

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 UNOPPOSED VERIFIED MOTION TO
APPROVE THE SALE OF 1977 BEECH BARON B-55 AIRCRAFT**

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 an order approving the sale of a 1977 Beech Baron B-55 Aircraft in substantially the form of the proposed order attached as Exhibit A.

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 and the trust 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.)

THE ASSET, ITS VALUE AND RECEIVER'S MARKETING EFFORTS

The 1977 Beech Baron B-55 Aircraft bearing serial number TC-2071 (the "Asset") was purchased in 2005 by Nadel through receivership entity Tradewind, LLC. The Receiver took possession of the Asset at the time the scope of the Receivership was expanded to include Tradewind, LLC. The Asset has remained titled in the name of Tradewind, LLC and all inspections and maintenance records were up to date through August 2010. The Asset currently requires between approximately \$6,000.00 and \$50,000.00 in maintenance costs to make it airworthy according to FAA standards. The Asset is not subject to any liens or encumbrances.

The Receiver obtained an opinion as to the value of the Asset through the Airplane Owner's and Pilot's Association's (the "AOPA") aircraft value reference service. AOPA listed the value for this Asset at \$68,305.00. The Asset was listed for sale on various local aviation industry bulletin boards. The Asset was also posted on the Receivership website, www.nadelreceivership.com.

Between January 2009 and August 2010 the Receiver's marketing efforts resulted in a number of offers, the highest of which was \$45,000 on July 7, 2010. Then, on September 9, 2010, the Receiver was offered \$65,000.00 for the Asset by T.H.D. Aviation, LLC. Taking all factors into consideration, including the Asset's current maintenance needs and the state

of the current market, the Receiver believes that accepting the offer of \$65,000.00 is in the best interest of the Receivership. The Receiver believes that the offer of \$65,000.00 fairly represents the current value of the Asset. Accordingly, the Receiver has entered into an agreement to sell the Asset for \$65,000.00 contingent upon this Court's approval.

The buyer is in position to complete the sale and purchase of the Asset contingent upon this Court's approval. The buyer has agreed to purchase the Asset upon this Court's approval pursuant to the following terms:

- \$40,000.00 payable immediately upon approval of the sale by the Court;
 - \$4,166.66 payable on the 21st of each month beginning in November, 2010 and ending following payment in April 2011;
-
- The Receiver shall maintain a first priority security interest in the Aircraft until final payment, and the appropriate paperwork shall be filed with the FAA to memorialize the Receiver's security interest; and,
 - Pending completion of the sale, the buyer agrees to maintain hull insurance on the Aircraft in an amount no less than \$70,000.00 and liability insurance in an amount no less than \$1,000,000.00. The buyer will designate the Receiver as an additional insured on the insurance.

The Receiver believes selling the Asset for \$65,000.00 is in the best interests of the Receivership, and accordingly, the Receiver respectfully requests that this Court enter an order approving the transaction.

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. The Receiver believes sale of the Asset as outlined in this motion is in the best interests of the Receivership. The relief sought is in furtherance of the duties and authorities bestowed upon the Receiver by the Order Appointing Receiver.

WHEREFORE, the Receiver moves the Court for an order in substantially the form of the proposed Order attached as Exhibit A approving the sale of the Asset to T.H.D. Aviation, LLC in accordance with the terms set forth in this motion.

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 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 September 22nd, 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.

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s/ Gianluca Morello

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