

**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, LLC,

Relief Defendants.

**RECEIVER'S UNOPPOSED MOTION TO (1) APPROVE FIRST INTERIM
DISTRIBUTION, (2) ESTABLISH RESERVES, AND (3) APPROVE
REVISIONS TO CERTAIN CLAIM DETERMINATIONS**

Burton W. Wiand, as Receiver (the “**Receiver**”), respectfully moves this Court for an Order: (1) approving a first interim distribution of \$25,994,012.73 as set forth in this motion and in **Exhibit A**, representing a recovery of 20% of the Allowed Amounts¹ of Class 1

¹ The phrase “**Allowed Amount**” is defined in the Receiver’s Motion to (1) Approve Determination and Priority of Claims, (2) Pool Receivership Assets and Liabilities, (3)
(footnote cont’d)

Claims² receiving a distribution at this time;³ and (2) establishing reserves of \$1,789,268.46 for claims for which timely objections were received and for Wells Fargo Bank, N.A.'s and TRSTE, Inc.'s purported interests in Receivership assets and the Receivership estate as set forth in **Exhibit B**; and (3) approving revisions to certain claim determinations previously submitted by the Receiver and approved by the Court as reflected in **Exhibit C**. A proposed order is provided as **Exhibit D**.

BACKGROUND

On April 20, 2010, the Receiver filed an Unopposed Motion to (1) Approve Procedure to Administer Claims and Proof of Claim Form, (2) Establish Deadline for Filing Proofs of Claim, and (3) Permit Notice by Mail and Publication (the "**Claims Form Motion**") (Doc. 390). On April 21, 2010, the Court granted the Receiver's motion in its entirety (Doc. 391). The Court established a Claim Bar Date of the later of 90 days from the date of the Order granting the Claims Form Motion or the mailing of Proof of Claim Forms to all known investors and other potential creditors (as the term "**Claim Bar Date**" is defined

Approve Plan of Distribution, and (4) Establish Objection Procedure (the "**Claims Determination Motion**") (Doc. 675 at 8 n.8).

² As discussed in more detail below, Class 1 is comprised of (i) claims made by investors which were allowed or allowed in part and (ii) claims asserted by taxing authorities which were allowed. (*See* Doc. 675 at 34-38.)

³ A first interim distribution for five claims that were previously allowed (Claim Nos. 104, 159, 212, 267, and 375) would not be made at this time because the Receiver was recently informed that the Allowed Amounts for these claims overstate those claims' actual losses. The Receiver is in the process of resolving these matters, and will do so very promptly so that a first interim distribution can be made in the very near future for these five claims as well.

in the Claims Form Motion). Pursuant to the Court's Order, any person or entity who failed to submit a proof of claim to the Receiver so that it was actually received by the Receiver on or before the Claim Bar Date is barred and precluded from asserting any claim against the Receivership or any Receivership entity.

The Court's Order further provided that sufficient and reasonable notice would be given by the Receiver if made (1) by mail to the last known addresses of all known potential claimants, (2) by global publication on one day in The Wall Street Journal and publication on one day in the Sarasota-Herald Tribune, and (3) by publication on the Receiver's website (www.nadelreceivership.com). In compliance with the Court's Order, on June 4, 2010, the Receiver mailed 1,256 packages to the last known addresses of known investors and their attorneys, if any, and any other known potential creditors of the Receivership estate, thereby establishing September 2, 2010, as the Claim Bar Date. Each package included a cover letter, the Notice of Deadline Requiring Filing of Proofs of Claim (the "**Notice**"), and a Proof of Claim Form (collectively, the "**Claims Package**"). The Receiver also published the Notice in the global edition of The Wall Street Journal and in the Sarasota Herald-Tribune on June 15, 2010, and posted the Notice and a Proof of Claim Form on his website.

Following investors' and other potential creditors' submission of Proof of Claim Forms (the "**Claimants**"), over time the Receiver sent approximately 134 letters to pertinent Claimants notifying them of deficiencies in their respective Proof of Claim Forms. The Receiver sent these letters to give Claimants an opportunity to correct deficiencies in their claim filings which might ultimately affect the recognition of their claim. The Claimants

were given thirty days from the date of the notice of deficiency to return a corrected Proof of Claim Form.

The Receiver received 504 claims (the “**Claims**”).⁴ Of the 504 claims, 478 claims were submitted in connection with 473 investor “accounts”⁵ (the “**Investor Claimants**” or “**Investor Claims**”), which represent approximately 60% of all currently known Investor Accounts.⁶ The Receiver also received 26 claims from other purported creditors (the “**Non-Investor Claimants**” or “**Non-Investor Claims**”), including two claims from taxing authorities (the “**Tax Lien Claimants**” or “**Tax Lien Claims**”). The Receiver received claims from Investor Claimants totaling approximately \$149,033,449.32 and claims from Non-Investor Claimants totaling approximately \$9,205,581.14, for a total claim amount of approximately \$158,239,030.46.⁷

⁴ Overall, the Receiver received and reviewed 631 Proof of Claim Forms. This number includes corrected and supplemented Proof of Claim Forms that were received in response to deficiency letters sent by the Receiver. As noted above, these 631 Proof of Claims Forms relate to 504 total claims.

⁵ Although Arthur Nadel and Receivership entities did not maintain separate investor accounts, the purported statements they created and distributed referred to fictitious “accounts” in the Hedge Funds (the “**Investor Accounts**”). For ease of reference, this Motion and its Exhibits use the term “account” even though no such accounts actually existed.

⁶ Multiple claims were submitted for five accounts.

⁷ The amount indicated for Non-Investor Claimants may not include all claimed interest, fees, or penalties which may be sought by them. Further, importantly these numbers reflect the amount Claimants are claiming they are owed, and not the amount the Receiver has determined is the value of allowable claims.

On December 7, 2011, the Receiver filed his Claims Determination Motion (Doc. 675). In that motion, the Receiver set forth his recommended determination and priority of each claim. The Receiver attached detailed exhibits to the Claims Determination Motion addressing each claim. In an effort to minimize disclosure of Claimants' financial affairs, the Receiver assigned each claim a number and, except where the Claimant's identity was important to the determination of a claim, did not identify the account or accountholder's name(s). The Receiver also proposed a procedure for a Claimant to dispute the Receiver's recommended treatment of a claim.

After careful review and consideration, the Receiver made the following determinations: (1) 420 Investor Claims should be allowed (in full or in part) for the total amount of \$131,202,230.40;⁸ (2) two Tax Lien Claims should be allowed for the total amount of \$4,481.99; (3) two secured non-investor claims ("**Non-Investor Secured Claims**") should be allowed to recover only from proceeds of the sale of the secured asset, subject to certain limitations set forth in the Claims Determination Motion; (4) 13 unsecured non-investor claims ("**Non-Investor Unsecured Claims**") should be allowed or allowed in part for the total amount of \$755,452.51, subject to certain limitations set forth in the Claims Determination Motion; (5) 35 Investor Claims and 8 Non-Investor Claims should be denied for reasons set forth in the Claims Determination Motion; and (6) 24 Investor Claims and one

⁸ As noted in footnote 3 above, the Receiver was recently informed that the Allowed Amounts for five claims overstate those claims' actual losses. That collective overstatement appears to be of approximately \$167,684, which only represents 0.001% of the total Allowed Amount of all Investor Claims, and thus is negligible, especially in the context of assessing investor losses caused by a massive 10-year Ponzi scheme such as the one underlying this case.

Non-Investor Claim should be denied because the claims were waived. Not including Non-Investor Secured and Unsecured Claims, the Receiver recommended that \$131,206,712.39 in claims be allowed.

The Receiver further determined the appropriate priority for each claim. The Receiver established five categories of priority for claims. Class 1, which is the highest priority, is comprised of all Investor Claims which are allowed and allowed in part and, given the diminutive amount, the Tax Lien Claims. Class 2, which is second priority, is comprised of allowed in part Non-Investor Secured Claims. However, as discussed in the Claims Determination Motion, each of the Class 2 claims should be allowed to recover only from proceeds of the sale of the secured asset subject to certain limitations. Class 2 claims have priority over all other classes with respect to the proceeds of the sale of the asset securing each of the respective secured claims. Allowed and allowed in part Non-Investor Unsecured Claims receive third priority and are in Class 3. These Claimants will only participate in a distribution of Receivership assets after all Allowed Amounts for Class 1 claims have been satisfied in full. The remaining claims, which are Class 4, were denied in full or have been waived. Claimants holding Class 4 claims will not receive any distribution of Receivership assets.

On December 9, 2011, the Receiver mailed a letter giving notice of the Claims Determination Motion to all Claimants to the mailing address provided on each of their respective submitted Proof of Claim Forms, and to their attorneys, if any were identified. The letter advised each Claimant of the Claimant's respective claim number. The Receiver also informed the Claimants that the recommended determination of each claim was set forth

in the Exhibits attached to the Claims Determination Motion and also was addressed in the body of the Motion. The letter further informed the Claimants that the Claims Determination Motion was available on the Receiver's website or, upon request, from the Receiver's office. Claimants were then able to cross-reference their respective claim number with the Exhibits attached to the Claims Determination Motion to learn the Receiver's determination of the corresponding claim.

On March 2, 2012, the Court entered an Order granting the Claims Determination Motion except with respect to a claim submitted by Wells Fargo Bank, N.A. (the "**March 2 Order**") (Doc. 776). With respect to the claim submitted by Wells Fargo Bank, N.A., the Court reserved ruling on that claim and on several motions and objections filed by Wells Fargo Bank, N.A. and its affiliate, TRSTE, Inc. (collectively "**Wells Fargo**"), relating to that claim and other purported interests in Receivership assets. (*See* Docs. 689, 690, 718, 719, 740.)

The objection procedure proposed by the Receiver in the Claims Determination Motion and adopted by the Court allowed each Claimant 20 days from receipt of notice of the March 2 Order to serve the Receiver with a written objection to the determination of the Claimant's claim and/or claim priority and to object to the plan of distribution. Failure to properly and timely object to the Receiver's claim determination, claim priority, or plan of distribution permanently waived and barred the Claimant's right to object to or contest the Receiver's claim determination, claim priority, and plan of distribution, and fixed the final claim amount as the Allowed Amount determined by the Receiver and approved by the Court as set forth in the Exhibits attached to the Claims Determination Motion. On March 8, 2012,

the Receiver mailed each Claimant and the Claimant's attorneys, if any, a letter informing the Claimant of the March 2 Order and the procedure to serve a written objection. Claimants had until March 28, 2012, to serve any objections.

The Receiver has received objections relating to 23 claims (Claim Nos. 156, 403, 404, 405, 406, 407, 408, 444, 445, 449, 450, 462, 463, 464, 465, 466, 467, 469, 471, 476, 477, 483, and 504). These objections were raised by 12 Claimants, four of whom have multiple claims. The Receiver is in the process of reviewing these objections. Further, as noted above, Wells Fargo, which filed Claim Number 502, has petitioned the Court for relief with respect to its claim and to other interests it has asserted to Receivership property. Other than Wells Fargo's petitions, the Receiver did not receive any other objections to his plan of distribution. As discussed below, to enable the Receiver to proceed with an interim distribution, the Receiver requests the Court allow him to establish reserves for objections as specified on **Exhibit B** until the objections are resolved and also for Wells Fargo's purported interests in Receivership assets and the Receivership estate until those issues also are resolved.⁹

PROPOSED PLAN FOR FIRST INTERIM DISTRIBUTION AND RESERVES

In the March 2 Order, the Court approved the Receiver's plan of distribution set forth in the Claims Determination Motion. This plan of distribution provides that a first interim distribution (and any subsequent distributions) will be made on a *pro rata* basis subject to

⁹ As discussed below at page 14, after further review the Receiver was expeditiously able to determine that his original claim determination for Claim Number 471 as set forth in the Claims Determination Motion should be revised, and the revision resolves the objection relating to this claim. Therefore, reserves for this claim are not needed.

applicable exceptions, priorities, and other parameters discussed in the Claims Determination Motion. At that time, the Receiver anticipated an interim distribution of \$18 million to Claimants with Class 1 claims. However, because the Receiver has recovered additional funds, he now seeks leave to make a first interim distribution of \$25,994,012.73 (instead of \$18 million) to Class 1 Claimants as specified in **Exhibit A**. This distribution will result in a 20% recovery of these Claimants' Allowed Amounts.

The distribution plan approved by the Court provides that Class 1 Claimants receive a fixed percentage of their Allowed Amount from the aggregate amount distributed to Claimants in any particular distribution based upon the following formula, which achieves a *pro rata* distribution: each claim's Allowed Amount divided by the total Allowed Amount of all allowed claims multiplied by the aggregate distribution amount. The amount each Class 1 claim would receive based on this formula as part of a first interim distribution is specified in Exhibit A.¹⁰

¹⁰ Pursuant to the terms of a settlement agreement and as set forth in the Claims Determination Motion and approved by the Court (*see* Doc. 675 at 13 n.10), the first interim distributions identified on Exhibit A for Claim Numbers 363 and 377 will not be paid to the Claimants, and instead will revert to the Receivership. These Claimants may not receive a distribution until their allotted combined distribution exceeds \$362,366.96. The interim distribution for these claims as set forth in this motion and Exhibit A does not meet this threshold; rather, it is a combined total of \$342,000. Likewise, as set forth in the Claims Determination Motion and approved by the Court (*see* Doc. 675 at 42), the distribution identified for Claim Number 391 on Exhibit A will not be paid to the Claimant. This Claimant is not allowed to participate in any distributions of Receivership assets until and if all Investor Claimants with allowed claims receive 50% of their Allowed Amounts. As this distribution will result in a 20% recovery, this claim is not entitled to any funds at this time.

As of April 23, 2012, the total money in all Receivership accounts is approximately \$34,881,280.48. Including the money the Receiver is owed by defendants in settled ancillary litigation, the total money on hand and due to the Receiver is \$36,702,019.43.

The Receiver believes that by distributing \$25,994,012.73 he will be able to provide a significant amount of money to Claimants now while still maintaining adequate funds, including to cover the expenses of (1) continuing ongoing litigation, (2) administering the Receivership, and (3) paying the Receiver's professionals for services already provided and yet to be provided. Further, as discussed below, the Receiver will be left with sufficient funds and assets to cover claims which are subject to objections in the event the objections are sustained and to cover asserted interests in the Receivership by Wells Fargo. The Receiver believes he has reserved more than is necessary for the payment of these items and intends to distribute the excess in one or more future distributions as appropriate.

The Receiver requests leave to make the first interim distribution in the amounts specified on Exhibit A within 10 days of the date of the order authorizing the distribution. However, the Receiver has been preparing to make distributions and will be in position to make distributions as set forth in this motion and Exhibit A within a few hours after entry of an order granting this motion. The Receiver will mail checks by U.S. Mail. The Receiver requests that the Claimants be allowed 120 days to negotiate the distribution checks. If a check is not negotiated by the Claimant within 120 days, the money will revert to the Receivership and likely will be distributed on a *pro rata* basis in a future distribution. A deadline for negotiating distribution checks is necessary for the orderly administration of the

Receivership and to avoid future expenses for tracing unnegotiated checks and having the bank place “stop payments” on any such checks.

As anticipated in the Claims Determination Motion and noted above, where appropriate the Receiver also seeks leave to reserve funds for claims for which objections were timely received as set forth in **Exhibit B** so that these objections do not impede or delay a first interim distribution. Similarly, as also set forth in Exhibit B, the Receiver seeks leave to reserve funds in connection with Claim Number 502, which was submitted by Wells Fargo, and other purported interests it has asserted in Receivership assets. (*See Docs. 689, 690, 718, 719, 740.*) The Receiver seeks leave to reserve a total of \$1,789,268.46 as set forth and itemized in Exhibit B. Reserves will be held until the corresponding claim objection or asserted interest is resolved and a distribution amount is fixed.

With respect to Wells Fargo’s claim and asserted interests, the Receiver has previously asserted that, assuming *arguendo* Wells Fargo is entitled to any recovery, (1) such recovery could only come from proceeds of the sale of collateral; (2) Wells Fargo would not be able to recover any deficiency from the Receivership estate; and (3) even assuming *arguendo* Wells Fargo could recover a deficiency from the Receivership estate, any such deficiency claim would be a Non-Investor Unsecured Claim and thus would receive lower priority than Class 1 claims (Class 1 claims are the ones which will receive this proposed interim distribution). As such, any deficiency claim would not be paid until all Investor Claims’ Allowed Amounts have been fully satisfied. Nevertheless, and out of an abundance of caution, the Receiver proposes making certain reserves totaling \$1,120,480.72 for Wells Fargo’s claim and asserted interests as detailed in Exhibit B. In addition, after taking into

account the distributions and reserves discussed in this motion and the exhibits, the Receivership estate would still have approximately \$7,097,999.29 in cash on hand, and when also considering money due from settlements, \$8,918,738.24. As such, the funds and relevant real property in the Receivership estate would be more than sufficient to cover any potential obligation the Receivership may have based on Wells Fargo's claim and asserted interests.

REVISIONS TO CERTAIN CLAIM DETERMINATIONS

Subsequent to the filing of the Claims Determination Motion, the Receiver has determined that revisions to claim determinations for fifteen claims are or, subject to the Receiver's receipt of confirming documentation, may be appropriate. (*See* Claim Nos. 61, 62, 63, 85, 191, 211, 263, 270, 296, 306, 335, 354, 358, 373, and 471.) These claims and their respective requested claim determination revisions and the reasons for the revisions are set forth in **Exhibit C**. For all but one of these claims, the revisions are requested to accommodate changes in Claimants' circumstances. Specifically, Claimants holding six claims requested revisions because they changed custodians for the accounts which held investments underlying this case. (*See* Claim Nos. 61, 62, 211, 263, 335, and 354.) To allow the Claimants to deposit any distribution into the appropriate accounts, the determinations for these claims should be changed to reflect the current custodians.¹¹ Further, revisions are or

¹¹ For tax purposes and on the advice of the Receiver's accountant, the Receiver will make relevant distribution checks payable to the name of the account. For instance, if the account was titled in the name of "Millennium Trust FBO Claimant," the payee for any distribution check to which this account is entitled will be "Millennium Trust FBO Claimant." The distribution will be mailed to the Claimant at the address provided on the
(footnote cont'd)

may be appropriate for six other claims because the Claimants who held these claims are now deceased. (*See* Claim Nos. 85, 191, 270, 296, 358, and 373.) As detailed in Exhibit C, the Receiver seeks approval of revisions to the claim determinations for these claims subject to his receipt of, what is in his discretion, sufficient proof to establish the legitimacy and appropriateness of the requested revisions. For four of these claims, the Receiver has asked that the Claimant's estate be allowed 10 days from the entry of an order granting this motion to provide sufficient proof of the new beneficial owner of the account (*see* Claim Nos. 191, 296, 358, and 373). If the Receiver is not provided sufficient proof within that time, the Receiver will remit payment in the name of the account for the benefit of the decedent. For the remaining two claims for which the Claimant is now deceased, the Receiver has been informed that the distribution may be paid in the name of the account for the benefit of the decedent. For these claims, the Receiver has requested that if, in the future, he is asked to designate a different payee, he be allowed to do so if, in the Receiver's discretion, he receives sufficient proof.

Further, two Claimants holding one claim informed the Receiver that they were now divorced and requested that the claim be divided equally between them. (*See* Claim No. 63.) And one Claimant that is a retirement trust has been closed and the trustee provided information showing that the claim should be divided between him and his wife. (*See* Claim No. 306.)

Proof of Claim Form and it will be the Claimant's obligation to deposit the check into the appropriate account.

Finally, the Receiver requests a revision to the claim determination for Claim Number 471, because upon further review of documents provided by the Claimant and other Receivership records, the Receiver has determined in an expeditious manner that two distributions which appeared to have been made to the Claimant in connection with his investment were not completed and the funds were returned to the Receivership Entity's bank account. Accordingly, Claim Number 471, which was previously denied, should be allowed for the claimed amount of \$286,000.

The Receiver believes that it is or, as applicable and subject to receipt of further proof, it may be fair and reasonable to accommodate the changes in the Claimants' circumstances as identified above and to recognize the loss for Claim Number 471. Accordingly, the Receiver requests that the Court approve the revisions and procedures set forth in Exhibit C. The Receiver further believes that there may be additional allowed claims and allowed in part claims related to investments in Receivership entities through custodial accounts (for example, through an IRA) for which Claimants may have made custodian changes that are similar to those identified above and in Exhibit C of which the Receiver is currently unaware. In anticipation of requests for the reissuance of checks made payable to custodians which are no longer being used, the Receiver requests that the Court allow him to honor these requests if, in the Receiver's discretion, he is provided sufficient notification and information.

ARGUMENT

As explained above, the Receiver asks the Court to approve the first interim distribution as set forth in this motion and in Exhibit A. The Court has previously approved

the Receiver's plan of distribution. (See March 2 Order, Doc. 776.) The first interim distribution sought herein is consistent with the plan of distribution approved by the Court. Further, the relief requested in this motion is in the best interest of the Receivership and the Claimants as a whole; is fair, reasonable, and equitable; and satisfies due process.

The Court's power over an equity receivership and to determine appropriate procedures for administering a receivership is "extremely broad." *SEC v. Hardy*, 803 F.2d 1034, 1037 (9th Cir. 1986); see *SEC v. Basic Energy*, 273 F.3d 657, 668 (6th Cir. 2001); *SEC v. Elliot*, 953 F.2d 1560, 1566 (11th Cir. 1992). The primary purpose of an equity receivership is to promote the orderly and efficient administration of the estate for the benefit of the creditors. *Hardy*, 803 F.2d at 1038. The relief requested by the Receiver best serves this purpose.

The Court has wide latitude when it exercises its inherent equitable power in approving a plan of distribution of receivership funds. *SEC v. Forex Asset Mgmt. LLC*, 242 F.3d 325, 331 (5th Cir. 2001) (affirming District Court's approval of plan of distribution because court used its discretion in "a logical way to divide the money"); *Quilling v. Trade Partners, Inc.*, 2007 WL 107669, *1 (W.D. Mich. 2007) ("In ruling on a plan of distribution, the standard is simply that the district court must use its discretion in a logical way to divide the money" (internal quotations omitted)). In approving a plan of distribution in a receivership, "the district court, acting as a court of equity, is afforded the discretion to determine the most equitable remedy." *Forex*, 242 F.3d at 332. The Court may adopt any plan of distribution that is fair and reasonable. *SEC v. Wang*, 944 F.2d 80, 83-84 (2d Cir. 1991); *Basic Energy*, 273 F.3d at 671.

Consistent with the features of Nadel's Ponzi scheme, "Courts have favored pro rata distribution of assets where, as here, the funds of defrauded victims were commingled and where victims were similarly situated with respect to their relationship to the defrauders." *SEC v. Credit Bancorp, Ltd.*, 290 F.3d 80, 88 (2d Cir. 2002); *see Quilling*, 2007 WL 107669 at *2 ("The use of a *pro rata* distribution plan is especially appropriate for fraud victims of a Ponzi scheme, in which earlier investors' returns are generated by the influx of fresh capital from unwitting newcomers rather than through legitimate investment activity."). A fair and reasonable distribution plan may provide for reimbursement to certain claimants, while excluding others. *See Wang*, 944 F.2d at 84 (citations omitted); *Basic Energy*, 273 F.3d at 660-61. The Receiver believes that the interim distribution set forth above is fair and reasonable and is consistent with the distribution plan approved by the Court.

WHEREFORE, Burton W. Wiand, as Receiver, respectfully requests the Court enter an order: (1) authorizing a first interim distribution in the total amount of \$25,994,012.73 as set forth above and in Exhibit A; (2) establishing reserves of \$1,789,268.46 in connection with claims for which timely objections were received and for Wells Fargo's asserted interests as set forth above and in Exhibit B; and (3) approving revisions and procedures set forth above and in Exhibit C, and providing the Receiver authority to honor requests for reissuance of distribution checks made payable to custodians that are no longer applicable or to deceased Claimants if, in the Receiver's discretion, he is provided sufficient notification and proof.

LOCAL RULE 3.01(g) CERTIFICATION

The undersigned counsel for the Receiver has conferred with counsel for the Securities and Exchange Commission and is authorized to represent to the Court that the Commission has no objection to the relief sought herein.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 27, 2012, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

s/Gianluca Morello

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