

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

SECURITIES AND EXCHANGE	§	
COMMISSION,	§	
	§	
	§	
Plaintiff,	§	
v.	§	
	§	
STANFORD INTERNATIONAL BANK,	§	
LTD, <i>et al.</i> ,	§	Case No. 3-09-CV-0298-N
	§	
Defendants.	§	
	§	
	§	
	§	
	§	

**AGREED MOTION FOR ORDER AUTHORIZING AND APPROVING
RECEIVER’S AGREEMENT WITH OFFICIAL INVESTORS COMMITTEE
CONCERNING PROSECUTION OF CERTAIN FRAUDULENT TRANSFER
AND OTHER CLAIMS, AND REQUEST FOR EXPEDITED HEARING**

Ralph S. Janvey, as Receiver for the defendants and all Stanford-owned entities (the “Receiver”), the Official Stanford Investors Committee (the “Committee”), and John J. Little, as Examiner (the “Examiner”), respectfully move this Court for an order authorizing and approving an agreement concerning the prosecution of certain claims and causes of action by the Committee, pursuant to this Court’s order establishing the Committee dated as of August 10, 2010 (Doc. No. 1149) (the “Committee Order”).

1. On or about February 16, 2009, this action was commenced by the United States Securities and Exchange Commission (the “SEC”).

2. At the request of the SEC, this Court, by Order dated as of February 16, 2009 (Doc. No. 10), as amended on March 12, 2009 (Doc. No. 157) and July 19, 2010 (Doc. No. 1130) (“Amended Receivership Order”), appointed the Receiver to act as receiver for all the assets and records (the “Receivership Estate”) of Stanford International Bank., Ltd. (“SIBL”), Stanford Group Company, Stanford Capital Management, LLC, R. Allen Stanford, James M. Davis and Laura Pendergest-Holt, and of all the entities they own or control (collectively the “Defendants”). The SEC alleges that the Defendants perpetrated a multi-billion dollar fraudulent scheme.

3. By motion dated September 10, 2009 (the “Bankruptcy Motion”) (Doc. No. 772), certain SIBL investors (the “Movants”) requested that this Court enter an order lifting the injunction contained in paragraph 10(e) of the Amended Receivership Order, to enable the Movants to file an involuntary bankruptcy petition against one or more of the Defendants.

4. Following extensive briefing and a hearing held before this Court, the Receiver, the Movants, the SEC and the Examiner all agreed to resolve the issues raised in the Bankruptcy Motion through the appointment of the Committee, whose mission is to, inter alia, (i) establish cooperation and coordination of the Receiver and Stanford Investors’ efforts to identify and prosecute certain potential legal claims against third parties that may inure to the benefit of the Receivership Estate and Stanford creditors, (ii) provide the investor community with a direct voice in these proceedings and other related legal proceedings arising from the Stanford fraud, and (iii) otherwise create a framework

for all interested parties to work together in an effort to maximize recoveries for investors in these cases.

5. Following a hearing on notice to all creditors and parties in interest, this Court approved the appointment of the Committee and entered the Committee Order.

6. As contemplated by the Committee Order, the Committee consists of seven members: Peter D. Morgenstern, Edward Snyder, Edward Valdespino, Angela Shaw Kogutt, John Wade, Jaime Pinto, and John J. Little, the Examiner. Mr. Little currently serves as the chairperson of the Committee.

7. Pursuant to the Committee Order, the members of the Committee have met and communicated with each other regularly by telephone and in person, and have also met on at least a monthly basis with the Receiver, and his attorneys and other advisors. Pursuant to a Confidentiality Agreement executed by the Receiver and the Committee, the Committee has received, reviewed and analyzed thousands of pages of background documents and analyses provided to the Committee by the Receiver and his professional team. The Committee has had numerous discussions with the Receiver and his professionals concerning the legal proceedings that have already been commenced by the Receiver against third parties on fraudulent transfer and other theories, and about other potential legal claims and causes of action that the Committee believes could and should be brought on behalf of the Receivership Estate and investors against third parties, which the Committee believes could result in significant recoveries.

8. Pursuant to the Committee Order, the Receiver and the Committee are not only required to cooperate in the identification and prosecution of certain actions and

proceedings which might benefit the Receivership Estate and Stanford Investors, but also to endeavor to consensually determine which such legal actions should be prosecuted by the Receiver, and which would more appropriately be brought or continued by the Committee, in its own name, and on behalf of the Receivership Estate. In evaluating this question, the Committee and the Receiver have been acutely mindful of the substantial costs and expenses which have already been incurred by the Receiver and his team of professionals, the uncertain nature of all litigation, and the desire to minimize further direct costs to the Receivership Estate in the future. In trying to balance these concerns with the Committee's belief that viable claims against certain third parties should be vigorously pursued, the Receiver, the Committee and the Examiner have together endeavored to fashion a litigation strategy that they believe will be most cost-effective, but will also result in the greatest possible recovery for the Receivership Estate and Stanford investors.

9. To that end, the Receiver, the Examiner and the Committee have jointly identified a number of potential "fraudulent transfer" and similar claims that they believe should be brought under common law or statute (including, but not limited to, Tex. Bus. & Comm. Code §24.005) against third parties which received direct or indirect transfers from, or at the direction of, one or more Stanford entities or individuals prior to the appointment of the Receiver. *See* Paragraph 1 of the Letter Agreement annexed hereto as Exhibit "A" (defining the "FT Claims"). The Committee, the Receiver and the Examiner believe that the coordination and prosecution of the FT Claims in a cooperative and

concerted fashion would be in the best interest of Stanford investors, creditors and the Receivership Estate.

10. Accordingly, and after extensive consultation, the Receiver, the Committee and the Examiner have agreed that the FT Claims (with the exception of claims and potential claims against Stanford investors and former financial advisors) should be prosecuted by the Committee, in cooperation with the Receiver and his professional team, but through attorneys of the Committee's choosing, on a contingency fee basis. In this way, the Receivership Entities will not be responsible for significant ongoing professional fees in connection with prosecution of the FT Claims, and all such fees will be paid only out of litigation recoveries in the event that such claims are successfully settled or litigated.

11. By this Motion, the Receiver, the Committee, and the Examiner seek approval of an agreement (the "Agreement") between the Committee and the Receiver, dated as of December 16, 2010, pursuant to which the Committee will pursue the FT Claims (and possibly other potential claims to be identified in the future by the Receiver and the Committee), on behalf of itself and the Receivership Estate. A copy of the Agreement is annexed hereto as Exhibit "A".

12. Subject to this Court's approval of this Motion, and pursuant to the Agreement, the professionals designated by the Committee (including certain of the attorney members of the Committee) will prosecute the FT Claims on a "contingency fee" basis. The Agreement provides that the Committee's professionals will receive as a fee twenty-five percent (25%) of the net recovery achieved in respect of each FT Claim,

plus reimbursement of certain limited actual and necessary expenses. The Committee has agreed to minimize such out of pocket expenses, which will be reimbursed at their actual cost. Importantly, no fee will be paid in respect of the litigation of any FT Claim that does not result in a recovery to the Receivership Estate, by litigation or settlement.

13. Also pursuant to the Agreement, the parties request that this Court authorize the Committee to settle any FT Claim (with the exception of claims and potential claims against Stanford investors and former financial advisors) on such terms and conditions that the Committee believes to be appropriate, subject to prior consultation with the Receiver. Pursuant to the Agreement, the Committee will be required to provide the Receiver with at least five days prior written notice of its intent to settle any FT Claim (including the substantive details of the proposed settlement), and the Receiver will be required, within five days of receipt of such written notice from the Committee, to notify the Committee that he either consents or objects to the proposed settlement. If the Receiver objects, the Committee will be required to seek and obtain Court approval prior to consummating any such settlement. The parties believe that this procedure, which will safeguard the confidentiality of the terms of any proposed settlement, and even the identity of any target who settles prior to the commencement of litigation, is absolutely necessary and important to facilitate the Committee's effort to achieve the best possible settlement from each potential defendant. Similar settlement protocols have been adopted in the Madoff case and other cases.

14. The Agreement is not intended to alter the applicability of Fed. R. Civ. P. 23 to any FT Claim prosecuted on a class basis. Moreover, the Agreement is not

intended to alter any duties the Receiver has under the Second Amended Receivership Order to provide the Securities and Exchange Commission and other governmental agencies with information and documentation they may seek in connection with regulatory or investigatory activities, including but not limited to the duties referenced in paragraph 5(k) of the Second Amended Receivership Order.

15. The Receiver, the Committee and the Examiner respectfully request that the Court consider this motion on an expedited basis, at the Court's earliest convenience. Under applicable law, certain of the FT Claims may be covered by statutory limitations periods, and it is therefore essential that the time period for bringing valuable FT Claims not lapse through inaction. The Receiver, the Committee and the Examiner respectfully submit that approval of the Agreement is in the best interests of the Stanford investors, creditors and the Receivership Estate.

16. Notably, the Agreement is subject to, and is intended to supplement, and not to amend, the provisions of the Committee Order.

17. Based on all the foregoing, the Receiver, the Committee and the Examiner respectfully request that this Court enter an order authorizing and approving the Agreement and granting such other and further relief that the Court may deem just and proper.

Dated: January 10, 2011

Respectfully submitted,

OFFICIAL STANFORD INVESTORS COMMITTEE

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CERTIFICATE OF CONFERENCE

Counsel for the Receiver conferred with the parties to this case. The only party to oppose this motion is Allen Stanford.

Counsel for the Receiver conferred with David Reece, counsel for the SEC, who stated that the SEC is unopposed to this motion and the relief requested herein.

The Court-appointed Examiner supports this motion as evidenced by his signature above.

Counsel for the Receiver conferred with Alan Yee, counsel for R. Allen Stanford, who stated that Mr. Stanford is opposed to this motion and the relief requested herein.

Counsel for the Receiver conferred with Jeff Tillotson, counsel for Laura Pendergest-Holt, who stated that Ms. Pendergest-Holt takes no position on this motion or the relief requested herein.

Counsel for the Receiver conferred with Kenneth Johnston, counsel for Trustmark National Bank, who stated that Trustmark takes no position on this motion or the relief requested herein.

Counsel for the Receiver conferred with Manuel P. Lena, Jr., counsel for the DOJ (Tax Division), who stated that the IRS is unopposed to this motion and the relief requested herein.

Counsel for the Receiver attempted to confer with David Finn, counsel for James Davis, who did not provide a response regarding Mr. Davis's position on this motion or the relief requested herein. David Finn represented that he has withdrawn from this case, and did not provide any information regarding Mr. Davis's new counsel, if any.

Counsel for the Receiver conferred with Joe Kendall, counsel for Susan Stanford, who stated that Mrs. Stanford takes no position on this motion or the relief requested herein.

Counsel for the Receiver conferred with Jason Brookner, counsel for HP Financial Services Venezuela C.C.A., who stated that HP takes no position on this motion or the relief requested herein.

Counsel for the Receiver conferred with William Stellmach and Andrew Warren, counsel for the DOJ (Fraud Division), who stated that the DOJ (Fraud Division) takes no position on this motion or the relief requested herein.

Counsel for the Receiver conferred with John Helms, counsel for Mark Kuhrt, who stated that Mr. Kuhrt takes no position on this motion or the relief requested herein.

The motion is, therefore, opposed.

CERTIFICATE OF SERVICE

On January 10, 2011, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served the Court-appointed Examiner, all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Kevin M. Sadler

Kevin M. Sadler

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ORDER GRANTING AGREED MOTION FOR ORDER AUTHORIZING AND APPROVING RECEIVER’S AGREEMENT WITH OFFICIAL INVESTORS COMMITTEE CONCERNING PROSECUTION OF CERTAIN FRAUDULENT TRANSFER AND OTHER CLAIMS

Before the Court is the Agreed Motion (the “Motion”) for Order Authorizing and Approving Receiver’s Agreement with Official Investors Committee Concerning Prosecution of Certain Fraudulent Transfer and Other Claims (the “Agreement”). The Court, having reviewed the Motion and the Agreement, is of the opinion that the relief requested in the Motion is in the best interest of the Receivership Estate. The Motion is hereby GRANTED in all respects.

IT IS ORDERED THAT the Receiver is authorized and empowered to enter into the Agreement and to take all actions contemplated thereunder.

IT IS FURTHER ORDERED THAT the Agreement will not alter any duties the Receiver has under the Second Amended Receivership Order to provide the Securities and Exchange Commission and other governmental agencies with information and documentation they may seek in connection with regulatory or investigatory activities, including but not limited to the duties referenced in paragraph 5(k) of the Second Amended Receivership Order (Doc. 1130).

IT IS FURTHER ORDERED THAT the Agreement will not alter the applicability of Fed. R. Civ. P. 23 to any FT Claim (as that term is defined in the Agreement) prosecuted on a class basis.

IT IS FURTHER ORDERED THAT the fee arrangement set forth in paragraph 5 of the Agreement is reasonable and that no further application to the Court is necessary prior to payment of such fees unless otherwise required by Fed. R. Civ. P. 23.

IT IS FURTHER ORDERED THAT the Receiver and the Official Investors Committee shall submit joint reports to the Court on a quarterly basis stating the number of FT Claims they have settled, the amounts the Receiver has received relating to such settlements and the amounts of fees and expenses paid by the Receiver to counsel and other professionals retained by the Official Investors Committee.

Signed: January __, 2011.

DAVID C. GODBEY
UNITED STATES DISTRICT JUDGE