

**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.

ORDER

Pending before the Court is the Receiver's Motion to (1) Approve Determination and Priority of Claims, (2) Pool Receivership Assets and Liabilities, and (3) Establish Objection Procedure which Plaintiff, the Securities and Exchange Commission (the

SEC), does not oppose.¹ Several entities have filed objections to the motion,² to which the Receiver has responded.³

Of particular note, is the objection to the Receiver's motion filed by TRSTE, Inc. (TRSTE) and Wells Fargo Bank, N.A. (Wells Fargo) with regard to property located in North Carolina known as the Laurel Mountain Property. TRSTE and Wells Fargo contend in part that this Court lacks jurisdiction over the Laurel Mountain Property because that property is under the jurisdiction of the United States District Court for the Southern District of New York by virtue of a forfeiture order entered in the criminal case involving Defendant Nadel, on October 21, 2010, specifically forfeiting that property to the United States.⁴

The Receiver advances two arguments in response to the jurisdictional issue. First, that this Court first acquired jurisdiction over the Laurel Mountain Property prior to the entry of the forfeiture order when it expanded the receivership to include that property as part of the receivership estate by order entered on February 11, 2009.⁵ Second, the Receiver's counsel represents that "neither the U.S. Marshal's Service nor any other government entity has taken any action with respect to the Laurel Mountain

¹ See docket 675.

² See dockets 677, 689, and 690.

³ See dockets 692, 712, and 714.

⁴ See United States v. Arthur Nadel, case number 1:09-cr-433-JGK, docket 78.

⁵ See docket 44.

Property in the nearly 15 months since entry of the forfeiture order. . . . [as] a result of an understanding between the Receiver and representatives of the U.S. Attorney's Office which prosecuted Nadel that assets controlled by Nadel, including the Laurel Mountain Property, will be liquidated through the Receivership and used to compensate victims through the claims process in this case.”

In the Court's view, this jurisdictional issue, raised for the first time during the pendency of this case, must first be addressed before the Court resolves the Receiver's pending motion. The reason is simple. If this Court does in fact lack jurisdiction over the Laurel Mountain Property, then it also lacks the authority to proceed with regard to other assets which are the subject of the forfeiture order, some of which the Court recognizes as being within the Receivership Estate. Furthermore, because Wells Fargo has filed an amended verified petition pursuant to 21 U.S.C. § 853(n)(2) in Defendant Nadel's criminal case seeking a hearing in order to vindicate its interest in the Laurel Mountain Property,⁶ this issue needs to be resolved expeditiously so that this Court does not interfere with the jurisdiction of the district court in New York under the forfeiture order.

Accordingly, it is ordered and adjudged as follows:

⁶ See United States v. Nadel, case number 1:09-cr-433-JGK (S.D. N.Y.), docket 91

1) The Court will conduct a hearing on the jurisdictional issue raised by TRSTE and Wells Fargo on Friday, March 2, 2012, commencing at 9:00 a.m., in Courtroom 15B, United States Courthouse, 801 North Florida Avenue, Tampa, Florida.

2) TRSTE and Wells Fargo shall file a supplemental memorandum of law addressing the jurisdictional issue on or before February 13, 2012.

3) All other entities who have filed objections to the Receiver's motion are invited to file supplemental memoranda of law addressing the jurisdictional issue on or before February 13, 2012.

4) The Receiver and the SEC shall respond to the supplemental memoranda on or before February 23, 2012.

5) The United States Attorney's Office for the Southern District of New York shall file a memorandum on or before February 23, 2012, outlining its understanding of the agreement reached between the Receiver and the Government with regard to the effect of the forfeiture order on this Court's authority to liquidate Defendant Nadel's assets in order to compensate the victims of his criminal ventures and the legal basis for that agreement.

6) The Clerk is directed to send a copy of this order to Assistant United States Attorneys Jeffrey Ehrlich Alberts and Reed Michael Brodsky at the following address: Office of the United States Attorney, Southern District of New York, One St. Andrews Plaza, New York, New York 10007.

7) The Receiver's counsel is also directed to send a copy of this order to Mr. Alberts and Mr. Brodsky.

DONE AND ORDERED at Tampa, Florida, on February 3, 2012.

s/Richard A. Lazzara
RICHARD A. LAZZARA
UNITED STATES DISTRICT JUDGE

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Counsel of Record