

TABLE OF CONTENTS

	<i>Page</i>
<i>Wampold, et al. v. Pershing, LLC, et al.</i> , Original Petition, Case No. 577629, Div. "D," 19th JDC, East Baton Rouge Parish, State of Louisiana.....	1
<i>Marquette, et al. v. Pershing, LLC, et al.</i> , Original Petition, Case No. 581452. Div. "D," 19th JDC, East Baton Rouge Parish, State of Louisiana.....	23
<i>Wampold, et al. v. Pershing, LLC, et al.</i> , First Amended Petition, Case No. 577629, Div. "D," 19th JDC, East Baton Rouge Parish, State of Louisiana.....	46
<i>Marquette, et al. v. Pershing, LLC, et al.</i> , First Amended Petition, Case No. 581452. Div. "D," 19th JDC, East Baton Rouge Parish, State of Louisiana.....	49
<i>Wampold, et al. v. Pershing, LLC, et al.</i> , Second Amended and Supplemental Petition, Case No. 577629, Div. "D," 19th JDC, East Baton Rouge Parish, State of Louisiana.....	51
<i>Wampold, et al. v. Pershing, LLC, et al.</i> , Notice of Removal, Case No. 3:09-cv-00323-JVP-CN (M.D. La. May, 29, 2009).....	54
<i>Marquette, et al. v. Pershing, LLC, et al.</i> , Notice of Removal, Case No. 3:09-cv-00734-JVP- DLD (M.D. La. Sept. 3, 2009).....	67
<i>Wampold, et al. v. Pershing, LLC, et al.</i> , Remand Order, Case No. 3:09-cv-00226-JJB-DLD (M.D. La. Sept. 14, 2009).....	77
<i>Marquette, et al. v. Pershing, LLC, et al.</i> , Remand Order, Case No. 3:09-cv-00734-JVP-DLD (M.D. La. Nov. 11, 2009).....	81
<i>Wampold, et al. v. Pershing, LLC, et al.</i> , Joint Stipulation and Order, Case No. 577629, Div. "D," 19th JDC, East Baton Rouge Parish, State of Louisiana.....	82
<i>Marquette, et al. v. Pershing, LLC, et al.</i> , Joint Stipulation and Order, Case No. 581452. Div. "D," 19th JDC, East Baton Rouge Parish, State of Louisiana.....	87

19th JUDICIAL DISTRICT FOR THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

No.: 577629

Div.: D

MILFORD WAMPOLD, III; WAMPOLD & COMPANY, INC.; MILFORD
WAMPOLD SUPPORT FOUNDATION; KENNETH BIRD; TERESA LAMKE;
ANTONIO CARRILLO; MARIA CARRILLO; HERMAN THIBODEAUX

versus

PERSHING, LLC; CERTAIN UNDERWRITERS AT LLOYD'S OF LONDON IN
SYNDICATES 2987, 2488, 1866, 1084, 1274, 4000 & 1183; JASON GREEN;
JOHN SCHWAB; RONALD CLAYTON; HOPE BELLELO;
CHARLES JANTZI; TIFFANY ANGELLE; ABC INSURANCE COMPANY;
XYZ INSURANCE COMPANY

FILED: _____
DEPUTY CLERK

PLAINTIFFS' ORIGINAL PETITION

NOW INTO COURT, through undersigned counsel come Plaintiffs, Milford Wampold,
III; Wampold & Company, Inc.; Wampold Companies; Milford Wampold Support Foundation;
Kenneth Bird; Teresa Lamke; Antonio Carrillo; Maria Carrillo; and Herman Thibodeaux who
respectfully represent as follows:

1.

Jurisdiction and venue are proper in accordance with the provisions of the Louisiana
Code of Civil Procedure.

2.

Plaintiffs bring this action against both the Defendants and their insurers pursuant to the
Louisiana Direct Action Statute (LA. REV. STAT. §22:1269(B)).

3.

Made Defendants in this case are the following parties:

a. PERSHING, LLC, a single member Delaware Limited Liability Company.

CERTIFIED TRUE COPY

014552

DEPUTY CLERK OF COURT

19TH JUDICIAL DISTRICT
EAST BATON ROUGE PARISH, LA.
FILED

2009 APR 24 AM 10:42

BY DEPUTY CLERK & RECORDER FOR
DOUG WELBORNSH
CLERK OF COURT E.B.R. PARISH

1 FAX COPY FILED 4/22/09
ORIGINAL FILED 4/24/09

- b. **CERTAIN UNDERWRITERS AT LLOYD'S OF LONDON IN SYNDICATES** 2987, 2488, 1866, 1084, 1274, 4000 & 1183. Defendants are citizens of the United Kingdom. Per the service of suit clause in the policy of insurance, this Defendant may be served with the petition and citation by serving Mendes & Mount, 750 Seventh Avenue, New York, NY 10019-6829.
- c. **STANFORD GROUP COMPANY BROKERS ("SGC BROKERS"):**
- i. **JASON GREEN**, a person of full age and majority residing in Baton Rouge, Louisiana.
 - ii. **RONALD CLAYTON**, a person of full age and majority residing at 2621 Cedar Lodge Drive, Baton Rouge, Louisiana, 70809.
 - iii. **HOPE BELLELO**, a person of full age and majority residing at 8434 Tina Lane, Maringouin, Louisiana 70757
 - iv. **CHARLES JANTZI**, a person of full age and majority residing at 723 Troutbeck Drive, Baton Rouge, Louisiana 70810.
 - v. **JOHN SCHWAB**, a person of full age and majority residing at 2446 June St., Baton Rouge, Louisiana 70808.
 - vi. **TIFFANY ANGELLE**, a person of full age and majority residing at 403 Boulder Creek Parkway, Lafayette, Louisiana 70508.
- d. **ABC INSURANCE COMPANY**, the insurance company or companies that provide commercial general liability insurance to the Broker defendants.
- e. **XYZ INSURANCE COMPANY**, the insurance company or companies that provide insurance to Pershing.

OVERVIEW

4.

A large-scale financial catastrophe came to light in January 2009, when the SEC brought an enforcement action and had a receiver appointed for the Stanford Group Companies in the matter captioned *Securities and Exchange Commission v. Stanford International Bank, Ltd., et al.* No. 3:09-cv-0298-N in the United States District Court for the Northern District of Texas. The SEC has indicated that it believes that the Stanford Group Companies were conducting a

Ponzi scheme, but it is not clear whether some or all of the brokers had knowledge of it. Ultimately, however, they bear the responsibility for it.

5.

The Plaintiffs in this case are residents of Louisiana who purchased investment products sold to them by the individual broker defendants who were affiliated and registered with the Stanford Group Company. The primary investment products that the Plaintiffs complain about herein are certificates of deposit issued by the Stanford International Bank ("SIB CDs").

6.

The Stanford International Bank ("SIB") and numerous other related entities are owned by R. Allen Stanford. A significant purpose of these related entities was to serve as sales agents for the SIB CDs. Among these related entities were the Stanford Group Company and the Stanford Trust Company

7.

SIB purported to be a private international bank domiciled in St. John's, Antigua, West Indies. SIB claimed to serve tens of thousand of clients in over 100 countries, managing assets of nearly \$8 billion. SIB claimed that it generally did not loan money. Instead, SIB's model was to sell SIB CDs to U.S. investors through SGC, its affiliated investment adviser, and use the money to make investments that would pay the offered rate of return on the CDs. SIB then purportedly invested the money in a suitably liquid portfolio of assets.

8.

SGC is registered with the Securities and Exchange Commission ("SEC") as a broker-dealer and investment adviser. It has offices throughout the U.S., including two offices in Louisiana – in Baton Rouge and Lafayette. SGC's principal business consisted of the sale of SIB CDs. SGC is a wholly-owned subsidiary of Stanford Group Holdings, Inc., which in turn is owned by R. Allen Stanford.

9.

For years, the Stanford Group Companies recruited successful registered representatives from other brokerage firms to join the Stanford organization. It did so, in part, by offering an above-market performance-based compensation arrangement. A centerpiece of this arrangement was the generous, above-par commission paid in connection with the sale of certificates of deposit issued by Stanford International Bank. SGC received a 3% trailing fee from SIB on sales

of SIB CDs by SGC advisors. SGC advisors received a 1% commission upon the sale of the SIB CDs, and were eligible to receive as much as a 1% trailing commission throughout the term of the CD.

10.

The commission structure also provided a very strong incentive for SGC financial advisors to be aggressive in their sale of SIB CDs to investors. In 2007, SIB paid SGC and its affiliates more than \$291 million in management fees from SIB CD sales. The incentives created by these generous and anomalous commissions mesmerized the SGC Brokers and encouraged them to push the SIB CDs on their clients.

11.

The brokers used sales materials and presentations, and made material misrepresentations, discussed in more detail below, that were false and misleading, emphasizing the safety of the SIB CDs, the liquidity of the bank's underlying portfolio of investments, the fabricated track record of favorable returns, the robustness of the Antiguan government regulation applicable to SIB, the fact that SIB was subject to regular, comprehensive audits, the insurance provided through Lloyds of London, the favorable capital position of SIB and the quality of SIB's investment oversight.

12.

Introducing brokers, which is what Stanford Group Company and the individual broker defendants were, cannot do business without a clearing broker partner. From 2006 on, Pershing LLC was this partner.

13.

Defendant Pershing is a clearing broker that served as the intermediary for transactions between SGC and SIB. As the clearing broker, Pershing provided customary clearing broker services, which include the maintenance of books and records, the execution of transactions, paying for the SIB CDs that had been purchased, and delivering the SIB CDs that had been sold.

14.

Pershing was additionally responsible for making assessments of whether to accept an order for processing, whether to execute a transaction on customer accounts and whether the introducing brokerage firm, SGC, was in compliance with its net capital requirements.

15.

From 2006 to sometime late in 2008, Pershing was involved in thousands of transactions in which customers of Stanford Group bought SIB CDs. According to the SEC, Pershing sent 1,635 wire transfers to Stanford International Bank totaling \$517 million, among other actions in furtherance of the CD program and Stanford Group's purpose.

16.

Pershing silently stopped doing that business in December of 2008. Pershing acted only after continuing to process suspicious SIB CD transactions for many, many months. But Pershing continued to serve as the clearing broker for SGC's customer transactions, even though it knew, or in the exercise of reasonable diligence should have known, that SGC was merely a vehicle for the elaborate Stanford Ponzi scheme, and that the SGC and Pershing customers were at very serious financial risk.

17.

Ultimately, Stanford Group Company was a storefront with its name on fancy office space, but it was Pershing that provided the infrastructure that is necessary for Stanford Group Company and the individual broker defendants to conduct their business, including, of course, the business of selling the SIB CDs that are at issue in this case.

18.

Each of the plaintiffs has incurred substantial damages ranging from the hundreds of thousands to the tens of millions of dollars as a direct result of the conduct of the defendants. Some of the plaintiffs have lost substantial portions of monies they had saved for retirement and were using these monies or intended to use these monies as their primary means of support in retirement.

19.

All of the defendants worked in concert as part of a system designed with the primary purpose of selling CDs issued by the SIB. The broad outlines of their actions are described in the following paragraphs.

THE WRONGFUL ACTS OF THE SGC BROKERS

20.

By the end of 2008 the massive Stanford CD marketing scheme finally cratered. At that time, SIB had sold nearly \$8 billion of the SIB CDs by touting: (1) SIB's safety and security; (2)

consistent, double-digit returns on SIB's investment portfolio; and (3) high interest rates on the SIB CDs that outpaced the rates that commercial banks in the United States were able to offer on certificates of deposit.

21.

Contrary to the representations of SIB and its related entities, such as SGC, by February of 2009, SIB had misappropriated many billions of dollars through bogus personal loans to Stanford and had "invested" a huge sum of investor funds in speculative, unprofitable illiquid private businesses controlled by Stanford.

22.

In order to conceal the Ponzi scheme and continue the influx of investor funds into SIB's coffers, Stanford and Davis falsified the performance of SIB's investment portfolio. Each month, Stanford and Davis pre-determined the rate of return on the investments in SIB's portfolio. Using those predetermined numbers, the SIB accountants reverse-engineered financial statements for SIB to make it appear as though SIB had earned income that it did not actually have. The SGC Brokers knew, or at least had access to information that clearly demonstrated, that the figures that Stanford reported as its returns did not match the actual returns.

23.

The SGC Brokers were registered representatives of Stanford Group Company and were investment advisors to the Plaintiffs. In their fiduciary roles as investment advisers, the SGC Brokers recommended the purchase and/or renewal of what they called "certificates of deposit" issued by the SIB. SGC Brokers received lucrative commissions on the sale of the SIB CDs that far exceeded the market rate. The SGC brokers had an extraordinary financial incentive for marketing and selling the SIB CDs to the plaintiffs. By acting in accordance with their individual financial incentive and against the interest of the Plaintiffs, they breached their fiduciary and other duties, including the duties of loyalty and of candor and their duties under Articles 2315 *et seq.* of the Louisiana Civil Code.

24.

In selling the SIB CDs to investors, the SGC brokers repeatedly touted the CDs' safety and security and SIB's consistent, double-digit returns on its investment portfolio.

25.

In its brochures, SIB told investors, under the heading "Depositor Security," that its investment philosophy is "anchored in time-proven conservative criteria, promoting stability in [SIB's] certificate of deposit." SIB also emphasized that its "prudent approach and methodology translate into deposit security for our customers." Further, SIB stressed the importance of investing in "marketable" securities, saying that "maintaining the highest degree of liquidity" was a "protective factor for our depositors."

26.

In its 2006 and 2007 Annual Reports, SIB told investors that the banks' assets were invested in a "well-balanced global portfolio of marketable financial instruments, namely U.S. and international securities and fiduciary placements." More specifically, SIB represented that its 2007 portfolio allocation was 58.6% equity, 18.6% fixed income, 7.2% precious metals and 15.6% alternative investments.

27.

In lockstep with the annual reports and brochures, SGC brokers were trained to represent that the "liquidity/marketability of SIB's invested assets" was the "most important factor to provide security to SIB clients." In training materials, it was also claimed that SIB had consistently earned high returns its investment of deposits (ranging from 11.5% in 2005 to 16.5% in 1993). The SGC brokers in turn parroted these claims to convince their clients to purchase the SIB CDs.

28.

Although SGC Brokers referred to the instruments as "certificates of deposit" that were being issued by a "bank," the instruments that the SGC Brokers were selling were really high-risk speculative bonds being issued by a leveraged hedge fund. As a result, none of the stability and security that investors associate with the terms "bank" and "certificate of deposit" accompanied these instruments. The use of the term "certificates of deposit" in relation to these investments was itself highly misleading. The individual brokers knew that the use of this description was creating a false sense of stability, liquidity and security. In fact, the SIB CDs were the prime component in an elaborate Ponzi scheme, whereby cash flow realized from the proceeds of the sale of SIB CDs to new investors was used to pay interest and to return invested principal to the holders of older SIB CDs.

29.

The SGC Brokers, seasoned financial advisors who had been recruited from other well-known investment firms, should have known that the representations being made by SIB about the CDs were not true, especially in light of the ample red flags that cropped up. But lured by the lucrative commissions they could reap, the SGC brokers failed to take the requisite steps that would have uncovered the truth. Because of the acts and omissions of the Broker-Defendants surrounding the sale of the SIB CDs to the Plaintiffs, the Plaintiffs were misinformed about the risks inherent in CDs that were marketed as safe, liquid investments, but which were in fact hollow bricks in the Stanford pyramid scheme. The SGC Brokers failed to inquire into the material risks involved in the SIB CDs, having become mesmerized by the substantial personal profits they gained from the sale of those CDs to the plaintiffs – sales which, all told, amounted to millions of dollars.

30.

The high commissions for the sale of the SIB CDs and the above-market returns promised by the SIB and various other red flags, such as unusual regulatory attention directed at various Stanford entities, lawsuits and claims against Stanford, internal discussion of “runs on the bank” in 2008 and other obvious issues, placed the individual broker defendants squarely on notice that the SIB CDs were extremely risky, highly speculative, potentially illiquid and quite possibly a part of a Ponzi scheme, where new investors paid for redemptions by existing investors. The individual defendants were on personal notice of a potential for a calamitous collapse of these investments based on the facts they knew. While perhaps not all of them knew for certain that there was the potential for such a catastrophic problem roiling beneath the surface, at the very least they should have, in the exercise of reasonable diligence, known of the problem.

31.

The SGC Brokers failed to request the most basic financial disclosures from SIB, including SIB’s financial statements, its valuation reports, or its methodology for reporting income. Nor did the SGC Brokers request that SIB disclose the performance of its investments. The SGC Brokers never disclosed to the Plaintiffs that they were recommending the purchase of SIB CDs without any of the pertinent data needed to support such a recommendation.

32.

The SGC Brokers affirmatively represented to the Plaintiffs that SIB's financial statements were audited and prepared in accordance with generally accepted accounting principals ("GAAP"), that SIB's assets had been independently valued by outside auditors, and that professional analysts were monitoring SIB's portfolio of assets. In fact, SIB's assets had not been meaningfully audited or verified. The SGC Brokers were in a position to know this and were reckless in failing to discover this.

33.

Contrary to the SGC Brokers' representations, SIB's accountant, a small local firm in Antigua, took on the responsibility for auditing the SIB's multi-billion dollar investment portfolio. Detailed financial statements were never requested by SGC Brokers. The financial statements were not prepared in accordance with GAAP. And the SIB's asset portfolio was monitored primarily by R. Allen Stanford and James Davis – two of the principals in the Stanford Ponzi scheme. The SGC brokers simply acquiesced to SIB's efforts to prevent any true accounting of its financial position, abdicating their professional responsibility and duty to their clients.

34.

The SGC Brokers further represented that SIB was a bank that was subject to regulation and audit by the Antiguan government. But SIB was not really a bank, at least not in the way that Stanford's clients thought it was. Instead, SIB largely functioned as the private account of R. Allen Stanford.

35.

The individual brokers owed fiduciary and other duties to their clients under Louisiana and other applicable laws. They were trusted advisors who owed continuing duties of loyalty, complete candor and full disclosure to their clients. Unfortunately, the lure of high, above-market commissions for the sale of the SIB CDs blinded the brokers to the many obvious problems with the CDs. The individual brokers owed the duty to keep their clients up-to-date on material information regarding the certificates and failed to do so.

36.

The SGC Brokers represented that in marketing and selling the SIB CDs to the Plaintiffs, they had the Plaintiffs' best interests in mind. But the brokers failed to disclose to the Plaintiffs

that they were receiving commissions on the sale of the SIB CDs that were many times more than would result from the sale of a traditional certificate of deposit, and they further failed to disclose that the sale of SIB CDs was the lifeblood for the continued viability of SGC. The conflict of interest inherent in these transactions was never revealed to the Plaintiffs. This was a breach of their duty of loyalty.

37.

The SGC Brokers represented that the investments in SIB CDs were arms-length transactions. In fact, the SGC Brokers were highly dependent on the sale of SIB CDs to maintain profitability.

38.

The SGC Brokers represented that SIB's investments were in safe, liquid financial instruments. However, beginning in late 2007 and continuing into 2008, SIB began experiencing liquidity problems and was unable to redeem all of the SIB CDs. As a result, the brokers redoubled their efforts to sell SIB CDs and crafted a special marketing plan to promote sales of the SIB CDs. The brokers failed to inquire into the liquidity of the SIB CDs and failed to inform the Plaintiffs of the liquidity problems of SIB.

39.

The SGC Brokers represented to the Plaintiffs that SIB was a profitable entity that was realizing profits in the form of dividends from the companies in which SIB had invested. In reality, the cash flow into SIB consisted almost entirely of profits from the sale of SIB CDs to new investors, and the net profits were conjured out of thin air through revaluation of assets and asset swaps that never actually occurred.

40.

The SGC Brokers represented to the Plaintiffs that they had knowledge of the companies in which SIB had invested and that each of these companies possessed adequate capital to repay any funds advanced by SIB. But the brokers had no actual knowledge of where SIB had invested the income earned from the sale of the SIB CDs and made no independent attempts to acquire information on the management, financial operations, capital structure or leverage of the companies in which SIB had purportedly invested.

41.

The individual defendants used the good name and reputation of Lloyd's of London to lull their clients into the belief that the sales of the certificates of deposit were backed by a safety net of Lloyd's insurance products including excess deposit insurance, professional liability insurance, and errors and omissions insurance that could be accessed to protect the investors if something went wrong.

THE WRONGFUL ACTS OF PERSHING

42.

The individual Broker-defendants registered with the Stanford Group Companies were instrumental in the sales of these CDs to the Plaintiffs. Stanford Group Companies, in turn, could not have done business, including its primary business of selling the SIB CDs without the continuing assistance of Pershing.

43.

Pershing markets its clearing broker business as providing "infrastructure" and "innovative solutions" that "help you attract new investors, capture additional assets, increase profits and increase processing efficiencies. The tools we offer help you comply with increasingly complex and changing regulatory requirements."

44.

Pershing fulfills a number of important functions for its customers and the customers of Stanford Group Companies. Pershing is the custodian for securities held by customers, Pershing executes and clears trades in the customers' accounts, Pershing monitors capital requirements and fulfills certain regulatory and back office functions, Pershing accounts for transactions and regulatory values for the securities it holds, Pershing provides research, Pershing issues confirmations and account statements, Pershing accounts for individual broker commission credits and payments, Pershing monitors accounts for compliance with margin requirements, and Pershing transfers funds to facilitate various customer transactions.

45.

Stanford "outsourced" many functions to Pershing and Stanford and Pershing had a *de facto* partnership or joint venture relationship. As Pershing itself volunteered, "You can turn to us for a comprehensive range of outsourcing solutions to every need, combined with a uniquely

consultive custom-tailored approach. At Pershing you will find a partner committed to supporting your business without limits.”

46.

Pershing became aware at least by 2007 that the SIB CDs were not what they were represented to be, that the assets securing them were not what they were represented to be and that the value of SIB assets was not what it was represented to be. Pershing had knowledge that the SIB CDs were not remotely like certificates of deposit issued by American banks and, instead, that the whole Stanford operation focused on selling these certificates was a giant, irresponsible marketing scheme, virtually certain to end in the collapse of the CDs.

47.

Pershing ultimately became so concerned about the viability of this program and the SIB CDs themselves that Pershing made the decision, many months after Pershing knew of the problems, to refuse to participate any further in the transfer of money from the Stanford Group customer accounts held at Pershing to the SIB. Pershing notified Stanford Group of this decision, but made no effort to notify the customers or to stop supporting Stanford’s operation in other ways.

48.

Even after Pershing stopped transferring customer monies to SIB, Pershing continued to supply the SGC with the necessary infrastructure to assist SGC in perpetuating its fraudulent business, including the certificate sales. This decision had the effect of continuing the income stream that Pershing established through “partnering” with Stanford to perform the essential functions necessary to support Stanford’s “storefront” operation, but it also ensured the ultimate demise of billions of dollars of their innocent customers’ money.

49.

Pershing owed direct duties to its clients and to the world at large to cease aiding SGC and the SGC brokers in conducting this business. Pershing’s actions made the certificates sales possible and cloaked the whole operation with respectability and authority. Without Pershing’s assistance, SGC could not have sold the quantity of SIB CDs that it sold.

50.

Once Pershing knew that SGC customers were being duped into buying the SIB CDs based upon misrepresentations as to the nature of the investment, Pershing could not, either

under the law nor in using good business practices, continue to make profits by clearing transactions for Stanford Group, knowing that by doing so, Pershing was directly furthering the fraud and placing Pershing customers at additional substantial risk.

51.

There is considerable evidence of all of this in Pershing's files and in Pershing's computer system. That evidence needs to be safeguarded at the inception of this case.

INSURANCE COVERAGE

52.

At all relevant times, defendant Lloyd's provided errors and omissions liability coverage for the SGC Brokers. Each broker was an insured under the respective policy of insurance. Further, each of the policies provides coverage for damages to Plaintiffs caused by the acts and omissions of the SGC Brokers.

53.

At all relevant times, ABC Insurance Company provided comprehensive general liability coverage for the SGC Brokers. Each broker was an insured under the respective policy or policies of insurance. Further, each of their comprehensive general liability policies provides coverage for damages to Plaintiffs caused by the acts and omissions of the SGC Brokers.

54.

At all relevant times, XYZ Insurance Company provided insurance coverage for Pershing. Pershing and its employees were insured under the respective policy or policies of insurance. Further, each of the policies provides coverage for damages caused to Plaintiffs caused by the acts and omissions of Pershing.

CAUSES OF ACTION

NEGLIGENCE

55.

Paragraphs 1 - 54 are incorporated herein by reference.

56.

SGC Brokers and Pershing are liable under Louisiana Civil Code Articles 2315 *et seq.*

57.

SGC Brokers owed Plaintiffs a duty of care as professional broker-dealers and investment advisors. This duty includes the obligation to perform due diligence on Plaintiffs' behalf prior to making an investment in the SIB CDs and to not make unconfirmed representations.

58.

The SGC Brokers breached this duty of care and were negligent in failing to perform their requisite duties as advisors and brokers for the Plaintiffs.

59.

Pershing owed the Plaintiffs a duty of care as custodian of their invested funds. This duty included the obligation to inform the Plaintiffs when Pershing personnel began to suspect that the SIB CDs were not a valid financial instrument.

60.

Pershing breached its duty to the Plaintiffs when it failed to inform the Plaintiffs of its suspicions regarding the SIB CDs and Pershing further breached its duty by failing to inform the Plaintiffs that it was withdrawing as the clearing broker for SIB CDs.

61.

Plaintiffs have suffered damages as a result of the Defendants' breaches of duty.

BREACH OF CONTRACT

62.

Paragraphs 1 - 54 are incorporated herein by reference.

63.

An agreement existed between SGC Brokers and the Plaintiffs. As a part of that agreement, the SGC Brokers were obligated to advise the Plaintiffs concerning the risk of their investments by spending the time necessary to evaluate those investments.

64.

The SGC Brokers breached the agreement by failing to spend adequate time evaluating with due diligence the investments that they sold to the Plaintiffs. Further, the SGC Brokers failed to obtain information that would have been material to the Plaintiffs' decision to invest in the SIB CDs and failed to inform the Plaintiffs of the highly-lucrative compensation arrangements between SGC and SIB. These omissions constitute a breach of contract, including a breach of the duties of good faith and fair dealing that are implied in every contract.

65.

Plaintiffs have suffered damages as a result of the SGC Brokers' breaches of contract.

NEGLIGENT MISREPRESENTATION

66.

Paragraphs 1 - 54 are incorporated herein by reference.

67.

Pleading in the alternative, Plaintiffs' allege that the SGC Brokers made negligent misrepresentations to the Plaintiffs.

68.

In the course of their dealing with the Plaintiffs, SGC Brokers made multiple representations to the Plaintiffs in which they supplied false information.

69.

The SGC Brokers supplied false information that Plaintiffs reasonably relied on to make their investment decisions.

70.

The SGC Brokers failed to exercise reasonable care in verifying the accuracy of the information that they communicated to the Plaintiffs.

71.

Plaintiffs have suffered damages because of the SGC Brokers' failure to exercise reasonable care.

BREACH OF FIDUCIARY DUTY

72.

Paragraphs 1 - 54 are incorporated herein by reference.

73.

Pleading in the alternative, Plaintiffs allege that the SGC Brokers and Pershing have breached the fiduciary duties they owed to the Plaintiffs.

74.

Plaintiffs reposed trust and confidence in the SGC Brokers and in Pershing, which relationship of trust gave rise to a fiduciary duty. The SGC Brokers and Pershing therefore owed a duty to the Plaintiffs to act fairly and in the utmost good faith in all of their transactions with the Plaintiffs, to make a full and fair disclosure of all material facts to the Plaintiffs, to refrain

from taking advantage of their relationship with the Plaintiffs for personal gain, and to act openly and honestly regarding their transactions with the Plaintiffs.

75.

The SGC Brokers breached this fiduciary duty by failing to determine the accuracy of the investment advice they were communicating to the Plaintiffs. The brokers further breached this duty by failing to disclose their conflicts of interest to the Plaintiffs that resulted in the brokers' great personal gain from the sale of the SIB CDs.

76.

Pershing breached its fiduciary duty to the Plaintiffs by failing to inform the Plaintiffs of its suspicions surrounding the legitimacy of the SIB CDs. Pershing further breached its duty to the Plaintiffs by failing to inform the Plaintiffs that it had ceased serving as the clearing broker for SIB CD transactions with SGC, but continued to serve as the broker for all other SGC transactions.

77.

Plaintiffs suffered damages as a result of the Defendants' breaches of fiduciary duty.

VIOLATIONS OF THE LOUISIANA SECURITIES ACT

78.

Paragraphs 1 - 54 are incorporated herein by reference.

79.

Based upon the above allegations, the SGC Brokers and Pershing have violated the Louisiana Securities Act (La. R.S. section 51:701 *et. seq.*).

80.

The SGC Brokers sold securities to the Plaintiffs within the meaning of the words "sale" and "security," as those terms are defined in Section 702 of the Louisiana Securities Act. The brokers sold those securities by means of untrue statements of material fact and/or omissions of material facts, which made their statements misleading in the light of the circumstances in which they were made.

81.

These misrepresentations and omissions were in violation of Section 712 of the Louisiana Securities Act.

82.

In addition, the SGC Brokers sold securities that were not registered in accordance with the laws of the State of Louisiana and were not subject to a private placement exemption under the laws of the State of Louisiana.

83.

The failure to register violated Sections 705 and 712 of the Louisiana Securities Act.

84.

Plaintiffs relied on the foregoing misrepresentations and/or omissions to their detriment.

85.

The SGC Brokers, directly and indirectly, prepared, disseminated or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral presentations, which contained untrue statements of material facts and misrepresentations of material facts, and which omitted to state material facts that were necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading.

86.

Plaintiff suffered damages as a result of SGC Brokers' violations of the Louisiana Securities Act.

87.

Pershing aided and abetted the SGC Brokers in their violations of the Louisiana Securities Act.

88.

Further, Pershing committed its own, independent violations of the Louisiana Securities Act. Pershing materially participated in the sale of the securities to the Plaintiffs as a "dealer," as that term is defined in Section 702 of the Louisiana Securities Act. Pershing materially participated in the sale of securities to the Plaintiffs by providing services that included the maintenance of books and records, the execution of transactions, paying for the SIB CDs that had been purchased and delivering the SIB CDs that had been sold. Pershing was additionally responsible for making assessments whether to accept an order for processing, whether to execute a transaction on customer accounts and whether the introducing brokerage firm, SGC, was in compliance with its net capital requirements.

89.

Pershing knew, or in the exercise of reasonable care should have known, of the existence of the facts under which the SGC Brokers are liable.

90.

Pershing's acts and/or omission violated Section 714 of the Louisiana Securities Act. Pershing is liable jointly and severally and to the same extent as the SGC Brokers for the sales of SIB CDs in violation of Section 712 of the Louisiana Securities Act.

91.

Plaintiffs suffered damages because of Pershing's violations of Section 714 of the Louisiana Securities Act.

VIOLATIONS OF LOUISIANA RACKETEERING ACT

92.

Paragraphs 1 - 54 are incorporated herein by reference.

93.

Based upon the above allegations, Defendants violated the Louisiana Racketeering Act (La. R.S. Sec. 15:1351 *et seq.*).

94.

The SGC Brokers knowingly participated in the investment enterprise operated by the Stanford entities through a pattern of racketeering activities that involved violations of the Louisiana Securities Act.

95.

Pershing knowingly received proceeds from the pattern of racketeering activity engaged in by the Stanford entities and the individual brokers, and Pershing used those proceeds in the operation of its own enterprise.

96.

Plaintiffs suffered damages as a result of the Defendants' violations of the Louisiana Racketeering Act, entitling the Plaintiffs to three times their actual damages sustained and attorney fees and costs.

CONSPIRACY

97.

Paragraphs 1 - 54 are incorporated herein by reference.

98.

Defendants are liable under Louisiana Civil Code Article 2324.

99.

The Defendants had an agreement with regard to the sale and clearing of SIB CDs. Pershing assisted in the tortious acts committed by the SGC Brokers by serving as the clearing broker and financial intermediary even though it knew that there were grave infirmities with the viability of the Stanford financial instruments. Pershing further knew that those infirmities would result in substantial injury to the plaintiffs.

100.

The continuing relationship and agreement between the SGC Brokers and Pershing resulted in Plaintiffs' injury. Defendants are therefore liable to the Plaintiffs, *in solido*, for damages caused by their tortious.

INSURANCE COVERAGE

101.

Paragraphs 1 - 54 are incorporated herein by reference.

102.

At all relevant times, Certain Underwriters at Lloyd's of London provided directors and officers and professional liability coverage for the SGC Brokers. Each was an insured under the insurance policies issued by Lloyd's. Each of the policies provides coverage for damages to Plaintiffs caused by the actions and inactions of the SGC Brokers.

103.

At all relevant times, ABC Insurance Company provided comprehensive general liability coverage for SGC Brokers. Each broker was an insured under the respective policy or policies of insurance. Further, each of the comprehensive general liability policies provides coverage for damages to Plaintiffs caused by the actions and inactions of the SGC Brokers.

104.

Based upon information and belief, the policies issued by Lloyd's and ABC Insurance Company provide coverage for damages caused by the actions and inactions of SGC Brokers as set forth in Paragraphs 1 - 54 of this Petition.

105.

The acts and omissions of the SGC Brokers constitute multiple occurrences under the policies of insurance issued by Lloyd's and ABC Insurance Company.

106.

The policies of insurance issued by Lloyd's and ABC Insurance Company do not exclude damages caused by the actions and inactions of the SGC Brokers.

107.

The acts and omissions of the SGC Brokers have caused damages during the policy terms of the policies of insurance issued by Lloyd's and ABC Insurance Company.

108.

As a result, Lloyd's and ABC Insurance Company are liable *in solido* with SGC Brokers for all damages, direct or indirect, consequential, attorneys' fees, loss of income, interest, or diminution in value caused by any of the SGC Brokers.

109.

At all relevant times, XYZ Insurance Company provided liability coverage for Pershing. Pershing and its employees were insureds under the insurance policies issued by XYZ Insurance Company. Each of the policies provides coverage for damages to Plaintiffs caused by the actions and inactions of Pershing.

110.

Based upon information and belief, the policies of XYZ Insurance Company provide coverage for damages caused by the actions and inactions of Pershing as set forth in Paragraphs 1 - 54 of this Petition.

111:

The acts and omissions of Pershing constitute multiple occurrences under the policies of insurance issued XYZ Insurance Company.

112.

The policies of insurance issued by XYZ Insurance Company do not exclude damages caused by the actions and inactions of Pershing.

113.

The acts and omissions of Pershing have caused damages during the policy terms of the policies of insurance issued XYZ Insurance Company.

114.

As a result, XYZ Insurance Company is liable *in solido* with Pershing for all damages, direct or indirect, consequential, attorneys' fees, loss of income, interest, or diminution in value caused by Pershing.

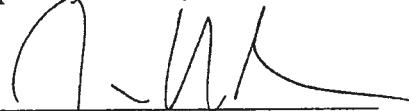
JURY DEMAND

Plaintiffs demand trial by jury of all issues.

WHEREFORE, Plaintiffs pray for the following:

- A. That Defendants be cited to appear and answer;
- B. That the Court enter an order directing Defendant Pershing to safeguard and preserve all evidence in Pershing's files and computer systems relating to this matter.
- C. That, upon trial on the merits, judgment be entered holding SGC Brokers, Lloyd's and ABC Insurance Company liable, *in solido*, for all claims ;
- D. That, upon trial on the merits, judgment be entered holding Pershing liable jointly and severally and to the same extent as SGC Brokers for violations of the Louisiana Securities Act;
- E. That, upon trial on the merits, Plaintiffs recover actual damages;
- F. That, upon trial on the merits, Plaintiffs recover attorneys fees, prejudgment interest, post-judgment interest, costs of court, and such other and further relief to which Plaintiff may be justly entitled; and
- G. For all other equitable and legal relief as provided by law.

Respectfully submitted,



JAMES R. SWANSON, #18455
BENJAMIN D. REICHARD, #31933
FISHMAN HAYGOOD PHELPS
WALMSLEY WILLIS & SWANSON, L.L.P.
201 St. Charles Avenue, 46th Floor
New Orleans, LA 70170-4600
Telephone: (504) 586-5252
Attorneys for Plaintiffs

[SERVICE INSTRUCTIONS BELOW]

PLEASE SERVE:

JASON GREEN
19231 S. Lakeway Avenue
Baton Rouge, Louisiana 70810

RONALD CLAYTON
1962 Stuart Avenue
Baton Rouge, Louisiana 70808

CHARLES JANTZI
723 Troutbeck Drive
Baton Rouge, Louisiana 70810

JOHN SCHWAB
2446 June Street
Baton Rouge, Louisiana 70808

TIFFANY ANGELLE
403 Boulder Creek Parkway,
Lafayette, Louisiana 70508

HOPE BELLELO,
8434 Tina Lane
Maringouin, Louisiana 70757

PLEASE SERVE VIA LOUISIANA LONG ARM STATUTE:

LLOYD'S OF LONDON
via its agent for service of process:
MENDES & MOUNT
750 Seventh Avenue
New York, New York 10019-6829

PERSHING, L.L.C.
via its registered agent for service of process:
BNY MELLON TRUST OF DELAWARE
White Clay Center, Route 273
Newark, Delaware 19711

19th JUDICIAL DISTRICT FOR THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

No.: 581452

Div.: D

NUMA L. MARQUETTE, JR.; GAIL G. MARQUETTE; CORNELIUS L. SHAW; PATRICIA W. SHAW; RAYMOND K. HUNTER IN HIS INDIVIDUAL CAPACITY AND ON BEHALF OF RAMONA HUNTER; DIANE S. HUNTER; LYNN D. WIGGINS; TONY W. HARPER; LINDA PACE IN HER INDIVIDUAL CAPACITY AND AS INDEPENDENT EXECUTRIX OF THE SUCCESSION OF JACKSON ALLEN PACE; HEIDI GAIENNIE; DINA DICKERSON; MONYA PAUL; JASON HUTCHINSON, HEIDI GAIENNIE, AND DINA DICKERSON AS BENEFICIAL OWNERS OF THE NOLAN GILBERT HUTCHINSON TESTAMENTARY TRUST; and II CITY PLAZA, LLC AS ASSIGNEE OF REGIONS BANK

versus

PERSHING, LLC; CERTAIN UNDERWRITERS AT LLOYD'S OF LONDON IN SYNDICATES 2987, 2488, 1886, 1084, 1274, 4000, 1183, 2623 & 623; JASON GREEN; JOHN SCHWAB; HANK MILLS; DIRK HARRIS; GRADY LEYFIELD; TIFFANY ANGELLE; ABC INSURANCE COMPANY; AND XYZ INSURANCE COMPANY

DEPUTY CLERK

PLAINTIFFS' ORIGINAL PETITION

NOW INTO COURT, through undersigned counsel come Plaintiffs, Numa L. Marquette,

Jr., Gail G. Marquette, Cornelius L. Shaw, Patricia W. Shaw, Raymond K. Hunter, in his individual capacity and on behalf of Ramona Hunter, Diane S. Hunter, Lynn D. Wiggins, Tony W. Harper, Linda Pace in her individual capacity and as independent executrix of succession of Jackson Allen Pace, Heidi Gaiennie, Dina Dickerson, Monya Paul, Heidi Gaiennie, Dina Dickerson and Jason Hutchinson as beneficial owners of the Nolan Gilbert Hutchinson testamentary trust, and II City Plaza, LLC as assignee of the claims of Regions Banks, who respectfully represent as follows:

1.

Jurisdiction and venue are proper in accordance with the provisions of the Louisiana Code of Civil Procedure.

FAX COPY FILED 8-13-09
ORIGINAL FILED 8-17-09

2.

Plaintiffs bring this action directly against the liability insurers, and also against the Broker-Defendants as required under the Louisiana Direct Action Statute (LA. REV. STAT. §22:1269(B)).

3.

Made Defendants in this case are the following parties:

- a. **PERSHING, LLC**, a single member Delaware Limited Liability Company.
- b. **CERTAIN UNDERWRITERS AT LLOYD'S OF LONDON IN SYNDICATES 2987, 2488, 1886, 1084, 1274, 4000, 1183, 2623 & 623**. Defendants are citizens of the United Kingdom. Per the service of suit clause in the policy of insurance, this Defendant may be served with the petition and citation by serving Mendes & Mount, 750 Seventh Avenue, New York, NY 10019-6829.
- c. **STANFORD GROUP COMPANY BROKERS AND BROKER/OFFICERS (COLLECTIVELY, "BROKERS")**:
 - i. **JASON GREEN**, broker and officer, a person of full age and majority residing in Baton Rouge, Louisiana.
 - ii. **JOHN SCHWAB**, broker, a person of full age and majority residing at 2446 June St., Baton Rouge, Louisiana 70808.
 - iii. **HANK MILLS**, broker, a person of full age and majority residing at 2623 Kleinert Avenue, Baton Rouge, Louisiana 70806.
 - iv. **GRADY LAYFIELD**, broker and officer, a person of full age and majority residing at 18772 Amen Corner Court, Baton Rouge, Louisiana 70810.
 - v. **DIRK HARRIS**, broker, a person of full age and majority residing at 10151 Hillmont Avenue, Baton Rouge, Louisiana 70810.
 - vi. **TIFFANY ANGELLE**, broker, a person of full age and majority residing at 403 Boulder Creek Parkway, Lafayette, Louisiana 70508.
- d. **ABC INSURANCE COMPANY**, the insurance company or companies that provide commercial general liability insurance to the Brokers.
- e. **XYZ INSURANCE COMPANY**, the insurance company or companies that provide insurance to Pershing.

2

OVERVIEW

4.

A large-scale financial catastrophe came to light in January 2009, when the SEC brought an enforcement action and had a receiver appointed for the Stanford Group Companies in the matter captioned *Securities and Exchange Commission v. Stanford International Bank, Ltd., et al.* No. 3:09-cv-0298-N in the United States District Court for the Northern District of Texas. The SEC has indicated that it believes that the Stanford Group Companies were conducting a Ponzi scheme, but it is not clear whether some or all of the Brokers had knowledge of it. Ultimately, however, they bear responsibility for it.

5.

The Plaintiffs in this case are residents of Louisiana and Florida who purchased investment products sold to them by the individual broker defendants who were affiliated and registered with the Stanford Group Company ("SGC") and the Stanford Trust Company ("STC"). The primary investment products that the Plaintiffs complain about herein are certificates of deposit issued by the Stanford International Bank ("SIB CDs").

6.

The Plaintiffs in this action seek to recover for the wrongful acts of the Defendants but do not seek to make their recovery out of any assets of the Stanford receivership.

7.

The Stanford International Bank ("SIB") and numerous other related entities are owned by R. Allen Stanford. The operative purpose of these related entities was to serve as sales agents for the SIB CDs. Among these related entities were the SGC and the STC.

8.

SIB purported to be a private international bank domiciled in St. John's, Antigua, West Indies. SIB claimed to serve nearly 30,000 investors in over 100 countries, managing assets of nearly \$8 billion. SIB claimed that it generally did not loan money. Instead, SIB's model was to sell SIB CDs to U.S. investors through SGC and STC, its affiliated investment advisors, and use the money to make investments that would pay the offered rate of return on the CDs. SIB then purportedly invested the money in a suitably liquid portfolio of assets.

3

9.

SGC and STC are registered with the Securities and Exchange Commission ("SEC") as broker-dealers and investment advisors and are regulated by the Louisiana Office of Financial Institutions. They have offices throughout the U.S., including two offices in Louisiana – in Baton Rouge and Lafayette. SGC's principal business consisted of the sale of SIB CDs. SGC and STC are wholly-owned subsidiaries of Stanford Group Holdings, Inc., which in turn is owned by R. Allen Stanford.

10.

For years, SGC and STC recruited successful registered representatives from other brokerage firms to join the Stanford organization. They did so, in part, by offering an above-market performance-based compensation arrangement. A centerpiece of this arrangement was the generous, above-par commission paid in connection with the sale of certificates of deposit issued by Stanford International Bank.

11.

Specifically, SGC received a 3% trailing fee from SIB on sales of SIB CDs by SGC brokers. SGC brokers received a 1% commission upon the sale of the SIB CDs, and were eligible to receive as much as a 1% trailing commission throughout the term of the CD.

12.

The commission structure also provided a very strong incentive for SGC and STC officers and brokers to be aggressive in their marketing and sale of SIB CDs to investors. In 2007, SIB paid SGC and its affiliates more than \$291 million in management fees from SIB CD sales. The incentives created by these generous and anomalous commissions mesmerized the Brokers and encouraged them to push the SIB CDs on their clients.

13.

The Brokers used sales materials and presentations, and made material misrepresentations, discussed in more detail below, that were false and misleading, emphasizing the safety of the SIB CDs, the liquidity of the bank's underlying portfolio of investments, the fabricated track record of favorable returns, the robustness of the Antiguan government regulation applicable to SIB, the fact that SIB was subject to regular, comprehensive audits, the insurance provided through Lloyds of London, the favorable capital position of SIB and the quality of SIB's investment oversight.

4

14.

Introducing brokers, which is what SGC and STC and the individual broker defendants were, cannot do business without a clearing broker partner. From 2006 on, Pershing LLC was this partner.

15.

Defendant Pershing is a clearing broker that served as the intermediary for transactions involving SIB. As the clearing broker, Pershing provided customary clearing broker services, which include the maintenance of books and records, the execution of transactions, certain compliance responsibilities, paying for the SIB CDs that had been purchased, and delivering the SIB CDs that had been sold.

16.

Pershing was additionally responsible for making assessments of whether to accept an order for processing, whether to execute a transaction on customer accounts and whether the introducing brokerage firm was in compliance with its net capital, and other requirements.

17.

From 2006 to sometime late in 2008, Pershing was involved in thousands of transactions in which customers of Stanford Group bought SIB CDs. According to the SEC, Pershing sent 1,635 wire transfers to Stanford International Bank totaling \$517 million, among other actions in furtherance of the CD program and Stanford Group's purpose.

18.

Pershing had information that led Pershing to conclude that it would not continue to be involved in selling SIB CDs, and although Pershing routinely and periodically issued reports to SGC customers under the Pershing logo, Pershing did not take any action to warn customers of what it knew.

19.

Instead, Pershing silently stopped processing wires for SIB CDs in December of 2008, the day after the now-infamous Bernard Madoff Ponzi scheme became public. Pershing stopped only after continuing to process suspicious SIB CD transactions for many, many months. But Pershing continued to serve as the clearing broker for SGC's customer transactions, even though it knew, or in the exercise of reasonable diligence should have known, that SGC was merely a

vehicle for the elaborate Stanford Ponzi scheme, and that the investors and Pershing customers were at very serious financial risk.

20.

Ultimately, the Stanford brokerage houses were a storefront with the Stanford name on fancy office space, but it was Pershing that provided the infrastructure that was necessary for Brokers to conduct their business, including, of course, the business of selling the SIB CDs that are at issue in this case.

21.

Each of the plaintiffs has incurred substantial damages ranging from the hundreds of thousands to the tens of millions of dollars as a direct result of the conduct of the defendants. Some of the plaintiffs have lost substantial portions of monies they had saved for retirement and were using these monies or intended to use these monies as their primary means of support in retirement.

22.

All of the defendants worked in concert as part of a system designed with the primary purpose of selling CDs issued by the SIB. The broad outlines of their actions are described in the following paragraphs.

THE WRONGFUL ACTS OF THE BROKERS

23.

By the end of 2008 the massive Stanford CD marketing scheme finally cratered. At that time, SIB had sold nearly \$8 billion of the SIB CDs by touting: (1) SIB's safety and security; (2) consistent, double-digit returns on SIB's investment portfolio; and (3) high interest rates on the SIB CDs that outpaced the rates that commercial banks in the United States were able to offer on certificates of deposit.

24.

Contrary to the representations of SIB and its related entities, such as SGC and STC, by February of 2009, SIB had misappropriated many billions of dollars through bogus personal loans to Stanford and had "invested" a huge sum of investor funds in speculative, unprofitable illiquid private businesses controlled by Stanford.

25.

In order to conceal the Ponzi scheme and continue the influx of investor funds into SIB's coffers, Stanford and Davis falsified the performance of SIB's investment portfolio. Each month, Stanford and Davis pre-determined the rate of return on the investments in SIB's portfolio. Using those predetermined numbers, the SIB accountants reverse-engineered financial statements for SIB to make it appear as though SIB had earned income that it did not actually have. The Brokers knew, or at least had access to information that clearly demonstrated, that the figures that Stanford reported as its returns did not match the actual returns.

26.

The Brokers were registered representatives of SGC and STC and were investment advisors to the Plaintiffs. In their fiduciary roles as investment advisors, the Brokers recommended the purchase and/or renewal of what they called "certificates of deposit" issued by the SIB. The Brokers received lucrative commissions on the sale of the SIB CDs that far exceeded the market rate. The Brokers had an extraordinary financial incentive for marketing and selling the SIB CDs to the Plaintiffs. By acting in accordance with their individual financial incentive and against the interest of the Plaintiffs, they breached their fiduciary and other duties, including the duties of loyalty and of candor and their duties under Articles 2315 *et seq.* of the Louisiana Civil Code.

27.

In selling the SIB CDs to investors, the Brokers repeatedly touted the CDs' safety and security and SIB's consistent, double-digit returns on its investment portfolio.

28.

In its brochures, SIB told investors, under the heading "Depositor Security," that its investment philosophy is "anchored in time-proven conservative criteria, promoting stability in [SIB's] certificate of deposit." SIB also emphasized that its "prudent approach and methodology translate into deposit security for our customers." Further, SIB stressed the importance of investing in "marketable" securities, saying that "maintaining the highest degree of liquidity" was a "protective factor for our depositors." The Brokers distributed these materials to investors.

29.

In its 2006 and 2007 Annual Reports, SIB told investors that the banks' assets were invested in a "well-balanced global portfolio of marketable financial instruments, namely U.S.

its 2007 portfolio allocation was 58.6% equity, 18.6% fixed income, 7.2% precious metals and 15.6% alternative investments.

30.

In lockstep with the annual reports and brochures, SGC and STC Brokers were trained to represent that the “liquidity/marketability of SIB’s invested assets” was the “most important factor to provide security to SIB clients.” In training materials, it was also claimed that SIB had consistently earned high returns its investment of deposits (ranging from 11.5% in 2005 to 16.5% in 1993). The SGC and STC brokers in turn parroted these claims to convince their clients to purchase the SIB CDs.

31.

Although SGC and STC Brokers referred to the instruments as “certificates of deposit” that were being issued by a “bank,” the instruments that the SGC and STC Brokers were selling were really high-risk speculative bonds being issued by a leveraged hedge fund. As a result, none of the stability and security that investors associate with the terms “bank” and “certificate of deposit” accompanied these instruments. The use of the term “certificates of deposit” in relation to these investments was itself highly misleading. The individual Brokers knew that the use of this description was creating a false sense of stability, liquidity and security. In fact, the SIB CDs were the prime component in an elaborate Ponzi scheme, whereby cash flow realized from the proceeds of the sale of SIB CDs to new investors was used to pay interest and to return invested principal to the holders of older SIB CDs.

32.

The SGC and STC Brokers, seasoned financial advisors who had been recruited from other well-known investment firms, should have known that the representations being made by SIB about the CDs were not true, especially in light of the ample red flags that cropped up. But lured by the lucrative commissions they could reap, the SGC and STC brokers failed to take the requisite steps that would have uncovered the truth. Because of the acts and omissions of the Brokers surrounding the sale of the SIB CDs to the Plaintiffs, the Plaintiffs were misinformed about the risks inherent in CDs that were marketed as safe, liquid investments, but which were in fact hollow bricks in the Stanford pyramid scheme. The SGC and STC Brokers failed to inquire into the material risks involved in the SIB CDs, having become mesmerized by the substantial

personal profits they gained from the sale of those CDs to the plaintiffs – sales which, all told, amounted to millions of dollars.

33.

The high commissions for the sale of the SIB CDs and the above-market returns promised by the SIB and various other red flags, such as unusual regulatory attention directed at various Stanford entities, lawsuits and claims against Stanford, internal discussion of “runs on the bank” in 2008 and other obvious issues, placed the individual broker defendants squarely on notice that the SIB CDs were extremely risky, highly speculative, potentially illiquid and quite possibly a part of a Ponzi scheme, where new investors paid for redemptions by existing investors. The individual defendants were on personal notice of a potential for a calamitous collapse of these investments based on the facts they knew. While perhaps not all of them knew for certain that there was the potential for such a catastrophic problem roiling beneath the surface, at the very least they should have, in the exercise of reasonable diligence, known of the problem.

34.

These problems were not a secret among company personnel. For instance, in November 2008, the Chief Financial Officer of SGC stated that SGC had been losing money for four straight years, amounting to nearly \$70 million.

35.

But the Brokers failed to request the most basic financial disclosures from SIB, including SIB’s financial statements, its valuation reports, or its methodology for reporting income. Nor did the Brokers request that SIB disclose the performance of its investments. The Brokers never disclosed to the Plaintiffs that they were recommending the purchase of SIB CDs without any of the pertinent data needed to support such a recommendation.

36.

Nonetheless, the Brokers affirmatively represented to the Plaintiffs that SIB’s financial statements were audited and prepared in accordance with generally accepted accounting principals (“GAAP”), that SIB’s assets had been independently valued by outside auditors, and that professional analysts were monitoring SIB’s portfolio of assets. In fact, SIB’s assets had not

been meaningfully audited or verified. The Brokers were in a position to know this and were reckless in failing to discover this.

37.

Contrary to the Brokers' representations, SIB's accountant, a small local firm in Antigua, took on the responsibility for auditing the SIB's multi-billion dollar investment portfolio. Detailed financial statements were never requested by the Brokers. The financial statements were not prepared in accordance with GAAP. And the SIB's asset portfolio was monitored primarily by R. Allen Stanford and James Davis – two of the principals in the Stanford Ponzi scheme. The Brokers simply acquiesced to SIB's efforts to prevent any true accounting of its financial position, abdicating their professional responsibility and duty to their clients.

38.

The Brokers further represented that SIB was a bank that was subject to regulation and audit by the Antiguan government. But SIB was not really a bank, at least not in the way that Stanford's clients thought it was. Instead, SIB largely functioned as the private account of R. Allen Stanford.

39.

The individual Brokers owed fiduciary and other duties to their clients under Louisiana and other applicable laws. They were trusted advisors who owed continuing duties of loyalty, complete candor and full disclosure to their clients. Unfortunately, the lure of high, above-market commissions for the sale of the SIB CDs blinded the Brokers to the many obvious problems with the CDs. The individual Brokers owed the duty to keep their clients up-to-date on material information regarding the certificates and failed to do so.

40.

The Brokers represented that in marketing and selling the SIB CDs to the Plaintiffs, they had the Plaintiffs' best interests in mind. But the Brokers failed to disclose to the Plaintiffs that they were receiving commissions on the sale of the SIB CDs that were many times more than would result from the sale of a traditional certificate of deposit, and they further failed to disclose that the sale of SIB CDs was the lifeblood for the continued viability of the Stanford brokerage houses. The conflict of interest inherent in these transactions was never revealed to the Plaintiffs. This was a breach of their duty of loyalty.

41.

The Brokers represented that the investments in SIB CDs were arms-length transactions. In fact, the Brokers were highly dependent on the sale of SIB CDs to maintain profitability.

42.

The Brokers were highly incentivized to push for, and advise their client to purchase, the SIB CDs in ever higher amounts. Brokers received escalating trailing commissions based on whether their sales met or exceeded benchmarks of \$500,000.00 or \$1 million.

43.

The Brokers also received substantial bonuses. SGC paid Brokers an up-front bonus of 0.75% for new CD sales totaling more than \$500,000.00. If sales exceeded \$500,000.00 for four consecutive quarters, that payout increased to 1%

44.

The Brokers represented that SIB's investments were in safe, liquid financial instruments. However, beginning in late 2007 and continuing into 2008, SIB began experiencing liquidity problems and was unable to redeem all of the SIB CDs. As a result, the Brokers redoubled their efforts to sell SIB CDs and crafted a special marketing plan to promote sales of the SIB CDs. The Brokers failed to inquire into the liquidity of the SIB CDs and failed to inform the Plaintiffs of the liquidity problems of SIB.

45.

The Brokers represented to the Plaintiffs that SIB was a profitable entity that was realizing profits in the form of dividends from the companies in which SIB had invested. In reality, the cash flow into SIB consisted almost entirely of profits from the sale of SIB CDs to new investors, and the net profits were conjured out of thin air through revaluation of assets and asset swaps that never actually occurred.

46.

The Brokers represented to the Plaintiffs that they had knowledge of the companies in which SIB had invested and that each of these companies possessed adequate capital to repay any funds advanced by SIB. But the Brokers had no actual knowledge of where SIB had invested the income earned from the sale of the SIB CDs and made no independent attempts to acquire information on the management, financial operations, capital structure or leverage of the companies in which SIB had purportedly invested.

47.

The Brokers used the good name and reputation of Lloyd's of London to lull their clients into the belief that the sales of the certificates of deposit were backed by a safety net of Lloyd's insurance products including excess deposit insurance, professional liability insurance, and errors and omissions insurance that could be accessed to protect the investors if something went wrong.

48.

The Brokers further used the good name and reputation of the Securities Investor Protection Corporation ("SIPC") to lull their clients into the belief that the sales of the certificates of deposit were backed by a safety net that provided for the replacement of missing securities and cash, up to \$500,000.00.

THE WRONGFUL ACTS OF PERSHING

49.

The individual Brokers were instrumental in the sales of these CDs to the Plaintiffs. The Brokers, in turn, could not have done business, including their primary business of selling the SIB CDs, without the continuing assistance of Pershing.

50.

Pershing markets its clearing broker business as providing "infrastructure" and "innovative solutions" that "help you attract new investors, capture additional assets, increase profits and increase processing efficiencies. The tools we offer help you comply with increasingly complex and changing regulatory requirements."

51.

Pershing fulfills a number of important functions for its customers and the customers of SGC and STC. Pershing is the custodian for securities held by customers, Pershing executes and clears trades in the customers' accounts, Pershing monitors capital requirements and fulfills certain regulatory and back office functions, Pershing accounts for transactions and regulatory values for the securities it holds, Pershing provides research, Pershing issues confirmations and account statements, Pershing accounts for individual broker commission credits and payments, Pershing monitors accounts for compliance with margin requirements, and Pershing transfers funds to facilitate various customer transactions.

52.

Stanford "outsourced" many functions to Pershing; Stanford and Pershing had a *de facto* partnership or joint venture relationship. As Pershing itself volunteered, "You can turn to us for a comprehensive range of outsourcing solutions to every need, combined with a uniquely consultive custom-tailored approach. At Pershing you will find a partner committed to supporting your business without limits."

53.

Pershing became aware at least by 2007 that the SIB CDs were not what they were represented to be, that the assets securing them were not what they were represented to be and that the value of SIB assets was not what it was represented to be. Pershing had knowledge that the SIB CDs were not remotely like certificates of deposit issued by American banks and, instead, that the whole Stanford operation focused on selling these certificates was a giant, irresponsible marketing scheme, virtually certain to end in the collapse of the CDs.

54.

Pershing ultimately became so concerned about the viability of this program and the SIB CDs themselves that Pershing made the decision, many months after Pershing knew of the problems, to refuse to participate any further in the transfer of money from the Stanford Group customer accounts held at Pershing to the SIB. Pershing notified Stanford Group of this decision, but made no effort to notify the customers or to stop supporting Stanford's operation in other ways.

55.

Even after Pershing stopped transferring customer monies to the SIB, Pershing continued to supply the necessary infrastructure to assist in perpetuating the fraudulent business, including the certificate sales. This decision had the effect of continuing the income stream that Pershing established through "partnering" with Stanford to perform the essential functions necessary to support Stanford's "storefront" operation, but it also ensured the ultimate demise of billions of dollars of their innocent customers' money.

56.

Pershing owed direct duties to its clients and to the world at large to cease aiding SGC, STC and the Brokers in conducting this business. Pershing's actions made the certificates sales

possible and cloaked the whole operation with respectability and authority. Without Pershing's assistance, the Brokers could not have sold the quantity of SIB CDs that they sold.

57.

Once Pershing knew that customers were being duped into buying the SIB CDs based upon misrepresentations as to the nature of the investment, Pershing could not, either under the law nor in using good business practices, continue to make profits by clearing transactions for Stanford Group, knowing that by doing so, Pershing was directly furthering the fraud and placing Pershing customers at additional substantial risk.

58.

Pershing was further represented to be a member of SIPC, supposedly providing loss assurance to its customers for replacement of missing securities and cash up to \$500,000.00

59.

There is considerable evidence of all of this in Pershing's files and in Pershing's computer system. That evidence needs to be safeguarded at the inception of this case.

INSURANCE COVERAGE

60.

At all relevant times, defendant Lloyd's provided the Stanford Companies with insurance coverage, including directors and officers insurance, and company indemnity insurance, employment practices insurance, financial institutions crimes insurance, professional indemnity insurance, errors and omissions liability insurance for the Brokers, and an excess "blended wrap" coverage. Each of the Brokers was an insured under one or more of the respective policies of insurance. Further, each of the policies provides coverage for damages to Plaintiffs caused by the acts and omissions of the Brokers.

61.

At all relevant times, ABC Insurance Company provided comprehensive general liability coverage for the Brokers. Each Broker was an insured under the respective policy or policies of insurance. Further, each of the comprehensive general liability policies provides coverage for damages to Plaintiffs caused by the acts and omissions of the Brokers.

62.

At all relevant times, XYZ Insurance Company provided insurance coverage for Pershing. Pershing and its employees were insured under the respective policy or policies of

insurance. Further, each of the policies provides coverage for damages caused to Plaintiffs caused by the acts and omissions of Pershing.

CAUSES OF ACTION

NEGLIGENCE

63.

Paragraphs 1 - 62 are incorporated herein by reference.

64.

The Brokers and Pershing are liable under Louisiana Civil Code Articles 2315 *et seq.*

65.

The Brokers owed Plaintiffs a duty of care as professional broker-dealers and investment advisors. This duty includes the obligation to perform due diligence on Plaintiffs' behalf prior to making an investment in the SIB CDs and to not make unconfirmed representations.

66.

The Brokers breached this duty of care and were negligent in failing to perform their requisite duties as advisors and brokers for the Plaintiffs.

67.

Pershing owed the Plaintiffs a duty of care as custodian of their invested funds. This duty included the obligation to inform the Plaintiffs when Pershing personnel began to suspect that the SIB CDs were not a valid financial instrument.

68.

Pershing breached its duty to the Plaintiffs when it failed to inform the Plaintiffs of its suspicions regarding the SIB CDs and Pershing further breached its duty by failing to inform the Plaintiffs that it was withdrawing as the clearing broker for SIB CDs.

69.

Plaintiffs have suffered damages as a result of the Defendants' breaches of duty.

BREACH OF CONTRACT

70.

Paragraphs 1 - 62 are incorporated herein by reference.

71.

An agreement existed between the Brokers and the Plaintiffs. As a part of that agreement, the Brokers were obligated to advise the Plaintiffs concerning the risk of their investments by spending the time necessary to evaluate those investments.

72.

The Brokers breached the agreement by failing to spend adequate time evaluating with due diligence the investments that they sold to the Plaintiffs. Further, the Brokers failed to obtain information that would have been material to the Plaintiffs' decision to invest in the SIB CDs and failed to inform the Plaintiffs of the highly-lucrative compensation arrangements between SGC and SIB. These omissions constitute a breach of contract, including a breach of the duties of good faith and fair dealing that are implied in every contract.

73.

Plaintiffs have suffered damages as a result of the Brokers' breaches of contract.

NEGLIGENT MISREPRESENTATION

74.

Paragraphs 1 - 62 are incorporated herein by reference.

75.

Pleading in the alternative, Plaintiffs' allege that the Brokers made negligent misrepresentations to the Plaintiffs.

76.

In the course of their dealing with the Plaintiffs, the Brokers made multiple representations to the Plaintiffs in which they supplied false information.

77.

The Brokers supplied false information that Plaintiffs reasonably relied on to make their investment decisions.

78.

The Brokers failed to exercise reasonable care in verifying the accuracy of the information that they communicated to the Plaintiffs.

79.

Plaintiffs have suffered damages because of the Brokers' failure to exercise reasonable care.

BREACH OF FIDUCIARY DUTY

80.

Paragraphs 1 - 62 are incorporated herein by reference.

81.

Pleading in the alternative, Plaintiffs allege that the Brokers and Pershing have breached the fiduciary duties they owed to the Plaintiffs.

82.

Plaintiffs reposed trust and confidence in the Brokers and in Pershing, which relationship of trust gave rise to a fiduciary duty. The Brokers and Pershing therefore owed a duty to the Plaintiffs to act fairly and in the utmost good faith in all of their transactions with the Plaintiffs, to make a full and fair disclosure of all material facts to the Plaintiffs, to refrain from taking advantage of their relationship with the Plaintiffs for personal gain, and to act openly and honestly regarding their transactions with the Plaintiffs.

83.

The Brokers breached this fiduciary duty by failing to determine the accuracy of the investment advice they were communicating to the Plaintiffs. The Brokers further breached this duty by failing to disclose their conflicts of interest to the Plaintiffs that resulted in the Brokers' great personal gain from the sale of the SIB CDs.

84.

Pershing breached its fiduciary duty to the Plaintiffs by failing to inform the Plaintiffs of its suspicions surrounding the legitimacy of the SIB CDs. Pershing further breached its duty to the Plaintiffs by failing to inform the Plaintiffs that it had ceased serving as the clearing broker for SIB CD transactions with SGC and STC, but continued to serve as the broker for all other SGC and STC transactions.

85.

Plaintiffs suffered damages as a result of the Defendants' breaches of fiduciary duty.

VIOLATIONS OF THE LOUISIANA SECURITIES ACT

86.

Paragraphs 1 - 62 are incorporated herein by reference.

87.

Based upon the above allegations, the Brokers and Pershing have violated the Louisiana Securities Act (La. R.S. section 51:701 *et. seq.*).

88.

The Brokers sold securities to the Plaintiffs within the meaning of the words "sale" and "security," as those terms are defined in Section 702 of the Louisiana Securities Act. The brokers sold those securities by means of untrue statements of material fact and/or omissions of material facts, which made their statements misleading in the light of the circumstances in which they were made.

89.

These misrepresentations and omissions were in violation of Section 712 of the Louisiana Securities Act.

90.

In addition, the Brokers sold securities that were not registered in accordance with the laws of the State of Louisiana and were not subject to a private placement exemption under the laws of the State of Louisiana.

91.

The failure to register violated Sections 705 and 712 of the Louisiana Securities Act.

92.

Plaintiffs relied on the foregoing misrepresentations and/or omissions to their detriment.

93.

The Brokers, directly and indirectly, prepared, disseminated or used contracts, written offering documents, promotional materials, investor and other correspondence, and oral presentations, which contained untrue statements of material facts and misrepresentations of material facts, and which omitted to state material facts that were necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading.

94.

Plaintiff suffered damages as a result of the Brokers' violations of the Louisiana Securities Act.

95.

Pershing aided and abetted the Brokers in their violations of the Louisiana Securities Act.

96.

Further, Pershing committed its own, independent violations of the Louisiana Securities Act. Pershing materially participated in the sale of the securities to the Plaintiffs as a "dealer," as that term is defined in Section 702 of the Louisiana Securities Act. Pershing materially participated in the sale of securities to the Plaintiffs by providing services that included the maintenance of books and records, the execution of transactions, paying for the SIB CDs that had been purchased and delivering the SIB CDs that had been sold. Pershing was additionally responsible for making assessments whether to accept an order for processing, whether to execute a transaction on customer accounts and whether the introducing brokerage firm was in compliance with its net capital requirements.

97.

Pershing knew, or in the exercise of reasonable care should have known, of the existence of the facts under which the Brokers are liable.

98.

Pershing's acts and/or omission violated Section 714 of the Louisiana Securities Act. Pershing is liable jointly and severally and to the same extent as the Brokers for the sales of SIB CDs in violation of Section 712 of the Louisiana Securities Act.

99.

Plaintiffs suffered damages because of Pershing's violations of Section 714 of the Louisiana Securities Act.

VIOLATIONS OF LOUISIANA RACKETEERING ACT

100.

Paragraphs 1 - 62 are incorporated herein by reference.

101.

Based upon the above allegations, Defendants violated the Louisiana Racketeering Act (La. R.S. Sec. 15:1351 *et seq.*).

19

102.

The Brokers knowingly participated in the investment enterprise operated by the Stanford entities through a pattern of racketeering activities that consisted of violations of the Louisiana Securities Act.

103.

Pershing knowingly received proceeds from the pattern of racketeering activity engaged in by the Stanford entities and the individual Brokers, and Pershing used those proceeds in the operation of its own enterprise.

104.

Plaintiffs suffered damages as a result of the Defendants' violations of the Louisiana Racketeering Act, entitling the Plaintiffs to three times their actual damages sustained, as well as attorney's fees and costs.

CONSPIRACY

105.

Paragraphs 1 - 62 are incorporated herein by reference.

106.

Defendants are liable under Louisiana Civil Code Article 2324.

107.

The Defendants had an agreement with regard to the sale and clearing of SIB CDs. Pershing assisted in the tortious acts committed by the Brokers by serving as the clearing broker and financial intermediary even though it knew that there were grave infirmities with the viability of the Stanford financial instruments. Pershing further knew that those infirmities would result in substantial injury to the plaintiffs.

108.

The continuing relationship and agreement between the Brokers and Pershing resulted in Plaintiffs' injury. Defendants are therefore liable to the Plaintiffs, *in solido*, for damages caused by their tortious.

INSURANCE COVERAGE

109.

Paragraphs 1 - 62 are incorporated herein by reference.

110.

At all relevant times, Certain Underwriters at Lloyd's of London provided insurance coverage. Each of the Brokers was an insured under one or more of the insurance policies issued by Lloyd's. Each of the policies provides coverage for damages to Plaintiffs caused by the actions and inactions of the Brokers.

111.

At all relevant times, ABC Insurance Company provided comprehensive general liability coverage for the Brokers. Each broker was an insured under the respective policy or policies of insurance. Further, each of the comprehensive general liability policies provides coverage for damages to Plaintiffs caused by the actions and inactions of the Brokers.

112.

Based upon information and belief, the policies issued by Lloyd's and ABC Insurance Company provide coverage for damages caused by the actions and inactions of SGC Brokers as set forth in Paragraphs 1 - 54 of this Petition.

113.

The acts and omissions of the Brokers, whether carried out in singular or multiple capacities, constitute multiple occurrences under the policies of insurance issued by Lloyd's and ABC Insurance Company.

114.

The policies of insurance issued by Lloyd's and ABC Insurance Company do not exclude damages caused by the actions and inactions of the Brokers.

115.

The acts and omissions of the Brokers have caused damages during the policy terms of the policies of insurance issued by Lloyd's and ABC Insurance Company.

116.

As a result, Lloyd's and ABC Insurance Company are liable *in solido* with the Brokers for all damages, direct or indirect, consequential, attorneys' fees, loss of income, interest, or diminution in value caused by any of the Brokers.

117.

At all relevant times, XYZ Insurance Company provided liability coverage for Pershing. Pershing and its employees were insureds under the insurance policies issued by XYZ Insurance

Company. Each of the policies provides coverage for damages to Plaintiffs caused by the actions and inactions of Pershing.

118.

Based upon information and belief, the policies of XYZ Insurance Company provide coverage for damages caused by the actions and inactions of Pershing as set forth in Paragraphs 1 - 54 of this Petition.

119.

The acts and omissions of Pershing constitute multiple occurrences under the policies of insurance issued XYZ Insurance Company.

120.

The policies of insurance issued by XYZ Insurance Company do not exclude damages caused by the actions and inactions of Pershing.

121.

The acts and omissions of Pershing have caused damages during the policy terms of the policies of insurance issued XYZ Insurance Company.

122.

As a result, XYZ Insurance Company is liable *in solido* with Pershing for all damages, direct or indirect, consequential, attorneys' fees, loss of income, interest, or diminution in value caused by Pershing.

JURY DEMAND

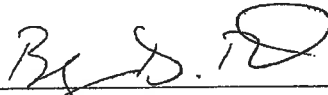
Plaintiffs demand trial by jury of all issues.

WHEREFORE, Plaintiffs pray for the following:

- A. That Defendants be cited to appear and answer;
- B. That the Court enter an order directing Defendant Pershing to safeguard and preserve all evidence in Pershing's files and computer systems relating to this matter.
- C. That, upon trial on the merits, judgment be entered holding the Brokers, Lloyd's and ABC Insurance Company liable, *in solido*, for all claims ;

- D. That, upon trial on the merits, judgment be entered holding Pershing and XYZ Insurance Company liable jointly and severally and to the same extent as the Brokers for violations of the Louisiana Securities Act;
- E. That, upon trial on the merits, Plaintiffs recover actual damages;
- F. That, upon trial on the merits, Plaintiffs recover attorneys fees, prejudgment interest, post-judgment interest, costs of court, and such other and further relief to which Plaintiff may be justly entitled; and
- G. For all other equitable and legal relief as provided by law.

Respectfully submitted,



JAMES R. SWANSON, #18455
 BENJAMIN D. REICHARD, #31933
 FISHMAN HAYGOOD PHELPS
 WALMSLEY WILLIS & SWANSON, L.L.P.
 201 St. Charles Avenue, 46th Floor
 New Orleans, LA 70170-4600
 Telephone: (504) 586-5252
 Attorneys for Plaintiffs

[SERVICE INSTRUCTIONS BELOW]

PLEASE SERVE:

JASON GREEN
 19231 S. Lakeway Avenue
 Baton Rouge, Louisiana 70810

DIRK HARRIS
 10151 Hillmont Avenue
 Baton Rouge, Louisiana 70810

GRADY LAYFIELD
 18772 Amen Corner Court
 Baton Rouge, Louisiana 70810

JOHN SCHWAB
 2446 June Street
 Baton Rouge, Louisiana 70808

TIFFANY ANGELLE
 403 Boulder Creek Parkway,
 Lafayette, Louisiana 70508

HANK MILLS
 2623 Kleinert Avenue
 Baton Rouge, Louisiana 70806

PLEASE SERVE VIA LOUISIANA LONG ARM STATUTE:

LLOYD'S OF LONDON
 via its agent for service of process:
MENDES & MOUNT
 750 Seventh Avenue
 New York, New York 10019-6829

PERSHING, L.L.C.
 via its registered agent for service of process:
BNY MELLON TRUST OF DELAWARE
 White Clay Center, Route 273
 Newark, Delaware 19711

19th JUDICIAL DISTRICT FOR THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

No.: 577629

Div.: "D"

CERTIFIED TRUE COPY

00099

DEPUTY CLERK OF COURT

MILFORD WAMPOLD, III; WAMPOLD & COMPANY, INC.; MILFORD
WAMPOLD SUPPORT FOUNDATION; KENNETH BIRD; TERESA
LAMKE; ANTONIO CARRILLO; MARIA CARRILLO;
HERMAN THIBODEAUX; SHELBY B. ORTIS

versus

PERSHING, LLC; CERTAIN UNDERWRITERS AT LLOYD'S OF LONDON IN
SYNDICATES 2987, 2488, 1866, 1084, 1274, 4000 & 1183; JASON GREEN;
JOHN SCHWAB; RONALD CLAYTON; HOPE BELLELO;
CHARLES JANTZI; TIFFANY ANGELLE; HANK MILLS;
ABC INSURANCE COMPANY;
XYZ INSURANCE COMPANY

19th JUDICIAL DISTRICT
EAST BATON ROUGE, PARISH LA
FILED

2009 MAY -4 AM 10:43

DEPUTY CLERK & RECORDER FOR

DOUG WELBORN

CLERK OF COURT E.B.R. PARISH

DEPUTY CLERK

PLAINTIFFS' FIRST AMENDED PETITION

The First Amended Petition of Plaintiffs, Milford Wampold, III; Wampold & Company,

Inc.; Wampold Companies; Milford Wampold Support Foundation; Kenneth Bird; Teresa
Lamke; Antonio Carrillo; Maria Carrillo; and Herman Thibodeaux, now adding as Plaintiff
Shelby B. Ortis, and adding as Defendant Hank Mills, re-states all factual allegations and legal
assertions raised in Paragraphs 1-114 of the original petition filed on April 22, 2009 and amends
that petition to replace and add the paragraphs that follow:

3.

Made Defendants in this case are the following parties:

- a. PERSHING, LLC, a single member Delaware Limited Liability Company.
- b. CERTAIN UNDERWRITERS AT LLOYD'S OF LONDON IN SYNDICATES
2987, 2488, 1866, 1084, 1274, 4000 & 1183. Defendants are citizens of the United
Kingdom. Per the service of suit clause in the policy of insurance, this Defendant
may be served with the petition and citation by serving Mendes & Mount, 750
Seventh Avenue, New York, NY 10019-6829.

FAX COPY FILED 4-30-09
ORIGINAL FILED 5-4-09

c. STANFORD GROUP COMPANY BROKERS ("SGC BROKERS"):

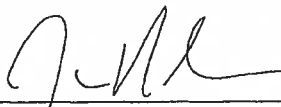
- i. JASON GREEN, a person of full age and majority residing in Baton Rouge, Louisiana.
 - ii. RONALD CLAYTON, a person of full age and majority residing at 2621 Cedar Lodge Drive, Baton Rouge, Louisiana, 70809.
 - iii. HOPE BELLELO, a person of full age and majority residing at 8434 Tina Lane, Maringouin, Louisiana 70757
 - iv. CHARLES JANTZI, a person of full age and majority residing at 723 Troutbeck Drive, Baton Rouge, Louisiana 70810.
 - v. JOHN SCHWAB, a person of full age and majority residing at 2446 June St., Baton Rouge, Louisiana 70808.
 - vi. TIFFANY ANGELLE, a person of full age and majority residing at 403 Boulder Creek Parkway, Lafayette, Louisiana 70508.
 - vii. HANK MILLS, a person of full age and majority residing at 2623 Kleinert Ave., Baton Rouge, Louisiana 70806.
- d. ABC INSURANCE COMPANY, the insurance company or companies that provide commercial general liability insurance to the Broker defendants.
- e. XYZ INSURANCE COMPANY, the insurance company or companies that provide insurance to Pershing.

WHEREFORE, Plaintiffs pray for the following:

- A. That Defendants be cited to appear and answer;
- B. That the Court enter an order directing Defendant Pershing to safeguard and preserve all evidence in Pershing's files and computer systems relating to this matter.
- C. That, upon trial on the merits, judgment be entered holding SGC Brokers, Lloyd's and ABC Insurance Company liable, *in solido*, for all claims ;
- D. That, upon trial on the merits, judgment be entered holding Pershing liable jointly and severally and to the same extent as SGC Brokers for violations of the Louisiana Securities Act;
- E. That, upon trial on the merits, Plaintiffs recover actual damages;

- F. That, upon trial on the merits, Plaintiffs recover attorneys fees, prejudgment interest, post-judgment interest, costs of court, and such other and further relief to which Plaintiff may be justly entitled; and
- G. For all other equitable and legal relief as provided by law.

Respectfully submitted,



JAMES R. SWANSON, #18455
 BENJAMIN D. REICHARD, #31933
 FISHMAN HAYGOOD PHELPS
 WALMSLEY WILLIS & SWANSON, L.L.P.
 201 St. Charles Avenue, 46th Floor
 New Orleans, LA 70170-4600
 Telephone: (504) 586-5252
 Attorneys for Plaintiffs

[SERVICE INSTRUCTIONS BELOW]

PLEASE SERVE:

JASON GREEN
19231 S. Lakeway Avenue
Baton Rouge, Louisiana 70810

RONALD CLAYTON
1962 Stuart Avenue
Baton Rouge, Louisiana 70808

CHARLES JANTZI
723 Troutbeck Drive
Baton Rouge, Louisiana 70810

JOHN SCHWAB
2446 June Street
Baton Rouge, Louisiana 70808

TIFFANY ANGELLE
403 Boulder Creek Parkway,
Lafayette, Louisiana 70508

HOPE BELLELO,
8434 Tina Lane
Maringouin, Louisiana 70757

HANK MILLS
2623 Kleinert Avenue
Baton Rouge, Louisiana 70806

PLEASE SERVE VIA LOUISIANA LONG ARM STATUTE:

LLOYD'S OF LONDON
via its agent for service of process:
MENDES & MOUNT
750 Seventh Avenue
New York, New York 10019-6829

PERSHING, L.L.C.
via its registered agent for service of process:
BNY MELLON TRUST OF DELAWARE
White Clay Center, Route 273
Newark, Delaware 19711

19th JUDICIAL DISTRICT FOR THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

No.: 581452

Div.: "D"

NUMA L. MARQUETTE, JR.; GAIL G. MARQUETTE; CORNELIUS L. SHAW; PATRICIA W. SHAW; RAYMOND K. HUNTER IN HIS INDIVIDUAL CAPACITY AND ON BEHALF OF RAMONA HUNTER; DIANE S. HUNTER; LYNN D. WIGGINS; TONY W. HARPER; LINDA PACE IN HER INDIVIDUAL CAPACITY AND AS INDEPENDENT EXECUTRIX OF THE SUCCESSION OF JACKSON ALLEN PACE; HEIDI GAIENNIE; DINA DICKERSON; MONYA PAUL; JASON HUTCHINSON, HEIDI GAIENNIE, AND DINA DICKERSON AS BENEFICIAL OWNERS OF THE NOLAN GILBERT HUTCHINSON TESTAMENTARY TRUST; II CITY PLAZA, LLC AS ASSIGNEE OF REGIONS BANK; and I.J. SHERMAN, JR.

versus

PERSHING, LLC; CERTAIN UNDERWRITERS AT LLOYD'S OF LONDON IN SYNDICATES 2987, 2488, 1886, 1084, 1274, 4000, 1183, 2623 & 623; JASON GREEN; JOHN SCHWAB; HANK MILLS; DIRK HARRIS; GRADY LAYFIELD; TIFFANY ANGELLE; ABC INSURANCE COMPANY; AND XYZ INSURANCE COMPANY

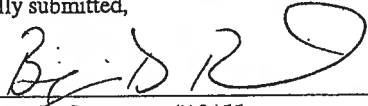
FILED: _____
DEPUTY CLERK

PLAINTIFFS' FIRST AMENDED PETITION

The First Amended Petition of Plaintiffs, Numa L. Marquette, Jr.; Gail G. Marquette; Cornelius L. Shaw; Patricia W. Shaw; Raymond K. Hunter; in his individual capacity and on behalf of Ramona Hunter; Diane S. Hunter; Lynn D. Wiggins; Tony W. Harper; Linda Pace in her individual capacity and as independent executrix of succession of Jackson Allen Pace; Heidi Gaiennie; Dina Dickerson; Monya Paul; Heidi Gaiennie, Dina Dickerson and Jason Hutchinson as beneficial owners of the Nolan Gilbert Hutchinson testamentary trust; and II City Plaza, LLC as assignee of the claims of Regions Banks, re-states all factual allegations and legal assertions raised in Paragraphs 1-122 of the original petition filed on August 13, 2009 and amends that petition to add, as a plaintiff, I.J. Sherman, Jr.

COPY
 FILED
 010099
 DEPUTY CLERK OF COURSE
 2009 AUG 24 PM 4:04
 BY
 DEPUTY CLERK & RECORDER FOR
 NOUIG WELBORN

Respectfully submitted,



 JAMES B. SWANSON, #18455
 BENJAMIN D. REICHARD, #31933
 FISHMAN HAYGOOD PHELPS
 WALMSLEY WILLIS & SWANSON, L.L.P.
 201 St. Charles Avenue, 46th Floor
 New Orleans, LA 70170-4600
 Telephone: (504) 586-5252
 Attorneys for Plaintiffs

[SERVICE INSTRUCTIONS FOLLOW]

MAX COPY FILED 8-20-09
ORIGINAL FILED 8-24-09

PLEASE SERVE:

JASON GREEN
19231 S. Lakeway Avenue
Baton Rouge, Louisiana 70810

DIRK HARRIS
10151 Hillmont Avenue
Baton Rouge, Louisiana 70810

GRADY LAYFIELD
18772 Amen Corner Court
Baton Rouge, Louisiana 70810

JOHN SCHWAB
2446 June Street
Baton Rouge, Louisiana 70808

TIFFANY ANGELLE
403 Boulder Creek Parkway,
Lafayette, Louisiana 70508

HANK MILLS
2623 Kleinert Avenue
Baton Rouge, Louisiana 70806

PLEASE SERVE VIA LOUISIANA LONG ARM STATUTE:

LLOYD'S OF LONDON
via its agent for service of process:
MENDES & MOUNT
750 Seventh Avenue
New York, New York 10019-6829

PERSHING, L.L.C.
via its registered agent for service of process:
BNY MELLON TRUST OF DELAWARE
White Clay Center, Route 273
Newark, Delaware 19711

19th JUDICIAL DISTRICT FOR THE PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

No.: 577629

Div.: "D"

MILFORD WAMPOLD, III; WAMPOLD & COMPANY, INC.; MILFORD WAMPOLD
SUPPORT FOUNDATION; KENNETH BIRD; TERESA LAMKE; ANTONIO CARRILLO;
MARIA CARRILLO; HERMAN THIBODEAUX; SHELBY B. ORTIS; JOHN B.
THIBODEAUX; and PATRICIA T. THIBODEAUX

versus

PERSHING, LLC; CERTAIN UNDERWRITERS AT LLOYD'S OF LONDON IN
SYNDICATES 2987, 2488, 1886, 1084, 1274, 4000, 1183, 2623 & 623; JASON GREEN;
JOHN SCHWAB; RONALD CLAYTON; HOPE BELLELO;
CHARLES JANTZI; TIFFANY ANGELLE; HANK MILLS;
ABC INSURANCE COMPANY;
XYZ INSURANCE COMPANY

FILED: _____
DEPUTY CLERK

PLAINTIFFS' SECOND AMENDED AND SUPPLEMENTAL PETITION

The Second Amended and Supplemental Petition of Plaintiffs, Milford Wampold, III; Wampold & Company, Inc.; Milford Wampold Support Foundation; Kenneth Bird; Teresa Lamke; Antonio Carrillo; Maria Carrillo; Herman Thibodeaux; and Shelby B. Ortis, re-states all factual allegations and legal assertions raised in Paragraphs 1-114 of the Original Petition First Amended and Supplemental petition filed on April 22, 2009 and the First Amended and Supplemental Petition filed on May , 2009 and amends that petition as follows:

Joined as Plaintiffs in this case are John B. Thibodeaux and Patricia T. Thibodeaux. Additionally, Plaintiffs have acquired further information about the insurance policies that the Original Petition names and describes at Paragraphs 101-114. Accordingly, Plaintiffs amend their petition to replace and supplement paragraph "3b." of the First Amended Petition as follows:

CERTIFIED TRUE COPY
11527
DEPUTY CLERK OF COURT

3.

Made Defendants in this case are the following parties:

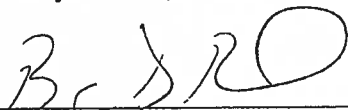
19TH JUDICIAL DISTRICT
EAST BATON ROUGE PARISH, LA
FILED

09 NOV -3 AM 11:18

DEPUTY CLERK & RECORDER FOR
DOUG WELBORN
CLERK OF COURT FOR PARISH

b. CERTAIN UNDERWRITERS AT LLOYD'S OF LONDON IN SYNDICATES 2987, 2488, 1886, 1084, 1274, 4000, 1183, 2623 & 623. Defendants are citizens of the United Kingdom. Per the service of suit clause in the policy of insurance, this Defendant may be served with the petition and citation by serving Mendes & Mount, 750 Seventh Avenue, New York, NY 10019-6829.

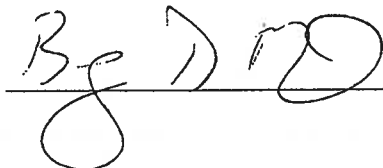
Respectfully submitted,



JAMES R. SWANSON, #18455
BENJAMIN D. REICHARD, #31933
FISHMAN HAYGOOD PHELPS
WALMSLEY WILLIS & SWANSON, L.L.P.
201 St. Charles Avenue, 46th Floor
New Orleans, LA 70170-4600
Telephone: (504) 586-5252
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above Plaintiffs' Second Amended and Supplemental Petition has been served upon Defendants, as detailed below, via certified mail, postage prepaid and properly addressed, this 28th day of October, 2009



JASON GREEN
through his attorney of record
George C. Freeman, III
BARRASSO USDIN KUPPERMAN
FREEMAN & SARVER
909 Poydras St. Suite 2400
New Orleans, LA 70112

LLOYD'S OF LONDON
through its attorney of record
Marshall M. Redmon
PHELPS DUNBAR, LLP
II City Plaza
400 Convention Center St., Suite 1100
Baton Rouge, LA 70802

PERSHING, L.L.C.
through its attorney of record
Charles S. McCowan, Jr.
KEAN MILLER HAWTHORNE
D'ARMOND MCCOWAN & JARMAN LLP
18th Floor, One American Place
P.O. Box 3513
Baton Rouge, LA 70821

TIFFANY ANGELLE
through her attorney of record
Alan K. Breaud
BREAUD & MEYERS
P.O. Box 3448
Lafayette, LA 70502

HOPE BELLELO
8434 Tina Lane
Maringouin, Louisiana 70757

HANK MILLS
2623 Kleinert Avenue
Baton Rouge, Louisiana 70806

CHARLES JANTZI
723 Troutbeck Drive
Baton Rouge, Louisiana 70810

JOHN SCHWAB
2446 June Street
Baton Rouge, Louisiana 70808

RONALD CLAYTON
1962 Stuart Avenue
Baton Rouge, Louisiana 70808

Support Foundation; Kenneth Bird; Teresa Lamke; Antonio Carrillo; Maria Carrillo; and Herman Thibodeaux vs. Pershing LLC; Certain Underwriters at Lloyd's of London in Syndicates 2987, 2488, 1866, 1084, 1274, 4000 & 1183; Jason Green; John Schwab; Ronald Clayton, Hope Bellelo; Charles Jantzi; Tiffany Angelle; ABC Insurance Company and XYZ Insurance Company, No. C 577,629 Division "D" (the "Petition").

2. The Petition names as defendants Jason Green, John Schwab, Ronald Clayton, Hope Bellelo, Charles Jantzi and Tiffany Angelle (the "Individual Defendants") and Pershing LLC. It also names as defendants Certain Underwriters at Lloyd's of London in Syndicates 2987, 2488, 1866, 1084, 1274, 4000 & 1183, alleged to be insurers that issued errors and omissions liability policies and directors and officers liability policies covering the Individual Defendants; ABC Insurance Company, alleged to be insurers that provided comprehensive liability policies covering the Individual Defendants; and XYZ Insurance Company, alleged to be the insurers of Pershing LLC. (Petition ¶ 3 a, b, d, and e.)

3. Venue is proper under 28 U.S.C. ¶ 1441(a) because this Court is the district and division embracing the place where this action is pending.

4. Mr. Green has attached a copy of all process, pleadings, and orders filed in the state court. (See Exhibit A.) The first-served defendant was served on April 30, 2009. (*Id.*) Thus, this Notice of Removal is timely and in compliance with 28 U.S.C. § 1446(b).

5. All served defendants consent to this removal. (Exhibit B.)

BACKGROUND

6. On April 24, 2009 Plaintiffs filed their Petition in the 19th Judicial District Court for the Parish of East Baton Rouge. Plaintiffs' Petition alleges the Individual Defendants were Plaintiffs' investment advisors and that – as employees and investment advisors of and for the Stanford Group Company and Stanford Capital Management – they made negligent misrepresentations to Plaintiffs regarding a host of wrongdoing by Stanford International Bank, Ltd., Stanford Group Company, and Stanford Capital Management (the “Stanford Group Companies”). Plaintiffs claim, as well, that the Individual Defendants breached fiduciary duties and violated Louisiana's Securities Law.

7. Earlier this year, the Securities and Exchange Commission (“SEC”) filed a Complaint against the Stanford Group Companies, R. Allen Stanford, James M. Davis, and Laura Pendergest-Holt in the U.S. District Court for the Northern District of Texas, styled *Securities and Exchange Commission v. Stanford International Bank, Ltd., Stanford Group Company, Stanford Capital Management, R. Allen Stanford, James M. Davis, and Laura Pendergest-Holt*, No. 3-09CV0298-L (the “SEC Complaint, attached as Exhibit C”).¹

8. The SEC Complaint asserts that the defendants named therein engaged in “a massive, ongoing fraud” – specifically, that Stanford International Bank (“SIB”), acting “through a network of [Stanford Group Company] financial advisors, has sold approximately \$8 billion of self-styled ‘certificates of deposit’ by promising high return rates that exceed those available through true certificates of deposits offered by traditional banks.” (Complaint ¶¶ 1-2.) The Complaint states that “SIB and its advisers have misrepresented to CD purchasers that their deposits are safe because the bank: (i) re-invests client funds primarily in ‘liquid’ financial

¹ The SEC filed an amended complaint on February 27, 2009. (Attached as Exhibit C-1.)

instruments ...; (ii) monitors the portfolio through a team of 20-plus analysts; and (iii) is subject to yearly audits by Antiguan regulators.” (*Id.* ¶ 8.) The SEC claims the defendants, as a result of these acts, committed a host of federal securities violations, including violations of § 10(b) of the Securities Exchange Act of 1934 and Rule 10-b5 promulgated thereunder, Section 17(a) of the Securities Act of 1933, Sections 206(1) and 206(2) of the Advisers Act, and Section 7(d) of the Investment Company Act. (*Id.* ¶ 13.)

9. The same day, the SEC – citing as authority Sections 20(b) and 20(d) of the Securities Act of 1933, Sections 21(d) and 21(e) of the Securities Exchange Act of 1934, Sections 41(d) and 41(e) of the Investment Company Act of 1940, and Sections 209(d) and 209(e) of the Investment Advisers Act of 1940 – applied for a temporary restraining order and orders freezing assets, requiring an accounting, requiring preservation of documents, and authorizing expedited discovery. (Exhibit D, introductory paragraph and ¶ 11.)

10. The Dallas court granted the SEC’s request and also issued an Order Appointing Receiver (the “Order”). In that Order, the court assumed “exclusive jurisdiction” over the matter and took “possession of the assets ... of whatever kind and description, wherever located ... of the Defendants[.]” (Order, attached as Exhibit E, ¶ 1.)

11. The Order is far-reaching and gives the receiver broad powers. For example, the Order authorized the receiver to “immediately take and have complete and exclusive control ... of the Receivership Estate [defined as all assets the defendants owned or controlled and all documents the defendants possessed or that were in the possession of any agent or employee of the defendants] and to any assets traceable to assets owned by the Receivership Estate.” (*Id.* ¶ 4.) Further, the Dallas court ordered that the “officers, agents and

employees” of the Stanford Group Companies preserve and retain all of their documents. (*Id.* ¶ 13.)

12. The Order also enjoins civil actions such as Plaintiffs’:

Creditors and all other persons are hereby restrained and enjoined from the following actions, except in this Court, unless this Court, consistent with general equitable principals and in accordance with its ancillary equitable jurisdiction in this matter, orders that such actions may be conducted in another forum or jurisdiction:

(a) *The commencement or continuation*, including the issuance or employment of process, *of any judicial, administrative, or other proceedings against* the Receiver, any of the defendants, the Receivership Estate, or *any* agent, officer, or *employee related to the Receivership Estate, arising from the subject matter of this civil action.* [*Id.* ¶ 7(a), emphasis added.]

Similarly, the Order enjoins creditors “and all other persons” from taking either “[a]ny act to obtain possession of the Receivership Estate assets” or “[a]ny act to collect, assess, or recover a claim ... that would attach to or encumber the Receivership Estate,” without prior court approval. (*Id.* ¶ 8(c).) Plaintiffs likely knew of the Dallas court’s injunction and Order. Moreover, many of Plaintiffs’ allegations mirror the allegations the SEC first asserted against the Stanford Group Companies in the Dallas action.²

16. Plaintiffs do not allege they received prior approval from the Dallas court to proceed with this action.

FEDERAL QUESTION JURISDICTION EXISTS IN THIS CASE

17. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1367, and 28 U.S.C. § 1441 because this case presents a substantial federal question – namely, the suit challenges whether the Dallas court has *authority* to enjoin this action under

² The district court entered an Amended Order Appointing Receiver on March 12, 2009. The Amended Order is identical to the original Order as to the matters cited herein.

the federal securities law, federal common law, or, simply, under the court's "ancillary equitable jurisdiction" such that Plaintiffs' action may not proceed. (Order ¶ 7(a).)

18. Plaintiffs' suit in its prayer for civil money damages is also "related to the Receivership Estate [and] aris[es] from the subject matter of" the Dallas action. (*Id.*) As such, this action is precisely the type of suit the Dallas court has attempted to enjoin through its Order. Plaintiffs' attempt to prosecute this action thus constitutes a *direct challenge* to the Order given the Dallas court's injunction of suits against "employees" of the Stanford Group Companies.

19. In addressing this suit, therefore, a court necessarily must determine whether the action may proceed or whether the Dallas court's Order prevents the suit from going forward. In making this determination, a court must consider the Dallas court's authority to enjoin this action, which is undoubtedly a federal question: Specifically, the Court must determine the scope of the Dallas court's authority to enjoin civil actions under Sections 20(b) and 20(d) of the Securities Act of 1933, Sections 21(d) and 21(e) of the Securities Exchange Act of 1934, Sections 41(d) and 41(e) of the Investment Company Act of 1940, and Sections 209(d) and 209(e) of the Investment Advisers Act of 1940, federal common law, and the court's "inherent equitable jurisdiction." The issue bears directly on federal law – the federal securities laws (to which a federal court has *exclusive* jurisdiction insofar as an action under the 1934 Securities Exchange Act is presented), federal common law, and a federal court's equitable jurisdiction.

20. Case law reveals instances where a federal injunction or stay purports to preclude state-court actions. Courts in these situations analyze federal law to decide whether a competing state-court action may proceed in the face of a federal injunction. Here, this Court must analyze the breadth of federal securities law, federal common law, and/or a federal court's

equitable jurisdiction – or, possibly, all of them – to decide whether this action may proceed. The core of this case – indeed, whether this action may exist at all – presents a substantial federal question and, therefore, falls under the Court’s federal subject matter jurisdiction. *See Carpenter v. Wichita Falls Indep. Sch. Dist.*, 44 F.3d 362, 366 (5th Cir. 1995) (explaining that, if “the state court necessarily must look to federal law in passing on the claim, the case is removable regardless of what is in the pleading”); *U.S. Express Lines Ltd. v. Higgins*, 281 F.3d 383, 389 (3d Cir. 2002) (“The state suit need not invoke a federal law in order to ‘arise under’ it for removal purposes. It is sufficient that the merits of the litigation turn on a substantial federal issue that is ‘an element, and an essential one, of the plaintiff’s cause of action.’”); *T.B. Harms Co. v. Eliscu*, 339 F.2d 823, 827 (2d Cir. 1964) (“Even though the claim is created by state law, a case may ‘arise under’ a law of the United States if the complaint discloses a need for determining the meaning or application of such a law.”), *cert. denied*, 381 U.S. 915.

WHEREFORE, Jason Green respectfully requests that this Court assume full jurisdiction over the cause herein as provided by law.

Respectfully submitted,

/s/ Meredith A. Cunningham
George C. Freeman, III, 14272
Meredith A. Cunningham, 26465
BARRASSO USDIN KUPPERMAN
FREEMAN & SARVER, L.L.C.
909 Poydras Street, Suite 2400
New Orleans, Louisiana 70112
Telephone: (504) 589-9700
Facsimile: (504) 589-9701

Attorneys for Jason Green

CERTIFICATE OF SERVICE

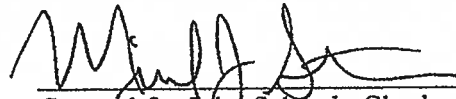
I hereby certify that a copy of the above and foregoing Notice of Removal has been served upon all known counsel of record by facsimile, electronic mail or by placing same in the United States mail, postage prepaid and properly addressed, this _____ day of May, 2009.

/s/ Meredith A. Cunningham

CONSENT TO REMOVAL

Milford Wampold III et al v. Pershing, LLC et al, No. 577,629 Division D
19th Judicial District Court for the Parish of East Baton Rouge, State of Louisiana

I, Michael Stanley, of the law firm Stanley, Frank & Rose, hereby consent to removal of the above-captioned action on behalf of John Schwab, Charles Jantzi and Ron Clayton, without waiving any right to challenge service.



Counsel for John Schwab, Charles Jantzi
and Ron Clayton

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

MILFORD WAMPOLD III; WAMPOLD &
COMPANY, INC.; MILFORD WAMPOLD
SUPPORT FOUNDATION; KENNETH BIRD;
TERESA LAMKE; ANTONIO CARRILLO;
MARIA CARRILLO; HERMAN
THIBODEAUX; SHELBY B. ORTIS

CIVIL ACTION NO.:

JUDGE:

MAGISTRATE:

Plaintiffs

VERSUS

PERSHING, LLC; CERTAIN
UNDERWRITERS AT LLOYD'S OF
LONDON IN SYNDICATES 2987, 2488, 1866,
1084, 1274, 4000 & 1183; JASON GREEN;
JOHN SCHWAB; RONALD CLAYTON;
HOPE BELLELO; CHARLES JANTZI;
TIFFANY ANGELLE; HANK MILLS; ABC
INSURANCE COMPANY; XYZ INSURANCE
COMPANY

Defendants

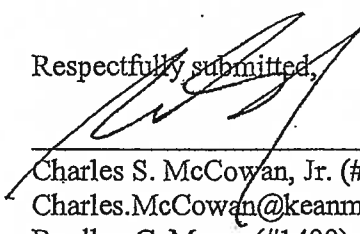
CONSENT TO REMOVAL

Defendant, Pershing, LLC, through undersigned counsel, without waiving and specifically reserving all defenses, objections, exceptions, motions and rights to which it is otherwise entitled, hereby consents to the removal of this case by Defendant Jason Green, from the 19th Judicial District Court for the Parish of East Baton Rouge, State of Louisiana, No. 577,629, to this Honorable Court, in the United States District Court in and for the Middle

District of Louisiana.

Baton Rouge, Louisiana, this 29th day of May, 2009.

Respectfully submitted,



Charles S. McCowan, Jr. (#9167)(T.A.)

Charles.McCowan@keanmiller.com

Bradley C. Myers (#1499)

Brad.Myers@keanmiller.com

Todd A. Rossi (#11478)

Todd.Rossi@keanmiller.com

Lana D. Crump (#23707)

Lana.Crump@keanmiller.com

Katie D. Bell (#29831)

Katie.Bell@keanmiller.com

KEAN, MILLER, HAWTHORNE, D'ARMOND,

McCOWAN & JARMAN, L.L.P.

One American Place, 18th Floor

Post Office Box 3513

Baton Rouge, Louisiana 70821

Telephone: (225) 387-0999

Facsimile: (225) 388-9133

Counsel for Pershing, LLC

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

MILFORD WAMPOLD, III,
WAMPOLD & COMPANY, INC.,
MILFORD WAMPOLD SUPPORT
FOUNDATION, KENNETH BIRD,
TERESA LAMKE, ANTONIO
CARRILLO, MARIA CARRILLO,
HERMAN THIBODEAUX, SHELBY B.
ORTIS

CIVIL ACTION NO.
SECTION
JUDGE
MAGISTRATE JUDGE

VERSUS

PERSHING, LLC, CERTAIN
UNDERWRITERS AT LLOYD'S OF
LONDON IN SYNDICATES 2987, 2488,
1866, 1084, 1274, 4000 & 1183, JASON
GREEN, JOHN SCHWAB, RONALD
CLAYTON, HOPE BELLELO,
CHARLES JANTZI, TIFFANY
ANGELLE, HANK MILLS, ABC
INSURANCE COMPANY, XYZ
INSURANCE COMPANY

CONSENT TO REMOVAL

Defendants, Certain Underwriters at Lloyd's of London in Syndicates 2987, 2488, 1866, 1084, 1274, 4000 and 1183 (hereinafter "Underwriters"), through undersigned counsel, and with a full reservation of all exceptions, rights, and defenses, hereby consent to the removal by Jason Green of the above captioned action from the 19th Judicial District for the Parish of East Baton Rouge, State of Louisiana, to this Honorable Court.

Respectfully submitted,

PHELPS DUNBAR LLP

BY: 

Marshall M. Redmon, Bar Roll No. 18398
Heather S. Duplantis, Bar Roll No. 30294
II City Plaza • 400 Convention St.
Suite 1100
Baton Rouge, Louisiana 70802-5618
P.O. Box 4412
Baton Rouge, Louisiana 70821-4412
Telephone: (225) 346-0285
Telecopier: (225) 381-9197
redmonm@phelps.com
duplanth@phelps.com

ATTORNEYS FOR DEFENDANTS
CERTAIN UNDERWRITERS AT LLOYD'S OF
LONDON IN SYNDICATES 2987, 2488, 1866,
1084, 1274, 4000 AND 1183

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

-----	x
Numa L. Marquette, Jr., Gail G.	:
Marquette, Cornelius L. Shaw, Patricia W.	:
Shaw, Raymond K. Hunter in his	: Case No. _____
individual capacity and on behalf of	:
Ramona Hunter, Diane S. Hunter, Lynn D.	:
Wiggins, Tony W. Harper, Linda Pace in	:
her individual capacity and as Independent	:
Executrix of the Succession of Jackson	:
Allen Pace, Heidi Gaiennie, Dina	:
Dickerson, Monya Paul, Jason	:
Hutchinson, Heidi Gaiennie and Dina	:
Dickerson as Beneficial Owners of the	:
Nolan Gilbert Hutchinson Testamentary	:
Trust, and II City Plaza, LLC as Assignee	:
of Regions Bank, and I.J. Sherman, Jr.	:
	:
Plaintiffs,	:
	:
v.	:
	:
Pershing LLC, Certain Underwriters at	:
Lloyd's of London in Syndicates 2987,	:
2488, 1886, 1084, 1274, 4000, 1183, 2623	:
& 623; Jason Green, John Schwab, Hank	:
Mills, Dirk Harris, Grady Layfield,	:
Tiffany Angelle, ABC Insurance	:
Company, and XYZ Insurance Company	:
	:
Defendants.	:
-----	x

PERSHING LLC'S NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant Pershing LLC ("Pershing"), by and through its undersigned counsel, hereby removes the above-captioned action on the basis of federal question subject matter jurisdiction from the 19th Judicial District for the Parish of East

Baton Rouge to the United States District Court for the Middle District of Louisiana.¹ Pershing also wishes to inform the Court that a related action against Pershing and other defendants in this case was removed to this Court on essentially the same basis of federal jurisdiction as Pershing relies on here. *See Milford Wampold III, et al. v. Pershing LLC, et al.*, C.A. No. 09-323-JJB-DLB.² In that action, the Magistrate Judge recently issued a Report recommending that the Court remand the action. (*Becker* Doc. #59). Pershing filed objections to the Magistrate Judge's Report on September 1, 2009 (*Becker* Doc. #65), and the Court has not yet issued a decision on remand. If the Court remands the *Wampold* action, Pershing will consent to a remand of this action.

I. REMOVAL PREREQUISITES

1. On August 13, 2009, plaintiffs commenced this action by filing a Petition against Defendants in the 19th Judicial District for the Parish of East Baton Rouge, captioned *Marquette et al. v. Pershing LLC et al.*, Case No. 581452. Plaintiffs filed an Amended Petition on August 20, 2009 to add an additional plaintiff.

2. Defendants Jason Green, Grady Layfield and Hank Mills were served with the Petition on August 21, 2009. Because Pershing filed this Notice of Removal within thirty days after service of the Petition, removal is timely under 28 U.S.C. § 1446(b).

¹ Pershing appears only for the purpose of removal and for no other purpose. No admission of fact or liability is intended by this Notice of Removal. By filing this Notice of Removal, Pershing does not waive, either expressly or impliedly, any right, defense, affirmative defense or motion that may be available or concede that Plaintiffs are entitled to any of the damages or other relief claimed in this action.

² *Wampold et al. v. Pershing LLC, et al.* has been consolidated with *Becker et al. v. Green et al.*, C.A. No. 09-226-JJB-DLD and *Starkey v. Green*, C.A. No. 3:09-cv-00625-JJB-DLD and is now captioned *Becker et al. v. Green et al.*, C.A. No. 09-226-JJB-DLD.

3. The 19th Judicial District for the Parish of East Baton Rouge, State of Louisiana, is located within the geographical boundaries of the United States District Court for the Middle District of Louisiana.

4. Removing Defendant Pershing has attached a copy of all process, pleadings and orders filed in the state court. (Exhibit B.)

5. In accordance with 28 U.S.C. § 1446(d), Pershing will file promptly a copy of this Notice of Removal with the Clerk of the 19th Judicial District for the Parish of East Baton Rouge, State of Louisiana. Pershing served all parties with a copy of this Notice of Removal.

6. All served Defendants consent to this removal. (Exhibit C.)

II. BACKGROUND

7. Plaintiffs allege that the individual defendants “were registered representatives of SGC [Stanford Group Company] and STC [Stanford Trust Company] and were investment advisors to the Plaintiffs.” (Plaintiffs’ Original Petition (“Pet.”) ¶ 26, attached as Exhibit B.) Plaintiffs further allege that these defendants made false and misleading material representations regarding the products issued by Stanford International Bank Ltd. (“SIBL”) and the activities of SIBL, SGC and STC and that the individual defendants and Pershing, clearing broker for SGC, breached their purported fiduciary duties and violated the Louisiana Securities Act. (Pet. ¶¶ 13, 80, 87.)

8. Several months prior to Plaintiffs’ filing their Petition, the Securities and Exchange Commission (“SEC”) brought suit against SIBL, SGC, Stanford Capital Management, LLC, R. Allen Stanford, James M. Davis and Laura Pendergest-Holt (collectively, “Stanford Defendants”) to halt an alleged massive, ongoing fraud. (Complaint, *SEC v. Stanford Int’l Bank, Ltd.*, Case No. 3-09-CV-0298-N (N.D. Tex.) (Doc. #1), ¶ 1, attached as Exhibit D.) In response to the SEC’s claims, the United States District Court in the Northern District of Texas entered a

temporary restraining order, ordered that all assets of SGC and its affiliates be frozen and appointed Ralph S. Janvey as Receiver “in order to prevent waste and dissipation of the assets of [Stanford] Defendants to the detriment of the investors.” (Order Appointing Receiver, *SEC v. Stanford Int’l Bank, Ltd.*, Case No. 3-09-CV-0298-N (N.D. Tex.) (Doc. #10), at 1, attached as Exhibit E.³) The court “specifically directed and authorized” the Receiver to “[p]reserve the Receivership Estate and minimize expenses in furtherance of maximum and timely disbursement thereof to claimants.” (Order Appointing Receiver ¶ 5.) To that end, the court entered a broad injunction, providing that, absent leave of the court, all persons “are hereby restrained and enjoined from . . . commencement or continuation . . . of any judicial . . . proceedings against the Receiver . . . the Receivership Estate, or any agent . . . or employee related to the Receivership Estate, arising from the subject matter of this civil action.” (*Id.* ¶ 9.) The court further ordered all persons “hereby restrained and enjoined, without prior approval of the Court, from . . . [a]ny act to obtain possession of the Receivership Estate assets” or “[a]ny act to collect, assess, or recover a claim against the Receiver or that would attach to or encumber the Receivership Estate.” (*Id.* ¶ 10.)

9. Notwithstanding the Order Appointing Receiver and without obtaining the approval of the receivership court in the Northern District of Texas, Plaintiffs filed their Petition in the 19th Judicial District Court for the Parish of East Baton Rouge. Plaintiffs named as defendants Pershing, Certain Underwriters at Lloyd’s of London, ABC Insurance Company, XYZ Insurance Company and six individuals (Jason Green, John Schwab, Hank Mills, Dirk

³ The Order Appointing Receiver was subsequently amended on March 12, 2009. (*See* Amended Order Appointing Receiver, *SEC v. Stanford Int’l Bank, Ltd.*, Case No. 3-09-CV-0298-N (N.D. Tex.) (Doc. #157), at 1, attached as Exhibit F.) All citations herein to the Order Appointing Receiver refer to the amended order, and unless otherwise noted, the original order is in accord.

Harris, Grady Layfield and Tiffany Angelle) who were allegedly Plaintiffs' investment advisors. As set forth in more detail below, the filing of this action without the permission of the receivership court was in contravention of the Order Appointing Receiver, and this case raises substantial issues of federal law as to whether it can proceed given that it is suit against agents or employees of SGC and seeks assets of the Receivership Estate.

III. FEDERAL QUESTION JURISDICTION EXISTS IN THIS CASE

10. This Court has original jurisdiction over civil actions "arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331. This statutory grant of jurisdiction "captures the commonsense notion that a federal court ought to be able to hear claims recognized under state law that nonetheless turn on substantial questions of federal law, and thus justify resort to the experience, solicitude, and hope of uniformity that a federal forum offers on federal issues." *Grable & Sons Metal Prods., Inc. v. Darue Eng'g & Mfg.*, 545 U.S. 308, 312 (2005).

11. Indeed, "a request to exercise federal-question jurisdiction over a state action calls for a 'common-sense accommodation of judgment to [the] kaleidoscopic situations' that present a federal issue." *Id.* at 313 (internal citations omitted). Despite the absence of a single, precise test, it is clear that purely state-law claims (like those asserted in this action) may implicate a substantial federal issue sufficient to create federal-question jurisdiction. *See Carpenter v. Wichita Falls Indep. Sch. Dist.*, 44 F.3d 362, 366 (5th Cir. 1995) (explaining that if "the state court necessarily must look to federal law in passing on the claim, the case is removable regardless of what is in the pleading") (internal quotation omitted).) The United States Supreme Court held in *Grable* that the controlling standard for whether a federal court has federal question jurisdiction over state law claims is whether "a state-law claim necessarily raise[s] a stated federal issue, actually disputed and substantial, which a federal forum may entertain

without disturbing any congressionally approved balance of federal and state judicial responsibilities.” 545 U.S. at 314.

12. This action is properly removed under *Grable* because Plaintiffs’ state-law claims raise substantial questions of federal law—namely, the threshold question of whether Plaintiffs’ claims are subject to the Order Appointing Receiver and thus cannot proceed in any forum outside the Northern District of Texas absent permission of the receivership court. The receivership court in Northern District of Texas has complete and exclusive jurisdiction over the Receivership Estate and its assets. *See* 28 U.S.C. § 754 (“A receiver appointed in any . . . proceeding involving property, real, personal or mixed, situated in different districts shall . . . be vested with complete jurisdiction and control of all such property with the right to take possession thereof.”) A “district court enjoys broad equitable powers to appoint a receiver” whose “role . . . is to safeguard the disputed assets, administer the property as suitable, and to assist the district court in achieving a final, equitable distribution of the assets.” *Liberte Capital Group, LLC v. Capwill*, 462 F.3d 543, 551 (6th Cir. 2006) (internal citations omitted). Furthermore, failure to obtain leave of the receivership court deprives the second court of subject matter jurisdiction. *See Le v. SEC*, 542 F. Supp. 2d 1318, 1321 (N.D. Ga. 2008).

13. Whether this case can proceed in light of the Northern District of Texas’s Order Appointing Receiver turns on several important and disputed issues of federal law. First, Plaintiffs’ action names six former “registered representatives of SGC and STC” as defendants. (Pet. ¶ 26.) The Order Appointing Receiver, however, bars all suits against “agent[s] . . . or employee[s] relating to the Receivership Estate” without prior leave of that court. (Order Appointing Receiver ¶ 9 (emphasis added).) Because these registered representatives are clearly agents of SGC, *DelPorte v. Shearson, Hammill & Co.*, 548 F.2d 1149, 1153 (5th Cir. 1977)

(registered representative of company is company's agent), Plaintiffs were required to obtain leave of the receivership court to file this action, and they failed to do so.

14. Furthermore, Plaintiffs' action against Pershing and Lloyd's of London is apparently "an act to obtain possession of the Receivership Estate assets" and, as such, also is barred without prior approval. (Order Appointing Receiver ¶ 9.) With respect to Pershing, SGC's clearing agreement with Pershing requires that SGC indemnify Pershing for any costs, damages and attorneys' fees incurred in this action. (Clearing Agreement ¶ 18.2.1.) The clearing agreement also requires SGC to maintain a deposit account at Pershing from which any indemnification claim, including litigation costs and attorney's fees, may be satisfied. (*Id.* ¶ 20.0.) Because the deposit account is part of the Receivership Estate, Plaintiffs' claims against Pershing are claims against the assets of the Receivership Estate. With respect to Lloyd's of London, Plaintiffs seek the proceeds "of the insurance policies issued by Lloyd's" of London. (Pet. ¶ 110.) The court-appointed receiver's position is that the proceeds of Lloyd's policies are an "asset of the Receivership Estate" (Receiver's Response to Defendant Laura Pendergest-Holt's Expedited Motion for Clarification that Receivership Order Does Not Apply to D&O Policy Proceeds, or Alternatively, for Authorization of Disbursement of D&O Policy Proceeds, *SEC v. Stanford Int'l Bank, Ltd.*, Case No. 3-09-CV-0298-N (N.D. Tex.) (Doc. #599), at 2, attached as Exhibit G). Indeed, the issue of the extent to which the proceeds of the Lloyd's policies are subject to the Order Appointing Receiver is currently being litigated in the Northern District of Texas.

15. As a result, the threshold question to be answered before Plaintiffs' case can proceed—whether the receivership court's injunction should be lifted to allow for litigation outside of the Northern District of Texas against agents of Stanford entities and seeking assets of

the Receivership Estate—is governed by federal law and requires a uniform result. *See SEC v. Wencke*, 742 F.2d 1230, 1231 (9th Cir. 1984) (discussing three factors under federal law that federal receivership courts should consider in determining whether to lift injunction with respect to particular plaintiff); *see also SEC v. Byers*, 592 F. Supp. 2d 532, 536-37 (S.D.N.Y. 2008) (applying “*Wencke* Factors” in context of federally-appointed receivership established to settle disputes involving alleged securities fraud).

16. Because Plaintiffs have brought suit without leave of the receivership court, these federal questions are essential to and “ultimately dispositive” of Plaintiffs’ cause of action. *U.S. Express Lines, Ltd. v. Higgins*, 281 F.3d 383, 391 n.3 (3d Cir. 2002); *see also Le v. SEC*, 542 F. Supp. 2d at 1318, 1321 (N.D. Ga. 2008) (dismissing action brought without leave of receivership court). Under these circumstances—where federal questions are clearly “in the forefront of the case and not collateral, peripheral or remote,” *Merrell Dow Pharms. v. Thompson*, 478 U.S. 804, 813 n.11 (1986)—federal question jurisdiction exists, and removal is proper. *See Higgins*, 281 F.3d at 391 & n.3 (affirming removal of state-law claims because question of federal law was dispositive).

17. Indeed, in the *Wampold* action, which, as noted above, was removed on the same jurisdictional basis, the court-appointed receiver stated that the removal was appropriate in light of the issues the action raises under the Northern District of Texas’s Order Appointing Receiver. (See Letter from Kevin Sadler to the honorable Judge James J. Brady, July 9, 2009 *Becker et al. v. Green et al.*, C.A. No. 09-226-JJB-DLD (Doc. # 22, Ex. 1) attached as Exhibit H.)

CONCLUSION

This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. All removal prerequisites have been met. Removal is therefore proper pursuant to 28 U.S.C. § 1441(a).

Dated: Baton Rouge, Louisiana
September 3, 2009

Respectfully submitted,

/s/ Charles S. McCowan, Jr.
Charles S. McCowan, Jr. (#9167)(T.A.)
Charles.McCowan@keanmiller.com
Bradley C. Myers (#1499)
Brad.Myers@keanmiller.com
Todd A. Rossi (#11478)
Todd.Rossi@keanmiller.com
Lana D. Crump (#23707)
Lana.Crump@keanmiller.com
Katie D. Bell (#29831)
Katie.Bell@keanmiller.com
KEAN, MILLER, HAWTHORNE,
D'ARMOND, McCOWAN & JARMAN,
L.L.P.
One American Place, 18th Floor
Post Office Box 3513
Baton Rouge, Louisiana 70821
Telephone: (225) 387-0999
Facsimile: (225) 388-9133

Counsel for Defendant Pershing LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Removal has been mailed, postage prepaid, to the following:

James R. Swanson
Benjamin D. Reichard
FISHMAN HAYGOOD PHELPS
WALMSLEY WILLIS & SWANSON, L.L.P.
201 St. Charles Avenue, 46th Floor
New Orleans, LA 70170-4600

Baton Rouge, Louisiana this 3rd day of September 2009.

/s/ Charles S. McCowan, Jr.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

JOSEPH BECKER, ET AL.

CIVIL ACTION No. 09-226-JJB-DLD

VERSUS

JASON GREEN, ET AL.

- CONSOLIDATED WITH-

MILFORD WAMPOLD, III, ET AL.

CIVIL ACTION NO. 09-323-JJB-DLD

VERSUS

PERSHING, INC., ET AL.

-CONSOLIDATED WITH-

RODNEY
STARKEY, ET AL.

CIVIL ACTION NO. 09-365-JJB-DLD

VERSUS

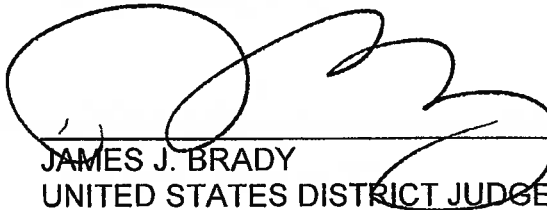
KENDALL FORBES, ET AL.

ORDER

For the written reasons assigned and filed herein:

IT IS ORDERED that this matter is REMANDED to the 19th Judicial District for the Parish of East Baton Rouge, State of Louisiana, for further proceedings.

Baton Rouge, Louisiana, this 14th day of September, 2009.


JAMES J. BRADY
UNITED STATES DISTRICT JUDGE

19th JDC

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

FILED
U.S. DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA
2009 SEP 14 P 3:54

JOSEPH BECKER, ET AL.

CIVIL ACTION No. 09-226-JJB-DLD
BY DEPUTY CLERK

VERSUS

JASON GREEN, ET AL.

- CONSOLIDATED WITH-

MILFORD WAMPOLD, III, ET AL.

CIVIL ACTION NO. 09-323-JJB-DLD

VERSUS

PERSHING, INC., ET AL.

-CONSOLIDATED WITH-

RODNEY
STARKEY, ET AL.

CIVIL ACTION NO. 09-365-JJB-DLD

VERSUS

KENDALL FORBES, ET AL.

RULING

The Court has carefully considered the petitions, the record, the law applicable to these actions, and the Reports and Recommendations of United States Magistrate Judge Docia L. Dalby, dated August 27, 2009 (docs. 57, 58 & 59). Defendants filed objections (docs. 65 & 66). The Wampold plaintiffs filed a reply (doc. 67). The Court has considered all of these filings in conducting a de novo review of the record. There is no need for oral argument.

19th JDC

Defendants claim that the magistrate judge erred in applying the *Grable* standard for federal question jurisdiction.¹ Defendants claim that the federal issues involved here, namely the scope of the receivership court's equitable powers and jurisdiction, are so substantial that federal jurisdiction is warranted. Defendants cite case law supporting the importance of federal receiverships. However, defendants do not cite any statutory authority or case law conferring federal jurisdiction or countering the idea that state courts can enforce the receivership court's stay as well as federal courts.²

The magistrate judge points out that the authority of the receivership court to enjoin state actions is not in question. Defendant's argument is further mooted by the fact that plaintiffs' counsel stipulated to the stay pending resolution of the receivership property in the receivership court. Additionally, the Court finds plaintiffs' argument for a narrow reading of *Grable* persuasive.³ Therefore, the Court finds that the magistrate's application of the *Grable* principles is correct.⁴

Defendants also claim that remanding this action will invite abuse because it may complicate the receivership court's ability to enforce the receivership

¹ *Grable & Sons Metal Products, Inc. v. Darue Engineering & Mfg.*, 545 U.S. 308 (U.S. 2005).

² Defendants cite several cases describing the broad power of district courts to appoint receivers, the essential functions of receiver courts, and tests for courts to apply when analyzing whether stays issued by receiver courts should be lifted. However, this Court could find no reference in these cases to the need for federal jurisdiction to protect these principles. On the contrary, at least one court did not exercise jurisdiction even where issues surrounding federally appointed receivers were present in state claims. See *D.B. Zwirn Special Opportunities Fund, L.P. v. Tama Broad., Inc.*, 550 F. Supp. 2d 481, 487-88 (S.D.N.Y. 2008) (describing the presence of federally appointed receivers in breach of contract claims without necessarily invoking federal jurisdiction).

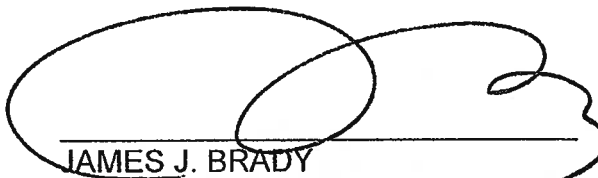
³ See Wampold Pls.' Mem. Resp. Def's Opp'n to R&R (doc. 67) 4-5 (arguing that extending *Grable's* jurisdictional reach in this instance is improper because the federal receivership order affects only the timing of plaintiffs' claims, not their substance).

⁴ See *Grable & Sons Metal Products, Inc.*, 545 U.S. at 314 (stating that presence of a federal issue is not "a password opening federal courts to any state action embracing a point of federal law.").

order. However, as discussed above, nothing in the record indicates an unwillingness of the state court to enforce the receivership court's order. The Court accepts the representations of counsel that all state actions are stayed pending resolution of the receivership estate issues.

The court hereby approves the reports and recommendations of the magistrate judge and adopts them as the court's opinion herein. Accordingly, the Plaintiffs' Motions to Remand are GRANTED and this matter is REMANDED to the 19th Judicial District for the Parish of East Baton Rouge, State of Louisiana, for further proceedings.

Baton Rouge, Louisiana, this 14th day of September, 2009.



JAMES J. BRADY
UNITED STATES DISTRICT JUDGE

FILED
U.S. DIST COURT
MIDDLE DISTRICT OF LA
2009 NOV 10 P 3:58

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

BY DEPUTY CLERK

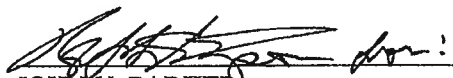
NUMA L. MARQUETTE, ET AL.	*	CIVIL ACTION NO.:
	*	
Plaintiffs	*	09-CV-00734-JVP-DLD
	*	
VERSUS	*	DISTRICT JUDGE:
	*	PARKER
	*	
PERSHING, LLC, ET AL.	*	MAGISTRATE JUDGE:
	*	DALBY
Defendants	*	
	*	

ORDER

Considering the arguments presented, the consent of Removing Defendant Pershing, and in light of this Court's recent ruling in *Wampold, et al. v. Pershing, LLC, et al.*, Civ. Action. No. 09-CV-00226-JJB-DLD:

IT IS ORDERED that this matter is REMANDED to the Nineteenth Judicial District Court for the Parish of East Baton Rouge, State of Louisiana, for further proceedings.

Baton Rouge, Louisiana, this 10th day of November, 2009


JOHN V. PARKER
UNITED STATES DISTRICT JUDGE

286052v.1

19TH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

MILFORD WAMPOLD III, ET AL

DOCKET NO. 577629

VERSUS

DIV. "D"

PERSHING LLC, ET AL

JOINT STIPULATION REGARDING STAY OF PROCEEDINGS
PENDING ARBITRATION

NOW INTO COURT, through undersigned counsel, come all plaintiffs and Pershing LLC ("the Stipulating Parties"), pursuant to Rule 9.16 of the Rules for Louisiana District Courts, who agree and stipulate as follows:

1. The Stipulating Parties agree that the claims of all plaintiffs against Pershing LLC are subject to arbitration under the Federal Arbitration Act before the Financial Industry Regulatory Authority ("FINRA") in accordance with FINRA's rules, and therefore that all claims against Pershing LLC should be stayed pending arbitration upon the conditions set forth herein. La. R.S. 9:4202.

2. The Stipulating Parties further agree that prior to the institution of any arbitration proceedings, the plaintiffs shall either obtain permission from the court hearing the matter *SEC v. Stanford Int'l Bank Ltd., et al*, No. 09-0298 (N.D. Tex.) ("the SEC action"), to proceed with an arbitration or otherwise assure to the satisfaction of the Stipulating Parties that arbitrating the plaintiffs' claims against Pershing LLC shall not be in violation of that court's order enjoining, *inter alia*, any legal proceeding against the Receivership Estate and acts to obtain possession of Receivership Estate assets. (See the SEC action, Doc. 157, ¶ 9, attached as Exhibit "A").

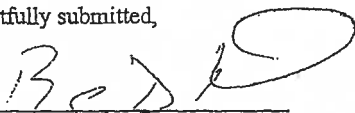
The Stipulating Parties represent that they have taken steps to preserve and maintain, and will continue to preserve and maintain for the duration of this proposed stay, documents and other information relevant to the claims brought in this action, including electronically stored information.

RECEIVED
JAN 29 10 15 4
CLERK OF COURT

2010 JAN 29 AM 10:22
BOBBE WELBORN
CLERK OF DISTRICT COURT PARISH OF EAST BATON ROUGE

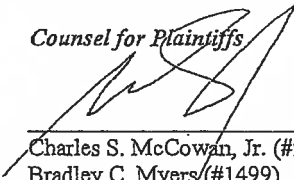
Wampold-stipulation re arbitration.DOC

Respectfully submitted,



James R. Swanson (#18455)
Benjamin D. Reichard (#31933)
FISHMAN HAYGOOD PHELPS
WALMSLEY WILLIS & SWANSON, L.L.P.
201 St. Charles Avenue, 46th Floor
New Orleans, Louisiana 70170-4600
Telephone: (504) 586-5252
Facsimile: (504) 586-5250

Counsel for Plaintiffs



Charles S. McCowan, Jr. (#9167)(T.A.)
Bradley C. Myers (#1499)
Lana D. Crump (#23707)
KEAN, MILLER, HAWTHORNE, D'ARMOND,
McCOWAN & JARMAN, L.L.P.
One American Place, 18th Floor
Post Office Box 3513
Baton Rouge, Louisiana 70821
Telephone: (225) 387-0999
Facsimile: (225) 388-9133

And

Richard C. Pepperman, II (admitted *pro hac vice*)
SULLIVAN & CROMWELL, LLP
125 Broad Street
New York, NY 10004-2498
Telephone: (212) 558-3493
Facsimile: (212) 558-3588

Counsel for Pershing LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of January, 2010, the foregoing Joint Stipulation Regarding Stay of Proceedings Pending Arbitration has been forwarded by U.S. Mail, postage prepaid to the following:

James R. Swanson
Benjamin D. Reichard
FISHMAN HAYGOOD PHELPS
WALMSLEY WILLIS &
SWANSON, L.L.P.
201 St. Charles Ave., 4th Floor
New Orleans, LA 70170-4600

Marshall M. Redmon
Heather S. Duplantis
PHELPS DUNBAR, L.L.P.
II City Plaza
400 Convention St., Ste. 1100
Baton Rouge, LA 70802

George C. Freeman, III
Meredith A. Cunningham
BARRASSO USDIN
KUPPERMAN
FREEMAN & SARVER, L.L.C.
909 Poydras St., Ste. 2400
New Orleans, LA 70112

Alan K. Breaud
BREAUD & MEYERS
P.O. Box 3448
Lafayette, LA 70502-3448

Donna Garbarino Schwab
2446 June Street
Baton Rouge, LA 70808



Charles S. McCowan, Jr.

19TH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

MILFORD WAMPOLD III, ET AL

DOCKET NO. 577629

VERSUS

DIV. "D"

PERSHING LLC, ET AL

STAY ORDER AS TO PERSHING LLC

Considering the foregoing Joint Stipulation Regarding Stay of Proceedings Pending Arbitration filed jointly by the plaintiffs and Pershing LLC;

IT IS ORDERED that pursuant to La. R.S. 9:4202, this matter is stayed as to all claims made against Pershing LLC, pending satisfaction of the conditions set forth in the stipulation and pending arbitration of the claims pursuant to the Federal Arbitration Act before FINRA and in accordance with FINRA's rules.

HONORABLE JANICE CLARK,
19TH JUDICIAL DISTRICT COURT

FEB. 3. 2010 3:47PM

CLERK OF COURT

NO. 093

P. 3

19TH JUDICIAL DISTRICT COURT

PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

MILFORD WAMPOLD III, ET AL

DOCKET NO. 577629

VERSUS

DIV. "D"

PERSHING LLC, ET AL

STAY ORDER AS TO PERSHING LLC

Considering the foregoing Joint Stipulation Regarding Stay of Proceedings Pending Arbitration filed jointly by the plaintiffs and Pershing LLC;

IT IS ORDERED that pursuant to La. R.S. 9:4202, this matter is stayed as to all claims made against Pershing LLC, pending satisfaction of the conditions set forth in the stipulation and pending arbitration of the claims pursuant to the Federal Arbitration Act before FINRA and in accordance with FINRA's rules.

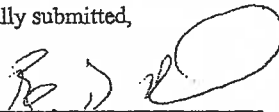
Feb 1, 2010

Janice Clark
HONORABLE JANICE CLARK,
19TH JUDICIAL DISTRICT COURT

312163
SECURITY & CLERK OF COURT

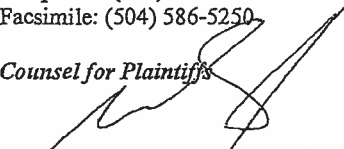
2010 JUN 29 AM 10:20
DOUG WELBORN
19TH JUDICIAL DISTRICT COURT

Respectfully submitted,



James R. Swanson (#18455)
Benjamin D. Reichard (#31933)
FISHMAN HAYGOOD PHELPS
WALMSLEY WILLIS & SWANSON, L.L.P.
201 St. Charles Avenue, 46th Floor
New Orleans, Louisiana 70170-4600
Telephone: (504) 586-5252
Facsimile: (504) 586-5250

Counsel for Plaintiffs



Charles S. McCowan, Jr. (#9167)(T.A.)
Bradley C. Myers (#1499)
Lana D. Crump (#23707)
KEAN, MILLER, HAWTHORNE, D'ARMOND,
McCOWAN & JARMAN, L.L.P.
One American Place, 18th Floor
Post Office Box 3513
Baton Rouge, Louisiana 70821
Telephone: (225) 387-0999
Facsimile: (225) 388-9133

Counsel for Pershing LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 29th day of January, 2010, the foregoing Joint Stipulation Regarding Stay of Proceedings Pending Arbitration has been forwarded by U.S. Mail, postage prepaid to the following:

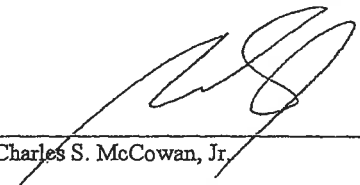
James R. Swanson
Benjamin D. Reichard
FISHMAN HAYGOOD PHELPS
WALMSLEY WILLIS &
SWANSON, L.L.P.
201 St. Charles Ave., 4th Floor
New Orleans, LA 70170-4600

Marshall M. Redmon
Heather S. Duplantis
PHELPS DUNBAR, L.L.P.
II City Plaza
400 Convention St., Ste. 1100
Baton Rouge, LA 70802

George C. Freeman, III
Meredith A. Cunningham
BARRASSO USDIN
KUPPERMAN
FREEMAN & SARVER, L.L.C.
909 Poydras St., Ste. 2400
New Orleans, LA 70112

Alan K. Breaud
BREAUD & MEYERS
P.O. Box 3448
Lafayette, LA 70502-3448

Donna Garbarino Schwab
2446 June Street
Baton Rouge, LA 70808



Charles S. McCowan, Jr.

19TH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

NUMA L. MARQUETTE, JR. ET AL	SUIT NO. 581452 - D
VERSUS	SECTION: XX1
PERSHING LLC, ET AL	JUDGE: CLARK

STAY ORDER AS TO PERSHING LLC

Considering the foregoing Joint Stipulation Regarding Stay of Proceedings Pending Arbitration filed jointly by the plaintiffs and Pershing LLC;

IT IS ORDERED that pursuant to La. R.S. 9:4202, this matter is stayed as to all claims made against Pershing LLC, pending satisfaction of the conditions set forth in the stipulation and pending arbitration of the claims pursuant to the Federal Arbitration Act before FINRA and in accordance with FINRA's rules.

HONORABLE JANICE CLARK,
19TH JUDICIAL DISTRICT COURT

