

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.

**THIRTEENTH 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 Thirteenth Report summarizing the major activities that he has undertaken since the filing of the Twelfth Status Report on February 29, 2012. This Thirteenth Report covers the period from March 1, 2012 through August 8, 2012.

A. Criminal Cases

On June 12, 2012, the jury in the criminal case against Jason Bo-Alan Beckman, Gerald Joseph Durand, and Patrick Joseph Kiley (Case No. 11-cr-228) returned guilty verdicts as to each defendant on all charges. The defendants were taken into custody by the U.S. Marshal Service and await sentencing. More information about the criminal action is available on the U.S. Attorney's website at www.justice.gov/usao/mn/beckman.html.

The Receiver is providing the U.S. Probation Office with information about the 723 victim claims that have been recognized by the Receiver and confirmed by the Court in the civil cases brought by the SEC and CFTC. Anyone who wishes to provide additional information to the Probation Office relating to losses resulting from the fraudulent activities of Beckman, Durand and Kiley, should contact Peter Madsen with the Probation Office at 651-848-1246 or Peter_Madsen@mnp.uscourts.gov.

B. FINRA Claimants

The Receiver's claims against the FINRA Claimants have been resolved.

On February 24, 2012, the Court approved the Receiver's first partial settlement with the FINRA Claimants relating to the \$2.9 million that the FINRA Claimants received when they settled their claims against NRP ahead of the Receiver's claims against NRP. The Receiver and the FINRA Claimants agreed to split this money. Attorneys' fees of \$341,944.00 were deducted from the \$2.9 million because with this settlement the Receivership Estates and the FINRA Claimants both benefitted from the attorneys' efforts in obtaining the \$2.9 million from 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 distributed these settlement funds to victims on March 28, 2012 as part of the Third Interim Distribution. The FINRA Claimants were not part of that distribution and will not receive any further distributions from the Receiver until the *pro rata* recovery for all other recognized claims reaches the same recovery rate the FINRA Claimants obtained through their settlement with the Receiver.

On April 12, 2012, the Court approved a second partial settlement between the Receiver and the FINRA Claimants, resolving the remaining issues between them. The second settlement concerned the \$495,500.00 that the FINRA Claimants received when they settled their claims against Western ahead of the Receiver's claims against Western. The Receiver's settlement with the FINRA

Claimants contained two parts. First, the Receiver and the FINRA Claimants agreed to split the \$495,500.00, plus the interest it had accrued while it was in escrow pending the outcome of this dispute. The Receiver distributed these settlement funds to victims on March 28, 2012 as part of the Third Interim Distribution. As noted above, the FINRA Claimants were not part of that distribution. Second, the agreement allowed the FINRA Claimants to pursue an insurance claim against the Everest Insurance company and, to the extent they obtained any proceeds from Everest in excess of \$282,500.00, required them to pay such excess proceeds to the Receiver. The FINRA Claimants then settled their claim against Everest for \$400,000.00, and paid \$117,500.00 to the Receiver.

The details of all settlements involving the FINRA Claimants are posted on the Receiver's web page.

C. Western International Securities Corp. ("Western")

On March 23, 2012, the Court approved the Receiver's settlement agreement with Western. The settlement yielded approximately \$338,250.00 to the Receiver (\$410,000.00 cash component of settlement, less 17.5% owed and paid to the Receiver's contingency fee counsel). The agreement provides that any victim who cashes his or her check with the proceeds of the Receiver's settlement Western releases any claims he or she may otherwise have had against Western. The Receiver mailed the Western distribution checks, along with a letter explaining the terms of the release, on May 7, 2012.

The details of the Receiver's settlement with Western are posted on the Receiver's web page.

D. NRP Financial, Inc. ("NRP")

On March 23, 2012, the Court approved the Receiver's settlement agreement with NRP. The settlement yielded approximately \$825,000 to the Receiver (\$1 million cash component of settlement, less 17.5% owed and paid to the Receiver's contingency fee counsel). Like the Western agreement, the Receiver's agreement with NRP provides that any victim who cashes his or her check with the proceeds of the Western settlement releases any claims he or she may otherwise have had against Western. The Receiver mailed the NRP distribution checks, along with a letter explaining the terms of the release, on May 7, 2012.

The details of the Receiver's settlement with NRP are posted on the Receiver's web page.

E. 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. The case has been reassigned to U.S. District Court Judge Patrick J. Schiltz. The parties have filed motions for summary judgment in the case and a hearing is scheduled to take place on October 26, 2012 at 8:30 a.m. at the U.S. Courthouse in Minneapolis, Minnesota.

F. Peregrine Financial Group (“PFG”)

The Receiver filed suit against PFG of February 1, 2012 in the United States District Court for the District of Minnesota. The details of the Receiver’s lawsuit are on the Receiver’s website. The Receiver is represented by contingency fee counsel in this case. PFG filed a motion to transfer the case to the Northern District of Illinois, which was denied on June 22, 2012.

On July 10, 2012 the United States Commodities Futures Trading Commission (“CFTC”) filed suit against PFG in the Northern District of Illinois after it was discovered that over \$200 million was missing from the company. The suit accuses PFG and its founder of fraud and misuse of customer funds. Criminal charges also have been filed against PFG’s founder and PFG has filed for bankruptcy. In view of these proceedings, Chief Judge Davis administratively closed the Receiver’s case against PFG without prejudice.

The facts and legal situation involving PFG continue to evolve. The Receiver is assessing the situation and will proceed with his claims in the bankruptcy case.

G. The Berg Investors and Dot Anderson

The Receiver is continuing to litigate clawback 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. On April 26, 2012, the Receiver and the Berg Investors argued motions to exclude each other's experts from testifying in the case. Judge Nelson has taken these matters under advisement.

H. "Winning" Investors

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-four of those who were winning investors have accepted the Receiver's settlement offer. Thirty-one "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 \$806,973.05. Of this, \$793,800.00 has already been received and deposited in the Receivership’s bank account.

I. Panamanian Property

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

J. 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 on or about November 29, 2010 to the employee investor victims; (3) \$133,230.44 on or about May 5, 2011 to additional victims who were identified after the initial distribution and to victims whose claims were adjusted by the Receiver; (4) \$1,027,729.04 on or about August 2, 2011; (5) \$1,379,955.63 on or about March 28, 2012; (6) and \$1,163,249.78 on or about May 7, 2012. The Receiver also released \$363,700.00 for purposes of criminal restitution.

In sum, the Receiver has distributed approximately \$6,357,685.37 to the investor victims of the Ponzi scheme. This amount equals about 4.3 cents for every dollar stolen.

K. Financial Status of Receivership

The Receiver has spent \$6,961,275.10 in fees and expenses through June 30, 2012. These fees and expenses were paid to service providers including:

Carlson, Caspers, Vandenburg, Lindquist & Schuman; Dorsey & Whitney; Weiler, Maloney, and Nelson; Miller Thompson LLP; McMillan LLP; Morgan & Morgan; BMG Avocats; Leonard, O'Brien, Spencer, Gale & Sayre, Ltd.; Messerli & Kramer; Kelly & Berens; Willeke & Daniels; Greene Espel; Lewis and Roca; Ernst & Young; Computer Forensics; WayPoint, Inc.; Avalon Security; Safety Net Security; liQuidprint; 33rd Co. Inc.; and Bernick, Lifson, Greenstein, Greene & Liszt. These fees and expenses also include the loan that the Court ordered the Receiver to make to Jason Bo-Alan Beckman on April 4, 2011 for living expenses. The details of all fees and expenses can be found on the Receiver's website under fee petitions.

The Receiver has a cash balance of \$1,121,534.77 in the Receiver's bank account and \$200,000 posted as bond in Panama.

In sum, the Receiver has collected, liquidated or frozen approximately \$14,636,770.73, paid \$6,961,275.10 in fees, expenses and other costs, and released \$6,357,685.37 for distribution to the victims of the Ponzi scheme.

L. 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, and Holger Bauchinger.

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 settled with JP Fund Services. JP Fund Services agreed to pay the Receiver \$350,000.00 in fourteen monthly installments beginning December 1, 2011, and 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 \$240,000.00 to date.

Jared Jenkins is delinquent under an agreement to pay back a loan he received from Trevor Cook prior to the Receivership. The Receiver will pursue necessary actions to ensure full payment is made.

M. 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 NRP and is handling the lawsuit against PFG and will handle the Receiver's claims against PFG in bankruptcy court.

N. 1-800 Number

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

O. Receiver Website

The Receiver operates a website for investors and other members of the public at www.cookkileyreceiver.com. The Receiver continues to post selected filings from the three main cases, as well as various additional cases that have stemmed from this fraud and the Receiver's efforts to collect stolen assets. That section, formerly labeled "Receiver Filings" and now labeled "Case Filings", has been reorganized to allow users to more easily navigate the large volume of information that can be found there. The Receiver also continues to post responses to commonly asked questions as a means to provide current information and maintain active ongoing communications with investors. To date the Receiver has posted 137 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.

P. Taxes

The Receiver is continuing discussions 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: August 8, 2012

Respectfully submitted,

s/ R.J. Zayed

R.J. Zayed, Receiver

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