

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

U.S. COMMODITY FUTURES
TRADING COMMISSION,
Plaintiff,

v.

Case No. 09-cv-3332 (MJD/FLN)

TREVOR COOK et al.,
Defendants,

R.J. ZAYED,
Receiver.

UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,
Plaintiff,

v.

Case No. 09-cv-3333 (MJD/FLN)

TREVOR G. COOK, et al.,
Defendants,

R.J. ZAYED,
Receiver.

UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,
Plaintiff,

v.

Case No. 11-cv-574 (MJD/FLN)

JASON BO-ALAN BECKMAN, et al.,
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 an attorney with the law firm of Carlson, Caspers, Vandenburg & Lindquist (“CCVL”).
2. On November 23, 2009 the Court entered an order appointing me Receiver in the matter of *SEC v. Cook et al.*, 09-cv-3333, 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.*, 09-cv-3332, 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. On March 8, 2011 the Court also entered an order appointing me Receiver in the matter of *SEC v. Beckman, et al.*, 11-cv-574, for (1) the estate of Jason Bo-Alan Beckman; (2) The Oxford Private Client Group, LLC; (3) all funds, accounts, and other assets held by or for the benefit of Relief Defendant Hollie Beckman 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 (4) every other corporation, company, partnership, trust and/or other entity (regardless of form) which is directly or indirectly owned by or under the direct or indirect control of Defendant

Beckman, Defendant Oxford PCG, or Relief Defendant Hollie Beckman (collectively the “Receiver Estates”). *Order Appointing Receiver*, Docket No. 10, at 1-2 (March 3, 2011).

5. The three receiverships are interrelated as they involve the same Ponzi scheme, the same set of co-conspirators, the same set of operative facts, a substantial overlap of victims, and the commingling of receivership funds and assets.

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

7. The motion seeks the Court’s approval to pay two types of fees incurred by the Receiver, in or about the month of October 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; and

(B) to pay CCVL’s attorneys’ fees and reimburse CCVL for the necessary costs incurred and paid by CCVL.

(A) Outstanding Bills

i) WayPoint, Inc.

8. With the Court’s approval, I retained private investigators Rick Ostrom and Dennis Sackreiter and their firm WayPoint, Inc. to assist me in fulfilling my duties and obligations as Receiver. Waypoint assisted the Receiver in locating and subpoenaing witnesses in connection with the Receiver’s clawback actions.

9. I have received invoice number 2011119 from WayPoint, Inc., describing investigative work performed from September 21, 2011 through October 26, 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 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 WayPoint, Inc. and sets forth \$1,325.85 in total fees.

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

11. I have reviewed the itemized statements describing services provided by WayPoint, Inc. in or about October 2011 and certify that all of the stated work was actually performed and was necessary to fulfill my duties and responsibilities as Receiver.

12. I therefore request Court approval to pay WayPoint, Inc. a total of \$1,325.85 of the assets of the Receivership for services provided in or about October 2011.

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 and to pursue claims against Arch Insurance.

14. I have received a statement from Dorsey describing work performed from October 1, 2011 through October 31, 2011 concerning the Receiver's claims against Arch Insurance, including preparing discovery responses, reviewing and analyzing discovery responses and relevant documents, and researching legal theories. 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 \$18,216.70 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 \$18,216.70 out of the assets of the Receivership for services provided during the month of October 2011.

(B) CCVL Attorneys' Fees and Costs

18. 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); *Order Appointing Receiver*, 11-cv-574, Docket No. 10, at 2 (March 8, 2011).

19. I have received a statement from CCVL describing work performed by me and my agents from October 1, 2011 through October 31, 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 \$156,272.70.

20. In the month of October 2011, CCVL continued working with Swiss counsel regarding the Swiss bankruptcy proceedings. CCVL also continued efforts to claw back funds from "winning" investors. CCVL also continued to assist the Receiver in securing, appraising, and selling real and personal property owned by Jason Bo-Alan Beckman in connection with the SEC lawsuit against Beckman, including finalizing the sale of the Golf Drive and Paseo del Lago properties and managing the closing process. CCVL also continued to conduct settlement negotiations with third parties in connection

with Beckman properties. CCVL also continued to assist the Receiver in efforts to enjoin distribution of proceeds from a FINRA arbitration proceeding brought by certain Cook investors. CCVL also continued work related to potential claw back claims against additional third parties, including investigating potential claims, meeting with outside counsel regarding potential contingency fee actions, and participating in settlement negotiations. 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 continuing to participate in fact discovery; preparing for expert depositions; attending and defending the deposition of the Receiver's expert; briefing, preparing for, and arguing a motion for a protective order; briefing, preparing for, and arguing two motions to compel discovery; and responding to and arguing against Respondent Anderson's motion to compel discovery. CCVL also continued to work with co-counsel regarding Miller-Shugart litigation against Arch Insurance. CCVL also continued to resolve tax issues associated with distributions to defrauded investors. CCVL also continued to respond to investor calls and to update and maintain the database of investor information. CCVL also continued to perform various other asset recovery tasks which are in their initial, and non-public, stages.

21. 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.

22. 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.

23. 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 October 2011. These expenses are summarized on pages 13-15 of CCVL invoice number 7838, 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 \$36,331.30. These disbursements include, among other things, payments to contract attorneys, rent and support costs for independent contractors, fees for accounting services, fees for service of process, utilities payments on Beckman properties, fees for court reporting services, and fees for expert services.

24. 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.

25. 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.

26. I request Court approval to pay CCVL \$156,272.70 in fees and \$36,331.30 in costs out of the assets of the Receivership for services provided in the month of October 2011.

Executed on: December 2, 2011

s/ R.J. Zayed

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