Stanford Suits Get Court Review in Securities-Fraud Test

By Greg Stohr - Jan 18, 2013 4:38 PM ET

The U.S. Supreme Court agreed to use a case involving investors in R. Allen Stanford's $7 billion Ponzi scheme to consider tightening the limits on securities- fraud suits.

The justices today said they will review a federal appeals court ruling that let aggrieved investors sue law firms and outside companies for their alleged roles in Stanford's international fraud.

The case will test a 1998 law enacted to prevent investors from using state courts to circumvent federal restrictions on class-action securities claims. Federal law prohibits punitive damages, requires higher levels of proof than many state laws and bars "aiding and abetting" suits.

Under the 1998 law, known as the U.S. Securities Litigation Uniform Standards Act or SLUSA, investors can't sue under state law if the case is based on a misrepresentation made "in connection with the purchase or sale of a covered security."

The question for the Supreme Court is how close that connection must be. Lower courts have established a variety of tests for determining whether the connection exists.

Similar issues have arisen in suits stemming from Bernard Madoff's fraud.

Poison Case

The Stanford case was one of four the court today agreed to review. The justices will take a second look at the case of a woman convicted under a federal anti-terrorism law after spreading caustic substances on the home and car of her husband's pregnant lover.

The court said in 2011 that the accused woman, Carol Anne Bond, had the right to argue that the law can't constitutionally be applied to a local domestic dispute. A federal appeals court rejected that argument, saying Congress has wide authority to enact statutes that implement treaties, in this case a chemical- weapons agreement.

Bond contends that Congress's treaty powers don't let it infringe on state prerogatives, at least when the intrusion isn't necessary to meet the government's obligations under the accord.

The Obama administration urged the court not to hear Bond's appeal. The government said

Congress had other sources of authority to enact the 1998 statute, including the constitutional power to regulate interstate commerce.

The case is Bond v. United States, 12-158.

Employment Retaliation

The high court also agreed to use a case involving a professor at a Texas medical school to decide how much workers must prove to win some retaliation claims under the primary federal job-discrimination law.

The issue involves so-called mixed-motive cases -- when an employer has multiple reasons for firing or demoting a worker, including an improper one. The court will decide whether a worker must show that the improper motive was the driving force for the firing, and that the employer otherwise wouldn't have taken action.

In the case before the court, Naiel Nassar says he was denied a preferred position with an affiliated hospital because he complained about suffering discrimination on account of his Middle Eastern background.

The case is University of Texas Southwestern Medical Center v. Nassar, 12-484.

Deception Alleged

The court didn't say whether it will hear the new cases during its current nine-month term or the one that starts in October.

The defendants in the Stanford case include units of Willis Group Holdings Plc (WSH), a London-based insurance broker. They are accused of writing letters that gave the investors reason to believe the certificates of deposit they bought were backed by safe, liquid investments. The investors sued the units along with the administrator of a trust Stanford used in his scheme.

Investors are also suing two law firms, Proskauer Rose LLP and Chadbourne & Parke LLP, for allegedly lying to the Securities and Exchange Commission and helping Stanford evade regulatory oversight. The defendants deny wrongdoing.

The CDs, issued by Stanford's bank and sold by his securities firm, don't qualify as "covered" under the federal SLUSA law. That means the CDs by themselves don't give the defendants the right to have the state-law case dismissed.

The law firms and Willis units argue that SLUSA applies because of Stanford Financial Group Co.'s promises to use proceeds from the investments to buy securities that are covered.

Covered Securities

"It is difficult to see how those allegations do not involve a misrepresentation made directly in connection with transactions in SLUSA-covered securities," Chadbourne & Park said in court papers.

A group of investors led by Samuel Troice argued that Stanford Financial's promises "do not transform fraud in the purchase and sale of the CDs into fraud in connection with the purchase or sale of a covered security."

A New Orleans-based federal appeals court said SLUSA didn't apply because the alleged misrepresentations were "only tangentially related" to any covered security. The ruling let suits filed under Louisiana and Texas state law go forward, reversing a trial judge who had thrown out the claims.

The Supreme Court agreed to hear the case against the advice of the Obama administration. The government said that, although the appeals court reached the wrong conclusion, the case was so "idiosyncratic" it was unlikely to have broader implications.

Stanford Conviction

A federal jury convicted Stanford in March 2012 on 13 charges brought in connection with his Ponzi scheme, including four counts of wire fraud and five of mail fraud. He was sentenced in June to 110 years in prison.

Prosecutors said Stanford wasted investors' money on failing businesses, yachts and cricket tournaments and secretly borrowed as much as $2 billion from his bank.

In a Ponzi scheme, money from the newest investors is used to fund the returns that have been promised to previous investors.

The Supreme Court cases are Chadbourne & Park v. Troice, 12-79; Willis v. Troice, 12-86; and Proskauer Rose v. Troice, 12-88.

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Bosko Dewlapp 3 hours ago

Stanford's Investors, exactly like Madoff's Investors, knew that those outrageous returns couldn't be real. The deserve every loss they suffered and should get stuck. These suits are nothing more than greedy lawyers getting free money.

Reply