

**No. 23-10530**

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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SECURITIES AND EXCHANGE COMMISSION, et al.,  
*Plaintiffs,*

v.

ROBERT ALLEN STANFORD,  
*Defendant-Appellant,*

v.

TRUSTMARK NATIONAL BANK,  
*Movant-Appellee,*

OFFICIAL STANFORD INVESTORS COMMITTEE; RALPH S. JANVEY,  
in His Capacity as Court-Appointed Receiver for Stanford International  
Bank, Ltd., et al.,  
*Appellees.*

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On Appeal from the United States District Court  
for the Northern District of Texas, Dallas Division  
Civil Action No. 3:09-cv-00298-N

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**APPELLEE-RECEIVER'S MOTION TO DISMISS APPEAL**

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## **CERTIFICATE OF INTERESTED PARTIES**

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Fifth Circuit Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal:

1. Ralph S. Janvey, in His Capacity as Court-Appointed Receiver for the Stanford International Bank Limited, et al.
2. Robert Allen Stanford (pro se)
3. Trustmark National Bank
4. Official Stanford Investors Committee
5. Counsel for Ralph S. Janvey, Court-Appointed Receiver: Baker Botts L.L.P. (Kevin M. Sadler, Scott D. Powers, and Stephanie F. Cagniart)
6. Counsel for Trustmark National Bank: Dykema Gossett, P.L.L.C. (David John Schenck)
7. Counsel for Official Stanford Investors Committee: Butzel Long, P.C. (Peter Daniel Morgenstern); Edward C. Snyder Attorney at Law PLLC (Edward C. Snyder); Fishman Haygood, L.L.P. (James R. Swanson, Lance C. McCardle, Benjamin D. Reichard)

Dated: June 12, 2023

/s/ Kevin M. Sadler

Kevin M. Sadler

*Counsel of Record for Appellee  
Ralph S. Janvey, Court-Appointed  
Receiver*

## INTRODUCTION

Pursuant to Fifth Circuit Rule 42.2, Ralph S. Janvey, in his capacity as Court-Appointed Receiver for the Stanford International Bank, Limited (the “Receiver”), respectfully moves to dismiss the frivolous appeal of *pro se* Appellant Robert Allen Stanford (“Mr. Stanford”) from an order of the United States District Court of the Northern District of Texas approving a \$100 million settlement between the Receiver, the Official Stanford Investors Committee (“OSIC”), and Trustmark National Bank (“Trustmark”).<sup>1</sup> As long as Mr. Stanford’s frivolous appeal remains pending, the district court’s approval order cannot become final, and the settlement cannot be funded. Mr. Stanford’s appeal thus perversely blocks the payment of the \$100 million settlement that would otherwise offer meaningful financial relief to thousands of victims of Mr. Stanford’s crimes.

Fourteen years ago, the SEC sued Mr. Stanford to shut down his worldwide, multi-billion Ponzi scheme.<sup>2</sup> The district court appointed a receiver to take over Mr. Stanford’s far-flung financial empire that was funded by a

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<sup>1</sup> Given that Mr. Stanford is currently incarcerated, it is not practical for the Receiver to contact him prior to filing this motion, as required under Fifth Circuit Rule 27.4. However, as Mr. Stanford filed this appeal, he is likely opposed to this motion to dismiss the appeal.

<sup>2</sup> See *Janvey v. Democratic Senatorial Campaign Committee, Inc.*, 712 F.3d 185, 188–89 (5th Cir. 2013) (describing the factual background of the Stanford Ponzi scheme)

blatant investment fraud. Mr. Stanford was indicted for multiple crimes arising from his fraud scheme, convicted, and sentenced to 110 years, and his conviction is long since final.

For more than a decade, the Receiver and OSIC have been pursuing asset recoveries to help compensate Stanford's 18,000 fraud victims who have suffered billions of dollars in losses. One of these proceedings involved a suit brought by OSIC, as assignee of the Receiver, against five banks that had helped Mr. Stanford run his investment fraud. In early 2023—on the eve of trial—the Receiver and OSIC settled this long-running lawsuit through five settlement agreements (one per defendant) adding up to a total of \$1.602 billion. Each settlement requires court approval.

The first settlement presented to the district court was a \$100 million settlement agreement with Trustmark (the "Settlement"). App.6, 8. Mr. Stanford appeals the order approving this Settlement on the same frivolous grounds he raised in the district court. His appeal has nothing to do with the Settlement itself. Instead, Mr. Stanford challenges the existence of the Stanford Receivership based on arguments that are barely intelligible and, in any event, have been repeatedly rejected. *See* Notice of Appeal at 3–4 (Doc. 1).<sup>3</sup>

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<sup>3</sup> Mr. Stanford also unsuccessfully objected to the settlement with Société Générale Private Banking (Suisse) S.A. that the district court approved on June 8, 2023, urging the same arguments he raised in objecting to the Trustmark Settlement. *See* Order of June 8, 2023, *S.E.C. v. Stanford Int'l Bank, et al.*, Case No. 3:09-cv-

Mr. Stanford's frivolous "objection" is just the latest in a long line of frivolous motions and lawsuits filed by Mr. Stanford since his conviction was affirmed. Stanford has become the quintessential vexatious jail-house litigant, filing numerous frivolous motions in the Receivership proceeding, challenging the existence of the Receivership itself, and many of the Court's decisions and Receiver's actions.<sup>4</sup> See App.74 n.1; App.94–95 (district court order ruling that Mr. Stanford is a vexatious litigant); App.74 (district court order noting that it has rejected Mr. Stanford's jurisdictional argument "numerous times"). Mr. Stanford has likewise launched multiple collateral challenges to his criminal conviction in various pleadings, all of which have been denied. See, e.g., Order of May 13, 2021, *United States v. Stanford, et al.*, Case No. 4:09-cr-00342 (S.D. Tex.) (Doc. 1539) (denying motion for relief from the 2012 judgment entered in Mr. Stanford's criminal case).

Meanwhile, under its terms, the Settlement cannot become final until this appeal is resolved. That is, fourteen years since the unravelling of Mr.

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00298-N (N.D. Tex.) (Doc. 3304). His deadline to appeal that order has not expired. And while he has not objected to the settlements with the last three defendant banks, the deadline to do so has not yet passed. Thus, Mr. Stanford may attempt to appeal each of the five bank settlements on the same frivolous grounds.

<sup>4</sup> Among these frivolous suits and pleadings, Mr. Stanford has sued Chief Judge Godbey, the Receiver, Ralph. S. Janvey, and an SEC enforcement attorney. See *Stanford v. Godbey et al.*, Case No. 3:20-cv-00115-E-BT (N.D. Tex. Jan. 16, 2020). All these suits were dismissed. See *Stanford v. Godbey*, No. 3:20-CV-00115-E-BT, 2020 WL 7698741, at \*1 (N.D. Tex. Dec. 28, 2020).

Stanford's Ponzi scheme, the victims of his crimes cannot recover from this Settlement until this Court resolves Mr. Stanford's appeal. To prevent Mr. Stanford from obstructing the funding of the settlement and thereby visiting further injury on the victims of his crimes, this Court should dismiss Mr. Stanford's appeal as frivolous under Fifth Circuit Rule 42.2.<sup>5</sup>

### **BACKGROUND**

In January 2023, the Receiver, OSIC, and Trustmark (the "Settling Parties") reached an agreement to settle litigation arising out Trustmark's participation in the Stanford Ponzi Scheme. *See* App.19 ¶ 1, 28 ¶ 31. Under the Settlement, Trustmark agreed to pay \$100 million to the Receiver for distribution to defrauded Stanford investors. App.29 ¶ 35. Of particular relevance to this appeal, the \$100 million is payable only after the district court signs an order approving the Settlement and such order becomes final. After OSIC filed a motion seeking approval of the Settlement, *see* App.18–64, the Receiver distributed notice of the Settlement as required by the court to permit interested parties to assert objections to the Settlement.

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<sup>5</sup> Mr. Stanford has not yet paid the filing fee in connection with this appeal, despite the district court's order denying his motion to proceed *in forma pauperis*. The Receiver reserves the right to move to dismiss this appeal on that basis at the appropriate time. *See* 5th Cir. R. 3; 5th Cir. R. 42.

Mr. Stanford's objection was the only one filed.<sup>6</sup> *See* App.66–71. This objection made no mention of the fairness or reasonableness of the Settlement, nor did it discuss any facts or law relevant to the district court's approval of the Settlement. *See id.* Instead, Mr. Stanford raised what he described as an objection to the jurisdiction of the district court over the Receivership. Mr. Stanford claimed that the Receiver “relocate[ed] . . . his ‘principle [sic] place of business’ . . . from the ‘host district’ (Northern District of Texas) to a foreign district (Southern District of Texas),” and from this purported factual premise, he argued that the district court was divested of all jurisdiction over the Receivership. App.68–69. As a result of these alleged jurisdictional maladies, Mr. Stanford concluded that “all actions taken or authorized by this Court since . . . February 17, 2009, to date . . . have no force and effect in law.” App.69.

Mr. Stanford did not cite any facts or legal authority to support his position (none exists), but instead predicated his objection on a variety of then-pending motions that repeated the same jurisdictional arguments. App.67. The district court denied the pending motions shortly after Mr. Stanford filed his objection. *See* App.101–105. In doing so, the district court emphasized

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<sup>6</sup> Mr. Stanford actually filed two objections, which are identical in all respects. *See* App.66–71, 85–90. For simplicity, the Receiver refers to them as a single objection.

that Mr. Stanford had previously raised identical arguments—all time-barred, waived, or otherwise rejected on multiple occasions. *See* App.102–104.

The district court also overruled Mr. Stanford’s objection to the Settlement at the May 3, 2023 Settlement approval hearing. The Court agreed that Mr. Stanford’s objection was “not really an objection to the settlement” at all, but instead “simply reargue[d] jurisdictional and other arguments that he has made repeatedly in a number of pleadings over the years that basically call into question the entire proceeding, the entire receivership and everything that has flowed from it.” App.79–80. Days later, the district court approved the Settlement, finding it “in all respects” to be “fair, reasonable, and adequate” and “in the best interests” of all interested persons, including defrauded investors. App.11 ¶ 7.

One week later, Mr. Stanford filed a notice of appeal and a motion for leave to proceed *in forma pauperis*. *See* Notice of Appeal (Doc. 1); App.107–09. Mr. Stanford’s appeal is premised on the same jurisdictional arguments that he raised in his objection to the Settlement. *See* Notice of Appeal at 3–4 (Doc. 1).

The district court denied Mr. Stanford’s motion to proceed *in forma pauperis* because “Stanford advances only frivolous arguments and

unfounded allegations.” App.74. The district court found that Mr. Stanford’s purported objection “does not object to the fairness or reasonableness of the settlement” but instead “raises arguments that attack the Court’s jurisdiction and the Receivership itself—arguments the Court has rejected numerous times.” *Id.* (citing prior orders). Thus, the court ruled that “Stanford’s appeal is not in good faith.” App.74–75.

## ARGUMENT

### **I. Mr. Stanford’s appeal should be dismissed because it presents no non-frivolous issue for appeal.**

Mr. Stanford does not challenge the fairness or reasonableness of the Settlement, nor does he address any factual or legal issue relevant to the court’s approval of the Settlement. Instead, Mr. Stanford’s appeal raises only the baseless jurisdictional challenges that he has asserted numerous times over the course of the Receivership. Accordingly, Mr. Stanford’s appeal should be dismissed as frivolous.

An appeal is frivolous if it does not involve legal points that are arguable on their merits. *United States v. Haden*, 260 Fed. App’x 661, 663 (5th Cir. 2007) (citing *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983)) (dismissing an appeal raising jurisdictional arguments as frivolous).

Mr. Stanford has never addressed the merits of the order he appeals. Instead, he argues that the district court lacks jurisdiction over the Receiver’s

actions because the Receiver purportedly relocated his principal place of business from Dallas to Houston, which Mr. Stanford claims resulted in the district court in the Northern District of Texas being divested of jurisdiction over the Receivership. Notice of Appeal at 3 (Doc. 1). Although Mr. Stanford has previously raised similar arguments in the district court,<sup>7</sup> he has never appealed the Receivership Order entered fourteen years ago. Nor has he appealed any of the multiple district court orders approving similar Stanford-related settlements. *See* App.44 ¶ 67 (citing seven examples of such prior settlements). His strained effort to import his jurisdictional argument into this context fails not only because it is legally frivolous but also because it is irrelevant.

Mr. Stanford’s own filing makes clear that he is using the Settlement approval proceeding to launch a collateral attack on his criminal conviction and all judicial decisions issued in this Receivership. *See* Notice of Appeal at 3–4 (Doc. 1). He claims that he will present “factually indisputable evidence” to prove his innocence and show that his conviction was politically motivated. Notice of Appeal at 5 (Doc. 1). The result of this appeal, Mr. Stanford

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<sup>7</sup> *See, e.g.*, App.123–24 (“Simply put, . . . the Receiver’s immediate, unauthorized removal of the administration of the Stanford Receivership Estate . . . to a different District . . . clearly fell outside the scope of his court-appointed . . . authority, and was done . . . in defiance of[] all jurisdictional law.”); *see also* App.104 (denying Mr. Stanford’s motion).

claims, will be “the immediate dismissal of the ‘main action’ on jurisdictional grounds . . . effectively voiding each and every of the scores of multimillion-dollar Stanford-related lawsuits and settlement agreements that have been filed and litigated in the Northern District of Texas, Dallas Division, since [February 17, 2009].” *Id.* at 3.

This collateral attack on the Receivership is meritless and has nothing to do with the order that Mr. Stanford appeals.<sup>8</sup> Mr. Stanford has failed to identify any purported legal error in the district court’s order, so there is no legal issue for this Court to decide. Mr. Stanford’s filing of his groundless objection and subsequent notice of appeal is precisely the kind of behavior that led the district court to declare him a “vexatious litigant”—a decision which Mr. Stanford never appealed. *See* App.74 n.1; App.95 (“Stanford’s meritless motions and new lawsuits strain the finite resources of the judiciary and the Receivership Estate.”).

Mr. Stanford has had his day in Court. In this appeal, he merely repeats meritless arguments he has made numerous times in the district court. Because Mr. Stanford has failed to raise any “legal point[] arguable on its

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<sup>8</sup> As this Court has noted “[a]ppointment of a receiver is generally subject to collateral attack only in instances of fraud or on appeal of the initial appointment.” *Warfield v. Byron*, 137 Fed. App’x 651, n.6 (citing *Miller v. Hockley*, 80 F.2d 980, 983 (4th Cir. 1936)).

merits,” this Court should dismiss Mr. Stanford’s appeal as frivolous. *See Haden*, 260 Fed. App’x at 663; 5th Cir. R. 42.2 (“If upon the hearing of any interlocutory motion or as a result of a review under 5th Cir. R. 34, it appears to the court that the appeal is frivolous and entirely without merit, the appeal will be dismissed.”).

### **PRAYER**

The Receiver requests that the Court expeditiously dismiss Mr. Stanford’s appeal as frivolous to put an end to Mr. Stanford’s continued abuse of the Court system to delay recovery for thousands of victims of his crimes.

Dated June 12, 2023

Respectfully submitted,

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**ATTORNEYS FOR APPELLEE-RECEIVER**

### **CERTIFICATE OF SERVICE**

I hereby certify that on June 12, 2023, I electronically filed the foregoing using the Court's CM/ECF filing system, which will send notification of such filing to all counsel of record. In addition, I served a true and correct copy of the foregoing document by United States Postal Service Certified Mail, Return Receipt required to the following non-CM/ECF participant:

R. Allen Stanford, Pro Se  
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Post Office Box 1034  
Coleman, FL 33521

Dated: June 12, 2023

/s/ Kevin M. Sadler  
Kevin M. Sadler

### **CERTIFICATE OF COMPLIANCE**

Pursuant to Fed. R. App. P. 32(g) the undersigned certifies this motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because, excluding the portions of the motion exempted by Fed. R. App. P. 32(f) and 5th Cir. R. 21, this motion contains 2,244 words.

This motion also complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this motion has been prepared in a proportionally spaced typeface using Microsoft Word with Georgia 14-point font for text and 13-point font for footnotes.

Dated: June 12, 2023

/s/ Kevin M. Sadler  
Kevin M. Sadler