



1. Tuesday, June 2, 2009: Deadline for the Antiguan Liquidators to file any additional materials in support of their Petition to be recognized as a foreign main proceeding.
2. Tuesday, June 9, 2009: Deadline for any party, other than the Examiner, who wishes to respond to the Antiguan Liquidators' Petition and additional materials filed by the Antiguan Liquidators.
3. Wednesday, June 24, 2009: Deadline for the Antiguan Liquidators to File a Reply.

The Examiner will file a brief in response to the parties' submissions concerning the Petition to be recognized as a foreign main proceeding on or before July 8, 2009.

The Receiver has agreed to waive the requirement of formal service of the Petition, and will file his answer pursuant to Bankruptcy Rule 1011(b) contemporaneously with his brief in opposition to the Petition according to the schedule set forth above.

Neither the SEC nor the IRS opposes the agreed briefing schedule.

## **B. NECESSITY OF HEARING AND ITS DURATION**

### **The Antiguan Liquidators Reasons for Requesting a Hearing**

The Antiguan Liquidators believe a hearing is necessary to address the complex factual and legal issues raised by the Chapter 15 Action and request that this hearing occur after July 7, 2009. The Antiguan Liquidators also believe that it may be necessary to call witnesses at the hearing and that the witnesses be afforded the opportunity to attend any hearing. Mr. Nigel Hamilton-Smith, one of the Antiguan Liquidators, is anticipated to be a witness in support of the chapter 15 petition and is out of town on a planned vacation during the period between the end of the proposed briefing schedule on June 23 and June 29. Counsel for the Receiver is scheduled to be in a 3-day hearing in U.S. Bankruptcy Court in Corpus Christi, Texas, June 22-24. Because of these and other scheduling conflicts, and to allow the Examiner to file his Brief on July 8, the

Antiguan Liquidators request that such a hearing be conducted sometime on or after July 8, but that the week of July 13 may be the best week for such a hearing.

The Antiguan Liquidators do not believe that such a hearing should last more than one day but they reserve the right to request a longer hearing if the evidence and materials submitted or the issues raised by the Receiver, as discussed below, or other parties necessitates a longer hearing. For example, in similar proceedings currently underway in the United Kingdom regarding the competing applications for recognition in that country by the Antiguan Liquidators and the Receiver, the Receiver believes that a hearing estimate of three days is unlikely to be sufficient.

In addition, the Antiguan Liquidators want to apprise the Court that if the Receiver advocates for some sort of aggregation, which is called substantive consolidation in a bankruptcy proceeding, that such a request may require a more lengthy hearing to determine if substantive consolidation is appropriate. The Antiguan Liquidators currently believe that the Receiver's position on substantive consolidation is not supportable. Nevertheless, the Antiguan Liquidators have requested that the Receiver provide support for substantive consolidation so they may understand the basis for the Receiver's position. The Receiver has thus far not provided this information. The Antiguan Liquidators anticipate therefore that the Receiver will make this part of its opposition to the chapter 15 petition and indeed the Antiguan Liquidators believe the attempt by the Receiver to justify substantive consolidation underpins his primary argument that COMI should reside in the United States. In that case, it may be in the best interests of the Court and the parties to refer the issue of substantive consolidation to the Bankruptcy Court for consideration. While the Bankruptcy Court likely has no more experience with chapter 15 petitions than this Court given chapter 15's recent enactment, the Bankruptcy Court will be very

familiar with substantive consolidation and how and in what circumstances substantive consolidation is appropriate. Consequently, the Antiguan Liquidators reserve the right to request that any request for substantive consolidation be referred to the Bankruptcy Court for consideration.

**The Receiver's Position on the Necessity of a Hearing**

The Receiver does not believe a hearing is necessary and that the Chapter 15 petition can be decided on briefs and declarations, unless material facts are disputed, in which case an evidentiary hearing would be necessary. The Receiver does not oppose a hearing if the Court believes that argument of counsel would aid the Court in its determination of the relevant legal issues. The Receiver requests that any hearing occur as soon as possible.

The Antiguan Liquidators have filed petitions for recognition in various other courts and those courts have been asked to make a determination as to the center of main interest for Stanford International Bank, Ltd., an issue that is likewise presented to this Court. As the Antiguan Liquidators informed this Court previously, those proceedings in other courts are currently pending in the United Kingdom, Canada and Switzerland. If this Court wishes to receive a status report on those proceedings, the Antiguan Liquidators and the Receiver are prepared to provide a status report as to those proceedings.

Substantive consolidation is a bankruptcy question. It is not an issue that is germane to a receivership. The Stanford entities are not in bankruptcy and the Receiver opposes both the chapter 15 petition of the Antiguan Liquidators and the request by the Bukrinsky movants for permission to file an involuntary petition. If all the Stanford entities now under receivership were to be placed into bankruptcy, it might be appropriate then for the Court (or the Bankruptcy Court at that point) to hear a motion on substantive consolidation. Therefore, no evidence or

argument need be made now on substantive consolidation in addressing the Antiguan Liquidators' petition for recognition. However, the Receiver does believe that it would be unwise and inappropriate to fracture this receivership by removing only one entity, SIB, from this receivership, and to treat it as an entity distinct from all of the other Stanford entities.

**The Examiner's Position on the Necessity of a Hearing**

The Examiner believes that a hearing with respect to this matter would be appropriate and that the investors would benefit from the opportunity to attend and observe such a hearing. At this point, the Examiner cannot say whether he believes that it will be necessary or appropriate to conduct an evidentiary hearing, or whether the Court can simply hear argument at such a hearing

**The SEC's Position on the Necessity of a Hearing**

The SEC does not have a position on the necessity of a hearing other than to agree with the Receiver that if material facts are disputed, a hearing should be conducted, and that the Commission is prepared to present arguments, if appropriate, at any hearing the Court deems necessary to rule on these issues.

**The IRS's Position on the Necessity of a Hearing**

The IRS has no preference on the necessity of a hearing (or date thereof).

**C. STATUS OF COOPERATION EFFORTS**

**The Antiguan Liquidator's Status Report**

The Antiguan Liquidators believe that it is important that the Antiguan Liquidators and the Receiver reach some sort of cooperation agreement so as to preserve the limited assets of the Stanford International Bank Ltd. ("SIB") estate. Unfortunately, the Antiguan Liquidator and the Receiver have failed to reach such an agreement. The efforts to date to reach an agreement have been as follows:

1. The Antiguan Liquidators provided summary information to the Receiver and offered to share additional information if the Receiver shared similar information with the Antiguan Liquidators. The Receiver has not provided any information to the Antiguan Liquidators and has rejected any information sharing until and unless the Antiguan Liquidators provide customer information that they are prohibited from doing under Antiguan Law.

2. The Receiver proposed a cooperation agreement to the Antiguan Liquidators and the Antiguan Liquidators informed the Receiver why they cannot accept that proposal. The Antiguan Liquidators made a counter-proposal on May 8, 2009 and have not been informed by the Receiver as to his position on the counter-proposal. A reply has been promised but has not yet been received. The Antiguan Liquidators believe, however, that the Receiver has or will reject this counter-proposal based on statements made by the Receiver in briefing to this Court, namely that the Receiver cannot agree to “(1) separation of SIB from other Stanford entities; and (2) control of administration by the Antiguan Liquidators.” (*See* Receiver’s Response to Motion to Vacate [Dkt 371] at 22)

3. As part of negotiating this Joint Status Report, the Antiguan Liquidators inquired whether the Receiver would like to engage in any effort to attempt to reach some level of cooperation and the Receiver has not responded. As a result, the Antiguan Liquidators currently believe, contrary to statement made by the Receiver to this Court, that the Receiver is not currently interested in reaching any cooperation agreement with the Antiguan Liquidators. (*See* Report of Receiver date April 23, 2009 [Dkt 336] at 21 (“The Receiver will continue, though, to look for opportunities in which cooperation with the Antiguan Liquidators is possible and reasonably likely to benefit the Receivership Estate.”)).

4. Given these facts, the Antiguan Liquidators believe that it is not possible to reach a cooperation agreement with the Receiver until the various courts where SIB has substantial assets and where the Antiguan Liquidators have filed petitions for recognition have had an opportunity to make a determination as to the center of main interest for SIB. As the Antiguan Liquidators informed this Court previously, those proceedings are currently pending in the United Kingdom, Canada and Switzerland. If the Court wishes to receive a status report on those proceedings, the Antiguan Liquidators are prepared to provide a status report.

#### **The Receiver's Status Report**

1. In his initial response to the Liquidators' May 8 proposal, the Receiver stated that he was considering the proposal and would respond to it. The Receiver continues to consider the Liquidators' proposal and ways in which the parties can work together to reduce administrative costs. However, there are two fundamental assumptions underlying the Liquidators' proposal which render it both inappropriate and unworkable. First, the Receiver cannot agree that the ceding of jurisdiction to Antigua is in the interest of the Stanford victims for a variety of reasons, many of which have been previously articulated to this Court. Second, the Receiver cannot agree that it is in the interest of the Estate (or that it is even possible) to separate SIB from the remaining entities that were intertwined in this fraudulent scheme. The SEC concurs with this position. However, that is precisely what Vantis is seeking. Mr. Hamilton-Smith has noted in a submission filed on May 15 in English proceedings: "I fully accept that my belief is that the assets of SIB worldwide should be repatriated to Antigua and distributed to SIB's creditors in the liquidation, and that my applications in this Court and in the US are designed to assist me to achieve that objective."

2. The language of the Antiguan law on disclosing the business data of SIB customers does not prohibit the Receiver from having or obtaining that information.

3. The problems posed by the position of the Antiguan Liquidators have proven so far to have been insurmountable, and the Antiguan Liquidators know that the Receiver cannot agree to their requirements in this regard. However, the Receiver is still attempting to find a way to achieve a method of cooperation.

4. The Receiver reiterates that he stands ready to work with the Antiguan Liquidators to reduce expenses so long as the Receiver can continue to meet the obligations of the Amended Order Appointing Receiver and not compromise U.S. jurisdiction over this global fraud committed by, through and against U.S. (among other) persons.

Dated: May 29, 2009.

Respectfully submitted,

/s/ Weston C. Loegering

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**CERTIFICATE OF CONFERENCE**

In addition to the statements offered in this Joint Status Report by the Antiguan Liquidators, the Receiver, the Examiner, the SEC and IRS (which indicate each party's respective positions), counsel for Antiguan Liquidators conferred with counsel for the Individual Defendants. Counsel for defendant R. Allen Stanford indicated that he is attempting to retain bankruptcy counsel and will advise of his position regarding the appropriate procedures, if any, once he has done so. Counsel for Liquidators conferred with Counsel for Pendergest-Holt and counsel stated that they are not in a position to oppose or agree to this Joint Status Report. Counsel for Liquidators is unaware that Mr. Davis has counsel in this Action and were unable to confer with him.

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Greg Weselka

**CERTIFICATE OF SERVICE**

I hereby certify that on May 29, 2009, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

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Evan P. Singer

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