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

U.S. SECURITIES AND EXCHANGE	§	
COMMISSION,	§	
Plaintiff,	§	
	§	
<b>v.</b>	§	CIVIL ACTION NO. 3:09CV0298-N
	§	
STANFORD INTERNATIONAL BANK	, §	
LTD., ET AL.,	§	
Defendants	§	

## DEFENDANT R. ALLEN STANFORD'S OBJECTION AND RESPONSE TO JOINT MOTION OF THE SEC AND RECEIVER FOR ENTRY OF SECOND AMENDED ORDER APPOINTING RECEIVER (REC. DOC. 958)

COMES NOW, DEFENDANT, R. Allen Stanford ("Mr. Stanford"), who files this Objection and Response to the Joint Motion of the SEC and Receiver for Entry of Second Amended Order Appointing Receiver (the "Motion"), and respectfully shows the Court as follows:

In the instant Motion, the Receiver seeks entry of a Second Amended Order Appointing Receiver ("Amended Order") in order to, among other matters, restrain and enjoin creditors and all other persons from commencing any legal proceedings against the Receiver arising out of the subject matter of this civil litigation, without first seeking permission of and filing said action with the Court. The Receiver represents to the Court in his Motion that the proposed restrictions are required to stem a "second wave of related litigation [that] is now demanding significant resources from the Receiver, his professionals, and the Estate." Mr. Stanford objects to the proposed Amended Order to the extent that the amended or additional language contained in the proposed Amended

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<sup>&</sup>lt;sup>1</sup> Rec. Doc. 958-2 at p. 7,  $\P$  9.

<sup>&</sup>lt;sup>2</sup> Rec. Doc. 958 at p. 2.

The Receiver, in his proposed Amended Order, adds the following language (in italics) to Paragraph 9, section (a):

Order seeks or has the effect of restraining, enjoining or otherwise abrogating any rights

- 9. Creditors and all other persons are hereby restrained and enjoined from the following actions, except in this Court and with leave of this Court, unless this Court, consistent with general equitable principals and in accordance with its ancillary equitable jurisdiction in this matter, orders that such actions may be conducted:
  - (a) The commencement or continuation, including the issuance or employment of process, of any judicial, administrative, or other proceeding against the Receiver, any of the defendants, any entity within the Receivership Estate, any current or former agent, officer, or employee of the Receivership Estate or of any entity within the Receivership Estate, Pershing LLC, and/or SEI Investment Company arising from the subject matter of this civil action; or<sup>3</sup>

. . .

Further, the Receiver adds the following language (in italics) to Paragraph 10, section (c):

10. Creditors and all other persons are hereby restrained and enjoined,without prior approval of the Court, from:

. . .

<sup>&</sup>lt;sup>3</sup> Rec. Doc. 958-2, at p. 7.

(c) Any act to collect, assess, establish, litigate or recover a claim against the Receiver, where such claim would attach to or encumber the Receivership Estate or create or impose an obligation upon the part of the Receivership Estate;<sup>4</sup>

Mr. Stanford objects to the extent that this language in the proposed Amended Order seeks to prevent, enjoin, or otherwise restrain Mr. Stanford's ability to file any individual claims he may have against the Receiver, including but not limited to, bad faith, negligence, or breach of fiduciary duty claims against the Receiver; or claims Mr. Stanford would have to recover assets allegedly untainted by fraud that are part of the Receivership Estate.

Dated: February 4, 2010

Michael D. Sydow Sydow & McDonald 4400 Post Oak Parkway, Ste. 2360 Houston, TX 77027 (713) 622-9700

Respectfully submitted,

/s/ Ruth Brewer Schuster **Ruth Brewer Schuster** Texas Bar No. 24047346 1201 Connecticut Ave, NW, Ste. 500 Washington, DC 20036 (202) 683-3160

## ATTORNEY IN CHARGE

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<sup>&</sup>lt;sup>4</sup> *Id*. at p. 8.

## **CERTIFICATE OF SERVICE**

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent those indicated as non-registered participants on February 4, 2010.

/s/Ruth Brewer Schuster