
UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,

Plaintiff(s)

Case No: 11-cv-00574 MJD/FLN

v.

JASON BO-ALAN BECKMAN and
THE OXFORD PRIVATE CLIENT
GROUP, LLC,

Defendant(s)

And

HOLLIE BECKMAN,

Relief Defendant.

**DECLARATION OF BRIAN HAYES IN SUPPORT OF RECEIVER'S MOTION
FOR AN ORDER FOR A RULE TO SHOW CAUSE AGAINST SEVERAL
FINANCIAL INSTITUTIONS**

I, Brian Hayes, hereby declare:

1. I am an attorney with R.J. Zayed in the firm of Carlson, Caspers, Vandenburg and Lindquist ("CCVL"). I submit this declaration in support of the motion by the Receiver in this action, R.J. Zayed, Carlson, Caspers, Vandenburg and Lindquist, for an Order for a Rule to Show Cause Against Bank of America, JP Morgan Chase, American Express, and UBS Financial Services. This declaration is submitted on my personal knowledge, except as otherwise indicated.

2. On March 8, 2011, this Court entered an order appointing R.J. Zayed as Receiver in this matter for (1) the estate of Defendant Jason Bo-Alan Beckman (“Beckman”); (2) Defendant The Oxford Private Client Group, LLC (“Oxford PCG”); (3) 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 the Defendants; and (4) every other corporation, company, partnership, trust and/or other entity (regardless of form) which is directly or indirectly owned by or under the direct or indirect control of Defendant Beckman, Defendant Oxford PCG, or Relief Defendant Hollie Beckman (hereinafter (1)-(4) referred to as “Receiver Estates”). *Order Appointing Receiver*, No. 11-cv-574 (“SEC” case), Doc. No. 10, at 1-2 (Mar. 8, 2011); *see also Order Imposing Asset Freeze and Other Ancillary Relief and Setting Hearing on Motion for Preliminary Injunction*, SEC Docket No. 9 (Mar. 8, 2011) (hereinafter, collectively, the “Receiver Orders”).

3. R.J. Zayed also has been appointed Receiver in the related cases of *CFTC v. Cook*, No. 09-cv-3332 MJD/JJK (D. Minn. Nov. 23, 2009) and *SEC v. Cook*, No. 09-cv-3333 MJD/JJK (D. Minn. Nov. 23, 2009). *Order Continuing Appointment of Temporary Receiver*, No. 09-cv-3332, Document No. 96 (Dec. 11, 2009); *Second Amended Order Appointing Receiver*, No. 09-cv-3333, Document No. 68 (Dec. 11, 2009).

Bank of America

4. On March 9, 2011, the Receiver attempted to contact Bank of America about the various mortgages held by Bank of America for the several Beckman properties. Bank of America refused to talk to the Receiver without authorization from the account holders.

5. Attached hereto as **Exhibit A** is true and correct copy of a letter dated March 9, 2011 from the Receiver to Bank of America requesting that Brian Hayes, designee for the Receiver, be added to the Beckman mortgage account.

6. Attached hereto as **Exhibit B** is true and correct copy of a cover letter dated March 11, 2011 from the Receiver to Bank of America describing service of an attached subpoena, with a March 21, 2011 deadline, along with the Receiver Orders demanding Beckman account information.

7. Attached hereto as **Exhibit C** is a true and correct copy of an Affidavit of Service relating to the March 11, 2011 subpoena to Bank of America.

8. On March 15, 2011, a Bank of America representative telephoned Receiver attorney Brent Elswick, and stated that they do not produce records relating to Bank of America credit cards or mortgages. The representative instructed the Receiver attorney to call FIA Card Services in Arizona and request information from that location. In the interest of time and expense, the Receiver called FIA Card Services in Arizona and mailed service of the Receiver Orders and a subpoena to that location.

9. Attached hereto as **Exhibit D** is a true and correct copy of a cover letter dated March 15, 2011 from the Receiver to Bank of America, doing business as FIA Card Services, N.A., attaching subpoena and Receiver Orders demanding, again, Beckman credit card account information.

10. Upon receipt of the subpoena and Receiver Orders, Bank of America telephoned the Receiver and requested an extension for responding to the subpoena until April 4, 2011. Bank of America has not produced the subpoenaed credit card account documents as of this filing.

11. Attached hereto as **Exhibit E** is a true and correct copy of a letter dated March 17, 2011 from the Receiver to Bank of America requesting, again, that Brian Hayes be added to the Beckman mortgage accounts.

12. Attached hereto as **Exhibit F** is a true and correct copy of a facsimile transmission dated March 24, 2011 from the Receiver to the Bank of America mortgage department attaching authorizations and again requesting that Brian Hayes, designee for the Receiver, be added to the Beckman mortgage accounts.

13. On March 24, 2011, Receiver attorney Joe Kaczrowski and I telephoned various Bank of America representatives and were unsuccessful in reaching anyone with authority who could comply with the Receiver Orders. At one point, Bank of America transferred me to a third-party hotel representative in Puerto Rico.

14. On March 24, 2011, the Receiver also sent additional copies of the Receiver Orders to Sean Gorman, a Bank of America manager, following additional

telephone conversations. At this time, I was allowed to at least receive current balance information from the Beckman-owned properties over the telephone, and over the next two days I received facsimiles stating the account balance for each Beckman mortgage as of that date. A true and correct copy of this electronic mail is attached as **Exhibit G**. True and correct copies of the facsimiles referenced in the email, Exhibit G, are attached as Exhibit F.

15. On March 25, 2011, I again e-mailed Mr. Gorman to inform him that the Receiver was releasing the Beckman Florida property from the Asset Freeze Order. A true and correct copy of this electronic mail is attached as **Exhibit H**. I received no response to this electronic mail.

16. On March 29, 2011, I again contacted Mr. Gorman by electronic mail to follow up on my earlier communications and request permanent access to the Beckman mortgages as per the Receiver Orders. A true and correct copy of this electronic mail is attached as **Exhibit I**. I received no response to this electronic mail.

17. On March 30, 2011, I again contacted Mr. Gorman by electronic mail to follow up on my earlier communications and request permanent access to the Beckman mortgages as per the Receiver Orders. A true and correct copy of this electronic mail is attached as **Exhibit J**. I received no response to this electronic mail.

18. On April 5, 2011, I once again called Bank of America to request that, as per the Receiver Orders, I be mailed copies of the Beckman properties' mortgage statements and also be allowed Internet access. At that time, I was informed that a

“litigation alert” had been placed on the account, and that Bank of America would not allow my requests for permanent access until a “litigation specialist” from Bank of America contacted the mortgage department. While I was promised a return call, to date I have not received one.

19. On April 8, 2011, The Receiver was forwarded two letters from Bank of America to Jason Beckman indicating that Brian Hayes had been added to the account on or before March 29, 2011, despite Bank of America’s representations, as recently as April 5, 2011, to the contrary. However, as of the date of this filing, Bank of America still has not acceded to the Receiver’s requests for all past account information and access (either online or by U.S. mail) to the accounts going forward.

20. Attached hereto as **Exhibit K** is a true and correct copy of a letter dated March 29, 2011 from Bank of America to Jason Beckman indicating Brian Hayes was added to the account.

21. Attached hereto as **Exhibit L** is a true and correct copy of a letter dated March 29, 2011 from Bank of America to Jason Beckman indicating Brian Hayes was added to the account.

22. Bank of America has not responded to the Receiver’s subpoena for credit card information or adequately addressed the Receiver’s access the Beckman mortgages as of this filing.

American Express

23. Attached hereto as **Exhibit M** is true and correct copy of a cover letter dated March 11, 2011 from the Receiver to American Express Company describing service of an attached subpoena along with the Receiver Orders demanding Beckman credit card account information.

24. Attached hereto as **Exhibit N** is a true and correct copy of an Affidavit of Service regarding service of process on American Express for the March 11, 2011 dated subpoena and Receiver Orders.

25. Attached hereto as **Exhibit O** is a true and correct copy of a letter dated March 15, 2011 from American Express acknowledging receipt of the subpoena and their search attempts. American Express did not ask for time extension in order to respond to the Receiver's subpoena and the deadline has passed.

26. American Express has not responded to the Receiver's subpoena for Beckman credit card information as of this filing.

JP Morgan Chase

27. On March 17, 2011, the Receiver attempted to contact JP Morgan Chase about a home equity line of credit loan taken out on the Plymouth property by the Beckmans. Chase refused to talk to the Receiver without authorization from the account holder.

28. Attached hereto as **Exhibit P** is a true and correct copy of a letter dated March 17, 2011 from the Receiver to JPMorgan Chase Bank, N.A. requesting that Brian

Hayes, designee for the Receiver, be added to the Beckman mortgage accounts. The Receiver was told it takes 24-48 hours to process such a request.

29. Attached hereto as **Exhibit Q** is a true and correct copy of a facsimile transmission dated March 24, 2011 to JP Morgan Chase Research Department attaching authorizations and again requesting that Brian Hayes be added to the Beckman mortgage accounts.

30. On March 24, 2011, the Receiver contacted JP Morgan Chase seeking confirmation Brian Hayes had been added as an authorized individual on the account. Chase again stated it takes 24-48 hours to process and said they had no record of the prior facsimiles.

31. The Receiver telephoned JP Morgan Chase on April 5, 2011 requesting confirmation of receipt of the above-referenced requests. Chase informed the Receiver they had no record of anything regarding this matter.

32. Attached hereto as **Exhibit R** is a true and correct copy of a facsimile transmission dated April 5, 2011 from the Receiver to JP Morgan Chase Home Equity Customer Care attaching authorizations and again requesting that Brian Hayes, designee for the Receiver, be added to the Beckman mortgage accounts.

33. On April 7, 2011, I received a call from an Ashley Mason from Chase, requesting that I again send over copies of the Beckman authorization and Receiver Orders, and stating that I would be contacted on the same day following the completion of that task.

34. On April 7, 2011, I accordingly faxed a request to Chase requesting that Brian Hayes be added to the Beckman mortgage accounts. The Receiver again also provided Chase with copies of the Receiver and Asset Freeze Orders as well as the authorization letter from Hollie Beckman. Attached hereto as **Exhibit S** is a true and correct copy of a letter to JPMorgan Chase on April 7, 2011.

35. I did not receive a call in response to Exhibit S; when I called Ms. Mason back to follow up on the afternoon of April 7, 2011, I was unable to get her on the phone, and was told that she would contact me the next day.

36. On April 8, 2011, The Receiver was forwarded a letter from Chase to Hollie Beckman indicating that Brian Hayes had been added to the account on or before March 30, 2011, despite Chase's representations, as recently as April 7, 2011, to the contrary. Attached hereto as **Exhibit T** is a true and correct copy of the letter from Chase to Hollie Beckman dated March 30, 2011, indicating Brian Hayes was added to the account. However, as of filing, Chase still has not contacted the Receiver directly or acceded to our requests for past and present information.

37. On April 8, 2011, I again contacted Chase about access to the account, this time to the number listed on Exhibit T. During this conversation, Chase indicated that I was, in fact, now authorized on the account and that they had received the authorization letter from Hollie Beckman attached as page two (2) in Exhibit Q, *supra*. However, they still claimed they had not received any copies of the Orders previously sent to Chase.

38. At Chase's request, the Receiver again faxed the Orders to Chase.

Attached hereto as **Exhibit U** is a true and correct copy of a letter dated April 8, 2011, from the Receiver to Chase enclosing the Receiver and Asset Freeze Orders and confirming Brian Hayes has complete access to all account records, as requested.

39. JPMorgan Chase has not adequately responded to the Receiver's request for access to the Beckman mortgages as of this filing.

UBS Financial Services

40. Because the Receiver has forwarded mail from the seized properties to his office, he has received various account and financial statement mailings from UBS Financial Services. This mail relates to Beckman and Oxford PCG owned or controlled accounts. As part of his asset tracing investigation, the Receiver requested all documents and things from UBS relating to the Receiver Entities in early 2010.

41. Attached hereto as **Exhibit V** is a true and correct copy of an email dated June 3, 2010 from Receiver attorney Brent Elswick to UBS following up on prior correspondence and requesting information.

42. UBS exchanged a few telephone calls with the Receiver but maintained the position that the accounts were all Beckman related and, because Beckman was not a named Defendant or Relief-Defendant in the Cook matters, nothing would be produced.

43. Attached hereto as **Exhibit W** is a true and correct copy of an email dated March 10, 2011 from Receiver attorney Brent Elswick to UBS Financial Services,

serving the Beckman Receiver Orders, requesting specific Beckman account information, and notifying UBS of their obligation to file with the Court a certified statement setting forth account balances. As of this filing, UBS has not complied with this portion of the Receiver Orders.

44. Attached hereto as **Exhibit X** is a true and correct copy of an email dated March 10, 2011 from a UBS representative to Receiver attorney Brent Elswick indicating UBS will review the documents and respond as soon as possible.

45. On March 16, 2011, a UBS Financial Services representative contacted Receiver attorney Brent Elswick and stated that UBS needed social security numbers for the Beckman Defendants in order to search for records. The Receiver replied with this request. UBS also requested that the Receiver re-forward a prior email from summer 2010, regarding the same requests, so that UBS could figure out how to proceed.

46. Attached hereto as **Exhibit Y** is a true and correct copy of an email dated March 16, 2011 from Receiver attorney Brent Elswick to UBS Financial Services forwarding correspondence as requested by a UBS representative so that they could comply with Receiver requests.

47. A UBS representative and Receiver attorney Brent Elswick spoke again on March 24, 2011, whereby UBS indicated that Beckman and The Oxford Private Client Group was one of their money managers, they had searched and found records, and would try to get records to the Receiver within the week before going on vacation.

48. UBS has not filed with the Court any documents in this proceeding, as required by the Receiver Orders, or provided any records as requested by the Receiver.

49. The Receiver has expended considerable time and resources on the requests outlined herein.

I state under penalty of perjury that the foregoing is true and correct.

Dated: April 8, 2011

s/ Brian Hayes
Brian Hayes