

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

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

**STANFORD INTERNATIONAL
BANK, LTD., et al.,**

Defendants.

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CIVIL ACTION NO. 3-09-CV-0298-N

**EXAMINER'S AND OSIC'S
RESPONSE IN OPPOSITION TO THE RECEIVER'S APPLICATION FOR
SUPPLEMENTAL AWARD OF PROFESSIONAL FEES AND EXPENSES**

John J. Little, Examiner, and the Official Stanford Investors Committee ("OSIC")¹ respectfully submit their Response in Opposition to the Receiver's Application for Supplemental Award of Professional Fees and Expenses (ECF Nos. 3521 through 3524).

I. Incorporation of Prior Opposition Papers

As the Court well knows, the Receiver filed a Motion for Supplemental Award of Professional Fees and Expenses in October 2024 (ECF Nos. 3423-3424), through which he sought the same relief he now seeks – release of the full holdback amount, an upward adjustment in that amount based upon the Consumer Price Index, and payment for work done by Baker Botts to prepare the Receiver's fee applications, also with an upward adjustment. That motion was opposed by the Examiner and OSIC, ECF No. 3434, and by the SEC. ECF Nos. 3435-3436.

¹ Of the five (5) members of OSIC, the three members who represent Stanford investor claimants abstained from the vote to determine whether or not to join this Response. The Examiner and the sole investor member, Pam Reed, voted in favor of joining this Response.

After the Receiver filed his reply in support of the Motion, ECF No. 3440, the Court entered its Order on January 28, 2025 finding that the motion was “not yet timely.” ECF No. 3454.²

The only difference between the current motion and the prior motion for supplemental fees is that the amounts sought by the Receiver have increased, both as a result of the holdback that was applied to the Receiver’s 82nd fee application (ECF No. 3465)³ and as a result of the passage of time (which increases the amount of the upward adjustment sought by the Receiver).

Rather than reiterate the arguments previously made by the Examiner and OSIC in response to the Receiver’s motion for an award of supplemental fees, the Examiner and OSIC incorporate and re-state the arguments made in their prior opposition to the Receiver’s October 2024 motion. To that end, the Examiner and OSIC have filed herewith an Appendix containing their prior opposition briefing (ECF No. 3434) and the appendix filed in support of that briefing (ECF No. 3434-1).

II. The Receiver Seemingly Misunderstands the Basis for Opposing His Motion

The Receiver’s prior reply brief (ECF No. 3440) and his current briefing criticize the Examiner, OSIC and the SEC for opposing the relief sought, but that criticism misses the mark. The Examiner and OSIC recognize that this Court has the discretion to award all of the relief sought by the Receiver in his current motion – awards of attorneys’ fees in receivership matters are almost always within the discretion of the trial court. *Commodity Futures Trading Comm’n*

² The Receiver had previously sought a partial release of the holdback amount through a motion filed on April 18, 2014. ECF Nos. 1998-1999. That motion was opposed by the Examiner, ECF No. 2016, and by the SEC. ECF No. 2017. The Court denied that motion on July 2, 2014 as “premature.” ECF No. 2033.

³ The holdback amount applied to the 82nd fee application was \$360,876.48. ECF No. 3472.

v. Am. Metals Exch. Corp., 991 F.2d 71, 79 (3d Cir. 1993). The Examiner and OSIC have not argued – and don’t argue – that the Court *cannot* award the fees sought by the Receiver.

Rather, the Examiner and OSIC recognize that the Court has full discretion to award the fees sought, or to decline to do so in whole or in part.⁴ “The award of fees in a receivership is entrusted to the discretion of the district court.” *Commodity Futures Trading Comm’n v. Am. Metals Exch. Corp.*, 991 F.2d 71, 79 (3d Cir. 1993) (citing *SEC v. Capital Counsellors, Inc.*, 512 F.2d 654, 658 (2d Cir. 1975)). The Examiner was appointed to represent the interests of all investors in Stanford Financial offerings. ECF No. 322. The OSIC was created to represent the interests of SIBL customers who “had funds on deposit at SIBL and/or were holding certificates of deposit issued by SIBL” as of February 16, 2009. ECF No. 1149. Given their respective charges from this Court, the Examiner and OSIC respectfully suggest – for the reasons set forth in their prior briefing – that the Court should exercise its broad discretion and decline to award the supplemental fees sought by the Receiver so that the amounts that would be used to pay those supplemental fees can instead be distributed by the Receiver to the Stanford investors who were the victims of this scheme. That is particularly so for the Receiver’s request that he and his professionals be awarded additional compensation – above and beyond the holdback amounts.

III. The Court Can and Should Consider Only a Partial Release of the Holdback Amount

In their prior briefing, the Examiner and OSIC suggested that it would be appropriate for the Court to approve a partial release of the holdback to the Receiver and certain of his professionals (Baker Botts, FTI and certain of the firms that have employed Karyl Van Tassel) to

⁴ In their prior briefing, the Examiner and OSIC have indicated that they would support a partial release of the holdback to the Receiver and certain of his professionals to recognize their contributions to the results obtained in the Bank litigation and the Gary Magness litigation. To date, the Receiver and his professionals have indicated no interest in such a partial release.

recognize their contributions to the results obtained in the litigation against the Gary Magness interests and against TD Bank, HSBC, SG Suisse, Trustmark and Independent Bank. That remains an approach that the Court can and should consider – though implementing it would require input from the Receiver and certain of his professionals in order to identify what amounts are attributable to that litigation.

Another approach the Court can and should consider is to decline to release the holdback amounts that arise from the Receiver's first five fee applications in this matter. Those first five fee applications were subject to multiple objections from both the Examiner and the SEC and resulted in both the imposition of the holdback and an increase in the holdback to 35% for the third and fourth applications (and a more modest 2% increase in the holdback for the fifth application). The Receiver's briefing offers no real discussion as to why the objections made to those applications ought to be overruled or ignored; indeed, his briefing focuses almost entirely on the litigation results that were achieved more than a decade after those applications were filed. Also, for reasons that the Receiver does not explain, he has omitted his first four fee applications from his request that Baker Botts be compensated for its work in preparing fee applications. The holdback amount attributable to those first five fee applications is **\$11,594,560.87**, as follows:

<u>Application</u>	<u>Docket No.</u>	<u>Amount Sought</u>	<u>Holdback Amount</u>	<u>Holdback %</u>
1 st	384	\$19,965,146.12	\$3,993,029.22	20%
2 nd	669	\$ 7,601,969.12	\$1,520,393.82	20%
3 rd	820	\$11,080,409.17	\$3,878,143.21 ⁵	35%
4 th	914	\$ 2,447,221.69	\$ 856,527.92 ⁶	35%
5 th	1033	\$ 6,111,219.92	<u>\$1,346,466.70⁷</u>	22%
Total Holdback			\$11,594,560.87.	

⁵ ECF No. 994.

⁶ ECF No. 994.

⁷ ECF No. 1069

The Examiner incorporates herein by reference the objections he filed to the Receiver's first, second, third and fourth fee applications. See ECF Nos. 452, 739, 860 and 940.⁸ Declining to release the holdback amount attributable to the Receiver's first five fee applications would also substantially decrease the amount sought by the Receiver with respect to his CPI-based increase – were the Court inclined to award such relief (which it ought not).

IV. It is Time to Decide this Issue

The Examiner and OSIC agree with the Receiver on one issue – now is an appropriate time to determine what to do with the amounts that have been held back from the prior 82 fee applications, as well as to determine the extent, if any, to which the holdback will be applied to future fee applications.⁹ While the termination of the Receivership may not yet be imminent, the issues concerning the holdback are ripe for resolution.

V. Conclusion

For the reasons set forth above, and in the prior briefing filed by the Examiner and OSIC concerning the Receiver's efforts to have the holdback amount -- and then some -- released, the Examiner and OSIC respectfully submit that the Court should deny the Receiver's motion in its entirety. Alternatively, the Examiner and OSIC urge the Court to consider only a partial release of the holdback amount to the Receiver and his professionals.

⁸⁸ No objection was filed to the Receiver's 5th fee application as the Receiver, the Examiner and the SEC were able to reach an agreement to a modest 2% increase in the holdback amount applied to that 5th fee application.

⁹ The Receiver has seemingly deferred filing any fee applications after his 82nd fee application – which covered the period from June 1 through December 31, 2024, ECF No. 3465 – such that his next application will almost certainly cover at least the period from January 1 through August 31, 2025.

September 10, 2025

Respectfully submitted,

/s/ John J. Little

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COURT-APPOINTED EXAMINER and
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INVESTORS COMMITTEE

CERTIFICATE OF SERVICE

On September 10, 2025, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

I further certify that on September 10, 2025, I served a true and correct copy of the foregoing document via United States Postal Certified Mail, Return Receipt required to the persons noticed below who are non-CM/ECF participants:

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Certified Mail Return Receipt Req.

/s/ John J. Little