

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-cv-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.

**RECEIVER'S UNOPPOSED VERIFIED MOTION TO
APPROVE THE SALE OF 1971 CHEROKEE PIPER PA-28-140 AIRCRAFT**

Pursuant to 28 U.S.C. § 754, Fed. R. Civ. P. 66, and Rule 3.01 of the Local Rules of the Middle District of Florida, Burton W. Wiand, as Receiver (the "Receiver"), respectfully moves the Court for entry of an order approving the sale of a 1971 Cherokee

Piper PA-28-140 aircraft (the "Aircraft") in substantially the form of the proposed order attached as Exhibit A.

BACKGROUND

On January 21, 2009, the Securities and Exchange Commission ("Commission") initiated this action to prevent the defendants from further defrauding investors of hedge funds operated by them. That same day, the Court entered an order appointing Burton W. Wiand as Receiver for Defendants Scoop Capital, LLC ("Scoop Capital") and Scoop Management, Inc. ("Scoop Management") and Relief Defendants Scoop Real Estate, L.P.; Valhalla Investment Partners, L.P.; Valhalla Management, Inc.; Victory Fund, Ltd.; Victory IRA Fund, Ltd.; Viking IRA Fund, LLC; Viking Fund, LLC; and Viking Management, LLC (the "Order Appointing Receiver"). (*See generally* Order Appointing Receiver (Doc. 8).) The Court subsequently granted several motions to expand the scope of the receivership to include Tradewind, LLC (Doc. 17) and other entities owned or controlled by Arthur Nadel (*See generally* Docs. 17, 44, 68, 81, 153, 172.). All of the entities in receivership are hereinafter referred to collectively as the "Receivership Entities."

Pursuant to the Order Appointing Receiver, the Receiver has the duty and authority to: "administer and manage the business affairs, funds, assets, choses in action and any other property of the Defendants and Relief Defendants; marshal and safeguard all of the assets of the Defendants and Relief Defendants; and take whatever actions are necessary for the protection of the investors." (Order Appointing Receiver at 1-2.) In particular, the Receiver was directed to:

[t]ake immediate possession of all property, assets and estates of every kind of the [Receivership Entities], whatsoever and wheresoever located belonging to

or in the possession of the [Receivership Entities], including but not limited to all offices maintained by the [Receivership Entities], rights of action, books, papers, data processing records, evidences of debt, bank accounts, savings accounts, certificates of deposit, stocks, bonds, debentures and other securities, mortgages, furniture, fixtures, office supplies and equipment, and all real property of the [Receivership Entities] wherever situated, and to administer such assets as is required in order to comply with the directions contained in this Order, and to hold all other assets pending further order of this Court

(*Id.* at 2.)

THE AIRCRAFT, ITS VALUE, AND RECEIVER'S MARKETING EFFORTS

The Aircraft, which bears serial number 28-7225097, was purchased in 2007 by Nadel through Receivership Entity Tradewind, LLC ("Tradewind"). The Aircraft was leased by Tradewind to the Blue Sky Flight School at the Venice Jet Center. The Receiver took possession of the Aircraft at the time the scope of the Receivership was expanded to include Tradewind. The Aircraft has remained titled in the name of Tradewind and all inspections and maintenance records were up to date through December 2009. The Aircraft currently requires approximately \$4,000 in maintenance services to be airworthy according to FAA standards. The Aircraft is not subject to any liens or encumbrances.

The Receiver obtained an opinion as to the value of the Aircraft through the Airplane Owner's and Pilot's Association's (the "AOPA") aircraft value reference service. AOPA listed the value for this Aircraft at \$23,475.49 as of December 1, 2009. Taking all factors into consideration, the Receiver believed the Aircraft's estimated value was \$23,500. The Aircraft was listed for sale on various local aviation industry bulletin boards for \$30,000 and also on the Receivership website, www.nadelreceivership.com.

Between January 2009 and May 2010 the Receiver's marketing efforts resulted in numerous offers, the highest of which was for \$23,000 made on March 1, 2010. Then, on June 2, 2010 the Receiver was offered \$27,500 for the Aircraft. Taking all factors into consideration, including the Aircraft's current maintenance needs and the current state of the airplane market, the Receiver believes that accepting the offer of \$27,500 is in the best interest of the Receivership. The Receiver believes that the offer of \$27,500 fairly represents the current value of the Aircraft. Accordingly, the Receiver has entered into an agreement to sell the Aircraft for \$27,500 contingent upon this Court's approval.

Furthermore, the buyer is in a position to proceed with the purchase of the Aircraft upon this Court's approval. The buyer has agreed to purchase the Aircraft pursuant to the following terms:

- \$2,750.00 payment by buyer due immediately upon approval of the sale by the Court;
- \$5,000.00 payment by buyer due the 14th of each month starting in July, 2010 for five months;
- The Receiver shall maintain a first priority security interest in the Aircraft and the appropriate paperwork shall be filed with the FAA to memorialize the Receiver's security interest; and
- Pending completion of the sale, the buyer agrees to maintain hull insurance on the Aircraft in an amount no less than \$30,000.00 and liability insurance in an amount no less than \$1,000,000.00. The buyer will designate the Receiver as an additional insured on the insurance.

The Receiver believes selling the Aircraft in accordance with the terms set forth in this motion is in the best interests of the Receivership, and accordingly, the Receiver respectfully requests that this Court enter an order approving the transaction.

MEMORANDUM OF LAW

The Court's power to supervise an equity receivership and to determine the appropriate actions to be taken in the administration of the receivership is extremely broad. *SEC v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992); *SEC v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986). The Court's wide discretion derives from the inherent powers of an equity court to fashion relief. *Elliott*, 953 F.2d at 1566; *SEC v. Safety Finance Service, Inc.*, 674 F.2d 368, 372 (5th Cir. 1982). The relief sought by the Receiver falls squarely within those powers. The Receiver believes the sale of the Aircraft as outlined in this motion is in the best interests of the Receivership. The relief sought is in furtherance of the duties and authorities bestowed upon the Receiver by the Order Appointing Receiver.

WHEREFORE, Burton W. Wiand, as Receiver, respectfully requests this Court to enter an Order approving the sale of the Aircraft in substantially the form of the proposed Order attached as Exhibit A.

CERTIFICATE UNDER LOCAL RULE 3.01(g)

Undersigned counsel has conferred with counsel for the SEC and is authorized to represent to the Court that this motion is unopposed.

VERIFICATION OF RECEIVER

I, Burton W. Wiand, Court-Appointed Receiver in the above-styled matter hereby certify that the information contained in this Motion is true and correct to the best of my knowledge and belief.



Burton W. Wiand, Court-Appointed Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on July 9, 2010, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system. I further certify that I mailed the foregoing document and the notice of electronic filing by first-class mail to the following non-CM/ECF participants.

Arthur G. Nadel
Register No. 50690-018
MCC New York
Metropolitan Correctional Center
150 Park Row
New York, NY 10007

s/Gianluca Morello

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Relief Defendants. /

ORDER

Before the Court is the Receiver's Unopposed Verified Motion to Approve Sale of 1971 Cherokee Piper PA-28-140 Aircraft (the "Motion") (Dkt. ____). Upon due consideration of the Receiver's powers as set forth in the Order Appointing Receiver (Dkt. 8) and the Orders Reappointing Receiver (Dkt. 140 and Dkt. 316), it is **ORDERED AND ADJUDGED** that the Receiver's Unopposed Verified Motion to Approve the Sale of 1971 Cherokee Piper PA-28-140 Aircraft (Dkt. ____) is **GRANTED**. The Receiver is hereby

authorized to sell the 1971 Cherokee Piper PA-28-140 aircraft bearing serial number 28-7225097 according to the terms and the manner set forth in the Motion.

DONE and ORDERED in chambers in Tampa, Florida this ____ day of _____, 2010.

RICHARD A. LAZZARA
UNITED STATES DISTRICT JUDGE

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Counsel of Record