

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

SECURITIES AND EXCHANGE COMMISSION, §
§
Plaintiff, §
§
v. § Case No.: 3-09-CV-0298-N
§
STANFORD INTERNATIONAL BANK, LTD., ET AL., §
§
Defendants. §

**RECEIVER'S NOTICE OF FILING ADDITIONAL EVIDENCE IN SUPPORT OF FEES
AND EXPENSES OF FITS, EY, AND FTI FOR FEBRUARY THROUGH MAY 2009**

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TABLE OF CONTENTS

TABLE OF AUTHORITIES II

ARGUMENT & EVIDENCE..... 2

 A. FITS’s Fees and Expenses Were Necessary and Reasonable..... 2

 (1) FITS was the best choice to operate and wind up Stanford
 operations. 3

 (2) FITS’s previous experience and specialized expertise. 4

 (3) The members of the FITS team are uniquely qualified for this
 engagement..... 7

 (4) FITS has rendered vital professional services to this Receivership. 11

 (5) FITS has never been denied its fees and expenses in similar cases..... 13

 (6) FITS has contributed to many positive results obtained. 13

 (7) FITS’s expenses were both necessary and reasonable..... 15

 i. Lodging (hotel) 15

 ii. Transportation (air fare and ground transportation)..... 16

 iii. Per Diem 16

 iv. Airfare..... 17

 B. FTI’s Travel Expenses Were Necessary and Reasonable..... 17

 C. Ernst & Young’s Travel Expenses Were Necessary and Reasonable..... 21

CONCLUSION..... 23

CERTIFICATE OF CONFERENCE..... 25

CERTIFICATE OF SERVICE 25

TABLE OF AUTHORITIES

Page(s)

CASES

Curtis v. Bill Hanna Ford, Inc.,
822 F.2d 549 (5th Cir. 1987)..... 4

Johnson v. Georgia Highway Express, Inc.,
488 F.2d 714 (5th Cir. 1974)..... 3, 4, 5, 6, 10, 11, 13, 14, 15, 16, 17

OTHER AUTHORITIES

FED. R. CIV. P. 5(b)(2) 25

On May 15, 2009, the Receiver filed the Motion for Approval of Interim Fee Application and Procedures for Future Compensation of Fees and Expenses and Brief in Support. Docs. 384 & 385. On August 4, 2009, the Receiver filed the Motion for Approval of Second Interim Fee Application and Brief in Support. Docs. 669 & 671. On September 10, 2009, the Court heard argument on the motions and approved the fees and expenses of ten firms, subject to a 20% hold back that the Receiver may seek at a future date. The Court directed the Receiver to submit additional evidence in support of fees and expenses for Financial Industry Technical Services, Inc. (“FITS”) and in support of travel expenses for Ernst & Young (“EY”) and FTI, Inc. (“FTI”). The Receiver hereby submits the evidence requested by the Court.

The Receiver chose FITS to operate, and ultimately wind up, the Stanford brokerage and trust operations. The Receiver’s choice was prudent and reasonable because FITS was able to provide a very small, highly skilled and experienced team of professionals with only 24 hours notice. The FITS team possessed the qualifications and professional licenses necessary to run a brokerage firm and were willing and able to supervise an ever decreasing number of Stanford employees, which provided significant cost savings to the Estate. Had the Receiver been unable to find firm willing to work with the Defendants’ employees, the costs to the Receivership would have been significantly greater.

At the hearing on the Receiver’s first two motions regarding fees, the Examiner conceded that for the first month after this case was filed, the Receiver’s team was “probably in full fire drill mode, running around closing offices, gathering up records, grabbing hard drives, trying to find assets. And I get that.” Transcript of 09/10/2009 hearing, at 20. The offices, records, hard drives and assets the Examiner spoke of were not all located in Houston, Texas. They were dispersed throughout the United States and abroad and members of the Receiver’s

team had to be dispatched to secure real and personal property and sources of information and data. These were tasks that had to be completed by skilled, experienced professionals capable of documenting proper chain of custody and then accessing and analyzing the relevant information. Smaller firms lacked the capacity and diversity of skills to accomplish these missions; even a local Houston firm would have had to incur significant expenses to travel nationwide to secure Estate assets and records.

FTI and EY personnel have been required to travel both from their home locations to the Stanford headquarters in Houston and to other Stanford locations to interview Stanford employees and to secure and review data. Both of the firms have provided detailed records for expenses per professional per day, identifying the nature of the expenses incurred. Both firms are internationally recognized for their skill and expertise and their professionals are required to travel frequently. This permits FTI and EY to negotiate the best possible rates for transportation and lodging.

ARGUMENT & EVIDENCE

A. FITS's Fees and Expenses Were Necessary and Reasonable.

The Examiner objected that the evidence supporting fees and expenses of FITS failed to identify the services and tasks performed by the individual professionals and failed to explain why the FITS professionals should be reimbursed for travel, lodging and "per diem" expenses. Doc. 452, at 8 & Doc. 739, at 14. FITS's original invoices for February through May provided total hours billed by each professional and total expenses for each professional in four categories. Doc. 385, Exhibit G at 105-07 & Doc. 671, Exhibit F, at 482-85. In support of this reapplication, FITS submits 128 pages of invoices that include daily billing records for each professional that describe the specific tasks accomplished and break out all expenses by professional for each day. Appendix, Exhibit A at 1 - 128.

(1) FITS was the best choice to operate and wind up Stanford operations.

On February 17, 2009, with the assistance of U.S. Marshals, the Receiver's team took control of the first of Stanford's U.S. offices. In advance of those operations the Receiver had only a few days to review the available information, to assess the needs of Receivership, and to select and retain the right professionals. It was clear that one component of the team had to be a firm that was qualified to help implement the court-ordered freeze on all customer accounts, to service the day-to-day, ongoing needs of tens of thousands of existing brokerage and trust accounts, and very likely to wind down Stanford's brokerage and trust operations. Whomever was most qualified also had to be capable of putting people on the ground in Houston with less than 24 hours notice. Declaration of Henry Lange, Appendix 129-42, Exhibit B, at ¶ 2. FITS had a team of professionals with an average of 25 years experience in banking, brokerage, retirement, and trust firms, with expertise in winding down brokerage firms and working with regulators, who possessed the required securities licenses to manage the securities processing staff, and who were available immediately. *Id.* at ¶ 3. The Receiver and his advisors were not aware of any other firm that could provide the requisite skill, expertise, and security, with a team of only six professionals, much less on one day's notice. *See Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974) (skill, experience, reputation and ability relevant to approval of fees).¹

¹ The factors a Court should consider in awarding fees are often referred to as the *Johnson* factors. They are: (1) the time and labor required for the litigation; (2) the novelty and complication of the issues; (3) the skill required to properly litigate the issues; (4) whether the attorney was precluded from other employment by the acceptance of this case; (5) the attorney's customary fee; (6) whether the fee is fixed or contingent; (7) whether the client or the circumstances imposed time limitations; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the attorney; (10) the "undesirability" of the case; (11) the nature and length of the attorney-client relationship; and (12) awards in similar cases. *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714, 717-19 (5th Cir. 1974). In applying the *Johnson* factors, "the district court must explain the findings and the reasons upon which the

FITS is headquartered in New Jersey with satellite offices in New York, North Carolina, Texas, Minnesota and Florida. Exhibit B, at ¶ 4. FITS has been retained by financial services firms located in numerous geographic areas because of its reputation and experience. *See Johnson*, 488 F.2d at 717-19. While many firms have a financial services practice, it is highly unusual for all of the members of that practice to have held senior positions in operational, compliance and liquidation management roles. FITS's brokerage operational experience is vastly different from a firm practicing in financial services which, for example, provides project management services or high level strategic analysis. While FITS provides those services, the core differentiator for the firm is that it has consultants with front, middle and back office processing experience necessary to perform the functions required for the liquidation of a brokerage firm. Exhibit B, at ¶ 5.

(2) FITS's previous experience and specialized expertise.

FITS has significant experience working with the Securities Investor Protection Corporation ("SIPC") on liquidations of large brokerage firms. *Id.* at ¶ 6. Prior to the Stanford Receivership, FITS managed the liquidation of MJK Clearing, Inc., the largest SIPC liquidation prior to the collapse of Lehman Brothers. *Id.* at ¶ 7. Highlights of FITS's work in the MJK Clearing case include the following:

- Conversion of over 185,000 customer accounts to transferee broker.
- Managed and sustained the debtor's operations within days after the filing date.
- Executed 90% customer account release within the first week.
- Deployed over 50 experienced resources within the first two weeks.

award is based. However, it is not required to address fully each of the 12 factors." *Curtis v. Bill Hanna Ford, Inc.*, 822 F.2d 549, 552 (5th Cir. 1987) (citation omitted).

- Quantified and documented exposure related to MJK's Stock Loan activity.
- Performed 100% validation audit of debtor's Arizona CD operation.
- Coordinated with FDIC to claim and distribute over \$50 million in customer claims.
- Assisted Trustee's counsel with litigation support documentation and subject matter expertise.
- Maintained control and reconciliation of Over the Limit Claims, Banks, Introducing Brokers, Insiders, secured Demand Note holder accounts.
- Developed Customer Fund Allocation model.
- Performed an independent pricing and valuation of customer securities.
- Coordinated and executed the conversion of Mutual Fund accounts.
- Calculated and coordinated interim property distributions to customers.
- Assisted with securing debtor's facilities, records, and assets.
- Coordinated with Trustee's counsel to close and collect funds from over 200 bank accounts.
- Prepared and maintained all liquidation accounting records including monthly SIPC filings, Asset and Liability statements, holdback account valuations.
- Synchronized holdback account activity between SIS and CSS (Southwest).
- Managed customer claim process.

Id. at ¶ 7.

FITS's other SIPC experience includes the liquidation of Rocky Mountain Securities and Nebs Financial Services Inc. *Id.* at ¶ 8. Some of FITS's significant accomplishments in those cases include the following:

- Conversion of customer accounts to transferee broker. (Rocky Mountain)

- Deployed experienced resources within days of filing date. (Rocky Mountain)
- Assisted with securing debtor's facilities, records, and assets. (Rocky Mountain)
- Coordinated with Trustee's counsel to close and collect funds from debtors bank accounts. (Rocky Mountain)
- Provided forensic accounting, reconciliation services and litigation support for FBI and U.S. Attorney's case: trading analysis; inventory analysis; money fund analysis; and loss analysis. (Rocky Mountain)
- Prepared and maintained all liquidation accounting records including monthly SIPC filings. (Rocky Mountain)
- Reconstructed books and records of the debtor. (Nebs Financial)
- Provided forensic accounting and reconciliation services including: recreation of financial statements destroyed by debtor; analysis of bank accounts; and loss analysis. (Nebs Financial)
- Prepared and maintained all liquidation accounting records including monthly SIPC filings. (Nebs Financial)
- Worked with Trustee's counsel to document insurance claim with recreated books and records. (Nebs Financial)
- Managed customer claim process. (Nebs Financial)

Id. at ¶ 8.

Currently, FITS is managing the SIPC liquidation of North American Clearing (NACI) following the SEC appointment of a Receiver, Peter Anderson. *Id.* at ¶ 9. FITS is also currently providing a team of consultants on the Lehman liquidation to analyze and determine customer claims. *Id.* FITS's SIPC experience and the liquidation duties performed in the past ten years directly correlate to specific brokerage, trust and system services that have been provided throughout the Stanford Receivership. *Id.* Attached at Exhibit C, Appendix 143 through 152 is a power point presentation highlighting the Regulatory & Compliance Services expertise of the firm. Attached at Exhibit D, Appendix 153 through 179 is a power point

presentation highlighting the Brokerage Integration and Conversion Solutions expertise of the firm.

(3) The members of the FITS team are uniquely qualified for this engagement.

At the outset of the Receivership a significant number of hours were expended by two Principals of FITS, Henry Lange, President and CEO, and Kathleen Moore, Senior Vice President. Both Mr. Lange and Mrs. Moore have extensive SIPC liquidation experience. Exhibit B, at ¶ 10. Mr. Lange provided many hours of guidance to the FITS staff assigned to this project. *Id.* Both Mr. Lange and Mrs. Moore participated in conference calls with Pershing (the brokerage system vendor) the Receiver's counsel and other firms providing services to the Receivership. *Id.* FITS has never charged the Receivership for time devoted to this case by Mr. Lange or Mrs. Moore. *Id.*

Within 24 hours of first learning of the Stanford Receivership, FITS provided three professionals to hit the ground running: Victor Kurylak, William Mollica and Rick Hall. Exhibit B, at ¶ 11. Victor Kurylak has been the President and CEO of a national brokerage firm, was COO of a U.S. primary dealer, and was responsible for investment operations and technology for a multi-billion dollar family office portfolio. *Id.* Mr. Kurylak is a registered securities representative, registered principal, and is licensed as a life, health, and casualty insurance representative. *Id.* Victor K. Kurylak's curriculum vitae is attached as Exhibit E, Appendix 180.

William Mollica has 27 years experience in domestic and international broker dealer operations and risk management. Exhibit B, at ¶ 12. Mr. Mollica was a Vice President at Pershing and developed their network management department in the U.S. and London, performed market reviews regarding rules and regulations, performed due diligence reviews with

agent banks and prepared MIS reports. *Id.* Mr. Mollica established Pershing's broker dealer in Japan, managing budget, system development, vendor contracts and the hiring and training of staff. *Id.* Mr. Mollica is a registered securities representative and registered principal. *Id.* William Mollica's curriculum vitae is attached as Exhibit F, Appendix 181.

Rick Hall, a partner at FITS with over 30 years experience in the brokerage business has served as an operations manager, director of operations, and chief operating officer. Exhibit B, at ¶ 13. Since joining FITS, Mr. Hall has been responsible for directing and overseeing the activities for multiple SIPC liquidations of brokerage firms and the primary point of contact between SIPC, the court appointed Trustee, and other regulatory agencies. *Id.* At the outset of the Stanford Receivership, Mr. Hall provided strategic planning advice based on his extensive brokerage and SIPC liquidation experience. *Id.* Rick Hall's curriculum vitae is attached as Exhibit G, Appendix 182.

As the project continued, FITS provided additional professionals with the required specialized background. Exhibit B, at ¶ 14. The first addition to the team, Jeffrey Press, possesses expert knowledge of FINRA and SEC regulations, and is a Certified Compliance and Regulatory Professional through FINRA in conjunction with the Wharton School of Business. *Id.* Mr. Press was brought in to supervise the Stanford trading group. *Id.* This position required someone with extensive NetxPro, trading and Pershing experience as well as first hand supervisory experience. *Id.* Once new procedures and processes were established to monitor activities and leverage Stanford personnel, Mr. Press was released from the project. *Id.* Jeff Press's curriculum vitae is attached as Exhibit H, Appendix 183.

When personnel were required to address issues related to the operation of the Stanford Trust Company ("STC") – the release of trust customer accounts, the location,

organization, and interpretation of trust company documentation, and winding down the affairs of STC – two additional personnel were added to the project, John Coker and Sophia Lewis. Exhibit B, at ¶ 15. Mr. Coker’s experience includes Senior Vice President for brokerage operations, international custody operations, recordkeeping and trust at Fidelity Investments; Senior Vice President of the institutional product group at The Boston Company; Senior Vice President and Head of Operations for Prudential Investment; and CEO of Motif Inc.’s U.S. Operations. *Id.* John R. Coker’s curriculum vitae is attached as Exhibit I, Appendix 184. Ms. Lewis’s 22 years of experience includes, among other things, tenure as a Business Analyst at Pershing, where she initiated internal enhancement to perform auto write-off journals on international trade settlements, performed User Acceptance Testing, monitored Swift instructions static data for international markets, and worked with network management to support all local market changes that affect STP trade processing. Exhibit B, at ¶ 15. Sophia L. Lewis’s curriculum vitae is attached as Exhibit J, Appendix 185.

Finally, Jose Santana, a retirement services professional with 30 years experience was added to the project. Exhibit B, at ¶ 16. Mr. Santana’s career started at Bankers Trust Company where he managed and administered technical/administrative activities necessary to ensure timely and accurate processing for medium to large Defined Contribution plans (20,000 to 90,000 participants) in accordance with plan documents, governmental regulations and bank policies. *Id.* Mr. Santana has worked with the FTI consultants on the analysis of Stanford customer accounts. *Id.* The purpose of this analysis was to establish the association between customer accounts and Certificates of Deposit and thus to determine release eligibility of customer accounts. *Id.* Mr. Santana developed a database file to reconcile the physical inventory of all Certificates of Deposit and maintain all related and necessary information. *Id.*

Mr. Santana's extensive brokerage, trust, retirement services and reconciliation skills were vital to the work performed with FTI. *Id.* Jose A. Santana's curriculum vitae is attached as Exhibit K, Appendix 186.

At the beginning of the Receivership, Mr. Kurylak worked seven days a week providing guidance and expertise to the attorneys as well as overseeing the operations of Stanford's brokerage company. Exhibit B at ¶ 17; *See Johnson*, 488 F.2d at 717-19 (time limitations imposed by the case and whether the engagement precluded other work are factors in awarding fees). The oversight provided by Mr. Kurylak and Mr. Mollica allowed the Receiver to continue to utilize many of the Stanford employees resulting in significant savings to the Receivership. Exhibit B at ¶ 18. Because FITS was able and willing to employ Stanford personnel who were compensated at their regular wage, the FITS team never comprised more than 7 individuals. *Id.* Other professionals likely would have refused to employ Stanford personnel, which would have necessitated a larger, more expensive team of consultants.

FITS consultants worked diligently to respond to inquiries from the SEC attorneys, regulators and interested parties and provide guidance and oversight for the remaining Stanford operational staff. *Id.* at ¶ 19. Prior to the Receivership the Stanford operations had 75 employees.² *Id.* By May 1st, FITS consultants were supervising only 32 Stanford employees. *Id.* This work required that FITS consultants remain on the Stanford premises in Houston to manage the Stanford employees, respond to inquiries and provide guidance on best practices for brokerage and trust operations. *Id.* It was both necessary and reasonable to have consultants with senior management brokerage and trust experience and Pershing system experience to oversee the Stanford employees. FITS performed this oversight and wind down with only five

² This number includes personnel in the Stanford Group Company Operations, Advisory Operations, and Compliance, and Stanford Capital Management Corporate.

people, never added unnecessary resources, and has continued to release personnel as soon as their primary function is completed. *Id.* at ¶ 20.

Prior to the Receivership Stanford Trust Company had 10 employees. *Id.* at ¶ 21. By May 1st STC was being run by two FITS consultants and only one remaining Stanford Trust employee. *Id.* This ability and willingness to perform the day to day management with the assistance of select Stanford personnel also resulted in significant savings to the Receivership. *Id.*

(4) FITS has rendered vital professional services to this Receivership.

Some of the functions and duties undertaken in the Stanford Receivership that have previously been performed by FITS on SIPC liquidations are as follows:

- Managing the day to day activities of a brokerage firm including the monitoring of transaction activity affecting client account balances:
 - Dividends and Interest;
 - Purchases and Sales;
 - Trading Activities;
 - Securities Pricing;
 - Corporate Actions; and
 - Maturities.
- Supervising the remaining staff of the liquidated entity.
- Managing the customer claims process including the tracking, validation and payment of claims.
- Calculating the initial and subsequent distributions to customers and brokers.
- Responding to inquiries from regulatory agencies including the SEC, FINRA and state regulators.
- Tracking and responding to customer inquiries.

- Providing litigation support services.
- Analysis of client accounts and reconciliation of the transaction activity within those accounts.
- Providing the Receiver and his counsel with meaningful account analysis and providing clear concise explanations of the data.
- Documenting and validating the data within brokerage operations.
- Working with the system vendor or clearing firm to articulate the needs of counsel regarding services, access, pricing and reporting to continue the operations of the firm.
- Working with the system vendor or clearing firm on the procedures for releasing customer funds and ensuring that securities are available for transfer to another brokerage firm or trust account.
- Performing customer confirmations and reconciling the inventory of Certificates of Deposits.
- Validating the interest on Certificates of Deposit held within the brokerage firm and working with various agencies including the FDIC to validate the positions held.
- Analyzing SEI holdings and transaction activity to determine CD proceeds.
- Drafting proposed customer account release criteria, protocols and operating procedures.
- Researching wire activity in Stanford bank accounts.
- Drafting proposed procedures for executing trades required in order to transfer released accounts.
- Drafting FAQs on account releases for the Receivership website.
- Reviewing trust documents to facilitate the transfer of accounts to successor trustees.
- Communicating with state regulatory agencies, federal governmental agencies, customers, employees, FINRA and other members of the Receivership team.
- Responding to daily inquiries from remaining Stanford operations staff.

- Researching and analyzing data regarding customer accounts, employee compensation, automatic deposits to frozen accounts, historic operations of entities, loans to employees and customers.
- Coordinating the liquidation of proprietary trading accounts at JP Morgan and Pershing LLC.

Exhibit B at ¶ 22.

(5) FITS has never been denied its fees and expenses in similar cases.

FITS has never had a fee application denied by the Trustee, Receiver or by the Court in a SIPC Liquidation. Exhibit B at ¶ 23; *See Johnson*, 488 F.2d at 717-19 (customary fee and awards in similar cases should influence the award of fees). FITS's rate structure and services have been approved in fee applications related to SIPC Liquidations and the firm has received praise for their contribution and expertise to the successful liquidations that FITS has managed. Exhibit B at ¶ 24; Some examples of interim fee applications that reference FITS and their experience can be found at <http://northamericanclearingliquidation.com>. *Id.* at ¶ 25. Additional fee applications that reference FITS, their services and the approval of their fees can be accessed through court documents filed for the MJK Clearing Liquidation, NEBS Financial Services Liquidation, Rocky Mountain Securities Liquidation and the Lehman Liquidation. *Id.*

(6) FITS has contributed to many positive results obtained.

The work of FITS has had a direct impact on the recovery of assets for the Receivership Estate. *Id.* at ¶ 26. Although the actual recovery of a portion of the assets (more than \$6,000,000) occurred recently, the groundwork for that recovery began early on in the Receivership. *Id.*; *See Johnson*, 488 F.2d at 717-19 (results obtained are one factor considered in calculating fee award). FITS was responsible for researching, identifying and resolving issues related to four private funds that Stanford Capital Management ("SCM") was either managing or marketing for outside money managers. Exhibit B at ¶ 27. In the case of the Beta and

Alternative Income Funds, Stanford was the manager and general partner. *Id.* at ¶ 28. With regard to Paradigm and Havell, Stanford had a strategic relationship with the money managers and Stanford customers were introduced to the funds by Stanford brokers. *Id.* Stanford made direct investments in all four of these funds and also provided loans to the Havell fund. *Id.* As a result of FITS's expertise and efforts (together with Baker Botts and other members of the Receiver's team) FITS identified these holdings and successfully negotiated the payoff of the loans to the Havell fund (\$6.5 million). *Id.* at ¶ 29. FITS has also laid much of the groundwork for the recovery of additional Stanford assets held by Paradigm, Beta, Alternative Income and Havell at a later date. *Id.*

FITS did much of the early work identifying the Stanford Financial Advisors' compensation structure, including the analysis of the SIBL commission payment process, the payment of upfront loans and the special quarterly bonuses paid to the FAs. *Id.* at ¶ 30. The early identification of these compensation issues provided a basis for later data analysis performed by FTI and the evidence filed in support of clawback claims against FAs. *Id.*

Most recently, FITS has assisted in identifying and researching an \$11.25 million payment made to two former Stanford institutional brokers that gave rise to a complaint against them for clawback and fraudulent transfer claims. *Id.* at ¶ 31.

In addition, FITS's expertise and experience in working with Pershing has provided valuable assistance in monitoring all Pershing expenses and insuring that customers of the Receivership Estate were not subjected to any additional or inappropriate charges. *Id.* at ¶ 32. This process was particularly complicated, involving pass through fees associated with managed accounts, charges associated with the liquidation and transfer of customer accounts as well as margin and special purpose loans extended to customers. *Id.* A conservative estimate of

savings to the Estate and Stanford customers is \$200,000-\$300,000. *Id.* at ¶ 33. FITS identified and corrected borrowing rates charged to customers that were below the cost of funds and resulted in savings to the Estate of over \$100,000. *Id.* In addition, FITS assisted Baker Botts in the negotiation (and final resolution through stipulated agreement) regarding cash balances held by Pershing in the Stanford operating account. *Id.* at ¶ 34. The result was that millions of dollars were released by Pershing to the Receivership Estate. *Id.*

(7) FITS's expenses were both necessary and reasonable.

As described above, because of the nature of work performed, FITS consultants were required to be in Houston full-time Monday through Friday to supervise and manage the day to day activities of Stanford Group Company and Stanford Trust Company. *Id.* at ¶ 35. In addition, FITS had many occasions when weekend work was requested and required to meet deadlines established by Court orders for customer releases. *Id.* Expenses included lodging, transportation, per diem and airfare. *Id.* FITS has made every effort to keep expenses to a minimum on this project. *Id.* In fact, FITS negotiated discounted rates for lodging and transportation. *Id.*

Below is a description of the expenses related to FITS consulting staff and the steps taken to keep these expenses as low as possible.

i. Lodging (hotel)

Due to its proximity - across the street from the Houston Stanford offices - FITS personnel lodges at the Marriott Residence Inn, which had a rate of was \$219 per night, plus 17% taxes, when FITS first began the project. *Id.* at ¶ 36. At times FITS consultants were working seven days per week so FITS negotiated a 30 day stay rate of \$109 per day with no charges for taxes. *Id.* FITS did not add any ancillary charges to these lodging bills. *Id.* The

negotiated rate of \$109 resulted in a substantial savings to the Receivership amounting to \$147 per day per consultant. *Id.*

John Coker and Sophia Lewis were required to travel to Stanford Trust Company offices in Greensboro, North Carolina (they flew into Charlotte and drove to Greensboro to save money) and Baton Rouge, Louisiana to review and analyze customer account documents. *Id.* at ¶ 37. Since these trips occurred during the long-term negotiated rate period, there were multiple lodging expenses for Mr. Coker and Ms. Lewis during the same period. *Id.* To discontinue the long-term negotiated rates in Houston for the purposes of visiting the offices in North Carolina and Louisiana would have resulted in greater expenses to the Receivership. *Id.*

ii. Transportation (air fare and ground transportation)

During the course of the Receivership, FITS has had an average of five consultants in Houston full-time. *Id.* at ¶ 38. All five consultants have shared one car rental vehicle negating the need for cab and other transportation charges while the consultants remain in Houston. *Id.* Additional transportation charges include car service to/from the airport both in Houston and the home office for each consultant on weekends when they return to their home office location. *Id.*

iii. Per Diem

All FITS consultants charge a daily per diem rate of \$60 per day. *Id.* at ¶ 39. This daily per diem includes charges for all meals and incidentals based on guidelines set forth by the IRS. *Id.* These were the only charges incurred by the consultants outside of lodging, transportation and airfare. *Id.* There are no other charges to the client for any meals, entertainment or incidentals. *Id.*

iv. Airfare

The professionals' first flights for this engagement were very expensive because of the short, 24 hours' notice and the need to have experts on the ground quickly. *Id.* at ¶ 40. Subsequently, all flights were booked when possible with a two week advance notice utilizing non-refundable coach fares to the professionals' home office destination. *Id.* FITS professionals typically returned to their home location on a weekly basis. *Id.* In this case, FITS sometimes worked weekends to meet deadlines and thus did not travel home weekly. *Id.*

FITS's fees for February through May are \$738,436.00. The Receiver requests approval of payment to FITS for \$590,748.80 in fees and reserves the right to seek payment of the 20% hold back amount of \$147,687.20 at a future date. FITS incurred expenses of \$116,262.45 from February through May. The Receiver requests approval of payment to FITS for \$93,009.96 in expenses and reserves the right to seek payment of the 20% hold back amount of \$23,252.49 at a future date.

B. FTI's Travel Expenses Were Necessary and Reasonable.

The Examiner objected that FTI's travel expenses were not supported by sufficient invoices and were too costly. Doc. 452, at 7; Doc. 739, at 14. FTI's original invoices for the first fee application provided only one line item and a total for expenses. FTI's original invoices for the second fee application broke out total fees by category (airfare, hotel parking, etc.). Doc. 385, Exhibit E, at 92-100; Doc. 671, Exhibit D, at 364-452. In support of this reapplication, FTI submits 26 pages of detailed invoicing that breaks out expenses per professional per day and identifies the specific expense incurred. Appendix, Exhibit L at 187 through 212.

FTI performed services at the direction of the Receiver and his legal advisors. FTI has industry leading expertise and experience in this type of engagement. FTI's services

were critical to the Receiver in effecting the Court-ordered injunction on transactions in securities and disbursements of funds from accounts held by or for the benefit of Defendants. FTI's services have also been invaluable to the Receiver to carry out the Court's orders to (1) account for all Estate property that comes in the Receivership; (2) take complete and exclusive control over assets and records; (3) enter and secure any premises where assets or records were located; (4) prevent loss, damage and injury to the Estate and; (5) provide government agencies with information.

FTI is an internationally recognized forensic accounting and technology support services company that provides forensic investigations and financial and accounting consulting services. FTI utilized the services of its Forensic and Litigation Consulting, Technology and Corporate Finance practices. The FTI Forensic and Litigation Consulting ("FLC") segment provides law firms and corporations around the globe with the industry's best and most complete range of forensic and litigation services. The FLC Group performs several key areas of services including:

- Forensic investigation to locate missing assets;
- Regulatory inquiries and examinations;
- Requests for separate forensic accounting reviews;
- Reconstruct events from imperfect data, identify and isolate crucial evidence and share findings with management or regulators;
- Provide expert testimony at trial; and
- Gather and analyze detailed factual, financial and business information in operating locations around the globe.

FLC project leaders at the Senior Managing Director level included Karyl Van Tassel and Brian Ong from the Houston and New York offices respectively. Ms. Van Tassel's career includes over 24 years of experience in the areas of accounting and financial

investigations, including many complex and high profile matters. She also has previous experience in matters involving Ponzi schemes. Mr. Ong is experienced in investigating large fraud cases involving Ponzi schemes. The Managing Director level staff included Jeffrey Ferguson, Dallas, and Lindi Jarvis, New York, who are both experienced in investigating fraud matters and tracing assets, as well as Carol Der Garry, Los Angeles, who brings valuable accounting and regulatory insight due to her previous employment at the SEC.

FTI Technology, which includes the Electronic Evidence Group (“EEC”) and the Finance and Enterprise Data Analysis Group (“FEDA”) provides corporations and their legal advisors a one-stop e-discovery resource to efficiently manage information requests that arise at any stage of the data management cycle, including:

- Fast access and analysis of relevant data to build case strategy;
- Fully integrated visual review, analysis, redaction and production capabilities;
- Collection and quantitative analysis of financial, operational and transactional data; and
- Development of strategic data collection and preservation plans.

Technology project leaders at the Senior Managing Director level included Robert Brunner and Erik Post of the San Francisco and Chicago offices respectively. Both Mr. Brunner and Mr. Post are experienced in electronic data collection and analysis. The Managing Director level staff included Anthony Tabb, Chicago, and, Michael Wei, San Francisco, whose experience includes the analysis of electronic data as well as Robert DeCicco, New York, who is experienced in data collection and preservation. The team was selected due to its involvement with other matters involving trading operations and complex, inter-related data sources.

FTI Corporate Finance addresses the full spectrum of financial and transactional challenges faced by companies, creditor constituencies, and other parties-in-interest. Corporate

Finance offers management expertise in the finance and treasury fields. The Corporate Finance group leader on this project was Joshua Robinson, a Managing Director from Chicago. Mr. Robinson's primary areas of expertise are claims management and data analytics.

The FTI team has been staffed with junior professionals who have lower billing rates, but who are the most experienced with international investigations, tracing assets, trading system monitoring, complex data analysis, accounting, and collection, as well as retention and production of electronic documents for regulatory and litigation needs.

FTI's team is comprised of the professionals within the firm who are well suited to this particular engagement. They possess the skill, expertise and knowledge required to conduct the investigation and resolve the problems presented by information kept in numerous, geographically dispersed locations in more than 200 accounting, finance, and operational systems that did not centrally report. Most of these individuals reside outside Texas, in San Francisco, Atlanta, Los Angeles, Chicago, and other locations, and thus the majority of expenses relate to airfare and hotel accommodations. All of the professionals' travel was necessary, to secure and preserve evidence and chain of custody at Stanford offices throughout the U.S., to analyze and process information housed at Stanford headquarters in Houston, and to transport evidence to FTI labs where highly specialized equipment is available and the professionals completed some of their forensic investigation.

During the First Fee Application period, as an accommodation to the Receiver and consistent with standard operating procedures, FTI exercised its billing judgment and reduced its fees and expenses by approximately \$975,000, comprised of approximately \$685,000 in fees and approximately \$290,000 in actual out-of-pocket expenses. In addition, during the First Fee Application period, in order to review and process the enormous amount of data

collected and evaluated, FTI organized the data by using its own proprietary Ringtail software at no cost to the estate. The use of Ringtail at no charge represents an approximate savings in excess of \$500,000. Critical information has been preserved through Ringtail for use by the Receivership in asset recovery and by the government in its case prosecutions.

FTI incurred expenses of \$805,009.00 from February through May.³ The Receiver requests approval of payment to FTI for \$644,007.20 in expenses and reserves the right to seek payment of the 20% hold back amount of \$161,001.80 at a future date.

C. Ernst & Young's Travel Expenses Were Necessary and Reasonable.

The Examiner objected that EY's travel expenses were not supported by sufficient invoices and were too costly. Doc. 452, at 8; Doc. 739, at 14. EY's original invoices for the first fee application provided a total for expenses per professional for the entire period. EY's original invoices for the second fee application also broke out total fees by category (airfare, hotel, parking, etc.). Doc. 385, Exhibit F, at 101-04; Doc. 671, Exhibit E, at 453-81. In support of this reapplication, EY submits 117 pages of detailed invoicing that breaks out expenses per professional per day and identifies the specific expense incurred. Appendix, Exhibit M at 213 through 329.

EY is an international accounting and professional services firm. Principally through its Fraud Investigation and Dispute Services practice and members of its Houston office, it is providing forensic accounting, investigative support, and tax services to the Receiver. EY's work product has permitted the Receiver to assert his jurisdiction over many far flung and diverse corporate entities that are owned and/or controlled by the Defendants and also provides a

³ At the request of the SEC, FTI agreed that it would not charge the Receivership for the professionals' meals, even when they were on site in Houston for extended periods of time. FTI has determined that some charges, such as meals, were inadvertently included in the original fee applications and has corrected its invoices to account for those charges.

road map for tracing Estate assets around the world. EY identified the business operations of 149 Stanford entities, most of which were not even known to the SEC in February.

At the inception of the Receivership, EY agreed to discount its professional fees by 19%. Then, for the period covered by the first fee application, the SEC requested an additional one time discount of \$375,000 to account for the fact that so many of the necessary EY personnel do not live in Texas and had to incur travel expenses. EY agreed to the \$375,000 discount, an amount that exceeded all of EY's expenses for that period. Finally, EY agreed to discount its fees again – by another 20% – when the SEC requested that all professional firms discount fees in light of the value of Estate assets under the Receiver's control at that time. In effect, EY discounted fees and expenses for the first application by a combined 41.2%.

EY's team is comprised of the forensic and tax professionals within the firm who are the best suited to this particular engagement. They possess the skill, expertise and knowledge required to conduct the investigation, compile financial statements, review corporate documents and assemble ownership information, and prepare tax returns for the Stanford entities, both domestic and foreign. These professionals have historical backgrounds beginning at the inception of the Receivership, thereby providing savings to the Receiver because new personnel do not have to be brought up to speed.

Virtually all of EY's expenses relate to transportation, meals, and lodging for those professionals who reside outside of Houston. EY has stringent expense policies that require documentation and control costs to the greatest degree possible. For example, all air travel is booked through the firm's online tool "EY Traveler" or the National Reservation Center in order to take advantage of EY's negotiated air travel discounts with U.S. and international air carriers. For this engagement, EY professionals traveling to Houston were required to stay in

hotels adjacent to the Stanford headquarters, where EY had contracted for very competitive rates. This arrangement also negated the need for rental cars.

EY incurred expenses of \$340,538.00 from February through May. The Receiver requests approval of payment to EY for \$272,430.40 in expenses and reserves the right to seek payment of the 20% hold back amount of \$68,107.60 at a future date.

CONCLUSION

The fees and expenses requested by the Receiver were necessary and reasonable in order to carry out the Amended Order Appointing Receiver. Accordingly, the Receiver requests that the Court enter an order approving payment of \$1,600,196.36 in fees and expenses to FITS, FTI and EY for February through May 31, 2009, and that the Receiver be permitted to seek payment of the \$400,049.09 hold back for this period at a later date.

Dated: November 10, 2009

Respectfully submitted,

BAKER BOTTS L.L.P.

By: /s/ Kevin M. Sadler

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ATTORNEYS FOR RECEIVER RALPH S. JANVEY

CERTIFICATE OF CONFERENCE

Counsel for the Receiver provided the parties to this case with this notice and the appendix hereto. Counsel for the Receiver conferred with David Reece, counsel for the SEC, who stated that the SEC is reviewing the documents provided and has not yet taken a position on the relief sought herein. Counsel for the Receiver conferred with Jeff Tillotson, counsel for Laura Pendergest-Holt, who stated that Mrs. Holt is opposed to the relief sought herein. Counsel for the Receiver attempted to confer with David Finn, counsel for James Davis, but has not yet received a response from Mr. Finn. Counsel for the Receiver conferred with Ruth Schuster, counsel for R. Allen Stanford, who stated that Mr. Stanford is opposed to the relief sought herein. Counsel for the Receiver conferred with John Little, Court-appointed Examiner, who opposes the relief sought herein. Counsel for the Receiver conferred with Manuel P. Lena, Jr. counsel for the United States (IRS) who stated that the IRS takes no position on the relief sought herein. The Receiver's request, therefore, is opposed.

/s/ Kevin M. Sadler
Kevin Sadler

CERTIFICATE OF SERVICE

On November 10, 2009, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served the Court-appointed Examiner, all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Kevin M. Sadler
Kevin M. Sadler