

U.S. justices say Allen Stanford victims can sue lawyers, brokers



Convicted financier Allen Stanford arrives at Federal Court in Houston for sentencing. (Richard Carson Reuters, / June 14, 2012)

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Reuters

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WASHINGTON (Reuters) - Investors in Allen Stanford's \$7 billion Ponzi scheme can sue to recoup losses from lawyers, insurance brokers and others who worked with the convicted swindler, the U.S. Supreme Court ruled on Wednesday.

On a 7-2 vote, the court held that lawsuits filed in state courts can go forward. The majority said the ruling would not affect the U.S. Securities and Exchange Commission's (SEC) ability to enforce securities law as some had feared.

Stanford's fraud involved the sale of bogus certificates of deposit by his Antigua-based Stanford International Bank. He is serving a 110-year prison sentence.

New York-based law firms Chadbourne & Parke LLP and Proskauer Rose LLP and insurance brokerage Willis Group Holdings Plc were sued by former Stanford investors. The investors

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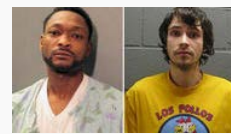
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also sued financial services firm SEI Investments Co and insurance company Bowen, Miclette & Britt.

"It's clear the justices understood that ruling for the defendants would create an immunity that Congress never imagined," said Tom Goldstein, a lawyer representing the former Stanford clients.

Representatives from the two law firms said that when the case returns to the lower court the defendants would move to dismiss the suit on other grounds.

Writing for the majority, Justice Stephen Breyer said the Securities Litigation Uniform Standards Act (SLUSA) did not prevent the state lawsuits from proceeding. The law says that state lawsuits are barred when the alleged misrepresentations are "in connection with" the purchase or sale of a covered security, which is defined as a security listed on a national exchange at the time the alleged unlawful conduct occurred.

As the defendants in the case were not selling securities traded on U.S. exchanges, "it is difficult to see why the federal securities laws would be - or should be - concerned with shielding such entities from lawsuits," Breyer wrote.

IMPACT ON SEC

The Obama administration, representing the SEC, had sided with the defendants to try to protect the agency's authority to pursue wide-ranging investigations.

The administration said the "in connection with" language in SLUSA that limits state court lawsuits mirrors language in federal law that gives broad authority of the SEC to pursue such misrepresentations.

Justice Anthony Kennedy wrote in a dissenting opinion that the ruling would have a negative impact on the SEC because it "casts doubt on the applicability of federal securities law to cases of serious securities fraud." Kennedy was joined in dissent by Justice Samuel Alito.

Securities law experts backed the majority's view that the ruling was relatively narrow.

Donald Langevoort, a professor of law at Georgetown University, said he was "very surprised" the SEC tried to argue that a ruling in favor of the plaintiffs could diminish the government's enforcement powers.

"The opinion is imminently correct as a matter of common sense and legal policy," Langevoort said.

Charles Smith, of the law firm Skadden, Arps, Slate, Meagher & Flom LLP who represents clients before the SEC, said the agency would be comforted by the limited scope of the ruling.

"The decision is crafted in a way that is intended not to interfere with the SEC's enforcement authority," he said.

The SEC, via a spokesman, declined to comment.

The defendants had sought Supreme Court review after the New Orleans-based 5th U.S. Circuit Court of Appeals in March 2012 said the lawsuits brought under state laws by the former Stanford clients could go ahead.

The former Stanford clients are keen to pursue state law claims because the Supreme Court



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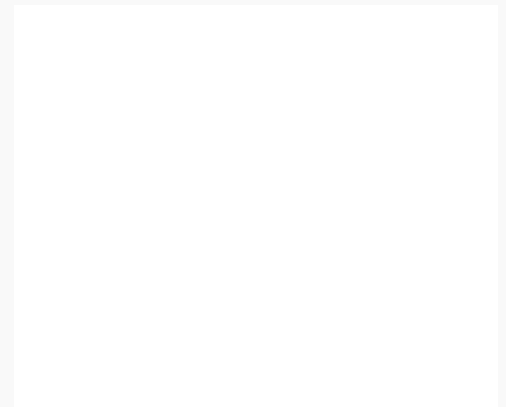
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previously held that similar "aiding and abetting" claims cannot be made under federal law.

The class-action lawsuits filed by the former investors accused Thomas Sjoblom, a lawyer who worked at both law firms, of obstructing a SEC probe into Stanford, and sought to hold the other defendants responsible as well.

The cases are Chadbourne & Parke LLP v. Troice et al, U.S. Supreme Court. No. 12-79; Willis of Colorado Inc et al v. Troice et al, U.S. Supreme Court, No. 12-86; and Proskauer Rose LLP v. Troice et al, U.S. Supreme Court, No. 12-88.

(Reporting by Lawrence Hurley, additional reporting by Sarah N. Lynch; editing by Howard Goller, G Crosse and Amanda Kwan)

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