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

SECURITIES AND EXCHANGE COMMISSION, Plaintiff,	)	CIVIL ACTION NO. 3:09-CV-0298-N
VS.	)	DALLAS, TEXAS
STANFORD INTERNATIONAL BANK, LTD., et al., Defendants	)	FEBRUARY 11, 2010

TRANSCRIPT OF PROCEEDINGS ON MOTION FOR RELIEF FROM THE INJUNCTION CONTAINED IN PARAGRAPH 10(e) OF THE RECEIVERSHIP ORDER
BEFORE THE HONORABLE DAVID C. GODBEY
UNITED STATES DISTRICT JUDGE

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P R O C E E D I N G S

FEBRUARY 11, 2010

THE COURT: Be seated. Good morning.

MR. BLUE: Morning.

THE COURT: I'm pleased you-all made it. I gave some thought to, in view of the weather, trying to postpone the hearing, but it's just so hard to get this many people scheduled and I don't want to delay disposition of this matter any more. So I appreciate your indulgence in braving the weather to come down here.

Do we have anybody here today representing the IRS? No?

MR. SADLER: I don't believe so.

THE COURT: Okay. I received the SEC's memorandum yesterday. I appreciate that. I had been curious whether you-all had a position on this.

I think I want to hear from Mr. Blue --

MR. BLUE: Yes, Your Honor.

THE COURT: -- first, and then the Receiver, and then the SEC, and then the Examiner, and then finally again from Mr. Blue. And I think, if you-all don't mind, let's go ahead and use the podium because the mike works a little better there and I can hear you a bit better.

So Mr. Blue? So if the Receiver -- let me preface this by saying I hardly know anything about bankruptcy law.

MR. BLUE: Okay.

THE COURT: And I gather you guys know a good bit about it. So forgive me if I ask stupid questions, but I need to educate myself some on some of these issues.

MR. BLUE: Certainly, Your Honor. No stupid questions.

THE COURT: If the Receiver files a Chapter 11 --

MR. BLUE: Yes.

THE COURT: -- I assume that you-all would move to convert that to a Chapter 7?

MR. BLUE: It's possible that we would. I would not say it's certain that we would. And as the Receiver pointed out, if the Receiver files a Chapter 11 case, there is certainly case authority saying that the Receiver can remain in control of the entities as the debtor in possession.

THE COURT: So how does it work if you move to convert?

MR. BLUE: Well, if we move to convert, it would be a motion to the bankruptcy court and the bankruptcy court would have to determine whether there were grounds to convert that to a Chapter 7.

THE COURT: Okay. And how would he go about doing that, he or she?

MR. BLUE: Umm --

THE COURT: Here's --

MR. BLUE: Yes. Go ahead.

THE COURT: -- my thinking on this. And, again, I'm just -- the breadth of my ignorance of bankruptcy law is just breathtaking. I don't think anybody believes that the Stanford entities are a viable, ongoing business.

MR. BLUE: Correct.

THE COURT: And it would seem to me that that would suggest it ought to be converted to a 7 because it's not a reorganization, it's going to be a liquidation. But I don't know if that's how it works.

MR. BLUE: Sure. Your Honor, I can tell you that there are a great number of cases that are really liquidations, but they are conducted under Chapter 11 of the Bankruptcy Code, even though everyone knows they're not a viable business or that the assets are going to be sold.

Primarily that's because people view the best way to go about liquidating the business is keeping current management in control. You have a debtor in possession who is either management from before the filing or put in place right after the filing, and it's really a different mechanism.

There are plenty of cases that are liquidated in a Chapter 11 these days with current management. In fact,

Mr. Morgenstern and I were involved in the Adelphia Communications bankruptcy, one of the largest ever. That cable company is gone, its assets were sold to Time Warner and Comcast, everything was liquidated, the company doesn't exist, and the entire thing was done in a Chapter 11 case.

So it's not necessarily true that if we go into bankruptcy, it is a Chapter 7 and that Mr. Janvey and his team will be -- that will be ousted. It's not -- it's not necessarily the case.

THE COURT: So one of the things that I'm thinking as a potential alternative is to tell Mr. Janvey, I'm going to give you a window to file a voluntary Chapter 11 here in the Northern District, and 90 days from now I'm going to delete the paragraph that enjoins other people from filing. So you've got a 90-day window to get yourself organized and file.

And then you don't have the issue that they raise as being a serious impediment of all new trustee, got to go to school, spend money to go to school, all new legal team, got to get them up to speed, and it's in bankruptcy, which you say is a good thing.

My suspicion is that that doesn't make you entirely happy because I gather you are not pleased with the way Mr. Janvey has administered this.

MR. BLUE: Well, we certainly understand that.

We don't want disruption that would come along with a bankruptcy filing. We certainly do not want duplication of legal fees and expenses. And Your Honor, I think, has a terrific suggestion for one way to accomplish that.

We were also thinking you could give him a window to file or you could also just say that we're going to lift the injunction a certain period out and we would work with Mr. Janvey and his team to figure out the best way to file that, the schedule to file, whether it is a 7 or a 11.

But I think Your Honor's idea is a very good one. I mean, there's no reason why the injunction should be lifted -- we're not arguing that the injunction should be lifted at 5:00 p.m. today and then Mr. Janvey and his team are all pencils down, stop work where you are, because that would be disruptive.

But there is an alternative, as Your Honor just outlined, of setting a reasonable date a little bit out in the future to allow for a transition. And if that transition is going to be with Mr. Janvey's team, then -- then -- then so be it. And then we would go to the bankruptcy court and we would have a discussion about whether his -- his team would remain in place.

But I suspect, as he pointed out, there is -- there is case law for a pre-petition receiver, pre-bankruptcy receiver remaining in control as debtor in possession.

THE COURT: Another question for you. They raise the issue in their papers that if it goes into bankruptcy court, because of the IRS priority, everybody else is wiped out, so you're in the odd position of arguing for a change of venue where your clients will recover nothing as opposed to this venue where they might get something.

MR. BLUE: I'm frankly puzzled by that argument, Your Honor, and I was -- I was interested when you asked if anyone from the IRS was here in the courtroom.

We have not seen any analysis from the Receiver or his team of the validity or the size of that potential IRS claim or why the IRS claim would be treated any differently in bankruptcy than it would be in a liquidation under receivership here.

I mean, my experience with the IRS is if the IRS wants to take their money, they're going to very vigorously come after -- come after the assets that are there and take their money.

In this case, I don't think there's anything in the record supporting this injunction that shows that that IRS claim would wipe out the investors. There's just -- there's just nothing there. We haven't seen an analysis or -- or legal view of that other than just to say the IRS has made a claim and then therefore bankruptcy is -- is a worse alternative.

THE COURT: If I were to turn you loose to file an involuntary 7, who would you file it against and where?

MR. BLUE: Primarily we're interested in Stanford International Bank, of course. We're here representing the interests of the -- the investors, the victims who purchased the CDs.

THE COURT: And could they file against anybody else?

MR. BLUE: We can file against other entities if they are creditors of the other entities. I believe that they certainly could file against Mr. Stanford himself because they're creditors as a result of the tort claims that they have against Mr. Stanford.

And, interestingly, here, Mr. Stanford sat at the top of this pyramid. I mean, he was the direct or indirect owner of the other Stanford entities. Arguably, putting Mr. Stanford into bankruptcy would -- would pull all the other entities up with it because the other entities are assets belonging to Mr. Stanford who would then be a debtor.

THE COURT: Okay. Anybody other than the bank and Mr. Stanford?

MR. BLUE: It's possible. It's possible that we would. I'm not in a position to say right now who -- who we would file against. I do know that we could, as you

said, if you turned us loose, which I don't think -- you're not just going to turn us loose to file a petition today, primarily and -- and first in line would be Stanford International Bank.

THE COURT: And where would you file?

MR. BLUE: It would be here in Texas. I would prefer to keep it in this district. I think that there are terrific arguments for keeping it in this district.

I know that the Preliminary Injunction Order, the Receivership Order provides that the principal place of business of the Stanford entities is deemed to be the Northern District of Texas for the period before any bankruptcy filing. So we could file it here. I would want to keep it here. I would want to keep it under Your Honor's certainly indirect supervision.

One of the things about a bankruptcy filing is it doesn't necessarily mean that everything would have to be handled by the bankruptcy court. Parties could withdraw the reference to the district court for discrete matters that they thought Your Honor should handle, and there -- there are also provisions for appeals from the bankruptcy court to this Court.

So certainly I would want to keep it here. I'm not looking to get out of the Northern District of Texas with this filing, Your Honor.

THE COURT: Okay. One of the pragmatic concerns I have, and I don't know that it fits into any of the other multifactor tests, is there are a variety of other pieces of Stanford-related litigation, some that were filed here and some that have been transferred here because of the MDL.

MR. BLUE: Yes.

THE COURT: And I have some apprehension that if there are a bunch of bankruptcy proceedings going on in different divisions and different districts, it becomes tedious to try and coordinate all that.

MR. BLUE: I think, Your Honor, that exactly the opposite is true. A bankruptcy case really does enable the court and the district to -- to exert control over all the ancillary litigation.

One of the things about the Bankruptcy Code is it provides the district court and, by virtue of the order of reference, the bankruptcy court with jurisdiction over all cases that are, quote, related to the bankruptcy case. And the related-to jurisdiction is extremely broad. If there's any way in which the outcome of the case would affect the bankruptcy estate, there's related-to jurisdiction.

So I think Congress has provided extraordinarily broad jurisdiction that actually would enhance this Court's ability to coordinate that litigation.

THE COURT: Yeah. But though if it's in another district, it's unclear to me how the related-to jurisdiction and the MDL interact. If they arm wrestle, I don't know who wins. But I don't have to decide that right now.

MR. BLUE: Okay.

THE COURT: Okay. I'm going to be quiet and let you talk. I've been interrupting. But I'll give you -- you've got about ten more minutes of your opening, and I'll shut up and listen to you.

MR. BLUE: Thank you, Your Honor. Not thank you, Your Honor, for shutting up. Please -- please feel free to interrupt at any time.

Despite the -- despite the appearance at counsel table with a number of counsel arrayed on one side and just me at the podium, I can assure you that the interest in this particular motion is not lopsided, at least not lopsided in that direction (indicating).

We represent, our firm represents, literally hundreds of investors, and we have heard from many, many more who are very interested in this motion, which, by the way, is supported by the Stanford Victims Coalition, probably the most active and vocal and largest group of Stanford victims who are deeply frustrated by this process and are deeply frustrated by this Receivership and with we think good cause.

We propose an alternative, a bankruptcy filing, that would give the victims of this case a direct voice in the proceedings, an ability to object and be heard, an ability to examine what happened at Stanford in a way that would allow them, among other things, to go after third parties who may be -- who may have been culpable here to recover some portion of their loss.

I think our papers very thoroughly discuss what we view as the benefits of bankruptcy. So I want to discuss what I think is the -- the central problem with the SEC's and the Receiver's argument, that the Bankruptcy Code should be ignored or even discarded in this particular case, because I think that's a very problematic position.

The Receiver and the SEC oppose a bankruptcy filing mainly on the grounds that at this point in the case it would be too expensive and a bankruptcy filing would be less efficient.

The concerns about -- first, the concerns about cost and efficiency are just entirely speculative here. There is nothing in the record to show that a bankruptcy would necessarily be more expensive than this Receivership. We have on the one side of the scale the Receiver's -- the Receiver's bills, his requests for payment of fees. On the other side, we don't know what they -- what they would be.

But I would point to the Court the considered and similar issue in the Madoff case that said the idea that a bankruptcy would be more expensive than a receivership is just speculative. There is no -- there is no reason why that would necessarily be true.

Based on that speculation, we can't just discard the Bankruptcy Code that was enacted by Congress. I mean, the Bankruptcy Code is interesting here because it was developed over literally hundreds of years. And unlike the securities laws, for example, bankruptcy is specifically mentioned in the Constitution. The Constitution specifically empowers Congress to enact the bankruptcy laws, which they've done here.

I also don't think that the concern about efficiency and cost carries much weight here because there are much larger and there are much more complicated cases than this that have been administered by the bankruptcy courts. And certainly the Enron case, WorldCom, the Lehman case--the biggest of them all--is being administered in bankruptcy. Nobody thinks of Lehman as a viable, ongoing business, and that is being liquidated essentially through the bankruptcy courts.

But the SEC and the Receiver essentially say, trust us on this, we know that doing -- that liquidating this case in the Receivership is what's in the best interests of the

victims here, this is the cheapest way to do it, this is the most efficient way of doing it. The victims, after all this time, almost a year, are not much inclined to rely upon the SEC when it says, trust us, we'll take care of this and make sure it's okay.

There's also a fundamental problem with what the SEC and the Receiver say about the burden of proof here. There has been too much discussion about the burden of proof. But essentially the SEC and the Receiver have put us to task to say, unless the victims, unless the CD holders, can prove that they would be better off in bankruptcy, well, then we can't get relief from the injunction. Well, that -- that seems exactly backwards, Your Honor.

What happened here at the outset of the case was the SEC came in and they asked for an injunction -- the appointment of a receiver and injunction. At the time the victims--there are thousands of victims--were not given notice of that and -- or an opportunity to be heard.

In that initial Receivership Order, the First Amended Receivership Order, there's also a 180-day injunction against asking for relief from the bankruptcy injunction. So the SEC and the Receiver said, we need time; we need time to figure this out; we just can't be dealing with all the litigation or even somebody asking for a bankruptcy.

Immediately after the 180 days expired, we made this

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motion. We also made a motion during the 180-day period asking for relief. But immediately after the 180-day period expired, we made this motion.

And essentially the answer now, well, now it's too late, the Receivership is too entrenched, Mr. Janvey knows too much about the business, we're in the middle of unwinding transactions, we're just -- we're too much into this to change horses. As a practical matter, what that means is that the injunction that was entered at the beginning of the case is a permanent injunction.

There's a real policy issue here, Your Honor. If the SEC races to court and gets a receiver appointed and gets an injunction against filing bankruptcy, it's always going to say, we need time at the outset of the case. Okay, it's going to be given time. It probably should. Probably should have in this case.

But then when the creditors who have a right conferred by Congress to file a bankruptcy come in and say, okay, you've had your time, then the SEC and the Receiver come back and say, it's too late, we're too far into this, we've spent too much money, doesn't make sense to change horses, what that means, Your Honor, is that every time the SEC comes to court and asks for injunction like this at the beginning of the case, essentially the Court is ruling out a permanent injunction. Essentially the Court will be

barring creditors forever from filing a bankruptcy case.

And that's not what the courts of appeals who have addressed this have said should happen. They've all said, you need to take a hard look at this early in the case before you start making distributions, before you start liquidating, and see if it's appropriate to switch to bankruptcy.

I'm just going back to what would happen if you ruled that now it's too late, I think what you'd end up with is in cases like this where there's even a whiff of securities fraud, creditors are going to have to race to the courthouse to try to beat the SEC if they ever want to be able to file a bankruptcy case because if they don't get there before the SEC does, there'll be a receiver appointed and there'll be a receivership and then he'll be given a few months to amass the assets and then the SEC will say, now, it's too late.

We can't have it that the SEC, by rushing to court, essentially gets a permanent injunction that -- that completely supersedes the title of the United States Code.

THE COURT: I don't mean this facetiously, but why not? I can envision the SEC saying, you're right, that's how it works, and that's a good thing, that's how it should be.

MR. BLUE: Because, well, first I'd cite to the courts of appeals cases that we mentioned in our briefs all

saying that complex liquidations like this should not be conducted in a district court. The bankruptcy court, first of all, is a specialized court much better able to handle these sorts of proof of claim issues and also these are fundamentally creditors' rights.

We cited to the Jordan case from Texas. It's a little bit of an older case, but -- 1978, saying that in order to issue an injunction against a bankruptcy filing, you need to apply the standard of a preliminary injunction, which is fine, and that that could never be satisfied because creditors have a right to file for bankruptcy.

I mean, what we have here is an injunction that prevents thousands of creditors from around the United States and around the world from exercising a right conferred by Congress. The SEC, as an agency of the United States, I would submit, has an obligation to protect creditors, but they don't and can't supersede Congress's view of how liquidations like this should proceed.

If creditors are given rights to be heard and participate in a bankruptcy case and a liquidation, then the SEC can't just say, well, we'll race to court and we'll get a receivership and forget what Congress said about the way this should be liquidated.

THE COURT: You've been running close to about 20 minutes, and I chewed up 10 or so of that. You might

want to think about drawing to a close on your opening so you can save the time you wanted to for rebuttal.

MR. BLUE: Thank you, Your Honor.

I'll just leave you with -- with this. I think that early in the case there was a good argument to say that a receiver should come in and take control and there is also a very good argument for saying that the receiver should be given some breathing room to -- to get the assets order.

There's also a point in a case where it gets too late. If the receiver is in the middle of making distributions, I mean, we wouldn't want to come in as checks were going out the door and say, wait a minute, do this under the Bankruptcy Code.

This Receivership is almost a year old. This is the right time. This is the time that you, Your Honor, can follow the -- follow what the other courts of appeals have said that we've cited in our case saying, don't conduct these sorts of litigation -- liquidations in bankruptcy, take a hard look at it, let creditors exercise their rights and transfer it into bankruptcy court at the right time. This is the right time, Your Honor.

Thank you.

THE COURT: Thank you.

And on the other side of the courtroom, have you-all figured out how to divvy up the time that I allotted?

MR. SADLER: (Nods head.)

THE COURT: Okay.

MR. SADLER: Yes, sir. I'm going to speak for 30 minutes, and then Mr. Little and Mr. Reece will each have five minutes, and that will be our 40 minutes.

THE COURT: Okay. So what about you guys filing a Chapter 11 up on the 14th floor?

MR. SADLER: Your Honor, we have looked at the issue of bankruptcy for months, throughout the summer and into the fall, and then of course we looked at it recently. And the best professional judgment that we bring to bear on this issue is that this matter should not be fractured into a bankruptcy, whether it is done voluntarily by the Receiver or whether it is done involuntarily by other creditors.

And I want to be very clear about this, and it's not hyperbole: If -- if a part or chunks of this are put into bankruptcy, we will open the lid to Pandora's box and it cannot thereafter be closed. And a fractured estate -- and we -- we went into this in the brief and I want to point out to Your Honor some additional things. A fractured estate where we have a piece of this -- of this go into bankruptcy and then litigation over how much the rest of it goes into bankruptcy and then still --

THE COURT: The whole mess, the whole kit and caboodle.

MR. SADLER: Well, let's talk about that, Your Honor.

First of all, to put literally all hundred-plus Stanford entities into one filing is in and of itself an enormous costly expense that would take many weeks simply to prepare the paperwork to be ready to go.

Now, even if you did that, there are two problems that you face that I think have been passed over by the movant, and that is this issue of turnover. If you go in as a voluntary 11, where I agree you can do and liquidations are done all the time, it is not perfectly clear but there is certainly authority that Mr. Janvey could continue in his role as a debtor in possession.

Far less clear is what the status would be of all the professionals who have assisted him who would have unpaid bills at the time of the bankruptcy filing and would have status as creditors.

THE COURT: Yeah. I think you either have to get them paid before or you have to relinquish the claim in order to stay on as counsel.

MR. SADLER: That's right. And then certainly if there is an involuntary 7 and there is a debate or fight over who gets elected trustee, the same disinterestedness principles come into play.

So I don't think anyone can stand here and say with

absolute certainty that a bankruptcy filing, voluntary or involuntary, will not require some level of changeover with respect to either the Receiver or his professionals.

And if we go in as an 11, there will have to be at least one creditors committee of unsecured creditors. And -- and as we -- as we know now, the unsecured creditors are not one monolithic group. It is not inconceivable you could have two creditors committees or one very large unsecured creditors committee to -- to bring in all the vendors and all the CD holders, and they will have their own representatives and professional expenses.

And it is -- it is not speculation to pose the question, what is more expensive: one guy in charge with a bunch of helpers, or, one guy in charge, one set of helpers, and another set of helpers.

I can't do the math and tell you to the dollar how much more expensive it will be, but, Your Honor, it will be more expensive. So I don't think we can gloss over the turnover and the added administrative expense issue quite so easily.

THE COURT: Yeah. I tend to agree with you that to the extent that there is a creditors committee that gets funded out of the Estate, and it's not entirely clear to me that that automatically is funded out of the Estate, that if that happened, that that would reduce the pot of money

available to those creditors.

The impression I get is that they're willing to take that administrative hit so that they have a more active voice in the proceedings, that they are happy to make that trade-off. And I think they can say with a certain degree of fairness, this is our money anyway, the money is there for our benefit. So using some of it so that we have a voice in the proceedings is not necessarily a bad thing, let's spend the money, we're willing to do that.

MR. SADLER: Well, and we have to be careful about who the we is. You have one movant, a law firm, that is representing, even if it's hundreds, that is still a tiny fraction of the total CD holders and an even smaller fraction of all the claimants.

Your Honor, there's only one person in front of you who has the legal duty, the legal duty, to try to maximize the benefit for all of those who are owed money out of the Stanford mess, and that's Mr. Janvey. It is not the movants', not the SEC's job. It's not even the Examiner's job. And that's not a criticism. It's simply a statement of fact.

And so we have to be extraordinarily careful about jumping over this cliff into bankruptcy when there is no clear demonstrable benefit. And I think --

THE COURT: Well, let's pause for a second.

MR. SADLER: Yes, sir.

THE COURT: I think that to the extent Mr. Blue speaks for at least some group of the unsecureds, they would say the procedural mechanism of giving us a voice is a benefit. And I think they would also say going to a place that does this all the time in accordance with a carefully thought-out congressional plan is a benefit.

MR. SADLER: And -- and let me answer those two things. First of all, we know from the many, many cases that have flown back and forth in the papers in this court, that liquidation of Ponzi-schemed businesses have been carried out all the time in equity receiverships.

One of the cases cited in this recent round of briefing is from the Southern District of New York, Judge Chin, the Byers case, the same judge you cited in -- in your recent order on the fees --

THE COURT: Yeah. I'm --

MR. SADLER: -- who did exactly that.

THE COURT: I'm reasonably comfortable that I could do this either way. I'm reasonably comfortable with the idea that I have the legal authority to maintain this as a receivership.

The question in my mind, though, is, is it better for me to do this as a receivership or is it better for one of my bankruptcy colleagues who does this kind of stuff all

the time to do this? What's the better way to administer this?

MR. SADLER: And -- and, Your Honor, what I -- I would like to get across is, in our judgment, it is better that we continue with what is undergoing right now, which is very, very similar, if not identical, in substance to what would happen in a bankruptcy.

And -- and let me just articulate that. If we could -- if we could just magically wave a wand and instantly this afternoon transfer everything into bankruptcy with no transition cost, no turnover, just by magic do that, the trustee with the assistance of any creditors committees would do exactly what's going on right now. Litigation --

THE COURT: So it's a wash. It's a wash.

MR. SADLER: Well, but the -- the trouble is we don't have the magic wand to wave off all the administrative costs, to wave off all the litigation over who's in charge. And it's especially a problem if only a part of this goes into bankruptcy because, as I think Mr. Blue conceded, he doesn't have standing to put everything into bankruptcy, we don't have standing to put the individuals in bankruptcy, and as I've told you, putting in a hundred-plus entities into bankruptcy, just the paperwork alone would be an enormous expense and a delay.

There are things going on right now that Your Honor

has ordered, like real estate sales, coin and bullion accounts, trust accounts, wind-down of 401(k) plans, all of these things are ongoing right now that would at least be subject to a pause. A pause of how long, I don't know. Weeks? Months? Again, we're talking about taking a risk where there is no demonstrable benefit.

And let me come back to your question about due process and rights to be heard and -- and go back to what Mr. Blue said. You know, this injunction from the moment it was granted was appealable. No one appealed. So the idea that every time this happens, that there's going to be some permanent injunction issued that no one can ever -- I mean, it's just wrong.

If -- if this injunction was such a problem, it could have been appealed any time between last April and six weeks ago. It's an appealable order, and even as nonparties they have standing under the law to appeal it. They didn't appeal it.

The processes we have in place in this case grant plenty of due process. Every sale of every asset gets litigated by motion just as it would in bankruptcy. The Examiner has done a fine job presenting the views of investors. Everything is scrutinized in this case. This case has as much transparency as anything that could be offered in bankruptcy.

So I do not think it is a very persuasive argument to say, let's stop what we're doing now for some undetermined period of time, let's spend a lot of money on paperwork, let's put this thing in an entirely different process where whoever ends up in charge after fighting about it, whatever the outcome of that is, will do exactly what's being done now.

There is a path to exit this Receivership, and it is finishing the liquidation of assets, it is prosecuting the litigation--and we all know that takes time and it's no different here than in bankruptcy--it is winding down the things that are literally in progress, the transferring of accounts, settling the employee issues, winding up the trust accounts, and it is making distributions.

And as we pointed out in our brief, I've already had discussions with the Examiner and with the SEC about getting together to formulate a plan for an interim distribution. All of that would be placed on indefinite hold if this thing is thrown in voluntarily or involuntarily.

Something else that I think has been minimized -- yes, sir?

THE COURT: Why would it be on hold? Why would you quit doing what you're doing?

MR. SADLER: Well, first of all, Your Honor,

there is an automatic stay that applies to litigation, certainly defensive litigation, if a bankruptcy filing is made. If some cases clearly will be --

THE COURT: You wanted me to stay all the litigation against you anyway.

MR. SADLER: Understood, Your Honor, and I'm -- I'm going to come back to that point because that's a point they raised about third party claims.

But, again, we can't know right now who will ultimately be the trustee, who will ultimately be on the creditors committees. And who the trustee is makes all the difference. If it's not Mr. Janvey, it may be somebody who has a totally different view of what litigation to pursue, what assets to liquidate.

As we pointed out in our brief, the orders you already have in place to sell real estate, to get rid of coins, to resolve landlords, all of that would have to be redone and revisited in bankruptcy. And it's likely we would end up, after a lot of fussing around and a lot of attorneys' fees and a lot of delay, with something that is more or less going on.

And -- and that's why it's so remarkable -- if people are frustrated about the lack of progress, truly this is the last thing you would want to do if what your goal is to move forward and try to get some money in the hands of

investors sooner rather than later. This is a plan for delay and disruption if we do this now. And it's also a plan where investors may get nothing.

The difference with the -- and I'm glad you asked about the IRS because that's a serious issue. The IRS intervened in this case. They are a party in this case to assert their enormous tax liability claim against Stanford and his assets. They have not liquidated all of it. They are still churning the numbers. But what they have come up with so far is 226 million and counting.

You asked, well, what's the difference between bankruptcy and the equity receivership? It's all the difference. In bankruptcy, they have statutory priority ahead of unsecured claimants. In an equity court, they can be treated differently. There is no absolute statutory priority. And I have told the IR -- yes, sir?

THE COURT: Why would I treat them differently, by the way?

MR. SADLER: Because it would be inequitable -- and this answers the question I was about to -- to get to. I have told the IRS, this Receiver will oppose the Commission's effort to pay Allen Stanford's tax bill with money that needs to go to investors. So as a court of equity, you would have the discretion to decide, I'm not going to let the IRS wipe out all the investors.

I'm going to treat them in a different way than their statutory priority. That's a huge difference.

THE COURT: This is kind of an aside but not entirely. Is that something I should try to resolve promptly so that all these other folks can decide if they care anymore?

MR. SADLER: Should decide what promptly, Your Honor?

THE COURT: Whether the IRS gets to go first.

MR. SADLER: I don't think you are compelled to resolve it now. They -- they have to take steps to bring to your attention a demand for money. And as long as this stays in an equity receivership, they are waiting for a distribution plan, a claim settlement plan along with everyone else.

And it's at that time that they would come forward and say, all right, we have this bill for 2 or $300 million, whatever it happens to be, we'd like to have it paid, and the Receiver would propose to Your Honor a mechanism for how that claim should be treated.

THE COURT: Yeah. Here's my question, though. If I decided that first instead of last, this courtroom might well be empty.

MR. SADLER: As a practical matter, you're absolutely right. If you decided this afternoon that

however this is done, by whom, it doesn't matter, but at the end of the day the IRS bill gets paid first, yes, everybody gets wiped out.

I mean, think about it. It's -- it's $226 million, and we all know their penalties are double digit and all of that. A fraction of that, even if you concluded, despite our arguments, that their claim was off by 80 percent, it would still largely wipe out the entire estate.

And so I think it is a -- and we would implore the Court, to keep it in this equity court so that circumstances like that would not arise.

And let me talk about the other issue in the Bankruptcy Code which Mr. Blue didn't mention. And -- and it's not an issue that can be glossed over. There is a serious, serious legal question about whether the CD claims would be subject to equitable subordination.

Now, I'm not here to argue how that should come out, but it is a live, serious issue, and it is in the interest of some to argue that they should be subordinated, and it's certainly in the interest of investors to argue they shouldn't. But the point of that is you only have that expensive, unpredictable argument if you go into bankruptcy. You don't have it if you stay in an equity receivership.

And that is one of the many great unknowns if we take

this leap off the cliff, that once -- once we're gone, we're gone, there's no coming back. And however much it takes and whether the IRS has priority and whether they are subordinated, you know, we can't climb back on to the edge of the cliff.

THE COURT: Yeah, but I don't know that that's necessarily a bad thing. What you're saying is there may be disputes over how the congressional scheme of allocation works. And maybe that's a good thing. Maybe we ought to be paying attention to how Congress thought assets like this ought to be allocated among creditors and give deference to Congress's wisdom.

MR. SADLER: Well --

THE COURT: And if that requires litigating some issues, so be it, that's the way Congress said we ought to do it.

MR. SADLER: Well, and it's interesting because there is a line in Mr. Blue's brief that talks about how Congress intended this scheme as the method for liquidating insolvent companies. And I think the one thing we can agree on is this is not General Motors, this is not Adelphia. This thing was a fraud. These companies existed to perpetrate the fraud. And the long line of case authority is that Ponzi schemes that have mostly victimized investors are liquidated not in bankruptcy

but are liquidated in a court of equity.

If we were here talking about General Motors or Adelphia or a -- a good solid company that failed because of bad business, I think the equities of the argument would be different. But here we are concerned only with unwinding a fraud.

And that's really not the primary purpose of the Bankruptcy Code to liquidate frauds. It's the primary purpose of the Bankruptcy Code to liquidate insolvent companies. But this really is something different and you have to treat it as something different. If the investors stand to get anything -- and they do stand to receive at least an interim distribution if we are allowed to go forward. If it goes into bankruptcy, nobody with any credibility could predict when investors would get the first dollar, if they ever got a dollar, Your Honor.

THE COURT: Why don't we do an interim distribution and then go to the bankruptcy court?

MR. SADLER: I think if we did an interim distribution, the reasons to go into bankruptcy by that time would be even less compelling. Again, you -- you have to step back and ask the question: What -- what are we accomplishing by putting this into a parallel system that really wasn't designed to unwind frauds to pursue exactly the same goals that we're pursuing now? It seems

rather pointless.

THE COURT: The unwinding fraud part doesn't move me that much because you're chasing down assets, and they do that kind of stuff, I gather, pretty regularly.

MR. SADLER: Trustees in bankruptcy pursue litigation all the time. Nobody is suggesting anything to the contrary.

And the other thing that is going on right now that is not helped, enhanced, or changed one bit is this third party litigation. And the idea that the Receiver is somehow impeding third party litigation, it isn't true. I have already talked to the Examiner and the SEC about we're going to develop a process to make documents available to these people who have brought lawsuits. And that's just it. Dozens of lawyers have brought lawsuits parallel to ours to seek recovery, and we think that's fine.

Now, let me mention one thing that I don't think is so fine that I do think you should weigh in your judgment on this motion and it's spelled out in the movants' brief. One of the reasons they want to get this thing into bankruptcy is because they perceive that bankruptcy allows them to evade sovereign immunity defenses.

Why is it even relevant? Well, it's relevant because Mr. Blue's firm had a lawsuit on file first in the Southern

District, then it got moved up here in the MDL, where he's suing the entire government of Antigua. I don't know if it's a valid claim or not, but they acknowledge they have a sovereign immunity problem. They also I think telegraph in their brief that a sovereign immunity problem is what prevents them from suing the SEC.

And so I think they are being quite transparent about one of the motivations behind this is to let's get this thing in bankruptcy, maybe we can achieve some procedural advantage and we can expand our litigation.

And all I can say, Your Honor, is that is not a reason to incur hundreds of thousands of dollars in excess litigation and administrative and transition costs just because one set of lawyers perceives an advantage to their lawsuit on behalf of their clients to sue the government, whether it's the U.S. government or the Antiguan government or any government. That's an inappropriate reason to push this thing off the cliff.

I really think it is being underestimated the cost and the risk of fracturing this thing. And if the answer to the, well, let's not fracture it, let's dump the whole thing in, you've just jacked up the price tag but I don't think you've removed all the risk and all the uncertainty.

And in the meantime, as I said, we would have continued doing exactly what a trustee is doing but

devoting the -- the fees and expenses not to just rearranging the deck chairs on the Titanic and voting, you know, who's captain today, but instead winding up and finishing things that either reduce the ultimate costs or put money in the hands of the investors, Your Honor.

I think that on balance, and it is purely discretionary, I think we all understand that, that on balance there is no compelling reason to put all or pieces of this into bankruptcy. There are compelling reasons not to.

And what we would ask Your Honor is to keep the injunction in place so that the work that is under way is not delayed, is not disrupted, and can move forward at an orderly pace that will result in money being paid to investors.

There's no perfection in either leaving this in equity receivership and there's no magic perfection to putting it into bankruptcy. This thing defies any easy solutions. And a bankruptcy trustee does not have the power under Congress's code to turn lead into gold or water into wine, and we don't either.

So bankruptcy is not the magic bullet. Bankruptcy, I believe, would lead to serious delay, serious costs, and deplete the Estate. And that is our best judgment as the Court-appointed officers who are trying to do the best

for everyone and not to do the best for this constituency or that constituency, Your Honor.

I'd be happy to answer any other questions you have.

THE COURT: No, no more.

MR. SADLER: Thank you.

THE COURT: Thanks.

MR. REECE: Morning, Your Honor. David Reece for the Securities and Exchange Commission.

I don't have terribly much to add to what's already been said today, and so I won't take more time than I have already been given. That's one reason why we allocated it this way is I think that the Receiver is in the best position here to weigh the benefits of maintaining the Receivership versus bankruptcy, and that's why time was allocated the way it was.

I did want to take a few minutes and, of course, respond to any questions but also just to make it clear that in our view and -- and I think -- and I don't want to belabor this because I think you've -- you've already mentioned it, there is a longstanding practice in -- in securities fraud cases of using equity receiverships to distribute and liquidate assets, manage the estate. And there are sound reasons for that vis-a-vis the bankruptcy proceeding.

And you mentioned that the idea of -- of winding down

a fraud is not persuasive because either way you're chasing assets. But one thing I wanted to note on that is the advantage of the equity receivership is -- is just that, that it's an equitable proceeding where the equities can be considered. And that's a little different than the way the Bankruptcy Code would work.

THE COURT: Don't the bankruptcy courts consider themselves to be courts of equity?

MR. REECE: Yes, Your Honor, but I'm talking about specifics of some examples we've been talking about today. You mentioned the IRS issue. There is a big difference, it seems to me, from -- from reading the papers and from my understanding of how things would work, in how that would be treated in an equity receivership versus the bankruptcy statutory regime.

There are arguments to be made in the receivership setting to counter that claim. And also you mentioned, why not decide it now? I mean, there are always discussions going on on that front, and that's -- those are issues that can go forward in the receivership context that I just don't know can go forward on the bankruptcy side.

And so I just wanted to highlight that for Your Honor --

THE COURT: Uh-huh.

MR. REECE: -- that there are real differences in how things might play out.

THE COURT: Yeah. In terms of if you go into bankruptcy, some things you'd have to litigate that you don't have to litigate in the receivership, you know, the converse is true. If you go into bankruptcy, the IRS has a statutory priority and they don't have to decide, is this a good idea or not a good idea, because Congress has already decided it. So that's a piece of administrative cost that argues for bankruptcy, huh?

MR. REECE: It may be a piece of administrative cost, but I think that in that particular instance, the administrative cost is dwarfed by the result of -- of the -- of the lien. There is a -- there may be administrative cost in terms of dealing with it in the equity receivership. But if the statutory lien is -- is exercised, that wipes out the Estate. It's a very uneven balancing in our view, Your Honor.

And, again, I think that's -- that's the reason why -- that's one of the reasons why it is such a longstanding practice in enforcement actions to use the equity receivership.

THE COURT: Okay. Anything else on behalf of the Commission?

MR. REECE: Your Honor, I don't have anything at this time. I may have some comments at the end if that's okay, depending on -- on what Mr. Blue says.

THE COURT: Okay. I kind of thought he got to go last.

MR. REECE: Oh. Fair enough, Your Honor. Then nothing further from the Commission at this point.

THE COURT: All right. Mr. Little?

MR. LITTLE: Good morning, Your Honor. I actually contemplated sitting over there (indicating) since I don't think I'm going to make anybody very happy with my comments.

Let me start kind of where you started, which was this notion of -- of some period of time. If the Court were inclined to lift the injunction in response to the motion or to direct the Receiver to have a period of time, I think a period of time is necessary because there are things going on that investors have waited a long time for, and I don't want to see any of those things held up.

We are in the process of distributing back to the investors the coins and bullion. There are securities accounts being moved, things like that. So I do think some period of time before whatever you decide to do, happens, makes sense here.

THE COURT: Let me ask you this. In a certain sense, this seems to me kind of a natural breaking point in the process, that the Receiver has pretty much glommed on to all of the readily available assets and we're about

to enter a protracted phase of litigating against third parties. And in some respects that seems like kind of a natural breakpoint.

MR. LITTLE: I think I agree with you in terms of the -- of where we are in the Receivership. I don't think there are any other assets save for the ones overseas that the Receiver has not gotten his hands on. Of course, there are significant assets overseas that are still in dispute, and so that's still going on. So with respect to that, I do agree with what you're saying. This is kind of a -- no money has been distributed, no distribution scheme has been crafted. So this is probably the time to think about this.

And let me just say, from the investors' viewpoint, if this were a popular vote, the Receiver would lose. The investors are very frustrated, they are very unhappy with the Receiver. I hear that consistently through my communications with them. I hear that from the leadership of the Victims Coalition. I hear that from the lawyers who represent investors. That's because of costs, it's because of communications, and a variety of reasons.

Having said that, I can't convince myself that moving to bankruptcy will somehow make life better for the investors at the end of the day.

I hear the due process and I hear the participation.

But I will tell you that a lot of the investors who are represented by or at least seemingly represented by lawyers still call me because they don't want to pay their lawyers and they figure that they can call me and sort of the whole gets to pay for that.

I'm not sure how much the individual investor values the participation in the process versus how much money am I going to get back. And that's kind of the focus I have, what's going to result in the best result for the investors at the end of the day. And so I'm not convinced bankruptcy gets them there. And that's for a couple of reasons.

The movants indicate that they are really talking about putting the bank and maybe Mr. Stanford into bankruptcy. And that makes the bank the focal point. It also results, I think, in three different proceedings because we have the bank in bankruptcy, we'd still have a receiver over all these other entities, and then we'd have the Antiguan Liquidators who also assert jurisdiction over the bank.

THE COURT: I don't think it would play out that way. I think if I were inclined to go that way, I would give the Receiver some window to get his act together and file. And I would anticipate that if the Receiver had the choice of doing nothing and having an involuntary 7 or doing an organized voluntary 11, that the Receiver would

in all likelihood do a voluntary overall 11.

MR. LITTLE: I suspect the Court could craft an order that -- that might dictate that result. But as the motion is posed, I fear this triangular fight.

THE COURT: Yeah. But I don't think that's a likely outcome under any scenario.

MR. LITTLE: Well, that would be good. I do worry about the cost of the bankruptcy proceedings. If we're in an 11, we do have committees and all these sorts of things. And while the Receiver has not been cheap, and I have not been quiet about my criticisms about his costs, I've also had experience in large bankruptcies before. And, you know, I think we just passed the 1,000 docket number here and, you know, those tend to get into the 10,000 docket numbers and about 20 percent of those are fee applications, and that gives me some great pause here.

THE COURT: But, you know, that's not necessarily a bad thing. It reflects that the bankruptcy court has processes and procedures and rules in place to handle this kind of stuff whereas I am, with the help of able counsel, I'm more or less making this up as I go.

MR. LITTLE: And -- and I think folks on either side of me would argue that that's a good and/or bad thing depending on their perspective. I think the Commission and the Receiver would say, you're exactly right, and

that's why we need to stay here; flexibility is exactly what makes the Receivership preferable. Mr. Blue would certainly say, no, no, we need rules, those rules are good, and those rules move us along.

THE COURT: Yeah. The Receiver also says, and anyway you're doing exactly the same thing that would happen in a bankruptcy court, which makes me think, why not have the bankruptcy judge do it.

MR. LITTLE: I don't think the Receiver says exactly that because --

THE COURT: Not -- not exactly but close to it.

MR. LITTLE: -- I think a lot of the same activities by the Receiver would be going on whether it was the Receiver or a trustee in bankruptcy or a liquidator under SIPC. They'd be doing a lot of the same things.

I do think the existence of the rules in the Bankruptcy Code, in particular the priority scheme, impose some burdens here that we maybe don't have here. And, again, I haven't -- the IRS doesn't negotiate with me about anything. So I don't know what their views of -- of their claim are. I know it's huge. I know it's about three or four times the size of the available cash today.

And so the Court's suggestion of maybe moving that thing up the line a little bit and figuring out where they're going to end up makes some sense to me because it

may obviate a lot of what we're doing.

But I do -- I have great concerns about the costs of going into bankruptcy. I hear the Court about the order that you might be considering entering. But as the motion -- as to the relief sought in the motion, I fear this three-way fight. I fear reviving the Antiguan Liquidators' desire to push their Chapter 15 which we're about ready to kill off. But that seems to have come to a stall with this hearing being set.

So the -- from the investors' viewpoint, they are not happy with this guy or his team. I have a hard time figuring out how they will ultimately be happier going the bankruptcy route.

And I guess one final comment, Your Honor. I don't think the investors would be very happy with the notion of letting the Receiver take it into bankruptcy.

THE COURT: Yeah. I have heard that as well, though I think Mr. Blue believes that would be a preferable alternative to leaving it here.

MR. LITTLE: And -- and, again, I'm speaking now really as a reflection of what I hear from the investors themselves, you know, who are not bankruptcy lawyers, from -- kind of straight from those folks. They view this motion as bankruptcy or the Receiver.

As I said, if it was a popular vote, they'd vote

bankruptcy. But bankruptcy and the Receiver, I'll wait for my phone to start ringing because it will. And that's about all I have, Your Honor.

THE COURT: If I determine to leave the injunction in place, do I need to revisit your role and that structure?

MR. LITTLE: No, I don't think so, although you're always free to revisit it.

THE COURT: Should I -- should I do something closer to a creditors committee?

MR. LITTLE: That may well be worth talking about because we have -- we have lots of lawyers who represent large numbers of investors. Mr. Blue and his firm represent several hundred. Mr. Malouf represents several hundred. Mr. Bryant represents a large pile of them. Mr. Rodine represents a large number. We could probably put together a -- a group of lawyers who would represent multiple thousands of investors and would have slightly more ability to -- to represent the views of those particular groups. So that might make sense.

THE COURT: Okay.

MR. LITTLE: And whatever you decide to do with that, I'll be happy to do it.

THE COURT: I appreciate that.

MR. SADLER: Your Honor, would you permit me just a couple of seconds to --

THE COURT: Sure.

MR. SADLER: -- clarify something you asked Mr. Little about?

THE COURT: Uh-huh.

MR. SADLER: I neglected to mention this.

I do believe, and so that everyone understands, that -- that one of the things, regardless of whether it's voluntary, involuntary, that would happen is I do believe we would reignite the Chapter 15 fight with Antis (phonetic).

We've been working for the past several weeks since we had a telephone call with Your Honor to try to finalize that document. It is essentially final, but it has been final for a week and my -- my telephone calls and my e-mails have suddenly grown silent from them.

And I think they are watching and waiting to see if Your Honor is going to put a part of this in bankruptcy, and that if you do, I suspect they will have a different view about whether they want to abandon their Chapter 15 petition. And I just wanted to share that view with Your Honor.

THE COURT: Okay. I appreciate that. It's not immediately clear to me why the dynamics of that from their perspective would be any different. But I'm not them, so don't know.

MR. SADLER: I understand, Your Honor. Thank you.

THE COURT: All right. Mr. Blue.

MR. BLUE: Thank you, Your Honor. Just a few points which will be a little disjointed, but that's the nature of rebuttal.

THE COURT: Uh-huh.

MR. BLUE: First, I want to go back to the Court's comments about the creditors committee. I think the Court has it exactly right, that the investors and the victims believe that it would be worth it.

I also have no doubt that the attorneys and professionals who would be assisting whoever those creditors are on the committee would -- would be -- the fee arrangements would be worked out under the supervision of the bankruptcy court. You know, all professionals have to be retained under the supervision of the bankruptcy court. It is entirely possible that, and I believe even likely, you would not see fee requests from a creditors committee that you see in other large bankruptcies here.

Talking just for a moment about this IRS claim, and as I understand it, the IRS would have a claim against Allen Stanford for taxes that he owes that the Receiver is afraid would swamp the rest of the Estate. Well, the bankruptcy court and the Bankruptcy Code is perfectly able to resolve these matters.

There would be a claim, I would imagine, by the Stanford International Bank bankruptcy estate against Allen Stanford for whatever damage he did to the bank by the other entities. The value here was stripped from Stanford International Bank. I mean, everyone at Stanford International Bank and the sales of CDs there were the engine that drove this fraud. So the money should be coming back to the entities where it came from.

In that sense if the IRS has a claim against Allen Stanford, I'm not sure there's going to be any money in the Allen Stanford Estate to make a claim against. But does the IRS have a claim against Stanford International Bank which is the entity that the victims would be getting their money from?

So I think that there are mechanisms to deal with that there and we don't need to be concerned that the IRS claim would swamp the -- swamp the victims' claims there but not here. It just doesn't make sense.

And I think Your Honor is exactly right: If the IRS believes it's entitled to its money, it's going to litigate one place or the other.

Which gets us to another point about the costs of the bankruptcy and the litigation. I think Your Honor is exactly right, that to the extent that the Bankruptcy Code provides clear answers to things like priorities and

procedures, there will be cost savings.

Again, I don't think that bankruptcy is a magic bullet that will solve all of the problems of the investors and that they will -- it will be all lollipops and sunshine after that.

But I do think to the extent to which there are answers in the law already, we don't have to have the Receiver's team make up new procedures or at least look at the Bankruptcy Code and say, let's adopt that, and then come to the Court and, as you said, we're essentially making it up as we go along. There will be cost savings on that side.

Mr. Sadler talked about underestimating the cost and the risk of bankruptcy. Your Honor, I'm still very concerned that this is just a matter of attorney advocacy on their side, just saying costs in bankruptcy. He says that the Receiver has been analyzing this for months, but neither on this motion nor the previous motion nor the original application for an injunction is there any evidence to support the entry of a preliminary injunction.

I mean, where's the -- I believe it was the Byers case, and I don't have it off the top of my head, where the Court looked at the relative costs of transitioning to bankruptcy and had declarations from the financial professionals saying these are the additional costs that

we'll incur, this is how it will go. I mean, we don't have anything like that from the Receiver, saying, here's our analysis, here's the evidentiary support for continuing an injunction.

And there are so many areas here, Your Honor, in which the Receiver and even the Examiner said they don't see the benefits, they don't see clearly how the investors would be better off, or the Receiver says that the procedures are essentially the same as they are here.

Well, if we really are at equilibrium, Your Honor, if we really are, it's fine here and it's fine in bankruptcy, they're substantially similar, I submit to you the balance has to tip in favor of creditors' rights. It has to tip in the favor of processes that Congress has established. If it's essentially a wash, then we should be in bankruptcy court.

Thank you, Your Honor.

THE COURT: If -- the same question I asked Mr. Little. If I decide to leave the proceeding here, should I revisit the examiner mechanism and think about some broader-based creditors' committee or something of that nature?

MR. BLUE: Unquestionably, yes, Your Honor. Unquestionably, yes. Mr. Little is -- is -- is charged with representing the interests of a particular group,

but that is not a homogeneous group. It's not --

THE COURT: There are --

MR. BLUE: There are conflicts within that, and it's very difficult to see how Mr. Little can -- can bring to the Court all the various views. And it's one reason why we think bankruptcy is -- is preferable because the bankruptcy judge would have the benefit of a multitude of views.

But I think it would be essential, if you did leave it in place, to find some mechanism to let -- to let different groups of creditors, let -- let their counsel come in here and have more ready access to object and participate in the process.

THE COURT: I haven't really been aware yet of any significant conflict in terms of the issues that Mr. Little has been talking about. Right now everybody wants to hunt down all of the assets they can find.

MR. BLUE: That's true. I think the one area, the claw-back litigation where there are certainly people -- you know, there are winners and losers in the claw-back, the potential for claw-back claims. The people who are the losers on that undoubtedly would want to see the money clawed back. The people who are winners don't. That's the one thing that comes to the top of my -- my head.

THE COURT: Uh-huh.

MR. BLUE: And it's difficult to see that all of those views can be vigorously represented by a single person.

THE COURT: Yeah. At least for the moment, the claw-back issue is not presently in front of me.

MR. BLUE: Correct.

THE COURT: Okay. Thanks very much.

MR. BLUE: Thank you, Your Honor.

THE COURT: I don't know what I'm going to do on this. I'm going to take it under advisement. I wish there were an easy, clearly superior outcome, but maybe it's just a sign that I've got such skilled advocates in front of me, each side makes their respective position sound eminently reasonable.

I do want to offer some observations. One is that I'm extremely sympathetic to the frustration of the creditors. If I had the ability to sign an order that says, all these Swiss bank accounts are now part of the Receivership and they represent the hidden $6 billion that Mr. Stanford salted away and pass it out to the creditors, I would do that.

I think everybody wishes that we would find the secret Swiss bank accounts, but that's not happening. And the process is, of necessity, slow and tedious. And I understand that there are good reasons for that. But

I can certainly see how from a lay person on the outside who's suffering severe hardship because they got cheated by a crook, I can see how that kind of person would be extremely frustrated with this process. And I have great sympathy for them.

As the Examiner rightly and persistently points out, I think ultimately the question is, what can we do to help those folks the most the fastest. And that's certainly my goal in this. It's just almost of necessity, I think probably of necessity, this is going to be a tedious slog there.

The major asset still out there appears to be claims against third-party professionals that are going to be hard fought and are not going to be resolved in a matter of weeks. It's going to take some time to sort through that stuff. And whether it's here or in the bankruptcy court, it's going to be a while.

I'm pleased that the SEC and the Receiver are thinking about some kind of interim distribution so that the investors can at least see something back, see some tangible result of a lot of people of good faith working on their behalf. So I'm sympathetic to their problems.

I have to also say, other than some concerns about some of the fee applications, I think the Receiver has absolutely been working for the best interests of the

investors. It may not look like it to the investors and there may have been, as some people have said, some difficulties in communication. But for the Receiver to do his job, it's not practical for him to answer every phone call that comes in from every investor. If he did that, he'd be doing nothing but answering phone calls.

So I think in many respects the Receiver is the person in the room with the most difficult job. And I have to say I believe that he has absolutely been working for the investors. I don't have any question that that's his goal.

So many people grump. I think it's appropriate, at least for the Court, to say that, Mr. Janvey, I think you're in large measure doing the job that the Court and the SEC intended that you be doing, and I appreciate the fact that, although you may disagree with what some of the investors are saying, you're doing it out of a reasoned disagreement about what's best for them and that your goal is to get the most money possible in their hands as quickly as you are able to do that. And I appreciate the fact that you're doing that on behalf of the Court.

I also want to say for Mr. Little, although I was inquiring if we need to look at your position and your role, that I very much appreciate the work that you have been doing and communicating to the Court the views of the

various investor groups. And it's been extremely helpful for me for you to be fulfilling that role.

And I appreciate the fact that you were willing to step into the middle of a substantially large mess and assist the Court in that way, and I'm grateful for your assistance.

So I'm going to take this under advisement. I don't want it to sit too long. I think we need to figure out what we're going to do pretty quickly so that you-all can get on with that.

I will endeavor to get an order out on this by the end of the month. It's not a promise. It's not a promise. It's an aspirational goal. But you-all need to know the answer to this relatively quickly. So I will try to do that.

I appreciate all of you-all coming down here on a snowy, ugly day. Please be careful on your way home and, Mr. Blue, on your travels back to New York.

MR. BLUE: Thank you, Your Honor.

THE COURT: And we'll be in touch with you in due course.

MR. BLUE: Thank you, Your Honor.

THE COURT: Court will stand in recess.

(The proceedings were concluded.)

I N D E X

CERTIFICATION

I certify that the foregoing is a true and correct transcript from the record of proceedings in the above-entitled matter. I further certify that the transcript fees format comply with those prescribed by the Court and the Judicial Conference of the United States.

s/Linda J. Robbins Date: February 11, 2010