

## Eliot Ivan Bernstein

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**Subject:** FW: EIB MUST READ!!! AM LAW --- Stanford Trial Drags Former Proskauer, Chadbourne Partner Back into Spotlight.htm

-----Original Message-----

From: Eliot Ivan Bernstein [mailto:iviewit@gmail.com]

Sent: Thursday, February 09, 2012 12:47 PM

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Crystal Cox blog on Tom Sjoblom mentioned here, interesting

<http://amlawdaily.typepad.com/amlawdaily/2012/02/tom-sjoblom.html>

February 8, 2012 8:00 PM

Stanford Trial Drags Former Proskauer, Chadbourne Partner Back into Spotlight Posted by Brian Baxter Once the cochair of Proskauer Rose's securities practice, Thomas Sjoblom saw his legal career hit a snag three years ago this month when former client R. Allen Stanford was charged with running a \$7 billion Ponzi scheme.

Now the former Proskauer and Chadbourne & Parke partner, who has his own solo practice in Washington, D.C., is getting fresh attention with Stanford's federal criminal trial under way in Houston.

On Wednesday, James Davis, the former chief financial officer for Stanford Financial Group (SFG), wrapped up a four-day turn as the prosecution's star witness. Subjected to blistering cross-examination by one of Stanford's lawyers during his time on the stand, Davis admitted

cooking SFG's books, but also claimed Stanford was in on a scheme that cost investors billions.

A group of Mexican investors filed three class action suits last month against Sjoblom, Proskauer, and Chadbourne in Texas state court. The suits accuse Sjoblom and his former firms of aiding Stanford's massive fraud by obstructing an SEC investigation into SFG and 140 other Stanford-affiliated companies around the world. (Click here for one of the three nearly-identical 94-page complaints, courtesy of Courthouse News.) Last week, Sjoblom, Proskauer, and Chadbourne were also targeted in another suit filed by the Stanford estate's court-appointed receiver, Ralph Janvey of Dallas-based Krage & Janvey. Janvey seeks \$1.8 billion in damages from the three defendants, whom he claims turned a blind eye to Stanford's alleged fraud and successfully stalled an SEC inquiry into the purported Ponzi scheme for years. (Click here for the 87-page complaint, also courtesy of Courthouse News.) "The allegations in these lawsuits are the same that we've seen previously," a Chadbourne spokesman said in a statement to The Am Law Daily. "Prior litigation against our firm regarding Stanford was dismissed, and we do not believe these latest attempts should be any more successful." In a similar statement, a Proskauer spokesman said: "We are confident that these [copycat] suits are baseless and will be dismissed as well."

The basis for those statements is the dismissal by a federal judge in Dallas last October of the class action filed against Proskauer, Chadbourne, Sjoblom, and former SFG general counsel P. Mauricio Alvarado, who resigned a day before the SEC formally charged Stanford.

The plaintiffs' counsel in that suit—led by Dallas's Neligan Foley and San Antonio's Castillo Snyder—cited Texas securities law in a bid to bypass the U.S. Supreme Court's Stoneridge v. Scientific-Atlanta ruling, which limits the filing of securities claims against professional advisers. In a one-page order, U.S. district court judge David Godbey ruled that the Securities Litigation Uniform Standards Act of 1998 preempted such state law claims.

Neligan Foley and Castillo Snyder are also behind the potential class actions filed against Sjoblom, Proskauer, and Chadbourne in Texas state court last month. The two firms, who represent the official committee of Stanford investors, are also listed as cocounsel in the suit filed last week on Janvey's behalf against the same defendants in U.S. district court for the District of Columbia by Houston's Hohmann, Taube & Summers and Strasburger & Price. The suits' common claim against Sjoblom is that he either knew Stanford was breaking securities laws and chose to ignore it, or that he knowingly misled SEC investigators until he and Proskauer made a "noisy withdrawal" and dropped Stanford as a client in February 2009, disavowing all prior statements made on the disgraced financier's behalf.

The Stanford case represents a major bump in Sjoblom's career. Before entering private practice, he spent nearly 20 years at the SEC, prosecuting numerous white-collar cases as assistant chief litigation counsel in the regulator's enforcement division.

A year after joining Chadbourne as a partner in 2002—in a foreshadowing of what was to come—Sjoblom spoke with ALM publication Legal Times about the ramifications of a "noisy withdrawal" clause proposed for inclusion in the Sarbanes-Oxley Act. The provision would have unequivocally required lawyers to report to the SEC any decision to no longer represent a client public company that didn't adhere to the warnings from outside counsel about potential misconduct.

Sjoblom told Legal Times that the noisy withdrawal provision would place an undue burden on transactional lawyers, calling it "unthinkable" to place a similar requirement on litigators representing a client in an SEC investigation. The ultimately watered-down version of the provision included in Sarbanes-Oxley gives attorneys a choice about whether to reveal confidential client information if they believe doing so will ameliorate investor losses and prevent future crimes.

While many legal experts praised Sjoblom's noisy withdrawal in the Stanford case at the time, according to our previous reports, his practice appears to have withered over the past three years.

At Chadbourne, Sjoblom's clients included former HealthSouth CEO Richard Scrushy and ex-Princeton Economics International chairman Martin Armstrong. He left the firm in September 2006 for Proskauer, working out of that firm's offices in New York and Washington, D.C. When Proskauer was hit with the initial Stanford-related class action in August 2009, and Chadbourne added as a defendant to the ultimately unsuccessful suit the following October,

Sjoblom left Proskauer. (Davis Polk & Wardwell and Dallas-based Carrington, Coleman, Sloman & Blumenthal represented Proskauer in the litigation, while Chadbourne turned to Paul, Weiss, Rifkind, Wharton & Garrison and Vinson & Elkins.) What Sjoblom "who has not been criminally charged in connection with the Stanford case" has been busy with since then is unclear. He did not respond to a request for comment.

Former Bryan Cave partner James Cole initially advised Sjoblom in the aftermath of SFG's collapse. Cole was nominated in early 2010 to become deputy U.S. attorney general, installed in the job by President Obama as a recess appointment in December 2010 in the wake of tough questioning by a congressional committee, and eventually confirmed to the post by the Senate last June.

Sjoblom is now being represented in civil litigation by a team of lawyers led by McKenna Long & Aldridge partner Joshua Hochberg in Washington, D.C., and Fish & Richardson partner William Mateja in Dallas. Mateja, who is serving as Sjoblom's local counsel, declined to comment about his client. Hochberg did not return a phone call.

Some of the silence can be attributed to a gag order U.S. district court judge David Hittner in Houston has imposed on lawyers and other individuals connected to the criminal prosecution of Stanford and three other former SFG executives set to face trial later this year.

Unfortunately for Sjoblom, perhaps, the court record is not bound by that order.

Among the potentially damaging elements of that record is the story recounted by Davis, the former CFO of SFG, who faces up to 30 years in prison after pleading guilty in August 2009 to fraud charges and agreeing to cooperate with federal prosecutors.

As part of his 23-page plea agreement with the Justice Department, Davis spells out his version of Sjoblom's representation of Stanford beginning in 2005. Davis states that an "Outside Attorney A" a phrase used by federal prosecutors to refer to Sjoblom, according to our previous reports "worked with Stanford to stymie an SEC investigation into SFG.

As previously noted by The Am Law Daily, the SEC testimony provided by former SFG chief investment officer Laurie Pendergest-Holt, who has pled not guilty to federal fraud charges, also raised questions about Sjoblom's role in representing Stanford.

The testimony that Davis and Pendergest-Holt offer during Stanford's trial could determine whether federal charges will yet be brought against Sjoblom. (Citing anonymous sources, Reuters reported last month that Sjoblom had offered to testify against Stanford in return for immunity from prosecution from the Justice Department, an offer that was rejected.)

Internet domain name records show that the Web site for Sjoblom's firm, TVS-Consult.com, was created on September 29, 2009 "about a month after Sjoblom left Proskauer. He does not, however, appear to own the domain name for his own name. Records show that ThomasSjoblom.com "which is home to a blog updated regularly with claims about Sjoblom's alleged role in covering up Stanford's scheme" was created last June.

Sjoblom can take solace in one fact. He isn't the only lawyer whose reputation has suffered as a result of the Stanford scandal.

Last month the head of Andrews Kurth's corporate governance and securities enforcement group, former SEC lawyer Spencer Barasch, agreed to pay a \$50,000 fine as part of a civil settlement of charges that he violated federal conflict of interest and ethics rules by signing on to represent Stanford in 2006 shortly after leaving the public sector.

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