

**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.

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THE RECEIVER'S TWENTY-THIRD INTERIM REPORT

Receivership Information and Activity from May 1, 2018 through October 31, 2018.

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INTRODUCTION

Burton W. Wiand, the Court-appointed Receiver for the Receivership Entities as defined herein, hereby files this Twenty-Third Interim Report (the “**Report**”) to inform the Court, the investors, and others interested in this Receivership, of activities from May 1, 2018 through October 31, 2018 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**”);
- 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
- e) Quest Energy Management Group, Inc., which has been operated by the Receiver as a separate Receivership.

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

¹ Although this Interim Report covers the period from May 1, 2018 through October 31, 2018, 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 Report, the Receiver and his Professionals engaged in the following significant activities:

- Continued to engage in efforts to collect on judgments obtained in connection with litigation;
- Continued defense of appeal of a constructive trust and equitable lien with prejudgment interest in the amount of **\$336,891.39** awarded in favor of the Receiver against Vernon Lee and Manon Sommers Lee on a residence obtained by Mr. Lee with scheme proceeds;
- Sold six undeveloped lots in Buncombe County, North Carolina for \$212,500, resulting in net proceeds of \$206,592.72 after payment of costs associated with the sale;
- Sold various Quest assets for \$10,406.39;
- Sold a single wide trailer used by Laurel Preserve in North Carolina for \$10,000;
- Maintained Receivership funds in appropriate accounts (as of December 10, 2018, the total funds in all Receivership accounts was approximately \$638,862.67);
- Continued to operate ongoing businesses, and where possible, enhance the value of those businesses resulting in the generation of \$315,491.60 in gross business income; and
- Generated \$1,371.97 in interest/dividend 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 “**Moody’s**”) 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 non-interest bearing operating/checking accounts and variable interest rate money market accounts. As of December 10, 2018, the total funds in all Receivership accounts are approximately \$638,862.67 which includes approximately \$22,897.37 for three interim distribution checks which have not been negotiated yet.

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. Most recently, on August 28, 2017, the Receiver obtained a tax refund check of **\$2,920,359.71** for amended tax returns he submitted for Arthur Nadel. As a result of the Receiver's efforts, the total sum recovered from federal tax refunds to insiders is **\$7,959,062.64**. For more detailed information regarding the Receiver's efforts to recover tax refunds, please refer to the Twenty-first Interim Report and prior Interim Reports.

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 May 1, 2018 less operating expenses plus revenue through October 31, 2018. 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 May 1, 2018 through October 31, 2018, the Receiver received \$315,491.60 in business income from ongoing operations of Receivership Entities,² \$218,000.00 in business asset liquidation, \$1,371.97 in interest/dividend income, and \$72,421.89 in other income.³ (Ex. A.)

Since the inception of the Receivership through October 31, 2018, the Receiver received \$9,006,258.99 in business income from ongoing operations of some Receivership Entities; \$2,066,501.32 in cash and securities; \$1,178,632.56 in interest/dividend income; \$7,799,143.58 in business asset liquidation; \$120,000.00 in personal asset liquidation; \$68,179,943.10 in third-party litigation income; and \$11,046,088.00 in other income.

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

² The income numbers provided in this and the following paragraph are gross figures and do not include any offset for operational costs or any other expenses.

³ The "other income" includes: \$59,692.50 from Neil Moody, which he received from a tender offer of MAM Software Group shares titled in the name of his trust, and which was discussed in the Receiver's Twenty-second Interim Report; \$10,406.39 from the sale of Quest's assets, including computers, poly pipe, and consigned items from its 64 S. Jacobs office; \$1,623.00 in oil royalties from 2014; and \$700.00 refunded from the court for garnishment fees in connection with litigation against Vernon Lee.

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**”) held title to approximately 420 acres near Asheville, North Carolina intended for the development of home-sites (the “**Laurel Preserve 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 (“**HOA**”). The Laurel Preserve Property encompasses 33 lots and an approximately four-acre parcel of land owned by the HOA. Twenty-three of these lots were encumbered by a \$1,900,000 interest only loan from Wells Fargo (the “**Laurel Mountain Property**”). Pursuant to a settlement agreement, on September 29, 2017, Wells Fargo paid the Receiver \$254,073.76 and foreclosed on the Laurel Mountain Property. Two lots were owned by Laurel Preserve but were not encumbered by the Wells Fargo loan. There is a cabin home on one of these two lots (“**Cabin Home Lot**”), which is subject to a \$360,157.37 loan from Branch Banking and Trust (“**BB&T**”). The remaining eight lots were owned by the Guy-Nadel Foundation and are discussed in Section IV.A.2 below.

On October 1, 2018, the Receiver and BB&T filed an unopposed joint motion for relief from the injunction imposed in this matter by the Order Appointing Receiver to allow BB&T to foreclose on the Cabin Home Lot (Doc. 1364). After careful consideration, the Receiver determined that there was no benefit to continuing to hold the Cabin Home Lot because the encumbrance and secured claim of BB&T on the lot greatly outweighed its fair market value. In light of the current state of the real estate market in Buncombe County, North Carolina, and the fact that the Cabin Home Lot had been marketed for sale since 2009 with minimal interest, the Receiver believes the best course was to allow BB&T relief from the injunction to proceed with a state court foreclosure action. BB&T agreed to not seek a deficiency judgment against the Receiver or the Receivership estate in the foreclosure action. Upon completion of the foreclosure action, BB&T's claim in the Receivership will be withdrawn and extinguished. The Court granted the joint motion on October 1, 2018 (Doc. 1365). An order of foreclosure for the property was entered on November 29, 2018, and the foreclosure sale is scheduled for January 4, 2019.

On October 2, 2018, the Receiver filed a verified motion to approve the sale of six parcels of land in Buncombe County (Doc. 1368). These six parcels include the parcel titled in the name of the HOA (the "**HOA Lot**") and a lot commonly referred to as Lot F/G. In pertinent part, the motion sought the approval of the sale of all six lots for the collective price of \$212,500. At that price, each acre has a value of approximately \$12,500, including the HOA Lot which has no taxable value. The HOA Lot and Lot F/G have been listed for sale along with the other lots for the past eight years and received minimal interest. The Receiver believes the offer price represents a fair and reasonable price for the properties. The Court

granted the motion on October 4, 2018 (Doc. 1370). The Receiver received the net amount of \$206,592.72 after payment of costs associated with the sale.

At the time the Receiver recovered the Laurel Mountain Property it also had a third encumbrance. The third encumbrance was an easement of approximately 169 acres of the Laurel Preserve Property, which was granted to a land conservancy in 2005 (the “**Easement**”). The Receiver instituted an ancillary civil proceeding against the land conservancy to extinguish the Easement on December 1, 2009. *Burton W. Wiand, as Receiver v. Carolina Mountain Land Conservancy*, M.D. Fla. Case No. 8:09-cv-2443-T-27TBM. Pursuant to a settlement agreement with the conservancy, the Receiver obtained possession of the Easement. For more information regarding this settlement, please refer to prior Interim Reports. The Receiver is marketing the Easement along with the lots owned by the Guy-Nadel Foundation discussed below.

On December 7, 2018, the Receiver filed an unopposed motion to approve the sale of a Sunlake Living Systems single wide trailer (the “**Trailer**”) (Doc. 1374). The Trailer was purchased by Peg Nadel in July 2007 for \$28,340.00 to use as an office for the Laurel Mountain Property. The Trailer is currently located on the Cabin Home Lot. As noted above, BB&T is in the process of foreclosing on this lot. The Trailer is not involved in the foreclosure proceeding. As a result, the Receiver either needed to move the Trailer and store it or sell it. The estimated value of the Trailer according to NADA, an internet website routinely used to value such vehicles, is \$6,427.84. Given the costs to move and store the Trailer and the Trailer’s valuation, the Receiver determined that it is in the best interests of the Receivership to sell the Trailer for \$10,000.00 to buyers who have agreed to remove the

Trailer within fourteen days of the Court's order on the motion. The Court granted this motion on December 10, 2018 (Doc. 1375).

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 had possession and control of approximately eight lots that are essentially adjacent to each other and to the Laurel Mountain Property. The Receiver has been marketing these lots since obtaining control of them. In July 2017, with the Court's approval, the Receiver sold one lot, Lot #110, for the net amount of amount of \$55,202.36 after payment of costs associated with the sale and retained a \$2,000 escrow deposit on the property (Docs. 1300 and 1301). On October 2, 2018, the Receiver filed a verified motion to approve the sale of six parcels in Buncombe County (Doc. 1368). These six parcels include four lots owned by the Foundation. Those four lots are commonly referred to as Lots B, C, D, and E (the "**Foundation Lots**"). As discussed above, in pertinent part, the motion sought the approval of the sale of all six Lots for the collective price of \$212,500. In light of the current state of the real estate market in Buncombe County, North Carolina and the fact that the properties have been marketed for sale since 2009 with minimal interest, the Receiver

believes the current offer represents a fair and reasonable price and is in the Receivership estate's best interests. The Court granted the motion on October 4, 2018 (Doc. 1370). The Receiver received the net amount of \$206,592.72 after payment of costs associated with the sale.

Parties interested in purchasing the remaining three lots and the Easement discussed in Section IV.A.1 above should contact:

Don Bell
Beverly-Hanks & Associates
Phone: (828) 275-8286
Email: dbell@naibeverly-hanks.com

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 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. Between December 2006 and December 2008, Scoop Capital also paid

Summer Place \$62,100.00 to cover operational expenses. 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 approximately 1.7 acres of a six-acre parcel in Bradenton, Florida ("**Summer Place Property**"). The Summer Place Property has no known liens or encumbrances. Summer Place was originally created to build 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 Summer Place Property. Parties interested in purchasing this property should contact the Receiver directly.

5. The Quest Energy Management Group, Inc. Receivership

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 Downeys to Valhalla Investment Partners. 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 November 20, 2014, the SEC filed an enforcement action in the U.S. District Court for the Northern District of Texas against the Downeys and John M. Leonard, an individual who helped the Downeys raise money. *See S.E.C. v. P. Downey et al.*, Case No. 1:14-cv-185 (N.D. Tex.) (the “**Downey Enforcement Action**”). The SEC asserted claims against the Downeys 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 Downey Enforcement Action court entered an order granting summary judgment in favor of the SEC on its claims against the Downeys. On September 29, 2016, the Downey Enforcement Action court granted the Commission’s motion for remedies and entered final judgments as to all defendants. In addition to entering final judgments, the court also made specific findings as to the defendants, including that Jeffry and Paul Downey (1) “raised \$4.9 million from 17 investors in a fraudulent offering of securities”; (2) “acted with a high level of scienter, knowingly deceiving investors about virtually every aspect of the investment”; (3) concealed the Receiver’s appointment from Quest investors; and (4) exhibited “misconduct [which] was extremely egregious.”

Consistent with his duties under the Order Appointing Receiver, the Receiver undertook significant efforts to secure Quest’s assets and preserve them for the benefit of its

defrauded victims. The Receiver traveled to Texas, secured Quest's office,⁴ interviewed personnel, and examined the records he was able to collect. The Receiver also hired a forensic accountant to examine Quest's records, which revealed that Quest was insolvent and seriously mismanaged prior to its addition to the Receivership. Quest also faced serious regulatory issues as a result of its failure to perform basic well maintenance or management for an extended period of time. Left uncorrected, those issues jeopardized Quest's ability to operate which in turn diminished both its value and the prospect of a sale to a third party. The Receiver was forced to spend considerable effort and expense to resolve these regulatory issues, which included the development and implementation of a maintenance and repair plan.⁵ These efforts were integral to the Receiver's strategy of preserving the value of Quest's assets while also seeking a purchaser for Quest and its assets.

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 the Quest Receivership. The Receiver has been able to grow Quest's revenues since that time and therefore, he believes Quest likely will generate sufficient revenues to cover its expenses. However, as a result of responses in the claims process and other investigations, the Receiver believes that the assets and potential value of Quest is significantly less than the outstanding

⁴ The Quest office is a small free-standing office building. The office has one known encumbrance: a loan with First National Bank with an outstanding principal balance as of October 2015 in the amount of \$46,522.48. Parties interested in purchasing the office should contact the Receiver directly.

⁵ For more information regarding these efforts, please refer to Interim Reports on Quest submitted by the Receiver (Docs. 1054, 1117, and 1145).

tax claims, secured claims, and the balance of its investors' principal investment amounts. The Receiver believes that there is little likelihood that an investor will receive any recovery of significance. Investor claimants should consult with a tax advisor, if they have not done so already, regarding the potential deduction of their investment as a theft loss.

The Receiver also instituted a separate claims process for the Quest Receivership. On June 15, 2016, the Receiver filed a motion to initiate the Quest claims process. 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 Quest Claims Motion in its entirety. The Court established a claim bar date 90-days from the mailing of the proof of claim form to known potential Claimants. Pursuant to the Court's order, any person or entity who failed to submit a proof of claim to the Receiver on or before the claim bar date is 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.

The Receiver received 95 submitted claims, seeking approximately \$15,804,250.21 in the aggregate.⁶ The Receiver has completed his review of these claims and substantially prepared a motion to approve his claims determinations and a proposed objection procedure. The Receiver intends to file this motion in the near future.

On August 15, 2017, the Receiver filed a verified motion for approval of the sale of certain assets of Quest and the disposition of other assets of Quest (Doc. 1302). In pertinent part, the motion sought the Court's approval of the sale of various equipment recovered from a lease previously held by the Receiver in Callahan County, Texas (the "**Hatchett Lease**").⁷ The Court granted this motion on August 17, 2017 (Doc. 1304). The Receiver sold the equipment that was the subject of the motion for \$14,000 and recovered all unsold equipment from the Hatchett Lease. The Receiver is storing and/or using the remaining assets until they are sold or otherwise disposed.⁸

⁶ These amounts do not include claims for unspecified amounts of interest, fees, or penalties which were sought by some Claimants. Further, some Claimants did not specify the claim amount they are seeking. These numbers reflect the amounts to which Claimants claim they are entitled and not how much the Receiver has determined is the appropriate amount of their claims under law and equity.

⁷ For more information regarding the Hatchett Lease, please refer to the Receiver's Twenty-Second Interim Report.

⁸ The Receiver was previously granted authority to sell, donate, or otherwise dispose of personal property having a value of less than \$5,000 without prior approval of this Court (Doc. 97). Pursuant to this order, the Receiver sold 23,000 feet of poly pipe for \$4,600.00, old computers for \$500, and received \$4,464.98 from consigned office furniture and other
(footnote cont'd)

The Receiver is continuing efforts to sell Quest and its assets.

B. Recovery of Other Items.

The Receiver has recovered various other items, including vehicles, jewelry, promissory notes, and stock. Any of these items that 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.

In connection with the recovery of assets from the Moodys discussed below, the Receiver obtained 309,097 privately held shares in Nerium Biotechnology and 123,218 privately held shares of Phoenix Biotechnology. There is not currently a market for these shares and the Receiver cannot endorse the viability or legitimacy of these entities; however,

miscellaneous office items. As of October 31, 2018, the Receiver has received \$5,806.39 from the sales of office items and computers.

the shares may have some value. Parties interested in purchasing these shares, should contact the Receiver directly.

C. 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.⁹

Chris Moody cooperated with the Receiver in connection with the turnover of all of his assets. 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**. The Receiver is continuing to evaluate these assets and will take appropriate actions as he determines are in the best interests of the Receivership.

⁹ For information regarding the enforcement action instituted against the Moodys, please refer to the Fourteenth Interim Report and prior Interim Reports.

D. 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; (3) the recovery of other transfers, such as commissions, from other individuals and/or entities; and (4) the recovery of certain charitable contributions made with scheme proceeds. The Receiver also initiated litigation against Holland & Knight, Wells Fargo Bank, and Anne Nadel. With the exception of matters involving one profiteer, the Receiver has resolved all litigation. For information regarding litigation brought by the Receiver and settlements reached with defendants, please refer to prior Interim Reports.

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

As of December 10, 2018, 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).¹⁰ The Court has approved all of the settlements. As of the date of this Interim Report, the only remaining unresolved litigation originated in *Wiand v. Lee*, Case No. 8:10-cv-0092-EAK-MAP, a “clawback” action against

¹⁰ This includes \$127,114.23 that 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.

Vernon M. Lee, individually and as Trustee of the Vernon M. Lee Trust. On January 24, 2013, the Court entered a judgment in favor of the Receiver and against Lee in the amount of \$935,631.51 (Doc. 170).¹¹ The sum of \$935,631.51, plus post-judgment interest since January 24, 2013, remains due and unpaid.

After conducting discovery in aid of execution, the Receiver filed an impleader action 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 Manon Sommers-Lee (the "**Lee Property**"). On February 2, 2015, Vernon Lee filed a petition for relief under Chapter 7 of the Bankruptcy Code. The Court determined to administratively close the case due to the bankruptcy proceeding on March 20, 2015. 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 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. On June 23, 2017, the bankruptcy court entered an order granting partial summary judgment to the Receiver. The Court found that (1) the Receiver is entitled to an equitable lien and a constructive trust in the amount of \$227,126.78 plus prejudgment

¹¹ On January 28, 2013, Defendant filed a notice of appeal (Doc. 171). On February 8, 2013, the Receiver filed a notice of cross-appeal with respect to the denial of pre-judgment interest (Doc. 181). On June 2, 2014, the Eleventh Circuit enter an order affirming the Judgment in favor of the Receiver and reversing the denial of pre-judgment interest.

interest on the Lee Property, and (2) the Receiver's lien is superior to any claim of the defendants who cannot interfere with the Receiver's foreclosure on the property. On July 20, 2017, after considering supplemental memoranda submitted by the parties on the prejudgment interest issue and arguments of counsel at a July 18, 2017 status conference, the bankruptcy court entered a final judgment that the Receiver's equitable lien and constructive trust should include prejudgment interest in the amount of \$109,764.61, bringing the total equitable lien and constructive trust to \$336,891.39, which will continue to accrue interest at the federal statutory rate.

On July 24, 2017, the defendants filed a notice of appeal of this final judgment. The parties submitted appellate briefs and oral argument was heard on January 17, 2018 before the Honorable Charlene Edwards Honeywell. On July 3, 2018, the United States District Court affirmed the bankruptcy court's final judgment. On July 27, 2018, the defendants filed a notice of appeal of this decision to the United States Court of Appeals for the Eleventh Circuit.

After filing the appeal, the Eleventh Circuit Court of Appeals raised a jurisdictional question to the parties of whether the bankruptcy court order affirmed by the district court was final and appealable since there were three unresolved counts in the adversary proceeding. Both parties filed responses to the jurisdictional question asking the court to retain jurisdiction, but advising the court that a motion for certification under Rule 54(b) would be filed, out of an abundance of caution, to resolve any doubt regarding jurisdiction so that the appeal can move forward. On September 12, 2018, the defendants filed an unopposed motion to the United States District Court to certify the final judgment under

54(b) and issue the express determination that there is no just reason for delay of appellate review. On November 8, 2018, the District Court issued an order staying its consideration of the jurisdictional question until the bankruptcy court considers the issue. On November 29, 2018, the bankruptcy court issued an order granting in part the motion to certify the judgment. The bankruptcy court stated that it will grant the motion if the Eleventh Circuit Court of Appeals remands the case to it. The bankruptcy court reserved further ruling on the motion until the appellate court decides the remand issue.

On September 15, 2017, the Receiver filed a Motion to Enforce Constructive Trust through Turnover of Real Property, or in the Alternative, through Foreclosure of the Receiver's Equitable Lien in this Court (Doc. 1310). The defendants submitted responses *pro se*. On November 1, 2017, the Court entered an order denying without prejudice to seek the same relief in the original underlying federal case brought by the Receiver against Mr. Lee (Doc. 1328). The Receiver will likely wait for a decision on the appeal before proceeding further with this motion.

V. Claims Process.

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).

For more information regarding the claims process and Wells Fargo, please refer to prior Interim Reports.

Beginning April 27, 2012 through December 20, 2016, the Receiver filed motions seeking the approval of six interim distributions in the total amount of approximately \$62 million on a *pro rata* basis (Docs. 825, 945, 1085, 1113, 1212, and 1253). The motions also sought the establishment, increase, and/or release of reserves as appropriate. The Court granted each of these motions (Docs. 839, 946, 1087, 1114, 1213, and 1259). These distributions provided a recovery of approximately 48.18% of the allowed amount of the claims entitled to receive them. All interim distribution checks from these distributions have been negotiated with the exception of one check from the sixth interim distribution in the amount of \$4,569.38.

More recently, on August 31, 2017, the Receiver filed a motion seeking the approval of (1) a seventh interim distribution of \$5,000,000.00 on a *pro rata* basis, representing an additional recovery of 3.81% of the allowed amount of claims receiving a distribution at that time, bringing the total recovery to approximately 51.99% of the allowed amount of these claims (Doc. 1308). On September 15, 2017, the Court granted the Receiver's motion in its entirety (Doc. 1309). All seventh interim distribution checks have been negotiated except two checks totaling \$18,327.99.

VI. Overview of Remaining Assets.

As of December 10, 2018, the total funds in all Receivership accounts are approximately \$638,862.67. As discussed above, the Receiver already has distributed a total of approximately **\$67 million** to Claimants with allowed claims that were entitled to receive

distributions, representing a total recovery of approximately 51.99% 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 attempting to sell the remaining properties and other miscellaneous assets currently held by the Receivership; (2) pursuing pending litigation involving the collection of a judgment and prejudgment interest against a clawback defendant; and (3) continuing to engage in other collection efforts on judgments obtained in connection with litigation.

A. Remaining Properties and Other Assets.

The Receiver is in possession of essentially two properties that remain to be sold. These two properties consist of (1) the Easement and the remaining three lots held in the name of the Guy-Nadel Foundation in North Carolina (*see* Sections IV.A.1 and IV.A.2 above) and (2) the approximately 1.7 undeveloped acres in Bradenton, Florida held by Summer Place (*see* IV.A.4 above).¹² The Receiver is continuing his efforts to sell these properties.

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

¹² This does not include an office building owned by the Quest Receivership, which has a current assigned value of \$106,939 by the local county taxing authority and has an outstanding principal balance with First National Bank in the amount of \$46,522.48 as of October 22, 2015. The loan payoff amount including interest at that time was \$55,068.60.

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. 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 for the Quest Receivership solely for claims against Quest. The Receiver has completed his review of these claims and substantially prepared a motion to approve his claim determinations and a proposed objection procedure. The Receiver intends to file this motion in the near future.

B. Remaining Clawback Litigation.

All clawback cases which were pending in district court and arbitration have been resolved. As discussed above, there is one case remaining, which involves a clawback defendant's appeal of a bankruptcy court's decision in favor of the Receiver regarding the imposition of an equitable lien and a constructive trust in the amount of \$336,891.39 on a residential property. Please refer to Section IV.D.1 for more information regarding this matter.

C. Settlements and Outstanding Judgments.

As noted above, as of December 10, 2018, 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.¹³ The Receiver also 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 believes it is unlikely that he will be able to fully satisfy them. Parties interested in purchasing these judgments should contact the Receiver directly.

The Receiver also obtained a judgment against the Rowe Defendants in the amount of \$4,028,385.00. The Receiver has recovered \$2,892,315.39 on this judgment. The Rowe Defendants represented and warranted that they do not have sufficient non-exempt assets to satisfy the remaining amount under the judgment. After receipt of a payment of \$200,000 from an annuity purchased by the Rows (which is included in the amount above), the Receiver released the Rowe Defendants from the remainder of the judgment.

VII. The Next Ninety Days.

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 market properties for sale and entertain offers for purchase.

¹³ The total amount collected includes \$47,502.26 in interest, which was paid in connection with settlement payments that were paid over time.

The Receiver also will continue Quest's operations to maintain and, if possible, enhance its value. While the Receiver will continue to operate Quest's business and maintain other Receivership properties, he is actively seeking to wind down this Receivership and the Quest Receivership.

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 either to email jrizzo@wiandlaw.com or call Jeffrey Rizzo at 813-347-5100.

Dated this 11th day of December, 2018.

Respectfully submitted,

s/Burton W. Wiand

Burton W. Wiand, Receiver

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on December 11, 2018, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

s/Jared J. Perez

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