

**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. Mayfair Associates*, Case No.: 8:10-cv-179-T-17MAP (M.D. Fla.) (the “Mayfair Action”) and *Burton W. Wiand, as Receiver v. Betty Bry Schwab, as Trustee of the Betty Bry Schwab Revocable Trust*, Case No. 8:10-cv-226-T-17MAP (M.D. Fla.) (the “B. Schwab Trust 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 and Relief Defendants. (See Order Reappointing Receiver (Dkt. 140).) 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); and 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. 140), 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”

By a Complaint filed January 19, 2010, the Receiver sued Mayfair Associates in the Mayfair 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. Similarly, by an Amended Complaint filed March 17, 2010, the Receiver sued Betty Bry Schwab, as Trustee of the Betty Bry Schwab Revocable Trust in the B. Schwab Trust Action to recover sums received from the Receivership Entities. The Defendants in these cases collectively received \$85,579.93 from the Receivership Entities in excess of their investment.

In addition to the Defendants, Roger Schwab, as Trustee of the James Schwab Revocable Trust and as Trustee of the Gella Schwab Revocable Trust (collectively referred to as “J. and G. Schwab Trusts”), also invested in one or more Receivership Entities and incurred a loss of approximately \$172,750.00 and \$107,750.00, respectively.

As shown by the attached Settlement Agreement, the Receiver, the Defendants and the J. and G. Schwab Trusts, subject to the approval of this Court, have agreed to settle the Mayfair and B. Schwab Trust Action for \$35,000.00, in full settlement of the claims, to be paid within 14 days after approval of this settlement by the SEC Receivership Court, and a waiver by the J. and G. Schwab Trusts of any and all claims any of them has or may have against the Receiver and/or Receivership Entities.

Although it is the Receiver's position that as a matter of law the Defendants and the J. and G. Schwab Trust's investments in Receivership Entities do not have to be considered collectively, the Receiver believes the settlement reflected by the Settlement Agreement, which includes payment of a sum of money and waiver of claims, is in the best interests of the Receivership, the investors in the Receivership Entities, the Defendants, and the J. and G. Schwab Trusts because resolution of the claim avoids protracted litigation, conserving Receivership assets and judicial resources, and avoids the cost of litigation to Defendants.

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 August 12, 2011, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

I FURTHER CERTIFY that on August 12, 2011, I mailed the foregoing document and the notice of electronic filing by first-class mail to the following non-CM/ECF participants:

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