
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 PETER M. KOHLHEPP IN SUPPORT OF
RECEIVER'S MOTION TO COMPEL WELLS FARGO TO
RETURN RECEIVERSHIP FUNDS**

I, Peter M. Kohlhepp, hereby declare:

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

2. Attached hereto as **Exhibit 1** is a true and correct copy of this Court's July 7, 2009 Redacted Ex Parte *Temporary Restraining Order* (Docket No. 37), issued in the now-stayed case of *Phillips et al. v. Cook et al.*, No. 09-cv-1732 (July 7, 2009).

3. Attached hereto as **Exhibit 2** is a true and correct copy of this Court's July 16, 2009 *Temporary Restraining Order* (Docket No. 38).

4. Attached hereto as **Exhibit 3** is a true and correct copy of a July 9, 2009 letter from Cheré Oliver, a paralegal at Wells Fargo, to counsel for the Plaintiffs in *Phillips et al. v. Cook et al.*, No. 09-cv-1732 (July 7, 2009).

5. Attached hereto as **Exhibit 4** is a true and correct copy (redacted) of the account statement (relevant page only) for Wells Fargo account number xxx-xxx6543, held in the name of Trevor Cook, for the month of July 2009.

6. Attached hereto as **Exhibit 5** is a true and correct copy (redacted) of the account statement for Wells Fargo account number xxx-xxx 2702, held in the name of Trevor Cook dba PFG Coin and Bullion, for the month of July 2009.

7. Attached hereto as **Exhibit 6** is a true and correct copy of this Court's July 24, 2009 *Order* (Docket No. 58), issued in the now-stayed case of *Phillips et al. v. Cook et al.*, No. 09-cv-1732 (July 7, 2009).

8. Attached hereto as **Exhibit 7** is a true and correct copy (redacted) of the account statement for Wells Fargo account number xxx-xxx2702, held in the name of Trevor Cook dba PFG Coin and Bullion, for the month of November 2009.

9. Attached hereto as **Exhibit 8** is a true and correct copy (redacted) of the account statement (relevant page only) for Wells Fargo account number xxx-xxx6543, held in the name of Trevor Cook, for the month of November 2009.

10. On December 16, 2009 Wells Fargo closed account number xxx-xxx6543, held in the name of Trevor Cook and account number xxx-xxx2702, held in the name of Trevor Cook dba PFG Coin and Bullion. Attached hereto as **Exhibit 9** is a true and correct (redacted) copy of the Declaration of Vanessa Bradley, a subpoena processing representative at Wells Fargo.

11. On December 16, 2009, the Receiver received from Wells Fargo a first check for \$2,743.93, the amount remaining in account number xxx-xxx6543. Attached hereto as **Exhibit 10** is a true and correct copy of this check.

12. On December 16, 2009, the Receiver received from Wells Fargo a second check for \$9,096.55, the amount remaining in account number xxx-xxx2702. Attached hereto as **Exhibit 11** is a true and correct copy of this check.

13. On December 18, 2009, the Receiver served Wells Fargo with this Court's Asset Freeze and Orders Appointing Receiver. Attached hereto as **Exhibit 12** is a true and correct copy of the Affidavit of Service.

14. Between November 21, 2009 and December 15, 2009, attorneys working with the Receiver corresponded with Cheré Oliver, a paralegal at Wells Fargo, regarding Wells Fargo's failure to freeze account numbers xxx-xxx6543 and xxx-xxx2702.

15. Attached hereto as **Exhibit 13** is a true and correct transcribed copy of the telephone message left with the Receiver on December 15, 2009 by Cheré Oliver, a paralegal at Wells Fargo.

16. I have been contacted by at least three (3) other banks, requesting additional information in order to confirm accounts which should be frozen according to this Court's Orders.

17. Attached hereto as **Exhibit 14** is a true and correct copy (without enclosures) of a letter the Receiver sent to Wells Fargo on January 29, 2010.

18. Attached hereto as **Exhibit 15** is a true and correct copy (redacted) of the account opening statement for account number xxx-xxx6543

19. Attached hereto as **Exhibit 16** is a true and correct copy (redacted) of the account opening statement (relevant page only) for account number xxx-xxx2702.

20. Attached hereto as **Exhibit 17** is a true and correct copy (redacted) of the account opening statement (relevant page only) for account number xxx-xxx2710.

21. Attached hereto as **Exhibit 18** is a true and correct (redacted) copy of the March 29, 2010 Declaration of Verna St. John regarding Oxford Global debit cards held in Trevor Cook's name.

22. Attached hereto as **Exhibit 19** is a true and correct (redacted) copy of a July 30, 2009 check from Trevor Cook to Mike Shutze drawn from account number xxx-xxx2702.

23. Attached hereto as **Exhibit 20** is a true and correct (redacted) copy of a November 16, 2009 check from Trevor Cook to Dakota County BLC from account number xxx-xxx2702.

24. In February 2010, I received a telephone call from Leanne Peterson, an attorney in the Wells Fargo legal department, requesting additional information regarding this Court's Orders and our January 29, 2010 letter requesting the remittance of \$9,275.22. The telephone conference did not produce the remittance of said funds.

25. On at least two subsequent occasions, I called Ms. Peterson regarding this matter—on each occasion I left a voicemail requesting that Ms. Peterson provide me with Wells Fargo's response to the Receiver's January 29, 2010 letter. One such telephone call occurred on March 18, 2010. Wells Fargo failed to respond to these voicemails.

26. On May 18, 2010, I again called Ms. Peterson, attorney at Wells Fargo, leaving a voicemail expressing the Receiver's displeasure with Wells Fargo's protracted failure to remit the Receivership funds. I further noted that the Receiver intended to file this Motion should Wells Fargo fail to remit the amount requested in the Receiver's January 29, 2010 letter.

27. On May 19, 2010, Ms. Peterson returned my telephone call. We discussed the Receiver's demand for return of Receivership funds, but Wells Fargo remained unwilling to return the Receiver funds.

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

Dated: June 2, 2010

s/ Peter M. Kohlhepp
Peter M. Kohlhepp