

Stanford Financial Group Receivership
Ralph S. Janvey, Receiver
2100 Ross Avenue | Suite 2600 | Dallas, TX 75201
E-mail: info@stanfordfinancialreceivership.com
www.stanfordfinancialreceivership.com

June 22, 2012

BY US MAIL AND E-MAIL

The Honorable David Vitter, United States Senator
United States Senate
516 Hart Senate Office Building
Washington, DC 20510

The Honorable Bill Cassidy, United States Representative
United States House of Representatives
2342 Rayburn House Office Building
Washington, DC 20515

Re: May 24, 2012 Letter concerning Stanford Financial Group Receivership

Dear Senator Vitter and Representative Cassidy:

I am writing in response to your letter of May 24, 2012 seeking certain information regarding the Stanford Financial Group Receivership.

On February 16, 2009, I was appointed by United States District Judge Reed O'Connor to take possession of all the assets ("Assets") of Stanford International Bank, Stanford Group Company, Stanford Capital Management, R. Allen Stanford, James M. Davis, and Laura Pendergest-Holt, as well as all entities any of them owned or controlled. Pursuant to that appointment, I have been in the process of taking control of the Assets and performing all acts necessary to conserve, hold, manage and preserve the value of the Assets so as to allow the victims of the Stanford fraud to receive compensation.

The process of taking control of the Assets has been an extraordinary challenge, as the Stanford organization comprised more than 130 entities operating with over 3,000 employees in 13 countries around the world. Additionally, the process has been complicated by the fact that numerous individuals and entities who received Assets have strenuously resisted my efforts to obtain the return of the Assets. For example, I was forced to sue the Democratic Senatorial Campaign Committee, the Democratic Congressional Campaign Committee, the Republican National Committee, the National Republican Senatorial Committee, and National Republican Congressional Committee to obtain the return of more than \$1.6 million in political contributions made by Stanford using money from defrauded investors. I was awarded a judgment for the return of those funds, as well as my attorneys' fees incurred in pursuing the lawsuit (over \$400,000 to date). That judgment is currently on appeal by the defendants. I have

also asked that political contributions be returned by numerous other elected officials and political committees, many of which have yet to comply with my requests. Enclosed as Exhibit 1 is a listing of the political contributions that have been returned and those that remain outstanding.

Other examples of resistance include the efforts of Trustmark Bank, which has refused to return approximately \$2 million in Assets to the Receivership estate, despite a ruling from the United States District Court for the Northern District of Texas—affirmed by the United States Court of Appeals for the Fifth Circuit—that the \$2 million in Assets belong to the Receivership Estate.

In addition, I have sued hundreds of investors who profited from Stanford's fraudulent investment scheme (referred to as "net winner" investors), seeking the return of more than \$200 million in fictitious interest. To date, although I have recovered nearly \$8 million by way of settlement with over 100 net winner investors/investor groups, the remaining net winner investors continue to resist my efforts to recover the fictitious interest.

In addition to working to recover Assets, I am also unfortunately forced to litigate with highly motivated and well-funded parties who are attempting to obtain Assets that have already been secured by the Receivership or by law enforcement authorities. The liquidators appointed by the courts in Antigua, for example, have vigorously sought to obtain control of Assets secured by the Receivership in the United States, Assets frozen by the Ontario Attorney General in Canada, and Assets frozen at the request of the United States Department of Justice in Europe. As a direct result of the actions of the Antiguan liquidators, the assets available for distribution to aggrieved investors have been needlessly diminished.

Nevertheless, the work of the Receivership continues, with Assets continually being brought into and realized by the Receivership estate and with every effort being made to minimize expenses associated with the work of the Receivership. The work of the Receivership is supervised by United States District Judge David Godbey, to whom the Receiver submits frequent, detailed reports concerning Receivership activities. Specifically, the Receivership has reported to the Court in writing on at least 26 occasions regarding its operations and activities, whether through documents formally entitled "interim reports" or, more commonly, through the 17 detailed fee applications that have been filed since February 2009. In particular, the Receivership's fee applications, which are thoroughly reviewed by the SEC and the Court-appointed Examiner prior to their filing, provide extensive information concerning Receivership activities, as they describe at length the type and category of the work performed and the results obtained, with specific and detailed discussions and explanations of the work performed by each of the professional firms working for the Receivership. The dates and titles of the reports that the Receivership has submitted are as follows:

- (1) April 23, 2009 — "Report of the Receiver Dated April 23, 2009"

- (2) May 15, 2009 — “Receiver’s Motion for Approval of Interim Fee Application and Procedures for Future Compensation of Fees and Expenses and Brief in Support”
- (3) August 4, 2009 — “Receiver’s Motion for Approval of Second Interim Fee Application and Brief in Support”
- (4) October 2, 2009 — “Receiver’s Motion for Approval of Third Interim Fee Application and Brief in Support”
- (5) October 28, 2009 — “Receiver’s Interim Report on Asset Collection and Cost Reduction”
- (6) December 11, 2009 — “Receiver’s Motion for Approval of Fourth Interim Fee Application and Brief in Support”
- (7) March 11, 2010 — “Receiver’s Motion for Approval of Fifth Interim Fee Application and Brief in Support”
- (8) May 14, 2010 — “Receiver’s Motion for Approval of Sixth Interim Fee Application and Brief in Support”
- (9) July 1, 2010 — “Receiver’s Interim Report Regarding Status of Receivership, Asset Collection and Ongoing Activities”
- (10) July 20, 2010 — “Receiver’s Motion for Approval of Seventh Interim Fee Application and Brief in Support”
- (11) September 14, 2010 — “Receiver’s Motion for Approval of Eighth Interim Fee Application and Brief in Support”
- (12) November 19, 2010 — “Receiver’s Motion for Approval of Ninth Interim Fee Application and Brief in Support”
- (13) February 11, 2011 — “Receiver’s Second Interim Report Regarding Status of Receivership, Asset Collection and Ongoing Activities”
- (14) February 16, 2011 — “Receiver’s Motion for Approval of Tenth Interim Fee Application and Brief in Support”
- (15) March 24, 2011 — “Receiver’s Motion for Approval of Eleventh Interim Fee Application and Brief in Support”
- (16) June 28, 2011 — “Receiver’s Motion for Approval of Twelfth Interim Fee Application and Brief in Support”
- (17) July 27, 2011 — “Joint Report of the Receiver and the Investors Committee Concerning Pending Litigation”

- (18) September 8, 2011 — “Receiver’s Motion for Approval of Thirteenth Interim Fee Application and Brief in Support”
- (19) October 28, 2011 — “Receiver’s Motion for Approval of Fourteenth Interim Fee Application and Brief in Support”
- (20) November 11, 2011 — “Receiver’s Third Interim Report Regarding Status of Receivership, Asset Recovery and Ongoing Activities”
- (21) November 30, 2011 — “Receiver’s Motion for Approval of Fifteenth Interim Fee Application and Brief in Support”
- (22) March 9, 2012 — “Receiver’s Motion for Approval of Sixteenth Interim Fee Application and Brief in Support”
- (23) May 31, 2012 — “Receiver’s Motion for Approval of Seventeenth Interim Fee Application and Brief in Support”
- (24) June 1, 2012 — “Second Joint Report of the Receiver, the Examiner and the Investors Committee Concerning Pending Litigation”
- (25) June 8, 2012 — “Receiver’s First Monthly Report Regarding Fees and Expenses Incurred as a Result of the Claims Process”
- (26) June 22, 2012 — “Receiver’s Fourth Interim Report Regarding Status of Receivership, Asset Collection, and Ongoing Activities”

Judge Godbey’s oversight of the Receivership, with the assistance of the United States Securities and Exchange Commission and a court-appointed Examiner, continues to this day.

With respect to your specific questions, I respectfully provide the following information.

- 1. Please provide the aggregate amount of assets from the former Stanford companies currently under control of the Stanford Financial Group Receivership.**

As of May 31, 2012, the Receivership has approximately \$94.5 million in unrestricted cash, and approximately \$17.3 million in restricted cash. Restricted cash refers to money that has been recovered by the Receivership but is not available for immediate distribution. Restricted cash includes funds held in escrow pursuant to an agreement between the Receivership and Pershing LLC, funds held in escrow pending resolution of regulatory requirements by the State of Louisiana in connection with Stanford Trust Company, funds held in escrow pending litigation between the Receiver and Dillon Gage Inc. of Dallas and Dillon Gage, Inc., and funds subject to potential liens.

Other than the cash described above and litigation claims and frozen funds described below, the Receivership also has material assets worth approximately \$25.3 million. Enclosed as Exhibit 2 to this letter is the Receiver's Fourth Interim Report Regarding Status of Receivership, Asset Collection, and Ongoing Activities, which contains a more detailed description of current Receivership assets and cash flow.

2. Please list the approximate liquid value of all seized bank accounts, bonds, stocks, real estate, and any other holdings collected to date both in the United States and abroad.

Assets secured by the Receivership are described in response to question 1 and in the report attached hereto as Exhibit 2.

I have also obtained an injunction freezing \$25 million in assets in connection with my claim against former Stanford brokers who received generous compensation for selling fraudulent CDs.

In addition, assets in Canada, the United Kingdom, and Switzerland have been seized by U.S. and foreign law enforcement authorities. I do not have access to information concerning the precise value of the assets in the United Kingdom and Switzerland. I estimate, however, that the assets in Canada, the United Kingdom, and Switzerland are collectively worth approximately \$335 million.¹

The liquidators appointed in Antigua have asserted that they are currently in control of real estate in Antigua that they claim is valued between \$46 million and \$212 million. The basis for the Antiguan liquidator's valuation is unknown and has not been revealed publicly, which is consistent with the fact that most of the Antiguan liquidators' activities, plans, and expenses remain hidden from public scrutiny.

3. Please also provide a separate accounting of your best estimation of any potential assets that are the subject of pending legal action, including international-based assets.

The Receivership and the Court-appointed Stanford Investors Committee have filed lawsuits seeking to recover more than \$650 million in Receivership Assets. This figure does not include claims for unliquidated damages, such as claims against professionals who assisted Stanford in carrying out his fraud. For a more detailed discussion of the Receivership's litigation, please see the Second Joint Report of the Receiver, the Examiner and the Investors Committee Concerning Pending Litigation, which is enclosed as Exhibit 3.

¹ I believe that the liquidators in Antigua have obtained \$20 million of the funds in the United Kingdom in the form of a loan. The Antiguan liquidators are actively seeking to obtain the remainder of the funds frozen in the United Kingdom.

In addition, the assets in Canada and Europe described in response to question 2 may become part of the funds available for distribution by the Receivership, if the United States Department of Justice is successful in obtaining forfeiture of the funds and US DOJ and the Receivership conclude an agreement relating to the distribution of those funds. Such an agreement has been reached in principle.

The liquidators in Antigua assert that they have potential claims that would allow them to recover Antiguan real estate that they do not currently control. They estimate the value of such real estate to be approximately \$70 million. The basis for the Antiguan liquidator's valuation is unknown and has not been revealed publicly.

4. Please provide an approximate count of both the number of individual claims filed by potential recipients, as well as the aggregate combined dollar amount of those claims.

On June 8, 2012, the Receivership filed the First Monthly Report Regarding Fees and Expenses Incurred as a Result of the Claims Process, a copy of which is enclosed as Exhibit 4 to this letter. As explained in more detail in that report, the Receivership received 1,362 claims via the Court-approved claims process through June 1, 2012. In addition, the Receivership received 10,554 claims (some of which have turned out to be duplicative or erroneous) via a prior, informal claims process instituted by the Receivership. My staff has begun to de-duplicate and reconcile these 11,916 claims and, to date, has determined that there are up to approximately 9,000 unique claims submitted thus far — the overwhelming majority of which are investor CD-based claims. Although it is too early in the reconciliation process to precisely determine the true aggregate amount or number of claims submitted, the current estimate of the claimed amounts received prior to the Court-approved claims process is approximately \$2.8 billion. It should be noted that we are still reviewing and analyzing the claims and that none of the claims have been finally adjudicated. Therefore, the amount of the approved claims, and thus the value of the claims that have been submitted, has not yet been determined. Approved claims may differ materially from the \$2.8 billion figure.

5. Combined with the aggregate assets held by the company, please provide an estimation of the amount, in cents on the dollar, that a Stanford customer with \$250,000 in claimed losses might reasonably expect if no further claims or assets were accepted after May 31st.

Estimating what an investor might reasonably expect to receive is unfortunately not as simple as dividing the amount of claims received to date by the liquid assets currently controlled by the Receivership. Although I would like to be able provide you with the estimate you have requested, I am simply unable to do so based on the hypothetical you have posed.

First, although I have already received numerous claims submissions, some of the submissions are incomplete or include information that is clearly questionable on its face, and the process of evaluating and validating those claims is not yet complete. Nor has the process of finally adjudicating any disputes concerning the validity of claims begun at this stage.

Accordingly, the actual value of the claims that have been submitted has not yet been determined.²

Second, although I fully intend, at the appropriate time, to make a recommendation regarding the proper distribution of assets, the decision regarding the method for the distribution of assets falls to the discretion of Judge Godbey. In fashioning a distribution, the Court will need to determine the amounts, if any, that will be allocated to non-investor creditors, including purported secured creditors. The Court will also need to determine how to allocate funds among investor creditors.

Courts in receivership distributions have employed two main methods for the distribution of receivership assets among investor creditors: the net investment method and the rising tide method. The method used depends on the facts and circumstances of each case. The net investment method (also referred to as the “net loss” method) looks at the amount deposited by a claimant and the amount returned to the claimant prior to the receivership. It then uses the difference—the net investment—as compared to the entire net investment by all claimants to determine the claimant’s pro rata share of the amount available for distribution. In the rising tide method, for a claimant who has received withdrawals prior to the receivership, that claimant will have those withdrawals deducted from the claimant’s pro rata share of the distribution. This method increases the amounts available to investors who made little or no withdrawals prior to the receivership, while making it more likely that claimants who received substantial withdrawals prior to the receivership will receive no distribution or a reduced distribution.³ The amount that each investor would receive could be affected materially by the method that is used in this case.

Therefore, until the Court determines the distribution method, it is impossible to know what any individual investor might expect to receive in a distribution. Further, until I have the opportunity to review and analyze the complete universe of submitted and approved claims, and further have the opportunity, in the context of the actual claims submitted and approved, to discuss possible distribution approaches with the SEC, Examiner, and Investors Committee, among others, it would be premature for me to settle on a distribution approach for recommendation to the Court.

² Moreover, as you note in your letter, the Court has ordered that investors and other claimants have until September 1 of this year to submit claims. Thus, even if all claims that had been submitted through May 31 had already been finally adjudicated, the current claim figure would not necessarily have any reasonable relationship to the amount of claims that will eventually be submitted and approved.

³ For a more detailed discussion and illustration of the difference between the net investment and rising tide approaches, see, for example, *SEC v. Parish*, No. 2:07-cv-00919-DCN, 2010 WL 5394736, at *3 (D.S.C. Feb. 10, 2010).

6. **Please provide an itemized account of any and all expenses of the Stanford Receivership, including but not limited to legal fees, forensic accounting services, and travel expenses incurred by you and your associates. It has been reported in various media that this figure now exceeds \$100 million dollars. Please provide us with the most accurate amount possible as of May 31, 2012.**

When I was appointed in February 2009, I faced the daunting task of winding down over 130 Stanford entities employing over 3,000 employees located across the U.S., Europe, the Caribbean, Canada, and Latin America. At that time, the Stanford fraudulent empire had operating expenses totaling over \$33 million per *month*, while possessing merely \$63.1 million in cash on hand. At that rate, the Receivership Estate would have been depleted by the end of April 2009. However, due to the extraordinary efforts of my team of professionals, who secured Receivership assets that had been spread, and in many cases, hidden, across North and South America and Europe, the Receivership Estate has not only not been depleted—it has grown.

As a result of the efforts of the Receivership, rather than paying operating expenses of more than \$33 million per month, as the Stanford enterprise had been prior to my appointment, the Receivership has only spent a total of \$51.9 million on operating expenses for the period February 17, 2009 through May 31, 2012. In addition, the Receivership has secured and collected over \$220 million for the Estate, all while defending against attempts by parties both domestic and foreign who have sought to thwart our efforts to secure and collect Receivership assets and who have attempted to recover such assets for themselves. In light of the complexity of this Receivership and the results obtained, the amounts that have been paid from the Estate are more than justified, as Judge Godbey has recognized in numerous orders, including in a recent order (enclosed as Exhibit 5) denying a motion by a group of investors who sought to intervene in the SEC's lawsuit against the Stanford enterprise.

There are three main categories of payments made from the Stanford Receivership. Those categories are (1) operating expenses associated with operating and winding down the Receivership entities, which include tax payments, personnel expenses, insurance expenses, occupancy expenses, and other expenses; (2) Receivership professional fees and related expenses; and (3) the Court-appointed Examiner's fees and expenses and the Court-appointed Investors Committee's expenses.

(i) *Operating Expenses*

Payment of the operating expenses associated with the Receivership was and remains necessary to ensure that significant Stanford assets remain a part of the Receivership Estate. As Judge Godbey has observed, “[h]ad 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.” (See Ex. 5 at 5.) The aggregate amount of the operating expenses through May 31, 2012, as noted above, is approximately \$51.9 million. The Receiver’s Fourth Interim Report details each of the categories of expenses and lists the amount of such expenses since the inception of the Receivership. (Ex. 2.) As you will see, the amount of expenses has been dramatically reduced from the time the Receivership was instituted. At the time the Receivership was instituted, the Stanford entities had operating expenses of approximately \$33 million per month. In the first full quarter of the Receivership, the Stanford entities’ operating expenses had been reduced to \$4.6 million per month, and in the most recent complete quarter, the operating expenses have been further reduced to approximately \$230,000 per month. In the second quarter of 2012 to date, operating expenses have been further reduced to \$180,000 per month.

(ii) *Receivership Professional Fees and Related Expenses*

The Receivership has also paid for the work of numerous professional firms and the expenses associated with that work. The professional fees have been reasonable and have been necessary to ensure that the Receivership’s operations are conducted properly and that valuable Receivership assets are secured. Professional fees and expenses are not paid until they have been approved by the Court following the public filing of a motion detailing the basis for the requested fees and expenses (copies of the motions that have been filed to date are enclosed as Exhibit 6) and a Court-appointed Examiner, the SEC, and other interested parties have had an opportunity to object to the requested fees and expenses. Additionally, the Receivership periodically files with the Court reports of Receivership activities and expenses, which include and reflect the payment of professional fees and expenses.

Through May 31, 2012, the Receivership has paid approximately \$54.7 million in professional fees and expenses. As Judge Godbey recognized in a November 14, 2011 order (enclosed as Exhibit 5), “the Receiver’s professional fees and expenses generally have been spent gainfully and billed reasonably.” (Ex. 5 at 7.) As Judge Godbey has also observed, “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 *id.* at 4.) Due to lack of readily available information about the Stanford entities and further due to the complexity of the Stanford corporate structure, 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. In contrast, professional fees and expenses incurred for all of 2011 were \$8.2 million.

(iii) *Examiner Fees and Expenses and Official Stanford Investors Committee Expenses*

Finally, the fees and expenses of the Court-appointed Examiner and the expenses of the Official Stanford Investors Committee are paid out of the Receivership Assets, pursuant to Court order. To date, the fees and expenses paid to the Examiner and the expense

reimbursements paid to the Official Stanford Investors Committee total approximately \$1.8 million.

* * *

As a final observation, I have endeavored to ensure that the Receivership is run with total transparency. I maintain a website, www.stanfordfinancialreceivership.com, where all important court filings and other documents and information concerning the Receivership can be found. Information on that site is available in both English and Spanish. I expect to continue my practice of maintaining transparency in the activities of the Receivership, including filing public reports and fee applications with the federal court in Dallas and posting copies of such reports on the Stanford Receivership website. Any interested person, including members of the media, may consult the Court file or the Stanford Receivership website to obtain the latest information concerning the recovery and realization of assets, as well as payment of any expenses. Investors may also contact the Receivership directly via e-mail with any questions or concerns. The Receivership receives and responds to e-mails from investors on a daily basis.

Please let me know if you have any questions concerning the foregoing, and please do not hesitate to contact me if I may be of further assistance to the Congress.

Respectfully Submitted,



Ralph S. Janvey

Enclosure