

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-0087-T-26TBM

SCOOP REAL ESTATE, L.P.,  
VALHALLA INVESTMENT PARTNERS, L.P.,  
VALHALLA MANAGEMENT, INC.,  
VICTORY FUND, LTD,  
VIKING IRA FUND, LLC,  
VIKING FUND, LLC, AND  
VIKING MANAGEMENT, LLC.

Relief Defendants.

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**NOTICE OF FILING**

Burton Wiand, as Receiver, hereby provides notice of filing the attached letter from the Receiver to the Court relating to matters between the Receivership in this case and Wells Fargo Bank, N.A.

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on February 2, 2012, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

**I FURTHER CERTIFY** that on February 2, 2012, 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

*Attorney for the Receiver, Burton W. Wiand*

**BURTON W. WIAND, RECEIVER  
APPOINTED IN**

***S.E.C. v. Arthur Nadel et al.,*  
Case No. 8:09-cv-87-T-26TBM (M.D. Fla.)**

February 2, 2012

**VIA CM/ECF FILING**

The Hon. Richard A. Lazzara  
United States District Court,  
Middle District of Florida  
Sam M. Gibbons U.S. Courthouse  
801 North Florida Avenue  
Tampa, FL 33602

Re: *S.E.C. v. Arthur Nadel et al.*, Case No. 8:09-cv-87-T-26TBM (M.D. Fla.)

Your Honor:

I write as the court-appointed Receiver in this matter to inform the Court of a relationship between my law firm, Wiand Guerra King P.L. (“WGK”), and two related entities – Wells Fargo Bank, N.A., as successor by merger to Wachovia Bank, N.A. (“Wells Fargo Bank”) and Wells Fargo Advisors, LLC, formerly known as Wachovia Securities, LLC (“Wells Fargo Advisors”). Although there is no clear set of Florida rules governing receivers’ obligations under the circumstances described below, I believe it is appropriate to inform the Court of this relationship at this time.

With respect to Wells Fargo Bank, WGK is counsel of record to that entity in a pending matter unrelated to any aspect of the Receivership. Nonetheless, WGK has discussed the situation with Wells Fargo Bank and is terminating that representation because of WGK’s role in this Receivership and the current state of affairs between the Receivership and Wells Fargo Bank.

Wells Fargo Advisors is a separate entity from Wells Fargo Bank, but they share a common parent. WGK has represented Wells Fargo Advisors in a number of matters, several of which are ongoing. None of those matters, however, relate to any aspect of the Receivership.

Although other lawyers at WGK have represented Wells Fargo Bank and Wells Fargo Advisors, neither has ever been a client of mine, and my only role in connection with either occurred in one limited instance in approximately September 2009 when I was still a member of Fowler White Boggs, P.A. (“Fowler White”). In that instance, Wachovia Securities, LLC

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("Wachovia Securities"), retained one of my colleagues at Fowler White to defend a FINRA arbitration. Because he was engaged only several months before the scheduled final arbitration hearing, I was asked to assist in the preparation and trial of the matter. On the first day of the arbitration hearing, however, Claimants' motion for postponement was granted and the matter was rescheduled to a later date. As a result, my involvement became unnecessary.

In light of these facts and the current adversity between the Receivership and Wells Fargo Bank, I consulted with the staff of the Securities and Exchange Commission and have taken the following step. Going forward, James, Hoyer, Newcomer & Smiljanich, P.A. ("James Hoyer") will represent me in all Receivership matters involving Wells Fargo Bank. On December 27, 2011, this Court entered an Order granting my motion for leave to retain James Hoyer to prosecute claims by Receivership Entities against Wells Fargo Bank (Doc. 696). Since that time, James Hoyer has spent a great deal of time investigating the claims and preparing a complaint. That effort is almost complete, and I expect it to be filed in the very near future. As a result of those efforts, James Hoyer is now well informed about the various connections between Wells Fargo Bank and this Receivership, including those arising from the various services Wells Fargo Bank provided to Arthur Nadel and his entities. James Hoyer is thus well positioned to effectively assume my representation in all Receivership matters relative to Wells Fargo Bank, and I have asked its lawyers to do so.

I would also point out that while James Hoyer is representing me on a contingency basis in the lawsuit I will file against Wells Fargo Bank (*see* Doc. 691), all other work undertaken in WGK's stead will be performed on an hourly fee basis at rates identical to those charged by WGK to the Receivership. As such, the financial impact to the Receivership will be no different. In fact, the Receivership may ultimately benefit because James Hoyer and I have agreed that if James Hoyer is successful in its case against Wells Fargo Bank, any contingency fee it is awarded will be offset by the hourly fees it will have been paid to represent me in any other Receivership matters involving Wells Fargo Bank.

I am confident this limited substitution of counsel will not have any negative impact on the Receivership. My efforts on behalf of the Receivership estate and defrauded investors will proceed unchanged, and I will continue to take all appropriate steps to recover assets so that victims with allowed claims can be compensated for the damages caused by the scheme underlying this matter.

As always, I am of course happy to appear before Your Honor to address any questions the Court may have.

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Respectfully,

A handwritten signature in cursive script, appearing to read "Burton W. Wiand".

Burton W. Wiand, as Receiver