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Scorcher Accuses Lawyers in Stanford Ponzi

By DAVID LEE

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DALLAS (CN) - A former partner with Proskauer Rose and Chadbourne & Parke helped the law firms participate in R. Allen Stanford's \$7 billion Ponzi scheme, the court-appointed receiver claims in court.

Court-appointed receiver Ralph Janvey and the Official Stanford Investors Committee sued both law firms and Thomas V. Sjoblom, in Federal Court on Thursday.

Janvey says Sjoblom, of Virginia, was a partner at Chadbourne from 2002 to 2006 and a partner at Proskauer from 2006 to 2009.

"Defendants' legal services and other services assisted a fraudulent scheme that enabled and assisted Allen Stanford and his co-conspirators in misappropriating billions of dollars in assets from Stanford Financial companies, and therefore from the Committee as assignee from the Receiver," the 116-page complaint states.

"As a result of this conduct, defendants are directly liable for fraud."

Janvey claims the defendants' obstruction of regulatory investigations was essential to the survival of the scheme and that without it, "Allen Stanford and his co-conspirators would not have been able to execute the Ponzi scheme, and billions of dollars in damages to Stanford Financial companies ... would have been avoided."

The complaint adds: "Indeed, defendants' actions were taken to protect the Stanford Ponzi scheme and to avoid regulatory intervention so that the Stanford Ponzi scheme could continue and Stanford Financial could continue paying defendants' bills."

Janvey claims that Stanford Financial hired Chadbourne and Sjoblom in 2005 to defend and obstruct an SEC investigation.

Janvey claims Sjoblom was the "perfect fit" because he had been a high-ranking SEC attorney for 20 years and knew many of the lawyers involved in the investigation.

Despite Sjoblom's finding several red flags of fraud during his due diligence, Chadbourne agreed to represent Stanford Financial and several affiliates through all stages of the investigation, Janvey says in the complaint.

"These facts demonstrate that as of August 2005, defendant Sjoblom ... knew that Stanford Financial was, at best, committing securities fraud through an unregulated investment company based in Houston, Texas that issued securities from an offshore bank in the most corrupt fraud haven in the Caribbean. At worst, Sjoblom already knew that Stanford Financial was running a Ponzi scheme," the complaint states.

It continues: "Instead of declining the engagement, however, Sjoblom eagerly agreed to help. After concluding his due diligence, Sjoblom reported back to Talbert Navia and agreed to represent Stanford Financial. On August 23, 2005, Navia and Sjoblom executed the engagement letter on behalf of Chadbourne, agreeing to represent Stanford Financial and its affiliates SGC and SIBL through all stages of the SEC's ongoing investigation. That same day, Sjoblom called the SEC and told the Commission that SIBL [Stanford International Bank Ltd.] would not voluntarily produce any documents and that the SEC did not have jurisdiction over SIBL."

Sjoblom misrepresented material facts and law to the SEC in a 2005 letter, Janvey says in the complaint: "Sjoblom's letter flatly rejected the SEC's allegations of fraud and argued that the Commission lacked jurisdiction over SIBL's CD [certificates of deposit] program because the CDs did not constitute 'securities' under U.S. law. In short, Sjoblom stated that if SIBL became insolvent, SIBL's CD holders were 'virtually guaranteed payment in full' because they were protected by Antigua's comprehensive banking regulations and SIBL's excess capital and supplemental insurance coverage. Incredibly, Sjoblom also stated that an investment in SIBL was actually *safer* than investing in a U.S. bank."

"At the time Sjoblom sent this letter, he already knew that SIBL had grossly inadequate insurance to protect against the risk of loss from its own insolvency. He also knew that Antigua's FSRC lacked the independence necessary to regulate SIBL. Indeed, in addition to Sjoblom's knowledge that Leroy King had provided highly confidential information and documents to him, Sjoblom also knew about Allen Stanford's key role in developing Antigua's banking regulations, a fact that shreds any remaining doubt about the legitimacy of SIBL's purported regulator in Antigua.

These facts demonstrate that Sjoblom had no reasonable basis to assert that SIBL's CDs were not securities under U.S. law. Moreover, his fellow law partner, Peter Ingerman, had already told Sjoblom that he did not see how SIBL's CDs were not securities." (Emphases in complaint.)

Leroy King, who is not a defendant here, is described in the complaint as "Stanford's good friend and former head of Antigua's financial regulator, the Financial Services Regulatory Commission."

Janvey claims that Sjoblom also tried to hide the SEC investigation from auditor BDO Seidman, and told BDO that the matter was mostly related to "amending compliance procedures," and that it was just a routine examination.

"Sjoblom's audit response letter wrongfully concealed the SEC investigation and his representations to BDO regarding that investigation were patently and intentionally false," the complaint states.

Janvey claims that the "obstructionary shell game" continued when Sjoblom left the firm in 2006 to join Proskauer; that he advised Stanford Financial to violate SEC subpoenas by withholding critical documents; and continued to conceal the SEC investigation from BDO, among other things.

However, "On February 2, 2009 - after years of lying to the SEC, withholding documents, and generally helping his client obstruct the Commission's investigation - Sjoblom finally became nervous," the complaint states. "He asked [attorney Jacqueline] Perrell to review the Sarbanes-Oxley Act and determine a lawyer's duties when he suspects his client is engaged in securities fraud. Perrell sent him Section 307 of the Act, which requires a lawyer to 'report up' the fraud to his client's Chief Legal Officer or Chief Executive Officer, and if that is unsuccessful, to report up to the Board of Directors and/or resign."

But that made no difference to Sjoblom, Janvey says.

"Instead of complying with the Act, however, Sjoblom kept going," the complaint states. "In fact, on February 3, 2009, Sjoblom signed and forwarded the final draft of his response letter to the SEC's Kevin Edmundson. Sjoblom's letter continued to argue that Antiguan privacy laws prohibited SIBL from disclosing its investment information, even though Sjoblom was unable to confirm the veracity of this argument and never received an independent opinion from licensed Antiguan counsel."

In November 2012, Janvey and the Stanford Investors Committee sued the law firms Greenberg Traurig, Hunton & Williams and attorney Yolanda Suarez, of Miami, in Federal Court. Janvey claimed that Stanford could not have perpetrated the scheme on his own, that he needed "corrupt regulators in his chosen offshore jurisdiction of Antigua, shady accountants, and skilled and complicit lawyers to help him."

According to that 172-page complaint, Stanford "found the perfect match in Carlos Loumiet, a Miami international banking lawyer who was Stanford's kindred spirit and legal facilitator for over twenty years, and Yolanda Suarez, Loumiet's protégé who rose to become Stanford's chief of staff and right hand."

Janvey claimed in the Miami lawsuit that Greenberg Traurig helped Stanford buy his way into Antigua after he was forced to surrender his bank licenses forMontserrat in 1990, and that the firm's records show he corrupted Antiguan officials by giving them loans and kickbacks disguised as political contributions.

Janvey claimed that Stanford fled Monserrat because he could not exert absolute control over its government.

Janvey also claimed that in 1991, Greenberg helped Stanford silence Financial Times journalist Tony Hetherington, who published articles questioning how SIBL could be selling bank products from the United States, as it had no banking license there.

Last week, U.S. District Judge David Godbey in Dallas ruled that hundreds of investors who earned interest on the phony CDs cannot keep their profits.

Godbey granted partial summary judgment to Janvey, in several fraudulent transfer and disgorgement lawsuits Janvey filed against former Stanford entities and employees, individual investors, and recipients of Ponzi scheme proceeds.

"The court recognizes that forcing net winners to pay back interest payments will cause some pain," Godbey wrote. "But for victims of a Ponzi scheme, everyone is a loser. And the net winners will be in far better shape, having recovered at least their principal, than most Stanford victims, who lost everything."

He added: "Allowing net winners to keep their fraudulent above-market returns in addition to their principal would simply further victimize the true Stanford victims, whose money paid the fraudulent interest. Although other courts have sometimes disagreed, the court finds that avoiding the interest payments is the most equitable and just solution to a difficult problem."

In his latest complaint, Janvey and the Investors Committee seek actual and punitive damages for negligence, aiding and abetting, breach of fiduciary duty, participation in a fraudulent scheme, fraudulent transfer, conversion, conspiracy,

negligent retention and negligent supervision.

They are represented by Guy Hohmann with Hohmann Taube in Austin. 

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