

**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 TWENTIETH INTERIM REPORT

Receivership Information and Activity from November 1, 2015 through July 31, 2016.

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INTRODUCTION

Burton W. Wiand, the Court-appointed Receiver for the Receivership Entities as defined herein, hereby files this Twentieth Interim Report (the “**Report**”) to inform the Court, the investors, and others interested in this Receivership, of activities from November 1, 2015 through July 31, 2016 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 November 1, 2015 through July 31, 2016, 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 transfers) from investors (i.e., from “**Profiteers**”) and engaged in efforts to collect on judgments obtained in connection with litigation;
- As of August 17, 2016, the Receiver has reached 159 agreements to settle with Profiteers and non-profit organizations in the amount of \$25,674,831.09 and obtained 19 judgments against Profiteers in the amount of \$6,402,639.38, for a total combined amount of **\$32,077,470.74** (plus additional non-cash assets);²
- Pursued an appeal of the court’s adverse summary judgment ruling in 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; oral argument was held on May 19, 2016, but no order has been issued yet;
- Filed a motion for determination that Wells Fargo’s failure to comply with the Court’s claims process extinguished its purported interest in Receivership properties, which the Court granted on February 2, 2016, and Wells Fargo subsequently filed a notice of appeal of the decision and the appeal has been fully briefed and is being scheduled for oral argument;

² 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 (the “**Rowe Judgment**”).

- Maintained Receivership funds in appropriate accounts. As of August 22, 2016, the total funds in all Receivership accounts are approximately \$10,195,412.28, which includes \$2,657,224.36 being held in reserves for objections in the claims process and \$4,377,456.84 being held in separate accounts until a claim to these funds is resolved;
- Sold a residential property located in Marshfield, Vermont for **\$90,000.00**, resulting in net proceeds of **\$69,242.44** after payment of commissions, outstanding property taxes, and other costs associated with the sale;
- Filed the Receiver's Motion to (1) Approve Fifth Interim Distribution, (2) Increase Certain Reserves, and (3) Release Certain Other Reserves, which sought the approval of a fifth interim distribution of \$3 million on a pro rata basis, representing an additional recovery of 2.28% of the Allowed Amount of claims receiving a distribution at that time; the Receiver has now distributed 46.65% of the Allowed Amount of these claims;
- Obtained an order granting the Receiver's motion for approval of a fifth distribution and distributed 346 checks totaling \$2,954,306.14 to Claimants holding claims which were determined to be entitled to participate in the fifth interim distribution; two checks in the combined amount of \$1,711.79 from this interim distribution have not been negotiated;
- Continued to operate ongoing businesses, and where possible, enhance the value of those businesses resulting in the generation of \$281,519.81 in gross business income; and
- Generated \$32,702.56 in interest/dividend income; \$90,000.00 in business asset liquidation income; \$11,444.21 in third-party litigation income; and \$40,475.00 in other income.

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 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 18, 2010, the Court entered a consent Judgment of Permanent Injunction and Other Relief against Nadel which permanently enjoined Nadel from further violations of the antifraud provisions of the federal securities laws and ordered Nadel to disgorge ill-gotten gains and pay prejudgment interest (Doc. 460).

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, 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 Energy

Management Group, Inc. These entities will hereinafter be referred to collectively as the “**Additional Entities.**” (Docs. 17, 44, 68, 81, 153, 172, 454, 911, 916, and 1024.)

On April 28, 2009, Nadel 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. Overview of Findings.

The Receiver 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 Neil and Christopher Moody (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 came 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.

III. Securing the Receivership Estate.

A. Securing and Recovering Receivership Funds.

During the time covered by this Interim Report, Receivership funds were held at Centennial Bank (formerly known as Bay Cities Bank) in a non-interest bearing operating account and two variable interest rate money market accounts. As of August 22, 2016, the total funds in all Receivership accounts are approximately **\$10,195,412.28**, which includes \$2,657,224.36 being held in reserves for objections in the claims process and \$4,377,456.84 being held in separate accounts 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. 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.

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. The Receiver also submitted amended tax returns for Arthur Nadel seeking the return of approximately \$2,393,250.00. The Receiver sought and received authorization from the Court to execute and submit these returns and receive any tax refund payable to Nadel (Docs. 1097, 1100 and 1105). The Receiver has been informed that the IRS has completed its audit review of these returns and that questions it had were resolved in favor of the Receiver. On August 11, 2016, the IRS submitted the matter to the Joint Committee on Taxation (the “**Joint Committee**”) to review. The Receiver expects that the IRS referral will be approved by the Joint Committee within the next thirty days. He anticipates that there will be some interest paid on the refund. The Receiver intends to promptly distribute these funds when they are received.

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.

B. 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 November 1, 2015 less operating expenses plus revenue through July 31, 2016. This cash accounting report does not reflect non-cash or cash-equivalent assets. Thus, the value of all property discussed in Section IV below is not included in the accounting reports. From November 1, 2015 through July 31, 2016, the Receiver received \$281,519.81 in business income from ongoing operations of Receivership Entities;³ \$32,702.56 in interest/dividend income; \$90,000.00 in business asset liquidation income; \$11,444.21 in third-party litigation income; and \$40,475.00 in other income.⁴ (Ex. A.)

Since the inception of the Receivership through July 31, 2016, the Receiver received \$7,715,144.89 in business income from ongoing operations of some Receivership Entities; \$2,066,501.32 in cash and securities; \$1,071,909.79 in interest/dividend income; \$7,523,643.58 in business asset liquidation; \$120,000.00 in personal asset liquidation; \$68,179,943.10 in third-party litigation income; and \$7,535,042.73 in other income.

³ 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.

⁴ The “other income” includes: \$40,000.00 from Jackson National Life for an annuity in the name of Donald Rowe and \$475.00 in check reissuance fees.

IV. Asset Analysis and Recovery.

A. Expansion of Receivership to Include Additional Entities.

As noted above, the Receiver sought and successfully obtained the expansion of the Receivership to include 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. Laurel Mountain Preserve, LLC; Laurel Preserve, LLC; and Laurel Mountain Preserve Homeowners Association, Inc.

Laurel Preserve, LLC ("Laurel Preserve"), holds title to approximately 420 acres near Asheville, North Carolina intended for the development of home-sites (the "Laurel Mountain Property"). On February 11, 2009, the Court expanded the Receivership to include Laurel Mountain Preserve, LLC, Laurel Preserve, and the Laurel Mountain Preserve Homeowners Association, Inc. 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 \$294,000 (as of August 19, 2016). 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.

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.

2. 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 has been marketing the real property owned by the Foundation.

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 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 2016, 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 2016, the Thomas County Board of Tax Assessors assigned the North Stevens Street Lot a taxing value of \$10,342. Parties interested in purchasing the Lots should contact the Receiver directly.

3. 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. 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 Energy Management Group (“**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 IV.A.5, below, the Receiver has expanded the Receivership to include Quest.

4. Summer Place Development Corporation.

Summer Place is a Florida company that was purchased by Clyde Connell in December 2005 and from whom Nadel, through Scoop Capital, purchased a fifty-percent

ownership stake with total payments of \$63,204.99 to Mr. Connell. 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. Parties interested in purchasing this property should contact the Receiver directly.

5. Quest Energy Management Group, Inc.

Quest is an oil and gas exploration and production company based in Texas. Paul Downey was its Chief Executive Officer, 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 Downneys to Valhalla Investment Partners. To try to preserve Quest's value 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). The Receiver has filed three Interim Reports on Quest (Docs. 1054, 1117, and 1145) (all three Interim Reports are collectively referred to as the "**Quest Reports**").

On November 20, 2014, the SEC filed an enforcement action in the U.S. District Court for the Northern District of Texas against the Downneys and John M. Leonard, and individual who helped the Downneys raise money. *See S.E.C. v. P. Downey et al.*, Case No. 1:14-cv-185 (N.D. Tex.). The SEC asserted claims against the Downneys for their violations of the anti-fraud provisions of the federal securities laws in connection with their activities on behalf of Quest. On July 25, 2016, the court entered an order granting summary judgment in favor of the SEC on its claims against the Downneys.⁵

⁵ On April 7, 2014, Jeffry Downey and his wife, Pepper Downey, filed a voluntary petition for relief under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Texas. On October 16, 2014, the Receiver filed a complaint contesting the dischargeability of Jeffry Downey's debt to Quest and also contesting his ability to obtain a discharge in bankruptcy. The Receiver filed a motion to dismiss the adversary proceeding without prejudice. The Court granted this motion on March 30, 2016. The Receiver determined to dismiss this action because he believes that the Receivership's interests will be adequately protected by the SEC's action against the Downneys.

On November 12, 2014, the Court granted the Receiver's motion for leave to retain WhiteHorse Partners, LLC ("WhiteHorse"), a boutique advisory firm based in Nashville, Tennessee, to market and assist the Receiver with the sale of Quest. WhiteHorse is familiar with the oil and gas industry and has marketed and sold companies (or is currently marketing and in the process of selling) similar to Quest. For more information regarding WhiteHorse, please refer to the Receiver's Third Interim Report on Quest. WhiteHorse has been marketing Quest for sale and has not yet received any viable offers which reflect the reasonable market value of Quest.

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.

On June 15, 2016, the Receiver filed a motion to initiate a claims process for Quest. The motion sought the Court's approval of (1) a proof of claim form and procedure to administer claims, (2) a deadline for the filing of proofs of claim, and (3) notice by mail and publication ("Quest Claims Motion") (Doc. 1240). On June 17, 2016, the Court granted the Receiver's Claims Motion in its entirety. The Court established a Claim Bar Date of 90 days from the mailing of the Proof of Claim Form to known potential Claimants (as the term Claim Bar Date is defined in the Quest Claims Motion). Pursuant to the Court's Order, any person or entity who fails to submit a proof of claim to the Receiver so that it is received by

the Receiver on or before the Claim Bar Date is barred and precluded from asserting any claim against Quest.

The Court's Order further provided that sufficient and reasonable notice was given by the Receiver if made (1) by mail to the last known addresses of all known potential claimants, (2) by publication on one day in the national edition of The USA Today and The Abilene Reporter-News, and (3) on the Receiver's website (www.nadelreceivership.com).

In compliance with the Court's Order, on July 14, 2016, the Receiver mailed 501 packages to known investors and their attorneys, if any, and any other known potential creditors of Quest thereby establishing **October 12, 2016 as the Claim Bar Date**. Each package included a cover letter, the Claims Process Instructions, and a Proof of Claim Form. The Receiver also published notice of the claims process in the form approved by the Court in the national edition of The USA Today and The Abilene Reporter-News on August 8, 2016, and provided all pertinent documents for the claims process on his website.

For more information regarding Quest and the Receiver's investigation of it, please refer to the Receiver's Quest Reports, which are available on the Receiver's website.

B. Recovery of Real Property.

In addition to the assets discussed in conjunction with the expansion of the Receivership in Section IV.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. 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. On or about May 23, 2006, Neil Moody as Trustee of the Neil V. Moody Revocable Trust purchased the Bellasara Property for \$2,160,000. The Bellasara Property has two known encumbrances: a primary mortgage loan in the amount of \$956,000 and a home equity line of credit from Wells Fargo with an initial balance of \$880,000. The primary mortgage loan from MSC Mortgage, LLC was assigned to Wells Fargo soon after Moody's purchase of the Bellasara Property and subsequently assigned in 2009 to Bank of America. The primary loan is currently serviced by Wells Fargo.⁶ Neither bank ever filed a claim in the Receivership relating to either of the two loans. The Receiver is also aware that La Bellasara Condominium Association, Inc. has asserted that it is owed approximately \$154,626.30 in unpaid condominium assessments. The condominium association also did not file a claim in the Receivership.

On April 15, 2015, the Receiver filed a verified motion to approve the sale of the Bellasara Property (Doc. 1174). On April 29, 2015, the Court granted the motion in its entirety (Doc. 1177). In pertinent part, the Order approved the sale of the Bellasara Property for \$2,300,000 and approved the Receiver's request to allow him to hold the proceeds in trust until the disputes between the Receiver and the banks and the condominium association are

⁶ Counsel for Wells Fargo represented that, as of April 8, 2014, the amount due on the primary loan was \$1,325,431.52 and the amount due on the second loan was \$936,358.60.

resolved. On June 1, 2015, the Receiver received the net amount of \$2,147,993.69 from the sale of the property after payment of commissions and normal costs associated with the sale. As noted above, the Receiver presently is holding these proceeds in a separate account. As discussed in Section V. below, the Receiver prevailed on a motion for a determination that Wells Fargo's failure to comply with the claims process extinguished its purported interest in Receivership properties, including the Bellasara Property. Wells Fargo filed an appeal of this decision which is still pending. Should the appeal be resolved in favor of the Receiver, he intends to promptly distribute these funds.

2. Marshfield, Vermont.

The Receiver obtained two adjacent parcels of real property located in Marshfield, Vermont at 3343 U.S. Route 2 and 3353 U.S. Route 2 (collectively the "**Vermont Properties**") in connection with the settlement of litigation against Nadel's daughter-in-law, Anne Nadel Walbridge. Nadel purchased the 3343 Property on September 3, 2004 for \$122,000 and purchased the 3353 Property on July 29, 2005 for approximately \$56,884. There was a federal tax lien on the Vermont Properties for \$49,710.12 arising from income taxes that Mrs. Nadel Walbridge's late husband and Art Nadel's son, Geoffrey Nadel, failed to pay. In addition, property taxes for at least four years in the amount of \$12,066.69 were in arrears. On March 15, 2016, the Receiver filed a verified motion for (1) approval of the sale of the Vermont Properties and (2) an order to show cause (Doc. 1229). In pertinent part, the motion sought the approval of the sale of the Vermont Properties free and clear of the federal tax lien for the sale price of \$90,000 and requested that the Receiver be allowed to satisfy the outstanding property taxes from the sale proceeds. The properties had been listed for sale

since 2013 and received minimal interest. Further, the sale price was significantly greater than a 2015 appraisal of the properties which valued them at \$65,000.

To complete the sale and insure title for the purchasers, the title company requested a quitclaim deed from Ms. Nadel and her current husband (“**The Walbridges**”). They refused to voluntarily comply. As a result, the Receiver also asked the Court to order the Walbridges to show cause as to why they should not be held in contempt of court for failing to abide by the settlement agreement which required Ms. Nadel Walbridge to execute quitclaim deeds and take any other reasonable steps necessary to transfer the properties to the Receiver. The Court granted the Receiver’s motion on March 16, 2016 and directed the Walbridges to execute the quitclaim deeds or appear at a hearing to show cause as to why they should not be held in contempt (Doc. 1230). After the Walbridges were provided with a copy of this Court’s order, they executed the quitclaim deed. The Vermont Properties were sold on April 20, 2016, and the Receiver received the net amount of \$69,242.55 after payment of the property taxes and 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. Deficiency Judgment and Promissory Note.

The Receiver has a deficiency judgment against the former owner of a condominium who had executed a promissory note payable to Mrs. Nadel. The Receiver foreclosed on the

condominium and obtained a deficiency judgment in the amount of \$99,963.37. The Receiver recorded this judgment and is attempting to collect on it. (See Exhibit B for information regarding the disposition of the condominium.)

As mentioned above in Section IV.A.5, 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.

2. 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.⁷

Chris Moody 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 allowed 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.

⁷ For information regarding the enforcement action instituted against the Moodys, please refer to the Fourteenth Interim Report and prior Interim Reports.

Neil Moody initially did not cooperate with the Receiver. Accordingly, the Receiver instituted an action against him individually and in his capacity as Trustee of the Neil Moody Revocable Trust and the Neil Moody Charitable Foundation. On January 6, 2011, the Receiver reached an agreement with Neil Moody to settle claims brought by the Receiver against him and his related entities. 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.

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 transfers from Receivership Entities to Neil and Sharon Moody, Donald and

Joyce Rowe, and certain of their affiliated entities;⁸ (3) the recovery of other transfers, such as commissions, from other individuals and/or entities;⁹ and (4) the recovery of certain charitable contributions made with scheme proceeds.¹⁰ The Receiver also initiated litigation against Holland & Knight,¹¹ Wells Fargo Bank, and Anne Nadel.¹²

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.” In consultation with the Commission, the Receiver concluded that, in the best

⁸ 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.

⁹ In January 2010, the Receiver initiated lawsuits against three individuals to recover transfers received as commissions or “compensation.” The Receiver resolved these matters for the total amount of \$152,121.09.

¹⁰ 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.

¹¹ The Receiver settled this matter for the payment of \$25,000,000 to the Receiver in exchange for a broad release of claims and a bar order. After deducting fees and costs attributable to counsel, on November 8, 2012, the Receiver collected \$18,232,983.59 from this settlement.

¹² The litigation against Ms. Nadel has been resolved. For more information regarding this litigation, please refer to Section IV.B.2 infra and the Receiver’s Nineteenth Interim Report.

interests of the Receivership Entities and the investors as a whole, these inequitable distributions should be recovered and distributed in an equitable manner among Claimants holding legitimate and allowed claims (as determined by the claims process).

As of August 17, 2016, the Receiver has reached 159 agreements to settle with Profiteers and non-profit organizations in the amount of **\$25,674,831.09** and obtained 19 judgments against Profiteers in the amount of **\$6,402,639.38** for a total combined amount of **\$32,077,470.47** (plus additional non-cash assets).¹³ The Court has approved all of the settlements. The only actions which were pending during the time covered by this Interim Report are those in which the defendants appealed the Court's decisions in favor of the Receiver and the appellate court remanded for a determination of prejudgment interest. These actions are discussed below.

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**”).¹⁴ The complaints set forth claims for unjust enrichment and fraudulent transfers pursuant to Florida’s Uniform Fraudulent Transfer Act (“**FUFTA**”). From May 25, 2011 through September 28, 2012, the Receiver filed Omnibus Motions for Summary Judgment

¹³ This includes \$127,114.23 which was awarded to the Receiver in an arbitration proceeding encompassing two clawback cases. The defendants paid the Receiver the entire amount awarded while the Receiver’s motion to confirm the award was pending before the Court. This also includes a judgment in the amount of \$6,477.30 for attorneys’ fees and costs which the Receiver obtained against a profiteer in connection with his frivolous objections to the Receiver’s determination of claims he submitted in the claims process.

¹⁴ In September 2010, the Receiver filed 12 additional actions against Profiteers who invested with Traders’ “accounts.” All of these cases have been resolved. For more information regarding these matters, please refer to prior Interim Reports.

(“**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 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. 72.¹⁵ 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

¹⁵ Diana Cloud filed a petition for relief under Chapter 7 of the Bankruptcy Code on April 11, 2014. The Receiver filed a proof of claim for the full amount of the judgment, \$763,539.83, plus post-judgment interest. On May 3, 2015, the bankruptcy court disallowed priority status for the claim but allowed the claim as a general unsecured claim in the amount of \$764,834.30. On October 13, 2015, the Receiver received a distribution check in the amount of \$79,399.31 representing 10.38% of the Receiver’s claim in this bankruptcy. On November 9, 2015, the Receiver received an additional and final distribution of \$1,444.21 on this claim.

the defendants in these matters for a total combined amount of \$2,832,354.12.¹⁶ Judgments have been entered and the Receiver is proceeding with collection efforts as appropriate.

Defendants in three matters where judgments were entered against them appealed the entry of the judgments: *Lee; Dancing \$; and Meeker*.¹⁷ (See *Lee*, Doc. 171; *Dancing \$*, Doc. 131; and *Meeker*, Doc. 150). The Eleventh Circuit issued decisions in all three of these matters. In each case, the Eleventh Circuit affirmed the District Court's grant of summary judgment in favor of the Receiver and reversed its denial of the Receiver's request for prejudgment interest for abuse of discretion. The Eleventh Circuit remanded the decisions to the District Court to determine whether equitable considerations as set forth in *Blasland, Bouck & Lee, Inc. v. City of N. Miami*, 283 F.3d 1286 (11th Cir. 2002), justify denying or reducing a prejudgment interest award in light of Florida's general rule that prejudgment interest is an element of pecuniary damages.

In *Dancing \$*, on March 27, 2015, the Magistrate Judge issued a Report and Recommendation awarding the Receiver prejudgment interest from the date the Receiver filed his action against Dancing \$ in the amount of \$17,724.12. On April 10, 2015, the Receiver filed an objection to the Report and Recommendation on the basis that he is entitled

¹⁶ 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); *Wiand v. Meeker*, Case No. 8:10-cv-166-T-17MAP (M.D. Fla.), Doc. 145 (awarding \$645,641.67).

¹⁷ *Meeker* has been resolved by settlement and the settlement amount has been paid in full. For more information regarding this matter and settlement, please refer to the Receiver's Nineteenth Interim Report.

to prejudgment interest on his successful claims from the date of each fraudulent transfer – not the date of the complaint as the Report and Recommendation concluded. On June 23, 2015, the District Court Judge entered an order adopting the Report and Recommendation. The Receiver believed that this decision was wrong and that the unfavorable precedent set was significant and warranted appellate review. However, because the potential monetary recovery was relatively small, the Receiver and his attorneys agreed to pursue to the appeal without charging any fees to the Receivership.¹⁸

On July 28, 2015, the Receiver filed a notice of appeal. On March 10, 2016, the Eleventh Circuit issued a decision vacating the court's judgment with the instruction to calculate the prejudgment interest from the dates of the fraudulent transfers as was set forth by the Receiver. On April 20, 2016, the district court gave the parties twenty days to reach an agreement on a prejudgment interest amount and if unable to agree, twenty additional days to submit a notice to the court as to their position on the amount of interest that should be awarded. The parties were unable to reach an agreement of the amount and thus, on May 17, 2016, the Receiver filed a notice submitting that prejudgment interest of \$37,967.48 should be awarded to him. Dancing \$ did not respond to the court's order or object to the Receiver's calculations. As such, on June 28, 2016, the Honorable Magistrate Judge Mark Pizzo issued a report and recommendation recommending that prejudgment interest in the

¹⁸ Similarly, in *Schneiderman*, the Receiver appealed the court's denial of his motion to vacate an arbitration award which the Receiver believed was egregiously wrong. The Receiver believed that it was important to pursue this appeal and he did so at a reduced flat fee which provided a considerable savings to the Receivership.

amount of \$37,967.48 be awarded to the Receiver, which the District Court adopted on July 18, 2016. The Receiver is evaluating the next steps for collection of this judgment.

In *Lee*, the parties participated in a mediation conference before Magistrate Judge Porcelli aimed at resolving the prejudgment issue as well as an impleader action brought against Ms. Manon Sommers-Lee. The impleader action seeks to recover a residence which was funded with proceeds Mr. Lee obtained as a result of Nadel's scheme and is now in the possession of Ms. Sommers-Lee (the "**Lee Property**"). The parties were unable to reach a resolution at this mediation. The parties mediated this matter again on December 1, 2014 and again were unable to reach an accord. On November 14, 2014, the Court entered an order directing the parties to submit memoranda on prejudgment interest and file any motions for summary judgment regarding the impleader action dispute by December 12, 2014.

On February 2, 2015, Vernon Lee filed a petition for relief under Chapter 7 of the Bankruptcy Code. On March 20, 2015, the Magistrate Judge for the District Court held a status conference to discuss the effect of Vernon Lee's bankruptcy on the Vernon Lee Trust and Manon Sommers-Lee. The Court determined to administratively close the case due to the bankruptcy. The Receiver is proceeding with this matter before the bankruptcy court. On March 18, 2015, the Receiver filed a motion to dismiss the bankruptcy. This motion was denied on May 1, 2015. On May 5, 2015, the Receiver filed a proof of claim for \$1,391,269.41 representing the full amount of the judgment plus interest. On April 10, 2015, the Receiver filed an objection to Vernon Lee's claim of exemption. On May 8, 2015, the Receiver filed a complaint objecting to the discharge and seeking an equitable lien or a constructive trust on the Lee Property. On November 20, 2015, the Receiver filed a motion

for summary judgment with respect to entitlement to the Lee Property. A hearing on this motion was held on January 22, 2016. No ruling has been issued on this motion.

2. 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 seeking to recover damages in excess of \$168 million relating to the bank’s close and extensive relationship with the Ponzi scheme underlying this Receivership.¹⁹ The parties engaged in extensive motion practice. For more information regarding motions and other procedural history, please refer to the Receiver’s Seventeenth Interim Report and prior Interim Reports.

On June 10, 2014, the defendant filed a motion for summary judgment seeking judgment in its favor on all claims remaining against it. The Receiver opposed this motion and also filed a renewed motion for partial summary judgment on June 10, 2014. The Receiver’s motion sought summary judgment on the following: (1) Nadel operated a Ponzi

¹⁹ 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. On December 7, 2015, the Receiver filed a motion for a determination that Wells Fargo’s failure to comply with the Court’s claims process extinguished its purported interests in Receivership properties. The Court granted this motion on February 2, 2016. Wells Fargo filed an appeal of this Court’s decision on March 2, 2016. This appeal is still pending. Wells Fargo 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.

scheme through the Hedge Funds from 1999 through January 2009; (2) every transfer of an asset Nadel made was made with the actual intent to hinder, delay, or defraud creditors as required by FUFTA; (3) because Nadel operated the Hedge Funds as a Ponzi scheme, each of the Hedge Funds and Nadel were insolvent; (4) the *in pari delicto* defense is not available to the defendant because individuals who invested in the Hedge Funds were innocent stakeholders; and (5) the remaining affirmative defenses should be decided in the Receiver's favor because the defendant failed to plead any facts in support of the defenses. On February 9, 2015, the District Court granted summary judgment in favor of Wells Fargo on all counts. This unexpected ruling has a significant impact in limiting the Receiver's claims against Wells Fargo. On March 10, 2015, the Receiver filed a motion to prosecute an appeal of this decision due to the nature of the ruling and the impact it would have on the Receivership to the detriment of innocent victims (Doc. 1162). On March 27, 2015, the Court granted the Receiver's motion to appeal this decision (Doc. 1167). The Receiver filed the initial brief on April 27, 2015. Wells Fargo filed its response brief and the Receiver filed a reply brief. Oral argument was held on May 19, 2016. No decision has been rendered.

3. Receiver's Litigation Against Rowe

The Receiver sued Donald Rowe, individually ("Rowe") and as Trustee of the Wall Street Digest Defined Benefit Pension Plan ("Plan"), Joyce Rowe, and Carnegie Asset Management, Inc. ("CAM") (collectively "Rowe Defendants") to recover sums received from the Receivership Entities. The Receiver and the Rowe Defendants entered into a settlement agreement, which was approved by the court on February 5, 2013 (Doc. 963). As part of that settlement, the Rowe Defendants consented to entry of a joint and several

judgment in the amount of \$4,028,385.00, the Rowe Judgment, which was entered by the Court on February 25, 2013 (*Rowe*, Doc. 124).²⁰

After entry of the Rowe Judgment, the Receiver conducted discovery in aid of execution and learned that the Rowe Defendants made blatant efforts to shed their assets by transferring them to third parties with the intent to hinder the Receiver's collection efforts. To recover those fraudulently transferred assets, the Receiver filed a motion to commence proceedings supplementary and to implead the third parties who received these assets. As a result of these efforts, through various settlements the Receiver recovered \$2,284,063.11, and personal property with an approximate value of \$10,000,²¹ and an annuity with a value of \$243,874.65 (as of June 30, 2016). The Receiver also obtained final judgments of garnishment in the total amount of \$60,778.70, which have been paid in full. For more information regarding these settlements and judgments, please refer to the Receiver's Fifteenth and Sixteenth Interim Reports.

On October 15, 2013, the Receiver also directed a writ to MetLife Investors USA Insurance Company ("MetLife") to garnish an annuity the Rowes purchased from MetLife. On July 27, 2015, the Court entered an order approving a settlement agreement to resolve the dispute over the MetLife Annuity and the Defendants' remaining obligations under the Rowe Judgment. The settlement agreement provides that the Rowe Defendants will pay \$200,000

²⁰ For more information regarding the Rowe litigation and settlement please refer to the Thirteenth Interim Report and prior Reports.

²¹ The Receiver sold this property through auction and received the net amount of \$1,146.00 from these sales.

to the Receiver from either the proceeds of a mortgage on their homestead or from the MetLife Annuity. The Rowe Defendants represented and warranted that they do not have sufficient non-exempt assets to satisfy the remaining amount owed under the Judgment. On September 1, 2015, the Receiver received payment of \$200,000 from the MetLife Annuity.

The Receiver also seized a 2007 Lexus LS from Donald Rowe and recovered \$24,605.25 from the sale of the Lexus. As of August 16, 2016, the Receiver has recovered a total of \$2,894,472.71 on the Rowe Judgment.²²

V. 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 (Doc. 390) (“**Claims Motion**”), which the Court granted on April 21, 2010 (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, is barred and precluded from asserting any claim against the Receivership or any Receivership Entity.

The Receiver received 504 claims, of which 478 claims were submitted in connection with 473 investor “accounts”²³ (“**Investor Claimants**”). The Receiver also received 26

²² This amount includes the value of the annuity obtained in connection with the Receiver’s settlement with the Hardin Trust. The value of the annuity is \$243,874.65 as of June 30, 2016. The Receiver took \$40,000 as a distribution from this annuity on April 24, 2014, \$40,000 on April 13, 2015, and an additional \$40,000 on April 4, 2016, and will continue to take the maximum distribution allowed without incurring a penalty.

²³ 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**.”

claims from other purported creditors (“**Non-Investor Claimants**”) (Investor Claimants and Non-Investor Claimants are collectively referred to as “**Claimants**”), including two claims from taxing authorities. 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). The Receiver recommended that \$131,308,943.50 in Investor Claims and two tax lien claims be allowed. On March 2, 2012, the Court granted the Claims Determination Motion except with respect to a claim submitted by Wells Fargo (the “**March 2 Order**”) (Doc. 776).

The Court reserved ruling on the Wells Fargo 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.) 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. (*See* Section IV.E.2 above and Doc. 955.) On December 7, 2015, the Receiver filed a motion for a determination that Wells Fargo’s failure to comply with the Court’s claims process extinguished its purported interests in Receivership properties. The Court granted this motion on February 2, 2016. Wells Fargo filed an appeal of this Court’s decision on March 2, 2016. On August 10, 2016, the appellate court made a determination that oral argument will be necessary. No date for the oral argument has been set yet.

On April 27, 2012, the Receiver filed a motion seeking the approval of (1) a first interim distribution of \$25,994,012.73 on a *pro rata* basis; (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 (Doc. 825). The Court overruled a limited objection filed by Wells Fargo and granted the Receiver's motion in its entirety on May 7, 2012 (Doc. 839).

On November 14, 2012, the Receiver filed a motion seeking the approval of (1) a second interim distribution in the amount of approximately \$22 million on a *pro rata* basis; (2) revisions to certain claim determinations previously submitted by the Receiver and approved by the Court; (3) an increase in reserves of \$1,327,793.22; and (4) the release of reserves in the amount of \$197,951.10 (Doc. 945). The Court granted the Receiver's motion in its entirety on November 16, 2012 (Doc. 946).

On November 6, 2013, the Receiver filed a motion seeking the approval of (1) a third interim distribution of \$5,000,000.00 on a *pro rata* basis; (2) an increase in reserves of \$246,488.43; and (3) the release of reserves in the amount of \$615,746.25 (Doc. 1085). The Court granted the Receiver's motion on November 22, 2013 (Doc. 1087).

On April 10, 2014, the Receiver filed a motion seeking the approval of (1) a fourth interim distribution of \$5,000,000.00 on a *pro rata* basis and (2) an increase in reserves of \$253,793.83 (Doc. 1113). The Court granted the Receiver's motion on April 24, 2014 (Doc. 1114).

On December 11, 2015, the Receiver filed a motion seeking the approval of (1) a fifth interim distribution of \$3,000,000.00 on a *pro rata* basis, representing an additional recovery

of 2.28% of the Allowed Amount of claims receiving a distribution at that time, bringing the total recovery to 46.65% of the Allowed Amount of these claims, (2) an increase in reserves of \$154,709.51, and (3) the release of reserves of \$301,131.73 (Doc. 1212). The Court granted the Receiver's motion on December 15, 2015 (Doc. 1213). All interim distribution checks have been mailed to Claimants holding claims which were determined to be entitled to participate in the interim distributions and two checks totaling the amount of \$1,711.79 have not been negotiated.²⁴

VI. Overview of Remaining Assets.

As of August 22, 2016, the total funds in all Receivership accounts are approximately **\$10,195,412.28**, which includes \$2,657,224.36 being held in reserves for objections in the claims process and \$4,377,456.84 being held in separate accounts 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 approximately \$2,393,250.00.

As discussed above, the Receiver has already distributed a total of approximately **\$60 million** to Claimants with Allowed Claims which were entitled to receive distributions, representing a total recovery of 46.65% of the Allowed Amounts for those claims. 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

²⁴ Claim Number 391 is not allowed to participate in any distributions of Receivership assets until and if all Class 1 Claims receive 50% of their Allowed Amounts. Because the interim distributions have provided a combined recovery of 46.65% to such Class 1 Claims, this claim was not entitled to participate in the interim distributions. Accordingly, the amounts apportioned to Claim Number 391 were not distributed and reverted to the Receivership.

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.

A. Remaining Properties and Other Assets.

The Receiver is in possession of four properties which remain to be sold. Of these four properties, one of them is heavily encumbered by liens from two institutions in the combined amount of approximately \$2,260,157.00. Given the decline in property values in recent years, the amount the Receiver anticipates he will be able to recover from sale of this property may not greatly exceed the amount of the encumbrances. As mentioned above, the Receiver is contesting Wells Fargo's claim to 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 acquired the Moodys' interests in various 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.

The Receiver expanded the Receivership to include Quest, a Texas oil and gas company. As stated in Section IV.A.5 above, 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 (*see also* Doc. 1145). The Receiver is marketing Quest and will continue to operate it in an effort to preserve and maximize its value until it is sold. The Receiver has initiated a claims process solely for claims against Quest. Any individual or entity who believes it may have a claim arising out of or in any way related to the acts, conduct or activities of Quest, must submit an original, written Proof of Claim Form as set forth in the Claim Process Instructions and Proof of Claim Form, which can be found on the Receiver's website, on or before October 12, 2016.

B. Remaining Clawback Litigation.

The Receiver has resolved the vast majority of the clawback cases brought against Profiteers and non-profit organizations. All clawback cases which were pending in district court and arbitration have been resolved. As previously mentioned, three Profiteers in cases before the district court filed appeals of the judgments awarded against them. The judgments against these three Profiteers total \$1,688,445.29. As discussed above, in all three of these appeals the appellate court affirmed the Court's granting of summary judgment in favor of the Receiver and reversed and remanded the Court's denial of prejudgment interest. The Receiver reached a settlement agreement in one matter which was approved by the Court. In one of the other matters, the District Court Judge entered an order adopting a Report and Recommendation which only awarded prejudgment interest from the date of the filing of the complaint. The Receiver filed an appeal of this decision on a *pro bono* basis because he

believed that the Receivership is entitled to more prejudgment interest than that awarded. As discussed above, the Receiver prevailed on appeal and obtained a prejudgment interest judgment in the amount of \$37,967.48. In the final matter, the defendant filed for protection under the bankruptcy laws. The Receiver is proceeding with this matter before the bankruptcy court. Please refer to Section IV.E.1 for more information regarding these matters.

C. Settlements and Outstanding Judgments.

As noted above, as of August 17, 2016, the Receiver has settled 159 cases brought against Profiteers and non-profit organizations for the total amount of \$25,674,831.09. The Receiver has collected \$25,722,333.35 on these settlements and no amounts remain to be paid.²⁵ The Receiver also has obtained 19 judgments against Profiteers and non-profit organizations for the total amount of \$6,402,639.38. The Receiver has collected \$3,009,380.22 of the total judgment amount. The Receiver is proceeding with collection efforts on the outstanding judgments as appropriate. While the Receiver is hopeful that he will recover funds on the majority of these judgments, the Receiver anticipates that it will be difficult to fully satisfy them.

The Receiver also has a judgment against the Rowe Defendants in the amount of \$4,028,385.00. To date, the Receiver has recovered \$2,894,472.71 on this judgment including the value of an annuity the Receiver obtained in connection with a settlement with a third party who received funds fraudulently transferred by the Rowes. (*See* Section IV.E.3

²⁵ The total amount collected includes \$47,502.26 in interest which was paid in connection with settlement payments which were paid over time.

above.) The value of this annuity is \$243,874.65 as of June 30, 2016. Other than continuing to collect on the outstanding annuity, the Receiver does not anticipate that he will be able to collect any further funds in connection with this Judgment.

D. Litigation involving Wells Fargo.

The Receiver instituted an action against Wells Fargo and Timothy Best seeking to recover damages and fraudulent transfers in excess of \$168 million relating to the bank's close and extensive relationship with the Ponzi scheme underlying this case. On June 10, 2014, the parties filed motions for summary judgment. On February 9, 2015, the District Court granted summary judgment in favor of Wells Fargo on all counts. This unexpected ruling has a significant impact in limiting the Receiver's claims against Wells Fargo. On March 10, 2015, the Receiver filed a motion to prosecute an appeal of this decision due to the nature of the ruling and the impact it would have on the Receivership to the detriment of innocent victims (Doc. 1162). On March 27, 2015, the Court granted the Receiver's motion to appeal this decision (Doc. 1167). Oral argument was held on May 19, 2016. No decision has been rendered.

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. On January 17, 2013, the Court deferred ruling on Wells Fargo's claims motions pending the outcome of the Receiver's litigation against Wells Fargo. On December 7, 2015, the Receiver filed a motion for a determination that Wells Fargo's failure to comply with the Court's claims process extinguished its purported interests in Receivership properties. The Court granted this motion on February 2, 2016. Wells Fargo

filed an appeal of this Court's decision on March 2, 2016. On August 10, 2016, the appellate court made a determination that oral argument will be necessary. No date for the oral argument has been set yet.

VII. The Next Ninety Days.

The Receiver will review claims submitted in connection with the Quest Claims Process.

The Receiver will proceed with pending litigation and collection efforts. He will continue to thoroughly consider and review any settlement offers 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 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 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 either to email jrizzo@wiandlaw.com or call Jeffrey Rizzo at 813-347-5100.

Dated this 30th day of August, 2016.

Respectfully submitted,

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 30, 2016, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

s/Gianluca Morello
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