
UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

U.S. COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff(s)

Case No: 09-cv-3332 MJD/FLN

v.

TREVOR COOK d/b/a CROWN
FOREX, LLC, PATRICK KILEY d/b/a
CROWN FOREX, LLC, UNIVERSAL
BROKERAGE FX and UNIVERSAL
BROKERAGE FX DIVERSIFIED, OXFORD
GLOBAL PARTNERS, LLC, OXFORD
GLOBAL ADVISORS, LLC, UNIVERAL
BROKERAGE FX ADVISORS, LLC f/k/a
UBS DIVERSIFIED FX ADVISORS, LLC,
UNIVERSAL BROKERAGE FX
GROWTH, L.P. f/k/a UBS DIVERSIFIED FX
GROWTH L.P., UNIVERSAL BROKERAGE
FX MANAGEMENT, LLC f/k/a UBS
DIVERSIFIED FX MANAGEMENT, LLC
and UBS DIVERSIFIED GROWTH, LLC,

Defendant(s)

R.J. ZAYED,

Receiver.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,

Case No: 09-cv-3333 MJD/FLN

Plaintiff(s)

v.

TREVOR G. COOK,
PATRICK J. KILEY,
UBS DIVERSIFIED GROWTH, LLC,
UNIVERSAL BROKERAGE FX
MANAGEMENT, LLC,
OXFORD GLOBAL ADVISORS, LLC,
and OXFORD GLOBAL PARTNERS, LLC,

Defendants

and

BASEL GROUP, LLC,
CROWN FOREX, LLC,
MARKET SHOT, LLC,
PFG COIN AND BULLION,
OXFORD DEVELOPERS, S.A.,
OXFORD FX GROWTH, L.P.,
OXFORD GLOBAL MANAGED
FUTURES FUND, L.P., UBS DIVERSIFIED
FX ADVISORS, LLC, UBS DIVERSIFIED
FX GROWTH, L.P., UBS DIVERSIFIED
FX MANAGEMENT, LLC, CLIFFORD
BERG, and ELLEN BERG,

Relief Defendants.

R.J. ZAYED,

Receiver.

**STATUS REPORT FOR RECEIVER'S PETITION FOR RETURN OF
RECEIVERSHIP ASSETS FROM RESPONDENT NEW YORK COMMUNITY
BANK**

The parties/counsel identified below participated in the meeting on November 2, 2010, and prepared the following report.

The status conference in this summary proceeding is scheduled for November 12, 2010, at 10:00 a.m. before the United States Magistrate Judge Noel in Suite 9W, United States Courthouse, 300 South 4th Street, Minneapolis, Minnesota.

A. Description of Case and Case Status

(1) Concise Factual Summary of Receiver's Summary Proceedings Application

In furtherance of his duty as the Court-appointed Receiver in this action, R.J. Zayed brought a Summary Proceedings Application (pursuant to Judge Davis's July 20, 2010 Order) against Respondent New York Community Bank, seeking:

(1) the disgorgement of the funds transferred from the Receivership Entities to Respondent because they were fraudulent transfers under Minn. Stat. §513.41, *et seq.*; or

(2) the recovery of the funds transferred to Respondent to the extent Respondent was unjustly enriched under the common law of Minnesota.

(2) Concise Factual Summary of Respondent's Claims/Defenses

Respondent New York Community Bank alleges that it received the transfers at issue in good faith and that it provided reasonably equivalent value in exchange for the transfers. As a good faith transferee, it is entitled under Minn. Stat. section 513.48(d) to a lien on or to retain any interest in the assets transferred, as well as enforcement of all obligations incurred by the Receivership Entities, and/or a reduction in the amount of the liability on any judgment entered against it in this case. Respondent New York Community Bank has raised the additional affirmative defenses of lack of standing, unclean hands, waiver, estoppel, and/or release, and alleges the claims are barred by the voluntary payment doctrine.

(3) Statement of Jurisdiction (including statutory citations)

The Receiver contends that this Court has original subject matter jurisdiction over this matter under Section 22(a) of the Securities Act (15 U.S.C. § 77v(a)), Section 27 of

the Exchange Act (15 U.S.C. § 78aa), Section 6d of the Commodity Exchange Act (7 U.S.C. § 13a-2(2)), Chapter 49 of Title 28, Judiciary and Judicial Procedure (28 U.S.C. § 754), and supplemental jurisdiction over claims arising under state law pursuant to Chapter 85 of Title 28, Judiciary and Judicial Procedure (28 U.S.C. § 1367(a)). Further, the Receiver contends that as the Court that appointed the Receiver, this Court has jurisdiction over any claim brought by the Receiver in furtherance of his Receivership powers and duties, including Summary Proceedings as per the Court's July 20, 2010 Order.

Further, the Receiver contends that this Court has personal jurisdiction over Respondents and in rem jurisdiction over property in their possession because the Receiver filed the original Complaint and Order Appointing the Receiver in all United States District Court pursuant to 28 U.S.C. §§ 754 and 1692 within ten days of his appointment.

Respondent did not object to the Receiver's assertions of this Court's jurisdiction.

(4) Statement of whether jury trial has been timely demanded by any party.

Neither Receiver nor Respondent has demanded a jury trial.

B. Motion and Discovery Schedule, Deadlines, and Limitations

(1) The parties recommend that the Court establish the following motion deadlines:

(A) All non-dispositive motions and supporting documents, including those that relate to fact discovery, shall be filed and served by no later than **one week** after the close of fact discovery. The parties suggest the date of **March 18, 2011**. The briefing schedule for non-dispositive motions shall follow the deadlines set out by Local Rule 7.1(a).

(B) All dispositive motions must be filed and served no later than **one month** after the close of fact discovery. The parties suggest the date of **April 15, 2011**. The briefing schedule for dispositive motions shall follow the deadlines set out by Local Rule 7.1(b).

(2) The parties recommend that the Court establish the following discovery deadlines:

(A) Fact discovery shall be completed no later than **four months** from November 12, 2010. The parties suggest the date of **March 11, 2011**.

C. Protective Order

The parties do not at this time believe that a protective order is necessary. If either party believes a Protective Order is necessary, the parties shall jointly submit a proposed Protective Order.

D. Experts

The parties anticipate that they will not require expert witnesses at time of trial.

E. Trial-Ready Date

The parties agree that the case will be ready for trial **one month** after the Court issues a final ruling on any outstanding dispositive motions; or, in the instance that there are no outstanding dispositive motions, **two months** after the close of fact discovery. The expected length of trial is **two** days.

DATE: November 5, 2010 s/ Brian W. Hayes
Brian W. Hayes, Designee for Receiver R.J. Zayed
MN Bar No. 294,585
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DATE: November 5, 2010 /s/ Matthew J. Pfohl (with permission)
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