
UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

U.S. COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff(s)

Case No: 09-cv-3332 MJD/JSM

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/JSM

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 RECEIVER R.J. ZAYED IN SUPPORT OF MOTION TO APPROVE THE PAYMENT OF FEES INCURRED BY THE RECEIVER THAT WERE NECESSARY TO ASSIST THE RECEIVER IN HIS DUTIES

I, R.J. Zayed, hereby declare as follows:

1. I am a partner with the law firm of Carlson, Caspers, Vandenberg & Lindquist (“CCVL”).
2. On November 23, 2009 the Court entered an order appointing me Receiver in the matter of *SEC v. Cook et al.*, for (1) the estates of Defendants Trevor G. Cook, Patrick J. Kiley; (2) Defendants UBS Diversified Growth LLC, Universal Brokerage FX Management, LLC, Oxford Global Advisors, LLC, Oxford Global Partners, LLC; (3) Relief Defendants 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, UBS Diversified FX Advisors, LLC, UBS Diversified FX Growth L.P., and UBS Diversified FX Management LLC; (4) all funds, accounts, and other assets held by or for Relief Defendants Clifford Berg and Ellen Berg, which were received, directly or indirectly, from the Defendants or were acquired with funds or other assets received, directly or indirectly, from the Defendants; and (5) every other corporation, partnership, trust and/or other entity (regardless of form) which is directly or indirectly owned by or under the direct or indirect control of Cook and Kiley (collectively the “Receiver Estates”). *Order Appointing Receiver*, Docket No. 13, at 4 (Nov. 23, 2009); *see also Amended Order Appointing Receiver*, Docket No. 18, at 4 (Nov. 24, 2009); *Second Amended Order Appointing Receiver*, Docket No. 68 (Dec. 11, 2009).

3. On November 23, 2009 the Court also entered an order appointing me Receiver in the matter of *CFTC v. Cook et al.*, for Defendants 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, Universal 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, and their affiliates and subsidiaries, and all funds, properties, premises, accounts and other assets directly or indirectly owned, beneficially or otherwise, by the Defendants individually or collectively, including, but not limited to, investors' funds. *Ex Parte Statutory Restraining Order*, Docket No. 21, at 7 (Nov. 23, 2009); *see also Order Continuing Appointment of Temporary Receiver*, Docket No. 96 (Dec. 11, 2009).

4. I make this declaration based on personal knowledge and offer it in support of the motion described more fully herein.

5. The motion seeks the Court's approval to pay four types of fees incurred by the Receiver, in or about February 2011, that were necessary to assist the Receiver in his duties. Specifically the motion seeks Court approval:

- (A) to pay outstanding bills. "Outstanding bills" are those for which the Receiver seeks Court authorization to pay directly out of assets of the Receivership;
- (B) to pay CCVL's attorneys' fees and reimburse CCVL for the necessary costs incurred and paid by CCVL; and

(A) Outstanding Bills

i) Weiler, Maloney, Nelson

6. Weiler, Maloney, Nelson (“Weilers”) is a law firm located in Thunder Bay, Ontario, Canada. With the Court’s approval, I retained Weilers to represent me as the Receiver in Canadian litigation. Weilers assisted the Receiver with regard to Canadian tax issues associated with the sale of the Rainy Lake property.

7. I have received invoice number 10696 from Weilers describing work performed from January 18, 2011 through February 9, 2011 to finalize the sale of the Rainy Lake property and resolve remaining tax issues. I am submitting this statement to the Court under separate correspondence for *in camera* review. The invoice includes the date when work was performed, the name of the person performing the work, a description of the tasks performed, and a description of additional expenses. The invoice reflects the amount of compensation requested for the work performed by Weilers. The invoice sets forth \$559.03 in total fees and expenses.

8. I have also received invoice number 99622 from Weilers describing work performed from October 7, 2010 through November 29, 2010. Specifically, Weilers helped the Receiver clear a construction lien and a first right of refusal from the title to the Rainy Lake property, obtain Canadian court recognition of the District of Minnesota Court Order authorizing the sale of the Rainy Lake property, and resolve capital gains tax issues. This invoice was inadvertently omitted from the Receiver’s previous fee petitions. I am now submitting this invoice to the Court under separate correspondence for *in camera* review. The invoice includes the date when work was performed, the name

of the person performing the work, the time expended, a description of the tasks performed, and a description of additional expenses. The invoice reflects the amount of compensation requested for the work performed by Weilers. The invoice sets forth \$9,674.04 in total fees and expenses.

9. I have also received invoice number 98722 from Weilers describing work performed from August 3, 2010 through August 31, 2010. Specifically, Weilers helped the Receiver begin to clear liens from the title to the Rainy Lake property and prepare the property for sale. This invoice was inadvertently omitted from the Receiver's previous fee petitions. I am now submitting this invoice to the Court under separate correspondence for *in camera* review. The invoice includes the date when work was performed, the name of the person performing the work, the time expended, a description of the tasks performed, and a description of additional expenses. The invoice reflects the amount of compensation requested for the work performed by Weilers. The invoice sets forth \$347.30 in total fees and expenses.

10. I have reviewed itemized invoice numbers 10696, 99622, and 98722 describing services provided by Weilers and certify that all of the stated work was actually performed and was necessary to fulfill my duties and responsibilities as Receiver.

11. I am familiar with the rates charged in the local community by attorneys performing services similar to those provided by Weilers and certify that the requested rates are within the range charged by attorneys of comparable experience employed by comparable Canadian law firms for work of a comparable nature and complexity.

12. I request Court approval to pay Weilers a total of \$10,580.37 out of the assets of the Receivership.

ii) Dorsey & Whitney LLP

13. With the Court's approval, I retained the Dorsey & Whitney law firm ("Dorsey") to assist with insurance law issues related to the Receiver's settlement negotiations with Mesa Holdings, Inc. and Ed Baker.

14. I have received a statement from Dorsey describing work performed from February 1, 2011 through February 28, 2011 concerning the Receiver's claims against Ed Baker and insurance related issues, including preparing and finalizing the Miller Shugart assignment and settlement agreement. I am submitting this statement to the Court under separate correspondence for *in camera* review. The statement includes the date when work was performed, the name of the person performing the work, the applicable hourly rate, the time expended, a description of the tasks performed, and a description of additional expenses. The statement reflects the amount of compensation requested for the work performed by Dorsey. The statement sets forth \$1,671.96 in total fees and expenses.

15. I am familiar with the rates charged in the local community by other firms offering legal services similar to those provided by Dorsey and certify that the requested rates are within the range charged by law firms with comparable experience employed for work of a comparable nature and complexity.

16. I have reviewed the itemized statements describing services provided by Dorsey and certify that all of the stated work was actually performed and was necessary

to fulfill my duties and responsibilities as Receiver.

17. I therefore request Court approval to pay Dorsey a total of \$1,671.96 out of the assets of the Receivership.

iii) Leonard, O'Brien, Spencer, Gale & Sayre

18. With the Court's approval, I retained the Leonard, O'Brien, Spencer, Gale & Sayre law firm ("Leonard") to assist the Receiver with bankruptcy law issues related to the Receiver's claims against Ed Baker.

19. I have received a statement from Leonard describing work performed from February 1, 2011 through February 28, 2011, including assisting the Receiver in working with the bankruptcy trustee to finalize the settlement with Ed Baker and file a proof of claim and associated documents in bankruptcy court. I am submitting this statement to the Court under separate correspondence for *in camera* review. The statement includes the date when work was performed, the name of the person performing the work, the applicable hourly rate, the time expended, a description of the tasks performed, and a description of additional expenses. The statement reflects the amount of compensation requested for the work performed by Leonard. The statement sets forth \$1,823.62 in total fees and expenses.

20. I am familiar with the rates charged in the local community by other firms offering legal services similar to those provided by Leonard and certify that the requested rates are within the range charged by law firms with comparable experience employed for work of a comparable nature and complexity.

21. I have reviewed the itemized statements describing services provided by

Leonard and certify that all of the stated work was actually performed and was necessary to fulfill my duties and responsibilities as Receiver.

22. I therefore request Court approval to pay Leonard a total of \$1,823.62 out of the assets of the Receivership.

(B) CCVL Attorneys' Fees and Costs

23. With the Court's approval, I retained the CCVL law firm to assist me in fulfilling my duties and obligations as Receiver. *Order Appointing Receiver*, 09-cv-3333, Docket No. 13, at 2 (Nov. 23, 2009); *Ex Parte Statutory Restraining Order*, 09-cv-3332, Docket No. 21, at 8 (Nov. 23, 2009); *see also Amended Order Appointing Receiver*, 09-cv-3333, Docket No. 18, at 2 (Nov. 24, 2009); *Second Amended Order Appointing Receiver*, 09-cv-3333, Docket No. 68, at 2 (Dec. 11, 2009); *Order Continuing Appointment of Temporary Receiver*, 09-cv-3332, Docket No. 96, at 4 (Dec. 11, 2009).

24. I have received a statement from CCVL describing work performed by me and my agents from February 1, 2011 through February 28, 2011. I am submitting this statement to the Court under separate correspondence for *in camera* review. The statement includes the date when work was performed, the name of the person performing the work, the applicable discounted hourly rate, the time expended, and a detailed description of the tasks performed. The statement sets out the amount of compensation requested for the work performed. It reflects legal fees of \$91,342.35.

25. I have reviewed the itemized statement describing services provided by CCVL and certify that all of the stated work was actually performed and was necessary to fulfill my duties and responsibilities as Receiver.

26. CCVL assisted the Receiver in continuing efforts to claw back profits received by “winning” investors in Trevor Cook’s scheme, including fielding calls from “winning” investors, continuing to negotiate and finalize settlements, and drafting and sending letters confirming settlement. CCVL also assisted the Receiver in settling his claims against Ed Baker and related entities. CCVL also continued work on the Receiver’s legal action to claw back Receivership funds from New York Community Bank, including participating in settlement negotiations, drafting discovery requests, and reviewing discovery responses. CCVL also continued work on the Receiver’s legal action seeking to claw back Receivership funds from David Buysse, Steven and Pamela Cheney, Walter Defiel, John Dzik, Terry Frahm, Steven and Jenene Fredell, William Harris, Michael and Jennifer Heise, Michael and Cynthia Hillesheim, Larry Hopfenspirger, Steven Kautzman, James McIntosh, George and Karen Morrisset, Reynold Sundstrom, and Dot Anderson, including gathering, reviewing, and analyzing documents pursuant to ongoing discovery, drafting and responding to correspondence regarding discovery disputes, negotiating and filing a stipulated protective order, and reviewing documents subject to a third party subpoena served on the Mauzy firm and creating a log noting the Receiver’s specific objections to the production of certain documents. CCVL also continued to respond to investor calls and to update and maintain the database of investor information. CCVL also assisted the Receiver in deposing a former Trevor Cook employee. CCVL also participated in the US Attorneys’ motion to intervene in the clawback actions brought by the Receiver. CCVL also assisted the Receiver in efforts to arrange for the sale of coins seized from Trevor Cook. CCVL also

assisted the Receiver in efforts to clear title to and finalize the sale of the Rainy Lake property. CCVL also continued to perform various other asset recovery tasks which are in their initial, and non-public, stages.

27. I am familiar with the rates charged in the local community by attorneys performing services similar to those provided by CCVL and certify that the requested rates are within the range charged by attorneys of comparable experience employed by comparable Minnesota law firms for work of a comparable nature and complexity.

28. I have received statements from various individuals and entities providing necessary services to the Receiver and related to preserving the Receivership properties for the month of February 2010. These expenses are summarized on pages 9-10 of CCVL invoice number 7414, under the heading "Disbursements." I am submitting the invoiced bills to the Court under separate correspondence for *in camera* review, along with copies of checks showing payment provided out of CCVL's operating account. The invoiced bills include the date the work was performed and a description of the tasks performed or the specific expense incurred. The statements set out the amount of compensation requested for the work performed. They reflect total costs of \$17,197.66. These disbursements include, among other things, payments to contract attorneys, rent and support costs for independent contractors, fees for accounting services, court reporter fees for a deposition, and fees for service of process.

29. I have reviewed the itemized statement describing services provided to the Receivership and certify that all of the stated work was actually performed and was necessary to fulfill my duties and responsibilities as Receiver.

30. I am familiar with the rates charged in the local community by service providers similar to those employed by the Receivership and certify that the requested rates are within the range charged by service providers of comparable experience for work of a comparable nature and complexity.

31. I request Court approval to pay CCVL \$91,342.35 in fees and \$17,197.66 in costs, for a total of \$108,540.01 out of the assets of the Receivership.

Executed on: March 31, 2011

s/ R.J. Zayed
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