

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

U.S. Commodity Futures Trading
Commission,

Civil Action
File No.: 09-cv-3332 MJD/JJK

Plaintiff(s),

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, Universal 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 Securities
And Exchange Commission,

Civil Action
File No. 09-cv-3333(MJD/JJK)

Plaintiff,

v.

Trevor J. Cook, and
Patrick J. Kiley, et al.,

Defendants,

and

Basel Group, LLC,
Crown Froex, 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.

**SECOND 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 Second Report summarizing major activities undertaken since January 1, 2010 through the February 28, 2010.

A. U.S. Properties

1. 1900 LaSalle Ave, Minneapolis, MN 55403 (the “Van Dusen Mansion”)

To preserve the properties, assets and evidence that the Receiver found at the Van Dusen Mansion and the Tiffany Court properties, the Receiver retained round-the-clock

security service, initially for both properties and then only for the Van Dusen Mansion. The Receiver incurred approximately \$73,000.00 in costs for this security service.

After the Receiver imaged and copied the hard drives and reviewed the physical evidence found at the two properties, the Receiver turned over the physical evidence to the FBI for safe-keeping. Thereafter, the Receiver had the alarm system repaired and reactivated at the Van Dusen Mansion and retained a property management company to provide a live-in caretaker and maintenance for the property (snow removal, security system, cleaning, etc.). The Receiver then concluded the security guard contract on January 3, 2010.

The decisions to release the evidence to the FBI, hire a management company and terminate the security contract have resulted in substantial monthly savings for the Receivership, while still maintaining a high degree of security. Notwithstanding the substantial monthly savings, however, the Receiver is still incurring about \$12,000.00 per month in ongoing expenses to cover real estate taxes, utilities, the property management fees and legal fees. The Receiver has also incurred various one-time charges for the Van Dusen property. For example, the Receiver had to have the furnaces at the Van Dusen Mansion repaired as well as a host of other minor issues that required immediate attention.

The Receiver also purchased insurance for the Van Dusen Mansion to guard against the possibility of any catastrophic loss.

The personal property in the Van Dusen Mansion was carefully appraised, and resalable items that did not originate with the property (or contribute to its historic

character) were removed and prepared for sale by Luther Auctions of North St. Paul, MN. The Court entered an Order on January 13, 2010 approving the sale of this personal property.

Items that were not resalable were either donated to charity or discarded. A substantial amount of trash was found at and removed from the Van Dusen Mansion by contractors working under the Receiver's oversight. After the property was cleared of resalable items and trash, the property was cleaned and placed in a condition where it could quickly be placed on the market.

The three independent appraisals required by federal law were completed for the Van Dusen Mansion in early January 2010 and the Receiver filed a motion for permission to sell the property. On January 21, 2010, the Court granted the Receiver's motion.

The Court appointed Jimmy Fogel of Coldwell Banker Burnett to sell the Van Dusen Mansion at a six percent (6%) commission. Mr. Fogel is ranked in the top one percent of Real Estate Sales Associates nationally, has received Coldwell Banker's top designation of Presidents Premier, and has particular expertise in the sale of high-value properties in the south Minneapolis city/lakes area. Mr. Fogel was the seller's agent when Trevor Cook purchased the Van Dusen Mansion and has extensive knowledge about its history and all of its renovations.

Based upon Mr. Fogel's recommendation and extensive knowledge and experience with the Van Dusen Mansion, the Receiver set an initial selling price at \$1.995 million. Over the past month, Mr. Fogel has aggressively marketed the property and has had numerous showings.

The Van Dusen Mansion is owned by the Receivership free and clear of any mortgages and encumbrances. However, to effectuate the sale of the property, the Receiver secured a new Certificate of Title that does not contain any of the memorials (clouds on the title) regarding the Petition action by Trevor Cook, which was dismissed with prejudice (*see* Section F, *infra*). The Receiver also has filed a Release of Hazardous Substances Certificate and Indemnity with the Hennepin County Registrar of Titles. With these actions, the Receiver believes that he has completely cleared the title to the Van Dusen Mansion.

On February 26, 2010, the Receiver reached a verbal agreement to sell the property for \$1.6 million in cash to a still-confidential buyer. This offer is slightly below, but within ten percent (10%) of the average of the three independent appraisals of the property. Given the \$12,000.00 monthly expenses being incurred by the Receiver, the lower selling price will be offset within one year. The offer is for cash and for a closing within 30 to 60 days. On March 3, 2010 the Receiver and buyer entered into a purchase agreement and addendum to purchase agreement concerning the sale of the Van Dusen Mansion.

Federal law requires that the Receiver provide a 10 day public notice period, during which the Receiver must entertain any new offer to purchase the property for at least ten percent more than the present offer. This notice will be published in the Minneapolis Star Tribune and the St. Paul Pioneer Press. If no new qualifying offer is made, the Receiver will formalize the existing offer and present it to the Court for

approval. The transaction, if approved, is expected to close on the transaction around the beginning or middle of April, 2010.

2. 12644 Tiffany Court, Burnsville, MN 55437 (“Tiffany Court”)

The Court selected Stuart Francis of Re/Max as the Real Estate agent for the Tiffany Court property at a six percent (6%) commission. The Receiver and Mr. Francis toured the property and concluded that in order to maximize its sale price, certain repairs and upgrades to the property would have to be made, including installing new carpeting, re-painting certain areas of the house, rebuilding two internal walls that had been removed, and staging the property with furniture and accessories. The upgrades and repairs have been completed at a cost of approximately \$18,000.00.

The Receiver expects to have the property on the market within the next two weeks. In the meantime, the Receiver has winterized the house and emptied it of all remaining non-salable personal property. The Receiver will continue to pay the Tiffany Court mortgage and property taxes, which total \$2,661.54 per month, until it is sold. The current mortgage on the property is \$345,672.58.

B. Canadian Property

The Rainy Lake Island property consists of 2.3 acres of land situated in Ontario, Canada, near the city of Fort Francis. There are several structures on the property, including an 1130 square foot log cabin, a guest cabin, docks and sheds. The dwelling structures are newly constructed and weather tight, but unfinished on the inside. The property is serviced with electrical power supplied by under water cable originating from

the Minnesota side of the lake. The Receiver estimates that the property is worth approximately \$400,000.00 to \$500,000.00

In the past months, the Receiver has worked to properly evaluate and prepare the Rainy Lake property for market and sale. As part of this effort, the Receiver is in the process of identifying and retaining experienced and knowledgeable real estate appraisers in the Fort Frances area able to appraise and sell the property. Thus far, one appraiser has been able to travel to the property via snow mobile. That appraiser has indicated that the surrounding property values are stable and that this particular property is located in a popular and preferred area. Given the difficulty travelling to the island during the winter, however, no other licensed appraisers have been able to make an on-site inspection as of the date of this report. The Receiver expects that additional appraisals will be obtainable in April, when the weather allows easier access to the island.

After the appropriate appraisals have been obtained, the Receiver will move for permission to put the Rainy Lake Island property on the market. To this end, the Receiver will submit a motion for the Court's consideration and approval that will allow for the sale. The Receiver will then take the Court's Order and present it to the Canadian Court, which has recognized the Receivership in Canada. The Receiver expects to put this property on the market in May 2010.

C. Panamanian Property

The Receiver has continued to investigate and pursue Receivership assets in Panama. There are two pieces of property in Panama that were purchased, at least in

part, by Trevor Cook using receivership funds.¹ These are known as the Vineyards and Panama Bay properties, respectively, and they are both located in Panama City. Prior to the appointment of the Receiver, Relief Defendant Oxford FX Growth, L.P. filed suit in Panama to prevent the sale of these two properties. The Receiver has taken control of the Panamanian lawsuit, including the costs of the litigation. In the meantime, the Receiver is also assessing whether the Receivership's investments in these properties can be retrieved without action of the Panamanian court.

1. The Vineyards

The Vineyards property is composed of three small lots where a condominium project was planned. Cook contributed \$2.86 million of receivership funds towards the \$3.5 million purchase price of the land. The land was purchased through a Panamanian corporation, called CDE 1, S.A. ("CDE 1"). In return for the \$2.86 million, Cook received a 50% ownership in CDE 1. Gary Saunders, Holger Bauchinger, and Brad Pennington own the remaining 50% interest of CDE 1. CDE 1 owns the Vineyards property free and clear, although the planned condominiums were never built.

The Receiver is in the process of obtaining appraisals for the current value of the property which is expected to be near its purchased price. The Receiver believes that an agreement can be reached with Saunders, Bauchinger and Pennington to allow for the sale of the property and the recovery of most of the Receivership's investment in this

¹ Cook also used \$156,000.00 in Receivership funds to make down payments on two condominiums at a development called Ocean Point. The condominiums were never built and the development is believed to be defunct.

venture. In the meantime, the sale of this property is frozen by the Receiver's Panamanian lawsuit.

2. Panama Bay

The Panama Bay property consists of two contiguous vacant lots, totaling about 14,500 square meters (about 2.2 acres) where Cook and his business partners had planned to build a hotel and casino resort. Cook's investment of Receivership funds in this property was made through a company called Oxford Developers, S.A. ("Oxford Developers"). Saunders and Bachinger are also partners in Oxford Developers.

Starting in or about September 2008 and continuing through May 2009, Cook made monthly payments of \$1.1 million in Receivership funds to help pay for the purchase of this property and to pay operating expenses for the planned development. By May 2009, Cook had paid \$10.9 million in Receivership funds toward the \$12 million purchase price for the property and the operating expenses. At this time, the property has not been transferred from the sellers to Oxford Developers. The Receiver is in the process of obtaining all of the purchase agreements and other contracts governing the sale of the property and arranging a meeting with the sellers of the property to determine whether the Receivership assets can be retrieved outside of Panamanian lawsuit.

D. Cash in Receivership Accounts

At the start of the Receivership, the Receiver located \$1.844 million 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 \$2.522 million in cash. Through January 31, 2010, the Receiver has incurred \$973,252.81 in expenses in locating, marshalling and

preserving the assets of the Receivership and in fulfilling his duties and obligations under the law.

E. Vehicles

On February 13, 2010, as approved by the Court's January 28, 2010 Order Authorizing Sale Of And Transfer Of Title To Assets Of The Receivership, the six Receivership vehicles identified in the First Report were sold at a public auction by Downtown Motor Sales of Minneapolis, Minnesota. All six cars were sold at or above the Receiver's estimated sale value:

- the 2004 Audi RS6 with 29,433 miles sold for \$45,000.00;
- the 1989 Rolls Royce with 188,858 miles sold for \$9,250.00;
- the 1985 Pontiac Fiero "Lamborghini Kit Car" with 73,743 miles sold for \$8,200.00;
- the 1998 BMW Z3 with 129,320 miles sold for \$6,250.00;
- the 1989 Mercedes 420 SEL with 170,012 miles sold for \$2,500.00; and
- the 2000 Lexus with 241,841 miles sold for \$1,900.00.

All buyers were required to sign a statement certifying that they were not serving as a proxy for any Defendant or Relief Defendant in purchasing the vehicles.

Total revenue from the auction (before the 10% commission and storage costs) was \$73,100.00. The total revenue was paid to the Receiver on March 3, 2010 and, in turn, the Receiver will pay the commission and storage costs. The Receiver was involved in planning and participating in the auction, and over the last part of February worked

closely with the state and city DVS departments to ensure that duplicate titles were issued promptly and smoothly transferred to the purchasers.

In connection with the search of the residence of Trevor and Gina Cook, (*see* Section H, *infra*), the Receiver has located three additional vehicles that are subject to the Receivership (a 2005 Lexus 33 series, a 2004 Lexus L43, and a 1997 BMW 328ic). The Receiver is preparing another motion to authorize the public sale of those vehicles this spring. The search for other Receivership assets and vehicles is active and ongoing.

F. Other Legal Proceedings

A Hennepin County lawsuit between Trevor Cook and certain Relief Defendants, concerning ownership of the Van Dusen Mansion has been dismissed with prejudice. Another Hennepin County lawsuit involving an accounting as to the business dealings among them has been suspended. A third Hennepin County lawsuit, which Trevor Cook brought against Ed Baker for return of funds, is currently stayed and being reviewed and evaluated by the Receiver.

G. Additional Receivership Properties, Accounts and Assets

As noted above, in early January 2010 certain resalable personal property, including a number of high-definition televisions, computers, monitors, gambling paraphernalia and other items, was removed from the Van Dusen Mansion and Tiffany Court and prepared for sale by Luther Auctions of North St. Paul, MN. The Receiver moved the Court to allow the sale of this property, and the Court entered an order on the January 13, 2010 approving the sale. In preparation for the auction, all data was wiped

from all computers and hard drives. Older computers that were deemed not to be worth the cost of reconditioning for auction were donated to charity.

On February 22, 2010, Luther Auctions in North St. Paul sold the personal property described in the previous paragraph. The auction was very well attended and the Receiver realized far above the price Luther Auctions expected for the televisions, computers and other items. As with the cars discussed above, all buyers at this auction were required to sign a statement certifying that they were not serving as a proxy for any Defendant or Relief Defendant in purchasing the any item. Although the total is still being calculated, the Receiver estimates that the auction netted at least \$24,000.00. After the 20% commission and the computer reconditioning costs are subtracted from that amount, the Receiver expects to receive a check for the remainder by the first week of

H. Search of Cooks' Residence in Apple Valley, Minnesota

Pursuant to the Court's January 28, 2010, the Receiver searched the residence of Trevor and Gina Cook at 12735 Dover Drive in Apple Valley, Minnesota. The Receiver recovered a 2004 Lexus L43 and a 1997 BMW 328ic. In addition, the Receiver recovered 31 watches, including a diamond studded Rolex watch that Cook gave to his wife and that she maintained in a safe deposit box at Wells Fargo. The watches will be taken to a jeweler for appraisal. The Receiver also recovered a ROM exercise machine.

Beyond these items, the residence did not have other significant assets. Drawers and cupboards in the home had been emptied, with the exception of a few miscellaneous documents and some of Ms. Cook's work folders. Closets and storage areas throughout

the house also were essentially empty, with the exception of clothing and some luggage. The Receiver did not locate any cash, foreign currency, or Faberge eggs.

The Receiver is in the process of taking possession of 2005 Lexus 33 series SUV that Cook gave to his wife. Pursuant to the Court's January 28, 2010 order, Ms. Cook had the option of purchasing this vehicle. Ms. Cook has indicated that she will not do so and is in the process of turning it over to the Receiver.

I. 1-800 Number

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

J. Receiver Website

The Receiver also continues to operate a website for investors and other members of the public at www.cookkileyreceiver.com. The website provides a means to provide relevant information from the Receiver to and receive claim information from investors. The Court has also posted a web site for this case, which can be found at www.mnd.uscourts.gov.

K. Taxes

1. Receivership Tax Requirements

With the Court's approval, the Receiver has hired Ernst & Young to assist with all tax obligations of the Receivership. Using bank statements and data obtained from numerous witness interviews, the Receiver compiled a list of putative independent contractors who received payments from the Defendants and/or Relief-Defendants in

2009. Assisted by Ernst & Young, the Receiver sent out IRS Form 1099s to these individuals by the February 1, 2010 IRS deadline. The Receiver then interviewed the 1099 recipients in an effort to ensure that all 1099s were accurate. For those 1099s that required adjustments based on information obtained from the interviews and documents provided by the 1099 recipients, Ernst & Young prepared amended 1099s. The Receiver provided corrected 1099 forms to the recipients on March 1, 2010.

Also with the assistance of Ernst & Young, the Receiver filed all Form 1099s with the IRS by the March 1, 2010 deadline. In total, there were 65 Form 1099s filed on behalf of 8 entities/ individuals.

The Receiver has also filed Forms 4506-T with the IRS to request a transcript of previously-filed returns for each Defendant and Relief-Defendant. The Receiver will use these records to assist him in filing 2009 tax returns on behalf of the Receivership entities.

2. Investor Tax Issues

The Receiver has received numerous requests concerning the tax consequences of investor losses. The Receiver cannot provide any tax advice to any investors related to their investments with or through any Receivership entities. Given that that the Receivership entities were used by Trevor Cook and Patrick Kiley to perpetrate a massive scheme to defraud and that they never operated as legitimate investment vehicles, the Receiver believes that the Receivership entities have no value.

With respect to restitution to victims of the fraud, the Receiver's efforts in identifying, locating and seizing assets of the Receivership is ongoing; however, at this

time the Receiver is not in a position to determine whether any victim recovery will exceed the original estimate of pennies on the dollar.

CONCLUSION

The Receiver will provide reports on a periodic basis, usually every 30 to 60 days, to summarize his ongoing activities and identify additional assets that have been secured during the reporting period.

Respectfully submitted,

Dated: March 3, 2010

s/R.J. Zayed
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