

## LESLIE HINDMAN AUCTIONEERS

## CONSIGNMENT AGREEMENT

**Burton W. Wiand, as Receiver**  
**Securities and Exchange Commission versus Nadel, et. al.**  
**3000 Bayport Drive, Suite 600**  
**Tampa, FL 33607**  
**PH: 813-347-5100 / FX: 813-347-5173**

The undersigned Consignor hereby agrees with Leslie Hindman Auctioneers, Inc. ("LHA") that the property as listed on the Receipt belonging to Consignor (the "Property") will be sold at public auction by us as your agent, in addition to any subsequent consignments with (LHA), in accordance with our Conditions of Sale printed in our catalogues and with the terms set forth below. As used herein, "we," "us" and "ours" mean Leslie Hindman Auctioneers, Inc. or any company affiliated with LHA offering the Property for sale under this Agreement, and "you" and "your" means the individual, corporation or other entity listed above as Consignor. This Agreement shall remain in effect for a period of one year from the date of execution.

1. **Date of Sale.** The Property will be offered for sale at auction. Dates of sale and the division of the Property into lots shall be determined by us and are subject to change without notice in our sole discretion. We may withdraw any Property before sale if we deem it unsuitable for sale for any reason whatsoever or if we believe that you have breached the terms of this Agreement.
2. **Commissions, Buy-in-Fee and Buyer's Premiums.** Commission is charged on a per lot basis based on a percentage of the final hammer price. The hammer price is the amount of the winning bid, per lot or item, prior to any additional fee or buyer's premium which may be charged by LHA. You agree that we shall be paid and shall be authorized to retain a flat 8% commission from the proceeds of the sale.

We agree to waive our standard buy-in fee with respect to any lot which fails to sell.

In addition to the commission or fees above for the Consignor, LHA is authorized to charge the purchaser of the Property or any lot a buyer's premium based upon the hammer price not to exceed: twenty-two percent (22%) of the first \$200,000.00, plus twenty percent (20%) of the portion of the hammer price from \$200,001.00 and \$500,000.00; plus twelve percent (12%) of the portion of the hammer price over \$500,000.00. For lots sold online, LHA is authorized to charge the purchaser of the Property or any lot a buyer's premium based upon the hammer price not to exceed: twenty five percent (25%) of the first \$200,000.00, plus twenty-three percent (23%) of the portion of the hammer price from \$200,001.00 and \$500,000.00; plus fifteen percent (15%) of the portion of the hammer price over \$500,000.00.

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Chicago, Illinois 60607

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The commission, buyer's premium and any buy-in fee generated by any sale or auction of the Property or lot shall at all times be the sole property of LHA. You consent and LHA reserves the right to pay a fee derived from any commission, buyer's premium or buy-in fee to any person or entity which introduces property or clients to LHA or which otherwise assists LHA, without further notice or consent of Consignor.

3. **Packing and Shipping Charges.** You agree to pay all packing and shipping charges to our premises. In the event the Property does not sell, you agree to pay all packing and shipping from our premises. Should LHA advance sums to a third party for packing and shipping, these charges may be deducted from the proceeds of the sale or invoiced separately. LHA charges a ten percent (10%) service fee for all sums advanced to third parties for Any service fee charged by LHA for packing and shipping charges shall not to exceed \$150.00.
4. **Illustration Charges.** We agree to waive our standard catalogue illustration charge of \$80.00 per photograph. All property will be photographed and illustrated for online catalogues; however, we agree to waive our standard online illustration charge of \$10.00 per lot.
5. **Other Charges.** Charges for services related to this agreement which you have approved either verbally or in writing will be deducted from the proceeds of the sale or billed to you. Some of our typical services include, but are not limited to, framing, restoration, and independent appraisals including gemological tests or certificates of authenticity. A \$30-50 handling fee will be charged for each unframed item in a lot, depending on the size. A service charge of ten percent (10%) of the cost will apply to any service authorized by you.
6. **Insurance.** We agree to waive our standard insurance costs of one and a half percent (1.5%) of the hammer price. Neither LHA nor any insurer shall be liable for damage to glass or frame(s). In addition, we are not responsible for damage resulting from preexisting conditions, defects, humidity, temperature changes or normal wear and tear.

LHA is not responsible for insurance coverage until arrival of Property at our location(s) or with one of our agents unless otherwise agreed upon prior to shipment.

If LHA has agreed prior to loss to insure Property, Consignor agrees that Property will be packed and unpacked by packers who are trained and skilled in utilizing procedures and materials necessary to protect the covered property.

Subject to the aforementioned conditions, in the event of loss or damage to your Property, we will pay you as follows:

- a. If the Property has not been offered for sale, settlement shall be based on our most recent median estimate.
- b. If the Property is sold, settlement shall be based on the hammer price less commission.
- c. If the Property is "bought-in" (i.e. the Property did not sell because the bidding failed to meet the reserve or for any other reason), settlement shall be based on the reserve price less commission. If no reserve price has been determined, settlement shall be based on the low estimate less commission.

LHA's liability to you resulting from loss or damage to any Property shall not exceed the above mentioned insurance coverage of such Property.

7. **Possession and Authenticity of Property and Authority to Consign and Sell.** Consignor is a Receiver appointed by the United States District Court, Middle District of Florida in the matter of *SECURITIES AND EXCHANGE COMMISSION V. ARTHUR NADEL, ET AL.*, CASE NO: 8:09-CV-87-T-26TBMIN ("Receivership") and possession of some of the Property to be consigned was given to the Consignor pursuant to a Court Order entered on September 9, 2009. The remaining Property to be consigned was voluntarily given to the Consigner in connection with his efforts to marshal assets in the Receivership. Consigner is unable to make any representations, express or implied, of any type, kind, character or nature, including but not limited to the suitability of the Property. Consignor is unaware of any encumbrances on the Property. Consignor is authorized to dispose of the Property pursuant to the Orders entered in the Receivership subjected to the approval by the United States District Court, Middle District of Florida. Consignor shall obtain approval from the United States District Court, Middle District of Florida to sell the Property pursuant to the terms outlined in this agreement in advance of the Date of Sale. Consignor agrees to assume all of the obligations in this agreement. Consignor agrees to supply any additional information or documents which we may require concerning the Property or the Receivership to the extent available.
8. **Estimates and Catalogue Descriptions.** The estimates and catalogue descriptions set forth on your receipt or in our catalogues are statements of opinion only. Such opinions are not to be deemed a representation or warranty by us in any way of the genuineness, authorship, attribution, provenance, period, culture, source, origin, condition or authenticity of the Property, or a representation or warranty as to what price the Property will actually bring at auction.
9. **Reserves.** A reserve price (the price below which the Property will not be sold) may be set on any Property with a low estimate of \$500 or above. The reserve price is confidential and shall not exceed the low estimate established by us. Reserves do not include premiums or taxes. You shall not, directly or indirectly, bid on the Property and it is understood that any bids to protect the reserve will be made by us as your agent. Furthermore, we may sell any Property below the reserve provided that we pay you on the settlement date the amount you would have been entitled to receive had the Property sold for the reserve price less all applicable commissions and charges. Until its reconsignment or removal from our premises, we reserve the right to sell unsold Property at or above the reserve price. Proceeds from such a sale are subject to all commissions and charges as if the Property had sold at auction.
10. **Withdrawal of Property.** You agree that the Property or any lots or portions thereof may not be withdrawn by you after the execution of this Agreement unless the Consignor is ordered to do so by the United States District Court, Middle District of Florida. There shall be no penalty or withdrawal fee charged to the Consignor for any reason. We are further authorized as your agent to accept the return and rescind the sale of any Property, at our election to do so, if we at any time in our sole discretion determine that the offering for sale of any Property has subjected us or you to any liability under warranty of authenticity, authority, or title. In such an event, we are authorized to refund or credit to the purchaser the purchase price of such returned Property and if we have remitted to you any proceeds of the rescinded sale, you agree to pay us upon request an amount equal to the remitted proceeds.

**11. Unsold Property.** In the event that your Property does not sell, provided LHA agrees to do so in writing, you may reconsign the Property under the protection and terms of this Agreement. The following terms and conditions apply if no agreement to reconsign your unsold Property is reached:

- a. All unsold Property must be removed from our premises after paying all commissions and expenses owed to us in full including but not limited to commission, insurance and other charges in articles 2 through 6.
- b. Property will be held for pick-up without charge to you for a period of twenty (20) business days following the auction. Thereafter, a charge of \$10 per lot per day will be payable by you in consideration for storage.
- c. If Property is not reconsigned or picked up within forty-five (45) calendar days following the auction, we will have no liability for any damage or loss to property left on our premises.
- d. Property which is left unconsigned on our premises for any reason in excess of sixty (60) calendar days shall be returned to the Consignor at which time all outstanding fees and costs shall be paid by the Consignor upon first receiving a detailed and reasonable invoice of unpaid fees and costs. The balance of any funds recovered in excess of storage charges will be remitted to you.
- e. LHA may, in its sole discretion, elect to extend any insurance policy as to any unsold property or to obtain such additional security personnel or measures reasonably necessary to protect the unsold property left in LHA's possession, and Consignor shall be responsible for such additional expenses.

**12. Use of Name.** We are hereby authorized to use your name as the owner of the Property in our catalogue, advertising, and promotional efforts unless you check the box below. If authorized, we will use the form of your name which appears in this Agreement unless you indicate otherwise below.

~~Use of my name is not permitted: ☒~~

My name may appear as:

Burton W. Wiand, Receiver in the matter of SEC v. Nadel, et al.

We are also authorized to use the names of any and all Receivership entities that were previously operated or controlled by Arthur Nadel, Marguerite "Peg" Nadel, Christopher Moody and Neil Moody, including, but not limited to Valhalla Investment Partners, Viking Fund, Viking IRA Fund, Victory Fund, Victory IRA Fund and Scoop Real Estate.

**13. Settlement.** A settlement check will be mailed to you thirty (30) calendar days following the sale date for items sold less our commission and any applicable charges; an itemized settlement statement of proceeds and deductions will be included. We shall not be responsible for settlement on any items sold at auction wherein the purchaser defaults. In the event of a default by the purchaser, then, at our discretion, we may cancel the sale and return the Property to you, or

enforce payment by the purchaser. We shall not be liable for paying you unless and until we have received full payment from the purchaser.

14. **Indemnification and Hold Harmless.** Consignor agrees to defend, indemnify and hold harmless LHA and its shareholders, officers, directors, agents, employees, attorneys, affiliates, successors and assigns, notwithstanding their fault, liability, or negligence, from and against any and all demands, claims, actions, damages, losses, liabilities and expenses (including attorney's fees) of any kind of any person or entity relating in any manner to the Property or this Agreement, including, but not limited to, Consignor's breach of or interference with this Agreement, any sale or auction or purchase of any of the Property, any representation or warranty of Consignor or breach thereof, or any issue related to the title, genuineness, authenticity or authority to assign or sell any Property, or otherwise relating in any way to the sale by us of any Property consigned under this Agreement, whether or not it has been returned to us.
15. **Entire Agreement; Modifications.** This Agreement contains the entire agreement among the parties relating to the rights herein granted and the obligations herein assumed, and there are no other agreements, promises, covenants, conditions, limitations, representations or warranties other than those expressly referred to herein. This Agreement may not be amended, modified, or extended in any respect except by a written instrument executed by all parties.
16. **Severability.** The provisions of this Agreement are severable. If any provision in this Agreement is declared invalid or unenforceable, the ruling shall not affect the validity and enforceability of any other provision in the Agreement, and the Agreement shall remain enforceable unless the invalidity or unenforceability of such provision defeats the overall purpose of this Agreement. The parties further authorize the court to reform or enforce any such provision to the full extent of applicable law.
17. **Governing Law; Venue.** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Illinois, without regard to its choice of law principles. We and you hereby (i) agree that all disputes and matters whatsoever arising under, in connection with, or incident to this Agreement shall be exclusively litigated as a summary proceeding in **SECURITIES AND EXCHANGE COMMISSION V. ARTHUR NADEL, ET AL., CASE NO: 8:09-CV-87-T-26TBMIN AND BEFORE THE UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF FLORIDA, TAMPA DIVISION**, in Hillsborough County in the State of Florida, to the exclusion of the courts of any other state or country, and (ii) irrevocably submits to the exclusive jurisdiction of the **UNITED STATES DISTRICT COURT, MIDDLE DISTRICT OF FLORIDA, TAMPA DIVISION**, in Hillsborough County in the State of Florida, in any action or proceeding arising out of or relating to this Agreement, and hereby irrevocably waives any objection to the laying of venue of any such action or proceeding in any such court and any claim that any such action or proceeding has been brought in an inconvenient forum. A final judgment in any such action or proceeding shall be conclusive and may be enforced in any other jurisdiction by suit on the judgment or in any other manner provided by law.
18. **Survival.** In the event of the expiration or termination of this Agreement for any reason, the promises, representations, warranties and obligations set forth in Paragraphs 2-7, 10-12, 14 and 17 of this Agreement shall expressly survive such termination or expiration. 0410

AGREED AND ACCEPTED:

Burton W. Wiand 2/15/2011  
Date

CONSIGNOR

Burton W. Wiand, As Receiver in the matter of  
SEC v. Arthur Nadel, et al.

Case No: 8:09-CV-87-T-26TBMIN

Leslie Hindman Feb 15 '11  
Date

For Leslie Hindman Auctioneers, Inc.