

**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.

UNCONTESTED MOTION FOR EXTENSION OF TIME

The United States of America, by and through the undersigned Assistant United States Attorney, on behalf of the United States Attorney's Office for the Southern District of New York, pursuant to Federal Rule of Civil Procedure 6(b), hereby moves the Court for a one-week extension of time to file its memorandum in the above-captioned case, as directed by the Court in its Order filed February 3, 2012. The United States needs the brief extension because the Assistant United States Attorney ("AUSA") in the Southern District of New York who is responsible for filing the memorandum, Jeffrey Alberts, is unable to do so by

tomorrow due to illness. AUSA Alberts has been running a fever for the past five days and yesterday was diagnosed with pneumonia and ordered to stay home. The United States Attorney's Office for the Southern District of New York ("USAO-SDNY") has conferred with counsel for the Securities and Exchange Commission ("SEC"); the SEC Receiver; Wells Fargo Bank, N.A.; Wells Fargo Bank, N.A., as successor by merger to Wachovia Bank, N.A.; and TRSTE, Inc., all of whom consent to the requested extension.

In support of its motion, the United States submits the following memorandum of law.

MEMORANDUM OF LAW

I. Procedural History

On February 3, 2012, this Court issued an Order (the "Order") (Doc. 733) in connection with the December 7, 2011 motion of the SEC Receiver (Doc. 675) and oppositions to the motion filed by several entities, including Wells Fargo and TRSTE, Inc. ("TRSTE") (Doc. 677, 689 & 690). In the Order, the Court directed the USAO-SDNY to file a memorandum on or before February 23, 2012, outlining its understanding of any 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 Nadel's criminal activities, and the legal basis for such agreement. See Doc. 733 at 4, ¶ 5.

Jeffrey Alberts, Assistant United States Attorney for the Southern District of New York, has been primarily responsible for asset forfeiture matters in connection with the *Nadel* prosecution virtually since its inception in the USAO-SDNY, and is responsible for filing the memorandum due February 23, 2012 in the above-captioned case. However, AUSA Alberts has been running a fever for the past five days and yesterday was diagnosed with pneumonia. His doctor directed him to stay home. AUSA Alberts is therefore not able to complete and file the memorandum within the prescribed time period.

II. Local Rule 3.01(g) Certification

The USAO-SDNY has conferred with counsel for the SEC; the SEC Receiver; Wells Fargo Bank, N.A.; Wells Fargo Bank, N.A., as successor by merger to Wachovia Bank, N.A.; and TRSTE, Inc., all of whom consent to the requested extension.

III. Applicable Law

Federal Rule of Civil Procedure 6(b) provides, in pertinent part, that the Court may extend the time to respond to a motion for good cause “with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires” Fed. R. Civ. P. 6(b)(1)(A). The requested extension is necessary because the AUSA who is familiar with and responsible for filing the memorandum is unable to do so because of illness. Moreover, the requested extension will not cause any undue delay or prejudice.

IV. Conclusion

For the foregoing reasons, the United States requests that the Court extend the time for the USAO-SDNY to file the memorandum directed by the Court in its February 3, 2012 Order (see Doc. 733, at 4, ¶ 5) from February 23, 2012, to March 1, 2012.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on February 22, 2012, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

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I further certify that on February 22, 2012, I mailed the foregoing document and the notice of electronic filing by first-class mail to the following non-CM/ECF participant:

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s/Anita M. Cream
ANITA M. CREAM
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