Court File No. CV-12-9780-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

MARCUS WIDE of Grant Thornton (British Virgin Islands) Limited
and HUGH DICKSON, of Grant Thornton Specialist Services (Cayman) Ltd.,
acting together herein in their capacities as joint liquidators of
Stanford International Bank Limited

Plaintiffs

- and -

THE TORONTO-DOMINION BANK

Defendant

REPLY MOTION RECORD
(motion for summary judgment)

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F. Exhibit "F" – Copies of Press articles from February 2009

G. Exhibit "G" – Copy of a communication to the creditors of SIB signed by Messrs. Wide and Dickson date

H. Exhibit "H" – Declaration of Nigel Hamilton-Smith dated April 20, 2009

I. Exhibit "I" – Approved Judgment of Mr. Justice Lewison of the High Court of Justice, Chancery Division, Companies Court dated July 3, 2009

J. Exhibit "J" – Affidavit of Marcus Wide sworn May 30, 2014

K. Exhibit "K" – Affidavit of Zaherali (Jim) Sunderji sworn May 12, 2009

L. Exhibit "L" – Affidavit of Zaherali (Jim) Sunderji sworn June 2, 2009

M. Exhibit "M" – Reasons of Associate Chief Justice Wittman dated June 24, 2009

N. Exhibit "N" – Copy of Former Officeholders' notice of motion [sic] dated May 21, 2009

TAB 1

Court File No. CV-12-9780-00CL

ONTARIO
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B E T W E E N :

MARCUS WIDE of Grant Thornton (British Virgin Islands) Limited and HUGH DICKSON, of Grant Thornton Specialist Services (Cayman) Ltd., acting together herein in their capacities as joint liquidators of Stanford International Bank Limited

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THE TORONTO-DOMINION BANK

Defendant

AFFIDAVIT OF WOLFGANG MERSCH
(motion for summary judgment)

I, Wolfgang Mersch, of the City of Toronto in the Province of Ontario, **MAKE OATH AND SAY**:

Introduction

1. I am currently Deputy Global Anti-Money Laundering Officer, Wholesale and Corporate at TD Bank. I was formerly Managing Director and Head of the Global Transaction Banking department at TD Bank. In that latter role, I was ultimately responsible for TD Bank's relationship with SIB. As such, I have knowledge of the matters to which I hereinafter depose, except where I expressly indicate that I have obtained information from others in which case I believe such information to be true.

2. I am the deponent of a prior affidavit sworn on October 10, 2014 in support of TD Bank's motion for summary judgment (my "**First Affidavit**"). Capitalized terms not otherwise defined herein have the meanings ascribed to them in my First Affidavit. I swear this Affidavit in response to a number of affidavits filed by the Joint Liquidators. In particular, I swear this affidavit in response to the factual assertions made in the affidavits of Beverly M. Jacobs, sworn November 13, 2014, (the "**Jacobs Affidavit**") Omari Osbourne, sworn November 13, 2014, (the "**Osbourne Affidavit**"), Marcus A. Wide, sworn November 28, 2014, (the "**Wide Affidavit**"), William R. Tacon, sworn December 15, 2014 (the "**Tacon Affidavit**") and John Carrington, Q.C., sworn December 16, 2014 (the "**Carrington Affidavit**") (collectively, the "**Joint Liquidators' Affidavits**").

3. Unless otherwise specified herein, the documents exhibited to this affidavit were obtained by TD Bank's counsel from filings in the Courts of the United States, Québec, Alberta and Ontario.

SIB's Fraud Was Well Known and a Matter of Public Record after the Freeze Order in February 2009

4. At paragraph 88 of the Jacobs Affidavit, it is asserted that as of the time of the Freeze Order "no SIB personnel were discussing with [Ms. Jacobs] the possibility that SIB was in any way involved with a fraud or any wrong doing." Ms. Jacobs states that her "understanding was only that SIB was having certain financial issues." Ms. Jacobs goes on to depose, at paragraph 90, that she "did not have any information on any of the allegations of fraud that were being made concerning SIB and Stanford". At paragraph 87 of her affidavit, Ms. Jacobs refers to

an email she received from SIB's US Receiver, Ralph Janvey, although the email itself was not exhibited to her affidavit.

5. I am advised by Junior Sirivar, a Partner at McCarthy Tétrault LLP, that upon review of the Jacobs Affidavit, a request was made for the email referred to at paragraph 87. A copy of Mr. Sirivar's request dated December 14, 2014 is attached as Exhibit "A" to the Affidavit of Peter R. Wiltshire, sworn January 16, 2015 (the "**Second Wiltshire Affidavit**").

6. A copy of the email referred to in paragraph 87 of the Jacobs Affidavit was produced in response to Mr. Sirivar's request and is attached as Exhibit "C" to the Second Wiltshire Affidavit. As appears therefrom, and contrary to Ms. Jacobs' assertions, Mr. Janvey expressly advised all of SIB's employees, including Ms. Jacobs, of the allegations against SIB on February 17, 2009. Mr. Janvey noted:

> "...
>
> You have all seen press reports during the past week regarding investigations into our company's operations. On February 17, 2009, the U.S. District Court for the Northern District of Texas, Dallas Division, appointed a Receiver to take control of the assets and records of Stanford International Bank, Ltd.; Stanford Group Company; Stanford Capital Management, LLC; Ms. Laura Pendergest-Holt; Mr. James M. Davis and Sir Allen Stanford (the "Defendants"). The Court's order covers all records and assets of each Defendant, including all entities that they control. Therefore, it applies to all companies in the Stanford Financial Group.
>
> The order authorizes the Receiver to 'have complete and exclusive control, possession, and custody' of these assets as well as 'any assets traceable to assets owned by' the Receivership Estate. The order was issued in connection with a lawsuit by the Securities and Exchange Commission, which **alleges that the Stanford companies have conducted a multi-billion fraudulent investment scheme.**
>
> Many of you were provided a copy of the Order Appointing Receiver earlier today. Those that received a communication from

> the Receiver also received a copy of a Temporary Restraining Order, Order Freezing Assets, Order Requiring an Accounting, Order Requiring Preservation of Documents, and Order Authorizing Expedited Discovery.
>
> ..."

7. Moreover, SIB's fraud was a matter of public record. On February 19, 2009, only three days after the U.S. District Court in Dallas, Texas issued the Freeze Order, the United States Securities and Exchange Commission (the "**SEC**" or the "**Commission**") issued a press release announcing that it had:

> "... on February 17 charged Robert Allen Stanford and three of his companies, alleging a fraudulent, multi-billion dollar investment scheme. Stanford's companies include Antigua-based Stanford International Bank (SIB), Houston-based broker-dealer and investment advisor Stanford Group Company (SCG), and investment advisor Stanford Capital Management. The SEC also charged SIB chief financial officer James Davis and Stanford Financial Group chief investment officer Laura Pendergest-Holt in the enforcement action."

8. A copy of the SEC's press release titled, "SEC Statement on the Case against R. Allen Stanford", dated February 19, 2009 is at Exhibit "A".

9. As stated in the press release, the SEC also publically disclosed the details of its allegations against SIB and Stanford by providing links to copies of:

(i) its detailed civil complaint, filed in the United States District Court for the Northern District of Texas, Dallas Division (Exhibit "B");

(ii) a detailed "Memorandum of Law" in support of its *ex parte* motion for a temporary restraining order, a preliminary injunction and other emergency relief (Exhibit "C");

(iii) the Freeze Order (Exhibit "B" to my First Affidavit); and

(iv) the court order appointing Ralph Janvey as receiver over SIB and all other Stanford-owned entities (Exhibit "D").

10. Thus, the precise bases for the SEC's allegations that SIB, Stanford and others had engaged in fraud were made publically available by the SEC on February 19, 2009. Indeed, as appears from the SEC's civil complaint, the SEC outlined detailed allegations of a fraudulent scheme perpetrated by SIB, Stanford Group Company, Stanford Capital Management, R. Allen Stanford, James Davis and Laura Pendergest-Holt. The essence of the SEC's complaint is described therein as follows:

> "The Commission seeks emergency relief to halt a massive, ongoing fraud orchestrated by R. Allen Stanford and James Davis and executed through companies they control, including Stanford International Bank, Ltd. ("SIB") and its affiliated Houston-based investment advisor, Stanford Group Company ("SGC") and Stanford Capital Management ("SCM"). Laura Pendergest-Holt, the chief investment officer of a Stanford affiliate, was indispensable to this scheme by helping to preserve the appearance of safety fabricated by Stanford and by training others to mislead investors. For example, she trained training [sic] SIB senior investment officer [sic] to provide false information to investors.
>
> Throughout this fraudulent scheme, SIB, acting through a network of SGC financial advisors, has sold approximately $8 billion of self-styled 'certificates of deposit' by promising high return rates that exceed those available through true certificates of deposits offered by traditional banks."

11. Moreover, as appears from the SEC's Memorandum of Law (Exhibit "C"), the SEC sought (and obtained) injunctive and ancillary relief which included:

(i) An order freezing assets to "ensure that sufficient funds are available to satisfy any final judgment the Court might enter against [SIB] and to ensure a fair distribution to investors" (page 31);

(ii) An order prohibiting the movement, alteration and destruction of books and records and an order expediting discovery (page 32);

(iii) An order requiring the defendants, including SIB, to make an immediate accounting to "enable the Commission to determine more accurately the scope of the fraud and disposition of investor funds" (page 33); and

(iv) The appointment of a receiver to "marshal, liquidate and distribute assets to the victims of the Defendants' scheme [which was] especially warranted in light of the defendants' efforts to shield relevant financial data and other key documents from independent review, the recent effort to remove operations from the United States, and recent large liquidations by lying to investors seeking to redeem their CD's" (page 34).

12. As appears from Exhibit "D" hereto, the Court granted Mr. Janvey broad powers which included the power to:

(i) "Institute such actions or proceedings[,] to impose a constructive trust, obtain possession, and/or recover judgment with respect to persons or entities who received assets or records traceable to the Receivership Estate. ..." (paragraph 5(e)); and

(ii) "Institute, prosecute, compromise, adjust, intervene in, or become party to such actions or proceedings in state, federal or foreign courts that the Receiver deems necessary and advisable to preserve the value of the Receivership Estate, or that the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order and likewise to defend,

7

compromise, or adjust or otherwise dispose of any or all actions or proceedings instituted against the Receivership Estate that the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order." (paragraph 5(i)).

13. Within days of the SEC's announcement, the Former Officeholders, through their UK counsel, wrote to the TD Bank advising that "injunctive proceedings [had been] initiated in the USA" and that "the [SEC] ha[d] obtained the appointment of a separate receiver to oversee the assets of all Stanford entities." The Former Officeholders also stated:

> "...
>
> We understand that you hold assets or accounts in the name, or otherwise for the benefit, of SIB. We should be grateful if, as a matter of urgency, you could confirm details of all assets or accounts that you hold for SIB and the balances on those accounts. We understand that as at 19 February 2009, you hold at least four accounts for SIB, the details of which are as follows:

Account No.	**Currency**	**USD Conversion**
0360 01 2161573	CAD	1,108,221.92
0360 01 2161670	USD	17,146,696.77
0360 01 2224235	USD	312,794.07
0360 01 2300380	CAD	350,950.04
	Total	**18,918,662.80**

> ..."

14. A copy of the letter from the Former Officeholders' UK counsel, dated February 22, 2009, is at Exhibit "E".

15. The SEC's announcement that it had charged Stanford, SIB and others with fraud was also a matter of international news in the weeks and months that followed. Copies of press

articles from February 2009 are at Exhibit "F". As appears therefrom, TD Bank's role as correspondent bank for SIB was also a matter of public record:

> "As regulators around the world froze assets belonging to Texas billionaire Allen Stanford, Toronto-Dominion Bank has emerged as a significant player in Mr. Stanford's far flung financial empire that is now under investigation by the U.S. Securities and Exchange Commission.
>
> ...
>
> Court filings indicate that TD was one of three banks that provided financial services to Stanford International Bank Ltd. [SIB] and show at one point in 2006, Stanford entities had more than $160 million in various TD accounts."

The Former Officeholders Undertook a Thorough Investigation of SIB's Affairs in the Spring of 2009

16. The Plaintiffs did not rely on any affidavits from the Former Officeholders in their response to this motion, despite the fact the Former Officeholders have "cooperated fully with [the Joint Liquidators]" and "made members of their staff available to [the Joint Liquidators]." A copy of a communication to the creditors of SIB signed by Messrs. Wide and Dickson is attached as Exhibit "G".

17. In the result, I am advised by Mr. Sirivar that he undertook searches of court files in the United States, Ontario, Alberta and Québec in various SIB related proceedings. Mr. Sirivar advises that these searches identified a number of affidavits and declarations sworn by the Former Officeholders in the Spring of 2009 in some of those jurisdictions.

18. I am further advised by Mr. Sirivar that through his investigations he came to learn that the court files in the United Kingdom and Antigua are not accessible for public search. However, Mr. Sirivar identified at least 6 affidavits sworn by the Former Officeholders in proceedings in the United Kingdom and Antigua between February 2009 and June 2009.

19. Accordingly, on January 7, 2015, Mr. Sirivar made a request for production of these affidavits and documents, all of which relate to the activities of the Former Officeholders in the Spring of 2009. A copy of Mr. Sirivar's email request is attached as Exhibit "B" to the Second Wiltshire Affidavit. The affidavits and other information produced by the Plaintiffs in response to Mr. Sirivar's request comprise virtually the entirety of the five volume "Second Supplementary Responding Motion Record of the Plaintiffs".

20. As described in greater detail below, the affidavits and documents obtained by McCarthy Tétrault through various court searches, as well as the documents contained in the Second Supplementary Responding Motion Record of the Plaintiffs reveal that the Former Officeholders undertook a thorough investigation of SIB's affairs and were well aware of SIB's fraud (and TD Bank's relationship with SIB) by the Spring of 2009.

21. For instance, in a declaration dated April 20, 2009 and filed in the United States District Court for the Northern District of Texas, Dallas Division, in support of the Former Officeholders' petition for recognition of a foreign main proceeding pursuant to Chapter 15 of the United States Bankruptcy Code, Mr. Hamilton-Smith outlined the scope and extent of the Former Officeholders' investigations into SIB's affairs as follows:

(i) "Through my extensive work as a Joint Receiver-Manager of SIB, I have become familiar with [SIB]'s day-to-day operations, assets, financial conditions, business affairs and books and records" (paragraph 2);

(ii) "Pursuant to our appointment as Joint Receiver-Manager, we and the team from Vantis Business Recovery, have been based at SIB's headquarters in St. Johns, Antigua, since February 20, 2009. We have undertaken an

enormous amount of work in that time and have gained a deep understanding of SIB's business, its assets, its liabilities and its customers from our analysis of SIB's records, computer systems, and IT databases, and our interviews of key members of SIB's staff" (paragraph 11);

(iii) "We have been carrying out investigations to identify assets held by SIB, including cash balances, investment assets and non-investment assets. The investigation has involved not only analyzing SIB's records but also communications with approximately 68 financial institutions and companies to obtain confirmation as to cash, bonds, equities and other investments they are holding on behalf of SIB. We have also communicated with regulators in Ecuador, Colombia, Canada, Mexico and the lawyers acting for US Receiver about the relationship between SIB and other entities in the Stanford group" (paragraph 13);

(iv) "...[W]e have been carrying out a forensic investigation to seek to identify claims and recover assets from other entities for the benefit of SIB's creditors..." (paragraph 14); and

(v) "...[W]e have sent a team of accountants and specialist IT technicians to SIB's sales office in Montreal, Canada to dismiss staff, deal with local legal issues in conjunction with local legal counsel, and ensure that all files and paperwork had been stored and IT equipment has been imaged and safe-guarded. We are currently arranging for the sale of assets located in the Canada office, which are limited to office and IT equipment. In the course of dealing with SIB's assets in Canada, the [Former Officeholders]

> were recognized by the Superior Court in Québec for the District of Montreal which granted the [Former Officeholders] the power to take custody and control over SIB assets in Canada, and acted to terminate the Montreal lease" (paragraph 16).

22. A copy of Mr. Hamilton-Smith's declaration dated April 20, 2009 is attached at Exhibit "H".

The Former Officeholders' Own Independent Investigation Confirmed That SIB Had Engaged in Fraud

23. The "enormous work" and "forensic investigation" carried out by the Former Officeholders' confirmed SIB's fraud. In an affidavit sworn on May 18, 2009 in support of the Former Officeholders' application for recognition of the Antiguan liquidation proceedings as foreign main proceedings in the United Kingdom, the Former Officeholders made it clear that, as of the date of the swearing of that affidavit, they had concluded that SIB had been part of a "massive Ponzi scheme." As appears from paragraph 11(a) of the "Second Affidavit of Nigel Hamilton-Smith" (the "**Second Hamilton-Smith UK Affidavit**"), the Former Officeholders' investigation led them to conclude that "SIB [had] engaged in a fraud on its customers…". Mr. Hamilton-Smith also:

> "… [did] not dispute that the findings of the US Receiver to date are consistent with the SEC's allegation that SIB and other Stanford group companies were involved in a massive "Ponzi" scheme. [The Former Officeholders'] own findings to date [were] also consistent with that allegation."

24. A copy of the Second Hamilton-Smith UK Affidavit is at Exhibit "J2" to the Second Wiltshire Affidavit.

25. The Second Hamilton-Smith UK Affidavit also reveals that the Former Officeholders:

(i) Had a detailed understanding of the Stanford group companies' corporate structures (paragraph 11(b) and Exhibit "RSJ10" thereto);

(ii) Were aware "that Antiguan law [did] not permit SIB... to accept deposits from Antiguans." In the result, "investors were required to transfer money, on purchasing CDs, either to Canada (the Toronto-Dominion Bank) or the United Kingdom (HSBC Bank PLC)" (paragraph 11(c) and (d)); and

(iii) Were aware that TD Bank held approximately $19,000,000 of "Tier 1 covered cash balances", which represented 41% of the total Tier 1 covered cash balances held by SIB (paragraph 36).

26. The Second Hamilton-Smith Affidavit also confirmed that the Former Officeholders had a thorough understanding of the precise manner in which the correspondent banks, including TD Bank, were involved in the receipt and disbursement of funds related to the purchase and/or sale of SIB certificates of deposit. The Former Officeholders explained their understanding at paragraphs 43 and 44:

> "The purchase of CDs by customers resulted in the injection of funds into SIB, and clients were instructed to pay their money into various banks located around the world, none of which was in the US. The banks were in Canada and in England and US$ cheques were directed to be sent to SIB in Antigua, which were forwarded onto Bank of Houston to be cashed. The other normal operating accounts of SIB were also located in the US, Antigua and Panama.
>
> So far as redemptions are concerned, at the time of the maturity of a CD or upon withdrawal by a client, in accordance with the terms of a CD, the client would notify SIB (in Antigua) in writing of their desire to withdraw funds. The instruction was processed by

> the client transaction team which produced Swift payment transfers from Antigua for the Toronto-Dominion bank account in Canada or the HSBC account in England, upon being checked by a supervisor, these instructions were issued to the bank in question."

27. At paragraph 54, the Former Officeholders go on to confirm their understanding that:

> "It is true that the banks used by SIB for the purposes of receiving cash from, and making payments to, customers where its accounts with Toronto-Dominion Bank in Canada and HSBC in England. ..."

28. The Former Officeholders' application for recognition of the Antiguan liquidation proceeding as the foreign main proceeding in the United Kingdom was granted by Judgment dated July 3, 2009. A copy of the Approved Judgment of Mr. Justice Lewison of the High Court of Justice, Chancery Division, Companies Court dated July 3, 2009 is at Exhibit "I".

The Joint Liquidators' Present Counsel Commenced Actions Against SIB and TD Bank

29. As I deposed at paragraph 8 of my First Affidavit, on February 25, 2009 Bennett Jones LLP commenced a putative class action in the Alberta Court of Queen's Bench against SIB and certain of its principals. Bennett Jones LLP provided the Former Officeholders with notice of the putative class action on March 6, 2009.

30. Attached at Exhibit "M1" to the Second Wiltshire Affidavit is a letter dated March 6, 2009 from Bennett Jones LLP to the Former Officeholders, enclosing a copy of the Dynasty Plaintiffs' putative class proceeding against SIB. As appears therefrom, Bennett Jones LLP noted:

> "We are solicitors in Canada who have commenced class proceedings in Canada for those Canadians who have investments with Stanford International Bank Ltd. and its affiliated companies. The class proceeding we have commenced also names as defendants Messrs. R. Allen Stanford and James M. Davis and Ms. Laura Pendergest-Holt. Attached is a copy of the Statement of

> Claim we filed on February 25, 2009 in respect of this class proceeding in the Court of Queen's Bench of Alberta in the Province of Alberta, Canada.
>
> We understand that Vantis PLC, and in particular, the Vantis Business Recovery Services Division, has been appointed by the Financial Services Regulatory Commission in Antigua and Barbuda as receivers of Stanford International Bank Ltd. and Stanford Trust Company Ltd.
>
> As class counsel for Canadian investors in this matter, we ask that you contact us should there be any developments that affect or could affect the rights of the investors we represent."

31. In addition, on April 17, 2009, Bennett Jones LLP commenced an action in that same court against TD Bank on behalf of the Dynasty Plaintiffs in which it was alleged, at paragraph 21, that:

> "... TD Bank acted as a correspondent banks [sic] for [a number of companies, including SIB] and thereby became involved in the tortious acts of those companies so as to facilitate the wrongdoings alleged in the [Dynasty Action, attached as Exhibit "L" to my First Affidavit]...".

32. A copy of the Dynasty Plaintiffs' Statement of Claim against TD Bank is at Exhibit "M" to my First Affidavit.

33. As appears from Exhibit "M2" to the Second Wiltshire Affidavit, Bennett Jones LLP provided the Former Officeholders' Ontario and Québec counsel, Ogilvy Renault LLP, with a "courtesy" copy of the Dynasty Plaintiffs' claim against TD Bank on April 22, 2009. Thus, by April 22, 2009, the Former Officeholders were aware that Bennett Jones LLP had advanced a claim against TD Bank in which it alleged that TD Bank was "involved in" and "facilitated the wrongdoings" alleged against SIB.

34. Moreover, as appears from an email from Bennett Jones LLP to Ogilvy Renault LLP dated June 2, 2009 (Exhibit "M3" to the Second Wiltshire Affidavit), Bennett Jones LLP advised the Former Officeholders' Ontario and Québec counsel. 15

> "...
>
> By way of background, we commenced an action in the Court of Queen's Bench of Alberta **on behalf of a group of investors who had been defrauded by Stanford**. The Plaintiffs include Dynasty Furniture Manufacturing Ltd., and several individuals, as well as 2645-1252 Québec Inc., a Québec corporation which invested approximately $5 million in the Stanford investment scheme.
>
> The Defendants in that action include Stanford International Bank Ltd., Stanford Group Company, and other corporate and individuals [sic] Defendants.
>
> A copy of the Statement of Claim filed on behalf of Dynasty Furniture et al. is attached for your review. **As indicated in the claim, Stanford utilized accounts of the Toronto Dominion Bank to handle funds taken from victims of the investment scheme.** On behalf of the Alberta victims we wish to examine TD Bank records in order to confirm the flow of funds from our clients through Stanford to the TD Bank Accounts in Toronto.
>
> ..."

35. I am advised by Mr. Sirivar that the Dynasty action was ultimately assigned to the Plaintiffs in this action in 2011. A copy of the affidavit of Marcus Wide, sworn on May 30, 2014 in response to a motion by TD Bank to strike certain parts of that claim, which describes the circumstances srrounding of the assignment of the Dynasty claim is attached as Exhibit "J".

36. I am advised by Renee Reichelt, a Partner in McCarthy Tétrault LLP's Calgary offices who represented TD Bank in the proceedings in Alberta, that:

(i) the Joint Liquidators' present counsel, Bennett Jones LLP, represented the Dynasty Plaintiffs in both actions (attached hereto as Exhibits "L" and "M" to my First Affidavit);

(ii) The Dynasty Plaintiffs submitted two affidavits sworn by Zaherali Sunderji on May 9 and June 2, 2009 in support of their application. Copies of these affidavits are attached at Exhibits "K" and "L".

(iii) the Former Officeholders were represented by counsel from McLennan Ross LLP in Calgary in an application heard by Associate Chief Justice Wittmann on June 12, 2009 in respect of both actions; and

(iv) Associate Chief Justice Wittmann issued reasons dated June 24, 2009 (attached hereto as Exhibit "M") in which His Lordship noted, among other things that: "[c]ounsel for the U.S. Receiver and the [Former Officeholders] both made oral submissions..." (paragraph 12).

37. On May 21, 2009, the Former Officeholders' Québec and Ontario counsel, Ogilvy Renault LLP, brought an application in this court in which they sought the forfeiture of all assets in accounts at TD Bank in the name of SIB and related companies. A copy of the Former Officeholders' notice of motion [sic] dated May 21, 2009 is attached as Exhibit "N".

The Discoverability of Stanford's Fraud

38. At paragraphs 68 through 81 of the Wide Affidavit, it is asserted that TD Bank has taken the position that the Joint Liquidators' claim was not discoverable until August 27, 2009. At no point has TD Bank adopted, or taken the position that, the Fifth Circuit's conclusions on the

discoverability of a statutory fraudulent transfer claim under the *Texas Uniform Fraudulent Transfer Act* ("**TUFTA**") is applicable for all purposes.

39. Rather, TD Bank accepted the Fifth Circuit's ruling, in respect of a fraudulent transfer claim under TUFTA, and argued that the Official Stanford Investors Committee's fraudulent transfer claims in the Rotstain action were statute barred as a result of the built in discovery rule in TUFTA legislation. As appears from pages 8-9 of TD Bank's Memorandum, a copy of which is appended as Exhibit "R" to the Wide Affidavit, TD Bank's argument was that:

> "TUFTA's own built-in "discovery rule," however, requires filing a claim "within one year after the transfer or obligation was or could reasonably have been discovered by the claimant." TEX. BUS. & COMM. CODE § 24.010(a)(1). This Court, in an earlier Stanford ruling, found that the fraudulent transfers were "inherently undiscoverable" at the time the payments were made, and allowed the Receiver to pursue a claim "discovered" more than one year later. *Janvey v. Democratic Senatorial Campaign Comm., Inc.,* 793 F. Supp. 2d 825, 834-37 (N.D. Tex 2011).
>
> On appeal, the Fifth Circuit held that TUFTA requires a claim to be filed within one year after the transfer's *fraudulent nature* is discovered or reasonably could have been discovered. *Janvey v. Democratic Senatorial Campaign Comm., Inc.,* 712 F.3d 185, 195 (5th Cir. 2013). In the Stanford scheme, the Court specifically held that James Davis's guilty plea, on August 27, 2009, wherein he publicly acknowledged a Ponzi scheme, is the proper Stanford discovery date. *Id.* at 197-98. Accordingly, the Court of Appeals held that the Receiver timely sued the political committees for the return of Stanford contributions because he "filed this suit on February 19, 2010, less than one year after Davis's guilty plea." *Id.* at 197. The actions here arise far later than did the political committee claims, and the Fifth Circuit has now fixed a clear discovery date that OSIC surely has missed."

40. Contrary to the assertions in the Wide Affidavit, TD Bank has never taken the position

that the Joint Liquidators' present claims against it were not discoverable until August 27, 2009.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario on February 13, 2015.

Commissioner for Taking Affidavits

GEOFF R. HALL

Wolfgang Mersch

TAB A

19

U.S. Securities and Exchange Commission

SEC Statement on the Case Against R. Allen Stanford

FOR IMMEDIATE RELEASE
2009-32

Washington, D.C., Feb. 19, 2009 — The Securities and Exchange Commission today made the following statement regarding its enforcement action against Robert Allen Stanford:

> "At the request of the SEC, Special Agents of the Federal Bureau of Investigation's Richmond Division today located and identified Stanford Financial Group chairman Allen Stanford in the Fredericksburg, Va., area. The agents served Mr. Stanford with court orders and documents related to the SEC's civil filing against him and three of his companies. The SEC very much appreciates the outstanding assistance of the FBI in this matter."

The SEC on February 17 charged Robert Allen Stanford and three of his companies, alleging a fraudulent, multi-billion dollar investment scheme. Stanford's companies include Antiguan-based Stanford International Bank (SIB), Houston-based broker-dealer and investment adviser Stanford Group Company (SGC), and investment adviser Stanford Capital Management. The SEC also charged SIB chief financial officer James Davis and Stanford Financial Group chief investment officer Laura Pendergest-Holt in the enforcement action.

The orders and documents that the FBI served on Stanford were the SEC's complaint, the memorandum of law filed with the complaint, the court order freezing assets, and the court order appointing a receiver.

The Honorable Reed O'Connor, U.S. District Court Judge for the Northern District of Texas, granted the SEC's request for emergency relief for investors, and issued the orders freezing assets and appointing a receiver over R. Allen Stanford and other defendants.

# # #

- SEC Charges R. Allen Stanford, Stanford International Bank for Multi-Billion Dollar Investment Scheme

http://www.sec.gov/news/press/2009/2009-32.htm

Modified: 02/19/2009

This is Exhibit "A" referred to in the affidavit of Wolfgang Mertsch sworn before me, this 13th day of February, 2015

A COMMISSIONER FOR TAKING AFFIDAVITS

TAB B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE COMMISSION,	§	
Plaintiff,	§	
v.	§	**COMPLAINT**
STANFORD INTERNATIONAL BANK, LTD., STANFORD GROUP COMPANY, STANFORD CAPITAL MANAGEMENT, LLC, R. ALLEN STANFORD, JAMES M. DAVIS, and LAURA PENDERGEST-HOLT	§	
Defendants.	§	

This is Exhibit "B" referred to in the affidavit of Wolfgang Mersch sworn before me, this 13th day of February, 2015

A COMMISSIONER FOR TAKING AFFIDAVITS

Plaintiff Securities and Exchange Commission alleges:

SUMMARY

1. The Commission seeks emergency relief to halt a massive, ongoing fraud orchestrated by R. Allen Stanford and James M. Davis and executed through companies they control, including Stanford International Bank, Ltd. ("SIB") and its affiliated Houston-based investment advisers, Stanford Group Company ("SGC") and Stanford Capital Management ("SCM"). Laura Pendergest-Holt, the chief investment officer of a Stanford affiliate, was indispensable to this scheme by helping to preserve the appearance of safety fabricated by Stanford and by training others to mislead investors. For example, she trained training SIB's senior investment officer to provide false information to investors.

2. Through this fraudulent scheme, SIB, acting through a network of SGC financial advisors, has sold approximately $8 billion of self-styled "certificates of deposits" by promising high return rates that exceed those available through true certificates of deposits offered by traditional banks.

3. SIB claims that its unique investment strategy has allowed it to achieve double-digit returns on its investments over the past 15 years, allowing it offer high yields to CD purchasers. Indeed, SIB claims that its "diversified portfolio of investments" lost only 1.3% in 2008, a time during which the S&P 500 lost 39% and the Dow Jones STOXX Europe 500 Fund lost 41%.

4. Perhaps even more strange, SIB reports identical returns in 1995 and 1996 of exactly 15.71%. As Pendergest-Holt – SIB investment committee member and the chief investment officer of Stanford Group Financial (a Stanford affiliate) – admits, it is simply "improbable" that SIB could have managed a "global diversified" portfolio of investments in a way that returned identical results in consecutive years. A performance reporting consultant hired by SGC, when asked about these "improbable" returns, responded simply that it is "impossible" to achieve identical results on a diversified investment portfolio in consecutive years. Yet, SIB continues to promote its CDs using these improbable returns.

5. These improbable results are made even more suspicious by the fact that, contrary to assurances provided to investors, at most only two people – Stanford and Davis – know the details concerning the bulk of SIB's investment portfolio. And SIB goes to great lengths to prevent any true independent examination of those portfolios. For example, its long-standing auditor is reportedly retained based on a "relationship of trust" between the head of the auditing firm and Stanford.

6. Importantly, contrary to recent public statements by SIB, Stanford and Davis (and through them SGC) have wholly-failed to cooperate with the Commission's efforts to account for the $8 billion of investor funds purportedly held by SIB. In short, approximately 90% of

SIB's claimed investment portfolio resides in a "black box" shielded from any independent oversight.

7. In fact, far from "cooperating" with the Commission's enforcement investigation (which Stanford has reportedly tried to characterize as only involving routine examinations), SGC appears to have used press reports speculating about the Commission's investigation as way to further mislead investors, falsely telling at least one customer during the week of February 9, 2009, that his multi-million dollar SIB CD could not be redeemed because "the SEC had frozen the account for two months." At least one other customer who recently inquired about redeeming a multi-million dollar CD claims that he was informed that, contrary to representations made at the time of purchase that the CD could be redeemed early upon payment of a penalty, R. Allen Stanford had ordered a two-month moratorium on CD redemptions.

8. This secrecy and recent misrepresentations are made even more suspicious by extensive and fundamental misrepresentations SIB and its advisors have made to CD purchasers in order to lull them into thinking their investment is safe. SIB and its advisers have misrepresented to CD purchasers that their deposits are safe because the bank: (i) re-invests client funds primarily in "liquid" financial instruments (the "portfolio"); (ii) monitors the portfolio through a team of 20-plus analysts; and (iii) is subject to yearly audits by Antiguan regulators. Recently, as the market absorbed the news of Bernard Madoff's massive Ponzi scheme, SIB has attempted to calm its own investors by claiming the bank has no "direct or indirect" exposure to Madoff's scheme.

9. These assurances are false. Contrary to these representations, SIB's investment portfolio was not invested in liquid financial instruments or allocated in the manner described in its promotional material and public reports. Instead, a substantial portion of the bank's portfolio was

placed in illiquid investments, such as real estate and private equity. Further, the vast majority SIB's multi-billion dollar investment portfolio was not monitored by a team of analysts, but rather by two people – Allen Stanford and James Davis. And contrary to SIB's representations, the Antiguan regulator responsible for oversight of the bank's portfolio, the Financial Services Regulatory Commission, does not audit SIB's portfolio or verify the assets SIB claims in its financial statements. Perhaps most alarming is that SIB has exposure to losses from the Madoff fraud scheme despite the bank's public assurances to the contrary.

10. SGC has failed to disclose material facts to its advisory clients. Alarmingly, recent weeks have seen an increasing amount of liquidation activity by SIB and attempts to wire money out of its investment portfolio. The Commission has received information indicating that in just the last two weeks, SIB has sought to remove over $178 million from its accounts. And, a major clearing firm – after unsuccessfully attempting to find information about SIB's financial condition and because it could not obtain adequate transparency into SIB's financials– has recently informed SGC that it would no longer process wires from SGC accounts at the clearing firm to SIB for the purchase of SIB issued CDs, even if they were accompanied by customer letters of authorization.

11. Stanford's fraudulent conduct is not limited to the sale of CDs. Since 2005, SGC advisers have sold more than $1 billion of a proprietary mutual fund wrap program, called Stanford Allocation Strategy ("SAS"), by using materially false and misleading historical performance data. The false data has helped SGC grow the SAS program from less than $10 million in around 2004 to over $1.2 billion, generating fees for SGC (and ultimately Stanford) in excess of $25 million. And the fraudulent SAS performance was used to recruit registered financial advisers with significant

books of business, who were then heavily incentivized to re-allocate their clients' assets to SIB's CD program.

12. Moreover, SIB and Stanford Group Company have violated Section 7(d) of the Investment Company Act of 1940 by failing to register with the Commission in order to sell SIB's CDs. Had they complied with this registration requirement, the Commission would have been able to examine each of those entities concerning SIB's CD investment portfolio.

13. By engaging in the conduct described in this Complaint, defendants Stanford, Davis, Pendergest-Holt, SIB, SGC, and Stanford Capital, directly or indirectly, singly or in concert, have engaged, and unless enjoined and restrained, will again engage in transactions acts, practices, and courses of business that constitute violations of Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77e(a), 77e(c) and 77q(a)], and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)], and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5] or, in the alternative, have aided and abetted such violations. In addition, through their conduct described herein, Stanford, SGC, and Stanford Capital have violated Section 206(1) and (2) of the Investment Advisers Act of 1940 ("Adviser's Act") [15 U.S.C. §§ 80b-6(1) and 80b-6(2)] and Davis and Pendergest-Holt have aided and abetted such violations. Finally, through their actions, SIB and SGC have violated Section 7(d) of the Investment Company Act of 1940 ("ICA") [15 U.S.C. § 80a-7(d)].

14. The Commission, in the interest of protecting the public from any further unscrupulous and illegal activity, brings this action against the defendants, seeking temporary, preliminary and permanent injunctive relief, disgorgement of all illicit profits and benefits defendants have received plus accrued prejudgment interest and a civil monetary penalty. The Commission also seeks an asset freeze, an accounting and other incidental relief, as well as the

appointment of a receiver to take possession and control of defendants' assets for the protection of defendants' victims.

JURISDICTION AND VENUE

15. The investments offered and sold by the defendants are "securities" under Section 2(1) of the Securities Act [15 U.S.C. § 77b], Section 3(a)(10) of the Exchange Act [15 U.S.C. § 78c], Section 2(36) of the Investment Company Act [15 U.S.C. § 80a-2(36)], and Section 202(18) of the Advisers Act [15 U.S.C. § 80b-2(18)].

16. Plaintiff Commission brings this action under the authority conferred upon it by Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], Section 41(d) of the Investment Company Act [15 U.S.C. § 80a-41(d)], and Section 209(d) of the Advisers Act [15 U.S.C. § 80b-9(d)] to temporarily, preliminarily, and permanently enjoin Defendants from future violations of the federal securities laws.

17. This Court has jurisdiction over this action, and venue is proper, 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 43 of the Investment Company Act [15 U.S.C. § 80a-43], and Section 214 of the Advisers Act [15 U.S.C. § 80b-14].

18. Defendants have, directly or indirectly, made use of the means or instruments of transportation and communication, and the means or instrumentalities of interstate commerce, or of the mails, in connection with the transactions, acts, practices, and courses of business alleged herein. Certain of the transactions, acts, practices, and courses of business occurred in the Northern District of Texas.

DEFENDANTS

19. Stanford International Bank, Ltd. purports to be private international bank domiciled in St. John's, Antigua, West Indies. SIB claims to serve 30,000 clients in 131 countries and holds $7.2 billion in assets under management. SIB's Annual Report for 2007 states that SIB has 50,000 clients. SIB's multi-billion portfolio of investments is purportedly monitored by the SFG's chief financial officer in Memphis, Tennessee. Unlike a commercial bank, SIB does not loan money. SIB sells the CD to U.S. investors through SGC, its affiliated investment adviser.

20. Stanford Group Company, a Houston-based corporation, is registered with the Commission as a broker-dealer and investment adviser. It has 29 offices located throughout the U.S. SGC's principal business consists of sales of SIB-issued securities, marketed as certificates of deposit. SGC is a wholly owned subsidiary of Stanford Group Holdings, Inc., which in turn is owned by R. Allen Stanford ("Stanford").

21. Stanford Capital Management, a registered investment adviser, took over the management of the SAS program (formerly Mutual Fund Partners) from SGC in early 2007. Stanford Group Company markets the SAS program through SCM.

22. R. Allen Stanford, a U.S. citizen, is the Chairman of the Board and sole shareholder of SIB and the sole director of SGC's parent company. Stanford refused to appear and give testimony in the investigation.

23. James M. Davis, a U.S. citizen and resident of Baldwin, Mississippi and who offices in Memphis, Tennessee and Tupelo, Mississippi, is a director and chief financial officer of SFG and SIB. Davis refused to appear and give testimony in this investigation.

24. Laura Pendergest-Holt, is the Chief Investment Officer of SIB and its affiliate Stanford Financial Group. She supervises a group of analysts in Memphis, Tupelo, and St. Croix who "oversee" performance of SIB's Tier II assets.

STATEMENT OF FACTS AND ALLEGATIONS RELEVANT TO ALL CAUSES OF ACTION

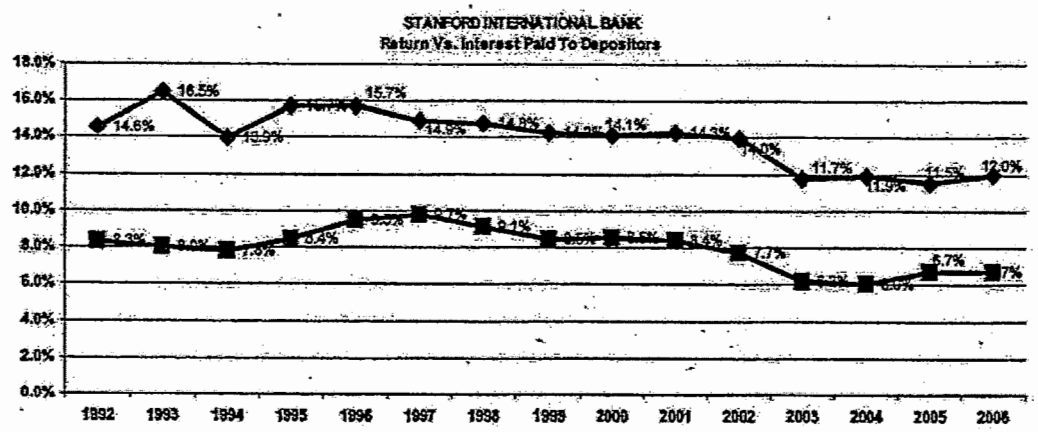
A. The Stanford International Bank

25. Allen Stanford has created a complex web of affiliated companies that exist and operate under the brand Stanford Financial Group ("SFG"). SFG is described as a privately-held group of companies that has in excess of $50 billion "under advisement."

26. SIB, one of SFG's affiliates, is a private, offshore bank that purports to have an independent Board of Directors, an Investment Committee, a Chief Investment Officer and a team of research analysts. While SIB may be domiciled in Antigua, a small group of SFG employees who maintain offices in Memphis, Tennessee, and Tupelo, Mississippi, purportedly monitor the assets.

27. As of November 28, 2008, SIB reported $8.5 billion in total assets. SIB's primary product is the CD. SIB aggregates customer deposits, and then re-invests those funds in a "globally diversified portfolio" of assets. SIB claims its investment portfolio is approximately $8.4 billion. SIB sold more than $1 billion in CDs per year between 2005 and 2007, including sales to U.S. investors. The bank's deposits increased from $3.8 billion in 2005, to $5 billion in 2006, and $6.7 billion in 2007. SIB had approximately $3.8 billion in CD sales to 35,000 customers in 2005. By the end of 2007, SIB sold $6.7 billion of CDs to 50,000 customers.

28. For almost fifteen years, SIB represented that it has experienced consistently high returns on its investment of deposits (ranging from 11.5% in 2005 to 16.5% in 1993):



29. In fact, since 1994, SIB has never failed to hit targeted investment returns in excess of 10%. And, SIB claims that its "diversified portfolio of investments" lost only $110 million or 1.3% in 2008. During the same time period, the S&P 500 lost 39% and the Dow Jones STOXX Europe 500 Fund lost 41%.

30. As performance reporting consultant hired by SGC testified in the Commission's investigation, SIB's historical returns are improbable, if not impossible. In 1995 and 1996, SIB reported identical returns of 15.71%, a remarkable achievement considering the bank's "diversified investment portfolio." According to defendant Pendergest-Holt -- the chief investment officer of SIB-affiliate SFG – it is "improbable" that SIB could have managed a "global diversified" portfolio of investments so that it returned identical results in consecutive years. SGC's performance reporting consultant was more emphatic, saying that it is "impossible" to achieve identical results on a diversified investment portfolio in consecutive years. SIB continues to promote its CDs using these improbable, if not impossible, returns.

31. SIB's consistently high returns of investment have enabled the bank to pay a consistently and significantly higher rate on its CD than conventional banks. For example, SIB offered 7.45% as of June 1, 2005, and 7.878% as of March 20, 2006, for a fixed rate CD based on an investment of $100,000. On November 28, 2008, SIB quoted 5.375% on a 3 year CD, while comparable U.S. Banks' CDs paid under 3.2%. And recently, SIB quoted rates of over 10% on five year CDs.

32. SIB's extraordinary returns have enabled the bank to pay disproportionately large commissions to SGC for the sale of SIB CDs. In 2007, SIB paid to SGC and affiliates $291.7 million in management fees and commissions from CD sales, up from $211 million in 2006 and $161 million in 2005.

33. SIB markets CDs to investors in the United States exclusively through SGC advisers pursuant to a claimed Regulation D offering, filing a Form D with the SEC. Regulation D permits under certain circumstances the sale of unregistered securities (the CDs) to accredited investors in the United States. SGC receives 3% based on the aggregate sales of CDs by SGC advisers. Financial advisers also receive a 1% commission upon the sale of the CDs, and are eligible to receive as much as a 1% trailing commission throughout the term of the CD.

34. SGC promoted this generous commission structure in its effort to recruit established financial advisers to the firm. The commission structure also provided a powerful incentive for SGC financial advisers to aggressively sell CDs to United States investors, and aggressively expanded its number of financial advisers in the United States.

35. SIB purportedly manages the investment portfolio from Memphis and Tupelo. SIB's investment portfolio, at least internally, is segregated into 3 tiers: (a) cash and cash equivalents ("Tier 1"), (b) investments with "outside portfolio managers (25+)" that are

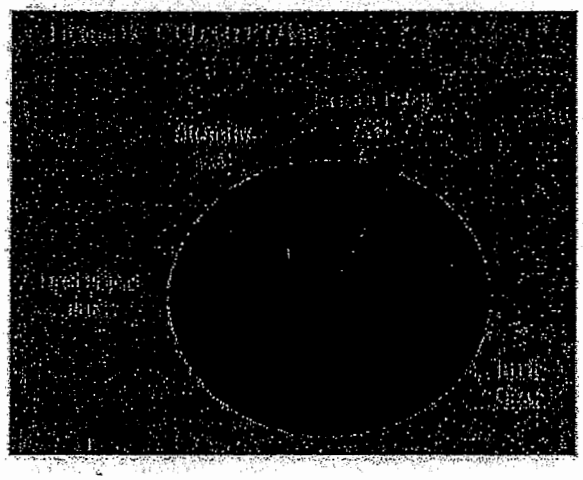
monitored by the Analysts ("Tier 2"), and (c) unknown assets under the apparent control of Stanford and Davis ("Tier 3"). As of December 2008, Tier 1 represented approximately 9% ($800 million) of the Bank's portfolio. Tier 2, prior to the Bank's decision to liquidate $250 million of investments in late 2008, represented 10% of the portfolio. And Tier 3 represented 81% of the Bank's investment portfolio. This division into tiers is not generally disclosed to actual or potential investors.

B. SIB's Fraudulent Sale of CDs

1. SIB Misrepresented that Its Investment Portfolio is Invested Primarily in "Liquid" Financial Instruments.

36. In selling the CD, SIB touted the liquidity of its investment portfolio. For example, in its CD brochure, SIB emphasizes the importance of the liquidity, stating, under the heading "Depositor Security," that the bank focuses on "maintaining the highest degree of liquidity as a protective factor for our depositors" and that the bank's assets are "invested in a well-diversified portfolio of highly marketable securities issued by stable governments, strong multinational companies and major international banks." Likewise, the bank trained SGC advisers that "liquidity/marketability of SIB's invested assets" was the "most important factor to provide security to SIB clients." Davis and Pendergest-Holt were aware, or were reckless in not knowing, of these representations.

37. In its 2007 annual report, which was signed and approved by Stanford and Davis, SIB represented that its portfolio was allocated in the following manner: 58.6% "equity," 18.6% fixed income, 7.2% precious metals and 15.6% alternative investments. These allocations were depicted in a pie chart, which was approved by Davis. The bank's annual reports for 2005 and 2006 make similar representations about the allocation of the bank's portfolio. Davis and Stanford knew or were reckless in not knowing of these representations.



38. SIB's investment portfolio is not, however, invested in a "well-diversified portfolio of highly marketable securities issued by stable governments, strong multinational companies and major international banks." Instead, Tier 3 (i.e., approximately 90%) consisted primarily of illiquid investments – namely private equity and real estate. Indeed, it SIB's portfolio included at least 23% private equity. The bank never disclosed in its financial statements its exposure to private equity and real estate investments. Stanford, Davis and Pendergest-Holt were aware, or were reckless in not knowing, that SIB's investments were not allocated as advertised by SIB's investment objectives or as detailed in SIB's financial statements.

39. Further, on December 15, 2008, Pendergest-Holt met with her team of analysts following SIB's decision to liquidate more than 30% of its Tier 2 investments (approximately $250 million). During the meeting, at least one analyst expressed concern about the amount of liquidations in Tier 2, asking why it was necessary to liquidate Tier 2, rather than Tier 3 assets, to increase SIB's liquidity. Pendergest-Holt told the analyst that Tier 3 was primarily invested in private equity and real estate and Tier 2 was more liquid than Tier 3. Pendergest-Holt also stated that Tier 3 "always had real estate investments in it." Pendergest's statements contradicts

what she had previously stated to SIB's senior investment adviser, knowing, or reckless in not knowing, that the senior investment advisor would provide this misrepresentation to investors.

2. SIB Misrepresented that Its Multi-Billion Dollar Investment Portfolio is Monitored By a Team of Analysts

40. Prior to making their investment decision, prospective investors routinely asked how SIB safeguarded and monitored its assets. In fact, investors frequently inquired whether Allen Stanford could "run off with the [investor's] money." In response to this question, at least during 2006 and much of 2007, the bank's senior investment officer – as instructed by Pendergest-Holt – told investors that SIB had sufficient controls and safeguards in place to protect assets.

41. In particular, the SIO was trained by Ms. Pendergest-Holt to tell investors that the bank's multi-billion portfolio was "monitored" by the analyst team in Memphis. In communicating with investors, the SIO followed Pendergest's instructions, misrepresenting that a team of 20-plus analysts monitored the bank's investment portfolio. In so doing, the SIO never disclosed to investors that the analyst only monitor approximately 10% of SIB's money. In fact, Pendergest-Holt trained the SIO "not to divulge too much" about oversight of the Bank's portfolio because that information "wouldn't leave an investor with a lot of confidence." Likewise, Davis instructed him to "steer" potential CD investors away from information about SIB's portfolio. As a result, both Davis and Pendergest-Holt knew, or were reckless in not knowing, of these fraudulent misstatements.

42. Contrary to the representation that responsibility for SIB's multi-billion portfolio was "spread out" among 20-plus people, only Stanford and Davis know the whereabouts of the vast majority of the bank's multi-billion investment portfolio. Pendergest-Holt and her team of analysts claim that they have never been privy to Tier 1 or Tier 3 investments. In fact, the SIO

was repeatedly denied access to the Bank's records relating to Tier 3, even though he was responsible, as the Bank's Senior Investment Officer, for "closing" deals with large investors, "overseeing the Bank's investment portfolio" and "ensuring that the investment side is compliant with the various banking regulatory authorities." In fact, in preparing the Bank's period reports (quarterly newsletters, month reports, mid-year reports and annual reports, Pendergest and the Analyst send to Davis the performance results for Tier 2 investments. And Davis calculates the investment returns for the aggregated portfolio of assets.

3. SIB Misrepresented that its Investment Portfolio is Overseen by a Regulatory Authority in Antigua that Conducts a Yearly Audit of the Fund's Financial Statements.

43. SIB told investors that their deposits were safe because the Antiguan regulator responsible for oversight of the Bank's investment portfolio, the Financial Services Regulatory Commission (the "FSRC"), audited its financial statements. But, contrary to the Bank's representations to investors, the FSRC does not verify the assets SIB claims in its financial statements. Instead, SIB's accountant, C.A.S. Hewlett & Co., a small local accounting firm in Antigua is responsible for auditing the multi-billion dollar SIB's investment portfolio. The Commission attempted several times to contact Hewlett by telephone. No one ever answered the phone.

4. SIB Misrepresented that Its Investment Portfolio is Without "Direct or Indirect" Exposure to Fraud Perpetrated by Bernard Madoff.

44. In a December 2008 Monthly Report, the bank told investors that their money was safe because SIB "had no direct or indirect exposure to any of [Bernard] Madoff's investments." But, contrary to this statement, at least $400,000 in Tier 2 was invested in Meridian, a New York-based hedge fund that used Tremont Partners as its asset manager. Tremont invested approximately 6-8% of the SIB assets they indirectly managed with Madoff's investment firm.

45. Pendergest, Davis and Stanford knew about this exposure to loss relating to the Meridian investment. On December 15, 2008, an Analyst informed Pendergast, Davis and Stanford in a weekly report that his "rough estimate is a loss of $400k . . . based on the indirect exposure" to Madoff.

5. Market Concerns About SIB's Lack of Transparency

46. On or about December 12, 2008, Pershing, citing suspicions about the bank's investment returns and its inability to get from the Bank "a reasonable level of transparency" into its investment portfolio informed SGC that it would no longer process wire transfers from SGC to SIB for the purchase of the CD. Since the spring of 2008, Pershing tried unsuccessfully to get an independent report regarding SIB's financials condition. On November 28, 2008, SGC's President, Danny Bogar, informed Pershing that "obtaining the independent report was not a priority." Between 2006 and December 12, 2008, Pershing sent to SIB 1,635 wire transfers, totaling approximately $517 million, from approximately 1,199 customer accounts.

D. From at least 2004, SCM misrepresented SAS performance results.

47. From 2004 through 2009, SCM induced clients, including non-accredited, retail investors, to invest in excess of $1 billion in its SAS program by touting its track record of "historical performance." SCM highlighted the purported SAS track record in thousands of client presentation books ("pitch books").

48. For example, the following chart from a 2006 pitch book presented clients with the false impression that SAS accounts, from 2000 through 2005, outperformed the S&P 500 by an average of approximately 13 percentage points:

	2005	2004	2003	2002	2001	2000
SAS Growth	12.09%	16.15%	32.84%	-3.33%	4.32%	18.04%
S&P 500	4.91%	10.88%	28.68%	-22.10%	-11.88%	-9.11%

SCM used these impressive, but fictitious, performance results to grow the SAS program from less than $10 million in assets in 2004 to over $1 billion in 2008.

49. SGC also used the SAS track record to recruit financial advisers away from legitimate advisory firms who had significant books of business. After arriving at Stanford, the newly-hired financial advisors were encouraged and highly incentivized to put their clients' assets in the SIB CD.

50. The SAS performance results used in the pitch books from 2005 through 2009 were fictional and/or inflated. Specifically, SCM misrepresented that SAS performance results, for 1999 through 2004, reflected "historical performance" when, in fact, those results were fictional, or "back-tested", numbers that do not reflect results of actual trading. Instead, SCM, with the benefit of hindsight, picked mutual funds that performed extremely well during years 1999 through 2004, and presented the back-tested performance of those top-performing funds to potential clients as if they were actual returns earned by the SAS program.

51. Similarly, SCM used "actual" model SAS performance results for years 2005 through 2006 that were inflated by as much as 4%.

52. SCM told investors that SAS has positive returns for periods in which actual SAS clients lost substantial amounts. For example, in 2000, actual SAS client returns ranged from negative 7.5% to positive 1.1%. In 2001, actual SAS client returns ranged from negative 10.7%

to negative 2.1%. And, in 2002, actual SAS client returns ranged from negative 26.6% to negative 8.7%. These return figures are all gross of SCM advisory fees ranging from 1.5% to 2.75%. Thus, Stanford's claims of substantial market out performance were blatantly false. (e.g., a claimed return of 18.04% in 2000, when actual SAS investors lost as much as 7.5%).

53. SGC/SCM's management knew that the advertised SAS performance results were misleading and inflated. From the beginning, SCM management knew that the pre-2005 track record was purely hypothetical, bearing no relationship to actual trading. And, as early as November 2006, SCM investment advisers began to question why their actual clients were not receiving the returns advertised in pitch books.

54. In response to these questions, SGC/SCM hired an outside performance reporting expert, to review certain of its SAS performance results. In late 2006 and early 2007, the expert informed SCM that its performance results for the twelve months ended September 30, 2006 were inflated by as much as 3.4 percentage points. Moreover, the expert informed SCM managers that the inflated performance results included unexplained "bad math" that consistently inflated the SAS performance results over actual client performance. Finally, in March 2008, the expert informed SCM managers that the SAS performance results for 2005 were also inflated by as much as 3.25 percentage points.

55. Despite their knowledge of the inflated SAS returns, SGC/SCM management continued using the pre-2005 track record and never asked Riordan to audit the pre-2005 performance. In fact, in 2008 pitch books, SCM presented the back-tested pre-2005 performance data under the heading "Historical Performance" and "Manager Performance" along side the audited 2005 through 2008 figures. According to SCM's outside consultant, it was "[grossly misleading]" to present audited performance figures along side back-tested figures.

56. Finally, SGC/SCM compounded the deceptive nature of the SAS track record by blending the back-tested performance with audited composite performance to create annualized 5 and 7 year performance figures that bore no relation to actual SAS client performance. A sample of this misleading disclosure used in 2008 and 2009 follows:

Calendar Year Return
As of March 2008

	YTD	2007	2006	2005	2004	2003	2002	2001	2000	1999
SAS Growth	-7.44%	12.40%	14.88%	3.82%	16.13%	32.84%	-3.33%	-4.32%	15.0%	22.55%
S&P 500	-9.44%	5.49%	15.79%	4.91%	10.88%	28.68%	-22.10%	-11.89%	-9.11%	21.04%

Annualized Returns
(not annualized if less than 1 year)

	YTD	1 year	3 years	5 years	7 years	Since Inception
SAS Growth	-7.44%	1.80%	9.36%	15.31%	11.03%	12.30%
S&P 500	-9.44%	-5.08%	5.85%	11.32%	3.70%	2.45%

57. Other than the fees paid by SIB to SGC for the sale of the CD, SAS was the second most significant source of revenue for the firm. In 2007 and 2008, approximately $25 million in fees from the marketing of the SAS program.

CAUSES OF ACTION

FIRST CLAIM
AS TO ALL DEFENDANTS

Violations of Section 10(b) of the Exchange Act and Rule 10-5

58. Plaintiff Commission repeats and realleges paragraphs 1 through 57 of this Complaint and incorporated herein by reference as if set forth verbatim.

59. Defendants, directly or indirectly, singly or in concert with others, in connection with the purchase and sale of securities, by use of the means and instrumentalities of interstate

commerce and by use of the mails have: (a) employed devices, schemes and artifices to defraud; (b) made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in acts, practices and courses of business which operate as a fraud and deceit upon purchasers, prospective purchasers and other persons.

60. As a part of and in furtherance of their scheme, defendants, directly and indirectly, prepared, disseminated or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral presentations, which contained untrue statements of material facts and misrepresentations of material facts, and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

61. Defendants made the referenced misrepresentations and omissions knowingly or grossly recklessly disregarding the truth.

62. For these reasons, Defendants have violated and, unless enjoined, will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5].

SECOND CLAIM
AS TO STANFORD, DAVIS, AND PENDERGEST-HOLT

Aiding and Abetting Violations of Exchange Act Section 10(b) and Rule 10b-5

63. Plaintiff Commission repeats and realleges paragraphs 1 through 57 of this Complaint and incorporated herein by reference as if set forth verbatim.

64. If Stanford, Davis, and Pendergest-Holt did not violate Exchange Act Section 10(b) and Rule 10b-5, in the alternative, Stanford, Davis, and Pendergest-Holt, in the manner set forth above, knowingly or with severe recklessness provided substantial assistance in connection

with the violations of Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] alleged herein.

65. For these reasons, Stanford, Davis, and Pendergest-Holt aided and abetted and, unless enjoined, will continue to aid and abet violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5].

THIRD CLAIM
AS TO ALL DEFENDANTS

Violations of Section 17(a) of the Securities Act

66. Plaintiff Commission repeats and realleges paragraphs 1 through 57 of this Complaint and incorporated herein by reference as if set forth verbatim.

67. Defendants, directly or indirectly, singly or in concert with others, in the offer and sale of securities, by use of the means and instruments of transportation and communication in interstate commerce and by use of the mails, have: (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in transactions, practices or courses of business which operate or would operate as a fraud or deceit.

68. As part of and in furtherance of this scheme, defendants, directly and indirectly, prepared, disseminated or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral presentations, which contained untrue statements of material fact and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

69. Defendants made the referenced misrepresentations and omissions knowingly or grossly recklessly disregarding the truth.

70. For these reasons, Defendants have violated, and unless enjoined, will continue to violate Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

FOURTH CLAIM
AS TO STANFORD, SGC, AND STANFORD CAPITAL

Violations of Sections 206(1) and 206(2) of the Advisers Act

71. Plaintiff Commission repeats and realleges paragraphs 1 through 57 of this Complaint and incorporated herein by reference as if set forth verbatim.

72. Stanford, SGC, and Stanford Capital, directly or indirectly, singly or in concert, knowingly or recklessly, through the use of the mails or any means or instrumentality of interstate commerce, while acting as investment advisers within the meaning of Section 202(11) of the Advisers Act [15 U.S.C. § 80b-2(11)]: (a) have employed, are employing, or are about to employ devices, schemes, and artifices to defraud any client or prospective client; or (b) have engaged, are engaging, or are about to engage in acts, practices, or courses of business which operates as a fraud or deceit upon any client or prospective client.

73. For these reasons, Stanford, SGC, and Stanford Capital have violated, and unless enjoined, will continue to violate Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and 80b-6(2)].

FIFTH CLAIM
AS TO STANFORD, DAVIS, AND PENDERGEST-HOLT

Aiding and Abetting Violations of Sections 206(1) and 206(2) of the Advisers Act

74. Plaintiff Commission repeats and realleges paragraphs 1 through 57 of this Complaint and incorporated herein by reference as if set forth verbatim.

75. Based on the conduct alleged herein, Stanford, Davis, and Pendergest-Holt, in the manner set forth above, knowingly or with severe recklessness provided substantial assistance in

connection with the violations of Advisers Act Sections 206(1) and 206(2) [15 U.S.C. §§ 80b-6(1) and 80b-6(2)] alleged herein.

76. For these reasons, Stanford, Davis, and Pendergest-Holt aided and abetted and, unless enjoined, will continue to aid and abet violations of Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§ 80b-6(1) and 80b-6(2)].

SIXTH CLAIM
AS TO SIB AND SGC

Violations of Section 7(d) of the Investment Company Act

77. Plaintiff Commission repeats and realleges paragraphs 1 through 57 of this Complaint and incorporated herein by reference as if set forth verbatim.

78. SIB, an investment company not organized or otherwise created under the laws of the United States or of a State, directly or indirectly, singly or in concert with others, made use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, to offer for sale, sell, or deliver after sale, in connection with a public offering, securities of which SIB was the issuer, without obtaining an order from the Commission permitting it to register as an investment company organized or otherwise created under the laws of a foreign country and to make a public offering of its securities by use of the mails and means or instrumentalities of interstate commerce.

79. SGC, directly or indirectly, singly or in concert with others, acted as an underwriter for SIB, an investment company not organized or otherwise created under the laws of the United States or of a State that made use of the mails or any means or instrumentality of interstate commerce, directly or indirectly, to offer for sale, sell, or deliver after sale, in connection with a public offering, securities of which SIB was the issuer, without obtaining an order from the Commission permitting it to register as an investment company organized or

otherwise created under the laws of a foreign country and to make a public offering of its securities by use of the mails and means or instrumentalities of interstate commerce.

80. For these reasons, SIB and SGC have violated, and unless enjoined, will continue to violate Section 7(d) of the Investment Company Act [15 U.S.C. § 80a-7(d)].

RELIEF REQUESTED

Plaintiff Commission respectfully requests that this Court:

I.

Temporarily, preliminarily, and permanently enjoin: (a) Defendants from violating, or aiding and abetting violations of, Section 10(b) and Rule 10b-5 of the Exchange Act; (b) Defendants from violating Section 17(a) of the Securities Act; (c) Stanford, Davis, Pendergest-Holt, SGC, and Stanford Capital from violating, or aiding and abetting violations of, Sections 206(1) and 206(2) of the Advisers Act; and (d) SIB and SCG from violating Section 7(d) of the Investment Company Act.

II.

Enter an Order immediately freezing the assets of Defendants and directing that all financial or depository institutions comply with the Court's Order. Furthermore, order that Defendants immediately repatriate any funds held at any bank or other financial institution not subject to the jurisdiction of the Court, and that they direct the deposit of such funds in identified accounts in the United States, pending conclusion of this matter.

III.

Order that Defendants shall file with the Court and serve upon Plaintiff Commission and the Court, within 10 days of the issuance of this order or three days prior to a hearing on the Commission's motion for a preliminary injunction, whichever comes first, an accounting, under

oath, detailing all of their assets and all funds or other assets received from investors and from one another.

IV.

Order that Defendants be restrained and enjoined from destroying, removing, mutilating, altering, concealing, or disposing of, in any manner, any of their books and records or documents relating to the matters set forth in the Complaint, or the books and records and such documents of any entities under their control, until further order of the Court.

V.

Order the appointment of a temporary receiver for Defendants, for the benefit of investors, to marshal, conserve, protect, and hold funds and assets obtained by the defendants and their agents, co-conspirators, and others involved in this scheme, wherever such assets may be found, or, with the approval of the Court, dispose of any wasting asset in accordance with the application and proposed order provided herewith.

VI.

Order that the parties may commence discovery immediately, and that notice periods be shortened to permit the parties to require production of documents, and the taking of depositions on 72 hours' notice.

VII.

Order Defendants to disgorge an amount equal to the funds and benefits they obtained illegally as a result of the violations alleged herein, plus prejudgment interest on that amount.

VIII.

Order civil penalties against Defendants pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], Section 41(e) of

the Investment Company Act [15 U.S.C. § 80a-41(e)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)] for their securities law violations.

IX.

Order that Stanford, Davis, and Pendergest-Holt immediately surrender their passports to the Clerk of this Court, to hold until further order of this Court.

X.

Order such further relief as this Court may deem just and proper.

For the Commission, by its attorneys:

February 16, 2009

Respectfully submitted,

STEPHEN J. KOROTASH
Oklahoma Bar No. 5102
J. KEVIN EDMUNDSON
Texas Bar No. 24044020
DAVID B. REECE
Texas Bar No. 24002810
MICHAEL D. KING
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Burnett Plaza, Suite 1900
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Fort Worth, TX 76102-6882
(817) 978-6476 (dbr)
(817) 978-4927 (fax)

TAB C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE COMMISSION,	§	
Plaintiff,	§	
v.	§	Case No.:
STANFORD INTERNATIONAL BANK, LTD., STANFORD GROUP COMPANY, STANFORD CAPITAL MANAGEMENT, LLC, R. ALLEN STANFORD, JAMES M. DAVIS, and LAURA PENDERGEST-HOLT,	§	
Defendants.	§	

This is Exhibit "C" referred to in the affidavit of Wolfgang Mersch sworn before me, this 13th day of February, 2015

A COMMISSIONER FOR TAKING AFFIDAVITS

MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR EX PARTE TEMPORARY RESTRAINING ORDER, PRELIMINARY INJUNCTION AND OTHER EMERGENCY RELIEF

I. PRELIMINARY STATEMENT

Plaintiff Securities and Exchange Commission submits this Memorandum of Law in Support of its Motion for *Ex Parte* Temporary Restraining Order, Preliminary Injunction and Other Emergency Relief to halt a massive, ongoing fraud orchestrated by Robert Allen Stanford and James M. Davis and executed through companies they control, Antiguan-based Stanford International Bank, Ltd. ("SIB"), and its affiliated Houston-based investment advisers, Stanford Group Company ("SGC") and Stanford Capital Management ("SCM").

Certificates of Deposit

Acting through a network of SGC financial advisers, SIB has sold approximately $8 billion of so-called "certificates of deposit" to investors by promising high interest rates. SIB claims that it offers high yields because of its unique investment strategy, which has purportedly

enabled the bank to achieve double-digit returns on its investments over for past 15 years. As further described below, the bank's claims are improbable and unsubstantiated.

Further, SIB and its advisers have misrepresented to CD purchasers that their deposits are safe because the bank: (i) re-invests client funds primarily in "liquid" financial instruments (the "portfolio"); (ii) monitors the portfolio through a team of 20-plus analysts; and (iii) is subject to yearly audits by Antiguan regulators. Recently, as the market absorbed the news of Bernard Madoff's massive Ponzi scheme, SIB told investors that the bank had no "direct or indirect" exposure to Madoff's scheme.

These assurances are false. SIB's investment portfolio was not invested in liquid financial instruments or allocated in the manner described in its promotional material and public reports. Instead, a substantial portion of the bank's portfolio was invested in illiquid investments, such as private equity and real estate. Further, the vast majority SIB's multi-billion dollar investment portfolio was not monitored by a team of analysts, but rather by two people – Allen Stanford and James Davis. And contrary to SIB's representations, the Antiguan regulator responsible for oversight of the bank's portfolio, the Financial Services Regulatory Commission, does not audit SIB's portfolio or verify the assets SIB claims in its financial statements. Finally, SIB has exposure to losses from the Madoff fraud scheme despite the bank's public assurances to the contrary.

SGC has also failed to disclose material facts to its advisery clients. In December 2008, SGC's clearing broker advised SGC that it would no longer facilitate wire transfer requests to SIB on behalf of existing clients who desire to purchase SIB CDs. The clearing broker decided to stop transferring money to the bank because of suspicions about the bank's purported investment returns and the overall lack of "transparency" into the bank's portfolio of

investments. SGC never disclosed to clients that Pershing refused to transfer client funds to SIB.

During the past several weeks, the Securities and Exchange Commission subpoenaed SIB bank records and witnesses in an effort to account for the $8 billion of investor funds held by the bank. Among others, the SEC issued subpoenas to Stanford, Davis, and O.Y. Goswick, a SIB board member residing in Texas, who is purportedly responsible for "investments." None of these witnesses appeared for testimony or produced a single document. Further, SIB represented that Juan Rodriquez, SIB's president who resides in Antigua, would voluntarily appear in the United States to give sworn testimony to the SEC and account for investor funds. Mr. Rodriguez failed to appear for testimony. The SEC did, however, take sworn testimony from Stanford Financial Group's Chief Investment Officer and SIB investment committee member (Laura Pendergest-Holt) and a former Senior Investment Officer (the "SIO"). Neither Ms. Pendergest-Holt nor the SIO could account for the $8 billion entrusted to the bank by its clients. In fact, Pendergest-Holt and the former SIO could only identify Stanford and Davis as people having knowledge and access to the vast majority of SIB's portfolio.

Stanford Allocation Strategy

Stanford's fraudulent conduct is not limited to the sale of CDs. Since 2005, SGC advisers have sold more than $1 billion of a proprietary mutual fund wrap program called Stanford Allocation Strategy ("SAS"), using materially false and misleading historical performance data. The false data has helped SGC grow the SAS program from less than $10 million in around 2004 to over $1 billion, generating fees for SGC/SCM (and ultimately Stanford) in excess of $25 million. And the fraudulent SAS performance was used to recruit

registered financial advisers with significant books of business, who were then heavily incentivized to re-allocate their clients' assets to SIB's CD program.[1]

Emergency Relief Is Appropriate

The SEC has learned that Allen Stanford, on or about February 6, 2009, imposed a "two-month moratorium" on CD redemptions, and instructed SGC advisers that the bank would not honor redemption requests from clients. Moreover, at least one SGC financial adviser misrepresented to a client that the Commission had frozen CD-related accounts for two months. [App. 672-73, 1118]. Finally, last week, SIB's counsel notified the Commission that he was withdrawing as counsel. [App. 1121]. In so doing, SIB's counsel advised the Commission that he and his law firm "disaffirm all prior oral and written representations" regarding Stanford Financial Group and its affiliates. [App. 1122].

The fraudulent scheme is ongoing. SIB is continuing to sell CDs. And SGC/SCM is continuing to sell SAS. Moreover, the vast majority of investor funds have not been accounted for and remain under the control of the Defendants. Investor funds and bank assets need to be located, secured and marshaled by a Receiver for the benefit of investors. Emergency relief is, therefore, necessary and appropriate in this matter.

To protect investors and to halt this fraudulent scheme, the Commission seeks: (1) an *ex parte* temporary restraining order and preliminary injunction against future violations by Defendants; (2) an immediate freeze of all assets of Defendants; (3) an order requiring Defendants to provide an immediate accounting; (4) a repatriation order; (5) an order that Stanford and Davis surrender their passports; (6) an order prohibiting the destruction of records;

[1] In addition to the antifraud violations described above, SIB, SGC and SCM violated Section 7(d) of the Investment Company Act, which prohibits foreign investment companies and their underwriters from selling securities in the U.S. without registering with the Commission. Had SIB complied with the law and registered as an investment company, SIB would have been subject to examination by the Commission.

(7) an order expediting discovery; and (8) the appointment of a Receiver to take control of the assets of the Defendants to marshal and preserve assets for the benefit of the investors defrauded by the Defendants.

II. DEFENDANTS

Stanford International Bank, Ltd. purports to be private international bank domiciled in St. John's, Antigua, West Indies. [App. 527, 859, 887]. SIB claims to serve 30,000 clients in 131 countries and holds $7.2 billion in assets under management. [App. 538].[2] SIB's multi-billion portfolio of investments is managed by the SFG's chief financial officer in Memphis, Tennessee. [App. 058, 388, 936]. Unlike a commercial bank, SIB does not loan money. [App. 50, 668, 862, 1011, 1017]. SIB sells the CD to U.S. investors through SGC, its affiliated investment adviser. [App 668].

Stanford Group Company, a Houston-based corporation, is registered with the Commission as a broker-dealer and investment adviser. [App. 585]. SGC has offices located throughout the U.S., including Dallas, Texas. [App. 928, 945]. SGC's principal business consists of sales of SIB-issued securities, marketed as "certificates of deposit." [App. 590, 668]. SGC is a wholly owned subsidiary of Stanford Group Holdings, Inc., which in turn is owned by Robert Allen Stanford ("Stanford"). [App. 46, 586, 942].

Stanford Capital Management, a registered investment adviser [App. 585], took over the management of the SAS program (formerly Mutual Fund Partners) from SGC in early 2007. Stanford Capital Management markets the SAS program through SGC. [App. 679].

Robert Allen Stanford, a U.S. citizen, is the Chairman of the Board and sole shareholder of SIB and the sole director of SGC's parent company. [App. 46, 76, 586, 881-82].

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[2] SIB's Annual Report for 2007 states that SIB has 50,000 clients [App. 859].

James M. Davis, a U.S. citizen and resident of Baldwin, Mississippi and who offices in Memphis, Tennessee and Tupelo, Mississippi, is a director and chief financial officer of SFG and SIB. [App. 80, 881-82].

Laura Pendergest-Holt is the Chief Investment Officer of SIB-affiliate Stanford Financial Group and a member of SIB's investment committee. [App. 31, 74-75, 524]. She supervises a group of analysts in Memphis, Tupelo, and St. Croix who "oversee" performance of SIB's "Tier II" assets. [App. 80-81].

III. STATEMENT OF FACTS

A. The Stanford Empire

Allen Stanford has created a web of affiliated companies that exist and operate under the brand Stanford Financial Group ("SFG"). [App. 926-37]. According to the company's website, SFG is a privately-held group of companies that has in excess of $50 billion "under advisement." [www.stanfordfinancial.com].

SIB, one of SFG's affiliates, is a private, offshore bank that purports to have an independent Board of Directors, an Investment Committee, a Chief Investment Officer and a team of research analysts. [App. 524, 882, 895]. While SIB is domiciled in Antigua, a small group of SFG employees who maintain offices in Memphis, Tennessee, and Tupelo, Mississippi, purportedly monitor the bank's assets. [App. 80-81, 388].

SIB is operated by a close-nit circle of Stanford's family, friend and their confidants. For example, Davis was Stanford's college classmate at Baylor University in the 1970s. SIB's Board of Directors includes Davis, Stanford, Stanford's father James A. Stanford, and O.Y. Goswick, a Stanford family friend from Mexia, Texas, whose business experience includes cattle-ranching and car sales. [App. 882, 899]. SIB's investment committee, which is purportedly responsible

for the management of the bank's multi-billion dollar portfolio of assets, is comprised of Stanford, Stanford's father, Davis, Goswick and Laura Pendergest-Holt. [App. 524]. Pendergest-Holt, who became acquainted with Davis at their church in Baldwin, Mississippi, joined SFG in 1997, after graduating from Mississippi State University with a master's degree in mathematics. [App. 73]. Prior to joining SFG, Pendergest-Holt had no experience in the financial services or securities industries. [App. 73].[3] Based on these relationships, and the fact that Stanford is the sole shareholder of SIB and SGC, it appears that Stanford is subject to little or no independent oversight.

B. Stanford International Bank

As of November 28, 2008, SIB reported $8.6 billion in total assets. [App. 541]. SIB's primary product is the CD. [App. 74, 403, 590, 668-70].[4] SIB aggregates customer deposits, and then purportedly re-invests those funds in a "globally diversified portfolio" of assets.

For almost fifteen years, SIB represented that it has experienced consistently high returns on its investment of deposits (ranging from 11.5% in 2005 to 16.5% in 1993):

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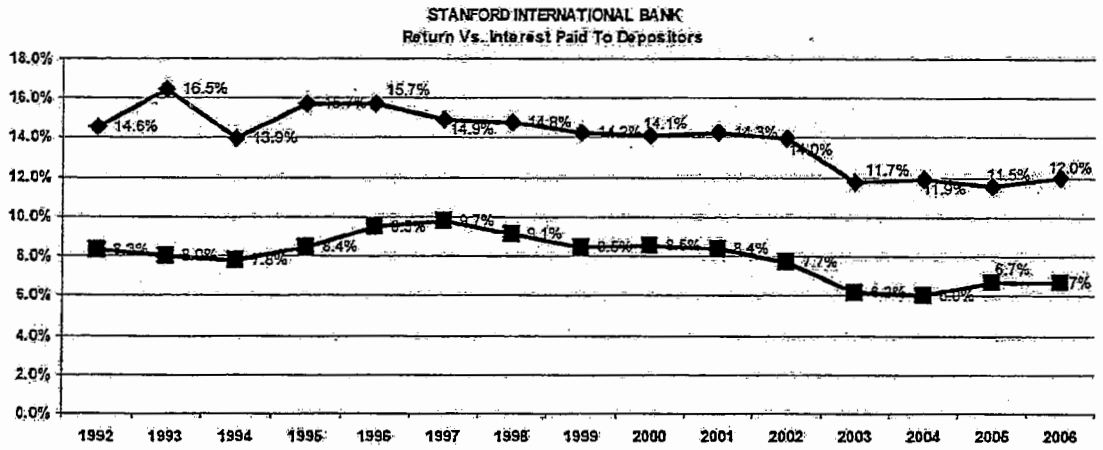
[3] Further, Ken Weeden holds the title of Managing Director-Research and Investments. He supervises a group of "analysts" that work in Memphis and Tupelo. Weeden reports to Pedergest-Holt, who is Weeden's sister-in-law. [App. 588]. Davis' son, and at least one of his college classmates, are research analysts whose responsibilities include, in part, oversight of a small portion of SIB's portfolio of assets.

[4] SIB sold more than $1 billion in CDs per year between 2005 and 2007, including sales to U.S. investors. The bank's deposits increased from $3.8 billion in 2005, to $5 billion in 2006, and $6.7 billion in 2007. [App. 856]. SIB markets CDs to investors in the United States exclusively through SGC advisers pursuant to a Regulation D private placement. In connection with the private placement, SIB filed a Form D with the Commission. [App. 668, 906-12].



[App. 345, 670, 1030].

Since 1994, SIB claims that it has never failed to hit targeted investment returns in excess of 10%. [App 407, 590]. And, SIB claims that its "diversified portfolio of investments" lost only $110 million or 1.3% in 2008. [App. 541]. During the same time period, the S&P 500 lost 39% and the Dow Jones STOXX Europe 500 Fund lost 41%. *Id.*

SIB's historical returns are improbable, if not impossible. After reviewing SIB's returns on investment over ten years, a performance reporting consultant hired by Stanford characterized SIB's performance as "not possible – almost statistically impossible." [App. 159-150]. Further, in 1995 and 1996, SIB reported identical returns of 15.71%, a remarkable achievement considering the bank's "diversified investment portfolio." [App. 345, 670] According to Pendergest-Holt, it is "improbable" that SIB could have managed a "globally diversified" portfolio of investments so that it returned identical results in consecutive years. [App. 106]. Likewise, the above-referenced performance reporting consultant believes that it is "impossible" to achieve identical results on a diversified investment portfolio in consecutive years. [App.

151]. Nonetheless, SIB continues to promote its CDs using these improbable/implausible returns. [App 345, 590, 670].

SIB's consistently high returns of investment have enabled the bank to pay a significantly higher rate on its CD than conventional banks. [App. 531, 533]. For example, SIB offered 7.45% as of June 1, 2005, and 7.878% as of March 20, 2006, for a fixed rate CD based on an investment of $100,000. [App. 668]. On November 28, 2008, SIB quoted 5.375% on a 3-year Flex CD, while comparable U.S. Banks' CDs paid under 3.2%. [App. 541].

SIB's extraordinary returns have also enabled the bank to pay disproportionately large commissions to SGC for the sale of SIB CDs. [App. 591, 669].[5] SGC receives a 3% fee from SIB on sales of CDs by SGC advisers. [App. 591]. Financial advisers receive a 1% commission upon the sale of the CDs, and are eligible to receive as much as a 1% trailing commission throughout the term of the CD. [App. 591, 669]. SGC promoted this generous commission structure in its effort to recruit established financial advisers to the firm. [App. 669]. The commission structure also provided a powerful incentive for SGC financial advisers to aggressively sell CDs to United States investors, and aggressively expanded its number of financial advisers in the United States. *Id.*

SIB purportedly managed the investment portfolio from Memphis and Tupelo. SIB's investment portfolio, at least internally, was segregated into three tiers: (a) cash and cash equivalents ("Tier 1"), (b) investments with "outside portfolio managers (25+)" that are monitored by the Analysts ("Tier 2"), and (c) unknown assets under the apparent control of Stanford and Davis ("Tier 3"). [App. 31, 586]. As of December 2008, Tier 1 represented approximately 9% ($800 million) of the bank's portfolio. [App. 586]. Tier 2, prior to the bank's

[5] In 2007, SIB paid to SGC and affiliates more than $291 million in management fees and commissions from CD sales, up from $211 million in 2006. [App. 869-870].

decision to liquidate $250 million of investments in late 2008, represented approximately 10% of the portfolio. [App. 586]. And Tier 3 represented 80% of the bank's investment portfolio. [App. 586].

C. SIB's Fraudulent Sale of CDs

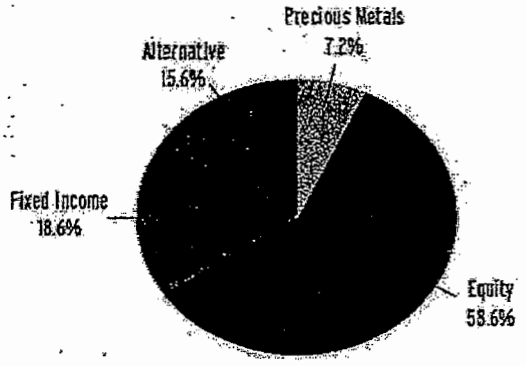
1. SIB Misrepresented that Its Investment Portfolio is Invested Primarily in "Liquid" Financial Instruments.

In selling the CD, SIB touts the liquidity of its investment portfolio. [App. 85, 352]. For example, in its CD brochure, SIB emphasizes the importance of liquidity, stating, under the heading "Depositor Security," that the bank focuses on "maintaining the highest degree of liquidity as a protective factor for our depositors" and that the bank's assets are "invested in a well-diversified portfolio of highly marketable securities issued by stable governments, strong multinational companies and major international banks." [App. 528].[6]

In its 2007 annual report, which was signed and approved by Stanford and Davis [App. 881], SIB represented that its portfolio was allocated in the following manner: 58.6% equity, 18.6% fixed income, 7.2% precious metals and 15.6% alternative investments. [App. 871]. These allocations were depicted in a pie chart [App. 871], which was approved by Stanford and Davis. [App. 881].

[6] Likewise, the bank trained SGC advisers that "liquidity/marketability of SIB's invested assets" was the "most important factor to provide security to SIB clients." [App. 1040].

Figure 13. FINANCIAL ASSETS



[App. 871]

SIB's investment portfolio is not, however, invested in a "well-diversified portfolio of highly marketable securities issued by stable governments, strong multinational companies and major international banks." Instead, a significant portion of the bank's portfolio is invested in illiquid investments – namely private equity and real estate. [App. 97, 588]. In fact, in 2008, the bank's portfolio included at least 23% private equity. [App. 1123-24]. The bank never disclosed in its financial statements its exposure to private equity and real estate investments.[7] [App. 504, 871].

Further, on December 15, 2008, Pendergest-Holt met with her team of analysts by teleconference following the bank's decision to liquidate more than 30% of its Tier 2 investments (approximately $250 million). [App. 587-88]. During the meeting, at least one analyst expressed concern about the amount of liquidations in Tier 2, asking why it was necessary to liquidate Tier 2, rather than Tier 3 assets, to increase SIB's liquidity. *Id.*

[7] One of the bank's analysts candidly admitted that including private equity and real estate in the Equity allocation "does not make sense." [App. 589].

Pendergest-Holt told the analyst that Tier 3 was primarily invested in private equity and real estate and that Tier 2 was "more liquid" than Tier 3.[8] [App. 97, 587-88].

2. *SIB Misrepresented that Its Multi-Billion Dollar Investment Portfolio is Monitored By a Team of Analysts*

Prior to making their investment decision, prospective investors routinely asked how SIB safeguarded and monitored its assets. [App. 37]. In fact, investors frequently inquired whether Allen Stanford could "run off with the [investor's] money." *Id.* In response to this question, at least during 2006 and much of 2007, the SIO told investors that SIB had sufficient controls and safeguards in place to protect assets. *Id.* In particular, the SIO was trained by Pendergest-Holt to tell investors that the bank's multi-billion portfolio was "monitored" by the analyst team in Memphis. *Id.* In communicating with investors, the SIO followed Pendergest-Holt's instructions, misrepresenting that a team of 20-plus analysts monitored the bank's investment portfolio. *Id.* In so doing, the SIO never disclosed to investors that the team of analysts only monitor approximately 10% of SIB's money. *Id.* In fact, Pendergest-Holt trained the SIO "not to divulge too much" about oversight of the bank's portfolio because that information "wouldn't leave an investor with a lot of confidence." *Id.* Likewise, Davis instructed the SIO to "steer" potential CD investors away from information about SIB's portfolio. [App. 37, 43].

Contrary to the bank's representation that responsibility for SIB's multi-billion portfolio was "spread out" among 20-plus people, even Pendergest-Holt and the SIO did not know the whereabouts of the vast majority of SIB's investment portfolio. [App. 356]. In fact, the only people that Pendergest and the SIO could identify as knowing the whereabouts of the bulk of SIB's portfolio were Stanford and Davis. [App. 31, 98, 588]. According to Pendergest-Holt, she

[8] Pendergest-Holt also stated that Tier 3 always included real estate. [App. 588]. Pendergest-Holt's statements contradict what she had previously stated to SIB's senior investment adviser. [App. 40, 45].

and her team of analysts have never been privy to Tier 1 or Tier 3 investments. [App. 86, 586]. Similarly, the SIO did not have access to the bank's records relating to Tier 3, even though he was responsible, as the bank's Senior Investment Officer, for "closing" deals with large investors, "overseeing the bank's investment portfolio" and "ensuring that the investment side is compliant with the various banking regulatory authorities." [App. 32, 359]. In fact, in preparing the bank's periodic reports (quarterly newsletters, month reports, mid-year reports and annual reports), Pendergest and one of the analysts send to Davis the performance results for Tier 2 investments. [App. 64]. And Davis calculates the investment returns for the aggregated portfolio of assets. *Id.*

3. SIB Misrepresented that its Investment Portfolio is Overseen by a Regulatory Authority in Antigua that Conducts a Yearly Audit of the Fund's Financial Statements.

SIB told investors that their deposits were safe because the Antiguan regulator responsible for oversight of the bank's investment portfolio, the Financial Services Regulatory Commission (the "FSRC"), audited its financial statements. [App. 391] But, contrary to the bank's representations to investors, the FSRC does not audit or verify the assets SIB claims in its financial statements. [App. 675]. Instead, SIB's accountant, C.A.S. Hewlett & Co., a small local accounting firm in Antigua is responsible for auditing the multi-billion dollar SIB's investment portfolio.[9] [App. 675, 512, 881]

4. SIB Misrepresented that Its Investment Portfolio is Without "Direct or Indirect" Exposure to Fraud Perpetrated by Bernard Madoff.

In a December 18, 2008, letter to investors and a December 2008 Monthly Report, the bank told CD investors that their money was safe because SIB "had no direct or indirect exposure to any of [Bernard] Madoff's investments." But, contrary to this statement, *at least*

[9] The Commission attempted several times to contact Hewlett by telephone. No one ever answered the phone.

$400,000 in Tier 2 was invested in Meridian, a New York-based hedge fund that used Tremont Partners as its asset manager. Tremont invested approximately 6-8% of the SIB assets they indirectly managed with Madoff's investment firm. [App. 1110]. Pendergest-Holt, Davis and Stanford knew about this Madoff exposure. Pendergest-Holt and an analyst were personally notified by Meridian of the Madoff exposure. [App. 1122-1124]. On December 15, 2008, the analyst confirmed the Madoff exposure through a weekly report (entitled "Laura Report") that was typically sent to Pendergest-Holt, Davis and Stanford. The report estimated "a loss of $400k . . . based on the indirect exposure" to Madoff. [App. 1125-1126].

5. Pershing Transparency

On or about December 12, 2008, Pershing, citing suspicions about the bank's investment returns and its inability to get from SIB "a reasonable level of transparency" into its investment portfolio, informed SGC that it would no longer process wire transfers from SGC to SIB for the purchase of the CD. [App. 675]. Since the spring of 2008, Pershing tried unsuccessfully to get an independent report regarding SIB's financials condition. *Id.* On November 28, 2008, SGC's President, Danny Bogar, informed Pershing that "obtaining the independent report was not a priority." *Id.* Between 2006 and December 12, 2008, Pershing sent to SIB 1,635 wire transfers, totaling approximately $517 million, from approximately 1,199 customer accounts. *Id.*

C. SGC and SCM Misrepresented SAS Performance Results.

From 2004 through 2009, SGC and SCM induced clients, including non-accredited, retail investors, to invest in excess of $1 billion in its SAS program by touting its track record of "historical performance." [App. 679]. SCM highlighted the purported SAS track record in thousands of client presentation books ("pitch books"). [App. 679-681]. For example, the following chart from a 2006 pitch book presented clients with the false impression that SAS

accounts, from 2000 through 2005, outperformed the S&P 500 by an average of approximately 13 percentage points [App. 757]:

Calendar Year Return

	2005	2004	2003	2002	2001	2000
SAS Growth	12.09%	16.15%	32.84%	-3.33%	4.32%	18.04%
S&P 500	4.91%	10.88%	28.68%	-22.10%	-11.88%	-9.11%

SCM used these impressive, but fictitious, performance results to grow the SAS program to over $1 billion in 2008. [App. 679].[10]

The SAS performance results used in the pitch books from 2005 through 2009 were fictional and/or inflated. Specifically, SCM misrepresented that SAS performance results, for 1999 through 2004, reflected "historical performance" when, in fact, those results were fictional, or "back-tested", numbers that do not reflect results of actual trading. [App. 9-12; App. 682-685]. Instead, SCM, with the benefit of hindsight, picked mutual funds that performed extremely well during years 1999 through 2004, and presented the performance of those top-performing funds to potential clients as if they were actual returns earned by the SAS program.[11] [App. 10-

[10] SGC also used the SAS track record to recruit financial advisers away from legitimate advisory firms who had significant books of business. [App. 594; 681] After arriving at Stanford, the newly-hired financial advisors were encouraged and highly incentivized to put their clients' assets in the SIB CD. [App. 669-670].

[11] On occasion, the pitch books included disclaimers describing the back-tested performance as hypothetical. These disclaimers were wholly insufficient because they (i) appeared in only some of the pitch books, (ii) were buried in small text at the back of the document, and (iii) did not adequately dispel the misleading suggestion that the advertised performance represented actual trading. [App. 800-801]

11]. Similarly, SCM used "actual" model SAS performance results for years 2005 through 2006 that were inflated by as much as 4%.[12] [App. 577-582; 681-684; 757].

SCM's management knew that the advertised SAS performance results were misleading and inflated. [*e.g.*, App. 10-13]. From the beginning, SGC/SCM management knew that the pre-2005 track record was purely hypothetical. [*Id.*]. And, as early as November 2006, SCM investment advisers began to question why their actual clients were not receiving the returns advertised in pitch books. [App. 12-15; 597]. In response to these questions, SCM hired an outside performance reporting expert, to review certain of its SAS performance results. [App. 111]. In late 2006 and early 2007, the expert informed SCM that its performance results for the twelve months ended September 30, 2006 were inflated by as much as 3.4 percentage points. [App. 122-126]. Moreover, the expert informed SCM managers that the inflated performance results included unexplained "bad math" that consistently inflated the SAS performance results over actual client performance.[13] [App. 123, 152]. Finally, in March 2008, the expert informed SCM managers that the SAS performance results for 2005 were also inflated by as much as 3.25 percentage points.[14] [App. 140-145].

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[12] SCM told investors that SAS has positive returns for periods in which actual SAS clients lost substantial amounts. [App. 682-683]. For example, in 2000, actual SAS client returns ranged from negative 7.5% to positive 1.1%. In 2001, actual SAS client returns ranged from negative 10.7% to negative 2.1%. [*Id.*]. And, in 2002, actual SAS client returns ranged from negative 26.6% to negative 8.7%. [*Id.*] These return figures are all gross of SCM advisory fees ranging from 1% to 2.75%. [App. 842] Thus, Stanford's claims of substantial market out performance were blatantly false. (e.g., a claimed return of 18.04% in 2000, when actual SAS investors lost as much as 7.5%). [App. 682-683].

[13] During sworn testimony, the expert characterized this "bad math" problem as "fishy," and could not provide any innocent explanation as to why the supposed mathematical errors worked consistently to the favor of the SAS models. [App. 123].

[14] Despite being informed in early 2007 that its 2006 performance results were materially inflated, SCM continued using inflated results for 2005 until in early 2008 it received irrefutable evidence of the inflated 2005 results. SCM did not inquire into the accuracy of the pre-2005 numbers until the SEC exam staff in early 2009 asked SCM management pointed questions about pre-2005 performance. [App. 131; 681; 684].

Despite their knowledge of the inflated SAS returns, SCM management continued using the pre-2005 track record and never asked the performance expert to audit the pre-2005 performance. [App. 131; 577-582; 681; 684]. In fact, in 2008 pitch books, SCM presented the back-tested pre-2005 performance data under the heading "Historical Performance" and "Manager Performance" along side the audited 2005 through 2008 figures. [App. 794]. SCM's outside consultant testified that it was "misleading" to present audited performance figures along side back-tested figures. [App. 154].

Finally, SCM compounded the deceptive nature of the SAS track record by blending the back-tested performance with audited composite performance to create annualized 5 and 7 year performance figures that bore no relation to actual SAS client performance. [App. 682; 794]. A sample of this misleading disclosure used in 2008 and 2009 follows:

Calendar Year Return
As of March 2008

	YTD	2007	2006	2005	2004	2003	2002	2001	2000	1999
SAS Growth	-7.44%	12.40%	14.66%	9.82%	16.15%	32.54%	-3.33%	4.32%	19.04%	22.69%
S&P 500	-9.44%	5.49%	15.79%	4.91%	10.88%	28.68%	-22.10%	-11.88%	-9.11%	21.04%

Annualized Returns
(not annualized if less than 1 year)

	YTD	1year	3years	5years	7years	Since Inception
SAS Growth	-7.44%	0.50%	9.38%	15.31%	11.03%	12.30%
S&P 500	-9.44%	-5.08%	5.85%	11.32%	3.70%	2.45%

Other than the fees paid by SIB to SGC/SCM for the sale of the CD, SAS was the second most significant source of revenue for the firm. In 2007 and 2008, SGC/SCM received approximately $25 million in fees from the marketing of SAS. [App. 680].

IV. LEGAL DISCUSSION AND ARGUMENT

Because the Commission is "not ... an ordinary litigant, but ... a statutory guardian charged with safeguarding the public interest in enforcing the securities laws," its burden to secure temporary or preliminary relief is less than that of a private party. *SEC v. Management Dynamics, Inc.*, 515 F.2d 801, 808 (2nd Cir. 1975). "[W]hen 'the public interest is involved in a proceeding of this nature, [the district court's] equitable powers assume an even broader and more flexible character than when only a private controversy is at stake.'" *FSLIC v. Sahni*, 868 F.2d 1096, 1097 (9th Cir. 1989), *citing FTC v. H.N. Singer, Inc.*, 668 F.2d 1107, 1112 (9th Cir. 1982). For example, the Commission does not need to show irreparable injury or a balance of equities in its favor. *Id.*; *see also SEC v. Unifund SAL*, 910 F.2d 1028, 1035 (2nd Cir. 1990). Nor does the Commission need to demonstrate the lack of an adequate remedy at law, as private litigants must. *See SEC v. Cavanagh*, 155 F.3d 129, 132 (2nd Cir. 1998); *SEC v. Scott*, 565 F. Supp. 1513, 1536 (S.D.N.Y. 1983), aff'd *sub nom., SEC v. Cayman Islands Reins. Corp.*, 734 F.2d 118 (2nd Cir. 1984).

Moreover, the ancillary remedy of a freeze order requires a lesser showing than that needed to obtain injunctive relief. *See SEC v. Gonzalez de Castilla*, 145 F. Supp. 2d 402, 415 (S.D.N.Y. 2001) ("courts may order a freeze even where the SEC has failed to meet the standard necessary to enjoin future violations"). For example, to obtain an asset freeze, the Commission need not show a reasonable likelihood of future violations. *CFTC v. Muller*, 570 F.2d 1296, 1300 (5th Cir. 1978). Instead, when there are concerns that defendants might dissipate assets, a freeze order requires only that the court find some basis for inferring a violation of the federal securities laws. *Unifund Sal*, 910 F.2d at 1041. Similarly, it is well-established that the Court has the authority to grant any form of ancillary relief where necessary and proper to effectuate

the purposes of the federal securities laws. *SEC v. Materia*, 745 F.2d 197, 200 (2d Cir. 1984), *cert. denied*, 471 U.S. 1053 (1985). Included in the court's equitable powers is the authority to appoint receivers. *See, e.g., SEC v. First Fin. Group*, 645 F.2d 429, 439 (5th Cir. 1981).

A. The Defendants Violated the Antifraud Provisions of the Securities Act and Exchange Act.

1. Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder.

Section 17(a) of the Securities Act prohibits the employment of a fraudulent scheme or the making of material misrepresentations and omissions in the offer or sale of a security. Section 10(b) of the Exchange Act and Rule 10b-5 thereunder prohibit the same conduct, if committed in connection with the purchase or sale of securities.[15] A violation of these provisions occurs if the alleged misrepresentations or omitted facts were material. Information is material if there is a substantial likelihood that the omitted facts would have assumed significance in the investment deliberations of a reasonable investor. *Basic, Inc. v. Levinson*, 485 U.S. 224 (1988).

Establishing violations of Section 17(a)(1) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder requires a showing of *scienter*. *Aaron v. SEC*, 446 U.S. 680 (1980). However, actions pursuant to Sections 17(a)(2) and (3) of the Securities Act do not require such a showing. *Id.* *Scienter* is the "mental state embracing intent to deceive, manipulate or defraud." *Ernst & Ernst v. Hochfelder*, 425 U.S. 185, 193 (1976). *Scienter* is established by a showing that the defendants acted intentionally or with severe recklessness. *See Broad v. Rockwell Int'l Corp.*, 642 F. 2d 929 (5th Cir.) *en banc, cert. denied* 454 U.S. 965

[15] Even if the investments offered do not exist, the antifraud provisions of the federal securities laws still apply. *SEC v. Lauer*, 52 F.3d 667, 670 (7th Cir. 1995).

(1981). Stanford, Davis, Pendergest-Holt, and the Stanford corporate defendants violated these antifraud provisions.[16]

2. Defendants' Fraud Was in Connection with Offer or Sale of Security.

There is little doubt here that the defendants fraud was in connection with the offer, sale or purchase of securities.

a. Defendants' Clients Sold Other Securities in Order to Purchase CDs.

First, even the "scratch the surface" level of evidence able to be compiled in advance of this emergency motion confirms that defendants fraudulent behavior, statements and omissions concerning SIB's CD program coincided with significant – and successful – efforts to lure investors to convert (*i.e.* sell) their existing securities holdings into investments in SIB's CDs. From August 2008 through December 2008 alone, approximately 50 SGC clients liquidated approximately $10.7 million in stocks, bonds, and other similar securities and invested that money in SIB's CDs. [App. 593]. This sampling, particularly when viewed in light of the heavy incentives SGC gave to its advisers to push SIB's CDs, strongly suggests that the fraudulent behavior outlined above coincided directly with the selling of, at least, millions of dollars in investments that are quintessential securities, such as stock. Accordingly, there can be no serious dispute that Defendants fraudulent conduct was in connection with the offer or sell of securities. *See SEC v. Zandford*, 535 U.S. 813, 825 (2002) (holding that the "in connection with" element is satisfied by "a fraudulent scheme in which the securities transactions and breaches of fiduciary duty coincide").

[16] To the extent the Court concludes that Stanford, Davis and Pendergest-Holt should not be held directly liable for violating Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, the evidence demonstrates that they are liable for aiding abetting violations of those provisions.

b. The CD is a security.

In addition to fraud in connection with the *selling* of securities, the defendants' fraud was also in connection with the purchase of securities, i.e., SIB's CDs. In fact, SIB itself admits that "[b]y making this offering to Accredited Investors in the United States, SIBL and its officers are subject to certain laws of the United States, including the anti-fraud provisions of the U.S. federal securities laws and similar state laws." [App. 888]

The Supreme Court has emphasized that all notes – including products such as the "certificate of deposits" sold in this case – are presumed to be securities. *Reves*, 494 U.S. at 64. This presumption may be rebutted only by a showing that the note bears a strong resemblance to certain enumerated non-securities such as "the note delivered in consumer financing, the note secured by a mortgage on a home, the short term note secured by a lien on a small business or some of its assets, the note evidencing a "character" loan to a bank customer, short-term notes secured by an assignment of accounts receivable, or a note which simply formalizes an open-account debt incurred in the ordinary course of business. *Reves*, 494 U.S. at 65. To determine whether such resemblance exists, the Supreme Court has applied a "family resemblance test," instructing that it is necessary to analyze the following four factors: (1) the motivation of the parties; (2) the plan of distribution; (3) the reasonable expectations of the investing public; and (4) the existence of factors which would reduce the risk of the instrument. *Id.* Notably, no one factor by itself is dispositive. *Id.*

A comparison of the instruments deemed to be securities in *Reves* to the current CDs demonstrates that there should "be little difficulty in concluding that the notes at issue here are 'securities:'" *Reves*, 494 U.S. at 67.

Factor	*Reves*	SIB
Motivation of Parties	"the Co-Op sold the notes in an effort to raise capital for its general business operations and purchasers bought them in order to earn a profit in the form of interest." *Reves*, 494 U.S. at 67-68.	SIB sold the notes in an effort to raise capital for its general business operations and purchasers buy them in order to earn a profit in the form of interest.
Plan of distribution	Notes were "offered and sold to a broad segment of the public, and that is all we have held necessary to establish the requisite 'common trading' in an instrument."	Notes were offered to a broad segment of the public.
Public's Reasonable Expectation	"Advertisements for the notes characterized them as 'investments' ... and there were no countervailing factors that would have led a reasonable person to question this characterization." *Reves*, 494 U.S. at 68-69.	SIB provides to its U.S. investors, among other things, a document titled "Disclosure Statement U.S. Accredited Investor Certificate of Deposit Program. This document prominently features a page labeled, "SECURITIES INVESTMENT STATEMENT," and refers to the purchase as "an investment decision."
Whether some factor such as the existence of another regulatory scheme "significantly reduces the risk of the instrument, thereby rendering application of the Securities Acts unnecessary."	"notes here would escape federal regulation entirely if the [Securities] Acts were held not to apply." *Reves*, 494 U.S. at 69.	Absent securities laws, no federal regulation over fraudulent statements and omissions made in sale of CDs appears to apply.

Importantly, the *Reves* Court held that if the seller's purpose is to finance substantial investments and the buyer is interested primarily in the profit the instrument is likely to generate, the instrument is likely to be a security. *Id.* at 66. That is precisely the situation here. Likewise, when the issuer solicits individuals, as compared to solicitations of sophisticated institutions, that indicates "common trading" and weighs in favor of finding the instrument a security. Again, that is the case here, where SIB, acting through its affiliated investment adviser and broker-dealer routinely solicits individuals via retail investments. [App. 593, 668]. Third, the public would reasonably view these instruments as securities investments, particularly where SIB itself

describes them repeatedly as investments and advises clients that the offering of the CDs is subject to the antifraud provisions of the federal securities laws. Importantly, in *Stoiber v. SEC*, 161 F.3d 745, 750 (D.C. Cir. 1998), the D.C. Circuit Court held that courts should consider instruments to be securities on the basis of public expectations, "even where an economic analysis of the circumstances of the particular transaction might suggest that the instruments are not securities as used in that transaction."[17]

The only factor that arguably weighs against the conclusion that the CDs are securities concerns the existence of some other risk-reducing system, given that SIB is subject to some regulatory oversight by the Financial Services Regulatory Commission of Antigua. To put it simply, this putative oversight is irrelevant.[18]

First, unlike some earlier lower court decisions, in *Reves*, the United States Supreme Court made it clear that its fourth factor considered the existence of alternate *federal* regulatory system, such as FDIC protection. 494 U.S. at 69. (citation omitted and emphasis added). For example, in evaluating this factor after *Reves*, the Tenth Circuit noted that regulation by a state is not enough. See *also Holloway v. Peat, Marwick, Mitchell & Co.*, 900 F.2d. 1485, 1488 (10th Cir. 1990), *cert. denied*, 498 U.S. 958 (1990) (holding that the Supreme Court in *Reves* clearly required an alternative *federal* regulatory system); *see also Bradford v. Moench*, 809 F. Supp.

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[17] In *Stoiber*, the D.C. Circuit Court noted that the Supreme Court in *Reves* described this factor as "a one-way ratchet" that "allows notes that would not be deemed securities under a balancing of the other three factors nonetheless to be treated as securities if the public has been led to believe they are. It does not, however, allow notes which under the other factors would be deemed securities to escape the reach of regulatory laws." 151 F.2d at 751.

[18] The Commission has noted elsewhere certain facets of the FSRC's regulatory role. The question is not whether the FSRC carries out those prescribed responsibilities, but whether that oversight – as designed – "virtually guarantees" the full recovery of deposits. In evaluating that question, it is worth noting how the administrator and chief executive of the FSCR was quoted late last week in the press, when he described his agency's new approach to overseeing SIB's activities: "it's not a Friday afternoon cocktail *anymore* ...." (emphasis added).

1473, 1483 (D. Utah 1992) (following *Holloway* decision and holding Utah regulatory system cannot serve as risk reducing factor).[19]

As the Supreme Court made clear in *Marine Bank*, a certificate of deposit does not invariably fall outside the definition of a 'security' and "each transaction must be analyzed and evaluated on the basis of the content of the instruments in question, the purposes intended to be served, and the factual setting as a whole." *Marine Bank*, 455 U.S. 551 n.11 (1982). Here, the factual setting weighs strongly in favor of subjecting SIB's CDs to the federal securities laws. There simply is nothing here suggesting that the regulatory oversight provided by Antigua comes close to providing the "virtual guarantee" of repayment the holder of the particular CD at issue in *Marine Bank* or *Wolf* had, in contrast to an ordinary long-term debt holder who assumed the risk of the borrower's insolvency. Here, SIB's CDs have no FDIC protection, or any insurance protection from any Antiguan regulatory or government authority.[20]

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[19] The Commission recognizes that several circuits, including the Fifth Circuit, have concluded – prior to *Reves* and under significantly different circumstances – that certain certificates of deposit should not be considered "securities" under the Securities Act and Exchange Act. *See Wolf v. Banco Nacional de Mexico*, S.A., 739, F.2d 1458 (9th Cir. 1984), *cert. denied*, 469 U.S. 1108 (1985); *Callejo v. Bancomer, S.A.*, 764 F.2d 1101 (5th Cir. 1985); *Tafflin v. Levitt*, 865 F.2d 595 (4th Cir. 1989), *aff'd on other grounds*, 493 U.S. 455 (1990 (Pre-Reves)) (holding that certificates of deposit which were regulated by the banking system of Mexico or a state in the United States were not securities.). Due to the emergency nature of this request and because, regardless of how the Court applies Reves to SIB's CDs, it is clear that defendants fraudulent conduct was, as discussed above, in connection with the selling of securities, the Commission has not extensively addressed why those pre-Reves cases do not control here. Likewise, we have not addressed here the question of whether SIB's products could be considered "investment contracts" covered by the federal securities laws. Should the Court wish additional briefing on that issue, the Commission is prepared to provide it.

It should be noted, however, that the Commission – the primary agency responsible for determining whether the securities laws cover certain instruments – has applied the Securities Act to instruments the offering party claimed were similar to certificates of deposits, despite the existence of certain oversight by a foreign regulator. *See In the Matter of State Bank of Pakistan*, Admin Proc. File No. 3-7727, 1992 SEC Lexis 1041 (May 6, 1992)

[20] This lack of refund guarantee is only exacerbated by SIB's attempts to lull investors with various claims of "insurance" that do not provide protection to the investor.

Indeed, SIB itself admits in various offering documents that its customers assume the risk of SIB's insolvency, stating in substance that "the ability of SIB to repay principal and interest on the CD Deposits is dependent on our ability to successfully operate by continuing to make consistently profitable investment decisions" and "you may lose your entire investment." [App. 890]. This is precisely the sort of risks the antifraud provisions and other protections of the federal securities laws were designed to address.

3. Defendants Misrepresentations and Omissions Were Material.

The misrepresentations to and information withheld from investors in this case concern, among other things, the disposition of offering proceeds, the security of investment principal, the returns associated with the investment, and the liquidity of the investment. These issues go to the core of an individual's investment decision. There is a substantial likelihood that these false representations and omissions would have assumed actual significance in the investment deliberations of a reasonable investor. They are therefore material. *See SEC v. Research Automation Corp.*, 585 F.2d 31, 35-36 (2d Cir. 1978) (misleading statements and omissions concerning the use of money raised from investors were material as matter of law); *see also United States v. Siegel*, 717 F.2d 9, 14-15 (2d Cir. 1983) (holding that failure to disclose the misappropriation of more than $100,000 was a fact which would be important to a stockholder in his decision making).

4. The Defendants Acted With Scienter

In making their material misstatements and omissions, the Defendants acted with *scienter*, which is a mental state embracing intent to deceive, manipulate, or defraud. *Ernst & Ernst v. Hochfelder, et al.*, 425 U.S. 185, 193 (1976).[21] Here, the misrepresentations go to the

[21] A violation of Section 17(a)(1) of the Securities Act also requires a showing of scienter. However, the U.S. Supreme Court has held that scienter need not be shown in order to establish violations of Sections 17(a)(2) and (3)

core of the investment model marketed to investors. Selling investments marketed as highly liquid, but which were in fact heavily invested in illiquid private equity and real estate, while knowing that only two people actually knew the portfolio allocation and kept that information under lock and key is, at a minimum, severely reckless. Indeed, this action speaks of a high degree of *scienter*. Moreover, the actions of controlling individuals, and therefore their *scienter*, are attributable to the controlled company. *See SEC v. Manor Nursing Centers, Inc.*, 458 F.2d 1082, 1094 (2d Cir. 1971).

B. Stanford, SGC and SCM Violated, and Davis and Pendergest-Holt Aided and Abetted Violations of, the Antifraud Provisions of the Investment Advisers Act of 1940.

Through their deceitful and fraudulent conduct in selling the CDs and SAS, Defendants violated the antifraud provisions of the Investment Advisers Act. This is true, even if the Court, for the sake of argument, determines that the defendants' fraud was not in connection with the offer, sale or purchase of securities for purposes of Section 17(a) of the Securities Act or Section 10(b) of the Exchange Act.

1. Section 206 Imposes a Fiduciary Duty on Defendants Prohibiting Defendants Fraudulent Conduct

Sections 206(1) and 206(2) of the Advisers Act (15 U.S.C. §§ 80b-6(1) & 80b-6(2)), prohibit an investment adviser from defrauding any client or prospective client by, directly or indirectly, employing any device, scheme, or artifice to defraud or engaging in any transaction, practice or course of business which operates as a fraud or deceit upon any client or prospective client. While *scienter* is required to establish a violation of Section 206(1), negligence alone is sufficient to establish fraud liability under Section 206(2). *SEC v. Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 195 (1963); *Steadman v. SEC*, 603 F.2d 1126, 1134 (5th Cir. 1979),

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of the Securities Act. *Aaron v. SEC*, 446 U.S. 680, 696-97 (1980).

aff'd on other grounds, 450 U.S. 91 (1981). Unlike the antifraud provisions of the Securities Act and the Exchange Act, Sections 206(1) and 206(2) of the Advisers Act do not require that the activity be "in the offer or sale of any securities" or "in connection with the purchase or sale of any security." SEC v. Lauer, 2008 WL 4372896, *24 (S.D. Fla. September 24, 2008); Advisers Act Release No. 1092, 6 Fed. Sec. L. Rep. (CCH) ¶ 56,156E, at 44,057-7 to 44,058 (Oct. 8, 1987).

Instead, Section 206 establishes federal fiduciary standards to govern the conduct of investment advisers. *Transamerica Mortgage Advisers, Inc. v. Lewis*, 444 U.S. 11, 17 (1979). The fiduciary duties of investment advisers to their clients include the duty to act for the benefit of their clients, the duty to exercise the utmost good faith in dealing with clients, the duty to disclose all material facts, and the duty to employ reasonable care to avoid misleading clients. *SEC v. Capital Gains Research Bureau, Inc. et al.*, 375 U.S. 180, 194 (1983). An adviser has "an affirmative obligation to employ reasonable care to avoid misleading [his or her] clients." *Id. Scienter* is required to establish a violation of Section 206(1) but is not a required element of Section 206(2). *SEC v. Steadman*, 967 F.2d 636, 643 fn.5 (D.C. Cir. 1992) (Section 206(2) violation only requires proof of negligence, not *scienter*).

2. *Stanford, SGC and SCM are Investment Advisers Subject to Heightened Fiduciary Duties.*

The definition of an investment adviser in Section 202(a)(11) of the Advisers Act, 15 U.S.C. § 80b-2(a)(11), includes "any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities." SGC/SCM do exactly that on a daily basis. Likewise, Stanford, as control person of both of those entities, satisfies the statutory definition of an investment adviser. *See In re Jay Deforest Moore, et al.*, Investment

Advisers Act Rel. No 1548 (Jan. 19, 1996), 61 SEC Docket 544, 545 (charging individual with direct violations of Sections 206(1) and (2) of the Advisers Act because he "exercised exclusive control over" the firm and, therefore, was the firm's alter ego).

Likewise, Davis and Pendergest-Holt aided and abetted the Adviser Act violations. Aiding and abetting liability requires a showing of: (1) a primary violation; (2) knowledge or a general awareness of the aider and abettor of having played a role in an overall activity that was improper; and (3) knowing and substantial assistance by the secondary violator of the conduct that constitutes the violation. *Woodward v. Metro Bank of Dallas*, 522 F.2d 84, 94-95 (5th Cir. 1975); *In the Matter of Glen Copeland,* (CCH) ¶83,903, at 87,732 (July 5, 1985); *Investors Research Corp. v. SEC*, 628 F.2d 168, 178 (D.C. Cir.), *cert. denied*, 449 U.S. 919 (1980). Recklessness satisfies the knowledge requirement, especially as to fiduciaries. *See In the Matter of Kemper Financial Services, Inc.*, Investment Company Act Rel. No. 21113 (June 6, 1995); *SEC v. Washington County Utility District*, 676 F.2d 218, 226 (6th Cir. 1982); *Rolf v. Blyth, Eastman Dillon & Co., Inc.*, 570 F.2d 38, 44-47 (2d Cir. 1978), *cert. denied*, 439 U.S. 1039.

Both Davis and Pendergest-Holt knew of the representations made to clients as to the securities that would be purchased to support their CD investment, and in fact, actually trained them to mislead investors. There is no doubt both Davis and Pendergest-Holt knowingly provided substantial assistance to the fraud violations of SBI, SCM and Stanford.

3. Each of the Defendants Acted with Scienter

As described in detail above, the defendants intentionally misled their clients. For example, knowing the importance to which investors would assign to the issue of exposure to the Madoff fund, the defendants voluntarily undertook to assure investors that SIB "had no direct or indirect exposure" to any Madoff investments. Pendergest-Holt, Davis and Stanford knew when this statement was made that it was false. In the market environment of December 2008, it is

hard to imagine a more material breach of an investment adviser's heightened duty of care owed to clients.

C. SIB and SGC Failure to Register as an Investment Company Violated Section 7(d) of the Investment Company Act of 1940.

Section 7(d) of the Investment Company Act of 1940 prohibits investment companies organized under the laws of foreign jurisdictions from making a public offering of securities in the United States, except by entry of an order from the Commission permitting registration. *See Investment Funds Institute of Canada* (1996 SEC No. Act. Lexis 334 (March 4, 1996). Both SIB and SGC (acting as SIB's underwriter) were bound by this requirement and failed to register, which was intended to, and had the effect of, shielding SIB's CD program from Commission oversight.

SIB qualifies as an "investment company" under either a "traditional" or an "inadvertent" investment company analysis. The "traditional" investment company is defined by ICA Section 3(a)(1)(A) as any issuer that holds itself out as primarily engaged, or proposes to be primarily engaged, in the business of investing, reinvesting or trading in securities. SIB's primary business is to manage the deposits of its customers, not any commercial banking activity. Moreover, these customer deposits are invested primarily in securities.[22] [App. 867].

Likewise ICA Section 7(d), in addition to prohibiting SIB's offering, prohibits SGC's activities as an underwriter for SIB. SGC acted as an underwriter pursuant to ICA Section 2(40) because of its activities in connection with the sale of SIB's CDs.

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[22] Alternatively, SIB also qualifies as an "inadvertent" investment company pursuant to ICA Section 3(a)(1)(C)'s definition of "any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposed to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis." In every year since 2004, equity investments have accounted for at least 48 percent of SIB's total assets.

V. APPROPRIATE RELIEF

A. Injunctive Relief

In analyzing the need for injunctive relief, courts focus on whether there is a reasonable likelihood that the defendant, if not enjoined, will engage in future illegal conduct. *See, e.g., SEC v. Comserv Corp.*, 908 F.2d 1407, 1412 (8th Cir. 1990); *SEC v. Bonastia*, 614 F.2d 908 (3d Cir. 1980); *SEC v. Commonwealth Chem. Sec., Inc.*, 574 F.2d 90, 100-101 (2d Cir. 1978). In determining the likelihood of future violations, the totality of the circumstances is to be considered. *Murphy*, 626 F.2d at 655. In granting or denying injunctive relief, courts have considered the following factors: (1) the egregious nature of the defendant's actions; (2) the isolated or recurrent nature of the violations; (3) the degree of *scienter* involved; (4) the sincerity of the defendant's assurances, if any, against future violations; (5) the defendant's recognition of the wrongful nature of his conduct;[23] and (6) the likelihood that the defendant's occupation will present opportunities (or lack thereof) for future violations.[24] Additionally, other courts consider the defendant's age and health. *See SEC v. Youmans*, 729 F.2d 413 (6th Cir. 1984); *SEC v. Wash. County Util. Dist.*, 676 F.2d 218, 227 n.19 (6th Cir. 1982); *SEC v. Universal Major Indus. Corp.*, 546 F.2d 1044, 1048 (2d Cir. 1976), *cert. denied*, 434 U.S. 834 (1977).

Preliminary and permanent injunctive relief against Defendants are appropriate. Their violations were not merely technical in nature, but, rather, lie at the very heart of the remedial statutes.

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[23] This consideration is limited in other circuits by *SEC v. First City Fin. Corp.*, 890 F.2d 1215, 1219 (D.C. Cir. 1989), in which the Court of Appeals said that the "'lack of remorse' is relevant only where defendants have previously violated court orders, *see SEC v. Koenig*, 469 F.2d 198, 202 (2d Cir. 1972), or otherwise indicate that they do not feel bound by the law, *see SEC v. Savoy Indus.*, 587 F.2d 1149, 1168 (D.C. Cir. 1978)."

[24] *See SEC v. Carriba Air, Inc.*, 681 F.2d 1318, 1322 (11th Cir. 1982); *see also, SEC v. Bonastia*, 614 F.2d 908, 912 (3d Cir. 1980); *SEC v. Commonwealth Chemical Securities, Inc.*, 574 F.2d 90, 100-101 (2d Cir. 1978).

Moreover, Section 20(a) of the Securities Act and Section 21(d)(1) of the Exchange Act authorize the Commission to seek emergency relief when it appears that a person is engaged or is about to engage in acts or practices in violation of the federal securities laws. 15 U.S.C. § 77t(a), 15 U.S.C. § 78u(d)(1). Defendants fraud is ongoing. A temporary restraining order is appropriate under the circumstances.

B. Ancillary Relief

1. Asset Freeze

An order freezing assets is appropriate to ensure that sufficient funds are available to satisfy any final judgment the Court might enter against the Defendants and to ensure a fair distribution to investors. *See, e.g., Manor Nursing Ctrs.*, 458 F.2d at 1106 (freeze of assets pending transfer to trustee); Unifund, SAL, 910 F.2d at 1041-42. An asset freeze as to each defendant's assets is appropriate to assure satisfaction of whatever equitable relief the court ultimately may order and to preserve investor funds. *Id.*; *CFTC v. Muller*, 570 F.2d 1296, 1300 (5th Cir. 1978). Additionally, an asset freeze "facilitate(s) enforcement of any disgorgement remedy that might be ordered" and may be granted "even in circumstances where the elements required to support a traditional SEC injunction have not been established." *See SEC v. Unifund Sal*, 910 F.2d 1028, 1041 (2d Cir.) *reh'g. denied*, 917 F.2d 98 (1990). It is well recognized that an asset freeze is sometimes necessary to ensure that a future disgorgement order will not be rendered meaningless. *See, e.g., United States. v. Cannistraro*, 694 F. Supp. 62, 71 (D.N.J. 1988), *modified*, 871 F.2d 1210 (3d Cir. 1989); *SEC v. Vaskevitch*, 657 F. Supp. 312, 315 (S.D.N.Y. 1987); *SEC v. R.J. Allen & Assocs., Inc.*, 386 F. Supp. 866, 881 (S.D. Fla. 1974).

The ancillary remedy of a freeze order requires a lesser showing than that needed to obtain injunctive relief. *See SEC v. Gonzalez de Castilla*, 145 F. Supp. 2d 402, 415 (S.D.N.Y.

2001) ("courts may order a freeze even where the SEC has failed to meet the standard necessary to enjoin future violations"). For example, to obtain an asset freeze, the Commission need not show a reasonable likelihood of future violations. *CFTC v. Muller*, 570 F.2d at 1300. This lower standard results from the recognition that injunctive relief raises the possibility of future liability for contempt; an asset freeze only preserves the *status quo*. *Unifund Sal*, 910 F.2d at 1039. Accordingly, when there are concerns that defendants might dissipate assets, a freeze order requires only that the court find some basis for inferring a violation of the federal securities laws. *Unifund Sal*, 910 F.2d at 1041.

Here, there is a clear basis for fearing dissipation of funds. It appears that $250 million has been liquidated from Tier 2 since December 2008, and the Commission has learned of significant attempts to liquidate the portfolio within the last week. Moreover, not only is there "some basis for inferring a violation of the federal securities laws," for the reasons set out above, the Commission is more than likely to succeed on the merits of its case for antifraud violations.

2. Defendants Should Be Ordered to Preserve Relevant Evidence.

The Commission seeks an order prohibiting the movement, alteration, and destruction of books and records and an order expediting discovery. Such orders are appropriate to prevent the destruction of key documents and to ascertain what additional expedited relief may be necessary.

3. Expedited Discovery Is Appropriate.

The Federal Rules of Civil Procedure give District Courts discretion to permit expedited discovery. Defendants are usually given until at least 45 days after the service of a summons and complaint to respond to document requests, Fed. R. Civ. P. 34(b), and 30 days after such service to appear for a deposition, Fed. R. Civ. P. 30(a) or respond to interrogatories, Fed. R. Civ. P. 33(a). But each of these Rules provides that the Court, in its discretion, may shorten these

periods. *See also Gibson v. Bagas Restaurants, Inc.*, 30 Fed. R. Serv. 2d 792, 87 F.R.D 60 (W.D. Mo. 1980) (accelerated discovery is allowable within the discretion of the Court). Moreover, where urgent relief is sought and expedited discovery is needed to accomplish that result, a court may grant accelerated discovery. *See Notaro v. Koch*, 35 Fed. R. Serv. 2d 580, 95 F.R.D. 403 (S.D.N.Y 1982). Expedited discovery is required in this case to enable the Commission more fully to develop the evidence prior to the conduct of a preliminary injunction hearing. The Commission should have the opportunity to supplement a complete evidentiary record prior to the preliminary injunction hearing. Also, expedited discovery is vital to determining the scope of the fraud and the whereabouts of investor funds. Accordingly, the Commission requests depositions on notice of 3 days, with notice provided as noted below.[25]

4. Alternative Service and Notice Provisions

Rule 4(f)(3) of the Federal Rules of Civil Procedure provides that the Court may authorize alternative means for service of process in foreign countries. The Commission respectfully requests that the Court authorize service upon the defendants by serving them, in the manner described in the Commission's proposed order, by providing notice and service of process on each Defendant by e-mail transmission and by facsimile.

5. Accounting

The Commission seeks an order requiring Defendants and Relief Defendants to make an immediate accounting. An accounting will enable the Commission to determine more accurately the scope of the fraud and disposition of investor funds. It will help ensure the proper distribution of the assets. *See SEC v. Int'l Swiss Invs. Corp.*, 895 F.2d 1272, 1276 (9th Cir. 1990); *Manor Nursing Ctrs.*, 458 F.2d at 1105-06. An accounting is particularly justified

[25] This is particularly important here because Defendants have not produced any documents during the investigation, and have failed to comply with lawfully issued subpoenas.

because of Tyler's use of investor funds and the Relief Defendants' receipt of property traceable to Tyler's illicit conduct and to investor funds.

6. Appointment of a Receiver

As noted above, the defendants in this case have made every effort to deny access to the records and data necessary to enforce the federal securities laws. In addition, many of the funds appear to be easily transferrable outside the United States. A receiver is necessary here to marshal, liquidate and distribute assets to the victims of the defendants' scheme and especially warranted in light of the Defendants' efforts to shield relevant financial data and other key documents from independent review, the recent effort to remove operations from the United States, and recent large liquidations and lying to investors seeking to redeem their CDs.

7. An Order For Passport Surrender Are Appropriate.

An order for repatriation of funds and records sent offshore and still under the control of the defendants is appropriate. There is evidence that funds and records have been transferred overseas. In addition, based on the defendants' frequent foreign travel, the fact that Stanford maintains vast holdings (including residential real estate) in foreign locales, and Stanford's self-proclaimed dual residency, the Commission seeks an order requiring the defendants to surrender their passports to the court. These orders will ensure the efficacy of whatever equitable relief might ultimately be granted. *See R.J. Allen & Assocs., Inc.*, 386 F. Supp. at 881.

8. A Repatriation Order is Necessary.

The Commission also seeks a repatriation order requiring the Defendants to return to identified accounts in the United States, all trading proceeds that may be located outside this Court's jurisdiction. Such equitable relief is appropriate where the Commission is seeking disgorgement in its prayer for relief. *SEC v. R.J. Allen & Assoc., Inc.*, 386 F. Supp. 866, 880-

881 (S.D. Fla. 1974).

Respectfully submitted,

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J. KEVIN EDMUNDSON
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TAB D

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE COMMISSION,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Case No.:
	§	
STANFORD INTERNATIONAL BANK, LTD., STANFORD GROUP COMPANY, STANFORD CAPITAL MANAGEMENT, LLC, R. ALLEN STANFORD, JAMES M. DAVIS, and LAURA PENDERGEST-HOLT	§	
	§	
Defendants.	§	

This is Exhibit "D" referred to in the affidavit of Wolfgang Mersch sworn before me, this 13th day of February, 2015

A COMMISSIONER FOR TAKING AFFIDAVITS

ORDER APPOINTING RECEIVER

This matter came before me, the undersigned United States District Judge, on the motion of Plaintiff Securities and Exchange Commission ("Commission") for the appointment of a Receiver for Defendants Stanford International Bank, Ltd., Stanford Group Company, Stanford Capital Management, LLC, Robert Allen Stanford, James M. Davis, and Laura Pendergest-Holt ("Defendants"). It appears that this Order Appointing Receiver is both necessary and appropriate in order to prevent waste and dissipation of the assets of Defendants to the detriment of the investors.

IT IS THEREFORE ORDERED that:

1. This Court assumes exclusive jurisdiction and takes possession of the assets, monies, securities, properties, real and personal, tangible and intangible, of whatever kind and description, wherever located, and the legally recognized privileges (with regard to the entities), of the Defendants and all entities they own or control ("Receivership Assets"), and the books and records, client lists, account statements, financial and accounting documents, computers,

computer hard drives, computer disks, internet exchange servers telephones, personal digital devices and other informational resources of or in possession of the Defendants, or issued by Defendants and in possession of any agent or employee of the Defendants ("Receivership Records").

2. Ralph S. Janvey of Dallas, Texas, is hereby appointed Receiver for the Receivership Assets and Receivership Records (collectively, "Receivership Estate"), with the full power of an equity receiver under common law as well as such powers as are enumerated herein as of the date of this Order. The Receiver shall not be required to post a bond unless directed by the Court but is hereby ordered to well and faithfully perform the duties of his office: to timely account for all monies, securities, and other properties which may come into his hands; and to abide by and perform all duties set forth in this Order. Except for an act of willful malfeasance or gross negligence, the Receiver shall not be liable for any loss or damage incurred by the Receivership Estate, or any of Defendants, the Defendants' clients or associates, or their subsidiaries or affiliates, their officers, directors, agents, and employees, or by any of Defendants' creditors or equity holders because of any act performed or not performed by him or his agents or assigns in connection with the discharge of his duties and responsibilities hereunder.

3. The duties of the Receiver shall be specifically limited to matters relating to the Receivership Estate and unsettled claims thereof remaining in the possession of the Receiver as of the date of this Order. Nothing in this Order shall be construed to require further investigation of Receivership Estate assets heretofore liquidated and/or distributed or claims of the Receivership Estate settled prior to issuance of this Order. However, this paragraph shall not be

construed to limit the powers of the Receiver in any regard with respect to transactions that may have occurred prior to the date of this Order.

4. Until the expiration date of this Order or further Order of this Court, Receiver is authorized to immediately take and have complete and exclusive control, possession, and custody of the Receivership Estate and to any assets traceable to assets owned by the Receivership Estate.

5. As of the date of entry of this Order, the Receiver is specifically directed and authorized to perform the following duties:

(a) Maintain full control of the Receivership Estate with the power to retain or remove, as the Receiver deems necessary or advisable, any officer, director, independent contractor, employee, or agent of the Receivership Estate;

(b) Collect, marshal, and take custody, control, and possession of all the funds, accounts, mail, and other assets of, or in the possession or under the control of, the Receivership Estate, or assets traceable to assets owned or controlled by the Receivership Estate, wherever situated, the income and profit therefrom and all sums of money now or hereafter due or owing to the Receivership Estate with full power to collect, receive, and take possession of, without limitation, all goods, chattel, rights, credits, monies, effects, lands, leases, books and records, work papers, records of account, including computer maintained information, contracts, financial records, monies on hand in banks and other financial initiations, and other papers and documents of other individuals, partnerships, or corporations whose interests are now held by or under the direction, possession, custody, or control of the Receivership Estate;

(c) Institute such actions or proceedings to impose a constructive trust, obtain possession, and/or recover judgment with respect to persons or entities who received assets or records traceable to the Receivership Estate. All such actions shall be filed in this Court;

(d) Obtain, by presentation of this Order, documents, books, records, accounts, deposits, testimony, or other information within the custody or control of any person or entity sufficient to identify accounts, properties, liabilities, causes of action, or employees of the Receivership Estate. The attendance of a person or entity for examination and/or production of documents may be compelled in a manner provided in Rule 45, Fed. R. Civ. P., or as provided under the laws of any foreign country where such documents, books, records, accounts, deposits, or testimony may be located;

(e) Without breaching the peace and, if necessary, with the assistance of local peace officers or United States marshals to enter and secure any premises, wherever located or situated, in order to take possession, custody, or control of, or to identify the location or existence of, Receivership Estate assets or records;

(f) Make such ordinary and necessary payments, distributions, and disbursements as the Receiver deems advisable or proper for the marshaling, maintenance, or preservation of the Receivership Estate. Receiver is further authorized to contract and negotiate with any claimants against the Receivership Estate (including, without limitation, creditors) for the purpose of compromising or settling any claim. To this purpose, in those instances in which Receivership Estate assets serve as collateral to secured creditors, the Receiver has the authority to surrender such assets to secured creditors, conditional upon the waiver of any deficiency of collateral;

(g) Perform all acts necessary to conserve, hold, manage, and preserve the value of the Receivership Estate, in order to prevent any irreparable loss, damage, and injury to the Estate;

(h) Enter into such agreements in connection with the administration of the Receivership Estate, including, but not limited to, the employment of such managers, agents, custodians, consultants, investigators, attorneys, and accountants as Receiver judges necessary to perform the duties set forth in this Order and to compensate them from the Receivership Assets;

(i) Institute, prosecute, compromise, adjust, intervene in, or become party to such actions or proceedings in state, federal, or foreign courts that the Receiver deems necessary and advisable to preserve the value of the Receivership Estate, or that the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order and likewise to defend, compromise, or adjust or otherwise dispose of any or all actions or proceedings instituted against the Receivership Estate that the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order;

(j) Preserve the Receivership Estate and minimize expenses in furtherance of maximum and timely disbursement thereof to claimants;

(k) Promptly provide the United States Securities and Exchange Commission and other governmental agencies with all information and documentation they may seek in connection with its regulatory or investigatory activities;

(l) Prepare and submit periodic reports to this Court and to the parties as directed by this Court; and

(m) File with this Court requests for approval of reasonable fees to be paid to the Receiver and any person or entity retained by him and interim and final accountings for any reasonable expenses incurred and paid pursuant to order of this Court.

6. Upon the request of the Receiver, the United States Marshal's Office is hereby ordered to assist the Receiver in carrying out his duties to take possession, custody, or control of, or identify the location of, any Receivership Estate assets or records.

7. Creditors and all other persons are hereby restrained and enjoined from the following actions, except in this Court, unless this Court, consistent with general equitable principals and in accordance with its ancillary equitable jurisdiction in this matter, orders that such actions may be conducted in another forum or jurisdiction:

(a) The commencement or continuation, including the issuance or employment of process, of any judicial, administrative, or other proceeding against the Receiver, any of the defendants, the Receivership Estate, or any agent, officer, or employee related to the Receivership Estate, arising from the subject matter of this civil action; or

(b) The enforcement, against the Receiver, or any of the defendants, of any judgment that would attach to or encumber the Receivership Estate that was obtained before the commencement of this proceeding.

8. Creditors and all other persons are hereby restrained and enjoined, without prior approval of the Court, from:

(a) Any act to obtain possession of the Receivership Estate assets;

(b) Any act to create, perfect, or enforce any lien against the property of the Receiver, or the Receivership Estate;

(c) Any act to collect, assess, or recover a claim against the Receiver or that would attach to or encumber the Receivership Estate; or

(d) The set off of any debt owed by the Receivership Estate or secured by the Receivership Estate assets based on any claim against the Receiver or the Receivership Estate.

9. Defendants, their respective officers, agents, and employees and all persons in active concert or participation with them who receive notice of this Order by personal service or otherwise, including, but not limited to, any financial institution, broker-dealer, investment adviser, private equity fund or investment banking firm, and each of them, are hereby ordered, restrained, and enjoined from, directly or indirectly, making any payment or expenditure of any Receivership Estate assets that are owned by Defendants or in the actual or constructive possession of any entity directly or indirectly owned or controlled or under common control with the Receivership Estate, or effecting any sale, gift, hypothecation, assignment, transfer, conveyance, encumbrance, disbursement, dissipation, or concealment of such assets. A copy of this Order may be served on any bank, savings and loan, broker-dealer, or any other financial or depository institution to restrain and enjoin any such institution from disbursing any of the Receivership Estate assets. Upon presentment of this Order, all persons, including financial institutions, shall provide account balance information, transaction histories, all account records and any other Receivership Records to the Receiver or his agents, in the same manner as they would be provided were the Receiver the signatory on the account.

10. Defendants, and their respective agents, officers, and employees and all persons in active concert or participation with them are hereby enjoined from doing any act or thing whatsoever to interfere with the Receiver's taking control, possession, or management of the

Receivership Estate or to in any way interfere with the Receiver or to harass or interfere with the duties of the Receiver or to interfere in any manner with the exclusive jurisdiction of this Court over the Receivership Estate, including the filing or prosecuting any actions or proceedings which involve the Receiver or which affect the Receivership Assets or Receivership Records, specifically including any proceeding initiated pursuant to the United States Bankruptcy Code, except with the permission of this Court. Any actions so authorized to determine disputes relating to Receivership Assets and Receivership Records shall be filed in this Court.

11. Defendants, their respective officers, agents, and employees and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, including any financial institution, broker-dealer, investment adviser, private equity fund or investment banking firm, and each of them shall:

(a) To the extent they have possession, custody, or control of same, provide immediate access to and control and possession of the Receivership Estate assets and records, including securities, monies, and property of any kind, real and personal, including all keys, passwords, entry codes, and all monies deposited in any bank deposited to the credit of the Defendants, wherever situated, and the original of all books, records, documents, accounts, computer printouts, disks, and the like of Defendants to Receiver or his duly authorized agents;

(b) Cooperate with the Receiver and his duly authorized agents by promptly and honestly responding to all requests for information regarding Receivership Assets and Records and by promptly acknowledging to third parties the Receiver's authority to act on behalf of the Receivership Estate and by providing such authorizations, signatures, releases, attestations, and access as the Receiver or his duly authorized agents may reasonably request;

(c) Provide the Commission with a prompt, full accounting of all Receivership Estate assets and documents outside the territory of the United States which are held either: (1) by them, (2) for their benefit, or (3) under their control;

(d) Transfer to the territory of the United States all Receivership Estate assets and records in foreign countries held either: (1) by them, (2) for their benefit, or (3) under their control; and

(e) Hold and retain all such repatriated Receivership Estate assets and documents and prevent any transfer, disposition, or dissipation whatsoever of any such assets or documents, until such time as they may be transferred into the possession of the Receiver.

12. Any financial institution, broker-dealer, investment adviser, private equity fund or investment banking firm or person that holds, controls, or maintains accounts or assets of or on behalf of any Defendant, or has held, controlled, or maintained any account or asset of or on behalf of any defendant or relief defendant since January 1, 1990, shall:

(a) Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, hypothecation, encumbrance, disbursement, dissipation, conversion, sale, gift, or other disposal of any of the assets, funds, or other property held by or on behalf of any defendant or relief defendant in any account maintained in the name of or for the benefit of any defendant or relief defendant in whole or in part except:

(i) as directed by further order of this Court, or

(ii) as directed in writing by the Receiver or his agents;

(b) Deny access to any safe deposit boxes that are subject to access by any Defendant; and

(c) The Commission and Receiver may obtain, by presentation of this Order, documents, books, records, accounts, deposits, or other information within the custody or control of any person or entity sufficient to identify accounts, properties, liabilities, causes of action, or employees of the Receivership Estate. The attendance of a person or entity for examination and/or production of documents may be compelled in a manner provided in Rule 45, Fed. R. Civ. P., or as provided under the laws of any foreign country where such documents, books, records, accounts, deposits, or testimony may be located;

13. The Defendants, their officers, agents, and employees and all persons in active concert or participation with them and other persons who have notice of this Order by personal service or otherwise, are hereby restrained and enjoined from destroying, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any contracts, accounting data, correspondence, advertisements, computer tapes, disks or other computerized records, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, copies of federal, state, or local business or personal income or property tax returns, and other documents or records of any kind that relate in any way to the Receivership Estate or are relevant to this action.

14. The Receiver is hereby authorized to make appropriate notification to the United States Postal Service to forward delivery of any mail addressed to the Defendants, or any company or entity under the direction and control of the Defendants, to himself. Further, the Receiver is hereby authorized to open and inspect all such mail to determine the location or identity of assets or the existence and amount of claims.

15. Nothing in this Order shall prohibit any federal or state law enforcement or regulatory authority from commencing or prosecuting an action against the Defendants, their agents, officers, or employees.

So Ordered and signed, this 16th day of February 2009.

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE COMMISSION,	§	
Plaintiff,	§	
v.	§	Case No.:
STANFORD INTERNATIONAL BANK, LTD., STANFORD GROUP COMPANY, STANFORD CAPITAL MANAGEMENT, LLC, R. ALLEN STANFORD, JAMES M. DAVIS, and LAURA PENDERGEST-HOLT	§	
Defendants.	§	

TEMPORARY RESTRAINING ORDER, ORDER FREEZING ASSETS, ORDER REQUIRING AN ACCOUNTING, ORDER REQUIRING PRESERVATION OF DOCUMENTS, AND ORDER AUTHORIZING EXPEDITED DISCOVERY

This matter came before me, the undersigned United States District Judge, this 16th day of February 2009, on the application of Plaintiff Securities and Exchange Commission ("Commission") for the issuance of a temporary restraining order against Defendants Stanford International Bank, Ltd. ("SIB"), Stanford Group Company ("SGC"), Stanford Capital Management, LLC ("SCM"), R. Allen Stanford ("Stanford"), James M. Davis ("Davis"), and Laura Pendergest-Holt ("Pendergest-Holt") (collectively, "Defendants"), and orders freezing assets, requiring an accounting, prohibiting the destruction of documents, pulling the passports of Stanford, Davis, and Pendergest-Holt, authorizing expedited discovery, and alternative service of process and notice. On the basis of the papers filed by the Commission, and argument of Commission counsel, the Court finds as follows:

1. This Court has jurisdiction over the subject matter of this action and over the Defendants.

2. The Commission is a proper party to bring this action seeking the relief sought in its Complaint.

3. Venue is appropriate in the Northern District of Texas.

4. There is good cause to believe that Defendants have engaged in, and are engaging in, acts and practices which did, do, and will constitute violations of Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §78j(b)], Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5], Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. §§ 80b-6(1), (2)], and Section 7(d) of the Investment Company Act of 1940 ("Investment Company Act") [15 U.S.C. § 80a-7(d)].

5. There is good cause to believe that Defendants will continue to engage in the acts and practices constituting the violations set forth in paragraph 4 unless restrained and enjoined by an order of this Court.

6. There is good cause to believe that Defendants used improper means to obtain investor funds and assets. There is also good cause to believe that Defendants will dissipate assets and that some assets are located abroad.

7. An accounting is appropriate to determine the disposition of investor funds and to ascertain the total assets that should continue to be frozen.

8. It is necessary to preserve and maintain the business records of Defendants from destruction.

9. This proceeding is one in which the Commission seeks a preliminary injunction.

10. The timing restrictions of Fed. R. Civ. P. 26(d) and (f), 30(a)(2)(C) and 34 do not apply to this proceeding in light of the Commission's requested relief and its demonstration of good cause.

11. Expedited discovery is appropriate to permit a prompt and fair hearing on the Commission's Motion for Preliminary Injunction.

12. There is good cause to believe that Stanford, Davis, and Pendergest-Holt may seek to leave the United States in order to avoid responsibility for the fraudulent acts alleged herein.

IT IS THEREFORE ORDERED THAT:

A. Defendants, their officers, directors, agents, servants, employees, attorneys, and all other persons in active concert or participation with them, are restrained and enjoined from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], directly or indirectly, in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by the use of the mails, by:

(1) employing any device, scheme, or artifice to defraud; or

(2) obtaining money or property by means of any untrue statement of material fact or any omission to state a material fact necessary in order to make the statement(s) made, in the light of the circumstances under which they were made, not misleading; or

(3) engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser;

B. Defendants, their officers, directors, agents, servants, employees, attorneys, and all other persons in active concert or participation with them, are restrained and enjoined

from violating Section 10(b) of the Exchange Act or Rule 10b-5 [15 U.S.C. § 78j(b) and 17 C.F.R. §240.10b-5], directly or indirectly, in connection with the purchase or sale of any security, by making use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange:

(1) to use or employ any manipulative or deceptive device or contrivance in contravention of the rules and regulations promulgated by the Commission;

(2) to employ any device, scheme, or artifice to defraud;

(3) to make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or

(4) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person;

C. Stanford, Davis, Pendergest-Holt, SGC, SCM, their officers, directors, agents, servants, employees, attorneys, and all other persons in active concert or participation with them, are restrained and enjoined from violating Sections 206(1) and 206(2) of the Advisers Act [15 U.S.C. §§80b-6(1), (2)], directly or indirectly, by use of the mails or any means or instrumentality of interstate commerce, by:

(1) employing any device, scheme, or artifice to defraud any client or prospective client; or

(2) engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client;

D. SIB, SGC, their officers, directors, agents, servants, employees, attorneys, and all other persons in active concert or participation with them, are restrained and enjoined from violating Section 7(d) of the Investment Company Act [15 U.S.C. §80a-7(d)], directly or indirectly, by use of the mails or any means or instrumentality of interstate commerce, by:

(1) acting as an investment company, not organized or otherwise created under the laws of the United States or of a State, and offering for sale, selling, or delivering after sale, in connection with a public offering, any security of which such company is the issuer; or

(2) acting as a depositor of, trustee of, or underwriter for such a company; unless

(3) the Commission, upon application by the investment company not organized or otherwise created under the laws of the United States or of a State, issues a conditional or unconditional order permitting such company to register and to make a public offering of its securities by use of the mails and means or instrumentalities of interstate commerce.

5. Defendants, their officers, directors, agents, servants, employees, attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, and each of them, are hereby restrained and enjoined from, directly or indirectly, making any payment or expenditure of funds belonging to or in the possession, custody, or control of Defendants, or effecting any sale, gift, hypothecation, or other disposition of any asset belonging to or in the possession, custody, or control of Defendants, pending a showing to this Court that Defendants have sufficient funds or assets to satisfy all claims

arising out of the violations alleged in the Commission's Complaint or the posting of a bond or surety sufficient to assure payment of any such claim. This provision shall continue in full force and effect until further ordered by this Court and shall not expire.

6. All banks, savings and loan associations, savings banks, trust companies, securities broker-dealers, commodities dealers, investment companies, other financial or depository institutions, and investment companies that hold one or more accounts in the name, on behalf or for the benefit of Defendants are hereby restrained and enjoined, in regard to any such account, from engaging in any transaction in securities (except liquidating transactions necessary to comply with a court order) or any disbursement of funds or securities pending further order of this Court. This provision shall continue in full force and effect until further order by this Court and shall not expire.

7. All other individuals, corporations, partnerships, limited liability companies, and other artificial entities are hereby restrained and enjoined from disbursing any funds, securities, or other property obtained from Defendants without adequate consideration. This provision shall continue in full force and effect until further order by this Court and shall not expire.

8. Defendants are hereby required to make an interim accounting, under oath, within ten days of the issuance of this order or three days prior to any hearing on the Commission's Motion for Preliminary Injunction, whichever is sooner: (1) detailing all monies and other benefits which each received, directly or indirectly, as a result of the activities alleged in the Complaint (including the date on which the monies or other benefit was received and the name, address, and telephone number of the person paying the money or providing the benefit); (2) listing all current assets wherever they may be located and by whomever they are being held (including the name and address of the holder and the amount or value of the holdings); and (3)

listing all accounts with any financial or brokerage institution maintained in the name of, on behalf of, or for the benefit of, Defendants (including the name and address of the account holder and the account number) and the amount held in each account at any point during the period from January 1, 2000 through the date of the accounting. This provision shall continue in full force and effect until further order by this Court and shall not expire.

9. Defendants, their officers, directors, agents, servants, employees, attorneys, and all other persons in active concert or participation with them, including any bank, securities broker-dealer, or any financial or depositary institution, who receives actual notice of this Order by personal service or otherwise, and each of them, are hereby restrained and enjoined from destroying, removing, mutilating, altering, concealing, or disposing of, in any manner, any books and records owned by, or pertaining to, the financial transactions and assets of Defendants or any entities under their control. This provision shall continue in full force and effect until further order by this Court and shall not expire.

10. The United States Marshal in any judicial district in which Defendants do business or may be found, or in which any Receivership Asset may be located, is authorized and directed to make service of process at the request of the Commission.

11. The Commission is authorized to serve process on, and give notice of these proceedings and the relief granted herein to, Defendants by U.S. Mail, e-mail, facsimile, or any other means authorized by the Federal Rules of Civil Procedure.

12. Expedited discovery may take place consistent with the following:

A. Any party may notice and conduct depositions upon oral examination and may request and obtain production of documents or other things for inspection and copying from parties prior to the expiration of thirty days

after service of a summons and the Plaintiff Commission's Complaint upon Defendants.

B. All parties shall comply with the provisions of Fed. R. Civ. P. 45 regarding issuance and service of subpoenas, unless the person designated to provide testimony or to produce documents and things agrees to provide the testimony or to produce the documents or things without the issuance of a subpoena or to do so at a place other than one at which testimony or production can be compelled.

C. Any party may notice and conduct depositions upon oral examination subject to minimum notice of seventy-two (72) hours.

D. All parties shall produce for inspection and copying all documents and things that are requested within seventy-two (72) hours of service of a written request for those documents and things.

E. All parties shall serve written responses to written interrogatories within seventy-two (72) hours after service of the interrogatories.

13. All parties shall serve written responses to any other party's request for discovery and the interim accountings to be provided by Defendants by delivery to the Plaintiff Commission address as follows:

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Fort Worth Regional Office
Attention: David Reece
Burnett Plaza, Suite 1900
801 Cherry Street, Unit #18
Fort Worth, TX 76102-6882
Facsimile: (817) 978-4927

and by delivery to other parties at such address(es) as may be designated by them in writing. Such delivery shall be made by the most expeditious means available, including e-mail and facsimile.

14. Stanford, Davis, and Pendergest-Holt shall surrender their passports, pending the determination of the Commission's request for a preliminary injunction, and are barred from traveling outside the United States.

15. Defendants, their directors, officers, agents, servants, employees, attorneys, depositories, banks, and those persons in active concert or participation with anyone or more of them, and each of them, shall:

(a) take such steps as are necessary to repatriate to the territory of the United States all funds and assets of investors described in the Commission's Complaint in this action which are held by them, or are under their direct or indirect control, jointly or singly, and deposit such funds into the Registry of the United States District Court, Northern District of Texas; and

(b) provide the Commission and the Court a written description of the funds and assets so repatriated.

16. Defendants shall serve, by the most expeditious means possible, including e-mail and facsimile, any papers in opposition to the Commission's Motion for Preliminary Injunction and for other relief no later than 72 hours before any scheduled hearing on the Motion for Preliminary Injunction. The Commission shall serve any reply at least 24 hours before any hearing on the Motion for Preliminary Injunction by the most expeditious means available, including facsimile.

17. Unless extended by agreement of the parties, the portion of this order that constitutes a temporary restraining order shall expire at 5 o'clock p.m. on the 2nd day of March 2009 or at such later date as may be ordered by this Court. All other provisions of this order shall remain in full force and effect until specifically modified by further order of this Court. Unless the Court rules upon the Commission's Motion for Preliminary Injunction pursuant to Fed. R. Civ. P. 43(e), adjudication of the Commission's Motion for Preliminary Injunction shall take place at the United States Courthouse, ~~Northern District of Tex~~ Dallas, Texas, on the 2nd day of March, 2009, at 10 o'clock a.m. 1100 Commerce Street Dallas Texas 75242 (Earl Cabell Bldg).

EXECUTED AND ENTERED at 11:40 o'clock a.m. CST this 16th day of February 2009.

UNITED STATES DISTRICT JUDGE

TAB E

This is Exhibit "E" referred to in the affidavit of Wolfgang Mersch sworn before me, this 13th day of February, 2015

A COMMISSIONER FOR TAKING AFFIDAVITS

CMS Cameron McKenna LLP

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160 Aldersgate Street
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The Toronto Dominion Bank
Global Business Services
222 Bay Street
15th Floor
Toronto, M5K 1A2
Canada

FAO: Mr Geoff Roswell
Cc: Mr Andrew Nicholls

Our Ref: PRW/DAHE/MIT6.22b/101248.00021

22 February 2009

Dear Sirs

Stanford International Bank Limited (receiver-managers appointed) ("SIB")
Stanford Trust Company Limited (receiver-managers appointed) ("STC")

We act on behalf of the receiver-managers (the "Receivers") of SIB and STC, appointed in Antigua and Barbuda, where both SIB and STC are registered. We enclose a copy of the document appointing the Receivers dated 19 February 2009, which was executed by the Antiguan Financial Services Regulatory Commission under section 287 of the Antiguan International Business Corporations Act.

We understand that you hold assets or accounts in the name, or otherwise for the benefit, of SIB. We should be grateful if, as a matter of urgency, you could confirm details of all assets or accounts that you hold for SIB and the balances on those accounts. We understand that as at 19 February 2009, you hold at least four accounts for SIB, the details of which are as follows:

Account No.	Currency	USD Conversion
0360 01 2161573	CAD	1,108,221.92
0360 01 2161670	USD	17,146,696.77
0360 01 2224235	USD	312,794.07
0360 01 2300380	CAD	350,950.04
	Total	**18,918,662.80**

(22680633.01)

Please could you inform us as to the accuracy of this information and whether there are other assets or accounts held with you in the name of SIB. Also, please could you provide us with any information regarding any assets or accounts held in the name, or for the benefit, of STC.

You may be aware that injunctive proceedings have also been initiated in the USA and that the Securities and Exchange Commission has obtained the appointment of a separate receiver to oversee the assets of all Stanford entities. Accordingly, at this juncture, we are solely attempting to identify assets to ensure that they are not dissipated or otherwise jeopardised.

Please also confirm whether there are any liabilities of either SIB or STC to your bank or any of your affiliated companies.

We expect to correspond with you further in the near future in order to confirm instructions, and in the meantime, we look forward to hearing from you with the information requested above.

Yours faithfully

CMS Cameron McKenna LLP

CMS Cameron McKenna LLP

FINANCIAL SERVICES REGULATORY COMMISSION

International Business Corporations Act, Cap.222
APPOINTMENT OF JOINT RECEIVERS-MANAGERS
Stanford International Bank Ltd (SIBL)
And
Stanford Trust Company Ltd (STCL)

I, **PAUL A. ASHE**, Supervisor of International Banks and Trust Corporations of the **FINANCIAL SERVICES REGULATORY COMMISSION** (the Commission) a statutory body, established under the International Business Corporation Act, Cap 222 of the Laws of Antigua and Barbuda as amended (the Act) of Old Parham Road, St. John's Antigua, being the **APPROPRIATE OFFICIAL** responsible for control and regulation of corporations established under the Act, in pursuance of the power conferred on me under Section 287 of the Act, **DO NOW APPOINT PETER WASTELL and NIGEL HAMILTON-SMITH** both of Vantis Business Recovery Services of Torrington House, 47 Holywell, St. Albans, Hetfordshire, England, to be **JOINT-RECEIVERS-MANAGERS** of all the undertaking, property and assets of the Stanford International Bank Ltd (SIBL) and Stanford Trust Corporation Ltd (STCL) upon the terms and with all the powers, duties and liabilities conferred and imposed by the Act or by any other law **PROVIDED ALWAYS AND WITHOUT PREJUDICE TO THE FOREGOING :**

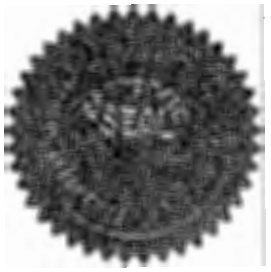
1. The Receiver-Managers shall be deemed to agents of SIBL and STCL; and SIBL and STCL shall be responsible for the remuneration, acts and defaults.
2. The Receiver-Managers shall have the duties and powers previously vested and discharged by the directors of the SIBL and STCL
3. The Receiver-Managers may exercise, perform and discharge their statutory powers, duties and liabilities independently of the other or jointly according to law.

Dated the 19th day of February, 2009

Signed by **PAUL A. ASHE,**)
Supervisor of International Banks and)
Trusts Corporations, the Appropriate)
Official, Financial Services Regulatory)
Commission before and in the)
presence of:-)
)
)

.....
Trevor Mathurin
Deputy Administrator

.....



TAB F

104

This is Exhibit "F" referred to in the affidavit of Wolfgang Mersch sworn before me, this 13th day of February, 2015

A COMMISSIONER FOR TAKING AFFIDAVITS

The Globe and Mail (Canada)

February 20, 2009 Friday

Stanford used TD's banking services

BYLINE: PAUL WALDIE

SECTION: REPORT ON BUSINESS: CANADIAN; FINANCIAL SERVICES; Pg. B1

LENGTH: 721 words

As regulators around the world froze assets belonging to Texas billionaire Allen Stanford, **Toronto-Dominion Bank** has emerged as a significant player in Mr. Stanford's far-flung financial empire that is now under investigation by the U.S. Securities and Exchange Commission.

The SEC has alleged that Mr. Stanford's financial group orchestrated an $8-billion (U.S.) fraud. Mr. Stanford had not been seen since the SEC filed civil charges Tuesday in a Texas court. He was located yesterday in Virginia by the FBI, which served him with papers.

Court filings indicated that TD was one of three banks that provided financial services to Stanford International Bank Ltd. (SIB) and show that at one point in 2006, Stanford's entities had more than $160-million in various TD accounts.

"We have been contacted by regulatory authorities and although there are no allegations of wrongdoing on the part of TD, we are, of course, co-operating fully," TD spokeswoman Julia Koene said yesterday.

SIB is at the centre of Mr. Stanford's global financial empire. The Antigua-based bank has 30,000 clients in 131 countries and offices around the world, including one in Montreal.

"Cash sits at three correspondent banks," said one SIB document dated 2005. Correspondent banks generally perform banking operations for small foreign banks. Those listed in the court filing were TD, HSBC in Europe and National Republic in the United States. The document added that "most money flows through TD."

Court filings also showed that the Stanford group had $10.1-million invested through TD Asset Management in 2004. It was one of many investment firms that had a relationship with Stanford.

Others included Lehman Brothers, Refco and several Swiss firms.

Ms. Koëne confirmed that TD is "one of the banks that provide cash management services to Stanford and we do manage a small investment account on their behalf. We do not distribute any of the Stanford Group investment products and therefore none of our clients have been impacted through their relationship with TD."

She added that "the total amount Stanford has in accounts and investments with TD is significantly less than $50-million (Canadian) and has no material impact to TD."

Among the hundreds of documents filed was a list of responses SIB employees were to give to questions from customers. The response to the question: "How do you achieve your returns?" included telling clients that the bank had "20 plus advisers primarily located in Europe and Canada."

If asked: "Will the bank name any of the advisers?" the response was: "We can mention adviser relationships but generally do not [name individuals] in order to protect their privacy ... [We] will occasionally mention adviser if client pushes enough - for example, Soc Gen., CSFB or TD. Can mention correspondents bank relationships - HSBC (euro and pound) and TD (U.S.)."

It is not clear how many clients SIB had in Canada, but one SIB document listed "deposits classified by country of depositor and currency" as of the end of 2006. According to that filing, Canadian depositors accounted for $33.5-million (U.S.). That compared with more than $1-billion in each of Antigua, Venezuela and the U.S. and more than $700-million in Mexico. Other countries listed included Ecuador, Panama, Colombia, Switzerland, Britain, Haiti and Libya.

Regulators in several countries have begun freezing the assets of SIB and other Stanford companies after clients rushed to withdraw money. Mr. Stanford lives mainly on the island of St. Croix in the U.S. Virgin Islands and had extensive business interests in Antigua.

Another list of questions and answers filed in court contained this question: "What is in place to prevent fraud and/or Mr. Stanford from running off with all the money?" The answer: "Regulatory oversight ... Too many checks and balances ... Too many years, too much history. Stanford has been in business for 70 years, it's [not] likely that all of a sudden he would up and vanish." Last night. Mr. Stanford's father, James, who is also a director of SIB, said he hadn't heard from his son in days, and dismissed the allegations.

"I don't believe it," the elder Stanford said from his home in Mexia, Tex. "I can't really think that [he's] done anything crooked like the SEC is alleging. Anyway, we shall see."

LOAD-DATE: February 20, 2009

LANGUAGE: ENGLISH

GRAPHIC: Illustration

Stanford used TD's banking services The Globe and Mail (Canada) February 20, 2009 Friday

PUBLICATION-TYPE: Newspaper

The Globe and Mail (Canada)

February 19, 2009 Thursday

HOW A HIGH-FLYING TEXAS BUSINESSMAN CAME TO HAVE CANADIAN CONNECTIONS;

As allegations surface, worried investors besiege Allen Stanford's Montreal office

BYLINE: SINCLAIR STEWART, PAUL WALDIE AND BERTRAND MAROTTE, With files from reporter Kevin Carmichael in Ottawa and wire news services

SECTION: REPORT ON BUSINESS: INTERNATIONAL; SECURITIES PROBE; Pg. B1

LENGTH: 1179 words

DATELINE: NEW YORK, TORONTO, MONTREAL

A week before Christmas in 2002, Texas billionaire Allen Stanford arrived in Montreal to burnish his credentials as a high-living, high-flying investment executive. He had ordered a Global Express 9100 jet from Bombardier - the 100th that had been sold - and to mark the occasion, executives presented the aircraft to him during a private ceremony at the company's completion centre.

He returned to the city two years later, only this time it was to open a swank satellite office for his Antigua-based financial outfit, **Stanford International Bank.** The five-person operation, headed by former Royal Bank of Canada manager Alain Lapointe, promoted the attractive returns offered by Stanford's offshore investments.

Yesterday, customers of the Montreal office were among thousands around the globe who descended on the bank's far-flung branches in a panic, demanding answers - not to mention a return of their money - amid allegations that Mr. Stanford masterminded an $8-billion (U.S.) investment fraud.

At Stanford International's representative office on the 30th floor of the Montreal Trust tower, a distraught customer admitted that, before the scandal broke, he wondered whether the terrific returns were too good to be true.

But he said he was swayed by explanations that the bank benefited from significant tax breaks as an offshore operation.

"Now, with what I've been hearing, I'm wondering if the investments [Stanford] made are legitimate," said the client, who did not want to be identified. After trying to contact Mr. Lapointe on his cellphone, the customer dropped off some papers and left.

A woman in Stanford's offices confirmed Mr. Lapointe was in, but said he wasn't available to comment on the controversy.

Mr. Lapointe, who also worked at Laurentian Bank and Computershare before joining Stanford, received his MBA from HEC-Montreal, the University of Montreal's business school.

In 2004-2005, Mr. Lapointe, a director of the HEC alumni association, helped its class of '85 graduates raise $50,000 for the school, and last September, he helped organize a golf fundraiser. There is speculation in local circles that some of HEC's close-knit alumni populated the Stanford client list, but school spokeswoman Kathleen Grant declined to comment, other than to say "he is someone who is very devoted to the school."

The whereabouts of Mr. Stanford, or "Sir Allen" in Antigua, where he became the first American citizen to receive a knighthood, remains a mystery. One report suggested he attempted to fly from Houston to the small Caribbean island by private jet, but abandoned the plan after his credit card was refused by the aircraft's operator.

Once described as "haughty, arrogant and obnoxious" by Antiguan Prime Minister Baldwin Spencer, Mr. Stanford is America's 205th-richest man according to Forbes magazine, which values his personal worth at approximately $2-billion.

He is both a divisive and colourful character in his adoptive home of 70,000 people, where some residents continued to voice their support for him yesterday, noting he is one of the island's economic linchpins - not to mention one of its quirkier citizens. He once transported a wounded, bleeding priest on his private plane and claimed he received a "life-changing" surge when the two touched heads.

Back in the United States, Mr. Stanford stirred controversy by claiming family ties to Leland Stanford, who founded Stanford University in the 1890s. The university says there is no genealogical connection between the two and sued Stanford Group in October for infringing on its trademark.

Mr. Stanford owns Antigua's largest newspaper and operated a pair of Caribbean airlines, which were customers of Bombardier.

He is also a major sponsor of several sports, including polo, yachting, soccer, golf and cricket. Last year he underwrote a $1-million-per-player cricket tournament in Antigua, but also created a stir when he reportedly flirted with the wives of English cricketers. He was also supposed to back a cricket tournament in Quebec this summer, but that plan is now up in the air following allegations

by the U.S. Securities and Exchange Commission.

On Tuesday, the regulator accused him of promising "improbable, if not impossible" returns on a type of security known as certificates of deposits. The SEC said that instead of putting these assets into transparent, liquid investments, the money was placed into a "black box." The allegations stretch back a decade, and receivers are now attempting to account for the approximately $8-billion worth of CDs purchased by investors.

Officials in many Latin American countries are now scrambling to calm nervous investors amid potential runs on the bank. Hundreds lined up outside the flagship branch in Antigua trying to get their money out, and similar consternation played out in Venezuela, Colombia, and Peru. Panamanian authorities, meanwhile, seized Stanford's operation there because of "massive withdrawals."

Stanford was able to set up a storefront in Canada under provisions in the Bank Act dating back about three decades that allow international lenders to promote their services, provided they don't accept deposits. Stanford International Bank Ltd. is one of 32 "foreign bank representative offices" in Canada that are overseen by the Office of the Superintendent of Financial Institutions (OSFI), which is now looking into the company.

While it is difficult to assess how much money Canadian investors poured into Stanford, it is clear the company did have established relationships here.

According to documents filed by the SEC in a Texas court, Toronto-Dominion Bank and TD private client services had some involvement with Stanford International Bank.

Mark Zarich, who was at Stanford for nearly 10 years and ran the firm's investment advisory group, told SEC lawyers in January that client money was deposited into three banks around the world.

"I know HSBC was one of them," Mr. Zarich said according to a transcript filed in court. "Toronto-Dominion was another, and I think there was a third in the States."

SEC lawyers then handed Mr. Zarich a document that read: "Cash sits in three correspondent banks: TD, Toronto-Dominion, HSBC and National Republic."

He confirmed the list and added that the HSBC bank was in London and the National Republic branch somewhere in the United States.

Mr. Zarich also quoted from an internal document that indicated the company had several advisers in Canada. Stanford International "utilizes 20 plus advisers primarily located in Europe and Canada."

A spokesman for TD said that the bank does not distribute any Stanford products and that none of its customers have been affected. She said the bank would co-operate with any investigation, but

declined to comment on any matters being probed by regulators.

According to their biographies, three managers at Stanford's Antigua headquarters formerly worked for the Bank of Nova Scotia, but a spokesman for the bank, which has extensive operations in the Caribbean, was unable to confirm this.

LOAD-DATE: February 19, 2009

LANGUAGE: ENGLISH

GRAPHIC: Illustration

PUBLICATION-TYPE: Newspaper

The Globe and Mail (Canada)

February 26, 2009 Thursday

Stanford's movers and shakers; Advisory board membership reflected alleged fraudster's penchant for name-dropping

BYLINE: PAUL WALDIE

SECTION: REPORT ON BUSINESS: INTERNATIONAL; FINANCIAL SERVICES: EMPIRE-BUILDING; Pg. B7

LENGTH: 799 words

When Luis Giusti met Allen Stanford a few years ago in Houston, he was so impressed that he joined the advisory board of Mr. Stanford's company, **Stanford Financial Group.**

Mr. Stanford was "a very energetic guy," recalled Mr. Giusti, a Washington-based energy consultant and the former chief executive officer of Venezuela's state oil company, Petroleos de Venezuela SA. "He looked like, at that time, a good leader of his people."

Mr. Giusti was one of several high-profile people Mr. Stanford attracted to the advisory board as he expanded his operations around the world, including into Canada. Others included Peter Romero, a former U.S. ambassador to Ecuador; Adolf Ogi, former president of Switzerland; Jorge Castaneda, former secretary of state of Mexico; Alfredo Arízaga, former minister of finance of Ecuador; and Lee Brown, former mayor of Houston and drug czar during the Bill Clinton administration. A senior portfolio manager at Toronto-Dominion Bank's TD Asset Management also served on the board, according to documents filed in court, and Courtney Blackman, a former diplomat in Barbados, was on the corporate board.

Now, with Mr. Stanford under investigation by the U.S. Securities and Exchange Commission over allegations of an $8-billion (U.S.) fraud and regulators closing down his operations, some board members are distancing themselves from the company. Mr. Ogi resigned his post this week, saying through a spokesperson that he did not "want to be involved in any legal case involving a financial scandal." Others declined comment when contacted.

Mr. Giusti said he was shocked by the SEC allegations and he is worried about his investments with Stanford, which had 30,000 clients in more than 100 countries.

"This has been an unpleasant surprise for us. I wish the best for the clients," he said. "It's a very sad story."

Mr. Giusti stressed the advisory board did little actual work and had no role in investment decisions. "During my eight years the so-called board met only three times, and we simply listened to presentations from guests about topics of general interest," he said. "It really didn't function as a board."

His job consisted of giving occasional speeches to Stanford investors about the oil industry and he said many of the other board members did nothing. Mr. Stanford just wanted to use their names to open doors in various countries, he added. For the most part it worked. Stanford Financial has several offices in Mexico, Ecuador, Venezuela and throughout the Caribbean, as well as a large staff in Zurich.

Mr. Stanford wasn't shy about dropping names or pushing connections to high-profile people in business, sports and politics. When Mr. Ogi joined the advisory board in 2008, Mr. Stanford issued a press release quoting Mr. Ogi as saying "I am proud to be involved with a financial services group which also understands the importance of improving communities through sport and philanthropy."

He has also proudly touted an award he received from the Inter-American Economic Council in 2006 during a ceremony hosted by then U.S. president George W. Bush, as well as his numerous political connections.

"Politics is a game with him and that's what it was all about," Mr. Stanford's father, James, said in a recent interview.

In Canada, Mr. Stanford claimed Pierre Beaudoin, head of Bombardier Inc., suggested he open an office in Montreal for Stanford International Bank, a key part of his empire (Bombardier officials have played down Mr. Beaudoin's role).

The Montreal office - which was shut down earlier this week and is in receivership - was also used to promote Mr. Stanford's public policy initiatives. It hosted a working lunch last year whose topic was the global role of the big emerging economies such as Brazil, India and China, according to Alain Lapointe, the head of the Montreal operations.

Joanne Thornton, a senior vice-president at the Stanford Washington Research Group in Washington, confirmed that she came up to Montreal to make a presentation at the luncheon last year. But she declined to discuss any other details about the group's activities or its current relationship with Stanford Financial.

Stanford Financial acquired Washington Research Group in 2005. In a news release at the time, Stanford Financial said it planned to stage an institutional policy conference with former U.S. secretary of state Colin Powell.

Stanford's movers and shakers; Advisory board membership reflected alleged fraudster's penchant for name-dropping
The Globe and Mail (Canada) February 26, 2009 Thursday

Mr. Stanford is quoted in the news release as saying: "At a time when much of the securities industry is scaling back its commitment to research, the launch of the Stanford Washington Research Group is a key component of our strategy to aggressively build our research capabilities for the long term and invest in new service offerings."

with files from reporter Bertrand Marotte in Montreal

LOAD-DATE: February 26, 2009

LANGUAGE: ENGLISH

GRAPHIC: Illustration

PUBLICATION-TYPE: Newspaper

The Globe and Mail (Canada)

February 25, 2009 Wednesday

How Allen Stanford's Canadian conduit grew

BYLINE: BERTRAND MAROTTE AND PAUL WALDIE

SECTION: REPORT ON BUSINESS: CANADIAN; FINANCIAL SERVICES; Pg. B1

LENGTH: 841 words

DATELINE: MONTREAL and TORONTO

Allen Stanford's journey into Canada began seven years ago with a meeting involving Pierre Beaudoin, then president of Bombardier Aerospace, and it wasn't long before Canada became a key part of Mr. Stanford's global financial empire.

That empire is now crumbling amid an investigation launched by the U.S. Securities and Exchange Commission, which alleged Houston-based Stanford Financial Group orchestrated an $8-billion (U.S.) fraud. Mr. Stanford, a Texas billionaire, has not responded to the civil charges but regulators around the world, including in Canada, have shut down his operations and investors have gone to court in an attempt to recover something.

A Globe and Mail interview with Mr. Stanford's representative in Canada, Alain Lapointe, and court filings reveal the scope of Mr. Stanford's Canadian connection and the role Bombardier Inc. and **Toronto-Dominion Bank** played in helping build Stanford's various holdings including Antigua-based Stanford International Bank (SIB).

TD provided banking services for most of its North American operations and handled some investments, according to documents filed in court. The filings stated SIB had three correspondent banks to handle financial transactions - TD, HSBC in Europe and National Republic in the U.S. - but "most money flows through TD."

A senior portfolio manager from TD Asset Management, Perry Mercer, also sat on an advisory board for SIB.

Along with Mr. Mercer, others on the board included former U.S. ambassador Peter Romero, and Luis Guisti, the former head of Venezuela's state oil company. It's not clear when Mr. Mercer sat on

the board or how long he remained. He was unavailable for comment.

The Canadian venture started with a meeting in 2002 between Mr. Stanford and Mr. Beaudoin in Montreal. Mr. Stanford was picking up a new Bombardier Global Express 9100 and the company held a small celebration. But according to Mr. Lapointe, the conversation turned to other opportunities.

"[Mr. Stanford] said it was Pierre Beaudoin who played the role of ambassador, who told him that if he was looking to open a Canadian office, to come to cosmopolitan, international Montreal," Mr. Lapointe said yesterday.

Mr. Stanford replied by saying, "It's a deal," according to Mr. Lapointe.

Bombardier spokesman John-Paul Macdonald confirmed the meeting took place, but he said it was a brief exchange. Mr. Stanford asked if Montreal was a good place to business and Mr. Beaudoin replied, "as he does to all Bombardier's international customers, that it is a wonderful place to do business," Mr. Macdonald said.

Mr. Beaudoin, now the president and CEO of Bombardier, recalled being pitched by some of SIB's staff in the Montreal office at a later date, Mr. Macdonald said. "It was done as a courtesy because Stanford was a client," he said.

"But nothing ever transpired."

The meeting left such an impression on Mr. Stanford that he mentioned it during the official opening of SIB's representative office in Montreal in 2005.

By then, Mr. Stanford was on the way to acquiring a handful of Bombardier turbojets for a small Florida-based airline he'd launched called Caribbean Star. Some of the initial financing for the airline came from TD Bank, which extended a $4.8-million letter of credit to Caribbean Star in 2001. The airline and another Stanford air venture called Caribbean Sun were taken over in 2007 by LIAT Ltd., which is controlled by a group of Caribbean governments.

TD spokeswoman Julia Koene declined to comment on the specifics of the bank's relationships with SIB and said the bank is co-operating with the investigation.

"As we've said, we are one of the banks that provide cash management services to Stanford and we manage a small investment account on their behalf," she said. "We do not distribute any of the Stanford Group investments products and therefore none of our clients have been impacted through their relationship with TD ... There is no allegation of any wrongdoing on the part of TD or any of its employees."

Yesterday Mr. Lapointe, 59, said he was as shocked as anyone when the allegations against Mr. Stanford's financial group surfaced last week.

"I'm angry. I'm insulted," he said of the claims, hastening to add that no wrongdoing has been alleged against the Montreal satellite office - which was placed in receivership on Monday, along with SIB.

He declined to provide details about how many clients the Montreal office has or the estimated value of the assets. But he said it strictly followed the rules for operating a representative office of a foreign bank in Canada, doing only promotion for SIB products and services in Canada but not taking deposits or doing any kind of transactions.

He said the paperwork to register from the Office of the Superintendent of Financial Institutions was done by Terry Didus, a partner in the law firm of Heenan Blaikie, whom he knew from his days as an executive with Computershare Trust Co. of Canada, formerly Montreal Trust.

Mr. Didus was not available to comment yesterday.

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LANGUAGE: ENGLISH

GRAPHIC: Illustration

PUBLICATION-TYPE: Newspaper

TAB G

Communication to Creditors
Stanford International Bank Limited (in Liquidation)

As we have published and advised all creditors who have filed claims in the estate, on May 12, 2011 we were appointed Joint Liquidators of Stanford International Bank (the Bank) in substitution for Messrs. Nigel Hamilton-Smith and Peter Wastell, by the High Court of Antigua. The High Court has jurisdiction over the Bank as a company incorporated and regulated under the statutes of Antigua, and specifically the International Business Corporations Act, Cap. 222.

Since then we have been heavily involved in reviewing the affairs of the estate, assessing what needs to be done, meeting with key counterparties and obtaining an initial overview of the legal proceedings in which the estate has been involved. The former liquidators of the estate have cooperated fully with the transition and have made members of their staff available to us. We have also been in contact with the US Department of Justice ("DoJ"), the US Receiver and the Creditors' Committee for the US Receivership, with a view towards meeting with them once we have a better understanding of the issues between them and the SIB Liquidation in Antigua.

Our objective has been to determine in the quickest time possible how the financial interests of the account holders, CD holders, and general creditors (collectively the "Creditors") of the Bank are best served.

SIB Monies held in the UK, Switzerland and Canada

As you are likely aware the DoJ has sought through various treaties to obtain a criminal forfeiture of monies of Stanford International Bank in the UK, Switzerland and Canada. These monies have been frozen, and the actions for forfeiture are well advanced and require urgent attention. We have had discussions with the Serious Fraud Office in the UK, the Prosecutor and Bankruptcy Trustee in Switzerland, and officers of the Attorney General of the Province of Ontario, Canada. We have also approached the DoJ with a view to meeting with them to discuss their intervention and the best means of resolving the issues. The Joint Liquidators consider that, given the Antiguan estate has been recognized by the relevant Courts and the liquidation provides a transparent and predictable method of distributing funds to Creditors, the most appropriate recipient for these funds would be the Joint Liquidators as officers of the Court.

While we would very strongly prefer not to litigate further with respect to these funds as enough has been spent already, we believe that as Joint Liquidators of the Bank, who are answerable to its Creditors, these matters need to be fully aired and understood, before deciding what is in the Creditors' best interests.

Real Property

A substantial portion of the funds raised from the account holders and depositors of the Bank was used to invest in real property in and around Antigua. Some of this exists in the various buildings around the airport in Antigua, much of which is completed and occupied,

but an even greater part of the value is in undeveloped lands. There are also properties under development that need some work to complete.

These holdings are extensive and it is likely their value can be greatly enhanced if they are brought to market in an orderly manner over a period of time. The other option is an immediate sale, which given our understanding of the current market for development lands across the Caribbean is likely to yield far less than their fair value, assuming a buyer can be found in the present market. Further, these undeveloped lands represent a significant source of future income and employment in which the Government of Antigua has a real interest over which they can exercise various regulatory controls. They will need to be part of the sale process, and the Liquidators will have to work with them with an appropriate program for their packaging, international marketing and sale.

We are consulting with the property advisors to the former Joint Liquidators to determine a possible range of values for the real property, and will provide an update for creditors in due course.

Other Rights and Claims

The Joint Liquidators and their legal counsel are looking into possible causes of action that may give rise to a right to recover monies or assets on behalf of the estate, so that we can prioritize a program of examination of the most likely routes for financial recovery to the estate for its Creditors.

Creditors' Committee

The International Business Corporations Act (Antigua and Barbuda) does not mandate a creditors committee to provide advice and assistance to the Joint Liquidators. However we recognize that the Creditors of the Bank are the ultimate stakeholders with the economic interest in the outcome of the Liquidation. We therefore propose to establish an *ad hoc* Creditors' Committee.

Usually such a Committee is made up of individual creditors representing a broad cross-section of the creditor body as a whole. Where there is a statutory obligation for a committee this is usually limited to five (5). This is reflected in the law of Antigua with respect to the winding up of domestic companies, and for example is consistent with the corporate winding statutes in the UK, Canada and Barbados. It is in our experience preferable to restrict membership to individuals rather than non-creditor agents who do not have a direct financial interest in the outcome. Further, statutorily constituted committees have a duty of confidentiality, and may not do business with the estate or make any economic gain from dealings with the estate other than through a right to seek reimbursement of out of pocket costs for attending meetings. We would insist on these same requirements for our Committee.

This Committee will provide input and advice to the Joint Liquidators on all the major decisions that face the on-going administration of the estate, including positions to take with respect to the frozen funds, the process of assembling, packaging and marketing the real

property to maximize value, and what other actions to take to recover property or assert liability and recover value for the estate and its creditors.

We are presently looking at how the creditor body is constituted geographically, and by size of exposure to loss. It is our intention in the next two weeks or so to invite persons who in our view represent both large and small creditors in each major jurisdiction to participate on a Creditors' Committee. While we would prefer to limit the size to five in line with most statutorily constituted committees, we are prepared to consider one or two additional members if required to ensure inclusion from the important demographics.

Financial Issues

The liquidation estate at present has virtually no funds, and has payment obligations that exceed those funds available. It is apparent that the Liquidation requires adequate funding to perform any of its statutory functions, such as the claims adjudication process, the recovery and realisation of the assets of the Bank, and compliance with the Order of the Court appointing us to office. It is also our preliminary view, formed with the assistance of local real estate advisors to the former Liquidators, that the value of the estate's lands can be greatly enhanced with a methodical approach to their sale, and potentially some modest investment. Clearly any efforts to pursue recoveries of presently hidden assets or claims will require funding. As noted above we will look to the Creditors' Committee for input into the appropriate use of estate funds, and would expect that this would involve substantive analysis of the costs and potential benefits of such expenditures prior to embarking on them.

Presently there are almost no liquid assets in the Liquidation and without them the prospects for the estate to generate the maximum potential recoveries are severely limited.

However the professional team who acted to remove the previous Joint Liquidators from office recognized that the estate was severely hampered by lack of funds. Accordingly, they spent the better part of a year locating and negotiating with various funds to procure a lending package that could be taken up by the Liquidators if they considered it acceptable. The need for this funding was recognized in principle by the Court in its Order replacing the former Joint Liquidators, which has instructed the Liquidators to consider the offer and report back to Court.

Since our appointment we have examined this financing proposal and have sought various amendments from the funders from the original proposal. The lending terms involve the funders being at risk on the monies extended, with their return based on asset realisations rather than a straight loan. We have yet to finalise our recommendation to the Court on the funding package offered, which in any event would be subject to due diligence by the funders and review and approval by the Court in Antigua.

Return to Creditors

At this point we have been involved in the estate for approximately three weeks, and it is not yet possible for us to make any informed judgment as to the likely recovery to Creditors.

However it is clear that access to funding will open the door to greatly improved prospects in accessing the underlying value in the real property. Failure to fund the estate will very likely result in a very poor return to Creditors as the probable recoveries will be limited to real property sold on a liquidation basis. Without funding or realizable assets there is no prospect at all of tracing potentially hidden assets, nor pursuing claims against third parties who have contributed to the losses facing creditors.

To have access to the Bank's own funds presently frozen by the criminal forfeiture proceedings would generate a considerable value to the estate in terms of allowing additional recovery and asset realisations to maximize recoveries, in addition to ensuring the seized funds are used in the interests of those creditors from whom they were originally taken. We hope to meet with DoJ to understand the reasoning behind their approach and see if a compromise can be reached which will allow the estate to go forward with its own funds, and therefore maximise returns to Creditors.

Once the Joint Liquidators have a more detailed understanding of the assets of the Bank, the position being adopted by the DoJ and the availability of financing we will provide creditors with an update including our best estimate of the financial position of the estate and the potential for a dividend to creditors.

Marcus Wide **Hugh Dickson**
Joint Liquidators

TAB H

ORIGINAL

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
APR 20 2009
CLERK, U.S. DISTRICT COURT
By Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re	Chapter 15
Stanford International Bank, Ltd.,	Case No. 09-______ (____)
Debtor in a Foreign Proceeding.	3-09CV0721-N

DECLARATION OF NIGEL HAMILTON-SMITH
IN SUPPORT OF THE PETITION FOR RECOGNITION OF A FOREIGN
MAIN PROCEEDING PURSUANT TO CHAPTER 15 OF THE BANKRUPTCY CODE

1. I, Nigel Hamilton-Smith, am making this declaration in support of the Official Form Petition and the Petition for Recognition of a Foreign Main Proceeding Pursuant to Chapter 15 of the Bankruptcy Code (the "Petition")[1] in accordance with section 1515(c) of title 11 of the United States Code (the "Bankruptcy Code") and Rule 1007(a)(4) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"). As explained below, my colleague, Mr. Peter Wastell, and I (the "Foreign Representatives") were appointed as Joint Receivers-Managers for Stanford International Bank, Ltd. ("SIB" or the "Debtor") and Stanford Trust Company Ltd ("STCL") by the Supervisor of International Banks and Trust Corporations in Antigua on February 19, 2009 and, following the institution of liquidation proceedings for SIB, as liquidators for SIB. SIB is a private international bank chartered under the laws of Antigua and Barbuda and domiciled in St. John's, Antigua, West Indies.

2. As explained below, through my extensive work as a Joint Receiver-Manager of SIB, I have become familiar with the Debtor's day-to-day operations,

This is Exhibit "H" referred to in the affidavit of Wolfgang Mersch sworn before me, this 13th day of February 2015
A COMMISSIONER FOR TAKING AFFIDAVITS

[1] Capitalized terms not otherwise defined herein shall have the meaning given to them in the Petition.

assets, financial condition, business affairs and books and records. Except as otherwise indicated, all facts set forth in this Declaration are based upon: (a) my personal knowledge; (b) my review of relevant documents; (c) information supplied to me by other members of the Vantis Business Recovery team, the Debtor's remaining employees or other professionals retained to assist in identifying, securing and preserving the Debtor's assets and books and records; or (d) my opinion based upon my experience and knowledge of the Debtor's operations and financial condition. If I were called upon to testify, I could and would testify competently to the facts set forth herein.

Background and Qualifications

3. I have been practicing as a licensed Insolvency Practitioner in the accounting firm Vantis Business Recovery Services ("Vantis Business Recovery") of Torrington House, 47 Holywell Hill, St. Albans, Hertforshire, England and its predecessor firms since 1986. Mr. Peter Wastell is also a partner of Vantis Business Recovery and has been practicing as a licensed Insolvency Practitioner since 1999, and involved in full time insolvency work since 1990.

4. Vantis Business Recovery is a division of Vantis plc, the UK accounting, tax and business advisory group, and is a top ten provider of business recovery services in the United Kingdom. Vantis Business Recovery has extensive experience providing recovery services to banks, and has over 1,000 staff in the United Kingdom and access to additional resources through its membership in the HLB International network, which is one of the largest global networks of independent accounting and consulting firms.

5. Vantis Business Recovery and its professionals have extensive experience in cross-border insolvencies. The firm has undertaken cross-border restructurings as Chief Restructuring Officer for businesses based in France, Germany, Belgium and Hungary,

has conducted cross-border forensic investigations relating to the recovery of assets in numerous jurisdictions, including the United States, the Channel Islands, Mauritius, Panama, Guatemala and Spain, and has dealt with the disposal of subsidiary businesses in India, Hong Kong, Singapore, Azerbaijan, Costa Rica, Peru and Romania, among others. Currently, Vantis Business Recovery is working with the United States Department of Justice Eastern District of Missouri (the "DOJ") in respect of BetonSports, a U.K.-based PLC for which Mr. Wastell and I have been appointed liquidators and for which the DOJ has frozen funds in Switzerland, New Jersey and Lichtenstein. Vantis Business Recovery is a member of the Group of 36, the policy committee of INSOL International, a global federation of associations of lawyers and accountants who specialize in turnaround and insolvency work.

6. Additionally, Mr. Wastell and I have previous experience coordinating a complex Antiguan liquidation: BetonSports (Antigua) Limited ("BetonSports"), an affiliate of the U.K.-based entity referenced above. Mr. Wastell and I were appointed as Receivers-Managers of BetonSports in September 2007 and subsequently as liquidators in February 2008. BetonSports had approximately 87,000 creditors and assets located in various jurisdictions throughout the world, including the United States, Germany and South Africa. This assignment required the team from Vantis Business Recovery to work on site in Antigua on a number of occasions, and we became familiar with the Antiguan liquidation process and the issues that are likely to arise.

Appointment as Receiver-Managers and Foreign Representatives

7. I understand that on February 16, 2009, the Securities and Exchange Commission (the "SEC") filed a Complaint (the "Complaint") in the United States District Court for the Northern District of Texas (the "U.S. District Court"), naming SIB, certain affiliated companies, R. Allen Stanford, James M. Davis and Laura Pendergrest-Holt as co-

defendants (collectively, the "Defendants"), and alleging certain violations of Federal securities laws. Generally, the SEC asserted that the Defendants perpetrated a massive and ongoing fraud through the sale of SIB certificates of deposit. In the Complaint, the SEC sought certain emergency relief, including the freezing of the Defendants' assets and the appointment of a temporary receiver to marshal and preserve the funds and assets of the Defendants for the benefit of investors.

8. Based on the Complaint, on February 16, 2009, the U.S. District Court (Judge Godbey) entered (i) the Temporary Restraining Order, Order Freezing Assets, Order Requiring an Accounting, Order Requiring Preservation of Documents, and Order Authorizing Expedited Discovery (the "TRO"), and (ii) the Order Appointing Receiver. Among other things, the TRO denied SIB access to its bank accounts and prevented SIB from continuing its investment operations. Pursuant to the Order Appointing Receiver, the U.S. District Court appointed Ralph S. Janvey of Dallas, Texas as the receiver for the Defendants (the "U.S. Receiver"), and issued an injunction that, among other things, prohibited the Defendants and their agents, officers and employees from filing any proceeding "initiated pursuant to the United States Bankruptcy Code, except with the permission of" the U.S. District Court.

9. Following the action taken by the SEC, a large number of certificate of deposit holders sought to withdraw their funds from SIB. In response, the Financial Services Regulatory Commission (the "FSRC") issued an order appointing me and Mr. Peter Wastell as Joint Receivers-Managers of all the undertaking, property and assets of SIB and STCL and granting us "all the powers, duties and liabilities conferred and imposed by the [IBCA]," including "the duties and powers previously vested and discharged by the directors of the [SIB] and STCL." The FSRC is a statutory body established under the International Business

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Corporation Act, Cap. 222 of the Laws of Antigua and Barbuda, as amended (the "IBCA"), to, among other things, provide certain oversight to international bank and trust companies domiciled in Antigua. We have exercised those powers and managed the affairs of both entities since the FSRC appointed us as Joint Receivers–Managers on February 19, 2009. A true and correct copy of the FSRC's instrument of appointment is attached hereto as Exhibit A.

10. On February 26, 2009, the Eastern Caribbean Supreme Court in the High Court of Justice, Antigua and Barbuda (the "Antigua Supreme Court"), on application by the FSRC, ordered the appointment of me and Mr. Wastell as Joint Receivers-Managers of SIB and STCL pursuant to Section 220 of the IBCA with such powers as the Court may determine. A true and correct copy of the February 26, 2009 Order of the Antigua Supreme Court (the "Supreme Court Order") is attached hereto as Exhibit B. The Antigua Supreme Court, among other things, ordered the Liquidators to:

- "take immediate steps to stabilize the operations of [SIB and STCL]" (Supreme Court Order ¶ 5);
- "execute their duties in accordance with the [IBC] Act and otherwise only in accordance with this order and the directions of the Court" (*Id.* ¶ 6);
- "take into their custody and control all the property, undertakings and other assets of [SIB and STCL] pursuant to Section 221 of the [IBCA] " (*Id.* ¶ 9); and
- "open and maintain bank accounts within the jurisdiction or in such jurisdictions as they consider appropriate in their names as Joint Receiver-Managers of [SIB and STCL]" (*Id.* ¶ 10).

11. Pursuant to our appointment as Joint Receivers-Managers, we, and a team from Vantis Business Recovery, have been based at SIB's headquarters in St John's, Antigua since February 20, 2009. We have undertaken an enormous amount of work in that time and have gained a deep understanding of SIB's business, its assets, its liabilities and its customers

from our analysis of SIB's records, computer systems and IT databases, and our interviews of key members of SIB's staff.

12. Specifically, we have had a number of meetings with SIB's staff to identify the nature of SIB's activities and its interaction with other Stanford companies and operations it conducted in other parts of the world. We have reviewed a substantial volume of records held by SIB to obtain information about the deposits taken from clients and investments made by SIB.

13. We have been carrying out investigations to identify assets held by SIB, including cash balances, investment assets and non-investment assets. The investigation has involved not only analyzing SIB's records but also communications with approximately 68 financial institutions and companies to obtain confirmation as to the cash, bonds, equities and other investments they are holding on behalf of SIB. We have also communicated with regulators in Ecuador, Columbia, Canada and Mexico and the lawyers acting for the U.S. Receiver about the relationship between SIB and other entities in the Stanford group.

14. Additionally, we have been carrying out a forensic investigation to seek to identify claims and recover assets from other entities for the benefit of SIB's creditors, including an investigation into funds that Stanford obtained via SIB that were used to fund a number of entities in Antigua and an investigation into hundreds of millions of dollars in commissions and management fees paid by SIB.

15. We have put in place appropriate arrangements to ensure communication with SIB's more than 27,000 clients, including by way of press releases, websites, re-opening of SIB's telephone lines, opening email communication channels for investors, producing statements of accounts for them and holding daily meetings. We have handled more than

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13,500 investor inquiries and processed more than 3,000 change of address forms. We have also gathered information relating to the 3,500 credit cards issued by SIB and are in the process of producing revised statements for those credit card holders.

16. Additionally, we sent a team of accountants and specialist IT technicians to SIB's sales office in Montreal, Canada to dismiss staff, deal with local legal issues in conjunction with local legal counsel, and ensure that all files and paperwork have been stored and IT equipment has been imaged and safe-guarded. We are currently arranging for the sale of assets located in the Canada office, which are limited to office and IT equipment. In the course of dealing with SIB's assets in Canada, the Foreign Representatives were recognized by the Superior Court in Quebec for the District of Montreal, which granted the Foreign Representatives the power to take custody and control over SIB assets in Canada, and acted to terminate the Montreal lease.

17. Our information technology advisors have made significant progress in developing an on-line claims management system that will be used to process claims from various creditors of SIB. The on-line system will allow us to issue all creditors a unique registration number and will provide various security checks relating to, among others, account numbers, passwords and digital signatures. At the same time, we have preserved all physical records to allow for necessary cross checking to prevent against fraudulent claims.

18. After conducting a preliminary investigation in accordance with the authority granted by the Antigua Supreme Court, Mr. Wastell and I determined that SIB was insolvent and incapable of being reorganized. Accordingly, the FSRC applied to the Antigua Supreme Court and recommended that SIB be placed into immediate liquidation (the "Application for Liquidation"). The U.S. Receiver intervened in that proceeding and,

among other things, requested that the Antigua Supreme Court appoint him as liquidator instead of me and Mr. Wastell. The Antigua Supreme Court determined to place SIB into liquidation and to appoint me and Mr. Wastell as liquidators, and after giving the U.S. Receiver's Antiguan counsel an opportunity to comment on the order, entered an order (the "Order Initiating Antiguan Proceeding") on April 17, 2009 instituting the Antiguan Proceeding, a liquidation proceeding under Antiguan law, and appointing Mr. Wastell and myself as liquidators of SIB. A certified copy of the Order Initiating Antiguan Proceeding is attached hereto as Exhibit C.

Interactions With the U.S. Receiver

19. From the outset, Mr. Wastell and I recognized that the orderly analysis and administration of SIB would best be accomplished if the receivers in the U.S. and Antigua cooperated and coordinated their efforts. Accordingly, the day after the FSRC appointed us, we initiated contact with the U.S. Receiver to schedule a meeting for the parties to begin work to establish a cooperative framework for the collection and sharing of information and, ultimately, the collection, preservation and administration of SIB's assets. The U.S. Receiver declined our offer to meet at that time, but the parties agreed to keep lines of communication open. In a good faith effort to begin cooperation and coordination, we subsequently provided the U.S. Receiver with a report summarizing much of the work we had performed and what we had discovered regarding SIB's assets and investors. The U.S. Receiver, however, has to date shared virtually no information with us.

20. On March 11, 2009, the U.S. Receiver filed a Motion to Amend Order Appointing Receiver (the "Motion to Amend") with the U.S. District Court, seeking, among other things, (a) sole and exclusive authority to file bankruptcy petitions for any of the Defendants, and (b) injunctions preventing any person from (i) filing petitions for recognition of a foreign proceeding under chapter 15 of the Bankruptcy Code, and (ii) seeking relief from the

injunction prohibiting the filing of a chapter 15 petition for 180 days after entry of an amended order. The U.S. District Court entered a modified version of the proposed amended order on March 12, 2009 (the "Amended Order") that, among other things, enjoined any person from filing a petition for recognition of a foreign proceeding under chapter 15 of the Bankruptcy Code without prior approval of the U.S. District Court, or seeking relief from that injunction for 180 days after entry of the Amended Order.

21. On April 1, 2009, we met with the U.S. Receiver and our respective counsel in Miami. Further meetings were discussed, and we agreed to continue to work to see whether some form of cooperation and information sharing can be achieved. Nevertheless, the day after the Miami meeting, the U.S. Receiver filed an application to be joined in the Antiguan proceeding as an interested party (the "Application in Intervention") and seeking to have the Application for Liquidation struck, or, in the alternative, to have himself, rather than me and Mr. Wastell, appointed as the liquidator in the Antiguan Proceeding.[2] Having already effectively barred Mr. Wastell and me from seeking cooperation in the U.S. courts, the U.S. Receiver asserted in the Application in Intervention that in his view, "it would be beneficial if there were co-operation between the U.S. Receiver and Antiguan Receiver . . . and [s]uch co-operation can best be achieved by having the same person in both positions." Given the U.S. Receiver's actions to date, I can only conclude that the U.S. Receiver is largely uninterested in cooperating in any meaningful way and will not enter into any meaningful cooperative agreement without advance approval and/or direction from this Court. Indeed, the U.S. Receiver's attitude to the appointment of me and Mr. Wastell as Joint Receivers-Managers of SIB and the authority of the Antiguan Supreme Court is succinctly summarized in a March 11,

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2 The U.S. Receiver actually requested that he be appointed co-liquidator in the Antiguan Proceeding, along with Mr. Richard I. Thomas of Ernst & Young, LLP.

2009 email drafted by the representatives of the U.S. Receiver regarding the insurance of certain SIB assets located in Antigua, wherein the representatives wrote:

> Thank you for forwarding the information from Vantis. Mr. Janvey was appointed a Receiver for the two subject entities [SIB and STC] more than a week before the Antiguan Court took action to appoint Mr. Hamilton-Smith and Mr. Wastell as Receivers. We do not recognize the Antiguan Receivers as having any authority. Neither, to our understanding, is their receivership recognised in the United Kingdom. We see no need for you to provide any information on Mr. Hamilton-Smith's instructions. So far as we are concerned, insurable interests are as have been previously discussed.

The Chapter 15 Petition

22. Based on the U.S. Receiver's actions to date, I believe that the only way to secure the necessary cooperation from the appropriate U.S. authorities to share relevant information and collect and administer SIB's assets as is necessary to protect the interests of creditors and investors is to obtain recognition as a foreign representative under the Bankruptcy Code. Mr. Wastell and I are initiating that process by filing the Petition and the necessary supporting documentation, seeking recognition as foreign representatives and recognition of the Antiguan Proceeding as a foreign main proceeding pursuant to chapter 15 of the Bankruptcy Code. I have been informed that the relief requested in the Petition is a necessary predicate for me and Mr. Wastell, as Liquidators of SIB, to apply directly for relief in a U.S. court or to seek comity or cooperation from a U.S. court. To enable us to carry out our mandate, Mr. Wastell and I are also commencing proceedings for recognition in the United Kingdom, Switzerland and Canada.

23. We are mindful of the provisions in the Amended Order that enjoin parties from (a) filing a chapter 15 petition without leave of Court, and/or (b) seeking relief from that provision for 180 days. Accordingly, we are filing the Petition and supporting

pleadings initially in the U.S. District Court (for reference to Judge Godbey) and concurrently requesting that Judge Godbey refer the Petition to the United States Bankruptcy Court for the Northern District of Texas. We are also seeking to have that portion of the Amended Order enjoining the filing of a chapter 15 petition vacated.

The Debtor

24. SIB is a private international bank chartered under the laws of Antigua and Barbuda and domiciled in St. John's, Antigua, West Indies. As of February 19, 2009, the records of SIB indicate that it had 27,992 active clients with a total reported invested amount, including accrued interest, of $7,206,204,579. SIB primarily sold various forms of certificates of deposit ("CDs") that purportedly yielded rates of return exceeding those offered by more traditional banks. The CDs were marketed to investors throughout the world, and SIB had clients based in 113 countries.

Center of Main Interest Analysis

25. We believe that SIB is owned by Stanford Bank Holdings Limited, an Antiguan entity, which, in turn, is owned by Stanford Financial Group Limited, also an Antiguan entity. Stanford Financial Group Limited is owned by R. Allen Stanford ("Stanford"). SIB has maintained its registered office and headquarters in St. John's, Antigua since 1990, and has been at its current address, No. 11 Pavilion Drive, since 2002. The SIB headquarters and corporate offices are in a 30,000 square foot Georgian-style building sitting atop a hill outside Antigua Airport. SIB's only other office is a sales office in Montreal, Canada. In close proximity to the headquarters, and all built by Stanford, the sole shareholder of SIB's ultimate parent company, are the Bank of Antigua, the Pavilion Restaurant (with a 9,000 bottle wine cellar valued in excess of $4 million), the 5,000-seat Stanford Cricket Ground and the Sticky Wicket, a restaurant and bar where Stanford could frequently be found.

26. In addition to being the sole shareholder of SIB's ultimate parent company, Stanford owned Antigua's largest newspaper, the Antigua Sun, headed the Bank of Antigua, was formerly the largest private employer in Antigua, sponsored Antigua Sail Week, one of the world's most famous sailing regattas, and was in the midst of developing a marina, shopping and entertainment complex near Antigua Airport when the SIB scandal broke. Stanford held dual U.S.-Antiguan citizenship and resided in Antigua for more than 20 years. He was even knighted by the government of Antigua.

27. The vast majority of SIB's employees worked in Antigua. Specifically, out of 93 employees, 88 were located in Antigua. The remaining five employees were located in Montreal, Canada. No employees were ever located in the United States. Additionally, other than the office equipment for the office in Montreal, all of SIB's non-investment assets are located in Antigua. With respect to investment assets, and while much remains to be determined, such assets appear to have been invested throughout the world, although by far the largest financial institution holdings appear to be in Switzerland and real property investments appear to be limited to the Pelican and Guiana Islands, which are part of Antigua.

28. SIB's clients were located throughout the world. More than 84% of SIB's clients in number came from outside the U.S., and in terms of total dollars deposited, more than 78% of those deposits came from outside the U.S. The largest number of clients were from Venezuela, constituting approximately 37% of the clients, followed by the United States at a little less than 16% and Mexico at a little less than 14%. With respect to total dollars deposited, clients in the U.S. accounted for approximately 22%, followed closely by Venezuela at 21% and Mexico at 13%. A chart showing the 10 countries with the largest number of SIB clients is reproduced below.

Country of Depositor	Number of Clients	% of total clients	Amount US$	% of total deposits
United States of America	4,380	15.66%	1,574,389,287	21.85%
Venezuela	10,432	37.29%	1,511,898,916	20.98%
Antigua & Barbuda (including investments held in the name of Stanford Trust Company Ltd on behalf of its 3,800 clients)	4,011	14.34%	1,402,094,191	19.46%
Mexico	3,865	13.82%	932,241,682	12.94%
Canada	224	0.80%	308,349,645	4.28%
Haiti	412	1.47%	219,667,759	3.05%
Peru	553	1.98%	120,767,660	1.68%
Columbia	580	2.07%	110,245,322	1.53%
Panama	171	0.61%	89,540,559	1.24%
British Virgin Islands	132	0.47%	84,632,344	1.17%
TOTALS (relating to top 10 by deposit value)	**24,760**	**88.51%**	**6,353,827,370**	**88.18%**

29. From its Antiguan headquarters, SIB maintained and managed all depositor accounts, including performing all account opening procedures, undertaking money laundering checks and compliance procedures, maintaining all client files, managing SIB's operating software, generating client statements, managing clients' accounts in respect of loan requests, credit cards and bill payment services, executing all interest and redemptions payments to clients, receiving statements from financial institutions holding monies on behalf of SIB and handling all day to day communications with clients or their advisors. Additionally, SIB submitted quarterly filings to the Financial Services Regulatory Commission of Antigua and Barbuda.

30. In its marketing materials, SIB promoted itself as an Antiguan bank. The first sentence of the Disclosure Statement for the U.S. Accredited Investor Certificate of Deposit Program provides that "[t]his Disclosure Statement was prepared and is being furnished by Stanford International Bank Ltd. . . . a bank chartered in Antigua and Barbuda under the International Business Corporations Act, No. 28, of 1982, solely for use by certain prospective depositors who reside in the United States . . . ." A true and correct copy of the Disclosure Statement is attached hereto as Exhibit D. The Disclosure Statement also contains a lengthy description of Antigua and Barbuda, including its geography, system of government, legal

system, economy and financial regulatory system, and advises potential investors that "[n]o entity or person other than [SIB] is liable for payment of the CD Deposits." (Disclosure Statement at 4, 13.)

31. The relationship between SIB and its depositors was governed by Antiguan law. The General Terms and Conditions of SIB that were incorporated into most transaction documents with depositors expressly provide:

> These Terms and Conditions shall be interpreted in accordance with the laws of Antigua and Barbuda, W.I. For any action or proceeding which the Bank or the Depositor may commence in connection with the account or with any operation or transaction involving payment to or from the account, the Depositor irrevocably submits to the jurisdiction of the courts of Antigua and Barbuda, W. I., and to the fullest extent permitted by law, waives any and all immunity that it or any of its property, may have under any applicable law, as well as waiving any claim that such courts would be an inconvenient forum. Jurisdiction for all legal proceedings shall be in Antigua. The Bank, furthermore shall have the right to take legal action against Depositor before the competent court in Depositor's place of domicile or before any other competent court.

(General Terms and Conditions at ¶ 23.) A true and correct copy of the General Terms and Conditions are attached hereto as Exhibit E. Further, the Subscription Agreement provided as part of the U.S. Accredited Investor Certificate of Deposit Program states that "this Subscription Agreement shall be construed in accordance with and governed exclusively by the laws of Antigua and Barbuda, and you consent to the exclusive jurisdiction of the courts in Antigua and Barbuda in relation to any action or proceeding arising under this Subscription Agreement." (Subscription Agreement at 2(k).) A true and correct copy of the Subscription Agreement is attached hereto as Exhibit F. Finally, the Disclosure Statement expressly states that "under the Subscription Agreement you sign for each CD Deposit, you will agree that your rights and obligations with respect to the CD Deposits will be governed by the laws of Antigua and

Barbuda and that the courts of Antigua and Barbuda will have exclusive jurisdiction over any dispute relating to the CD Deposit." (Disclosure Statement at 4.)

Other Qualifications for Recognition

32. The Antiguan Proceeding is a collective judicial proceeding authorized and supervised by the Antiguan High Court under the International Business Corporation Act and pursuant to the Order Initiating Antiguan Proceeding for the purpose of liquidating the Debtor's assets. It is my understanding that for these reasons, the Antiguan Proceeding qualifies as a "foreign proceeding" as that term is defined in section 101(23) of the Bankruptcy Code.

33. Mr. Wastell and I are individuals who have been authorized by the Antiguan High Court to administer the liquidation of the Debtor's assets. It is my understanding that for these reasons, we satisfy the definition of a "foreign representative" as that term is defined in section 101(24) of the Bankruptcy Code.

34. The Debtor is domiciled in Antigua, and, as mentioned above, the majority of its operations and physical assets are in Antigua, a substantial number of its creditors are in Antigua, the majority of its business operations were conducted in Antigua and the relationship between the Debtor and its creditors was governed by Antiguan law. It is my understanding that the Debtor's center of main interest is in Antigua and the Antiguan Proceeding is therefore a foreign main proceeding as that term is defined in section 1517(b)(1) of the Bankruptcy Code.

35. The Foreign Representatives are the only administrators in foreign proceedings of SIB that are known to me. Our contact information is attached hereto as Exhibit G.

36. The parties to litigation pending in the United States to which SIB is a party are described on the list attached hereto as Exhibit H. I am not aware of any other litigation pending in the United States involving SIB.

37. The Foreign Representatives are not at this time seeking provisional relief pursuant to section 1519 of the Bankruptcy Code at this time.

38. We believe that SIB is wholly owned by Stanford Bank Holdings Limited, a corporation organized and operating under the laws of Antigua and Barbuda, which in turn is wholly owned by Stanford Financial Group Limited, a corporation organized and operating under the laws of Antigua and Barbuda, as described in the statement of corporate ownership attached hereto as Exhibit I.

39. In accordance with 11 U.S.C. § 1515(c), I am not aware of any foreign proceeding, other than the Antiguan Proceeding, in which SIB is named as a party.

Authorization to File Chapter 15 Petition

40. As one of the Liquidators of SIB, authorized by the Antiguan High Court to, among other things, commence proceedings in foreign jurisdictions seeking recognition of the Antiguan Proceeding, I represent that the Liquidators have authorized and directed United States counsel, Jones Day, to commence this Chapter 15 case for the Liquidators and seek such additional assistance as we may request from time to time to facilitate the Antiguan Proceeding and the orderly administration of SIB's affairs.

I certify pursuant to 28 U.S.C. § 1746 under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge, information and belief.

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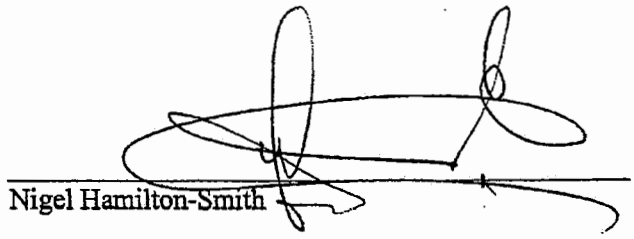
Dated: April 20, 2009
St. John's, Antigua



Nigel Hamilton-Smith

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EXHIBIT A

[February 19, 2009 Instrument of Appointment]

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FINANCIAL SERVICES REGULATORY COMMISSION

International Business Corporations Act, Cap.222
APPOINTMENT OF JOINT RECEIVERS-MANAGERS
Stanford International Bank Ltd (SIBL)
And
Stanford Trust Company Ltd (STCL)

I, **PAUL A. ASHE**, Supervisor of International Banks and Trust Corporations of the **FINANCIAL SERVICES REGULATORY COMMISSION** (the Commission) a statutory body, established under the International Business Corporation Act, Cap 222 of the Laws of Antigua and Barbuda as amended (the Act) of Old Parham Road, St. John's Antigua, being the **APPROPRIATE OFFICIAL** responsible for control and regulation of corporations established under the Act, in pursuance of the power conferred on me under Section 287 of the Act, **DO NOW APPOINT PETER WASTELL and NIGEL HAMILTON-SMITH** both of Vantis Business Recovery Services of Torrington House, 47 Holywell, St. Albans, Hetfordshire, England, to be **JOINT-RECEIVERS-MANAGERS** of all the undertaking, property and assets of the Stanford International Bank Ltd (SIBL) and Stanford Trust Corporation Ltd (STCL) upon the terms and with all the powers, duties and liabilities conferred and imposed by the Act or by any other law **PROVIDED ALWAYS AND WITHOUT PREJUDICE TO THE FOREGOING**:

1. The Receiver-Managers shall be deemed to agents of SIBL and STCL; and SIBL and STCL shall be responsible for the remuneration, acts and defaults.
2. The Receiver-Managers shall have the duties and powers previously vested and discharged by the directors of the SIBL and STCL
3. The Receiver-Managers may exercise, perform and discharge their statutory powers, duties and liabilities independently of the other or jointly according to law.

Dated the 19th day of February, 2009

Signed by **PAUL A. ASHE,**)
Supervisor of International Banks and)
Trusts Corporations, the Appropriate)
Official, Financial Services Regulatory)
Commission before and in the)
presence of:-)
)
)

.....
Trevor Mathurin
Deputy Administrator

.....

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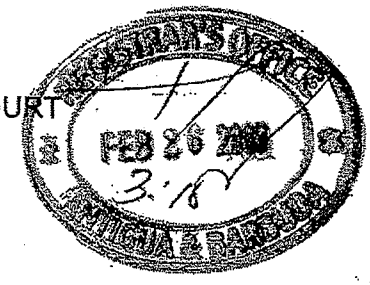
EXHIBIT B

[February 26, 2009 Order of the Antiguan High Court]

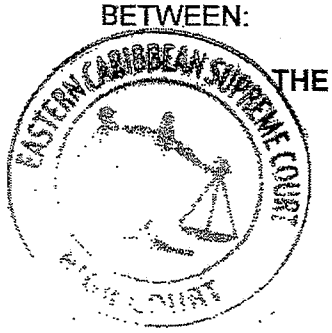


THE EASTERN CARIBBEAN SUPREME COURT
IN THE HIGH COURT OF JUSTICE
ANTIGUA AND BARBUDA

Claim No. ANUHCV2009/0110

In the Matter of Stanford International Bank Limited.
-And-
In the Matter of Stanford Trust Company Limited.
-And-
In the Matter of the International Business Corporations Act, 1982, CAP.222
of the Laws of Antigua and Barbuda
-And-
In the Matter of an Application for the Appointment of a Receiver-Manager of Stanford International Bank Limited and Stanford Trust Company Limited

BETWEEN:



THE FINANCIAL SERVICES REGULATORY COMMISSION
Applicant/Claimant

-And-

STANFORD INTERNATIONAL BANK LIMITED
STANFORD TRUST COMPANY LIMITED
Respondents/Defendants

ORDER

BEFORE The Honourable Justice David Harris, (In Chambers)
DATED the 26th day of February, 2009
ENTERED the 26th day of February, 2009
UPON THE APPLICATION filed herein on the 26th day of February, 2009
AND UPON READING the Affidavits of Peter Nicholas Wastell and Paul A. Ashe filed on the 26th day of February, 2009.
AND UPON HEARING Charlesworth O. D. Brown, Counsel for the Applicant/Claimant, Jasmine Wade appearing with him.

IT IS ORDERED THAT:

1. The Respondents/Defendants be and are hereby restrained by themselves, their agents, servants or otherwise from:-

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a. disposing of or otherwise dealing with any of their assets.
b. entering into any agreement or arrangement to sell, transfer or otherwise dispose of any of their assets.
c. carrying on of transacting business of any kind whatsoever under the licence granted by the Applicant/Claimant without the consent, management and supervision of the Applicant/Claimant.

2. The Respondents/Defendants do account for all their assets now or previously in their possession or under the control of any entity on their behalf.

3. The Respondents/Defendants do provide the Applicant/Claimant with:-
   a. a comprehensive list of all transactions, agreements, arrangements and undertakings and copies of documents evidencing the same.
   b. All accounts, documents and information to enable the Applicant/Claimant to trace, if necessary, any or all of the assets of the Respondents/Defendants.
   c. A comprehensive list of all its creditors, customers, employers, employees and other persons or entities to whom they have outstanding obligations and the extent of their obligations in respect of any or all of their assets.

4. Messrs Peter Nicholas Wastell and Nigel Hamilton-Smith be and are hereby appointed Joint Receivers–Managers of the Respondents/Defendants pursuant to Section 220 of the International Business Corporations Act (the Act) with such powers as the Court may determine.

5. The Joint Receivers–Managers do take immediate steps to stabilize the operations of the Respondents/Defendants unless ordered to do otherwise by further order of the Court.

6. The Joint Receivers–Managers do execute their duties in accordance with the Act and otherwise only in accordance with this order and the directions of the Court.

7. The Joint Receivers–Managers do prepare and file in Court a Monthly Interim Report and Financial Statement in respect of the affairs of the Respondents/Defendants within 30 days of the date of this order and thereafter at regular intervals on the fifth day of each ensuing month.

8. The Joint Receivers–Managers upon the completion of their duties do prepare and file Final Accounts including a Financial Statement with recommendations as to the further conduct of the affairs, if any, of the Respondents/Defendants.

9. The Joint Receivers-Managers do take into their custody and control all the property, undertakings and other assets of the Respondents/Defendants pursuant to Section 221 of the Act and comply with all the other parts of the Section.

10. The Joint Receivers-Managers do open and maintain bank accounts within the jurisdiction or in such jurisdictions as they consider appropriate in their names as Joint Receiver-Managers of the Respondents/Defendants for the monies of the corporations coming under their control.

11. Subject to Section 220 of the Act, the Receivers–Managers do exercise, perform and discharge their duties independently or jointly and in so doing they shall be deemed to act as agents for the Respondents/Defendants without personal liability.

12. Without prejudice to the provisions of Section 373 of the Act, the Joint Receiver-Managers be and are hereby authorized to disclose information concerning the management, operations, and financial situation of the Respondents/Defendants as they consider appropriate in the performance of their functions PROVIDED ALWAYS THAT

(1) no disclosure of customer specific information is authorized without further or other order of the Court; and

(2) no disclosure of information is permitted under this Order to any foreign governmental or regulatory body unless such disclosure is subject to mutual disclosure obligations.

For the purposes of this Order, customer specific information means information of sufficient detail to enable a recipient of the information to identify the customer in question, the customer's address or other location, and/or the amount of such customer's credit balances or other investments in the Respondents/Defendants.

13. The remuneration of the Joint Receivers–Managers be fixed on a time- cost basis at the rates agreed between the Applicant/Claimant and the Joint Receivers–Managers.

14. The Joint Receivers–Managers be reimbursed for all reasonable and necessary expenses as may be incurred by them during the course of the receivership from the assets of the Respondents/Defendants.

15. The costs of this Application and all related proceedings be met from the assets of the Respondents/Defendants.

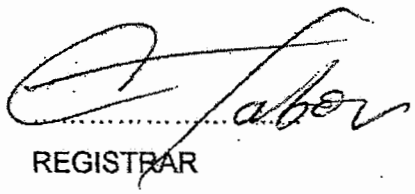
16. The Joint Receivers–Managers be directed from time to time on matters relating to their duties as the Court may determine on the application of the Applicant/Claimant or on the application of the Joint Receivers-Managers or on the application of the Respondents/Defendants.

17. That the Applicant do serve the Defendants/Respondents with the Fixed Date Claim Form, Affidavits thereto, the Notice of Application and this Order.

18. That the return date be fixed for the 9th day of March, 2009.

19. That this Order remains in full force and effect until further order.

BY THE COURT



REGISTRAR

AND TAKE NOTICE that if you the Directors and Officers of the Respondents /Defendants fail to comply with the terms of this order, proceedings may be commenced against you for contempt of court and you may be liable to be imprisoned.

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

Claim No. ANUHCV2009/

In the Matter of Stanford International Bank Limited.
-And-
In the Matter of Stanford Trust Company Limited.
-And-
In the Matter of the International Business Corporations Act, 1982, CAP.222
of the Laws of Antigua and Barbuda
-And-
In the Matter of an Application for the Appointment of a Receiver-Manager of Stanford International Bank Limited and Stanford Trust Company Limited

BETWEEN:

THE FINANCIAL SERVICES REGULATORY COMMISSION

Applicant/Claimant

-And-

STANFORD INTERNATIONAL BANK LIMITED
STANFORD TRUST COMPANY LIMITED

Respondent/Defendants

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ORDER

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CHARLESWORTH O. D. BROWN

Attorney-at-Law

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EXHIBIT C

[April 17, 2009 Order Initiating Antiguan Insolvency Proceeding]

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REGISTRAR'S OFFICE 2:00 APR ANTIGUA & BARBUDA

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 Receivership)
-And-

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

In the Matter of an Application for the Liquidation and Dissolution of Stanford International Bank Limited and the Appointment of Liquidators

EASTERN CARIBBEAN SUPREME COURT HIGH COURT

ORDER

BEFORE THE HONOURABLE JUSTICE DAVID HARRIS, IN OPEN COURT

DATED THE 15TH DAY OF APRIL, 2009

ENTERED THE 17th DAY OF APRIL, 2009

UPON THE Hearing of the Petition filed herein on the 25th day of March, 2009.

AND UPON READING the Petition and Affidavits of Paul A. Ashe and Nigel Hamilton-Smith filed herein on the 25th day of March 2009 in support of the Petition;

AND UPON HEARING the evidence of Paul A. Ashe and Nigel Hamilton-Smith given in Court on the 15th day of April, 2009

AND UPON HEARING Charlesworth O. D. Brown, Counsel for the Petitioner, Jasmine Wade appearing with him; Conliffe Clarke, Counsel for Alexander M. Fundora, and several other creditors and an interested persons, appearing with Marcel E. Commodore and R. Dexter Wason; Leslie Anne Brisette, Counsel for Victoria Rolston and other creditors and interested persons; and Sir Clare K. Roberts QC, amicus curiae, Counsel for Ralph S. Janvey, US Receiver of the

Stanford International Bank Limited appointed by the United States District Court for the Northern District of Texas, Dallas Division United States of America.

THE PETITION herein

Having been filed by Paul A. Ashe, the Supervisor of International Banks and Trusts of the Financial Services Regulatory Commission, the Appropriate Official, under section 300 of the International Business Corporations Act, Cap. 222 of the Laws of Antigua and Barbuda (the Act);

Having been heard on the 6th, 7th, 8th, 9th, 14th, and 15th days of April 2009 together with the Petition of Alexander M. Fundora, a creditor and an interested person, filed on the 9th day of March 2009 under section 220 0f the Act in Claim No; ANUHCV 2009/ 0126 (the Fundora Petition).

THIS COURT having

dismissed the Fundora Petition on the ground that Mr. Fundora has no standing to present the Fundora Petition under section 220 of the Act;

satisfied itself that the Stanford International Bank had acted in contravention of the Act and that the Appropriate Official has standing and met the pre requisite conditions stipulated under section 300 of the Act;

considered the evidence adduced in support of and in opposition to the Petition;

noted the failure of the Stanford International Bank Limited to oppose the Petition or otherwise avail itself of the opportunity to be heard during the proceedings by itself or through Counsel.

AND THIS COURT having determined that in the circumstances it is just and convenient that the Stanford International Bank be liquidated and dissolved under the supervision of this Court pursuant to the Act.

IT IS HEREBY ORDERED THAT:

1. Stanford International Bank Limited (the "Bank") be liquidated and dissolved under the supervision of this Honourable Court pursuant to the provisions of the International Business Corporations Act, Cap. 222, as amended, of the Laws of Antigua and Barbuda (the Act).

2. Nigel Hamilton-Smith and Peter Wastell be and are hereby appointed liquidators (the "Liquidators") of the Bank, with all of the powers and duties of a liquidator as contained in the Act or any other legislation

related thereto and with further powers, duties and responsibilities as conferred by this Order.

3. The Liquidators shall forthwith give notice of the liquidation and the appointment of the Liquidators to each known claimant and creditor of the Bank and all other interested persons by publishing a notice in the Official Gazette and in a newspaper with national circulation in Antigua and Barbuda and otherwise give notice in every jurisdiction where the Bank had a place of business..

4. The Liquidators shall take possession of, gather in and realise all the present and future assets and property of the Bank, including without limitation, any real and personal property, cash, choses in action, negotiable instruments, security granted or assigned to the Bank by third parties including property held in trust or for the benefit of the Bank, and rights, tangible or intangible, wheresoever situate and to take, such steps as are necessary or appropriate to verify the existence and location of all the assets of the Bank, or any assets formerly held whether directly or indirectly or to the order of or for the benefit of the Bank or any present or former subsidiary or company associated with the Bank, including the terms of all agreements or other arrangements relating thereto, whether written or oral, the existence or assertion of any lien, charge, encumbrance or security interest thereon, and any other matters which in the opinion of the Liquidators may affect the extent, value, existence, preservation, and liquidation of the assets and property of the Bank.

5. All assets, tangible and intangible and wheresoever situate, shall vest in the Liquidators, who shall collect and gather in all such assets for the general benefit of the Bank's creditors and as may be directed by this Court.

6. The Liquidators shall open and maintain in their official name as Liquidators a bank account in this jurisdiction or in such other jurisdiction as they consider appropriate (collectively referred to as the "Account"), in order to deposit therein the funds so gathered and realised.

7. The funds in the Account and any other of the Bank's assets and property are to be held for the benefit of the depositors, creditors and investors of the Bank as their interests appear in accordance with the laws of Antigua and Barbuda, subject to the payment of the fees, expenses and costs of the receivership and liquidation which shall be paid in the following order in priority to claims of depositors, creditors and investors:

7.1 The fees and expenses of the Receiver-Managers and of the Liquidators, including fees and expenses of legal counsel, and agents, accountants, investigators or other experts engaged by the Receiver-Managers and

the Liquidators to assist them in the conduct of their duties and responsibilities;

7.2 The costs of the receivership and the liquidation, including but not limited to any costs of retaining the Bank's staff and officers to assist in liquidation including without limitation benefits and expenses, rent, power telephone, charges associated with computer systems, bank charges and interest and any other costs that in the opinion of the Liquidators are required to facilitate the liquidation process;

7.3 Severance payments to former employees of the Bank;

7.4 The balance to be paid on account of the claims of creditors and depositors of the Bank as at the date of this Order and in accordance with their priority under the Act and other laws of Antigua and Barbuda, or as may be ordered by this Honourable Court with the remaining balance, if any, to be distributed to the shareholders of the Bank in accordance with their entitlement.

8. The Liquidators shall have a first priority security interest in the assets and property of the Bank in priority to all other persons as security for the Liquidators' fees, expenses and costs.

9. The Liquidators shall be at liberty, and without the necessity of any further order, to summon before the High Court for examination under oath any person reasonably thought to have knowledge of the affairs of the Bank or any person who is or has been a director, officer, employee, agent, shareholder, accountant of the Bank, or such other person believed to be knowledgeable of the affairs of the Bank and to order such person(s) liable to be examined to produce any books, documents, correspondence or papers in his or her possession or power relating to all or in part to the Bank, its dealings, property and assets and the Liquidators are authorised to issue writs of subpoena ad testificandum and duces tecum for the compulsory attendance of any of the persons aforesaid required for such examination.

10. The Bank and any person holding or reasonably believed to have in their possession or power any assets or property of the Bank including without limitation, computer records, programs, disks, documents, books of account, corporate records, minutes, opinions rendered to the Bank, documents of title, electronic or otherwise (collectively called "Papers") relating in whole or in part to the Bank or such persons, dealings, or property showing that he or she is indebted to the Bank may be required by the Liquidators to produce or deliver over such property forthwith to the Liquidators notwithstanding any claim or lien that such person may have or claim on such assets and property and the Liquidators shall have full and complete possession and control of such assets and property of

the Bank including its premises. In the event of a bona fide dispute as to ownership and legal entitlement to such property and Papers, the Liquidators shall take away copies of such Papers.

11. Further, and without limiting the generality of paragraphs 9 and 10 hereof:

11.1 The (i) Bank; (ii) all of its current and former directors, officers, managers, employees, agents, accountants, holders of powers of attorney, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Liquidators of the existence of any Property in such Person's possession, power, control, or knowledge, and shall grant immediate and continued access to the Property to the Liquidators, and shall deliver all such Property to the Liquidators upon the Liquidators' request, subject only to any privilege attaching to solicitor-client communications or statutory provisions prohibiting such disclosure;

11.2 All Persons shall forthwith advise the Liquidators of the existence of and grant access to and deliver to the Liquidators or to such Agent or Agents they may appoint, any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Bank, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Liquidators or permit the Liquidators to make, retain and take away copies thereof and grant to the Liquidators unfettered access to and use of accounting, computer, software and physical facilities relating thereto, subject only to any privilege attaching to solicitor-client communications or statutory provisions prohibiting such disclosure;

11.3 If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Liquidators for the purpose of allowing the Liquidators to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Liquidators in their discretion deem expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Liquidators. Further, for the purposes of this paragraph, all Persons shall provide the Liquidators

with all such assistance in gaining immediate access to the information in the Records as the Liquidators may in their discretion require including providing the Liquidators with instructions on the use of any computer or other system and providing the Liquidators with any and all access codes, account names and account numbers that may be required to gain access to the information; and

11.4 The Persons are hereby restrained and enjoined from disturbing or interfering with the Liquidators and with the exercise of the powers and authority of the Liquidators conferred hereunder.

12. The Liquidators are authorised in their own names or on behalf of the Bank as Liquidators to join in and execute, assign, issue and endorse such transfers conveyances, contracts, leases, deeds, bill of sale, cheques, bills of lading or exchange or other documents of whatever nature in respect of any assets and property of the Bank as may be required to carry out their duties including the realisation and liquidation of the assets of the Bank or for any purpose pursuant to this Order or under the law.

13. The remuneration of the Liquidators and their expenses and costs, may be drawn on account of the total on a monthly basis from the assets from the Bank including cash and deposits on hand, on the basis of the time expended by the Liquidators and their staff at rates to be approved by this Court, provided always that the statement of the Liquidators' fees expenses and costs for a particular month must be presented to the Court within 7 days of the following month.

14. The Liquidators may engage agents, appraisers, auctioneers, brokers, or any other experts as may be required to assist them with the liquidation process and determining claims in the liquidation.

15. The Liquidators may retain independent legal advice and engage legal counsel both inside and outside Antigua and Barbuda to assist them for purposes of fulfilling their duties hereunder.

16. No person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Bank, without written consent of the Liquidators or leave of this Honourable Court:

17. All persons having oral or written agreements with the Bank or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services; insurance, transportation and freight services, utility or other services to the Bank are hereby restrained until further Order of this Honourable Court from

discontinuing, altering, interfering-with or terminating the supply of such goods or services as may be required by the Liquidators; and that the Liquidators shall be entitled to the continued use of the Bank's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Liquidators in accordance with normal payment practices of the Bank or such other practices as may be agreed upon by the supplier or service provider and the Liquidators, or as may be ordered by this Honourable Court,

18. The Liquidators shall have the authority as officers of this Honourable Court to act in Antigua and Barbuda or any foreign jurisdiction where they believe assets, property or Papers of the Bank may be situate or traced at equity or otherwise, and shall have the right to bring any proceeding or action in Antigua and Barbuda and/or in a foreign jurisdiction for the purpose of fulfilling their duties and obligations under this Order and to seek the assistance of any Court of a foreign jurisdiction in the carrying out of the provisions of this Order, including without limitation, an order of examination of persons believed to be knowledgeable of the affairs, assets, property and Papers of the Bank and to assist the Liquidators in the recovery of the assets and property of the Bank.

19. The Liquidators shall have the authority to initiate, prosecute and continue the prosecution of any and all proceedings, and to defend all proceedings for the benefit of the Bank's creditors now pending or hereinafter initiated with respect to the Bank and, upon receiving the approval of this Court, to settle or compromise any such proceeding.

20. The Liquidators are hereby constituted as foreign representatives for the purposes of any proceeding with respect to the Bank that may be commenced or taken under any applicable law outside of Antigua and Barbuda, including but not limited to bankruptcy, trust, insolvency, company or other applicable law.

21. The Liquidators shall be at liberty and are hereby authorized and empowered to apply, upon such notice as they may consider necessary or desirable, to any other Court or administrative bodies in any other jurisdictions, whether in Antigua and Barbuda or elsewhere, without limitation, for orders recognizing the appointment of the Liquidators by this Honourable Court and confirming the powers of the Liquidators in such other jurisdictions, and requesting the further aid, assistance or recognition of any court, tribunal, governmental and administrative body, or other judicial authority, howsoever styled or constituted, to assist in the carrying out of the terms of this Order and the duties and responsibilities

of the Liquidators hereunder, including but not limited to, and on the basis of:

21.1 all applicable foreign corporate, insolvency, or other statutory provisions or customary practices that permit the recognition of foreign representatives of an insolvent estate; and/or

21.2 the doctrines curial deference and comity, including but not limited to:

21.2.1 recognizing the Liquidators as having the equivalent powers of a liquidator or of an insolvency office holder within any foreign jurisdictions and to investigate the affairs of the Bank, take evidence thereof and identify, trace, arrest, seize, freeze, detain, secure, recover, receive, control, preserve and protect the Bank's assets, property and Papers and administer such property, assets and Papers, howsoever characterized, pursuant to this Order;

21.2.2 granting extraordinary relief to the Liquidators to identify, trace, arrest, seize, freeze, detain, secure, recover, receive, control, preserve and protect the Bank's assets, property, and Papers and compel disclosure of information and documents to the fullest extent otherwise permitted, in aid of the Liquidators authority hereunder to discover assets, property and Papers under the dominion or control of the Bank, to trace the movement and conversion, past and present, of the Bank's property, assets or Papers and to fully learn of the activities of the Bank with regard thereto;

21.2.3 compelling disclosure of the identities of all known or unknown wrongdoers, facilitators and all other persons or entities who have acted, knowingly or unknowingly, in concert with the Bank in any fashion whatsoever;

21.2.4 restraining any person who may become aware of this Order or of any other proceedings in connection therewith from disclosing same, or any information whatsoever in this regard; and

21.2.5 compelling for examination under oath, by the Liquidators or other authorized person, any person reasonably thought to have knowledge of the affairs of the Bank, or any person who is or has been an agent, banker, clerk, employee, contractor, servant, officer, director, nominee, trustee, fiduciary, auditor, accountant, shareholder, lawyer, attorney, solicitor, advocate or advisor to the Bank, regarding the Bank, their dealings or the Bank's assets, property or papers; in ordering any person liable to be so examined to produce any books, documents, correspondence,

reports or papers in his possession or power, relating in all or in part to the Bank, or in respect of his dealings with either the Bank or with the Bank's assets, property or Papers.

22. This Honourable Court requests the aid, assistance and recognition of any foreign Court, tribunal, governmental body or other judicial authority, howsoever styled or constituted, in any other jurisdiction where property and assets of the Bank may be found (or traced) to assist in carrying out the terms of this Order and the duties and responsibilities of the Liquidators hereunder and to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

23. The Liquidators shall provide a report to this Honourable Court within ninety (90) days of the date of this Order with respect to the liquidation and their preliminary determination of the assets to be realised, the likely recoveries and the extent to which the claims of creditors, depositors, and investors in the Bank may be met. The Liquidators shall further report to the Court as they or the Court determine is appropriate, but shall in any event report no less frequently than three (3) months from the date of their last report.

24. The Liquidators, their officers, employees, legal counsel, agents and such other persons retained by them in the performance of their duties hereunder shall be granted indemnity from the assets of the Bank for all fees, expenses and actions taken, including indemnity for any litigation or other claims, actions or demands whatsoever in respect of any debts, costs, claims, liabilities, acts, matters, or things done or due to be done or omitted by the Liquidators, their officers, employees, legal counsel, agents and such other persons retained by them except where there is a finding by the Court of negligence or wilful neglect in the performance of their and/or their respective duties.

25. All actions, proceedings and any claims whatsoever and wheresoever initiated against the Bank, its assets and property, are hereby stayed and no person, which shall include a body corporate, shall bring or continue with a claim or proceeding in Antigua and Barbuda or elsewhere as against the Liquidators or the Bank without leave of this Honourable Court.

26. The Liquidators in the carrying out of their duties and responsibilities may apply for directions and guidance from this Honourable Court from time to time including any application as may be required for the amendment of this Order.

27. The Liquidators, in their names or in the name of the Bank, shall be at liberty to apply for any permits, licences, approvals or permissions as may be required by or deemed necessary pursuant to any laws,

governmental or regulatory authority, in the pursuit and performance of their duties hereunder.

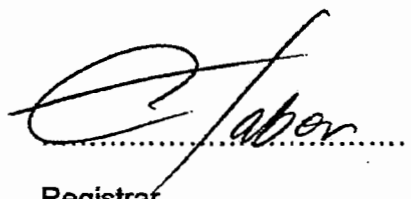
28. The Liquidators are not required to post security in respect of their appointment.

29. The Liquidators shall exercise, perform or discharge their duties independently or jointly and in doing so shall be deemed to act as agents for the Bank and they act solely in their capacity as Liquidators and without personal liability if they rely in good faith upon the financial statements of the Bank or upon an opinion, report or statement of any professional adviser retained by them.

30. The Petitioner is hereby awarded costs to be paid out of the liquidation estate of the Bank.

31. This Order shall take effect from the date hereof.

BY THE COURT



Registrar

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

Claim No. ANUHCV 2009/ O149

In the Matter of Stanford International Bank Limited (In Receivership)
-And-

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

In the Matter of an Application for the Liquidation and Dissolution of Stanford International Bank Limited and the Appointment of Liquidators

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ORDER

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CHARLESWORTH O.D. BROWN
Attorney-at-Law

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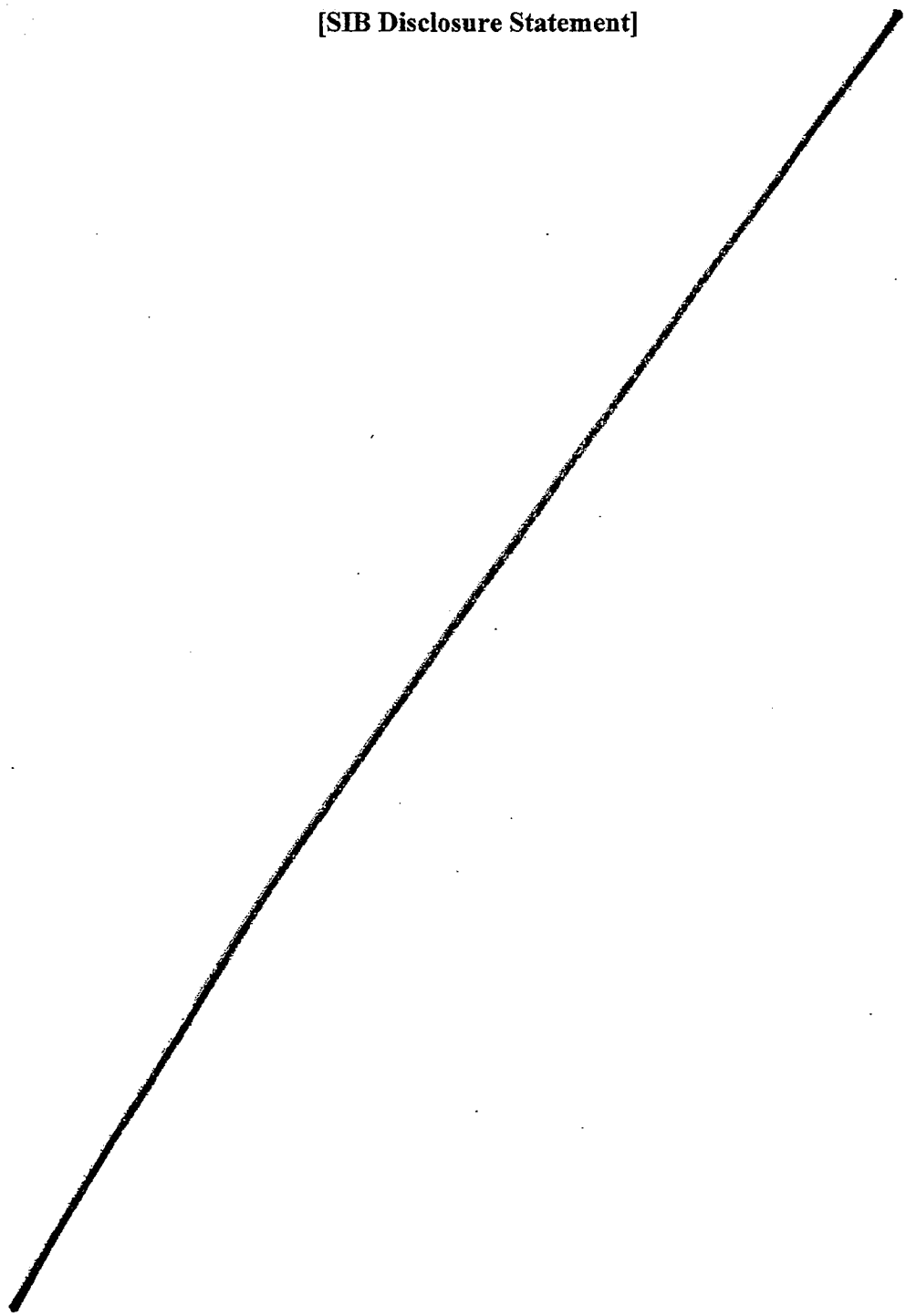
EXHIBIT D

[SIB Disclosure Statement]



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Disclosure Statement

U.S. Accredited Investor Certificate of Deposit Program

SPECIMEN

STANFORD INTERNATIONAL BANK LTD.

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COPY NO. ___

STANFORD INTERNATIONAL BANK LTD.

DISCLOSURE STATEMENT

THE U.S. ACCREDITED INVESTOR CERTIFICATE OF DEPOSIT PROGRAM

PARTICIPATION IN THE U.S. ACCREDITED INVESTOR CERTIFICATE OF DEPOSIT PROGRAM (THE "U.S. ACCREDITED INVESTOR CD") OFFERED BY STANFORD INTERNATIONAL BANK LTD. ("WE", "US", "OUR", OR "SIBL") INVOLVES SUBSTANTIAL RISK TO POTENTIAL DEPOSITORS ("YOU", "YOUR", OR THE "DEPOSITORS"). YOU SHOULD CAREFULLY CONSIDER THE INFORMATION SET FORTH UNDER "RISK AND OTHER FACTORS AFFECTING SIBL AND THE U.S. ACCREDITED INVESTOR CD PROGRAM" ON PAGES 4 AND 5.

WE HAVE NOT REGISTERED THE CD DEPOSITS PROVIDED IN CONNECTION WITH THE U.S. ACCREDITED INVESTOR CD (THE "CD DEPOSITS") OR OUR RELATED CERTIFICATES OF OWNERSHIP (THE "CD CERTIFICATES") UNDER THE U.S. FEDERAL SECURITIES ACT OF 1933, AS AMENDED, OR SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. THE CD DEPOSITS AND THE CD CERTIFICATES ARE NOT BEING OFFERED TO THE GENERAL PUBLIC BUT ARE AVAILABLE ONLY TO "ACCREDITED INVESTORS." SEE "DESCRIPTION OF THE U.S. ACCREDITED INVESTOR CD" ON PAGE 6 FOR A DEFINITION OF "ACCREDITED INVESTORS." NEITHER THE U.S. SECURITIES AND EXCHANGE COMMISSION NOR ANY OTHER REGULATORY AGENCY HAS APPROVED, RECOMMENDED OR ENDORSED THE U.S. ACCREDITED INVESTOR CD OR THE OFFERING OF THE CD DEPOSITS OR CD CERTIFICATES, NOR HAS ANY SUCH AUTHORITY PASSED UPON THE ACCURACY OR COMPLETENESS OF THIS DISCLOSURE STATEMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

SIBL'S PRODUCTS ARE NOT SUBJECT TO THE REPORTING REQUIREMENTS OF ANY JURISDICTION, NOR ARE THEY COVERED BY THE INVESTOR PROTECTION OR SECURITIES INSURANCE LAWS OF ANY JURISDICTION SUCH AS THE U.S. SECURITIES INVESTOR PROTECTION INSURANCE CORPORATION OR THE BONDING REQUIREMENTS THEREUNDER. THEREFORE, THE CD DEPOSITS AND THE CD CERTIFICATES ARE NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER AGENCY OF THE UNITED STATES GOVERNMENT OR ANY STATE JURISDICTION, OR BY ANY SIMILAR INSURANCE PROGRAM OF THE GOVERNMENT OF ANTIGUA AND BARBUDA.

Original Disclosure Statement is dated October 15, 1998.
Amended November 30, 1999.
Amended July 31, 2000.
Amended May 15, 2001.
Amended September 30, 2004.

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SECURITIES INVESTMENT STATEMENT

FOR RESIDENTS OF ALL STATES

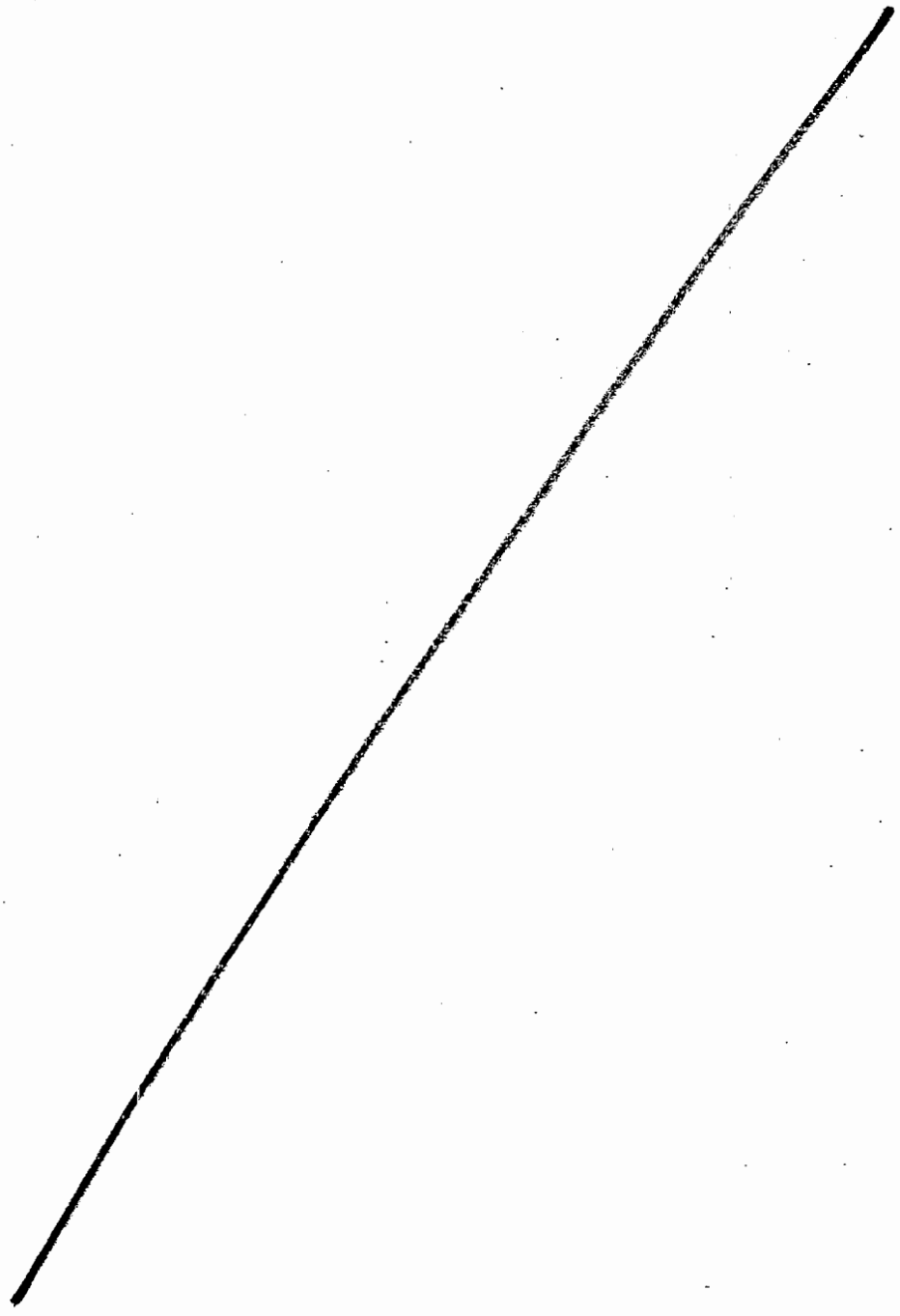
THE CD DEPOSITS ARE ORDINARY DEPOSIT OBLIGATIONS OF SIBL. WE BELIEVE THAT THE CD DEPOSITS AND THE CD CERTIFICATES ARE NOT SECURITIES AS SUCH TERM IS DEFINED UNDER U.S. FEDERAL AND STATE SECURITIES LAWS. NEVERTHELESS, BECAUSE OF THE POSSIBILITY THAT THE CD DEPOSITS OR CD CERTIFICATES COULD BE DEEMED TO BE "SECURITIES" BY U.S. REGULATORY OR JUDICIAL AUTHORITY, WE HAVE ADOPTED THE SAME REGULATIONS AND RESTRICTIONS ON THE SOLICITATION, OFFER, SALE AND RESALE OF THE CD DEPOSITS AND CD CERTIFICATES THAT APPLY TO UNREGISTERED SECURITIES EXEMPT FROM REGISTRATION IN THE U.S. THEREFORE, WE HAVE PREPARED THIS DISCLOSURE STATEMENT TO ALERT YOU OF POTENTIAL RISKS UNDER THE CD DEPOSITS AND CD CERTIFICATES.

BY SIGNING THE SUBSCRIPTION AGREEMENT, YOU ARE ACKNOWLEDGING RECEIPT, AS WELL AS CAREFUL REVIEW AND UNDERSTANDING, OF THIS DISCLOSURE STATEMENT, THE SUBSCRIPTION AGREEMENT, THE INVESTOR QUESTIONNAIRE, ANY ADDITIONAL ACCOUNT DOCUMENTS THAT MAY BE REQUIRED, AND THEIR RESPECTIVE TERMS AND CONDITIONS.

IN MAKING AN INVESTMENT DECISION, INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE CD DEPOSITS HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSIONER OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

THESE CD DEPOSITS ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS, PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM. INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

THIS OFFERING IS BEING MADE IN THE UNITED STATES SOLELY TO "ACCREDITED INVESTORS" AS DEFINED ON PAGE 6.



2.

GENERAL OVERVIEW

This Disclosure Statement was prepared and is being furnished by Stanford International Bank Ltd. ("we", "us", "our", or "SIBL"), a bank chartered in Antigua and Barbuda under the International Business Corporations Act, No. 28, of 1982, solely for use by certain prospective depositors who reside in the United States and are "Accredited Investors" as defined herein ("you", "your", or the "Depositors") to participate in our U.S. Accredited Investor Certificate of Deposit Program (the "U.S. Accredited Investor CD"). You may purchase three types of time deposits offered by SIBL ("CD Deposits"), each in the initial minimum amount of US$50,000. See section entitled "Description of the U.S. Accredited Investor CD Program" for information regarding the CD Deposits, which includes the FixedCD℠, the FlexCD℠, and the Index-Linked CD℠. We establish a separate account (the "CD Account") in your name for maintenance of each of your subscriptions for a CD Deposit. Renewals of the same type of CD will remain in the same account.

Each CD Deposit will be an account for a maturity you select from a range of maturities we may offer at the time you open the CD Deposit.

For the Fixed CD℠ and the Flex CD℠, during the life of the CD Deposit, you will receive interest on the principal balance in the CD Deposit at the rate, for the maturity selected, as published at the time the CD Deposit is established. We will periodically establish the published rates. At maturity of the CD Deposit, we will provide you the principal amount in the CD Deposit plus any accrued and unpaid interest. Note the five day notice period required to receive payment (page 6) through your SIBL account. Interest on the CD Deposit, if earned, may be paid monthly or accrue as you and we agree at the time the CD Deposit is established.

For the Index-Linked CD, at maturity, we will pay you, by credit to your SIBL account, the principal plus the greater of (1) the stated interest rate attached at inception, or (2) interest computed [illegible] based on changes in the Index you choose at inception.

As described in the section entitled "Description of the U.S. Accredited Investor CD Program, Early Withdrawal Penalty," you may incur substantial penalties, including forfeiture of a portion of the your principal amount, upon early withdrawal of funds from the CD Deposit.

We intend to file this offering in any jurisdiction where necessary. To date, notice filing requirements have been met for the states of Alabama, Arkansas, Arizona, California, Colorado, Florida, Georgia, Hawaii, Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Montana, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, and Wyoming.

RISK AND OTHER FACTORS AFFECTING STANFORD INTERNATIONAL BANK AND THE U.S. ACCREDITED INVESTOR CD PROGRAM

Before purchasing the CD Deposits you should carefully consider the information in this Disclosure Statement, including the following important factors, among others.

OPERATING HISTORY

SIBL was organized in 1985 and commenced operations in Antigua in December 1990. There can be no assurance that revenue growth or profitability can be achieved on a quarterly or annual basis. Operating results could be adversely affected by many factors including, but not limited to, increased competition in the market for the private sale of fixed-income securities offered by overseas issuers, management's investment decisions with regard to the U.S. Accredited Investor CD or any products we offer, the ability of SIBL, as a private banking institution, to continue operations in Antigua and Barbuda, and the political climate for private banking concerns in Antigua and Barbuda. See "Management's Discussion and Analysis of Financial Condition and Results of Operations" for a discussion of operating history. No person or entity other than SIBL is liable for payment of the CD Deposits.

RELIANCE ON MANAGEMENT

The viability of the U.S. Accredited Investor CD and the ability of SIBL to repay principal and interest on the CD Deposits is dependent on our ability to successfully operate by continuing to make consistently profitable investment decisions. There can be no assurance that our decisions will continue to yield profitable results for SIBL or because the investments made in the U.S. Accredited Investor CD or any other products we offer to produce returns sufficient to fund the payment obligations of the CD Deposits.

REGULATORY ISSUES

International banking in Antigua and Barbuda has grown rapidly over the past decade. This rapid growth required the Government of Antigua and Barbuda ("Government") to strengthen its ability to regulate the financial services sector. The Government continuously reviews its regulations and enacts appropriate amendments to ensure compliance with international banking standards. SIBL is subject to regulation by the Financial Services Regulatory Commission and the Ministry of Finance of the Government of Antigua and Barbuda. Our offices are located solely in Antigua and Barbuda. Therefore, we are not generally subject to securities or banking regulation by any governmental authority outside of Antigua and Barbuda. By making this offering to Accredited Investors in the United States, SIBL and its officers are subject to certain laws of the United States, including the anti-fraud provisions of the U.S. federal securities laws and similar state laws. The Government of Antigua and Barbuda could adopt laws imposing additional regulatory burdens that could adversely affect our ability to successfully operate or the viability or success of the U.S. Accredited Investor CD or any other products we offer. New regulations could also affect the type, manner, and nature of any offering of the U.S. Accredited Investor CD.

JURISDICTIONAL ISSUES

In addition to potential regulatory issues, certain jurisdictional issues exist with respect to your ability to exercise your rights against us. We will make payments under each CD Deposit solely by crediting the principal and accrued interest amount(s) to the account opened in your name at SIBL for the purpose of that CD Deposit. Thereafter, amounts deposited in the account will be transferred as you instructed us in writing. Further, under the Subscription Agreement you sign for each CD Deposit, you will agree that your and our rights and obligations with respect to the CD Deposits will be governed by the laws of Antigua and Barbuda and that the courts of Antigua and Barbuda will have exclusive jurisdiction over any dispute relating to the CD Deposit.

Antigua and Barbuda does not have (and historically has not had) any form of exchange controls restricting our international business, including acceptance of deposits denominated in U.S. Dollars. Nevertheless, there is no absolute certainty that some future enactment of exchange controls or of other restrictive laws in Antigua and Barbuda would not hinder our operations or the performance of our obligations with respect to the CD Deposits or any other products we offer.

No U.S. Federal or Other Governmental Guarantee of Principal or Interest

SIBL'S PRODUCTS ARE NOT SUBJECT TO THE REPORTING REQUIREMENTS OF ANY JURISDICTION, NOR ARE THEY COVERED BY THE INVESTOR PROTECTION OR SECURITIES INSURANCE LAWS OF ANY JURISDICTION SUCH AS THE U.S. SECURITIES INVESTOR PROTECTION INSURANCE CORPORATION OR THE BONDING REQUIREMENTS THEREUNDER. THEREFORE, THE CD DEPOSITS AND THE CD CERTIFICATES ARE NOT INSURED BY THE FEDERAL DEPOSIT INSURANCE CORPORATION OR ANY OTHER AGENCY OF THE UNITED STATES GOVERNMENT OR ANY STATE JURISDICTION, OR BY ANY SIMILAR INSURANCE PROGRAM OF THE GOVERNMENT OF ANTIGUA AND BARBUDA.

Due Diligence by Depositor

We have prepared this Disclosure Statement to provide you selected information about the U.S. Accredited Investor CD. Because this Disclosure Statement cannot be all-inclusive, we recommend you conduct further "due diligence," including examination of supplemental data and information available through us before making definitive commitments. We will make available to you for inspection, during normal business hours, our relevant business, financial and other information and data which you may reasonably request to make informed judgments with respect to investing in the U.S. Accredited Investor CD, including, but not limited to, our most recently published Annual Report. We will also make available to you an opportunity to ask questions and receive answers, and to obtain such additional information as you may request concerning the U.S. Accredited Investor CD and our financial condition and affairs. Neither SIBL nor any of our respective officers, directors, control persons, employees, affiliates, consultants or agents makes any representation or warranty, express or implied, as to the completeness of this Disclosure Statement, and no legal liability is assumed or is to be implied against any of them based on any such representation or warranty. The only information that will have any legal effect will be that expressly represented in this Disclosure Statement and the accompanying Subscription Agreement and Investor Questionnaire (the "Offering Documents").

Registration

We believe that the U.S. Accredited Investor CD is not a "security," as defined under U.S. securities laws, but that it is an ordinary deposit obligation. Nevertheless, we are making the following disclosures as a precautionary measure:

The CD Deposits have not been or will not be, registered under the U.S. Federal Securities Act of 1933, as amended (the "Securities Act") or the securities laws of any state within the United States ("U.S.") or any other jurisdiction (collectively, "Securities Laws"). Depositors should be aware that this Disclosure Statement was prepared in connection with the offering of the CD Deposits and does not contain all of the information that might be required in a prospectus or offering circular intended to be distributed to persons other than "Accredited Investors," as defined on page 6.

Restrictions on Transfer or Resale of the CD Deposits

You are restricted from transferring or reselling your CD Deposits pursuant to the Securities Laws and the terms of the U.S. Accredited Investor CD.

Investment Risk

You may lose your entire investment (principal and interest) under circumstances where we may be financially unable to repay those amounts.

Investment Strategy and Other Fixed Income Instruments

Returns on the U.S. Accredited Investor CD are contingent upon returns on our investment portfolios. We utilize varying investment strategies depending upon the climate in the investment markets. The returns on the U.S. Accredited Investor CD may also be affected by the results of other fixed income instruments we offer, and in the case of the Index-Linked CD, the Market Index you choose. If other fixed income instruments negatively affect our financial condition, then the same could negatively impact return on principal and interest on the U.S. Accredited Investor CD.

Referral Fees

Referral Fees may be paid to persons who introduce Depositors to us. See "Description of the U.S. Accredited Investor CD Program, Referral Fees" for a more detailed discussion of these fees.

DESCRIPTION OF THE U.S. ACCREDITED INVESTOR CD PROGRAM

AVAILABILITY AND AMOUNT

The U.S. Accredited Investor CD is available only to a Depositor who qualifies as an "Accredited Investor" as defined in Rule 501(a) of Regulation D under the Securities Act, and who deposits with SIBL the required minimum balance of US$50,000 (the "Minimum Balance"). We reserve the unilateral right to suspend or discontinue the U.S. Accredited Investor CD and/or to refuse a subscription for a CD Deposit at any time. In those cases we will promptly return any amounts received in connection with a refused subscription. We offer three types of CD Deposits, as follows:

FIXEDCD℠

Each CD Deposit will be maintained for an agreed term of 3, 6, 12, 24, 36, 48 or 60 months. The term of the CD Deposit will commence on the first business day in St. John's, Antigua and Barbuda (the "Commencement Date"), following the business day on which we receive from you available funds, in an amount equal to or over the Minimum Balance, for purchase of the CD Deposit, as well as a fully executed and completed Subscription Agreement and Investor Questionnaire. Each CD Deposit will mature depending on the maturity you select and, unless we receive written notice to the contrary at least five (5) business days prior to maturity, each CD will be rolled over upon maturity (with accrued interest added to principal) for a similar term at the then prevailing interest rate we offer. If we have received proper notice, at maturity we will pay you by credit to your account at SIBL any principal and accrued and unpaid interest owed on the CD Deposit, and will then transfer the funds as you may instruct us in writing. Funds will become available on the business day following maturity. Interest will be compounded daily and may be withdrawn on a monthly basis or capitalized, subject to [illegible] policies. No additional deposits may be made.

FLEXCD℠

Each CD Deposit will be maintained for an agreed term of 3, 6, 12, 24, 36, 48 or 60 months. The term of the CD Deposit will commence on the first business day in St. John's, Antigua and Barbuda (the "Commencement Date"), following the business day on which we receive from you available funds, in an amount equal to or over the Minimum Balance, for purchase of the CD Deposit, as well as a fully executed and completed Subscription Agreement and Investor Questionnaire. Each CD Deposit will mature depending on the maturity you select and, unless we receive written notice to the contrary at least five (5) business days prior to maturity, each CD will be rolled over upon maturity (with accrued interest added to principal) for a similar term at the then prevailing interest rate we offer. If we have received proper notice, at maturity we will pay you by credit to your account at SIBL any principal and accrued and unpaid interest owed on the CD Deposit, and will then transfer the funds as you may instruct us in writing. Funds will become available on the business day following maturity. Minimum additional deposits may be made in increments of US$2,500, and at the same interest rates as the initial deposit. Interest will be compounded daily and may be withdrawn at any time. Withdrawals of up to 25% of the principal deposited are allowed without penalties, provided that we have been properly notified at least five (5) working days in advance. There is a limit of four (4) withdrawals per year. Any withdrawals over and above 25% of the principal deposited is subject to early withdrawal penalties, as described below.

INDEX-LINKED CD℠

Each CD Deposit will be maintained for an agreed term of 36, 48, or 60 months. The term of the CD Deposit will commence on the last calendar day of the month in St. John's, Antigua and Barbuda (the "Commencement Date"), following the business day on which we receive from you available funds in an amount equal to or over the Minimum Balance, for purchase of the CD Deposit, as well as a fully executed and completed Subscription Agreement and Investor Questionnaire. The Initial Index Value will be determined by using the last market day's index values as published on Bloomberg L.P. Each CD Deposit will mature depending on the maturity you select and will not renew automatically. At maturity, we will pay you by credit to your SIBL account the principal plus the greater of (1) the stated interest rate attached at inception, or (2) interest computed at maturity and based on changes in the Index you choose at inception. We will then transfer the funds as you may instruct us in writing. Funds will become available on the business day following maturity. You will not receive dividends at any time, and will receive interest only at maturity. The principal and minimum rate of return are guaranteed only if held to maturity.

Rate of Return

FixedCD℠ and FlexCD℠

Interest on the principal balance in the CD Deposit may be paid monthly or accrued at the rate we publish for the maturity selected at the time the CD Deposit is established. We will periodically publish applicable rates, which you may obtain by contacting us. For all legal purposes, payment of accrued and unpaid interest will take place when we credit your account at SIBL. A calendar year of 365 days will be used for purposes of calculating interest subject to our ordinary practices and wire transfer charges as then in effect.

Index-Linked CD℠

Interest on the Principal balance will be calculated and paid at maturity, and will be the greater of a Guaranteed Rate of Return or an Index-Linked Return, calculated as follows:

Guaranteed Rate of Return

We will use the current 30-day rate for a fixed CD at the time of the initial investment. A calendar year of 365 days will be used for purposes of calculating interest subject to our ordinary practices used for daily compounding.

Index-Linked Return

We will calculate the Rate of Return (R) based on the Average Percentage Increase in Value (APIV) of the Index of choice multiplied by the Index Participation Rate (IPR), as shown in the following formula:
R = APIV * IPR

In that formula, Average Percentage Increase in Value (APIV) is calculated as follows:
APIV = (Average month-end Index Value – Initial Index Value / Initial Index Value

In other words, the Index Value on the day the product is opened (the last business day of the month) is established as the "Initial Index Value." Thereafter, we record the Index Value as of the last business day of each month during the term of the product ("month-end Index Value"). The Initial Index Value and all month-end Index Values will be determined by using the last market day's index values as published on Bloomberg L.P. At maturity, we compute the average of the month-end Index Values over the duration of the term by adding together the month-end Index Values (not including the Initial Index Value) and then dividing that total by the total number of months in the term to determine the Average Index Value. We then compute the average percentage increase in the Index, if any, by taking this Index Value, subtracting from it the Initial Index Value, and then dividing by the Initial Index Value.

Index Options

S&P 500 Index

Standard & Poor's Corporation (S&P) 500 Stock Index. A capitalization-weighted index of 500 stocks, designed to measure the performance of the broad U.S. domestic economy.

NASDAQ-100 Index

National Association of Securities Dealers Automated Quotes System (NASDAQ) -100 Index. A capitalization-weighted index of the 100 largest U.S. and international non-financial companies listed on the NASDAQ Composite Stock Market Index.

DJ EURO STOXX 50 Index

Dow Jones (DJ) Europe STOXX 50 Index. A capitalization-weighted index of 50 European blue-chip stocks.

Index Participation Rate

Participation Rate is contracted at inception for the selected Index. For example, if you choose the S&P 500, the contracted rate may be 125%; if you choose the NASDAQ-100, the contracted rate may be 85%; and if you choose the DJ EURO STOXX 50, the contracted rate may be 100%. When you purchase each CD Deposit, the Index Participation Rate for that purchase is contractually agreed upon, and no set rates are guaranteed for subsequent purchases.

Opening of the CD Deposit

To open the CD Deposit, you must complete, sign and return to us the Subscription Agreement, the Investor Questionnaire, and any other documents we may require, along with available funds equal to at least US$50,000.

Additional Deposits

Additional deposits to a CD Deposit will not be permitted after the CD Deposit is opened, except as allowed for the FlexCD™. You may instead purchase a new CD Deposit in the minimum amount of US$50,000 by entering into a Renewal Agreement for the new CD Deposit.

Rollovers

FixedCD™ and FlexCD™

Automatic renewals of CD Deposits will continue indefinitely in the future until we receive written notice from you or terminate the U.S. Accredited Investor CD. We may, at any time in our sole discretion, decline to automatically renew a CD Deposit and, instead, on any business day following a maturity date of a CD Deposit, send you, at your mailing address on our books, a check in an amount equal to the combined principal and accrued and unpaid interest.

Index-Linked CD™

The Index-Linked CD will not renew automatically.

Early Withdrawal Penalty

FixedCD™ and FlexCD™

Withdrawals from the CD Deposits prior to their maturity date may not be made, except as allowed for the FlexCD™. Any such withdrawal will be permitted only with SIBL's consent and will be subject to a penalty for early withdrawal. The penalty will be an amount equal to one month's interest for a CD Deposit with a term of 185 days duration or less, two month's interest for a CD Deposit with a term from 186 to 365 days in duration, and three month's interest for a CD Deposit with a term greater than 365 days in duration. SIBL will use the compounded daily interest rate in effect to calculate the amount of the penalty. SIBL will charge the penalty first against the interest remaining payable on the CD Deposit at the time of the withdrawal and any excess will be deducted from the principal balance. In the event that any withdrawal would reduce the balance on any CD Deposit below the Minimum Balance, SIBL reserves the right to treat any such withdrawal as a withdrawal of the entire account, terminate the CD Deposit and calculate the amount of penalty accordingly.

Index-Linked CD™

Withdrawals from the CD Deposits prior to their maturity date will be subject to a penalty for early withdrawal. No withdrawals will be allowed during the initial 12 month period. After the initial 12 months, redemption will be allowed with the understanding that there will be no guarantee of principal and no guaranteed minimum return. SIBL will determine the redemption price by computing the current market value of the investment Index calculation less a penalty of 10%.

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Account Statements

FixedCD℠ and FlexCD℠

Upon acceptance of the Subscription and establishment of an account, we will issue you a certificate for a CD Deposit (the "CD Certificate"). To the extent that you purchase the CD Deposit through Stanford Group Company or another broker/dealer or financial institution, we may issue or cause to be issued to you confirmation of the purchase of the CD Deposit. Additionally, we will mail to you at your address on our books a monthly, quarterly or semi-annual statement for the CD Deposit reflecting the amount of interest earned and paid.

Index-Linked CD℠

Upon acceptance of the Subscription and establishment of an account, we will issue you a confirmation statement showing the Index-Linked CD℠ opening date, the amount deposited, the market Index chosen and the market's Initial Index Value, the contracted Index Participation Rate, and the minimum guaranteed interest rate. Additionally, we may mail you quarterly statements for informational purposes only, reflecting projected or unrealized returns. At maturity, we will mail you to your address on our books a final statement of account containing settlement information.

Fees

We will charge no application or maintenance fees to you in connection with the maintenance of the CD Deposit account. However, we reserve the right to charge other fees, such as wire transfer fees, which will be published from time to time.

Referral Fees

We may engage certain persons to introduce potential Depositors to the [illegible] and pay them a referral fee. We may also in the future pay additional incentive [illegible] representatives as we deem feasible. You may obtain information regarding any of these fees [illegible] the firms with which SIBL has entered into referral agreements is Stanford Group Company, [illegible] registered broker/dealer and an affiliate of SIBL. See section entitled "Affiliate Transactions" for a discussion of this arrangement.

Taxes and [illegible]

Interest on the CD [illegible] not be subject to any tax, withholding or other charge in Antigua and Barbuda under current law. Citizens and residents of the United States may be subject to U.S. federal and state income tax on interest earned on CD Deposits. In addition, an investment in the CD Deposits may trigger certain U.S. government reporting requirements. We do not provide tax reporting or legal advice to Depositors. Therefore, you should consult with your tax advisor or legal counsel as to the tax and reporting consequences of an investment in the CD Deposits.

STANFORD INTERNATIONAL BANK LTD.

IN GENERAL

SIBL is a private financial institution chartered under the laws of Antigua and Barbuda.

SIBL was originally organized in Montserrat in 1985, but moved to and commenced operations in Antigua in December 1990. As an international business corporation, we may not take deposits from persons resident in Antigua and Barbuda, or accept deposits in local currency (the East Caribbean Dollar, or EC$). As a result, all of our assets and liabilities are denominated in foreign currency, predominantly the U.S. Dollar.

We are presided over by a Board of Directors consisting of seven individuals, a Chief Executive Officer, a President, a Chief Financial Officer, managers and other officers and employees. Our primary offices are located in a building near the airport in St. John's, the capital of Antigua.

Our primary business is the investment of funds deposited with us by depositors. Those funds are primarily invested in foreign and U.S. investment grade bonds and securities, and Eurodollar and foreign currency deposits.

The following data shows our historical portfolio investment by specific categories of investment and the approximate percentage of funds invested for 2000, 2001, 2002, and 2003:

Products	12/31/03	12/31/02	12/31/01	12/31/00
Equities	39.00%	15.[illegible]%	[illegible]%	48.32%
Treasury Bonds, Notes, Corporate Bonds	53.00%	[illegible]%	45%	49.37%
Metals	[illegible]%	[illegible]%	0.00%	2.32%
Currencies				
Australian Dollar	0.00%	0.00%	0.00%	1.71%
Canadian Dollar	0.34%	0.26%	0.19%	7.27%
Deutsche Mark	0.00%	0.00%	0.00%	11.30%
East Caribbean Dollar	0.01%	0.00%	0.02%	0.01%
Euro	0.53%	0.00%	0.00%	13.44%
Finnish Markka	0.00%	0.00%	0.00%	0.28%
French Franc	0.00%	0.00%	0.00%	3.07%
Irish Punt	0.00%	0.00%	0.00%	0.06%
Italian Lira	0.00%	0.00%	0.00%	0.80%
Japanese Yen	0.00%	0.00%	0.00%	6.76%
Mexican Peso	0.00%	0.00%	0.00%	0.46%
Netherlands Guilder	0.00%	0.00%	0.00%	0.32%
New Zealand Dollar	0.00%	0.00%	0.00%	0.45%
Norweigian Krone	0.00%	0.00%	0.00%	0.39%
Pound Sterling	0.00%	0.00%	0.00%	7.18%
Russian Rouble	0.00%	0.00%	0.00%	0.02%
Singapore Dollar	0.00%	0.00%	0.00%	0.65%
South African Rand	0.00%	0.00%	0.00%	0.68%
Spanish Peseta	0.00%	0.00%	0.00%	0.99%
Swiss Franc	0.00%	0.00%	0.00%	11.10%
Swedish Krona	0.00%	0.00%	0.00%	0.18%
United States Dollar	99.12%	99.74%	99.79%	32.87%

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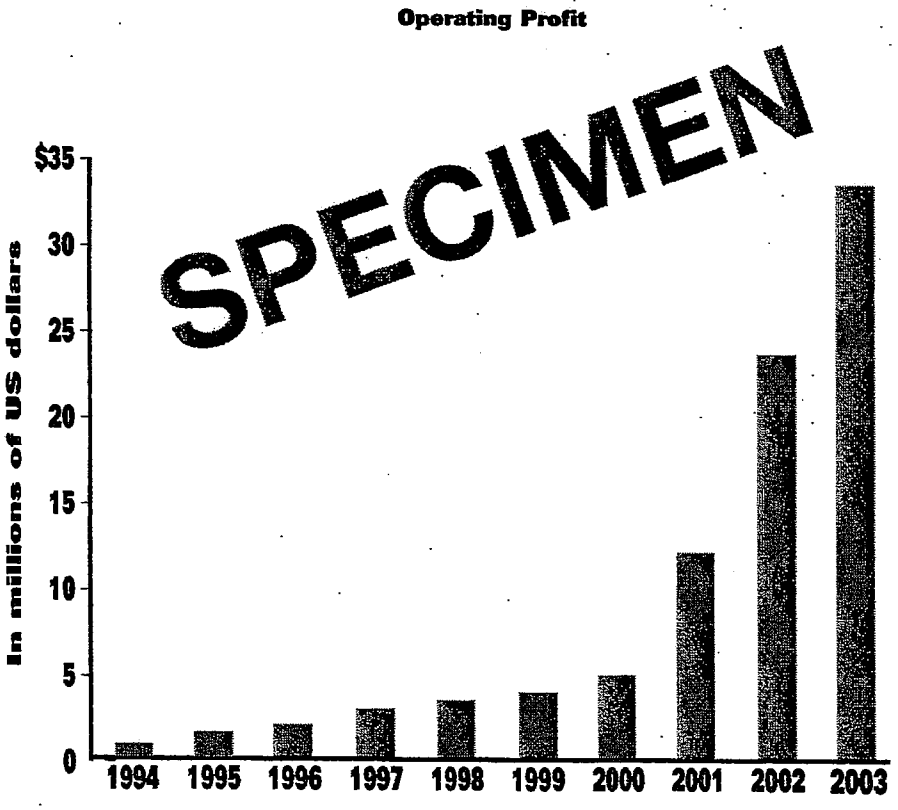
The following data shows our historical ten (10) year operating profits. The same data is illustrated by the graph below.

Year	Operating Profit
2003	US $33,121,812
2002	US $23,705,899
2001	US $12,160,997
2000	US $5,012,965
1999	US $3,808,991
1998	US $1,768,620
1997	US $2,233,174
1996	US $3,948,927
1995	US $3,879,696
1994	US $ 898,070



11.

We attempt to offer our depositors a rate of interest on their deposits that is very favorable when compared to rates generally available from leading commercial banks in the U.S. for deposits of comparable maturity. We believe this is due in large part to the returns that we realize on our investment portfolio. While we continue to invest our portfolio in a diversified manner consistent with our past investment strategy, no assurances can be made that future returns will permit us to continue to pay depositors a favorable rate of interest on their deposits. In short, past performance cannot guarantee future results.

Furthermore, investing in securities issued by international governments and corporations involves considerations and risks not typically associated with investing in obligations issued by the U.S. Government and U.S. corporations. The values of international investments can be affected by changes in currency rates or exchange control regulations, application of international tax laws, changes in governmental administration or economic or monetary policy, or changed circumstances in dealings between nations. Forces of supply and demand on the foreign exchange markets determine international currency exchange rates. These forces are themselves affected by the international balance of payments and other economic and financial conditions, government intervention, speculation and other factors. Moreover, foreign currency exchange rates may be affected by the regulatory control of the exchanges in which the currencies trade. Investments in foreign markets can be affected by factors such as expropriation, confiscation, taxation, lack of uniform accounting and auditing standards, and potential difficulties in enforcing contractual obligations and investment policies, and may be affected by extended settlement periods.

While we do not generally provide unsecured credit facilities, we do provide loans to customers, often secured by the customer's deposits at SIBL, usually in an amount greater than the amount of the loan. We also issue letters of credit on behalf of our customers to support debt obligations or to finance the shipment of goods. Customers' deposits typically secure letters of credit with SIBL in an amount equal to or greater than the letters of credit issued.

We are regulated by the Financial Services Regulatory Commission and the Ministry of Finance of the Government of Antigua and Barbuda. We have audited financial statements prepared by A.L. Hewlett & Co., Chartered Certified Accountants and Registered Auditors. Copies of the most recent statements (included in SIBL's 2003 Annual Report) are available upon request.

The insurance coverage held by SIBL includes Property and Casualty, Exporter's Package, Vehicle, Worker's Compensation and Financial Guarantees in Trade Bankers' Blanket Bond, Directors' and Officers' Liability, and Errors and Omissions Liability coverages. We also maintain Depository Insolvency insurance. The latter insurance protects us against the possible insolvency of any financial institution where we may place our own funds, and is not the equivalent of the FDIC insurance offered on deposits at many institutions in the United States. We obtained this coverage after undergoing a risk analysis, mandated by the underwriter, to determine whether reasonable care is routinely exercised in the protection of our assets.

On December 31, 2003, we had US$2,225,506,026 in total assets, US$135,028,619 in shareholder's equity and US$2,083,397,998 in total deposits. Our net income for the year ended December 31, 2003, was US$33,121,812.

Description of Antigua and Barbuda

Antigua and Barbuda is located in the eastern Caribbean islands at the southern end of the Leeward Islands, 250 miles southeast of Puerto Rico, and consists of two islands. Antigua is 108 square miles in size and the island of Barbuda is 62 square miles. Antigua and Barbuda has been a stable, functioning democracy since it achieved full independence on November 1, 1981. In similar fashion with many other former British colonies, Antigua and Barbuda remained part of the English monarchy after achieving independence and is a member of the British Commonwealth. Queen Elizabeth II, as head of the British Commonwealth, is represented by a Governor General. Antigua and Barbuda has a bicameral Legislature. There is a 17-member upper house, or Senate, appointed by the Governor-General, mainly on the advice of the Prime Minister. The Prime Minister and the Cabinet are responsible to the Parliament, the normal life of which is five years.

The legal system is based on English law. The Eastern Caribbean Court of Appeals has exclusive original jurisdiction of all court actions and all appeals go to a panel consisting of a Chief Justice and five other justices, and from there to the Privy Council in London, England.

Antigua and Barbuda has a combined year-round population of approximately 68,500. Antigua and Barbuda's economy is primarily service oriented with tourism being the most important determinant of economic performance. Antigua and Barbuda is burdened by a large and growing external debt which remains a serious economic problem and which could hamper its development.

Antigua and Barbuda does not have (and historically has not had) any form of exchange controls restricting SIBL's international business, including acceptance of deposits denominated in U.S. Dollars. However, there is no absolute certainty that some future enactment of exchange controls or of other restrictive laws in Antigua and Barbuda would not hinder SIBL's operations or the performance of its obligations in respect of U.S. Dollar deposits.

International banking in Antigua and Barbuda has grown rapidly over the past several years and is in the process of transition. This rapid growth and continuing evolution has challenged the Government's ability to supervise and control the country's international financial sector. The Government has recently taken aggressive steps, primarily through the enacting and implementation of new legislation, to insure Antigua's offshore sector is being properly regulated.

Miscellaneous

Prior to making an investment, you should consult your own legal and financial advisors concerning the U.S. Accredited Investor CD generally. Should you desire further information about us or the U.S. Accredited Investor CD to make a more informed business decision, you should request the same from:

Stanford International Bank Ltd.
No. 11 Pavilion Drive
St. John's, Antigua, West Indies
Attn: Beverly Jacobs
Operations Manager
Phone: (268) 480-3700

MANAGEMENT

James A. Stanford
Chairman Emeritus

James A. Stanford, elected Chairman Emeritus in December 1997. Mr. James A. Stanford previously served as Chairman of the Board of Directors from the commencement of SIBL's operations in 1985 until December 1997. He graduated from Baylor University in 1948 with a degree in business administration.

R. Allen Stanford
Chairman
Director

R. Allen Stanford, elected Chairman of the Board in December 1997. Mr. R. Allen Stanford previously served as President and Chief Executive Officer of SIBL from commencement of SIBL's operations until December 1997. He is also principal shareholder, officer and director of various affiliated companies. Mr. R. Allen Stanford graduated from Baylor University in 1974 with a degree in finance.

O.Y. Goswick
Director

O.Y. Goswick, member of the Board from the date of commencement of SIBL's operation. As well as being an active cattle rancher, Mr. Goswick is a principal of a Ford and GM car dealership.

Kenneth C. Allen, Q.C.
Director
Secretary and Treasurer

Kenneth C. Allen, Q.C., member of the Board from commencement of SIBL's operations. Mr. Allen is Queen's Counsel and a graduate of the University of London in law, a barrister-at-law and a member of the Society of the Middle Temple. He has practiced law for over [illegible] years in the United Kingdom and Eastern Caribbean, and has served as a judge of the High Court of Justice in Antigua. Mr. Allen also serves on the Board of Bank of Antigua Limited, an affiliate of SIBL.

Sir Courtney N. Blackman, Ph.D.
Director

Sir Courtney N. Blackman, elected member of the Board on October 1, 1998. Mr. Blackman graduated from the University of the West Indies in 1956 with a B.A. in Modern History, received a MBA in 1964 from Inter-American University in San Germaine, Puerto Rico, and was awarded a Ph.D. degree in 1969 from Columbia University's Graduate School of Business in New York. In January 1995, Dr. Blackman was appointed as Barbados' Ambassador to the United States and the Permanent Representative to the Organization of the American States, and currently serves in that capacity. In addition to numerous positions as consultant to governments and lecturer, Dr. Blackman served as the first Governor of the Central Bank of Barbados from 1972 to 1987. Dr. Blackman also serves on the Board of Bank of Antigua Limited, an affiliate of SIBL.

Robert S. Winter
Director

Robert S. Winter, elected member of the Board on October 1, 1998. Mr. Winter received a Bachelor of Science Degree from Texas A&M University in 1948. Mr. Winter has been a bond specialist throughout his career in the insurance industry. Mr. Winter is currently a financial specialist with Bowen, Miclette & Britt, Inc. in Houston, Texas. Prior to joining Bowen, Miclette & Britt, Inc., Mr. Winter was a Vice President at Sedgwick James of Houston. Bowen, Miclette & Britt, Inc. is currently the primary agent for all of the insurance policies held by SIBL and its affiliated companies.

James M. Davis
Director
Chief Financial Officer

James M. Davis, has been associated with the Bank and its affiliated companies for more than ten years. He graduated from Baylor University in 1975 with degrees in accounting and business administration.

Juan Rodriguez-Tolentino
President

Juan Rodriguez-Tolentino joined Stanford International Bank in 1992 after more than a decade with the Bank of Nova Scotia and the Bank of Boston. He was promoted to Chief Operating Officer in December 2001 and then President in November 2003. Mr. Rodriguez-Tolentino graduated from the Inter-American University of Puerto Rico with a degree in management and economics. He also holds a diploma in banking operations management from the BAI School for Bank Administration at the University of Wisconsin Graduate School of Business.

Miguel Pacheco
Senior Vice President

Miguel Pacheco joined SIBL in September 2004. He previously served in various managerial positions with major international banks including Bank of Boston, Banco Santander and Commercebank N.A. in bank operations/administration. Prior to that, Mr. Pacheco was employed for 17 years with the Bank of Nova Scotia in San Juan, Puerto Rico and Toronto, Canada. He holds a degree in Computer Programming and has completed various courses in banking operations. He also graduated from the National Graduate Compliance School at the University of Oklahoma.

Pedro E. Rodriguez
Vice President and
Senior Compliance Officer

Pedro E. Rodriguez joined SIBL in July 200[illegible] Mr. [illegible]driguez has been in banking since 1972 and has held th[illegible]sident, Compliance and Compliance Officer/Inter[illegible] Ba[illegible]o P[illegible]ar de Puerto Rico, Chase Manhattan Ba[illegible]d B[illegible] Sa[illegible]nder PR. He also served as Internal Auditor [illegible] Co[illegible] a[illegible]caraccas International Banking Co[illegible]on. Mr. R[illegible] g[illegible]uated from the Inter-American University of Puerto[illegible]co in [illegible] with a degree in finance and accounting. He also holds a [illegible]ding from the BAI School of Banking at the University of Wi[illegible]sin.

Beverly Jacobs
Operations Manager

Beverly Jacobs joined SIBL in September 1993. Prior to joining SIBL, Ms. Jacobs was an Executive Assistant.

Patricia Kelsick
Client Accounts Manager

Patricia Kelsick joined SIBL in April 1999. Prior to joining SIBL, Ms. Kelsick was Supervisor of Foreign Trade Services at the Bank of Antigua Limited, an affiliate of SIBL.

Management's Discussion and Analysis of Financial Condition and Results of Operations

Overview

We believe that the key factors in our profitability and that of the U.S. Accredited Investor CD are our management team, investment philosophy and global diversification in the investment market. For detailed information on our management, see the section entitled "Management."

Investment Philosophy and Portfolio Diversification

Our investment philosophy is to achieve optimal investment performance with critical attention to limiting risk of loss. We select equity debt and cash positions (the "Investment Positions") of high quality that provide the potential for high growth, but which can be obtained at a reasonable cost. Our portfolio of Investment Positions consists of securities from established, quality companies and governmental agencies from around the world. We seek opportunities in companies that have reasonable P/Es, above average dividend yields, above average growth rates and low price-to-sales ratio. One of our goals is to remain balanced in the distribution of product inventory (i.e., debt versus equity versus cash). Leverage is utilized when we deem it appropriate.

Results of Operations

Interest and non-interest income generated for the year ending December 31, 2003, increased by US$54,942,912 to US$254,463,299 when compared to the same period last year. Similarly, revenue net of interest paid also reflected an increase from US$89,645,998 at December 31, 2002 to US$120,444,406 at December 31, 20[illegible]. Although operating expenses increased, net earnings increased to US$33,121,812 compared to US$23,[illegible]5,[illegible] in [illegible]2.

Liability and Capital Resources

SPECIMEN

We have current and long-term liabilities of US$2,090,[illegible] (including deposits of US$2,083,397,998) as of December 31, 2003, compared to US$1,61[illegible],[illegible],535 (including deposits of US$1,606,062,398) as of December 31, 2002. SIBL's total assets were US$2,[illegible]06,026 (including an investment portfolio of US$2,082,492,300 and cash and cash equivalents of US$[illegible],385 [illegible] December 31, 2003, compared to US$1,713,755,342 (including an investment portfolio of US$[illegible]573,287,438 and cash equivalents of US$108,256,054) as of December 31, 2002.

AFFILIATE TRANSACTIONS

Among the persons or entities that may offer the U.S. Accredited Investor CD to Depositors on our behalf is Stanford Group Company ("SGC"), a Texas corporation which is a registered broker/dealer in the United States and is affiliated with us through common ownership. In such instances, SGC will be acting as an independent contractor, charging us a fee for SGC's services. We have not authorized anyone to give any information or to make any representation other than as contained in the Offering Documents. No other information or representation may be relied upon as having been authorized by us.

We, not SGC, are solely responsible for the contents of this Disclosure Statement and the other Offering Documents, and we, not SGC, will be solely responsible to you for all amounts due in respect of the CD Deposit. In the event of nonpayment of funds due and owing under the CD Deposit for any reason, you will have no claim or right against SGC or any other dealer or sales representative.

SIBL and an affiliated company, Stanford Financial Group Company ("SFG"), has had a marketing and service contract in force since 1995, which provides us with marketing and management services for a negotiated fee. This contract is automatically renewed on a yearly basis unless terminated by one of its parties. We are also party to a referral fee agreement with SGC. The fees paid pursuant to the referral fee agreement with SGC are a percentage of SGC's managed client portfolio of SIBL deposits, and are currently up to 3%, negotiated annually.

We also entered into a long-term building lease in April 2002 for new state-of-the-art facilities owned by our affiliate, Stanford Development Company Limited. The new facilities provide additional operational and private banking office space to accommodate the growth of our operations.

WE HAVE NOT AUTHORIZED ANY DEALER, SALES REPRESENTATIVE OR OTHER PERSON TO GIVE ANY INFORMATION OR TO MAKE ANY REPRESENTATIONS IN CONNECTION WITH THIS OFFERING OTHER THAN THOSE CONTAINED IN THIS DISCLOSURE STATEMENT. IF GIVEN OR MADE, SUCH INFORMATION MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY US. THIS DISCLOSURE STATEMENT DOES NOT CONSTITUTE AN OFFER TO SELL OR A SOLICITATION OF AN OFFER TO BUY, ANY FIXED INCOME PRODUCT OF SIBL OTHER THAN THE U.S. ACCREDITED INVESTOR CDS TO WHICH THIS DISCLOSURE STATEMENT RELATES, AND DOES NOT CONSTITUTE AN OFFER TO, OR A SOLICITATION OF, ANY PERSON IN ANY JURISDICTION WHERE SUCH AN OFFER OR SOLICITATION WOULD BE UNLAWFUL. YOU MAY UNDER NO CIRCUMSTANCES CONSIDER THE DELIVERY OF THIS DISCLOSURE STATEMENT OR ANY SALE MADE HEREUNDER AS AN IMPLICATION THAT OUR AFFAIRS HAVE NOT CHANGED SINCE THE DATE OF THIS DISCLOSURE STATEMENT OR THAT THE INFORMATION CONTAINED HEREIN IS CORRECT AT ANY TIME AFTER THIS DATE.

THE OFFERING

We originally offered the U.S. Accredited Investor CD for a period of one (1) calendar year from October 15, 1998, the effective date of the original Disclosure Statement. The amended Disclosure Statement dated November 30, 1999, extended the offering period indefinitely, until we terminate it.

How to Subscribe

Subscriptions and Payments

Depositors desiring to acquire U.S. Accredited Investor CDs should carefully read and follow the instructions set forth in the Offering Documents, complete and sign the Subscription Agreement and Investor Questionnaire and deliver them along with the subscription amount to us. The subscription amount must be paid by cashier's check, personal check or wire transfer made payable to "Stanford International Bank Ltd." In the event your subscription is not accepted by us, we will return the funds to you. We may accept any subscription in whole but not in part. In addition, we reserve the right to reject any subscription at our sole discretion for any reason whatsoever and withdraw the Accredited Investor CD Program at any time prior to acceptance of subscriptions.

We will pay all costs and expenses in connection with the offering, including, but not limited to, all expenses related to the costs of preparing, reproducing or printing this Disclosure Statement, legal expenses and other expenses incurred in qualifying or registering the offering for sale under the Blue Sky laws of the states of Alabama, Arkansas, Arizona, California, Colorado, Florida, Georgia, Hawaii, Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Montana, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, Wyoming and such other jurisdictions where necessary. It is anticipated that the total of all costs and expenses (excluding fees and commissions) in connection with this offering should not exceed approximately US$200,000.

By signing the Subscription Agreement and Investor Questionnaire, you acknowledge and agree that you have not offered or sold any portion of the CD Deposit and have no present intention of dividing your CD Deposit with others or of reselling or otherwise disposing of any portion of your CD Deposit either [illegible] or upon the occurrence of a fixed or determinable period of time or upon the occurrence or nonoccurrence of [illegible] event or circumstances. You may not solicit, directly or indirectly (whether through an agent [illegible]), the participation of another person or entity without our prior written approval. You also agree that [illegible] directly or indirectly, of the Disclosure Statement or any part thereof to any [illegible] or entity, or use of this Disclosure Statement or any of its contents, or photocopying or other duplication without our express written consent is strictly prohibited.

Purchase of CD Deposits

Depositors desiring to acquire CD Deposits should carefully read and follow the instructions set forth in the Subscription Agreement and Investor Questionnaire. Each Depositor will be required to return the executed Subscription Agreement and Investor Questionnaire accompanied by a personal check, cashier's check or wire transfer in the amount of the proposed CD Deposit set forth in such Depositor's Investor Questionnaire. All checks should be made out in the name of Stanford International Bank Ltd. and wire transfers should be addressed as set forth in the Subscription Agreement.

This amended Disclosure Statement is dated September 30, 2004. The information contained herein is only good as of this date.

For further information concerning the U.S. Accredited Investor CD or the proposed offering of CD Deposits, please contact:

Stanford International Bank Ltd.
No. 11 Pavilion Drive
St. John's, Antigua, West Indies
Attn: Beverly Jacobs
Operations Manager
Phone: (268) 480-3700

STANFORD INTERNATIONAL BANK LTD.
No. 11 Pavilion Drive
St. John's, Antigua, West Indies
Tel. (268) 480-3700
Fax (268) 480-3737

EXHIBIT E

[SIB General Terms and Conditions]

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STANFORD INTERNATIONAL BANK LTD.

LA VERSÍON EN ESPAÑOL SE ENCUENTRA
AL FINAL DE ESTE DOCUMENTO.

GENERAL TERMS AND CONDITIONS:

The Bank's General Terms and Conditions as set forth herein shall govern the relationship between the Depositor and the Bank.

1. The Bank agrees to open any account, upon its acceptance of the Depositor's Account Application and receipt of the minimum required deposit together with such other documentation as may be required. As used in these Terms and Conditions, the singular term "Depositor" shall mean the owner of the account and in the case of joint accounts or partnerships, unincorporated associations or unincorporated business accounts, shall refer to each of the signatories on the account.

2. The Bank reserves the right, at its sole discretion, to accept or reject any new Account Application. Notwithstanding anything else to the contrary contained herein, the Bank reserves the right, in its sole discretion, to close a Depositor's account, at anytime. The Bank shall have full discretion to initiate, modify or increase any amount and assess any fees or other charges which the Bank may deem appropriate or necessary for any customer transactions or administrative costs.

3. By submitting a completed and signed Account Application the Depositor is requesting and authorizing the Bank to review and verify any and all information submitted or necessary to substantiate the information provided. Any and all deposits enclosed with the Account Application shall only begin to accrue interest upon approval of the account by the Bank in accordance with the Bank's normal practice. Any instructions provided by the Depositor at the time the Account Application is submitted, shall only be executed when the Bank has informed the Depositor that the Depositor's Account Application has been approved. The Bank shall take a reasonable period of time to conduct its due diligence in the investigation and documentation of all information required. In the event the Depositor's Account Application is rejected, the Depositor's funds shall be returned, along with any items or documents, within a reasonable period of time. All deposits and items are accepted provisionally until the Bank has accepted the account and all items have cleared.

4. The Bank may request, at its sole discretion, any documentation that it may deem necessary to substantiate or authenticate any information provided by the Depositor. Such documents, may include but are not limited to, a valid and legible photo identification, bank references, financial reports, certificate of good standing, corporate resolutions or partnership agreements. Furthermore, the Bank reserves the right to request such additional information, as it may deem necessary during the term of any account.

5. The Bank shall exercise due care in executing instructions given by the Depositor. In the event that ambiguous or conflicting instructions are given regarding any account, the Bank shall be entitled to act or decline to act as the Bank sees fit without incurring any liability to the Depositor. In the performance of its duties, the Bank will exercise due care. However, if in the performance of its duties a default may occur, for which the Bank might be held responsible, the Bank will only reimburse those charges that it may deem reasonable. In any event, the Bank will not accept any liability for loss of income, profit, or missed investments and the like. The Depositor explicitly accepts the Bank's limit of liability, and hereby irrevocably agrees, upon demand to indemnify the Bank and hold the Bank harmless from and against any and all claims for damage or losses arising from such default.

6. No signatories to an account may be amended, changed or substituted until such written request has been submitted and acknowledged by the Bank.

7. In any event, the Bank shall not be liable for any damages that may arise from the forgery or misuse of any signature in this or any other account, which may be opened subsequently, except for the Bank's gross negligence.

8. In the event there are multiple Depositors on one account, the Bank is expressly authorized to recognize and honor any of the signatures subscribed on the Account Application as the Bank's authorization for the payment of funds from the account. Each Depositor hereby agrees with the other and with the Bank that all sums in the account shall be owned by the Depositors jointly

with the right of survivorship. The form of ownership of the account may be changed only with instructions signed by all of the Depositors and acknowledged by the Bank. The account shall be subject to payment upon the cheque, draft, item or withdrawal of any of the Depositors, and the payment thereof upon the order of any one of the Depositors shall discharge the Bank from liability to all of the Depositors and of their beneficiaries, executors, administrator's successors or assigns. Furthermore, each Depositor appoints each other Depositor as his or her attorney, with power to endorse, and to deposit in the account. In addition, subject to the provisions of these Terms and Conditions, each Depositor may pledge or assign, or dispose of, any funds in the account.

9. The Bank shall have a right of lien on all assets in any accounts held at the Bank or elsewhere for the Depositor and a right to offset all monies owing to Depositor against any amounts owed by Depositor to the Bank, irrespective of maturity date or prescription. Such rights shall also apply to all early withdrawal penalties, advances, loans or credit card balances, whether secured or unsecured. The Bank shall be entitled to realize the pledged assets without further formality, court order or government action at its discretion, should the customer be in default of payment. Depositor agrees to release and indemnify the Bank from all liability for its actions.

10. The use of the postal service, telephone, facsimile, cable, telex services, e-mail or any other means of communication or data transport by or on behalf of Depositor, shall be the sole responsibility of the Depositor. Depositor shall do so at his own risk. While the Bank shall seek to comply with the Depositor's instructions, the Bank shall have no liability or responsibility for the veracity or authenticity of such transmissions and for failure to execute these instructions unless it shall have acted with gross negligence or willful misconduct. Any monetary damages or loss that may arise from such use, by reason of omission, loss, fraud, delay, erasure, misunderstanding, mutilation or duplication shall be the sole responsibility of the Depositor. The Depositor hereby irrevocably agrees, upon demand, to indemnify and hold the Bank harmless from and against any and all monetary damages or losses. This indemnification shall survive the termination of any authorization or any account.

11. The Bank does not accept cash, cash equivalents or third party items for deposit in any account.

12. Cheques are mailed in accordance with the Depositor's instructions at the Depositor's risk. THE BANK MAY FORWARD ITEMS TO ITS CORRESPONDENT BANKS FOR COLLECTION, AND SHALL NOT BE LIABLE FOR DEFAULT OR THE NEGLIGENCE OF CORRESPONDENT BANKS OR FOR LOSSES IN TRANSIT.

13. All items are credited to the account conditionally and are subject to collection by the Bank. Deposits of cheques and wire transfers in the account shall begin to earn interest when funds are collected by the Bank, in accordance with the Bank's normal practice. The Depositor shall be responsible for any exchange and handling fees, which may be incurred in connection with any item and such fees shall be for account of the Depositor.

14. All interest income shall be paid TAX-FREE at source. The Depositor understands and agrees that it is the Depositor's responsibility to comply with any laws or regulations regarding the establishment and/or maintenance of an account or any interest earned thereon in the Depositor's domicile or legal jurisdiction.

15. The offer and acceptance of the deposits provided for herein may be prohibited or limited in certain jurisdictions. It is understood that it is the responsibility of the Depositor, or any person who is considering making a deposit in the Bank, to inform himself regarding, and to comply with, all the legal provisions and regulations in force in his jurisdiction with respect to the making and delivery of the deposit, exchange controls, taxes and similar matters.

16. Any complaint by the Depositor regarding withdrawals, deposits or any other instructions executed or omitted by the Bank shall be made in writing and received by the Bank within thirty (30) days of the most recent statement in question, or the period in which the Depositor may be reasonably deemed to have received such acknowledgements. Failure to inform the Bank, as stated, shall constitute an absolute acceptance and approval of the action or omission by the Depositor, notwithstanding any other standing arrangements between the Depositor and the Bank. The Depositor agrees that in case of such dispute, the Bank's General Ledger, general accounting books and Depositor's instructions shall be sufficient and complete evidence of the transaction unless the Depositor is able to prove otherwise.

17. A Statement of Account will be tendered periodically as indicated by the Depositor and mailed to the Depositor at the last known address shown by the Bank's records, unless the Depositor advises otherwise in writing. In the event the Depositor receives quarterly or half-yearly statements, the Bank's liability shall be limited to the declared value of the item or items concerned.

18. No delay or omission on the part of the Bank in the enforcement or exercise of any of its rights in connection with an account shall operate nor be construed as a waiver of such rights, and no such delay or omission shall prejudice the Bank in its later enforcement or exercise of such rights afforded to the Bank by law of by separate agreement between the Depositor and the Bank.

19. The Depositor agrees to indemnify and to hold the Bank harmless upon demand, from, against and in respect of any and all costs, expenses, losses and damages, including all reasonable attorney's fees and expenses, whether or not suit is brought, incurred by the Bank in connection with any controversy, official or governmental investigation, claim or dispute relating to an account or to any transaction effected through an account, by whomsoever brought or made, unless such costs, expenses, losses and damages are held by a court in Antigua and Barbuda WI to have been incurred as the result of the Bank's gross negligence or willful misconduct.

20. The present Terms and Conditions express the definitive legal rights and obligations of the Depositor and the Bank. No agreement or representation, unless incorporated in these Terms and Conditions, shall be binding upon either party. The Bank shall have the right to amend these Terms and Conditions at any time. Any deviation from these General Terms and Conditions shall be valid only when agreed upon in writing and properly acknowledged by both parties.

21. The Bank shall have the right at any time to amend the General Terms and Conditions. Such amendments shall be notified to the Depositor in an appropriate manner and in the absence of any written objections shall be deemed to have been accepted after a period of one month has elapsed.

22. The account(s) are subject to the terms and restrictions contained in the applicable Terms of Deposit. The Depositor acknowledges receipt of said Terms of Deposit, which forms an integral part hereof by reference.

23. These Terms and Conditions shall be interpreted in accordance with the laws of Antigua and Barbuda, W. I. For any action or proceeding which the Bank or the Depositor may commence in connection with the account or with any operation or transaction involving payment to or from the account, the Depositor irrevocably submits to the jurisdiction of the courts of Antigua and Barbuda, W. I., and to the fullest extent permitted by law, waives any and all immunity that it or any of its property, may have under any applicable law, as well as waiving any claim that such courts would be an inconvenient forum. Jurisdiction for all legal proceedings shall be in Antigua. The Bank, furthermore shall have the right to take legal action against Depositor before the competent court in Depositor's place of domicile or before any other competent court.

By signing the Account Application Form and other pertinent Bank documentation, the Depositor(s) acknowledge(s) receipt of a copy of and express(es) agreement with the General Terms and Conditions of the Bank along with specific information as it relates to the particular accounts requested. The Depositor(s) further acknowledge(s) that the General Terms and Conditions are provided in Spanish solely as an informational service but that in the event of any legal action arises in connection with an account or Depositor in a competent jurisdiction, the Depositor agrees to be bound by the English version.

STANFORD INTERNATIONAL BANK LTD.

TÉRMINOS Y CONDICIONES GENERALES:

Los Términos y Condiciones Generales del Banco establecidos aquí regirán las relaciones entre el Depositante y el Banco.

1. El Banco conviene en abrir cualquier cuenta, al aceptar la Solicitud de Apertura de Cuenta del Depositante y al recibir el depósito mínimo exigido, conjuntamente con la documentación que sea requerida. Según se usa en estos Términos y Condiciones, el término singular "Depositante" significará el propietario de la cuenta y, en el caso de cuentas conjuntas o sociedades colectivas, asociaciones no incorporadas o cuentas comerciales no incorporadas, se referirá a cada uno de los firmantes en la cuenta.

2. El Banco se reserva el derecho, a su propio juicio, de aceptar o rechazar cualquier Solicitud de Apertura de Cuenta. No obstante

cualquier provisión contraria contenida aquí, el Banco se reserva el derecho, a su propio juicio, de cerrar la cuenta de un Depositante en cualquier momento. El Banco tendrá discreción completa de iniciar, modificar o aumentar toda cantidad y aplicar cualquier honorario u otros cargos que el Banco estime apropiado o necesario por cualquier transacción del cliente o costos administrativos.

3. Al presentar una Solicitud de Apertura de Cuenta debidamente llenada y firmada, el Depositante está solicitando y autorizando al Banco que revise y verifique toda y cualquier información presentada o que sea necesaria para comprobar la información suministrada. Todos y cualesquier depósitos adjuntos a la Solicitud de Apertura de Cuenta comenzará a devengar intereses sólo después de la aprobación de la cuenta por el Banco y de acuerdo con la práctica normal de éste. Cualquier instrucción suministrada por el Depositante en el momento de presentar la Solicitud de Apertura de Cuenta se ejecutará sólo cuando el Banco haya informado al Depositante que la Solicitud de Apertura de Cuenta ha sido aprobada. El Banco tomará un período razonable de tiempo para llevar a cabo su debida diligencia en la investigación y documentación de toda la información exigida. En caso de que la Solicitud de Apertura de Cuenta sea rechazada, los fondos del Depositante serán devueltos, junto con cualesquier depósito o documento, dentro un período razonable de tiempo. Todos los depósitos son aceptados provisionalmente hasta que el Banco haya aceptado la cuenta y los fondos a cobrar estén disponibles.

4. El Banco podrá solicitar, a su propio juicio, cualquier documentación que estime necesaria para comprobar y autenticar cualquier información suministrada por el Depositante. Tales documentos, podrán incluir, entre otros, una identificación fotográfica válida y legible (cédula de identificación), referencias bancarias, informes financieros, certificado de solvencia, resoluciones corporativas, convenios de sociedad colectiva, etc. Además, el Banco se reserva el derecho de solicitar la información adicional que estime necesaria durante el plazo de cualquier cuenta.

5. El Banco tomará todo el debido cuidado en ejecutar las instrucciones dadas por el Depositante. En caso de que instrucciones ambiguas o contradictorias sean dadas respecto a cualquier cuenta, el Banco tendrá derecho de actuar o dejar de actuar según el Banco estime conveniente, sin incurrir en responsabilidad alguna para el Depositante. Sin embargo, en el caso que ocurra un error en la ejecución de las transacciones por el cual el Banco podría ser responsable, el Banco reembolsará únicamente aquellos gastos que el Banco estime razonables. En todo caso el Banco no aceptará ninguna responsabilidad por la pérdida de entrada, ganancias u oportunidades de inversión perdidas, etc.. El Depositante explícitamente acepta la responsabilidad limitada del Banco, y en forma irrevocable se compromete a reembolsar, mediante requerimiento, el Banco y de mantener amparado al Banco de cualesquier demanda por pérdidas o perjuicios que resulten de tales errores.

6. Ningún firmante de una cuenta podrá ser modificado, cambiado o substituido hasta que tal solicitud por escrito haya sido presentada y reconocida por el Banco.

7. En todo caso, el Banco no será responsable por perjuicio alguno que surja de la falsificación o mal uso de alguna firma en esta cuenta o en alguna otra cuenta, que sea abierta posteriormente, salvo que sea por negligencia grave del Banco.

8. En caso de que haya Depositantes múltiples en una cuenta, el Banco está autorizado expresamente para reconocer y aceptar cualquiera de las firmas suscritas en la Solicitud de Apertura de Cuenta como autorización para el pago de fondos de la cuenta. Cada Depositante por medio del presente documento acuerda con el otro y con el Banco que todas las sumas en la cuenta serán propiedad de los Depositantes conjuntamente con el derecho de sobrevivencia. La forma de pertenencia de la cuenta sólo se puede cambiar con instrucciones firmadas por todos los Depositantes y reconocidas por el Banco. La cuenta estará sujeta a pago mediante el cheque, giro o retiro de cualquiera de los Depositantes, y el pago del mismo mediante la orden de cualquiera de los Depositantes librará al Banco de responsabilidad ante todos los Depositantes y de sus beneficiarios, albaceas, administradores, sucesores o cesionarios. Además, cada Depositante nombra a cada uno de los otros Depositantes como su apoderado, con poder para endosar y depositar en la cuenta. Además, con apego a las disposiciones de estos Términos y Condiciones, cada Depositante puede asignar o ceder o enajenar cualquier fondo en la cuenta.

9. El Banco tendrá un derecho de gravamen sobre todos los activos en cualesquiera cuentas mantenidas en el Banco o en otra parte para el Depositante y un derecho de contrarrestar todos los dineros que se deban al Depositante contra cualesquier montos propiedad del Depositante al Banco, cualquiera que sea la fecha de vencimiento o prescripción. Tales derechos también se aplicarán a todas las multas de retiros anticipados, adelantos, préstamos o saldos de tarjetas de crédito, con o sin garantía. El Banco tendrá derecho de realizar los activos pignorados sin otra formalidad, mandato de juzgado o acción gubernamental a su criterio propio, en caso de que el cliente esté en incumplimiento de sus obligaciones de pago. El Depositante está de acuerdo en exonerar

e indemnizar al Banco contra toda responsabilidad por sus acciones.

10. El uso del servicio postal, teléfono, facsímile, cable, servicios de télex, correo electrónico o cualquier otro medio de comunicación o transporte de datos por parte de o en nombre del Depositante, será responsabilidad exclusiva del Depositante. El Depositante lo hará a su propio riesgo. Si bien el Banco tratará de cumplir con las instrucciones del Depositante, el Banco no tiene obligación ni responsabilidad alguna por la veracidad o autenticidad de tales transmisiones y por falta de ejecutar estas instrucciones a menos que haya actuado con negligencia grave y con mala conducta intencional. Todos los daños monetarios o pérdidas que surjan de tal uso, debido a omisión, pérdida, fraude, demora, borradura, mal entendimiento, mutilación o duplicación serán la responsabilidad exclusiva del Depositante. El Depositante por medio del presente documento se compromete irrevocablemente, mediante requerimiento, a indemnizar y amparar al Banco de y contra todos los daños o perjuicios monetarios. Esta indemnización perdurará hasta después de la terminación de cualquier autorización o existencia de cualquier cuenta.

11. El Banco no acepta dinero en efectivo, equivalentes en efectivo o cheques de terceros para depósito en cualquier cuenta.

12. Los cheques son enviados a riesgo del Depositante según sus instrucciones. EL BANCO PODRÁ REMITIR A TRAVÉS DE SUS BANCOS CORRESPONSALES PARA RECAUDACIÓN, Y NO SERÁ RESPONSABLE POR MORA O NEGLIGENCIA DE LOS BANCOS CORRESPONSALES O POR PÉRDIDAS EN TRÁNSITO.

13. Todos los depósitos son acreditados a la cuenta condicionalmente y están sujetos a cobranza por el Banco. Los depósitos de cheques y transferencias cablegráficas comenzarán a devengar intereses cuando los fondos sean recaudados por el Banco, de acuerdo con la práctica normal del Banco. El Depositante será responsable por cualquier gasto cambiario y administrativo que se incurra en relación con cualquier transacción y éstos correrán por cuenta del Depositante.

14. Todos los ingresos por intereses se pagarán LIBRE DE IMPUESTOS en origen. El Depositante está de acuerdo y entiende que es responsabilidad del Depositante cumplir con cualquier leye o reglamentos relativos al establecimiento y/o mantenimiento de una cuenta o cualesquier intereses devengados sobre la misma en el domicilio o jurisdicción legal del Depositante. El Banco no informará ni tampoco se hará responsable de cualquier asunto de impuestos que surja de esta práctica.

15. La oferta y aceptación de los depósitos previstos en este documento podrán estar prohibidas o limitadas en ciertas jurisdicciones. Se tiene entendido que es responsabilidad del Depositante o de cualquier persona que está considerando hacer un depósito en el Banco informarse al respecto de y cumplir con todas las disposiciones legales y reglamentos en vigor en su jurisdicción con respecto a la realización y la entrega del depósito, controles de divisas, impuestos y asuntos semejantes.

16. Toda queja por el Depositante respecto a retiros, depósitos o cualesquiera otras instrucciones ejecutadas u omitidas por el Banco se efectuará por escrito y el Banco deberá recibir las mismas dentro de treinta (30) días de emitido el estado de cuenta más reciente en cuestión, o el período en que el Depositante razonablemente podrá ser considerado como que ha recibido tales acuses de recibo. El dejar de informar al Banco, según lo indicado, constituirá una aceptación y aprobación absoluta de la acción u omisión por parte del Depositante, no obstante cualesquier otros arreglos existentes entre el Depositante y el Banco. El Depositante acuerda que en caso de tal disputa, el Libro Mayor General del Banco, los libros contables generales y las instrucciones del Depositante serán suficiente y completa evidencia de la transacción a menos que el Depositante pueda probar lo contrario.

17. El Estado de Cuenta será entregado periódicamente según sea indicado por el Depositante y será enviado por correo al Depositante a la última dirección conocida que se indique en los registros del Banco, a menos que el Depositante informe de forma contraria por escrito. En caso de que el Depositante reciba estados trimestrales o semestrales, la responsabilidad del Banco estará limitada al valor declarado del rubro o rubros en cuestión.

18. Ninguna demora u omisiones por parte del Banco en la aplicación o ejercicio de cualquiera de sus derechos relacionados con una cuenta operará ni será considerado como renuncia de tales derechos, y ninguna demora u omisiones perjudicará al Banco en su aplicación o ejercicio posterior de tales derechos concedidos al Banco por ley, o por convenio separado entre el Depositante y el Banco.

19. El Depositante se compromete a indemnizar y mantener al Banco amparado, mediante requerimiento, de, contra y con respecto a todos y cualesquier costos, pérdidas y daños, incluyendo gastos y honorarios razonables de abogado, ya sea que se presente o no

una demanda judicial, incurrida por el Banco en relación con cualquier controversia, investigación oficial o gubernamental, reclamación o disputa relativa a una cuenta o a cualquier transacción efectuada mediante una cuenta, por cualquiera persona, a menos que tales costos, gastos, perjuicios o daños sean considerados por un juzgado en Antigua y Barbuda, Antillas Occidentales, habiendo sido incurridos como resultado de la negligencia grave y mala conducta intencional del Banco.

20. Los Términos y Condiciones presentes expresan los derechos y obligaciones definitivos de orden legal del Depositante y del Banco. Ningún acuerdo o representación, a menos que esté incorporado en estos Términos y Condiciones, será obligatorio para cualquiera de las partes. El Banco tendrá el derecho de reformar estos Términos y Condiciones en cualquier momento. Cualquier divergencia de estos Términos y Condiciones serán válidos sólo cuando sean convenidos por escrito y reconocidos debidamente por ambas partes.

21. El Banco se reserva el derecho, en todo momento, de reformar los Términos y Condiciones Generales. Tales reformas serán notificadas al Depositante de manera apropiada y en ausencia de cualesquiera objeciones escritas se considerará que han sido aceptados después de haber transcurrido un lapso de un mes.

22. La(s) cuenta(s) está(n) sujeta(s) a los términos y restricciones contenidas en los Términos de Depósito aplicables. El Depositante acusa recibo de tales Términos de Depósito, que forman parte integrante del presente por referencia.

23. Estos Términos y Condiciones serán interpretados de acuerdo con las leyes de Antigua y Barbuda, Antillas Occidentales. Para toda acción o proceso que el Banco o el Depositante inicie en relación con la cuenta o con cualquier operación o transacción que implique pago a la cuenta o de la misma, el Depositante irrevocablemente se somete a la jurisdicción de las cortes de Antigua y Barbuda, Antillas Occidentales y en toda la extensión que permita la ley, renuncia a toda y cualquier inmunidad que él o cualquiera de su propiedad tenga bajo cualquier ley aplicable, asimismo renuncia a cualquier reclamación que tales cortes no tendrían jurisdicción al respecto. La jurisdicción para todos los procesos legales será en Antigua. Además, el Banco tendrá el derecho de tomar acción legal contra el Depositante ante el juzgado competente en el lugar de domicilio o ante cualquier otro juzgado competente.

Al firmar la Solicitud de Apertura de Cuenta y otra documentación Bancaria pertinente, el (los) Depositante(s) acusa(n) recibo de una copia y da(n) su acuerdo expreso de los Términos y Condiciones Generales del Banco, junto con información específica en lo que se relaciona a las cuentas en particular solicitadas. Además, el (los) Depositante(s) reconoce(n) que los Términos y Condiciones Generales son suministrados en idioma español únicamente como servicio informativo pero que en caso de cualquier acción legal que surja en relación con una cuenta o con el Depositante en una jurisdicción competente, el Depositante está de acuerdo en quedar obligado por la versión en inglés.

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EXHIBIT F

[SIB Subscription Agreement]

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Subscription Agreement
Investor Questionnaire

U.S. Accredited Investor Certificate of Deposit Program

Private and Confidential

December 2004

STANFORD INTERNATIONAL BANK LTD.

STANFORD INTERNATIONAL BANK LTD.

CIF No.: _____

SIGNATURE CARD

Account Title: _____

Name	Indicate: joint / single / POA limitations	Signature
(a)	ID#	
(b)	ID#	
(c)	ID#	
(d)	ID#	

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For bank use only		
Sort name _____	CIF No. _____	
Initial Account _____	Mail Code _____	OF-code _____

STANFORD INTERNATIONAL BANK LTD.

U.S. ACCREDITED INVESTOR CERTIFICATE OF DEPOSIT PROGRAM

SUBSCRIPTION INSTRUCTIONS

Completing and Delivering the Subscription

Stanford International Bank Ltd. ("we," "us," "our," or "SIBL") is pleased to offer to you ("you," "your," or the "Depositor") participations in the U.S. Accredited Investor Certificate of Deposit Program ("U.S. Accredited Investor CD"). Subscriptions to purchase a U.S. Accredited Investor CD may be made by wire instruction or by personal or cashier's check, as set forth below. A completed Subscription Agreement and Investor Questionnaire must accompany all subscriptions.

All documents can be delivered by mail to SIBL at the following address:

Stanford International Bank Ltd.
No. 11 Pavilion Drive
St. John's, Antigua, West Indies
Attn: Patricia Kelsick
Client Accounts Manager
Telephone: (268) 480-3700
Facsimile: (268) 480-3737

Subscription Payments

The initial minimum deposit is US$50,000.00, or its equivalent in foreign currency, which must be in immediately available cleared funds ("Minimum Balance"), which you can make by wire transfer, personal check, or cashier's check.

Wire Transfers:

Bank:	The Toronto Dominion Bank International Banking Center Toronto, Ontario, Canada
SWIFT:	TDOM CA TT
Bnf. Account Name:	Stanford International Bank Ltd. (Acct. No. 0360012161670)

Checks:

Personal or cashier's checks may be made payable to "Stanford International Bank Ltd." and mailed to:

Stanford International Bank Ltd.
No. 11 Pavilion Drive
St. John's, Antigua, West Indies
Attn: Patricia Kelsick
Client Accounts Manager
Telephone: (268) 480-3700

Acceptance of Subscriptions

We may accept any subscription in whole, but not in part. In addition, we reserve the right to accept or reject any subscription at our sole discretion, with or without cause, whether or not you satisfy the qualification standards outlined in the Investor Questionnaire. We may withdraw the U.S. Accredited Investor CD at any time prior to acceptance of your subscription.

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STANFORD INTERNATIONAL BANK LTD.

U.S. ACCREDITED INVESTOR CERTIFICATE OF DEPOSIT PROGRAM

SUBSCRIPTION AGREEMENT

You as the Depositor have agreed to make a deposit in a U.S. Accredited Investor CD, as set forth in this Subscription Agreement, the Investor Questionnaire, and the Disclosure Statement (and any amendments, supplements, or updates thereto or other related documents) (collectively, the "Offering Documents").

You subscribe to deposit the Minimum Balance or any amount in excess of the Minimum Balance, as agreed to by us. You understand that we reserve the right to reject your subscription at our sole discretion for any reason whatsoever or that we may withdraw the U.S. Accredited Investor CD prior to accepting your subscription. In either event, we will promptly return any of your funds that you have previously remitted. We will not pay interest on any funds that are returned to you as a result of our decision to withdraw the U.S. Accredited Investor CD or our decision not to accept your subscription.

Depositor Representations

As a condition to our accepting your subscription and as supplemented in the case of a Flex CD, you state as follows:

(a) You have received a Disclosure Statement and other relevant Offering Documents related to the U.S. Accredited Investor CD for the corresponding the Minimum Balance or such other amount in excess of the Minimum Balance. You have read and you understand the Offering Documents, particularly the discussion of the risks associated with the U.S. Accredited Investor CD. In addition, you have had an opportunity to ask SIBL questions about, among other things, the U.S. Accredited Investor CD and have had your questions answered to your satisfaction.

(b) The information set forth in the accompanying Investor Questionnaire is accurate and complete as of the date of this Subscription Agreement, and you agree to notify us promptly of any material change in the information contained in the Investor Questionnaire or if any information in this Subscription Agreement becomes inaccurate.

(c) You are an "accredited investor" (an "Accredited Investor"), as provided in the qualification conditions in the accompanying Investor Questionnaire, and you understand and acknowledge that the U.S. Accredited Investor CD has not been, and will not be, registered under the Securities Act of 1933 ("Securities Act") in reliance on exemptions for private offerings. You certify that the information provided in the Qualifications section of the accompanying Investor Questionnaire is true and correct, and you understand that we are relying on such information in our decision to accept your subscription.

(d) You understand that you are not permitted to resell, assign, pledge, lend, mortgage, or otherwise transfer your U.S. Accredited Investor CD in the absence of our approval. You should view the U.S. Accredited Investor CD as an illiquid investment and be prepared to bear any economic and financial risk that you may experience until maturity.

(e) You or your duly appointed advisor have knowledge and experience in financial, tax, and business matters such that you or your advisor are capable of making an informed decision to acquire a U.S. Accredited Investor CD, in light of its merits and risks.

(f) You are acquiring a U.S. Accredited Investor CD for your own account and not with a view for resale or further distribution not otherwise permitted under the Securities Act.

(g) You have relied on your own resources in deciding to acquire a U.S. Accredited Investor CD, and you understand that neither we nor any of our representatives, in offering you the U.S. Accredited Investor CD, are acting as your legal or tax advisors.

(h) If you are a natural person, you are of legal age and capacity to execute, deliver and perform under this Subscription Agreement and the Investor Questionnaire.

(i) If you are a corporation, partnership, trust or other entity, you have the capacity to execute this Subscription Agreement and the Investor Questionnaire; the person signing on your behalf has the authority to execute such documents; and such documents are legal, valid, and binding agreements of yours.

(j) You understand that we intend to rely on your representations for purposes of accepting your deposit and subscription for the U.S. Accredited Investor CD, and you will indemnify us against any losses, fines, or other costs (including reasonable attorneys' fees) that we may suffer as a result of your breach of a material provision of this Subscription Agreement or the Investor Questionnaire.

(k) You understand that this Subscription Agreement shall be construed in accordance with and governed exclusively by the laws of Antigua and Barbuda, and you consent to the exclusive jurisdiction of the courts in Antigua and Barbuda in relation to any action or proceeding arising under this Subscription Agreement.

Notices

Any notice required or permitted to be given to a Depositor in relation to the U.S. Accredited Investor CD shall be sent to the address specified in Item 1 of the Investor Questionnaire [illegible] this Subscription Agreement or to such other address as you provide to us.

IN WITNESS WHEREOF, the Depositor(s) has(ve) executed this Subscription Agreement, intending to be legally bound, on this _____ day of _____, 20____.

Signature:_____

Name (please print):_____

Title (if applicable):_____

Signature:_____

Name (please print):_____

Title (if applicable):_____

Signature:_____

Name (please print):_____

Title (if applicable):_____

Signature:_____

Name (please print):_____

Title (if applicable):_____

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STANFORD INTERNATIONAL BANK LTD.

U.S. ACCREDITED INVESTOR CERTIFICATE OF DEPOSIT PROGRAM

INVESTOR QUESTIONNAIRE

Please furnish the following information about yourself to SIBL (please print or type).

I. Identity of Depositor(s)

SPECIMEN

Name: ______________________________

Spouse's Name (if joint tenants): ______________________________

Residential Address: ______________________________

Mailing Address (if different): ______________________________

Telephone (H): __________ Telephone (W): __________ Facsimile: __________

E-Mail Address: __________ Form of Legal Entity: __________

Social Security (include spouse's Social Security if joint tenants)
or Federal Tax Identification Number: ______________________________

Name: ______________________________

Residential Address: ______________________________

Mailing Address (if different): ______________________________

Telephone (H): __________ Telephone (W): __________ Facsimile: __________

E-Mail Address: __________ Form of Legal Entity: __________

Social Security or Federal Tax Identification: ______________________________

Name: ______________________________

Residential Address: ______________________________

Mailing Address (if different): ______________________________

Telephone (H): __________ Telephone (W): __________ Facsimile: __________

E-Mail Address: __________ Form of Legal Entity: __________

Social Security or Federal Tax Identification: ______________________________

Name: ______________________________

Residential Address: ______________________________

Mailing Address (if different): ______________________________

Telephone (H): __________ Telephone (W): __________ Facsimile: __________

E-Mail Address: __________ Form of Legal Entity: __________

Social Security or Federal Tax Identification: ______________________________

II. The Depositor(s) has(ve) authorized and requested, for their convenience, that the individual named below maintains copies of all future correspondence and relevant information. Accordingly, please forward copies of all future correspondence and relevant information (including, but not limited to, statements, notifications, account transactions and deposit confirmations, etc.) relating to this account whether such information be forwarded in writing or electronically transmitted, until such time as SIBL is otherwise notified in writing, to the following individual:

Name:_____

Address:_____

III. Deposit Amount

❑ FIXED CD

PRINCIPAL AMOUNT:	US$_____	US$_____
MATURITY (Number of Months):	_____	_____
ANNUAL INTEREST RATE:	_____	_____
FREQUENCY OF INTEREST PAYMENT: (Monthly or Upon Maturity)	_____	_____

❑ FLEX CD

PRINCIPAL AMOUNT:	US$_____	US$_____
MATURITY (Number of Months):	_____	_____
ANNUAL INTEREST RATE:	_____	_____
FREQUENCY OF INTEREST PAYMENT: (Monthly or Upon Maturity)	_____	_____

❑ INDEX-LINKED CD

PRINCIPAL AMOUNT:	US$_____	US$_____
MATURITY (Number of Months):	_____	_____
GUARANTEED MINIMUM INTEREST RATE:	_____	_____
INDEX SELECTED:	❑ S & P 500 ❑ NASDAQ-100 ❑ DJ EURO STOXX 50	❑ S & P 500 ❑ NASDAQ-100 ❑ DJ EURO STOXX 50
INDEX PARTICIPATION RATE:	_____	_____

IV. Qualifications

Deposits will be accepted only if you are an Accredited Investor, as set forth below (please check all that apply):

- ❑ A natural person whose individual net worth, or joint net worth with your spouse, at the time you acquired the U.S. Accredited Investor CD exceeds $1,000,000.

- ❑ A natural person who had individual income in excess of $200,000 in each of the last two (2) calendar years, or joint income with your spouse, in excess of $300,000 in each of those years, and you have a reasonable expectation of reaching the same income level in this calendar year.

- ❑ An entity with total assets in excess of $5,000,000 at the time you acquired the U.S. Accredited Investor CD and you were not formed for the specific purpose of purchasing the U.S. Accredited Investor CD. You are organized as follows (please check the appropriate box):
  - ❑ a corporation; or
  - ❑ a partnership; or
  - ❑ a business trust; or
  - ❑ a tax-exempt organization described in Section 501(c)(3) of the Code.

- ❑ A trust that, at the time you acquired the U.S. Accredited Investor CD, (i) had total assets in excess of $5,000,000; (ii) was not formed for the specific purpose of purchasing the U.S. Accredited Investor CD; and (iii) had your decision to acquire the U.S. Accredited Investor CD directed by a trustee or other advisor who has knowledge and experience in financial and business matters so to be capable of evaluating the merits and risks of advising you to acquire the U.S. Accredited Investor CD.

- ❑ Are licensed, subject to supervision, by U.S. federal or state examining authorities as a "bank," "savings and loan association," "insurance company," or "small business investment company" (as such terms are used and defined in the Securities Act), or you are an account for which a bank or savings and loan association is subscribing on your behalf as a fiduciary and over which the bank or savings and loan association exercises investment discretion.

- ❑ Are registered with the United States Securities and Exchange Commission as a broker or a dealer or an investment company; or you have elected to be treated, or you qualify, as a "business development company" (within the meaning of Section 2(a)(48) of the Investment Company Act of 1940, or Section 202(a)(22) of the Investment Advisers Act of 1940).

- ❑ An entity in which all of its equity owners are Accredited Investors, as set forth above.

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STANFORD INTERNATIONAL BANK LTD.
No. 11 Pavilion Drive
St. John's, Antigua, West Indies
Tel. (268) 480-3700
Fax (268) 480-3737

EXHIBIT G

[Contact Information for Foreign Representatives)

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Names and Addresses of all Administrators in Foreign Proceedings of the Debtor as Required by Fed. R. Bankr. P. 1007(a)(4)

Nigel Hamilton-Smith and Peter Wastell, Joint Receiver-Managers/Liquidators
Vantis Business Recovery Services
Torrington House
47 Holywell Hill
St Albans, Hertfordshire AL1 1HD
United Kingdom

EXHIBIT H

[List of Parties to Litigation Pending in the United States in Which the Debtor is a Party]

Parties to Litigation Pending in the United States in Which the Debtor is a Party as Required by Fed. R. Bankr. P. 1007(a)(4)

Case No. 3:09-cv-00298-N, Securities and Exchange Commission v. Stanford International Bank Ltd et al., United States District Court for the Northern District of Texas, Dallas Division.

Plaintiff

United States Securities and Exchange Commission
Stephen J. Korotash
Burnett Plaza, Suite 1900
801 Cherry Street, Unit #18
Fort Worth, TX 76102-6882
(817) 978-6476 (dbr)
(817) 978-4927 (fax)

U.S. Receiver

Ralph S. Janvey, Krage & Janvey
C/o David T. Arlington
Baker Botts
98 San Jacinto Blvd
Suite 1600
Austin, TX 78701
512/322-2500
512/322-8301 (fax)

Defendants

Laura Pendergest-Holt
C/o Brent R. Baker
Parsons, Behle & Latimer
201 S. Main St.
Suite 1800
Salt Lake City, UT 84111
801/532-1234
801/536-6111 (fax)

R. Allen Stanford
C/o Michael E. McCue
Meadows, Owens, Collier, Reed, Cousins & Blau
901 Main St.
Suite 3700
Dallas, TX 75202-3714
214/744-3700
214/747-3732 (fax)

James M. Davis

Stanford Capital Management, LLC

Stanford International Bank, Ltd.

Stanford Group Company

Stanford Financial Group

The Stanford Financial Group Bldg., Inc.

Case No. 3:09-cv-00334-P, Adams et al. v. Stanford Group Company et al., United States District Court for the Northern District of Texas, Dallas Division.

Plaintiffs

Jerry Adams and others similarly situated
C/o George M. Fleming
Fleming & Associates
1330 Post Oak Blvd
Suite 3030
Houston, TX 77056
713/621/7944
713/621-9638 (fax)

Jerry Edrington
C/o George M. Fleming
Fleming & Associates
1330 Post Oak Blvd
Suite 3030
Houston, TX 77056
713/621/7944
713/621-9638 (fax)

Ben Gomez
C/o George M. Fleming
Fleming & Associates
1330 Post Oak Blvd
Suite 3030
Houston, TX 77056
713/621/7944
713/621-9638 (fax)

Michael Hicks
C/o George M. Fleming
Fleming & Associates
1330 Post Oak Blvd
Suite 3030
Houston, TX 77056
713/621/7944
713/621-9638 (fax)

Defendants

Laura Pendergest-Holt
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214/744-3700
214/747-3732 (fax)

Jason Green

Jay Comeaux

James M. Davis

Stanford Holdings, Inc.

Stanford International Bank, Ltd.

Stanford Capital Management, LLC

Stanford Financial Group

Stanford Group Company

Case No. 3:09-cv-00108-JVP-DLD, Allen v. Stanford Group Company et al., United States District Court for the Middle District of Louisiana. 295

Plaintiff

Sandra C. Allen and others similarly situated
C/o Stanley P. Baudin
Pendley, Baudin & Coffin, LLP
P.O. Drawer 71
24110 Eden St.
Plaquemine, LA 70764-0071
225-687-6396
225-687-6398 (fax)

Defendants

Laura Pendergest-Holt
C/o Brent R. Baker
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801/536-6111 (fax)

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C/o Michael E. McCue
Meadows, Owens, Collier, Reed, Cousins & Blau
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214/747-3732 (fax)

James M. Davis

Stanford Holdings, Inc.

Stanford International Bank, Ltd.

Stanford Capital Management, LLC

Stanford Financial Group

Stanford Group Company

Case No. 4:09-cv-511, Cohron v. Stanford Group Company et al., United States District Court for the Southern District of Texas.

Plaintiff

John Cohron and others similarly situated
C/o James I. Jaconette
Coughlin Stoia et. al
655 West Broadway
Ste. 1900
San Diego, CA 92101
619-231-1058
619-231-7423 (fax)

Defendants

Laura Pendergest-Holt
C/o Brent R. Baker
Parsons, Behle & Latimer
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C/o Michael E. McCue
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James M. Davis

Stanford International Bank, Ltd.
C/o Susan Ann Dillon Ayers
Baker Botts LLP
98 San Jacinto Blvd.
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512-322-2501 (fax)

Stanford Capital Management, LLC
C/o Susan Ann Dillon Ayers
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98 San Jacinto Blvd.
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512-322-2500
512-322-2501 (fax)

Stanford Group Company
C/o Susan Ann Dillon Ayers
Baker Botts LLP
98 San Jacinto Blvd.
Ste. 1500
Austin, TX 78701
512-322-2500
512-322-2501 (fax)

Case No. 4:09-cv-525, Kyle v. Stanford Group Company et al., United States District Court for the Southern District of Texas.

Plaintiff

James O. Kyle and others similarly situated
C/o Roger B. Greenberg
Schwartz Junell et. al
909 Fannin
Ste 2700
Houston, TX 77010
713-752-0017
713-752-0327 (fax)

Defendants

Laura Pendergest-Holt
C/o Brent R. Baker
Parsons, Behle & Latimer
201 S. Main St.
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Salt Lake City, UT 84111
801/532-1234
801/536-6111 (fax)

R. Allen Stanford
C/o Michael E. McCue
Meadows, Owens, Collier, Reed, Cousins & Blau
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214/747-3732 (fax)

James M. Davis

Stanford International Bank, Ltd.

Stanford Capital Management, LLC

Stanford Group Company

Case No. 2009-12756, Robert Conte (as Trustee of Corporate Healthcare Management Defined Benefit Plan) v. Stanford Group Company, et al., in the 55th Judicial District of Harris County, Texas.

Plaintiff

Robert Conte, as Trustee of Corporate
Healthcare Management Defined Benefit Plan
C/o Allan G. Levine
Christian, Smith & Jewell, LLP
2302 Fannin
Ste 500
Houston, TX 77002
713-659-7617
713-659-7641 (fax)

Defendants

Laura Pendergest-Holt
C/o Brent R. Baker
Parsons, Behle & Latimer
201 S. Main St.
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214/747-3732 (fax)

James M. Davis

Jay Comeau

Jason Green

John M. Fry

Louis M. Perry

Stanford International Bank, Ltd.

Stanford Group Company

Stanford Capital Management, LLC

Stanford Financial Group

Stanford Holdings, Inc.

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Case No. 2009-10664, Johan Pieter Dahler (as Trustee of the Rocky Mountain Trust) v. Stanford Group Company, et al., in the 334th Judicial District of Harris County, Texas.

Plaintiff

Johan Pieter Dahler as Trustee of the Rocky
Mountain Trust
C/o Patrick Zummo
Law Offices of Patrick Zummo
3900 Essex Ln.
Ste. 800
Houston, TX 77027
713-651-0590
713-651-0597 (fax)

Defendants

Laura Pendergest-Holt
C/o Brent R. Baker
Parsons, Behle & Latimer
201 S. Main St.
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Salt Lake City, UT 84111
801/532-1234
801/536-6111 (fax)

R. Allen Stanford
C/o Michael E. McCue
Meadows, Owens, Collier, Reed, Cousins & Blau
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214/747-3732 (fax)

Stanford International Bank, Ltd.

Stanford Venture Capital Holdings, Inc.

Stanford Group Company

Stanford Capital Management, LLC

Stanford Financial Group

Stanford Group Holdings, Inc.

Case No. Unknown, Jim Sunderji, et al. v. Stanford Group Company, et al., in the 334th Judicial District of Harris County, Texas.

Plaintiff

Jim Sunderji and others similarly situated
C/o Bennett Jones LLP
1000 ATCO Centre
10035-105 St.
Edmonton, Alberta T57 3T2
780-421-8133
780-421-7951 (fax)

Defendants

Laura Pendergest-Holt
C/o Brent R. Baker
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801/532-1234
801/536-6111 (fax)

R. Allen Stanford
C/o Michael E. McCue
Meadows, Owens, Collier, Reed, Cousins & Blau
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Dallas, TX 75202-3714
214/744-3700
214/747-3732 (fax)

Stanford International Bank, Ltd.

Stanford Group Company

Stanford Financial Group

Stanford Capital Management, LLC

James Davis

Case No. 1:09-mc-00004-RLF-GWC, Securities and Exchange Commission v. Stanford International Bank Ltd et al., United States District Court for the Virgin Islands, St. Croix Division.

Plaintiff

United States Securities and Exchange Commission
Stephen J. Korotash
Burnett Plaza, Suite 1900
801 Cherry Street, Unit #18
Fort Worth, TX 76102-6882
817/ 978-6476
817/ 978-4927 (fax)

U.S. Receiver

Ralph S. Janvey , Krage & Janvey
C/o Kevin Sadler
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C/o Timothy S. Durst
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214/953-6500
214/953-6503

Local Counsel for U.S. Receiver

Dudley, Topper and Feuerzeig, LLP
C/o Gregory H. Hodges
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Local Co-Counsel for U.S. Receiver

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340/715-4405
340/715-4400 (fax)

Defendants

Laura Pendergest-Holt
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214/747-3732 (fax)

James M. Davis

Stanford Capital Management, LLC

Stanford International Bank, Ltd.

Stanford Group Company

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Case No. 3:09-mc-00005-JCS, Securities and Exchange Commission v. Stanford International Bank Ltd et al., United States District Court for the Southern District of Mississippi, Jackson Division.

Plaintiff

United States Securities and Exchange Commission
Stephen J. Korotash
Burnett Plaza, Suite 1900
801 Cherry Street, Unit #18
Fort Worth, TX 76102-6882
817/ 978-6476
817/ 978-4927 (fax)

U.S. Receiver

Ralph S. Janvey , Krage & Janvey
C/o Kevin Sadler
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214/953-6503

Defendants

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James M. Davis

Stanford Capital Management, LLC

Stanford International Bank, Ltd.

Stanford Group Company

Case No. 3:09-mc-00178, Securities and Exchange Commission v. Stanford International Bank Ltd et al., United States District Court for the Southern District of California, San Diego Division.

Plaintiff

United States Securities and Exchange Commission
Stephen J. Korotash
Burnett Plaza, Suite 1900
801 Cherry Street, Unit #18
Fort Worth, TX 76102-6882
817/ 978-6476
817/ 978-4927 (fax)

U.S. Receiver

Ralph S. Janvey , Krage & Janvey
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Suite 1600
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512/322-2501 (fax)

C/o Timothy S. Durst
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2001 Ross Avenue
Dallas, TX 75201
214/953-6500
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Defendants

Laura Pendergest-Holt
C/o Brent R. Baker
Parsons, Behle & Latimer
201 S. Main St.
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C/o Michael E. McCue
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214/747-3732 (fax)

James M. Davis

Stanford Capital Management, LLC

Stanford International Bank, Ltd.

Stanford Group Company

Case No. 4:09-cv-00474, Adams et al. v. Stanford Group Company et al., United States District Court for the Southern District of Texas, Houston Division.

Plaintiffs

Jerry Adams
C/o George M. Fleming
Fleming & Associates
1330 Post Oak Blvd.
Suite 3030
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713/621-7944
713/621-9638 (fax)

Jerry Edrington
C/o George M. Fleming
Fleming & Associates
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Ben Gomez
C/o George M. Fleming
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Michael Hicks
C/o George M. Fleming
Fleming & Associates
1330 Post Oak Blvd.
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Houston, TX 77056
713/621-7944
713/621-9638 (fax)

Defendants

Stanford Group Company
C/o Susan Ann Dillon Ayers
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512/322-2500
512/322-2501 (fax)

Stanford Financial Group
C/o Susan Ann Dillon Ayers
Baker Botts, LLP
98 San Jacinto Blvd.
Ste. 1500
Austin, TX 78701
512/322-2500
512/322-2501 (fax)

Stanford International Bank, LTD
C/o Susan Ann Dillon Ayers
Baker Botts, LLP
98 San Jacinto Blvd.
Ste. 1500
Austin, TX 78701
512/322-2500
512/322-2501 (fax)

Stanford Holding, Inc.
C/o Susan Ann Dillon Ayers
Baker Botts, LLP
98 San Jacinto Blvd.
Ste. 1500
Austin, TX 78701
512/322-2500
512/322-2501 (fax)

216

Stanford Capital Management, LLC
C/o Susan Ann Dillon Ayers
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98 San Jacinto Blvd.
Ste. 1500
Austin, TX 78701
512/322-2500
512/322-2501 (fax)

R. Allen Stanford

James Davis

Laura Pendergest-Holt

Jay Comeaux

Jason Green

Case No. 1:09-mc-10061-RWZ, Securities and Exchange Commission v. Stanford International Bank Ltd et al., United States District Court of Massachusetts, Boston Division.

Plaintiff

United States Securities and Exchange Commission
Stephen J. Korotash
Burnett Plaza, Suite 1900
801 Cherry Street, Unit #18
Fort Worth, TX 76102-6882
817/ 978-6476
817/ 978-4927 (fax)

U.S. Receiver

Ralph S. Janvey , Krage & Janvey
C/o Kevin Sadler
Baker Botts, LLP
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98 San Jacinto Blvd.
Suite 1600
Austin, TX 78701
512/322-2500
512/322-2501 (fax)

C/o Timothy S. Durst
Baker Botts, LLP
2001 Ross Avenue
Dallas, TX 75201
214/953-6500
214/953-6503

Defendants

Laura Pendergest-Holt
C/o Brent R. Baker
Parsons, Behle & Latimer
201 S. Main St.
Suite 1800
Salt Lake City, UT 84111
801/532-1234
801/536-6111 (fax)

R. Allen Stanford
C/o Michael E. McCue
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901 Main St.
Suite 3700
Dallas, TX 75202-3714
214/744-3700
214/747-3732 (fax)

James M. Davis

Stanford Capital Management, LLC

Stanford International Bank, Ltd.

Stanford Group Company

Case No. 3:09-mc-80036-MMC, Securities and Exchange Commission v. Stanford International Bank, Ltd et al., United States District Court for the Northern District of California, San Francisco Division.

Plaintiff

United States Securities and Exchange Commission
C/o David Reece
Burnett Plaza, Suite 1900
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James M. Davis

Stanford Capital Management, LLC

Stanford International Bank, Ltd.

Stanford Group Company

Case No. 1:09-mc-00006-UA, Securities and Exchange Commission v. Stanford International Bank, Ltd et al., United States District Court for the Middle District of North Carolina.

Plaintiff

United States Securities and Exchange Commission
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James M. Davis

Stanford Capital Management, LLC

Stanford International Bank, Ltd.

Stanford Group Company

Case No. 2:09-mc-00006, Securities and Exchange Commission v. Stanford International Bank, Ltd et al., United States District Court for the Western District of Tennessee, Memphis Division.

Plaintiff

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James M. Davis

Stanford Capital Management, LLC

Stanford International Bank, Ltd.

Stanford Group Company

Case No. 1:09-mc-00008-NONE, Securities and Exchange Commission v. Stanford International Bank, Ltd et al., United States District Court of District of Colorado, Denver Division.

Plaintiff

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James M. Davis

Stanford Capital Management, LLC

Stanford International Bank, Ltd.

Stanford Group Company

Stanford Financial Group
(Relief Defendant per Order of 2/16/2009)

Stanford Financial Group Bldg Inc., The
(Relief Defendant per Order of 2/16/2009)

Case No. 1:09-mc-00023-RHB, Securities and Exchange Commission v. Stanford International Bank, Ltd et al., United States District Court for the Western District of Michigan, Southern Division (1).

Plaintiff

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James M. Davis

Stanford Capital Management, LLC

Stanford International Bank, Ltd.

Stanford Group Company

Case No. 3:09-mc-00031- JAG, Securities and Exchange Commission v. Stanford International Bank, Ltd et al., United States District Court for Puerto Rico, San Juan Division.

Plaintiff

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James M. Davis

Stanford Capital Management, LLC

Stanford International Bank, Ltd.

Stanford Group Company

Case No. 1:09-mc-00045, Securities and Exchange Commission v. Stanford International Bank, Ltd et al., United States District Court for Maryland, Baltimore Division.

Plaintiff

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James M. Davis

Stanford Capital Management, LLC

Stanford International Bank, Ltd.

Stanford Group Company

Stanford Financial Group (SFG)
Relief Defendant

Stanford Financial Group Bldg Inc., The
Relief Defendant

Case No. 1:09-mc-00098-UNA, Securities and Exchange Commission v. Stanford International Bank, Ltd et al., United States District Court for District of Columbia (Washington, DC).

Plaintiff

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James M. Davis

Stanford Capital Management, LLC

Stanford International Bank, Ltd.

Stanford Group Company

Case No. 2:09-mc-02856-MVL-ALC, Securities and Exchange Commission v. Stanford International Bank, Ltd et al., United States District Court for Eastern District of Lousiana, New Orleans Division.

Plaintiff

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James M. Davis

Stanford Capital Management, LLC

Stanford International Bank, Ltd.

Stanford Group Company

Hernandez v. Stanford Financial Group Company, et al., Case No. 09-cv-00487-N, United States District Court for the Northern District of Texas

Plaintiff

Larry Hernandez

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James M. Davis

Stanford Capital Management, LLC

Stanford International Bank, Ltd.

Stanford Group Company

Stanford Financial Group Company

Stanford Financial Group Global Management LLC

Stanford Group Holdings Inc.

Stanford Venture Capital Holdings Inc.

Stanford Group Venezuela Asesores De Inversion CA

Securities And Exchange Commission v. Stanford International Bank, LTD et al., Case No. 09-mc-00002-JAD, United States District Court for the Northern District of Mississippi (Eastern Division)

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James M. Davis

Stanford Capital Management, LLC

Stanford International Bank, Ltd.

Stanford Group Company

Stanford Financial Group Company

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EXHIBIT I

[Statement of Corporate Ownership]

Statement of Corporate Ownership as Required by Fed. R. Bankr. P. 1007(a)(4)

1. Stanford International Bank, Limited is wholly owned by Stanford Bank Holdings, Limited, a corporation organized and operating under the laws of Antigua and Barbuda.

2. Stanford Bank Holdings, Limited is wholly owned by Stanford Financial Group, Limited, a corporation organized and operating under the laws of Antigua and Barbuda.

TAB I

Neutral Citation Number: [2009] EWHC 1441 (Ch)

Case Nos: 13338 and 13959 Of 2009

IN THE HIGH COURT OF JUSTICE
CHANCERY DIVISION
COMPANIES COURT

This is Exhibit WJT 11 referred to in the affidavit of Wolfgang Mersch sworn before me, this 13th day of February 20 15

A COMMISSIONER FOR TAKING AFFIDAVITS

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 3 July 2009

Before:

THE HONOURABLE MR. JUSTICE LEWISON

IN THE MATTER OF STANFORD INTERNATIONAL BANK LIMITED, STANFORD GROUP COMPANY, STANFORD CAPITAL MANAGEMENT LLC, ROBERT ALLEN STANFORD, JAMES M. DAVIS, LAURA PENDERGEST-HOLT, STANFORD FINANCIAL GROUP, AND THE STANFORD FINANCIAL GROUP BUILDING INC (IN RECEIVERSHIP)

AND IN THE MATTER OF THE CROSS BORDER INSOLVENCY REGULATIONS 2006

Mr Antony Zacaroli QC and Mr Daniel Bayfield (instructed by **CMS Cameron McKenna LLP**) for the Liquidators **of Stanford International Bank Limited appointed by the High Court of Antigua and Barbuda.**

Mr Stuart Isaacs QC and Miss Felicity Toube (instructed by **Baker Botts (UK) LLP**) for the **Receiver appointed by the U.S. Court in respect of Stanford International Bank Limited and other Stanford entities.**

Mr David Joseph QC (instructed by **Addleshaw Goddard LLP**) on behalf of **Robert Allen Stanford.**

Hearing dates: 10, 11, 12 June 2009

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

Kevin Lewis

THE HONOURABLE MR. JUSTICE LEWISON

Mr. Justice Lewison:

Introduction

1. This application is part of the fall-out of the collapse of Sir Allen Stanford's business empire. Underlying the collapse is the allegation that for some considerable time Sir Allen and his associates have been engaged in a giant and fraudulent Ponzi scheme as a result of which many investors, world-wide, have been defrauded. Sir Allen denies these allegations. On 16 February 2009 the United States Securities Exchange Commission ("SEC") filed a complaint against Sir Allen, James M. Davis, Laura Pendergest-Holt, Stanford International Bank Ltd ("SIB"), Stanford Group Company, and Stanford Capital Management, LLC, alleging, among other causes of action, securities fraud and violations of the securities laws. On the same day the United States District Court for the Northern District of Texas made an order appointing Mr Ralph Janvey ("the Receiver") as receiver over the assets worldwide of SIB; Stanford Group Company; Stanford Capital Management, LLC; Sir Allen; James M. Davis and Laura Pendergest Holt; and all entities owned or controlled by any of them, including Stanford Trust Company Ltd (STCL"). SIB is a company incorporated in Antigua and Barbuda and has its registered office there. In parallel with the actions taken in the USA by the SEC the Antiguan regulatory authorities were also taking action against SIB. On 19 February 2009 the Financial Services Regulatory Commission of Antigua and Barbuda ("FSRC") appointed Mr Wastell and Mr Hamilton-Smith as receivers-managers ("Receiver-Managers") of SIB and STCL. A week later, on 26 February 2009 the Antiguan court made an order appointing Mr Wastell and Mr Hamilton-Smith as Antiguan receivers for SIB and STCL. On 24 March 2009 the FSRC presented a petition against SIB under the International Business Corporations Act of Antigua and Barbuda, seeking the winding up of SIB and the appointment of Mr Wastell and Mr Hamilton-Smith as liquidators. On 15 April 2009 the Antiguan court made a winding up order on the FSRC's petition and appointed Mr. Hamilton-Smith and Mr. Wastell as liquidators of SIB ("the Liquidators").

2. Both the Receiver and the Liquidators apply for recognition under the Cross Border Insolvency Regulations 2006. Each of them alleges that the proceedings in which they have been respectively appointed are "main proceedings" for the purposes of the 2006 Regulations. The apparent lack of co-operation between them has resulted in an expensive application at the creditors' expense.

The Cross Border Insolvency Regulations 2006

3. On 30 May 1997, the United Nations Commission on International Trade Law ("UNCITRAL") adopted the text of a model law on cross-border insolvency, which was approved by a resolution of the United Nations General Assembly on 15 December 1997. The Model Law is not binding in any jurisdiction. Individual states are free to adopt all or part of it, with or without modifications; although the UN recommends that in the interests of uniformity as few changes to the text as possible should be made.

4. The 2006 Regulations give effect to the UNCITRAL Model Law within Great Britain in the form set out in Schedule 1 to the 2006 Regulations. The law applies where assistance is sought in Great Britain by a foreign representative in connection with a foreign proceeding: Art 1 1 (a). Both the expressions "foreign proceeding" and "foreign representative" are defined expressions. A "foreign proceeding" may be either a "foreign main proceeding" or a "foreign non-main proceeding". These two expressions are likewise defined. A foreign proceeding is a foreign main proceeding if it takes place in a state where the debtor has the "centre of its main interests" ("COMI"). This expression is not defined, although there is a presumption that a company's registered office is its COMI. Much of the argument in this case has turned on the meanings to be given to these expressions.

5. The relevant provisions of the 2006 Regulations are as follows:

> "foreign main proceeding" means a foreign proceeding taking place in the State where the debtor has *the centre of its main interests*" (Art 2 (g))
>
> "foreign proceeding" means a *collective judicial or administrative proceeding* in a foreign State, including an interim proceeding, *pursuant to a law relating to insolvency* in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, *for the purpose of reorganisation or liquidation*" (Art. 2 (i))
>
> "foreign representative means a person or body, including one appointed on an interim basis, *authorised* in a foreign proceeding *to administer the reorganisation or liquidation of the debtor's assets or affairs* or to act as a representative of the foreign proceeding" (Art 2 (j))
>
> "In the absence of proof to the contrary, the debtor's registered office, or habitual residence in the case of an individual, *is presumed* to be the centre of the debtor's main interests." (Art 16. 3)

6. The italicised parts represent the phrases in dispute.

7. Under Article 17(1), unless a "foreign proceeding" is contrary to the public policy of the English courts, it must be recognised by the English court if:

   i) the proceedings are "foreign proceedings";

   ii) the representative is a "foreign representative";

   iii) certain formal requirements have been complied with (formal documents provided and statements about other extant foreign proceedings made in supporting documents); and

   iv) the application has been made in the Chancery Division of the High Court.

8. Where these conditions are satisfied, the court must recognise the proceeding either as a foreign main proceeding or as a foreign non-main proceeding. It is not in dispute that the formalities have been complied with and that the applications have been made to the right court.

9. Regulation 2 (2) of the 2006 Regulations lists a number of publications which may be considered in interpreting the Model Law. These include the Model Law itself, any documents of UNCITRAL and its working group relating to the preparation of the model law and the Guide to Enactment published by the UN.

10. I will return to a more detailed discussion of the phrases in dispute, but there is one preliminary matter to deal with. As mentioned, SIB's registered office is in Antigua. Thus Antigua is presumed to be its COMI "in the absence of proof to the contrary". In the present case the applications have been supported by written evidence; but none of that evidence has been tested by cross-examination. How, then, is the court to resolve any disputed question of fact? The answer, I think, is that the court should apply the same test as it applies in deciding questions of jurisdiction under the EC Judgments Regulation 44/2001: viz. that the court must be satisfied, or as satisfied as it can be having regard to the limitations which an interlocutory process imposes, that the company's COMI is not in the state in which its registered office is located: cf. *Bols Distilleries BV v Superior Yacht Services Ltd* [2007] 1 W.L.R. 12, § 28. No one argued for any different approach. With that in mind I set out the relevant facts of which I am satisfied, or as satisfied as I can be having regard to the procedural limitations of interlocutory proceedings.

SIB's public face

11. SIB was incorporated in Antigua on 7 December 1990. Its registered office is in Antigua. In addition to having its registered office in Antigua, SIB also occupies a building there. The building is a 30,000 square foot Georgian or colonial style building outside the airport in St John's, Antigua. SIB does not own the building, but leases it from another Stanford company. Photographs of this building and its columned portico are included in some of SIB's marketing material. SIB employed 93 members of staff, 88 of whom worked in Antigua. The remaining five worked in Canada. It had its own accounts department, human resources department, IT department, payroll department and operating software, all of which were based in Antigua. It seems likely, however, that they reported to people either in the USA or in St Croix (part of the US Virgin Islands).

12. In its Disclosure Statement, provided for prospective US depositors, SIB says:

    i) It is "a private financial institution chartered under the laws of Antigua and Barbuda";

    ii) It is presided over by a Board of Directors consisting of seven individuals, a Chief Executive Officer, a President, a Chief Financial Officer and other officers and employees. The management are named later in the document. They include Sir Allen and his father, as well as Mr James Davis. But they also include Mr KC Allen QC who is said to practice law in the UK and the Eastern Carribbean, Sir Courtney Blackman, a Barbadian diplomat and former governor of the Central Bank of Barbados; Mr Rodriguez-Tolentino, the

President; Ms Beverly Jacobs, the Operations Manager and others. Of the 12 named individuals five worked in Antigua;

iii) Its "primary offices" are in St John's, Antigua;

iv) Its "primary business" is the investment of funds deposited with it by depositors;

v) It is regulated by the FSRC, and is not regulated elsewhere than in Antigua;

vi) Stanford Group (a Texas corporation) acts as an independent contractor for a fee payable by SIB in offering certificates of deposit to depositors on SIB's behalf. Another Stanford entity, Stanford Financial Group Company has a marketing and service contract, in force since 1995, under which it provides marketing and management services in return for a fee;

vii) Further information should be sought from Ms Jacobs at the address of the building in St John's Antigua or by telephone to an Antiguan telephone number.

13. The evidence also includes marketing material put out by SIB. It begins with a photograph of "SIB Headquarters" in Antigua. It includes the following statements:

> "... SIB's top management sets goals every quarter linked to profit, productivity and growth."
>
> "As a member of the Stanford Financial Group, the Bank has benefited greatly from the services and support of wholly owned Stanford affiliates located throughout the world. SIB has received this benefit without the capital expenditures required for opening and maintaining multiple global offices."
>
> "Our investment strategy is determined by the Bank's Board of Directors annually and reviewed quarterly. Weekly investment committee meetings are conducted with each portfolio management team to ensure that the stated risk and reward parameters fall within the Bank's guidelines.
>
> These teams are comprised of seasoned investment managers throughout the world, most of whom have worked with the Bank for the past 10 to 15 years and many have been with us since the Bank's inception in 1985."
>
> "We are domiciled in a low tax jurisdiction, allowing us to reinvest more of our profit into the Bank's retained earnings, which has provided us a strong capital base from which to grow."

14. Another brochure states that SIB "conducts business with the world from its headquarters in Antigua."

15. SIB accepted deposits from investors worldwide (some 27,000 in all); in particular from all over North, Central and South America. Because of the legislation under which SIB was incorporated as an offshore bank it was prohibited from accepting deposits from Antiguan citizens. In conducting its business SIB entered into "referral agreements" with financial advisors (most of which were other Stanford group companies) in the numerous jurisdictions in which SIB sought investors. A typical referral agreement appoints a financial adviser to refer to SIB clients who have an interest in the types of financial products that are available through SIB and who are willing to establish a relationship with SIB. Once referred to SIB, SIB retains discretion to accept or decline the prospective client. In return for referrals SIB pays commission of 2 per cent per annum on the amount deposited by clients. A typical referral agreement gives SIB's address as its St John's headquarters and states that it will be governed by the laws of Antigua and that disputes will be resolved by arbitration under the relevant Antiguan legislation. Many of the financial advisers were located in the USA, but there were also financial advisers elsewhere in the world, notably in Latin America. As far as the depositors were concerned their financial adviser, rather than SIB, was the person with whom they had the relationship and with whom they were accustomed to deal. Although the largest contingent of depositors (in terms of value) were located in the USA, they were not a majority either by number or by value. Venezuelan depositors ran a close second in terms of value but were first in terms of number, with other South American countries not far behind. In all, depositors came from 113 different countries. Just under half the financial advisers through whom investors bought certificates of deposit were located in the USA.

16. The terms on which depositors bought certificates of deposit were recorded in writing. The written agreements provided that the agreement was to be governed by Antiguan law, and contained a submission to the jurisdiction of the Antiguan courts. However, in cases in which SIB entered into contracts with financial service providers other than the financial advisers, the contracts often contained addresses for service of notices on SIB in the USA (for the attention of Mr Davis) and submission to the jurisdiction of American courts. It seems reasonable to suppose, based in part on SIB's published accounts, that SIB consumed and paid for utilities (e.g. electricity, postage and telephones) in Antigua at least to the extent required to run its office.

17. Potential investors looking to invest very substantial sums in SIB were flown to Antigua for personal meetings at SIB's headquarters, where they were entertained by Mr Rodriguez-Tolentino. Most investors, however, bought their certificates of deposit by making written applications through financial advisers who completed the paperwork and forwarded it to SIB in Antigua for SIB to carry out checks (e.g. for money laundering) and to decide whether or not to accept their applications. The processing of applications was largely administrative. Transfers of funds by wire from depositors to SIB were made to SIB's bank accounts at Toronto Dominion Bank in Canada or to HSBC Bank plc in England, whereas cheques were sent to SIB in Antigua. Approximately 73% of transfers were wire transfers and approximately 27% were made by cheque. When certificates of deposit were issued they bore the legend "Executed at St John's, Antigua, West Indies". Where certificates of deposit were redeemed, the redemption monies also came from the bank account in Canada. Depositors received monthly or quarterly account statements, sent by SIB from St John's.

18. SIB's principal operating bank account was maintained at the Bank of Houston, in Houston Texas; and it was from that account that its employees were paid. Mr Rodriguez-Tolentino, however, was paid not by SIB but by Stanford Financial Group. Antiguan salaries amounted to about $3 million per annum.

19. The portfolio management teams referred to in SIB's marketing material were not employees of SIB. SIB entered into agreements with others to manage the investment portfolios. One such agreement (dated 1 January 1996) was made with Stanford Group Company, a Texas corporation. Under the terms of the agreement Stanford Group Company agreed to provide services including "portfolio management of securities held by [SIB] or its clients", in return for a fee of 1.5% of the value of funds under management. Notices under the agreement were to be given to SIB in St John's, for the attention of Mr Davis. The agreement was to be governed by the laws of the State of Texas.

20. Funds invested on behalf of SIB or depositors were invested around the world. Assets that have been located to date include:

    i) cash balances in Canada ($19 million), Antigua ($10 million) and the US ($9 million) ("Tier 1 assets"). The amount of cash on deposit in Antigua was, however, a recent development and cash balances in Antigua before 2008 were very small;

    ii) funds under investment with international financial institutions in Switzerland ($117 million), the UK ($105 million) and the US ($12 million) ("Tier 2 assets"); and

    iii) other assets including equity investments, receivables, real estate in Antigua and claims against Sir Allen Stanford personally and other Stanford entities, including potential tracing claims against assets purchased by them; for example, investments made by Sir Allen using the $1.6 billion "loaned" to him by SIB ("Tier 3 assets").

21. Thus the bulk of SIB's actual investments are outside the USA. Each of the institutions in which SIB's funds were invested sent periodic statements to SIB in Antigua and to the US.

22. In addition to its investment business SIB did provide other banking services to customers, although these services were, by comparison, provided on a small scale. It had several hundred "private banking" clients for whom it provided services such as discharging bills and other liabilities. It issued credit cards to 3,500 customers. It also made some loans to customers, based on a proportion of the amounts they held on deposit. The loans amounted in aggregate to somewhere between $97 million and £100 million. The amount owed by US citizens was between £6.9 million and $23 million. Requests for loans were sent to and approved in Antigua. As mentioned, SIB's marketing material included an Antiguan telephone number. Although SIB did not accept instructions by telephone, it did handle some 30 telephone calls per day from investors.

23. Meetings of the board of directors were sometimes held in Antigua, although most were conducted by telephone. There is no evidence about the place from where the

participants were actually speaking when holding meetings by telephone. The investment committee referred to in the marketing material made an annual visit to Antigua.

24. SIB's accounts were audited in Antigua by Antiguan accountants. The 2007 accounts disclose general and administrative expenses of some $154 million, of which $142 million were attributed to management fees. The remainder were attributed to rent, telecommunications, mail, advertising, travel, insurance, IT, and professional fees. Note 21 to the accounts stated that SIB was "a member of Stanford Financial Group"; and revealed the existence of the referral fee agreements between SIB and other Stanford entities. That note also disclosed an agreement between SIB and Stanford Financial Group Global Management LLC for the provision of treasury related functions, establishing and implementing trading policy, client communication, research, marketing and branding, government and public relations, technology and other related administrative services.

25. Since the appointment of the Liquidators, they have used SIB's records held in Antigua to keep SIB's customers informed of developments. They also hold meetings twice daily with customers who arrive in person at SIB's building in St John's. When they first visited SIB's building on 20 February 2009 (shortly before their appointment as Receiver-Managers) they found about 100 investors in the lobby of the building, many of whom had travelled to Antigua from overseas.

The Stanford Financial Group

26. SIB was one of a number of companies owned either directly or indirectly by Sir Allen. It was not a group of companies in the sense in which that expression is used in our own domestic companies legislation. The companies owned directly or indirectly by Sir Allen amounted to more than 100. 40 of them were US entities, 38 were Antiguan entities, 28 were other Caribbean entities and 25 were Latin American entities.

27. The Stanford Financial Group included Stanford Development Corporation (which owned SIB's office building in St John's); Stanford Group Company (which provided portfolio management services to SIB); Stanford Financial Group Global Management LLC (which provided the treasury and other services I have described), and many brokerages.

28. The Stanford Financial Group was marketed as a whole. However, within the marketing the Antiguan status of SIB was always referred to expressly. In a promotional video made in 2006 Sir Allen says (among other things):

> "Stanford Financial Group is a family of financial services companies with a global reach. We serve over 40,000 clients who reside in 79 countries on six continents. Our world headquarters are located in Houston Texas, and we have a continual growing number of offices around the world to serve our clients."
>
> "We offer innovative international private and institutional banking services. Stanford International Bank, domiciled in

Antigua, was founded for the specific purpose of private-client wealth management..."

Behind the scenes

29. Both the Receiver and the Liquidators agree that the evidence thus far uncovered indicates that Sir Allen was at the centre of a massive and fraudulent Ponzi scheme. The Receiver says, and the Liquidators do not deny, that he was aided and abetted by Mr Davis (who was a director of SIB) and by Ms Laura Pendergest-Holt. The scale and extent of the fraud is not agreed, nor is the length of time over which it has been going on. Sir Allen, as I have said, denies that there was any fraud at all. I proceed on the footing that Sir Allen, Mr Davis and Ms Pendergest-Holt have been involved in a fraudulent Ponzi scheme. I am not in a position to make any findings about the extent of the fraud, who else was an accomplice or how long it has been going on. There is, however, no suggestion that SIB's employees in Antigua were participants in the fraud.

30. The Liquidators accept that many decisions at a strategic level (for example the nature of the products to be offered by SIB) were taken by Sir Allen and Mr Davis. But they say that the decisions, once taken, were implemented in Antigua. The Receiver says that *all* decisions at a strategic level were taken by Sir Allen and Mr Davis. The Receiver points out that the Liquidators have given no examples of decisions implemented in Antigua and says that to the extent that there was any such implementation it appears to have been principally aimed at giving SIB the appearance of a legitimate bank. It is difficult to know what to make of this evidence, since it is pitched at a level of general assertion on both sides. Given that it is accepted on both sides that there were meetings of the board of SIB (although precisely what the board discussed is not in evidence) I do not think that I can safely conclude that the Receiver's sweeping allegation is correct.

31. One of the factors on which the Receiver relied was the whereabouts (to use a neutral term) of Sir Allen, Mr Davis and Ms Pendergest-Holt. So far as the evidence goes, the latter two were domiciled and resident in the USA and carried out their work there. So far as Sir Allen is concerned, he is a citizen of both the USA and Antigua (where he was knighted). He has a high profile in Antigua where he has been a major investor and benefactor. He is also a frequent visitor. Amongst other things he has built the Stanford Cricket Ground and two restaurants in close proximity to SIB's building; he owns the Antigua Sun (Antigua's largest newspaper) and was the sponsor of Antiguan Sail Week. He has homes in the USA. But for tax reasons he spends much of his time (at least half the year) in St Croix in the US Virgin Islands. There is also evidence that at the relevant time he lived in part on his yacht.

The UNCITRAL Model Law

32. The adoption by the UN of the UNCITRAL Model Law and the publication of the Guide to Enactment were preceded by a number of meetings and reports. Some of these publications shed light on the meaning of the disputed phrases.

Purpose of the Model Law

33. The Guide to Enactment says that the purpose of the Model Law is to assist States "to equip their insolvency laws with a modern, harmonized and fair framework to address more effectively instances of cross-border insolvency" (§ 1). It reflects practices in cross-border insolvency matters that are characteristic of "modern, efficient insolvency systems" (§ 2).

34. It recognises that since the Model Law is only a recommendation rather than a convention, the degree of harmonisation is likely to be lower than in the case of a convention (§ 12).

35. It acknowledges that fraud by insolvent debtors is an increasing problem and says that the cross-border co-operation mechanisms established by the Model Law are "designed to confront such international fraud" (§ 14).

36. The Model Law takes into account (among other things) the EC Regulation on Insolvency and states that it "offers to States members of the European Union a complementary regime of considerable practical value that addresses the many cases of cross-border cooperation not covered by the EC Regulation" (§ 19).

Nature of the proceeding

37. The Guide to Enactment says (§ 23):

> "To fall within the scope of the foreign law, a foreign proceeding needs to posses certain attributes. These include the following: basis in insolvency-related law of the originating State; involvement of creditors collectively; control or supervision of the assets and affairs of the debtor by a court or another official body; and reorganization or liquidation of the debtor as part of the purpose of the proceeding."

38. It points out that this definition is inclusive, and would include proceedings in which the debtor retains some measure of control over its assets (e.g. as a debtor in possession) (§ 24).

39. I was not referred to any English authority on the nature of collective proceedings, but I was shown the decision of Judge Markell in the US Bankruptcy Court for Nevada in *Re Betcorp Ltd* 400 BR 266. He said (p. 281):

> "A collective proceeding is one that considers the rights and obligations of all creditors. This is in contrast to a receivership remedy instigated at the request and for the benefit of a single secured creditor."

40. He also considered the nature of a "proceeding" (p. 278). He said:

> "This excerpt identifies the essence of a "proceeding": acts and formalities set down in law so that courts, merchants and creditors can know them in advance, and apply them evenly in practice. In the context of corporate insolvencies, the hallmark

> of a "proceeding" is a statutory framework that constrains a company's actions and that regulates the final distribution of a company's assets."

A law relating to insolvency

41. In order to qualify as a foreign proceeding, the proceeding must be "pursuant to a law relating to insolvency". UNCITRAL's report to the UN on the work of its 29th session in which the Working Group considered the draft of the Model Law. Among the points discussed was the phrase "a law relating to insolvency". The view of the Working Group was that that phrase was:

> "sufficiently broad so as to encompass insolvency rules irrespective of the type of statute in which they might be contained..."

42. The French text, which I was also shown translates the phrase as "une loi relative à l'insolvabilité" and says that it was wide enough to include "toutes les dispositions concernant l'insolvabilité, quel que soit le type de texte où elles étaient énoncées". Both the English and the French versions seem to me to envisage a written piece of legislation (whether primary or secondary) in which the rules can be found. The French phrase used to describe a formal written law is a "texte de loi". That is reflected in the French text, just as the English text uses the word "statute". The quoted observations of Judge Markell in *Re Betcorp Ltd* support this conclusion. On the other hand the Guide to Enactment (§ 71) says that the definition "is intended ... to refer broadly to proceedings involving companies in severe financial distress".

COMI

43. UNCITRAL reported to the UN on the work of the 30th session of UNCITRAL. One of the points raised in the report was that meaning of COMI was not clear. The report stated (§ 153):

> "In response, it was stated that the term was used in the European Union Convention on Insolvency Proceedings and that the interpretation of the term in the context of the Convention would be useful also in the context of the Model Provisions."

44. The Convention has since been superseded by the EC Regulation on Insolvency Proceedings. In the Guide to Enactment it is said (§ 31):

> "A foreign proceeding is deemed to be the 'main' proceedings if it has been commenced in the State where 'the debtor has the centre of its main interests'. This corresponds to the formulation in article 3 of the EC Regulation, thus building on the emerging harmonization as regards the notion of a 'main' proceeding."

45. In my judgment it is a reasonable inference that the intention of the framers of the Model Law was that COMI in the Model Law would bear the same meaning as in the

EC Regulation, since it "corresponds" to the formulation in the EC Regulation; and one of the purposes of the Model Law is to provide EU member states with a "complementary regime" to the EC Regulation. It is true that in the EC Regulation some help can be derived from recital (13) which says:

> "The centre of main interests should correspond to the place where the debtor conducts the administration of his interests on a regular basis and is therefore ascertainable by third parties."

46. However, the absence of that recital from the Model Law does not in my judgment alter the position, because in my judgment the framers of the Model Law envisaged that the interpretation of COMI in the EC Regulation (which would necessarily take into account recital (13)) would be equally applicable to COMI in the Model Law.

47. In the content of the EC Regulation COMI has been the subject of some consideration. In the context of the EC Regulation the Virgos-Schmidt Report on the Convention on Insolvency Proceedings (which in fact never came into force) is generally considered to be a good guide to interpretation. That report says (§ 75):

> "The concept of 'centre of main interests' must be interpreted as the place where the debtor conducts the administration of his interests on a regular basis and is therefore ascertainable by third parties. The rationale of this rule is not difficult to explain. Insolvency is a foreseeable risk. It is therefore important that international jurisdiction (which, as we will see, entails the application of the insolvency laws of that Contracting State) be based on a place known to the debtor's potential creditors. This enables the legal risks which would have to be assumed in the case of insolvency to be calculated."

48. The first sentence is the origin of the recital. The remaining sentences explain the rationale. The EC Regulation also provides in Article 3 1 that:

> "In the case of a company or legal person, the place of the registered office shall be presumed to be the centre of its main interests in the absence of proof to the contrary."

49. The same paragraph of the Virgos-Schmidt report comments:

> "Where companies and legal persons are concerned, the Convention presumes, unless proved to the contrary, that the debtor's centre of main interests is the place of his registered office. This place normally corresponds to the debtor's head office."

50. On one reading of this the reference to the debtor's "head office" might be thought to be a reference to a physical, visible location. However, the early cases considering the effect of this took the view that the decisive question was where the company's head office *functions* were carried out: e.g. *Re Collins & Aikman Corp Group* [2006] BCC 606. The presumption in favour of the place of the company's registered office was not a particularly strong one; but was "just one of the factors to be taken into

account with the whole of the evidence in reaching a conclusion as to the location of the COMI": *Re Ci4net.com Inc* [2005] BCC 277.

51. The question of COMI was considered by the ECJ in *Re Eurofood IFSC Ltd* [2006] Ch 508. Eurofood was an Irish company which was a subsidiary of Parmalat, an Italian company. Eurofood's registered office was in Dublin. Its principal objective was the provision of financing facilities for companies in the Parmalat group. Its day to day administration was managed by Bank of America under the terms of an agreement. It engaged in at least three large financial transactions. Insolvency proceedings were opened in both Italy and Ireland, and the courts of each Member State decided that they had jurisdiction. The Italian administrator appealed to the Irish Supreme Court which referred a number of questions to the ECJ. The relevant one, for present purposes is the fourth question:

> "Where (a) the registered offices of a parent company and its subsidiary are in two different member states, (b) the subsidiary conducts the administration of its interests on a regular basis in a manner ascertainable by third parties and in complete and regular respect for its own corporate identity in the member state where its registered office is situated, and (c) the parent company is in a position, by virtue of its shareholding and power to appoint directors, to control and does in fact control the policy of the subsidiary-in determining the 'centre of main interests', are the governing factors those referred to at (b) above or on the other hand those referred to at (c) above?"

52. That question was first considered by Jacobs A-G. The Italian administrator submitted (§ 111) that:

> "if it is to be demonstrated that the centre of main interests is somewhere other than the state where a company's registered office is located, it consequently needs to be shown that the "head office" type of functions are performed elsewhere. The focus must be on the head office functions rather than simply on the location of the head office because a "head office" can be just as nominal as a registered office if head office functions are not carried out there. In transnational business the registered office is often chosen for tax or regulatory reasons and has no real connection with the place where head office functions are actually carried out. That is particularly so in the case of groups of companies, where the head office functions for the subsidiary are often carried out at the place where the head office functions of the parent of the group are carried out."

53. Jacobs A-G said that he found that submission "sensible and convincing" (§ 112). It is, however, important to see exactly what the thrust of the submission was. The submission was that a head office could be just as nominal as a registered office. Thus in applying the "head office" test, it was necessary to look for real functions rather than formalities. I do not think that the submission went further than that.

54. The Italian administrator then submitted (§ 113) that:

> "the "ascertainability by third parties" of the centre of main interests is not central to the concept of the "centre of main interests". That can be seen from recital 13 in the Preamble itself, which states that the "centre of main interests" "should correspond to the place where the debtor conducts the administration of his interests on a regular basis", in other words, in the case of a corporation, where its head office functions are exercised. Recital 13 continues "and [which] is therefore ascertainable by third parties"; in other words, it is *because* the corporation's head office functions are exercised in a particular member state that the centre of main interests is ascertainable there."

55. Jacobs A-G said that he agreed with that analysis (§114). If I may say so, recital (13) is really an assumption of fact; and on some facts the assumption may not be true. However, Jacobs A-G also emphasised the importance of the attributes of transparency and objective ascertainability; saying (§ 118):

> "Those concepts seem to me to be wholly appropriate elements for determining jurisdiction in the context of insolvency, where it is clearly essential that potential creditors should be able to ascertain in advance the legal system which would resolve any insolvency affecting their interests. It is particularly important, it seems to me, in cross-border debt transactions (such as those involved in the main proceedings) that the relevant jurisdiction for determining the rights and remedies of creditors is clear to investors at the time they make their investment."

56. One reason why he rejected the proposition that control of a subsidiary by a parent was not the test was that such control would not be ascertainable, and even if the facts giving rise to control were published in the company's annual accounts, publication would be retrospective (§ 121). He added (§ 122):

> "Any party seeking to rebut the presumption that insolvency jurisdiction follows the registered office must however demonstrate that the elements relied on satisfy the requirements of transparency and ascertainability. Insolvency being a foreseeable risk, it is important that international jurisdiction (which entails the application of the insolvency laws of a given state) be based on a place known to the debtor's potential creditors, thus enabling the legal risks which would have to be assumed in the case of insolvency to be calculated."

57. Finally he said (§ 124):

> "If therefore it were shown that the debtor's parent company so controlled its policies and that that situation was transparent and ascertainable at the relevant time (and not therefore merely retrospectively), the normal test might be displaced."

58. These later paragraphs in Jacobs A-G's opinion take a rather different approach from his earlier acceptance of the submission that ascertainability by third parties is not central to the concept of COMI.

59. When the case was considered by the court itself, the court agreed with the answer to the question that Jacobs A-G had proposed. The court first said that in the case of a group of companies the EC Regulation had to be applied to each company individually (§ 3). It then considered the question of COMI. It is necessary for me to set out their reasoning:

> "33 That definition [i.e. recital (13)] shows that the centre of main interests must be identified by reference to criteria that are both objective and ascertainable by third parties. That objectivity and that possibility of ascertainment by third parties are necessary in order to ensure legal certainty and foreseeability concerning the determination of the court with jurisdiction to open main insolvency proceedings. That legal certainty and that foreseeability are all the more important in that, in accordance with article 4(1) of the Regulation, determination of the court with jurisdiction entails determination of the law which is to apply.
>
> 34 It follows that, in determining the centre of the main interests of a debtor company, the simple presumption laid down by the Community legislature in favour of the registered office of that company can be rebutted only if factors which are both objective and ascertainable by third parties enable it to be established that an actual situation exists which is different from that which locating it at that registered office is deemed to reflect.
>
> 35 That could be so in particular in the case of a "letterbox" company not carrying out any business in the territory of the member state in which its registered office is situated.
>
> 36 By contrast, where a company carries on its business in the territory of the member state where its registered office is situated, the mere fact that its economic choices are or can be controlled by a parent company in another member state is not enough to rebut the presumption laid down by the Regulation."

60. Mr Zacaroli QC said that I was bound to follow *Eurofood* in interpreting the Cross-Border Regulations. Mr Isaacs QC said that although I was not bound to follow *Eurofood*, I should follow it. I need not decide whether I am strictly bound to follow *Eurofood*, since it is agreed that I should do so. I must therefore consider what *Eurofood* decided. This is not the first time I have done so, although it is the first time that I have done so with the aid of adversarial argument. In *Re Lennox Holdings Ltd* [2009] BCC 155 I had to decide whether this court had jurisdiction to open insolvency proceedings in relation to two companies whose registered offices were in Spain. I decided that it did. Having set out extracts from the opinion of Jacobs A-G and the ECJ in *Eurofood* I said (§ 9):

> "The two particular examples which were given by the court are, if I may respectfully say so, at two opposite and extreme ends of the spectrum. The facts of the present case, as I rather suspect the facts of most cases, lie somewhere between those two extremes. It is for that reason that the approach of the Advocate General is a particularly helpful one. What I should concentrate on is the head office functions of the two Spanish companies. It is, I should say, clear that the two Spanish companies do carry on business in the Member State where their registered offices is situated and consequently the "mere fact" that its economic choices are or can be controlled by a parent company is not enough to rebut the presumption. That is not what is relied on in the present case. It is not control by a parent company that is relied on in the present case. It is control of the companies themselves by their boards of directors."

61. Mr Zacaroli submitted that I was wrong to apply the simple test of "head office functions" propounded by Jacobs A-G. He said that Jacobs A-G had expressly accepted the submission of the Italian administrator that ascertainability by third parties of the centre of main interests is *not* central to the concept of COMI (§ 114). That was inconsistent with the Advocate-General's own subsequent stress on the need for elements relied on to rebut the presumption in favour of the registered office to satisfy the twin requirements of transparency and ascertainability. More to the point, it was not consistent with the decision of the ECJ itself which emphasised that COMI *must* be identified by reference to criteria that are both objective and ascertainable by third parties (§ 33); and said in terms that the presumption in favour of COMI coinciding with the company's registered office could *only* be rebutted by factors which are *both* objective *and* ascertainable by third parties. Simply to look at the place where head office functions are actually carried out, without considering whether the location of those functions is ascertainable by third parties, is the wrong test. The way in which the ECJ approached recital (13) was not to apply the factual assumption underlying it but to apply its rationale. I accept this submission. To the extent that I considered and applied the head office functions test in *Lennox Holdings* on the basis accepted by Jacobs A-G in § 114, I now consider that I was wrong to do so. Pre-*Eurofood* decisions by English courts should no longer be followed in this respect. I accept Mr Zacaroli's submission that COMI must be identified by reference to factors that are both objective and ascertainable by third parties. This, I think, coincides with the view expressed by Chadwick LJ (before the decision in *Eurofood*) in *Shierson v Vlieland-Boddy* [2005] 1 W.L.R. 3966 (§ 55):

> "In making its determination the court must have regard to the need for the centre of main interests to be ascertainable by third parties; in particular, creditors and potential creditors. It is important, therefore, to have regard not only to what the debtor is doing but also to what he would be *perceived* to be doing by an objective observer." (Emphasis added)

62. This leads on to the next question: what is meant by "ascertainable"? Mr Isaacs submitted that information would count as being ascertainable even if it was not in the

public domain if it would have been disclosed as an honest answer to a question asked by a third party. Provided that a third party asked the right questions, and was given honest answers, the result of the inquiry would be ascertainable. Mr Zacaroli submitted that this formulation was far too wide and blurred the distinction between what was ascertainable and what was not. On the basis of Mr Isaacs' submission the requirement of ascertainability was diminished almost to vanishing point. Rather, what was ascertainable by a third party was what was in the public domain, and what a typical third party would learn as a result of dealing with the company. I agree with Mr Zacaroli. As Chadwick LJ says, one of the important features is the *perception* of the objective observer. One important purpose of COMI is that it provides certainty and foreseeability for creditors of the company at the time they enter into a transaction. It would impose a quite unrealistic burden on them if every transaction had to be preceded by a set of inquiries before contract to establish where the underlying reality differed from the apparent facts.

63. In *Eurofood* the ECJ emphasised the importance of the presumption in favour of COMI coinciding with a company's registered office. In my judgment this means that the decision in *Re Ci4net.com Inc*, to the effect that the location of the registered office is no more than a factor to be considered, should also no longer be followed. In my judgment it follows from *Eurofood* that the location of a company's registered office is a true presumption, and the burden lies on the party seeking to rebut it.

64. I have already quoted Article 16 3 of the Model Law which enacts the same presumption. Commenting on this article the Guide to Enactment says (§ 122):

> "Article 16 establishes presumptions that allow the court to expedite the evidentiary process: at the same time they do not prevent, in accordance with the applicable legal procedural law, calling for or assessing other evidence if the conclusion suggested by the presumption is called into question by the court or an interested party."

65. I do not consider that this commentary, which explicitly refers to presumptions, detracts from the force of the decision of the ECJ in *Eurofood*. At this point I should refer to some of the decisions of courts of the USA. The USA gave effect to the Model Law as Chapter 15 of the Federal Bankruptcy Code. However, in enacting the equivalent of Article 16 3 Congress changed the wording. Instead of providing for the presumption in the absence of "proof" to the contrary, the equivalent provision in Chapter 15 provides for the presumption in the absence of "evidence" to the contrary. The American jurisprudence thus holds that the burden of proof lies on the person who is asserting that particular proceedings are "main proceedings" and that the burden of proof is never on the party opposing that contention: *Re Tri-Continental Exchange Ltd* 349 BR 629, 635, per Judge Klein. In *Re Bear Stearns High-Grade Structured Credit Strategies Master Fund Ltd* 374 BR 122 Judge Lifland said that except where there is no contrary evidence the registered office does not have any special evidentiary value. This change in language of the enactment, as it seems to me, may well explain why the jurisprudence of the American courts has diverged from that of the ECJ.

66. Professor Westbrook, the Receiver's expert on US law, explains in his first affidavit (§ 21) that:

> "The United States jurisprudence has made it clear that the COMI lies in the jurisdiction [where] the most material "contacts" are to be found, especially management direction and control of assets."

67. According to *Re Bear Stearns High-Grade Structured Credit Strategies Master Fund Ltd* these contacts can include the location of the debtor's headquarters, the location of those who actually manage the debtor, the location of the debtor's primary assets, the location of a majority of the debtor's creditors or of a majority of creditors who would be affected by the case and the jurisdiction whose law would apply to most disputes. However, none of these factors in the American jurisprudence is qualified by any requirement of ascertainability. In my judgment this is not the position taken by the ECJ in *Eurofood*.

68. Mr Isaacs also submitted that in a case where it is alleged that the company in question was used as a vehicle for fraud, the court should not investigate the COMI of the company itself. Rather it should investigate the COMI of the fraudsters pulling the strings. In this case the fraudsters are alleged to be Sir Allen, Mr Davis and Ms Laura Pendergest-Holt, so it is their COMI that counts. I reject this submission. First, in *Eurofood* the ECJ confirmed (§ 30):

> "that, in the system established by the Regulation for determining the competence of the courts of the member states, each debtor constituting a distinct legal entity is subject to its own court jurisdiction."

69. Second, by its very nature the existence of a fraud behind the scenes is unlikely to be ascertainable by third parties. The whole point of a fraud is that it is kept secret for as long as possible. Third, the idea of ascertaining the COMI of the fraudsters is all very well if they all happen to have their COMI in the same state; but what if they do not? How then is the court to identify the relevant COMI? I add also that on the facts of the present case it has not been shown (and apart from generalised assertion there is no evidence) that SIB was established for fraudulent purposes which might amount to justification for piercing the corporate veil.

70. I hold therefore that:

i) The relevant COMI is the COMI of SIB;

ii) Since its registered office is in Antigua, it is presumed in the absence of proof to the contrary, that its COMI is in Antigua;

iii) The burden of rebutting the presumption lies on the Receiver;

iv) The presumption will only be rebutted by factors that are objective;

v) But objective factors will not count unless they are also ascertainable by third parties;

vi) What is ascertainable by third parties is what is in the public domain, and what they would learn in the ordinary course of business with the company.

Is the Receivership a foreign proceeding?

71. Mr Joseph QC argued that the receivership was not a foreign proceeding as defined, with the result that the Receiver was not entitled to recognition under the Cross Border Insolvency Regulations. He said this for three reasons:

    i) It was not a collective proceeding;

    ii) The Receiver was not appointed pursuant to a law relating to insolvency; and

    iii) He was not appointed for the purpose of reorganisation or liquidation.

72. Mr Zacaroli adopted Mr Joseph's points, although he concentrated on the second of them. Although presented as discrete points there is, I think, a considerable degree of overlap between them.

73. The first step in evaluating these submissions is to look at the order of the US District Court for the Northern District of Texas appointing the Receiver, and from which he derives his authority. The order was made on the application of the SEC. A number of Stanford companies (including SIB); and Sir Allen, Mr Davis and Ms Pendergest-Holt are all Defendants. The SEC alleged in its complaint that it was seeking emergency relief "to halt a massive ongoing fraud" by Sir Allen and his associates. It alleged that there had been a number of violations of legislation relating to securities. It said that the SEC was bringing the action "in the interest of protecting the public from any further unscrupulous and illegal activity". The complaint goes on to set out at length a number of allegations of fraudulent misrepresentation and then sets out the SEC's causes of action against the Defendants. They are all violations of investor protection legislation. The complaint does not allege that any of the Defendants is insolvent. The relief sought includes:

> "The appointment of a temporary receiver for Defendants, for the benefit of investors, to marshal, conserve, protect, and hold funds and assets obtained by the Defendants and their agents, co-conspirators, and others involved in this scheme, wherever such assets may be found, or with the approval of the Court dispose of any wasting asset in accordance with the application and proposed Order provided herewith."

74. The order itself recites that it is made because:

> "It ... is both necessary and appropriate in order to prevent waste and dissipation of the assets of Defendants to the detriment of the investors"

75. Paragraph 1 of the order asserts that the Court itself takes possession of the Defendants' assets, wherever located. Paragraph 2 appoints the Receiver "with the full powers of an equity receiver under common law as well as such powers as are enumerated herein as of the date of this Order". Paragraph 4 directs the Receiver to take control and possession of the Receivership Estate. Paragraph 5 gives him specified duties. These include:

i) Maintain full control of the Receivership Estate;

ii) Collect, marshal and take custody possession and control of assets of the Receivership Estate or traceable to assets of the Receivership Estate, wherever situated;

iii) Institute proceedings to impose a constructive trust obtain possession or recover judgment against persons who received assets traceable to the Receivership Estate;

iv) Obtain documents and testimony (if necessary by compulsion) to identify assets, liabilities and causes of action of the Receivership Estate;

v) Enter and secure any premises in order to take possession custody or control of assets of the Receivership Estate;

vi) Make ordinary and necessary payments distributions and disbursements "for the marshalling, maintenance or preservation" of the Receivership Estate;

vii) Contract and negotiate with any claimant against the Receivership Estate "(including, without limitation, creditors)" for the purpose of compromising or settling any claim;

viii) Perform all acts necessary to hold manage and preserve the value of the Receivership Estate in order to prevent any irreparable loss damage and injury to the Estate;

ix) Enter into agreements in connection with the administration of the Receivership Estate;

x) Institute or take part in proceedings to preserve the value of the Receivership Estate or to carry out the Receiver's mandate under the order;

xi) Preserve the value of the Receivership Estate and minimize expenses "in furtherance of maximum and timely disbursement thereof to claimants".

76. Paragraph 6 of the order gave the Receiver sole and exclusive power to manage the Defendants' business and financial affairs, including the sole power to petition for bankruptcy under the US Bankruptcy Code. However, before doing so, he was required to give two days' notice to the Defendants and to the SEC.

77. Paragraph 9 of the order enjoined creditors and all other persons from the following actions "except in this court":

i) Proceedings arising from "the subject of this civil action";

ii) The enforcement of any judgment obtained before the commencement "of this proceeding".

78. Paragraph 10 enjoined creditors and all other persons, without prior approval of the court, from any act to obtain possession of the Receivership Estate assets, enforcing any lien against the Receivership Estate; any act to collect assess or recover a claim

against the Receiver that would attach to the Receivership Estate; the set off of any debt owed by the Receivership Estate based on any claim against the Receivership Estate and from petitioning for bankruptcy under the US Bankruptcy Code or from applying for recognition of a foreign proceeding. 251

79. Mr Joseph submitted that, under the terms of the order, the Receiver is not charged with responsibility of advertising, ascertaining and representing the total body of creditors so that the collected assets will be distributed *pari passu* to that body of creditors, let alone exclusively through his offices. Rather the function of the Receiver in this case was to provide ancillary and interim protection *for the investors* pending the determination of their claims for compensation, as brought to court by the SEC. This is made clear by the recited purpose of the order, viz. to prevent waste and dissipation of assets of the defendants "to the detriment of the investors". It is also reflected in the specific duties imposed on the Receiver, the main thrust of which is to identify and preserve the assets of the Receivership Estate. Under paragraph 7(a) of the Order, there is a limited restraint on creditors commencing proceedings against the Defendants. There are two relevant limitations. First, the restraint precludes proceedings being commenced "except in this court". Thus the order expressly permits proceedings to be begun in the District Court for the Northern District of Texas. Second, the restraint is limited to proceedings "arising from the subject matter of the civil action". The civil action seeks compensation for investors; not for any other creditors. This emphasises that the Receiver is not acting in the collective sense for and on behalf of all creditors. Those who are owed money independently by the Defendant companies (such as severed employees or general trade creditors) can and indeed are left to their own devices to establish their claims and rights against the Defendants. A truly collective proceeding would have stayed all claims.

80. Mr Isaacs submitted that the order requires the Receiver to obtain information to identify the liabilities of the Receivership Estate; authorises him to make distributions and also authorises him to contract and negotiate with any claimant (including, without limitation, creditors) for the purpose of settling and compromising claims. The order also authorised the Receiver to preserve the estate in furtherance of "maximum and timely disbursement thereof to creditors". These elements of the order showed that the proceeding was a collective proceeding. The Receiver's appointment was made at the instigation of the SEC, which is not a creditor of any of the Defendants, but which protects the public interest and thus all creditors. Mr Isaacs also relied on the second affidavit of Professor Westbrook who pointed out that the US Bankruptcy court had recognised a Canadian receivership as amounting to a foreign proceeding: *Re Innua Canada Ltd* 2009 WL 1025090. However the reason why the US court recognised the receiver in that case was that the Canadian court that had appointed him had declared that he was the foreign representative of a foreign proceeding and had specifically authorised him to seek recognition in the USA under Chapter 15. The US court was therefore entitled to apply and did apply the presumption in Article 16 1 of the Model Law. The Texas court in the present case did not make any such declaration. In oral argument Mr Isaacs said that although the Receiver was not expressly required or authorised by the order to deal with the proof and ascertainment of all creditors' claims, that is in fact what he was doing. In fact the Receiver's evidence is that he has processed claims by *investors*. He does not mention, for example, employees or trade creditors.

81. Both Mr Joseph and Mr Zacaroli submitted that the Receiver was not appointed pursuant to a law relating to insolvency. He was appointed because the court has a general power to appoint receivers. The trigger for his appointment was not an allegation of insolvency against any of the Defendants. It was triggered by allegations of violations of investor protection legislation. The general body of law governing the appointment of receivers, and the powers and duties of receivers, cannot be described as a law relating to insolvency. Receivers are appointed for a variety of purposes, particularly to safeguard or preserve assets pending the trial of substantive claims, and that is what has happened in this case. The Liquidators' expert on US law, Mr Daniel Glosband, points out that there is no (or very little) statutory regulation of receivers; and that where receivers have been appointed over insolvent corporations as an alternative to bankruptcy (a practice that has been deprecated by some US courts) the appointment relies on "the *ad hoc* application of equitable principles" to those cases. If and when a distribution plan is approved by the court, it will be a plan approved pursuant to *ad hoc* principles of equity rather than under any law relating to insolvency. Professor Westbrook agrees that a common law receivership would not qualify as a foreign proceeding under the Model Law "unless it had a fully developed common-law underpinning, but the United States law offers just such support in a number of cases in which distributions, almost always *pro rata*, have been made in such cases." In a later paragraph Professor Westbrook says that receivership cases "often" employ a *pro rata* rule. While Mr Zacaroli was inclined to accept that the common law could, in principle, amount to "a law" relating to insolvency, if for example an authoritative decision of the House of Lords had comprehensively set out the principles of distribution and priorities, Mr Joseph on the other hand submitted that "a law" meant a published code whether contained in primary or secondary legislation.

82. Mr Isaacs submitted that the "law" in question was not required to deal only with insolvency or even to address insolvency directly. As long as it could be applied to insolvency it would qualify. Nor did the law have to be a statutory code, as opposed to common law (or equitable) principles, as long as it set out rules for distribution and priorities. The US common law of receivers satisfied this criterion. He pointed out that in *Terry v Butterfield Bank (Guernsey) Ltd* (24 February 2006) the Royal Court of Guernsey had recognised a receiver appointed by the US courts (although since the court was concerned with recognition at common law rather than under the Model Law, this case was not helpful). He also pointed out that in *SEC v Credit Bancorp Ltd* 290 F 3d 80 the US Second Circuit court held that receiverships were "insolvency proceedings" for the purposes of the Uniform Commercial Code. However, as the judge in the District Court pointed out (*SEC v Credit Bancorp Ltd* 99 Civ 11395) that applies only if the receivership is instituted to liquidate or rehabilitate a person's entire estate, and that if a receiver did not have authority to do that then the receivership would not amount to insolvency proceedings for that purpose.

83. So far as the purpose of the receivership was concerned, both Mr Joseph and Mr Zacaroli submitted that it was to preserve the assets of the Receivership Estate. It was possible that in due course the Receiver might apply to the court to sanction a distribution plan but that would involve a further application to the court; and unless and until a plan is approved it will not be known what that distribution plan will be. If and when a distribution plan is approved it may be that at that stage the receivership can be said to be for the purpose of liquidating the Defendants' estates, but that time

has not yet been reached. One thing is clear and that is that the receivership is not a bankruptcy under the US Bankruptcy Code. Indeed the SEC is opposed to a bankruptcy and has recently defended a motion to allow other creditors to invoke the Bankruptcy Code. This led on to Mr Joseph's subsidiary point. Even if the receivership was a foreign proceeding, the Receiver was not a foreign representative because the order appointing him did not (yet) authorise him to liquidate or reorganise SIB.

84. As I have said, it seems to me that the Receiver's authority derives from the terms of the order. I do not, therefore, consider that it is profitable to discuss the sorts of powers which might be conferred on receivers generally. Thus I agree with Mr Joseph that the question is not whether an equitable receivership could generally or ever give rise to *pari passu* distribution. What matters, to my mind, is what powers and duties have been conferred or imposed on the Receiver by *this* order. I do not consider that the powers and duties conferred or imposed on the Receiver amount to a "foreign proceeding" for the purposes of the Cross Border Insolvency Regulations, largely for the reasons given by Mr Joseph and Mr Zacaroli. In short:

i) The recited purpose of the order was to prevent dissipation and waste, not to liquidate or reorganise the debtors' estates;

ii) The detriment that the court was concerned to prevent was detriment to *investors*;

iii) The underlying cause of action which led to the making of the order had nothing to do with insolvency and no allegation of insolvency featured in the SEC's complaint. Indeed there is no evidence that any of the personal Defendants (i.e. Sir Allen, Mr Davis or Ms Pendergest-Holt) is in fact insolvent, yet the appointment of the Receiver over their assets must have the same foundation as his appointment over the assets of the corporate Defendants;

iv) The powers conferred on and duties imposed on the Receiver were duties to gather in and preserve assets, not to liquidate or distribute them. (The order does not, at least on its face, confer any power on the Receiver to sell any of the Defendants' assets of which he might take possession);

v) In so far as the order mentions creditors who are not investors, they are mentioned only to allow claims to be compromised. The reference to distributions to creditors does not sanction actual distribution; it merely describes the reason why expenses are to be kept to a minimum;

vi) The order does not preclude claims from being made against the Defendants outside the receivership if either they do not relate to the underlying causes of action on which the SEC's application was based, or they are brought in the District Court for Northern Texas;

vii) Under the order the Receiver has no power to distribute assets of the Defendants. It would need a further application to the court to enable him to do so;

viii) The fact that some receiverships may be classified for some purposes as "insolvency proceedings" or be treated as acceptable alternatives to bankruptcy does not mean that this receivership satisfies the definition of foreign proceeding in the Cross-Border Insolvency Regulations 2006;

ix) The general body of common law or equitable principles which bear on the appointment of a receiver and the conduct of a receivership is not "a law relating to insolvency" since it applies in many different situations many (if not most) of which have nothing to do with insolvency; and many of the principles leave a good deal to discretion.

85. I do not say that any one of these factors is decisive, but cumulatively they lead to only one conclusion. I hold, therefore, that the receivership is not a "foreign proceeding". I would also hold that since the Receiver has not yet been authorised to administer the liquidation or reorganisation of SIB he is not yet a "foreign representative" as defined, even if the receivership is a "foreign proceeding". It follows that the receivership cannot be recognised under the Cross Border Insolvency Regulations 2006.

Is the Antiguan liquidation a foreign proceeding?

86. Mr Isaacs said that if the receivership was not a foreign proceeding, then nor was the Antiguan liquidation. It is common ground that the Antiguan liquidation is a collective proceeding, and that the Liquidators were appointed to liquidate the assets of SIB. But Mr Isaacs said that the Liquidators were not appointed pursuant to a law relating to insolvency. SIB was established under the International Business Corporations Act (Cap 222 of the Laws of Antigua and Barbuda). Part IV of the International Business Corporations Act is, generally speaking, a law relating to insolvency and I did not understand Mr Isaacs to dispute that. His point was that because the petition was founded on section 300 alone, in which insolvency does not feature as a ground, the Liquidators were not appointed pursuant to a law relating to insolvency.

87. The Liquidators were originally appointed as Receiver-Managers. In their report to the court in that capacity they stated that their investigations led them to conclude that SIB was insolvent and that it was not capable of being reorganised via the receivership. They therefore recommended that SIB should be placed into liquidation. A petition was therefore presented by the FSRC. Mr Paul Ashe and Mr Hamilton-Smith swore affidavits in support of the petition. Mr Ashe verified the petition. Paragraph 6 of the petition stated:

> "Information gleaned from the Bank's report to me and its Management accounts for the year ended December 31, 2008 led your Petitioner to conclude that the realisable value of the Bank's assets were or would shortly have become less than the aggregate of its liabilities."

88. The petition also stated (§ 13) that the petitioner was "wholly convinced that the Bank is insolvent". It concluded (§ 17) that:

> "In the premises it is just and equitable that the Bank be liquidated and dissolved."

89. The petition prayed for a winding up pursuant to section 300 of the International Business Corporations Act (Cap 222 of the Laws of Antigua and Barbuda).

90. Mr Hamilton-Smith's affidavit supported the petition. He repeated the Receiver-Managers' belief that SIB was insolvent.

91. Mr Isaacs' point is this. The section under which the FSRC prayed for a winding up order enables such an order to be made where the company in question has failed to comply with regulatory requirements. Insolvency is not a ground for winding up under that section. However, the order of Harris J made on the petition not only recites that the court was satisfied that the conditions set out in section 300 had been met, but also recites that the court had considered the evidence adduced in support of the petition and that the court:

> "... having determined that in the circumstances it is just and equitable that [SIB] be liquidated and dissolved under the supervision of this Court pursuant to the Act."

92. The formal order that the court made was that SIB be liquidated and dissolved under the supervision of the court "pursuant to the provisions of the International Business Corporations Act ...".

93. In his written judgment on the petition Harris J said (§ 61):

> "I am satisfied that the breach under s. 300 is made out and further to this considered the final question: having been satisfied that the grounds for winding up and dissolution have been made out, should the court grant the order sought. ... Both counsel directed the court to the obvious insolvency and international crisis arising from it. Further, Mr Nigel Hamilton-Smith ... testified to the effect that no other arrangement under the act nor would the re-organization of SIB serve a useful purpose."

94. It is, in my judgment, clear from the court's order and the judgment of Harris J that it was not basing the order on section 300 alone. It made the order because, having considered the evidence, it concluded that it was just and equitable that SIB be wound up. An important part of the evidence was that SIB was insolvent and could not be reorganised via the receivership. In my judgment at least one of the reasons why Harris J made the order that he did was that he was satisfied that SIB was insolvent.

95. I hold, therefore, that the Liquidators were appointed pursuant to a law relating to insolvency and that they are entitled to be recognised as foreign representatives of a foreign proceeding.

Main proceeding or non-main proceeding?

96. Whether the Liquidators are recognised as representatives of a main proceeding or a non-main proceeding depends on the COMI of SIB. It is only if the COMI is in Antigua that the Antiguan liquidation will be a main proceeding. I have already set out my understanding of the general principles that apply in determining the COMI of a corporation. I now apply those principles to the facts.

97. SIB's registered office was in Antigua. Thus it is presumed that its COMI was in Antigua. The onus is on the Receiver to rebut the presumption. SIB was not merely a "letterbox company". Its physical headquarters were in Antigua; almost all of its employees were located in Antigua; its contracts both with investors and financial advisers were governed by the laws of Antigua; and its marketing material gave prominence to its presence in Antigua. Cheques from depositors were sent to Antigua and although wire transfers were not, wire transfers were not made to banks in the USA. Private banking facilities were provided from Antigua. It was regulated by Antiguan regulators and its accounts were audited by Antiguan accountants. In short its public face was that of an Antiguan corporation. All these features reinforce rather than rebut the presumption.

98. On the basis that, as I have held, the presumption can only be rebutted by factors that are both objective and ascertainable by third parties, Mr Isaacs relied on the following:

i) The location of the principal movers of the fraud (Sir Allen, Mr Davis and Ms Pendergest-Holt) was in the USA. This fact (if it is a fact) is not one that was ascertainable by third parties.

ii) The location of most of the directors was in the USA and none was in Antigua. It is true that the nationality of the directors was set out in marketing material and was thus ascertainable by third parties. But I cannot see that the nationality of the directors has any significant bearing on the COMI of the company. Mr Isaacs said that most of the board meetings were held by telephone. That raises an interesting question: if a meeting takes place by telephone, in what state does it take place? But I do not think that I need to answer that question, because the manner in which board meetings took place would not have been ascertainable by third parties.

iii) The principal place of business of SIB was in the USA. What Mr Isaacs relies on under this head is the marketing of certificates of deposit by financial advisers; and the provision of services to SIB by other Stanford companies. However, I do not consider that an investor would have considered that a financial adviser was conducting SIB's business; and the disclosure statement made it clear to investors that marketing was not carried out by SIB. The paperwork for investments was processed in Antigua. When the certificates of deposit were issued they stated on their face that they had been executed in Antigua.

iv) The purchasers of certificates of deposit were all residents and citizens of countries other than Antigua. This is true. It may also have been ascertainable by third parties because SIB's marketing information said that they did

business with the world. But I do not see that this fact points in favour of any single state other than Antigua. The presumption cannot be rebutted by an attempt to demonstrate that Antigua was not the COMI of SIB unless it is also shown that SIB had a COMI in some other state. It is not possible for a corporation to have a world-wide COMI.

v) The investments were managed outside Antigua, mostly in the USA. This is true. To some extent this was ascertainable by third parties because SIB's marketing material puffed its association with other Stanford companies and revealed the existence of portfolio management teams, and its accounts revealed large payments to other Stanford companies as management fees. But I do not consider that management carried out by other companies under contractual arrangements with SIB changes SIB's COMI. It has chosen to manage its affairs by outsourcing some functions to others.

vi) The real management of SIB was carried out by employees in the USA. In so far as this point relies on what was happening behind the scenes, it relies on facts that would not have been ascertainable to third parties. In so far as it relies on the location of the financial advisers, I have already dealt with that. It was suggested that the marketing of SIB as part of the Sanford Group anchored it to the USA; but marketing material for the Stanford Group was always careful to refer to SIB's location in Antigua.

vii) The location of books and records relating to the primary business of investments was in the USA. Books and records relating to the investors themselves were kept in Antigua. The Liquidators have adequate records in Antigua to enable them to contact investors and deal with their claims. This point relates to records of investments. The primary records about investments were kept in the USA although investment summaries were regularly sent to Antigua. This may be true as far as it goes, but what it shows is that SIB's books and records were split between Antigua and the USA.

viii) SIB's assets were located outside Antigua and mostly in the USA. It is true that SIB's investment assets were located outside Antigua. But it is not true that they were mostly located in the USA. More assets are located in the UK and in Switzerland than in the USA. Since its business was the world-wide investment of funds, the location of the investments themselves is not significant as regards SIB's COMI.

99. In my judgment these features, even when taken together, are not sufficient to rebut the presumption in favour of Antigua as the COMI of SIB, reinforced as it is by other objective facts ascertainable to third parties. I hold, therefore, that Antigua was the COMI of SIB and that, in consequence, the Liquidators are entitled to recognition as foreign representatives of a foreign main proceeding.

Recognition at common law?

100. Mr Joseph submitted that if the Receiver failed in obtaining recognition under the Cross-Border Insolvency Regulations (as I have held he has) that was an end of the matter. The Regulations contain a complete code which leaves no room for the application of the common law. In my judgment this statement goes too far. The

Regulations themselves recognise expressly that they do not apply to a wide variety of corporations. There is a long list of exceptions in Article 1 2, running from water and sewerage undertakings, through building societies and credit institutions, to concessionaires of the Channel Tunnel. If corporations of this kind are expressly excluded from the ambit of the Regulations, it is difficult to see that Parliament intended that there should be no cross-border co-operation at all. In those circumstances the common law must remain in being. If (as I think) the common law remains in being as regards corporations that are expressly excluded from the ambit of the Regulations, it must surely also continue to exist as regards entities that fail to satisfy the definition of "foreign representative". In my judgment the Regulations supplement the common law; they do not extinguish it.

101. There is little authority on the circumstances in which the court will recognise the title of a receiver appointed by a foreign court to assets within this jurisdiction. In *Schemmer v Property Resources Ltd* [1975] Ch. 273 Goulding J refused to recognise a receiver appointed by a US court on the application of the SEC. He said (p. 287):

> "I shall not attempt to define the cases where an English court will either recognise directly the title of a foreign receiver to assets located here or, by its own order, will set up an auxiliary receivership in England. To do either of those things the court must previously, in my judgment, be satisfied of a sufficient connection between the defendant and the jurisdiction in which the foreign receiver was appointed to justify recognition of the foreign court's order, on English conflict principles, as having effect outside such jurisdiction."

102. On the facts he held that there was no sufficient connection because:

i) The company in question was not made a defendant to the American proceedings, and there was no evidence that it has ever submitted to the federal jurisdiction;

ii) It was not incorporated in the United States of America or any of their states or territories;

iii) There was no evidence that the courts of the place of incorporation would themselves recognise the American decree as affecting English assets;

iv) There was no evidence that the company carried on business in the United States of America or that the seat of its central management and control has been located there.

103. However, Goulding J did not say that he would have recognised the receiver's title if one or more of those features had been established.

104. Mr Zacaroli accepted that the common law continued to exist as regards entities that fail to satisfy the definition of "foreign representative", but said that the common law was there to supplement the Regulations; not to trump them. If it is established (as here) that a liquidator has been properly appointed in the place of incorporation of a corporation, with the power and duty to collect assets on behalf of all creditors, then

barring exceptional circumstances, the liquidator should be left to get on with his job without outside interference from others. That would promote the general policy of universalism; namely that there should be one collective proceeding in which all creditors are entitled to participate, irrespective of where they are located: *Cambridge Gas Transportation Corporation v Official Committee of Unsecured Creditors of Navigator Holdings plc* [2007] 1 AC 508, § 16.

105. I accept this submission. In my judgment the Receiver should not be recognised in so far as his appointment deals with the assets of SIB.

106. So far as the other Stanford entities and the Sir Allen are concerned, the only argument that recognition should be refused was the argument that recognition at common law has not survived the Cross Border Insolvency Regulations. No one has argued that the Receiver should not be recognised at common law if, as I have held, that jurisdiction has survived the Cross Border Insolvency Regulations. I am satisfied that Sir Allen is a US citizen and that the District Court had jurisdiction to appoint a receiver over his assets. His connection with the USA is substantial and the Receiver ought to be recognised in this jurisdiction.

107. STCL has its registered office in Antigua. Unlike SIB, however, the bulk of its employees were located in the USA, and its business was carried on in the USA. Its brokerage accounts were maintained in the USA and in brokerage houses in Latin America. In those circumstances I consider that there was a sufficient connection between STCL and the USA to justify recognition of the Receiver in this jurisdiction. Other Stanford entities are incorporated in states of the USA, and in their case the substantial connection with the USA is plain.

Relief to be granted

108. The main contest under this head is which of the Receiver and the Liquidators should take control of SIB's assets within the jurisdiction and, if the Liquidators, whether they should be permitted to remit those assets (or any realisation of them) to Antigua. In view of the policy in favour of a single liquidation I consider that the Liquidators, who have been properly appointed as liquidators by the courts of SIB's place of incorporation, should take possession of SIB's assets within the jurisdiction and that they should be permitted to remit those assets (or any realisation of them) to Antigua.

109. The precise terms of the relief to be granted to the Liquidators; and the precise terms of the relief to be granted to the Receiver over the assets of the other Stanford entities and the personal Defendants will be a matter for discussion or argument when this judgment is handed down.

TAB J

Court File No. CV-09-8373-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

BETWEEN:

DYNASTY FURNITURE MANUFACTURING LTD., SHAFIQ HIRANI, HANIF ASARIA, DINMOHAMED SUNDERJI and 2645-1252 QUÉBEC INC.

Plaintiffs /
Moving Parties

- and -

THE TORONTO-DOMINION BANK

Defendant /
Responding Party

This is Exhibit "J" referred to in the affidavit of Wolfgang Mersch sworn before me, this 13th day of February, 2015

A COMMISSIONER FOR TAKING AFFIDAVITS

AFFIDAVIT OF MARCUS A. WIDE

(Sworn May 30, 2014)

I, **MARCUS A. WIDE**, of Grant Thornton (British Virgin Islands) Ltd., of the City of Tortola, British Virgin Islands, **MAKE OATH AND SAY:**

1. This affidavit is sworn in my capacity as a court-appointed liquidator of Stanford International Bank Limited ("**SIB**") and as a plaintiff in the related action bearing court file number CV-12-9780-00CL (the "**SIB Action**") that I have commenced along with my colleague, Hugh Dickson (together, the "**Joint Liquidators**"), against The Toronto-Dominion Bank ("**TD Bank**").

2. In November or December 2011, the Joint Liquidators entered into an agreement with the plaintiffs in the within action (the "**Dynasty Action**") whereby the plaintiffs in the Dynasty

Action assigned any and all proceeds that may arise under the Dynasty Action to the Joint Liquidators (the "**Assignment Agreement**").

3. As a result of the foregoing, I have knowledge of the matters to which I depose in this affidavit, except where my statements are of my information or belief, in which case I have identified the source of that information or belief and I believe the statements to be true.

I. EARLY STAGES OF THE DYNASTY ACTION

4. I am advised by Nathan Shaheen of Bennett Jones of the following events that occurred in the course of the Dynasty Action prior to the execution of the Assignment Agreement.

5. The statement of claim in the Dynasty Action was issued and served on August 26, 2009. In the statement of claim, the plaintiffs in the Dynasty Action seek damages from TD Bank in connection with its provision of correspondent banking services to SIB. A copy of the statement of claim is attached as **Exhibit "A"** to this affidavit.

6. In response to the statement of claim, TD Bank brought a motion pursuant to Rule 21 of the Ontario *Rules of Civil Procedure* to strike portions of the statement of claim. That motion was heard by the court on November 9, 2009. The motion was argued on the basis of the statement of claim as pleaded.

7. I am advised by Jim Sunderji, President of the plaintiff, Dynasty Furniture Manufacturing Ltd., that the statement of claim contained all relevant facts known to the plaintiffs in the Dynasty Action as of the date it was issued and that no further facts were learned by the plaintiffs prior to the motion to strike. At that time, the facts known to the plaintiffs and pleaded were minimal. The plaintiffs did not have access to any records held by TD Bank or SIB.

8. On January 21, 2010, the court rendered its judgment in respect of TD Bank's motion to strike. Among other things, the court struck the portions of the statement of claim alleging a duty of care on the basis of "constructive knowledge" on the facts as pleaded at that time. A copy of the court's judgment in respect of TD Bank's motion to strike is attached as **Exhibit "B"** to this affidavit.

9. The plaintiffs in the Dynasty Action appealed. The hearing of the appeal took place on July 12, 2010.

10. On July 20, 2010, the Court of Appeal rendered its judgment. It dismissed the appeal. In doing so, the Court of Appeal held, among other things, that it was doing so "on the facts, as pleaded in this case" and that it was not deciding "whether a bank may ever be found to have a duty to a non-customer in circumstances where it does not have actual knowledge (willful blindness or recklessness) of the fraudulent activities being conducted through an account of its customer." A copy of the Court of Appeal's judgment in respect of TD Bank's motion to strike is attached as **Exhibit "C"** to this affidavit.

11. The plaintiffs in the Dynasty Action issued an amended statement of claim on November 2, 2010 and served it on November 4, 2010. I am advised by Mr. Sunderji that, at that time, the plaintiffs had no further relevant information in respect of their claim than at the time the action was commenced on August 26, 2009. A copy of the amended statement of claim is attached as **Exhibit "D"** to this affidavit.

12. TD Bank delivered its statement of defence in the within action on December 15, 2010. A copy of the statement of defence is attached as **Exhibit "E"** to this affidavit.

13. Following delivery of TD Bank's statement of defence, the parties negotiated and eventually agreed to the terms of a discovery agreement dated October 11, 2011 (the "**Discovery Agreement**"). A copy of the Discovery Agreement is attached as **Exhibit "F"** to this affidavit.

14. I am advised by Mr. Shaheen that no productions have been exchanged between the plaintiffs in the Dynasty Action and TD Bank.

II. THE JOINT LIQUIDATORS' CLAIMS AND THE STAYS OF ACTIONS IN ONTARIO

15. The Joint Liquidators were appointed by Order of the Eastern Caribbean Supreme Court dated May 12, 2011.

16. On August 22, 2011, the Joint Liquidators commenced an action in Quebec against TD Bank (the "**Quebec Action**"). Later that same day, the Joint Liquidators commenced the SIB Action by way of having a notice of action issued. The Joint Liquidators did not serve the pleadings in either the Quebec Action or the SIB Action at that time.

17. In November or December 2011, the Joint Liquidators and the plaintiffs in the Dynasty Action entered into the Assignment Agreement.

18. On February 17, 2012, the Joint Liquidators served an amended pleading on TD Bank in the Quebec Action. This was the first time the Joint Liquidators had served any claim on TD Bank.

19. At the Joint Liquidators' request, by way of a judgment dated July 10, 2012, the court stayed both the SIB Action and the Dynasty Action pending a determination of whether the

Quebec Action would proceed. A copy of the judgment in respect of the stays of the SIB Action and the Dynasty Action are attached as **Exhibit "G"** to this affidavit.

20. TD Bank sought leave to appeal from the Divisional Court in respect of the judgment staying the SIB Action and the Dynasty Action, which was denied on October 4, 2012. A copy of the judgment of the Divisional Court is attached as **Exhibit "H"** to this affidavit.

21. On May 15, 2014, following a dismissal by the Quebec Superior Court of the Quebec Action, on consent, the stays of the SIB Action and the Dynasty Action were lifted and those actions were ordered to be case managed in tandem. A copy of the Order lifting the stays of the SIB Action and the Dynasty Action and providing for joint case management is attached as **Exhibit "I"** to this affidavit.

22. As a result of the stay of the Dynasty Action, no steps have been taken in that action since the parties entered into the Discovery Agreement.

III. AMENDMENTS TO THE STATEMENTS OF CLAIM IN THE SIB ACTION AND THE DYNASTY ACTION

23. The records that eventually became available to the Joint Liquidators consist of documents from the period in which TD Bank provided banking services to SIB (early 1990s – 2009), including documents provided by TD Bank to SIB and correspondence between TD Bank and SIB personnel. It is these documents and information that laid the foundation for many of the allegations contained in the Joint Liquidators' pleadings against TD Bank.

24. Bennett Jones used the documents and information obtained from the Joint Liquidators for the plaintiffs' benefit in amending the pleading in the Dynasty Action. To the best of my

knowledge, such documents and information were not otherwise available to the plaintiffs in the Dynasty Action.

25. The Joint Liquidators' fresh as amended statement of claim was filed with the court on May 16, 2014 and has been served on TD Bank. No defence has been delivered.

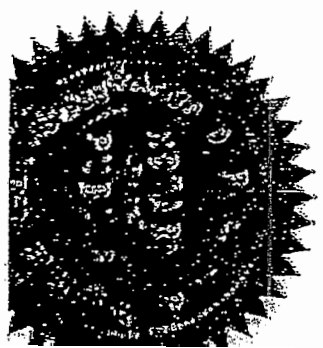
26. I am advised by Mr. Shaheen that Bennett Jones incorporated the information contained in the fresh as amended statement of claim in the SIB Action into the proposed fresh as amended statement of claim in the Dynasty Action, which I have received a copy of and reviewed. I am advised by Mr. Shaheen that a copy of the proposed fresh as amended statement of claim will be included in the plaintiffs' motion record.

27. I swear this affidavit in support of the motion by the plaintiffs in the Dynasty Action for leave to amend their pleading in the form of their proposed fresh as amended statement of claim. In the circumstances, it is my belief that TD Bank will suffer no prejudice should such leave be granted.

SWORN BEFORE ME, at Tortola, British Virgin Islands this the 30th day of May, 2014)

A Notary Public

MARCUS A. WIDE



TAB K

ACTION NO. 0901-05717

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

BETWEEN:

DYNASTY FURNITURE MANUFACTURING LTD., SHAFIQ HIRANI, HANIF ASARIA, DINMOHAMED SUNDERJI and 2645-1252 QUEBEC INC.

Plaintiffs

- and -

TORONTO-DOMINION BANK

Defendant

This is Exhibit "K" referred to in the affidavit of Wolfgang Mersch sworn before me, this 13th day of February, 20 15

A COMMISSIONER FOR TAKING AFFIDAVITS

Affidavit of Zaherali (Jim) Sunderji

I, ZAHERALI (JIM) SUNDERJI, of the City of Calgary, in the Province of Alberta, MAKE OATH AND SAY:

1. I am the President and a director of Dynasty Furniture Manufacturing Ltd. ("Dynasty"). Dynasty is one of five plaintiffs in the within action, and one of five plaintiffs in the Related Action (described below) (the plaintiffs are the same in both actions). As such I have direct knowledge of the matters deposed herein, except where I have indicated that my knowledge is based on information provided to me by others, and where so indicated I verily believe such information to be true.

The Related Action

2. By statement of claim issued April 17, 2009 in Action No. 0901-05677 in the Court of Queen's Bench of Alberta (Calgary), Dynasty and its co-plaintiffs sued Stanford International Bank, Ltd. ("SIB") and a number of other parties, alleging, among other things, that the defendants in that action used an investment scheme to defraud the plaintiffs of approximately CDN $17.5 million (the "Related Action"). Attached hereto as Exhibit "A" is a true copy of the statement of claim in the Related Action.

3. Regarding the investment scheme, the plaintiffs allege in the Related Action that:

(a) the investment scheme was a sophisticated Ponzi scheme where SIB and the other defendants misrepresented the nature of self-styled "certificates of deposits" ("CDs") in order to cause the plaintiffs and many other investors to invest monies with SIB;

(b) the CDs were said to be safe because SIB invested client funds primarily in liquid financial investments that were monitored by a team of 20-plus analysts, and that those investments were subject to yearly audits by Antiguan regulators;

(c) the CDs were not as represented. Client funds were not invested primarily in liquid investments or allocated in the manner described in SIB's promotional materials and public reports. Instead, a substantial portion of those funds were placed in illiquid investments such as real estate and private equity. Further, the vast majority of the funds invested were not monitored by a team of analysts, but rather by two people – R. Allen Stanford and James Davis. Moreover, the Antiguan regulator responsible for oversight of SIB's client investments – the Financial Services Regulatory Commission – never audited those investments and never verified the assets SIB claimed in its financial statements; and

(d) investors who received a return on their investment in CDs received their own money back or the money of other investors. The investment scheme did not generate the returns that were represented to investors.

4. Dynasty invested approximately CDN $1 million in the investment scheme in or about June 2008 based on misrepresentations made by the defendants in the Related Action, and in particular based on the misrepresentations made by the defendant Faran Kassam, who was a financial advisor acting on behalf of the corporate defendants in the Related Action. I met with Mr. Kassam in Calgary in or about June 2008 to open an account for Dynasty and to make the investment Dynasty did. Dynasty has made no withdrawals from its account with SIB. Attached hereto as Exhibit "B" is a true copy of Dynasty's Account Application Form with SIB and related documents. Attached hereto as Exhibit "C" is a true copy of Faran Kassam's business card.

5. Per Mr. Kassam's instruction, Dynasty paid its CDN $1 million to invest in CDs by way of bank draft. That bank draft was directed to SIB in Antigua, but Mr. Kassam told me that the money would be sent from there to Toronto-Dominion Bank ("TD Bank") in Canada, where it would be invested and held in the form of CDs. Attached hereto as Exhibit "D" is a true copy of Dynasty's bank draft for CDN $1 million dated June 27, 2008.

6. I am advised by my co-plaintiffs, Dinmohamed Sunderji, Dr. Hanif Asaria, and Daniel Pelletier on behalf of 2645-1252 Québec Inc., that they too directed their investment funds to SIB via TD Bank.

7. I am advised by my co-plaintiff, Shafiq Hirani, that the withdrawals he made from his SIB account were via TD Bank.

The Within Action (aka: the Bank Action)

8. By statement of claim issued April 17, 2009 in the within action, Dynasty and the four other plaintiffs sued TD Bank seeking interlocutory disclosure of, among other things, account details and amounts related to monies being held at TD Bank on behalf of SIB, the other defendants in the Related Action, and investors such as Dynasty (and the other plaintiffs herein) who purchased CDs. The plaintiffs also seek interlocutory disclosure from TD Bank of any documents relating to its role as correspondent bank for SIB. The final relief sought by the plaintiffs in the within action is an order declaring that any monies held by TD Bank are to be held in trust for the plaintiffs in the within action. Attached hereto as Exhibit "E" is a true copy of the statement of claim in the within action.

The Two Receivers

9. By Order of the United Stated District Court for the Northern District of Texas (Dallas Division) (the "Texas Court") dated February 16, 2009, Mr. Ralph Janvey of Dallas, Texas was appointed Receiver over the Receivership Assets (as defined in the Order) and Receivership Records (also as defined in the Order), being, among other things, all of the assets of whatever kind, wherever located, of SIB, Stanford Group Company, Stanford Capital Management, LLC, R. Allen Stanford, James M. Davis and Laura Pendergest-Holt (the "US Receiver"). Attached hereto as Exhibit "F" is a true copy of the Texas Court's Order dated February 16, 2009.

10. The Texas Court's Order dated February 16, 2009 was amended March 12, 2009. Attached hereto as Exhibit "G" is a true copy of the Texas Court's Order dated March 12, 2009.

11. The Texas Court purports in the above-noted Orders to assume exclusive jurisdiction over the matters set out in those Orders.

12. On February 19, 2009, Messrs. Nigel Hamilton-Smith and Peter Wastell of Vantis Business Recovery Services in the United Kingdom, were appointed as Joint Receiver-Managers of SIB by the Financial Services Regulatory Commission of Antigua. Separately, their appointment as Receiver-Managers was made by order of the High Court of Antigua on February 26, 2009 (the "UK Receivers"). Attached hereto as Exhibit "H" is a true copy of the UK Receivers' Report to the Antiguan High Court dated March 16, 2009, which confirms these appointments (the "UK Receivers' Report").

The UK Receivers' Report

13. The UK Receivers' Report is an interim report from the UK Receivers to the High Court of Antigua on the affairs of SIB. That report indicates, among other things, that:

(a) as of February 18, 2009, TD Bank held US$ 18,918,662 of investor monies (see page 8);

(b) SIB has outstanding investor liability balances totalling some US$7.2 billion (see page 10);

(c) SIB is insolvent and is not capable of being reorganized via receivership (see page 11); and

(d) the Antiguan authorities do not legally recognize the US receivership, and whilst the basic idea of co-operation appeared to be welcome by the US Receiver, little cooperation has occurred (see page 3).

The US Receiver's Report dated April 23, 2009 (the "US Receiver's Report")

14. The US Receiver's Report is an interim report to the Texas Court and the defendants in that action. The US Receiver's Report indicates, among other things, that:

(a) analysis of the Stanford companies' financial records and operational data revealed that all major Stanford U.S. financial businesses depended upon continued CD sales and/or other allegedly fraudulent activities (see page 8);

(b) the US Receiver determined that almost all U.S. business operations should be ceased to reduce the ongoing costs of unprofitable operations (see page 9);

(c) it appears that the total value of the estate is likely to be only a fraction of the total amount that would be needed to pay all outstanding CDs and other anticipated claims against the estate (see page 13);

(d) it appears that during the last year, and probably for longer than that, SIB assets were inadequate to cover amounts of SIB's liabilities on its issued and outstanding CDs as those liabilities came due (see page 13);

(e) the CDs are fraudulent products (see pages 14, 35 and 40);

(f) many employees of the Stanford companies were victims of the fraud (see pages 16 and 17); and

(g) the US Receiver has found it necessary to oppose the UK Receivers in court in multiple jurisdictions (see page 21), and the US Receiver believes that it should be recognized as the main or primary proceeding in relation to SIB (see page 19).

Attached hereto as Exhibit "I" is a true copy of the US Receiver's Report.

UK Receivers come to Canada

15. On April 6, 2009, the UK Receivers brought a without notice motion in the Superior Court of Québec (Commercial Division) seeking, among other things, an Order to be recognized pursuant to sections 267 and seq. of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3 as

Joint Receivers-Managers of SIB and Stanford Trust Company Limited. That Order was granted on April 6, 2009. Attached hereto as Exhibit "J" is a true copy of that Order.

16. I am advised by my solicitors that the US Receiver's Ontario solicitors have stated that the US Receiver intends to bring a motion to have the Court of Québec's April 6, 2009 Order set aside.

17. I am not aware of any Order of any court in Canada recognizing the US Receiver Order.

The US Receiver sues 66 financial advisors

18. By Complaint dated April 15, 2009 filed in the Texas Court, the US Receiver commenced civil proceedings against 66 financial advisors formerly employed by Stanford Group Company. The basis for the complaint is that US$ 40 million of commissions, front-end loads and other compensation was paid to these financial advisors "for soliciting their clients to purchase fraudulent certificates of deposit from SGC's affiliate, Defendant Stanford International Bank, Ltd. ("SIB")". Attached hereto as Exhibit "K" is a true copy of the US Receiver's April 15, 2009 Complaint.

The Attorney General of Ontario's without notice Motion in Ontario

19. On April 24, 2009, the Attorney General of Ontario brought a without notice motion in the Ontario Superior Court of Justice seeking, among other things, to have the monies being held by TD Bank (and TD Waterhouse) on behalf of SIB (and Stanford Group Company, Stanford Capital Management, LLC, R. Allen Stanford, James M. Davis, Laura Pendergest-Holt, Stanford Financial Group and Stanford Financial Group Bldg, Inc.) paid into court pursuant to certain provisions of the *Civil Remedies Act* (Ontario). The Order sought was granted, and my solicitors advise me that TD Bank has paid the money to the Ontario Superior Court of Justice (*i.e.*, the US$ 18,918,662 TD Bank held as of February 18, 2009). Attached hereto as Exhibit "L" is a true copy of the Attorney General of Ontario's notice of motion dated April 24, 2009. Attached hereto as Exhibit "M" is a true copy of the Ontario Superior Court of Justice's Order dated April 24, 2009.

Conclusion

20. I believe that the monies being held by TD Bank, or rather, that have been recently paid into court by TD Bank, are the same monies as were paid by me (via Dynasty) and my co-plaintiffs to TD Bank in order to invest in CDs offered by the defendants in the Related Action pursuant to their investment scheme. I do not wish to see those monies paid to the UK Receivers, the US Receiver, the Attorney General of Ontario or anyone else, but rather to me and my co-plaintiffs, whose money it is. We Canadian investors paid our money to TD Bank, and while those monies were supposed to be transferred to SIB in Antigua, I believe this was not done and that, accordingly, most if not all of our money remained with TD Bank.

21. We plaintiffs in the within action require disclosure from TD Bank in order to prove that we are the legitimate owners of the aforesaid funds, and to understand the nature and extent of the relationship between SIB (and the other defendants in the Related Action) and TD Bank, all of which impacts our recovery rights.

Urgency of the Motion

22. According to the Attorney General of Ontario's Notice of Application dated April 24, 2009, in which application its motion to have TD Bank pay the aforesaid funds into court was brought, the Attorney General of Ontario states it will be seeking to have those monies forfeited to the Ontario Crown at a hearing scheduled for May 22, 2009. As Dynasty and the other co-plaintiffs herein believe themselves to be the legitimate owners of that money, obtaining disclosure from TD Bank as to the origins of those funds is a matter of urgency. Attached hereto as Exhibit "N" is a true copy of the Attorney General of Ontario's Notice of Application dated April 24, 2009.

23. I swear this affidavit in support of a motion for interlocutory disclosure from TD Bank, as set out in paragraphs 1 and 2 of the statement of claim in the within action.

SWORN before me at the City of Toronto Mississauga, in the Province of Ontario, this 12th day of May, 2009.

A Commissioner, etc.

ZAHERALI (JIM) SUNDERJI

TAB L

This is Exhibit "L" referred to in the affidavit of Wolfgang Mersch sworn before me, this 13th day of February, 2015

A COMMISSIONER FOR TAKING AFFIDAVITS

273

ACTION NO. 0901-05717

Sworn June 2, 2009

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL DISTRICT OF CALGARY

BETWEEN:

DYNASTY FURNITURE MANUFACTURING LTD., SHAFIQ HIRANI, HANIF ASARIA, DINMOHAMED SUNDERJI and 2645-1252 QUEBEC INC.

Plaintiffs

- and -

TORONTO-DOMINION BANK

Defendant

Affidavit of Zaherali (Jim) Sunderji

I, ZAHERALI (JIM) SUNDERJI, of the City of Calgary, in the Province of Alberta, MAKE OATH AND SAY:

---

1. I am the President and a director of Dynasty Furniture Manufacturing Ltd. ("Dynasty"). Dynasty is one of five plaintiffs in the within action, and one of five plaintiffs in the Related Action. As such I have direct knowledge of the matters deposed herein, except where I have indicated that my knowledge is based on information provided to me by others, and where so indicated I verily believe such information to be true.

2. This Affidavit is supplemental to the Affidavit I swore in this Action on May 12, 2009. Defined terms used in this Affidavit shall have the same meaning as in my previous Affidavit.

Further Evidence of TD Involvement

3. Attached hereto and marked as Exhibits "A" and "B" respectively are two emails and the attachments thereto sent to me by Mr. Kassam at the time I was preparing to make my investment with SIB. As can be seen, Exhibits "A" and "B" provide information on wire

transferring these investments into certain accounts; those accounts are located at the TD Bank. Specifically, the account numbers listed are:

(a) 360012161670 (US funds account); and

(b) 360012161573 (Canadian funds account).

4. As mentioned in my previous Affidavit, I understand that the Attorney General of Ontario is attempting to have somewhat in excess of $20 million previously held by the TD Bank forfeited to the Ontario Crown. Attached hereto and marked as Exhibit "C" is a copy of what I understand to be Exhibits "E1" to "E5" to the Affidavit of Lori Blaskavitch, sworn May 21, 2009 and filed in support of the Attorney General of Ontario's Motion. Among other things, those records show that in response to the April 24, 2009 Order of the Ontario Court (Exhibit "M" to my previous Affidavit) the TD Bank wired certain amounts into the Ontario Court from a number of TD Accounts including, in particular, Accounts 360012161670 and 360012161573. Indeed, it appears that the vast majority of the funds previously held by the TD Bank in accounts in SIB's name as reflected in these documents came from these two accounts, which are of course the same two accounts as Mr. Kassam referred to respecting my own investment.

5. Based on the foregoing, I believe that it is even more likely that my investment funds (as well as potentially the funds from the other Plaintiffs) are included in the amounts previously held by the TD Bank.

6. While I understand from my counsel that the Ontario Attorney General is attempting to proceed with its application to have all of the TD Bank funds forfeited to the Ontario Crown (some of which funds may be mine), I also understand that such particular dispute has been adjourned while the US Receiver and UK Receiver (or perhaps more accurately the Antiguan Receiver) engage in litigation in both Ontario and Quebec in order to determine who will be recognized as the receiver of the assets of SIB in Canada. I further understand that such applications will not be determined earlier than August 2009, although I am advised by my counsel that there are motions in Ontario returnable June 24, 2009 by the Antiguan Receivers and the US Receiver for standing in the Ontario Attorney General's proceeding there. As I believe that the funds previously held by the TD Bank may be mine, I do not wish to wait while

the two Receivers litigate as to each other's authority in other jurisdictions. Rather, I wish to obtain the source records from the TD Bank so that, if and when the "correct" Receiver is recognized, I will be in a position to advance my claim against the funds without further delay.

SWORN BEFORE ME at the City of Calgary, in the Province of Alberta, this 2nd day of June, 2009.

A COMMISSIONER FOR OATHS in and for the Province of Alberta

MICHAEL D. MYSAK
Barrister and Solicitor

ZAHERALI (JIM) SUNDERJI

TAB M

Court of Queen's Bench of Alberta

Citation: Dynasty Furniture Manufacturing Ltd. v. Toronto-Dominion Bank, 2009 ABQB 388

Date: 20090624
Docket: 0901 05717; 0901 05677
Registry: Calgary

Between:

**Dynasty Furniture Manufacturing Ltd.,
Shafiq Hirani, Hanif Asaria, Dinmohamed Sunderji
and 2645-1252 Quebec Inc.**

Plaintiffs

- and -

Toronto-Dominion Bank

Defendant

Action No. 0901 05677

And Between:

**Dynasty Furniture Manufacturing Ltd. Shafia Hirani,
Hanif Asaria, Dinmohamed Sunderji and 2645-1252 Quebec Inc.**

Plaintiffs

- and -

**Stanford International Bank Ltd., Stanford Group Company,
Stanford Capital Management, LLC, R. Allen Stanford,
James M. Davis, Laura Pendergest-Holt, Faran Kassam,
Alain Lapointe, ABC Corp. 1 to 9, John Doe 1 to 9
and Jane Doe 1 to 9 and other Entities and Individuals
known to the Defendants**

Defendants

This is Exhibit "M" referred to in the affidavit of Wolfgang Mersch sworn before me, this 13th day of February, 20 15

A COMMISSIONER FOR TAKING AFFIDAVITS

Reasons for Judgment
of the
Associate Chief Justice
Neil Wittmann

Background

[1] The same Plaintiffs in two actions are the applicants before the Court. The Plaintiffs are four Alberta investors and one Quebec investor in the Stanford International Bank Ltd. ("SIB"), a corporation that, together with Stanford Group Company, Stanford Capital Management LLC, R. Allen Stanford, James M. Davis and Laura Pendergest-Holt (collectively, "the Stanford Group") is accused of orchestrating one of the larger and more notorious Ponzi schemes in recent history. SIB is headquartered in Antigua and until recently conducted business largely in the United States, but maintained an office in the province of Quebec. The Plaintiffs sued SIB, the Stanford Group and others on April 17th, 2009 (the SIB Action). No defence has been filed.

[2] The Plaintiffs also sued the Toronto-Dominion Bank ("TD Bank"), on April 21st, 2009 (the TD Bank Action). In the TD Bank Action, the Plaintiffs have applied for an order allowing them to review and examine all bank accounts, investment accounts and related bank and credit records and other documents with respect to any assets on deposit with the TD Bank or its affiliates. This type of order is commonly referred to as a *Norwich* order, derived from ***Norwich Pharmacal Co and others v. Commissioners of Customs and Excise***, [1973] 2 All ER 943 (H.L.). The ultimate relief claimed is an order declaring that the TD Bank holds all or some portion of monies the Plaintiffs describe as trust funds invested through the TD Bank as a corresponding bank and in favour of the Plaintiffs.

[3] The Plaintiffs allege that collectively they have invested over $17 million with SIB since 2005. The Stanford Group maintained several TD Bank accounts in Ontario, and recent investigations by SIB receivers appointed by courts in Texas and Antigua revealed some $20 million to be held there. The Plaintiffs have applied to examine TD Bank records in an effort to trace their funds and so have brought an application to compel the Defendant TD Bank to provide, in essence, all of its records relating to the Stanford Group. A cross-motion has been brought by the Receiver appointed by the United States District Court in Texas, who seeks a stay of the TD Bank Action as well as a stay in the SIB Action against, inter alia, the Stanford Group.

Timeline of Proceedings:

[4] On February 16, 2009, the United States Securities and Exchange Commission filed for emergency civil enforcement action in the United States District Court for the Northern District of Texas. District Court Judge Reed O'Connor issued a freeze order and restrained all banks and/or financial institutions holding accounts in the name or for the benefit of the Stanford Group from engaging in any transaction or disbursing any funds without further order of the court. The order also required all banks and financial institutions to take the steps necessary to

repatriate to the United States the funds of defrauded investors. In a separate order, Judge O'Connor appointed Mr. Ralph Janvey ("the U.S. Receiver") as receiver to take control and possession of the assets of the Stanford Group companies and the District Court assumed exclusive jurisdiction of the assets wherever located.

[5] On February 19, 2009 the Antiguan Financial Services Regulatory Commission appointed Mr. Peter Wastell and Mr. Nigel Hamilton-Smith ("the Antigua Receivers") receivers of all of the undertakings, property and assets of SIB.

[6] On February 25, 2009 the Plaintiff Dynasty Furniture Manufacturing Ltd. ("Dynasty") filed a class action in this Court against the Stanford Group and a number of other parties, and on March 6, 2009, notice of this action was provided by Dynasty's counsel to the Antiguan and U.S. Receivers. This action was discontinued by Dynasty on March 30, 2009.

[7] On April 6, 2009, upon an ex parte application, the Quebec Superior Court, Commercial Division recognized the appointment of the Antiguan Receivers and appointed them foreign representatives, per s.267 of the *Bankruptcy and Insolvency Act*. The Order of the Quebec Superior Court ("the Quebec Recognition Order") granted the Antiguan Receivers the power to take into custody and control all property, undertakings and other assets of the SIB and Stanford Trust Company Limited.

[8] On April 17, 2009, Justice David Harris of the Eastern Caribbean Supreme Court, upon application by the Antigua Receivers, issued an Order authorizing the liquidation of SIB and appointing the Antigua Receivers the liquidators of SIB ("the Winding Up Order"). Under the Winding Up Order, the Antigua Receivers were empowered to take possession of all of the assets of SIB, wheresoever located. The Winding Up Order further stayed all proceedings against SIB, wheresoever initiated. On the same day, the Plaintiffs filed the SIB Action. The Plaintiffs filed the TD Bank Action, seeking equitable discovery of records in the possession of TD Bank, April 21st, 2009.

[9] On April 24, 2009, the Attorney General of Ontario applied ex parte and obtained a Preservation Order from Justice Campbell of the Ontario Superior Court, under the *Civil Remedies Act, 2001*, requiring funds held by the TD Bank in SIB-related accounts to be paid into Court. More than $20 million was paid, including monies from the two accounts identified by the Plaintiffs as being the accounts into which the Plaintiff Dynasty's funds were wire transferred. The Plaintiffs have obtained an order from Justice Campbell of the Ontario Superior Court, granting them standing in the Ontario proceedings. The U.S. and Antiguan Receivers have filed motions to obtain standing before the Ontario Superior Court. That matter is scheduled to be heard by Justice Campbell on June 24, 2009. Counsel before me indicated an adjournment is likely, because the U.S. Receiver has challenged the Quebec Recognition Order and its motion to overturn that Order is scheduled to be heard by the Quebec Superior Court on August 4 and 5, 2009.

The Applications

[10] The Plaintiffs, in support of their application for a *Norwich* order, filed the Affidavit of Zaherali (Jim) Sunderji, the President of the corporate Plaintiff, Dynasty. Also filed was the cross-examination of Sunderji on his Affidavit by counsel for the U.S. Receiver and the TD Bank. Extensive briefs of law and argument were filed by the Plaintiffs in support of their application as well as by counsel for the TD Bank and the U.S. Receiver.

[11] As the argument evolved, all counsel agreed that a stay in the SIB Action was appropriate, at least as against the Defendants represented by the U.S. Receiver. That position may change depending on the results of the application by the U.S. Receiver challenging the Quebec Recognition Order which, as stated above, is not scheduled to be heard in Quebec Superior Court until August, 2009.

[12] The remaining contested issue before me was whether this Court ought to grant equitable discovery to the Plaintiffs. This issue was vigorously advanced by the Plaintiffs and opposed with equal vigour by counsel for the TD Bank. Counsel for the U.S. Receiver and the Antiguan Receivers both made oral submissions at the hearing but the Antiguan Receivers did not file any written materials.

Submissions of Counsel

[13] The Plaintiffs cited a number of authorities in favour of this Court granting them equitable discovery of the TD Bank records. Foremost amongst them was ***Alberta (Treasury Branches) v. Leahy***, 2000 ABQB 575; ***AB v. CD***, 2008 ABCA 51. The thrust of the opposition included a reference to ***Leahy*** and ***AB v CD***. Specifically, the opposition was that a *Norwich* order is draconian in effect: para. 15 ***AB v. CD***; and that a *Norwich* order should only be granted in Alberta in the circumstances outlined in para. 106 of ***Leahy*** which included a requirement that the order must be granted to "find *and preserve* evidence" (emphasis supplied) and the third party must be the only practicable source of the information available.

Analysis

[14] While it may be that the concepts set forth in para. 106 of ***Leahy*** represent the law in Alberta in terms of the factors to be considered in the exercise of the court's discretion in granting a *Norwich* order, I prefer to rest my decision on more fundamental principles, namely *forum conveniens* and inter-jurisdictional comity.

[15] Where two or more courts in Canada are exercising jurisdiction, and the same relief by the same party is being sought in two or more jurisdictions, it is generally inappropriate for the court in one jurisdiction to make an order affecting the availability of evidence for the use of the party in an application or proceeding in the other jurisdiction.

[16] This is especially so where there is no evidence or logical or rational argument as to why the application for obtaining evidence cannot be made and heard in the jurisdiction where the application will be heard on its merits. The best argument counsel for the Plaintiffs could make

in this regard, was to articulate, not without some vagueness, that in this case the Ontario Superior Court would be grateful that another court had enabled the marshalling of evidence before it and that if the Plaintiffs were to await the proceedings in the Ontario Superior Court, they might be delayed in obtaining the equitable discovery they desire. The former assertion is dubious and the latter, although perhaps realistic, is the inevitable result of a court being the master of its own procedure. It should not, absent unusual circumstances, be subject to the process direction of another court.

[17] Furthermore, there is no evidence before me that any of the records sought are in any way confined to or limited to Calgary or Alberta. Even if some of them are, there is no suggestion the Ontario Superior Court cannot make a direction to the TD Bank for disclosure in accordance with the application before it.

Decision

[18] As a result of proceedings initiated by the Attorney General of Ontario, some $20 million has been paid into Court in that province. The Plaintiffs lay claim to approximately $17.5 million of that money and seek to establish claims of trust and priority over it. The Plaintiffs do not want these funds to become part of the pool of assets distributed to the very substantial number of Stanford Group investors who have suffered losses. This Court is not in a position to decide or comment upon the merits of the Plaintiffs' trust claim.

[19] Presently, there are proceedings pending in Texas, Antigua, Quebec and Ontario. Two receivers have been appointed. The issue of which Receiver is appropriately recognized as the proper foreign representative in Canada will not be determined until it is heard by the Quebec Superior Court on August 4 and 5, 2009.

[20] It is not necessary to decide whether the U.S. Receiver has standing. The Plaintiffs have acknowledged that a stay in the SIB Action is appropriate in view of the proceedings unfolding in Quebec and Ontario and accordingly a stay of that proceeding is ordered pending further order of this Court.

[21] The monies in issue are now within the control of the Ontario Superior Court and all parties have already attorned to that jurisdiction. It is there that the Plaintiffs should pursue their claim for equitable discovery or, possibly discovery of records pursuant to r.30.10 of the Ontario *Rules of Civil Procedure*. The Plaintiffs in argument suggested that an order for equitable discovery from this Court would assist them in obtaining evidence necessary for the advancement of a trust claim before the Ontario Superior Court. They have not provided any compelling reason why this essentially interlocutory order could not, or should not, be obtained from the Ontario Court itself. The efficient resolution of all claims relating to the Stanford Group, including the Plaintiffs' claims, will not be aided by the involvement of another court in another jurisdiction. Indeed, in the circumstances here, it would be seen as interfering in the process of another court, whose jurisdiction is not disputed.

Conclusion

[22] The Plaintiffs' application for a *Norwich* order is dismissed because this Court declines to entertain it in the circumstances.

[23] A stay in the SIB Action, action no. 0901-05677 is ordered and a stay in the TD Bank Action, action no. 0901-05717, is also ordered, pending further order of this Court.

Heard on the 12th day of June, 2009.
Dated at the City of Calgary, Alberta this 24th day of June, 2009.

Neil Wittmann
A.C.J.C.Q.B.A.

Appearances:

A.L. Friend, Q.C.
M.D. Mysak
for the Applicant Dynasty Furniture Manufacturing Ltd.

M.M. Chernos
R.V. Reichelt
for the Respondent Toronto-Dominion Bank

T.J. Mallett
W.W. McLeod
for U.S. Receiver

C.P. Russell, Q.C.
for Antiguan Receivers

TAB N

Court File No. CV-09-8154-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

BETWEEN:

ATTORNEY GENERAL OF ONTARIO

Applicant

- and -

The Contents of Various Financial Accounts Held with The Toronto-Dominion Bank and TD Waterhouse (in rem)

Respondents

NOTICE OF MOTION

NIGEL JOHN HAMILTON-SMITH AND PETER NICHOLAS WASTELL of Vantis Business Recovery Services, A Division of Vantis PLC, Liquidators of Stanford International Bank Limited and Stanford Trust Company Limited, will make a motion to a Judge on the Commercial List on a date to be determined, at 330 University Avenue, Toronto.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

(a) an order setting aside the *ex parte* Order of the Honourable Mr. Justice Campbell dated April 24, 2009 (the "Ontario Order");

(b) costs of this motion on a full indemnity basis; and

(c) such further and other relief as counsel may advise and this Honourable Court permit.

This is Exhibit "N" referred to in the affidavit of Wolfgang Mersch sworn before me, this 13 day of February, 20 15

A COMMISSIONER FOR TAKING AFFIDAVITS

THE GROUNDS FOR THE MOTION ARE:

Authority of Antiguan Receivers over SIBL's Assets in Canada

(a) Nigel John Hamilton-Smith and Peter Nicholas Wastell (the "Antiguan Receivers") were appointed as joint receivers-managers of Stanford International Bank Ltd. ("SIBL") and Stanford Trust Company Limited ("STCL") on February 19, 2009 by the Financial Services Regulatory Commission of Antigua and Barbuda and by order of the Eastern Caribbean Supreme Court of the High Court of Justice in Antigua and Barbuda dated February 26, 2009 (the "Antiguan Receiver Order");

(b) On April 6, 2009, the Commercial Division of the Superior Court of Quebec, Division of Montreal, exercising its national jurisdiction under the *Bankruptcy and Insolvency Act*, recognized the Antiguan Receiver Order (the "Quebec Recognition Order");

(c) The Quebec Recognition Order provides the Antiguan Receivers with authority, *inter alia*, to "take into custody and control of all the property, undertakings and other assets of the Debtors" and to act as interim receiver of all of SIBL's property in Canada;

Antiguan Receivers Request Delivery of SIBL's Assets in Canada

(d) On April 8, 2009, Canadian counsel for the Antiguan Receivers provided a copy of the Quebec Recognition Order to US counsel for the Toronto Dominion Bank and TD Waterhouse (collectively "TD") and requested delivery of all assets and/or cash balances in the name of SIBL or STCL held at TD;

(e) On April 10, 2009, US counsel for TD advised that it was considering the Antiguan Receivers' request for delivery of the funds given that the Quebec Recognition Order conflicted with an order issued by the Federal Court in the United States prohibiting disbursement of SIBL's assets;

Application for Forfeiture of SIBL's Canadian Assets

(f) On April 24, 2009, the Applicant commenced this application in the Ontario Superior Court of Justice (Commercial List) (the "Ontario Court") for forfeiture of all assets in accounts at TD in the name of SIBL, STCL and related companies;

(g) Also on April 24, 2009, the Applicant brought an *ex parte* motion to the Ontario Court for preservation of any assets held in accounts at TD and for payment of such assets to the Accountant of the Superior Court of Justice and the Ontario Order was granted;

(h) The Ontario Order was obtained on an *ex parte* basis without full and fair disclosure of all material facts;

(i) It was not disclosed to this Honourable Court that the Ontario Order directly conflicts with the Quebec Recognition Order which gives the Antiguan Receivers authority ad control over SIBL's assets in Canada;

(j) Rules 37.14, 39.01(6) and 59.06(2) of the *Rules of Civil Procedure*; and

(k) Such further and other grounds as counsel may advise and this Honourable Court permit.

THE FOLLOWING DOCUMENTARY EVIDENCE:

(a) the Affidavit of Katie Legree sworn May 21, 2009 and exhibits thereto;

(b) all correspondence and documents contained in the files of the Attorney General of Ontario;

(c) the transcript of the cross-examination of Lori Blaskovitch on her Affidavit sworn April 24, 2007, to be conducted; and

(d) such further and other material as counsel may advise and this Honourable Court permit.

May 21, 2009

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Attorney General of Ontario – and – The Contents of Various Financial Accounts Held with The Toronto-Dominion Bank and TD Waterhouse (in rem)

Court File No: CV-09-8154-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

NOTICE OF MOTION

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ONTARIO
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