

**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, LLC,

Relief Defendants.

THE RECEIVER'S FOURTEENTH INTERIM REPORT

Receivership Information and Activity from March 1, 2013 through August 31, 2013.

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INTRODUCTION

Burton W. Wiand, the Court-appointed Receiver for the Receivership Entities as defined herein, hereby files this Fourteenth Interim Report (the “**Report**”) to inform the Court, the investors, and others interested in this Receivership, of activities from March 1, 2013 through August 31, 2013 as well as the proposed course of action.¹ As of the date of filing this Report, the Court has appointed Burton W. Wiand as Receiver over the following entities and trust:

- a) Defendants Scoop Capital, LLC (“**Scoop Capital**”) and Scoop Management, Inc. (“**Scoop Management**”) (which, along with Arthur Nadel, are collectively referred to as “**Defendants**”);
- b) Relief Defendants Scoop Real Estate, L.P. (“**Scoop Real Estate**”); Valhalla Investment Partners, L.P. (“**Valhalla Investment Partners**”); Victory IRA Fund, Ltd. (“**Victory IRA Fund**”); Victory Fund, Ltd. (“**Victory Fund**”); Viking IRA Fund, LLC (“**Viking IRA Fund**”); and Viking Fund LLC (“**Viking Fund**”) (collectively referred to as the “**Hedge Funds**”);
- c) Relief Defendants Valhalla Management, Inc. (“**Valhalla Management**”), and Viking Management, LLC (“**Viking Management**”) (which, along with Scoop Capital and Scoop Management, are collectively referred to as the “**Investment Managers**”); and
- d) 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.

The foregoing entities and trust are collectively referred to as the “**Receivership Entities**.”

¹ Although this Interim Report covers the period from March 1, 2013 through August 31, 2013, where practicable, the Receiver has included information in his possession through the date of the filing of this Report.

The Receiver was appointed on January 21, 2009. By January 26, 2009, the Receiver established an informational website, www.nadelreceivership.com. The Receiver has updated this website periodically and continues to update it with the Receiver's most significant actions to date; important court filings in this proceeding; and other items that might be of interest to the public. This Report, as well as all previous and subsequent reports, will be posted on the Receiver's website.

Overview of Significant Activities During this Reporting Period

During the time covered by this Interim Report, the Receiver and his Professionals engaged in the following significant activities:

- Continued to pursue litigation for the recovery of false profits (and in some cases, all distributions) from investors (i.e., from “**Profiteers**”) and engaged in efforts to collect on judgments obtained in connection with litigation;
- Reached six settlements with Profiteers for a total sum of **\$2,980,771.11**². As of October 11, 2013, the Receiver has reached 145 agreements to settle with Profiteers and non-profit organizations in the amount of \$24,152,197.96 and obtained 16 judgments against Profiteers in the amount of \$4,067,329.00, for a total combined amount of **\$28,219,526.96** (plus additional non-cash assets);³
- Obtained **\$1,725,303.49** from a tax refund for Marguerite Nadel;
- Pursued litigation against Wells Fargo to recover damages and fraudulent transfers relating to the bank's activities in connection with the Ponzi scheme underlying this case;

² This amount includes a settlement with a Profiteer in the amount of \$1,465,000.00 which was finalized and executed on September 5, 2013, just after the end of this reporting period.

³ This amount does not include a judgment in the amount of \$4,028,385.00 the Receiver obtained against Don and Joyce Rowe and certain of their affiliated entities.

- Expanded the Receivership to include Quest Energy Management Group, Inc. (“Quest”);
- Sold a residential property located at 15576 Fruitville Road, Sarasota, Florida for **\$181,500.00** and fully resolved the outstanding debt on the property in exchange for payment of sixty percent of the net proceeds to the noteholder with the remaining forty percent paid to the Receiver, resulting in net proceeds to the Receivership of **\$68,450.55** after payment of commissions and other expenses associated with the sale;
- Sold a residential property located at 30393 Upper Bear Creek Road, Evergreen, Colorado for **\$750,000.00**, resulting in net proceeds of **\$322,677.60** after satisfaction of a loan on the property and payment of commissions and other costs associated with the sale;
- Seized a 2007 Lexus LS from Donald Rowe and recovered \$24,605.25 from the sale of the Lexus;
- Sold a 2009 BMW 535i previously used by Paul Downey in connection with Quest and received \$3,566.12 after payment of the outstanding loan on the vehicle;
- Maintained Receivership funds in appropriate accounts. As of October 14, 2013, the total funds in all Receivership accounts are approximately **\$13,402,701.32**, which includes \$2,919,110.57 being in 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;
- Continued to operate ongoing businesses, and where possible, enhance the value of those businesses resulting in the generation of \$609,828.52 in gross business income;
- Generated \$27,683.94 in interest/dividend income; \$757,218.97, in third-party litigation income; and \$2,155,380.87 in other income, which includes the tax refund for Marguerite Nadel in the amount of \$1,725,303.49 noted above;

The above activities are discussed in more detail in the pertinent sections of this Interim Report.

BACKGROUND

I. Procedure and Chronology.

Defendant Arthur Nadel (“**Nadel**”) was the Hedge Funds’ principal investment advisor and an officer and director of Scoop Management and sole managing member of Scoop Capital. On or about January 14, 2009, Nadel fled Sarasota County and disappeared for nearly two weeks.

On January 21, 2009, the Commission filed a complaint in this Court charging the Defendants with violations of federal securities laws. In this Proceeding, the Commission alleged that Nadel used the Investment Managers to defraud investors in the Hedge Funds from at least January 2008 forward by “massively” overstating investment returns and the value of fund assets to investors in these funds and issuing false account statements to investors. The Commission also asserted that Nadel misappropriated investor funds by transferring \$1.25 million from Viking IRA Fund and Valhalla Investment Partners to secret bank accounts. The Court found the Commission demonstrated a *prima facie* case that the Defendants committed multiple violations of federal securities laws. On August 17, 2010, the Commission moved the Court to approve a consent judgment against Nadel and filed Nadel’s consent to the same. (Doc. 457.) On August 18, 2010, the Court entered a Judgment of Permanent Injunction and Other Relief against Nadel (“**Judgment**”). (Doc. 460.) The Judgment permanently enjoined Nadel from further violations of the antifraud provisions of the federal securities laws and ordered Nadel to pay disgorgement of ill-gotten gains with prejudgment interest and a civil penalty in amounts to be determined by the Court upon the Commission’s motion.

On January 21, 2009, the same day the Commission filed its complaint, the Court entered an order appointing Burton W. Wiand as Receiver for the Investment Managers and Hedge Funds (the “**Order Appointing Receiver**”). (See generally Order Appointing Receiver (Doc. 8).) Between January 27, 2009, and May 24, 2013, on the Receiver’s motions, the Court entered orders expanding the scope of receivership to include additional entities as follows:

January 27, 2009 (Doc. 17)	Venice Jet Center, LLC Tradewind, LLC
February 11, 2009 (Doc. 44)	Laurel Mountain Preserve, LLC Laurel Preserve, LLC Marguerite J. Nadel Revocable Trust UAD 8/2/07 Laurel Mountain Preserve Homeowner Association, Inc.
March 9, 2009 (Doc. 68)	Guy-Nadel Foundation, Inc.
March 17, 2009 (Doc. 81)	Lime Avenue Enterprises, LLC A Victorian Garden Florist, LLC
July 15, 2009 (Doc. 153)	Viking Oil & Gas, LLC
August 10, 2009 (Doc. 172)	Home Front Homes, LLC
August 9, 2010 (Doc. 454)	Traders Investment Club
September 12, 2012 (Doc. 911)	Summer Place Development Corporation
September 21, 2012 (Doc. 916)	Respiro, Inc.
May 24, 2013 (Doc. 1024)	Quest Energy Management Group, Inc.

On June 3, 2009, January 19, 2010, September 23, 2010, October 29, 2012, and March 7, 2013 the Court entered orders Reappointing Receiver. (Docs. 140, 316, 493, 935, and 984.) The January 21, 2009, June 3, 2009, January 19, 2010, September 23, 2010, October 29, 2012, and March 7, 2013 Orders will be referred to collectively as the “**Orders Appointing Receiver.**” Pursuant to the Orders Appointing Receiver, the Receiver has the

duty and authority to: “administer and manage the business affairs, funds, assets, choses in action and any other property of the Defendants and Relief Defendants; marshal and safeguard all of the assets of the Defendants and Relief Defendants; and take whatever actions are necessary for the protection of the investors.” (Orders Appointing Receiver at 1-2.)

On January 27, 2009, Nadel surrendered to the FBI in Tampa, Florida. On April 28, 2009, he was indicted on six counts of securities fraud, one count of mail fraud, and eight counts of wire fraud. On February 24, 2010, Nadel pled guilty to all counts in the indictment. On October 21, 2010, Nadel was sentenced to 14 years in prison. Nadel died in prison on April 16, 2012.

II. The Receiver’s Role and Responsibilities.

For a discussion of the Receiver’s role and responsibilities, please refer to the Ninth Interim Report and earlier Interim Reports.

III. Overview of Findings To Date.

The Receiver has discovered that from 1999 through 2008, approximately \$330 million was raised in connection with over 700 investor accounts on behalf of one or more of the Hedge Funds by Nadel and his entities, Scoop Management and Scoop Capital; by the rest of the Fund Managers; and by the Moodys through the offer and sale of securities in the form of interests in Hedge Funds as part of a single, continuous Ponzi scheme. As discussed in prior Interim Reports, Nadel grossly overstated the trading results of the Hedge Funds. Despite significantly lower, and typically negative yields (*i.e.*, trading losses), Nadel, the Moodys, and the Fund Managers falsely communicated to investors and potential investors,

through monthly “statements,” Hedge Funds’ “Executive Summaries,” and other methods, that investments were generating positive returns and yielding between 10.97% and 55.12% per year. For most years, they falsely represented the investments were generating returns between 20% and 30%.

To perpetrate and perpetuate this scheme, Nadel caused the Hedge Funds to pay investors “trading gains” as reflected on their false monthly statements. The funds used to pay these trading gains were not generated from trading activities; rather they were generated from new or existing investors. Nadel further caused the Hedge Funds to pay tens of millions of dollars in fees. Those fees were based on grossly inflated returns, and thus, were improperly and wrongfully paid. The negative cash flow of the Hedge Funds made the eventual collapse of Nadel’s scheme inevitable.

As mentioned above, on February 24, 2010, Nadel pled guilty to all counts in the indictment relating to this scheme and on October 21, 2010, was sentenced to 14 years in prison. For a more detailed overview of the Receiver’s findings, please refer to the Ninth Interim Report.

ACTIONS TAKEN BY THE RECEIVER

Since his appointment on January 21, 2009, the Receiver has taken a number of steps to fulfill his mandates under the Order Appointing Receiver. For additional efforts of the Receiver, please refer to prior Interim Reports.

IV. Securing the Receivership Estate.

A. Taking Possession of Defendants' Headquarters.

On the day of his appointment, the Receiver took possession of the Receivership Entities' offices at 1618 Main Street, Sarasota, FL 34236 (the "**Office**"). Nadel used the Office as the headquarters for administering his control of the Investment Managers, Hedge Funds, and other Receivership Entities. Among other things, the Receiver removed documents, several servers, and other computer-related equipment from the premises that were used by Nadel and the entities he controlled. The Receiver retained experienced forensic information technology experts with the firm E-Hounds, Inc. ("**E-Hounds**"), to assist in securing and analyzing the electronic data on the computers. E-Hounds personnel secured the data and conducted forensic analyses.

B. Securing Receivership Funds.

At the outset of the Receivership, approximately \$556,758.33 in cash and cash equivalents in financial accounts titled in the name of the Hedge Funds and Investment Managers were identified and frozen pursuant to the Nadel TRO and the Preliminary Injunction. In addition, the Receivership recovered approximately \$629,750.47 in additional cash and cash equivalents from financial accounts titled in the name of other Receivership Entities at the time those entities were brought into receivership. Thus, total cash at the inception of the Receivership and as the Receivership was expanded to include each additional Receivership Entity was approximately \$1,186,508.80.⁴

⁴ This amount does not include any sum for non-cash or non-cash equivalent assets the Receiver has recovered. For a discussion of these assets, please refer to Section V below.

During the time covered by this Interim Report, Receivership funds were held at (1) Bay Cities Bank in a non-interest bearing operating account and two variable interest rate money market accounts; and (2) American Momentum Bank in two variable interest rate money market accounts. As of October 14, 2013, the total funds in all Receivership accounts are approximately \$13,402,701.32, which includes \$2,919,110.57 being in 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. The Receiver continues to review the appropriate action to take with respect to Receivership funds in light of the current state of the economy and financial institutions. If appropriate and in the best interests of the Receivership, he will move the funds into other interest-bearing accounts and/or revenue-generating investments.

C. Locating Additional Funds.

One of the Receiver's highest priorities is to locate and recover any additional funds that were in Nadel or the Receivership Entities custody at the time of the scheme. The Receiver retained a forensic accounting firm to assist in tracing funds. As discussed in Section V below, the Receiver's investigation revealed that significant sums were used to purchase or fund other entities.

1. Recovery of Tax Refunds.

The Receiver has sought to obtain tax refunds owed to certain insiders based upon taxes paid in prior years on nonexistent trading profits, periodic taxes paid on anticipated income that was never earned, and/or overpayment of taxes as a result of loss of investment. As a result of these efforts, the Receiver has recovered a total sum of **\$3,777,343.60** in tax refunds from Form 1045 Applications for Tentative Refund ("**Form 1045**") for carryback

losses on behalf Marguerite Nadel, Chris Moody, Neil Moody, and Sharon Moody. This amount includes **\$1,725,303.49** received on June 3, 2013 from a refund for Marguerite Nadel. The Receiver also submitted a Form 1045 for Arthur Nadel seeking the return of approximately \$1,183,525.00. No tax refund has been received for this submission yet although the Receiver's representative has been in frequent contact with the Internal Revenue Service in an effort to expedite the process as much as possible.

The Receiver also recovered two tax refund checks totaling \$1,261,359.33 from Mrs. Nadel as a result of improperly filed documents with the IRS on behalf of a Receivership Entity. Including these two refund checks, the total amount the Receiver has recovered from federal tax refunds to insiders is **\$5,038,702.93**. For more detailed information regarding the Receiver's efforts to recover tax refunds, please refer to the Ninth Interim Report.

D. Receivership Accounting Report.

Attached as **Exhibit A** to this Interim Report is a cash accounting report showing the amount of money on hand as of March 1, 2013 less operating expenses plus revenue through August 31, 2013. This cash accounting report does not reflect non-cash or cash-equivalent assets. Thus, the value of all property discussed in Section V below is not included in the accounting reports. From March 1, 2013 through August 31, 2013, the Receiver received \$609,828.52 in business income from ongoing operations of some Receivership Entities;⁵

⁵ As discussed in Section V.A below, much of the entities' business income is derived from rental payments. The income numbers provided in this and the following paragraph are gross figures and do not include any offset for business operations costs or any other expenses.

\$27,683.94 in interest/dividend income; \$757,218.97 in third-party litigation income; and \$2,155,380.87 in other income.⁶ (Ex. A.)

Since the inception of the Receivership through August 31, 2013, the Receiver received \$5,239,475.22 in business income from ongoing operations of some Receivership Entities; \$2,066,501.32 in cash and securities; \$905,167.87 in interest/dividend income; \$6,823,661.15 in business asset liquidation; \$120,000.00 in personal asset liquidation; \$57,945,696.99 in third-party litigation income; and \$6,988,118.40 in other income.

V. Asset Analysis and Recovery.

A. Expansion of Receivership to Include Additional Entities.

As a result of the review of these records and of the discussions noted above, the Receiver sought and successfully obtained the expansion of the Receivership to include: Venice Jet Center, LLC; Tradewind, LLC; Laurel Mountain Preserve, LLC; Laurel Preserve, LLC; Laurel Mountain Preserve Homeowners Association, Inc.; the Marguerite J. Nadel Revocable Trust UAD 8/2/07; the Guy-Nadel Foundation, Inc.; Lime Avenue Enterprises, LLC; A Victorian Garden Florist, LLC; Viking Oil & Gas, LLC; Home Front Homes, LLC; Summer Place Development Corporation; Traders Investment Club; Respiro, Inc.; and Quest

⁶ The “other income” includes: \$1,725,303.49 obtained from a tax refund for Marguerite Nadel; \$5,177.86 from the sale of miscellaneous assets; \$100.00 from processing fees for checks reissued in connection with the claims process; \$68,450.55 from the sale of property located on Fruitville Road in Sarasota, Florida; \$322,677.60 from the sale of property located in Evergreen, Colorado; \$24,605.25 from the sale of a Lexus seized from Don Rowe along with a refund deposit of \$5,000.00 and a liquidation payment of \$500.00; and \$3,566.12 from the sale of a BMW owned by Quest.

Energy Management Group, Inc.⁷ These entities will hereinafter be referred to collectively as the “**Additional Entities.**” The Receiver’s investigation revealed that the Additional Entities were purchased and/or funded with money derived from Nadel’s fraudulent investment scheme.

The following discussion of the Additional Entities includes a description of assets the Receiver has acquired as a result of the businesses’ inclusion in the Receivership. Assets, including Additional Entities, which have been sold or otherwise disposed of are identified on the attached **Exhibit B**. Exhibit B includes a description of the asset, any known encumbrances related to the asset, the disposition of the asset, and the amount received from the sale of the asset, and/or the amount of debt waived in connection with the disposition of the asset. For more information regarding assets identified on Exhibit B, please refer to prior Interim Reports. Assets which have not been sold or otherwise disposed of are discussed below.

1. Tradewind, LLC.

Tradewind, LLC (“**Tradewind**”) was formed in Delaware in January 2004 and registered for the first time in Florida in March 2008. Nadel was Tradewind’s managing member and registered agent, and its principal address was the Office. Tradewind owned and controlled five planes and one helicopter and owns 31 hangars at the Newnan-Coweta

⁷ The Receiver sold or otherwise disposed of the assets of the Venice Jet Center, LLC; the Marguerite J. Nadel Revocable Trust UAD 8/2/07; Lime Avenue Enterprises, LLC; A Victorian Garden Florist, LLC; and Home Front Homes, LLC. For more information regarding these entities and the sale and/or disposition of their pertinent assets, please refer to Exhibit B and prior Interim Reports.

County Airport in Georgia (the “**Georgia Hangars**”). The Receiver’s investigation revealed that Tradewind was funded with money from Nadel’s scheme. Tradewind is a fully operating business with potential to generate assets for the Receivership estate.

On January 27, 2009, the Court expanded the Receivership to include Tradewind. Since the Receiver’s appointment as Receiver of Tradewind, he has taken control of it and is continuing to operate the business. Tradewind collects approximately \$20,000 in monthly rent and incurs varying monthly expenses, which include land rent, loan payments, and various utilities. The Receiver is entertaining offers to purchase this business or any of its assets.

The Receiver has possession and control of the Georgia Hangars, which have one known encumbrance: a loan with the Bank of Coweta. The loan matured on June 25, 2012, and was not renewed. The principal balance of the loan at the time of maturity was approximately \$874,501.21. The Receiver is currently making monthly interest-only payments of approximately \$5,500. There is also monthly rent of \$3,079.89 due to the Newnan Coweta Aviation Authority which the Receiver has been paying as he believes it is in the best interest of the Receivership. The Coweta County Airport Authority has communicated to the Receiver that it will agree to enter into a new 25 year land lease with two additional five year options with a new purchaser. The Receiver has received offers to purchase the Georgia Hangars. The offers, however, were below what the Receiver believes to be the fair market value of the Hangars.

2. Laurel Mountain Preserve, LLC; Laurel Preserve, LLC; and Laurel Mountain Preserve Homeowners Association, Inc.

Laurel Mountain Preserve, LLC (“**Laurel Mountain**”), was formed in Florida in December 2003. Laurel Mountain was “withdrawn” as a limited liability company in January 2006. Laurel Preserve, LLC (“**Laurel Preserve**”), was formed as a North Carolina limited liability company in February 2006. Laurel Preserve holds title to approximately 420 acres near Asheville, North Carolina in Buncombe and McDowell counties, intended for development of home-sites (the “**Laurel Mountain Property**”). The Laurel Mountain Preserve Homeowners Association, Inc. (the “**HOA**”), is a North Carolina non-profit corporation formed in March 2006. Nadel controlled each of these entities.

On February 11, 2009, the Court expanded the Receivership to include Laurel Mountain, Laurel Preserve, and the HOA. Since the Receiver’s appointment as Receiver of these entities, he has taken control of them and is working on marketing for sale the Laurel Mountain Property. This property currently does not generate any income. The Laurel Mountain Property encompasses 29 lots, including 23 estate-sized and 6 cottage-sized lots. There is also a cabin home on this property that, according to the Buncombe County Property Appraiser, is valued at \$319,800 (as of April 30, 2012). The Laurel Mountain Property’s infrastructure is fully developed: infrastructure and utilities are in place and are fully functional.

The Laurel Mountain Property has two known encumbrances. The first encumbrance is a \$360,157.37 loan from BB&T Bank. The second encumbrance is a \$1,900,000 interest only loan from Wells Fargo. There is a monthly payment of \$5,149.66 due on this latter loan and the Receiver is not making the loan payments. Without notifying this Court or the

Receiver, on June 24, 2011, Wells Fargo filed in the United States District Court for the Southern District of New York a petition under 21 U.S.C. § 853(n)(2) and Federal Rules of Criminal Procedure 32.2(c) seeking a hearing to adjudicate its interest in the Laurel Mountain Property. On February 12, 2012, that court entered a stipulation and order vacating its preliminary forfeiture order with respect to the Laurel Mountain Property, which effectively rendered Wells Fargo's petition moot.

For more information regarding the Laurel Mountain Property, please visit <http://www.laurelmountainpreserve.com>. Parties interested in purchasing this property should contact the Receiver directly.

3. Guy-Nadel Foundation, Inc.

The Guy-Nadel Foundation, Inc. (the "**Foundation**"), is a Florida non-profit corporation Nadel formed in December 2003 for "charitable, educational and scientific purposes." The Foundation was funded with proceeds of Nadel's scheme. On March 9, 2009, the Court expanded the Receivership to include the Foundation. Since the Receiver's appointment as Receiver of the Foundation, he has taken control of it and is working on marketing the real property owned by the Foundation.

The Receiver discovered that from 2000 through 2008, the Foundation made a total of approximately \$2,484,589 in contributions from scheme proceeds to various non-profit organizations and charities. The Receiver focused his attention on the non-profit organizations that received the most contributions. The Receiver pursued settlement negotiations and, in some instances, litigation against these organizations. The Receiver has amicably resolved all actions he brought against these organizations through settlement. For

more information regarding these actions, please refer to the Twelfth Interim Report and prior Interim Reports.

North Carolina Parcels

The Receiver has possession and control of approximately eight lots that are essentially adjacent to each other and to the Laurel Mountain Property. The lots appear to have been purchased by Laurel Mountain and the Nadels as part of the same general transaction in which Laurel Mountain purchased the Laurel Mountain Property. In December 2003 and December 2004, Laurel Mountain and Nadel and his wife deeded these lots to the Foundation. The Receiver is currently marketing this property with the Laurel Mountain Property. Parties interested in purchasing this property should contact the Receiver directly.

Thomasville, Georgia Parcels

Additionally, the Receiver has possession and control of two small undeveloped lots in Thomasville, Georgia (collectively referred to as the “**Lots**”). The first lot is a .12 acre parcel located at 211 Church Street (the “**Church Street Lot**”) that was purchased by the Foundation in December 2006 for \$4,000. In 2012, the Thomas County Board of Tax Assessors assigned the Church Street Lot a taxing value of \$2,224. The second lot is a 1.17 acre parcel located on North Stevens Street (the “**North Stevens Street Lot**”) that was purchased by the Foundation in January 2008 for \$24,000. In 2012, the Thomas County Board of Tax Assessors assigned the North Stevens Street Lot a taxing value of \$10,342.

In the more than three years that the Receiver has been marketing the Lots, he received only one offer to purchase each property. The Receiver determined that neither

offer adequately represented the value of the Lots and declined to accept either offer. Given the lack of success in his marketing efforts, the Receiver determined that a public sale by online auction would provide the best opportunity to sell the Lots. On May 6, 2013, the Receiver filed a motion to approve the public sale of the Lots by online auction (Doc. 1011). On May 8, 2013, the Court approved the Receiver's motion in its entirety (Doc. 1016). The order also authorized the Receiver to sell the Lots for prices which the Receiver believes reasonably reflect the value of the Lots without further order from the Court. A public online auction of the Lots was held from June 1 through June 28, 2013. Despite marketing and advertising efforts, the auction did not result in any offers which the Receiver believed reasonably reflected the value of the Lots. The Receiver is considering other appropriate steps to sell these Lots. Parties interested in purchasing the Lots should contact the Receiver directly.

4. Viking Oil & Gas, LLC.

Viking Oil & Gas, LLC (“**Viking Oil**”) is a Florida limited liability company formed in January 2006 by the Moodys to make personal investments in an oil and gas venture. Its principal address was the Office. The Receiver's investigation revealed that Viking Oil was funded with proceeds from Nadel's scheme. On July 15, 2009, the Court expanded the Receivership to include Viking Oil. (Order, Doc. 153.) The funds invested in Viking Oil were used to purchase an investment interest in Quest. Between February 2006 and April 2007, through Viking Oil, the Moodys invested \$4 million to fund a working interest in Quest. As discussed in Section V.A.8, below, the Receiver has expanded the Receivership to include Quest.

5. Summer Place Development Corporation.

Summer Place is a Florida company that was formed in May 2005 and purchased by Clyde Connell in December 2005. Nadel, through Scoop Capital, purchased a fifty-percent ownership stake in Summer Place with a payment of \$50,000 to Mr. Connell in December 2006 and another payment of \$13,204.99 in February 2007. Nadel was appointed Director, Secretary, and Treasurer of Summer Place at that time. In April 2009, the Receiver replaced Nadel as Director, Secretary, and Treasurer of Summer Place and Scoop Capital's shares in Summer Place were transferred to the Receiver. The Receiver attempted to sell his fifty-percent ownership with no success. In April 2012, Mr. Connell and Juanita Connell, the only other Summer Place shareholders, relinquished their interest in Summer Place and transferred their membership units to the Receiver in exchange for the Receiver's agreement to pay them one-half of the net proceeds from the sale of assets owned by Summer Place.

Summer Place owns a six-acre parcel in Bradenton, Florida, which has no known liens or encumbrances. Summer Place was originally created to build thirty affordable home sites on this property. However, due to the decline in the market for affordable housing, no development ever occurred. Summer Place has had no operations for several years and currently generates no income. Taxes on the property are approximately \$3,000 a year. On September 11, 2012, the Receiver filed a motion asking the Court to expand the Receivership to include Summer Place (Doc. 909). The Court granted this motion on September 12, 2012 (Doc. 911). The Receiver sought the expansion of the Receivership to include Summer Place so that he could market and sell the six-acre parcel of land. The future sale of this land

should provide funds for the Receivership Estate and benefit defrauded investors and creditors. Parties interested in purchasing this property should contact the Receiver directly.

6. Traders Investment Club.

Traders was a Florida partnership formed in December 1998 to operate as a purported “investment club.” Nadel controlled Traders and purported to buy and sell securities on its behalf in an effort to generate trading profits. Records in the Receiver’s possession show that Traders was in existence until December 2005. During its existence, Traders had approximately 35 different investors many of whom were also simultaneously investors in the Hedge Funds. Aside from raising money for Traders from investors, the Receiver’s investigation revealed that Nadel funded Traders with unlawful transfers from the Hedge Funds.

Nadel purported to close Traders in 2005 by distributing supposed “principal and trading gains” directly to investors or to the Hedge Funds as purported “roll-overs” into the pertinent investors’ Hedge Fund “accounts.” Further, representations Nadel made to Traders’ investors regarding investment performance were grossly overstated. Because of the commingling of funds between Traders and the Receivership Entities and the fraud perpetrated by Nadel through his control of all of these entities, the Receiver sought the expansion of the Receivership to include Traders. (*See Motion to Expand Receivership to Include Traders*, Aug. 9, 2010, Doc. 453.) On August 9, 2010, the Court expanded the Receivership to include Traders (Doc. 454).

7. Respiro, Inc.

Respiro provides home respiratory services and medical equipment products and is headquartered in Sarasota, Florida. Chris Moody, his wife Tamara Moody, Lyle Warner, and Nathan Warner formed Respiro in December 2007. Beginning shortly after its formation through February 2009, Chris Moody funded Respiro with a series of transfers, totaling \$557,500, primarily through his revocable trust. These funds were proceeds of Nadel's scheme. Although Chris Moody funded Respiro, no shares were placed in his name. Instead, the bulk of the shares were given to his wife, and the remaining shares were given to the Warners. Despite the Receiver's attempts, Respiro failed to repay the purported loan given by Chris Moody. Accordingly, on September 7, 2012, the Receiver filed a motion asking the Court to expand the Receivership to include Respiro (Doc. 904). A hearing on the motion was held on September 21, 2012, and the Court granted the Receiver's motion the same day (Doc. 916).

After assuming control of Respiro, the Receiver began investigating the value and status of Respiro. The Receiver's investigation revealed significant concerns about the ability of Respiro to continue as a going concern. Specifically, the Receiver learned that, prior to the inclusion of Respiro in the Receivership estate, the company had been denied a bid to continue receiving reimbursement from Medicare for the purchase of medical equipment. This inability to continue receiving Medicare reimbursement had a significant negative impact on Respiro's business. Additionally, Respiro has since seen an unfavorable shift in industry conditions, including a measurable decline in the number of patient referrals

it has received from health service professionals. Finally, the company continued to suffer the loss of key personnel required to conduct day-to-day operations.

Having obtained no material interest from any prospective purchasers, and in light of the precarious state of Respiro's business operations, the Receiver enlisted the services of a business broker to locate a purchaser for some or all of Respiro's assets. The only offer received was withdrawn after a due diligence process. The Receiver then resurrected earlier discussions with Matrix Medical, LLC ("**Matrix**"). The Receiver reached an agreement with Matrix to sell Respiro's assets. On September 30, 2013, the Receiver filed a motion to approve this agreement (Doc. 1074). The Court granted the Receiver's motion on October 1, 2013 (Doc. 1075). In pertinent part, the agreement provided that Matrix would buy Respiro's assets for \$65,000 subject to a possible decrease of the purchase price by \$250 for each deficient and/or missing patient file. Matrix reviewed Respiro's files and deducted (i) \$6,750 based on both missing and deficient files, and (ii) \$12,500 for amounts billed by Matrix since assuming control of Respiro but which had been paid to Respiro. This resulted in a net purchase price of \$45,750, which was received on October 4, 2013. The Receiver believes this sale was fair and in the best interests of the Receivership Estate as it represented the current value of Respiro's assets – especially in light of his significant doubts as to Respiro's ability to continue to operate as a going concern.

8. Quest Energy Management Group, Inc.

Quest is an oil and gas exploration and production company based in Texas. Paul Downey was its Chief Executive Office, and his son Jeff Downey was its Chief Operating Officer (collectively the "**Downeys**"). The Moodys, through Viking Oil, used scheme

proceeds of \$4 million to fund Quest. Through Valhalla Investment Partners, L.P., the Moodys funneled an additional \$1.1 million to Quest in exchange for a promissory note from Quest and the Downeys to Valhalla Investment Partners. The Receiver attempted to reach a resolution with Quest relating to the large amount of scheme proceeds used to fund the Company. In February 2009, the Receiver began communications with the Downeys for recovery relating to the scheme proceeds provided to Quest. On October 21, 2011, the Receiver demanded full repayment of the \$1.1 million note together with accrued interest of \$9,166.67. Quest failed to make full payment, but remitted interest payments for some time. From the appointment of the Receiver through January 31, 2013, \$440,617.86 was paid in interest on this note.

After considerable time and effort, the Receiver reached a conditional agreement to resolve his claims against Quest dependent upon receipt of \$2.3 million from Quest. Quest failed to make this payment and ignored the Receiver's repeated demands for payment. In February 2013, Quest failed to pay interest on the note and informed the Receiver it was having cash flow problems. Because of Quest's failings and to try to preserve the value of Quest for the benefit of the Receivership estate and, ultimately, for defrauded investors in Nadel's scheme, on March 21, 2013, the Receiver moved to expand the Receivership to include Quest (Doc. 993). The Court granted this motion on May 24, 2013 (Doc. 1024). On June 14, 2013, the Downeys filed a notice of appeal of the Court's May 24, 2013 Order to the United States Court of Appeals for the Eleventh Circuit in the name of Quest (Doc. 1027). On July 19, 2013, the appellate court informed the parties that it may lack jurisdiction over the appeal and requested briefing from them on this issue by August 2, 2013. On August 2,

2013, the Receiver filed his response and also moved to dismiss the appeal for lack of jurisdiction on other grounds. On September 17, 2013, the Circuit Court announced that it would carry the jurisdictional issue with the case. The Receiver's response brief currently is due on October 17, 2013.

The Receiver has taken control of Quest and is determining the most prudent course of action to take with respect it. Since the expansion of the Receivership to include Quest, the Receiver has and will continue to maintain a separate accounting of revenues and expenses for Quest. The Receiver has been able to grow Quest's revenues since that time and therefore, he believes Quest will likely generate sufficient revenues to cover its expenses. The Receiver currently believes that the assets and potential value of Quest is significantly less than the outstanding balance of investors' investment amount in Quest. If, however, the Receiver is able to generate sufficient funds from the sale of Quest's assets, he will conduct a separate claims process to deal with the claims of investors and other creditors of Quest. Should that occur, the Receiver will assert a claim on behalf of Viking Oil and Valhalla Investment Partners, L.P. Any monies recovered as a result of that claim could be distributed to current claimants with allowed claims.

For more information regarding Quest, the Receiver's investigation of it, and the Receiver's proposed course of action, please refer to the Receiver's Interim Report on Quest filed on August 26, 2013 (Doc. 1054), which is available on the Receiver's website.⁸

⁸ On August 27, 2013, the Court *sua sponte* set a status conference which was held on September 4, 2013, to discuss whether it was financially in the best interests of the Receivership and the defrauded investors to maintain Quest as a Receivership Entity (Doc. 1055). The Court determined to maintain Quest in the Receivership at this stage.

B. Recovery of Real Property.

In addition to the assets discussed in conjunction with the expansion of the Receivership in Section V.A, the Receiver has also recovered a number of other assets, some of which continue to be valued, assessed, and otherwise analyzed for liquidation, disposition, or other action. Again, assets which have been sold or otherwise disposed of are identified on the attached **Exhibit B**.

1. Graham, North Carolina.

The Receiver had possession and control of a building located at 841 South Main Street, Graham, North Carolina 27253 (the “**Rite-Aid Building**”). This building was purchased for \$5,310,000 and is being leased to a Rite-Aid Pharmacy. The Rite-Aid Building had one known encumbrance: a \$2,655,000 interest-only loan with Wells Fargo, which matured in June 2009 (the loan was made by its predecessor Wachovia Bank, N.A.). The Receiver paid interest on this loan through October 2009.

On May 8, 2012, over the objection of Wells Fargo the Court approved the sale of the Rite-Aid building to Trinet West, LLC for \$2,400,000 free and clear of all encumbrances (Docs. 840, 841). Wells Fargo filed an emergency motion for reconsideration of the Court’s order approving the sale of the Rite-Aid Building on May 14, 2012 (Doc. 853), which the Court denied on May 15, 2012 (Doc. 853). Closing occurred on May 15, 2012, and the Receiver obtained \$2,229,463.15 in net proceeds after payment of commissions and other expenses associated with the sale. The proceeds of the sale are currently being held until Wells Fargo’s claim to them is resolved.

2. Fairview, North Carolina.

On March 30, 2009, the Court granted the Receiver's motion (Doc. 98) for possession of property located in Fairview, North Carolina (the "**Fairview Property**") (Doc. 100). Nadel and his wife purchased the Fairview Property for \$335,000 on June 14, 2004. The Fairview Property was a secondary residence of the Nadel and is located in the mountains of North Carolina. The Fairview Property has one known encumbrance: a loan with BB&T Bank on which there is a remaining principal balance of approximately \$248,941.73. The Receiver received two offers for the purchase of the Fairview Property. One offer was below what the Receiver believed to be the fair market value of the property. The Receiver negotiated with the other prospective buyer; however, the buyer was unable to obtain financing. The Receiver retained \$2,000 from funds put in escrow by this prospective buyer. On April 1, 2012, the Receiver secured a caretaker for the property who is providing upkeep for the property in lieu of rent. Parties interested in purchasing the Fairview Property should contact:

Mike Miller
Town and Mountain Realty
261 Asheland Avenue
Asheville, NC 28801
Office: (828) 712-9052

3. Sarasota, Florida (Fruitville Road).

The Receiver had possession of property located at 15576 Fruitville Road in Sarasota, Florida (the "**Fruitville Property**"). Nadel purchased the property for approximately \$205,000 in May 2003. The Fruitville Property had one known encumbrance: a loan with Northern Trust on which the balance due as of July 15, 2013 was approximately \$209,264.92

including principal and interest. On July 16, 2013, the Receiver filed a verified motion to approve the sale of the Fruitville Property (Doc. 1042). On July 18, 2013, the Court granted the motion in its entirety (Doc. 1044). In pertinent part, the Order approved the sale of the Fruitville Property for \$181,500 and approved an agreement between the Receiver and Northern Trust to eliminate the mortgage in full in exchange for payment of sixty percent (60%) of the net sale proceeds to Northern Trust. The Receivership estate received the remaining forty percent (40%) of the net proceeds from the sale of the Fruitville Property in the amount of approximately \$68,450.55. The Receiver believes that this sale was in the best interest of the Receivership and that the purchase price represented the fair market value of the property.

4. Sarasota, Florida (La Bellasara).

On January 28, 2010, the Court granted the Receiver's motion (Doc. 324) for possession of property located at 464 Golden Gate Point, Unit 703, Sarasota, Florida (the "**Bellasara Property**"). (Doc. 327.) The Bellasara Property is a residential condominium unit in a building called La Bellasara. (Doc. 100.) On or about May 23, 2006, Neil Moody as Trustee of the Neil V. Moody Revocable Trust dated February 9, 1995 purchased the Bellasara Property for \$2,160,000. The Bellasara Property was Neil Moody's primary Florida residence. The Bellasara Property has two known encumbrances: a primary mortgage loan from MSC Mortgage, LLC in the amount of \$956,000 and a home equity line of credit from Wells Fargo with an initial balance of \$880,000, both of which were obtained by Neil Moody on or about the date of the closing of the purchase of the Bellasara Property. The Bellasara Property was subject to a foreclosure proceeding in the Twelfth Circuit in and

for Sarasota County, Florida. The Receiver notified all parties in the foreclosure to effectively stop the proceeding and has undertaken to market the property and negotiate with the lenders in an effort to generate money for the Receivership estate. Parties interested in purchasing the Bellasara Property should contact:

Sharon Chiodi
Sotheby's International Realty
50 Central Avenue, Suite 110
Sarasota, Florida
Phone: (941) 364-4000
Fax: (941) 364-9494
Email: sharon.chiodi@sothebyrealty.com

5. Evergreen, Colorado.

The Receiver had possession and control of property located at 30393 Upper Bear Creek Road, Evergreen, Colorado (“**Evergreen Property**”). The Evergreen Property is a residential property that was used by Neil and Sharon Moody. The property was purchased in 1988 for \$290,000. The Evergreen Property had one known encumbrance: a loan held by Freddie Mac which was serviced by Wells Fargo on which the remaining balance as of July 31, 2013 was approximately \$377,749.50 including principal and interest. On July 16, 2013, the Receiver filed a verified motion to approve the sale of the Evergreen Property (Doc. 1041). On July 18, 2013, the Court granted the motion in its entirety (Doc. 1043). In pertinent part, the Order approved the sale of the Evergreen Property for \$750,000 and approved the Receiver's intent to satisfy the outstanding amount on the Freddie Mac loan at closing with the balance of the sale proceeds going to the Receivership estate. The Receiver believes that this sale was in the best interest of the Receivership and that the purchase price represented the fair market value of the property. The Receivership estate netted

approximately \$322,677.60 after satisfaction of the loan and payment of commissions and other costs associated with the sale.

C. Recovery of Other Items.

The Receiver has recovered various other items, including vehicles, jewelry, promissory notes, and stock. Any of these items which have been sold or otherwise disposed of are identified on the attached Exhibit B. For more information regarding these items and their disposition, please refer to prior Interim Reports.

1. Condominium Note and Mortgage.

On April 30, 2009, the Court granted the Receiver exclusive interest in a note and mortgage for the Jefferson Avenue Property. (Doc. 116.) The condominium's owner, an employee of A Victorian Garden Florist, had executed a promissory note payable to Mrs. Nadel for \$126,556.24. The note was secured by a mortgage held by Mrs. Nadel. On February 9, 2009, Mrs. Nadel assigned the note and mortgage to Nadel's former criminal defense attorneys, who subsequently assigned the note and mortgage to the Receiver, per the Court's order. The condominium's owner was in default, and the Receiver initiated foreclosure proceedings. A summary judgment hearing was held on June 18, 2010 and an order of foreclosure was entered the same day. A judicial sale of the property was held on October 12, 2010. (*See* Exhibit B for information regarding the disposition of the condominium).

The Receiver filed a Motion for Deficiency Judgment on October 26, 2010. After a hearing on the motion, on February 2, 2011, the Court entered a Deficiency Judgment against

the former owner in the amount of \$99,963.37. The Receiver recorded this judgment and is taking appropriate steps to attempt to collect on it.

2. Quest Promissory Note.

As mentioned above in Section V.A.8, the Receiver also has a promissory note from Quest and the Downeys to Valhalla Investment Partners in the amount of \$1,100,000. Quest made monthly interest payments on this note through January 2013.

3. Vehicles

The Receiver acquired possession and control of 16 vehicles titled in Quest's name or otherwise paid for by Quest, which primarily include trucks and trailers used in connection with business operations. One of the vehicles, however, was a 2009 BMW 535i ("BMW") which was being used by Paul Downey. On August 12, 2013, the Receiver filed a motion to approve the sale of the BMW for \$17,000 (Doc. 1049). The Court approved this motion on August 13, 2013 (Doc. 1050). After payment of the outstanding loan on the vehicle, the Receivership received the net amount of \$3,566.12 from this sale. Further, through a Writ of Execution, a 2007 Lexus LS was seized from Donald and Joyce Rowe and sold at a sheriff's public auction held on July 9, 2013. The vehicle was sold for \$26,750. After payment of various fees and costs, the Receiver received \$24,605.00 in net proceeds from the sale.

4. Miscellaneous Items.

The Receiver recovered a myriad of other items that he may be able to sell, including a variety of furniture, artwork, sculptures, fixtures, computers, and miscellaneous supplies. The Receiver will make reasonable efforts to maximize the amount he is able to recover from the possible sale of these items.

D. Recovery of Assets from the Moodys.

The Receiver's investigation revealed that a significant portion of activities of certain Hedge Funds should have been managed and directed by the Moodys. Together, the Moodys received approximately \$42 million in fees from certain Receivership Entities.

In April 2009, the Receiver initiated contact with the Moodys' counsel. On April 17, 2009, the Receiver received a letter from the Moodys agreeing that they would not transfer any assets of value owned by them, nor would they remove any such assets from the state of Florida without prior written notice to the Receiver. Chris Moody has satisfied this commitment and has fully cooperated with the Receiver in connection with the turnover of all of his assets. On January 19, 2010, Chris Moody gave the Receiver a power of attorney which allows the Receiver to effectuate the transfer of most of his assets without any direct participation from Chris Moody. The Receiver met with Chris Moody, confirmed the assets he owned, and reviewed in detail Chris Moody's interests and liabilities in those assets.

On January 6, 2011, the Receiver reached an 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. The Court approved this settlement on February 23, 2012 (Doc. 754). For more information regarding this settlement, please refer to the Twelfth Interim Report.

Meaningful assets the Receiver has identified for Chris Moody are delineated on the attached **Exhibit C**. Neil Moody's meaningful assets are identified on the attached **Exhibit D**. Where possible, Exhibits C and D provide the percentage of interest acquired or purchase price and the status or disposition of the asset. The Receiver is continuing to evaluate these

assets and will take appropriate actions as he determines are in the best interests of the Receivership. Entities in which the Receiver believes he may have a viable interest or potential for meaningful recovery have been put on notice of the Receiver's interests and rights.

Enforcement Action Instituted Against Moodys

On January 11, 2010, the Commission instituted an enforcement action against the Moodys alleging that they violated antifraud provisions of the federal securities laws in connection with their involvement in Nadel's scheme. *See generally SEC v. Neil V. Moody, et al.*, Case No. 8:10-cv-00053-T-33TBM (M.D. Fla.), Compl. (attached as Exhibit A to Doc. 325). Also on January 11, 2010, Neil Moody and Chris Moody, without admitting or denying the allegations of the complaint, consented to entry of a permanent injunction and agreed to disgorge all ill-gotten gains upon the Commission's request. On April 7, 2010, Judgments of Permanent Injunction and Other Relief were entered against Neil and Chris Moody. The Judgments permanently enjoin Neil and Chris Moody from further violations of the antifraud provisions of the federal securities laws. The Judgments also allow the Commission to seek an order for disgorgement of ill-gotten gains and/or a civil penalty.

E. Litigation.

In January 2010, the Receiver filed **134** lawsuits seeking approximately **\$71,096,326.43**. The lawsuits sought (1) the recovery of false profits from investors; (2) the recovery of distributions from Receivership Entities to Neil and Sharon Moody, Donald and

Joyce Rowe, and certain of their affiliated entities;⁹ (3) the recovery of other distributions, such as commissions, from other individuals and/or entities;¹⁰ and (4) the recovery of certain charitable contributions made with scheme proceeds.¹¹ The Receiver also initiated litigation against Holland & Knight, Wells Fargo Bank, and Anne Nadel and continues to evaluate possible additional litigation.

1. Recovery of “Investment” – Related Transfers from Investors.

As discussed in Section III.C above, the Receiver determined that some purported investor accounts received monies in an amount that exceeded their investments. 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 commingled funds of new and existing investors. The Receiver discovered approximately \$35 million in such “false profits.” The Receiver spent substantial time identifying recipients of these false profits, the Profiteers. In consultation with the Commission, the Receiver concluded that, in the best interests of the Receivership Entities and the investors as a whole, these inequitable

⁹ The Receiver has resolved the action against Neil and Sharon Moody and related entities through settlement. For more information regarding these settlements, please refer to the Tenth and Twelfth Interim Reports. The Receiver has also resolved the action against Donald and Joyce Rowe, and certain of their affiliated entities (the “**Rowe Defendants**”). For more information regarding this settlement, please refer to the Thirteenth Interim Report.

¹⁰ In January 2010, the Receiver initiated lawsuits against three individuals to recover transfers received as commissions or “compensation.” The Receiver resolved these matters for a total amount of \$152,121.09.

¹¹ All actions the Receiver brought against non-profit organizations have been amicably resolved by settlement agreements. For more information regarding these actions and their resolution, please refer to the Twelfth Interim Report and prior Interim Reports.

distributions should be recovered and distributed in an equitable manner among Claimants holding legitimate and allowed claims (as to be determined by the claims process).

As of October 11, 2013, the Receiver has reached 145 agreements to settle with Profiteers and non-profit organizations in the amount of **\$24,152,197.96** and obtained 16 judgments against Profiteers in the amount of **\$4,067,329.00** for a total combined amount of **\$28,219,526.96** (plus additional non-cash assets). The Court has approved all of the settlements. During the time covered by this Interim Report, the Receiver reached six settlements with Profiteers for a total sum of **\$2,980,771.11**.¹²

In January 2010, the Receiver initiated **121** lawsuits against Profiteers seeking to recover total false profits of approximately **\$32,755,269.13** (“**January 2010 Cases**”). The complaints set forth claims for unjust enrichment and fraudulent transfers pursuant to Florida’s Uniform Fraudulent Transfer Act (“**FUFTA**”). Except in situations where defendants had, or should have had, knowledge of the fraudulent investment scheme or otherwise cannot satisfy the pertinent good-faith standard, the Receiver is seeking to recover false profits.

From May 25, 2011 through September 28, 2012, the Receiver filed Omnibus Motions for Summary Judgment (“**Summary Judgment Motions**”) in all January 2010 Cases then pending. Beginning on November 29, 2012 and continuing through January 11, 2013, the Honorable Magistrate Judge Mark A. Pizzo entered Reports and Recommendations

¹² This amount includes a settlement with a Profiteer in the amount of \$1,465,000.00 which was finalized and executed on September 5, 2013, just after the end of this reporting period.

on the Summary Judgment Motions in the January 2010 cases (collectively the “**Report and Recommendation**”). *See, e.g., Wiand v. Dancing \$, LLC*, Case No. 8:10-cv-0092-EAK-MAP (M.D. Fla.), Doc. 121. The Magistrate Judge recommended the Summary Judgment Motions be granted and found that (1) Nadel operated the Hedge Funds and Traders as a Ponzi scheme at the time he made the transfers to the defendants, and (2) the transfers to the defendants were made with the actual intent to hinder, delay, or defraud any creditor of Nadel as required by FUFTA. The Magistrate Judge further recommended that judgments be entered in favor of the Receiver. *See, e.g., id.*

The Receiver filed limited objections to the Report and Recommendation only to the portion which declined to award prejudgment interest. *See, e.g., Wiand v. Diana Cloud*, Case No. 8:10-cv-150-T-17MAP (M.D. Fla.), Doc. 72. The defendants also filed objections to the Report and Recommendation, to which the Receiver responded. On January 23, 2013 and March 7, 2013, the District Court Judge entered orders adopting the Report and Recommendation in its entirety. The Court directed that the clerk enter judgments against the defendants in these matters for a total combined amount of \$2,832,354.12. *See Cloud*, Case No. 8:10-cv-150-T-17MAP, Doc. 76 (awarding \$763,539.83); *Dancing \$*, Case No. 8:10-cv-0092-EAK-MAP, Doc. 128 (awarding \$107,172.11); *Wiand v. Lee*, Case No. 8:10-cv-210-T-17MAP (M.D. Fla.), Doc. 169 (awarding \$935,631.51); *Wiand v. Morgan*, Case No. 8:10-cv-205-T-17MAP (M.D. Fla.), Doc. 130 (awarding \$380,369.00);¹³ *Wiand v. Meeker*, Case No. 8:10-cv-166-T-17MAP (M.D. Fla.), Doc. 145 (awarding \$645,641.67).

¹³ The judgment entered in the *Morgan* matter has been paid in full along with \$1,163.25 in interest for a total payment of \$381,532.25.

Judgments have been entered in these amounts in each of these cases. The Receiver is proceeding with collection efforts as appropriate.

Three defendants who had judgments entered against them have appealed the entry of the judgments. The defendant in the *Lee* action filed a Notice of Appeal of the Order and Judgment on January 28, 2013 and also filed a Suggestion of Bankruptcy on January 30, 2013 (*Lee* Docs. 171 and 179).¹⁴ The defendants in *Dancing \$* and *Meeker* filed Notices of Appeal on February 22, 2013 and April 5, 2013, respectively (*Dancing \$* Doc. 131 and *Meeker* Doc. 150). On March 4 and May 22, 2013, the Receiver filed motions for permission to prosecute limited cross-appeals on the issue of the denial of prejudgment interest (Docs. 981 and 1020). The Receiver sought leave to file limited cross-appeals because while the Court correctly concluded (1) Nadel operated “a massive [P]onzi scheme” through the Hedge Funds, (2) the transfers Nadel made to the defendants were made with the actual intent to hinder, delay, or defraud any creditor of Nadel as required by FUFTA, and (3) the Receiver is entitled to summary judgment in the amount of the defendants’ false profits, the Receiver believes the Court’s decision to deny prejudgment interest was erroneous. The Court determined to “balance the equities” and concluded they weighed in favor of the defendants and against an award of prejudgment interest because, although the defendants are “net winner[s]” (or Profiteers) as compared to the hundreds of investors who lost approximately \$168 million in Nadel’s Ponzi scheme, the defendants nevertheless have “suffered enough.”

¹⁴ As a result of a motion filed by the Receiver, the bankruptcy proceeding was dismissed on April 18, 2013. *In re Vernon Lee*, Case No. 8:13-bk-01055-KRM (M.D. Fla. Bankr.), Docs. 32 and 36.

The Receiver believes this conclusion is erroneous because it inequitably advantages the defendants at the expense of the Hedge Funds and defrauded investors who lost money in the scheme. *See, e.g., Moran v. Goldfarb*, 2012 WL 2930210, *9 (S.D.N.Y. 2012) (“[T]he Receiver, on behalf of investors who lost their investments in the Ponzi scheme, is entitled to prejudgment interest on [investor-defendant’s] false profits” because investor-defendant “received money that was never in fact his to spend.”). The Court granted the Receiver permission to file limited cross-appeals on March 5, 2013 and May 22, 2013 (Docs. 982 and 1022).

a. Cases Referred to Arbitration.

In 24 of the January 2010 Cases, defendants – all of whom have received false profits – filed motions to compel their cases to arbitration. The Receiver vigorously opposed these motions. The Receiver opposed arbitration because by enforcing the purported arbitration agreements in the “investment contract” at the heart of Nadel’s scheme, those documents would be allowed to oust this Court’s “complete jurisdiction and control” over Receivership property in favor of numerous separate private arbitrators in Florida, New York, and Illinois. The Receiver argued that result directly contradicted the purpose of this Receivership and would be costly and inefficient. Specifically, the arbitrations (1) would require payment of costly administrative and arbitrator fees, not to mention the Receiver’s fees and costs incurred pursuing these actions in numerous different forums; (2) would have the inherent risk of inconsistent decisions because the cases will be heard before various arbitrators; and (3) would significantly hinder the Receiver’s ability to use the appellate process to correct arbitrator errors due to the limited review of arbitration decisions; and (4) would delay and

extend the Receivership and distribution of funds to victims. In other major receiverships, courts followed the arguments of the Receiver refusing to enforce similar illegal purported contracts. *See, e.g., In re Randy*, 189 B.R. 425, 441 (Bankr. N.D. Ill. 1995) (enforcing such contracts “would only help finish what [the wrongdoer] ... long ago started, which is, defrauding many innocent investors”). Despite the Receiver’s opposition, the Court ordered the cases to arbitration.

The Receiver filed six arbitrations (corresponding to 18 clawback cases previously filed in court), seeking to recover fraudulent transfers of approximately \$31,068,254.77, which includes false profits in the amount of approximately \$8,959,119.28. Of the six filed arbitrations, three remain pending.¹⁵

The Receiver prevailed on the one arbitration proceeding which has proceeded to final hearing, *Wiand, as Receiver v. John D. Whitlock, et al.*, Case No. 33-512-0025-12 (American Arbitration Association (“AAA”). After a three-day final evidentiary hearing from April 30 through May 2, 2013, the Arbitrator entered an Award finding the respondents could not and did not provide any reasonably equivalent value for the false profits received and therefore, could not retain these sums. As such, the arbitrator awarded the Receiver \$114,672.91 representing the full amount of false profits and an additional \$12,441.32 representing 75% of the fees and expenses charged by the AAA. On September 11, 2013,

¹⁵ The Receiver settled one arbitration, *Wiand, as Receiver v. Richard E. Russell, as Trustee of the Richard E. Russell Revocable Living Trust, and The Carrswold Partnership* for the total combined amount of \$1,090,771.11. The Receiver also settled another claim involving The Carrswold Partnership pre-arbitration for the total amount of \$1,465,000.00. These settlement amounts are included in the total settlement amount provided in Section E.1 above. As discussed below, arbitration awards were entered in two other arbitration cases.

the Receiver filed a motion with the Court to lift the stay and confirm the arbitration award. *Wiand v. John D. Whitlock*, Case No. 8:10-cv-00119-EAK-MAP, Doc. 66 (M.D. Fla.) and *Wiand v. John Whitlock and Thomas Luck, as Co-Trustees of the Edward J. Whitlock Jr. Marital Trust Two*, Case No. 8:10-cv-184-T-17MAP, Doc. 68 (M.D. Fla.).

Despite the well-reasoned decision in *Whitlock*, as predicted the Receiver has encountered an arbitrator decision in favor of Profiteers based on arguments lacking legal merit, thus resulting in inconsistencies, inequities, and increased expense in pursuing the arbitrations. Specifically, in *Wiand, as Receiver v. Roberta Schneiderman and Robert D. Zimelis, as Co-Executors of the Estate of Herbert Schneiderman and Roberta Schneiderman, individually*, Case No. 33 512 00315 12 (AAA), the arbitrator rendered a Final Order and Award before the final hearing without any basis in law or fact resulting in a grave inequity. In *Schneiderman*, the arbitrator refused to hear pertinent and material evidence and found that the Receiver's fraudulent transfer and unjust enrichment claims were time barred by certain probate statutes because they were not filed within two years of nonparty Herbert Schneiderman's death. This decision is completely contrary to clear law that these probate statutes do not apply to claims that arise after a decedent's death. As this Court previously explained in this very Receivership, a fraudulent transfer claim arises at the time of the transfer. The Respondents did not receive the pertinent fraudulent transfer until more than nine months after Mr. Schneiderman's death. If this Award is allowed to stand, the Respondents will be the first individuals allowed by a tribunal to retain false profits. The Receiver filed a motion to lift the stay and vacate this arbitration award on August 1, 2013 (Doc. 61). No decision has been rendered on this motion yet. This award exemplifies the

Receiver's grave concerns noted above about referring these matters to arbitration and in doing so undermining Congressional intent underlying 28 U.S.C. § 954 and, more broadly, the purpose of equity receiverships; including, the risk of inconsistent decisions, a hindered ability to use the appellate process to correct arbitrator errors due to the limited review of arbitration decisions, and the risk associated with removing these matters from the Court's purview.

The Receiver will continue to pursue the remaining arbitrations and may file one additional arbitration (corresponding to one clawback case previously filed in court), which would likely seek to recover fraudulent transfers of approximately \$191,959.12, which includes false profits of approximately \$46,959.12.

b. Additional Actions Brought Against Profiteers Who Invested with Traders' "Accounts."

On or about September 27, 2010, the Receiver filed 12 additional actions against Profiteers who invested with Traders' "accounts." The lawsuits sought to recover false profits of approximately \$962,197.43. Ten of these cases were resolved either by default, settlement, or dismissal without prejudice. The Receiver obtained default judgments for the two cases where defaults were entered and is proceeding with collection efforts. The Receiver filed Motions for Summary Judgment in the only two cases which remained pending as in the January 2010 Cases. *Wiand v. Mason*, Case No. 8:10-cv-2146-EAK-MAP (M.D. Fla.) ("**Mason**"); *Wiand v. Khodorkovsky*, Case No. 8:10-cv-2148-T-17MAP (M.D. Fla.) ("**Khodorkovsky**"). The Receiver prevailed on the Summary Judgment Motion in *Mason* and a judgment in the amount of \$36,661.31 was entered on January 25, 2013. The defendants paid the judgment amount in full on February 18, 2013 and the Receiver filed a

Satisfaction of Judgment on February 25, 2013 (Doc. 80). In *Khodorkovsky*, the defendant filed a suggestion of bankruptcy on February 8, 2013 (Doc. 57).

The Receiver believes that he has identified all of the Profiteers. However, the Receiver will bring additional actions if appropriate and in the best interests of the Receivership. The Receiver is continuing to engage in settlement discussions with defendants in the unresolved cases discussed above.

2. Litigation Against Anne Nadel.

An investigation by the Receiver revealed that Nadel purchased two adjacent parcels of real property located in Marshfield, Vermont at 3343 U.S. Route 2 and 3353 U.S. Route 2 (the “**Vermont Properties**”) entirely with investor funds unlawfully obtained through his fraudulent scheme. Nadel bought the Vermont Properties in 2004 and 2005 and transferred title to them to his son, Geoffrey Nadel, who is deceased, and his daughter-in-law, Anne Nadel shortly before the scheme collapsed. While not contesting that Nadel purchased these properties with scheme proceeds, Anne Nadel refused to voluntarily transfer title to the Receiver.

By a complaint filed on November 7, 2012, the Receiver sued Anne Nadel for the recovery of these properties. *Wiand v. Anne Nadel*, 8:12-cv-2532-SDM-TGW (M.D. Fla.). On July 9, 2013, the Receiver filed a motion to approve a settlement agreement between him and Anne Nadel (Doc. 1035). The settlement agreement provides, in pertinent part, the Receiver will pay Ms. Nadel \$10,000.00 according to a set payment schedule and an additional \$1,500 for payment of outstanding real property taxes on the Vermont Properties and in return for these payments, Ms. Nadel will transfer title to the properties to the

Receiver. The Court approved the Receiver's motion on July 9, 2013 (Doc. 1036). Subsequently, however, the Receiver learned that a representation made by Ms. Nadel relating to liens on those properties was not accurate in that there was an additional tax lien. The Receiver is working with Ms. Nadel to try address that matter.

3. Litigation Against Holland & Knight LLP.

The Receiver entered into a contingency fee agreement with Johnson, Pope, Bokor, Ruppel & Burns, LLP to pursue professional malpractice claims by the Hedge Funds against Holland & Knight, LLP ("**H&K**") and Scott MacLeod seeking to recover the Hedge Funds' losses that occurred after January 1, 2003. On or about August 31, 2009, the Receiver initiated an action against H&K on behalf of the Hedge Funds in the Circuit Court for Sarasota County. After extensive litigation and negotiations, the Receiver reached an agreement with H&K and Mr. MacLeod to resolve this matter. In pertinent part, the settlement agreement provides that H&K and Mr. MacLeod will pay the Receiver \$25,000,000 in exchange for a broad release of claims and a bar order. The Court approved the settlement on October 2, 2012 (Doc. 921). After deducting fees and costs attributable to counsel, on November 8, 2012, the Receiver collected \$18,232,983.59 from this settlement.

4. Receiver's Litigation Against Wells Fargo.

The Receiver retained the law firm of James, Hoyer, Newcomer, & Smiljanich ("**James Hoyer**") to pursue litigation against Wells Fargo and Timothy Ryan Best, Nadel's relationship manager with the bank. On February 13, 2012, James Hoyer, on behalf of the Receiver, instituted an action against Wells Fargo and Timothy Best in the Circuit Court for Sarasota County. That action seeks to recover damages and fraudulent transfers relating to

the bank's close and extensive relationship with the Ponzi scheme underlying this Receivership. The defendants removed the action to this Court. On March 21, 2012, the defendants each filed motions to dismiss the complaint. The Receiver filed oppositions to these motions to dismiss on April 21, 2012. On August 12, 2012, the Court entered an order granting in part and denying in part the motions to dismiss. The Court granted the motion to dismiss negligence claims brought by Victory IRA Fund, Valhalla Investment Partners, and Viking IRA Fund. The Court also dismissed all claims of aiding and abetting. However, the Court denied the remainder of the motions to dismiss and allowed the Receiver to proceed on his FUFTA claims, unjust enrichment claims, individual claims against Best, and negligence claims by Victory Fund, Scoop Real Estate, and Viking Fund.

The Receiver filed an amended complaint on August 31, 2012. On September 14, 2012, the Defendants filed a motion to dismiss counts I through V of the amended complaint and filed an answer to the remainder of the amended complaint. On October 5, 2012, the Receiver filed a response to the motion to dismiss. The Court entered an order on December 12, 2012, striking the first amended complaint and granting leave for the Receiver to file a second amended complaint. The Receiver filed a second amended complaint on December 28, 2012 seeking damages in excess of \$168 million.

On January 11, 2013, the defendants filed a motion to dismiss the second amended complaint. The Receiver filed an opposition to this motion on January 25, 2013. On April 4, 2013, the Court granted in part and denied in part the motion to dismiss. The Court granted the motion to dismiss negligence claims brought by Victory IRA Fund, Valhalla Investment Partners, and Viking IRA Fund. The Court also dismissed all claims of aiding and abetting.

However, the Court denied the remainder of the motion to dismiss and allowed the Receiver to proceed on his FUFTA claims against Wells Fargo, unjust enrichment claims, individual claims against Best, and negligence claims by Victory Fund and Scoop Real Estate. Wells Fargo and Best filed their Answer and Affirmative Defenses to the Second Amended Complaint on April 19, 2013. The parties mediated this matter on October 4, 2013, but were unable to reach an accord.

As previously noted above (for example in Sections V.A.2 and V.B.1), Wells Fargo is pursuing a claim and other purported interests it believes it has to Receivership property. As part of those efforts, Wells Fargo has aggressively interfered with the Receivership. For example, it has sought to bypass the claims process, alter it, take property away from the Receivership, petition another court for relief without informing this Court or the Receiver, and delay the Receiver's interim distribution. It also sought to disqualify the Receiver and his counsel from this Receivership. The Court denied the disqualification efforts in their entirety after concluding that the Receiver and his counsel acted appropriately. The Court observed that Wells Fargo's motion "was timed to derail, or perhaps retaliate against, as the Receiver and [his counsel] suggest, the receivership proceedings." (Doc. 822.) On January 17, 2013, the Court entered an order stating that it would defer ruling on Wells Fargo's motion for determination that it did not have to file claims regarding its purported interest in Receivership property, or alternatively, for permission to file late claims, pending the outcome of the Receiver's case against Wells Fargo and Timothy Ryan Best (Doc. 955).

5. Other Litigation.

After intensive pre-suit negotiations, the Receiver reached a settlement with Goldman Sachs Execution & Clearing, LP (“GSEC”). GSEC (formerly known as Spear, Leeds & Kellogg, L.P.), provided clearing services for Shoreline Trading Group LLC (“Shoreline”), an introducing Broker/Dealer that dealt directly with Nadel’s and certain Receivership Entities’ securities transactions. In pertinent part, the settlement agreement provides that GSEC pay \$9,850,000 in exchange for a broad release and entry of an order barring future claims against GSEC. The Court approved the settlement on February 10, 2012 (Doc. 742). GSEC paid the Receiver \$9,850,000 on March 27, 2012.

Similarly, the Receiver engaged in extensive pre-suit negotiations with Shoreline, the introducing Broker/Dealer mentioned above. As a result of these negotiations, the Receiver also entered into a settlement agreement with Shoreline which provides, in pertinent part, that Shoreline will pay the Receiver \$2,500,000 in exchange for a broad release of claims and entry of an order barring future claims against Shoreline. The Court approved the settlement on May 4, 2012 (Doc. 835), and Shoreline has paid the Receiver \$2,500,000.

6. Other Potential Litigation.

The Receiver continues to examine the actions of other professionals and businesses that provided services to Receivership Entities to determine whether he needs to take additional steps with respect to any of those professionals and businesses to recover assets for the Receivership.

VI. Claims Process.

On April 20, 2010, the Receiver filed his 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 Memorandum of Law (Doc. 390) (“**Claims Motion**”). On April 21, 2010, the Court granted the Receiver’s Claims Motion in its entirety (Doc. 391). Pursuant to the Court’s Order, any person or entity who failed to submit a proof of claim to the Receiver so that it was actually received by the Receiver on or before September 2, 2010, the Claim Bar Date (as the term Claim Bar Date is defined in the Receiver’s motion), is barred and precluded from asserting any claim against the Receivership or any Receivership Entity. In compliance with the Court’s Order, on June 4, 2010, the Receiver mailed 1256 packages to known investors and their attorneys, if any, and any other known potential creditors of the Receivership Estate. The Receiver also published the Notice in the global edition of The Wall Street Journal and in the Sarasota Herald-Tribune on June 15, 2010, and provided the Notice and a Proof of Claim form on his website.

The Receiver received 504 claims. Of the 504 claims, 478 claims were submitted in connection with 473 investor “accounts”¹⁶ (“**Investor Claimants**”), which represent approximately 60% of all currently known Investor Accounts.¹⁷ The Receiver also received 26 claims from other purported creditors (“**Non-Investor Claimants**”) (Investor Claimants

¹⁶ In reality, Nadel and the Receivership Entities did not maintain separate investor accounts. Nevertheless, for ease of reference they are referred to as “**Investor Accounts.**”

¹⁷ Multiple claims were submitted for five accounts.

and Non-Investor Claimants are collectively referred to as “**Claimants**”), including two claims from taxing authorities. The Receiver received claims from Investor Claimants totaling approximately \$149,033,449.32 and claims from Non-Investor Claimants totaling approximately \$9,205,581.14, for a total claim amount of approximately \$158,239,030.46.¹⁸

On December 7, 2011, the Receiver filed his 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 (“**Claims Determination Motion**”) (Doc. 675). In that motion, the Receiver set forth his recommended determination and priority of each claim. The Receiver attached detailed exhibits to the Claims Determination Motion addressing each claim. In an effort to minimize disclosure of Claimants’ financial affairs, the Receiver assigned each claim a number and, except where the Claimant’s identity was important to the determination of a claim, did not identify the account or accountholder’s name(s). The Receiver also proposed a procedure for a Claimant to dispute the Receiver’s recommended treatment of a claim.

After careful review and consideration, the Receiver made the following determinations:¹⁹ (1) 423 Investor Claims should be allowed (in full or in part) for the total

¹⁸ The amount indicated for Non-Investor Claimants may not include all claimed interest, fees, or penalties which may be sought by them. Importantly, these numbers reflect the amount Claimants are claiming they are owed, and not the amount the Receiver has determined is the value of allowable claims.

¹⁹ The numbers in this paragraph have been slightly revised to account for revisions made to certain claim determinations in subsequent motions and orders relating to claims and distributions (*See* Docs. 825, 839, 857, 858, 945, 946). These motions and orders are discussed below.

amount of \$131,304,461.51; (2) two Tax Lien Claims should be allowed for the total amount of \$4,481.99; (3) two secured non-investor claims (“**Non-Investor Secured Claims**”) should be allowed to recover only from proceeds of the sale of the secured asset, subject to certain limitations set forth in the Claims Determination Motion; (4) 13 unsecured non-investor claims (“**Non-Investor Unsecured Claims**”) should be allowed or allowed in part for the total amount of \$526,998.86, subject to certain limitations set forth in the Claims Determination Motion; (5) 35 Investor Claims and 8 Non-Investor Claims should be denied for reasons set forth in the Claims Determination Motion; and (6) 24 Investor Claims and one Non-Investor Claim should be denied because the claims were waived. Not including Non-Investor Secured and Unsecured Claims, the Receiver recommended that \$131,308,943.50 in claims be allowed.

On December 9, 2011, the Receiver mailed a letter giving notice of the Claims Determination Motion to all Claimants to the mailing address provided on each of their respective submitted Proof of Claim Forms, and to their attorneys, if any were identified. The letter advised each Claimant of the Claimant’s respective claim number. The Receiver also informed the Claimants that the recommended determination of each claim was set forth in the Exhibits attached to the Claims Determination Motion and also was addressed in the body of the Motion. The letter further informed the Claimants that the Claims Determination Motion was available on the Receiver’s website or, upon request, from the Receiver’s office. Claimants were then able to cross-reference their respective claim number with the Exhibits attached to the Claims Determination Motion to learn the Receiver’s determination of the corresponding claim.

On March 2, 2012, the Court entered an Order granting the Claims Determination Motion except with respect to a claim submitted by Wells Fargo (the “**March 2 Order**”) (Doc. 776). With respect to the claim submitted by Wells Fargo, the Court reserved ruling on that claim and on several motions and objections filed by Wells Fargo and, in some instances, its affiliate TRSTE, Inc., relating to that claim and other purported interests in Receivership assets. (*See* Docs. 689, 690, 718, 719, 740.) As noted above, on January 17, 2013, the Court entered an order deferring ruling on Wells Fargo’s motions pending the outcome of the Receiver’s case against Wells Fargo and Timothy Ryan Best. (*See* Section V.E.6 above and Doc. 955.)

The objection procedure proposed by the Receiver in the Claims Determination Motion and adopted by the Court allowed each Claimant twenty days from receipt of notice of the March 2 Order to serve the Receiver with a written objection to the determination of the Claimant’s claim and/or claim priority and to object to the plan of distribution. Failure to properly and timely object to the Receiver’s claim determination, claim priority, or plan of distribution permanently waived and barred the Claimant’s right to object to or contest the Receiver’s claim determination, claim priority, and plan of distribution, and fixed the final claim amount as the Allowed Amount determined by the Receiver and approved by the Court as set forth in the Exhibits attached to the Claims Determination Motion. On March 8, 2012, the Receiver mailed each Claimant and the Claimant’s attorneys, if any, a letter informing the Claimant of the March 2 Order and the procedure to serve a written objection. Claimants had until March 28, 2012, to serve any objections.

The Receiver received objections relating to 23 claims.²⁰ These objections were raised by twelve Claimants, four of whom have multiple claims. Further, as noted above, Wells Fargo, which filed Claim Number 502, petitioned the Court for relief with respect to its claim and to other interests it has asserted to Receivership property. The Receiver has been working on the resolution of these objections. As of the filing of this Interim Report, objections relating to eight claims have been resolved. (*See* Claim Nos. 157, 444, 445, 449, 450, 471, 483, and 504). The objection relating to Claim Number 445 was resolved during this reporting period. On the Receiver's recommendation, Claim Number 445 had been denied by the Court. The claimant timely filed an objection to this determination. On August 29, 2013, the Court entered an Order overruling the objection and affirming the denial of the claim (Doc. 1061). The Court found that the claimant failed to provide any exceptional circumstances which would warrant consideration of information which was supposed to be provided in the Proof of Claim Form but which instead was not timely provided. Further, the Court found because the claimant was a sophisticated institutional investor it was on inquiry notice of the fraud as a result of numerous red flags and cannot show it acted in good faith. For information relating to the resolution of other objections, please refer to the Thirteenth Interim Report.

²⁰ On March 1, 2013, the Claimant for Claim Number 458 filed a motion to modify the Court's order disallowing the claim (Doc. 458). The Receiver opposed the relief requested on March 18, 2013 (Doc. 990). On April 12, 2013, the Court denied the motion to modify and affirmed the denial of the claim (Doc. 1002).

On April 27, 2012, the Receiver filed a Motion to (1) Approve First Interim Distribution, (2) Establish Reserves, and (3) Approve Revisions to Certain Claim Determinations (Doc. 825) (“**First Distribution Motion**”). In this motion, the Receiver sought the approval of (1) a first interim distribution of \$25,994,012.73 on a *pro rata* basis, representing a recovery of 20% of the Allowed Amount of Class 1 claims receiving a distribution at that time; (2) establishment of reserves of \$1,789,268.46 for claims for which timely objections were received and for Wells Fargo’s and TRSTE, Inc.’s purported interests in Receivership assets and the Receivership estate; and (3) approval of revisions to certain claim determinations previously submitted by the Receiver and approved by the Court in the Claims Determination Motion.²¹

On May 2, 2012, Wells Fargo filed a limited objection to the First Distribution Motion to which the Receiver replied on May 4, 2012 (Docs. 831, 836.) The Court overruled Wells Fargo’s objection and granted the Receiver’s motion in its entirety on May 7, 2012 (Doc. 839). The Receiver mailed 343 first interim distribution checks totaling \$25,520,133.79 to Claimants holding claims which were determined to be entitled to participate in the first interim distribution. All first interim distribution checks have been negotiated.

On November 14, 2012, the Receiver filed a Motion to (1) Approve Second Interim Distribution, (2) Approve Revisions to Certain Claim Determinations, (3) Increase Certain

²¹ The Receiver sought revisions for up to fifteen claims as detailed in the First Distribution Motion and Exhibit C thereto. All but one of the revisions were requested to accommodate changes in Claimants’ circumstances, such as the death of a claimant or a change in custodian for the account which held the investment underlying this case.

Reserves, and (4) Release Certain Other Reserves (Doc. 945). The motion sought the approval of (1) a second interim distribution in the amount of approximately \$22 million on a *pro rata* basis, representing an additional recovery of 16.75% of the Allowed Amount of claims receiving a distribution at that time, bringing the total recovery to 36.75% of the Allowed Amount of these claims; (2) revisions to certain claim determinations previously submitted by the Receiver and approved by the Court;²² (3) an increase in reserves of \$1,327,793.22; and (4) the release of reserves in the amount of \$197,951.10, which will leave in place a total reserve amount of \$2,919,110.57 for claims for which timely objections were received and remain unresolved and for Wells Fargo Bank, N.A.'s and TRSTE, Inc.'s purported interests in Receivership assets and the Receivership estate as set forth in the motion. The Court granted the Receiver's motion in its entirety on November 16, 2012 (Doc. 946). The Receiver mailed 346 checks totaling \$21,644,200.35 to Claimants holding claims which were determined to be entitled to participate in the second interim distribution. No checks from the second distribution remain outstanding.

At this time, the Receiver is making preparations for a third interim distribution. The Receiver intends to seek a distribution of approximately \$5 million. While the Receiver has approximately \$13 million in Receivership bank accounts, more than \$5 million is being held in reserves for objections in the claims process and for a claim asserted to certain property by Wells Fargo. The Receiver believes that a distribution of approximately \$5 million will

²² The revisions were requested to (1) accommodate changes in Claimants' circumstances, such as a change in custodian for the account which held the investment underlying this case, (2) correct overstatements of the Allowed Amount for two claims, and (3) reverse the consolidation of two claims due to tax implications.

allow him to distribute sufficient funds to Claimants to warrant the expense of the distribution while maintaining adequate funds for the continuation of the Receivership.

VII. Investigating Receivership Affairs and Tracing Receivership Funds.

The Receiver retained the services of PDR Certified Public Accountants (“**PDR**”), forensic accountants, to assist in investigating and analyzing the flow of funds both into and out of the Receivership Entities, and to assist in locating additional funds, if any. The Receiver also retained the services of Riverside Financial Group (“**Riverside**”), financial analysts to assist in investigating and analyzing all of the trading activity. In conjunction with the Receiver, PDR and Riverside worked on identifying additional individuals and/or entities which were or may have been in possession of Receivership funds. PDR also assisted in determining the amount of each investor’s loss.

The Receiver has also retained the services of RWJ Group, LLC (“**RWJ**”) as an asset manager for the Receivership Entities. RWJ is owned and operated by Roger Jernigan. Mr. Jernigan assists the Receiver with overseeing ongoing business operations and property recovered by the Receiver, including aiding with efforts to sell such businesses and property. His efforts are designed to ensure that Receivership assets are maintained and/or enhanced to allow for maximum recovery for the Receivership estate. Pursuant to an agreement with the Receiver, RWJ receives \$5,500 per month for its services and is reimbursed for related expenses.

VIII. Overview of Remaining Assets.

As of October 14, 2013, the total funds in all Receivership accounts are approximately \$13,402,701.32, which includes \$2,919,110.57 being in 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. The Receiver has submitted a tax return on behalf of Art Nadel seeking a refund in the amount of \$1,183,525.00. As with the tax return filed for Mrs. Nadel, the Receiver anticipates that he will recover a significant amount of the refund sought in this return.

As discussed above, the Receiver has already distributed a total of approximately **\$47 million** to Claimants with Allowed Claims which were entitled to receive distributions, representing a total recovery of 36.75% of the Allowed Amounts for those claims and is working on a third interim distribution. The Receiver is diligently working on recovering more funds in the hopes to make additional distributions to these Claimants. To accomplish this, the Receiver is (1) managing and attempting to sell the remaining properties and other miscellaneous assets currently held by the Receivership; (2) pursuing pending litigation against clawback defendants; (3) continuing to collect on outstanding settlement agreements and engaging in collection efforts on judgments obtained in connection with litigation; and (4) continuing to pursue litigation against Wells Fargo and Anne Nadel.

A. Remaining Properties and Other Assets.

The Receiver is in possession of essentially seven properties which remain to be sold. Of these seven properties, four of them are heavily encumbered by liens from various institutions. In particular, Wells Fargo has asserted loans on two properties of nearly \$3 million. The total amount of encumbrances on these properties is in excess of \$5 million. Given the decline in property values in recent years, the amount the Receiver anticipates he will be able to recover from sale of these properties may not greatly exceed the amount of the

encumbrances. As discussed above, the Receiver is contesting Wells Fargo's claim to these properties and may contest other asserted liens. The ultimate recovery obtained from the sales of these properties will be contingent upon the outcome of these asserted liens.

The Receiver also has possession of various miscellaneous assets which include artwork, furniture, and the like. While the Receiver is attempting to maximize the recovery from the sale of these assets, he does not anticipate any significant recovery (i.e., in excess of \$20,000). The Receiver is also diligently working on evaluating, managing, and selling various assets obtained from the Moodys. The Receiver recently expanded the Receivership to include Quest, a Texas oil and gas company. As discussed in more detail in a separately filed Interim Report, the Receiver believes that the oil well leases held by Quest have potential value and may be sold for the benefit of investors and other creditors (Doc. 1054). The Receiver will market Quest and is operating it in an effort to preserve and maximize its value. The Receiver also expanded the Receivership to include Respiro, a Sarasota based company which provides respiratory services, and with approval from the Court, very recently sold its assets. The Receiver acquired the Moodys' interests in various other companies. However, from the Receiver's research it appears that many of these companies are no longer in business and thus, the interests in these companies have little to no value. For more information regarding these interests, please refer to Exhibits C and D.

B. Remaining Clawback Litigation.

The Receiver has resolved the bulk of the clawback cases brought against Profiteers and non-profit organizations. All clawback cases which were pending in district court have

been resolved.²³ As discussed above, final awards have been rendered in two arbitration matters. The Receiver has filed a motion to confirm one of these awards and a motion to vacate the other. (*See* Section V.E.1 above). All but one of the remaining clawback cases are pending in arbitration.²⁴ The Receiver has filed six arbitrations (corresponding to 18 clawback cases previously filed in court), seeking to recover fraudulent transfers of approximately \$31,068,254.77, which includes false profits in the amount of approximately \$8,959,119.28. The Receiver may also file one additional arbitration (corresponding to one clawback case previously filed in court), which would seek to recover fraudulent transfers of approximately \$191,959.12, which includes false profits of approximately \$46,959.12. The Receiver is hopeful that the arbitrators will award him the recovery of these fraudulent transfers. At a minimum, the Receiver hopes that the arbitrators will rule as the arbitrator in *Whitlock* and the District Court did and award the amount of false profits to the Receiver. However, given the inherent risk in litigation, there is no guarantee that the Receiver will be able to recover these transfers. Many of the respondents in these arbitrations are vigorously defending them and these cases will be pending before various arbitrators which may lead to more inconsistent rulings.

²³ As previously mentioned, three Profiteers in cases before the district court have filed appeals of the judgments awarded against them. The judgments against these three Profiteers total \$1,688,445.29.

²⁴ The Receiver is in settlement negotiations with the remaining clawback claimant. If the Receiver is unable to amicably resolve this claim, he will initiate an arbitration proceeding against this claimant.

C. Settlements and Outstanding Judgments.

As noted above, as of October 11, 2013, the Receiver has settled 145 cases brought against Profiteers and non-profit organizations for the total amount of \$24,152,197.96. The Receiver has collected \$20,587,003.40 of the total settlement amount and \$3,565,194.56 remains to be paid. The Receiver also has obtained 16 judgments against Profiteers and non-profit organizations for the total amount of \$4,067,329.00. The Receiver has collected \$612,720.70 of the total judgment amount. As noted above, three Profiteers owing judgments totaling \$1,688,445.29 have filed appeals of the judgments awarded. The Receiver is proceeding with collection efforts on the remaining outstanding judgments as appropriate. While the Receiver is hopeful that he will recover funds on the majority of these judgments, it is very possible that he will encounter difficulty in fully satisfying all of these judgments.

The Receiver also has a judgment against the Rowe Defendants in the amount of \$4,028,385.00. To date, the Receiver has recovered \$62,383.95 on this judgment.²⁵ After obtaining this judgment, the Receiver conducted post-judgment discovery in aid of execution. Through this discovery, the Receiver learned that the Rowe Defendants made blatant efforts to get rid of their assets by transferring them to third parties with the intent to hinder the Receiver's collection efforts. On May 21, 2013, the Receiver filed a motion to commence proceedings supplementary and to implead the third parties who received these assets (Doc 156). The Court granted the motion on August 8, 2013 (Doc. 223). The third parties impleaded include a law firm, family members, and entities and trusts controlled by

²⁵ This money was recovered from (1) garnishments on Band Gates, P.L., Band Weintraub, P.L., and Sabal Palm Bank and (2) proceeds from the sale of a seized vehicle.

family members. The Receiver has information and belief that these third parties received transfers in excess of \$3 million. The Receiver is vigorously pursuing these matters. The Receiver also seized a 2007 Lexus LS from Donald Rowe and recovered \$24,605.25 from the sale of the Lexus. The Receiver will continue to make every reasonable effort to collect as much as possible on this judgment. However, the Receiver anticipates that it will be difficult to fully satisfy this judgment.

D. Litigation involving Wells Fargo and Anne Nadel.

1. Wells Fargo Litigation.

The Receiver instituted this action against Wells Fargo and Timothy Best to recover damages and fraudulent transfers relating to the bank's close and extensive relationship with the Ponzi scheme underlying this case. The Receiver's Second Amended Complaint seeks damages in excess of \$168 million. The defendants filed their Answer and Affirmative Defenses to the Second Amended Complaint on April 19, 2013. As noted above, Wells Fargo is pursuing a claim and other purported interests it has to Receivership property. To that end, Wells Fargo filed several motions and objections in connection with the claims process. The Court has deferred ruling on Wells Fargo's claims motions pending the outcome of the Receiver's litigation against Wells Fargo and Mr. Best.

2. Anne Nadel Litigation.

The Receiver brought this action against Anne Nadel (Nadel's former daughter-in-law) to recover two adjacent parcels of real property located in Vermont which were purchased with investor funds unlawfully obtained by Nadel through his scheme. The properties have a 2011 tax valuation of approximately \$172,000 and are inhabited by Anne

Nadel. The Receiver reached a settlement with Anne Nadel, which was approved by the Court. The settlement agreement provides that the Receiver will pay Ms. Nadel \$10,000.00 according to a set payment schedule and an additional \$1,500 for payment of outstanding real property taxes on the Vermont Properties and in return for these payments Ms. Nadel will transfer title to the properties to the Receiver. Subsequently, however, the Receiver learned that a representation made by Ms. Nadel relating to liens on those properties was not accurate in that there was an additional tax lien. The Receiver is working with Ms. Nadel to try address that matter.

IX. The Next Ninety Days.

The Receiver will proceed with the claims process by continuing to address the remaining objections. The Receiver will also continue preparations for a third interim distribution.

The Receiver will proceed with the pending cases. He will engage in discovery and motion practice. The Receiver will attend any court-ordered mediations. He will continue to thoroughly consider and review any settlement offers for pending cases and engage in settlement negotiations. The Receiver will make every effort to reach compromises that are in the best interests of the Receivership Entities and the investors.

The Receiver will continue to pursue collection efforts on the judgments obtained in connection with the ancillary cases.

The Receiver will continue to review information to determine if any third parties may have liability either to the Receivership estate or investors.

The Receiver will continue to pursue the recovery of tax refunds where possible, and will continue to attempt to locate additional funds and other assets. If appropriate, the Receiver will institute proceedings to recover assets on behalf of the Receivership Entities.

The Receiver will also continue the operations of all ongoing businesses of the Receivership Entities to maintain and, if possible, enhance their value. The Receiver will continue to market properties for sale and entertain offers for purchase.

CONCLUSION

Creditors and investors in the Receivership Entities are encouraged to periodically check the informational website (www.nadelreceivership.com) for current information concerning this Receivership. The Receiver and his counsel have received an enormous amount of emails and telephone inquiries and have had to expend significant resources to address them. To minimize those expenses, creditors and investors are strongly encouraged to consult the Receiver's website before contacting the Receiver or his counsel. However, the Receiver continues to encourage individuals or attorneys representing investors who may have information that may be helpful in securing further assets for the Receivership estate or identifying other potential parties who may have liability to either the Receivership estate or investors directly to either email jrizzo@wiandlaw.com or call Jeffrey Rizzo at 813-347-5100.

Dated this 17th day of October, 2013.

Respectfully submitted,

s/Burton W. Wiand

Burton W. Wiand, Receiver

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on October 17, 2013, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

s/Gianluca Morello

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