

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

Case No. 8:09-cv-0087-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.

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THE RECEIVER'S TWELFTH INTERIM REPORT

Receivership Information and Activity from April 1, 2012 through September 30, 2012.

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INTRODUCTION

Burton W. Wiand, the Court-appointed Receiver for the Receivership Entities as defined herein, hereby files this Twelfth Interim Report (the “**Report**”) to inform the Court, the investors, and others interested in this Receivership, of activities from April 1, 2012 through September 30, 2012 as well as the proposed course of action.¹ As of the date of filing this Report, the Court has appointed Burton W. Wiand as Receiver over the following entities and trust:

- a) Defendants Scoop Capital, LLC (“**Scoop Capital**”) and Scoop Management, Inc. (“**Scoop Management**”) (which, along with Arthur Nadel, are collectively referred to as “**Defendants**”);
- b) Relief Defendants Scoop Real Estate, L.P. (“**Scoop Real Estate**”); Valhalla Investment Partners, L.P. (“**Valhalla Investment Partners**”); Victory IRA Fund, Ltd. (“**Victory IRA Fund**”); Victory Fund, Ltd. (“**Victory Fund**”); Viking IRA Fund, LLC (“**Viking IRA Fund**”); and Viking Fund LLC (“**Viking Fund**”) (collectively referred to as the “**Hedge Funds**”);
- c) Relief Defendants Valhalla Management, Inc. (“**Valhalla Management**”), and Viking Management, LLC (“**Viking Management**”) (which, along with Scoop Capital and Scoop Management, are collectively referred to as the “**Investment Managers**”); and
- d) Venice Jet Center, LLC; Tradewind, LLC; Laurel Mountain Preserve, LLC; Laurel Preserve, LLC; Laurel Mountain Preserve Homeowners Association, Inc.; Marguerite J. Nadel Revocable Trust UAD 8/2/07; Guy-Nadel Foundation, Inc.; Lime Avenue Enterprises, LLC; A Victorian Garden Florist, LLC; Viking Oil & Gas, LLC; Home Front Homes, LLC; Traders Investment Club; Summer Place Development Corporation; and Respiro, Inc.

The foregoing entities and trust are collectively referred to as the “**Receivership Entities**.”

¹ Although this Interim Report covers the period from April 1, 2012 through September 30, 2012, where practicable, the Receiver has included information in his possession through the date of the filing of this Report.

The Receiver was appointed on January 21, 2009. By January 26, 2009, the Receiver established an informational website, www.nadelreceivership.com. The Receiver has updated this website periodically and continues to update it with the Receiver's most significant actions to date; important court filings in this proceeding; and other items that might be of interest to the public. This Report, as well as all previous and subsequent reports, will be posted on the Receiver's website.

Overview of Significant Activities During this Reporting Period

During the time covered by this Interim Report, the Receiver and his Professionals engaged in the following significant activities:

- Continued to pursue litigation for (1) the recovery of false profits (and in some cases, all distributions) from investors (i.e., from "**Profiteers**"); (2) the recovery of distributions from Receivership Entities to Donald and Joyce Rowe, and certain of their affiliated entities; (3) the recovery of other distributions, such as commissions, from other individuals and/or entities; and (4) the recovery of certain charitable contributions made with scheme proceeds;
- Reached ten settlements with Profiteers and charitable organizations for a total sum of **\$2,802,979.52**. As of October 22, 2012, the Receiver has reached 145 agreements to settle with Profiteers and charitable organizations for a total amount of **\$22,573,977.97** (plus additional non-cash assets);
- Pursued litigation and engaged in settlement negotiations with Holland & Knight, LLP ("**H&K**"), which culminated in a settlement between the Receiver and H&K; the Receiver filed a motion to approve the settlement on August 28, 2012 and provided notice of the settlement to all potentially interested parties on August 29, 2012. On October 2, 2012, the Court approved the settlement. The settlement provides, among other things, that H&K will pay **\$25,000,000** to the Receiver in exchange for a broad release of claims;
- Entered into and obtained an order approving an agreement between the Receiver and Bonds.com to retire all of Bonds.com's indebtedness to the Receivership in exchange for payment of **\$2,250,000** (which has been received) and, allow Bonds.com to repurchase all approximately 7.5 million shares in exchange for a payment of \$5,000 (which has also been received);

- Reached a settlement between the Receiver and Shoreline Trading Group, LLC (“**Shoreline**”), which was approved by the Court on May 4, 2012, and pursuant to which Shoreline paid **\$2,500,000** to the Receiver;
- Pursued litigation against Wells Fargo to recover damages and fraudulent transfers relating to the bank’s activities in connection with the Ponzi scheme underlying this case;
- Expanded the Receivership to include Summer Place Development Corporation (“**Summer Place**”) and Respiro, Inc.;
- Sold a building located at 841 South Main Street, Graham, North Carolina for **\$2,400,000**, resulting in net proceeds of \$2,229,463.15 after payment of commissions and other expenses associated with the sale; these proceeds are currently being held until a claim by Wells Fargo Bank, N.A. (“**Wells Fargo**”) is resolved;
- Sold a building located at 4905 Waters Edge, Raleigh, North Carolina for **\$950,000**, resulting in net proceeds of \$898,699.91 after payment of commissions and other costs associated with the sale;
- Sold property located at 780 Woodlake Boulevard, Tazewell, Tennessee for \$45,000, resulting in net proceeds of \$40,322.86 after payment of commissions and other costs associated with the sale;
- Sold a Yamaha baby grand piano for \$9,900;
- Obtained **\$292,541** from a tax refund for Chris Moody;
- Successfully opposed Marguerite Nadel’s request for relief from a freeze order on three accounts and obtained \$28,384.84 from these accounts;
- Reached an agreement and obtained Court approval of the agreement for the sale of Endai Marketing Growth, Inc. shares which were previously held by Valhalla Investment Partners, L.P. for payment of \$15,000 by Endai to the Receiver;
- Obtained payment of \$94,525.40 in connection with a claim the Receiver submitted in a bankruptcy proceeding filed by Flagship Global Health, Inc. which had an outstanding balance of \$149,300.91 owed on a promissory note to Valhalla Investment Partners;

- Maintained Receivership funds in appropriate accounts and certificates of deposit (“CDs”). As of October 22, 2012, the total funds in all Receivership accounts, including CDs, are approximately **\$14,528,143.65**;
- Continued to operate ongoing businesses, and where possible, enhance the value of those businesses resulting in the generation of \$149,916.85 in gross business income;
- Generated \$81,135.43 in interest/dividend income; \$3,183,501.14 in business asset liquidation income; \$3,283,297.50, in third-party litigation income; and \$711,061.69 in other income;
- Filed the Receiver’s Motion to (1) Approve First Interim Distribution, (2) Establish Reserves, and (3) Approve Revisions to Certain Claims, which sought the approval of a first interim distribution of \$25,994,012.73 on a *pro rata* basis, representing a recovery of 20% of the Allowed Amount of claims receiving a distribution at that time;
- Obtained an order granting the Receiver’s motion for approval of a first interim distribution and distributed 343 checks totaling \$25,520,133.79 to claimants holding claims which were determined to be entitled to participate in the first interim distribution; all checks have been negotiated.

The above activities are discussed in more detail in the pertinent sections of this Interim Report.

BACKGROUND

I. Procedure and Chronology.

Defendant Arthur Nadel (“**Nadel**”) was the Hedge Funds’ principal investment advisor and an officer and director of Scoop Management and sole managing member of Scoop Capital. On or about January 14, 2009, Nadel fled Sarasota County and disappeared for nearly two weeks.

On January 21, 2009, the Commission filed a complaint in this Court charging the Defendants with violations of federal securities laws (the “**Commission Proceeding**”). In this Proceeding, the Commission alleged that Nadel used the Investment Managers to

defraud investors in the Hedge Funds from at least January 2008 forward by “massively” overstating investment returns and the value of fund assets to investors in these funds and issuing false account statements to investors. The Commission also asserted that Nadel misappropriated investor funds by transferring \$1.25 million from Viking IRA Fund and Valhalla Investment Partners to secret bank accounts. The Court found the Commission demonstrated a *prima facie* case that the Defendants committed multiple violations of federal securities laws. On August 17, 2010, the Commission moved the Court to approve a consent judgment against Nadel and filed Nadel’s consent to the same. (Doc. 457.) On August 18, 2010, the Court entered a Judgment of Permanent Injunction and Other Relief against Nadel (“**Judgment**”). (Doc. 460.) The Judgment permanently enjoined Nadel from further violations of the antifraud provisions of the federal securities laws and ordered Nadel to pay disgorgement of ill-gotten gains with prejudgment interest and a civil penalty in amounts to be determined by the Court upon the Commission’s motion.

On January 21, 2009, the same day the Commission filed its complaint, the Court entered an order appointing Burton W. Wiand as Receiver for the Investment Managers and Hedge Funds (the “**Order Appointing Receiver**”). (*See generally* Order Appointing Receiver (Doc. 8).) Between January 27, 2009, and September 21, 2012, on the Receiver’s motions, the Court entered orders expanding the scope of receivership to include additional entities as follows:

January 27, 2009 (Doc. 17)

Venice Jet Center, LLC
Tradewind, LLC

February 11, 2009 (Doc. 44)	Laurel Mountain Preserve, LLC Laurel Preserve, LLC Marguerite J. Nadel Revocable Trust UAD 8/2/07 Laurel Mountain Preserve Homeowner Association, Inc.
March 9, 2009 (Doc. 68)	Guy-Nadel Foundation, Inc.
March 17, 2009 (Doc. 81)	Lime Avenue Enterprises, LLC A Victorian Garden Florist, LLC
July 15, 2009 (Doc. 153)	Viking Oil & Gas, LLC
August 10, 2009 (Doc. 172)	Home Front Homes, LLC
August 9, 2010 (Doc. 454)	Traders Investment Club
September 12, 2012 (Doc. 911)	Summer Place Development Corporation
September 21, 2012 (Doc. 916)	Respiro, Inc.

On June 3, 2009, January 19, 2010, and September 23, 2010, the Court entered orders Reappointing Receiver. (Docs. 140, 316, 493.) The January 21, 2009, June 3, 2009, January 19, 2010, and September 23, 2010 Orders will be referred to collectively as the “**Orders Appointing Receiver.**” Pursuant to the Orders Appointing Receiver, the Receiver has 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.” (Orders Appointing Receiver at 1-2.)

On January 27, 2009, Nadel surrendered to the FBI in Tampa, Florida. On April 28, 2009, he was indicted on six counts of securities fraud, one count of mail fraud, and eight counts of wire fraud. On February 24, 2010, Nadel pled guilty to all counts in the

indictment. On October 21, 2010, Nadel was sentenced to 14 years in prison. Nadel died in prison on April 16, 2012.

II. The Receiver's Role and Responsibilities.

For a discussion of the Receiver's role and responsibilities, please refer to the Ninth Interim Report and earlier Interim Reports.

III. Overview of Findings To Date.

The Receiver has discovered that from 1999 through 2008, approximately \$330 million was raised in connection with over 700 investor accounts on behalf of one or more of the Hedge Funds by Nadel and his entities, Scoop Management and Scoop Capital; by the rest of the Fund Managers; and by the Moodys through the offer and sale of securities in the form of interests in Hedge Funds as part of a single, continuous Ponzi scheme. As discussed in prior Interim Reports, Nadel grossly overstated the trading results of the Hedge Funds. Despite significantly lower, and typically negative yields (*i.e.*, trading losses), Nadel, the Moodys, and the Fund Managers falsely communicated to investors and potential investors, through monthly "statements," Hedge Funds' "Executive Summaries," and other methods, that investments were generating positive returns and yielding between 10.97% and 55.12% per year. For most years, they falsely represented the investments were generating returns between 20% and 30%.

To perpetrate and perpetuate this scheme, Nadel caused the Hedge Funds to pay investors "trading gains" as reflected on their false monthly statements. The funds used to pay these trading gains were not generated from trading activities; rather they were generated from new or existing investors. Nadel further caused the Hedge Funds to pay tens of

millions of dollars in fees. Those fees were based on grossly inflated returns, and thus, were improperly and wrongfully paid. The negative cash flow of the Hedge Funds made the eventual collapse of Nadel's scheme inevitable.

As mentioned above, on February 24, 2010, Nadel pled guilty to all counts in the indictment relating to this scheme and on October 21, 2010, was sentenced to 14 years in prison. For a more detailed overview of the Receiver's findings to date, please refer to the Ninth Interim Report. While these conclusions may change as the receipt and review of pertinent documents is completed, the Receiver does not believe any changes would be material.

ACTIONS TAKEN BY THE RECEIVER

Since his appointment on January 21, 2009, the Receiver has taken a number of steps to fulfill his mandates under the Order Appointing Receiver, described in Section II, above. For additional efforts of the Receiver, please refer to prior Interim Reports.

IV. Securing the Receivership Estate.

A. Taking Possession of Defendants' Headquarters.

On the day of his appointment, the Receiver took possession of the Receivership Entities' offices at 1618 Main Street, Sarasota, FL 34236 (the "**Office**"). Nadel used the Office as the headquarters for administering his control of the Investment Managers, Hedge Funds, and other Receivership Entities. Among other things, the Receiver removed documents, several servers, and other computer-related equipment from the premises that were used by Nadel and the entities he controlled. The Receiver retained experienced forensic information technology experts with the firm E-Hounds, Inc. ("**E-Hounds**"), to

assist in securing and analyzing the electronic data on the computers. E-Hounds personnel secured the data and conducted forensic analyses.

B. Securing Receivership Funds.

At the outset of the Receivership, approximately \$556,758.33 in cash and cash equivalents in financial accounts titled in the name of the Hedge Funds and Investment Managers were identified and frozen pursuant to the Nadel TRO and the Preliminary Injunction. In addition, the Receivership recovered approximately \$629,750.47 in additional cash and cash equivalents from financial accounts titled in the name of other Receivership Entities at the time those entities were brought into receivership. Thus, total cash at the inception of the Receivership and as the Receivership was expanded to include each additional Receivership Entity was approximately \$1,186,508.80.²

At the inception of the Receivership, the Court entered an asset freeze order which the Receiver served on all institutions known or suspected to have an account containing potential Receivership assets. On May 22, 2012, Marguerite Nadel filed a *pro se* motion for relief from this freeze order for three bank accounts which had been frozen (Doc. 861). She sought to have the total sum of approximately \$27,500 released from these accounts. All three accounts were held jointly in Nadel and Mrs. Nadel's name. On May 24, 2012, the Court denied the motion for failure to comply with the conferral requirements of Local Rule 3.01(g) (Doc. 862). After conferring with the Receiver, Mrs. Nadel refiled her motion on June 21, 2012 seeking the same relief (Doc. 871). The Receiver opposed the relief sought.

² This amount does not include any sum for non-cash or non-cash equivalent assets the Receiver has recovered. For a discussion of these assets, please refer to Section V below.

(Opposition, Doc. 879.) On July 12, 2012, the Court entered an order denying the motion (Doc. 884). The Receiver sought clarification of the order and asked for an order directing the banks to transfer all money held in these accounts to the Receiver (Doc. 886). The Court granted this relief on July 17, 2012 (Doc. 887). On August 3, 2012, \$28,384.84 was transferred to the Receiver from the three above-mentioned accounts. These accounts are now closed.

During the time covered by this Interim Report, Receivership funds were held at (1) Bay Cities Bank in six CDs, a non-interest bearing operating account, and two variable interest rate money market accounts; (2) Whitney Bank in a variable rate money market account; and (3) American Momentum Bank in two variable interest rate money market accounts. As of October 22, 2012, the total funds in all Receivership accounts, including CDs, are approximately \$14,528,143.65. The Receiver continues to review the appropriate action to take with respect to Receivership funds in light of the current state of the economy and financial institutions. If appropriate and in the best interests of the Receivership, he will move the funds into other interest-bearing accounts and/or revenue-generating investments.

C. Locating Additional Funds.

One of the Receiver's highest priorities is to locate and recover any additional funds that were in Nadel or the Receivership Entities custody at the time of the scheme. The Receiver has retained a forensic accounting firm to assist in tracing funds. As discussed in Section V below, the Receiver's investigation revealed that significant sums were used to purchase or fund other entities.

1. Recovery of Tax Refunds

The Receiver has sought to obtain tax refunds owed to certain insiders based upon taxes paid in prior years on nonexistent trading profits, periodic taxes paid on anticipated income that was never earned, and/or overpayment of taxes as a result of loss of investment. As a result of these efforts, the Receiver has recovered a total sum of **\$2,052,040.11** in tax refunds from Form 1045 Applications for Tentative Refund ("**Form 1045**") for carryback losses on behalf Chris Moody, Neil Moody, and Sharon Moody. This amount includes \$292,541.00 received on August 27, 2012 from a refund for Chris Moody. The Receiver also submitted Forms 1045 for Arthur Nadel and Marguerite Nadel seeking the return of approximately \$1,183,525.00 and \$2,123,594.00, respectively. No tax refunds have been received for these submissions yet although the Receiver's representative has been in frequent contact with the Internal Revenue Service in an effort to expedite the process as much as possible.

The Receiver also recovered two tax refund checks totaling \$1,261,359.33 from Mrs. Nadel as a result of improperly filed documents with the IRS on behalf of a Receivership Entity. Including these two refund checks, the total amount the Receiver has recovered from federal tax refunds to insiders is **\$3,313,399.44**. For more detailed information regarding the Receiver's efforts to recover tax refunds, please refer to the Ninth Interim Report.

The Receiver will continue to diligently investigate the existence of any additional funds and will inform the Court and investors if any are located.

D. Receivership Accounting Report.

Attached as Exhibit A to this Interim Report is a cash accounting report showing the amount of money on hand as of April 1, 2012 less operating expenses plus revenue through September 30, 2012. This cash accounting report does not reflect non-cash or cash-equivalent assets. Thus, the value of all property discussed in Section V below is not included in the accounting reports. From April 1, 2012 through September 30, 2012, the Receiver received \$149,916.85 in business income from ongoing operations of some Receivership Entities;³ \$81,135.43 in interest/dividend income; \$3,183,501.14 in business asset liquidation; \$3,283,297.50 in third-party litigation income; and \$711,061.69 in other income.⁴ (Ex. A.)

Since the inception of the Receivership through September 30, 2012, the Receiver received \$4,304,741.42 in business income from ongoing operations of some Receivership Entities; \$2,066,501.32 in cash and securities; \$792,668.89 in interest/dividend income;

³ As discussed in Section V.A below, much of the entities' business income is derived from rental payments. The income numbers provided in this and the following paragraph are gross figures and do not include any offset for business operations costs or any other expenses.

⁴ The "other income" includes: \$292,541.00 received from an IRS refund check for Chris Moody; \$366,973.60 from excess receipt over estimated value of Bonds.com; \$4,576.81 from an account which had been frozen at First Citizens Bank previously held by Nadel and Mrs. Nadel; \$23,808.03 obtained from two other accounts which had been frozen and were jointly held by Nadel and Mrs. Nadel; \$7,787.00 from the sale of items previously owned by Neil Moody; \$15,000 from the sale of Endai stock held by Valhalla Investment Partners; and \$375.25 from funds remaining in Neil Moody's charitable foundation account at First American Bank.

\$6,823,661.15 in business asset liquidation; \$120,000.00 in personal asset liquidation; \$31,040,445.26 in third-party litigation income; and \$4,798,071.78 in other income.

E. Obtaining Information from Third Parties.

Since obtaining control of the Receivership Entities, the Receiver and his professionals have had discussions – including continuing discussions – with a significant number of people associated with Nadel and/or the Receivership Entities. Further, on September 9, 2010, the Receiver deposed Marguerite Nadel and on February 4, 2011, the Receiver deposed Joyce Rowe.

The Receiver and his professionals have also reviewed documents located in the Office; documents obtained from the accountant for several Receivership Entities; information stored on the Receivership Entities' computer network; documents obtained from other businesses controlled by Nadel; documents obtained from financial institutions and other third parties, including Donald H. Rowe (“**Rowe**”) and lawyers and others who assisted Nadel's businesses with their transactions; and information available in the public record.

V. Asset Analysis and Recovery.

A. Expansion of Receivership to Include Additional Entities.

As a result of the review of these records and of the discussions noted above, the Receiver sought and successfully obtained the expansion of the Receivership to include: Venice Jet Center, LLC; Tradewind, LLC; Laurel Mountain Preserve, LLC; Laurel Preserve, LLC; Laurel Mountain Preserve Homeowners Association, Inc.; the Marguerite J. Nadel Revocable Trust UAD 8/2/07; the Guy-Nadel Foundation, Inc.; Lime Avenue Enterprises,

LLC; A Victorian Garden Florist, LLC; Viking Oil & Gas, LLC; Home Front Homes, LLC; Summer Place Development Corporation; Traders Investment Club; and Respiro, Inc.⁵ These entities will hereinafter be referred to collectively as the “**Additional Entities.**” The Receiver’s investigation revealed that the Additional Entities were purchased and/or funded with money derived from Nadel’s fraudulent investment scheme.

The following discussion of the Additional Entities includes a description of assets the Receiver has acquired as a result of the businesses’ inclusion in the Receivership. Assets, including Additional Entities, which have been sold or otherwise disposed of are identified on the attached **Exhibit B**. Exhibit B includes a description of the asset, any known encumbrances related to the asset, the disposition of the asset, and the amount received from the sale of the asset through the date of this Interim Report, and/or the amount of debt waived in connection with the disposition of the asset. For more information regarding assets identified on Exhibit B, please refer to prior Interim Reports.

Assets which have not been sold or otherwise disposed of are discussed below. Where possible the Receiver has included estimated values of these assets. However, given the state of the U.S. economy at the time of this Report and the possibility for additional information not yet uncovered by the Receiver, it is important to note that any such estimations, valuations or appraisals are subject to change. Due to the poor state of the real estate

⁵ The Receiver sold or otherwise disposed of the assets of the Venice Jet Center, LLC; the Marguerite J. Nadel Revocable Trust UAD 8/2/07; Lime Avenue Enterprises, LLC; A Victorian Garden Florist, LLC; and Home Front Homes, LLC. For more information regarding these entities and the sale and/or disposition of their pertinent assets, please refer to Exhibit B and prior Interim Reports.

markets, the estimates provided may differ markedly from the actual amounts realized upon the selling of any real property.

1. Tradewind, LLC.

Tradewind, LLC (“**Tradewind**”) was formed in Delaware in January 2004 and registered for the first time in Florida in March 2008. Nadel was Tradewind’s managing member and registered agent, and its principal address was the Office. Tradewind owned and controlled five planes and one helicopter and owns 31 hangars at the Newnan-Coweta County Airport in Georgia (the “**Georgia Hangars**”). The Receiver’s investigation revealed that Tradewind was funded with money from Nadel’s scheme. Tradewind is a fully operating business with potential to generate assets for the Receivership estate.

On January 27, 2009, the Court expanded the Receivership to include Tradewind. Since the Receiver’s appointment as Receiver of Tradewind, he has taken control of it and is continuing to operate the business. Tradewind collects approximately \$20,000 in monthly rent and incurs varying monthly expenses, which include land rent, loan payments, and various utilities. The Receiver is entertaining offers to purchase this business or any of its assets.

The Receiver has possession and control of the Georgia Hangars, which have one known encumbrance: a loan with the Bank of Coweta. The loan matured on June 25, 2012, and was not renewed. The principal balance of the loan at the time of maturity was approximately \$874,501.21. The Receiver is currently making monthly interest-only payments of approximately \$5,500. There is also monthly rent of \$3,079.89 due to the Newnan Coweta Aviation Authority which the Receiver has been paying as he believes it is

in the best interest of the Receivership. The Receiver has received offers to purchase the Georgia Hangars. The offers, however, were below what the Receiver believes to be the fair market value of the Hangars.

2. Laurel Mountain Preserve, LLC; Laurel Preserve, LLC; and Laurel Mountain Preserve Homeowners Association, Inc.

Laurel Mountain Preserve, LLC (“**Laurel Mountain**”), was formed in Florida in December 2003. Nadel was Laurel Mountain’s manager and member, and its principal address was the Office. Laurel Mountain was “withdrawn” as a limited liability company in January 2006. Laurel Preserve, LLC (“**Laurel Preserve**”), was formed as a North Carolina limited liability company in February 2006. Nadel was Laurel Preserve’s registered agent and manager, and its principal address was the Office. The Laurel Mountain Preserve Homeowners Association, Inc. (the “**HOA**”), is a North Carolina non-profit corporation formed in March 2006. Nadel was the HOA’s registered agent, and its principal address was the Fairview, North Carolina home. Documentation reviewed and information obtained by the Receiver shows that Laurel Preserve holds title to approximately 420 acres near Asheville, North Carolina in Buncombe and McDowell counties, intended for development of home-sites (the “**Laurel Mountain Property**”).

On February 11, 2009, the Court expanded the Receivership to include Laurel Mountain, Laurel Preserve, and the HOA. Since the Receiver’s appointment as Receiver of these entities, he has taken control of them and is working on marketing for sale the Laurel Mountain Property. This property currently does not generate any income. The Laurel Mountain Property encompasses 29 lots, including 23 estate-sized and 6 cottage-sized lots. There is also a cabin home on this property that, according to the Buncombe County Property

Appraiser, is valued at \$319,800 (as of April 30, 2012). The Laurel Mountain Property's infrastructure is fully developed: infrastructure and utilities are currently in place and are fully functional.

The Laurel Mountain Property has two known encumbrances. The first encumbrance is a \$360,157.37 loan from BB&T Bank. The second encumbrance is a \$1,900,000 interest only loan from Wells Fargo. There is a monthly payment of \$5,149.66 due on this latter loan and the Receiver presently is not making the loan payments. Without notifying this Court or the Receiver, on June 24, 2011, Wells Fargo filed in the United States District Court for the Southern District of New York a petition under 21 U.S.C. § 853(n)(2) and Federal Rules of Criminal Procedure 32.2(c) seeking a hearing to adjudicate its interest in the Laurel Mountain Property. On February 12, 2012, that court entered a stipulation and order vacating its preliminary forfeiture order with respect to the Laurel Mountain Property, which effectively rendered Wells Fargo's petition moot.

At the time the Receiver recovered the Laurel Mountain Property it also had a third encumbrance. The third encumbrance was an easement of approximately 169 acres of the Laurel Mountain Property, which was granted to a land conservancy in 2005 (the "**Easement**"). The Receiver instituted an ancillary civil proceeding against the Carolina Mountain Land Conservancy ("the **Conservancy**") to extinguish the Easement on December 1, 2009. *Burton W. Wiand, as Receiver v. Carolina Mountain Land Conservancy*, M.D. Fla. Case No. 8:09-cv-2443-T-27TBM ("**Conservancy Action**"). On April 1, 2011, the Receiver filed a motion to approve a settlement with the Conservancy. (Doc. 614.) In pertinent part, the settlement provided that the Receiver dismiss the Conservancy Action in consideration of

the Conservancy (1) returning unused donations in the amount of \$10,115 and (2) agreeing to obtain an order vacating the Easement. The Court granted this motion in its entirety on April 4, 2011 (Doc. 615) and an order vacating the Easement was entered on May 24, 2011 (Conservancy Action Doc. 28).

For more information regarding the Laurel Mountain Property, please visit <http://www.laurelmountainpreserve.com>. Parties interested in purchasing this property should contact the Receiver directly.

3. Guy-Nadel Foundation, Inc.

The Guy-Nadel Foundation, Inc. (the “**Foundation**”), is a Florida non-profit corporation Nadel formed in December 2003 for “charitable, educational and scientific purposes.” The Foundation was funded with proceeds of Nadel’s scheme. On March 9, 2009, the Court expanded the Receivership to include the Foundation. Since the Receiver’s appointment as Receiver of the Foundation, he has taken control of it and is working on marketing the real property owned by the Foundation.

The Receiver has discovered that from 2000 through 2008, the Foundation made a total of approximately \$2,484,589 in contributions from scheme proceeds to various non-profit organizations and charities. The Receiver has focused his attention on the charitable organizations that received the most contributions. The Receiver has pursued settlement negotiations and litigation against these organizations. (See discussion of litigation and settlement negotiations at Section V.E.4 below.)

North Carolina Parcels

The Receiver has possession and control of approximately eight lots that are essentially adjacent to each other and to the Laurel Mountain Property. The lots appear to have been purchased by Laurel Mountain and the Nadels as part of the same general transaction in which Laurel Mountain purchased the Laurel Mountain Property. In December 2003 and December 2004, Laurel Mountain and Nadel and his wife deeded these lots to the Foundation. The Receiver is currently marketing this property with the Laurel Mountain Property. Parties interested in purchasing this property should contact the Receiver directly.

Thomasville, Georgia Parcels

Additionally, the Receiver has possession and control of two small parcels of unimproved land in Thomasville, Georgia (this land is separate from the Thomasville Property discussed in Section V.B.1, below) owned by the Foundation. According to the Thomas County Board of Tax Assessors, the first lot (located on North Stevens Street) has a 2012 tax valuation of \$10,342, and the second lot (located on Church Street) has a 2012 tax valuation of \$2,224. The Receiver is preparing to auction these properties. Parties interested in purchasing these parcels should contact the Receiver directly.

4. Viking Oil & Gas, LLC.

Viking Oil & Gas, LLC (“**Viking Oil**”) is a Florida limited liability company formed in January 2006 by the Moodys to make personal investments in an oil and gas venture. Its principal address was the Office. The Receiver’s investigation revealed that Viking Oil was funded with proceeds from Nadel’s scheme. The funds invested in Viking Oil were used to

purchase an investment interest in Quest Energy Management Group, Inc. (“**Quest EMG**”). Between February 2006 and April 2007, through Viking Oil, the Moodys invested \$4 million to fund a working interest in Quest EMG.

As discussed in Section V.C.4, below, the Receiver has possession of a promissory note from Quest EMG and two individuals to Valhalla Investment Partners in the amount of \$1,100,000. Quest has made monthly interest payments on this note through July 2012. Since the appointment of the Receiver through July 2012, \$462,454.41 has been paid in interest on this note. On July 15, 2009, the Court expanded the Receivership to include Viking Oil. Since the Receiver’s appointment as Receiver of this entity, he has taken control of it and is determining the most prudent course of action to take with respect to the working interest in Quest EMG. The parties had reached an agreement to resolve this matter, however Quest failed to make the required settlement payment timely and so the agreement expired on its own terms. The Receiver made a demand for repayment of the loan and Quest failed to meet that demand. The Receiver is proceeding with collection efforts.

5. Summer Place Development Corporation.

Summer Place is a Florida company that was formed in May 2005 and purchased by Clyde Connell in December 2005. Nadel, through Scoop Capital, purchased a fifty-percent ownership stake in Summer Place with a payment of \$50,000 to Mr. Connell in December 2006 and another payment of \$13,204.99 in February 2007. Nadel was appointed Director, Secretary, and Treasurer of Summer Place at that time. In April 2009, the Receiver replaced Nadel as Director, Secretary, and Treasurer of Summer Place and Scoop Capital’s shares in Summer Place were transferred to the Receiver. The Receiver attempted to sell his fifty-

percent ownership with no success. In April 2012, Mr. Connell and Juanita Connell, the only other Summer Place shareholders, relinquished their interest in Summer Place and transferred their membership units to the Receiver in exchange for the Receiver's agreement to pay them one-half of the net proceeds of the sale of assets owned by Summer Place.

Summer Place owns a six-acre parcel in Bradenton, Florida, which has no known liens or encumbrances. Summer Place was originally created to build thirty affordable home sites on this property. However, due to the decline in the market for affordable housing, no development ever occurred. Summer Place has had no operations for several years and currently generates no income. Taxes on the property are approximately \$3,000 a year. On September 11, 2012, the Receiver filed a motion asking the Court to expand the Receivership to include Summer Place (Doc. 909). The Court granted this motion on September 12, 2012 (Doc. 911). The Receiver sought the expansion of the Receivership to include Summer Place so that he could market and sell the six-acre parcel of land. The future sale of this land should provide funds for the Receivership Estate and benefit defrauded investors and creditors. Parties interested in purchasing this property should contact:

Mike Migone, CCIM
Sperry Van Ness
1626 Ringling Blvd., Suite 500
Sarasota, Florida 34236
Office: (941) 387-1200
Email: www.suncoastsvn.com

6. Traders Investment Club.

Traders was a Florida partnership formed in December 1998 to operate as a purported "investment club." Nadel controlled Traders and purported to buy and sell securities on its behalf in an effort to generate trading profits. Records in the Receiver's possession show that

Traders was in existence until December 2005. During its existence, Traders had approximately 35 different investors many of whom were also simultaneously investors in the Hedge Funds. Aside from raising money for Traders from investors, the Receiver's investigation revealed that Nadel funded Traders with unlawful transfers from the Hedge Funds.

Nadel purported to close Traders in 2005 by distributing supposed "principal and trading gains" directly to investors or to the Hedge Funds as purported "roll-overs" into the pertinent investors' Hedge Fund "accounts." Further, representations Nadel made to Traders' investors regarding investment performance were grossly overstated. Because of the commingling of funds between Traders and the Receivership Entities and the fraud perpetrated by Nadel through his control of all of these entities, the Receiver sought the expansion of the Receivership to include Traders. (*See Motion to Expand Receivership to Include Traders*, Aug. 9, 2010, Doc. 453.) On August 9, 2010, the Court expanded the Receivership to include Traders (Doc. 454).

7. Respiro, Inc.

Respiro provides home respiratory services and medical equipment products and is headquartered in Sarasota, Florida. Chris Moody, his wife Tamara Moody, Lyle Warner, and Nathan Warner formed Respiro in December 2007. Beginning shortly after its formation through February 2009, Chris Moody funded Respiro with a series of transfers, totaling \$557,500, primarily through his revocable trust. These funds were proceeds of Nadel's scheme. Although Chris Moody funded Respiro, no shares were placed in his name. Instead, the bulk of the shares were given to his wife, and the remaining shares were given to

the Warners. Despite the Receiver's attempts, Respiro has failed to repay the purported loan given by Chris Moody. Accordingly, on September 7, 2012, the Receiver filed a motion asking the Court to expand the Receivership to include Respiro. A hearing on the motion was held on September 21, 2012, and the Court granted the Receiver's motion the same day (Doc. 916). The Receiver is contemplating the appropriate action to take with respect to this entity for the benefit of the Receivership Estate.

B. Recovery of Real Property.

In addition to the assets discussed in conjunction with the expansion of the Receivership in Section V.A, the Receiver has also recovered a number of other assets, some of which continue to be valued, assessed, and otherwise analyzed for liquidation, disposition, or other action. Again, assets which have been sold or otherwise disposed of are identified on the attached **Exhibit B**. Given the state of the U.S. economy at the time of submission of this Report, the Receiver emphasizes that any estimates, appraisals, or valuations are subject to change because of market forces. In particular, due to the poor state of the real estate markets, any estimates provided in this section may be significantly different from the amounts realized upon selling such real property.

1. Graham, North Carolina.

The Receiver had possession and control of a building located at 841 South Main Street, Graham, North Carolina 27253 (the "**Rite-Aid Building**"). This building was purchased for \$5,310,000 and is currently being leased to a Rite-Aid Pharmacy for \$33,073.08 per month. The Rite-Aid Building had one known encumbrance: a \$2,655,000 interest-only loan with Wells Fargo, which matured in June 2009 (the loan was made by its

predecessor Wachovia Bank, N.A.). The Receiver paid interest on this loan through October 2009.

On January 6, 2012, the Receiver filed a verified motion to approve the sale of the Rite-Aid building (Doc. 706). In pertinent part, the motion asked the Court to approve the sale of this property to Trinet West, LLC (“**Trinet**”) for \$2,400,000 free and clear of all encumbrances. Although the property was encumbered by a loan from Wells Fargo, the Receiver recommended that the Court deny Wells Fargo’s claim for this loan. Regardless of the ultimate determination of this claim, the motion provided that Wells Fargo’s interest would be protected because the encumbrance would shift to the proceeds of the sale, which would be held by the Receiver pending further order of the Court. On January 19, 2012, Wells Fargo filed an objection in opposition to the Receiver’s motion for the sale of the Rite-Aid Property (Doc. 718) and a motion for relief from injunction or alternatively motion to compel the Receiver to abandon the Rite-Aid Property (Doc. 719). On January 24, 2012, the Court denied the motion without prejudice to allow the Receiver to comply with statutory procedural safeguards which included the appointment of three disinterested appraisers and publication of the terms of sale (Doc. 726). The Court reserved ruling on Wells Fargo’s motion to compel the Receiver to abandon the property (Doc. 776.)

After satisfying the procedural safeguards, on April 26, 2012, the Receiver filed a renewed motion to approve the sale of the Rite-Aid Building for the same terms as the initial motion (Doc. 823). On May 2, 2012, Wells Fargo filed a renewed objection to the motion (Doc. 832). On May 8, 2012, the Court entered orders granting the Receiver’s renewed motion for sale and denying Wells Fargo’s objection and motion to compel (Docs. 840, 841,

842). Wells Fargo filed an emergency motion for reconsideration of the Court's orders approving the sale of the Rite-Aid Building on May 14, 2012 (Doc. 853), which the Court denied on May 15, 2012 (Doc. 853). Closing occurred on May 15, 2012, and the Receiver obtained \$2,229,463.15 in net proceeds after payment of commissions and other expenses associated with the sale. The proceeds of the sale are currently being held until Wells Fargo's claim to them is resolved.

On May 14, 2012, the Receiver filed an unopposed motion for referral to mediation of all outstanding issues with Wells Fargo which include Wells Fargo's claim to the proceeds of the sale of the Rite-Aid Building, other purported interests in Receivership assets which Wells Fargo has attempted to pursue despite having failed to file claims in the claims process, and the Receiver's litigation against Wells Fargo (*see* Section V.E.7 below) (Doc. 846). In response to this motion, the Court directed mediation of all outstanding matters between the Receiver and Wells Fargo (Doc. 847). Mediation was held on July 19, 2012, but was adjourned without resolution pending the court's ruling on a motion to dismiss filed by Wells Fargo (*see* Mediator's Report, Doc. 890).

2. Raleigh, North Carolina.

The Receiver had possession and control of a building located at 4905 Waters Edge, Raleigh, North Carolina 27060 (the "**Waters Edge Building**"). This building was purchased for \$1,900,000 and was leased to Electronic Data Systems ("**EDS**"), a technology services provider, for \$29,688.54 per month. EDS' lease term ended January 2010 and EDS did not renew its lease. The Receiver was unable to find another tenant for this property. The Waters Edge Building had no known encumbrances.

On March 7, 2012, the Receiver filed a verified motion to approve the public sale of the Waters Edge Building (Doc. 780). The Receiver determined that a public sale to the highest bidder would be in the best interests of the Receivership because (1) the Receiver had not been able to find a buyer for the property despite listing it for over two years; (2) the value of the property had substantially decreased over that time and would likely continue to decline; and (3) the Receivership estate would continue to incur costs to maintain the property if it was not sold. The Court granted the Receiver's motion on March 8, 2012 (Doc. 782). A public sale was conducted on April 12, 2012. At the conclusion of the auction, the highest bid was \$840,000, which was less than the reserve amount. The Receiver opened negotiations with the highest bidder to try to secure a higher price. During these negotiations, another bidder, Tri-Arc Food Systems, Inc. ("**Tri-Arc**") submitted an offer to purchase the property for \$950,000. The original highest bidder refused to raise his offer. Accordingly, on April 16, 2012, the Receiver filed a verified motion to sell the Waters Edge Building to Tri-Arc for \$950,000 (Doc. 817). The Court granted this motion on April 17, 2012 (Doc. 819). The Receivership estate netted approximately \$898,699.91 after payment of commissions and other costs associated with the sale.

3. Fairview, North Carolina.

On March 30, 2009, the Court granted the Receiver's motion (Doc. 98) for possession of property located in Fairview, North Carolina (the "**Fairview Property**") (Doc. 100). Nadel and his wife purchased the Fairview Property for \$335,000 on June 14, 2004. The Fairview Property was a secondary residence of the Nadels and is located in the mountains of North Carolina. The Fairview Property has one known encumbrance: a loan with BB&T

Bank on which there is a remaining principal balance of approximately \$248,941.73. The Receiver received two offers for the purchase of the Fairview Property. One offer was below what the Receiver believed to be the fair market value of the property. The Receiver negotiated with the other prospective buyer; however, the buyer was unable to obtain financing. The Receiver retained \$2,000 from funds put in escrow by this prospective buyer. On April 1, 2012, the Receiver secured a caretaker for the property who is providing upkeep for the property in lieu of rent. Parties interested in purchasing the Fairview Property should contact:

The Armour Team
Mike and Nona Armour
Keller Williams Professionals
86 Asheland Avenue
Asheville, NC 28801
Mike Armour: (828) 771-2342
Nona Armour: (828) 771-2336
<http://armourteam.homesandland.com>, listing ID #13704540

4. Sarasota, Florida (Fruitville Road).

On July 8, 2009, the Court granted the Receiver's motion (Doc. 146) for possession of property located at 15576 Fruitville Road in Sarasota, Florida (the "**Fruitville Property**"). (Doc. 148.) To purchase the property, Nadel paid a \$5,000 deposit on March 5, 2003, and \$201,163.93 at closing. The Fruitville Property is residential property that was purchased in the names of Nadel and Mrs. Nadel, was deeded to their trusts, and was rented to third parties. The most recent tenant vacated the property on August 1, 2012. The Receiver is seeking another tenant for the property. The Fruitville Property has one known encumbrance: a loan with Northern Trust on which there is a remaining principal balance of approximately \$173,929.23.

Parties interested in purchasing the Fruitville Property should contact:

Sharon Chiodi
Sotheby's International Realty
50 Central Avenue, Suite 110
Sarasota, Florida
Phone: (941) 364-4000
Fax: (941) 364-9494
Email: sharon.chiodi@sothebyrealty.com

5. Sarasota, Florida (La Bellasara).

On January 28, 2010, the Court granted the Receiver's motion (Doc. 324) for possession of property located at 464 Golden Gate Point, Unit 703, Sarasota, Florida (the "**Bellasara Property**"). (Doc. 327.) The Bellasara Property is a residential condominium unit in a building called La Bellasara. (Doc. 100.) On or about May 23, 2006, Neil Moody as Trustee of the Neil V. Moody Revocable Trust dated February 9, 1995 purchased the Bellasara Property for \$2,160,000. The Bellasara Property was Neil Moody's primary Florida residence. The Bellasara Property has two known encumbrances: a primary mortgage loan from MSC Mortgage, LLC in the amount of \$956,000 and a home equity line of credit from Wells Fargo with an initial balance of \$880,000, both of which were obtained by Neil Moody on or about the date of the closing of the purchase of the Bellasara Property. The Bellasara Property is currently subject to a foreclosure proceeding in the Twelfth Circuit in and for Sarasota County, Florida. The Receiver has notified all parties in the pending foreclosure to effectively stop the proceeding and has undertaken to market the property and negotiate with the lenders in an effort to generate money for the Receivership estate. Parties interested in purchasing the Bellasara Property should contact:

Sharon Chiodi
Sotheby's International Realty

50 Central Avenue, Suite 110
Sarasota, Florida
Phone: (941) 364-4000
Fax: (941) 364-9494
Email: sharon.chiodi@sothebyrealty.com

6. Evergreen, Colorado.

The Receiver has possession and control of property located at 30393 Upper Bear Creek Road, Evergreen, Colorado (“**Evergreen Property**”). The Evergreen Property is a residential property that was used by Neil and Sharon Moody. The property was purchased in 1988 for \$290,000. The Evergreen Property has one known encumbrance: a loan with Wells Fargo on which there is a remaining balance of approximately \$381,468.81 as of April 30, 2012. The Receiver had entered into a contract for the sale of this property, but the prospective buyer terminated the contract. Parties interested in purchasing the Evergreen Property should contact:

Mark Footer
Lakepoint Brokerage LLC d/b/a Intero Real Estate Services
Phone: (303) 679-4140
Fax: (303) 679-4139
Email: mfooter@interorealestate.com

7. Tazewell, Tennessee.

The Receiver had possession and control of property located at 780 Woodlake Blvd., Tazewell, Tennessee (“**Tazewell Property**”). The Tazewell Property was an undeveloped lot in a golf community that the Receiver obtained through a settlement with Profiteers. The property was purchased in 2007 for \$60,000. The Tazewell Property had no known encumbrances. On April 4, 2012, the Receiver filed a verified motion to approve the sale of the Tazewell Property (Doc. 810). On April 5, 2012, the Court granted the motion in its

entirety (Doc. 811). In pertinent part, the Order approved the sale of the Tazewell Property for \$45,000. On April 11, 2012, the Receiver published notice of the sale in a Tazewell, Tennessee newspaper. The Receiver did not receive any competing offer to purchase this property after the notice was published and thus he completed the sale. The Receiver believes that this sale was in the best interest of the Receivership and that the purchase price represented the fair market value of the property. The Receivership estate netted approximately \$40,322.86 after payment of commissions and other costs associated with the sale.

C. Recovery of Other Items.

The Receiver has recovered various other items, including vehicles, jewelry, promissory notes, and stocks. Any of these items which have been sold or otherwise disposed of are identified on the attached Exhibit B. For more information regarding these items and their disposition, please refer to prior Interim Reports.

1. Condominium Note and Mortgage.

On April 30, 2009, the Court granted the Receiver exclusive interest in a note and mortgage for the Jefferson Avenue Property. (Doc. 116.) The condominium's owner, an employee of A Victorian Garden Florist, had executed a promissory note payable to Mrs. Nadel for \$126,556.24. The note was secured by a mortgage held by Mrs. Nadel. On February 9, 2009, Mrs. Nadel assigned the note and mortgage to Nadel's former criminal defense attorneys, who subsequently assigned the note and mortgage to the Receiver, per the Court's order. The condominium's owner was in default, and the Receiver initiated foreclosure proceedings. A summary judgment hearing was held on June 18, 2010 and an

order of foreclosure was entered the same day. A judicial sale of the property was held on October 12, 2010. (See Exhibit B for information regarding the disposition of the condominium).

The Receiver filed a Motion for Deficiency Judgment on October 26, 2010. After a hearing on the motion, on February 2, 2011, the Court entered a Deficiency Judgment against the former owner in the amount of \$99,963.37. The Receiver recorded this judgment and is taking appropriate steps to attempt to collect on it.

2. Bonds.com Assets.

The Receiver's investigation revealed that proceeds of the scheme were used to fund a number of assets related to Bonds.com, Inc. ("**Bonds.com**"). Bonds.com is a registered securities broker dealer established in 2007. Bonds.com developed and operates an online trading platform for the sale of fragmented lots of fixed income securities. Through the course of the Receivership, the Receiver obtained control of interests and related rights in Bonds.com, including promissory notes and shares of stock. Specifically, the Receivership held five promissory notes from Bonds.com in the total amount outstanding of \$1,840,636 and had possession and control of 7,582,850 unrestricted shares of stock in Bonds.com. For more information regarding these interests and how they were obtained by the Receiver, please refer to prior Interim Reports.

As discussed in prior Interim Reports, the Receivership's Bonds.com interests bore substantial risk. Thus, the Receiver began marketing efforts which yielded an offer to purchase the Receivership's interests for \$2,000,000. The Receiver also entered into negotiations with Bonds.com, which led to an offer to acquire all of the Receivership's

interests for \$2,255,000. This offer exceeded the amount of cash provided to the company by Valhalla Investment Partners and the Moodys. On April 10, 2012, the Receiver filed a verified motion to approve the agreement between the Receiver and Bonds.com for the repayment of debt, termination of rights, and repurchase of securities (Doc 813). The Court granted the motion in its entirety on April 13, 2012 (Doc. 816). In pertinent part, the agreement (1) retired all of the indebtedness of Bonds.com to the Receivership as reflected in the promissory notes in exchange for payment of \$2,250,000 within five days of entry of the order approving the agreement; and (2) allowed Bonds.com to repurchase the shares of stock, if specified conditions were met, for payment of \$5,000 within one year of the entry of the order approving the agreement. After significant research and analysis, the Receiver concluded that this agreement will generate a significant and fair recovery for the Receivership estate and is in the estate's best interest. Bonds.com paid \$2,250,000 to the Receiver on April 18, 2012. On October 10, 2012, in accordance with the agreement, Bonds.com repurchased the shares of stock for \$5,000.

3. Promissory Notes.

a. Quest EMG

As mentioned above in Section V.A.7, the Receiver also has a promissory note from Quest EMG and two individuals to Valhalla Investment Partners in the amount of \$1,100,000. Interest was being paid monthly on this note through July 2012.

b. Flagship Global Health, Inc.

The Receiver obtained a convertible promissory note in the amount of \$250,000 from Flagship Global Health, Inc. ("**Flagship**") to Valhalla Investment Partners. Flagship filed a

petition for relief under Chapter 7 of the Bankruptcy Code on August 19, 2008. As of the date of the bankruptcy filing, Valhalla Investment Partners had an outstanding balance owed on the note of \$149,300.91, including accrued but unpaid interest. The Receiver submitted a claim for this amount in the bankruptcy proceeding. The Trustee initially objected to the claim and sought to reduce the amount of the claim to \$45,134.27. However, after communications with counsel for the Receiver, the claim was allowed for the full amount claimed. On July 19, 2012, the Receiver received \$94,525.40, representing 63.3120% of the Receiver's claim, in full satisfaction of the claim.

4. Other Securities.

The Receiver obtained possession of 67,000 shares of Endai Marketing Growth, Inc. ("Endai") held in the name of Valhalla Investment Partners from Neil Moody. According to Receivership records, Neil Moody purchased 67,000 shares of AdClip Networks, Inc. ("AdClip") for Valhalla Investment Partners in August 2000 for a total purchase price of \$50,250. AdClip was later acquired by Endai. Endai is a small privately-held marketing and advertising company with an estimated total value of \$979,500 as of December 30, 2011. The 67,000 shares of Endai held by the Receivership represented a very small interest in Endai – .67% of outstanding shares. Due to the private nature of Endai's corporate structure, the market for its stock is essentially illiquid, and the shares cannot be readily sold or exchanged for cash. The Receiver obtained an appraisal for the Endai shares which found that the Receivership's Endai holdings were worth approximately \$6,578.24. The Receiver entered in negotiations with attorneys for Endai which resulted in an offer by Endai to purchase all of the Receiver's shares for \$15,000. On August 31, 2012, the Receiver sought

the Court's approval of the sale of the Endai shares to Endai for \$15,000 (Doc. 902). The Court approved the agreement for the sale of these shares on August 31, 2012 (Doc. 903).

5. Miscellaneous Items.

The Receiver recovered a myriad of other items that he may be able to sell, including a variety of furniture, artwork, sculptures, fixtures, computers, and miscellaneous supplies. The Receiver will make reasonable efforts to maximize the amount he is able to recover from the possible sale of these items.

The Receiver had possession of a Yamaha baby grand piano Nadel purchased in 2008 for \$19,900. After various marketing efforts, the Receiver obtained an offer of \$9,900 for the purchase of the piano. The Receiver determined that this offer was in the best interests of the Receivership and fairly represented the current value of the asset. On August 1, 2012, the Receiver filed a motion seeking the Court's approval of the sale of the piano for \$9,900 (Doc. 891), which the Court granted on August 2, 2012 (Doc. 892). The full purchase amount has been paid to the Receiver.

D. Recovery of Assets from the Moodys.

The Receiver's investigation has revealed that a significant portion of activities of certain Hedge Funds should have been managed and directed by the Moodys. Together, the Moodys received approximately \$42 million in fees from certain Receivership Entities.

In April 2009, the Receiver initiated contact with the Moodys' counsel. On April 17, 2009, the Receiver received a letter from the Moodys agreeing that they would not transfer any assets of value owned by them, nor would they remove any such assets from the state of Florida without prior written notice to the Receiver. Chris Moody has satisfied this

commitment and has fully cooperated with the Receiver in connection with the turnover of all of his assets. On January 19, 2010, Chris Moody gave the Receiver a power of attorney which allows the Receiver to effectuate the transfer of most of his assets without any direct participation from Chris Moody. The Receiver met with Chris Moody, confirmed the assets he owned, and reviewed in detail Chris Moody's interests and liabilities in those assets.

On January 6, 2011, the Receiver reached an agreement with Neil Moody to settle claims brought by the Receiver against him individually and in his capacity as Trustee of the Neil Moody Revocable Trust and the Neil Moody Charitable Foundation. The Court approved this settlement on February 23, 2012 (Doc. 754). In pertinent part, the settlement provides that all of the Receiver's claims are dismissed without prejudice in exchange for (1) the transfer of all of Neil Moody's meaningful assets identified in the settlement agreement, along with a sworn affidavit by Neil Moody verifying the extent of his assets; (2) transfer to the Receiver of his tax refunds (*see infra* Section IV. C.1 (\$465,551.94 in tax refunds has been surrendered to the Receivership to date)); and (3) cooperation with and assistance to the Receivership in the Receiver's ongoing efforts to recover monies on behalf of investors subject to Neil Moody's Fifth Amendment rights. Importantly, the Receiver did not release any claims against Neil Moody and Neil Moody waived any and all time-bar defenses. If it is later determined that Neil Moody made a material misrepresentation in the settlement agreement and/or affidavit, or failed to satisfy any of his obligations imposed by the settlement agreement, the Receiver is entitled to a judgment for the total amount of disgorgement entered by the Commission in Case No. 8:10-cv-0053-T-26TBM or \$23,000,000 in the event no disgorgement has yet been entered.

Meaningful assets the Receiver has identified for Chris Moody are delineated on the attached **Exhibit C**. Neil Moody's meaningful assets are identified on the attached **Exhibit D**. Where possible, Exhibits C and D provide the percentage of interest acquired or purchase price and the status or disposition of the asset. For the most part, the Receiver is continuing to evaluate these assets and will take appropriate actions as he determines are in the best interests of the Receivership. Entities in which the Receiver believes he may have a viable interest or potential for meaningful recovery have been put on notice of the Receiver's interests and rights.

Enforcement Action Instituted Against Moodys

On January 11, 2010, the Commission instituted an enforcement action against the Moodys alleging that they violated antifraud provisions of the federal securities laws in connection with their involvement in Nadel's scheme. *See generally SEC v. Neil V. Moody, et al.*, Case No. 8:10-cv-00053-T-33TBM (M.D. Fla.) (the "**Moody SEC Action**"), Compl. (attached as Exhibit A to Doc. 325). Also on January 11, 2010, Neil Moody and Chris Moody, without admitting or denying the allegations of the complaint, consented to entry of a permanent injunction and agreed to disgorge all ill-gotten gains upon the Commission's request. (Moody SEC Action, Consent of Def. Neil V. Moody ¶ 3, Doc. 2, Ex. 2) (also attached as Ex. B to Doc. 325.); (Moody SEC Action, Consent of Def. Christopher D. Moody ¶ 3, Doc. 2, Ex. 1). On April 7, 2010, Judgments of Permanent Injunction and Other Relief were entered against Neil and Chris Moody. (Moody SEC Action, Docs. 9 (Neil Moody) and 9-1 (Chris Moody)). The Judgments permanently enjoin Neil and Chris Moody from further violations of the antifraud provisions of the federal securities laws. The Judgments also

allow the Commission to seek an order for disgorgement of ill-gotten gains and/or a civil penalty.

E. Litigation.

In January 2010, the Receiver filed **134** lawsuits seeking approximately **\$71,096,326.43**. The lawsuits sought (1) the recovery of false profits from investors; (2) the recovery of distributions from Receivership Entities to Neil and Sharon Moody, Donald and Joyce Rowe, and certain of their affiliated entities; (3) the recovery of other distributions, such as commissions, from other individuals and/or entities; and (4) the recovery of certain charitable contributions made with scheme proceeds. The Receiver also initiated litigation against Holland & Knight and Wells Fargo Bank and continues to evaluate possible additional litigation. Not including the litigation against Holland & Knight and Wells Fargo, as of October 22, 2012, 34 lawsuits filed by the Receiver remain pending in one of several forums.

1. Recovery of “Investment” – Related Transfers from Investors.

As discussed in Section III.C above, the Receiver has determined that some purported investor accounts received monies in an amount that exceeded their investments. These purported profits were false because they were not based on any trading or investment gain, but rather were fruits of a Ponzi scheme that consisted of commingled funds of new and existing investors. To date, the Receiver has discovered approximately \$35 million in such “false profits.” The Receiver spent substantial time identifying recipients of these false profits, the Profiteers. In consultation with the Commission, the Receiver concluded that, in the best interests of the Receivership Entities and the investors as a whole, these inequitable

distributions should be recovered and distributed in an equitable manner among Claimants holding legitimate and allowed claims (as to be determined by the claims process).

As of October 22, 2012, the Receiver has reached 145 settlements with Profiteers for a total sum of **\$22,573,977.97** (plus additional non-cash assets). The Court has approved all 145 of these settlements. During the time covered by this Interim Report, the Receiver reached ten settlements with Profiteers and charitable organizations for a total sum of **\$2,802,979.52**.

In January 2010, the Receiver initiated **121** lawsuits against Profiteers seeking to recover total false profits of approximately **\$32,755,269.13** (“**January 2010 Cases**”). The complaints set forth claims for unjust enrichment and fraudulent transfers pursuant to Florida’s Uniform Fraudulent Transfer Act (“**FUFTA**”). Except in situations where defendants had, or should have had, knowledge of the fraudulent investment scheme or otherwise cannot satisfy the pertinent good-faith standard, the Receiver is seeking to recover false profits. Individuals and/or entities who the Receiver believes cannot satisfy the good-faith defense are discussed in sub-sections V.E.2 and V.E.3 immediately below.

Discovery has been completed in all January 2010 Cases pending in federal court. Responsive pleadings, including motions to dismiss, answers, and motions to compel arbitration, also have been filed in all of these cases. Defendants have attempted to dismiss and/or strike the Receiver’s complaints on numerous grounds. Some Defendants also sought judgment on the pleadings and summary judgment early in the cases. The Receiver has prevailed against all of these dispositive motions. *See, e.g., Wiand, as Receiver v. Henry M. Buhl*, Case No. 8:10-cv-75-T-17MAP (M.D. Fla.) (denying, in its entirety, motion to strike

the amended complaint or, alternatively, dismiss the complaint premised on argument that the Court lacked both personal and subject matter jurisdiction and that the complaint failed to state a claim, failed to plead fraud with particularity, and failed to adequately plead the debtor-creditor relationship); *Wiand, as Receiver v. Dancing \$, LLC*, Case No. 8:10-cv-92-T-17MAP (M.D. Fla.) (denying in full motion to dismiss the complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure claiming that the Receiver lacked standing to bring an action under FUFTA or assert claims of unjust enrichment); *Wiand, as Receiver v. David H. Boshart and Helen H. Boshart*, Case No. 8:10-cv-74-T-17MAP (M.D. Fla.) (denying motion for summary judgment in all respects except Receiver's claims under Fla. Stats. §§ 726.105(1)(b) and 726.106(1) and for unjust enrichment could not be tolled and are subject to a four-year statute of limitation and, notably, finding Receiver's claim under Fla. Stats. § 726.105(1)(a) was timely under the discovery provision of Fla. Stats. § 726.110(1)); *Wiand, as Receiver v. EFG Bank f/k/a EFG Private Bank SA*, Case No. 8:10-cv-00241MAP (M.D. Fla.) (denying motion to dismiss second amended complaint which sought dismissal on grounds, among others, that defendant was not a creditor of the Receivership entity making the transfer, the Hedge Funds were Nadel's alter egos, the defendant was a "mere conduit" and thus not a transferee under FUFTA, and the claims are barred by the *in pari delicto* doctrine).

On May 25, 2011, the Receiver filed an Omnibus Motion for Partial Summary Judgment ("**Summary Judgment Motion**") in all January 2010 Cases still pending. Specifically, the Receiver sought summary judgment on the following: (1) Nadel's guilty plea establishes that he operated the Hedge Funds as a Ponzi scheme from 1999 to January

2009; (2) because Nadel operated the Hedge Funds as a Ponzi scheme from 1999 to January 2009, every transfer of an asset from a Hedge Fund during that time was made with actual intent to hinder, delay, or defraud creditors of the Hedge Funds; and (3) because Nadel operated the Hedge Funds as a Ponzi scheme from 1999 to January 2009, during that period each of the Hedge Funds and Nadel were insolvent. If summary judgment was not entered on issues (1) and (2) above, the Summary Judgment Motion sought summary judgment that: because Nadel pled guilty to securities fraud, mail fraud, and wire fraud, every transfer of an asset from a Hedge Fund during that period was made with actual intent to hinder, delay, or defraud creditors of the Hedge Funds. On February 3, 2012, the Court issued an Omnibus Order deferring ruling on the Summary Judgment Motion and gave the Receiver time to refile the motion with additional supporting evidence (*see, e.g. Wiand, as Receiver v. Henry Buhl*, Case No. 8:10-cv-75 (M.D. Fla.), Doc. 74). On March 23, 2012, the Receiver filed his Renewed Omnibus Motion for Partial Summary Judgment (“**Renewed Motion**”) and submitted additional evidence establishing Nadel’s Ponzi scheme. The Receiver’s Renewed Motion essentially seeks the same relief set forth above and includes a request for relief with respect to Traders Investment Club as well. Defendants in some case have filed responses to the Renewed Motion while defendants in other cases have elected not to respond.

On September 28, 2012, the Receiver filed additional motions for summary judgment (the “**Second Summary Judgment Motion**”) in all January 2010 Cases still pending at that time. In those motions, the Receiver sought entry of judgments for specific amounts on his FUFTA claims or, in the alternative, on his claims for unjust enrichment. Those motions are still pending, and responses were due on October 15, 2012.

In 24 of the January 2010 Cases, Defendants filed motions to compel arbitration. Over the Receiver's opposition, the Court ordered the cases to arbitration. One of the 24 cases has since been resolved. As such, the Receiver is proceeding with the remaining 23 matters in arbitration and is in the process of finalizing Statements of Claim.

On or about September 27, 2010, the Receiver filed 12 additional actions against Profiteers who invested with Traders "accounts." The lawsuits seek to recover false profits of approximately \$962,197.43. Ten of these cases have been resolved either by default, settlement, or dismissal without prejudice. The Receiver obtained default judgments for the two cases where defaults were entered and is proceeding with collection efforts. Only two cases remain pending. Discovery is ongoing in these cases. In one case, the defendants served a motion to dismiss, which the Court denied. *See Wiand, as Receiver v. Mason, et al.*, Case No. 8:10-cv-2146-T-17MAP (M.D. Fla.). On March 23, 2012, the Receiver also filed his Renewed Motion in the two pending matters, which is the first summary judgment motion filed in these cases. And on September 28, 2012, the Receiver also filed his Second Summary Judgment Motion in one of those matters; the deadline for dispositive motions in the other matter has not yet expired.

The Receiver believes that he has identified all of the Profiteers. However, the Receiver is verifying that identification and will bring additional actions if appropriate and in the best interests of the Receivership. The Receiver is continuing to engage in settlement discussions with defendants of the lawsuits discussed above.

2. **Litigation against Moodys and Rowe.**

a. **Moodys.**

On January 20, 2010, the Receiver filed suit against Neil V. Moody, individually and as Trustee of the Neil V. Moody Revocable Trust; Sharon G. Moody, individually and as Trustee of the Sharon G. Moody Revocable Trust; and the Neil V. Moody Charitable Foundation, Inc. (collectively the “**Moody Defendants**”) for the return of **\$28,341,953.10**. *See Wiand, as Receiver v. Neil V. Moody, et al.*, Case No. 8:10-cv-249-T-17MAP (M.D. Fla.). On November 5, 2010, the Receiver filed a motion to approve the settlement of all claims asserted against Sharon G. Moody in her individual capacity and as Trustee of the Sharon G. Moody Trust (Doc. 516). The Court approved this settlement in its entirety on November 8, 2010 (Doc. 517). For the pertinent terms of this settlement, please refer to the Tenth Interim Report. As discussed above, the Receiver also entered into a settlement agreement with Neil Moody in his individual capacity and as trustee of the Neil V. Moody Revocable Trust and the Neil V. Moody Charitable Foundation. The Court approved this settlement agreement on February 23, 2012 (Doc. 754). For a discussion of the pertinent terms of this agreement see Section V.D above. As these settlements resolved the above litigation against all defendants, this action was dismissed.

b. **Rowe.**

On January 20, 2010, the Receiver filed suit against Donald Rowe, individually and as Trustee of the Wall Street Digest Defined Benefit Pension Plan, Joyce Rowe, and Carnegie Asset Management, Inc. (“**CAM**”) (collectively “**Rowe Defendants**”). This action seeks the return of **\$9,924,250**, which includes approximately \$4,028,385 in false profits and

approximately \$2,700,865 of purported “commissions.” See *Wiand, as Receiver v. Donald Rowe, et al.*, Case No. 8:10-cv-245-T-17MAP (M.D. Fla.). As set forth in the Complaint, Donald Rowe, in his individual capacity and as Trustee of the Wall Street Digest Defined Benefits Pension Plan, and Joyce Rowe were investors in one or more of the Hedge Funds and received distributions of purported trading profits or purported principal redemptions in connection with their investments which do not satisfy FUFTA’s “good faith” standard and which are unjust. Similarly, some of these defendants received unlawful “commissions” for soliciting investors. The Receiver seeks to recover those transfers under FUFTA, or alternatively, seeks disgorgement of those amounts pursuant to equitable claims of unjust enrichment.

The parties mediated this matter on September 13, 2010 and September 28, 2010, but were unable to reach an accord. On March 23, 2012, the Receiver filed the Renewed Motion in this matter. The Rowe defendants’ responded to the Renewed Motion on March 23, 2012. Oral argument on the motion was held on September 19, 2012. The Court has not issued a ruling yet. Trial of this case is set for January 2013.

3. Recovery of Fees from Recipients of Commissions or Other Transfers.

Information available to the Receiver revealed that at least three individuals, aside from the Rowe Defendants, received commissions as “compensation” under circumstances that warrant the Receiver’s recovery of those sums. In January 2010, the Receiver initiated lawsuits against these three individuals to recover those transfers under FUFTA, or alternatively, disgorgement of those amounts pursuant to equitable claims of unjust enrichment. Two of these matters have been resolved for a total payment of \$137,121.09.

For more information regarding these matters, please refer to prior Interim Reports. The Receiver is proceeding against the remaining individual in *Wiand, Receiver v. Steve Ellis*, Case No. 8:10-cv-233-T-17MAP (M.D. Fla.) (seeking the return of \$118,191 in purported fees). The Receiver filed the Renewed Motion in this matter on March 23, 2012. Mr. Ellis filed a response on May 16, 2012. No decision has been rendered yet.

4. Recovery of Charitable Contributions Made with Scheme Proceeds.

Nadel formed the Guy-Nadel Foundation in December 2003 as a non-profit corporation for charitable, educational and scientific purposes. The Foundation was funded solely with proceeds of Nadel's scheme. All money Nadel wrongfully caused to transfer or pay to the Foundation was diverted and misappropriated by him in connection with his scheme. The Receiver has discovered that from 2000 through 2008, the Guy-Nadel Foundation made a total of \$2,484,589 in contributions to various non-profit and charitable organizations.

The Receiver has focused his attention on the organizations that received the most misappropriated funds. The Receiver sought to obtain tolling agreements from all of these organizations so he could contemplate the appropriate action to take regarding these significant disbursements. Because three organizations did not provide such agreements and one refused to extend a tolling agreement it had entered with the Receiver upon its expiration, the Receiver had no recourse but to initiate actions against them. *See Wiand, as Receiver v. Catholic Charities, Diocese of Venice, Inc.*, Case No. 8:10-cv-247-T-17MAP (M.D. Fla.); *Wiand, as Receiver v. Diocese of Venice in Florida, Inc.*, Case No. 8:10-cv-247-T-17MAP (M.D. Fla.); *Wiand, as Receiver v. Sarasota Opera Association, Inc.*, Case No.

8:10-cv-248-T-17MAP (M.D. Fla).⁶ The Receiver has reached settlement agreements in all three of these matters which should result in the payment of the total amount of **\$1,035,550.16** to the Receivership.

The Receiver also attempted to reach resolutions with the charities that entered tolling agreements which were still in effect. The Receiver reached a settlement agreement with two such charities, but was unable to reach a pre-suit resolution with Girls Incorporated of Sarasota County (“**Girls Inc.**”). Accordingly, the Receiver had no recourse but to initiate an action against Girls Inc., which he did on April 17, 2012. *See Wiand, as Receiver v. Girls Incorporated of Sarasota County*, Case No. 8:12-cv-839-T-17MAP (M.D. Fla.). As a result of filing this action, the Receiver reached an agreement to settle this matter and obtained Court approval of the settlement agreement to resolve the matter for payment from Girls Inc. to the Receiver in the amount of \$100,000 in accordance with a set payment schedule.

5. Class Action Litigation.

On March 20, 2009, Johnson, Pope, Bokor, Ruppel & Burns, LLP (“**Johnson Pope**”) on behalf of investor Michael Sullivan and others similarly situated, instituted a class action suit against Holland & Knight, LLP (“**H&K**”), the law firm that prepared the private placement memoranda used to solicit investors into the Nadel scheme, *Michael Sullivan v. Holland & Knight LLP*, Case No. 09-cv-0531-EAJ (M.D. Fla.). As discussed in Section

⁶ The Receiver also initiated an action against the Florida House Foundation of Sarasota. The Receiver, however, dismissed this case without prejudice because he determined that the organization had no collectible assets nor did it have an expectation of receiving assets in the near future.

V.E.6 below, the Receiver has reached an agreement to resolve his litigation against H&K, which includes the resolution of this class action litigation as well.

6. Receiver's Litigation Against Holland & Knight LLP.

The Receiver entered into a contingency fee agreement with Johnson Pope to pursue professional malpractice claims by the Hedge Funds against H&K and Scott MacLeod seeking to recover the Hedge Funds' losses that occurred after January 1, 2003. (*See also* Order dated August 12, 2009 (Doc. 175).) On or about August 31, 2009, the Receiver initiated an action against H&K on behalf of the Hedge Funds. *Scoop Real Estate, L.P., et al. v. Holland & Knight, LLP, Scott R. MacLeod and John Doe*, Case No. 2009-ca-014887-NC (Sarasota County, Fla., 12th Jud. Cir.).

After extensive litigation and negotiations, the Receiver has reached an agreement with H&K and Mr. MacLeod to resolve this matter. On August 28, 2012, the Receiver filed a motion to approve the settlement (Doc. 898). In pertinent part, the settlement agreement provides that H&K and Mr. MacLeod will pay the Receiver \$25,000,000 in exchange for a broad release of claims. On August 29, 2012, the Receiver mailed more than 700 notices of settlement to known investors in the scheme underlying this case, to potential joint tortfeasors, and to other interested parties whose rights may be affected by the settlement (the "**Potentially Interested Parties**"). Notice was also published in the Wall Street Journal national edition and in the Sarasota Herald Tribune and posted on the Receivership website. The notices advised recipients of their right to object to the settlement, of the procedure for objecting, and of the deadline for filing objections. The recipients had until October 1, 2012 to file any objections or other responses to the motion to approve the settlement with H&K.

Only one objection was filed. The Court overruled that objection and granted the Receiver's motion in its entirety on October 2, 2012 (Doc. 921). The Court entered a judgment granting the Receiver's motion to approve the settlement on October 4, 2012. Assuming no notices of appeal are filed, payment from H&K is due on November 15, 2012. After deducting fees and costs attributable to counsel, the Receiver should collect the net amount of more than \$18,200,000.

7. Receiver's Litigation Against Wells Fargo

The Receiver retained the law firm of James, Hoyer, Newcomer, & Smiljanich ("**James Hoyer**") to pursue litigation against Wells Fargo and Timothy Ryan Best, Nadel's relationship manager with the bank. On February 13, 2012, James Hoyer on behalf of the Receiver instituted an action against Wells Fargo and Timothy Best in the Circuit Court for Sarasota County. That action seeks to recover damages and fraudulent transfers relating to the bank's close and extensive relationship with the Ponzi scheme underlying this Receivership. The Defendants removed the action to this Court. On March 21, 2012, the Defendants each filed motions to dismiss the complaint. The Receiver filed oppositions to these motions to dismiss on April 21, 2012. On August 12, 2012, the Court entered an order granting in part and denying in part the motions to dismiss. The Court granted the motion to dismiss negligence claims brought by Victory IRA Fund, Valhalla Investment Partners, and Viking IRA Fund. The Court also dismissed all claims of aiding and abetting. However, the Court denied the remainder of the motions to dismiss and allowed the Receiver to proceed on his FUFTA claims, unjust enrichment claims, individual claims against Best, and negligence claims by Victory Fund, Scoop Real Estate, and Viking Fund. The Receiver filed an

amended complaint on August 31, 2012. On September 14, 2012, the Defendants filed a motion to dismiss counts I through V of the amended complaint and filed an answer to the remainder of the amended complaint. On October 5, 2012, the Receiver filed a response to the motion to dismiss. No ruling has been issued on this motion to dismiss yet. The parties are proceeding with discovery.

As previously noted above (for example in Sections V.A.2, V.B.1, and V.B.5), Wells Fargo is pursuing a claim and other purported interests it believes it has to Receivership property. As part of those efforts, Wells Fargo has aggressively interfered with the Receivership. For example, it has sought to bypass the claims process, alter it, take property away from the Receivership, petition another court for relief without informing this Court or the Receiver, and delay the Receiver's interim distribution. It also sought to disqualify the Receiver and his counsel from this Receivership. The Court denied the disqualification efforts in their entirety after concluding that the Receiver and his counsel acted appropriately. The Court observed that Wells Fargo's motion "was timed to derail, or perhaps retaliate against, as the Receiver and [his counsel] suggest, the receivership proceedings." (Doc. 822.)

8. Other Litigation

After intensive pre-suit negotiations, the Receiver reached a settlement with Goldman Sachs Execution & Clearing, LP ("**GSEC**"). GSEC (formerly known as Spear, Leeds & Kellogg, L.P.), provided clearing services for Shoreline Trading Group LLC ("**Shoreline**"), an introducing Broker/Dealer that dealt directly with Nadel's and certain Receivership Entities' securities transactions. In pertinent part, the settlement agreement provides that GSEC pay \$9,850,000 in exchange for a broad release and entry of an order barring future

claims against GSEC. The Court approved the settlement on February 10, 2012 (Doc. 742). GSEC paid the Receiver \$9,850,000 on March 27, 2012.

Similarly, the Receiver engaged in extensive pre-suit negotiations with Shoreline, the introducing Broker/Dealer mentioned above. As a result of these negotiations, the Receiver also entered into a settlement agreement with Shoreline which provides, in pertinent part, that Shoreline will pay the Receiver \$2,500,000 in exchange for a broad release of claims and entry of an order barring future claims against Shoreline. The Receiver filed a motion to approve the settlement on March 29, 2012 (Doc. 803). On April 2, 2012, more than 700 notices of settlement were mailed to Potentially Interested Parties and also published in the Wall Street Journal national edition and in the Sarasota Herald Tribune and posted on the Receivership website. The recipients had until May 3, 2012 to file any objections or other responses to the motion to approve the settlement with Shoreline. In response to the more than 700 notices mailed by the Receiver, only one objection was filed. The Court granted the Receiver's motion in its entirety on May 4, 2012 (Doc. 835), and Shoreline has paid the Receiver \$2,500,000.

9. Other Potential Litigation

The Receiver continues to examine the actions of other professionals and businesses that provided services to Receivership Entities to determine whether he needs to take additional steps with respect to any of those professionals and businesses to recover assets for the Receivership.

VI. Claims Process.

On April 20, 2010, the Receiver filed his 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 and Incorporated Memorandum of Law (Doc. 390) (“**Claims Motion**”). On April 21, 2010, the Court granted the Receiver’s Claims 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 Motion or the mailing of Proof of Claim Forms to all known investors (as the term Claim Bar Date is defined in the Receiver’s 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 is 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.

In compliance with the Court’s Order, on June 4, 2010, the Receiver mailed 1256 packages to 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. 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 provided the Notice and a Proof of Claim form on his website.

The Receiver received 504 claims.⁷ Of the 504 claims, 478 claims were submitted in connection with 473 investor “accounts”⁸ (“**Investor Claimants**”), which represent approximately 60% of all currently known Investor Accounts.⁹ The Receiver also received 26 claims from other purported creditors (“**Non-Investor Claimants**”) (Investor Claimants and Non-Investor Claimants are collectively referred to as “**Claimants**”), including two claims from taxing authorities. 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 \$158,239,030.46.¹⁰

On December 7, 2011, the Receiver filed his Motion to (1) approve determination and priority of claims, (2) pool Receivership assets and liabilities, (3) approve plan of distribution, and (4) establish objection procedure (“**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

⁷ 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.

⁸ In reality, Nadel and the Receivership Entities did not maintain separate investor accounts. Nevertheless, for ease of reference they are referred to as “**Investor Accounts**.”

⁹ Multiple claims were submitted for five accounts.

¹⁰ The amount indicated for Non-Investor Claimants may not include all claimed interest, fees, or penalties which may be sought by them. 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.

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; (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 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.

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 (the "**March 2 Order**") (Doc. 776). With respect to the claim submitted by Wells Fargo, the Court reserved ruling on that claim and on several motions and objections filed by Wells Fargo and, in some instances, its affiliate TRSTE, Inc., 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 received objections relating to 23 claims. These objections were raised by 12 Claimants, four of whom have multiple claims. The objections for four claims have been resolved (Claim Nos. 444, 449, 450 and 471). The Receiver is in the process of addressing the remaining objections. Further, as noted above, Wells Fargo, which filed Claim Number 502, 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.

On April 27, 2012, the Receiver filed a Motion to (1) Approve First Interim Distribution, (2) Establish Reserves, and (3) Approve Revisions to Certain Claim Determinations (Doc. 825) ("**First Distribution Motion**"). In this motion, the Receiver sought the approval of (1) a first interim distribution of \$25,994,012.73 on a *pro rata* basis, representing a recovery of 20% of the Allowed Amount of Class 1 claims receiving a distribution at that time;¹¹ (2) establishment of reserves of \$1,789,268.46 for claims for which

¹¹ A first interim distribution for five claims that were previously allowed was not requested in the First Interim Distribution Motion because the Receiver was informed days before the filing of that motion that the Allowed Amounts for these five claims may have overstated those claims' actual losses. The Receiver researched and resolved these matters very quickly. Ultimately, the Receiver discovered that the collective overstatement for these claims was approximately \$167,685.65, which represented only 0.001% of the total Allowed Amount of all Investor Claims, and thus was negligible, especially in the context of assessing investor losses caused by a massive 10-year Ponzi scheme such as the one underlying this case. On May 15, 2012, the Receiver filed a supplemental motion to approve revisions to these claims and approve a first interim distribution (Doc. 857). This motion was granted on May 17, 2012 (Doc. 858) and all of the first interim distribution checks for these claims have been sent to the Claimants.

timely objections were received and for Wells Fargo's and TRSTE, Inc.'s purported interests in Receivership assets and the Receivership estate; and (3) approval of revisions to certain claim determinations previously submitted by the Receiver and approved by the Court in the Claims Determination Motion. The Receiver sought revisions for up to fifteen claims as detailed in the First Distribution Motion and Exhibit C thereto. All but one of the revisions were requested to accommodate changes in Claimants' circumstances, such as the death of a claimant or a change in custodian for the account which held the investment underlying this case.¹²

On May 2, 2012, Wells Fargo filed a limited objection to the First Distribution Motion to which the Receiver replied on May 4, 2012 (Docs. 831, 836.) The Court overruled Wells Fargo's objection and granted the Receiver's motion in its entirety on May 7, 2012 (Doc. 839). The Receiver has mailed 343 first interim distribution checks totaling \$25,520,133.79 to Claimants holding claims which were determined to be entitled to participate in the first interim distribution. All first interim distribution checks have been negotiated. While it is necessary to retain funds in reserve, as soon as the Receiver has amassed sufficient additional assets to make further distributions efficient and practical he will apply to the Court for permission to do so. At this time, the Receiver is making

¹² The other revision was sought because, upon further review of documents provided by the Claimant and other Receivership records, the Receiver was able to determine 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, the Receiver asked that this claim, which was previously denied, be allowed for the claimed amount.

preparations for a second interim distribution in anticipation of receiving settlement funds from H&K.

VII. Investigating Receivership Affairs and Tracing Receivership Funds.

The Receiver has retained the services of PDR Certified Public Accountants (“PDR”), forensic accountants, to assist in investigating and analyzing the flow of funds both into and out of the Receivership Entities, and to assist in locating additional funds, if any. The Receiver has also retained the services of Riverside Financial Group (“Riverside”), financial analysts to assist in investigating and analyzing all of the trading activity. In conjunction with the Receiver, PDR and Riverside have worked on identifying additional individuals and/or entities who were or may have been in possession of Receivership funds. PDR also assisted in determining the amount of each investor’s loss.

The Receiver has also retained the services of RWJ Group, LLC (“RWJ”) as an asset manager for the Receivership Entities. RWJ is owned and operated by Roger Jernigan. Mr. Jernigan has over 24 years of law enforcement and investigative experience. He also has experience in managing multiple businesses with gross sales exceeding \$1.5 million. Mr. Jernigan formerly was the manager of the VJC and has significant knowledge of the maintenance of assets recovered by the Receiver. Mr. Jernigan is a commercial pilot with over 10,000 hours of accident and incident free flying. After conducting due diligence, the Receiver determined that Mr. Jernigan had no involvement with Nadel’s scheme and was not an investor in the Hedge Funds. Mr. Jernigan has been an invaluable asset to the Receivership. Mr. Jernigan assists the Receiver with overseeing ongoing business operations and property recovered by the Receiver, including aiding with efforts to sell such businesses

and property. His efforts are designed to ensure that Receivership assets are maintained and/or enhanced to allow for maximum recovery for the Receivership estate. Pursuant to an agreement with the Receiver, RWJ receives \$5,500 per month for its services and is reimbursed for related expenses.

VIII. The Next Ninety Days.

The Receiver will proceed with the claims process by continuing to address the remaining objections. The Receiver will also continue preparations for a second interim distribution in anticipation of receipt of H&K settlement funds.

The Receiver will proceed with the pending cases. He will engage in discovery and motion practice. The Receiver will attend any court-ordered mediations. He will continue to thoroughly consider and review any settlement offers for pending cases and engage in settlement negotiations. The Receiver will make every effort to reach compromises that are in the best interests of the Receivership Entities and the investors.

The Receiver will continue to review information to determine if any third parties may have liability either to the Receivership estate or investors.

The Receiver will continue to pursue the recovery of tax refunds where possible, and will continue to attempt to locate additional funds and other assets. If appropriate, the Receiver will institute proceedings to recover assets on behalf of the Receivership Entities.

The Receiver will also continue the operations of all ongoing businesses of the Receivership Entities to maintain and, if possible, enhance their value. The Receiver will continue to market properties for sale and entertain offers for purchase.

CONCLUSION

Creditors and investors in the Receivership Entities are encouraged to periodically check the informational website (www.nadelreceivership.com) for current information concerning this Receivership. The Receiver and his counsel have received an enormous amount of emails and telephone inquiries and have had to expend significant resources to address them. To minimize those expenses, creditors and investors are strongly encouraged to consult the Receiver's website before contacting the Receiver or his counsel. However, the Receiver continues to encourage individuals or attorneys representing investors who may have information that may be helpful in securing further assets for the Receivership estate or identifying other potential parties who may have liability to either the Receivership estate or investors directly to either email jrizzo@wiandlaw.com or call Jeffrey Rizzo at 813-347-5100.

Dated this 23rd day of October, 2012.

Respectfully submitted,

s/Burton W. Wiand

Burton W. Wiand, Receiver

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that on October 23, 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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