensing matters involving Respiro; (4) Briggs and Morgan to assist with garnishment efforts in Minnesota; (5) Jones & Keller, P.C. to assist with property located in Colorado; (6) Goetz, Baldwin & Geddes P.C. to assist with recording a judgment in Montana; and (7) Stichter, Riedel, Blain & Prosser P.A. to provide assistance with a bankruptcy proceeding.

computer forensic services; (4) Fowler White Boggs P.A. (“**Fowler White**”), and subsequently WGK to provide legal services; and (5) RWJ Group, LLC (“**RWJ**”) to provide asset management services (collectively, the “**Professionals**”).⁵ For a listing of prior Interim Motions for Fees and Costs, including the amounts sought and awarded by the Court, please refer to **Exhibit 3**, attached hereto.

As described above and more fully in the Interim Report, the Professionals have provided services and incurred expenses to investigate the affairs of the Receivership Entities, preserve and sell Receivership assets, attempt to locate and recover additional assets, administer the claims process, and institute and pursue litigation. These services are for the benefit of aggrieved investors, creditors, and other interested parties of the Receivership Entities.

I. The Receiver.

The Receiver requests the Court award him fees for the professional services rendered for the five months from October 1, 2012, through February 28, 2013, in the amount of \$52,430.00. The standard hourly rate which the Receiver charges clients is \$460. However, the Receiver agreed that for purposes of his appointment as the Receiver, his hourly rate would be reduced to \$350 per hour, representing nearly a twenty-four percent (24%) discount off the standard hourly rate which he charges clients in comparable matters. This rate was set forth in the Commission’s Emergency Motion for Appointment of Receiver and Memorandum of Law (Doc. 6), which the Court granted on January 21, 2009 (Doc. 8).

⁵ As noted in the Fourth Interim Report (Doc. 240 at n.2), the Receiver and certain of his counsel of record in this case moved from Fowler White Boggs P.A. to Wiand Guerra King P.L.

The Receiver commenced services immediately upon his appointment. The Receiver has billed his time for these activities in accordance with the Billing Instructions. The Billing Instructions request that this Motion contain a narrative of each “business enterprise or litigation matter” for which outside professionals have been employed. The Billing Instructions identify each such business enterprise or litigation matter as a separate “project.” Further, the Billing Instructions request that time billed for each project be allocated to one of several Activity Categories.⁶

A. The Receivership.

During the relevant period of this Receivership, the work of the Receiver and WGK focused on investigating the fraud and related activities underlying this matter; locating and taking control of Receivership assets; investigating, pursuing, and recovering additional assets for the Receivership; selling or otherwise disposing of assets in a manner that is in the best interests of the Receivership; administering the claims process and addressing objections; and pursuing litigation to recover false profits and other improper transfers and

⁶ The Activity Categories set forth by the Commission in the Billing Instructions are as follows: (1) Asset Analysis and Recovery, which is defined as identification and review of potential assets including causes of action and non-litigation recoveries; (2) Asset Disposition, which is defined as sales, leases, abandonment and related transaction work (where extended series of sales or other disposition of assets is contemplated, the Billing Instructions provide that a separate category should be established for each major transaction); (3) Business Operations, which is defined as issues related to operation of an ongoing business; (4) Case Administration, which is defined as coordination and compliance activities, including preparation of reports to the court, investor inquiries, etc.; (5) Claims Administration and Objections, which is defined as expenses in formulating, gaining approval of and administering any claims procedure; and (6) Employee Benefits/Pensions, which is defined as reviewing issues such as severance, retention, 401k coverage and continuance of pension plan. The Billing Instructions provide that time spent preparing motions for fees may not be charged to the Receivership Estate. In accordance with these instructions, the Receiver created an additional Activity Category for work on fees motions and has accounted for time spent on such work but has not charged any amount for this work.

damages. These activities of the Receiver are set forth in detail in the Interim Report. (Ex. 2.) A copy of the statement summarizing the Receiver’s services rendered and costs incurred for the Receivership is attached hereto as **Exhibit 4**. The Receiver’s time and fees for services rendered for each Activity Category for the five months from October 1, 2012, through February 28, 2013, are as follows:

**Receivership
Receiver’s Time and Fees for Services Rendered**

Activity Category	Hours Expended	Fee Amount
Asset Analysis and Recovery	36.90	\$12,915.00
Business Operations	12.90	\$4,515.00
Case Administration	11.10	\$3,885.00
Claims Administration	9.70	\$3,395.00
TOTAL	70.60	\$24,710.00

B. Discrete Litigation Matters and Projects.

In conjunction with the Receivership, the following six discrete litigation matters or projects have been formally commenced by the Receiver.

1. Home Front Homes Litigation.

This was a lawsuit against Brian C. Bishop, a former employee who also had an ownership interest in Home Front Homes, LLC (“**Home Front Homes**”) an operating business. This matter has been resolved. The Receiver did not charge any fees or incur any costs for this matter for the time covered by this Motion.

2. Carolina Mountain Land Conservancy Easement.

This was a project involving the recovery of a conservancy easement that Laurel Mountain Preserve, LLC, had granted to the Carolina Mountain Land Conservancy. (See

also Ex. 2 § V.A.2.) This matter has been resolved. (*See id.*) The Receiver did not charge any fees or incur any costs for this matter for the time covered by this Motion.

3. Recovery from Investors and Others Including False Profits.

This is a project involving the Receiver's efforts to primarily recover profits from investors whose purported accounts received monies in an amount that exceeded their investments. (*See also* Ex. 2 § V.E.1.) These purported profits were false because they were not based on any trading or investment gain, but rather were proceeds of a Ponzi scheme that consisted of funds of new and existing investors. This project also includes the Receiver's efforts to recover charitable contributions made with scheme proceeds. (*See also* Ex. 2 § V.E.4.) A copy of the statement summarizing the services rendered and costs incurred by the Receiver for the five months from October 1, 2012, through February 28, 2013, for this project is attached hereto as **Exhibit 5**. The Receiver's time and fees for services rendered for each Activity Category are as follows:

Recovery from Investors and Others Including False Profits
Receiver's Time and Fees for Services Rendered

Activity Category	Hours Expended	Fee Amount
Asset Analysis and Recovery	46.30	\$16,205.00
TOTAL	46.30	\$16,205.00

4. Recovery of Assets from the Moodys.

This is a project involving the Receiver's efforts to recover money and assets from the Moodys. (*See also* Ex. 2 §§ V.D and V.E.2.) A copy of the statement summarizing the services rendered and costs incurred by the Receiver for the five months from October 1,

2012, through February 28, 2013, for this project is attached hereto as **Exhibit 6**. The Receiver's time and fees for services rendered for each Activity Category are as follows:

Recovery from Chris and Neil Moody
Receiver's Time and Fees for Services Rendered

Activity Category	Hours Expended	Fee Amount
Asset Analysis and Recovery	14.40	\$4,690.00
TOTAL	14.40	\$4,690.00

5. Recovery from Recipients of Commissions and Other Related Transfers.

This is a project involving the Receiver's efforts to recover commissions and/or other related transfers from individuals and/or entities who received commissions or other improper transfers from the Receivership Entities. (See Ex. 2 § V.E.3.) A copy of the statement summarizing the Receiver's services rendered and costs incurred for the five months from October 1, 2012, through February 28, 2013, for this project is attached hereto as **Exhibit 7**. The Receiver's time and fees for services rendered on this matter for each Activity Category are as follows:

Recovery of Commissions and Other Related Transfers
Receiver's Time and Fees for Services Rendered

Activity Category	Hours Expended	Fee Amount
Asset Analysis and Recovery	17.70	\$6,195.00
TOTAL	17.70	\$6,195.00

6. Litigation Against Holland & Knight LLP.

This was a project involving the Receiver's pursuit of malpractice and other claims by the Hedge Funds against H&K which sought to recover the Hedge Funds' losses that

occurred after January 1, 2003. (*See* Ex. 2 § V.E.6.) The Receiver settled this action for payment of \$25,000,000 by H&K to the Receiver. *See id.* A copy of the statement summarizing the services rendered and costs incurred by the Receiver for the five months from October 1, 2012, through February 28, 2013, for this project is attached hereto as **Exhibit 8**. The Receiver’s time and fees for services rendered for each Activity Category are as follows:

Litigation Against Holland & Knight
Receiver’s Time and Fees for Services Rendered

Activity Category	Hours Expended	Fee Amount
Asset Analysis and Recovery	1.80	\$630.00
TOTAL	1.80	\$630.00

II. Wiand Guerra King P.L. And Other Counsel.

The Receiver requests the Court award WGK fees for professional services rendered and costs incurred for the five months from October 1, 2012, through February 28, 2013, in the amounts of \$990,355.15 and \$30,320.12, respectively. A categorization and summary of all costs for which WGK seeks reimbursement is attached hereto as **Exhibit 9**. Further, the Receiver requests the Court award James, Hoyer, Newcomer & Smiljanich (“**James Hoyer**”) fees for professional services rendered for the five months from October 1, 2012, through February 28, 2013 in the amount of \$1,764.00.

As an accommodation to the Receiver, WGK agreed to reduce the hourly rates of the Receiver’s counsel in accordance with the discounted fee structure that was in place at

Fowler White as provided in the Fee Schedule attached hereto as **Exhibit 10**⁷ (James Hoyer also agreed to reduce the hourly rates of its professionals to mirror WGK's rate structure). WGK began providing services on November 8, 2009. The activities of WGK for the time covered by this Motion are set forth in the Interim Report. (See Ex. 2.) WGK has billed time for these activities in accordance with the Billing Instructions.

A. The Receivership.

As discussed above, during the relevant period of this Receivership, the work of the Receiver and WGK, and of James Hoyer with respect to matters involving Wells Fargo, focused on investigating the fraud and related activities underlying this matter; locating and taking control of Receivership assets; investigating, pursuing, and recovering additional assets for the Receivership; administering the claims process and addressing objections; and pursuing litigation as detailed in the Interim Report. (Ex. 2.) A copy of the statement summarizing the services rendered and costs incurred by WGK for the foregoing for the five months from October 1, 2012, through February 28, 2013, is attached hereto as **Exhibit 11**. WGK's time and fees for services rendered on this matter for each Activity Category are as follows:

Receivership
WGK's Time and Fees for Services Rendered

Activity Category	Hours Expended	Fee Amount
Asset Analysis and Recovery	203.20	\$42,144.50

⁷ The attached Fee Schedule has been updated to reflect the primary WGK attorneys who work on Receivership matters. Any other WGK attorneys who work on Receivership matters but are not listed in Exhibit 10 are billed at hourly rates that are consistent with the discounted fee structure detailed in that exhibit based on their respective level of seniority.

Activity Category	Hours Expended	Fee Amount
Asset Disposition	61.10	\$9,707.85
Business Operations	38.50	\$5,390.00
Case Administration	118.20	\$29,114.00
Claims Administration	485.80	\$99,801.90
TOTAL	906.80	\$186,158.25

B. Discrete Litigation Matters and Projects.

WGK professionals also provided services in connection with litigation matters and/or projects discussed above, except for the one involving Wells Fargo, which was handled by James Hoyer.

1. Home Front Homes Litigation.

This was a lawsuit against Brian C. Bishop, a former employee who also had an ownership interest in Home Front Homes, LLC (“**Home Front Homes**”) an operating business. This matter has been resolved. WGK did not charge any fees or incur any costs for this matter for the time covered by this Motion.

2. Carolina Mountain Land Conservancy.

This was a project involving the recovery of a conservancy easement that Laurel Mountain Preserve, LLC, granted to the Carolina Mountain Land Conservancy. (*See also* Ex. 2 § V.A.2.) This matter has been resolved. (*See id.*) WGK did not charge any fees or incur any costs for this matter for the time covered by this Motion.

3. Recovery from Investors and Others Including False Profits.

This is a project involving the Receiver’s efforts to primarily recover profits from investors whose purported accounts received monies in an amount that exceeded their investments. (*See also* Ex. 2 § V.E.1.) These purported profits were false because they were

not based on any trading or investment gain, but rather were fruits of a Ponzi scheme that consisted of funds of new and existing investors. This project also includes the Receiver's efforts to recover charitable contributions made with scheme proceeds. (See also Ex. 2 § V.E.4.) A copy of the statement summarizing WGK's services rendered and costs incurred for the five months from October 1, 2012, through February 28, 2013, for this project is attached hereto as **Exhibit 12**. WGK's time and fees for services rendered on this matter for each Activity Category are as follows:

Recovery from Investors and Others Including False Profits
WGK's Time and Fees for Services Rendered

Activity Category	Hours Expended	Fee Amount
Asset Analysis and Recovery	2,608.90	\$614,346.60
TOTAL	2,608.90	\$614,346.60

4. Recovery of Assets from the Moodys.

This is a project involving the Receiver's efforts to recover money and assets from the Moodys. (See also Ex. 2 §§ V.D and V.E.2.) A copy of the statement summarizing WGK's services rendered and costs incurred for the five months from October 1, 2012, through February 28, 2013, for this project is attached hereto as **Exhibit 13**. WGK's time and fees for services rendered on this matter for each Activity Category are as follows:

Recovery of Assets from Chris and Neil Moody
WGK's Time and Fees for Services Rendered

Activity Category	Hours Expended	Fee Amount
Asset Analysis and Recovery	190.20	\$42,573.95
Asset Disposition	5.30	\$1,001.00
Business Operations	101.10	\$26,712.55
TOTAL	296.60	\$70,287.50

5. Recovery of Commissions and Other Related Transfers.

This is a project involving the Receiver's efforts to recover commissions and/or other related transfers from individuals and/or entities who received commissions or other improper transfers from the Receivership Entities. (See Ex. 2 § V.E.3.) A copy of the statement summarizing WGK's services rendered and costs incurred for the five months from October 1, 2012, through February 28, 2013, for this project is attached hereto as **Exhibit 14**. WGK's time and fees for services rendered on this matter for each Activity Category are as follows:

Recovery of Commissions and Other Related Transfers
WGK's Time and Fees for Services Rendered

Activity Category	Hours Expended	Fee Amount
Asset Analysis and Recovery	467.90	\$118,665.80
TOTAL	467.90	\$118,665.80

6. Litigation Against Holland & Knight LLP.

This was a project involving the Receiver's pursuit of malpractice and other claims by the Hedge Funds against H&K which sought to recover the Hedge Funds' losses that occurred after January 1, 2003. (See Ex. 2 § V.E.6.) The Receiver settled this action for payment of \$25,000,000 by H&K to the Receiver. See *id.* A copy of the statement summarizing WGK's services rendered and costs incurred for the five months from October 1, 2012, through February 28, 2013, for this project is attached hereto as **Exhibit 15**. WGK's time and fees for services rendered on this matter for each Activity Category are as follows:

Litigation Against Holland & Knight
WGK's Time and Fees for Services Rendered

Activity Category	Hours Expended	Fee Amount
Asset Analysis and Recovery	3.60	\$897.00
TOTAL	3.60	\$897.00

7. Litigation Involving Wells Fargo.

The Receiver determined that it was prudent and necessary to retain separate counsel to represent him in connection with all Receivership matters involving Wells Fargo. (See Doc. 730.) The Receiver retained James Hoyer to represent him in connection with matters involving Wells Fargo. These matters include (1) responding to Wells Fargo's objections and various other motions relating to the claims process; (2) Wells Fargo's asserted interests in real property held by the Receivership; and (3) Wells Fargo's attempts to disqualify the Receiver. (See Ex. 2 §§ V.A.2, V.B.1, V.B.5, and VI.) In an April 25, 2012, Order, the Court concluded that WGK could not represent the Receiver in "matters specifically involving Wells Fargo Bank or its affiliates." (Doc. 822.) The Receiver requests the Court award James Hoyer fees for professional services rendered for the five months from October 1, 2012, through February 28, 2013, in the amount of \$1,764.00.⁸ A copy of the statement summarizing James Hoyer's services rendered for the five months from October 1, 2012,

⁸ As the Receiver previously informed the Court (*see, e.g.*, Doc. 730), although James Hoyer is representing the Receiver in his prosecution of claims against Wells Fargo on a contingency fee basis, in all other Receivership matters involving Wells Fargo James Hoyer's representation is on an hourly fee basis. However, if claims against Wells Fargo are successful, any contingency fee James Hoyer is awarded will be reduced by the hourly fees it will have been paid for the other Receivership matters.

through February 28, 2013, for this project is attached hereto as **Exhibit 16**. James Hoyer's time and fees for services rendered on this matter for each Activity Category are as follows:

Litigation Involving Wells Fargo
James Hoyer's Time and Fees for Services Rendered

Activity Category	Hours Expended	Fee Amount
Asset Disposition	1.00	\$315.00
Case Administration	4.30	\$1,354.50
Claims Administration	.30	\$94.50
TOTAL	5.60	\$1,764.00

III. PDR Certified Public Accountants.

The Receiver requests the Court award PDR fees for professional services rendered and costs incurred for the five months from October 1, 2012, through February 28, 2013 in the amount of \$40,614.50. PDR started providing services for the Receivership on January 22, 2009. PDR has billed time for these services in accordance with the Billing Instructions. Because PDR's work for the period covered by this motion could be allocated to specific Receivership Entities and/or related entities, PDR has billed its time separately for each entity and indicated the appropriate Activity Category for each time entry.⁹ Copies of the

⁹ The Activity Categories that apply to PDR and Riverside as set forth in the Billing Instructions for Financial Activities are as follows: (1) Accounting/Auditing, which is defined as activities related to maintaining and auditing books of account, preparation of financial statements and account analysis; (2) Business Analysis, which is defined as preparation and review of company business plan; development and review of strategies; preparation and review of cash flow forecasts and feasibility studies; (3) Corporate Finance, which is defined as review financial aspects of potential mergers, acquisitions and disposition of company or subsidiaries; (4) Data Analysis, which is defined as management information systems review, installation and analysis, construction, maintenance and reporting of significant case financial data, lease rejection, claims, etc.; (5) Status Reports, which is defined as preparation and review of periodic reports as may be required by the Court; (6) Litigation Consulting, which is defined as providing consulting and expert witness services relating to forensic accounting, etc.; (7) Forensic Accounting, which is defined as

statements summarizing the services rendered and costs incurred for the pertinent period are attached as composite **Exhibit 17**. The total hours billed by each PDR professional and their respective total amount of billing are set forth on composite Exhibit 17. PDR's statements also include a summary of the total time spent on each relevant Activity Category in connection with each Receivership Entity (or "project" as identified in the Billing Instructions). For a discussion of entities delineated in the statements, please refer to Sections III and V.A of the Interim Report.

IV. E-Hounds, Inc.

The Receiver requests the Court award E-Hounds fees for professional services rendered and costs incurred for the five months from October 1, 2012, through February 28, 2013, in the amount of \$765.63. E-Hounds, which is a computer forensics firm, started providing services for the Receivership on January 22, 2009. The activities of E-Hounds are described in the Interim Report. (*See* Ex. 2 § IV.A) A copy of the statement summarizing the services rendered and costs incurred for the pertinent period is attached as **Exhibit 18**.

V. The RWJ Group, LLC.

The Receiver requests the Court award RWJ fees for professional services rendered and costs incurred for the five months from October 1, 2012, through February 28, 2013, in the amount of \$33,324.59. RWJ started providing services for the Receivership on February 1, 2010. The activities of RWJ are described in the Interim Report. (*See* Ex. 2 § VII.)

reconstructing books and records from past transactions and bringing accounting current, tracing and sourcing assets; (8) Tax Issues, which is defined as analysis of tax issues and preparation of state and federal tax returns; and (9) Valuation, which is defined as appraising or reviewing appraisals of assets.

Copies of the statements summarizing the services rendered and costs incurred for the pertinent period are attached as composite **Exhibit 19**.

VI. Litigation Experts.

To assist with clawback litigation, the Receiver determined to retain the services of certain experts. Accordingly, the Receiver requests the Court award the following for professional services rendered and costs incurred for the five months from October 1, 2012, through February 28, 2013: (1) Yip & Levi, LLC, the amount of \$33,671.13 and (2) EIM Consulting, LLC, the amount of \$275.00. Copies of the statements summarizing the services rendered and costs incurred for the pertinent period are attached as **Exhibit 20** and **Exhibit 21**, respectively.

VII. Miscellaneous Others.

To assist with healthcare licensing matters involving Respiro, the Receiver determined that it would be helpful and more cost-effective to retain the services of counsel specializing in health care law. Accordingly, the Receiver requests the Court award Allen Dell, P.A. (“**Allen Dell**”) fees and costs for professional services rendered and costs incurred for the five months from October 1, 2012, through February 28, 2013, in the amount of \$6,573.32.¹⁰ Copies of the statements summarizing the services rendered and costs incurred for the pertinent period are attached as composite **Exhibit 22**.

¹⁰ Payment was remitted to Allen Dell in the amount of \$4,160.00 as reflected on the attached statements. The Receiver requests the Court authorize the payment of the remaining balance of these invoices and also authorize reimbursement of amounts already paid to Allen Dell as reflected on Exhibit 22.

To assist with real property and garnishment matters in states other than Florida, the Receiver determined that it would be cost-effective and beneficial to retain the services of local attorneys. Accordingly, the Receiver requests the Court award the following for professional services rendered and costs incurred for the five months from October 1, 2012, through February 28, 2013: (1) Jones & Keller P.C., in connection with real property in Colorado, the amount of \$220.50; (2) Briggs and Morgan, in connection with garnishment efforts in Minnesota, the amount of \$3,691.75; and (3) Goetz, Baldwin & Geddes P.C., in connection with recording a judgment in Montana, the amount of \$735.00.¹¹ Copies of the statements summarizing the services rendered and costs incurred for the pertinent period are attached as Exhibit 23 through Exhibit 25, respectively.

To assist with a bankruptcy proceeding, the Receiver determined that it would be in the Receivership's best interest to retain the services of counsel specializing in bankruptcy law. Accordingly, the Receiver requests the Court award Stichter, Riedel, Blain & Prosser P.A. ("**Stichter Riedel**") fees and costs for professional services rendered and costs incurred for the five months from October 1, 2012, through February 28, 2013, in the amount of \$6,793.00. A copy of the statement summarizing the services rendered and costs incurred for the pertinent period is attached as Exhibit 26.

¹¹ The amount sought for Goetz, Baldwin includes \$25.00 in fees for services rendered on March 17, 2003, which is slightly beyond the time covered by this motion. Given the diminutive amount, the Receiver has included this amount in the total amount sought herein for Goetz, Baldwin.

MEMORANDUM OF LAW

It is well settled that this Court has the power to appoint a receiver and to award the receiver and those appointed by him fees and costs for their services. *See, e.g., SEC v. Elliott*, 953 F.2d 1560 (11th Cir. 1992) (receiver is entitled to compensation for faithful performance of his duties); *Donovan v. Robbins*, 588 F. Supp. 1268, 1272 (N.D. Ill. 1984) (“[T]he receiver diligently and successfully discharged the responsibilities placed upon him by the Court and is entitled to reasonable compensation for his efforts.”); *SEC v. Custable*, No. 94-C-3755, 1995 WL 117935 (N.D. Ill. Mar. 15, 1995) (receiver is entitled to fees where work was of high quality and fees were reasonable); *SEC v. Mobley*, No. 00-CV-1316, 1317RCC, 2000 WL 1702024 (S.D.N.Y. Nov. 13, 2000) (court awarded reasonable fees for the receiver and his professionals); *see also* (Doc. 8, Order Appointing Receiver, at p. 14). The determination of fees to be awarded is largely within the discretion of the trial court. *See Monaghan v. Hill*, 140 F.2d 31, 34 (9th Cir. 1944). In determining reasonable compensation for the services rendered by the Receiver and his Professionals, the Court should consider the circumstances surrounding the receivership. *See Elliot*, 953 F.2d at 1577.

Here, because of the nature of this case, it was necessary for the Receiver to employ attorneys and accountants experienced and familiar with financial frauds, federal receiverships, securities laws, banking, finance, and trusts and estates. Further, in order to perform the services required and achieve the results obtained to date, the skills and experience of the Receiver and the Professionals in the areas of fraud, securities, computer and accounting forensics, and financial transactions were indispensable.

As discussed above, the Receiver and WGK have discounted their normal and customary rates as an accommodation to the Receivership and to conserve Receivership assets. The rates charged by the attorneys and paralegals are at or below those charged by attorneys and paralegals of comparable skill from other law firms in the Middle District of Florida.

This case has been time-intensive for the Receiver and his Professionals because of the need to resolve many issues rapidly and efficiently. The attached Exhibits detail the time, nature and extent of the professional services rendered by the Receiver and his Professionals for the benefit of investors, creditors, and other interested parties. The Receiver anticipates that additional funds will be obtained through the Receiver's negotiations or litigation with third parties.

Although the Commission investigated and filed the initial pleadings in this case, the Receiver has assumed the primary responsibility for the investigation and forensic analysis of the events leading to the commencement of the pending lawsuits, the efforts to locate and gather investors' money, the determination of investor and creditor claims and any ultimate payment of these claims. While the Receiver is sensitive to the need to conserve the Receivership Entities' assets, he feels that the fees and costs expended to date were reasonable, necessary, and benefited the Receivership. Notably, the Commission has no objection to the relief sought in this motion. *Custable*, 1995 WL 117935, *7 ("In securities law receiverships, the position of the SEC in regard to the awarding of fees will be given great weight.").

CONCLUSION

Under the terms and conditions of the Order Appointing Receiver, the Receiver, among other things, is authorized, empowered, and directed to engage professionals to assist him in carrying out his duties and obligations. The Order further provides that he apply to the Court for authority to pay himself and his Professionals for services rendered and costs incurred. In exercising his duties, the Receiver has determined that the services rendered and their attendant fees and costs were reasonable, necessary, advisable, and in the best interest of the Receivership.

WHEREFORE, Burton W. Wiand, the Court-appointed Receiver, respectfully requests that this Court award the following sums and direct that payment be made from the Receivership assets:¹²

Burton W. Wiand, Receiver	\$52,430.00
Wiand Guerra King P.L.	\$1,020,675.27
James, Hoyer, Newcomer & Smiljanich, P.A.	\$1,764.00
PDR Certified Public Accountants	\$40,614.50
RWJ Group, LLC	\$33,324.59
E-Hounds, Inc.	\$765.63
Yip & Levi LLC	\$33,671.33
EIM Consulting, LLC	\$275.00
Allen Dell, P.A.	\$6,573.32
Jones & Keller, P.C.	\$220.50
Briggs and Morgan	\$3,691.75
Goetz, Baldwin & Geddes P.C.	\$735.00
Stichter, Riedel, Blain & Prosser P.A.	\$6,793.00

LOCAL RULE 3.01(g) CERTIFICATION OF COUNSEL

The undersigned counsel for the Receiver is authorized to represent to the Court that the SEC has no objection to the Court's granting this motion.

¹² A proposed order is attached as **Exhibit 27**.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 9, 2013, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

s/Gianluca Morello

Gianluca Morello, FBN 034997

Email: gmorello@wiandlaw.com

Michael S. Lamont, FBN 0527122

Email: mlamont@wiandlaw.com

WIAND GUERRA KING P.L.

5505 West Gray Street

Tampa, FL 33609

Tel.: (813) 347-5100

Fax: (813) 347-5198

Attorney for the Receiver Burton W. Wiand

RECEIVER'S CERTIFICATION

The Receiver has reviewed this Fourteenth Interim Motion for Order Awarding Fees, Costs, and Reimbursement of Costs to Receiver and His Professionals (the “**Motion**”).

To the best of the Receiver’s knowledge, information, and belief formed after reasonable inquiry, the Motion and all fees and expenses herein are true and accurate and comply with the Billing Instructions provided to the Receiver by the Securities and Exchange Commission.

All fees contained in the Motion are based on the rates listed in the Fee Schedule, attached as Exhibit 10. Such fees are reasonable, necessary, and commensurate with (if not below the hourly rate that is commensurate with) the skill and experience required for the activity performed.

The Receiver has not included in the amount for which reimbursement is sought the amortization of the cost of any investment, equipment, or capital outlay (except to the extent that any such amortization is included within the permitted allowable amounts set forth in the Billing Instructions for photocopies and facsimile transmission).

To the extent the Receiver seeks reimbursement for any service which the Receiver justifiably purchased or contracted for from a third party (such as copying, imaging, bulk mail, messenger service, overnight courier, computerized research, or title and lien searches), the Receiver has requested reimbursement only for the amount billed to the Receiver by the third-party vendor and/or paid by the Receiver to such vendor. The Receiver is not making a profit on such reimbursable service.

s/Burton W. Wiand
Burton W. Wiand, as Receiver