

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

In the Matter of:)
) File No. 3-21243
THE REGISTRATION STATEMENT OF)
AMERICAN CRYPTOFEED DAO, LLC)

ADMINISTRATIVE PROCEEDING - HEARING, VOL. 4

PAGES: 610 through 706

PLACE: Securities and Exchange Commission
100 F Street NE
Washington, D.C.

DATE: Wednesday, January 18, 2023

The above-entitled matter came on for hearing, pursuant to notice, at 10:00 a.m. Eastern Time.

BEFORE :

CAROL FOX FOELAK, ADMINISTRATIVE LAW JUDGE

Diversified Reporting Services, Inc.

(202) 467-9200

1 APPEARANCES:

2

3 On behalf of the Securities and Exchange Commission:

4 CHRISTOPHER BRUCKMANN, ESQ.

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16 On behalf of the Registrant:

17 XIAOMENG ZHOU

18 SCOTT MOELLER

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C O N T E N T S

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3	WITNESS:	DIRECT	CROSS	REDIRECT
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1 P R O C E E D I N G S

2 JUDGE FOELAK: Let's go on the
3 record.

4 Okay. This is a continuation of the
5 hearing In The Matter Of American CryptoFed. And
6 before we get started -- okay, Mr. Zhou is
7 presenting his case today.

8 Before we get started, I thought I'd
9 deal with a few procedural matters. Firstly,
10 American CryptoFed had filed a motion to post the
11 hearing info on the Commission's website which is
12 denied as moved. The motion was done as is routine.

13 Okay. I also like to comment when --
14 at the close of our last hearing, dates were set for
15 the Respondent to file the exhibits it proposed to
16 use and there seems to be some confusion on the
17 Respondent's part as to the purpose of this because
18 there was kind of an awful lot of stuff that was
19 proposed as exhibits. So, I think you should
20 clarify --

21 Okay. Firstly, you know, I
22 understand that as a precaution you listed some
23 legal cases which you don't need to. You could
24 always cite the law in your post-hearing brief
25 anyway. And the same goes for learned treatises

1 that you may have included, but -- anyway.

2 But I guess I'd like you to
3 understand -- make clear what exactly -- which
4 exhibits are you actually proposing to rely on in
5 presenting your case. The issues in this are
6 whether the Form S-1 lacked certain required
7 information such as audited financial statements, a
8 description of the business and opinion of counsel
9 and other things. And, you know, it looks like a
10 lot of the exhibits -- proposed exhibits are really
11 kind of irrelevant to that.

12 Do you want to comment on that?

13 MR. ZHOU: You ask -- you ask us to
14 make a comment -- comment?

15 JUDGE FOELAK: Yes. Yes. Yes.

16 MR. ZHOU: Yeah. I -- I do not see
17 there is any problem about our exhibit. All our
18 exhibit are related to successful filing
19 registration. So, this is important. And the
20 Division of Corporate Finance and the Division of
21 Enforcement block our filing and that's a whole
22 process. So, we don't believe it's solely financial
23 statement issue.

24 It's obvious that we do not submit a
25 financial statement, but that doesn't means they can

1 block our filing. So, we need to --

2 JUDGE FOELAK: Okay. But -- but --

3 but, sir, the issues that the Commission directed be
4 decided have to do with what's in the S-1 and what
5 is lacking that's supposed to be in. Not whether
6 you've got a great concept.

7 MR. ZHOU: Fully understand that, but
8 the process should be go to Section E. And Section
9 E, the Commission need follow the Section 8(b) to
10 explain to us, sit down with us, follow instruction
11 of the Chairman Gary Gensler, tell us what we need
12 and what we should do. They haven't done that
13 process.

14 At the beginning, the first order is
15 8 -- Section 8(e) Order, Section 8(d),
16 Investigation, law enforcement. There are no filing
17 reviewing process. We need to prove that. That is
18 totally wrong. That is not intended by the Congress
19 by law. So, we need to prove all those process.
20 It's not that simple, audited financial statement.
21 That one is obvious. No dispute. We never submit
22 that. We -- we have reason not to submit that.

23 But how to solve the problem when the
24 chairman -- when the SEC and ask ordinary citizen
25 like us, come to SEC, submit your registration. We

1 submit what information what we have. So -- so
2 then, we do not have, what's the process how to
3 resolve that? Let's talk carefully. Let's do not
4 go to law enforcement. That's another process. The
5 law doesn't allow that process. It's very clear.

6 So, to that instance, we need to
7 completely remove this Section 8(d) process, Section
8 8(e) law enforcement investigation, go back to
9 Section 8(b) filing review process that the law
10 require. And the -- the -- the Commission -- the
11 Division of Corporation Finance, the Division of
12 Enforcement do not comply with that law. So, that's
13 what we need to prove.

14 And they also accuse us like a --
15 like a Ponzi, okay. You said we should not go to
16 very -- to look at merit, but if you accuse
17 allegation of Ponzi that need to go so deep about
18 how economics work. We need remove all this. So,
19 all our evidence are relevant. I can provide one by
20 one how we use it as long as -- as long as, Your
21 Honor, give me time and --

22 JUDGE FOELAK: Well, you -- you can
23 certainly make these legal arguments in your
24 post-hearing briefs and all the way up to the
25 Supreme Court, if necessary. Well -- but -- yes,

1 sir.

2 MR. ZHOU: However, Your Honor --
3 Your Honor, if the record -- if the record do not
4 have our exhibits I cannot appeal. When -- okay.
5 The appeal court only look at what are already on
6 the record. So, this process need entire record.

7 We put a lot of -- a lot of those
8 documents into record. It is prepare to go to the
9 appeal court. Even go to the U.S. Supreme Court.

10 So -- so, the appeal court only look
11 at the record. So -- so, it's critical for us to
12 bring in all -- all the document we generate through
13 the process. And also remember, we do not have
14 prehearing conference. We don't know the -- the --
15 what should be admitted as evidence or not. We need
16 the whole process -- due process of a prehearing
17 conference, at least one, that's required by the
18 rule of practice. We do not have that. We skip
19 that.

20 And -- and now, we try to submit our
21 evidence and the Division of Enforcement try to
22 exclude all of them. That's not fair.
23 Constitution -- I mean, the Sixth Amendment give us
24 the right confrontation clause. That's important.

25 JUDGE FOELAK: Actually, that's for

1 criminal law, but that's besides the point,
2 confrontation.

3 Let me ask you more of a --

4 Okay. Yes, Mr. Moeller.

5 We can't hear you. You're muted.

6 MR. MOELLER: Sorry, Your Honor.

7 Just -- just on the -- the issue
8 of -- of the criminality. We've been threatened
9 by -- by the Division of Enforcement that they
10 would -- to take actions against us by -- by Article
11 Five if we were to issue the -- the tokens without
12 going through this process. So -- so, I want to
13 emphasize what Zhou's talking about on that.

14 JUDGE FOELAK: Thank you.

15 MR. BRUCKMANN: Your Honor, this is
16 the Division. Just so the record is clear, the
17 Division of Enforcement, and the Securities and
18 Exchange Commission as an entire agency, does not
19 have criminal enforcement authority.

20 We did include in one letter to
21 Mr. Moeller when he was saying that they would
22 proceed with issuing the tokens absent registration
23 information that willful violations of Section Five
24 can carry criminal penalties, but the Division
25 cannot bring criminal cases as, Your Honor, I'm sure

1 is well aware.

2 JUDGE FOELAK: Yes. That's what I
3 was trying to convey.

4 Okay. Yes, Mr. Zhou.

5 MR. ZHOU: Okay. As you know, any
6 legal case has its own life. It can develop in the
7 future when some document out of everybody's hand,
8 it can reinterpreted in different environment by
9 different agency. And -- and all of this all of a
10 sudden can generate some other event we don't know.

11 We cannot anticipate, expect what
12 will happen. It's just as us, we do -- we did not
13 expect the first order issued by the Commission with
14 Section 8(e) -- (d) Enforcement investigation order
15 in our case.

16 JUDGE FOELAK: Okay. Sir, let me ask
17 you a more less involved question.

18 Is my understanding correct that
19 American CryptoFed's proposed business is something
20 like this: Rather than, e.g., raising money to buy
21 the Denver Broncos, you're going to raise money to
22 create this alternative currency called the Ducat;
23 is that correct?

24 MR. ZHOU: We do not -- we do not
25 create any money. I will prove to you through this

1 hearing, there is no money to be raised. No
2 fundraising.

3 MR. BRUCKMANN: That's -- that's
4 obviously a point of contention between the Division
5 and Respondents, Your Honor. We believe that their
6 business model does include raising money. They --
7 they deny it, but then they say that they're going
8 to be issuing Ducat in exchange for U.S.
9 dollar-pegged Stablecoins and to the Division that
10 is very much raising money. Their interpretation of
11 facts and law is often something the Division
12 disagrees with which is why we find ourselves at
13 this hearing.

14 JUDGE FOELAK: Okay, very good.

15 Okay. Okay. Next thing, Mr. -- sir,
16 how do you propose -- okay. It's -- it's now your
17 chance to present your case in defense of the issues
18 in this hearing. Can you just sort of summarize how
19 you plan to present your case.

20 MR. ZHOU: Okay.

21 Scott, can you show our methodology
22 of my -- of our testimony. I have listed up to
23 prepare for everybody to understand, Your Honor, the
24 methodology about how to present our case testimony.

25 Scott, can you show -- put us that --

1 can we enlarge it? Right.

2 Your Honor, so, you already gave the
3 instruction and soon I will ask Scott to read your
4 instruction, Your Honor. And also, the Division
5 have -- we look at what -- how the Division
6 proceed -- do their hearing. We will learn from
7 them. And the Division also give us some suggestion
8 during the previous -- the prior hearings.

9 So, Scott, can you help me read
10 transcript day one, page seven, line 16 through 21.

11 MR. BRUCKMANN: Your Honor, we
12 object. If they're just going to start reading back
13 portions of the transcript, that's -- that's a
14 complete waste of time.

15 JUDGE FOELAK: Yes. I don't see the
16 point of this. I'm asking you, what evidence are
17 you going to put -- how are you going to present
18 your case. Not what was already said.

19 MR. ZHOU: Okay. So, first, I need
20 to let you know the methodology we present our case.
21 And then, we will let you know what we are going to
22 present.

23 So, all on -- here, Scott, can you go
24 back to --

25 JUDGE FOELAK: Okay. Forget about

1 reading the transcript. We can all read the
2 transcript. Tell me what you're going to do.

3 MR. ZHOU: Okay. Scott --

4 JUDGE FOELAK: You know, step one,
5 are you going to call John Doe to prove that Wyoming
6 is a state or I don't know.

7 MR. ZHOU: Okay.

8 Scott, can you go to the script I --
9 I wrote. Switch back. Okay. Okay. Can you scroll
10 down. Go to the number one section. Okay. Stop --
11 stop here. Section one.

12 JUDGE FOELAK: Okay. Okay, but we
13 can read all these documents. What about the
14 evidence? What is -- what theory --

15 Okay. We can read the documents.

16 MR. ZHOU: I know, but all those
17 evidence, you can see --

18 Scroll down a little bit, Scott.

19 You can see it's work together
20 with -- you can see the exhibit, okay. It's coming.

21 Scroll down. Scroll down slowly.

22 Scroll down slowly. Scroll down slowly. Scroll
23 down slowly. Let's go through the whole thing.

24 Let's -- let's the -- the judge, Your Honor, to see
25 how we combine the exhibit, the law requirement and

1 the hearing testimony in the prior hearing. We use
2 that to put everything into the context so that
3 everybody understand what is going on.

4 JUDGE FOELAK: Well, sir, if that --
5 if that is your plan, you don't need to put on any
6 evidence. You're going to argue that the evidence
7 that was put on shows that your proposal should
8 become registered.

9 You're talking about what you're
10 going to argue from what has already occurred. Is
11 there anything new that you intend to put on?

12 MR. ZHOU: Okay. The organization
13 with the sequences and explanation -- whenever I put
14 on, I will do my explanation. My explanation will
15 be my testimony are surrounding all those events.
16 All those events with all those exhibits. And I
17 also want to hear the reaction from the Division and
18 so that I can have the chance for rebuttal.

19 Your Honor, maybe something you can
20 do after the hearing through briefing papers, but
21 briefing papers have very limited space.

22 JUDGE FOELAK: No. Sir. Sir. Sir,
23 after the hearing -- everything you're talking about
24 sounds like a post-hearing brief based on what has
25 already occurred because the Division, you know,

1 argues that the evidence shows X and you argue it --
2 it shows by reasoning that the evidence shows not X.

3 MR. ZHOU: Your Honor, I would like
4 you to present my case as the Division did. The
5 Division showed the law like the Division's Exhibit
6 12, it's Form S-1. It's a requirement. That's a
7 law. That's a regulation. They use that
8 regulation, put on the -- post it on the screen and
9 start questioning. We can do the same, okay.

10 So, we put the law and we -- we put
11 the law as a guidance for us to present our events,
12 acts and the facts. So that -- so that people can
13 make sense, Why this happened at this time. The
14 timing, the sequences all are important.

15 MR. BRUCKMANN: Your Honor, if -- if
16 Mr. Zhou wants to testify as to why he thinks
17 American CryptoFed has complied with the filing
18 instructions for Form S-1 that is the Division's
19 Exhibit 12, the Division has no objection to him
20 providing testimony on that. Going through the
21 prior transcripts and talking about what he thinks
22 happened in the prior transcripts is completely
23 inappropriate, but if he believes he can address the
24 filing instructions, we have no objection to him
25 doing that.

1 JUDGE FOELAK: Okay. Sir, why don't
2 we start with -- with you doing that.

3 MR. ZHOU: Okay.

4 JUDGE FOELAK: Okay. Firstly, I'm
5 going to put you under oath. You may be under oath
6 from -- from last month, but anyway.

7 Raise your right hand, please.

8 Do you solemnly swear that the
9 testimony you are about to give at this hearing
10 shall be the truth, the whole truth and nothing but
11 the truth?

12 MR. ZHOU: Yes, I do.

13 Whereupon,

14 X I A O M E N G Z H O U,
15 was called as a witness and, having been first duly sworn,
16 testified as follows:

17 JUDGE FOELAK: Okay. Very good,
18 please proceed.

19 MR. ZHOU: Okay. Thank you, Your
20 Honor.

21 So, Scott, can you put the -- the
22 script on.

23 MR. MOELLER: Yes.

24 Sorry, there you go.

25 MR. ZHOU: Yeah. So, can I -- can I

1 let you read the -- the instruction, what I'm going
2 to do and how we do it.

3 JUDGE FOELAK: Why don't you just go
4 ahead and --

5 MR. ZHOU: Okay. So, we don't need
6 to read this?

7 JUDGE FOELAK: No, you don't.

8 MR. ZHOU: Okay. So, let's go to --
9 Okay, here.

10 MR. MOELLER: Yes.

11 MR. ZHOU: So this is a transcript
12 question. So, I would like to address tons and tons
13 of the Division's questions which I did not have
14 opportunity to answer.

15 MR. BRUCKMANN: Your Honor, can I --
16 can I object right now. Is there going to be
17 questions and answers here or is Mr. Zhou just going
18 to, sort of, make legal arguments?

19 JUDGE FOELAK: Well, he's going to
20 give -- he doesn't have a question and -- it isn't
21 necessary to have a question and answer. A
22 narrative is okay, but a legal argument, you make
23 that in your post-hearing brief. You talk about
24 facts here. That's why you're under oath.

25 MR. ZHOU: Yeah. What I'm talking

1 here is all under oath I know, but I need to answer
2 this question. This question is addressed to
3 Mr. Moeller, but I can ask Mr. Moeller to read in
4 the question as if this were the question asked me.

5 JUDGE FOELAK: Okay. Sir. Sir, that
6 is not one of the issues in the hearing.

7 MR. ZHOU: Someone asked the
8 question. This is a question. So -- so, someone
9 need to ask me questions so that I can answer
10 questions. My answer questions is different from
11 what Mr. Moeller did.

12 JUDGE FOELAK: Okay. Yeah. Okay.
13 We can see the question. Can you answer the
14 question -- can you now testify in answering that
15 question?

16 MR. ZHOU: Yes. Yes. That's what
17 I'm going to do. So, without -- without so many
18 objection because -- because the way for me to
19 answer the question, we need to lay down the reason,
20 the -- the context or the logic. So, why don't you
21 allow me to go through --

22 JUDGE FOELAK: Okay. Okay. Go --
23 okay. Okay. Remember, making a legal argument is
24 something you're going to do in your post-hearing
25 briefing. Explaining why the facts -- why certain

1 facts that are in the record matter is not what you
2 do now. What you do is explain what -- is saying
3 what happened. Not why or why it was wrong.

4 MR. ZHOU: Yeah. Both -- both come
5 together. You -- you -- sometimes it's why.
6 Sometimes it's what happened. So -- so, peoples
7 have logic. That's my logic.

8 JUDGE FOELAK: Okay. Let's go ahead
9 with what happened.

10 MR. ZHOU: Yeah. Okay.

11 So, what -- what happened is, you can
12 see here, he ask questions --

13 Scott, can you help me read out?

14 MR. MOELLER: Yes. The -- the
15 question that happened on day two was: Mr. Moeller,
16 do you still not understand that one of the purposes
17 of the 8(e) examination was for the staff to gather
18 additional information such that we could make a
19 final determination as to whether these were
20 securities or not?

21 MR. ZHOU: Your Honor, this is a
22 legal question, right? This is not asking for fact
23 question.

24 JUDGE FOELAK: Okay. That -- that
25 doesn't matter. We want facts from you. Whatever

1 kind of question Mr. Moeller asked --

2 MR. MOELLER: Was asked.

3 JUDGE FOELAK: -- which was -- yes,
4 excuse me.

5 MR. ZHOU: Okay.

6 JUDGE FOELAK: Was asked, yes.
7 Sorry. Sorry.

8 MR. ZHOU: For me to answer those
9 type of legal questions I need to include the facts.

10 JUDGE FOELAK: Okay. Tell me the
11 facts.

12 MR. ZHOU: Okay.

13 JUDGE FOELAK: Okay. Tell me the
14 facts.

15 MR. ZHOU: Yeah. Yeah. Give me
16 time --

17 JUDGE FOELAK: Okay. You've already
18 argued orally why the 8(e) examination was
19 inappropriate, but let's hear the facts.

20 MR. ZHOU: Yeah. We need to give you
21 facts. The fact is timeline. Is a timeline a fact?

22 JUDGE FOELAK: Yeah, I guess it is.

23 MR. ZHOU: Okay. So, let me show --

24 JUDGE FOELAK: X happened on day one
25 and Y happened on day 35 and that kind of thing.

1 MR. ZHOU: Yeah. That time --
2 timeline sequences is very important. So, let me
3 show the evidence of the timeline.

4 MR. MOELLER: And that's, third
5 paragraph going to the OIP?

6 MR. ZHOU: Right.

7 MR. MOELLER: This is the OIP.

8 MR. ZHOU: So, can you enlarge a
9 little bit?

10 MR. MOELLER: Yeah. And it says
11 on -- and this is coming from the Order Instituting
12 Proceedings on November 18th, 2022. And third
13 paragraph: On November 9th, 2021, the Commission
14 issued an Order Directing Examination and
15 designating officers pursuant to Section 8(e) of the
16 Securities Act of 1933, The 8(e) Order, ordering
17 examination into the registration statements of
18 American CryptoFed.

19 MR. ZHOU: Okay. So, let me confirm
20 the fact. The day is on November 9, 2021.
21 Scott, can you scroll down. A little
22 bit up.

23 MR. MOELLER: Yeah.

24 MR. ZHOU: Okay. Here. Here. Here.
25 Hear.

1 This is -- this is number one order
2 after our facts.

3 JUDGE FOELAK: Okay. Sir. Sir,
4 listen to me, this OIP is a Commission document.
5 You don't need to -- it says what happened. You
6 don't need to testify that that's what happened on
7 those days. You can refer to it in your
8 post-hearing briefing as being, you know, too short
9 of time and skipping intermediate steps.

10 MR. ZHOU: Yes. I understand, but I
11 need to establish the fact here. It's -- it's
12 November 9th.

13 JUDGE FOELAK: It's -- it's --
14 it's -- it's -- the Commission has said it's so.
15 So, you don't need to testify as to that.

16 MR. ZHOU: I know, but I need context
17 to text -- to tell my next event.

18 JUDGE FOELAK: Okay. Okay. There's
19 a short -- short time, okay.

20 MR. ZHOU: Yeah. So, when I -- when
21 I -- when I use this, this is a background so that
22 the audience can understand. They're not only the
23 audience like us here. There are also public
24 audience.

25 JUDGE FOELAK: Okay. Keep -- keep

1 this -- okay. What -- okay. What do you intend
2 to -- what facts are you going to testify to? Just
3 testify.

4 MR. ZHOU: Yeah, okay.

5 So, my testify is through reading all
6 those documents and comment -- make comments on
7 those documents. My comment is my testify. So --
8 so -- so -- because all of those documents has
9 dates, has sequences, has contents and -- and then,
10 make -- at my comment then it -- it will construe
11 the entire fact surrounding that.

12 JUDGE FOELAK: Okay. Tell me the
13 fact. You keep saying something you could say
14 anyway in your legal briefing. Like if you said,
15 No, it didn't happen on September 17th. It happened
16 on September 19th, that's a fact.

17 MR. ZHOU: Okay. I understand that,
18 but we have a lot of that too. Starting from here.
19 I just lay out the background.

20 JUDGE FOELAK: Okay. Let's cut on
21 the chase.

22 MR. ZHOU: Okay. So, here I need to
23 make sure, like Mr. Bruckmann, the Division, says my
24 testimony is going on to address which portion of
25 the allegation.

1 So, Scott, can you scroll down to
2 section three -- section 2C. It's section two.
3 Scroll down to C.

4 Okay. Stop here. C is:
5 Respondent's Failure to Cooperate with the Section
6 8(e) Examination. So, from C it's starting from 13
7 to 32.

8 JUDGE FOELAK: Okay.

9 MR. ZHOU: So, my testimony going
10 forward is going to address those 20 allegations.

11 JUDGE FOELAK: Okay. So, you're
12 going to testify that they're wrong and claiming
13 that you failed to cooperate? I mean, the facts
14 show that you're wrong, that you did all these
15 things trying to answer their questions.

16 MR. ZHOU: Yeah. Through answer
17 Mr. Bruckmann questions, I'm going to rebut all
18 those allegations. I think it's 20.

19 JUDGE FOELAK: Okay. Please proceed.

20 MR. MOELLER: So, Zhou, would you
21 want me to read the allegations?

22 JUDGE FOELAK: Well, we can do -- let
23 him testify.

24 MR. ZHOU: No. Just scroll down.
25 Let everybody know that there are 20 there, from 13

1 to 32. And then, that's it.

2 MR. MOELLER: Okay. So, those are
3 the 20 separate allegations.

4 MR. ZHOU: Okay. Thank you, Scott.
5 Can we go back to the script.

6 So, this -- in this section we will
7 address those 20 allegations, majority of them.

8 JUDGE FOELAK: Okay. Please --
9 please proceed in addressing them. I can see that
10 some of them are not -- some of them are more
11 specific facts than others. Okay, please proceed.

12 MR. ZHOU: Okay. So, Scott, can you
13 help me, the Exhibit 5.

14 MR. MOELLER: Yep.

15 MR. ZHOU: Let's confirm what Section
16 8(e) order is before we proceed.

17 Can you enlarge a little bit?

18 MR. MOELLER: Sure.

19 MR. ZHOU: Okay. Can you scroll
20 down. Okay. Here. The last paragraph, Scott, can
21 you help me just read the last paragraph.

22 MR. MOELLER: Yes. Number three:
23 Commission, deeming such acts and practices, if
24 true, to warrant proceedings pursuant to Section
25 8(d), as in dog, of the Securities Act, finds it

1 necessary and appropriate and hereby orders pursuant
2 to the provisions of Section 8(e) of the Securities
3 Act then examination be made to determine whether a
4 stop order should be issued under Section 8(d) of
5 the Securities Act with respect to the Form S-1 and
6 any supplements and amendments thereto.

7 And -- continue reading?

8 MR. ZHOU: No. Thank you, Scott.

9 MR. MOELLER: Sure.

10 MR. ZHOU: So, Section 8(d) and 8(e)
11 proceeding already started on November 9, 2021,
12 very, very early stage. That's a fact. Those
13 Section 8(e) investigation is part and pursuant to,
14 also, right by Section 8(d). So, the proceedings
15 already happened immediately after we file the
16 registration.

17 Thank you, Scott. Let's go back to
18 the script.

19 JUDGE FOELAK: Sir -- okay. So, you
20 intend to move this Exhibit 5 in evidence if it
21 isn't already in evidence?

22 MR. MOELLER: Yes.

23 JUDGE FOELAK: Okay.

24 MR. MOELLER: Sorry. I didn't mean
25 to interrupt. Zhou -- Zhou, did you mean to say

1 that?

2 JUDGE FOELAK: Okay. I'm sorry. I'm
3 sorry. It is in evidence, okay. Sorry.

4 So, you don't need to -- it is in
5 evidence. You could argue from it in your
6 post-hearing brief. You don't have to keep reading
7 over and over from it. Your Exhibits 1 through 50
8 are in evidence.

9 MR. ZHOU: So, you want me to remove
10 this as evidence?

11 MR. MOELLER: No. No. No. No. No.

12 JUDGE FOELAK: No. You don't -- it
13 already it is evidence. You can move on from there.

14 MR. ZHOU: Okay.

15 JUDGE FOELAK: You don't need to read
16 what's in it. It's in evidence. You can refer to
17 it in your post-hearing brief.

18 MR. ZHOU: Okay.

19 JUDGE FOELAK: And show them the
20 facts of, you know, the short time and so on.

21 MR. ZHOU: Okay. But sometimes by
22 reading this can help me to build the context and to
23 present what I want to say.

24 JUDGE FOELAK: Well, that's a waste
25 of time. You should have read it ahead of time. If

1 you -- let's keep -- we now have the facts as to the
2 sequence of events, okay.

3 MR. ZHOU: Okay. Okay. So -- so,
4 the next.

5 Scott, can you help me read the next?

6 MR. MOELLER: Yes.

7 MR. ZHOU: Exhibit 27, two.

8 MR. MOELLER: Yes.

9 MR. ZHOU: Page two.

10 JUDGE FOELAK: Okay. Sir, that's not
11 an exhibit. That's a -- I mean, that shouldn't be
12 an exhibit. I mean, it's okay. It's a bonafide
13 court decision, but you don't need -- that -- you
14 can cite to anyway, okay. So, let's forget about
15 that. Let's get to a fact.

16 MR. MOELLER: Your -- Your Honor,
17 I -- I think is a -- a very good example of -- of a
18 court case that should be included as -- as an
19 exhibit within -- within this.

20 JUDGE FOELAK: Well, it doesn't --
21 sir, either way, you can cite to it.

22 MR. MOELLER: Okay. Thank you, Your
23 Honor.

24 JUDGE FOELAK: So, it's not that it's
25 no good. It's that it's unnecessary to be an

1 exhibit.

2 MR. MOELLER: Okay. The -- the
3 sentence that -- that Zhou asked me to read starts
4 with -- on the bottom of page two.

5 MR. CARNEY: Your Honor, I'm going to
6 object to: A, Mr. Moeller testifying now when he's
7 not under oath; and, B, to him reading in a court
8 opinion. As Your Honor pointed out, court opinions
9 can be cited in briefs -- can be cited in the
10 post-hearing brief. And we don't need to take the
11 time now for him to read into the record a sentence
12 from a court opinion.

13 JUDGE FOELAK: Correct. And I'm sure
14 you will be citing from this opinion. So, please
15 move on.

16 MR. ZHOU: Yeah. I have a problem
17 now. The Division can read the exhibit Form S-1
18 instruction. That is also in the law. They don't
19 need to read it, but the court allowed them to read
20 line by line asking questions.

21 JUDGE FOELAK: Sir, I can read it
22 line by line. It's public. I -- so, move on.

23 MR. ZHOU: Yes.

24 JUDGE FOELAK: You're wasting time.

25 MR. ZHOU: I don't want to waste

1 time, but I need some sentence here so that I can
2 move on. And it's just like Mr. Bruckmann --

3 JUDGE FOELAK: Okay. Read the
4 sentence to yourself and then move on.

5 MR. ZHOU: Yes.

6 Scott Moeller on behalf of me help me
7 read this because it's more pronounced correctly.

8 MR. MOELLER: It is clear from the
9 Act that the procedure of Section 8(b), as in boy,
10 to determine whether to issue an order refusing
11 effectiveness to a statement was intended to be used
12 only when the inadequacy or incompleteness is
13 playing on the face of the statement.

14 MR. ZHOU: Okay, good. Thank you.

15 So, here it's important, it's only
16 and on its face. So, can you go to the -- the
17 script.

18 MR. MOELLER: Yep. Okay.

19 MR. ZHOU: Okay. Exhibit 272 has
20 told us the Commission's opinion emphasize two
21 points only and on the face of the statement to
22 confirm whether section 8(b) should be applied or
23 not.

24 JUDGE FOELAK: Okay. Sir -- sir,
25 you're making a -- sir, stop here. You're making a

1 legal argument. If you want to talk about what's on
2 the face, I mean, you already have, you know,
3 acknowledged that there's no audited financial
4 statements. And, you know, I mean, you feel the
5 form should be amended and stuff like that, but
6 that's not our purpose here. Please move on.

7 MR. ZHOU: Yes, that's -- I just set
8 up the stage for me to move on to.

9 JUDGE FOELAK: Okay. Okay. Please
10 move on.

11 MR. ZHOU: Yes. Exhibit 7.

12 MR. MOELLER: Yep.

13 MR. ZHOU: Scott, can you help me to
14 read this short e-mail?

15 MR. MOELLER: Yes. Okay. And
16 this -- this comes from Ms. Purnell stating on
17 Monday, October 4th: We cannot use Zoom for our
18 call. Please use this Webex number instead. And
19 then my response back to her: Hello, Erin.
20 Confirmed, we will join the SEC's hosted call at
21 10:30 a.m. on Webex. I'm including additional
22 members on our team that will be on the call. Can
23 you confirm that they'll be able to log into the
24 SEC's Webex. The e-mail addresses are on the CC on
25 my reply. Thanks, Scott.

1 MR. ZHOU: Okay. Stop here.

2 MR. MOELLER: And you would like to
3 move this into evidence?

4 MR. ZHOU: I think this is in
5 evidence. Otherwise, if they do not object that.

6 So, let me explain on October 4th.
7 On October 4th the Division of Corporate --
8 Corporation Finance already know there are
9 deficiencies -- material deficiencies only to
10 surface. And in section B -- Section E -- E -- B
11 should apply at this moment. This is a fact.

12 So, let's go on to the next to see
13 what -- what is really talking about. We have talk
14 on October 4th.

15 Scott, go to next -- go to the
16 script, please.

17 MR. MOELLER: Yes. Wait for me.

18 MR. ZHOU: Can you help me read the
19 day three transcript.

20 MR. CARNEY: Your Honor, I'm going to
21 object again to them reading the transcript into
22 evidence. It's going to become a never ending
23 circle.

24 JUDGE FOELAK: Right. Sir -- sir,
25 don't do that. You can refer to it in your

1 post-hearing brief. This -- that's already been
2 said.

3 MR. CARNEY: And, Your Honor, if we
4 can also clarify whether -- it wasn't apparent if
5 they were moving Exhibit 67 in. We don't have any
6 objection to that exhibit.

7 JUDGE FOELAK: Okay. I think they
8 are. I'll move -- okay. Your -- Mr. Zhou,
9 Mr. Moeller, your Exhibit No. 67 is admitted.

10 MR. MOELLER: Thank you, Your Honor.

11 MR. ZHOU: So, Your Honor, you know,
12 on October 4th what happened, you want me, use my
13 own language to talk about that? You know, I'm not
14 native English speaking -- speaker. I want you
15 exactly someone others language, but still express
16 the fact I want to say. That's why I am using all
17 those exhibits and let Scott help me to read as if
18 I'm talking -- I was talking. So, that's the
19 methodology I want to use.

20 So, I know that a lot of counsel
21 objections. Maybe it's not quite happen in the
22 courtroom. However, this fact is important because
23 as early as October 4th, 2021, the Corporate --
24 Division of Corporation Finance already conclude
25 there were serious material deficiencies not meet

1 the requirement for the filing. At that point -- at
2 that point it should be Section 8(b) order or
3 continue engage with American CryptoFed to solve the
4 problem. There are no reason starting non public,
5 secret, law enforcement investigation. That's
6 completely change the whole process.

7 JUDGE FOELAK: Okay. Sir, I -- I
8 see, you know, that -- the facts as you allege
9 are -- are indeed clear, that they were -- that what
10 happened on October 4th is inconsistent with the
11 procedural argument -- what you argue is the proper
12 procedure. So, you can move on.

13 MR. ZHOU: Okay. So, the next.

14 Scott, can you go to the transcript?

15 MR. MOELLER: Yeah, page -- page 541.

16 MR. ZHOU: And will you -- so -- so
17 -- yeah. I hope, Your Honor, allow us to read this
18 and -- as if I speak and am saying to confirm that's
19 a fact.

20 MR. CARNEY: Your Honor, I'm going to
21 continue to object. We all have the transcript.
22 We've all ordered the transcript. The transcript is
23 available for the post-hearing briefing. There's no
24 need for our court reporter to transcribe that which
25 she's already transcribed. It's already on the

1 record.

2 JUDGE FOELAK: Right. Sir -- sir,
3 there already is the evidence that you want that --

4 MR. ZHOU: Okay.

5 JUDGE FOELAK: That -- that they --
6 that they told you that they weren't going to
7 further review the Form 10 and the Form S-1 and so
8 they were amended. So, you don't -- that's what you
9 point out in your post-hearing brief, but it's
10 already in the transcript, the fact -- you know, the
11 testimony that you want. So, please move on.

12 MR. ZHOU: Okay. Thank you, Your
13 Honor.

14 So, Scott, can you go to -- let me --
15 I think it's not in the -- in our script. So, can
16 you go to the Division's Exhibit 2. It's our Form
17 10 filing.

18 MR. MOELLER: Yep. Sure.

19 MR. ZHOU: Go to page five, the
20 preamble.

21 MR. MOELLER: Okay. Preamble.

22 MR. ZHOU: Yes. Can you help -- help
23 me read the first paragraph?

24 MR. MOELLER: Sure. The Preamble,
25 Purpose of Form 10 Filing. And this is Division's

1 Exhibit 2.

2 MR. ZHOU: Read it slowly a little
3 bit.

4 MR. MOELLER: American CryptoFed DAO,
5 LLC, quote, unquote, CryptoFed, agrees with
6 Commissioner Hester M. Peirce. I always say it
7 wrong.

8 JUDGE FOELAK: Peirce.

9 MR. MOELLER: Thank you, Your Honor.
10 Peirce of -- of U.S. Securities and Exchange
11 Commission, SEC, that the SEC is, quote, unquote, a
12 disclosure regulator rather than a more
13 interventionist merit regulator. Quote, unquote,
14 the SEC's Division of Corporation Finance may
15 examine a company's registration statement to
16 determine whether it complies with our disclosure
17 requirements, but the SEC does not evaluate the
18 merits of offerings, nor do we determine if the
19 securities offered are, quote, unquote, good
20 investments.

21 MR. ZHOU: Thank you, Scott. So,
22 let's go back to the script.

23 We understand on October 4th the
24 Division of Corporation Finance already found a lot
25 of serious material deficiencies. Especially,

1 the -- there is -- there was no audit financial
2 statements. We never dispute that. It's obvious.
3 Everybody understand that. Given it's on the
4 surface, given that's a fact, okay.

5 So, Scott, let's go to the next, the
6 script. It's -- our script is still -- that's the
7 script, right?

8 MR. MOELLER: Yes.

9 MR. ZHOU: What -- if this is the
10 script, what it is next one?

11 MR. MOELLER: Okay. So, 24 through
12 25. This is a question to Ms. Purnell:

13 "QUESTION: Did you make any
14 promises?

15 MR. CARNEY: Your Honor, I'm going to
16 object. Despite, Your Honor's, repeated
17 instructions they keep going back to the well on
18 this transcript and -- and reading it into the
19 record. And I -- I thought, Your Honor's, been
20 pretty clear that that's, you know, not just
21 inappropriate in the individual examples that we've
22 objected, but that just across the board that it's
23 inappropriate for them to be reading the transcript
24 back into the record.

25 JUDGE FOELAK: Okay. You're quite

1 right.

2 Sir, it's in the transcript. There
3 is evidence. You can cite to that, that they didn't
4 do anything on October 1st. You know, everything
5 she said you can cite to. And you cite to it in
6 your written post-hearing brief. So, forget about
7 rereading what -- what somebody else has already
8 testified to.

9 Okay, please move on.

10 MR. ZHOU: Your Honor -- okay. Can I
11 look at that and make a comment on that?

12 JUDGE FOELAK: No. Move on.

13 MR. ZHOU: I need the context.

14 JUDGE FOELAK: Okay. You're saying
15 she was wrong; is that correct?

16 MR. MOELLER: No.

17 JUDGE FOELAK: Okay. Then -- then,
18 you have no comment to make. Please move on.

19 MR. ZHOU: Okay.

20 Scott will now read this because
21 you -- okay, the Division objects.

22 JUDGE FOELAK: Yes. You can cite to
23 it in your post-hearing brief.

24 MR. ZHOU: I understand, Your Honor.

25 JUDGE FOELAK: That is going to form

1 the basis for the further decision, okay.

2 MR. ZHOU: Yes. Yes. Okay. Okay.

3 JUDGE FOELAK: It's in the record.
4 It's evidence.

5 MR. ZHOU: I understand.

6 Scott, you don't need to read this.

7 MR. MOELLER: Okay.

8 MR. ZHOU: Okay. So -- but let me
9 see what is on there so that I can talk, okay. I'm
10 talking to Scott so that I need to read it myself so
11 that I can talk. Because if I lose this, there is
12 no context for me to talk.

13 JUDGE FOELAK: Okay. Okay. Sir, you
14 should have done this before the hearing. What is
15 it you're going to talk about?

16 MR. ZHOU: Yeah. Let me read it.
17 I'm talking a little bit.

18 JUDGE FOELAK: Okay. Wait a minute,
19 remember, you don't make a legal argument in the
20 hearing. You make it afterwards in writing.

21 MR. ZHOU: Okay.

22 JUDGE FOELAK: So, move to your next
23 topic.

24 MR. ZHOU: Okay. So -- okay. We
25 already established, right? So, on October 4th --

1 JUDGE FOELAK: Right. And you --
2 and -- and this is the in support of your argument
3 that the procedure in dealing with American
4 CryptoFed was improper. It should have been
5 conducted under a different section of the law, et
6 cetera, but you've got the evidence there that you
7 can cite to in support of arguing in favor of that
8 theory.

9 Okay, move to your next issue.

10 MR. ZHOU: Okay. So, let's go to the
11 Division's Exhibit --

12 MR. MOELLER: 18.

13 MR. ZHOU: -- 18.

14 MR. MOELLER: Yes. Okay.

15 MR. ZHOU: So, can you help me
16 read --

17 MR. MOELLER: Yes.

18 MR. ZHOU: -- the paragraph?

19 MR. MOELLER: Yes. And this is
20 the --

21 JUDGE FOELAK: This is Division
22 Exhibit 18; is that correct?

23 MR. MOELLER: Yes. This is
24 Division's Exhibit 18. It is the October 8th letter
25 sent by the Division of Corporation Finance to the

1 American CryptoFed regarding the registration
2 statement on Form S-1 filed September 17th, 2021.

3 Dear Ms. Orr, Our preliminary review
4 of your filing indicates that it fails to comply
5 with the requirements of the Securities Act of 1933,
6 the related rules and regulations and the
7 requirements of the form. Because of these serious
8 deficiencies, you should not assume that your filing
9 may be relied upon for the purposes of Section 5C
10 or -- or for compliance with any other rule or
11 regulation.

12 MR. ZHOU: Thank you, Scott.

13 So, this is -- the date is October
14 8th.

15 Scott, can you show the date.

16 MR. MOELLER: Yes.

17 JUDGE FOELAK: Okay. Sir, just like
18 with the oral testimony at the hearing, this thing
19 is in evidence. And you can cite to it in your
20 legal brief as to what it says and what -- the date
21 on it, everything in it. So, please move on.

22 MR. ZHOU: Okay. So, on October 8th
23 for this Form S-1, the Division of Corporation
24 Finance already confirmed there are serious
25 deficiencies.

1 JUDGE FOELAK: Sir, that's what it
2 says. Didn't you hear me?

3 Move to your next topic. You can
4 cite to that and all the language in it and make
5 conclusions from it in your post-hearing brief --
6 your written brief.

7 MR. ZHOU: Yes, I will do that.

8 So, Scott, can you go to the next
9 one, the Division's Exhibit --

10 MR. MOELLER: 17.

11 MR. ZHOU: -- 17.

12 MR. MOELLER: Yes. Similar. And
13 this is regarding the Form 10. Dear Ms. Orr, Our
14 initial review of your registration statement
15 indicates that it fails in numerous material
16 respects to comply with the requirements of the
17 Securities Exchange Act of 1934, the rules and
18 regulations thereunder and the requirements of the
19 Form.

20 JUDGE FOELAK: So, it says more or
21 less the same thing in reference to the Form 10 as
22 to the Form S-1?

23 MR. MOELLER: Yes, Your Honor.

24 MR. ZHOU: Thank you, Your Honor.

25 Thank you, Scott.

1 Go to the next.

2 MR. MOELLER: Yep. 272. Okay. And
3 this is --

4 JUDGE FOELAK: Okay. 272 is the Red
5 Bank decision.

6 MR. MOELLER: Yes.

7 MR. ZHOU: Yeah. I just need one
8 sentence, Scott.

9 MR. MOELLER: Page three, last two.

10 JUDGE FOELAK: Okay. Remember this
11 is a -- this is law, not evidence. And you can cite
12 to it anyway.

13 MR. ZHOU: Okay.

14 JUDGE FOELAK: So, what you do in
15 your post-hearing brief is saying that, you know,
16 what they did was totally inconsistent with what
17 they said they should do in Red Bank.

18 MR. ZHOU: Right.

19 MR. MOELLER: And the -- the -- the
20 sentence is beginning here on page three: We think
21 it is utterly repugnant to the objectors of the Act
22 to interpret it to require us to sit by until a
23 false and misleading registration statement becomes
24 effective before commencing action under a Section
25 8(d). Fairness to registrants and to investors

1 generally can be achieved only if the promptest
2 possible notice of stop order proceedings is given
3 preferably prior to the effectiveness of the
4 statement.

5 MR. ZHOU: Thank you, Scott.

6 Okay. So, the situation -- the fact
7 about American CryptoFed was different from this and
8 we have a delaying amendment.

9 Scott, can you go to the next
10 exhibit.

11 MR. MOELLER: Yes.

12 JUDGE FOELAK: Right. Well,
13 that's -- that's already in evidence. You keep
14 making arguments. Do you have any evidence to
15 testify to?

16 MR. ZHOU: Yeah, through this
17 exhibit.

18 JUDGE FOELAK: Okay. Is this exhibit
19 in evidence?

20 MR. MOELLER: This -- this is. This
21 is Division's Exhibit 1A. It's the American
22 CryptoFed Constitution.

23 JUDGE FOELAK: Okay. Fine. You
24 don't need to read the exhibit. It's in evidence.
25 You can cite to it --

1 MR. MOELLER: Your Honor --

2 JUDGE FOELAK: -- in making your
3 argument.

4 MR. MOELLER: -- I remember
5 specifically in my testimony that the -- when I
6 looked to refer to the constitution, Mr. Bruckmann
7 said you can refer to that within -- in your
8 testimony.

9 MR. ZHOU: He said we are fine to
10 talk about our constitution.

11 JUDGE FOELAK: Mr. Bruckmann is not
12 calling the shots.

13 MR. ZHOU: Yeah, but --

14 JUDGE FOELAK: I mean -- okay. Sir,
15 if -- if it's in evidence, you can refer to it.

16 MR. MOELLER: Okay.

17 MR. CARNEY: And, Your Honor, we --
18 we obviously don't have objections to them -- Mr.
19 Zhou answering questions about the -- the
20 Constitution, Exhibit 1A. Our objection is to them
21 reading it into evidence when it's already in
22 evidence, as Your Honor pointed out, but we don't
23 have any objections to them asking and answering
24 questions about it.

25 JUDGE FOELAK: Oh, good point.

1 MR. ZHOU: Okay. So --

2 JUDGE FOELAK: In other words, if
3 there's something -- sir, listen to me. If there's
4 something that you want to expound upon and explain,
5 that is -- may be appropriate. Well, let's -- let's
6 see what you're going to say.

7 MR. MOELLER: Yeah.

8 MR. ZHOU: Yeah. Let me explain what
9 happened in our constitution.

10 MR. MOELLER: Okay.

11 MR. ZHOU: Okay. I don't think -- I
12 don't think people really understand what I put
13 there.

14 So, Scott -- okay, don't read --
15 okay, given they have a lot of objection for you to
16 read it. So, we don't read the -- the context of
17 the constitution, but I will explain it using my own
18 language to outline the fact.

19 MR. MOELLER: Your Honor, I think
20 this is absolutely key too.

21 JUDGE FOELAK: Okay. So, you're --
22 you're addressing paragraph 4.1?

23 MR. ZHOU: Yes.

24 MR. MOELLER: Yes, Your Honor.

25 JUDGE FOELAK: Okay.

1 MR. MOELLER: And -- and if I can
2 speak this --

3 MR. ZHOU: It's -- is this not this
4 way. I cannot see the 3.1.

5 JUDGE FOELAK: Oh. Oh. I thought it
6 was --

7 MR. ZHOU: 4.1. Where's the number?

8 MR. MOELLER: It's right here, 4.1.
9 Can you see this?

10 MR. ZHOU: Okay.

11 So, the 4.1, I want to point out -- I
12 want to point out, the last sentence -- okay. I
13 want to point out the last sentence is: We will
14 discuss with SEC and incorporate their comments.
15 And we intend to make change. Constitution means
16 constant governance.

17 And, Scott, can you scroll down, look
18 at signature. It's signed by -- scroll down to the
19 bottom. Okay.

20 It is signed by the CEO -- scroll
21 down a little bit -- the CEO of American CryptoFed,
22 Mary -- Maryann Orr. It also signed by the MShift
23 CEO, Scott Moeller, and MShift COO Xiaomeng Zhou.
24 This is the process, the procedure, we established
25 the constitution at the beginning. The creation of

1 a constitution, all those parties need to comply
2 with. So, we are going to build a government by
3 concept.

4 So, now --

5 MR. MOELLER: Consent.

6 MR. ZHOU: -- we create constitution.

7 So, this constitution will bind all the parties who
8 join this community.

9 JUDGE FOELAK: Yeah, but, sir -- and
10 I see what you emphasized was that you were going
11 to, for -- for purposes of compliance with the law,
12 you were going to confer with the SEC until you
13 got -- go ahead.

14 MR. ZHOU: Okay.

15 JUDGE FOELAK: To their satisfaction,
16 okay. So -- okay. You've testified as to that.
17 Okay. Please move on.

18 MR. ZHOU: Okay. So, we not only put
19 the SEC -- consulting with the SEC as a precondition
20 to do anything, we promised to incorporate their
21 comments. We also put that in the Form S-1, that
22 the delaying amendment --

23 JUDGE FOELAK: Yes, sir. Yes, sir.

24 MR. ZHOU: So --

25 JUDGE FOELAK: Okay. Once again,

1 you're pointing to evidence that's already in --
2 already in -- in the record, but okay. Please move
3 on.

4 MR. ZHOU: Okay. So you don't need
5 us to read that delaying amendment, right?

6 JUDGE FOELAK: No. No.

7 MR. ZHOU: Okay. I understand.

8 JUDGE FOELAK: You can cite to it.
9 It's in evidence.

10 MR. ZHOU: Okay. So --

11 MR. MOELLER: Go ahead, Zhou.

12 MR. ZHOU: Okay. So, where are we
13 now? There are no dangers. There is no risk for
14 the SEC --

15 JUDGE FOELAK: Okay. You're making a
16 legal argument. Let's get to -- do you have any
17 facts to testify to on any topic?

18 MR. ZHOU: Okay. So -- okay. So,
19 then, what's the next?

20 MR. MOELLER: Our approach to do our
21 best.

22 MR. ZHOU: Exhibit 16, right?

23 MR. MOELLER: Yes.

24 MR. ZHOU: This is Exhibit 16?

25 MR. MOELLER: Yes.

1 MR. ZHOU: Okay.

2 JUDGE FOELAK: And that's in
3 evidence? That's a Division's exhibit?

4 MR. MOELLER: It's Division's Exhibit
5 16.

6 JUDGE FOELAK: Okay. Don't read from
7 the Division's exhibit if you agree with it or if
8 you want -- if -- if the wording is something that
9 you can use in your argument. That's just wasting
10 time, okay. Get to some facts that are -- are not
11 already in evidence.

12 MR. ZHOU: Okay. So, my testimony
13 here is --

14 (Whereupon Reporter lost audio connection,
15 reconnects and reads the last portion of testimony
16 recorded.)

17 JUDGE FOELAK: Okay. Sir, can you
18 repeat the end of that sentence?

19 MR. MOELLER: Can you give a little
20 more -- more context there before that?

21 JUDGE FOELAK: Yes. Can you read the
22 beginning of the sentence so that he knows.

23 (Requested portion read back by the Reporter.)

24 JUDGE FOELAK: Okay. Did you
25 understand where you wanted to start from, Mr. Zhou?

1 MR. ZHOU: Yeah. No problem. No
2 problem.

3 JUDGE FOELAK: Okay. She can hear
4 you now.

5 MR. ZHOU: Okay. So, this evidence
6 tell us we have intention to communicate with the
7 Division of Enforcement and the Division of
8 Corporation Finance.

9 JUDGE FOELAK: Yes. That's what
10 you're going to argue in your post-hearing brief.

11 MR. ZHOU: Yes. Of course we will do
12 that, but I want to testify here. We want them to
13 exhaust all their legal argument or fact argument
14 say they still have any legitimate reason to stop
15 us.

16 JUDGE FOELAK: All right. Sir, you
17 can -- that -- that -- that document is in evidence.
18 You can quote from it in your post-hearing brief.
19 You're just making speeches now. You're not
20 providing testimony. Okay, move on to a fact.

21 MR. ZHOU: Okay. But -- but I was
22 told in prior -- in the prior hearing, Mr. Bruckmann
23 said we have a lot of time to make our own speech.
24 That's what he said.

25 JUDGE FOELAK: Not speech, testimony.

1 Okay, please move on.

2 MR. ZHOU: Okay. So, the next one
3 Division -- Division's Exhibit.

4 MR. MOELLER: 11?

5 JUDGE FOELAK: Okay. The -- the
6 delaying amendment in the S-1 is in evidence because
7 the S-1 is in evidence.

8 MR. ZHOU: Okay.

9 JUDGE FOELAK: Are you -- what you do
10 in your post-hearing brief is to refer to these
11 things that are in evidence, okay. We want -- your
12 testimony is -- is for facts, new facts, not
13 arguments. Facts that are not in evidence. You're
14 very happy with -- with the way this is written.
15 It's your own -- it's -- it's your own document.

16 MR. ZHOU: Okay. So, by looking at
17 the document what I'm saying will now be the fact?

18 JUDGE FOELAK: The document is the
19 fact. It's already -- what you're -- everything
20 you're saying is just pointing to what's in the
21 document. The document is already in evidence and
22 you can cite to it.

23 MR. ZHOU: Okay.

24 JUDGE FOELAK: Do you have something
25 new to say on some topic that hasn't been covered

1 before?

2 MR. ZHOU: Well, I believe all this I
3 need to say here in addition to the document itself
4 because we repeatedly ask for to look -- to talk to
5 the officers showing here. You don't want me to
6 read. And we did not get that. And --

7 JUDGE FOELAK: Okay. Sir, yes, okay
8 you repeatedly -- you repeatedly asked for further
9 discussions with these different people whose names
10 were shown to you and you never got the requested
11 discussions.

12 MR. ZHOU: Yeah. So, you can see
13 here we -- we -- we are -- we have the right to talk
14 with the chief accountant, the Division's deputy
15 director, the disclosure program director. We were
16 told by the review process on the SEC website. And
17 we request for that. And the Division of
18 Enforcement starting this Section 8(d) proceedings
19 is a further, further block, obstruct our
20 willingness for disclosure. What they did is try to
21 stop us for further disclosure following the
22 process. That I want testify here.

23 JUDGE FOELAK: Okay. So, for
24 example, you were going to hire an accountant to
25 make audited financial statements or a lawyer or

1 something like that or provide a better description
2 to your business. Is that what you were going to
3 say?

4 MR. ZHOU: Okay. If the Division or
5 the Commission agree we can continue to file zero
6 filing, zero filing, because we do not have it, we
7 can hire audit -- CPA to audit all our process, all
8 our finance, submit zero filing every year, every
9 quarter. I have no problem about that.

10 So -- so, the problem is -- the
11 problem is, we cannot talk with even the
12 Commission's chief account -- accountant. They have
13 here, it's available to us. And so far, as of
14 today, the Commission -- the Division of Enforcement
15 even cannot prove we have asset, we have revenue.
16 They couldn't, okay. It's not like, oh, at the
17 beginning in the -- in the early stage you do not
18 have revenue. No, that's not the case.

19 Our case is, we will never have it.
20 Not only revenue, but also no assets. So, I want
21 to -- as soon as the process to prove that, we are
22 willing to have a stipulation with the Division say,
23 Hey, if there's zero filing, it's fine. And we
24 could do that. We will hire CPA and to do it, but
25 we never get that message.

1 JUDGE FOELAK: Okay.

2 MR. ZHOU: Okay. We --

3 JUDGE FOELAK: So, you're --
4 you're -- you're testifying that you wanted to tell
5 the Commission staff that, Okay, we'll hire a CPA
6 and get audited financial statements or whatever it
7 takes.

8 MR. ZHOU: Yeah, but they need to
9 agree to accept that it's always zero.

10 JUDGE FOELAK: Well, that's not the
11 point. That's not what you're trying to say. What
12 you're trying to say, as I understand it, is that
13 you wanted to tell the Commission staff that, Okay,
14 we'll hire the CPA. And, you know, whatever they
15 come up with in their audit, that's what we'll put
16 in our S-1.

17 MR. ZHOU: That shouldn't -- that
18 shouldn't be a problem for me. And -- and -- and --
19 but we do have the right to talk with the
20 Commission's office of chief accountant. That's
21 what we request too. We never got it. We also need
22 to talk coder program director. We want to get an
23 understanding.

24 JUDGE FOELAK: Okay. So, you're
25 testifying that you --

1 MR. ZHOU: No movement.

2 JUDGE FOELAK: Okay. So, you're
3 testifying that you sought a dialogue and your
4 requests went unanswered?

5 MR. ZHOU: Yes.

6 JUDGE FOELAK: Okay.

7 MR. ZHOU: So, here, Your Honor,
8 okay, I can tell you, if you order me to submit
9 audited financial statement and you order the
10 Commission to accept that, whatever the outcome,
11 then that's fine. I'm totally agree with that, but
12 if you -- I hope you give the order. I hope that
13 under your watch, Your Honor, to proceed this. We
14 don't want to directly deal with the Division of
15 Enforcement.

16 We want to nail down the details what
17 the requirement really is if we have zero revenue,
18 zero assets, zero employees, all zero, all zero.
19 Then, what the requirement is and how we submit
20 that. We want to do that.

21 We want to sit down and have dialogue
22 verbally. Not through the intrusive Section 8(d)
23 and (e) investigation. It's unfair. It's,
24 basically, close the door. SEC closed the door
25 using a kind of tyranny methodology to close the

1 disclosure.

2 And when we ask, they tell me, who --
3 we are security. They say, No. They don't approve.
4 They don't allow you to E. They also do -- do not
5 allow you to register, but they do still not prove
6 that you are security or you are not security.

7 All this comes down to one point,
8 their notice with clarity of the law and the
9 regulation, they complete ignore this Fair Notice
10 requirement due process of the constitution. So,
11 that's the problem we have.

12 Your Honor, you can understand we
13 tried to comply. Otherwise, we are not here. It's
14 more than one year. And -- and -- and they stayed
15 our Form 10 and we file -- we filed a motion for --
16 a motion of -- for pleadings. I think it needed to
17 be decided very quickly, but over one year, they
18 never make decision. The Commission did not make
19 decision.

20 And in the press release about our
21 Form 10 they said -- the Commission said they will
22 assign a judge to us. Well, they never assigned
23 judge to us for our Form 10 proceedings. We didn't
24 know the judge until now. Your Honor, I'm happy to
25 have a judge like you, but at the time they did not

1 ever -- they promised in the public through press
2 release saying we can have a judge, but we never
3 have a judge in the proceedings of the Form 10.

4 And -- and what we deal with is the
5 law enforcement keep try to use their search,
6 subpoenas, try to go to all our partners. Everyone
7 I'm talking to. Is that constitutional? Is that
8 what the Chairman Gary Gensler ask us to come to
9 talk with him? Immediately what they do is to
10 launch non public, secret search and the subpoenas.
11 The subpoenas and discovery can we go to everyone we
12 talk to. Using that broad search power which,
13 basically, from the beginning is illegal.

14 That's where we are, Your Honor. We
15 tried to -- using all those documents. You asked
16 me, do we have any new evidence. Our evidence is in
17 the thousands pages of those exhibits as
18 communication back and forth. We try to find out
19 where the legal basis the Division of Law
20 Enforcement shut us down to disclose because the
21 SEC -- the spirit of SEC is for disclosure. So,
22 that is it where our frustration is.

23 So, Your Honor, we -- I can agree
24 with you, have a stipulation of your order, Hey,
25 American CryptoFed, you do this, this, this, this

1 and the Commission and -- and the Division of
2 Finance -- Corporation Finance, we all agree to talk
3 to you on this, this, this item, on every line item.
4 We can clear that. That process is more productive,
5 constructive.

6 And even the Gary Chairman said --
7 Gary -- Gary Gensler said, the chairman said, there
8 are a lot of, lot of flexibility the law allow them
9 to talk to entrepreneur like us to help us get us
10 registered.

11 Your Honor, when I ask Mr. Dobbie
12 have you read that sworn testimony of the Chairman
13 Gensler in the Senate U.S. Congress he said he
14 didn't. He was not aware of that, but as ordinary
15 citizen, we look at the public face -- the public
16 announcement testimony of the Commissioner and the
17 Chairman. We hope that be implemented to.

18 So, everything I think is coming
19 together because, Your Honor, now you are in charge
20 of this. I think we can have -- we can have
21 stipulation and -- or settlement or -- or under your
22 watch what is reasonable for us to do. We have
23 determination to comply. We will do whatsoever we
24 want to do, but not under the Division of
25 Enforcement try to do this unlawful Section 8(e)

1 broad search which can scare every partner, every
2 people we work. It will cost tons, tons of time of
3 discovery generate document for -- for them to
4 review. It wastes millions, millions of dollars of
5 us. It can bankrupt everybody. Is that their
6 approach to do this?

7 JUDGE FOELAK: Well, sir -- yes.
8 Very eloquent. Perhaps you need a petition for rule
9 making to make a new Form S-1 for DAOs.

10 MR. ZHOU: We form American CryptoFed
11 DAO legal in one state called Wyoming as part of
12 this United States. That organization has a right
13 to come to the SEC to talk, to get the
14 registration -- registration process complete
15 because we are United States under federal
16 government. Where the federal government try to
17 turn them down and say, Hey, the Wyoming law, you
18 created this, you allow this entity, and we are not
19 going to handle it, but if you do anything we will
20 persecute you. We will go after you. We think
21 that's dilemma.

22 And as a law complying citizen we are
23 put in limbo spending years and years and years and
24 millions and millions of dollars to try to find a
25 way, but we can talk now is only Division of Law

1 Enforcement. And we haven't committed any criminal
2 yet. We haven't issued anything. So they are --
3 what they are doing, they persecute future crime.
4 They say, In the future you may do something. I
5 don't think that should have any position. That
6 position should not be allowed in the United States
7 Constitution. It's wrong.

8 Okay. Did I say too much?

9 JUDGE FOELAK: No. Thank you. Thank
10 you.

11 Okay. Do you have another topic you
12 want to address? I mean, not address. Any -- any
13 different facts that you want to bring out, testify
14 to?

15 MR. ZHOU: Okay. Let me see what's
16 the next exhibit. Exhibit 11, what are there, if
17 you -- Your Honor, if you do not want to read this,
18 it's fine. We will skip that. Is this 11?

19 JUDGE FOELAK: Okay. Okay. You can
20 cite to that.

21 MR. MOELLER: Yes. And -- and this
22 is what you spoke -- spoke specifically about,
23 that -- that speaking to the Commission's Office of
24 the Chief Accountant, these are all direct --

25 JUDGE FOELAK: Right. Right. Right.

1 Okay.

2 MR. ZHOU: The next one is Exhibit
3 273.

4 MR. MOELLER: Yes.

5 MR. ZHOU: Let's see what it is. I
6 cannot remember it.

7 MR. MOELLER: I believe that's Red
8 Bank.

9 JUDGE FOELAK: That was 272, wasn't
10 it?

11 MR. ZHOU: Okay.

12 MR. MOELLER: You -- you are correct,
13 Your Honor. 273 is Fourco Glass Company versus
14 Transmural Products Supreme Court decision. And I'm
15 going to go to page three.

16 MR. CARNEY: Same -- same objection,
17 Your Honor, that they're reading this.

18 JUDGE FOELAK: Once again -- once
19 again, that's a legal case. You can cite to it.
20 You don't read from it. You can cite to it in your
21 brief. It's in evidence. Okay.

22 MR. ZHOU: Okay.

23 JUDGE FOELAK: So, please move on.

24 MR. ZHOU: Okay. So, the law has a
25 specific.

1 MR. MOELLER: Specific.

2 MR. ZHOU: Specific statutes tailored
3 exactly for our case should prevail. No joke.

4 JUDGE FOELAK: Okay. Okay. Fine.
5 Fine. You'll cite to that in your brief.

6 MR. ZHOU: Okay.

7 Scott, can you go to the script?

8 MR. MOELLER: Yep. And then I am
9 going to go back to 272, the Red Bank.

10 MR. ZHOU: No. I -- I -- yeah. I
11 think they will have objection too, right?

12 JUDGE FOELAK: Yeah. Anything that's
13 in these cases, you cite to them in your brief
14 saying why the facts show that this has not been
15 lived up to.

16 MR. ZHOU: Okay. So -- yeah.

17 JUDGE FOELAK: Okay. So -- okay.
18 So, move on.

19 MR. ZHOU: Yeah. We don't need to do
20 this. Let me go to script, see -- let me see what's
21 next.

22 Okay. You want me to read this
23 the -- the highlighted one?

24 MR. MOELLER: It's pretty critical.

25 JUDGE FOELAK: Well, wait a minute.

1 No, don't -- okay. Right, that's just --

2 MR. MOELLER: This is his statement.

3 This is Zhou's statement.

4 JUDGE FOELAK: Okay. Fine. Fine.

5 You know, it's in the -- it's in the record. You
6 can -- you can relate to it.

7 MR. MOELLER: Your -- Your Honor --

8 JUDGE FOELAK: It's an opening
9 statement. It's not testimony, but it's -- it's
10 their arguments.

11 MR. ZHOU: Do you think -- okay.

12 This is -- this is not in evidence yet.

13 JUDGE FOELAK: No. It's not evidence
14 period.

15 MR. ZHOU: Okay.

16 JUDGE FOELAK: Wait a minute. Whose
17 statement is this?

18 MR. MOELLER: Mr. Zhou. I'm going to
19 read this.

20 JUDGE FOELAK: Okay. I'm sorry. I'm
21 really sorry. It's in evidence. You don't need to
22 read it.

23 MR. MOELLER: No. Your Honor, it
24 hasn't -- it hasn't been put into evidence yet.
25 This is something that -- that Mr. Zhou prepared

1 for -- for today's testimony.

2 JUDGE FOELAK: Oh, okay. Okay.

3 Well, wait a minute. Let me read it
4 myself.

5 It's -- okay. It's a legal argument,
6 okay. You'll put that in your post-hearing brief.
7 I mean, I understand that you're saying the whole
8 procedure that was applied was illegal. And that's
9 what your -- that's one of the things you're going
10 to argue in your post-hearing brief. So, move on to
11 the next topic.

12 MR. ZHOU: Okay.

13 MR. MOELLER: Sorry, Your Honor. Let
14 me go to this and pull it up.

15 Your Honor, can we take a -- can I
16 request a quick bathroom break?

17 JUDGE FOELAK: Okay. Like --

18 MR. MOELLER: Maybe 10 -- 10 minutes.

19 JUDGE FOELAK: Okay. 10 minutes
20 until 10 minutes to.

21 MR. MOELLER: Okay. Thank you, Your
22 Honor.

23 JUDGE FOELAK: Okay.

24 (Brief recess taken at 11:37 a.m. Eastern Time.)

25 JUDGE FOELAK: Okay. Back on the

1 record.

2 Okay. Gentlemen, I've been pondering
3 the events of this morning and I just want to
4 reiterate, Mr. Zhou and Mr. Moeller have made a lot
5 of perfectly valid legal arguments, but they're not
6 appropriate for testimony. You'll put them in your
7 post-hearing brief. So, the speeches -- there's no
8 need -- no need for anymore speeches. In fact,
9 don't do them.

10 There was -- in all the two hours or
11 hour-and-a-half of testimony there was really only
12 one factual piece of testimony which is that Mr.
13 Zhou testified that they would have been willing to
14 hire a -- an accountant, but nobody would listen to
15 them. So, that was something new for the record.

16 Okay. Mr. Zhou, are you ready to
17 proceed?

18 MR. ZHOU: Okay. So, let me close my
19 curtains, the sun is coming. Give me 30 seconds.

20 Okay. Your Honor, I'm back.

21 JUDGE FOELAK: Okay.

22 MR. ZHOU: So, Scott, can you help me
23 post the script so that we can --

24 JUDGE FOELAK: Okay. Sir, did you
25 hear what I had to say? Going through the script

1 and pointing to stuff that's already in the record
2 and making legal arguments is not appropriate. You
3 do that after the hearing.

4 So, do you have anything new to
5 testify to that isn't already in evidence?

6 MR. ZHOU: Okay. Let me see which
7 one is -- is already in and which one is not in,
8 right. Sometimes I -- because -- because I need to
9 see this, okay.

10 So, I know, Your Honor, you don't
11 allow us to read what already --

12 JUDGE FOELAK: No. There's no point
13 in it. It's already something you can cite to.

14 MR. ZHOU: Okay.

15 JUDGE FOELAK: Now, when you said you
16 were willing to hire a CPA but nobody would listen,
17 that isn't something that has been mentioned before.
18 And, you know, it's -- it's directed to facts.

19 Do you have anything else along those
20 lines?

21 MR. ZHOU: Okay. Okay. But we need
22 to formalize that under your watch and -- and --

23 JUDGE FOELAK: No. You don't need
24 to -- wait. How you're going to formalize these
25 arguments under my watch is you're going to put them

1 in a written paper after the hearing is over.

2 MR. ZHOU: Okay.

3 JUDGE FOELAK: The Division will file
4 a written paper explaining why they think they're
5 right. And then, you will -- and you will file one,
6 you know, mentioning all these legal arguments, such
7 as, that they shouldn't have followed this
8 procedure, that it was unconstitutional and -- and
9 that -- and then, pointing to the fact nobody
10 would -- pointing evidence that shows -- supports
11 your allegation that nobody would listen, et cetera.

12 MR. ZHOU: Okay. So -- and my next
13 topic, my testimony, we don't need to read all of
14 this.

15 JUDGE FOELAK: No. We don't need
16 your testimony. It's already there. You can -- in
17 this written paper, which is what my decision is
18 going to be based on referring back to the evidence,
19 that's when you lay this -- these speeches out or
20 these arguments out that you're making. It's --
21 it's almost useless to be making it now.

22 MR. ZHOU: So, I want talk something
23 about the contradiction about withdraw policy. Can
24 I talk about that?

25 JUDGE FOELAK: About the -- I mean, I

1 don't understand. We --

2 MR. ZHOU: So, I can -- I can testify
3 without referring to any exhibit. That's my speech.

4 JUDGE FOELAK: Okay. But -- but
5 speech -- saying why something is inconsistent with
6 something else is not testimony. That's for your
7 written paper afterwards explaining why this whole
8 procedure was wrong.

9 MR. ZHOU: Okay.

10 JUDGE FOELAK: Testimony is where you
11 said, I tried -- I told them I -- I -- when you said
12 for the first time that you were willing -- the
13 first time it came into evidence anyway, that you
14 were willing to hire an accountant to prepare
15 audited financial statements, that was actual --
16 that was an actual -- something related to facts,
17 not an argument.

18 MR. ZHOU: Okay. So, you -- you do
19 not allow me to talk about, as my personal
20 testimony, my experience, personal experience, about
21 the Commission's create a whole mess, mislead us,
22 filing, withdrawing.

23 JUDGE FOELAK: Right. Sir, those are
24 valid arguments, but it's not appropriate for
25 testimony. It's appropriate for the written paper

1 after the hearing. The hearing is just to gather
2 actual facts --

3 MR. ZHOU: But personal --

4 JUDGE FOELAK: -- not arguments.

5 MR. ZHOU: I'm not arguing. I just
6 tell you --

7 JUDGE FOELAK: No. I don't mean -- I
8 don't mean -- you're -- you're --

9 MR. ZHOU: My personal experience --

10 JUDGE FOELAK: It's -- it's. Okay.
11 What is your personal -- what is your personal
12 experience?

13 MR. ZHOU: Yeah. That's what I'm
14 going to talk about.

15 JUDGE FOELAK: Okay. Okay. What is
16 it?

17 MR. ZHOU: Okay. A lot of
18 contradictions in my experience, okay. I'm going to
19 talk about that even without --

20 JUDGE FOELAK: Okay. What kind of
21 contradictions?

22 MR. ZHOU: The filing, withdrawing.
23 And we file two forms, Form 10 and Form S-1, both of
24 them require financial --

25 JUDGE FOELAK: Sir, that's not --

1 that's -- that is -- you're making an argument or
2 asking questions based on some facts that one was
3 ruled on and the other one wasn't. That just
4 isn't -- I understand you're saying that it's your
5 personal experience because it went through your
6 head, but that's just -- that's just explaining why
7 the whole thing is unfair, that kind of thing.

8 MR. ZHOU: That still personal
9 experience, personal knowledge, should be testified,
10 allowed. It's real experience.

11 JUDGE FOELAK: Okay. But these --
12 these rulings are a matter of public record, right?

13 MR. ZHOU: Not that clearly.

14 JUDGE FOELAK: And you can argue --
15 and you can argue in your post-hearing written paper
16 that the different parts of the Commission were
17 acting inconsistently, let's put it that way.

18 MR. ZHOU: Yes, but this is public
19 hearing. And I think -- I think personal knowledge
20 about the whole process --

21 JUDGE FOELAK: You don't have
22 personal knowledge of what went behind their
23 deliberations.

24 MR. ZHOU: We only talk about how we
25 feel. The impact on us. We don't talk about their

1 side.

2 JUDGE FOELAK: Okay. What was the
3 impact on you?

4 MR. ZHOU: Okay. We have file and --
5 and we ask for, can -- can the -- the Division of
6 Corporation Finance or the Division of Enforcement
7 prove we are security? They don't. They send us --

8 JUDGE FOELAK: Okay. You asked --
9 okay. You asked them to prove they were securities,
10 okay. And you never got a response.

11 MR. ZHOU: Yes. We ask multiple
12 times, again and again, after both Divisions of
13 Corporation Finance and Corporation -- and the
14 Division of Enforcement. Many times. And what they
15 answer, they answer, Because of you fill in the form
16 you are securities. So, that's a --

17 JUDGE FOELAK: Right. Right. That
18 is -- that is obviously a contradiction.

19 MR. ZHOU: Yes. That is one of the
20 allegations, but do they have any form for us to do?
21 No. Okay.

22 JUDGE FOELAK: But, sir -- sir,
23 that's what I mean about you might want to consider
24 a petition for rule making, but that doesn't really
25 solve this problem, okay. There's no doubt --

1 there's no doubt that the Form S-1 does not fit the
2 DAO.

3 MR. ZHOU: And, however, we do read
4 from -- they have a framework about how to analyze
5 the crypto, whether they are security or not. They
6 publish that. The SEC published that. We did
7 follow that. In that they clearly state substance,
8 not the form, to the --

9 JUDGE FOELAK: Sir -- sir, once
10 again, I remind you that pointing at these
11 inconsistencies and how you obviously tried to --
12 how you -- the evidence in the record that shows you
13 tried to file, that's a legal argument.

14 Do you have any facts to testify to?

15 MR. ZHOU: Yeah. Okay.

16 So, they -- when they -- when they --
17 when they ask for -- the fact is we ask multiple
18 time, Hey, can you prove that we are security. They
19 didn't.

20 JUDGE FOELAK: Sir -- sir -- okay.
21 You've made that point. You asked them multiple
22 times and you're still left with a Catch 22.

23 MR. ZHOU: Yes. Then we withdraw
24 because they say we file it, we become security. If
25 we withdraw --

1 JUDGE FOELAK: And they wouldn't let
2 you withdraw?

3 MR. ZHOU: Yeah. Well, okay. When
4 we withdraw we should not be security no longer,
5 right? So, what they did, they allow us to withdraw
6 Form 10, but they didn't allow us withdraw S-1. And
7 the S-1 they have Section 8(e) investigation.

8 JUDGE FOELAK: Sir, once again, I
9 want to point out that's a perfectly good type of
10 legal argument. Absolutely, but it doesn't -- it's
11 not testimony. It goes in the written paper you
12 file after the hearing.

13 MR. ZHOU: Yeah. Thank you. Okay.

14 JUDGE FOELAK: So, do you have
15 anything else?

16 MR. ZHOU: Yeah. Yeah. My point
17 is -- my point is, if -- if they -- they allow us
18 withdraw Form S-1 --

19 JUDGE FOELAK: Sir, that's a legal
20 argument. You're making a speech.

21 Do you have any testimony?

22 I mean, I'm not -- I'm not saying
23 that it's a bad argument. It's a -- and I
24 understand your frustration, but do you have any
25 testimony as to any facts that aren't already in the

1 record?

2 MR. ZHOU: I think that's my
3 testimony.

4 JUDGE FOELAK: Okay, fine. Do you
5 have another topic?

6 MR. ZHOU: Absolutely.

7 JUDGE FOELAK: Okay. What's the next
8 topic?

9 MR. ZHOU: Okay. Wait a minute.
10 Wait a minute. Wait a minute. Let me finish. Let
11 me finish.

12 JUDGE FOELAK: Okay. And remember
13 what I said, you're making legal arguments. They're
14 valid arguments that deserve to be argue --
15 answered, but they don't belong in oral testimony.
16 You make them after the hearing in your written
17 paper.

18 MR. ZHOU: Yeah. I need to emphasize
19 that fact --

20 JUDGE FOELAK: You're just wasting --
21 you're just wasting time.

22 MR. ZHOU: But I want to emphasize
23 the fact, there's still facts I haven't outlined.
24 So -- so, there is a fact here not allow us to
25 withdraw, but do the same thing to stop us.

1 JUDGE FOELAK: Sir, those facts are
2 already there. You emphasize it in your written
3 paper.

4 MR. ZHOU: Okay.

5 JUDGE FOELAK: It's just not -- this
6 just isn't the appropriate time.

7 MR. ZHOU: Okay. Okay.

8 So, let's go to the next. Scott, can
9 you show the -- the number three, discussing the
10 relief.

11 JUDGE FOELAK: Okay. Once again, you
12 are referring to stuff that's already in the record.

13 MR. ZHOU: Not really. There are
14 many exhibits.

15 Number three, the -- the -- big
16 number three, right? Big number three.

17 Scott, go to the -- the American
18 CryptoFed's assertion, that script.

19 Okay. Go back to the script.

20 MR. MOELLER: Sorry. I didn't
21 realize I was muted here.

22 Okay. So, go back to the script?

23 MR. ZHOU: Yeah. I will show you
24 what's our next topic.

25 MR. MOELLER: Okay. There you go.

1 MR. ZHOU: Yeah.

2 MR. MOELLER: No fundraising, no
3 revenue.

4 JUDGE FOELAK: Okay. Fine. Fine.
5 Fine. You -- that's your explanation, but there's
6 no doubt there's no audited financial statements.
7 So, it doesn't matter about the why. Move on to the
8 next thing.

9 MR. ZHOU: Yeah. I need to answer --

10 JUDGE FOELAK: You already -- you
11 already testify to us something valid that you would
12 have hired an accountant, but they never listened --
13 offered to, but they never listened to you.

14 Okay. Move to the next topic.

15 MR. ZHOU: I want to prove why we do
16 not have it.

17 JUDGE FOELAK: That -- you -- you
18 already -- okay. You want to prove why you have
19 no -- you've already testified that you have no
20 assets and no revenue.

21 MR. ZHOU: Yeah, but I need evidence.

22 JUDGE FOELAK: That's already --
23 that's already in evidence. Okay, keep going. Next
24 topic.

25 MR. ZHOU: And I will prove that

1 through answer Mr. Bruckmann's.

2 MR. CARNEY: Yeah. Your Honor, the
3 Division has no objection if Mr. Zhou has an
4 explanation as to why -- a factual -- or a factual
5 explanation as opposed to a legal argument as to why
6 they have no financial statement.

7 JUDGE FOELAK: Okay. Please explain
8 why you have no financial statements.

9 MR. ZHOU: Yeah. So, that take a lot
10 of explanation. So, I hope -- I hope I'm allowed to
11 lay out all the facts why we don't have it.

12 JUDGE FOELAK: Okay. Tell me why you
13 don't have it, if you haven't already.

14 MR. ZHOU: Okay. The question here
15 is -- here is addressed --

16 Okay. Scott, can you help me read
17 the question, the number one?

18 MR. MOELLER: Yes.

19 MR. ZHOU: I want to make clear what
20 the question is.

21 MR. MOELLER: Okay. And the question
22 is: Do you have any explanation for why the Form
23 S-1 does not include audited financial statements?

24 MR. ZHOU: I think that's a Division
25 question.

1 MR. MOELLER: Yes. That was the
2 Division's question to me in day one of our hearing.

3 And do you want me to go to their --
4 their -- the OIP, their allegations?

5 MR. ZHOU: Yeah. I can read it here,
6 it's a draft three of OIP.

7 MR. MOELLER: Yeah. Okay.

8 JUDGE FOELAK: Back up.

9 MR. ZHOU: Okay.

10 Scott, can you go back to the script
11 and read the OIP number so that the court reporter
12 can have them in.

13 MR. MOELLER: Yes. So -- so, this is
14 going back to the Order Instituting Proceedings for
15 November 18th. And this is the Division's
16 allegations in Section 3, number 20: On -- on
17 June 21st, 2022, Respondent sent a letter to the
18 Commission staff via e-mail. In that letter
19 Respondent objected to each request contained in the
20 June 15th, 2022 subpoena on the basis that each
21 request is not reasonably calculated to lead to the
22 discovery of relevant, admissible evidence which can
23 rebut American CryptoFed's assertion that American
24 CryptoFed has no fundraising, no revenue, no costs,
25 no profits and no assets. And, therefore, there is

1 no traditional balance sheet equation of assets
2 equals liabilities plus shareholders equities to
3 generate securities subject to the SEC's
4 jurisdiction.

5 MR. ZHOU: Okay. Thanks, Scott.

6 Now, go back to the script.

7 MR. MOELLER: Okay. So, page 225.

8 MR. ZHOU: Okay. Here. So, I want
9 through all of the discussion going on to rebut the
10 allegation --

11 JUDGE FOELAK: Okay. Okay.

12 MR. ZHOU: -- that they made number
13 25.

14 JUDGE FOELAK: Okay, fine. Go ahead
15 and answer it.

16 MR. ZHOU: Okay.

17 So, Scott, can you go to the -- to
18 the Division's Exhibit 4.

19 MR. MOELLER: Yep. Okay. There you
20 go.

21 MR. ZHOU: So --

22 MR. MOELLER: This is page four, last
23 paragraph, okay.

24 And -- so, Division's Exhibit 4.

25 This is a June 21st letter from CryptoFed to

1 Mr. Baker.

2 Okay. Page four, last paragraph
3 going to page five.

4 Okay. From here was it on
5 January 9th, Zhou?

6 MR. ZHOU: Yeah.

7 MR. MOELLER: Okay. Okay. On
8 January 9th, 2022, American CryptoFed has applied a
9 preliminary Howey Test analysis defense in its reply
10 to the Division's opposition to Respondent's motion
11 for Exemption from Section 12(g) of the Securities
12 Exchange Act of 1934, date submitted 110, page four
13 through ten, further proving that American CryptoFed
14 has no fundraising, no revenue, no costs, no profits
15 and no assets.

16 JUDGE FOELAK: Okay. That's all --
17 okay. This document is already in evidence.

18 MR. MOELLER: Yes.

19 JUDGE FOELAK: Is there something new
20 you want to say?

21 MR. ZHOU: Yeah. I already -- I said
22 we already prove that through other filings already
23 there, but I'm going to add more new evidence, new
24 side to explain more.

25 So, next, Scott, go to script again.

1 MR. MOELLER: Page two, number six.

2 JUDGE FOELAK: Okay. Wait. You're
3 referring to something that's already in evidence
4 that you can refer to in your post-hearing filing.

5 MR. ZHOU: Yes.

6 JUDGE FOELAK: You're going to keep
7 pointing out things in this document or other
8 documents that are in evidence, that's just a waste
9 of time. You can already refer to them.

10 MR. ZHOU: Yeah. We still have
11 additional ones.

12 Scott, can you go to the script.

13 MR. MOELLER: Okay. This one, page
14 226?

15 MR. ZHOU: Yes. And the -- the
16 number four.

17 MR. MOELLER: Oh Exhibit 4, okay.

18 MR. ZHOU: No. No. No.

19 JUDGE FOELAK: Okay. Once again --
20 once again, you're referring to the transcript. Do
21 you have any new stuff that hasn't been addressed
22 before?

23 MR. ZHOU: Oh, we do. We do. We do.
24 We just need to --

25 JUDGE FOELAK: Okay. Then do it.

1 Then do it. Then say it.

2 MR. ZHOU: Okay. So -- so, let me --
3 let me -- okay, because I don't know that we face so
4 many objections, we are disrupted about our logic
5 how to present.

6 JUDGE FOELAK: Okay. Well, maybe --
7 okay. Sir, maybe -- okay.

8 I want you to understand that
9 material that's already in evidence that you feel
10 supports your legal arguments, it's already there.
11 You don't make the legal arguments orally. You make
12 them in writing afterwards.

13 Now, if you're thinking it's
14 disruptive and, you know, rather than waste hours
15 upon hours of trying to explain this to you and you
16 backing up and stuff like that, do you think that
17 you should have a recess and search and see if there
18 really is something -- some new facts that you want
19 to testify to? You know, such as when you said that
20 you were willing to hire an accountant, but nobody
21 would listen to you.

22 MR. ZHOU: Through the script I have
23 tons of evidence. New evidence, okay.

24 JUDGE FOELAK: Okay. You haven't
25 brought -- okay, that's the only piece of new

1 evidence you've brought up this morning.

2 MR. ZHOU: Okay.

3 JUDGE FOELAK: And every time you say
4 there's something new, we go to something old that
5 you just point to. You know, I'm just trying to
6 help you put on a better, organized thing and not
7 just waste time.

8 MR. ZHOU: Okay. Okay.

9 JUDGE FOELAK: And that's why I'm
10 saying, maybe you should take a recess and confer
11 with Mr. Moeller and think about any new actual
12 evidence.

13 MR. ZHOU: You mean we can resume
14 some time again?

15 JUDGE FOELAK: Right. Right. I
16 mean --

17 MR. ZHOU: That's fine. We can stop
18 today.

19 JUDGE FOELAK: I mean, do you have
20 any -- do you get -- I mean, do you get what I'm
21 trying to tell you? That you're making -- you're
22 making perfectly valid arguments, but this isn't the
23 place for them.

24 MR. CARNEY: Your Honor, I would -- I
25 would just interject that they've had over two

1 months now to prepare a continuation of Mr. Zhou's
2 direct that started back in November -- December.
3 Yeah. Sorry, December. I'm not sure of the exact
4 time. Beginning of December. So, they've had
5 month, month-and-a-half. And so, they've had plenty
6 of time to prepare a direct or a continuation of the
7 direct, not even the start of the direct.

8 And so, we would not be opposed to
9 them taking, for instance, a lunch break to go
10 through their script and sort of figure out what
11 parts of it are actual factual evidence versus legal
12 argument, but we would be opposed to adjourning
13 for -- for the day in -- in order to allow them to
14 do that which they've had weeks and weeks to -- to
15 do.

16 JUDGE FOELAK: Okay. Your -- I mean,
17 I understand what you're saying, but I can't imagine
18 that -- that they would -- I can't imagine that
19 they'd get -- be able to get all their ducks in a
20 row.

21 Sirs, if you had the rest of the day
22 off, could you pair down and possibly agree -- and
23 possibly come to an understanding that you've
24 presented all of the evidence that you're going to?

25 MR. ZHOU: I think the best way --

1 yeah. The best way is -- now, I understand, Your
2 Honor, you -- what you have already exhibit you
3 admit it in -- in the -- into evidence, you don't
4 want me to show it up and read it.

5 JUDGE FOELAK: No. As I keep saying,
6 you make that argument in your written paper
7 afterwards. And I have a feeling that it's quite
8 possible that after you and Mr. Moeller study the
9 matter that you're going to come to a conclusion
10 that there isn't really anything more for you to
11 testify to. And that is why I think -- well, maybe
12 there is, but that is why I think that adjourning
13 for the day would be maybe the best thing.

14 Is everybody available tomorrow?
15 Including the court reporter, the most important
16 person?

17 MR. ZHOU: Yes, we are available.

18 MR. BRUCKMANN: Yes, the Division --

19 MR. ZHOU: But, Your Honor, sometimes
20 I got confused, okay. The Division can post some
21 evidence on the screen and they ask: Mr. Moeller,
22 do you recognize this? And then use that to ask a
23 question.

24 JUDGE FOELAK: That is for the
25 purpose of saying that it's a valid document, but

1 the documents that are already in evidence don't
2 have to have that treatment. You can just point to
3 them and say -- you know, you can point to them
4 and -- you know, like point to, Look at all this
5 correspondence, they never answered our question.
6 That kind of thing.

7 MR. CARNEY: And, Your Honor, just to
8 clarify so that we're not constrained on our
9 cross-examination. There's a big difference between
10 showing someone a document and asking them a
11 question about the document and simply putting a
12 document up on the screen and reading the document
13 into the record. Those are two very different
14 things from our perspective.

15 JUDGE FOELAK: Correct. Correct.
16 Absolutely right.

17 Like, you might show a document that
18 says: I am 21 years old. And -- and then the
19 cross-examiner says: Isn't it true you were born in
20 1910. And so, you're 120 or something. Yes.

21 MR. ZHOU: Can I point to a document
22 already -- already in as evidence and I add
23 something to it because under that context --

24 JUDGE FOELAK: Okay. But so far what
25 you've been doing is not really adding anything.

1 MR. ZHOU: Well, we just --

2 JUDGE FOELAK: You're just
3 reiterating what's in it. You're not saying, you
4 know, Well, this document is not complete. It
5 doesn't show the first page that shows that it was
6 actually mailed, you know, on May 31st and not March
7 31st or something, that kind of thing.

8 MR. ZHOU: So, let me --

9 JUDGE FOELAK: But just -- just --

10 MR. ZHOU: Because I want to
11 understand. I do not understand what -- what --
12 what -- what's a fuller line. Is it fact? Is it
13 not fact? Is it personal experience, personal
14 testimony? I need a fuller line, clear cut line.

15 JUDGE FOELAK: Okay. Sir -- sir, any
16 written document that's in evidence or any
17 testimony, when you file your written paper after
18 the hearing you can quote from it or you can say
19 that it's inconsistent with some other document or
20 some other testimony showing that it's -- one of
21 them is right or neither one of them is right.

22 MR. ZHOU: Okay. So far -- so far we
23 filed about I think close to 300 total exhibits can-
24 can they be in the record?

25 JUDGE FOELAK: Well, it appears to me

1 that some of them might be given very little weight.

2 MR. ZHOU: And -- and we are fine --

3 JUDGE FOELAK: If -- if, however --

4 if, however, we debate the merits of the
5 admissibility of each one that might take a year.

6 MR. ZHOU: It is fine --

7 JUDGE FOELAK: Anyway -- anyway, I
8 won't decide that today, but what I want to know is,
9 is everybody available tomorrow or is somebody not
10 available?

11 MR. CARNEY: The Division's
12 available, Your Honor.

13 JUDGE FOELAK: And, Ms. Court
14 Reporter?

15 (Whereupon, Reporter responds.)

16 JUDGE FOELAK: Okay. Okay. Mr.
17 Zhou, do you have -- okay. What I want you to do
18 with Mr. Moeller for the rest of the day is look
19 through your script together, or talk together, and
20 decide, is there any new facts. Not legal arguments
21 and pointing out inconsistencies between something
22 that's already in evidence. Remembering that you're
23 going to be able to make those arguments that are,
24 you know, certainly legal -- valid arguments that
25 you can make in your post-hearing brief, you know,

1 such as your arguments that unfair procedures were
2 used or an argument as to why something was
3 unconstitutional or --

4 MR. ZHOU: Okay. We will do our
5 best.

6 JUDGE FOELAK: And see if there's
7 any -- see if there's any -- anything that you
8 actually want to testify to. Other than that, you
9 might want to close your the presentation of your
10 case upon the ruling on all of your 300 exhibits.
11 And then, the Division gets a chance for rebuttal.
12 Whether or not they have any rebuttal witnesses, I
13 don't know, but -- or they get a chance for
14 cross-examining you if they have any need to. After
15 you close your case they can cross-examine you. Or
16 not after you close your case. After you testify.

17 MR. BRUCKMANN: And, Your Honor, also
18 if Mr. Moeller wishes to testify. When I was done
19 with my examination of him we said that we would
20 postpone his, sort of, cross-examination of himself
21 to be in their case if he wanted to do it. And so,
22 if he wishes to testify, they can do that.

23 JUDGE FOELAK: Okay. Okay. Okay,
24 great.

25 Yes, Mr. Moeller.

1 MR. MOELLER: Your Honor, there
2 was -- there was many times during the first two
3 days, three days of -- of the testimony or the
4 hearing where I had to say: Talk to Zhou. Talk to
5 Zhou. And many of those are reflected in -- in what
6 we show as a transcript question. So, when we're --
7 when we're reviewing the transcript we're looking
8 for clarification of my prior answers where I was
9 either unsure or I had no knowledge.

10 So, when you're seeing a lot of these
11 questions come up as the transcript, that's --
12 that's leading to the context so that Zhou can
13 answer more clearly.

14 MR. CARNEY: And -- and, Your Honor,
15 obviously -- obviously they don't need read back the
16 transcript into the transcript in order to do that.
17 They can simply ask the questions that Mr. Bruckmann
18 asked Mr. Moeller if that's the way they want to
19 proceed, but there -- there's no need to waste time
20 by rereading the entire transcript back.

21 JUDGE FOELAK: Okay. Mr. Moeller, if
22 you want to testify yourself then, maybe you have a
23 better understanding now, you can just give a
24 narrative, but -- but you're right. Or you can --
25 or you can have a narrative for -- you know, for

1 Mr. Zhou to address.

2 MR. ZHOU: I think -- I think we can
3 use Mr. Bruckmann's question and I will answer it.
4 And during the answering the question we probably
5 may need some exhibit so that I can proceed to
6 answer it or if you do not allow me to use the
7 exhibit, I can just --

8 JUDGE FOELAK: Oh. Well, I mean --

9 MR. ZHOU: -- just talk about it to
10 answer it.

11 JUDGE FOELAK: No. I understand. I
12 understand what you're saying. You proposed all
13 these exhibits. They're sort of not admitted and
14 not rejected at this time and you may be referring
15 to one of them in answering these questions that
16 Mr. Moeller referred to you.

17 MR. ZHOU: Uh-huh. So -- so, there
18 are many questions Mr. Moeller said: Talk to Zhou.

19 JUDGE FOELAK: Correct. Correct.

20 MR. ZHOU: Okay. I'm preparing to
21 answer all those questions.

22 JUDGE FOELAK: Okay, very good.

23 MR. ZHOU: And then, from time to
24 time during my answering those questions, we may
25 need to pull out some evidence. Say, Hey, look,

1 that's -- that's back up my answer. Does that work?

2 JUDGE FOELAK: That would work. I
3 mean, we'll cross that bridge when we come to it,
4 but it may -- but that may -- I think you've got the
5 right idea.

6 Okay. So -- okay. So, the rest of
7 today -- okay.

8 So, from now until then you're going
9 to review with Mr. Moeller what you're going to
10 testify to yourself.

11 And then, you're going to
12 review with him these, talk to Zhou, questions so
13 that you can answer them in an orderly manner,
14 possibly at times referring to some of your exhibits
15 that you would offer.

16 MR. ZHOU: Yes. Yes.

17 JUDGE FOELAK: And -- and I'd like
18 the Division to think about whether it just might be
19 more advantageous to admit all their exhibits, even
20 if some may be of little weight, and then go from
21 there, but -- okay.

22 Does anyone have anything else before
23 we adjourn for the -- recess for the day?

24 MR. BRUCKMANN: Not from the
25 Division, Your Honor. Just, the start time tomorrow

1 to be 10 a.m. East Coast Time?

2 JUDGE FOELAK: That would be good.

3 Can you, as you did before, arrange for the Webex
4 invite? And -- and we on our end will arrange for
5 the AD people to insure that it works in this -- for
6 us.

7 MR. BRUCKMANN: Yes. We will do
8 that.

9 MR. ZHOU: Your Honor?

10 JUDGE FOELAK: Yes, sir.

11 MR. ZHOU: So -- Your Honor, so, I
12 can still introduce a new exhibit? I can use the
13 exhibit --

14 JUDGE FOELAK: Yes. Yes. I have not
15 rejected your exhibits. And I have asked the
16 Division to consider not objecting to any of them,
17 but anyway, at the very least, if you need to refer
18 to one of your exhibits that is not in evidence, you
19 propose it to be admitted at that time. And then
20 you talk about it or, you know -- or -- or say, you
21 know, this shows that I sent out a letter to all of
22 the would be governance token holders on May 31st or
23 something like that.

24 MR. ZHOU: Okay.

25 JUDGE FOELAK: Okay. Did you

1 understand that?

2 MR. MOELLER: Yes, Your Honor.

3 JUDGE FOELAK: Okay. Does anyone
4 have anything else?

5 MR. CARNEY: Not for the Division,
6 Your Honor.

7 JUDGE FOELAK: Okay. Then we will
8 recess until tomorrow at 10 o'clock. And thank you
9 everyone for your patience and participation.

10 MR. CARNEY: Thank you, Your Honor.

11 MR. BRUCKMANN: Thank you, Your
12 Honor.

13 MR. ZHOU: Thank you, Your Honor.

14 (Whereupon, at 12:33 p.m. Eastern Time,
15 the hearing was adjourned.)

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PROOFREADER'S CERTIFICATE

In the Matter of: THE REGISTRATION STATEMENT OF
AMERICAN CRYPTO FED DAO
ADMINISTRATIVE PROCEEDINGS - HEARING
File No. 3-21243
Date: Wednesday, January 18, 2023
Location: Washington, D.C.

This is to certify that I, Christine Boyce,
(the undersigned), do hereby certify that the foregoing
transcript is a complete, true and accurate transcription
of all matters contained on the recorded proceedings of
the hearing.

(Proofreader's Name)

1-19-2023

1 C E R T I F I C A T E

2 I, SHAUNNA H. MORAN, a Certified Shorthand
3 Reporter and Registered Professional Reporter in the
4 States of New Jersey, New York and The District of
5 Columbia, and Notary Public of the State of New
6 Jersey, do hereby certify that the foregoing is a
7 true and accurate transcript of the hearing as
8 taken stenographically by and before me at the time,
9 place and on the date hereinbefore set forth.

10 I DO FURTHER CERTIFY that I am neither a
11 relative nor employee nor attorney nor counsel of
12 any of the parties to this action, and that I am
13 neither a relative nor employee of such attorney or
14 counsel, and that I am not financially interested in
15 the action.

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SHAUNNA H. MORAN, CSR, RPR

22 Shorthand Reporter

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