

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

SECURITIES AND EXCHANGE §  
COMMISSION, §

Plaintiff, §

vs. §

STANFORD INTERNATIONAL BANK, §  
LTD., STANFORD GROUP COMPANY, §  
STANFORD CAPITAL MANAGEMENT, §  
LLC, R. ALLEN STANFORD, JAMES M. §  
DAVIS and LAURA PENDERGEST- §  
HOLT, §

Defendants. §

NO. 3:09-CV-0298-N

**MOTION FOR EVIDENTIARY HEARING ON SUSAN STANFORD’S RIGHT TO  
PROCEEDS FROM SALE OF VESSELS**

TO THE HONORABLE JUDGE GODBEY:

Susan Stanford moves for an evidentiary hearing regarding her right to proceeds from the sale of the Sea Eagle and the Little Eagle, and respectfully states as follows:

**INTRODUCTION**

By Order dated February 24, 2010, after approving the Receiver’s procedures for the sale of two vessels (the Little Eagle and the Sea Eagle), the Court instructed the Receiver to sequester one-half of the proceeds of both sales pending disposition of Susan Stanford’s claim to a one-half community property interest in the vessels. [Doc. # 1023] Susan Stanford respectfully requests an evidentiary hearing to determine her community property right to the sequestered half of the sales proceeds. This issue is ripe for adjudication and will give the parties guidance on future claims to community property.

### **ARGUMENT AND AUTHORITIES**

Susan Stanford's position is straightforward: as the 34-year plus innocent spouse of R. Allen Stanford, she has a community property interest in the three "Stanford Entity" relief defendants and properties owned by R. Allen Stanford, and is thus entitled to half of any proceeds. Community property holds an important place under Texas law: "the basic elements of Texas marital property law occupy a position above that of state statutes, and neither the legislature or affected parties may validly take steps which are inconsistent with them." *Wily v. United States*, 610 F.2d 1282, 1288 (5th Cir. 1980). All income earned and assets acquired during a marriage are presumed to be community property, *see Osuna v. Quintana*, 993 S.W.2d 201, 205 (Tex. App.—Corpus Christi 1999), and rebutting this presumption requires clear and convincing proof, TEX. FAM. CODE § 3.003(b). Thus, the vessels are presumed to be community property, and the Receiver must show by clear and convincing proof that Susan Stanford does not have a right to the sequestered half of the sales proceeds.

In its Order [Doc. # 743], the Court alluded to a future disposition of Susan Stanford's community property claim to the vessels' sales proceeds; today, Susan Stanford respectfully requests that the Court schedule an evidentiary hearing, which would allow her to confront and cross examine any witnesses whose testimony is relied upon to rebut Susan Stanford's right to the proceeds. Furthermore, holding an evidentiary hearing would be an efficient use of the court's resources as a determination with regard to the vessels will give the parties guidance as to Susan Stanford's community property rights and thus future claims.

### **CONCLUSION**

Susan Stanford respectfully requests that the Court grant this Motion for Evidentiary Hearing on Susan Stanford's Right to Proceeds from Sale of Vessels and hold an evidentiary hearing allowing Susan Stanford to be heard.

Respectfully submitted,

/s/ Joe Kendall

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**ATTORNEY FOR SUSAN STANFORD**

**CERTIFICATE OF CONFERENCE**

I hereby certify that I conferred with the following regarding the hearing sought in this Motion for Evidentiary Hearing on Susan Stanford's Right to Proceeds from Sale of Vessels.

The motion for a hearing is opposed and unopposed as listed below:

Attorney	Representing	Date Conferred	Whether Opposed
Kevin Sadler	Receiver	March 26, 2010	Opposed
John J. Little	Examiner	March 26, 2010	Opposed
David Reece	SEC	March 26, 2010	Opposed
Manuel Lena	IRS	March 26, 2010	Opposed
Chris Akin	Laura Holt	March 26, 2010	Unopposed
David Finn	James Davis	March 26, 2010	No position
Ruth Schuster	R. Allen Stanford	March 26, 2010	No position
Jason Brookner	HP Financial Services Venezuela C.C.A.	March 26, 2010	No position

The Undersigned assumes that the remaining parties will oppose the motion.

/s/ Dena DeNooyer Stroh  
DENA DeNOOYER STROH

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26th day of March, 2010, I electronically filed the foregoing Motion for Evidentiary Hearing on Susan Stanford's Right to Proceeds from Sale of Vessels with the clerk of the court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the attorneys of record in this case who have consented in writing to accept this Notice as service of this document by electronic means.

/s/ Joe Kendall

JOE KENDALL