

# **Antigua and Barbuda: History of Corruption and the Stanford Case**

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### ANTIGUA AND BARBUDA

#### HISTORY OF CORRUPTION AND THE STANFORD CASE

##### *Executive Summary*

*The collapse of R. Allen Stanford's Ponzi scheme, which used Antigua and Barbuda as a base of operations, has raised questions about the history of corruption in that country's banking system. There is evidence of Antiguan banks being used for illegal purposes prior to 2000, but in the absence of local prosecutions, little firm evidence of corruption. The extent of official involvement appears to be largely unknown. At the present time, the government of Antigua and Barbuda does not appear to be prosecuting individuals in that country in connection with the Stanford case. It is, however, preparing to defend itself in lawsuits brought against it in the United States.*

#### **I. Evidence of Corruption in Antiguan Banking Prior to 2009**

Antigua and Barbuda is a Caribbean nation that attained its independence from the United Kingdom in 1981.<sup>1</sup> The country's first Prime Minister was Vere Bird. In 1994, he was succeeded by his son Lester Bird. In 2004, the party headed by current Prime Minister Baldwin Spencer defeated Lester Bird's party and formed a new government.<sup>2</sup> Lester Bird is currently the leader of the opposition.

During the years that they were in power, the Bird family was often accused of running a corrupt government in which officials accepted money in return for political favors. Abuses of power were also alleged. In 1990, the family was implicated in a scandal over the shipment of Israeli arms that were diverted from Antigua to a Columbian drug lord.<sup>3</sup> The eldest son of the Prime Minister, Vere Bird Jr., reportedly signed for the arms as the minister in charge of national security, and he eventually resigned from both Parliament and the government. At the time of this scandal, U.S. newspapers and news organizations published several articles covering not just the arms scandal, but also such previous scandals as one involving the alleged harboring of the fugitive international financier Robert Vesco by Lester Bird in the early 1980s. A number of these articles were later posted by the Stanford Victims Coalition on its Anti-Crime Anti-Antigua

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<sup>1</sup> Antigua and Barbuda Constitution Order, 1981 S.I., No. 1106 (U.K.).

<sup>2</sup> Central Intelligence Agency, *Antigua and Barbuda*, THE WORLD FACTBOOK, <https://www.cia.gov/library/publications/the-world-factbook/geos/ac.html> (last visited Jan. 10, 2011).

<sup>3</sup> *Arms Diversion to Colombia Clouds Antigua Ruling Family*, LOS ANGELES TIMES (May 20, 1990), [http://webcache.googleusercontent.com/search?q=cache:8thdg597EQEJ:articles.latimes.com/1990-05-20/news/mn-298\\_1\\_deputy-prime-minister+antigua+israel+arms&hl=en&gl=us&strip=1](http://webcache.googleusercontent.com/search?q=cache:8thdg597EQEJ:articles.latimes.com/1990-05-20/news/mn-298_1_deputy-prime-minister+antigua+israel+arms&hl=en&gl=us&strip=1).

web site.<sup>4</sup> This organization has itself stated that “Antigua is [the] home of one of the world’s most corrupt governments, which is deeply rooted in nepotism and moral depravity.”<sup>5</sup>

Assessing the extent to which the Stanford Victims Coalition’s characterization of Antigua and Barbuda’s government is accurate, or even of the government as it existed under the two Bird administrations, is difficult. The reported scandals did not lead to any reported criminal prosecutions of government officials, and there has never been a reported investigation into corruption in Antigua and Barbuda by a domestic, Caribbean, or British unit established for that purpose, as has occurred in the remaining Caribbean overseas U.K. dependencies of Montserrat and the Turks and Caicos Islands. There is thus little hard evidence of corruption to cite in support of Antigua’s reputation as an island that has long tolerated official misconduct for financial gain.

There are, however, some facts that have at the very least fueled suspicions. One of these is that the government has allowed the country to be a major host of Internet gambling sites in the Caribbean.<sup>6</sup> Another is that it has enacted legislation to impose strict bank secrecy<sup>7</sup> and encourages the use of Antigua as an offshore financial center for banks, trusts, and international companies.<sup>8</sup>

It has been reported that in the early 1990s, “scam artists ... used two banks that have since been closed to steal at least \$60 million from people seeking venture loans,” and that, as of 2001, a U.S. Customs investigation had resulted in the conviction of nineteen persons.<sup>9</sup> It has also been reported that several Russian-owned banks operating in Antigua were closed in 1997 and 1998 because they were allegedly involved in money-laundering activities.<sup>10</sup>

In April of 1999, the U.S. Treasury’s Financial Crimes Enforcement Network (FinCen) placed Antigua and Barbuda on its advisory or “black list,” after a 1998 amendment to the country’s Money Laundering (Prevention) Act weakened the law.<sup>11</sup> FinCen reportedly stated that “these changes threaten to create a ‘haven’ whose existence will undermine international efforts of the United States and other nations to counter money laundering and other criminal

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<sup>4</sup> ANTI-CRIME ANTI-ANTIGUA, <http://www.anti-antigua.org/> (last visited Jan. 14, 2011).

<sup>5</sup> *Id.*

<sup>6</sup> For an article on the dispute with the U.S. over this issue from the perspective of the offshore gaming industry, see Tom Jones, *Negotiations Ongoing in US-Antigua Online Gambling Dispute*, Casino Gambling Website (Nov. 11, 2010), [http://www.casinogamblingweb.com/gambling-news/gambling-law/negotiations\\_ongoing\\_in\\_us\\_antigua\\_online\\_gambling\\_dispute\\_56003.html](http://www.casinogamblingweb.com/gambling-news/gambling-law/negotiations_ongoing_in_us_antigua_online_gambling_dispute_56003.html).

<sup>7</sup> Banking Act, 2005, 2005 ANT. AND BARB. LAWS, No. 14.

<sup>8</sup> International Business Corporations Act, ANT. AND BARB. REV. LAWS, ch. 222 (1992), *as amended*.

<sup>9</sup> Mimi Whitefield, *U.S. Treasury Takes Antigua, Barbuda Off of ‘Black List,’* MIAMI HERALD (Aug. 22, 2001), Lexis/Nexis NEWS Library, MIAMIH file.

<sup>10</sup> 1 Tax Havens of the World (LexisNexis) Antigua and Barbuda-18 (Aug. 2010).

<sup>11</sup> Money Laundering (Prevention) Act, 1996, 1996 ANT. AND BARB. LAWS, No. 16.

activity.”<sup>12</sup> FinCen also “faulted Antigua for appointing a financial sector regulatory authority that included representatives from the banks the authority was supposed to be regulating.”<sup>13</sup>

In April of 1999, the United Kingdom also issued an advisory to warn British banks that they should be scrutinizing transactions with Antiguan banks closely. The U.S. and British advisories apparently led a number of U.S. banks to cease doing business with Antiguan institutions. The Antiguan government responded by amending its laws to create a regulatory authority composed of civil servants and provide for the freezing of assets in Antigua of persons charged with money laundering anywhere in the world. Antiguan banks reportedly stopped accepting cash deposits and began following stricter know-your-customer rules. In 2000, regulations were adopted to extend the Mutual Assistance in Criminal Matters Act<sup>14</sup> to the United States, and in 2001, an international task force found that Antigua and Barbuda was cooperating fully in the fight against money laundering. In July of that year, the United Kingdom lifted its advisory, and in August, the U.S. Treasury Department took Antigua and Barbuda off its “black list.”<sup>15</sup>

The history of banking in Antigua and Barbuda supports the proposition that some banks formed in that country prior to 2000 were involved in illegal activities. However, not enough is known about the facts of these cases to conclude that problems were allowed to arise as the result of official corruption.

## II. Official Handling of the Stanford Case

Robert Allen Stanford and two associates were charged with securities fraud by the U.S. Securities and Exchange Commission on February 17, 2009. Shortly thereafter, the SEC also charged Leroy King, “the administrator and chief executive officer of Antigua’s Financial Services Regulatory Commission (FSRC), for accepting thousands of dollars per month in bribes to ignore the Stanford Ponzi scheme and supply Stanford himself with confidential information about the SEC’s investigation.” In its amended complaint filed in June 2009,<sup>16</sup> the SEC stated King allegedly had “obstructed the SEC’s case since 2005, when its investigation into Stanford began.”<sup>17</sup> The Antiguan government then seized control over the offshore Stanford International Bank, and assigned control over the local Bank of Antigua to the Eastern Caribbean Central Bank. That bank then distributed the seized institutions assets to five other Caribbean banks.

When the SEC’s charges were filed, Antigua’s Prime Minister immediately promised to cooperate with the United States in the investigation of the crimes allegedly committed by

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<sup>12</sup> Whitefield, *supra* note 9.

<sup>13</sup> *Id.*

<sup>14</sup> 1993 ANT. AND BARB. LAWS, No. 2; 2000 ANT. AND BARB. S.I. No. 5.

<sup>15</sup> Whitefield, *supra* note 9.

<sup>16</sup> U.S. Securities and Exchange Commission, Litigation Release No. 21092 (June 19, 2009), <http://www.sec.gov/litigation/litreleases/2009/lr21092.htm>.

<sup>17</sup> *Id.*

Stanford and his associates.<sup>18</sup> King was later removed from office, committed for extradition<sup>19</sup> at the request of the United States, and placed under a form of house arrest. However, King immediately began fighting his extradition to the U.S. and as of mid-October 2010, had still not been extradited to stand trial in the U.S. The Antiguan court hearing the case is reportedly “studying the matter,” even “though neither any substantive nor procedural issues have surfaced in the extradition proceedings.”<sup>20</sup> Most news accounts of this story have included speculation that the government of Antigua and Barbuda does not want to extradite King for fear that he might implicate other Antiguan officials.<sup>21</sup>

The official and non-official sources used in the preparation of this report do not indicate that any criminal charges have been filed in Antigua and Barbuda in connection with the Stanford case.

On other fronts, the government is reportedly preparing to defend itself in several U.S. lawsuits. The Stanford Victims Coalition has reportedly alleged that the government should compensate their group for the benefits Antigua and Barbuda received from Stanford’s investments in the country. The government has announced that its lawyers are looking “at whether that action is sustainable against a sovereign state and the whole issue as to whether or not there was a commercial enterprise in which the government participated with Stanford.”<sup>22</sup> As to a separate action relating to the takeover of the Bank of Antigua and the apparent distribution of its assets to five Caribbean banks by the Eastern Caribbean Central Bank, the government contended in October of 2010 that it had not yet been served with the complaint.<sup>23</sup>

### III. Concluding Remarks

Despite an absence of reported prosecutions, Antigua and Barbuda has gained a reputation for having had governments in which officials accepted bribes in return for legal favors. There was more discussion of this regarding the two Bird administrations than the current Spencer government. However, the current government has been sharply criticized by the victims of R. Allen Stanford’s Ponzi scheme for not moving quickly to prosecute or extradite officials alleged to have committed crimes in connection with the case. While little action appears to have taken place in Antigua and Barbuda, the government of this Caribbean country has indicated that it intends to defend itself in lawsuits brought against Antigua and Barbuda by the U.S. government and persons defrauded by Stanford.

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<sup>18</sup> Clifford Kraus, *Antigua’s Leader Vows Cooperation with U.S. in Investigation of Its Banks*, NEW YORK TIMES (Feb. 23, 2009), Lexis/Nexis NEWS Library, NYT file.

<sup>19</sup> Press Statement by Attorney General Justin L. Simon, QC on the Sir Allen Stanford and Leroy King Matter (June 19, 2009), [http://www.fsrb.gov.ag/files/Attorney\\_General\\_Press\\_Release1.pdf](http://www.fsrb.gov.ag/files/Attorney_General_Press_Release1.pdf).

<sup>20</sup> Kenneth Rijock, *When Will Leroy King be Extradited in the Stanford Case?*, WORLD-CHECK (Sept. 29, 2010), <http://www.world-check.com/articles/2010/09/29/when-will-leroy-king-be-extradited-stanford-case/>.

<sup>21</sup> *Id.*

<sup>22</sup> *Government Builds its Defense Against the Stanford Victims Coalition*, GOV.AG (Oct. 15, 2010), [http://ab.gov.ag/gov\\_v4/article\\_details.php?id=1007&category=38](http://ab.gov.ag/gov_v4/article_details.php?id=1007&category=38).

<sup>23</sup> *Id.*

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