

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

In re:

SECURITIES AND EXCHANGE
COMMISSION

Plaintiff

v.

Case No. 9:09-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,
VIKING MANAGEMENT, LLC.

Relief Defendants.

**MOTION TO STRIKE RECEIVER'S VERIFIED MOTION TO ENFORCE
CONSTRUCTIVE TRUST THROUGH TURNOVER OF REAL PROPERTY, OR IN
THE ALTERNATIVE, THROUGH FORECLOSURE OF THE RECEIVER'S
EQUITABLE LIEN**

COMES NOW the Defendants, VERNON LEE, and MANON SOMMERS-LEE, by and through the undersigned attorney, and file this motion to strike the Receiver's Verified Motion to Enforce Constructive Trust Through Turnover of Real Property, or in the Alternative Through Foreclosure of the Receiver's Equitable Lien (Doc. 1310) and state the following:

1. The Receiver's Verified Motion to Enforce Constructive Trust Through Turnover of Real Property, or in the Alternative Through Foreclosure of the Receiver's Equitable Lien was sent by email to the undersigned counsel.

2. Although the undersigned counsel represents the defendant and his wife in his

bankruptcy case, Case No. 8:15-bk-01038-KRM, he has not represented them before this court by filing a notice of appearance or otherwise.

3. The defendants have not authorized the undersigned to accept service of any papers on their behalf in this case.

4. The Receiver's Verified Motion to Enforce Constructive Trust Through Turnover of Real Property, or in the Alternative Through Foreclosure of the Receiver's Equitable Lien, was not properly served upon the defendants.

5. The defendants are in the process of obtaining representation in this case, and until such time as they have counsel, any and all papers should be required to be served on them in person.

CONCLUSION

For the foregoing reasons the Defendants pray that this Court enter an order striking the Receiver's Verified Motion to Enforce Constructive Trust Through Turnover of Real Property, or in the Alternative Through Foreclosure of the Receiver's Equitable Lien for improper service.

LOCAL RULE 3.01(g) CERTIFICATION

Counsel has attempted to confer with counsel for the Receiver and has not yet received a reply regarding his agreement or opposition to this motion. Counsel will supplement this motion with a response as expeditiously as possible.

Dated this 3rd day of October, 2017.

/s/ Benjamin G. Martin
Benjamin G. Martin
Attorney for Appellants
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Motion to Strike has been served electronically or by regular U.S. Mail to Michael Lamont, Attorney for Burton W. Wiand,

Receiver, Wiand Guerra King P.A., 5505 West Gray Street, Tampa, FL 33609, this 3rd day of
October, 2017.

/s/ Benjamin G. Martin
Benjamin G. Martin
Attorney for Appellants
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