

**Testimony of**

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**“Oversight of the SEC Inspector General’s Report on the ‘Investigation of the SEC’s  
Response to Concerns Regarding Robert Allen Stanford’s Alleged Ponzi Scheme’ and  
Improving SEC Performance”**

**Before the Committee on Banking, Housing, and Urban Affairs  
United States Senate**

**September 22, 2010**

**I. Introduction**

Chairman Dodd, Ranking Member Shelby, and members of the Committee, thank you for the opportunity to testify today about the reforms the Fort Worth Regional Office (FWRO) is making in response to the issues raised in the Inspector General’s Report on the Office’s performance in the Stanford matter.

Like Mr. Khuzami and Mr. di Florio, I regret that that the SEC failed to act more quickly to limit the investor losses suffered by Stanford’s victims. All of us at the SEC share responsibility for the handling of the Stanford matter and are taking significant steps to ensure that we implement the reforms recommended by the Inspector General.

I want to begin by saying that, from a regional perspective, the initiatives outlined in the remarks of Mr. Khuzami and Mr. di Florio are making a significant impact upon the Commission and its staff. A streamlined management structure; delegation of authority to the staff; expanded training opportunities; improvements to risk assessment and examination procedures; specialization initiatives; and procedures to insure coordination and information sharing are some of the critical reforms that have greatly enhanced our capabilities.

By way of background, I served for 4 years in the United States Air Force. I have served as a Fort Worth police officer, an assistant district attorney and, prior to joining the Commission staff, I worked as a federal prosecutor for 16 years. I came to the Commission in 2006 with many objectives. Principal among them was to bring a more aggressive, law enforcement-like focus to the way we do our job. During my tenure, the staff of the Fort Worth Regional Office has performed with dedication and diligence, and with an aggressiveness and integrity that has earned for it a true partnership with its criminal agency counterparts. In fact, the Justice Department has commended us for our “remarkable collaboration” with them. This fiscal year alone, investigations by the FWRO staff have resulted in criminal charges against 14 individuals, and many members of our staff now serve as special federal prosecutors, assisting in the prosecution of important criminal cases. Since last year, in addition to their regular case-loads, Fort Worth’s 25 staff attorneys have filed 19 emergency actions in federal court, preserving millions of dollars stolen from investors.

While we certainly believe that our recent efforts have enhanced the Commission’s ability to protect investors, we must not forget the painful lessons taught to us by past mistakes. The team that is leading us now has done much and is prepared to do more. I have every confidence that Chairman Schapiro and Directors Khuzami and di Florio will continue to shape an agency that will stand as a bulwark for the investing public.

## **II. Status of the Stanford Case**

Mr. Khuzami has summarized the status of the current litigation. I wanted, however, to highlight a few additional points.

*Status of Ongoing Investigation*

Immediately after filing the civil action, my staff worked closely with the Justice Department to ensure that responsible executives of Stanford were brought to justice. We aggressively continued our investigation, aided by access to Stanford financial records and other key documents obtained by the Receiver, and access to key employees in Stanford's auditing and accounting departments. Our work allowed us to understand how Stanford manipulated its financial documents to further the scheme. In particular, my staff played a critical role in securing the cooperation of James M. Davis, Stanford Financial Group's Chief Financial Officer. We developed critical evidence in support of the allegation that Leroy King, Antiguan's head of the Financial Services Regulatory Commission, conspired with Stanford and obstructed the Commission's efforts to investigate Stanford over many years. Our work assisted the criminal authorities in filing a criminal case in June 2009 and was recognized by Assistant Attorney General Lanny A. Breuer as "resilient dedication."

I have directed my staff to continue our investigation of the Stanford matter to determine if other executives and employees at Stanford deceived U.S. investors in the sale of fraudulent certificates of deposit. Over the course of the past 12 months, we have collected and reviewed tens of thousands of documents; reviewed email communications of more than 150 former employees; interviewed and taken sworn statements of more than 60 former employees and other witnesses; and interviewed approximately 200 victims of the Stanford fraud. We have worked with the Stanford Victims Coalition, state regulators, and FINRA to gather relevant information and evidence to further this important investigation.

We have, through our Wells Process, notified several former Stanford executives that we intend to recommend fraud charges against them. These persons include former high level

executives and financial advisors. Our investigation of these matters is continuing, as are our efforts to maximize the recovery for the Stanford victims.

*Status of Recovery*

Upon filing its civil action in February 2009, the SEC filed a motion requesting that the district court appoint a Receiver over the defendants' assets (including over 100 Stanford-related entities operating around the world) to prevent waste and dissipation of those assets to the detriment of investors. While a Receiver was a necessary tool in this case, the SEC has closely monitored the receivership to help maximize investor recovery. To complement the Receiver's efforts, the SEC, in coordination with the Justice Department, moved to secure assets held in international financial institutions. Securing assets in international jurisdictions poses complex litigation challenges, and those challenges have been magnified in this case by, among other issues, the appointment in Antigua of a competing Receiver that has not cooperated with the staff and that, in fact, has challenged various steps taken by the Receiver, the SEC and the Justice Department. But, securing international assets was crucial to ensure the protection of investor funds and we continue to work closely with the Receiver, Justice Department, and securities regulators and law enforcement agencies in the UK, Switzerland, Canada, Mexico, and in several countries throughout Central and South America, to identify, secure, and repatriate for the benefit of investors over \$300 million in cash and securities held in non-U.S. bank accounts.

Mr. Khuzami has set forth categories and amounts of assets recovered for possible distribution to harmed investors. While I will not repeat those items again here, I want to point out that we have worked vigorously with the Receiver to recover assets in Panama, Ecuador, Colombia, Venezuela, Peru, and Mexico.

In conjunction with the SEC, the Receiver is focused on identifying and liquidating the largest possible pools of assets to prepare for a future distribution to harmed investors. In addition, the SEC has recently worked with other involved parties in the creation of an investor committee to provide an additional mechanism for investor input as to the receivership operations.

Throughout this case, the SEC has worked closely with a court-appointed Examiner to monitor the Receiver's costs and ensure maximum recovery to the victims of this massive fraud. These efforts have had tangible benefits. For example, the Receiver and the professionals assisting him have reduced their customary fees by at least 20% and have capped the rates charged by senior lawyers. In addition, we carefully scrutinize the Receiver's bills for fees and expenses. In fact, in response to our objections, the district court has held back, on an ongoing basis, an additional 20% from the Receiver's fees and expenses. We have strongly urged the Receiver to stringently apply a cost-benefit analysis and pursue only those legal claims that could generate maximum proceeds for the benefit of investors while minimizing the Receiver's legal fees and expenses. As with our monitoring of the Receiver's fees and expenses, the SEC has intervened when it believed the Receiver was pursuing inappropriate claims. For example, the SEC challenged the Receiver's lawsuits seeking net profits from innocent investors. Conversely, when the Receiver properly pursues assets, we intervene in support of that effort where appropriate. For example, the SEC recently submitted an amicus brief in the Fifth Circuit supporting the Receiver's efforts to maintain a freeze over approximately \$24 million in accounts held by former Stanford financial advisers. We will continue to be closely involved with the Receiver's activities.

### Status of SIPC Coverage

As you know, the Commission oversees the activities of the Securities Investor Protection Corporation. Prior to the emergency filing of the Stanford action, I directed my staff to contact SIPC, notify them of the proposed enforcement action and consider whether coverage under SIPA would be appropriate under the facts and circumstances of this case. Since the filing of this action, we have communicated with counsel for the Stanford Victims Coalition regarding its position with respect to SIPC coverage and assisted them where possible. My staff has also responded to informational requests and worked with the Commission's Division of Trading and Markets in its evaluation of the relevant facts of this case. I understand that the Commission continues to investigate whether SIPC coverage is appropriate for the victims of the Stanford fraud.

### **III. Reforms**

In an effort to reform and improve its Programs, the Fort Worth Regional Office has worked to integrate its broker-dealer and investment adviser examination programs and to build strong collaboration ties between its Enforcement and Examination staff.

#### Exam Program Integration

During the past four years, the FWRO has worked to integrate the activities of its broker-dealer and investment adviser examination programs. In late 2006, it was clear that we could not adequately oversee an increasingly integrated registrant population, unless we brought to each examination the right skills and expertise to effectively review a firm's business activities, whether those were advisory activities, brokerage activities or some combination thereof. We immediately took action to: (1) break down the long-standing silos that divided the investment

adviser and broker-dealer exam programs; (2) provide cross-training opportunities for exam staff to allow them to expand their knowledge and experience; (3) routinely employ joint teams of exam staff drawn from both sides of the program; (4) employ strategic techniques to quickly assess risks to investors, especially at firms who operate as both a broker dealer and an investment adviser; and (5) significantly increase the level of coordination and collaboration across the program. In 2009, the FWRO moved to a fully integrated examination program with investment adviser, broker-dealer and some fully cross-trained examiners working together under managers responsible for the program as a whole rather than two distinct programs. This formalized integration has allowed us to use staff expertise more strategically, in conformity with the new OCIE initiatives.

*Collaboration Between the Examination and Enforcement Programs*

Another top priority has been to build collaboration and teamwork across the examination and enforcement programs, so that we are better able to find fraud and significant problems through examinations and quickly take action to stop the fraud and protect investors. We have taken a number of specific actions to increase coordination between exam and enforcement staff, starting with collaboration between senior management across the office. The success of this increased collaboration, as well as the integration of the examination program, can be measured by the accomplishments we have achieved. For example, the percentage of enforcement cases brought by the FWRO resulting from examination referrals to Enforcement has increased from 12% in fiscal year 2005 to 38% in fiscal year 2009.

#### **IV. Conclusion**

The Fort Worth Regional Office is dedicated to protecting investors and aggressively pursuing those who defraud them. We thank you for the opportunity to appear before you today. I would be pleased to answer your questions.