

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

R.J. ZAYED, IN HIS CAPACITY AS
COURT- APPOINTED RECEIVER FOR
TREVOR G. COOK, ET AL.,
Petitioner,

Case No. 11-CV-01042 SRN/FLN

vs.

DAVID BUYSSE, STEVEN AND
PAMELA CHENEY, WALTER DEFIEL,
JOHN DZIK, TERRY FRAHM,
STEVEN AND JENENE FREDELL,
WILLIAM HARRIS, MICHAEL HEISE,
MICHAEL AND CYNTHIA HILLESHEIM,
LARRY HOPFENSPIRGER, STEVEN
KAUTZMAN, JAMES MCINTOSH,
GEORGE AND KAREN MORISSET,
AND REYNOLD SUNDSTROM, AND
DOT ANDERSON,

Respondents.

**RESPONSES TO RECEIVER'S SECOND SET OF REQUESTS FOR
PRODUCTION OF DOCUMENTS TO LENDER RESPONDENTS (NOS. 7-16)**

TO: THE RECEIVER, AND HIS ATTORNEYS, TARA NORGARD, RUSSELL
RIGBY, PETER KOHLHEPP, AND BRIAN HAYES, CARLSON, CASPERS,
VANDENBURGH & LINDQUIST, P.A., 225 S. SIXTH ST., SUITE 3200,
MINNEAPOLIS, MN 55402.

Lender Respondents Steven and Pamela Cheney, David Buysse, Walter Defiel,
Steven and Jenene Fredell, Michael and Jennifer Heise, Michael and Cynthia Hillesheim,
Larry Hopfenspirger, Steven Kautzman, James McIntosh, George and Karen Morisset,

Terry Frahm, and Reynold and Judith Sundstrom (hereinafter collectively “Lender Respondents”), for their Responses to the Petitioner Receiver’s Second Set of Requests for Production of Documents, state as follows:

GENERAL OBJECTIONS

The Lender Respondents object to the broad scope and vague phrasing of these discovery requests to the extent their meaning is impossible to understand. Nonetheless, the Lender Respondents will respond to these discovery requests based on their understanding of the discovery requests.

The Lender Respondents also object to these discovery requests to the extent they request information subject to the attorney client and/or work product privilege.

The Lender Respondents also object to Receiver’s request for supplementation beyond that required under the Federal Rules of Civil Procedure.

The Lender Respondents further object to each discovery request to the extent that it seeks information already known to Receiver or its counsel, already in the possession of Receiver or its counsel, or available to Receiver from documents in its own files or from public sources, on the ground that the discovery request is unnecessary, unduly burdensome and expensive, and constitutes annoyance, harassment, and oppression of the Lender Respondents.

The Lender Respondents object to each discovery request to the extent that it purports, through definitions or otherwise, to impose burdensome duties on the Lender Respondents beyond those which are applicable under the Federal Rules of Civil Procedure.

The Lender Respondents object to each interrogatory to the extent it seeks non-party confidential information, because such information, to the extent it exists, cannot be produced by the Lender Respondents, it will be deemed not in the Lender Respondents' possession or control. Such information will need to be sought from the applicable non-party.

In those instances where the Lender Respondents object to a discovery request as being vague and ambiguous, notwithstanding and without waiving this objection, as the Lender Respondents are able to ascertain the nature of information being requested, the Lender Respondents will make reasonable efforts to answer the discovery request in question.

All of these objections are incorporated into each response below, whether or not stated below.

Subject to the General Objections outlined above and the more specific objections set forth below, the Lender Respondents respond as follows:

RESPONSES TO REQUESTS FOR PRODUCTION OF DOCUMENTS

SET II (NOS. 7-16)

REQUEST NO.7: For each Respondent, all tax returns and supporting documents and things filed with the Internal Revenue Service or the Minnesota Department of Revenue that mention, incorporate, or reference funds the Respondent sent to Trevor Cook, Clifford Berg and/or the Receivership Entities or received from Trevor Cook, Clifford Berg, and/or the Receivership Entities.

RESPONSE: Subject to the general objections, Lender Respondents object to this Request to the extent it seeks documents unrelated to the Receivership Entities which are not relevant to the claims or defenses in this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, Lender Respondents will produce all relevant, non-privileged documents at a time and place mutually agreed upon by counsel.

REQUEST NO.8: For each Respondent, all communications and documents and things sent to or received from any tax professional, accountant, or other financial professional that mention, incorporate, or reference funds the Respondent sent to Trevor Cook, Clifford Berg and/or the Receivership Entities or received from Trevor Cook, Clifford Berg, and/or the Receivership Entities.

RESPONSE: Subject to the general objections, Lender Respondents object to this Request to the extent it seeks documents unrelated to the Receivership Entities which are not relevant to the claims or defenses in this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, Lender Respondents will produce all relevant, non-privileged documents at a time and place mutually agreed upon by counsel.

REQUEST NO.9: All documents and things that support the contention that each Respondent "lent money" to Receivership Entities, that the Respondent was a "lender" with respect to the Receivership Entities, and that the funds the Respondents received were "in satisfaction of the debt owed" by the Receivership Entities.

RESPONSE: Subject to the general objections, Lender Respondents object to this Request to the extent it seeks documents unrelated to the Receivership Entities which are

not relevant to the claims or defenses in this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, Lender Respondents refer the Receiver to the account documents already produced in discovery in this action.

REQUEST NO. 10: All documents and things that you may use as exhibits at trial, to the extent they have not already been produced.

RESPONSE: Subject to the general objections, Lender Respondents object to this Request as seeking attorney-client privileged material regarding Lender Respondents' attorneys' mental impressions. Subject to these objections, Lender Respondents refer the Receiver to the documents already produced in discovery in this action.

REQUEST NO. 11: All documents and things related to the disposal of the desktop computer referenced during the deposition of Respondent Terry Frahm (see Tr. at 107:1-108:9; 168:12-173:7), including but not limited to any USB or "flash" drives or any other media onto which files from that desktop computer were transferred.

RESPONSE: Subject to the general objections, Lender Respondents object to this Request to the extent it seeks documents unrelated to the Receivership Entities which are not relevant to the claims or defenses in this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, there are no documents responsive to this request.

REQUEST NO. 12: All documents and things related to Respondent Michael or Jennifer Heise's efforts to roll over Jennifer Heise's IRA funds from account numbers XX XX138EG and XX XX139EG at UBS Financial Services Inc. into the Receivership Entities on or about June 26, 2009. This Request includes but is not limited to correspondence with Klein Bank, documents and things related to efforts to stop payment on the checks shown at IR002726 and IR002727, and documents and things related to the

circumstances that resulted in the checks shown at IR002726 and IR002727, with "Pay to the order of Entrust Group FBO Jennifer A. Heise IRA" printed on their face, being deposited at Klein Bank.

RESPONSE: Subject to the general objections, Lender Respondents object to this Request to the extent it seeks documents unrelated to the Receivership Entities which are not relevant to the claims or defenses in this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence. Subject to these objections, Lender Respondents will produce all relevant, non-privileged documents at a time and place mutually agreed upon by counsel.

REQUEST NO. 13: All documents and things showing that Steve Cheney collected money from David Cheney and in turn, provided that money to one or more of the Receivership Entities.

RESPONSE: Subject to the general objections, Lender Respondents object to this Request to the extent it seeks documents related to the transfer from David Cheney to Lender Respondent Steve Cheney, which documents are not relevant to the claims or defenses in this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence. If the Receiver will clarify the relevance of these documents to any claim at issue in the above-captioned proceeding, Lender Respondents will respond. Subject to these objections, Lender Respondents refer the Receiver to the documents already produced in discovery in this action showing the transfers from Lender Respondent Steve Cheney to the Cook Currency Trading Entities.

REQUEST NO. 14: All documents and things showing that Steve Cheney collected

money from the refinancing of David Cheney's home and in turn, provided that money to one or more of the Receivership Entities.

RESPONSE: Subject to the general objections, Lender Respondents object to this Request to the extent it seeks documents related to the transfer from David Cheney to Lender Respondent Steve Cheney, which documents are not relevant to the claims or defenses in this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence. If the Receiver will clarify the relevance of these documents to any claim at issue in the above-captioned proceeding, Lender Respondents will respond. Subject to these objections, Lender Respondents refer the Receiver to the documents already produced in discovery in this action showing the transfers from Lender Respondent Steve Cheney to the Cook Currency Trading Entities.

REQUEST NO. 15: All documents and things showing that Steve Cheney collected money from Joseph Cheney and in turn, provided that money to one or more of the Receivership Entities.

RESPONSE: Subject to the general objections, Lender Respondents object to this Request to the extent it seeks documents related to the transfer from Joseph Cheney to Lender Respondent Steve Cheney, which documents are not relevant to the claims or defenses in this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence. If the Receiver will clarify the relevance of these documents to any claim at issue in the above-captioned proceeding, Lender Respondents will respond. Subject to these objections, Lender Respondents refer the Receiver to the documents

already produced in discovery in this action showing the transfers from Lender Respondent Steve Cheney to the Cook Currency Trading Entities.

REQUEST NO. 16: All documents and things showing that Steve Cheney collected money from the refinancing of Joseph Cheney's home and in turn, provided that money to one or more of the Receivership Entities.

RESPONSE: Subject to the general objections, Lender Respondents object to this Request to the extent it seeks documents related to the transfer from Joseph Cheney to Lender Respondent Steve Cheney, which documents are not relevant to the claims or defenses in this proceeding, nor reasonably calculated to lead to the discovery of admissible evidence. If the Receiver will clarify the relevance of these documents to any claim at issue in the above-captioned proceeding, Lender Respondents will respond. Subject to these objections, Lender Respondents refer the Receiver to the documents already produced in discovery in this action showing the transfers from Lender Respondent Steve Cheney to the Cook Currency Trading Entities.

AS TO OBJECTIONS TO RESPONSES TO THE REQUESTS FOR PRODUCTION OF DOCUMENTS:

MOHRMAN & KAARDAL, P.A.

Dated: September 15, 2011

s/Gregory M. Erickson
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