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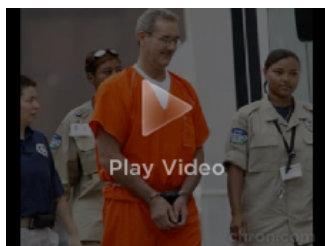
## Some Stanford investors may have to repay funds

By **TOM FOWLER** Copyright 2009 Houston Chronicle  
March 3, 2009, 11:00PM

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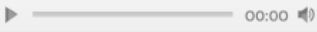
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Allen Stanford, the Texas financier accused of fraud, was led into Houston's federal court in handcuffs in June. Video by Jason Witmer, June 25, 2009.



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Allen Stanford, the Texas financier accused of fraud, was led into Houston's federal court in handcuffs in June. Video by Jason Witmer.

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### Ex-Stanford officer pleads not guilty

Laura Pendergest-Holt, the former chief investment officer for Stanford Financial

### Stanford discusses civil suit

Chronicle, saying his company wasn't involved in a Ponzi scheme or intentional fraud. Video

### Stanford employee goes to court

The chief investment officer for Stanford Financial Group, Laura Pendergest-Holt, made a court appearance Friday on a charge of luring

Some Stanford Financial Group investors now in their third week without access to their funds may need to stop asking how much money they'll get back and start preparing for how much they may have to pay back.

If certificates of deposit issued by a Stanford offshore bank really were part of a Ponzi scheme, as federal securities regulators allege, then interest payments on the CDs would be considered proceeds from the fraud. So would CDs that were cashed out, whether the funds were put into other investments or simply pocketed.

Stanford Financial Group, an international network of banking and financial companies headed by Texas native R. Allen Stanford, was placed in receivership and all client assets frozen on Feb. 17, when the Securities and Exchange Commission filed a civil fraud complaint.

"While most of these customers may have been innocent of the fraud, the receivership estate may, as required by the court's order, seek to reclaim these proceeds or the securities purchased with the proceeds, so that this value can be shared equitably by all victims of the fraud," court-appointed receiver Ralph Janvey said in a statement released earlier this week. "The number of brokerage accounts affected by these products could number in the thousands."

This possible mingling of funds in brokerage accounts may explain why the receiver continues to hold up the release of accounts held by clearing firms—the companies that process securities sales and purchases for brokerages, said Nancy Rapoport, a law professor at the University of Nevada, Las Vegas.

### Ponzi scheme?

If the CDs were part of a Ponzi scheme — in which early investors are paid returns out of money put in by subsequent investors — the receiver's distribution to an investor might be reduced by the amount of profit Stanford firms previously paid out to that investor, said David Findling, a Michigan attorney who specializes in running receiverships.

And if Stanford Financial's assets are less than its liabilities — which is very likely, the receiver said Monday — the investor would likely just receive a prorated share, and perhaps nothing.

Janvey said Monday that some cash or brokerage accounts of less than \$100,000 and held by clearing firms, may be released starting March 16.

But other payouts are likely a long way off. During a court hearing in Dallas Monday, Janvey outlined the scope of the task his team of lawyers and forensic accountants face.

He said at least 175 Stanford entities are spread out over more than 100 offices through the U.S., Canada, Europe, Latin America and the Caribbean.

### Search for assets

The search for assets had only uncovered about \$250 million as of last week, according to testimony Friday in a bond hearing for Stanford's chief investment officer, Laura Pendergest-Holt, who was charged with obstructing an SEC investigation in the only criminal case so far in the investigation.

The SEC has alleged a fraud that could total \$8 billion.

The receiver has asked for elected officials to return campaign contributions and is in the process of asking law firms to return money that kept them on retainer for Stanford.

### Bankruptcy option

The receiver could increase his power to go after assets by

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putting one or all of the Stanford firms into bankruptcy, Findling said.

"It wouldn't be done based on the balance sheet of the company but on the receiver doing his job in the most efficient and least expensive way."

Bankruptcy courts are better suited than U.S. district courts for handling multiple parties with many claims on the assets of a business, Findling said.

"A district judge deals with a wide variety of cases competing for his attention," Findling said. "If he has a choice between holding a hearing to put a child pornographer behind bars or some creditors' claim against a business, he'll give the first case the priority."

Who needs it more?

Under bankruptcy or receivership, the first in line for payment would be any federal, state or local government with outstanding tax payments due, said Michael Missal, an attorney with K&L Gates in Washington, D.C.

Next would be the receiver, who usually submits regular bills for services that the judge approves for payment from the assets of the estate.

Secured creditors, such as banks that hold mortgages on company buildings, are next in line. Employees owed back wages come close behind secured creditors, Missal said, and then investors.

A receiver can deviate from that pecking order with court approval, looking at the circumstance of individual creditors.

"You can ask, 'Who needs the money more?' among the investors. Who would justice be better served by?" Missal said.

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