

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. 2

PAGES: 249 through 431

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

DATE: Friday, December 2, 2022

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 Respondent:

17 XIAOMENG ZHOU

18 SCOTT MOELLER

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C O N T E N T S

WITNESSES:

DIRECT REDIRECT CROSS

Scott Moeller

BY: Mr. Bruckmann 262

EXHIBITS

DESCRIPTION

MARKED

RECEIVED

Commission Exhibits:

6	Scott Moeller SEC testimony transcript	371	371
10	American CryptoFed letter	375	375
11	American CryptoFed November 26, 2022 letter	327	327
20	Letter	254	254

Respondent Exhibits:

MARKED

RECEIVED

52	Letter	254	254
53	Letter	254	254

1 P R O C E E D I N G S

2 JUDGE FOELAK: Okay. Back on the
3 record.

4 Mr. Bruckmann.

5 MR. BRUCKMANN: Thank you, Your
6 Honor.

7 Before I get into Mr. Moeller's
8 testimony, we sent Mr. Moeller and Mr. Zhou this
9 morning an additional exhibit, Exhibit 20, that I'm
10 going to be getting to shortly. And I just wanted
11 to see if they had any objections to that exhibit or
12 anything they wanted to discuss before we proceeded.
13 And I can forward that exhibit to the ALJ office as
14 well so that Your Honor has a copy of it. It's only
15 two pages long.

16 JUDGE FOELAK: Okay.

17 MR. MOELLER: Zhou, did you have any
18 objections? Yeah?

19 MR. ZHOU: Yeah. We -- we do not
20 have objection about authentic real evidence. We
21 can agree that it is to be in the record. I hope
22 you do the same to our two additional exhibits, 52
23 and 53. And, we do not want the objection say it
24 not relevant, in the future we cannot use. That
25 objection you have today. I think the judge already

1 removed that objection. So, we can -- for the
2 record, we can use in our briefing later, but not
3 allow you to say this is not relevant. Whether it
4 is relevant or not in the future I think it should
5 be make judgment by the court.

6 MR. BRUCKMANN: Well, regarding their
7 two exhibits, Your Honor, they are authentic. And I
8 think anything else regarding their exhibits we
9 should deal with when it's their case and they're
10 attempting to move their exhibits in.

11 JUDGE FOELAK: Well, I guess they
12 want to put -- well, just like we moved a bunch of
13 exhibits in yesterday before --

14 MR. BRUCKMANN: Understood.

15 JUDGE FOELAK: Do you have any
16 particular objection to the exhibits of -- the
17 proposed exhibits of the Respondent?

18 MR. BRUCKMANN: No, Your Honor. We
19 have no objections to those exhibits coming in. We
20 reserve the right to object to how they might be
21 used with any witness. Certainly yesterday there
22 were numerous attempts to improperly use exhibits,
23 but those exhibits are authentic and they can be in
24 the record as far as the Division is concern.

25 JUDGE FOELAK: Okay. So, the

1 Division's Exhibit 17?

2 MR. BRUCKMANN: 20, Your Honor.

3 JUDGE FOELAK: Excuse me, 20 is
4 admitted. And Respondent's Exhibits 52 and 53 are
5 admitted.

6 (Whereupon, Commission Exhibit 20 is admitted into
7 Evidence.)

8 (Whereupon, Respondent Exhibits 52 and 53 are
9 admitted into Evidence.)

10 JUDGE FOELAK: Okay. Yes, sir. Mr.
11 Zhou?

12 MR. ZHOU: Thank you.

13 So -- so, I really do not understand
14 why the Division say we cannot use it if -- if they
15 are -- if they are record.

16 JUDGE FOELAK: Well, I'm not exact --
17 well, he hasn't said -- he hasn't really said why.

18 For example, just giving you as an
19 example, there's a concept of hearsay. It's okay as
20 far as -- valid as far as true that something that's
21 hearsay was said or written or something like that,
22 but that doesn't mean that's what's in the hearsay
23 is true. I mean, there's more than one way to look
24 at a piece of paper.

25 Well, we'll -- we'll see what he does

1 when we get there, okay? Rather than me talking
2 generally, we'll see what he -- how he objects to --
3 if he does, which he may not. Okay?

4 MR. ZHOU: Regarding the evidence 22,
5 23 just admitted by, Your Honor, we do have
6 associate a series of the e-mail threads surrounding
7 that two exhibit. So, in order for the future to
8 avoid any dispute about how to use it, I am asking
9 the court allow me to send that in tonight or
10 tomorrow. It really show all those e-mail and that
11 52, 53 exhibit. So that we can remove any doubts
12 and in the future for any dispute how we use it.

13 JUDGE FOELAK: Okay. You can send it
14 in. We still -- we don't really know exactly what
15 his -- what he's going to say. So, we can't predict
16 that in advance, okay?

17 MR. ZHOU: Thank you.

18 MR. BRUCKMANN: And then, one brief
19 scheduling matter, Your Honor. I don't know if the
20 Respondents still intend to seek to call Erin
21 Purnell, but she's not available after 3:30 today.
22 She is available on Tuesday if we needed to resume
23 on Tuesday, but I just wanted to note that
24 limitation on her availability before we began
25 today, so.

1 JUDGE FOELAK: Okay. I just want --
2 I just want to ask Mr. Zhou or Mr. Moeller another
3 thing.

4 52 and 53 have been admitted. Is
5 there a 51 --

6 MR. ZHOU: No.

7 JUDGE FOELAK: -- or did we just skip
8 a number.

9 MR. ZHOU: We skipped a number, Your
10 Honor.

11 JUDGE FOELAK: Okay. Thank you.
12 Thank you.

13 Okay. Please proceed.

14 Yes, sir?

15 MR. MOELLER: Yes. Your Honor -- oh,
16 which -- Zhou or --

17 MR. ZHOU: Well, yeah. I just want
18 to answer Mr. Bruckmann's questions about the
19 witness Ms. Erin Purnell. Am I pronouncing him
20 correct? Yeah. She is available for us as a
21 witness on Tuesday next week; is that correct?

22 MR. BRUCKMANN: We object -- we
23 object to her being called because it's not
24 relevant, it's duplicative, but she is available on
25 Tuesday if Her Honor says that she should testify.

1 JUDGE FOELAK: Okay. Right. He's
2 just telling you when she's not going to be
3 available. He isn't saying he's not going to object
4 to her being called, okay?

5 MR. ZHOU: Yeah. We -- we --

6 JUDGE FOELAK: She will be there.
7 She will be available if she is called, okay?

8 MR. ZHOU: We want to call her.

9 JUDGE FOELAK: It's just a dispute
10 over whether she's going to be called, but one thing
11 that is not in dispute is that she will be available
12 if necessary, okay?

13 MR. ZHOU: Thank you. I want to
14 call -- we want to call her when she available. We
15 are flexible about schedule.

16 JUDGE FOELAK: Right. Right. Right.
17 Right. Okay. Okay.

18 MR. MOELLER: And -- and, Your Honor,
19 if --

20 JUDGE FOELAK: Yes, sir.

21 MR. MOELLER: Yeah, if I may. Before
22 we -- we start with more of my deposition, I'd like
23 to revisit -- not -- not restate, but revisit
24 what -- what happened yesterday because there were
25 many times when I had to say, I -- I don't have

1 personal knowledge of this; or, Talk to Zhou. Talk
2 to Zhou. Can I ask the court reporter to read back
3 Mr. Bruckmann's questions to me on that? Because I
4 intend to question Zhou on this on my redirect.

5 JUDGE FOELAK: Okay. Now, there was
6 an awful lot of times when you said that.

7 MR. MOELLER: Yes.

8 JUDGE FOELAK: I think you're better
9 off --

10 MR. MOELLER: And I'm happy -- sorry.
11 Sorry, Your Honor.

12 JUDGE FOELAK: You're better off
13 getting a hold of the transcript.

14 Ms. Court Reporter, how soon can he
15 get, like, an overnight transcript?

16 (Whereupon, the Reporter responds.)

17 MR. MOELLER: Wonderful. Wonderful.

18 JUDGE FOELAK: Thank you. Okay.

19 MR. MOELLER: That's very helpful.

20 Thank you, Your Honor. Thank you.

21 JUDGE FOELAK: Yes, sir. Mr. Zhou?

22 MR. ZHOU: Thank you.

23 Final thing. So, on Tuesday I can
24 have opportunity to ask Ms. Erin Purnell question?

25 JUDGE FOELAK: That -- whether or not

1 you have the opportunity depends on whether I say
2 she can be questioned, but if I say she can be
3 questioned, then she'll be there, okay? The
4 opportunity is not foreclosed by her, you know,
5 being away or something, okay?

6 Yes, sir.

7 MR. ZHOU: In addition to that,
8 because yesterday you can say, Your Honor, on the
9 exhibit list of the Division No. 19, and it's
10 corresponding to our Division -- our Exhibit 23, 19
11 is the last of Division's exhibit. It -- the -- Mr.
12 Dobbie does not have personal knowledge. And also,
13 there is November 6th, '22nd, that's Exhibit 11.
14 When we ask multiple time about Mr. Dobbie, he did
15 not have personal knowledge. And also, their
16 Exhibit 17 --

17 JUDGE FOELAK: Well, sir, you can put
18 all of this in your post-hearing briefs.

19 MR. MOELLER: Well, I -- I -- I think
20 he's asking -- he's giving the rational for why we
21 need to call Ms. Purnell.

22 JUDGE FOELAK: Oh, okay. Well,
23 let's -- let's deal with that at the point when you
24 seek to call her. Let's do this in an orderly
25 fashion.

1 MR. ZHOU: Thank you.

2 JUDGE FOELAK: Okay.

3 MR. MOELLER: Oh. I just see a note
4 that the Division lost audio.

5 JUDGE FOELAK: Yeah. It looks -- it
6 looks -- it looks like that looking at the screen.
7 We -- I mean, I guess we can't hear him and maybe he
8 can't hear us either.

9 MR. MOELLER: Yeah. Yeah. It's just
10 our little chat.

11 JUDGE FOELAK: Yeah. They're all
12 sitting in the same room. They all seem to have
13 lost it.

14 MR. BRUCKMANN: Can you hear us, Your
15 Honor?

16 JUDGE FOELAK: Yes.

17 MR. BRUCKMANN: We apologize. Just a
18 minor technical issue.

19 The last thing we heard was Your
20 Honor saying, In an orderly fashion.

21 JUDGE FOELAK: Right. That's the
22 last thing I said. You know, except for us talking
23 about that you didn't have audio.

24 MR. BRUCKMANN: All right. May I
25 proceed, Your Honor?

1 JUDGE FOELAK: Yes, please.

2 MR. BRUCKMANN: All right. I'm going
3 to start with Exhibit 6. If we could put that up on
4 the screen.

5 And, Your Honor, just for
6 completeness of the record, what I'd like to do at
7 this time is move in pages one, two, four, page five
8 lines one to five, and page 207. And that shows the
9 date, the participants, the oath and the court
10 reporter's attestation.

11 I can go and display those pages one
12 at a time or we can just simply move them in. I
13 think everyone is familiar with those portions of
14 the exhibit.

15 MR. MOELLER: And I'll -- and I just
16 want to make an objection on the record for the
17 legality of the subpoena.

18 JUDGE FOELAK: Yes, sir. Understood.

19 Okay. The pages as described by
20 Mr. Bruckmann are admitted.

21 MR. BRUCKMANN: All right. And if we
22 could go to Exhibit 20, please. And zoom in a
23 little bit.

24 Whereupon,

25 SCOTT R. MOELLER,

1 was called as a witness and, having been previously duly
2 sworn, was examined and testified as follows:

3 EXAMINATION

4 BY MR. BRUCKMANN:

5 Q Mr. Moeller, do you recognize this
6 letter?

7 A This morning I -- I was -- I -- I
8 received it, but I had not seen it before I talked
9 to Zhou about it this morning.

10 MR. BRUCKMANN: If you can scroll
11 down.

12 Q And I just want to give you -- it's
13 not a very long letter. Just take a moment to look
14 at the first page.

15 A Yep.

16 Q And the second page.

17 Do you see that?

18 A Yeah. Yeah. We intend to withdraw
19 your Form 10, CC Scott Moeller and Xiaomeng Zhou,
20 yes.

21 Q Did you receive this letter on
22 October 28th, 2021 when it was sent?

23 A I don't remember. Like I said to
24 you, I -- I spoke to Zhou about it this morning and
25 said, Hey, what is this? I have not seen this.

1 Q Do you have any reason to dispute
2 that this letter was sent to Ms. Orr, yourself and
3 Mr. Zhou back on October 28th, 2021?

4 A I -- I do not have a reason to
5 dispute it. Zhou affirmed that we received it.

6 MR. BRUCKMANN: If you can go up to
7 the first page, Mr. Baker.

8 Q All right. And since this is
9 October 28th, 2021, you'd agree that this is after
10 the October 12th letter that American CryptoFed sent
11 to the Commissioners and Ms. Purnell, right?

12 A Yes.

13 Q And on the third paragraph of the
14 first page it says: We understand that American
15 CryptoFed wishes to avail itself of the SEC
16 registration process to register two digital assets,
17 the Ducat and Locke tokens. The company's filings
18 relating to the registration of these digital
19 assets, however, as you know, were materially
20 deficient. In addition, we have concerns that the
21 Form 10 contains materially misleading statements or
22 omissions. As you know, the company's Form 10 is
23 scheduled to become effective on November 15th, 2021
24 unless the company withdraws it. We have read the
25 company's filings and subsequent correspondence

1 purporting to respond to the identified
2 deficiencies. Because the company's Form 10 still
3 contains material deficiencies, and due to the
4 upcoming effective date, we would like the company
5 to confirm by Monday, November 1st, 2021, whether it
6 will be withdrawing the Form 10.

7 Did I read all of that right?

8 A You did, but the -- the one thing I
9 would say that is a falsehood in this is, As you
10 know, were materially deficient. Now, in our
11 October 12th letter we responded why they were not
12 materially deficient.

13 Q But you certainly understood that in
14 this October 28th letter Ms. Tarasevich was taking a
15 different position on that, right?

16 A I -- I understood that. And I've
17 also never seen the automatic registration of a Form
18 10 be stayed. There -- there's issues -- if -- if
19 there's issues in the Form 10 they -- they are dealt
20 with after the Form 10 becomes effective, correct?

21 MR. BRUCKMANN: All right. Let's
22 move to Exhibit 1, Mr. Baker.

23 Q Mr. Moeller, yesterday I asked you
24 about where the financial statements were in the
25 Form S-1. We took a break, we came back and you

1 were still not able to point to where the financial
2 statements were in the Form S-1.

3 Do you recall that from yesterday?

4 A Yes.

5 Q By any chance, did you go through the
6 Form S-1 after the proceeding yesterday and identify
7 where the financial statements were?

8 A No, I -- I -- I did not.

9 Q And I believe when we were talking
10 about this yesterday you said something to the
11 affect of, you know, you were not familiar with the
12 back and forth of the document, that we should talk
13 to Mr. Zhou. Do you recall saying something to that
14 effect?

15 A I -- I recall many times yesterday
16 that -- that I said you need to speak with Mr. Zhou.

17 Q Including about the Form S-1, right?

18 A Yes.

19 Q You were involved in drafting the
20 Form S-1 though, right?

21 A As -- as I said yesterday, I -- I
22 trust Zhou implicitly. And as -- as we're -- we're
23 building this out together, he is the architect
24 behind it. I -- I help him a lot with English,
25 but -- but when you're getting into the details you

1 really got to talk to Zhou.

2 Q Did you make any substantive
3 decisions about what would be included in the Form
4 S-1?

5 A I don't know if I can answer that
6 accurately because when you -- when you say
7 substantive, what do you mean by substantive?

8 Q Something other than putting --
9 helping Mr. Zhou with his English?

10 A Came up with the name CryptoFed.

11 Q Anything else?

12 A I -- I don't have a full answer on
13 that, no.

14 Q Did you review the Form 1 for
15 accuracy before it was filed with the SEC?

16 A Yes. And it was accurate as -- as
17 far as my knowledge.

18 Q And was all of that knowledge
19 dependent on what Mr. Zhou had told you?

20 A No. It's -- it's also dependent on
21 my -- my own personal knowledge.

22 Q Which sections of the Form 1 did you
23 review and determine were accurate based on your own
24 personal knowledge?

25 A As far as I am aware, the Form 10 is

1 accurate -- or, I'm sorry, the Form 10 and the Form
2 S-1 are both accurate.

3 MR. BRUCKMANN: Let's go to Exhibit 6
4 page 25 and scroll down to line 12, please.

5 Q All right. Starting on page 25, line
6 12 and continuing to page 26 line one you were asked
7 the following questions and gave the following
8 answers:

9 "When you filed the Form S-1 with
10 United States Securities and Exchange Commission, at
11 that time, did you believe that the Locke token is a
12 security?

13 ANSWER: What -- what I would say is
14 to go to page four where the filing Form S-1 does
15 not mean that -- of the filing Form S-1? Okay. On
16 our filing it says, filing Form S-1 does not mean
17 that CryptoFed concedes that the Locke and Ducat are
18 securities, okay? We put it deeply in the Form 10
19 and we filed simultaneously with the Form S-1, okay?
20 So, you have to look at the entire. I see where
21 you're trying to go, but this is -- you're wrong. I
22 mean, it -- what -- you have a form. We tried to
23 fill it out as completely as possible, okay? This
24 part I remember."

25 Q Continuing onto page 26:

1 **"I didn't know how to calculate."**

2 A Yeah. And if I can interject, what
3 we're talking about is --

4 Q **Mr. Moeller. Mr. Moeller.**
5 **Mr. Moeller.**

6 A Okay.

7 Q One thing at a time. One thing at a
8 **time.**

9 **Did I read all of that correctly?**

10 A Which -- which page? Can you scroll
11 up a little bit, please.

12 Q **Yes. Page 25, lines 12 to page 26**
13 **line one. Did I read that correctly?**

14 A You did. And my error was it's on
15 page three instead of page four.

16 Q **Regardless of what page of the form**
17 **you're referring to, would you agree that that**
18 **testimony that you gave back in July indicated that**
19 **you were substantively involved in drafting the Form**
20 **S-1?**

21 A I was involved in drafting the Form
22 S-1, yes.

23 MR. BRUCKMANN: Your Honor, I'd move
24 those pages and lines into Evidence.

25 A And -- and if I can continue my

1 answer on that, my -- my -- my involvement is I am
2 not the -- the architect of the CryptoFed system,
3 but I have some knowledge about it.

4 JUDGE FOELAK: Okay. The pages --
5 the pages and lines as described by Mr. Bruckmann
6 are admitted.

7 **Q Mr. Moeller, you say you have some**
8 **knowledge of American CryptoFed. It seemed**
9 **yesterday that time and time again when I asked you**
10 **about how American CryptoFed worked you said: I**
11 **would have to talk to Mr. Zhou. You do have some**
12 **knowledge of how it works?**

13 **A My -- my answers are not going to be**
14 **as accurate as Zhou's. And -- and I think it would**
15 **be a mistake for -- for me to provide you with half**
16 **answers or -- or un -- uncertainty as that was**
17 **evidence in -- in my prior subpoena. I tried to**
18 **answer the -- the questions as best as I possibly**
19 **could. As best as I possibly could. And what I'm**
20 **seeing here is -- is Zhou's knowledge base is far**
21 **deeper than mine.**

22 **Q At any point in your testimony back**
23 **in July did you indicate that Mr. Zhou was the**
24 **person that would need to be answering these**
25 **questions?**

1 A I don't know if I did or not. I
2 really don't. I think I might -- I might have
3 leaned on it, but I didn't think I wanted to put him
4 through this whole process as well especially with
5 English being his third language.

6 Q Can you explain to us how the
7 refundable auction process for American CryptoFed
8 will work, to the best of your understanding?

9 A I -- I would probably murder it. So,
10 I would again say, talk to show.

11 MR. BRUCKMANN: If we can go back to
12 Exhibit 6 page --

13 A My apologies here, but what I'd like
14 to do is -- is -- I intend to write down every
15 question that you're asking me on this. I don't
16 have a full answer.

17 MR. BRUCKMANN: If we can go to line
18 14.

19 MR. MOELLER: This is for the court
20 reporter. What was the last question Mr. Bruckmann
21 just asked me?

22 (Requested portion read back by the Reporter.)

23 MR. MOELLER: Thank you.

24 Q All right. And your testimony back
25 in July starting on page 110, line 14 was:

1 QUESTION: Okay. I'm just trying to
2 understand. So, like, if they want to refund, they
3 want to undue the transaction, is that what it means
4 to be refundable?

5 ANSWER: Yes.

6 QUESTION: So, if they want to refund
7 it then they have to get the Locke tokens back to
8 American CryptoFed?

9 ANSWER: You -- you won the auction,
10 okay? And then you say, Look, I don't want it,
11 okay? You -- you keep the smart contract and now
12 your -- your USDC is unlocked.

13 QUESTION: Okay. And what happens to
14 the Locke where -- in that situation were the Locke
15 tokens ever granted to --"

16 **Q Continuing onto the next page:**

17 **"QUESTION: -- the auction winner?**

18 ANSWER: They're held in the smart
19 contract and then the -- the CryptoFed would have
20 eyes on if those Locke tokens were ever moved out of
21 the wallet.

22 QUESTION: Okay.

23 ANSWER: Okay. So, you know, if they
24 were -- went to the original purchaser's wallet or
25 if they're going somewhere else."

1 Q Did I read that correctly,
2 Mr. Moeller?

3 A Yes, you did. And -- and I will also
4 state as an example of me trying to articulate a
5 process of which Zhou is the architect and I'm
6 trying to understand.

7 Q You didn't say anywhere in that
8 answer that we would need to talk to Mr. Zhou in
9 order to get an answer to that question, did you?

10 A You asked -- you asked me, did you
11 start that -- like, I -- I think you asked me to the
12 best of my knowledge on -- on all of these things in
13 the subpoena, correct? And you -- and you were
14 very, very adamant that I answer you to the best of
15 my knowledge.

16 Q Well, I'm trying to be adamant today
17 and yesterday that you answer me to the best of your
18 knowledge. And time and time again you're insisting
19 that you have no knowledge and I must talk to Mr.
20 Zhou.

21 What I'm trying to understand -- I'm
22 trying to understand, Mr. Moeller, if you're being
23 deliberately evasive over the course of your
24 testimony yesterday and today by insisting that you
25 don't know and that we have to talk to Mr. Zhou?

1 A I am not -- I -- I really am not
2 trying to be deliberately evasive. I am trying to
3 give you the truth of the system. And -- and there
4 are -- and the problem is you're asking me questions
5 about stuff that -- that is -- the refundable
6 auctions have not been set up yet, but -- but
7 they've been -- but this is what is described within
8 the -- the S-1 on the process of how it would work.
9 And -- and I think Mr. Zhou can describe it better
10 than I can.

11 Q Do you know how the refund rights in
12 the refundable auctions will work?

13 A Somewhat. Now, let me write that, in
14 the -- in the auctions.

15 I -- I know that the individual would
16 have the ability to -- once -- once they win the
17 auction then their -- their Stablecoin is held in a
18 smart contract, okay. And -- and they have the
19 ability to exit that smart contract at any time and
20 get their original tokens back, their -- their USDC
21 or whatever Stablecoin they're -- they're using that
22 is -- that is viable.

23 But here you see right now I'm
24 stumbling over the words. Where for Zhou it -- it
25 would be very easy for him to describe it. And I

1 may be able to help him express the words better,
2 but he's -- he's really has all of the knowledge of
3 the system.

4 MR. BRUCKMANN: If we can go to
5 Exhibit 6, page 108, line 17.

6 A Oh, wait, you just skipped my stuff
7 where you're asking me about Zhou and then I said, I
8 can't answer what's in his head. That was the page
9 before.

10 Q Exhibit 108, line 17, your testimony
11 back in July was:

12 "QUESTION: Okay. Mr. Moeller, I
13 want to jump to the next sentence at the bottom of
14 page three. And it goes to page four for Exhibit
15 4."

16 Q And I'll pause there to represent
17 that Exhibit 4 in that testimony was the Form S-1.

18 A Okay.

19 Q Continuing on line 20 it says:

20 "Quote: Proceeds in USD Pegged
21 Stablecoins from those token sales are reserved and
22 used for refunding Locke in order to allow
23 purchasers to request full refunds at the original
24 purchase price, prices via smart contracts. Can you
25 explain to me what that section means?"

1 Q Continuing onto page 109:

2 "ANSWER: What that means is no harm,
3 no foul, okay? The CryptoFed DAO does not receive
4 any proceeds. They have no fundraising, no revenue,
5 no costs, no profits and no assets. The funds are
6 held solely in smart contract, okay? And it's
7 solely by the -- by the purchaser.

8 QUESTION: Okay. And what does that
9 mean to be held by the smart contract?

10 ANSWER: Meaning that -- that the
11 individual has -- has refundable rights as it's
12 described right here, okay? Purchasers refund
13 rights expire if the Locke's price on the secondary
14 market surpasses five times the original purchase
15 price; or, B, the original Locke tokens are sold so
16 now they're on the secondary market; or, C, three
17 years pass from the original time of purchase
18 whichever comes first.

19 QUESTION: Okay. So, if I understand
20 that section what you're saying is if A, B or C
21 occurs, those three conditions that you just
22 mentioned, then the proceeds from the refundable
23 auction will be transferred to American CryptoFed in
24 exchange for Locke tokens; is that right?

25 ANSWER: It means -- it means you --

1 yeah, you -- wait. Wait. Wait. So, your refund
2 rights expire, okay. And then -- those -- Those
3 tokens, you know, and I really want to be clear
4 here, I don't want to screw it up. What happens is
5 those tokens -- those tokens, so --"

6 **Q Continuing onto page 110:**

7 **"You're using USDC to purchase Locke,**
8 **okay? That's held in smart contractors, right?**
9 **Okay. If you want your USDC back, you get your USDC**
10 **back, okay? You're in control of the smart**
11 **contract. Purchasers in control of the smart**
12 **contract.**

13 QUESTION: Wait. What does that
14 mechanism look like?

15 ANSWER: Except for those conditions.

16 QUESTION: What -- what does that
17 mechanism look like? Did you have to -- did you --
18 when you win the refundable auction, do you receive
19 the Locke tokens?

20 ANSWER: You know, you -- I don't --
21 I don't have the details on that. It's still in the
22 brainstorming phase."

23 **Q Did I read that correctly,**
24 **Mr. Moeller?**

25 A Can you scroll back up. There --

1 there was one thing I -- I saw that I said, Wait.
2 Wait. Wait. Wait. Okay. Yeah.

3 **Q Okay.**

4 A And it was -- okay. And what you're
5 seeing there is, you're seeing that -- that I have
6 partial, but not full knowledge, and I'm trying to
7 explain it as best as I -- as I understand.

8 **Q Okay.**

9 A And --

10 **Q Mr. Moeller, you can -- you can**
11 **explain or categorize this either potentially in**
12 **your testimony later or in your legal briefs. All I**
13 **asked you right now is whether I read the transcript**
14 **correctly?**

15 A You -- you had also asked me earlier
16 if I referred to Zhou within my -- my -- this --
17 this subpoena testimony and -- which it is -- is
18 there, but it's also, like, a page before you -- you
19 start talking.

20 MR. BRUCKMANN: Your Honor, at this
21 point I move page 108, line 17 to page 110, line 13
22 into evidence.

23 MR. MOELLER: Objection.

24 JUDGE FOELAK: The page -- what? Did
25 you say something?

1 MR. MOELLER: No, it's not --

2 JUDGE FOELAK: Okay. The pages that
3 Mr. Bruckmann described are admitted.

4 **Q Mr. Moeller, at multiple times,**
5 **including, I believe, in that testimony that we just**
6 **looked at, you've asserted to the Division of**
7 **Enforcement staff that American CryptoFed has no**
8 **fundraising. Do you recall making those assertions**
9 **at multiple times?**

10 A Yeah. And -- and that's where I was
11 at the, Wait, wait, wait, because in your -- in the
12 testimony on -- under the -- the subpoena because
13 you're saying, American CryptoFed gets those funds.
14 And I say, Wait. Wait. Wait. Okay. That, Wait,
15 wait, wait means American CryptoFed doesn't receive
16 that -- those funds.

17 **Q But to be clear, on multiple**
18 **occasions you said that American CryptoFed doesn't**
19 **have any fundraising?**

20 A Correct.

21 **Q Why isn't the payment of USDC to**
22 **American CryptoFed fundraising?**

23 A Like I just said, okay, in the prior
24 testimony when I said, Wait, wait, wait, wait, wait,
25 okay? American CryptoFed does not receive that. It

1 is held in smart contract, okay? Which American
2 CryptoFed has eyes, but doesn't have any ability to
3 affect that smart contract. They only know if the
4 funds are removed, okay.

5 And -- and Zhou could probably talk
6 about that better than I can, but -- but there is
7 a -- that, Wait, wait, wait meant, no, that is not
8 the process by which this works. American CryptoFed
9 does not receive those funds. There is no
10 fundraising.

11 MR. BRUCKMANN: All right. I'm going
12 to move to another line of questioning, but before I
13 do so, Your Honor, I think when I read page 110,
14 line 14 to page 111, line eight, I didn't actually
15 move it into evidence. So, I would move that page
16 and line that I previously read into evidence at
17 this time.

18 MR. MOELLER: And -- and objection
19 to -- my -- my objection to this entire line of
20 questioning is -- on the subpoena is that it is an
21 illegal subpoena, it was done under false pretenses.

22 JUDGE FOELAK: Okay, thank you.
23 You've got a continuing objection to the validity of
24 the investigation.

25 Okay. The proposed exhibit -- the

1 pages as described by Mr. Bruckmann are admitted.

2 Q Mr. Moeller, before I move on, let me
3 talk a little bit more about smart contracts with
4 you.

5 The smart contracts you just
6 referenced, does American CryptoFed control those
7 smart contracts?

8 A That is a great question for Zhou.
9 Does American CryptoFed control the smart contracts?
10 Because they don't, but I don't quite know how to
11 explain that, okay.

12 Q That's an area of Mr. Zhou's
13 responsibility?

14 A Sorry, I'm writing down your
15 question.

16 It -- it's -- I'm going to say -- his
17 responsibility? I mean, what you have in -- it's
18 his -- we -- we have to figure out a way that --
19 that American CryptoFed doesn't receive any funds,
20 okay. Doesn't receive any assets, okay. Doesn't
21 generate liabilities. And there's no shareholder
22 equity within this, okay.

23 So, your -- your question on how --
24 how does the smart contract work, does American
25 CryptoFed control it? No. We -- to my

1 understanding, no, we don't, but this is also a
 2 question that you have to go deeper with Zhou. I
 3 mean, we -- we have a structure of it, okay, but
 4 individuals control their own smart contract.

5 **Q Who will write the code for the smart**
 6 **contract?**

7 A Oh, I don't know. I don't know.

8 **Q Has any --**

9 A Wait. Wait. Wait. Wait. There are
 10 many -- see, there's a, wait, wait, wait.

11 Okay. There are many, many
 12 Blockchain engineers, especially in the EO ecosystem
 13 that have tremendous amount of knowledge.
 14 Tremendous amount of knowledge. And they don't have
 15 a lot of work right now, okay. People join this for
 16 their own -- own benefit.

17 **Q Have any of them written any smart**
 18 **contracts for American CryptoFed yet?**

19 A What, in the general EOS community,
 20 no.

21 **Q Has American CryptoFed spoken to any**
 22 **of them about the possibility of writing smart**
 23 **contracts for American CryptoFed?**

24 A No. You may want to talk to Zhou on
 25 that. Yeah, I -- no.

1 Q One moment.

2 All right. Let me move onto

3 another --

4 A American CryptoFed write its own
5 contracts, okay.

6 MR. BRUCKMANN: Let me move onto
7 another line of questioning. And, for the
8 convenience of the court, the next line of
9 questioning relates primarily to paragraph 2(b)(8)
10 on page three of the OIP.

11 A And just -- just to -- to put
12 preface -- or not preface, but on my previous
13 answer, no, not to my knowledge.

14 Q Understood.

15 Mr. Moeller, does the Form S-1
16 contain a summary compensation table that quantifies
17 all the compensation paid to its named officers?

18 A I -- I think in our -- our S-1 we
19 specified that Marian Orr was receiving \$150,000.00
20 in salary. She had a grant of -- and -- and I may
21 be using the wrong word with grant, but Locke
22 tokens. And she's the only employee of the American
23 CryptoFed at the time. So, your column and your --
24 your table would be one column, one row.

25 MR. BRUCKMANN: If we could go to

1 page 31 of Exhibit 1, please.

2 MR. BAKER: What was the number?

3 MR. BRUCKMANN: Page 31, please.

4 Scroll down.

5 A All right. That was the executive
6 compensation, yeah.

7 Q That's the section right there,
8 section 14, that you were just referring to,
9 Mr. Moeller?

10 A Yes. And I believe there's one other
11 section in there that talks about it. And then, in
12 the constitution I think there is -- there is a lot
13 of discussion about -- but I'd have to go back
14 and -- and read that.

15 Q Ms. Orr is no longer an officer with
16 American CryptoFed, right?

17 A Yeah. She's no longer with American
18 CryptoFed.

19 Q Is she keeping the tokens?

20 A I don't know. I -- I don't know if
21 she agreed to or not. I think she did, but -- but I
22 don't know if -- the -- the tokens don't exist yet.

23 Q Well, she's been granted two billion
24 Locke tokens according to this that can't be sold
25 below five cents each.

1 A She's been promised. She's been
2 promised two billion Locke tokens which cannot be
3 sold below five cents each.

4 Q I'm not going to try to do the math
5 on the fly, but that's worth millions of dollars if
6 they're worth five cents each. Would you agree with
7 that?

8 A Let me -- I can do the math.
9 Two times five -- I think it's ten
10 million.

11 Q All right. And so, you don't know
12 whether she's keeping something that's potentially
13 worth \$10 million?

14 A It would be up to her, not up to me,
15 okay, if she -- if she decides to execute -- you
16 know, to execute that.

17 Q But if she wanted to she still could?

18 A Yes.

19 Q You and Mr. Zhou have been officers
20 of American CryptoFed since January of this year,
21 right?

22 A Since I -- if I need to have a voice
23 in this proceeding, yes. That -- that is the reason
24 why I am an officer of the American CryptoFed.

25 Q Has the Form S-1 been amended to

1 **indicate anything about your compensation?**

2 A We have not amended the Form S-1, but
3 it is -- the S-1 is still -- has a delaying
4 amendment and we have the ability to amend it. It
5 has not been amended yet.

6 Q **Does the discussion here about the**
7 **tokens promised to Ms. Orr contain anything about**
8 **their fair market value on the date that they were**
9 **promised to her?**

10 A The fair market value of something
11 that's never been created, is that your question?

12 Q **I -- my question is, does it say**
13 **anything about what their fair market value is on**
14 **the date they were promised?**

15 A Mr. Bruckmann, I don't know how there
16 could be a fair market value for something that
17 doesn't exist yet.

18 If you go to page 26 on -- on -- on
19 the S-1 you'll -- you'll talk through the -- the
20 risk factors, okay. And those risk factors state
21 that there's no -- no value.

22 Q **I'm going to get to that section a**
23 **little bit later, but I'm going to move to a**
24 **different line of questioning at the moment.**

25 MR. BRUCKMANN: For the convenience

1 of the court, the next line of questioning primarily
2 relates to 2(b)(9) on page three of the OIP.

3 Q Mr. Moeller, does the Form S-1
4 include a discussion of American CryptoFed's
5 business that is in compliance with item 101 of
6 Regulation S-K?

7 A Wait, before we -- before we go on,
8 can I -- can I show on page 26 those risk factors?

9 Q I'm going to get to them later,
10 Mr. Moeller.

11 A 'Cause it's kind of important because
12 you're -- you're trying to go down one path, but
13 when the -- when the information conflicts against
14 it you -- you try to pass on.

15 Let's go to page 26, Risk Factors.

16 Q Mr. Moeller.

17 A Zero value of Locke and Ducat, okay.
18 Locke and Ducat tokens may have no value.
19 CryptoFed's monetary system depends on Locke's value
20 reaching ten cents before launching Ducat. However,
21 there's no guarantee that Locke or Ducat tokens will
22 have any value.

23 JUDGE FOELAK: Mr. Bruckmann?

24 Q Mr. Moeller, the question I asked is,
25 is there a discussion in the Form S-1 that includes

1 **a discussion of American CryptoFed's business that**
2 **is in compliance with item 101 of Regulation S-K?**

3 A I -- I'm sorry, I was distracted.
4 Can you say that again?

5 Q **Does the Form S-1 include a**
6 **discussion of American CryptoFed's business that is**
7 **in compliance with item 101 of Regulation S-K?**

8 A You're going to have to talk to Zhou
9 on that one.

10 Q **Okay. You don't know how to answer**
11 **that?**

12 A Regulation -- and -- and at -- well,
13 I'd have to go back and read Regulation S-K.

14 Q **So, sitting here today you're not**
15 **able to answer that question?**

16 MR. MOELLER: And before -- before I
17 go there, Judge, can -- can I approve -- can I get
18 your approval for my answer on -- on page 26 that
19 explains that the tokens have -- have no value at
20 the time of his question regarding Marian Orr?

21 MR. BRUCKMANN: Your Honor, I didn't
22 object to that answer. It's on the record.

23 JUDGE FOELAK: Yes. It's on the
24 record, your answer.

25 MR. MOELLER: Okay, great. Thank

1 you.

2 A So, I'm sorry, Mr. Bruckmann, can you
3 re -- restate your question?

4 Q Yes. Sitting here today, can you
5 provide any answer as to whether American
6 CryptoFed's Form S-1 includes a description of the
7 business that's in compliance with item 101 of
8 Regulation S-K?

9 A I -- I believe it -- it does.

10 Q All right.

11 MR. BRUCKMANN: If we could go on
12 Form S-1 go to the table of contents briefly for me,
13 Mr. Baker. The section entitled, Business. And
14 the --

15 A And -- and again, you got to talk to
16 Zhou so that this is clear. I just wrote down time
17 number one Regulation S-K Form S-1.

18 MR. BRUCKMANN: It says page 31.

19 A Okay.

20 Q All right. So, on page 31 section 12
21 Business, it refers to the Form 10. Do you see
22 that, Mr. Moeller?

23 A Yeah, I see that.

24 Q Okay. Is American CryptoFed
25 permitted to incorporate other filings by reference

1 **in this Form S-1?**

2 A I don't know. And if -- and if we're
3 not then, we would need to amend this, correct?

4 Q **Does the Form S-10, even if it is**
5 **incorporated by reference, does it include a**
6 **discussion of American CryptoFed's current state of**
7 **operations such as its discussions with business**
8 **partners?**

9 A Does the Form 10 include discussions
10 with business partners? I don't -- well, there --
11 there -- I -- I believe it -- it discusses potential
12 uses of the token and potential grants of the token
13 to businesses and -- and municipalities, the
14 establishment of the Ducat economic zone which has
15 been incorporated by reference. We -- it's talked
16 about within the constitution.

17 Q **But do any of those documents,**
18 **Mr. Moeller, the Form 10, the Ducat Economic Zone**
19 **Plan, the American CryptoFed Constitution or the**
20 **Form S-1 contain any specific discussions about**
21 **specific interactions that American CryptoFed has**
22 **had with any potential business partners?**

23 A I don't believe so. I don't believe
24 so, but -- but -- but again, talk to Zhou. I mean,
25 it's -- we -- we included the economic zone as -- as

1 an attachment to the Form S-1 I believe. And -- and
2 if I go to the -- the economic zone, unless you're
3 going to bring that up, it talks about,
4 Participating municipalities or businesses with \$5
5 million USD assets will be granted --

6 **Q Mr. Moeller? Mr. Moeller, let's --**
7 **let's bring up the Ducat economic zone. It's one of**
8 **the Division's exhibits.**

9 MR. BRUCKMANN: So, if we can bring
10 that up and put that on the screen for a moment.

11 MR. BAKER: 1B?

12 MR. BRUCKMANN: 1B I believe.

13 A Okay. Do you -- do you mind while we
14 pull it, can I get more coffee?

15 **Q Go ahead. I have no objection to you**
16 **taking a break to get some coffee.**

17 A Yeah, thank you. Just warm up my
18 cup, that's all.

19 (Brief pause taken.)

20 A Thanks. It's a little bit earlier
21 over here.

22 JUDGE FOELAK: True.

23 MR. BRUCKMANN: All right. If we can
24 scroll down to the second page of this document.

25 **Q All right. What portion of this**

1 **document were you referring to, Mr. Moeller?**

2 A Well, you're talking about what --
3 what businesses are -- are involved or you're --
4 this is -- this is just showing the potential of
5 what could happen for the -- the American CryptoFed,
6 cities being incorporated, municipalities being
7 incorporated, merchants being incorporated, all
8 joining for their own benefit.

9 Q **I understand that this document shows**
10 **the potential for municipalities, merchants, banks**
11 **and crypto exchanges to be involved at some point.**
12 **My question is --**

13 A Yes.

14 Q **-- have there been any contracts with**
15 **any of those entities and American CryptoFed?**

16 A No.

17 Q **So, this plan is entirely**
18 **aspirational at this point?**

19 A Yeah. This is --

20 Q **Do you think --**

21 A -- prior -- prior to -- prior to
22 launching anything. Prior to launching anything,
23 okay, we wanted to come to the Securities and
24 Exchange Commission, knock on the front door, not --
25 not -- not look for a -- a backdoor entrance or look

1 for some, but figure out a way that this could
2 actually launch, okay. So, we came to you before we
3 issued any tokens. We came to you before we -- we
4 issued -- we had any contracts.

5 Q The point I'm trying to make,
6 Mr. Moeller, is it seems that you're going to issue
7 tokens before you have any contracts?

8 A No. The -- this is a plan. This
9 is -- this is -- we -- we didn't want to -- there's
10 no way to issue any tokens until we get through this
11 SEC process.

12 Q Well, putting aside the SEC process,
13 what I'm focused on is whether you plan to issue
14 tokens before you have contracts with
15 municipalities, merchants, banks or crypto exchanges
16 to accept those tokens?

17 A We -- we had plans to work with
18 the -- the U.S. Mayors conference, okay. And
19 that -- that was -- Marian brought that up as an
20 opportunity, but when this -- when the -- the Form
21 10 got stayed and -- and this process started,
22 that -- that shut down all of that.

23 Q Did American CryptoFed ever have a
24 contract with the American Mayors conference?

25 A I can see the transcript saying, Ugh.

1 No, I don't believe we did.

2 Q Had any prospective partners
3 indicated to American CryptoFed that they might
4 accept Ducat as payment at any time in the next six
5 months?

6 A No.

7 Q Do you think that's relevant and
8 should be included in the Form S-1?

9 A I think we have in -- in risk factors
10 that -- that this should not -- that potential risk
11 factors that this wouldn't take off.

12 Q Because whether it's successful or
13 not is a big risk factor obviously, right?

14 A Yes. It's -- it's a risk factor. If
15 it's not successful then -- then it -- well, it's
16 not really a risk factor because -- okay, that is a
17 risk factor of the entire -- sorry, let me rephrase
18 what I'm trying to say here.

19 It's a risk factor to the system if
20 the system doesn't take off, but with the refundable
21 auction in place, the CryptoFed does not -- and,
22 please, I'm going to go into this with Zhou on the
23 redirect, okay, but if -- if the CryptoFed does not
24 have control over the people's money. People have
25 full autonomy and control over their own money,

1 okay. They -- they can pull it out, okay.

2 This is not like FDX where -- where
3 there's some centralized entity that has full
4 control, okay. The -- the S-1 is intended to be
5 updated from time to time. All of our attention
6 though has been in responding to the Division of
7 Enforcement.

8 **Q Well, would you agree that a**
9 **reasonable purchaser of Locke or Ducat would want to**
10 **evaluate whether American CryptoFed as a ecosystem**
11 **is going to be successful before deciding to**
12 **exchange a Stablecoin for Locke or Ducat?**

13 **A They aren't exchanging a Stablecoin**
14 **for Locke or Ducat, okay. They are -- they are**
15 **putting in a smart contract with -- with -- with**
16 **redeemable rights. So -- so, it's really not -- not**
17 **that risk for the individual, okay.**

18 We -- we do want to update the S-1,
19 okay. I'm seeing in this process that there's
20 probably a lot of elements of the S-1 that need to
21 be updated, but we intend to do that with the
22 Division of Corporation Finance.

23 **Q Do you agree that as it stands right**
24 **now the Form S-1 did not adequately disclose what**
25 **will happen at American CryptoFed's ecosystem?**

1 A I disagree. I -- I -- I think that
2 what you have with the S-1 is -- is you have a
3 very -- you have a -- a system that -- that works.
4 There are elements that need to be updated of it
5 like -- like Marian's -- is no longer with the
6 company, but -- but really in terms of the big
7 picture, the S-1 makes sense, but -- but on
8 specifics, let's bring Zhou into the discussion.

9 Q Is it fair to say, Mr. Moeller, that
10 some aspects of how the Ducat and Locke tokens will
11 function have not yet been determined?

12 A Well, of course.

13 Q For example, would you agree that
14 you're still in the brainstorming phase of figuring
15 out how the refundable auctions will work?

16 A I think you need to talk to Zhou's
17 brain versus my brain on that one.

18 MR. BRUCKMANN: If we can go to
19 Exhibit 4, please.

20 A We've -- we've been in this process
21 now for more than a year, okay, wait -- waiting for
22 the Division of Corporation Finance to have a true
23 conversation with us. A true conversation that can
24 be written down.

25 Q All right. Exhibit 4 is on the

1 screen, Mr. Moeller.

2 Do you recognize this as a letter
3 that was sent on June 21st, 2022 to the Division of
4 Enforcement in response to a subpoena?

5 A Yes.

6 MR. BRUCKMANN: And if we can scroll
7 down to the last page, Mr. Baker. All the way down.

8 Q And you signed this as President of
9 American CryptoFed DAO, right, Mr. Moeller?

10 A Yeah. Because you guys won't let me
11 sign as organizer.

12 MR. BRUCKMANN: And if we can go to
13 page seven, please.

14 Q And the second paragraph on page
15 seven under response number four reads: Without
16 waiving said objection, what American CryptoFed can
17 say is that the refundable auction plan has not been
18 finalized and is still in the brainstorming stage
19 except for the principles of the refundable auction,
20 as described in the Form S-1, page 24 to 25, and
21 Form 10, page 22 to 23.

22 Did I read that correctly?

23 A Yeah.

24 Pardon me, I'm getting feedback from
25 somewhere.

1 Q Yeah. We noticed that too. We'll
2 see if it -- if it continues we'll have to do
3 something with the audio to try to address that.

4 Were you able to hear me when I read
5 that?

6 A Yeah, I -- I heard you. It's just,
7 it would get really annoying after a while.

8 But as you can see Zhou signed the
9 document as well as I did. Zhou was deeply involved
10 in -- in this document.

11 Q All right. Let's move on from that
12 exhibit.

13 What -- if American CryptoFed is able
14 to launch and distribute the Locke and Ducat tokens,
15 your vision is that eventually Ducat will be used as
16 a method of payment both on line and at physical
17 stores like Walmart, McDonald's and groceries
18 stores. Do I have that generally, correct?

19 A Generally. I would also say
20 mom-and-pop shops and -- and municipalities. Think
21 about a payment for, like -- like, say you're paying
22 your property taxes, okay. And now, there's --
23 there's no -- typically municipalities will -- will
24 take that -- that fee, that -- that three percent
25 fee and -- and say, Oh, we're not paying that. You

1 have to pay that as an individual. This is a -- a
2 zero cost payment. So, it makes it much -- it's --
3 it's more economically beneficial.

4 Q The payment systems, whether physical
5 or on line, would need to be updated for that to
6 happen. The point of sale system, the on line
7 payment system, there would need to be updates to
8 that, right?

9 A Yeah.

10 Q And that would include new software?

11 A It typically would include -- not --
12 it would be a software update. So, we would be
13 considered as a -- a new tender type, but -- but on
14 that also talk to Zhou. He went very deep on that.

15 Q And potentially even at a physical --
16 you know, a physical brick-and-mortar store there
17 might need to be new hardware in order to use Ducat
18 to pay for it?

19 A I don't think so. I think we --
20 we -- through the pandemic we got pretty used to
21 using phones and -- and doing virtual, but I -- I
22 think another, talk to Zhou.

23 Q Okay. Has American CryptoFed written
24 any of that software update that would need to be in
25 place for it to be used -- for Ducat to be used as

1 **payment?**

2 A No.

3 Q **Have you taken any steps to start**
4 **writing that software update?**

5 A Talk to Zhou. I mean, we -- this
6 is -- yeah. This is something we've got to talk to
7 Zhou.

8 MR. BRUCKMANN: If we can go to
9 Exhibit 6 page 187, please. Scroll down.

10 Q **All right. Page 187 starting at line**
11 **15 your testimony back in July was: All right --**

12 "QUESTION: All right. So, I want to
13 **take a step back a little bit.**

14 My understanding of what you're
15 **trying to do is to create this Ducat economic zone**
16 **where consumers will use the Ducat token to make**
17 **purchases that -- to make everyday purchases at**
18 **stores and to pay their taxes and the like; is that**
19 **correct?**

20 ANSWER: Correct. You're looking at
21 a -- yeah. Correct. And --

22 QUESTION: And so --

23 ANSWER: You can use it for true
24 **utility, for purchasing --"**

25 Q **Next page:**

1 **"Goods and services, yes."**

2 QUESTION: And so, flash forward,
3 your system is -- your -- it's up and running. I
4 walk into a Walmart. I'm sure that's the dream
5 scenario is to get Walmart to use it. Like, how do
6 I use the Ducat token at a Walmart? How do I use my
7 Ducat to purchase something at a store.

8 ANSWER: Okay, that's a great
9 question. Thank you.

10 What you're doing is you're using
11 your wallet, okay. And you're doing a transaction.
12 Ducat is only considered as a new tender type from
13 the merchant's perspective. So, there -- it has to
14 be integrated into their point of sale system, but
15 their --

16 QUESTION: Okay.

17 ANSWER: They're using -- they're
18 electing to use Ducat instead of dollar. That's
19 the --

20 QUESTION: Okay.

21 ANSWER: -- decision that an
22 individual has made.

23 QUESTION: And so the process of
24 integrating that capability into their point of sale
25 system as a technological fix, someone needs to

1 provide new equipment or draft new software that
2 allows them to do that; is that right?

3 ANSWER: Yeah. Yeah. Now you're
4 talking. It's essentially a software integration,
5 correct.

6 QUESTION: So, who do you plan to do
7 that? Is that --"

8 Q Going to the next page:

9 "Is that something you guys do, that
10 you and Mr. Zhou do? Like, who's actually preparing
11 the software?

12 ANSWER: That is -- that's viable,
13 okay. It's viable, but it's not something that
14 we're focused on now. We're focused on the Locke
15 launch and the refundable auction, okay. Because
16 it's -- you're looking at -- at -- any Ducat
17 transaction is -- when we say that Locke needs to be
18 above ten cents for a month straight, okay, that
19 enables Ducat to launch. It doesn't -- it doesn't
20 equate to Ducat launching right then and there.

21 QUESTION: No, I understand that.
22 So, I'm looking a little forward into the future,
23 but, like, the overall success of the whole thing
24 that you're trying to accomplish turns on Ducat
25 being widely used enough so that people can use in

1 their everyday lives. If that doesn't happen, the
2 whole thing is a failure; is that true?

3 ANSWER: Yeah, I think that's a fair
4 assessment. You have to -- you create something.
5 You hope people use it.

6 QUESTION: So, I guess my question
7 is, it seems to me in the future in order to get the
8 merchants of the world, I mean, I think one of the
9 documents you looked at was the government, in order
10 to get everyone to use this token system --"

11 A Continuing onto page 190:

12 "That you've devised there's going to
13 be some fairly significant costs in terms of
14 preparing these software, potentially new hardware
15 system and I'm -- I'm -- I just don't understand
16 who's bearing the costs of all those future costs to
17 make the system work.

18 ANSWER: Your -- your -- okay, I
19 appreciate the line of questioning here. What
20 you're looking at is people -- people choosing by
21 voluntary consensus to be part of the equation,
22 okay. No one's forced to take it. No one's forced
23 to develop, okay. What you're looking at is
24 potential contributors to these point of sale
25 manufacturers, okay. We haven't had discussions

1 with those guys, but those are -- those are
2 potentials, okay. But there's point of sale
3 manufacturers, there's merchants, there's many
4 different entities that can be engaged with this,
5 but what you're talking -- what you're talking about
6 is the creation of a currency and an inflation and
7 deflation protected token and to take that or to
8 make that more advantageous for people to engage in
9 transactions than dollar transactions. And all of
10 this is clearly put forth on our website.

11 From the merchants perspective
12 they're looking --"

13 **Q Next page, page 191:**

14 **"At a transaction that's zero cost**
15 **versus interchange -- interchange fees that they pay**
16 **today. So, it changes the equation.**

17 **QUESTION:** And I -- I understand.

18 **ANSWER:** You have to supervise
19 benefits for people to engage in and we have to sell
20 the issue of what ben -- what is the benefit of the
21 merchant? What is the benefit to the individual?
22 How do you enable something that's impossible, okay.
23 And -- and I -- this may not be the forum for it,
24 okay. We're not trying to defraud people, okay.
25 And it's -- we're trying to make this a better

1 place. And I know you guys don't believe it, but we
2 really are. That's the intent?

3 Q It continues from there, but did I
4 read that correctly, Mr. Moeller?

5 A Yeah, you did. You did.

6 Q So, is the idea that in the future,
7 as yet not identified contributors to the Ducat and
8 Locke system, would be the ones who would be writing
9 this software?

10 A It -- I think a -- a good analogue
11 would be in Bitcoin the miners bear the costs,
12 right. The miners in Bitcoin they -- they -- they
13 purchase computers, they pay for the electricity and
14 they do it for the benefit.

15 Okay. So, what you have here is
16 entities, whether it's an individual or a -- a -- a
17 municipality or a merchant that elects to be in the
18 system for their own personal benefit, okay. It's a
19 better form of money, okay. That's -- it's a better
20 currency.

21 Q But for all that to work, the
22 software needs to be written. And you don't even
23 know who the contributors are as you sit here today
24 who might hypothetically write this software?

25 A You just -- you just gave examples

1 from my -- my -- from the illegal subpoena where
2 I -- where I outlined here's -- here's who could be
3 involved. And you -- you are right, okay. You
4 said, Hey, someone's got to write the software.
5 You're correct.

6 Q Mr. Moeller, do you understand the --
7 the difference between someone who could possibly
8 write the software and someone who has been
9 identified right now as being able to and planning
10 to write the software? Do you understand the
11 difference between a hypothetical possibility and an
12 actual plan to get it accomplished?

13 A Yes, okay. And -- and what you have
14 here is -- is we -- we outline the economic zone, we
15 outline the constitution, we -- we filed our -- our
16 S-1 and Form 10 describing it. We're trying to
17 disclose as much as possible and to be as
18 transparent as possible, okay.

19 And -- and this is -- this is what
20 we're attempting to do is to bring a better form of
21 money and make that viable. And we don't believe --
22 I -- I don't see it as a security, but you guys do,
23 okay. So, fine. If it's a security, tell me how --
24 give me clarity on how I can enroll it as a
25 security. How can I register it? Okay. When it

1 doesn't have any -- any revenues, when it doesn't
2 have any -- any shareholder equity, when it doesn't
3 have any liabilities.

4 **Q Mr. Moeller, can you explain to me if**
5 **the American CryptoFed system goes forward, can you**
6 **explain how the Locke tokens will actually work that**
7 **govern the DAO?**

8 A Talk to Zhou on that. I can give you
9 a -- a -- an overall kind of -- I can give you my
10 perspective on it, but it's -- the -- the Locke
11 tokens are -- are the governance to the system.
12 It's -- it's -- the tokens are the voice and the
13 vote, okay. So -- so what you have is -- when --
14 when you own -- when you own Ducat you can't make
15 decisions on the system. When you own Locke you
16 can.

17 **Q So, Mr. Zhou is the point person on**
18 **that issue?**

19 A I -- if you want to go into deeper
20 detail, yeah. Yeah, talk to Zhou.

21 **Q Well, at a basic level, is it fair to**
22 **say that all Locke tokens would have the same rights**
23 **as all -- rights and benefits as all other Locke**
24 **tokens?**

25 A Let me look at the -- the risk

1 factors here. Let me see. One second.

2 **Q You're looking in the S-1?**

3 A I'm looking at the -- the risk
4 factors that -- that Locke and -- and Ducat have --
5 have no value. CryptoFed's -- I'm sorry, page 26 of
6 the S-1, yeah. CryptoFed's monetary system depends
7 on Locke's value reaching ten cents U.S. dollar
8 before launching Ducat. However, there is no
9 guarantee that Locke or Ducat tokens will have any
10 value.

11 **Q The question was, do all Ducat or do**
12 **all Locke tokens have the same rights and benefits**
13 **as other Locke tokens?**

14 A Per my understanding, yes. And I'd
15 want to confirm that with Zhou, but to my
16 understanding, yes.

17 **Q And --**

18 A There's no different class of Locke
19 tokens. Other than I -- I'm pretty sure it
20 specifies that the -- the tokens that the CryptoFed
21 holds in reserve are not like voting tokens or I'm
22 not sure. I'm not sure.

23 **Q Same thing for the Ducat tokens, all**
24 **the Ducat tokens have the same rights and benefits**
25 **as one another?**

1 A They don't have any rights and
2 benefits. They're a -- they're a -- they're just a
3 method of payment. I mean -- and -- and you receive
4 a -- a give away from the CryptoFed if you -- if you
5 use it in a transaction or if you continue to hold
6 it.

7 Q Slightly --

8 A It's kind of like what's the rights
9 and benefits of the dollar, right?

10 Q Well, if you hold the Ducat and you
11 get a give away from the CryptoFed for holding it
12 didn't isn't that a benefit?

13 A It's not a guarantee that the
14 CryptoFed is going to do. The Locke holders make
15 the decision on -- on -- on the same variable that
16 based on upon the -- talk to Zhou on that. I'm not
17 sure how that works, but it's -- but, yeah, the
18 Ducat holders have -- have no rights.

19 Q Okay. But in terms of benefits, if
20 Locke holders decide that the give away or the
21 reward to Ducat holders is two percent for a given
22 year, all Ducat holders get the same two percent.
23 Every -- every Ducat holder gets the same two
24 percent reward or benefit, right?

25 A Yeah. And the -- the -- what --

1 what -- yes.

2 **Q Okay. All right.**

3 MR. BRUCKMANN: I'd like to move
4 to -- oh, yeah. Your Honor, if I can just move into
5 evidence page 187 to 191. I don't remember the
6 lines off the top of my head, but we can work with
7 Ms. Shields to identify the specific line numbers.
8 Actually, sorry, my colleague has the line numbers
9 right here. It's page 187 line 15 to 191 page 14 --
10 line 14.

11 JUDGE FOELAK: The pages as described
12 by you are admitted.

13 MR. BRUCKMANN: All right. I'm going
14 to move to a new line of questioning. The next line
15 of questioning relates primarily to paragraph
16 2(b)(10) on page two of the OIP. If we can go to
17 page 34 of Exhibit 1, please.

18 A Hey, Mr. Bruckmann, I just want to
19 thank you for that -- that -- that one part of the
20 subpoena I'm pretty happy about, okay, because it
21 actually described the system.

22 MR. BRUCKMANN: Let's scroll down a
23 little bit to the exhibits.

24 **Q All right. Here on page 34 of**
25 **Exhibit 1 in section 25 it lists three exhibits. Do**

1 **you see that, Mr. Moeller?**

2 A Yes. And this -- and -- and my
3 apologies, I heard you at the start on -- on the
4 OIP. Is this -- this is the first OIP or the second
5 one?

6 Q **This relates to the OIP for this**
7 **proceeding that was issued earlier this month.**

8 A Okay. Thank you.

9 Q **All right. The three exhibits that**
10 **are listed there, those are the only three exhibits**
11 **that were included with the Form S-1, right?**

12 A I don't know. Talk to Zhou.

13 Q **Do you know what exhibits are**
14 **required to be included with the Form S-1?**

15 A It specifies on the Form S-1.

16 Q **All right.**

17 MR. BRUCKMANN: If we can go to -- if
18 we can go to Exhibit 12. And on page six go to item
19 16A.

20 Q **Item 16A says: Subject to the rules**
21 **regarding incorporation by reference, furnish the**
22 **exhibits as required by item 601 of Regulation S-K.**
23 **And that's 229.601 of this chapter.**

24 Did you read that regulation -- that
25 **section of the Regulation S-K before filing the S-1,**

1 **Mr. Moeller?**

2 A A long time ago, but -- but what --
3 what do you do when the form is not correct and the
4 form is the only form that's prescribed?

5 Q **So -- but you did read that**
6 **regulation?**

7 A I -- I don't remember. It was -- but
8 I'm sure I did a long time ago, but -- but my -- my
9 question to you is, what do you do when the form is
10 not correct?

11 Q **Does American CryptoFed's Form S-1**
12 **include any contracts as exhibits?**

13 A I don't remember, but I --

14 Q **Let's go back to -- let's go back to**
15 **page --**

16 A It has -- it has the economic zone
17 that's attached. And that's really the only thing
18 that -- that describes it. Yeah, there you go, the
19 constitution and the Ducat economic zone and our
20 formation certificate showing that it is a valid
21 DAO.

22 Q **So, none of those are a contract**
23 **between American CryptoFed and any other entity,**
24 **right?**

25 A Correct. And if I can just interject

1 one thing. If -- if we could -- can we do a
2 bathroom break in like 10 or 15 minutes?

3 **Q We can -- we can do it now. We've**
4 **been going for a little bit more than an hour.**

5 MR. BRUCKMANN: If that's fine with,
6 Your Honor.

7 JUDGE FOELAK: Okay. Right. Why
8 don't we come back at half passed.

9 MR. MOELLER: Okay. Thank you.

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

12 (Brief recess taken at 11:15 a.m. Eastern Time.)

13 JUDGE FOELAK: Okay. Back on the
14 record.

15 Please proceed.

16 MR. BRUCKMANN: Thank you, Your
17 Honor.

18 BY MR. BRUCKMANN:

19 **Q Mr. Moeller, are there any contracts**
20 **between American CryptoFed and MShift?**

21 A Just that -- you have to talk to
22 Zhou. Off the top of my head, the -- the only thing
23 I can think of is -- is the -- stating in -- in
24 the -- the constitution that MShift has 25 percent
25 of the tokens and five percent are reserved for --

1 to indemnify and protect the -- the intellectual
2 property.

3 Q Is there a separate contract on that
4 point or are you just literally referring to where
5 it says that in -- in the constitution itself?

6 A Referring to that in the
7 constitution, but yeah, I know there's -- as far as
8 I know, there's no separate contract.

9 Q Are there any contracts or written
10 agreements of any kind regarding the reservation of
11 tokens for the organizers of American CryptoFed
12 other than what's in the Form S-1, the Form 10 and
13 the constitution?

14 A No. The constitution is very
15 important here because that's one of those defining
16 documents.

17 Q Okay. Is there -- is there any
18 contract with MShift governing MShift's obligation
19 to play -- to pay American CryptoFed's operating
20 costs?

21 A That -- that you got to talk to Zhou.
22 I don't -- I don't think there is.

23 Q But he's the point person on that?

24 A Yeah.

25 Q Okay. Did Marian Orr have an

1 **employment agreement with American CryptoFed?**

2 A Her agreement was with MShift.

3 Q **And her agreement with MShift covered**
4 **the fact that she would serve as American**
5 **CryptoFed's CEO, right?**

6 A I believe -- yeah. Yeah. Yeah. I
7 think that's the way it is. I mean, it's -- the way
8 you look at MShift here is MShift is effectively
9 like a miner.

10 Q **Why was Ms. Orr's contract with**
11 **MShift covering the fact that she would serve as the**
12 **CEO of American CryptoFed not an included as an**
13 **exhibit to the Form S-1?**

14 A Her contract with MShift, why it was
15 that not included with the Form S-1? I don't know
16 the answer to that. Talk to -- to talk to Zhou.
17 I -- we may have included it somewhere, but I -- I
18 don't know where.

19 Q **Does American CryptoFed have any**
20 **contracts with any potential contributors?**

21 A To my knowledge, no. To my
22 knowledge, no, but talk to Zhou.

23 Q **Does American CryptoFed have any**
24 **contracts with any crypto exchanges about listing**
25 **Locke or Ducat?**

1 A No. No. And -- and I -- you know,
2 same -- same way that -- that where -- where does
3 Bitcoin have any contracts with any exchanges that
4 list their tokens? It's -- it's -- it's a network.
5 And the -- exchanges elect to -- to list.

6 Q Have you had any communications with
7 any exchanges about potentially listing Locke or
8 Ducat?

9 A No.

10 Q Do you think a potential purchaser of
11 Locke or Ducat would want to know that you still
12 haven't even had those communications yet?

13 A Let -- you know, I think it's
14 important that we go back to the risk factors that
15 we did outline in our -- in our S-1 because it's --
16 let me -- let me run through those because it's -- I
17 think it's important to -- to show that we did
18 outline risk factors here.

19 If I'm on page 26, I already talked
20 about the zero value of Locke and Ducat, that they
21 have no value, that we don't know if Locke will ever
22 reach ten cents. We give a risk -- risk factor of
23 the effected government regulations. You know, I
24 can -- it would probably be easiest if I just read
25 it in -- in general.

1 Q Well, I'm not going to allow to just
2 read that in general at this point. You can do that
3 during your testimony perhaps -- your direct
4 testimony later on perhaps.

5 MR. BRUCKMANN: All right. I'm going
6 to move to a new line of questioning. The next line
7 of questioning relates primarily to paragraph
8 2(b)(11) on page three of the OIP.

9 Q Mr. Moeller, does the Form S-1
10 include an opinion of counsel as to the legality of
11 the proposed offering?

12 A I don't know what we put under the
13 opinion of counsel because we didn't have any
14 counsel. Let me -- let me see. Management related,
15 experts and legal counsel. There are no hired
16 experts, accounting firms or law firms involved in
17 this Form S-1 filing.

18 Q Do you have any explanation for why
19 American CryptoFed did not include the required
20 obtaining of counsel as to the legality of the
21 proposed offering?

22 A Talk to Zhou on that.

23 Q You're not able to answer that
24 yourself?

25 A I'm not able to answer that myself.

1 It's -- we -- we had legal counsel for MShift for
2 years, but we did not involve them in -- in this.
3 We did have a lawyer that was involved in -- in the
4 action -- the filing in -- in Wyoming, but -- but
5 they weren't involved in -- in this process. They
6 were not involved in -- in dealing with the SEC.

7 Q All right. I just want to make clear
8 for the record, you used the word "this" a couple of
9 times. When you say the filing in Wyoming, the
10 attorney was just related to the organization of
11 American CryptoFed as a DAO LLC in Wyoming and that
12 paperwork and did not do anything about the Form
13 S-1. Do I have that correct?

14 A Correct. Correct. Correct.

15 Q Have you personally spoken to any
16 attorney about whether American CryptoFed's planned
17 offering is legal?

18 A I spoke to -- no. I mean, not --
19 not -- not related to the offering, not related to
20 this, no.

21 Q To your knowledge, has anyone
22 affiliated with American CryptoFed spoken to any
23 attorney about whether the planned offering is
24 legal?

25 A You have to talk to Zhou. I mean, I

1 don't think you need to -- to -- talk to Zhou on
2 that. I mean, we specify here in the S-1 that --
3 that there are no hired experts, accounting firms or
4 law firms involved in this S-1 filing, okay.

5 Q Right. I understand. Mr. Moeller, I
6 understand you specify that. The line of
7 questioning I'm asking is, since the regulations
8 require there to be an opinion of counsel, why
9 didn't you?

10 A The -- the -- because ordinary people
11 should have the ability to file. I mean, this is --
12 you guys are -- are a disclosure agency, okay. I --
13 I mean, I read on your website that you guys do not
14 talk about the merits of any offering, okay. But
15 you're more -- more interested in the disclosure and
16 the transparency of the offering.

17 Q And do you understand -- Mr. Moeller,
18 do you understand the role of gatekeepers in
19 security offerings?

20 A You can explain it to me more -- more
21 in detail. I don't know what your -- your
22 definition of it is.

23 Q Well, have you ever heard that
24 phrase, gatekeepers, in the connection with the idea
25 of securities offerings?

1 A No.

2 Q Have you ever heard anyone talk about
3 the importance that when there is a public
4 securities offering, an accountant review the
5 purported financial information to offer an
6 independent opinion as to whether the claims of the
7 issuer are in fact correct? Have you ever heard
8 about that?

9 A I haven't heard it expressed that
10 way, but it makes -- makes a -- a fair statement,
11 but we -- we aren't asserting anything -- anything
12 here. We -- we don't have any assets, okay.

13 Q Do you understand the statement --
14 Mr. Moeller, do you understand the statement, We
15 don't have any assets is an assertion regarding the
16 financial condition of American CryptoFed?

17 A Yeah. I remember -- I remember in
18 the one conversation that we had with Ms. Purnell,
19 okay. And then, the problem is, it's not written
20 because -- because it was a conversation. And --
21 and we -- we clarified that we don't have any
22 assets, okay. We don't have any liabilities. And
23 she said, You could be lying. And I -- and I
24 remember thinking, Why would I want to lie that we
25 have no assets, okay.

1 **Q Well --**

2 A And we've been asking for Mr. Dobbie
3 and the Division of Corporation Finance time and
4 time and time and time again to show us, okay, if --
5 what assets do we have.

6 **Q Mr. Moeller, do you understand it**
7 **could be possible that you have no assets and no**
8 **revenue, but a lot of liabilities?**

9 A I -- you -- I'm sorry, say that
10 again.

11 **Q Do you understand that it would be**
12 **possible that you have no assets, no revenue, but a**
13 **lot of liabilities?**

14 A Yeah. There's a lot of people living
15 off credit cards.

16 **Q And do you understand why the SEC**
17 **might then require, before a company conduct a**
18 **public offering of securities, that there be an**
19 **independent accountant to verify the claims as to**
20 **whether or not there are assets, revenue and**
21 **liabilities?**

22 A I can understand why the SEC would
23 want everything to be disclosed. Everything to be
24 disclosed. Including that there are no hired
25 experts, accounting firms or law firms involved in

1 this S-1 filing.

2 **Q Mr. Moeller, do you understand the**
3 **difference between disclosure and verification?**

4 A I'm -- I'm going to go back to the --
5 the risk factors, okay.

6 **Q Mr. Moeller, my question was whether**
7 **you understand the difference between disclosure and**
8 **verification. Do you?**

9 A Yes.

10 **Q I'm going to move on to my next line**
11 **of questioning then.**

12 MR. BRUCKMANN: The next line of
13 questioning relates primarily to paragraph 2(b)(12)
14 on page three of the OIP.

15 A But -- but before you go there, let
16 me just finish up on -- on your last question, do I
17 understand the use of proceeds, okay.

18 All proceeds from Locke token auction
19 sales will be used to refund or buy by Locke. All
20 proceeds from Ducat token sales will be used for
21 redemption. No proceeds will be used for any other
22 purposes, okay.

23 And -- and the thing is you're
24 talking about Blockchain, okay. Everything is
25 visible to everyone on the Blockchain, okay.

1 It's -- it's transparent. So, you're asking me,
2 like, have we had accountants review -- review this,
3 you're asking something that -- that literally
4 hasn't existed yet. And when it does exist is going
5 to be in a completely open format.

6 **Q So, moving to my next line of**
7 **questioning. Mr. Moeller, is the Locke token a**
8 **security as you understand it?**

9 A Let -- let me go -- my understanding
10 is that it is -- I don't believe it's a security,
11 but I -- but I -- that -- that's independent of what
12 the SEC believes.

13 In the S-1 we -- we specify that -- I
14 think it's on page three -- that -- that we don't
15 see these as securities. I mean, literally, like
16 right underneath the chart, okay. And -- and my
17 mistake was not to cross out securities on the top,
18 but it's -- on page three we say, Not selling any
19 Locke tokens or Ducats in this offering. Page -- is
20 it page four? Yeah.

21 Prospectus relates to the
22 registration of two classes of token. We are
23 registering both Locke and Ducat tokens with the SEC
24 as utility tokens not as securities. And later we
25 say, But if the SEC believes that they're

1 securities, then we're -- we're going to abide by
2 that.

3 **Q In your understanding why isn't the**
4 **Locke token a security?**

5 A The -- from my understanding why
6 Locke is not a security, it doesn't -- it's -- it
7 gives you the voice and the vote of -- of the
8 system, but it doesn't act like a security. It --
9 it's -- people are not -- you have to go to Zhou on
10 that for -- for the details on it.

11 **Q You can't give a better explanation**
12 **than that?**

13 A Not at this moment.

14 **Q Okay.**

15 A It has -- it has no assets. It has
16 no liabilities. It has no shareholder equity. When
17 you own Locke, you don't own -- your -- your not
18 owning part of the company the way that you do in a
19 traditional corporate structure, okay. It's you --
20 it's -- it's -- probably the best analogy I -- I can
21 think of, and I -- and I probably talked about it
22 before, is your -- your -- when you're a citizen of
23 the United States. You don't own the United States,
24 right, but you have a right to vote.

25 **Q You do hope that the Locke token will**

1 **increase in value, right?**

2 A Yeah, I hope so.

3 Q **And the fact that the Locke token**
4 **might increase in value is one reason that people**
5 **may want to purchase Locke, right?**

6 A But that -- but increasing in value
7 doesn't make something a security.

8 Q **I didn't ask that question. I said**
9 **that one reason that people might want to purchase**
10 **Locke is that it could increase in value?**

11 A That's one reason, sure. Yeah. The
12 same way people buy Bitcoin. Bitcoin is not a
13 security.

14 Q **All right. You referred to a couple**
15 **of statements in the Form S-1 on pages three and**
16 **four where you said you were not registering the**
17 **tokens as securities. So, I just want to be clear.**

18 **At this point, is it your intention**
19 **to register the Ducat and Locke token with the SEC**
20 **as securities?**

21 A We will abide by the SEC's decision
22 if they say that these are securities and there is a
23 pathway forward to register. I think on page seven
24 we say it specifically. Let me go to -- and I'm on
25 the S-1: After the SEC declares CryptoFed's Form

1 S-1 effective -- oh, hold on, that's not -- see,
2 I -- I -- you have to talk to Zhou, he knows this
3 thing inside and out, but -- but for me I have to
4 find it, okay. And -- and that's the problem.

5 **Q Okay. Let's go to Exhibit 11.**

6 **A** Oh, I'm sorry. Yeah, I did find it
7 late. Give -- give me a second.

8 **A** And -- and it's at -- it's at the --
9 the second paragraph: If the SEC does not agree
10 with CryptoFed's position and characterizes the
11 Locke and Ducat tokens as securities, CryptoFed
12 should be able to grant these tokens to service
13 providers free of charge as an equity incentive plan
14 for the CryptoFed community pursuant to the
15 CryptoFed constitution as long as these tokens are
16 restricted, un-tradeable and non transferable.
17 Okay. And by holding those tokens those token
18 holders perform a service to CryptoFed because we
19 need a network affect in order to get started.

20 **Q What page is that on, Mr. Moeller?**

21 **A** Yeah. That's page seven of the S-1.

22 **Q Thank you.**

23 **A** Looking at Exhibit 1 here on the
24 screen. Do you recognize this document,
25 **Mr. Moeller?**

1 A It's pretty recent. I recognize the
2 names. Can you scroll to --

3 MR. BRUCKMANN: Scroll down a little
4 bit, Mr. Baker?

5 A Yeah. Oh, yeah. This is -- this is
6 you saying you're not going to provide point by
7 point or assertions, yeah.

8 Q Well, scroll to the top. And when
9 you say this is me saying this, you quote me in this
10 letter, but this is actually a letter to me, right?

11 A It is -- it is thanking you for your
12 e-mail earlier. And then I quote you where you say
13 that you are not required to provide a point by
14 point rebuttal to each assertion that we make and
15 all of that.

16 Q All right. And if I misspoke, I
17 apologize. This is Exhibit 11. And, Mr. Moeller,
18 I'm going to move Exhibit 11 into evidence at this
19 time. Do you have any objection to it?

20 A Let me briefly confer with Zhou.

21 MR. MOELLER: Zhou, do you have a
22 problem with the -- with this exhibit?

23 MR. ZHOU: Yeah. We need to keep
24 this as evidence. That's what you're saying,
25 Mr. Bruckmann?

1 MR. BRUCKMANN: Yes.

2 MR. ZHOU: Uh-huh. Yeah, he wants
3 this included into evidence? Yeah, that's fine.
4 We -- we agree with all your exhibits. We never
5 oppose your exhibits.

6 JUDGE FOELAK: Okay. Exhibit 11 is
7 admitted.

8 (Whereupon, Exhibit 11 is admitted into Evidence.)

9 MR. BRUCKMANN: If you can scroll
10 down -- if we can scroll down to page 12, please.

11 Q And at the bottom of page 12 there's
12 a section entitled, Whether The Ducat and Locke
13 Tokens are Securities will be Moot. And do you see
14 that section there, Mr. Moeller?

15 A Yes.

16 MR. BRUCKMANN: If we can go to --

17 A Yes, sorry. Telling us to work
18 with -- telling you guys to work with us again.

19 MR. BRUCKMANN: If we can go to page
20 thirteen, please. Keep going. All right, stop
21 there.

22 Q The paragraph beginning: Once
23 American CryptoFed's Form S-1 becomes effective
24 after the removal of the delaying amendment, the
25 issue as to whether the Ducat and Locke tokens --

1 Locke tokens are securities will be moot because
2 American CryptoFed accepted the SEC's categorization
3 of Ducat and Locke as securities. American
4 CryptoFed will make this point clear in its
5 amendment to Form S-1 for removal of the delaying
6 amendment. Do you see that?

7 A Yes.

8 Q All right. So, you're indicating is
9 that if the SEC accepts the S-1 then the Ducat and
10 Locke tokens are securities?

11 A Can you scroll up on that document to
12 page -- page seven?

13 Q Page seven? Sure.

14 A Yeah. And -- and this is -- yeah.
15 And these are all our -- our questions to you
16 that -- that we'd asked prior to removing the
17 delaying amendment.

18 Q All right. So, it's a 20-page
19 letter, Mr. Moeller. There are lots of things
20 contained in it. The specific question I'm asking
21 you was, does the paragraph on page thirteen that I
22 just read, indicate that American CryptoFed agrees
23 that if the SEC let's the Form S-1 become effective,
24 then Ducat and Locke are securities?

25 A Yes.

1 **Q Okay.**

2 A We said that here where -- on page --
3 and my -- okay.

4 We said it earlier in the S-1, okay.
5 If you don't agree with our position and -- and --
6 and the SEC characterizes the Locke and Ducat tokens
7 as securities, we -- we accept that. We have the
8 ability then to grant these tokens to service
9 providers as long as they're non tradeable and non
10 transferable.

11 MR. BRUCKMANN: All right. I'm going
12 to move to a new line of questioning. If we can go
13 back to Exhibit 1, page 33 and go down to the bottom
14 of the section Undertakings.

15 A And -- and, you know, we never got
16 any answers back from you guys on -- on those
17 questions. No matter how many times we asked
18 Enforcement or asked the Division of Corporation and
19 Finance, no answer.

20 **Q So, on Exhibit 1, page 33, section**
21 **23, Undertakings under Ducat Economic Zone Plan it**
22 **says: After its Form S-1 filing and the Form 10**
23 **filing, CryptoFed will allocate Locke tokens based**
24 **on its Ducat Economic Zone Plan attached as Exhibit**
25 **two. Within one week of the effectiveness of**

1 **CryptoFed's Form 10 filing CryptoFed will file Form**
2 **S-8 and make it available to all CryptoFed**
3 **contributors. CryptoFed will file Form 8-K to**
4 **provide updates accordingly.**

5 **Do you see that section, Mr. Moeller?**

6 A I do see that. And then that was
7 written like a year ago. We probably need to amend
8 that.

9 Q **Well, does CryptoFed still plan to**
10 **use a Form S-8 to distribute the Locke token?**

11 A That was stopped by the proceedings.
12 So, we don't have a Form 10.

13 Q **So, yes or no, do you still plan to**
14 **use a Form S-8 to distribute the Locke tokens?**

15 A I -- I think you got to go to Zhou on
16 that.

17 Q **He's the point person on that?**

18 A Yeah.

19 Q **All right.**

20 MR. BRUCKMANN: Let's go to page 26.

21 A Okay.

22 MR. BRUCKMANN: And if we scroll down
23 to Risk Factors.

24 A Yeah.

25 Q **All right. Under the Risk Factors on**

1 page 26 the first one that's identified is: Zero
2 value of Locke and Ducat. And it says: Locke and
3 Ducat tokens may have no value. CryptoFed's
4 monetary system depends on Locke's value reaching
5 ten cents in U.S. currency before launching Ducat.
6 However, there's no guarantee that Locke or Ducat
7 tokens will have any value.

8 And I think you've referred to that
9 section a couple of times here today, right?

10 A Correct.

11 Q Okay. So, right now Locke and Ducat
12 have no value. Agreed?

13 A Agreed.

14 Q You want -- you want them to both
15 rise in value, right?

16 A The Ducat's value is -- is an
17 inflation and deflation protected token. So, you're
18 not looking for that to rise. You're looking for it
19 to be a better method of exchange than -- than the
20 dollar.

21 Q So, I understand you don't want it to
22 continually rise over time perhaps, but for any
23 merchant to ever accept it -- for any merchant to
24 accept it for goods or services it would have to
25 increase from zero value to some value before anyone

1 **would take it for goods or services, right?**

2 A Well, it -- it's -- no. It has no
3 value at all now because it has -- this -- Zhou can
4 explain this better than I can, but I will give you
5 my -- my somewhat explanation of this.

6 Okay. So, the Ducat's value is
7 fixed, okay, but it's not fixed to the dollar. It's
8 not -- it's not pegged to the dollar because we see
9 that the dollar is eroding in value. It's -- it's
10 fixed to the -- the value of the dollar, plus the
11 loss of -- of -- of purchasing power in the dollar
12 due to the erosion of inflation, okay.

13 So -- so, the Ducat's value is
14 intended to stay stable not to the dollar, but
15 stable to goods and services through time, okay.
16 So, it's not intended to -- to rise or decrease in
17 value. It's intended to be good currency, okay.

18 And -- and I know that's a real
19 difficult concept for a lot of people to get, but
20 when they get it, they go, Oh, okay, that makes
21 sense, okay.

22 Q Well, let me ask you this, once the
23 **American CryptoFed ecosystem is up and running --**

24 A Yeah.

25 Q -- what -- what do you envision

1 vaguely one Ducat would buy? Would one Ducat buy an
2 apple? Would one Ducat buy a -- a business suit?
3 Would one Ducat buy a car? Would one Ducat buy a
4 house? Like, a ballpark, how much would one Ducat
5 be worth?

6 A A ballpark, and it's listed on -- on
7 the -- the equation I think is listed on one of the
8 front pages of the S-1 and one of the front pages of
9 the Form 10. It's a mathematical formula which
10 determines the value of the Ducat is equivalent to
11 the dollar, plus the -- the loss of value in the
12 dollar due to inflation, okay. And right now
13 when -- when we wrote this, okay, you -- you were
14 at, I think, two percent or three percent inflation.
15 And -- and now we're at -- I don't even know what
16 we're at right now, but the math formula is on --
17 let me look for it. I think it's page 17 is the --
18 the mathematical formula. And this is --

19 Q Let me get that up on the screen --
20 let me get it up on the screen, Mr. Moeller, so
21 we're all looking at the same thing and can follow
22 along.

23 MR. BRUCKMANN: Let's go to page 17.

24 A Yeah. Okay.

25 MR. BRUCKMANN: Scroll down.

1 A And I will fumble that math equation,
2 but -- but other than to let you know that what that
3 is showing you is one -- one Ducat is equivalent to
4 one U.S. dollar. And then, all the math is -- is
5 showing you, through time, to maintain that value.
6 And we're using the same index that the federal
7 reserve uses in order to determine what the -- the
8 true value should be of the Ducat.

9 Q Okay. So, on day -- on the day Ducat
10 launches, at the very first moment it launches, one
11 Ducat will be worth one dollar that day and it will
12 change over time?

13 A Yeah. Yeah. And -- and the -- and
14 it shows that, like, on a note on -- on -- the
15 footnote on page 17 they -- they talk about the
16 Fed's monetary policy, okay. How does the fed do
17 their monetary policy. And -- and this is
18 effectively equivalent. It's just, they're
19 targeting two percent inflation and we're targeting
20 zero.

21 Q So, right now Ducat is worthless,
22 right?

23 A Right now Ducat doesn't exist.

24 Q And --

25 A None of it --

1 Q -- if we go back to page 26 and look
2 at item two.

3 A Page 26 of the S-1? Yeah.

4 Q Yes.

5 A Yeah. Locke and Ducat tokens may
6 have no value. Yeah, if you never mint them they
7 never exist.

8 Q Okay. So, Ducat is going to increase
9 in value from the no value it has today as it's not
10 being minted and not yet existing to being worth
11 \$1.00 on the date of launch, right?

12 A I'm not sure if in the S-1 we specify
13 that the -- yeah, we do, right. Okay. What is the
14 value of the Ducat? Okay. It's -- it would be --
15 when -- when Ducat is launched, okay, no one's
16 buying Ducat, okay. The only way they're going to
17 buy Ducat is when they exist, okay. And when they
18 exist, they're equivalent to \$1.00, okay. But what
19 happens is if no one -- no one cares? Okay. Then
20 they can drop to zero.

21 Q And Locke is also going to need to
22 rise from zero to at least ten cents for this to
23 happen?

24 A Yeah. Yeah.

25 Q Right. But American CryptoFed has no

1 **assets, right?**

2 A Same way that Bitcoin's got no
3 assets.

4 Q **And American CryptoFed has no**
5 **revenue, right?**

6 A Same way Bitcoin's got no revenue.
7 What's the revenue of Bitcoin?

8 Q **Why would Locke increase in value if**
9 **American CryptoFed has no assets, no revenue and,**
10 **according to you, never will?**

11 A Because now -- because you're using
12 Locke to -- in open market operations to balance the
13 affect of Ducat. I -- I'm going to lean heavily on
14 Zhou on this because he -- and I would murder it if
15 I try to explain it in this forum, okay, but it's --
16 of the interactions and how open market operations
17 work, but it's -- the value is -- is -- is -- yeah.
18 I'm just, I'm going to leave it up to Zhou to
19 describe it. Otherwise, I'm just going to murder
20 it.

21 Q **He's the point person on that?**

22 A Yeah.

23 MR. BRUCKMANN: All right. I'm going
24 to move to a new line of questioning. And for the
25 convenience of the court, the next line of

1 questioning relates primarily to paragraph 2(c)(13)
2 of the OIP.

3 If we can bring Exhibit 4 up on the
4 screen.

5 Q And, Mr. Moeller, Exhibit 4, do you
6 recognize this as the response that American
7 CryptoFed submitted to the subpoena for documents
8 that the SEC sent?

9 A In the -- yeah. Yeah. Response to
10 the subpoena, yes.

11 Q Okay. And you and Mr. -- you and Mr.
12 Zhou prepared this document, right?

13 A I would say 90 percent Zhou prepared
14 this document.

15 Q Okay.

16 MR. BRUCKMANN: If we can go to
17 Exhibit 6 page 57.

18 A Yeah, that's pretty interesting.
19 You're seeing a world of ten percent inflation going
20 up to 20 percent inflation. That was a good one.

21 Q On -- on Exhibit 6 page 57 starting
22 at line one you gave the following testimony: "

23 QUESTION: Do you recognize this
24 document?

25 ANSWER: Yes.

1 QUESTION: What is it?

2 ANSWER: Response to the subpoena.

3 QUESTION: Our, the Staff's
4 June 15th, 2022 subpoena to American CryptoFed?

5 ANSWER: Yes.

6 QUESTION: Okay. And did you draft
7 this document?

8 ANSWER: Yes. With Zhou.

9 QUESTION: I'm sure I'm going to
10 butcher the name. That's Xiaomeng Zhou?

11 ANSWER: You got it right.

12 QUESTION: Did anybody else help
13 draft it besides Mr. Zhou?"

14 Q Then there is an objection. And
15 continuing onto page 58 -- well, sorry. Stop.

16 At the bottom of page 57 line 25:

17 "Who else contributed to the
18 information in this --"

19 Q Continuing onto page 58:

20 "-- document?

21 THE WITNESS: Zhou and I.

22 MR. BRUCKMANN: No one else?

23 THE WITNESS: No. It was Zhou and

24 I."

25 Q Okay. That was the testimony you

1 **gave about this document back in July, right?**

2 A Yes.

3 **Q All right.**

4 A And I'm saying, I have an ongoing
5 objection.

6 MR. BRUCKMANN: We move Exhibit 6 of
7 page 57 line one to page 58 line four into evidence,
8 Your Honor.

9 JUDGE FOELAK: The text as described
10 by Mr. Bruckmann is admitted.

11 MR. BRUCKMANN: If we can go back to
12 Exhibit 4, please. And go down to the last page.

13 **Q And -- and you signed Exhibit 4,**
14 **correct?**

15 A Yeah. Yeah. Yeah.

16 **Q And you signed it as president of**
17 **American Crypto --**

18 A I apologize. Is this the response to
19 the subpoena?

20 **Q Yes. This is the response to the**
21 **subpoena that we were looking at a moment ago?**

22 A Yeah. Yeah. Yeah.

23 **Q And you signed it as President of**
24 **American CryptoFed DAO, right?**

25 A As I cannot -- you guys don't accept

1 organizer, yes.

2 Q And did American CryptoFed provide
3 any documents other than this letter in response to
4 the Staff's subpoena?

5 A I don't think so.

6 MR. BRUCKMANN: If we could go to
7 Exhibit 3 which is the subpoena and go to request
8 one of the subpoena.

9 Q So, request one on page eight of the
10 subpoena -- or page eight of Exhibit 3 which
11 provides the subpoena and certain attachments that
12 were included with the subpoena reads: All
13 statements by American CryptoFed or any of its
14 representatives to any person that state or imply
15 that American CryptoFed's distribution of the Locke
16 or Ducat tokens will be: A, pursuant to a Form S-1
17 filed with the U.S. Securities and Exchange
18 Commission; B, registered with or by the United
19 States Securities and Exchange Commission; C, in
20 compliance with the Securities Act of 1933; or, D,
21 exempt from the Federal Securities Laws.

22 Do you see that section there on that
23 document, Mr. Moeller?

24 A Yeah. Yeah. The -- the -- we -- we
25 had -- I think we may have said something along the

1 lines of -- of every contract that -- that we have
2 has already been disclosed in the Form 10 and -- and
3 S-1.

4 Q Did you ever e-mail -- did you ever
5 e-mail any person and tell them that the Locke token
6 would be distributed pursuant to a Form S-1 filed
7 with the SEC?

8 A Oh, God. Before --

9 MR. MOELLER: I -- I object to that
10 because --

11 JUDGE FOELAK: On what basis?

12 MR. MOELLER: We -- prior to the --
13 the stay of the Form 10 we -- we had talked to
14 individuals that we -- we were going to list on --
15 on 8-K, but then, the -- the Form 10 was stayed.

16 JUDGE FOELAK: Okay.

17 MR. MOELLER: So -- so, that was
18 stayed. And -- and, second, this -- I'm not sure
19 when we -- we stated it, but the -- the key is that
20 this is everything that's coming under the 8(e)
21 investigation. And -- and -- yeah. Yeah. And --
22 and we see it as -- as an unlawful investigation.

23 If I go to Exhibit 4 --

24 MR. BRUCKMANN: I'm sorry, did, Your
25 Honor, rule on the objection? If so, I didn't hear.

1 JUDGE FOELAK: Oh, okay. Okay.

2 Well, I think he actually answered the question. Or
3 maybe he didn't.

4 MR. MOELLER: Well, I did. It's --
5 it's -- on -- on page one of that -- that same
6 document.

7 A Is this Exhibit 4 that you're looking
8 at?

9 Q At the moment we're looking at
10 Exhibit 3.

11 A Okay. Can we look at Exhibit 4?

12 Q Well, Mr. Moeller, I would like an
13 answer to my question as to whether you ever
14 e-mailed any person and told them that the Locke
15 token would be distributed pursuant to a Form S-1
16 filed with the SEC?

17 A I don't think so.

18 Q Did you ever have any communications
19 with anyone in which you told them that the Locke
20 token would be distributed pursuant to a Form S-1
21 filed with the SEC?

22 A Well --

23 JUDGE FOELAK: A few minutes ago he
24 said he conversed with some people or something.

25 MR. MOELLER: Yeah.

1 MR. BRUCKMANN: He started to say
2 something, but I don't think it was a clear answer.
3 So, I'm trying to get some clarity.

4 A Yeah. And -- and I'm reading through
5 the -- statement.

6 Q **The response to the subpoena, Exhibit**
7 **4?**

8 A Yes.

9 (Whereupon, witness reviews Exhibit.)

10 A Yeah. I -- I believe I -- I -- we
11 had --

12 MR. MOELLER: Zhou, do you -- can I
13 ask Zhou for an objection on this?

14 MR. BRUCKMANN: He can object, but
15 you cannot ask him for an answer. Mr. Zhou may not
16 answer. He can object if he has a legal objection.

17 JUDGE FOELAK: Okay. Okay.
18 Mr. Moeller, answer to the best of your ability.
19 This is not a three-way conversation. Answer to the
20 best of your ability.

21 At the time Mr. Zhou is put under
22 oath he can address various questions.

23 A Okay. The -- the -- I remember that
24 before the Form 10 was stayed we had a presentation
25 at the merchant advisory group. We -- we made

1 people aware that we were filing with the -- the --
2 the SEC, but that -- but that -- I don't remember
3 e-mails on that.

4 **Q The presentation to the merchant**
5 **advisory group, did that include a PowerPoint or**
6 **other similar slide deck?**

7 A You know, I want to go to -- to
8 Exhibit 4, page two, okay, it says -- to -- to go to
9 that.

10 (Whereupon, witness reviews Exhibit.)

11 A Okay. Because -- because we -- we
12 already had public -- public documents. And --
13 and -- and we already stated, like -- like, the -- I
14 think that was already produced in our -- on our
15 website.

16 **Q The question is, Mr. Moeller, did the**
17 **presentation to the merchants advisory group include**
18 **a PowerPoint or other similar slide deck?**

19 A I was -- it was on our website, okay.
20 I mean, go -- go to page -- and I -- in Exhibit 4,
21 page two to get the answer.

22 **Q Let's go to Exhibit 4. Where on page**
23 **two is the answer to this question?**

24 A It's under response number one.
25 Okay: American CryptoFed objects to request number

1 one on the grounds that it is -- that it is not
2 reasonably calculated to lead to the discovery of
3 relevant, admissible evidence which can rebut our
4 assertion that American CryptoFed has no
5 fundraising, no revenue, no costs, no profits and no
6 assets. There is no traditional balance sheet
7 equation of assets equals liability plus shareholder
8 equities to generate securities subject to the SEC's
9 jurisdiction.

10 And then: Without waiving that
11 objection, we can explain below why the requested
12 statements don't exist. In our ordinary course of
13 business, the requested statements are neither
14 necessary or relevant. We included clear statements
15 that the Locke and Ducat tokens are not securities.
16 We -- relates to the registration two classes of
17 tokens, the inflation/deflation protected token.

18 **Q All right. Mr. Moeller, the question**
19 **is: Did the presentation to the merchants advisory**
20 **group include a PowerPoint or other similar slide**
21 **deck?**

22 **A** I -- I remember Marian talked. I
23 talked. That -- I don't -- I don't remember that.
24 Let me read through this again.

25 We object to your request on the

1 grounds that it is not calculated to lead to the
2 discovery of admissible evidence which can rebut our
3 assertion that we had no fundraising, no revenue, no
4 costs, no profits and no assets.

5 JUDGE FOELAK: And that's not
6 responsive to his question.

7 MR. MOELLER: Yeah. I -- I honestly
8 don't remember if there was a PowerPoint.

9 Q Were any documents distributed to
10 anyone at the presentation to the merchants advisory
11 group?

12 A I don't remember.

13 Q When you received the subpoena that
14 is Exhibit 3, what efforts did you take to search to
15 see if American CryptoFed had any documents that
16 were responsive to request number one?

17 A Talked to Zhou.

18 Q What efforts did you personally
19 undertake to search for documents responsive to
20 request number one after the subpoena was served on
21 American CryptoFed?

22 A We object to your request number one
23 on the grounds that the request is not reasonably
24 calculated to lead to the discovery of admissible
25 evidence -- relevant evidence which can rebut our

1 assertion that we have no fundraising, no revenue,
2 no costs, no profits and no assets. And, therefore,
3 there is no traditional balance sheet equation of
4 assets equals liabilities plus shareholder equities
5 to generate securities subject to the SEC's
6 jurisdiction, okay. Without waiving such objection
7 American CryptoFed can explain below why the
8 requested statements don't exist. In our ordinary
9 course of business, we don't need --

10 MR. BRUCKMANN: Your Honor. Your
11 Honor, I'm going to object if he's just rereading
12 what's in Exhibit 4. The question was what efforts
13 he undertook personally to search for documents in
14 response to request number one in the subpoena.

15 MR. MOELLER: And the -- and my
16 answer back is to give you the response to number
17 one, okay. And that --

18 JUDGE FOELAK: But, sir -- sir.
19 Mr. -- Mr. Moeller, he's asking you today whether
20 there was any kind of search? Which, either there
21 was or there wasn't or you don't remember.

22 MR. MOELLER: I -- I don't remember.
23 I don't remember.

24 **Q Did American -- did American**
25 **CryptoFed withhold any documents on the basis of its**

1 objection to request number one?

2 A I -- not to my personal knowledge.

3 Q And you cannot remember anything
4 about your efforts to conduct any search in response
5 to request number one?

6 A I don't remember.

7 Q Can you remember anything about your
8 efforts -- your personal efforts to search for
9 documents responsive to any of the requests in the
10 subpoena that is Exhibit 3?

11 A I remember that this -- that our
12 response is that this entire process is unlawful.
13 And that there was -- given that, I mean, there --
14 there -- there isn't a need to search.

15 Q Okay. So, I just want to make sure I
16 understand that. Because of the objection that you
17 made that's listed in Exhibit 4, you decided you
18 didn't need to search for documents?

19 A What has been produced is already
20 public -- publicly stated, okay. Yes, it's -- we --
21 we already have everything disclosed on our website.
22 We -- we even have --

23 JUDGE FOELAK: Sir. Sir. Sir, let
24 me just -- let me just get this clear. Your
25 response to the subpoena is that the whole thing is

1 illegal. And, therefore, you didn't actually
2 look -- because of that -- because of your sincere
3 belief in that, you didn't actually look for any of
4 these things.

5 MR. MOELLER: Our -- our belief is
6 that -- that the subpoena is --

7 JUDGE FOELAK: Okay. Right. Right.
8 Right. I'm not talking about your belief. I'm
9 talking about whether you actually looked for any of
10 these things. I know of your belief. I'm aware of
11 your belief. I'm just asking you, did you actually
12 look for any of these things?

13 MR. MOELLER: I don't remember.

14 JUDGE FOELAK: Okay.

15 **Q And that's in regards to all the**
16 **requests in the subpoena, right?**

17 A And -- and as I told you maybe ten
18 minutes ago, my -- Zhou and I pulled -- put this
19 together, but Zhou is who you really to be asking
20 the questions from.

21 **Q Even though you're the president of**
22 **American CryptoFed?**

23 A I am the president of American
24 CryptoFed because you made me the president of
25 American CryptoFed, okay. It's -- it's -- in order

1 to be able to communicate in these proceedings,
2 okay.

3 JUDGE FOELAK: Sir, the point --

4 A The document that you request are
5 uploaded to our website, okay. And you have to go
6 to the website.

7 JUDGE FOELAK: Sir, the point -- the
8 point of the title is strictly so you can be the
9 spokesperson -- be a spokesperson.

10 MR. MOELLER: Yes.

11 JUDGE FOELAK: Surely -- are you
12 saying you -- you really don't know anything and
13 never did anyway?

14 MR. MOELLER: No. I -- I -- I'm
15 sorry.

16 JUDGE FOELAK: As an organizer,
17 would -- would you have known -- been able to say
18 all the same things?

19 MR. MOELLER: I'm sorry, Your Honor,
20 if it -- if it's coming across that way. I -- I --
21 there are areas in which I can articulate a response
22 pretty well that -- that I'm knowledgeable about,
23 but there's other areas that -- that I really don't
24 have much knowledge.

25 We -- we -- we did have a video on --

1 on the -- on our website that was Marian talking to
2 the merchants, okay. And -- and that -- and -- and
3 we also had a -- a letter that -- that went out to
4 merchants and that was also posted on our website.
5 And then, our Form 10 got stayed and we stopped,
6 okay.

7 It -- it -- I -- and again, I've
8 never seen a Form 10 stayed, ever. Ever. And
9 that's like in 88 years of the history of the
10 Commission, I have not seen that, okay.

11 If -- yeah, and -- and we can, you
12 know, talk about our Exhibits 52 and 53 later, but,
13 yeah, our -- our position was that this whole
14 process is -- is an unlawful action. We were on
15 track to upload the stuff to the website and
16 everything got stopped.

17 MR. BRUCKMANN: If we can put Exhibit
18 4 back up on the screen. And go to the first page.

19 BY MR. BRUCKMANN:

20 Q Mr. Moeller, do you have a paper copy
21 of this in front of you by any chance?

22 A Yeah.

23 Q Where in it does it say that you're
24 objection to the subpoena because it's illegal?

25 A I don't know if it does in this

1 document, but -- but we -- we make it clear many
2 times that when we gave a response we -- we
3 objected, but then gave the response. And when we
4 were very clear that -- that this is an illegal
5 action. And my -- my -- looking back in retrospect,
6 I probably should have not given any testimony to
7 you.

8 Q Well, a moment ago you said that you
9 hadn't conducted a search in response to the
10 subpoena because you believed the subpoena to be
11 illegal and that was your objection. But if you
12 look at Exhibit 4, I don't believe it says anywhere
13 that you're objecting that the subpoena is illegally
14 issued.

15 A Oh, we talked to you guys about that
16 before on the -- on the subpoena being an illegal
17 action before this.

18 Q There are subsequent letters, but in
19 this response to the subpoena I don't see anything
20 that says -- that makes an objection that the
21 subpoena is illegally issued.

22 A Oh, okay. So then, if I said it was
23 illegal then I wouldn't have to respond at all.

24 Q I -- I didn't say that. I'm simply
25 asking you whether you're correctly describing what

1 your objection was at the time. Because it doesn't
2 seem like you're correctly describing what your
3 objection was at the time. It seems like you're
4 trying to rewrite history.

5 Nothing in this document, as far as I
6 read it, shows an objection on the basis that the
7 subpoena was illegally issued. So, I'm asking
8 you -- I'm asking you to point out where in this
9 document that objection is in case I have somehow
10 missed it.

11 A Okay. And if -- and if I find it
12 then you are you going to agree that it's illegal?

13 Q If you find it I'll at least agree
14 that the document says something that I don't
15 recall. So, it doesn't say anywhere in this
16 document -- Mr. Moeller, please stop interrupting
17 me.

18 It doesn't say anywhere in this
19 document that you're objecting to the subpoena on
20 the basis of the subpoena being illegally issued?

21 A Then, let me look through the
22 document.

23 (Whereupon, witness reviews Exhibit.)

24 A Okay. I think every response that we
25 have here has objection, okay. And it's -- and it's

1 a very similar objection that -- that you can't
2 prove that these are securities. So, let me -- let
3 me keep reading.

4 And I -- and I am absolutely positive
5 that time and time and time again we talk about how
6 the 8(e) action is an illegal action. I -- I don't
7 know if we say it in this document, but if you give
8 an example, in response number nine, okay:
9 Documents sufficient to identify all bank accounts
10 and on line crypto asset exchange accounts held in
11 the name American CryptoFed or any of its
12 affiliates, okay. Question: We -- we object to
13 that because it does -- it doesn't -- it doesn't
14 prove anything, no fundraising, no revenue, no
15 costs, no profits, no assets, but without waiving
16 such objection, what we can say is that as of today
17 American CryptoFed does not have any bank accounts
18 or crypto exchange accounts. MShift as the sole
19 member of American CryptoFed has banks accounts, but
20 not crypto accounts, okay.

21 Just, I -- I'm not waiving my right
22 to say that this is illegal. This -- this is -- you
23 know, our -- our -- what we said is we didn't waive
24 our rights, okay. We had our objections and we --
25 but then we gave more information so that you can

1 have transparency in the response, okay.

2 And -- and I'll -- I'll still say
3 this, okay, the 8(e) is an unlawful action that you
4 guys are moving forward with. Even this, but we're
5 still trying to get through, okay. Whether --
6 whether the SEC agrees and says, Oh, it's not a
7 security, great. Or they say, Yes, it is, then give
8 me a path for registration.

9 Q Mr. Moeller, do you still not
10 understand that one of the purposes of the 8(e)
11 examination was for the staff to gather additional
12 information such that we could make a final
13 determination as to whether these were securities or
14 not?

15 A I see the 8(e) as a stop action
16 versus the 8(d) which is a refusal -- with the
17 refusal action that tells you specifically what you
18 need to do in order to correct and modify.

19 MR. BRUCKMANN: Let's move to Exhibit
20 5.

21 Q Mr. Moeller, Exhibit 5 is a letter
22 and related documents that encloses a subpoena
23 directing you to appear for testimony pursuant to
24 the Section 8(e) order. Do you recognize this
25 document?

1 A Yes.

2 Q And you did appear and give testimony
3 via Webex session similar to the Webex session we
4 are conducting here today, right?

5 A Yes.

6 Q And we've looked previously at the
7 transcript --

8 A I'm sorry, I just wanted to finish
9 that up. I did give testimony, but I'm not waiving
10 my rights to say it's illegal. Even now.

11 Q And we've looked at the transcript of
12 that testimony multiple times and that's Exhibit 6,
13 right?

14 A Yeah.

15 MR. BRUCKMANN: If we can go back to
16 Exhibit 6.

17 Q Your testimony was under oath, right?

18 A Yes. And -- and again, this is the
19 first time I've ever been involved in any process
20 like this.

21 Q Okay.

22 A And Exhibit 6 is illegal.

23 MR. BRUCKMANN: If we can go to page
24 five of Exhibit 6 starting at line 18.

25 Q You've mentioned several times that

1 this was the first time you've given testimony. So,
2 I just want to go through some of the preliminary
3 matters that were dealt with during your testimony.

4 So, on page five starting on line 18
5 it says:

6 "Prior to the opening of the record,
7 you were provided with a copy of the 8(e)
8 examination order in this matter. It will be
9 available for your examination during the course of
10 this proceeding.

11 Mr. Moeller, have you had an
12 opportunity to review the 8(e) examination order?

13 ANSWER: Yes.

14 QUESTION: Prior to the opening of
15 the record you were --"

16 Q Continuing onto the next page:

17 "Provided with a copy of the
18 Commission's Supplemental Information Form. A copy
19 of that notice has been marked as Exhibit No. 1."

20 Q It notes that it was marked for the
21 record. And continuing:

22 "Mr. Moeller, have you had the
23 opportunity to read Exhibit No. 1?

24 ANSWER: Yes.

25 QUESTION: Do you have any questions

1 concerning this notice.

2 ANSWER: No."

3 Q Did I read all of that correctly,
4 Mr. Moeller?

5 A Yeah. I think it was around halfway
6 through the testimony when I started pinging you on,
7 Why are we doing this under 8(e)? And I asked you
8 to explain what 8(e) is and 8(d). And you did a
9 bit, okay. And then I asked you why this is an 8(e)
10 and you got pretty angry about it.

11 MR. BRUCKMANN: I will move at this
12 point Exhibit 6 page five lines 18 through page six
13 line 13 into evidence.

14 MR. MOELLER: Okay. And I reserve --
15 and I have an objection -- continuing objection that
16 this entire process is -- is an unlawful objection.

17 JUDGE FOELAK: Okay. Sir, you don't
18 have to -- it's -- there's no doubt that you've said
19 it many times that you consider the -- the subpoena
20 and everything -- everything that lead up to this
21 proceeding and the proceeding to be illegal. So,
22 you don't have to keep -- and you'll -- and you'll
23 make that argument in your post-hearing brief. So,
24 you don't have to keep saying it. It just uses up
25 times.

1 MR. MOELLER: Okay. My apologies,
2 Your Honor. It's just Mr. Bruckmann is -- is
3 pushing me right now on -- on, Hey, you answered
4 these questions. You never claimed they were
5 illegal.

6 JUDGE FOELAK: True. True. Okay.
7 Okay. The -- okay. The -- the text as described by
8 Mr. Bruckmann is admitted.

9 MR. BRUCKMANN: Thank you, Your
10 Honor.

11 My colleague indicated to me I might
12 have mistaken. So, I just want to repeat, it's
13 Exhibit 6 page five line 18 through page six line
14 13.

15 **Q Continuing on on Exhibit 6. Going**
16 **down to line 14 on page six you were asked:**

17 **"QUESTION: Mr. Moeller, are you**
18 **represented by counsel today?**

19 **ANSWER: No.**

20 QUESTION: Okay. Because you are not
21 there's a couple of items I want to review with you.
22 You have the right to be accompanied, represented
23 and advised by counsel. This means that you may
24 have an attorney present and that your attorney can
25 advise you before, during and after your examination

1 here today. Do you understand this?

2 ANSWER: Yes."

3 Q Continuing onto the next page:

4 "QUESTION: Since you are not
5 represented by counsel, there are certain matters
6 discussed in Exhibit No. 1 that I want to highlight
7 for you.

8 Do you understand that upon your
9 request these proceedings will be adjourned so that
10 you may obtain counsel?

11 ANSWER: Yes."

12 Q Did I read that correctly,
13 Mr. Moeller?

14 A Yeah. I remember asking you in -- in
15 one part of it that -- that you told me the only way
16 that it could be adjourned was if I got a lawyer.
17 And -- and -- and to me that -- I -- I -- that --
18 that should have given me enough warning that this
19 was an illegal action.

20 MR. BRUCKMANN: All right. Your
21 Honor, I move page six line 14 to page seven line
22 seven of Exhibit 6 into Evidence.

23 JUDGE FOELAK: The pages as described
24 are admitted.

25 Q Continuing on page seven starting at

1 line eight:

2 "QUESTION: Do you understand that
3 the statutes set forth in Exhibit No. 1 provide
4 criminal penalties for knowingly providing false
5 testimony or knowingly using false documents in
6 connection with this examination?

7 ANSWER: Yes.

8 QUESTION: Do you understand that you
9 may assert your rights under the Fifth Amendment to
10 the Constitution and refuse to answer any question
11 which may intend to incriminate you?

12 ANSWER. Yes."

13 Q Did I read that correctly,
14 Mr. Moeller?

15 A Yes.

16 MR. BRUCKMANN: Your Honor, I move
17 page seven lines eight through 16 of Exhibit 6 into
18 Evidence.

19 JUDGE FOELAK: Are you going to move
20 on to include lines -- down to line 20?

21 MR. BRUCKMANN: I'm going to include
22 a couple more pages after this, Your Honor. Do you
23 want me to just keep going at this point?

24 MR. MOELLER: I'd prefer that you
25 include up to line 20, that would be great.

1 JUDGE FOELAK: Right. Absolutely.

2 MR. BRUCKMANN: It was my plan to.

3 I'll just keep going.

4 JUDGE FOELAK: Okay. Keep going.

5 Q And then, continuing on line 17:

6 "QUESTION: Great. Have you ever
7 been deposed or have given investigative testimony
8 before?

9 ANSWER: No.

10 QUESTION: I want to -- my questions
11 and your responses are being recorded. So we both
12 need to give audible answers. So, you know, shaking
13 your head yes or no won't work, you know, given the
14 format we're in here today especially where the
15 court reporter is recording what we're saying."

16 Q Continuing onto page eight:

17 "Do you understand that?

18 ANSWER: Yeah.

19 Did you hear me when I said no?

20 Yes. Yes. I'm going to go through a
21 list of disclosures that we make at the beginning of
22 testimony. We did hear you.

23 ANSWER: Okay.

24 QUESTION: To the extent you do not
25 understand my questions, please ask me to clarify.

1 I would rather have you ask me to clarify so that
2 you understand my question and the question -- and
3 answer the question that I'm asking. If you answer,
4 I will assume you understand, okay?

5 ANSWER: Okay.

6 QUESTION: Please let me know if you
7 need a break at any point. So, you know, once we've
8 been going for a while if you need a break for
9 whatever reason, let me know. Although, if there's
10 a question pending, we will finish up that question
11 or line of questioning before we go on break.

12 Is there anything that would prevent
13 you from giving full and complete answers here
14 today?

15 ANSWER: I don't believe so.

16 QUESTION: Is there anything that
17 might impair your ability to understand the
18 questions that I ask?

19 ANSWER: No."

20 Q Continuing onto page nine:

21 "And so, I'll just give some
22 examples. Are you sick?

23 ANSWER: No.

24 QUESTION: Are you taking any
25 medication that might affect your ability to

1 understand?

2 ANSWER: No.

3 QUESTION: Have you had any alcohol
4 today?

5 ANSWER: No.

6 QUESTION: Is there any other reason
7 you can think of that would cause you not to be able
8 to answer my questions fully and accurately?

9 ANSWER: No.

10 QUESTION: All right. A couple
11 additional ground rules I just want to --

12 ANSWER: I have one -- one -- just --
13 if your questions are not relevant --

14 QUESTION: Then you would not be able
15 to answer?

16 ANSWER: Oh, no, I'll be able to
17 answer. I'll be able to answer."

18 MR. BRUCKMANN: Your Honor, with
19 that, I'd move page seven line eight through page
20 nine line 19 of Exhibit 6 into Evidence.

21 JUDGE FOELAK: Okay. The text as
22 described is admitted.

23 MR. BRUCKMANN: If we can go to page
24 thirteen.

25 A And -- and, sorry, I may need another

1 bathroom break pretty soon, but --

2 MR. BRUCKMANN: This would be a fine
3 time to do that, Your Honor.

4 JUDGE FOELAK: Okay. 'Til a quarter
5 of?

6 MR. MOELLER: Yeah, that should be --

7 MR. BRUCKMANN: That's fine.

8 MR. MOELLER: Okay.

9 MR. BRUCKMANN: Yeah.

10 (Brief recess taken at 12:35 p.m. Eastern Time.)

11 JUDGE FOELAK: Okay. Back on the
12 record.

13 MR. BRUCKMANN: The Division's here,
14 Your Honor. Just waiting -- oh, there they are.

15 JUDGE FOELAK: Oh, okay.

16 MR. BRUCKMANN: All right. Returning
17 to Exhibit 6. If we'd go to page thirteen and share
18 that on the screen.

19 MR. BAKER: Yeah.

20 MR. BRUCKMANN: Okay. All right.

21 And if we can scroll down, please. All right.

22 BY MR. BRUCKMANN:

23 Q Mr. Moeller, on -- during your
24 testimony back in July you were asked at page
25 thirteen, line 11: Mr. Moeller, what city and state

1 do you presently reside? And your answer was the
2 same objection that we discussed previously. Do you
3 see that?

4 A Yeah. I -- I do see that. And --
5 and I also --

6 MR. MOELLER: And, Your Honor, I know
7 you asked -- I -- I really do have to keep
8 emphasizing that this was an illegal action taken
9 by --

10 JUDGE FOELAK: Sir, you've made the
11 objection. You're going to -- not the objection.
12 More than an objection, legal argument. You're
13 going to put that in your post-hearing brief. And
14 you've made it pretty clear, including, in your
15 answers in the deposition. So, you don't have to
16 keep doing it. It just wastes time.

17 MR. MOELLER: Understood. It --
18 it -- it doesn't feel like a waste of time to me.

19 JUDGE FOELAK: Okay. Well, I mean,
20 this is -- this is not, you know, some sort of
21 informal conversation at a -- between people sitting
22 around. But, anyway, you've made your continuing --
23 your continuing objection that this whole thing is
24 illegal is --

25 MR. MOELLER: Yes.

1 JUDGE FOELAK: -- it's pretty clear.

2 And you will make it in writing again --

3 MR. MOELLER: Yes.

4 JUDGE FOELAK: -- when you file your
5 post-hearing brief.

6 MR. BRUCKMANN: And continuing --

7 JUDGE FOELAK: Continue,
8 Mr. Bruckmann.

9 BY MR. BRUCKMANN:

10 Q Continuing onto page 14. There were
11 additional attempts to get you to answer this
12 question and you raised the same objection. Is that
13 fair to say, Mr. Moeller?

14 A Relevance of information the SEC
15 staff investigations or examination pursuant to 8(e)
16 is determined by the subject matter of the
17 investigation.

18 JUDGE FOELAK: Sir -- I mean,
19 Mr. Bruckmann, is this really that important to this
20 proceeding, whether he said then where he lives?

21 MR. MOELLER: Thank you.

22 MR. BRUCKMANN: Your Honor, the point
23 we're trying to make at this point was the failure
24 to cooperate with the Section 8(e) examination. So,
25 there are a number of specific instances in the

1 transcript where Mr. Moeller refused to answer the
2 questions based on this same objection. I'm trying
3 to go through them in a relatively efficient fashion
4 without reading every single line of the back and
5 forth.

6 JUDGE FOELAK: Okay. Okay. I'm
7 wondering, like I said previously about, you should
8 designate specific portions. There may be specific
9 portions of this transcript that are -- cover a
10 specific thing that you want to bring out, but he
11 has made this objection as not wanting to answer
12 about a million times in the -- in the testimony.
13 And, you know, maybe it would be better if you
14 just -- if I just took in the whole thing.

15 MR. BRUCKMANN: I was -- I was about
16 to get to that in a few minutes myself, Your Honor.
17 I think there are -- there are a couple of reasons
18 why that's appropriate. One is the repeated
19 discussion about this same objection. The other is
20 I believe the transcript will show that there was
21 never an objection regarding the proceeding being
22 illegal.

23 And the third is that I think there
24 was only one instance where Mr. Moeller said he
25 would defer to Mr. Zhou. Rather than try and prove

1 all of that over the course of a 207-page transcript
2 while sitting here in the proceeding, I think the
3 parties can more effectively make that -- the
4 arguments back and forth with each stating their
5 position in writing. So, I would move the entirety
6 of Exhibit 6 into Evidence at this time.

7 MR. MOELLER: And I -- I would object
8 to it being an illegal action.

9 JUDGE FOELAK: Okay. Right. Right.
10 Right. I mean, he's -- basically, what he's moving
11 it for is to show that you continually objected that
12 it was illegal and didn't answer his -- didn't want
13 to answer his questions. That's my -- is that more
14 or less describing what you have in mind,
15 Mr. Bruckmann?

16 MR. BRUCKMANN: It -- it's close,
17 Your Honor. I don't think he actually ever objected
18 in the testimony that it was illegal. He had other
19 objections, but he never raised that point, but it
20 is sort of the continuing objection.

21 JUDGE FOELAK: Okay. He kept saying
22 it's not relevant to anything.

23 MR. BRUCKMANN: Yes.

24 MR. MOELLER: I -- I never -- I never
25 waived my rights in -- in -- in this. I think we

1 made it very clear, if not, we made it very clear
2 that we -- we didn't understand why they were moving
3 forward on this. We saw it as an illegal action,
4 but at the same time sought to provide the
5 Enforcement Division with -- with information, okay.

6 And -- and again, they -- they've
7 never answered on -- on any question, how -- how can
8 they prove that these are securities. So, you know,
9 for -- for now I'm -- yeah, I -- we never waived our
10 rights. I -- I see this as an illegal action. I
11 see it continuing as an illegal action. And it's --
12 yeah. I don't know what else to say.

13 JUDGE FOELAK: Okay. But, sir, in
14 this particular testimony, whether or not you
15 specifically said that, you know -- okay. You know,
16 quite a number of times you said that the question
17 is not likely to lead to relevant evidence and
18 things like that.

19 MR. MOELLER: Yeah. And I -- and I
20 should have kept silent then.

21 JUDGE FOELAK: Well, whether or not
22 you should, I'm just -- I was just trying to
23 shortcut this because, I mean, there was -- there
24 was a continuing theme in the testimony which he
25 could cite to rather than every time going to

1 various places where you didn't want to answer or
2 you reluctantly answered or didn't answer because of
3 some sort of objection. I don't know. Is that --

4 MR. BRUCKMANN: That's -- I think
5 that's the essence of it, Your Honor, yes.

6 JUDGE FOELAK: Okay. Well, I will
7 take in the whole of Exhibit 6 now.

8 (Whereupon, Exhibit 6 is admitted into Evidence.)

9 BY MR. BRUCKMANN:

10 Q Okay. Mr. Moeller, at any point
11 since --

12 MR. MOELLER: And objection to taking
13 in the subpoena.

14 JUDGE FOELAK: Okay. When you say
15 the subpoena, this is -- what he's --

16 MR. MOELLER: Exhibit 6.

17 JUDGE FOELAK: -- moving is the
18 transcript of the testimony. That's not the
19 subpoena. I just want to make sure --

20 MR. MOELLER: Oh, I'm sorry. Thank
21 you, Your Honor. My -- the -- the testimony, that's
22 my objection.

23 JUDGE FOELAK: Okay. And your
24 objection to taking it in is based on the idea that
25 the whole thing is illegal.

1 MR. MOELLER: Illegality of the 8(e)
2 proceeding.

3 JUDGE FOELAK: Okay. Very good.

4 Okay. I am taking in Exhibit 6. And
5 you can argue the illegality of the proceeding --
6 continue to argue the illegality of the proceeding
7 in your post-hearing brief. And you certainly
8 brought that up in various, you know, letters and
9 things like that too that are in evidence.

10 Okay. Okay. Please continue,
11 Mr. Bruckmann.

12 MR. MOELLER: Which is illegal too.

13 MR. BRUCKMANN: If we can go back to
14 Exhibit 4 for a moment. And if we can just go to
15 the top.

16 BY MR. BRUCKMANN:

17 **Q Mr. Moeller, this is the response to**
18 **the subpoena that you sent to us on June 21st, 2022**
19 **that we've discussed a few times. And I'm just**
20 **asking, at any time since June 21st, 2022, did**
21 **American CryptoFed produce any documents in response**
22 **to the subpoena? Understanding there was additional**
23 **correspondence. I'm asking if any documents were**
24 **produced.**

25 **A And I'll do what I should have done**

1 before and just stop answering.

2 **Q You're refusing to answer the**
3 **question?**

4 JUDGE FOELAK: Wait a minute. Are
5 you answering his -- are you refusing to answer his
6 question today or are you saying you should have
7 done something in the past?

8 MR. MOELLER: I'm not -- not waiving
9 my rights. I -- I see that the 8(e) and 8(d) is an
10 illegal action. So, yeah, I'm -- I'm not going to
11 answer that.

12 JUDGE FOELAK: Okay. Well, wait a
13 minute, sir. You're going to make that legal
14 argument. And maybe it will -- you're going to make
15 that legal argument. He's not asking you whether
16 something or other is legal. He is merely asking
17 you, did you ever send in any documents.

18 You are providing a reason why you
19 didn't, but anyway -- or did or didn't or should or
20 shouldn't have, but he's just asking, did you ever
21 send him any documents.

22 MR. MOELLER: Yeah. My -- my answer
23 before, I'm going to answer it again, American
24 CryptoFed objects to request number one on the
25 grounds the request is not reasonably calculated to

1 lead to the discovery of relevant --

2 JUDGE FOELAK: Okay. Right. Right.

3 Right. Okay. Well, I know that -- I know that you
4 object to all of the requests. He's just asking
5 you, did you send any documents.

6 MR. MOELLER: Not to my personal
7 knowledge.

8 JUDGE FOELAK: Okay, thank you.

9 BY MR. BRUCKMANN:

10 **Q At any time since July 7th, 2022,**
11 **have you provided any information to supplement your**
12 **testimony other than the letters that American**
13 **CryptoFed has sent to the Division staff?**

14 A The -- the letters talking about the
15 illegality of these proceedings, correct?

16 **Q I -- I understand there are letters.**
17 **You and I could characterize the letters**
18 **differently. There are letters. What I'm asking**
19 **is, did you supplement your testimony by a**
20 **declaration, affidavit or any other additional**
21 **information beyond the letters that you did send in?**

22 A Not that I remember.

23 MR. BRUCKMANN: If we can put Exhibit
24 10 up on the screen.

25 **Q Okay. And, Mr. Moeller, do you**

1 recognize Exhibit 10 as one of the letters that you
2 did send in as you and the Division staff were going
3 back and forth about the subpoena and what
4 information should be provided?

5 A Yes.

6 Q Okay.

7 MR. BRUCKMANN: Your Honor, I'd move
8 Exhibit 10 into Evidence. I don't believe it's been
9 moved in yet.

10 JUDGE FOELAK: Okay. Exhibit 10 is
11 admitted.

12 (Whereupon, Exhibit 10 is admitted into Evidence.)

13 MR. BRUCKMANN: And if we can go to
14 the bottom of page eleven, please.

15 A If you can go to the page that says,
16 Subpoenas pursuant to the 8(e) order are unlawful.

17 MR. BRUCKMANN: Scroll down just a
18 little bit more, Mr. Baker.

19 Q All right. At the bottom of page
20 eleven in the last paragraph beginning on the third
21 line there's a sentence: No entity can generate
22 securities or investment contracts whatsoever if the
23 entity does not have a traditional balance sheet
24 equation of assets equals liabilities plus
25 shareholder equities. Do you see that, Mr. Moeller?

1 A Yes.

2 Q All right. And going then onto page
3 12. Skipping down a few lines, beginning on the
4 third line there's a sentence beginning, Under.
5 Under a traditional organization structure all and
6 every entity has assets. The existence of assets is
7 accepted as a given. However, under a DAO
8 structure, the DAO can outsource all necessary tasks
9 to supporting entities and individuals without
10 holding any assets and without hiring any employees.
11 There's only one method by which a DAO can operate
12 without assets and without employees.

13 Do you see that?

14 A Yes.

15 Q And you signed this letter, right?

16 A Yes.

17 Q When this letter was sent on August
18 7th, 2022, had American CryptoFed outsourced any --
19 anything to any supporting entities or individuals?

20 A I'm sorry, can you say that again?

21 Q As of August 7th, 2022, when you sent
22 this letter to the Division staff, had American
23 CryptoFed outsourced anything to any supporting
24 entity or individual?

25 A The -- the only supporting entity now

1 is MShift.

2 MR. BRUCKMANN: You can take that
3 exhibit down.

4 A And -- you know. And -- and it's --
5 okay. And going back to the start of that document
6 on page one: Subpoenas pursuant to this 8(e) order
7 unlawful, okay.

8 Q Mr. Moeller, you're going to have
9 time to make your points. I'm just trying to get
10 through my few remaining questions as efficiently as
11 I can, all right.

12 I want to ask you -- I -- I don't
13 want to get into a legal debate back and forth with
14 you, Mr. Moeller, but I just want to ask one --

15 A Again, the Form 10 proceedings
16 stopped everything, okay. And --

17 Q Mr. Moeller, the legal argument that
18 you made in the motion for judgment on a pleading
19 relies in part on the fact that the S-1 contains a
20 delaying event. Do I have that correct?

21 A Yes.

22 Q And you've threatened to pull that
23 delaying amendment on multiple occasions, right?

24 A We -- we have sent multiple letters
25 to Division of Corporation Finance seeking clarity.

1 We've sent multiple letters that -- that CC the
2 Enforcement Division seeking clarity. We sought
3 to -- any method to get clarity.

4 MR. BRUCKMANN: If we can bring up
5 Exhibit 15, please.

6 A The Form 10 proceeding stopped
7 everything.

8 Q All right. And, Mr. Moeller, Exhibit
9 15 is an October 27th, 2022 letter that you sent to
10 me; is that correct?

11 A Yes.

12 MR. BRUCKMANN: And if we can go down
13 to page thirteen of that letter, please.

14 Q In the middle paragraph --

15 MR. BRUCKMANN: Scroll down a little
16 bit more, please.

17 Q The middle paragraph, the second
18 sentence beginning: American CryptoFed is
19 planning -- it says: American CryptoFed is planning
20 to file the amendment number one to Form S-1 to
21 remove the delaying amendment right after we receive
22 your response to this letter regarding the remaining
23 sections two and four.

24 Do you see that passage, Mr. Moeller?

25 A Yes.

1 Can you read the rest: Our approach
2 is to do our best in good faith to let the Division
3 of Corporation Finance and/or the Division of
4 Enforcement exhaust all possible legal arguments
5 while the delaying amendment is still in place.
6 When and only when both divisions have no more legal
7 arguments to further justify the need of the
8 delaying amendment will we remove the delaying
9 amendment. We're close to that critical moment.

10 **Q Thank you. I was going to read that**
11 **next. I appreciate you doing it.**

12 A You're welcome.

13 **Q Okay.**

14 MR. BRUCKMANN: And then, if we could
15 go to Exhibit 16, please.

16 A Yeah. And -- and -- but a question
17 for you, Mr. Bruckmann, have we removed the delaying
18 amendment?

19 MR. JUDGE FOELAK: Well, I think
20 that's a matter of public record.

21 MR. MOELLER: It was a rhetorical
22 question.

23 JUDGE FOELAK: -- there's no filing
24 removing it.

25 MR. MOELLER: It was a rhetorical

1 question, Your Honor. Sorry.

2 Q Exhibit 16 is a November 1st, 2022
3 letter that you sent to me; is that correct?

4 A Let me go to the -- let's see. The
5 October 27th letter?

6 Q No. Exhibit 15 was October 27th.
7 We're now on November 1st.

8 A Yeah, but before -- before we move
9 onto that, I -- I want to -- I want to go page one
10 of Exhibit 15.

11 Q Mr. Moeller, you'll have an
12 opportunity during your testimony to make the points
13 that you want to make. All right.

14 We're now on Exhibit 16,
15 November 1st, 2022. This is a letter that you sent
16 to me, correct?

17 A Well, we -- we -- and -- and the --
18 and the last one we repeatedly offer the opportunity
19 for examination with specific extension to American
20 CryptoFed's assertion no assets and no liabilities.
21 And we requested that -- that you start the
22 examination process by asking through the same
23 questions through a series of communications first
24 directed to Mr. Baker in your Division and then to
25 you, okay.

1 And the question was, Mr. Bruckmann,
2 and -- and, Mr. Baker, as he is either unable or
3 unwilling to respond, can you provide me with -- by
4 September 12th, 2022, provide me with a question
5 list and document list which are needed to prove
6 that American CryptoFed has assets from the
7 prospective of Generally Accepted Accounting
8 Principles. And neither you or Mr. Baker responded.

9 Q Going to page six of Exhibit 16 and
10 looking at the middle paragraph on that page, the
11 second sentence. It's largely similar, if not
12 identical, to the one we looked at exhibit Exhibit
13 15. It says: American CryptoFed is planning to
14 file the amendment number one to Form S-1 to remove
15 the delaying amendment after we receive your
16 responses or non responses to this letter regarding
17 the remaining sections one, two and four first
18 specified in the October 23 letter. Our approach is
19 to do our best in good faith to let the Division of
20 Corporation Finance and/or the Division of
21 Enforcement exhaust all possible legal arguments
22 while the delaying amendment is still in place.
23 When and only when both divisions have no more legal
24 arguments or refuse to provide legal arguments to
25 further justify the need of the delaying amendment

1 we will remove the delaying amendment. We are close
2 to that critical moment.

3 Do you see that passage, Mr. Moeller?

4 A Yeah.

5 Q All right. And you've also
6 threatened to start distributing and offering for
7 sale Locke tokens even if the Form S-1 was not
8 effective, right?

9 A We have requested time and time again
10 for action to be taken. We -- we did not say that
11 we were going to distribute it if the Form S-1 was
12 not effective I don't believe.

13 MR. BRUCKMANN: If we can go to
14 Exhibit -- if we can go to Exhibit 13, Mr. Baker.

15 A We asked you guys for a cease and
16 desist and you refused to provide that.

17 Q Exhibit 13 --

18 A Oh, there you go.

19 Q -- is a May 30th, 2022 letter to me.

20 MR. BRUCKMANN: If we can scroll to
21 the bottom and look at who signed this, please
22 Mr. Baker.

23 Q And this is signed by you, right,
24 Mr. Moeller?

25 A Yes.

1 Q Okay.

2 MR. BRUCKMANN: And if we can go back
3 to page one.

4 A Yeah. While waiting for -- you want
5 to read or you want me to read?

6 Q Mr. Moeller. Mr. Moeller.
7 Mr. Moeller, I'm going to read it, all right. But
8 the way the examination works is, I ask questions
9 and -- and you provide the answers. Let's just try
10 to get through this as efficiently as we can.

11 On Exhibit 13 page one it says:
12 While waiting for the Securities and Exchange
13 Commission, SEC, Commission, to rule on the three
14 pending motions below, American CryptoFed DAO, LLC,
15 American CryptoFed, will proceed with implementing
16 its business plan as described in the Form 10 and
17 the Form S-1 filed with the SEC on September 16th
18 and 17th, 2021 respectively. Starting from Q3 2022
19 we will distribute to contributors in paper
20 contracts free of charge Locke governance tokens
21 which are restricted, un-tradeable and non
22 transferable.

23 Starting from Q3 2022 through
24 December 31st, 2022 we will conduct Locke token
25 refundable auctions. The winning bidders are

1 required to demonstrate the funds are available in
2 their designated wallets without actually moving
3 funds. They will receive NFT certificates which are
4 not allowed to trade. The NFT certificates will
5 lose eligibility to exchange for fungible Locke
6 tokens if they are transferred out of the original
7 designated wallets. The holders of NFT certificates
8 may exchange them for fungible and tradeable Locke
9 tokens on or after January 1st, 2023 transferring
10 the bidding tokens proceeds to a crypto trustee
11 account or trustless accounts.

12 Do you see that passage?

13 A Yes.

14 MR. BRUCKMANN: We can take that
15 down.

16 Q Mr. Moeller, at some point American
17 CryptoFed actually spoke to an accounting firm about
18 conducting an audit of American CryptoFed, correct?

19 A Wait. First -- first and foremost,
20 look at the subject matter of that exhibit that you
21 brought forth, okay, which is, In The Matter of
22 American CryptoFed of AP file number 3-20650, Ceased
23 and Desist Order Request, okay. We are asking you
24 to provide us with a cease and desist. If the
25 Commission is not willing to take -- if -- if no

1 action taken moving forward or releasing it, then
2 give us a cease and desist. And -- and your -- your
3 response was: No, we're not giving a cease and
4 desist.

5 Q Mr. Moeller --

6 JUDGE FOELAK: Okay. Sir, let me --
7 you can --

8 MR. BRUCKMANN: Your Honor, I do need
9 to clarify -- I do need to clarify the record on one
10 point because my response to Mr. Moeller's letter,
11 and I think it's one of the exhibits already, was
12 clarifying the role of the Division versus the
13 Commission and that the Division cannot issue a
14 cease and desist order. I just do want to make that
15 clear for the record.

16 Q Returning to my question,
17 Mr. Moeller.

18 JUDGE FOELAK: Right. That's a legal
19 matter.

20 Yes, please continue.

21 Q Returning to my question,
22 Mr. Moeller.

23 A Yep.

24 Q At one point American CryptoFed
25 actually spoke to an accounting firm about

1 **conducting an audit of American CryptoFed, right?**

2 A I was not involved in those
3 discussions. You have to talk to Zhou.

4 **Q Are you aware of them?**

5 A Yeah. I -- I was aware that there --
6 I -- I don't have any details on those discussions,
7 okay. I really don't. You have to talk to Zhou on
8 that.

9 MR. BRUCKMANN: If we can go back to
10 Exhibit 6 page 137, please.

11 **Q In your July testimony on page 137**
12 **starting at line three you were asked:**

13 **"QUESTION: Have you spoken with any**
14 **accountants or auditors about whether the exclusive**
15 **ability constitutes an asset?**

16 ANSWER: We -- months and months and
17 months ago we sought to engage auditors for this.
18 And the auditors refused to provide services because
19 they had no guidance from the SEC. And, honestly, I
20 don't know the name of the auditor. I'd have to
21 look back a long time ago.

22 QUESTION: But no services were
23 actually performed?

24 ANSWER: No. No. They refused to
25 provide services because they had no guidance from

1 you."

2 Q Do you see that passage, Mr. Moeller?

3 A Yes.

4 Q Mr. Moeller, do you think the fact
5 that the only auditors that American CryptoFed spoke
6 with refused to provide services is something that
7 should be included in the Form S-1?

8 A I'm not going to answer that.

9 Q Why?

10 A Everything related to -- to Exhibit 6
11 I'm not going to answer. It's a -- it's an illegal
12 subpoena that's taken under an illegal action, okay.
13 So, once you guys start proceedings it -- it stopped
14 everything.

15 MR. BRUCKMANN: Your Honor, if
16 Mr. Moeller is going to refuse to answer questions,
17 the Division will reserve its right to move for a
18 default judgment.

19 JUDGE FOELAK: That particular
20 question, no. Move on.

21 MR. MOELLER: Thank you, Your Honor.

22 MR. BRUCKMANN: Let's go back to the
23 Form S-1 on page 26.

24 A I'm sorry, where are you?

25 Q Page 26.

1 A Of the S-1?

2 Q **Of the S-1, yes.**

3 A Risk Factors? Yeah.

4 Q **Brief moment, I want to make sure I**
5 **have the right passage.**

6 MR. BRUCKMANN: Just a little bit up,
7 Mr. Baker, please. All right, my apologies, that's
8 not the right page. Let me find the right page.

9 A The Form 10 proceedings stopped
10 everything on us.

11 MR. BRUCKMANN: Page 16, Mr. Baker.
12 All right, right there. Yes.

13 Q **All right. And we discussed this**
14 **yesterday. So, I'm not going to linger on this**
15 **point, but of the ten trillion Locke tokens**
16 **25 percent are reserved for MShift, right,**
17 **Mr. Moeller?**

18 A Yes.

19 Q **And for this system to work, the**
20 **Locke needs to increase to ten cents per token,**
21 **right?**

22 A For Ducat to be issued.

23 Q **Right. And at that point if each**
24 **Locke token is worth ten cents, MShift's share of**
25 **Locke will be worth \$250 billion, right?**

1 A You have to -- not really. I mean,
2 it's -- you're -- you're talking about what's active
3 in circulation, right?

4 Q Well, if 25 percent is reserved for
5 MShift and there are ten trillion tokens and they're
6 worth ten cents each, the portion reserved for
7 MShift is worth \$250 billion, right?

8 A You have no -- you have no liquidity
9 at that point, okay. You look at the whole crypto
10 market last year, it was worth 2.7 trillion at it's
11 top and now it's at what, 800 billion, okay. So --
12 so, yeah, if you sell you crash the market.

13 Q And some unspecified or
14 yet-to-be-determined portion of that \$250 billion is
15 reserved for you personally, right?

16 A I don't know, okay. It's reserved
17 for MShift, okay, but -- but there's been no -- no
18 allocations for -- for -- for Zhou or myself.

19 Q But you own approximately ten percent
20 of MShift, right?

21 A Approximately.

22 MR. BRUCKMANN: And if we go to page
23 32, please.

24 Q On page 32, the second paragraph
25 under section 16 it notes that: Scott Moeller,

1 MShift's CEO, and one of the three organizers of
2 American CryptoFed DAO, LLC works voluntarily
3 without salary. His Locke token grant from MShift's
4 25 percent initial allocation outlined in the
5 CryptoFed constitution will be decided after
6 CryptoFed's Form S-1 filing.

7 So, you're clearly expecting to get
8 some portion of what MShift gets, right?

9 A Yeah. I hope so, but the Form 10
10 proceedings stopped everything.

11 Q Mr. Moeller, are you familiar with
12 the term ponzi scheme?

13 A Yeah. A lot of people Bitcoin is a
14 ponzi scheme too.

15 Q What do you understand the term ponzi
16 scheme to mean?

17 A Where there's nothing real behind
18 it. Bernie Madoff, right?

19 Q That -- that's one example, but let
20 me see if we can -- let me see if we can just reach
21 a common understanding.

22 Generally, a ponzi scheme is a fraud
23 in which early investors are paid with the money
24 later investors contribute to make it appear that
25 the investment is successful when, in fact, the

1 investment depends on a constant influx of an ever
2 greater number of investors. And when that
3 eventually fails to happen, the scheme collapses.
4 Does that make sense to you?

5 A Yeah.

6 MR. BRUCKMANN: If we could go to
7 page 25 of Exhibit -- Exhibit 1.

8 A We don't raise any funds, okay.
9 It's -- it's -- what you have here is -- is you have
10 the refundable auctions. Individuals have the
11 ability to -- to exit out at any point in time.
12 It's on a public -- publicly viewable Blockchain.
13 So, I don't get where you're -- you are trying to
14 imply that there's a ponzi scheme here.

15 Q Looking at page 25 of the Form S-1,
16 all right? The paragraph beginning: Ducat holders
17 use Ducat to buy goods and services. All right?
18 That paragraph and then there's a mathematical
19 formula, and then the paragraph beneath that. Can
20 you explain to me how that doesn't describe a ponzi
21 scheme?

22 A It's -- it's talking about the
23 establishment of the new currency, okay. I mean,
24 you're going to have to go to Zhou to go to the
25 details of it, but -- but from your own definition

1 that would say like the yen is a ponzi scheme or the
2 dollar is a ponzi scheme.

3 **Q Mr. Moeller, let me stop you right**
4 **there, all right.**

5 Do you understand that the U.S.
6 dollar is backed by the full faith and credit of the
7 United States government which includes assets such
8 as publicly owned land, mineral rights, the gold
9 stored in Fort Knocks and has the ability to levy
10 taxes on income and customs duties on imports among
11 other ways that it can raise revenue and grow its
12 assets?

13 A Yes.

14 **Q So, let me ask you, does American**
15 **CryptoFed own any gold?**

16 A We -- we don't have any liabilities
17 either. Like the -- the Federal Reserve -- like the
18 U.S. government they have huge liabilities.

19 **Q Does American CryptoFed own any land?**

20 A We -- we are not the United States
21 government.

22 **Q And does the American CryptoFed have**
23 **the ability to levy taxes?**

24 A No assets, no liabilities, no
25 shareholder equity.

1 MR. MOELLER: If we can go to page 30
2 please, Mr. Baker, and look at section three.

3 Q Section three on page 30 says: Locke
4 token price: Ducat tokens will not launch until the
5 price of Locke tokens reaches a minimum value of ten
6 cents U.S. dollar per token for a consecutive
7 one-month period. There's no guarantee that this
8 will happen. CryptoFed uses U.S. dollar pegged
9 Stablecoin proceeds held in reserved to buy back
10 Locke whenever the Locke's price falls below three
11 percent -- falls three percent below its previous
12 price for a 24-hour period or falls five percent
13 below its previous price for a one-hour period.
14 Whenever the Locke's price falls 30 percent below
15 its previous price for a 24-hour period, CryptoFed
16 has the authority to use all its CryptoFed U.S.
17 pegged Stablecoin reserves to buy back Locke tokens.
18 If the CryptoFed U.S. dollar pegged Stablecoin is
19 reserve is depleted, the Locke token market price
20 may have a risk of free fall.

21 A Yeah.

22 Q So, my first question, Mr. Moeller,
23 is, isn't this paragraph describing the collapse of
24 the ponzi scheme?

25 A No. Okay. And you need to go to

1 Zhou to get the details on this, but no. You're not
2 talking about the collapse of a ponzi scheme. A
3 ponzi scheme is -- is a guarantee of -- of returns,
4 okay. This is an example of a risk factor that
5 could occur.

6 There's another risk factor that we
7 have on page 30 relative to the federal funds rate,
8 okay. And it says: If the fed raises the federal
9 fund rate to five percent the entire landscape in
10 terms of competition and monetary systems may
11 change. Fiat holders may no longer search for new
12 currencies and inflation and Fiat may no longer be
13 an issue.

14 And again, that was written back in
15 2021. Where we are today? Look at this, federal
16 fund rates is almost up to five percent. And the
17 crypto market went from 2.6 down to 850 billion.

18 **Q And my next question, Mr. Moeller,**
19 **is, isn't the CryptoFed U.S. dollar pegged**
20 **Stablecoin reserve described in section three an**
21 **asset?**

22 A No. And I want --

23 **Q It's not?**

24 A I'm going to lean on Zhou to describe
25 why, okay. But -- but what you have here is -- is,

1 the CryptoFed does not take those assets in.
2 They're all kept in smart contract. They're all
3 visible, okay. And this is not -- this is
4 absolute -- and FTX, okay, which is -- I don't know
5 who approved it in the -- in the SEC, okay. That's
6 a pretty good example of a ponzi scheme where they
7 had accounts, but they didn't have any of the actual
8 crypto.

9 Q Mr. Moeller, when --

10 A I -- I don't need mean to get mad at
11 you. I just need to answer the questions, but --
12 but when you imply that we're a ponzi scheme,
13 that -- that is -- that is the farthest thing from
14 what we're looking to accomplish. We're trying to
15 create a better form of money, okay. And -- and go
16 to Zhou for -- for the details on that, but --

17 Q Mr. Moeller, I just -- I just -- I
18 think this should be my last question, but just,
19 again, you haven't engaged an auditor to verify
20 anything about what you've just said, about not
21 having assets and everything being in smart
22 contracts, right?

23 A No, we have not.

24 MR. BRUCKMANN: Nothing further, Your
25 Honor.

1 JUDGE FOELAK: Okay. Should we move
2 onto Mr. Moeller's direct testimony or --

3 MR. BRUCKMANN: Well, at this point,
4 Your Honor, the Division I think is going to rest.
5 I think we're going to reserve our right to double
6 check our exhibit list. And if there's an exhibit
7 that's been authenticated, but accidentally not
8 moved in, we might still seek to move it in, but I
9 don't believe we have any additional evidence to do
10 in our case-in-chief.

11 So, I think we can turn it over to
12 American CryptoFed to put on whatever case they wish
13 to put on. And if they want to do that by starting
14 with Mr. Moeller they can do that.

15 MR. MOELLER: I'd prefer to start
16 with Mr. Zhou.

17 JUDGE FOELAK: Okay. Do you want
18 to -- we in the east could take a lunch break now.
19 Do you want some time to plan with your partner
20 to -- if there's any questions, you know, that you
21 want to bring up that are as a result of --

22 MR. MOELLER: Yes.

23 JUDGE FOELAK: -- what transpired
24 before?

25 MR. MOELLER: What I -- what I really

1 would appreciate is the opportunity to get the --
2 the transcript from -- from yesterday and today. It
3 doesn't need to be an official transcript, but if I
4 can get that in my e-mail because that's going to be
5 key for a lot of the questions I'm going to be
6 asking of Mr. -- Mr. Zhou.

7 MR. BRUCKMANN: Your Honor, our --
8 our --

9 JUDGE FOELAK: Can you answer his
10 concern as to when he can get the overnight
11 transcript?

12 MR. BRUCKMANN: I'm not sure the
13 court reporter has the most up-to-date information
14 on that, Your Honor. We've been corresponding with
15 the court reporter's service. So, we might have it.
16 We've been told that it's available to be sent to
17 them, but they need to order it and agree to pay for
18 it is where they are right now. And the e-mails
19 have been sent to Mr. Moeller and Mr. Zhou to that
20 effect. I don't know if they've seen those e-mails
21 while we've been in these proceedings here, but
22 that's what's been told to us by the court reporting
23 service.

24 JUDGE FOELAK: Okay.
25 Yes, Mr. Zhou?

1 MR. ZHOU: I think there are many,
2 many questions Mr. Bruckmann ask and --

3 JUDGE FOELAK: Okay. Okay. But --
4 but --

5 MR. ZHOU: -- refer to me.

6 JUDGE FOELAK: Okay.

7 MR. ZHOU: Yeah. Refer to me and we
8 do not get entire, comprehensive story.

9 JUDGE FOELAK: Okay. Okay. Sir,
10 that is the point of you in starting your own case
11 and answering any of those doubts. And Mr. Moeller
12 wants to see the transcript of what has transpired
13 today or today and yesterday so that he can see
14 maybe what's the best things for you to bring up.

15 So, all you have to do is pay for it
16 and I guess you'll get it right away.

17 MR. MOELLER: Okay. If I -- yeah.
18 If I can do that. And I can do that. And I can
19 also let you know if there is any delays in that,
20 but I really wouldn't want to start until -- until I
21 have that.

22 JUDGE FOELAK: Okay. Well, should we
23 reassemble in an hour?

24 MR. BRUCKMANN: Yes. To be clear,
25 Your Honor, I believe it's yesterday's transcript

1 that is essentially instantly available. I don't
2 know if today's transcript is available that
3 quickly. That would be unusual.

4 JUDGE FOELAK: Oh, okay.

5 Yes, Mr. Zhou?

6 MR. ZHOU: So, given the transcript
7 are not available, can we postpone this until next
8 line?

9 JUDGE FOELAK: Okay. Well, let's --
10 okay. Let's reassemble in an hour and see what
11 Mr. Moeller has come up with in reference to these
12 transcripts. And see if he wants to -- if there's
13 enough in it to go ahead or whether he wants to
14 stop.

15 Okay. Let's come back in an hour
16 with a --

17 Yes, sir, Mr. Zhou?

18 MR. ZHOU: Yes. So, yesterday was a
19 very, very long day. We have to file everything
20 because the service was down and I got up this
21 morning 5:30 and all of those proceedings either was
22 ten days, everything, we exhausted. Could we even
23 do not have time to have breakfast. We have
24 accommodate the o'clock start time.

25 JUDGE FOELAK: Okay. Fine. Fine.

1 Why don't we -- I hear you. Why don't we reassemble
2 in an hour and see what -- and -- and see what
3 Mr. Moeller has come up with as far as these
4 transcripts go. And then, we'll either go forward
5 or -- or go into recess.

6 MR. MOELLER: Yeah. Happy to go in
7 and look at -- see what we get, but the questions
8 that -- that Mr. Bruckmann asked me, especially in
9 this last, I'd say hour or two, are -- are really
10 key and telling and I'd really like to get --

11 JUDGE FOELAK: Okay. Well, we'll see
12 if there's -- okay. Look it over and see if there
13 is anything we can do today or --

14 MR. MOELLER: Okay.

15 JUDGE FOELAK: -- whatever, okay?

16 MR. MOELLER: And to better emphasize
17 Zhou's point. We've only had ten days to prepare
18 for this. Of those ten days, two-weekends, one
19 Thanksgiving, all my kids are out of school. I've
20 got three kids under five. So, it's very, very,
21 very difficult to prepare for this.

22 JUDGE FOELAK: Okay. Okay. I mean,
23 not cool, okay. Understood.

24 Okay. We'll reassemble in an hour
25 and see where we go from there.

1 MR. MOELLER: Okay. Thank you, Your
2 Honor.

3 JUDGE FOELAK: Okay.

4 (Lunch recess taken at 1:31 p.m. Eastern Time.)

5 A F T E R N O O N S E S S I O N

6 JUDGE FOELAK: Back on the record.

7 MR. MOELLER: Zhou, you had your hand
8 up.

9 JUDGE FOELAK: Yes, Mr. Zhou.

10 MR. ZHOU: Yes. We want to postpone
11 this to next week because we were really, really
12 exhaust. Our brain -- my brain does not work now.
13 You -- you know, Your Honor, November's for the
14 evening our time we have to file the motion for
15 ruling on pleadings system didn't work. We try a
16 lot of. And, you know, early morning I had to get
17 up five our time and long -- very, very, long day.
18 And today also seven. It is okay for the Eastern
19 Time on your side, 10 o'clock, but seven on our time
20 given such, such a --

21 JUDGE FOELAK: Okay. I hear you,
22 sir. I hear you. I was just asking, Mr. Moeller,
23 is there anything we can do today? Anymore -- any
24 testimony you, Mr. Moeller, want to give at this
25 time?

1 MR. MOELLER: Not -- not at this time
2 as long as I can reserve time -- time in the future
3 to provide.

4 JUDGE FOELAK: Okay. Well, let me
5 deal with a few procedural matters.

6 The Respondent has indicated that
7 they want to call Ms. Purnell. And, apparently, the
8 Division may resist this. And so, anyway, what I'm
9 going to ask you is what they call a proffer. What
10 topics are you going to ask her about and, you know,
11 what kind of testimony do you expect, Mr. Moeller?

12 MR. MOELLER: Oh, I -- I'm going to
13 defer to Mr. -- Mr. Zhou.

14 JUDGE FOELAK: Okay. Mr. Zhou?
15 Yes, Mr. Zhou.

16 MR. ZHOU: We will concentrate our
17 questions on the Form S-1, Form 10. She personally
18 responded to us and the communications, several
19 letters that we dated to the Commissioner, including
20 the staff, copied her. So, she have personal
21 knowledge about all those stuff. And the -- the
22 Mr. -- Mr. Dobbie couldn't have personal knowledge.
23 So, that's a matter --

24 JUDGE FOELAK: Okay, sir, let me --
25 let me explain something. Firstly, all your -- all

1 the correspondence, your letters to her and any
2 letters you got back, they're all -- you don't need
3 her to authentic them. They're all in the record
4 and they have on them who they were sent to.

5 Secondly, as far as her
6 communications with the staff or the Commissioners,
7 that is internal deliberations and protected by
8 attorney-client privilege, work product privilege.
9 So, you can't ask her about that. That's the
10 reason -- you know, that's the reason I'm bringing
11 this up now, okay.

12 You can't -- okay. Whatever.
13 Whatever. The fact that you sent her letters and
14 the fact of whatever letters you got back and
15 nothing else, that's in the record. You don't need
16 her to authentic them.

17 Yes, sir. Go ahead, Mr. Zhou.

18 MR. ZHOU: I want to fully understand
19 her communication with us because she never
20 explained all those things. We do not have
21 opportunity because we don't believe we violate
22 anything. And --

23 JUDGE FOELAK: Okay. Okay. Sir.
24 Sir, let me explain, she didn't -- it's on the
25 record that she didn't communicate anything back to

1 you. So, that's all you need for whatever argument
2 you want to make. You don't -- asking her why
3 doesn't matter. I mean, no that you can't ask her
4 why, but still.

5 Go ahead, sir.

6 MR. ZHOU: Well, this proceedings is
7 really about our Form S-1 and Form 10 evidence
8 exhibit present by the Division. We --

9 JUDGE FOELAK: Correct.

10 MR. ZHOU: We do not -- so far, we do
11 have anyone from Division -- from Division of
12 Corporate Finance who has personal knowledge about
13 our Form S-1 and Form 10. We don't want --

14 MR. BRUCKMANN: That's not true, Your
15 Honor.

16 JUDGE FOELAK: Pardon?

17 MR. BRUCKMANN: Mr. Dobbie testified
18 that he personally reviewed the Form 10 and the Form
19 S-1. He also testified that he was aware of the
20 October 12th letters sent to the Commissioners and
21 Ms. Purnell around the time that it was sent. He
22 testified that he was aware of what was done to
23 respond to it. He explained the phone calls. In
24 addition to being, you know, inappropriate for the
25 privilege reasons and calling for legal conclusions,

1 it's also duplicative of Mr. Dobbie's testimony. He
2 was aware of all of these things and testified to
3 that thoroughly.

4 JUDGE FOELAK: Okay. What -- what I
5 think -- I guess what he's trying to explain is,
6 there's nothing she would -- can tell you that Mr.
7 Dobbie hasn't already told you or even knows more
8 about than she does.

9 Why they didn't respond to your
10 questions is not going to be on the record. And who
11 knows why it was, but she can -- she can't testify
12 as to who advised her to not do this or do it or
13 whatever.

14 Okay, go ahead, Mr. Zhou.

15 MR. ZHOU: For example --

16 JUDGE FOELAK: Yes.

17 MR. ZHOU: Yeah, about the letter, we
18 sent two, we send to the staff the Commissioner
19 that's October 12, 21st.

20 JUDGE FOELAK: Yes. That letter is
21 in evidence.

22 MR. ZHOU: Yeah. Okay. That details
23 our explanation. A lot of things there.

24 JUDGE FOELAK: Yes. Yes. Yes. Yes.

25 MR. ZHOU: We want to go through our

1 Form S-1 and her, talk -- discuss with us
2 communication, but because she never respond, we
3 want to make sure to find a way the fact why we have
4 so many material deficiencies. This proceedings is
5 about why we have so many deficiencies, okay.

6 JUDGE FOELAK: No. No. Sir, it's
7 not why -- sir, it's not why you have these, quote,
8 unquote, deficiencies. It is what it is. It isn't
9 why you did it or it -- it isn't why the form didn't
10 have things in it. It's the fact that it didn't.
11 You don't need her to explain why or what she
12 thought about it.

13 MR. ZHOU: I -- I need to confirm
14 with witness so far about personal knowing of those
15 letters. And we -- multiple times Mr. Dobbie said
16 he doesn't know. And -- and say we have a phone
17 call. That phone call we -- even we -- we agree in
18 writing ask for written response.

19 JUDGE FOELAK: Yes. Yes.

20 MR. ZHOU: Process --

21 JUDGE FOELAK: Right. Right. Right.
22 That's right. That's on the record, yes.

23 Okay. Why they didn't do it -- why
24 they didn't do it can't be part of this proceeding.

25 MR. BRUCKMANN: And, Your Honor, to

1 be clear, the times that Mr. Dobbie said that he
2 didn't have personal knowledge were the letters that
3 were sent to the Division of Enforcement. Regarding
4 the letters that Corporation Finance sent to
5 American CryptoFed and the letter on October 12th
6 that American CryptoFed sent to the Commissioners
7 and Mr. Purnell, Mr. Dobbie made clear he was aware
8 of those and had personal knowledge regarding them.

9 JUDGE FOELAK: Well, I think he was
10 copied on some of these other letters or am I
11 mistaken?

12 MR. BRUCKMANN: There were times he
13 was copied on other letters, but the times when he
14 said he had no personal knowledge did not relate to
15 the letters that were sent to -- by or to --

16 JUDGE FOELAK: Okay. But the letters
17 are in evidence.

18 MR. BRUCKMANN: Yes.

19 JUDGE FOELAK: And with him as --
20 and -- and with him as a CC that you can argue
21 whatever you want to from.

22 Yes, sir. Go ahead, Mr. Zhou.

23 MR. ZHOU: So, as of today, we do not
24 have any person have personal knowledge about our
25 Form S-1, Form 10 to really give us a chance to

1 question. That's a fact.

2 JUDGE FOELAK: Okay. Sir, what --
3 right. If what you're saying is, you don't know why
4 and what went into the -- the negative things
5 that -- that the Commission has done towards your
6 Form 10. All we know is that it happened and it is
7 what it is, but we can't go into her thought
8 processes and interactions with, you know, like the
9 Chairman's assistant or something like that.

10 MR. MOELLER: Sorry, Your Honor.

11 JUDGE FOELAK: Yes, sir.

12 MR. MOELLER: Yeah. My concern here
13 is -- is Ms. Purnell represents the acting legal
14 chief of the Division of Corporation Finance or --
15 I'm sorry, acting finance chief -- no, she is the
16 acting legal chief. Acting legal chief.

17 JUDGE FOELAK: Whatever. Whatever.
18 Whatever.

19 MR. MOELLER: But she was the person
20 that was most intimately involved with the rejection
21 of our -- our S-1. And at the time when we received
22 that notice on -- on October 8th, she -- she listed
23 in the -- in the -- the letter, We're not going to
24 give comments on this time. It was just a pure
25 rejects, so.

1 And -- and we -- we don't have a
2 sense that -- that she looked at the substance of
3 the S-1, but rather just the -- the form of the
4 rejection.

5 MR. BRUCKMANN: Your Honor, Mr.
6 Dobbie was Ms. Purnell's supervisor at the time.
7 Ms. Purnell was a branch chief in the Office of
8 Finance. Mr. Dobbie was acting chief of the Office
9 of Finance within the Division of Corporation
10 Finance. He made clear during his testimony that as
11 far as the review of the Form 10 and the Form S-1,
12 he was the person who was in charge of that overall
13 process. He has been made available. He testified.
14 And it doesn't matter what the back and forth was
15 about the -- the S-1 and who said what when. The
16 Form S-1 is either deficient or it isn't.

17 MR. MOELLER: Or the form is
18 deficient.

19 JUDGE FOELAK: Okay. And anyway, be
20 that as it may, I think the failure to respond to
21 your questions or whether they're legally required
22 to is a legal question which you can argue in your
23 briefs.

24 All I'm saying is, if she does
25 testify, I'm not sure that she will -- will be

1 allowed to testify as to some of the topics that Mr.
2 Zhou mentioned.

3 Yes, sir. Mr. Zhou?

4 MR. ZHOU: So far we do not have
5 people from Corporation Finance have personal
6 knowledge about our Form S-1, Form 10 and the
7 evidence except produced that two major pieces. And
8 the people sign off letters send to us. And when we
9 respond, she was there. She even attended a meeting
10 with the full -- with the law -- Division of
11 Enforcement. She is the most people who --

12 JUDGE FOELAK: Okay, sir.

13 MR. ZHOU: -- personal knowledge.

14 JUDGE FOELAK: Sir, we -- we can't
15 ask her what happened at the meeting with the
16 Division of Enforcement. That's an internal
17 deliberation. All we know is that the Commission
18 eventually took some action against you and it is
19 what it is. And your Form 10 is -- is what it is.

20 MR. ZHOU: At the time when you think
21 my question is not appropriate, she can reject,
22 Mr. Bruckmann can reject, you can approve their
23 objection. We need opportunity to have one
24 personally sign off with us. Without that we truly
25 believe --

1 JUDGE FOELAK: Okay. Okay. Sir.

2 MR. ZHOU: -- unfair proceedings.

3 JUDGE FOELAK: Okay. Mr. Bruckmann
4 is going to produce her on Tuesday, but all I'm
5 telling you is what you think you may be able to ask
6 her is not what you can ask her. So, we just may be
7 getting her name and title and, you know, some vague
8 stuff about that she reviewed this, but not knowing
9 the thought process. So -- okay. That's the reason
10 I'm having the discussion now so you don't have an
11 idea that it is out of touch with reality.

12 MR. MOELLER: Sure.

13 MR. ZHOU: Yes. Thank you, Your
14 Honor.

15 MR. BRUCKMANN: I understand what,
16 Your Honor, is attempting to get at here, but I
17 haven't heard a single question from Mr. Zhou that
18 he would ask Ms. Purnell that she would be able to
19 answer that wasn't posed to Mr. Dobbie.

20 Mr. Dobbie was familiar, personally
21 familiar, with the review of the Form S-10 and the
22 Form S-1. We spent hours with inadmissible,
23 improper questions being posed to him. And it just
24 strikes the Division as cumulative and a waste of
25 time if they cannot proffer an admissible question

1 they will actually want to ask Ms. Purnell.

2 JUDGE FOELAK: Nonetheless, I don't
3 want Mr. Moeller and Mr. Zhou to be able to say,
4 Well, we asked for the key witness in the Division
5 and the judge refused to allow her to testify or
6 something like that. All I'm telling you gentlemen
7 is, there's hardly anything that you have mentioned
8 that she can -- that she will testify to or that is
9 appropriate questions to ask her.

10 So, you know, think about whether you
11 still want to call her. And if you do, okay.
12 Otherwise, you know why.

13 Yes, sir. Mr. Zhou?

14 MR. ZHOU: We will listen to you if
15 you disapprove my question at the time when she --
16 when I ask her a question, but for a proceeding to
17 be fair, we need the most personal knowledge, the
18 person who have that. So --

19 JUDGE FOELAK: Okay. I understand
20 that you -- okay. I understand that you believe
21 she's a really key witness and I would be denying
22 due process if she was withheld from you asking her
23 something. I mean, maybe every single question you
24 ask her is -- you know, is -- is validly objected
25 to, but --

1 MR. MOELLER: But it's out there.

2 JUDGE FOELAK: Is that understood,
3 Mr. Bruckmann, and, Mr. Moeller?

4 MR. MOELLER: Yes.

5 MR. BRUCKMANN: Yes, Your Honor. We
6 will make Ms. Purnell available on Tuesday.

7 MR. MOELLER: Okay.

8 MR. ZHOU: Thank you.

9 JUDGE FOELAK: Now, Mr. Zhou has
10 indicated that he's pretty tired. Mr. Moeller
11 doesn't have anything he wants to expound upon
12 without seeing the transcripts, which he will
13 hopefully get, you know, this afternoon.

14 Am I -- am I describing your posture
15 correctly, sir?

16 MR. MOELLER: Absolutely, Your Honor.

17 MR. BRUCKMANN: Your Honor, before we
18 adjourn for the day, I do want to address a couple
19 hopefully brief things.

20 JUDGE FOELAK: Yes. Absolutely.

21 MR. BRUCKMANN: American CryptoFed
22 has indicated that they wish to call a witness from
23 the Division of Enforcement. I think at a minimum
24 we can have a legal discussion and a resolution as
25 to whether we're going to be required to produce a

1 witness who is listed on the 8(e) order so that we
2 can properly prepare for that. And then, I do just
3 want to make sure that we are postponing to Tuesday
4 as a definitive time that we are resuming and that
5 this is not just an open-ended, We don't know when
6 we are coming back.

7 JUDGE FOELAK: Okay. We are coming
8 back at ten o'clock on Tuesday. Is that okay Ms.
9 Moran.

10 (Whereupon, Reporter responds.)

11 JUDGE FOELAK: Yes, Mr. Zhou.

12 MR. ZHOU: Can we start eight o'clock
13 PST? We want to have breakfast. Usually seven too
14 early for us. And you -- maybe 7:30, give us 30
15 minutes.

16 JUDGE FOELAK: Okay. We'll start at
17 11 Eastern Time --

18 MR. MOELLER: Thank you, Your Honor.

19 JUDGE FOELAK: -- eight Pacific Time.

20 MR. ZHOU: Thank you so much.

21 JUDGE FOELAK: So, no one is at a
22 disadvantage of excessive tiredness.

23 MR. MOELLER: No, that was yesterday.
24 Thank you.

25 MR. BRUCKMANN: That's fine with the

1 Division, Your Honor.

2 I will note the Division has some
3 availability issue on Wednesday. Hopefully this can
4 wrap up on Tuesday. If not, we might need to
5 address, sort of, what the remaining timing is, but
6 there's no need to get into that now.

7 JUDGE FOELAK: Okay. Okay. I guess
8 you heard that, Mr. Moeller, and, Mr. Zhou. We hope
9 to wrap up on Tuesday, but if not, we may have to go
10 to some other day than Wednesday.

11 MR. MOELLER: Sure.

12 JUDGE FOELAK: Or who knows, some
13 day.

14 Okay. Yes. Yes, Mr. Zhou.

15 MR. ZHOU: I want to thank the court
16 reporter. She's very good so -- to get all those
17 transcripts of us so early. I just want to thank
18 her for this professional work.

19 JUDGE FOELAK: Understood. Very
20 good.

21 Now, Mr. Bruckmann, about calling the
22 Division -- somebody from the Division as a witness.
23 Once again, if you called such a person, what would
24 you be asking -- what -- I would want a proffer.
25 What would you be asking them or what topics?

1 MR. ZHOU: You know, we really don't
2 know about how this contradiction between --
3 publicly we were told from the website, from many
4 transcripts -- transcription -- transparent about
5 many process, but all of a sudden it become non
6 public some investigation into the happening. We
7 don't know what question we ask will be proper or
8 not.

9 Your Honor, we listen to you whenever
10 you reject our questions, but during this entire
11 process for whole year we only had very little
12 opportunity talk to the Division of Corporation
13 Finance. All of a sudden, Enforcement Division came
14 in. So, we did not -- if we did not have a personal
15 knowledge people who have witnessed here for this
16 proceedings, we don't believe we have a fair
17 proceedings.

18 JUDGE FOELAK: Okay. What is it that
19 you would be asking this Division witness -- this
20 Division of Enforcement witness? That -- that's
21 what I'm asking you.

22 MR. ZHOU: We have probably more than
23 1,000, 2,000 pages between our communications. So,
24 all those communications are not -- are already we
25 have and -- and they have. There are many questions

1 during all of those things we do not get answers.
2 And the record show a lot of things we still don't
3 know, okay.

4 We cannot say we ask exactly this
5 question or exactly that question. We need to go
6 through all of those thousand pages and we will
7 decide it. So, however, we want to feel we do have
8 people who have a personal knowledge about the
9 entire process we were put in. As a citizen, we
10 follow the law. We file applications, follow the
11 instruction of Mr. Chairman Gensler's. All of a
12 sudden we was prosecuted by Enforcement. So, we
13 want to be a fair proceedings. We want someone --

14 JUDGE FOELAK: Okay. So, what is it
15 you're going to ask them? No, I understand that you
16 feel there hasn't been proper communication with you
17 and -- and like that, okay. But what is it that
18 you're going to ask this person from the Division of
19 Enforcement?

20 MR. ZHOU: There's thousands of pages
21 we need to process because it's only ten days for us
22 to prepare, that many holidays. Exactly we want to
23 ask all our communications between our
24 communications -- questions relating not beyond the
25 communications between us and the Division of

1 Enforcement. And that questions Mr. Dobbie said he
2 did not have personal knowledge. Nobody answers us.

3 MR. BRUCKMANN: Your Honor, the
4 letters are in evidence. And I think that before an
5 attorney for the Division of Enforcement, who has
6 been representing the Division of Enforcement in
7 this matter is forced to take the stand as a
8 witness, which is a highly unusual and highly
9 irregular matter, before that happens, Mr. Zhou
10 ought to be able to give a single question that he
11 intends to ask that witness and he hasn't done that.

12 JUDGE FOELAK: Right. That's what
13 I'm asking you, sir. You mentioned 1,000 pages,
14 which I'm not saying there weren't 1,000 pages, but
15 I have no -- I have no idea what it is you're going
16 to ask him or -- or why -- well, I have no idea what
17 it is you're going to ask him.

18 I mean, asking him something like:
19 Why did you do this? Is not -- this is not the
20 appropriate forum for that. You know, maybe some
21 person-to-person meeting, an invite or something,
22 but I just don't understand what you're going to ask
23 him. As he says, it is pretty unusual to ask the
24 attorney, you know, rather than somebody that's a
25 witness.

1 I mean, the Division of Enforcement
2 did not process your S-1. All they did was
3 investigate and refer it to the -- I guess, ask the
4 Commission to start this proceeding, but what they
5 did was investigate something.

6 Yes, sir. Go ahead.

7 MR. ZHOU: Your Honor, when we
8 communicated with Division of Corporate Finance, the
9 Division of Enforcement interfere into that process
10 and communicate with us. And not allowing the
11 Division of Corporate -- Corporation Finance or the
12 Corporation Finance just allowing the Division of
13 Enforcement communicate with us, it's create a
14 confusion for us who are really responsible for our
15 review process giving our delaying amendment is
16 still effective.

17 So, we need -- the many questions we
18 don't know who is really in charge and talking about
19 all of this. During -- we haven't issued anything.
20 We just have application.

21 JUDGE FOELAK: Yes, sir. Yes, sir.
22 I understand you're asking who is it behind all of
23 this, or something like that, but the fact is,
24 whoever is or isn't, the Commission started this
25 proceeding. The proceeding is not to find out who

1 should have processed your -- I'm sorry, who -- you
2 know, at what point did your S-1 turn from an
3 application into a investigation.

4 Go ahead, sir.

5 MR. ZHOU: Even my questions was will
6 be -- could be reject, the question will be on the
7 record. I need all of those questions to be on the
8 record to feel fair.

9 JUDGE FOELAK: But that's --
10 that's -- right. That's the point of asking for
11 your proffer. It's asking for, you know --
12 asking -- asking what would you have -- I mean, you
13 don't have to tell me today, but asking me what you
14 would have asked them this -- you know, this
15 Division of Enforcement person if he had testified.
16 You ask him -- you will ask him if he does testify.
17 Or put another way, if he doesn't testify, ask him
18 what you would have asked him. And then you tell
19 the Commission, if you don't like the results with
20 me, that you were deprived of the opportunity to get
21 answers to these necessary questions.

22 You know, I'm just giving you a vague
23 roadmap. You know, things could -- could change
24 between now and -- and Wednesday I know after you --
25 everybody thinks about it.

1 Mr. Bruckmann, do you have any
2 thoughts?

3 MR. BRUCKMANN: Is, Your Honor,
4 suggesting that they should submit questions in
5 writing? Am I understanding that correctly?

6 MR. ZHOU: No. We are --

7 JUDGE FOELAK: Oh. I see what you
8 mean. Right, they -- they could -- they could write
9 this proffer down and make it into some sort of --
10 okay. You're saying if they get up and -- and sort
11 of start talking about questions it may get pretty
12 confusing.

13 MR. MOELLER: Your Honor --

14 MR. BRUCKMANN: What I'm saying, Your
15 Honor, I'm not saying that the Division will respond
16 to written Interrogatories. What I'm saying is,
17 we've given Mr. Zhou numerous attempts to proffer
18 questions that he would ask the Division of
19 Enforcement witness and he hasn't listed a single
20 question yet.

21 I think if we want to make a complete
22 record, Your Honor could say that by Monday they can
23 submit a motion that the Division ought to produce a
24 witness. And in that motion, they can specify what
25 questions they plan to ask the Division of

1 Enforcement witness.

2 I'm not saying it would be completely
3 limited to the questions they put in that motion,
4 but at least we would have some proffer, some basis
5 of what question they plan to ask the Division of
6 Enforcement witness. Because it's completely
7 improper to force an attorney for the other side to
8 take the stand as a witness when not a single
9 question has been proffered as to what the attorney
10 would be forced to answer.

11 JUDGE FOELAK: Okay. No, that's --
12 that's a good idea.

13 You make a motion asking -- listing
14 the questions or at least the topics of the
15 questions, you know. If you had theoretically 50
16 questions, it might only be three topics or one
17 topic or something.

18 MR. MOELLER: Your Honor,
19 Mr. Bruckmann has expounded on me many times that
20 he -- he does not have to reveal his legal theories
21 to us. And -- and so, I -- I would propose that if
22 we're --

23 JUDGE FOELAK: Okay. His legal
24 theories are -- A, cannot be revealed to you -- or
25 he doesn't have to reveal them to you. And they're

1 not an appropriate -- it's like a shield, okay.
2 That's why I keep saying stuff like, Put it in your
3 post-hearing brief.

4 But anyway, you can't ask -- you
5 can't ask about -- well, it's off limits to have to
6 answer about internal deliberations and
7 recommendations, et cetera. And he's going to file
8 a post-hearing brief before you do. And you can see
9 the legal theories there, but I'm not sure that I'm
10 answering your question, but --

11 MR. MOELLER: My -- my --

12 JUDGE FOELAK: -- it may be -- it may
13 be -- I'm not sure I'm answering your question, but
14 I'm trying to.

15 MR. MOELLER: Right. I understand,
16 Your Honor. I just don't want to be in a position
17 where we're laying out our -- our legal argument to
18 the Division prior to having any opportunity to
19 question the Division because they didn't provide
20 that to us when -- when I'm providing testimony.

21 MR. BRUCKMANN: The difference is,
22 Your Honor, it's highly irregular and expressly
23 disfavored for an attorney for a party to be called
24 as a witness in the same proceeding. I've never
25 heard of it being done without a proffer.

1 JUDGE FOELAK: Okay. That's --
2 that's true. And as far as legal theories go,
3 they'll be in your, you know, post-hearing or post
4 findings of fact and conclusions of law that they
5 can -- that they will be filing an opposition to.
6 So, any problem with due notice of the theories will
7 be eliminated when you make legal filings.

8 Yes, sir, Mr. Zhou?

9 MR. ZHOU: The Division never
10 disclosed their questions before any -- any
11 questions in proceedings. So, we don't believe we
12 should do that.

13 JUDGE FOELAK: Okay. Okay. Do
14 you -- do you understand they are -- according to
15 them, you know, you say it's illegal, but anyway,
16 there is -- why they asked a series of questions is
17 they're authorized by the Commission to do so. They
18 don't need to resort to anything else but their
19 legal -- their -- what they consider or -- anyway,
20 authorization under the securities laws which, of
21 course, you feel is actually not there, but -- but
22 that's -- you know.

23 So, that's what you'll -- you know.
24 So, when you say, Well -- when you say if you said
25 to them, Well, what's your justification for doing

1 this? And they said, you know, We have this order
2 from the Commission citing section such and such and
3 you say, Well, that's illegal. Well, they've showed
4 you what their reason for thinking it's legal is.

5 Yes, sir.

6 MR. ZHOU: The -- they have
7 opportunity to object to my questions, our
8 questions. We --

9 JUDGE FOELAK: That is why you're
10 going to file this motion. I will look at the
11 motion and -- and see what -- I mean, as I said, you
12 don't need to answer every single question -- I
13 mean, excuse me. You don't have to list every
14 single question. You'll list the topics which may
15 be two topics. So, your motion doesn't have to go
16 on for, you know, 50 pages or take a million years
17 to prepare.

18 MR. MOELLER: Sure.

19 JUDGE FOELAK: Yes, sir.

20 MR. ZHOU: It's really take time to
21 prepare motions because we are -- we really need to
22 go through so many pages. We want --

23 JUDGE FOELAK: But you have -- do you
24 not have a general idea? Whether you're going
25 through so many pages is every specific question.

1 The -- you must have some sort of overarching idea
2 of what the focus of your questions -- your specific
3 questions would be, okay. I'm not asking you to
4 list every one of 1,000 questions.

5 MR. ZHOU: My general questions -- my
6 general idea all included in our communication in
7 the past one year -- more than one year with the
8 Division of Enforcement.

9 MR. BRUCKMANN: Your Honor, those --
10 go ahead, Mr. Zhou. I didn't mean to cut you off.

11 JUDGE FOELAK: Okay.

12 MR. ZHOU: Yeah. So, it will not go
13 beyond without any written communications. And
14 that's -- they already know all their communication
15 with us. And we promise we -- whenever we ask a
16 question we will have that exhibit on this screen.
17 If it is not proper, Your Honor, you can just say,
18 Hey, it is not proper. So, we will listen to you,
19 but we do not want to have additional burden to
20 write a motion. And we may write it --

21 JUDGE FOELAK: Okay. If you don't
22 submit the motion -- you have to submit -- if you
23 don't submit the motion it will just be -- then I
24 won't have any basis for -- for telling the Division
25 to come up with this witness, okay. So, you've got

1 to submit the motion. I'm not saying the motion
2 should be 1,000 pages long. It should address the
3 topics. And --

4 MR. ZHOU: Okay.

5 JUDGE FOELAK: And then, if all you
6 have is the Division says we have the right to
7 question you because of this section -- this 8(e)
8 order, well, you can argue, as you have, and you
9 will argue in your post-hearing filings, that the
10 8(e) order was illegal and -- and argue, you know,
11 why legally.

12 Yes, sir. Go ahead.

13 MR. ZHOU: So, when is the deadline
14 of that motion?

15 JUDGE FOELAK: Well, you file it by
16 Monday afternoon. Okay. And I know you've had
17 trouble with EFAQ. So, you may continue, just in
18 case you do -- I mean, e-mail a copy of your motion
19 to the ALJ mailbox.

20 MR. MOELLER: Okay, great.

21 JUDGE FOELAK: And of course to
22 Mr. Bruckmann.

23 MR. ZHOU: Okay.

24 JUDGE FOELAK: Okay. So, we all on
25 the same page now?

1 MR. BRUCKMANN: Yes.

2 MR. MOELLER: Yes, Your Honor.

3 MR. ZHOU: Yes, Your Honor.

4 JUDGE FOELAK: Okay. Anyone have
5 anything more?

6 MR. BRUCKMANN: Let me just briefly
7 confer with my colleagues. I don't believe so, but
8 just before we end for the day I want to make sure.

9 MR. MOELLER: And, Your Honor,
10 Wednesday would be difficult for me as well, but
11 I -- I -- if needed, I will make it work.

12 JUDGE FOELAK: Okay. It's not the
13 time of day, it's the Wednesday at all? I mean --
14 okay, 11 o'clock -- I mean, excuse me, eight o'clock
15 your time anyway.

16 MR. MOELLER: On Tuesday.

17 JUDGE FOELAK: Tuesday, okay. I'm
18 sorry. I'm sorry. I got the day wrong. Okay,
19 fine. Okay.

20 We'll -- okay, Wednesday is difficult
21 for more than one side. We will go through Tuesday
22 and then see about Wednesday, Thursday, whatever.

23 MR. MOELLER: Thursday, Friday.

24 JUDGE FOELAK: Whatever the next day
25 will be, right. Okay, but we're all on the same

1 page there, okay. Sorry I confused Tuesday with
2 Wednesday.

3 Okay. Anything more?

4 MR. BRUCKMANN: Nothing further from
5 the Division, Your Honor.

6 JUDGE FOELAK: Okay. Thank you.

7 We'll be in recess until Tuesday at
8 11 a.m. Eastern Time, 8 a.m. Pacific Time.

9 MR. MOELLER: Wonderful. Thank you,
10 Your Honor.

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

13 (Whereupon, at 3:10 p.m. Eastern Time,
14 the hearing was adjourned.)

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PROOFREADER'S CERTIFICATE

In the Matter of: REGISTRATION STATEMENT OF
AMERICAN CRYPTOED DAO, LLC
ADMINISTRATIVE PROCEEDING - HEARING
File No. 3-21243
Date: Friday, December 2, 2022
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)

12-5-2022

C E R T I F I C A T E

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

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

SHAUNNA H. MORAN, CSR, RPR
Shorthand Reporter