

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

In re

CASE NO. 9:08-bk-04360-MGW

ULRICH FELIX ANTON ENGLER,
PRIVATE COMMERCIAL OFFICE, INC.,
and PCO CLIENT MANAGEMENT, INC.,

CHAPTER 7
(Substantively Consolidated)

Debtors.

**CHAPTER 7 TRUSTEE'S EXPEDITED MOTION FOR AUTHORITY TO
CONDUCT RULE 2004 EXAMINATIONS DUCES TECUM OF THE DEBTORS**

ROBERT E. TARDIF, JR. (the "Trustee"), as Chapter 7 Trustee for the substantively consolidated bankruptcy estates of Ulrich Felix Anton Engler ("Engler"), Private Commercial Office, Inc. ("PCO"), and PCO Client Management, Inc. ("PCOM") (collectively, the "Debtors"), by and through undersigned counsel, hereby files his *Expedited* Motion For Authority To Conduct Rule 2004 Examinations *Duces Tecum* Of The Debtors, and states in support thereof as follows:

I. BACKGROUND

A. Procedural History

1. On March 31, 2008 (the "Petition Date"), a group of creditors filed involuntary petitions for relief under Chapter 7 of Title 11 of the United States Code (the "Bankruptcy Code") against Engler and PCO with the Clerk of this Court. *See* Main Bankruptcy Case, D.E. 1, and Case No. 9:08-bk-04365-MGW, D.E. 1 (collectively, the "Involuntary Petitions").

2. On April 29, 2008, the Court entered Orders for Relief against Engler and PCO. *See* Main Bankruptcy Case, D.E. 9, and Case No. 9:08-bk-04365-MGW, D.E. 10 (collectively, the "Orders for Relief").

3. On April 30, 2008, the Trustee was appointed and continues to serve as the permanent Chapter 7 Trustee for the Debtors' bankruptcy estate.

4. On June 24, 2008 and April 23, 2010, the Court entered orders substantively consolidating the assets and liabilities of the Debtors' bankruptcy estates *nunc pro tunc* to March 31, 2008. See Main Bankruptcy Case, D.E. Nos. 51, 242, and Case No. 9:08-bk-04365-MGW, D.E. 42 (collectively, the "Substantive Consolidation Orders").

B. The Arrest Warrant and Extradition Request

5. Prior to the Petition Date, on December 4, 2007, the County Court of Mannheim, Germany issued a warrant for Engler's arrest (hereinafter the "Arrest Warrant").

6. On April 21, 2008, the Public Prosecutor's Office of Mannheim, Germany issued a request for Engler's arrest and extradition to the United States Government (hereinafter the "Extradition Request"). The Extradition Request also seeks the "[a]rrest of assets of Ulrich Engler" stating that "[i]nsofar as assets of Ulrich Engler (cash, account balances, properties, real estate, aircraft) are determined we request that you arrest these assets."

C. The Arrest

7. On July 25, 2012 (the "Arrest Date"), Engler was arrested by special agents and officers of the U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI), ICE's Enforcement and Removal Operations (ERO), the U.S. Marshals Service and the Las Vegas Metropolitan Police Department.

8. According to an ICE press release issued on July 26, 2012, titled "International fugitive wanted in a financial scheme defrauding investors of more than \$100 million captured in Las Vegas" (the "ICE Press Release"), Engler is currently in ERO custody pending removal from the United States to Germany where he will be turned over to law enforcement authorities.

A copy of the ICE Press Release is attached hereto as **Exhibit “A.”**

9. Additionally, according to an Associated Press (AP) press release issued on July 27, 2012, titled “APNewsBreak: Vegas DUI Case Led to German Fugitive” (the “AP Press Release”), FBI agents and local police discovered more than 1,000 pieces of artwork at a storage facility rented by Engler in Boulder City, about 25 miles east of Las Vegas. A copy of the AP Press Release is attached hereto as **Exhibit “B.”**

II. REQUEST FOR RELIEF

10. Engler has been a fugitive of the law at the commencement and throughout the course of the above-captioned bankruptcy case. As a result, the Trustee has been precluded from conducting the Debtors’ Rule 2004 examinations in an effort to identify and to assist in the recovery of property of the estate

11. In light of Engler’s recent arrest and the magnitude of assets which may be potentially identified and recovered for the bankruptcy estate with Engler’s cooperation, the Trustee respectfully requests authorization to conduct Rule 2004 examinations *duces tecum* of the following people, at the location where Engler is incarcerated with appropriate coordination with law enforcement authorities: (a) Ulrich Felix Anton Engler; (b) Person with the most knowledge of the assets and liabilities, Private Commercial Office, Inc.; and (c) Person with the most knowledge of the assets and liabilities, PCO Management, Inc. (collectively, the “Deponents”).

12. **WHEREFORE**, the Trustee respectfully requests that the Court enter an Order authorizing the Trustee to conduct Rule 2004 examinations *duces tecum* of the Deponents at the location where Engler is incarcerated with appropriate coordination with law enforcement authorities and for such further relief as the Court may deem appropriate.

Respectfully submitted,

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By: /s/ Robert F. Elgidely
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Chapter 7 Trustee's *Expedited* Motion For Authority To Conduct Rule 2004 Examinations *Duces Tecum* Of The Debtors has been furnished to all creditors and/or interested parties registered on the Court's CM/ECF System and was also posted on the website "englerbk.com" in accordance with the Order Granting Trustee's Motion To Establish Certain Notice, Case Management And Administrative Procedures [D.E. 451], on the 30th day of July, 2012.

By: /s/ Robert F. Elgidely
Robert F. Elgidely, Esq.

EXHIBIT A



News Room (<http://www.ice.gov/news/>) » Recent Releases (<http://www.ice.gov/news/releases/>)

News Releases



JULY 26, 2012 LAS VEGAS, NV

International fugitive wanted in a financial scheme defrauding investors of more than \$100 million captured in Las Vegas

LAS VEGAS – A German man wanted by law enforcement authorities in Germany for using his Florida financial firm to defraud numerous investors of more than \$100 million in a pyramid scheme was arrested last night by special agents and officers of U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI), ICE's Enforcement and Removal Operations (ERO), the U.S. Marshals Service and the Las Vegas Metropolitan Police Department.

Ulrich Felix Anton Engler, aka Joseph Miller or Joseph Walter, 51, a German national, who was residing and operating a financial firm in Cape Coral, Fla., from 2005 to 2007 is the subject of an international warrant issued December 4, 2007 in Mannheim, Germany. Engler was arrested last night in Las Vegas for being in violation of U.S. immigration law. He is wanted on multiple criminal charges for jointly committing fraud on a repetitive and gainful basis, filed in the local court in Mannheim and Hamburg, Germany. If convicted, he faces up to 20 years in prison.

"Mr. Engler's capture after five years on the run is a welcome day and an important step in addressing a fraud in excess of 100 million dollars," said ICE Director John Morton. "ICE is proud of its efforts to track down criminal fugitives and will do whatever it can to find international scofflaws hiding in the United States. I hope Mr. Engler's victims in this case feel a measure of relief that Mr. Engler's fraud and long run are over and that he will soon face justice in Germany for his alleged crimes."

"Engler's capture is the result of dedicated law enforcement agencies working together and sharing their unique capabilities," said Christopher Hoye, U.S. Marshal for the District of Nevada.

"I commend the tremendous amount of coordination on the apprehension of Ulrich Engler, one of INTERPOL's most wanted fugitives, by the U.S. Marshals Service, U.S. Immigration and Customs Enforcement and the Las Vegas Police Department," stated INTERPOL Washington Director Timothy A. Williams. "INTERPOL Washington played a critical role in facilitating investigative information in this case. This arrest epitomizes what can be achieved when law enforcement officials work together at all levels to accomplish a mission."

An INTERPOL Red Notice from March 22, 2010 alleges that Engler conducted the scheme from his Florida office from June 2003 to December 2004 and used a marketing company which he had set up utilizing the Internet to defraud numerous investors in Germany, Switzerland and Austria. He falsely claimed to trade in shares and other securities in the form of so-called day trading through his company "Private Commercial Office ins" (POC). In total, Engler concluded 3,549 such contracts with investors involving a total sum of \$100,896,836.61. The investors suffered damages in the amount of their investment capital. Once they had transferred the money to the United States, they no longer had any possibility to access the money.

At the time the arrest warrant was issued, Engler was believed to have been residing in Florida. His exact whereabouts were unknown. In 2011, the USMS in conjunction with INTERPOL Washington, began to reexamine the case and determined that Engler was perpetuating his fraudulent schemes in Nevada under a completely new identity under the name of Joseph Miller. INTERPOL Washington and USMS requested HSI and ERO's assistance in locating him as he was unlawfully in the country.

Engler is currently in ERO custody pending removal from the United States to Germany where he will be turned over to law enforcement authorities.

The investigation and capture was conducted by, and coordinated with, HSI Fort Myers, Fla.; ERO Las Vegas; ICE's Office of the Principal Legal Advisor; USMS from the District of Nevada; the Las Vegas Metropolitan Police Department; the Nevada Department of Public Safety, and the Nevada Department of Investigations.

You may also visit us on Facebook (<http://www.ice.gov/exec/leaving.asp?url=http://www.facebook.com/wwicegov>), Twitter (<http://www.ice.gov/exec/leaving.asp?url=http://twitter.com/wwicegov>) and YouTube (<http://www.ice.gov/exec/leaving.asp?url=http://www.youtube.com/wwicegov>), or access this news release on your mobile device.

U.S. Immigration and Customs Enforcement (ICE) is the largest investigative arm of the Department of Homeland Security.

ICE is a 21st century law enforcement agency with broad responsibilities for a number of key homeland security priorities. For more information, visit www.ICE.gov. To report suspicious activity, call 1-866-347-2423 or complete our [tip form](http://www.ice.gov/tips/) (<http://www.ice.gov/tips/>).

EXHIBIT B

APNewsBreak: Vegas DUI Case Led to German Fugitive

By KEN RITTER
LAS VEGAS

abcnews.go.com

APNewsBreak: Vegas-area drunken driving arrest led to fugitive in \$100M German fraud scheme

The Associated Press

A fingerprint match in a Las Vegas-area drunken driving case led U.S. authorities to a German fugitive in a \$100 million international fraud scheme who had been on the run for five years, authorities said Friday.

U.S. marshals recently learned that a fingerprint from a 51-year-old man arrested in February 2011 belonged to Ulrich Felix Anton Engler, and they joined Las Vegas police financial crimes detectives to locate and arrest him late Wednesday, Las Vegas police Officer Bill Cassell said.

Engler, who is accused of also using the names Joseph Miller and Joseph Walter, was being held by U.S. Immigration and Customs Enforcement on an immigration violation, pending his transfer to Germany, ICE spokeswoman Nicole Navas said.

FBI agents and local police on Friday began tracing Engler's steps in southern Nevada, finding more than 1,000 pieces of artwork at a storage facility he rented in Boulder City, about 25 miles east of Las Vegas.

"We're investigating what, if any, criminal activity Mr. Engler might have been involved with in Las Vegas," Cassell said. "This individual used multiple identities and was accomplished at concealing his true identity."

FBI agent Patrick Turner in Las Vegas said the warrant search at the storage facility was an effort to recover proceeds on behalf of alleged fraud victims.

A local court in Mannheim and Hamburg, Germany, issued a warrant in December 2007 accusing Engler of multiple criminal fraud charges, according to an ICE statement. If convicted, he faces up to 20 years in prison.

Engler had also been named in a March 2010 notice from the international police agency Interpol.

He is accused of using a marketing company called Private Commercial Office in Cape Coral, Fla., to build an Internet pyramid scheme. From June 2003 to December 2004, it collected almost \$101 million from more than 3,500 investors in Germany, Switzerland and Austria, authorities said. Once the money reached the United States, investors lost access to it.

When the arrest warrant was issued in Germany, Engler was believed to have been living in Florida.

Last year, U.S. marshals and Interpol officials in Washington determined Engler was living in Nevada under the name Joseph Miller.

Records show that a Nevada Highway Patrol trooper issued Engler a summons on Feb. 11, 2011, for failure to drive in a marked lane and driving under the influence of alcohol. The disposition of the DUI case could not immediately be determined Friday.

It was not immediately clear what name Engler used at the time or whether he was represented by an attorney.

ICE Director John Morton called Engler's capture after five years "a welcome day and an important step" toward providing his victims a measure of relief and justice in Germany.