

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, :
 :
 - against - : 09 Cr. 433 (JGK)
 :
 ARTHUR G. NADEL, :
 :
 Defendant. :

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**DEFENDANT'S REPLY MEMORANDUM IN SUPPORT OF MOTION
FOR MODIFICATION OF BAIL CONDITIONS**

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This Reply memorandum is submitted on behalf of Defendant Arthur Nadel to respond to arguments made by the government in its Memorandum in Opposition to Defendant's Motion to Modify Bail Conditions. Defendant also submits, as Exhibit A, the Receiver's Second Interim Report, which was just filed on June 9, 2009.

INTRODUCTION

Arthur Nadel is a sick, old man who poses no risk of flight and no danger to the community and should be released on reasonable bail conditions. Since Mr. Nadel's January arrest, he has been stripped of all his assets and rendered virtually friendless by the wave of negative publicity generated by the unproved charges against him. He has neither the means nor the desire to do anything but go back to his modest home and prepare to vindicate himself at trial.

The government, however, continues to oppose Mr. Nadel's release on bail on the grounds that he is both an "actual risk of flight" and a "pecuniary danger to the community." G. Mem. at 14. According to the government, Mr. Nadel cannot be released even on the stringent conditions proposed, because he would likely facilitate his "escape" with his purported access to "tens of millions of [hidden] dollars." G. Mem. at 21. The government further claims that Mr. Nadel's age and poor health should lead the Court to deny bail because his shortened life expectancy means that he has little to lose by fleeing. Alternatively, the government argues that bail should be denied because Mr. Nadel supposedly constitutes a "pecuniary" danger to the community who might seek to defraud investors from the confines of his monitored Sarasota home.

The claims that Mr. Nadel is a present risk of flight and/or danger to the community are meritless. As demonstrated in Mr.

Nadel's Memorandum in Support of Modification of Bail Conditions ("Mem.") and below, the unwarranted speculations about risk of flight and danger to the community are based on a distortion of Mr. Nadel's past behavior and a gross mischaracterization of his present circumstances.

I. MR. NADEL IS PRESUMED INNOCENT.

The government asserts that bail must be denied because the evidence against Mr. Nadel is "overwhelming" and a life sentence all but a certainty. G. Mem. at 14, 15. This assessment is premised on a tendentious and myopic view of the facts. G. Mem. at 4-6.

Mr. Nadel is presumed innocent and cannot be expected to try his case in the context of a bail motion. Notably, however, the government's account of the allegedly "overwhelming" evidence against Mr. Nadel virtually omits any reference to Neil and Chris Moody.¹ The Moodys -- not Mr. Nadel -- were the general partners of the Valhalla and Viking Funds. The facts will shows that they actively solicited investors for their funds; made many of the investment decisions; and received at least half of the fees and profits generated by the six funds identified in the indictment. See Receiver's Rep. at 8 and 35. Moreover, according to investors,

¹ For example, as evidence of Mr. Nadel's guilt, the government cites a number of purportedly inaccurate letters to investors regarding the performance of the funds. The government neglects to note, however, that Neil and Chris Moody also signed the very same letters. See Exhibits D, E, F, and G to G. Mem.

the Moodys affirmatively represented that they "actively" managed their own funds and that "trading was not going to be sub-contracted to any other entity or individual." See January 19, 2009, letter from Anil B. Deolakiar to Detective Jack Carter, Sarasota Police Department, Exhibit B. Standing alone, the government's bold attempt to edit the Moodys out of the picture suggests that the case against Mr. Nadel is not nearly as strong or simple as the government would have the Court believe.

II. MR. NADEL'S TRAVELS BETWEEN JANUARY 14 AND JANUARY 24, 2009 DO NOT ESTABLISH THAT HE IS A "RISK OF FLIGHT."

The government continues to argue that Mr. Nadel is an "actual risk of flight" because on January 14, 2009, he supposedly "made the premeditated and calculated decision to flee from authorities." G. Mem. at 16. On its face, this argument is baseless. Mr. Nadel could not have been "flee[ing] from authorities" on January 14, 2009 because, at that time, there were no criminal or civil charges pending against him and, therefore, no authorities from which to flee.

Despite the fact that Mr. Nadel left his home at a time when he was not facing any criminal charges, the government claims that Mr. Nadel's behavior during his journey demonstrates a calculated effort to evade detection. But, the only evidence cited by the government is that at some point during his travel he "dropped his cellphone" and that he stayed in two hotels while in San Francisco. However, during the time he was gone, Mr. Nadel traveled under his

own name, including booking airplane flights and paying for his expenses with his own credit cards. He did not seek to leave the country, but stayed in three major United States cities where he registered at hotels in his own name and paid for his lodgings with his own credit cards. These are not the actions of someone intent on flight from a [non-existent] warrant as the police could simply have checked his credit-card usage or airline records if they wanted to determine his whereabouts.

As further "proof" of Mr. Nadel's supposed attempt at flight, the government observes that Mr. Nadel wrote letters to his family in which he advised them to co-operate with the authorities, but suggested that they first retain a lawyer. G. Mem. at 18. The government does not, however, explain why Mr. Nadel's advising his family to co-operate with law enforcement supports the conclusion that he is a risk of flight.

The government also significantly distorts both the facts and Mr. Nadel's arguments regarding risk of flight. It asserts that "the notion that Nadel did not understand that he was wanted by law enforcement authorities strains belief" because "during the time that Nadel was on the run and in contact with his family, agents of the FBI had repeatedly interviewed members of his family and his associates, and had executed a search warrant on his North Carolina residence." G. Mem. at 18. But, Mr. Nadel does not claim that he didn't come to understand that law enforcement authorities were

looking for him. Rather, as his opening Memorandum makes clear, he retained counsel precisely because he did become aware that he would, at some point, be charged. Def. Mem. at 11.²

Finally, the government's recitation of the "facts" about Mr. Nadel's supposed two-week "flight" from the authorities fails to include the undisputed evidence that Mr. Nadel retained counsel on January 20, 2009 and that between January 21st, 2009 and January 26, 2009, his lawyers made repeated, but unsuccessful, efforts -- including speaking with the Chief Assistant United States Attorney for the Middle District of Florida -- to ascertain if there was a warrant for Mr. Nadel's arrest.³ See Def. Mem. at 11-14. As soon as his lawyers were informed that a warrant had been issued, he surrendered with counsel. The omission of these crucial facts by the government underscores the overall weakness of its claim that Mr. Nadel was seeking to evade detection by law enforcement during his travels between January 14th and January 27th, 2009.

Finally, Mr. Nadel's financial activities in the days before he left Florida demonstrate that he had no intention of becoming a

² Moreover, the police contacts with Mr. Nadel's family and the search of his home had nothing to do with his determination to retain counsel because -- as the government concedes -- both the search and the interviews with family members took place *after* Mr. Nadel first contacted a lawyer on January 20th. G. Mem. at 9.

³ The government's Statement of Facts does not disclose why the arrest warrant for Mr. Nadel was such a secret that even the United States Attorney for the Middle District of Florida did not know of its existence.

fugitive. In the week prior to January 14, 2009, Mr. Nadel made substantial payments, totaling about \$182,000, in maintenance and carrying costs for various properties he owned, including Tradewinds LLC; Laurel Preserve, LLC, Thomasville National Bank and Homefront Homes, LLC. See Exhibit I to G. Mem. If Mr. Nadel had been intent on leading a life as a fugitive, he would have used the money for himself, rather than dissipating his funds to satisfy his debt obligations. Similarly, as evidence of his desire to flee, the government makes much of Mr. Nadel's unsuccessful effort to transfer a \$50,000 check "to a new Bank of America credit card for his use while on the run." G. Mem. at 16. But, as the Criminal Complaint filed against Mr. Nadel demonstrates, Mr. Nadel left a letter for his wife in which he instructed her to use the funds in that credit account for *her* benefit. See Exhibit C, par. 17. Thus, the record shows that, rather than removing a lot of cash for a life on the run, Mr. Nadel paid bills to keep ongoing businesses solvent and tried to provide for his wife.

III. MR. NADEL IS NOT A DANGER TO THE COMMUNITY

The government alleges that Mr. Nadel would pose a "danger to the community" if released, but offers no evidence-or even a hypothesis-to support its claim. Rather, the government's entire argument on "danger to the community" merely reiterates its view Mr. Nadel defrauded investors and that the loss of money "caused massive harm and destruction." G. Mem. at 20.

There is no presumption that a defendant charged with fraud constitutes a "danger to the community." To the contrary, the government must show by clear and convincing evidence that there are no conditions of release for such a defendant which will "reasonably assure" that he or she will not "endanger the safety or any other person or the community." United States v. Sahbnani, 493 F.3d 63, 75 (2d Cir. 2007). Here, the government does not even offer an hypothesis, let alone any facts, which would satisfy this high burden. Mr. Nadel has been publicly reviled and convicted by the media, abandoned by most of his friends, and will be confined to his home and monitored by pre-trial services once released. The unsupported suggestion that he will attempt to defraud or otherwise harm anyone under such circumstances is ludicrous and does not warrant further discussion.

IV. MR. NADEL'S AGE AND ILL HEALTH SHOULD NOT BE HELD AGAINST HIM ON BAIL.

Mr. Nadel is a 76 year-old man who suffers from multiple medical problems, including a serious and disabling heart condition. Mr. Nadel's age, infirmities and need for medical treatment obviously limit his ability to escape and/or live as a fugitive and, therefore diminish any concern that he would be a "risk of flight." Mem. at 16-17.

The government, however, asserts that Mr. Nadel's poor health "is another factor that militates against modifying his bail conditions," and "is only relevant in so far as it makes any

potential sentence he receives a likely life sentence, diminishes the practical effect of a bail jumping charge, and thus, gives Nadel an even stronger incentive to flee." G. Mem at 13. This novel⁴ argument is without merit. On its face, the notion that Mr. Nadel should be denied bail simply because the government adjudges his life expectancy insufficient to survive a potential sentence or to give "practical effect" to a prospective bail jumping charge is repellent. Moreover, the same specious logic could be applied to a defendant of any age. For example, if Mr. Nadel were young and healthy, the government might assert that he has a "stronger incentive to flee" because he has more years of potential freedom ahead of him should he jump bail.

V. MR. NADEL'S INABILITY TO PREPARE HIS DEFENSE WHILE INCARCERATED SUPPORTS THE GRANT OF REASONABLE BAIL.

The huge amount of paper and computer discovery involved in this case coupled with Mr. Nadel's poor health and the limited ability to communicate with counsel make it all but impossible for him to effectively help prepare his own defense while confined in jail. Mem. at 22-26. The government, however, dismisses these concerns as mere "speculation" and actually insists that any consideration of Mr. Nadel's ability to prepare his defense based on the amount of discovery would "offend the notion of justice"

⁴ Counsel has been able to locate any case, and the government cites none, in which a defendant's poor health or short life expectancy has been cited as a reason for denying bail.

because it would create an unwarranted presumption of release in document-intensive cases. G. Mem. at 14.

The government's argument is without foundation. The traditional right to freedom before trial is specifically designed to "permit the unhampered preparation of a defense." Stack v. Boyle, 342 U.S. 1, 4 (1951) United States v. Speed Jovero, S.A., 204 F.Supp. 2d 412, 434 (E.D.N.Y. 2002). Given this basic principle, it can scarcely "offend justice" for the Court to take into account the fact that, in this case, pre-trial incarceration will especially "hamper" Mr. Nadel's personal preparation of an effective defense. See Kinney v. Lenon, 425 F.2d 209, 210 (9th Cir. 1970) (release from detention was warranted where defendant made "strong showing" that his release was necessary so that he could personally identify potential defense witnesses).

Mr. Nadel's continued detention also erects a significant obstacle to his ability to assist the S.E.C. and Receiver in tracing all of his assets. This is a condition of both the present and proposed conditions of release and Mr. Nadel has, even while incarcerated, offered his assistance. However, his limited ability to communicate and/or receive and review voluminous records because of his incarceration obviously limits the amount of help he can provide. Mr. Nadel is representing himself pro se in the SEC action and his detention impedes his ability to respond to the charges or to cooperate, or to even make decisions about how to proceed. An

example of this is the difficulty Mr. Nadel had in communicating with the SEC lawyer about a case management report that had to be filed. It took so long for Mr. Nadel and the SEC lawyer to even arrange a phone call, that the court had to grant an extension of time for routine report.

IV. MR. NADEL HAS NO ACCESS TO ANY FUNDS

The government continues to claim that Mr. Nadel "potentially has access to tens of millions of dollars that he can use to facilitate his escape." G.Mem 21. This claim was always speculative. Now, five months into the Receiver's work of locking down every asset owned or traced to Mr. Nadel, this claim is beyond speculation and borders on fantasy. Even before Mr. Nadel was charged and the Receiver was appointed, he clearly had no access to millions of dollars-not even to thousands. When Mr. Nadel left Sarasota on January 14, he traveled on credit cards and, as is recounted in the Complaint, advised his wife that he had paid the most recent bills, that there was no money left, and that she should use their credit account to pay bills. Exh.C, p. 17. As a last resort, he advised her to sell their Subaru to raise money for living expenses. Since then, the Receiver has seized all of the bank accounts of Mr Nadel and his wife, as well as all of the real estate and businesses that Mr. Nadel acquired during the years of the hedge funds' operation. Mr. Nadel and his wife are virtually penniless and Mrs. Nadel has informed counsel that she is worried

about being able to pay the mortgage of approximately \$150,000 on their residence. Mr. Nadel is 76 years old and sickly and sits in the M.C.C. If Mr. Nadel had any ability whatsoever to raise funds, he would have done so to make bail.

Yet the government continues to assert, without foundation, that Mr. Nadel must have access to large sums of money. The government does this by indiscriminately tossing around some very large numbers and double counting funds to create a misleading picture. Clearly, without extensive document review and forensic accountants, the defense cannot be expected to account for every penny that went through the Scoop and Nadel accounts. However, even a cursory review of the government's numbers is enlightening.

At page 21 of its memorandum, the government asserts that Mr. Nadel received over \$48 million in management fees from 2003 to 2008, something that the Receiver asserts as well. However, the government then asserts: "*In addition to the \$48,584,061 that Nadel received in 'fees,' Scoop Management transferred approximately \$17,177,896.56 to accounts owned individually or jointly by the defendant and his wife, and another \$6,433,804.40 to other entitites controlled by the defendant.*" The government incorrectly *adds* these sums to the \$48 million figure as the amount that Mr. Nadel received from the hedge funds, when these sums were *part of* the \$48 million that Scoop Management received from the hedge funds, and were transferred from Scoop Management to accounts and

entities controlled by Mr. Nadel. The roughly \$48 million is allegedly money that was paid in to Scoop Management from the hedge funds in management and performance fees (the other \$48 million going to the Moodys), whereas the \$17 million and \$6 million amounts were transferred out of Scoop Management to Mr. Nadel's personal and business accounts. Clearly, those sums that came out of the \$48 million cannot be added to it. Although the government cites the Receiver's Report as its authority (G.Mem.21), the Receiver's Report simply traced that money (the approximately \$17 and \$6 million amounts) through the accounts in order to seize all of Mr. Nadel's assets, and did not add it to money that was received from the funds. By incorrectly adding money that came out of the Scoop account to the total amount that Scoop took in, the government inflates the amount of money that it claims Nadel received by approximately \$23.5 million. This is just one of the most obvious errors that leads the government to its claim that Mr. Nadel netted \$65 million, "leaving a balance of more than \$40 million unaccounted." G. Mem. at 22.

The extravagance of the government's claims is also demonstrated by the Receiver's May 28, 2009 letter (Exh. A to G. Mem.), which reported that, out of the entire approximately \$400 million in investor funds that were raised, he had accounted for all but \$28 million. By contrast, the government here claims that as of that same date, more than \$40 million is unaccounted for out

of only that portion that Mr. Nadel received--excluding the \$48 million that the Moodys received, all of the redemptions made over the years, and the trading losses. This makes no sense.

Basic arithmetic allows a maximum gross figure of not \$95 million, but approximately \$71 million, adding the \$48,584,061 in fees to Scoop Management and Mr. Nadel's \$22,859,667 in trading gains. G. Mem. 21. The government acknowledges that Mr. Nadel paid more than \$16 million to acquire all of the various property, businesses, and real estate listed on pages 22-23 of its memorandum, all of which has been seized or frozen by the Receiver. This does not even include acquisition costs for some assets that clearly have substantial value, such as four airplanes and a helicopter. G.mem. 24. In addition, the government acknowledges that Mr. Nadel paid his income taxes, which it estimates to have been approximately \$30 million out its inflated gross of \$95 million. G. Mem. 21. Out of the \$71 million, that tax figure would be approximately \$21.3 million. Subtracting taxes paid (\$21.3 million) and the conceded acquisition costs of the various properties and businesses seized (\$16 million) leaves approximately \$33 million. However, the government does not account at all for numerous expenses that were paid by Scoop and/or Mr. Nadel over the years for salaries and office expenses for Scoop Management, commissions paid to Dan Rowe and others, development and carrying costs for the numerous businesses Mr. Nadel bought, and trading

losses in the last quarter of 2008.

The Scoop Management office had numerous employees, including Andrew Martin, Michelle Bell, Geoff Quisenberry, and Peg Nadel, as well as computers and office equipment. During the six years of operation from 2003 to 2008, Mr. Nadel conservatively estimates that these expenses amounted to approximately \$7 million, which is a little more than \$1 million per year. These expenses were paid out of Scoop Management, except for the small sum of \$5000 per month that the Moodys contributed. Mr. Nadel and the Moodys split commissions with third parties, notably with Dan Rowe, a financial blog writer. Exh. A, Rec. Rep. II at 10. A conservative estimate of Mr. Nadel's share of these commissions over the years is \$2 million.

Major expenditures were made for development and carrying costs of the various businesses that Mr. Nadel purchased, all of which have been seized by the Receiver. Although the government acknowledges the acquisition costs of these properties, it does not include any expenditures for subsequent development and carrying costs. This is despite the fact that checks the government attaches to its memorandum demonstrate, for example, that Mr. Nadel paid a total of \$182,678.00 to Tradewind, Laurel Mountain Preserve, Home Front Homes, and to Thomasville National Bank (for interest

owed) just in the first week of January, 2009.⁵ In particular, the real estate developments incurred substantial costs and earned no income because the plots were not completed and could not be sold. Thus all of these costs were paid by Mr. Nadel. A conservative estimate of these costs is \$6.5 million, approximately \$4.5 in interest payments plus \$2 million in development costs. In addition, Mr. Nadel's businesses incurred losses of at least \$1 million.

Mr. Nadel incurred significant trading losses when the markets dramatically declined in the last quarter of 2008. These losses amounted to approximately \$4.5 million. Finally, in 2008, Mr. Nadel transferred back into the funds approximately \$9.5 million from his personal accounts in order to meet increasing demands for redemptions. The trading losses combined with the amounts transferred back to the hedge funds to pay redemptions totalled \$14 million.

Thus, when this \$14 million is added to the \$7.5 million in development/carrying costs and business losses, plus the \$9 million in office expenses and commissions, it amounts to \$30.5 million. Out of the \$33 million net of taxes and acquisition costs for assets that have been seized, this leaves \$2.5 over a period of 7

⁵ The fact that Mr. Nadel used what money he had left in January to pay bills due for these various businesses, rather than to remove cash for an "escape," completely undermines the government's flight theory. If Mr. Nadel were planning to flee, why would he care about paying these bills?

years. This amount, which was certainly to acquire some of the unvalued property, as well as to pay living expenses, cannot justify the government's claim that Mr. Nadel must have access to "millions."

Thus, the funds that Mr. Nadel received are accounted for. It is unclear, then, what the Receiver's letter refers to when it states that \$28 million of the entire \$397 invested remains unaccounted for. Perhaps it is referring to some of the \$48 million that the Moodys received or to some of the overpayments to investors. The Receiver has just filed his Second Interim Report ("Rec. Rep. II"), which we attach as Exhibit A hereto. This latest report makes no reference to an unaccounted for \$28 million. Moreover, the figures set forth in that report further demonstrate the inflated nature of the government's claims. The Receiver states that the hedge funds took in slightly more than \$397 million and that investors had out of pocket losses of \$168 million. Rec Rep. II at 12. This means that \$229 million was returned to investors in redemptions. Out of the \$168 million in out of pocket losses, the Receiver states that approximately \$18 million was lost in trading. Rec. Rep. II at 9-10. Approximately \$53 million in overpayments was paid to investors, based on allegedly fictitious profits, and \$97,168,122 was paid in fees to Scoop Management and the Moodys' firms, Viking Management and Valhalla Management. Rec. Rep. II at 11-12. These figures account for the \$397 taken in by

the hedge funds. Thus, aside from the \$48 million in fees to Scoop Management, the rest was either paid to investors in redemptions, paid to Moodys, or lost in trading.⁶

⁶ The Receiver's letter attached to the government's memorandum makes reference to unspecified "recent findings." However, the only assets listed in the Receiver's Second Interim Report or on its website as having been seized after the First Interim Report are 1) a promissory note and mortgage held by Peg Nadel on a \$120,000 loan to an employee of the Victorian Florist Shop that she had assigned to the Cohen, Jayson & Foster firm in payment of legal fees incurred in this case (Rec. Rep. II, 17), and 2) the Nadel's vacation house in Fairview North Carolina, which had been purchased in 2004 for \$335,000 and carries a mortgage of \$248,560. Rec. Rep. II, 36. These assigned or encumbered assets hardly constitute a slush fund for escape money.


CONCLUSION

For the foregoing reasons and the reasons set forth in his Memorandum of Law and Fact in Support of Motion for Modification of Bail Conditions, Arthur Nadel requests an order modifying his bail conditions for pretrial release in accordance with the terms proposed in his Motion for Modification of Bail Conditions.

Dated: New York, New York
June 12, 2009

LEONARD F. JOY, ESQ.
Federal Defenders of New York, Inc.

By: _____


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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

Case No. 8:09-cv-0087-T-26TBM

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

Defendants,

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,

Relief Defendants.

THE RECEIVER'S SECOND INTERIM REPORT

I. Introduction

Burton W. Wiand, the Court-appointed Receiver for (a) Defendants Scoop Capital, LLC ("Scoop Capital") and Scoop Management, Inc. ("Scoop Management") (which, along with Arthur Nadel, are collectively referred to as "Defendants"); (b) Relief Defendants Scoop Real Estate, L.P.; Valhalla Investment Partners, L.P.; Victory IRA Fund, Ltd.; Victory Fund, Ltd.; Viking IRA Fund, LLC; and Viking Fund LLC (collectively referred to as the "Hedge

Funds”);¹ (c) Relief Defendants Valhalla Management, Inc. and Viking Management (which, along with Scoop Capital and Scoop Management, are collectively referred to as the “Investment Managers”); and (d) Venice Jet Center, LLC; Tradewind, LLC; Laurel Mountain Preserve, LLC; Laurel Preserve, LLC; Laurel Mountain Preserve Homeowners Association, Inc.; Marguerite J. Nadel Revocable Trust UAD 8/2/07; Guy-Nadel Foundation, Inc.; Lime Avenue Enterprises, LLC; and A Victorian Garden Florist, LLC (all of the foregoing are collectively referred to as the “Receivership Entities”), hereby files this Second Interim Report in order to inform the Court, the investors, and others interested in the Receivership Entities of activities to date, as well as the proposed course of action.²

The Receiver was appointed on January 21, 2009. By January 26, 2009, the Receiver established an informational website www.nadelreceivership.com. The Receiver has updated this website periodically and continues to update it with the Receiver’s most significant actions to date; important court filings in this proceeding; and other news that might be of interest to the public. This Second Interim Report, as well as all previous and subsequent reports, will be posted on the Receiver’s website.

II. Procedural Background

On or about January 14, 2009, Arthur Nadel (“Nadel”), the Hedge Funds’ principal investment advisor and the sole officer and director of Scoop Management and sole

¹ While these funds are referred to as hedge funds in this report, the Receiver’s investigation has raised serious questions as to whether they were ever operated as legitimate investment vehicles.

² This Second Interim Report is intended to report on information and activity from March 24, 2009, through May 15, 2009. Thus, unless otherwise indicated, the information reported herein reflects the information in the Receiver’s possession as of May 15, 2009.

managing member of Scoop Capital, fled Sarasota county and disappeared for nearly two weeks. On January 21, 2009, the Securities and Exchange Commission (the "SEC" or "Commission") filed a complaint in the United States District Court for the Middle District of Florida charging the Defendants with violations of the federal securities laws (the "SEC Action"). The Commission alleges that Nadel used the Investment Managers to defraud investors in the Hedge Funds from at least January 2008 forward by "massively" overstating investment returns and the value of fund assets to investors in these funds and issuing false account statements to investors. The Commission also asserts that Nadel misappropriated investor funds by transferring \$1.25 million from Viking IRA Fund and Valhalla Investment Partners to secret bank accounts. The Court found the Commission demonstrated a *prima facie* case that Defendants committed multiple violations of federal securities laws.

The same day the Commission filed its complaint, the Court entered an order appointing Burton W. Wiand as Receiver for the Investment Managers and Relief Defendants (the "Order Appointing Receiver"). (*See generally* Order Appointing Receiver (Doc. 8).)

Also on that same day, on the SEC's motion, the Court entered (i) an Order of Preliminary Injunction and Other Relief as to the Investment Managers and all Relief Defendants (Doc. 7) and (ii) a Temporary Restraining Order and Other Emergency Relief as to Nadel (the "TRO") (Doc. 9). Among other things, these orders enjoined the Defendants and Relief Defendants from further violations of federal securities laws and froze their assets. On February 3, 2009, the Court entered an Order of Preliminary Injunction and Other Relief

as to Nadel (the “February 3 Preliminary Injunction”) (Doc. 29), the terms of which are essentially identical to those of the TRO.³

On January 27, 2009, on the Receiver’s motion, the Court entered an order expanding the scope of the receivership and appointing the Receiver as receiver also over the Venice Jet Center, LLC, and Tradewind, LLC. (*See* Order, Jan. 27, 2009 (Doc. 17).) On February 11, 2009, on the Receiver’s motion, the Court entered an order expanding the scope of the receivership and appointing the Receiver as receiver also over Laurel Mountain Preserve, LLC; Laurel Preserve, LLC; the Marguerite J. Nadel Revocable Trust UAD 8/2/07; and the Laurel Mountain Preserve Homeowners Association, Inc. (*See* Order, Feb. 11, 2009 (Doc. 44).) On March 9, 2009, on the Receiver’s motion, the Court entered an order expanding the scope of the receivership and appointing the Receiver as receiver also over the Guy-Nadel Foundation, Inc. (*See* Order, March 9, 2009 (Doc. 68).) On March 17, 2009, on the Receiver’s motion, the Court entered an order expanding the scope of the receivership and appointing the Receiver as receiver also over Lime Avenue Enterprises, LLC, and A Victorian Garden Florist. (*See* Amended Order, March 17, 2009 (Doc. 81).)

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

³ Both the TRO and the February 3 Preliminary Injunction required Nadel to make a sworn accounting to the Court and the Commission of all funds received by him from any of the Defendants or Relief Defendants and a sworn identification of all accounts in which he has an interest or has the power or right to exercise control. (Docs. 9, 29.) In response to these Orders, on March 31, 2009, Nadel submitted a letter asserting his Fifth Amendment right against self-incrimination and refused to provide this information. (Doc. 102.)

the Defendants and Relief Defendants; and take whatever actions are necessary for the protection of the investors.” (Order Appointing Receiver at 1-2.)

On January 27, 2009, Nadel surrendered to the FBI in Tampa, Florida. Nadel was arrested and charged with two counts of securities fraud and wire fraud based on the fraudulent investment scheme discussed below. On January 30, 2009, Magistrate Judge Mark Pizzo of the United States District Court for the Middle District of Florida denied Nadel’s request for a release on bond awaiting trial, deciding instead that Nadel should remain in jail based on, among other things, a risk of flight. On or about February 2, 2009, Judge Pizzo entered a Detention Order denying bail and a Removal Order requiring that Nadel be transferred to the Metropolitan Correctional Center in New York, New York to await trial. *See U.S. v. Nadel*, (U.S. Dist. Ct. M.D. Fla., Case No. 8:09-mj-01039-MAP (Docs. 5, 6)).

On February 26, 2009, Judge Denise Cote of the United States District Court for the Southern District of New York agreed to release Nadel on \$5 million bail, contingent on a number of conditions including \$1 million in cash, living restrictions, and specific bond guarantees. Judge Cote also required Nadel to fully and completely cooperate with the SEC. As of the date of this Report, Nadel has not met the conditions for bail and is still being held in the Metropolitan Correctional Center.

On April 28, 2009, Nadel was indicted on six counts of securities fraud, one count of mail fraud, and eight counts of wire fraud. The maximum sentence for each charge is 20 years of imprisonment. On April 30, 2009, Nadel pleaded not guilty to the fifteen charges.

In the SEC Action, on April 6, 2009, Nadel filed his answer and affirmative defenses, in which he denied nearly every allegation in the Complaint and set forth two affirmative defenses. (Doc. 104.) Nadel also purported to set forth a “Counterclaim,” which the Court struck on the Receiver’s motion. (Docs. 111, 112.)

III. The Receiver’s Role and Responsibilities

The Receiver functions as an independent agent of the court. The United States Supreme Court has explained that:

[a receiver] . . . is an officer of the court; his appointment is provisional. He is appointed on behalf of all parties, and not of the complainant or of the defendant only. He is appointed for the benefit of all parties who may establish rights in the cause. The money in his hand is *in custodia legis* for whoever can make out a title to it . . . It is the court itself which has the care of the property in dispute. The receiver is but the creature of the court; he has no power except such as are conferred upon him by the order of his appointment and the course and practice of the court.

Booth v. Clark, 58 U.S. 322, 331 (1854). Generally, the Receiver is charged by the Court with maximizing investors’ and creditors’ recoveries. To this end, the Court directed the Receiver to engage in the following activities:

A. Operating the Business of the Receivership Entities.

The Court granted the Receiver the “full and exclusive power, 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 . . .” (Order Appointing Receiver at 1.)

B. Taking Possession of Receivership Property.

The Court directed the Receiver to “[t]ake immediate possession of all property, ~~assets and estates of every kind of the Defendants and Relief Defendants, whatsoever and~~

wheresoever, located, belonging to or in the possession of the Defendants and Relief Defendants” (Order Appointing Receiver ¶ 1.)

C. Investigating Receivership Affairs and Recovering Funds.

The Court also directed the Receiver to “[i]nvestigate the manner in which the affairs of the Defendants and Relief Defendants were conducted and institute such actions and legal proceedings, for the benefit and on behalf of the Defendants and Relief Defendants and their investors and other creditors as the Receiver deems necessary against those individuals, corporations, partnerships, associations and/or unincorporated organizations, which the Receiver may claim have wrongfully, illegally or otherwise improperly misappropriated or transferred monies or other proceeds directly or indirectly traceable from investors in the Defendants or Relief Defendants” (Order Appointing Receiver ¶ 2.)

D. Reporting on Assets and Liabilities and Implementing Claims Process.

The Court further directed the Receiver to “[p]resent to this Court a report reflecting the existence and value of the assets of the Defendants and Relief Defendants and of the extent of liabilities, both those claimed to exist by others and those the Receiver believes to be legal obligations of the Defendants and Relief Defendants.” (Order Appointing Receiver ¶ 3.) As contemplated by the Order, the Receiver will ultimately institute a claims process primarily for the benefit of the Receivership Entities’ investors who have been defrauded and suffered legitimate losses as a result of the activities of Nadel and others.

IV. Overview of Preliminary Findings

The Receiver is in the process of reviewing voluminous records from the offices of Receivership Entities, as well as records from more than thirty (30) different institutions,

including banks and brokerage firms. The Receiver also is in the process of obtaining documents from additional third parties. The Receiver has formed some preliminary conclusions based on his review of a portion of the records received. While these conclusions are not final, and may change as the review becomes more complete, the Receiver believes they should be shared with the Court, the investors, and other potentially interested parties.

In the Commission's Emergency Motion and Memorandum of Law in Support of Temporary Restraining Order and Other Emergency Relief ("SEC's Emergency Motion") (Doc. 2) and supporting papers, the Commission presented evidence showing Nadel defrauded investors through his control of the Hedge Funds' advisers and/or managers, Scoop Capital and Scoop Management. Through the Investment Managers, Nadel, along with Christopher Moody and Neil Moody, were ultimately responsible for controlling the Hedge Funds' investment activities. While the Commission's evidence showed that Nadel defrauded investors since at least January 2008, the Receiver's investigation has uncovered evidence showing that the fraud began at least as early as 2003 and in all likelihood before then.

The Receiver's investigation has revealed that for each Hedge Fund, the Hedge Fund's performance as disclosed to investors from at least 2003 forward was based mainly on trading results that Nadel purported to have in brokerage transactions cleared through Goldman Sachs Group, Inc. (in which money was purportedly traded to generate the purported returns Nadel was paying). The returns reported to investors and potential investors were based on fictitious performance results that were created by Nadel and then

included in a database maintained by Scoop Management. These fictitious performance results formed the basis of gross misrepresentations to investors.

Table 1, below, shows a comparison of actual trading results in the Hedge Funds' Goldman Sachs accounts to the values represented to investors and to distributions paid. Specifically, for each year from 2003 to 2008, the table lists from, left to right, (1) the pertinent year; (2) the amount of gains the Investment Managers represented that the Hedge Funds had achieved that year (identified as "Company Represented Amounts"); (3) the actual combined total gain or loss experienced that year in the accounts for the Hedge Funds (identified as "Hedge Funds"); (4) the difference between what the Investment Managers represented the Hedge Funds had achieved in performance versus the actual trading results in the Goldman Sachs accounts for the Hedge Funds (identified as "Difference"); and (5) the actual distributions paid by the Hedge Funds for the pertinent year, including distributions to investors and management and performance incentive fees paid (identified as "Distributions").

Table 1

Year	Gains/(Losses)			
	Company Represented Amounts	Hedge Funds Actual Amounts (Per Goldman Sachs statements)	Difference	Distributions
2003	23,716,749	17,237,008	6,479,741	16,729,147
2004	46,950,345	4,637,878	42,312,467	49,329,387
2005	61,169,058	5,739,301	55,429,756	75,078,840
2006	50,003,778	(18,549,355)	68,553,133	75,444,122
2007	54,665,571	(24,989,307)	79,654,879	60,034,321
2008	36,334,794	(2,493,654)	38,828,448	73,443,310
Total	272,840,295	(18,418,129)	291,258,424	350,059,127

As Table 1 shows, for 2003 through 2008, the Hedge Funds' performance as represented to investors was significantly overstated and thus, false. For instance, for the years 2003 to 2008, the Investment Managers represented that the Hedge Funds' trading activity generated more than \$272 million in gains when, in reality, the Hedge Funds' investment accounts actually lost approximately \$18.4 million. Further, while the Hedge Funds lost approximately \$18.4 million for this same period, more than \$350 million was paid by the Investment Managers in distributions to investors and to themselves and others as fees. As this table shows, from at least 2003 through 2008, the Investment Managers were making distributions and paying fees that the investment performance of the Hedge Funds never supported. The Investment Managers were also crediting fictitious profits to accounts where the accountholders were not taking distributions. These fictitious profits were likewise unsupported by the Hedge Funds' investment performance and only served to further increase the Hedge Funds' insolvency. This negative cash flow made the eventual collapse of Nadel's enterprise inevitable.

In short, the investment returns and performance as represented to investors were based on grossly overstated performance numbers created by Nadel, and the results reported to investors were fiction. The true results of the trading activity that actually occurred was never included in data reported to investors or potential investors.

Evidence also shows that the Hedge Funds directly or indirectly paid substantial fees to Scoop Capital and Scoop Management, to other Receivership Entities, and to other third parties in the form of management, advisory, and/or profit incentive fees and "finder" fees. As reflected in Table 2, below, according to the Hedge Funds' documents from 2003 through

2008, they paid approximately \$97,168,122 in total fees. Profit incentive fees were paid to Scoop Management, Viking Management and Valhalla Management (and sometimes split with third parties) based on a percentage of profits that never occurred and thus significantly depleted the Hedge Funds' assets and diverted those assets to Scoop Capital and Scoop Management, which were controlled by Nadel, and to Valhalla Management and Viking Management, which were controlled by Neil and Christopher Moody.

Table 2

Year	Management Fees	Performance Incentive Fees	Total Fees
2003	1,521,377	5,929,187	7,450,565
2004	3,644,188	11,737,586	15,381,774
2005	5,057,633	15,292,264	20,349,897
2006	5,756,646	12,500,945	18,257,590
2007	6,206,972	13,666,393	19,873,365
2008	6,771,232	9,083,698	15,854,931
Total	28,958,048	68,210,074	97,168,122

Significant sums from the proceeds of Nadel's scheme also made their way into other accounts controlled by Nadel and/or his wife, Marguerite Nadel. As of December 31, 2008, according to the balance sheet for Scoop Management, Scoop Management had transferred approximately \$17,177,896.56 to accounts owned either individually or jointly by the Nadels. These amounts are in addition to the amounts Mrs. Nadel received from Scoop Management as compensation. According to its balance sheet, Scoop Management also transferred approximately \$6,433,804.40 to other entities controlled by Nadel. To date, the Receiver has not uncovered any source of income for Nadel or his wife (during the time of Nadel's scheme) that was not in some manner funded with money from that scheme.

Documentation and other information that the Receiver has collected shows that money derived from the scheme was used by Nadel to purchase and/or fund other businesses. The Receiver has expanded the Receivership to include additional businesses controlled by Nadel. *See* discussion of expansion at Section V.B. below.

To date, the Receiver has discovered and identified approximately 371 investors who invested slightly more than \$397 million. Based on documentation analyzed to date, it appears that investors have out of pocket losses of approximately \$168 million. The Receiver has also discovered that some investors were paid more than their total investments. These overpayments were "fictitious profits." At this time, the Receiver has discovered approximately \$53.5 million in such fictitious profits. Further, it appears that, although separately numbered investor accounts were used in communications with investors and brokerage accounts were used for each Hedge Fund, in reality there were not separate funds. Due to the method Nadel used to trade securities, distinctions made between the individual Hedge Funds and between investor "accounts" have little meaning. The documents reviewed reveal that Nadel treated the Hedge Funds as a single source of money regardless of with which Hedge Fund investors purportedly invested. The Receiver has reached the preliminary conclusion based on available research and evidence that investor funds were commingled in Nadel's and the Receivership Entities' accounts.

A. Nadel's Trading Activities in the Hedge Funds.

In the Executive Summaries disseminated to investors, Nadel represented that the Hedge Funds were generating the annual returns reflected in **Table 3**, below, primarily through trading in the quadruple Qs.⁴

Table 3
Fund Performance as Represented in Executive Summaries

Year	Valhalla	Victory	Viking	Viking IRA	Victory IRA	Scoop Real Estate
2002	21.59%	40.93%	26.98%	26.88%	N/A	N/A
2003	41.57%	42.52%	46.42%	45.23%	30.43%	N/A
2004	28.96%	30.30%	30.46%	29.93%	32.16%	48.67%
2005	30.19%	25.90%	27.40%	26.36%	27.31%	32.14%
2006	19.99%	18.94%	19.08%	18.93%	19.50%	21.15%
2007	19.24%	19.65%	20.60%	20.55%	20.02%	21.75%
2008*	10.97%	11.82%	11.43%	11.52%	11.72%	12.31%

* Results are for an incomplete year.

While Nadel did trade in quadruple-Qs, he did not achieve for the Hedge Funds the amount of returns he represented to investors. Rather, based on the documents the Receiver's financial expert has analyzed to date, the Hedge Funds as a whole lost significant sums from their inception. Specifically, **Table 4**, below, shows the actual account profits and losses for the Hedge Funds for the indicated time.

⁴ The term "Quadruple Qs" (ticker symbol: QQQQ) refers to the NASDAQ-100 Tracking Stock, an exchange-traded fund ("ETF") listed on the NASDAQ intended to track the NASDAQ index.

Table 4

Account Name	Account Profit/Losses	Overall Annualized Rate of Return
Scoop Real Estate Ltd. 2/1/04 – 12/31/08	(\$6,637,880)	-33.35%
Valhalla Investment Partners, LP 10/01/02 – 12/31/08	\$2,863,875	3.98%
Viking Fund LLC 3/01/03 – 12/31/08	(\$8,073,752)	-19.40%
Viking IRA Fund Ltd. 3/01/03 – 12/31/08	(\$2,053,443)	-24.53%
Victory Fund, Ltd. 6/01/02 – 12/31/08	\$1,825,701	-16.70%
Victory Fund, Ltd. 2/01/03 – 8/31/03	(\$66,776)	-18.45%
Victory IRA Fund, Ltd.	(\$5,941,164)	-18.63%
Hedge Fund Total	(\$18,083,439)	

Between 2002 and 2008, the highest annualized rate of return Nadel appears to have achieved was approximately 4%, while the rest of the Hedge Funds experienced annualized returns of -16.70% to -33.25%. While these actual performance numbers demonstrate the disparity between what Nadel and others were claiming the Hedge Funds were achieving and the returns the Hedge Funds were actually achieving, the performance of each individual Hedge Fund is not significant because it appears that Nadel arbitrarily allocated daily results of trading transactions among the Hedge Funds. This activity resulted in the commingling of the Hedge Funds' assets and makes the performance results of each individual Hedge Fund immaterial. In short, Nadel was losing significant sums of money while representing that he was achieving annual returns from 18.93% to 48.67% (for years with full activity).

Further, as shown in Table 5, below, while the Hedge Funds' accounts experienced losses, all but one of Nadel's personal accounts and other accounts maintained essentially for

the benefit of Nadel and in the sole control of Nadel (collectively referred to herein as “Nadel’s Accounts”) experienced significant gains.

Table 5

Account Name	Account Profit/Losses	Overall Annualized Rate of Return
Scoop Capital LLC 12/01/04 – 12/31/08	\$11,331,464	49.37%
Scoop Management 10/01/02 – 12/31/08	\$737,141	36.72%
Arthur Nadel 6/01/02 – 10/31/08	\$10,781,029	71.62%
Marguerite Nadel 8/01/07 – 1/30/09	\$10,033	-15.49%
Non-Fund Total	\$22,859,667	

The trading activity in the Hedge Funds’ accounts and Nadel’s Accounts appears to have been essentially the same, and trading in those accounts was done concurrently. Virtually all trading allocated to every account was in quadruple-Qs. Given the dramatic differences in trading results in Nadel’s accounts as compared to the Hedge Funds’ accounts and preliminary information received by the Receiver concerning Nadel’s trading practices, the Receiver believes that this evidence may indicate that Nadel engaged in a fraudulent practice known as “cherry picking.” In cherry picking, the trader allocates profitable trades to himself and unprofitable trades to clients. *See, e.g., S.E.C. v. K.W. Brown and Co.*, 555 F. Supp. 2d 1275, 1302-1307 (S.D. Fla. 2007) (holding that “cherry-picking” day-trading scheme operated by officers constituted scheme to defraud under Securities Exchange Act). Analysis of the trading activity and cash flows is ongoing. However, in light of the fact that Nadel traded the same investments for all Hedge Funds and the accounts he owned and/or controlled for his benefit and that there was a wide disparity between the results allocated to

the Hedge Funds' accounts and those allocated to Nadel's Accounts, there is no apparent logical explanation other than the improper diversion of profitable transactions by Nadel.

B. Funds Located by the Receiver.

1. Funds at Inception of Receivership.

At the outset of the Receivership, approximately \$556,758.33 in cash and cash equivalents in financial accounts titled in the name of the Hedge Funds and Investment Managers (which include Scoop Management, Scoop Capital, Valhalla Management, and Victory Management) had been identified and frozen pursuant to the Court's TRO and Preliminary Injunction Orders. In addition, cash and cash equivalents in financial accounts titled in the name of other Receivership Entities⁵ at the time the entities were brought into receivership were approximately \$556,654.72. Thus, total cash and cash equivalents at the inception of the Receivership and as the Receivership was expanded to include each additional Receivership Entity indicated was approximately \$1,113,413.05.⁶

2. Additional Funds Located.

One of the Receiver's highest priorities is to locate and recover any additional funds. The Receiver has retained a forensic accounting firm to assist in tracing funds. As of the date

⁵ These other Receivership Entities include Venice Jet Center, LLC; Tradewind, LLC; Laurel Mountain Preserve, LLC; Laurel Preserve, LLC; and the Marguerite J. Nadel Revocable Trust UAD 8/2/2007.

⁶ This amount does not include any sum for non-cash or non-cash equivalent assets the Receiver has recovered. For a discussion of these assets, please refer to Sections V.B. & V.D. below.

of this report, the Receiver has also identified and recovered \$120,000.⁷ Also, on April 29, 2009, the Court granted the Receiver exclusive interest in a note and mortgage for a condominium located in Sarasota, Florida. The condominium's owner, an employee of one of the Receivership Entities (see Section V.B.6, below), had executed a promissory note payable to Mrs. Nadel for \$126,556.24. The note was secured by a mortgage held by Mrs. Nadel. On February 9, 2009, Mrs. Nadel had assigned the note and mortgage to Nadel's criminal-defense attorneys, Cohen, Jayson & Foster, P.A. The principal balance due under the note is \$124,637.64, with \$5,457.66 due in outstanding interest.

The Receiver will continue to diligently investigate, and will update the Court and the investors if additional funds are located.

3. Business and Miscellaneous Income and Interest.

From March 1, 2009 through April 30, 2009, the Receiver received \$579,205.43 in business income from ongoing operations of some Receivership Entities, \$18,056.53 in interest/dividend income, and \$2,582.18 in miscellaneous income.

4. Profiteer Settlements.

In April 2009, the Receiver sent letters to 85 investors, each of whom, according to the records in the Receiver's possession, made "fictitious profits" by receiving monies from the Hedge Funds in an amount that exceeded his or her investments (the "Profiteers"). With the SEC's approval, the Receiver offered to settle with each such investor for payment by the

⁷ This amount is comprised of two \$60,000 payments the Receiver recovered from two individuals. The Receiver determined that the transfers made to these individuals in the amount of \$60,000 each were an improper diversion of investor funds and obtained court orders to recover these funds.

investor of 90% of his or her fictitious profits.⁸ Collectively, if accepted, these settlements would yield \$14,586,005.14. As of May 15, 2009, the Court has approved five profiteer settlements totaling \$683,778.64. Settlement discussions with other profiteers are ongoing. The Receiver continues to work to identify additional profiteers and intends to send settlement offers to additional profiteers in the near future.

V. Actions Taken By the Receiver.

Since his appointment on January 21, 2009, the Receiver has taken a number of steps to fulfill his mandates under the Order Appointing Receiver.

A. Taking possession of Receivership Property.

1. Physical premises and tangible assets.

On the day of his appointment, the Receiver took possession of the Receivership Entities' offices at 1618 Main Street, Sarasota, FL 34236 (the "Office"). The Office was used by Nadel as the headquarters for administering his control of the Receivership Entities. The Receiver secured the premises by changing the locks and inventoried all of the physical property at the premises. The Receiver has provided change of address notifications to the United States Postal Service and Federal Express, as well as all known service providers to the Receivership Entities.

Since the filing of the last Interim Report, the Receiver ended the Office's lease; turned over the keys; and sold the office furniture and other items for \$3,500.00. All of the documents from the Office have been moved to the Tampa offices of Fowler White Boggs P.A. The Receiver also removed several servers and computer-related equipment from the

⁸ See Section V.D.1 below, regarding litigation against profiteers.

premises that were used by the Receivership Entities and Mr. Nadel. The Receiver retained experienced forensic information technology experts with the firm E-Hounds, Inc., to assist in securing and analyzing the electronic data on the computers. E-Hounds personnel have secured the data and are underway in their forensic analysis.

Since obtaining control of the Receivership Entities, the Receiver and his professionals have had discussions – including continuing discussions – with a number of people associated with Nadel and/or the Receivership Entities, including officers of some of the Receivership Entities and persons responsible for maintaining the financial books of Receivership Entities, for operating the business of Receivership Entities, for performing accounting services, and for administering the Hedge Funds.

The Receiver and his professionals have also reviewed documents located in the Office; documents obtained from the accountant for one or more Receivership Entities; information stored on the Receivership Entities' computer network; documents obtained from other businesses controlled by Nadel; documents obtained from financial institutions and other third parties, including lawyers and others who assisted Nadel's businesses with their transactions; and information available in the public record.

B. Expansion of the Receivership.

As a result of the review of these records and of the discussions noted above, the Receiver sought and successfully obtained the expansion of the Receivership to include: Venice Jet Center, LLC; Tradewind, LLC; Laurel Mountain Preserve, LLC; Laurel Preserve, LLC; Laurel Mountain Preserve Homeowners Association, Inc.; the Marguerite J. Nadel Revocable Trust UAD 8/2/07; the Guy-Nadel Foundation, Inc.; Lime Avenue Enterprises,

LLC; and A Victorian Garden Florist, LLC. The Receiver's investigation revealed that Nadel had control and/or a full or partial interest in these additional businesses and that they were purchased and/or funded with money derived from Nadel's fraudulent investment scheme. Further, by virtue of Scoop Capital's ownership interest in Home Front Homes, LLC and Summer Place Development Corporation the Receiver also has control of these entities but, for various reasons, a formal order expanding the Receivership to include Home Front Homes or Summer Place Development has not been sought.

The following discussion of these entities includes a description of assets the Receiver has acquired as a result of their inclusion in the Receivership. Where possible the Receiver has included estimated values of these assets. However, given the state of the U.S. economy at the time of this Report, it is important to note that any such estimations, valuations or appraisals are subject to change. In particular, due to the poor state of the real estate markets, the estimates provided may differ markedly from the actual amounts realized upon the selling of any real property.

1. Venice Jet Center, LLC.

Venice Jet Center, LLC ("VJC"), is a Florida limited liability company formed in April 2006. Its principal address is the Office, and Nadel was its registered agent and the managing member. The assets of VJC were purchased with proceeds of Nadel's scheme, and over time additional proceeds of the scheme were transferred to VJC. VJC is a viable business with potential to generate assets for the Receivership estate.

On January 27, 2009, the Court expanded the Receivership to include VJC. VJC is a fully operating fixed-base operator, or "FBO," business. It includes a flight school, fueling

service, hangar rentals, and a café. Since the Receiver's appointment as Receiver of VJC, he has taken control of it and is continuing to operate the business. The Receiver is continuing VJC's longstanding pursuit of a permit to build new hangars at the VJC. The Receiver believes that the permit to build more hangars, which was requested well before the Receiver's appointment, will make the VJC more attractive to potential purchasers and ultimately increase the value of the business.

The Receiver has possession and control of a building owned by VJC located at 400 Airport Avenue East, Venice, Florida, 34285 (the "VJC Building"). The VJC Building has one known encumbrance: a loan with Northern Trust Bank, N.A., on which there is a remaining balance of \$1,963,790.00.

The Receiver has encountered some problems in connection with the ongoing management of the VJC. The City of Venice (the "City"), in contravention of its lease and specific direction from the Federal Aviation Authority ("FAA"), has refused to grant VJC authorization to develop four hangars at the VJC facility. The City officials have publicly announced their intent to terminate the VJC lease with the City and take over VJC's operations. The Receiver intends to vigorously resist any unwarranted interference by the City with what appears to be a substantial and valuable property right of VJC (and of the Receivership estate). On May 14, 2009, the Court granted the Receiver's request for leave to file a complaint against the City of Venice pursuant to Title 14 of the Code of Federal Regulations, Part 16. (Doc. 132.) As of the date of filing this Report, the City has not yet voted on whether it intends to further resist the development of the hangars at the VJC.

The Receiver estimates VJC has significant value in excess of the funds owed to Northern Trust. However, this value is subject to change depending on the resolution of the hangar permit issue. The Receiver has received significant interest in the purchase of VJC and continues to actively marketing the business. Parties interested in marketing or purchasing this property should contact the Receiver directly.

2. Tradewind, LLC.

The information reviewed to date shows that Nadel was also the managing member of Tradewind, LLC (“Tradewind”). Tradewind was formed in Delaware in January 2004, and registered for the first time in Florida in March 2008. Nadel was Tradewind’s managing member and its registered agent, and Tradewind’s principal address was the Office. The Receiver discovered that Tradewind owned and controlled five planes and one helicopter. Tradewind also owns 31 airport hangars at the Newnan-Coweta County Airport in Georgia (the “Georgia Hangars”). The Receiver’s investigation revealed that Tradewind was funded with money from Nadel’s scheme. Similar to VJC, Tradewind appears to be a viable business with potential to generate assets for the Receivership estate.

On January 27, 2009, the Court expanded the Receivership to include Tradewind. Tradewind is a fully operating business. Since the Receiver’s appointment as Receiver of Tradewind, he has taken control of it and is continuing to operate the business. Tradewind collects approximately \$28,000 in monthly rent (mainly from the hangars) and incurs varying monthly expenses, which include land rent, loan payments, payroll, and various utilities. The Receiver is entertaining offers to purchase this business or any of its assets.

The Receiver has possession and control of the Georgia Hangars. The Georgia Hangars have one known encumbrance: a loan with the Bank of Coweta with a remaining balance of approximately \$958,265.79, and monthly payments of \$8,055. There is also monthly rent of \$3,079.89 due to the Newnan Coweta Aviation Authority. The Receiver has been making these monthly payments as he believes they are in the best interest of the Receivership.

The Receiver also gained possession and control of the five planes and helicopter. The following table shows the year, model, and known encumbrances relating to each aircraft.

Aircraft in Receiver's Possession

Model	Year	Type of Aircraft	Known Encumbrance
Piper PA-28/140	1971	Airplane	None.
Cessna 152	1978	Airplane	None.
Learjet 31A	1996	Airplane	Loan with General Electric Capital Corporation ("GECC") entered into on May 17, 2006, for approximately \$2.4 million.
Citation	1992	Airplane	Loan with VFS Financing, Inc. ("VFS") entered into on May 23, 2008, for approximately \$2.1 million
Baron	1977	Airplane	None.
Schweizer 300	1997	Helicopter	None.

On April 17, 2009, the Court authorized the sale of the Schweizer helicopter for \$200,000.00. (Doc. 108.) On May 1, 2009, the Court authorized the Receiver's settlements with GECC and VFS to dispose of the Learjet and the Citation, respectively, in full satisfaction of the respective loans. (Doc. 119.) Because it appeared that the aircraft were

valued significantly less than the amount of the loans on the aircraft, the Receiver determined that these settlements were in the best interest of the receivership. The Receiver is currently evaluating the value of the other three aircraft and determining the appropriate method of their disposition.

3. Laurel Mountain Preserve, LLC; Laurel Preserve, LLC; and Laurel Mountain Preserve Homeowners Association, Inc.

The Receiver's investigation revealed that Laurel Mountain Preserve, LLC ("Laurel Mountain"), was a North Carolina limited liability company formed in or about December 2003. Laurel Mountain was "withdrawn" as a limited liability company in January 2006. Its principal address was the Office, and its manager and member was Nadel. Laurel Preserve, LLC ("Laurel Preserve"), was formed as a North Carolina limited liability company in February 2006. Its principal address was the Office, Nadel was its registered agent, and the "Registered Office" address was a home in Fairview, North Carolina titled in the names of Nadel and his wife. The manager was Nadel, and although Laurel Preserve's 2006 Operating Agreement identifies Nadel and his wife as members of Laurel Preserve with each having made a "capital contribution" of \$750, the Laurel Preserve 2007 federal income tax return identifies Scoop Capital as owner of 100% of Laurel Preserve.

Laurel Mountain Preserve Homeowners Association, Inc. (the "HOA"), is a North Carolina non-profit corporation formed in March 2006. Its principal address was the Fairview, North Carolina home, and its registered agent was Nadel.

Documentation reviewed and information obtained by the Receiver showed that Laurel Preserve holds title to approximately 420 acres near Asheville, North Carolina in Buncombe and McDowell counties, intended for development of home-sites (the "Laurel

Mountain Property”). The Laurel Mountain Property was originally purchased by Laurel Mountain in 2003 and then “sold” to Laurel Preserve in February 2006. Laurel Mountain provided financing for that purchase in the form of a \$2,900,000 loan to Laurel Preserve.

According to documentation retrieved from the Office, Laurel Mountain and Laurel Preserve received significant funding in the form of “loans” from Scoop Capital, Scoop Management, Tradewind, Nadel and Mrs. Nadel and BB&T Bank. On February 11, 2009, the Court expanded the Receivership to include Laurel Mountain, Laurel Preserve, and the HOA. Since the Receiver’s appointment as Receiver of these entities, he has taken control of them and is working on marketing for sale the Laurel Mountain Property. This property currently does not generate any income.

The Laurel Mountain Property encompasses 29 lots, including 23 estate-sized and 6 cottage-sized lots. There is also a cabin on this property that, according to the Buncombe County Property Appraiser, is valued at \$319,800. The Laurel Mountain Property is fully developed: infrastructure and utilities are currently in place and are fully functional.

The Laurel Mountain Property has three known encumbrances. The first encumbrance is a \$360,157.37 loan from BB&T Bank. The second encumbrance is a \$1,900,000 interest only loan from Wachovia Bank, N.A. There is a monthly payment of \$5,149.66 due on this latter loan and the Receiver presently is not making payments on this loan. The third encumbrance is an easement of approximately 169 acres of the Laurel Mountain Property, which was granted to a land conservancy in 2005. It appears that this donation was made in part for the Nadels’ own tax benefit. The Receiver is contemplating

whether it would be in the best interests of the Receivership to seek to recover this easement from the conservancy as it may create an exponential increase in the value of the full acreage.

The Receiver has consulted with a realtor who previously listed the property and is entertaining offers to purchase or proposals to market this developed property either by lot or in its entirety. The Receiver is still evaluating the current value of this property, but it appears that the value is higher than the amount of the encumbrances. For more information regarding this property, please refer to <http://www.laurelmountainpreserve.com/>. Parties interested in marketing or purchasing this property should contact the Receiver directly.

4. Marguerite J. Nadel Revocable Trust UAD 8/2/2007.

The Marguerite J. Nadel Revocable Trust Under Agreement Dated 8/2/2007 (the "Trust") was created on August 2, 2007. The trustee is identified as Mrs. Nadel. The Receiver's investigation revealed that the Trust was funded entirely with proceeds of Nadel's scheme through (1) a transfer of \$500,000 from Scoop Management in August 2007 and (2) a transfer of \$150,000 from Scoop Capital on the day before Nadel fled. It also revealed that Nadel controlled the account in which the money held by the Trust purchased and sold securities. Significantly, as alleged in the criminal complaint against Nadel, in an apparent note Nadel left for his wife before fleeing, he instructed her to "use the trust (yours) to your benefit as much and as soon as possible." *United States v. Nadel*, Case No. 09 MAG 169 (S.D.N.Y.), Compl. ¶ 17, attached as Exhibit 14 to the Receiver's Declaration in Support of Second Unopposed Motion to Expand receivership (Doc. 37-15).

