

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

Case No. 8:09-cv-0087-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,

Relief Defendants.

**THE RECEIVER'S UNOPPOSED MOTION FOR LIMITED
CLARIFICATION OF THE COURT'S ORDER DENYING
WELLS FARGO BANK'S MOTION TO DISQUALIFY (DOC. 766)**

On April 25, 2012, the Court entered an Order (the “**Order**”) denying Wells Fargo Bank, N.A.’s (the “**Bank**”) Motion (I) To Disqualify Receiver, (II) To Disqualify Wiand Guerra King P.L. and (III) Disallow All Fees Payable To The Receiver And His Counsel (Doc. 822). In relevant part, in the Order the Court concluded that Wiand Guerra King P.L. (“**WGK**”) “may continue to represent the Receiver in this case with

the exception of matters specifically involving Wells Fargo Bank or its affiliates.” Order at 24. WGK has fully complied with the Order, and this motion is being filed out of an abundance of caution to clarify that its counsel’s attendance at an upcoming deposition of the Receiver noticed by the Bank in the Receiver’s pending case against the Bank (*Burton W. Wiand, as Receiver v. Wells Fargo Bank, N.A. et al.*, Case No. 8:12-cv-00557-T-27EAJ (M.D. Fla.)), would not violate the Order.

Consistent with the Order, the Receiver is represented in his case against the Bank by James, Hoyer, Newcomer & Smiljanich, P.A. (“**James Hoyer**”), and not by WGK. The Bank is scheduled to depose the Receiver in its case on Tuesday, August 27, 2013. At the deposition, the Receiver will be represented by James Hoyer lawyers. Nevertheless, the Receiver and undersigned counsel believe it is in the Receivership’s best interest if undersigned counsel attends the deposition as well. Specifically, because James Hoyer is only representing the Receiver in his disputes with Wells Fargo Bank and was retained only after the Receivership had been proceeding for several years, it only has limited knowledge of the Receivership’s litigation and other efforts. On the other hand, undersigned counsel is lead counsel for the Receiver and is knowledgeable about all of the Receivership’s litigation and other activities. In light of the impact the Receiver’s testimony can have on a wide range of Receivership matters, both the Receiver and undersigned counsel believe it is in the Receivership’s best interests for undersigned counsel to attend all depositions of the Receiver. To date, the Receiver has been deposed in several of his now-resolved “clawback” cases and in his now-resolved case against Holland & Knight, LLP, and undersigned counsel was present for each of

those depositions. While undersigned counsel would not be representing the Receiver in his case against the Bank at the upcoming deposition, this motion is being filed out of an abundance of caution to ensure that undersigned counsel's attendance would not violate the Order.

WHEREFORE, the Receiver respectfully requests the Court clarify its Order solely to confirm that undersigned counsel's attendance at the deposition of the Receiver in the Receiver's case against the Bank would not violate the Order.

LOCAL RULE 3.01(g) CERTIFICATION

The Receiver is authorized to represent to the Court that the Securities and Exchange Commission does not object to the relief requested in this motion. Further, counsel for Wells Fargo Bank, N.A., has informed the Receiver's counsel in the case pending against the bank that it has no objection to undersigned counsel's attendance at the Receiver's deposition.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 23, 2013, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

I FURTHER CERTIFY that on August 23, 2013, a true and correct copy of the foregoing document was furnished by email and first-class mail delivery to:

Beth A. Cronin, Esq.
Marvin Barkin, Esq.
Charles M. Harris, Esq.
Dale W. Cravey, Esq.
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in Burton W. Wiand, as Receiver v.
Wells Fargo Bank, N.A. et al., Case
No. 8:12-cv-00557-T-27EAJ (M.D.
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s/Gianluca Morello

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