
UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

U.S. COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff(s)

Case No: 09-cv-3332 MJD/FLN

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/FLN

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 BRIAN HAYES IN SUPPORT OF RECEIVER’S MOTION
FOR SALE OF CERTAIN PERSONAL PROPERTY IN HIS POSSESSION**

I, Brian W. Hayes, hereby declare:

1. I am an attorney with the Court-appointed Receiver R.J. Zayed (“the Receiver”) in the law firm of Carlson, Caspers, Vandenburg and Lindquist (“CCVL”). I submit this declaration in support of the Receiver’s Motion for Sale of Certain Personal Property In His Possession. This declaration is submitted on my personal knowledge except as otherwise indicated.

2. 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).

3. R.J. Zayed has also 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.

4. On July 23, 2010, Eileen Rice of the Federal Bureau of Investigation and John Tschida of the Internal Revenue Service, Criminal Investigation Division transferred to the Receiver several boxes of cash, coins, jewelry, bars of precious metals, and various sports memorabilia and collectibles recovered at a residence occupied by Graham Cook, brother of Defendant Trevor Cook.

5. Attached hereto as **Exhibit 1** is a true and correct copy (redacted) of the United States Department of Justice, Federal Bureau of Investigation Receipt identifying the personal property recovered on July 23, 2010 and subsequently transferred to the Receiver.

6. On July 23, 2010, the Receiver and his agents began inspecting, cataloguing and photographing the items recovered on that date. The Receiver then endeavored to find buyers for those items seized.

7. On September 17, 2010, this Court entered an Order approving the sale for some, but not all, of the items described in Exhibit 1. *See Order Granting Receiver's Motion for Sale of Certain Personal Property in Its Possession*, Docket No. 503 (Sep. 17, 2010); *Order Granting Receiver's Motion for Sale of Certain Personal Property in Its Possession*, Docket No. 459 (Sep. 17, 2010). The Receiver subsequently transferred and sold those items as set forth in the pleadings filed in conjunction with the September 17, 2010 Orders.

8. Attached hereto as **Exhibit 2** is a document prepared by the Receiver detailing the remaining watches seized by the government and transferred to the Receiver July 23, 2010.

9. Attached hereto as **Exhibit 3** is a document prepared by the Receiver detailing the indium and other miscellaneous items seized by the government and transferred to the Receiver July 23, 2010.

10. Attached hereto as **Exhibit 4** is a document prepared by the Receiver detailing the baseball cards and hockey jersey seized by the government and transferred to the Receiver July 23, 2010.

11. On October 15, 2010, the Receiver learned that there may be additional items of value belonging to Trevor Cook located at his former residence of 12735 Dover Drive, Apple Valley Minnesota 55124 (the "Dover Drive property"). On November 5, 2010, the Receiver inventoried the Dover Drive property and seized several miscellaneous personal property items.

12. Attached hereto as **Exhibit 5** is a document prepared by the Receiver detailing various Trevor Cook personal property items seized by the Receiver from the Dover Drive property on November 5, 2010.

13. Attached hereto as **Exhibit 6** is a true and correct copy of a Consignment Form from Luther Auctions, dated November 5, 2010, listing all material that would be sold at public auction should the Receiver's Motion be granted.

14. Luther Auctions is willing to sell the listed items in Exhibits 1-6, with the exception of the indium, to the highest bidder by public auction, and has promised to provide substantial public advertising of these items' sale in order to maximize the revenue from the sale.

15. Luther Auctions has negotiated a flat 7.5% commission rate on all sales they make of the watches listed in Exhibit 2 and a 20% commission rate on all sales they make of the items listed in Exhibit 6, with the remaining portion going to the Receiver. The commission fees cover the cost of staffing for the sale, advertising, website hosting and the recycling of any non-salable goods.

16. After repeated attempts, the Receiver received two independent offers to purchase the watches detailed in Exhibit 2. Based on the offers, the Receiver has determined the greatest benefit to the Receivership, and ultimately the hundreds of defrauded investors, is to auction the watches and personal effects through Luther Auctions.

17. As to the seven (7) indium bars, on July 26, 2010, the Receiver and his agents began contacting various numismatists, gold and coin dealers, and other individuals regarding appraisals, bids, and offers for the indium. The Receiver and his agents also began soliciting proposals for the eventual sale of the indium.

18. Indium is not a frequently traded commodity, nor is there a large retail market for the element. The Receiver engaged in an exhaustive search to gather appraisals, bids, and offers to purchase the indium which spanned several months. These efforts culminated with an offer to purchase the indium which the Receiver believes will provide maximum value for the defrauded investor.

19. The Receiver has determined the best option satisfying the Receiver's objectives and the Court's directive is to sell the indium to American Rare Coin and Collectibles, LLC ("ARCC") and to auction the remaining watches and personal items through Luther Auctions. The Receiver will submit all valid and timely offers to the Court for *in camera* review prior to the motion hearing because the offers were submitted with the understanding that they remain confidential.

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

Dated: December 17, 2010

s/ Brian Hayes
Brian Hayes