


Subject: Emailing: Insight How Allen Stanford kept the SEC at bay - Yahoo! News.htm

Insight: How Allen Stanford kept the SEC at bay

 **REUTERS** *By Murray Waas / Reuters – 11 hrs ago*

Related Content

Texas billionaire Allen Stanford is interviewed in Houston in this April 20, 2009 ...

Texan billionaire Allen Stanford is interviewed in Miami in this May 1, 2008 file ...

Texas billionaire Allen Stanford arrives at the Federal courthouse in Houston in ...

Texas billionaire Allen Stanford flashes a "thumb up" as he leaves the Federal courthouse ...

(Reuters) - In 2009, federal investigators finally arrested Houston financier R. Allen Stanford. For twenty years, Stanford allegedly had run a \$7 billion Ponzi scheme from his offshore bank on the Caribbean island of Antigua. U.S. authorities had been nosing around Stanford's empire for longer than a decade but hesitated to open a full-blown probe.

As Stanford's trial began this week, one question left unanswered was: How did he keep authorities at bay for so long? A Reuters examination of his case finds that the answer lay in part in the legal advice he obtained from former SEC officials and other ex-regulators and law-enforcement officials.

Among those Stanford sought help from was famed securities lawyer Thomas Sjoblom. Then a partner at the international law firm of Proskauer Rose and chair of its securities practice, Sjoblom also was a former 20-year veteran of the U.S. Securities and Exchange Commission's enforcement division.

What Sjoblom allegedly did next for Stanford has drawn the scrutiny of federal prosecutors. The Justice Department has been investigating Sjoblom for possible obstruction of justice, witness tampering, and conspiracy related to his efforts to persuade the SEC to stand down from its investigation of Stanford, according to people familiar with the probe.

Sjoblom is one of the most senior attorneys ever to be investigated for allegedly crossing the line from legal advocacy on behalf of a client to violating the law. He hasn't been charged, however, and it is possible he never will be.

Stanford went on trial on Monday in federal court in Houston on charges that he defrauded more than 30,000 investors from more than 113 countries, and also obstructed the SEC's investigation of him. Only Bernard Madoff is alleged to have stolen more. Stanford has pleaded not guilty.

Prosecutors are likely, in making the obstruction portion of their case against Stanford, to detail Sjoblom's alleged role in assisting Stanford in that effort. Attorneys began their opening arguments on Tuesday.

IMMUNITY SOUGHT, AND REJECTED

People with first-hand knowledge of the matter say that Sjoblom had offered the Justice Department his testimony against Stanford in exchange for a grant of immunity from prosecution for himself - an offer rejected by the Justice Department. Prosecutors demanded a formal acknowledgment by Sjoblom of his own alleged criminal participation in an attempt by Stanford to derail investigations by the SEC, according to people involved in the discussions.

Sjoblom declined to answer questions when reached by telephone as well as inquiries submitted to him by email.

Ordinarily, attorneys are precluded from being witnesses against former clients because of the attorney-client privilege.

But under a legal doctrine known as the crime-fraud exception, an attorney can tell what he knows if his client has sought advice that would abet the commission of that fraud or some other criminal act - or in rare instances, if the attorney himself aided a crime. The crime or fraud disclosed or discussed must also then occur for the attorney to be able to testify. If Sjoblom had testified against Stanford, he would have been one of the most prominent attorneys to turn against such a client.

THE STANFORD EIGHT

The trials could cast light on the broader mystery of how the alleged Stanford fraud could have gone on so long even though federal regulators were examining the Texas financier for years. The case has put the SEC and other federal agencies in an embarrassing light, creating fresh fodder for critics of the revolving door between government and the private sector.

Stanford, Reuters has found, paid at least eight former senior U.S. and foreign regulators and law-enforcement officials for legal advice or investigative services.

Among the former government figures who worked for Stanford is Spencer C. Barasch, who headed the enforcement division of the SEC's office in Ft. Worth, Texas.

Barasch agreed this month to pay a \$50,000 fine for allegedly violating federal ethics laws by representing Stanford after overseeing regulation of Stanford's U.S. brokerage businesses. It is illegal for many former federal regulators, including those at the SEC, to represent private clients if they have "personally and substantially" participated in any matters related to those clients during the course of their government employment.

Examiners at the SEC had suspected as early as 1997 that Stanford was engaged in a Ponzi scheme and felt the SEC should investigate. But year after year, until 2005, their warnings and calls for investigation were ignored by higher-ups.

A FRIEND IN FT. WORTH

In January 2009, the SEC was seeking the sworn testimony of both Stanford and James Davis, the chief financial officer for Stanford International Bank. Davis, Stanford's top deputy, has since pled guilty to securities-fraud and mail-fraud charges and has become a government witness against Stanford and others.

Stanford sought to delay and wear down regulators and investigators, Davis and other witnesses told the government, according to a 2009 plea agreement between Davis and federal prosecutors filed in federal court in Houston.

In 1997, 1998, 2002, 2004, and 2005, according to internal agency records seen by Reuters, examiners for the SEC recommended that the agency investigate Stanford. In three of those instances, Barasch, at the time an SEC official in Ft. Worth, personally overruled the examiners' recommendations, according to those records. Those decisions helped the Ponzi scheme to continue unabated for several additional years, costing investors additional billions of dollars, according to a report by the SEC's Inspector General.

Barasch told the SEC Inspector General that he made those decisions because he was not sure the SEC had the statutory authority or jurisdiction to investigate. He blamed his superiors and a broader culture within the SEC for pressuring the staff not to pursue complex and difficult cases, according to the Inspector General report.

In his final days at the SEC in 2005, Barasch overruled examiners one last time on a request to investigate Stanford, according to the Inspector General report and interviews with SEC officials. The SEC's formal investigation of Stanford began exactly one day after Barasch left the agency.

Barasch referred questions to his lawyer; his attorney didn't respond to requests for comment.

'I HATED BEING ON THE SIDELINES'

Barasch was told at the time by an SEC ethics officer that he was legally precluded from representing Stanford. Barasch went to work for Stanford anyway. In a later investigation of the failure to catch Stanford earlier, the SEC Inspector General asked Barasch why he did so. His reply, according to the Inspector General's report: "Every lawyer in Texas and beyond is going to get rich over this case. Okay? And I hated being on the sidelines."

FBI agents and prosecutors also uncovered evidence that on at least two occasions Barasch sought confidential information regarding the SEC's probe of Stanford during his brief representation of the banker, Justice Department officials said in court records and a press release.

In agreeing to pay the fine, Barasch denied any misconduct, settling the matter "to avoid the expense and uncertainty of protracted litigation," his attorney, Paul Coggins said.

In a related action, the commissioners of the SEC rejected a settlement negotiated between Barasch and SEC staff under which Barasch would have agreed to an order barring him from practicing before the agency for six months. The commissioners rejected the proposed settlement as too lenient, to send a message that its former staff should abide by its rules and federal laws regarding the revolving door.

'REVOLVING DOOR'

"This misconduct highlights the dangers of a 'revolving door' environment between the SEC and the private securities law bar," outgoing SEC Inspector General H. David Kotz said in statement about the Barasch case.

The Justice Department's agreement with Barasch was reported by Reuters earlier this month. The SEC, which has the authority to bar professionals from practicing before the agency, has not announced any disciplinary action.

The SEC is also preparing a separate civil case against another former regulator, Bernerd Young, who worked as a compliance officer for Stanford's bank, said a person familiar with the matter. Before he worked for Stanford, from 1999 to 2003, Young was a district director of the Dallas office of the National Association of Securities Dealers, which was then the brokerage industry's self-regulator. Regulation of the industry has since been taken on by a successor agency, the Financial Industry Regulatory Authority.

Young was notified by the SEC staff last June that they were preparing a civil complaint against him for securities-law and other violations and seeking a lifetime ban on his employment in the securities industry, according to a person who reviewed the SEC's notification to Young. Young hasn't been charged with any wrongdoing.

In November 2007, the Financial Industry Regulatory Authority charged that Stanford had used "misleading, unfair and unbalanced information" and fined him \$10,000, but with no admission of guilt. Young was central to decisions by the NASD not to take tougher action against Stanford, according to government officials involved in the matter.

Randle Henderson, an attorney for Young, said Young had "done absolutely nothing wrong" and that he and Young had been cooperating with SEC investigators. If an enforcement action was brought, Henderson said, he and his client would engaged in a "full and complete and aggressive defense" of the allegations.

THE AIRCRAFT HANGAR SESSION

Sjoblom began work for Stanford as early as 2005, as the SEC began a formal investigation. Barasch began representing Stanford in September 2006.

Barasch's successor at the SEC had reversed course and given a green light for the SEC to investigate. Stanford believed that hiring former SEC officials was the best course to thwart the agency, according to emails written by Stanford to subordinates and later cited by the SEC's Inspector General.

Barasch worked on the case until December 2006, dropping out after SEC ethics officers warned him that any further involvement would violate a federal law.

On January 21, 2009, Stanford, his deputy Davis and other senior executives of the Stanford International Bank met Sjoblom in an aircraft hangar in Miami, Florida, to devise a strategy for fending off the SEC, according to the Davis plea agreement entered in Houston federal court.

Stanford, a bulky man with a thick mustache, paced nervously in the aircraft hangar, according to an account one of the attendees gave to federal investigators. In contrast, Sjoblom appeared calm and collected as they discussed their next move, the attendee told federal investigators.

The group allegedly agreed on a strategy: Sjoblom would go to the SEC and tell officials that both Stanford and Davis knew very little about the business they ran. Instead, he would tell them, two other, lower-ranking executives of the Stanford International Bank understood much better how the bank invested customers' money. He would then propose that they testify in place of Stanford and Davis, according to the plea filed in federal court in Houston.

SJOBLOM'S STRATEGY

Sjoblom knew that these assertions were false, and was also by then aware that Stanford had engaged in a massive financial fraud, according to the Davis plea. Still, Sjoblom moved forward with the effort to obstruct the SEC investigation, the Justice Department alleged in the Davis plea.

Early the next morning, on Jan 22, 2009, Sjoblom met in Houston with attorneys for the SEC, according to the Davis plea. There, Sjoblom told the SEC staff that Stanford and Davis did not "micro-manage" clients' portfolios. Taking Sjoblom's word, the SEC agreed to delay the testimony of Stanford and Davis, according to the plea filed in Houston federal court.

The Justice Department has since alleged that Sjoblom's actions constituted an obstruction of their investigation. Based in part on information given them by Davis, federal prosecutors alleged that Sjoblom continued trying to prevent the SEC from learning the truth even after Sjoblom learned about Stanford's massive fraud.

After convincing the SEC to forego Stanford's and Davis's testimony, Sjoblom allegedly helped prepare Laura Pendergest-Holt, Stanford International's chief investment officer, to testify in their absence, according to the Davis plea and an indictment against Pendergest-Holt in federal court in Houston.

Prosecutors allege that in reality, Stanford and Davis were the only two Stanford executives intimately familiar with the finances of the company. Pendergest-Holt only learned the full extent of the fraud around the same time that Sjoblom did, when the two were preparing her to testify before the SEC, federal prosecutors assert. Pendergest-Holt and Sjoblom learned then that the firm was insolvent and most of its financial claims fictional, prosecutors allege in the Pendergest-Holt indictment and the Davis plea.

On February 5, Stanford admitted to Davis and Sjoblom that his bank's "assets and financial health had been misrepresented to investors, and were overstated," according to Davis's plea agreement with prosecutors.

\$4 MILLION MORE?

Instead of dropping Stanford as a client and setting the record straight with the SEC, Sjoblom went back to Davis and Stanford with an offer, Davis told the FBI, according to a person familiar with the case. Sjoblom told the pair that they both faced serious criminal jeopardy and asked each to pay him a retainer of \$2 million to represent them personally, for a total of \$4 million, this person said. That money would have been in addition to what Stanford's firm had already paid Sjoblom's firm. It is not clear whether the additional money was paid.

On February 10, Pendergest-Holt gave testimony to SEC officials. That morning, Davis admitted in his guilty plea, he phoned Pendergest-Holt and encouraged her to lie to "continue to obstruct the SEC investigation," according to the Davis plea agreement.

During her testimony, Pendergest-Holt said she knew little about the assets the SEC wanted to know about. All during her testimony, Sjoblom sat at her side, as five attorneys from the SEC's enforcement division fired away questions.

A federal grand jury later indicted her on obstruction of justice and conspiracy charges related to her allegedly false testimony. She is currently awaiting trial. Her lawyer declined to comment.

The indictment of Pendergest-Holt also implicated Sjoblom. "Holt, Attorney A and others would make false and misleading statements to the SEC staff attorneys in order to persuade them to delay" Stanford's testimony while Pendergest-Holt would "provide false testimony," the indictment alleged.

Days after Pendergest-Holt's testimony, on February 14, Sjoblom resigned as a lawyer for Stanford and wrote to the SEC: "I disaffirm all prior oral and written representations made by me and my associates to the SEC staff."

Federal prosecutors are looking to Pendergest-Holt to see if she corroborates Davis' testimony regarding Sjoblom, and will then decide whether to charge Sjoblom, according to sources close to the case. (editing by Martin Howell and Michael Williams)

(Reporting By Murray Waas)

[@yahoonews](#) on Twitter, become a fan on [Facebook](#)

Explore Related Content

[R. Allen Stanford arrives at federal ...](#)

1. [Allen Stanford pleads not guilty to ...](#)

HOUSTON (Reuters) - Texas financier Allen Stanford pleaded not guilty on ... [Full Story »Allen Stanford pleads not guilty to 14 counts](#)

[Texas billionaire Allen Stanford](#)

88 comments

- Popular Now
- [Newest](#)
- [Oldest](#)

- [Most Replied](#)

- [South Pasadena, California](#) • 6 hrs ago

The darling of Free Market doctrinaires, industries "policing" themselves. Yah sure...

-

- [Hamel, Illinois](#) • 4 hrs ago

even when it is blantly obvious that these people were misleading the SEC they still have not been charged with a crime ! if a poor man stole a sandwich because he was hungry he would be taged an bagged before he ate it ! but lawyers have created a system that they are exempted from the rules of law that apply only to the rest of us ! not to mention useing there positions at the SEC to premote and sell themselves to the very people they are to be watching ! that is not a revolving door ! that is treason ! and it is not supriseing it all happened in Texas while Bush was in office ! do we the people really think that "these foxes are going to fix the hen house" after doing such a great job guarding it ? yea right!

-

- [Houston, Texas](#) • 6 hrs ago

Over 30,000 people wounded by all of this.... due to GREED with the help of government employees. Well.....I'm in favor of a public hanging in the Astrodome...like in the old west!
Think it would STOP all this CRAP ?

•

- [Fayetteville, North Carolina](#) • 6 hrs ago

and we are surprised that lawyers are crooks how can that be.

•

- [Irvine, California](#) • 5 hrs ago

I was OSJ (Office of supervisory Jurisdiction) with SEC. I resigned 3 years ago as it was such a joke. There was very little actual investigation. It was all about finding some thing to fine the Broker/Dealer firms for. I never saw an actual "review" of the investments the Broker/Dealers were using to generate the substantial money being made.

•

- [Houston, Texas](#) • 5 hrs ago

What I can't believe is there are people involved who will not go to jail. Two classes in US seems to be true.

•

- [Tampa, Florida](#) • 5 hrs ago

So how's that self-regulating free market doing . . . ?

(snicker)

•

- 5 hrs ago

I would like to hear from someone on how unregulated free markets would prevent something like this.

•

- 6 hrs ago

"Sjoblom had offered the Justice Department his testimony against Stanford in exchange for a grant of immunity from prosecution for himself"

Now there's a lawyer for you, throws his best client under the bus to save his own sorry, sorry skin.

•

• [Cascade Twp, Michigan](#) • 5 hrs ago

These boys deserve either the death penalty or life in prison. They destroy lives by the thousands. Instead we send them to resort prisons. Money rules all in the USA...just ask the Supreme Court.

•

• [Kansas City, Missouri](#) • 7 hrs ago

Corrupt lawyers, judges and money managers? Corruption in the SEC and other branches of the government? I am shocked, I don't know how I'll sleep tonight. The next thing that you know is they'll uncover corruption in our congress, senate, military or even our president. Say it can't be so, just say it can't be so.

•

• [New York, New York](#) • 11 hrs ago

How in the world, were these people with money... ever able to hold on to it, when they have to hand it over to a crook like this to manage it. Stay alert, educate yourself. Live and love within your mean!...?

•

• [Melbourne, Australia](#) • 3 hrs ago

Outstanding analysis. Congrats to the reporter!!!!

•

• 4 hrs ago

The SEC? Isn't that the same group that rated all that sub prime junk triple AAA? And caused like what..? ... oh, yes, a housing bubble, that brought the western financial industry to its knees? Like, what are they really going to do the the big money guys? Hell, they are ran, and work for Wall St, and the major too big to fail banksters now.

- - *8 hrs ago*

Politics aside, you would be surprised at the fraud that is not or cannot be prosecuted in the middle to upper middle class. A fraudulent website developer who passed through here (his passage took years) has defrauded people in at least 3 states. He was recently acquitted in Florida because it was not possible for a jury to discern a bad business deal from fraud. And the out of state stuff doesn't count. Do a cheesy drug deal, however, and you'll be in the pen very quickly. And stoke the flames of CHAOS on the border and in Mexico. 99, back to you.

- - [Melbourne, Australia](#) • *3 hrs ago*

Exceptional insights into how the average person cannot have a fair go when the rich and wicked get to hire the best to hide themselves.

- - [Templeton, Iowa](#) • *4 hrs ago*

just another member of the bush crime family.these are the same people the republicans are giving multi million dollar tax breaks to so they can create jobs

- - [Portland, Oregon](#) • *5 hrs ago*

It all sounds very good, and I am pleased that the SEC didn't give immunity to the attorney. I'll wait to see how it plays out though. This guy had to have bought more than just SEC regulators, so I'll wait to see who goes free.

- - [Yakima, Washington](#) • *5 hrs ago*

I'm glad the corruption here is being exposed. I hope they can prosecute everyone involved.

- [Beaufort, South Carolina](#) • 5 hrs ago

Another "job creator" faces justice...

[More](#)

[Post a comment](#)

News For You

- [Alec Baldwin Says He Found Love After He Gave Up, Would 'Be Heaven' To Have More Kids](#)
- [Hispanics in focus as GOP race intensifies](#)
- [Vice President Biden Calls Gingrich Food Stamp Charge 'Ridiculous'](#)
- [In Myanmar, a "sham" parliament stirs to life](#)
- [Carnival sued by crew member over cruise ship disaster](#)
- ['Cash-Mob' Rallies Behind Popular Small Town Hardware Store](#)
- [Kristen Bell happy about new show 'House of Lies'](#)
- [Romanov descendant looks for love on Ukraine show](#)
- [Argentine leader shows off scar after cancer scare](#)
- [Tax the rich? GOP candidates say no way](#)

AdChoices

Loading...

Featured

•

[Breaking News from ABC News](#)

Get breaking news, videos, blogs and more at ABC News. [More »Breaking News from ABC News](#)

•

[Newt tones it down](#)

Gingrich is muting his attacks on Romney in an effort to seem more presidential. [More »Newt tones it down](#)

-

[Greg Kelly](#)

Son of New York Police Commissioner accused of rape. [More »Greg Kelly](#)

Education

1.

[What's the hottest field right now?](#)

See how you could prepare for a career in this hot industry.

2.

[How to: Switch careers in one year](#)

See how the right certificate program could prepare you for a new career in one year.

On This Site

- [Home](#)
- [U.S.](#)
- [World](#)
- [Business](#)
- [Entertainment](#)
- [Sports](#)
- [Tech](#)

- [Politics](#)
- [Science](#)
- [Health](#)
- [Blogs](#)
- [Local](#)
- [Popular](#)

Also On Yahoo!

- [Autos](#)
- [Finance](#)

- [Games](#)
- [Groups](#)
- [Health](#)
- [Maps](#)

- [Movies](#)
- [Music](#)
- [omg!](#)
- [Shine](#)
- [Shopping](#)
- [Sports](#)

- [Travel](#)
- [TV](#)
- [Y! News RSS](#)
- [Y! News Alert](#)

[All Yahoo! »](#)

Trending Now

1. [Fran Drescher](#)
2. [Vanna White](#)
3. [Blue Ivy godmother](#)
4. [Khloe Kardashian](#)
5. [Callista Gingrich hair](#)

6. [Katherine Heigl](#)
7. [Nitrous oxide](#)
8. [Tech stocks](#)
9. [Atlanta officer struck](#)
10. [Obesity lunches](#)

*(c) Copyright Thomson Reuters 2012. Check for restrictions at: <http://about.reuters.com/fulllegal.asp>
 Copyright © 2012 Yahoo! Inc. All rights reserved. | Yahoo! - ABC News Network |*

- [Help / Suggestions](#)
- [Privacy Policy](#)
- [About Our Ads](#)
- [Terms of Service](#)
- [Copyright/IP Policy](#)