



at SEI Private Trust Company.<sup>1</sup>

The Examiner filed his Report and Recommendation No. 1 on May 21, 2009 [Doc. No. 393]. That Report focused, in part, upon the Receiver's account release process and contained two additional recommendations with respect to that process. Through this First Supplement to that Report, the Examiner respectfully recommends one additional modification to the Receiver's account release process.

**II. The Examiner recommends that the Stipulation used to document a partial release be modified to delete confidential customer information.**

The Receiver's relief process, as modified by this Court's Order dated May 21, 2009 [Doc. No. 394], contemplates that certain Stanford customers will be able to secure a "partial release" of their Customer Accounts by agreeing to leave behind a "hold back" amount equal to the proceeds (principal and/or interest) the customer received that derived from investments in SIB CDs. The "hold back" agreement between the customer and the Receiver is to be documented in a form of Stipulation that will be executed by both the Receiver and the customer and filed with the Court.<sup>2</sup>

The form of Stipulation that has been proposed by the Receiver and approved by the Court requires the customer to identify each account to be released and to state both the total value of that account and the manner in which that value is allocated among various investment categories:

2. The [ACCOUNT HOLDER] has requested a full release of the following accounts held at Pershing, LLC:

- xxx-xxxxxx (containing \$\_\_\_\_\_ in money market funds, \$\_\_\_\_\_ in municipal bonds, \$\_\_\_\_\_ in cash, \$\_\_\_\_\_ in

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<sup>1</sup> The Examiner supports that relief.

<sup>2</sup> The Receiver's Motion filed May 22, 2009 contemplates the use of a similar stipulation to document "partial releases" of Stanford Trust Company customers' trust accounts.

exchange traded products, \$ \_\_\_\_\_ in common stock, for a total account value of \$ \_\_\_\_\_ as of \_\_\_\_\_, 2009)

- xxx-xxxxxx (containing \$ \_\_\_\_\_ in money market funds, \$ \_\_\_\_\_ in municipal bonds, \$ \_\_\_\_\_ in cash, \$ \_\_\_\_\_ in exchange traded products, \$ \_\_\_\_\_ in common stock, for a total account value of \$ \_\_\_\_\_ as of \_\_\_\_\_, 2009)

See Doc. No. 388. The Receiver has indicated to the Examiner that the form of stipulation calls for this information because the Court requested that sort of information with respect to the Greiner and MacDonald releases. [Docs. No. 291, 297]

The Examiner respectfully suggests that there is no valid reason for requiring a customer to disclose publicly the value of his/her Customer Accounts, and the manner in which that value is allocated within each Customer Account, in order to secure a partial release of those Customer Accounts. This sort of financial information is regarded by most customers as both private and confidential. A Stanford customer ought not have to disclose that information, and have that information published for public consumption via PACER, in order to secure the release of his/her Customer Accounts.

The disclosure of this information also raises significant security concerns for at least some Stanford customers. Because the Customer Account values would be available via PACER to the general public, there is at least some risk that Stanford customers might become the targets of crime when it is discovered, through the filing of these stipulations, that those customers have achieved certain levels of wealth. The Examiner notes that this is a concern that has been voiced by a number of counsel representing Stanford customers residing in Latin American countries where kidnapping and other crimes are significant threats for those who are thought to be wealthy.

For the reasons set forth above, the Examiner respectfully recommends and suggests that the form of stipulation used to document a partial release of a brokerage account held at Pershing

or a Stanford Trust Company trust account be modified such that paragraph 2 of that stipulation would read as follows:

2. The **[ACCOUNT HOLDER]** has requested a full release of the following accounts held at Pershing, LLC:

- xxx-xxxxxx
- xxx-xxxxxx

The stipulation filed with the Court would still reflect the information necessary to document the "hold back" agreement reached by the Receiver and the customer, but would not disclose confidential additional information with respect to the customer's resources and wealth.<sup>3</sup>

WHEREFORE, the Examiner respectfully submits to the Court his First Supplement to Report and Recommendation No. 1 and respectfully recommends to the Court that the form of stipulation used to document partial release agreements between the Receiver and the holders of Customer Accounts be modified so that paragraph 2 of that stipulation would read as follows:

2. The **[ACCOUNT HOLDER]** has requested a full release of the following accounts held at Pershing, LLC:

- xxx-xxxxxx
- xxx-xxxxxx.

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<sup>3</sup> The Receiver has suggested that the same result can be achieved by filing the stipulations under seal. While that is a possible alternative solution, there is no way to guarantee that a document filed under seal will remain under seal. Accordingly, the Examiner believes the better solution is to eliminate from the stipulation the information concerning the account values and investment allocations.

Respectfully submitted,

/s/ John J. Little

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### **CERTIFICATE OF SERVICE**

On May 26, 2009 I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel and/or pro se parties of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ John J. Little