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UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

U.S. COMMODITY FUTURES  
TRADING COMMISSION,

Plaintiff(s)

Case No: 09-cv-3332 MJD/FLN

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.

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UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

UNITED STATES SECURITIES  
AND EXCHANGE COMMISSION,

Case No: 09-cv-3333 MJD/FLN

Plaintiff(s)

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.

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**STATUS REPORT FOR RECEIVER'S PETITION FOR RETURN OF RECEIVERSHIP ASSETS FROM RESPONDENT NEW YORK COMMUNITY BANK**

The parties/counsel identified below participated in the meeting on November 2, 2010, and prepared the following report.

The status conference in this summary proceeding is scheduled for November 12, 2010, at 10:00 a.m. before the United States Magistrate Judge Noel in Suite 9W, United States Courthouse, 300 South 4th Street, Minneapolis, Minnesota.

**A. Description of Case and Case Status**

**(1) Concise Factual Summary of Receiver's Summary Proceedings Application**

In furtherance of his duty as the Court-appointed Receiver in this action, R.J. Zayed brought a Summary Proceedings Application (pursuant to Judge Davis's July 20, 2010 Order) against Respondent New York Community Bank, seeking:

(1) the disgorgement of the funds transferred from the Receivership Entities to Respondent because they were fraudulent transfers under Minn. Stat. §513.41, *et seq.*; or

(2) the recovery of the funds transferred to Respondent to the extent Respondent was unjustly enriched under the common law of Minnesota.

**(2) Concise Factual Summary of Respondent's Claims/Defenses**

Respondent New York Community Bank alleges that it received the transfers at issue in good faith and that it provided reasonably equivalent value in exchange for the transfers. As a good faith transferee, it is entitled under Minn. Stat. section 513.48(d) to a lien on or to retain any interest in the assets transferred, as well as enforcement of all obligations incurred by the Receivership Entities, and/or a reduction in the amount of the liability on any judgment entered against it in this case. Respondent New York Community Bank has raised the additional affirmative defenses of lack of standing, unclean hands, waiver, estoppel, and/or release, and alleges the claims are barred by the voluntary payment doctrine.

**(3) Statement of Jurisdiction (including statutory citations)**

The Receiver contends that this Court has original subject matter jurisdiction over this matter 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), and supplemental jurisdiction over claims arising under state law pursuant to Chapter 85 of Title 28, Judiciary and Judicial Procedure (28 U.S.C. § 1367(a)). Further, the Receiver contends that 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.

Further, the Receiver contends that this Court has personal jurisdiction over Respondents and in rem jurisdiction over property in their possession because the Receiver filed the original Complaint and Order Appointing the Receiver in all United States District Court pursuant to 28 U.S.C. §§ 754 and 1692 within ten days of his appointment.

Respondent did not object to the Receiver's assertions of this Court's jurisdiction.

**(4) Statement of whether jury trial has been timely demanded by any party.**

Neither Receiver nor Respondent has demanded a jury trial.

**B. Motion and Discovery Schedule, Deadlines, and Limitations**

**(1) The parties recommend that the Court establish the following motion deadlines:**

(A) All non-dispositive motions and supporting documents, including those that relate to fact discovery, shall be filed and served by no later than **one week** after the close of fact discovery. The parties suggest the date of **March 18, 2011**. The briefing schedule for non-dispositive motions shall follow the deadlines set out by Local Rule 7.1(a).

(B) All dispositive motions must be filed and served no later than **one month** after the close of fact discovery. The parties suggest the date of **April 15, 2011**. The briefing schedule for dispositive motions shall follow the deadlines set out by Local Rule 7.1(b).

**(2) The parties recommend that the Court establish the following discovery deadlines:**

(A) Fact discovery shall be completed no later than **four months** from November 12, 2010. The parties suggest the date of **March 11, 2011**.

**C. Protective Order**

The parties do not at this time believe that a protective order is necessary. If either party believes a Protective Order is necessary, the parties shall jointly submit a proposed Protective Order.

**D. Experts**

The parties anticipate that they will not require expert witnesses at time of trial.

**E. Trial-Ready Date**

The parties agree that the case will be ready for trial **one month** after the Court issues a final ruling on any outstanding dispositive motions; or, in the instance that there are no outstanding dispositive motions, **two months** after the close of fact discovery. The expected length of trial is **two** days.

DATE: November 5, 2010 s/ Brian W. Hayes  
Brian W. Hayes, Designee for Receiver R.J. Zayed  
MN Bar No. 294,585  
Carlson, Caspers, Vandenburg & Lindquist P.A.  
225 South Sixth Street, Suite 3200  
Minneapolis, MN 55402  
(612) 436-9613

DATE: November 5, 2010 /s/ Matthew J. Pfohl (with permission)  
Matthew J. Pfohl # 240242  
Shaun D. Redford # 390127  
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