

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

CASE NO. 8:09-cv-87-T-26ATBM

v.

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

Defendants,

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

Relief Defendants.

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**MOTION TO INTERVENE AND TO ALLOW THE
FIRST NATIONAL BANK OF ALBANY/BRECKENRIDGE
TO GO FREE OF THE STAY TO ENFORCE ITS SECURITY INTEREST
IN ASSETS OF QUEST ENERGY MANAGEMENT GROUP, INC.
AND MOTION FOR IMMEDIATE ACCOUNTING AND
MEMORANDUM OF LAW IN SUPPORT OF THE MOTION**

COMES NOW FIRST NATIONAL BANK OF ALBANY/BRECKENRIDGE, a National

Bank ("Bank"), by and through their undersigned attorneys, and move to intervene and for relief from the stay to allow it to enforce its liens against collateral owned by Quest Energy Management Group, Inc. ("Quest"), due to default on note obligations, and as grounds therefor shows:

1. On May 24, 2013, the Court approved the Receiver's Motion to Expand the Scope of Receivership to include Quest Energy Management Group, Inc.
2. The Bank has a lien on an office building located on Lots 1 and 2, Block 36, in the

Town of Albany, Texas, in Shackelford County, Texas, which secures an installment note in the amount of \$76,000, a copy of the note being attached hereto as Exhibit "A". The note was modified on April 17, 2012 and is attached hereto as Exhibit "B". The balance due on the note is \$46,522.48, which note has not been paid since May 17, 2013.

3. In addition, Quest borrowed from the Bank, \$700,000 on October 13, 2010, secured by oil and gas leaseholds, personal property and equipment in various leases, a copy of the lease is attached hereto as Exhibit "C". The deed of trust, mortgage, security agreement, assignment of production and financing statement of oil and gas properties is attached hereto as Exhibit "D". The note was modified on February 26, 2013, a copy is attached hereto as Exhibit "E". The balance due on this note is \$151,727.66, with a last payment made May 22, 2013.

4. All loan documents contain cross collateralization clauses.

5. In the Court Order (Doc #1040) the Court opines that it lacked jurisdiction because of the appeal taken from this order. While it is understandable to hold that the appeal divests the Court of jurisdiction for the relief sought by the Downeys, the Court does have jurisdiction of the receivership. As such, the Court can allow the Bank to proceed to enforce its remedies against their collateral since it is the receivership stay which the Bank seeks relief from to proceed to enforce its lien rights against their collateral.

MEMORANDUM OF LEGAL AUTHORITY AND ARGUMENT

A. Motion to Intervene

Rule 24, F.R.C.P. permits intervention either as a matter of right to the Bank because of their liens upon the assets of Quest.

a) Intervention of Right. On timely motion, the Court must permit anyone to intervene who:

(1) is given an unconditional right to intervene by a federal statute; or

(2) claims an interest relating to the property or transaction that is the subject of the action, and is so situated that disposing of the action may as a practical matter impair or impede the movant's ability to protect its interest, unless existing parties adequately represent that interest.

The Bank has a right to intervene, because the Bank claims a lien against Quest assets. As such, anything the Court allows to be done by the receiver impacts the Bank and therefore does impede or impair the Bank's interest.

The Bank has reviewed the denied Motion to intervene filed by Mr. Paul and Mr. Jeff Downey, and is concerned because they express concern on whether the operating permit to operate the oil and gas leases (the Bank's collateral) may not be renewed thereby jeopardizing the Bank's collateral.

The receiver has not attempted to pay the Bank or protect and preserve the assets that are collateral for the notes due the Bank. Quest has defaulted on the notes and now has no ability to pay the Bank or obtain operating permits. As such, grounds exist for the Court to allow the Bank to go free of the stay to allow the Bank to commence legal proceedings to proceed against their collateral to obtain payment of their notes.

The Bank is cognizant of Rule 24(c) requiring a pleading being attached to this motion, however, since the Bank only seeks relief from the stay to enforce its lien against its collateral, it is respectfully submitted that this filing serves as the pleading required by the Rule. Piambino v. Bailey, 757 F.2d 1112, 1121 (11 Cir., 1985).

COMPLIANCE WITH LOCAL RULE 3.01(G)

The Bank has conferred with counsel for the receiver as well as counsel for the Securities

and Exchange Commission, who appear to be the main parties concerning the relief requested, and have not been able to come to a resolution on this motion. Telephone conversations also occurred with the attorneys for the Downeys, as well as Morgan Bentley, who expressed an understanding why the Bank would be seeking to go free of this Court's stay order.

WHEREFORE, the Bank respectfully request this Court enter an Order granting the Bank's Motion to intervene and to allow the Bank to be free of any stay to allow it to enforce its lien against the collateral, and request such other and further relief as is deemed appropriate.

I HEREBY CERTIFY that on the 5th day of September, 2013, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.



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