

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.

---

**PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S  
OPPOSITION TO WELLS FARGO BANK, N.A.'S MOTION  
FOR LEAVE TO FILE REPLY IN SUPPORT OF IT MOTION TO DISQUALIFY**

The Commission opposes Wells Fargo's Motion for Leave to File a Reply (D.E. 794), because Wells Fargo has not established the required grounds for such relief. Wells Fargo argues it needs to file additional evidence regarding the timing of events it claims led to a conflict involving the Receiver, his counsel, and Wells Fargo, and address incorrect interpretations and application of the relevant law and Florida Rules of Professional Conduct. Wells Fargo Motion for Leave to File Reply at 2-3. Rather than a basis for a reply, these matters seem to be just additional support for points raised in the bank's original Motion to Disqualify

(D.E. 766), since they involve law or factual matters it deal with there and were a logical part of its motion. *See Tardif v. PETA*, 2011 WL 2729145 (slip op.) (M.D. Fla. July 13, 2011) at \*2 (reply brief was inappropriate when “[t]he Plaintiff [did] not allege that there is a new matter of law or fact argued in the Defendant’s Response, but merely a dispute as to what those facts mean in this case”).

WHEREFORE, the Commission opposes Wells Fargo’s Motion and asks the Court to deny leave for a reply.

March 15, 2012

Respectfully submitted,

By: s/ Scott A. Masel  
Scott A. Masel  
Senior Trial Counsel  
Florida Bar No. 0007110  
Direct Dial: (305) 982-6398  
E-mail: masels@sec.gov  
*Lead and Trial Counsel*

Attorney for Plaintiff  
**SECURITIES AND EXCHANGE  
COMMISSION**  
801 Brickell Avenue, Suite 1800  
Miami, Florida 33131  
Telephone: (305) 982-6300  
Facsimile: (305) 536-4154

**CERTIFICATE OF SERVICE**

I hereby certify that on March 15, 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:

Burton W. Wiand, Esq.  
Wiand Guerra King P.L.  
3000 Bayport Drive, Suite 600  
Tampa, FL 33607  
Telephone: (813) 347-5100  
Facsimile: (813) 347-5199  
*Court-appointed Receiver for Corporate Defendants  
and Relief Defendants*

Gianluca Morello, Esq.  
Wiand Guerra King P.L.  
3000 Bayport Drive, Suite 600  
Tampa, FL 33607  
Telephone: (813) 347-5100  
Facsimile: (813) 347-5199  
Email: grmorello@wiandlaw.com  
*Counsel for Receiver Burton W. Wiand*

Sean P. Keefe, Esq.  
James, Hoyer, Newcomer, Smiljanich & Yanchunis, PA  
Suite 550  
4830 W Kennedy Blvd  
Tampa, FL 33609  
813/286-4100  
Fax: 813/286-4174  
Email: skeefe@jameshoyer.com  
*Counsel for Receiver Burton W. Wiand*

Terry Alan Smiljanich , Esq.  
James, Hoyer, Newcomer, Smiljanich & Yanchunis, PA  
Suite 550  
4830 W Kennedy Blvd  
Tampa, FL 33609  
813/286-4100  
Fax: 813/286-4174  
Email: tsmiljanich@jameshoyer.com  
*Counsel for Receiver Burton W. Wiand*

Maya M. Lockwood, Esq.  
Wiand Guerra King P.L.  
3000 Bayport Drive, Suite 600  
Tampa, FL 33607  
Telephone: (813) 347-5100  
Facsimile: (813) 347-5199  
Email: mlockwood@wiandlaw.com  
*Co-counsel for Receiver Burton W. Wiand*

Louis Joseph Shaheen, Jr. . Esq.  
Akerman Senterfitt  
Suite 1700  
401 E Jackson St  
Tampa, FL 33602-5803  
813-209-5016  
Fax: 813-223-2837  
Email: joseph.shaheen@akerman.com

*Counsel for Wells Fargo Bank, N.A.*

Steven R. Wirth, Esq.  
Akerman Senterfitt  
Suite 1700  
401 E Jackson St  
Tampa, FL 33602-5803  
813/223-7333  
Fax: 813/223-2837  
Email: [steven.wirth@akerman.com](mailto:steven.wirth@akerman.com)  
*Counsel for Wells Fargo Bank, N.A.*

Ana T. Barnett, Esq.  
Stearns, Weaver, Miller, Weissler, Alhadeff & Sitterson, PA  
Suite 2200  
150 W Flagler St  
Miami, FL 33130  
305/789-3514  
Fax: 305/789-3395  
Email: [abarnett@stearnsweaver.com](mailto:abarnett@stearnsweaver.com)  
*Counsel for Wells Fargo Bank, N.A.*

Julie Fishman Berkowitz, Esq.  
Stearns, Weaver, Miller, Weissler, Alhadeff & Sitterson, PA  
Suite 2200  
150 W Flagler St  
Miami, FL 33130  
305/789-3353  
Fax: 305/789-2698  
Email: [jberkowitz@stearnsweaver.com](mailto:jberkowitz@stearnsweaver.com)  
*Counsel for Wells Fargo Bank, N.A.*

I further certify that on the same date I mailed the foregoing document and the notice of electronic filing by U.S. Mail or as indicated below to the following non-CM/ECF participant:

Arthur G. Nadel  
Register No. 50690-018  
FCI Butner Low - Federal Correctional Institution  
P.O. Box 999  
Butner, NC 27509  
Via U.S. Mail

s/ Scott A. Masel  
Scott A. Masel, Esq.