

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

U.S. COMMODITY FUTURES
TRADING COMMISSION,
Plaintiff,

v.

Case No. 09-cv-3332 (MJD/FLN)

TREVOR COOK et al.,
Defendants,

R.J. ZAYED,
Receiver.

UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,
Plaintiff,

v.

Case No. 09-cv-3333 (MJD/FLN)

TREVOR G. COOK, et al.,
Defendants,

R.J. ZAYED,
Receiver.

UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,
Plaintiff,

v.

Case No. 11-cv-574 (MJD/FLN)

JASON BO-ALAN BECKMAN, et al.,
Defendants,

R.J. ZAYED,
Receiver.

**TWELFTH STATUS REPORT OF RECEIVER R.J. ZAYED IN
CFTC v. COOK, et. al. (09-cv-3332),
SEC v. COOK, et. al. (09-cv-3333), and SEC v. BECKMAN, et. al. (11-cv-574)**

R. J. Zayed, the Receiver for Defendants and Relief Defendants in these cases, submits this Twelfth Report summarizing the major activities that he has undertaken since the filing of the Eleventh Status Report on November 22, 2011. This Twelfth Report covers the period from November 22, 2011 through February 29, 2012.

A. FINRA Claimants

The Receiver has settled his claims against the FINRA Claimants concerning their settlement with NRP. The details of the settlement are on the Receiver's website. The amount in dispute was the \$2.9 million that the FINRA Claimants received in settling their claims against NRP ahead of the Receiver's claims against NRP.

The Receiver and the FINRA Claimants agreed to split the money. Attorneys' fees of \$341,944 were deducted from the \$2.9 million because, with the agreement between the Receiver and the FINRA Claimants to split the proceeds of the NRP settlement, the Receivership Estates and the FINRA Claimants both benefitted from the attorneys' efforts in obtaining the settlement with NRP. After deducting the attorneys' fees, the remainder was divided in half between the FINRA Claimants and the Receiver. This resulted in \$1,280,033.90 being transferred to the Receiver. The Receiver is in the process of distributing this amount, plus \$99,776.00 remaining from the funds repatriated from

Switzerland, to the investor victims. The FINRA Claimants will not receive any further distributions from the Receiver until the *pro rata* recovery for all other investor victims reaches the same recovery rate the FINRA Claimants obtained through their settlement with the Receiver.

The Receiver is still in negotiations with the FINRA Claimants concerning the \$500,000 they received in a settlement with Western. The Receiver is hopeful that a settlement will be reached. However, if no settlement is reached, the Receiver will proceed with his pending motion against the FINRA Claimants concerning the Western proceeds.

B. Western International Securities Corp. (“Western”)

The Receiver has settled his claims against Western. The details of the settlement are on the Receiver’s website. In short, Western agreed to contribute \$1,500,000 to the Receiver’s claims, with the settlement amount to be conveyed in the form of cash, and rights to escrow funds, insurance claims and claims against NRP. Given Western’s limited financial resources, the cash component of the settlement is \$410,000. The Receiver is in the process of preparing and filing a motion to distribute \$338,250 in proceeds from the settlement (\$410,000 less 17.5% that is owed to and will be paid to the Receiver’s contingency fee counsel) to the investor victims. Any investor victim who knowingly and willingly accepts the proceeds of this settlement with Western will give up his or her possible claims against Western.

C. NRP Financial, Inc. (“NRP”)

The Receiver has filed suit against NRP. The details of this lawsuit are on the Receiver’s website. The Receiver is in negotiations with NRP in an effort to resolve the lawsuit before he serves the complaint and commences active litigation. The Receiver is represented by contingency fee counsel in this case.

D. Arch Insurance

The Receiver entered into a *Miller-Shugart* settlement with Ed Baker and his companies. Pursuant to the rights acquired under that settlement, the Receiver filed suit against Baker’s insurance carrier, Arch Insurance. The details of the lawsuit are on the Receiver’s website. That litigation is in the fact and expert discovery phase.

E. Peregrine Financial Group (“PFG”)

The Receiver has filed suit against PFG. The Receiver is represented by contingency fee counsel in this case. The details of this lawsuit are on the Receiver’s website. The case is in its initial stages and the Court has not yet entered a scheduling order. PFG recently filed a motion to move the lawsuit to the Northern District of Illinois. A hearing date has not yet been set for that motion.

F. Other Legal Proceedings

The Receiver is continuing to litigate claw-back claims against David Buysse, Steven and Pamela Cheney, Walter Defiel, Terry Frahm, Steven and Jenene Fredell, Michael and Jennifer Heise, Michael and Cynthia Hillesheim, Larry Hopfenspirger, Steven Kautzman, James McIntosh, George and Karen

Morrisset, Reynold Sundstrom (collectively “the Berg Investors”) and Dot Anderson. On February 13 and 14, 2012, Judge Susan Richard Nelson heard motions for summary judgment by the Receiver, the Berg Investors and Dot Anderson. Judge Nelson took the matters under advisement.

In December 2010, the Receiver sent out approximately 150 demand letters to individuals who, according to bank records, received more money from Receivership Entities than they invested. These individuals are situated differently than the Berg Investors and Anderson against whom the Receiver has filed Summary Proceedings Action in that the Receiver does not currently believe that these investors had an inside connection or received preferential treatment in withdrawing money after the SEC began its investigation.

The Receiver’s demand letters informed these “winning investors” of the claims the Receiver has against them and offered to settle these claims for the investors’ profits. Of those who received letters, 28 provided third-party documentation to show that they were not, in fact, winning investors. Ninety-one of those who were winning investors have accepted the Receiver’s settlement offer. Thirty “winning investors” have either not responded or have rejected the Receiver’s demand. The Receiver anticipates filing clawback actions against this last group of “winning investors.”

To date, “winning investors” have pledged to repay \$810,659. Of this, \$688,787.37 has already been received and deposited in the Receivership’s bank account.

G. Panamanian Property

There have been no new developments since the Receiver's previous Status Report.

H. Distributions to Investor Victims of Ponzi Scheme

Pursuant to the Court's Orders, the Receiver has distributed the following to the investor victims of the Ponzi scheme (1) \$2,250,000.00 on or about November 12, 2010; (2) \$39,820.48 to the employee investor victims on or about November 29, 2010; (3) \$133,230.44 to additional victims who were identified after the initial distribution and to victims whose claims were adjusted by the Receiver; and (4) \$1,027,729.04 on or about August 2, 2011. The Receiver also released \$363,700.00 for purposes of criminal restitution.

The Receiver is in the process of distributing an additional \$1,379,809.90 to the investor victims. This amount consists of the \$1,280,033.90 from the settlement with the FINRA Claimants, plus \$99,776.00 that is remaining from the funds repatriated from Switzerland. The Receiver is also preparing a motion for approval to distribute the \$338,250 received from Western.

In sum, with the current distributions that are in progress (proceeds from the Receiver's settlement with the FINRA Claimants concerning NRP and the Receiver's settlement with Western), the Receiver will have distributed \$5,532,539.86 to the investor victims of the Ponzi scheme. This amount equals about 3.72 cents per every dollar stolen.

I. Financial Status of Receivership

The Receiver has spent approximately \$5,722,946.33 in fees and expenses. The fees and expenses are through December 31, 2011. These fees and expenses were paid to service providers including: Carlson, Caspers, Vandenburg & Lindquist; Dorsey & Whitney; Weiler, Maloney, and Nelson; Miller Thompson LLP; McMillan LLP; Morgan & Morgan; BMG Avocats; Leonard, O'Brien, Spencer, Gale & Sayre, Ltd.; Masserli & Kramer; Kelly & Berens; Willeke & Daniels; Greene Espel; Lewis and Roca; Ernst & Young; Computer Forensics; Waypoint, Inc.; Avalon Security; Safety Net Security; and LiquidPrint; 33rd Co. Inc. These fees and expenses also include the Receiver's loan, pursuant to Court Order, of \$5,151.20 to Jason Beckman on April 4, 2011 for living expenses. The details of all of these fees and expenses can be found on the Receiver's website under fee petitions.

The Receiver has a cash balance of \$1,680,696.20 in the Receiver's bank account and \$200,000 posted as bond in Panama.

In sum, the Receiver has collected, liquidated or frozen approximately \$13,136,182.39, paid \$5,722,946.33 in fees and expenses, and (with current

distributions in progress) released \$5,532,539.86 for distribution to the victims of the Ponzi scheme.

J. Other Assets

The Receiver is still investigating the disposition of other Receivership assets including those that were given to, among others, James Pieron, JDFX, Capricorn, Crown Forex, Shadi Swais, Ibrahim Hasanein, Gary Saunders, Holger Bauchinger, Jason “Bo” Beckman, Chris Pettengill, Gerald Durand, and Pat Kiley.

The Receiver is also investigating possible claims against various third parties who may have aided and abetted the fraud that was perpetrated against the Receivership Estates. Specifically, the Receiver is actively investigating potential claims against other third parties including financial institutions and brokerage firms.

The Receiver also filed a lawsuit against Michael Kabarec based on Receivership funds that went to Baker’s company, Mesa Holdings. This lawsuit has been settled, with Kabarec paying the Receiver \$55,000.00 in two installments, the second of which was received in December 2011.

The Receiver is continuing to receive monthly payments from Jared Jenkins pursuant to an agreement to pay back a loan he received from Trevor Cook prior to the Receivership.

The Receiver has settled with JP Fund Services. JP Fund Services has agreed to pay the Receiver \$350,000.00 in fourteen monthly installments beginning December 1, 2011, and has agreed to submit to the jurisdiction of the

Court for purposes of enforcing the settlement. JP Fund Services has been timely in its payments and has paid the Receiver \$120,000.00 to date.

The Receiver has settled with William Harris for \$206,250.00. Harris timely paid the settlement amount. The details of the settlement are on the Receiver's website.

K. Outside Counsel

On October 19, 2011, the Court granted the Receiver's motion to retain outside counsel for purposes of pursuing claims against third parties. The Receiver negotiated a structure where outside counsel would pursue claims on behalf of the Receiver in exchange for a fair and reasonable contingency fee to be paid solely from the proceeds of a judgment or settlement, with outside counsel assuming all costs of the anticipated litigation. Pursuant to the Court's Order, the Receiver has retained Reid Collins & Tsai LLP. Reid Collins assisted in the settlement of the Receiver's claims against Western and is handling the lawsuits against NRP and PFG.

L. 1-800 Number

The Receiver continues to operate local (612-436-9664) and toll-free (877-316-6129) numbers for investor inquiries.

M. Receiver Website

The Receiver continues to operate a website for investors and other members of the public at www.cookkileyreceiver.com. As a means to address commonly asked questions and to maintain active ongoing communications with

investors, the Receiver periodically posts responses to investor questions. To date the Receiver has posted 101 such responses on the “FAQS” section of the Receiver’s website. The Court also maintains a website for this case, which can be found at www.mnd.uscourts.gov/sec-cftc/index.shtml.

N. 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. The Receiver has posted a number of responses to frequently asked questions regarding taxes on the “FAQs” section of the Receiver’s website.

CONCLUSION

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

Dated: February 29, 2012

Respectfully submitted,

s/ R.J. Zayed

R.J. Zayed, Receiver

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