

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

Case No. 8:09-cv-0087-T-26TBM

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, LLC,

Relief Defendants.

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**RECEIVER'S MOTION FOR LEAVE TO PAY MEDIATOR
FEES DIRECTLY FROM RECEIVERSHIP ESTATE**

Pursuant to Rule 66 of the Federal Rules of Civil Procedure and Rule 3.01 of the Local Rules of the Middle District of Florida, Burton W. Wiand, as Receiver (the “Receiver”), moves for leave to pay mediator fees incurred as a result of Court-ordered mediations directly from funds in the Receivership Estate.

The Receiver currently has approximately ninety-two “clawback” lawsuits pending against: investors who received fraudulent transfers from Receivership Entities that

exceeded the amounts those investors invested, charitable organizations that received contributions of Ponzi scheme proceeds, and others who were insiders and/or who received “commissions”. In the aggregate, the Receiver’s clawback suits seek to recover approximately \$40 million for the Receivership Estate.

In a series of Rule 16 conferences for approximately seventy-six of the clawback suits, the Honorable Mark A. Pizzo ordered the Receiver and each of the clawback suit defendants to participate in mediation before proceeding with the lawsuits (the “clawback mediations”). Since those Rule 16 conferences, the Receiver and his counsel have worked diligently to schedule and conduct clawback mediations in accordance with Magistrate Judge Pizzo’s orders. To date mediations have taken place with more than eighteen of the clawback suit defendants, and mediations with approximately another sixteen are already scheduled to take place. The Receiver and his counsel are in the process of scheduling mediations with the remaining approximately forty clawback suit defendants who have been ordered to mediate.

For each clawback mediation in which the Receiver has participated and will participate, he has incurred or will incur fees to employ the services of a mediator, which fees have been or will be shared with the clawback suit defendants. Those fees are based on discounted rates that the Receiver negotiated with five different mediators. In some instances the Receiver was able to negotiate a fixed fee arrangement which provided further discounts by consolidating the mediator’s travel and preparation costs for multiple concurrent mediations. Due to the varying rates of each mediator, and the varying time required for each mediation, providing a precise estimate of the total mediator fees that will be incurred is

not possible. However, based upon those mediations that have already taken place, the Receiver estimates that he will incur mediator fees of between \$1,000 and \$2,000 for each clawback mediation. Consequently, to mediate all seventy-six cases that have been ordered to mediation, the Receiver expects to incur substantial mediator fees, although the Receiver expects those mediation fees to generate savings in litigation costs for the Receivership as already demonstrated by the settlements achieved to date as a result of mediations. Pursuant to Paragraph 4 of the Order Reappointing Receiver (Doc. 493)¹ the Receiver seeks leave to pay the mediator fees for the Court-ordered mediations directly from the funds of the Receivership Estate. The mediations to date have been fruitful, and the Receiver is hopeful that the number of pending clawback suits will be significantly reduced through mediation.

WHEREFORE, the Receiver respectfully requests that the Court grant him leave to pay the mediator fees for the clawback mediations already conducted, and for those yet to be conducted, directly from funds in the Receivership Estate.

LOCAL RULE 3.01(g) CERTIFICATION

Counsel for the Receiver has conferred with counsel for the SEC and is authorized to represent to the Court that the SEC does not object to the relief requested in this motion.

¹ In relevant part, that paragraph authorizes the Receiver to pay all reasonable expenses associated with “exercising the power granted by” the Order Reappointing Receiver subject to the Court’s approval.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 13, 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 participant:

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s/Gianluca Morello

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