

**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; and  
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, LLC,

Relief Defendants.

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**UNOPPOSED MOTION TO SEAL CLAIMANT INFORMATION**

Burton W. Wiand, as Receiver (the “Receiver”), moves the Court pursuant to Local Rule 1.09 for an order permitting the Receiver to file under seal very limited information relating to the identity of claimants that have submitted claims as part of the claims process established in this case (the “Claimants”).

1. Shortly, the Receiver will file a motion seeking an order approving: his determination and priority of claims, the pooling of receivership assets and liabilities, approving a plan of distribution, and establishing an objection procedure (the “Claims

Motion”).

2. In the Claims Motion, the Receiver will reference and attach Exhibits identifying submitted claims by claim number rather than by Claimant or account name. The Receiver assigned each claim a number and intends to send each Claimant a letter providing the Claimant’s claim identifying number. The Receiver proposes to file with the Court under seal a separate cross-reference list with the names of each Claimant, the related account name, and the corresponding claim number (the “Cross-Reference List”) so the Court is able to match the Claimants to the claim determinations proposed by the Receiver in the Claims Motion.

3. The purpose of filing this information under seal is to protect the privacy of the Receivership Entities’ investors and the financial repercussions they experienced from Arthur Nadel’s Ponzi scheme. The Receiver believes the preservation of investor privacy, especially with respect to financial information, is a sufficient reason to depart from the general policy of public court filings.

4. As previously noted, the filing of the Cross-Reference List is necessary to provide the Court with the ability to match Claimants to the claim numbers used by the Receiver in the exhibits to the Claims Motion. The Receiver is unaware of any other means of providing the Court with this information and of protecting the privacy of the Claimants.

5. Sealing the Cross-Reference List will neither prejudice any party’s interests nor cause any harm to any third parties.

6. Pursuant to Local Rule 1.09(c), the Receiver requests that the Cross-Reference List be sealed indefinitely until further order of the Court. This will alleviate the need to

employ Receivership resources to move to renew the seal and will prevent inadvertent release of sensitive information.

### **MEMORANDUM OF LAW**

The Receiver respectfully submits that the narrow request to file under seal a list of the names of the Claimants and their related accounts with corresponding claim numbers used in the Claims Motion to protect the privacy of the Claimants outweighs the public's right of access to this information. The right of access to judicial records pursuant to common law is well established, but is not absolute. *Microllumen, Inc. v. Allegrati*, 2007 WL 1247068 (M.D. Fla. Apr. 30, 2007). The presumption of public access must be balanced against any competing interest. *United States v. Maali*, 2004 WL 2656879 (M.D. Fla. Aug. 30, 2004). “[I]n contrast to the compelling justification required for closure of criminal trials, the trial court has broad latitude where only the common-law right of access to court records is implicated.” *Id.* (quoting *United States v. Noriega*, 752 F. Supp. 1037, 1040 (S.D. Fla. 1990)).

Here, the public has no overriding interest in learning the identities of the victims of Nadel's scheme or the details relating to their investments. Indeed, this Court approved a procedure identical to that set forth in this motion in *S.E.C. v. HKW Trading LLC*, Case No. 8:05-cv-01076-T-24TBM, Order granting Unopposed Motion To File Claimant Information Under Seal (M.D. Fla.) (Doc. 159).

WHEREFORE, the Receiver respectfully requests that this Court enter an Order permitting the filing under seal of the Cross-Reference List identifying the account and

Claimant name(s) that correspond to the assigned claim number on exhibits to the Claims Motion.

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

The undersigned counsel for the Receiver has conferred with counsel for the Commission and is authorized to represent to the Court that the Commission has no objection to the relief sought herein.

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on November 30, 2011, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

**I FURTHER CERTIFY** that on November 30, 2011, I mailed a copy of the foregoing and notice of electronic filing by first-class mail delivery to the following non-CM/ECF participant(s):

Arthur Nadel, Register No. 50690-018  
FCI BUTNER LOW  
Federal Correctional Institution  
P.O. Box 999  
Butner, NC 27509

**s/Gianluca Morello**

Gianluca Morello (Trial Counsel)  
Florida Bar No. 034997  
[gmorello@wiandlaw.com](mailto:gmorello@wiandlaw.com)  
Michael S. Lamont, FBN 0527122  
[mlamont@wiandlaw.com](mailto:mlamont@wiandlaw.com)  
Maya Lockwood, FBN 0175481  
[mlockwood@wiandlaw.com](mailto:mlockwood@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*