

**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.

_____ /

RECEIVER'S MOTION TO APPROVE SETTLEMENT

Burton W. Wiand, as Receiver, moves the Court for an order approving settlement of claims against the YMCA Foundation of Sarasota, Inc. (the "YMCA") for recovery of sums received from one or more Receivership Entities as purported charitable contributions and purported investment distributions on the basis of the Settlement Agreement attached as Exhibit A.

MEMORANDUM IN SUPPORT

The Securities and Exchange Commission (the “Commission” or “SEC”) instituted this action to “halt [an] ongoing fraud, maintain the status quo, and preserve investor assets” (Dkt. 1, Compl., ¶ 7.) Burton W. Wiand was appointed by this Court as the Receiver for Defendants and Relief Defendants. (*See* Order Reappointing Receiver (Dkt. 140).) Additionally, the Receivership was expanded to include Venice Jet Center, LLC and Tradewind, LLC (Dkt. 17); Laurel Mountain Preserve, LLC, Laurel Preserve, LLC, the Marguerite J. Nadel Revocable Trust UAD 8/2/07, and the Laurel Mountain Preserve Homeowners Association, Inc. (Dkt. 44); The Guy-Nadel Foundation, Inc. (Dkt. 68); Lime Avenue Enterprises, LLC, and A Victorian Garden Florist, LLC (Dkt. 79); Viking Oil & Gas, LLC (Dkt. 153); and Home Front Homes, LLC (Dkt. 172); and Traders Investment Club (Dkt. 454). All of the entities in receivership are collectively identified herein as the Receivership Entities.

Pursuant to the Order Reappointing Receiver (Dkt. 140), the Receiver has the duty and authority to:

2. Investigate the manner in which the affairs of the Receivership Entities were conducted and institute such actions and legal proceedings, for the benefit and on behalf of the Receivership Entities and their investors and other creditors as the Receiver deems necessary . . . against any transfers of money or other proceeds directly or indirectly traceable from investors in the Receivership Entities; provided such actions may include, but not be limited to, seeking imposition of constructive trusts, disgorgement of profits, recovery and/or avoidance of fraudulent transfers under Florida Statute § 726.101, et. seq. or otherwise, rescission and restitution, the collection of debts, and such orders from this Court as may be necessary to enforce this Order.

The Receiver’s investigation has revealed several organizations that received “charitable contributions” which consisted of proceeds of the scheme underlying this case.

Those organizations' receipt of those funds operated to the detriment of investors in the scheme underlying this case who lost money as a result of their investment. Unlike other charitable organizations, however, the YMCA reinvested almost all of its purported contributions in Receivership Entities. Specifically, the YMCA received \$1,219,222 directly or indirectly from Receivership Entities and reinvested \$1,111,111.40, which was lost when Nadel's scheme collapsed. As such, the YMCA retained and did not reinvest \$108,110.60. In addition, the YMCA received \$30,315.90 as purported investment distributions from Receivership Entities. In total, the YMCA received \$138,426.50 from Receivership Entities that it did not reinvest in Receivership Entities. The YMCA submitted a Proof of Claim Form, designated Claim No. 478 (the "Claim"), in the amount of \$1,111,111.40 (the "Claimed Funds") in the claims process established by the Receiver and approved by the Court.

As shown by the attached Settlement Agreement, the YMCA, subject to the approval of this Court, has agreed to pay \$75,000, to be paid in accordance with a set payment schedule. The YMCA has also agreed to withdraw the Claim and to waive any entitlement to the Claimed Funds. In reaching this agreement, the Receiver considered the risks and expense of litigation, the YMCA's willingness to resolve the matter before the Receiver had to file a lawsuit, and the YMCA's financial ability to pay. The settlement reflected by the Settlement Agreement is in the best interests of the Receivership, the investors in the Receivership Entities, and the YMCA, because resolution of the claims avoids protracted litigation, conserving Receivership assets and judicial resources, and avoids the cost of litigation to the YMCA.

WHEREFORE, the Receiver moves the Court to approve the settlement reflected by the attached Settlement Agreement.

LOCAL RULE 3.01(g) CERTIFICATE OF COUNSEL

The undersigned counsel for the Receiver is authorized to represent to the Court that the SEC has no objection to the Court's granting this motion.

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on March 30, 2012, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

I **FURTHER CERTIFY** that on March 30, 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 (Trial Counsel)
Florida Bar No. 034997
gmorello@wiandlaw.com
Michael S. Lamont, FBN 527122
mlamont@wiandlaw.com
Jared J. Perez, FBN 0085192
jperez@wiandlaw.com
WIAND GUERRA KING P.L.
3000 Bayport Drive, Suite 600
Tampa, FL 33607
Tel. (813) 347-5100
Fax (813) 347-5198

Attorneys for the Receiver, Burton W. Wiand