

**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 2006 SUBARU OUTBACK LEGACY**

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 2006 Subaru Outback Legacy 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 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 2006 Subaru Outback Legacy (bearing VIN 4S4BP61C667338496) (the “Asset”) was originally titled in the name of Arthur Nadel. The Receiver took control of the title and the vehicle after the Federal Bureau of Investigation (“FBI”) delivered title to him. In a July 2009 Order (Docs. 145), the Court authorized the Receiver to transfer title of the Asset to the Venice Jet Center, one of the Receivership Entities. Prior to the sale of the Venice Jet Center, the Receiver requested that the title to the Asset be transferred to Tradewind, LLC, another Receivership Entity, to allow the vehicle to remain insured and for an orderly disposition of the Asset and maximization of the benefit of its disposition to the Receivership. This Court authorized the transfer of title on November 20, 2009 (Doc. 234).

VALUE OF THE ASSET AND RECEIVER’S MARKETING EFFORTS

The Receiver obtained an opinion as to the value of the Asset through Edmonds.com. Edmonds.com lists the values for this Asset as follows: trade-in value - \$12,475; private-party - \$13,703; and dealer-retail - \$14,642. Taking all factors into consideration, the Receiver believed the Asset’s estimated value was \$14,000 and listed the Asset for sale on E-Bay. The Receiver also issued a press release regarding the Asset on March 5, 2010, in an effort to garner additional interest. As a result, several stories appeared in local newspapers and on television broadcasts. The Asset was also posted on the Receivership website, www.nadelreceivership.com.

The Receiver's marketing efforts resulted in a final bid on March 18, 2010 for \$16,500 through E-Bay. The Receiver believes that accepting the offer of \$16,500 is in the best interest of the Receivership. Accordingly, the Receiver has entered into an agreement to sell the Asset for \$16,500 contingent upon this Court's approval. The Receiver believes that the offer of \$16,500 fairly represents the current value of the Asset.

Furthermore, the buyer is in a position to complete the sale and purchase of the Asset contingent upon this Court's approval. The buyer has agreed to pay the full purchase price in the form of a certified check immediately due upon this Court's approval.

The Receiver believes selling the Asset for \$16,500 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 the 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, Burton W. Wiand, as Receiver, respectfully requests this Court to enter an Order approving the sale of the Asset in substantially the form of the proposed Order attached as Exhibit A.

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.

s/Burton W. Wiand
Burton W. Wiand, Court-Appointed Receiver

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 23, 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
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New York, NY 10007

s/Gianluca Morello

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Relief Defendants. /

ORDER

Before the Court is the Receiver's Unopposed Verified Motion to Approve Sale of 2006 Subaru Outback Legacy (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 Receiver's Unopposed Verified Motion to Approve the Sale of 2006 Subaru Outback Legacy (Dkt. ____) is **GRANTED**. The Receiver is hereby authorized to sell the 2006

EXHIBIT A

Subaru Outback Legacy bearing VIN 4S4BP61C667338496 in the manner set forth in the Motion.

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

RICHARD A. LAZZARA
UNITED STATES DISTRICT JUDGE

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Counsel of Record