

**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, LED.; VICTORY FUND, LED.;
VIKING IRA FUND, LLC; VIKING FUND, LLC;
and VIKING MANAGEMENT, LLC,

Relief Defendants.

ORDER

Pending before the Court is the Receiver's motion seeking this Court's approval of the sale of real property located in Graham, Alamance County, North Carolina on which a Rite-Aid drugstore sits.¹ The Securities and Exchange Commission does not oppose the motion. However, Wells Fargo has filed an objection to the motion and memorandum of law in

¹ See docket 823.

opposition.² After careful consideration, the Court concludes that the Receiver's motion should be granted and his proposed order be entered as the Court's order.

The Court agrees with the Receiver's position that the sale of the Rite-Aid property is necessary at the negotiated sale offer of \$2,400,000.00, even though Wells Fargo is a secured creditor and the amount of the indebtedness exceeds the purchase price. Wells Fargo submits that as of April 25, 2012, it was owed \$3,303,461.60, with interest accruing at \$397.61 per diem. Three appraisals have been submitted: \$2,400,000.00 by Skeahan, the appraiser to which both parties agreed; \$2,600,000.00 by Shiplett, suggested by the Receiver; and \$3,740,000.00 by Fortenberry, suggested by Wells Fargo.³ These appraisals satisfy the requirement of 28 U.S.C. § 2001(b) as performed by independent, disinterested appraisers, and the sale of the property has been published in accordance with 28 U.S.C. § 2001(b). The Receiver set forth the marketing history of the property which reveals that 1) a broker recommended by Wells Fargo has been used in the listing of the property; 2) current economic conditions for the real estate market, and in particular this area, are poor; 3) this Rite-Aid store performs in the bottom 5% of all stores; 4) the financial condition of Rite-Aid is not healthy; and 5) any further delay in the sale of the property will only result in a lower sales price. Thus, the speedy sale of the property is in the best interest of the defrauded investors and the receivership estate. Wells Fargo's specific claim with respect to the Rite-Aid property can and will be determined later.⁴ This decision therefore renders Wells Fargo's Motion (I) for Relief from Injunction or, in the alternative, (II) to Compel

² See docket 832.

³ The tax collector of Alamance County appraised the property at \$2,041,514.00 for the years 2009, 2010, and 2011.

⁴ The Court is ever mindful that the state lawsuit filed by the Receiver against Wells Fargo for participation in the Ponzi scheme is on-going.

the Receiver to Abandon the Property located at 841 South Main Street, Graham, North Carolina
(Dkt. 719) moot.

DONE AND ORDERED at Tampa, Florida, on May 8, 2012.

s/Richard A. Lazzara
RICHARD A. LAZZARA
UNITED STATES DISTRICT JUDGE

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Counsel of Record