

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA**

**Case No. 8:09-cv-87-T-26TBM**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

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,

Relief Defendants.

\_\_\_\_\_ /

**NON-PARTY IBERIABANK'S OBJECTION AND MOTION FOR  
PROTECTIVE ORDER AS TO SUBPOENA DUCES TECUM,  
AND SUPPORTING MEMORANDUM OF LAW**

Pursuant to Fed. R. Civ. P. 45(c)(2)(B) and 26(c), Non-Party IBERIABANK files this Objection and Motion for Protective Order as to the Subpoena Duces Tecum, and states as follows:

1. On July 28, 2010, the Receiver, Burton W. Wiand, served a Subpoena Duces Tecum on IBERIABANK.
2. The Subpoena requests materials which pertain to the account of IBERIABANK'S customer, Marguerite J. Nadel.

3. Upon information and belief, the movant has not obtained the consent of IBERIABANK's customer, Ms. Nadel, and absent the same, IBERIABANK may not, pursuant to Florida law, produce such documents.

4. Undersigned counsel certifies that prior to filing this pleading, she has made a good faith effort to resolve the issues presented herein, but has been unable to do so.

### **MEMORANDUM OF LAW**

Pursuant to the bank-customer privilege and confidentiality requirements under Florida law, IBERIABANK may not disclose to third persons any information concerning a customer's account unless authorized to do so by the customer. *Winfield v. Div. of Pari-Mutual Wagering*, 477 So. 2d 544, 547 (Fla. 1985) (recognizing individual's legitimate expectation of privacy in financial institution records); *New Hampshire Indem. Co., Inc. v. Reid*, 2007 WL 2972618, at \*6 (M.D. Fla. 2007) (finding improper subpoenaing of non-party for financial records, noting that "Florida Statute § 655.059(2)(b) requires financial institutions to maintain the confidentiality of the accounts and loans of any of its members, depositors, borrowers, or stockholders"); see *also* 15 U.S.C. § 6801(a) ("[E]ach financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customers' nonpublic personal information.").

IBERIABANK has not received authorization from the customer referred to in the Subpoena and therefore is not permitted to produce the requested documents pursuant to Florida law.

WHEREFORE, IBERIABANK respectfully requests that this Court sustain its objection to the Subpoena Duces Tecum and issue a protective order.

Respectfully submitted,

SQUIRE, SANDERS & DEMPSEY L.L.P.  
1900 Phillips Point West  
777 South Flagler Drive  
West Palm Beach, FL 33401-6198  
Telephone: +1.561.650.7200  
Facsimile: +1.561.655.1509

By: s/ Traci H. Rollins

Traci H. Rollins  
Florida Bar No. 769071  
trollins@ssd.com

Attorneys for IBERIABANK

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served via EC/CMF on this 18th day of August, 2010 on:

Michael S. Lamont, Esq.  
Wiand Guerra King P.L.  
3000 Bayport Drive, Suite 600  
Tampa, Florida 33607

/s/Traci H Rollins

Traci H. Rollins

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