

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

**SECURITIES AND EXCHANGE  
COMMISSION,**

**Plaintiff,**

v.

**STANFORD INTERNATIONAL  
BANK, LTD., et al.,**

**Defendants.**

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**CIVIL ACTION NO. 3-09-CV 0298-N**

**EXAMINER'S RESPONSE TO MOTION FOR EVIDENTIARY HEARING  
FILED BY SUSAN STANFORD**

TO THE HONORABLE JUDGE OF SAID COURT:

John J. Little, Examiner, submits his Response to the Motion for Evidentiary Hearing filed herein by Susan Stanford [Doc. 1048] through which Mrs. Stanford asks this Court to conduct an evidentiary hearing with respect to Mrs. Stanford's claim to proceeds arising from the Receiver's sale of two vessels, the "Sea Eagle" and the "Little Eagle." For the reasons set forth in this Response, the Examiner opposes Mrs. Stanford's Motion and respectfully requests that the Court enter an Order denying it.

**MRS. STANFORD'S MOTION SHOULD BE DENIED**

Mrs. Stanford asks the Court to schedule and conduct an evidentiary hearing to determine whether she is entitled to any of the proceeds obtained by the Receiver from the sale of two vessels: the "Sea Eagle" and the "Little Eagle."<sup>1</sup> In her Motion, she suggests that her claim to

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<sup>1</sup> The Court has directed the Receiver to sequester one-half of such proceeds until such time as Mrs. Stanford's claims to them can be adjudicated. Doc. 1023.

the proceeds is “ripe for adjudication” and that the Court’s ruling will give the parties “guidance on future claims to community property.” Neither assertion is accurate.

**There is Nothing for this Court to Hear**

As an initial matter, Mrs. Stanford does not have a motion (or any other pleading) on file that asserts the factual and legal bases of her community property claims as they relate to the proceeds and specifies the relief to which she contends she is entitled. For that reason, it is difficult to ascertain precisely what it is that Mrs. Stanford would have this Court decide in the evidentiary hearing she requests.

To date, Mrs. Stanford has filed a Motion for Leave to Intervene in this action, asserting that intervention was proper so that she could assert her community property rights to assets in the possession of the Receiver. Doc. 409. The Court has fully addressed that Motion and permitted Mrs. Stanford to intervene. Doc. 950.

After being permitted to intervene, Mrs. Stanford filed an objection to the Receiver’s proposed sale of the “Sea Eagle” and the “Little Eagle.” Doc. 1021. In her objection, she argued that the Receiver should not be permitted to sell the vessels unless the Receiver “compensated her” for her claimed community property interest. The Court has fully addressed both the Receiver’s Motions seeking leave to sell the two vessels and Mrs. Stanford’s objection by (a) permitting the Receiver to sell the vessels pursuant to the procedures he proposed, and (b) directing the Receiver to sequester one-half the proceeds pending final adjudication of Mrs. Stanford’s community property claims.

Mrs. Stanford’s request for a hearing begs the question – what is it that the Court is to hear? She has yet to file a pleading that states a claim against the Receiver. Until she does so, the Examiner respectfully submits that there is nothing to hear.

**Mrs. Stanford's Claim is Not Ripe**

If the Court elects to treat the various papers filed by Mrs. Stanford as stating some sort of claim to assets currently in the possession of the Receiver, it would still be inappropriate at this time to conduct a hearing on that claim. Contrary to Mrs. Stanford's argument, her "community property" claim is far from ripe.

In her Motion, Mrs. Stanford correctly states that income and assets earned during a marriage are presumed to be community property under Texas law, and that this presumption can only be overcome by "clear and convincing proof." Apart from the allegation (made in several of her filings) that she is the "34-year plus innocent spouse" of Allen Stanford, Mrs. Stanford has not alleged any facts establishing her community property claim to any particular asset now in the possession of the Receiver. She has failed even to allege that she and Mr. Stanford owned either of the vessels that are the subject of her current motion.<sup>2</sup> She has made no allegations concerning when those vessels were acquired and what funds were used to acquire them. She has made no allegations concerning the source of the funds used to maintain the vessels since their acquisition.

More importantly, even if such allegations had been made by Mrs. Stanford, no discovery has been taken by any party with respect to the ownership, acquisition and maintenance of these vessels, nor as to the source(s) of the funds used to acquire and maintain these vessels. At present, no discovery can now be taken in preparation for such a hearing.<sup>3</sup>

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<sup>2</sup> Based upon the pleadings on file, it appears that the "Sea Eagle" is owned by an entity named Sea Eagle, Ltd. Doc. 797 at 2. The Examiner cannot find any reference to the individual or entity that holds title to the "Little Eagle."

<sup>3</sup> As the Court well knows, it has granted the Department of Justice motion seeking to stay discovery in this proceeding, excepting only discovery that pertains to the Receiver's asset-recovery efforts. Doc. 948.

The Examiner respectfully submits that no hearing should be held with respect to Mrs. Stanford's community property claims until the parties – including the Examiner – have an opportunity to conduct discovery concerning the facts relied upon by Mrs. Stanford in asserting those claims. Mrs. Stanford has conceded that she may be entitled to nothing:

All of the property being rounded up by the Receiver may ultimately prove to be the proceeds of fraud and Susan Stanford may be entitled to nothing.

Doc. 409, at 15 of 16. With respect to the vessels at issue, discovery may well demonstrate that they were acquired and/or maintained using funds that were “proceeds of fraud.” If that is so, then Mrs. Stanford concedes she would be entitled to nothing.

**The “Guidance” Envisioned by Mrs. Stanford is Illusory**

Mrs. Stanford also urges that a hearing with respect to her community property claims to the vessel proceeds will somehow provide the parties with guidance or insight concerning other community property. Any community property claim asserted by Mrs. Stanford to other assets is likely be resolved based upon very specific facts – including but not limited to the source of funds used to acquire the asset and to maintain and/or improve the asset. Accordingly, the facts that might determine her entitlement, if any, to proceeds from these vessels are entirely different from the facts that might determine her entitlement, if any, to proceeds from the sale of a piece of real estate or a private equity investment. For that reason, the Examiner respectfully submits that any guidance that might be derived from a hearing as to this particular claim will be extremely limited.

**Mrs. Stanford's Interests are Protected**

The Examiner understands that Mrs. Stanford would like nothing better than to move some money from the Receiver's account to her own. Until February 2009, Mrs. Stanford presumably lived a life of luxury, funded with the money that Mr. Stanford extracted from tens

of thousands of investors around the world. Mrs. Stanford's access to that flow of funds presumably came to an end in February 2009, as did her ability to continue to live the lifestyle provided her by Mr. Stanford's operation.

While Mrs. Stanford may well be an "innocent" spouse, that fact alone ought not entitle her to have her claims adjudicated long before the claims of thousands of other wholly innocent investors. Unlike those investors, Mrs. Stanford's interests in the proceeds of these vessels are wholly protected by the Court's order sequestering them until further adjudication.

**Conclusion**

For the reasons set forth above, this Court should enter its Order denying Mrs. Stanford's Motion seeking an evidentiary hearing with respect to her community property claims to the proceeds from the sale of the "Sea Eagle" and the "Little Eagle."

Respectfully submitted,

/s/ John J. Little

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### **CERTIFICATE OF SERVICE**

On April 16, 2010 I electronically submitted the foregoing document to 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 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/ John J. Little