

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

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**ARTHUR NADEL,
SCOOPCAPITAL, 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 MOTION FOR APPROVAL OF SETTLEMENT WITH GENERAL
ELECTRIC CAPITAL CORPORATION
AND FIFTH THIRD BANK REGARDING LEARJET 31A**

Burton W. Wiand, as Receiver of Tradewind, LLC and Venice Jet Center, LLC under the Order entered January 27, 2009 (Doc. 17), requests the Court to enter an order approving the proposed settlement set forth in the attached Settlement Agreement (with supporting exhibits) under which the Receiver and General Electric Capital Corporation and Fifth Third Bank ("the Lenders") have agreed, subject to Court approval, that the Receiver will deliver and transfer title to a Learjet 31A owned by Tradewind, LLC to the Lenders in Ohio, at the cost of the Lenders, where the Lenders will accept the Learjet in

full satisfaction of Tradewind, LLC's indebtedness to the Lenders under the relevant loan documents concerning the Learjet and will release the Receiver and the Receivership Estate from all claims.

The Receiver has determined that the proposed settlement is in the best interest of the Receivership and the investors for whose benefit the Securities and Exchange Commission initiated this securities fraud action for at least the following reasons:

1. The Receiver believes the Lenders have validly perfected their security interest in the Learjet, and Tradewind has defaulted under the Loan Documents by not paying the loan installments of \$23,380.54 due January 16, 2009, and each month thereafter;

2. The Lenders provided the Receiver with a valuation of the Learjet of \$2,205,000 with an the orderly liquidation value of \$1,875,000. The Receiver believes the valuation to be accurate. The amount due under the loan documents exceeds \$2,300,000. Therefore, it is apparent Tradewind has no equity in the Learjet but is exposed to a large claim by the Lenders;

3. The on-going costs of maintaining and storing the Learjet are high, and the Receiver, after full investigation and consideration, determined the Learjet has no utility to the Receiver or the Receivership Estate; and

4. The proposed settlement will benefit the investors, because remaining Receivership Assets will be preserved and not needlessly be expended maintaining the Learjet 31A, and the Lenders are waiving their sizeable claim against the Receivership Estate as part of the proposed settlement.

In summary, the Receiver recommends approval of this settlement because of the security interest, the absence of equity, the continuing costs to maintain and store the aircraft, the potential dispute with and claim of the Lenders, and other administrative efforts that would be required of the Receiver in connection with the aircraft.

WHEREFORE, the Receiver requests the Court to approve the proposed settlement regarding disposition of the Learjet 31A described in the attached Settlement Agreement.

LOCAL RULE 3.01(g) CERTIFICATE OF COUNSEL

The undersigned counsel for the Receiver is authorized to represent to the Court that the SEC has no objection to the Court's granting this motion. The undersigned counsel is unable to contact Arthur Nadel, who is incarcerated in New York and is not represented by counsel in this action.

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of April, 2009, 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/ Carl R. Nelson

Carl R. Nelson, FBN 0280186

cnelson@fowlerwhite.com

Gianluca Morello, FBN 034997

Gianluca.morello@fowlerwhite.com

Ashley B. Trehan, FBN 0043411

Ashley.trehan@fowlerwhite.com

Maya M. Lockwood, FBN 0175481

mlockwood@fowlerwhite.com

FOWLER WHITE BOGGS, P.A.

501 E. Kennedy Blvd., Suite 1700

Tampa, FL 33602

Phone (813) 228-7411, Fax (813) 229-8313

Attorneys for the Receiver, Burton W.
Wiand

SETTLEMENT AGREEMENT

Subject to approval of the Court in *Securities and Exchange Commission v. Arthur Nadel, et al.*, Case No.: 8:09-cv-87-T-26TBM (M.D. Fla.) (the "SEC Action"), General Electric Capital Corporation and Fifth Third Bank (collectively, the "Lenders"), and Burton W. Wiand, Esquire, as receiver of Tradewind, LLC ("Tradewind") and Venice Jet Center, LLC ("Venice Jet Center") (the "Receiver") appointed by orders entered in the SEC Action, agree to the following settlement regarding disposition of Learjet; Model No.: 31A; Serial No.: 131; Registration No.: N319SC and two Allied Signal TFE 731-2-3B aircraft engines bearing manufacturer's serial numbers P99377 and P99378 ("Aircraft") owned by Tradewind and stored at Venice Jet Center, and the Promissory Note and Aircraft Security Agreement concerning the Aircraft:

1. Receiver acknowledges and agrees that the Lenders have a properly perfected security interest in the Aircraft pursuant to the Aircraft Security Agreement securing payment on the indebtedness evidenced by the Promissory Note. Receiver further acknowledges and agrees that Tradewind is in default under the Promissory Note. To resolve a dispute over the disposition of the Aircraft and avoid litigation, including, without limitation, Lenders' foreclosure claims, Receiver agrees to execute bills of sale as described herein, and deliver the Aircraft to the Lenders at Lunken Airfield in Cincinnati, Ohio (the "Destination") where the Lenders will accept delivery and title as indicated below.

2. Promptly after approval by the Court in the SEC Action, Receiver will deliver the aircraft to the Lenders at the Destination on or about May 5, 2009 ("Delivery Date"). Receiver makes no warranty as to the condition of the Aircraft at the time of

delivery to the Destination, but represents that the Aircraft has not been flown, modified, or damaged, to the best of his information and belief, since the Aircraft was inspected by the Lenders' representatives on February 26-27, 2009.

3. Receiver agrees to fly the Aircraft using Receiver's pilots, Roger Jernigan as pilot in command and either Steve Mahoney or Mark Brownie as second in command, to the Destination. Lenders shall reimburse Receiver up to \$4,000 for Receiver's documented, reasonable expenses for pilots' flight time, fuel, landing fees and pilots' return travel associated with the Receiver's delivery of the Aircraft to the Destination.

4. Receiver hereby appoints Sage-Popovich, Inc. to obtain, at the Lenders' expense, the ferry permit required to fly the Aircraft to the Destination. Receiver's pilots shall cooperate with Lenders and assist with obtaining the ferry permit and will cooperate with making all flight and maintenance log entries concerning the ferry permit and flight to the Destination in accordance with Federal Aviation Administration ("FAA") requirements.

5. Receiver agrees expeditiously to seek an order from the Court in the SEC Action approving the settlement reflected by this Settlement Agreement and authorizing Receiver to execute and deliver to Daugherty, Fowler, Peregrin, Haught & Jenson, as escrow agent (the "Escrow Agent"), that certain (1) undated original Federal Aviation Administration Bill of Sale, the form of which is attached hereto as Exhibit "A" (the "FAA Bill of Sale"), which, when recorded with the FAA registry, shall cause title to the Aircraft to be transferred to Fifth Third Bank, the Lenders' nominee; and (2) undated original long form of Bill of Sale, the form of which is attached hereto as Exhibit "B," each of which to be held in escrow by the Escrow Agent.

6. Receiver also agrees to deliver to the Lenders at the Destination with the Aircraft such of the following documents and things attached to, connected with, or related to the Aircraft that are readily available to Receiver:

- a. all instruments, avionics, auxiliary power units, equipment, accessories, and all keys in the possession of Tradewind and Venice Jet Center;
- b. the originals of all electronic and paper logs, manuals, and other documents reflecting use or maintenance of the Aircraft;
- c. all manufacturers' and suppliers' warranties and manuals;
- d. the Honeywell Engine MSP contract and all reports and payments under the MSP contract;
- e. the 3-ring binder for 8130 serviceable documents with all such documents properly filed in the binder;
- f. documentation that all maintenance, fuel, and storage charges, and any other charges concerning the Aircraft's ownership, use, maintenance, or storage before surrender to the Lenders have been paid or otherwise satisfied in full;
- g. all other original ledgers, files, and records concerning the Aircraft; and
- h. documentation that all charter agreements regarding the Aircraft have been cancelled and that any obligations of Receiver, Tradewind, and/or Venice Jet Center have been fully discharged thereunder.

7. Receiver agrees not to cancel the physical damage and liability insurance currently in force on the Aircraft through the Delivery Date and to deliver to the Lenders on or before the Delivery Date, or as soon thereafter as reasonably practicable, all insurance policies on the Aircraft.

8. Receiver agrees to authorize the Escrow Agent in writing (which can be delivered via electronic mail) to release and date the FAA Bill of Sale and the long form Bill of Sale to Lenders for recording and filing with the FAA and other governmental authorities upon receipt of written confirmation from Lenders that the Aircraft has landed at the Destination.

9. Upon arrival of the Aircraft at the Destination, Receiver's pilot, Roger Jernigan, and a representative of Sage-Popovich, Inc. shall execute an "Affidavit for Acceptance of Delivery of Aircraft Outside Florida" in the form attached hereto as Exhibit "C" in the presence of a notary duly licensed in the State of Ohio. The Lenders will secure the services of a notary and pay for such services.

10. Receiver agrees to make the Aircraft available to Lenders and their representatives during normal business hours from the date of this Settlement Agreement up to the Delivery Date. Receiver agrees to cooperate fully with the Lenders and their designated representatives by making available Tradewind and Venice Jet Center personnel at Venice Jet Center during normal business hours beginning immediately and continuing past the Delivery Date to assist with the following:

- a. acquiring any Aircraft records that may not be in the possession of the Receiver, Venice Jet Center, or Tradewind including the daily

maintenance and flight logs in the possession of Fair Winds Charter Service;

- b. properly documenting all operations, flights, and repairs of the Aircraft not yet documented including the Learjet's attempted flight to Asheville, North Carolina and the repair(s) associated with this flight;
- c. submitting any reports which may be required under the Honeywell Engine MSP contract;
- d. assigning the Honeywell Engine MSP contract to Lenders' nominee;
- e. obtaining the burn certifications for the Aircraft's carpet;
- f. acquiring the installation and serviceable records for the left main landing gear actuator SN K10057;
- g. acquiring the 8130-3 serviceable records for the right hand starter generator SN Y0008 and thereafter correcting the log entry dated August 5, 2008, of Precision Jet Services, Inc. stating that SN Y0008 was overhauled.

11. Receiver shall use good faith efforts and make available Tradewind and Venice Jet Center personnel at Venice Jet Center to assist Lenders in fulfilling Receiver's obligations under paragraph 10 above; provided, however, the accomplishment of the matters called for in paragraph 10 is not a condition of this Settlement Agreement, and the Lenders understand and agree that Receiver will not incur any further expense in

connection with this Settlement Agreement other than securing approval by the Court in the SEC Action.

12. Receiver agrees not to permit the Aircraft to be chartered or flown before taking off on the flight to the Destination.

13. Receiver agrees to maintain and store the Aircraft indoors in accordance with the current practice of Venice Jet Center and to make the Aircraft, its equipment, accessories, and available records available to Lenders during normal business hours, provided however that all relevant documents and records will be released to the Lenders upon delivery at the Destination.

14. Receiver, on behalf of Tradewind and Venice Jet Center, waives and releases any claims Tradewind and Venice Jet Center may have for fuel, storage, hangar space, and similar expenses.

15. Receiver understands and acknowledges that Lenders seek delivery of the Aircraft as soon as possible, and Receiver agrees promptly to seek approval by the Court in the SEC Action of the settlement reflected by this Settlement Agreement.

16. Receiver, on behalf of himself and Tradewind, waives notice of the Lenders' sale or disposition of the Aircraft.

17. In consideration of Receiver's seeking approval of this settlement, delivery of the Aircraft to the Destination, and waiver and release of any claims Tradewind and Venice Jet Center may have for fuel, storage, hangar space, and similar expenses, Lenders agree to release any claims they may have against the Receiver and the Receivership Estate, and hereby agree such release shall be deemed effective upon

Lenders' acceptance of the Aircraft at the Destination. See form of Release attached as Exhibit "D".

18. Lenders agree to insure the Aircraft under Fifth Third Bank's aircraft insurance policy which coverage shall become effective before Receiver delivers the Aircraft to Lenders at the Destination.

19. In the event the Aircraft suffers any damage prior to completion of delivery at the Destination, the Lenders agree and acknowledge that the Lenders' sole remedy is recovery of insurance proceeds. Receiver's insurance policy shall be primary since Receiver bears risk of loss during delivery of the Aircraft to the Destination.

20. Receiver acknowledges and agrees that Lenders, by entering into this Settlement Agreement and releasing the Receiver and the Receivership Estate, do not waive, forfeit, release, or otherwise relinquish Lenders' rights to pursue any and all claims available to them against Arthur Nadel ("Nadel") at law or in equity. Lenders hereby reserve all rights and remedies against Nadel under the Promissory Note, Aircraft Security Agreement, Guaranty, and applicable law, and nothing contained in this Settlement Agreement or any delay on the part of Lenders in exercising any of their rights and remedies against Nadel under the Promissory Note, Aircraft Security Agreement, and/or Guaranty shall be considered a waiver, estoppel, release, discharge, satisfaction, or modification as to Nadel.

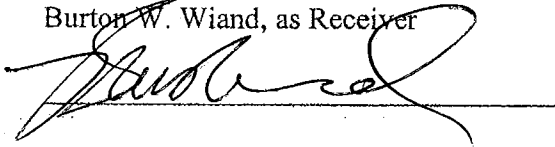
21. The Lenders understand and agree that Receiver's entering into this Settlement Agreement does not and will not enhance any claim the Lenders may have had had this Settlement Agreement not been entered into by the Receiver.

22. Receiver and the Lenders agree that signed and electronically transmitted copies of signature pages shall be as valid as original documents and that this Settlement Agreement may be executed in counterparts.

[Signatures on following page]

Receiver:

Burton W. Wiand, as Receiver



Burton W. Wiand

Dated: 4/29/2009

Lenders:

General Electric Capital Corporation

By: William T. Hih

Its: Litigation Specialist

Dated: 4/29/09

Fifth Third Bank

By: _____

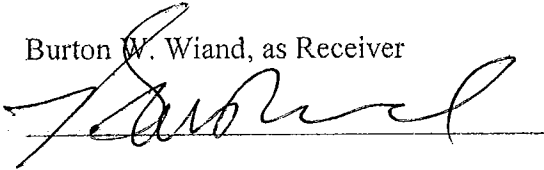
Its: _____

Dated: _____

[Signature Page to Settlement Agreement]

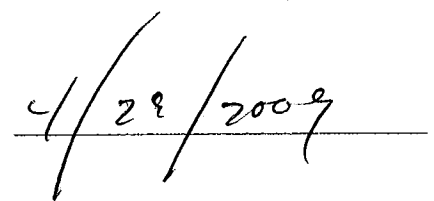
Receiver:

Burton W. Wiand, as Receiver



Burton W. Wiand

Dated: 4/29/2009



Lenders:

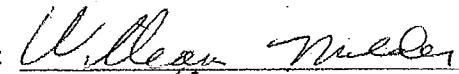
General Electric Capital Corporation

By: _____

Its: _____

Dated: _____

Fifth Third Bank

By: 

Its: VP

Dated: _____

[Signature Page to Settlement Agreement]

UNITED STATES OF AMERICA
 U.S. DEPARTMENT OF TRANSPORTATION FEDERAL AVIATION ADMINISTRATION
AIRCRAFT BILL OF SALE

FOR GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THE UNDERSIGNED OWNER(S) OF THE AIRCRAFT DESCRIBED AS FOLLOWS:

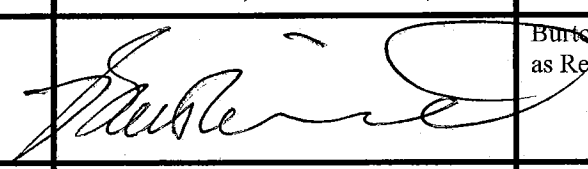
UNITED STATES REGISTRATION NUMBER	N319SC
AIRCRAFT MANUFACTURER & MODEL LEARJET/MODEL 31A	
AIRCRAFT SERIAL NUMBER 131	
DOES THIS DAY OF MAY 2009, HEREBY GRANT, TRANSFER AND DELIVER ALL RIGHTS, TITLE, AND INTERESTS IN AND TO SUCH AIRCRAFT UNTO:	

PURCHASER	NAME AND ADDRESS (IF INDIVIDUAL(S), GIVE LAST NAME, FIRST NAME, AND MIDDLE INITIAL) FIFTH THIRD BANK 38 FOUNTAIN SQUARE PLAZA CINCINNATI, OH 45263
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	DEALER CERTIFICATE NUMBER
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AND TO EXECUTORS, ADMINISTRATORS, AND ASSIGNS TO HAVE AND TO HOLD SINGULARLY THE SAID AIRCRAFT FOREVER. THE AIRCRAFT IS SOLD AS IS WITHOUT ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

IN TESTIMONY WHEREOF HAVE SET HAND AND SEAL THIS DAY OF MAY 2009

	NAME(S) OF SELLER (TYPED OR PRINTED)	SIGNATURE(S) (IN INK) (IF EXECUTED FOR CO-OWNERSHIP, ALL MUST SIGN.)	TITLE (TYPED OR PRINTED)
SELLER	Tradewind, LLC		Burton W. Wiand, Esquire, as Receiver of Tradewind, LLC

ACKNOWLEDGMENT (NOT REQUIRED FOR PURPOSES OF FAA RECORDING. HOWEVER, MAY BE REQUIRED BY LOCAL LAW FOR VALIDITY OF THE INSTRUMENT.)

ORIGINAL: TO FAA

AC FORM 8050-2 (9/92) (NSN 0052-00-629-0003) SUPERSEDES PREVIOUS EDITION

AIRCRAFT BILL OF SALE

Tradewind, LLC ("Transferor"), for good and valuable consideration delivered by Fifth Third Bank ("Transferee"), the receipt and adequacy of which is acknowledged by Transferor, does hereby set over, transfer, assign and convey unto Transferee, Transferee's successors and assigns, all Transferor's right, title and interest in the Aircraft described below together with all equipment, components, appliances, parts, instruments, avionics, appurtenances, accessories, furnishings and other equipment of whatever nature installed in or attached to the airframe or the engines and all repair or maintenance agreements or programs relating to the airframe, engines or components, and all airframe and engine logbooks, flight, maintenance and operations manuals, weight and balance manuals, drawings, blueprints, wiring and completion diagrams, and related maintenance records currently in the possession of Transferor (collectively, the "Aircraft"),

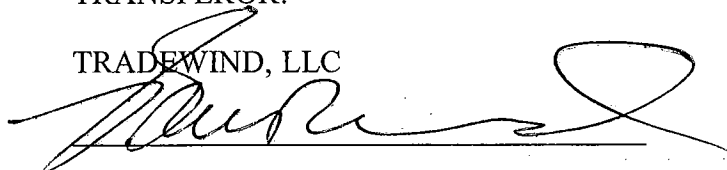
<u>Aircraft/Engines</u>	<u>Model</u>	<u>Year</u>	<u>Serial No.</u>	<u>Registration No.</u>
LEARJET	31A	1997	131	N319SC
GARRETT (ALLIED SIGNAL)	TFE 731-2-3B		P99377 P99378	

The Aircraft is sold as is without any warranty, express or implied, including but not limited to WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

IN WITNESS WHEREOF, Transferor has caused this Bill of Sale to be signed by its duly authorized representative this _____ day of May, 2009.

TRANSFEROR:

TRADEWIND, LLC



By: Burton W. Wiand, Esquire, as Receiver for Tradewind, LLC

AFFIDAVIT FOR ACCEPTANCE OF DELIVERY OF AIRCRAFT OUTSIDE FLORIDA

May __, 2009

Transferor:

Transferee:

Tradewind, LLC
c/o Burton W. Wiand, Esq., as Receiver
Fowler, White, Boggs, P.A.
501 E. Kennedy Boulevard
Suite 1700
Tampa, Florida 33602

Fifth Third Bank
38 Fountain Square Plaza
Cincinnati, Ohio 45263

Description of aircraft transferred, including make, model, identification number, and purchase price:

<u>Aircraft/Engines</u>	<u>Model</u>	<u>Year</u>	<u>Serial No.</u>	<u>Registration No.</u>
Learjet	31A	1997	131	N319SC
Garrett (Allied Signal)	TFE 731-2-3B		P99377 P99378	

The above-described aircraft and engines were transferred in satisfaction of a security interest.

State of Ohio
County of Hamilton

Before me, the undersigned, personally appeared the individuals whose names and addresses are shown below, and after being duly sworn certified that they are duly authorized representatives of the transferor and the transferee of the aircraft and that delivery of the aircraft was accepted outside Florida. Transferee certifies that the aircraft listed hereon will not be used in Florida under conditions which will subject said aircraft to the Florida sales or use tax.

TRADEWIND, LLC

FIFTH THIRD BANK

By: _____
a duly authorized representative of Burton W.
Wiand, Esquire, Receiver
Fowler, White, Boggs, P.A.
501 E. Kennedy Boulevard
Suite 1700
Tampa, Florida 33602

By: _____

Dated: _____

Dated: _____

NOTARY PUBLIC, STATE OF OHIO
NOTARY SEAL

My commission expires:
Personally known []
Produced Identification [] Type: _____

EXHIBIT C

LENDERS' RELEASE OF CLAIMS FOR DEFICIENCY

In accordance with the terms of the Settlement Agreement between the Lenders, General Electric Capital Corporation and Fifth Third Bank, and the Receiver, Burton W. Wiand, as Receiver for Tradewind, LLC and Venice Jet Center, LLC, the Lenders release their claims for deficiency against the Receiver, Tradewind, LLC, and Venice Jet Center, LLC arising out of or under the Promissory Note and Aircraft Security Agreement issued by Tradewind, LLC on May 17, 2006 and May 10, 2006 concerning Learjet; Model No.: 31A; Serial No.: 131; Registration No.: N319SC. The Lenders have not been able to deliver to the Receiver with this Release the original Promissory Note and Aircraft Security Agreement marked as cancelled because the originals are lost. The Lenders acknowledge that all obligations of the Receiver, Tradewind, LLC, and Venice Jet Center, LLC associated therewith have been released. The Lenders do not release any claims against Arthur Nadel who remains obligated to Lenders under the Guaranty issued by him on or about May 9, 2006.

Lenders:

General Electric Capital Corporation

By: _____
Its _____

Dated: _____

Fifth Third Bank

By: _____
Its _____

Dated: _____