

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SECURITIES AND EXCHANGE COMMISSION

Plaintiff,

v.

STANFORD INTERNATIONAL BANK, LTD., ET AL

Defendants.

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Case No.: 3-09-CV-0298-N

**DEFENDANT R. ALLEN STANFORD’S EMERGENCY MOTION TO AMEND THE
RECEIVERSHIP ORDER FOR THE LIMITED PURPOSE OF ALLOWING FOR THE
CERTIFICATION OF THE ANNUAL RETURNS OF CERTAIN ANTIGUAN
CORPORATIONS**

TO THE HONORABLE JUDGE:

COMES NOW, DEFENDANT, R. ALLEN STANFORD, (hereinafter “Mr. Stanford”), who files this Emergency Motion to Amend the Receivership Order for the Limited Purpose of Allowing for the Certification of the Annual Returns of Certain Antiguan Corporations, respectfully stating the following:

I. Introduction

Mr. Stanford currently controls eleven Antiguan corporations that are in default of the Antigua and Barbuda Companies Act 1995. Eight of these Antiguan corporations will be struck off the Antiguan Companies Register unless their annual returns are certified within a matter of days. The other three Antiguan corporations will suffer the same fate unless their annual returns are also certified in the near future. In his persona as shareholder and sole director of these

corporations, Mr. Stanford—and Mr. Stanford alone—is required by Antiguan law to examine and certify the returns of these eleven corporations. Even though it is indisputable that these eleven Antiguan corporations are not subject to the jurisdiction of the Court (and Mr. Stanford does not concede otherwise), and they are not subject to the Receivership Order, Mr. Stanford nonetheless seeks to amend the Receivership Order for the limited purpose of certifying these returns out of an abundance of caution and respect for the Court’s authority. In addition, once certification is complete, Mr. Stanford seeks the Court’s consent to authorize a representative in Antigua to perform the ministerial acts required to maintain the good corporate standing of these eleven Antiguan corporations.

II. Relevant Facts

In April and May 2009, the Antiguan Registrar of Companies notified Mr. Stanford that eight of his Antiguan corporations were in default of the Antigua and Barbuda Companies Act 1995 (the “Companies Act”). *See* Ex. 1-8. These corporations are Stanford Bank Holding Ltd., Sun Printing and Publishing Ltd., Sun Publishing Ltd., The Sticky Wicket Ltd., Antigua Athletic Club Ltd., The Antigua Sun Ltd., Stanford Development Company Ltd., and Porpoise Industries Ltd. *See* Ex. 1-8. In addition, Mr. Stanford has been notified that three other of his Antiguan Corporations—Gilbert Resort Development Ltd., Maiden Island Holding Ltd., and Pelican Island Properties Ltd.—are also in default of the Companies Act. *See* Ex. 9, ¶ 6. Each of these eleven corporations is an Antiguan registered and resident company operating in Antigua. *See* Ex. 9, ¶ 3. The Companies Act requires that the annual returns of these corporations, listing the current Directors, Changes in Registered offices and Shareholdings, be certified by a current Director. *See* Ex. 9, ¶ 7.

According to the Antiguan Registrar, Ms. Ricki Camcho, each of the eight corporations that were notified of their default in April and May 2009 had thirty (30) days from the date of the notification to certify their returns in order to avoid being struck off the Antiguan Companies Register. *See* Exhibits 1-8. As of today's date, the thirty (30) day deadline for certification has expired for all eight of these corporations. *See* Ex. 9, ¶ 18. Although the Registrar has granted these corporations a brief extension, there is still an urgent need to certify these returns immediately in order to forestall removal from the Antiguan Companies Register. *See* Ex. 9, ¶ 18. In addition, the three other above-mentioned Antiguan corporations controlled by Mr. Stanford also need to have their returns certified in order to comply with the Companies Act and avoid eventual removal from the Antiguan Companies Register. *See* Ex. 9, ¶ 19.

Counsel for these eleven corporations has prepared the appropriate filings to comply with the Companies Act certification requirement. *See* Ex. 9, ¶ 20. As such, the only requirement standing in the way of certification is for Mr. Stanford to examine and verify the accuracy of these filings. *See* Ex. 9, ¶ 20. In his persona as shareholder and sole director for these corporations, Mr. Stanford—and Mr. Stanford alone—is the only individual qualified to certify these returns as a matter of Antiguan law. *See* Ex. 9, ¶ 21.

III. Argument

As an initial matter, it is indisputable that the eleven Antiguan corporations whose returns require immediate certification under Antigua's Companies Act are not subject to the jurisdiction of the Court and not subject to the Receivership Order.¹ The Eastern Caribbean Supreme Court held that this Court's Order appointing a U.S. Receiver has neither extraterritorial affect nor the

¹ Furthermore, by seeking to amend the Receivership Order for the limited purpose of allowing Mr. Stanford to certify the returns of these Antiguan corporations, Mr. Stanford is in no way conceding or inferring that these Antiguan corporations are subject to the jurisdiction of the Court or the Receivership order.

force of law in Antigua and Barbuda.² The authority granted to the U.S. Receiver, then, does not entitle him to legal standing in Antigua and Barbuda.³ Accordingly, certification by Mr. Stanford of the returns of these eleven Antiguan registered and resident corporations would in no way contravene the Receivership proceedings in the U.S.

Nevertheless, out of an abundance of caution and respect for the Court, Mr. Stanford believes it prudent to request that the Court amend the Receivership Order for the limited purpose of allowing him to undertake the ministerial task of certifying these returns, thereby ensuring compliance with the Companies Act. Given that counsel has already prepared the necessary filings, all that is required of Mr. Stanford is that he examine and certify their accuracy. *See* Ex. 9, ¶ 20. As noted above, no one but Mr. Stanford is qualified to certify these returns under Antiguan law given that he is the shareholder and sole director for these corporations. *See* Ex. 9, ¶ 21. If Mr. Stanford does not certify these returns—and does not do so within a matter of days—eight of these corporations will be struck off the Antiguan Companies Register. *See* Ex. 1-8. The other three corporations will also be struck off the Register in the near future if Mr. Stanford does not certify their returns. Removal from the Companies Register will have dire consequences for these eleven corporations. Most significantly, if these eleven corporations are struck off the Register, they will not be able to operate under the laws of Antigua. In effect, these corporations will be forced out of business. *See* Ex. 9, ¶ 8.

Once the urgent matter of certification is complete, Mr. Stanford requests the Court's consent to authorize a representative in Antigua—namely, Hugh C. Marshall, Jnr. (“Mr.

² ANUHCV 0126, *Fundora v. Stanford International Bank Limited*, para. 41, ECarSC (24 April 2009).

³ *Id.*, para 43.

Marshall”)—to perform the ministerial acts necessary to maintain the good corporate standing of these eleven Antiguan corporations on a going forward basis. The authority given to Mr. Marshall will extend only so far as to ensure that these eleven corporations comply with their requirements under Antiguan law. Again, given that the corporations at issue are neither subject to the jurisdiction of the Court nor subject to the Receivership Order, authorizing Mr. Marshall to carry out the ministerial acts required by Antiguan law on behalf of these corporations will not infringe upon the authority granted to the U.S. Receiver by this Court. Even so, out of deference to the Court, Mr. Stanford seeks the Court’s consent to authorize Mr. Marshall to do what is necessary to uphold the good corporate standing of these eleven Antiguan registered and resident corporations.

IV. Conclusion

Based on the foregoing, Mr. Stanford requests that the Court amend the Receivership Order for the limited purpose of allowing him to certify the returns of these eleven Antiguan corporations and requests the Court’s consent to authorize Mr. Marshall to perform the ministerial acts required to uphold the good corporate standing of these corporations going forward.

Respectfully submitted,

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ATTORNEY IN CHARGE FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing and paper copies will be sent those indicated as non-registered participants on July 2, 2009.

/s/ Ruth Brewer Schuster

CERTIFICATE OF CONFERENCE

I HEREBY CERTIFY that I have complied or attempted to comply with the meet and confer requirement in Local Rule 7.1. Mr. Sadler, counsel for the Receiver, is opposed to this Motion. I spoke with Mr. Tillotson, counsel for Lara Pendergest-Holt, who stated that he has no position on this Motion. I left a message for Mr. Lena, counsel for U.S.D.O.J. (IRS), but did not receive a response prior to the filing of this motion, therefore it is presumed opposed. I left a message for Mr. Reece, counsel for the SEC, but did not receive a response prior to the filing of this motion, therefore it is presumed opposed. I left a message for Mr. Little, Court-appointed Examiner, but did not receive a response prior to the filing of this motion, therefore it is presumed opposed.

/s/ Ruth Brewer Schuster