



**SECURITIES INVESTOR PROTECTION CORPORATION**  
**805 FIFTEENTH STREET, N. W., SUITE 800**  
**WASHINGTON, D. C. 20005-2215**  
**(202) 371-8300 FAX (202) 371-6728**  
**WWW.SIPC.ORG**

August 14, 2009

Ralph S. Janvey, Receiver  
Stanford Financial Group Receivership  
2100 Ross Avenue, Suite 2600  
Dallas, Texas 75201

Re: Stanford International Bank Ltd. Certificates of Deposit

Dear Mr. Janvey:

I have received your letter dated August 12, 2009. You have asked for SIPC's position on a number of situations with respect to issues that have arisen with respect to Robert Allan Stanford and entities related to Mr. Stanford.

As a preface, I would note that it is the function of the United States Securities and Exchange Commission ("SEC"), or the Financial Industry Regulatory Authority ("FINRA"), to investigate facts which, in the opinion of the SEC or FINRA, may lead to possible action by SIPC under the Securities Investor Protection Act, 15 U.S.C. §78aaa et seq. ("SIPA"). See 15 U.S.C. §78eee(a)(1). In this instance, in light of the SEC's role in initiating the civil action which resulted in your designation as Receiver, I assume the SEC would be responsible for notifying SIPC of the possible need for SIPC to act. To date, although senior SIPC personnel have been in communication with SEC personnel from the Division of Trading and Markets, SIPC has received no notice under that section. SIPC has no regulatory or investigatory role, and consequently has no personnel which perform those functions. SIPC has not investigated the facts in this matter in any way. Nevertheless, I will attempt to answer your questions on a hypothetical basis. Solely for the purpose of this letter, I will assume the hypotheticals to have a basis in fact.

The SIPC member firm in this fact pattern is The Stanford Group Company ("SGC"). SIPC protects the "custody" function that brokerage firms perform for customers. SIPC does not protect against a decline in value of any investment, even if it is true that the SIPC member firm played a part in defrauding the customer into purchasing the devalued investment ab initio. I understand from

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your letter that your questions relate solely to certificates of deposit ("CDs") issued by Stanford International Bank Ltd. ("SIBL") which was formed under the laws of Antigua and Barbados. SIBL is not a SIPC member.

SIBL issued more than \$7,000,000,000 in face value CDs to thousands of customers. The CDs have very little value at present; the SEC has alleged that Mr. Stanford ran a Ponzi scheme.

The CDs were sold to customers of SGC, and SGC received referral or incentive fees from SIBL which it disclosed to the CD buyers. Again, solely for the purpose of this letter, I have assumed that SGC knew the CDs were being sold as part of a fraudulent scheme. SGC did not issue purchase confirmations with respect to the sale of the CDs, and SGC's clearing firms did not reflect CDs as being held at the clearing firms.

Some customers received "consolidated statements" from SGC with the following legend:

The information contained in this consolidated statement is being provided for information purposes only. We do not recommend this information be used for tax purposes. It does not replace or supersede the account statements provided by the issuing financial institution. We have gathered this information from various sources we believe to be reliable, but we do not offer guarantees as to its accuracy or completeness.

In the example of such a consolidated statement you forwarded with your letter, the CDs in question were specifically listed, separately, on a page entitled "Stanford International Bank."

Your letter states "although SIBL was in form a separate entity from SGC, the two entities (as well as other Stanford entities) were operated and marketed as an integrated network, with the sale of SIBL CDs as both a central objective and the primary source of revenue for the Stanford Companies." You have filed papers recommending that the entities should be substantively consolidated for liquidation purposes, but the Antiguan liquidators do not believe substantive consolidation is warranted. You also note that Stanford's entities may have implied that SIPC somehow protected the CDs.

Finally, you note that neither SGC nor its clearing firms maintained possession or control of the CDs. Other Stanford entities may have done so. There may have been occasional situations where a financial advisor at SGC physically held a CD.

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Based on the foregoing, there is no basis for SIPC to initiate a proceeding under SIPA.

**Analysis**

As noted above, SIPC protects the custody function performed by SIPC member firms for customers. As the facts demonstrate, when SGC or its clearing firms took cash for the purpose of purchasing CDs, that cash was sent to SIBL, which is precisely what the customer intended. If physical CDs were issued to, and delivered to customers, those individuals have their securities—the CDs themselves. Indeed, if SIBL recorded the receipt of the funds and issued CDs in book entry form, the same is true. SGC is not, nor should it be, holding anything for such a customer. The fact that the security has gone down in value, even because of a fraud in which SGC is complicit, does not change that result.

You have mentioned the prospect of substantive consolidation of SGC and SIBL. That would not change the result. Indeed, if SGC and SIBL are consolidated, then yet an additional reason arises which prevents SIPC from taking action. In such a situation the CDs are, in effect, debts of SGC, and are part of the capital of SGC. Such a relationship negates "customer" status under 15 U.S.C. §7811(2)(B).

To the extent that there are isolated incidences where CDs were held by financial advisors for customers, the CDs should be delivered to their owners forthwith. Even if these CDs cannot be located, the existence of the CD and the obligation of the SIBL to honor the CD would exist, and the bank's records would be sufficient to cause the bank to issue a replacement CD. But under no circumstances would SIPC be responsible for the original purchase price.

Finally, there is nothing in the exhibits to your letter to alter the conclusions set forth above. The fact that the fraudulent actor may have implied that SIPC would protect the underlying value of the CDs does not make it so.

Very truly yours,



Stephen P. Harbeck  
President

SPH:ved

cc: Thomas McGowan, Assistant Director  
Division of Trading & Markets  
United States Securities and Exchange Commission