

STATE OF MINNESOTA  
COUNTY OF HENNEPIN

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT  
Case Type: Other Civil

The Oxford Private Client Group, LLC, Jason  
Bo-Alan Beckman and Hollie Beckman,

Plaintiffs,

v.

Trevor Cook and Oxford Global Partners,  
LLC,

Defendants.

Case No. 27-cv-09-21722  
(Hon. Janet N. Poston)

**MEMORANDUM IN SUPPORT OF  
RECEIVER'S MOTION FOR  
ORDER TO SHOW CAUSE**

**INTRODUCTION**

This case arose in the context of one of the largest frauds in Minnesota history. The Receiver appointed by the United States District Court for the District of Minnesota stands in the shoes of all parties and now seeks an Order to Show Cause why this case should not be dismissed.

**BACKGROUND**

Trevor Cook, Jason Bo-Alan Beckman, and others, ensnared hundreds of victims by promising guaranteed 10-12% returns with total liquidity and segregated accounts from a currency trading program that did not exist. (Affidavit of Tara C. Norgard in Support of Order to Show Cause ("Norgard") ¶¶12-13, Exs. K-L.) Over \$190 million was brought into the scheme from more than 1,000 investors. (*Id.* Ex. K, ¶¶17 *et seq.*) Cook, Beckman, and the other co-conspirators stole every penny, using the money for everything from wild parties, gambling binges, and fancy cars, to a Christian-themed radio show used to lure in new and unsuspecting victims. (*See, e.g., id.* Ex. K, ¶¶23, 39.)

The Ponzi scheme began to collapse in the summer of 2009. (*See id.* ¶17.) On June 22, 2009, the United States Securities and Exchange Commission began an on-site investigation at the fraud's headquarters, the historic Van Dusen Mansion in Minneapolis. On July 7, 2009, a group of investors filed suit because they could not get their money back from the currency program. (*Phillips, et al. v. Cook, et al.*, No. 09-cv-1732, Dkt. No. 1 (D. Minn. July 7, 2009).) On July 9, 2009, news of the fraud began to hit Twin City papers. (Norgard Aff. ¶14, Ex. M.) The above-captioned lawsuit was filed while the fraud was in its final days.

Beginning November 23, 2009, the United States District Court for the District of Minnesota, Chief Judge Michael J. Davis presiding, appointed R.J. Zayed as the federal Receiver over the individuals and entities at the helm of the Ponzi scheme. (Norgard Aff. ¶¶2-4, Exs. A-C.) Pursuant to Chief Judge Davis's Orders, the Receiver is obligated to marshal, preserve, account for, and liquidate the assets subject to the Receiver Estate. (*E.g., id.* Ex. B, at 3-5.) This also includes the duty to pursue, resist, defend, intervene in or dispose of all suits, actions, claims and demands pending, brought or asserted against the Receiver Estates. (*Id.* Ex. B., §I.F.)

The Receiver was also appointed over all funds, accounts, and other assets held by or for the benefit of Plaintiff Hollie Beckman which were received, directly or indirectly, from the Ponzi scheme. (*Id.* Ex. C, at 1-2.) The above-captioned lawsuit, and any benefit she may obtain thereof, is an asset of the Receiver Estate. (*Id.*)

The above-captioned lawsuit was stayed pursuant to Chief Judge Davis's Receivership Orders in the SEC and CFTC cases. (*E.g.,* Norgard Aff. ¶4, Ex. C, §VII ("All [] persons [] are stayed from [c]ommencing, prosecuting, continuing, settling, or enforcing any suit, proceeding, award, judgment, settlement or lien against or affecting any of the Receiver Estates . . ."); *id.* Ex. A, §VII (ordering same); Ex. B, §IV (same); *see also* Norgard Aff. ¶5, Ex. D.)

By letter dated November 18, 2013, the Court inquired of the status of the federal Receivership and whether the instant action need be re-opened to be resolved or to be dismissed for failure to prosecute. (Norgard Aff. ¶6, Ex. E.) The Receiver responded to the Court requesting that the case be dismissed; or, in the alternative, that the Court order Ms. Beckman show cause why the case should not be dismissed in light of the provisions of the federal Receivership Orders detailed above. (*Id.* ¶7, Ex. F.)

Thereafter, the Receiver endeavored to work with Ms. Beckman in order to reach a joint stipulation to dismiss the action, so as to avoid any burden on the Court or expenditure of litigation resources by the parties. (*Id.* ¶¶8-10, Exs. G-I.) Ms. Beckman eventually informed the Receiver and the Court that she would not stipulate to the dismissal of this action. (*Id.* ¶11, Ex. J.) A letter submitted by Ms. Beckman to the Court and the Receiver also makes reference to a letter submitted by Mr. Beckman. (*Id.* at 1.) However, no such letter has been received by the Receiver and no such letter is available from the public case file for this action.

This filing is an effort by the Receiver to resolve this matter at the Court's request.

### **ARGUMENT**

The Receiver seeks to dismiss this action. The Receiver Orders discussed above and incorporated herein place the Receiver in the position of standing in the shoes of all litigants in the instant case. (Norgard Aff. ¶4, Ex. C, §I.D-E, I (“Receiver shall [] take any action which could be taken by the officers, directors, partners, members, shareholders, and trustees of Oxford PCG”).) *See also Keyes v. First Nat'l Bank*, 25 F.2d 684, 689 (8th Cir. 1928) (“This action was instituted [] by the receiver who stands in the shoes of the [defendant].”).

All claims and counterclaims in this action originated in the Ponzi scheme and thus, belong to the Receiver for the benefit of victim investors. (*E.g.*, Norgard Aff. ¶4, Ex. C, §I

(ordering Receiver to “take custody, control and possession of all” assets of Receiver Estates and to “pursue, resist and defend all suits, actions, claims and demands which may now be pending or which may be brought by or asserted against Receiver Estates . . .”).) This includes any claim that Hollie Beckman has or may have had in this action. (*Id.* Ex. C, at 1-2 (“The Court appoints R.J. Zayed [] as Receiver [] for [] all funds, accounts, and other assets held by or for the benefit of Relief Defendant Hollie Beckman which were received, directly or indirectly, from the Defendants or were acquired with funds or other assets received, directly or indirectly, from Defendants or were acquired with funds or other assets received, directly or indirectly, from the Defendants . . .”); *id.* Ex. C, §IX (“All persons . . . are ordered to turn over to the Receiver any and all property of any nature . . . and any other asset of any kind which any of the Receiver Estates are the owners of or have an interest in . . .”).) *See also Payne v. Wyeth Pharms., Inc.*, No. 08-cv-119, 2008 U.S. Dist. LEXIS 91849, at \*13-14 (E.D. Va. Nov. 12, 2008) (stating damages from lawsuits are considered assets to be listed in a bankruptcy schedule).

Under Minnesota law, if “the issue presented at the outset of the action has ceased to exist or is no longer live, or if the court is unable due to an intervening event or change in circumstances to grant effective relief or to restore the parties to their original position, then the issue before the court is moot.” *State v. Burrell*, 837 N.W.2d 459, 465 (Minn. 2013) (internal citations omitted). Furthermore, Minnesota courts “generally dismiss a matter as moot when an event occurs that makes a decision on the merits unnecessary or an award of effective relief impossible. . . .” *Limmer v. Swanson*, 806 N.W.2d 838, 839 (Minn. 2011) (citing *Application of Minnegasco*, 565 N.W.2d 706, 710 (Minn. 1997).)

The accounting prayed for in the Complaint was accomplished by the SEC civil enforcement actions against Trevor Cook and Bo Beckman, as represented in the Declarations of

Accountants Scott Hlavacek and Luz Aguilar. (Compl. at 2; Norgard Aff. ¶¶12-13, Exs. K-L; *see also United States v. Jason Bo-Alan Beckman, et al.*, 11-cr-228 (D. Minn.)) Thus, the federal actions have rendered a decision on the merits in this action moot.

The accountings shed light on the fraudulent misuse and concealment of investor funds by co-conspirators Beckman, Cook, and others. Trevor Cook diverted and used at least \$42.8 million of the investors' funds for his own use. (Norgard Aff. ¶12, Ex. J ¶39.) The Beckmans received approximately \$7.8 million from accounts containing funds of investors in the currency program. (*Id.* ¶13, Ex. L ¶¶23-26.)

The breach of contract counterclaim is by and between Trevor Cook, Bo Beckman, and Oxford PCG (and not Plaintiff Hollie Beckman) also is moot. The counterclaim parties are all persons and entities wholly subject to the Receivership. The Receiver will not pursue the counterclaim, or any of the original claims in this action, because there is nothing to be gained from doing so. (Norgard Aff. ¶4, Ex. C, §I.D-E (the Receiver may “pursue, resist and defend all suits, actions, claims and demands which may now be pending or which may be brought by or asserted against the Receiver Estates . . .”).) Pursuant to Chief Judge Davis's Orders, the Receiver holds all assets of Cook, Beckman and Oxford PCG. Thus, the Receiver need not engage in this litigation to obtain the relief that was sought by this counterclaim.

Finally, even setting the Receivership aside, as a practical matter it would be impossible for any party to ever obtain any damages from the other because the party entities are defunct and Trevor Cook and Bo Beckman each are subject to lengthy prison terms and substantial restitution orders. (*E.g., United States v. Trevor Cook*, 10-cr-75, Dkt. No. 7 (D. Minn. April 13, 2010); *Judgment in a Criminal Case*, 10-cr-75, Dkt. No. 27 (D. Minn. April 15, 2011); *Verdict Form*, 11-cr-228, Dkt. No. 303 (D. Minn. June 12, 2012); *Judgment in a Criminal Case*, 11-cr-

228, Dkt. No. 397 (D. Minn. Jan. 14, 2013); *United States v. Christopher Pettengill*, 11-cr-192 (D. Minn.); *United States v. Jason Bo-Alan Beckman, et al.*, 11-cr-228 (D. Minn.).)

The Ponzi scheme victims are best served by a dismissal of this action so that Receiver assets need not be dedicated to litigating it. The Receiver respectfully submits that any continuation of this lawsuit is futile, moot, and unnecessary. The Receiver therefore respectfully seeks to dismiss it.

### CONCLUSION

For the reasons expressed herein, the Receiver respectfully moves for an order to show cause why the above-captioned lawsuit should not be dismissed with prejudice.

Respectfully submitted,

Dated: March 10, 2014

/s/ Tara Norgard

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**By and on Behalf of The Oxford Private Client  
 Group, LLC, Jason Bo-Alan Beckman, Trevor  
 Cook, and Oxford Global Partners, LLC.**