

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

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

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

Defendants,

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

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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**DECLARATION OF BURTON W. WIAND  
IN SUPPORT OF THE RECEIVER'S MOTION  
TO EXPAND THE SCOPE OF RECEIVERSHIP TO INCLUDE RESPIRO, INC.**

Burton W. Wiand declares as follows:

1. I am an attorney with Wiand Guerra King P.L. in Tampa, Florida. I have personal knowledge of, or have obtained knowledge through my investigation of matters during the course of this Receivership, the matters asserted herein and am competent to testify thereto.

2. I submit this declaration (the “**Declaration**”) in support of the Receiver’s Motion To Expand The Scope Of Receivership To Include Respiro, Inc.

3. In the January 21, 2009, Order Appointing Receiver (Doc. 8), the Court appointed me Receiver for Defendants Scoop Capital, LLC (“**Scoop Capital**”) and Scoop Management, Inc. (“**Scoop Management**”) and Relief Defendants Scoop Real Estate, L.P. (“**Scoop Real Estate**”); Valhalla Investment Partners, L.P. (“**Valhalla Investment**”); Valhalla Management, Inc. (“**Valhalla Management**”); Victory Fund, Ltd. (“**Victory Fund**”); Victory IRA Fund, Ltd. (“**Victory IRA Fund**”); Viking IRA Fund, LLC (“**Viking IRA Fund**”); Viking Fund, LLC (“**Viking Fund**”); and Viking Management, LLC (“**Viking Management**”). Scoop Real Estate, Valhalla Investment, Victory IRA Fund, Victory Fund, Viking IRA Fund, and Viking Fund are collectively referred to as the “**Hedge Funds.**” Scoop Management, Viking Management, and Valhalla Management are collectively referred to as the “**Fund Managers.**”

4. The Receivership was subsequently expanded to include Venice Jet Center, LLC and Tradewind, LLC (Doc. 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. (Doc. 44); The Guy-Nadel Foundation, Inc. (Doc. 68); Lime Avenue Enterprises, LLC, and A Victorian Garden Florist, LLC (Doc. 79); Viking Oil & Gas, LLC (Doc. 153); Home Front Homes, LLC (Doc. 172); and Traders Investment Club (Doc. 454). All of the entities in receivership are collectively referred to as the “**Receivership Entities.**”

5. I was reappointed as Receiver for the Receivership Entities by Orders dated June 3, 2009 (Doc. 140), January 19, 2010 (Doc. 316), and September 23, 2010 (Doc. 493). All Orders appointing and reappointing me as Receiver are collectively referred to as the **“Orders Appointing Receiver.”**

6. Pursuant to the Orders Appointing Receiver, I have the duty and authority to: “administer and manage the business affairs, funds, assets, choses in action and any other property of the Defendants and Relief Defendants; marshal and safeguard all of the assets of the Defendants and Relief Defendants; and take whatever actions are necessary for the protection of the investors.” *See* Orders Appointing Receiver at 1-2.

7. I have been assisted in my investigation by my attorneys, accountants, information technology experts, and others. After I obtained control of the Receivership Entities, I, my attorneys, and/or my accountants had discussions and other communications with Arthur Nadel (“**Nadel**”) and a number of people associated with Nadel and/or the Receivership Entities, including officers of some of the Receivership Entities and persons responsible for maintaining the financial books of the Receivership Entities and other businesses controlled by Nadel, for operating other businesses controlled by Nadel, for performing accounting services, and for administering the Hedge Funds. We also had communications with and gathered information from many investors in the Hedge Funds.

8. We have reviewed documents located in the Hedge Funds’ office, documents obtained from the accountant for the Receivership Entities, information stored on the Receivership Entities’ computer network, documents obtained from other businesses

controlled by Nadel, documents obtained from numerous third parties, and information available in the public record.

9. My investigation has revealed that Nadel defrauded investors through his control of the Hedge Funds' advisers and managers. A review of any monthly trading account statement for any of the Hedge Funds would have shown that the trading activity, yields, and amounts in those accounts significantly differed from the information provided to investors in purported periodic Hedge Fund performance statements.

10. My investigation also uncovered evidence that the Fund Managers received substantial amounts of money from the Hedge Funds in the form of purported management, profit incentive, and/or advisory fees.

11. On February 24, 2010, Nadel pled guilty to all counts in his indictment, which charged that he ran the scheme underlying this case from 1999 forward.

12. After my appointment as Receiver, I learned that proceeds of Nadel's fraud had been used to fund Respiro, Inc. ("**Respiro**").

13. According to public records, Chris Moody, his wife Tamara Moody, Lyle Warner, and Nathan Warner served as Directors of Respiro from the company's inception in December 2007 until after Nadel's scheme collapsed in January 2009. A true and correct copy of Respiro's 2007 Articles of Incorporation is attached hereto as **Exhibit A**. A true and correct copy of Respiro's 2008 Annual Report (showing Chris Moody as a Director) is attached hereto as **Exhibit B**.

14. Also according to public records, after Nadel's scheme collapsed, Chris Moody was removed as a Director of Respiro, and Tamara Moody's title was changed from

Director to simply Officer. A true and correct copy of Respiro's 2009 Annual Report (showing Tamara Moody's title change) is attached hereto as **Exhibit C**. A true and correct copy of Respiro's 2010 Annual Report (which omits Chris Moody as a Director) is attached hereto as **Exhibit D**.

15. According to Respiro's most recent annual report, filed April 20, 2012, Lyle and Nathan Warner are Directors of the company, and Tamara Moody is an Officer. A true and correct copy of Respiro's 2012 Annual Report is attached hereto as **Exhibit E**.

16. Beginning shortly after its formation, Christopher Moody funded Respiro with a series of transfers, totaling \$557,500, as set forth below:

<b>Date</b>	<b>Amount</b>	<b>Moody Source Account</b>
1/3/08	\$ 2,000.00	Christopher D. Moody Rev. Trust – Landmark Bank #***1689
1/11/08	\$ 20,000.00	Christopher D. Moody Rev. Trust – Northern Trust Bank #*****9599
1/28/08	\$ 20,000.00	Christopher D. Moody Rev. Trust – Northern Trust Bank #*****9599
2/13/08	\$ 20,000.00	Christopher D. Moody Rev. Trust – Northern Trust Bank #*****9599
2/25/08	\$ 20,000.00	Christopher D. Moody Rev. Trust – Northern Trust Bank #*****9599
3/10/08	\$ 30,000.00	Christopher D. Moody Rev. Trust – Northern Trust Bank #*****9599
4/10/08	\$ 40,000.00	Christopher D. Moody Rev. Trust – Northern Trust Bank #*****9599
4/30/08	\$ 40,000.00	Christopher D. Moody Rev. Trust – Northern Trust Bank #*****9599

5/15/08	\$ 40,000.00	Christopher D. Moody Rev. Trust – Northern Trust Bank #*****9599
6/5/08	\$ 40,000.00	Christopher D. Moody Rev. Trust – Northern Trust Bank #*****9599
6/23/08	\$ 40,000.00	Christopher D. Moody Rev. Trust – Northern Trust Bank #*****9599
7/15/08	\$ 20,000.00	Christopher D. Moody Rev. Trust – Northern Trust Bank #*****9599
7/22/08	\$ 40,000.00	Christopher D. Moody Rev. Trust – Northern Trust Bank #*****9599
8/25/08	\$ 25,000.00	Christopher D. Moody Rev. Trust – Northern Trust Bank #*****9599
9/3/08	\$ 10,000.00	Christopher D. Moody Rev. Trust – Landmark Bank #***1689
9/4/08	\$ 15,000.00	Christopher D. Moody Rev. Trust – Northern Trust Bank #*****9599
10/8/08	\$ 25,000.00	Christopher D. Moody Rev. Trust – Northern Trust Bank #*****9599
11/3/08	\$ 20,000.00	Christopher D. Moody Rev. Trust – Northern Trust Bank #*****9599
11/17/08	\$ 25,000.00	Christopher D. Moody Rev. Trust – Northern Trust Bank #*****9599
12/1/08	\$ 25,000.00	Christopher D. Moody Rev. Trust – Landmark Bank #***9239
12/16/08	\$ 15,000.00	Christopher D. Moody Rev. Trust – Landmark Bank #***9239
1/12/09	\$ 15,000.00	Christopher D. Moody Rev. Trust – Landmark Bank #***9239
2/11/09	\$ 10,500.00	Christopher Moody – Regions Bank #*****0133

<b>TOTAL</b>	\$ 557,500.00	
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17. As part of my investigation, I obtained copies of the checks and, in one instance, a bank statement associated with the transfers identified above. Copies of the checks and the bank statement are attached hereto as **Exhibit F**.

18. In addition to the funds provided by Chris Moody, I understand that Tamara Moody used two personal credit cards to pay certain of Respiro's expenses. According to the last Respiro balance sheet in my possession, dated July 25, 2011, the total balance owed on those two credit cards for expenses relating to Respiro was \$19,732.50.

19. Chris Moody received more than \$19 million in proceeds from Nadel's scheme, and some of those proceeds directly or indirectly funded all the transfers to Respiro detailed above. According to both Chris Moody's affidavit filed in support of this motion and records obtained from the Hedge Funds' and Fund Managers' offices, Chris Moody began working for Valhalla Management and Viking Management in 2003. Specifically, Chris Moody was the Vice-President and Treasurer of Valhalla Management and the Co-Managing Member of Viking Management. Valhalla Management was the General Partner of Valhalla Investment, and Viking Management was the Managing Member of Viking Fund and Viking IRA Fund (collectively, Valhalla Investment, Viking Fund, and Viking IRA Fund are referred to as the "**Moody Funds**").

20. Chris Moody's father, Neil Moody (collectively with Chris Moody, the "**Moody's**"), was a principal, Director, and President of Valhalla Management and also was a principal, Managing Member, and President of Viking Management.

21. The Moodys, however, allowed Nadel to control the Moody Funds and to perpetrate his Ponzi scheme through those and the rest of the Hedge Funds. For example, every month during the operation of the scheme, the Moody Funds' securities clearing firm sent account statements that showed the trading activity and money balance for each of the Moody Funds. During the course of the scheme, the clearing firm would have sent and the Moody Funds would have received over 260 statements. *Id.* A review of any of those statements would have revealed the large discrepancy between what actually occurred in those accounts and what Nadel and the Moodys represented to investors. Chris Moody had access to those statements. The Hedge Funds' performance, as represented to investors and potential investors from 1999 forward (as applicable based on then existing Hedge Funds), was false and was based on grossly overstated investment returns, which were fabricated by Nadel. The Hedge Funds' actual performance was never reported to investors or potential investors.

22. Based on these fabricated investment returns, Nadel caused the Hedge Funds to pay tens of millions of dollars in fees to the Fund Managers, and ultimately, to Chris Moody and others. Specifically, Valhalla Management charged fees to and collected fees from Valhalla Investment for its purported management services. Those fees included (1) a quarterly "Performance Allocation" that was calculated as a percentage of purported net profits from investment and trading activities and (2) a monthly "Management Fee" that was calculated as a percentage of the purported net asset value of the fund. Viking Management charged and collected similar fees from Viking Fund and Viking IRA Fund for its purported management services, except that its "Management Fee" was paid quarterly rather than



monthly. In turn, Chris Moody and his father funneled those fees to themselves. Those “fees” were based on grossly inflated returns and represented nothing more than Ponzi scheme proceeds. Overall, Chris Moody or his trust received more than \$19 million from Valhalla Management and Viking Management.

23. As a result of Chris Moody’s conduct, on January 11, 2010, the SEC brought an enforcement action against him, alleging that he violated antifraud provisions of the federal securities laws in connection with his involvement in the scheme. *See generally SEC v. Neil V. Moody & Christopher D. Moody*, Case No. 8:10-cv-00053-T-33TBM (M.D. Fla.) (the “**Moody SEC Action**”). A true and correct copy of the Complaint is attached hereto as **Exhibit G**.

24. In connection with the Moody SEC Action, Chris Moody executed a Consent in which he agreed “not to take any action . . . denying . . . any allegation in the complaint . . . .” A true and correct copy of the Consent is attached hereto as **Exhibit H**.

25. Respiro has failed to repay the purported loans provided by Chris Moody, and none of Respiro’s shares have been turned over to me. I, through counsel, attempted to negotiate a repayment plan, but those negotiations have been unsuccessful.

26. Aside from directing me to “marshal and safeguard all of the assets” of the Receivership Entities and “take whatever actions are necessary for the protection of the investors” (Orders Appointing Receiver at 1), the Orders Appointing Receiver impose on me a duty to “institute such . . . 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

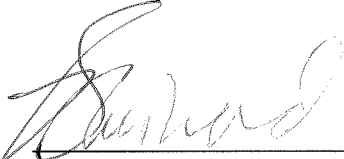
investors in the Receivership Entities . . .” *Id.* at 2. It also directs me to “apply to this Court for an Order giving the Receiver possession of” funds of “persons who have invested in the Receivership Entities [that] have been transferred to other persons or entities.” *Id.* at 23.

27. Including Respiro in this Receivership is necessary to marshal and safeguard all of the assets of the Defendants and Relief Defendants.

28. The money transferred to Respiro by Chris Moody was derived from the fraudulent scheme and that money was used to fund Respiro. Because Respiro was funded with proceeds of the scheme, and because it would be valuable to the Receivership Estate, the scope of the Receivership should be expanded to include Respiro.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Dated this 6<sup>th</sup> day of September, 2012.

  
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Burton W. Wiand