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March 9, 2012

VIA ELECTRONIC MAIL

Elizabeth Leise
Office of the Inspector General
U.S. Securities and Exchange Commission
100 F Street NE, Washington, DC 20549

Kevin Sadler
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Re: *Securities and Exchange Commission v. Stanford International Bank, Ltd., et al.*;
Case No. 3:09-CV-0298-N in the United States District Court for the Northern
District of Texas, Dallas Division (“Receivership Action”).

Dear Ms. Leise:

This letter responds to the Office of Inspector General’s inquiry to Ralph Janvey, the Receiver appointed by the United States District Court for the Northern District of Texas over the assets and properties of Stanford International Bank, Ltd., Stanford Group Company, Stanford Capital Management, LLC, R. Allen Stanford, James M. Davis and Laura Pendergest-Holt as well as all entities owned or controlled by such parties. Exhibit 1. In particular, this response addresses issues raised in my previous conversations with former Inspector General David Kotz and the topics outlined in your email to me dated January 31, 2012.

As we discussed previously, the scope of the OIG’s investigation and the topics contained in your email are quite broad, particularly considering that the Stanford Receivership has been pending for over three years. While it would be impossible to address every aspect of these topics in the scope of one letter, this response is as comprehensive as possible under the circumstances.

I have attached to this letter a number of exhibits for your reference. Some of these exhibits are intended to provide general information regarding the Stanford Receivership and relevant background while others bear directly on the issues about which the OIG has inquired. The exhibits, many of which are further referenced herein, include:

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|-----------|---|
| Exhibit 1 | Second Amended Receivership Order dated July 19, 2010, Doc. 1130 in the Receivership Action. |
| Exhibit 2 | Order Denying Motion to Intervene and for Appointment to the Official Stanford Investors Committee dated November 14, 2011, Doc. 1471 in the Receivership Action. |

- Exhibit 3 Order Granting Receiver's Motion for Summary Judgment dated June 22, 2011, Doc. 109 in *Janvey v. Democratic Senatorial Campaign Committee, Inc. et al.*, Case No. 3:10-CV-0346-N.
- Exhibit 4 Final Judgment dated June 22, 2011, Doc. 110 in *Janvey v. Democratic Senatorial Campaign Committee, Inc. et al.*, Case No. 3:10-CV-0346-N.
- Exhibit 5 Order Granting Receiver's Motion for Attorneys' Fees dated March 6, 2012, Doc. 140 in *Janvey v. Democratic Senatorial Campaign Committee, Inc. et al.*, Case No. 3:10-CV-0346-N.
- Exhibit 6 Transcript of Deposition of Receiver Ralph Janvey dated March 11, 2011, in *Janvey v. Democratic Senatorial Campaign Committee, Inc. et al.*, Case No. 3:10-CV-0346-N.
- Exhibit 7 Report of the Receiver dated April 23, 2009, Doc. 336 in the Receivership Action.
- Exhibit 8 Receiver's Interim Report on Asset Collection and Cost Reduction dated October 28, 2009, Doc. 859 in the Receivership Action.
- Exhibit 9 Receiver's Interim Report Regarding Status of Receivership, Asset Collection and Ongoing Activities dated July 1, 2010, Doc. 1117 in the Receivership Action.
- Exhibit 10 Receiver's Second Interim Report Regarding Status of Receivership, Asset Collection and Ongoing Activities dated February 11, 2011, Doc. 1236 in the Receivership Action.
- Exhibit 11 Receiver's Third Interim Report Regarding Status of Receivership, Asset Collection and Ongoing Activities dated November 11, 2011, Doc. 1469 in the Receivership Action.
- Exhibit 12 Letter Report from Counsel for Receiver to Judge Godbey dated February 24, 2012.
- Exhibit 13 Receivership Budget Estimate dated February 10, 2012.
- Exhibit 14 Schedule of Receiver's Fee Applications.

- Exhibit 15 Transcript of September 10, 2009 Hearing on Receiver's First and Second Interim Fee Applications in the Receivership Action.
- Exhibit 16 Plaintiff's Emergency Motion to Modify Receivership Order dated July 20, 2009, Doc. 613 in the Receivership Action.
- Exhibit 17 Transcript of July 31, 2009 Hearing on Plaintiff's Emergency Motion to Modify in the Receivership Action.
- Exhibit 18 Order Denying Plaintiff's Emergency Motion to Modify Receivership Order dated August 4, 2009, Doc. 674 in the Receivership Action.

Scope of OIG Investigation

According to the OIG's Semi-Annual Report to Congress for the period April 1, 2011 — September 30, 2011:

The OIG has received correspondence from various parties regarding the court-appointed receiver in the SEC's action against Robert Allen Stanford, as well as entities and individuals involved in his alleged Ponzi scheme. During the reporting period, the OIG opened an investigation in response to this correspondence. The issues raised in the various correspondence we received pertain to value added by the Stanford receiver to the receivership estate, the timing of distributions from the receivership estate to investors, and the compensation received by the receiver and the professionals he has retained to assist him. The OIG's investigation will focus on issues related to the receiver and related SEC oversight that fall within the OIG's jurisdiction.

In my initial conversation with David Kotz, it was clear that the issues raised in the correspondence referenced in the OIG's Semi-Annual Report were identical to or significantly overlapped with concerns raised by certain investors represented by Kachroo Legal Services in a motion to intervene filed in the Receivership Action in July 2011 ("KLS Motion"). Indeed, the Receiver understands that Kachroo Legal Services encouraged its clients to make such complaints to the OIG.

As I discussed both with you and Mr. Kotz, Judge Godbey entered an order on November 14, 2011 (Exhibit 2) denying the KLS Motion, in which he addressed and rejected each of the concerns raised by KLS concerning the Receiver and his professionals. Specifically, in a section of the order entitled "The Receiver Has Competently Discharged His Duties," Judge Godbey held:

- ...The Movants' allegations against the Receiver lack merit.

- [T]he Movants are simply wrong that the “Receiver has generously expended \$118.2 million upon attorneys and himself, among others,” yet only “recovered for investors \$119.7 million.” ... Based on the Receiver’s last-filed interim report, the Receivership Estate had \$94.7 million in cash deposits and an additional \$26.5 million in other assets on hand as of January 31, 2011. Since its inception, the Receivership has had total cash inflows of \$188.3 million. Contrary to the Movants’ claim, only about 25% of that amount, or \$46.2 million, has been spent on professional fees and expenses.¹
- Moreover, the rate of expenditures on professional fees has decreased markedly over time, with the bulk of such expenses incurred relatively early in the Receivership. *See, e.g.*, Examiner and Committee’s Resp. at 16 ... (noting that, as of March 31, 2011, approximately 85% of professional fees and expenses were incurred before the Committee’s formation in August 2010)²; Interim Report at 15 (noting that the Receiver reduced the Stanford entities’ average monthly operating expenses from over \$30 million per month pre-Receivership to less than \$500,000 per month by late 2009 and to approximately \$250,000 by January 2011).
- [The Movants], however, ignore that [the Receiver] then was forced to spend \$47.4 million just in winding down the Stanford empire...which consisted of “130 separate Stanford entities employing over 3,000 employees located across the U.S., Europe, the Caribbean, Canada, and Latin America.” As the Receiver notes, that process necessarily entailed making expenditures that the Receivership Estate was legally obligated to pay, including “taxes, payroll obligations, lease obligations, maintenance fees for various personal and real property holdings, and other [mandatory] expenditures.” Had the Receiver opted against paying those expenses, the money saved would not have redounded to the Receivership Estate’s benefit. The most likely outcome would have been to create additional — almost certainly meritorious — claims against the Estate that would have required the Receiver futilely to expend even more funds in litigation.

¹ For the most recent report setting forth the financial status of the Receivership Estate, please see the Receiver’s Third Interim Report Regarding Status of Receivership, Asset Collection and Ongoing Activities dated November 11, 2011, Doc. 1469 in the Receivership Action, Exhibit 11.

² In fact, as discussed further below, the Receiver incurred approximately \$22 million in professional fees and expenses in the first 100 days of the Receivership, which included work performed investigating and untangling the sprawling web of over 130 companies that made up the Stanford enterprise, securing and closing 35 Stanford offices across the United States and identifying and securing tens of millions of dollars in assets traceable to the Receivership Estate. *See infra* p. 7-8.

- From the beginning, the Receivership has been involved in litigation, and the amount of litigation continues to grow. The Court now has pending before it almost one hundred Stanford-related cases. Despite the Movants' protestations about "boilerplate actions," several of those cases raise complex legal issues, sometimes of first impression or for which little authority exists. *See, e.g., Janvey v. Democratic Senatorial Campaign Committee*, 2011 WL 2466156 (N.D. Tex. 2011) (Godbey, J.) (addressing unsettled limitations issues under the Texas Uniform Fraudulent Transfer Act and novel federal campaign finance-related preemption arguments).

Exhibit 2, pp. 4-6 (multiple citations omitted). The Court further noted that it "has reviewed the Receiver's fee applications and ultimately found that each claimed an amount justified under the fee-review factors outlined in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974)," that "the Receiver's professional fees and expenses generally have been spent gainfully and billed reasonably," and that "[e]ven so, the Receiver's retained professionals discount their fees, and the Court has ordered a 20% holdback on top of that amount." *Id.* at 5-7. Based on these findings and others, the Court held that there was "no support for the Movants' waste- and nonfeasance-related grounds for intervention." *Id.* at 8.

Moreover, the Court noted in the order denying the KLS Motion that "as the Receiver and Committee prosecute asset-recovery actions, there remains the possibility that some defendants will pay a portion of the Receiver's attorneys fees and expenses in those cases." Exhibit 2, p. 6. Indeed, after entering summary judgment for the Receiver in his claw back claims against several national political committees for \$1.75 million (Exhibits 3 and 4), the Court on March 6, 2012 also ordered the defendants to pay the Receiver at least \$369,000 in attorneys' fees. Exhibit 5. In making this ruling, the Court held that the Receiver's requested fees were reasonable, stating as follows:

Although Defendants argue that the Receiver's fees are higher than those customarily charged in the locality for similar legal services, ...the Court notes that the Receiver's requested rates are 20% lower than 2009 levels. Indeed the 2011 rates for Kevin Sadler and Scott Powers, two of the Receiver's attorneys, were 20-30% higher for other cases than the requested rates at issue here. However, even if these were not the case, the Court notes that the experience, reputation, and ability of the Receiver and his attorneys merit the requested rate of pay.

Exhibit 5, p. 5 (citations omitted).

Based on the above discussed facts and orders, the Court with exclusive jurisdiction has determined that the work performed by the Receiver to date, along with the fees and expenses incurred, are reasonable, necessary and justified given the circumstances of the Stanford Receivership.

Issues Raised in January 31, 2012 Email

I will address the topics from your January 31, 2012 email in the order they were presented.

1. Selection and appointment of Receiver**a. All communications, meetings, etc. with the SEC or other third parties regarding the receivership prior to Mr. Janvey's appointment**

Mr. Janvey was first contacted by the SEC about the Stanford matter on February 12, 2009. While Mr. Janvey was attending a securities law seminar in Dallas, he was approached by Stephen Korotash, who was then an Associate Director in the Enforcement Division of the SEC's Fort Worth office. Mr. Korotash told Mr. Janvey that the SEC was considering having Mr. Janvey appointed as Receiver in a matter involving the Stanford companies. Later that day or the following morning, Mr. Korotash called Mr. Janvey and asked if he would come to Fort Worth on the afternoon of February 13 to discuss the SEC's planned action against Stanford and whether Mr. Janvey would be willing to serve as Receiver.

Mr. Janvey attended the meeting with the SEC on February 13 along with representatives of Baker Botts. During that meeting, Mr. Janvey agreed to serve as Receiver. The circumstances surrounding Mr. Janvey's appointment and his discussions with the SEC and others prior to appointment are the subject of Mr. Janvey's sworn deposition testimony in *Janvey v. Democratic Senatorial Campaign Committee, Inc., et al.*, Case No. 3:10-CV-0346. See, e.g., Exhibit 6, pages 8-52.

b. Any materials provided in advance of the SEC's recommendation of Mr. Janvey

Mr. Janvey does not recall, and we have been unable to locate, any documents provided to or received from the SEC prior to his appointment.

c. Selection/retention of Receiver's various professionals, including Baker Botts and FTI

When Mr. Korotash first spoke with Mr. Janvey on February 12, 2009, he asked whether Mr. Janvey, if appointed, would consider using Baker Botts as his counsel. Mr. Korotash explained that due to the size and complexity of the anticipated receivership, Mr. Janvey would need a firm with an international presence and expertise in a wide variety of practice areas. Mr. Janvey told Mr. Korotash he would be willing to consider using Baker Botts and ultimately retained the firm as his primary counsel on February 13, 2009. Mr. Janvey and Baker Botts signed a formal engagement letter on February 16, 2009.

Beginning on February 13 and continuing over the following weekend, the Receiver and Baker Botts began to identify the types of professionals needed to handle the

various aspects of the Receivership. Because forensic accountants and electronic evidence experts were going to be vital to the Receiver's work and because of the firm's superior reputation and work on other major fraud investigations, FTI Consulting, Inc. ("FTI") was discussed as a possible candidate for this work, among other firms. Baker Botts contacted FTI on behalf of the Receiver on Sunday February 15 to determine whether it would be interested in and able to take on the Receivership matter. After further discussions, representatives of FTI met with the Receiver and his counsel on Monday, February 16, 2009, and once the Receiver was appointed, he agreed to retain FTI. An engagement letter with FTI was executed on February 17, 2009.

Retention of the other professionals involved in the Receivership happened in a similar fashion, including but not limited to the retention of security consultants (Frizell Group International, LLC), tax service provider (Ernst & Young), business strategy and turnaround consultant (Strategic Capital Corporation) and securities industry/broker-dealer consultant (Financial Industry Technical Services, Inc.).

Further details surrounding the retention of Baker Botts, FTI and other professionals on the Receivership team are addressed in Mr. Janvey's March 11, 2011 deposition. *See, e.g.*, Exhibit 6, pp. 8-52.

2. Planning and running the receivership

a. What planning was done at the outset of the Receivership, including consultation with the SEC

When the Receiver was appointed in February 2009, he faced the daunting task of winding down over 130 separate Stanford entities employing over 3,000 employees located across the U.S., Europe, the Caribbean, Canada, and Latin America. His first order of business was to secure the operations of the various Stanford entities in the United States and around the world and to locate and secure assets that were traceable to the Receivership Estate.

The Receiver's efforts, especially in the first several weeks of the Receivership, were hampered by lack of information. Because the Stanford companies were not publicly held, the available information about the sprawling enterprise was quite limited and not always accurate. In addition, much of the information about Stanford's operations within its own systems and records was difficult to locate and was incomplete or inaccurate. The companies were not arranged in a traditional corporate structure, and they did not have a typical centralized management hierarchy or governance structure. In contrast to a conventional multi-tiered corporate structure, the stock of almost half of the Stanford entities was owned directly by Allen Stanford, rather than through a central holding company. Very few people, intentionally as it turns out, were privy to sufficient information to understand the totality of the Stanford operations, and the corporate structure was designed to obfuscate holdings and transfers of cash and assets.

This lack of information and the complexity of the Stanford corporate structure made accurate planning and forecasting of future work and activities at the outset extremely difficult. Moreover, extensive investigation was required in the first few months just to ensure that Stanford operations and assets were identified and secured. Indeed, in just the first 100 days of the Receivership, over \$22 million in professional fees and expenses were incurred conducting these activities. A thorough discussion of the work that was performed during this period is described in the Report of the Receiver dated April 23, 2009. Exhibit 7.

The Receiver's team worked very closely with the SEC during the early weeks of the Receivership. SEC personnel were present for and oversaw Stanford office closures in at least Houston and Memphis, provided direct input regarding the Receiver's investigation and were involved in all major decisions of the Receivership. The SEC personnel most heavily involved during this time period included Rose Romero, Stephen Korotash, Kevin Edmundson, David Reece and Michael King.

b. Overall communications/contact with the SEC – how often, by whom, on what topics, for what purpose, etc.

The Receiver and the SEC have continued to consult regularly throughout the course of the Receivership. After the first few months, David Reece and Kevin Edmundson remained as the primary SEC points of contact for the Receivership's team. The Receiver confers with Mr. Reece and Examiner John Little regarding every motion the Receiver files in the Receivership Action. Moreover, in addition to regular consultation concerning Receivership budget estimates and fee applications (discussed further below), the Receiver, the SEC and the Examiner regularly consult regarding all major ongoing Receivership activities and other matters relating to the Stanford enterprise, including but not limited to: (1) claw back and other actions filed by the Receiver, (2) liquidation of Receivership assets, including real estate, private equity interests and personal property (3) status of legal proceedings outside of the United States, including Antigua, Latin America, the United Kingdom, Switzerland and Canada, (4) communications and negotiations with the Antiguan Liquidators relating to the Chapter 15 bankruptcy proceedings, (5) proceedings relating to SIPC coverage for Stanford investors and (6) the SEC's, IRS's and DOJ's investigations concerning the Stanford matter.

The Receiver's various interim reports (Exhibits 7-12) discuss the status and financial condition of the Receivership throughout the entirety of the proceedings.

3. Receiver's fee process

a. Consultation with the SEC regarding fee applications

The Receiver's professional fees and expenses are subject to approval by the Court in the Receivership Action. The Receiver, therefore, prepares detailed fee applications, which are submitted to the Court approximately every sixty to ninety days. The schedule attached as Exhibit 14 sets forth the details concerning each fee application including the date it

was filed, the time period covered, the amount of fees and expenses approved and the date of the order granting the application.

Prior to filing his fee applications, the Receiver submits drafts of the applications to the SEC and the Examiner. The SEC and the Examiner receive the drafts weeks before they are filed and have the opportunity to review the supporting work records, raise questions or concerns and seek clarifications from the Receiver before the applications are presented to the Court. Once the applications are filed, all parties to the Receivership Action, including the SEC and the Examiner, have the opportunity to object. On average, the Court rules on the fee applications and the Receiver's team receives payment approximately four to five months after the fees and expenses are incurred.

Over the course of the Receivership, the Receiver's team has spent hundreds of hours conferring with the SEC and the Examiner regarding fee applications. As a result, beginning with the Receiver's fifth interim fee application filed in March 2010, the Receiver, the SEC and the Examiner have resolved all issues relating to each fee application prior to filing. Indeed, the only party who has objected to any of the subsequent fee applications is Allen Stanford.

b. How the 20% holdback process works

After the Receivership began, the Receiver and his professional firms agreed to discount their fees by 20% at the request of the SEC. In response to the Receiver's first and second interim fee applications, the SEC and Examiner further asked the Court to impose a holdback requiring that an additional 20% of the Receiver's fees and expenses be withheld from payment until a later date. The Court granted this request at a hearing on the fee applications held in September 2009. Exhibit 15, p. 39. To date, the Receiver has not sought the release of any of the holdback amount. Beginning with the fee application for September and October 2010, the Court approved the Receiver's request for full payment of expenses without any holdback going forward, but the 20% holdback remains in place as to professional fees as well as FTI's costs for hosting Receivership data.

During the three years that the Receiver and his professionals have been diligently performing work for the Receivership Estate, they have voluntarily discounted their services by more than \$16 million. Further, the amount subject to holdback has grown over time, such that the amount held back now stands at just under \$16 million.³ Although courts recognize that preparing detailed and lengthy fee applications is compensable work in this context, the Receiver and his professionals also have voluntarily deferred seeking reimbursement for the substantial

³ The approximate holdback amounts by firm (including invoices through September 2011) are as follows: Baker Botts — \$5,548,000; FTI Consulting — \$5,622,000; Ernst & Young — \$1,651,000; Thompson & Knight — \$935,000; FITS — \$724,000; Osler — \$422,000; Krage & Janvey — \$316,000; Stuart Isaacs — \$177,000; Strategic Capital Corporation — \$102,000; Roberts & Co. — \$86,000; Altenburger — \$78,000; Pierpont — \$67,000; Felicity Toubé — \$54,000; Jeremy Goldring — \$15,000; Gerald Groner — \$13,000; Liskow & Lewis — \$4,900; Georgina Peters — \$4,300; Dudley Topper & Feuerzeig — \$3,700; Conyers Dill & Pearman — \$3,300; Mattlin & Wyman — \$800.

amount of work that has been required to prepare the fee applications and confer with the SEC and the Examiner regarding same.⁴ Over three years, the value of that work has been approximately \$1 million.

Additionally, since the Receivership began three years ago, it has been the policy of the Receivership not to change the hourly rates the Receiver and his professional firms charge for services to the Receivership, even though such firms have generally raised their market rates for all attorneys on an annual basis in order to account for increased costs and fixed expenses and changing market conditions. Likewise, Baker Botts, the primary law firm for the Receiver, has not increased rates for associate attorneys who have been working on Receivership matters over the past 3 years, even though it is reasonable and customary for firms to charge higher rates for its lawyers as they grow in experience and expertise. Thus, the effective discount that has applied to the work for the Receivership has steadily grown over time beyond 20%.

4. Receiver's budgeting process (how the process works internally and how the Receiver shares and/or consults on its cost estimates with the SEC)

During the September 2009 hearing on the Receiver's first and second fee applications, the Court ordered the Receiver to prepare a budget for upcoming activities and to confer with the SEC and the Examiner regarding same. Exhibit 15, p. 41. The Receiver has done so periodically since that hearing.

The most recent budget estimate was provided to the SEC and the Examiner on February 10, 2012. Exhibit 13. The estimate covers four general categories of activity (Litigation, Cross-Border Receivership Matters, Latin American Matters and General Receivership Matters) and thirty-one subcategories. In order to prepare the estimates, the Receiver's counsel gathers information reflecting actual costs incurred for each of the categories and subcategories and confers with the professionals responsible for each area of activity to determine anticipated work on those matters for the budget period. Based on this information, the Receiver and his counsel estimate the fees and expenses that will be incurred during the budget period and present that information to the SEC and the Examiner. If the SEC and the Examiner have questions or concerns about the proposed budget, the Receiver works with them to resolve those concerns. Where the Receiver's estimates deviate from the amounts later presented in the fee applications, the fee applications include the Receiver's explanation of the reasons for the differences.

5. Any discussion of removal of Receiver with the SEC, the Examiner, or the Investors Committee

The Receiver and his counsel have not had any discussions with the SEC, the Examiner or the Investors Committee concerning removal of the Receiver and are aware of no

⁴ See *re NuCorp Energy, Inc.*, 764 F.2d 655, 659 (9th Cir. 1985) ("We have long required an attorney to file a detailed account of the legal services he provided the bankrupt in order to recover any compensation at all for his services. It would be unduly penurious to require such an accounting without granting reasonable compensation." (quoting *Rose Pass Mines, Inc. v. Howard*, 615 F.2d 1088, 1093 (5th Cir. 1980)).

efforts to do so. In July 2009, the SEC did file a motion to modify the receivership order to prevent the Receiver from pursuing claw back claims against Stanford investors for amounts equaling the principal they invested in the scheme, but the motion did not seek removal of the Receiver and was ultimately denied. Exhibits 16, 18. Moreover, during the hearing on that motion, the Court directly asked the SEC: “Do you still want the Receiver?” The SEC responded: “We still want the Receiver. We support the Receiver.” The Receiver has no reason to believe that position has changed. Exhibit 17, pp. 6-7.

Thank you again for the opportunity to provide the Receiver’s written response to the OIG’s inquiries.

Sincerely,

A handwritten signature in black ink that reads "Kevin M. Sadler". The signature is written in a cursive style with a large, stylized initial 'K'.

Kevin M. Sadler

Counsel to Receiver, Ralph S. Janvey