

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;  
and 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.

---

**NON-PARTY QUEST ENERGY MANAGEMENT GROUP, INC.'S  
MOTION FOR EXTENSION OF TIME TO RESPOND TO RECEIVER'S  
MOTION TO EXPAND THE SCOPE OF RECEIVERSHIP  
TO INCLUDE QUEST ENERGY MANAGEMENT GROUP, INC.**

Non-party Quest Energy Management Group, Inc. ("Quest") moves for a seven (7) day extension of time to respond to the Receiver's motion to expand the scope of the receivership to include Quest (Doc. 993). The grounds supporting this motion are set forth in the following Memorandum.

## MEMORANDUM

The Receiver's motion to include Quest in the Receivership was sent to Quest's counsel, as indicated on its certificate of service, by United States Mail, on Thursday, March 21, 2013. To the extent that, in the absence of service of process,<sup>1</sup> the Receiver's mailing the motion to Quest's counsel triggered Quest's deadline to respond to the motion, the current deadline for Quest to respond to the Receiver's motion is therefore April 8, 2013.

Although Quest's counsel had been in communication with the Receiver's counsel regarding the matters raised in the motion, including by email, the motion was not provided by email, nor did the Receiver notify Quest's counsel by email or otherwise that the motion had been filed. The first notice Quest or its counsel had that the motion had been filed came when undersigned counsel received the motion at his office on March 25, 2013. The Declaration the Receiver filed in support of the Motion has never been served on undersigned counsel, and counsel was required to download it via PACER.

March 25, 2013, the date Quest's counsel received the Receiver's motion, was the first day of trial in a homicide case in which undersigned counsel represented the defendant, *State*

---

<sup>1</sup>Quest has not been served with process and is not a party to this action. Accordingly, it appears to Quest's counsel that the Court has not acquired personal jurisdiction over Quest. *See S.E.C. v. Ross*, 504 F.3d 1130, 1138 -1139 (9th Cir. 2007). "[S]ervice of process is the means by which a court asserts its jurisdiction over the person." *Id.* at 1138. Accordingly, "[a] federal court is without personal jurisdiction over a defendant unless the defendant has been served in accordance with Fed. R. Civ. P. 4." *Id.* (quoting *Benny v. Pipes*, 799 F.2d 489, 492 (9th Cir. 1986)). "Without a proper basis for jurisdiction, or in the absence of proper service of process, the district court has no power to render any judgment against the defendant's person or property unless the defendant has consented to jurisdiction or waived the lack of process." *Id.* at 1138-39. Quest has not waived service of process and reserves the right to argue that in the absence of process, the Court lacks personal jurisdiction over it.

*of Florida v. Kristopher Sanders*, Case No. 08-CF-024605, in Hillsborough County Circuit Court before the Honorable Lamar Battles. The trial concluded on Thursday, March 28, 2013.

Following the conclusion of the homicide trial, it was necessary for undersigned counsel to prepare for and argue on behalf of the named plaintiff in a class action, *Miranda Day v. Persals and Associates, et al.*, Case No. 12-11887, at an oral argument that was heard by the Eleventh Circuit Court of Appeals in Atlanta on Tuesday, April 2, 2013.

Because of the previous unrelated court commitments as well as an otherwise heavy caseload, undersigned counsel has not had adequate time to prepare Quest's response to the Receiver's motion. Counsel has now turned to the response to the motion, which raises significant issues and will require adequate time to research and respond to.

Prior to the filing of the Receiver's motion, undersigned counsel and counsel for the Receiver had been in communication regarding possible resolution of the matters addressed in the motion. Although undersigned counsel has been in contact with counsel for the Receiver, no resolution to this matter has been reached.

This request is made in the interest of justice and to allow Quest to research and prepare a response that clearly and concisely responds to the issues raised by the Receiver's motion. It is not made for the purpose of delay. Given that the Receivership has been in existence since 2009, and the Receiver has been in discussions with Quest regarding this matter since at least 2011 without previously taking any action, there is no reason to believe that the Receivership will be harmed by the requested seven-day extension of time.

## CONCLUSION

For these reasons, Quest Energy Management Group, Inc. respectfully requests that the Court grant a seven (7) day extension of time to respond to the Receiver's motion, to April 15, 2013.

## CERTIFICATE OF CONFERENCE

Pursuant to Local Rule 3.01(g), the parties have conferred regarding the requested relief. Counsel for the Receiver indicated that the Receiver objects to the requested extension of time.

Respectfully submitted by:

/s/ James E. Felman

James E. Felman

Florida Bar No. 775568

Katherine Earle Yanes

Florida Bar No. 0159727

KYNES, MARKMAN & FELMAN, P.A.

Post Office Box 3396

Tampa, Florida 33601-3396

Telephone: (813) 229-1118

Facsimile: (813) 221-6750

[jfelman@kmf-law.com](mailto:jfelman@kmf-law.com)

[kyanes@kmf-law.com](mailto:kyanes@kmf-law.com)

Counsel for Quest Energy Management Group,  
Inc.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this the 4th day of April, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notice of electronic filing to:

Chris A. Barker  
Barker, Rodems & Cook, PA  
[cbarker@barkerrodemsandcook.com](mailto:cbarker@barkerrodemsandcook.com)

Ana T. Barnett  
Julie Fishman Berkowitz  
Stearns, Weaver, Miller, Weissler,  
Alhadeff & Sitterson, PA  
[abarnett@stearnsweaver.com](mailto:abarnett@stearnsweaver.com)  
[jberkowitz@stearnsweaver.com](mailto:jberkowitz@stearnsweaver.com)

Eric A. Bensky  
Howard Schiffman  
Schulte Roth & Zabel LLP  
[eric.bensky@srz.com](mailto:eric.bensky@srz.com)  
[howard.schiffman@srz.com](mailto:howard.schiffman@srz.com)

Morgan R. Bentley  
Bentley & Bruning, PA  
[mbentley@bentleyandbruning.com](mailto:mbentley@bentleyandbruning.com)

Joshua A. Bleil  
The Ticktin Law Group, PA  
[jbleil@legalbrains.com](mailto:jbleil@legalbrains.com)

Jonathan Betten Cohen  
Megan Elizabeth Davis  
Sean P. Keefe  
Terry Alan Smiljanich  
James Hoyer Newcomer & Smiljanich, P.A.  
[jcohen@jameshoyer.com](mailto:jcohen@jameshoyer.com)  
[mdavis@jameshoyer.com](mailto:mdavis@jameshoyer.com)  
[skeefe@jameshoyer.com](mailto:skeefe@jameshoyer.com)  
[tsmiljanich@jameshoyer.com](mailto:tsmiljanich@jameshoyer.com)

James E. Connelly  
Mark A Rogers  
Womble, Carlyle, Sandridge & Rice, LLP  
[jconnelly@wcsr.com](mailto:jconnelly@wcsr.com)  
[marogers@wcsr.com](mailto:marogers@wcsr.com)

Kevin Michael Eckhardt  
Hunton & Williams, LLP  
[keckhardt@hunton.com](mailto:keckhardt@hunton.com)

James L. Essenson  
Law Firm of James L. Essenson  
[essenson@essensonlaw.com](mailto:essenson@essensonlaw.com)

Matthew P. Farmer  
Farmer & Fitzgerald, PA  
[mattfarmer1@aol.com](mailto:mattfarmer1@aol.com)

Todd Alan Foster  
Todd Foster, PLLC  
[tfoster@tfosterlaw.com](mailto:tfoster@tfosterlaw.com)

Jason T. Gaskill  
Adams & Reese, LLP  
[jason.gaskill@arlaw.com](mailto:jason.gaskill@arlaw.com)

R. Craig Harrison  
Lyons, Beaudry & Harrison, PA  
[craig@lyonsbeaudryharrison.com](mailto:craig@lyonsbeaudryharrison.com)

David A. Holmes  
Farr Law Firm  
[dholmes@farr.com](mailto:dholmes@farr.com)

Carol Ann Kalish  
Williams, Parker, Harrison, Dietz & Getzen  
[ckalish@williamsparker.com](mailto:ckalish@williamsparker.com)

Patrick Joseph McNamara  
De La Parte & Gilbert, PA  
[pmcnamara@dgfirm.com](mailto:pmcnamara@dgfirm.com)

Gianluca Morello  
Maya M. Lockwood  
Michael S. Lamont  
Wiand Guerra King, PL  
[gmorello@wiandlaw.com](mailto:gmorello@wiandlaw.com)  
[mlockwood@wiandlaw.com](mailto:mlockwood@wiandlaw.com)  
[mlamont@wiandlaw.com](mailto:mlamont@wiandlaw.com)

Michael A. Nardella  
Burr & Forman, LLP  
[michael.nardella@burr.com](mailto:michael.nardella@burr.com)

Frederick Stewart Schrils  
GrayRobinson, PA  
[frederick.schrils@gray-robinson.com](mailto:frederick.schrils@gray-robinson.com)

Paul B. Thanasides  
Lorien Smith Johnson  
McIntyre Panzarella Thanasides Hoffman  
Bringgold & Todd, PL  
[paul@mcintyrefirm.com](mailto:paul@mcintyrefirm.com)  
[lorien@mcintyrefirm.com](mailto:lorien@mcintyrefirm.com)

Jeffrey Wayne Warren  
Bush Ross, PA  
[jwarren@bushross.com](mailto:jwarren@bushross.com)

Janelle Alicia Weber  
Shutts & Bowen, LLP  
[jweber@shutts.com](mailto:jweber@shutts.com)

Thomas R. Yaegers  
Louis Joseph Shaheen , Jr.  
Steven R. Wirth  
Akerman Senterfitt  
[thomas.yaegers@akerman.com](mailto:thomas.yaegers@akerman.com)  
[joseph.shaheen@akerman.com](mailto:joseph.shaheen@akerman.com)  
[steven.wirth@akerman.com](mailto:steven.wirth@akerman.com)

Andre J. Zamorano  
Scott A. Masel  
Securities & Exchange Commission  
[zamoranoa@sec.gov](mailto:zamoranoa@sec.gov)  
[masels@sec.gov](mailto:masels@sec.gov)

and via U.S. Mail to:

Emelie Zack  
13900 Long Lake Lane  
Port Charlotte, FL 33953

/s/ James E. Felman  
James E. Felman