TESTIMONY OF ANGELA SHAW KOGUTT
DIRECTOR AND FOUNDER
STANFORD VICTIMS COALITION

HOUSE FINANCIAL SERVICES SUBCOMMITTEE ON CAPITAL MARKETS AND GOVERNMENT SPONSORED ENTERPRISES

NOVEMBER 21, 2013

Good morning. My name is Angela Shaw Kogutt, and I am the Director and Founder of the Stanford Victims Coalition, a nonprofit advocacy group for the victims of the Stanford Financial Group Ponzi scheme.

Chairman Garret and Ranking Member Maloney, thank you for holding this hearing today to discuss a much-needed amendment to the Securities Investor Protection Act of 1970 (SIPA). I applaud you both for your leadership in introducing H.R. 3482, the "Restoring Main Street Investor Protection and Confidence Act," which has given hope to thousands of financially devastated investor victims across the country who feel they've been unfairly denied the protection of which the SEC has determined they are entitled. Also, thank you to the distinguished Subcommittee Members who have already joined H.R. 3482, and to those of you here today to consider this important legislation.

I want to point out right away that I am not the typical face of Stanford victims. I am a second-generation victim. Most of the victims are senior citizens, and for the past almost five years now, I have spent a majority of my life serving as their advocate, hoping to help recover some of their losses. I've done this because I am younger than they are, and because they deserve it.

Like thousands of other Stanford victims, my life was forever changed by the events of February 17, 2009. As we watched the news and feared the worst in the immediate aftermath of Madoff's confession, we eventually realized that Allen Stanford had stolen what two generations of my family worked four decades to build—and he did it through Stanford Group Company (SGC), a registered broker dealer and member of the Securities Investor Protection Corporation (SIPC) the SEC had known for more than a decade was operating a Ponzi scheme. While Madoff had outsmarted the SEC, Stanford hadn't, and the SEC *knew* for 12 years that he was using his U.S. broker dealer to steal customer funds intended to purchase CDs from Stanford International Bank (SIB). In that time frame, the Stanford Ponzi scheme grew by more than $5 billion.

My father-in-law is an 87-year-old World War II veteran and first-generation American who, again like so many Stanford victims, was able to live the "American Dream," only to have it snatched away practically overnight. In 1965, he started a manufacturing business with a few thousand dollars borrowed from family members. He and my mother-in-law put in long hours for several years, and eventually all three of their sons—including my husband—joined the business. The family worked together for more than three decades to build the business to more than 300 employees and close to $20 million a year in revenue. At that point, the business had outgrown the family, and they made the decision to sell it at just the right time—before the economic collapse in 2008.

As soon as the sale of the business closed, the lawyer who handled the transaction advised us to invest it with a brokerage firm that specialized in managing large accounts. She then recommended what she called a "boutique" brokerage firm, Stanford Group

Company, which specialized in high wealth clients. The family had never heard of Stanford, but agreed to have a meeting, which she arranged. But the family didn't just go with her recommendation outright. Other firms were also considered, but Stanford really stood out because of their enthusiasm, their professionalism, their high public profile, the top-notch credentials of their advisors, and what we misinterpreted as genuine and sincere interest in our investment goals. What we didn't know is that the Financial Advisors at Stanford Group Company were hooked on what they internally called "Bank Crack"—the highly lucrative commissions and bonuses they received for selling certificates of deposit from Stanford International Bank in Antigua. Also, little did we know, none of the Financial Advisors at Stanford Group Company knew what assets were held (if any) in Stanford International Bank's investment portfolio. How someone who has a fiduciary duty to their clients could recommend putting any of their funds in an investment vehicle for which they didn't even know what the underlying investments were seems extremely questionable, but that was also an inside secret that Stanford paid them enough to overlook.

Ultimately, a substantial portion of the proceeds from the sale of the family's business was entrusted to two Stanford Group Company Financial Advisors, Patrick Cruickshank and Bill Leighton. At the very first meeting with Bill and Patrick, the family explained they were very conservative and risk averse. Bill, an estate planning lawyer, and Patrick, a Certified Financial Planner and NFL, NBA, and NHL approved Financial Advisor with a Series 7 license, told us their safest, most conservative investment was their exclusive, signature product—the Stanford International Bank CD program for Accredited Investors.

We learned at that meeting that the entire Stanford Financial Group of Companies, which included Stanford Group Company, Stanford International Bank, Stanford Trust Company, and more than 100 other Stanford entities all owned by Allen Stanford--was headquartered and operated out of Houston, Texas, and regulated by the SEC and numerous state securities regulators as SGC had 33 offices across the country.

When the family expressed concern about the "international" aspect of the investment, we were told that Allen Stanford, a Texan like us, managed all of his company's operations from the U.S., and that even the bank's portfolio was managed by Stanford Capital Management (SCM) in Memphis, Tennessee. SCM, which was also regulated by the SEC, purportedly had a team of expert money managers overseeing the purported $8 billion SIB bank portfolio. SCM was also regulated by the SEC, so the international CDs started sounding more like domestic securities and not like a risky investment. The best part about the international bank CDs, we were told, was that the Stanford International Bank CDs were securities backed by SIPC and even Excess SIPC so our entire investment would be insured "dollar for dollar," whereas a U.S. bank CD would only be protected by FDIC for $100K. The interest rate was only 1.6% higher than a U.S. bank CD so this security CD thing sounded pretty safe—especially since it was all regulated by the SEC. Plus, the "dollar for dollar" protection meant a lot to us.

But, as conservative as our family is, we didn't just buy the Stanford hype right away, although it was impressive—glossy brochures, beautiful annual reports, slick personalized presentations—all prominently emblazoned with "SIPC Member." We hired an attorney to conduct due diligence on Allen Stanford and the Stanford Financial Group of Companies. Her report stated she found no red flags—only a handful of disgruntled employee lawsuits that had been dismissed.

Now that our lawyer had given us the go ahead, three separate family members signed Customer Agreements with Stanford Group Company and opened SGC brokerage accounts for the very purpose of purchasing the CDs. Pershing served as the custodian for SGC customer's investments, and SGC had the authority to buy and sell securities in our account. We were instructed by SGC on how to fund the brokerage accounts in order for SGC to effectuate the transaction to purchase the SIB CDs. On January 31, 2008, three members of the family invested a totally of $4.5 million. And just like that, the "American Dream" was gone, and the thieves proudly displayed the SIPC logo everywhere we looked—because they were required to.

In the aftermath of the collapse of the Stanford Financial Group, SIPC immediately, and admittedly without seeing any documents except the SEC's complaint against Stanford, et al, made an adamant public announcement that Stanford victims did not qualify for protection under the Securities Investor Protection Act (SIPA).

Almost five years later and SIPC has continued denying protection to Stanford Group Company customers by saying we received the securities we purchased through SGC, which simply isn't true. Our money was stolen. How could we have gotten any security when the owner of the broker dealer stole our funds? Allen Stanford is serving a

110-year jail sentence for stealing our money right here in the US—not for committing an Antiguan bank fraud (which has not been alleged in Antigua).

In November 2009, the Stanford Victims Coalition formally asked the SEC to review SIPC's determination about SGC customers' right to protection under SIPA. After more than a year of the SVC suffering the burden of proof and producing hundreds of SGC customer documents at a time, only to have the target moved and more documents requested, it appeared the SEC was obviously avoiding making a determination. The SVC's members then asked our political leaders to urge the SEC to make a determination. More than 50 Members of the House and Senate signed on to a letter asking the SEC to give the SVC an answer. Still, no answer—only repeated promises that a vote would happen "soon," which I've now learned in SEC language could be months or even years given the way they've handled the Stanford case. Finally, when it appeared this game would go on forever while Stanford victims were losing their homes and going without life necessities, Senator Vitter blocked the nomination of an incoming SEC Commissioner until Stanford victims were given an answer. Senator Vitter never told the SEC how to vote—just to take a fair vote and give the victims an answer. The vote was taken, and as the SVC and counsel had hoped, the SEC determined that SGC customers WERE entitled to protection under SIPA because the SIB CDs were fictitious securities, and the SGC customer funds intended to purchase the CDs were either acquired by Stanford Group Company to pay the broker dealer's expenses, or were outright stolen by Allen Stanford (*see attached affidavit of Karyl Van Tassell*).

Of course SIPC refused to comply with the SEC's recommendation to initiate a liquidation of SGC in order to pay net equity claims for SGC customers, and the SEC took the unprecedented action to initiate an Enforcement Action against SIPC by asking for a court order to compel SIPC to discharge its obligation under SIPA.

The animosity Stanford victims have seen from SIPC is truly astonishing. SIPC President Stephen Harbeck even told a Senate staffer he would resign if SIPC had to pay claims to Stanford victims. What kind of investor protection regime is led with that kind of mentality? Certainly not one looking out for investors who entrust their savings to a SIPC member firm.

Stanford victims did not simply make a bad investment in a worthless security. We didn't even make an investment. We tried, but our money was intercepted before any security could be purchased.

Stanford Group Company customers wired funds to their Pershing accounts, wrote checks they handed to their SGC advisor, or rolled their IRA over directly to Stanford Group Company. NONE of those funds went to Stanford International Bank in Antigua. They went to Allen Stanford's or to the SGC Financial Advisors pockets. No CDs were purchased. No CDs even existed.

What Allen Stanford and the Stanford Financial Group did can only accurately be described as an act of **financial terrorism**. Now SIPC has apparently become an accomplice as it has gone out of its way to avoid applying the case law in similar SIPC cases in which the owner of a SIPC-member broker dealer used an affiliate entity to launder customer funds in order to steal them.

SIPC has grossly mislead Congress and the Courts about the REAL facts of this case, and even convinced the SEC to agree to stipulations in the District Court that were absolutely false (see *attached email exchange with SEC Chief Litigator Matt Martens*).

I can say in all sincerity and honesty that Stanford's victims are good, hardworking and law-abiding people. They are the kind of people you want as neighbors, friends and family. They are middle-class people who were targeted because they had a nest egg. They are war veterans, retired teachers, nurses, small business owners, refinery workers—the kind of small investors SIPA was enacted to protect

We did *not* simply lose our investments with the Stanford Financial Group; our investments were *stolen*. SIPC may not protect fraud, but it is supposed to protect theft.

No one could imagine the harrowing stories I've heard from Stanford victims all over the world. They range from not having money to bury family members to not being able to afford life-saving medical treatments. I've watched as so many have died impoverished. I have received letters from victims on their death beds pleading with me to help their surviving relatives recover their inheritances. I've received phone calls from sobbing strangers in foreign countries explaining their hardships in broken English. Countless victims have been, and are suicidal. Some have even taken their own lives.

The impact of this crime is immeasurable, and it is truly a human tragedy as well as a financial one. Allen Stanford thrived on cheating the system while preying on the middle class, and our financial regulatory structure let him do it. They knew what he was doing.

FINRA knew Stanford Group Company was in financial difficulty, and SIPC was either not notified or just didn't act.

Chairman Garrett, Ranking Member Malony and the honorable members of the subcommittee, thank you for hearing me today. I urge you to pull the reigns in on SIPC. It is not above the federal government, yet it is spending its fund litigating against its federal oversight authority. The SIPC fund was created by Congress to be used to protect investors, not cost our taxpayers an untold amount of money by engaging in time consuming litigation while innocent, elderly investors who entrusted their funds to a SIPC member are left out here with no safety net and SIPC is acting as our adversary rather than our advocate.

Thank you for your time and your attention.

EXHIBITS

STANFORD FINANCIAL GROUP PONZI SCHEME
FACT SHEET

STANFORD GROUP COMPANY: BACKGROUND

- Stanford Group Company (SGC) was an SEC-registered broker dealer and SIPC member. SGC had more than 30 offices throughout the US with more than 250 FINRA-Registered Representatives.
- Stanford International Bank was an offshore bank registered in Antigua.
- SGC's Registered Reps sold approximately $2 billion worth of fictitious Stanford International Bank (SIB) CDs to 5,000 US investors in 46 states.
- Both SGC and SIB were wholly owned by Allen Stanford, and operated under the umbrella brand of The Stanford Financial Group of Companies, headquarted in Houston, Texas.
- The SIB CDs were sold to US citizens as securities disclosed to the SEC under a Regulation D exemption, which was filed annually with SEC. Although Regulation D requires buyers to be "accredited investors," many SGC clients who were sold the fictitious CDs did not meet the accreditation requirements. Neither the SEC, nor FINRA have taken enforcement action against the SGC Reps who violated this critical requirement under the Regulation D exemption.
- SGC Reps targeted middle-class, retirement-age investors to invest their brokerage account holdings, including IRAs and pension plans, in the SIB CDs.
- For most SGC customers, their SIB CD investments represented their entire life savings. Approximately 80% had account balances less than $500K.
- SGC customer funds intended to purchase the CDs were *never sent to SIB*. Funds were laundered through (primarily US) banks, and used to pay earlier investors, SGC's expenses and support Allen Stanford's lavish lifestyle.
- SGC was financially dependent on referral fees for selling the SIB CDs, and additional shareholder capital contributed by Allen Stanford in the form of "loans" from SIB. Both the fees and the additional capital—both disclosed on SGC's monthly financial statements filed with FINRA—came from the stolen SIB CD funds.
- The SEC's examination of SGC in 1998 specifically noted millions of dollars in SGC capital contributions came from misappropriated SIB CD funds belonging to SGC's customers.
- Stanford Trust Company (STC) in Baton Rouge, La., also wholly owned by Allen Stanford, held custody of approximately $400 million of SGC customers' IRAs that were invested in the SIB CDs. STC was a subsidiary of SGC—as disclosed in audits filed annually with the SEC. STC's operations were governed by a Board of Directors that included SGC employees.
- Most of the SGC customers who purchased SIB CDs used their brokerage accounts (held for SGC by a third party custodial firm) to fund the CD transactions. Others wrote checks made out to SGC, Stanford Trust Company, SIB or just "Stanford."
- The CDs were sold by SGC Registered Reps along with other securities, and ALL products were sold as SIPC-insured investments.
- In November 2009, the Stanford Victims Coalition (SVC) formally asked the SEC to review SIPC's determination that SGC customers met the statutory requirements for compensation up

to $500K under the Securities Investor Protection Act (SIPA).

- From December 2009-May 2011, the SVC provided the SEC with thousands of SGC customer documents in order to prove their right to protection under SIPA.
- In June 2010, by a vote of the Commissioners, the SEC determined that SGC should be liquidated under SIPA, and authorized the SEC Division of Enforcement to seek a court order to compel SIPC if its Board of Directors refused to comply.
- In November 2011, SIPC took the unprecedented action to defy the SEC's plenary authority over SIPC by refusing to commence a SIPA liquidation of SGC. SIPC launched a PR campaign against protecting SGC customers, and hired two outside law firms to defend its actions.
- In December 2011, the SEC filed an application with the District Court in Washington, D.C. seeking an order to compel SIPC to discharge its obligations under SIPA by initiating a liquidation of SGC.
- In the District Court proceedings, the SEC agreed with SIPC on 8 stipulations—at least half of which were factually incorrect.
- In July 2012, the D.C. District Court, citing the erroneous stipulations, denied the SEC's application.
- In August 2012, more than 50 Members of Congress asked the SEC to appeal the District Court's decision, which the SEC agreed to.
- As of June 2013, the SEC vs. SIPC appeal is fully briefed and pending oral arguments in the Circuit Court for the District of Columbia.

STANFORD GROUP COMPANY'S REGULATORY HISTORY

- Stanford Group Company (SGC) registered with the SEC in 1996 as both a broker dealer and an investment advisor.
- In its first exam of SGC in 1997, the SEC suspected a Ponzi scheme, and opened a Matter Under Inquiry (MUI), which was closed 30 days later after Stanford did not voluntarily submit the requested documentation. No further action was taken despite direct knowledge of SGC customer funds in jeopardy of being misappropriated or stolen.
- Three more SEC exams were completed between 1998 and 2004. Each concluded that Stanford was in violation of numerous securities laws, and that the SIB CDs were likely fraudulent. The size of the fraud, in each instance, was bigger than the SEC's entire budget. No action was taken.
- A formal SEC investigation was finally opened in 2005. The investigation took 4 years, during which SIB CD sales doubled. More than 85% of all SIB CD sales to US investors occurred from 2007 through 2009 when the SEC filed a civil lawsuit that took all Stanford entities into Receivership on Feb. 16, 2009.
- The SEC blames the 4-year investigation delay on Stanford's lack of cooperation and Antigua's bank secrecy laws.
- None of the exams or the multi-year investigation of SGC were made public. The SEC had every reason and resource to stop the Stanford Ponzi scheme, but chose not to for 12 years. The longer the SEC took to act, the more legitimacy the SIB CDs had.
- SGC's financial statements filed with the SEC and FINRA showed SGC's dependence on

revenue from selling SIB bank CDs and large cash contributions from Allen Stanford, which were directly traced to loans from SIB. SGC showed an operating loss every year of its existence. Without SIB, SGC was insolvent. No protective action was taken.

- Dozens of SGC employees came forward to FINRA alleging fraudulent practices at SGC. FINRA arbitration favored SGC in every instance.
- In 2007, FINRA fined SGC $20,000 for failing to maintain minimum net capital requirements, and $10,000 for allegations of distributing "misleading, unfair and unbalanced information" about the SIB CDs.
- In 2008, FINRA fined SGC $30,000 failing to adequately disclose its research methods used to report securities valuations.
- Stanford was under investigation by numerous US government agencies for more than 20 years. The DEA, FBI, US Attorney's Office, IRS Criminal Division, US Customs and the Federal Reserve all notified the SEC that Stanford was under investigation starting in 1999.
- In 1999, the US Treasury issued an advisory to all banks in the US warning them to scrutinize transactions to/from Antigua because of Stanford's role as the head of the regulator that oversaw his own bank. The advisory, lifted in 2011, was only the second of its kind against an entire nation.
- In 2001, the US Treasury entered into an information sharing agreement with the government of Antigua. The agreement gave Treasury access to information from any financial institution operating in Antigua if there was a suspected financial crime. During their 4-year investigation, the SEC never asked Treasury to help get information about SIB's assets.
- In 2001, the State of Texas entered into an information sharing agreement with the government of Antigua and Barbuda. The agreement allowed for the Texas Banking Department to examine the books and records of a financial institution in Antigua with offices in Texas. During their 4-year investigation, the SEC never asked the Texas Banking Department to help get information about SIB's assets.
- Leroy King, Director of Antigua's Financial Services Regulatory Authority (FSRC), was indicted in June 2009 for obstruction of the SEC's investigation of Stanford. However, starting in 2001, the US State Department provided the FSRC with all of its technology equipment. During their 4-year investigation of Stanford, the SEC never asked for the State Department's assistance with the uncooperative regulator in Antigua. King has not been extradited to the US to face charges.
- In February 2009, Antiguan government official Dr. Errol Cort was sued in the District Court in Dallas, Texas, for the return of more than $1 million fraudulently transferred to him in $25K monthly payments from Stanford. As Antigua's Minister of Finance from 2004-2009, Dr. Cort had full authority over and responsibility for the FSRC. Dr. Cort now serves as Antigua's Minister of National Security and heads up the Caribbean's security initiative partnership with the US—despite his obvious role in the Stanford Ponzi scheme.
- In February 2009, the Stanford Financial Group (SFG) entities were taken into Receivership after the SEC alleged the companies were in engaged in a "massive, ongoing fraud."
- In June 2009, seven former SFG employees were indicted for their involvement in the Stanford Ponzi scheme.
- In August 2009, former SFG Chief Financial Officer James Davis pleaded guilty to facilitating a Ponzi scheme with Allen Stanford. He was sentenced to 5 years in prison.
- In February 2012, Allen Stanford was found guilty by a jury of his peers in Houston, Texas. He

was sentenced to 110 years in prison.

- In September 2012, former SFG Chief Investment Officer Laura Pendergest Holt pleaded guilty to obstructing the SEC's investigation of Stanford in exchange for 20 other felony charges being dropped. She was sentenced to 3 years in prison.
- In February 2013, two former SFG accounting employees were found guilty by a jury of their peers in Houston, Texas. They were each sentenced to 20 years in prison.
- In May 2013, the District Court in Dallas, Texas, ruled in favor of the SEC in its civil lawsuit against Stanford, and order to disgorge $6.7 billion.
- After more than 4 years with no recovery of their losses, in June 2013, the District Court in Dallas approved the Receiver's request for a distribution of one cent on the dollar to Stanford's victims—for a total of $55 million. The expenses for the Receivership have exceeded $110 million.

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STANFORD VICTIMS COALITION

LEGAL PRECEDENTS FOR SIPC COVERAGE FOR SGC CUSTOMERS

The two primary reasons the SEC and SIPC have given to explain why Stanford Group Company (SGC) has not been put in liquidation under the Securities Investor Protection Act (SIPA) are:

1. SGC was an introducing broker dealer, which did not hold custody of customer funds or securities; and
2. SIPC does not cover securities that are worthless or have declined in value.

1. INTRODUCING BROKER DEALER AND CUSTODY STATUS

Many of SIPC's members are introducing broker dealers and SIPC has compensated customers of introducing broker dealers numerous times. Introducing broker dealers are SIPC members, in part, so that customers are protected if the broker dealer steals its customers' funds. The SEC and the DOJ have accused Allen Stanford of stealing customer funds.

SGC customers deposited funds with SGC (typically through its clearinghouse, Pershing LLC) with the legitimate expectation that the funds would be used to purchase Stanford International Bank (SIB) CDs. **Instead of purchasing SIB CDs, SGC acquired control of its customers' funds and the funds were stolen—*not* by SIB, but by SGC, the SIPC member.** (see attached for almost identical SIPC cases).

Additionally, the SVC has provided the SEC with numerous examples of customer documents indicating that many SGC customers did not receive their CDs and that the CDs were held at SGC. At least some SGC customers received CD statements from SGC with the words "Member FINRA/SIPC." The legitimate customer expectation for SGC clients is the CDs were purchased by SGC and were in SGC's custody protected by SIPC.

Investors in the US purchased SIB CDs *only* via SGC. Each SGC customer entered into an "Account Application and Agreement," which contains language indicating that customers were entering into an Agreement with SGC, member of NASD/FINRA and SIPC. **SGC customers had no legitimate reason to believe in any circumstance they were not SGC customers and protected by SIPC in the event the CDs were stolen or entirely fictitious.**

SGC customers' IRAs converted to the SIB CDs were held in the custody of Stanford Trust Company (STC) in Baton Rouge, LA. STC's Board Members were SGC employees who conducted STC's custodial functions.

The Stanford Receiver and SEC Enforcement have said SGC could not have survived financially without the sales of the CDs because the SIB CD referral fees accounted for a majority of SGC's revenues. According to the forensic accountant's declaration, these referral fees came directly from embezzled customer deposits.

SGC registered representatives who marketed and sold CDs to customers received forgivable loans as part of their compensation package. Additionally, SGC's registered representatives received commissions on CD sales, Performance Appreciation Rights Plan and bonus payments based on CD sales. According to the forensic accountant's declaration, the "loans" and other payments were made from embezzled SIB CD funds.

SGC received substantial capital contributions from Allen Stanford. The forensic accounting declaration states these contributions came directly from embezzled customer deposits.

2. WORTHLESS SECURITIES/ "FICTITIOUS SECURITIES"

SGC customers who purchased CDs are NOT seeking recovery for securities that are now worthless or that have lost value. **The SIB CDs that were not purchased by SGC for its customers are not worthless securities, they are entirely *fictitious*. Fictitious securities have been covered by SIPC in previous cases.**

The SEC and the DOJ have not accused Allen Stanford of simply *misappropriating* customer funds; the SEC and DOJ have accused Allen Stanford of *stealing* customers' funds that were intended to purchase SIB CDs. The SIB CDs were never real securities, serving as nothing more than as a vehicle to feed the Ponzi scheme. **According to the forensic accountant's declaration, SGC customer funds intended to purchase SIB CDs did not go to SIB.**

LEGAL PRECEDENTS THAT FAVOR SIPC COMPENSATION OF STANFORD GROUP COMPANY CUSTOMERS

There are two Court of Appeals cases that are strongly analogous to the facts in the Stanford case. In both cases, the Court ruled in favor of the investors over SIPC.

I. Customer Status for Introducing Broker-Dealer Clients

The fact that Stanford Group Company (SGC) was an introducing broker-dealer should not preclude coverage of SGC's customers under the Securities Investor Protection Act of 1970 (SIPA). SGC customers are in the same position as customers in *In re Old Naples Securities, Inc*. The United States Court of Appeals for the Eleventh Circuit held in *Old Naples* that customers of an introducing broker-dealer who thought they were purchasing bonds through the broker-dealer were "customers" of the broker-dealer within the meaning of SIPA and entitled to coverage under the statute.[1] Old Naples Securities, Inc. ("Old Naples") was an SEC-registered introducing broker-dealer, i.e., it did not clear and carry its customers securities accounts. Old Naples' owner, James Zimmerman, perpetrated a Ponzi scheme through the introducing broker-dealer. The customers believed that Zimmerman used their payments to purchase bonds in their names, but amounts received from some customers were used to make payments of fictitious interest to other customers who also thought that they had purchased bonds or to Zimmerman for his personal use.[2] The customers made payment for the bonds to a non-broker-dealer entity that Zimmerman also owned.[3] The fictitious interest paid to some customers was deposited into the customers' accounts at Old Naples' clearing firm.[4] Zimmerman ultimately could not sustain the Ponzi scheme, Old Naples collapsed, and SIPC initiated a liquidation of the broker-dealer under SIPA.[5]

On appeal to the Eleventh Circuit, SIPC and the trustee argued that the claimants were not customers for SIPA purposes because (1) the funds used to pay Zimmerman to purchase the bonds were wired to his non-broker-dealer entity, not to Old Naples; (2) the investments were not securities; and (3) the investments were poorly documented and paid such high rates of return that they could not be viewed as having been sold within Old Naples' "ordinary course of business."[6]

The Eleventh Circuit affirmed the district court order allowing the claims of Old Naples' customers in the SIPA proceeding.[7] First, the court affirmed the bankruptcy court's determination that the customers' had deposited cash with the debtor broker-dealer. The court reasoned that whether a claimant deposited cash with the debtor *"<u>does not ... depend simply on to whom the claimant handed her cash or made her check payable, or even where the funds were initially deposited</u>."*[8] Rather, the issue was one of *"'<u>actual receipt, acquisition or possession of the property of a claimant by the brokerage firm under liquidation.</u>'"*[9] Specifically, the court concluded that the bankruptcy court's determination that the claimants had no reason to know that they were not dealing with Old Naples was not in error.[10] Moreover, the court determined that Old Naples acquired control over the claimants' funds because the funds were used by, or at least for (through Zimmerman), Old Naples.[11] Zimmerman used the claimants' funds to pay Old

[1] *Old Naples*, 223 F.3d at 1303.
[2] *Id*. at 1301.
[3] *Id*.
[4] *Id*. at 1300.
[5] *Id*.
[6] *Id*. at 1302.
[7] *Id*. at 1305.
[8] *Id*. at 1302.
[9] *Id.* quoting *SEC v. Kenneth Bove & Co.*, 378 F. Supp. 697, 700 (S.D.N.Y. 1974).
[10] *Id.* at 1303.
[11] *Id.*

Naples' expenses. *"[T]he funds of the individual claimants in this cased were used by the owner of Old Naples Securities for the benefit of Old Naples Securities*."[12]

II. Claims for Worthless Securities vs. Fictitious Securities

Of course SIPA does not cover losses to customers due to changes in the market, or loss of value of securities. The losses of SGC customers are not due to loss in value of the Stanford International Bank (SIB) CDs. Customer funds were never used to purchase legitimate securities – customer funds were used to feed the Stanford Ponzi scheme. The SEC has taken the position in litigation related to the Stanford Receivership that an entity that operates as a Ponzi scheme "*is, as a matter of law, insolvent from its inception*."[13] An insolvent entity cannot issue legitimate securities, however, SGC customers' funds did not even go to SIB. The SIB CDs that were not purchased by SGC for its customers are not worthless securities, they are entirely *fictitious*. In the past, the Commission has argued that "*a customer's legitimate expectations," ought to be protected "regardless of the fact that that the securities were fictitious.*"[14]

SGC's customers are in the same position as the customers who were the subject of *In re New Times Securities Services, Inc*. In *New Times*, William Goren sold fictitious mutual fund shares, as well as shares of bona fide mutual funds, to investors via two entities, one a register broker-dealer that was a SIPC member, and the other a non-broker-dealer entity.[15] The mutual funds in which investors thought they were investing never existed.[16] Although the investors received confirmations and account statements indicating that their payments had been invested in mutual funds, Goren had stolen their money.[17]

The SIPA trustee took the position that *New Times* investors in fictitious securities had claims for cash subject to the $100,000 SIPA limit on cash advances. *New Times* investors whose cash Goren stole, but who were misled into believing that he had purchased existing mutual fund shares were treated as having claims for securities.[18]

The Second Circuit held that the *New Times* investors who purchased fictitious securities had "claims for securities." In doing so, the court gave deference to the position of the Commission over that of SIPC. The Commission in *New Times* took the position that the purchasers of the fictitious securities had claims for securities because they received confirmations and account statement from the insolvent broker-dealer and the customers' legitimate expectations, i.e., that they had purchased securities, should be satisfied.[19]

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[12] *Id*. at 1303, n. 16.

[13] In a brief the SEC filed in one of the Stanford Receivership cases in the Fifth Circuit Court of Appeals, the Commission argued that a Ponzi scheme is insolvent from its inception, and quoted *Warfield v. Byron*, 436 F.3d 551, 558 (5th Cir. 2006) (citation omitted). Br. of the SEC, *Amicus Curiae*, In Support of Appellees at 14 , *Janvey v. Gaines*, *et al.*, 09-10761 (5th Cir. Oct. 8, 2009).

[14] In re *New Times Securities Services, Inc.*, 371 F.3d 68, 76 (2nd Cir. 2004).

[15] *New Times*, 371 F.3d at 71.

[16] *Id*. at 74.

[17] *Id*.

[18] *Id*.

[19] *Id*. at 76, 87.

STANFORD VICTIMS COALITION

SEEKING JUSTICE FOR INTERNATIONAL FRAUD

September 14, 2010

Mr. Stephen Harbeck
President and CEO
Securities Investor Protection Corporation
805 15th Street, Suite 800
Washington, D.C., 20005

Dear Mr. Harbeck,

I was very surprised to see this statement from you in Kathy Kristof's *Los Angeles Times* column on Sunday:

> *"The investors in Stanford Financial Group are holding the certificates of deposit in a bank in Antigua in their hands. We do not protect fraudulent projections of value. We ensure that investors receive the securities that they bought, and they have them."*

With all due respect, you are clearly misinformed about the details in this case. Your statement is simply inaccurate and it is very difficult to understand how after 18 months of ongoing discussions between my organization, the Stanford Victims Coalition (SVC), and SEC and SIPC officials regarding the various aspects of the legal arguments we've outlined and documented that you can continue to blatantly ignore the facts and rely instead on false assumptions to defend SIPC's position in the Stanford case.

While it is possible some Stanford investors MAY have gotten a piece of paper saying they purchased a CD at Stanford International Bank (but no different than the pieces of paper Madoff investors received), this is not the case for MOST Stanford International Bank CD investors who purchased the securities from a registered representative of Stanford Group Company (SGC), an SEC-registered broker dealer and SIPC member. **The Stanford International Bank CD certificates were, in most cases, in the physical custody of Stanford Group Company and thousands of SGC customers DO NOT hold their securities in their hands.**

SGC customers literally did NOT get the securities they purchased, nor do those investors even have a piece of paper saying they received their securities. In my own personal example, I am MISSING SECURITIES totaling $1.3 million, yet I cannot file a SIPC claim.

As the SVC, along with dozens of members of Congress, have said, Stanford Group Company customers should be extended the same protection as Madoff customers, and be treated with the same application of the Securities Investor Protection Act Madoff's customers have been fortunate enough to have received. The fact some Madoff investors do not believe they have been provided adequate coverage seems to be given more attention than the fact Stanford Group Company's customers can't even file claims to receive equal treatment.

It is a devastating reality Stanford victims face each day knowing that being a Madoff victim is a much better situation to be in than being a Stanford victim. Both groups of investors were customers of a SIPC-member broker dealer whose owner has been accused of carrying out a Ponzi scheme and stealing customer funds. Both Madoff Securities and Stanford Group Company represented to customers to have purchased securities for their customers. There are approximately 5,000 investors in each case, yet Madoff investors' losses are up to $60 billion and SGC customers lost less than $2 billion. Basic math tells you the Stanford investors are much smaller investors and for most SGC customers, their losses represent 30-40 years of retirement savings that were entrusted to a SIPC-member company to invest. Additionally, SIPC protection would make most SGC victims whole.

Like most Americans who utilize the services of SIPC's members and rely on their expertise and the protection of the SEC and SIPC, these are not savvy investors who understand the difference between an "*introducing broker dealer*" and a "custodial *broker dealer*." All that was represented to investors on everything from business cards and signage to promotional footballs and water bottles (and everything in between) was "*SIPC Member*." There were <u>NO</u> disclaimers. Those came only AFTER our funds were stolen by a broker dealer. The question of who held custody of securities that never existed is not at all a fair way to determine coverage. The fact SGC <u>DID</u> hold physical custody of a substantial number of customers' securities has been glossed over entirely, and I'm sure your response will be something along the lines of "SIPC can return those securities to you, but they have no value. SIPC does not cover loss of value or worthless securities." Mr. Harbeck, the CDs have no value because the owner of the broker dealer stole the funds, not because we purchased securities that did not retain their value, or even securities that never had value. **Our funds were STOLEN and there were no securities**, as the SEC Director of Enforcement has stated. The SEC has even cited case law in the receivership proceeding saying "A Ponzi scheme is insolvent from inception." **How could an insolvent criminal enterprise issue securities?**

The SEC and the DOJ have accused the owner of a SIPC-member of stealing customer funds. The SEC has determined the CDs were in fact securities. **Customer funds intended to purchase Stanford International Bank CDs never made it to Stanford International Bank,** and according to forensic accounting reports, were instead laundered through a series of Stanford Financial Group controlled bank accounts in the U.S. to ultimately pay out redemptions to earlier investors and pay for the expenses of the broker dealer. **This is a very straightforward case and the SEC and SIPC have made it very complicated by taking a hyper-technical interpretation of the SIPA statute and overlooking the basic facts of our case**, which is truly no different than that of Madoff investors. A SIPC-member sold us securities that did not exist. That same SIPC member provided its customers with statements displaying the "Member SIPC" logo on them. The legitimate customer expectation is that the CDs are covered by SIPC.

Adding insult to injury, and protecting the SEC and SIPC rather than investors, we have no private right of action when it comes to disagreements about SIPC coverage and whether or not claims can be filed. It is simply up to the SEC and SIPC to enforce the law and if an investor disagrees – too bad, there's no right to an opinion review by an objective third party. The only judge we get are your organization and the SEC, and **the fact there are previous cases in which SIPC has extended coverage to investors in similar situations seems to be irrelevant.** It is painfully clear the legal documents provided to your office at the expense of tens of thousands of dollars paid for by the defrauded investors have not even been reviewed or considered and it is simply astonishing our right to SIPC has never been given serious consideration. **Instead, false assumptions are determining the future of 5,000 middle-class American investors who were not protected before a SIPC member stole their savings and most certainly are not getting fair treatment in the aftermath of that crime.**

At a time when it is more important than ever for investors to be reassured of their protection when it comes to investing their hard-earned life savings, the Securities Investor **PROTECTION** Corporation, should be acting as an ADVOCATE for investors rather than as an ADVERSARY. Not even realizing the most fundamental of facts in our case is definitely not in the realm of advocating for our protection. In fact, SIPC seems to have gone out of its way to take an adversarial - and at times condescending - approach in denying coverage for SGC customers. My hope is that the much needed SIPA reform measures will create an organization like SIPC that truly protects investors rather than itself and the industry it represents. **No victims should ever have to go through what Stanford victims have had to endure in this case.**

I would be more than happy to discuss this matter with you personally and look forward to your response.

Sincerely,

Angela Shaw

Angela Shaw
Director and Founder
Stanford Victims Coalition

Cc: Securities & Exchange Commission Chairman Mary Schapiro
SEC Division of Markets & Trading
House Financial Services Committee
Senate Banking Committee
Government Accountability Office

STANFORD VICTIMS COALITION

December 2, 2011

Ira Hammerman, Esq.
General Counsel
Securities Industry and Financial Markets Association
1101 New York Ave NW # 800
Washington D.C., DC 20005-4279

Re: SIFMA's August 2011 Memo to the SIPC Board of Directors

Mr. Hammerman,

As the Director and Founder of the Stanford Victims Coalition, a member of the District Court-appointed Stanford Investors Committee, and more generally as an investor, I am astounded by the Securities Industry and Financial Markets Association's (SIFMA) oppositional response to the Securities and Exchange Commission's (SEC) recommendation to the Securities Investor Protection Corporation (SIPC) to liquidate Stanford Group Company (SGC) and satisfy customer claims for net investments in Stanford International Bank (SIB) certificates of deposit.

Your August 17, 2011 memo to the SIPC Board of Directors clearly demonstrates SIFMA's inherent conflict of interest in protecting the industry it represents over the investing public. Apart from the complete *misinformation* used as the basis of SIFMA's recommendation the SIPC Board "reject" the SEC's analysis regarding the status of SGC customers under the Securities Investor Protection Act (SIPA), SIFMA fails to acknowledge any "legitimate expectations" of the investors who relied on the SIPC logo and the "professionals" in the industry SIFMA represents.[1]

While SIFMA publicly claims to support fostering "an environment of trust and confidence in the financial markets," your memo exposes SIFMA's true intention—to prevent an increase in fee assessments on SIPC member companies. In essence, SIFMA opposes *real* investor protection, and would rather give investors the *false* sense of confidence conveyed by the use of the SIPC logo.

Simply put, when an investor who is sold securities by a Registered Representative of a SIPC Member (like SGC) cannot rely on SIPC to uphold its statutory requirements under the SIPA, *any* use of the SIPC logo is misleading and the only confidence an investor might have is false confidence. SIFMA should be ashamed of its lobbying position to perpetuate investor deception.

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[1] In *New Times Securities*, the Second Circuit gave deference to the SEC's position that a customer's "legitimate expectations," based on written confirmations of transactions, ought to be protected

Your memo makes numerous references to the SEC's "unprecedentedly broad" interpretation of SIPA's "narrow mandate" and "limited purpose," but the reality is the SIPA has always protected customers whose funds were stolen by a SIPC member. It is only in the aftermath of regulatory failure to protect investors from insolvent broker dealers like Madoff and SGC that SIFMA and SIPC have decided to defend a much more "limited" perspective of the SIPA.

I would like to address some of the specific points made in your memo, and the position SIFMA has taken that protecting SGC customers contravenes "public policy" and the legislative intent of SIPA.

SIFMA does not have oversight authority over SIPC

Congress did not give SIFMA legislative authority over SIPC; Congress granted that power to the SEC. It is not SIFMA's position to interpret the statute and make recommendations to SIPC. Congress put SIPC's direction in the hands of a publicly chosen board of directors—not SIPC's and SIFMA's member firms.

It is manifestly contrary to the public policy of the United States for a private, self-interested organization to undermine the government's legislative authority or intervene in their administration of a law. SIPA was enacted to protect customers of registered broker dealers, and more than 100 members of Congress have weighed in on this issue over the past 33 months—all seeking for their constituents the mandated protections SIPA was created to provide.

SIFMA's erroneous analysis of the SEC's recommendation

SIFMA's memo states, "Crucially, unlike the situation in the cases relied upon in the SEC Analysis, including the liquidation of Bernard L. Madoff Investment Securities LLC, the purchasers of SIBL CDs actually purchased the very security they sought to acquire." That statement could not be more inaccurate.

The SIB CDs did not exist as anything more than a vehicle to steal customer funds. By all definitions, the SIB CDs were never legitimate securities, and customer funds never went to SIB in Antigua.[2] SGC customers had the legitimate expectation they were purchasing actual securities and instead, as the SEC and DOJ have alleged, their funds were stolen in a Ponzi scheme. SGC management, including Chief Financial Officer James Davis, were fully aware of the misappropriation of customer funds and that the CDs were entirely

[2] The February 15, 2011 Declaration of Karyl Van Tassel, forensic accountant for the Stanford Receiver, states customer's funds intended to purchase the SIB CDs were misappropriated to pay: *(i)* previous customers; *(ii)* the expenses of SGC, including the salaries and commissions of its registered representatives; and *(iii)* Allen Stanford, the sole owner of SGC. According to Van Tassell, a majority of SGC's revenue came from the SIB CD funds acquired by the broker dealer after its registered reps sold the securities.

fictitious, yet enticed its Registered Representatives to sell the SIB CDs in order to fund SGC's operations and pay previous customers.[3]

The SEC has alleged in its civil suit against Stanford, et al, the Stanford Financial Group of Companies operated a "massive Ponzi scheme." Additionally, the SEC has taken the position in litigation related to the Stanford Receivership that an entity that operates as a Ponzi scheme "is, as a matter of law, insolvent from its inception."[4] An insolvent entity cannot issue real securities and the SIPA has previously been used to protect investors "regardless of the fact that that the securities were fictitious."[5]

<u>SGC customers do not have "ordinary losses"</u>

There is nothing "ordinary" about SGC customers' losses. SGC was an insolvent broker dealer and SIPC member that misappropriated customers' funds for more than a decade. SGC sold its customers fictitious securities, then acquired its customers' funds to pay for commissions and bonuses for the Registered Representatives who sold the CDs; SGC's marketing and advertising; professional endorsements for SGC; and generally all of the expenses of the SIPC member.[6]

In *Old Naples Securities*, the court reasoned that whether a claimant deposited cash with the debtor "does not … depend simply on to whom the claimant handed her cash or made her check payable, or even where the funds were initially deposited."[7] Rather, the issue was one of "'actual receipt, acquisition or possession of the property of a claimant by the brokerage firm under liquidation.'"[8]

SGC customers did not simply make a bad investment; <u>a SIPC member stole our funds</u>. We understand that SIPC was not created to protect investors from worthless securities or securities that decline in value; however, <u>the SIB CDs have no value because the funds were stolen in a Ponzi scheme</u>.

The SIB CDs did not exist and cannot be replaced. When missing securities cannot be replaced by SIPC, a customer is entitled to compensation of their net equity investments.

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[3] Stanford Group Company's Chief Financial Officer James Davis pleaded guilty to criminal charges in August 2009.

[4] In a brief the SEC filed in one of the Stanford Receivership cases in the Fifth Circuit Court of Appeals, the Commission argued that a Ponzi scheme is insolvent from its inception, and quoted *Warfield v. Byron*, 436 F.3d 551, 558 (5th Cir. 2006) (citation omitted). Br. of the SEC, *Amicus Curiae*, In Support of Appellees at 14 , *Janvey v. Gaines*, *et al.*, 09-10761 (5th Cir. Oct. 8, 2009).

[5] In re *New Times Securities Services, Inc*., 371 F.3d 68, 76 (2nd Cir. 2004)

[6] The Feb. 15, 2011 Declaration of Karyl Van Tassel, forensic accountant for the Stanford Receiver, states SGC customers' funds intended to purchase the SIB CDs were misappropriated to pay: *(i)* previous customers; *(ii)* the expenses of SGC, including the salaries and commissions of its registered representatives; and *(iii)* SGC's owner, Allen Stanford. According to Van Tassell, a majority of SGC's revenue came from the SIB CD funds.

[7] *Id*. at 1302.

[8] *Id.* quoting *SEC v. Kenneth Bove & Co.*, 378 F. Supp. 697, 700 (S.D.N.Y. 1974).

<u>SGC customers did not bypass the brokerage</u>

SIFMA's memo states, "However, there are also facts that provide strong arguments against extending the *Old Naples Securities* precedent to the SIBL CD investors. Most significantly, unlike the customers in *Old Naples Securities* and *Primeline Securities*, investors in SIBL CDs sent their funds directly to the issuer of the securities they intended to purchase…..These investors transferred funds to SIBL for the purchase of SIBL CDs, and SIBL CDs were in fact purchased with those funds."

This is absolutely false. SGC directed <u>*all*</u> transfers to SIB accounts.

Most, if not all, of the SGC customers who purchased SIB CDs conducted traditional brokerage business with SGC through its third-party clearing firm, Pershing LLC.[9] The CDs were typically transacted through the customer's SGC brokerage account at Pershing. Some SGC customers rolled over IRAs from other accounts, and distribution checks were made out to Stanford Group Company or Stanford Trust Company, a Louisiana trust company managed by a Board of Directors comprised of SGC employees. Other customers wrote checks directly to Stanford Group Company, Stanford, or Stanford International Bank; however, customers did <u>*not*</u> send those checks directly to SIB. The checks were taken by SGC representatives, deposited in U.S. bank accounts and the funds never left the U.S.[10]

Customer checks made out to SIB were initially deposited into an account in the name of SIB, but then transferred to an account in the name of the Stanford Financial Group ("SFG"), the parent company for all Stanford entities—including SIB and SGC.[11] Once in the SFG accounts, the funds were then dispersed to the various Stanford entities as needed—including, primarily, SGC.[12]

SGC customers did not interface with SIB staff in any way, shape or form. If an SGC customer contacted SIB, they were instructed to contact their SGC Representative. If a customer wanted to renew or redeem their CDs, it was handled by the SGC Registered Representative, and redemption funds were typically directed back into the customers brokerage account held at Pershing. If a customer wanted change their address with SIB, SGC reps also handled all of the paperwork. For all intents and purposes, we were customers of SGC and had no interaction whatsoever with SIB.

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[9] Pershing is a defendant in a class-action lawsuit for its role in transferring more than $500 million from SGC brokerage accounts to Toronto Dominion Bank to purportedly fund SIB CDs. On Dec. 12, 2008, the day Madoff confessed to operating a Ponzi scheme, Pershing told SGC it could no longer wire funds to purchase SIB CDs until SIB could produce an independent audit. Pershing Chairman Richard Brueckner currently serves on SIFMA's Board of Directors.

[10] SGC did not send customer checks to SIB. SIB in Antigua did not accept or hold customer funds. It did not have a vault, or even a safe. If checks did arrive at SIB in Antigua, they were sent to Houston for the SFG accounting staff to deposit in U.S. bank accounts.

[11] All of the bank accounts were controlled by SGC CFO James Davis and/or Allen Stanford, SGC Chairman.

[12] Declaration of Karyl Van Tassel

<u>SIPC membership should be limited</u>

SGC customers in 46 states across the country relied on the assurances represented by the SIPC logo, as well as the fiduciary duties of some of the most experienced advisors in the industry. Many of those advisors are *currently* members of SIPC and SIFMA and they will be greatly affected by the outcome of this case as their customers face significant losses that will be arbitrated by FINRA or litigated in court.

If SIPA's scope is so limited that it does not protect customers of introducing broker dealers whose funds are stolen, then those firms should not be members of SIPC. Anything else is pure misrepresentation to investors.

Sincerely,

Angela Shaw
Director and Founder
Stanford Victims Coalition

Cc: SEC Chairman Mary Schapiro
SEC Commissioner Luis Aguilar
SEC Commissioner Daniel Gallagher
SEC Commissioner Troy Paredes
SEC Commission Elisse Walter
SIPC Chairman Orlan Johnson
SIPC Board of Directors
SIPC Modernization Task Force

Enclosure: Declaration of Karyl Van Tassel

Q And then very shortly thereafter, the Ponzi scheme collapsed?

A When [redacted] got in there and found some records, that makes a lot of difference.

Q Right. So do you think kind of looking back that if perhaps some of the investigative steps that were taken in the late 2000s were taken years earlier and then a complaint brought significantly earlier, that that might have acted to uncover the Ponzi scheme before it grew to the point it grew?

A Oh, I'm sure if we had been able -- I don't know about investigative steps. It's always been -- you know, for years I said the only way you're going to get this done is to get subpoena power and subpoena the records. If we go into court and they fight a subpoena and we lose, well, we've done everything we can do. But we ought to do that.

Q If that effort had been done instead of in 2006, in 1996, it would have saved a lot of the growth of the Ponzi scheme?

A I would think so. It was obvious for years that it was a Ponzi scheme. You never knew where the money was going. Nobody knew where the money was going. The only person that knew where the money was going was Allen Stanford or people that were in cahoots with him.

[redacted]: I want to be clear on your reference to getting subpoena power and what it is you were advocating

Excerpt from 2002 SEC Exam Report
Stanford Group Company

Findings were not disclosed to the public.

An additional $5 billion went to Stanford International Bank, including 95% of all US Investment.

OCIE assigned SGC an "adviser ranking" of "182". Based upon the results of this examination, the FWDO has assigned a "risk rating" of "1," the highest risk rating possible, primarily due to SGC's sales of the CDs.

IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF TEXAS

DALLAS DIVISION

IN RE: STANFORD INTERNATIONAL BANK, LTD

Debtor in a Foreign Proceeding.

Civil Action No. 3:09-CV-0721-N

EXCERPTS FROM ORDER ISSUED BY JUDGE DAVID GODBEY ON JULY 30, 2012

The Receiver contends that because SIB was but one of many entities in Stanford's elaborate Ponzi scheme, the Court's COMI analysis should center on the aggregated Stanford Entities.

As the SEC expands, **SIB was window dressing**, part of an effort to mask from United States regulatory scrutiny the massive securities fraud Stanford and others orchestrated from the United States. **The law does not give effect to legal trappings that are designed for a fraudulent purpose, and, therefore, Stanford's operations should be viewed in their entirety.**

It is axiomatic that a corporation is a legal entity existing separate and apart from the persons composing it and entities related to it. **However, courts equally accept that they should disregard the corporate form where that form was the means to a subversive end**.

Indeed, it would be irrational to hold that a parent and a subsidiary have been refused for purposes of in personam jurisdiction, but remain separate for purposes of subject matter jurisdiction.

… **it would defy logic and run afoul of equity to treat a fictitious corporation as a real entity…**

Proliferating corporate fictions…would also protect sinister characters such as Ponzi schemers who may target offshore jurisdictions to run their fraudulent empires. Thus, **the Court holds that corporate disregard doctrines apply…**

Not aggregating the entities, in this instance, would perpetuate an injustice.

However, **the Court is fairly certain that Chapter 15 is also meant to apply to real entities and not fictitious entities. It would be absurd to implement a law that**

would encourage U.S. courts to cooperate with foreign proceedings directed at fanciful organizations. The Court will not engage in semantics that obfuscate the purpose of the statute.

First, the Court takes judicial notice that on March 6, 2012, a jury in Houston, Texas convicted Stanford of four counts of wire fraud, one count of conspiracy to commit wire and mail fraud, five counts of mail fraud, one count of conspiracy to obstruct an SEC proceeding, one count of obstruction of an SEC proceeding, and one count of conspiracy to commit money laundering, all related to his Ponzi scheme.

The evidence demonstrates that SIB was nothing like a typical commercial bank.

Further, this Court has previously recognized that Stanford and his affiliates operated as one and there is substantial evidence in the record in this action to support that finding.

("The evidence further demonstrates that the Ponzi scheme was comprised of over 100 interrelated entities whose primary, if not exclusive, source of funding was derived from SIB CDs . . . .")

SIB had been insolvent since at least 1999 and remained in business by operating as a Ponzi scheme.

SIB relied on the proceeds from the sale of new CDs to make purported interest and principal payments to existing CD investors.

Stanford was the sole owner, directly or indirectly, of more than 130 separate Stanford Entities, including SIB, in more than 14 countries. The Stanford Entities comprised a single financial services network referred to as SFG.

Funds from the Stanford Entities, consisting primarily of CD proceeds almost exclusively comprised Stanford's reported income from at least 1999 onward.

Stanford controlled the Stanford Entities with substantial assistance from James Davis, Chief Financial Officer ("CFO") of Stanford Financial Group Company ("SFGC") and SIB, and Laura Pendergest-Holt, Chief Investment Officer ("CIO") of SFGC.

The evidence demonstrates that Stanford, Davis, and Pendergest-Holt provided misinformation regarding SIB's investment strategy, earnings, and safety to financial advisors at various Stanford Entities, who then used it to induce customers to purchase CDs.

…in many instances Stanford and others doctored SIB's paperwork to look reassuringly like the paperwork of a real financial institution, **the reality is that SIB did not observe corporate formalities in all respects.**

For example, the SIB CD proceeds did more than just keep the bank afloat. Stanford Entities and Stanford himself received large disbursements of the proceeds.

Joint Liquidators Marcus Wide: "**As our investigations have continued and we've tracked the flow of funds and we've looked at how money was removed from control of the depositor, if you like, it became clear to me that the funds were being stripped out of SIB, partly through those contracts that were spoken about earlier and partly by simply removing them, putting them into other Stanford entities and then onwards for the benefit of either Mr. Stanford or other persons unknown…**From our view**, it looked like the bank's money was being stolen rather than the bank was running a Ponzi itself**…."

"the evidence demonstrates that employees of other Stanford Entities largely ran SIB, as its employees had no authority to make any significant managerial decisions and no access to SIB's records..".

To put it shortly:

(1) as a Ponzi scheme, all assets and liabilities are difficult to segregate and ascertain,

(2) the absence of consolidated financial statements matters not because Stanford and/or his associates doctored the financial statements,

(3) it makes economic sense to consolidate the entities,

(4) commingling of funds among the Stanford Entities was the norm,

(5) Stanford directly or indirectly owned all subsidiary as department or division of parent; directors or officers of subsidiary do not act in interests of subsidiary, but take directions from parent; formal legal requirements of the subsidiary as a separate and independent corporation are not observed; the transfer of assets without formal observance of corporate formalities;" and noting the different substantive consolidation tests).

(6) SIB "loaned" Stanford $1.8 billion without a guaranty,

(7) Stanford and his associates transferred assets among the Stanford Entities in disregard of corporate formalities…

On balance, **the evidence overwhelmingly supports substantive consolidation were it to apply.**

Courts have found the requisite level of entwinement where "the debtor corporations were operated as a single unit with little or no attention paid to the formalities usually observed in independent corporations, . . . the officers and directors of all, so far as ascertainable, were substantially the same and acted as figureheads for [the owner], . . . funds were shifted back and forth between the corporations in an extremely complex pattern and in effect pooled together, loans were made back and forth, borrowings made by some to pay obligations of others, freights due some pledged or used to pay liabilities and expenses of others, and withdrawals and payments made from and to corporate accounts by [the owner] personally not sufficiently recorded on the books." **This is clearly analogous to the facts here.**

The Receiver has shown that Stanford operated the entire network of Stanford Entities as an integrated unit in order to perpetrate a massive worldwide fraud.

Each Stanford Entity either participated in the scheme, derived benefit from the scheme, or lent the appearance of legitimacy to the entirety of Stanford's fraudulent enterprise. To ignore these findings would elevate form over substance – thereby legitimizing the corporate structure that Stanford utilized to perpetrate his fraud and running afoul of Fifth Circuit precedent cautioning courts to look beyond the surface.

Thus, because SIB did not observe corporate formalities and because all the Stanford entities were "operated as one for purposes of perpetrating a fraud on investors," the Court pierces SIB's corporate veil and aggregates the Stanford Entities.

…Congress cannot have intended to grant formal recognition to letterbox companies merely because the schemers were adept at pulling the wool over investors, creditors, and regulators' eyes. Surely, it is against U.S. public policy to reward such gamesmanship and manipulation.

Most of the Stanford Entities' revenue came from selling CDs. **CD sales largely bypassed Antigua, as depositors wishing to deposit funds were usually introduced to SIB through their financial advisors, who maintained primary if not sole contact with the depositor**…

U.S. investors exclusively purchased CDs through broker-dealers in the United States at SGC. All financial advisors, regardless of location, would send client applications and requisite paperwork to Antigua, and SIB would then deposit the funds into U.S., Canadian, and English banks….

Those who wished to pay via check **provided checks to their financial advisors** at a non- Antiguan location. Financial advisors would send the checks to SIB in Antigua, and, after endorsing them, SIB would send the checks to Houston, Texas for deposit in Canada or the United Kingdom. **After deposit, Davis would then disburse the funds among the Stanford Entities.**

In reality, broker-dealers in the United States generated substantially more CD sales, by dollar amount, than broker dealers in any other country, and no other country approached the magnitude of the United States as a generator of CD sales. (JL Dickson stating that he couldn't disagree with Van Tassel's testimony that **financial advisors at SGC in United States were responsible for 42-48% of SIB CD sales in 2007 and 2008**).

According to the Receiver, U.S. residents hold more CDs, in terms of number and dollar amount, than the residents of any other country in the world, including Antigua. (the United States comprised 7,072 clients, which accounted for 25.26% of clients, and $2,660,676,142 in deposit amount, which accounted for 37% of dollar amounts).

Stanford employees managed and directed the CD enterprise from the United States with no meaningful input from Antigua. Although SIB, the issuing bank, was chartered and registered in Antigua, Stanford and Davis controlled it – with assistance from Pendergest-Holt – from various places within the United States. And **Davis facilitated several millions of dollars in transfers of CD proceeds among the Stanford Entities**.

SIB employees were paid with funds administered from Houston. CFO Davis and President Rodriguez-Tolentino were paid by other Stanford Entities in the United States investment accounts.

Stanford and his associates in the United States generated and maintained SIB's financial information. Stanford, Davis, Pendergest-Holt, and other U.S. residents disseminated false information regarding SIB's financial strength, profitability, capitalization, investment strategy, investment allocation, value of its investment portfolio, and other matters to financial advisors around the world for use in inducing potential investors to purchase CDs.

Additionally, extensive SIB client records exist in the United States, and records regarding SIB's investments and cash balances were kept outside of Antigua, predominantly generated (i.e., fancifully created) and maintained in the United States by Stanford and Davis.

All of these assets were purportedly directed and managed from the United States. And, as stated above, Stanford and his associates doctored most, if not all, of the numbers.

SIB employees performed limited administrative, bookkeeping, and operating functions in Antigua, these functions were heavily dependent upon Stanford's global human resources, accounting, and information technology ("IT") groups

Stanford Entity employees in the United States wrote SIB's purported internal audit reports. .

As for SIB, Stanford Entity employees in the United States fulfilled most of its core operational needs.

Stanford and his associates similarly managed and controlled other Stanford Entities from the United States.

SGC solicited or intended to solicit CD purchasers in all fifty U.S. states, and it made regulatory filings with state securities regulatory agencies in the United States.

Even the Antiguan government stated that Stanford ran SIB from Houston, Texas – referring to Antigua as a mere transit point.

Most CD purchasers never saw or interacted with Antiguan employees…
Investors instead dealt only with their financial advisors

These financial advisors were essentially the face of the Stanford enterprise to investors, providing CD applications, CD investment managing, and Stanford

brokerage accounts. The financial advisors disseminated reports prepared by Stanford, Davis, Pendergest-Holt, and others, which portrayed a global group of companies under the name SFG, headquartered in the United States. SIB's marketing materials, in fact, advertised that it was able to pay higher interest, in part, because of "synergies" and cost savings that resulted from it being part of SFG and because of a globally diversified investment strategy.

In summary:

(1) SIB, the Bank of Antigua, and STCL were only nominally headquartered in Antigua, and SIB's major activities, CD sales and investment of funds, took place outside of Antigua; a substantial number of the other aggregated Stanford Entities were headquartered outside of Antigua;

(2) Stanford, Davis, Pendergest-Holt, and others who actually managed the Stanford Entities did so largely from the United States;

(3) Stanford Entities and banks outside of Antigua primarily held the Stanford Entities' primary assets;

(4) the vast majority of the Stanford Entities' investor-victims and creditors reside outside of Antigua;

(5) although the Court does not here decide that U.S. law applies to all disputes, this Court is the jurisdictional locus of the entire Stanford Entities enterprise and estate, see Receivership Order; and

(6) the Stanford Entities' nerve center (center of direction, control, and coordination) is in the United States.

STANFORD INTERNATIONAL BANK
STATISTICS FOR STANFORD GROUP COMPANY CUSTOMERS

21,434 customers held $7.2 billion in Stanford International Bank CDs

- **7,814 Stanford Group Company customers held $3.5 billion in SIB CDs**
  6,143 with CD balances at or below $500K
  1,671 with CD balances over $500K

- 13,620 non-Stanford Group Company customers held $3.7 billion in SIB CDs
  11,904 with CD balances at or below $500K
  1,716 with CD balances over $500K

Type of SIB CD Holder	Number of Customers	Total CD Balance	Percentage of SGC Customers	Recovery Rate for SIPC
SGC – All	7,814	$3.5 billion		
SCG Below $500K	6,143	$956.6	79%	100%
SGC Above $500K	1,671	$2.5 billion	21%	Not Known

STANFORD GROUP COMPANY CUSTOMER DATA

7,814 SGC customers held $3.5 billion in SIB CDs
37 % of all SIB CD holders by number of SIB depositors, or 49% by deposit volume

6,143 of these customers have CD balances at or below $500K with an aggregate total of **$956.6 million.**
-79% of SGC customers made whole from SIPC

1,671 SGC customers with CD balances of **$2.5 billion** had individual balances in excess of $500K.
-Capping the loss of each of these customers at $500K would result in potential SIPC coverage of **$835.5 million**.
-Losses for this group of investors is over $1.66 billion

Total SIPC coverage for SGC Customers would be $1.8 billion ($835 mil. + $956.6 mil.)

STANFORD GROUP COMPANY
5056 Westheimer, Suite 605
Tel. No. (713) 964-8300
Houston, Texas 77056

File No. 8-48611 CRD No. 39285
Examination No. 06-D-97-037

EXECUTIVE SUMMARY

Rule 17a-4Failure to maintain books and records.

Rule 10b-5 Possible misrepresentation and misapplication of customer funds.

COMMENTS

Stanford Group Company ("Stanford Group"), a member of the NASD Regulation, Inc., has been registered with the Commission since September 1995. The firm is also a registered investment advisor (File no. 801-50374). Stanford Group is owned by Allen Stanford ("Stanford") who also owns several affiliated companies. Two such companies include Stanford International Bank ("SIB"), an offshore bank located in St. John's, Antigua, West Indies, and Stanford Financial Group ("SFG") headquartered in Houston, Texas. Stanford is not involved in the day to day operations of the firm and is not registered as a principal. [redacted] is the firm's president and one of six registered principals of the firm.

Stanford Group operates pursuant to the (k)(2)(ii) exemption to Rule 15c3-3 and is required to maintain net capital of $250,000. As of July 31, 1997, the firm had net capital of $9,011,027 with excess net capital of $8,761,027. Aggregate indebtedness totaled $532,485.

Stanford Group conducts a general securities business through a fully disclosed clearing arrangement with Bear Stearns Securities Corp. The firm also offers two money management programs to its clients.[1] The firm has generated $6,101,346 in revenues from January 1, 1997 through July 31, 1997. The three primary sources of revenue include referral fees from SIB (68%), advisory fees (8%) and gains on investments (4%). The firm has five branch offices and 66 employees, of which 25 are registered representatives. The firm has approximately 2,000 (1,200 foreign) customer accounts and writes approximately 250 tickets each month.

[1]The Master Fund Program ("MFP") offers discretionary managed accounts for those clients invested in mutual funds the Master Manager Program ("MMP") offers discretionary managed accounts by outside third-party managers.

EXAMINATION

The FWDO conducted a surveillance examination of Stanford Group in August 1997. Four and one half staff days were spent in the field. Three staff days were spent on the review of sales practices.

We conducted an entrant interview with [redacted] chief executive officer, and [redacted], operations manager. We furnished them with the FOIA and Privacy Act Notices. The signed receipt of acknowledgement is included in the work papers.

FINDINGS

Possible Misrepresentations - Rule 10b-5

As noted earlier, Stanford Group is affiliated through common ownership with SIB, an offshore investment bank. Stanford Group has a written agreement with SIB wherein Stanford Group refers its foreign customers to SIB. SIB pays a recurring annual 3.75% referral fee to Stanford Group on all deposits referred to SIB.[2] SIB offers several types of products including the FlexCD Account which makes up 96% of all cash deposits at SIB. The FlexCD Account requires a minimum balance of $10,000, has maturities and annual interest rates ranging from 1 month at 7.25% to 36 months at 10%, and withdrawals of up to 25% of the principal amount are allowed without penalties with a five day advance notice. As of July 31, 1997, Stanford Group was due referral fees of $958,424 which is based on customer deposits at SIB of $306,695,545 (75% of all deposits at SIB).

SIB promotes its products as being safe and secure. A brochure regarding the products offered through SIB, including the FlexCD Account, states that "[F]unds from these accounts are invested in investment-grade bonds, securities and Eurodollar and foreign currency deposits." The brochure indicates a high level of safety for customer deposits. For example: "banking services which ensure safety of assets, privacy, liquidity and high yields", "...protects its clients' money with traditional safeguards", "placing deposits only with banks which have met Stanford's rigorous credit criteria", "depository insolvency bond", "bankers' blanket bond", and "portfolio managers follow a conservative approach". Based on the amount of interest rate and referral fees paid, SIB's statements indicating these products to be safe appear to be misrepresentations.

SIB pays out in interest and referral fees between 11% and 13.75% annually. To consistently pay these returns, SIB must be

[2]During 1996, the referral fee was 5%.

investing in products with higher risks than are indicated in its brochures and other written advertisements.

Because SIB is a foreign entity, we were unable to gain access to SIB's records.

Item of Interest - Addition to Capital

During 1996, Stanford made a cash contribution of $19,000,000 to Stanford Group. We are concerned that the cash contribution may have come from funds invested by customers at SIB. We noted that SIB had loaned Stanford $13,582,579. In addition, we noted that SFG had borrowed $5,447,204 from SIB for a total receivable at SIB of $19,029,783 directly and indirectly from Stanford. We contacted the general counsel for the Stanford companies regarding our concerns. The general counsel stated that the cash contribution came from personal funds and not from the above loans; however, it seems at least questionable whether Stanford has access to $19,000,000 in personal funds.

Maintenance of Books and Records - Rule 17a-4

Stanford Group failed to maintain books and records as they relate to the offer and sale of SIB products. Lena Stinson ("Stinson"), senior vice president and administrative officer, stated that the firm only refers clients to SIB and receives a referral fee. Stinson stated that the client is the customer of SIB and not Stanford Group. From our discussions with Stinson, the RR informs the client of the SIB products (usually the FlexCD) and prepares an application which is sent to SIB for their approval. Once approved, the client sends the funds directly to SIB who then confirms the deposit. Stinson stated that once the application is sent, the RR is no longer involved (other than receiving a referral fee) and all paperwork is maintained by SIB. It appears that the RR is recommending a particular product of SIB's and therefore should have a basis for making that recommendation (i.e., a new account form containing, among other things, financial information and investment objectives). In addition, since the RR is recommending the purchase of a product, an order ticket, confirmation, and purchase and sales blotter should be maintained.

OTHER ITEMS REVIEWED

Customer Account Review

We reviewed the activity in 35 customer accounts for suitability, churning, and profit and loss. Our review noted no discrepancies.

Chinese Wall Procedures

We examined the adequacy of the firm's Chinese Wall and overall supervisory procedures to prevent and detect insider trading by accounts of the firm, employees and customers. The firm's procedures appear to be reasonably designed to prevent such misuse given the nature of the firm's business.

Currency and Foreign Transactions

Prior to our examination, we accessed the IRS CTR database and found no reports on file for the firm. Our on-site review of the firm's bank statements, bank reconciliations, deposit slips and checks received and delivered blotter from February 1997 through July 1997 disclosed no currency transactions. We found no foreign accounts involving the receipt/delivery of securities or currency from/to foreign locations.

RECOMMENDATION

We will send a deficiency letter to the firm citing their failure to maintain adequate books and records.

We will provide a copy of our report to the FWDO Division of Enforcement for their review and disposition.

March 21, 2011

Mr. Ira Hammerman
General Counsel
Securities Industry and Financial Markets Association
1101 New York Ave NW # 800
Washington D.C., DC 20005-4279

Mr. Hammerman,

I am the Director and Founder of the Stanford Victims Coalition ("SVC"), an advocacy group representing the 20,000 victims of the Stanford Financial Group ("SFG") Ponzi scheme. I also serve as one of seven members on the District Court-appointed Stanford Investors Committee.

I would like to bring to your attention to some critical misinformation about the circumstances related to the customers of Stanford Group Company ("SGC") and their status for protection under the Securities Investor Protection Act ("SIPA"). This misinformation has been widely perpetuated by the Securities Investor Protection Corporation ("SIPC") and the SEC.

Your testimony before the House Financial Services Committee last fall indicated the facts in the Stanford case were not fully disclosed to you. SGC customers did not incur losses ***on*** their investments, but rather losses ***of*** their investments. As the SEC has argued in its civil suit against Stanford, et al, the Stanford International Bank ("SIB") certificates of deposit were never legitimate securities and were merely a vehicle to steal investor funds. Historically, the Commission has argued that "a customer's legitimate expectations," ought to be protected "regardless of the fact that that the securities were fictitious." (*In re New Times Securities Services, Inc., 371 F.3d 68, 76 (2nd Cir. 2004)).*

As you know, SIPC has come under great scrutiny in the aftermath of the Madoff and Stanford Ponzi schemes, and investor confidence has suffered tremendously. As a result, SIPC has shifted into self-preservation mode rather than advocating for the investors whose savings were stolen by SIPC members. As a member of the SIPC Modernization Task Force as well as the General Counsel for the Securities Industry and Financial Markets Association ("SIFMA"), your knowledge of investors' legitimate expectations when dealing with a SIPC member is of the utmost importance. I hope you will objectively consider the information presented here.

Background

SFG was an international criminal enterprise made up of more than 130 commonly owned and controlled companies that included SGC, a dual-registered Broker Dealer and Investment Advisor based in Houston, Texas, and Stanford International Bank ("SIB"), an offshore bank in Antigua. In February 2009, the SEC filed a civil lawsuit alleging Allen Stanford, as the owner of the SFG companies, and James Davis, as the Chief Financial Officer for the SFG companies, along with other SFG employees (but no SIB employees), facilitated a $7.2 billion Ponzi scheme.

Approximately 7,800 of the 20,000 investors affected by the SFG Ponzi scheme were SGC customers. Most, if not all, of these customers conducted traditional brokerage business with SGC through its third-party clearing firm, Pershing LLC. In the ordinary course of business, SGC Registered Representatives marketed and sold approximately $3.5 billion in fictitious SIB certificates of deposit (of $7.2 billion total). The CDs were sold as fully disclosed under a Regulation D SEC filing and were typically transacted through the customer's SGC brokerage account at Pershing. The brokerage funds allocated to the SIB CDs constituted a majority, if not all, of the SGC customers' savings, and the assurances offered by the SIPC logo were used as a sales tactic to create a false sense of confidence in the CDs. In fact, many of the SGC Registered Representatives convinced their clients the SIB CDs offered greater protection than an FDIC-backed bank CD because FDIC insurance only protected up to $100,000 in deposits in a US bank CD (the limit at the time), but SIPC covered up to $500,000 of the SIB CD securities. It is important to note the former SGC Representatives have not been accused by the SEC or FINRA of misrepresentation of this assurance, which was made in marketing materials, in written communications between SGC Representatives and their clients and generally in all interaction the investor had with SGC (the SIPC logo appeared on everything from promotional pens, water bottles, signage, customer documents, etc.)

FTI consulting, the forensic accounting firm chosen by the SEC to work with the Stanford Receiver, has reported that SGC's customer funds intended to purchase the SIB CDs did not go to SIB to purchase the securities.
As outlined in the attached declaration of senior FTI partner Karyl Van Tassel, SGC customer's funds intended to purchase the CD securities were misappropriated to (i) pay previous customers; (ii) Allen Stanford’s lavish lifestyle; (iii) the expenses of SGC, including the exorbitant compensation of Registered Representatives who sold the fictitious securities as well as referral fees to the broker dealer, which constituted a majority of SGC's revenue.

By all definitions, the SIB CDs were never legitimate and served as nothing more than as a vehicle to lure customers to feed the Ponzi scheme. SGC customers had the legitimate expectation they were purchasing actual securities and instead, as the SEC and DOJ have alleged, their funds were stolen in a Ponzi scheme. In denying protection under the SIPA, SIPC has taken the position that SGC customers purchased securities that declined in value or were worthless. Completely contradicting that argument, the SEC has taken the position in litigation related to the Stanford receivership that an entity that operates as a Ponzi scheme "is, as a matter of law, insolvent from its inception." An insolvent entity cannot issue real securities and as such, the SIB CDs are not simply worthless securities, they are entirely fictitious. The SIPA has been used to protect customers of introducing broker dealers who were sold fictitious securities in previous cases. I'm sure you will agree that if customers of introducing broker dealers are not truly protected by SIPC in situations like the SGC customers find themselves in, those broker dealers should not be members of SIPC as the false confidence the SIPC logo provides investors is nothing short of misleading.

Similar to the points made in your Congressional testimony, the SEC has pointed out two of the risks facing customers of broker dealers: <u>"the risk that the security purchased will be a bad investment and the risk that the broker-dealer will not execute the order, convert the customer's funds and become insolvent, leaving the customer with no cash or securities. SIPA was intended to protect customers against the latter risk, not the former, which is borne by the investor."</u> *(Br. of the SEC, Amicus Curiae, In Partial Support of Appellants in re: New Times Securities, Inc., 02-6166 (2nd Cir. June 20, 2003)).* SGC customers who were sold SIB CDs fall into the latter category and SIPC would make almost 80% of these investors whole.

<u>The SVC's Request for a Liquidation of SGC Under SIPA</u>

In November 2009, the SVC formally asked the SEC to order a liquidation of SGC under SIPA (see attached) and has provided hundreds of customer documents to the SEC Division of Trading and Markets over the last 16 months. The SEC has yet to make a determination regarding this request, which more than 100 members of Congress have supported (see attached). In a meeting convened last week by Senate Banking Committee Ranking Member Richard Shelby, SEC Chairman Mary Schapiro committed to making a formal decision on this matter within a few weeks.

Investor confidence and investor protection are two very important goals of SIPA and SIFMA and I'm sure you'll agree that when an investor cannot rely on SIPC protection when their funds are stolen by a SIPC member, any confidence an investor may have is false confidence. I hope this information changes the opinion you expressed in your Congressional testimony, as well as SIFMA's lobbying position. Many of SIPC's and SIFMA's current members are greatly affected by the outcome of this case as their customers face significant losses that will arbitrated by FINRA or litigated in court.

Please feel free to contact me if you would like any additional information. I would be more than happy to discuss this matter with you, or any other member of the SIPC Modernization Task Force as the Stanford case is not nearly as simple as it has been written off to be and the manner in which investors were victimized in this crime should be considered in any legislative recommendations related to investor protection.

Sincerely,

Angela Shaw
Director and Founder
Stanford Victims Coalition

972-672-1512

cc: SIPC Board
SIPC Modernization Task Force Members

Hear the victims tell their stories at www.stanfordvictimscoalition.blogspot.com.

STANFORD FINANCIAL GROUP
REGULATORY NEGLIGENCE TIMELINE

1982-1987

Allen Stanford files for business and personal bankruptcy in Texas. The Court discharges him from $13.6 million in obligations.[1]

Allen Stanford opens Guardian International Bank Ltd. in Montserrat. Stanford also opens Guardian International Investment Services[2], an investment firm in Miami that targets Latin American customers and offers a certificate of deposit product yielding 10.75%, doubling the then current rate of return.[3]

1989-1991

The Texas Department of Banking warns Stanford about operating a foreign bank representative office in Texas "*without authority under either state or federal laws*." The U.S. Treasury Office of International Banking and the Office of the Comptroller of the Currency are copied on the warning letter to Stanford.[4]

As a result of investigations by banking regulators in Texas, Florida and California[5], the U.S. Treasury's Office of the Comptroller of the Currency issues a Banking Circular regarding Stanford's unauthorized banking activities in the United States.

The Texas Department of Banking orders Guardian International Bank Ltd. to immediately cease its Texas operations or "*the Texas Attorney General will be requested to promptly file charges against the bank, its board of directors and its management for apparent willful and continuing violations of the Texas Banking Code*."[6]

The Police Department in Mexia, Texas investigates Stanford for allegations of drug trafficking.

The FBI opens an extensive investigation along with the UK's Scotland Yard to uncover Stanford's money laundering activities. FBI agent Ross Gaffney, who headed the U.S. task force set up to investigate the suspicious explosion of offshore banks in Montserrat, said, "We had hard intelligence about what he was doing and we began to develop it."[7]

Due to investigation reports from the FBI and Scotland Yard, the government of Montserrat decides that Stanford no longer meets bank ownership requirements on their island and the license for Guardian International Bank is revoked.[8]

Stanford purchases a commercial bank charter for the Bank of Antigua and relocates his offshore banking headquarters to Antigua. Stanford International Bank (SIB) is chartered as an offshore bank

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[1] Unites States Bankruptcy Court Dockets Numbers 6-82-00061 and 00263
[2] Florida Department of State Registration Number J83381, July 20, 1987
[3] *BusinessWeek*, Feb. 24, 2009, "Did Court Ruling Prolong Stanford Probe?"
[4] Letter from Texas Banking Department, Dec. 19, 1990
[5] United States Treasury, Office of the Comptroller of the Currency BC 171
[6] Letter from Texas Banking Department, Jan. 8, 1991
[7] *The Independent*, Feb. 22, 2009, "Secret World of Allen Stanford."
[8] Government of Montserrat, Letter from Financial Secretary John George, November 1990

under the laws of Antigua and Barbuda.[9]

1992-1996

Stanford Group Company (SGC) is incorporated in the state of Texas. SGC registers with the SEC as both a broker dealer and an investment advisor and begins operations in Houston, Texas, and Baton Rouge, Louisiana.[10]

The Texas State Securities Board conducts its first examination of SGC. The case is referred to the SEC.

Stanford is accused of money laundering. Case is settled out of court.[11]

Faced with international scrutiny for its extensive money laundering activities, Allen Stanford and the government of Antigua and Barbuda propose the Money Laundering Prevention Act of 1996. Stanford is represented by Dr. Errol Cort, an Antiguan lawyer, and the Miami-based law firm, Greenberg Traurig. [12]

1997-1998

The SEC Fort Worth Regional Office (FWRO) conducts its first broker dealer examination of SGC and concludes "possible Ponzi." The exam report includes an "Item of Interest" that questions a $19 million cash contribution to SGC from Allen Stanford while SIB loaned $13.5 million to Allen Stanford and $5.5 million to the Stanford Financial Group (SFG, the parent company of all Stanford entities) – for a total of $19 million directly and indirectly from SIB loans. The exam report states that 68% of SGC's revenue comes from referral fees for SIB CD sales (in addition to the cash contributions from Allen Stanford directly). The exam findings are referred to SEC Enforcement, which opens a Matter Under Inquiry (MUI). The MUI is closed 3 months later after Stanford did not *voluntarily* provide documents requested by the SEC in its deficiency letter sent in response to the 1997 broker dealer exam.[13]

The Fort Worth SEC conducts an investment advisor examination of SGC. The findings are similar to the 1997 broker dealer exam, and the exam findings are reported to SEC Enforcement.[14]

With the help of Dr. Errol Cort as local counsel in Antigua and Greenberg Traurig in the U.S., Stanford and the government of Antigua and Barbuda create a task force to rewrite Antigua's offshore banking laws. The task force is funded by Allen Stanford, and includes former U.S. Customs investigator Patrick O'Brien; former U.S. Attorney's Office lawyers working for Greenberg Traurig; 3 BDO Seidman partners; and Tom Cash, a representative of Kroll & Associates and the former head of the DEA's operations in Florida and the Caribbean.

Under the new offshore banking regulations written by the Stanford-funded task force, the International Financial Services Regulatory Authority (IFSRA) is established as the government of Antigua and Barbuda's offshore banking regulator. Allen Stanford is appointed as president of

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[9] *BusinessWeek*, Feb. 24, 2009, "Did Court Ruling Prolong Stanford Probe?"
[10] Securities and Exchange Commission File Numbers 8-48611 and 801-50374
[11] *Latin American Herald Tribune*, Feb. 27, 2009, "The Sir Allen Stanford Story"
[12] Government of Antigua and Barbuda, Money Laundering Prevention Act of 1996
[13] Securities and Exchange Commission Office of the Inspector General Report on Investigation 526, March 31, 2010
[14] Ibid

IFSRA, and, as a result, is responsible for regulating his own bank.[15]

The FBI, U.S. Attorney's Office, DEA, IRS Criminal Division and Customs Services each individually request the SEC's records on Stanford. The requests cite ongoing investigations into criminal activity[16]

In a letter to the U.S. Ambassador to Barbados, Allen Stanford's counsel at Greenberg Traurig states that he has been investigated by numerous U.S. agencies over the years, and none had found evidence of wrongdoing.[17]

Stanford becomes largest private employer in Antigua.

The State of Florida Department of Banking and Finance approves establishment of Stanford Fiduciary Investor Services (SFIS), a Trust Representative Office (TRO) for Antigua-based Stanford Trust Company LTD. SFIS markets and sells SIB CDs to foreign investors through the Miami-based, state-regulated entity.[18]

1999

Stanford's legal counsel, Dr. Errol Cort, becomes the government of Antigua and Barbuda's Attorney General.[19]

In only the second warning of its kind, the U.S. Treasury's Financial Crimes Enforcement Network (FINCEN) issues an advisory to U.S. banks to scrutinize all financial transactions routed into or out of Antigua for evidence of money laundering. The warning is a result of the U.S. government's concern about Allen Stanford's role in Antigua as the head of the IFSRA, the regulatory body overseeing Stanford International Bank. The warning states: "*The operation of Antigua' offshore financial sector has been a concern of regulators and enforcement officials in the United States, the United Kingdom, and other nations for some time*.[20]

In a letter to Antiguan Prime Minister Lester Bird, U.S. Treasury Undersecretary for Enforcement James E. Johnson, writes, "*It is clear that the Government of Antigua and Barbuda has, in effect, turned away from its partnership with the United States Government in combating money laundering and other financial crimes*."[21]

The U.S. State Department places Antigua on its money laundering watch list. Jonathan Winer, then-head of the State Department's Bureau for International Narcotics and Law Enforcement Affairs, says Antigua is "one of the most attractive financial centers in the Caribbean for money launderers." In a Senate testimony, Winer said, "Antigua has long been one of the worst regulated offshore centers in the world."

Retired DEA agent Mike Vigil, who was then the Chief of International Operations in the Caribbean, said island banks "have always been a focal point for laundering illicit drug proceeds and Antigua has always a primary center of money laundering operations for many significant drug traffickers."[22]

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[15] Government of Antigua and Barbuda, International Business Corporations Act
[16] Securities and Exchange Commission Office of the Inspector General Report on Investigation 526, March 31, 2010
[17] *New York Times*, Feb. 20, 2009 "Fraud Case Shakes a Billionaire's Caribbean Realm."
[18] Memorandum of Agreement, State of Florida and Stanford Trust Company LTD, December 14, 1998
[19] Government of Antigua and Barbuda website
[20] United States Department of Treasury Financial Crimes Enforcement Network Advisory, April 1999.
[21] *Wall Street Journal*, April 27, 1999, "US Antigua Dual on Money Laundering - High Flying Houston Financial is Caught in the Middle."
[22] *New York Times*, Feb. 20, 2009 "Fraud Case Shakes a Billionaire's Caribbean Realm."

Texas securities regulators find evidence of money laundering involving Stanford. The case is referred to the FBI and the SEC, because it involves offshore banks, where Texas has no jurisdiction. Texas securities commissioner Denise Voigt-Crawford later tells the state legislative committee: "Why it took 10 years for the feds to move on it, I cannot answer." She added: "We worked with the FBI and the SEC and basically gave them the case. We told them what we'd seen and they were going to run with it."[23]

After evidence surfaces that former Mexican drug lord, Amado Carillo Fuentes, had used SIB to hide or launder money, Stanford voluntarily makes out a cashier's check for $3.1 million, and gives it to the U.S. DEA. No further investigation is pursued by the DEA.[24]

Year	Total SIB Deposits
1990-1999	$676 Mil.

<u>2001</u>

Stanford files an SEC regulation D disclosure for selling Stanford International Bank certificates of deposit to U.S. citizens through Stanford Group Company.[25]

The U.S. Treasury enters into an information sharing agreement with the government of Antigua and Barbuda that "*will provide for the exchange of information on tax matters between the United States and Antigua and Barbuda*." The agreement is signed by Treasury Secretary Paul O'Neill and Antiguan Prime Minister Lester Bird.[26]

The first Stanford employee comes forward to FINRA (then NASD) alleging Stanford Group Company is engaged in fraudulent business practices in violation of the Securities Acts of 1933 and 1934. Arbitration claim is resolved in favor of Stanford.[27]

After previous run-ins with the Texas Department of Banking, the state of Texas initiates a partnership with the government of Antigua and Barbuda to provide "*coordinated comprehensive supervision*." According to Texas Banking Commissioner Randall S. James, the partnership "*represents a landmark in cooperation between financial institution supervisory authorities of the state of Texas and a foreign government. It underscores that seamless supervision of both Texas State-chartered financial institutions with offices in other countries and foreign institutions with offices in Texas can be achieved*." The agreement, which is signed by Antiguan Prime Minister Lester Bird and then Texas Secretary of State Henry Cuellar, specifies the state of Texas can examine a financial institution in Antigua's jurisdiction..[28]

Year	Total SIB Deposits	SIB Growth
2000-2001	$1.198 Bil.	$677 Mil.

[23] *Houston Chronicle*, Feb. 20, 2009 "Past Probe Sought to Tie Stanford to Drugs"
[24] *New York Times*, Feb. 20, 2009 "Fraud Case Shakes a Billionaire's Caribbean Realm."
[25] Securities and Exchange Commission IDEA database.
[26] United States Department of Treasury, "Agreement Between the Government of the United States of America and the Government of Antigua and Barbuda for the Exchange of Information," Dec. 6, 2001
[27] FINRA Case #01-00680
[28] Texas Department of Banking, July 2001

2002

An accountant in Mexico sends the SEC a letter pointing out numerous red flags regarding the Stanford International Bank certificates of deposit, including inexplicable high rates of return, a lack of detailed information about the performance of the CDs and the fact a small, Antiguan firm handles Stanford International Bank's audits. The letter ends with a plea that the SEC "make sure that many investors do not get cheated. These investors are simple people of Mexico and maybe many other places and have their faith in the United States financial system."[29]

The Fort Worth SEC opens its third examination of Stanford Group Company. The exam report cites SGC's misrepresentation of the safety of SIB CDs and the lack of sufficient documentation to conduct adequate due diligence to verify/validate the substantial returns SIB claimed. The exam report is referred to Enforcement, but no investigation is opened.[30]

A second Stanford employee comes forward in case with FINRA (then NASD) alleging fraudulent business practices in violation of the Securities Acts of 1933 and 1934. Arbitration claim is resolved in favor of Stanford.[31]

2003

The SEC receives a whistleblower report from a Stanford insider saying:

> **"STANFORD FINANCIAL IS THE SUBJECT OF A LINGERING CORPORATE FRAUD SCANDAL PERPETUATED AS A MASSIVE PONZI SCHEME THAT WILL DESTROY THE LIFE SAVINGS OF MANY, DAMAGE THE REPUTATION OF ALL ASSOCIATED PARTIES, RIDICULE SECURITIES AND BANKING AUTHORITIES, AND SHAME THE UNITED STATES OF AMERICA."**

The insider claims the fraud has gone on for 17 years and that no legitimate audit has questioned why CDs were invested in "primarily in high risk securities," which are "not congruent with the nature of safe CD investments promised to clients." The alert says the CDs are marketed and sold as safe, but in reality, investor proceeds are being directed into speculative investments like stocks, options, futures, currencies, real estate and unsecured loans. The report goes on to say, "Overlooking these issues and not thoroughly investigating them is becoming an accomplice to any wrongdoing."[32]

A North Carolina attorney contacts Congressman Bob Etheridge about allegations of Stanford's violations of the Foreign Corrupt Practices Act and "widespread reports that certain Antigua government officials are soliciting and accepting large sums of money in bribery payments from a Texas businessman named R. Allen Stanford in order to allow Mr. Stanford to obtain and retain business in Antigua on behalf of Stanford Financial Group of Houston, Texas." Twelve other Congressmen are copied on the letter.[33]

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[29] Complaint to Securities and Exchange Commission, October 28, 2002.
[30] Securities and Exchange Commission Office of the Inspector General Report on Investigation 526, March 31, 2010
[31] FINRA Case #01-00687
[32] Complaint to Securities and Exchange Commission, September 1, 2003
[33] Letter to US Congressman Bob Etheridge, December 10, 2003

Ten more Stanford employees file individual cases with FINRA (then NASD) alleging wrongful dismissal and fraudulent business practices in violation of the Securities Acts of 1933 and 1934. Arbitration claims are resolved in favor of Stanford.[34]

Key whistleblower Leyla Basagoitia (now Wydler) comes forward to SEC and FINRA (then NASD) with details of an alleged Ponzi scheme to defraud clients. Defendant refused to sell CD products and was fired from Stanford's Houston office. Wrongful dismissal suit filed against Stanford and case is eventually settled in FINRA arbitration with no warning to investors.[35]

Year	Total SIB Deposits	SIB Growth
2002-2003	$2.225 Bil.	$1.027 Bil.

2004

North Carolina Congressman Bob Etheridge contacts U.S. Attorney General John Ashcroft about "specific concerns" of Stanford's alleged violations of the Foreign Corrupt Practices Act.[36]

U.S. Assistant Attorney General Christopher Wray contacts North Carolina attorney and Congressman Etheridge saying the Department of Justice "will take appropriate investigative steps" regarding allegations of Stanford's violation of the Foreign Corrupt Practices Act.[37]

Four more Stanford employees file individual cases with FINRA (then NASD) alleging fraudulent business practices in violation of the Securities Acts of 1933 and 1934. Arbitration claims are resolved in favor of Stanford.[38]

Year	Total SIB Deposits	SIB Growth
2004	$3.086 Bil.	$861 Mil.

2005

Two investors file a lawsuit in a Florida District Court accusing Stanford of aiding and abetting Ponzi scheme.[39]

The SEC conducts its fourth exam of Stanford Group Company and a referral is made to Enforcement, which opens an "informal inquiry" and conducts a survey of SGC clients who purchased SIB CDs. A questionnaire is sent on May 26, asking for responses by June 8 – indicating a sense of urgency. The 4-page questionnaire asks for detailed information about the investors' SGC financial advisor and the marketing and sales of the SIB CDs. Among many other questions, investors are asked if were told the CDs had insurance and if they recorded any conversations they had with their advisor.[40]

Five more Stanford employees file individual FINRA (then NASD) complaints alleging wrongful dismissal and fraudulent business practices in violation of the Securities Acts of 1933 and 1934.

[34] FINRA Arbitration & Mediation Database
[35] FINRA Case #03-02025
[36] Congressman Bob Etheridge letter to US Attorney General John Aschcroft, February 10, 2004
[37] US Department of Justice letter, September 9, 2004
[38] FINRA Arbitration & Mediation Database
[39] US District Court, Southern District Florida, Miami Division, Docket # 1:05CV22911
[40] Securities and Exchange Commission Stanford Investor Questionaire, May 26, 2005

Arbitration claims are resolved in favor of Stanford.[41]

Year	Total SIB Deposits	SIB Growth
2005	$4.059 Bil.	$973 Mil.

2006

SEC Enforcement staff in Fort Worth opens a formal investigation of SGC and asks the broker dealer to voluntarily submit SIB CD investor files.[42]

A lawsuit alleging a Ponzi scheme is filed by former employee Lawrence J. De Maria under the Florida Private Whistleblower Act. De Maria alleges Stanford is "operating a Ponzi scheme or pyramid scheme" by using money from the offshore bank "to finance its growing brokerage business." The suit also alleges that Stanford is paying off Antiguan regulators and US government officials to keep money laundering legislation from being passed. [43] The complaint is referred to the SEC by OSHA.[44]

Four more Stanford employees file FINRA (then NASD) complaints alleging wrongful dismissal and fraudulent business practices in violation of the Securities Acts of 1933 and 1934. Arbitration claims are resolved in favor of Stanford.[45]

Year	Total SIB Deposits	SIB Growth
2006	$5.336 Bil.	$1.277 Bil.

2007

SGC employees in good standing, Mark Tidwell and Charles Rawl, resign and file a lawsuit alleging SGC requires employees to engage in "illegal and unethical methods to market and sell its financial products to the public." The lawsuit also accuses SGC of falsifying returns, lying to investors and destroying critical documents for an ongoing SEC inquiry. The suit outlines glaring violations of U.S. laws and regulations.[46]

FINRA fines Stanford Group Company $20,000 for failure to maintain minimum net capital requirements.[47]

FINRA fines Stanford Group Company $10,000 for allegations of distributing "misleading, unfair and unbalanced information" about its Stanford International Bank Certificates of Deposit.[48]

Four more Stanford employees file FINRA complaints alleging wrongful dismissal and fraudulent business practices in violation of the Securities Acts of 1933 and 1934. Arbitration claims are

[41] FINRA Arbitration & Mediation Database
[42] Securities and Exchange Commission Office of Inspector General Report on Investigation, July 2009
[43] Miami Dade County Circuit Court, Miami, FL
[44] Securities and Exchange Commission intake source control #4156, referred to Miami office
[45] FINRA Arbitration & Mediation Database
[46] US District Court, Harris County, Texas, Cause Number 2008-05203
[47] FINRA Regulatory Event Docket Number E062005005301
[48] FINRA Regulatory Event Docket Number 2005002203701

resolved in favor of Stanford.[49]

Year	Total SIB Deposits	SIB Growth
2007	$7.058 Bil.	$1.722Bil.

2008

In January 2008, international clearinghouse Pershing, LLC becomes worried of Stanford's business operations. Pershing continues to wire CD funds from the U.S. to international financial institutions until December 12, 2008, the same day Bernard Madoff confesses to operating a $50+ billion Ponzi scheme. Pershing alerts SGC that it will no longer wire SGC brokerage account customer funds to another Stanford entity in order to purchase Stanford International Bank CDs because Pershing cannot verify SIB is not involved in fraud of some nature. Pershing wired $517 million in 1,635 transfers from 1,200 US accounts from 2006-2008.[50]

FINRA fines Stanford Group Company $30,000 for allegations of failing to adequately disclose its research methods used to report certain securities valuations.[51]

Former executives Tidwell and Rawl file appeal of 2007 FINRA arbitration, which ruled in favor of Stanford Group Company. The appeal outlines specifics illegal marketing and sales tactics involving Stanford International Bank CDs. The plaintiffs allege SGC Financial Advisors were prohibited from filing mandatory security forms for clients transferring IRA accounts to SIB CDs and notifying clients of the civil and criminal penalties associated with the failure to do so.[52]

Due to evidence uncovered in Tidwell and Rawl case, the SEC's Fort Worth Regional Office refocuses Enforcement personnel on the Stanford investigation opened in 2005.[53]

U.S. President George W. Bush endorses the Stanford Financial Group on White House stationery. The letter, which is sent to all SIB clients, states, "*To protect their future well-being and that of their families, it is important for individuals to give careful thought to strengthening their financial security. By providing investment and wealth management services, companies like yours are helping more Americans build a solid foundation for the future*."[54]

Four more Stanford employees file FINRA complaints alleging wrongful dismissal and fraudulent business practices in violation of the Securities Acts of 1933 and 1934. Arbitration claims are resolved in favor of Stanford.[55]

Stanford International Bank's December 2008 newsletter tells investors the bank had "no direct or indirect exposure" to Madoff investments, securitized or the subprime mortgage meltdown and that is in position to "well exceed Basel II capital requirements as we continue to grow in to 2009."[56] Later,

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[49] FINRA Arbitration & Mediation Database
[50] *Times of London*, Feb. 23, 2009, "Pershing Assisted SEC Ahead of Stanford Fraud Charge."
[51] FINRA Regulatory Event Docket Number 2007007168001
[52] US Fourteenth Court of Appeals, Houston, Texas, Case#14-08-00408-CV
[53] Stephen Korotash, SEC Associate Regional Director of Enforcement, Fort Worth, Texas
[54] Stanford News, February 2008
[55] FINRA Arbitration & Mediation Database
[56] Stanford International Bank-Antigua Investor Newsletter, December 2008

the SEC reports SIB has been exposed to Madoff losses.[57] Newsletter also says the bank provides insurance coverage through Lloyd's, Bankers Blanket Bond, Directors and Officers Liability, Professional Liability (errors and omissions) and Excess FDIC. Stanford International Bank is reported to be "strong, safe and fiscally sound."[58]

Year	Total SIB Deposits	SIB Growth
2008	$8.5 Bil.	$1.442 Bil.

2009

The Stanford Financial Group of Companies has over 125 entities with offices in more than 100 locations globally, primarily in the southeastern U.S. and Latin America.

In the wake of widespread criticism of the SEC's failure to catch Bernard Madoff's $50 billion Ponzi scheme, SEC files civil charges against Stanford group of companies and its top three executives, alleging "massive ongoing fraud" involving Stanford International Bank certificates of deposit. Thousands of customer brokerage accounts held at Pershing for customers of Stanford Group Company are frozen, leaving investors without access to non-SIB funds.[59]

The SEC files a civil lawsuit against Allen Stanford, et al, and asks the Northern District Court of Texas to appoint Ralph Janvey as Receiver for all Stanford entities. The Court's order states that all Stanford-owned assets around the globe are subject to an asset freeze. However, international assets are compromised when local governments in Antigua, Venezuela and Panama seize banks in their countries and assume all assets – obliterating hundreds of millions of dollars in Stanford investor assets. The U.S. government does nothing to work with the foreign governments to protect foreign

57 Securities and Exchange Commission Complaint to US District Court, Northern District of Texas, Dallas Division, Complaint #LR20901, Feb. 16, 2009.
58 Stanford International Bank-Antigua Investor Newsletter, December 2008
59 Securities and Exchange Commission Complaint to US District Court, Northern District of Texas, Dallas Division, Complaint #LR20901, Feb. 16, 2009.

assets belonging to Stanford investors.[60]

The government of Antigua and Barbuda does not acknowledge the U.S. Court's authority over Stanford International Bank-Antigua and appoints UK-based Vantis PLC as receiver.[61] Dual receiverships result in a multi-year international turf war fighting for control of Stanford's foreign assets.

U.S. Congressman Dennis Kucinich, Chairman of the Subcommittee for Domestic Policy Reform, publicly asks SEC Chairman Mary Schapiro to disclose documents related to SEC "stand down" order.[62]

U.S. Receiver Janvey closes over 30 Stanford Group offices throughout the U.S., eliminating approximately 1,000 jobs.

Former Stanford Group Company Financial Advisors retain FINRA licenses and resume employment at other U.S. brokerage firms. FINRA records for individual brokers do not disclose any involvement of selling alleged fraudulent securities used to carry out a $7 billion Ponzi scheme. [63]

The IRS files a motion in the Northern District Court of Texas seeking Receivership assets to pay Allen Stanford's personal income tax debt of $227 million.[64]

SEC Inspector General H. David Kotz publishes an audit report stating the agency has "not complied with the requirements of the Regulation D exemptions," or does not "*substantively review the more than 20,000 Form D filings that it receives annually, which in 2008, identified total estimated offerings of $609 billion dollars*." The report identifies several instances of "*misuse, non-compliance, and illegal acts regarding the Regulation D exemptions*."[65]

Receiver Ralph Janvey files for professional fees and expenses in excess of $40 million for the first 3 months of the Receivership.

Receiver Ralph Janvey attempts to clawback $925 million from investors who received principal or interest for SIB CD investments.

Stanford Group Company brokerage account customers are denied coverage under the Securities Investor Protection Act (SIPA) despite a legal precedent for coverage of fictitious securities in other similar cases. In denying coverage, Securities Investor Protection Corporation (SIPC) president says the SIB CDs were not fictitious securities.[66]

Year	**Investor Losses**
2009	**$7.2 Bil.**

[60] Bloomberg, Feb. 17, 2009, "Stanford Bank's Clients in Latin American Seek Funds."
[61] Financial Services Regulatory Commission, Government of Antigua and Barbuda, Claim #ANUHCV20009/0110, Feb. 26, 2009.
[62] US Congressman Dennis Kucinich, www.kucinich.house.gov.
[63] FINRA BrokerCheck.
[64] US District Court, Northern District of Texas, Dallas Division, March 13, 2009, Case #3:09-cv-00298-N.
[65] Securities and Exchange Commission Office of Inspector General Audit Report, March 31, 2009.
[66] *Houston Chronicle*, Feb. 27, 2011, "Forensic Accountant Gives Stanford Investors Sliver of Hope."

2010
The SEC Office of the Inspector General (OIG) releases a report on investigation revealing that the SEC knew for 12 years that Stanford was operating a fraud before the SEC took any action.[67]

Forty-five Members of the 111th Congress write to SEC Chairman Mary Schapiro addressing the OIG report findings and questioning the SEC's interpretation of the Securities Investor Protection Act (SIPA) that would provide up to $500K of SGC customers' losses through the Securities Investor Protection Corporation (SIPC). The letter points out, "*The SEC's primary function is to protect investors, and it would appear that the SEC Enforcement Director and other staff members at the SEC's Fort Worth office committed impermissible acts of discretion that needlessly prolonged the extend and severity of the fraud….It would seem illogical and contrary to the spirit of SIPA to tell SGC customers their funds were stolen by the owner of the broker dealer, yet the manner in which the theft occurred precludes the customers from receiving their due relief*."[68]

Approximately 6,000 hours are billed against the Stanford estate for work done for the U.S. government's prosecution of Allen Stanford, et al.

Dozens of former Stanford Group Company Financial Advisors who misrepresented the safety of Stanford International Bank CDs continue to work in the securities industry without any disclosure to future investors. Additionally, the former compliance officer, accounting personnel and attorneys for various Stanford entities heavily involved in the fraud remain free of any civil or criminal actions.

2011
Allen Stanford is deemed incompetent to stand trial indefinitely and is ordered to a rehabilitation facility for treatment for an addiction to prescription anxiety medication he has been given only since he was incarcerated.[69]

More than 60 members of the 112th Congress write to SEC Chairman Mary Schapiro urging the Commission to order SIPC to provide compensation for up to $500K in losses for SGC customers. The letter states, "*It has been more than two years since thousands of Americans lost their savings in the Stanford Ponzi scheme….These Americans relied on the SEC to uphold its federal mandate to protect investors and the SEC failed in the regard.*"[70]

By a vote of the Commissioners, the SEC determines that Stanford Group Company customers are entitled to protection under the Securities Investor Protection Act (SIPA). The SEC asks the Securities Investor Protection Corporation (SIPC) to initiate a liquidation proceeding of Stanford Group Company.

SIPC refuses to comply with the SEC's directive, and the SEC files an unprecedented Enforcement Action against SIPC for failure to comply with the SIPA.

2012
The District Court for the District of Columbia denies the SEC's request for a court order to force SIPC to discharge its obligations under SIPA. The SEC appeals the District Court's decision.

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[67] Securities and Exchange Commission Office of the Inspector General Report on Investigation 526, March 31, 2010
[68] Congressional letter to SEC Chairman Mary Schapiro, May 6, 2010
[69] Order for Psychiatric Evaluation, United States of America v. Robert Allen Stanford, US District Court, Southern District of Texas, Houston Division, Case #H-09-342, Jan. 26, 2011.
[70] Congressional letter to SEC Chairman Mary Schapiro, March 16, 2011

<u>2013</u>

The SEC appeals the District Court's decision siding with SIPC.

The Stanford Receiver makes the first distribution to Stanford victims: one penny on the dollar for a total of $55 million. The Receiver spent $115 million to recover $55 million for the victims.

FAILURE TO ACT

The Securities Investor Protection Act of 1970 *Section 78eee(a)(1)*:

"If the [SEC] or any self-regulatory organization is aware of facts which lead it to believe that any broker or dealer subject to its regulation is in or is approaching financial difficulty, ***it shall immediately notify SIPC****."*

Why wasn't SIPC ever notified of Stanford Group Company's financial difficulty?

As an SEC-registered broker dealer, Stanford Group Company (SGC) was required to file monthly financial reports with the SEC. The purpose of filing the monthly financial statements is to demonstrate a brokerage firm's financial stability so that investor funds are not at risk of being misappropriated.

There are numerous examples of SGC's financial difficulty from its inception. If the required financial reports filed with the SEC were even superficially reviewed, the substantial cash infusions of millions of dollars from Allen Stanford; the firm's dependence on referral fees from an affiliate entity not subject to any U.S. regulation; and millions of dollars in intra-company loans should have indicated significant fraudulent activity– including misappropriation of customer funds. **Because of the SEC's failure to follow its mandate under the Securities Investor Protection Act 78*eee(a)(1)*, the Stanford Financial Group Ponzi scheme grew by $7 billion from 1996 to 2009.**

A very blatant example of SGC customers' funds being misappropriated was cited as an "Item of Interest" in the SEC's 1997 examination report, which questioned a $19 million cash contribution to SGC from Allen Stanford in 1996 while Stanford International Bank (SIB) in that same year loaned $13.5 million to Allen Stanford and $5.5 million to the Stanford Financial Group—for a total of $19 million coming directly and indirectly to SGC from SIB customer funds. Since SGC's customers were being sold the SIB CDs, the misappropriated funds were indistinguishable from belonging to SGC or SIB customers.

Item of Interest - Addition to Capital

During 1996, Stanford made a cash contribution of $19,000,000 to Stanford Group. We are concerned that the cash contribution may have come from funds invested by customers at SIB. We noted that SIB had loaned Stanford $13,582,579. In addition, we noted that SFG had borrowed $5,447,204 from SIB for a total receivable at SIB of $19,029,783 directly and indirectly from Stanford. We contacted the general counsel for the Stanford companies regarding our concerns. The general counsel stated that the cash contribution came from personal funds and not from the above loans; however, it seems at least questionable whether Stanford has access to $19,000,000 in personal funds.

The same 1998 SEC exam report states that 68% of SGC's revenue was from referral fees for SIB CD sales (on top of the $19 million cash contribution).

In addition to regular, growing cash contributions from Allen Stanford and referral fees from SIB CD sales, SGC financials filed with the SEC reported a mounting operating loss that clearly indicated the broker dealer was in dire financial difficulty without the revenue from the sale of the fictitious SIB CDs. As the SEC itself alleged in its civil complaint against Stanford, SGC could not have stood on its own without the SIB CD funds, which were used to prop up the broker dealer and further its expansion in the US rather than to purchase securities.

If the SEC had upheld its SIPA mandate in 1998, the theft of SGC customer's funds would have been limited to $210 million from foreign investors. Instead, SGC was allowed to continue selling SIB CDs, and even expanded its offering to US investors starting in 2001 (through a Regulation D disclosure). More than 6,000 US citizens lost approximately $2.2 billion because the very government they funded with their tax dollars did not follow the law.

Even More Reason to Scrutinize SGC's Financial Statements

SGC's financial reports from 1997 through 2009 are even more disturbing considering the context of what was occurring in the SEC's Enforcement Division to inexplicably overlook the Examination team's repeated concerns about SGC starting with its first examination in 1997. It wasn't until 7 years after that first exam – and three subsequent exams coming to the same conclusion – that Enforcement even opened an investigation of SGC. During the 4-year investigation that eventually led to the SEC's civil suit, SGC's financial difficulty became more and more apparent.

The monthly financial statements filed with the SEC after a formal investigation was opened reported even more cash contributions from Allen Stanford, more loans from affiliate entities, increased referral fees from SIB, and mounting annual operating losses. **Stanford was exactly the kind of situation SIPA was enacted to prevent and SGC all but sent a monthly notice to the SEC saying it was stealing customer funds.**

According to a forensic accounting report filed in the U.S. District Court by the Stanford Receiver, customer funds for new SIB CD purchases went directly to fund CD redemptions for other SIB customers. The report also revealed that customer funds intended to purchase SIB CDs didn't go to SIB—making it impossible for the securities to have been purchased.

According to SGC insiders, in 2007 and 2008, there was increasing internal pressure to bring in more SIB CD sales and discourage redemptions. During this time frame, SGC senior executives were visiting each of the broker dealer's 30+ offices throughout the US encouraging more CD sales by offering lucrative bonuses and lavish incentives like trips and expensive cars. Because of this increased "push" by SGC to US investors—along with the misrepresentation that SIB was "safer than a US bank," and "insured dollar for dollar"—SIB CD purchases by US citizens grew at a record rate in 2007 and 2008.

Instead of adhering to the SIPA and notifying SIPC that a broker dealer's customer funds were in jeopardy as SGC's financials indicated an increasingly dire financial situation, the SEC did nothing during this critical 2007-2008 time frame except take 2 more years to complete an investigation that should have taken place a full decade before the influx of US investment in the SIB CDs.

A broker dealer in severe financial difficulty combined with the SEC's suspicion that Stanford was operating a Ponzi scheme should have clearly indicated some effort to protect investors was required under SIPA so that even remedial action by SIPC could be taken. By not alerting SIPC to protect vulnerable investors, the SEC, in its oversight of a registered broker dealer, violated the SIPA.

Summary of Mounting Net Operating Debt at Stanford Group Company 2001-2007

Accumulated Deficit December 31, 2001: **$10,129,621**

Accumulated Deficit December 31, 2002: **$7,839,161**

Accumulated Deficit December 31, 2003: **$3,484,858**

Accumulated Deficit December 31, 2004: **$5,950,128**

Accumulated Deficit December 31, 2005: **$29,400,804*** (494% increase over previous year – also the year the SEC opened a formal investigation that led to the February 2009 civil suit)

Accumulated Deficit December 31, 2006: **$49,910,101**(170% increase over prior year and **830% increase** over year investigation opened)

Accumulated Deficit December 31, 2007: **$77,294,204** (157% increase over prior year and **1,300% increase** over year investigation opened)

Item of Interest - Addition to Capital

During 1996, Stanford made a cash contribution of $19,000,000 to Stanford Group. We are concerned that the cash contribution may have come from funds invested by customers at SIB. We noted that SIB had loaned Stanford $13,582,579. In addition, we noted that SFG had borrowed $5,447,204 from SIB for a total receivable at SIB of $19,029,783 directly and indirectly from Stanford. We contacted the general counsel for the Stanford companies regarding our concerns. The general counsel stated that the cash contribution came from personal funds and not from the above loans; however, it seems at least questionable whether Stanford has access to $19,000,000 in personal funds.

Q: Did special rules apply in the context of US customers purchasing these types of CDs?

A: Yes. Clients who were U.S. residents had to qualify as "accredited investors," which is a reference in Rule 501(a) of Regulation D of the Securities Act of 1933, and had to be referred to the bank through Stanford Group Company brokerage only, with the financial advisor being a registered broker. In addition to other requirements in the case of such investors, the minimum deposits as to all CDs was $50,000. Additionally, such investors could not deposit funds either in Premium or Performance accounts and could not use the Express Account to maintain balances or any of the other services offered for such accounts except that Express Accounts could be utilized to facilitate immediate transfers to and from CDs.

STANFORD | Stanford Group Company
MEMBER FINRA/SIPC

Premiere Wealth Management Services

[redacted]

October 2008

Doug Shaw
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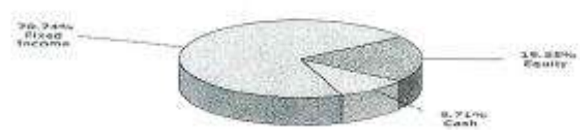
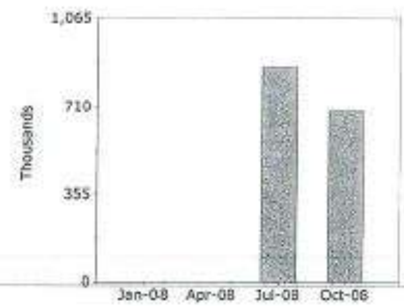
Asset Allocation Summary



Consolidated Portfolio Value



Total Value
$692,179.17

Accounts Summary

Account	Type	Abbreviated Title		This Period		Last Period
NJL-010653	SAS	CAJ FAMILY PARTNERSHIP SAS GROWTH	$	230,333.29	$	338,120.98
NMY-015818	MAP	CAJ FAMILY PARTNERSHIP	$	201.86	$	201.67
SIBL		ASHTON T. AND SALLY MATTHEWS/CAJ FAMI	$	461,644.02	$	459,305.55
		Total Portfolio	$	692,179.17	$	797,628.20