

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

SECURITIES AND EXCHANGE	§	
COMMISSION	§	
Plaintiff,	§	
	§	CIV. ACTION NO.3-09CV0298-N
	§	
v.	§	
	§	
STANFORD INTERNATIONAL BANK,	§	
LTD., ET AL.,	§	
Defendants.	§	

**DEFENDANTS R. ALLEN STANFORD, STANFORD INTERNATIONAL BANK, LTD.,
STANFORD GROUP COMPANY, AND STANFORD CAPITAL MANAGEMENT,
LLC’S OPPOSITION TO RECEIVER’S MOTION TO APPROVE SALE
OF THE VESSEL “LITTLE EAGLE” (REC. DOC. 743)**

COME NOW, Defendants, R. Allen Stanford, Stanford International Bank, Ltd., Stanford Group Company, and Stanford Capital Management, LLC (hereinafter collectively referred to as the “Stanford Defendants”), who file this Opposition to Receiver’s Motion to Approve Sale of the Vessel “Little Eagle,” and respectfully show the Court as follows:

ARGUMENT

The Receiver seeks approval for the sale of the sea vessel “Little Eagle,” which was purchased prior to the time period of the fraud alleged in the SEC’s Amended Complaint, and is thus an untainted asset of the Receivership Estate (“Estate”) that belongs to Defendant R. Allen Stanford (“Mr. Stanford”). Because the “Little Eagle” is an untainted asset belonging to Mr. Stanford which should be released to Mr. Stanford for his use, the Receiver’s attempt to sell the vessel to a third party exceeds the authority granted to him in the Amended Receivership Order. Rec. Doc. 157. Moreover, the sale of this asset, and other Estate assets, in the Receiver’s current manner abrogates the Court’s ability to render a meaningful judgment, is not in the best interests,

of the Estate, and should not occur until the case is resolved on its merits. Accordingly, the Receiver's motion should be denied and the Court should void the contract for sale of the "Little Eagle."

1. The Receiver Attempts to Sell an Untainted Asset which Belongs to Defendant R. Allen Stanford

Based upon information and belief, Mr. Stanford purchased the "Little Eagle" in 1991 and took delivery of the vessel in 1992. According to the SEC's Amended Complaint, the SEC alleges that the fraud involving the defendants in this matter occurred between 1999 and 2009. The purchase and possession of the "Little Eagle" clearly predates the fraud allegations made against the defendants and is thus an untainted asset of the Estate. The Receivership Order and the Court's rulings do not extend to the Receiver authority over untainted assets. Untainted assets are to be returned to Mr. Stanford for his use in the defense of this matter.

In attempting to force through the sale of the "Little Eagle," the Receiver fails to consider that the vessel in question is an untainted asset. Instead, the Receiver seeks only to continue the pattern of unencumbered fire sales of Estate assets without regard for whether the sales are ultimately beneficial to the Estate, or in this case, whether the asset itself is amenable to sale. In fact, nowhere in the Receiver's motion does he explain why the "Little Eagle" is a proper Estate asset that can be sold (i.e. an asset tainted by fraud). As the Court noted in its Order of July 1, 2009, it acknowledges that there may be Estate assets that are untainted by alleged fraud that may be used by Mr. Stanford in his defense of this case. The Receiver has apparently disregarded this possibility and has moved forward with the sale of the "Little Eagle," despite the fact that it was purchased prior to any alleged fraud by the defendants.

For the above-mentioned reasons, the Court should deny the Receiver's Motion to Approve the Sale of the Vessel "Little Eagle."

2. The Receiver Cannot Liquidate Estate Assets Until the Case is Resolved on the Merits

Moreover, allowing the Receiver to continue to sell Estate assets will abrogate this Court's ability to render a meaningful judgment on the merits. A preliminary injunction preserves the status quo, prevents irreparable injury to the parties and preserves the court's ability to render a meaningful decision after a trial on the merits.¹ If the Receiver is able to sell many of the Estate's assets prior to adjudication on the merits, the Court's findings will have little or no value. If the Stanford Defendants are victorious at a trial on the merits, that result will be diminished significantly if the Receiver is permitted to continue to dispose of Estate assets in a the manner. The Receiver should not be permitted to sell Estate assets without an adjudication of the merits of the underlying claims.²

3. Alternatively, the Receiver Has Not Satisfied His Fiduciary Obligations to the Estate By the Manner In Which He Has Conducted the Sale of the "Little Eagle"

Even assuming for the sake of argument the "Little Eagle" is an asset tainted by fraud, which it is not, the Receiver has shown no attempt to conduct the sale of the vessel in a manner that would satisfy his fiduciary obligations to the Estate. This is plainly evident from the fact that the Receiver entertained offers from only two prospective buyers, who both offered the same amount, which was admittedly below the average asking price for similar vessels currently on the market. With offers from only two buyers over an unreported amount of time and without

¹ See *Meis v. Sanitas Service Corp.*, 511 F.2d 655 (5th Cir. 1975).

² See *Securities Exchange Commission v. TLC Investments and Trade Co.*, 147 F. Supp. 2d 1031, 1036 (C.D. Ca. 2001) (holding, "[i]t is only in rare cases that it is appropriate for a receiver, rather than a bankruptcy court and particularly before judgment has been entered, to liquidate, rather than manage, the assets of a receivership."); *SEC v. Current Financial Services*, 783 F.Supp. 1441, 1445-46 (D.D.C. 1992)(agreeing to appoint a receiver after TRO granted but refusing to grant receiver the right to liquidate assets; stating, "[s]uch drastic measures are [not] appropriate prior to the entry of final judgment. The SEC may renew its motion to encompass such relief if necessary in the future").

explaining his sale strategy, the Receiver fails to show this Court that it engaged in a competitive sale process that would ensure that the vessel would be sold at a competitive price.

CONCLUSION

Based on the foregoing reasons, the Receiver's attempt to sell the "Little Eagle," an untainted asset, exceeds the scope of the Receivership Order and prevents the Court from rendering a meaningful judgment on the merits in this case. Accordingly, the Stanford Defendants respectfully request that the Court deny the Receiver's Request for Approval to Sell the Vessel "Little Eagle," and order that said asset be returned to Defendant R. Allen Stanford.

Dated: September 17, 2009

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Respectfully submitted,

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ATTORNEY IN CHARGE FOR ALL DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent those indicated as non-registered participants on September 17, 2009.

/s/Ruth Brewer Schuster