
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 July 2010, 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;

(C) to pay the legal fees and costs charged by Swiss counsel in legal action involving Receivership assets in Switzerland; and

(D) to pay the legal fees and costs charged by Panamanian counsel in legal action involving Receivership assets in Panama.

(A) Outstanding Bills

i) WayPoint, Inc.

6. 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 helped to prepare for and participated in the Receiver's interview of Trevor Cook, conducted background checks on individuals suspected of holding Receivership assets, and investigated entities suspected of holding Receivership assets.

7. I have received a statement from WayPoint, Inc. describing investigative work performed from June 1, 2010 through July 31, 2010. 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. The statement sets forth \$4,383.69 in total fees.

8. 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.

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

10. I therefore request Court approval to pay WayPoint, Inc. \$4,383.69 out of the assets of the Receivership.

ii) Weiler, Maloney, Nelson

11. 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 is providing assistance in efforts to retrieve, clear title to, and sell Receivership property located in Canada, including assisting in securing a Canadian court order authorizing the sale of the Rainy Lake property.

12. I have received a statement from Weilers describing work performed from July 2, 2010 through July 30, 2010. 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 \$1,811.68 in total fees and expenses.

13. I have reviewed the itemized statements 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.

14. 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.

15. I request Court approval to pay Weilers \$1,811.68 out of the assets of the Receivership.

iii) Dorsey & Whitney LLP

16. With the Court's approval, I retained the Dorsey & Whitney LLP law firm ("Dorsey") to assist with insurance law issues related to possible recovery on a directors and officers ("D&O") insurance policy.

17. I have received a statement from Dorsey describing work performed from June 30, 2010 through July 31, 2010 concerning the Receiver's claims against certain third parties with the possibility of an insurance policy assignment to the Receiver. 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 applicable hourly rate, the name of the person performing the work, the time expended, and a description of the tasks performed. The statement reflects the amount of compensation requested for the work performed by Dorsey. The statement sets forth \$4,114.00 in total fees.

18. 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.

19. 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.

20. I therefore request Court approval to pay Dorsey \$4,114.00 out of the assets of the Receivership.

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

21. With the Court's approval, I retained the Leonard, O'Brien, Spencer, Gale & Sayre law firm ("Leonard") to assist with bankruptcy law issues related to the Receiver's claims against Ed Baker and his bankruptcy filing, including filing a motion for relief from the automatic stay imposed as a result of the bankruptcy proceeding, and an appeal therefrom.

22. I have received a statement from Leonard describing work performed from June 25, 2010 through June 30, 2010 concerning the Receiver's claims against Ed Baker. 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 \$7,106.12 in total fees and expenses.

23. 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.

24. 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.

25. I therefore request Court approval to pay Leonard \$7,106.12 out of the assets of the Receivership.

(B) CCVL Attorneys' Fees and Costs

26. 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).

27. I have received a statement from CCVL describing work performed by me and my agents from July 1, 2010 through July 31, 2010. 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 \$131,901.70.

28. 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.

29. CCVL prepared for and participated in an interview of Trevor Cook. CCVL also coordinated with the US Attorneys' Office, the SEC, and the CFTC regarding the government's administration of a polygraph exam. CCVL also provided services related to efforts to clear title to and sell Receivership property in Canada. CCVL also provided services related to the Receiver's claims against Mesa Holdings, Ed Baker, and related entities, including exploring settlement options. CCVL also analyzed documents and prepared and filed motions demanding the return of Receivership assets preferentially distributed to third parties, including petitions to claw back Receivership funds from Gina Cook, Wells Fargo Home Mortgage, New York Community Bank, 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. CCVL also provided services relating to the appraisal and sale of personal property seized from various individuals associated with Trevor Cook's scheme, including property seized from the

house where Trevor Cook's brother Graham was staying. CCVL also continued to work closely with the Probation office and the SEC to identify the victims eligible for restitution and to determine and verify the amount lost. CCVL also continued to respond to an average of ten investor calls per day and to update and maintain the database of investor information. CCVL also continued to work with Swiss counsel to obtain secrecy waivers from Swiss banks to facilitate the pursuit of Receivership funds located in Switzerland. CCVL provided services related to efforts to sell Receivership properties in Burnsville and Apple Valley. CCVL also performed various other asset recovery tasks which are in their initial, and non-public, stages.

30. 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.

31. 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 July 2010. These expenses are summarized on pages 13 of CCVL invoice number 6906, 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 \$11,355.58. These

disbursements include, among other things, payments to contract attorneys, maintenance expenses incurred by Receivership property, payment of tax obligations of Receivership entities, and a mortgage payment on Receivership property.

32. 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.

33. 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.

34. I request Court approval to pay CCVL \$131,901.70 in fees and \$11,355.58 in costs, for a total of \$143,257.28 out of the assets of the Receivership.

(C) BMG Avocats (Swiss law firm)

35. BMG Avocats is a law firm located in Geneva, Switzerland. With the Court's approval, I retained BMG Avocats to advise me as to matters of Swiss law and to assist me in locating and retrieving Receivership assets located in Switzerland.

36. I have received a statement from BMG Avocats describing work performed from April 1, 2010 through June 30, 2010. I am submitting this statement to the Court under separate correspondence for *in camera* review. The statement includes a description of the tasks performed, the name of the person performing the work, the applicable hourly rate, the time expended, and a description of additional expenses. The

statement reflects \$6,750.00 in legal fees and \$221.50 in expenses incurred, for a total amount due of \$6,971.50.

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

38. BMG Avocats assisted the Receiver in Receiver in investigating, corresponding with, and obtaining secrecy waivers from Swiss banks, and by advising the Receiver as to strategies available to recover Receivership assets located in Switzerland.

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

40. I request Court approval to pay BMG Avocats \$6,971.50 out of the assets of the Receivership.

(D) Morgan & Morgan (Panamanian law firm)

41. Outside counsel for OFXG retained Morgan & Morgan, a Panamanian law firm, prior to the date the Receivership was created for the purpose of obtaining the Panamanian court order freezing assets. With the Court's approval, the Receiver has assumed control of the Panamanian litigation and has continued using Morgan & Morgan to help the receiver repatriate assets located in Panama.

42. I have received statements from Morgan & Morgan describing work performed from June 25, 2010 through July 28, 2010. 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 time expended, and a description of the tasks performed. The statement sets out the amount of compensation requested for the work performed. The statement reflects attorneys' fees of \$1,175.00, office expenses and fees of \$23.41, and taxes of \$83.89, for a total amount due of \$1,282.30.

43. I have reviewed the itemized statement describing services provided by Morgan & Morgan and certify that all of the stated work was necessary to fulfill my duties and responsibilities as Receiver.

44. Morgan & Morgan has helped the Receiver in his efforts to retrieve Receivership funds paid by Trevor Cook towards the purchase of two sets of properties in Panama. Among other things, Morgan & Morgan helped the Receiver with individuals claiming interests in the Panamanian property and advised the Receiver on Panamanian law relating to various claims and disputes the Receiver has in Panama.

45. The applicable rates are within the range charged by attorneys of comparable experience employed by comparable Panamanian law firms for work of a comparable nature and complexity.

46. I request Court approval of the Receiver's fee application in favor of Morgan & Morgan in the total amount of \$1,282.30 for attorneys' fees and expenses incurred in and around July 2010 out of the assets of the Receivership.

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

Executed on: August 26, 2010

s/ R. J. Zayed
R.J. Zayed (MN Bar No. 309,849)
Carlson, Caspers, Vandenburg &
Lindquist, P.A.
225 South Sixth Street, Suite 3200
Minneapolis, MN 55402
Telephone: (612) 436-9600
Facsimile: (612) 436-9605
Email: rzayed@ccvl.com