

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

CASE NO. 8:09-cv-87-T-26TBM

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

Defendants,

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

Relief Defendants.

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**PLAINTIFF'S (1) UNOPPOSED MOTION TO DISMISS WITH PREJUDICE ITS  
DISGORGEMENT AND CIVIL PENALTY CLAIMS AS TO DEFENDANT NADEL  
AND (2) JOINT MOTION WITH THE RECEIVER FOR AN ORDER AUTHORIZING  
THE RECEIVER TO DEPOSIT INTO THE RECEIVERSHIP ESTATE TAX REFUNDS  
MADE PAYABLE TO DEFENDANT NADEL**

Plaintiff Securities and Exchange Commission, pursuant to Rule 41(a)(2), Fed.R.Civ.P., moves the Court for an Order dismissing with prejudice the Commission's claims for disgorgement and a civil penalty against Defendant Arthur Nadel, who died on April 16, 2012. Further, the Commission moves jointly with the Receiver for an Order authorizing the Receiver to deposit into the Receivership Estate all tax refunds made payable to Nadel and directing

financial institutions holding accounts for the Receiver to accept any such check for deposit into any account held by the Receiver.

At his death Nadel was serving a fourteen-year prison sentence and was subject to a restitution judgment of almost \$175 million as a result of a criminal prosecution arising from the same facts underlying the Commission's case. Because Nadel has died, and in light of the Receiver's role in obtaining assets and distributing them to Nadel's victims, the Commission seeks to dismiss its claims against Nadel for disgorgement and civil penalties rather than proceeding with seeking entry of a judgment. By moving to dismiss those claims, however, the Commission is not retracting any of its allegations or conclusions relating to Nadel. Indeed, the Court-appointed Receiver continues fulfilling his duties in marshaling assets generated by Nadel's fraud, including funds related to Nadel's estate, and the Commission in no way wishes to undermine those efforts. Dismissing the Commission's monetary claims therefore is appropriate at this stage, since the Receiver will continue obtaining Nadel's assets for the benefit of injured investors.

In furtherance of the Receiver's duties, the Commission and the Receiver also jointly seek an Order with respect to any tax refund that may be made payable to Nadel. Presently, the Receiver is expecting a tax refund from the Internal Revenue Service of approximately \$1,184,312 relating to Nadel's 2007 tax filing. The Receiver expects the U.S. Treasury to issue the aforementioned refund check payable to "Arthur Nadel." The Court previously considered the Receivership's entitlement to Nadel's tax refund checks, and concluded the Receiver's request to deposit those checks into the Receivership Estate was well founded and within the Court's powers to supervise equity receiverships. *See* July 20, 2010, Order (Dkt. 440). The Commission and the Receiver therefore jointly seek an order authorizing the Receiver to deposit

the check and any other checks from the IRS payable to Arthur Nadel into the Receivership Estate, and directing all financial institutions holding Receivership accounts in the Receiver's name to accept for deposit tax refund checks made payable to Nadel without the need for any endorsement or other additional action by the Receiver.

**Certification of Compliance with Local Rule 3.01(g)**

Pursuant to Middle District of Florida Local Rule 3.01(g), undersigned counsel has conferred with counsel for the Court-appointed Receiver, who does not object to this motion.

WHEREFORE for the foregoing reasons, the Commission respectfully requests (1) the Court enter an Order dismissing with prejudice the Commission's claims for disgorgement and a civil penalty against Arthur Nadel and (2) jointly with the Receiver, also asks the Court to enter an order authorizing the Receiver to deposit into the Receivership Estate all tax refund checks made payable to Arthur Nadel and directing financial institutions holding Receivership accounts

to accept for deposit all such checks without an endorsement or any other action by the Receiver.

Date: October 25, 2012.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on October 25, 2012, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a notice of electronic filing to the following:

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