

**THE EASTERN CARIBBEAN SUPREME COURT  
IN THE HIGH COURT OF JUSTICE  
ANTIGUA AND BARBUDA**



**Claim No. ANUHCV 2009/0149**

**In the Matter of Stanford International Bank Limited (In Liquidation)**

**-and-**

**In the Matter of the International Business Corporations Act, Cap 222 of the  
Laws of Antigua and Barbuda**

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**SEVENTH REPORT OF THE JOINT LIQUIDATORS OF STANFORD INTERNATIONAL BANK (IN  
LIQUIDATION)**

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## The Eastern Caribbean Supreme Court

In The High Court of Justice Antigua and Barbuda  
St. John's Antigua  
Claim Number: ANUHCV 2009-0149

Joint Liquidators'  
Seventh Report to the Court  
In the matter of Stanford International Bank in Liquidation

11 November 2015

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## **1 Introduction**

- 1.1 We refer to the appointment of Marcus A. Wide and Hugh Dickson as the Joint Liquidators ("the JLS") of Stanford International Bank Limited ("SIB") by Order of the High Court of Antigua and Barbuda on 12 May, 2011. In accordance with paragraph 18 of that order, we now submit our Seventh report to the Court.
- 1.2 The JLS' Sixth report to the Court was dated 11 November 2014 ("the Sixth Report").

## **2 Highlights**

- 2.1 In mid-September, the Ontario Superior Court of Justice heard the summary judgment motion of TD seeking dismissal of the JLS' \$5.5 billion claim. TD's position was that the JLS' claim was commenced too late and was therefore limitations barred. After hearing the parties' written and oral submissions, the Court agreed with the JLS' position and dismissed TD's motion. The Court held that the limitations issue could not be addressed on a summary judgment motion and that a trial of the issue was therefore required. The Judge who heard the motion will remain as case management judge and has invited counsel for the parties to meet with her to agree on a timetable and process for the path to trial.
- 2.2 As advised in the previous report, an *Amicus Curiae* was appointed to assist the court in respect of the right of the Joint Liquidators to clawback amounts that they asserted were "preferential" or "net winners" and therefore were "oppressive" under Section 204 of the International Business Companies Act

of Antigua ("the Act"). Following a three day hearing before the Antiguan court in March 2015 the Judge delivered an Order in his July 2015 sitting. The written reasons of the Judge in support of his Order were provided after his November 2015 sitting. In summary, the Court agreed that the estate has the right to clawback payments that were part of the run on SIB under this section and by inference also net winners. However, in exercising his discretion, he has limited recoveries to a holdback against future distributions. The effect of this is that "net winners" get a free pass, while those who still have claims in the estate will be required to "repay" to the extent that there are dividends payable from the Liquidation.

- 2.3 The JJs will assess whether or not this decision is appealable.
- 2.4 As this issue still remains live, we have had to move forward with issuing claims against both "preferences" and "net winners" in the Antiguan courts to ensure that time limits in relation to statute of limitations are adhered to. An explanatory letter will accompany these claims, indicating that some of these claims may not be pursued.
- 2.5 We are still open to discussing settlement options with net winners and those creditors subject to S204 Claims who wish to participate in future distributions.
- 2.6 The issue of the professional fees of the Former Liquidators is still unresolved despite attempts to negotiate a resolution. The estate has issued a claim for damages against the Former Liquidators with respect to losses incurred during their management of the estate. The value of our claim against the Former

JL's exceeds their outstanding claim against the SIB estate for fees of US\$9.2 million. We expect that their claim for fees and our claim for damages will be heard concurrently, possibly in the spring 2016 sitting of the Court. In the interim we will continue our efforts to negotiate an out of court resolution on this issue. In this context we have a date of 26 November for a UK meeting to attempt settlement.

- 2.7 We are still attempting to recover approximately US\$210 million of frozen assets in Switzerland in conjunction with the US Receiver and the US Department of Justice. As previously noted the administration of the Swiss mini-bankruptcy of SIB, which is an ancillary proceeding to the Antiguan liquidation, has been transferred from the Swiss regulatory authority, FINMA, to a private Swiss professional bankruptcy trustee. The JL's met with this Trustee in late September 2015 to try and accelerate the recovery of these monies.
- 2.8 One of the principal reasons for the delay is the claim of Societe General (SG) to indemnity out of the Swiss assets, for its costs and any penalties arising from claims filed by OSIC in the US. This has resulted in a secured claim in the Swiss estate, which is being challenged by the Trustee.
- 2.9 In the meantime we are supporting the criminal prosecution of SG and one of its senior employees for *inter alia*, facilitating apparent money laundering activity on the part of Robert Allan Stanford ("RAS") and others. We are also participating as civil litigants in the criminal proceedings against them.

- 2.10 The distribution process for the first interim dividend of 1% is nearly complete, having withdrawn the wire transfer option except for major claims or payments to lawyers on behalf of multiple creditors. There were a surprising number of creditors who filed claims who did not respond to our request to select a cheque or wire transfer payment. Given we have withdrawn the wire transfer option, all those with filed claims are now receiving cheque payments.
- 2.11 We have been successful in settling with Vingerhoedt, a former President of SIB and other Stanford related entities, in the sum of \$3.3million in respect of funds he received which we say were not directly related to his employment. This avoided the need for a scheduled hearing in November 2015.
- 2.12 We have recently agreed a price for the sale of Pelican Island at US\$10 million. This island is the last remaining real estate owned through subsidiaries of SIB and we are hopeful that this sale will be completed and the cash collected within the next month. Given the corporate structure in may take longer to flow this money to the SIB estate.
- 2.13 There are sales of land accepted in other Stanford related companies in liquidation, which will ultimately flow back to the SIB estate net of costs once these are closed. The most substantial of these is the offer for Maiden Island and Barnacle Point, which will contribute \$6.2million in value into the Maiden Island Limited liquidation if approved by the Court.
- 2.14 At present the claims against two of SIB's law firms are at an early stage. There is a challenge on jurisdiction by one firm, which unless settled will likely

also be pursued by the other, which we expect will be heard in the spring/early summer of 2016.

2.15 There is one further possible claim that the JL's are still assessing, and on which a decision will hopefully be made before the end of 2015.

### 3 Update On Recoveries Being Pursued

3.1 The below table summarises the recoveries currently being pursued by the JLs and the cash on hand.

<b>Recoveries being pursued</b>		
<b>Asset</b>	<b>Location</b>	<b>Estimated Net Value US\$ millions</b>
Cash / Investments	UK - shares	4
	Switzerland	70
Real Estate	Antigua	
	- SIB - Non SIB	10 15-30
Litigation Claims:	- TD Bank - Other banks - Law Firms	Unknown
Stanford Trust Company	Colombia	12
Bank of Antigua		Unknown
Former Liquidators Costs(2)		Unknown
<b>TOTAL</b>		<b>106+</b>

<b>Cash in hand as at 30 June 2015</b>	
Estate Funds	40
Supplemental Working Capital (Accessible following the release of the Swiss Funds)	18
Distribution Account (Relating to the 1 <sup>st</sup> distribution)	28
<b>TOTAL</b>	<b>86</b>



### a) Swiss Assets

3.2 Approximately US\$210 million continues to remain tied up in Switzerland, detailed as follows:-

Entity	US\$m	Detail
SIB Société Générale Private Banking (Suisse) SA ("SG")-Bank Accounts	107	Subject to SG's claim of lien and set-off
Other related Stanford Companies	50	Assets held in Bank accounts of related Stanford Companies
SIB Bank Accounts in various banks	42	Appears available for release, subject to lift of freeze by US DoJ/Swiss OoJ
Stanford Group (Suisse) AG	11	Held by the Trustee of the Swiss SIB mini-bankruptcy
	<b>210</b>	

To be allocated on recovery:

Antiguan Estate	<b>70</b>
US Estate	<b>140</b>

3.3 The Settlement Agreement of March 2013 provides that the proceeds of liquidation of the Swiss assets be split approximately two-thirds to the US estate and one-third to the Antiguan estate.

3.4 All money recovered from Switzerland will be paid into the estate's Distribution Account and be available for distribution to creditors.

3.5 Unfortunately, the Swiss legal process associated with the release of these funds is complicated and likely to take a further considerable period of time before the release of all of these funds can be secured. We appreciate the frustrations of creditors with this process given that it was hoped that the Settlement Agreement would have removed the barriers to the release of these funds. As detailed below the principal issue which is causing the blockage of the majority of these funds is the claim by SG that it has the right to hold onto

these funds as an indemnity against any claims brought against SG by the SIB US and Antiguan estates (note the Antiguan estates have not yet commenced any civil claims against SG, but it is likely we will do so and that SG will maintain their position on the indemnity until these claims are resolved). We are liaising closely with our Swiss legal advisors to explore all options for the release of these funds and will continue to do so.

3.6 A further issue is the lack of finality in the criminal conviction of Mr. Stanford. While his appeal has been denied, he still has time to make a further appeal to the Supreme Court. Until that time expires or until any such appeal is rejected there is still the theoretical possibility that his criminal conviction could be overturned, with the consequence that the US receivership would be undermined along with the freeze on the Stanford related assets such as those held in Switzerland.

**Assets held in SIB Bank Accounts at SG – Approx. US\$107 million**

3.7 These monies are subject to a claim of a lien and of set-off by SG. It claims that it has the right to retain these funds to indemnify itself against claims brought against it in the US in connection with its role in providing banking services to SIB. A recent application by SG in the US asserted that it was beyond the jurisdiction of the US Court and sought to have all claims against it dismissed. This would have partially removed the need for indemnity. However the US Court found it had jurisdiction and the claims against SG could proceed and therefore SG will continue to maintain its indemnity claim.

3.8 As reported earlier FINMA, the Swiss agency that had acted as the Trustee of the Swiss Stanford estate subordinate to the Antiguan proceeding for SIB (sometimes referred to as the Swiss "mini bankruptcy"), had appointed a private Trustee to take its place as the issue became more complicated. This Trustee in examining claims and in particular the SG claim for security over the SIB assets, has brought an action asking that SG be denied its claim of lien to these assets and a hearing in respect of that issue was heard on 15 January 2015. Certainly it seems that if SG has acted wrongly then it should not be entitled to an indemnity claim to the SIB funds it holds; on the other hand if the claims against it are dismissed in the US, then its claim should be limited to the cost of defence, which by any measure should be a small fraction of the funds it holds. We are advised that the court hearing in January has not resulted in a final answer to the issue, and that given the load on the courts in the Geneva district, and the possibility of appeal against any first instance judgment, resolution on this issue is unclear and likely some way off.

#### **Assets held in related Stanford Companies – US\$50 million**

3.9 Approximately US\$50 million in cash and investments are currently held with bank accounts in the name of entities other than SIB, albeit related companies, of the Stanford Group. The JIs have assisted FINMA and the Trustee of the Swiss mini-bankruptcy of SIB to bring clawback actions before Swiss courts on the basis that these funds are traceable to SIB, were paid over without apparent benefit or value to SIB, and should be brought into the Swiss mini-bankruptcy of SIB for further distribution.

3.10 The largest component of this amount is money held in the name of Bank of Antigua Ltd. ("BoA"), which is itself in liquidation. We have, through the Swiss Trustee, raised a clawback claim based on tracing these monies from SIB which we have been trying to formally serve on BoA in accordance with the international service treaties that the Swiss courts operate in accordance with. As the liquidators of BoA had not made a formal appearance in the Swiss clawback claim the Trustee is required to serve them with this claim through government to government channels. The Swiss authorities advise that they have passed the claim to the Attorney General's office in Antigua for service on BoA, but it would appear that the claim was not forwarded to BoA or its liquidators. A conciliatory hearing has been held with respect to the clawback claim against BoA in November 2015, following an official publication of the notice of the hearing in the Geneva official gazette.

3.11 In the meantime the Antiguan liquidators of BoA have made an appearance in Switzerland (but not in the Swiss clawback claim made against it) and obtained a recognition of the Antiguan winding up order and of their appointment as liquidators of BoA. The Swiss authorities determined that, given that BoA did not have any secured creditors in Switzerland, there was no necessity for a Swiss mini-bankruptcy as in the case of SIB, and gave to the BoA liquidators the right to act directly with respect to the Swiss assets of BoA.

3.12 Given that we believe that the SIB estate is the largest and indeed dominant creditor in the BoA estate we have opened discussions with the BoA liquidators to see if we can find a compromise arrangement that we can present in Switzerland to have those monies released. Any such agreement will

have to meet with the approval of and comply with the principles of the Court approved Settlement Agreement with the US Receiver et al.

**Assets held in SIB Bank Accounts at Various Banks – Approximately US\$42 million**

- 3.13 These assets, as the majority of the other assets referred to above, were frozen in February 2009 by the Swiss Office of Justice (the “OoJ”) in Berne, Switzerland on the basis of a request by the US DoJ. Shortly thereafter a Swiss Prosecutor launched his own investigation in the Stanford matter and imposed an additional Swiss domestic freeze on these assets requiring that the funds be held against any complaints or proceedings coming out of that investigation. We understand that this investigation is complete and that the superseding Swiss domestic freeze has meanwhile been lifted. We further understand that the freeze imposed on these same assets by the OoJ under request of the US DoJ remains in place. We continue to liaise with the US Receiver to see if we can persuade the US DoJ to cause the OoJ to release these particular funds in favour of the Swiss mini-bankruptcy for onward distribution in accordance with the Settlement Agreement.

**Assets held by the Trustee of the Swiss SIB mini-bankruptcy proceeding for Stanford Group (Suisse) AG – US\$11 million.**

- 3.14 On 3 July 2014, Mr Christophe de Kalbermatten, a Partner in the Swiss law firm of Python & Peter (Geneva) was appointed as the Trustee of the Swiss SIB mini-bankruptcy in place of FINMA in respect of which US\$11 million

was recovered from Stanford Group (Suisse) AG (in liquidation), a Stanford entity incorporated in Zurich.

3.15 We recently met with Mr. de Kalbermatten in Geneva to understand where the various matters stood. The biggest stumbling block, once Stanford's final appeal rights expire, is the claim of lien on the SIB assets by SG for indemnity for the costs and adverse awards in the US which it claims under its banking agreements with SIB. This is in effect a secured claim in the mini-bankruptcy, and has been challenged by the Trustee. A successful challenge would remove this obstacle to distribution, effectively freeing the whole amount for distribution from the Swiss mini-bankruptcy in accordance with the Settlement Agreement.

3.16 Note that all cash recovered in Switzerland must flow via the Swiss mini-bankruptcy before being onward distributed to the Antiguan and US estates. Before these funds can be released from the mini-bankruptcy, approval will also need to be given by FINMA respectively the Swiss Trustee who will also need to approve the Antiguan schedule of claims to satisfy themselves that the process is fair to all creditors and in particular that the Swiss unsecured creditors of SIB are not prejudiced by this.

3.17 We are preparing a claims summary and narrative of the claims process to demonstrate to FINMA and to the Swiss Trustee that under that process all claims by CD holders are treated equally, and that there is no special class of creditor enjoying priority under the Antiguan claims process (e.g. Antiguan claimants have priority over non-Antiguans).

3.18 As you can see from the above summary there are several steps and layers of approval required before ultimate release of funds can be secured for the Antigua and US estates. We will continue our efforts to push this process along.

**(b) Canada – Claim Against TD Bank**

3.19 The JJs' claim against TD continues to be a priority for the estate given the significant returns to creditors that would result from a successful claim.

3.20 As previously advised, our claim seeks, subject to amendment, the amount of US\$5.5 billion in damages based on TD's alleged negligence in providing banking services to SIB and/or knowing assistance in facilitating the fraud committed on SIB by certain senior personnel of Stanford-owned entities. It is our estimate that a very significant part of the US\$10 billion that was raised over the life of the fraud was run through the TD account, and that the fraud could not have been perpetrated without TD's services.

3.21 In response to the claim, TD brought a motion for summary judgment seeking a determination that the claim is limitations barred based on Ontario's two year limitation period for such claims. The two year limitation period ran from the date on which a reasonable liquidator first ought to have discovered the claim. TD's position was that the JJs' claim was discoverable upon the initial US receivership order in February 2009 and that the two year limitation period therefore expired in February 2011. Interestingly, however, TD had previously taken the position in US-based Stanford litigation that claims arising from the fraud were not discoverable until at least 27 August 2009.

TD's previous position in the US was consistent with the JL's position on the summary judgment motion, which was that, in all of the relevant circumstances, the claim against TD was not readily discoverable in 2009 and that the limitation therefore had not expired when the claim was commenced on 22 August 2011.

3.22 TD's summary judgment motion was heard on 16 and 17 September, 2015 by the Ontario Superior Court of Justice. After hearing the parties' written and oral submissions, the Court released its decision on 9 November 2015. The Court agreed with the JLs' position and therefore declined to dismiss the claim as TD had requested. Consistent with the JLs' submissions, the Court found the facts that would allow a determination on the limitation issue would come out at trial of the claim and it would be inefficient to have a separate "mini" trial on the issue of limitations. It is not presently known whether TD will seek leave to appeal the Court's decision on the limitations issue.

3.23 Assuming TD does not seek leave to appeal or is unsuccessful on any such appeal, the JLs' claim will proceed on its merits. The limitations issue will be a live issue at any trial. The Judge who heard the summary judgment motion has indicated she will remain the case management judge and has invited counsel for the parties to attend at her chambers to agree on a timetable and process for the path to trial.

3.24 The costs of continuing to pursue the claim will be substantial and, in the likely event that we in fact proceed, the estate will need to maintain adequate capital to fund the action and to meet any adverse costs award if we are unsuccessful.



### **(c) Possible Claims Against Other Banks**

- 3.25 We continue to investigate whether we have viable claims against other banks, SG and HSBC, that also provided banking services to SIB. With respect to HSBC we obtained voluntary disclosure of documents under threat of a formal examination of HSBC personnel under the UK insolvency rules. The Antigua estate is recognised by the Court in the UK making this a viable option.
- 3.26 In our view this disclosure fell short of that which we sought and what we believed had been agreed between the parties. Accordingly we sent HSBC a lengthy letter on 18 May 2015 covering the various assertions made therein about the alleged deficiencies of their voluntary disclosure to date and the requests for further categories of documents to be provided.
- 3.27 HSBC have recently provided us with additional documents in response to our requests and we are in the process of reviewing these documents. Further disclosures are due by the middle of November 2015 which will hopefully enable the JJs to make a proper determination as to whether there are grounds to file a claim.
- 3.28 Further discussions with our solicitors in the UK are scheduled for late November to make a final decision and to keep moving forward or determine that there is no claim to make.
- 3.29 With regards to SG as discussed above we are currently assisting with the Swiss Prosecutors criminal investigation and following the outcome of that our civil claim will likely follow.

3.30 We are in communication with OSIC as to their litigation claim against the five banks that supplied services to Stanford. Where permitted we are exchanging information. As we have different legal principles underlying our various claims, it is not a matter of pursuing one over another, and it is still appropriate to continue to pursue our different paths towards the same objective.

#### **(d)Real Property Of Stanford International Bank**

3.31 We recently accepted an offer for the sale of Pelican Island, the last remaining real property owned by SIB, for US\$10 million. We believe a sale at this price represents excellent value for the estate against our initial expectations for the price of Pelican. As in every transaction of real property there are hurdles to overcome in translating an offer to a completed transaction with cash in hand. We believe we are now in a position where closing can take place in the next few weeks.

#### **(e)Real Property Of Related SIB Group Companies**

##### **Stanford Development Company Limited (In Liquidation) (SDC)**

3.32 The assets owned by SDC consist of Antiguan real estate. Marcus Wide and Hordley Forbes are the JJs of SDC. The work in this liquidation estate consists primarily of efforts to sell the real estate. In the interim the real estate needs to be managed, including the collection of rent and other income being generated by these properties, and maintained.

3.33 Recoveries will first go to pay the creditors of SDC before any surplus is paid to SIB. The JJs of SDC anticipate, based on estimated property values and

amount of creditor claims that there should be surplus value to flow back to SIB. The amount and timing of any surplus value depends on when and for how much we are able to sell the properties. The amount to be realised for the SIB estate from SDC could be anywhere from \$0 to \$10 million.

#### **Other Related Companies**

3.34 Other companies in Antigua over which we have been appointed as liquidators include Maiden Island Holdings, Stanford Hotel Properties and Gilberts Resort Development. All of these companies own real estate in Antigua and these properties are being actively marketed. The major parcels are the Crabbs shipyard and associated electrical generating and water plants, Maiden Island and Barnacle Point.

3.35 We had agreed sales on Maiden Island itself, and Barnacle Point and have received deposits in respect of the sales however despite extending closing more than once funds to complete the sale were not forthcoming and we rescinded the transactions.

3.36 The properties have since been re-offered, with four bids being received. The highest bid from Pelican Island Limited provides a net benefit to the Maiden Island estate of approximately \$6.2 million, and we are in the process of converting the offer into a binding Purchase and Sale Agreement, with a view to closing within 90 days.

3.37 The total net recoveries from the associated entities in liquidation and which will flow to SIB on the basis of its contribution to their capital are likely to be in the range of \$15 - \$25 million.

3.38 Each of these companies are separate legal entities which are being wound up through their own liquidation processes. These liquidations have to be completed before the surplus proceeds can flow back to SIB. We do not envisage any issues arising which would prevent the surplus proceeds being distributed to SIB. However, we cannot be certain of this until we sell the properties and settle any direct creditor claims. At present we are not aware of any substantial claims in any of these companies.

3.39 None of these entities, including SDC, had sufficient cash flow to pay for the security, necessary maintenance and insurance on their real property. As SIB is the ultimate beneficiary of any surplus over the individual company claims, funds to cover these expenses have been advanced to preserve values and ensure that no further deterioration takes place. These funds together with interest, are advanced on a priority basis and will be repaid from realisations. There is more than adequate value to repay these advances together with interest to the SIB estate, and the process of repayment has in fact commenced.

**(f) Clawback Claims**

3.40 As addressed in our last report, we have pursued in Antigua through the "Amicus" process a direction from the Court with respect to our potential claims against those SIB CD holders who are in our view subject to clawbacks for what can be described as preferences or net winners under the provisions of Section 204 of the International Business Corporations Act (Section 204 Claims). We also argued the merits of these being preferential payments subject to clawback under common law.

**i) Section 204 Claims**

3.41 A substantive hearing was held in March 2015 on whether or not Section 204 gave the JLs the right to pursue clawback claims against the investors of SIB. The court heard from counsel for SIB, an Amicus Curiae appointed to assist the court and counsel for the one individual creditor of SIB who responded to the notice to all creditors advising of their right to be heard if they chose to appear.

3.42 An Order from this hearing was handed down in July 2015 and is available to be viewed on our website at [www.sibliquidation.com/court-orders-filings](http://www.sibliquidation.com/court-orders-filings) .The Court found the estate had the right to pursue these clawbacks under the provisions of Section 204 of the Act.

3.43 However, the Judge using the discretion found in Section 204, has limited the estate's right seek recoveries to a holdback of current and future distributions to be paid to creditors. The estate is not permitted to pursue collection of preferences beyond the holdback of distributions.

3.44 The amount which can be held back for re-distribution will ultimately depend on the amount distributed by the Liquidation. Obviously the higher the distributions paid out the more preference holders will repay. We have calculated that based on a 10% distribution, \$126m of funds will be held back and available for re-distribution amongst the creditors unaffected by the Section 204 claims. However as we presently read the ruling each claim may have to be litigated, rather than the estate being allowed to hold back and deal with challenges.

3.45 There is in our view a slight imbalance with this approach as it is possible that those whose preference is a small part of their residual claim may effectively repay that preference in full, while those whose preference is large in the context of their claim in the estate may only ever effectively repay a small part of that claim.

3.46 Final reasons were issued after the Antiguan court sitting in November 2015 and the JLS are considering whether this will be appealed or not.

**ii) Net Winners**

3.47 The effect of the bar on pursuing collections outside of holdbacks clearly means that the net winners who by definition have no claim in the estate are not subject to any clawback. The JLS find it curious that those who actually profited from their investments out of the pockets of the remaining CD holders are permitted to hold onto their gains. It is also inconsistent with the US Receivership, where the US Court has sanctioned the recovery of net wins and given orders in favour of the Receiver. Given the jurisdictional challenges as to foreign net winners faced by the US Receiver, he largely has only been able to recover from winners within the US Court's jurisdiction and has faced challenges in serving net winners outside of the US jurisdiction. The Antiguan Court Order leaves the net winners who are happily outside the US Court jurisdiction with no obligation to disgorge their profits.

3.48 In summary we have concerns with the fairness of this approach as it appears to disadvantage creditors as a whole. The JLS are considering whether there is

a basis for determining if we are going to appeal this portion of the Antiguan court order.

3.49 The Court in its Order has provided an automatic right of appeal, but has indicated that if any appeal were unsuccessful the costs of that appeal may not be recoverable from the estate, putting the JLs at personal risk of the fees and costs of doing so.

3.50 In the meantime, to ensure claims are issued before the statute of limitations expires we are serving out our claims against net winners and preferences as placeholder actions. This will be explained in detail to those affected via our website and in covering correspondence.

**(g) Stanford Trust Company (STC) And Colombian  
Subsidiary (SCB)**

3.51 The JLs continue with efforts to recover funds via STC over which Messrs Wide and Dickson are also Joint Liquidators. We anticipate that the bulk of the recoveries achieved in the STC liquidation, which has very limited creditors, will be available to STC's shareholder. R Allen Stanford is the sole shareholder of STC. However as a result of claims brought against him through action the JLs have taken in Antigua, we expect to hold judgments that we can execute against any value or dividends that might accrue from the shareholding. Therefore we will set off any amount due to RAS as shareholder in partial settlement of our judgment against him. This will permit the STC surplus to flow to SIB.

- 3.52 The principal asset of STC is its interest in a subsidiary brokerage company in Colombia (SCB) which is in liquidation in Colombia. As a result of the efforts of SCB's Colombian liquidator, SCB holds approximately US\$12 million in cash. Of this US\$8 million is frozen by the Colombian Superintendent of Finance as a result of a class action brought by investors who purchased SIB CD's through SCB.
- 3.53 We are liaising with the Colombian liquidator of SCB and his lawyers in an attempt to resolve this freeze of the US\$8 million, and challenging the claims of the CD holders under the class action.
- 3.54 We believe the class action is ill-founded for a number of reasons, not least of which is that SCB was in no way a party to the fraud, and its salesmen had no knowledge of the fraud either. They acted in good faith in offering the CD's for sale to clients. As far as the class issue is concerned there is no certainty that the members relied on the same representations from SCB, and there are indications that some indeed did not.
- 3.55 If the class is approved, all investors who purchased certificates of deposit from or related to SCB would be entitled to participate in the class action. The total claims of Colombian victims against SIB are approximately US\$150 million as opposed to the US\$2.2million principle of the named plaintiffs currently participating in the class action. If the class action were to be successful and all Colombian victims participated in the proceeds from the US\$8 million that would amount to a distribution to these victims of approximately 5%, excluding any provision for contingent legal fees of the Colombian lawyers representing the class action. We believe this will prove



to be less than a claim in the SIB liquidation will yield especially if the Liquidation achieves substantial rewards from its litigation.

3.56 It is the JLs view that those who pursue alternative remedies to their claim in the estate are not entitled to stand as creditors in the estate. We have made this known to a representative group of Colombian CD holders, and have provided them the option of claiming in the estate and opting out of the class action, failing which we will assume that they have decided to stand as part of the class. After consultation with this group we have drawn up the appropriate legal agreements to allow them to withdraw from the class action, and these documents have been posted on our website with notice to effected CD holders done by email.

3.57 Recently the Court commissioned an economist to quantify the current value of the damages asserted by the class. This report has been delivered and we note there are a number of significant deficiencies to it. We have filed a series of questions with respect to the report, as we are not permitted to object per se. We are advised that this valuation is merely information to the Court and that the Court is not obliged to adopt its findings which will have to be reviewed once the Court has made a decision on what if any damages have been suffered and on what grounds.

3.58 Whether or not we are able to free up the \$8 million of funds currently frozen and flow these back to the SIB estate depends on the outcome of the class action. The remaining \$4 million of funds under the control of the Colombian liquidator will also have to wait until the class action is resolved before this can

be flowed back to SIB as shareholder. Unfortunately it is unclear at this stage how long the class action will take to resolve.

## **(h) Other Litigation Claims**

### **(i) Law Firm Claims**

- 3.59 We have launched negligence actions in Antigua against US law firms, Proskauer Rose LLP and Chadbourne & Parke LLP, which acted for SIB and failed to protect its interests while doing so. These claims are based on a theory of liability and damages that are substantively different from and not available in the US proceedings against the same parties and therefore in our view stand separate and apart. These claims have been filed in Antigua and permission to serve them out of the jurisdiction has now been obtained.
- 3.60 At this point, and while we are always open to settlement discussions, it is our intention to proceed with our actions in Antigua, and there are hearings with respect to setting a timetable on which these claims will proceed at our Court hearings to be held later this month.
- 3.61 There is a potential to participate in a 16 December 2015 settlement mediation with Chadbourne in the US in conjunction with the US Receiver and OSIC. We are preparing a mediation brief and if we participate it will be to negotiate towards our own settlement, rather than sharing a single sum with the US estate. This reflects what we believe to be the merits of our case.

**(ii) Vingerhoedt Claim**

3.62 We have been prosecuting an action against a former President of SIB, Frans Vingerhoedt, for the recovery of funds paid to him without apparent justification.

3.63 A trial was set for July 2015 in respect of this action. However, we were able to come to a settlement before trial for \$3.3million. This has now been received in the estate and the matter is now closed. We are pleased with this settlement and believe it is a good result for the estate.

**(i) Bank Of Antigua**

3.64 SIB is a creditor of Bank of Antigua and we are in contact with the liquidator, Mr Mackellar of Zolfo Cooper, to monitor recovery prospects. SIB's claim has yet to be admitted in this liquidation. As noted above SIB is pursuing funds held in in Bank of Antigua's name in Switzerland

3.65 As discussed above as we believe that we are the dominant creditor in the Bank of Antigua estate, we have approached its Liquidators to see if we can reach an understanding that will permit us to make a combined approach to Switzerland for the release of this money and its prompt distribution to creditors.

**(j) Former Liquidators' Costs**

3.66 In September 2014, we met with representatives of the Vantis/FRP parties in London to discuss settlement of their claim for \$9,191,133 in fees and remaining disbursements and to express the areas of concern with respect to

their claim. At this time they voluntarily agreed to reductions in their fee claim of approximately \$2million.

3.67 We also put to them in writing subsequently, the issue of potential damages to the estate caused by their conduct and delays they created in bringing forward the application to deal with their potential replacement. We have now drafted a full claim and have applied for service out of the jurisdiction at the November Court hearings in Antigua, which was granted.

3.68 Potentially this matter could proceed to a full hearing on both the fees and our claim for damages in the spring, or more likely the autumn of 2016. In the interim we will continue to explore the possibility of an out of court settlement on these issues.

#### **4 Distributions Update**

4.1 A total of 16,216 creditor claims totalling US\$4.89 billion had been agreed at the time of the declaration of the first distribution.

4.2 The liquidators have now withdrawn the wire transfer option and all remaining creditors will be receiving their distribution via cheque. The original estate bank account was a US dollar account based in the UK, as this was where the funds were situated on appointment. Some creditors encountered issues with attempting to cash US dollar cheques drawn on a British bank into overseas bank accounts and in some cases were met with high levels of fees or long delays.

4.3 In response to that, we have with some challenges, including the continuing US freeze on monies associated with Stanford, been obliged to open a US\$

account in the US and to transfer funds to that account to make the remainder of the first distribution payments. We have also had to use lawyers from across Latin America to facilitate the distribution of cheques to those countries with unreliable postal systems.

4.4 There remains \$9 million to distribute and we expect this to be completed within the next couple of months.

4.5 It is not anticipated that any future distributions will be made until either the Swiss funds or major litigation wins result in assets available for distribution of in excess of US\$50 million. Given the cost of distribution it is not economical to distribute any amounts less than US\$50 million which is equivalent to approximately 1% of claims.

4.6 Realistically until the funds in Switzerland are released, and absent any substantial settlements or awards from the litigation underway, it is unlikely that there will be a further distribution until then.

## **5 Financial Position Of The Estate**

5.1 We attach a Statement of Receipts and Payments to 30 June 2015.

5.2 The estate currently holds c\$39million on hand. These funds have been allocated as follows:

- \$20million has been set aside for future anticipated costs of running the TD litigation claim;

- \$10million has been allocated for funding of the on-going costs of the estate, including all other litigation claims apart from TD; and
- \$9million has been provided for in respect of any potential fee payments to the former liquidators. Note that this is a prudent provision and as indicated earlier in this report we do not believe that this amount will be payable

## **6 Antiguan Operations**

- 6.1 For the period of the liquidation to date we have continued to occupy the SIB building in Antigua and we have continued to employ several former employees of SIB to assist us with the wind-down process. We have also employed additional Antiguan staff to assist us with various back office tasks.
- 6.2 This has been relatively inexpensive as the rent on the building had been fully prepaid and there are substantial savings and data security by using local knowledgeable staff over professional staff at professional rates. The SIB building, which is owned by SDC, continues to be marketed for sale although no buyers have been identified at this time.
- 6.3 Now that we have substantially completed the claims adjudication process, reviewed and organised the very substantial volume of hard copy records, and the electronic records are uploaded to a searchable database, we can begin to wind down the operations in Antigua, and move the remaining staff and any records that might need immediate review to smaller premises.
- 6.4 We have now transferred all of the relevant data from the 15 servers used by SIB onto 2 new servers to assist us in streamlining the wind down and the move to new premises. All data has been preserved so that we can access any

electronic data that is required as we continue to prosecute our litigation claims.

## **7 Next Steps**

7.1 We will continue our efforts to achieve further asset recoveries from the sources outlined in this report.

7.2 We will provide updates via the liquidation website with regards to any significant developments in these recovery efforts and in particular will update all creditors as soon as we are able to estimate when the second interim distribution to creditors will take place.

Yours faithfully

A handwritten signature in black ink, appearing to read 'M. Wide', with a stylized flourish at the end.

Marcus A. Wide  
For and On behalf of the Joint Liquidators  
Stanford International Bank Limited – In Liquidation

## APPENDICES

### STANFORD INTERNATIONAL BANK LIMITED (IN LIQUIDATION)

Receipts and payments statement account  
To 30 June 2015

	1 July 2014 - 31 December 2014	1 January 2015 - 30 June 2015	As of 30 June 2015 (USD)	1 July 2015 - 30 Sept 2015
<b>Receipts</b>				
UK recoveries	102,510	-	95,618,911	3,400,000
AVA Distributions (Sale of Guana Island)	54,933,851	-	54,933,851	-
Non UK Recoveries	-	-	8,156,396	3,307,378
Loan repayment from Stanford affiliates	-	1,111,111	1,111,111	-
Settled Claims / Preference Payments	48,643	346,852	1,033,856	1,186,629
Sale of Maiden Islands (Deposit)	-	551,786	551,786	-
Sale of Gilberts (Deposit)	-	220,714	220,714	-
Interest earned	30,507	69,156	196,751	27,529
Claims transfer income	57,485	123,000	180,485	32,000
Miscellaneous income	2,072	148	19,226	2,393
	<u>55,175,067</u>	<u>2,371,512</u>	<u>162,023,087</u>	<u>7,955,929</u>
Less: Cost Awarded for removal of former liquidators			-3,185,337	
<b>Total Receipts</b>			<b>158,837,750</b>	
<b>Payments</b>				
Liquidators Fees & Expenses	923,964	366,490	9,550,765	570,985
Co-Lead Legal Advisors Fees And Expenses	1,986,200	1,141,620	14,718,848	867,377
Other Legal Advisors Fees And Expenses	1,185,548	1,898,229	17,102,933	704,041
Former Liquidator's Advisors' Fees	5,955,941	-	5,955,941	-
Other Operational Expenses	328,195	338,687	3,459,385	142,853
Loans To Stanford Affiliates	887,461	135,222	3,287,343	681,987
IT / eDiscovery	331,147	237,056	2,635,476	19,657
Other Advisors Fees	158,529	153,805	2,308,932	136,020
Costs of 3rd party funding	856,682	-	1,645,163	224,136
<b>Total Payments</b>	<u>12,613,687</u>	<u>4,271,109</u>	<u>60,662,785</u>	<u>3,347,055</u>
<b>Distributions</b>	5,224,418	1,021,425	12,257,287	17,748,866
<b>Balance on Hand</b>			<b>85,917,678</b>	
<b>Represented By:</b>				
Held for First Distribution			28,205,034	
Supplemental Working Capital Account			18,045,964	
Available Estate Funds			39,666,679	
			<b>85,917,678</b>	



**THE EASTERN CARIBBEAN SUPREME COURT  
IN THE HIGH COURT OF JUSTICE  
ANTIGUA AND BARBUDA**

**Claim No. ANUHCV 2009/0149**

**In the Matter of Stanford International Bank Limited (In  
Liquidation)**

**-and-**

**In the Matter of the International Business  
Corporations Act, Cap 222 of the  
Laws of Antigua and Barbuda**

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**SEVENTH REPORT OF THE JOINT LIQUIDATORS OF  
STANFORD INTERNATIONAL BANK (IN LIQUIDATION)**

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**Nicolette M. Doherty**  
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