

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

R.J. ZAYED, In His Capacity As
Court-Appointed Receiver For The
Oxford Global Partners, LLC,
Universal Brokerage, FX, and Other
Receiver Entities,

Plaintiff,

vs.

ASSOCIATED BANK, N.A.,

Defendant.

Case No. 13-cv-00232
(DSD-JSM)

**Exhibit Index to Defendant Associated Bank, N.A.'s Motion for Attorneys'
Fees Pursuant to Rule 37(c)(2)**

| <u>Exhibit</u> | <u>Description</u> |
|----------------|--|
| 1 | Plaintiff R.J. Zayed's Response to Defendant Associated Bank, N.A.'s Third Set of Requests For Admission |
| 2 | Plaintiff R.J. Zayed's Response to Defendant Associated Bank, N.A.'s First Set of Requests for Admission |
| 3 | Deposition of Catherine A. Ghiglieri, August 11, 2016 |

Dated: February 15, 2017

s/ Charles F. Webber

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EXHIBIT 1

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

R.J. ZAYED, in His Capacity as Court-Appointed Receiver for the Oxford Global Partners, LLC, Universal Brokerage, FX, and Other Receiver Entities,

Plaintiff,

vs.

ASSOCIATED BANK, N.A.,

Defendant.

Case No. 13-cv-00232 (DSD-JM)

**PLAINTIFF R.J. ZAYED'S RESPONSE TO DEFENDANT ASSOCIATED BANK,
N.A.'S THIRD SET OF REQUESTS FOR ADMISSION**

Plaintiff R.J. Zayed hereby objects and responds to Defendant Associated Bank, N.A.'s Third Set of Requests for Admission, as follows:

PRELIMINARY STATEMENT

Plaintiff objects to these requests as premature prior to the close of fact discovery. Plaintiff's responses, while based upon diligent exploration by Plaintiff and his counsel, are necessarily limited to the current status of Plaintiff's knowledge, understanding, and belief responding to the matter about which Defendant has inquired. Discovery in this action is continuing. Consequently, Plaintiff may not yet have discovered all documents, information, or facts pertinent to these requests to admit, and may not yet have identified or located all persons with knowledge or pertinent information or facts. As discovery in this action proceeds, Plaintiff anticipates that he will discover additional or different documents, information, or facts. Plaintiff reserves the right to modify or supplement his individual responses with pertinent documents, information, or facts, as discovery continues. Furthermore, these responses are without prejudice to Plaintiff's right to use or rely on at any time, including trial, any documents, information, or

facts omitted from these responses for any reason, including as a result of mistake, error, oversight or inadvertence. Plaintiff further reserves the right to produce additional documents, information, or facts in evidence at any time, including trial, and to object on appropriate grounds to the introduction into evidence of any portion of these responses.

REQUESTS FOR ADMISSION

REQUEST NO. 33:

Admit or deny that You have no evidence that, during the relevant period, Lien Sarles knew about the Ponzi Scheme.

ANSWER: Denied.

REQUEST NO. 34:

Admit or deny that You have no evidence that, during the relevant period, Stephen Bianchi knew about the Ponzi Scheme.

ANSWER: Denied.

REQUEST NO. 35:

Admit or deny that You have no evidence that, during the relevant period, Nataliya Espey knew about the Ponzi Scheme.

ANSWER: Denied.

REQUEST NO. 36:

Admit or deny that You have no evidence that, during the relevant period, Ryan Rasske knew about the Ponzi Scheme.

ANSWER: Denied.

REQUEST NO. 37:

Admit or deny that You have no evidence that, during the relevant period, Bonnie Skorczewski knew about the Ponzi Scheme.

ANSWER: Denied.

REQUEST NO. 38:

Admit or deny that You have no evidence that during the relevant period that Patricia Fraser-Carter knew about the Ponzi Scheme.

ANSWER: Admitted.

REQUEST NO. 39:

Admit or deny that You have no evidence that, during the relevant period, Eileen Paulson knew about the Ponzi Scheme.

ANSWER: Denied.

REQUEST NO. 40:

Admit or deny that You have no evidence that, during the relevant period, Tamara Simon knew about the Ponzi Scheme.

ANSWER: Denied.

REQUEST NO. 41:

Admit or deny that You have no evidence that, during the relevant period, David Martens knew about the Ponzi Scheme.

ANSWER: Denied.

REQUEST NO. 42:

Admit or deny that You have no evidence that, during the relevant period, Jennifer Cox knew about the Ponzi Scheme.

ANSWER: Denied.

REQUEST NO. 43:

Admit or deny that You have no evidence that, during the relevant period, Neil Purtell knew about the Ponzi Scheme.

ANSWER: Admitted.

REQUEST NO. 44:

Admit or deny that You have no evidence that, during the relevant period, Cecilia Jaap knew about the Ponzi Scheme.

ANSWER: Denied.

REQUEST NO. 45:

Admit or deny that You have no evidence that, during the relevant period, Barbara Regan knew about the Ponzi Scheme.

ANSWER: Denied.

REQUEST NO. 46:

Admit or deny that You have no evidence that, during the relevant period, Tammy Sotebeer knew about the Ponzi Scheme.

ANSWER: Admitted.

REQUEST NO. 47:

Admit or deny that You have no evidence that, during the relevant period, any Employee of any Cook-Kiley Entity communicated the existence of the Ponzi Scheme to any Employee of Associated Bank.

ANSWER: Denied.

REQUEST NO. 48:

Admit or deny that You have no evidence that, during the relevant period, any Employee of any Cook-Kiley Entity communicated to any Employee of Associated Bank that Trevor Cook was perpetrating a fraud.

ANSWER: Denied.

REQUEST NO. 49:

Admit or deny that You have no evidence that, during the relevant period, any Employee of any Cook-Kiley Entity communicated to any Employee of Associated Bank that Patrick Kiley was perpetrating a fraud.

ANSWER: Denied.

REQUEST NO. 50

Admit or deny that You have no evidence that, during the relevant period, any Employee of any Cook-Kiley Entity communicated to any Employee of Associated Bank that Jason Bo-Alan Beckman was perpetrating a fraud.

ANSWER: Admitted.

REQUEST NO. 51:

Admit or deny that You have no evidence that, during the relevant period, any Employee of any Cook-Kiley Entity communicated to any Employee of Associated Bank that Christopher Pettengill was perpetrating a fraud.

ANSWER: Admitted.

REQUEST NO. 52:

Admit or deny that You have no evidence that, during the relevant period, any Employee of any Cook-Kiley Entity communicated to any Employee of Associated Bank that Gerald Durand was perpetrating a fraud.

ANSWER: Admitted.

REQUEST NO. 53:

Admit or deny that You have no evidence that, during the relevant period, any Employee of any Cook-Kiley Entity communicated to any Employee of Associated Bank that Trevor Cook beached [sic] his fiduciary duties toward any Cook-Kiley Entity.

ANSWER: Denied.

REQUEST NO. 54:

Admit or deny that You have no evidence that, during the relevant period, any Employee of any Cook-Kiley Entity communicated to any Employee of Associated Bank that Patrick Kiley beached [sic] his fiduciary duties toward any Cook-Kiley Entity.

ANSWER: Denied.

REQUEST NO. 55:

Admit or deny that You have no evidence that, during the relevant period, any Employee of any Cook-Kiley Entity communicated to any Employee of Associated Bank that Christopher Pettengill beached [sic] his fiduciary duties toward any Cook-Kiley Entity.

ANSWER: Denied.

REQUEST NO. 56:

Admit or deny that You have no evidence that, during the relevant period, any Employee of any Cook-Kiley Entity communicated to any Employee of Associated Bank that Trevor Cook wrongfully asserted dominion and control over funds entrusted to any Cook-Kiley Entity.

ANSWER: Denied.

REQUEST NO. 57:

Admit or deny that You have no evidence that, during the relevant period, any Employee of any Cook-Kiley Entity communicated to any Employee of Associated Bank that Patrick Kiley wrongfully asserted dominion and control over funds entrusted to any Cook-Kiley Entity.

ANSWER: Denied.

REQUEST NO. 58:

Admit or deny that You have no evidence that, during the relevant period, any Employee of Bremer Bank knew about the Ponzi Scheme.

ANSWER: Plaintiff objects to this request as beyond the scope of Rule 26(b)(1) as Bremer Bank is not a party to this litigation.

REQUEST NO. 59:

Admit or deny that You have no evidence that, during the relevant period, any Employee of Citibank knew about the Ponzi Scheme.

ANSWER: Plaintiff objects to this request as beyond the scope of Rule 26(b)(1) as Citibank Bank is not a party to this litigation.

REQUEST NO. 60:

Admit or deny that You have no evidence that, during the relevant period, any Employee of Credit Suisse knew about the Ponzi Scheme.

ANSWER: Plaintiff objects to this request as beyond the scope of Rule 26(b)(1) as Credit Suisse is not a party to this litigation.

REQUEST NO. 61:

Admit or deny that You have no evidence that, during the relevant period, any Employee of JPMorgan Chase knew about the Ponzi Scheme.

ANSWER: Plaintiff objects to this request as beyond the scope of Rule 26(b)(1) as JPMorgan Chase is not a party to this litigation.

REQUEST NO. 62:

Admit or deny that You have no evidence that, during the relevant period, any Employee of Metrobank S.A. knew about the Ponzi Scheme.

ANSWER: Plaintiff objects to this request as beyond the scope of Rule 26(b)(1) as Metrobank S.A. is not a party to this litigation.

REQUEST NO. 63:

Admit or deny that You have no evidence that, during the relevant period, any Employee of Peregrine Financial Group knew about the Ponzi Scheme.

ANSWER: Plaintiff objects to this request as beyond the scope of Rule 26(b)(1) as Perigrine Financial Group is not a party to this litigation.

REQUEST NO. 64:

Admit or deny that You have no evidence that, during the relevant period, any Employee of Saxo Bank knew about the Ponzi Scheme.

ANSWER: Plaintiff objects to this request as beyond the scope of Rule 26(b)(1) as Saxo Bank is not a party to this litigation.

REQUEST NO. 65:

Admit or deny that You have no evidence that, during the relevant period, any Employee of Voyager Bank knew about the Ponzi Scheme.

ANSWER: Plaintiff objects to this request as beyond the scope of Rule 26(b)(1) as Voyager Bank is not a party to this litigation.

REQUEST NO. 66:

Admit or deny that You have no evidence that, during the relevant period, any Employee of Wells Fargo Bank, N.A. knew about the Ponzi Scheme.

ANSWER: Plaintiff objects to this request as beyond the scope of Rule 26(b)(1) as Wells Fargo Bank, N.A. is not a party to this litigation.

REQUEST NO. 67:

Admit or deny that You do not have evidence that contradicts John Loebel's testimony that in July 2009, he observed Ruthie Riehm and Julia Smith Gilsrud shredding client files at the Receivership Entities' Tiffany Court office. Trial Tr. at 4078:8-20, *United States v. Beckman*, Case No. 0:11-cr-0228-MJD-JJK (D. Minn. May 23, 2012) (ECF No.525).

ANSWER: Admitted.

REQUEST NO. 68:

Admit or deny that You do not have evidence describing the contents of the client files shredded by Ruthie Riehm and Julia Smith Gilsrud.

ANSWER: The Receiver cannot truthfully admit or deny this request because it does not know whether the premise – namely, that client files were shredded – is true or not. The alleged acts took place before this Court appointed the plaintiff as Receiver. The Receiver further answers that, even assuming the premise to be true, the Receiver has made reasonable inquiry and that the information he knows or can readily obtain does not permit him to admit or deny this request.

REQUEST NO. 69:

Admit or deny that You do not have evidence that the client files shredded by Ruthie Riehm and Julia Smith Gilsrud can be restored or replaced through additional discovery.

ANSWER: The Receiver cannot truthfully admit or deny this request because it does not know whether the premise – namely, that client files were shredded – is true or not. The alleged acts took place before this Court appointed the plaintiff as Receiver. The Receiver further answers that, even assuming the premise to be true, the Receiver has made reasonable inquiry and the information he knows or can readily obtain does not permit him to admit or deny this request.

Further, even assuming the premise of this request to be true, the Receiver might still deny it. John Loebel testified that the allegedly shredded files were being “consolidated” to a compact disc for preservation “to be given to the authorities” “per the authorities’ request.” Trial Tr. at 4078:15-18, *United States v. Beckman*, Case No. 0:11-cr-0228-MJD-JJK (D. Minn. May 23, 2012) (ECF No.525). Mr. Loebel's testimony is some evidence that allegedly shredded client files are represented by other discovery.

REQUEST NO. 70:

Admit or deny that You do not have evidence that contradicts Bradley Smallfield's testimony that in July 2009 he observed Patrick Kiley, Trevor Cook, and Graham Cook removing computers from the Receivership Entities' offices at the Price Security Bank Building after business hours in "a hurry." Trial Tr. at 4148:9-4151:2.; *United States v. Beckman*, Case No. 0:11-cr-0228 MJD-JJK (D. Minn. May 23, 2012) (ECF No. 525).

ANSWER: Admitted.

REQUEST NO. 71:

Admit or deny that You do not have evidence describing the content of the computers that Patrick Kiley, Trevor Cook, and Graham Cook removed from the Receivership Entities' offices at the Price Security Bank Building in July 2009.

ANSWER: The Receiver cannot truthfully admit or deny this request because it does not know whether the premise – namely, that computers were removed from Receivership Entities' offices – is true or not. The alleged acts took place before this Court appointed the plaintiff as Receiver. The Receiver further answers that, even assuming the premise to be true, the Receiver has made reasonable inquiry and the information he knows or can readily obtain does not permit him to admit or deny this request.

Even assuming the premise of this request to be true, the Receiver denies it. Bradley Smallfield testified that "one guy" responded to Smallfield's question about "computer problems," indicating that "Windows Vista" was crashing the computers. That certain computers contained Windows Vista would, in part, "describe some of the content" of those computers.

REQUEST NO. 72:

Admit or deny that You do not have evidence that contents of the computers that Patrick Kiley, Trevor Cook, and Graham Cook removed from the Receivership Entities' offices at the Price Security Bank Building in July 2009 can be restored or replaced through additional discovery.

ANSWER: The Receiver cannot truthfully admit or deny this request because it does not know whether the premise – namely, that computers were removed from Receivership Entities' offices – is true or not. The alleged acts took place before this Court appointed the plaintiff as Receiver. The Receiver further answers that, even assuming the premise to be true, the Receiver has made reasonable inquiry and that the information he knows or can readily obtain does not permit him to admit or deny this request

REQUEST NO. 73:

Admit or deny that You do not have evidence that contradicts Julia Smith Gilsrud's testimony that in July 2009 paper documents went missing from her work area at the Receivership Entities' Tiffany Court office. Hr'g Tr. at 73:1-11, *U.S. Commodity Futures Trading Comm'n v. Cook*, Case No. 09-cv-03332-MJD-FLN (D. Minn. Jan. 8, 2010).

ANSWER: The Receiver admits that he does not have evidence contradicting Ms. Smith Gilsrud's testimony that certain files "went missing," to the extent that the request suggests that such files were moved from where she stored them under her desk. The Receiver denies that it lacks evidence contradicting Ms. Smith Gilsrud's testimony that "copies of all the wires that [she] had done for Trevor [Cook] are "missing" – *i.e.*, that such documents no longer exist.

REQUEST NO. 74:

Admit or deny that You do not have evidence that contradicts Julia Smith Gilsrud's testimony that in July 2009 files went missing from her computer at the Receivership Entities' Tiffany Court office. Hr'g Tr. at 71:19-72:25, *U.S. Commodity Futures Trading Comm'n v. Cook*, Case No. 09-cv-03332-MJD-FLN (D. Minn. Jan. 8, 2010).

ANSWER: The Receiver admits that Julia Smith testified that certain files appeared to be missing from her work computer. The Receiver denies that he lacks evidence contradicting the implication that the files remained missing. Ms. Smith Gilsrud testified that she made Graham Cook aware that certain files appeared to be missing and that she needed these files. Ms. Smith Gilsrud further testified that Mr. Graham Cook told Ms. Smith that after switching her computer with a new computer, he would "swap the documents that [she] still needed." Ms. Smith Gilsrud's request and Mr. Graham Cook's response are evidence that such files did not remain "missing" from her computer.

REQUEST NO. 75:

Admit or deny that the Oxford Private Client Group, LLC did at times manage legitimate securities investments on behalf of certain clients.

ANSWER: Admitted.

Dated: February 16, 2016

Respectfully submitted,

/s/ William W. Flachsbart

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*Attorneys for Plaintiff R.J. Zayed, in his Capacity
as Court-Appointed Receiver*

CERTIFICATE OF SERVICE

The undersigned attorney of record certifies that on February 16, 2016, copies of the foregoing document were served upon counsel for Defendant via e-mail to the following addresses:

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/s/ William W. Flachsbart

William W. Flachsbart

EXHIBIT 2

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

R.J. ZAYED, in His Capacity as Court-Appointed Receiver for the Oxford Global Partners, LLC, Universal Brokerage, FX, and Other Receiver Entities,

Plaintiff,

vs.

ASSOCIATED BANK, N.A.,

Defendant.

Case No. 13-cv-00232 (DSD-JM)

**PLAINTIFF R.J. ZAYED'S RESPONSE TO DEFENDANT ASSOCIATED BANK, N.A.'S
FIRST SET OF REQUESTS FOR ADMISSION**

Plaintiff R.J. Zayed hereby objects and responds to Defendant Associated Bank, N.A.'s First Set of Requests for Admission, as follows:

PRELIMINARY STATEMENT

These responses, while based upon diligent exploration by Plaintiff and his counsel, reflect the current status of Plaintiff's knowledge, understanding, and belief responding to the matter about which Defendant has inquired. Discovery in this action has just begun and is continuing. Consequently, Plaintiff may not yet have discovered all documents, information, or facts pertinent to these requests to admit, and may not yet have identified or located all persons with knowledge or pertinent information or facts. As discovery in this action proceeds, Plaintiff anticipates that he will discover additional or different documents, information, or facts. Plaintiff reserves the right to modify or supplement his individual responses with pertinent documents, information, or facts, as discovery continues. Furthermore, these responses are without prejudice to Plaintiff's right to use or rely on at any time, including trial, any documents, information, or facts omitted from these responses for any reason, including as a

result of mistake, error, oversight or inadvertence. Plaintiff further reserves the right to produce additional documents, information, or facts in evidence at any time, including trial, and to object on appropriate grounds to the introduction into evidence of any portion of these responses.

REQUESTS FOR ADMISSION

REQUEST NO. 1:

During the relevant time period, no Employee of any Cook-Kiley Entity communicated the existence of the Ponzi Scheme to any Employee of Associated Bank.

ANSWER:

Denied.

REQUEST NO. 2:

During the relevant time period, no Employee of any Cook-Kiley Entity communicated to any Employee of Associated Bank that any Cook-Kiley Entity was perpetrating a fraud.

ANSWER:

Plaintiff has made reasonable inquiry and the information he knows or can readily obtain is insufficient to enable him to admit or deny Request No. 2.

REQUEST NO. 3:

During the relevant time period, no Employee of any Cook-Kiley Entity communicated to any Employee of Associated Bank that any Cook-Kiley Entity was breaching its fiduciary duties.

ANSWER:

Plaintiff has made reasonable inquiry and the information he knows or can readily obtain is insufficient to enable him to admit or deny Request No. 3.

REQUEST NO. 4:

During the relevant time period, no Employee of any Cook-Kiley Entity communicated to any Employee of Associated Bank that any Cook-Kiley Entity was committing the tort of conversion.

ANSWER:

Plaintiff has made reasonable inquiry and the information he knows or can readily obtain is insufficient to enable him to admit or deny Request No. 4.

REQUEST NO. 5:

During the relevant time period, no Employee of any Cook-Kiley Entity communicated to any Employee of Associated Bank that any Cook-Kiley Entity was making false representations or omissions.

ANSWER:

Plaintiff has made reasonable inquiry and the information he knows or can readily obtain is insufficient to enable him to admit or deny Request No. 5.

REQUEST NO. 6:

Julia Smith Gilsrud invested \$9,500 with the Cook-Kiley Entities.

ANSWER:

Plaintiff objects to the word “invested” as vague and undefined. Subject to and without waiving the objection, Plaintiff admits that Julia Smith transferred \$9,500 to the Cook-Kiley Entities, but denies the remainder of Request No. 6.

REQUEST NO. 7:

Michael Behm invested \$5,000 with the Cook-Kiley Entities.

ANSWER:

Plaintiff objects to the word “invested” as vague and undefined. Subject to and without waiving the objection, Plaintiff admits that Michael Behm transferred \$5,000 to the Cook-Kiley Entities, but denies the remainder of Request No. 7.

REQUEST NO. 8:

At Patrick Kiley’s direction, Julia Smith Gilsrud and Ruthie Riehm destroyed documents kept at the Cook-Kiley Entities’ office at 12644 Tiffany Court, Burnsville, MN 55337-3487.

ANSWER:

Plaintiff has made reasonable inquiry and the information he knows or can readily obtain is insufficient to enable him to admit or deny Request No. 8.

REQUEST NO. 9:

In July 2009, Patrick Kiley, Trevor Cook, and Graham Cook removed computers from the Cook-Kiley Entities' office at the Prime Security Bank building in Eagan, Minnesota.

ANSWER:

Plaintiff has made reasonable inquiry and the information he knows or can readily obtain is insufficient to enable him to admit or deny Request No. 9.

REQUEST NO. 10:

Lien Sarles received no money from any Employee of any Cook-Kiley Entity.

ANSWER:

Denied.

REQUEST NO. 11:

Wells Fargo, Charles Schwab, Saxo Bank, and Credit Suisse had no knowledge of the Ponzi Scheme prior to June 22, 2009.

ANSWER:

Plaintiff has made reasonable inquiry and the information he knows or can readily obtain is insufficient to enable him to admit or deny Request No. 11.

REQUEST NO. 12:

In Your Complaint, the term "Receivership Entities" includes: 1) the estates of Trevor G. Cook, Patrick J. Kiley, and Jason Bo-Alan Beckman (2) UBS Diversified Growth LLC; Universal Brokerage FX Management, LLC; Oxford Global Advisors, LLC; and Oxford Global Partners, LLC, (3) Basel Group, LLC; Crown Forex, LLC; Market Shot, LLC; PFG Coin and Bullion; Oxford Developers, S.A.; Oxford FX Growth, L.P.; Oxford Global Managed Futures Fund; UBS Diversified FX Advisors, LLC; UBS Diversified FX Growth L.P.; and UBS Diversified FX Management, LLC.

ANSWER:

Admitted.

Dated: September 23, 2015

Respectfully submitted,

/s/ William W. Flachsbart

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*Attorneys for Plaintiff R.J. Zayed, in his
Capacity as Court-Appointed Receiver*

CERTIFICATE OF SERVICE

The undersigned attorney of record certifies that on September 23, 2015, copies of the foregoing document were served upon counsel for Defendant via e-mail and U.S. Mail to the following addresses:

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/s/ William W. Flachsbart
William W. Flachsbart

EXHIBIT 3

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IN THE UNITED STATES DISTRICT COURT
FOR DISTRICT OF MINNESOTA

| | | |
|------------------------|---|-----------------------|
| R.J. ZAYED, | § | |
| | § | |
| Plaintiff, | § | |
| | § | |
| VS. | § | COURT FILE: |
| | § | NO. 11cv01042 SRN/FLN |
| ASSOCIATED BANK, N.A., | § | |
| | § | |
| Defendant. | § | |

ORAL AND VIDEOTAPED DEPOSITION OF
CATHERINE A. GHIGLIERI
AUGUST 11, 2016
AUSTIN, TX

ORAL AND VIDEOTAPED DEPOSITION OF
CATHERINE A. GHIGLIERI, produced as a witness at
the instance of the Defendant and duly sworn, was
taken in the above styled and numbered cause on
Thursday, August 11, 2016, from 9:40 a.m. to
5:11 p.m. p.m. before TAMARA CHAPMAN, CSR, RPR in
and for the State of Texas, reported by
computerized stenotype machine, at the offices of
Regus, 901 Mopac Expressway South, Building 1,
Suite 300, Austin, Texas, pursuant to the Federal
Rules of Civil Procedure and any provisions stated
on the record herein.

Page 2

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21

22 Lisa Murphy - CRI Compliance

23 Walter Bryan - The Videographer

24

25

Page 4

1 EXHIBITS

2 (Continued)

3 PAGE LINE

4 Exhibit 231148 12

5 12/31/04 Form 10-K

6 (No Bates - 98 pages)

7

8 Exhibit 232150 10

9 Consolidated and Amended Class Action

10 Complaint In Re: NetBank, Inc. Securities

11 Litigation

12 (No Bates - 220 pages)

13

14 Exhibit 233153 17

15 Supervisory Agreement

16 (No Bates - 11 pages)

17

18 Exhibit 234167 12

19 4/23/08 Audit Report

20 (No Bates - 57 pages)

21

22 Exhibit 235210 13

23 Articles of Organization Application

24 (AB-MIN-0034492)

25

26 Exhibit 236211 9

27 LLC Bank Account Requirements

28 (AB-MIN-0032340 - AB-MIN-0032343)

29

30 Exhibit 237254 12

31 Complaint

32 (No Bates - 47 pages)

33

34 Exhibit 238256 13

35 Office of the Minnesota Secretary of

36 State Certification of Administrative

37 Termination

38 (AB-MIN-0019300 - AB-MIN-0019302)

39

40 Exhibit 239263 19

41 Office of the Minnesota Secretary of

42 State Certificate of Administrative

43 Termination

44 (AB-MIN-0019294 - AB-MIN-0019296)

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 THE VIDEOGRAPHER: This is the
 3 start of tape labeled No. 1 of the video
 4 deposition of Catherine Ghiglieri, in the matter
 5 of R.J. Zayed, Plaintiff vs. Associated Bank, 09:40
 6 Defendant, in the U.S. District Court for the
 7 District of Minnesota. The cause number is
 8 11cv01042. This deposition is being held at
 9 901 Mopac Expressway, Building 1, Suite 300,
 10 Austin, Texas, on August 11, 2016, at 09:41
 11 approximately 9:40 a.m. My name is Walter Bryan.
 12 I'm the legal video specialist from TSG
 13 Reporting, Incorporated, headquartered at
 14 747 Third Avenue, New York, New York. The court
 15 reporter is Tamara Chapman, in association with 09:41
 16 TSG Reporting.
 17 Will counsel please introduce
 18 yourself.
 19 MR. MEDLOCK: Stephen Medlock for
 20 Mayer Brown, LLP, on behalf of Associated Bank 09:41
 21 NA.
 22 THE VIDEOGRAPHER: Would the court
 23 reporter please swear in the witness.
 24 CATHERINE A. GHIGLIERI,
 25 having been first duly sworn, testified as

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. So if you don't mind, I'll skip the**
 3 **formalities regarding the usual rules for**
 4 **depositions. But if you don't understand any of my**
 5 **questions at any point, just tell me so. 09:42**
 6 A. Okay.
 7 **Q. How much time did you spend preparing for**
 8 **this deposition today?**
 9 A. I probably spent about ten hours
 10 altogether. 09:42
 11 **Q. When you say "ten hours," how much of that**
 12 **time was spent meeting with your counsel, Mr. McVey,**
 13 **or others that work with him?**
 14 A. We spent about four hours yesterday,
 15 maybe. 09:43
 16 **Q. And what was the other six hours spent**
 17 **doing?**
 18 A. Responding to your subpoena, mostly.
 19 **Q. Besides meeting with Mr. McVey, have you**
 20 **met with anyone else to prepare for your deposition? 09:43**
 21 A. No.
 22 **Q. And it was just the one meeting with**
 23 **Mr. McVey?**
 24 A. Yes.
 25 **Q. Was anyone else present at the meeting 09:43**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 follows:
 3 EXAMINATION
 4 BY MR. MEDLOCK:
 5 **Q. Good morning. We were introduced off the 09:41**
 6 **record. But as a formality, could you please state**
 7 **and spell your full name.**
 8 A. My name is Catherine Ghiglieri,
 9 G-H-I-G-L-I-E-R-I. Catherine, C-A-T-H-E-R-I-N-E.
 10 **Q. What's your business address? 09:42**
 11 A. 2300 Cypress Point West, C-Y-P-R-E-S-S,
 12 Point West, Austin, Texas 78746.
 13 **Q. What is your home address?**
 14 A. That's my home address.
 15 **Q. So you work from your home? 09:42**
 16 A. I do.
 17 **Q. Okay. And do you find anything suspicious**
 18 **about the fact that you work from your home?**
 19 A. No.
 20 **Q. Are you involved in a fraud of any sort 09:42**
 21 **because you work from your home?**
 22 A. No.
 23 **Q. You've been deposed several times before.**
 24 **Correct?**
 25 A. Yes. 09:42

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 with Mr. McVey?
 3 A. Yes.
 4 **Q. Who else was present?**
 5 A. Tara Norgard was. 09:43
 6 THE WITNESS: I'm probably saying
 7 your last name wrong.
 8 A. Norgard was there for part of it.
 9 **Q. Was there anyone else who attended via**
 10 **phone? 09:43**
 11 A. No.
 12 **Q. During that meeting did you review any**
 13 **documents with Mr. McVey and Ms. Norgard?**
 14 A. Yes.
 15 **Q. Approximately how many documents did you 09:43**
 16 **review during that meeting?**
 17 A. I don't know. Maybe 30.
 18 **Q. Who selected the documents you reviewed?**
 19 A. I did.
 20 **Q. Did Mr. McVey or Ms. Norgard ever select 09:43**
 21 **any of the documents you reviewed during that**
 22 **preparation session?**
 23 A. No.
 24 **Q. Did any of those documents refresh your**
 25 **recollection as to any of the events surrounding this 09:44**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 case?
 3 A. Did it refresh my recollection?
 4 Q. Yes.
 5 A. I'm not really sure. 09:44
 6 Q. Did it jog your memory as to any facts
 7 regarding Associated Bank's BSA/AML policies for the
 8 2008 to 2009 time period?
 9 A. No.
 10 Q. Have you discussed this deposition with 09:44
 11 anyone other than Mr. McVey and Ms. Norgard?
 12 A. No.
 13 Q. Have you discussed this case with any
 14 other consulting experts?
 15 A. No. 09:44
 16 Q. Have you discussed this case with anyone
 17 from the U.S. -- U.S. Securities and Exchange
 18 Commission, or SEC?
 19 A. No.
 20 Q. How about a gentleman by the name of Scott 09:44
 21 Hlavacek, last name H-L-A-V-A-C-E-K? Have you ever
 22 had any discussions regarding this litigation with
 23 him?
 24 A. No.
 25 Q. Have you ever had any discussions with 09:44

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 produced pursuant to the subpoena, but I think it was
 3 October.
 4 Usually what I do is, on the day I talk to
 5 the lawyers, if I send them a contract, I'll date it. 09:45
 6 And I think it was October.
 7 Q. During that phone call which you say was
 8 around October 2012, what did Mr. Vogt tell you about
 9 the case?
 10 A. I don't remember specifics, but it's my 09:46
 11 normal practice to inquire about what the subject
 12 matter is and just figure out if it's something I
 13 would be interested in working on.
 14 So I -- I don't remember what specifically
 15 he told me, to tell you the truth. 09:46
 16 Q. How long did your conversation with
 17 Mr. Vogt last, if you remember?
 18 A. I have no idea. Maybe -- usually they
 19 last between 30 and 45 minutes, if -- you know, we
 20 have some sort of discussion about what's in the 09:46
 21 complaint, what kind of case it is. I tell them a
 22 little bit about myself. I run a conflicts check.
 23 So usually it lasts that long. I'm assuming that was
 24 the case here.
 25 Q. And that's your normal practice? 09:46

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 anyone from the U.S. Commodity Futures Trading
 3 Commission regarding this case?
 4 A. No.
 5 Q. Have you ever had any discussions with 09:45
 6 anyone from any law enforcement agency regarding this
 7 case?
 8 A. No.
 9 Q. Have you ever had any discussions with
 10 anyone from any bank regulatory agency, such as the 09:45
 11 OCC or OTS, regarding this matter?
 12 A. Well, the OTS doesn't exist, but the OCC,
 13 no.
 14 Q. And regarding any other bank regulatory
 15 agency, have you had any discussions with them 09:45
 16 regarding this case?
 17 A. No.
 18 Q. When did you first learn about this case?
 19 A. I was first called about the case in 2012.
 20 Q. Who called you? 09:45
 21 A. Keith Vogt. V-O-G-T I think is how you
 22 spell his name.
 23 Q. What time -- around what time period in
 24 2012 were you called by Mr. Vogt?
 25 A. We can look at the contracts that I 09:45

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. Yes.
 3 Q. But you don't know if that happened for
 4 certain in this case?
 5 A. That's correct. 09:47
 6 Q. Okay. Did -- and this conversation
 7 happened before you were retained as an expert in
 8 this case. Correct?
 9 A. Yes. Well, there would be no other way to
 10 do it. I mean, otherwise, how would I have been 09:47
 11 retained before the conversation, so --
 12 Q. Were you provided with any documents
 13 before you were retained as an expert in this case?
 14 A. I don't know if he e-mailed me the
 15 complaint before our conference call. Sometimes they 09:47
 16 e-mail me first and ask if, you know, I've got a
 17 conflict and then send me the complaint. I can't
 18 tell you for sure.
 19 If -- if I remember correctly, I don't
 20 think the complaint had been filed, but I'm -- I'm 09:47
 21 not 100 percent sure.
 22 Q. When you were retained initially in this
 23 matter, were you retained as a consulting expert or
 24 as a testifying expert?
 25 A. Well, I -- usually people don't make that 09:47

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 distinction. I mean, the lawyers don't make that
 3 distinction. But my contract says consulting and/or
 4 testifying.
 5 I mean, we can look at the contract to see 09:47
 6 the exact language, but I usually take a case
 7 assuming I'm going to also testify.
 8 **Q. Sure.**
 9 (Discussion off the written
 10 record.) 09:48
 11 (Exhibit 224, Consulting
 12 Agreement, no Bates - 3 pages, marked for
 13 identification as of this date.)
 14 (Discussion off the written
 15 record.) 09:48
 16 **Q. So I've put in front of you what we've**
 17 **marked as Exhibit No. 224 to your deposition.**
 18 **Have you had a chance to review that**
 19 **document?**
 20 A. Yes. 09:48
 21 **Q. Do you recognize the document?**
 22 A. I do.
 23 **Q. What is it?**
 24 A. This is the contract that I sent on
 25 October 2nd to Mr. Vogt. 09:48

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 identification as of this date.)
 3 **Q. So I've put in front of you what we've**
 4 **marked as Exhibit 225 to your deposition.**
 5 **As we did with the prior document, can you 09:50**
 6 **let me know when you've had a chance to review it?**
 7 A. Yes.
 8 **Q. And have you reviewed it?**
 9 A. Yes.
 10 **Q. Do you recognize this document? 09:50**
 11 A. Yes. This is the second contract that I
 12 sent on August 13th, 2015, to Keith Vogt and Tim
 13 McVey's firm and --
 14 **Q. And you also sent it to Mr. Flachsbart's**
 15 **firm as well? 09:50**
 16 A. Yes.
 17 **Q. And turning to Page 3 of the agreement, do**
 18 **you see your signature on that page?**
 19 A. I do.
 20 **Q. Looking at the dates of the signatures, it 09:50**
 21 **appears that you signed the agreement on**
 22 **November 7th, 2015, and the other attorneys or law**
 23 **firms signed on August 18th, 2015. Is that right?**
 24 A. That's probably right.
 25 **Q. Can you explain the discrepancy between 09:50**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. And turning to Page 3 of the agreement, do**
 3 **you recognize your signature?**
 4 A. Yes.
 5 **Q. And the -- the agreement is with Keith 09:49**
 6 **Vogt at the time he was employed by the law firm of**
 7 **Stadheim & Grear. Is that right?**
 8 A. Yes.
 9 **Q. All right. So this agreement was signed**
 10 **before the complaint was filed in this litigation. 09:49**
 11 **Is that right?**
 12 MR. MCVHEY: Objection; foundation.
 13 A. I don't know. I mean, I'd have to look at
 14 the complaint.
 15 I -- I seem to remember that it wasn't 09:49
 16 filed yet, and I gave some input on the complaint, if
 17 I remember correctly. But we'd have to look at the
 18 dates to be able to confirm that.
 19 **Q. So that's -- that's your best**
 20 **recollection, is that -- that you were retained 09:49**
 21 **before the complaint was filed?**
 22 A. Yes.
 23 **Q. Okay.**
 24 (Exhibit 225, Consulting
 25 Agreement, no Bates - 3 pages, marked for 09:50

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 the dates or the distance between the dates --
 3 A. Well --
 4 **Q. -- on the signatures?**
 5 A. -- not specifically, but just generally, I 09:51
 6 was involved in one or more large cases, and I
 7 just -- you know, by the time I finally got around to
 8 getting this case kind of organized in my office,
 9 that's when I signed it.
 10 **Q. Why did you sign two different retainer 09:51**
 11 **agreements regarding this case?**
 12 A. Because I -- I thought this case was over,
 13 and then when it sort of resurrected itself after the
 14 appeal, then -- I had raised my rates by then, and I,
 15 you know, was going to charge the current rate if I 09:51
 16 was going to get back involved in this case. So I
 17 had them sign another contract.
 18 Plus, the firm -- Keith was no longer with
 19 the firm that I had contracted with, so we needed
 20 another contract. 09:51
 21 **Q. Did anyone else at Ghigli- -- or -- I'm**
 22 **sorry. Is your last name --**
 23 A. Ghiglieri.
 24 **Q. Ghiglieri (pronouncing). Sorry.**
 25 A. It's Ghiglieri, yeah. 09:51

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. Did anyone else at Ghiglieri & Company**
 3 **perform any work related to the report you submitted**
 4 **in this case?**
 5 A. No. 09:52
 6 **Q. How many other employees are there at**
 7 **Ghiglieri & Company?**
 8 A. I'm the only employee that works on bank
 9 consulting or expert witness work, but my husband
 10 does -- is employed by the company, and he does, 09:52
 11 like, you know, maintenance of the equipment and
 12 stuff like that.
 13 So he -- he's a non- -- I don't know what
 14 you would call him, but he helps me but doesn't work
 15 on the cases. 09:52
 16 **Q. He does not perform litigation consulting**
 17 **work. Is that right?**
 18 A. Correct. Uh-huh.
 19 **Q. So no one else at Ghiglieri & Company**
 20 **reviewed any of the documents or deposition testimony 09:52**
 21 **that you cite in your report. Correct?**
 22 A. Yes.
 23 **Q. That's --**
 24 A. Correct.
 25 **Q. -- correct, no one else did? 09:52**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. So they put all the documents that the
 3 bank produced on a jump drive and sent it to me, and
 4 then I worked with both Keith and Tim to try and
 5 isolate bank policies, the ML Shield user guide, 09:53
 6 alert information, things like that, to actually get
 7 them printed.
 8 And some I ended up printing on my
 9 printer, but I don't have a big, giant printer, so
 10 they actually sent some to a printing company in 09:54
 11 Austin that I use for my clients so they can ship
 12 documents to me like that.
 13 So a combination of that.
 14 I reviewed some documents on the screen.
 15 I guess that's -- that's how I -- and that's my 09:54
 16 routine practice, so --
 17 **Q. Were there instances where Mr. Vogt or**
 18 **Mr. McVey suggested that you look at particular**
 19 **documents that were on the jump drive that you were**
 20 **provided? 09:54**
 21 A. No.
 22 **Q. How did you go about searching for the**
 23 **documents? Did you actually perform any, you know,**
 24 **keyword searches, or did you just scroll through the**
 25 **documents one by one looking for particular policies? 09:55**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. Correct.
 3 **Q. Other than attorneys, no one else assisted**
 4 **you in preparing your report that you submitted in**
 5 **this litigation? 09:52**
 6 A. Well, they didn't assist me. I just did
 7 it myself.
 8 **Q. During your -- the course of your work in**
 9 **this case, which attorneys have -- representing the**
 10 **receiver have you dealt with? 09:53**
 11 A. I have only dealt with Keith Vogt and Tim
 12 McVey directly in terms of getting documents --
 13 getting documents to the printer to be sent to me,
 14 organizing documents in response to the subpoena, and
 15 confirming the date for the deposition, things like 09:53
 16 that. But there have been other lawyers on
 17 conferences calls, but I have had no direct contact
 18 with them.
 19 **Q. Who -- you mentioned documents. Who**
 20 **selected the documents that you were provided in this 09:53**
 21 **case?**
 22 A. I did.
 23 **Q. You -- and can you explain to me how you**
 24 **went about selecting the documents that you cite in**
 25 **your report? 09:53**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. So I relied on the lawyers to help me do
 3 that because I didn't have -- you know, the jump
 4 drive isn't searchable as robustly as how it's
 5 produced to the law firms. So I relied on them to 09:55
 6 help me get the policies printed.
 7 And then what I did is -- at least how
 8 they were organized on the jump drive, they were in
 9 Bates ranges. So I went through and I spot-checked
 10 all of the different files that were on the jump 09:55
 11 drive to make sure I knew what was on there and to
 12 make sure that I didn't need a certain Bates -- Bates
 13 range printed.
 14 Like, for example, I had bank statement
 15 information printed. 09:55
 16 So, anyway, I -- it was kind of a process.
 17 It is a process that I go through for all my cases.
 18 **Q. Besides the documents on the jump drive,**
 19 **how do you decide what other documents you would**
 20 **review in connection with your work in this case? 09:56**
 21 A. So there are certain classes of documents
 22 that I always review. I review the complaint -- and
 23 they're listed in this report at Appendix C, what I
 24 reviewed. I always try and look at the court
 25 filings, you know, the interrogatory -- requests for 09:56

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 interrogatories and the requests for production.
 3 Sometimes I give some input into that, which I did in
 4 this case. I look at letters that you send regarding
 5 production to them. 09:56
 6 I usually always have the bank statements
 7 printed off, the policies and procedures, the user
 8 guide for the monitoring systems, things that I've
 9 already said.
 10 So it's just -- that's sort of the routine 09:56
 11 that I go through. The alerts and anything to do
 12 with the alerts. And that's what I did here.
 13 And then the account opening documents. I
 14 forgot to say that.
 15 And then if there's anything that I either 09:57
 16 can't understand or I think there has to be more of,
 17 I'll work with the lawyers to see if they can
 18 word-search it for me because sometimes the way that
 19 I have the documents isn't as easy to figure out
 20 where things are as the way that you produce them to 09:57
 21 them.
 22 And I just try and get a sense of all the
 23 documents. It's hard to look at every single page,
 24 but that's -- that's my routine.
 25 **Q. Did you request any documents related to 09:57**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Associated Bank. You did not feel that you needed to**
 3 **look at documents that were produced by Wells Fargo**
 4 **or any other bank to arrive at your opinions in this**
 5 **case. Is that right? 09:58**
 6 A. Yes.
 7 **Q. So you don't -- you'd agree with me you**
 8 **don't think it's relevant how Wells Fargo Bank**
 9 **treated the -- say the same or similar customers**
 10 **making the same or similar requests for account 09:59**
 11 **services?**
 12 A. No. It isn't relevant.
 13 **Q. You don't think it's relevant to whether**
 14 **Associated Bank's conduct is typical of other banks.**
 15 **Is that right? 09:59**
 16 A. I'm looking at what Wells Fargo did
 17 vis-à-vis the regulatory requirements, banking laws,
 18 regulations, and regulatory guides. That's what I'm
 19 looking at.
 20 **Q. When you say "Wells Fargo," you meant 09:59**
 21 **Associated Bank --**
 22 A. I'm sorry.
 23 **Q. -- in that last answer?**
 24 A. Associated Bank, yes.
 25 **Q. Is that right? 09:59**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **other banks, besides Associated Bank, from counsel in**
 3 **this case?**
 4 A. I don't think so. I'm not sure what you
 5 mean, "other banks." 09:57
 6 **Q. Were you aware that other -- that**
 7 **documents taken from the files of other banks have**
 8 **been produced in this litigation?**
 9 A. I'm not sure.
 10 **Q. You don't know one way or the other? 09:57**
 11 A. To tell you the truth, I just can't
 12 remember seeing other bank documents.
 13 **Q. Did you ever see a document that was**
 14 **produced from the files of Wells Fargo Bank?**
 15 A. No, I don't think so. 09:58
 16 **Q. Did you ever ask to review documents that**
 17 **were produced from the files of Wells Fargo Bank?**
 18 A. No. I wouldn't have because what I'm
 19 doing is looking at the documents from the standpoint
 20 of what the bank knew at the time. And unless the 09:58
 21 bank had the document from Wells Fargo in its files
 22 and it was Bates-stamped with the Associated Bank's
 23 Bates stamp, then I -- I wouldn't have considered it
 24 for my opinion.
 25 **Q. So your opinion is related solely to 09:58**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. Yes. I'm sorry.
 3 MR. MCVEY: I'll shut up.
 4 **Q. So to you it's just simply not relevant to**
 5 **whether Associated Bank's conduct was atypical to 09:59**
 6 **look at how other banks treated the same customers?**
 7 A. That's correct. What is atypical behavior
 8 is what Associated Bank did that was in contravention
 9 of the banking laws, regulations, and regulatory
 10 guidance which sets the standards, not other banks, 10:00
 11 but that -- that body of work and how Associated Bank
 12 either complied with it or didn't comply with it or
 13 conformed to the standards in the industry. It
 14 doesn't matter what other banks do. It matters what
 15 they did vis-à-vis that -- that body of -- of 10:00
 16 information.
 17 **Q. So when you said "standards in the**
 18 **industry," it's simply not relevant to you how Wells**
 19 **Fargo Bank treated the same or similar entities when**
 20 **determining what the standards in the industry are 10:00**
 21 **for -- for banking these types of customers?**
 22 A. That's exactly right. Because if three
 23 banks treated them improperly, I would not want to
 24 rely on what another bank did improperly to match to
 25 what Associated Bank did improperly. 10:00

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 I'm looking at what the banking laws,
 3 regulations, and regulatory guidance say about how
 4 you should deal with accounts and the monitoring of
 5 those accounts, the opening of those accounts, and 10:01
 6 that sets the standard in the industry, not what some
 7 other bank might improperly do.
 8 **Q. So you believe that the Bank Secrecy Act**
 9 **and the anti-money -- anti-money laundering**
 10 **regulations set a standard of care? 10:01**
 11 A. So "standard of care" is a legal term, and
 12 I'm not here to give legal opinions. But my opinion
 13 is that the standard in the industry -- and I say
 14 this in my report -- is established by what the
 15 banking laws, banking regulations, and regulatory 10:01
 16 guidance set forth in any given area. And, of
 17 course, the Bank Secrecy Act is sort of
 18 all-encompassing in the money laundering area, but,
 19 of course, there are safety and soundness
 20 considerations too that the regulators look at. 10:01
 21 So that entire body of information is what
 22 sets the standard, and banks have to conform to it if
 23 they're going to be conducting themselves in a
 24 typical banking fashion or if they're going to meet
 25 the standards in the banking industry. 10:02

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 industry what this bank is doing vis-à-vis another
 3 bank. I'm -- I am looking solely to what is the
 4 standard in the industry as set by the laws,
 5 regulations, and regulatory guidance. 10:03
 6 **Q. So you have no opinion regarding whether**
 7 **Wells Fargo Bank complied with the Bank Secrecy Act?**
 8 A. That's correct. I have not been hired
 9 regarding Wells Fargo in this case.
 10 **Q. And you have no opinion regarding whether 10:03**
 11 **Wells Fargo Bank complied with the federal anti-money**
 12 **laundering regulations. Correct?**
 13 A. That's the Bank Secrecy Act. That's
 14 correct.
 15 **Q. And you have no opinion regarding whether 10:04**
 16 **Wells Fargo Bank complied with any other banking**
 17 **regulation. Is that right?**
 18 A. That's right. I have no opinions
 19 regarding Wells Fargo. I wasn't hired to look at
 20 that. My sole focus in this case was Associated 10:04
 21 Bank.
 22 **Q. Are you aware of any complaint that has**
 23 **been filed against Wells Fargo Bank by the receiver?**
 24 A. No.
 25 **Q. Are you aware of any complaint that has 10:04**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. So to you it's simply not relevant how**
 3 **Wells Fargo Bank or other banks implemented their**
 4 **BSA/AML compliance procedures with regard to the same**
 5 **or similar customers? 10:02**
 6 A. Yes. So I guess this is like the tenth
 7 time I've said it. It doesn't matter to me what
 8 other banks do because other banks may be doing it
 9 incorrectly, or they may not be conforming to the
 10 standards in the banking industry. 10:02
 11 As a banking expert, I look at what is the
 12 standard in the industry, and the standard is set by
 13 the bank regulators and by what Congress has passed
 14 for banking laws, what the regulations are
 15 promulgated by the regulators, what the regulatory 10:02
 16 guidance is to the industry on how to comply with
 17 those regulations.
 18 And in this area in particular, the Bank
 19 Secrecy Act is -- there is a large volume of
 20 regulatory guidance. The FFIEC manual is, you know, 10:03
 21 500 pages. And that is what sets the standard in how
 22 banks conduct themselves in that area in a safe and
 23 sound manner, not what other banks are doing, which
 24 they could be doing improperly.
 25 I would never match as a standard in the 10:03

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **been filed by any of the investors in any of the**
 3 **receivership entities against Wells Fargo Bank?**
 4 A. No.
 5 **Q. Are you aware of any allegation by the OCC 10:04**
 6 **or the Federal Reserve or any other banking regulator**
 7 **that Wells Fargo Bank violated the Bank Secrecy Act**
 8 **or any other banking regulation with respect to the**
 9 **receivership entities?**
 10 A. I have no knowledge about any of it. 10:04
 11 **Q. All right. And your answer would be the**
 12 **same for -- to my last question would be the same if**
 13 **I had -- for any other bank. Correct? You didn't --**
 14 **besides Associated Bank, you didn't look to determine**
 15 **whether there's been any allegation that Deutsche 10:05**
 16 **Bank or Bank of America violated the Bank Secrecy Act**
 17 **or federal anti-money laundering regulations with**
 18 **respect to the receivership entities. Correct?**
 19 A. Yes, that's correct.
 20 MR. MEDLOCK: I'm going to adopt 10:05
 21 Mr. McVey's style and mark multiple documents at
 22 one time.
 23 MR. MCVEY: That's a good style.
 24 MR. MEDLOCK: I'm not criticizing.
 25 I'm using it. 10:05

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 (Exhibit 226, 9/14/15 Invoice, no
 3 Bates - 1 page; 227, 9/14/15 Invoice, no Bates -
 4 1 page; and 228, 7/20/16 Invoice, no Bates - 3
 5 pages, were marked for identification as of this 10:06
 6 date.)
 7 **Q. So I put in front of you what we've marked**
 8 **as Exhibits 226, 227, and 228 to your deposition. As**
 9 **we've done with the other documents that I've marked**
 10 **as exhibits, if you could let me know when you've had 10:06**
 11 **a chance to review them. You have?**
 12 A. I'm familiar with them, yes.
 13 **Q. These are copies of invoices for work that**
 14 **you've performed in this matter. Correct?**
 15 A. Yes. 10:06
 16 **Q. Have all of your invoices that you've**
 17 **submitted in this matter been paid?**
 18 A. Yes.
 19 **Q. What law firm paid your invoices?**
 20 A. I guess the first retainer that I received 10:06
 21 came from Keith Vogt's first firm and -- Stadheim &
 22 Greer. And then the -- I think the other retainers
 23 that are shown on Page 2 of Exhibit 228 came from Tim
 24 McVey's firm, and then the final bill was paid by Tim
 25 McVey's firm. And then I have a retainer request for 10:07

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. 150 hours approximately, if you add all
 3 those together plus this 134, another 8. So I'd say
 4 150 hours.
 5 **Q. And of that 150 hours, how much time was 10:09**
 6 **spent reviewing documents or depositions?**
 7 A. I don't know. It -- it's all on my
 8 invoice. The majority of it. I would say between
 9 writing the report and reviewing documents, it would
 10 be probably 90 percent of it. 10:09
 11 **Q. All right. So at least 140 hours. Does**
 12 **that sound correct?**
 13 A. Right. So I write the report as I'm
 14 reviewing documents so that when I'm done reviewing
 15 documents, I'm done with the report, especially with 10:09
 16 cases that are document-intensive like this one.
 17 **Q. Mm-hmm.**
 18 A. So I'll have on here "File review and
 19 report preparation." I'm doing both at the same
 20 time. 10:09
 21 **Q. Understood. Looking at Exhibit 226, which**
 22 **is, I believe, the Invoice No. 1. Are you with me on**
 23 **that?**
 24 A. Yes.
 25 **Q. Okay. If you look at the entry for 10:10**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 this deposition. I think that's being paid by the
 3 other firm.
 4 **Q. Mr. Flachsbart's firm?**
 5 A. Yes. 10:07
 6 **Q. So looking at Exhibit 228 which is titled**
 7 **Invoice No. 3 for Expert Witness Services -- are you**
 8 **with me on that document?**
 9 A. Yes.
 10 **Q. Okay. Turning to the second page of that 10:08**
 11 **document, there is -- you sort of have your -- your**
 12 **hours billed by date. Is that right?**
 13 A. Yes.
 14 **Q. And the last date that is on here is**
 15 **July 20th, 2016. Do you see that? 10:08**
 16 A. Yes.
 17 **Q. How much time have you spent on this case**
 18 **since July 20th, 2016?**
 19 A. Let's see. The 10 hours that we talked
 20 about. And then I think -- I -- there may have been 10:08
 21 a few more hours. I think I might have had another
 22 small invoice that I sent to them. But say -- say no
 23 more than 15 hours.
 24 **Q. In total, how much time would you estimate**
 25 **that you've spent on this matter? 10:08**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **October 25th, 2012, it reads, "Exchange of the emails**
 3 **with Keith Fogt" -- "Vogt; research and edit" -- "and**
 4 **edit of draft Complaint; emailed draft Complaint and**
 5 **regulatory materials to Keith Vogt." 10:10**
 6 **Do you see that?**
 7 A. Yes.
 8 **Q. Who asked you to edit the complaint in**
 9 **this litigation?**
 10 A. I think Keith must have asked me to look 10:10
 11 at it. And when I looked at it, I realized it would
 12 be faster for me to give him feedback if I just
 13 redlined what he had given me, which I routinely do
 14 for lawyers. You know, whether it's the complaint or
 15 some motion or request for production or whatever, 10:10
 16 I'll just go in and redline it and set it -- send it
 17 back to them.
 18 **Q. What -- what portion of the complaint in**
 19 **this litigation did you edit?**
 20 A. I would have only edited anything to do 10:10
 21 with the regulatory sort of discussion.
 22 **Q. Mm-hmm.**
 23 A. I don't know what part of the complaint
 24 that was, like what page number or anything, but I
 25 would be looking at it for that, you know, is he 10:11

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 citing the right thing, is he explaining the right
 3 thing from a regulatory perspective.
 4 **Q. We talked a little bit about Associated**
 5 **Bank documents that you reviewed earlier in the 10:11**
 6 **deposition. Did you review any testimony from the**
 7 **criminal trial in the United States vs. Beckman when**
 8 **you were drafting and revising the complaint in this**
 9 **litigation?**
 10 A. If I did, it would have been in 10:11
 11 Appendix C. It doesn't sound familiar to me, but
 12 let's see.
 13 **Q. And just so the record's clear, when you**
 14 **say Appendix C, you have a binder in front of you**
 15 **that contains your report. Is that correct? 10:11**
 16 A. Yes.
 17 **Q. Okay.**
 18 A. Let's see.
 19 I don't think I -- I don't think I did.
 20 Unless -- I think I remember there was some testimony 10:12
 21 of something in maybe a com- -- a complaint exhibit.
 22 I did look at the exhibits to the complaint. So if
 23 there was some sort of testimony like that in there,
 24 I would have reviewed it. I just -- it doesn't sound
 25 familiar to me, but -- 10:12

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 of that witness testimony at all, are you?
 3 A. Correct.
 4 **Q. And you don't list any -- you see**
 5 **"Depositions and Exhibits" in Appendix C? Do you see 10:13**
 6 **that header?**
 7 A. I do.
 8 **Q. You don't list any depositions that were**
 9 **taken in other cases, do you?**
 10 MR. MCVEY: Objection; vague. 10:13
 11 Other cases?
 12 MR. MEDLOCK: Okay. I'll make it
 13 more concrete.
 14 **Q. You don't list any depositions that were**
 15 **taken in R.J. Zayed vs. Buysse, do you? 10:13**
 16 A. I don't believe so.
 17 **Q. Do you know how many depositions were**
 18 **taken in that case?**
 19 A. No.
 20 **Q. Do you know whether expert witnesses 10:14**
 21 **testified in that case?**
 22 A. No. I don't know anything about that
 23 case.
 24 **Q. You list on Exhibit C "Affidavits."**
 25 **Correct? 10:14**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. So if you look on Appendix C to your**
 3 **report, you don't list any testimony from United**
 4 **States vs. Beckman. It's not broken out separately**
 5 **in Appendix C. Is that right? 10:12**
 6 A. That's correct. But it could be -- I know
 7 there was some snippets of some -- somebody's
 8 testimony, maybe a couple times in exhibits to the
 9 complaint. If that's what you're referring to, then
 10 that's where it would have been. 10:12
 11 **Q. But you don't know for certain whether**
 12 **that was an exhibit to the complaint, do you?**
 13 A. No. I mean, we'd have to get it out and
 14 see, but -- what I reviewed is on this document here,
 15 on Appendix C. 10:13
 16 **Q. Absolutely. So you list in Appendix C --**
 17 **do you -- well, actually let me go back to United**
 18 **States vs. Beckman.**
 19 **Do you -- do you have any idea how many**
 20 **days that trial lasted for? 10:13**
 21 A. No.
 22 **Q. Do you have any idea how many witnesses**
 23 **testified in that trial?**
 24 A. No.
 25 **Q. And you're not certain if you reviewed any 10:13**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. Yes.
 3 **Q. And you list Leo Domenichetti. You list**
 4 **his affidavit. Correct?**
 5 A. Yes. 10:14
 6 **Q. You didn't review his deposition, did you?**
 7 A. No. If it was taken in this case I
 8 didn't. I --
 9 **Q. So you don't even know --**
 10 A. -- I've listed here what -- 10:14
 11 **Q. Sorry, go ahead.**
 12 A. -- whatever here --
 13 **Q. You don't even know if Leo Domenichetti's**
 14 **deposition was taken in this case. Is that right?**
 15 A. I don't. 10:14
 16 **Q. You don't -- and if it were taken, you**
 17 **don't know what he would have to say about statements**
 18 **that were made in his -- in his affidavit, do you?**
 19 A. No.
 20 **Q. Under the "Depositions and Exhibits" 10:14**
 21 **header, you don't list Julia Smith Gilsrud as a**
 22 **deposition that you reviewed, do you?**
 23 A. No.
 24 **Q. Do you know whether her deposition was**
 25 **taken? 10:15**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. No. I -- I don't -- I don't know who that
 3 is.
 4 **Q. So that name doesn't ring a bell?**
 5 A. No. 10:15
 6 **Q. How about Mike Label [phonetic], does that**
 7 **name ring a bell?**
 8 A. No.
 9 **Q. Do you know whether he was deposed in this**
 10 **case?** 10:15
 11 A. I don't.
 12 **Q. Do you know whether his opinions would**
 13 **have any relevance to your -- to the opinion --**
 14 **whether his testimony would have any relevance to the**
 15 **opinions that you're offering in this case?** 10:15
 16 MR. MCVEY: Objection; calls for
 17 speculation.
 18 A. I have no idea.
 19 What I try and do in each of my cases is
 20 get all the bank depositions. And if that person is 10:15
 21 a bank employee and I should have looked at it, I'm
 22 happy to look at it. But what I attempted to do was
 23 get all of the bank employee depositions and review
 24 those.
 25 **Q. Okay. Is Appendix C, is that -- is that a** 10:15

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 you know, it needs to go there. So this -- this is
 3 my best effort of going through the documents and
 4 trying to list what I looked at.
 5 **Q. How about any websites you visited, is** 10:17
 6 **this a complete listing of the websites you visited**
 7 **in order to arrive at the opinions that you list in**
 8 **your report?**
 9 A. Yes.
 10 **Q. All right. So in Appendix C under "Case** 10:17
 11 **Documents," you list approximately 68,000 pages of**
 12 **documents that were produced by Associated Bank.**
 13 **Correct?**
 14 A. And then you have to add in the ones below
 15 it too, another 74 documents there. 10:17
 16 **Q. So it would be more than 68,000 that you**
 17 **reviewed really?**
 18 A. Yes. And then the bank statements would
 19 have been, bank documents but they weren't
 20 Bates-stamped. 10:17
 21 **Q. Were there any documents that you asked**
 22 **for in this case that you didn't receive?**
 23 A. No, I -- not that I know of.
 24 **Q. Let me ask you a question about suspicious**
 25 **activity reports. Have you ever testified in a case** 10:18

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **complete listing of every document you reviewed in**
 3 **this case?**
 4 A. I attempted to make it so. I -- I -- I
 5 made my best effort because of the way that the jump 10:16
 6 drive and the bank records were produced to list
 7 various Bates ranges, and then if something wasn't
 8 Bates-stamped or if I relied on something instead of
 9 a bank document like the OCC spreadsheets that took
 10 the bank statements and put them on there. 10:16
 11 So I attempted to make this a full listing
 12 of all the documents I reviewed.
 13 **Q. Are there any case documents that you**
 14 **reviewed that are not listed in Appendix C, to your**
 15 **knowledge?** 10:16
 16 A. Not to my knowledge.
 17 **Q. Are there any depositions or exhibits to**
 18 **depositions that you reviewed that are not listed in**
 19 **Appendix C, to your knowledge?**
 20 A. Not to my knowledge. 10:16
 21 **Q. Are there any affidavits or declarations**
 22 **that you reviewed that are not in Appendix C to your**
 23 **knowledge?**
 24 A. Not to my knowledge, but if I've cited
 25 something and I failed to put it on Appendix C then, 10:16

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **where the -- the bank actually produced suspicious**
 3 **activity reports?**
 4 A. Yes.
 5 **Q. What case was that?** 10:18
 6 A. I can't remember, but on several occasions
 7 they have been produced. They're not supposed to be.
 8 And I did not rely upon them, but I've seen them in
 9 the bank production before.
 10 **Q. So -- in those instances it was -- it was** 10:18
 11 **basically an accident that they were produced.**
 12 **Correct?**
 13 A. Yes.
 14 **Q. Because you're aware that there is**
 15 **regulations that prevent banks from actually** 10:18
 16 **producing any document that would show the existence**
 17 **or nonexistence of a suspicious activity report.**
 18 **Correct?**
 19 A. Yes.
 20 **Q. And you said that you spent -- let me see** 10:18
 21 **if I have it correctly in my notes -- approximately**
 22 **140 hours reviewing documents in this case and**
 23 **working on your report?**
 24 A. I would say that's probably right.
 25 **Q. So in those 140 hours you reviewed more** 10:19

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **than 68,000 pages of documents?**
 3 A. Well, I also had spent time looking at the
 4 depositions. That would be a part of it too. So
 5 reading the depositions, looking at exhibits, looking 10:19
 6 at the complaint and its exhibits, looking at
 7 whatever other court documents like the
 8 interrogatories or letters from you discussing bank
 9 production, all of that would have been included as I
 10 was developing my report in that 140 hours. 10:19
 11 **Q. Do you know how many pages you'd have to**
 12 **read a minute to read 68,000 or more pages in**
 13 **140 hours?**
 14 A. So I think that I said this before, but I
 15 didn't look at every single page, but I had access to 10:19
 16 these Bates ranges. And this is my normal procedure
 17 because the -- the cases I work on are really
 18 document-intensive. I work with the attorneys to get
 19 the bank policies and procedures printed because I do
 20 more analysis of those than perhaps other documents. 10:20
 21 I look at bank statements, I look at all the bank
 22 statements for the accounts. In this case, they
 23 weren't Bates-stamped. I look at alerts, I look at
 24 the ML Shield user guide or Searchspace or whatever
 25 monitoring system they're using. 10:20

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 spot-check the rest to make sure nothing that was in
 3 there would change my opinions.
 4 **Q. So you skipped some pages when you were**
 5 **doing this review, naturally. Correct? 10:22**
 6 A. Inevitably there would be some pages that
 7 I, you know, did not look at.
 8 **Q. And you're just doing that to be efficient**
 9 **with your time. Correct?**
 10 A. Well, I think that it's -- you have to 10:22
 11 make a decision about what you're going to review,
 12 and I try and prioritize the work based on what the
 13 bank's production is because there are some documents
 14 that would be, you know, like repetitive that I've
 15 already seen what the spreadsheet looks like, I've 10:22
 16 already looked at the information and it's produced
 17 in three or four different places. So that's what my
 18 routine usually is.
 19 **Q. And -- and you do that because it saves**
 20 **time. You don't have time to review every single 10:22**
 21 **page of doc -- of documents that the bank produced.**
 22 **Correct?**
 23 MR. MCVEY: Objection; form.
 24 **Q. Go ahead.**
 25 A. I do it because I think it's the best way 10:22

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 And so there's certain types of documents
 3 that I look at that I like to have printed off. Then
 4 if there are investigations or e-mails concerning
 5 alerts or something like that, I'll print those off 10:20
 6 too.
 7 So I am not here to say that I -- I
 8 actually touched 68,000 pieces of paper. But what I
 9 did is I worked with the lawyers and I tried to pull
 10 out the ones that I knew would be of importance to 10:20
 11 me, and then I try -- I spot-checked and I skimmed
 12 the documents that were produced in the native file.
 13 For example, I tried to look at a sampling of those,
 14 just to make sure that there wasn't something in
 15 there that would change my opinions. I -- I made my 10:21
 16 best effort to spot-check and word search and -- and
 17 print off the documents that I know I routinely need
 18 to develop my report.
 19 **Q. So if I can just summarize, as I**
 20 **understand what you just said, you didn't actually 10:21**
 21 **read every single page of information that Associated**
 22 **Bank produced in this case, did you?**
 23 A. Not -- I -- I didn't actually touch every
 24 single page. I did my best to pull out the most
 25 important things that I knew I needed and I tried to 10:21

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 of formulating my opinions with the size of the case.
 3 I mean, otherwise, I would spend six months and maybe
 4 my opinions wouldn't change one bit, so --
 5 **Q. So you can't blame someone in the course 10:23**
 6 **of their work for not looking at every single piece**
 7 **of information that comes across their desk either,**
 8 **can you?**
 9 MR. MCVEY: Objection; form.
 10 A. Well, it depends on what their role is in 10:23
 11 the bank and what the documents are. So if it's
 12 somebody looking at alerts there's -- the
 13 investigative protocol is, you know, you go back and
 14 look at bank statements for three months and then you
 15 look at wire transfers and you look at what 10:23
 16 transactions alerted. So I expect to see when I'm
 17 looking at what a bank employee does based on what
 18 they're supposed to be doing and what the policies
 19 and procedures call for, I expect them to follow
 20 them. And so -- 10:23
 21 **Q. I understand your answer. My question was**
 22 **actually a little bit different.**
 23 **My question is, in the normal course of**
 24 **business you would expect people working at a bank or**
 25 **any other office environment not to review every 10:24**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **single piece of information that comes across their**
 3 **desk. Correct?**
 4 MR. MCVEY: Object -- objection;
 5 form. 10:24
 6 A. It -- it would depend on what their role
 7 is and what they were supposed to be doing. If it
 8 was their job to look at every piece of paper that's
 9 produced to open an account, for example, I would
 10 expect them to look at every piece of paper that is 10:24
 11 being used to open an account. Or if they are an
 12 investigator in the Bank Secrecy Act area, I would
 13 expect them to look at the types of documents they
 14 were supposed to look at based on the policy.
 15 So I cannot make excuses for other people, 10:24
 16 you know, not looking at this, that, or the other. I
 17 mean, if it's their job to look at, you know, all of
 18 the documents that the customer produces to open an
 19 account, that's what they should do.
 20 **Q. So you were -- let's talk about roles. 10:25**
 21 **You were retained as an expert in -- in this case and**
 22 **your role was to come up with opinions regarding**
 23 **Associated Bank's BSA/AML compliance and whether**
 24 **their activities were typical of what you would**
 25 **expect in the industry. Is that right? 10:25**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 assessment of whether they meet the standards in the
 3 industry. Then it's important to me for me to look
 4 at documents that showed me how the bank conducted
 5 themselves vis-à-vis the standards in the industry 10:26
 6 and their policies and procedures.
 7 So I went to great lengths in this case,
 8 as I do in all cases, to search out those documents
 9 that I assume that the bank produced. Policies and
 10 procedures, alerts, user guides for monitoring 10:26
 11 systems, bank opening documents, things like that,
 12 that -- bank statements in particular I needed to
 13 look at.
 14 I would characterize the types of
 15 documents that I spot-checked to be e-mails, for 10:27
 16 example, where I could see that the chains were
 17 repetitive, spreadsheets that in the native format
 18 where every month the information was repeated and
 19 maybe one file category was changed. So that's --
 20 that's the type of information that I spot-checked. 10:27
 21 To me, that's a proper use of my analysis
 22 to develop the report. It's what I did when I was an
 23 examiner. And, of course, if you show me a document
 24 today or if somebody shows me a document that is
 25 important to my opinions, and I need to change them 10:28

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 MR. MCVEY: Objection; form.
 3 A. Yes.
 4 **Q. And part of your role was to review the --**
 5 **review any information that was relevant to that. 10:25**
 6 **Correct?**
 7 A. Yes.
 8 MR. MCVEY: Objection; form.
 9 **Q. And as you just -- as you just testified,**
 10 **you tried to spot-check, but you didn't -- you don't 10:25**
 11 **necessarily know whether you reviewed all information**
 12 **that was relevant to that question. Correct?**
 13 MR. MCVEY: Objection; form.
 14 A. Well, I've been doing this for 17 years.
 15 And based on what I know about the banking industry 10:25
 16 and examining banks, I utilize the same formula that
 17 I utilized when I was a bank examiner. And that is,
 18 I prioritize the documents that I was going to look
 19 at when I went in on a bank examination, I had access
 20 to thousands and thousands of pages of documents, and 10:26
 21 I prioritized the ones that I knew would generate the
 22 most important information to me.
 23 So as I described my methodology here,
 24 it's important to me, as in all cases, that I look at
 25 the bank's policies and procedures to do an 10:26

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 or consider it, I, you know, said in my report, I --
 3 I -- I want to make sure that my opinions are correct
 4 and that -- so if I missed a document or -- or
 5 something like that, I definitely want to know about 10:28
 6 it.
 7 **Q. As you sit here today, you don't know**
 8 **whether you missed a document. Is that right?**
 9 MR. MCVEY: Objection; form.
 10 A. To my knowledge, I haven't. But if -- you 10:28
 11 know, if you show me something, I -- I definitely
 12 want to consider it. But this is -- this is an
 13 approach I used when I examined banks. It is an
 14 approach that I've used for 17 years in analyzing
 15 these litigation matters, and -- and it's -- it's an 10:28
 16 approach that is sound, in my opinion.
 17 **Q. As you sit here today, do you know whether**
 18 **you reviewed every document that was relevant to your**
 19 **opinions?**
 20 MR. MCVEY: Objection; form. 10:28
 21 A. As I sit here today, I feel comfortable
 22 with what I reviewed in formulating my opinions.
 23 **Q. Sure. My question is as you sit here**
 24 **today, do you know whether you reviewed every**
 25 **document that's relevant to your opinions in this 10:29**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 case?
 3 A. I -- my assumption is that I have.
 4 **Q. That's an assumption. Right?**
 5 A. Yes. 10:29
 6 **Q. You don't --**
 7 A. I'm assuming that I have.
 8 **Q. -- you don't whether you did or not.**
 9 **Correct?**
 10 MR. MCVEY: Objection; form. 10:29
 11 A. I -- I went to great lengths to make sure
 12 that I did. But I've already said to you that I did
 13 not touch every single document. I -- I've -- I've
 14 already said about 15 times what my methodology was.
 15 I did not look at every single document. I 10:29
 16 prioritized what I looked at, I analyzed what I knew
 17 was -- would be the most important documents, and I'm
 18 comfortable that based on the bank's production that
 19 my analysis is sound.
 20 **Q. Okay. 10:29**
 21 MR. MEDLOCK: Well, actually we've
 22 gone for about an hour. Why don't we take a
 23 quick break. Thanks. Maybe five minutes.
 24 THE VIDEOGRAPHER: We're off the
 25 record. The time is 10:29 a.m. 10:30

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 MR. MCVEY: Object to form.
 3 **Q. You'd expect banking professionals to**
 4 **prioritize their review of information based on their**
 5 **experience as well. Correct? 10:44**
 6 MR. MCVEY: Objection; form.
 7 A. It depends on what we're talking about, as
 8 I said before. If someone's opening a bank account
 9 for an individual, I would expect them not to
 10 prioritize what they were looking at but to review 10:44
 11 all the documentation that a customer would give
 12 them.
 13 So it depends on the -- what the person's
 14 doing in the bank, what the policies and procedures
 15 require, what the standard in the industry is, what 10:44
 16 they're looking at.
 17 If you're making a loan to someone, for
 18 example --
 19 **Q. Well, my -- my question is pretty simple.**
 20 A. -- you would want to look at all the
 21 documents.
 22 **Q. My -- my question is --**
 23 MR. MCVEY: Don't -- don't let
 24 her --
 25 MR. MEDLOCK: Well, I'm just -- 10:45

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 (Break.)
 3 THE VIDEOGRAPHER: This is the
 4 beginning of Tape 2. We're now back on the
 5 record. The time is 10:42 a.m. 10:43
 6 **Q. Welcome back. During the break did you**
 7 **discuss your testimony with Mr. McVey or Ms. Norgard?**
 8 A. No.
 9 **Q. I think before the break you were saying**
 10 **that -- if I can summarize, that when you were 10:43**
 11 **reviewing documents, you prioritized your review of**
 12 **the documents based on your experience. Is that**
 13 **right?**
 14 A. Based on -- based on how I used to examine
 15 banks. I used the same formula, which is what I said 10:43
 16 in this report. My methodology was the same as how I
 17 used to examine banks.
 18 **Q. Sure. But my question is simple. You**
 19 **prioritized your review. Right?**
 20 A. Yes. 10:44
 21 MR. MCVEY: Object to form.
 22 **Q. And that was based in part on your**
 23 **experience at the OCC and as a testifying expert.**
 24 **Correct?**
 25 A. Yes. 10:44

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. Let me finish my answer.
 3 If you're making a loan to someone, I
 4 would expect the loan officer to look at all the
 5 documents that the customer is giving them, not to 10:45
 6 prioritize and only look at some of them.
 7 **Q. So, in general, though, you would expect**
 8 **some bank employees to prioritize the information**
 9 **they review based on their experience. Right?**
 10 MR. MCVEY: Object to form; asked 10:45
 11 and answered.
 12 A. No. I said no. I -- I -- I don't want my
 13 testimony to be confused.
 14 If you're opening -- it depends on what
 15 the person's doing. And I've given two examples of 10:45
 16 where I would expect them to look at every document,
 17 if they were opening the account, or if they're
 18 making a loan. Those are two examples.
 19 If they're in the audit department, for
 20 example, they would approach it similar to me, and 10:45
 21 that is, they would look at the body of information
 22 and decide to do a sample, or they would prioritize
 23 in some other way.
 24 So it depends on which employee it is in
 25 the bank, what their methodology should be as to how 10:46

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 they conduct themselves in their job.
 3 **Q. If an employee was in the BSA/AML**
 4 **department, would you expect them to prioritize their**
 5 **review based on their experience? 10:46**
 6 A. I would expect them to conduct the
 7 investigations based on the investigative protocol,
 8 and there are certain documents they're supposed to
 9 look at when there is an alert. Not prioritize those
 10 documents, but look at those documents to determine 10:46
 11 if suspicious activity was taking place.
 12 **Q. In the bank's CIF department, would you**
 13 **expect employees in that department to prioritize**
 14 **their review of documents based on their experience?**
 15 A. No. I would expect them to look at every 10:46
 16 document that comes in because what they're doing is
 17 a post-account-opening review, and they are looking
 18 at what documents were used to open this account, and
 19 they should be looking at every single document
 20 that's being used to open every single account that 10:47
 21 comes across their desk.
 22 **Q. How about a relationship manager? Would**
 23 **you expect them to prioritize the documents that**
 24 **they -- that they look at based on their experience?**
 25 A. It depends on what activity they're 10:47

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. Can you identify any individual at**
 3 **Associated Bank who was a portfolio specialist?**
 4 A. Well, I probably have their -- oh, she --
 5 okay. Ms. Espy was a portfolio specialist. I think 10:48
 6 she was the assistant to Len -- Lien Sarles. So she
 7 would be assisting Lien plus other people in
 8 gathering the documentation for whatever they're
 9 doing, whether it's opening accounts or whether it's
 10 making loans or whatever. 10:48
 11 And so I would expect that she would look
 12 at every single document that's produced to open an
 13 account or -- in order to take it to the loan
 14 committee or whatever.
 15 **Q. In your experience as a testifying expert, 10:49**
 16 **do you find third-party documents to be relevant to**
 17 **the opinions that you're offering?**
 18 MR. MCVEY: Objection to the form
 19 and vague and ambiguous.
 20 **Q. Have you ever relied on third-party 10:49**
 21 **documents in reaching your opinions in -- in cases**
 22 **regarding whether banks have complied with the Bank**
 23 **Secrecy Act?**
 24 A. Yeah.
 25 MR. MCVEY: Same objection. 10:49

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 conducting. What -- what activity are you talking
 3 about?
 4 **Q. Well, let's posit that they're --**
 5 **that it -- they're -- it involves opening accounts. 10:47**
 6 **Would you expect them to review -- a relationship**
 7 **manager to review every document that they received,**
 8 **or would you expect them to prioritize documents that**
 9 **they review based on their experience?**
 10 A. A relationship manager -- some banks don't 10:47
 11 have them opening in accounts. But in Associated
 12 Bank's case, they did have relationship managers
 13 going out and opening accounts.
 14 I would expect them to be fully aware of
 15 what documents were required and to look at every 10:47
 16 single document that was given to them to open an
 17 account off-site.
 18 **Q. How about a portfolio specialist? Would**
 19 **you expect them to review every single document**
 20 **related to opening an account? 10:48**
 21 A. So a portfolio specialist, what does that
 22 mean? What do they do?
 23 **Q. Did -- do you know what the title**
 24 **"portfolio specialist" means at Associated Bank?**
 25 A. No. It could mean a lot of things. 10:48

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 THE WITNESS: I'm sorry.
 3 **Q. You have?**
 4 MR. MCVEY: Same objection.
 5 **Q. Go ahead. 10:49**
 6 A. Yes.
 7 **Q. Have you relied on third-party witness**
 8 **testimony in cases where you're trying to determine**
 9 **whether banks have complied with the Bank Secrecy**
 10 **Act? 10:49**
 11 MR. MCVEY: Same objection.
 12 A. Yes.
 13 **Q. And do you find that tes- -- in those**
 14 **cases, do you find that testimony helpful in reaching**
 15 **your opinions? 10:49**
 16 A. If I relied upon it, I would have
 17 considered it. And I don't know whether I found it
 18 helpful or not, but I would have considered it in
 19 formulating my opinions.
 20 **Q. Are there cases where you have relied upon 10:49**
 21 **third-party documents to reach opinions regarding**
 22 **whether banks have complied with the Bank Secrecy**
 23 **Act?**
 24 A. I can think of certain examples. 314(b)
 25 requests, for example. Those would be third-party 10:50

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 documents that would come in. They would have the
 3 bank's Bates stamp, of course, but if the bank, you
 4 know, was aware of a third-party document, you know,
 5 I definitely would have considered it. 10:50
 6 **Q. Sure. Thank you for the clarification.**
 7 **My -- my question is actually slightly different.**
 8 **Have you looked at documents that were**
 9 **produced by a third party, had a different party's**
 10 **Bates number on them, in reaching your conclusions 10:50**
 11 **re- -- in other cases regarding whether banks have**
 12 **complied with the Bank Secrecy Act?**
 13 MR. MCVEY: Objection; form, vague
 14 and ambiguous.
 15 A. So I'm trying to think of what that would 10:50
 16 mean.
 17 **Q. I'm not -- can you give me an example of**
 18 **what you're talking about just so I can make sure my**
 19 **answer is complete?**
 20 **Q. Sure. Have you ever looked at documents 10:50**
 21 **that were produced by a regulator pursuant to a**
 22 **subpoena to determine whether a bank has complied**
 23 **with the Bank Secrecy Act?**
 24 A. I'm sure -- I -- I've looked at a lot of
 25 regulatory, like, reports of examination. Those 10:51

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 So I -- I hesitate to say I've never
 3 looked at a third-party document, but I try and --
 4 and confine myself to what the bank knew at the time.
 5 So if they had it, they knew it, then I would 10:52
 6 consider it.
 7 **Q. Are you aware that Lien Sarles produced**
 8 **documents in this case?**
 9 A. If -- if it was a part of the complaint
 10 exhibits or a part of his deposition exhibits, then I 10:53
 11 would have looked at it. Otherwise, I'm not sure
 12 that I saw anything with his Bates stamp, and I don't
 13 have anything listed here.
 14 **Q. So you didn't review any documents, to**
 15 **your knowledge, that had a Lien Sarles Bates stamp on 10:53**
 16 **them?**
 17 A. No. I don't have it listed here, and I
 18 don't remember that.
 19 **Q. Did you ever ask to produce -- to review**
 20 **any documents that had a Lien Sarles Bates stamp on 10:53**
 21 **them?**
 22 A. I -- I would not have known to say that
 23 sentence. I mean, I -- what I ask for in any of my
 24 cases is, "What has the bank produced? Show me what
 25 the bank has produced." And we try and work through 10:53

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 cases weren't Ponzi schemes, though. They were
 3 predatory lending.
 4 So -- but as far as the Bank Secrecy Act,
 5 I don't know -- I guess I've looked at maybe 10:51
 6 regulatory letters and enforcement actions, but maybe
 7 not examination reports.
 8 **Q. Well, have you -- but you have --**
 9 A. So I'm not --
 10 **Q. -- looked at some third-party documents to 10:51**
 11 **reach conclusions regarding whether banks have**
 12 **complied with the Bank Secrecy Act in other cases?**
 13 MR. MCVEY: Objection; form, vague
 14 and ambiguous.
 15 A. I'm not -- the reason I'm hesitating is 10:52
 16 I'm not exactly sure how to answer it.
 17 What I -- what I try and do in all my
 18 cases is -- especially in these fraud-type cases, is
 19 to look to see what the bank knew at the time, and if
 20 it's in their file and they produced it, it went -- 10:52
 21 you know, and it has a bank's Bates stamp number,
 22 theoretically, then I would consider it.
 23 I'm not -- I usually don't have access to
 24 third-party documents. And I know in some of my
 25 cases I have, but not in, like, Ponzi scheme cases. 10:52

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 how I'm going to get those bank documents.
 3 I look at all the exhibits for the bank
 4 depositions, and -- and I -- you know, I do my best
 5 to try and make sure I know what the universe of 10:54
 6 documents are that the bank has produced.
 7 **Q. If documents were produced by Mr. Sarles**
 8 **and had a Sa- -- a Bates stamp bearing Mr. Sarles's**
 9 **name on them, would you have wanted to review them in**
 10 **this case? 10:54**
 11 A. I'm happy to review them. I -- I -- I
 12 don't know if any of these bank employees produced
 13 outside of the bank's Bates range. I'm not aware of
 14 that.
 15 **Q. Did you review any of Mr. Sarles's credit 10:54**
 16 **card statements?**
 17 A. If it was not a part of his deposition or
 18 the complaint exhibits, I would not have.
 19 **Q. Do you recall -- do you specifically**
 20 **recall reviewing any of Mr. Sarles's credit card 10:54**
 21 **statements?**
 22 A. It seems to me like there -- maybe there
 23 were some attached to his deposition. But I'd have
 24 to go back and look to see for sure.
 25 **Q. So you can't recall for sure one way or 10:55**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **the other?**
 3 A. I really can't.
 4 **Q. Did you review any of Mr. Sarles's bank**
 5 **account statements from TCF Bank in this case? 10:55**
 6 A. Not unless they were a part of the
 7 deposition exhibits.
 8 **Q. Do you recall? Do you specifically recall**
 9 **one way or the other reviewing Mr. Sarles's bank**
 10 **account statements from TCF Bank? 10:55**
 11 A. No.
 12 **Q. Do you specifically recall one way or the**
 13 **other reviewing Mr. Sarles's tax returns?**
 14 A. I don't recall, but if they were part of
 15 his deposition, I would have seen them. 10:55
 16 **Q. But you can't say for certain whether you**
 17 **did?**
 18 A. Correct.
 19 **Q. Do you recall reviewing any of Mr.**
 20 **Sarles's bank account statements from Associated 10:55**
 21 **Bank?**
 22 A. Only if they were a part of his
 23 deposition. I did not seek them out separately.
 24 **Q. And, again, you don't know for sure**
 25 **whether you did or not? 10:55**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. No.
 3 **Q. You have no evidence that Mr. Sarles was**
 4 **ever employed by any of the receivership entities in**
 5 **this case, do you? 10:56**
 6 MR. MCVEY: Same objection.
 7 A. No.
 8 **Q. You have no evidence that Mr. Sarles ever**
 9 **received a payment from Trevor Cook, do you?**
 10 MR. MCVEY: Objection; form. 10:56
 11 A. No.
 12 **Q. You have no evidence that Mr. Sarles ever**
 13 **received a payment from Patrick Kiley, do you?**
 14 MR. MCVEY: Objection; form.
 15 A. No. 10:57
 16 **Q. You have no evidence that Mr. Sarles ever**
 17 **received a payment from Jason Bo-Alan Beckman, do**
 18 **you?**
 19 MR. MCVEY: Objection; form.
 20 A. No. 10:57
 21 **Q. You have no evidence that Mr. Sarles ever**
 22 **received a payment from Gerald Durand, do you?**
 23 MR. MCVEY: Objection; form.
 24 A. No.
 25 **Q. You have no evidence that Mr. Sarles ever 10:57**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. Well, I don't know for certain. But if
 3 they were attached to his deposition, I would have
 4 seen them.
 5 **Q. But you can't tell me whether they were 10:55**
 6 **attached to his deposition?**
 7 A. No.
 8 **Q. You have no evidence that Mr. Sarles was**
 9 **ever employed by Trevor Cook, do you?**
 10 A. I don't have any evidence, no. 10:56
 11 **Q. You have no evidence that Mr. Sarles was**
 12 **ever employed by Patrick Kiley, do you?**
 13 A. No.
 14 MR. MCVEY: Objection; form.
 15 **Q. You have no evidence that Mr. Sarles was 10:56**
 16 **ever employed by Gerald Durand, do you?**
 17 MR. MCVEY: Objection; form.
 18 A. No.
 19 **Q. You have no evidence that Mr. Sarles was**
 20 **ever employed by Jason Bo-Alan Beckman, do you? 10:56**
 21 MR. MCVEY: Same objection.
 22 A. No.
 23 **Q. You have no evidence that Mr. Sarles was**
 24 **ever employed by Christopher Pettengill, do you?**
 25 MR. MCVEY: Same objection. 10:56

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **received a payment from Christopher Pettengill, do**
 3 **you?**
 4 MR. MCVEY: Objection; form.
 5 A. No. 10:57
 6 **Q. You have no evidence that Mr. Sarles ever**
 7 **received a payment from anyone that worked for any of**
 8 **the receivership entities, do you?**
 9 MR. MCVEY: Objection; form.
 10 A. No. 10:57
 11 **Q. You have no evidence that Mi- -- that**
 12 **Trevor Cook ever gave Mr. Sarles anything of value,**
 13 **do you?**
 14 MR. MCVEY: Objection; form.
 15 A. I don't think so. 10:57
 16 **Q. For example, you don't have any evidence**
 17 **that Mr. Sarles ever received a watch from Mr. Cook,**
 18 **do you?**
 19 MR. MCVEY: Objection; form.
 20 A. Did you say a watch? 10:57
 21 **Q. A watch, like a Rolex.**
 22 MR. MCVEY: Objection; form.
 23 A. No.
 24 **Q. You have no evidence that Patrick Kiley**
 25 **ever gave Mr. Sarles anything of value, do you? 10:57**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 MR. MCVEY: Objection; form.
 3 A. No.
 4 **Q. You have no evidence that Gerald Durand**
 5 **ever gave Mr. Sarles anything of value, do you? 10:57**
 6 MR. MCVEY: Objection; form.
 7 A. No.
 8 **Q. You have no evidence that Jason Bo-Alan**
 9 **Beckman ever gave Mr. Sarles anything of value, do**
 10 **you? 10:58**
 11 MR. MCVEY: Objection; form.
 12 A. No.
 13 **Q. You have no evidence that Christopher**
 14 **Pettengill ever gave Mr. Sarles anything of value, do**
 15 **you? 10:58**
 16 MR. MCVEY: Objection; form.
 17 A. No.
 18 **Q. You have no evidence that Mr. Sarles ever**
 19 **received anything of value from anyone who worked for**
 20 **any of the receivership entities, do you? 10:58**
 21 MR. MCVEY: Objection; form.
 22 A. Didn't you just ask me that?
 23 **Q. No, I didn't.**
 24 A. I thought you asked me that several times.
 25 **Q. No. 10:58**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Mr. Sarles's attorney before you submitted your**
 3 **report in this case?**
 4 A. No.
 5 **Q. We talked a little bit earlier about 10:59**
 6 **third-party testimony. In your experience, can**
 7 **third-party testimony be relevant in determining**
 8 **whether a bank has adequate BSA/AML compliance**
 9 **procedures?**
 10 MR. MCVEY: Objection; foundation, 10:59
 11 vague and ambiguous, form.
 12 A. So didn't we just go over this? I --
 13 **Q. I'm clarifying the question, actually.**
 14 A. I'm --
 15 **Q. I'm just trying to make sure I understand. 11:00**
 16 MR. MCVEY: Asked and answered.
 17 **Q. Go ahead.**
 18 A. I don't want to make my own objections.
 19 So when you say "third-party materials," I'm just
 20 assuming that's something other than -- 11:00
 21 **Q. The bank's.**
 22 A. -- the bank's?
 23 **Q. Yes.**
 24 A. The bank's materials?
 25 **Q. Right. 11:00**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **In your experience as a -- as a bank**
 3 **examiner, did you ever speak to bank employees when**
 4 **conducting your examination?**
 5 A. Yes. 10:58
 6 **Q. In this case did you ever speak to any**
 7 **Associated Bank -- current or former Associated Bank**
 8 **employee to come to your conclusions?**
 9 A. No. It's not my practice to. I -- in 17
 10 years, I haven't interviewed bank employees, 10:58
 11 regardless if I was on the bank side or on the
 12 nonbank side.
 13 **Q. Did you ever make any attempt to speak to**
 14 **Mr. Sarles before you submitted your report in this**
 15 **case? 10:59**
 16 A. No.
 17 **Q. Do you know whether Mr. Sarles has his own**
 18 **attorney in this case?**
 19 A. Yes.
 20 **Q. Did you make any effort to -- well, you 10:59**
 21 **said yes. Let me clarify.**
 22 **He does have his own attorney. Isn't that**
 23 **right?**
 24 A. Yes.
 25 **Q. Did you make any effort to call 10:59**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. So sometimes I do have third-party
 3 materials that's been produced by the bank -- that
 4 have been produced by the bank. And if -- I try and
 5 consider all of the bank's production. 11:00
 6 So if they have it and I have it and
 7 they've produced it, you know, I'll review it to
 8 con- -- consider when formulating my opinions.
 9 I'll -- I'll also look at, you know, whether there's
 10 a public enforcement action on the OCC's website or 11:00
 11 something like that.
 12 So I'll -- I -- I may go and try and see
 13 if there's anything public on the regulator's
 14 website. Sometimes the lawyers are able to get
 15 examination reports. So if I do have that 11:01
 16 third-party information, of course I'll look at it.
 17 Now, whether I decide to rely on it for
 18 formulating my opinions or not, you know, is another
 19 matter, but -- sure. I mean, if there is third-party
 20 material that's produced, you know, I'll look at it. 11:01
 21 **Q. So you reviewed -- I think we talked a**
 22 **little bit earlier, you reviewed Mr. Domenichetti's**
 23 **declaration in this -- or affidavit in this case.**
 24 **Correct?**
 25 A. Yes. 11:01

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. How is it relevant to your opinions in**
 3 **this case?**
 4 A. Well, I'm not even sure I cited it, but I
 5 wanted to mark down everything I looked at. 11:01
 6 **Q. Okay.**
 7 A. So I looked at all this information, and
 8 I, you know, formulated my opinions. So I may or may
 9 not have cited it, you know. And I don't know if you
 10 say, "Well, then, did you not rely on it for your 11:01
 11 opinion?"
 12 I might have looked at it and decided, you
 13 know, not to make it a part of my report.
 14 **Q. Can you tell me how Mr. Domenichetti's --**
 15 **how, if at all, Mr. Domenichetti's affidavit is 11:02**
 16 **relevant to your opinions?**
 17 A. I'm not even sure I cited it. I'd have to
 18 go back and look at the footnotes and see if I even
 19 cited it.
 20 I don't even recall what was in there, to 11:02
 21 tell you the truth, but I had it in the stack of
 22 depositions and affidavits, so I wanted to put it
 23 down there.
 24 **Q. But as you sit here today, you can't tell**
 25 **me what was actually the content of that affidavit. 11:02**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **to your testimony?**
 3 A. Not that I can recall.
 4 **Q. All right. You have your report in front**
 5 **of you. Correct? 11:03**
 6 A. I do.
 7 **Q. All right. Could you turn to Page 62 of**
 8 **your report.**
 9 MR. MEDLOCK: (Conferring with
 10 co-counsel.) 11:03
 11 Oh, yes.
 12 **Q. Do you see the Roman -- romanette iii,**
 13 **Oxford Global Investments, Incorporated, Account**
 14 **No. 1812?**
 15 A. I do. 11:04
 16 **Q. And do you see a reference under that**
 17 **Roman -- romanette to a affidavit from**
 18 **Mr. Pettengill?**
 19 A. I do.
 20 **Q. Besides the test- -- besides the block 11:04**
 21 **quote from Mr. Pettengill's affidavit that you have**
 22 **on Page 62, is there anything else about**
 23 **Mr. Pettengill's affidavit that is relevant to your**
 24 **opinions?**
 25 A. I don't think so. I mean, I have to go 11:04

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Correct?**
 3 A. Yes. I -- I know it was something
 4 handwritten, but -- I don't even know if I looked at
 5 it. I mean cited it. Sorry. I looked at it, but I 11:02
 6 don't know if I even cited it.
 7 **Q. And you can't tell me, as you sit here**
 8 **today, whether it has any relevance to your opinions.**
 9 **Right?**
 10 A. Correct. 11:03
 11 **Q. Okay. You also cite the affidavit of**
 12 **Christopher Pettengill. Isn't that right?**
 13 A. Yes.
 14 **Q. Can you tell me how Mr. Pettengill's**
 15 **affidavit is relevant to your opinions? 11:03**
 16 A. So he was taken off one of the accounts
 17 and indicated -- and I think it was in his affidavit,
 18 if I'm not mistaken, that he had contacted the bank
 19 and said he wasn't supposed to be. And so I was
 20 trying to track the account-opening documents. 11:03
 21 That would have been the relevance of --
 22 of it. I was trying to track when he was taken off,
 23 you know, or why -- why he was taken off.
 24 **Q. Can you think of anything else that**
 25 **Mr. Pettengill says in his affidavit that is relevant 11:03**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 through here. If we see something while we're going
 3 through today, you know, I might point it out. But I
 4 think that was it.
 5 **Q. So is it fair to say the third party's 11:05**
 6 **description of what they believe Associated Bank did**
 7 **or didn't do should be considered when you're forming**
 8 **your opinions regarding whether Associated Bank**
 9 **violated the Bank Secrecy Act?**
 10 MR. MCVEY: Objection; form, 11:05
 11 foundation, vague and ambiguous.
 12 **Q. Go ahead.**
 13 A. Can you repeat that question?
 14 **Q. Sure. Is it -- is it fair to say that a**
 15 **third party's description of what they believe 11:05**
 16 **Associate Bank did or didn't do should be considered**
 17 **when forming your opinions regarding whether**
 18 **Associated Bank violated the Bank Secrecy Act?**
 19 MR. MCVEY: Same objections.
 20 A. It depends on what it is. If it's someone 11:05
 21 who's -- if it's a regulator saying that the bank
 22 violated it, you know, that may carry some weight.
 23 In this case Mr. Pettengill was describing -- you
 24 know, he was on the account so he was actually a
 25 signer on the account. So I wouldn't consider him 11:06

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 kind of like just a person walking down the street
 3 saying "I think that bank violated the Bank Secrecy
 4 Act."
 5 So it would depend on who it was, what 11:06
 6 document it is, what they said, and I would have to
 7 just, you know, consider it and what all of the
 8 documentation that the -- the bank has produced.
 9 **Q. So you would consider a signer on a bank
 10 account's testimony to be relevant when forming your 11:06
 11 opinions regarding whether Associated Bank violated
 12 the Bank Secrecy Act?**
 13 MR. MCVEY: Objection; form,
 14 foundation --
 15 A. Sure. 11:06
 16 MR. MCVEY: -- vague and
 17 ambiguous.
 18 **Q. Sorry, I -- I didn't hear you over the
 19 objection.**
 20 A. Sure, I would, yes. A signer, well, you 11:06
 21 know, whatever their interaction was with the bank
 22 would be important information.
 23 **Q. Okay. Could you turn to Appendix D of
 24 your report.**
 25 A. Did you say D as in David? 11:06

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **for Oxford Global Investments, Incorporated. Do you
 3 see that on -- that row?**
 4 A. I do.
 5 **Q. The signers on that account were Trevor 11:07
 6 Cook, Jason Bo-Alan Beckman and Christopher
 7 Pettengill. Correct?**
 8 A. Yes.
 9 **Q. And you haven't reviewed, to your
 10 knowledge, any testimony from Trevor Cook in any 11:07
 11 action in -- in connection with forming your opinions
 12 in this case. Correct?**
 13 A. So I believe that there was a snippet of
 14 some testimony from him maybe in one of the complaint
 15 exhibits, but as far as a deposition, I don't -- I 11:08
 16 think it was trial testimony. It could -- maybe it
 17 was deposition testimony. I don't know.
 18 I -- I seem to remember that there was a
 19 little bit of testimony from Trevor Cook, and if it
 20 was a part of the complaint, I did look at it. 11:08
 21 **Q. Other than that one snippet, you haven't
 22 reviewed any of other -- any other testimony that
 23 Mr. Cook has given in any action, have you?**
 24 MR. MCVEY: Objection; form.
 25 A. I think that's correct. 11:08

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. D as in dog or David.**
 3 A. Okay.
 4 **Q. Yeah.**
 5 **Okay. On Appendix D you lay out various 11:07
 6 bank accounts that were opened by receivership
 7 entities of Associated Bank. Correct?**
 8 A. Yes.
 9 **Q. And do you see that there -- it's sort of
 10 a table. Right? 11:07**
 11 A. It is a table.
 12 **Q. And there is a column for signers?**
 13 A. Yes.
 14 **Q. All right. And the -- let's start at the
 15 1705 account for Crown Forex, LLC. The -- the 11:07
 16 signers on that were Patrick Kiley and Julia Smith.
 17 Correct?**
 18 A. Yes.
 19 **Q. And you didn't review Julia Smith's
 20 deposition in this case, did you? 11:07**
 21 A. No.
 22 **Q. You didn't review Patrick Kiley's
 23 deposition in this case, did you?**
 24 A. No, I didn't.
 25 **Q. All right. Let's move to the 1812 account 11:07**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. You don't know whether he was --
 3 THE WITNESS: Excuse me.**
 4 **Q. -- deposed in the Buysse litigation, do
 5 you? 11:08**
 6 MR. MCVEY: Objection; form.
 7 A. I -- if it was in the complaint, I looked
 8 at it. Otherwise, I didn't.
 9 **Q. All right. And Jason Bo-Alan Beckman,
 10 have you reviewed any of his deposition testimony? 11:08**
 11 MR. MCVEY: Objection; asked and
 12 answered, I believe.
 13 A. Unless it was in the complaint exhibits or
 14 in someone else's exhibit, I have not looked at it.
 15 **Q. And you don't know whether you have or 11:08
 16 haven't. Is that right?**
 17 A. I'm just trying to be clear --
 18 **Q. Sure.**
 19 A. -- as far as what I looked at. If -- I
 20 don't think his testimony was in there, but if it is 11:09
 21 a part of the complaint, then I did look at it.
 22 **Q. I'm just trying to be -- to be clear as
 23 well. As you sit here right now, you're not certain
 24 whether it was part of a complaint exhibit. Right?**
 25 A. Correct. 11:09

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. So you're not certain whether you've**
 3 **reviewed Mr. Beckman's testimony at all. Correct?**
 4 A. That's correct.
 5 **Q. And you're -- the same would go for 11:09**
 6 **Mr. Beckman's trial testimony. You're not certain**
 7 **whether he's -- whether you've reviewed any of the**
 8 **testimony that he's given in any trial. Correct?**
 9 MR. MCVEY: Objection; form.
 10 A. Unless a portion of it was a part of the 11:09
 11 complaint exhibits, I would not have looked at it.
 12 **Q. And you don't know right now sitting here**
 13 **whether you've reviewed -- whether Mr. Beckman's**
 14 **trial testimony was an exhibit to the complaint, do**
 15 **you? 11:09**
 16 A. I --
 17 MR. MCVEY: Objection; form.
 18 A. I don't recall.
 19 **Q. How about Christopher Pettengill, have --**
 20 **have you reviewed any of his trial or deposition 11:09**
 21 **testimony?**
 22 MR. MCVEY: Objection; asked and
 23 answered and --
 24 A. Unless it's part of the exhibits to the
 25 complaint, I would have only looked at that 11:10

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. What steps did you take to make sure that**
 3 **you had actually reviewed all such evidence?**
 4 A. So as I said before, I try and look at the
 5 bank's production by looking at certain classes of 11:11
 6 materials which I've already described, but account
 7 opening documents, the bank policies and procedures,
 8 the user guide for the monitoring system, the alerts,
 9 the investigative protocol, all of that.
 10 And then I read all the bank depositions 11:11
 11 and look at all the exhibits. I look at, you know,
 12 the complaint and the exhibits. And so I should then
 13 get, by looking at the bank depositions, whatever
 14 their explanation is of, you know, the matters in the
 15 case. Like the 30(b)(6) witness, for example, 11:12
 16 Ms. Kitowski, you know, she would have -- or she did
 17 go into explanations of the Bank Secrecy Act policies
 18 and procedures and how they investigated alerts in
 19 their monitoring system and I did consider all of
 20 that. 11:12
 21 **Q. Did you review the deposition of Michael**
 22 **Behm? Is his deposition listed in Appendix C?**
 23 A. So that name doesn't sound familiar. What
 24 is the last name?
 25 **Q. Behm, B-E-H-M? 11:12**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 affidavit.
 3 **Q. And you're not certain whether any of**
 4 **Mr. Pettengill's trial or deposition testimony was**
 5 **attached to the complaint, are you? 11:10**
 6 MR. MCVEY: Objection; form.
 7 A. I don't recall as I'm sitting here.
 8 **Q. Could an explanation from Associated Bank**
 9 **ever show that Associated Bank was, in fact, acting**
 10 **in compliance with the Bank Secrecy Act? 11:10**
 11 MR. MCVEY: Objection to form,
 12 vague and ambiguous. I don't understand the
 13 question.
 14 Go ahead.
 15 **Q. Go ahead. 11:11**
 16 A. Would you repeat that again.
 17 **Q. Sure. If you reviewed any affidavit or**
 18 **any other sort of explanation from Associated Bank,**
 19 **would you consider that in forming your opinion**
 20 **regarding whether Associated Bank was complying with 11:11**
 21 **the Bank Secrecy Act?**
 22 A. Yes.
 23 **Q. If you were presented with such evidence,**
 24 **would you consider it?**
 25 A. Yes. 11:11

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. B-E-H-N?
 3 **Q. M, as in man.**
 4 A. I don't have that listed.
 5 **Q. So you didn't review it? 11:12**
 6 A. Is that a bank employee?
 7 **Q. Do you know who Michael Behm is?**
 8 A. No.
 9 **Q. Okay. How about the deposition of Eric**
 10 **Ericson [phonetic], did you review his testimony? 11:13**
 11 A. I don't have it listed.
 12 **Q. Do you know who Eric Ericson is?**
 13 A. Not -- unless it was part of an e-mail and
 14 with Mr. Behm, if they were part of an e-mail, I
 15 might have seen their name but I don't recall who it 11:13
 16 is.
 17 **Q. Did you review the testimony of Kyle**
 18 **Garman [phonetic]?**
 19 A. No. I don't have --
 20 (Simultaneous speaking.) 11:13
 21 **Q. Do you know who --**
 22 A. -- any --
 23 **Q. Kyle Garman is?**
 24 A. No.
 25 **Q. Sorry. 11:13**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Did you review the testimony of Ruthie
 3 Ream [phonetic]?
 4 A. No. I don't have her listed.
 5 Q. Do you know who she is? 11:13
 6 A. No.
 7 Q. You don't list any of the bank's
 8 interrogatory -- Associated Bank's interrogatory
 9 responses in Appendix C, do you?
 10 A. I don't. 11:13
 11 Q. You don't know if those interrogatory
 12 responses have any relevance to the opinions that
 13 you're offering in your report, do you?
 14 A. I'm trying to remember if I read them.
 15 You know, I don't recall seeing those. So if I need 11:14
 16 to look at them, then I'll see if I can get them.
 17 Q. But you -- you don't recall ever seeing
 18 them?
 19 A. I don't.
 20 Q. Did you ever ask for them? 11:14
 21 A. Not specifically. I -- I didn't, you
 22 know, know to ask for them.
 23 Q. Did you review the receiver's
 24 interrogatory responses in this case?
 25 A. No. 11:14

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 date.)
 3 THE REPORTER: 229.
 4 MR. MEDLOCK: That's correct.
 5 229. One off. 11:15
 6 Q. So, Ms. Ghiglieri, you have Exhibit 229 in
 7 front of you. Can you please let me know when you've
 8 had a chance to look at it.
 9 A. (Reviewing document.)
 10 Q. Have you had a chance to review that 11:17
 11 document --
 12 A. Uh-huh.
 13 Q. -- Ms. Ghiglieri?
 14 Have you ever seen this document before?
 15 A. I don't know if I have. I -- I'm not sure 11:17
 16 what this is, actually.
 17 Q. So I'll represent to you that this is a
 18 portion of Trevor Cook's examination testimony given
 19 in SEC vs. Cook. I'm on Page 1748, Lines 11 through
 20 16. 11:17
 21 "MS. NORGARD: At any point in this
 22 relationship, did Mike or anyone else say: Yeah.
 23 Lien can help us do some things that we might not
 24 otherwise be able to do?
 25 "THE WITNESS: No, I never heard anything 11:17

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Q. Did you ever ask to review them?
 3 A. No.
 4 Q. Do you know whether they have any
 5 relevance to your opinions? 11:14
 6 A. I don't.
 7 Q. Did you ever review the receiver's
 8 responses to Associated Bank's Requests For
 9 Admissions in this case?
 10 A. No. 11:14
 11 Q. Did you ever ask to?
 12 A. No.
 13 Q. Do you know if they have any relevance to
 14 your opinions?
 15 A. I don't. 11:14
 16 Q. Do you know who Ty Schlobohm is?
 17 A. No.
 18 Q. All right.
 19 MR. MEDLOCK: Mark the next
 20 exhibit. 11:15
 21 MR. MCVEY: 228?
 22 MR. MEDLOCK: Yes, I believe so.
 23 (Exhibit 229, Transcript Excerpt
 24 of 12/2/10 Deposition of Trevor Cook, no Bates -
 25 1 page, marked for identification as of this 11:15

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 like that."
 3 Did I read that correctly?
 4 A. Yes.
 5 Q. You're not certain whether you ever 11:17
 6 reviewed this testimony, are you?
 7 A. If it was a part of the complaint exhibits
 8 or one of the exhibits in the depositions, then I
 9 would have looked at it, but it doesn't look familiar
 10 to me. 11:18
 11 Q. And you're not certain whether you
 12 actually considered this testimony when formulating
 13 your opinions, are you?
 14 A. I'm --
 15 MR. MCVEY: Objection; form. 11:18
 16 A. I'm not.
 17 MR. MEDLOCK: Let's mark the next
 18 exhibit.
 19 (Exhibit 230, Transcript Excerpt
 20 of 12/2/10 Deposition of Trevor Cook, no Bates - 11:18
 21 7 pages, marked for identification as of this
 22 date.)
 23 MR. MEDLOCK: This will be 230.
 24 Q. Please take your time to review the
 25 document. But my question to you, Ms. Ghiglieri, 11:18

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 once you're done, is do you recognize this document?
 3 A. I don't recognize it, but I guess it's
 4 what you just showed me.
 5 Q. So it's a portion of the same transcript 11:18
 6 from Trevor Cook. Correct?
 7 A. Yes.
 8 Q. Okay. I'm on Page 1764, Lines 3 through
 9 17.
 10 "You know, so he certainly understood it 11:19
 11 was -- it was a different, you know, filing or a
 12 different entity, but I don't think that he thought
 13 anything was wrong with that or I don't think that he
 14 thought that there was any -- that there was a fraud
 15 going on, you know. I think it's common that 11:19
 16 businesses have all kinds of holding companies and
 17 sub entities and different entities. And, you know,
 18 I told Lien. Pat told Lien. I believe Shadi -- you
 19 know, Shad- -- when Shadi spoke to him, you know, we
 20 told him that this account was for their books. You 11:19
 21 know, Crown Forex, LLC account was part of Crown
 22 Forex, and it was on their books, so I'm not sure I'd
 23 say that Lien knew something, you know, fishy was
 24 going on."
 25 Did I read that correctly? 11:19

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. I mean, I don't want to say I didn't rely
 3 on this document versus this document. I try and
 4 look at everything and then I try and formulate my
 5 opinions. So if this or a portion of it was a -- an 11:20
 6 exhibit to the complaint I would have looked at it
 7 and considered it. And whether or not I decided to
 8 put it into this report, I know I'd put in something
 9 about the relationship between Lien and his brother
 10 or stepbrother. I just remember that -- how he met 11:21
 11 Trevor Cook and the rest of them. But whether I
 12 cited this document or not, I -- I'd have to go back
 13 and look.
 14 Q. But you can't tell me whether this was
 15 actually -- the portion of the testimony that I read 11:21
 16 to you was actually part of what you reviewed when
 17 drafting the complaint. Correct?
 18 A. I can't tell you specifically. And I --
 19 it's hard to even understand it, what you just read,
 20 but I -- I know I looked at some of Trevor Cook's 11:21
 21 testimony, I think, as part of the complaint
 22 exhibits.
 23 Q. And --
 24 A. Whether it was this or not, I don't know.
 25 Q. Okay. 11:22

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. Yes.
 3 Q. I certainly endeavored to.
 4 A. It's a little confusing.
 5 Q. The receiver never provided this testimony 11:20
 6 to you, to your recollection?
 7 A. Well --
 8 MR. MCVEY: Objection; form.
 9 A. -- I -- I don't -- did not read Trevor
 10 Cook's deposition, nor would I have asked to. But I 11:20
 11 do seem to remember that there was a portion of his
 12 testimony as part of the complaint exhibits.
 13 And I do -- this thing on 1762 sort of
 14 looks familiar about either brothers or stepbrothers,
 15 so I think I saw that before. So I -- I may have -- 11:20
 16 I may have seen this, I just don't know.
 17 Q. But you never asked to review it
 18 specifically?
 19 A. I wouldn't have --
 20 Q. And you -- 11:20
 21 A. -- no.
 22 Q. -- didn't rely on it when forming your
 23 opinions?
 24 A. No.
 25 Q. All right. 11:20

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. I'd have to look.
 3 Q. I'm moving down to 1765 --
 4 A. Okay.
 5 Q. -- Lines 18 through 20. 11:22
 6 A. Let's see. 18 through 20.
 7 Q. You there with me?
 8 A. Yes.
 9 Q. "THE WITNESS: But I had -- my point is I
 10 don't think Lien thought anything fishy was going 11:22
 11 on."
 12 Did I read that correctly?
 13 A. Yes.
 14 Q. And you're -- you're not certain whether
 15 you reviewed this portion of Mr. Cook's testimony 11:22
 16 when drafting the complaint in this case?
 17 A. I didn't draft the complaint.
 18 Q. When -- when you were consulting on the
 19 complaint.
 20 A. No. 11:22
 21 Q. And you're not --
 22 A. I didn't look at anything when I was
 23 helping redline the complaint.
 24 Q. Okay.
 25 A. I just looked at it from a regulatory 11:22

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 perspective to see that what was in that complaint
 3 was accurate, and I made some redlines to make it
 4 more accurate. I didn't look at anything in order to
 5 help with that process back in 2012. 11:22
 6 **Q. And you're not certain that you wrote --**
 7 **that you reviewed or relied upon this portion of**
 8 **Mr. Cook's testimony when arriving at your -- the**
 9 **conclusions expressed in your report, are you?**
 10 A. I'm not sure if it was a part of the 11:23
 11 complaint exhibits -- exhibits. I -- I would have at
 12 least reviewed it, yes.
 13 **Q. All right. On Page 135 of your report,**
 14 **the Appendix C?**
 15 A. Okay. 11:23
 16 **Q. You list certain sections of the Code of**
 17 **Federal Regulations that you reviewed. Correct?**
 18 A. Yes.
 19 **Q. You didn't review any Minnesota state**
 20 **statutes, did you? 11:23**
 21 A. No.
 22 **Q. You didn't review any Minnesota State**
 23 **banking regulations, did you?**
 24 A. No. And -- and it's not my method to look
 25 at state law, because banks have to comply with the 11:23

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **you reviewed when formulating your opinions, do you?**
 3 A. Yes. I list the Federal Reserve's
 4 National Information Center website, I list the FFIEC
 5 website. 11:24
 6 **Q. I see.**
 7 A. And FINMA website and, of course, I pulled
 8 down the consent order and list of the money penalty
 9 from the OCC's website.
 10 **Q. Are there any other websites that you 11:25**
 11 **reviewed when formulating your opinions in this case?**
 12 A. The FTIC's website. I would have pulled
 13 down certain information previously because
 14 sometimes -- I've been doing this so long I've got an
 15 archive of information. And Simpson's website, I 11:25
 16 would have pulled down the article.
 17 **Q. Are there any other websites that**
 18 **you can --**
 19 MR. MEDLOCK: Hold on just a
 20 second. We'll wait on the microphone. 11:25
 21 THE WITNESS: Okay. Are you okay?
 22 THE VIDEOGRAPHER: You're good.
 23 **Q. Are there any other websites that you**
 24 **reviewed when formulating your opinions in this case,**
 25 **besides the ones you've just listed? 11:25**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 federal law, and especially the national banks have
 3 to comply with federal law, so...
 4 **Q. And you didn't review Minnesota's Uniform**
 5 **Commercial Code then. Correct? 11:23**
 6 A. No, and I would not have.
 7 **Q. And you don't know whether it has any**
 8 **relevance to this case, do you?**
 9 A. It may in terms of what you all have to
 10 argue, but it wouldn't as far as developing my 11:24
 11 opinions.
 12 **Q. So it had no -- the UCC in Minnesota has**
 13 **no relevance to your opinions --**
 14 A. No.
 15 **Q. -- in your report? 11:24**
 16 **You, on page -- I guess it goes from 135**
 17 **to 136, Appendix C. Correct?**
 18 A. Yup.
 19 **Q. On Page 136, you list a website that you**
 20 **reviewed. Correct? 11:24**
 21 A. I probably list a few of them.
 22 **Q. So under Other Materials, you list**
 23 **National Futures Association website?**
 24 A. Yes.
 25 **Q. You didn't list any other websites that 11:24**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. I don't think so.
 3 (Discussion off the written
 4 record.)
 5 **Q. You don't list the Minnesota Secretary of 11:25**
 6 **State website as one of the materials you reviewed in**
 7 **this case, do you?**
 8 A. No. I -- I did not go back to the
 9 Minnesota Secretary of State's website to look at
 10 anything. I looked at the bank's production, which 11:26
 11 some of those documents were from the Secretary of
 12 State's website.
 13 **Q. And you don't list any documents from the**
 14 **Secretary of State's website anywhere in your report**
 15 **that you pulled off yourself? 11:26**
 16 A. I did not pull off any documents myself --
 17 **Q. You --**
 18 A. -- from the Secretary of State's website.
 19 **Q. Certainly. You -- you never personally**
 20 **searched for Crown Forex, LLC on the Minnesota 11:26**
 21 **Secretary of State website, did you?**
 22 A. No.
 23 **Q. You never personally searched for any --**
 24 **for Crown Forex, LLC on any Secretary of State**
 25 **website as part of your work in this case, did you? 11:26**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. No.
 3 **Q. You never searched for any receivership**
 4 **entity on any Secretary of State website when**
 5 **formulating your opinions in this case, did you? 11:26**
 6 A. No. And I wouldn't have because I want to
 7 see what the bank had in their file at the account
 8 opening or afterwards when they were researching this
 9 as part of an alert or -- or whatever. So it
 10 wouldn't matter to my opinion what's on there now. I 11:27
 11 wanted to see what was on there then. And that would
 12 have been from the bank's files.
 13 **Q. Whose responsibility at a bank is it to**
 14 **ensure that BSA/AML compliance occurs?**
 15 A. It's the bank's responsibility. 11:27
 16 **Q. And I'm talking about individual**
 17 **employees. What -- what types of employees are**
 18 **required to make sure that there is BSA/AML**
 19 **compliance?**
 20 A. The Board of Directors is overall 11:27
 21 responsible for Bank Secrecy Act compliance, and the
 22 law and regulation requires that they have a Bank
 23 Secrecy Act officer who oversees the area. The Board
 24 of Directors is responsible for formulating and
 25 approving Bank Secrecy Act policies, overseeing the 11:27

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **instruct or request that a bank, its supervisors,**
 3 **terminate certain employees for BSA/AML violations?**
 4 A. I'm not aware that the OCC has required
 5 banks to terminate employees. The -- what the 11:29
 6 process is, is they would take action against the
 7 bank, like they did here. They would take an
 8 enforcement action. And, of course, the most severe
 9 is a consent agreement or a cease and desist order,
 10 which are basically the same. And civil money 11:29
 11 penalties would be a fine for noncompliance.
 12 For certain levels of violations of law,
 13 including the Bank Secrecy Act, they could remove a
 14 bank employee, but it's rare that the OCC comes in
 15 and says, "You have to fire this person." I -- I 11:30
 16 can't recall, except for the most serious of problem
 17 banks, ever saying that to a bank, that you have to
 18 fire someone. And usually it's the CEO, not, you
 19 know, a mid-level employee in the Bank Secrecy Act
 20 area. 11:30
 21 **Q. There are criminal penalties for**
 22 **violations of the -- of BS- -- of the Bank Secrecy**
 23 **Act. Correct?**
 24 MR. MCVEY: Form.
 25 A. Well, the regulators would take 11:30

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 monitoring systems, and making sure they're adequate,
 3 and overseeing the filing of the SARs because the
 4 monitoring systems are supposed to be able to detect
 5 suspicious activity and fulfill their compliance 11:28
 6 responsibilities regarding filing of suspicious
 7 activity reports.
 8 So the bank, through its Board of
 9 Directors, the Board is ultimately the one
 10 responsible, and then that responsibility is 11:28
 11 delegated to the Bank Secrecy Act officer, and then
 12 it just goes down from there. There will be a
 13 department, there will be Bank Secrecy Act
 14 investigators, and supervisors to oversee the
 15 process. 11:28
 16 **Q. So the Board of Directors plays an**
 17 **important role in BSA/AML oversight. Correct?**
 18 MR. MCVEY: Objection; form.
 19 A. Yes. They're ultimately responsible for
 20 it. 11:28
 21 **Q. Can bank examiners take any actions to**
 22 **exclude employees who were found to have violated the**
 23 **BSA/AML regulations?**
 24 A. Yes.
 25 **Q. Does the OCC, to your knowledge, ever 11:29**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 administrative penalties. And if the -- if the bank
 3 somehow was involved in money laundering or whatever,
 4 there would be, you know, actions taken in -- in the
 5 criminal arena. But as far as my experience and as a 11:30
 6 regulator, it would be in the administrative arena.
 7 **Q. You're aware of no OCC public orders**
 8 **directing Associated Bank to terminate or remove Lien**
 9 **Sarles, are you?**
 10 A. No. 11:31
 11 **Q. There are no OCC public orders directing**
 12 **U.S. Bank Corp. to terminate or remove Lien Sarles,**
 13 **are there?**
 14 MR. MCVEY: Objection; form.
 15 A. Not that I'm aware of. 11:31
 16 **Q. There are no OCC public orders directing**
 17 **BMO Harris Bank to remove or terminate Lien Sarles,**
 18 **are there?**
 19 MR. MCVEY: Objection to form.
 20 A. I -- I don't -- I don't know anything 11:31
 21 about Harris Bank.
 22 **Q. When you worked for the OCC, would the OCC**
 23 **expect a bank, like U.S. Bank or Associated Bank, not**
 24 **to hire a banker that the OCC believed had been**
 25 **involved in a Ponzi scheme? 11:31**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 MR. MCVEY: Objection; vague and
 3 ambiguous.
 4 A. Say --
 5 MR. MCVEY: And foundation and 11:32
 6 relevance.
 7 A. -- say that again, please.
 8 **Q. Sure. When you worked for the OCC, would**
 9 **the OCC expect a bank, like U.S. Bank or Associated**
 10 **Bank, not to hire a banker who the OCC had believed 11:32**
 11 **to have been involved in a Ponzi scheme?**
 12 A. Yes.
 13 **Q. Are you aware of any advice or order from**
 14 **the OCC to any bank to not hire Lien Sarles?**
 15 MR. MCVEY: Objection; form, 11:32
 16 vague, relevance.
 17 A. No.
 18 **Q. Are you aware of any criminal prosecution**
 19 **against Associated Bank for money laundering?**
 20 A. No. 11:32
 21 **Q. Are you aware of any criminal prosecution**
 22 **against Lien Sarles for money laundering?**
 23 A. No.
 24 **Q. Are you aware of any criminal prosecution**
 25 **against Lien Sarles for any reason? 11:32**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **with the Bank Secrecy Act and the USA Patriot Act."**
 3 **Did I read that correctly?**
 4 A. Yes.
 5 **Q. Do you claim to be an expert of any topics 11:34**
 6 **not listed in that sentence?**
 7 A. Yes. These are just the topics that are
 8 germane to this case.
 9 **Q. What other fields do you consider yourself**
 10 **to be an expert in? 11:34**
 11 A. I'm sorry?
 12 **Q. What other fields do you consider yourself**
 13 **to be an expert in?**
 14 A. So I consider myself to be a banking
 15 expert, and that's the field. The topics, as far as 11:34
 16 the banking industry, I am an expert in lending,
 17 specifically commercial real estate, commercial
 18 loans, predatory lending. So it just depends on what
 19 the case is, what I'm going to put down here. But
 20 these are the topics inside of the banking area that 11:34
 21 I wanted to specifically identify as being an expert
 22 in these topics.
 23 **Q. Do you have any education or training as**
 24 **an accountant?**
 25 A. Not as an accountant. 11:34

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. I'm not aware of any. I -- I didn't
 3 research that, to be honest. But the bank did not
 4 produce anything.
 5 **Q. And you never went out to determine 11:32**
 6 **whether there was any --**
 7 A. No.
 8 **Q. -- criminal prosecution against**
 9 **Mr. Sarles?**
 10 A. That's right. 11:33
 11 THE REPORTER: Make sure you wait
 12 until he finishes his question, please.
 13 **Q. Can you turn to Page 7 of your report,**
 14 **please. All right. Are you there?**
 15 A. I am. 11:33
 16 **Q. Okay. Do you see the header that reads**
 17 **"Introduction"?**
 18 A. I do.
 19 **Q. And under that, the first sentence reads,**
 20 **"I am an expert in the manner in which banks open 11:33**
 21 **deposit accounts, monitor accounts for suspicious**
 22 **activity, investigate alerts, process 314(b)**
 23 **requests, process large cash withdrawals and other**
 24 **transactions in deposit accounts, wire transfer**
 25 **funds, issue cashier's checks, and in general, comply 11:33**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. Do you have any education or training**
 3 **as a --**
 4 A. Well, I've taken --
 5 **Q. I'm sorry. 11:35**
 6 A. -- accounting courses in college, for
 7 example, and bank accounting courses at the OCC, but
 8 I'm not a CPA.
 9 **Q. When was the last time you took an**
 10 **accounting or bank accounting course? 11:35**
 11 A. At the OCC, when I was a field examiner.
 12 **Q. So that would have been what year?**
 13 A. In -- from 1974 to 1982.
 14 **Q. Okay. Do you have any training or**
 15 **experience as an economist? 11:35**
 16 A. No.
 17 **Q. Do you have any training or experience as**
 18 **an econometrician?**
 19 A. I don't even know what that is.
 20 **Q. Fair enough. 11:35**
 21 **Do you have any training or experience as**
 22 **a statistician?**
 23 A. Well, I'm not -- I wouldn't say I was an
 24 expert statistician, but I do have a background and
 25 training in pulling samples of loans, for example, 11:35

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 going into a bank on a bank examination. I -- we
 3 used to call it statistical sampling, but I think if,
 4 actually, a statistician would look at how we did it,
 5 I -- I'm not sure it would be pure statistical 11:36
 6 sampling.
 7 But what we used to do is take the largest
 8 loans and look at them. We'd look at the problem
 9 loans, and we would take a sample like every 10th
 10 loan or every 15th loan. We would figure out how 11:36
 11 many we wanted to work and then take those and look
 12 at them.
 13 So I've trained examiners on how to do
 14 statistical sampling as we defined it at the OCC and
 15 at the Department of Banking, but I don't think it 11:36
 16 was probably pure statistical sampling.
 17 **Q. Have you ever been qualified or admitted**
 18 **by any court to testify on the subject of damages?**
 19 A. I don't take damages cases. I -- I would
 20 not take that as an expert. 11:37
 21 **Q. And you don't claim to have an expertise**
 22 **in the field of calculating damages. Correct?**
 23 A. No.
 24 **Q. You don't have any educational experience**
 25 **that would allow you to calculate damages in this 11:37**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. Do you know what a sources and uses**
 3 **analysis is?**
 4 A. Yes.
 5 **Q. Do you have any educational experience 11:37**
 6 **regarding sources and uses analysis?**
 7 A. Yes.
 8 **Q. Can you explain that to me? What's your**
 9 **experience?**
 10 A. So at the OCC I did -- I was trained 11:38
 11 extensively on this because the loan category is the
 12 biggest dollar amount on the bank's balance sheet.
 13 And I probably spent more time than anything else
 14 looking at banks' loan portfolios. And one of the
 15 things that we would be looking at is their cash 11:38
 16 flow.
 17 And so, you know, I'm not an accountant.
 18 I'm -- I've already said that. I did take some
 19 accounting classes at Notre Dame. I was a finance
 20 major, but I -- I received extensive training on how 11:38
 21 to determine cash flow at the OCC. And it was a part
 22 of the examination process at both the OCC and the
 23 banking department, so I used that on a regular
 24 basis.
 25 **Q. Have you been retained to perform a 11:39**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **case, do you?**
 3 A. I -- I haven't been retained to calculate
 4 damages, no.
 5 **Q. And you don't have any educational 11:37**
 6 **experience that would allow you to do that in this**
 7 **case?**
 8 A. Well, I -- I just don't take damages
 9 cases. I'm not an expert -- I'm -- I'm not here to
 10 testify on what the damages are. 11:37
 11 **Q. So you have no opinion on the proper**
 12 **measure of damages in this case. Correct?**
 13 A. Correct.
 14 **Q. That's just outside the scope of your**
 15 **report. Right? 11:37**
 16 A. Yes. I was not retained to do that.
 17 **Q. And you have no plans to testify as a**
 18 **damages expert in this case?**
 19 A. That's correct.
 20 **Q. And you have no plans to offer any sort of 11:37**
 21 **supplemental report on damages. Right?**
 22 A. Correct.
 23 **Q. And you have no plans to offer any trial**
 24 **testimony regarding damages. Correct?**
 25 A. Correct. 11:37

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **sources and uses analysis in this case?**
 3 A. No.
 4 **Q. Do you have any opinions regarding how a**
 5 **sources and uses analysis should be carried out in 11:39**
 6 **this case?**
 7 A. No.
 8 **Q. You didn't perform any sources and uses**
 9 **analysis in this case yourself, did you?**
 10 A. No. 11:39
 11 **Q. You didn't review any sources and uses**
 12 **analysis materials to determine whether there was a**
 13 **proper sources and uses analysis done in any portion**
 14 **of this case, did you?**
 15 A. I'm trying to think if -- so there were 11:39
 16 some spreadsheets given to me that I lopped off some
 17 information in order to put it in my report. And it
 18 may -- that may have been on there. I -- but I did
 19 not consider it or utilize it in formulating my
 20 opinions. 11:39
 21 **Q. Did you perform any analysis to determine**
 22 **whether those spreadsheets that you were given were**
 23 **accurate?**
 24 A. No.
 25 **Q. You are a lawyer. Correct? 11:40**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. Yes.
 3 **Q. And you're, I guess, an inactive member of**
 4 **the DC and Georgia bars. Is that right?**
 5 A. Yes. 11:40
 6 **Q. Do you know what constitutes fraud under**
 7 **Minnesota law?**
 8 A. No. And I am not here to argue legal --
 9 I'm not here to render legal opinions. I'm not here
 10 to do anything other than what's in this report. And 11:40
 11 that is did the bank meet the standards in the
 12 banking industry regarding the opening of these
 13 accounts, the monitoring of these accounts, and
 14 investigating these accounts.
 15 **Q. So you have no opinion regarding whether 11:40**
 16 **any of the conduct at issue in this case constitutes**
 17 **fraud under Minnesota law?**
 18 A. Correct.
 19 **Q. And you have no opinion regarding whether**
 20 **the -- any of the conduct in this case -- at issue in 11:40**
 21 **this case constitutes a breach of any fiduciary duty**
 22 **under Minnesota law?**
 23 A. So whether any conduct breaches fiduciary
 24 duty?
 25 **Q. Right. 11:41**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **abetting in this case. Correct? You're -- you're**
 3 **not offering that legal opinion, are you?**
 4 A. So I'm not offering legal opinion.
 5 **Q. Okay. That's just -- that's all my 11:42**
 6 **question was.**
 7 A. Yeah. Yeah.
 8 **Q. Okay.**
 9 A. Yeah.
 10 **Q. Are you a certified fraud examiner? 11:42**
 11 A. No. I -- I just decided I had so many
 12 other degrees and designations, I wasn't going to do
 13 that.
 14 **Q. Too many --**
 15 A. I just never would have done it. 11:42
 16 **Q. Too many letters behind your name?**
 17 A. I know, yeah.
 18 **Q. Do you hold professional certifications**
 19 **relating to fraud examination?**
 20 A. No. I just -- I never -- I just decided 11:42
 21 not to do it.
 22 **Q. Are you a member of any professional**
 23 **organizations related to fraud examination?**
 24 A. Not the certified fraud group, no, I'm not
 25 a member of that. I am a member of bank trade 11:43

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. So I -- I think -- I don't know if my
 3 opinions can be used to argue that, but I haven't
 4 rendered those opinions.
 5 **Q. And you haven't rendered any opinion 11:41**
 6 **regarding whether any of the conduct at issue in this**
 7 **case constitutes conversion under Minnesota law?**
 8 A. That's not a part of my opinions, no.
 9 **Q. And you have no opinion regarding whether**
 10 **any of the conduct at issue in this case constitutes 11:41**
 11 **aiding and abetting any sort of tort or crime under**
 12 **Minnesota law. Correct?**
 13 A. So aiding and abetting -- well, the
 14 standard under aiding and abetting I just know as
 15 knowledge. And I know that my report does go into 11:41
 16 what the bank knew. And so it may be argued aiding
 17 and abetting based on the atypical banking practices
 18 that are discussed in my report. So I don't want to
 19 say I don't have any opinion on that because I think
 20 my opinions go to that. But I'm not here to 11:42
 21 formulate legal opinions or make legal arguments to
 22 the Court.
 23 **Q. Yeah. But my question is very simple.**
 24 **You have no opinion on the -- on the ultimate issue**
 25 **of whether any conduct constitutes aiding and 11:42**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 associations. And, of course, I go to seminars and
 3 do webinars and things like that regarding the Bank
 4 Secrecy Act, but I don't belong to that particular
 5 organization. 11:43
 6 **Q. So you're not a member of any professional**
 7 **organization that's specifically related to fraud**
 8 **investigations. Correct?**
 9 A. Yes.
 10 **Q. Have you ever been qualified by any court 11:43**
 11 **to testify as an expert on whether a particular**
 12 **conduct constitutes fraud?**
 13 A. I've been -- I have been -- did you say
 14 certified? What was the word that you used?
 15 **Q. Qualified or admitted. 11:43**
 16 A. Qualified?
 17 I've been qualified to testify on the Bank
 18 Secrecy Act and whether or not the bank met the
 19 standards in the industry regarding the Bank Secrecy
 20 Act at fraud -- you know, at a fraud trial. So I 11:44
 21 don't know if that's exactly what you asked me or
 22 not.
 23 **Q. Sure. Let me see if I can ask it a little**
 24 **bit better.**
 25 A. Okay. 11:44

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. Have you ever been admitted for the**
 3 **specific purpose of testifying in -- at court**
 4 **regarding whether particular conduct constitutes**
 5 **fraud? 11:44**
 6 MR. MCVEY: Let me just interpose
 7 an objection to "admitted." I think it's vague
 8 and ambiguous. I don't know what that means in
 9 that context.
 10 A. So I'm trying to figure out if what -- 11:44
 11 what you're -- what you mean about fraud. You mean
 12 on -- can you explain?
 13 **Q. It --**
 14 A. I just want to make sure I answer it
 15 correctly. 11:44
 16 **Q. Sure. Have you ever been qualified as an**
 17 **expert at any trial to say that particular conduct is**
 18 **fraudulent?**
 19 A. So I've been qualified to testify several
 20 times on the Bank Secrecy Act and whether or not a 11:45
 21 bank conducted atypical behavior, which I think you
 22 can use to say was fraud. So I hope that's
 23 responsive to your answer -- or question.
 24 **Q. And in --**
 25 A. -- to your question. 11:45

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Atypical banking behavior can rise to the**
 3 **level of fraud, and I've been qualified on several**
 4 **occasions to testify as to that.**
 5 **Q. Is all atypical banking conduct 11:46**
 6 **fraudulent?**
 7 A. If I understand the standard, if it rises
 8 high enough, it can equal fraud.
 9 **Q. But there's certain atypical banking**
 10 **conduct that would not be fraudulent then. Correct? 11:46**
 11 A. Yes.
 12 **Q. There's certain atypical banking conduct**
 13 **that may have an -- a reasonable explanation that's**
 14 **not nefarious. Correct?**
 15 A. I'm -- I'm sure there is. 11:47
 16 **Q. Do you have any professional**
 17 **certifications related to BSA/AML compliance?**
 18 A. So are you back on the certified fraud
 19 examiner thing --
 20 **Q. No. 11:47**
 21 A. -- again?
 22 **Q. I'm just asking whether you have any**
 23 **professional certifications that are related**
 24 **specifically to BSA/AML compliance.**
 25 A. And what would it be other than the 11:47

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. In those cases, you weren't specifically**
 3 **offering an opinion that particular conduct was**
 4 **fraudulent. You were simply saying it was atypical.**
 5 **Right? 11:45**
 6 A. I think that's right.
 7 **Q. Can you think of any case where you have**
 8 **specifically testified that a particular conduct was**
 9 **fraudulent?**
 10 A. So I know that I've testified on the Bank 11:45
 11 Secrecy Act and how the bank did not meet the
 12 standards in the industry, how it was atypical
 13 behavior. And if that equals fraud, then those times
 14 I -- I was qualified to testify.
 15 **Q. But you've never actually offered an 11:46**
 16 **opinion, irrespective of the Bank Secrecy Act or**
 17 **standards in the industry, that particular conduct**
 18 **was fraudulent. Is that right?**
 19 MR. MCVEY: Object to form.
 20 Foundation. 11:46
 21 A. I'm not sure --
 22 MR. MCVEY: Asked and answered.
 23 A. -- I can answer it any other way.
 24 **Q. I -- I want to -- I just want to make sure**
 25 **if I understand what you're saying? 11:46**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 certified fraud examiner, are you thinking?
 3 **Q. I -- I'm just -- I'm asking the question.**
 4 **Do -- do you know -- do you have any certifications**
 5 **that relate to BSA/AML compliance? 11:47**
 6 A. No. I -- I'm trained in it, but I don't
 7 have the certified fraud examiner certification,
 8 which is the main one that people get in this area.
 9 **Q. Are you a member of any professional**
 10 **organizations that are related specifically to 11:48**
 11 **BSA/AML compliance?**
 12 A. No.
 13 **Q. Do you have any professional**
 14 **certifications that are related specifically to the**
 15 **Know Your Customer regulations? 11:48**
 16 A. I'm not aware that there are any, besides
 17 the BSA group's.
 18 **Q. You aren't a member of any professional**
 19 **organizations that are related to the Know Your**
 20 **Customer regulations. Correct? 11:48**
 21 MR. MCVEY: Objection; asked and
 22 answered.
 23 A. I don't --
 24 MR. MCVEY: Object to form.
 25 A. I don't think there are any, specifically 11:48

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 "know your customer."
 3 **Q. So I think you testified earlier you**
 4 **received your bachelor's from Notre Dame. Correct?**
 5 A. Yes. 11:48
 6 **Q. At Notre Dame, did you take any classes**
 7 **related to the Bank Secrecy Act?**
 8 A. No. That was right when it was being
 9 passed.
 10 **Q. At Notre Dame, did you take any classes 11:48**
 11 **related to money laundering?**
 12 A. Well, I took money in banking and various
 13 finance classes, and money laundering was, you know,
 14 a small portion of it.
 15 **Q. At Notre Dame, did you take any classes 11:49**
 16 **that related to the federal anti-money laundering**
 17 **regulations?**
 18 A. They weren't passed yet.
 19 **Q. You received your juris doctorate from**
 20 **Georgia State. Correct? 11:49**
 21 A. Yes.
 22 **Q. At Georgia State, did you take any classes**
 23 **related to the Bank Secrecy Act?**
 24 A. I don't think so. I don't think there
 25 were any offered, if I remember correctly. 11:49

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **that section begins, "The methodology I utilized in**
 3 **formulating my opinions is the same as" -- "as which**
 4 **I employed as a regulator when examining banks."**
 5 **Did I read this correctly? 11:51**
 6 A. Almost correctly, yes.
 7 **Q. Oh. More or less?**
 8 A. "That which I employ."
 9 **Q. Fair enough.**
 10 **All right. Turning to Appendix A of your 11:51**
 11 **report. This is a -- this is a copy of your CV.**
 12 **Correct?**
 13 A. Yes.
 14 **Q. Is this a -- a current copy of your CV?**
 15 A. Yes. 11:51
 16 **Q. Is it complete?**
 17 A. Yes.
 18 **Q. Is there anything that's missing from your**
 19 **CV as you review it?**
 20 A. And -- no. This is the CV that I use. 11:51
 21 And I just add to them, lectures or the articles.
 22 **Q. Fair enough.**
 23 **On Page 126 of your report, do you -- do**
 24 **you see a heading for "Office of Comptroller of the**
 25 **Currency"?** 11:52

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. At Georgia State, did you take any classes**
 3 **that related to the federal anti-money laundering**
 4 **regulations?**
 5 A. There were no specific classes like that 11:49
 6 in the law school.
 7 **Q. Outside of your formal education, have you**
 8 **attended any classes related to the Bank Secrecy Act?**
 9 A. Yes.
 10 **Q. How many? 11:49**
 11 A. I don't know. I take at least one webinar
 12 or class that is offered by the trade associations of
 13 various groups a year. I go to seminars on money
 14 laundering at least once a year. And so I don't know
 15 how many it would add up to. 11:50
 16 And, of course, I received training at the
 17 OCC, and then I provided training to the examiners
 18 when I was the banking commissioner for the
 19 Department of Banking in Texas.
 20 **Q. Okay. On Page 9 of your report, do you 11:50**
 21 **see a section titled "Data and Other Information**
 22 **Considered and Methodology Utilized in Formulating**
 23 **Opinions"?**
 24 A. Yes.
 25 **Q. All right. So the second paragraph under 11:50**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. Yes.
 3 **Q. And according to that page, from 1974 to**
 4 **1982, you were a national bank examiner. Is that**
 5 **right? 11:52**
 6 A. Well, I had various positions at the OCC,
 7 and they're listed there.
 8 I started off as an assistant national
 9 bank examiner. Then I was commissioned after five
 10 years to a national bank examiner, and then I had 11:52
 11 various other titles as I went through the 18 years I
 12 was there.
 13 **Q. At the OCC, when was the last time that**
 14 **you performed a bank examination as a member of the**
 15 **OCC? 11:52**
 16 A. So I myself was a field examiner for eight
 17 years, and that would have been from '74 to '82. And
 18 during that time, I performed examinations of banks'
 19 Bank Secrecy Act compliance. And then I -- after
 20 that, I became -- I was promoted into different 11:53
 21 roles, and I either oversaw examiners or -- I worked
 22 in the failing bank section, for example, and it
 23 wouldn't have been my responsibility to -- to
 24 actually conduct the bank examinations after that.
 25 But I would have been responsible in some of my 11:53

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 positions for examiners conducting Bank Secrecy Act
 3 examinations.
 4 **Q. So if I could break that down a little**
 5 **bit. 11:53**
 6 **As I understood your testimony, the last**
 7 **time you personally performed a bank examination as a**
 8 **member of the OCC was 1982. Is that right?**
 9 A. Yes. As a field examiner.
 10 **Q. When was the last time that you supervised 11:53**
 11 **a -- a bank examination as a member of the OCC?**
 12 A. So that would have been -- '92 is when I
 13 left, and then I supervised examiners in Texas to
 14 '99.
 15 **Q. So the last time you -- as a member of the 11:54**
 16 **OCC that you supervised a examination of a national**
 17 **bank was in -- would have been in 1992?**
 18 A. Yes.
 19 **Q. And when you went to work in Texas, you**
 20 **were at the -- if I can -- you were at the -- working 11:54**
 21 **for the Texas banking commissioner. Is that correct?**
 22 A. I was the Texas banking commissioner.
 23 **Q. I'm sorry. You were the Texas banking**
 24 **commissioner.**
 25 A. Yes. 11:54

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. You haven't -- as a -- as a bank**
 3 **regulator, you have not performed a bank examination**
 4 **of a national-chartered bank since the Patriot Act**
 5 **was passed. Correct? 11:55**
 6 A. Right. I've been a -- I -- I have worked
 7 for my own company from -- since 1999, and the Bank
 8 Secrecy Act was amended by the USA Patriot Act in
 9 2001.
 10 **Q. So you haven't -- you haven't served as a 11:56**
 11 **federal bank regulator since the USA Patriot Act was**
 12 **passed. Correct?**
 13 A. That's correct.
 14 **Q. Have you ever -- do you have any**
 15 **consulting experience consulting with hedge funds 11:56**
 16 **regarding BSA/AML compliance?**
 17 A. No.
 18 **Q. Do you have any consulting experience in**
 19 **general with hedge funds?**
 20 A. No. 11:56
 21 **Q. Do you have any consulting experience**
 22 **regarding foreign ex- -- foreign exchange -- I'm**
 23 **sorry. Let me back up.**
 24 **Do you have any -- have you ever consulted**
 25 **for a foreign exchange currency trading company? 11:56**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. Sorry.**
 3 **And as the Texas banking commissioner, you**
 4 **had oversight over state-chartered banks. Is that**
 5 **right? 11:54**
 6 A. Yes.
 7 **Q. So when you said you oversaw examinations**
 8 **as the Texas banking commissioner, that only related**
 9 **to state-chartered banks. Right?**
 10 A. Yes. 11:54
 11 **Q. So on Page 15 of your report -- and I**
 12 **apologize for jumping around a little bit.**
 13 **Are you with me on Page 15?**
 14 A. Yes.
 15 **Q. Okay. On that page, you discuss the USA 11:55**
 16 **Patriot Act. Correct?**
 17 A. I do.
 18 **Q. Would you consider the USA Patriot Act to**
 19 **be a significant change to Bank Secrecy Act**
 20 **compliance? 11:55**
 21 A. Yes.
 22 **Q. Would you consider the USA Patriot Act to**
 23 **be a significant change to bank regulations in**
 24 **general?**
 25 A. Yes. 11:55

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. No.
 3 **Q. When you worked at the OCC, did you**
 4 **ever -- did you ever examine a hedge fund?**
 5 A. I don't know. That was outside of our 11:57
 6 portfolio.
 7 **Q. So that's -- that's what I'm getting at.**
 8 **It would have been outside of --**
 9 A. Yes.
 10 **Q. -- what you would normally be examining.**
 11 **Correct?**
 12 A. Yes.
 13 **Q. When you worked at the OCC, part of the**
 14 **OCC's oversight was not hedge funds. Correct?**
 15 A. Correct. 11:57
 16 **Q. And when you worked -- and when you were**
 17 **the Texas banking commissioner, you didn't have any**
 18 **regulatory oversight authority over hedge funds.**
 19 **Correct?**
 20 MR. MCVEY: Objection; form. 11:57
 21 A. Correct.
 22 **Q. When you worked at the OCC, you didn't**
 23 **have any co- -- examination of foreign currency**
 24 **trading operations was not part of what the OCC did.**
 25 **Right? 11:57**

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1 **CATHERINE A. GHIGLIERI - 8/11/16**
 2 MR. MCVEY: Objection; form.
 3 A. So we regulated any subsidiary of a
 4 national bank or a holding company of a national
 5 bank. So if a large bank like -- so are you all from 11:57
 6 Chicago or DC?
 7 **Q. DC.**
 8 A. Okay. So like National Bank of
 9 Washington, NBW, if they would have had a foreign
 10 currency subsidiary, then we would have examined it. 11:58
 11 So we had examiners who did foreign
 12 exchange. If it was a subsidiary of -- of the bank
 13 or the holding company, if -- if it was a sister
 14 organization or a subsidiary, we would do it.
 15 **Q. Were you one of those examiners that did 11:58**
 16 **foreign exchange?**
 17 A. I did limited foreign exchange --
 18 **Q. When you say --**
 19 A. -- examination.
 20 **Q. When you say "limited," what do you mean? 11:58**
 21 A. I usually did commercial real estate loans
 22 when I was examining the biggest banks. But every
 23 once in a while, I would have to go on to the foreign
 24 exchange group. So I -- I would say my background is
 25 more limited than in some of the other areas. 11:58

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1 **CATHERINE A. GHIGLIERI - 8/11/16**
 2 A. I made sure the examiners were trained
 3 and, you know, that we did examinations on time and
 4 we took enforcement actions if we needed to.
 5 **Q. You don't know how frequently foreign 12:00**
 6 **exchange traders use wire transfers, do you?**
 7 MR. MCVEY: Objection; form.
 8 A. I would think they would regularly use
 9 them. I -- I don't know if there's any statistics
 10 that are available to be able to answer that question 12:00
 11 precisely.
 12 **Q. But you would expect a foreign exchange**
 13 **trading desk to regularly use wire transfers.**
 14 **Correct?**
 15 MR. MCVEY: Objection to form and 12:00
 16 foundation.
 17 A. Yes.
 18 **Q. You don't know if foreign exchange traders**
 19 **receive large-dollar wire transfers, do you?**
 20 MR. MCVEY: Objection; form, 12:01
 21 foundation.
 22 **Q. Sorry. Let -- let me back up.**
 23 **You don't if foreign exchange traders**
 24 **typically receive large round-dollar wire transfers,**
 25 **do you? 12:01**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. When was the last time you performed an**
 3 **examination of a foreign exchange trading desk?**
 4 A. So it would have been during this 1974 to
 5 1982 time frame when I was a field examiner. 11:59
 6 **Q. So since 1982 you have -- you have never**
 7 **performed an examination of a foreign exchange**
 8 **trading desk. Is that right?**
 9 A. At the OCC.
 10 **Q. As the Texas state banking commissioner, 11:59**
 11 **did you perform any -- or did you perform any**
 12 **examinations of foreign exchange trading desks?**
 13 A. The banking department was responsible for
 14 all money services, businesses, foreign exchange,
 15 Casa de Cambios, all of those things. Licensing and 11:59
 16 examination. And, of course, as the banking
 17 commissioner, I didn't go out into the field to
 18 actually examine them, but I was responsible for
 19 those examinations.
 20 **Q. So as the banking examiner, you weren't 12:00**
 21 **personally involved in those banking examinations of**
 22 **foreign exchange trading desks. Correct?**
 23 A. I was responsible for the examinations,
 24 but I didn't personally conduct them, no.
 25 **Q. Did you -- 12:00**

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1 **CATHERINE A. GHIGLIERI - 8/11/16**
 2 MR. MCVEY: Same objections.
 3 A. I'm -- I'm not sure I understand that
 4 question. Can -- can you --
 5 **Q. Sure. 12:01**
 6 A. -- explain that a little bit?
 7 **Q. Let me -- let me ask it a different way.**
 8 **Would you expect a company engaged in**
 9 **foreign exchange trading to receive large**
 10 **round-dollar wire transfers from investors? 12:01**
 11 MR. MCVEY: Objection; form,
 12 foundation.
 13 A. It's possible that they would, yes.
 14 **Q. Would you expect a company engaged in**
 15 **foreign exchange trading to receive large 12:01**
 16 **round-dollar deposits from investors?**
 17 MR. MCVEY: Same objections.
 18 A. So you're distinguishing between wires --
 19 **Q. Yes.**
 20 A. -- and deposits? 12:02
 21 **Q. Yes.**
 22 A. Wouldn't those be the same thing?
 23 **Q. So you would -- you would think it's**
 24 **possible that they could receive those?**
 25 A. Yes. 12:02

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1 CATHERINE A. GHIGLIERI - 8/11/16

2 **Q. Would you expect a foreign exchange trader**

3 **to send large round-dollar wire transfers?**

4 MR. MCVEY: Objection; form,

5 foundation. 12:02

6 A. Maybe. I -- I think -- if they're sending

7 it in some foreign currency, there would be some

8 conversion. There wouldn't be a large round dollar.

9 **Q. Have you done any investigation to**

10 **determine whether foreign exchange trading companies** 12:02

11 **typically send large round-dollar wire transfers?**

12 A. I didn't do any investigation in

13 preparation for this report.

14 **Q. What if -- what if a foreign exchange**

15 **trading company was just simply sending a U.S. dollar** 12:03

16 **denominated wire, no -- no need to -- for an exchange**

17 **rate? Would you expect in that instance that a**

18 **foreign exchange trading company would send a large**

19 **round-dollar wire transfer?**

20 MR. MCVEY: Objection; form, 12:03

21 foundation.

22 A. Perhaps.

23 **Q. Okay.**

24 MR. MEDLOCK: I've got a note

25 about taking a break, so I'm going to -- 12:03

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1 CATHERINE A. GHIGLIERI - 8/11/16

2 **you were a national bank examiner?**

3 MR. MCVEY: Objection --

4 A. So --

5 MR. MCVEY: -- foundation. 01:18

6 Go ahead.

7 A. So the -- not the rigor, because the

8 examiners are still focused on the Bank Secrecy Act

9 and compliance issues. But the number of things that

10 a bank has to do has expanded with additions to the 01:18

11 statute and additional regulations that have been

12 promulgated.

13 **Q. So BSA/AML compliance procedures that**

14 **banks need to take on are -- have constantly evolved**

15 **since the time?** 01:18

16 **That you were at the OCC?**

17 MR. MCVEY: Objection --

18 **Q. Is that right?**

19 MR. MCVEY: Objection; form.

20 A. Yes. 01:18

21 **Q. And banks have needed to evolve with that**

22 **to take on new software, new compliance measures, and**

23 **new internal procedures to comply with the BSA and**

24 **AML since the time you were a bank examiner.**

25 **Correct?** 01:19

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1 CATHERINE A. GHIGLIERI - 8/11/16

2 MR. MCVEY: It's noon. Do you

3 want to take a quick break --

4 (Discussion off the written record.)

5 THE VIDEOGRAPHER: We're now off 12:03

6 the record. The time is 12:02.

7 (Break.)

8 THE VIDEOGRAPHER: We're now on

9 the record. This is the beginning of Tape 3.

10 The time is 1:16 p.m. 01:17

11 **Q. Welcome back.**

12 **I'd like to go back to some of the**

13 **testimony you were giving about the time when you**

14 **were a national bank examiner.**

15 **During the time you were a national bank** 01:17

16 **examiner, how long did the BSA/AML portion of the**

17 **bank examination last?**

18 A. It depended on the size of the bank.

19 **Q. On average, how many hours would you spend**

20 **on it?** 01:17

21 A. I might spend a week at one bank or maybe

22 a day. I would say it -- well, it just -- it was

23 directly proportional to the size of the bank.

24 **Q. Has the rigor of the OCC's BSA/AML**

25 **examination procedures changed since the time that** 01:18

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1 CATHERINE A. GHIGLIERI - 8/11/16

2 A. Yeah.

3 MR. MCVEY: Objection; form.

4 A. Yes.

5 THE WITNESS: Sorry. 01:19

6 **Q. When you were a bank examiner, how often**

7 **did you find that a bank had engaged in atypical**

8 **conduct?**

9 A. Almost every examination would have some

10 sort of atypical conduct in it, whether it -- it 01:19

11 concerned the loan portfolio or violations of the

12 insider regulations, or regulation, now, there would

13 be, you know, something that would be in the report

14 that you would consider atypical banking conduct.

15 **Q. So in your experience as a bank examiner,** 01:19

16 **it wouldn't be unusual for you to find that a bank**

17 **had engaged in atypical conduct?**

18 A. Well -- yes. So an examination report

19 would contain whatever violations of law you found or

20 deficiencies in processes, and that would equate to 01:20

21 atypical banking behavior.

22 **Q. Of those instances where you found there**

23 **to be atypical conduct at a bank, how many times did**

24 **you refer that bank for a criminal prosecution?**

25 A. So when I was a field examiner, that was 01:20

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 not part of my responsibility, to refer banks to --
 3 for criminal prosecution. We -- I would make
 4 recommendations as far as what corrective action
 5 needed to be taken and would recommend what -- like 01:20
 6 an enforcement action, for example, should contain,
 7 but that was all done in another office from the
 8 field.
 9 **Q. Okay. Let me ask it in a different way.**
 10 **Are those instances where you found there 01:21**
 11 **to be atypical banking conduct, are you aware of any**
 12 **time where a bank that you found to have engaged in**
 13 **atypical conduct was later prosecuted criminally?**
 14 A. Well, I regulated banks for 25 years, so
 15 I'd have to say that's -- some of what either I found 01:21
 16 or the examiners found would be referred to the
 17 Justice Department on occasion, and I'm sure -- you
 18 know, while I'm sitting here, I can't think of a -- a
 19 circumstance, but I'm sure there was circumstances
 20 where banks were prosecuted criminally. 01:21
 21 **Q. And on the other hand, there are instances**
 22 **where you found there to be atypical banking conduct**
 23 **and there was no subsequent criminal prosecution.**
 24 **Correct?**
 25 MR. MCVEY: Objection; form. 01:21

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **atypical banking conduct result in a violation of the**
 3 **Bank Secrecy Act?**
 4 A. So a violation of the Bank Secrecy Act
 5 would be atypical banking conduct. So I would look 01:23
 6 at it in the reverse. If they violated the Bank
 7 Secrecy Act, it would be considered atypical banking
 8 conduct.
 9 **Q. Can there be instances where there's**
 10 **atypical banking conduct but no violation of the Bank 01:23**
 11 **Secrecy Act?**
 12 A. Yes. There would be violations of safety
 13 and soundness standards, and there may not be a
 14 particular law or regulation that attached to it.
 15 Because, as a regulator, it was almost impossible to 01:23
 16 issue a regulation on every single topic that there
 17 was in banking.
 18 And so you did your best to issue guidance
 19 or regulations, but you just couldn't cover -- you
 20 couldn't imagine or want to cover every single 01:23
 21 activity, you know, that a bank did and -- and issue
 22 a regulation or regulatory guidance. So in some
 23 instances -- instances as a regulator we would find
 24 they were, say, making loans in an unsafe and unsound
 25 manner. While it wouldn't technically be a violation 01:24

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. So atypical banking conduct would be
 3 anywhere on a spectrum from a few things to a larger
 4 level of things that would result in an enforcement
 5 action or perhaps a larger number of things that 01:22
 6 would result in civil money penalties.
 7 So it would be sort of a continuum that we
 8 would find atypical banking conduct and then the
 9 response to it by the regulators.
 10 **Q. So along that -- that continuum, there 01:22**
 11 **would be instances where you found there to be**
 12 **atypical banking conduct and there would not be a**
 13 **civil money penalty. Correct?**
 14 A. I'm sorry. Would you repeat that?
 15 **Q. Sure. 01:22**
 16 A. I got lost in that.
 17 **Q. That's okay.**
 18 **You talked about a spectrum. Correct?**
 19 A. Yes.
 20 **Q. So along that spectrum, there would be 01:22**
 21 **instances where you found there to be atypical**
 22 **banking conduct and there was no civil money penalty?**
 23 MR. MCVEY: Object to form.
 24 A. Yes.
 25 **Q. In your experience, how often has -- does 01:22**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 of law or regulation, it would be considered unsafe
 3 and unsound. That would equal atypical banking
 4 conduct.
 5 So because examiners look at 01:24
 6 everything in a bank and compliance, look at the
 7 soundness of the balance sheet, sufficiency of
 8 capital, quality of management, there were many
 9 times where you would say you were not meeting
 10 the standards in the banking industry, which to 01:24
 11 me means atypical banking conduct that wasn't
 12 connected to a law or regulation violation.
 13 **Q. So in your experience, in some instances**
 14 **there isn't a relationship between a violation of the**
 15 **Bank Secrecy Act and atypical banking conduct? 01:25**
 16 MR. MCVEY: Objection to form. I
 17 think that misstates her testimony.
 18 A. So if you're isolating my response just to
 19 the Bank Secrecy Act, if there is a violation of the
 20 Bank Secrecy Act, or failure to meet the standards 01:25
 21 set forth in the regulatory guidance, then that to me
 22 would be equal atypical banking conduct.
 23 So I'm looking at it from what did the
 24 bank do first, then does it equal atypical banking
 25 conduct, and I think your question is coming at it 01:25

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 from the other side.
 3 **Q. That's correct. It is.**
 4 **So my question is there are instances in**
 5 **which there -- there isn't a relationship between a 01:25**
 6 **atypical banking conduct and a violation of the Bank**
 7 **Secrecy Act. Correct?**
 8 MR. MCVEY: Objection as to form.
 9 A. I don't know what the context is because
 10 as a regulator I examined everything in the bank. I 01:26
 11 mean, I looked at the bank as a whole. The Bank
 12 Secrecy Act was just a part of it.
 13 In this report, I'm looking at a more
 14 narrowly-focused set of facts because I'm looking at
 15 how these accounts were opened, how they were 01:26
 16 monitored and the events that surrounded them with
 17 the alerts and everything. And the focus for me is
 18 more on the Bank Secrecy Act. So there are going to
 19 be times when as a regulator you look at a bank and
 20 you see something and you say you're not doing it the 01:26
 21 right way or you're violating the standards in the
 22 industry that equal atypical conduct, but when you're
 23 looking at these issues, you're going to be looking
 24 at the Bank Secrecy Act and everything that's
 25 connected to it on the regulatory side, the 01:26

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 that transfer, but there are red flags that are
 3 listed in the regulatory guidance saying if you see
 4 this, this is a red flag of fraud. So that wouldn't
 5 technically be a violation of the Bank Secrecy Act 01:30
 6 but it's a warning sign for the banks to be aware
 7 that you could have money laundering going on or just
 8 a theft of funds.
 9 And that -- that goes for the -- taking
 10 the transfer requests from Trevor Cook for accounts 01:30
 11 that he's not on. That would just be something that
 12 banks just would not do from a safety and soundness
 13 standpoint, but there's not a regulation -- it's
 14 so -- when you're a regulator, you just don't
 15 promulgate regulations if something's -- you know, 01:30
 16 like you should have a signature card. There is no
 17 regulation that says that, but that's just what banks
 18 do.
 19 So banks don't take requests from people
 20 that aren't on the accounts to move money, you know, 01:31
 21 into -- into their own accounts when they're not a
 22 signatory.
 23 And then the -- two other issues would be
 24 masking, disguising the remitter on the cashier's
 25 checks by putting the payee there. That would -- 01:31

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 regulations, the statute, and the regulatory
 3 guidance. And so the atypical banking conduct is
 4 failure to comply with that whole body of guidance
 5 and statutes and regulations. 01:27
 6 **Q. In this case, have you identified any**
 7 **instance in which Associated Bank engaged in atypical**
 8 **banking conduct that was not a violation of the Bank**
 9 **Secrecy Act?**
 10 A. Let's see. 01:27
 11 (Reviewing document.)
 12 So there are several things that they did
 13 that were not violations of the Bank Secrecy Act or
 14 the regulatory guidance but would be atypical
 15 behavior because it didn't meet the standards in the 01:29
 16 industry from a safety and soundness standpoint. And
 17 just for example, I'll -- I'll just give you a few
 18 that are listed in my report.
 19 One would be facilitating the transfers
 20 between the Crown Forex account 1705 when they knew 01:29
 21 that that contained investor funds, and transferring
 22 funds to Oxford Global FX LLC's account 2331, knowing
 23 that that was for Cook's personal use.
 24 So that's more of a safety and soundness.
 25 There is no regulatory guidance that says don't do 01:30

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 there is no specific regulation that says don't do
 3 that, but the -- the guidance, you know, gives you
 4 warning signs of what to look for.
 5 And then the other one is the -- the 01:31
 6 checks having the address be Associated Bank and --
 7 and the name of the bank on there, make it look like
 8 those checks were from the bank. There is no
 9 regulation that says don't do that, but when -- you
 10 know, even the bank employees were alarmed when they 01:32
 11 saw that.
 12 So there are certain things in this report
 13 that you may not be able to tie directly to the Bank
 14 Secrecy Act in terms of a regulation, but there may
 15 be red flags or kind of warning signs from the 01:32
 16 bank -- or, I'm sorry, the regulators on being weary
 17 of these kinds of transactions or just these are just
 18 things that banks know not to do.
 19 **Q. Okay. We'll get back -- we'll get to some**
 20 **of the things that you mentioned in that answer. 01:32**
 21 **What -- what I'd like to know is in your**
 22 **experience, what percentage of the time that there is**
 23 **atypical banking conduct is there actually an**
 24 **enforcement action against bank?**
 25 A. So, once again, you have to -- as a 01:32

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 regulator, you look at the severity of the atypical
 3 behavior, you look at the recurrence of the atypical
 4 behavior. So if the banks have been warned about
 5 something -- if an individual bank has been warned 01:33
 6 about something in a previous examination and they
 7 haven't corrected it, that would be a cause for an
 8 enforcement action. If the level of atypical banking
 9 behavior is considered egregious or serious -- like,
 10 for example, violation of the lending limit -- then 01:33
 11 regulators are more apt to make an enforcement action
 12 against the bank for that type of behavior.
 13 **Q. Can you give me a percentage of the time**
 14 **that atypical banking behavior results in an**
 15 **enforcement action? 01:33**
 16 A. No, because it depends on the severity of
 17 the atypical banking conduct. I think there is no
 18 statistic that the regulators put out that says we
 19 have this number of violations of law or criticisms
 20 and -- and this is how many enforcement actions we've 01:34
 21 taken. They -- they do issue the number of
 22 enforcement actions, public enforcement actions that
 23 they take, so there are some statistics just on the
 24 raw numbers. But I -- I've never seen that
 25 correlation. So I wouldn't -- you know, I wouldn't 01:34

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **that to be suspicious?**
 3 MR. MCVEY: Objection as to the
 4 form, and relevance, foundation.
 5 A. I'm not -- 01:35
 6 MR. MCVEY: Incomplete
 7 hypothetical.
 8 A. So suspicious activity under the Bank
 9 Secrecy Act is considered the transactions that are
 10 in the bank, and whether people lie on their résumé 01:35
 11 does not -- doesn't come within the gambit of that.
 12 Now, if the bank thought he was
 13 perpetrating a fraud of \$5,000 or more or, you know,
 14 there was some other thing because of this résumé
 15 they may feel the need to report it, but that would 01:36
 16 be something that human resources should look into
 17 before they hire somebody.
 18 **Q. So you would -- you would expect**
 19 **somebody -- that a bank would want to know if**
 20 **somebody has left relevant information off their 01:36**
 21 **résumé, right?**
 22 MR. MCVEY: Objection; foundation,
 23 form, relevance, incomplete hypothetical.
 24 Go ahead.
 25 A. Yeah. I mean, if they're going to hire 01:36

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 even venture to guess what the percentage would be
 3 between the enforcement actions and what's in the
 4 examination reports.
 5 **Q. So you worked at the OCC for 18 years. 01:34**
 6 **Right?**
 7 A. Yes.
 8 **Q. And during that time what percentage of --**
 9 **what percentage of the time did atypical banking**
 10 **conduct lead to an enforcement action? 01:34**
 11 A. I just answered that. There is no
 12 statistic that I can point to and I would be guessing
 13 if I gave you a -- a statistic. It depends on the
 14 egregiousness of the behavior, the seriousness of the
 15 violation, the repetitive nature of it. Various 01:34
 16 things go into it.
 17 If you think about the civil money
 18 penalties, there is a whole matrix that regulators go
 19 through. So there is a thought process that you go
 20 through before you take an enforcement action. 01:35
 21 **Q. Okay. Let me clean up something I asked**
 22 **you -- I started asking you about in the first half**
 23 **of the deposition. Let me posit this hypothetical.**
 24 **If Lien Sarles drafted his résumé and it can -- it**
 25 **was missing relevant information, would you consider 01:35**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 somebody to handle people's money, you know, they
 3 should do background checks. And most banks -- I
 4 haven't looked at the policies and procedures
 5 regarding hiring here, but most banks have hiring 01:36
 6 practices where they do criminal background checks,
 7 they do credit checks, and -- and they'll research --
 8 they'll confirm what's on that résumé so that they
 9 know they have an honest person that's coming to work
 10 for them. 01:37
 11 **Q. So I'll represent to you Lien Sarles was**
 12 **hired at U.S. Bank after he left Associated Bank. Is**
 13 **it fair then to conclude that the OCC never found**
 14 **that Lien Sarles was part of the Ponzi scheme in this**
 15 **case? 01:37**
 16 MR. MCVEY: Objection as to form,
 17 objection as to foundation, incomplete
 18 hypothetical, and relevance.
 19 A. I wouldn't make any connection from the
 20 OCC to Lien Sarles. 01:37
 21 **Q. And -- and the same would be true of Lien**
 22 **Sarles being hired at BMO Harris Bank. You can't --**
 23 **you have no opinion about whether the OCC would let**
 24 **that happen if they thought that Lien Sarles was part**
 25 **of a Ponzi scheme? 01:37**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 MR. MCVEY: Object -- same
 3 objections.
 4 A. Well, it would depend on -- as a
 5 regulator, you have a responsibility to review any 01:38
 6 kind of senior management change or director --
 7 directorate change for problem banks. That's one of
 8 the things that's required.
 9 The OCC may have no idea that Lien Sarles
 10 was working at other banks because he's a low-level 01:38
 11 person at a big institution. Those are two big
 12 institutions. So the fact that he went to another
 13 bank, however that happened, I would not conclude
 14 anything about what the OCC knew or didn't know. I
 15 wouldn't be able to -- I wouldn't draw any conclusion 01:38
 16 from that.
 17 **Q. Do you have any experience with how hedge**
 18 **fund managers are paid?**
 19 MR. MCVEY: Objection; relevance.
 20 Go ahead. 01:38
 21 A. So I haven't regulated hedge funds and --
 22 I mean, I only know from friends of mine that are
 23 working at hedge funds, but I don't have any training
 24 on management compensation on hedge funds.
 25 **Q. Would you expect a hedge fund manager to 01:39**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 schemes.
 3 And so whether that's a legitimate or
 4 illegitimate transaction is one for the bank to
 5 research. That's something that should pop up on 01:40
 6 their monitoring system.
 7 **Q. But you would in the -- in the context of**
 8 **a hedge fund, you would expect they would**
 9 **occasionally make large transfers between their**
 10 **related bank accounts. Correct? 01:40**
 11 MR. MCVEY: Objection; form,
 12 relevance, incomplete hypothetical.
 13 A. I wouldn't be able to say large. I
 14 wouldn't be able to say large, round dollar. I mean,
 15 it would depend on the situation. But regardless of 01:40
 16 the situation, it's something that the bank should
 17 look into to determine if it's suspicious activity,
 18 because that, in the regulatory guidance, is a red
 19 flag of fraud.
 20 **Q. All right. Let's turn to your résumé 01:41**
 21 **which we left off with on Exhibit A to your report.**
 22 **Are you there?**
 23 A. Yes.
 24 **Q. Your -- the fact is your résumé is**
 25 **incomplete. Right? 01:41**

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1 WARNING: DRAFT TRANSCRIPT
 2 make commissions based on the -- the performance of
 3 his or her investments?
 4 MR. MCVEY: Object as to form,
 5 incomplete hypothetical, lack of foundation. 01:39
 6 Go ahead.
 7 A. Sure.
 8 **Q. Would you expect a hedge fund to make**
 9 **internal bank transfers from -- between their**
 10 **different accounts? 01:39**
 11 MR. MCVEY: Objection; incomplete
 12 hypothetical, relevance.
 13 A. Between their different accounts?
 14 **Q. Yeah. Between different accounts they**
 15 **held at the same bank? 01:39**
 16 A. Yes. I would expect them -- I would
 17 expect -- or they could make transfers, yes.
 18 **Q. Would you expect the hedge fund to**
 19 **occasionally make transfers between two accounts they**
 20 **held at the same bank in large, round dollar terms? 01:40**
 21 A. It would depend on, you know, what the
 22 transfer is. The fact that the transfer is made is,
 23 under the regulatory guidance, large, round dollar
 24 amounts between related accounts is a red flag of
 25 fraud and money laundering and -- including Ponzi 01:40

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. No.
 3 **Q. Where -- you were a director at NetBank,**
 4 **weren't you?**
 5 A. Yes. 01:41
 6 **Q. Where is that on your résumé?**
 7 A. I don't have every board membership that
 8 I've been on on my résumé because -- I -- I keep
 9 board memberships on, like, met -- the Main Street
 10 Foundation I just resigned from, and I'll keep that 01:41
 11 on for a while and then I'll take that off because
 12 otherwise my résumé gets too long. So I don't have
 13 every board membership that I've ever been on.
 14 **Q. So you have -- you have other board**
 15 **memberships that you have been on in your résumé. 01:42**
 16 **Correct?**
 17 A. Yes.
 18 **Q. And you don't have NetBank on there. Is**
 19 **that right?**
 20 A. I don't have NetBank on there, among other 01:42
 21 board memberships I've been on.
 22 **Q. Have you ever been an officer of any other**
 23 **bank other than NetBank?**
 24 A. No.
 25 **Q. Have you ever been a director of any bank 01:42**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 other than NetBank?
 3 A. No.
 4 Q. Have you ever been an employee of any bank
 5 other than NetBank? 01:42
 6 A. Yes.
 7 Q. Which bank?
 8 A. My family's bank in -- in high school and
 9 college.
 10 Q. Since the time you graduated college, have 01:42
 11 you worked for any bank other than NetBank?
 12 A. No.
 13 Q. Did you use your experience as a bank
 14 examiner when you were on the board of directors of
 15 NetBank? 01:42
 16 A. Sure.
 17 Q. Was part of the experience you used when
 18 on the board of directors of NetBank your experience
 19 with BSA/AML compliance?
 20 A. Yes. 01:43
 21 Q. That was part of the value you brought as
 22 a -- as a director. Correct?
 23 A. I don't know. You'd have to ask them what
 24 they thought my value was. But of course I brought
 25 all my experience to the situation. 01:43

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 appoint an independent BSA officer?
 3 A. The BSA officer was appointed when I got
 4 on the board, and I don't remember any votes
 5 concerning that person. 01:44
 6 Q. Did you take steps as a board member to
 7 ensure that there was periodic BSA/AML training at
 8 NetBank?
 9 A. I don't remember any votes, but there was
 10 periodic training. 01:44
 11 Q. Okay.
 12 (Exhibit 231, 12/31/04 Form 10-K,
 13 no Bates - 98 pages, marked for identification as
 14 of this date.)
 15 Q. So I'm showing you a rather long exhibit 01:45
 16 that we've marked to your deposition. You -- you can
 17 take the time to flip through it, but I'll tell you I
 18 only have questions about the general nature of the
 19 document and Page 94 of the document.
 20 A. Page 94? 01:45
 21 Q. Yes.
 22 A. Okay.
 23 MR. MCVEY: Is that -- it's
 24 actually --
 25 MR. MEDLOCK: Page 95. Yeah, at 01:45

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Q. As a director of NetBank, did you approve
 3 the bank's BSA/AML policies?
 4 A. Yes.
 5 Q. As a director of NetBank, did you take 01:43
 6 steps on establish an effective BSA/AML compliance
 7 system at the bank?
 8 A. Not establish. It was already established
 9 when I got there.
 10 Q. Did you take steps to monitor the BSA/AML 01:43
 11 compliance in the bank to make sure it was up to
 12 industry standards?
 13 A. Yes.
 14 Q. When you were a director of NetBank, did
 15 you take any steps or actions to conduct risk 01:43
 16 assessments of products and services to -- in IT
 17 systems and operations to determine whether they
 18 minimized BSA/AML risk?
 19 A. I personally didn't. I oversaw, as a
 20 board member, the work of the staff members doing it. 01:44
 21 Q. As a board member, do you ask some basic
 22 questions to determine whether the bank was complying
 23 with the BSA/AML regulations?
 24 A. I'm sure I did.
 25 Q. As a board member did you ever vote to 01:44

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 the top. The ECF numbering at the top.
 3 MR. MCVEY: Up here (indicating).
 4 Q. Ms. Ghiglieri, have you had a chance to
 5 review the exhibit? 01:45
 6 A. No.
 7 Q. Okay. Let me know when you have.
 8 A. I can't -- do you mind -- I'm going to
 9 take that clip off here.
 10 (Reviewing document.) 01:46
 11 And what was the page?
 12 MR. MCVEY: 95 out of 98.
 13 MR. MEDLOCK: That's correct.
 14 Thank you, Tim.
 15 A. 95. Okay. Okay. 01:46
 16 Q. So this is a Form 10-K report for NetBank,
 17 Incorporated for December 31st, 2004. Correct?
 18 A. Yes.
 19 Q. And if you turn to Page 95 of the
 20 document, you signed it as a director of NetBank. Is 01:46
 21 that right?
 22 A. Yes.
 23 THE VIDEOGRAPHER: Sorry to
 24 interrupt you, but your microphone fell.
 25 Q. Okay. You can put that exhibit aside. 01:47

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Actually, I do have one question. When --
 3 when you signed that document, did you review it?
 4 A. Yeah.
 5 Q. Did you review it to make sure it was 01:47
 6 accurate?
 7 A. Yes.
 8 MR. MEDLOCK: Okay. Mark the next
 9 exhibit.
 10 (Exhibit 232, Consolidated and 01:47
 11 Amended Class Action Complaint In Re: NetBank,
 12 Inc. Securities Litigation, no Bates - 220 pages,
 13 marked for identification as of this date.)
 14 Q. So, again, Ms. Ghiglieri, this is a rather
 15 long document, but if you want to flip to it -- 01:47
 16 through it, I'll direct you to certain pages of it --
 17 A. Okay.
 18 Q. -- if you want to review it when we get
 19 there.
 20 A. What page? 01:47
 21 Q. Oh, I -- well, first I just wanted to
 22 verify. This is a copy of a consolidated class
 23 action complaint that was filed in In Re: NetBank
 24 Securities Litigation. Correct?
 25 A. Yes. 01:48

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Correct?
 3 A. Yes.
 4 Q. Were you aware of the fraud that's alleged
 5 in the -- the consolidated and amended class action 01:49
 6 complaint at the time the fraud was occurring?
 7 A. No.
 8 Q. You'd agree, then, that it's possible that
 9 bank employees or directors can be unaware of fraud
 10 when it's going on in other areas of the bank? 01:49
 11 A. Sure.
 12 Q. You'd agree that you can't automatically
 13 assume that a bank employee is -- was involved in a
 14 fraud simply because other employees may have been
 15 involved in it? 01:49
 16 MR. MCVEY: Objection as to form.
 17 A. Yes.
 18 Q. During the time you were a director at
 19 NetBank, did you play a role in responding to -- to
 20 bank examinations? 01:50
 21 A. No.
 22 Q. During the time you were a director of
 23 NetBank, did you review any reports of examination?
 24 A. Yes.
 25 Q. Are you aware that NetBank entered into a 01:50

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Q. All right. Could you flip to Paragraph 8?
 3 A. Did you say "amended"?
 4 Q. Consolidated and amended. Sorry.
 5 A. That's okay. 01:48
 6 Q. Certainly.
 7 Flip to Paragraph 8, please. So
 8 Paragraph 8 reads, "Beginning in March 2005, NetBank
 9 filed with the United States -- United States
 10 Securities and Exchange Commission ('SEC') the 01:48
 11 Company's 2004 Form 10-K, which falsely reported not
 12 only the Company's financial results, but also its
 13 business operations and corporate restructuring."
 14 Did I read that correctly?
 15 A. Yes. 01:48
 16 Q. Okay. Turn to Page 18.
 17 A. I'm sorry?
 18 Q. Page 18 of the complaint.
 19 A. 18.
 20 Q. All right. So this is the beginning of a 01:49
 21 section that's titled "Parties." Do you see that?
 22 A. I do.
 23 Q. Okay. So now flip to Page 25. And on
 24 Page 25, in particular, looking at Paragraph 44, you
 25 are one of the named parties in this litigation. 01:49

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 supervisory agreement with the Office of Thrift
 3 Supervision in 2006?
 4 A. Yes. That was after I left.
 5 Q. Certainly. I understand. 01:50
 6 So the -- you mentioned that you reviewed
 7 examination -- or reports of examination, I should
 8 say, during the time you were a director. Is that
 9 right?
 10 A. Yes. 01:50
 11 Q. What periods of time did those reports of
 12 examination cover?
 13 A. I don't know. I was a -- I was a director
 14 from 2003 to 2000- -- September of 2005. So whatever
 15 reports were received during that time I would have 01:51
 16 seen.
 17 (Exhibit 233, Supervisory
 18 Agreement, no Bates - 11 pages, marked for
 19 identification as of this date.)
 20 Q. All right. Ms. Ghiglieri, I'm showing you 01:51
 21 the next exhibit that we've marked. Do you recognize
 22 this document?
 23 A. No. I've never seen it before.
 24 Q. This is a copy of the 2006 supervisory
 25 agreement between NetBank and the Office of Thrift 01:51

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Supervision. Correct?**
 3 A. That's what it says.
 4 **Q. And if you look at the first page of it,**
 5 **in the second clause that begins with "whereas." 01:52**
 6 **This supervisory agreement is based, in part, on**
 7 **NetBank's January 9th, 2006 report of examination.**
 8 **Correct?**
 9 A. Yes. It doesn't say "in part."
 10 **Q. "Based entirely," according to that. 01:52**
 11 **Correct?**
 12 A. Yes.
 13 **Q. Do you know what period of time that**
 14 **January 9th, 2006 report of examination covered?**
 15 A. No. I -- I was gone -- I had been gone 01:52
 16 since September of 2005, so this was all after I
 17 left.
 18 **Q. But you don't know if that report of**
 19 **examination covered a time when you were a -- you**
 20 **were a director of the bank, do you? 01:52**
 21 A. I don't know because I was gone when all
 22 this happened here.
 23 **Q. Was this an exam, do you know, that**
 24 **occurred on a 12- to 18-month cycle?**
 25 A. I think they were on a 12- to 18-month. 01:52

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 at the last examination report and see what the areas
 3 were that were criticized, and follow up on a
 4 spot-check to see if they were corrected.
 5 And as I say, what we would do is take the 01:54
 6 last month-end, which in this case would be the
 7 12/31/2005 balance sheet, and then look at the main
 8 categories, look at the loan portfolio, look at
 9 liquidity and all that, and maybe update it if the
 10 exam took six weeks or whatever. 01:54
 11 **Q. So you'd be looking to determine whether**
 12 **certain problematic areas that were identified in the**
 13 **last report had gotten better or gotten worse,**
 14 **essentially. Correct?**
 15 A. Yes. And like I say, the bank was in good 01:54
 16 condition when I left. It was rated, I think, a 2 --
 17 a 1 or a 2. It was not considered a problem bank
 18 when I left in September of 2005. So there may be
 19 minimal things for them to follow up on with this.
 20 **Q. You mentioned the 1 or 2 rating. What -- 01:55**
 21 **what exactly -- what date did the -- did NetBank**
 22 **receive that 1 or 2 rating?**
 23 A. I have no idea. I -- all I know is when I
 24 left, they were in good condition. They weren't
 25 considered a problem bank. They were rated either a 01:55

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 When I left they were in good condition. So that was
 3 September of 2005. So they would have been on a 12-
 4 to 24-month cycle, depending on what the OTS decided.
 5 **Q. So this report of examination could have 01:53**
 6 **covered a period from January 2005 to January 2006.**
 7 **Correct?**
 8 A. Well, I don't know what the period is
 9 because this was after I left, but at the OCC we
 10 would start an examination. This says it started on 01:53
 11 January 9th, 2006, and it would last for a certain
 12 period of time.
 13 So you would take the balance sheet as of
 14 the end of the year, 12/31/2005, which is after I had
 15 left, and start from there, and then look at 01:53
 16 everything that's on the balance sheet. You may need
 17 to update it, depending on how long the examination
 18 took, but I would not be able to say that you would
 19 go back to -- even to the time period that I was
 20 there, if -- if they did the examination cycle we 01:53
 21 used to do them at the OCC.
 22 **Q. Would an exam like this cover atypical**
 23 **conduct that occurred between the last exam and this**
 24 **current exam?**
 25 A. Well, at the OCC what we would do is look 01:54

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 1 or a 2.
 3 **Q. So you -- you talked about a balance**
 4 **sheet, but how was the BSA/AML check done in -- in**
 5 **these reports of examination? That's certainly not 01:55**
 6 **on a balance sheet, is it?**
 7 MR. MCVEY: Objection; vague and
 8 ambiguous.
 9 A. So what they would do is look at alerts
 10 for the last couple months, for example. There is 01:56
 11 any number of things they can do for Bank Secrecy
 12 Act. And if the OTS at this -- of course they were
 13 merged in with the OCC since, but if their
 14 examination process was identical to the OCC's
 15 examination process, what we would do is do a variety 01:56
 16 of things.
 17 We would look at the monitoring system.
 18 We would look at what kind of alerts were being
 19 generated, what -- were the alerts investigated based
 20 on the investigative protocol, was the staffing 01:56
 21 sufficient, were they doing investigations of the
 22 alerts on a timely -- in a timely manner, did they
 23 have sufficient staff, what was the training for all
 24 the employees in the bank.
 25 We would look at the audit reports. We 01:56

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 would look at whether they were filing currency
 3 transaction reports, CTRs, for cash transactions. So
 4 there are a whole host -- if you look at that FFIEC
 5 manual, there is a whole host -- a whole host of 01:57
 6 examination procedures for Bank Secrecy Act. And
 7 they would do, you know, probably some of all of them
 8 and then go deeper if they found a problem.
 9 **Q. And so for all of the BSA/AML compliance**
 10 **steps that you've just mentioned that would be 01:57**
 11 **examined in your experience by the OCC, that**
 12 **examination would -- would look at what had happened**
 13 **since the time period of the last report of**
 14 **examination. Correct?**
 15 A. No. So what they would do is a 01:57
 16 transaction review for the -- say for the previous
 17 few months, say the previous quarter or whatever. In
 18 this case it would be, you know, going back to maybe
 19 November of 2005, which is after I left. And then as
 20 an additional thing, they would look at the previous 01:57
 21 examination and look to see if there were any
 22 deficiencies noted there, and then follow up and do
 23 some spot-checks on that. And then if anything
 24 resulted in criticism, then they would go deeper in
 25 those areas. So that's -- that's the formula that we 01:58

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. You never supervised an examination that**
 3 **was conducted by the OTS, did you?**
 4 MR. MCVEY: Objection; form and
 5 foundation and relevance. 01:59
 6 A. No.
 7 **Q. And so you can't say for sure what period**
 8 **of time this supervisory agreement actually deals**
 9 **with, can you?**
 10 MR. MCVEY: Objection; form. 02:00
 11 A. Well, I wasn't there when all this
 12 happened. I know -- you're asking me questions about
 13 it. I've never seen this document. I actually never
 14 saw this complaint. I was never served. But -- so
 15 I'm just telling you what we did at the OT- -- OCC. 02:00
 16 And if their procedures, which I assume were similar
 17 to ours for a clean bank, I'm just telling you what
 18 my impression is of this.
 19 **Q. Certainly. And I -- and I understand**
 20 **that. 02:00**
 21 **The -- but it's all based on the**
 22 **assumption that the OTS had similar policies and**
 23 **procedures to the OCC. Is that right?**
 24 A. Yes.
 25 MR. MCVEY: Objection; form. 02:00

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 used at the OCC.
 3 And this was a clean bank and the highest
 4 risk area was the mortgage area. And so I would
 5 imagine that was probably the main focus of their 01:58
 6 review. I don't recall significant Bank Secrecy Act
 7 criticisms before I left.
 8 **Q. So you -- you've never worked at the**
 9 **Office of Thrift Supervision. Correct?**
 10 A. Correct. 01:58
 11 **Q. You've never actually supervised anybody**
 12 **from the Office of Thrift Supervision doing a bank**
 13 **examination. Correct?**
 14 MR. MCVEY: Objection; form.
 15 A. Well, actually -- 01:59
 16 MR. MCVEY: And relevance.
 17 A. -- that's not correct, because we had a
 18 large number of people from the OCC go over to the
 19 OTS and augment their staff when there was the
 20 downturn in the savings and loan. 01:59
 21 So over the course of time, I supervised a
 22 lot of people that ended up at the OTS. There were a
 23 lot of OCC examiners over there improving their
 24 systems and -- and harmonizing their examination
 25 process with the OCC. 01:59

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. And I just want to make sure I**
 3 **understand -- understand your testimony correctly.**
 4 **When you look at this supervisory agreement, and you**
 5 **look at the reference to the report of examination 02:00**
 6 **from January 9th, 2006, you don't know for sure what**
 7 **period the OTS was looking at to -- in that report of**
 8 **examination.**
 9 MR. MCVEY: Objection; asked and
 10 answered about three times. 02:01
 11 A. I can tell you that it says based upon the
 12 bank's January 9, 2006 report of examination and
 13 events that have occurred since the completion of the
 14 2006 examination.
 15 So the date of the examination, in my 02:01
 16 experience, should be the date they started. The
 17 date they ended, I don't know, because I can't see
 18 the report of examination. But usually a clean bank
 19 about this size would take three to six weeks, just
 20 depending on how much they looked at -- and in this 02:01
 21 case they were probably looking at the mortgage area
 22 more -- most significantly.
 23 I -- I know, from my experience, that
 24 examiners go back for a few months when they're
 25 spot-checking transactions. And for Bank Secrecy Act 02:02

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 they would be looking at alerts. They would be
 3 looking at CTR filings and SAR filings. And then
 4 everything else that goes around the Bank Secrecy
 5 Act, policies, procedures, audits, training. 02:02
 6 And so it's my opinion, by looking at
 7 this, that they probably went back to November
 8 of 2005 to do transaction work and they spot-checked
 9 the deficiencies in the prior examination report,
 10 whenever that was. I -- I have no idea without 02:02
 11 seeing the examination.
 12 **Q. When you say that the OTS probably went**
 13 **back to November 2005 to spot-check, you don't know**
 14 **whether they actually went back that far or whether**
 15 **they went even further, to October or September or 02:02**
 16 **August of that year?**
 17 MR. MCVEY: Objection; form.
 18 A. Well, I don't have the documents in front
 19 of me, but based on my experience, I -- that's what
 20 examiners do. You know, they're going to do some 02:03
 21 transactions. So they're not going to just do
 22 transactions that occurred today. They would go back
 23 a little ways. But they're -- unless they find a
 24 problem, they're not going to go back for a year, or
 25 even to the last exam. They're -- they're just going 02:03

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 was -- deteriorated after I left. I -- I didn't
 3 really keep track of anything they were doing until
 4 the end, when I saw a press release on the fact that
 5 the OTS had closed them. But that's the scale 02:04
 6 that -- that is used by all the regulators.
 7 **Q. Okay. Let's go back to the document.**
 8 **If you look at -- we mentioned there are**
 9 **"whereas" clauses on the -- on the first page. The**
 10 **fourth of those clauses, that reads, "WHEREAS, 02:04**
 11 **the" -- sorry -- "WHEREAS, the Bank has undertaken**
 12 **certain corrective actions to address the regulatory**
 13 **violations and unsafe and unsound practices noted in**
 14 **the 2006 Examination."**
 15 **Did I read that correctly? 02:05**
 16 A. Yes.
 17 **Q. So as of the time of the 2006 examination,**
 18 **there were unsafe and unsound practices at the bank.**
 19 **Correct?**
 20 A. Well, the -- the 2006 report of 02:05
 21 examination it covered, that was done in 2006 for
 22 three to six weeks. I don't know how long it took
 23 them. They didn't sign this until November, so -- I
 24 mean, I have no idea how long it took them to
 25 actually get the report done. 02:05

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 to see -- if they run into trouble, they're going
 3 to -- they're going to go back. If they don't,
 4 they'll stop right there. That's how the allocation
 5 of resources goes. 02:03
 6 **Q. So if a bank examiner does find problems**
 7 **with BSA/AML compliance, they will go back further**
 8 **than that spot-check of one or two months prior to**
 9 **the report of exam -- the date of the report of**
 10 **examination. Correct? 02:03**
 11 MR. MCVEY: Objection; form.
 12 A. They can do that or they can stop right
 13 there and -- and request the bank do it.
 14 **Q. You mentioned the phrase "clean bank."**
 15 **What do you mean by "clean bank"? 02:03**
 16 A. Rated 1 or 2. So the -- all the
 17 regulators, including the OTS, and the OCC, and the
 18 Federal Reserve, and the FTIC, and the credit --
 19 National Credit Union Association use the same rating
 20 for their institutions. It's on a scale of 1 to 5, 1 02:03
 21 being the best, 5 being the worst. Problem
 22 institutions are considered 3, 4, or 5. Clean
 23 institutions are considered 1 and 2.
 24 NetBank was rated a 1 or a 2 when I left.
 25 They were considered a clean bank, and their rating 02:04

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. So I'm just -- my question is actually**
 3 **pretty simple. There were, as of the time of the**
 4 **report of examination, unsafe and unsound practices**
 5 **at NetBank. Is that right? 02:05**
 6 MR. MCVEY: Object to form, vague
 7 and ambiguous, foundation.
 8 A. I don't have any personal knowledge of it.
 9 I'm just looking at what you're reading me.
 10 **Q. Do you have any reason to dispute it? 02:05**
 11 A. No. I know nothing about it. I've never
 12 even seen this document.
 13 **Q. Do you have any reason to believe that**
 14 **anything in the supervisory agreement is incorrect or**
 15 **inaccurate? 02:06**
 16 A. I --
 17 MR. MCVEY: Objection; form,
 18 foundation --
 19 A. I --
 20 MR. MCVEY: -- relevance. 02:06
 21 Go ahead.
 22 A. I have no basis to say anything about it.
 23 **Q. Okay. Let's go to Page 4.**
 24 **Do you see the header on Page 4 that**
 25 **reads, "Anti-Money Laundering/Bank Secrecy Act 02:06**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Compliance." Do you see that?
 3 A. Yes.
 4 Q. And then below that, Paragraph 6. Do you
 5 see that? 02:06
 6 A. I see where it says 6, yes.
 7 Q. And it says, "Effective immediately,
 8 Management shall prepare and submit to the Board for
 9 review periodic written reports, including supporting
 10 documentation and other information, detailing the 02:06
 11 actions and steps taken to ensure" -- "taken to
 12 ensure that the Bank has appropriately addressed the
 13 findings and recommendations of the Bank's
 14 January 17, 2006 Bank Secrecy Act and Anti-Money
 15 Laundering Audit. The Board's review, and any 02:06
 16 corrective actions adopted by the Board, shall be
 17 fully documented in the Board meeting minutes."
 18 Did I read that correctly?
 19 A. Did you say "meeting minutes"?
 20 Q. Yes. 02:07
 21 A. Yes.
 22 Q. Were you aware that, within a year of you
 23 leaving the bank -- NetBank, there -- there was a
 24 Bank Secrecy Act and anti-money laundering audit?
 25 A. No. 02:07

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Q. And if you flip into the report on what's
 3 labeled as Page 1 of the report, the third
 4 sentence --
 5 MR. MCVEY: Where -- where are we 02:08
 6 now?
 7 MR. MEDLOCK: Page 1.
 8 MR. MCVEY: Okay. Is this --
 9 A. You mean regular 1?
 10 Q. Regular 1. 02:09
 11 A. So -- so --
 12 Q. It says Page 1 --
 13 A. -- this letter?
 14 Q. -- at the bottom.
 15 Yes. Exactly. 02:09
 16 A. Okay.
 17 Q. The third sentence of Page 1 reads, "OTS
 18 closed NetBank and appointed the Federal Deposit
 19 Insurance Corporation (FDIC) as receiver on September
 20 28, 2007." 02:09
 21 Did I read that correctly?
 22 A. Yes.
 23 Q. All right. Turn in to Page 47 of the
 24 report.
 25 MR. MCVEY: Let me just interpose 02:09

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Q. Were you aware that, within a year of you
 3 leaving the bank, the Office of Thrift Supervision
 4 required NetBank to take steps to address findings
 5 and recommendations regarding the BSA/AML compliance 02:07
 6 program at NetBank?
 7 MR. MCVEY: Objection; relevance.
 8 Go ahead.
 9 A. This all happened after I left, so I have
 10 no way of knowing. I mean, I didn't follow it. I -- 02:07
 11 I don't know anything about it, what they did.
 12 (Exhibit 234, 4/23/08 Audit
 13 Report, no Bates - 57 pages, marked for
 14 identification as of this date.)
 15 Q. All right. Ms. Ghiglieri, we put the next 02:08
 16 exhibit in front of you.
 17 As we did with the last one, it's -- it's
 18 a longer document, so I'll direct you to portions of
 19 it that you may want to review in the course of my
 20 questioning. 02:08
 21 But my first question to you will be that
 22 this is a copy of an April 23rd, 2008, report from
 23 the Department of Treasury's Office of Inspector
 24 General regarding NetBank. Is that right?
 25 A. That's what it says, yes. 02:08

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 a relevancy objection to this whole line of
 3 questioning as incomplete hypothetical
 4 objections.
 5 Go ahead. 02:09
 6 MR. MEDLOCK: There's nothing
 7 hypothetical about it. The bank failed. Okay?
 8 I don't understand the basis for your objection,
 9 so you're free to make one --
 10 MR. MCVEY: But what -- but what 02:09
 11 relevance is it if the bank failed after she
 12 left?
 13 MR. MEDLOCK: All right. We
 14 can -- we can disagree about relevance. It's
 15 also not a proper objection to make during the 02:09
 16 deposition.
 17 Q. All right. Turning to Page 47 of the
 18 report. This is a -- it's labeled at the top
 19 "Appendix 3." Do you see that?
 20 A. I'm on Page 47. Is that where I'm 02:10
 21 supposed to be?
 22 Q. Yes. And it says at the very top of the
 23 page "Appendix 3"?
 24 A. Okay.
 25 Q. "OTS NetBank Examinations and Enforcement 02:10

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Actions."**
 3 A. Okay.
 4 **Q. Do you see that?**
 5 A. I do. 02:10
 6 **Q. All right. And there is at the -- sort of**
 7 **a table going down. Do you see that?**
 8 A. I mean, I see the page, yes.
 9 **Q. Okay. And on January 9th, 2006, there's a**
 10 **heading that says "Matters requiring NetBank board 02:10**
 11 **attention." Do you see that?**
 12 A. I do.
 13 **Q. And there's a series of bullets under**
 14 **that. Correct?**
 15 A. Yes. 02:10
 16 **Q. And the last bullet says, "Correct Bank**
 17 **Secrecy Act and Anti-Money Laundering audit**
 18 **deficiencies." Do you see that?**
 19 A. Yes.
 20 **Q. Were you aware that within a year of you 02:10**
 21 **leaving NetBank, there was an audit that had -- that**
 22 **had determined that there were Bank Secrecy Act and**
 23 **anti-money -- anti-money laundering deficiencies at**
 24 **the bank?**
 25 MR. MCVEY: Object on the grounds 02:11

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 were, you know, the bank moved to correct whatever it
 3 was.
 4 So I -- I'm not aware that there was a
 5 problem in the Bank Secrecy Act area for NetBank. 02:12
 6 The biggest problem I remember is in the mortgage
 7 area, the -- the risk, the balance sheet, liquidity,
 8 and rate -- interest rate sensitivity with the
 9 mortgage area. That was the biggest risk at that
 10 bank when I was there. 02:12
 11 **Q. So if I understand your testimony**
 12 **correctly, you've been a member of the board of**
 13 **directors of one bank. Right? NetBank?**
 14 A. Yes.
 15 **Q. And NetBank failed and was put into 02:12**
 16 **receivership after you resigned from the bank. Is**
 17 **that right?**
 18 A. Yes.
 19 **Q. And within a year of you resigning from --**
 20 **your position as a -- as a member of the board of 02:13**
 21 **directors, a bank examination determined that there**
 22 **was BSA/AML deficiencies. Correct?**
 23 MR. MCVEY: I'll object; vague.
 24 A. So all I know is what you're pointing out
 25 to me. So I don't know anything other than that. 02:13

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 of relevance, foundation.
 3 Go ahead.
 4 A. I -- I don't know anything that happened
 5 after I left. I didn't keep in contact with anyone. 02:11
 6 I didn't -- I wasn't on e-mail lists with anyone.
 7 I -- I know -- I haven't seen these documents. I --
 8 I don't know anything that happened after I left.
 9 **Q. Can you tell me what NetBank's BSA/AML**
 10 **deficiencies were? 02:11**
 11 A. No. I have no idea. They were -- they
 12 were rated -- they were a clean bank when I left. So
 13 I don't know what this audit is. I don't know what
 14 the deficiencies are. I don't know what the time
 15 frame is. I mean, I was already gone in September of 02:11
 16 2005, and this all happened in mid- to late 2006 with
 17 the OCC. So -- so I have no idea.
 18 **Q. During the 2003 to 2005 time period when**
 19 **you were a director of NetBank, were you aware of any**
 20 **Bank Secrecy Act or anti-money laundering 02:12**
 21 **deficiencies at the bank?**
 22 A. I don't remember anything that was
 23 serious. I don't know if there was any discussion of
 24 anything in the examination reports. I mean, it's
 25 been so long I just can't remember. But if there 02:12

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 You're pointing this out to me. I've
 3 never seen these documents before, and I haven't -- I
 4 don't have the examination report. So the best I can
 5 tell you is that's what -- you know, you're reading 02:13
 6 what it says, and I -- I have no reason to disagree
 7 with what the OTS has said here --
 8 **Q. And --**
 9 A. -- or the Office of Inspector General
 10 doing the material loss review. 02:13
 11 **Q. And during the time that you were a**
 12 **director of -- of NetBank, you were accused in a**
 13 **class-action complaint of signing an SEC filing that**
 14 **had false statements in it. Correct?**
 15 MR. MCVEY: Objection; 02:14
 16 relevance --
 17 A. So --
 18 MR. MCVEY: -- foundation.
 19 A. I mean, anybody can, you know, say what
 20 they want in a complaint. But I was never served on 02:14
 21 this complaint, and I was released from this lawsuit
 22 five weeks after. So -- and that's what you haven't
 23 said yet, but --
 24 **Q. So --**
 25 A. I -- I was released from the -- from the 02:14

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 lawsuit after five weeks.
 3 **Q. You'd -- you'd agree with me that**
 4 **there's -- there's things in the complaint -- in this**
 5 **complaint that I showed you, the class-action 02:14**
 6 **complaint, that you think are incorrect?**
 7 A. I've never read this complaint, so I have
 8 no idea what it says.
 9 **Q. And --**
 10 A. All I know is I got a call from a lawyer 02:14
 11 asking if he could represent me, from Atlanta. I
 12 said no. I hired my own lawyer. Five weeks later I
 13 was released from this lawsuit.
 14 I have never read the complaint. I don't
 15 know what the allegations were. I was added after 02:14
 16 the original complaint, and that's, you know, all I
 17 know about it.
 18 **Q. And you left this experience that you had**
 19 **at NetBank off of your CV that you filed in this --**
 20 **that you submitted with your report. Correct? 02:15**
 21 A. Well, I --
 22 MR. MCVEY: Objection; form.
 23 A. -- have already said I haven't put down
 24 every single board I've ever been on. There are
 25 other boards I've been on that I don't have on my CV. 02:15

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. Yes. That's the decision that I've made,
 3 and I'm happy about it.
 4 **Q. And you said that you disclose the fact**
 5 **that you worked for NetBank. Who do you disclose 02:16**
 6 **that to?**
 7 A. I did not work for NetBank. I was --
 8 **Q. That's right. You were the -- you were a**
 9 **director?**
 10 A. I was elected to the board of directors. 02:16
 11 I always tell the lawyers that call to
 12 hire me, because I don't want them not to know about
 13 it if it's an issue with their case.
 14 **Q. So you -- you tell the lawyers that call**
 15 **and hire you that -- about NetBank. Right? 02:16**
 16 A. I do.
 17 **Q. But you don't tell the lawyers that on the**
 18 **other side in your CV. Is that right?**
 19 MR. MCVEY: Object to form,
 20 foundation. 02:16
 21 A. I can do whatever I want on my CV --
 22 **Q. Oh. Okay.**
 23 A. -- as you know. But I made a decision not
 24 to put all of the -- the board memberships on there.
 25 **Q. All right. Let's go back to your report. 02:17**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 I mean, at some point I have -- I have
 3 made the decision I'm not going to have, you know, a
 4 12-page CV. So if I'm on a board for a while, I put
 5 it on, I leave it on for a while after I get off, and 02:15
 6 then I'll take it off.
 7 Now, I always discuss and disclose about
 8 the NetBank case since it failed and my name's out
 9 there if you Google it in connection with it, but I
 10 don't have -- always have it on my CV. 02:15
 11 **Q. So you -- you made the decision to not put**
 12 **this NetBank experience on your CV that you filed in**
 13 **this case. Correct?**
 14 A. Yes. I made a decision not to put all of
 15 the board memberships that I've ever had on my CV. 02:16
 16 I've made that decision. I have current ones on
 17 there, and then after I resign from the board, I
 18 leave it on for a while, then I take it off. I do
 19 that consistently.
 20 **Q. You made the decision in a case regarding 02:16**
 21 **bank regulations not to list the fact that you were**
 22 **an officer or director of a bank previously.**
 23 **Correct?**
 24 MR. MCVEY: Objection to form,
 25 asked and answered. 02:16

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. Okay.
 3 **Q. Let's turn to Page 6. It should be the**
 4 **very first substantive page of your report.**
 5 A. Did you say 6? 02:17
 6 **Q. Yes.**
 7 A. Okay.
 8 **Q. And at the top, do you see "Executive**
 9 **Summary of Opinions"?**
 10 A. I do. 02:17
 11 **Q. And the first sentence in that section**
 12 **or -- read -- begins with, "Associated Bank**
 13 **facilitated the Ponzi scheme perpetrated by Trevor**
 14 **Cook and Patrick Kiley."**
 15 **Did I read that correctly? 02:18**
 16 A. Yes.
 17 **Q. Did you do any analysis in this case to**
 18 **determine whether there was actually a Ponzi scheme?**
 19 A. No. I took it for granted based on the
 20 information that I looked at. 02:18
 21 **Q. So you don't have any experience,**
 22 **professional experience, with determining whether a**
 23 **Ponzi scheme exists or does not exist. Is that**
 24 **right?**
 25 A. Well, normally when I take a Ponzi scheme 02:18

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 case, that's already been determined by the forensic
 3 accountant, and I've never been asked to determine
 4 that.
 5 **Q. I see. Who's the forensic accountant in 02:18**
 6 **this case? Who's the forensic accountant that the**
 7 **receiver has -- has retained? Are you aware of**
 8 **anyone?**
 9 A. The information that I relied upon came
 10 from the SEC; it was prepared by the SEC. So I'm not 02:18
 11 aware that there is a forensic accountant. But
 12 that's the information that I relied upon, the
 13 spreadsheets.
 14 **Q. Who -- who at the SEC are you aware of**
 15 **conclude -- that concluded there was a Ponzi scheme? 02:18**
 16 A. I don't know who at the SEC.
 17 **Q. Did you speak to anyone at the SEC --**
 18 A. No.
 19 **Q. -- to determine whether there actually was**
 20 **a Ponzi scheme? 02:19**
 21 A. No, I did not.
 22 **Q. So you just took it for granted, in your**
 23 **words. Right?**
 24 A. Yes.
 25 **Q. Okay. You've never written any books 02:19**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **flags generally. Correct?**
 3 A. Yes.
 4 **Q. You don't discuss in your articles when**
 5 **red flags are indicative of a -- of a Ponzi scheme? 02:20**
 6 A. So, just to be clear, if -- if you look at
 7 the articles that I've written, there will be a
 8 discussion about red flags being indicative of money
 9 laundering or some type of fraud.
 10 So -- I mean, this sounds like the 02:21
 11 question this morning where you're coming at it from
 12 the other side. So if you're looking at these red
 13 flags, it's indicative of money laundering or some
 14 kind of financial fraud, like a Ponzi scheme.
 15 That's -- that's the approach that we take in our 02:21
 16 books and then in my articles.
 17 **Q. In your books, the two -- the original and**
 18 **the revised version, do you actually use the word**
 19 **"Ponzi scheme," the phrase "Ponzi scheme"?**
 20 A. I don't know if I specifically do in -- in 02:21
 21 the books. The second one, maybe. In the articles
 22 I've -- I've used the term "Ponzi scheme."
 23 **Q. Have you ever been qualified as an expert**
 24 **to offer an opinion on whether particular conduct**
 25 **constitutes a Ponzi scheme? 02:21**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **regarding how to determine whether a Ponzi scheme**
 3 **exists, have you?**
 4 A. Well, I've written two books, I've
 5 co-authored two books, and in both of those we've 02:19
 6 discussed the Bank Secrecy Act and red flags of what
 7 the attributes are of money laundering or financial
 8 fraud that would include Ponzi schemes.
 9 So from that standpoint, I have done some
 10 writing on that. I've published some articles on the 02:19
 11 Bank Secrecy Act regarding red flags of fraud. But
 12 as far as writing on sort of the accounting mechanics
 13 of it, I haven't done that.
 14 **Q. Have you written -- in your books, have**
 15 **you -- do you actually state when red flags can add 02:20**
 16 **up to there being the existence of a Ponzi scheme?**
 17 A. Not -- not that sentence, but we've gone
 18 over red flags, various red flags.
 19 **Q. Certainly you discussed -- you discuss**
 20 **them generally in your book. Correct? 02:20**
 21 A. Yes.
 22 **Q. You don't discuss when red flags are**
 23 **indicative of a Ponzi scheme?**
 24 A. I don't think like that.
 25 **Q. And in your articles, you discuss red 02:20**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. I don't think that I've taken a case where
 3 that was part of what I was asked to do --
 4 **Q. Okay.**
 5 A. -- if I understand your question 02:22
 6 correctly.
 7 **Q. Okay.**
 8 A. That would be more in the forensic
 9 accountant area.
 10 **Q. Okay. On Page 6, going back to that -- 02:22**
 11 **that portion of the sentence we were reading. You**
 12 **use the term "facilitated." Correct?**
 13 A. Yes.
 14 **Q. When you're drafting a report like this,**
 15 **do you sort of give consideration to how you're 02:22**
 16 **defining the terms that you use in the report?**
 17 A. I'm not sure I know what you mean.
 18 **Q. Do you think it's important to define the**
 19 **term -- important terms that you use in an expert**
 20 **report? 02:23**
 21 A. I usually only define "Ponzi scheme." I
 22 don't think I define the other terms.
 23 I'm trying to think of a time when I
 24 defined something else. I don't think so.
 25 **Q. Did you give any consideration to how you 02:23**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 define the term "facilitate" in this report?
 3 A. No.
 4 Q. Do you offer a definition of the term
 5 "facilitate" in this report? 02:23
 6 A. No.
 7 Q. Were you trying to be vague or ambiguous
 8 when you used the term "facilitate" in this report?
 9 A. No.
 10 Q. So just to be clear, you used the term 02:23
 11 "facilitate" because you thought it was the most
 12 accurate term that you could use for Associated
 13 Bank's conduct. Is that right?
 14 A. I thought it was an accurate portrayal of
 15 their conduct. I thought it accurately reflected 02:23
 16 their conduct.
 17 Q. And I notice that you don't use the term
 18 "assist" to define Associated Bank's conduct. Was
 19 that a deliberate choice on your part?
 20 A. I'm not sure I thought of using that word. 02:24
 21 I think "facilitate" is a better word based on what
 22 they did ba- -- I guess "assisted" would be a
 23 synonym, but I think "facilitate," from my
 24 understanding of the word, is -- is a good
 25 characterization of what the bank did. 02:24

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 probably five or six times, I would say --
 3 Q. Okay.
 4 A. -- just as a guess.
 5 Q. And you can't name what those cases were, 02:25
 6 can you?
 7 A. Off the top of my head --
 8 Q. Where you used the term "facilitate"?
 9 A. No.
 10 Q. Are you aware of any definition in the 02:25
 11 Code of Federal Regulations, in any of the portions
 12 of the Code of Federal Regulations that you cite in
 13 your report that define the term "facilitate"?
 14 A. I didn't -- I've never researched it, so
 15 I -- it might be there somewhere, I just -- I have no 02:26
 16 idea.
 17 Q. Did you perform any research into what the
 18 term "facilitate" means before you used it in your
 19 report?
 20 A. No. 02:26
 21 Q. Do you do anything other than simply
 22 thinking that it was an accurate term to determine
 23 whether there was any definition of "facilitate" in
 24 any sort of bank regulatory literature before you
 25 used it in this report? 02:26

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Q. Are you aware of any portion of the FFIEC
 3 manuals to deter- -- to define what the term
 4 "facilitate" means?
 5 A. The Bank Secrecy Act -- 02:24
 6 Q. Yes.
 7 A. -- manual?
 8 I don't think I've seen a definition of
 9 "facilitate" in there.
 10 Q. Are you aware -- are you aware of any 02:24
 11 guidance from the OCC determining -- defining what
 12 the term "facilitate" means?
 13 A. I don't think so.
 14 Q. Are you aware of any guidance from the
 15 FDIC or Federal Reserve defining what the term 02:25
 16 "facilitate" means?
 17 A. I don't think so.
 18 Q. Have you ever submitted an expert report
 19 in which you opined that a bank facilitated a Ponzi
 20 scheme? 02:25
 21 A. Yes.
 22 Q. In what case did you do that besides this
 23 one?
 24 A. I'd have to go back and look but I -- it's
 25 a common word for me to use and I've -- I've done it 02:25

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. No, I didn't think it was necessary.
 3 Q. Do you have any methodology for
 4 determining when a bank facilitates a Ponzi scheme?
 5 Are you aware of any such methodology in any guidance 02:26
 6 from the OCC?
 7 A. I'm not aware of anything that -- where
 8 they discuss anything about facilitation.
 9 Q. Are you aware of any guidance from any
 10 bank regulator for a methodology for determining when 02:27
 11 a bank has facilitated a Ponzi scheme?
 12 A. I'm not aware of anything.
 13 Q. Are you aware of any guidance as to what
 14 sort of documents or interviews or transcripts should
 15 be reviewed to determine when the bank has 02:27
 16 facilitated a Ponzi scheme?
 17 A. So I guess the OCC and the other
 18 regulators, I'm not aware that they've defined the
 19 word "facilitation." But the methodology that I used
 20 to construct this report of examination and formulate 02:27
 21 my opinions is the same that I use when I examine
 22 banks. So the -- the methodology that I use to
 23 determine what the bank did, and my conclusion was
 24 they facilitated the Ponzi scheme was -- the
 25 foundation of that is what I used when I was a bank 02:28

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 examiner, and that is I looked at what the bank knew
 3 at the time. I did that by looking at the documents
 4 that were produced from the time period. I looked at
 5 the deposition testimony that was taken, plus any 02:28
 6 exhibits that were given to the deponents. And I
 7 looked at, you know, the policies and procedures, the
 8 alerts, the account opening documents, things like
 9 that.
 10 So the methodology that I used to 02:28
 11 determine whether the bank engaged in atypical
 12 behavior and -- in this case is based on my
 13 experience at the OCC and how we regulated banks and
 14 at the Department of Banking, and that's how I came
 15 to conclude that the bank facilitated this Ponzi 02:29
 16 scheme.
 17 **Q. Are you aware of any bank regulatory**
 18 **literature or any literature at all that says that**
 19 **you should use a bank examination methodology to**
 20 **determine whether a bank has facilitated a Ponzi 02:29**
 21 **scheme?**
 22 A. So being a banking expert doesn't lend
 23 itself to scientific method. There is no guidance
 24 from the regulators about what bank experts should
 25 do. And based on my discussions with other bank 02:29

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **bank facilitated a Ponzi scheme. Is that right?**
 3 A. I'm not aware of literature put out by the
 4 regulators telling bank experts how to conduct
 5 themselves in litigation. 02:31
 6 **Q. Are you aware of any literature put out by**
 7 **anybody that tells you -- that tells you how you can**
 8 **determine when a bank has facilitated a Ponzi scheme?**
 9 A. There may be articles. I haven't
 10 researched them. I have no idea if somebody other 02:31
 11 than the regulators put something out.
 12 **Q. You didn't research them before reaching**
 13 **any of the conclusions in this report. Correct?**
 14 A. No, because my methodology I believe is
 15 sound. I -- I focus on what I used to do as a 02:31
 16 regulator, and I look at what the regulators set the
 17 standard in the industry to be, and what I've learned
 18 from other banking experts and what they do.
 19 **Q. Are you aware of any other banking expert**
 20 **who has offered the opinion that a bank facilitated a 02:32**
 21 **Ponzi scheme?**
 22 A. So as far as a review process, I have not
 23 looked at any other banking experts' reports because
 24 most of the time they're under protective orders, and
 25 I have not asked any experts to look at this one 02:32

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 experts and based on being qualified as an expert in
 3 federal court and in state court, my approach has
 4 always been to rely upon the methodology that I used
 5 as a regulator to look at the laws and regulations in 02:29
 6 banking and regulatory guidance, and use that as the
 7 foundation for whether or not a bank engages in
 8 atypical behavior.
 9 **Q. I understand that. My question is**
 10 **actually much simpler. Are you aware of any 02:30**
 11 **literature of any sort that says that a person should**
 12 **use a bank examination methodology to determine**
 13 **whether there has been a Ponzi scheme that was**
 14 **facilitated by a bank?**
 15 A. So as I just said, being a banking expert 02:30
 16 doesn't lend itself to any kind of scientific
 17 methodology. And the OCC nor the other regulators
 18 have said, "All you banking experts in bank
 19 litigation, you should follow this methodology."
 20 But based on my experience and being 02:30
 21 qualified by courts and what other banking experts
 22 do, I believe this is a sound methodology.
 23 **Q. So that's a no, you're not aware of any**
 24 **literature that discloses how you should go about**
 25 **determining whether a -- when a bank -- whether a 02:31**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 because it's under a protective order.
 3 So I don't know what words they use,
 4 specifically. I just talk in general terms about
 5 their methodology. 02:32
 6 **Q. When you were at the OCC as a bank**
 7 **examiner, how many times did you conclude that a bank**
 8 **had facilitated a Ponzi scheme?**
 9 A. I -- as a field examiner --
 10 **Q. Yes. 02:32**
 11 A. -- routinely we would identify, you know,
 12 either fraud's being conducted from an external
 13 source or from an internal source. Whether or not it
 14 was a Ponzi scheme or not, it was usually more like
 15 check kiting, selling out of trusts for car 02:33
 16 dealerships, same thing for livestock operations.
 17 But it wasn't unusual for us -- I mean, I
 18 examined banks for, you know, eight years. I've -- I
 19 found frauds taking place.
 20 **Q. Can you identify a single instance in 02:33**
 21 **which you -- during the time in which you worked at**
 22 **the OCC that you specifically determined that a bank**
 23 **was facilitating a Ponzi scheme?**
 24 A. Not specifically a Ponzi scheme.
 25 **Q. Can you identify any instance in -- during 02:33**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 the time that you worked at the OCC in which you
 3 determined that red flags were indicative of a Ponzi
 4 scheme?
 5 A. I'm not sure -- I don't understand that 02:33
 6 question.
 7 Q. Is there any instances of the time you
 8 were a bank examiner that you identified red flags
 9 and later found out that those red flags -- that
 10 there was a Ponzi scheme that was related to those 02:34
 11 red flags?
 12 A. So I just said in the eight years that I
 13 was a field examiner, we didn't identify or I didn't
 14 identify personally, or my team didn't, a Ponzi
 15 scheme per se. We identified other types of frauds 02:34
 16 where those same type of red flags came into play.
 17 Because what's in the FFIEC manual basically is what
 18 we learned over the course of time in the early days,
 19 and check kiting and Ponzi schemes have the same
 20 attributes. So we found check kites, for example, 02:34
 21 but I don't recall that we found a Ponzi scheme,
 22 per se. But we did see red flags, discussed them
 23 with the bank and their security folks.
 24 Q. So simply following the FFIEC BSA/AML
 25 manual can't tell you whether there -- there was or 02:34

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 all over the place, and I -- I don't agree with the
 3 conclusion. But the bank employees can, you know,
 4 reach a -- an inappropriate conclusion even if they
 5 followed the, you know, FFIEC manual if they're not 02:36
 6 properly trained in what they're doing.
 7 Q. So in this case, how many times did the
 8 bank review the Crown Forex, LLC account?
 9 A. Well, I have it in the report. Numerous
 10 times. 02:36
 11 Q. So there was -- let me just go through
 12 this. The first was the October 2008 report alert
 13 regarding the volume of wire transfers. Correct?
 14 A. The first would have been when they opened
 15 the account, and when the back room looked at the 02:37
 16 account-opening documents.
 17 Q. Okay.
 18 A. Lien Sarles didn't get the appropriate
 19 documents, the back room looked at them. You know,
 20 whatever they concluded they didn't notify the branch 02:37
 21 that documents were missing. So that would be the
 22 first point of -- of review of the account.
 23 Q. And you simply disagree with the back
 24 room's determination in that case. Correct?
 25 A. Well, it's hard not to when they didn't 02:37

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 was not a Ponzi scheme. Correct? You have to do
 3 additional investigation.
 4 A. Well, I don't think that's true. The --
 5 the red flags -- and there are numerous red flags in 02:35
 6 the regulatory guidance -- they can help banks to
 7 determine that there is a Ponzi scheme.
 8 Now, once those red flags hit, of course
 9 they're going to have to go in and pull records and
 10 all those types of things. That's what the whole 02:35
 11 process is with alerts. That's what the whole
 12 investigative protocol is about, is they take those
 13 red flags, take the alert, and -- and go through the
 14 steps they're supposed to go through to determine if
 15 in fact there is suspicious activity and exactly what 02:35
 16 it is.
 17 Q. So following up on alerts and following
 18 the -- the policies laid out in the FFIEC BSA/AML
 19 manual, you can go through all of that and determine
 20 there was no Ponzi scheme. Correct? 02:36
 21 A. If you're looking at it appropriately you
 22 should be able to identify if there is suspicious
 23 activity. If -- you know, I've seen conclusions like
 24 the case here where they said there was no suspicious
 25 activity where, you know, alarm bells were going off 02:36

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 have the filing with the secretary of state; the
 3 company didn't even exist. They had overrides
 4 without appropriate documentation according to the
 5 policies and, you know, so -- and it was never 02:37
 6 followed up on. And the policy says if you don't get
 7 the right information you're supposed to move to
 8 close the account, which is standard in the industry.
 9 Q. So you don't dispute that Associated Bank
 10 had a signature card for the Crown Forex, LLC 02:38
 11 account. Correct?
 12 A. Let's see. I think they had signature
 13 cards.
 14 MR. MCVEY: After she answers this
 15 one, may we take a break? 02:38
 16 MR. MEDLOCK: Yeah. That's fine.
 17 A. Let me see here. I think they had
 18 signature cards for all of the accounts.
 19 Q. Okay. So you don't dispute that, right,
 20 that -- that there was a signature card for the Crown 02:38
 21 Forex, LLC. Is that right?
 22 A. Do I dispute that there was a signature
 23 card?
 24 Q. There was one. Is that -- is that right?
 25 A. Yes. 02:38

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. Okay.**
 3 MR. MCVEY: Now we can take a
 4 quick break.
 5 MR. MEDLOCK: Okay. Now we can 02:38
 6 take a break.
 7 THE VIDEOGRAPHER: This is the end
 8 of Tape 3. We're now going off the record. The
 9 time is 2:38 p.m.
 10 (Break.) 02:38
 11 THE VIDEOGRAPHER: We're now back
 12 on the record. This is the beginning of Tape 4.
 13 The time is 2:52 p.m.
 14 **Q. Did you have any conversations with**
 15 **counsel for the receiver during the break? 02:52**
 16 A. Yes.
 17 **Q. Can you tell me the substance of those**
 18 **conversations?**
 19 A. I told him that he should stop smoking.
 20 **Q. Do you know if he's going to take your 02:53**
 21 **advice?**
 22 A. I'm hoping that he does.
 23 **Q. Okay. Did you discuss anything of**
 24 **substance to your testimony?**
 25 A. No. 02:53

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Secrecy Act are red flags of fraud. And one in
 3 particular is not having the existence of the
 4 corporation documentation, which they didn't have
 5 here. And that's what the back room is supposed to 02:54
 6 be checking for.
 7 So now -- the only -- the only thing I
 8 know is that there was some evidence on the -- I
 9 think it was the signature cards, where they were
 10 stamped, so I could tell that somebody looked at it 02:54
 11 back there, but they never contacted the branch
 12 specifically about this account that I know of to say
 13 that there was something missing, when, in fact,
 14 there was no Secretary of State documentation for
 15 them to be able to pass this account through. 02:54
 16 **Q. Do you have any evidence that anyone in**
 17 **the back room actually identified any red flags**
 18 **regarding the Crown Forex, LLC account at the time of**
 19 **account opening?**
 20 A. I don't -- I don't. And they didn't 02:55
 21 notify the branch, which is what I read in an e-mail.
 22 And so I -- I don't know if it wasn't produced by the
 23 bank or if there just wasn't anything, or if they
 24 just missed it. I -- I don't know for sure what
 25 happened there. 02:55

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. All right. Before the break we were**
 3 **talking about the bank's CIF department or back room.**
 4 **Do you recall that?**
 5 A. Okay. 02:53
 6 **Q. And you said that you disagreed with the**
 7 **conclusions of the CIF department or back room made**
 8 **at the time that the Crown Forex, LLC account was**
 9 **opened. Is that right?**
 10 A. Yes. 02:53
 11 **Q. And do you think that the -- and the CIF**
 12 **department -- and the CIF department, or back room,**
 13 **do you think that they are -- that they weren't doing**
 14 **their job correctly?**
 15 A. Yes. 02:53
 16 **Q. Do you think that -- do you have any**
 17 **evidence that the CIF department or the back room**
 18 **knew about the Ponzi scheme?**
 19 A. No.
 20 **Q. Do you have any evidence that the CIF 02:53**
 21 **department or back room knew that there was any**
 22 **fraudulent activity going on with the Crown Forex,**
 23 **LLC account when it was opened?**
 24 A. I don't have any evidence, but the lack of
 25 certain documentation that's required by the Bank 02:54

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. So it's possible that the back room just**
 3 **simply missed a red flag. Is that right?**
 4 A. Possibly.
 5 **Q. Do you have any evidence that anyone in 02:55**
 6 **the back room knew -- had actual knowledge that there**
 7 **was any fraudulent conduct going on with any of the**
 8 **receivership entities at the time the Crown Forex,**
 9 **LLC account was opened?**
 10 A. Do I have any evidence? 02:55
 11 **Q. Yes.**
 12 A. No.
 13 **Q. Do you have any evidence that anyone in**
 14 **the back room or CIF department had any -- had actual**
 15 **knowledge that the -- any of the receivership 02:56**
 16 **entities were breaching a fiduciary duty at the time**
 17 **the Crown Forex, LLC account was opened?**
 18 A. No.
 19 **Q. Do you have any evidence that anyone in**
 20 **the CIF department or back room had actual knowledge 02:56**
 21 **that the -- that Trevor Cook or Patrick Kiley were**
 22 **breaching fiduciary duties that they owed to any**
 23 **receivership entity at the time the Crown Forex, LLC**
 24 **account was opened?**
 25 A. So Trevor Cook wasn't on this account, but 02:56

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Patrick Kiley was. And the back room, the knowledge
 3 that they did have was that they didn't have the
 4 complete documentation they were supposed to check
 5 for. Specifically they didn't have the Secretary of 02:56
 6 State documentation showing that the entity existed.
 7 **Q. What evidence do you have that the back**
 8 **room knew that they didn't have the Secretary of**
 9 **State documents at the time the Crown Forex, LLC**
 10 **account was opened? 02:56**
 11 A. Because the documents weren't sent to
 12 them.
 13 **Q. What evidence do you have that they**
 14 **actually knew they didn't have those documents?**
 15 A. Their -- their responsibility was to check 02:57
 16 to make sure that the actual documents were there,
 17 and they weren't there.
 18 **Q. I -- I understand that. But what -- what**
 19 **evidence do you have that they actually knew those**
 20 **documents were missing? 02:57**
 21 MR. MCVEY: I'll object, other
 22 than what she's already testified to.
 23 MR. LAKATOS: [Unintelligible.]
 24 A. I think I have testified to something, and
 25 that is that the only thing the back room was 02:57

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. So it's on Page 50 of your report.**
 3 A. So on Page 48 of my report Lien Sarles
 4 states in his affidavit that one of the requirements
 5 for an account opening -- for account opening is the 02:59
 6 Secretary of State registration information for
 7 entities.
 8 **Q. Okay. And -- and that -- if I can just**
 9 **stop you there for just one --**
 10 A. Sure. 02:59
 11 **Q. -- second. Where in that section that you**
 12 **quote there does it say that Lien Sarles knew that**
 13 **documents were missing at the time the Crown Forex,**
 14 **LLC account was opened?**
 15 A. So I'm trying to point out that he knew he 02:59
 16 was supposed to get it. And then he says he
 17 personally met with them to open the accounts. And
 18 then -- that's on Page 49. Let's see here.
 19 On Page 49, Mr. Sarles stated in his
 20 affidavit that -- regarding not obtaining registered 02:59
 21 documentation with the Secretary of State. And the
 22 quote from the affidavit is, "When I opened the Crown
 23 Forex account, I was not provided with the Secretary
 24 of State registration documentation. I told Kiley he
 25 must send the documentation to me after he completed 03:00

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 supposed to do was to check to make sure that the
 3 proper documentation was there to open the account,
 4 and it wasn't there. So whoever checked it knew that
 5 this particular document was missing. 02:57
 6 **Q. Who at the bank --**
 7 A. The existence of the --
 8 **Q. -- who at the --**
 9 A. -- entity.
 10 **Q. -- who at the bank, at the time the Crown 02:57**
 11 **Forex, LLC account was opened, knew that there were**
 12 **documents missing?**
 13 A. Lien Sarles knew, and the back room knew.
 14 **Q. Who -- what evidence do you have that**
 15 **Lien -- that Lien Sarles knew that? What -- can you 02:57**
 16 **point me to an e-mail showing that?**
 17 A. I can point you to his affidavit.
 18 **Q. In his affidavit does he actually say --**
 19 **is it your testimony that -- that Lien Sarles said at**
 20 **the time the account was open he knew that -- that 02:58**
 21 **certain documents were missing?**
 22 A. Well, we can look at it, because I quote
 23 it.
 24 **Q. Sure.**
 25 A. Let's look at it. 02:58

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 a Secretary of State filing for Crown Forex, LLC. At
 3 the time I was opening the account, I was aware that
 4 the account would hold client investment funds."
 5 So he knew, at the time he opened the 03:00
 6 account, that he didn't have it.
 7 **Q. Okay. Where in this statement that you**
 8 **quote at the bottom of Page 49 does it say that Lien**
 9 **Sarles knew, at the time he opened the account, that**
 10 **he was not provided with the Secretary of State 03:00**
 11 **registration documentation?**
 12 A. It says, "When I opened the Crown Forex,
 13 LLC, I was not provided with the Secretary of State
 14 registration documentation."
 15 **Q. Yes. And when does he -- where in this 03:00**
 16 **statement does Lien Sarles say when he found that**
 17 **out?**
 18 A. "When I opened the account, I was not
 19 provided with the Secretary of State registration
 20 documentation." 03:00
 21 **Q. Right. And when does he say when he --**
 22 **when he realized that?**
 23 A. Well, he said, "When I opened it, I was
 24 not provided with it."
 25 **Q. So you read the sentence to mean that 03:00**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 "When I opened the account, I was aware that I was
 3 not provided with Secretary of State registration
 4 documentation"?

5 A. Yeah. 03:01

6 Q. Is that how you read this?
 7 A. Yes.

8 Q. That's not how it's actually written, is
 9 it?

10 A. Well, he says, "When I opened the account, 03:01
 11 I was not provided with the registration
 12 documentation." Can you --

13 Q. And you read that to mean something
 14 different than what it says. Correct?

15 A. No. I read it to mean he states in his 03:01
 16 affidavit that there are certain requirements for
 17 opening the accounts, including a Secretary of State
 18 registration information for entities. And then he
 19 said, "When I opened the account, I was not provided
 20 with the Secretary of State registration 03:01
 21 documentation."

22 Q. Right. And where in this statement
 23 does -- does Mr. Sarles actually say when he realized
 24 he did not have all the documents that were necessary
 25 to open the account? 03:01

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Q. Okay. So when -- if I were -- if I were
 3 to just use -- to write the statement, "When I left
 4 the house, I didn't have my keys," what does that
 5 statement tell you about when I realized I didn't 03:03
 6 have my keys?

7 A. When you left the house, you didn't have
 8 your keys.

9 Q. Right. So when did I realize in that --
 10 when does that sentence tell me about when I realized 03:03
 11 I didn't have my keys? Does it -- does it say that I
 12 realized it when I left the house, or when I was in
 13 the car, or when I was down the street? What does
 14 that sentence tell me about when I -- I realized I
 15 didn't have my keys? 03:03

16 A. It doesn't say when you realized it.

17 Q. So when you -- so when this sentence says,
 18 "When I opened the Crown Forex, LLC account, I was
 19 not provided with Secretary of State registration
 20 documentation," it doesn't say whether Mr. Sarles 03:03
 21 realized that at the time the account was opened, two
 22 weeks later, months later, June 9th, 2009, 2013. It
 23 doesn't simply -- it simply doesn't say when
 24 Mr. Sarles realized that he didn't have the
 25 documentation. 03:03

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 MR. MCVEY: Well, objection. I
 3 think that's a different question.

4 MR. MEDLOCK: Okay.

5 Q. Go ahead and answer the question. 03:01

6 A. Well, to me, he was the one that opened
 7 the account. He was the one that met with them. And
 8 he was the one that didn't obtain the registration
 9 documentation. So at the time he did it, he knew he
 10 didn't have it. He knew what the requirements were, 03:02
 11 and he didn't have it.

12 Q. That's an assumption you're making, that
 13 he --

14 A. No.

15 Q. -- that he knew -- 03:02

16 A. I'm reading it.

17 Q. -- he didn't have it.

18 A. I'm reading right from his affidavit.

19 "When I opened the account, I was not provided with
 20 the Secretary of State registration documentation." 03:02

21 Q. Right. And where in this statement does
 22 he say when he realized he didn't have all the
 23 documents that were necessary to open the account?
 24 A. When he opened the account, he knew he
 25 didn't have the documentation. 03:02

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 MR. MCVEY: I'll object; form,
 3 argumentative.

4 Go ahead.

5 A. So here you have a banker who goes out and 03:04
 6 opens accounts as part of his job all the time. He's
 7 going offsite. He knows he has to get four pieces of
 8 information. He has to get the name, he has to get
 9 the physical address, he has to get the date of birth
 10 for the individual or the Secretary of State 03:04
 11 registration documents showing the existence of an
 12 entity, and he has to get the ID number, the tax ID
 13 number.

14 And so he goes out to Crown Forex and he
 15 gets -- well, two and a half of the four items -- and 03:04
 16 you're saying that your interpretation of this
 17 sentence says that he didn't know at the time that he
 18 didn't get the four doc- -- the only four documents
 19 he has to get to open an account that he has to get
 20 with every account that he opens? 03:04

21 I -- I -- I find that incredibly difficult
 22 to believe. When he opened this account, the -- his
 23 only goal was to get four pieces of documentation to
 24 open the account. He did not get a major piece of --
 25 he didn't get that plus a true physical address. But 03:05

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 he didn't get the entity's existence documents. And
 3 I -- my conclusion, by reading his affidavit, is he
 4 knew at the time that he opened the account that he
 5 didn't get it. That -- that was his only job, was to 03:05
 6 get those four pieces of documentation.
 7 **Q. What -- what role did Nataliya Espey play**
 8 **in opening accounts at Associated Bank?**
 9 A. I didn't hear that question. I -- I can't
 10 hear what you're saying. 03:05
 11 **Q. Oh, I'm sorry.**
 12 **Who role did Nataliya Espey play in**
 13 **opening the Crown Forex, LLC account?**
 14 A. So her testimony is that she worked with a
 15 group of folks like Lien Sarles to get whatever 03:05
 16 documentation was missing or whatever they needed to
 17 assist them in supporting their clients.
 18 **Q. Do you have any evidence that Nataliya**
 19 **Espey realized that documents were missing?**
 20 A. So there were some e-mails -- 03:06
 21 **Q. What --**
 22 A. And I may have them here.
 23 **Q. Sure.**
 24 A. And I don't know if she sent them or not.
 25 But there were other people that kept asking about 03:06

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 the transfers or any of the other things that were
 3 going on.
 4 **Q. Do you have any evidence that Nataliya**
 5 **Espey had actual knowledge that there was conversion 03:07**
 6 **going on with respect to the receivership entities?**
 7 A. (Reviewing document.)
 8 I will say no, I can't find an e-mail from
 9 her.
 10 **Q. Okay. So I think maybe you missed my 03:09**
 11 **question --**
 12 A. Oh, maybe I did.
 13 **Q. -- while you were reviewing.**
 14 A. I'm sorry.
 15 **Q. And that's fine. That's -- I want to make 03:09**
 16 **sure that you had a chance to review your report.**
 17 **My question that I asked was, do you have**
 18 **any evidence that Nataliya Espey had actual knowledge**
 19 **that there was conversion going on with respect to**
 20 **the receivership entities? 03:09**
 21 A. I would say no.
 22 **Q. So Associated Bank received a declaration**
 23 **of no written operating agreement for the Crown**
 24 **Forex, LLC account. Correct?**
 25 A. Let's see. 03:10

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 this.
 3 **Q. With respect to the Crown Forex, LLC**
 4 **account, can you identify a single e-mail where**
 5 **Nataliya Espey noticed that documents were missing at 03:06**
 6 **the time the account was opened?**
 7 A. Let's see.
 8 (Reviewing document.)
 9 I do not have anything cited here, so I
 10 must not have seen anything. 03:06
 11 **Q. Do you have any evidence that Nataliya**
 12 **Espey had actual knowledge of the Ponzi scheme?**
 13 A. No.
 14 **Q. Do you have any evidence that Nataliya**
 15 **Espey had actual knowledge that there was anything 03:06**
 16 **fraudulent going on with the receivership entities?**
 17 A. No.
 18 **Q. Do you have any evidence that Nataliya**
 19 **Espey had actual knowledge that Trevor Cook or**
 20 **Patrick Kiley were breaching any fiduciary duties 03:07**
 21 **that they owed to the -- to the receivership**
 22 **entities?**
 23 A. I know I cite quite a few e-mails here.
 24 I'll say no for now, and I'll change my
 25 answer if I run into one of her e-mails about any of 03:07

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 (Reviewing document.)
 3 I don't have it on my chart. Let me just
 4 look real quick here.
 5 **Q. So maybe I could -- I don't want to use a 03:10**
 6 **politically-loaded term. Maybe I could short-circuit**
 7 **this a bit.**
 8 **If you go to Page 50 of your report.**
 9 A. Okay.
 10 **Q. And you look at -- there's a block quote 03:10**
 11 **that you have from Mr. Sarles's affidavit that starts**
 12 **at Paragraph 15?**
 13 A. Yes.
 14 **Q. He lists documents that he obtained for**
 15 **the Crown Forex, LLC account in Paragraph 15 of his 03:10**
 16 **affidavit. Correct?**
 17 A. Yes.
 18 **Q. And amongst those were a declaration of no**
 19 **written operating agreement. Is that right?**
 20 A. Yes. 03:11
 21 **Q. And he also stated that he had -- that he**
 22 **received a depository declaration for the Crown**
 23 **Forex, LLC account as well. Correct?**
 24 A. Yes.
 25 **Q. And he also stated that he received a 03:11**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 signature card as well. Correct?
 3 A. Yes.
 4 Q. And he received a mailing address for the
 5 Crown Forex, LLC account as well. Correct? 03:11
 6 A. Yes. That's what he's got here.
 7 Q. And he also received a copy of the
 8 articles of organization for Crown Forex, LLC.
 9 Correct?
 10 A. The application. 03:11
 11 Q. All right.
 12 MR. MEDLOCK: Next exhibit.
 13 (Exhibit 235, Articles of
 14 Organization Application, AB-MIN-0034492, marked
 15 for identification as of this date.) 03:11
 16 (Discussion off the written
 17 record.)
 18 Q. All right. So you have in front of you
 19 Exhibit 235. Have you seen this document before?
 20 A. Yes. 03:12
 21 Q. All right. And at the top of this
 22 document it says, "Minnesota Secretary of State,
 23 Articles of Organization for a Limited Liability
 24 Company." Correct?
 25 A. Yes. 03:12

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Q. Okay. And there's a column. There's
 3 three columns at the top. It says, "Account Info,"
 4 "Customer Info," and "Required Documentation" from
 5 left to right. Correct? 03:14
 6 A. Yes.
 7 Q. Okay. And under the "Required
 8 Documentation" column, that says "Business Signature
 9 Card." Correct? That's the first thing that's
 10 required? 03:14
 11 A. Yes.
 12 Q. And Mr. Sarles did receive a business
 13 signature card for the Crown Forex, LLC. Correct?
 14 A. Yes.
 15 Q. And it says, "Two Signatures Required 03:14
 16 Agreement, if applicable." Correct?
 17 A. Yes.
 18 Q. And you don't know whether a two
 19 signatures required agreement would have been
 20 applicable for this type of account, do you? 03:14
 21 A. I'm assuming that it wasn't applicable.
 22 Q. Okay. And then the next bullet is
 23 "Declaration of No Written Operating Agreement and
 24 Notification of Agreement, if applicable." Correct?
 25 A. Yes. 03:14

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Q. Okay. Do you see the "Name of Company" on
 3 that form?
 4 A. Yes.
 5 Q. And the "Name of Company" is Crown Forex, 03:12
 6 LLC. Correct?
 7 A. Yes.
 8 Q. All right.
 9 (Exhibit 236, LLC Bank Account
 10 Requirements, AB-MIN-0032340 - AB-MIN-0032343, 03:13
 11 marked for identification as of this date.)
 12 Q. So I'm showing you what we're marking as
 13 Exhibit 236 to your deposition. As you can see at
 14 the bottom, it was previously marked as Exhibit 136
 15 to Ms. Kitowski's deposition. 03:13
 16 Have you seen this document before?
 17 A. I've seen a document like this before.
 18 I'd have to just see if I cited this specifically.
 19 And I had a couple of iterations of policies that I
 20 looked at. 03:13
 21 Q. This is the bank's LLC limited liability
 22 company policy for the required documentation that
 23 was -- that would be needed to open a -- an account
 24 for an LLC. Correct?
 25 A. Yes. 03:13

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Q. And Mr. Sarles did receive the no -- the
 3 declaration of no written operating agreement for
 4 Crown Forex, LLC. Correct?
 5 A. Yes. 03:14
 6 Q. The next bullet is "Articles of
 7 Organization." Correct?
 8 A. Yes.
 9 Q. And Mr. Sarles did receive a document that
 10 said "Articles of Organization for Crown Forex, LLC." 03:15
 11 Correct?
 12 A. Well, it was the application. It wasn't
 13 the filing at the Secretary of State.
 14 Q. Okay. Can you show me on the previous
 15 document that we marked, Exhibit 235, where it says 03:15
 16 "Application"?
 17 A. It says, "Filing Fee: \$160." And then,
 18 if you look at some of the other ones that were
 19 actually filed, there's a file stamp by the Secretary
 20 of State or some -- and then a document where the 03:15
 21 articles are -- there's a different document when
 22 they're actually filed with the Secretary of State.
 23 So this is an application.
 24 Q. Can you -- does the word "application"
 25 actually appear on this document? 03:15

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. No, but right underneath the title of the
 3 document, it says, "Filing Fee: \$160."
 4 **Q. So the answer is no, the word**
 5 **"application" is nowhere on this document. Correct? 03:15**
 6 MR. MCVEY: Objection; asked and
 7 answered.
 8 A. It doesn't say "application." But it's
 9 got "Filing Fee," "Read the instructions before
 10 completing this form." It's got questions on here. 03:16
 11 I mean, this is not the document that demonstrates
 12 the existence of a company.
 13 **Q. Okay. So moving back to Exhibit 236,**
 14 **where in the "Required Documentation" field does it**
 15 **say that the articles of incorporation have to be 03:16**
 16 **filed?**
 17 A. Well -- so if you don't file the articles
 18 of incorporation or association or the LLC documents,
 19 then you don't have an existing company.
 20 And so one of the requirements of the Bank 03:16
 21 Secrecy Act is that, for a company, that you have
 22 some sort of document to demonstrate that the company
 23 exists.
 24 So this is -- is a huge red flag when you
 25 open an account for a company that doesn't exist. 03:16

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. Yes.
 3 **Q. And there are -- and you'd agree with me**
 4 **that there is a -- there are -- there are documentary**
 5 **means of verifying that -- that an entity exists, and 03:17**
 6 **there are nondocumentary means of identifying that an**
 7 **entity exists. Correct?**
 8 A. Yes.
 9 **Q. So a bank like Associated Bank under --**
 10 **under the CIP is fully able to use nondocumentary 03:18**
 11 **means to determine that an entity exists. Correct?**
 12 A. So just to be clear, to -- the regulatory
 13 guidance discusses the warning signs of doing
 14 business with a company that either doesn't exist or
 15 is brand-new. 03:18
 16 And so the fact that there's no Secretary
 17 of State report of good standing, if you want to call
 18 it -- that's what they call it in Texas -- where you
 19 actually have a form from the Secretary of State
 20 where it's got the company's name and that they're in 03:18
 21 good standing. In Minnesota, there are some other
 22 ones that actually had it.
 23 But if you don't have that particular
 24 piece of documentation, you can't determine by other
 25 means that the company exists because it doesn't 03:19

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 And this is sort of like Bank Fraud 101.
 3 **Q. I'm sorry. My question is simple. Where**
 4 **in the required documentation field does it say the**
 5 **articles of organization have to be on file with the 03:17**
 6 **Secretary of State?**
 7 A. It doesn't say it in this document.
 8 **Q. But if it doesn't --**
 9 A. But if you don't -- if you don't have it
 10 on file with the Secretary of State, a bank can't 03:17
 11 prove they're doing business with a company that
 12 actually exists.
 13 So to have it only in an application
 14 violates the standards in the banking industry.
 15 **Q. And let's move down to the next bullet. 03:17**
 16 **It says, "Depository Declaration."**
 17 **Mr. Sarles did receive that as well.**
 18 **Correct?**
 19 A. Yes.
 20 **Q. Okay. And you mentioned that there are 03:17**
 21 **methods of verifying that -- who a bank is doing**
 22 **business with. Correct?**
 23 A. Yes.
 24 **Q. And that is sometimes called a CIP policy.**
 25 **Correct? 03:17**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 exist.
 3 So what nondocumentary standards are for
 4 is to confirm the information, for example, that you
 5 have a Secretary of State good standing and you might 03:19
 6 want to look online to see what information there is
 7 or look to see if they have a business license or
 8 something like this.
 9 But this would be a critical piece. This
 10 would be like an individual not being able to produce 03:19
 11 a driver's license or a passport or something to show
 12 what they're -- some sort of identification paper.
 13 This is the identification paper for a company --
 14 **Q. So is it your --**
 15 A. -- that we're looking at. 03:19
 16 **Q. Sorry.**
 17 **Is it your testimony that nondocumentary**
 18 **means should not be used when identi- -- when opening**
 19 **an account for an LLC?**
 20 A. I'm just saying that there's certain 03:19
 21 requirements to open an account if -- if you look at
 22 social security number or federal tax ID number.
 23 You're not going to be able to get a different
 24 document to show the federal tax ID number. You'd
 25 want to be able to confirm it with the IRS. Or a 03:20

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 social security number.
 3 So the nondocumentary requirements are for
 4 other parts of the -- of the CIF. There's certain
 5 documents that you have to have if you open an 03:20
 6 account.
 7 And why is that? Because opening an
 8 account for a company that's brand-new or that hasn't
 9 registered with the Secretary of State yet that can't
 10 prove their existence is very risky for a bank, and 03:20
 11 that's why it's a part of their policies and
 12 procedures, what they require.
 13 **Q. So you mentioned a certificate of good**
 14 **standing. Correct?**
 15 A. Yes. 03:20
 16 **Q. Where in -- going back to Kitowski**
 17 **Exhibit 136, Exhibit 235, where in the required**
 18 **documentation does it require a certificate of good**
 19 **standing?**
 20 A. So I'm just using that as the -- what they 03:20
 21 have in Texas to confirm the existence of an entity.
 22 I -- I can't remember the exact term that they use in
 23 Minnesota. But you have to have something other than
 24 a filing.
 25 I mean, this -- you can't prove that this 03:21

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. No. They need to get the Secretary of
 3 State information.
 4 **Q. So the -- an entity that's registered with**
 5 **the IRS, you wouldn't say that they exist? 03:22**
 6 A. So you call up to get a federal tax ID
 7 number, but it doesn't mean that you've registered
 8 with the Secretary of State.
 9 So these four pieces of information are
 10 required to prevent bank fraud, money laundering, and 03:22
 11 other types of financial fraud. These are the four
 12 basic pieces of information that a bank is supposed
 13 to get under the statute, under the regulatory
 14 guidance.
 15 **Q. So is it your testimony that the Bank 03:23**
 16 **Secrecy Act requires a bank to receive copies of**
 17 **articles of organization or articles of incorporation**
 18 **that have been filed with the Secretary of State**
 19 **before opening a bank account?**
 20 A. Yes. 03:23
 21 **Q. All right. So after the account was**
 22 **opened, the next instance in which there was an alert**
 23 **was October 2008. Correct?**
 24 A. (Reviewing document.)
 25 So I -- I think your question goes to 03:24

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 was ever filed. There's -- there's no stamp on it.
 3 There's nothing on it. By somebody simply filling
 4 this out, this doesn't prove anything.
 5 So the bank has to critically look at the 03:21
 6 documents that are given to them in order to
 7 determine if they're sufficient under the Bank
 8 Secrecy Act to open an account.
 9 **Q. So you mentioned an employer ID number, a**
 10 **federal tax number? 03:21**
 11 A. Yes.
 12 **Q. Do you recall that?**
 13 **In -- in your experience, is -- is a**
 14 **federal tax number, an employer ID number sufficient**
 15 **to determine whether an entity exists? 03:22**
 16 A. It would be one -- it's one of the four
 17 things they should get: name, physical address, date
 18 of birth, or this type of document for -- from the
 19 Secretary of State, and then the ID number, social
 20 security number or federal tax ID number. Those are 03:22
 21 the four basic pieces of information they're supposed
 22 to get under the Bank Secrecy Act, USA Patriot Act
 23 before they open an account.
 24 **Q. Do you consider an employee ID number**
 25 **evidence that an entity exists? 03:22**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 when's the next time that something popped up on this
 3 account?
 4 **Q. Yes.**
 5 A. -- it was before the alert. So this might 03:24
 6 not be in perfect order, but in June of 2008 the bank
 7 set up the on-site deposit manager, which was the
 8 next time that they did something on this account.
 9 I -- I think there may have been something in March
 10 and April, but this is what I'm looking at right now, 03:25
 11 and we can go back and fill in.
 12 But they did, in June of 2008, before the
 13 alert was set off, they opened up the on-site deposit
 14 manager. And, once again, the Nicolett Avenue
 15 account was noted, and this would be the next time 03:25
 16 that they did something with the account.
 17 **Q. And on-site deposit manager, that's set up**
 18 **by the treasury management division of the bank.**
 19 **Correct?**
 20 MR. MCVEY: Object to the form. 03:25
 21 A. I think Lien Sarles set that up. This is
 22 the one where you can scan in the checks for deposit.
 23 **Q. So it's your recollection that Lien Sarles**
 24 **is the one that set up the on-site deposit manager**
 25 **for the Crown Forex, LLC account. Is that right? 03:26**

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1 **CATHERINE A. GHIGLIERI - 8/11/16**

2 A. Well, there was an e-mail between Nataliya

3 Espey, who's Lien Sarles's assistant, and Lien Sarles

4 and Julia Smith giving the forms to them to fill out

5 for the on-site deposit manager. 03:26

6 **Q. Do you know who actually set it up?**

7 MR. MCVEY: Objection to form,

8 vague and ambiguous. "Set it up."

9 **Q. All right. I'll make it really clear.**

10 **Do you know who set up on-site deposit 03:26**

11 **manager for the Crown Forex, LLC account?**

12 A. Whoever in the bank was responsible for

13 doing the technical setup. But as far as who sent it

14 to them, Lien Sarles and Nataliya Espey were the ones

15 that sent the forms to them to set it up. 03:26

16 **Q. Do you know whether setting up on-site**

17 **deposit manager was part of Lien Sarles's duties at**

18 **Associated Bank?**

19 A. I'm assuming that any kind of product that

20 a customer wants, that it would go through him -- 03:26

21 **Q. All right.**

22 A. -- as the portfolio manager.

23 **Q. And it's your testimony that Lien Sarles's**

24 **role at the banker was portfolio manager?**

25 A. Well, that might not have been his exact 03:27

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1 **CATHERINE A. GHIGLIERI - 8/11/16**

2 **conclusions regarding whether there was -- whether**

3 **there were any -- these red flags had -- whether this**

4 **alert was actually a red flag?**

5 A. Whether the alert contained suspicious 03:28

6 activity is what I disagree with.

7 **Q. Do you think that Bonnie Skorczewski was**

8 **not doing her job properly?**

9 A. Yes.

10 **Q. Do you know that Bonnie Skorczewski -- do 03:28**

11 **you have any evidence that Bonnie Skorczewski knew**

12 **about the Ponzi scheme?**

13 A. Well, a bank employee following the bank

14 policies and standards in the industry would know

15 that there was a Ponzi scheme. 03:28

16 **Q. I understand you say it would know. Do**

17 **you have actual -- do you have any evidence that**

18 **Ms. Skorczewski had actual knowledge that there was a**

19 **Ponzi scheme related to the Crown Forex, LLC account?**

20 A. She had actual knowledge of the fact that 03:29

21 there were various components of a Ponzi scheme. For

22 example, large, round dollar transactions in and out

23 on the same day, internal bank transfers between

24 related accounts, wire transfers going out the other

25 banks in large, round dollar amounts, some to related 03:29

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1 CATHERINE A. GHIGLIERI - 8/11/16

2 title, but he was relationship manager, a lot of

3 banks call it.

4 **Q. Okay. So then after the -- there are**

5 **three alerts that come in for this account, right? 03:27**

6 **The first one is the October 2008 alert for increase**

7 **in wire activity. Right?**

8 A. That is not -- things happened with this

9 account before then but yes, there was an alert in

10 October, and there were two other alerts after that. 03:27

11 MR. MCVEY: Just for purposes of

12 clarification when you say alert, do you mean the

13 technical alert that the banker talked about and

14 Ms. Kitowski talked about? If that's the case,

15 that may solve some of the -- 03:27

16 MR. MEDLOCK: Yes --

17 MR. MCVEY: -- issues.

18 MR. MEDLOCK: -- that's what I

19 mean. That's what I mean.

20 MR. MCVEY: Okay. 03:27

21 **Q. In the -- in that technical alert,**

22 **October 2008 for increase in wire activity, that was**

23 **reviewed by Bonnie Skorczewski. Right?**

24 A. Yes.

25 **Q. And you disagree with Ms. Skorczewski's 03:28**

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1 CATHERINE A. GHIGLIERI - 8/11/16

2 parties to these accounts, checks being made payable

3 to Oxford Global Advisors being deposited into Crown

4 Forex and checks being made payable to Crown Bank,

5 all red flags of fraud. These are all suspicious 03:29

6 transactions. This is when the checks were reviewed

7 that looked like it was Associated Bank sending the

8 checks and the low beginning and ending balances with

9 large credits and debits, that's a red flag of a

10 Ponzi scheme. 03:30

11 **Q. Can I stop you for just a second?**

12 A. Sure.

13 **Q. I think that you're -- I think that we're**

14 **sort of two ships passing in the night here.**

15 **My question is not whether Ms. Skorczewski 03:30**

16 **had actual knowledge of these elements that you've**

17 **been laying out. My question is, did Ms. Skorczewski**

18 **have actual knowledge that there was a Ponzi scheme?**

19 A. She had actual knowledge of -- that these

20 transactions in this account contained attributes of 03:30

21 a Ponzi scheme. She saw what was there, she could

22 see what was going on, and she reached the conclusion

23 that there was no suspicious activity but she -- she

24 knew what was happening in -- in the account.

25 **Q. When you say she knew, you're saying that 03:30**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 she should have known that there was a Ponzi scheme.
 3 Correct?
 4 A. No. I'm saying she knew what the
 5 transactions were. She looked at them. She saw what 03:31
 6 the transactions were; she reported on them. If you
 7 read her write-up, it's -- all of the attributes of a
 8 Ponzi scheme are laid out right there in her
 9 write-up. So she knew what was going on with the
 10 accounts. 03:31
 11 Q. I understand she knew what was going on
 12 with the accounts. Where in Ms. Skorczewski's
 13 write-ups, e-mails or documents does she say she knew
 14 there was -- there was a Ponzi scheme going on?
 15 A. She doesn't say that. 03:31
 16 Q. She never says that she knew there was a
 17 Ponzi scheme going on?
 18 A. That's right.
 19 Q. And you reviewed her deposition testimony
 20 as well. Correct? 03:31
 21 A. Yes.
 22 Q. And she testified that she never knew
 23 there was a Ponzi scheme going on. Correct?
 24 A. Yes.
 25 Q. And so she never had actual knowledge that 03:31

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 it's because she didn't have -- she wasn't properly
 3 trained or -- I'm not making a judgment on that. All
 4 I know is that a bank employee with the knowledge of
 5 bank policies, with knowledge of what the 03:33
 6 investigative protocol was, was actually looking at
 7 what the transactions were in the account, would know
 8 that there was a Ponzi scheme going through.
 9 Q. Okay. The next technical alert that came
 10 up -- actually let me stop myself there. 03:33
 11 There was actually a 314(b) request that
 12 came in as well. Right?
 13 A. Yes.
 14 Q. Okay. And that came in in the
 15 March/April 2009 time period. Correct? 03:34
 16 A. Yes.
 17 Q. And that was reviewed by Joanne Alberts,
 18 correct, at the direction of Ryan Rasske?
 19 A. Yes.
 20 Q. And you've reviewed Joanne Alberts' 03:34
 21 documents and deposition. Correct?
 22 A. Yes.
 23 Q. Anywhere -- is there anywhere in Ms. Jo --
 24 in Ms. Alberts' documents that she states that she
 25 was she aware that there was a Ponzi scheme going on? 03:34

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 there was a Ponzi scheme. Correct?
 3 A. Well -- so I'm not here to argue legal --
 4 Q. I'm not asking legal --
 5 A. -- the legal opinions, I'm not trying to 03:31
 6 render a legal opinion.
 7 But what I'm saying is she had knowledge
 8 of -- and there are certain things she had knowledge
 9 of. If you read her investigative write-up, you can
 10 see that she had actual knowledge of the types of 03:32
 11 transactions that were going through that
 12 demonstrated there was a Ponzi scheme, the types of
 13 documentation that contained red flags of financial
 14 fraud, including a Ponzi scheme, transactions in and
 15 out, all the things I have in my report, she had 03:32
 16 actual knowledge of all of that and actually put it
 17 in her investigative write-up. So she had actual
 18 knowledge of the attributes of a Ponzi scheme.
 19 Q. It seems like you're saying
 20 Ms. Skorczewski came to the wrong conclusion because 03:33
 21 she didn't have adequate training to determine that
 22 there was fraudulent activity or a Ponzi scheme going
 23 on here.
 24 A. I don't know. I -- I couldn't say why she
 25 reached the conclusion that she did. I am not saying 03:33

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. No.
 3 Q. Is there anywhere in Ms. Alberts'
 4 documents where she states that she knew there was a
 5 Ponzi scheme going on? 03:34
 6 A. No.
 7 Q. Is there anywhere in Ms. Alberts'
 8 documents where she states that she knew there was a
 9 Ponzi scheme going on, looked the other way?
 10 A. No. 03:34
 11 Q. Is there anywhere in Ms. Alberts'
 12 deposition where she says that she knew there was a
 13 Ponzi scheme going on?
 14 MR. MCVEY: Objection; asked and
 15 answered. 03:34
 16 A. Yeah, didn't you just ask me that?
 17 Q. No, deposition. I was asking about
 18 documents earlier.
 19 A. Oh.
 20 Q. But yeah. 03:35
 21 A. No.
 22 Q. Is there anywhere in Ms. Alberts'
 23 deposition where she states that she knew there was a
 24 Ponzi scheme going on and looked the other way?
 25 A. Are you saying that -- 03:35

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 (Simultaneous speaking.)
 3 **Q. So she --**
 4 A. Would you say that again?
 5 **Q. Is there anywhere in Ms. Alberts' 03:35**
 6 **deposition, the one that you reviewed, where she**
 7 **states that she knew there was a Ponzi scheme going**
 8 **on and decided to look the other way?**
 9 A. No.
 10 **Q. How about Ryan Rasske, you reviewed his 03:35**
 11 **deposition and his documents. Correct?**
 12 A. Yes, yes.
 13 **Q. Is there anywhere in Mr. Rasske's**
 14 **documents where it states he knew there was a Ponzi**
 15 **scheme going on? 03:35**
 16 A. Not at the time. I think he testified
 17 after the fact that he thought it was a Ponzi scheme.
 18 **Q. So that's after the media had reported**
 19 **there was a Ponzi scheme. Correct?**
 20 A. I believe so. 03:35
 21 **Q. It's pretty easy to conclude that there is**
 22 **a Ponzi scheme when the media report that there is**
 23 **one?**
 24 MR. MCVEY: I don't know what the
 25 definition on it is, but go ahead. 03:36

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. No.
 3 **Q. Okay. So the next technical alert that**
 4 **came in --**
 5 **Oh, yeah. So let me go back for a second 03:37**
 6 **on the 314(b) request. Joanne Alberts was the one**
 7 **who investigated it. Correct?**
 8 A. Yes.
 9 **Q. And she came to the conclusion that there**
 10 **was no suspicious activity going on. Correct? 03:37**
 11 MR. MCVEY: I'll object to the
 12 question to the extent that it misstates her
 13 testimony and the documents.
 14 A. I -- I didn't see that she concluded
 15 anything. The 314(b) request brought up some 03:37
 16 alarming information about the fact that this
 17 Nicolett Avenue address was, you know, a bus stop or
 18 something, and she called Lien Sarles who told her,
 19 you know, that they had moved. But I didn't see
 20 where she made any conclusion but maybe I'm not 03:38
 21 remembering completely.
 22 **Q. Do you see any document where Ms. Alberts**
 23 **concluded that because this Nicolett Avenue address,**
 24 **that it was likely that the Crown Forex, LLC account**
 25 **was fraudulent? 03:38**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 MR. MEDLOCK: More of a side
 3 comment. I'll move on.
 4 **Q. The -- there is nothing in Mr. Rasske's**
 5 **documents that show that at the time he knew there 03:36**
 6 **was a Ponzi scheme going on. Correct?**
 7 A. There is nothing that says I know there is
 8 a Ponzi scheme going on, no.
 9 **Q. And there is nothing that shows that**
 10 **Mr. Rasske -- whether he uses those exact words -- 03:36**
 11 **that Mr. Rasske knew there was a Ponzi scheme going**
 12 **on and he decided to look the other way?**
 13 A. I didn't see that he said he knew and
 14 decided to look the other way.
 15 **Q. In fact, Mr. Rasske testified at his 03:36**
 16 **deposition that he didn't know about the Ponzi scheme**
 17 **at the time that it was occurring. Correct?**
 18 A. I don't recall that specifically, but --
 19 **Q. But at his deposition Mr. Rasske denied**
 20 **having any knowledge of the Ponzi scheme. Correct? 03:36**
 21 A. I don't -- I just don't recall seeing that
 22 specific thing.
 23 **Q. Did you find anything in his deposition**
 24 **where Mr. Rasske said that there was a Ponzi scheme**
 25 **going on and he did know about it? 03:37**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. Well, I mean that's a gigantic red flag
 3 where you -- because the Bank Secrecy Act requires a
 4 physical address, you know, so law enforcement can
 5 take action if they need to if there is -- if they -- 03:38
 6 **Q. Can I stop you for just one second?**
 7 A. -- want to. No, I -- I would like to
 8 finish.
 9 **Q. Okay. Go ahead.**
 10 A. And so when you see the fact that a -- a 03:38
 11 Post Office box setup is named for a -- an account,
 12 that's a huge red flag of money laundering and
 13 something that should have set off alarm bells all
 14 over the bank. And of course, I didn't see any
 15 evidence that anybody looked it into other than 03:39
 16 calling Lien Sarles and just asking him what the
 17 story was.
 18 **Q. So you didn't see any evidence that**
 19 **Ms. Alberts concluded that there was anything**
 20 **fraudulent going on with the Crown Forex, LLC account 03:39**
 21 **at the time that she was investigating the 314(b)**
 22 **request. Is that right?**
 23 A. I think I got cost in the negatives. Can
 24 you ask me that again?
 25 **Q. You didn't see any evidence that at the 03:39**

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1 **CATHERINE A. GHIGLIERI - 8/11/16**
 2 **time Ms. Alberts was reviewing this 314(b) request**
 3 **that we've been discussing, that she found out that**
 4 **there was anything fraudulent going on with the**
 5 **account? 03:39**
 6 MR. MCVEY: Objection; form.
 7 Go ahead.
 8 A. It -- it seemed to me like she only asked
 9 Lien Sarles, who just told her they'd moved. But
 10 there was no actual investigation of any kind to 03:40
 11 confirm whether this was a bus stop or -- I think the
 12 314(b) request characterizes it as a sporting goods
 13 shop, a bus company or a deli. And then there was
 14 the whole issue of -- that they couldn't find the --
 15 the nature of the business or -- or where they were 03:40
 16 located.
 17 So there was very little investigation
 18 done. And I didn't see anything in the documents,
 19 unless you can show me something that -- where she
 20 reaches a conclusion there is no problem. It's like 03:40
 21 the ball was dropped here.
 22 **Q. So you disagree with the investi- -- you**
 23 **disagree with the investigation that Ms. Alberts**
 24 **conducted and you would have come to a different**
 25 **conclusion. Correct? 03:40**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 or account manager what the deal was with the
 3 address. He said they moved. There was no
 4 investigation of that. They didn't get back to the
 5 bank about anything. And in light of -- of all of 03:42
 6 these attributes of a fraud -- I mean, these are all
 7 big alarm bells of a fraud if you're a banker.
 8 **Q. So Ms. Alberts didn't investigate**
 9 **sufficiently to determine whether there was a fraud.**
 10 **Correct? 03:42**
 11 A. Yes, that's correct.
 12 **Q. And when Ms. Skorczewski did the**
 13 **investigation of the wire transfer activity in**
 14 **October 2008, she didn't investigate sufficiently to**
 15 **determine whether there was a fraud or not. Correct? 03:42**
 16 A. I think she did a sufficient
 17 investigation. And her investigative analysis is
 18 very detailed and contains many attributes of a Ponzi
 19 scheme, including the types of transactions, the
 20 dollar volume, who was getting what transactions, 03:43
 21 where the funds were flowing. She did a pretty
 22 in-depth investigation and knew what the transactions
 23 were, knew what the bank policies said about money
 24 laundering and --
 25 **Q. And she just simply came to a conclusion 03:43**

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1 **CATHERINE A. GHIGLIERI - 8/11/16**
 2 MR. MCVEY: Interpose an objection
 3 as to the form of the question, misstates the
 4 evidence, incomplete hypothetical that invest --
 5 in terms of investigation. 03:40
 6 MR. MEDLOCK: Okay. I think she
 7 just said there was an investigation.
 8 A. So --
 9 **Q. Do you --**
 10 MR. MCVEY: I think she said there 03:41
 11 was a lack of one. But go ahead.
 12 **Q. You -- you disagree with the steps that**
 13 **Ms. Alberts took to respond to the 314(b) request.**
 14 **Correct?**
 15 A. Yes, and my -- so the bank knew at this 03:41
 16 time that another bank had told him that the account
 17 address was actually a sporting good shop, a bus
 18 company, or a deli, or something. They couldn't find
 19 anything online associated with the name and was
 20 wondering about the nature of business. 03:41
 21 The only thing that was done by the bank
 22 was knowing this and knowing how alarming all of that
 23 is, they may have a fake company that's doing
 24 millions of dollars in transactions at a Post Office
 25 box, the only thing they did was ask the portfolio -- 03:41

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1 **CATHERINE A. GHIGLIERI - 8/11/16**
 2 **that was different based on the same -- on the same**
 3 **sort of evidence that you looked at for that same**
 4 **time period?**
 5 A. So any bank employee, knowing the bank 03:43
 6 policies, knowing what the Bank Secrecy Act red flags
 7 are which are contained in the bank policies and
 8 matching them up to what this investigative summary
 9 said, would be able to conclude that there was a
 10 fraud going on. 03:43
 11 **Q. Did -- do you have any evidence that**
 12 **Ms. Skorczewski didn't know what the bank's policies**
 13 **were --**
 14 A. No.
 15 **Q. -- at that time? Do you have any evidence 03:43**
 16 **that Ms. Skorczewski didn't know what the BSA/AML**
 17 **requirements were at the time?**
 18 A. No.
 19 **Q. Do you have any evidence that**
 20 **Ms. Skorczewski didn't know what the Know Your 03:44**
 21 **Customer requirements were at the time?**
 22 A. No, except that you can infer whether or
 23 not she knew it based on what her conclusion was in
 24 the face of being slapped in the face with all of
 25 these attributes of fraud. 03:44

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. And so she looked at these same attribute**
 3 **that you -- that you list in your report and she**
 4 **concluded that there -- that there was no suspicious**
 5 **or fraudulent conduct going on with respect to the 03:44**
 6 **Crown Forex, LLC account. Correct?**
 7 A. Yes.
 8 **Q. Okay. Okay. So then the next technical**
 9 **alert that is -- that came up for the receivership**
 10 **entity accounts was a technical alert for the 03:44**
 11 **\$600,000 withdrawal that came from the 230 -- 2331**
 12 **account for Oxford Global FX LLC. Correct?**
 13 A. So that's the next technical alert. The
 14 next time they actually looked at this account was
 15 shortly after the 314(b) request. And that was Luke 03:45
 16 Engel or Ryan Rasske. I -- I've been calling him
 17 "Rass-key". I guess that's not right. Rasske?
 18 **Q. I think it's Rasske.**
 19 A. Okay. Where he says, "I've been out of
 20 the office, and, you know, based on the last wire we 03:45
 21 received in March, there were concerns about why
 22 Crown Forex was even a customer here."
 23 And so he goes through certain things
 24 about the discrepancy of the address and the
 25 connection with Oxford and things like that. So they 03:45

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. But she didn't conclude there was a Ponzi**
 3 **scheme going on?**
 4 A. Right.
 5 **Q. Right. So there's nobody at the bank who 03:47**
 6 **put this information together and determined there**
 7 **was a Ponzi scheme going on?**
 8 A. Yes.
 9 **Q. Okay. Now, in -- in your report -- let's**
 10 **go to Page 7. 03:47**
 11 MR. MCVEY: Can we go off the
 12 record just for a sec?
 13 MR. MEDLOCK: Sure.
 14 THE VIDEOGRAPHER: We're now off
 15 the record. The time is 3:46 p.m. 03:47
 16 (Break.)
 17 THE VIDEOGRAPHER: We are now back
 18 on the record. The time is 4:17 p.m.
 19 MR. MCVEY: Just out of -- a point
 20 of protocol here. 04:17
 21 She asked us to identify ourselves
 22 for the record, and the only person that
 23 identified themselves was you.
 24 MR. MEDLOCK: Well, I like to
 25 follow the -- what they tell me to. 04:18

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 started looking into it then. So that was before
 3 this wire transfer.
 4 **Q. So at the -- at the time that Mr. Rasske**
 5 **wrote that e-mail, and -- and even -- even a few 03:46**
 6 **weeks subsequent to it -- to it, do you have any**
 7 **evidence that anyone at Associated Bank uncovered**
 8 **actual information that there was a Ponzi scheme**
 9 **going on, that they actually came to that conclusion?**
 10 A. So I don't have an e-mail that says "there 03:46
 11 is a Ponzi scheme going on," no. But all of these
 12 things together, they actually could see what the
 13 transactions were, which are indicative of a Ponzi
 14 scheme.
 15 **Q. And can you identify any individual at 03:46**
 16 **Associated Bank that put those pieces together and**
 17 **concluded that there was actually a Ponzi scheme**
 18 **going on?**
 19 A. Other than Bonnie Skorczewski -- did I say
 20 it right? 03:46
 21 **Q. Nobody knows. You can just keep going.**
 22 MR. MCVEY: We just call her
 23 Bonnie.
 24 A. She put it together probably the best, the
 25 earliest. 03:47

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 MR. MCVEY: Yeah, yeah. So I just
 3 want to throw it on the table so --
 4 MR. MEDLOCK: Sure.
 5 MR. MCVEY: -- everybody can 04:18
 6 identify themselves.
 7 MR. MEDLOCK: No problem.
 8 MR. MCVEY: So I'm Tim McVey for
 9 the receiver.
 10 MS. NORGDARD: Tara Norgard for the 04:18
 11 receiver.
 12 MR. LAKATOS: Alex Lakatos for
 13 Associated Bank with Mayer Brown.
 14 MS. MURPHY: Lisa Murphy with CRI
 15 Compliance. 04:18
 16 MR. MEDLOCK: Point of word.
 17 Tara, I don't think you're -- you are with the
 18 receiver. That you are the receiver.
 19 **Q. The --**
 20 MR. MCVEY: Picky, picky, picky. 04:18
 21 **Q. Ms. Ghiglieri, you've been discussing red**
 22 **flags from time to time today.**
 23 A. I'm sorry. I --
 24 **Q. Oh, I'm sorry.**
 25 A. I can't hear what you're saying. 04:18

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. Oh, I'm sorry.**
 3 **You've been discussing red flags from time**
 4 **to time --**
 5 A. Yes. 04:18
 6 **Q. -- today. Correct?**
 7 **In the Bank Secrecy Act, does the Bank**
 8 **Secrecy Act actually use the term "red flags"?**
 9 A. No.
 10 **Q. Does any of the reg- -- do any of the 04:18**
 11 **regulations that implement the Bank Secrecy Act use**
 12 **the term "red flags"?**
 13 A. No. The regulatory guidance uses the term
 14 "red flags."
 15 **Q. Sure. And that's the FF- -- I'm sorry. 04:19**
 16 **It's FFIEC BSA/AML manual. Correct?**
 17 A. Yes. And the FDIC examination manual.
 18 **Q. Is it mandatory for a bank to follow all**
 19 **the guidance that's in the FFIEC BSA/AML manual?**
 20 A. If -- it's not prom- -- it's not a 04:19
 21 regulation that's been promulgated after notice
 22 and -- and comment period. But I can tell you, as a
 23 former regulator -- and you can see it yourself in
 24 the Associated Bank materials, in the -- the civil
 25 money penalty, and the consent order -- that the 04:19

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **procedures in place for identifying red flags?**
 3 A. Yes. They have to have Bank Secrecy Act
 4 policies and procedures covering certain information.
 5 If you look at the FFIEC manual, they go 04:20
 6 through the information. If you look at the bank's
 7 policies, you'll see the same red flags that are
 8 noted in the FFIEC manual.
 9 **Q. And must a bank implement policies and**
 10 **procedures for identifying each and every one of the 04:21**
 11 **red flags identified in the FFIEC manual and the FDIC**
 12 **guidance?**
 13 A. I would say that usually what banks do is
 14 they will look at the red flags and determine which
 15 products and services they offer, because sometimes 04:21
 16 it goes beyond what a particular bank offers, and so
 17 their policies and procedures will -- will only cover
 18 those red flags.
 19 And they may not list every single
 20 solitary red flag, but the red flags are helpful 04:21
 21 guidance to the bank employees to be able to identify
 22 if something's wrong. But it won't be a mirror
 23 image. Otherwise, the policy would be the 500 pages,
 24 you know.
 25 **Q. Is it mandatory for a bank to have -- to 04:22**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 regulators expect the banks to follow the regulatory
 3 guidance, and it's put out there to help them comply
 4 with the Bank Secrecy Act. It's got, you know, an
 5 abundance of information that is tracked. If you 04:19
 6 look at the bank's policies, the language is tracked
 7 in there.
 8 **Q. Whether or not the regulators expect banks**
 9 **to comply with it, is the guidance that the FDIC and**
 10 **FFIEC give on red flags mandatory for banks to 04:20**
 11 **follow?**
 12 A. Yes.
 13 **Q. It is?**
 14 A. It -- and I just want to clarify. It's
 15 not a regulation. But they will take it so the -- or 04:20
 16 they will take an enforcement action if -- for
 17 example, if the account monitoring systems are
 18 deficient or if the manner in which they're
 19 investigating the alerts is deficient.
 20 So they expect it to be complied with. 04:20
 21 When you say "mandatory," I view it as
 22 mandatory. I'm sure all the other regulators do.
 23 But it doesn't carry the same weight as a regulation
 24 or the statute.
 25 **Q. Is it mandatory for a bank to have 04:20**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **investigate every red flag that it identifies?**
 3 A. If it identifies a red flag? Yes, I would
 4 say they should investigate it.
 5 **Q. Is it mandatory for the bank to follow the 04:22**
 6 **FFIEC and FDIC guidance when investigating a red**
 7 **flag?**
 8 A. Yes. It's -- it's a roadmap to what the
 9 standard is in the industry, and I think even some of
 10 the bank employees testified that it's considered the 04:22
 11 Bible or the roadmap to compliance with the Bank
 12 Secrecy Act. And I believe that's the case also.
 13 **Q. Reference to the Bible is problematic. It**
 14 **assumes all of us follow the Bible.**
 15 **Does the -- a bank -- is it mandatory for 04:22**
 16 **a bank to take corrective action if they identify a**
 17 **red flag that could be suspicious activity?**
 18 A. So there's two things that I would say
 19 that they are required to do. One is they -- if they
 20 identify that there's suspicious activity, they need 04:23
 21 to file a suspicious activity report.
 22 And then the second thing is they -- if
 23 they believe there's suspicious activity, they should
 24 move to close the account so that they're not used as
 25 an instrument of fraud and the fraud doesn't continue 04:23

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 in the bank.
 3 **Q. Is it mandatory for a bank to close an**
 4 **account when it identifies suspicious activity in**
 5 **that account? 04:23**
 6 A. Well, they do it at their peril. The
 7 FFIEC manual says that they have to have a policy in
 8 place so that if they identify suspicious activity,
 9 they will articulate when they're going to close an
 10 account. That's what the FFIEC manual does say. And 04:23
 11 in my experience, I have seen where, at their peril,
 12 they kept it open.
 13 The only time that it's reasonable for
 14 them to keep it open when there's suspicious activity
 15 is if law enforcement asked them to, and I'm not 04:24
 16 aware that that was the case here.
 17 **Q. Is conduct always a red flag, or does**
 18 **it det- -- is it -- is whether conduct is a red flag**
 19 **sort of determined by the type of customer at issue?**
 20 A. Both. There's -- there are a myriad of 04:24
 21 things that the FFIEC manual goes into in terms of
 22 trying to set up the framework for being able to
 23 determine if something's suspicious, and one is the
 24 type of customer. You know, what -- attorneys are
 25 higher risk; investment advisors are high risk. 04:24

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 investigate accounts in order to be able to properly
 3 identify suspicious activity.
 4 **Q. So because one of the factors you**
 5 **mentioned are attributes of a customer, is it 04:26**
 6 **reasonable for a bank to have different policies for**
 7 **identifying and following up on red flags for**
 8 **different types of customers?**
 9 A. They can. I've never seen it, but they
 10 could do it like that. 04:26
 11 **Q. So, for example, if I had a -- if I was**
 12 **making a deposit that was all small bills, whether**
 13 **you consider that to be suspicious activity would**
 14 **depend on whether I was running a coffee shop or I**
 15 **claimed to be running a billion dollar hedge fund. 04:26**
 16 **Correct?**
 17 A. So that's kind of a whole 'nother area.
 18 Cash transactions require certain reporting, and so
 19 just say one of them is if it's over \$5,000 -- or I'm
 20 sorry -- if it's over \$10,000 they have to file a 04:26
 21 currency transaction report. And so if somebody
 22 continually comes in with over \$10,000 but the nature
 23 of their business is that they're a cash, you know,
 24 grocery store or whatever, they'll have certain lists
 25 that they put them on so that they don't file those 04:27

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. I take offense to that.**
 3 A. Well, if you have other people's funds in
 4 your IOLTA account, you know, the bank should have
 5 heightened scrutiny over your account because you're 04:24
 6 not just -- those just aren't your funds. And the
 7 type of transactions are something that the bank
 8 should be looking at. We talked about those today,
 9 the large, round-dollar transactions in and out on
 10 the same day, wire transfers are considered high 04:25
 11 risk, large currency transactions are considered high
 12 risk.
 13 The geographic location we haven't talked
 14 about today, but if they're in a high-risk
 15 jurisdiction or if wire transfers are sent to a 04:25
 16 high -- a higher-risk jurisdiction, then those would
 17 come into play with red flags. So it's -- it's the
 18 attributes of the transaction, the attributes to the
 19 customer, the way the customer opens the account, if
 20 they don't have the proper documents or if they don't 04:25
 21 want to give the documents or whatever.
 22 So there is just any number of things for
 23 the bank to consider and that's why they should have
 24 written policies and procedures on how they open
 25 accounts, how they monitor accounts, and how they 04:25

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 reports.
 3 So the nature of the customer does come
 4 into play and the types of transactions that you
 5 anticipate is documented at account opening and 04:27
 6 throughout the life of the account.
 7 **Q. Now, you mentioned currency transaction**
 8 **reports. You're aware that one of the alerts that**
 9 **was generated in this case was for a \$600,000 cash**
 10 **withdrawal. Correct? 04:27**
 11 A. Yes.
 12 **Q. And for the \$600,000 cash withdrawal, a**
 13 **currency transaction report was filed. Correct?**
 14 A. Yes.
 15 **Q. And when the customer requested the 04:27**
 16 **\$600,000 cash withdrawal, there were several e-mails**
 17 **that were sent amongst bank employees regarding that**
 18 **withdrawal. Correct?**
 19 A. Yes.
 20 **Q. So initially the request came in to Lien 04:27**
 21 **Sarles, is that right? Is that your recollection?**
 22 A. I don't think he was the first one to send
 23 an e-mail. But I might be mistaken, but he was
 24 involved in it.
 25 **Q. And Mr. Sarles's immediate supervisor, 04:28**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Tamara Simon, she was -- she was included on those
 3 e-mails. Correct?
 4 A. Yes.
 5 Q. And Ms. Simon's -- her supervisor, Stephen 04:28
 6 Bianchi, he was on the e-mails regarding the \$600,000
 7 cash withdrawal. Correct?
 8 A. Yes.
 9 Q. And Mr. Bianchi wasn't simply a person who
 10 was copied, he actually sent e-mails and gave his 04:28
 11 thoughts on the \$600,000 cash withdrawal request.
 12 Correct?
 13 A. Yes.
 14 Q. Did you do any work to analyze whether
 15 under Minnesota banking law the bank had to honor the 04:28
 16 \$600,000 cash withdrawal request?
 17 A. No.
 18 Q. Do you know one way or the other whether
 19 under Minnesota banking law the bank had to comply
 20 with that request? 04:29
 21 A. No.
 22 Q. So one of the central problems I think
 23 that you identified in your report and in your
 24 testimony today is opening an account for Crown
 25 Forex, LLC when there was no filing with the 04:29

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. It wouldn't just be a red flag. It would
 3 be a violation of the Bank Secrecy Act and -- and
 4 their policies. Because what the policy said, and
 5 this comports with the Bank Secrecy Act regulatory 04:31
 6 guidance, is if for some reason you go on and open an
 7 account, if you don't get the documentation within a
 8 short period of time -- this is more for if there
 9 is -- when they run the screens if there is a non --
 10 a nonmatch, if you can't resolve that, you should go 04:32
 11 and close it.
 12 And so when they didn't get the existence
 13 of the company documented from the Secretary of
 14 State, they should have moved to close it.
 15 Q. Would -- let me -- let me mark an exhibit. 04:32
 16 MR. MEDLOCK: Yeah, that's
 17 actually a good point.
 18 Q. Let's -- let me give you this
 19 hypothetical. A bank opens an account for a customer
 20 that has an active filing with the Minnesota 04:32
 21 Secretary of State. During the time that that
 22 account is open, the Minnesota -- the Secretary of
 23 State terminates or withdraws the filing for that
 24 account, for that company. In that case would it be
 25 a red flag, would that withdrawal or termination be a 04:33

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Secretary of State. Correct?
 3 A. Yes.
 4 Q. And you claim that Associated Bank
 5 performing banking services for a nonexistent company 04:29
 6 is a red flag for fraud. Correct?
 7 A. So the way -- what I have in my report is
 8 that the -- the facts -- there are two facts. One is
 9 if it's a new company and, two, if it -- it can't
 10 prove its existence, would be two reasons why a bank 04:30
 11 would not open an account. Or if they didn't get the
 12 proper account documentation shortly after, they
 13 would close the account. And that's in the bank
 14 policies and that also violates the Bank Secrecy Act.
 15 THE VIDEOGRAPHER: We need to go 04:30
 16 off the record for a technical difficulty. The
 17 time is 4:30 p.m.
 18 (Break.)
 19 THE VIDEOGRAPHER: We're back on
 20 the record -- we're now back on the record. The 04:31
 21 time is 4:30.
 22 Q. How about for maintaining account -- an
 23 account, would it be a red flag if a bank maintained
 24 an account for a company that did not have a filing
 25 with the Minnesota Secretary of State? 04:31

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 red flag of fraud?
 3 MR. MCVEY: Objection; form,
 4 relevance.
 5 Go ahead. 04:33
 6 A. So for nonpayment of franchise taxes is --
 7 Q. For any reason.
 8 A. Or if they withdraw their existence?
 9 Q. Yes.
 10 A. So the -- under the regulatory guidance 04:33
 11 for compliance with the Bank Secrecy Act they're
 12 supposed to do due diligence ongoing, and so they --
 13 if they confirm that something like this happened,
 14 yes, then it would -- it would be a red flag that
 15 there was a big problem, especially in an account 04:33
 16 where you've got multimillion dollar wire transfers
 17 going in and out of the account holding other
 18 people's money.
 19 So the whole point of the Bank Secrecy Act
 20 is that the safety and the sound -- the safety and 04:33
 21 soundness of the banking system is at risk if a bank
 22 is allowed to be an instrument of fraud. So it's all
 23 trying to prevent money laundering and fraud going
 24 through a bank and the bank either participating
 25 or -- or, you know, being used as an instrument of 04:34

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 fraud.
 3 **Q. If you were a -- an employee of a bank and**
 4 **you found out that a -- an LLC that had an account at**
 5 **your bank had had their -- their certificate of 04:34**
 6 **organization withdrawn or terminated by the Secretary**
 7 **of State, would you close that account?**
 8 A. Yes.
 9 **Q. Okay.**
 10 MR. MEDLOCK: Mark the next 04:34
 11 exhibit.
 12 (Exhibit 237, Complaint, no
 13 Bates - 47 pages, marked for identification as of
 14 this date.)
 15 (Discussion off the written 04:35
 16 record.)
 17 **Q. All right. So I'm showing you what we've**
 18 **marked as Exhibit 237. This is a copy of the**
 19 **complaint that's been filed in this litigation.**
 20 **Correct? 04:35**
 21 A. Yes.
 22 **Q. And you'd agree -- well, let me just go to**
 23 **the last page of the document, Page 47. It's dated**
 24 **January 29th, 2013. Correct?**
 25 A. Yes. 04:35

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 redlined.
 3 **Q. Okay. So if you look on the first page,**
 4 **it's actually before even the first numbered**
 5 **paragraph under "Nature of the Case," there is a -- 04:36**
 6 **there is a list of some entities that the receiver**
 7 **represents. Correct?**
 8 A. Yes.
 9 **Q. And one of those is Oxford Global**
 10 **Partners, LLC. Correct? 04:36**
 11 A. Yes.
 12 **Q. Okay.**
 13 (Exhibit 238, Office of the
 14 Minnesota Secretary of State Certification of
 15 Administrative Termination, AB-MIN-0019300 - 04:37
 16 AB-MIN-0019302, marked for identification as of
 17 this date.)
 18 **Q. So I'm showing you what we've marked as**
 19 **Exhibit 238 to your deposition. And you can take**
 20 **your time to review it, but my question is going to 04:37**
 21 **be, have you ever seen this document before?**
 22 A. Let me see real quick.
 23 **Q. Okay.**
 24 A. (Reviewing document.)
 25 So I have seen another iteration of this. 04:38

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. Okay. And there are -- if you go to the**
 3 **first page, in the case caption there are various**
 4 **receivership entities that the receivership is**
 5 **representing in this case. Correct? 04:35**
 6 A. Yes.
 7 **Q. And on January 29th, 2013, the receiver**
 8 **was representing those entities as well. Correct?**
 9 A. Yes.
 10 **Q. All right. And in fact the receiver filed 04:35**
 11 **the -- this lawsuit on behalf of those entities.**
 12 **Correct?**
 13 A. Yes.
 14 **Q. And I think we talked about this at the**
 15 **beginning of the deposition. But you -- you did some 04:36**
 16 **research and gave some feedback on this complaint**
 17 **before it was filed. Correct?**
 18 A. So I didn't do research --
 19 **Q. Oh. Sorry.**
 20 A. -- but I was shown -- this is before it 04:36
 21 went up to the court of appeals and back down, so I
 22 don't know if this is exactly the same document that
 23 I looked at before. But with the original draft, I
 24 looked at wherever there was some regulatory
 25 materials and that's -- that's part of what I 04:36

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 And if you look at -- I've got two exhibits you can
 3 look at, but one is Exhibit D. This was the account
 4 that it was unclear that they actually obtained this
 5 at account opening because all of the information 04:38
 6 that I had didn't show it. But I -- I did have
 7 another document with a different Bates number where,
 8 at least as of July 7th, 2009, they did have it.
 9 So I -- I'm not sure if they actually had
 10 it at account opening or not. I do know they had it 04:39
 11 as of July 7th, 2009. So I have seen a copy of this,
 12 but the Bates numbers are different than you can see
 13 on my --
 14 **Q. Sure. I just want to make sure --**
 15 A. -- chart. 04:39
 16 **Q. -- we're talking about the same thing and**
 17 **we're on the same page here.**
 18 **When you're looking at Appendix D to your**
 19 **report, which you have in front of you. Right?**
 20 A. Yes. 04:39
 21 **Q. You're -- when you're referring to "it,"**
 22 **you're talking about the certificate of organization**
 23 **or certificate of good standing that's on file with**
 24 **the Secretary of State. Correct?**
 25 A. Yes. Or this document with the filing 04:39

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 stamp on it.
 3 **Q. Okay. So I --**
 4 A. One or the other.
 5 **Q. And the reason I ask is I just wanted to 04:39**
 6 **clarify something, a slight difference here.**
 7 A. Oh.
 8 **Q. If you look at the top of the --**
 9 A. Yeah.
 10 **Q. -- document it says "Office of Minnesota 04:40**
 11 **Secretary of State Certificate of Administrative**
 12 **Termination."**
 13 A. Yeah.
 14 **Q. Do you see that?**
 15 A. I do. 04:40
 16 **Q. Is that different than what you were**
 17 **looking at --**
 18 A. Yes.
 19 **Q. -- in Appendix D?**
 20 A. Yes. 04:40
 21 **Q. Okay.**
 22 A. I'm sorry I didn't catch that.
 23 **Q. Okay. No problem.**
 24 A. Yeah.
 25 **Q. And just based on the Bates numbers in 04:40**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Correct?**
 3 A. It looks like it to me based on what
 4 you've shown me.
 5 **Q. Do you consider it a red flag of fraud 04:41**
 6 **that the receiver was performing professional**
 7 **services for a limited liability company that did not**
 8 **exist at the time?**
 9 A. I have no idea what the requirements are
 10 for the receiver. I'm only here as a banking expert. 04:41
 11 **Q. Do you consider it to be a red flag that**
 12 **you performed professional services for a limited**
 13 **liability company that did not exist at the time you**
 14 **did it?**
 15 A. Me? 04:41
 16 **Q. Yes.**
 17 A. I'm just looking at the time frame for the
 18 bank here. This is after it.
 19 **Q. Sure. But if you go of the first page of**
 20 **your -- the actual cover page -- 04:42**
 21 A. Yes.
 22 **Q. -- of your report, you're -- it says**
 23 **"Report of Catherine A. Ghiglieri" and then you have**
 24 **"Pursuant to Federal Rules of Civil Procedure**
 25 **Rule 26(a)(2)(B)," and then you say "R.J. Zayed, in 04:42**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Appendix C this would have been one of the -- in the**
 3 **Bates range of documents that you reviewed. Correct?**
 4 A. Yes.
 5 **Q. And this certificate of administrative 04:40**
 6 **termination was issued on August 3rd of 2012.**
 7 **Correct?**
 8 A. Yes.
 9 **Q. So Oxford Global Partners, LLC was**
 10 **administratively terminated before the receiver filed 04:40**
 11 **a complaint on behalf of it. Correct?**
 12 A. I don't know. I don't know when the first
 13 complaint was filed. I -- I don't know the answer to
 14 that.
 15 **Q. Okay. I'll represent to you that the 04:40**
 16 **exhibit you have in front of you, the complaint, was**
 17 **the first and only one that was filed in this case.**
 18 **There was a version that was taken -- that was filed**
 19 **under sealed, there was one that was filed unsealed,**
 20 **but the first one was filed January 29th, 2013. 04:41**
 21 **If the first -- if the complaint was filed**
 22 **January 29th, 2013, on behalf of Oxford Global**
 23 **Partners, LLC, and other entities, Oxford Global**
 24 **Partners, LLC, was already administratively**
 25 **terminated by this Minnesota Secretary of State. 04:41**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **His Capacity as Court-Appointed Receiver For The**
 3 **Oxford Global Partners, LLC," and then you list some**
 4 **other companies. Correct?**
 5 A. Yeah, if you're reading what's on the 04:42
 6 front there.
 7 **Q. Yup. Oxford Global Partners, LLC, I**
 8 **should say.**
 9 **So you were retained by the receiver in**
 10 **this case. Correct? 04:42**
 11 A. Yes.
 12 **Q. And the receiver represents Oxford Global**
 13 **Partners, LLC, and other entities. Correct?**
 14 A. Yes.
 15 **Q. And by the time the complaint was filed 04:42**
 16 **Oxford Global Partners, LLC did not exist. It had**
 17 **been administratively terminated. Correct?**
 18 A. I mean, based on what -- this document
 19 that you showed me.
 20 **Q. Before you performed any professional 04:42**
 21 **services for the receiver in this case, did you go on**
 22 **the Minnesota Secretary of State website and check to**
 23 **see whether Oxford Global Partners, LLC actually**
 24 **existed?**
 25 A. No. And I never do. I take the complaint 04:43

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 that they give me. I -- I'm not the lawyer on this
 3 case. I'm the banking expert, so I take the
 4 complaint they give me, I take the style of the
 5 complaint -- 04:43
 6 **Q. Mm-hmm.**
 7 A. -- and that's what I put on the front of
 8 my report. So any kind of change in status or change
 9 in whatever the receiver's supposed to be doing is
 10 none of my concern. What I'm tasked with is looking 04:43
 11 at the time frame of the litigation and what occurred
 12 at the bank. So I -- I would never, ever do that --
 13 **Q. So --**
 14 A. -- is to look up and see about the
 15 entities that a receiver -- I do a lot of receiver 04:43
 16 cases and I -- I've -- I would never even think to do
 17 something like that.
 18 **Q. So it's not your practice when you get a**
 19 **new case to determine whether the companies that**
 20 **you're offering opinions on behalf of actually exist? 04:44**
 21 A. No, I -- it doesn't matter to me. If the
 22 receiver is hiring me to look at transactions in a
 23 certain time frame, that's what I do. I mean, it's
 24 up to them to the deal with all the other issues.
 25 **Q. So you -- when you were retained in this 04:44**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. So I'm showing you what is marked as**
 3 **Exhibit 239.**
 4 MR. MEDLOCK: Oh, sorry. We have
 5 five minutes left on the tape. Why don't we 04:45
 6 actually stop for a second so he can switch it.
 7 THE VIDEOGRAPHER: This is the end
 8 of Tape 4. We're now off the record. The time
 9 is 4:44.
 10 (Break.) 04:45
 11 THE VIDEOGRAPHER: This is the
 12 beginning of Tape 5. We're now back on the
 13 record. The time is 4:53 p.m.
 14 **Q. Welcome back, Ms. Ghiglieri. I put in**
 15 **front of you Exhibit 239 to your deposition. This is 04:54**
 16 **a copy of an Office of Minnesota Secretary of State**
 17 **Certification of Administrative Termination for**
 18 **Oxford Global FX, LLC. Do you see that?**
 19 A. I do.
 20 **Q. And I take it that you would have the same 04:54**
 21 **answers to the questions that I asked right before**
 22 **the break regarding whether you knew about this prior**
 23 **to being retained in this case.**
 24 A. Correct.
 25 **Q. Okay. Thank you. We can move with some 04:55**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **case, you took the receiver's word for it that Oxford**
 3 **Global Partners, LLC actually existed. Correct?**
 4 MR. MCVEY: I'll object,
 5 foundation, form. 04:44
 6 A. So really all that concerned me is what
 7 the bank produced, what the transactions were in the
 8 account, how they went about opening the accounts,
 9 what documents they had at the time, how they
 10 monitored the accounts, and what took place after the 04:44
 11 time frame and -- I mean it -- it's just not up to
 12 me.
 13 **Q. So this administrative termination, you**
 14 **just -- you didn't consider it when you were -- at**
 15 **the time you were retained. Is that right? 04:44**
 16 A. No, I -- it wouldn't be something that
 17 would affect my opinions.
 18 **Q. Okay.**
 19 (Exhibit 239, Office of the
 20 Minnesota Secretary of State Certificate of 04:45
 21 Administrative Termination, AB-MIN-0019294 -
 22 AB-MIN-0019296, marked for identification as of
 23 this date.).
 24 (Discussion off the written
 25 record.) 04:45

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **expeditious nature, in that case.**
 3 MR. MEDLOCK: Mark the next
 4 exhibit.
 5 (Exhibit 240, Office of the 04:55
 6 Minnesota Secretary of State Certificate of
 7 Administrative Dissolution, no Bates - 1 page,
 8 marked for identification as of this date.)
 9 **Q. All right. So I'm showing you what we've**
 10 **marked as Exhibit 240 to your deposition. This is a 04:55**
 11 **document that's entitled "Office of the Minnesota**
 12 **Secretary of State Certificate of Administrative**
 13 **Dissolution," and the entity named on it is Oxford FX**
 14 **Growth, LP. Do you see that?**
 15 A. I do. 04:55
 16 **Q. And this certificate was issued on**
 17 **August 7th, 2012. Correct?**
 18 A. Yes.
 19 **Q. So I take it you would have the same**
 20 **answer to the questions I had before regarding 04:55**
 21 **whether you were aware that this entity had been**
 22 **administratively dissolved prior to your retention in**
 23 **the case. Correct?**
 24 A. Correct.
 25 **Q. Okay. 04:55**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 (Exhibit 241, Office of the
 3 Minnesota Secretary of State Certificate of
 4 Administrative Dissolution, no Bates - 1 page,
 5 marked for identification as of this date.) 04:56
 6 Q. All right. Ms. Ghiglieri, I put in front
 7 of you what we've marked as Exhibit 241 to your
 8 deposition. This is a document entitled "Office of
 9 the Minnesota Secretary of State Certificate of
 10 Administrative Dissolution." And it's in the name of 04:56
 11 an entity Universal Brokerage FX Growth, L.P. Do you
 12 see that?
 13 A. Yes.
 14 Q. And the certificate was issued on
 15 August 7th, 2012. Is that correct? 04:56
 16 A. Yes.
 17 Q. So I take it you'd have the same answer
 18 that you'd have for the last series of entities, that
 19 you weren't aware that Universal Brokerage FX Growth
 20 L.P. was administratively dissolved at the time you 04:56
 21 were retained as a receiver. Correct? Or retained
 22 as an expert. Correct?
 23 A. Correct.
 24 Q. So I put in front of you four examples of
 25 entities that were administratively dissolved prior 04:57

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 A. Yes.
 3 Q. And this is a document that you relied
 4 upon in citing your report. Right?
 5 A. So I didn't rely upon it to formulate my 04:58
 6 opinions, but I do discuss it in my report.
 7 Q. You -- you cite it in your report?
 8 A. Yes.
 9 Q. Yes. I think you quote from it as well.
 10 Right? 04:59
 11 A. Yes. I -- I summarized it.
 12 Q. Okay. Now, on Page 1 of the consent order
 13 for civil money penalty, it states, in part, about
 14 halfway through the first paragraph, "The OCC
 15 identified BSA/AML deficiencies in the Bank's 04:59
 16 internal controls, independent testing, day-to-day
 17 monitoring and coordination, and training."
 18 Do you see that?
 19 A. Yes.
 20 Q. And then it goes on to say, "These BSA/AML 04:59
 21 deficiencies occurred primarily during the period
 22 2010 through 2012 and were addressed by a Consent
 23 Order issued by the OCC on February 23, 2012."
 24 Did I read that correctly?
 25 A. Yes. 04:59

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 to the time that you were retained as an expert in
 3 this case. Correct?
 4 A. Yes.
 5 Q. And you didn't check to see whether any of 04:57
 6 those four entities were -- had active filings with
 7 the Minnesota Secretary of State at the time that you
 8 were retained?
 9 A. Correct.
 10 Q. Okay. 04:57
 11 (Discussion off the written
 12 record.)
 13 (Exhibit 242, Consent Order For A
 14 Civil Money Penalty, no Bates - 10 pages, marked
 15 for identification as of this date.) 04:58
 16 Q. All right. Ms. Ghiglieri, I've put in
 17 front of you Exhibit 242 to your deposition. You can
 18 take a second to review it. It's several pages long.
 19 But once you do, my first question to you will be:
 20 Have you seen this document before? 04:58
 21 A. (Reviewing document.)
 22 Yes.
 23 Q. Okay. This is a copy of a consent order
 24 for a civil money penalty that Associated Bank agreed
 25 to in June 2014. Correct? 04:58

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 Q. Okay. So let's turn to Page 2. And I'm
 3 looking specifically at the -- it says "Comptroller's
 4 Findings" at the top. Do you see that?
 5 A. Yes. 05:00
 6 Q. And then there is numbered paragraphs with
 7 sub numbers, like A -- sub letters like A, B, C.
 8 Right?
 9 A. Yes.
 10 Q. Okay. And I'm specifically looking at 05:00
 11 2 -- I'm sorry -- at (1)(a), that says, "the Bank
 12 failed to (i) conduct adequate risk assessments, (ii)
 13 conduct sufficient customer due diligence, (iii)
 14 properly identify high-risk customers, and (iv)
 15 implement an adequate suspicious activity monitoring 05:00
 16 system."
 17 Do you see that?
 18 A. Yes.
 19 Q. Are those -- those four items there, those
 20 were sometimes referred to as the four pillars of the 05:00
 21 BSA/AML program?
 22 A. So the four pillars -- well, not exactly,
 23 but the four pillars are appointing -- having a
 24 written Bank Secrecy Act program, appointing someone
 25 in charge of Bank Secrecy Act, having adequate 05:01

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 training, and having a written customer
 3 identification program. So it's -- it's not exactly
 4 the same, but...

5 **Q. Does it more or less track the four 05:01**
 6 **pillars?**

7 A. No, it's -- it's portions of the --

8 MR. MEDLOCK: Can we just take a
 9 quick break? I'm not sure what's going on.

10 THE VIDEOGRAPHER: We're now off 05:01
 11 the record. The time is 5:00 p.m.

12 (Break.)

13 THE VIDEOGRAPHER: We're now back
 14 on the record. The time is 5:01 p.m.

15 **Q. So I'm on the same page, Ms. Ghiglieri, of 05:02**
 16 **the consent order that we've been discussing --**

17 A. Okay.

18 **Q. -- which is Exhibit 242. I'm looking at**
 19 **(2)(a). And that states, in part, "the Bank: (i)**
 20 **lacked a system of internal controls to ensure 05:02**
 21 **ongoing compliance with the BSA, (ii) failed to**
 22 **provide for independent testing for compliance with**
 23 **the BSA, (iii) lacked a qualified BSA officer, and**
 24 **(iv) failed to provide adequate training to Bank**
 25 **personnel on the requirements of the BSA." 05:02**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 guidance that -- that you see in the FFIEC manual.

3 **Q. Understood. So this consent order is not**
 4 **specific to any one account at Associated Bank.**
 5 **Right? 05:03**

6 A. Correct. It's their system.

7 **Q. It's saying bank-wide, system-wide, there**
 8 **were BSA/AML deficiencies. Correct?**

9 A. Yes.

10 **Q. And, in fact, if you look at (1)(e) on 05:03**
 11 **Page 2 it says the bank did a look-back -- I'm**
 12 **summarizing here -- the bank did a look-back and**
 13 **filing 670 new SARs. Correct?**

14 A. Yes.

15 **Q. So there were -- and that's not specific 05:04**
 16 **to one account. Bank-wide, system-wide, there were a**
 17 **number of instances of suspicious activity that were**
 18 **missed. Correct?**

19 A. Yes.

20 **Q. And, again, system-wide, bank-wide, the 05:04**
 21 **training was not adequate. Correct?**

22 A. Yes.

23 **Q. And bank-wide the bank lacked independent**
 24 **testing of the BSA/AML compliance programs. Correct?**

25 A. Yes. 05:04

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Do you see that?**

3 A. So where are you?

4 **Q. I'm at (2)(a).**

5 A. Oh, (2)(a). I got it. Yes. 05:02

6 **Q. And did I read that correctly?**

7 A. Yes.

8 **Q. And do those more or less track the four**
 9 **pillars of a BSA/AML program that you were discussing**
 10 **a second ago? 05:02**

11 A. Well -- so the four pillars are a written
 12 program, Bank Secrecy Act program, a written customer
 13 identification program, appointment of a Bank Secrecy
 14 Act officer, and training.

15 And so if you look at this page, there is 05:03
 16 some of -- all of those are touched upon here. You
 17 know, training is talked about in (1)(d), lack of
 18 staff. The Bank -- the Bank's BSA officer and staff
 19 officer lacked the necessary resources. So it didn't
 20 say they hadn't appointed one. And it doesn't say 05:03
 21 anything about the two written programs. So it's --
 22 it's got a little bit of the four pillars here,
 23 but --

24 **Q. Okay.**

25 A. -- this tracks more the regulatory 05:03

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **Q. And bank-wide there was a lack of internal**
 3 **controls as well. Correct?**

4 A. Yes.

5 **Q. Okay. So based on this consent order, 05:04**
 6 **it's likely that there were -- it's not only likely,**
 7 **it -- it pretty much says directly that there were**
 8 **BSA/AML deficiencies in accounts that had nothing to**
 9 **do with the receivership entities. Correct?**

10 MR. MCVEY: Object on foundation. 05:05

11 A. Well, it doesn't say that. This -- but
 12 this is the bank having to pay a fine of -- I think
 13 it's \$500,000 to the OCC because of their -- the
 14 deficiencies in their Bank Secrecy Act systems.

15 **Q. And there were sufficient -- there were 05:05**
 16 **deficiencies in the bank's BSA/AML systems that went**
 17 **beyond the accounts held by the receivership**
 18 **entities. Correct?**

19 A. Yes.

20 **Q. And based on this consent order, it's 05:05**
 21 **likely, isn't it, that the same BSA/AML deficiencies**
 22 **that you note in your report happened for other**
 23 **accounts that had nothing to do with the receivership**
 24 **entities?**

25 MR. MCVEY: Objection; relevance, 05:05

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 foundation.
 3 A. I don't have any proof of that, but I
 4 would think that would be very likely.
 5 **Q. Looking at this report, you -- based on 05:06**
 6 **this report, you can't tell if the BSA/AML problems**
 7 **that you identify with the receivership entity**
 8 **accounts are due to system-wide problems or -- the**
 9 **system-wide problems identified in this consent order**
 10 **or an employee of the bank that had actual knowledge 05:06**
 11 **of the Ponzi scheme. Correct?**
 12 MR. MCVEY: Object to foundation.
 13 A. I -- I didn't follow that question.
 14 **Q. Okay. So this consent order that we**
 15 **talked about says there's system-wide problems with 05:06**
 16 **the bank. Correct?**
 17 A. Yes.
 18 **Q. And some of those system-wide problems are**
 19 **these same problems that you note with respect to the**
 20 **receivership entity accounts. Correct? 05:06**
 21 A. Yes.
 22 **Q. So for any one of those problems, you**
 23 **can't tell whether the source of the issue that you**
 24 **identify is that the bank had lax policies or**
 25 **insufficient policies or that someone on the inside 05:06**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 MR. MCVEY: Objection; form,
 3 foundation.
 4 A. So it -- based on what I see here, it
 5 looked like the policies were -- were okay. I know 05:08
 6 the monitoring system should have alerted more in
 7 their -- the 30(b)(6) witness said the monitoring
 8 systems were insufficient. But there was atypical
 9 banking behavior here, and there were certain things
 10 that the bank did know here. And -- and that's what 05:08
 11 I have in my report.
 12 So much of what's in this report is
 13 repeated in these two consent orders from the OCC.
 14 **Q. Sure. And you can't tell why that**
 15 **atypical banking activity occurred? You can't tell 05:08**
 16 **if it's because the bank implemented its policies**
 17 **poorly or because someone on the inside at the bank**
 18 **knew about the Ponzi scheme and decided to assist in**
 19 **it?**
 20 MR. MCVEY: Objection to form and 05:09
 21 foundation.
 22 A. I think that's correct.
 23 **Q. Okay.**
 24 MR. MEDLOCK: I don't have any
 25 other questions. 05:09

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 **at the bank knew about the Ponzi scheme?**
 3 MR. MCVEY: Objection; lack of
 4 foundation, form.
 5 A. Well, my opinion is that their policies 05:07
 6 weren't that bad. They tracked the regulatory
 7 guidance.
 8 I -- I don't think I have anything in here
 9 that criticized -- criticizes the policies I
 10 reviewed. But the -- I'm sorry. I lost my train of 05:07
 11 thought.
 12 So the -- the other part of your question
 13 was --
 14 **Q. Sure.**
 15 A. -- policies -- 05:07
 16 **Q. Let me -- let me see if I can clean it up**
 17 **a little bit.**
 18 A. Okay.
 19 **Q. When you look at the receivership entity**
 20 **accounts, you can't tell whether the reason that 05:07**
 21 **those accounts had alleged BSA/AML violations is --**
 22 **is because the bank had poor BSA/AML compliance**
 23 **generally or if it's because the -- someone at the**
 24 **bank had actual knowledge of the Ponzi scheme and**
 25 **decided to assist the Ponzi schemers? 05:08**

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 MR. MCVEY: Just a couple.
 3 MR. MEDLOCK: Sure.
 4 EXAMINATION
 5 BY MR. MCVEY: 05:09
 6 **Q. What's the difference between having an**
 7 **incomplete résumé and not including companies where**
 8 **your board -- you were on the board of directors in a**
 9 **résumé?**
 10 MR. MEDLOCK: Objection; leading. 05:09
 11 A. What -- what's the difference between
 12 what?
 13 **Q. Having an incomplete résumé and not**
 14 **including the -- the entities where you were on the**
 15 **board of directors. 05:09**
 16 A. Oh, I see.
 17 MR. MEDLOCK: Objection; leading.
 18 A. Well, as someone who's hired a lot of
 19 people, if there's a hole in the résumé or if someone
 20 lies on their résumé, then that would tell me not to 05:09
 21 hire them.
 22 But for me not putting board memberships
 23 on my résumé is simply streamlining the résumé. I
 24 didn't put a hole in my résumé or not say a job that,
 25 you know, I had. I've -- I've listed everything 05:10

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 in -- in my report.
 3 It's easy for people to find out about me.
 4 All they have to do is Google me, and that
 5 information comes up. 05:10
 6 **Q. Following the -- after you left as a**
 7 **director from the bank --**
 8 A. Yes.
 9 MR. MEDLOCK: When you say "the
 10 bank," you mean NetBank? 05:10
 11 MR. MCVEY: NetBank.
 12 **Q. -- did somebody try to hire you as an**
 13 **expert that represented the government?**
 14 A. The -- yeah.
 15 MR. MEDLOCK: Objection; leading. 05:10
 16 A. The FDIC has tried several times to hire
 17 me. And, of course, I always tell them about NetBank
 18 because it's in failed bank situations, and I want to
 19 make sure that I'm not the focus on the stand of --
 20 of their case. 05:11
 21 The last time they tried to hire me -- and
 22 I haven't taken either of the cases because I didn't
 23 have time to do it. But the last time they tried to
 24 hire me, the FDIC lawyer said that they reviewed the
 25 material last review report, and that the bank 05:11

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1 CATHERINE A. GHIGLIERI - 8/11/16
 2 changed the strategic plan after I had left, and
 3 that's why the bank failed, and so they didn't have
 4 any problem -- problem hiring me.
 5 They've routinely cleared me for 05:11
 6 enforcement-related work in banks, in problem banks.
 7 And -- so it's a nonissue for the FDIC that I was on
 8 the NetBank board.
 9 MR. MCVEY: That's all --
 10 MR. MEDLOCK: Move to strike the 05:11
 11 portion about what FDIC lawyers told her as
 12 hearsay.
 13 MR. MCVEY: That's all I got.
 14 MR. MEDLOCK: Okay. Thank you.
 15 THE VIDEOGRAPHER: That's the end 05:11
 16 of Tape 5. We're off the record. The time is
 17 5:11 p.m.
 18 (THE DEPOSITION CONCLUDED AT 5:11 P.M.)
 19
 20
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1 CORRECTION PAGE
 2 CASE: R.J. Zayed v. Associated Bank, N.A.
 3 WITNESS: CATHERINE A. GHIGLIERI
 4 DATE: 08/11/2016
 5
 6 PAGE LINE CHANGE REASON
 7 _____
 8 _____
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 11 _____
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 16 _____
 17 _____
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1 SIGNATURE PAGE
 2
 3 I, CATHERINE A. GHIGLIERI, have read the
 4 foregoing deposition and hereby affix my signature
 5 that same is true and correct, except as noted on
 6 the correction page.
 7 _____
 8 CATHERINE A. GHIGLIERI
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1 IN THE UNITED STATES DISTRICT COURT
 2 FOR DISTRICT OF MINNESOTA

3 R.J. ZAYED, §
 4 Plaintiff, §

5 VS. § COURT FILE:
 6 ASSOCIATED BANK, N.A., §
 7 Defendant. §

8

9 REPORTER'S CERTIFICATION
 DEPOSITION OF CATHERINE A. GHIGLIERI
 TAKEN AUGUST 11, 2016

10

11

12 I, TAMARA CHAPMAN, Certified Shorthand
 13 Reporter in and for the State of Texas, hereby
 14 certify to the following:

15 That the witness, CATHERINE A. GHIGLIERI,
 16 was duly sworn by the officer and that the
 17 transcript of the oral deposition is a true record
 18 of the testimony given by the witness;

19 That the original deposition was delivered
 20 to Stephen Medlock;

21 That a copy of this certificate was served
 22 on all parties and/or the witness shown herein on
 23 8/16/16.

24 I further certify that pursuant to FRCP
 25 No. 30(f)(i) that the signature of the deponent:

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1 ___X___ was requested by the deponent or a
 2 party before the completion of the deposition and
 3 that the signature is to be returned within 30 days
 4 from date of receipt of the transcript. If
 5 returned, the attached Changes and Signature Page
 6 contains any changes and the reasons therefor;

7 _____ was not requested by the deponent or
 8 a party before the completion of the deposition.

9 I further certify that I am neither
 10 counsel for, related to, nor employed by any of the
 11 parties in the action in which this proceeding was
 12 taken, and further that I am not financially or
 13 otherwise interested in the outcome of the action.

14 Certified to by me this 12th day of August, 2016.

15

16

17

18 _____
 Tamara Chapman, CSR, RPR, CCR (LA)
 19 CSR NO. 7248; Expiration Date: 12-31-16
 20 TSG Reporting, Inc.

21

22

23

24

25

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|---|--|--|---|---|
| <p style="text-align: center;">A</p> <p>\$10,000 (2) 248:20,22</p> <p>\$160 (2) 213:17 214:3</p> <p>\$5,000 (2) 140:13 248:19</p> <p>\$500,000 (1) 273:13</p> <p>\$600,000 (7) 238:11 249:9,12,16 250:6,11,16</p> <p>a.m (4) 1:16 6:11 50:25 51:5</p> <p>AB-MIN-0019294 (2) 4:23 263:21</p> <p>AB-MIN-0019296 (2) 4:23 263:22</p> <p>AB-MIN-0019300 (2) 4:20 256:15</p> <p>AB-MIN-0019302 (2) 4:20 256:16</p> <p>AB-MIN-0032340 (2) 4:15 211:10</p> <p>AB-MIN-0032343 (2) 4:15 211:10</p> <p>AB-MIN-0034492 (2) 4:13 210:14</p> <p>abetting (5) 107:11,13,14,17 108:2</p> <p>able (20) 15:18 69:14 84:24 95:4 124:10 137:13 142:15 144:13,14 155:18 191:22 196:15 216:10 217:10,23,25 237:9 244:21 246:22 248:2</p> <p>Absolutely (1) 35:16</p> <p>abundance (1) 243:5</p> <p>access (3) 42:15 47:19 59:23</p> <p>accident (1) 41:11</p> <p>account (144) 4:15 22:13 24:10 46:9 46:11,19 52:8 53:17 54:18,20 55:17,20 56:13 62:5,10,20 72:13 73:24,25 75:15,25 76:5 80:6 86:20,21 94:7 135:20,22 186:8 192:8,15,22 193:8 193:11 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|---|--|--|---|---|

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