

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 RENEWED UNOPPOSED MOTION TO APPROVE
THE SALE OF REAL PROPERTY LOCATED IN
NEWNAN, COWETA COUNTY, GEORGIA

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 order approving the sale of Receivership property

located at 5 McCollum Station in Newnan, Coweta County, Georgia, pursuant to the following revised terms.

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.)

In accordance with that Order, the Receiver took possession of real property located at 5 McCollum Station, Newnan, Georgia, on Land Lots 22 and 23 of the 6th Land District of Coweta County, Georgia (the “Property”).

The Property and New Sale Agreement

The Receiver previously submitted a motion requesting the Court’s approval to sell the Property (Dkt. 299) for \$1,725,000 to Candler Food LLC #136 (the “Buyer”) in accordance with the terms of the Agreement of Sale and Purchase between Burton W. Wiand and Candler Food LLC #136 (the “Agreement”) (See Exhibit 1 to Dkt. 299) and a supporting Declaration (Dkt. 300). The Court granted the motion on January 12, 2010 (Dkt. 302). The Receiver incorporates herein by reference the aforementioned Motion, Declaration and Order (Dkts. 299, 300 and 302) related to the sale of the Property.

The Property was not conveyed to the Buyer following entry of the Court’s January 12, 2010 Order (Dkt. 302) because the Buyer was unable to secure financing. The Receiver provided the Buyer additional time to obtain financing in an effort to try to close the transaction in the weeks that followed entry of the Order, and the Buyer provided an additional \$35,000 in escrow funds at the Receiver’s request. After several weeks, it became

clear to the Receiver that the Buyer would not be able to close the transaction. Thus, in accordance with the terms of the Agreement between the Receiver and Buyer, the Receiver took possession of \$135,000 being held in escrow following the Buyer's failure to perform under the terms of the Agreement.

The Buyer has since re-approached the Receiver with evidence of its ability to close the transaction and has, among other things, requested a new court order memorializing the sale of the Property for underwriting purposes. The terms of the Agreement have only been slightly modified to the following:

- A purchase price of \$1,725,000.00;
- Credit to the Buyer of \$135,000.00 for the escrow deposits previously paid by the Buyer;
- A payment of \$25,000.00 by the Buyer to the Receiver for legal fees and costs associated with the Buyer's failure to close the original transaction; and,
- The delivery of a deed by the Receiver to the Buyer.

Under the modified terms, the Receivership Estate will receive \$1,615,000 from the sale of the Property to the Buyer. The Receiver believes that the modified terms of the Agreement with the Buyer are in the best interests of the Receivership, and accordingly, the Receiver respectfully requests that the Court enter an order approving the transaction reflected in the Agreement and this motion. The Receiver intends to transfer title to the Property via a Receiver's Deed in a form similar to the one attached hereto as Exhibit "A". At the Buyer's request, the deed will convey the Property to Sydney Food LLC 138 instead of the Buyer as Buyer has indicated that it is assigning its rights and interests to Sydney Food LLC 138.

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. Furthermore, the relief sought is in furtherance of the duties and authorities bestowed upon the Receiver by the Order Appointing Receiver.

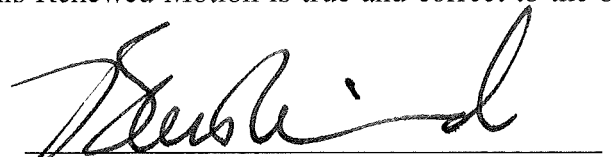
WHEREFORE, the Receiver respectfully requests this Court enter an Order, in substantially the form attached hereto as Exhibit B, granting this Renewed Motion for approval of the sale of the Property.

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 Renewed 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 August 3, 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.

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