
UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

U.S. COMMODITY FUTURES
TRADING COMMISSION,

Plaintiff(s)

Case No: 09-cv-3332 MJD/JJK

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/JJK

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.

**FOURTH STATUS REPORT OF RECEIVER R.J. ZAYED IN
CFTC v. COOK, et. al. (09-cv-3332) AND
SEC v. COOK, et. al. (09-cv-3333)**

R. J. Zayed, the Receiver for Defendants and Relief Defendants in these cases, submits this Fourth Report summarizing the major activities that he has undertaken since the filing of the Third Status Report on May 4, 2010. This Fourth Report covers the period from May 5, 2010 through the July 16, 2010.

A. U.S. Properties

1. 12644 Tiffany Court, Burnsville, MN 55437 (“Tiffany Court”)

With the Court’s approval, the Receiver placed the Tiffany Court residence on the market on March 22, 2010 for \$455,000. At the recommendation of the realtor, the Receiver reduced the sales price on April 19, 2010 to \$439,900 and again on June 14, 2010 to \$415,000. Even though the price has been significantly reduced, no offers have been made to date. Although there have been numerous showings, most potential buyers became disinterested because of the steep slope of the backyard to the street below. The property has a mortgage of \$344,300; \$20,000 in Receivership funds were used for new carpeting, interior painting and touch-up, minor repairs. and staging.

In the meantime, the Receiver is pursuing a legal claim against the mortgage company as a means of retrieving the Receivership’s funds that Cook used to pay for the property.

2. 12744 Dover Drive, Apple Valley, MN 55437 (“Apple Valley”)

Pursuant to the Court’s Order on April 28, 2010, the Receiver has taken control of Trevor and Gina Cook’s residence in Apple Valley and has entered into an Occupancy Agreement with Gina Cook. Also pursuant to the Court’s Order, Gina Cook has executed an unsecured bond for \$316,000, in case she violates the Court’s Order or Occupancy Agreement. To date, Gina Cook has been in compliance with the Court’s Order and the Occupancy Agreement.

The Receiver has obtained three independent appraisals for the Apple Valley property as required by federal law. Given the condition of the real estate market, the Receiver is evaluating whether to place the property on the market and, if so, at what price. The residence has a mortgage of \$388,933.35.

As with Tiffany Court, the Receiver is pursuing a legal claim against the mortgage company as a means of retrieving the Receivership’s funds that Cook used to pay for the property.

B. Canadian Property

The Receiver has obtained three independent appraisals for the Rainy Lake, Ontario property. The property is 2.3 acres with a log cabin, guest cabin, docks, and sheds. The main cabin and guest cabin are newly constructed and weather tight, with electrical and plumbing complete. Minor construction on the exterior of the structure remains to be completed and the interior is ready for finishing (e.g., cabinets, floors, and fixtures). The Receiver has completed a cost-benefit analysis of completing construction

and determined to expend approximately \$10,000 to finish the outside of the structures on the property.

On May 28, 2010, the Receiver obtained approval from Chief Judge Davis to put the Rainy Lake property on the market and on June 1, 2010, the Court appointed real estate agent Alan Zucchiati of Rainy Lake Realty Ltd. to market and sell the property. The Receiver has filed a motion in Ontario Superior Court of Justice to recognize Chief Judge Davis' Orders in Canada, authorize the Receiver to list the property at Can\$450,000 (approximately US\$423,000), and accept the best offer. The property appears to have "a right of first refusal" that the Receiver is investigating further.

C. Panamanian Property

The Receiver has continued to investigate and pursue Receivership assets in Panama. As noted in the previous reports, there are two properties in Panama that involve Receivership funds. The two properties are known as the Vineyards and Panama Bay.¹ The Vineyards was to be developed by a company called CDE 1, S.A. ("CDE 1") and Panama Bay was to be developed by a company called Oxford Developers, S.A.

¹ As previously discussed, Cook also used about \$157,000 in Receivership funds to make down payments on two condominiums in a third project, called Ocean Point. The condominiums were never built and the development is believed to be defunct. As with the funds that were sent for the Vineyards and Panama Bay, Cook paid the money for the Ocean Point deposit to Gary Saunders. The Receiver is investigating this matter further to determine whether any of these funds are still recoverable.

(“Oxford Developers”).² These properties and the associated businesses are located in Panama City.

On May 11–12, 2010, the Receiver traveled to Panama and met with Panamanian counsel, a real estate appraiser company, and various stakeholders in CDE 1 / Vineyards and Oxford Developers / Panama Bay.

Before the trip, the Receiver had commissioned and obtained detailed written reports from CB Richard Ellis, an international real estate services company with offices, among many places worldwide, in Panama City and Bloomington, Minnesota. The reports provide analyses and appraisals for the Vineyards and Panama Bay properties.

The Receiver then visited both properties. The Vineyards property, owned by CDE 1, is a combination of three lots (2,745 square meters) located in a mainly residential area of Panama City, approximately five blocks from the shores of the Pacific Ocean. The Vineyards property is bordered by a main thoroughfare on one side, a residential street on the second side, a German restaurant on the third side, and multi-residential property on the fourth side. The surrounding residential structures are a combination of single family homes, low-rise condominiums, and high-rise condominiums. Before it ceased operations, CDE 1 had cleared the existing homes from the Vineyards property; the Vineyards property now sits vacant, littered with rubble.

² Before Cook became involved, Oxford Developers was known as Panama Construction Material Supply S.A. On September 18, 2009, after the SEC began its investigation, documents were filed in the Registro Público de Panamá (Panama Public Registry) changing the company’s name to Panama Bay Hotel S.A.

The Panama Bay property, which is still in the possession of the sellers, is a combination of two large lots totaling 12,547 square meters. It is situated near Panama City's commercial and governmental centers. The property is bordered by a main thoroughfare on one side, a business complex on a second side, a gas station on a third side, and a lot with residential structures on a fourth side. The area is zoned for a mixture of commercial and residential uses. There are governmental offices and various businesses in the area, as well as low-to-medium-income housing. Due to the large size, central location and multi-purpose zoning, the property is generally considered to be a premier piece of commercial property.

The Receiver also met with the shareholders and counsel for CDE 1 / Vineyards and Oxford Developers / Panama Bay. The Receivership owns a 50% interest in CDE 1 and a 50% interest in Oxford Developers. In attendance at the meeting were Holger Bauchinger, who claims to own 12.5% of CDE 1 and 25% of Oxford Developers, along with attorneys Joaquin Franco and Martin Ruiz. Franco and Ruiz represent Bauchinger personally; Bauchinger also has assigned the power of attorney for CDE 1 to Franco for various purposes, including litigation. Also in attendance was Omar Dieppa, who represents Brad Pennington, a 25% shareholder of CDE 1. Gary Saunders, who claims to own 12.5% of CDE 1 and 25% of Oxford Developers, did not attend.

As to CDE 1, Bauchinger and Franco confirmed that the company owns the Vineyards property outright. Bauchinger and Franco further told the Receiver that a number of claims have made against CDE 1 and a number of liens placed on the Vineyards property. They also informed the Receiver that property taxes were due.

Public records confirmed the existence of a \$284,000 lien and \$26,875.10 in property taxes due at the end of 2010.

As to the Panama Bay property, Bauchinger confirmed that he, on behalf of Oxford Developers, paid the sellers approximately \$7.8 million. These payments were funded entirely by Cook through an escrow account held by Gary Saunders. Bauchinger also said that the purchase agreement put the Panama Bay properties into default when Oxford Developers failed to make \$4,910,507.58 in payments and interest that were due to the sellers by October 29, 2009.

The Receiver also met with Alejandro Dominguez, one of the four sellers of the Panama Bay property. The Panama Bay property is owned by four families through a corporation named Panama Oxford, S.A. ("Panama Oxford"). Mr. Dominguez said that he empathized with the investors who have been defrauded by Cook and that he and the sellers knew nothing of the fraud or Cook. Their dealings were entirely with Bauchinger and his lawyers. Mr. Dominguez said that he spoke on behalf of three of the four owners and explained that they were willing to complete the sale based on the original terms of the loan, plus interest for Oxford Developer's failure to complete the payments due by October 29, 2009. Upon his return from Panama, the Receiver was informed by his Panamanian counsel that the sellers want an additional \$7 million to complete the sale.

In consultation with the Court, the SEC, CFTC, and the United States Attorney's Office, the Receiver is evaluating various options for clearing title to, and selling, the Vineyards and obtaining title to, and selling, Panama Bay.

D. Cash in Receivership Accounts

As discussed in the previous report, the Receiver located \$1,843,892.29 in the various accounts identified and frozen by the Court's November 23, 2009 Orders. Since then, the Receiver has located and frozen an additional \$2,752,557.53 in cash. The Receiver also has liquidated certain real and personal property belonging to the Receivership and has received \$1,580,457.10 in cash for those assets. In addition, Trevor Cook caused \$362,700.00 to be turned over to the FBI on April 12, 2010. This amount was placed in the Court's registry. For the reasons set forth below, the Berg's have paid \$194,000.00 into the Court's registry and Wells Fargo has paid the Receiver \$9,275.22. The sum total of cash and assets liquidated is \$6,742,882.14.

Through May 31, 2010, the Receiver has incurred and paid \$1,778,623.12 in expenses and fees in locating, marshalling, and preserving the assets of the Receivership, settling claims with trade creditors and in fulfilling his duties and obligations under the law and the Court's Orders. The Receiver has also paid an additional \$109,497.87 in legal fees pursuant to the Court's Orders

As of the date of this report, after the payment of all expenses as noted above, the Receiver has a cash balance of \$2,814,761.18 in the Receiver's bank account, \$556,700.00 in the Court's registry, and approximately \$1 million frozen in a Swiss bank account.

E. Vehicles

The Receiver sold a 2005 Lexus 33 series for \$21,800, a 2004 Lexus L43 for \$14,700, and a 1997 BMW 328ic for \$3,900 at a public auction held on June 5, 2010.

The Receiver paid \$6,179 in commission and storage fees for a net of \$34,221 to the Receivership.

F. Other Assets

The Receiver filed a motion to compel Clifford and Ellen Berg to return all moneys they received from Cook. The Bergs had received a total of \$948,848.36 from Cook. The Receiver located and took possession of \$726,650.38 that he found in various Berg bank accounts. This left a balance of \$222,197.98 that Receiver sought to be returned. After the motion was filed, the Receiver and the Bergs resolved the matter. The Receiver agreed to reduce the amount due by \$13,500, which is the amount that the Bergs received in February 14, 2008 for the sale of a 2004 GMC Yukon XL 1500 vehicle to a Receivership entity. The Bergs agreed to repay the remaining \$208,697.98 by depositing \$194,000 into the Court's registry by June 16, 2010 and paying the balance by September 15, 2010. To secure the balance, the Bergs signed a confession of judgment. The details of the motion and settlement can be found at www.cookkilereceiver.com under "Receiver Filings."

The 2004 Yukon was traced to Gerald Durand, who agreed to pay the Receiver \$9,000 for the vehicle. Durand has made an initial payment of \$2,500 and will pay the remaining balance by no later than June 24, 2011.

The Receiver also filed a motion to compel Wells Fargo to pay the \$9,275.22 to the Receiver for failing to freeze two of Cook's accounts in July 2009. The amount at issue represents the difference between the balance in the accounts on the day the Court ordered the accounts frozen in July 2009 and the balance in the accounts on the day in

December 2009 when the Receiver located and froze the accounts. After the filing of the motion, Wells Fargo paid the Receiver the difference.

Cook loaned Receivership funds to various individuals. Specifically, Cook loaned Grant Grzybowski \$299,750 (including interest) and Jared Jenkins \$4,000. Starting in April 2010, Jenkins agreed to pay \$200 per month until the debt is satisfied and has made three payments totally \$600. Starting in June 2010, Grzybowski agreed to pay \$1,500 per month, along with additional interest, over the next fifteen months while he secures financing for his home to pay off the remainder of the loan. Grzybowski made his first payment on June 1, 2010.

Cook opened a number of offshore gambling accounts using Receivership funds. The Receiver has identified a number of accounts and is trying to repatriate the funds.

The Receiver sold at public auction on May 31, 2010 a variety of personal property including, among other things, “Fabergé” eggs, purses that resemble Fabergé eggs and watches. The auction generated \$6,989.40 in net proceeds for the Receivership. There will be further public auctions to sell the remaining personal property in the Receiver’s possession, including an auction on July 17, 2010. These auctions will include various paintings and sports memorabilia. The Receiver will post the information about when and where these auctions will take place as they are scheduled.

G. Other Legal Proceedings

As noted in the previous report, the Receiver has taken over a lawsuit that Cook brought against Mesa Holdings, Ed Baker, and various other Baker companies. That suit is currently stayed. The Receiver was in discussions with Baker’s counsel to determine

whether this matter can be resolved outside of litigation. In the interim, Baker filed for bankruptcy and the Receiver has filed a motion to lift the automatic bankruptcy stay so that the Receiver can pursue Baker for his contempt of the Court's Receivership and Freeze Orders, among other things.

The Receiver also is investigating a number of legal claims that the Receivership has against a number of third parties who improperly received Receivership funds. This investigation is ongoing. To this end, the Receiver has filed a motion requesting permission to proceed by summary proceedings against these third parties. The details of the motion can be found on the Receiver's website.

H. 1-800 Number

The Receiver continues to operate local (612-436-9664) and toll-free (877-316-6129) numbers for investor inquiries. The Receiver is still handling numerous investor calls per day.

I. Receiver Website

The Receiver also continues to operate a website for investors and other members of the public at www.cookkileyreceiver.com. The website allows the investors to learn relevant information from, and provide claim information to, the Receiver.

As a means to address commonly asked questions and to improve communications with investors, the Receiver has agreed to post, on a monthly basis, responses to investor questions. To date the Receiver has posted nineteen responses.

The Court has also posted a web site for this case, which can be found at www.mnd.uscourts.gov. In addition, the United States Attorney for the District of

Minnesota has created a web site at http://www.justice.gov/usao/mn/trevor_cook.html to keep the public informed about the proceedings in *United States of America v. Trevor Gilson Cook*, No. 10-cr-00075 (JMR) (D. Minn.).

J. Taxes

The Receiver is continuing discussions, through Ernst & Young, with the Internal Revenue Service and Minnesota Department of Revenue in an effort to minimize any filing and tax obligations that might be applicable to the Receivership Entities.

K. Cook

The Receiver met with Cook on April 23, 2010 for the purposes of identifying, locating, and retrieving assets belonging to the Receivership. The Receiver's statement concerning this meeting can be found on the Receiver's website at www.cookkileyreceiver.com.

The Receiver again met with Cook on July 14, 2010 for 4½ hours. Cook signed additional releases, powers of attorney and waivers authorizing the Receiver to request financial statements, transaction records, and other information from foreign financial institutions. During the course of this meeting, Cook identified additional but *modest* assets that he had failed to previously disclose to the Receiver. These assets include cash, jewelry, watches, and coins. The Receiver and the United States Attorney's Office are actively pursuing the recovery of these assets, which are worth a few hundred thousand dollars and are in the possession of a known Cook associate. Other than these modest assets, Cook did not identify any significant new assets or provide new investigative leads.

The Receiver has asked the Government to exercise its right, under the plea agreement, to require Cook submit to “a polygraph examination to determine whether he has truthfully disclosed the existence of all of his assets and the use of the fraud proceeds”

Cook’s sentencing is presently scheduled for July 26, 2010 at 3:00 p.m. before Judge Rosenbaum at the United States Courthouse in Minneapolis, Minnesota. The Receiver, through the United States Attorney’s Office, has requested a delay in sentencing to allow more time for investigation. This request is presently pending before Judge Rosenbaum.

If you wish to speak at sentencing please contact United States Probation Officer Peter Madsen via e-mail at Peter_madsen@mp.uscourts.gov. Also if you wish to meet Mr. Madsen prior to sentencing please contact him directly via e-mail.

CONCLUSION

The Receiver will submit a report approximately every 60 days to summarize his ongoing activities since the last report.

Dated: July 16, 2010

Respectfully submitted,

s/ R.J. Zayed

R.J. Zayed, Receiver

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