
UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

U.S. COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff(s)

Case No: 09-cv-3332 MJD/JJK

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/JJK

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.

**DECLARATION OF ALEXANDRA J. OLSON IN SUPPORT OF
RECEIVER'S MOTION TO COMPEL CLIFFORD AND ELLEN BERG TO
RETURN RECEIVERSHIP FUNDS**

I, Alexandra J. Olson, hereby declare:

1. I am an attorney with R.J. Zayed in the firm of Carlson, Caspers, Vandenburg and Lindquist ("CCVL"). I submit this declaration in support of the Receiver's Motion to Compel Clifford and Ellen Berg to Return Receivership Funds. This declaration is submitted on my personal knowledge except as otherwise indicated.

2. Documents obtained from hard drives that were seized by the Receiver from 1900 La Salle Avenue demonstrate that Clifford Berg was successfully recruiting investors for Receivership Entities since at least 2007. For example, attached hereto as **Exhibit 1** is a true and correct copy of a sales performance chart, obtained from one of the hard drives, entitled "Berg 2007 Sales Performance" and detailing the amount of investor money brought in by Clifford Berg to Receivership Entities in 2007.

3. An analysis of bank records obtained by the Receiver shows that from June 29, 2010 to July 1, 2010, Trevor Cook caused \$6,220,681.53 to be withdrawn from the accounts of Receivership Entities and distributed among investors who Clifford Berg had recruited to invest with the Receivership Entities.

4. According to bank records, on June 29, 2009, \$3,672,672.00 was withdrawn from Wells Fargo account number XXXXXX2710, owned by UBS Diversified Growth, LLC. Attached hereto as **Exhibit 2** is a true and correct (redacted)

copy of a bank statement excerpt for the Wells Fargo XXXXXX2710 account dated July 6, 2009. Attached hereto as **Exhibit 3** is a true and correct (redacted) copy of an undated withdrawal slip from Wells Fargo account number XXXXXX2710, processed on June 30, 2009.

5. According to bank records, on June 29, 2009, UBS Diversified Growth LLC purchased three cashier's checks from Wells Fargo that were made payable to the Bergs. Attached hereto as **Exhibit 4** is a true and correct (redacted) copy of a cashier's check dated June 29, 2009, and made payable to Ellen Berg in the amount of \$192,906.00. Attached hereto as **Exhibit 5** is a true and correct (redacted) copy of a cashier's check dated June 29, 2009, and made payable to Cliff Berg in the amount of \$278,143.00. Attached hereto as **Exhibit 6** is a true and correct (redacted) copy of a cashier's check dated June 29, 2009, and made payable to Cliff Berg in the amount of \$283,753.00. These check copies were provided to the Receiver by Wells Fargo.

6. According to bank records, on June 30, 2009, the cashier's check shown in Exhibit 4 was deposited into American Bank account number XXXXXX4636, a savings account owned by Ellen Berg. Attached hereto as **Exhibit 7** is a true and correct (redacted) copy of an excerpt from a bank statement for the American Bank XXXXXX4636 account dated July 8, 2009.

7. According to bank records, on June 30, 2009, the two cashier's checks shown in Exhibits 4 and 5 were deposited into American Bank account number XXXX1804, a savings account jointly owned by Clifford and Ellen Berg. Attached

hereto as **Exhibit 8** is a true and correct (redacted) copy of an excerpt from a bank statement for the American Bank XXXX1804 account dated June 30, 2009.

8. According to bank records, on July 3, 2009, a check was written to Cliff Berg in the amount of \$74,666.56 from Associated Bank account number XXXXXX2563, an account owned by Oxford Global Partners, LLC. The signature on the check appears to be that of Trevor Cook. Attached hereto as **Exhibit 9** is a true and correct (redacted) copy of this July 3, 2009 check for \$74,666.56. This check copy was provided to the Receiver by Charles Schwab.

9. According to bank records, on July 6, 2009, a portion of the check shown in Exhibit 9 was deposited at American Bank and the balance was taken as cash. Specifically, \$74,400.00 of the check was deposited into American Bank account number XXXX1804. The remaining \$266.56 of this check was provided as cash to Clifford Berg. Attached hereto as **Exhibit 10** is a true and correct (redacted) copy of an excerpt from a bank statement for the American Bank XXXX1804 account dated September 30, 2009. Attached hereto as **Exhibit 11** is a true and correct (redacted) copy of a deposit slip dated July 6, 2009. This deposit slip copy was provided to the Receiver by American Bank.

10. According to bank records, on August 3, 2009, \$192,906.00 was withdrawn from American Bank account number XXXXXX4636. American Bank then issued a cashier's check for the same amount made payable to Charles Schwab for the benefit of Ellen Berg. Attached hereto as **Exhibit 12** is a true and correct (redacted) copy of an

excerpt from a bank statement for the American Bank XXXXXX4636 account dated August 7, 2009. Attached hereto as **Exhibit 13** is a true and correct (redacted) copy of the August 3, 2009 cashier's check for \$192,906.00. This check copy was provided to the Receiver by Charles Schwab. The cashier's check shown in Exhibit 13 was deposited into a Charles Schwab Contributory IRA account in the name of Ellen Berg, IRA account number XXXX-7821 on August 3, 2009. Attached hereto as **Exhibit 14** is a true and correct (redacted) copy of an excerpt from an account statement for the Charles Schwab XXXX-7821 account dated August 3–31, 2009.

11. According to bank records, on August 3, 2009, \$278,143.00 was withdrawn from American Bank account number XXXX1804 and American Bank then issued as a cashier's check in the same amount made payable to Charles Schwab for the benefit of Clifford Berg. Attached hereto as **Exhibit 15** is a true and correct (redacted) copy of the August 3, 2009 cashier's check for \$278,143.00. This copy was provided to the Receiver by Charles Schwab. This cashier's check was deposited into a Charles Schwab Contributory IRA account in the name of Clifford Berg, IRA account number XXXX-2632 on August 3, 2009. Attached hereto as **Exhibit 16** is a true and correct (redacted) copy of an excerpt from an account statement for the Charles Schwab XXXX-2632 account dated August 3–31, 2009.

12. According to bank records, on August 3, 2009, \$225,000.00 was withdrawn from American Bank account number XXXX1804. American Bank then issued a cashier's check for \$225,000.00 made payable to Charles Schwab for the benefit of

Clifford and Ellen Berg. Attached hereto as **Exhibit 17** is a true and correct (redacted) copy of the August 3, 2009 cashier's check for \$225,000.00. This check copy was provided to the Receiver by Charles Schwab. This cashier's check was then deposited into a Charles Schwab account, account number XXXX-2218, jointly owned by Clifford and Ellen Berg. Attached hereto as **Exhibit 18** is a true and correct (redacted) copy of an excerpt from a statement for the Charles Schwab XXXX-2218 account dated August 3–31, 2009.

13. According to bank records, on August 12, 2009, three separate transfers totaling \$225,000.00 (in the amounts of \$100,000.00, \$100,000.00, and \$25,000.00), were made from Charles Schwab account number XXXX-2218 to Schwab Bank account number XXXX-XXXX-8750, another account jointly owned by Clifford and Ellen Berg. Attached hereto as **Exhibit 19** is a true and correct (redacted) copy of an excerpt from a statement for the Charles Schwab XXXX-XXXX-8750 account dated August 4–31, 2009.

14. According to bank records, on September 24, 2009, \$192,858.53 was withdrawn from Ellen Berg's Charles Schwab IRA, account number XXXX-7821. Attached hereto as **Exhibit 20** is a true and correct (redacted) copy of an excerpt from a statement for the Charles Schwab XXXX-7821 account dated September 1–30, 2009. Charles Schwab then issued a cashier's check for the same amount made payable to First Commercial Bank for the benefit of Ellen Berg. Attached hereto as **Exhibit 21** is a true and correct (redacted) copy of the \$192,858.53 cashier's check dated September 24,

2009. This check copy was provided to the Receiver by First Commercial Bank. On September 28, 2009, this \$192,858.53 check was deposited into a 6-month IRA account, account number X2603, in Ellen Berg's name at First Commercial Bank. Attached hereto as **Exhibit 22** is a true and correct (redacted) copy of an excerpt from account-opening documents, provided to the Receiver by First Commercial Bank, for the X2603 account dated September 28, 2009.

15. According to bank records, on September 21, 2009, \$278,076.41 was withdrawn from Clifford Berg's Charles Schwab IRA, account number XXXX-2632. Attached hereto as **Exhibit 23** is a true and correct (redacted) copy of an excerpt from a statement for the Charles Schwab XXXX-2632 account dated September 1–30, 2009. Charles Schwab then issued a cashier's check for the same amount made payable to First Commercial Bank for the benefit of Clifford Berg. Attached hereto as **Exhibit 24** is a true and correct (redacted) copy of the \$278,076.41 cashier's check dated September 21, 2009. This check copy was provided to the Receiver by First Commercial Bank. On September 22, 2009, this check was deposited into a 6-month IRA account, account number X2602, in Clifford Berg's name at First Commercial Bank. Attached hereto as **Exhibit 25** is a true and correct (redacted) copy of an excerpt from account-opening documents, provided to the Receiver by First Commercial Bank, for the X2602 account dated September 22, 2009.

16. According to bank records, on September 9, 2009, \$12,000.00 was transferred from the Bergs' joint American Bank account, account number XXXX1804,

to American Bank account number XXXXXX3908, another account jointly owned by Clifford and Ellen Berg. Attached hereto as **Exhibit 26** is a true and correct (redacted) copy of an excerpt from a bank statement for the American Bank XXXXXX3908 account dated September 18, 2009.

17. According to bank records, on September 15, 2009, another \$20,000.00 was transferred from the Bergs' joint American Bank account, account number XXXX1804, to American Bank account number XXXXXX3908. *See* Exhibits 10, 26.

18. According to bank records, on September 9, 2009, Clifford Berg wrote a personal check for \$11,000.00 from American Bank account number XXXXXX3908 made payable to First Commercial Bank. Attached hereto as **Exhibit 27** is a true and correct (redacted) copy of a personal check dated September 9, 2009. This check copy was provided to the Receiver by First Commercial Bank. On September 9, 2009, this check was deposited into First Commercial Bank account number XXXX4257, an account jointly owned by Clifford and Ellen Berg. Attached hereto as **Exhibit 28** is a true and correct (redacted) copy of an excerpt from a bank statement for the First Commercial Bank XXXX4257 account dated September 18, 2009.

19. According to bank records, on September 16, 2009, Clifford Berg wrote a personal check for \$20,000.00 from Clifford and Ellen Berg's joint account at American Bank, account number XXXXXX3908, made payable to himself. Attached hereto as **Exhibit 29** is a true and correct (redacted) copy of a personal check dated September 16,

2009. This check copy was provided to the Receiver by First Commercial Bank. This check was deposited into First Commercial Bank account number XXXX4257.

20. According to bank records, on September 15, 2009, \$225,131.09 was wired from Charles Schwab account number XXXX-XXXX-8750 to First Commercial Bank account number XXXX4257. Attached hereto as **Exhibit 30** is a true and correct copy of an excerpt from a bank statement for the Charles Schwab XXXX-XXXX-8750 account dated September 1–30, 2009.

21. On December 4, 2009, the Receiver, R.J. Zayed, sent a letter to First Commercial Bank giving the bank notice of the November 23rd Court Orders and requesting that any accounts held by the Bergs be frozen. Attached hereto as **Exhibit 31** is a true and correct copy of a letter dated December 4, 2009, from R.J. Zayed as Receiver to Julie Jensen at First Commercial Bank.

22. According to a representative at First Commercial Bank, on December 7, 2009, First Commercial Bank froze account numbers X2602, and X2603, and XXXX4257.

23. According to bank records, account number X2603 had a balance of \$192,858.79 when it was frozen on December 7, 2009. Attached hereto as **Exhibit 32** is a true and correct (redacted) copy of a screenshot provided by First Commercial Bank detailing account status for Ellen Berg dated December 7, 2009.

24. According to bank records, account number X2602 had a balance of \$278,076.41 when it was frozen on December 7, 2009. Attached hereto as **Exhibit 33** is

a true and correct (redacted) copy of a screenshot provided by First Commercial Bank detailing account status for Clifford Berg dated December 7, 2009.

25. According to bank records, account number XXXX4257 had a balance of \$255,715.18 when it was frozen on December 7, 2009. *See* Exhibits 32–33.

26. According to a representative at First Commercial Bank, account numbers X2602, and X2603, and XXXX4257 continued to earn interest after the accounts were frozen.

27. On March 30, 2010, the Receiver, R.J. Zayed, sent a letter to First Commercial Bank notifying the bank that the funds it had previously frozen were Receivership assets. This letter directed First Commercial Bank to remit the funds to the Receiver immediately, pursuant to the Court's Orders. Attached hereto as **Exhibit 34** is true and correct (redacted) copy of a letter dated March 30, 2010, from R.J. Zayed as Receiver to Jane Treston at First Commercial Bank.

28. On April 6, 2010, First Commercial Bank issued a total of six checks made payable to the Receiver. According to a representative at First Commercial Bank, three of these checks (in the amounts of \$278,076.41, \$255,715.18, and \$192,858.79) represented the balance in each of the three accounts belonging to Clifford or Ellen Berg that were frozen on December 7, 2009. The remaining three checks (in the amounts of \$631.26, \$1,828.43, and \$1,633.47) represented the interest earned on each of the three accounts since December 7, 2009. Attached hereto as **Exhibit 35** is a true and correct (redacted) copy of the six checks received by R.J. Zayed as Receiver from First

Commercial Bank. On April 8, 2010, these six checks were deposited into the Receivership bank account.

29. Attached hereto as **Exhibit 36** is a true and correct copy of a letter dated April 12, 2010 from R.J. Zayed as Receiver to John Brink.

I state under penalty of perjury that the foregoing is true and correct.

Dated: May 5, 2010

s/Alexandra J. Olson
Alexandra J. Olson