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

IN RE:	§	
	§	
STANFORD INTERNATIONAL BANK, LTD.,	§	Civil Action No.: 3:09-CV-0721-N
	§	
	§	
Debtor in a Foreign Proceeding.	§	

SECURITIES AND EXCHANGE COMMISSION'S
OPPOSITION TO PETITION FOR RECOGNITION
PURSUANT TO CHAPTER 15 OF THE BANKRUPTCY CODE

PRELIMINARY STATEMENT

Petitioner's request for recognition arises in the context of a civil enforcement action instituted by an agency of the United States seeking to vindicate a public interest, namely the appropriate enforcement of the federal securities laws. The Commission alleges that R. Allen Stanford, a United States citizen and native Texan, and Jim Davis, a United States citizen and resident of Mississippi, used companies they controlled, including, but not limited to, Stanford International Bank, Ltd. ("SIB" or "SIBL") to engage in a massive fraudulent scheme that stole billions of dollars from investors.

Consistent with long-standing and widely-approved precedent in securities enforcement actions, the Commission sought the appointment of an equity receiver in order to secure, manage and preserve assets to maximize potential recovery for investors. The fact that Stanford created a sham bank in Antigua to help mask the fraud he and others were running out of the United States is of little consequence to the importance of the equity receivership. There is no basis, under the facts of this case, to place SIB, a primary vehicle for defrauding investors in the United States and around the world of billions of dollars, into a separate proceeding. Doing so will only add to

what is already a complex undertaking, impair this enforcement proceeding, and further reduce investor recovery.

FACTUAL BACKGROUND

The fraud at issue in this case arises from decisions made and actions taken in the United States by United States citizens. Stanford, like many who violate the federal securities laws, manipulated a variety of entities he owned to conduct his scheme. These entities included SIB, which was organized as an "offshore bank" under the laws of Antigua.

The fact that SIB was incorporated in Antigua pales when compared to its extensive connection to the United States. Stanford, the sole shareholder and chairman of SIB, is a United States citizen and native Texan. [See Defendant R. Allen Stanford's Pro Se Answer to First Amended Complaint at p. 1 (admitting that both his "home office" and one of his residences are in Houston, Texas.)][1] In addition to his home office in Houston, Stanford lived and worked principally in the U.S. Virgin Islands and Miami. [Van Tassel Aff at ¶ 11][2] Aside from ownership and control by Stanford, all SIB directors (including Stanford) were United States citizens except two, and neither of the non-American directors were Antiguans. [Van Tassel Aff.

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[1] While Stanford may have also claimed citizenship in Antigua, the United States does not recognize dual citizenship.

[2] Karyl Van Tassel is an agent working on behalf of the U.S. Receiver. In a previous pleading, the U.S. Receiver submitted an Affidavit from Ms. Van Tassel. For the Court's convenience, a copy of that Affidavit is attached as Exhibit A. References to Affidavit will be "Van Tassell Aff. at ____." It is the Commission's understanding that additional evidence may be submitted by the U.S. Receiver. To the extent more recently submitted evidence makes it necessary, the Commission will supplement this opposition.

In addition, the Commission refers occasionally herein to the Memorandum of Law in Support of Motion For Ex Parte Temporary Restraining Order, Preliminary Injunction and Other Emergency Relief ("SEC's Memo of Law") and the Appendix In Support of Application for Ex Parte Temporary Restraining Order, Preliminary Injunction and Other Emergency Relief filed with the District Court ("TRO Appendix") and a supplemental appendix filed in support of Application for Preliminary Injunction and Other Emergency Relief.

Finally, the Commission incorporates by reference the materials submitted in opposition to the Antiguan Liquidators' Motion to Amend, Modify or Vacate Certain Portions of the Court's Amended Receivership Order [Civil Action No. 3:09-CV-0298-N] and Motion to Refer Petition for Recognition Pursuant to Chapter 15 [Civil Action No. 3:09-CV-0721-N].

at ¶11] Jim Davis, a U.S. citizen working in Mississippi and Memphis, served as SIB's Chief Financial Officer. Likewise, Laura Pendergest-Holt served as a member of SIB's investment committee from her offices in the United States, supervising a group of analysts in Memphis, Tupelo and St. Croix. [TRO App. at 31, 74-75, 80-81, 524].

Moreover, the management of SIB's investments, the directing of fund flows, investment strategies, and managing legal and human resources were directed from the United States. [Van Tassell Aff. ¶11]. Without these services, SIB could not have operated. In addition, SIB sold CDs to U.S. investors exclusively through Stanford Group Company ("SGC"), a Texas corporation, ultimately owned by Stanford, with offices throughout the U.S. that was registered with the Commission as a broker-dealer. [TRO App. at 585, 928, 945, 46, 586, 942] The principal business of SGC consisted of the sales of SIB's CDs. [See Preliminary Injunction and Other Equitable Relief As to R. Allen Stanford at ¶8].

Through these efforts, SIB generated more CD sales, by dollar amount, from the U.S. than from any other country, including Antigua. [Van Tassel Aff. at ¶25.] In the course of offering its CDs to U.S. investors, SIB assured them in its disclosure documents that "[b]y making this offering to Accredited Investors in the United States, [SIB] 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." [SEC's Memo of Law. at p. 21] SIB's CDs were sold in the U.S. pursuant to a Regulation D private placement. In connection with the private placement, the Bank filed a Form D with the SEC. [SEC's Memo. of Law (Doc. No. 6) at 9]. SIB also routinely held out to investors its close connection to Stanford and its affiliation with the Stanford Financial Group in an effort to provide investors with a false sense of confidence.

To the extent Stanford's fraud touched on areas outside the United States, the connection to Antigua is tenuous. While the Antiguan Liquidators are focused on SIB, that entity is only one of many that were used to perpetrate the fraud scheme. Stanford-related entities spanned the globe, including 15 states within the United States and at least 13 countries in Europe, the Caribbean, Canada and Latin America. These various entities, like SIB, were – regardless of where they were incorporated – controlled and managed by the key management team in the United States. Moreover, the Commission and the U.S. Receiver are working extensively in collaboration with regulators around the world, especially in Latin America, to help ensure a proper distribution of recovered assets to wronged investors.

Most of SIB's CD sale proceeds did not even pass through Antigua and those that did were promptly sent out of the country. [Van Tassel Aff. at ¶7]. Instead, CD sale proceeds largely went directly to accounts in Canada, the United States and England and then onto various Stanford-related accounts. Even checks sent by investors directly to SIB's address in Antigua were bundled and sent daily to Trustmark Bank in Houston for deposit. [*Id*.] Moreover, although Stanford's victims are located around the world, sales to citizens of the United States and Venezuela predominated. Finally, Antiguan law prohibits offshore "banks" such as SIB from serving Antiguans – there are, at best, few direct Antiguan victims of Stanford's fraud.

This fact stands out when the Antiguan Liquidators' mandate is considered. For example, the Order appointing the Antiguan Liquidators ("the Antiguan Liquidation Order") provides that SIB is to be dissolved, not under this Court's supervision with the benefit of familiarity with the facts underlying this case, but under the supervision of The Eastern Caribbean Supreme Court In the High Court of Justice Antigua and Barbuda ("the Antiguan Court") and the Antiguan Liquidators are to "collect and gather all such assets for the general

benefit of [SIB's] creditors and as may be directed by [the Antiguan Court]. [See Antiguan Liquidation Order at paragraph 5][3] The Antiguan Order further provides that SIB's assets are to be "held for the benefit of the depositors, creditors and investors of [SIB] 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. [Id. at para. 7]

The Order then provides a priority for distributing those assets. First priority is given to fees and expenses of the Antiguan Liquidators, the cost of the receivership and liquidation, and *severance payments to former employees of SIB.* [Id. at 7.1-7.3] After those debts are paid, the Antiguan Order provides that "[t]he balance to be paid on account of the claims of creditors and depositors of the [SIB] as at the date of th[e] Order and in accordance with their priority under the [International Business Corporations Act, Cap. 222, as amended, of the Laws of Antigua and Barbuda] and other laws of Antigua and Barbuda, or as may be ordered by [the Antiguan Court] with the remaining balance, if any, to be distributed to the shareholders of [SIB] in accordance with their entitlement. [Id. at 7.4][4]

ARGUMENT

A. EQUITY RECEIVERSHIPS ARE WELL-EQUIPPED TO REPRESENT ALL CLAIMANTS IN SECURITIES ENFORCEMENT ACTIONS.

"The Supreme Court has repeatedly emphasized the broad equitable powers of the federal courts to shape equitable remedies to the necessities of particular cases, especially where a federal agency seeks enforcement in the public interest." *SEC v. Wenke*, 622 F.2d 1363, 1371 (9th Cir. 1980) (citations omitted). A necessary corollary to that power is the authority of federal

[3] The Antiguan Liquidation Order was attached as an exhibit to the 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. See Docket Entry No. 3, Case No. 3-09-CV-0721.

[4] Although the priority described in Paragraph 7.4 (in contrast to Paragraph 5) does not identify investors, but only creditors and depositors, the Antiguan Liquidators have indicated to the Court that investors are treated the same as depositors in this priority scheme.

courts to appoint equity receiverships. Courts recognize that that the appointment of receivers in enforcement actions furthers the policies of the federal securities laws. *See Wenke*, 622 F.2d at 1373 (noting that receivership furthers subsidiary purposes of federal securities laws, including preservation of assets and the fact that the receiver and his staff could conduct independent investigation of claims the entities might have against former management or other parties, prosecution of which would benefit investors and deter future violations).

Distribution of defendants' assets through an equity receivership subject to Court approval is commonly used in securities enforcement actions. See e.g., *SEC v. AmeriFirst Funding, Inc*., No. 3:07-CV-1188-D, 2008 WL 919546, at *6 (N.D. Tex March 13, 2008) (approving receiver's interim distribution plan disbursing $25 million to investors); *SEC v. Megafund Corp.*, No. 3:05-CV1328-L, 2008 WL 2856460, at *1, 3 (N.D. Tex. June 24, 2008) (approving receiver's proposed distribution plan to disburse $1.5 million to claimants on pro rata basis).

Moreover, the inability of a receivership estate to meet all of its obligations is typically the *sine qua non* of the receivership *Liberte Capital Group, LLC v. Capwill*, 462 F.3d 543, 551-53 (6th Cir. 2006). "The receiver's role, and the district court's purpose in the appointment, is to safeguard the disputed assets, administer the property as suitable, and to assist the district court in achieving a final, equitable distribution of the assets if necessary. . . . The district court may require all . . . claims to be brought before the receivership court for disposition pursuant to a summary process consistent with the equity purpose of the court…" *Id.*. Where "rightful claims to assets exceed the assets available, the court, with the help of the receiver, must determine how to distribute the assets equitably. . . . [D]istributing . . . the assets [of the entity placed in receivership] is one of the central purposes of the receivership." *Securities Exchange*

Commission v. Capital Consultants LLC, 453 F.3d 1166, 1172 (9th Cir. 2006); *see United States Securities Exchange Commission v. The Infinity Group Company*, 226 F. App. 217, 2007 WL 1034793 (3d Cir. 2007). In short, it is well-recognized that equity receiverships are well-equipped to liquidate an insolvent defendant's assets in securities enforcement actions. *See, e.g.*, *SEC v. Forex Asset Mgmt. LLC*, 242 F.3d 325, 327 (5th Cir. 2001) (affirming a distribution plan); *SEC v. Funding Res. Group*, No. 99-10980, 2000 WL 1468823, at *4 n.9 (5th Cir. 2000) (suggesting that claims can be presented in a future liquidation proceedings in the receivership court); *SEC v. Enter. Trust Co*. 559 F.3d 649, 650 (7th Cir. 2009) (affirming distribution plan).

B. THERE IS NO BASIS TO RECOGNIZE THE ANTIGUAN LIQUIDATION PROCEEDING AS A FOREIGN MAIN PROCEEDING UNDER CHAPTER 15.

The Antiguan Liquidators seek recognition of the Antiguan proceedings as a foreign main proceeding under Chapter 15 of the Bankruptcy Code. If other statutory requirements are met, the foreign proceeding shall be recognized as a foreign main proceeding if it is pending in the country where the debtor has the center of its main interests ("COMI"). *See* 11 U.S.C. §§ 1502(4), 1517. However, nothing in Chapter 15 prevents the court from refusing to take action governed by Chapter 15 if the action would be manifestly contrary to the public policy of the United States. 15 U.S.C. §§ 1506, 1517(a).[5]

1. SIB's COMI is not Antigua.

Courts look to a variety of factors to determine an entity's COMI. COMI has been described as the place where the debtor conducts the administration of his interests on a regular basis and is therefore ascertainable by third parties. In more familiar terminology, courts have

[5] As a threshold matter, Section 1501(c) and 109(b) indicate that Chapter 15 relief is not available to a foreign bank that has a branch or agency in the United States. As noted in the Examiner's Brief Regarding the Motion to Modify or Vacate Certain Portions of the Court's Amended Receivership Order [Docket 368], additional evidence may shed light on the application of that requirement here.

indicated this generally equates with the concept of a "principal place of business." *See In re Basis Yield Alpha Fund (Master)*, 381 B.R. 37, 47-48 (S.D.N.Y. 2008).

Although courts may presume that a debtor's COMI is in the place of its registered offices, this presumption may be rebutted by evidence to the contrary, even in the case of an unopposed petition for recognition. *See In re Bear Stearns High Grade Structured Credit Strategies Master Fund, Ltd.*, 389 B.R. 325, 336 (S.D.N.Y. 2008) (discussing 11 U.S.C. §1516(c)). Therefore, if the foreign proceeding is in the country of the registered office, and if there is evidence that the COMI might be elsewhere, then the foreign representatives must prove that the COMI is in the same country as the registered office.[6] Here, there is ample evidence rebutting any presumption created by the fact that SIB's registered office is in Antigua. For example, as noted above, its sole shareholder is a United States citizen based in the United States; its Chief Financial Officer is a United States citizen who worked from the United States; these individuals made the key decisions regarding SIB's activities, and all important management functions were provided by personnel located in the United States. These facts, along with other evidence, not only rebut the presumption arising from the location of SIB's registered office, they conclusively show that SIB's COMI is not Antigua.

In determining a debtor's COMI, courts have considered several potential factors, including: the location of those who actually manage the debtor (which, conceivably could be the headquarters of a holding company); the location of the debtor's primary assets; the location of the majority of the debtor's creditors or of a majority of the creditors who would be affected by the case; and/or the jurisdiction whose law would apply to most disputes. *See Bear Stearns*,

[6] Courts have recognized that the legislative history of Chapter 15 indicates that the statutory presumption of Section 1516(c) may be of less weight in the event of a serious dispute: "[t]he presumption that the place of the registered office is also the center of the debtor's main interest is included for speed and convenience of proof where there is no serious controversy." *Basis Yield Alpha Fund*, 381 B.R. at 53.

389 B.R. at 336.

In *Bear Stearns*, the court rejected an argument similar to that raised in this case by the Antiguan Liquidators. There, the Court affirmed a finding by the bankruptcy court that the COMI of open-ended investment companies ("the Funds") incorporated in the Cayman Islands was in the United States. *Bear Stearns*, 389 B.R. 325 at 337. The court noted several facts, including the fact that the investment manager and the person that ran the back office operations of the Funds were in New York, along with the Funds' books and records, and that the Funds' liquid assets were in New York. *Id.* Similarly, here, SIB was, in all significant respects, run by Stanford and Davis from the United States. Key books and records are located in the United States and SIB used primarily U.S. banks to maintain its liquid assets. Notably, the Bear Stearns court found evidence that the Funds used Cayman Islands attorneys and auditors was outweighed by the other substantial contacts to the United States. *Id.* at 338.

The Antiguan Liquidator's arguments focus on, at best, ministerial "day to day" level activities in Antigua and gloss over the crucial fact of Stanford's control of SIB. For example, in his Supplemental Declaration, Nigel Hamilton-Smith states he has found nothing in his investigation "to suggest that any substantial management services – in terms of IT, human resources, accounting or the running of the business" were provided to SIB from persons outside the United States." Perhaps the limited records in Antigua do suggest that. But, it is not possible to discuss the management of SIB without focusing on the decisions made or controlled by Stanford, Davis and others acting with them in the United States concerning how SIB invested billions taken from investors and how those investments were disclosed to investors.

In short, any activities in Antigua were, at best, peripheral to SIB's business of selling CDs, and the key management and operation of SIB flowed from the United States.

Accordingly, the Antiguan proceeding is not a foreign main proceeding.[7]

2. Recognition Under These Facts Is Against Public Policy.

Even if Antigua is found to be the location of SIB's COMI, the Court is not required to recognize the Antiguan proceeding as a foreign main proceeding. Under Section 1506, the Court is not required to take action that would be "manifestly contrary to the public policy of the United States." The few courts to address this exception have indicated that the statute's legislative history suggests the exception is to be applied narrowly, and should be invoked only when the most fundamental policies of the United States are at risk. *See Ernst & Young, Inc.*, 383 B.R. 773, 781 (Bankr. D. Col. 2008).

This case raises questions significantly different questions than have been considered in most cases applying Chapter 15. For example, the foreign proceeding itself arose only after the Commission's enforcement action was initiated and the U.S. Receiver appointed. The Commission, as part of its responsibilities to enforce the federal securities laws, requested the appointment of an equity receivership as a means to help protect investors. As discussed above, equity receiverships have long been recognized as being well-equipped to identify, marshal, and ultimately, if appropriate, distribute subject to this Court's supervision, the assets of entities that have become insolvent as a result of their involvement in a securities fraud.

These policy considerations are particularly important here, where this Court, and through its supervision, the Receiver, are able to properly address *all* relevant assets, not merely those of SIB and ensure investors are able to recover assets to the extent possible. In contrast, as noted above, it appears that the Antiguan Liquidators flexibility in distributing assets will be

[7] The petition has not requested Chapter 15 recognition as a non-main proceeding and therefore the Commission has not addressed that issue. If the Court believes it appropriate to consider the possibility of recognition as a non-main proceeding, the Commission requests the opportunity to supplement this Opposition accordingly.

limited. Accordingly, the Commission believed, and continues to believe, that the equity receiver is in the best position to manage, and ultimately, if necessary, disburse for the benefit of investors the remaining Stanford-related assets.[8]

For the reasons expressed above, the petition for recognition should be denied.

Dated: June 9, 2009.

Respectfully submitted,

s/ David B. Reece
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CERTIFICATE OF SERVICE

I hereby certify that on June 9, 2009, I electronically filed the foregoing document with the Clerk of the court using the CM/ECF system which will send notification of such filing to all counsel of record.

s/ David B. Reece

[8] At the same time, the Receiver has the authority to seek the procedures available by the bankruptcy code should doing so be in the best interests of the estate. In contrast, if SIB is removed from the equity receivership and placed within a foreign bankruptcy proceeding, it is impossible to predict how SIB assets will be distributed and which creditors will obtain beneficial treatment at the expense of investors.

IN THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE

Claim No. 0126 of 2009

IN THE MATTER OF THE INTERNATIONAL BUSINESS CORPORATIONS ACT, CAP. 222

AND IN THE MATTER OF THE PETITION FOR THE COMPULSORY WINDING UP OF STANFORD INTERNATIONAL BANK LIMITED

BETWEEN

ALEXANDER M. FUNDORA

Claimant

-and-

STANFORD INTERNATIONAL BANK LIMITED

Defendant

-and-

RALPH STEVEN JANVEY
(Acting in his capacity as the Receiver duly appointed in relation to the above named Defendant by order of the United States District Court for the Northern District of Texas, Dallas Division on 16 February 2009)

Interested Party/Proposed Defendant

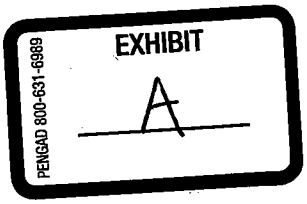
AFFIDAVIT OF KARYL VAN TASSEL

I, Karyl Van Tassel of 1001 Fannin, Suite 1400, Houston, TX 77002 state on oath as follows:

A Introduction

1. I am a Certified Public Accountant in the State of Texas, United States of America. I am a Senior Managing Director of FTI Consulting, Inc. ("FTI"), an international business consulting firm. As I set out below, my firm has been retained by the US Receiver ("Receiver Janvey") to provide assistance in tracing assets of the Stanford empire.

2. I have been asked to give this affidavit in support of Receiver Janvey's application for certain relief in relation to:



a. the petition presented against Stanford International Bank Ltd ("SIBL") by Alexander Fundora on 9 March 2009, purportedly under section 220 of the International Business Corporations Act of Antigua and Barbuda ("IBCA"), seeking the winding up of SIBL and the appointment of Marcus Wide and Christopher Sambrana of PricewaterhouseCoopers as liquidators; and

b. the cross application (unsupported by any formal application notice) of Peter Wastell and Nigel Hamilton-Smith of Vantis who were appointed receivers of SIBL and Stanford Trust Company Ltd ("STCL") by this Honorable Court on February 26, 2009 ("the Antiguan Receivers"), presumably made under section 288 IBCA, for the winding up of SIBL and the appointment of the Antiguan Receivers as liquidators.

3. In this affidavit I address the following topics:

a. my background, experience, and expertise;

b. an overview of our findings to date;

c. SIBL's demise and its control from the U.S.

d. the location of SIBL and STCL records in the U.S.;

e. SIBL and STCL as part of a worldwide Ponzi scheme;

f. sales of SIBL CDs in U.S. and principally to non-Antiguans;

g. location of management functions in U.S.; and

h. tracing the flow of SIBL's funds.

4. Save where otherwise appears, the facts and matters which I state in this affidavit are from my own personal knowledge gained from my work and that of FTI's team in analysing the assets of SIBL and STCL and other Stanford Entities and they are true. Where I rely on information from others or from records it is true to the best of my knowledge and belief and it is from the source

stated. The information contained herein is based on current information acquired to date. Additional information continues to be discovered and analyzed.

5. There are now produced and shown to me marked as follows true copies of the following documents:

"KVT1"	Karyl Van Tassel Resume
"KVT2"	6/30/08 Stanford Financial Group schedule listing Tier 3 merchant banking assets
"KVT3"	Internal Stanford schedule listing past uses of SIBL funds supporting Allen Stanford note receivable liability to SIBL in the amount of $1.844 billion.
"KVT4"	CD investor wiring instructions.

(1) Experience and expertise

6. A copy of my resume is attached as exhibit KVT1. It summarises my education and relevant work experience. As it states, I am a Certified Public Accountant in the State of Texas, USA, and a Senior Managing Director of FTI Consulting, Inc. I have 23 years of experience providing a variety of audit, accounting, tax, litigation, valuation and other financial advisory services. I have performed detailed financial analyses for a variety of litigation matters, including securities, intellectual property, breach of contract, antitrust, lender liability, fraud and wrongful terminations. In the litigation context, I have acted as an expert on a variety of economic damage claims and forensic accounting issues. In several cases alleging fraud and other wrongdoing, I have traced funds for potential recovery. I have also been retained by audit committees to assist in investigating allegations of accounting and financial improprieties.

(2) The institution of the US Receivership and Receiver Janvey's hiring of FTI

7. On February 16, 2009, the United States District Court for the Northern District of Texas (the "U.S. Court") appointed Ralph S. Janvey the Receiver for SIBL, Stanford Group Company, Stanford Capital Management, LLC, R. Allen Stanford ("Stanford"), James M. Davis ("Davis"), and Laura Pendergest Holt ("Holt") and of all entities owned and controlled by any of them. (All corporations and other legal entities owned by Stanford, Davis or Holt are collectively referred to as the "Stanford Entities"; each such entity, in the singular, is referred to as a "Stanford Entity.") On the same day, Receiver Janvey retained FTI to perform a variety of services, including assisting in the capture and safeguarding of electronic accounting and other records of the Stanford Entities and forensic accounting analyses of those records, including cash tracing. I oversee, and am personally involved in, FTI's forensic accounting and cash tracing activities.

(3) An overview of findings to date

8. In the course of FTI's investigation on behalf of Receiver Janvey, we have interviewed numerous present and former Stanford Entity employees and have examined the Stanford Entities' accounting and other records located in and/or gathered from Houston, Texas, Tupelo, Mississippi, Baldwyn, Mississippi, Memphis, Tennessee, Miami, Florida, St. Croix, United States Virgin Islands ("USVI") and other Stanford locations within and outside the USA. We have also obtained and reviewed information and data from Davis's home, which is located in Mississippi. SIBL, STCL and more than 140 other Stanford Entities were owned virtually 100%, directly or indirectly, by Stanford. As discussed in more detail below, the evidence indicates that SIBL, Stanford Trust Company Ltd. ("STCL"), and other Stanford Entities were operated as a single Ponzi-scheme to perpetrate a massive fraud. SIBL's balance sheet as of December 31, 2008 reflected total outstanding certificates of deposit ("CDs") of approximately $7.4 billion (shown as a liability) and investments of approximately $8.3 billion (shown as an asset). The $8.3 billion figure was grossly overstated, as discussed in more detail below.

(4) **SIBL's demise**

9. SIBL was principally in the business of selling various types of CDs. It appears that during its last year, and probably for longer than that, SIBL assets were inadequate to cover the amount of SIBL's liabilities on its issued and outstanding CDs as those liabilities came due. Our preliminary analysis of 2008 cash flows, with limited bank information, indicates that funds from current sales of SIBL CDs were used to make interest and redemption payments on pre-existing CDs. It appears that most CD proceeds not used to pay interest, redemptions and current operating expenses were either placed in illiquid investments (such as private equity deals) or diverted to other Stanford Entities "on behalf of shareholder" -- i.e., for the benefit of Allen Stanford. The terms of some SIBL CDs permitted partial redemptions before maturity upon customer demand. CD redemptions increased in late 2008 and early 2009 to the point that continuing CD sales could no longer cover the redemptions and normal operating expenses. This caused such a rapid depletion of liquid assets, that the apparent Ponzi scheme began to collapse. By the time the US Receivership was instituted, SIBL had already suspended some redemptions and the broader Stanford group of companies had stopped paying many payables.

B SIBL was controlled from the USA by Stanford and Davis

10. SIBL, although incorporated in Antigua, was controlled and managed by Stanford and Davis, apparently with assistance from Holt, from various places within the USA. In addition, it appears that major cash transfers were directed and controlled by Stanford, Davis and, in some instances, Holt.

11. Stanford lived and worked principally in Christiansted, USVI, Miami, Florida, and Houston, Texas. Davis and Holt lived in Mississippi and had offices in Tupelo, Mississippi, Memphis,

Tennessee, and Houston, Texas. All SIBL directors (including Allen Stanford) were USA citizens except two, and neither of the non-USA directors were Antiguans. One was a resident of Montserrat and the other was a resident of Barbados. Most "head office functions" such as managing investments, directing fund flows, devising investment strategy, and managing legal and human resources were directed from the USA.

(1) **SIBL's investments were controlled by Stanford, Davis and (at least to the extent of Tier 2 investments) Holt.**

12. SIBL investments were divided into three tiers, each managed differently, although all ultimately controlled by Stanford, Davis and, at least to the extent of Tier 2 assets, Holt. Tier 3 was by far the most significant financially (as valued by Stanford and Davis) and the most secret. It was controlled entirely from the USA. Based on our review to date of a large volume of Stanford Entity records, we have seen no indication that SIBL managers and employees in Antigua had significant involvement in investment activities.

13. Tier 1, the smallest tier in dollar value, consisted of cash and cash equivalents. It was primarily managed from Houston, Texas, USA, by Patricia Maldonado, Stanford Financial Group Company Treasurer, who worked at Davis's direction. Company accounting records indicate that as of February 18, 2009, Tier 1 totalled $152.7 million. To date, we have been unable to determine the correctness of this total. We've discovered discrepancies in some of the account balances and have been unable to confirm the amount of other account balances.

14. Company records indicate that approximately $14.6 million of the total (less than 10%) is located in Antigua, at the Bank of Antigua. Of that amount, I understand from Stanford Human Resources personnel that approximately $2.2 million represents trust moneys held for the benefit of a pension plan for the Stanford Antiguan employees. There has been no independent confirmation that this statement is correct.

15. Tier 2 principally consisted of investments placed with a variety of investment firms or funds located in the USA and Europe, together with a small amount of cash or cash equivalents. It was managed by Holt, the Chief Investment Officer for Stanford Group Company, from Tupelo, Mississippi, USA, Memphis, Tennessee, USA, and Houston, Texas, USA. Holt reported to Davis and Stanford. According to the company's weekly summary reports, Tier 2 had a total value of approximately $345 million at February 9, 2009, down substantially from $889 million at December 31, 2007. The documents also indicate that there were approximately $29 million in further liquidations between February 10, 2008 and February 17, 2009. Tier 2's precipitous decline in total value over the past year was due to a combination of declining market values and numerous liquidations ordered by Davis and Stanford and implemented by Holt and her staff. One of FTI's assigned tasks has been to trace the cash from these liquidations.

16. Tier 3 was managed by Stanford and Davis, apparently with assistance and participation by Holt and Osvaldo Pi. They kept its value and composition secret from regulators, investors, creditors and others. The information that was released to the public regarding Tier 3 (either directly or through presentations to sales staff) grossly overvalued SIBL investments (approximately 80% of which consisted of Tier 3) and misrepresented the relative make-up of the investment categories. For example, Stanford records indicated that Tier 3 assets, as of 6/30/08, had a total value of $6.3 billion. For the reasons explained in paragraph 17 below, as well as perhaps other reasons, that amount appears to have been fictitious.

17. As to the connections of these Tier 3 "investments" to the United States:-

    a. Approximately $1.2 billion of Tier 3 value (as apparently valued by Stanford and/or Davis or others acting in concert with them) was in merchant banking assets. These consisted mostly of equity investments in private and public companies (see KVT2. a 6/30/08 Stanford Financial Group schedule listing Tier 3 merchant banking assets). Most of these companies have headquarters in the USA. I am not aware of any of

them being located in Antigua. Early indications are that the fair value of these merchant banking assets was -- and remains -- only a small fraction of the $1.2 billion internal value that Stanford and Davis assigned to them.

b. Stanford Tier 3 records indicate that another $1.8 billion in value consisted of notes receivable from Allen Stanford. It appears this amount corresponds to funds that Stanford, with the assistance of Davis and possibly others, diverted from SIBL. These funds were used for various purposes, including transfers to 51 other Stanford Entities (See KVT3, an Internal Stanford schedule listing past uses of SIBL funds supporting Allen Stanford note receivable liability to SIBL in the amount of $1.844 billion.). Only 24% of these Stanford Entities were chartered in Antigua.

c. In addition, Tier 3 records assigned $3.174 billion of value to real estate. However, those same records list only two assets in this category – real estate holding companies -- containing properties known as Pelican Island and Asian Village. Both tracts are located in Antigua and both were purchased (via the purchase of their holding companies) in 2008 for a combined $63.5 million. It seems inconceivable that land purchased in 2008 would have risen in value almost 50 fold during what is generally regarded as a global real estate recession.

(2) SIBL and STCL records are held in the USA.

18. Records of SIBL and STCL's investments and cash balances, which comprised more than 90% of their total assets, were kept predominantly in the USA -- and outside Antigua.

a. With respect to Tier 2 assets, although monthly statements were sent to Antigua, the detailed weekly Tier 2 summaries, which are important in unravelling what happened

to Tier 2 assets and determining whether any can be recovered, were maintained in Memphis, Tennessee, USA.

b. Information concerning Tier 3, by far the largest collection of investments (as valued by Stanford and Davis), was kept by Davis and those who worked under his direct supervision, in the USA.

c. My firm, FTI, on behalf of Receiver Janvey, has already gathered and preserved USA information relating to all three Tiers of investments. I and others in my firm have been actively reviewing and analyzing these records for the past six weeks.

d. Certain SIBL client records exist in the USA.

(3) STCL was part of the Stanford-Davis controlled Ponzi scheme

19. Although STCL is not the subject of Receiver Janvey's present application, its position is relevant to an understanding of SIBL.

20. STCL was principally in the business of administering trusts for clients. STCL was controlled by Stanford and Davis from the USA, just as SIBL was. The assets that fund the STCL-administered trusts consist mostly of SIBL CDs. In other words, it appears STCL helped feed money to SIBL, a principal intake point for the Ponzi apparatus.

21. STCL's records indicate that it loaned money to Stanford and to SIBL and also invested heavily in a Stanford Entity located in Colombia. At December 31, 2008, STCL's three largest assets, other than cash and cash equivalents of approximately $11.3 million, were a $1.6 million note receivable from Allen Stanford, a $2.6 million receivable from SIBL, and approximately $8.6 million invested in Stanford S.A. Comisionista de Bolsa.

22. STCL's brokerage accounts are predominantly held at Pershing LLC, in Jersey City, New Jersey, USA, and in affiliated Stanford Entity brokerage houses located in Latin America.

(4) Almost all essential support functions for SIBL were provided from the USA.

23. Almost all essential support functions for SIBL and STCL were provided from the USA by employees of Stanford Financial Group Co., Stanford Global Management, and other Stanford Entities. These functions included treasury services (i.e., cash management and transfer functions), accounting, investment management, human resources, legal, and payroll. They were provided by Stanford Entity employees located in Houston, Texas, Memphis, Tennessee, Tupelo, Mississippi, Miami, Florida and Christiansted, USVI.

24. In addition, Stanford Group Company, located in Houston, Texas, provided SIBL with financial consulting and advisory services, including management of SIBL's merchant banking portfolio.

(5) Almost half of SIBL's CD sales were generated from the USA, and only a small amount from Antigua.

25. Most of the sales force for SIBL CDs and STCL trust arrangements was located in the USA. Further, substantially more SIBL CD sales, by dollar amount, were generated from the USA than from any other country, including Antigua. Because SIBL CDs were sold by Stanford brokers on a commission basis, commission records provide a reasonable basis for deriving relative sales percentages from the various countries. The relative sales percentages for 2008, derived from financial statements and commission records, show that during 2008, almost one-half of CD sales were generated by Stanford brokers located in the USA. In contrast, based only upon this same information, only half that amount -- approximately 25% -- was attributed to an entity located in Antigua. However, we believe there is little correlation between the 25% and where the CD

purchasers were located. A large portion of the sales attributable to the Antiguan sales force related to CDs purchased by trusts administered by STCL. This likely means that the beneficial owners of the CDs were not Antiguan. We are not attorneys, but understand that STCL and SIBL, as Antiguan International Business Corporations, were legally required to serve primarily non-Antiguans. Thus, one would expect none or a very small amount would be invested by Antiguans.

(6) Almost all CD holders are non-Antiguans. More CDs by dollar amount are held by residents of the USA, than by residents of any other country.

26. Based on our review of SIBL data, it appears that the vast majority of SIBL CD holders are non-Antiguans. In fact, it appears that more CDs, by total value, are held by USA residents than by residents of any other country. This conclusion is consistent with our understanding of SIBL's function as an off-shore bank designed to serve primarily off-shore clients.

(7) Most of SIBL's sales proceeds did not pass through Antigua.

27. I understand from reviewing bank statements and other accounting records that most of SIBL's CD sale proceeds did not even pass through Antigua and those that did were promptly sent out of the country (See KVT4, CD investor wiring instructions).

a. Investors who paid by check sent their checks to SIBL in Antigua, where they were bundled and sent daily to Trustmark Bank in Houston, Texas, for deposit there.

b. Investors who paid by wire transfer were instructed to send their money to Toronto Dominion in Toronto, Ontario, Canada.

c. Investments denominated in Euros or other European currency were to be sent to HSBC in London, United Kingdom.

d. If any SIBL CD sales proceeds were actually paid by investors at SIBL's offices in Antigua, I believe it was likely a small amount relative to overall sales.

(8) The proceeds of CD sales soon left SIBL's accounts and were distributed throughout the Stanford empire.

28. Through a preliminary analysis of the financial records, we have been able to trace the flow of SIBL funds over the last year.

a. During 2008, approximately $474 million funds were transferred from SIBL's accounts at Toronto Dominion to SIBL's operating account at Bank of Houston .

b. From the Bank of Houston, some of the funds went to investments in various public and private companies, which were then managed as part of Tier 3 under the direction of Davis (see para 11 above).

c. Some of the funds transferred to the Bank of Houston were then distributed among various other Stanford Entities. In 2008, alone approximately $300 million of SIBL funds was disbursed from the Bank of Houston among various Stanford Entities.

d. Some of the funds that remained in the Toronto Dominion account were transferred through Houston, Texas banks to various investment firms in the USA and Europe, where they were managed as Tier 2 investments under the direction of Holt from the USA as set out above.

(10) Approximately $100 million in notes receivable held by SIBL are owed by USA residents.

29. As of December 31, 2008, SIBL listed as assets on its balance sheet approximately $172 million in notes receivable from clients. Detailed records for these loan accounts reside in Stanford's offices in Houston. My analysis indicates that approximately $100 million of the total outstanding loan balances are owed by USA residents. The actual percentage of loan balances owed by USA residents may be higher. Consistent with very few CD's being owned by Antiguans, very little of the customer loan balance is owed by Antiguans.

SWORN at)
)
This 1 day of April, 2009)
In the presence of)
)

Karyl Van Tassel

Notary Public
My Commission Expires: 5/25/09

IN THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE
Claim No. 0126 of 2009

IN THE MATTER OF THE INTERNATIONAL BUSINESS CORPORATIONS ACT, CAP. 222

AND IN THE MATTER OF THE PETITION FOR THE COMPULSORY WINDING UP OF STANFORD INTERNATIONAL BANK LIMITED

BETWEEN

ALEXANDER M. FUNDORA
Claimant

-and-

STANFORD INTERNATIONAL BANK LIMITED
Defendant

-and-

RALPH STEVEN JANVEY
(Acting in his capacity as the Receiver duly appointed in relation to the above named Defendant by order of the United States District Court for the Northern District of Texas, Dallas Division on 16 February 2009)

Interested Party/Proposed Defendant

AFFIDAVIT OF
KARYL VAN TASSEL
