

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-87-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  
CONVEY CERTAIN BUSINESS ASSETS AND REAL PROPERTY LOCATED AT  
599 LIME AVENUE, SARASOTA, FLORIDA 34237**

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 same form attached as Exhibit 1, conveying the following:

- title to the real property located at 599 Lime Avenue, Sarasota, Florida 34237 (the “Real Property”), Lots 1 and 2 and the North 20 feet of Lots 3 and 4, Block F, EAST ADDITION TO THE CITY OF SARASOTA, as per plat thereof recorded in Plat Book 1, Pages 120 and 121, of the Public Records of Sarasota County, Florida, to Ron C. Carter, a single man and James F. Neal, a single man in substantially the form of the proposed via Receiver’s Deed attached as Exhibit 2; and,
- ownership of the remaining business assets of A Victorian Garden Florist, LLC d/b/a Mr. Florist Plants and Things (the “Florist”) which are presently located in the Real Property to Ron C. Carter and James F. Neal.

The Receiver believes the conveyance of the real property and remaining business assets of the Florist to Messrs. Carter and Neal is in the best interests of this Receivership because:

- the information in the Receiver’s possession does not show that there is any equity in the Real Property;
- it will eliminate a claim of over \$1,160,000.00 submitted against the Receivership Estate;
- it will save the Receivership the ongoing costs of maintaining the Real Property; and,
- the Receiver does not believe that the remaining business assets of the Florist have any realizable value for the Receivership Estate.

## **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).)

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 the Florist and the Real Property. (Doc. 81). Now, the Receiver seeks this Court's approval to convey title to the Real Property and ownership of the remaining business assets of the Florist, which are located in the Real Property, to Messrs. Carter and Neal.

### **REAL PROPERTY AND BUSINESS ASSETS**

On August 3, 2006, Lime Avenue Enterprises, LLC, purchased the Real Property for \$785,000.00 from Messrs. Carter and Neal. See Exhibit 3. As part of the same transaction, A Victorian Garden Florist, LLC, purchased the business assets of a retail florist business known as Mr. Florist Plants and Things for \$400,000.00 also from Messrs. Carter and Neal. See Exhibit 3. The purpose of the August 3, 2006, transaction was for A Victorian Garden Florist, LLC, to continue the operation of the retail florist business located in the Real Property.

The books, records, and assets of Lime Avenue Enterprises, LLC, and A Victorian Garden Florist, LLC, were examined by the Receiver. The Receiver learned that Lime Avenue Enterprises, LLC, executed a balloon mortgage note in the amount of \$628,000.00 in favor of Messrs. Carter and Neal to purchase the Real Property and the florist's business assets. See Exhibit 4. Further, a mortgage was executed and recorded to securitize that note. See Exhibit 5. The books and records also revealed Lime Avenue Enterprises, LLC, and A Victorian Garden Florist, LLC, did not generate sufficient revenue to cover expenses and thus the florist was dependent on the influx of outside money. The Receiver also determined

that the Florist's assets, mainly consisting of florist equipment, had very little value<sup>1</sup>. See Exhibit 6. The Receiver attempted to continue to operate the retail florist business with the existing employees, however after approximately two months he determined that arrangement was not viable for several reasons, including that the business was not generating sufficient revenues to support itself. He also determined at that point that there would be no benefit to the Receivership in continuing to operate the Florist. In lieu of closing the business, the Receiver allowed the former owners of the flower shop, Messrs. Carter and Neal, to continue its operations in order to ensure that the Real Property would be maintained and preserved.

The 2009 Sarasota County Property Appraiser's assessed value of the Real Property at the time it became part of the Receivership Estate was \$320,700.00. See Exhibit 7. The Receiver obtained several opinions from local realtors as to the fair market value of the Real Property. These opinions projected a fair market value of somewhere between \$300,000.00 and \$675,000.00. See Exhibit 8, an example of one fair market value opinion submitted to the Receiver by a local realtor. The Receiver has made efforts to sell the Real Property, but between March 2009 and April 2011 has only been presented with one offer in the amount of \$160,000.00 on February 16, 2010. The Sarasota County Property Appraiser's 2010 assessment on the Real Property has dropped to \$279,200.00. See Exhibit 9.

The Receiver has considered and investigated several courses of action regarding the Real Property and Florist to determine what would be in the best interests of the

---

<sup>1</sup> The Receiver also took possession of two vehicles owned by Lime Avenue Enterprises, LLC (a 1999 Ford van and a 2003 Dodge van) which were sold by the Receiver for \$500 and \$2,000, respectively.

Receivership. After considering the following facts, the Receiver has ultimately decided that conveying the Real Property and the Florist's remaining assets to Messrs. Carter and Neal in exchange for a release of all claims against this Receivership is in the best interests of the Receivership. See Exhibit 10.

First, the Real Property is subject to a mortgage securing a note with over \$628,000.00 in debt. The mortgage is held by Messrs. Carter and Neal. Messrs. Carter and Neal have submitted a proof of claim in the amount of \$1,163,919.35 representing the outstanding principal and interest on that mortgage and note.

Second, after considering the fair market value opinions of local realtors, as well as the Sarasota County Property Appraisers' declining assessments of the Real Property, relative to the debt encumbering the Real Property, the Receiver does not believe there is any equity in the Real Property. In fact, it appears that the debt far exceeds the Real Property's value. Rather than holding the Real Property and incurring up-keep expenses, it is in the best interest of this Receivership if that property is transferred to Messrs. Carter and Neal in exchange for their waiver of claims.

Third, research by the Receiver has revealed that the market for property in the Sarasota area continues to decline. According to reports, sales revenue for real estate is declining. The decrease in sales revenue is a function of both decreasing property values and negative absorption. In addition, there is no certainty regarding when, or if, the real estate market will begin to recover. These market trends further support the Receiver's belief that there is no equity in the Real Property, there is no short term prospect for an increase in that

property's value, and that it is in the Receivership's best interest to transfer the Real Property sooner rather than later.

The Receiver has determined that there is likely no equity in the Real Property and that the Florist's remaining assets have very little (if any) value (as such the cost of an effort to sell those assets would likely exceed the minimal – if any - revenues from any such sale). As such, it is in the best interest of the Receivership to convey the Real Property and Florist's remaining assets to Messrs. Carter and Neal in exchange for a release of any and all claims they have or may have against the Receivership Estate, including claims arising from the mortgage and note. See Exhibit 10.

#### **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 sale of the assets 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 moves the Court for entry of an order in substantially the form of the proposed Order attached as Exhibit 1, conveying title to the Real Property

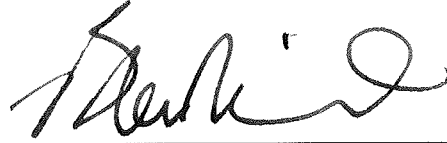
and remaining assets of the Florist to Ron C. Carter and James F. Neal in accordance with the terms set forth in this Motion.

**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.

A handwritten signature in black ink, appearing to read 'Burton W. Wiand', written over a horizontal line.

Burton W. Wiand, Court-Appointed Receiver



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on May 25, 2011, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

I FURTHER CERTIFY that on May 25, 2011, 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](mailto:gmorello@wiandlaw.com)  
WIAND GUERRA KING P.L  
3000 Bayport Drive  
Suite 600  
Tampa, FL 33607  
Tel: 813-347-5100  
Fax: 813-347-5198

*Attorney for the Receiver, Burton W. Wiand*