

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

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

Case No. 8:09-cv-87-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,

Relief Defendants.

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**RECEIVER'S MOTION TO APPROVE SETTLEMENT**

Burton W. Wiand, as Receiver, moves the Court for an order approving settlement of *Burton W. Wiand, as Receiver v. John Grier Construction Co.*, Case No.: 8:10-cv-111-T-17MAP (M.D. Fla.) (the "Company Action"), and *Burton W. Wiand, as Receiver v. Joseph S. Terrell, et al.*, Case No.: 8:10-cv-238-T-17MAP (M.D. Fla.) (the "Terrell Action"), on the basis of the Settlement Agreement attached as Exhibit A.

## **MEMORANDUM IN SUPPORT**

The Securities and Exchange Commission (the “Commission” or “SEC”) instituted this action to “halt [an] ongoing fraud, maintain the status quo, and preserve investor assets . . . .” (Dkt. 1, Compl., ¶ 7.) Burton W. Wiand was appointed by this Court as the Receiver for Defendants other than Arthur Nadel and for Relief Defendants. (*See* Order Reappointing Receiver (Dkt. 493).) Additionally, the Receivership was expanded to include Venice Jet Center, LLC, and Tradewind, LLC (Dkt. 17); Laurel Mountain Preserve, LLC, Laurel Preserve, LLC, the Marguerite J. Nadel Revocable Trust UAD 8/2/07, and the Laurel Mountain Preserve Homeowners Association, Inc. (Dkt. 44); The Guy-Nadel Foundation, Inc. (Dkt. 68); Lime Avenue Enterprises, LLC, and A Victorian Garden Florist, LLC (Dkt. 79); Viking Oil & Gas, LLC (Dkt. 153); Home Front Homes, LLC (Dkt. 172); and Traders Investment Club (Dkt. 454). All of the entities in receivership are collectively identified herein as the Receivership Entities.

Pursuant to the Order Reappointing Receiver (Dkt. 493), the Receiver has the duty and authority to:

2. Investigate the manner in which the affairs of the Receivership Entities were conducted and institute such actions and legal proceedings, for the benefit and on behalf of the Receivership Entities and their investors and other creditors as the Receiver deems necessary . . . against any transfers of money or other proceeds directly or indirectly traceable from investors in the Receivership Entities; provided such actions may include, but not be limited to, seeking imposition of constructive trusts, disgorgement or profits, recovery and/or avoidance of fraudulent transfers under Florida Statute § 726.101, et. seq. or otherwise, rescission and restitution, the collection of debts, and such orders from this Court as may be necessary to enforce this Order.

Further, the Order Reappointing Receiver (at paragraph 6) authorizes the Receiver to “[d]efend, compromise or settle legal actions . . . in which the Receivership Entities or the Receiver is a party . . . with authorization of this Court . . . .”

On January 14, 2010, the Receiver sued John Grier Construction Co. in the Company Action to recover sums received from the Receivership Entities with a view to marshaling assets for an eventual distribution to investors with verifiable claims in an equitable and appropriate manner. Specifically, the Receiver sought recovery of “false profits” (as defined in the complaint) of \$107,856.95.

Similarly, on June 16, 2010, the Receiver sued Joseph S. Terrell, Jr., individually, as Executor of the Estate of Joseph S. Terrell, as Trustee of the Joseph S. Terrell Revocable Trust, and as Trustee of the Essie G. Terrell Family Trust; Nancy Grossman; Thomas Grier Terrell; and John Todd Terrell in the Terrell Action to recover sums received from the Receivership Entities with a view to marshaling assets for an eventual distribution to investors with verifiable claims in an equitable and appropriate manner. Specifically, the Receiver sought recovery of “false profits” (as defined in the amended complaint) of \$210,771.13.

As shown by the attached Settlement Agreement, the Receiver and the defendants in the Company Action and in the Terrell Action, subject to the approval of this Court, have agreed to the following monetary terms in full settlement of all claims asserted in those actions:

(1) Payment of \$12,750.00 by the Estate of Joseph S. Terrell, Sr., to the Receiver, to be paid within 30 days after approval of this Settlement Agreement by the Receivership Court;

(2) Payment of \$74,771.50 by the Essie G. Terrell Family Trust to the Receiver, to be paid within 30 days after approval of this Settlement Agreement by the SEC Receivership Court;

(3) Payment of \$12,478.50 by John Grier Construction Co. to the Receiver, to be paid within 30 days after approval of this Settlement Agreement by the SEC Receivership Court; and

(4) Payment of \$60,000.00 plus simple interest at the statutory rate of 6% by the defendants, jointly and severally, to the Receiver as follows: seven (7) payments of \$7,896.59 to be made on or before the 1st day of each of May 2011, August 2011, November 2011, February 2012, May 2012, August 2012, November 2012, and one (1) payment of \$7,896.61 to be made on or before February 1, 2013.

The settlement reflected by the Settlement Agreement is in the best interests of the Receivership, the investors in the Receivership Entities, and defendants because: it avoids protracted litigation, conserving Receivership assets and judicial resources; it avoids the cost of litigation to Defendants; and it eliminates the risks of litigation, including the risk of not collecting on any future judgment.

WHEREFORE, the Receiver moves the Court to approve the settlement reflected by the attached Settlement Agreement.

**LOCAL RULE 3.01(g) CERTIFICATE OF COUNSEL**

The undersigned counsel for the Receiver is authorized to represent to the Court that the SEC has no objection to the Court's granting this motion.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on June 3, 2011, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

I FURTHER CERTIFY that on June 3, 2011, I mailed the foregoing document and the notice of electronic filing by first-class mail to the following non-CM/ECF participants:

Arthur G. 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

Email: [gmorello@wiandlaw.com](mailto:gmorello@wiandlaw.com)

Michael S. Lamont FBN 0527122

Email: [mlamont@wiandlaw.com](mailto:mlamont@wiandlaw.com)

WIAND GUERRA KING P.L.

3000 Bayport Drive

Suite 600

Tampa, FL 33607

Tel: (813) 347-5100

Fax: (813) 347-5198

*Attorneys for the Receiver, Burton W. Wiand*