

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

ARTHUR NADEL,  
SCOOP CAPITAL, LLC,  
SCOOP MANAGEMENT, INC.,

CASE NO.: 8:09-cv-0087-T-26TBM

Defendants,

SCOOP REAL ESTATE, L.P.,  
VALHALLA INVESTMENT PARTNERS, L.P.,  
VALHALLA MANAGEMENT, INC.,  
VICTORY FUND, LTD,  
VIKING IRA FUND, LLC,  
VIKING FUND, LLC, AND  
VIKING MANAGEMENT, LLC.

Relief Defendants.

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**NOTICE OF ADDITIONAL FACTUAL DEVELOPMENT REGARDING  
SALE OF REAL PROPERTY LOCATED IN GRAHAM,  
ALAMANCE COUNTY, NORTH CAROLINA**

Burton W. Wiand, as Receiver (the “**Receiver**”), by and through his undersigned counsel, files this Notice in order to inform the Court of the following additional factual developments in connection with the sale of real property located in Graham, Alamance County, North Carolina (the “**Rite Aid Property**” or “**Property**”), which this Court approved on May 8, 2012. (Docs. 840, 842)

1. After the Receiver filed his Notice of Factual Development Regarding Sale of Real Property Located in Graham, Alamance County, North Carolina (Doc. 843) on Friday, May 11, 2012, the following events transpired.

2. On Monday, May 14, 2012, the undersigned received a series of e-mails from counsel for Wells Fargo Bank, N.A. (“**Wells Fargo**” or the “**Bank**”) informing him that a buyer named Jay Newhouse is interested in purchasing the Rite Aid Property via a company named Winston Mills, LLC for \$2.8 million and could be prepared to close early next week.<sup>1</sup> According to the Bank’s counsel, Newhouse will be sending a unilaterally-drafted and signed contract for purchase of the Property to Wells Fargo’s counsel. Further, the Bank contends that the proposed contract will be in the same form as the Court-approved contract between the Receiver and the original purchaser, Trinet West, LLC (“**Trinet**”). Exactly how the Bank and/or its counsel have managed to make themselves the middlemen for this unilaterally-proposed purchase of the Property is unclear to the Receiver.

3. Unlike the Court-approved contract for sale of the Property, counsel for Wells Fargo stated that the proposed contract will contain no conditions for closing other than the delivery of the (unspecified) documents typical for this type of real estate transaction. At this point, there are no contingencies left to be satisfied by the Receiver or Trinet under the Court-approved contract for sale. The Receiver and Trinet have fulfilled their respective obligations and all documents in connection with the sale have been executed. Notably, no reference has been made regarding Newhouse’s willingness to pay the advanced payment of \$25,000.00 in

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<sup>1</sup> According to Wells Fargo’s counsel, Newhouse is represented by Tim Giambrone – the same real estate broker whom the Receiver spoke with on May 10, 2012. To reiterate, during their telephone call on May 10, 2012, the Receiver informed Giambrone that, in accordance with the Court’s approval of the sale of the Property, he is contractually obligated to proceed with the closing scheduled for May 15, 2012. Ignoring the Receiver’s position, Giambrone and his client are apparently continuing with the unilateral drafting and executing of a contract for purchase of the Property, which the Receiver has not agreed to or even had the opportunity to review.

earnest money, as was fully performed by Trinet in accordance with the terms of the Court-approved contract.

4. Finally, the Bank has made clear its intention to file a motion for reconsideration of the Court's approval of the sale of the Rite Aid Property (Docs. 840, 842) if and when it receives a copy of the unilaterally-drafted and executed contract from Newhouse.

5. The Receiver discloses the above-described factual development to ensure that the Court is apprised of these additional developments and that the record accurately reflects the circumstances leading up to the sale of the Rite Aid Property. Given that: (1) the Court has approved the sale of the Property; (2) no bids or firm offers were submitted by the conclusion of the publication period; and (3) Trinet has completed all of its terms of purchase, the Receiver believes that he is obligated to honor the executed contract and proceed with the sale of the Rite Aid Property to Trinet for the approved contract price of \$2,400,000.00. Accordingly, the Receiver will proceed with closing on the Rite Aid Property after 3:00 p.m. on May 15, 2012, unless the Court enters an order before that time directing him to proceed otherwise.

Respectfully submitted,

**/s/ Jonathan B. Cohen**

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*Attorneys for the Receiver, Burton W. Wiand*

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that on May 14, 2012, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

**/s/ Jonathan B. Cohen**

*Attorney for the Receiver, Burton W. Wiand*