

EXHIBIT J

[PUBLIC VERSION]

CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER

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IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF WYOMING

CUSTODIA BANK, INC.,)	
)	
Plaintiff,)	
)	
v.)	
)	1:22-cv-00125-SWS
FEDERAL RESERVE BOARD)	
OF GOVERNORS AND)	
FEDERAL RESERVE BANK OF)	
KANSAS CITY,)	
)	
Defendants.)	

* DESIGNATED CONFIDENTIAL *
* SUBJECT TO A PROTECTIVE ORDER *

ZOOM/IN-PERSON DEPOSITION OF ESTHER
GEORGE, a Witness, taken remotely on behalf of
the Plaintiff before Peggy E. Corbett, CSR, CCR,
RDR, pursuant to Notice on the 9th day of
November, 2023, at the offices of the Federal
Reserve Bank of Kansas City, 1 Memorial Drive,
Kansas City, Missouri 64198.

1 A. He was a good working associate here and
2 served well as a director of our bank.

3 Q. All right. I take it given your 40-year
4 involvement you have pretty good general
5 understanding of the operations of the Kansas
6 City Federal Reserve Bank, would that be a fair
7 statement?

8 A. I do think I have a broad understanding
9 of this bank's operation.

10 Q. So tell me, you started here at the
11 Kansas City Fed approximately two years after the
12 Monetary Control Act of 1980 was passed by
13 Congress; is that your understanding?

14 A. I joined in 1982, and the Monetary
15 Control Act was in 1980, yes.

16 Q. Tell me what your general understanding
17 is as to what the Monetary Control Act did in
18 regard to changes with the Federal Reserve Bank
19 system.

20 A. My understanding of the changes had to
21 do with levelling the playing field and really
22 setting in motion pricing standards for the
23 Reserve Banks, in terms of how they deliver
24 services, making them not exclusive to member
25 banks, but opening them up for non-member banks,

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1 Q. Do you know, is there a similar Annual
2 Report for the Kansas City Federal Reserve that
3 references what the changes in the Monetary
4 Control Act really mean?

5 MR. MICHAELSON: Objection, form.

6 A. I would not know here what the 1980
7 report of the Kansas City Fed would have said.
8 There was not a standard form. Each bank would
9 have developed their presentation based on their
10 own judgments.

11 Q. (BY MR. ORTIZ) Earlier when you told me
12 that your understanding of the Monetary Control
13 Act was that it leveled the playing field that
14 really meant that State-chartered banks were
15 entitled to access Federal services, basically
16 access to the Federal Reserve system, correct?

17 MR. MICHAELSON: Objection, form.

18 A. My understanding of the Monetary Control
19 Act is it no longer made a distinction between
20 those that were members of the Federal Reserve
21 and those that were not, in terms of access to
22 services and their pricing.

23 Q. (BY MR. ORTIZ) So when you are not a
24 member of a member bank, you're typically a
25 State-chartered bank; is that correct? That's a

1 non-member bank?

2 A. A State-chartered bank can be a member
3 bank, yeah.

4 Q. Sure, but most non-member banks are
5 State-chartered banks, true?

6 A. That would be true.

7 Q. And you're saying what the Monetary
8 Control Act said, you can be a State-chartered
9 non-member bank and you have to be given access
10 to Federal services; is that correct?

11 MR. MICHAELSON: Objection, form,
12 misstates prior testimony.

13 Q. (BY MR. ORTIZ) Is that your
14 understanding?

15 A. It eliminated the distinction between
16 member banks and non-member banks.

17 Q. And that's what you meant when you said
18 it levels the playing field?

19 A. That's what I meant.

20 Q. So back when you started in '82, and
21 maybe for the first 15 years or more there was no
22 such thing or no term that you called the master
23 account, was there?

24 A. I'm not sure.

25 Q. Can we agree, say at least starting at

1 they were interfacing with your team, correct?

2 A. I did understand they wanted access to
3 an account at the Federal Reserve Bank of Kansas
4 City.

5 Q. That was the whole point; draft
6 something that would qualify as a depository
7 institution, in order to get a master account,
8 correct?

9 MR. MICHAELSON: Objection, form.

10 A. Actually it was one of the early
11 questions we raised about whether that made the
12 institution viable --

13 Q. (BY MR. ORTIZ) Sure.

14 A. -- or whether there were other options
15 to them.

16 Q. And you knew early on that that was a
17 big goal of a SPDI-chartered depository
18 institution, to be able to get a master account
19 and access Fed services?

20 A. I did understand that.

21 Q. All right. So did you ever direct any
22 representatives from the Kansas City Fed to
23 advise someone at the State of Wyoming that you
24 didn't have policies in place that would allow
25 you to evaluate a SPDI charter like Custodia?

1 MR. MICHAELSON: Objection, form.

2 A. I don't recall any meetings that were
3 specifically intended for this. Our interactions
4 with the State Banking Department covered a
5 broader set of responsibilities that we had.

6 So I would meet a couple of times a year
7 with the State Banking Department about
8 supervisory issues that we shared over
9 State-chartered banks.

10 Q. (BY MR. ORTIZ) Do you have a good
11 relationship with the Wyoming State Banking
12 Commission?

13 A. I believe we do.

14 Q. Do you have a good relationship with
15 Albert Forkner?

16 A. I believe we did.

17 Q. You did at that time, as well?

18 A. I did, yes.

19 Q. Did you have respect for him?

20 A. I did have respect for Albert Forkner.

21 Q. Respect for the way Wyoming Banking
22 Commission went about supervising their charter
23 banks?

24 A. Yes. We worked closely together in the
25 supervision of our State-chartered banks.

1 Q. (BY MR. ORTIZ) Who is Lael Brainard?

2 A. Lael Brainard was a member of the Board
3 of Governors of the Federal Reserve.

4 Q. Was there a time that she was a Chairman
5 of the Board of Governors?

6 A. No, Lael Brainard at one point was the
7 Vice Chair of the Board.

8 Q. Vice Chair. Did you have a sense as to
9 her background and experience within the Federal
10 Reserve system?

11 A. Lael Brainard is a highly regarded
12 economist and policymaker.

13 Q. You had conversations with Lael Brainard
14 where she specifically told you under the
15 Monetary Control Act you didn't have the
16 authority to deny Custodia a master account,
17 didn't she?

18 A. Lael Brainard did not at any point tell
19 me I did not have authority.

20 Q. Never anything in that context at all?

21 MR. MICHAELSON: Objection, form.

22 A. I'm not sure what you mean about
23 context.

24 Q. (BY MR. ORTIZ) The context of you
25 somehow just saying, "I have discretion, I can

1 deny this master account at any time." Didn't
2 you have specific conversations with Lael
3 Brainard about that?

4 A. I had conversations with Lael Brainard
5 about the threshold issue of eligibility for this
6 particular charter.

7 Q. But you don't think she told you if they
8 were eligible, they had to have a master -- you
9 had to give them a master account?

10 A. Lael Brainard did not at any point tell
11 me to grant nor deny a master account.

12 Q. Did you have conversations with Senator
13 Cynthia Lummis about the issue of whether you
14 were obligated under the Monetary Control Act to
15 give Custodia a master account?

16 A. I had at least one, and maybe two
17 conversations with Senator Lummis at her
18 requests.

19 Q. Did Senator Lummis advise you that her
20 office's interpretation of the law was the
21 Monetary Control Act required you to give
22 Custodia a master account if they were an
23 eligible depository institution?

24 A. I believe the Senator did have that
25 view.

1 without naming names or based on public
2 information, that you're not divulging
3 confidential information of the bank.

4 MR. ORTIZ: I think given the
5 change in the law, Counsel, I don't think that's
6 confidential at all, but you --

7 A. Would you please ask your question
8 again.

9 Q. (BY MR. ORTIZ) Sure. You just told me
10 that it's long been your practice that regardless
11 of legal eligibility for a master account, you
12 could still evaluate them and deny a master
13 account; is that right? Is that what you're
14 telling me?

15 A. That is correct.

16 Q. So I want to know, give me an example in
17 the last 25 years where an eligible depository
18 institution was denied a master account, other
19 than Custodia.

20 MR. MICHAELSON: Same objections,
21 but go ahead.

22 A. I can think of one case.

23 Q. (BY MR. ORTIZ) Okay, who was that?

24 A. Four Corners.

25 Q. All right, and Four Corners Bank was

1 dealing with the question of legal
2 permissibility, since they were going to be
3 dealing with marijuana sales and growers, and
4 that was in contradiction of Federal law, right?

5 A. That was among the issues that we were
6 addressing.

7 Q. Sure, right. Other than Four Corners
8 Bank that had a conflict between the Federal Drug
9 Control Act which said you can't buy and sell
10 marijuana, in conflict with Colorado law that
11 said you could, can you give me any other example
12 of a depository institution that is conducting
13 legally permissible activities and is also
14 legally eligible for a master account, where it's
15 been denied by the Kansas City Fed?

16 A. I do not have any examples right now.

17 Q. There is not -- there isn't one, is
18 there? Custodia is the only one, isn't it,
19 ma'am?

20 A. I am not aware if they are the only one,
21 but I don't recall that.

22 Q. And you would probably be the person,
23 given your tenure at the Fed, 40 years being
24 involved in this, you would be the one person
25 that would probably have that historical

1 knowledge, agreed?

2 A. I have a long-standing experience with
3 these institutions, yes.

4 Q. And I'm not implying anything with age.
5 I'm just implying you're kind of the keeper of
6 the historical knowledge over the last 30 or 40
7 years, aren't you --

8 MR. MICHAELSON: Objection, form.

9 Q. (BY MR. ORTIZ) -- for the Kansas City
10 Fed?

11 MR. MICHAELSON: Lack of
12 foundation.

13 A. I am not a keeper of the information.
14 This is an institution that has deep
15 institutional knowledge.

16 Q. (BY MR. ORTIZ) But one thing that was
17 determined early on in this case was that holding
18 crypto-assets in a custodial relationship, that
19 was not legally -- that was determined to be a
20 legally permissible activity early on by the OCC,
21 wasn't it?

22 MR. MICHAELSON: Objection, form.

23 A. I believe the OCC had made judgments
24 around its special charter.

25 Q. (BY MR. ORTIZ) Sure, and said it was

1 legally permissible to do so, right?

2 A. I believe they did.

3 Q. And you also knew that there were member
4 banks within the system doing the same thing that
5 Custodia wanted to do, correct?

6 MR. MICHAELSON: Objection, form.

7 A. I did not have access to the
8 confidential supervisory information of other
9 institutions, and really had only available to me
10 the public pronouncements, news articles, press
11 releases that those institutions would have
12 offered.

13 Q. (BY MR. ORTIZ) So from just a public
14 knowledge standpoint, you knew that BNY Mellon,
15 State Street, other institutions were engaged in
16 the same activities that Custodia was trying to
17 become involved in, correct?

18 MR. MICHAELSON: Objection, form.

19 A. I was aware these activities were being
20 described, but in the context of a very different
21 legal and regulatory framework for insured
22 depository institutions than the one we were
23 looking at with the SPDI charter.

24 Q. (BY MR. ORTIZ) Just because they were
25 state -- or excuse me, because they were Federal

1 issued their letter, correct?

2 A. I was not aware that this activity was
3 legally permissible.

4 Q. Really? You did not have information
5 from other sources that the OCC had issued an
6 advisory letter that this type of activity,
7 custodial activity with crypto-assets was, in
8 fact, legally permissible?

9 MR. MICHAELSON: Objection, form.

10 A. I would have understood that the OCC
11 believed that it was permissible for a national
12 bank.

13 Q. (BY MR. ORTIZ) Well, was that not good
14 enough for you?

15 A. We were dealing with State-chartered
16 institutions, and again, the Wyoming legislation
17 had created a bespoke regulatory structure that
18 did not include Federal supervision under the
19 existing framework.

20 Q. Well, you agree that the whole concept
21 of the Monetary Control Act is that you can't
22 allow member banks to do something, but then tell
23 State-chartered banks it's illegal them for them
24 to do it, right?

25 MR. MICHAELSON: Objection, form.

1 A. The Monetary Control Act was focused on
2 the financial services provided by the regional
3 Reserve Banks, and not the broader regulatory
4 framework of the banking agencies.

5 Q. (BY MR. ORTIZ) How do you know that?

6 A. Because we would apply the Monetary
7 Control Act provisions to our provision of
8 financial services and the access to a Federal
9 Reserve banking account.

10 Q. Because the Federal, the Monetary
11 Control Act says all State-chartered banks are
12 entitled to all Federal services. That's what
13 Monetary Control Act says, right?

14 MR. MICHAELSON: Objection, form,
15 misstates the statute.

16 Q. (BY MR. ORTIZ) True?

17 A. The Monetary Control Act allowed for
18 equal access to those services as a legal
19 eligibility requirement.

20 (Exhibit 176 was marked by the
21 reporter for identification.)

22 Q. (BY MR. ORTIZ) So I'm handing you what
23 we've marked as Deposition Exhibit 176 which is
24 the Interpretive Letter Number 1170, July, 2020
25 from the Office of the Comptroller of the

1 of Governors to answer those questions for you?

2 A. Our staff would have had long-standing
3 relationships with the Board staff, who would
4 have dealt with these issues both at a policy
5 level, at a risk level, and that's where the
6 initial conversations took place.

7 Q. So let's kind of break down when you're
8 analyzing whether Custodia could get a master
9 account in your view, tell me the specific issues
10 that you needed the Board Of Governors to make a
11 decision on versus something you think you can do
12 at the Kansas City Fed level.

13 MR. MICHAELSON: Objection, form.

14 Q. (BY MR. ORTIZ) So I think you talked
15 about legal permissibility; is that right?

16 A. Right. So as we approached this issue
17 there were really in my mind three parts to this.
18 One was the threshold issue of legal eligibility.
19 The entity that normally issues routing transit
20 numbers had flagged this for the Reserve Bank
21 without issuing. They had asked the question
22 about whether the institution was legally
23 eligible. So that was a threshold question for
24 us.

25 The second question was the nature of

1 the activity itself, the framework with which
2 that activity would occur; in other words a
3 State-chartered entity that did not have Federal
4 supervision, and we were seeking the Board's
5 input as part of our decision-making to
6 understand was that raising broader policy issues
7 that we would need to take into account.

8 Q. So the Board has to make --

9 MR. MICHAELSON: Hold on. Let the
10 witness finish.

11 Q. (BY MR. ORTIZ) Go ahead, I'm sorry.

12 A. And the third question which was one
13 that we always involve is assuming those things
14 were affirmed, then we would make our independent
15 risk assessment around whether the institution
16 should be granted access.

17 Q. Were there other considerations that the
18 Board had to weigh in on that you could not do on
19 your own, other than what you have just described
20 for me?

21 A. Those were the general issues,
22 interpretation of law as it related to legal
23 eligibility, and consistency with a broader
24 policy framework, regulatory framework.

25 Q. How about the whole issue of monetary

1 by nominee Powell, whether he was going to be
2 Chairman of the Federal Reserve Board,
3 representations he made to Cynthia Lummis about
4 maybe moving this forward on the process, agreed?
5 That's how that timing worked out?

6 MR. MICHAELSON: Objection, form.

7 A. I would not have been privy to the
8 conversations between Chairman Powell and Senator
9 Lummis.

10 Q. (BY MR. ORTIZ) Did you attend any of
11 the hearings or watch any of the hearings and
12 statements he made, questions raised by Senator
13 Lummis when he was going through the confirmation
14 process?

15 A. I did not watch those confirmation
16 hearings.

17 MR. ORTIZ: Do you want to take
18 about a 7-minute break.

19 MR. MICHAELSON: Sure.

20 (Brief recess taken.)

21 Q. (BY MR. ORTIZ) I want to talk about a
22 couple of other -- you know, I was asking about
23 people that may have made comments to you. Do
24 you remember after Custodia had submitted its
25 application and put in all the materials, having

1 a conversation with Tara Humston where she said,
2 "Listen, I don't think there's any show-stoppers
3 here. It looks good to go"?

4 MR. MICHAELSON: Objection, form.

5 A. I do remember I had multiple
6 conversations with Tara. The term "show-stopper"
7 I recall was in the context of, "Do you have any
8 more information that you need?"

9 Q. (BY MR. ORTIZ) Okay. Explain that to
10 me.

11 A. So in our consideration of factors that
12 will influence our decision, our understanding of
13 risk, we will go back to the requesting party, to
14 the applicant to fill any gaps in information
15 that we think we don't have.

16 Those might be policies. They might be
17 a business plan. They may be artifacts that we
18 think are relevant to our decision-making.

19 Q. (BY MR. ORTIZ) So did Tara tell you
20 that she told Caitlin Long, "There's no
21 show-stoppers with your application," did she
22 report that to you?

23 A. I was aware of that frame, and in the
24 context of my conversation with Tara, my
25 understanding was, "Do we have all the

1 information from Custodia that is relevant to our
2 analysis?"

3 Q. And the report to you was, "Yes, and I
4 don't see any show-stoppers?"

5 A. I am aware of that, yes.

6 Q. That was her comment back to you?

7 A. That was her comment.

8 Q. And Tara, and I don't, just
9 colloquially, was she kind of like your
10 right-hand person on a lot of these issues?

11 A. Tara reported to me as the head of our
12 Division of Bank Supervision.

13 Q. Would it be fair to say you interfaced
14 with her with direct contact as much as anyone on
15 your team?

16 A. I did have regular status meetings with
17 Tara.

18 Q. Is that something where when you're in
19 town, you probably see and talk to her daily?

20 A. It may not be every day, but we worked
21 on the same floor and I could contact her.

22 Q. Is she one of those people, did you have
23 like a select few that had your cell number and
24 had the green light to call you any time they
25 wanted to?

1 interject, same objection regarding the Board's
2 assertion to the deliberative process. I think
3 it's okay to answer the question with yes or no,
4 whether you had concerns, but I instruct you not
5 to get into the substance of what the draft S
6 letter looked like, or the nature of any
7 questions or concerns or comments that FRBKC had
8 with respect to a draft S letter.

9 Q. (BY MR. ORTIZ) Is that correct, you had
10 concerns about the S letter?

11 A. I had concerns of whether the S letter
12 was necessary, given our long-standing practice
13 of consulting with the Board whenever we were
14 raised with unique or novel questions.

15 Q. That was the only concern you had?

16 A. That was my fundamental concern.

17 Q. Were there other concerns?

18 A. I did not see the S letter as changing
19 our authorities in any way, so I'm not sure I
20 understand your question.

21 Q. What is, had you ever seen an S letter
22 before directing you to do something at the
23 Kansas City Fed?

24 A. The Board of Governors uses S letters as
25 a guidance form across The Reserve Banks for the

1 Federal Reserve system, to ensure consistent
2 understanding of various expectations.

3 Q. When you -- I'm sorry for interrupting
4 you. When you get an S letter from the Board of
5 Governors, do you follow it? Do you follow the
6 directives of the S letter?

7 A. That would be the expectation.

8 Q. You can't just ignore it, correct?

9 A. You should not ignore it. It would be
10 our practice to follow the expectations.

11 Q. You get slapped by the mother ship if
12 you ignore the S letters, right?

13 MR. MICHAELSON: Objection, form.

14 A. Our expectation is that we want to
15 follow consistent practices.

16 Q. (BY MR. ORTIZ) Sure. So this is -- and
17 in the context of this S letter and these account
18 access guidelines really are applying directly to
19 novel institutions like Custodia, agreed?

20 MR. MICHAELSON: Objection, form.

21 A. No actually the guidelines are clear
22 that they apply to all institutions that have
23 access to Fed accounts.

24 Q. (BY MR. ORTIZ) Were the S letter and
25 the account access guidelines being circulated in

1 being able to communicate to potential requestors
2 for these accounts, with the expectations that we
3 had.

4 Q. So if we look at, when you said that the
5 guidelines, or this was published for public
6 comment, the S letter is not public. That is a
7 private document, is it not?

8 A. That would be internal to the Federal
9 Reserve.

10 Q. Sure, so if we look at the first couple
11 of pages of Exhibit 34 and we see things like
12 Board expectations, Board consultation process,
13 that type of stuff, that was never disseminated
14 to the public, was it?

15 A. Unless it was part of the guidelines,
16 that's what the public would have seen in terms
17 of any of those characterizations.

18 Q. And in fact, it was never in writing at
19 any time before that you had to give
20 predecisional drafts and memos to the Board of
21 Governors to weigh in on when you were making
22 decisions on master accounts. That was never in
23 writing anywhere before this S letter, was it?

24 A. I'm not aware that that was in writing.

25 Q. And, in fact, that wasn't the practice

1 A. October of 2020.

2 Q. (BY MR. ORTIZ) I apologize.

3 MR. SCARBOROUGH: Good objection.

4 Q. (BY MR. ORTIZ) I apologize -- has been
5 pending with you for basically 5 or 6 months,
6 correct?

7 A. That is correct.

8 Q. Just as an aside how long was it -- did
9 it normally take to assess risk on an institution
10 and give them an answer yea or nay on a master
11 account? That can be done in a couple of months
12 typically, can't it?

13 A. Yes, under routine circumstances it
14 typically moves quicker.

15 Q. So we're maybe six months in the
16 process, you're having, and this looks like to be
17 a phone call with President George and Governor
18 Brainard to discuss a new proposal from TCH.
19 What does that mean? What's TCH?

20 A. TCH is the acronym for the
21 clearinghouse. It's an association of the
22 largest banks.

23 Q. So I want to go down and look at your
24 notes there. It says, "Call with Bill," is it
25 "Demchak"?

1 Q. So have you ever seen Exhibit 185 which
2 are basically the questions and answers
3 associated with this letter from the Board of
4 Governors?

5 A. I don't remember these frequently asked
6 questions but --

7 Q. Did you have a general understanding
8 from any of your staff at the time that basically
9 if you were a member bank you could start
10 engaging in crypto-related asset activity and all
11 you had to do was give notice to your supervisor?

12 A. Yes, I would have been aware of this
13 guidance.

14 Q. So what this means is if you are a
15 member bank, you can do exactly what Custodia was
16 doing. You don't even have to ask permission.
17 You simply give notice that you're doing it,
18 right?

19 MR. MICHAELSON: Objection, form.

20 A. This was a requirement to give notice.
21 It wasn't an assessment of the risk associated
22 with these activities.

23 Q. (BY MR. ORTIZ) So Custodia has been
24 waiting now almost two years. We're at August of
25 '22. They have been waiting two years. You get

1 A. It is a first level supervisory
2 position.

3 Q. And the CRRM Department is -- kind of
4 basically has got the lead on the whole risk
5 assessment with Custodia, right?

6 A. That would be their area of
7 responsibility, yes.

8 Q. So I want to look at this. It says,
9 "Good afternoon. CRRM is working on a memo to
10 Esther regarding a potential decision on
11 Custodia's master account."

12 So this is December 6th, 2022. Did you
13 have an idea in early December they were working
14 on a memo for you on a potential decision?

15 A. So I wouldn't put the dates exactly
16 here, but in this timeframe, I would have asked
17 this team to begin to pull together a memo that
18 would state our position in potentially denying
19 this request.

20 Q. So this also says, "This is moving
21 pretty quick and there are some gaps that Judith,
22 Christi and I would like your help filling in,
23 given you are the experts. Do you have any idea
24 what that means, what gaps needed to be filled in
25 now that this was moving quick?"

1 it.

2 Q. What I would like to know from you is
3 did you have an understanding as to who actually
4 had drafted the memo that was sent to you in this
5 timeframe in Exhibit 51?

6 A. My understanding is that our staff did
7 the drafting of this memo.

8 Q. Just the Kansas City Fed staff?

9 A. The Kansas City staff, yes.

10 Q. Do you know if the Board weighed in on
11 multiple occasions and made edits and additions
12 and corrections as to what they wanted that memo
13 to say?

14 MR. MICHAELSON: Object to form.

15 A. I am not aware that they would have been
16 involved in that.

17 Q. (BY MR. ORTIZ) That would surprise you
18 if that happened, wouldn't it?

19 A. It would not surprise me that the staff
20 would be sharing their analysis.

21 Q. But it would surprise you if someone
22 from the Board started doing rewrites and
23 additions and edits?

24 MR. MICHAELSON: Object to form.

25 A. I don't know if it would surprise me.

1 seen in the last 20 years?

2 MR. MICHAELSON: Object to form.

3 A. I wouldn't know. I wouldn't know.

4 Q. (BY MR. ORTIZ) It's pretty rare, isn't
5 it?

6 A. I would think there would be not many,
7 compared to what we see coming out of the
8 Division of Bank Supervision.

9 Q. And that would be the SR-type letters?

10 A. The SR-type letters.

11 Q. So an S letter that comes and is dealing
12 with these account access issues, can you think
13 of another one that you received other than S
14 letter 2667?

15 MR. MICHAELSON: Object to form.

16 MR. ORTIZ: 2677.

17 Q. (BY MR. ORTIZ) Whatever the number is.

18 MR. MICHAELSON: Object to form.

19 Q. (BY MR. ORTIZ) Have you seen another
20 one other than the S letter in the guidelines
21 we've talked about in this case?

22 A. No. Given the nature of the guidelines
23 I saw this S letter as accompanying those as a
24 compliment.

25 Q. (BY MR. ORTIZ) And my question is, is

1 that the only one you've seen say in the last 20
2 years, the S letter?

3 MR. MICHAELSON: Object to form.

4 A. I cannot remember any other S letters.

5 Q. (BY MR. ORTIZ) You can't remember any
6 others?

7 A. It doesn't mean they are not there. I
8 just don't -- I couldn't name one for you.

9 Q. Let me hand you what's already in
10 evidence as Exhibit 37. Is this a copy of the
11 actual denial letter that went out to Caitlin
12 Long at Custodia?

13 A. Yes, I think this is the SR letter.

14 Q. And I apologize, you're right. This was
15 broken down into a short one-page letter that you
16 signed then with an attachment of the summary
17 analysis.

18 A. Yes.

19 Q. Okay, so your team did follow your
20 requests there in the last day or two?

21 A. Yes.

22 Q. Now did you know that this decision had
23 been leaked out to media sources and was being
24 recorded the day before the letter was issued?

25 MR. MICHAELSON: Object to form.

1 on Custodia, and they made it clear to you they
2 would do that, didn't they?

3 A. That was under a different legal and
4 regulatory framework than our tradition and
5 decades of information sharing.

6 Q. As to specifically SPDI institutions,
7 Albert Forkner made it clear they were going to
8 share all the information you wanted as to those
9 charters, didn't he?

10 A. I believe Albert would have been willing
11 to share information.

12 Q. So this whole issue of you not having
13 data or access to information, that's not true
14 either, is it?

15 MR. MICHAELSON: Object to form.

16 Q. (BY MR. ORTIZ) Because you had
17 everything the Banking Commission in Wyoming had,
18 you could have gotten access to, true?

19 MR. MICHAELSON: Objection to form.

20 A. I was not aware that we had any
21 authority to compel that information to be shared
22 with us.

23 Q. (BY MR. ORTIZ) Well, if you had
24 information sharing agreements in place with the
25 State of Wyoming for banks that they chartered,

1 they were being managed, in compliance with
2 relevant laws and regulations.

3 Q. (BY MR. ORTIZ) Did you know that
4 Custodia was actually invited by your staff to
5 remediate the risks and resubmit their risk
6 management plan?

7 A. It would not be unusual for an
8 institution that we've raised questions with to
9 come back at another time and resubmit a request.

10 Q. Would you agree, given the parameters
11 you've talked about, a broad question, if you're
12 a novel start-up wanting to deal with digital
13 assets and you're a State-chartered entity, like
14 Custodia, you can never get a master account.
15 You can't.

16 MR. MICHAELSON: Object to form,
17 calls for speculation.

18 A. I can't answer that question.

19 Q. (BY MR. ORTIZ) You don't see a pathway
20 for that as you sit here right now, though, do
21 you?

22 A. I did not see it as of January 27th.

23 Q. You have been really patient. That's
24 all the questions I have.

25 MR. MICHAELSON: No further