

STANFORD RECEIVER WINS FIRST FRAUDULENT TRANSFER JURY TRIAL

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In the Northern District of Texas, in mid-February, a jury handed down the first verdict in a fraudulent transfer case arising from the Robert Allen Stanford Ponzi scheme. Second only to Bernie Madoff's Ponzi scheme in sheer scope and alleged losses, Stanford's scheme purportedly cost defrauded investors over \$7 billion before it finally unraveled in 2009. Stanford had offered investors high rates of return on supposedly secure certificates of deposit through Stanford International Bank and a Byzantine web of other, related international financial institutions. The litigation overseen by Roger Janvey, the Receiver appointed to unwind Stanford's illegitimate empire and recover funds for defrauded investors, has resulted in a Supreme Court decision ([Chadbourne & Park LLP v. Troice](#)), dozens of reported cases, and scandalous allegations about the SEC's diligence in investigating Stanford; however, until now, there have been no jury verdicts requiring those who purportedly received ill-gotten investor funds to return those funds to the Receiver. In *Janvey v. Romero*, the receiver sued Peter Romero, a former United States ambassador to Ecuador, under fraudulent conveyance and unjust enrichment theories, to recover funds Romero received from Stanford entities for his assistance to those entities. Romero served as a "senior advisor" to Stanford International Bank and gave speeches to usually international potential investors. Though the receiver did not allege that Romero intentionally participated in Stanford's fraud, the receiver argued that Romero lent an air of legitimacy to Stanford's scheme and knew or should have known that the certificates of deposit being offered to investors could not possibly generate the returns they allegedly made. Romero argued that, had he known of the Ponzi scheme, he would never have worked with the bank, let alone invested his own funds (over \$100,000) in Stanford's certificates of deposit. However, the court ultimately concluded that Romero's subjective state of mind was beside the point. Because Romero was deemed to be a bank "insider," the court concluded that, regardless of the legitimacy of Romero's services actually provided to SIB, because those services were in furtherance of a Ponzi scheme, they could not be considered valuable services to the Bank and therefore payment for those services was a fraudulent transfer. As a result, the jury concluded that the entirety of more than \$700,000 Romero received from the bank over seven years for his work advising the bank and giving lectures were ill-gotten and had to be returned. Romero, however, was permitted to keep funds equal to his own investment in Stanford's certificates of deposit (which, on some level, still places him in a better position than most defrauded investors). The verdict is significant because it may serve as a blueprint for upcoming trials in other fraudulent conveyance actions against other individuals and entities paid by Stanford

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and his bank who may not have known about the fraudulent nature of his activities, but nonetheless provided assistance in encouraging investors to invest in Stanford's scheme. The decision also may spur some of the other 1,300 defendants in the almost 60 other fraudulent conveyance actions to consider settling (including the former Texas lieutenant governor who is scheduled to go to trial later in March).