
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.

**RECEIVER'S OPPOSITION TO
TREVOR COOK'S MOTION TO PURGE CONTEMPT**

The Receiver, R.J. Zayed, respectfully submits this opposition to Defendant Trevor Gilson Cook's Motion to Purge Contempt. Cook has repeatedly lied to the government, the SEC, the CFTC, and the Receiver from the onset of this case. As recently as July 2010, he failed a lie detector test when he said he did not have any assets hidden. At his sentencing, Cook admitted that there is no reason to believe what he says. Given this history, Cook's assertion that he is incapable of complying with this Court's Contempt Order is incredible.

Even setting aside Cook's lack of credibility, it is premature to assess whether Cook is incapable of complying with this Court's Contempt Order. Additional interviews of Cook have been scheduled but not yet conducted, and the powers of attorney Cook has signed will take time to yield results. The SEC, the CFTC, and the Receiver should not have to go to the trouble and expense of pursuing yet another contempt order, as Cook suggests, if it turns out that Cook has lied yet again.

I. Given His Established History of Violating this Court's Orders and Lying to Investors, Government Agencies, and the Receiver, the Court Should Not Give Cook the Benefit of the Doubt in this Motion.

The record in this case is replete with lies by Cook. The Ponzi scheme to which Cook pled guilty was based on a series of lies to investors who—regrettably—believed Cook and sent him their life savings. (Declaration of Tara C. Norgard (“Norgard Decl.”) ¶ 2, Ex. 1 at 19.) Cook also lied to the federal

government when he submitted fraudulent tax returns. (*Id.* at 24–25.) He continued to lie when he bought tens of thousands of dollars in gift cards as a means to hide proceeds of his fraud, and when he hid automobiles, hundreds of thousands of dollars in cash and coins, and countless other assets from the Receiver in blatant violation of this Court’s Orders. (Docket No. 167, at 6–7; Norgard Decl. ¶ 4, Ex. 3.)

Cook appeared to turn a corner when, on April 13, 2010, he agreed to plead guilty to the fraud and caused certain previously hidden assets to be turned over to the government. (Norgard Decl. ¶ 2, Ex. 1 at 27–28.) But appearances, like Cook, can be deceiving. It was no coincidence that, having hidden these assets for months, Cook finally decided to turn them over the day before he asked Judge Rosenbaum to accept his plea bargain in the criminal case. (*Id.*) And it was no surprise to learn that Cook did not turn over all of the assets that he had hidden.

On April 23, 2010, the Receiver interviewed Cook for the first time after his plea agreement was in place. (Norgard Decl. ¶ 6.) When the Receiver asked repeated questions about whether Cook had hidden any additional assets or whether anyone was holding additional assets for him, Cook steadfastly maintained that he did not have any assets hidden and that nobody was holding any assets for him. (*Id.* at ¶ 6 & Ex. 4.) This, too, was a lie.

In early July 2010, as part of his plea agreement, Cook took a lie detector test. He failed. (Norgard Decl. ¶ 3, Ex. 2 at 13, 32.) The test revealed that he had been deceptive in response to the question of whether he had disclosed all of his

assets to the Receiver. (Norgard Decl. ¶ 7.) Only when he was confronted with his failure of the test did Cook admit that he continued to hide assets. (Norgard Decl. ¶ 8.) Hundreds of thousands of dollars worth of Receivership assets were later found hidden in the walls of his brother's apartment. (Norgard Decl. ¶ 3, Ex. 2 at 32; ¶ 4, Ex. 3.)

Cook now argues that his prison time evidences his inability to comply with the Court's Contempt Order. (Br. at 5.) The only thing that has been proven impossible, or effectively so, is the ability to administer an effective lie detector test on Cook. (Norgard Decl. ¶ 3, Ex. 2 at 32.) Cook has lied for at least the majority of his incarceration. He could very well be lying to this day. Only when he is caught in a lie or has something to gain does Cook offer up a morsel of truth. *See infra* Part II. Cook's actions show that he is, in fact, fully able to comply with the Court's Orders—but that he refuses to do so unless it is somehow to his benefit. The Court's Civil Contempt Order is perhaps the only mechanism left to induce Cook to assist the Receiver in his recovery efforts.

Cook has not provided anything, other than his word, to support his argument that it is impossible for him to comply with this Court's Contempt Order. Given his penchant for falsehoods, Cook's word simply is not enough to clear him of his contempt.

II. Cook Has Cooperated Only When He Stood Something To Gain in Return.

On the three occasions when he caused assets to be returned to the Receiver (or more accurately, partial assets), Cook had something to gain in return. His actions are more accurately described as “manipulative” than “cooperative,” and as such, should not be credited when assessing the merits of his motion.

The first time Cook turned over assets was after he was caught buying and spending gift cards and the Court held a December 11, 2009 hearing on the SEC and CFTC’s motion for a rule to show cause why he should not be held in contempt for violating the Court’s Orders. After that hearing, Cook turned over the gift cards. He had little choice in the matter; the Receiver and the government agencies had the credit card statements showing the dates, times, and amounts of the gift card purchases, as well as photographs of him making the purchases. (SEC Docket No. 56 at 8.) Moreover, because they had been traced to him, it would have been difficult—if not impossible—for Cook or any of his associates to use those gift cards without being discovered again.

The second time Cook turned over assets was on April 12, 2010, the day before he asked Judge Rosenbaum to accept his plea in the criminal case. (Norgard Decl. ¶ 2, Ex. 1 at 27–28.) Cook failed to mention to Judge Rosenbaum that hundreds of thousands of dollars worth of additional assets remained hidden behind the walls in the apartment where his brother was staying. (Norgard Decl. ¶ 4, Ex. 3.) It was not until he failed the lie detector test in July 2010, thereby

endangering his plea agreement, that Cook confessed to having these additional hidden assets.

III. Cook’s “Cooperation” Has Not Resulted in the Discovery of Any Substantial New Assets.

To date, Cook has merely turned over a small portion of the assets that he has stolen. Millions of dollars remain missing. It strains logic to accept Cook’s argument that he has complied with the Court’s Contempt Order when he has, in fact, done nothing on his own initiative to repatriate assets. Sitting for interviews and signing waivers that are put before him—after being repeatedly caught hiding assets and lying—is not the same as taking “appropriate steps to ensure compliance with the Court’s Asset Freeze Orders,” which is what the Court’s Contempt Order requires. (SEC Docket No. 167 at 29.)

Cook began answering the Receiver’s questions and signing documents at the Receiver’s request only because his plea bargain required it. He has offered nothing on his own initiative that has led to the discovery of new assets. (Norgard Decl., ¶ 11.) Moreover, many of Cook’s responses to the Receiver’s questions have not been answers at all. For example, when asked about various financial transactions with domestic and international institutions, Cook has pleaded ignorance, stating that he needs the specific financial documents in front of him to determine whether he can recall and explain the deals. (Norgard Decl. ¶ 9.) Many of the documents that Cook supposedly needs to jog his memory about these transactions are not available to the Receiver because they were not in the hard

copy or computer files seized by the Receiver and otherwise reside with foreign institutions that are not required to comply with this Court's Receivership and Asset Freeze Orders. (Norgard Decl. ¶ 9.) Nevertheless, the Receiver continues to uncover additional documents through his ongoing investigative efforts and intends to question Cook about them. (*Id.* at ¶¶ 5, 9.)

Cook also has signed various powers of attorney and related documents that the Receiver is using to contact foreign financial institutions where Cook had accounts or is believed to have accounts. But Cook did not affirmatively provide the Receiver with a list of his foreign accounts. Rather, the Receiver went to Cook with a list of institutions that have been uncovered in the Receiver's investigation and queried Cook about each one of them. (Norgard Decl. ¶ 10.) It is the Receiver's work, not any information provided by Cook, that produced the powers of attorney touted in Cook's motion. Cook provided nothing but his signature—knowing that if he refused, his plea deal would be rejected and his contempt further entrenched.

Because the Receiver had to discover and pursue these foreign financial institutions on his own, the process of employing these documents is in the initial stages. And because these institutions are beyond the reach of U.S. law and the jurisdiction of this Court, this process will take time to yield results.

Apart from the three instances where he turned over limited assets to further his own cause, Cook has yet to lead the Receiver to any substantial new assets. (Norgard Decl., ¶ 6 & Ex. 4; *id.* at ¶ 11.) Cook offers nothing but

conclusory statements to account for the difference between the assets that he has surrendered and the assets that remain outstanding under the Court's Contempt Orders. (Br. at 11, citing Cook Decl. ¶¶ 16, 17, 20.) Such general statements do not even begin to comply with the accounting requirements of the Court's Asset Freeze and Receivership Orders, much less assist the Receiver in his recovery efforts.

IV. Cook Has Not Yet Proven Himself Unable to Comply With this Court's Orders.

As discussed above, Cook has failed to provide meaningful answers to a number of questions regarding financial transactions involved in the fraud, suggesting that he cannot respond without the relevant banking and financial documents before him. Although many of these documents reside in foreign lands and have yet to be produced to the Receiver, others have been discovered by the SEC's and CFTC's investigations and by the Receiver's ongoing investigative efforts. On October 5 & 6, 2010, the SEC, the CFTC, and the Receiver will conduct a detailed interview of Cook with the relevant financial documents that have been obtained. (Norgard Decl., ¶¶ 5, 9.) This questioning session is designed to elicit a full accounting of the fraud—something that Cook has yet to provide. (*Id.* at ¶ 5.) The SEC and the Receiver may well require additional sessions with Cook to gain a full and complete accounting of the fraudulent transactions that led to the hundreds of millions of dollars that Cook stole.

At a minimum, Cook cannot show he is unable to comply with the Court's Contempt Orders until he has fully satisfied the SEC's, the CFTC's, and the Receiver's interview needs. Cook's suggestion that he remains incentivized to assist the Receiver rings hollow. Without something to gain—like commencement of his criminal sentence—Cook will have nothing more to offer. Contrary to Cook's suggestion, the SEC, CFTC, and Receiver should not be forced to expend the time, money, and litigation resources to bring another motion for contempt when the present contempt has yet to be purged.

V. Cook's Civil Contempt Was Not Purged by his Criminal Plea or his Criminal Sentence.

Cook asks the Court to retroactively lift his contempt effective to April 13, 2010, arguing that as of that day, he was unable to comply with the Court's Contempt Orders. This request is puzzling; Cook continued to lie to the Receiver and government authorities far beyond that date. As demonstrated above, Cook's argument to lift the contempt is weak, at best. His argument to lift the contempt retroactively to April 2010 simply ignores documented history.

Cook also argues that his contempt should be lifted because his "punishment for stealing the investor's [sic] money has already been meted out." What Cook fails to grasp is that his civil contempt is not punishment for stealing from investors. Cook has been in jail since January 25, 2010 because he violated this Court's civil Asset Freeze and Receivership Orders. (SEC Docket No. 167.) In other words, Cook's contempt is not for the crimes committed against his

victims; it is for his contemptuous failure to abide by this civil Court's Orders. Cook's criminal sentence has no bearing on the contemptuous actions that he has committed in this Court and should not be taken into account when assessing whether and when he has purged his civil contempt.

CONCLUSION

For the reasons expressed herein, the Receiver respectfully asks the Court to deny Cook's motion to purge the contempt. Cook has not established that he has complied with the Court's Contempt Order or that he is incapable of doing so. Rather, he has established that he only will comply with the Court's Orders when left with no other choice. Incarceration is a powerful incentive to choose compliance—one that the Receiver submits should remain in force until the Court is fully satisfied that Cook is, in fact, incapable of doing anything further to comply with the Contempt Order. The only thing that Cook has proven to date is that he should not be believed. Because the Receiver's investigation is ongoing and additional interviews of Cook have been scheduled but not yet taken place, there is no basis for the Receiver to conclude that Cook is incapable of purging his contempt.

Dated: September 24, 2010

Respectfully submitted,

s/ Tara Norgard

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