

Two Respected Law Firms Fight Claims That They Aided Ponzi Schemer

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Robert Allen Stanford, once one of the richest men in America, is today a federal inmate serving a 110-year sentence. His crimes? Running a massive Ponzi scheme that stole over billions of dollars from thousands of unsuspecting investors. How this once bankrupt gym owner could pull off such a heinous crime is a great topic for a future story. This post examines the battle to hold Stanford's former lawyers responsible for his losses.

As fraud recovery lawyers, we are often called upon to seek alternative sources of funds for victims. Fraudsters often are uncollectible, especially when serving 110-year prison terms. Often, however, banks and lawyers can be held responsible for monies lost by investors; especially when their actions (or inactions) helped facilitate the crime.

Seeking third party recovery is especially important in the Stanford case. The court's receiver charged with gathering and liquidating Stanford's assets found that Stanford spent much of the stolen funds. In just three years, Stanford spent over \$100 million on private aircraft. In another instance he spent \$12 million to lengthen his yacht by just 6 feet!

Investors have seen little money despite the thought that some \$7 billion passed through Stanford's hands and that of the entities he controlled. That puts pressure on efforts to collect from banks, audit firms and lawyers. Two law firms that have been sued are Greenberg Traurig and Hunton & Williams LLP. Both firms are giants in the legal industry and have very deep pockets. Greenberg Traurig has approximately 1900 lawyers and is headquartered in Miami. Hunton & Williams is a Richmond based firm with 800 lawyers.

Both firms were sued in 2012. Stanford's victims claim that the law firms helped perpetrate the fraud. For a Ponzi scheme so massive and so sophisticated, it is clear that Stanford didn't act alone, but are the lawyers responsible?

At the heart of the investors claims is attorney Carlos Loumiet. He served as counsel for the Stanford Financial Group of companies from 1988 until 2009. For thirteen of those years he was a partner at Greenberg Traurig. In 2001, Loumiet left and went to work at Hunton & Williams. Stanford remained his client there.

The investors say that Loumiet was intricately involved with every aspect of Stanford's empire. They claim his control was so broad that he helped Stanford take over the impoverished island of Antigua and its government (the official home of his empire and bank). If that wasn't enough, they allegedly Loumiet "[provided] the architectural structure for Stanford to pull off his \$7 billion Ponzi scheme."

A number of potentially damning emails have surfaced between Loumiet and Allen Stanford. They include:

"you are one of my very best friends...and a major reason why I was able to survive the difficult battles over the years and are in the position I am today" 2004 email from Allen Stanford to Carlos Loumiet

"my loyalty is first and foremost to you, and not anyone else, so I will watch out for your interests, and not those of anyone else in your organization" 2004 email Loumiet to Stanford

"I wouldn't be where I am today without you" 2006 email Stanford to Loumiet

"I am SO proud of you" 2006 email Loumiet to Stanford

Those emails alone do not prove anything but there is much more. Enough, the victims say, to show that Loumiet and the law firms counselled Stanford on how evade U.S. laws and regulations.

The victims claim that early in the relationship, both Greenberg Traurig and Loumiet knew that Stanford was accused of violating U.S. banking laws. Apparently the Comptroller of the Currency, Treasury Department and Texas Department of Banking all had problems with Stanford's operations.

Things would get worse in 1989, the court's receiver says that Stanford and his offshore bank had come under scrutiny by the FBI for helping the Medellin and Cali drug cartels launder money. At the time Stanford's bank was in Montserrat, a tiny nation of 4,900 people and notorious for bank fraud and money laundering. (Montserrat subsequently cleaned up its reputation in the financial world.)

Days before his Montserrat revoked his banking license, Stanford moved the bank to Antigua. At the time, Antigua's reputation was arguably worse than that of Montserrat. The investors and receiver claim that Loumiet not only helped Stanford move his banking license but also helped him take over the government. Those activities included helping rewriting Antigua's laws and "installing" Stanford as its "shadow government."

While all this was going on, at least one U.S. Treasury Department official was continuing to investigate Stanford. That didn't sit well with Stanford. The receiver claims that Stanford began a campaign of harassment and threats intended to thwart any further investigation. When the threats didn't work, Loumiet allegedly told Stanford to use Congress and the White House to silence the Treasury Department.

When the prestigious Financial Times published an article titled "Monster Rat in Montserrat," Loumiet allegedly sprung into action again, this time threatening to sue the publication. The threat was apparently successful as the Financial Times published an apology.

Until this point, Loumiet was solely on Greenberg's payroll. In 1993 Loumiet was invited to join Stanford's advisory board. How much this plays into the overall scheme – and of Greenberg Traurig's liability – remains to be determined.

In 1994, Stanford decided to seek approval to open a Bank of Antigua office in the United States. Greenberg Traurig was tasked with that responsibility. A Greenberg partner approached the Federal Reserve. When confronted with concerns about Treasury's involvement with Bank of Antigua affiliate Guardian Bank, the partner allegedly misled the Fed and said Treasury's problems were with a different Guardian Bank.

Likewise, in 1998, Loumiet allegedly lied to the Louisiana Office of Financial Institutions and provided misleading information knowing it was being provided to the SEC. These allegations, if proven, could be some of the most damning evidence against the law firm.

The Federal Reserve wanted assurance from the Antiguan Minister of Finance and the Eastern Caribbean Central Bank (ECCB). Allegedly they were already in Stanford's pocket, so much so that Loumiet prepared the reference letter for the minister's and ECCB's signature. That letter said that Stanford's bank was being "operated in a safe and sound manner."

There is more. The receiver claims that Loumiet, and therefore Greenberg Traurig, knew that Stanford was "corrupting" Antiguan government officials through loans that never had to be repaid and "kickbacks."

By 1996, journalists were regularly reporting on Antiguan corruption and Stanford's questionable involvement in the island's affairs. Greenberg then began suing both journalists and the publications that carried their stories.

The allegations regarding Greenberg Traurig go on and on. The complaint is 172 pages not including exhibits.

In May 2001, Loumiet jumped ship and accepted a partnership at Hunton & Williams. Greenberg Traurig's involvement with Stanford shrank notably after that but the firm continued to represent Stanford until the bitter end. The "bitter end" occurred in February 2009 when Stanford ran out of cash and the Ponzi scheme finally imploded.

Hunton & Williams received much of Stanford's business between 2001 (when Loumiet joined the firm) and 2009. There are specific allegations about the new firm's participation in Stanford's criminal enterprise. Like those against Greenberg Traurig, many allegations involve knowledge imputed to the firm through Loumiet.

In 2004, Loumiet became concerned that some of Stanford's legal work was going to other law firms. Loumiet wrote a long email to Stanford reminding them of their close friendship. At one point Loumiet said, "You would be amazed how often, without your knowledge, I silence skeptics who cannot understand how you succeeded, and like Shockey or Weiner, assume bad things." [John Shockey was an employee of the Office of the Comptroller of the Currency and one of the first officials to suspect Stanford of criminal wrongdoing.]

The receiver claims that Loumiet continued to tell lies to regulators while at Hunton & Williams. Specifically, Loumiet allegedly lied to Florida banking regulators in 2007.

Neither Greenberg Traurig nor Hunton & Williams have admitted any wrongdoing. To the contrary, they deny all liability and have denied many of the allegations against them. Both firms filed a motion to dismiss the claims of the receiver and investors.

Hunton & Williams argued that Texas has a doctrine of “attorney immunity” meaning they “cannot be held civilly liable for damages to non-clients, under any theory of recovery, for actions taken in connection with representing a client.” The firm asked the court to dismiss the complaint in its entirety. Not so, said the court. While Texas law does protect lawyers, those protections may not work if a lawyer lies for his client or participates in independently fraudulent activities.

Because the investors assert that Loumiet lied to regulators and participated in a criminal conspiracy, the court refused to dismiss the complaint on the basis of attorney immunity.

Both law firms tried to get the court to dismiss the conspiracy claims but once again, the court refused. The court found that if true, there are more than enough facts for a jury to conclude that the lawyers participated in a conspiracy with Stanford.

The law firms were successful in tossing some claims alleging the law firms violated the Texas Securities Claim Act. That law protects investors from the sale of unregistered securities or the sale of securities by fraud or untrue statements.

The investors claim that the law firm knew that the certificates of deposit being marketed in Texas were securities and that Stanford was not licensed there. They say that the lawyers also knew that Stanford’s sales reps were lying to customers and claiming the CD’s were insured. (They were not.)

Unfortunately for the investors, Texas law says that securities claims must be brought within 3 years of the sale of the sale. Some of their claims were too late. Claims that the lawyers aided and abetted the securities violations were not completely time barred, however, meaning some claims will go forward.

Overall, the motions to dismiss filed by Greenberg Traurig and Hunton & Williams were not very successful. Although some narrow claims are out, most will go forward.

A ruling on the motion to dismiss doesn’t mean that the law firms have broken the law. But it does mean that the victims of Stanford’s heinous crimes will be able to pursue discovery and build their case against both firms. Those firms may be their best hope for recovery.

With the exception of lies to public officials, any one allegation in the complaint probably isn’t enough to cause the lawyers to be responsible for Stanford’s misdeeds. Add them together, however, and one begins to see not only a conspiracy but the greed behind the lawyers’ actions.

Others may disagree with our opinion, however, there is ample evidence that the lawyers were motivated by fees and billings. One document shows a lawyer saying how the firm needed to “shine” for this “billion dollar client.”

Did the lawyers intend to harm investors? Probably not. The law doesn’t require evil or malicious intent, however. (There is disagreement on that point but we feel we are correct and the lawyers’ interpretation of the law is wrong.)

Although both firms are very large and presumably well insured, the losses caused by Stanford’s

Ponzi scheme are enormous and likely to eclipse any amount of insurance. Both firms may be fighting for their lives. Unless settled, this case will likely be fought for many, many years.

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