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

SECURITIES AND EXCHANGE COMMISSION,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 3:09-CV-0298-N
	§	
STANFORD INTERNATIONAL BANK, LTD., *et al*.,	§	
	§	
Defendants.	§	

REPLY BRIEF IN FURTHER SUPPORT OF MOTION: (i) TO INTERVENE; (ii) TO AMEND OR MODIFY CERTAIN PORTIONS OF THIS COURT'S AMENDED RECEIVERSHIP ORDER; (iii) IN SUPPORT OF THE ANTIGUAN RECEIVERS-LIQUIDATORS' REQUEST TO COORDINATE PROCEEDINGS UNDER CHAPTER 15 OF THE BANKRUPTCY CODE; AND (iv) IN THE ALTERNATIVE, FOR EXTENSION OF TIME TO APPEAL

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PRELIMINARY STATEMENT

The Movants[1] respectfully submit this reply brief in further support of their Motion filed on May 11, 2009.[2] The Motion should be granted because the Receiver cannot point to a single reorganization or liquidation case – other than this one – in which creditors have been enjoined from at least presenting their arguments and advocating for their interests in court through representatives of their choosing. In even the most massively complex cases – *Enron*, *Worldcom*, *Lehman Brothers*, and *Chrysler*, to name just a few – courts did not invoke efficiency and cost as justifications to deny creditors their right to participate and be heard in the proceedings.[3] To be sure, barring creditors from the courthouse in those cases might have increased efficiency and decreased costs. But that is not the standard by which the right of creditors to participation is measured. The reason is simple: fundamental due process requires that creditors, the true parties-in-interest in *any* reorganization or liquidation, be afforded the opportunity to participate and object because it is *their* property and interests that are at stake.

As this Court is well aware, the majority of Stanford's victims are located abroad, so it is literally true that the world is watching how the American court system handles this case. From the perspective of many of Stanford's victims, this Court has taken control of their assets and has delegated to a single man (the court-appointed Receiver) near-total control over how those assets are liquidated and distributed. In exercising that power, the Receiver has already sold assets without notice to creditors and an opportunity for them to object.[4] He is in effect creating an *ad*

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[1] All capitalized terms not otherwise defined herein have the same meaning as in the Movants' opening brief [Dkt. 367] ("Opening Brief").

[2] The Motion also supported the request by the Antiguan Receivers-Liquidators to coordinate proceedings here and in Antigua under chapter 15 of the Bankruptcy Code. Since the time the Motion was filed, this Court issued an order on the Antiguan Receivers-Liquidators' motion, and the parties have submitted a joint status report to this Court on how they intend to proceed. The Movants believe that they should be permitted to participate in the chapter 15 briefing, which may address issues that directly concern them.

[3] While Chrysler's creditors were ultimately unsuccessful in their efforts to block the sale of that company's auto business, those creditors were nevertheless given the opportunity to present their arguments to the bankruptcy court, the Court of Appeals and, ultimately, to petition the U.S. Supreme Court, which issued a stay of the sale to consider whether to hear the case on its merits. *See In re Chrysler LLC*, 2009 U.S. App. LEXIS 12351 (2d Cir. June 5, 2009), stay granted by *Ind. State Police Pension Trust v. Chrysler LLC*, 2009 U.S. LEXIS 4317 (Sup. Ct. June 8, 2009), stay vacated by 2009 U.S. LEXIS 4318 (June 9, 2009).

[4] The Receiver's Application for Approval of Payment of Fees and Expenses ("Fee Req.") [Dkt. 384] notes that, at the Receiver's direction, "Thompson & Knight attorneys in Mexico located and secured real and personal (*continued*)

hoc claims and liquidation process of his liking, suited to his needs, without statutory authority, and not in the best interests of creditors. By opposing the victims' request to have a voice in whether this case should be transferred to bankruptcy court, the Receiver has clearly conveyed the message that American courts are closed to defrauded investors. Stanford's victims (correctly) view this proceeding as one in which they have not yet been allowed to participate, and in which crucial decisions have, thus far, been taken without their knowledge or input.

The American financial and legal system, though, can ill-afford to convey the message that defrauded investors will be deprived – even temporarily – of their day in court. Today, financial markets are frayed by a lack of confidence and transparency, and constant news reports of monstrous frauds. Especially now, investors here and abroad need to know that the American courts can handle complex reorganizations and liquidations such as this one in a transparent way that protects creditors' substantive and procedural rights. It is not sufficient to say that the Receiver, or the government, knows what it best for Stanford's victims.[5] Instead, it is essential to our system – and to others' confidence in our system – that creditors' rights not be adjudicated while those creditors are excluded from the proceedings.

Significantly, the Examiner, who was appointed to give voice to the investors' interests, agrees that this Court should give the Movants the opportunity to argue that "the creditors would be better served by shifting some or all of the Stanford entities into bankruptcy proceedings."

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property and assets of or traceable to the Receivership including office equipment and technology, electronics, several vehicles and a race horse, successfully accomplishing the sale of the majority of these assets for the benefit of the Receivership Estate." Fee Req. at p. 23. The Receiver apparently did not seek pre-approval to liquidate these and other assets, or comply with the requirements of 28 U.S.C. §§ 2001 and 2004 regarding the sale of that property. *See also*, *e.g.*, Fee Req. at 24 ("Thompson & Knight attorneys have coordinated efforts to sell and dispose of all of Stanford's substantial assets in Panama, including the Stanford Bank of Panama and the Stanford brokerage business.").

[5] Unfortunately, Stanford's victims here and abroad can take little comfort from the participation in this case of the United States government, and the Securities and Exchange Commission, which ideally should be protecting their interests. As has now been widely reported, the SEC apparently began investigating Stanford years ago, but may have "stood down" at the request of another federal agency. *See*, *e.g.*, Clifford Kraus, *et al.*, *Fraud Parade: $8 Billion Case is Next in Line*, N.Y. TIMES, Feb. 18, 2009, at A1 (quoting Stephen J. Korotash, an associate regional director of enforcement with the agency's Fort Worth office). If true, the SEC sat idly by for *years* while Stanford emptied the bank accounts of countless families, many of whom are now destitute as a result.

Ex. Br.,[6] at 7. As the Examiner noted, the practical effect of the requested relief would be to allow the parties to raise the bankruptcy issue now, as opposed to in September. *Id.*, at 2-3.[7]

September is simply too late. The Receiver is spending money at such an incredible pace that he may very well exhaust the estate's cash before then. Moreover, he has made clear that he has begun the process of liquidating the estate's assets.[8] Any delay in considering a bankruptcy filing thus would permanently and irreversibly deprive Stanford's victims of any meaningful say in the administration of the estates. This Court thus should permit the Movants to raise this issue *now*, rather than months from now,[9] and, therefore, should grant the Motion.

The Receiver, however, stands in direct opposition to the victims' efforts to exercise these essential rights, or even to be notified of decisions that affect their assets. He opposes the Motion, arguing that only he "is in the best position to determine whether bankruptcy is an appropriate option." Rec. Br., at 25. The Movants disagree. *This Court* is in the "best position" to make that determination, after careful consideration of the arguments on both sides. This Court should therefore grant the Motion.

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[6] "Examiner's Brief" or, in citations, "Ex. Br.", refers to the Brief of the Examiner Regarding the Motion to Intervene of Dr. Samuel Bukrinsky, *et al*. [Dkt. No. 424]. While the Examiner favors another round of briefing on the bankruptcy issue, the Receiver and the SEC have treated the Movants' request as one to immediately lift the paragraph 10(e) injunction, and have fully briefed the issue. The Movants therefore respectfully submit that this Court can and should, based on the papers now before it, dissolve the injunction contained in paragraph 10(e).

[7] As discussed below, the Movants are skeptical that the Receiver would be any more receptive to a bankruptcy filing in September. Indeed, given the arguments set forth in his brief, the Movants believe that the Receiver intends to request extensions of the Receivership Order injunctions before they expire.

[8] The Receiver refers to his "ongoing efforts to liquidate assets", and says that he is "engaging in the sale of assets, including aircraft and real estate." Rec. Br., at 3, 10.

[9] The paragraph 11 injunction prevents creditors from seeking relief from the paragraph 10 injunction before mid-September. As a practical matter, any motion filed immediately upon the expiration of that injunction (assuming the injunction is not extended) would still not be fully briefed and decided until at least late October, and probably later.

LEGAL ARGUMENT

I. The Opposition Briefs fail to provide an adequate legal, factual, or public policy reason for this Court to deny the Movants' motion.

A. The Opposition Briefs offer no argument in support of the paragraph 11 injunction.

The injunction barring Stanford's victims from even asking to file an involuntary bankruptcy petition is so indefensible that the Opposition Briefs[10] simply do not defend it. Tellingly, the Opposition Briefs do not point to a *single case* in which a court has enjoined creditors from so much as *requesting* the transfer of a case to a bankruptcy court.[11]

Indeed, the Receiver quickly leapfrogs this issue by arguing that the Movants are only "technically" seeking to lift the paragraph 11 injunction, and that they are really "asking this Court to lift the injunction so that they can file an involuntary bankruptcy petition against SIB." Rec. Br. at 1, n. 2. Because the Opposition Briefs offer no defense of the paragraph 11 injunction, the Movants respectfully submit that their request to modify the paragraph 11 injunction is unopposed, and should be granted.

B. The Receiver has miscalculated the costs and benefits of transferring this case to bankruptcy court.

While the Movants do not contest the fact that equity receiverships sometimes can be useful as an interim measure to preserve estate assets and to maintain the status quo, the Movants submit that an equity receivership is not the best way to administer *this* case. Indeed, the Movants seek leave to address that question on its merits because this equity receivership has outlived its usefulness.[12]

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[10] "Opposition Briefs" collectively refers to the SEC Brief [Dkt. 420] and the Receiver's Brief (or, in citations, "Rec. Br.") [Dkt. 422] that were filed in response to the Opening Brief.

[11] Indeed, the primary case relied upon by the Receiver in support of the inunctions here, *SEC v. Wencke*, 622 F.2d 1323 (9th Cir. 1980), held that a district court may issue a stay of proceedings against the receivership entities when "the stay provides that parties may seek leave of the district court to proceed against the receivership entities." *Id.* at 1371. Here, the paragraph 11 injunction specifically provides that creditors may *not* seek relief from the paragraph 10(e) injunction, and is, therefore, against the holding of the key case relied upon by the Receiver. *See also SEC v. Byers*, 592 F. Supp. 2d 532, 537 (S.D.N.Y. 2008) (continuing an injunction against a bankruptcy filing, but permitting creditors the opportunity to seek to lift that injunction as future circumstances warranted).

[12] Because the Movants seek to raise the issue of whether liquidation through an equity receivership would be appropriate in *this* case, the Receiver's citation to numerous cases that simply prove that liquidations were conducted in *other* cases, under *different* circumstances, Rec. Br. at 18-19, fn. 17, entirely misses the point.

The Receiver's and the SEC's arguments to the contrary are entirely off-base. First, and most importantly, the fact that additional costs may be incurred in bankruptcy is *not* a reason to deny Stanford's victims the opportunity to participate in the case, object to the relief sought by the Receiver, and to ask this Court to consider transferring this case to the bankruptcy court. "Justice" would always be swift and cheap if parties were simply denied the right to be heard when their property is taken and disposed of. But efficiency and economy cannot trump due process, which is why creditors have the *right* to present their arguments, even though affording them that right may marginally increase costs.[13]

Second, while the Receiver makes liberal use of phrases like "cost-efficient" (Rec. Br. at 1, etc.) to describe receiverships in general, *this* receivership is anything but cost-efficient. The Receiver already has utilized *more than 100 attorneys*, and has requested $20 Million to pay for less than two months of work.[14] It is no wonder that the Receiver is attempting to prevent Stanford's victims from even objecting to his fees. In light of the exorbitant and outrageous fees requested by the Receiver, the Court should no longer simply assume, based merely upon the Receiver's say-so, that transferring this case to bankruptcy court would result in costs materially greater than the $10 million per month being charged by the Receiver himself.

Third, while the Receiver has attempted to downplay the costs of this receivership, he has *overstated* the potential costs of a bankruptcy filing. For example, the Receiver argues that, in a bankruptcy case, the estate necessarily will incur "substantial additional costs" for the professionals "whose fees and expenses would be charged to the bankruptcy estate as

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[13] The Receiver cites *SEC v. Basic Energy & Affiliated Resources, Inc.*, 273 F.3d 657, 670 (6th Cir. 2001) ("*Basic Energy*"), *SEC v. Hardy*, 803 F.2d 1034 (9th Cir. 1986) ("*Hardy*"), and *SEC v. Elliott*, 953 F.2d 1560 (11th Cir. 1992) ("*Elliott*"), for the proposition that "receiverships are required to and do protect the due process rights of creditors and investors." Rec.Br., at 10. In *Basic Energy*, however, investors were "provided with a full evidentiary hearing, [were] represented by counsel at motion hearings addressing their objections [and] had ample opportunities to rebut the Receiver's characterization of the facts." 273 F.3d at 669. In *Elliott*, the court held that "[d]ue process requires notice and an opportunity to be heard." *Id.* 953 F.2d at 1566-67. In *Hardy*, the court held that summary procedures in that equity receivership "were a reasonable and practicable attempt to administer the receivership *without depriving the creditors of fair notice and a reasonable opportunity to respond*." *Id.* at 1040 (emphasis added). The Receiver's view of due process falls far short not only of the due process that Congress determined should be afforded to creditors, but also of that afforded to creditors in the cases he himself cites as authority.

[14] Fee Req., in its entirety.

administrative expenses." Rec. Br. at 3. But the Receiver fails to consider the fact that a bankruptcy court has the power to disapprove any fee arrangements that are not reasonable, 11 U.S.C. § 328, and the Bankruptcy Code affords the court considerable flexibility in crafting fee arrangements appropriate to the circumstances, "on any reasonable terms and conditions of employment." *Id.* Because the Receiver ignores the ways in which a bankruptcy court can and *must* control professional costs (or, perhaps, fails to appreciate that an estate fiduciary can more efficiently administer a case such as this one), Stanford's victims should not be forced to rely solely upon the Receiver's "best judgment," Rec. Br. at 2, concerning the potential costs of a bankruptcy proceeding.

The Receiver's brief also belies fundamental misunderstandings concerning creditors' rights to recoveries under the Bankruptcy Code. Notably, the Receiver believes that CD holders would receive "a much lower recovery" in bankruptcy "[b]ecause their claims are related to the sale or purchase of a security, [and section 510(b) of] the Bankruptcy Code mandates that their claims be subordinated." Rec. Br., at 3. That is simply not true. CD holders have claims against the estate based upon the obligation represented by the CD itself. As a matter of basic bankruptcy law, those claims are *not* subordinated. *See* COLLIER ON BANKRUPTCY (15th Rev. Ed.) ¶ 510.04 ("Of course, all claims of security holders are not subordinated under section 510(b). For example, claims…based upon the instrument itself, are not claims 'for damages arising from the purchase or sale of such a security' and are accordingly not subject to subordination.") This erroneous view seriously calls into question the Receiver's ability to determine, in his sole discretion, and without any creditor input, whether a bankruptcy filing would be in the best interests of creditors.

Most importantly, the Receiver has not rebutted the Movants' argument that the Bankruptcy Code and Bankruptcy Rules amount to a Congressional mandate requiring that creditors be afforded a comprehensive bundle of substantive and procedural rights, and that the statutory scheme should not be displaced by *ad hoc* procedures that fail to afford creditors the same protections. Thus, while it is true that this Court has the *power* to appoint a receiver, *see*

Jordan v. Indep. Energy Corp., 446 F. Supp 516 (N.D. Tex 1978) ("*Jordan*"), there nevertheless remains an extremely strong, Congressionally-established, presumption that creditors should not be stripped of their rights under the Bankruptcy Code. *See Jordan*, *SEC v. Madoff*, 2009 U.S. Dist. LEXIS 30712, *4 (S.D.N.Y. Apr. 10, 2009).

In fact, there is no reason to supplant the Bankruptcy Code in this case. While the Receiver argues that the complexity of this receivership is reason to avoid bankruptcy, courts have recognized that exactly the opposite is true: simple cases can be administered in an equity receivership; but complex cases should be handled in bankruptcy:

> The procedural requirements for liquidating a large corporation with thousands of creditors…present a task that would push the receivership process to its limits… To resolve the claims involving [such] a large corporation…, a bankruptcy court has judicial tools better suited and more specifically tailored to the task…While it is true that the district court has broad equity power, any attempt to use that power to supervise a complex corporate liquidation…would ultimately be more clumsy ***and expensive*** than long-established bankruptcy procedures…

Gilchrist v. Gen. Elec. Capital Corp., 262 F.3d 295, 303-04 (4th Cir. 2001) (emphasis added). *See also SEC v. Am. Board of Trade*, 830 F.2d 432, 437-38 (2d. Cir. 1987) ("*Board of Trade*").[15]

The Movants respectfully submit that the Receiver cannot, merely by generalizing about equity receiverships on the one hand, and bankruptcy on the other, justify his continued effort to foreclose all discussion on the subject. As in the *Madoff* case, "[t]he concern that appointment of a Bankruptcy Trustee will increase administrative costs or delay recovery by victims is speculative, and outweighed by the benefits to [the] victims of a Bankruptcy Trustee's orderly and equitable administration of his individual estate." *Madoff*, *supra* at *4.[16]

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[15]The Receiver also argues that the complexity of this case, and the fact that assets are located in different jurisdictions, distinguishes this case from the facts in *Jordan*, and dictates a different result. (Rec. Br. at 12-13). As described above, though, the fact that this case is more complex than *Jordan* only means that the argument for administering the case under the Bankruptcy Code is even stronger here than it was in *Jordan*. *See*, *Gilchrist.*

[16] The Receiver's attempt to distinguish the *Madoff* case on the ground that Mr. Madoff's assets were not subject to a receivership, Rec. Br. at 16-17, is entirely without merit. The *Madoff* court recognized the importance of proceeding under the Bankruptcy Code, which offers a "familiar, comprehensive, and experienced…regime…for staying the proliferation of individual lawsuits…and distributing those assets among…creditors according to an established hierarchy of claims." The court stressed the importance of utilizing "the procedures and preferences established by Congress, all under the supervision of the Bankruptcy Court." Whatever minor differences may exist between the cases, affording victims those statutory rights is no less important in this case than it was in *Madoff*.

C. The time is ripe to consider transfer to the bankruptcy court.

This case either is at, or is rapidly approaching, a pivot point where the emphasis will shift from marshaling assets, to liquidating them. This is the ideal time – indeed, the *required* time – to consider a bankruptcy filing. *See, e.g., Board of Trade*; *Esbitt v. Dutch-Am. Mercantile Corp.*, 335 F.2d 141 (2d Cir. 1964) ("*Esbitt*"); *SEC v. Lincoln Thrift Ass'n*, 577 F.2d 600 (9th Cir. 1978); *Gilchrist, supra*.

Despite the clear authority from Courts of Appeals holding that district courts should consider, at the earliest possible time, transferring a case such as this one to bankruptcy court, the Receiver essentially argues that this Court should *never* undertake that inquiry. The Receiver argues that the Movants are seeking this relief too "early" in the case, Rec. Br., at 1, but simultaneously argues that it is too late because he already has amassed so much "institutional knowledge" that any succeeding fiduciary would have to climb an "extremely steep 'learning curve.'" *Id.*, at n. 11.[17] That argument indicates that the Receiver will continue to insist that he, and only he, can oversee this matter and that, as more time elapses, a bankruptcy filing would only be – from his point of view – more inefficient. But it was *exactly* that sort of "creeping receivership"[18] that so troubled the Second Circuit in *Board of Trade* and *Esbitt*. In order to avoid such a "creeping receivership," the parties and this Court must address the issue now.

While the Receiver argues that there is no "per se rule against" liquidating a company outside of bankruptcy, Rec. Br., at 21, the cases make clear – at the very least – that there also is no "per se rule" requiring liquidation in an SEC enforcement proceeding to be conducted through an equity receivership. *See, e.g., Board of Trade*. This Court thus should no longer presume that an equity receivership is superior (or rely solely upon the Receiver's "best judgment" that it is superior), and should instead address and determine the issue on the merits.

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[17] The SEC brief is similarly flawed on this point: after arguing that the Movants' request to intervene is "premature," and only three lines after attacking the Movants for filing their Motion in" the early stages" of this case, the SEC then argues that the Motion is "belated." SEC Brief, at 3. Clearly, the SEC cannot have it both ways.

[18] The phrase "creeping receivership" comes from the article *SEC Receivers vs. Bankruptcy Trustees: Liquidation by Instinct or Rule*, by Marcus F. Salitore, 22-8 AM. BANKR. INST. J., at 8 (Oct. 2003).

II. The Movants meet the standards for intervention under Rule 24

The Opposition Briefs' arguments against the Movants' Rule 24(a) motion to intervene as of right fails for at least three reasons. First, the Movants *have* shown that they and the Receiver share an "adversity of interest[s]." *See*, *Johnson v. City of Dallas*, 155 F.R.D. 581, 586 (N.D. Tex. 1994). Indeed, given that the Receiver opposes every argument put forward in the Opening Brief, it is disingenuous for him to also contend that he is not "adverse" to the Movants.

Second, the Opposition Briefs' argument that the Movants should be denied intervention because "their interests in the case are adequately represented by", among others, "the court-appointed Examiner" (Rec. Br., at 4; *see also* SEC Brief at 3-4) falls flat in light of the Examiner's explicit support of the Movants' request to intervene. Ex. Br., at 2.

Third, the Opposition Briefs entirely ignore the Movants' argument that they can demonstrate their right to intervene under Rule 24(a) by showing – as is obviously the case here – that the existing parties will not make arguments that the proposed intervenors would raise. (Opening Brief, § II.A.4.a.)

The Receiver's Rule 24(b) argument is equally flawed. The Receiver contends that the Movants would not be prejudiced by the denial of their Motion because he does not have "any interest adverse to any creditor", and has no "conflict of interest." Rec. Br., at 25. As explained in the Opening Brief (at 3), however, "[b]ecause the Receiver's ambit extends over *all* of the defendant entities and individuals, the Receiver cannot effectively prosecute claims that may benefit one of those entities (and, thus, that entity's creditors) at the expense of any other(s)."

In re Petters Co., Inc., 401 B.R. 391 (Bankr. D. Minn. 2009) ("*Petters*"), relied upon by the Receiver in support of his argument that he does not have a conflict, is not to the contrary and, in fact, proves the Movants' argument. In that case, the issue was not whether a receiver *in an equity receivership* had a conflict. Instead, the issue was whether a trustee *in bankruptcy* (who also happened to have been the pre-petition receiver) had a conflict in acting as trustee for multiple entities in that bankruptcy. The *Petters* court recognized that there *was* a potential for

conflicts of interest to arise, 401 B.R. at 412, but held that *the procedures of the Bankruptcy Code* provided creditors with due process and the opportunity to protect against those conflicts:

> [A]ny party that fears prejudice to its interests will have due process before the prejudice ripens to actual detriment, for many of the foreseeable administrative acts….Substantive consolidation [under the Bankruptcy Code] is a court-granted remedy that requires a substantial record…and as to which the abiding consideration is "fairness to all creditors." Proposals to abandon estate assets, such as pre-petition causes of action, must come before the court by motion in a Chapter 11 case. In a Chapter 11 case, settlements of avoidance actions or rights of action require court approval, obtained only on motion. *All of these vehicles give an opportunity for objection to any creditor that sees prejudice to its interests from a particular administrative action by a single trustee for multiple estates.*

Id. at 414 (citations omitted, emphasis added). Thus, while the Receiver relies upon the *Petters* case to show that he has no conflict, the *Petters* case actually stands for exactly the opposite proposition: when a fiduciary represents multiple entities, creditor participation *under the Bankruptcy Code* is the antidote for the likely conflicts of interest. For these reasons, and those set forth in the Opening Brief, this Court should permit the Movants to intervene in this matter.

III. The Movants' request for alternate relief is unopposed

No party has addressed, let alone opposed, the Movants' request for alternative relief, which is intended to protect their ability to appeal. The Movants therefore submit that, if the Court does not grant the primary relief sought in the Motion, this Court should grant the Movants' unopposed motion for leave to intervene for the limited purpose of prosecuting an appeal and, to the extent it may be necessary, extending and/or reopening the time for the Movants to appeal the Receivership Order.

CONCLUSION

Movants respectfully request that this Court: (1) grant the Movants' motion to intervene; (2) amend or modify paragraph 11 of the Receivership Order to permit the Movants to seek relief from paragraph 10(e) of the Receivership Order; (3) in the alternative, (a) grant the Movants leave to intervene for the limited purpose of prosecuting an appeal; and (b) to the extent it may be necessary, extend and/or reopen the time for the Movants to appeal the Receivership Order; and grant such other relief as this Court deems just and proper.

Dated: June 16, 2009

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CERTIFICATE OF SERVICE

I hereby certify that on June 16, 2009, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Gregory A. Blue
Gregory A. Blue