

**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 SALE OF JEWELRY BY PUBLIC AUCTION**

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, allowing the Receiver to sell the Receivership Estate's jewelry by public auction.

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.)

THE JEWELRY AND THE RECEIVER'S MARKETING EFFORTS

The Receiver filed a Motion to Enjoin State Court Proceedings and for Possession of Jewelry (Doc. 177) and on September 3, 2009 the Court granted the Motion (Doc. 190). Subsequently, possession of the jewelry that was the subject of the motion was transferred to the Receiver (“Queen’s Wreath Jewelry”). The Queen’s Wreath Jewelry was evaluated by several local jewelers at the request of the Receiver. The Receiver was presented several offers to purchase all of the Queen’s Wreath Jewelry for between \$150,000.00 and \$191,500.00. The Receiver declined the offers as he did not believe that they fairly represented the fair market value of the Queen’s Wreath Jewelry.

The Receiver also took possession of certain jewelry from Marguerite “Peg” Nadel, the spouse of Nadel, which was purchased with funds derived from Nadel’s Ponzi scheme (“Nadel Jewelry”).¹ The Nadel Jewelry was purchased for an approximate retail value of over \$10,000.00 according to Nadel’s records.

The Receiver also took possession of certain jewelry as a result of his settlement in the action to recover Ponzi scheme proceeds transferred to Sharon Moody in connection with her investments in the Receivership Entities (Docs. 516 & 517) (“Moody Jewelry”). The

¹ Mrs. Nadel voluntarily gave the Nadel Jewelry to the Receiver after being presented with documentation seized by the FBI from Nadel’s Sarasota, Florida home which verified the purchases.

Moody Jewelry was purchased for an approximate retail value of \$300,000.00 according to her representations to the Receiver.

Unless otherwise indicated in this Motion, all of the Receivership Estate's jewelry will be hereinafter referred to as "Jewelry". The Jewelry is more fully described in Exhibit 2.

The Receiver marketed the Queen's Wreath Jewelry to potential purchasers through his website, www.nadelreceivership.com, in a specific "Assets for Sale" section. The Nadel Jewelry and Moody Jewelry have also been marketed through the Receiver's website. The Receiver also sought the expertise of various national jewelry consigners, auctioneers and gemologists, such as Sotheby's Diamonds and Christie's, in an effort to determine a viable means of marketing and disposing of the Jewelry. In most instances, these national consigners and auctioneers requested that the Receiver ship the Jewelry out of state for evaluation, which the Receiver was unwilling to do, or after reviewing photographs and information were not interested in assisting the Receiver.

The Receiver began communicating with representatives of Leslie Hindman Auctioneers, Inc. ("LHA") in November 2010. LHA is a full service auction house and industry leader with over thirty years of expertise and experience. LHA is internationally known as a key player in the global auction market and conducts up to forty sales a year specializing in Fine Furniture and Decorative Arts; Fine Art; Fine Books and Manuscripts; Fine Jewelry and Timepieces; and Vintage Couture and Accessories. See www.lesliehindman.com. Alexander Eblen, G.G., Director of LHA's Fine Jewelry and Timepiece Department, met with the Receiver at his office in Tampa and on January 10, 2011, evaluated the Jewelry and discussed the potential for selling the Jewelry on a straight

consignment basis, through a private sale or through public auctions. LHA subsequently presented the Receiver with estimate ranges for each piece of jewelry and determined that the Jewelry could sell at public auction for an overall price of between approximately \$300,000.00 and \$550,000.00.²

After careful consideration, the Receiver has determined that selling the Jewelry at public auction is in the best interest of the Receivership Estate as he believes it provides the best opportunity to market the Jewelry to the widest audience and maximize its value. On February 15, 2011, the Receiver entered into a Consignment Agreement with LHA under which LHA would sell the Jewelry at public auction (the "Agreement"). See Exhibit 3. The Agreement states that LHA shall retain a flat 8% commission from the proceeds of the sale and it sets forth the fees and expenses associated with the consignment and public auction of the Jewelry. The Jewelry will be featured in LHA's next public auction which is scheduled for April 10, 2011. Should any items not sell in April 2011, the Receiver intends to include the items in LHA's public auctions scheduled for September and December of 2011.

The Receivership Estate will net approximately \$275,000.00 if all of the Jewelry is sold at the very low end of LHA's estimates, after the payment of LHA commission and other expenses set forth in the Agreement. The Receiver believes that proceeding with the sale of the Jewelry at public auction through LHA is in the best interests of the Receivership, and accordingly, the Receiver respectfully requests that this Court enter an order in

² The estimated auction values and reserve prices (i.e. the minimum amount that will be accepted) have not been included in this Motion to maintain the potential for the best possible sale price and to prevent potential purchasers from gaining any unfair advantage. However, the Receiver can provide that information to the Court in camera if the Court wishes to review it.

substantially the form attached as Exhibit 1, approving the sale of the Jewelry by public auction.

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 Jewelry more specifically described in Exhibit 2 by public auction and in accordance with the terms set forth in the Agreement attached hereto as Exhibit 3.

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 March 10, 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

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