

**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.

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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.

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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.

**MEMORANDUM IN SUPPORT OF MOTION FOR ORDER**  
**APPROVING EIGHTH INTERIM DISTRIBUTION AND**  
**FOURTH AMENDED FINAL CLAIMS LIST**

R.J. Zayed, Receiver in the cases of *CFTC v. Cook, et al.*, 09-cv-3332 (D. Minn. 2009), *SEC v. Cook, et al.*, 09-cv-3333 (D. Minn. 2009), and *SEC v. Beckman, et al.*, 11-cv-574 (D. Minn. 2011), respectfully moves this Court for the entry of an Order approving the Receiver's plan for an Eighth Interim Distribution and entering the Fourth Amended Final Claims List for civil restitution in the civil cases of *SEC v. Cook et al.*, 09-cv-3333 (D. Minn.), *CFTC v. Cook et al.*, 09-cv-3332 (D. Minn.) and *SEC v. Beckman et al.*, 11-cv-574 (D. Minn.).

**A. Fourth Amended Final Claims List**

The Receiver seeks to distribute \$500,000.00 to the individuals set forth on the proposed Fourth Amended Final Claims List, which is submitted as Exhibit A to the Declaration of Tara Norgard filed herewith. This proposed claims list sets forth the recognized claim amounts for 737 investors of this fraud.<sup>1</sup> These claim amounts are used as the basis for calculating each investor's *pro rata* share of the civil restitution distributed by the Receiver. The proposed Fourth Amended Claims list makes two kinds of updates from the Third Amended Final Claims List, which was entered by the Court on January 16, 2014. *Order Approving Sixth Interim Distribution and Third Amended Final Claims List*, 09-cv-3333 Docket No. 1113 (Jan. 16, 2014).

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<sup>1</sup> To protect the private financial information of the investors, each claim in Exhibit A is identified by number. The names and addresses of the individuals associated with these claims are being provided to the Court for *in camera* review.

The first update is made in relation to the Court's Order Granting Summary Judgment against the Gormans. *See Memorandum Opinion and Order*, 09-cv-3333 Docket No. 1322 (Aug. 29, 2016); *Amended Judgment in a Civil Case*, 09-cv-3333 Docket No. 1324 (Sep. 1, 2016). Patricia Edenborg-Gorman was a recognized claimant against the Receiver Estates; however, subsequent investigation showed the Gormans received more from the Receiver Estates than they invested in the Ponzi scheme. *Declaration of Joseph M. Kaczrowski*, 09-cv-3333 Docket No. 944 ¶¶ 8-10 (Mar. 9, 2012). The Receiver prevailed in an action against the Edenborg-Gormans and the Court entered judgment in the amount of \$139,871.20. In September 2016, the Gormans paid the judgment in full. *Receiver's Eighteenth Status Report*, 09-cv-3332 Docket No. 1254 at 8-9 (Jan. 12, 2017). Accordingly, the Fourth Amended Claims List restores the claim of Patricia Edenborg-Gorman as originally recognized, which reflects her investment of \$100,580.00. The Receiver requests that the Court reinstitute this claim on a prospective basis only. In other words, the Edenborg-Gorman claim would be paid out on the same pro-rata basis as other investors in this Eighth Interim Distribution, but not for prior distributions that occurred while the Receiver was required to litigate against the Edenborg-Gormans for return of the transfers they received from the Beckmans.<sup>2</sup>

The second update to the claims list incorporates a number of clerical changes that have previously been approved by the Court. (Norgard Decl. ¶ 2.)

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<sup>2</sup> The Receiver also notes that Patricia Edenborg-Gorman died on November 8, 2016. Her husband Dennis Gorman, has indicated that he plans to file a petition with the Court to transfer the claim to his name.

With these additions, the total of all Recognized Claims in these cases is \$160,697,655.32. (Norgard Decl. ¶ 2 Ex. A.)

**B. Proposed Eighth Interim Distribution**

The Receiver proposes to make a *pro rata* distribution, in the form of checks and credits, of \$500,000.00 to claimants identified on the proposed Fourth Amended Final Claims List. *See supra* § A. The distribution rate for the Receiver's proposed Eighth Interim Distribution will be approximately 0.3%, which will bring the total distribution rate to-date to approximately 7.2 cents for every dollar lost to the fraud (7.2%). The Receiver's payments to victims in the proposed Eighth Interim Distribution will range from \$25.26 to \$20,074.17, with an average distribution amount of \$699.30. (Norgard Decl. ¶ 3.) With the proposed Eighth Interim Distribution, the Receiver's total distribution to victims of the fraud to-date will be over \$10.5 million.

Consistent with the Receiver's prior interim distributions (and the law of restitution generally), claimants who have recovered lost funds from sources other than the Receiver and have an overall recovery that exceeds the median distribution rate to all victims in these cases will be excluded from this distribution or have their *pro rata* shares proportionately reduced so that the Receiver's distributions do not put any investor ahead of the others in terms of recoveries. *See Order Approving Partial Settlement with FINRA Claimants, Releasing Certain Funds from Escrow and Approving Third Interim Distribution*, 09-cv-3333 Docket 933, ¶ 5(e) (Feb. 24, 2012); *see generally* 18 U.S.C. § 3664(j)(2) (explaining that a victim's restitution is reduced by subsequent recoveries); *see also Order Approving Settlement Agreement and Granting Partial Lift of Asset Freeze to*

*Permit Payment of Settlement*, 09-cv-3332 Docket 975 (Jan. 2, 2013); *Order Approving Settlement Agreement and Granting Partial Lift of Asset Freeze*, 09-cv-574 Docket 382 (Apr. 19, 2013); *Order Approving Fifth Interim Distribution*, 09-cv-3332 Docket 1024 (Jun. 7, 2013); *Order Approving Sixth Interim Distribution and Third Amended Final Claims List*, 09-cv-3333 Docket 1113 (Jan. 16, 2014); *Order Approving Seventh Interim Distribution and Payment of Contingent Fee Counsel*, 09-cv-3332 Docket 1123 (Dec. 18, 2014).

### **CONCLUSION**

Based on this memorandum and the accompanying filings, the Receiver respectfully requests that the Court grant this motion and enter Order approving the Receiver's plan for an Eighth Interim Distribution and entering the Fourth Amended Final Claims List for civil restitution in the civil cases of *SEC v. Cook et al.*, 09-cv-3333 (D. Minn.), *CFTC v. Cook et al.*, 09-cv-3332 (D. Minn.) and *SEC v. Beckman et al.*, 11-cv-574 (D. Minn.).

Dated: March 30, 2017

Respectfully submitted,

*s/Tara C. Norgard*

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