

**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 MOTION FOR LEAVE TO AGREE
TO RESTRUCTURING TRANSACTIONS WITH BONDS.COM**

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 granting the Receiver leave to enter into an

agreement which will amend and restructure the terms of the Receivership's interest in Bonds.com Group, Inc. (the "Company" or "Bonds.com").

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 other entities owned or controlled by Arthur Nadel (*see generally* Docs. 17, 44, 68, 81, 153, 172.). All of the entities and the trust 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 Receiver's investigation discovered that proceeds of the Ponzi scheme underlying this case were used by several individuals and entities to purchase equity and debt interests in Bonds.com. Bonds.com is a registered securities broker/dealer established in 2007. Bonds.com developed and operates an online trading platform for the sale of fragmented lots of fixed-income securities. Through the course of the receivership, the Receiver has obtained control of these interests and related rights, including promissory notes, shares of stock, and warrants for additional shares. The Receivership is one of the largest shareholders and creditors of Bonds.com. The Receivership currently holds or has an interest in approximately 7.2 million shares of the Company's common stock.

Senior management from the Company has met with the Receiver to explain its current financial condition, and asked the Receiver to consent to the restructuring of the Company's debt obligations to the Receivership (as well as those obligations held by other stakeholders and creditors), in order to allow the Company an opportunity to raise much-needed working capital to continue its business operations. The success of the Company would be of significant benefit to the Receivership Estate.

In connection with the Company's capital-raising efforts, the Company has identified several potential strategic investors (the "Investors"). However, to obtain that capital infusion and to otherwise improve its financial condition, the Company needs, among other things, the consent of the Receiver (and other noteholders) to an extension of certain obligations. Specifically, the extension will cover the following promissory notes: (1) Secured Convertible Promissory Note in the original principal amount of \$250,000 payable to the Neil Moody Revocable Trust, (2) Secured Convertible Promissory Note in the original principal amount of \$1,236,836 payable to the Christopher D. Moody Revocable Trust, (3) Secured Convertible Promissory Note in the original principal amount of \$50,000 payable to the Christopher D. Moody Revocable Trust, (4) Secured Convertible Promissory Note in the original principal amount of \$203,800 payable to Valhalla Investment Partners, and (5) the Second Amended and Restated Grid Secured Promissory Note, dated November 9, 2009, originally issued by the Company to Valhalla Investment Partners, L.P. (the "Grid Note"), with a \$100,000 principal amount outstanding under the Grid Note. The Convertible Notes and the Grid Note are collectively referred to herein as the Notes.

The terms of the prospective Investors' financing, among other things, require the Company to obtain a three-year extension on certain outstanding debt obligations, including the Notes held by the Receiver and similar notes held by other parties, but grant the Receiver the right to demand payment starting on April 22, 2012, with the then-outstanding principal and accrued interest payable in full within 90 days from the date of demand. Further, they require modification of the current "full ratchet" formula that is applicable to the Receiver's equity interest to the same anti-dilution protections afforded to the Investors. In exchange,

the Company proposed using commercially reasonable best efforts to provide the Receiver with a first priority security interest in the Company's "Bonds.com" internet domain name (the "Domain Name"). To date, approximately 67% of noteholders other than the Receiver have agreed to subordinate their security interests in the Domain Name to those of the Receiver. Further, the Company has granted the Receiver (and other noteholders) the right to receive additional share of the Company's common stock if the Company does not meet certain performance thresholds.

The Receiver requests that this Court grant the Receiver leave to agree to the above transactions (the "Transactions") on behalf of the Receivership Estate. While the Transactions will materially amend the rights of the Receivership's interests in the Company, the Receiver believes that this is in the best interests of the Receivership for several reasons. First, if the Company does not receive additional funding, the Company's chances of success will be significantly diminished. Should the Company cease operations, a significant portion of Receivership holdings will essentially be valueless. Second, the Company has proposed using commercially reasonable best efforts to provide the Receiver with a first priority security interest in the Domain Name. The Receiver believes the Domain Name has significant value, and securing the debt investment of the Receivership with the Domain Name adds some security to that portion of the Receivership's interest in the Company. Finally, should the Company successfully develop its business, there is a strong possibility that the Receivership's equity holdings in the Company will acquire significant value for the benefit of the Receivership Estate. While the proposed changes pertaining to the Receiver's investment and other interests in the Company are material, the potential consequence of not

agreeing to them is the Company's failure to secure a capital infusion and the Company's inability to continue operating.

In light of the Company's poor prospects without a capital infusion and the potential beneficial impact to the Receivership if the Company is successful, the Receiver believes it is in the best interest of the Receivership to agree to the Transactions pursuant to the terms discussed above, and accordingly, the Receiver respectfully requests that this Court enter an order granting the Receiver leave to agree to the Transactions.

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 that restructuring of the Bonds.com transactions 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, the Receiver respectfully requests this Court to enter an Order granting this motion and granting the Receiver leave to agree to the Transactions as set forth above.

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.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 18, 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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