

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

SECURITIES AND EXCHANGE
COMMISSION

Plaintiff,

v.

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

Defendants,

CASE NO.: 8:09-0087-T-26TBM

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.

WELLS FARGO BANK N.A.'S NOTICE OF SUPPLEMENTAL AUTHORITY

Wells Fargo Bank, N.A., hereby notifies the Court and all parties of a recent published Eleventh Circuit decision, *Title Max v. Northington (In re Wilber)*, no. 16-17467 (11th Cir. December 11, 2017) (holding that where state property law operates automatically – *i.e.*, with no judicial action required – state law will continue to operate during a bankruptcy case; consequently, estate property that is subject to automatic transfer or revocation upon default will necessarily be removed from the bankruptcy estate upon default, divesting the Court of jurisdiction to otherwise affect the creditor's rights to the property).

Wells Fargo submits this Eleventh Circuit decision because it recognizes the deference owed by federal courts to state-law regulations of property rights, and confirms the Rents at issue in the Bank's *Motion for Order Directing Receiver to Turnover Rents from Rite Aid Property* [Doc. 1332] became the exclusive property of Wells Fargo by operation of state law before this receivership commenced, and well before the Court entered its orders approving the sale of the Rite Aid Property. Simply put, pursuant to the Eleventh Circuit's decision in *Title Max*, following the pre-receivership default under the Rite Aid Loan Documents, Wells Fargo did not have a mere "claim" to the Rents that could be administered in this receivership – rather, the Rents automatically became the exclusive property of the Bank pursuant to the Assignment of Rents and North Carolina law. Therefore, the Rents are not property of the receivership estate and this Court does not have the authority to impair the Bank's state-law property rights to them. *See id.* at *4. A copy of the decision is attached to this notice.

CERTIFICATE OF SERVICE

I hereby certify that on December 27, 2017, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

Respectfully submitted,

/s/ Steven R. Wirth

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