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Christopher Hughey
Acting General Counsel
Federal Election Commission
999 E Street N.W.
Washington, D.C. 20463

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OFFICE OF GENERAL
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Re: Advisory Opinion Request

Dear Mr. Hughey:

Pursuant to 2 U.S.C. § 437f, we seek an advisory opinion on behalf of the Democratic Senatorial Campaign Committee (the "DSCC"), the Democratic Congressional Campaign Committee (the "DCCC"), the Republican National Committee (the "RNC"), the National Republican Senatorial Committee (the "NRSC"), and the National Republican Congressional Committee (the "NRCC") (collectively, the "National Party Committees"). The National Party Committees seek confirmation that they may use donations to their respective recount funds to defend against a lawsuit seeking disgorgement of funds under the Texas Uniform Fraudulent Transfer Act ("TUFTA"), TEX. BUS. & COMM. CODE § 24.005(a). *See* Complaint, *Janvey v. DSCC et al.*, No. 3-10-cv-346 (N.D. Tex. filed Feb. 19, 2010) (hereinafter, "Janvey Complaint") (copy attached).

FACTUAL DISCUSSION

Allen Stanford is a former donor to the National Party Committees. The bulk of his donations to the National Party Committees preceded the effective date of the Bipartisan Campaign Reform Act of 2002 and were made to non-Federal accounts. *See* Janvey Complaint, Appendix. The Securities and Exchange Commission later accused Mr. Stanford of running a Ponzi scheme. On February 16, 2009, the United States District Court for the Northern District of Texas appointed Mr. Ralph Janvey as the receiver over the property, assets and records of Mr. Stanford, two associates, and three companies. *See* Janvey Complaint ¶ 18. The receiver claims authority to seek recovery of assets traceable to the receivership estate. *See id.* ¶ 34.

On February 19, 2010, Mr. Janvey filed a lawsuit against the National Party Committees in the United States District Court for the Northern District of Texas, alleging that Mr. Stanford's contributions to these committees were "fraudulent transfers" under Texas state law and demanding that the committees disgorge the amount of the donations, together with interest and attorney's fees. *See* Janvey Complaint ¶ 43. The National Party Committees have moved to dismiss the Janvey Complaint, and their motions remain pending. The litigation continues to

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proceed while the parties await the Court's decision on the motion to dismiss.¹

The National Party Committees have each incurred attorney's fees and costs to defend against the Janvey Complaint, and expect to incur additional costs. Each National Party Committee has established and maintains a recount fund pursuant to Advisory Opinions 2009-4 and 2010-14. Each fund contains solely Federal funds that are raised subject to those opinions, and within the Act's source restrictions, amount limitations, and reporting requirements. The National Party Committees seek to pay some or all of their legal fees and judgment or settlement costs arising from the Janvey Complaint from the recount fund. They propose to report such payments as "other disbursements" on Line 29 of their reports.

LEGAL ANALYSIS

Because the recount funds are Federal funds, and because payments for the costs of the Janvey litigation are not "expenditures" under the Act, the proposed transaction should be allowed.

The National Party Committees do not seek to raise non-Federal funds. Rather, they ask only for permission to spend *Federal funds* from their recount account to defend against the Janvey Complaint. Commission advisory opinions allow the National Party Committee to raise Federal funds under a separate limit to defray recount expenses, such as litigation costs. While these opinions have addressed only the payment of recount expenses, the costs of defensive litigation that is unrelated to compliance with the Act are materially indistinguishable. *See* 2 U.S.C. § 437f(c)(1)(B). Both recount expenses and non-compliance legal defense costs are exempt from the definitions of "contribution" and "expenditure." Consequently, there is no legal basis to treat payments for non-compliance legal defense costs more restrictively than payments for recount expenses.

I. Payments for the Costs of Defending Against the Janvey Litigation Are Not "Expenditures"

The Act defines an "expenditure" to include "any purchase, payment, distribution, loan, advance, deposit, or gift of money or anything of value, made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(9)(A)(i). As with recount and redistricting expenses, the Commission has consistently advised that the costs of legal defense, when not related to compliance with the Act, are not "expenditures" under the Act. *See, e.g.* Advisory

¹ In their motions to dismiss, the DSCC and DCCC have contended, *inter alia*, that the Act preempts the Janvey Complaint, because Commission rules provide the exclusive conditions for the screening and refund of contributions by federally registered political committees, and because BCRA set forth the exclusive purposes for which any of Mr. Stanford's remaining pre-BCRA non-Federal donations could be spent. *See* Pub. L. 107-155, § 402, 116 Stat. 81, 113 (2002).

Opinion 2003-15 (Majette). Because "donations and disbursements made for the purpose of defending oneself in a lawsuit were not 'contributions' or 'expenditures' ... [the] activity to pay the cost of legal defense in those situations was outside the purview of the Act." *See* Advisory Opinion 1981-16 (Carter-Mondale Presidential Committee) (citing Advisory Opinions 1981-13, 1980-4, and 1979-37). *Accord* Advisory Opinion 1982-14 ("receipts and disbursements from the reapportionment account would not constitute contributions or expenditures under the Act."); 1983-21 (Studds) ("donations to and disbursements from the Trust would not constitute contributions or expenditures under the Act."); 1983-30 (Joyner) ("to the extent the proposed fund is used exclusively for the purposes of defraying legal costs and expenses resulting from the litigation described in your request, donations to and disbursements from the fund would not constitute contributions or expenditures under the Act."); 1996-39 (Heintz for Congress) ("funds received and spent to pay for the expenses of the litigation described in your request would not be treated as contributions or expenditures for purposes of the Act ...").

Significantly, the Commission has maintained this position regardless of whether the requestor was a candidate or a party committee. In Advisory Opinion 1982-35 (Hopfman), the Commission allowed a Democratic candidate for U.S. Senate to establish a legal expense fund to finance a lawsuit against the Massachusetts Democratic State Committee regarding the party's ballot access rules. Consistent with its earlier opinions, the Commission concluded that "funds raised and used to defray the costs of the described litigation would not be subject to the contribution limitations of the Act and Commission regulations." *Id.* The next year, the Commission concluded that the Massachusetts Democratic State Committee, a political party committee, could establish a legal expense fund to defend against this particular litigation. *See* Advisory Opinion 1983-37 (Massachusetts Democratic State Committee) ("the Party's legal expense fund would not be subject to the Act's limitations, prohibitions, or disclosure requirements.").

The National Party Committees' payments to defend against the Janvey litigation are indistinguishable from the legal expenses described in Advisory Opinions 1979-37, 1980-4, 1981-13, 1981-16, 1982-14, 1982-35, 1983-21, 1983-30, 1983-37, 1996-39, or 2003-15. The Janvey Complaint does not allege a violation of the Act, but rather that the National Party Committees received fraudulent transfers under Texas state law. In "this situation the Committee has no choice but to defend itself or admit the violations alleged by the plaintiff[s]." Advisory Opinion 1980-4. Consequently, based on nearly four decades of consistent Commission guidance, payments to defend against the Janvey litigation are *not* "expenditures" under the Act.

II. The Costs of Defending Against the Janvey Complaint Should Be Payable With Recount Funds

BCRA did not change the Commission's historic treatment of legal defense expenses. *See, e.g.*, Advisory Opinion 2003-15 (Majette). It treats national party committees differently in one way only: they cannot raise or spend "soft money" for these expenses. *See id.* n. 4. Thus, when commenters asked the Commission in 2002 to create exemptions from BCRA's definition of "donation" for redistricting, recount, civil penalty and legal defense expenses – all of which the Commission had consistently found to *not* be "contributions" or "expenditures" – the Commission declined, saying that it "does not interpret the broad language of 2 U.S.C. § 441i(a) to permit the receipt or use of any *non-Federal* funds for such purposes." Prohibited and Excessive Contributions; Non-Federal Funds or Soft Money, 67 Fed. Reg. 49,064, 49,085 (2002) (emphasis added). *See also id.* at 49,089 (noting comments that "the Commission has, over time, recognized these activities as wholly exempt from the reach of FECA").

But this does not prevent national party committees from raising and spending *Federal funds* to pay for these sorts of expenses. This important distinction was the basis for the Commission's conclusion in Advisory Opinion 2009-4 that national party committees could establish a separate Federal account – containing "donations" rather than "contributions" – to pay for recount expenses. Recognizing that recount expenses were exempt from the Act's definition of "expenditure," but that 2 U.S.C. § 441i(a) still required national party committees to raise and spend only Federal funds, the Commission allowed national parties to "establish a recount fund, separate from its other accounts and subject to a separate limit on amounts received, and use that fund to pay expenses incurred in connection with recounts and election contests of Federal elections ..." *Id.*

The same principle applies with full force here. The "donations" in the National Party Committee's recount account are Federal funds. They can *only* be used to pay for the limited subset of expenses that do not qualify as "expenditures" under the Act. *See* Advisory Opinion 2010-14 (finding that the central restriction on their use is that they cannot "be used to campaign for any candidates or to influence any elections" and "must have no relation to campaign activities."). For nearly four decades, the Commission has interpreted the Act's definition of "expenditure" to exclude legal defense costs, just as it has with recount expenses. It logically follows that the National Party Committees should be able to use "donations," rather than "contributions," to pay these expenses. Because payments for the Janvey litigation are *not* for the purpose of influencing an election, they should be payable with recount fund "donations."²

² Furthermore, unlike recount expenses, payments for the Janvey litigation are *not* "in connection with" an election under 2 U.S.C. § 441i. *See* Advisory Opinion 2003-15.

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Finally, granting this request would not affect what the National Party Committees may raise. Regardless of how the Commission responds to this request, the National Party Committees would remain able to raise Federal funds into their recount funds under a separate limit. Nor would it allow the National Party Committees to spend recount funds to influence elections. It would simply permit the National Party Committees to use recount funds to pay for uncaught legal defense costs, which the Commission has found repeatedly to be entirely unconnected with any election. See e.g., Advisory Opinion 2003-15.

We appreciate the Commission's prompt consideration of this request.

Very truly yours,



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COPY OF JANVEY COMPLAINT

The defendants in this case, the Democratic Senatorial Campaign Committee, Inc.; the National Republican Congressional Committee; the Democratic Congressional Campaign Committee, Inc.; the Republican National Committee; and the National Republican Senatorial Committee (collectively, the "Committee Defendants"), received more than \$1.6 million in funds ultimately traceable to money investors paid to the Stanford Defendants for the purchase of fraudulent CDs.

4. The Committee Defendants did not furnish any consideration whatsoever for the funds they received from Stanford, Davis, and the Stanford Financial Group. Consequently, they have no legitimate right to retain the funds, and the Receiver is entitled to the return of all such funds.

5. The Receiver has made written requests to the Committee Defendants for return of these funds, first in February 2009, and again in February 2010. The Committee Defendants, however, have ignored these requests, and, as a result, the Receiver has been forced to file this lawsuit seeking the return of the funds to the Receivership Estate for the benefit of claimants.

6. The Receiver seeks an order that: (a) the payments from Stanford, Davis, and the Stanford Financial Group to the Committee Defendants constitute fraudulent transfers under applicable law; (b) the payments from Stanford, Davis, and the Stanford Financial Group to the Committee Defendants are property of the Receivership Estate held pursuant to a constructive trust for the benefit of the Receivership Estate; (c) the Committee Defendants are liable to the Receivership Estate for an amount equaling the payments they received from Stanford, Davis, and the Stanford Financial Group; and (d) the Receiver is entitled to an award of reasonable attorneys' fees, costs, and interest.

JURISDICTION & VENUE

7. This Court has jurisdiction over this action, and venue is proper, under Section 22(a) of the Securities Act (15 U.S.C. § 77v(a)), Section 27 of the Exchange Act (15 U.S.C. § 78aa), and under Chapter 49 of Title 28, Judiciary and Judicial Procedure (28 U.S.C. § 754).

8. Further, as the Court that appointed the Receiver, this Court has jurisdiction over any claim brought by the Receiver to execute his Receivership duties.

9. Further, within 10 days of his appointment, the Receiver filed the original Complaint and Order Appointing the Receiver in 26 United States district courts pursuant to 28 U.S.C. § 754, giving this Court *in rem* and *in personam* jurisdiction in each district where the Complaint and Order have been filed, including the District for the District of Columbia.

10. This Court has personal jurisdiction over the Committee Defendants pursuant to F.R.C.P. 4(k)(1)(C) and 15 U.S.C. §§ 754 and 1692.

THE PARTIES

11. Plaintiff Ralph S. Janvey, acting in his capacity as Court-appointed Receiver, has been appointed by this Court as the Receiver for the assets, monies, securities, properties, real and personal, tangible and intangible, of whatever kind and description, wherever located, and the legally recognized privileges (with regard to the entities) of Stanford International Bank, Ltd., Stanford Group Company, Stanford Capital Management, LLC, Robert Allen Stanford, James M. Davis, Laura Pendergest-Hold, Stanford Financial Group, the Stanford Financial Group Bldg., Inc., and all entities the foregoing persons and entities own or control (the "Receivership Assets").

12. Defendant Democratic Senatorial Campaign Committee, Inc. is a District of Columbia corporation with its principal office in Washington, D.C.

13. Defendant National Republican Congressional Committee is a political organization with its principal office in Washington, D.C.

14. Defendant Democratic Congressional Campaign Committee, Inc. is a District of Columbia corporation with its principal office in Washington, D.C.

15. Defendant Republican National Committee is a political organization with its principal office in Washington, D.C.

16. Defendant National Republican Senatorial Committee is a political organization with its principal office in Washington, D.C.

17. Each Defendant will be served pursuant to the Federal Rules of Civil Procedure, through their attorney of record, or by other means approved by this Court's order.

STATEMENT OF FACTS

18. On February 16, 2009, the Securities and Exchange Commission commenced a lawsuit in this Court against R. Allen Stanford, two associates, James M. Davis and Laura Pendergest-Holt, and three of Mr. Stanford's companies, Stanford International Bank, Ltd. ("SIB" or "the Bank"), Stanford Group Company, and Stanford Capital Management, LLC (collectively "Stanford Defendants"). On the same date, the Court signed an Order appointing a Receiver, Ralph S. Janvey, over all property, assets, and records of the Stanford Defendants, and all entities they own or control.

I. Stanford Defendants Operated a Fraudulent Ponzi Scheme

19. As alleged by the SEC, the Stanford Defendants marketed fraudulent SIB CDs to investors exclusively through SGC Financial Advisors pursuant to a Regulation D private

placement. First Amended Complaint (Doc. 48), ¶ 23.¹ The CDs were sold by Stanford International Bank, Ltd. *Id.*

20. In marketing, selling, and issuing CDs to investors, the Stanford Defendants repeatedly touted the CDs' safety and security and SIB's consistent, double-digit returns on its investment portfolio. *Id.* ¶ 31.

21. In its brochure, SIB told investors, under the heading "Depositor Security," that its investment philosophy is "anchored in time-proven conservative criteria, promoting stability in [the Bank's] certificate of deposit." SIB also emphasized that its "prudent approach and methodology translate into deposit security for our customers." *Id.* ¶ 32. Further, SIB stressed the importance of investing in "marketable" securities, saying that "maintaining the highest degree of liquidity" was a "protective factor for our depositors." *Id.* ¶ 45.

22. In its 2006 and 2007 Annual Reports, SIB told investors that the Bank's assets were invested in a "well-balanced global portfolio of marketable financial instruments, namely U.S. and international securities and fiduciary placements." *Id.* ¶ 44. More specifically, SIB represented that its 2007 portfolio allocation was 58.6% equity, 18.6% fixed income, 7.2% precious metals and 15.6% alternative investments. *Id.*

23. Consistent with its Annual Reports and brochures, SIB trained SGC Financial Advisors, in February 2008, that "liquidity/marketability of SIB's invested assets" was the "most important factor to provide security to SIB clients." *Id.* ¶ 46. In training materials, the Stanford Defendants also claimed that SIB had earned consistently high returns on its investment of deposits (ranging from 11.5% in 2005 to 16.5% in 1993). *Id.* ¶ 24.

¹ Unless otherwise stated, citations to Court records herein are from the case styled *SEC v. Stanford Int'l Bank, Ltd., et al.*, Civil Action No. 3-09-CV-0298-N.

24. Contrary to the Stanford Defendants' representations regarding the liquidity of its portfolio, SIB did not invest in a "well-diversified portfolio of highly marketable securities." Instead, significant portions of the Bank's portfolio were misappropriated by the Stanford Defendants and were either placed in speculative investments (many of them illiquid, such as private equity deals), diverted to other Stanford Entities "on behalf of shareholder" - *i.e.*, for the benefit of Allen Stanford, or used to finance Allen Stanford's lavish lifestyle (*e.g.*, jet planes, a yacht, other pleasure craft, luxury cars, homes, travel, company credit cards, etc.). In fact, at year-end 2008, the largest segments of the Bank's portfolio were: (i) at least \$1.6 billion in undocumented "loans" to Defendant Allen Stanford; (ii) private equity; and (iii) grossly over-valued real estate. *Id.* ¶¶ 24, 48.

25. In an effort to conceal their fraud and ensure that investors continued to purchase the CD, the Stanford Defendants fabricated the performance of SIB's investment portfolio. *Id.* ¶ 5.

26. SIB's financial statements, including its investment income, were fictional. *Id.* ¶ 37. In calculating SIB's investment income, Defendants Stanford and Davis provided to SIB's internal accountants a pre-determined return on investment for the Bank's portfolio. *Id.* Using this pre-determined number, SIB's accountants reverse-engineered the Bank's financial statements to reflect investment income that SIB did not actually earn. *Id.*

27. For a time, the Stanford Defendants were able to keep the fraud going by using funds from current sales of SIB CDs to make interest and redemption payments on pre-existing CDs. *See id.* ¶ 1. However, in late 2008 and early 2009, CD redemptions increased to the point that new CD sales were inadequate to cover redemptions and normal operating expenses. As the depletion of liquid assets accelerated, this fraudulent Ponzi scheme collapsed.

28. Stanford Defendant Davis has admitted that the Stanford fraud was a Ponzi scheme from the beginning. *See* Doc. 771 (Davis Plea Agreement) at ¶ 17(n) (Stanford, Davis, and other conspirators created a “massive Ponzi scheme”); *id.* at 41 (“Soon after [Mr. Davis] became Controller [of Allen Stanford’s Montserrat bank]... in at least 1989... Stanford requested that, in order to show fictitious quarterly and annual profits, [Mr. Davis] make false entries into the general ledger for the purpose of reporting false revenues, and false investment portfolio balances to the banking regulators.”); Doc. 807 (Davis Tr. of Rearraignment) at 19:18-21 (“As early as 1990, Mr. Davis... at the request of Allen Stanford, began... making false entries into the books and records of SIBL.”); *id.* at 16:16-17, 21:6-8, 21:15-17 (admitting the Stanford Ponzi fraud was a “massive Ponzi scheme ab initio”).

II. *Stanford Transferred Funds from the Fraudulent Ponzi Scheme to the Committee Defendants*

29. Funds from the Ponzi scheme described above were transferred by Allen Stanford, James Davis, and Stanford Financial Group to the Committee Defendants. The dates, amounts, transferors, and transferees of each specific transfer are reflected in Exhibit A.

30. The Committee Defendants received at least the following amounts in total transfers from Stanford, Davls, and the Stanford Financial Group:

Democratic Senatorial Campaign Committee	\$950,500
National Republican Congressional Committee	\$238,500
Democratic Congressional Campaign Committee	\$200,000
Republican National Committee	\$128,500
National Republican Senatorial Committee	\$83,345

31. The Committee Defendants did not furnish any consideration whatsoever in exchange for the transfers. Thus, the Committee Defendants did not provide reasonably equivalent value in exchange for these transfers.

32. On or about February 23, 2009, the Receiver made a written demand to the Committee Defendants for return of the above-referenced payments. After his first demand was ignored, the Receiver made a second written demand on or about February 9, 2010. Because the Committee Defendants have ignored the Receiver's repeated written requests, the Receiver has been forced to file this lawsuit to carry out his Court-ordered duty to recover monies for the benefit of the victims of Stanford's fraudulent scheme.

REQUESTED RELIEF

33. This Court appointed Ralph S. Janvey as Receiver for the "assets, monies, securities, properties, real and personal, tangible and intangible, of whatever kind and description, wherever located, and the legally recognized privileges (with regard to the entities), of the Defendants and all entities they own or control." Order Appointing Receiver (Doc. 10) at ¶¶ 1-2; Amended Order Appointing Receiver (Doc. 157) at ¶¶ 1-2. The Receiver seeks the relief described herein in this capacity.

34. Paragraph 4 of the Order Appointing Receiver, signed by the Court on February 16, 2009, authorizes the Receiver "to immediately take and have complete and exclusive control, possession, and custody of the Receivership Estate and to any assets traceable to assets owned by the Receivership Estate." Order Appointing Receiver (Doc. 10) at ¶ 4; Amended Order Appointing Receiver (Doc. 157) at ¶ 4. Paragraph 5(c) of the Order specifically authorizes the Receiver to "[i]nstitute such actions or proceedings [in this Court] to impose a constructive trust, obtain possession, and/or recover judgment with respect to persons or entities who received

assets or records traceable to the Receivership Estate.” Order Appointing Receiver (Doc. 10) at ¶ 5(c); Amended Order Appointing Receiver (Doc. 157) at ¶ 5(c).

35. One of the Receiver’s key duties is to maximize distributions to defrauded investors and other claimants. See Amended Order Appointing Receiver (Doc. 157) at ¶ 5(g), (j) (ordering the Receiver to “[p]reserve the Receivership Estate and minimize expenses in furtherance of maximum and timely disbursement thereof to claimants”); *Scholes v. Lehmann*, 56 F.3d 750, 755 (7th Cir. 1995) (receiver’s “only object is to maximize the value of the [estate assets] for the benefit of their investors and any creditors”); *SEC v. TLC Invs. & Trade Co.*, 147 F. Supp. 2d 1031, 1042 (C.D. Cal. 2001); *SEC v. Kings Real Estate Inv. Trust*, 222 F.R.D. 660, 669 (D. Kan. 2004). But before the Receiver can attempt to make victims whole, he must locate and take exclusive control and possession of assets of the Estate or assets traceable to the Estate. Doc. 157 ¶ 5(b).

I. The Receiver is Entitled to Disgorgement of Assets Fraudulently Transferred to the Committee Defendants.

36. The Receiver is entitled to disgorgement of the funds transferred from Stanford, Davis, and the Stanford Financial Group to the Committee Defendants because such payments constitute fraudulent transfers under Texas law and other applicable law. See, e.g., TEX. BUS. & COMM. CODE § 24.005(a). Stanford, Davis, and the Stanford Financial Group made the payments to the Committee Defendants with actual intent to hinder, delay, or defraud creditors; as a result, the Receiver is entitled to the disgorgement of those payments.

37. The Receiver may avoid transfers made with the actual intent to hinder, delay, or defraud creditors. “[T]ransfers made from a Ponzi scheme are presumptively made with intent to defraud, because a Ponzi scheme is, as a matter of law, insolvent from inception.” *Quilling v. Schonsky*, No. 07-10093, 2007 WL 2710703, at *2 (5th Cir. Sept. 18, 2007); see also *Warfield v.*

Byron, 436 F.3d 551, 558 (5th Cir. 2006) (“ . . . [the debtor] was a Ponzi scheme, which is, as a matter of law, insolvent from its inception. . . . The Receiver’s proof that [the debtor] operated as a Ponzi scheme established the fraudulent intent behind transfers made by [the debtor].”). The Stanford Defendants, including Stanford and Davis, and the Stanford Financial Group, were running a Ponzi scheme and transferred funds generated by that scheme to the Committee Defendants.

38. Consequently, the burden is on the Committee Defendants to establish an affirmative defense, if any, of good faith and provision of reasonably equivalent value. *See, e.g., Scholes*, 56 F.3d at 756-57 (“If the plaintiff proves fraudulent intent, the burden is on the defendant to show that the fraud was harmless because the debtor’s assets were not depleted even slightly.”). Consideration that has no utility from the creditor’s perspective does not satisfy the statutory definition of “value.” *SEC v. Resources Dev. Intern., LLC*, 487 F.3d 295, 301 (5th Cir. 2007); *In re Hinsley*, 201 F.3d 638, 644 (5th Cir. 2000).

39. The Committee Defendants cannot meet their burden to establish that they provided reasonably equivalent value for the payments they received. The Committee Defendants did not furnish any consideration whatsoever for the above-referenced transfers. To the extent the Committee Defendants contend that Stamford, Davis, or the Stanford Financial Group received some sort of intangible non-economic benefit, such benefits do not constitute reasonably equivalent value in the context of claims for fraudulent transfer. *See 1992 Republican Senate-House Dinner Committee v. Carolina's Pride Seafood, Inc.*, 858 F. Supp. 243, 249 (D.D.C. 1994), *vacated after settlement*, 158 F.R.D. 223 (D.D.C. 1994) (court refused to recognize intangible rewards of political contribution as reasonably equivalent value for fraudulent conveyance purpose); *U.S. v. Evans*, 513 F. Supp. 2d 825, 835 (W.D. Tex. 2007)

("The Fifth Circuit has concluded that intangible non-economic benefits do not constitute reasonably equivalent value for purposes of Texas fraudulent transfer law."). Accordingly, the Receiver is entitled to return of the funds transferred, which funds the Committee Defendants have no legitimate right to retain.

40. The Receiver was only able to discover the fraudulent nature of the above-referenced transfers after Allen Stanford and his accomplices were removed from control of the Stanford entities. Thus, the discovery rule and equitable tolling principles apply to any applicable limitations period. *See Wing v. Kendrick*, No. 08-CV-01002, 2009 WL 1362383, at *3 (D. Utah May 14, 2009); *Quilling v. Cristell*, No. 304CV252, 2006 WL 316981, at *6 (W.D.N.C. Feb. 29, 2006); *Warfield v. Carnie*, 2007 WL 1112591, at *8 (N.D. Tex. April 13, 2007); *see also* TEX. BUS. & COMM. CODE § 24.010(a)(1) (claims may be brought either within four years of the transfer or "within one year after the transfer or obligation was or could reasonably have been discovered by the claimant").

41. The Receiver is entitled to recover his costs and reasonable attorneys' fees incurred in pursuing these claims. *See* TEX. BUS. & COMM. CODE § 24.013.

42. The Receiver therefore seeks an order that (a) the payments from Stanford, Davis, and the Stanford Financial Group to the Committee Defendants constitute fraudulent transfers under applicable law; (b) the funds transferred from Stanford, Davis, and the Stanford Financial Group to the Committee Defendants are property of the Receivership Estate held pursuant to a constructive trust for the benefit of the Receivership Estate; (c) the Committee Defendants are liable to the Receivership Estate for an amount equaling the amount of funds transferred from Stanford, Davis, and the Stanford Financial Group to the Committee Defendants; and (d) the

Receiver is entitled to recover his costs and reasonable attorneys' fees incurred in pursuing these claims, in addition to pre- and post-judgment interest on any award.

PRAYER

43. The Receiver respectfully requests an Order providing that:
- (a) the payments from Stanford, Davis, and the Stanford Financial Group to the Committee Defendants constitute fraudulent transfers under applicable law;
 - (b) the funds transferred from Stanford, Davis, and the Stanford Financial Group to the Committee Defendants are property of the Receivership Estate held pursuant to a constructive trust for the benefit of the Receivership Estate;
 - (c) the Committee Defendants are liable to the Receivership Estate for an amount equaling the amount of funds transferred from Stanford, Davis, and the Stanford Financial Group to the Committee Defendants; and
 - (d) the Receiver is entitled to recover his costs and reasonable attorneys' fees incurred in pursuing these claims, in addition to pre- and post-judgment interest on any award and all other relief to which he is justly entitled.

Dated: February 19, 2010

Respectfully submitted,

BAKER BOTTS L.L.P.

By: /s/ Kevin M. Sadler

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ATTORNEYS FOR RECEIVER RALPH S. JANVEY

CERTIFICATE OF SERVICE

On February 19, 2010, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court, Northern District of Texas, using the electronic case filing system of the Court. I hereby certify that I will serve the Democratic Senatorial Campaign Committee ("DSCC"); the National Republican Congressional Committee ("NRCC"); the Democratic Congressional Campaign Committee ("DCCC"); the Republican National Committee ("RNC"); and the National Republican Senatorial Committee ("NRSC") individually or through their counsel of record, electronically, or by other means authorized by the Court or the Federal Rules of Civil Procedure.

/s/ Kevin M. Sadler

Kevin M. Sadler

Dated: February 19, 2010

Respectfully submitted,

BAKER BOTTS L.L.P.

By: /s/ Kevin M. Sadler

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ATTORNEYS FOR RECEIVER RALPH S. JANVEY

CERTIFICATE OF SERVICE

On February 19, 2010, I electronically submitted the foregoing document with the clerk of the court of the U.S. District Court, Northern District of Texas, using the electronic case filing system of the Court. I hereby certify that I will serve the Democratic Senatorial Campaign Committee ("DSCC"); the National Republican Congressional Committee ("NRCC"); the Democratic Congressional Campaign Committee ("DCCC"); the Republican National Committee ("RNC"); and the National Republican Senatorial Committee ("NRSC") individually or through their counsel of record, electronically, or by other means authorized by the Court or the Federal Rules of Civil Procedure.

/s/ Kevin M. Sadler
Kevin M. Sadler

Donations to Democratic Senatorial Campaign Committee ("DSCC")		
Date	Contributor	Amount
6/22/2000	Stanford Financial Group	\$15,000.00
7/17/2000	Stanford, Allen	\$10,000.00
7/18/2000	Stanford Financial Group	\$5,000.00
9/29/2000	Stanford Financial Group	\$10,000.00
12/19/2000	Stanford Financial Group	\$10,000.00
3/29/2001	Stanford Financial Group	\$12,500.00
3/29/2001	Stanford Financial Group	\$12,500.00
6/27/2001	Stanford Financial Group	\$25,000.00
12/28/2001	Stanford Financial Group	\$50,000.00
3/14/2002	Stanford Financial Group	\$100,000.00
8/9/2002	Stanford Financial Group	\$500.00
8/15/2002	Stanford Financial Group	\$100,000.00
10/9/2002	Stanford, Allen	\$250,000.00
11/1/2002	Stanford, Allen	\$250,000.00
11/5/2002	Stanford, Allen	\$50,000.00
6/30/2003	Stanford, Allen	\$10,000.00
6/30/2004	Davis, James	\$5,000.00
6/30/2004	Stanford, Allen	\$10,000.00
7/20/2005	Stanford, Allen	\$25,000.00
Total Contributions		\$950,500.00

Donations to National Republican Congressional Committee ("NRCC")		
Date	Contributor	Amount
4/6/2001	Stanford Financial Group	\$25,000.00
3/13/2002	Stanford Financial Group	\$25,000.00
10/11/2002	Stanford, Allen	\$100,000.00
11/4/2002	Stanford Financial Group	\$50,000.00
9/22/2004	Stanford, Allen	\$5,000.00
4/8/2005	Stanford, Allen	\$5,000.00
5/21/2008	Stanford, Allen	\$28,500.00
Total Contributions		\$238,500.00

Donations to Democratic Congressional Campaign Committee ("DCCC")		
Date	Contributor	Amount
2/17/2000	Stanford, Allen	\$20,000.00
8/4/2000	Stanford Financial Group	\$5,000.00
3/26/2001	Stanford Financial Group	\$10,000.00
5/8/2001	Stanford Financial Group	\$10,000.00
10/23/2001	Stanford Financial Group	\$20,000.00
3/29/2002	Stanford Financial Group	\$50,000.00
9/10/2002	Stanford Financial Group	\$25,000.00
10/21/2002	Stanford Financial Group	\$50,000.00
5/31/2003	Stanford, Allen	\$10,000.00
Total Contributions		\$200,000.00

Donations to Republican National Committee ("RNC")		
Date	Contributor	Amount
6/23/2000	Stanford Financial Group	\$100,000.00
7/21/2000	Stanford Financial Group	\$3,500.00
3/2/2004	Stanford, Allen	\$25,000.00
Total Contributions		\$128,500.00

Donations to National Republican Senatorial Committee ("NRSC")		
Date	Contributor	Amount
8/28/2000	Stanford Financial Group	\$20,000.00
8/30/2000	Stanford Financial Group	\$20,000.00
9/12/2000	Stanford Financial Group	\$250.00
1/23/2001	Stanford Financial Group	\$800.00
4/9/2001	Stanford Financial Group	\$550.00
6/11/2001	Stanford Financial Group	\$275.00
6/21/2001	Stanford Financial Group	\$20,000.00
6/25/2001	Stanford Financial Group	\$20,000.00
8/16/2001	Stanford Financial Group	\$400.00
3/28/2002	Stanford Financial Group	\$335.00
4/11/2002	Stanford Financial Group	\$400.00
7/10/2002	Stanford Financial Group	\$335.00
Total Contributions		\$83,345.00