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Written Testimony
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"The Stanford Ponzi Scheme:
Lessons for Protecting Investors from the Next Securities Fraud"

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Chairman Neugebauer, Vice Chairman Fitzpatrick, Ranking Member Capuano and members of the Subcommittee, it is an honor and a privilege to appear before you today to speak about my experience as a Stanford Financial Group advisor, and my experience with the SEC and FINRA as a "whistleblower." Thank you for inviting me to testify.

My name is Charlie Rawl and in December 2007, my business partner, Mark Tidwell, and I resigned from Stanford Financial Group (hereinafter referred to as "Stanford") because of the company's unethical and illegal business practices. We fought an incredibly difficult fifteen-month battle against Stanford and were labeled by Stanford as "disgruntled employees" as management attempted to discredit the very serious allegations we made when we left the firm and filed a lawsuit. Once the SEC filed its civil suit against Stanford alleging "massive, ongoing fraud," we became known as the "whistleblowers." Our testimony and evidence were used to support the SEC's civil lawsuit against Stanford to take a global network of companies into receivership on February 17, 2009. Mark and I believe that Stanford would still be operating today if we had not come forward to the SEC and FINRA.

I would not be here today if we had relied solely upon the present regulatory rules and procedures. I am in business today thanks to a strong business partner, Mark Tidwell, and an important third partner, my friend, client and our attorney, Mike O'Brien. It took the three of us to survive the past few years.

Shortly after we resigned from Stanford in mid-December 2007, Stanford sued Mark and me in FINRA arbitration. Our worst fears became reality as we quickly learned the FINRA arbitration process was in Stanford's favor. We later learned that almost 30 other FINRA arbitrations had taken place with other former Stanford employees—all alleging fraudulent business practices. FINRA had sided with Stanford in every single one of those cases, including at least one case in which a former employee alleged Stanford International Bank was a Ponzi scheme. It is an understatement to say the regulatory process failed us.

After realizing we would likely be crushed by Stanford in arbitration, we accelerated our efforts to ask other regulators and law enforcement for help. We came to the SEC first. The allegations we brought to the SEC's attention did not appear to be a high priority and nothing really happened until after Madoff confessed in December 2008. Then the SEC had a sudden sense of urgency for taking action against Stanford. We proceeded to work closely with the SEC, providing testimony and evidence that was crucial to the SEC's suit against Stanford. We helped the SEC craft its legal tactic to implicate the U.S. Broker-Dealer, Stanford Group Company, in the Stanford International Bank fraud. Despite the significant contributions we made to the SEC's fight against Stanford, the SEC failed to deliver on its many promises to protect us as we were ultimately sued by the receiver the SEC put in place to administer the Stanford estate. The regulatory process failed us a second time.

It is very important to note that while we learned of many "red flags" and collected evidence of unethical and illegal business practices while working at Stanford Group, we did not know that Stanford was a "Ponzi scheme" when we resigned. It was only after an FBI agent told me he thought Stanford was a Ponzi scheme in August 2008 that I considered that that might be true. We just knew there was fraud and that investors were not being protected. We never imagined the magnitude of the fraud, or the level of devastation that resulted—that could have been prevented.

Background: Discovering Fraudulent Business Practices at Stanford

My business partner and fellow "whistleblower," Mark Tidwell, joined Stanford Group Company (SGC) in 2004 upon leaving Merrill Lynch. I moved my practice to Stanford from UBS in 2005. We were both well-established financial advisors and planners with many years of experience in the industry. We both had prior experience in banking and degrees in Finance.

During the course of our employment at Stanford, we began to uncover various "red flags" and symptoms of serious problems at the firm. When we uncovered problems, we brought them to the attention of management. Management dismissed, denied and/or covered up the issues. Once we began to realize the extent of corruption within the firm and the quantity and magnitude of the unethical and likely illegal business practices, we decided we had to leave to protect our clients. Mark and I both resigned in December 2007. At the request of my manager, I detailed the reasons for my resignation in writing. Once this letter was in Stanford Group's hands, the battle of our lifetimes began.

All we wanted to do was leave quietly so that we could protect our clients. Unfortunately, Stanford chose to make an example of us to show the rapidly growing Stanford Group sales force it would be extremely difficult to leave the firm. We have been told that Stanford spent over $1 million in legal fees in 2008 in their efforts to discredit us.

Fighting Back Against Stanford and Becoming Whistleblowers

In early 2008, Stanford filed for a FINRA arbitration proceeding against us. Our FINRA arbitration attorney assured us that our very serious allegations against Stanford would be taken seriously by FINRA and the arbitration panel.[1] This did not happen and it became very clear the FINRA arbitration process would favor Stanford, as it had always protected the firm in the past.[2]

We decided to file a lawsuit against Stanford in Texas State Court in late January 2008. Unfortunately—for us and the defrauded Stanford investors—our lawsuit did not proceed in court and was instead sent back to the FINRA arbitration Stanford initiated. Today, our suit has been put on hold by the Stanford receiver and has yet to be heard.

We contacted the SEC in early January 2008 to determine if the SEC was investigating Stanford. Contrary to the company line at Stanford, an SEC investigation initiated in 2005 was continuing. We informed the SEC we had resigned and had valuable information. We contacted the SEC again in April and May 2008. We also contacted the Texas State Securities Board and the Louisiana Attorney General's office as well. I personally met with the Attorney General of Louisiana on May 14, 2008. It is important to note that while the State of Louisiana may have been lax with the regulation of the sole state-chartered trust company in Louisiana, Stanford Trust Company (STC) in Baton Rouge, it immediately began investigating STC after my visit. In late summer 2008, the Louisiana Office of Financial Institutions took action against STC by stopping the sale of Stanford International Bank (SIB) CDs in Individual Retirement Accounts (IRAs). Importantly, the state ordered STC to remove the CDs from IRAs.

The primary function of the STC was to act as custodian for the SIB CDs in IRAs. Most custodians would not have allowed such investments in IRAs. We have spoken to IRA holders who attempted to place more money in the CDs in the latter half of 2008, but could not because the Louisiana OFI would not allow it because of the allegations we brought to their attention.

In June 2008, we learned that Louisiana Attorney General Investigators had met with the SEC, the FBI and the DOJ. Also at that time, we asked the SEC to

[1] At an August 2009 Senate Banking Committee Field Hearing in Baton Rouge, La., a FINRA spokesperson testified that the whistleblower complaints were not pursued because there was no policy or procedure to handle complaints from registered representatives. Subsequently, an "Office of the Whistleblower" was established at FINRA.

[2] Stanford had a regular practice of hiring former regulatory and law enforcement employees, including former FINRA Regional Director Bernerd Young who was Stanford Group Company's Chief Compliance Officer at this time. Stanford also hired the former head of the Texas State Securities Board, the head of the Miami DEA office and many other former government employees. Stanford's long-time counsel representing the broker dealer in its response to the SEC's inquiries was Wayne Secore, the former Director of the SEC's Fort Worth office.

subpoena us so that we could properly provide the documents in our possession. Mark and I personally delivered our subpoenaed documents to the Fort Worth SEC office on July 11, 2008. We were mortified when the SEC told us there were delays in their investigation of Stanford because the firm was "non-cooperative with the SEC." We were told that other Federal authorities would contact us, as the SEC had asked for assistance because of Stanford's "non-cooperation."

On August 6, 2008, I was interviewed by the SEC, the DOJ, the Postmaster Inspector General's office and the FBI for approximately seven hours. A few days later, my attorney was contacted and told that I was the SEC's man and would make an excellent witness. They "would be in touch soon." "Soon" felt like an eternity. The SEC Inspector General later confirmed this was about the time that the DOJ asked the SEC to "stand down" in its investigation of Stanford.

The SEC was awakened when news of the Madoff Ponzi scheme broke in December 2008. Within days of Madoff's arrest, the SEC contacted us in a panic, wanting to meet immediately after many months of silence. The SEC was so anxious at this point, they asked to meet over the Christmas weekend. We met with the SEC the first week of January 2009. At this point, the SEC expressed its concerns about lacking jurisdiction over the Antigua-based bank. We helped the SEC design the legal strategy to implicate the domestic U.S. broker-dealer in the offshore bank fraud. Again, we turned over documents and our work-product developed in our own legal battle against Stanford. I had developed a list of 42 Stanford employees whose depositions would be critical evidence in our suit. It included names and the subject matter for questioning. I provided this list to the SEC, which they named "Rawl's Famous 42."

In mid-January 2009, FINRA and the SEC quietly "raided" seven Stanford offices simultaneously. They confiscated many of the computers on the "Famous 42" list, as well as about 20 others. They interviewed most of the 42 and many others. We met with the SEC in a hotel room as they gathered "intel" from the investigators camped out in the Stanford offices. Stanford management continued its habitual lies and deceit and we worked closely with the SEC attorneys to discredit the answers being given by Stanford management and other employees. By February 2009, the SEC told us that Stanford was far worse than we all imagined and things went very quiet. We knew that an SEC action against Stanford was imminent, but never dreamed the entire global Stanford empire would be shut down on one day—February 17, 2009.

Rawl and Tidwell to be protected by the SEC

Beginning with our earliest meetings with the SEC, we expressed our concern about Stanford's malicious attacks against us. At every meeting, we were assured by the SEC that it would do everything within its power to protect us as we were important witnesses who were instrumental in developing their case against Stanford. We were told that we would be protected by our whistleblower status. Regretfully, we never asked for these guarantees in writing.

From the time we left Stanford in December 2007 until the SEC filed its suit against Stanford in February 2009, Mark and I feared for our lives and spent our life's savings fighting Stanford—all while working countless hours handing the SEC part of its case on a silver platter. While we did not know the full extent of the fraud and did not know that Stanford was a massive Ponzi scheme, we gave the SEC extensive details and evidence of multiple frauds and wrongdoing. We were instrumental in designing the SEC's case against Stanford. In essence, we gave the SEC the keys to open SGC's and SIB's doors along with a roadmap of what computers to seize, who to interrogate, and what questions to ask. Throughout all of this, we were promised protection. We were told we would be protected as whistleblowers.

Discovering We Are Not Protected by the SEC after All

Throughout 2009 and into 2010, we continued to assist the SEC. We continued to work with the Louisiana Attorney General's investigators. While doing so, and obviously much to our dismay, in March 2010, Mark and I were sued by the Stanford receiver—sued by the receiver the SEC put in place!

The lawsuit, which seeks the return of compensation received while working at Stanford, unfairly lumped us in with 330+ former Stanford employees, many of whom were aware of—and even complicit in—the fraud and went down with the ship. Together we are being sued for over $1.75 million—money we earned years ago (and I didn't receive any material compensation from selling the SIB CDs as I sold few of them.)

In mid-March 2010, we called the SEC and explained our predicament. The SEC attorneys said they would immediately contact the receiver and ask for our removal from the lawsuit. We did not hear back from the SEC until a few weeks later when we were told the SEC could not help us because "the SEC does not control the receiver." This excuse was about as shocking as being sued in the first place. Nine months later, we are still seeking the SEC's promised protection.

Observations about the status of the investigations into Stanford

- I was told by both the SEC and the DOJ over 1 ½ years ago that charges were soon to come against others in Stanford management. It took many people to perpetrate the multiple frauds at Stanford, and no action has been taken against most these people. Many of these people continue to work in our industry and Rawl's "Famous 42" have not been accused of any wrongdoing.

- In extreme cases like Stanford, I believe that investors and financial advisors should be able to learn if a broker-dealer or investment management firm is the subject of prolonged and repeated investigations

by regulatory authorities and/or law enforcement. The Stanford scandal would not have caused such devastating losses if prospective advisors and investors were made aware that the SEC was investigating Stanford for so many years.

- FINRA's arbitration process should be thoroughly re-evaluated. I believe that all arbitrations should be public. At a bare minimum, arbitrations between broker-dealers and registered representatives should be made public. Stanford was an expert in using the system to quash all complaints from former employees.

- The industry should ban the use of long-term employment contracts, and particularly the common practice of extending "Employee Forgivable Loans" or "EFLs," to lock financial advisors down. These "deals" which are commonly used when advisors are recruited from firm to firm create a significant conflict of interest for the advisor. We knew we would have a difficult fight over our employment agreements, but we chose to take on this fight to protect our clients and do the right thing. Most of the advisors at Stanford Group Company were not willing to take on this fight.

Conclusion

The Stanford Financial Group scandal has left an enormous footprint in this country. The devastation it has caused has ruined lives. I've met victims who are literally on their death beds, who've lost their homes, and who can't afford their medical care. By and large, these are middle-class people who needed the protection of this country's regulators. The SEC and FINRA have failed them and they continue to fail them.

Chairman Neugebauer and Members of the Subcommittee, I thank you for the attention you're giving the very serious regulatory issues that have come to light in the Stanford Financial Group fraud and I urge you to continue digging in. "Massive, ongoing fraud" deserves "massive, ongoing investigation."