

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

IN RE BURTON W. WIAND, as Receiver for  
VALHALLA INVESTMENT PARTNERS,  
L.P.; VIKING FUND, LLC; VIKING IRA  
FUND, LLC; VICTORY FUND, LTD.;  
VICTORY IRA FUND, LTD., AND  
SCOOP REAL ESTATE, L.P.,

Plaintiff,

vs.

Case No. 8:10-cv-210-T-17MAP

VERNON M. LEE, individually and as Trustee  
of the Vernon M. Lee Trust,

Defendant.

\_\_\_\_\_ /

**ORDER ON REPORT AND RECOMMENDATION**

This cause is before the Court on the report and recommendation (R&R) issued by Magistrate Judge Mark A. Pizzo on February 13, 2012, wherein the Magistrate Judge recommended that the defendant's motion for judgment on the pleadings (Doc. 62) be denied.

Pursuant to Rule 6.02, Rules of the United States District Court for the Middle District of Florida, the parties had fourteen (14) days after service to file written objections to the proposed findings and recommendations, or be barred from attacking the factual findings on appeal. **Nettles v. Wainwright**, 677 F.2d 404 (5th Cir. 1982) (en banc). The defendant filed objections to the report and recommendation (Doc. 92).

### **STANDARD OF REVIEW**

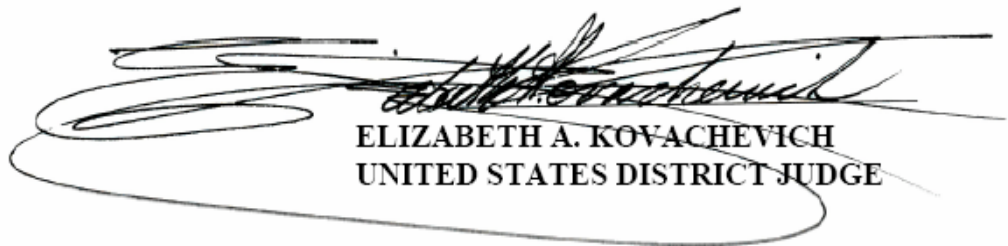
When a party makes a timely and specific objection to a finding of fact in the report and recommendation, the district court should make a de novo review of the record with respect to that factual issue. 28 U.S.C. § 636(b)(1); **U.S. v. Raddatz**, 447 U.S. 667 (1980); **Jeffrey S. v. State Board of Education of State of Georgia**, 896 f.2d 507 (11th Cir. 1990). However, when no timely and specific objections are filed, case law indicates that the court should review the findings using a clearly erroneous standard. **Gropp v. United Airlines, Inc.**, 817 F.Supp. 1558, 1562 (M.D. Fla. 1993).

The Court has reviewed the report and recommendation and made an independent review of the record. Upon due consideration, the Court concurs with the report and recommendation of the Magistrate Judge. Accordingly, it is

**ORDERED** that the report and recommendation, February 13, 2012, be

**adopted and incorporated by reference;** the objection of the Receiver be **overruled;**  
and the motion for judgment on the pleadings (Doc. 62) be **denied.**

**DONE and ORDERED** in Chambers, in Tampa, Florida, this 12th day of  
March, 2012.



ELIZABETH A. KOVACHEVICH  
UNITED STATES DISTRICT JUDGE

Copies to: All parties and counsel of record  
Assigned Magistrate Judge