

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
ANTIGUA AND BARBUDA**



Claim No. ANUHCV 2009/0149

In the Matter of Stanford International Bank Limited (In Liquidation)

-and-

**In the Matter of the International Business Corporations Act, Cap 222 of the
Laws of Antigua and Barbuda**

**FOURTH REPORT OF THE JOINT LIQUIDATORS OF STANFORD INTERNATIONAL BANK (IN
LIQUIDATION)**



The Eastern Caribbean Court
The High Court of Justice Antigua & Barbuda
PO Box 163
St John's
Antigua

Grant Thornton (British Virgin Islands)
Limited
2nd Floor, The Barracks
171 Main Street
PO Box 4259
Road Town, Tortola
British Virgin Islands
T +1 284 494 6162
F +1 284 494 3529

**STANFORD INTERNATIONAL BANK LIMITED – IN LIQUIDATION
HIGH COURT OF ANTIGUA CLAIM NUMBER: ANUHCV 2009-0149**

FOURTH REPORT OF THE JOINT LIQUIDATORS

AS AT 15th February 2013

Contents

1	Introduction.....	1
2	Highlights/Focus of efforts since the Third Report	1
3	Settlement Agreement	3
4	Claim against TD Bank.....	5
5	Real Property controlled by SDC and others.....	6
6	Real Property owned by SIB	6
7	Claims Process	7
8	Clawbacks – Net Winners and Preferences.....	9
9	STC and Colombian Subsidiary in Liquidation	10
10	Chapter 15 Application	10
11	Continuing Investigation and Potential Third Party Claims	12
12	Other Litigation	12
13	Other Estate Matters	14
14	Next Steps	16

1 Introduction

- 1.1 We refer to the appointment of Marcus Wide, and Hugh Dickson as the joint liquidators ("the JLs") of Stanford International Bank Limited ("SIB") by Order of the High Court of Antigua and Barbuda on 12 May, 2011 and in accordance with paragraph 18 of that order, we now submit our fourth report to the Court. The JLs' third report to the Court was dated 27 July 2012 ("the Third Report").
- 1.2 The JLs continue to be conscious of the need for the earliest possible distribution to creditors. We believe that the Settlement Agreement negotiated with the US Receiver, the Examiner, the SEC, the US Department of Justice (DoJ) and related parties will help in this endeavour and we are committed to making a distribution to the creditors as quickly as possible after the receipt of any of the funds currently frozen in various jurisdictions and/or a successful sale of or recovery from other assets. We are waiting for ratification of the agreement by the DoJ and SEC so we can put the agreement before the Courts in the US and Antigua for approval.
- 1.3 The JLs are continuing their efforts with respect to recoveries for the benefit of the creditors/victims in addition to the assets currently held by the SIB estate. These include Antiguan real estate and litigation claims against various parties both of which will require significant time and effort to ensure a successful recovery. While these recoveries may take time and potentially years to fully recover, we are hopeful that the Settlement Agreement if ratified, by DoJ and SEC will provide the opportunity to make an interim distribution from the Antiguan Liquidation in the next 120 days.

2 Highlights/Focus of efforts since the Third Report

- 2.1 In summary, the accomplishments and significant areas of activity in the liquidation since the Third Report are as follows:
 - 2.1.1 We have held numerous meetings and discussions with the US Receiver, the US Examiner, members of the Official Stanford Investors Committee ("OSIC"), and the US Department of Justice ("DoJ") with a view to settling all litigation surrounding the approximately \$300 million in funds held in the UK, Switzerland and Canada, and with a view to a cooperative approach with the US Estate for the benefit of the creditors/victims. A Settlement Agreement has recently been agreed between the JL's, the Receiver and the Examiner and approved by both the Creditors Committee in the Liquidation and, as we are advised, by OSIC. We firmly believe that this agreement will minimise costs, minimise delay in starting the flow of funds to creditors/victims and maximise both the amount and the timing of the ultimate recoveries for distribution to creditor/ victims. We are awaiting ratifying signatures from DoJ and SEC.

- 2.1.2 We have investigated and filed a claim against TD Bank which included the review of thousands of documents, extensive interviews, other investigations and complex analyses of comparative laws and of the issues related to the formulation of a claim. This claim filed in Quebec is presently subject to a Forum Non Conveniens application by TD who assert Ontario is the proper forum. Hearings on this application have been delayed until at least March, 2013 due to an issue which has arisen that has the potential to result in the withdrawal or disqualification of counsel for TD Bank. Our further comments are set out in section 4 below.
- 2.1.3 We have continued efforts with respect to our claim to gather in assets (with an estimated market value in the range of US\$70 million) owned by four of Allen Stanford's companies in Antigua. Our efforts in this regard have included attempts to gather in these properties through liquidation and by support of the Attorney General's application for an Inspector. Such efforts are discussed in detail in this report. Recent rulings on the lack of standing with respect to the parties opposed to us may enable us to accelerate recovery of these properties. This is more fully discussed in Section 5 below.
- 2.1.4 In the interim we are exercising oversight, of SDC pursuant to the terms of a freezing order. These include the review and consideration of proposed asset sales in order to ensure fair value is obtained, and that expenses paid have been properly incurred.
- 2.1.5 We have continued our efforts to market and sell SIB's Antiguan lands in a controlled manner to maximise value. Expressions of interest as at the date of this report have been received from 22 parties. Our Agents are following up on these as more fully discussed in Section 6 below.
- 2.1.6 We continued the formal claims process for the adjudication of claims of creditors/victims in the estate which now run into excess of 10,000. A further notice to file claims has also been issued. As at the year end the total cost of the process, including our professional time is approximately \$636,000 as at the date of this report. This is more fully discussed in Section 7 below.
- 2.1.7 We have completed a review and complex legal analysis of the estates rights to seek recovery against Net Winners and against those CD holders who received preferential payments in the last six months of the operating life of SIB (the "Preference Claims"), representing a total potential value in the range of \$1.5 billion. There are significant issues with respect to the absolute numbers and geographic distribution of the targets of these claims, as well access to sufficient time in the Antiguan

Court to have the claims heard within a reasonable timeframe. The recent US ruling with respect to the Receiver's right to recover against Net Winners should be of assistance, as more fully discussed in Section 8 below.

- 2.1.8 We continue to make progress with respect to protecting potential recoveries from the Colombian subsidiary of Stanford Trust Company Limited (in Liquidation in Antigua) ("STC") totaling approximately US\$12 million – most of which should flow to the benefit of the SIB estate given the limited claims in STC, as more fully discussed in Section 9 below.
- 2.1.9 Our application for recognition under Chapter 15 of the US Bankruptcy Code was substantially denied, and the limited recognition granted was highly conditional. Given the progress towards a comprehensive Settlement Agreement, we have placed our appeal on hold. We have thus preserved our right to restart our appeal in the event the proposed agreement is not approved. Further comments with respect to this issue are to be found in Section 10 below.
- 2.1.10 We have continued forensic work and litigation support on our electronic forensic review platform, and continued on the ground enquiries and interviews with a view to advancing further third party claims as more fully discussed in Section 11 below.
- 2.1.11 We have continued to conduct other litigation necessary for the preservation of assets for the estate as more fully discussed in section 12 below.
- 2.1.12 We have continued to regularly meet with our Interim Advisory Creditors/Victims Committee (IACC). As at the date of this report we have held twelve meetings, held by teleconference to save costs.

3 Settlement Agreement

- 3.1 After extensive negotiations hosted by DoJ, the U.S. Receiver (Ralph Janvey), the Joint Liquidators (Marcus Wide and Hugh Dickson), and the U.S. Examiner (John Little) have reached an agreement ("Settlement Agreement"), which has been approved by the IACC and, as we are advised, by OSIC. We are still awaiting ratifying signatures from DoJ and SEC although both participated in the process and drafting of the agreement.
- 3.2 Once signed we can submit the agreement for approval by the Court in Antigua, and the Receiver can put the matter before the Court in the US. Some of the matters being resolved will also require the approval of the Central Criminal Court in the United Kingdom.

- 3.3 We believe this agreement is essential to the wind up of the Stanford entities, as it will:
- 3.2.1 Eliminate costs with respect to contested funds and ensure they flow into the estates with minimum delay.
 - 3.2.2 Allow for the harmonisation of claims processes to ensure equity in the distribution of funds to creditor/victims.
 - 3.2.3 Clarify entitlement and permit cross assistance and information sharing in pursuit of third party claims to maximise recoveries, recognising the different rights and standings with respect to jurisdiction and laws available.
 - 3.2.4 Mitigate the cost of funding the statutory functions and recovery activities of the Liquidation estate.
 - 3.2.5 Optimise the timing and amounts of recoveries paid into the hands of creditor/victims.
- 3.3 We acknowledge the leadership of DoJ in bringing the parties together in a positive environment and acting as the catalyst to the negotiation of the Settlement Agreement, and the willingness of the Receiver and Examiner to participate in good faith in the interests of those injured by the Stanford fraud. We also acknowledge the support of members of the two committees in reaching this accord.
- 3.4 In the expectation that the consent of DoJ and SEC will be forthcoming, to ensure that we are not faced with additional delay and to ensure minimal delay in giving effect to its terms, we have been preparing our application to the Antiguan Court for approval, and will be filing it in the next day or so. We understand the Court recognizes the urgency of this application and is trying to schedule a hearing in early March.
- 3.5 We understand that the U.S. Receiver will likely be able to present his application for approval also in early March, in which case the terms on the agreement can be implemented shortly thereafter (subject also to approval of one part of the agreement by the UK court).
- 3.6 It is important to note that any creditor objecting to this agreement may attend in either Court as part of the approval process to voice their objections. However the JL's firmly believe it is in the interests of the two estates and the entire creditor body that this deal goes forward. Any other proposition will result in further delay, the potential loss of significant recovery opportunities and continuing unnecessary costs.

4 Claim against TD Bank

- 4.1 SIB maintained a number of accounts at the Toronto Dominion ("TD") Bank in Canada, which acted as the principal funnel through which depositors' funds were collected and then disbursed. Based on our review to date it appears that as much as US\$10 billion has flowed through these accounts. This represented the vast bulk of the funds from CD sales. Had the persons operating the fraud that resulted in the looting of SIB not had access to these correspondent account facilities, the fraud would likely have collapsed at a time when creditor/victim losses to be recovered from SIB's tangible assets, would have been dramatically less, and the available assets potentially more.
- 4.2 Our statement of claim is the result of an intensive and extensive investigation including interviewing more than 30 potential witnesses, the completion of a retrospective review of publicly available information (or "red flags" of suspicion of money laundering activity), at various times during the life of SIB, including an examination of the circumstances of the winding up of another Antigua based bank for which TD was its main correspondent bank, a detailed review of the records of SIB involving hundreds of thousands of documents and emails, and reviews of thousands of banking transactions. We have also conducted a rigorous comparative law analysis which concluded Canada and the province of Quebec were appropriate jurisdictions for pressing this claim.
- 4.3 In broad terms, our investigations have shown that there was a significant amount of information in the public domain to suggest that Stanford and his bank should have been a source of very serious suspicion and concern to the TD and other correspondent bankers involved in servicing SIB. Our statement of claim filed in Quebec, Canada, the location of the only SIB office outside Antigua, sets out our grounds for making our claim. These may be amended to from time to time as our investigations and examinations continue.
- 4.4 We have also consulted with leading legal, risk management, and Anti-Money Laundering professionals in the area of duties of a bank in the US, UK, Canada, and other relevant jurisdictions, and considered the outcome of other similar claims, to ensure that the underpinnings of our claim are sound, anticipating that there will be a vigorous defense. We recognise the substantial cost of investigating and bringing this claim are merely the first costs in the process.
- 4.5 TD's initial response is that of "Forum Non Conveniens", or that we are not in the proper jurisdiction for our claim to be heard. They argue that the proper jurisdiction is Ontario. It is clear that the only place SIB had operations outside Antigua was in Montreal in the province of Quebec. This matter is before the Court in Montreal with further hearings scheduled for late February 2013. This is a preliminary matter that will have to be resolved before the substantive claim can be advanced.

5 Real Property controlled by SDC and others

- 5.1 We continue our efforts on a number of fronts to try and take control of the Antiguan Companies owned by Robert Allen Stanford ("RAS"). These companies own significant property assets in Antigua. The property assets owned by these companies are estimated to be worth US\$70 million, and we have some comfort based on our knowledge of the market that it may be possible to achieve recoveries in this range.
- 5.2 As previously reported we have a freezing order over the assets of these companies and we are currently attempting to get hearings in front of the Antiguan court to allow us to pursue our claim against these companies on the basis that they have been entirely funded by SIB monies in an amount exceeding \$290 million for which no value was delivered back to SIB. Therefore SIB is entitled to recover this value. We are asserting both a proprietary interest in the assets of SDC and in the alternatives a creditor or shareholder position. Unfortunately this process is taking longer than we had hoped.
- 5.3 Our efforts have been strenuously defended by persons alleging to be officers of SDC, who have been instructing a local lawyer and Queens Counsel from the UK. A recent decision by the Antiguan Court has held that in fact SDC has no properly appointed officers. This should mean that there is no-one to continue with the vexatious and unintelligible defense to our claim, and a judgment in our favour should follow. There are also issues of personal liability of those who have been asserting officer/director standing, and the prospect that fees and other costs incurred in the defense of our action have not been properly paid and are recoverable from the recipients.
- 5.4 We are also aware that the Attorney General has initiated proceedings to put SDC and related entities under the control of an Inspector, who will report on the affairs of SDC and whether or not it is in the public interest to allow its continued operation under existing management. We are also aware of a further petition for the winding up of SDC, which given the other matters before the Court we are concerned may be duplicative and potentially add a further layer of cost and diminish recoveries.

6 Real Property owned by SIB

- 6.1 Land beneficially owned and controlled by SIB in Antigua is scheduled below.

Property	Size (approx.)
Pelican Island	32 acres
Crump Peninsula	987 acres

Guiana Island	478 acres
Crump Island	52 acres
Rabbit Island	5 acres

- 6.2 As detailed in our Second Report we have previously obtained a valuation for these lands from BCQS, a regionally based appraiser, for \$212 million. The amount ultimately realised from these assets will depend on today's demand for Caribbean land. Even with careful marketing, and even when following a strategy of releasing the various parcels into the market on a controlled basis, determining future demand and values has proved problematic. The current expressions of interest suggest that the market for large blocks of land is very limited, and our further enquiries into the market for developable land in the region suggest there is no sign of demand strengthening. Our expectation of recoverable value is therefore substantially reduced in light of the market response.
- 6.3 However, our real estate agents are working with twenty-two parties who had sufficient interest to obtain information packages, and are assisting with their due diligence inquiries. We are hopeful that this interest will ultimately lead to offers to buy. One offer to buy Pelican Island at a very attractive price has been rejected as the price was payable over a number of years, the buyer wanted title before the price was fully paid, and there was no indication the prospective buyer had access to the funds to ultimately close.
- 6.4 Four of the properties identified above have been included in the Citizenship-by-Investment program currently being considered by the Antiguan government. The program would add an additional incentive to a purchaser over a set threshold price by way of the right to obtain an Antiguan passport. This should provide further incentive to developers as it will offer another marketing tool for any final development. We understand that the legislation to put this program into effect is before Parliament. It is not clear when the matter will come to a vote. Some of the parties that have expressed an interest in the properties have indicated that this program will make these properties a more attractive investment.

7 Claims Process

- 7.1 We continue to review and improve our claims processing system with an effort to make it more efficient. Since our last report we have created a unified database that pulls together the information that was previously located in two separate databases and has historically been difficult to access. This database has been linked to our claims review database to enable a more automated review of data which will allow us to increase the speed at which claims are

being reviewed and admitted in the liquidation. We have not received a significant amount of new claims since our last report with total claims submitted remaining at approximately 10,000.

- 7.2 We continue to send out notifications to creditors/victims of the amount of their claim admitted as the review process is completed subject to satisfactorily being able to reconcile our process with that of the Receiver. As required by legislation creditors/victims are provided with 21 days to dispute the amount of their claim admitted in the liquidation.
- 7.3 There continue to be minimal disputes with the allowed claims and we are not aware of any disputes that have been raised in the court at this time. We continue to work with creditors to address any concerns they have with the amount of their claim allowed. The largest source of dispute consistently appears to be due to a misunderstanding of how the net cash amount is calculated. All creditor/victim claims are being admitted using the net cash method as this removes any fictitious interest that has been earned as it treats any distribution of interest as a return of capital.
- 7.4 The statutory framework under which we operate is intended to ensure that no one is barred from making a claim should they through inadvertence or otherwise not file on a timely basis. However it is our position that late filers will only be entitled to distributions subsequent to the date of their filing. Additional notices to those who have not filed are required prior to proposed distributions.
- 7.5 We are aware of claims buyers who have purchased claims from victim/creditors and have recognised a number of these transfers to date. While we do not endorse any of the claims buyers and have clearly indicated that all creditors/victims must complete their own due diligence before selling their claims, we have posted the contact information for these investors on the liquidation website (www.sibliquidation.com/claims-administration) and continue to work with them to streamline the process for anyone wishing to sell their claims. There is an obligation under Antiguan law to file register assignments.
- 7.6 We are aware that the US Receiver has made application to the US court to make an interim distribution in the amount of US\$55 million. They have indicated that that distribution will occur within 90 days of the court's approval of the interim plan. We note a small number of objections have been filed on which there will be a hearing in the US Court.
- 7.7 We are working with the US Receiver to try to reconcile the two processes so that we can seek to assure consistency with respect to the value of claims on which distributions to creditors are based. While we will work hard to ensure that this works smoothly, it will greatly ease the process if claims are filed in

both estates and we will be encouraging creditors to do so through a further request to file claims, linked to the potential of funds for distribution being generated by the Settlement Agreement.

- 7.8 To date our claims process costs are in the range of \$636,000, and we anticipate that we will complete the process within an overall cost of \$1million or less as predicted.

8 Clawbacks – Net Winners and Preferences

- 8.1 As previously reported, we are pursuing two categories of clawback claims.

- I. Firstly, there are those who were successful in taking out more money than they put into SIB. They are sometimes referred to as ‘net winners’. Given the nature of the fraud on SIB, funding for the gains enjoyed by ‘net winners’ had to come from other depositors’ money and to their detriment. To permit the ‘net-winners’ to retain their gains is to give effect to the fraud. The US Court has affirmed this position with respect to creditors within its jurisdiction. Under the proposed settlement our actions to claw back the "net wins" will not overlap with those already taken by the Receiver, but will extend to those out-side of the Receiver's jurisdiction with his co-operation. This co-operation will enable us to save significant costs.
- II. In the final months of the operating life of SIB, significant redemptions by CD holders occurred at a time when the Stanford companies were on the verge of collapse. This allowed some depositors to be "preferred" over others to a significant extent, in effect creating "winners" and "losers"; “losers” being those who were unable to get to the front of the queue when the run on the bank was taking place. This concept is well established in many insolvency regimes across the world, and Antigua is no exception.

- 8.2 In view of the clear affirmation of the US Court that "net winners" are obliged to return their wins, and the reasonable conclusion that the Antiguan Court would not find otherwise, the starting point for pursuing these claims will be through demand letters sent to those parties that are either net winners or who were preferred, in the expectation that we can negotiate resolution without the cost to both parties associated with litigation. However we are prepared to litigate when necessary.

- 8.3 We note that several jurisdictions in which the net winners reside have adopted the UNCITRAL Model law for recognition of foreign representatives of insolvency estates (such as the JLS). With recognition, enforcement issues with respect to Antiguan proceedings and judgments should be relatively straightforward. In the case where recoveries are effected, with respect to

preferences, the purpose is to level the playing field as between creditors, and therefore those paying in will be entitled to a claim in the estate, and to participate in future distributions.

- 8.4 We are also in a position to effect some level of remedy against those CD holders who received preferential payments during the run on the bank by withholding dividends from these creditors until such time as their preferential payments are equivalent to the repayments that we say are required to address the inequity. This is an imperfect remedy as until distributions approach 100% of the value of all creditor claims (of about \$4.6 billion if all creditors prove in the estate), those who received preferential payments will be better off. Where it is financially feasible to do so, we will continue to press for repayment regardless.

9 STC and Colombian Subsidiary in Liquidation

- 9.1 The JLs are continuing their efforts to try to recover funds from STC over which Wide and Dickson are also Liquidators. It is anticipated that the bulk of the recoveries in STC, which has very limited creditors, will flow through for the benefit of SIB and its creditors.
- 9.2 The principal asset is STC's interest in a subsidiary company in Columbia. We are working closely with the Columbian Liquidator and legal advisors to the subsidiary company to resolve outstanding claims against its assets before we will be in a position to recover the balance of the assets remaining for the benefit of STC's Shareholders. We are hopeful that recoveries from this source should be in the range of \$12 million.

10 Chapter 15 Application

- 10.1 Subsequent to the hearing with respect to recognition under Chapter 15 of the US Bankruptcy Code on December 2011 and subsequent filings made further to a timetable set by the court, an Order was made by the US Court on July 30, 2012 indicating that the Antiguan liquidation is a foreign non-main proceeding under Chapter 15 of the US Bankruptcy Code. The Order included a number of restrictions under Section 1509 of Chapter 15 which the Joint Liquidators find unacceptable. The conditions of the Order include:
- i. limited relief under section 1521 of Chapter 15 to conditionally permit "the examination of witnesses [and] the taking of evidence or the delivery of information concerning [SIB's] assets, affairs, rights, obligations or liabilities" to allow for US discovery related to the Antiguan liquidation;
 - ii. the JLs' right to seek discovery relief in the US is conditional on: the Joint Liquidators making available to the Receiver, the Examiner, OSIC and the SEC all of SIB and STC's records, documents, data and any other

relevant information regarding SIB and STC under their control, possession, or knowledge, wherever located regardless of the cost to the JLs and their ability to do so and remain in compliance with laws of other countries where the JL's are recognised, such as Switzerland or potentially conflicting instruction from the Antiguan court.

- iii. requiring the Joint Liquidators to use best efforts to acquire reciprocal rights for the Receiver in the Antiguan court, which is not provided for under Antiguan law;
- iv. precluding the Joint Liquidators from taking any action to disrupt, interfere, or otherwise prevent efforts related to the Receivership by the US DoJ, the SEC, any other US government agency, the Receiver, the Examiner, and OSIC absent approval of the US Court regardless of the merits effectively extending US rights and overriding the JL's present rights where the JL's have standing and the authority to act, and the Receiver does not ; and
- v. precluding the Joint Liquidators from duplicating efforts by the Receiver, the Examiner, and OSIC, including playing any role – unless consented by the Receiver, Examiner, and OSIC – in the prosecution of claims or actions that the Receiver and/or OSIC have already commenced prior to the date of the US Court's limited Order of recognition even in jurisdictions where the JL's have authority to act and the Receiver does not, regardless of the merits and possibly orders of the Antiguan Court.

10.2 The US Court in its decision concluded that SIB should be aggregated into all the Stanford companies and is simply a component of a greater fraud and is itself a perpetrator in defrauding CD holders. We believe this is factually and legally incorrect. Also, we believe that this conclusion is to the prejudice of CD holders and their potential remedies against third parties who facilitated the fraud.

10.3 Further, in deciding on recognition and the location of the centre of main interests of SIB, the US Court found differently than both the UK Court and the Swiss insolvency proceedings where recognition in favour of the Antiguan estate has been granted.

10.4 Finally as noted above, through granting limited recognition the US Court attempted to bring the JL's within its control, in effect requiring us to subordinate the authority of the Antiguan Court. This we cannot agree to. For these reasons it was our initial intent to appeal the ruling.

10.5 However when the potential for an "omnibus settlement" was mooted we were optimistic that many of the troublesome issues associated with the Chapter 15 ruling could be negotiated to a satisfactory place, and there was no purpose in

appealing while settlement was possible. We therefore successfully applied for and obtained an extension of time for filing the appeal.

- 10.6 The Settlement Agreement as presently drafted deals in part with the negative issues of the Court's ruling on our recognition proceeding, and specifically makes it clear we do not accept the US Court findings as binding outside the US, with other jurisdictions free to make their own assessments. This will permit us to bring third party claims outside the US on the grounds of damage to SIB and its creditors as a looted entity. It is our view that this adds standing to our action and adds value to the level of damages claimable.

11 Continuing Investigation and Potential Third Party Claims

- 11.1 Our investigation into other possible third party claims continues through further examination of the accounting records of SIB, an examination of its other records through our forensic review database, and by external investigation and examination of potential witnesses.
- 11.2 It would not be appropriate to comment on the various leads and opportunities that we are pursuing at present. However, based on the material and evidence gathered to date, we expect that additional claims will be advanced shortly.

12 Other Litigation

- 12.1 **Bank of Antigua:** We have commenced a claim against Bank of Antigua in respect of: (a) assets of SIB that it received without any proper consideration; (b) its assistance in facilitating the fraud against SIB; and (c) debits made from SIB bank accounts held with it without any authority or legal justification. Bank of Antigua was intervened upon by the Eastern Caribbean Central Bank ("ECCB") on 20 February 2009. The ECCB subsequently commissioned Ernst & Young to prepare a valuation of Bank of Antigua which concluded that its fair market value was nil based upon a substantial deficiency of its assets against its obligations to non-related customers. OSIC and the US Receiver have also recently sued the Bank of Antigua in the USA. As Bank of Antigua was a domestic bank serving local Antiguan depositors this may be beyond the reach of the US Courts.
- 12.2 The ECCB oversaw the transfer of certain assets and liabilities from Bank of Antigua to the newly created Eastern Caribbean Amalgamated Bank ("ECAB") on 18 October 2010. The deficiency arising from the shortfall of value transferred against the liabilities consumed has been funded by ECCB, although the Antiguan Government remains obliged to ECCB for this shortfall. OSIC and the US Receiver have also recently sued the ECCB again in the USA. We do not see how the US jurisdiction can be extended to the ECCB, especially in regards it

fulfilling its statutory obligation to arms-length depositors in the insolvency of Bank of Antigua at the cost of tens of millions of dollars to ECCB.

- 12.3 Notwithstanding the transfer of the Bank of Antigua's operating assets to ECAB, it is believed that Bank of Antigua retained assets against which a judgment in favour of SIB might be enforced.
- 12.4 **Former Liquidators:** As stated previously, we have objected to the approximately \$18 million in fees and disbursements reportedly incurred by the former JIs in respect of SIB and also STC. We continue to wait for a hearing date with respect to this matter.
- 12.5 **Kippers:** As noted in our Third Report, on 26 June 2009, an ex-vice president of SIB, Mr. Eugene Kippers, two of his relatives or affiliates and an associated company (the "Kippers Claimants") issued proceedings in the High Court of Antigua and Barbuda for the total sum of approximately US\$9.9million under four separate claim numbers, ANUHCV2009/347, ANUHCV2009/348, ANUHCV2009/349, and ANUHCV2009/350 (the "Kippers Claims"). Additional details with respect to the claim can be found in the Third Report.
- 12.6 These proceedings were heard by the Antiguan court on Friday, 18 January 2013, by Madam Justice Remy. She reserved judgment and ordered Mr. Kippers to remedy a defect in his affidavit within seven days and indicated she would write her judgment at that time.
- 12.7 **Canada:** As part of the proposed Settlement Agreement with the DoJ and others, we would acquiesce to the payment of approximately \$23 million of monies held in Canada to the US Receiver (subject to some clarification regarding the ultimate use of an approximately \$3 million holdback proposed by the Attorney General of Ontario to ensure that any surplus therefrom is returned to the SIB creditors' pool for distribution and not forfeit to the Government of Ontario if not claimed by the contingent creditors for whom it is being set aside).
- 12.8 **UK:** In accordance with the obligations imposed on us by the UK Court we have continued to report to the SFO both on the use of the funds drawn and with respect to the management of the investments which represent the balance on the restrained funds.
- 12.9 As directed by the Court we continue to manage the various investments to preserve the value of the frozen assets in the UK, and to prevent further erosion in value by converting them to cash where possible. The majority of the investments have now been converted to cash. Those remaining are subject to mandatory redemption and we anticipate their liquidation in short order. The estimated value of the UK funds is \$100 million, from which we have drawn the approved loan of \$20 million.

- 12.10 A wire transfer initiated by the JLs of approximately \$750,000 of the funds resulting from the sale of some of the UK investments was unexpectedly blocked by an intermediary bank in New York as a result of the Restraining Order issued by Judge Godbey in the United States on February 16, 2009. While this would seem to be in breach of the UK Court's control over the UK funds, and while the Receiver is not contesting this, the Settlement Agreement with the DoJ makes specific provision for the release of these funds to the UK for distribution, eliminating the need for further expense.
- 12.11 As a result of the Court's decision in our favour with respect to access to the frozen funds, we were awarded costs which in our last report we anticipated would be in the region of £90,000. As yet the costs amount has not been paid by the SFO. Again this issue is resolved in the context of the Settlement Agreement, and we do not intend at this point to take further action or incur further costs in connection with it.
- 12.12 **Switzerland:** The funds held in Switzerland are dealt with under the terms of the Proposed Settlement Agreement and therefore we have suspended further action with respect to them. However we anticipate that in view of the multiple Stanford entities with funds in Switzerland, and the potential for continuing claims by Swiss agencies, the complexities of obtaining a release of the funds held there will likely take some time, potentially months.
- 12.13 We have also joined in a criminal prosecution initiated by the Prosecutor, in which we will be seeking restitution/compensation within the criminal proceedings against Blaise Friedli and ultimately SG Bank. This action has just been initiated by the Prosecutor and at this point it is difficult to comment on the timing or outcome. There is also the possibility of a criminal action against Stanford Group (Suisse) AG.

13 Other Estate Matters

- 13.1 The estate continues to incur approximately \$120,000 per month in expenses in relation to the Antiguan Operations, related to records maintenance, claims processing and support of the electronic platform used to locate evidence and documents. We regularly conduct detailed reviews of these costs to ensure that costs are minimised. Presently we are of the view that these costs are necessary. We can expect some reduction once the claims review process has been completed. We are also looking at ways we can more cost effectively store data.
- 13.2 We continue to use local staff as much as possible with a view to reducing the cost to the estate. The JLs' staff are still required to be actively involved in the management and monitoring of the Antiguan Operations. The JLs' staff are onsite at the Antiguan building as required, and also actively monitor the operations on a

daily basis from Grant Thornton's office.

- 13.3 In a Court Liquidation, and particularly one of this scale, the cost of compliance with statutory obligations are substantial and continuing. The JLs continue to closely monitor the cash position of the estate and only conduct critical work where cash is required to pay for the same on a current basis in order to extend the ability of the estate to operate. However, the JLs and their staff and advisors have spent significant time, and will continue to do so, mostly in pursuit of assets and recoveries.
- 13.4 Attached is a Receipts and Payments account of the JLs for the period of their appointment on 12 May 2011 to 31 December, 2012.
- 13.5 The fees of the JLs and their advisors are subject to review by the Antiguan Court. The JLs have applied to the Antiguan Court for approval of their fees and continue to await a hearing date for that application.
- 13.6 The US\$20million loan from the UK Frozen Funds has now been drawn down in full and the balance of cash in the estate at 31 December, 2012 totals \$1,371,578. To date none of the events that would trigger repayment of this loan or interest have occurred, as we have not made any recoveries that trigger the obligation to pay interest or repay principal. If the overall Settlement Agreement is consummated this loan will be rolled into the settlement agreement.
- 13.7 Fees, before expenses, drawn by the JL's and their legal team in the reporting period 1 July 2012 to 31 December 2012 total \$4,956,755.
- 13.8 In view of the work carried out to date in this liquidation and the results achieved, the JLs continue to believe that that the fees incurred by the estate are reasonable and represent fair value to the estate.
- 13.9 We have now had a total of twelve meetings with our Creditors' Committee to discuss key issues and seek approval for our actions.
- 13.10 We have also filed an application in Court for approval of our actions to date. After discussions with the Committee, we will be making a modification to our fee proposal prior to the hearing of the application. A separate application is being made for the approval of the Settlement Agreement.
- 13.11 We have negotiated for a line of credit for which a further application is being made as a backstop in the event of delay or rejection by the Court of the Settlement Agreement. This contains provisions for a minimum draw.
- 13.12 We continue to encourage creditors/victims to monitor the liquidation website (www.sibliquidation.com) for updates as this is the Joint Liquidators' primary tool

for communicating information to the creditors/victims. In particular, we continue to update the site with links to the latest webinars, frequently asked questions, media reports, court filings and other information. Creditors/victims are also able to send emails to:

<stanford.enquiries@uk.gt.com>

or speak to a representative in English at +1 268 480 3700 or in Spanish at +1 268 480 3783 between the hours of 9:00 am and 5:00 pm Atlantic Standard Time. A voice mail system is also available to enable creditors/victims to leave a message if they call outside of the hours noted, and a representative will call them back.

14 Next Steps

- 14.1 It is our intention to follow up on the proposed Settlement Agreement as a matter of urgency, and if signed off by the DoJ and SEC, to ensure it is put before the Antiguan and UK Courts expeditiously for ratification.
- 14.2 If there is no ratification of this agreement we will be obliged to continue to press our claims to the "frozen" assets of the Bank, as a mechanism for the earliest possible distribution to creditors/victims, and maximising recoveries.
- 14.3 We will continue to press our damages claim against TD in Quebec which we anticipate will be heavily resisted.
- 14.4 We will continue to pursue our remedies against SDC et al., in the expectation that the Court will hear our position on a timely basis and that we can expedite realization of value from these assets.
- 14.5 We expect to issue our demands with respect to Net Winner claw backs and preferences within the next few weeks, where possible paying fees on a contingency basis to encourage expeditious action and settlements.
- 14.6 We will press forward with our Claims Process and reconciliation with the Receiver's claims process to ensure consistency on the amounts on which distributions to creditors are paid.
- 14.7 We will continue to defend claims against the bank from the former JJs and other claimants such as the Kipper claim which will otherwise diminish the values available for distribution to creditors.
- 14.8 We will be working with our land sales team to expedite interest and offers for the SIB lands.

- 14.9 We will continue to update creditors/victims via updates to the liquidation website, further reports such as this and where appropriate webinars.
- 14.10 We will continue to consult with our Creditors' Committee for input and advice and review fees and other expenses of the estate on an on-going basis.
- 14.11 We will complete our analysis of rights and remedies elsewhere in the world, concentrating on the UK and Switzerland initially, but not exclusively, and, where appropriate, commence litigation.

Signed at Road Town, Tortola, British Virgin Islands.



Marcus A. Wide
for the Joint Liquidators

**THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
ANTIGUA AND BARBUDA**

Claim No. ANUHCV 2009/0149

**In the Matter of Stanford International Bank Limited (In
Liquidation)**

-and-

**In the Matter of the International Business
Corporations Act, Cap 222 of the
Laws of Antigua and Barbuda**

**FOURTH REPORT OF THE JOINT LIQUIDATORS OF
STANFORD INTERNATIONAL BANK (IN LIQUIDATION)**

Nicolette M. Doherty
Legal Practitioner for the Joint Liquidators
Stanford International Bank Limited (In Liquidation)
Attorney at Law and Notary Public
PO Box W1661,
Island House, Newgate Street
St John's, Antigua, West Indies.
Telephone: 1 (268) 462 4468/9