

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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U.S. Commodity Futures Trading  
Commission,

Case 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)

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**MEMORANDUM OF LAW IN SUPPORT OF RECEIVER'S MOTION  
FOR SALE OF CERTAIN PERSONAL PROPERTY IN ITS POSSESSION**

## FACTS

On November 23, 2009, this Court appointed R.J. Zayed, Carlson, Caspers, Vandenburg and Lindquist as Receiver in this action. *See* Docket No. 21, November 23, 2009 *Ex Parte Statutory Restraining Order*. The Receiver's duties include "marshalling, preserving, accounting for and liquidating the assets that are subject to this Order." *Id.* at 6.

In accordance with these objectives, the Receiver conducted an appraisal of all personal property in the residences at 1900 LaSalle Ave., Minneapolis, MN, 55403 and 12644 Tiffany Court, Burnsville, MN, 55337 – both of which were covered by the Court's November 23, 2009 *Order Identifying Frozen Accounts*. Following this appraisal, the Receiver now wishes to sell certain of the personal property found in these residences by retaining the services of Luther Auctions, 2556 East 7<sup>th</sup> Ave., North St. Paul, MN 55109. The exact inventory of the personal property Luther Auctions would sell is attached to the Declaration of Brian Hayes ("Hayes Decl.") as Exhibit 1.

Luther Auctions is willing to sell the listed items 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. Hayes Decl., ¶ 4. The auctions conducted by Luther Auctions are held weekly, and the plan would be to introduce the items from Exhibit 3 gradually over a course of several auctions. *Id.*, ¶ 5. The Receiver has negotiated a flat 20% commission rate on all sales by Luther Auctions of the items listed in Exhibit 3, with the remaining portion going

to the Receiver. This 20% fee covers the cost of staffing for the sale, advertising, website hosting and recycling of non-salable goods such as antiquated personal computers. Id., ¶ 6.

### **ARGUMENT**

The public sale of personal property by the receiver is governed by 28 U.S.C. § 2004, which directs the sale of any personalty sold under order or decree of the United States to be in accordance with section 2001 of the same title.

The pertinent section of 28 U.S.C. § 2001(a) reads as follows:

Property in the possession of a receiver or receivers appointed by one or more district courts shall be sold at public sale in the district wherein any such receiver was first appointed, at the courthouse of the county, parish, or city situated therein in which the greater part of the property in such district is located, or on the premises or some parcel thereof located in such county, parish, or city, as such court directs, unless the court orders the sale of the property or one or more parcels thereof in one or more ancillary districts.

As indicated by the facts section, *supra*, the Receiver respectfully requests that the Court authorize Luther Auctions to conduct a public sale of the items listed in Exhibit 1 of the Hayes Declaration at 2556 East 7<sup>th</sup> Ave., North St. Paul, MN 55109. The sale of these items would be conducted in such a fashion as to maximize revenue, and accordingly the Receiver asserts that this sale would further the objectives of the Receivership.

Dated: January 12, 2010

Respectfully submitted,

*s/ R.J. Zayed*

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