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

SECURITIES AND EXCHANGE COMMISSION,	§	
	§	
Plaintiff,	§	
	§	
v.	§	**CASE NO. 3-09-CV0298-N**
	§	
STANFORD INTERNATIONAL BANK, LTD., STANFORD GROUP COMPANY, STANFORD CAPITAL MANAGEMENT, LLC, R. ALLEN STANFORD, JAMES M. DAVIS, and LAURA PENDERGEST-HOLT,	§	
	§	
Defendants.	§	

UNOPPOSED MOTION TO PERMIT SALE OF NORTH CAROLINA UNDEVELOPED LOT AND TO EXCLUDE JAMES D. HOLT'S EQUITY IN SALE PROCEEDS FROM RECEIVERSHIP ESTATE AND RELATED COURT ORDERS, AND BRIEF IN SUPPORT THEREOF

TO THE HONORABLE COURT:

Defendant Laura Pendergest-Holt and James D. Holt move the Court to permit the sale of an undeveloped but potentially highly valuable lot in North Carolina before the lender's inevitable foreclosure sale destroys some or all of the equity in the property. Movants also request that the Court extend the asset freeze to those sale proceeds which the parties have agreed are attributable to monetary contributions of Defendants Laura Pendergest-Holt, but that the Court exclude from the asset freeze and from the receivership estate such proceeds as the parties have agreed are attributable to monetary contributions of James D. Holt, Ms. Holt's husband. Movants have submitted an agreed order that grants the relief requested in this motion.

I. INTRODUCTION

James D. Holt and his wife, Defendant Laura Pendergest-Holt, are owners of record of a highly desirable lot on the intra-coastal waterway of North Carolina. Before meeting Ms. Holt, James Holt had no connection with any of the Stanford entities or Defendants in receivership. Mr. Holt had used his untainted assets and income to purchase a house in Virginia held solely in his name. Mr. Holt later sold that house, using $373,298 of untainted proceeds from that sale to contribute to the initial down payment and the reduction of mortgage debt for the Holts' lot in North Carolina. Ms. Holt contributed approximately $246,695 of her assets to the purchase of the lot, and the Holts obtained a mortgage loan for the remainder of the $2.0 million purchase price.

Because of the asset freeze imposed by this Court, the Holts no longer can afford to make mortgage payments. The freeze order also prevents the Holts from selling the lot, even though such a sale would provide the best opportunity for preserving Mr. Holt's untainted equity and the receivership estate's potential interest in the equity attributable to Ms. Holt. Movants therefore request that the Court grant immediate permission for Mr. Holt to sell the lot. Movants further request that the Court confirm Mr. Holt's entitlement to receive the return of his $373,298 contribution from the proceeds of any voluntary or involuntary sale of the house, and the receivership estate's entitlement to have Ms. Holt's $246,695 contribution placed in an account subject to the Court's asset freeze. Movants agree that any sale proceeds in excess of the lender's claim and the respective contributions of Mr. Holt and Ms. Holt shall be divided between Mr. Holt and the receivership estate (on behalf of Ms. Holt) pro rata based on the respective contributions of Mr. Holt and Ms. Holt.

II. BACKGROUND

1. On February 17, 2009, this Court entered its Order Freezing Assets [Docket No. 8] against Defendant Laura Pendergest-Holt (and other Defendants) on an ex parte basis. By paragraph 5 of the order, the Court enjoined Defendants from disposing of any assets in their possession, custody or control. On March 2, 2009, the Court entered its Agreed Preliminary Injunction as to Laura Pendergest-Holt [Docket No. 79], which contains virtually identical provisions at Sections IV and V.

2. James D. Holt is the spouse of Laura Pendergest-Holt. He is not a party to this lawsuit. He has never worked for or received any money from any of the Stanford entities in receivership. Before meeting Ms. Holt in October 2006, he did not know any of the Defendants in this case. He has accumulated personal assets through his current and prior employment (such as his prior position at a hedge fund), as well as occasional gifts from his parents.

3. In November 1997 – nine years before he met Ms. Holt – Mr. Holt purchased a house located in Arlington, Virginia. Mr. Holt was unmarried at the time, and the deed for the Virginia house was held only in his name. He sold the house on July 28, 2008, receiving proceeds of $636,290 that are completely unconnected to the Stanford entities in receivership or to Ms. Holt.

4. On December 28, 2007, the Holts purchased an undeveloped but valuable lot on the intra-coastal waterway of North Carolina at 1205 Great Oaks Drive, Wilmington, NC 28405 (the "Lot") for $2 million, subject to a large mortgage loan. Mr. Holt contributed $73,297 of his untainted personal funds to the initial down payment. In addition, Mr. Holt later used $300,000 of his proceeds from the sale of his Virginia house to reduce the outstanding principal balance on

the loan for the Lot. Ms. Holt used $246,695 of her assets to the make a one-time payment to reduce the outstanding principal balance on the loan for the Lot. The deed for the Lot is in the name of both Mr. Holt and Ms. Holt.

5. The Movants agree for purposes of this motion that the $246,695 contributed by Ms. Holt should be considered tainted by the alleged fraud and therefore subject to the Court's asset freeze. Mr. Holt's contribution of $373,298 has no connection to the alleged fraud and therefore should not be part of the receivership estate or subject to the Court's asset freeze.

6. Because of the freeze on their assets, the Holts no longer can make mortgage payments for the Lot. The Holts have already received notices of delinquency on the mortgage for their house in Baldwin, Mississippi, and they are relying on family assistance to make the mortgage payments on the Lot. Because the Holts simply do not have enough money to continue making mortgage payments, the lender inevitably will foreclose on the Lot, unless Mr. Holt is allowed to sell the Lot before that happens. The forced sale of the Lot in a foreclosure setting likely would yield far less money than a voluntary sale of the Lot.

III. ARGUMENT

A. Mr. Holt Should Be Authorized to Sell the North Carolina Lot.

No one has alleged that Mr. Holt engaged in wrongdoing connected to the alleged fraud. Moreover, the undisputed evidence shows that Mr. Holt contributed $373,298 of his personal, untainted money to the initial down payment and reduction of the principal mortgage balance for the Lot. Ms. Holt's equity interest in the Lot may justify an asset freeze as long as the Holts continue to own the Lot. But given that the Holts no longer have sufficient money to make mortgage payments, the Lot almost certainly will soon be sold in a foreclosure sale.

It is well documented that the sale of real property in foreclosure generally results in a substantially lower price than a voluntary sale. That is particularly true for property like the Lot, which may have a substantial amount of equity given that more than 30% of the original purchase price has been paid. Indeed, from the lender's perspective, the only goal of a foreclosure sale would be to generate enough proceeds to satisfy the outstanding amount of the Holts' loan. With very little effort, the lender here should be able to recover the remaining balance of the loan. The lender for the Lot therefore has little incentive to maintain the Lot properly or to market the Lot in a manner that is likely to generate the maximum sale proceeds.

By contrast, Mr. Holt has every incentive to maximize the sale proceeds of the Lot. He invested most of his life savings in the Lot – savings that he can hope to recover only if the sale of the Lot yields a fair price. Movants agree that Mr. Holt has the most incentive to maximize the sales proceeds, and allowing him to do so will save the receivership estate the time and expense of further involvement in the sales process. Movants therefore request that Mr. Holt be given authority to sell the Lot.

B. Mr. Holt and the Receivership Estate (on behalf of Ms. Holt) Should Share Sales Proceeds According to the Respective Contributions of Mr. Holt and Ms. Holt.

Ideally, the Lot will be sold voluntarily for a purchase price that exceeds the Holts' original purchase price. That would enable Ms. Holt to deposit her $246,695 equity interest in the Lot in an account subject to the Court's asset freeze. Moreover, the lender's claim would be fully satisfied, and Mr. Holt would receive the return of his initial contribution of $373,298. Movants agree that any remaining proceeds should be allocated between Mr. Holt and the receivership estate (on behalf of Ms. Holt) according to the relative contributions of Mr. Holt and

Ms. Holt to the purchase of the Lot. Thus, to the extent the sale generates such excess proceeds, Mr. Holt would receive 60.21% of such proceeds ($373,298/$619,993), and 39.79% of such proceeds ($246,695/$619,993) would be deposited in the interest-bearing account at Chase Bank described in the Court's May 27, 2009 Agreed Order Granting Receiver's Unopposed Motion for Order Authorizing Release of Additional Stanford Trust Company Customer Accounts [Docket No. 407], pending final adjudication of the Receiver's rights with respect to the funds attributable to Ms. Holt's contribution. Similarly, to the extent the sale proceeds exceed the lender's claim but are not sufficient to cover the Holts' equity contributions, Movants agree that 60.21% of the proceeds in excess of the lender's claim shall be disbursed to Mr. Holt, and that, pending final adjudication of the Receiver's rights with respect to the funds attributable to Ms. Holt's contribution, 39.79% of such proceeds shall be deposited in the interest-bearing account at Chase Bank described in the Court's May 27, 2009 Agreed Order Granting Receiver's Unopposed Motion for Order Authorizing Release of Additional Stanford Trust Company Customer Accounts [Docket No. 407]. The funds deposited in the Chase account (39.79% of proceeds) shall not be withdrawn or used to pay expenses of the receivership estate absent further order of the Court.

WHEREFORE, Movants respectfully request that the Court grant this motion and enter the agreed order submitted in connection with this Motion.

DATED this 28th day of September, 2009.

Respectfully submitted,

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ATTORNEYS FOR DEFENDANT LAURA PENDERGEST-HOLT AND NON-PARTY JAMES D. HOLT

CERTIFICATE OF CONFERENCE

The undersigned counsel has conferred Kevin Sadler, counsel for the Receiver, about the substance of this motion. The undersigned counsel has also conferred with both the SEC and the Examiner, and the SEC and Examiner have both represented that they do not oppose this motion. Because all interested parties have reached an agreement on the merits of this motion, it is being submitted as an unopposed motion with an accompanying agreed order, with the consent of Mr. Sadler.

/s/ Jeffrey M. Tillotson, P.C.
Jeffrey M. Tillotson, P.C.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served *via ECF* on counsel of record on this the 28th day of September, 2009:

/s/ Jeffrey M. Tillotson
Jeffrey M. Tillotson, P.C.