

**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 UNOPPOSED MOTION FOR LEAVE TO RESPOND TO  
OBJECTIONS TO MOTION TO APPROVE SETTLEMENT (DOC. 679)  
WITH GOLDMAN SACHS EXECUTION & CLEARING, L.P.**

On December 14, 2011, Burton W. Wiand, as Receiver (the “**Receiver**”), filed a motion (the “**Motion**”) to approve a settlement (the “**Settlement**”) with Goldman Sachs Execution & Clearing, L.P. (“**GSEC**”) (Doc. 679). In accordance with the procedures set forth in the Motion and in the related Receiver’s Motion To Approve Notice Of Settlement (Doc. 681), the Receiver mailed settlement notices and published notice as specified in those filings. (See Docs. 686, 699.) Overall, over 700 notices were mailed to investors in the

scheme underlying this case, to potential joint tortfeasors, and to other interested parties whose rights may be affected by the Settlement. The notices advised recipients of their right to object to the Settlement, of the procedure for objecting, and of the January 17, 2012, deadline for filing objections. In response to the over 700 notices mailed by the Receiver, 7 objections (the “**Objections**”) were filed (on behalf of 8 individuals in their individual capacity and/or in their capacity as trustees of trusts (the “**Objectors**”). (Docs. 707-11, 715, 716.) The Objections have no merit, and the Receiver seeks leave to file an omnibus reply to the Objections because he believes it will assist the Court with resolving the Motion.

In the reply, the Receiver intends to address certain matters raised by the Objections, including the following:

- (1) the Objectors lack standing to object because none of them has a right to receive distributions of assets from the Receivership Estate for one or more reasons, including: the failure to file a claim in the claims process; their status as “profiteers” (*i.e.*, investors who received more money from the scheme than they invested); and, for one of them, his status as a non-investor;
- (2) several incorrect factual and legal contentions, such as a mischaracterization of Shoreline Trading Group LLC as GSEC’s subsidiary, mischaracterizations about settlements in the Receiver’s “clawback” cases, and inaccurate comparisons between those cases and a potential case against GSEC; and
- (3) certain legal and factual distinctions between the circumstances and filings here and those in *S.E.C. v. Citigroup Global Markets Inc.*, 2011 WL 5903733 (S.D.N.Y. Nov. 28, 2011), and in *SEC v. Koss Corp.*, Case No. 2:11-C-991-RTR, Doc. 5 (E.D. Wi. Dec. 20, 2011) (letter from the Hon. R. Randa to A. Wood and J. Davidson of the S.E.C.), which cases involved resolution of claims by the S.E.C. by Consent Judgments, including the substantial benefit provided by the Settlement to investors in Nadel’s scheme who suffered losses and filed allowed claims.

WHEREFORE, the Receiver respectfully seeks leave to file a reply of no more than ten pages within 10 days of an order on this motion.

**LOCAL RULE 3.01(g) CERTIFICATION**

Counsel for the Receiver has conferred with counsel for the S.E.C. and with counsel for the Objectors who are represented, and neither objects to the Receiver having leave to reply.

**s/Gianluca Morello**

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*Attorneys for the Receiver, Burton W. Wiand*

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on January 23, 2012, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

**I FURTHER CERTIFY** that on January 23, 2012, 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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