

STANFORD INVESTORS COMMITTEE

SEC vs. Stanford International Bank, Ltd., et al (No. 09-298)
United States District Court, Northern District of Texas

STATEMENT ON THE DISTRICT COURT'S DISMISSAL OF THIRD PARTY CLASS ACTION LAWSUITS

On August 31, 2011, United States District Judge David Godbey issued an Order in one of the Stanford-related third party lawsuits, *Roland v. Green* (the “*Roland*” case), holding that the Securities Litigation Uniform Standards Act (“SLUSA”) applies because the plaintiffs in that case alleged fraud “in connection with the purchase or sale of a covered security.” The Court therefore dismissed the case as being barred by SLUSA, which precludes certain class-action lawsuits from proceeding under state law. While the *Roland* case is not a class action suit for all Stanford investors, it was filed for the benefit of the more than 50 individual investors named in that lawsuit.

Judge Godbey concluded SLUSA applied to the *Roland* case because he determined the *Roland* plaintiffs had either sold “covered securities” in order to buy Stanford International Bank (“SIB”) CDs, or had been misled into buying the CDs based on Stanford’s misrepresentations about the SIB portfolio, which Judge Godbey presumed contained “covered securities.”

SLUSA defines “covered securities” as any security that is publicly traded on the national exchanges in the United States, such as Exxon or Dell stock.

SLUSA mandates that any and all class actions (or actions in which 50 or more persons are named as plaintiffs) alleging fraud in the purchase or sale of “covered securities” must be brought in federal court and pursuant to federal law rather than state law. Because federal securities laws do not impose civil liability for aiding and abetting or conspiracy claims in cases involving securities fraud, state laws typically afford the only remedy available to defrauded investors to sue third parties who are alleged to have aided and abetted a fraudulent securities scheme.

The *Roland* plaintiffs have appealed Judge Godbey’s decision to the Fifth Circuit Court of Appeals. That appeal has been expedited and oral argument has been set for the week of February 6, 2012.

In the meantime, on October 21, 2011, Judge Godbey dismissed the class action lawsuit against the New York law firms Proskauer Rose and Chadbourne Park (the “*Proskauer*” case) based on SLUSA. A week later, on October 27, 2011, Judge Godbey also dismissed on SLUSA grounds the class action lawsuit filed against global insurance giant Willis Group and Houston insurance broker Bowen Miclette & Britt, Inc. (the “*Willis*” case). The *Proskauer* and *Willis* cases are both class action lawsuits that seek to recover damages for a class of all Stanford CD investors.

The dismissal orders in *Proskauer* and *Willis* were also appealed to the Fifth Circuit. A Motion to Consolidate the appeals of the *Roland*, *Proskauer* and *Willis*

was granted on November 11, 2011. The Fifth Circuit will now consider these appeals together as to the application of SLUSA. The Fifth Circuit's decision will likely apply to all of the pending class actions in the Stanford case.

If Judge Godbey's SLUSA decision is upheld by the Fifth Circuit, then many or all of the pending class action lawsuits against third party aiders and abettors may also be dismissed to the extent that they allege participation in securities fraud under state law. The Investors Committee intends to seek leave to file a "friend of the court" brief from the Fifth Circuit with respect to the appeal of the District court's *Roland*, *Proskauer* and *Willis* decisions. Additionally, the Investors Committee is working closely with the plaintiffs' lawyers in those cases, and with other interested parties, to see that everything possible is done to increase the likelihood of a successful appeal of this critical decision.

While the Investors Committee does not represent individual investors or provide legal advice, it encourages investors to seek advice from counsel of their choice to determine the course of action that is most appropriate for their individual situation. This may include the filing of individual lawsuits against potentially liable third parties, and may also include consideration of any pertinent statutes of limitations for potential claims in various jurisdictions.