

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 REAL PROPERTY LOCATED AT
2433 WEST MAIN STREET, TUPELO, LEE COUNTY, MISSISSIPPI 38801**

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 in substantially the form attached as

Exhibit 1, approving the sale of Receivership property located at 2433 West Main Street, Tupelo, Lee County, Mississippi 38801.

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 (“Nadel”). (*See generally* Docs. 17, 44, 68, 81, 153, 172, 454.) All of the entities and the trust in receivership are hereinafter collectively referred to 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 2433 West Main Street, Tupelo, Lee County, Mississippi 38801 (the “Property”).

THE PROPERTY

The Property was purchased by Receivership Entity Scoop Real Estate, L.P. on February 3, 2005 for \$941,000.00 with proceeds from Nadel’s Ponzi scheme. The Property consists of approximately .65 acres and includes a building currently occupied and leased by a Starbucks coffee store, a business owned by Starbucks Corporation. The building contains approximately 1,650 square feet of floor area and there is also a parking lot on the Property. The Property is not subject to any liens or encumbrances.

The Lee County Mississippi Tax Collector’s office assessed the Property at a value of \$360,070.00 in 2009. The Receiver also obtained informal opinions as to the fair market value of the Property from various potential brokers. These brokers estimated the fair market value of the Property to be between \$550,000.00 and \$700,000.00.

RECEIVER’S MARKETING EFFORTS

The Receiver initially marketed the Property to potential purchasers through his website, www.nadelreceivership.com, in a specific “Assets for Sale” section, but there was

little interest in the Property. Then, in September 2009, the Receiver engaged the services of John A. Skicewicz of Coldwell Banker Commercial NRT and the property was listed for \$925,000.00. After several months the price was reduced to \$800,000.00 in an effort to generate more interest. In July 2010 the Receiver was offered \$675,000.00 and eventually entered into a contract with the prospective purchaser for \$750,000.00. However, for various reasons the prospective purchaser was unable to finalize the transaction.

The list price was again reduced in November 2010 to \$725,000.00. The Receiver was presented with three offers between \$700,000.00 and \$720,000.00 in November 2010. A prospective buyer that offered \$720,000.00 withdrew the offer because he did not like the location of the Property. A prospective buyer that offered \$700,000.00 was unable to obtain financing. Then, on November 30, 2010, the Receiver was presented with an all-cash offer from David A. Topper (“Purchaser”)¹ for \$710,000.00. On January 12, 2011, Purchaser and the Receiver entered into an Agreement for Sale and Purchase of Real Property (the “Agreement”) for the purchase price of \$715,000.00, contingent on this Court’s approval. *See* Exhibit 2. The Receiver believes that the offer by Purchaser fairly represents the current value of the Property. Furthermore, Purchaser is in position to complete the sale and purchase of the Property contingent upon this Court’s approval. As part of the Agreement, Purchaser has deposited \$25,000.00 of earnest money into an escrow account, which amount is to be credited towards the purchase price at closing should the Court approve the sale. Purchaser has agreed to pay the balance of the purchase price in full at closing, which is

¹ Following the execution of the Agreement for Sale and Purchase of Real Property, the Receiver was informed that David A. Topper would be assigning his right to purchase under the contract of sale to Elvis Realty LLC. Accordingly, “Purchaser” as used herein includes Elvis Realty LLC.

scheduled to take place on or before February 28, 2011, contingent upon this Court's approval.

The Receivership Estate will net approximately \$650,000.00 in connection with the sale of the Property, after the payment of commissions and other expenses associated with the sale of the Property. The Receiver believes that the Agreement with Purchaser is in the best interests of the Receivership, and accordingly, the Receiver respectfully requests that this Court enter an order in substantially the form attached as Exhibit 1, approving the sale of the Property located at 2433 West Main Street, Tupelo, Lee County, Mississippi 38801.

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.

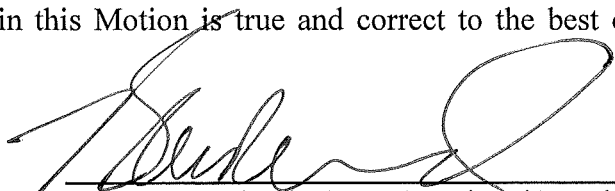
WHEREFORE, the Receiver moves the Court for entry of an order in substantially the form of the proposed Order attached as Exhibit 1 approving the sale of the Property to Purchaser in accordance with the terms set forth in the Agreement attached hereto as Exhibit 2 and authorizing the Receiver to transfer title to the Property to the Purchaser via Receiver's Deed free and clear of all liens and encumbrances.

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 February 18, 2011, 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 Nadel, Register No. 50690-018
FCI BUTNER LOW
Federal Correctional Institution
P.O. Box 999
Butner, NC 27509

s/Gianluca Morello

Gianluca Morello, FBN 034997
gmorello@wiandlaw.com
WIAND GUERRA KING P.L.
3000 Bayport Drive
Suite 600
Tampa, FL 33607
Tel: 813-347-5100
Fax: 813-347-5199
Attorney for the Receiver, Burton W. Wiand