

THE UNITED STATE DISTRICT COURT
FOR THE SOUTHERN DISTRICT COURT OF TEXAS
HOUSTON DIVISION

R. ALLEN STANFORD	§	
Plaintiff,	§	
v.	§	CIVIL CAUSE NO. _____
STEPHEN KOROTOSH, DAVID REECE,	§	
DAVID EDMUNDSON, MICHAEL	§	
KING, THOMAS KELTNER, PAUL	§	
PELLETIER, GREGG COSTA, CHAD	§	
NUNEZ, VANESSA WALTHER, JOHN	§	
DOES 1-15, MATTHEW KLECKA,	§	
JACK PATRICK, ALLEN MEDINA	§	
Defendants.	§	

COMPLAINT AND JURY TRIAL DEMAND

Robert. Allen Stanford hereby files his Complaint against certain individual agents, known and unknown, of the Securities & Exchange Commission, the Federal Bureau of Investigation and United States Department of Justice individually for violations of his rights under the Fourth, Fifth, Sixth and Eighth Amendments to the United States Constitution.¹

I. Parties

1. R. Allen Stanford resided at the Federal Detention Center, Houston Texas, 77002 until February 14, 2011. Mr. Stanford was Chairman of the Board and shareholder of Stanford International Bank, Ltd. (“SIBL”), Stanford Group Company (“SGC” or sometimes referred to

¹ Due to time constraints, counsel for Mr. Stanford was not able to obtain a tolling agreement from all potential defendants. The instant claims have been filed to eliminate any potential question as to whether this action was filed within the applicable statute of limitations.

as the “Broker-Dealer”), and Stanford Capital Management, LLC. (“SCM”) and owned other companies in various parts of the United States and the world. Mr. Stanford maintained a residence in Antigua and also maintained an apartment at a location in Sugar Land, Texas.

2. Stephen Korotash is an agent for the Securities & Exchange Commission whose home residence is unknown but who can be served at Securities & Exchange Commission, 801 Cherry Street, 19th Floor, Fort Worth, Texas, 76102.

3. David Reece is an agent for the Securities & Exchange Commission whose home residence is unknown but who can be served at the Securities & Exchange Commission, 801 Cherry Street, 19th Floor, Fort Worth, Texas, 76102.

4. Kevin Edmundson is an agent for the Securities & Exchange Commission whose home residence is unknown but who can be served at 801 Cherry Street, 19th Floor, Fort Worth, Texas, 76102.

5. Michael D. King is an agent for the Securities & Exchange Commission whose home residence is unknown but who can be served at 801 Cherry Street, 19th Floor, Fort Worth, Texas, 76102.

6. D. Thomas Keltner is an agent for the Securities & Exchange Commission whose home residence is unknown but who can be served at 801 Cherry Street, 19th Floor, Fort Worth, Texas, 76102.²

² Defendants Korotash, Reece, Edmundson, King and Keltner are sometimes referred to herein as the “SEC Agents.”

7. Vanessa Walther is an agent for the United States Department of Justice, Federal Bureau of Investigation whose residence is unknown but who can be served at 515 Rusk Street, Houston Texas, 77002.³

8. Anthony Nunez is an agent for the United States Department of Justice, Federal Bureau of Investigation whose residence is unknown but who can be served at 515 Rusk Street, Houston Texas, 77002.

9. Paul Pelletier is an Assistant United States Attorney, United States Department of Justice, whose residence is unknown but who can be served at 515 Rusk Street, Houston Texas, 77002.

10. Gregg Costa is an Assistant United States Attorney, United States Department of Justice, whose residence is unknown but who can be served at 515 Rusk Street, Houston Texas, 77002.⁴ Mr. Costa is believed to reside in this district.

11. Matthew Klecka is an employee of the United States Department of Justice, whose residence is unknown but who can be served at 515 Rusk Street, Houston, Texas 77002.

12. Jack Patrick is an employee of of the United States Department of Justice, whose residence is unknown but who can be served at 515 Rusk Street, Houston, Texas 77002.

13. Allen Medina of the United States Department of Justice, whose residence is unknown but who can be served at 515 Rusk Street, Houston, Texas 77002.

³ Defendants Walther and Nunez are sometimes referred to as the “FBI Agents.” All defendants are sometimes collectively referred to as the “Agents.”

⁴ Defendants Pelletier, Costa, Klecka, Patick, and Medina are sometimes referred to as the “DOJ Agents.”

14. John Does 1-10 are agents or supervisory agents of the Department of Justice, SEC and the FBI who approved, directed and/or controlled the actions of the subordinate agents committing the constitutional violations complained of herein. They may be served as follows: unknown SEC agents, at the United States Securities & Exchange Commission, Washington, D.C.; unknown agents of the Department of Justice, at that United States Department of Justice, Washington, D.C. and unknown agents of the FBI, the United States Federal Bureau of Investigation, Washington, D.C.

15. John Does 11-15 of the United States Marshal's service whose identities are unknown, but who assisted, aided and abetted in the seizure of Stanford Group Company or other property owned by Mr. Stanford. They can be served at the offices of the United States Marshal's Office, 515 Rusk Street, Houston Texas, 77002.

II. Jurisdiction

16. This Court has jurisdiction over the lawsuit under 28 U.S.C. § 1331 because the suit arises under the Fourth, Fifth, Sixth and Eight Amendments to the United States Constitution and concern illegal actions undertaken by agents of the federal government acting under color of law.

III. Venue

17. Venue is proper in the Southern District of Texas under 28 U.S.C. §1391 some of the defendants reside in the district 29 U.S.C. §1391 (e)(1), a substantial part of the events or omissions giving rise to these claims occurred in the Southern District of Texas, 28 U.S.C. §1391 (e)(2) and the defendant resides in this district, , 28 U.S.C. §1391 (e)(2).

IV. Overview of Action

Mr. Stanford alleges that agents of the United States, known and unknown, combined, agreed and conspired to deprive Mr. Stanford of his civil rights by and through tactics taken under color of law, but which violate basic constitutional principles. In sum, Mr. Stanford contends the named and unknown agents undertook illegal tactics to prosecute Mr. Stanford starting with a civil prosecution by the SEC⁵, which was calculated to seize all his corporate and personal records, to conduct a criminal investigation of Mr. Stanford and, at that same time, seize and take all of Mr. Stanford's corporate and personal assets to impair, hinder, disrupt or prevent him from defending himself in both the civil and criminal prosecutions against him. The agents used over \$51,000,000 of Mr. Stanford's own money to fund their investigation of Mr. Stanford while, at the same time, refusing, denying and opposing any attempt by Mr. Stanford to obtain funds to defend himself.

In sum, the agents have engaged in unfair, abusive law enforcement methods and tactics and have thereby:

1. Violated Mr. Stanford's due process rights under the Fifth Amendment, by bringing a civil action for the sole purpose of obtaining evidence for criminal prosecution and, on information and belief, failed to advise him in the civil proceeding that the agents contemplated criminal prosecution;
2. Violated Mr. Stanford's Sixth and/or Fifth Amendment rights to counsel by failing to have counsel appointed or allow release of funds for Mr. Stanford to be represented by counsel at all critical stages of the "civil" proceeding, when the Government took, seized and forfeited all property, records and assets belonging to Mr. Stanford before he was allowed a meaningful hearing;
3. Violated Mr. Stanford's Fifth Amendment rights by taking all of his property, assets and personal belongings without ever affording him an opportunity to appear, with counsel and contest the *unprecedented* taking of billions in corporate

⁵ Mr. Stanford refers to *Securities and Exchange Commission v. Stanford International Bank, Ltd., et. al.*, Civil Action No. 3:09-cv-0298 (Northern District of Texas) as the "SEC Case."

and personal assets. Mr. Stanford is entitled to fair compensation for all property and assets taken;

4. Violated Mr. Stanford's Fourth Amendment rights by obtaining a general warrant to search and seize all of his property worldwide without a particularized showing, as required under the Fourth Amendment, which protects all citizens from unreasonable searches and seizures;
5. Violated the Eighth Amendment prohibition against excessive fines as all property belonging to Mr. Stanford was taken with the purpose or the effect of depriving Mr. Stanford of said property before trial on the matter; and
6. Created an environment of adverse publicity where the media have pilloried and convicted Mr. Stanford before he has been afforded a right to contest the charges in open court.

By the terms of the Order Appointing Receiver, the Receiver was required to turn over all records and "evidence" to the SEC and "other governmental agencies with all information and documentation they may seek...in connection with its regulatory or investigatory activities." (SEC Case, Entry 10).⁶ The Order was drafted and proposed to the Court by SEC agents who also recommended that Ralph Janvey ("Janvey") be appointed Receiver. In purpose and effect, the Receiver became nothing more than an arm, instrumentality, and agent of the criminal prosecutors upon his appointment.

As set out in an Office of Inspector General Report dated March 31, 2010, the SEC had previously investigated Mr. Stanford and the Stanford-owned companies but had never proceeded to enforcement because the evidence did not support criminal or civil charges, or due to the fact that the SEC lacked jurisdiction. The OIG Report revealed that agents of the SEC were frustrated that the Stanford International Bank refused to violate Antiguan Bank Secrecy laws by providing bank records of depositors that would show the location and amounts of overseas bank deposits and the location and amounts of overseas investments, the disclosure of which would have

⁶ Mr. Stanford will refer to various pleadings filed in this case as a "Docket Entry."

violated foreign law and resulted in criminal and/or civil prosecution of SIBL and its officers in Antigua or elsewhere. SIBL and its officers had a duty to obey the law of other countries or be prosecuted and could not lawfully provide records to the SEC.

In the wake of the Bernie Madoff scandal in December 2008, it is logical to conclude that: (1) the SEC renewed an interest in Mr. Stanford due to political reasons wholly unrelated to alleged civil and/or criminal violations of the Securities & Exchange Act; and (2) saw an opportunity to use civil enforcement processes to obtain evidence for purposes of criminal prosecution.

Thus, the Agents filed, or caused the filing of the SEC Case on February 16, 2009 before conducting a full and complete investigation of facts, the Agents sought and obtained imposition of a Receivership and taking all assets and records of Mr. Stanford and all his companies worldwide without a meaningful opportunity for a hearing where Mr. Stanford was represented by counsel. The SEC, through its agent, the Receiver, took action to freeze bank accounts and then proceeded to liquidate Mr. Stanford and Stanford-owned corporate assets to fund its prosecutorial efforts. At the time of the seizure and taking of Mr. Stanford's property and assets, the SEC intended that all information obtained as a result of its seizures be provided to the SEC and the Department of Justice for the purpose of developing a criminal prosecution against Mr. Stanford.

Mr. Stanford requests that the agents of the Government be held jointly and severally liable for all damages violations of his constitutional rights, and that he be awarded fair compensation and restitution of all property and assets illegally taken and forfeited by the Government and damages and punitive damages be awarded by the Jury.

V. Statement of Facts as Currently Known to Mr. Stanford

A. The SEC Investigations and the SEC Case

18. In late 2008 to early 2009, the SEC came under intense public scrutiny and criticism for its failure to detect misconduct by Bernie Madoff. Madoff was arrested on December 11, 2009.

19. The facts and circumstances reveal that the job security of both political and career staff within the SEC were at risk because of failures in the Madoff case, and that both Congress and the public expected better results from the SEC.

20. Mr. Stanford was Chairman of the Board of SIBLL and other companies in which he was sole shareholder. However, Mr. Stanford delegated responsibility for day-to-day business operations to Jim Davis, Chief Financial Officer, who he relied upon to accurately report the financial status of SIBL and other companies.

21. As Chairman of the Board, Mr. Stanford did not personally maintain the books and records of the Stanford-owned companies, which were maintained by Jim Davis, Chief Financial Officer and other subordinate employees within SIBL and the Stanford Companies.

22. Mr. Stanford reasonably relied on Davis, his Compliance and Legal Departments, as well as outside general counsel, his Accounting and Investment Departments to ensure that assets and investments of SIBL and the related companies were properly managed in compliance with all local, state and federal laws and regulations.

23. Numerous compliance organizations, as well as interested investors or Certificate of Deposit ("CD") purchasers had full opportunity to conduct due diligence prior to purchase of CD's or other financial products offered by SIBL or the Stanford-owned companies.

24. The SEC made a number of inquiries starting in or about 1997 through 2009, but never complained that Mr. Stanford or companies owned by him were acting illegally.

25. The SEC sent out questionnaires in 2005 to all Stanford investors and did not, in any way, indicate to Mr. Stanford or to executives at Stanford-owned companies that its operations were, in any way, illegal.

26. Indeed, SEC agents internally admitted that they lacked any jurisdiction over certificates of deposit ("CD") because the CD's were not a security. (March 31, 2010 OIG Report).

27. All purchasers of CD's were accredited investors; that is, they represented to SIBLL and others that they had an income of \$250,000 or more and a net worth in excess of one million dollars.

28. The Disclosure Statement by SIBL to CD depositors made it clear that:

- a. Participation in the U.S. accredited investor certificate of deposit program offered by SIBL "involves substantial risk to potential depositors... You should carefully consider the information set forth under 'Risk and Other Factors Affecting SIBL and the U.S. Accredited Investor CD Program.' On pages 3, and 5, and disclaimers on pages 1, 2, 6, 7, 10, 11, 12, 13 and 16."
- b. "YOU MAY LOSE YOUR ENTIRE INVESTMENT UNDER CIRCUMSTANCES WHERE WE MAY BE FINANCIALLY UNABLE TO REPAY THOSE AMOUNTS, PAYMENTS OF PRINCIPAL AND INTEREST ARE SUBJECT TO RISK." Disclosure Statement at 5.
- c. The CD's were not registered in connection with the U.S. Federal Securities Act of 1933, as amended, or securities laws of any state or other jurisdiction.
- d. SIBL products were not covered by the Investor Protection or Securities Insurance laws of any jurisdiction such as the U.S. Securities Investor Protection Insurance Corporation, the FDIC or any other federal or state agency in the United, or by any insurance program in Antigua or Barbuda.

29. CD's are not securities, but are debts to be repaid upon redemption of the CD. The terms of the CD require that any disputes were to be resolved in Antigua pursuant to the laws of Antigua.

30. Unlike virtually every major investigation of a global business enterprise similar to that of the Stanford companies, the SEC Agents took only two investigatory depositions. The SEC Agents filed the SEC Case barely a week following the deposition of Laura Pendergest-Holt.

31. At that time, it is believed that the SEC Agents did not have records from SIBL regarding the location of assets, where the Stanford companies had invested funds from CD's.

32. Mr. Stanford was consistently cooperative with the SEC and the SEC Agents in any inquiry. However, Mr. Stanford was *duty-bound* to follow the laws and regulations of other countries, including Antigua, where SIBL operations were located.

33. Failure to abide by the bank secrecy laws of Antigua and other countries would have resulted in serious consequences for Mr. Stanford and SIBL.

34. As set out in a report by the Office of the Inspector General, dated March 31, 2010, SEC officials and, on information and belief, other government officials, were frustrated that Mr. Stanford's lawyers and business managers insisted that Mr. Stanford comply with the bank secrecy laws of Antigua.

35. Instead of obtaining documents through international agreement, convention or treaty, the SEC Agents simply assumed that Mr. Stanford engaged in violations of criminal law.

36. Based on the facts and circumstances, it is logical to conclude that the SEC Agents discarded established reliable investigative methods and filed a lawsuit on February 17, 2009

alleging *inter alia* violations of alleging violations of the Securities Act, 15 U.S.C.77b(1) , the Exchange Act (15 USC 78c(a)(10), the Investment Act 15 USC 80a-2(36), and the Advisors Act, 15 USC 80b-2(18) and that the sole purpose of the lawsuit was to obtain evidence for criminal prosecution.

37. On February 17, 2009, where Mr. Stanford was not represented by counsel, the court issued an order appointing the requested Receiver, noting it was "both necessary and appropriate in order to prevent waste and dissipation of the assets of Defendants to the detriment of the investors." *SEC v. SIBL, LTD, et al., Northern District of Texas, Case No. 09-cv-00298-N, Entry 10, at 1.*

38. The court assumed exclusive jurisdiction and took possession of (a) the assets, monies, securities, properties, and legally recognized privileges (with regard to the entities) ("Receivership Assets"), and (b) the books and records, client lists, account statements, financial and accounting documents, computers, computer hard drives, computer disks, internet exchange servers, telephones, personal digital devices and other informational resources of or in possession of defendants, or issued by defendants and in possession of any agent or employee of defendants ("Receivership Records"), and therein appointed the Receiver for the Receivership Assets and Receivership Records (collectively, "Receivership Estate"), with "the full power of an equity receiver under common law as well as such powers" as were enumerated in the Order. *SEC Case, Entry 10.*

39. The Order proceeded to enumerate the powers of the Receiver, which were largely geared towards collecting, marshalling and taking custody, control and possession of receivership assets and records. *SEC Case, Docket Entry 10, at Par. 5(a)-(m).*

40. Additionally, the court also empowered the Receiver to "[p]romptly provide the United States Securities and Exchange Commission and *other governmental agencies* with all information and documentation they may seek in connection with its regulatory or investigatory activities." *See SEC Case*, Docket Doc. 10, at Par. 5(k) (emphasis added).

41. In reality, the facts and circumstances reveal that the Receiver's action and Request for Appointment of Receiver was only a pretext to initiate enforcement action and try to make a criminal case against Mr. Stanford despite the fact that the SEC Agents knew they lacked jurisdiction over the purchase of CD's.

42. The circumstances further show, that by obtaining appointment of a Receiver, and specifically intending to share its investigation with criminal investigative agencies, the SEC set out to conduct a criminal investigation for the United States Department of Justice against Mr. Stanford using Mr. Stanford's own assets against him.

43. At the time of the seizure, not one of the alleged investors had lost any money as a result of purchasing CD's offered for sale by Stanford Group Company ("SGC")

44. Due to a downturn in the global economy, in 2008-2009, CD purchasers requested early redemption of over \$2.2 billion in CD's. The request for early redemption were granted despite the fact that SIBL was not obligated to pay amounts due under the CDs until the dates set for repayment.

45. At the time of the seizure, the Stanford-owned companies had more than sufficient assets to cover redemption of all, or substantially all CD obligations issued in the United States.

46. Mr. Stanford had assets in related companies that would have covered any shortfall of liabilities within the United States.

47. In fact, assets owned by Mr. Stanford, such as SGC, had a value in excess of liabilities for certificates of deposit held by purchasers within the United States.

48. Instead, the SEC Agents filed first and then conducted a forensic investigation through the SEC-Appointed Receiver who, in turn, retained Baker Botts and FTI Consulting, Inc. who provided the Agents with their work product.

49. Despite the expenditure of over \$20,000,000 in forensic fees and \$51,000,000 in professional fees, the SEC and its agent, the Receiver have foreclosed any discovery by Mr. Stanford, or allowed Mr. Stanford any assets with which to prove his innocence.

50. In fact, the Receiver gave notice to counsel for Mr. Stanford in the Criminal Case that the Receiver claimed ownership to any funds that might be paid for representation of Mr. Stanford in the Criminal Case, including funds from a certain set of Director & Officer Policies through Underwriters at Lloyds of London.

51. On information and belief, one of the Assistant United States Attorneys made claim to the Government's ownership of proceeds of the Lloyd's policy.

52. As a result of the constitutional violations and conduct of the SEC Agents, foreign governments seized Mr. Stanford's assets and corporate holdings in Venezuela, Peru, Antigua, Switzerland and elsewhere. Foreign governments froze bank accounts or expropriated the accounts of the Stanford-owned companies. The value of all Mr. Stanford's assets plummeted as a result of the Agents' actions.

53. The SEC recommended and advocated the appointment of a Receiver, Ralph Janvey (“Janvey”). On information and belief, no other individuals were recommended or considered by the Court.

54. On information and belief, Janvey had no experience or background that would have supported a conclusion that he was capable of operating the global enterprises owned by Mr. Stanford.

55. As set out in the facts and circumstances herein, the recommendation and appointment of the Receiver *ex parte* on a weekend was orchestrated and controlled by the SEC Agents, who obtained an order that required the Receiver to provide the SEC with all books and records to the SEC or any other prosecutorial agency of the Government.

B. The Receiver’s Conduct Is Imputed to the Agents

56. As previously stated, the Receiver was acting for and on behalf of the Agents as opposed to serving as an arm of the Court.

57. Janvey’s appointment as Receiver obligated Janvey to preserve the assets of the Stanford-owned companies and operate the broker dealer operations in a way to preserve these billion-dollar assets.

58. The conduct of the Receiver and the SEC Agents reveal that neither the SEC Agents, DOJ Agents nor Janvey had any plan to operate the Stanford-owned entities.

59. Janvey was grossly negligent in the manner and the method of taking control over the Stanford companies; in some cases, closing the businesses, which immediately destroyed their

value as ongoing business entities. Stanford Group Company (the “Broker-Dealer”) illustrates the gross negligence of the Receiver in taking over the Stanford-owned businesses.

- a. One of the Receiver’s first acts, with the aid, counsel and support of the SEC and DOJ, was to close and pad-lock SGC.
- b. The value of the Broker Dealer was centered in the relationships between broker dealers and financial advisors who maintained relationships with clients. SGC built up its “book” of business by attracting the best and brightest financial advisors in the United States to join SGC and bring their client relationships, with a broad range of investments, to SGC.

60. Accompanied by John Does 11-15, United States Marshals, the Receiver met with the Financial Advisors (“FA’s”) and threatened the FA’s with being held in contempt of court if they talked to their clients.

61. The Financial Advisors and operations staff were sent home and told not to come into work, a period which lasted about three weeks.

62. Janvey, as the court-appointed “owner” of SGC, did not comply with FINRA regulations on handling of client accounts, such as handling of client funds.

63. Counsel is informed that checks representing client funds were not deposited and were loosely “stacked” in a corner while Janvey did nothing.

64. The dramatic loss of value in SGC, directly and proximately caused by Janvey’s gross negligence, must be imputed to Defendants and are a direct result of the constitutional violations set out herein.

C. SGC is Destroyed by Janvey's Mismanagement

65. In or about late 2007-2008----about a year before the seizure of Stanford assets, Oppenheimer Funds ("Oppenheimer") offered Mr. Stanford approximately \$780 million dollars for purchase of ten offices of the thirty seven (37) offices operated by SGC, the Broker Dealer.

66. Janvey, had discussions with Oppenheimer following his seizure of SGC to discuss a potential sale of SGC's operations.

67. Janvey did not sufficiently understand the business, and the value was destroyed after the offices were padlocked. Negotiations quickly broke down, resulting in loss of a company worth an estimated \$1,000,000,000.

68. As a direct and proximate result of the Janvey's gross negligence, the Receivership Estate did not receive any value of the SGC offices, which handled billions in revenues per year for or on behalf of investors and/or CD depositors. The value of the Broker Dealer at the time of seizure by the Agents and Receiver exceeded \$1,000,000 and would have continued significant growth in value but for the actions of the defendants.

69. The seizure and failure to operate the Broker Dealer operations in accordance with law constituted gross negligence by the Receiver and can be imputed to the Agents.

70. Numerous properties and assets have been sold for less than fair value; in some cases, for less than ten cents on the dollar. In many cases, the sales of many of these properties were made by the Receiver after receiving only one bid for purchase of the property. This conduct violated federal statute governing the sale of property entrusted to the Receiver and constituted gross negligence, which can be imputed to the Agents.

71. As a direct result of Defendants' conduct, the value of all Mr. Stanford's property and assets has been lost, the exact amount of which is currently unknown, but which exceeds \$3.9 billion. Lost profits are estimated at \$3.2 billion for the loss and destruction of the Islands Club project. Some of the assets include the Bank of Venezuela, which was sold for \$112 million, which is estimated to be only half of its true value.

72. Mr. Stanford was left with no resources to retain legal counsel to defend against the allegations of the SEC, Janvey and the Government's criminal prosecutors.

73. Mr. Stanford attempted to retain counsel in this matter, but counsel refused to enter an appearance when he determined that Mr. Stanford could not afford to pay for his legal services. In contrast, the Receiver has, on information and belief, incurred in excess of \$100 million in attorneys fees, forensic accounting fees and other expenses.

74. Before the March 12, 2009 hearing on the Preliminary Injunction restraining and freezing Mr. Stanford's assets, the SEC and the Receiver agreed to entry of the seizure of all Mr. Stanford's assets. As previously stated, the Receiver was acting for and on behalf of the SEC Agents. Thus, the agreement to enter into the Preliminary Injunction with the SEC was nothing more than a device to deprive Mr. Stanford of his rights to property.

75. Mr. Stanford never had a chance to resist the forces of the combined forces of the SEC Agents, and Janvey, who was acting for and on behalf of the Agents.

76. On June 18, 2009, Mr. Stanford was indicted by a grand jury sitting in Houston, Texas on charges that were virtually identical to the charges alleged in the SEC Case.

77. The timing and identity of allegations raised by the SEC and the Department of Justice in their respective pleadings reveal collaboration by these government agents to punish Mr. Stanford by first seizing his assets, funding an investigation against Mr. Stanford through the Receiver with Mr. Stanford's assets/resources and then filing criminal charges against him.

D. Preliminary Evidence of Joint Prosecution by FBI, SEC, and DOJ,

78. A chart of the hours spent on the joint investigation of Mr. Stanford by SEC, FBI, and Department of Justice for alleged violations of criminal law is set out below.

AGENCY	HOURS
FBI	1198.2
DOJ	1031.1
SEC	2666.17
IRS	264.2
USPS	63.2
CONFERRING WITH VENDOR FTI REGARDING PROVIDING THEIR WORK PRODUCT TO GOVERNMENT	880.46
OTHER CONTRACTORS REGARDING PROVIDING THEIR WORK PRODUCT TO GOVERNMENT	103.3

79. The above chart is drawn only from publicly filed documents and likely does not account for the thousands of hours spent by the Receiver and its agents compiling reports summarizing their work, which was then made available to the government and their various agencies.

80. Therefore, the hours and fees strictly allocated to responding to inquiries by the DOJ, the FBI, and other governmental agencies (in the Receiver's recent status report and the publicly filed billing records) likely represents *only a fraction* of actual time used by the Receiver to ultimately assist the government in its investigation and prosecution of Mr. Stanford.

81. A review of the billing records generated by the Receiver further illustrates the scope of tasks that have been performed by the Receiver and its agents for the benefit of the government's criminal investigation and prosecution.

82. By means of illustration only (and not meant to be an exhaustive list of tasks performed by the Receiver and its agents for the government), the bills submitted to support the requests for interim fees demonstrate that the following tasks have been performed for the government:

- a. In its nine applications for interim fees, in addition to detailing its own work and time, the Receiver details all of the work performed by the professional firms it has hired. One such entity is the law firm Baker Botts. According to the Receiver, the "SEC, not the Receiver, first contacted Baker Botts about representing the Receiver." *SEC Case*, Docket Doc. 494 (Receiver's Consolidated Reply to Objection To Motion For Approval of Interim Fee Application and Procedures for Future Compensation").
- b. For just the period February 17, 2009 to April 12, 2009, according to the Receiver's first request for interim fees, Baker Botts had over 100 lawyers working for the Receiver, who each billed a total of approximately 147 hours in those 54 days, at hourly rates as much as \$555/hour. *See SEC Case*, Docket Entry 384 and 385 In their initial submission for legal fees, wherein Baker Botts specifically avers that it " [c]oordinated with the SEC, DO J, FBI, USPI, DOL and DEA in identifying and gathering relevant documents and information," the firm sought payment of \$5,703,111.50 and an additional \$180,605.27 in expenses. *See SEC Case*, Docket Entry 385 (emphasis added).
- c. In a second interim application for fees and expenses, seeking payment for services provided for the seven week period of April 13, 2009 through May 31, 2009, the Receiver sought approval to pay Baker Botts an additional \$2,573,784.47. *See SEC* Docket Entry 721 ("Response in Opposition to Receiver's Motion for Approval of Second Interim Fee Application").

- d. As such, as of June 2009, a period of only four months, Baker Botts had already billed a staggering \$7,128,889.38 in fees and \$180,605.27 in expenses, with every penny of this paid for by Mr. Stanford own assets. *See SEC Case, Entries 384, 669.*
- e. Importantly, this was the period that the grand jury investigation was on-going, as Mr. Stanford was indicted on June 18, 2009. In total, as of July 20, 2010, Baker Botts has billed \$7,309,494.65

83. The amount of materials provided to the government by Janvey and all of his agents is far more expansive, as reflected in the 21 page log attached produced by the Government and attached hereto as Exhibit A. This document purports to represent all of the materials provided to the SEC and DOJ Agents by Janvey thereof as of August 6, 2010.

F. Joint Witness Interviews by SEC Agents and Prosecutors

84. Prosecutorial interest in Mr. Stanford appears to have started in or about August 6, 2008, when Matthew Klecka, Vanessa Walthers and Chad Nunez interviewed a disgruntled former SGC employee, who had been sued by SGC for return of \$600,000 in bonuses previously paid to the employee.

85. In or about late December, 2008, Edmundson, a member of the SEC's investigations trial team contacted outside General Counsel for SGC, Thomas Sjoblom and started a process of discussing SFG operations.

86. The SEC subpoenaed O.Y. Goswick, an SIBL director, Bernard Young, Director of Compliance and James Davis, the Chief Financial Officer. Their subpoenaed statements were not taken.

87. On or about February 12, 2008, there was a meeting between Sjoblom, Edmundson, Keltner and Michael King. Edmundson requested an accounting of the funds invested in the certificates of deposit. Sjoblom invited the agents to visit SIBL and told them that SIBL was not a criminal enterprise. King and Keltner became confrontational. Edmundson met with Sjoblom the following day and Edmundson agreed that Laura Holt, the Chief Investment Officer and Juan Rodriguez Tolentino, SIBL's President could voluntarily appear to provide information.

88. Mr. Tolentino, however, could not testify to SIBL assets due to Antiguan bank secrecy laws. Mr. Edmundson was angry about the Mr. Tolentino's refusal to testify and violate Antiguan bank secrecy laws.

89. Laura Pendergest Holt voluntarily appeared on February 10, 2009 and testified, but Edmundson was not satisfied with her testimony. At the end of the Pendergest-Holt's presentation, Edmundson stood up and stated: "This is BS". Edmundson walked Sjoblom out and told him that if Mr. Stanford and Mr. Davis did not voluntarily appear on February 18, 2009, they would be "in court."

90. Mr. Sjoblom withdrew from representing SFG on February 11, 2009.

91. On February 16, 2009, Edmundson, King, Pelletier and Korotosh met with the Hon. Reed O'Connor and obtained a Temporary Restraining Order and filed their lawsuit on February 17, 2009 against Mr. Stanford and the Stanford-owned companies.

92. In the wake of Mr. Sjoblom's abrupt, unexpected withdrawal from representing Mr. Stanford, and the almost immediate filing of the SEC Case, Mr. Stanford did not have a fair opportunity to understand, appreciate to try to resolve the conflict between his lawyer and the Agents and provide information refuting the allegations against him.

93. Shortly after the SEC filed its lawsuit, on February 20, 2009, FBI Agents Walther and Nunez continued to interview two potential witnesses; however, these were joint interviews with SEC Agents Reece, Edmundson and Keltner. The agents jointly interviewed these witnesses and clearly were sharing information for the purposes of criminal prosecution.

94. Based on the facts and circumstances of this case as currently known, it is probable that the SEC Agents and the FBI Agents prearranged their February 20, 2009 interviews with the two witnesses and that the FBI Agents were well aware of the status and details of the SEC Case well before it was filed. Similarly, it is probable that the SEC Agents were well aware and were fully informed of the nature and details of the FBI's investigation of Mr. Stanford.

95. Further joint witness interviews were subsequently conducted by the FBI agents, DOJ Agents Gregg Costa, Paul Pelletier, Matt Klecka, Jack Patrick, Allen Medina and SEC Agent Michael King starting shortly after the seizures and, on information and belief, continuing to this date including for example, interviews of James Davis (April 2009) and Thomas Sjoblom (May 2009) ---all for the purposes of criminal prosecution of Mr. Stanford.

E. FTI Forensics and Litigation Consulting, Inc.

96. Karyl Van Tassel, a certified public accountant and Senior Managing Director of FTI Forensics and Litigation Consulting Inc., has filed several affidavits that demonstrate, unequivocally, the central role the Receiver and its agent (FTI) has played in the government's investigation and prosecution of Mr. Stanford.

- a. FTI was hired by the Receiver on the same date the Receiver was appointed by the Northern District (February 16, 2009). *See* Declaration of Karyl Van Tassel, dated July 27, 2009, SEC Case, Docket Entry 316-5 (emphasis added).
- b. According to Ms. Van Tassel, one purpose of her and FTI's work included "*determining] the roles that the various Stanford entities played in the fraud alleged by the SEC and specifically in the sale and redemption of SIBL certificates of deposit . . .*" Van Tassel July 27, 2009 Declaration at 4, SEC Case, Docket Entry 316-5 (emphasis added).
- c. In fulfilling this responsibility, the scope and depth of the work performed by Ms. Van Tassel's team mirrors those functions expected of the FBI or some other law enforcement agency. To wit, Ms. Van Tassel admits that she performed the following tasks:
- d. Interviewed numerous present and former Stanford Entity employees.
- e. Examined all *available* accounting and other records relating to the Stanford Entities located in and/or gathered from Houston, Texas; Tupelo, Mississippi; Baldwin, Mississippi; Memphis, Tennessee; Miami, Florida; St. Croix, Unites

States Virgin Islands; Antigua and Barbuda, and other locations within and outside the United States.

- f. Obtained and analyzed paper and electronic files from third-party financial institutions where various Stanford Entities' bank accounts are located. *Id.* at 16.

97. Ms. Van Tassel's approach and conclusions reflect a prosecutorial intent and purpose, as opposed to that of an accountant seeking to identify, locate and preserve assets. *See, e.g.*, Van Tassel July 27, 2009 Declaration, SEC Case, Docket Entry 316-5 at 110 ("Most, and perhaps all, of the Stanford Entities were part of the scheme alleged by the SEC or derived benefit from it"). However, Ms. Van Tassel's conclusions were flawed, as they were based on an examination of "available" records for the Stanford entities and did not include an examination of all pertinent records, many of which are protected by overseas bank secrecy laws.

98. In short, the functions and tasks performed by Ms. Van Tassel were not limited to those ordinarily performed by a Receiver—*i.e.*, indeed, Ms. Van Tassel did not simply identify and locate assets for the purpose of preserving, or even liquidating assets.

99. Instead, Ms. Van Tassel was spending Receivership funds and acting as a government agent to forensically investigate Mr. Stanford and his companies for the criminal prosecutors.

100. Ms. Van Tassel and Janvey conducted a partial investigation that should have been, but was not conducted by the SEC Agents prior to filing this action and pursuing criminal prosecution of Mr. Stanford.

101. In its most recent request for interim fees, Janvey estimates that FTI spent 14% of its time during that discrete billing period responding to government requests for document production. *See SEC Case*, Docket Entry 1163, at 23-24.

102. Baker Botts has similarly provided the SEC and DOJ Agents with vast quantities of electronic evidence, including but not limited to .PST files (emails) and hard drives of computers belonging to critical witnesses, targets and defendants. Janvey and Baker Botts provided the government with: (a) records from foreign jurisdictions that would have been impossible or otherwise extremely difficult to obtain, such as Bank of Antigua account records (A01432056) and Swiss bank records (A01432057), (b) personal emails of Mr. Stanford (B009), (c) contents of hard drives from laptops of key individuals, such as Lopez and Alvarado (B010), Blair, Kurht and Roca (B011), Holt, Lopez, and Amadio (B013), (d) email files of key individuals such as Davis, Weeden, Stinson, Amato, Holt, Groesbeck, Alvarado, Blair, Casey, Amadio, Kuhrt, Roca, Bogar, Lopez (B012), (e) computer flash drives of Holt and Roca (B010), and (f) emails to and from employees (B016 and B017).

103. Janvey *admitted* in pleadings that he saw his role as assisting the SEC Agents and the DOJ Agents in the government's criminal prosecution of Mr. Stanford. *See, e.g.*, Receiver's Reply to Objections to First Request for Interim Fees, Case No. 09-cv-00298-N, Docket Entry 494, at 13-14 (arguing complexity of its task, asserting that no party has asserted the task was quick or easy "to assert control over the Estate, collect and preserve the integrity of the evidence that will be used in both the civil and possible criminal trials.").

104. The Agents, by employing and/or utilizing the Receiver, Baker Botts, FTI, and the other professionals hired by Janvey as an arm of the prosecution, have tasked these private persons and entities to expend thousands of hours and enormous amounts of money performing tasks

to further the government's prosecution, which greatly exceeds the powers initially bestowed upon the Receiver or powers that can or should be granted a Receiver. The Receiver was not appointed by the Court with the powers to conduct investigations on behalf of the government, or to analyze materials to further the government's prosecution of Mr. Stanford, or to fund an investigation and prosecution with the liquidation of Mr. Stanford's personal and corporate assets. The court empowered the Receiver, at most, to "[p]romptly provide the United States Securities and Exchange Commission and other governmental agencies with all information and documentation they may seek in connection with its regulatory or investigatory activities." *See SEC Case*, Docket Entry 10, at p.5, Par. 5(k).

105. While the Government has had unlimited access to Mr. Stanford's liquidated personal and corporate assets to fund its investigation and prosecution, Mr. Stanford has been denied any access to these liquidated assets for the purpose of defending the charges levied by the government in this case.

- a. The Government expended \$20,000,000.00 of the Receivership Estate assets *in just eight weeks following the Receiver's appointment*, *see SEC Case*, Docket Entry 439.
- b. On April 19, 2009, Mr. Stanford moved in this case for a modification of the Preliminary Injunction to permit payment of \$10,000,000.00 for legal fees, *see SEC Case*, No. 09-cv-00298-N, Docket Entry 318 and 319.
- c. The SEC Agents and Janvey opposed the requested modification. *See SEC Case*, Docket Entry 358.
- d. On July 1, 2009, the court denied Mr. Stanford's request for legal fees, though the court noted it would entertain a modest request for fees so counsel could assist

Mr. Stanford in demonstrating the existence of personal assets unrelated to and untainted by the alleged fraud.

- e. In or about October 2010, Mr. Stanford requested \$20,000,000 in defense costs, which was also opposed by the SEC and Janvey. The request was modified and reduced to \$1.5 million for the purpose of identifying funds that are "untainted" by the alleged misconduct.

106. The due process clause to the Constitution is designed to ensure fundamental fairness, to preserve rights implicit in the concept of ordered liberty, and to prevent arbitrary takings by the government.

107. As previously stated, Mr. Stanford was not represented by counsel on February 17, 2009, when the court issued its original order appointing the Receiver. Likewise, on March 12, 2009, when the order appointing the Receiver was amended, Mr. Stanford was again not represented by counsel. Moreover, Mr. Stanford was not present at either hearing.

108. Imposition of the Receiver was set in motion at hearings during which neither Mr. Stanford was present, nor was he represented by legal counsel. Under the facts and circumstances of this case, Mr. Stanford was denied right to counsel under the Sixth Amendment to the United States Constitution.

109. Pursuant to the Receivership Order, the Receiver assumed control of the entities' "legally recognized privileges," but he did not assume control of Mr. Stanford's personal privileges. *SEC Case*, Docket Entry 10.

- a. However, the Receiver's massive seizure of electronic materials necessarily included the seizure of materials protected by Mr. Stanford's personal attorney-client privilege, as well as the work product privilege. For example, computers seized from legal offices in both Houston and St. Croix and Mr. Stanford's personal automobile in Miami, which were held by Mr. Stanford in his personal capacity, contained materials protected by the attorney-client and work product privileges.
- b. From the information available, it does not appear that any measures were taken to segregate and protect Mr. Stanford's legally privileged materials. To the extent the Agents reviewed and not protected these legally protected materials, or disregarded the fact that the Order specifically excepted his personal privileges, it would constitute yet additional violations of Mr. Stanford's due process rights and right to counsel.

110. In the Application for Receivership, there was no statement that the Receiver would assist and further the government's investigation and prosecution of Mr. Stanford, at Mr. Stanford's expense.

- a. Importantly, the SEC Agents did not warn Mr. Stanford or disclose to the Court that the government would utilize the Receiver to further the criminal investigation and prosecution of Mr. Stanford, or that it would dissipate Mr. Stanford's global, personal, and corporate assets to fund that investigation and criminal prosecution.
- b. Based on the circumstances and language proposed by the SEC, it appears that the SEC Agents sought imposition of the receivership with intent to utilize the Receiver and its army of professionals to gain unfettered access to the defendant's personal and corporate materials (such as computers, hard drives and emails), thereby circumventing the probable cause and particularity requirements of the Fourth Amendment.
- c. Circumstances and the above cited evidence show that the SEC Agents combined, conspired and collaborated with the Receiver to deny Mr. Stanford his right to counsel, violate his due process rights and extract punishment prior to any finding of liability in the SEC Case or guilt in the Criminal Case.⁷

⁷ Mr. Stanford refers to United States of America v. Robert Allen Stanford, Case No. 4:09-cr-0032 (Southern District of Texas) as the "Criminal Case."

111. In the instant case, the evidence does not show that the SEC Agents disclosed to the Court their intention to use the receivership to further its criminal investigation and prosecution. Such failure constitutes a material misrepresentation that violates the constitutional ruling in *Franks v. Delaware*, 438 U.S. 154 (1978).

112. The SEC Agents obtained a mandate to employ the Receiver and its agents, including the law firm of Baker Botts and FTI Forensics and Litigation Consulting, Inc., among others, as if they were another investigatory agency within the Department of Justice. The extent to which the SEC Agents tasked the Receiver and the other professional firms hired by the Receiver can be determined from a review of pleadings filed in the ancillary civil matter (including the Receiver's requests for payment of fees on an interim basis), as well as discovery indices provided to the defense by the government in this case. An analysis of these materials illuminates the extent to which the SEC Agents have tasked the Receiver to further their investigation and prosecution of Mr. Stanford, and how the Defendants have leveraged the appointment of the Receiver to unconstitutionally and unlawfully further their investigation and prosecution of Mr. Stanford.

113. Through the Receiver, the SEC Agents successfully stripped Mr. Stanford of all his personal and corporate assets worldwide, which were valued in the *billions* of dollars. Not only has the Receiver taken possession of Mr. Stanford's assets worldwide, but he immediately began an *extraordinary, if not unprecedented*, liquidation of these assets, before any final adjudication (civil or criminal), forever depriving him the opportunity to vindicate his rightful ownership of those personal and corporate assets. Mr. Stanford was literally left with only the

suit he was wearing at the time of the SEC Agents and U.S. Marshals' seizure of property on February 17, 2009.

114. Through the punitive actions of the SEC Agents and Janvey's worldwide seizure and subsequent liquidation and disposal of his personal and corporate assets, Mr. Stanford has suffered punishment before conviction or a finding of liability.

115. On September 24, 2009, Mr. Stanford was brutally beaten by inmates at the Joe Corley Detention Center. The authorities failed to obtain an MRI despite the fact it was ordered by one of Mr. Stanford's treating physicians at the hospital. A neuro-psychiatrist, Dr. David Axelrad, M.D. determined, in January 2011, that Mr. Stanford was rendered incompetent to stand trial due to traumatic brain injury that was undiagnosed and untreated by the federal authorities.

116. Mr. Stanford sought coverage from a Directors and Officers Policy issued by Certain Underwriters of Lloyds of London.

- a. Richard DeGuerin was retained conditioned on receipt of Lloyd's insurance.
- b. Lloyd's denied coverage and refused to pay DeGuerin
- c. Mr. Stanford was declared indigent and a public defender appointed.
- d. The Court subsequently ordered Lloyds to pay defense costs pending a final coverage determination. Mr. Sokelow had to withdraw from his defense.
- e. Mr. Stanford accepted legal services from Kent Schaffer, Esq., who temporarily received funds from Lloyds. However, Mr. Schaffer was allowed by the Court to withdraw from representing Mr. Stanford when Lloyds' refused to pay for his defense.
- f. Robert Bennett, Esq. undertook to represent Mr. Stanford on both the insurance coverage and criminal matters. Lloyds prevailed in setting aside the preliminary injunction, resulting in no coverage.

- g. During the course of this litigation, the Government claimed ownership of the Lloyds policy.
- h. Mr. Bennett withdrew from the Criminal Case on October 22, 2009. Mr. Stanford was declared indigent a second time by the Court and two new lawyers appointed to represent Mr. Stanford under the Criminal Justice Act.

117. On January 26, 2011, the Hon. David Hittner declared Mr. Stanford incompetent to assist counsel at trial in the Criminal Case. Mr. Stanford was committed to the custody of the Attorney General of the United States for treatment to restore him to competency.

118. Mr. Stanford was declared incompetent to stand trial based, in pertinent part, on the fact that he suffered traumatic brain injury and was not treated for this injury. In addition, Mr. Stanford was subsequently overmedicated by government doctors with administered high dosages of Klonopin, a benzodiazepine drug, to Mr. Stanford for a period of over thirteen (13) months.

119. As a proximate and foreseeable result of the Agents' conduct, Mr. Stanford has suffered physical and mental injuries while in federal custody.

Count 1
(Violations of the Fourth Amendment)

120. Plaintiff adopts and incorporates paragraphs 1 through 119 above.

121. The Fourth Amendment provides the right of people to be secure in their persons, houses, paper and effects, against unreasonable seizures, shall not be violated.

122. Defendants violated Mr. Stanford's Fourth Amendment rights by seizing Mr. Stanford's property and assets unreasonably and without probable cause.

123. Under the facts and circumstances of this case, the seizure of Mr. Stanford's property and

assets constituted a general warrant, which is prohibited under the Fourth Amendment.

124. The seizure, without probable cause, deprived the Plaintiff of his right to manage and protect his property in a volatile financial market. Mr. Stanford seeks damages for the diminished value of property caused by the unjustified seizure. These damages continue to accrue and will be established at trial.

Count 2
(Violations of the Fifth Amendment)

125. Plaintiff adopts and incorporates paragraphs 1 through 124 above.

126. The Fifth Amendment provides that no “person be subject for the same offense to be twice put in jeopardy of life or limb.” U.S. Const. amend. V., § 2.

127. The due process clause to the Constitution is designed to ensure fundamental fairness, to preserve rights implicit in the concept of ordered liberty, and to prevent arbitrary takings by the government.

128. The touchstone of due process is protection of the individual against arbitrary action of government whether the issue is procedural or substantive due process. The goal is to protect against government power arbitrarily and oppressively exercised whether the power be exercised in legislative or executive capacities.

a. The government cannot take private property for public use—as it has done here—without first affording the owner of that property a constitutionally sufficient hearing (which was not provided to Mr. Stanford).

b. Second, government conduct in pursuing parallel proceedings can be so improper and abusive as to violate the Due Process Clause.

c. Third, the government cannot take private property for public use without adequate compensation.

d. Fourth, the Government's conduct is so offensive that it shocks the universal sense of justice resulting in a denial of fundamental fairness and therefore violates the Due Process Clause.

129. The SEC Agents' utilization of Janvey as the Receiver to seize and convert Mr. Stanford's personal and corporate assets for public use (i.e., to further investigation and prosecution of Mr. Stanford) without affording Mr. Stanford a meaningful opportunity to contest that permanent deprivation of property, violates the procedural due process guaranteed by the Fifth Amendment.

130. Through its agency relationship with Janvey and an army of professionals working for Janvey, the Agents have taken and permanently deprived Mr. Stanford of all his worldly assets, without any meaningful opportunity to contest the conversion of these assets.

131. By converting the Receiver and its agents into a privately-funded arm of the prosecutor's office, the Agents caused the Receiver to vastly exceed the powers that could lawfully be granted the Receiver in a civil proceeding.

132. In the instant case, Janvey and his professionals have spent an astounding amount of time facilitating and furthering the government's investigation and prosecution of Mr. Stanford.

- a. The preliminary analysis set out above reveals that the Receiver has expended some portion of 1198 hours performing tasks for the FBI, 1031 hours performing tasks for the Department of Justice, 2666 hours on behalf of the SEC, and countless hours on behalf of various other governmental agencies.
- b. In total, as of the Receiver and its agents had been paid more than \$51 million dollars in professional fees and expenses, and at least an additional \$50 million dollars have been spent by the Receiver for expenses other than professional fees, including Stanford personnel, insurance, taxes, security, and other matters. *See SEC Case*, Docket Entry 1117, at 10.

- c. The government's abrogation and use of Mr. Stanford's private property for public use constitutes a flagrant violation of the Due Process Clause.
- d. The government had no lawful or recognized right to dissipate the assets of the defendant to fund investigation and/or prosecution of Mr. Stanford for either civil and/or criminal purposes, but that is what occurred in this case.

133. The Agents' conduct violated the Due Process Clause because: (a) the Agents brought and pursued a civil action solely to obtain evidence for its criminal prosecution; (b) or has failed to advise the defendant in its civil proceeding that it contemplates his criminal prosecution; (c) Mr. Stanford was without counsel, rendered indigent by the Agents and unable to retain counsel; (d) or suffered prejudice from adverse pretrial publicity or other unfair injury recognized by law.

134. To the extent that the trial judge who entered the February 16, 2009 Order Appointing Receiver understood or intended that the Receiver become an arm of the prosecution, and that Mr. Stanford's personal and corporate assets would be liquidated to fund the government's investigation and prosecution, such an order is repugnant to the Due Process Clause. Appointing a receiver is an extraordinary remedy that should not be transformed and converted into a method and tool for criminal investigation and prosecution.

135. In a motion to amend the order appointing the Receiver, the Receiver *admitted* that the proper role of a Receiver is, as follows: "Receivers 'safeguard the disputed assets, administer the property as suitable, and . . . assist the district court in achieving a final, equitable distribution of the assets if necessary." *SEC Case*, Docket Entry 146 at 4.

- a. In stark contrast to his statement, Janvey and his army of agents have dissipated an incredible amount of money to assist the prosecution and to compensate themselves for the thousands of hours spent assisting the prosecution, rather than pursuing some equitable distribution of assets.
- b. Janvey's expenditure of Mr. Stanford's funds on aiding the criminal prosecution are not only funds that have been taken from Mr. Stanford in violation of his constitutional rights, but are also funds that are no longer available to be distributed to investors.

136. Defendants' utilization of the Receiver, and extraordinary powers and access bestowed upon the receiver, to further investigate and prosecute plaintiff violated Mr. Stanford's Fifth Amendment due process rights.

137. The seizure and use of extraordinary powers of Receivership has cost Mr. Stanford virtually all of his property. Mr. Stanford seeks damages for loss of his liberty as a result of his incarceration, diminished value for all of his property taken without an adjudication of guilt and such deprivation has caused Mr. Stanford to suffer incarceration and loss of all of his assets.

138. Defendants' imposition of receivership and subsequent liquidation and dissipation of assets constitute a taking by the United States government without just compensation therefore depriving Mr. Stanford of his Fifth Amendment right to be free from government taking of his property.

139. By seizing Mr. Stanford's assets, freezing his accounts and then liquidating and/or destroying/dissipating the value, the Agents have destroyed all of Mr. Stanford's property and assets.

140. Plaintiff seeks just compensation for this taking equal to the fair market value of the companies and assets seized in the receivership.

Count 3
(Violation of Right to Counsel)

141. Plaintiff adopts and incorporates paragraphs 1 through 140 above.

142. The Sixth Amendment provides that “in all criminal prosecutions the accused shall enjoy . . . the right to have Assistance of Counsel.”

143. Mr. Stanford was denied counsel at the time of the Temporary Restraining Order, the Temporary Injunction, and has been denied funds to retain counsel from the Receivership Estate, all of which violates his Sixth Amendment right to counsel.

144. As previously set out, Mr. Stanford was unable to retain or maintain a cohesive defense team or effort counsel through no fault of his own. After Lloyd’s refused to pay Mr. Stanford’s first attorney, Mr. DeGuerin was allowed to withdraw. The Court found Mr. Stanford indigent and appointed a public defender and a panel defender to defend Mr. Stanford. The Court then ordered Lloyd’s to pay insurance, causing the loss of Mr. Stanford’s appointed counsel. Mr. Stanford’s retained counsel was subsequently allowed to withdraw from representing Mr. Stanford in the Criminal Case when insurance coverage was later denied to both criminal and civil counsel.

145. Mr. Stanford personally owned assets of approximately \$3.9 billion all of which has been lost. Mr. Stanford claims lost profits/shareholder value that would have likely been realized, but for the conduct of the Government Agents. For example, it is projected that the Islands Club project would have generated about \$100,000,000 annually and created value of about \$3.2 billion.

146. Through no fault of his own, Mr. Stanford has been adjudged incompetent to stand trial due to traumatic brain injury and overmedication of Klonopin.

147. Defendants' conduct and that of their agent, the Receiver are so punitive as to constitute an adjudication of guilt against Mr. Stanford without the benefit of counsel.

148. By denying Mr. Stanford his right to counsel, Mr. Stanford has not been able to defend himself against the SEC, have access to his own documents or forensic accountants to prove the existence of untainted funds, and has the lost the value of his companies.

Count 4

(Violations of the Fifth Amendment-Double Jeopardy)

149. Plaintiff adopts and incorporates paragraphs 1 through 148 above.

150. Defendants' liquidation and dissipation of Plaintiff's assets before a finding of guilt in the Criminal Case, or a finding of liability in the Civil Case, or before a hearing attended by Mr. Stanford with the assistance of counsel, was punitive and constitutes a *de facto* adjudication of guilt under the Fifth Amendment. The Agents' intent was to prosecute Mr. Stanford civilly and then criminally, which violates Mr. Stanford's Fifth Amendment double jeopardy rights.

151. By subjecting Mr. Stanford to multiple prosecutions for the same offense, Defendants have deprived him of his liberty and property. Mr. Stanford seeks damages for loss of his liberty as a result of his incarceration, diminished value for all of his property taken without an adjudication of guilt and such deprivation has caused Mr. Stanford to suffer incarceration and loss of all of his assets.

Count 5

(Violations of the Eighth Amendment)

152. Plaintiff adopts and incorporates paragraphs 1 through 151 above.

153. The Eighth Amendment provides the right to be free from excessive fines.

154. Defendants' seizure of all Mr. Stanford's assets through the Receivership violated Plaintiffs' Eighth Amendment right to be free from excessive fines.

155. Mr. Stanford personally owned assets of approximately \$3.9 billion all of which has been lost.

156. As a direct and proximate result of Defendants' conduct, has suffered damages. Mr. Stanford seeks return of the value of all the assets seized by the government as a result of the Receivership.

Count 7

(Civil Conspiracy on all Counts)

157. Plaintiff adopts and incorporates paragraphs 1 through 156 above.

158. All defendants did, starting sometime in or about 2008 and continuing through the date of this filing, engage in a civil conspiracy by combining, conspiring, acting in concert and reaching an agreement to directly or indirectly deprive R. Allan Stanford of his constitutional rights under the Fourth, Fifth, Sixth, and Eighth Amendments to the United States Constitution.

159. All defendants had a meeting of the minds on the object of the conspiracy or the course of action.

160. One of the members of the conspiracy committed an unlawful, overt act to further the object of the conspiracy or course of action, as set out above.

161. Mr. Stanford suffered injury as a proximate result of the wrongful act.

DEMAND FOR JURY TRIAL

162. Mr. Stanford hereby demands trial by jury on all matters herein.

PRAYER FOR RELIEF

WHEREFORE, R. Allen Stanford requests judgment be granted in favor of Plaintiff and against Defendants, jointly and severally as follows:

- a. Actual and Consequential Damages which is estimated at approximately \$7.2 billion
- b. Punitive damages as adjudged by a jury;
- c. Mental anguish suffered by Mr. Stanford through loss of his liberty;
- d. Prejudgment and post-trial interest on all actual, consequential and punitive damages to which Plaintiff is entitled;
- e. Court costs and attorneys fees as may be allowed by law;
- f. Such other legal and equitable relief as may be deemed proper and just.

Respectfully submitted,

/s/

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