

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

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

Defendants.

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

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

Relief Defendants.

**RECEIVER'S RENEWED UNOPPOSED MOTION TO APPROVE
THE SALE OF REAL PROPERTY LOCATED IN
NEWNAN, COWETA COUNTY, GEORGIA**

Pursuant to 28 U.S.C. § 754, Fed. R. Civ. P. 66, and Rule 3.01 of the Local Rules of the Middle District of Florida, Burton W. Wiand, as Receiver (the "Receiver"), respectfully moves the Court for entry of order approving the sale of Receivership property

located at 5 McCollum Station in Newnan, Coweta County, Georgia, pursuant to the following revised terms.

BACKGROUND

On January 21, 2009, the Securities and Exchange Commission (“Commission”) initiated this action to prevent the defendants from further defrauding investors of hedge funds operated by them. That same day, the Court entered an order appointing Burton W. Wiand as Receiver for Defendants Scoop Capital, LLC (“Scoop Capital”) and Scoop Management, Inc. (“Scoop Management”) and Relief Defendants Scoop Real Estate, L.P.; Valhalla Investment Partners, L.P.; Valhalla Management, Inc.; Victory Fund, Ltd.; Victory IRA Fund, Ltd.; Viking IRA Fund, LLC; Viking Fund, LLC; and Viking Management, LLC (the “Order Appointing Receiver”). (*See generally* Order Appointing Receiver (Doc. 8).) The Court subsequently granted several motions to expand the scope of the receivership to include Tradewind, LLC (Doc. 17) and other entities owned or controlled by Arthur Nadel (*See generally* Docs. 17, 44, 68, 81, 153, 172.). All of the entities in receivership are hereinafter referred to collectively as the “Receivership Entities.”

Pursuant to the Order 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.” (Order Appointing Receiver at 1-2.) In particular, the Receiver was directed to:

[t]ake immediate possession of all property, assets and estates of every kind of the [Receivership Entities], whatsoever and wheresoever located belonging to

or in the possession of the [Receivership Entities], including but not limited to all offices maintained by the [Receivership Entities], rights of action, books, papers, data processing records, evidences of debt, bank accounts, savings accounts, certificates of deposit, stocks, bonds, debentures and other securities, mortgages, furniture, fixtures, office supplies and equipment, and all real property of the [Receivership Entities] wherever situated, and to administer such assets as is required in order to comply with the directions contained in this Order, and to hold all other assets pending further order of this Court

(Id. at 2.)

In accordance with that Order, the Receiver took possession of real property located at 5 McCollum Station, Newnan, Georgia, on Land Lots 22 and 23 of the 6th Land District of Coweta County, Georgia (the “Property”).

The Property and New Sale Agreement

The Receiver previously submitted a motion requesting the Court’s approval to sell the Property (Dkt. 299) for \$1,725,000 to Candler Food LLC #136 (the “Buyer”) in accordance with the terms of the Agreement of Sale and Purchase between Burton W. Wiand and Candler Food LLC #136 (the “Agreement”) (See Exhibit 1 to Dkt. 299) and a supporting Declaration (Dkt. 300). The Court granted the motion on January 12, 2010 (Dkt. 302). The Receiver incorporates herein by reference the aforementioned Motion, Declaration and Order (Dkts. 299, 300 and 302) related to the sale of the Property.

The Property was not conveyed to the Buyer following entry of the Court’s January 12, 2010 Order (Dkt. 302) because the Buyer was unable to secure financing. The Receiver provided the Buyer additional time to obtain financing in an effort to try to close the transaction in the weeks that followed entry of the Order, and the Buyer provided an additional \$35,000 in escrow funds at the Receiver’s request. After several weeks, it became

clear to the Receiver that the Buyer would not be able to close the transaction. Thus, in accordance with the terms of the Agreement between the Receiver and Buyer, the Receiver took possession of \$135,000 being held in escrow following the Buyer's failure to perform under the terms of the Agreement.

The Buyer has since re-approached the Receiver with evidence of its ability to close the transaction and has, among other things, requested a new court order memorializing the sale of the Property for underwriting purposes. The terms of the Agreement have only been slightly modified to the following:

- A purchase price of \$1,725,000.00;
- Credit to the Buyer of \$135,000.00 for the escrow deposits previously paid by the Buyer;
- A payment of \$25,000.00 by the Buyer to the Receiver for legal fees and costs associated with the Buyer's failure to close the original transaction; and,
- The delivery of a deed by the Receiver to the Buyer.

Under the modified terms, the Receivership Estate will receive \$1,615,000 from the sale of the Property to the Buyer. The Receiver believes that the modified terms of the Agreement with the Buyer are in the best interests of the Receivership, and accordingly, the Receiver respectfully requests that the Court enter an order approving the transaction reflected in the Agreement and this motion. The Receiver intends to transfer title to the Property via a Receiver's Deed in a form similar to the one attached hereto as Exhibit "A". At the Buyer's request, the deed will convey the Property to Sydney Food LLC 138 instead of the Buyer as Buyer has indicated that it is assigning its rights and interests to Sydney Food LLC 138.

MEMORANDUM OF LAW

The Court's power to supervise an equity receivership and to determine the appropriate actions to be taken in the administration of the receivership is extremely broad. *SEC v. Elliott*, 953 F.2d 1560, 1566 (11th Cir. 1992); *SEC v. Hardy*, 803 F.2d 1034, 1038 (9th Cir. 1986). The Court's wide discretion derives from the inherent powers of an equity court to fashion relief. *Elliott*, 953 F.2d at 1566; *SEC v. Safety Finance Service, Inc.*, 674 F.2d 368, 372 (5th Cir. 1982). The relief sought by the Receiver falls squarely within those powers. Furthermore, the relief sought is in furtherance of the duties and authorities bestowed upon the Receiver by the Order Appointing Receiver.

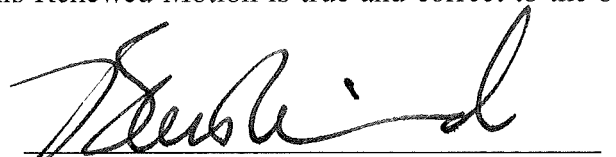
WHEREFORE, the Receiver respectfully requests this Court enter an Order, in substantially the form attached hereto as Exhibit B, granting this Renewed Motion for approval of the sale of the Property.

CERTIFICATE UNDER LOCAL RULE 3.01(g)

Undersigned counsel has conferred with counsel for the SEC and is authorized to represent to the Court that this motion is unopposed.

VERIFICATION OF RECEIVER

I, Burton W. Wiand, Court-Appointed Receiver in the above-styled matter hereby certify that the information contained in this Renewed Motion is true and correct to the best of my knowledge and belief.



Burton W. Wiand, Court-Appointed Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 3, 2010, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system. I further certify that I mailed the foregoing document and the notice of electronic filing by first-class mail to the following non-CM/ECF participants.

Arthur G. Nadel
Register No. 50690-018
MCC New York
Metropolitan Correctional Center
150 Park Row
New York, NY 10007

s/ Gianluca Morello
Gianluca Morello, FBN 034997
Email: gmorello@wiandlaw.com
Michael S. Lamont, FBN 527122
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WIAND GUERRA KING P.L.
3000 Bayport Drive
Suite 600
Tampa, FL 33607
Tel: 813-347-5100
Fax: 813-347-5199

Attorneys for the Receiver Burton W. Wiand

EXHIBIT "A"

After recording return to:

PREPARED BY & RETURN TO:
Weissmann Zucker Euster Morochnik P.C.
One Securities Centre
3490 Piedmont Road, Suite 650
Atlanta, Georgia 30305

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

RECEIVER'S DEED

THIS INDENTURE, made as of the ____ day of _____, 2010, by and between **Burton W. Wiand, as receiver for Scoop Real Estate, LP**, a Delaware limited partnership (hereinafter referred to as the "Grantor"), having a mailing address of 3000 Bayport Drive, Suite 600, Tampa, Florida 36607 and **Sydney Food LLC 138**, a Georgia limited liability company having an address of 6142 Old Dixie Highway, Forest Park, Georgia 30297 (hereinafter referred to as the "Grantee");

WITNESSETH:

That Burton W. Wiand was appoint as receiver for the Property, as hereinafter described, pursuant to that certain Order Reappointing Receiver in Securities and Exchange Commission v. Arthur Navel, et al, United States District Court Middle District of Florida, Tampa Division Case No.: 8:09-cv-87-T-26TBM. The sale having been duly approved by Order of the United States District Court Middle District of Florida Tampa Division entered _____, 2010 (hereinafter referred to as the "Order" and attached hereto as Exhibit A and incorporated herein by this reference).

That for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, Grantor has granted, bargained, sold, aliened, conveyed and confirmed and does hereby grant, bargain, sell, alien, convey and confirm unto Grantee all of Grantor's right, title and interest in and to all that certain tract

or parcel of land lying and being in Coweta County, Georgia, being more particularly described in Exhibit B attached hereto and by this reference made a part hereof (hereinafter referred to as the "Property").

The Property is conveyed subject to those permitted exceptions set forth on Exhibit C attached hereto and by this reference made a part hereof.

TO HAVE AND TO HOLD said Property, together with all and singular the rights, members and appurtenances thereof, to the same being, belonging or in anywise appertaining, to the only proper use, benefit and behoof of Grantee forever, in as full and ample a manner as the same was held by Grantor.

IN WITNESS WHEREOF, Grantor has signed and sealed this Receiver's Deed, the day and year first above written.

GRANTOR:

Signed, sealed and delivered
in the presence of:

Unofficial Witness

Notary Public

My Commission Expires:

[NOTARIAL SEAL]

(SEAL)
Burton W. Wiand, as receiver for Scoop Real Estate, LP, a
Delaware limited partnership

EXHIBIT A

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

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

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

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

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VIKING IRA FUND, LLC,
VIKING FUND, LLC, AND
VIKING MANAGEMENT, LLC.

Relief Defendants. /

RENEWED ORDER

Before the Court is the Receiver's Renewed Unopposed Motion to Approve the Sale of Real Property Located in Newnan, Coweta County, Georgia (the "Motion") (Dkt. ____). Upon due consideration of the Receiver's powers as set forth in the Order Appointing Receiver (Dkt. 8) and the Orders Reappointing Receiver (Dkt. 140 and Dkt. 316), it is **ORDERED AND ADJUDGED** that the Renewed Unopposed Motion to Approve the Sale of Real Property Located in Newnan, Coweta County, Georgia (Dkt. ____) is **GRANTED**.

The Receiver is hereby authorized to transfer title to the real property located at 5 McCollum Station in Newnan, Coweta County, Georgia to Sydney Food LLC 138 via a Receiver's Deed free and clear of all claims, liens, and encumbrances.

DONE and ORDERED in chambers in Tampa, Florida this ____ day of _____, 2010.

RICHARD A. LAZZARA
UNITED STATES DISTRICT JUDGE

COPIES FURNISHED TO:
Counsel of Record

EXHIBIT B

ALL THAT TRACT OR PARCEL OF LAND lying and being in Land Lots 22 and 23 of the 6th Land District of Coweta County, Georgia, and being more particularly described as follows:

BEGINNING at a concrete monument at the intersection of the northwesterly right-of-way of the off ramp from Interstate 85 and the northeasterly right-of-way of McCollum-Sharpsburg Road (State Route 154); said monument being the TRUE POINT OF BEGINNING; thence along said right-of-way of McCollum-Sharpsburg Road North 73 degrees 29 minutes 14 seconds West 80.28 feet to a concrete monument; thence North 25 degrees 40 minutes 57 seconds West 95.17 feet to a concrete monument; thence North 34 degrees 06 minutes 18 seconds West, 117.35 feet to a concrete monument; thence North 21 degrees 04 minutes 27 seconds West, 137.85 feet to an iron pin; thence North 69 degrees 15 minutes 47 seconds East 260.00 feet to an iron pin; thence departing said right-of-way South 20 degrees 44 minutes 13 seconds East 368.18 feet to an iron pin found on the northwesterly right-of-way of the off ramp from Interstate 85; thence along said off ramp along a curve to the left an arc distance of 50.72 feet, said curve having a radius of 1067.44 feet and a chord bearing South 60 degrees 41 minutes 31 seconds West, a distance of 50.71 feet to a concrete monument; thence South 59 degrees 06 minutes 05 seconds West 111.56 feet to a concrete monument which is the TRUE POINT OF BEGINNING. Said property contains 2.12 acres.

Said property being shown on that certain survey prepared for "Scoop Real Estate, LP, S & A Food & Gas, Inc., and First American Title Insurance Co." by J. Hugh Camp & Associates, J. Hugh Camp, Georgia Registered Land Surveyor No. 939, dated January 17, 2006.

TOGETHER WITH and benefiting the subject property, the easement as contained in that Easement Agreement by and between S & A Food, and Daniel F. Zavada, dated June 23, 2005, filed for record June 27, 2005 at 1:29 p.m., recorded in Deed Book 2762, Page 630, Records of Coweta County, Georgia.

EXHIBIT C

1. All taxes for the year 2010 and subsequent years and any additional taxes due as a result of a reassessment or a rebilling of the subject property.
2. Easement and limited access rights contained in Right of Way Deed from Rosa Mae Hill, *et al.*, to the State Highway Department of Georgia, dated September 2, 1966, filed for record September 10, 1966 at 9:00 a.m., recorded in Deed Book 133, Page 291, Records of Coweta County, Georgia.
3. Protective Covenants and Restrictions between Iqbal Investments, Inc. and Jones Petroleum Company, Inc., dated July 3, 2002, filed for record November 25, 2002 at 3:22 p.m., recorded in Deed Book 2045, Page 14, aforesaid Records.
4. Easement Agreement by and between S & A Food and Gas, Inc., a Georgia corporation, and Daniel F. Zavada, dated June 23, 2005, filed for record June 27, 2005 at 1:29 p.m., recorded in Deed Book 2762, Page 630, aforesaid Records.
5. Location Lease by and between Iqbal Investment Corp and Ultra Telecom, Inc., a Georgia corporation, dated January 20, 2004, filed for record October 13, 2005 at 3:19 p.m., recorded in Deed Book 2836, Page 260, aforesaid Records.
6. In addition to the matters set forth above, Survey for Sydney Food LLC 138, prepared by Smith & Smith Land Surveyors, P.C., bearing the seal and certification of William C. Smith, Georgia Registered Land Surveyor No. 1803, dated January 29, 2010, discloses the following:
 - (a) overhead telephone lines and telephone box located in the westerly portion of the subject property;
 - (b) water meter and water service line located in the westerly portion of the subject property;
 - (c) Coweta County water line located in the westerly portion of the subject property;
 - (d) underground power service line and electrical transformer and meter located in the westerly portion of the subject property;
 - (e) underground propane tank located in the easterly portion of the subject property;
 - (f) detention area located in the northeasterly portion of the subject property;
 - (g) valve and filler pits for underground fuel tanks located throughout the subject property;
 - (h) sanitary sewer manholes located throughout the subject property indicating underground sanitary sewer lines; and
 - (i) monitoring wells located throughout the subject property.