

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

U.S. Commodity Futures Trading
Commission,

Civil Action
File No.: 09-cv-3332

MJD/JJK

Plaintiff(s),

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, 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,

Defendant(s)

R.J. Zayed,

Receiver,

United States Securities
And Exchange Commission,

Civil Action
File No. 09-cv-3333(MJD/JJK)

Plaintiff,

v.

Trevor J. Cook, and
Patrick J. Kiley, et al.,

Defendants,

and

Basel Group, LLC,
Crown Froex, 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 BRIAN HAYES IN SUPPORT OF RECEIVER'S
MOTION TO CONFIRM SALE OF VAN DUSEN MANSION PROPERTY**

I, Brian Hayes, hereby declare:

1. I am an attorney, along with R.J. Zayed, Receiver, in the firm of Carlson, Caspers, Vandenburg and Lindquist ("CCVL"). I submit this declaration in support of the Receiver's motion to confirm the sale of the Van Dusen Mansion property.

2. This declaration is submitted on my personal knowledge except as otherwise indicated.

3. On November 23, 2009, the Court entered an order appointing R.J. Zayed as Receiver in this matter 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).

4. R.J. Zayed also has been appointed Receiver in the case of *CFTC v. Cook*, No. 09-cv-3332 MJD/JJK (D. Minn. Nov. 23, 2009). *Ex Parte Statutory Restraining Order*, Docket No. 21, at 7; *see also Order Continuing Appointment of Temporary Receiver*, Docket No. 96 (Dec. 11, 2009). As the Receiver Estates in this case largely overlap with the Receivership assets in *CFTC v. Cook*, the

Receiver has filed a parallel motion in *CFTC v. Cook*. Although the Receiver is filing parallel motions, it seeks only a single Order in this motion.

5. The real estate property of 1900 LaSalle Avenue, Minneapolis, Minnesota 55403, legally described as Lots 1 and 2, and that part of Lot 3 lying North of the South 38 feet thereof, Block 2, “Vine-Place Addition to Minneapolis”, Hennepin County, Minnesota (hereafter the “Van Dusen Mansion”) was included in the assets frozen and placed into the Receivership. *See Order Imposing Asset Freeze*, Docket No. 14 at 6-7 (Nov. 23, 2009).

6. The attached motion respectfully requests that the Court authorize the Receiver to confirm the sale of the Van Dusen Mansion pursuant to 28 U.S.C. § 2001(b).

7. The Receiver believes that the sale of the Van Dusen Mansion would further the objectives of the Receivership. *See Amended Order Appointing Receiver*, Docket No. 18, at 3.

8. The Receiver obtained three appraisal reports for the property in January 2010, as required by 28 U.S.C. § 2001(b). On January 21, 2010, the Receiver, as requested by the Court, also invited three real estate agents to give a presentation to the Court on a) their qualifications, b) why they think they are the best candidate to serve as the real estate agent for the property in question, and c) their price quote. Following that hearing, the Court then appointed Jimmy Fogel of Coldwell Banker Burnett as realtor to sell the Van Dusen Mansion at a six-

percent (6%) commission, and the Receiver proceeded with a private sale of the property under 28 U.S.C. § 2001(b). *See Order*, Docket No. 161.

9. On February 26, 2010, the Receiver reached a verbal agreement to sell the Van Dusen Mansion for \$1,600,000.00. The offer is for cash, and for a closing within 30 to 60 days. On March 3, 2010 the Receiver and the buyer, Van Dusen LLC, entered into a purchase agreement and addendum to purchase agreement concerning the sale of the property. Following the inspection period, a subsequent second addendum to the purchase agreement lowered the purchase price to \$1,550,000.00. Attached hereto as **Exhibit A** are true and correct copies of the purchase agreement and the two addendums.

10. The offer amount of \$1,550,000.00 is higher than two-thirds of the appraised value of the property, the minimum amount required by 28 U.S.C. § 2001(b).

11. The Receiver has complied with 28 U.S.C. § 2001(b) by publishing notice of sale of Van Dusen Mansion in the Minneapolis Star Tribune and Saint Paul Pioneer Press newspapers on March 14 and 15, 2010, more than ten days before the hearing date of March 29. Attached hereto as **Exhibit B** are true and correct copies of said notices. At the time of filing, no qualifying offer for the Van Dusen Mansion has been made. Should this change after filing, the Receiver will alert the Court prior to the hearing.

12. As indicated by the facts in paragraphs 9-11, supra, it is my opinion that the proposed sale of the Van Dusen Mansion fully complies with the requirements of 28 U.S.C. § 2001(b), which read as follows:

Before confirmation of any private sale, the court shall appoint three disinterested persons to appraise such property or different groups of three appraisers each to appraise properties of different classes or situated in different localities. No private sale shall be confirmed at a price less than two-thirds of the appraised value. Before confirmation of any private sale, the terms thereof shall be published in such newspaper or newspapers of general circulation as the court directs at least ten days before confirmation. The private sale shall not be confirmed if a bona fide offer is made, under conditions prescribed by the court, which guarantees at least a 10 per centum increase over the price offered in the private sale.

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

Dated: March 15, 2010

s/ Brian Hayes

Brian Hayes