UNITED STATES OF AMERICA

Before the

SECURITIES AND EXCHANGE COMMISSION

In the Matter of

DANIEL BOGAR,

BERNERD E. YOUNG, and

JASON T. GREEN

ADMINISTRATIVE PROCEEDING

File No. 3-15003

Respondents.

RESPONDENT BERNERD E. YOUNG'S REPLY BRIEF TO THE DIVISON OF ENFORCEMENT'S BRIEF IN OPPOSITION TO BERNERD E. YOUNG'S BRIEF IN SUPPORT OF HIS PETITION FOR REVIEW OF INITIAL DECISION

Introduction and Background

The Staff of the Commission (the "Staff" or "Division") would like the five Commissioners (the "Commission") to believe that Stanford International Bank ("SIB") was an unregulated off-shore hedge fund that was not subject to annual review of its financial statements by a qualified independent auditor, and not subject to regulation by the sovereign regulatory authority of the

country in which it was domiciled. Staff would like the Commission to believe this so that their allegations, and "story" remain plausible. While their story makes for a "good read", it could not be farther from the truth in depicting Young's actions and motives. As one famous broadcaster often said "now, for the rest of the story".

SIB was domiciled in Antigua which, like Canada and Australia, is a member of the British Commonwealth, subject to the full breadth of rule and reign of the British government. The Governor General, the highest governmental position in Antigua is directly appointed by the British Crown.

The Antiguan regulators, in this instance, the Financial Services Regulatory Commission, (the "FSRC") was charged with enforcement of applicable laws, including the International Business Corporations Act (the "IBC"), under which SIB was licensed. Among other things, the IBC gave the FSRC authority to require SIB to remove officers and directors that FSRC deemed to be not "fit and proper persons and have the skills commensurate with the size and nature of the activities of the corporation." (Young Exh 110 at BEY000027-000028) The IBC also required that SIB's outside auditor not only be licensed but also vetted, AND APPROVED no less than annually, by both the FSRC and the Eastern Caribbean Central Bank (TR 3210). Finally, the FSRC required financial information from SIB, and approximately twenty other banks, (Young Exh. 4) including receipt and review of their financial statements, including their investment portfolios, on both a monthly and quarterly basis. The FSRC was also required to conduct an on-site audit of SIB on an annual basis, without exception. The FSRC had the full range of enforcement powers at their disposable, including the revocation of SIB's banking license and criminal charges against SIB senior managers. (Young Exh 110 at BEY 000031-000033). Stanford also had an International Advisory Board comprised of several world renown individuals and received

accolades from a former U.S. President (TR 3719-3720). It is not surprising that the staff, in all of their briefs, failed to mention any of this information.

Staff would have you believe that Antigua was a backwater country rife with crime and money laundering and, during the trial, pointed to several articles describing "allegations" of corruption. Staff failed to provide, however, any concrete evidence of corruption or regulatory or legal actions emanating from the allegations Staff held so tightly to, and would have the Commission believe that such allegations alone made Antigua unfit for participation in international finance, even though Barclay's Bank, Bank of Novia Scotia and others had a presence on the island (Young Exh. 4, TR 1858-1860)

Young has described the scenario at SIB as the "perfect scam", in that the issuer was a regulated entity, subject to independent annual audits, had a Board of Directors, a majority of whom were independent (and included a former Central Bank of Barbados Governor and a former Justice of the Eastern Caribbean Court of Appeals (Young Exh 110 at BEy000028-000029)). Only after an insider disclosed the scam to the SEC (in February, 2009) did anyone know that BOTH the regulator (LeRoy King ("King") and the now deceased accountant were being bribed by R. Allen Stanford ("RAS"). In reality, how could anyone have known this?

Young's Control of the Distribution of SIB Documents

Staff would have you believe that Young was a rogue Chief Compliance Officer ("CCO") who was derelict in his duties, when in fact, again, nothing could be further from the truth. Young acted with the utmost of care and caution while at SGC. Young's unrefuted testimony was that he, when informed of FINRA's concerns regarding a brochure, required the return of all marketing

materials to his possession and control so that they could not be used until FINRA completed their review AND issued a "clean letter". And again, in unrefuted testimony, Young testified that in February 2009, when informed that there was " a problem with the disclosure statement" Young, AGAIN required the return of ALL SIB related materials to his possession and control so that investors could not, and would not, be provided information that was inaccurate (TR 3150, 3240-3244). None of these actions are characteristic of a CCO acting with recklessness or negligence.

Once again, the Commission has to ask itself, is this the type of internal procedures and operational controls that an individual acting with recklessness, negligence or scienter is going to institute?

Audited Financials

As noted above, SIB was required to engage a licensed independent auditor to issue an opinion as to the accuracy of the bank's financial statements and their compliance with the applicable rules and regulations. Not once during his many annual audits did this **fully vetted and qualified** auditor ever cite any material inadequacies in SIB's operations. Each of his audits included a chart comparing the liquidity of the SIB portfolio to the maturity of CD's. In every audit issued while Young was CCO the stated liquidity was in inverse proportion to the stated maturities. (For example, the audit stated that approximately 90% of the portfolio had liquidity of less than 30 days while approximately 75% of the CD's had maturities in excess of 6 months (Young Exh 71, Div Exh 624 at 19). Young's reliance, as a non-accountant, on these audited financial statements was in no way unreasonable, reckless, or negligent.

Young's Meeting with the FSRC

During testimony, Young discussed his meeting with King, CEO of the FSRC and SEC Chair White's counterpart in Antigua, in December, 2008.

TR 3216

Q All right. And how did your December of '08 meeting come about?

A Planning on a trip in December of '08? **One of the reasons I wanted to get down to Antigua in December of '08 is because of the economic crisis happening here in the U.S. And I wanted to talk to the regulator about what are you doing in Antigua, what are you doing in regard to the bank to address the issues -- similar issues that we were having in the United States?**

TR 3217

Q Okay. And can you tell us to the best of your recollection what your discussions were?

A We talked about -- again, I'm going from memory here because I don't have my outline in front of me here or my high-level notes, as they have been referred to.

But basically, the discussion was talking about his qualifications, what are his qualifications, what is his knowledge of Wall Street, and so forth. And then we talked about the documentation that he reviews on a quarterly and annual basis, the information he receives from the bank on a regular basis, what he does

with that review, what kind of information he actually receives, talked about the examination program on the bank. And I was informed that every bank in Antigua has an annual on-site exam every year with no time off for good behavior.

And I'm saying that because coming out of the

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NASD, there was a tiered examination program. Highest-level firms have an exam every year. Lowest-level firms have an exam every four years. So, I asked him, you know, about that. He said the current statute required an examination every year regardless of the exam findings. He said what he was in the process of doing was he was going to introduce legislation in '09 to take the Antiguan audit program to a tiered program much like the United States. The riskiest firms get audited every year, mid-level firms or mid-risk firms every two years, low-risk firms every three years.

And I asked him, "Where would Stanford fall?"

And he said, "Bernie, Stanford International Bank would be audited every three years. It's one of the safest banks on the island."

We then talked about "What can you do to people when there's wrongdoing? Tell me about your enforcement arm."

And he once again, he told me something I already knew, which was that the Antiguan statutes have criminal penalties built into the statutes and that the

Antiguan laws presume guilt versus innocence. And if you are a senior officer of a financial institution and the institution is accused of money laundering, you're presumed to have known. And there's statutes built in

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or there's consequences or penalties built into the law.

I then asked him, "If you find wrongdoing at the bank, what can you do?"

He said, "We have enforcement actions up to and including expulsion of the bank, revocation of their banking license. And we can recommend jail time for the principals of the bank." He said, "Bernie, our exam program has teeth, probably more so than in the United States because in the United States, the SEC does this civil investigation. And if they believe there's criminal wrongdoing, they refer it over to the Department of Justice. In Antigua, both those investigations are combined in the same agency."

Q Did you discuss anything else?

A I asked the question -- I asked him, you know, about the safety of the bank and his examination program. And one of his last comments he made is he says, "Bernie, your dear Stanford International Bank is not more important than the island of Antigua."

I believe he used those words, exact words, "dear Stanford International Bank."

Q Was there a time where you ever became aware that the bank had been under one of these civil/criminal

24 investigations by his authority?
25 A The answer is no. And I asked him -- and I
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1 asked him about -- about disciplinary actions. And I
2 said, "I'd like to see an exam report."
3 He says, "You can't see my exam report."
4 I said, "Well, then, a regulator, a former
5 regulator talking to a current regulator, is it safe for
6 me to assume that since you've never taken an
7 enforcement action against the bank that you have never
8 found any items worthy of an enforcement action?"
9 He said, "That's a correct assumption."
10 Q So, he says as a regulator, you can't see my
11 examination reports?
12 A That's what he said.
13 Q Do you think if you went to FINRA and said,
14 "I'd like to see your examination reports on this
15 broker-dealer," they would hand them over to you?
16 A No.
17 Q Same question with the SEC.
18 A No.
TR 3220
Q But we don't have any evidence that either the
24 auditor or the regulator was off track at any time
25 during the time that you were there, the time that
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1 Mr. Bogar was there, or the time Mr. Green was there?
2 A That's correct.

Q I want to jump ahead and then back-fill a bit.

You returned from visiting Leroy King. How long were you down there?

A It's a three-day trip. Maybe on the island a day and a half. I missed my plane.

Q And you spent how much time with him?

A 45 minutes or so.

Q Okay. You knew you couldn't get an examination report on the bank, correct?

A Correct.

Q You knew you couldn't get it because of prior discussions with Lena Stinson and Jane Bates, you weren't going to get any transparency of the portfolio, correct?

A Well, I actually asked him if I could see a copy -- you know, would he make a copy of the quarterly submission by the bank.

He says, "I'm not going to show you that."

Q So, that's not a matter of public information?

A No.

(Emphasis added)

It should be noted that Young had a copy of a sample FSRC document request in his due diligence file (Staff Exh. 636 at Stan P_0051541.1-0051541.4), so he knew the type of information the FSRC requested. Young also had, in his files and prior to this meeting with King, a copy of a letter from King outlining his regulatory duties as well as the results of the FSRC's latest on-site examination of SIB (Young Exh. 3)

TR at 3605

A I told him I was familiar with the quarterly reporting and the annual audit checklist that he sent out. And he said -- he said he followed those. He verified positions. And he said, "Especially in these turbulent times, one of the things we're most concerned about is risk and risk exposure of the bank."

Q You said he verified the statements. Did you take that to mean that he verified with the individual money managers the holdings that each of them had?

A I took that to mean he took whatever steps he believed were prudent and necessary as a regulator to fulfill his responsibilities as a regulator.

TR at 3350

Q Okay. But fair to say, based on your testimony just a few minutes ago, you could not verify the statements made in the brochure or the disclosure statements?

A And I had no reason to believe they were misleading. There's two sides of a coin.

Q You are relying wholly on the bank?

A No.

Q You were not relying wholly on the bank?

A No.

Q Whom were you relying on?

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A The FSRC.

TR 3351

Tell me about that.

A The regulatory process. As Mr. Henderson said, they're a sovereign government with a sovereign regulatory process. I believed I had the right to rely on their regulatory process that they were doing their job, inspecting, auditing the bank, making sure that the documents were -- making sure that the bank was functioning as it was characterized.

Q Okay. When you started at SGC in June or July -- July or August 2006, what -- do you know whether the FSRC reviewed the brochure?

A I would have learned shortly thereafter.

Q That the FSRC actually reviewed the brochure?

A There are advertising requirements and standards in Antigua, yes.

Q What about the disclosure statement?

A There are advertising standards in Antigua.

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Q So, that doesn't answer my question?

A It's an offense in Antigua to make misleading statements to induce a customer to deposit moneys.

Q Did you know for a fact that the FSRC reviewed the brochure and the disclosure statement?

A For a fact? Did I know they were doing their

job? Two sides of the coin. Did I know for a fact was there any reason to believe they weren't doing their job? Two sides of the coin.

Q Okay. As a securities professional with 19 years at the NASD, you decided to rely on a regulator in a country that had a myriad of corruption allegations?

A Two sides of the coin. Why would anybody rely on the U.S. regulators?

(Emphasis added) (Also see Young Exh. 110 at BEY031-033).

Young's meeting with King was no different than a CCO from a foreign country discussing with Chair White a broker/dealer or investment advisor subject to the Commission's jurisdiction. Chair White (or any SEC Commissioner) would fully expect the CCO to take them at their word regarding the representations being made, yet Staff is of the opinion that Young should not be afforded that same consideration. Young's testimony is clearly not the type of conversation a reckless, negligent CCO would have, but rather, is exactly the type of open conversation and information gathering that should be fully encouraged.

Young's Review of Talking Points

Young testified about the review process for any communication regarding SIB, and how SIB's President, Stanford General Counsel, Global Compliance Director ("GCD") (also a registered principal with FINRA) and others were involved in the review of every communication,

both to clients and regulators, relating to SIB. (TR 3122, 3195-3201, Young Exh 110 at BEY000014).

On page 14 Staff states "Notable, there is no evidence that any independent investigation of the Bank or inquiry was conducted, either before, during, or after the talking points were prepared." Once again, this assertion is based upon Staff's refusals to recognize independently prepared audited financial statements, conversations with senior management at SIB, and other information outlined in this brief (i.e. "the total mix of information available").

The talking points Staff is "concerned" with are SIB's version of similar communications coming out of Bank of New York, and even from Mary Schapiro, as CEO of FINRA during the turbulent markets of 2008. (TR 3650-3651, 3664 Young Exh. 114).

Pershing and SIB Transparency

Staff is asking the Commission to make a leap of faith from Mr. Zelezen's testimony that he "believed" Young knew about Pershing's concerns to the December, 2008 e-mail that "falsely" told employees the reason for Pershing's termination of wire transfers to SIB. Staff wants the Commissioners to make this leap even though there is no evidence that Young was included in the composition or review of the subject e-mail. Neither of the Exhibits introduced by Staff, (Division Ex. 355 and 356) or the surrounding testimony, evidence that Young was aware of this "falsehood". Accordingly, when Young received the email about everyone "being on the same page", Young agreed on the importance of management being united. The Staff failed to produce any evidence or testimony showing Young knew the "real reason" behind Pershing' decision. In

fact, Young was never questioned by Staff about his involvement in drafting or reviewing the December 2008 e-mails in question.

When Young was informed that Pershing would no longer wire monies to SIB, he spoke with outside counsel and senior management at FINRA about possible alternatives for wire transfers to SIB. (TR 3226-3229). This is another example of Young doing EXACTLY what the regulators would expect. Again, where is evidence of Young's intent to deceive, recklessness or negligence?

Mis-statements of Facts and Testimony in Staff's Reply Brief

Staff would have you believe that Young's due diligence trips to Antigua did not contain any substantive information. This position conveniently fails to consider Young's testimony that the training sessions were only one part of his overall due diligence activities while in Antigua. In fact, Young stated that during one, day and a half trip to Antigua he estimated he spent 10 hours with senior management of SIB (TR 3205-3206, 3215, Young Ex. 5, Young Ex. 73 and Young Ex. 110 at 0023-0024).

Staff correctly states that the SIB CD was very different from a US CD. Those purchasing a CD issued in the U.S. are not typically given a disclosure document stating, among other things, that there is **no insurance** and that a **depositor could lose their entire investment** (Division Exh. 644 at Stan_P 0078933**).** As Young's training presentation shows, there were clear differences between the SIB CD and a US CD, one of which was "No Insurance" (Division Exh. 104 at 63)

In their brief, Staff summarized customer Bishop's testimony, yet failed to note that Bishop admitted that he signed the subscription documents (which disclosed the risks of the CD and stated on four separate occasions that there was **no insurance**) ((TR 1141).

Young accurately testified that the SIB CD portfolio had the characteristics of a hedge fund, but the unrefuted evidence shows it was a fixed period, fixed rate deposit that did not share in either the gains or losses of the underlying portfolio. Young testified that SIB was regulated as an international bank.

Staff states that it is "unrefuted that these representations included in the offering documents were false". However, it is important to remember that while Young was CCO, neither he nor **anyone** outside of the 5 individuals prosecuted by the Department of Justice knew, or could have known, these representations were false, or that King and the auditor were co-conspirators. This fact was corroborated by the FBI Special Agent who testified that Young and the other respondents had no knowledge of the fraud (TR 2153). Staff's case against Young is a classic hindsight argument based on facts of RAS' Ponzi scheme that neither Young or anyone outside of RAS and his co-conspirators knew or could have known.

Staff also mischaracterized Young's understanding of the McLagan report. During Young's testimony, he noted several concerns and unanswered questions about the report, which contradict Staff's characterization of Young's "understanding" (TR 3548-3553).

Staff also mis-characterizes the purpose of Young's meetings with FA's in early 2009, despite testimony and evidence to the contrary. Staff states "Young blindly assured SGC's financial advisors, in effect "all is well". A careful reading of the transcript and supporting evidence clearly shows the true nature of these meetings. Both Batarseh's testimony (TR2317-

2318) and Young's testimony (TR 3318-3322, Div Ex. 797) give an accurate explanation of the nature of the meetings and it should be noted that Batarseh is not a respondent in this matter, nor was he a witness called by Young.

Another mischaracterization of Young's actions is contained in Staff's statement "with his blindly allowing investors to be assured". Again, as noted throughout this reply, in testimony and Exhibits, there is no evidence to support this rank conjecture.

Staff's brief further ignores testimony surrounding Young's compensation, which was acknowledged by the ALJ's order that approximately $202, 000 was reimbursement of expenses and as such, Young compensation was $1,068 million (ALJ Order at 21). Staff however states Young's compensation was $1. 3 million and ignores testimony from the forensic accountant that she did not know the nature of a general ledger account titled "Oracle" and Young's testimony that "Oracle" was an expense re-imbursement account and that the $202,000 attributed to income was, in fact, reimbursement of out of pocket expenses. (TR at 216-218, 3127-3128).

Further, on page 13 of their brief, Staff implies their quote is attributed to Young, when in fact, the e-mail in question was written by Jason Green. Staff also asserted that Young did not suggest some level of inquiry, when in fact, his reply to Green's e-mail was simply "If someone can send me the attachment I would appreciate it". (Staff Exhibit 72). Staff cites TR 3337:6-18 to support their statement about raising concerns, but once again, they mis-characterize Young's testimony. Young testified:

TR 3337

1 Q Do you recall seeing other articles similar to
2 those --
3 A Yeah.

Q -- back at the time when you were at SGC?
A Yes.
Q And those didn't cause you concern?
A Once again, define "concern."
Q Well, you define "concern."
A It was an area that I needed to -- that I wanted to look into further. Was there any truth to these or not? Are they simply allegations? No. 1, who is bringing the allegation? What's their angle? Why are they bringing the allegation? What ax do they have to grind? What are they trying to accomplish? Or is it a -- you have to look at the motive of the person bringing the allegation, all those types of things, Mr. Fraser. I don't know that you can just say this article caused me concern in a vacuum.

Similarly, when referring to Young's access to SIB portfolio information purportedly available to FINRA registered people in Memphis, Staff stated, in their brief, "to put it plainly, if Young had asked for … those spreadsheets he could have learned. (Brief page 8). Staff ignores FBI Special Agent Walther's testimony that the people in Memphis were specifically told, not to discuss what they were doing with anyone (TR 2180) and that the SEC's own witness thought the monies were RAS's not SIB's. (TR 2238-2240). It should be noted that Special Agent Walther was not a witness called by Young.

Staff states that the Training and Marketing Manual parroted many of the assurances found elsewhere. But the manual that Staff points to is the old version of the manual, which was revised several times prior to February, 2009 (TR 3181), including in December 2007, which deleted the

comparison to FDIC coverage and expanded on the purposes of the insurance coverage. Further, consistent with industry practice, the purpose of this "parroting" was to ensure consistency in the offering documents, disclosures and marketing materials provided to FA's and clients.

Staff noted that investors did not know Young was unable to confirm SIB's representations, but fails to note that this "crucial information" was confirmed by two independent sources, the auditor (as contained in the annual audited reports), and the FSRC (as noted above) and was consistent with the information distributed by SIB. Staff would have the Commission believe that Young was not entitled to rely on these sources as part of the basis for his approval to use SIB documents. If this finding is confirmed, then no-one in the U.S. is entitled to rely on any audited financial statements whether issued in foreign countries or by a member of the PCAOB. Staff, in a footnote on page 21 states that "where a broker/dealer lacks essential information, the broker/dealer must disclose this" but obviously fails to consider that audited financial statements by a fully competent and vetted accounting firm provided Young with this "*essential information*".

Snyder Kearney Due Diligence

Staff in a footnote on page 12 states that Kearney testified about his firm not receiving information about regulatory examinations of SGC, but failed to note that Young testified that there were several internal discussions about what to provide (TR 3573). Young further testified that ultimately, nothing was provided to Kearney, due to a decision by SGC not to launch the product as a result of the economic crisis which was unfolding in the U.S. economy at the time (TR 3571-3572). Staff further fails to recognize that Snyder Kearney was not hired to provide due

diligence on the SIB, but on a fixed income product that was never launched because of the economic conditions in the fall of 2008. (TR 3571-3573)

Sales Contests, Fees and Compensation

Staff assertion that Young knew the offering documents did not accurately disclose the fees paid by SIB is again a leap in logic as it requires Young to make a legal conclusion for which he was not qualified or trained. Not being an attorney, and having no choice but to rely on legal counsel, both internally and externally, to determine what disclosures were required, Young was not in a position to determine if the disclosures in question were "materially inadequate". Staff's assertion further ignores testimony by Weiser, CFO for SGC that the research fees were not paid by SIB (TR 2488-2489). Therefore to find Young negligent on this point will create a dangerous precedent for other CCO's, who are non-lawyers as they will be expected to make legal determinations for which they are not qualified or trained.

Staff states that Young failed to ensure that sales incentives were properly disclosed, choosing to ignore numerous references to such compensation in the offering documents including a disclosure to clients who purchased the CD that the fee was 3% annualized (TR 3561-3566).

Staff incorrectly states, in a footnote on page 16, that "SGC's only disclosure regarding incentive compensation was the letter mailed to clients". This letter, in fact, stated "SGC recently referred you to SIBL, our affiliate for this purchase. As disclosed in the SIBL disclosure statement for U.S.-accredited investor Certificate of Deposit Program, SGC receives a referral fee of 3 percent annualized from SIBL and may receive additional incentive fees for FAs who refer SGC clients to SIBL." (TR 3565-3566)

Staff states that "Each of these programs resulted from Stanford's persistent goal of growing SIB's assets" yet failed to mention that the time period in question was 2004-2005, (TR 1032-1033) (years before Young joined SGC or became its CCO). Staff also ignores extensive testimony by Young, Bogar, Green and others as to the efforts to change the compensation structure, and in fact, a new compensation structure was in place in the spring of 2009. This compensation structure was based on total assets under management and did not favor one product over another. (TR 2785-2876, 2792)

Additionally, Staff ignores testimony that, shortly after he was hired, Young demanded a change to the bonus structure for the compliance department, one that was not tied to sales of the CD (TR 3117).

Michael Koch

The staff contends that "his own compliance subordinate, Michael Koch (Koch), recognized that the insurance information being presented in training to SGC's FAs was misleading". Again, the Staff mischaracterizes the testimony presented at trial, to wit Green testified that Koch took it upon himself to tear his presentation apart and then he tried to play the "compliance card" when Green objected. Green testified that the presentation had been reviewed for years by compliance and legal for SGC as well as compliance and legal for SIB, including its General Counsel.

Staff also refers to an e-mail by Koch that discusses the standard for outside due diligence, yet failed to recognize that Koch was referring to Bank of America's use of proprietary products in their **discretionary wrap fee programs** (emphasis added). What Staff knew, or should have

known, is that SIB CD was never sold in a discretionary wrap fee program, or any other advisory account and thus, this e-mail fails to support their position.

Training

It is important to note that Staff failed to present a single witness who testified that Young armed them with any "promises". Further all of the witnesses called by Staff were "trained" before Young ever joined SGC. Accordingly, no evidence and no testimony was presented to support Staff's contention that Young "armed" the FAs with "promises" as a result of his training. (TR. 3795-3799). Instead, Staff has chosen to ignore direct testimony given by Green regarding the approval processes which had been in place for years for the training materials including review by legal and the President of SIB. (TR 3798-3799)

Privacy Laws

Staff further misrepresented testimony when they stated Young was not able to point on direct, cross, or re-direct, to a particular law addressing privacy. Staff ignores Young's testimony that there were privacy provisions in four separate Antiguan laws and when asked about particulars, stated "Not off the top of my head sitting right here now, no, unless we want to take a while to get there". (TR 3396-3398) Instead of affording Young an opportunity to review the laws in question, Staff changed the line of questioning. (See also Young Exh 110 at BEY 000025).

Young further testified that he was not an attorney and that he had been advised of the strictness of the Antiguan privacy laws by Thomas Sjoblom, outside legal counsel as well as by

King, by both the President and CCO of SIB, by a former SGC CCO, by Stanford's GCD, and both Stanford in-house attorney responsible for SIB and Stanford General Counsel. Each of these individuals had significant experience and authority upon which Young could rely, not to mention the fact that statements received from these individuals were consistent. (It should also be noted that none of these individuals have been named in either an SEC or Department of Justice investigation).

Young further testified that Antiguan privacy laws was a legal issue that he knew others in the company were pursuing (TR 3491-3493), once again reasonably relying on other qualified individuals.

It should be noted that the "privacy argument" is not specific to Young, but respected international accounting firms have also stated that in-country privacy laws preclude them from providing information. (SEC Administrative Proceeding File No. 3-15113, TR 1621-1624)

Withholding of Information from Young

Young testified that he was unaware of the issuance of a SEC subpoena in December 2008 requiring his testimony. (TR3203-3205, 3237-3238, 3256-3258). Accordingly Staff failed to evidence that Young acted with scienter or in contravention of such subpoena at any time after the issuance of the subpoena, up to and including the review and approval of bullet points and the "road show" in early 2009. In fact Young testified that, had he known about the issuance of such subpoena he would have "very seriously consider tendering my resignation and, of course, cooperating with the SEC." (TR 3238) Once again, this is not testimony indicative of a person acting recklessly, negligently or with any degree of scienter, but is EXACTLY what the

Commission has communicated that they expect from a CCO. Should the Commission uphold the ALJ's opinion, this case will directly contradict the SEC's expectation.

As noted previously, Young was not involved in the creation of the December, 2008 e-mail that "falsely" informed people of the reason for Peshing's discontinuance of wires to SIB, nor was he present at the meeting in Miami in February 2009, or privy to discussions between Green, Bogar and/or RAS and he was stone walled by Bogar and SFG's GCD when he sought information. (TR 3240-3241). Young believes that Bogar and the GCD knew he would cooperate with the SEC had he been provided with accurate information.

"Promises" Made by Young

Staff brazenly asserts that "Young knew those training presentations armed SGC's financial advisors with **promises** that, among other things, the SIB CD was appropriate for investors seeking safety, that SIB maintained various insurance policies... and that it was appropriate for "balanced" and "growth" investors to allocate 10-30% of their portfolios to the SIB CD, and for "income" investors to allocate 20-50% to the CD (**emphasis added**).

A review of Staff's Exhibits shows this is a blatant misrepresentation. These Exhibits clearly disclose that SIB has coverage for Directors and Officers, and a blanket bond that covered fraud and other insurance (Staff Exhibit 104 page 29). The Exhibit also contains a slide titled "SIB CDs with "Different Investment Options" (Staff Ex. 104 at 34). The word "promise" does not appear anywhere in this presentation and nowhere does it state that each of the allocations is "appropriate" for any investor. Young testified that he informed FA's that suitability **is** a *case-by-case determination* (Young Ex. 42, TR 3291-3293).

The marketing brochures, including both the version that required amendments and the FINRA approved version, state "we focus on maintaining the highest degree of liquidity" certainly not a "promise" of anything. The brochure also includes a prominent statement that there is no FDIC or similar insurance. (Div Ex. 607 at Stan_P 0015119 and Stan_P0015129).

The Training and Marketing Manual, revised in December 2007 and September 2008, discussed the types of insurance coverage carried by SIB (i.e.: for "operational fraud") and was used in connection with Young's training (Young Exh. 75 at BEY003832 and Young Exh 76 at Stan_P 0055255). These Training and Marketing Manuals do not contain the word "promise" anywhere and Young's training presentation states clearly, there is "No Insurance" on the SIB CD (Division Exh.104 at 63).

The Disclosure Statement, which was required to be provided to each potential depositor, (each of whom was also required to acknowledge that they read and understood the document prior to their purchase) states, on the first page, that there is no insurance, includes a page titled "Risk and other Factors..", and contains a section that states "YOU MAY LOSE YOUR ENTIRE INVESTMENT..." (no emphasis added) (Div Ex. 644) These are certainly not "promises" that investors would rely upon when making their decision to purchase a CD.

Other Considerations

Even though Young was aware of a large amount of SIB assets in the form of private equity investments, he testified that he was informed in January, 2007 by Sjoblom, (in connection with an SEC subpoena), that the assets in question were not assets underlying the SIB CD. While CCO, Young was involved in numerous responses to regulators and in each instance, he was advised by

SFG senior management and internal and (on occasion) external legal counsel, not to provide information relating to this private equity portfolio as it was not related to the CD portfolio. (TR 3214) Additionally, Young testified he was not familiar with International Accounting Standards (TR 3224), thus he had no choice other than to reasonably rely on all of the safeguards, processes, regulatory requirements and individuals noted throughout this brief.

Young testified that it was his belief, based upon his extensive regulatory career and review of financial statements for broker/dealers and issuers that SGC's overall financial dependence was irrelevant to either SIB or the underlying CD portfolio (TR 3360-3361). Based on his experiences, the fact that SGC was "dependent" upon revenues from the sale of SIB CDs was not nefarious and not uncommon among "captive" broker/dealers. Young also testified that he was not a lawyer and therefore unable to make a legal determination regarding the need for this disclosure and his reliance on lawyers reviewing the same documents is completely reasonable.

Conclusion

In its brief, Staff did not address either of Young's assertions regarding the absence of any due process afforded to Young and the applicability of the Gabelli decision. To use Staff's own words (Their) "silence is not surprising". Even Young,- as a non-lawyer, can realize the common sense applicability of both of these arguments and Staff should be commended for doing so as well.

Young's actions at all times were consistent with the standard of reasonable care, as evidenced by the uncontroverted evidence and testimony, such as his:

- required involvement in all aspects of communications relating to SIB (TR 3195-3201),
- conversations with former CCO's and current Global Compliance Officer,
- ongoing discussions and participation on conference calls with senior managers of SIB (TR 3267),
- back-testing the qualifications and requirements of SIB's auditor (TR 3383-3384, Young Exh. 110at BEY000027-000028),
- requiring that marketing materials not be used until they receive FINRA approval, and in fact, REQUIRING that all such materials be returned to his office (TR 3191),
- upon learning of undisclosed "problems" with the Offering Document, again REQUIRING that ALL SIB related documents be returned to him (TR 3243-3244)
- an annual compliance meeting document reminding people to only state facts when they are sure they are facts (TR 3598-3600)
- a comprehensive review of Antiguan laws, including its privacy rules,
- conversations with two of the independent SIB board members (TR 3401, Young Exh. 110 at BEY000028-0000290)
- a review of Basel II and it implementation in Antigua (TR 3742) and,
- a conversation with the senior most regulator of the sovereign country of Antigua.

Staff's case is clearly built on hindsight and the "coulda, woulda, shoulda" mentality that cannot be tolerated. The undisputed fact that Young's ultimate boss was a crook, who bribed two significant touch-points that would have provided independent verification of the portfolio (the regulator and the auditor) is not any type of basis for bringing action against Young. If the

Commission upholds the ALJ decision, it will shout to the CCO community "We have a continual "PUT" option on you, to be exercised in our regulatory discretion, which by the way is subject to immunity from prosecution."

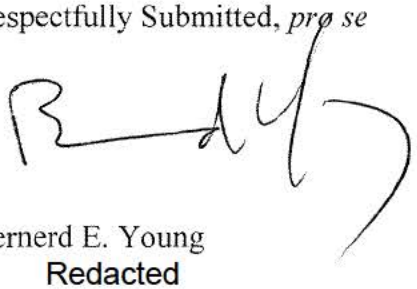
As Commissioner Piwowar stated in a recent speech: "Former Commissioner Troy Paredes recently stated, the Commission should base its enforcement decisions on three things: the facts, the law, and due process." **As noted throughout this reply brief, none of these three are present in this case**. Commissioner Piwowar further stated "by requiring Commissioners to "concern themselves only with the facts known to them and the reasonable inferences from those facts" and cautioning that a Commissioner "should *never* suggest, vote for, or participate in an investigation aimed at a particular individual for reasons of animus, prejudice, or vindictiveness. I view this command to mean that we cannot allow public outcry, agency morale, politics, or jurisdictional turf battles to be reasons for pursuing, or not pursuing, an enforcement action"

With that said, it has been nearly 4 years and 11 months since Young was employed by SGC. During that entire period of time, with the exception of claims arising out of his role at Stanford, Young has not been the subject of any regulatory inquiry, investigation or complaint or investor complaint. Young does not pose a "continuing threat".

If the Commission finds Young liable, the message will be: TRUST NO-ONE, not even SEC Commissioners or PCAOB accounting firms. To international regulators: "We don't trust you." To CCOs: "no matter what you do, no matter what competent qualified professionals, regulators or accountants you rely on, if someone associated with your firm is found to have engaged in fraudulent activity, there is no "reasonable reliance" doctrine.

Young respectfully prays that the Commission will vacate the ALJ decision and dismiss all sanctions and findings in their entirety.

Respectfully Submitted, *pro se*



Dated: January 6, 2014

Bernerd E. Young
Redacted