

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

Case No. 8:09-cv-87-T-26TBM  
Pending in the Middle District of Florida

ARTHUR NADEI,  
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,

Relief Defendants.

FD 6370  
6/4/10.  
12pm  
*[Signature]*

Received  
JUN 07 2010  
BY: *[Signature]*

TO: SunTrust Banks, Inc.  
c/o Laurie A. Pennington, Registered Agent  
200 S. Orange Avenue  
9th Floor MC: (FL-ORLANDO-1093)  
Orlando, Florida 32801

YOU ARE COMMANDED to appear in the United States District Court, Middle District of Florida, Tampa Division, at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

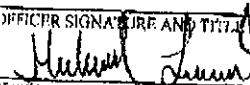
PLACE OF DEPOSITION	DATE AND TIME

YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects): **See Attachment A**

PLACE Wland Guerra King P.L. 3000 Bayport Drive, Suite 600, Tampa, Florida 33607	DATE AND TIME June 15, 2010 9:30 a.m.
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← Subpoena

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, Rule 30(b)(6).

ISSUING OFFICER SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)  Attorney for the Receiver, Burton W. Wind	DATE: June 4, 2010
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER Michael S. Lamont, Esq. Wland Guerra King P.L. 3000 Bayport Drive, Suite 600, Tampa, Florida 33607 (813) 347-5100	

### PROOF OF SERVICE

SERVED	DATE	PLACE
RECEIVED BY (PRINT NAME)	MANNER OF SERVICE	
RECEIVED BY (PRINT NAME)	TITLE	

### DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_  
 \_\_\_\_\_  
 Signature of Server  
 \_\_\_\_\_  
 Address of Server

Federal Rule of Civil Procedure 45(c), (d) and (e), as amended on December 1, 2007

1. **PROTECTING A PERSON SUBJECT TO A SUBPOENA.**
  - a. *Avoiding Undue Burden or Expense; Sanctions.* A party or an attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction which may include lost earnings and reasonable attorney's fees - on a party or attorney who fails to comply.
  - b. *Command to Produce Materials or Permit Inspection.*
    - i. *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.
    - ii. *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises - or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:
      - a. At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.
      - b. Those acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.
  - c. *Quashing or Modifying a Subpoena.*
    - i. *When Required.* On timely motion, the issuing court must quash or modify the subpoena that:
      - (1) fails to allow a reasonable time to comply;
      - (2) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person - except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by meeting from any such place within the state where the trial is held;
      - (3) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
      - (4) subjects a person to undue burden.
    - ii. *When Permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:
      - (1) disclosing a trade secret or other confidential research, development, or commercial information;

- (2) disclosing an unreturned expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (3) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.
- iii. *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:
- (1) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
  - (2) ensures that the subpoenaed person will be reasonably compensated.
2. **DUTIES IN RESPONDING TO A SUBPOENA.**
- a. *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:
- i. *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.
  - ii. *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.
  - iii. *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.
  - iv. *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.
- b. *Claiming Privilege or Protection.*
- i. *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:
    - (1) expressly make the claim; and
    - (2) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.
  - ii. *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.
3. **CONTEMPT.**
- The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

## ATTACHMENT A

### DEFINITIONS

1. The term “**Customers**” refers to any and all of the following entities or individuals, as well as any entity or person associated with any of them, including any parent, subsidiary, predecessor, successor, joint venture, partner, affiliate, or otherwise related entity:

- a. Wall Street Digest, Inc.: Tax Id: 22-2136387;
- b. Wall Street On-Line, Inc.: Tax Id: 59-3624623;
- c. Wall Street Digest Defined Pension Trust: Tax Id: 45-0528421;
- d. Carnegie Asset Management, Inc. (f/k/a Mutual Fund Advisor, Inc.): Tax Id: 65-0143984;
- e. Carnegie Capital Management Inc.: Tax Id: 65-0911493;
- f. Carnegie Marketing Associates, Inc.: Tax Id: 33-0066634;
- g. Sedona Diversified Properties: Tax Id: 86-0462678;
- h. Brighton Venture Partners I, LLC: Tax Id: 13-4090474;
- i. At Risk Carryover: Tax Id: 65-0143984;
- j. Short Credit Fund, L.P.: Tax Id: 20-5244059;
- k. The Carnegie Fund, L.P.: Tax Id: 20-8628152;
- l. Donald H. Rowe, SS# 448-32-2531; and
- m. Joyce A. Rowe, SS# 223-52-6391.

2. The term “**Related Entities**” refers to any entity, trust, or other structure which is or was controlled, in whole or in part, by any of the entities or individuals listing in paragraph 1.

3. The terms “**you**” and “**your**” are used in the broadest and most comprehensive sense and refer to the target of this subpoena; any former or present parent, subsidiary, affiliate, division, or predecessor and any of their directors, officers, employees, agents, brokers, or contractors, or anyone else associated with them; and any person or entity controlled by the target of this subpoena, including the target’s lawyers and accountants.

4. The term “**document**” or “**documents**” means any written, graphic, electronic, or aural representation of any kind whether produced, reproduced or stored on paper, cards, tapes, discs, belts, charts, films, computer storage devices or other electronic device or any other medium including, without limitation, matter in the form of photographs, charts, graphs, plans,

drawings, emails, microfiches, microfilms, videotapes, recordings, motion pictures, books, reports, studies, statements, speeches, notebooks, checks, stubs, forms, applications, tickets, ticket stubs, receipts, agreements, appointment calendars, working papers, graphs, manuals, brochures, contracts, memoranda, notes, records, correspondence, diaries, bookkeeping entries, published materials, invoices, letters, messages, telegrams, drafts, studies, analyses, summaries, magazines, booklets, expense records, appraisals, valuations, estimates, opinions, financial statements, accounting records, income statements, premium notices, forecasts, illustrations and any nonidentical drafts and copies of the foregoing.

5. **"All documents"** means every document, as defined above, known to you and every such document which may be located or discovered by reasonably diligent efforts.

6. **"Correspondence"** means any letter, telegram, telex, notice, message, memorandum, email, or other written communication or transcription or notes of a communication.

7. **"Communication"** means any written or oral transmission of fact, information, or opinion, including any utterance, notation, or statement of any nature whatsoever, including, but not limited to, documents and correspondence as defined herein.

### INSTRUCTIONS

1. You are requested to produce documents that are in your possession, custody, or control as they are kept in the usual course of business (such as hard copies or electronically stored information). In addition, documents are to be produced in full and unexpurgated form.

2. If any documents requested were, but are no longer, in your possession, subject to your control, or in existence, and therefore cannot be produced by you, please state whether any such document (a) is missing or lost; (b) has been destroyed; (c) has been transferred voluntarily or involuntarily to others; or (d) is otherwise disposed of, and, in each instance, please explain

the circumstances surrounding any such disposition of the document and state the date or approximate date thereof.

3. If any portion of any document responsive to this request is withheld by reason of any assertion of privilege, redact and identify such portion and produce the document. As to each document or portion thereof that is withheld, provide the following information: (a) type of document (e.g., letter, memorandum, telegram, chart, photograph, tape cassette, etc.); (b) date of document; (c) name(s) of its author(s) or preparer(s) and an identification by employment and title of each such person; (d) name of each person who was sent, shown, blind copied, or carbon copied the document, or who has had access to or custody of the document, together with an identification of each such person by employment and title; (e) number of pages, attachments, and appendices; (f) present custodian; (g) subject matter of the document; (h) nature of the privilege asserted and a statement of the basis for the claim of privilege; and (i) paragraph(s) of this subpoena to which the document is responsive.

4. In producing documents, all documents which are physically attached to each other when located for production shall be left so attached. Documents which are segregated or separated from other documents, whether by inclusion in binders, files, subfiles, or by use of dividers, tabs, or any other method, shall be left so segregated or separated. Documents shall be retained in the order in which they were maintained, in the file where found, and you shall identify from whose files the document originated. Unless otherwise specified, this request calls for all documents generated, prepared, or received from the beginning of time through the date of production, or which refer to matters occurring through such date.

### **SPECIFIC REQUEST FOR DOCUMENTS**

All documents or tangible things relating to, evidencing, or reflecting any account, fund, asset, loan, credit line, safe deposit box, or any other similar item in which the Customers or their Related Entities had or have an interest or over which Customers or their Related Entities exercised control. Documents responsive to this request include, but are not limited to, the following:

1. tax returns;
2. monthly account statements, from the inception of the account to date, when possible;
3. trade confirmations;
4. processed checks;
5. wire transfer orders or confirmations;
6. deposit receipts;
7. new account forms;
8. customer agreements;
9. margin agreements;
10. commodity agreements;
11. option agreements;
12. discretionary agreements or authorizations;
13. documents showing personal and financial information;
14. correspondence, memoranda, or transcripts reflecting communications;
15. drafts of any of the foregoing; and,
16. evidence of any and all disbursements, redemptions or withdrawals from any account associated with the Customers or their Related Entities, including documentation identifying the individual or entity receiving any disbursement and the amount received.