

EXHIBIT 5

PURCHASE AND SALE AGREEMENT

This Purchase and Sale Agreement (hereinafter "Agreement"), is entered into this 21st day of May, 2013, by and between **PEARL M. FITZGERALD**, (hereinafter called "**Buyer**") and **BURTON W. WIAND, As Court-Appointed Receiver** in the matter of Securities and Exchange Commission v. Arthur Nadel, et al.; USDMD Florida, Tampa Division, Case No. 8:09-cv-87-T-26TBM, (hereinafter called the "**Receiver**" or "**Seller**"), and collectively referred to herein as "the Parties."

BACKGROUND

WHEREAS, the Receiver was appointed pursuant to a certain Order Appointing Receiver entered January 21, 2009 in connection with the proceedings in the Securities and Exchange Commission v. Arthur Nadel, et al.; USDMD Florida, Tampa Division, Case No. 8:09-cv-87-T-26TBM, (the "Receivership Order");

WHEREAS, the Receiver took possession of the property located at 15576 Fruitville Road, Sarasota, Florida 34240 (hereinafter the "Property") on July 9, 2009 and has been granted full power and authority to market and enter into an agreement to sell the Property (as defined below); and,

WHEREAS, the Buyer desires to purchase the Property and Seller desires to sell such Property, all on the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the parties agree as follows:

AGREEMENT

1. **Property:** The Seller agrees to sell and convey and Buyer agrees to purchase and pay for, all pursuant to the terms and conditions hereinafter set forth, the property consisting of all of Seller's right, title and interest in and to the Property, more particularly described on Exhibit "A" attached hereto, together with any of the following items or fixtures which may be now located in or which may be a part of the Property: refrigerator, microwave oven, window/wall air conditioner unit and storage shed now located on the Property. The Property shall include all appurtenant rights privileges and easements, all buildings and improvements, free from all encumbrances whatsoever, except restrictions and easements of record, zoning ordinances, taxes and assessments, both general and special, not currently due and payable.

2. **Purchase Price:** The Purchase Price shall be One Hundred Eighty One Thousand Five Hundred Sixty and no/100 Dollars (\$181,560.00).

3. **Escrow Agent and Earnest Money:** An escrow shall be opened, pursuant to this Agreement with the Escrow Agent. Seller and Buyer mutually agree that Berlin Patten Law Firm shall serve as the Escrow Agent. Within three (3) days of the execution of this Agreement by both

parties hereto, the Buyer will deposit with the Escrow Agent the sum of Two Thousand and no/100 Dollars (\$2,000.00) in readily available funds as an earnest money deposit ("Earnest Money Deposit"). Within sixteen (16) days of the execution of this Agreement by both parties hereto, the Buyer will deposit with the Escrow Agent the sum of Three Thousand Five Hundred and no/100 Dollars (\$3,500.00) in readily available funds as an earnest money deposit ("Additional Earnest Money Deposit"). The Earnest Money Deposit and Additional Earnest Money Deposit shall be applied at Closing to the Purchase Price to be paid to Seller by Buyer at Closing for the Property. The terms of this Agreement shall serve as the escrow instructions for this transaction.

4. **Conditions of Escrow:** Seller shall, on or before the date of Closing, obtaining approval from the United States District Court for the Middle District of Florida to sell the Property. If the Court approves the sale of the Property pursuant to the terms of this Agreement and the Buyer fails to perform under this Agreement for any reason whatsoever, the Earnest Money Deposit shall be delivered immediately to Seller as liquidated damages for Buyer's failure to perform. In the event that the Court fails to approve this Agreement, this Agreement shall be null and void and of no further force and effect and neither Seller nor the Buyer shall have any further obligations hereunder to the other and the Earnest Money Deposit and Additional Earnest Money Deposit shall be delivered immediately to Buyer. Should Seller fail to perform any obligation under this Agreement for any other reason, the Buyer's sole remedy shall be to seek return of all funds deposited in connection with the Agreement.

5. **Financing Contingency:** Buyer shall have forty-five (45) days from the date of this Agreement to obtain a written loan commitment in the principal amount of at least eighty percent (80%) of the Purchase Price. In the event that the Buyer fails to obtain a loan commitment of at least eighty percent (80%) of the Purchase Price, this Agreement shall be null and void and of no further force and effect and neither Seller nor the Buyer shall have any further obligations hereunder to the other and the Earnest Money Deposit and Additional Earnest Money Deposit shall be delivered immediately to Buyer. If the Buyer obtains a loan commitment of at least eighty percent (80%) of the Purchase Price and then the Buyer fails to perform under this Agreement, the Earnest Money Deposit and Additional Earnest Money Deposit shall be delivered immediately to Seller as liquidated damages for Buyer's failure to perform.

6. **Closing:** Unless extended by mutual agreement of the Parties, Closing shall take place within forty-five (45) days of the United States District Court's approval of the sale. All funds and documents required to be deposited hereunder shall be deposited into escrow prior to Closing. The term "Closing" as used herein shall mean the date all contingencies provided in this Agreement shall be satisfied or waived by written instrument and the date the Receiver's Deed in substantially the form as Exhibit "B" attached hereto has been recorded by the escrow agent as provided herein. The closing will be held in Sarasota County, Florida.

7. **Conveyance of Title:** When the funds to be paid by Buyer together with all documents required to be deposited by Buyer pursuant to this Agreement have been deposited into escrow, then Seller shall deliver into escrow title to the Property. Seller will convey title via Receiver's Deed in substantially the form as Exhibit "B" attached hereto.

8. **Evidence of Title, Survey and Closing Costs:** Buyer, at Buyer's cost and expense, may obtain evidence of title, a title abstract, title insurance and/or a survey of the Property. At Closing, Buyer shall pay: (i) all title examination fees; (ii) survey costs or any costs to update surveys; (iii) to update recording costs on documents necessary for Seller to clear title (to the extent such action is required); (iv) any premiums for a title insurance policy; (v) all transfer taxes payable in connection with the delivery for recording of any title transfer instrument or document by Seller provided in or contemplated by this Agreement; (vi) all charges by the Escrow Agent for escrow services; (vii) all survey and appraisal costs; (viii) mortgage taxes (if any); (ix) the cost of any environmental reports; and, (x) Buyer's legal, accounting and other professional fees and expenses and the cost of all certificates, instruments, documents and papers required to be delivered, or to cause to be delivered, by Purchaser hereunder, including without limitation, the cost of performance by Purchaser of its obligations hereunder.

At Closing, Seller shall pay: (i) Seller's legal, accounting and other professional fees and expenses and the cost of all certificates, instruments, documents and papers required to be delivered, or to cause to be delivered, by Seller hereunder, including without limitation, the cost of performance by Seller of its obligations hereunder.

Except as otherwise expressly provided for in the Agreement, Buyer shall be responsible for any and all other costs and expenses, regardless of custom or practice in the county where the Property is located, in connection with the consummation of this Agreement.

9. **Condition of Premises and Inspection Period:** Buyer acknowledges and agrees to purchase the property on an "As Is" "Where Is" basis, with all faults and without representations, express or implied, of any type, kind, character or nature, including but not limited to the suitability of the property for any use, and without warranties, express or implied, of any type, kind, character or nature, including but not limited to, suitability of the property for any use, and without recourse, express or implied, of any type, kind, character or nature.

With prior notice to and approval from Seller, Seller does hereby grant to Buyer and its authorized agents the right, at Buyer's sole risk, cost and expense, for a period of fifteenth (15th) days from the date of this Agreement (the "Inspection Period") to enter upon the Property to inspect, examine, and survey the Property and otherwise do that which, in the opinion of Buyer, is reasonably necessary to determine the boundaries and acreage of the Property, the suitability of the Property for the uses intended by Purchaser, and to determine the physical condition of the Property. Buyer agrees to indemnify and hold Seller harmless from and against any and all liabilities, claims, losses or damages arising directly or indirectly arising from negligence in conducting the Buyer's inspection and examination of the Property (but not from any effect upon value or marketability of the Property), and this indemnity and hold harmless provision shall survive Closing or the termination of this Agreement. Buyer shall promptly deliver to Seller, copies of the results of all of Buyer's inspections, appraisals and/or examinations. If, at the conclusion of the Inspection Period, Buyer should notify Seller in writing that Buyer, for whatever reason, desire not to proceed with this purchase, this Agreement shall be deemed null and void,

escrow shall be canceled, and the full Earnest Money Deposit and Additional Earnest Money Deposit with no deductions shall be returned to Buyer without any interference or further instruction or authorization from Seller. After the fifteenth (15th) day, the Earnest Money Deposit and Additional Earnest Money are non-refundable except as otherwise provided for in this Agreement.

10. Damage or Destruction: In the event the Property, or any portion thereof, or the Unit, or any portion thereof, is damaged or destroyed by fire or other cause prior to the date of transfer of title, Buyer may declare this Agreement null and void or Buyer may complete the purchase and receive the proceeds from any insurance otherwise payable to or for the benefit of Seller with respect to such destruction, together with a credit against the purchase price for any "deductible" under such insurance. If Buyer declares this Agreement null and void due to damage or destruction as described in this paragraph 10, the Earnest Money Deposit and Additional Earnest Money Deposit shall be delivered immediately to Buyer.

11. Taxes, Assessments & Utilities : Real Estate Taxes, assessments, if any, and any assessments, insurance premiums, charges, and other items attributable to the Property shall be shall be prorated as of the date of Closing, based upon an actual three hundred and sixty five (365) day year, as is customary. Meters for all public utilities (including water) being used on the Premises shall be ordered read on the day prior to closing and all charges to said date shall be paid by Seller.

12. Real Estate Brokers: Seller and Buyer represent and warrant each to the other that they have not dealt with any real estate broker, sales person or finder in connection with this transaction, except for Sharon Chiodi of Schemmel Property Group. At Closing, Seller agrees to a five percent (5%) commission to the Sharon Chiodi of Schemmel Property Group pursuant to a separate written agreement by and between Seller and Listing Broker. In no event shall the total sales commission owed by the Seller exceed five percent (5%) of the Purchase Price.

13. General Provisions:

- (a) This Agreement shall be governed by the laws of Florida.
- (b) Buyer and Seller hereby (i) agree that all disputes and matters whatsoever arising under, in connection with, or incident to this Agreement shall be exclusively litigated as a summary proceeding in *SECURITIES AND EXCHANGE COMMISSION V. ARTHUR NADEL, ET AL.*, CASE NO: 8:09-CV-87-T-26TBMIN AND BEFORE THE UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF FLORIDA, TAMPA DIVISION, in Hillsborough County in the State of Florida, to the exclusion of the courts of any other state or country, and (ii) irrevocably submit to the exclusive jurisdiction of the UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF FLORIDA, TAMPA DIVISION, in Hillsborough County in the State of Florida, in any action or proceeding arising out of or relating to this Agreement, and hereby irrevocably waive any objection to the laying of venue of any such action or


proceeding in any such court and any claim that any such action or proceeding has been brought in an inconvenient forum. A final judgment in any such action or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law.

- (c) Captions of the several items of this Agreement are not a part of the context hereof and shall not be used in construing this Agreement, being intended only as aids in locating the various provisions hereof.
- (c) This Agreement shall inure to the benefit of, and be binding upon, the Seller's successors and assigns, executors and administrators.
- (d) In the event that this Agreement shall terminate in accordance with the provisions hereof, and in the absence of breach, all funds and documents deposited shall be returned to the depositor thereof and neither party shall be under any further obligation to the other by reason of this Agreement.
- (e) This offer is open for acceptance by delivery of a fully executed original hereof, to and including 5:00 p.m. EST on Monday, May 20, 2013, and shall thereafter be withdrawn without notice. This Agreement, and any notices required or permitted to be given pursuant to this Agreement, shall be in writing and sent by overnight courier, prepaid, or hand delivered, transmitted by facsimile or e-mail, delivered personally or served by certified or registered mail, return receipt requested. Any facsimile or electronic signature shall be deemed to be an original.
- (f) This Agreement contains the entire agreement between the parties hereto and they shall not be bound by any terms, warranties or representations, oral or written, not herein contained. Notices to Seller may be mailed to 5505 West Gray Street, Tampa, Florida 33609 and to Buyer at 3270 Lake Ponte Woods Blvd., #251, Sarasota, Florida 34231.

BUYER

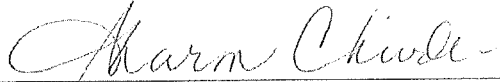

PEARL M. FITZGERALD

SELLER


BURTON W. WIAND, as Court-appointed
Receiver

BROKERS' ACKNOWLEDGEMENT

Sharon Chiodi of Schemmel Property Group hereby acknowledges receipt of this Agreement and agree to be joined to this Agreement to the extent their compensation structure is discussed. Sharon Chiodi of Schemmel Property Group hereby agrees to the compensation structure set forth in paragraph 12 above. Any dispute concerning the compensation shall be resolved pursuant to paragraph 13(b) herein.



Sharon Chiodi
Schemmel Property Group

EXHIBIT A TO PURCHASE AND SALE AGREEMENT

LEGAL DESCRIPTION

COM SE COR TH N-01-00-31-E 1069.64 FT TH N-88-53-43-W 1847.47 FT TH
N-0-32-14-E 607.59 FT FOR POB TH N-0-32-14-E 734.17 FT TH N-88-53-43-W 512.34
FT TH S-22-50-01-E 181.15 FT TH S-58- 19-52-E 259.2 FT TH S-0-32-14-W 436.79 FT
TH S-88-53-43-E 218.6 FT TO POB CONTAINING 5 C-AC M/L

EXHIBIT B TO PURCHASE AND SALE AGREEMENT

RECEIVER'S DEED

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

RECEIVER'S DEED

THIS INDENTURE, made as of the ____ day of _____ 2013, by and between **Burton W. Wiand, as Receiver** (hereinafter referred to as the "Grantor"), having a mailing address of 5505 West Gray Street, Tampa, Florida 36609 and **Pearl M. Fitzgerald** having an address of _____ (hereinafter referred to as the "Grantee");

W I T N E S S E T H:

That Burton W. Wiand was appoint as receiver for the Property, as hereinafter described, pursuant to that certain Order Reappointing Receiver in Securities and Exchange Commission v. Arthur Nadel, et al, United States District Court Middle District of Florida, Tampa Division Case No.: 8:09-cv-87-T-26TBM. The sale having been duly approved by Order of the United States District Court Middle District of Florida Tampa Division entered _____, 2013 (hereinafter referred to as the "Order" and attached hereto as Exhibit A and incorporated herein by this reference).

That for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, Grantor has granted, bargained, sold, aliened, conveyed and confirmed and does hereby grant, bargain, sell, alien, convey and confirm unto Grantee all of Grantor's right, title and interest in and to all that certain tract or parcel of land lying and being in Sarasota County, Florida, being more particularly described in Exhibit B attached hereto and by this reference made a part hereof (hereinafter referred to as the "Property").

TO HAVE AND TO HOLD said Property, together with all and singular the rights, members and appurtenances thereof, to the same being, belonging or in anywise appertaining, to the only proper use, benefit and behoof of Grantee forever, in as full and ample a manner as the same was held by Grantor.

IN WITNESS WHEREOF, Grantor has signed and sealed this Receiver's Deed, the day and year first above written.

GRANTOR:

Signed, sealed and delivered
in the presence of:

Witness

Burton W. Wiand, as Receiver

Notary Public

My Commission Expires:

[NOTARIAL SEAL]

EXHIBIT A TO RECEIVER'S DEED

COURT ORDER

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

ARTHUR NADEL,
SCOOP CAPITAL, LLC,
SCOOP MANAGEMENT, INC.,

Defendants.

CASE NO.: 8:09-cv-0087-T-26TBM

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.

ORDER

Before the Court is the Receiver's Unopposed Verified Motion for Approval of Sale of Real Property Located in Sarasota, Sarasota County, Florida (the "Motion") (Dkt. ____). Upon due consideration of the Receiver's powers as set forth in the Order Appointing Receiver (Dkt. 8), the Orders Reappointing Receiver (Dkts. 140, 316, 493 and 935), and applicable law, it is **ORDERED AND ADJUDGED** that the Motion is **GRANTED**.

The sale of the real property located at 15576 Fruitville Road, Sarasota, Sarasota County, Florida 34240, pursuant to the Purchase and Sale Agreement attached as Exhibit ____ to the Motion, is hereby approved. The Court finds that the Receiver has substantially complied with the provisions of 28 U.S.C. §2001, and the Receiver is hereby directed to transfer free and clear of all claims, liens, and encumbrances to Pearl M. Fitzgerald, by way of Receiver's Deed, pursuant to Purchase and Sale Agreement, title to the real property located in Sarasota, Sarasota County, Florida, which bears the following legal description:

COM SE COR TH N-01-00-31-E 1069.64 FT TH N-88-53-43-W 1847.47 FT TH
N-0-32-14-E 607.59 FT FOR POB TH N-0-32-14-E 734.17 FT TH N-88-53-43-W 512.34
FT TH S-22-50-01-E 181.15 FT TH S-58- 19-52-E 259.2 FT TH S-0-32-14-W 436.79 FT
TH S-88-53-43-E 218.6 FT TO POB CONTAINING 5 C-AC M/L

DONE and **ORDERED** in chambers in Tampa, Florida this ____ day of _____,

2013.

RICHARD A. LAZZARA
UNITED STATES DISTRICT JUDGE

COPIES FURNISHED TO:
Counsel of Record

EXHIBIT B TO RECEIVER'S DEED

LEGAL DESCRIPTION

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