
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,

Plaintiff(s)

Case No: 09-cv-3333 MJD/JJK

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.

**PETITION FOR RETURN OF RECEIVERSHIP ASSETS
FROM RESPONDENT GINA COOK**

Pursuant to this Court's Orders dated November 23, 2009, and July 20, 2010, Receiver R. J. Zayed, (“Receiver”) hereby brings this Petition for Return of Receivership Assets from Respondent Gina Cook (the “Respondent”) on behalf of the Defendants and Relief-Defendants in *SEC v. Cook et al.*, 09-cv-3333, and *CFTC v. Cook et al.*, 09-cv-3332, to recover funds properly belonging to all the defrauded investors who were victims of Trevor Cook's Ponzi scheme (“the scheme”).

Specifically, the Receiver seeks an order (1) requiring the Respondent to disgorge all Receivership funds transferred to her on or after February 23, 2009 and (2) entering judgment against the Respondent in an amount equal to all of such Receivership funds she received. In support of this Petition, the Receiver states as follows:

PROCEDURAL BACKGROUND

1. On November 23, 2009, the Securities and Exchange Commission (“SEC”) and the Commodities Futures Trading Commission (“CFTC”) filed separate lawsuits against Trevor Cook, Patrick Kiley, and various entities controlled by them (collectively referred to as the “Receivership Entities”). *Complaint*, No. 09-cv-3333 (“SEC case”), Docket No. 1 (Nov. 23, 2009); *Complaint for Injunctive and Other Equitable Relief and for Penalties under the Commodity Exchange Act*, No. 09-cv-3332 (“CFTC case”), Docket No. 1 (Nov. 23, 2009).

2. Trevor Cook has since admitted to, among other things, knowingly and intentionally creating and executing a scheme and artifice to defraud. *See United States*

v. Trevor Gilson Cook, No. 10-cr-00075, Docket No. 7, at 1–3 (April 13, 2010). Victims of the scheme include over 1,000 investors who were defrauded of over \$190,000,000. *Id.*

3. On November 23, 2009, the Court established a Receivership in the related SEC and CFTC cases, appointed R.J. Zayed as Receiver, and froze all assets of the Receivership Entities. *See Order Appointing Receiver*, SEC Docket No. 13 (Nov. 23, 2009); *see also Amended Order Appointing Receiver*, SEC Docket No. 18 (Nov. 24, 2009); *Second Amended Order Appointing Receiver*, SEC Docket No. 68 (Dec. 11, 2009); *Order Imposing Asset Freeze and Other Ancillary Relief*, SEC Docket No. 14 (Nov. 23, 2009); *Order Identifying Frozen Accounts*, SEC Docket No. 15 (Nov. 23, 2009); *Ex Parte Statutory Restraining Order*, CFTC Docket No. 21 (Nov. 23, 2009); *Order Continuing Appointment of Temporary Receiver*, CFTC Docket No. 96 (Dec. 11, 2009).

4. The purpose of the Receivership is to marshal, preserve, account for, and liquidate the assets of the Receivership. *Order Continuing Appointment of Temporary Receiver*, CFTC Docket No. 96, at 3. To accomplish this, the Receiver must take control of all assets of the Receivership—“wherever located”—including investor money transferred to third parties.

5. On July 20, 2010, the Court entered an Order authorizing the Receiver to commence summary proceedings within the SEC and CFTC cases to recover Receivership funds transferred to third parties. The Court retained jurisdiction of this matter for all purposes. *See Order of Preliminary Injunction, Asset Freeze, and Other*

Ancillary Relief, SEC Docket No. 51, at 15 (Dec. 8, 2009); *Order Allowing Summary Proceedings*, SEC Docket No. 380 (July 20, 2010); *Order Allowing Summary Proceedings*, CFTC Docket No. 350 (July 20, 2010).

PARTIES

6. The Petitioner is Receiver R.J. Zayed.

7. The Respondent, Gina Cook, received disbursements in the state of Minnesota and/or has a Minnesota bank account. Upon information and belief, Respondent Gina Cook is a Minnesota resident, residing in Dakota County, Minnesota, and was a Minnesota resident during the time relevant to this action.

8. The Respondent will be served with this Petition pursuant to Rule 4 of the Federal Rules of Civil Procedure, through her attorney of record, or by other means approved by order of this Court.

JURISDICTION AND VENUE

9. This Court has jurisdiction over this action, and venue is proper, under Section 22(a) of the Securities Act (15 U.S.C. § 77v(a)), Section 27 of the Exchange Act (15 U.S.C. § 78aa), Section 6d of the Commodity Exchange Act (7 U.S.C. § 13a-2(2)), Chapter 49 of Title 28, Judiciary and Judicial Procedure (28 U.S.C. § 754), Chapter 113 of Title 28, Judiciary and Judicial Procedure (28 U.S.C. § 1692), and Chapter 85 of Title 28, Judiciary and Judicial Procedure (28 U.S.C. § 1367(a)).

10. Further, as the Court that appointed the Receiver, this Court has jurisdiction over any claim brought by the Receiver in furtherance of his Receivership powers and duties, including Summary Proceedings as per the Court's July 20, 2010 Order. *See*

Order of Preliminary Injunction, Asset Freeze, and Other Ancillary Relief, SEC Docket No. 51, at 15 (Dec. 8, 2009); *Order Allowing Summary Proceedings*, SEC Docket No. 380 (July 20, 2010); *Order Allowing Summary Proceedings*, CFTC Docket No. 350 (July 20, 2010).

11. Further, within ten days of his appointment, the Receiver filed the original Complaint and Order Appointing the Receiver in all United States District Courts pursuant to 28 U.S.C. §§ 754 and 1692, giving this Court *in rem* and *in personam* jurisdiction in each district where the Complaint and Order have been filed.

12. This Court is the proper venue because a substantial part of the events resulting in the transfer of the property that is the subject of this petition occurred in Minnesota.

FACTS

A. Trevor Cook Operated a Ponzi Scheme.

13. From on or about a date unknown through about November 2009, Trevor Gilson Cook, aided and abetted by others, knowingly and intentionally created, devised, executed, and attempted to execute a scheme and artifice to defraud, and to obtain money and other things of value, by means of materially false and misleading statements and representations. *United States v. Trevor Gilson Cook*, No. 10-cr-00075, Docket No. 7, at 1–3.

14. On April 13, 2010, Trevor Gilson Cook pled guilty to one count of mail fraud (18 U.S.C. § 1341) and one count of tax evasion (26 U.S.C. § 7201) in connection with his role in the Ponzi scheme. *Id.* at 1.

15. During the course of the scheme, Cook, using the Receivership Entities, raised at least \$190,000,000 from at least 1,000 investors by selling investments in a purported foreign currency trading program (“Trading Program”). *Id.* at 2. Investments in the Trading Program generated substantially all of the income for the Receivership Entities. *Id.*

16. In furtherance of the scheme, Cook caused false statements to be made to investors, including but not limited to, promising that the Trading Program would generate annual returns of 10% to 12% and that the currency trading involved little or no risk to the investors' principal. *Id.* at 2.

17. In furtherance of the scheme, Cook caused material information to be withheld from investors, including his knowledge of the precarious financial position—and eventual bankruptcy—of Crown Forex, SA, a Swiss entity through which Cook was purportedly placing currency trades. *Id.*

18. In furtherance of the scheme, Cook caused an account to be opened in the name of Crown Forex LLC at Associated Bank, where he caused investor funds to be deposited and then diverted for his personal use. *Id.*

19. In furtherance of the scheme, Cook caused statements to be sent to investors that misrepresented the value of their investments in the Trading Program. *Id.* at 2-3.

20. In furtherance of the scheme, Cook withheld from the investors the fact that he was using their money for non-investment purposes, including, but not limited to paying off other investors in the scheme. *Id.* at 3. *See also Order Allowing Summary*

Proceedings, SEC Docket No. 380 (July 20, 2010); *Order Allowing Summary Proceedings*, CFTC Docket No. 350 (July 20, 2010).

21. All assets transferred from or by any Receivership entity named in the above-captioned lawsuits, at least through November 23, 2009, were transferred pursuant to the Ponzi scheme. *Order Allowing Summary Proceedings*, SEC Docket No. 380, at 3 (July 20, 2010); *Order Allowing Summary Proceedings*, CFTC Docket No. 350, at 3 (July 20, 2010).

22. All assets transferred from or by Cook, from at least August 2005 through at least November 23, 2009, were transferred pursuant to the Ponzi scheme. *Order Allowing Summary Proceedings*, SEC Docket No. 380, at 3 (July 20, 2010); *Order Allowing Summary Proceedings*, CFTC Docket No. 350, at 3 (July 20, 2010).

B. At All Relevant Times Trevor Cook Was Aware that His Ponzi Scheme Was Under Investigation By Authorities

23. By no later than in or about January 2008 Trevor Cook was aware that Crown Forex S.A. was insolvent and incapable of paying its investors.

24. By no later than in or about December 2008 Cook was aware that Swiss authorities were investigating Crown Forex SA and were shutting down its operations.

25. Cook was aware that FINRA visited his scheme's headquarters to investigate one of his partners in April 2009.

26. By no later than in or about May 2009 Cook was aware that Swiss authorities had placed Crown Forex SA into liquidation.

27. On June 22, 2009, the SEC conducted a surprise investigation of the

scheme's headquarters and personally served Cook with a subpoena.

28. The SEC's investigation continued for five days during which up to six SEC attorneys and accountants were on the premises.

29. Thus by no later than June 22, 2009 Cook was aware that the SEC was investigating the scheme and the Receivership Entities.

C. Respondent Gina Cook Received Preferential Transfers of Receivership Funds Pursuant to the Scheme On or After February 23, 2009.

30. Upon information and belief, Respondent Gina Cook is the wife of Trevor Cook. Respondent Gina Cook received at least two preferential transfers pursuant to the scheme and consisting of Receivership funds, as detailed in Exhibit 1 (attached), Exhibit 2 (attached), and below.

31. Upon information and belief, the Respondent, through her husband Trevor Cook, invested a total of \$55,575.52 in the Trading Program from October 2007 through August 2008. *See Exhibit 1 (attached).*

32. Upon information and belief, the Respondent received a total of \$112,410.00 from Receivership Entities, in two separate transfers, on or after February 23, 2009. *See Exhibit 1 (attached).*

33. Specifically, upon information and belief, on or about February 23, 2009 the Respondent received \$8,973.00 by wire transfer from Receivership Entity UBS Diversified Growth, LLC. *See Exhibit 2 (attached).*

34. Specifically, upon information and belief, on or about June 23, 2009 the Respondent received \$103,437.00 by wire transfer from Receivership Entity UBS

Diversified Growth, LLC. *See* Exhibit 2 (attached).

35. The \$112,410.00 used to pay the Respondent came directly from funds provided by investors in Cook's fraudulent scheme.

36. The Respondent received Receivership funds in an amount in excess of the amount she had invested in the Trading Program.

37. Defendant Trevor Cook initiated the transfers to Respondent on or after February 23, 2009 with actual intent to avoid, hinder, or delay payments to other creditors of Trevor Cook and the Receivership Entities.

38. The Respondent knew or should have known that the transfers she received on or after February 23, 2009, were fraudulent conveyances.

39. The Respondent received payments preferentially over hundreds of other investors who were defrauded by Trevor Cook and unable to withdraw the money they had invested in the Trading Program.

COUNT I

FRAUDULENT TRANSFER (Minn. Stat. §513.41, *et seq.*)

40. The Receiver realleges, and adopts by reference the allegations contained in paragraphs 1 through 39.

41. As discussed above, the Respondent received a total of \$112,410.00 from Receivership Entities on or after February 23, 2009.

42. All assets transferred from or by the Receivership Entities, through at least November 23, 2009, were transferred pursuant to the Ponzi scheme.

43. Trevor Cook and the Receivership Entities transferred \$112,410.00 to the Respondent with actual intent to hinder, delay, or defraud their creditors.

44. At all relevant times and as a consequence of the transfers, Trevor Cook and the Receivership Entities knew that the funds remaining with the Receivership Entities were insufficient to pay creditors of and/or investors in the scheme.

45. Pursuant to Minn. Stat. § 513.41, *et seq.*, each transfer made to the Respondent on or after February 23, 2009 was a fraudulent transfer as to the other investors defrauded by the scheme, and the Receiver has the power to avoid such transfers.

COUNT II

UNJUST ENRICHMENT

46. The Receiver realleges, and adopts by reference the allegations contained in paragraphs 1 through 39.

47. The Respondent has been unjustly enriched by the receipt of the preferential transfers from Receivership Entities in the amount of \$112,410.00.

48. The Respondent's retention of \$112,410.00 in Receivership funds, preferentially obtained at the expense of other defrauded investors, violates fundamental principles of justice, equity, and good conscience.

49. The doctrine of unjust enrichment and the principles of law and equity require that the \$112,410.00 received by the Respondent on or after February 23, 2009 be returned to the Receiver for equitable distribution to all defrauded investors and other creditors.

PRAYER FOR RELIEF

WHEREFORE, the Receiver respectfully requests the Court enter an Order:

- (1) Establishing that funds received by the Respondent from the Receivership Entities on or after February 23, 2009 were the result of fraudulent transfers, or in the alternative, that the Respondent was unjustly enriched by the funds received from the Receivership Entities on or after February 23, 2009;
- (2) Establishing that the funds received by the Respondent from the Receivership Entities on or after February 23, 2009 are property of the Receivership;
- (3) Establishing the amount of funds the Respondent received;
- (4) Entering judgment against the Respondent in an amount equal to the amount of funds she received from the Receivership Entities on or after February 23, 2009;
- (5) Granting such other further relief as the Court deems proper under the circumstances.

Respectfully submitted,

Dated: July 27, 2010

s/ R.J. Zayed
R.J. Zayed (MN Bar No. 309,849)
Tara C. Norgard (MN Bar No. 307,683)
Russell J. Rigby (MN Bar No. 323,652)
Brian W. Hayes (MN Bar No. 294,585)
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