

O721GU01

1 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

2 -----x
3 UNITED STATES OF AMERICA,

4 v.

23 Cr. 118 (AT)

5 MILES GUO,

6 Defendant.

Trial

New York, N.Y.
July 2, 2024
9:00 a.m.

7
8 Before:

9
10 HON. ANALISA TORRES,

11 District Judge
12 -and a Jury-

13 APPEARANCES

14 DAMIAN WILLIAMS

United States Attorney for the
Southern District of New York

15 BY: MICAH F. FERGENSON

RYAN B. FINKEL

16 JUSTIN HORTON

JULIANA N. MURRAY

17 Assistant United States Attorneys

18 SABRINA P. SHROFF

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20 BY: SIDHARDHA KAMARAJU

21 MATTHEW BARKAN

22 ALSTON & BIRD LLP

Attorneys for Defendant

23 BY: E. SCOTT SCHIRICK

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1 ALSO PRESENT:
Isabel Loftus, Paralegal Specialist, USAO
2 Robert Stout, Special Agent, FBI
Jorge Salazar, Defense Paralegal
3 Tuo Huang, Interpreter (Mandarin)
Shi Feng, Interpreter (Mandarin)
4 Yu Mark Tang, Interpreter (Mandarin)

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1 (Trial resumed; jury not present)

2 THE COURT: Good morning.

3 ALL COUNSEL: Good morning, your Honor.

4 THE COURT: Please make your appearances.

5 MR. FERGENSON: Micah Fergenson, Ryan Finkel, Juliana
6 Murray for the United States, and we're joined by a paralegal,
7 Isabel Loftus, your Honor.

8 MR. KAMARAJU: Good morning, your Honor. Sidhardha
9 Kamaraju, Sabrina Shroff, and Scott Schirick for Mr. Guo, and
10 we're joined at counsel's table by Jorge Salazar, and Mr. Guo
11 is with us as well.

12 THE COURT: Please be seated.

13 By letter dated June 30, 2024, the government moves to
14 preclude the defense from introducing five categories of
15 evidence.

16 On July 1, 2024, Guo filed a letter in opposition, ECF
17 No. 386, and the government filed a reply, ECF No. 387.

18 First, the government argues that testimony of
19 "non-victim" investors is irrelevant and, therefore,
20 inadmissible under Federal Rules of Evidence 402 and 403.
21 Specifically, the government seeks to preclude the fact that
22 some investors do not believe they were defrauded.

23 Guo contends that defense witnesses should be allowed
24 to "testify that they heard the alleged misrepresentations upon
25 which the government relies, but did not view them as important

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1 in their investment decisions," because such testimony "is
2 evidence that the jury should consider in assessing [the]
3 materiality" of the alleged misrepresentations. [Guo Letter at
4 2.]

5 In determining whether a scheme to defraud existed,
6 the jury is tasked with "gaug[ing] the defendant's intent."
7 *United States v. Thomas*, 377 F.3d 232, 243 (2d Cir. 2004).
8 Whether an investor "feel[s] or [is] actually [] victimized" is
9 irrelevant. See *United States v. Washington*, 21 Cr. 603, 2023
10 WL 6219203, at *9 (S.D.N.Y. Sept. 22, 2023). Moreover, "the
11 government need not prove that the scheme successfully
12 defrauded the intended victim." *United States v. Dinome*, 86
13 F.3d 277, 283 (2d Cir. 1996).

14 That said, under the Second Circuit's decision in
15 *United States v. Litvak*, 889 F.3d 56, 65 (2d Cir. 2018), the
16 defense may elicit testimony that bears on whether Guo's
17 alleged misrepresentations were material to the reasonable
18 investor. Indeed, in its reply filed July 1, 2024, the
19 government concedes that "the defense can call witnesses to
20 testify that they did not believe certain statements made by
21 Guo were material. For example, those witnesses might testify
22 that Guo's statements regarding guaranteeing losses were not
23 important to their decision to invest." [Gov. Reply at 2.]

24 I will permit the defense to ask its "non-victim
25 witnesses" about what information they personally considered in

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1 deciding to invest, what weight they gave to various
2 statements, and why. The defense may not imply, however, that
3 the government's victim-witnesses were comparatively negligent
4 or gullible. See Thomas, 377 F.3d at 242-43. For example, the
5 defense cannot ask its witnesses for their opinions of other
6 victims, or to opine about what statements other victims should
7 have considered or disregarded. In short, the defense shall
8 limit its questioning to each witness's own investing
9 experience.

10 Next, the government objects to Defense Witness-1's
11 anticipated testimony about a variety of matters, including his
12 targeting by the CCP. [Gov. Letter at 4.]

13 The government first takes issue with the timeliness
14 of when exhibits related to Defense Witness-1 were provided by
15 the defense. [Id. at 6-7.]

16 The defense states that, consistent with Rule 16, they
17 provided the exhibits for Defense Witness-1 once they decided
18 to use the exhibits as part of Guo's case-in-chief. [Guo
19 Letter at 3.]

20 As I've stated, I expect the parties to be nimble. I
21 credit the defense's representation as officers of the court as
22 to the timeliness of their disclosure, and I will not preclude
23 the exhibits on that basis.

24 On the substance of the government's letter, in my
25 May 2, 2024, order, I held that Guo may offer evidence that his

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1 "fears of CCP targeting were objectively legitimate." [Order
2 at 14, ECF No. 319.] Accordingly, Defense Witness-1 may
3 testify about being arrested and interrogated by the Chinese
4 police and being coerced by the CCP into filing complaints
5 against Guo, which adds objective credence to Guo's beliefs.
6 [Guo Letter at 2.]

7 I disagree with the government that the timing of
8 Defense Witness-1's arrest renders it irrelevant. [Gov. Letter
9 at 5.] Although Defense Witness-1 was arrested in October
10 2022—over two years after the GTV Private Placement in which
11 he participated—the arrest occurred within the time frame of
12 the alleged conspiracy and may support nonculpable explanations
13 for Guo's conduct. [ECF No. 243 at 6.]

14 Although Defense Witness-1 may testify as to his own
15 interactions with the CCP and the CCP forcing him to file false
16 complaints against Guo, I will not allow testimony that is
17 based on pure speculation.

18 For example, Defense Witness-1 cannot testify as to
19 the intent or motivations of the government's victim-witnesses.
20 Nor can he speculate that victim-witnesses are biased in favor
21 of the CCP or are CCP spies.

22 Moreover, Defense Witness-1 cannot testify that
23 Chinese authorities wanted to use a fraud case to "bring down"
24 Guo, a speculative claim. To the extent that this testimony
25 has any probative value, such as for its effect on Defense

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1 Witness-1's state of mind, it is substantially outweighed by
2 the risk of prejudice. It risks creating an inference that
3 "the prosecution team is 'improperly linked to the CCP or in
4 any way malicious,'" which I have previously forbid Guo from
5 arguing. [Order at 13.]

6 Lastly, the government argues that Defense Witness-1
7 should not be allowed to testify that "his profits were frozen
8 by the [SEC]." [Gov. Letter at 6.] I agree that this would
9 contravene my order that prohibited Guo from arguing that the
10 "SEC or the government are responsible for the victims'
11 financial losses." [Order at 18.] However, Guo states that he
12 will not elicit testimony implying that the SEC is responsible
13 for any alleged losses. [Guo Letter at 3.] Therefore, this
14 portion of the government's request is denied as moot.

15 Third, the government seeks to preclude defense
16 witness George Higginbotham from offering hearsay testimony
17 "about a conspiracy Higginbotham joined to seek to persuade the
18 Trump Administration to repatriate Guo to China." [Gov. Letter
19 at 9.]

20 The government is correct that the admission of
21 co-conspirator statements is only allowed under
22 Rule 801(d)(2)(E) when such statements are made by the
23 co-conspirator of an opposing party, and Higginbotham does not
24 fall into that category.

25 But Guo is correct that there may be permissible

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1 nonhearsay purposes for admission of Higginbotham and his
2 co-conspirators' out-of-court statements, but I cannot evaluate
3 this in the abstract, and I will address objections as they
4 arise during Higginbotham's testimony.

5 Accordingly, the government's motion is denied without
6 prejudice.

7 As to the fourth issue, the testimony of expert Maggie
8 Sklar, the government's motion is denied as moot, because the
9 defense "does not intend to elicit such testimony."

10 Fifth, the government seeks to preclude summary
11 witness Thomas Bishop from testifying about redemptions
12 provided by the Himalaya Exchange. The government argues that
13 because the redemptions are not a defense to the charges, they
14 are irrelevant. [Government Letter at 10.]

15 I disagree. Although the fact that the Himalaya
16 Exchange permitted its customers to redeem H Dollar for
17 currency is not a defense to fraud, testimony about how the
18 Himalaya Exchange did business is relevant to complete the
19 narrative of how the exchange operated and how funds flowed
20 through the exchange.

21 Accordingly, the government's motion is denied.

22 Are there any further applications?

23 MR. FERGENSON: Just may we have one moment, your
24 Honor.

25 THE COURT: Yes.

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1 MR. FERGENSON: Thank you, your Honor.

2 One other application that we had raised previously
3 related to the statement the defense was objecting to on 403,
4 separate from the letters last night, where Mr. Guo says, "The
5 United States will never falsely accuse you," in sum and
6 substance, "Listen to what I say, the United States will never
7 falsely accuse you." I had mentioned this I believe last week,
8 and defense counsel who I've been speaking with about it was
9 not present, so we tabled it, but given we're going to rest
10 this morning, your Honor, I wanted to resolve it so we could
11 put in the appropriate version of the summary chart with that
12 redacted or without that redacted. And the government's
13 position is, there's clearly high probative value to such a
14 statement. It's a statement of an opposing party. It's
15 Mr. Guo's recorded statement. And it's not unfairly
16 prejudicial. There's nothing unfairly prejudicial about it.
17 Routinely criminal defendants confess to crimes, and if they go
18 to trial, confessions are admitted at their trial. There's no
19 403 problem with such statements.

20 MR. KAMARAJU: Yes, thank you. I think
21 Mr. Ferguson's use of the confession analogy actually shows
22 the problem with this testimony. When confessions are admitted
23 in court, they are admitted for relevant facts. So, for
24 example, if a defendant confessed, you know, I shot somebody,
25 then that has relevance to the particular crime charged. The

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1 statement that they're eliciting here is a blanket statement
2 about the U.S. government moves slow, they will never falsely
3 accuse you. There's no particular fact in this case that that
4 goes to other than the ultimate question the jury has to
5 decide, which is, has the United States government incorrectly
6 charged Mr. Guo here. So unlike a confession, that basic
7 connective tissue between a fact that is in dispute, a specific
8 fact that is in dispute and the confession doesn't exist here.
9 And so it has no probative value of those facts. All it is is
10 Mr. Guo's opinion at the time of this statement as to the U.S.
11 government's veracity, or whatever the right word is. It's not
12 a statement with respect to the particular charges here. It's
13 not a statement or an admission with respect to any fact that
14 the government has tried to allege. And so on that basis it
15 has very little relevance but it does have a significant amount
16 of unfair prejudice, which outweighs whatever relevance the
17 government may be able to argue because essentially it places
18 before the jury a weighted opinion that the government I think
19 obviously will try to argue is Mr. Guo's confession that their
20 entire case is correct. And I don't think that's the question
21 that the jury has to consider. The jury has to consider the
22 evidence of the specific allegations that the government has
23 made to determine whether the government has met its burden
24 with respect to that. So on that ground—relevance and 403—we
25 would object to inclusion of this.

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1 MR. FERGENSON: Whatever context they want to argue
2 this statement should be viewed as, they can argue it, but it
3 doesn't mean it's not admissible, your Honor. It is not
4 substantially outweighed by a risk of unfair prejudice. And
5 just to be clear, the defense is putting on an entire defense
6 case centered on the fact that Mr. Guo's belief that, in part,
7 the DOJ was targeting him as an arm of the CCP was objectively
8 reasonable. They have nine witnesses that are going to put on
9 this defense case. That's the gravamen of the defense case.
10 This rebuts that. And it's Mr. Guo's own statement. He
11 recorded it, he put it on the internet himself. He voluntarily
12 did all that. There's nothing unfair about the jury hearing
13 what Mr. Guo said during the time period of the fraud when
14 discussing investigations by the SEC and U.S. authorities.
15 This isn't some unrelated context. He's talking about this
16 case and says, "The United States will never falsely accuse
17 you." In fact, he's talking about supporters of his,
18 investors, who had complained to the U.S. authorities and
19 suggesting to his followers that they were going to be
20 criminally charged by the United States because those
21 complaints were false. It's clearly relevant. It's clearly
22 admissible. It's a statement of the defendant himself that is
23 against his penal interests. There's no question it's
24 admissible.

25 Thank you, your Honor.

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1 MR. KAMARAJU: Just briefly, your Honor.

2 One, as the Court has made clear, and as the defense
3 has made clear, we have no argument, no part of our defense
4 case is to argue that the prosecutors at this table or that
5 this prosecution is being motivated or constructed or directed
6 by the CCP. So the point that Mr. Ferguson was making may be
7 responsive if our defense was that this particular prosecution
8 was being driven by the CCP. That's not our point. And
9 frankly, your Honor, they're the ones who brought up in the
10 first instance the DOJ's infiltration by the CCP through their
11 protest signs. We didn't introduce that at all in the
12 beginning. So the concept that this statement rebuts a defense
13 argument that the defense is not trying to make, doesn't make
14 it relevant.

15 Two, they're right, we're allowed to argue the
16 context, but the statement itself still has to have independent
17 relevance to be admissible, and this statement does not make
18 any particular fact more or less likely, other than the
19 ultimate decision that the jury has to make with respect to
20 guilt.

21 So for all those reasons, we maintain our objection.

22 THE COURT: I'm going to permit the government to
23 introduce the statement.

24 Is there anything further?

25 MR. FERGENSON: Not for the government, your Honor.

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1 MR. KAMARAJU: I just had an administrative question
2 for your Honor. So it sounds like the government anticipates
3 resting this morning. As a formal matter, we would obviously
4 make our Rule 29 motion subsequent to that. I presume the
5 government will oppose. I don't know if it's your Honor's
6 practice to reserve or to hear argument on it. If it were to
7 reserve, I just thought for efficiency's sake, rather than
8 excusing the jury entirely and having that motion practice, I
9 could just make on the record a note at sidebar that we're
10 formally moving and they can make their opposition. But it's
11 whatever your Honor's preference is. I just wanted to know for
12 planning purposes.

13 THE COURT: I'm happy for you to make it at the
14 sidebar.

15 MR. KAMARAJU: Thank you, your Honor. That's all I
16 have.

17 MR. FERGENSON: No. Thank you, your Honor.

18 THE COURT: All righty. We'll start at 9:30.

19 (Recess)

20 THE COURT: Please be seated.

21 I just received word that Alternate No. 4 is not
22 present and is currently in Tarrytown, and so that would mean
23 that if he were to remain, we would be delayed by at least an
24 hour, and so the question that I have for the parties is
25 whether you would consent to my excusing him.

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1 MR. KAMARAJU: Your Honor, I think given the COVID
2 situation and the length of the trial, we think it's important
3 to have our bevy of alternates. I understand the delay, but
4 just for the record, I think we would object.

5 MR. FINKEL: Your Honor, the government's view—and I
6 think this is within your discretion—is that it makes sense to
7 move forward. We're just a few days away. We have three other
8 alternates. Three or four other? Three other alternates. The
9 jury has been remarkably prompt. Timing is also an issue,
10 which is to say if it takes too long to finish the trial, we're
11 going to have problems with the rest of the jury, understanding
12 that the jury expects the trial to basically be done on
13 July 12th. So saving an hour here for alternate juror 4 might
14 hurt us with the rest of the jury. And so it's the
15 government's view—of course, it's your Honor's discretion;
16 that carries the day as always—that we should move forward and
17 just lose one additional alternate. We have plenty just in
18 case.

19 THE COURT: The defense agrees that it's a matter of
20 my discretion, that the defense need not consent to my excusing
21 Alternate No. 4.

22 MR. KAMARAJU: Yes, it is ultimately your Honor's
23 discretion.

24 THE COURT: All right. So I am going to excuse No. 4,
25 and we can get started.

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1 (Jury present)

2 THE COURT: Good morning. Please be seated.

3 Good morning, and welcome back.

4 THE JURORS: Good morning.

5 THE COURT: We're going to continue with the direct
6 examination of the witness.

7 You may continue your inquiry.

8 MR. FERGENSON: Thank you, your Honor.

9 JESSICA VOLCHKO, resumed.

10 DIRECT EXAMINATION

11 BY MR. FERGENSON:

12 Q. Good morning, Ms. Volchko.

13 A. Good morning.

14 MR. FERGENSON: Your Honor, the government's going to
15 offer, at the start, a few exhibits pursuant to stipulation.

16 So exhibits listed in Stip 8. These are Government
17 Exhibits 3100-3107.

18 And then exhibits listed in Stip 13. These are
19 Government Exhibit SW series, and it's 114, 129, and 133.

20 The government also offers, to the extent they are not
21 already in evidence, the government exhibits listed in Stip 21.

22 And then finally, the government offers a new
23 stipulation that's marked as Stip 23 concerning Government
24 Exhibit C62 video clips; and further to that stipulation, the
25 government offers Government Exhibits C62-V1 through -V13, and

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1 Government Exhibit C62-TX.

2 MR. KAMARAJU: Just on the last one, your Honor, we
3 just note our continuing objection.

4 THE COURT: They are admitted.

5 (Government's Exhibits 3100-3107 received in evidence)

6 (Government's Exhibits SW 114, SW 129, and SW 133
7 received in evidence)

8 (Government's Exhibits [exhibits listed in Stip 21]
9 received in evidence)

10 (Government's Exhibits Stip 23; C62-V1 through -V13,
11 and C62-TX received in evidence)

12 MR. FERGENSON: Thank you, your Honor.

13 Ms. Loftus, if we could go to GX Z9, please.

14 And we're going to go to page 34.

15 BY MR. FERGENSON:

16 Q. Ms. Volchko, in the top left, do you see the date there is
17 August 7, 2020?

18 A. That's correct.

19 Q. And focusing you in the center column, could you read the
20 text under V1, please.

21 A. Timestamp—under V1?

22 Q. Yeah, and beneath Timestamp.

23 A. "The Communists want to play guerrilla games? Let's play
24 and see who is better at this.

25 "Aren't you looking for that Hairless Bean and James

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1 to smear us in the U.S.? Aren't you try to frame us with the
2 SEC? And use the DA's Office to smear us, as well as the DOJ?"

3 Q. And could you now read the text under V2, please.

4 A. "As long as you have done something illegal, it is
5 impossible for you to get away with it. It is just a matter of
6 time. Do you know what it means to report a faked crime?

7 "In the United States, this is very illegal. Lying to
8 the federal or U.S. government officials, 3-5 years, nothing
9 else to say. They 100 percent will be after you if you report
10 fake things.

11 "Then, I will tell my comrades, what do we have to do
12 with G Club. There are probably 3 million and 5 million who
13 intend to buy G Club now, between 3 million and 5 million
14 people."

15 MR. FERGENSON: And we could go to the next page,
16 Ms. Loftus.

17 Q. And I'll ask you to keep reading, Ms. Volchko. I'll tell
18 you when you can stop.

19 A. "In the past, I said that if you buy G Club, you will have
20 G Fashion stocks. Do you remember that I said that?
21 20 percent, 20 percent.

22 "So now, we have a problem, which is, if you talk
23 about the stock . . . as long as this word shows up . . . that
24 is why now Sara and our comrades should not talk carelessly.
25 There is not any . . . you should not talk about this 'stock'

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1 word.

2 "Because GTV is already a legal U.S. company, every
3 share of which is protected by the U.S. government. That's the
4 great thing about the United States as a country. Its
5 regulatory agencies are the strictest, the most stringent, the
6 most stringent one. Now me, Guo Wengui, if I took even a dime,
7 let alone a dollar, from it, it will be the same stealing as
8 taking 100 million.

9 "The protection of small investors in the United
10 States is paramount. You know, right now we have 29 subpoenas.
11 There are 29 investigation orders. We're asking the SEC to
12 investigate and we're asking the DA's Office and the DOJ to
13 investigate. You can investigate as long as you guys get our
14 stuff clarified.

15 "But during the process, we really admire the United
16 States government, who is very serious and very responsible.
17 What is found now is that, a son of a bitch, whose name I would
18 not say, invested 500,000 and said he was cheated.

19 "This was a Communist agent. Now they start to
20 investigate his background. As well as Bean (Doudou) and the
21 \$40,000 that she claimed that she sent to Sara. Her background
22 is also under investigation.

23 "And those who said they were cheated, and they are
24 all under investigations for their backgrounds. The U.S.
25 government moves slow, but it will never falsely accuse you.

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1 You must remember my words: It will never falsely accuse you,
2 okay?"

3 Q. And Ms. Volchko, if you can skip down now to the bottom
4 paragraph, where it says Timestamp: 1:07, and if you could read
5 a few paragraphs starting there with, "But comrades."

6 A. "But comrades, you should remember me, Guo Wengui will give
7 you three promises. The G Club membership cards that you
8 purchase will have nothing to do with me legally. But I
9 promise that I'll be responsible for the consequences of all
10 the things sold by the G Club.

11 "I will work hard to make G Club the largest
12 membership company in the world. The G Club will never go
13 public, but the G Club holds 40 percent shares of G Fashion.

14 "Meaning that the world's G|CLUBS together constitute
15 40 percent shareholder. How much is G Fashion worth? From
16 today, as well as from a month ago, \$100 billion. G Fashion
17 will not necessarily be a U.S. company. Don't forget that. It
18 is not necessarily a U.S. company.

19 "Just like G News, G News is now 100 percent
20 independent and has nothing to do with me legally, nothing to
21 do with me. We are doing this to hide from the Communist
22 party. We are fighting a guerrilla war, right?"

23 MR. FERGENSON: If we scroll down.

24 Q. And why don't you just read the first sentence under V4.

25 A. "G Fashion is now worth \$100 billion, \$100 billion. Our

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1 goal is to make it \$1 trillion in three to five years, we
2 hope."

3 MR. FERGENSON: All right. Now, Ms. Loftus, let's go
4 back now to Stip 17, please.

5 And your Honor, may I approach to provide a hard copy
6 to the witness.

7 THE COURT: You may.

8 MR. FERGENSON: And Ms. Loftus, if we could go to
9 page 4 of Stip 17. When you're ready.

10 And if we could zoom on the second row, with 1B69.

11 BY MR. FERGENSON:

12 Q. All right. Now, Ms. Volchko, what type of device is 1B69?

13 A. According to the stipulation, it is an iPhone 12 Pro.

14 Q. And where was it recovered?

15 A. Wang apartment (inside a bag in closet).

16 MR. FERGENSON: All right. Now, Ms. Loftus, if we
17 could now go to one of these extractions, 1B69B-T. And I think
18 it's an Excel, Ms. Loftus. You may need to open it separately.

19 Okay. Thank you.

20 Q. Now, Ms. Volchko, let me focus you first on the column C
21 here. Who are the participants in this chat?

22 A. The participants are a contact name of Mmmmm and the owner
23 of the device.

24 Q. What's the owner's name?

25 A. Yvette.

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1 Q. And what does it mean when a participant in a chat has the
2 "owner" parenthetical?

3 A. That's the device that was extracted.

4 MR. FERGENSON: All right. Now, Ms. Loftus, if we
5 could scroll to the right slightly.

6 Q. And focusing you on column Q, Ms. Volchko, where it says
7 Source, what does it say underneath Source?

8 A. Signal.

9 Q. What is Signal?

10 A. Signal is a third-party messaging application.

11 Q. All right. And just looking to the right of that, what's
12 the date of this first chat?

13 A. November 20, 2021.

14 MR. FERGENSON: All right. Now, Ms. Loftus, we can
15 scroll back.

16 And to make this read a little easier, Ms. Loftus, are
17 you able to hide the CC, BCC, Priority—basically columns D
18 through H.

19 All right. Now let's go to row 49, Ms. Loftus,
20 please.

21 BY MR. FERGENSON:

22 Q. Now one of the participants was Mmmmm, Ms. Volchko, right?

23 A. Yes.

24 Q. Okay. Now can you read—now focusing you on column B.
25 That's the sender of the chat, right?

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1 A. That's correct.

2 Q. Can you read, what's in column J, the translation for row
3 49.

4 MR. FERGENSON: Scroll up, Ms. Loftus.

5 Q. And row 49 also has a 47 in column A. Do you see that?

6 A. Yes.

7 Q. And can you read the translated body there.

8 A. "Great! Thank you, Meimei!"

9 Q. Do you know who Meimei is?

10 A. I do not.

11 MR. FERGENSON: Let's go to row 90, please.

12 Q. All right. And Ms. Volchko, and this is another message
13 from Yvette, the owner?

14 A. That's correct.

15 Q. And can you read what that voice message translation is.

16 A. "Meimei [PH], ah, it's like this, possibly starting from
17 today, or tomorrow, that attorney from HKI, Lee [PH] will
18 prepare you, that is to fully prep you to testify. And then,
19 that . . . um . . . they . . . should be Lee to whom that Aaron
20 [PH] will give . . . that is to give some coach, because Aaron
21 cannot directly participate in your prep. Right, then . . . er
22 . . . yesterday Da Wang [PH] said to have you secretly call my
23 phone and let me listen on the side, hahaha. Yes, so perhaps
24 you just call my phone. What time will it be? And then you
25 call my phone. You can call me with this, don't say anything,

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1 then it should be okay, I put it on silent mode and just
2 listen, what do you think?"

3 Q. And then I'll read the responses from the Mmmmm.

4 MR. FERGENSON: If we could scroll down a little bit,
5 Ms. Loftus.

6 Q. So it says, "Ouch."

7 "No need. I'm not a three-year-old child."

8 "My Dad really doesn't understand me very well. He
9 makes it sound like so hard, he has been nagging me for three
10 days. Just say I won't call."

11 MR. FERGENSON: And we can scroll down now. Let's
12 keep scrolling down. Let's go to row 112. And actually, let's
13 just go to row 132, actually.

14 Q. Okay. Now this is another chat from Yvette, right,
15 Ms. Volchko?

16 A. That's correct.

17 Q. Can you read the translated body.

18 A. "You tell him/her whether you're willing to . . . you tell
19 him/her . . . he/she asks if you're willing to testify, your
20 tone should be that this is your boat, right? This is your
21 boat. What you have heard now is, hey, this is your boat.
22 What is going on? How come now the boat belongs to my Dad?
23 And now my Dad is going to jail because of it, it's said that
24 he's going to jail. What is going on? You should start from
25 this tone, this is your belonging. You start from this

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1 perspective and tell him/her why you are going to testify;
2 isn't that right? And then, you . . . you . . . you're not
3 saying that you could help, but saying that this is your
4 property and you must claim your rights, your tone should start
5 from the perspective of the owner. Um."

6 MR. FERGENSON: Ms. Loftus, could we pull up quickly
7 in Trial Director Government Exhibit 1413.

8 And actually, before we do that, Ms. Loftus—I'm
9 sorry—could we scroll to the right just so we can see the date
10 of that message.

11 Q. And Ms. Volchko, under Timestamp, what's the date of that
12 message?

13 A. January 21, 2022.

14 MR. FERGENSON: All right. And if we could go to
15 Government Exhibit 1413, Ms. Loftus.

16 And if we could scroll down.

17 Q. And Ms. Volchko, could you read the very top sentence that
18 starts, "WHEREAS the evidentiary hearing."

19 A. "WHEREAS the evidentiary hearing specified by the First
20 Department's November 4, 2021, order was held on February 2,
21 2022."

22 Q. And is February 2, 2022, about two weeks after the message
23 we just looked at?

24 A. Yes.

25 MR. FERGENSON: If we could go back to the Excel,

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1 please.

2 And if we could go to row 130.

3 We can skip that. We'll skip down a bit just for
4 time. GO to row 137.

5 Q. All right. And row 137, it's also No. 135. Is that
6 another message from Yvette?

7 A. That's correct.

8 Q. Can you read the translated body, please.

9 A. "Fine, fine, you can come to me at any time, you can come
10 to me at any time.

11 "Overall, even with your own lawyer, our own lawyer
12 afterward, our dialogue is just pretending that this homework
13 in the background has not been done, as the tone always means
14 that, well, you are one of the managers and representatives of
15 the entire family's assets, and then, the management and
16 representation of family assets in the entire China and Europe,
17 ah, and Asia are different from those in the West. It's
18 equivalent to you being one of the family representatives, the
19 assets you hold are your assets, they are the assets that the
20 family has authorized you to hold. This is your boat, right?
21 And then after that, that is, regarding to your ship, um, that
22 means that you are not saying you are insisting. But saying if
23 you can show up to help, and saying that this is your asset,
24 you have to be responsible for the family, you have to be
25 responsible for your own assets and go out to claim this right.

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1 You heard that someone distorted and said that this boat
2 belonged to your father, and since your father got into trouble
3 because of this matter, this matter is completely intolerable
4 to you, this is why you have to come forward to testify. This
5 is the basic keynote and tone behind it, yes. Regarding this
6 boat, it was your brother who paid for the boat, so, this is
7 between you and your brother, it was your brother who went to
8 pay for the boat. Both you and your brother are, eh,
9 representatives of the family assets. That's the situation."

10 MR. FERGENSON: If we could scroll down.

11 Q. And if you could read the next message from Yvette,
12 Ms. Volchko.

13 A. "That is why Victor wants to talk to you, because he wants
14 to go over the whole years of '18 and '17 with you. Our entire
15 conversations are just about when we made that application,
16 about your story, just making sure that this can be matched,
17 don't have qiang [PH] to have difference. At the same time, he
18 also wants to remind you, that is, to emphasize about the
19 period of time being persecuted, then emphasize to you about,
20 about the safety's this . . . and then the hidden dangers of
21 this safety being threatened. Yes, must emphasize these, yes,
22 I am [F word] being threatened and in jail so what, right,
23 similar to this kind, and then there must be this huge
24 potential safety hazard. In view of this, therefore you asked
25 not to appear before, and now even if appearing, the face

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1 cannot be shown, those are the two points, let's emphasize them
2 first. Yes, the attorney insists that it must be mentioned
3 from your mouth, that's why. In fact, we have prepared with
4 them many times for these stories behind, and they all know how
5 to deal with it. It is just because due to their so-called
6 bullshit professional ethics, he must hear it from the client's
7 mouth, that is the reason. That is why the so-called bullshit
8 is that Aaron can't participate in the prep of your deposition
9 either, only your lawyer Li can, anyway, that's how it works.
10 Yes, you should rest first, feel free to contact me any time
11 tomorrow, feel free to contact me any time."

12 Q. Ms. Volchko, do you know who Aaron is?

13 A. I do not.

14 Q. Do you know who Victor is?

15 A. I do not.

16 MR. FERGENSON: All right. Ms. Loftus, let's go back
17 to Stip 17 at page 3, please.

18 And the fifth row down for 1B204.

19 Q. All right. What kind of device, according to the Stip, was
20 1B204?

21 A. A Sandisk Extreme Pro USB drive.

22 Q. And where was it recovered?

23 A. Mahwah Mansion (inside a Faraday bag).

24 Q. What's a Faraday bag?

25 A. That's a bag that can prevent any frequencies from entering

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1 the inside of the bag.

2 Q. And what do you mean by that?

3 A. Any connections. So it could be cellular service,
4 Bluetooth.

5 Q. And to your understanding, what purpose do Faraday bags
6 serve?

7 A. They can be to preserve the contents so there's no changes
8 occurring to the device inside.

9 MR. FERGENSON: Now if we can go to, Ms. Loftus, some
10 of these contents. 1B204-13.

11 All right. And if we could go to page 2, please. And
12 Ms. Loftus, we can zoom on the top.

13 Q. What does it say on the top left, Ms. Volchko?

14 A. Brioni, 688 Madison Ave., New York, New York.

15 Q. And then in the center in all caps, what does it say
16 beneath that?

17 A. Invoice for Mr. Miles Kwok Bespoke Order.

18 MR. FERGENSON: And if we could zoom out.

19 And if we could scroll back up to the top.

20 Q. And what was the total amount?

21 A. There's a couple values at the bottom.

22 Q. And just looking at—if you want to do the far right total.

23 A. The far right is \$719,000,489.55.

24 Q. 719,000?

25 A. 719,000. Sorry.

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1 Q. That's all right.

2 MR. FERGENSON: Let's go to Stip 17 on page 2.

3 Q. And towards the middle, 1B121, what kind of device is
4 1B121?

5 A. A red iPhone.

6 Q. Where was that recovered?

7 A. Sherry apartment (inside a bag).

8 MR. FERGENSON: Ms. Loftus, let's pull up side by side
9 1B121C and D, please.

10 Q. All right. And Ms. Volchko, have you ever met the
11 individuals pictured here?

12 A. I have not.

13 MR. FERGENSON: If we could pull up now four exhibits
14 just all at the same time—1B121H, I, L, and M.

15 Q. Ms. Volchko, have you ever met the individuals pictured
16 here?

17 A. I have not.

18 MR. FERGENSON: All right. Let's go now to Stip 17 at
19 page 3, please.

20 And can we zoom on the third row, 1B255.

21 Q. What kind of device is 1B255, Ms. Volchko?

22 A. An iPhone X.

23 Q. Where was it recovered?

24 A. Mahwah mansion.

25 MR. FERGENSON: All right. Now let's put up two

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1 extractions side by side, 1B255C and 1B255D.

2 Q. All right. Now, Ms. Volchko, on the left, 1B255C, what
3 kind of extraction are we looking at there?

4 A. This is a wireless network extracted from 1B255.

5 Q. And where it says SSId, what does that indicate?

6 A. That's the name of the WiFi access point.

7 Q. And what's the name of the WiFi access point?

8 A. Mahwah.

9 Q. And focusing on the right, what kind of extraction are we
10 looking at there?

11 A. This is a password that was extracted from 1B255.

12 Q. And what was the account name?

13 A. Mahwah.

14 Q. And what's the relation between that account and the
15 wireless network on the left?

16 A. They appear similar.

17 Q. And in Password, what was the password? What's the data on
18 255D?

19 A. Homesweethome.

20 Q. All right. Now if we could just go quickly again to
21 Stip 17, Ms. Volchko. And we'll go to page 2, second row from
22 the bottom.

23 And you looked at some 1B125 exhibits before, but just
24 as a quick reminder, Ms. Volchko, what type of device was
25 1B125?

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1 A. A blue iPhone.

2 Q. And where was it recovered?

3 A. Sherry apartment (inside a bag).

4 MR. FERGENSON: All right. Let's go to 1B125L,
5 Ms. Loftus.

6 Q. All right. So, Ms. Volchko, I'll keep reading the Gladys
7 messages in these types of chats. So this one—oh, let me ask
8 you first, what's the date of this chat?

9 A. The date is December 6, 2021.

10 Q. All right. So I'll read the translation. It says:

11 "House Update Message:

12 "About the curtain and carpet company, the building
13 cleaning, and landscape company, I have asked the property
14 manager Vinnie and the intermediary Christine, and now I'm
15 waiting for a reply.

16 "As for the room and movie theater on the third floor,
17 I have also asked. We also need to wait for a reply.

18 "Promemoria replied that they wanted to know the
19 concept of the project first, what type of furniture you
20 wanted, the photograph of the house, and the 2D and 3D graphs
21 (I have asked the broker for this, and I'm waiting for a
22 reply).

23 "4. About the Baccarat crystal lamps, we are waiting
24 for a reply from them that they can give more discounts. The
25 tax is about 250,000. I am considering whether we can still

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1 send them to the house in New Jersey, but they can help us pay
2 the tax, and then a smaller discount may be acceptable.

3 "About the French brands you sent. There are only
4 stores in France for the first brand. The link to the second
5 and third brand is from the same company. There are branches
6 in New York. Do you have any other favorite brands?"

7 MR. FERGENSON: And I think that may be it. There's
8 no other page, Ms. Loftus, right?

9 All right. Let's go to 1B125M.

10 Q. All right. And what's the date of this chat?

11 A. December 7, 2021.

12 Q. That's one day after the one we just looked at?

13 A. That's correct.

14 Q. All right. I'll read Gladys, and just focusing on the
15 first chat there, in the body, there's a .pdf file.

16 MR. FERGENSON: And Ms. Loftus, if we could open
17 1B125M-1 from the Attachments column.

18 And Ms. Loftus, if we could zoom on the bottom right,
19 just briefly.

20 Q. Ms. Volchko, are you able to read what it says in large
21 text there?

22 A. Crocker Residence.

23 MR. FERGENSON: Okay. Let's zoom out.

24 And we can just scroll, Ms. Loftus.

25 You can keep scrolling.

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1 You can just scroll through the end.

2 All right. Let's go back to the chat now, please.

3 It's 1B125M.

4 All right. And if we could scroll down slightly.

5 And we can scroll up. You can go back to the top,
6 Ms. Loftus.

7 BY MR. FERGENSON:

8 Q. All right. So I'll read Gladys. It says, "Another floor
9 plan for the house in New Jersey."

10 And then there's a photograph, and it says, "This is
11 the elevator interior of the house in New Jersey and now we are
12 waiting for the circuit breaker to arrive. It is expected that
13 the elevators will arrive on December 20 and will work when
14 installed."

15 MR. FERGENSON: If you could scroll down.

16 Q. "Vinnie, the steward, said that it would take about 45 days
17 to connect the movie theater and the rooms."

18 And then there's a photograph.

19 MR. FERGENSON: Ms. Loftus, are you able to just zoom
20 on that photograph?

21 Q. All right. And Ms. Volchko, can you read the Miles Guo
22 text at the bottom there.

23 A. "This, just the south side of the third floor. It is now
24 another one. Change it like this. How long will it take?"

25 MR. FERGENSON: And if we could zoom out.

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1 And let's scroll down.

2 Q. All right. And there's another photograph, and then can
3 you read the text from Miles Guo.

4 A. "In consideration of his current situation, that one where
5 I circled probably needs to be built like that. Just, to open
6 it, how long will it take so that these two construction works
7 can be completed as soon as possible, can they be completed
8 within one month? You think, if overtime is implemented, can
9 they be completed within one month?"

10 MR. FERGENSON: If you could scroll down.

11 Q. All right. Now there's a picture and then there's Miles
12 Guo text. Now, Ms. Volchko, in the bottom entry here, is there
13 both text and an image?

14 A. That's correct.

15 MR. FERGENSON: Now, Ms. Loftus, can we please play
16 the attachment 1B125M-8.

17 (Media played)

18 MR. FERGENSON: All right. We could go back to 125M.

19 Q. And Ms. Volchko, could you read the translation of that.

20 A. "Xiao Zhuo, don't put the head of the bed on the third
21 floor toward the back . . . put it towards here. After
22 entering here . . . most of the bathroom facilities are placed
23 here, which is Guo Mei's bedroom. This is Guo Mei's master
24 bedroom. Guo Mei's big bathroom is here, and from here to here
25 is her dressing room.

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1 "Then this is Xiao Cao's room, a small suite. This
2 entrance is here. These are two bedrooms. This bedroom and
3 this bedroom are reserved. There can be a bathroom behind
4 this. This is a public living room between the two of them.
5 They all can come here. How long will this take? Okay, you
6 can draw [a layout] and send it to him."

7 MR. FERGENSON: All right. If we could scroll down.

8 All right. And again, there's a photo and then
9 there's a message with both text and an image.

10 Ms. Loftus, can we play 1B125M-10.

11 (Media played)

12 MR. FERGENSON: We can go back to the text.

13 BY MR. FERGENSON:

14 Q. And can you read the translation, Ms. Volchko.

15 A. "This is the sides of third floor. The north side of the
16 third floor is Guo Qiang's room. Turn this area into a bed,
17 turn this area into a bed. Open this area up, it should
18 connect with this area. This is the bedroom . . . Guo Qiang's
19 two bedrooms. This is his dressing room. Here is a hallway
20 through here. How long will it take?"

21 MR. FERGENSON: All right. Let's scroll down.

22 And again, there's another image, another photo sent,
23 and then there's a chat with a text and an image.

24 Ms. Loftus, can we play 1B125M-12.

25 (Media played)

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1 MR. FERGENSON: We can go back to the chat.

2 BY MR. FERGENSON:

3 Q. Could you read the translation of the audio, Ms. Volchko.

4 A. "This is Mrs. Guo's second floor, the north side, the north
5 side. Do you see it? Remember the north side of the second
6 floor, the head of the bed is here. Put it here.

7 "Then, open this up, open this up, there are two . . .
8 this is her bedroom, this is the bathroom, and this is the
9 dressing room. How long will it take?"

10 MR. FERGENSON: If we could scroll down.

11 Q. And can you read the next chat, please.

12 A. "According to you, I need to connect and restore the entire
13 three floors, and the water, electricity and restrooms need to
14 be done. 30 days, he needs to find three or four teams to work
15 overtime. OK? Don't ask for help from one team. Three teams
16 must be found for the three floors, work overtime, give us some
17 time, and give us a quotation."

18 MR. FERGENSON: And then the next chat, let's play the
19 attachment first.

20 Ms. Loftus, can you play 1B125M-14.

21 (Media played)

22 (Continued on next page)

23

24

25

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Volchko - Direct

1 MR. FERGENSON: Can we go back to the chat.

2 Q. Can you read the translated audio, please, Ms. Volchko.

3 A. "This is dining room on the south side, the southeast
4 corner at the back. Kitchen is here. This Mrs. Guo is
5 converted into a kitchen, from here to here is a cabinet which
6 we customize, then put an island in the middle and connect to
7 natural gas, water supply and drainage here, which have to be
8 done at the same time. This is one of the biggest projects,
9 four projects total, okay."

10 MR. FERGENSON: Is there anymore, Ms. Loftus, when you
11 scroll down?

12 Q. There's another photo, and then can you read the last chat
13 Ms. Volchko.

14 A. "Gladys, this place needs to face east, the place where the
15 line was drawn. This position needs to be an ignited stove,
16 inside is the cabinet, a kitchen island is in the middle. This
17 needs to be done, and it's necessary to connect water and
18 natural gas."

19 Q. Let's go to 1B125N.

20 What's the date of this chat excerpt?

21 A. December 8, 2020.

22 Q. I'll read Gladys. It says, "The broker Christine sends an
23 interior designer's profile. She says the designer has
24 designed hotels, offices, large local and New York properties
25 and other places designated by the client. He has a good taste

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Volchko - Direct

1 and is very creative and his design has high quality. You can
2 take a look at his information and see if you like it or not."
3 And then there's two web page links sent that I'll skip.

4 It says, "Three Baccarat is still trying to get us
5 more discounts and not all crystal whites are in stock, but the
6 staff said it was easy to place an order and get the goods."

7 A. "Okay, Bakura. How about their attitude? Their attitude
8 is okay? Bakura about this designer. When can we hold a
9 meeting for him? This designer is excellent, but it is not
10 enough. What we want is that super and royal grade. Ask him
11 if they can find another one. Give Christina. We need to have
12 a meeting with the designer as soon as possible to have a
13 understanding okay."

14 Q. "The attitude of Baccarat is okay."

15 A. "Then just push, just push that. 20 is impossible. His
16 tax, what's the tax in New York. How much tax can we reduce.
17 I definitely want to exempt this tax 100 percent."

18 MR. FERGENSON: You can scroll down, Ms. Loftus,
19 please.

20 Q. "The tax is 250,000 and the New Jersey tax rate is 6.65
21 percent. I also asked him to exempt this for us at least."

22 A. "No, at least this must be exempted. This tax must not be
23 paid. The key is it is not 20. It is impossible. How will I
24 buy so much at least 50, originally 75 percent discount and now
25 50 is okay."

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Volchko - Direct

1 Q. "Was the previous 75 percent discount given in China? Did
2 you buy something in the name of Beijing Jinquan?"

3 A. "Yes. It seems like they return to Beijing, Jinquan to
4 sell things. It is always a discount of 75 percent. It is
5 always been like this. Later it was changed and then even 50
6 is not given. This is crazy."

7 Q. If we can scroll down. You can continue.

8 A. "I bought some in Jinquan and Pangu of Beijing. The main
9 problem is that they were registered in my personal name namely
10 Miles Guo."

11 Q. "Because they all need to look at the records when doing
12 things here. I ask him to find out the records of our orders
13 placed in New York. He said that the discount was 50 percent
14 because it was in 2010. Now it is 10 years later and the
15 policies are different, but I'll keep negotiating with them."

16 MR. FERGENSON: Ms. Loftus, do you want to just zoom
17 in on the photos, and we can zoom out. You can scroll down.

18 Q. Ms. Volchko, you can continue.

19 A. "The place in the circle is the one on the third floor to
20 be connected. If we break the location of the bedhead it is
21 connected. The location of the two bedheads is the corridor to
22 be connected, but you fail to reflect it in the drawing.

23 Second, the new kitchen is located in the corner of the first
24 floor. The sink is on the north side and I drew it. No sink
25 is around the stove. There are two sinks on the island of the

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1 middle kitchen, two sinks are placed on the north side, and the
2 fire is on the east side. Please continue to check the drawing
3 I gave you. There is some mistakes."

4 Q. "This picture shows the movie theater on the third floor.
5 You said that the room was empty, but should it be connected to
6 the room next to it. I have marked to connect the room on the
7 second floor, but modified it to extend to the bed side."

8 MR. FERGENSON: Let's go down to 1B1250.

9 Q. Now what's the date of this chat?

10 A. December 8, 2021.

11 Q. And there's another pdf. I won't pull it up, but it says
12 12/8/21 updated floor plan, and then there's an image.

13 MR. FERGENSON: Ms. Loftus, you want to zoom in on
14 that image quickly.

15 Q. Who's the sender of this image?

16 A. The contact is Miles Guo.

17 MR. FERGENSON: You can zoom out. You can scroll
18 down. Then there's another message from Miles Guo with text
19 and an image. Ms. Loftus, let's play 1B1250-4.

20 (Media played)

21 MR. FERGENSON: We can go back to the chat.

22 Q. Can you read the translated audio.

23 A. "Right. Change the kitchen. This place is the stove.
24 This place is two sinks. This is a sink and this is a sink.
25 Here are two sinks. This is the place where is kept for

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1 stoves. This is the place where the stove can be connected.
2 This. Then a round table will be placed in this place in the
3 future. Well, this is what it looks like. Then this place
4 will also be made into a round table. These is two tables.
5 Then remember that all the wooden chairs needed to be removed.
6 We need to replace the staircase with all glass ones. The
7 stairs will be very beautiful. This one comes all the way from
8 the hallway. This is the kitchen on the first floor which is
9 very important, faucets, stoves."

10 MR. FERGENSON: If we can play 1B1250-5.

11 (Media played)

12 MR. FERGENSON: Let's go back to the chat and we can
13 scroll down.

14 Q. If you can read that translated audio.

15 A. "We add security door to this place. Doors that require
16 card swipes. Doors that require card swipes. Then from here
17 to the north end, you see this end, there should also be
18 security doors that require card swipes. You can't enter
19 without swiping your card. This is one. Then employees come
20 down from here and come here. This is an employee space. This
21 is all reserved. Then, this is the employee space. We will
22 not make any change, just change it into a warehouse, nothing
23 else to change. Then this is the swimming pool. Remember the
24 bath space, this is the place. There is a window here. We will
25 replace it. We will replace this place. We will replace it,

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1 replace it with a copper window that can be opened."

2 MR. FERGENSON: And can we scroll down. And then
3 there are more pictures. We can just keep scrolling down. If
4 we could play 1B1250-9.

5 (Media played)

6 MR. FERGENSON: We can go back to the chat.

7 A. "Mrs. Guo's bedroom. This are the bedroom and living room.
8 This place is the dressing room, two dressing rooms, big
9 dressing rooms."

10 Q. Then there's an image. "You said there would be a custom
11 cabinet at the kitchen range in the faucet position. Will there
12 still be a cabinet?"

13 A. "Above the stove and on the two stone walls in the north
14 there will be customize cabinets which are full cabinets. The
15 walls will be full of cabinets and below the cabinets is there
16 such mosaic style."

17 MR. FERGENSON: And if we could play 1B1250-13.

18 (Media played)

19 MR. FERGENSON: We can go back to the chat.

20 Q. Can you read the translated audio.

21 A. "The north side of the third floor, that's where the pool
22 table is. This is Guo Qiang's dressing room. Remove the
23 cinema. This is Guo Qiang's room. He can open it from here
24 and go into his dressing room. See, this, okay?"

25 MR. FERGENSON: Can you scroll down. Let's go to

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1 1B125P, please.

2 Q. What's the date of this chat excerpt?

3 A. December 14, 2021.

4 Q. There are several. The first three chats, do you see those
5 are .PDF, the first four?

6 A. That's correct.

7 MR. FERGENSON: Can we pull those up quickly,

8 Ms. Loftus. Let's start with 1B125P-1.

9 Q. What does the English say?

10 A. Carpets and rugs.

11 Q. Ms. Loftus, if we can just scroll through some of these
12 pages, let's go to 1B125P-2.

13 What does it say in English there?

14 A. Furniture.

15 Q. If we could scroll. Just to pause for a moment.

16 Do you see the domain listed there, Ms. Volchko?

17 A. 1stdips.com.

18 Q. We can keep scrolling for a little bit. We can stop there.

19 Why don't we go to 1B125P-3. What does it say in
20 English there?

21 A. Furniture.

22 Q. We can scroll some more. Let's go 1B125P-4.

23 Beneath certificate of authenticity in the top right,
24 what does it say there?

25 A. Solomon Treasure.

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1 Q. If we can scroll just a little bit, Ms. Loftus. Let's go
2 back to the chat.

3 I'll read Gladys. It says: "The first door is the
4 one from which you decided to buy products," and if we could
5 scroll down. There's another pdf. We can skip over that. It
6 says, "You didn't see products of the first store before, but
7 the products are good." There's another pdf, 2nd store .pdf.
8 Old man from the second store. 3rd store pdf. It says Jew
9 from the 3rd store. You can scroll down.

10 And then can you read the text after those images sent
11 by Miles Guo?

12 A. "Zhou, thank you for your hard work. These two tables
13 don't buy them because about the table after I checked
14 yesterday, there is no such room for tables, so we won't buy
15 those two tables."

16 Q. Then there's two images. Ms. Loftus, can you see if we'll
17 be able to read it if you zoom on those. Why don't we pull up
18 the attachment quickly. It's 1B125P-11.

19 Focusing on the top left, Ms. Volchko, can you read
20 what's beneath the image of the bed?

21 A. Savoir Harlech end two bed set handmade in London U.S.
22 queen size.

23 Q. What's the list price for that?

24 A. \$45,300.

25 Q. we can go back to 1B125P. Let's scroll down.

072BGU02

Volchko - Direct

1 And then if we can pick up, Ms. Volchko, at the bottom
2 chat there.

3 A. "There is no other discount for the new sofa."

4 Q. And then the last chat.

5 A. "These two can be bought directly by the finance
6 department. We can enjoy 10 percent off with the above code."

7 Q. Let's go to 1B125Q. What's the date of this chat excerpt?

8 A. December 16, 2021.

9 Q. I'll read the first one.

10 "Are these all from silk and wool? Have you bought it
11 or do you want a similar pattern?"

12 A. "I just want better velvet, I want better, better, better."

13 Q. Let's go to 1B125R. I'll read Gladys. Before I do, what's
14 the date of this chat excerpt?

15 A. December 19, 2021.

16 Q. "Boss, let me tell you about the new house, that is, I
17 called Vinnie and he said that because he wanted to accelerate
18 all the procedures then the contract and drawings were ready
19 and have been sent to Evin. As for the kitchen you requested,
20 it's extended by Alane and the staircases were sealed. He said
21 that because he knew the architect who had been doing it for 35
22 years, so he knew that basically it's unnecessary to take some
23 special permissions, some permits or anything and specifically
24 deal with Alane. So he doesn't think this needs to be added to
25 the contract or add the image now because you want to do

072BGU02

Volchko - Direct

1 everything well as soon as possible. He said that we could do
2 it later, just add it to an attachment indicating that this is
3 your requirement. Then he said that now it's Alane from the
4 kitchen who wanted to confirm with you. You said that you
5 wanted to add a draw. Do you want to add it to both sides or
6 just one side. He suggested only adding to one side because
7 the other side is narrower. But please confirm with me with if
8 it is really added to which side and the style of the draw and
9 what color do you want? Does it need to match with others?
10 According to him, others were built years ago, so this needs to
11 be confirmed with you, and what style do you want?"

12 A. "The style is the same as his current cabinet wood, Gladys,
13 all the same as him. It's okay. Of course add it to one side.
14 It's definitely impossible to add to the other side, and then
15 it is deep enough to put the pot bowl and basin. Place things
16 below, heavy enough, and it must be of good quality. If none,
17 then the same wood. You can also give us a choice. No
18 problem. Very good."

19 Q. If you can scroll down, Ms. Loftus, and can you zoom on
20 that image.

21 Have you ever met the individual shown here?

22 A. I have not.

23 Q. We can zoom out. You can continue.

24 A. "Yes, yes, that's the first thing. Second, is the middle
25 of the island too big. Does it need to be so big? After being

072BGU02

Volchko - Direct

1 sealed, does it need to be so big? Okay, that's it. Great.
2 Thanks Winnie. It's the island. If it is too wide compared
3 with the normal island, it is better to buy the off the shelf
4 product, that is the one with an island. It's guaranteed that
5 it's the whole stone, the highest-level dolomite. For example
6 the table below can be stainless steel and the drawer can also
7 be stainless steel. The stainless steel is okay. Of course
8 the wood is the best just like the Max bedside. If there are
9 any other options the first choice will be the same at this
10 wood. If none then select stainless steel, but the quality
11 must be good. If it's so wide, it's okay to be narrower."

12 Q. Then there's -- I won't make you read the link. You can
13 continue after that.

14 A. "This table is 340,000. It can be bought after it's sure
15 there's no problem with it. This is the most important which
16 will be placed in the middle of the hall. It is a great
17 treasure. In addition, for these two baccarat lights let's see
18 please communicate with him. If it doesn't work, you can find
19 that young guy who sold the first furniture to us. You can ask
20 him to help communicate and buy something cheaper. He can help
21 us buy cheap things. Gladys the bed, just the green bed.
22 There is a pink one. I want to order a pink bed for the room
23 of Mrs. Guo. Order a pink one. And about the other two or
24 three beds, please check if there is any. My room is large.
25 All king size, the largest bed. I need to buy a bed in my

072BGU02

Volchko - Direct

1 room. Mrs. Guo I want to buy a bed and then buy a bed for the
2 room of Guo Mei, others are no longer using beds. No other bed
3 is needed."

4 Q. If we can go to 1B125S. What's the date of this chat
5 excerpt?

6 A. December 22, 2021.

7 Q. Can you read the translated text.

8 A. "Didn't you ask him if he had any round ones. Is it in
9 stock and how big is the largest one?"

10 MR. FERGENSON: May I have a moment, your Honor.

11 THE COURT: Yes.

12 Q. By the way, Ms. Volchko, did you have any role in selecting
13 which chats got excerpted here?

14 A. I did not.

15 Q. Did you have any role in selecting which devices were part
16 of that stipulation we've been referring to?

17 A. I did not.

18 MR. FERGENSON: Your Honor, I have a couple more
19 exhibits the government is going to offer. Pursuant to
20 Stipulation A, Government offers Government Exhibit 1782, and
21 the government also offers the exhibits, to the extent not in
22 evidence, in Stip 20.

23 THE COURT: No objection.

24 MR. KAMARAJU: No your Honor.

25 THE COURT: They're admitted.

072BGU02 Volchko - Direct

1 (Government's Exhibits 1780 and Stip 20 received in
2 evidence)

3 MR. FERGENSON: And I may need one other moment your
4 Honor. Apologies.

5 Q. Ms. Loftus, can we go to 1B125K, please.

6 What's the date of this chat excerpt, Ms. Volchko?

7 A. December 1, 2021.

8 Q. First one is from Gladys. It's an image. Can we zoom on
9 that image. We can take it down. And I'll read Gladys?

10 "Boss, this table you asked your comrade to help order
11 is already ready and will be shipped from Shenzhen. Where do
12 you want to ship it?"

13 A. "Now it's going to be delivered, deliver to our warehouse
14 the one in New York."

15 Q. And it says, "Is this table intended for that company. Let
16 me see that the company should be responsible for the
17 expenses?"

18 A. "About this, use G/Club or another private company for
19 payment. Don't involve anything else, either G/Club or another
20 private company."

21 Q. Ms. Volchko, do you have any independent knowledge of what
22 that that means use G/Club or another private company for
23 payment?

24 A. I do not.

25 MR. FERGENSON: No further questions.

072BGU02

Volchko - Cross

1 THE COURT: Cross examination.

2 CROSS-EXAMINATION

3 BY MR. KAMARAJU:

4 Q. Thank you, your Honor. Good morning.

5 A. Good morning.

6 Q. Could you just pronounce your name for me.

7 A. Jessica Volchko.

8 Q. Thank you. Could we have Government Exhibit stip 17 up,
9 please. Could we go to page four.

10 Ms. Volchko, do you remember on direct being asked
11 some questions about the fourth device down on this list
12 GXB71Z?

13 A. I may have been. I don't recall if it was that
14 specifically.

15 Q. This device, this was found in the Wang apartment, correct?

16 A. According to the stipulation.

17 Q. According the stipulation it was found inside a bag inside
18 a closet, right?

19 A. That's correct.

20 Q. And Wang refers to Yvette Wang, right?

21 A. I believe so.

22 Q. So this device was not found in Mr. Guo's apartment,
23 correct?

24 A. That's correct.

25 Q. Wasn't found in Mahwah, right?

O72BGUO2

Volchko - Cross

1 A. Correct.

2 Q. It was in a closet in Ms. Wang's apartment, correct?

3 A. That's correct.

4 Q. Can we pull up GX1B71-I, please. You remember being shown
5 this photo on your direct?

6 A. I do.

7 Q. And this photograph comes from the device that we just
8 talked about, right?

9 A. Can I see the exhibit number?

10 Q. Sure. GX1B71-I.

11 A. Yes, that's correct.

12 Q. So this photograph was found on a phone that was found in
13 Ms. Wang's apartment not in Mr. Guo's apartment, correct?

14 A. That's correct.

15 Q. Let's take that down.

16 Now, do you know if Ms. Wang had any connection to a
17 company called G/Clubs?

18 A. I do not.

19 Q. Do you know if Ms. Wang was involved in any acquisition of
20 benefits for G/Clubs members?

21 A. I do not.

22 Q. Do you know who Limarie Reyes is?

23 A. I do not.

24 Q. Is your only exposure to the Lamborghini shown in that
25 photo through your preparation for testimony?

O72BGUO2

Volchko - Cross

1 A. Yes.

2 Q. Now, could we have GX1B124 please. Alongside it if we
3 could pull up the stip, GX stip 17. If we could go to page two
4 of the stipulation.

5 You see, I think it's the third from the bottom there,
6 GX1B24Z. Do you see that?

7 A. I do.

8 Q. And so that was found at the Sherry apartment inside a bag,
9 right?

10 A. That's correct.

11 Q. So it wasn't found on Mr. Guo's person, right?

12 A. That's correct.

13 Q. So now we can take the stip down for a second and blow up
14 the other exhibit, please. Let's go to page two.

15 Do you remember Mr. Ferguson asking you about certain
16 email accounts reflected here?

17 A. I believe I was asked about a couple of accounts.

18 Q. So, for example, I think he asked you about in row 10 an
19 email called Guo Miles@Guomedia. You see that?

20 A. I do.

21 Q. Can we look at the second account listed at the top of the
22 page. Can you read the user name?

23 A. The user name is GladysC@HCHKtech.com.

24 Q. What's the service type?

25 A. Exchange.

072BGUO2

Volchko - Cross

- 1 Q. What is that?
- 2 A. That's an email service.
- 3 Q. Let's look at the one right below it, three. Can you tell
4 us what the user name there is?
- 5 A. QQTANG2022@gmail.com.
- 6 Q. What's the service type there?
- 7 A. iTunes store.
- 8 Q. I think we all know, but can you tell us what that is?
- 9 A. iTunes store you can buy applications for your phone.
- 10 Q. Can we go down to the next one. What's the user name
11 there?
- 12 A. DHXBHCS20220327@gmail.com.
- 13 Q. And the service type?
- 14 A. iTunes store.
- 15 Q. Can we look at row nine, please. User name there?
- 16 A. JINGANG20.
- 17 Q. And the service type?
- 18 A. Twitter.com.
- 19 Q. And now let's look at row 12. Can you tell us what the
20 user name is there?
- 21 A. WOAIWODEJIANZYK@gmail.com.
- 22 Q. Can you tell us again the fact that any of these email
23 addresses appear in this report at this section what does that
24 mean?
- 25 A. These are accounts that are associated with the device, so

072BGU02

Volchko - Cross

1 they may have been logged into the device, certain applications
2 from the device at some point in time.

3 Q. Can we go to page one, please. Could we blow up the line
4 it's right under tethering that says last hot spot act. Do you
5 see that?

6 A. I do.

7 Q. What does last hot spot activity mean?

8 A. I believe that's referring to the last time it was
9 connected to a hot spot, so you could set up your phone to
10 almost like a wifi connection.

11 Q. So this is some evidence of internet connectivity?

12 A. Yes.

13 Q. What's the date on that?

14 A. May 11, 2023.

15 Q. Are you aware that Mr. Guo was arrested on March 15, 2023?

16 A. I'm not sure of the date.

17 Q. Would you agree with me that May 11 is approximately two
18 months after March 15, 2023?

19 A. That's correct.

20 Q. Now, you can't tell from just this Cellebrite report who
21 actually used the phone, correct?

22 A. I can just tell the accounts that are associated with the
23 device.

24 Q. And so you don't know who's sitting at the keyboard, right?

25 A. That's correct.

072BGU02

Volchko - Cross

1 Q. You can take that down. Can we pull up GX1B15G-T. I think
2 it is GX1B15G, and I think it's-T, the translation. I think
3 it's the one you had right before this, GX1B15G-T. You
4 remember testifying about this on direct?

5 A. I do.

6 Q. Remind us again what the created time means?

7 A. The created time appears to be when the tag was created.
8 So as the device was being reviewed, either the case agent or
9 whoever was reviewing the report would have tagging this
10 specific note.

11 Q. This is an Excel spreadsheet, right?

12 A. That's correct.

13 Q. So the created time gets inserted into the Excel
14 spreadsheet?

15 A. That's correct.

16 Q. So the data on this Excel spreadsheet could be changed,
17 right?

18 A. I guess it's possible.

19 Q. That's what happened with the created time, right?

20 A. This is from the report, so that was -- when you generate a
21 Cellebrite report, there's certain values that are entered into
22 the tag report.

23 Q. Right. But this is not some kind of locked document,
24 right, it's susceptible to being changed, right?

25 A. That's correct.

O72BGUO2

Volchko - Cross

1 MR. FERGENSON: Objection, it's stipulated to.

2 THE COURT: Sustained. If you would speak into the mic
3 more, Mr. Kamaraju, please.

4 MR. KAMARAJU: I didn't hear what the objection was.

5 MR. FERGENSON: Objection, it's stipulated to.

6 Q. Could we pull up GX1B92B-13. Do you remember testifying
7 about this document?

8 A. I do.

9 Q. So can we look at the email at the top left there. Can you
10 just read that for us?

11 A. Cool_HHR@hotmail.com.

12 Q. That's not a Proton email account, right?

13 A. It appears to be a Hotmail account.

14 Q. There's no date on this document, correct?

15 We can zoom out.

16 A. I don't see a date on the document.

17 Q. You see where it says experience March 2014 to current?

18 A. I do.

19 Q. So we can't tell from this document what "current" means,
20 right?

21 A. That's correct.

22 Q. And we can't tell from this document when it was placed on
23 the phone, correct?

24 A. Not from just looking at the document.

25 Q. And we can't tell from the document who authored it,

072BGU02

Volchko - Cross

1 correct?

2 A. That's correct.

3 Q. And you've never heard of Haoran He, the man named on the
4 document, correct?

5 A. I have not.

6 Q. Let's go to GX1B2722, please.

7 Do you remember testifying about this?

8 A. I don't recall this one specifically, but I remember
9 looking at preliminary device reports.

10 Q. We can scroll down. I think this is fine. If we blow up
11 page two just the first account there.

12 You see that that's Max Krasner?

13 A. I do.

14 Q. So this is an account that this Gmail -- withdrawn.

15 This Gmail account was accessed at some point from
16 this phone, correct?

17 A. That's correct.

18 Q. Now if we could pull up -- we can take that down and we can
19 pull up GX1B272B. Remember testifying about this document on
20 direct?

21 A. I do.

22 Q. You don't see a date on this document, right?

23 A. I do not.

24 Q. And you don't know who Miles on is, right?

25 A. That's correct.

O72BGUO2

Volchko - Cross

1 Q. If we can go to page 21. Before we talk about this
2 specifically, you testified on direct about certain signal
3 messages that were extracted, right?

4 A. That's correct.

5 Q. So when the FBI extracts signal messages, it's actually
6 pulling the actual message out of the phone?

7 A. That's correct.

8 Q. And then it gets represented on that spreadsheet that you
9 had?

10 A. That's correct.

11 Q. This is not that, right, this is a screenshot, right?

12 A. It appears to be a screen capture.

13 Q. And you can't tell from the screen capture who did it,
14 right?

15 A. What do you mean by who did it?

16 Q. Who took it.

17 A. Who took the screen capture, I can't.

18 Q. And at the top there you see it says Yvette?

19 A. I do.

20 Q. If we can go to page 22 the next page, who's it say up
21 there?

22 A. Milesen.

23 Q. So that's two different people in your mind?

24 A. It appears to be, yes.

25 Q. So this appears to be a screen capture of a collection of

O72BGU02

Volchko - Cross

1 text messages, correct?

2 A. Correct.

3 Q. And you don't know who put the collection together, right?

4 A. Who took the screen captures?

5 Q. Well, who decided to group these various text chains
6 together?

7 A. I do not.

8 Q. You never heard of Max Krasner before, right?

9 A. I have not.

10 Q. Your only involvement in this case at all is testifying
11 here today, right?

12 A. Testifying and analyzing some of the digital evidence
13 items.

14 Q. You weren't part of the team that actually conducted any of
15 the searches, right?

16 A. I was present at one of the search warrants.

17 Q. Which one?

18 A. Mahwah.

19 Q. Mr. Guo wasn't at Mahwah when you were there, right?

20 A. I don't believe so.

21 Q. Could we pull up GXZ9, please. Can we go to page 35.

22 You remember Mr. Fergenson asking you to read some
23 portions of this?

24 A. I do.

25 Q. I'm just going to ask you to read a little bit. Okay. Do

072BGU02

Volchko - Cross

1 you see, it's the third full paragraph that starts, The
2 protection of small investors. Do you see that paragraph?

3 A. I do.

4 Q. Could you read the second to last sentence.

5 A. "We're asking the SEC to investigate and we're asking the
6 DA's office and the DOJ to investigate."

7 Q. Can you read the next sentence, please?

8 A. "You can investigate as long as you guys get our stuff
9 clarified."

10 Q. You can take that down. Can we go to Government Exhibit
11 1B69Z. You have a copy of the stipulation in front of you
12 still?

13 A. I do.

14 Q. Would you mind turning to page four, please.

15 GX1B69Z was a white iPhone found in Ms. Wang's
16 apartment, correct?

17 A. That's correct.

18 Q. And again it was found inside a bag in a closet, right?

19 A. That's correct.

20 Q. So it wasn't found on Ms. Wang's person, right?

21 A. That's correct.

22 Q. Could we pull up now 1B69B-T.

23 This spreadsheet is from the phone that was found in
24 Ms. Wang's apartment, correct?

25 A. That's correct.

O72BGUO2

Volchko - Cross

- 1 Q. In the bag in the closet, right?
- 2 A. That's correct.
- 3 Q. Now, could we go to row 47, please. Sorry, I meant 49.
- 4 So do you see there it says, Great, thank you Mei Mei?
- 5 A. I do.
- 6 Q. And then there's a message below that that's from whatever
- 7 that MMMMM account handle is, right?
- 8 A. Can you just scroll over so I can see the sender column.
- 9 Q. Sure.
- 10 A. The other direction.
- 11 Q. To the left.
- 12 A. Yes. It was sent from the MMMMM contact.
- 13 Q. And could you read the message that appears in row 48. I
- 14 guess it is the one right under thank you, Mei Mei.
- 15 A. "There's an account on Twitter posting a video of my
- 16 grandmas pass away. Can you find a team to get rid of it."
- 17 Q. And then if you go down two more rows, do you see a message
- 18 from Yvette the owner?
- 19 A. I do.
- 20 Q. What's that say?
- 21 A. "I'll arrange that."
- 22 Q. Can we go to row 90, please. It's the red highlighted one.
- 23 There's two sets of row number.
- 24 Can you read the first sentence of the message there.
- 25 A. "Mei Mei, ah, it's like this, possibly starting from today

O72BGUO2

Volchko - Cross

1 or tomorrow that attorney from HKI Lee will prepare you. That
2 is to fully prep you to testify."

3 Q. You don't know who any of those people are, right?

4 A. That's correct.

5 Q. And you never heard of Aaron before?

6 A. That's correct.

7 Q. You don't know if Aaron is a lawyer involved in this case,
8 right?

9 A. That's correct.

10 Q. You don't know if Aaron has any involvement whatsoever,
11 right?

12 A. That's correct.

13 Q. Can we go to row 132, please. I guess it's 131. That one
14 right there.

15 Do you see about four sentences in there's something
16 that starts, "Then, that, don't use video." Do you see that?

17 A. I do.

18 Q. Could you read that sentence.

19 A. "Then that don't use video because it will endanger safety,
20 endanger your, your safety."

21 Q. Can you read the next sentence.

22 A. "You can bring out all the safety concerns including
23 persecution."

24 Q. And then the next sentence.

25 A. "Because the lawyers internally are fighting with the other

O72BGUO2

Volchko - Cross

1 party and the court that is to say about not allowing you to
2 appear in video which means ah, ah, ah either by audio or only
3 by that is to say, ah, ah, transcript."

4 Q. You don't have any idea what the speaker means when they
5 talk about safety concerns including persecution, right?

6 A. That's correct.

7 Q. You don't know in fact what any of this text message is
8 about, right?

9 A. That's correct.

10 Q. Take that down, and if we can go down to -- you have the
11 stipulation still in front of you?

12 A. I do.

13 Q. If we can look at page three. And do you see it's the
14 fifth device down GX1B204Z?

15 A. I do.

16 Q. That says that that phone was found inside a Faraday bag,
17 right?

18 A. This was a USB drive.

19 Q. Sorry. The USB drive was found inside a Faraday bag, right?

20 A. Yes.

21 Q. You testified a little bit about what a Faraday bag is,
22 correct?

23 A. Yes.

24 Q. The FBI also uses Faraday bags, right?

25 A. Yes.

072BGU02

Volchko - Cross

1 Q. Describe for the jury how the FBI uses Faraday bags?

2 A. Sometimes when we're executing a search warrant when we
3 seize devices, if we can't disable any kind of communications,
4 to preserve the data we'll put them in a Faraday bag.

5 Q. How does the Faraday preserve the data?

6 A. It blocks any signals from reaching the device or any
7 signals from leaving the device.

8 Q. What's the import of blocking signals that are coming into
9 the device?

10 A. It preserves the device at the state when it was seized and
11 it can also prevent the device from being wiped remotely.

12 Q. So it helps stop remote access of the phone; is that right?

13 A. That's correct.

14 Q. So like packing of the phone, right?

15 A. I guess you could say that.

16 Q. Could we look at GX1B204-13, please.

17 You remember being asked some questions about this?

18 A. I do.

19 Q. And you remember being asked to read I think it's at the
20 top of the page the name Brioni?

21 A. I do.

22 Q. You do?

23 A. I do.

24 Q. Now, pick any of these rows, you don't see any dates
25 associated with them, right?

O72BGUO2

Volchko - Cross

1 A. I do not.

2 Q. And that number that you read out \$719,489.55. You
3 remember reading that?

4 A. I do.

5 Q. You have no idea when that money was spent, right?

6 A. That's correct.

7 Q. Could we pull up GX1B125 please, H, I, L and M. I'm sorry.
8 My apologies. Could we do GX1B121C and D first.

9 You remember being asked about these?

10 A. I do.

11 Q. You have no idea when these photographs were taken, right?

12 A. Not from looking at the photographs.

13 Q. You don't know who any of the people in there are, right?

14 A. That's correct.

15 Q. You don't even know if this is actually a Brioni suit
16 place, right?

17 A. That's correct.

18 Q. It's just a photo of a man trying on a suit, right?

19 A. That's what it appears to be.

20 Q. Now could we do GXB125H, I, J, L and M.

21 You remember being asked some questions about these
22 photographs?

23 A. I do.

24 Q. They're photographs of men talking, right, fair to say?

25 A. That's what it appears to be.

072BGU02

Volchko - Cross

1 Q. Do you see the bottom two. You see there's an airplane in
2 the background?

3 A. That's correct.

4 Q. This was taken in an airport hanger, correct?

5 A. I'm not sure.

6 Q. Are you aware that these photos were of an interview that
7 occurred in 2018?

8 A. I'm not.

9 Q. Are you aware that 2018 is two years before the GTV private
10 placement?

11 A. I'm not.

12 Q. Are you aware that 2018 is two years before the farm loan
13 program?

14 A. I'm not.

15 Q. Are you aware that 2018 is two years before the launch of
16 G/Club?

17 A. I'm not.

18 Q. Are you aware that 2018 is nearly three years before the
19 launch of the Himalaya Exchange?

20 A. I'm not.

21 MR. KAMARAJU: No further questions, your Honor.

22 THE COURT: Redirect?

23 MR. FERGENSON: No redirect, your Honor.

24 THE COURT: You may step out.

25 (Witness excused)

O72BGU02

Volchko - Cross

1 THE COURT: The government may call its next witness.

2 MR. HORTON: Just something briefly from the podium,
3 your Honor. Your Honor, at this time the government intends to
4 play a video that's in evidence as GXVI151.

5 THE COURT: All right.

6 MR. HORTON: Your Honor, we have some technical issues
7 which we're working to resolve. It should be one moment.

8 THE COURT: Okay.

9 (Media played)

10 MR. HORTON: Thank you, your Honor. The United States
11 rests.

12 THE COURT: All righty. Would you please step up.

13 (Continued on next page)

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Volchko - Cross

1 (At the sidebar)

2 MS. SHROFF: We thought the day would never come.

3 THE COURT: Okay.

4 MR. KAMARAJU: At this time, your Honor, pursuant to
5 Federal Rule of Criminal Procedure 29, Mr. Guo ask for a
6 directed verdict of acquittal on the basis that the government
7 has failed to prove several elements of its case, including
8 Mr. Guo's fraudulent intent, materiality or misrepresentations
9 or alleged misrepresentations at issue. In addition in
10 connection with the money laundering counts as a result of
11 their failure to prove the underlying fraud counts, there's no
12 specified unlawful activity for criminally derived property.
13 And similarly, the government has failed to prove racketeering
14 conspiracy. I'm happy to address that further if your Honor
15 wants.

16 MR. FINKEL: Your Honor, as the Court is aware, the
17 defendant bears a heavy burden. As the Second Circuit has made
18 clear, a valid Rule 29 motion of all evidence and all
19 inferences must be drawn in the government's favor. Frankly, I
20 think your Honor's decision yesterday indicating motion pretty
21 much addresses that there is sufficient evidence for this case
22 to be brought to a jury. Happy to address any particular
23 arguments that defense counsel is ready to if the Court would
24 like.

25 THE COURT: The application is denied. May I tell the

1 jury that the defense is going to put on a case?

2 MS. SHROFF: Yes, your Honor. Your Honor, just under
3 Rule 29, the statute gives us seven days. We would ask for the
4 Court to give us additional time so that we consider what we
5 would like to put in, in a written submission. We can put
6 those timetables to the Court.

7 THE COURT: Yes.

8 MS. SHROFF: Thank you.

9 (Continued on next page)

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1 (In open court)

2 THE COURT: Members of the jury, the government has
3 rested and has finished presenting evidence, but that does not
4 mean that the case is over. The defense is going to put on a
5 case, and we will start that after your break. It's very
6 tempting now that the government has rested to start talking
7 about the case, but you can't. You can't do that until I tell
8 you that it's time, and that won't happen until after the
9 defense's finish its case. We have summations and my
10 instructions on the law. So remember that you're not allowed
11 to discuss the case amongst yourselves or with anyone else.
12 Don't permit anyone else to discuss the case in your presence.
13 Don't read, watch, or listen to anything from any source that
14 touches upon the subject matter of this case. We will resume
15 at noon.

16 THE LAW CLERK: Jury exiting.

17 (Jury not present)

18 THE COURT: Please be seated. Is there anything
19 before we break.

20 MR. KAMARAJU: Not from the defense.

21 MR. FERGENSON: Not from the government.

22 THE COURT: All righty then. We'll start again at
23 noon.

24 (Recess)

25

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1 (Jury not present)

2 THE COURT: Please be seated.

3 Mr. Kamaraju, is he—

4 MS. SHROFF: Good afternoon, your Honor. He isn't
5 here, but—

6 THE COURT: Oh. Has there been a decision with
7 respect to whether or not Mr. Guo will be taking the stand?

8 MR. SCHIRICK: There has not yet, your Honor.

9 THE COURT: Mr. Guo, do you understand that you have
10 the right to take the stand and testify in your own defense?

11 MS. SHROFF: Your Honor, may we just have a moment.

12 THE COURT: Yes.

13 MS. SHROFF: Thank you.

14 (Ms. Shroff conferring with the defendant)

15 MS. SHROFF: Thank you, your Honor.

16 THE COURT: So Mr. Guo, you understand that you have
17 the right to take the stand to testify in your own defense?

18 THE DEFENDANT: Yes.

19 THE COURT: And you're going to discuss that with your
20 attorneys thoroughly, and I am going to return to this question
21 about whether or not you're going to take the stand. Do you
22 understand?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: All righty. Let us have the jurors
25 brought in, please.

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Dragon - Direct

1 (Jury present)

2 THE COURT: Please be seated.

3 And the defense may call its first witness.

4 MR. SCHIRICK: Thank you, your Honor. The defense
5 calls Raymond Dragon.

6 (Witness sworn)

7 THE COURT: Would you please state your name and spell
8 it.

9 THE WITNESS: Yes. My name is Raymond Joseph Dragon.
10 That's R-A-Y-M-O-N-D, J-O-S-E-P-H, D-R-A-G-O-N.

11 THE COURT: You may inquire.

12 MR. SCHIRICK: Thank you, your Honor.

13 RAYMOND JOSEPH DRAGON,

14 called as a witness by the Defendant,

15 having been duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. SCHIRICK:

18 Q. Good afternoon, Mr. Dragon. Where are you currently
19 employed?

20 A. I am employed at Anchin, Block & Anchin, LLP.

21 Q. Okay. And what is Anchin, Block & Anchin?

22 A. Anchin, Block & Anchin is an accounting and consulting firm
23 based in New York City.

24 Q. Okay. Thank you. Mr. Dragon, where did you go to school?

25 A. I went to undergraduate college at Lehigh University, where

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1 I majored in international relations and graduated with high
2 honors; I have a master of business administration degree,
3 commonly referred to as an MBA, from the Kellogg School of
4 Management of Northwestern University; and I have a master's of
5 science degree in economics from the University of London.

6 Q. Okay. Now just returning to your current employment at
7 Anchin, Block, how long have you been with that firm?

8 A. I've been with Anchin for eight years.

9 Q. Okay. And what is your role at Anchin?

10 A. At Anchin, I'm the director of business and intellectual
11 property valuation.

12 Q. And how large is that group at Anchin?

13 A. The group is called our forensic litigation and valuation
14 services group, and it's approximately 20 people.

15 Q. And did I understand you correctly that you're the head of
16 this group?

17 A. I am the head of the valuation services. The overall head
18 of the group is Anthony Bracco.

19 Q. Okay. Now what do you do in the valuation services group;
20 what services do you provide?

21 A. I provide valuation of privately held companies, interests
22 in companies, and intellectual property.

23 Q. Okay. And prior to your time at Anchin, Block, do you have
24 other experience in valuation services?

25 A. Yes. I've used valuation services in a variety of roles.

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Dragon - Direct

1 I worked for an international bank in the mergers and
2 acquisitions area. I worked for a international trading
3 company, looking at their venture investments. All of these
4 jobs require the use of valuation skills.

5 Q. And for approximately how many years before you joined
6 Anchin did you work in those other roles that you just
7 described for us?

8 A. In addition to valuation consulting, my overall valuation
9 banking and investment experience is over 25 years.

10 Q. Okay. Now do you have any certifications in the field of
11 business valuation?

12 A. I do. I'm an accredited senior appraiser with the American
13 Society of Appraisers in the area of business valuation.

14 Q. And what does it mean to be a certified appraiser?

15 A. Membership in the American Society of Appraisers requires
16 that you complete a course of study on—specifically devoted to
17 valuing privately held businesses, that you have at least five
18 years of experience valuing privately held companies, and that
19 you submitted two peer-reviewed reports of business valuations
20 that the society reviewed and found acceptable.

21 Q. Okay. Now are you a member of any other trade associations
22 or professional groups related to business valuation?

23 A. Yes. I'm also a certified patent valuation analyst, and
24 I'm a member of the local New York City American Society of
25 Appraisers chapter.

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1 Q. Okay. Thank you for that description of your experience.

2 Now what have you been asked to do as part of this
3 case?

4 A. I've been asked to determine the value of the equity of GTV
5 Media Company.

6 Q. Okay. Now have you been compensated for your work on this
7 matter?

8 A. I have.

9 Q. Okay. And how?

10 A. I bill at an hourly rate, for my time.

11 Q. And what is that hourly rate?

12 A. My hourly rate is \$695 an hour.

13 Q. Okay. And approximately, to date, what have your total
14 fees been?

15 A. Approximately \$68,200.

16 Q. Okay. Now have you also been reimbursed for some of your
17 expenses?

18 A. Yes.

19 Q. And can you just describe those briefly for the jury.

20 A. Sure. I have driven in to Manhattan to testify to this
21 court area, I have parked my car, and I have also had bridge
22 tolls. So those all together—the toll is I believe, for New
23 York bridges, 17.63, the parking is about 30, and the—the
24 other component is—oh, the mileage is about 67 cents a mile.

25 Q. Okay. And is it the case that the defense team here has

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1 agreed to cover your travel costs that you just described?

2 A. Yes, it is.

3 Q. Okay. Now does your compensation here today depend in any
4 way on the outcome of this case?

5 A. No, it doesn't.

6 Q. Does your compensation depend on whether you testify a
7 certain way?

8 A. No, it doesn't.

9 Q. And before you were engaged on this matter, had you and I
10 ever worked together before?

11 A. No. This is the first time that we—I've ever been on a
12 case where you've been present.

13 Q. Okay. And how about any other member of the defense team,
14 have you ever worked with any member of the defense team before
15 this engagement?

16 A. No.

17 Q. Okay. And then how about Mr. Guo, have you ever done any
18 work for Mr. Guo before?

19 A. No.

20 Q. Okay. Now I'd just like to talk a bit about what materials
21 you reviewed in connection with your engagement. What
22 materials did you review prior to your testimony today?

23 A. I reviewed the April 20, 2020, private placement
24 memorandum; I reviewed valuation report from a consultant; I
25 reviewed company forecasts; I reviewed a consultant's

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1 forecast—

2 MR. FERGENSON: Your Honor, objection. It's not in
3 evidence.

4 THE COURT: Sustained.

5 Q. Okay. Apart from the forecasts that you were just
6 describing, can you please describe what other materials you
7 may have reviewed.

8 MR. FERGENSON: Same objection.

9 THE COURT: Sustained, to the extent they're not in
10 evidence.

11 MR. SCHIRICK: Your Honor, may we have a brief sidebar
12 on this, please.

13 THE COURT: Okay.

14 (Continued on next page)

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1 (At the sidebar)

2 MR. SCHIRICK: Your Honor, the way we understand the
3 Court's rulings is that the witness is permitted to review any
4 number of materials, even those materials that are not in
5 evidence, and at this point I'm simply asking him what he
6 reviewed. He's not relating any hearsay from those documents,
7 which of course we understand your Honor has ruled on. He's
8 simply describing to the jury what materials he's reviewed.

9 MR. FERGENSON: Those materials relate to portions of
10 his proposed opinions that the Court has excluded. So I don't
11 know why they would be relevant, particularly with reference to
12 the consulting report. That's the A&M report that your Honor
13 said cannot be part of his testimony. I think the comparator
14 companies is another example of what cannot be part of his
15 testimony. So I don't see how this is relevant at all, in
16 addition to not being evidence.

17 THE COURT: So are you referring to general materials,
18 not specific to this case?

19 MR. SCHIRICK: No, your Honor. We're referring to
20 materials that are specific to this case. But Mr. Fergenson
21 objected, your Honor sustained the objection when he listed
22 materials that I take it the government takes the position are,
23 you know, out of bounds based on the Court's rulings. I then
24 asked him, aside from those materials, have you reviewed
25 anything else, trying to—

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1 THE COURT: But I don't know what he knows. How do I
2 know what's been excluded? Does he know?

3 MR. SCHIRICK: I mean, aside from the materials that
4 the government objected to him testifying about, I asked what
5 else has he reviewed, so—

6 THE COURT: Yes, but I don't know that he can read the
7 government's mind. So I just don't want him to start talking
8 about something that's prohibited.

9 MR. SCHIRICK: Understood. He is aware that there are
10 other—I am representing to the Court there are other materials
11 that he's reviewed that have nothing to do with the materials
12 the government has objected to. That's all I'm trying to get
13 out.

14 THE COURT: Like what?

15 MR. SCHIRICK: He's reviewed a couple of stipulations
16 in the case that are relevant to his testimony, and he's
17 reviewed—there are other materials. It's escaping my mind at
18 this point, but there are other materials having nothing to do
19 with materials that the Court has excluded.

20 MR. FERGENSON: If he wants to just lead and say, did
21 you also review stipulations, that's fine, just to make this
22 faster.

23 MS. SHROFF: Or he can object and she can decide.

24 THE COURT: So there was a suggestion. Go ahead and
25 lead.

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1 MR. SCHIRICK: Okay. I'll take the Court up on it.

2 (In open court)

3 BY MR. SCHIRICK:

4 Q. Now, Mr. Dragon, did you also review other materials that
5 were provided by the defense to you in connection with your
6 preparation for testimony today?

7 A. I did.

8 Q. Okay. And did you review certain stipulations that were
9 entered into by the parties in this case?

10 A. I did.

11 Q. Okay. And were there other materials in addition to that
12 as well?

13 A. There were.

14 Q. Okay. Now did you perform a valuation analysis of GTV?

15 A. I did.

16 Q. Okay. Can you just briefly explain the methodology that
17 you used to the jury.

18 A. Yes. In valuation, I use what is called a market approach.

19 Q. Mr. Dragon, we're focused on the particular approaches that
20 have been the subject of recent discussions.

21 MR. FERGENSON: And your Honor, we would just move to
22 strike reference to the market approach.

23 THE COURT: Yes, that is stricken.

24 A. Okay. The methodology I used is called the backsolve
25 method.

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1 Q. Can you just explain to the jury briefly what that is.

2 A. Yes. The backsolve method is that—used to determine the
3 value of a company by looking at the value of a large
4 transaction in the company's shares.

5 MR. SCHIRICK: Okay. Your Honor, the defense offers
6 Mr. Dragon as an expert in business valuation.

7 THE COURT: Any objection?

8 MR. FERGENSON: No objection.

9 THE COURT: All right. So he is qualified as an
10 expert in business valuation.

11 MR. SCHIRICK: Thank you, your Honor.

12 BY MR. SCHIRICK:

13 Q. Mr. Dragon, what is a valuation analysis?

14 A. A valuation analysis is determining the value of a company
15 or its stock or a portion of its stock for various purposes, in
16 cases where the company is not publicly traded. With a
17 publicly traded company like, say, Ford Motor Company, I could
18 go to the New York Stock Exchange and see what the price of a
19 Ford share is today, and then I could multiply that by the
20 number of Ford shares outstanding and come to the value of the
21 stock of Ford Motor Company. A valuation expert is called in
22 when the company is not publicly traded.

23 Q. Okay. Thank you for that.

24 And can you just explain to us why a valuation
25 analysis may be performed.

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1 A. Sure. The valuation analyses are performed for a variety
2 of reasons. I mean, one of them is if—say I have three
3 partners in a business and one of them is getting old and wants
4 to retire, and we want to—the other two partners want to buy
5 him out. So the question is, what's a fair price for his
6 portion of the company. That would be one example.

7 A second example would be for estate and gift tax
8 purposes. The IRS requires that if I gift, say, 25 percent of
9 a company I own to my children, that I have that valued so that
10 the IRS knows the value that was given to the children for
11 estate and gift tax purposes.

12 Another reason valuations are performed is for
13 financial reporting. If a company is a company getting an
14 audit, according to generally accepted accounting principles,
15 let's say this company has an investment in another company
16 that's private. The generally accepted accounting
17 principles—which are often referred to as GAAP, you may have
18 heard that term—are that this investment has to be valued at
19 its fair value, so in order for the financial statements to be
20 accurate. So in that case, the investment that one company has
21 in another company would be valued. So that's another example.

22 Another example of valuation being used is in divorce
23 cases under marital law. You have to, under marital law,
24 determine the value of a business, which is often a couple's
25 biggest asset, for equitable distribution and also for alimony

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1 purposes; how much does that business throw off his income.

2 And so a valuation expert will be called in to analyze the
3 company, determine its income, and determine the value of the
4 company.

5 And then the final area or another area that valuation
6 is used is in the context of litigation where there's a dispute
7 over valuation. The valuation expert is called in to determine
8 the value of the company in question.

9 Q. Okay. Thank you for that.

10 Now does valuation also arise as part of fundraising
11 for private companies?

12 A. It does.

13 Q. Okay. And does that include private placements?

14 A. Yes.

15 Q. Okay.

16 A. Before—

17 Q. I'm sorry. Go ahead.

18 A. When a company is planning a fundraising, they need to know
19 what to—price to offer the shares they're going to sell at.

20 So that could be a private placement or it could be an initial
21 public offering, and the people working on the offering will
22 determine a valuation for the company and the shares being
23 offered.

24 Q. Okay. Now did you review documents relating to the GTV's
25 private placement?

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1 A. I did.

2 MR. SCHIRICK: Okay. If we could please bring up what
3 is in evidence GX VK-5.

4 Does everybody have it? Okay.

5 Q. Now, Mr. Dragon, are you familiar with this document that's
6 displayed on your screen?

7 A. I am.

8 Q. Okay. And is this one of the documents you've reviewed in
9 preparation for your testimony?

10 A. That's correct.

11 Q. Okay. Can you just explain briefly to the jury what this
12 document is.

13 A. Sure. This is the GTV Media Group, Inc. Private Placement
14 Memorandum dated April 20, 2020.

15 Q. Okay. And is it fair to say that a private placement
16 memorandum is sometimes referred to by the acronym PPM?

17 A. Yes, that's the case.

18 Q. And sometimes by the acronym CIM, for Confidential
19 Information Memorandum?

20 A. That could be used as well.

21 Q. Okay. Now are private placements common transactions?

22 A. They're very common. Private placements are done very
23 regularly.

24 Q. Okay. And why do companies offer shares of their stocks,
25 stock to investors in private placements?

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1 MR. FERGENSON: Objection.

2 THE COURT: You may answer.

3 A. Investors offer shares of their stock to—or companies
4 offer shares of their stock to investors so that they can raise
5 capital to expand and grow their business.

6 Q. Okay. And is PPM or CIM a general term that's used in the
7 industry?

8 A. PPM is a commonly used term, and CIM is used as well,
9 although less frequently.

10 Q. Okay. If we could please go to page 2 of this exhibit in
11 evidence, GX VK5.

12 And Mr. Dragon, I'd just like to focus you on the top
13 of this document, the first paragraph, under the heading
14 Confidentiality and Disclaimer. Do you see that?

15 A. I do.

16 Q. Okay. And if you could just read that aloud, please.

17 A. It says, "Confidentiality and Disclaimer."

18 "This confidential information memorandum is intended
19 for discussion purposes with select parties interested in
20 evaluating an opportunity to invest capital into GTV Media
21 group, Inc. ('the Company' or 'GTV Media'). GTV Media is a
22 newly formed company incorporated in April 2020. All
23 descriptions of the business of GTV Media in this document
24 refers to business GTV Media intends to do in the future.
25 There is no guarantee that GTV Media will enter into those

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1 identified businesses or that GTV Media will be successful in
2 those businesses."

3 Q. Now, Mr. Dragon, did you consider this language in
4 conducting your valuation analysis of GTV?

5 A. I did.

6 Q. And what stage of development was GTV at at the time?

7 A. GTV Media was what we would call a startup company. A
8 startup company has a business plan, has looked at the markets
9 it intends to go into, has put together a management team, but
10 it hasn't yet raised money or commenced operations.

11 Q. Okay. Now is it unusual for a company in the startup phase
12 you just described to seek investment shortly after
13 incorporating?

14 MR. FERGENSON: Objection.

15 THE COURT: Overruled. You may answer.

16 A. No, it's not unusual at all. In fact, it's typical for
17 companies to go and seek capital because they need the capital
18 to develop their business.

19 Q. Okay. Now with an early-stage startup company, what ways
20 are there of valuing such a company before it goes into
21 business?

22 A. In valuing a company like this, you can consider a variety
23 of things—the size of the markets, the potential customers,
24 the products and services that are going to be offered, the
25 potential interest in these products and services, if there's

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1 forecasts available, forecasts or projections for the business,
2 and overall, you know, is this a—an industry that's growing,
3 is this where other companies have been successful, and if it
4 is, you know, then potentially is this a good business
5 opportunity.

6 Q. Okay. And because a startup company doesn't yet have any
7 historical operating record, does that prevent a business
8 valuation from being performed?

9 MR. FERGENSON: Object to leading.

10 THE COURT: Overruled. You may go ahead.

11 A. No, it doesn't prevent a business valuation from being
12 done. In fact, there is a whole industry of people called
13 venture capitalists whose job it is to look at business plans
14 and new business opportunities and decide whether they want to
15 invest people's money in them.

16 Q. Okay. Thank you for that.

17 MR. SCHIRICK: If we could please, Jorge, just turn to
18 page 6 of this document.

19 And please blow up Section 1.3 entitled Goals.

20 Q. Now, Mr. Dragon, could you please read this, these four
21 bullets.

22 A. Yes. "Section 1.3 Goals."

23 "To create a unique and the only news-focused social
24 media platform revealing the truth about China;

25 "To build an online business trading platform, free of

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1 control by the Chinese Communist Party, focused on the
2 1.4 billion Chinese people for their personal and business
3 transactions;

4 "To be the safest platform to advocate for truth,
5 freedom of speech and religion, justice, human rights, and
6 democracy in China; and

7 "To be a bridge between China and the western world,
8 and allowing for free and open communication, business
9 transactions and trading, uncensored by the Chinese
10 government."

11 Q. Thank you. Did you consider this language in conducting
12 your valuation analysis?

13 A. I did.

14 Q. Okay. And how did this impact your valuation analysis?

15 MR. FERGENSON: Objection, your Honor. It's outside
16 the scope of the Court's ruling.

17 THE COURT: I'm going to permit the question.

18 A. Could you repeat the question.

19 Q. Yeah, sure, of course. The question is: How did this
20 Section 1.3 that you just reviewed impact your valuation
21 analysis?

22 A. As part of my analysis, I assess the potential market for a
23 business opportunity and my—

24 MR. FERGENSON: Objection and move to strike, your
25 Honor. This is outside the scope. And we may need a sidebar.

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1 THE COURT: All righty. Step up.

2 (At the sidebar)

3 MR. FERGENSON: Your Honor permitted him to testify
4 about the backsolve method, which is essentially they sold
5 shares at 1 dollar per share, they issued 2 billion shares, a
6 lot of people bought at that price, therefore, its reasonable
7 valuation is \$2 billion. He's just talking about the market.
8 Your Honor excluded market approach. This is not the backsolve
9 method. He should not be allowed to offer expert testimony
10 about this. It's way beyond the scope. And it should be
11 stricken.

12 MR. SCHIRICK: Your Honor, I think that analysis is a
13 touch facile. Just because he used the word "market," doesn't
14 mean that he was using or referring to the market approach to
15 valuation, which is entirely different from just talking
16 generically about the market that exists for a company's goods
17 or services. As your Honor knows, the market approach to
18 valuation has to deal with selecting comparator companies and
19 looking at their revenues and looking at their profits and then
20 trying to derive from that information a value based on other
21 data points in the market. That is not at all what he's
22 talking about. Now what he's talking about are qualitative
23 factors that went into his analysis and thinking on the
24 valuation. And that goes into whether or not the backsolve
25 method, when it's applied, is a logical way to check a

1 company's value by using the data points that the Court has
2 already approved as being a valid method of assessing
3 valuation, and he's got to be able to testify to these
4 qualitative areas that he took into consideration. The
5 government didn't move on it. There's no order excluding these
6 qualitative factors.

7 THE COURT: So I think this is general background
8 information that is relevant to any valuation of a company, not
9 so specific as to the methods that I've excluded.

10 MR. SCHIRICK: Thank you, your Honor.

11 MR. FERGENSON: I would say, your Honor, it seems like
12 this just doesn't relate to the backsolve method he employed,
13 so we're worried that we don't know how he's going to answer
14 these questions of "what did you think about in valuing the
15 company." We should just get to the backsolve he actually did,
16 which your Honor ruled was reliable, and not the things that
17 your Honor excluded as unreliable. And we did move on it, and
18 the Court excluded it.

19 THE COURT: Do you have any more questions about the
20 market?

21 MR. SCHIRICK: We're just going through his—he's
22 looking at the PPM, he's looking at the CIM, which is a key
23 document. That's part of his analysis. And I'm just asking
24 him, did you rely on this, what did you take from this, that's
25 all. That's it. I mean, it's—

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1 THE COURT: What else are you going to ask him?

2 MR. SCHIRICK: There's a handful of other points in
3 this PPM that we're going to go through, and that's really it.
4 And it goes to your point, your Honor's point. This is
5 background. It's all relevant to the background of valuation.

6 THE COURT: How many questions?

7 MR. SCHIRICK: Let me just count.

8 MR. FERGENSON: In the PPM is the offering of
9 \$2 billion shares and 1 dollar a share, and we assumed that was
10 what they were going to go to with the PPM, not other stuff
11 talking about things that are not the backsolve method.
12 Otherwise we would have raised this objection in the morning
13 before your Honor.

14 MR. SCHIRICK: Well, there are probably six or seven
15 different things I would like to point him to that are all—

16 THE COURT: Tell me what you want to point him to.

17 MR. SCHIRICK: Sure.

18 The section, just to be clear for the record, is
19 labeled Goals, right? Goals of the company. That's what we're
20 questioning him about now. The next section is Plan. The next
21 section is Proposed Transaction, which describes the shares
22 that are going to be sold. The next is the Summary of
23 Investment Terms. Risk Factors. The fact that the company has
24 no operating history. The fact that the company's management
25 has broad discretion. The fact that the company doesn't expect

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1 to gain any dividends. And that's it.

2 MR. FERGENSON: Your Honor, he is not an expert on any
3 of those things. He's reading a document as an expert. It's
4 improper expert testimony. They should go to what he actually
5 did as an expert. This is totally improper. You can't call an
6 expert to bolster him reading a document that he has no
7 personal knowledge of as if it were—to bolster it, and it
8 violates the Court's Daubert order, orders.

9 MR. SCHIRICK: We completely disagree, your Honor.
10 This is a foundational document. It is the offering memorandum
11 for the transaction that he is—may I finish, please.

12 MR. FERGENSON: Yes, of course. I am waiting.

13 MR. SCHIRICK: I didn't interrupt you.

14 It's the foundational document for this transaction
15 that is obviously an enormous issue in this case, and he's got
16 to be allowed to explain what he took into consideration. This
17 document is in evidence, right? He's got to be allowed to say
18 what he took into consideration, and reading factors that go to
19 all of the things that I just read, and it has nothing to do
20 with the market approach or the income approach to valuation,
21 your Honor. It has absolutely nothing to do with it. We're
22 not asking for him to talk about comparator companies. We're
23 not asking to talk about the projections. The Court excluded
24 discussing the Alvarez and Marsal report. We're not going
25 anywhere near it. That is excluded. This is merely background

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1 to help inform the jury as to what he relied on in arriving at
2 his opinion. Otherwise there's no rule that says I need to
3 stand an expert up and he just spits out his opinion and it's
4 over. I have to be allowed to provide some context for it.

5 MR. FERGENSON: Of course he can talk about what goes
6 to that opinion. None of this goes to his actual opinion.

7 MR. SCHIRICK: That's your view, not his. He hasn't
8 even testified to it yet.

9 MR. FERGENSON: They qualified this person as an
10 expert, and now they're trying to use that expertise, clearly
11 in violation of the principles of the Daubert case, to bolster
12 stuff he has no idea about, he's not offering any expert
13 opinion about, he has no personal knowledge of, and he's going
14 to say, yeah, no, that's totally normal, this is—this is—

15 THE COURT: You can ask, did you consider the offering
16 memo with respect to, and then just hit the topics without
17 going through the details, not reading from it, just ask
18 whether he considered those, the plan, etc.

19 MR. SCHIRICK: Okay. In that context, your Honor, may
20 I be permitted to lead so that I can summarize what those
21 topics are.

22 THE COURT: No. No. It's just the general topics.

23 MR. SCHIRICK: Okay. All right. Well, I'm happy to
24 give it a shot. I think without being able to ask a somewhat
25 leading question, it's going to be difficult for me to do

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1 summary, but I'll do my best.

2 THE COURT: Well, you can lead to the extent that you
3 can say, did you consider the business plan, that sort of
4 general kind of a question.

5 MR. SCHIRICK: Sure. That was my thought, your Honor,
6 to some extent. Thank you.

7 THE COURT: All right.

8 (Continued on next page)

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1 (In open court)

2 THE COURT: Go ahead.

3 MR. SCHIRICK: Thank you, your Honor.

4 BY MR. SCHIRICK:

5 Q. Now, Mr. Dragon, we've just reviewed Section 1.3 labeled
6 Goals, which is highlighted on everyone's screen.

7 Now is it fair to say that this impacted your
8 valuation analysis?

9 MR. FERGENSON: Asked and answered.

10 THE COURT: Sustained.

11 MR. SCHIRICK: I'm not sure we ever got an answer.

12 THE COURT: I'll permit the answer. Go ahead.

13 MR. SCHIRICK: Thank you, Judge.

14 A. Yes, I considered this.

15 Q. Can you explain, please.

16 MR. FERGENSON: Objection.

17 THE COURT: Sustained.

18 MR. SCHIRICK: Okay. If we could please go to page 7.

19 And if we can zoom in on the bottom, Section 2.1, titled "Our
20 plan to allow the Chinese people to communicate freely with the
21 western world."

22 BY MR. SCHIRICK:

23 Q. Do you see that, Mr. Dragon?

24 A. I do.

25 Q. Did you consider this language in conducting your valuation

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1 analysis?

2 A. I did.

3 Q. Okay. And how did this impact your analysis?

4 MR. FERGENSON: Objection.

5 THE COURT: Sustained.

6 MR. SCHIRICK: Your Honor, can we return to sidebar
7 briefly, please.

8 (Continued on next page)

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1 (At the sidebar)

2 THE COURT: Mr. Schirick.

3 MR. SCHIRICK: Yes, thank you. I just want to bring
4 to the Court's attention, this is your Honor's ruling from
5 May 17, 2024, that reads, in relevant part, "The Court shall
6 not preclude Dragon's qualitative testimony that, broadly, the
7 CCP censorship could create a market that could bolster a
8 company's value." But you precluded him testifying about the
9 related data. And that's precisely the line I'm trying to walk
10 here, your Honor.

11 MR. FERGENSON: And your Honor, if I may just, the
12 next sentence is about quantitative impact, and he cannot offer
13 any testimony about that, and the question was, did that impact
14 your valuation analysis, which is going to be a quantitative
15 analysis.

16 MR. SCHIRICK: I'm sorry. That's completely
17 misconstruing not only what we just all read together but it
18 misconstrues his testimony. The first sentence says that the
19 Court is not going to preclude qualitative testimony. And this
20 is all qualitative, not quantitative. I haven't asked him
21 about any numbers, your Honor.

22 THE COURT: Can I take a look at that.

23 So it says, "The Court will not preclude Dragon's
24 qualitative testimony that, broadly, CCP censorship could
25 create a market niche that could bolster a company's value, but

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1 as Dragon has not offered any data, he shall not be permitted
2 to testify as to any quantitative 'impact of the censorship on
3 the company's value.'"

4 MR. SCHIRICK: We haven't asked him about any numbers,
5 your Honor.

6 THE COURT: His opinion now is about a number, and so
7 the only logical conclusion that one can draw when you ask what
8 is the impact on his conclusion about the numerical valuation—

9 MR. SCHIRICK: I mean, respectfully, your Honor, I
10 have not asked that question.

11 THE COURT: I know that. I know you haven't.

12 MR. SCHIRICK: I merely asked whether it impacted his
13 valuation analysis, and his thinking as to valuation, right?

14 THE COURT: So that goes to the number he puts to the
15 value of the company.

16 I'm going to permit you to ask whether he's considered
17 these subject matters, but I'm not permitting you to ask the
18 impact question. We're done.

19 (Continued on next page)

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Dragon - Direct

1 (In open court)

2 THE COURT: Go ahead.

3 MR. SCHIRICK: Thank you.

4 THE COURT: Sustained.

5 MR. SCHIRICK: Now if we could please go to page 9.

6 And if we could focus in on paragraph 3, Proposed Transaction.

7 BY MR. SCHIRICK:

8 Q. Now, Mr. Dragon, do you see this paragraph 3 that is on
9 your screen?

10 A. I do.

11 MR. SCHIRICK: Okay. And if we could just scroll down
12 to the chart that's on the top of the following page.

13 Q. And Mr. Dragon, did you consider this in conducting your
14 valuation analysis?

15 A. I did.

16 Q. Okay. And Mr. Dragon, to your understanding, based on this
17 document, how many shares were being offered for sale in the
18 GTV Private Placement?

19 A. The offering was for between 20 million and 200 million
20 shares.

21 Q. And for what percentage of the company did that represent?

22 A. 10 percent of the company if it was 200 million shares.

23 Q. And if you could just explain to the jury, in your
24 understanding, who owned the remainder of the shares, both
25 before and after the transaction.

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1 A. The remaining 1.8 billion shares were owned by a company
2 called Saraca Media Group Incorporated.

3 Q. And that was post-private placement, correct?

4 A. That was both pre and post.

5 Q. Okay. Well, is there a difference between before the
6 transaction and after the transaction?

7 A. Yes. Before the transaction the company had what we called
8 a pre-money valuation. The way to think of this is, if I had a
9 company that was worth \$5 million and then I raised another
10 \$1 million, pre-money the company would be worth 5 million and
11 post-money it would be worth 5 million plus the \$1 million I
12 raised, for a total of 6 million.

13 MR. SCHIRICK: Okay. Now if we could go to page 16 of
14 this document, please.

15 And focusing in on paragraph 7, Summary of Investment
16 Terms.

17 Q. Now did you consider this language in conducting your
18 valuation analysis?

19 A. Yes, I did.

20 Q. Okay. And can you explain what the financing amount would
21 be as part of this transaction?

22 A. Yes. The amount to be raised could be between 20 million
23 and \$200 million. As I understand it, the entire new shares of
24 200 million were sold, so \$200 million was raised.

25 MR. SCHIRICK: Okay. Now if we could please go to

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1 page 18, and just blow up paragraph 9 entitled Risk Factors.

2 Q. Now, Mr. Dragon, did you consider this language under Risk
3 Factors as part of your valuation analysis?

4 A. Yes, I considered the risk factors as—language here as
5 part of my analysis.

6 Q. Okay. And did you consider the fact that GTV was—

7 MR. FERGENSON: Objection to leading.

8 THE COURT: I did not hear the question.

9 Q. Did you consider that the investment in GTV was described
10 as highly speculative as part of your analysis?

11 THE COURT: So, Mr. Schirick, the general subject
12 matters, not the specific language.

13 MR. SCHIRICK: Sure, your Honor. I didn't address any
14 numbers. It was the general subject matter.

15 THE COURT: The risk factors. That's the is general
16 subject matter.

17 MR. SCHIRICK: If we could go to page 19, please.

18 BY MR. SCHIRICK:

19 Q. And this language at the top of page 19, did you consider
20 that as well?

21 A. I did.

22 MR. SCHIRICK: Okay. Now if we can go to page 20.

23 And at the top, if we could please blow up that first
24 bolded sentence in the top paragraph.

25 Q. Now what does this paragraph describe?

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1 MR. FERGENSON: Objection, your Honor.

2 THE COURT: All righty. So we're going to stick to
3 the general subject matters, the headings.

4 MR. SCHIRICK: Certainly. The general—

5 Q. What is the general subject matter of this paragraph?

6 THE COURT: Mr. Schirick, I know you know what I mean.

7 A. The general subject matter is that—

8 THE COURT: No, no, no, no.

9 Q. Hold on. I'm going to give you another question.

10 THE COURT: He's going to give you a different
11 question.

12 Q. Is it fair to say this paragraph describes the discretion
13 that the company's management has—

14 THE COURT: Okay, Mr. Schirick. The heading. Just
15 the general subject matter.

16 MR. SCHIRICK: Your Honor, can we have another
17 sidebar, please.

18 THE COURT: So it's separated into sections, which I
19 believe are numbered. Those numbered sections, those are the
20 general headings that I'm referring to, not the subheadings.

21 MR. SCHIRICK: Your Honor, I believe this is a
22 heading.

23 THE COURT: I think this is a subheading.

24 MR. SCHIRICK: Thank you, your Honor.

25 BY MR. SCHIRICK:

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1 Q. This subheading is under Risk Factors; is that fair?

2 THE COURT: Well, my point is that you're to stick to
3 the headings and not go into the subheadings.

4 MR. SCHIRICK: And my question was just to confirm
5 that this is under the heading that your Honor is referring to,
6 Risk Factors.

7 MR. FERGENSON: We'll stipulate it's underneath the
8 Risk Factors top heading, your Honor.

9 THE COURT: So this is one of the subheadings, and the
10 government has stipulated to that. Now you can ask about that
11 general overarching numbered heading but not the subheadings.

12 MR. SCHIRICK: Okay.

13 BY MR. SCHIRICK:

14 Q. The risk factors listed here, is this among the risk
15 factors listed?

16 MR. FERGENSON: Your Honor, can we—objection.

17 THE COURT: All right. So, sir, did you consider the
18 risk factors that were listed?

19 THE WITNESS: I did, your Honor.

20 THE COURT: Okay. Next question.

21 MR. SCHIRICK: If we can go to page 25, please.

22 And if we can blow up, on the bottom of the page, the
23 bolded portion.

24 MR. FERGENSON: Your Honor, this is still subheadings.

25 THE COURT: Would you like me to ask the questions?

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MR. SCHIRICK: No. Can we have another sidebar,
please.

THE COURT: Okay.

(Continued on next page)

1 (At the sidebar)

2 THE COURT: So Mr. Schirick, you're an incredibly
3 smart person. I know that you understand what I'm saying. But
4 you're resisting me, and I want you to stop.

5 MR. SCHIRICK: Respectfully, your Honor, I truly don't
6 understand what the line is that we're drawing between
7 setting—

8 THE COURT: Let me make it very clear. So you have
9 these numbered sections, and you can ask about what is in that
10 heading that follows the number. None of the text, none of the
11 subheadings. So if it's Risk Factors, you would say: Did you
12 consider the risk factors listed? Period.

13 MR. SCHIRICK: Your Honor, I think—I'm trying to
14 understand the difference between just asking about a
15 subheading entitled Risk Factors and the bolded portions which
16 actually list the risk factors, and what the distinction is
17 being between being able to elicit testimony about a heading
18 that says Risk Factors and the substantive risk factors.

19 THE COURT: Well, because, Mr. Schirick—I know you
20 know the answer—the subheadings are more specific than the
21 general heading. I know that you know this.

22 MR. SCHIRICK: And I'm just trying to understand for
23 my purpose. Frankly, your Honor, for the balance of the
24 questioning in this case, I want to make sure that I'm adhering
25 to the Court's ruling and that I understand. Am I only

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1 permitted to ask about headings in certain documents?

2 THE COURT: Not in certain documents; in this
3 document. You're going through the headings in this document.
4 And they're general categories, and following the general
5 categories, there's more specific language. It's the specific
6 subheadings and the paragraphs that you're not to go into, just
7 the general categories.

8 MR. SCHIRICK: Okay. And I just want to make sure I
9 understand. The reason that I'm not permitted to ask about the
10 specific risk factors is because that is somehow quantitative
11 as opposed to qualitative?

12 THE COURT: So you want to ask him about the impact
13 that these representations had on him, and he's here to give us
14 a number, and so necessarily the impact is about drawing this
15 conclusion about the valuation, the number, and so that's where
16 I'm not letting you go.

17 MR. SCHIRICK: Okay. And my final question—and I
18 appreciate your Honor's indulgence—if I'm at some point
19 permitted to ask about the qualitative factors that relate to
20 the portion of your Honor's ruling that we read before, am I
21 not?

22 THE COURT: We are here. These are the qualitative
23 factors. You can't get into them. You can't have him
24 elaborate on it.

25 MR. SCHIRICK: Okay. I understood the Court's ruling

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1 to permit us to discuss with this witness the qualitative
2 factors that went to the size of the market or the potential
3 market, and that's where I find it, your Honor—to be clear,
4 that was our understanding of the Court's ruling. I believe
5 that's what the text of the ruling said. So I'm trying to
6 figure out how I'm permitted to do that within the confines of
7 what your Honor just described.

8 THE COURT: So now we're moving away from this
9 document to what?

10 MR. SCHIRICK: No. The language in this document is
11 relevant to that, to the market, the size of the market.

12 THE COURT: So I'm just going to take you back to
13 where I started. You can ask questions about these general
14 categories without going into the impact, without having him
15 elaborate on the language in the subheadings or in the text.

16 MR. SCHIRICK: Okay. Would I be permitted to ask, for
17 example, on the size of the market issue, whether language in
18 this document—where it says there are 1.4 billion Chinese
19 people who are interested in the content, can I ask specific
20 questions about that or am I not permitted to ask specific
21 questions about that?

22 THE COURT: No, no specific questions about that.

23 MR. FERGENSON: And your Honor, he's asked about the
24 risk factor thing. I assume we're going to move on to a
25 different numbered paragraph heading. He asked about it many

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1 times.

2 THE COURT: Okay. We are. I know that we are.

3 MR. SCHIRICK: Yes. Just for the record, your Honor,
4 you know, this seems to me to be inconsistent with our
5 understanding of the Court's ruling. We understand the Court's
6 ruling now. And we will be guided accordingly.

7 THE COURT: Okay.

8 (Continued on next page)

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Dragon - Direct

1 (In open court)

2 BY MR. SCHIRICK:

3 Q. Okay. Mr. Dragon, the paragraph at the bottom of this
4 page, the second bolded portion, to be clear, is that something
5 that—

6 MR. FERGENSON: Objection, your Honor.

7 Q. —you took into consideration?

8 THE COURT: So just stick to the numbered headings.

9 MR. SCHIRICK: Understood, your Honor.

10 Let's move to—we can take this document down.

11 Q. Now, Mr. Dragon, returning to the private placement, what
12 is your understanding of what happened in the GTV Private
13 Placement?

14 A. The company sought to raise \$200 million by selling
15 200 million shares at a dollar a share, and these would be new
16 shares that did not exist before in GTV Media, and they sold
17 the entire allotment of those shares.

18 Q. Okay. And so it was a successful fundraise; fair to say?

19 A. Yes.

20 Q. Okay. Now, Mr. Dragon, based on your review of the
21 materials that you described before, including the private
22 placement memo that we just reviewed, did you reach a
23 conclusion about the valuation of GTV?

24 A. I did.

25 Q. Okay. And what valuation method did you apply to reach

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1 that conclusion?

2 A. I applied what's called the backsolve method. That's a
3 method where you look at a transaction in the company's stock
4 and determine if it's a good indicator of value of the entire
5 company.

6 Q. Okay. And is that a valuation, a methodology that looks at
7 the placement of the company's securities?

8 A. Yes. That's usually—there's some sort of transaction in
9 the company's securities, so a placement of the company's
10 securities would be a transaction in the company's securities.
11 They sold 200 million shares.

12 Q. Okay. And why is the backsolve method a valid valuation
13 methodology?

14 A. The backsolve method for—is actually considered one of the
15 best valuation methodologies. The reason it's valid is it is
16 determining the value of the company by looking at the demand
17 and—for securities in the company, so that if, for example,
18 you sold 10 percent of the company for 200 million, then that
19 would imply that the value of the total company is 2 billion.

20 Q. Okay. And why is that validation that you just described
21 important?

22 A. It's very important, when you look at a backsolve
23 transaction, you put it to what I would call a three-prong
24 test.

25 The first thing you look at is, was it for a large

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Dragon - Cross

1 amount of money. If I only sold one share in the company,
2 whether it was sold for a dollar or \$20, that wouldn't really
3 tell you much about the value. However, here we sold
4 200 million shares in the company and so that's a very
5 significant transaction in terms of number of shares.

6 The second thing that makes—the second test is, was
7 this for a significant dollar amount. If we sold a lot of
8 shares but they were for just a fraction of a penny and the
9 overall money raised was only \$2 million, that wouldn't tell us
10 much about the value of a \$2 billion company. However, here,
11 we sold shares equal to \$200 million worth of value, and that
12 is a large amount of money.

13 The third prong of the three-prong test is, was there
14 a lot of people interested in the transaction. At the price
15 the shares were being offered, were lots of people interested
16 in investing in this company, after they went and did their own
17 research and came to a conclusion about whether or not this was
18 a good investment. And we know that there was over 5,000
19 investors in this company, which is a significant number of
20 investors.

21 Q. Now ultimately, Mr. Dragon, did you arrive at a conclusion
22 about the value of GTV at the end of its private placement?

23 A. I did.

24 Q. And what was that conclusion?

25 A. My conclusion was that the equity of GTV, all of its common

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Dragon - Cross

1 stock, the—was worth \$2 billion.

2 MR. SCHIRICK: Thank you, your Honor. No further
3 questions at this time.

4 THE COURT: Cross-examination.

5 MR. FERGENSON: Thank you, your Honor.

6 CROSS EXAMINATION

7 BY MR. FERGENSON:

8 Q. Good afternoon, Mr. Dragon.

9 A. Good afternoon.

10 Q. I'm one of the prosecutors on the case. I have some
11 questions for you.

12 A. Okay.

13 Q. Now you were testifying as an expert in valuation, right?

14 A. That's correct.

15 Q. And Mr. Schirick had you read a bunch of lines from the
16 PPM. Do you recall that?

17 A. I do.

18 Q. Are you an expert in reading documents?

19 MR. SCHIRICK: Objection.

20 THE COURT: Overruled. You can answer.

21 A. I read financial documents daily as part of doing my job,
22 yes.

23 Q. And you're not offering any expert opinion on reading what
24 a document says, correct?

25 MR. SCHIRICK: Objection, your Honor. It's a really—

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Dragon - Cross

1 THE COURT: I don't understand the question.

2 Q. You didn't have any personal involvement in the PPM,
3 correct?

4 A. I was not involved in creating the PPM, that's correct.

5 Q. And you didn't have any personal involvement in the
6 fundraising, correct?

7 A. I did not have any involvement in the fundraising either.

8 Q. Now what you did do is offer an opinion using the backsolve
9 method, correct?

10 A. That's correct.

11 Q. And the backsolve method has a few inputs that are
12 relevant; fair to say?

13 A. There's things you look at, yes. I listed them.

14 Q. And so it's fair to say there's a few inputs that are
15 relevant?

16 MR. SCHIRICK: Asked and answered.

17 THE COURT: Sustained. Go ahead.

18 Q. One of the inputs is investor demand. You said demand on
19 direct, correct?

20 A. That's correct.

21 Q. And demand depends on the investor views of the value of a
22 company's shares, right?

23 A. That's part of what creates demand, yes.

24 Q. And for GTV, thousands of investors paid 1 dollar a share,
25 right?

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Dragon - Cross

1 A. That's correct.

2 Q. And the total amount paid by the investors was significant,
3 right?

4 A. It was \$200 million, in new shares.

5 Q. And you said that was a, you know, significant amount; is
6 that fair?

7 A. That's correct.

8 Q. And so there was also a large number of investors, the
9 number of investors was significant; fair to say?

10 A. The number of investors was significant; over 5,000.

11 Q. And so your opinion essentially is that valuing GTV shares
12 at 1 dollar per share is a reasonable valuation; is that fair?

13 A. That's correct.

14 Q. And since there were 2 billion shares, a \$2 billion
15 valuation for GTV is also reasonable; is that fair?

16 A. My conclusion was the company was worth \$2 billion,
17 correct.

18 Q. Now this method depends on the investors' assessment of the
19 company, correct?

20 A. That's correct.

21 Q. And it depends on how the investors assess the company's
22 value, correct?

23 A. That's correct.

24 Q. And for this method to be accurate, the investors have to
25 accurately assess the company's value, correct?

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Dragon - Cross

1 MR. SCHIRICK: Objection.

2 THE COURT: Overruled. You may answer.

3 A. In a marketplace, you're going to have numerous people look
4 at this. Some people assess it and determine that it is a
5 worthwhile investment; other people can look at it and
6 determine that it's not. So that overall, you have a supply of
7 shares, and the demand is then met by the people who, after
8 assessing the investment, the industry, how other companies may
9 have done in this industry, decided that this was a good
10 investment and that the price that the shares was being offered
11 at was a fair price.

12 Q. I'm talking about the people that actually bought the
13 shares, okay? Do you understand that?

14 A. Yes, I understand that.

15 Q. Okay. So the people that actually bought the shares, the
16 valuation by them is the basis for your opinion; fair to say?

17 MR. SCHIRICK: Objection. Form.

18 THE COURT: Overruled. You may answer.

19 A. The—my opinion is based on the overall transaction, all
20 the people who bought shares and all the people who looked at
21 it, and that is how you come to the conclusion that 10 percent
22 of the company was worth 200 million, so therefore, a hundred
23 percent of the company was worth 2 billion.

24 Q. But I just want to be clear. Do you agree with me that
25 part of the basis for your opinion is the investors who

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1 actually bought the shares at 1 dollar?

2 A. Yes, that's part of the basis of my opinion.

3 Q. And if those investors had a misconception about the value
4 of the shares, your method would incorporate that
5 misconception, correct?

6 MR. SCHIRICK: Objection. Objection.

7 THE COURT: Overruled. You may answer.

8 Q. If those investors had a misconception about the value of
9 GTV's shares, your method would incorporate that misconception;
10 fair to say?

11 MR. SCHIRICK: Objection. Asked and answered.

12 THE COURT: Overruled. You may answer.

13 A. Okay. Well, the way that supply and demand works in the
14 market is each investor comes to their own conclusion as to
15 what the opinion was, and those who came to the conclusion that
16 this was a good investment at this price bought the shares.

17 MR. FERGENSON: Your Honor, we move to strike as
18 nonresponsive, and I can ask the question again.

19 THE COURT: Sustained. The answer is stricken.

20 If you'll read the question back.

21 Sir, if you'll listen to the question carefully and
22 only answer what's being asked.

23 THE WITNESS: Okay.

24 (Record read)

25 A. If there was a misconception, that's basically assuming

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Dragon - Cross

1 that markets don't work, but if there was a misconception on
2 the value, that would be incorporated into their decision to
3 buy the shares.

4 Q. So is that a yes?

5 MR. SCHIRICK: Objection. Asked and answered.

6 MR. FERGENSON: I'm just trying to get an answer to
7 the question.

8 MR. SCHIRICK: He answered.

9 THE COURT: If you'll just read back the question one
10 more time, please.

11 (Record read)

12 MR. SCHIRICK: I believe he answered it. It's the
13 previous set of questions.

14 THE COURT: No. That's the reason that I asked for it
15 to be read back because I did not hear an answer to the
16 question.

17 Would you mind reading back the question one more
18 time, please.

19 (Record read)

20 A. If that was how they made their decision to purchase on a
21 misconception, that would be incorporated into their decision
22 to purchase and my methodology.

23 Q. Now, Mr. Dragon, you testified that you considered the risk
24 factors in the PPM. Do you recall that?

25 A. Yes.

0721GU03

Dragon - Cross

1 Q. And you agree with me that risks are an important thing to
2 consider when valuing a company, right?

3 A. That's correct.

4 Q. Risk is an important thing to consider when making an
5 investment, right?

6 A. That's correct.

7 Q. That's because risk is about the likelihood your investment
8 will lose money, right?

9 A. That is a component of risk, yes.

10 Q. And when risk is lower, when the likelihood of losing money
11 is lower, the investment appears better; fair to say?

12 MR. SCHIRICK: Objection.

13 THE COURT: Overruled. You may answer.

14 A. Lower-risk investments generally are preferred, all other
15 things being equal.

16 Q. And so when investors are guaranteed there is no risk, the
17 investment that had no risk would appear better; fair to say?

18 MR. SCHIRICK: Objection.

19 THE COURT: It's a compound question.

20 A. Excuse me. Are you asking me whether this investment had
21 no risk?

22 Q. I'll rephrase.

23 THE COURT: Go ahead.

24 Q. If investors are guaranteed there is no risk, that means
25 there's no likelihood of losing money; fair to say?

0721GU03

Dragon - Cross

1 A. That's fair to say, hypothetically, yes.

2 Q. And if there's no likelihood of losing money on an
3 investment, the value of the investment would be higher; fair
4 to say?

5 MR. SCHIRICK: Objection.

6 THE COURT: Overruled. You may answer.

7 A. Yes.

8 Q. Now if the GTV investors relied on a guarantee there was no
9 risk, the apparent value of the investment is not accurate, in
10 those investors' view.

11 MR. SCHIRICK: Objection, form. The word reliance.

12 THE COURT: Sustained.

13 Q. Now you agree with me that the likelihood of making money
14 is also an important representation, right?

15 A. I'm not sure what you mean by the term important, important
16 representation.

17 Q. Well, let me rephrase.

18 If you're assessing the value of investment, it would
19 be significant to know what the potential upside of that
20 investment might be; fair to say?

21 A. When you assess any investment, you don't know what the
22 upside is. You can only estimate what the upside is.

23 Q. Right. And so if someone guaranteed there could only be
24 upside, is that an accurate representation, in your view?

25 MR. SCHIRICK: Objection.

O721GU03

Dragon - Cross

1 THE COURT: Sustained.

2 Q. Now, Mr. Dragon, the backsolve method you used to value GTV
3 depends on GTV's investors, right?

4 MR. SCHIRICK: Objection. Asked and answered.

5 THE COURT: Overruled. You may answer.

6 A. It involves, as I said, on a number of factors, and that's
7 why I applied what I call the three-prong test.

8 Q. And the method you used, it doesn't factor in at all
9 whether GTV's investors were lied to, correct?

10 MR. SCHIRICK: Objection.

11 THE COURT: You may answer.

12 A. The—the methodology I used was looking at the legal
13 documents that were provided for the memorandum and the actual
14 purchases by the people who, after making their own risk
15 assessment, were willing to pay the price for the shares.

16 (Continued on next page)

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072BGU04

Dragon - Cross

1 MR. FERGENSON: Move to strike I guess and I'll ask
2 the question again.

3 THE COURT: If you'll read back the question, please.

4 (The record was read)

5 A. There was no indication on the memorandum that there was
6 any lies, so I did not factor in that the investors were lied
7 to because I don't know whether that's the case or not.

8 Q. And so that's a yes you didn't factor that in?

9 MR. SCHIRICK: Asked and answered.

10 THE COURT: Sustained. Go ahead.

11 Q. You said there's no indication on the PPM that investors
12 were lied to, right?

13 MR. SCHIRICK: Asked and answered.

14 MR. FERGENSON: I'm trying to get to the next
15 question.

16 Q. Well, you know what, your Honor. Let's go on.

17 Now, Ms. Loftus, can we pull up Government Exhibit Z9
18 at page six.

19 Mr. Dragon, your opinion is that \$2 billion was a
20 reasonable valuation, right?

21 MR. SCHIRICK: Asked and answered.

22 MR. FERGENSON: I'm just trying to get to the
23 question, your Honor.

24 THE COURT: Go ahead. You can finish your question.

25 Q. I want to focus you on the exhibit in front of you. Do you

072BGU04

Dragon - Cross

1 see in the top left the date is June 2, 2020?

2 A. I do.

3 Q. And do you see that -- you know that June 2, 2020 is the
4 date that the private placement for GTV closed, right?

5 A. That's correct.

6 Q. And the person pictured in this photograph, that's Miles
7 Guo, right?

8 A. Yes.

9 Q. And he's holding up a share certificate in this photo, you
10 see that?

11 A. Yes.

12 Q. All right. I'll ask you to please read the first paragraph
13 listed there?

14 A. "We had an initial valuation of 200 million for GTV and the
15 private placement required a minimum investment of 20 million.
16 The private placement exceeded the highest expectation and
17 raised 350 million. This is up to now this figure is about 360
18 million. Let's say 350 million. 350 million does not include
19 the 117 million from VOG. If 117 million plus 350 million is
20 more than 480 million which is almost, almost, almost, 500
21 million, almost 500 million. But the figure we have now is 350
22 million received which is just for the contracts with GTV.
23 This turned out to be a conservative estimate and 17 times the
24 valuation."

25 Q. If we can scroll down, Ms. Loftus, and can you read the

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Dragon - Cross

1 next paragraph, the one in the middle there?

2 A. "Given the tremendous demand for GTV shares and the good
3 capital of GTV going forward, my lawyers and financial experts
4 mutually agree that a 2 billion valuation is probably too low
5 and that the actual value of the company is probably closer to
6 10 billion given the tremendous demand for GTV shares."

7 Q. Mr. Dragon, just to start, this reference to my lawyers and
8 financial experts who according to Mr. Guo mutually agree that
9 2 billion valuation is probably too low, you weren't one of
10 those experts, correct?

11 A. I was not.

12 Q. You didn't value GTV in 2020, right? At the time of this,
13 you didn't value GTV?

14 MR. SCHIRICK: Objection, asked and answered.

15 THE COURT: You may answer.

16 A. I was not involved in valuing GTV in 2020. My involvement
17 is in 2024.

18 Q. You only valued GTV in connection with this case, right?

19 A. That's correct.

20 Q. And you're not offering any opinion that a \$10 billion
21 valuation was reasonable, correct?

22 A. I'm not offering that opinion.

23 Q. Were you even asked to try to justify a \$10 billion
24 valuation?

25 MR. SCHIRICK: Objection.

072BGUO4

Dragon - Cross

1 THE COURT: You may answer.

2 A. As part of looking at the company I was not asked, but I
3 looked at the company from a lot of different perspectives.

4 MR. FERGENSON: Your Honor, objection.

5 MR. SCHIRICK: He asked, your Honor.

6 THE COURT: That last sentence is stricken. Go ahead.

7 Q. So you're not offering any opinion that \$10 billion is a
8 reasonable valuation, correct?

9 A. That's correct.

10 Q. Let go to GXZ9 at page 76, please. And do you see the date
11 in the top left is March 30, 2021?

12 A. Yes, I do.

13 Q. And the person pictured here is Miles Guo again, right?

14 A. I believe so.

15 Q. Now let's scroll down to the next page, Ms. Loftus, and
16 let's focus on the bottom paragraph. If we could blow that up.

17 Could you read that bottom paragraph please

18 Mr. Dragon?

19 A. "For GTV how many funds tell GTV now hmmm that with the
20 assessment the worth of GTV is now probably 60 billion, 60
21 billion. In other words, for the shares you have bought in the
22 past, er, for example, one million shares, how many shares
23 shall we give you now? It's multiplied by 30 times, that is,
24 18 million shares."

25 Q. Sir, you're not offering any opinion that a \$60 billion

072BGUO4

Dragon - Cross

1 valuation of GTV was reasonable, correct?

2 A. I'm not offering any opinion on that.

3 Q. If we could go to GXZ9 at 115.

4 Do you see the date there is August 11, 2021?

5 A. I do.

6 Q. And the person in the split screen on the left, that's
7 Miles Guo, correct?

8 A. I believe so.

9 Q. Now can you read focusing on the bottom paragraph could you
10 read the last two sentences in that paragraph?

11 A. "Rolex is worth 7.8 billion which is about 8 billion
12 rounding up, right? It's only worth 8 billion, which is only
13 1/5 or 1/6 of our GTV in terms of market value.

14 Q. If \$8 billion is 1/6 of GTV's market value, that would mean
15 GTV's market value is \$48 billion, correct?

16 MR. SCHIRICK: Objection.

17 THE COURT: Overruled. You may answer.

18 A. If you accept the premise that would be 48 billion.

19 Q. That's exactly right.

20 MR. SCHIRICK: Objection to the testifying.

21 MR. FERGENSON: Can I ask the question.

22 THE COURT: I did not hear the objection.

23 MR. SCHIRICK: Object to counsel testifying.

24 THE COURT: Don't testify. Go ahead.

25 Q. You're not offering an opinion that GTV's value was \$48

072BGU04 Dragon - Cross

1 billion, correct?

2 MR. SCHIRICK: Asked and answered.

3 THE COURT: Overruled. You may answer.

4 A. I am not offering the opinion.

5 Q. Ms. Loftus, if we could please pull up GXZ212-V. You can
6 start playing at about a minute 39 in.

7 (Media played)

8 Q. Sir, you're not offering any opinion that G Fashion is
9 valued at \$100 billion?

10 MR. SCHIRICK: Objection, your Honor. Well-beyond the
11 scope.

12 THE COURT: You may answer.

13 A. Well, first of all, I was asked to value the company as of
14 April 2020, both in this case and in the two previous cases you
15 mentioned. You asked for valuations totally significantly
16 after the valuation date I was asked to determine value. So in
17 that sense, these are questions I haven't even considered. So
18 companies' values can change over time. I can't tell you what
19 the value of the company would be after the valuation date
20 because I was only engage to value the company as of April 20,
21 200.

22 Q. Ms. Loftus, let's go to GXZ9 at 134, please.

23 The date in the top left here is November 16, 2021, do
24 you see that?

25 A. I do.

072BGU04

Dragon - Cross

1 Q. And there's a person in the image person in the middle
2 that's Miles Guo, right?

3 A. I believe so.

4 Q. Ms. Loftus, can we please play GXC432-V.

5 (Media played)

6 Q. Can we go back to Government Exhibit Z9 at 134. Can you
7 scroll down a little bit.

8 Now, Mr. Dragon, you're not offering any opinion that
9 the Himalaya Exchange was worth \$2 trillion, correct?

10 MR. SCHIRICK: Objection, beyond the scope.

11 THE COURT: You may answer, sir.

12 A. The Himalaya Exchange was not part of the scope of my
13 valuation so I'm offering no opinion.

14 Q. And you're not offering any opinion that five percent of
15 the Himalaya Exchange was worth \$100 billion, correct?

16 MR. SCHIRICK: Objection.

17 A. I was engaged to value the company at the time of the
18 offering memorandum. This is over a year later. This is not
19 something I would look at because it was out of the scope that
20 I was engaged to value the company. I was engaged to value at
21 the time of the offering memorandum in 2020.

22 Q. It's fair to say you weren't asked to value the Himalaya
23 Exchange at \$2 trillion, sir?

24 MR. SCHIRICK: Objection, asked and answered.

25 THE COURT: Sustained.

O72BGUO4

Dragon - Redirect

1 MR. FERGENSON: May I have a moment, your Honor.

2 Q. Sir, you testified how you valued GTV around April 2020.
3 Are you aware that Miles Guo continued selling what he said
4 were GTV shares well after that?

5 MR. SCHIRICK: Objection.

6 THE COURT: Overruled. You may answer.

7 A. Are you asking me whether Miles Guo sold his personal
8 shares?

9 Q. No, GTV shares well after April 2020.

10 MR. SCHIRICK: Objection.

11 THE COURT: You may answer.

12 A. I'm not aware of any sales of new GTV shares after the
13 closing of the private placement memorandum.

14 MR. FERGENSON: Just one moment, your Honor.

15 (Pause)

16 MR. FERGENSON: No further questions.

17 THE COURT: Redirect.

18 REDIRECT EXAMINATION

19 BY MR. SCHIRICK:

20 Q. Thank you, Mr. Dragon. You were asked some questions on
21 cross examination about potential investors misconceptions.
22 You remember that?

23 A. I remember questions about that, yes.

24 Q. And you were asked whether if investors had misconceptions
25 whether that would be incorporated into the valuation analysis

O72BGUO4

Dragon - Redirect

1 that you performed. Do you recall that?

2 A. Yes.

3 Q. Now, was one reason that companies selling shares issue
4 written documents like a PPM to avoid misconceptions?

5 MR. FERGENSON: Objection to leading and improper.

6 THE COURT: Sustained as to leading. Go ahead.

7 Q. What is one reason that companies selling shares issue
8 written documents to potential investors?

9 MR. FERGENSON: Objection. He's not an expert on
10 that.

11 THE COURT: Sustained.

12 MR. SCHIRICK: He's a valuation expert, your Honor.

13 THE COURT: Sustained. Go ahead. Move on.

14 Q. Now, with respect to potential investor misconceptions,
15 does the backsolve method assume that every investor has
16 perfect information?

17 MR. FERGENSON: Objection to leading.

18 THE COURT: You may answer that question.

19 A. No, it doesn't.

20 Q. Can you explain that, please.

21 A. Sure. Every single investor is gonna read the memorandum
22 and they're going to go and do their own research on, you know,
23 what the prospect for this company might be. And everyone
24 comes to a different conclusion, so there's no way of, you
25 know, that some individual could maybe draw an incorrect

O72BGUO4

Dragon - Redirect

1 conclusion of preventing that. And that's the same for any
2 stock offering.

3 MR. FERGENSON: Your Honor, we move to strike as
4 non-responsive and total speculation. He has no personal
5 knowledge of any of that, and it violates the Court's order.

6 THE COURT: He's not an expert on investor behavior as
7 far as whether they read or not read the prospectus. Move on.
8 The answer is stricken.

9 MR. SCHIRICK: Your Honor, the question is with
10 respect to the methodology, the backsolve method. How does
11 that account for the possibility that investors may have
12 varying levels of information or judgments.

13 MR. FERGENSON: Asked and answered.

14 THE COURT: You may answer that question. Go ahead.
15 A. Thank you. The way it accounts for it is a large number of
16 people look at it.

17 THE COURT: So you're not to give an opinion though
18 about what individual investors may be thinking or may have
19 read.

20 THE WITNESS: I'm just talking how markets work, your
21 Honor.

22 THE COURT: Go ahead.

23 A. The way markets work is an opportunity, whether it's stock
24 or selling a hamburger, something is put up for sale and people
25 look at it and decide whether it's a good opportunity or not,

072BGU04

Dragon - Redirect

1 and the ones who do buy it decide its worth their money.

2 In this case, there was a very large number of people
3 who looked at it and over 5,000 people after doing their
4 research decided this was a good investment.

5 Q. Now, Mr. Dragon, you were also asked some questions on
6 cross about the risk factors. Do you recall that?

7 A. I do.

8 Q. And you were asked about a guaranty. Do you recall that?

9 A. I do.

10 Q. Now, in conducting valuation analyses, do you take
11 guaranties into account?

12 A. I might.

13 Q. Can you explain that, please?

14 A. Yes. If there was a guaranty that was backed by legal
15 documentation and that after discussing with an expert in say
16 guaranties, a lawyer or something who is understands this area,
17 if they said that the guaranty was legally valid, then I would
18 consider that in my valuation.

19 MR. FERGENSON: Your Honor, objection and move to
20 strike to the hearsay of what may be some legal conclusion on a
21 speculative nature.

22 MR. SCHIRICK: There's no hearsay your Honor. This is
23 about how valuation analysis works.

24 THE COURT: I'm going to permit the answer. Let's
25 continue.

O72BGU04

Dragon - Redirect

1 Q. Thank you, judge. And so if a valuation analysis the
2 guaranty were one that was not valid and legally binding would
3 that effect your analysis?

4 MR. FERGENSON: Your Honor, objection.

5 THE COURT: You may answer.

6 MR. FERGENSON: He cannot testify about legal
7 conclusions.

8 THE COURT: You may answer as to what would affect
9 your analysis.

10 A. If I felt the guaranty was legally binding and had the
11 ability to be backed up with sufficient resources, then I would
12 consider it in my valuation. However, if it's just someone
13 talking and there's no legally binding document, I would not
14 consider it.

15 MR. FERGENSON: Your Honor, I think we need to
16 approach. I apologize.

17 THE COURT: All right.

18 (Continued on next page)

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O72BGU04

Dragon - Redirect

1 (At the sidebar)

2 THE COURT: Mr. Fergenson, you opened the door to
3 guaranty.

4 MR. FERGENSON: I didn't open the door to him opining
5 on whether oral guaranties are legally binding versus written
6 guaranties are legally binding. He is not an expert in that.
7 He has no expertise to offer about it. Second, the point of
8 these questions, your Honor, like we've objected to many times
9 throughout the trial is to suggest that the victims were
10 gullable, were negligent and they listened to this guy make
11 some crazy guaranty, and isn't it really on them.

12 THE COURT: I think that you opened the door wide
13 enough to permit these questions, and I think he's about to
14 stop, so we're going to move on.

15 (Continued on next page)

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O72BGUO4

Dragon - Redirect

1 (In open court)

2 THE COURT: The answer stands.

3 Q. In addition to the guaranties, you were also asked some
4 questions about a document that is in evidence called GXZ9, the
5 chart. Do you recall that?

6 A. I probably would if you showed me the document. I don't
7 know that code number.

8 Q. If we could please pull that up for the witness and
9 everyone for that matter. And if we can go to the entry from
10 June 2, 2020, which I think is on page six.

11 Do you recall this now, Mr. Dragon?

12 A. I do.

13 Q. And Mr. Ferguson ask you some questions about this. You
14 recall that?

15 A. He did, yes.

16 Q. And you recall that this is the date on which the GTV
17 private placement closed; is that right?

18 A. That's correct.

19 Q. There's a reference here to a potential -- excuse me,
20 withdrawn.

21 There's a reference here that you read that the
22 private placement "exceeded the highest expectation and raised
23 \$350 million." Do you see that?

24 A. Yes, I do.

25 Q. Now do you have an understanding as to what is being

O72BGUO4

Dragon - Redirect

1 referred to here?

2 A. My understanding is that the 350 million includes the 200
3 million of new GTV shares that were issued by GTV and includes
4 shares that were owned by Saraca that were sold because there
5 was a very large investor interest in this offering.

6 Q. And so it's fair to say that GTV sold more than 200 million
7 worth of shares?

8 A. GTV itself sold 200 million.

9 Q. And the remainder came from where to your understanding?

10 A. Saraca sold some of the GTV shares it already had.

11 Q. Now, did --

12 MR. FERGENSON: Your Honor, what is the basis of this?
13 I'm sorry. I think we may need a sidebar. Your Honor,
14 apologies. We object on personal knowledge.

15 MR. SCHIRICK: I'm not sure how that's an objection to
16 the question, your Honor.

17 THE COURT: If he has personal knowledge you may
18 answer.

19 Q. Now, there's also reference here, if we scroll up a bit in
20 this chart to the middle paragraph beginning, Given the
21 tremendous demand. Do you see that?

22 A. I do.

23 Q. You read this on cross examination with Mr. Ferguson as
24 well, right?

25 A. Yes.

O72BGUO4

Dragon - Redirect

1 Q. And it reads "Given the tremendous demand for GTV shares
2 and the good capital position of GTV going forward, my lawyers
3 and financial experts mutually agreed that a 2 billion
4 valuation is probably too low." Do you see that?

5 A. I do.

6 Q. And then you were asked some questions by Mr. Fergenson
7 whether a higher valuation was something that you evaluated.
8 Do you recall that?

9 A. I do recall that.

10 Q. Now, did you have access to the information that Mr. Guo
11 did at this time in June of 2020?

12 MR. FERGENSON: Objection, how could he possibly know
13 that.

14 MR. SCHIRICK: I think he would know.

15 THE COURT: He doesn't know what Mr. Guo knows, so he
16 can't answer that question.

17 MR. SCHIRICK: Your Honor, can he answer the question
18 whether he had access to the lawyers and financial expert who
19 were referred to here.

20 MR. FERGENSON: Objection.

21 THE COURT: Sustained.

22 Q. Did you have access to any information about the GTV
23 fundraiser apart from what you received in connection with your
24 testimony here today?

25 A. No.

072BGU04

Dragon - Redirect

1 Q. So you didn't have access to or you don't know whether
2 Mr. Guo had access to a broader set of information than you
3 did, right?

4 MR. FERGENSON: Calls for speculation.

5 MR. SCHIRICK: You don't know. The question is you
6 don't know.

7 THE COURT: He can answer whether he knows or doesn't
8 know. You can answer.

9 A. I don't know what Mr. Guo had access to.

10 Q. Right. Now, in order to determine in your expert opinion
11 whether a higher valuation was justified at this point in time,
12 you would need access to a broader set of facts?

13 MR. FERGENSON: Objection to leading.

14 THE COURT: You can answer. Go ahead.

15 A. I considered --

16 THE COURT: The question is not what you considered.

17 A. I would have to have access to additional information if I
18 were to try and determine whether a higher valuation was
19 justified.

20 Q. Now, at this time your understanding, this time being June
21 2 of 2020, your understanding is that the private placement is
22 closed, correct?

23 A. That's correct.

24 Q. So what was said here by Mr. Guo available to GTV investors
25 in the private placement?

O72BGUO4

Dragon - Redirect

1 A. No.

2 Q. Now, you were also asked several questions by Mr. Fergenson
3 about statements that were made by Mr. Guo later in time
4 concerning the valuation of GTV. Do you recall that?

5 A. I do recall that.

6 Q. And you were asked some particular questions about a
7 statement about a \$60 billion valuation that was made in 2021.
8 Is that right?

9 A. I was asked about that, yes.

10 Q. Did you look at information from that point in time to be
11 able to assess whether that valuation estimate was fair at the
12 time it was stated?

13 A. No, I didn't. My assignment was to value the company as of
14 the time of the private placement in April 20, 2020.

15 Q. You were also asked a similar set of questions by
16 Mr. Fergenson about a \$48 billion valuation that was implied
17 from something Mr. Guo said in 2021. Do you recall that?

18 A. I do.

19 Q. Same question, did you have access to any information about
20 the valuation of GTV at that point in time?

21 A. No, I didn't, and that was not in the scope of my
22 assignment.

23 Q. You were also asked some questions by Mr. Fergenson about
24 G Fashion. Do you recall that?

25 A. I do.

O72BGUO4

Dragon - Recross

1 Q. Do you know what G Fashion is?

2 A. Not intimately, no.

3 Q. Fair enough. And you weren't asked to value G Fashion,
4 right?

5 A. That's correct, I was not.

6 Q. Same question with respect to the Himalaya Exchange. You
7 weren't asked to value Himalaya Exchange?

8 A. I was not asked to value the Himalaya Exchange either.

9 Q. Now, does any of what we just talked about, the 2021
10 statements concerning valuation about GTV affect your opinion
11 as to the value of GTV at the time of the close of the private
12 placement?

13 A. No, it doesn't. Valuation experts consider what is known
14 and knowable at the time of the valuation which was April 20,
15 2020, and the window of the private placement memorandum
16 offering.

17 MR. SCHIRICK: Thank you. No further questions.

18 THE COURT: Recross.

19 RE CROSS EXAMINATION

20 BY MR. FERGENSON:

21 Q. Sir, you didn't work at GTV, correct?

22 A. No, I didn't.

23 Q. You didn't work at Saraca, correct?

24 A. No.

25 Q. In 2020, you didn't work for Miles Guo?

O72BGUO4

Dragon - Recross

1 A. That's correct.

2 Q. In 2020, you didn't do any valuation of GTV, correct?

3 A. I did not value the company in 2020 if that's the question
4 you're asking.

5 Q. Thank you, Mr. Dragon.

6 Now, Mr. Schirick asked you questions about other
7 valuations of higher numbers on redirect. You remember those?

8 A. I do.

9 Q. And you testified you didn't have any information about
10 those later valuations; isn't that right?

11 MR. SCHIRICK: Objection, misstates testimony.

12 A. What I testified to --

13 THE COURT: Overruled.

14 A. What I testified, my assignment was to value the company
15 during the period of the private placement memorandum, and that
16 valuation was known and knowable at the time of the private
17 placement offering.

18 Q. The materials you reviewed were provided you by the defense
19 lawyers here, correct?

20 A. That's correct.

21 Q. You don't have any personal knowledge that factored into
22 your valuation related to GTV, correct?

23 MR. SCHIRICK: Objection, asked and answered.

24 THE COURT: You may answer.

25 A. It depends what you define as personal knowledge.

072BGU04

Dragon - Recross

1 Q. Well, you relied on the material they gave you; that's fair
2 to say, right?

3 A. I relied on the materials I was given and also on research
4 I did independently.

5 Q. Sir, they didn't give you materials to justify a \$100
6 billion valuation of G Fashion; fair to say?

7 MR. SCHIRICK: Asked and answered three times.

8 THE COURT: You may answer.

9 A. I'm not sure what the question is. Could you restate that,
10 please.

11 Q. They didn't give you, the defense lawyers did not give you
12 materials to conduct a valuation of G Fashion for \$100 billion,
13 correct?

14 MR. SCHIRICK: Same objection.

15 THE COURT: Overruled.

16 A. Valuation experts by our professional standards are not
17 allowed to be given a value by legal counsel. We come to our
18 own independent conclusions.

19 Q. They didn't give you any documents related to that; is that
20 fair?

21 MR. SCHIRICK: Objection.

22 THE COURT: You may answer.

23 MR. SCHIRICK: Related to what?

24 Q. To G Fashion and the valuation of it.

25 A. I was not hired to value G Fashion. I was hired to

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Dragon - Recross

1 determine the value of GTV at the time of the private placement
2 memorandum.

3 Q. Did the defense lawyers ask you to value G Fashion in 2021?

4 A. No.

5 Q. Did the defense lawyers ask you to value GTV in 2021?

6 MR. SCHIRICK: Objection, this has been asked and
7 answered repeatedly.

8 THE COURT: Sustained.

9 Q. Sir, you don't know what the investors who have testified
10 in this trial have said, correct?

11 MR. SCHIRICK: Objection.

12 THE COURT: You may answer.

13 A. I have not been present at this trial until today, so I
14 have no idea what has been said beforehand.

15 MR. FERGENSON: No further questions.

16 THE COURT: All righty.

17 MR. SCHIRICK: No questions, your Honor.

18 THE COURT: Thank you. You may step out, and the
19 defense may call its next witness.

20 (Witness excused)

21 MR. SCHIRICK: Defense calls Maggie Sklar.

22 MAGGIE SKLAR,

23 called as a witness by the Defendant,

24 having been duly sworn, testified as follows:

25 THE COURT: Please state your name and spell it,

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Sklar- Direct

1 please.

2 THE WITNESS: Sure. My name is Maggie, M-A-G-G-I-E,
3 S-K-L-A-R.

4 THE COURT: You may inquire.

5 MR. SCHIRICK: Thank you, your Honor.

6 DIRECT EXAMINATION

7 BY MR. SCHIRICK:

8 Q. Good afternoon, Ms. Sklar. Where are you presently
9 employed?

10 A. I'm employed as a managing director at Seda Experts,
11 S-E-D-A experts. That is a expert witness consultancy firm
12 where I provide expert witness testimony in crypto and
13 financial markets cases. I also run my own consultancy
14 business, Sklar Strategies where I represent clients in the
15 crypto industry as well as other financial markets industries.

16 Q. Thank you.

17 Now, Ms. Sklar, can you tell us a bit about your
18 educational background, please?

19 A. I'm a graduate of Georgetown University. Georgetown is in
20 Washington D.C. I graduated with a BA in 2001. I also
21 graduated from Georgetown with a law degree in 2005.

22 Q. And, Ms. Sklar, have you spent any time in public service?

23 A. I have. I was in the government for about a decade. I
24 started at the CFTC. That's the U.S. Commodity Futures Trading
25 Commission, and the CFTC is the regulator responsible after

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Sklar- Direct

1 Dodd-Frank Act for regulating a lot of financial markets called
2 derivatives. Also I'm sure you'll ask when we get to crypto,
3 but a lot of focus on crypto as well.

4 While I was there, I started as a special counsel in
5 the division of market oversight where I regulated some of the
6 largest exchanges. I was associate director for international
7 affairs. I was also the senior counsel and policy advisor for
8 commissioner, and I was also the senior counsel and policy
9 advisor for Chairman Giancarlo.

10 Q. Thank you for that.

11 And as part of your work at the CFTC, did you advise
12 on cryptocurrency and blockchain related issues?

13 A. I did in 2015 when I was advising for Commissioner Wetjen
14 at the CFTC. The CFTC was the first agency to claim some level
15 of authority over Bitcoin, and so I advised on that matter.
16 But I also while the senior counsel and policy advisor to Chair
17 Giancarlo, also known as Crypto Dad, by the way. That is the
18 title of his book, but also the title of many of memes and
19 other things in the crypto industry that he has been associated
20 for. And that is because while I was also working for him and
21 advising him, he testified before Congress for the first time
22 describing what the CFTC could do with crypto, why he was
23 interested, and why he was interested in crypto.

24 And importantly as well, while we were there, while I
25 was there, we approved the first regulated crypto product

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Sklar- Direct

1 Bitcoin futures in the United States, as well as the world. So
2 it gained both attention all across the United States
3 government as well as governments all over the world.

4 Q. And while you were at the CFTC, did you also advise on
5 crypto exchange related issues?

6 A. Yes. So the first Bitcoin futures product we advise on,
7 but others came after that as well, as well as others not just
8 Bitcoin, but other types of cryptocurrency.

9 Q. And then did a time come when you left the CFTC?

10 A. I did. I joined the federal reserve in Chicago as their
11 senior policy advisor and director of international engagement
12 for financial markets.

13 Q. And while you were at the federal reserve, did you also
14 advise on crypto-related issues?

15 A. I did. I did internally as well as continue to do speaking
16 engagement externally as well on crypto.

17 Q. And then following your work for the federal reserve, what
18 did you do next?

19 A. I went to -- I became a partner at Davis Wright Tremaine
20 which is a large international law firm, and I was in the
21 banking and financial services practice.

22 Q. And did a time come when you left the law firm?

23 A. I did at the end of last year to join Seda Experts and do
24 my own consultancy, but also in between I also was the chair of
25 the public policy and regulation committee for the Global DCA,

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Sklar- Direct

1 which is the Global Digital Asset and Cryptocurrency
2 Association.

3 Q. That's a trade association of some sort?

4 A. Yes.

5 Q. Ms. Sklar, do you also have speaking engagements that you
6 participate in?

7 A. I do. I've spoken on cryptocurrency and blockchain issues
8 at most major industry associations, including, for example,
9 SIFMA which is the Securities Industry Association, as well as
10 specifically crypto associations. Most recently just last
11 month at the Government Blockchain Association, but also for
12 academic institutions, I think most recently at Duke
13 University.

14 Q. Now, what is your connection to this case?

15 A. I was hired to discuss cryptocurrency and the blockchain.

16 Q. Are you being compensated for your work on this matter?

17 A. I am.

18 Q. And how?

19 A. I'm being compensated at an hourly rate through Seda
20 Experts which is the firm I work for.

21 Q. And what is your hourly rate?

22 A. For this case 1450 an hour.

23 Q. And approximately how much have your fees been as part of
24 this matter to date?

25 A. I think around now maybe 70,000 maybe 60,000, but around

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Sklar- Direct

1 there.

2 Q. And has the defense team covered your costs for traveling
3 to testify here today?

4 A. Yes, on Amtrak and staying at hotels locally, yes.

5 Q. Ms. Sklar, does your compensation depend in any way on the
6 outcome of this case?

7 A. No, it does not.

8 Q. Does your compensation depend on whether you testify a
9 certain way?

10 A. No, it does not.

11 Q. Before you were engaged in this matter, had you and I
12 worked together before?

13 A. No, we have not.

14 Q. And how about any other members of the defense team, before
15 your engagement on this matter, had you worked with any other
16 members of the defense team before?

17 A. I have not.

18 Q. And then how about Mr. Guo, had you ever done any work for
19 Mr. Guo before your engagement on this case?

20 A. No, I have not.

21 Q. Now, did we prepare for your testimony here today?

22 A. Yes, we've met before, yes.

23 Q. And do you recall approximately how many times we met?

24 A. I think about four times in person and maybe three times on
25 zoom.

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Sklar- Direct

1 Q. Now, Ms. Sklar, did you review certain materials as part of
2 your preparation for testimony here today?

3 A. Yes, I did.

4 Q. What materials did you review?

5 A. I reviewed the indictment. I reviewed the exchange's white
6 papers. I reviewed third-party contracts related to the
7 exchange, Armanino, Certik, Bitgo. I reviewed certain
8 testimony and I reviewed the blockchain.

9 MR. SCHIRICK: Your Honor, the defense offers
10 Ms. Sklar as an expert in cryptocurrency and cryptocurrency
11 exchange blockchain issues.

12 MR. HORTON: Your Honor, we have two discrete issues
13 to raise at sidebar.

14 THE COURT: Okay.

15 (Continued on next page)

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Sklar- Direct

1 (At the sidebar)

2 MR. HORTON: Thank you, your Honor. This is an expert
3 witness who is also a lawyer who has worked at the CFTC
4 regulatory agency jurisdiction in this country. We'd ask given
5 that background, given that her subject matter is not sort of
6 the law of crypto, but rather mechanics in the normal
7 cryptocurrency industry that your Honor give a brief
8 instruction. Instructions on the law in this case should not
9 come from a lawyer. That will come from your Honor. So we ask
10 for that instruction given this is the first lawyer witness in
11 the case. Then there's two issues that come out of the path up
12 to qualifying her.

13 THE COURT: Can I interrupt you. Are you expecting
14 that she is going to be giving legal expert testimony?

15 MR. HORTON: I don't know. But given that apart of
16 establishing her expertise was that she's a lawyer. She went
17 to law school, worked at regulatory agency. She a got law
18 degree from Georgetown. She was a lawyer at CFTC to
19 commissioner at the CFTC. I think it qualifies that we're not
20 getting instructed on the law of cryptocurrency. That will
21 come shortly from the Court. She's testifying as to something
22 else.

23 THE COURT: So are you expecting her to testify on
24 legal conclusions?

25 MR. SCHIRICK: No, your Honor. The disclosure in this

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Sklar- Direct

1 case have been clear that Ms. Sklar is not being called to
2 testify as a legal expert. She's being called to testify for
3 her expertise into the industry.

4 MR. FINKEL: Another point, your Honor. She worked at
5 the CFTC. She knows what is legal and isn't legal, not
6 specific to the law. The law will come from your Honor and
7 that should be --

8 THE COURT: Could you repeat the scope of the
9 qualification that you're asking for.

10 MR. SCHIRICK: She's being offered as an expert in
11 cryptocurrency, the functioning of cryptocurrency exchanges and
12 relatedly blockchain. And I will add, because I foresee the
13 government raising this in a moment, that she is not being
14 offered for having conducted some forensic analysis from a sort
15 of code software expert point of view. She's not an expert in
16 software. She's not an expert in coding. She's being offered
17 as an industry expert in how things work.

18 MR. FINKEL: Your Honor, on that point if I may. The
19 other day I think last week I raised an issue that we ask a
20 couple of questions of defense whether she reviewed the
21 blockchain and whether she reviewed the smart contract. And
22 your Honor directed defense to confer with us, and the
23 government and defense, me and Mr. Schrick and Ms. Murray, had
24 a very good conversation. In that conversation we were told by
25 Mr. Schirick she did not review and analyze the blockchain. She

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Sklar- Direct

1 merely looked to see on Etherscan that there was a blockchain
2 available. Ms. Sklar just said she reviewed the blockchain,
3 analyzed the blockchain in this case. That's beyond the scope
4 of her disclosure, and it's not permitted. And to the extent
5 Mr. Schirick is going to go against what's in the disclosure,
6 and frankly is different than what we discussed which is really
7 disappointing, we would have put that in our letter. We
8 flagged a lot of issues for your Honor. She can't testify
9 about the blockchain or analysis she did on the blockchain,
10 what was happening on the blockchain. One, she's not qualified
11 to do that, and we would object to her qualification on that
12 issue. She's an attorney who worked on contract. And more to
13 the point, it's not in their disclosure that she analyzed the
14 blockchain, and we were told that she wouldn't testify to that.

15 MR. SCHIRICK: If I could respond to that, please.

16 THE COURT: I just want to go back to what you said.
17 You said you want me to qualify her as an expert in
18 cryptocurrency and the functioning of cryptocurrency exchanges
19 and relatedly blockchain, so.

20 MR. SCHIRICK: Cryptocurrency, as your Honor well
21 knows, operates on a blockchain. So to the extent that she
22 needs to -- I expect to ask her if she knows she can explain
23 what a blockchain is at a high level, how it functions. We're
24 not going to need to get into too much detail than that. It's
25 pretty basic description of how it works. Does that answer

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Sklar- Direct

1 your Honor's question? If I may respond to Mr. Finkel's point.

2 THE COURT: Go ahead.

3 MR. SCHIRICK: I have to say, first of all, I'm a bit
4 disappointed how that conversation was reported. I don't
5 believe that that is how that conversation went, and I listened
6 to you and I'd appreciate it if you'd listen to me. I never
7 said that she wasn't going to testify that she looked at the
8 blockchain. In fact, I was very specific as to the disclosures
9 in this case that have been very specific that she can use
10 publicly available tools such as Etherscan. This was something
11 that was an issue in briefing before your Honor and the motions
12 was to preclude. We were very clear. She used publicly
13 available resources like Etherscan to look things up on the
14 blockchain which is something that frankly either of us can do.
15 It certainly helps that she has the expertise, and she is going
16 to testify to observations that she made based on using those
17 publicly available tools. That is the distinction.

18 If I understood you correctly, Mr. Finkel, you were
19 asking whether she was going to testify whether she did some
20 forensics of all of the movements of the tokens on the
21 blockchain. She did not do comprehensive analysis of that, but
22 she can testify to things that she sees using publicly
23 available resource and tools, some of which will be whether
24 they exist, whether the token exist, where they were at certain
25 points when they were created. None of which is the subject or

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1 needs to be the subject of any forensic analysis.

2 MR. FINKEL: I don't want to get into a back and forth
3 about the conversation between Mr. Schirick, Ms. Murray and
4 myself, but that's not an accurate reflection of what
5 Mr. Schirick told us about Ms. Sklar's testimony. And we had
6 that conversation to avoid this one to have to bring the issue
7 to your Honor. The point is that Ms. Sklar we had understood
8 could say that she went on Etherscan, which is a publicly
9 accessible tool and saw that there is a smart contract on the
10 blockchain. They exist. We didn't call our expert. We will
11 on our rebuttal. He will testify there is really no activity
12 on the blockchain. To the extent she is going to say anything
13 more than there is a blockchain which exist, Mr. Schirick, we
14 don't object to that fact that she saw there is a blockchain --

15 MR. SCHIRICK: You mean the tokens on the blockchain?

16 MR. FINKEL: No, no. There is a blockchain. If I
17 could just finish. She cannot testify -- she's not an expert
18 on it, number one. Number two, it's not disclosed she saw any
19 transactional activity on the blockchain, or what it means or
20 the analysis of it. That's beyond the scope of her testimony.
21 Her testimony, as we already understood, they had a contract
22 with Bitgo. They got Armaninio. They have white paper. They
23 have certificates. All that suggest it's a cryptocurrency or
24 whatever it's going to say. But any analysis of what's
25 occurring on the blockchain that's what our expert disclosed in

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Sklar- Direct

1 detail what he saw on the blockchain. Ms. Sklar did not, and
2 so that's a disclosure problem. And two, she's a regulator.
3 She doesn't know about blockchain. She doesn't have a chain
4 analysis.

5 THE COURT: Is that information publicly available,
6 the transactions?

7 MR. SCHIRICK: Yes, your Honor.

8 MR. FINKEL: The transactional information is public,
9 however, what it means and how it's interpreted requires
10 expertise, and she is not suited to deliver that opinion,
11 number one. And more to the point, your Honor -- and this is I
12 think the problem, it wasn't disclose. It's not in her
13 disclosure, so we're not prepared for it at all for her to say
14 these movements and these transactions back and forth.

15 MR. SCHIRICK: Your Honor, I'm happy to refer the
16 Court to the ruling dated May 17 on Ms. Sklar's testimony. The
17 relevant portions are highlighted here. It's a publicly
18 available tool. It's used to review the blockchain, and your
19 Honor held gives them a fair opportunity, the disclosure was
20 adequate and gives them a fair opportunity on cross.

21 MR. FINKEL: What that says is different than what
22 Mr. Schirick just said she's going to testify about.

23 THE COURT: Let me just read this again. So I said
24 that Guo clarified that "publicly available" information is a
25 "reference to the publicly available blockchain on which HCN

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Sklar- Direct

1 and HDO were minted which was available to view using website
2 called Etherscan."

3 What I understand the government to say is that she
4 did not go into her specific observations; am I correct?

5 MR. FINKEL: That's exactly right. We can't go
6 further than what the Court's order says.

7 MR. SCHIRICK: Of course she has observations. What's
8 the point of looking up the information on the blockchain?
9 That's the only reason one would do that?

10 THE COURT: So she's not here to merely state the
11 transactions she observed, you want her to interpret what that
12 activity means. Am I correct?

13 MR. SCHIRICK: Your Honor, I believe her testimony is
14 going to cover the fact that she looked these tokens up on
15 Etherscan. She can tell that there was movement of the token,
16 which is obvious using Etherscan. She can testify they were
17 created, dates they were created. This is all information that
18 was publicly available via Etherscan.

19 THE COURT: It's one thing to state that the
20 information is available publicly. You can look it up using
21 Etherscan. It's another thing to get into the specifics of the
22 actual transactions.

23 MR. SCHIRICK: She can see the transactions on the
24 blockchain just the way that or anyone can. It's mere
25 observation.

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Sklar- Direct

1 THE COURT: That brings me back to the question that I
2 asked. So, sure, she can say what's there, but the question is
3 her interpretation of that activity, what it means?

4 MR. SCHIRICK: The blockchain not only records, as
5 your Honor knows, static snap shots of where tokens are at a
6 given point in time. It also reports transactions. That's the
7 nature of it inherently is that it records transactions. It
8 makes them publicly available. It's no different than saying
9 she observed transactions. So, I mean, that's the same thing.
10 It's enabling her to say, I saw the tokens on the blockchain
11 and observe transactions.

12 THE COURT: What was your disclosure of your expert?

13 MR. FINKEL: The disclosure -- there are a few things
14 sort of circling The disclosure. Our expert did an analysis of
15 the blockchain. He traced the movement in the blockchain. He
16 determined that according to the blockchain 99.9 I think 99
17 percent of HCN and HDO were owned by the Himalaya Exchange.
18 There's very few transactions on the blockchain, despite the
19 fact that HCN and HDO were according to the market
20 capitalization it makes it the sixth most valuable
21 cryptocurrency. Essentially his opinion is that the value of
22 HCN and HDO as reported on the Himalaya Exchange doesn't fit
23 with the number of the transactions on the blockchain, plus the
24 concentration of the ownership on the blockchain suggest that
25 it's entirely controlled by the Himalaya Exchange which implies

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1 that it's not a true cryptocurrency because it's not owned by
2 the publicly and it's not useable by the public.

3 To get back to sort of Ms. Sklar, and the problem is
4 twofold. One is, I hate to say this, but we were told in
5 explicit terms that Ms. Sklar would testify that she could see
6 HCN and HDO on Etherscan. And the fact that they're available,
7 exactly what your Honor's ruled is part of her opinion, we
8 don't object to that. What we object to is what Mr. Schirick
9 is now saying which is different than what he told us Thursday.
10 It's a little frustrating and I apologize for being frustrated

11 MR. SCHIRICK: I share the frustration.

12 MR. FINKEL: I'm glad you do. What Mr. Schirick now
13 said is she went on the blockchain and saw transactional
14 movement on the blockchain. That's an analysis of what's going
15 on.

16 MS. SHROFF: No, it's not.

17 MR. FINKEL: Excuse me. Excuse me. Why then didn't
18 you tell us that?

19 MS. SHROFF: He did.

20 MR. FINKEL: You weren't part of the conversation.

21 THE COURT: All right. Please direct your comments to
22 me, Ms. Shroff.

23 MR. FINKEL: You don't.

24 THE COURT: Mr. Finkel, direct your comments to me.

25 MR. FINKEL: I'm sorry. The fact that she is now

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1 going to analyze what she saw on the blockchain, we don't know
2 what that analysis is. There's no opinion about it in the
3 disclosure. The mere fact that it existed that was disclosed.
4 What your Honor wrote is disclosed, and that's fair. But going
5 beyond that saying she saw movement back and forth and what
6 that movement means, we don't know her opinion.

7 MR. SCHIRICK: I feel, your Honor, that this is why
8 just one more comment to reiterate. Unlike many other kinds of
9 records or data, a blockchain is unique in that it reflects
10 movements that you can see moving, right. You don't need
11 someone to interpret the blockchain when you can -- let me
12 finish. You don't need someone to interpret it in the same way
13 because you can see movement on the blockchain. So she will
14 offer her observations about those movements which she can see
15 which are publicly available, which are publicly accessible
16 through Etherscan. There's nothing about that that goes beyond
17 the bounds of what your Honor ruled on, nor is there anything
18 about that that goes beyond the bounds of what our disclosures
19 were.

20 MR. FINKEL: It's not in the disclosure. That's the
21 problem.

22 THE COURT: She's not going to say what she observed.
23 She's going to draw a conclusion from that?

24 MR. SCHIRICK: No, your Honor.

25 THE COURT: What use is it to you if she can't draw a

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Sklar- Direct

1 conclusion?

2 MR. SCHIRICK: Well, she doesn't need -- I think we
3 get to the conclusion that we need to without necessarily
4 needing to rely on the kind of analysis. There's lots of ways
5 to do that. We don't need to do the kind of analysis that
6 they're expert did.

7 THE COURT: You plan to elicit from her a series of
8 transactions and then for you to draw the conclusion yourself?

9 MR. SCHIRICK: No, your Honor. Just to back up fo a
10 second. I haven't even -- we just got to the part where we're
11 offering her as an expert. I haven't even asked specifics.
12 This is all being done in the abstract which I recognize is
13 difficult for us and particularly for the Court to analyze. I
14 haven't asked a single question about this topic.

15 THE COURT: But he's anticipating and it sounds to me
16 like you're going to where he thinks you're going to go.

17 MR. SCHIRICK: I'm not sure that's true. Again, we
18 may have a disconnect over what is publicly available, publicly
19 accessible, and what a witness can report they observed which
20 is frankly, your Honor, as far as we plan to go.

21 THE COURT: What exactly do you expect her to state?

22 MR. SCHIRICK: I expect her to state that she use
23 Etherscan to look up the token to confirm they were created, to
24 see the date on which they were created, the wallets in which
25 they were held when they were created and the fact that

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Sklar- Direct

1 those -- that both cryptocurrencies are moved at different
2 points in time, which you can see on the blockchain, and that
3 those facts are frankly the only facts that she needs. We
4 don't need to get into anything else.

5 MR. FINKEL: Can I respond to that?

6 THE COURT: Yes. So my law clerks have pointed out to
7 me that page three of Mr. Kamaraju's letter dated April 29,
8 2024, paragraph D, which states, As a result of this structure
9 typically when a user trades cryptocurrency through a
10 centralized exchange, that trading activity would not be
11 reflected on the blockchain because the cryptocurrency is not
12 actually being transferred from one wallet to another. So this
13 does sound like there is --

14 MR. FINKEL: So that concept, it is disclosed. The
15 notion of that that's an off-chain transaction, which
16 Mr. Schirick explored extensively on cross of Jesse Brown and
17 Sam Roberts, that concept of what an off-chain transaction is,
18 they're free to ask her about. Your Honor allowed them to do
19 that. What is not disclosed -- they can point it to us if it
20 is -- her analysis of movement on the blockchain she observed
21 and what that means.

22 THE COURT: You're distinguishing the public versus
23 the non-public.

24 MR. FINKEL: No, I'm distinguishing the concept of how
25 blockchains work and off-chain transactions versus the actual

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1 analysis of HCN and HDO specific blockchain. She did disclose
2 that -- Ms. Sklar did disclose, and I don't contest. She can
3 speak to the general nature of how blockchain-s work and the
4 general nature of off-chain transactions. What is not
5 disclosed is the specific transactions that she observed on HCN
6 and HDO reported blockchains.

7 And telling me -- I don't need to belabor this, but
8 I'll just leave it at that. That's not in there. And I don't
9 believe that defense counsel can point to something that says
10 that it is. An analysis of what actually happened to HCN and
11 HDO that she observed and necessarily informs her view because
12 if it didn't inform her view, why are they asking her. If she
13 wants to generally speak about how blockchains work and your
14 Honor permits her to do that, I believe that's fine. But to go
15 specifically to the HCN and HDO blockchain and say I saw this
16 is the concentration of ownership and this is the movement on
17 blockchain and that is a real cryptocurrency, it's not
18 disclosed.

19 MR. HORTON: Your Honor, with respect to this
20 highlighted paragraph, the difference is typically an exchange
21 has off-chain activity like saying typically banks report
22 customers' audits in internal ledgers, a typical factor she has
23 from the knowledge with regulating the space. That's different
24 from saying, and I looked at 100 terabytes of Bank of America's
25 internal ledger, and I saw that customer John Doe did this

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Sklar- Direct

1 transaction in this currency became larger. The general fact
2 that it's her experience is regulating the exchange, they often
3 have this kind of transaction. It's a common transaction.
4 It's totally different from, I'm now going into a particular
5 database and analyzing it with from within.

6 MR. SCHIRICK: Last point because there's some
7 confusion here. There aren't HCN and HDO blockchain. There is
8 no such thing.

9 MR. HORTON: They're on the ethereum blockchain.

10 MR. FINKEL: And their transactions are recorded.

11 MR. SCHIRICK: I don't think you know this space
12 because you wouldn't say that if you did.

13 MR. FINKEL: I do, and our expert will say it. Please
14 don't impune my integrity.

15 MR. SCHIRICK: There is a blockchain. This is the
16 ethereum blockchain, which your Honor knows well. The question
17 is merely using -- and the blockchain is publicly available.
18 There are ways to look at it. You don't need to have any
19 special experience or access to information. You can do it if
20 you know how to use it and use Etherscan. All she's done is
21 employed those publicly available tools to look at a publicly
22 available resources and make the observations just the same as
23 any witness would make observations about things that happen
24 around them or what they saw or what they heard and what they
25 smell.

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1 THE COURT: The problem that I have is she's an
2 expert, and it would be appropriate for her to be making those
3 observations and drawing conclusions if she had discussed that
4 in her disclosures, and this is what I'm not seeing. I see a
5 general statement, but I don't see the specific analysis.

6 MR. SCHIRICK: I'm happy to go back and look at this
7 and find the disclosure for your Honor. I thought that the
8 reference that your Honor made in your opinion picks up the
9 disclosure that this is something that's publicly available and
10 in a viewable view in Etherscan.

11 THE COURT: That's not what I meant. I understood of
12 course that that material is publicly available, but it's
13 different to say that she's permitted to now testify about
14 these specifics without having first disclosed them.

15 MR. SCHIRICK: My point, I understand the Court's
16 point. My point, your Honor, your opinion was based on our
17 disclosures. That's all that the Court had at the time that
18 you wrote the opinion was our disclosures and the government
19 challenged our disclosures, so that's why I think the fact that
20 it's in the opinion shows that it was disclosed. I think your
21 Honor quoted from our disclosures, and I'm happy to take a
22 look. I don't have it in front of me.

23 THE COURT: If you want to point me to something
24 that's specific; in other words, that tracks what you expect
25 her to say today, then fine, but I think that what the

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1 government is saying is that you can't do that, that there is
2 no search specific information.

3 MR. SCHIRICK: If your Honor would indulge me to give
4 me two minutes to look through.

5 MR. FINKEL: Your Honor's right. I think the
6 conflating on what we don't object which is the general concept
7 of how blockchains work and the specifics of the analysis. If
8 Mr. Schirick is telling us he's going to point to anything in
9 disclosure, here is my analysis --

10 MR. SCHIRICK: I just said I'm going to try to do
11 that.

12 THE COURT: Go ahead and I'll wait for you.

13 MR. SCHIRICK: Are we close to the 2:30 break? Would
14 it make sense --

15 THE COURT: I suppose the question of how quickly you
16 can get to that information. We have six minutes.

17 MR. SCHIRICK: I'll try. Thanks.

18 (Continued on next page)

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1 (In open court; jury present)

2 THE COURT: Members of the jury, it's time for our
3 2:30 break. We will continue at 3:00. Remember, you're not to
4 discuss the case amongst yourselves or with anyone else. Don't
5 permit anyone to discuss the case in your presence. Don't
6 read, watch or listen to anything from any source that touches
7 on the subject matter of this case. Ma'am, you may step out,
8 don't discuss your testimony.

9 THE LAW CLERK: Jury exiting.

10 (Jury not present)

11 THE COURT: Counsel if you step up again.

12 (Continued on next page)

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1 (At the sidebar)

2 MS. SHROFF: Somebody seems to left our binder at the
3 office. We are reprinting them now, and we'll have it for the
4 Court shortly.

5 THE COURT: Is what you're talking about something
6 different from what this April 29, 2024 letter?

7 MR. SCHIRICK: I would have to go through because we
8 have two disclosures. This was the supplemental disclosure.

9 THE COURT: I think it's the same. I'm looking on
10 page three paragraph G which says, that evidence that there is
11 not substantial on-chain trading or redemption activity of a
12 token such as is the case with HCN and HDO does not demonstrate
13 that the token is not a cryptocurrency. So here she's
14 referring to her observation of an absence of activity to draw
15 the conclusion that does not mean that HCN and HDO are not
16 cryptocurrencies, so there is some reference to the specific
17 activity.

18 MR. FINKEL: That one activity, yes. But what we
19 understand from the questioning and from Mr. Schirick's answers
20 to your inquiries at sidebar is that she did more than that.
21 She performed an analysis on what was on the chain. She looked
22 to see how -- who was being moved to who, the concentration of
23 ownership. If they want to ask that one question that was
24 disclosed, then they can do that. But all we're trying to do
25 is protect what we were disclosed under Rule 16. Mr. Schirick

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1 hasn't identified any other Rule 16 disclosure to suggest that
2 they're entitled to offer an opinion as to more. That's all.

3 THE COURT: Did you want to go beyond what's stated in
4 G?

5 MR. SCHIRICK: I think G and two, Roman 2.2 which is
6 the minting.

7 THE COURT: What page are you on?

8 MR. SCHIRICK: This is page two.

9 THE COURT: So you are referring to, "Ms. Sklar will
10 also opine that in the cryptocurrency industry there is a
11 common market understanding that a cryptocurrency is digital
12 currency that uses blockchain technology to record transactions
13 on a distributed ledger. Cryptocurrencies are frequently
14 created pursuant to self-executing smart contracts and are used
15 as a store of value. She will further opine that given that
16 HCN and HDO each were minted using smart contracts which can be
17 seen on the public ethereum blockchain and are purchased using
18 fiat currency and traded, they meet the common market
19 understanding of cryptocurrencies. Finally, Ms. Sklar will
20 opine that they based on the white papers HCN was designed to
21 operate as a trade-in coin and HDO was a stable coin."

22 MR. HORTON: If I might address that?

23 THE COURT: Yes.

24 MR. HORTON: We spent a lot of time in preparing for
25 today's testimony there. There's a single opinion in paragraph

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1 two about something that can be seen on the blockchain. Set
2 aside whether they're saying something can be seen means that
3 she went and saw it and analyzed it. But she says can be seen
4 are the smart contracts for HCN and HDO. Those are two
5 discrete documents, one each. Those are the constitutional
6 documents so to speak, the formation documents for these
7 tokens. Saying if you go on Etherscan you can see there was a
8 smart contract for HCN and a smart contract for HDO, that's
9 what we understood. That is what paragraph two says. That's
10 got nothing with them saying, and then I analyzed and here's
11 the import of that.

12 MR. FINKEL: Or the analysis of the smart contract
13 itself.

14 MR. HORTON: It can be seen.

15 MR. SCHIRICK: Your Honor, I just want to point out
16 for the record that in --

17 THE COURT: Where are you.

18 MR. SCHIRICK: -- in paragraph 5E which may or may not
19 be the paragraph your Honor may have been reading from before.
20 Yes, 5E second sentence relating to redemptions.

21 THE COURT: For similar reasons?

22 MR. SCHIRICK: Yes.

23 THE COURT: It starts, "Furthermore centralized
24 cryptocurrency exchanges permit their users to redeem or
25 convert their cryptocurrency tokens into the equivalent value

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1 and fiat currency, such as U.S. dollars. For similar reasons,
2 such redemptions would also not typically be reflected on the
3 blockchain. Because even though the user is trading their
4 token for fiat, there is no transfer of cryptocurrency between
5 wallets, rather cryptocurrency remains in the exchange's wallet
6 and a corresponding debit is made in the user's account on the
7 exchanges's internal ledger."

8 MR. HORTON: Once again, that paragraph uses the word
9 "typically" as the other paragraphs do to describe what she
10 understands as typical features, not of the Himalaya Exchange,
11 but of cryptocurrency exchanges writ large based on her general
12 knowledge of the industry. Nothing in that paragraph of that
13 particular analysis that was undertaken for purposes of her
14 testimony. To say that typically you see future A at industry
15 institution B, is totally different from saying, and then I
16 went in and look, and it matches the normal typical features
17 that I'm going to opine about.

18 MR. FINKEL: She's always been an expert and that's
19 what she's been qualified to do to talk about industry
20 practices and what she's interacted with the CFTC. We objected
21 to that, your Honor, but we're not revisiting your Honor's
22 conclusion. What we understand they're now seeking to do is an
23 analysis of those smart contracts and of the blockchain, which
24 is not what's disclosed. And there still hasn't been in all
25 this time Mr. Schirick saying, no, look, this is her opinion

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1 about the blockchain. She can testify, because your Honor
2 ruled that she can, about, as Mr. Horton just said, how
3 cryptocurrency exchanges typically operate, but not to take it
4 a step further which is, and I looked at the HCN and HDO smart
5 contracts or the HCN and HDO blockchain and determine these two
6 purported cryptocurrencies are tokens or credits whatever
7 phrase you want to use act consistently with what is
8 specifically market practice.

9 MR. SCHIRICK: Your Honor, what's clearly disclosed
10 here is that she used publicly available tools as I said before
11 to make observations, right, to make observations about what
12 exist and what happened, all of which I don't think -- I hope
13 anybody would argue is beyond the ability of an expert to
14 testify when third-parties otherwise qualified to testify about
15 observations in their industry, right. And then we've also
16 made clear that she's going to infer certain things from those
17 observations and infer certain things from the lack of
18 transaction or the absence of transaction which is a different
19 inference than the government wants to draw, but it's an
20 inference nonetheless that's permissible with an expert
21 testifying based on her own observation that again are mere
22 observation.

23 We don't need to be clear. We don't need her in our
24 review to conduct the same sort of analysis. There's more than
25 one way to skin a cat to conduct the same sort of analysis that

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1 the government's expert conduct. She can offer her view based
2 on what she saw and based on inference from what she didn't see
3 and that's entirely permissible.

4 THE COURT: So my understanding is that she does not
5 go into any specific about what she saw in the disclosures?

6 MR. SCHIRICK: We did state, your Honor, that she
7 looked at the blockchain, that she reviewed and made
8 observations about what was happening on the blockchain.

9 THE COURT: She doesn't share those observations with
10 the government or with me.

11 MR. SCHIRICK: It's no different than saying we showed
12 an expert a document dated April 29, 2024. Do we need to go
13 and say, here are all the things that are in that letter dated
14 April 29, 2024. It's the same thing as saying she looked at
15 the document. She looked at the blockchain. It's the
16 equivalent.

17 MR. FINKEL: The prior expert is instructive here.
18 Mr. Dragon I believe it was disclosed reviewed the PPM. As
19 part of his analysis of the PPM, he reached the opinion of the
20 \$2 billion valuation was appropriate. That's the opinion. Here
21 there's no opinion about what her analysis was of the
22 blockchain. As your Honor just pointed out, she reviewed it.
23 She looked at it. It doesn't mean we know what her opinion is.
24 That's what Rule 16 disclosures are all about. And they still
25 haven't pointed to exactly what your Honor's question was, what

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1 was the observations that she had that informed her opinion to
2 inform the government and to inform your Honor when your Honor
3 ruled on this. This is simply a disclosure issue. And it's
4 just a question of -- just to be clear, we do not object --
5 because your Honor already ruled on it -- general practices are
6 fine. But with respect to what she reviewed specifically and
7 had formed an opinion on HDO and HCN smart contracts and
8 blockchain activity it's not the same thing.

9 THE COURT: My understanding is that the government is
10 not challenging the conclusions that are stated in Mr. Kamaraju
11 April 29, 2024 letter. They're not saying she cannot draw
12 these conclusions. What they're objecting to is going into a
13 granular analysis that has not previously been disclosed. Am I
14 correct?

15 MR. FINKEL: Yes.

16 THE COURT: I think that is only fair that she has to
17 stick to what has been disclosed as oppose to what's coming up
18 with brand new data that is not --

19 MR. SCHIRICK: To be clear, there's no new data. I'm
20 frankly hopeful that when we get to the specific questioning on
21 this issue some of this will be obviated by seeing where we
22 take the specific questioning. I just want t be clear in the
23 interest of being efficient and having minimal interruption, I
24 am permitted to ask what she viewed on the blockchain using
25 Etherscan that seems foundational. That was clearly disclosed,

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1 and in fact referred to in your Honor's opinion.

2 MS. SHROFF: An observation is different from an
3 analysis of the observation. That's the distinction I think
4 that the government doesn't --

5 MR. FINKEL: Her answer is the analysis of the
6 observation.

7 MS. SHROFF: No, it's not.

8 MR. FINKEL: This is frankly a replay of what happened
9 with Mr. Dragon. Your honor made a pretty clear ruling of where
10 Mr. Schirick could or could not go, and he tried to get around
11 it. I don't think that's appropriate with another expert here.
12 She didn't disclose it. It hasn't been disclosed. They
13 shouldn't be able to put information the government didn't have
14 an opportunity to prepare for in front of the jury.

15 THE COURT: They can't cross-examine her adequately if
16 they're just getting this information for the first time.

17 MR. SCHIRICK: They're not, your Honor. The fact is
18 we said use this tool to look up publicly available
19 information, the same publicly available information that their
20 expert looked at that. They're well-aware of that. They had
21 analysis. There is no surprise here whatsoever, your Honor. I
22 think at the end of the day we have clearly disclosed that she
23 used this tool to look at what's publicly available on the
24 blockchain, and I think everybody would agree that was
25 disclosed, that was incorporated in your Honor's May 17

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1 opinion. It seems to me that should be fair game.

2 MR. HORTON: The question is not whether there's new
3 data in the world. The question is what data is in the Rule 16
4 disclosure the purpose of which is to put us on notice so we
5 can prepare for the cross examination. This document which was
6 their second notice by the way. They supplemented deficient
7 notice to provide your Honor says that she observed particular
8 discrete things on the blockchain; namely, two smart contracts.
9 That's what it says. That's what it said for two months now.
10 We've been talking about this document for 25 minutes, and it's
11 not clear what it means because we're still looking at it.

12 MS. SHROFF: It's like talking about the number six
13 train and saying there's six stops on the number six train.
14 We're not seeking to analyze the six stops, but the six stops
15 are completely apparent. They know the six stops. I know the
16 six stops. What is the issue?

17 THE COURT: I think the problem is that they don't
18 know. That's the problem.

19 MS. SHROFF: The six stops -- I think that's what
20 Ms. Schirick it's saying. It's all publicly available.

21 MS. SHROFF: We know they have it is because their
22 expert has it and opine on it for us.

23 MR. FINKEL: Rule 16 doesn't have an exception that if
24 the government's expert did something and reached an entirely
25 different conclusion than Ms. Sklar by the way, that somehow

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1 makes it okay. There's no exception to that. We don't know
2 what her view is. We know her view is ultimately different
3 than our expert's view, and we know that our expert disclose
4 discrete aspects of what he observed and traced on the
5 blockchain. Ms. Sklar did not disclose that.

6 (Continued on next page)

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1 (At the sidebar, continued)

2 THE COURT: Yours sort of goes into specifics,
3 correct?

4 MR. FINKEL: Yes.

5 THE COURT: All right. Well, it should be parallel,
6 and I'm not going to permit you to go beyond what was
7 disclosed. That is my ruling.

8 MR. SCHIRICK: And I just want to be clear, your
9 Honor. Am I permitted to ask, did you use Etherscan to observe
10 the blockchain?

11 THE COURT: Absolutely, because that has been
12 disclosed.

13 MR. SCHIRICK: Okay. And what did you observe?

14 THE COURT: What I want you to do is to study what was
15 disclosed, and you'll see, from looking at Mr. Kamaraju's
16 words, what had been disclosed, and that's what you can go
17 into, not into this granular analysis.

18 MR. SCHIRICK: I don't think there's any granular
19 analysis, your Honor. I just want to make sure, when I ask,
20 what did you observe, in a nonleading fashion, that the
21 government's not going to jump up and object to her saying she
22 saw them manipulated on the blockchain, which is clearly
23 disclosed, that she saw that. That's clearly disclosed.

24 THE COURT: One way to handle this is for you to ask
25 leading questions that have been agreed to in advance so that

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1 we don't get into her saying something she should not say. So
2 why don't you come up with the leading questions, between the
3 two of you.

4 ALL COUNSEL: Thank you, your Honor.

5 (Recess)

6 (In open court; jury not present)

7 THE COURT: Have the parties come to a conclusion?
8 You're winding up?

9 MR. FINKEL: I think we have, but we just need one
10 minute.

11 THE COURT: Okay. All righty.

12 MS. SHROFF: Your Honor, may we have the witness take
13 the stand?

14 THE COURT: Sure.

15 MR. FINKEL: So, your Honor, we've agreed to two
16 questions, to be asked in a leading fashion. The government
17 does not believe—

18 MS. SHROFF: Excuse me. The translator cannot hear.

19 MR. FINKEL: The government does not believe there
20 needs to be follow-up to those questions in light of the
21 discussion at the sidebar. And that's where the parties have
22 an agreement on that concept.

23 THE COURT: Well, I'll hear the questions when they're
24 asked and decide if there can be any follow-up.

25 I just want to remind Mr. Schirick and the witness to

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1 speak slowly, because the interpreters need to interpret.

2 THE WITNESS: Okay.

3 THE COURT: All right. Let's have the jurors brought
4 back in.

5 (Jury present)

6 THE COURT: Please be seated.

7 You may continue the inquiry.

8 MR. SCHIRICK: Thank you, your Honor.

9 I believe that we left off when the defense was
10 offering Ms. Sklar as an expert, I believe, when the sidebar
11 was called.

12 THE COURT: All righty then. Members of the jury, I
13 am qualifying Ms. Sklar as an expert in cryptocurrency and the
14 functioning of cryptocurrency exchanges and, relatedly, the
15 blockchain.

16 MR. SCHIRICK: Thank you, Judge.

17 BY MR. SCHIRICK:

18 Q. Now, Ms. Sklar, for the benefit of the jury, let's talk a
19 little bit about crypto 101. What is a cryptocurrency?

20 A. A cryptocurrency is a form of digital currency in that it
21 exists purely on the internet and online. But it is also used
22 not just as currency but as a means of exchange, a store of
23 value, a form of technology, and has also become its own sort
24 of culture and philosophy about how money should be used.

25 Q. Okay. And when you say it's on the internet, what is the

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1 role of the blockchain in cryptocurrency?

2 A. Right. So technically, and the technology behind
3 cryptocurrency and what makes it different than, say, using
4 your visa—which also feels like it's online money, but you're
5 really using real money through a credit card—the
6 cryptocurrency only exists through a blockchain. So in this
7 case, for example, or, you know, Bitcoin, which I think people
8 are generally familiar with, but in this case Ethereum, these
9 are—they're on a blockchain. So the blockchain is an online
10 form of technology that serves as a public ledger, to—to
11 explain transactions. And I guess how I would try to I guess
12 maybe visually explain it, if you haven't seen it, you could
13 think of it as an Excel spreadsheet. So you have rows and
14 columns. And one column, you're going to have what's called
15 the hash, but just think of it as a bunch of whole letters and
16 numbers that represent the transactions, so a bunch of data.
17 And then next to that you'll have a whole bunch of numbers and
18 letters that represent the "from" column, and next to that the
19 "to" column. Also a whole bunch of numbers and letters.
20 You'll have date, and then you'll have an—the amount that was
21 transferred. And so when you think about it, you know, from an
22 Excel spreadsheet perspective, think about it the way the
23 blockchain works is you take that and—I don't know if this
24 dates myself, but—use SharePoint to your office mates, or
25 maybe use MS Teams, you could use Google Docs. The point of

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1 why I'm using that to visually try to explain it is, it goes to
2 a bunch of people and then everyone has to vote on it. And so
3 everyone votes, and then that block, that chain, becomes, when
4 everyone votes on it, permanent on the blockchain. And so, and
5 that continues sequentially over and over and over across the
6 days, weeks, months, and it could be—let's say John and Joe
7 are transacting that first block, maybe Joe's fast enough that
8 the next time he sells, the next block is him selling. That's
9 not usually how it works, but—but, you know, it could be just
10 something completely different that happens. But you can see
11 the chain, it just keeps going like this and going across, and
12 that's—and it's publicly available to—to review. There were
13 private websites as well, but that's part of the purpose of the
14 blockchain is that you see that. But there's no names
15 involved. It looks like letters and numbers.

16 Q. Okay. Thank you.

17 And what is the functioning of a wallet when it comes
18 to cryptocurrency and blockchain?

19 A. Sure. So in order to—to know what you have on the
20 blockchain and your crypto, if you're doing it
21 individually—and there are other ways of doing this, too, but
22 just to start, a wallet is, you know, a term borrowed from just
23 regular finance, right? You have your wallet, you know, your
24 money is in your wallet. In cryptocurrency, a wallet is the
25 digital representation of that. So you have a service that has

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1 all those letters and numbers I'm mentioning that just goes
2 across, like, it stores that, that value for you, so that you
3 know what it is that you have. It's very hard to remember
4 otherwise. It's a lot of numbers and letters.

5 Q. Okay. Thank you.

6 And what is a cryptocurrency exchange?

7 A. A centralized cryptocurrency exchange is—is an exchange
8 where people come together to buy and sell cryptocurrency. The
9 exchange is the intermediary or the body that stands in between
10 them, so you're not directly buying and selling with someone,
11 there is an exchange in between you, similar to—again,
12 borrowing terms from, you know, regular finance, how an
13 exchange works as well, you—when you buy and sell stocks,
14 you're not, you know, buying directly from Apple when you buy
15 Apple stock. There's someone in between you that's—that's
16 facilitating that transaction.

17 Q. Okay. And what are some of the benefits of a centralized
18 cryptocurrency exchange?

19 A. Well, first of all, you don't have to remember your—your
20 hashtag of all these letters and numbers. That is the
21 responsibility of a centralized exchange, to maintain—to
22 maintain that type of information. A centralized exchange also
23 provides other types of services—usually compliance, KYC and
24 AML. KYC is know your customer; AML, anti-money laundering.
25 Also cybersecurity and auditing and recording functions. So

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1 that you just, similarly to when you buy or sell stock, the
2 centralized crypto exchange also should be able to tell you
3 what it is you bought and sold, for how much, and what date.

4 Q. Okay. And now how is cryptocurrency created?

5 A. Similar to wallets and other sort of terms borrowed from
6 traditional finance, cryptocurrency is created by what's called
7 minting, so just as money is minted and created, cash,
8 cryptocurrency is minted by creating new cryptocurrency
9 on—that's put on the blockchain through what's called a smart
10 contract, and that information is also publicly available
11 online, on the blockchain.

12 Q. Okay. And what is the role, if any, of the smart contract
13 or code in crypting—in minting? Excuse me.

14 A. Well, it shows you—it—it provides public access to people
15 that want to see the code, that want to understand the code, to
16 see whether it exists or not or how—how it's being minted.
17 Not a coding expert, but you can see it online, you know,
18 coding experts obviously can, but it is publicly available.
19 It's part of the crypto—how crypto culture has evolved that
20 it's very open source in that way.

21 Q. Okay. Now what is a white paper?

22 A. A white paper is a term used in crypto for—it's usually
23 publicly available and on their website, to show what the
24 technology is, what—what the purpose is, what the value
25 proposition is, why someone should purchase that crypto. It's

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1 usually also forward looking, so it will usually—they usually
2 start with what they think the value is at the time, but they
3 often, very often typically include what their value
4 proposition is in the future and where they see their crypto
5 being used and why.

6 Q. Okay. And is there a custom or practice in the space with
7 respect to white papers?

8 A. Yes, they're—they're typically put online on the website
9 and shared, again, part of the open-source culture, but also to
10 encourage people to want to use or adopt that cryptocurrency by
11 showing the technology and what the potential uses are. That's
12 how—that's how people learn about it.

13 Q. Okay. Now you mentioned the culture that surrounds
14 cryptocurrency once or twice in your answers. Are you familiar
15 with the term HODL, H-O-D-L?

16 A. Yes, it means to hold on for dear life.

17 Q. And could you just explain for the benefit of the members
18 of the jury what that means.

19 A. Sure. It's—it's an expression used in the crypto culture
20 online frequently as an expression of enthusiasm. When—and
21 it's used both ways. It's used when the price of
22 cryptocurrency goes up, HODL can mean to hang on because they
23 believe the price is going up, and not to sell early, but also
24 when the price of cryptocurrency—and if I didn't say this
25 before, it's used across all cryptocurrencies. When the price

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1 goes down, too, it's also used as in, don't sell off right now,
2 hold on, because we believe this—this cryptocurrency has
3 value.

4 Q. Okay. And the same question with respect to the phrase "to
5 the moon." Are you familiar with that?

6 A. Yes.

7 Q. Okay. And can you explain what that is, please.

8 A. It's also an expression used in the crypto community. Also
9 an expression of enthusiasm. I mean, the moon is, I think
10 what, 239,000 miles away? Maybe some people actually believe
11 the price of crypto will hit \$239,000, but in general, it is
12 just—it's an expression of the price going up and being
13 enthusiastic about that price going up.

14 Q. And in your experience, are those terms common in the
15 crypto world?

16 A. Yes. And as I mentioned, they're used across all
17 cryptocurrencies. It's not specific to any cryptocurrency.

18 Q. Okay. Thank you.

19 Now that we understand the terms a little bit better,
20 let me ask you: Why do people use cryptocurrency?

21 A. There are a couple reasons. First, I'd say enthusiasm for
22 the technology; second, privacy; third, the unbanked and
23 underbanked; and fourth, for cross-border remittances.

24 Q. Okay. Maybe we'll sort of take each one of those in turn.

25 I think the first one you said was a belief in

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1 cryptocurrency, or enthusiasm. Can you just expand on that a
2 little bit, please.

3 A. Yeah. So the—I mean, the concept of cryptocurrency, of
4 having a digital currency that doesn't exist through or for a
5 bank is—is new and novel. It excites people in the industry
6 and who—the people that create it and people that invest in it
7 and believe in it, and even from the time of Bitcoin's
8 inception until now, a lot has changed. And there's a lot of
9 enthusiasm about it. You know, one comparison is often used to
10 the internet. And when the internet first came out, there were
11 some skeptics, thoughts about government regulation, but we all
12 remember the first time we got our first email and it was an
13 exciting moment. And so it's—cryptocurrency is also in that
14 moment, that it continues to evolve. And when you think about
15 the internet, you know, we had the internet, we had email, now
16 we have things that people couldn't even imagine were possible
17 with the internet, TikTok and social media and every—virtual
18 reality and things like that. And so cryptocurrency, for
19 enthusiasts, is also—still has a lot of potential, and current
20 potential.

21 Q. Okay. And then I think another reason you identified as to
22 why people would use cryptocurrency was privacy. Could you
23 just explain that a bit more.

24 A. Sure. It doesn't—cryptocurrency can be issued not from or
25 through a bank or other intermediary. So it affords a certain

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1 level of privacy in that respect. As I mentioned, you can
2 follow what's happening on the blockchain, but there aren't
3 names involved, or addresses. And if you have, you know—if
4 you create different types of systems, ecosystems for crypto,
5 people from the outside can't see what's happening on the
6 inside.

7 Q. Okay. And then I think a third reason you identified was
8 access to banking. Maybe you can just explain that one a bit
9 as well.

10 A. Sure. So underbanked refers to people that have access to
11 bank accounts but do not have the full sort of services of a
12 bank account. They may not be able to afford a savings
13 account; they might not have the credit ratings to get a
14 mortgage from their bank, for example. And unbanked are people
15 that don't have bank accounts at all. And in the United
16 States, there are millions of people that are unbanked and
17 underbanked. Around the world, there are over a billion people
18 unbanked. And when you count underbanked too, you're over
19 2 billion people. So in—when you—I mean, how I think about
20 it too is, you know, in the United States, I take for granted
21 that I can walk to an ATM, that my bank will be backed by the
22 U.S. government and have money when I go, and—and my bank will
23 be backed, obviously, as well, when I go take out money. That
24 is not the situation for a lot of people in the world. And
25 so—but a lot of people do have cellphones, a lot of people do

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1 have access to either wireless or WiFi, and so having apps that
2 allow them to transact money, cryptocurrency, is one way
3 of—for the unbanked and underbanked to transact money. It is
4 being used in many developing countries as a way of increasing
5 financial inclusion in that respect for people that don't have
6 bank accounts.

7 And, you know, I would also point to, there are
8 situations where people even that were banked may become
9 unbanked. For example, in Ukraine, when Russia invaded, there
10 are—there were a lot of people that were not able to access
11 ATMs. They were not able to—when they went to their banks,
12 there were—there wasn't enough money left to be circulated
13 around. People turned to cryptocurrency. And indeed, hundreds
14 of millions of dollars' worth of cryptocurrency has actually
15 been sent to Ukraine to help because of—because of the banking
16 situation there.

17 Q. Okay. Thank you for that.

18 And then I think the last reason that you identified
19 as to why people would use cryptocurrencies was cross-border
20 remittances. Can you just explain that.

21 A. Sure. So somewhat relatedly to, you know, this, that in
22 other countries—well, also in the United States—people have
23 access to phones, but may not have access to bank accounts.
24 Cross-border remittances refers to, when you don't have a bank
25 account, but you're making money, how do you, and your family

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1 that lives abroad, how do you send—how do you send that money.
2 And one way that cryptocurrency is used is because of that.
3 Cross-border remittances through some major providers can
4 charge 30 percent or more of what you're sending. And so when
5 you're thinking about people that are unbanked or underbanked,
6 why they're using these services, 30 percent of—or more of
7 what they're sending is, well, I think it's a large percentage
8 for anyone, but it's particularly a large burden for people
9 that are just trying to send—trying to send what they're
10 trying to send, which might be minimum wage or less.

11 Q. Okay. Thank you for that.

12 Now how does a sort of typical
13 cryptocurrency—withdrawn.

14 How does a typical cryptocurrency transaction work on
15 a centralized exchange?

16 A. On a centralized exchange, you would either—depending on
17 the exchange, either send U.S. dollars to the exchange
18 to—which would be converted into either crypto or—or other
19 stablecoins, which I haven't defined yet, but again—but it
20 will be converted into whatever the token or crypto that you're
21 buying is, or other exchanges accept crypto for crypto, so you
22 can put crypto into the exchange to buy other forms of crypto.

23 Q. Okay. Now let's just talk about custody and custodians.
24 What is a custodian?

25 A. A custodian is the entity or representative that holds your

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1 cryptocurrency; that could be a wallet, an exchange, or some
2 other entity that—that has custodial rights to your crypto.

3 Q. Okay. And is the custodian akin to a bank that holds the
4 crypto on your behalf?

5 MR. HORTON: Objection to leading.

6 THE COURT: Overruled. You may answer.

7 A. Sure. So by entity—we said entity, yes, it's some party,
8 intermediary, broker, bank, some entity that is holding your
9 crypto and has custodial rights over it. So that, well, they
10 have custody of—of it. You're not physically holding—you
11 can't physically hold cryptocurrency. So it has to go
12 somewhere.

13 Q. Okay. Now what are stablecoins?

14 A. Stablecoins are a form of cryptocurrency that are meant to
15 be pegged or equivalent to a one-to-one ratio. So one
16 stablecoin equals one U.S. dollar, for example.

17 Q. Okay. And are there other stablecoins that could be pegged
18 to other currencies as well?

19 A. Yes. U.S. dollar stablecoins are the most common, but
20 stablecoins are often also pegged to the Euro. That's probably
21 the second most common.

22 Q. Okay. Now why do people use stablecoins?

23 A. There are a couple of reasons. One is just, when you think
24 about just holding a basket of—of assets, stablecoins are just
25 another type of asset. So they're—again, sort of the

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1 intention is for it to be one to one, so, you know, if you
2 think of having, you know, your own, you know, basket of
3 assets, you know, you might have stocks, stocks go up and down,
4 like cryptocurrencies do; stablecoins might be more like having
5 money in a money market, mutual fund, which is meant to be like
6 one to one, or like a savings account with a relatively low
7 interest rate. It's—it's something stable in your basket of
8 assets, but is—and it's not going to fluctuate.

9 Next in the cryptocurrency sort of system, just
10 how—how it's developed is, stablecoins are often used when
11 you're using cryptocurrency because of the instability in the
12 price. When you're trying to transfer your cryptocurrency to
13 different venues or means, trans—it's common to transfer it to
14 a stablecoin so you know where your money—what the dollar
15 value is when you then try to transfer that out to somewhere
16 else.

17 Q. Okay. Now are you familiar with what, if any, outside
18 service providers a centralized exchange may work with?

19 A. Yes.

20 Q. Okay. Can you give us some examples, please.

21 A. Sure. They might use compliance providers, and that would
22 include, or could include, AML and KYC providers,
23 cybersecurity; outside wallet providers are also very common,
24 and auditing services, as well as probably other services;
25 looking at the code, for example, as well.

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1 Q. Okay. Thank you for that.

2 Now moving on to the facts of this case and the
3 specific cryptocurrencies at issue, I believe you said a few
4 minutes ago that amongst the materials you reviewed were the
5 white papers. Right?

6 A. Yes.

7 Q. Okay. Can you provide an explanation of the white papers
8 for HDO, please.

9 A. It explained the stablecoin and what the value proposition
10 for it was going to be, and what it was at the time.

11 Q. Okay. And based on your review of the white paper for HCN,
12 can you just explain what your understanding is of HCN, please.

13 A. Sure. That was the exchange's cryptocurrency, and the
14 white paper there too explained the purpose of it and the value
15 proposition and where they expected that to go as well.

16 Q. Okay. And why is it that an exchange would want both a
17 stablecoin and a trading token?

18 A. There's, you know—I think it makes sense when you think
19 about then the sort of transfer—well, first of all,
20 the—again, the difference in—in value, holding one that's
21 more volatile, holding one that's more stable, so there's that,
22 in your basket of assets.

23 And then there's also just the transferring in and
24 out. When you transfer your crypto to a stablecoin, you know
25 what it is, when you try to transfer your stablecoin out or to

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1 something else, what it is that you're doing, and
2 it's—it—that's done. Again, the price of crypto can be
3 volatile so, like, you don't, you know—so transferring it to a
4 stablecoin is frequently the way that people move their crypto
5 around when they're transferring it around.

6 Q. Okay. And what, if any, role does a stablecoin like HDO
7 play in getting sort of value into a centralized exchange?

8 A. It's one way of purchasing a crypto from the exchange, from
9 a cryptocurrency from the exchange, and then it's, you
10 know—the exchange can—well, pursuant to the white paper and
11 how the exchange operates, how that gets used.

12 Q. Okay. Fair to say it's something of an on-ramp into the
13 exchange—

14 A. In this—

15 Q. —the value into the exchange?

16 A. Yes, in this case you could buy a stablecoin to, yes,
17 transact on the exchange.

18 Q. And so one would purchase stablecoins using U.S. dollars,
19 and that value in U.S. dollars would then be tradeable on the
20 exchange, fair?

21 A. Yes, that's—

22 MR. HORTON: Objection, your Honor.

23 THE COURT: Overruled. You may answer.

24 Q. And the same—

25 A. Oh, sorry. Yeah, according to the white papers and what

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1 I've seen, yes, that was the purpose of that.

2 Q. Okay. And the same question with respect to getting value
3 out of the exchange. Did it function, serve that function as
4 well?

5 A. Yes, according to the white papers and the documents I've
6 seen, that was the purpose.

7 Q. Okay. Now, Ms. Sklar, did you—withdrawn.

8 I believe you testified earlier that you used
9 something called Etherscan to make some observations about the
10 tokens at issue here?

11 A. Yes, Etherscan is a publicly available version of the
12 blockchain to look at the Ethereum blockchain.

13 Q. Okay. And can you just explain that a little bit further
14 for members of the jury.

15 MR. HORTON: Objection, your Honor, in view of the
16 sidebar, scope.

17 MR. SCHIRICK: I'm just asking for an explanation of
18 what Etherscan is, how it works, not what she observed here,
19 your Honor.

20 THE COURT: Generally. Generally.

21 A. Sure. So similarly to how I explained visually, using an
22 Excel spreadsheet example, the Etherscan website looks
23 relatively similar. It just has the—it has columns going
24 across with the hash, which is the identifier, has the "from"
25 and the "to," has the date, has the amount, and it's

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1 searchable. So you can search by token, by stablecoin, if you
2 know the hash numbers you're looking for, the "from," "to," you
3 can search it by date. It's a—it's on the internet. It's
4 part of the—part of the way crypto and Ethereum works is that
5 it's a public blockchain.

6 Q. And is it typical for people to use Etherscan to observe
7 the blockchain?

8 A. I think so, because it's—it's free. I mean, there are
9 other versions you can pay for, but, you know, the free one is
10 usually what people go to.

11 Q. Fair enough. Okay.

12 Now did you use the Etherscan to observe the tokens at
13 issue here? Just yes or no.

14 A. Yes.

15 Q. And did you observe a minting event for HDO?

16 A. Yes.

17 Q. And by minting event, we mean when it was created.

18 A. Yes, as I explained, yes.

19 Q. Okay. And did you observe a minting event for HCN on the
20 blockchain?

21 A. Yes, I did.

22 Q. Okay. And can you just briefly tell us what you observed
23 about those minting events.

24 MR. HORTON: Objection, again, due to the sidebar.

25 THE COURT: Sustained.

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1 Q. Did you observe on Etherscan that there were relatively few
2 transfers of HCN and HDO?

3 A. Yes.

4 Q. And was that surprising to you?

5 A. No, not for tokens that are relatively new. There's
6 usually—typically, when tokens start trading, there's a lot of
7 illiquidity in the market.

8 Q. Okay. Now let's just talk about the nature of the Himalaya
9 Exchange for a moment.

10 What kind of exchange was the Himalaya Exchange?

11 A. A centralized exchange.

12 Q. Okay. And I believe you testified before that a
13 centralized exchange may use a single wallet or a set of
14 wallets?

15 A. Yes, part of why people use a centralized exchange is
16 because the exchange has the wallet in custody so that, again,
17 you don't have to remember all of the numbers, all of the
18 transactional data. The centralized exchange does that.

19 Q. Okay.

20 A. And Himalaya Exchange was a centralized exchange—is a
21 centralized exchange.

22 Q. Okay. And from your review of the white papers for the two
23 tokens at issue, do you have an understanding of a credit
24 system that the Himalaya Exchange used?

25 A. Yes.

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1 Q. And can you just explain that to the jury, please.

2 A. The—their credit system was an internal system to keep
3 track of—of cryptocurrency being transacted. It was called a
4 credit system. But you could probably use any other word
5 to—the word "credit" is just the word that was used. It could
6 have been described as an internal ledger system. Other
7 centralized exchanges do similarly have internal systems to
8 account for crypto.

9 Q. Okay. And you testified before that there were relatively
10 few transfers that you observed using Etherscan. Is it fair to
11 characterize those as on-chain transactions?

12 A. The ones that are available—the ones that you can view on
13 Etherscan are publicly available, and that would be an on-chain
14 transaction because it's publicly available on the blockchain.

15 Q. Now what would you expect to see in terms of the public
16 visibility of transactions conducted in a centralized exchange?

17 A. Internally, if there's an internal ledger, credit system,
18 or a tokenization system, however the accounting is being
19 termed or called internally, those transactions would be
20 considered off-chain. They would not be on the public
21 blockchain. But there would be an internal system within the
22 centralized exchange to keep track.

23 Q. So one would not be able to see transactions happening on
24 the Himalaya Exchange, for example, on-chain; is that fair?

25 MR. HORTON: Objection. Compound.

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1 MR. SCHIRICK: It's one question.

2 THE COURT: If you'll rephrase that, please.

3 MR. SCHIRICK: Sure.

4 Q. For a centralized exchange, would you expect to see all of
5 the transactions conducted on that exchange on the blockchain?

6 A. No, and in fact, one of the largest centralized exchanges
7 in the world doesn't do that either.

8 Q. And what exchange are you referring to?

9 A. Coinbase.

10 Q. Okay. So for the Himalaya Exchange, could you tell how
11 many transactions were conducted by the exchange simply by
12 looking at the blockchain?

13 A. No.

14 MR. HORTON: Objection, scope.

15 THE COURT: Sustained.

16 Q. The Himalaya Exchange is a centralized exchange, right?

17 A. Yes.

18 Q. And any reason to expect the Himalaya Exchange to reflect
19 transactions differently than any centralized exchange?

20 MR. HORTON: Same objection, scope.

21 THE COURT: Sustained.

22 Q. Okay. Have you heard of the phrase "closed system" when it
23 comes to a cryptocurrency exchange?

24 A. Yes.

25 Q. Okay. And what does that mean?

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1 A. That the centralized exchange would be more internalizing
2 its own crypto and functions and conducting more off-chain than
3 on-chain, but when it needed to be on-chain would be on-chain.

4 Q. Okay. And so fair to say you would expect most of the
5 transactions to be off-chain.

6 A. For a closed system, yes.

7 Q. For a closed system. Okay.

8 Now would you consider the Himalaya Exchange a closed
9 system?

10 A. That's my understanding from the white papers and what I've
11 seen was the intent of it—is the intent of it, yes.

12 Q. Thank you. Now, Ms. Sklar, I believe you—withdrawn.

13 Did you review any third-party contracts that the
14 exchange had with outside service providers?

15 A. Yes.

16 Q. Okay. And can you just tell us about those briefly.

17 A. I saw CertiK, which reviewed the code; Armanino, which did
18 the auditing; and Bitgo, which was the wallet custodian.

19 Q. Okay. And what significance, if any, do you draw from the
20 exchange's use of these third-party service providers?

21 A. It's—it's very typical, as I mentioned, to outsource
22 certain things to third parties, and in fact, it's—it's
23 usually considered a best practice, particularly when you think
24 of who they were using. Well, first of all, to—outside
25 auditors are always a best practice rather than relying on your

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1 own, and Bitgo is one of the world's biggest and most
2 well-known wallet custodians for crypto.

3 Q. Okay. And how about Armanino, the auditor?

4 A. Again, you need to—having a third-party audit for any type
5 of exchange is always a best practice.

6 Q. And in terms of best practices, what, if any, best practice
7 would there be with respect to the auditing of reserves?

8 A. Well, you would look at, you know, the bank accounts to see
9 whether—what their reserves were, and, you know, what—what
10 mix that was, whether it was cash, U.S. dollars, or other types
11 of assets.

12 Q. Okay. And just to be clear, because I think I may have
13 jumped over the part about what reserves are, what are
14 reserves?

15 A. Sure. For stablecoins, to—when you have a reserve-backed
16 stablecoin and you're trying to do one to one, it means do you
17 have what's backing the stablecoin to make it one to one.

18 Q. Okay. Now the outside service providers that you just
19 described, are those common service providers for a
20 cryptocurrency exchange?

21 A. Yes.

22 Q. In particular for a centralized cryptocurrency exchange?

23 A. For a centralized, yes.

24 Q. Okay. Now, Ms. Sklar, based upon your review of the
25 materials that you've described, and your expertise, did you

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1 reach any conclusion with respect to HDO and HCN?

2 A. I mean, that they were cryptocurrencies being, you know,
3 offered from the exchange, and they were on the blockchain.

4 Q. Okay. And so your view is that HCN is a cryptocurrency
5 that exists on the blockchain?

6 A. Yes.

7 Q. And that HDO was a cryptocurrency that exists on the
8 blockchain?

9 A. A stablecoin, yes, form of cryptocurrency, yes.

10 Q. Thank you for that.

11 And what is the basis for that conclusion?

12 A. My review of the documents, including third-party documents
13 we just mentioned, and my review of Etherscan and the
14 blockchain.

15 MR. SCHIRICK: Okay. Thank you, Ms. Sklar.

16 Your Honor, no further questions at this time.

17 THE COURT: Cross-examination.

18 CROSS EXAMINATION

19 BY MR. HORTON:

20 Q. Good afternoon, Ms. Sklar.

21 A. Good afternoon.

22 Q. To learn about the Himalaya Exchange, you reviewed its
23 white papers, right?

24 A. Yes.

25 Q. And those are documents that are written and issued by the

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1 exchange; is that correct?

2 A. Yes.

3 Q. Did you pull those down from the exchange's website?

4 A. They're on the website, but I was also given the—I also
5 saw them through the attorneys.

6 Q. And did Mr. Guo's lawyers allow you to interview any
7 authors of these white papers?

8 MR. SCHIRICK: Objection.

9 THE COURT: Overruled. You may answer.

10 A. I did not, no.

11 Q. And did you in fact interview any of the authors of these
12 white papers?

13 A. I didn't, no.

14 Q. You don't know the names of the authors of these white
15 papers, do you?

16 A. I don't, no.

17 Q. And in preparing to testify today, you didn't visit the
18 exchange's headquarters in Abu Dhabi, did you?

19 A. I did not.

20 Q. You testified about your understanding of the intent of the
21 exchange. Do I have that right?

22 MR. SCHIRICK: Objection.

23 THE COURT: Overruled. You may answer.

24 A. The intent from the white papers, yes.

25 Q. Those were based on what the Himalaya Exchange said its

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1 intentions were; is that correct?

2 A. Yes.

3 Q. You didn't create an account at the Himalaya Exchange, did
4 you?

5 A. No.

6 Q. You didn't purchase H Coin credits, did you?

7 A. No. I don't think it would be appropriate for me to
8 testify if I—if I actually owned anything in Himalaya
9 Exchange.

10 Q. So just so I'm clear, you haven't personally used the
11 Himalaya Exchange.

12 A. No.

13 Q. Okay. And, I mean, just, again, so I'm clear, you didn't
14 buy any H Dollar credits for yourself.

15 MR. SCHIRICK: Asked and answered.

16 THE COURT: Sustained.

17 Q. Do you have a cryptocurrency wallet, Ms. Sklar?

18 A. Yes.

19 Q. Does it have Himalaya dollars in it?

20 A. No. As I said, I haven't—

21 MR. SCHIRICK: Objection. Asked and answered.

22 A. No financial—yeah.

23 THE COURT: Sustained.

24 MR. HORTON: I'll move on, your Honor.

25 Q. There were at least four white papers issued by the

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1 exchange; isn't that right?

2 A. I think so.

3 Q. Did you review all the white papers?

4 A. Yes.

5 Q. So how many were there?

6 A. I've seen—

7 MR. SCHIRICK: Objection. Asked and answered.

8 THE COURT: Overruled. You may answer.

9 A. I've seen drafts, I want to say I think there's four, but,
10 yeah, I mean, I saw what I was—what I was given. And there
11 were drafts, yeah. It was more than, probably, four.

12 Q. I see. And there was at least one for H Coin and at least
13 one for H Dollar; is that right?

14 A. Yes.

15 Q. And two of those white papers were issued in 2021, correct?

16 A. Yes.

17 Q. And another two were issued in 2022; is that right?

18 A. Yes.

19 Q. And each of those white papers is almost 40 pages long; is
20 that true?

21 A. Yes.

22 Q. Each one?

23 A. If you represent they were 40 pages, I'll believe you. I
24 don't have them in front of me.

25 Q. Did you read them all the way through?

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1 A. Yes.

2 Q. More than once?

3 A. Yes.

4 Q. And each one of them, each one of those four I just
5 mentioned is more than 12,000 words long; is that right?

6 MR. SCHIRICK: Objection.

7 THE COURT: Overruled. If you know, you can answer.

8 A. I don't know.

9 Q. And you just testified that you read them more than once;
10 is that right?

11 A. Yes.

12 Q. And did you feel that you understood them after reading
13 them more than once?

14 A. Yes.

15 Q. You've reviewed white papers before you were hired to
16 testify in this case, right?

17 A. Yes.

18 Q. In fact, you're a lawyer, aren't you?

19 A. Yes.

20 Q. You've been a lawyer for more than 15 years; isn't that
21 right?

22 A. 19, yes.

23 Q. And in fact, you're a regulatory lawyer in particular;
24 isn't that correct?

25 A. Yes.

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1 Q. And you used to regulate cryptocurrency exchanges; isn't
2 that right?

3 MR. SCHIRICK: Objection. The witness—

4 THE COURT: You may answer.

5 MR. SCHIRICK: The witness didn't regulate.

6 THE COURT: You may answer.

7 A. I can sort of—well, so, as you know, technically,
8 cryptocurrency exchanges aren't regulated by the CFTC or the
9 SEC right now, but regulating—regulated financial products,
10 yes.

11 Q. Ms. Sklar, you have a lot of experience reading and
12 understanding cryptocurrency white papers; isn't that fair to
13 say?

14 MR. SCHIRICK: Objection. Cumulative.

15 A. Yes.

16 THE COURT: You may answer.

17 A. Yes.

18 Q. And in fact, you've advised clients of your own on drafting
19 white papers; isn't that right?

20 A. I have, yes.

21 Q. You said that white papers are how people learn about
22 crypto tokens, right?

23 A. Yes.

24 Q. You don't know how members of the Mountains of Spices Farm
25 learned about H Coin, do you?

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1 A. I don't.

2 Q. Do you know if David Dai shared the white papers with
3 members of the UK Farm?

4 MR. SCHIRICK: Objection. Your Honor, can we have a
5 sidebar.

6 THE COURT: If you know, you may answer.

7 A. I—I don't know.

8 MR. HORTON: I just have one more question on that
9 topic, your Honor, right now.

10 Q. Do you know if any farm leader shared white papers with
11 farm members?

12 MR. SCHIRICK: Objection, foundation.

13 A. I don't know what that means.

14 THE COURT: You may answer.

15 A. Sorry. I don't know.

16 Q. Okay. You testified earlier about cryptocurrencies and
17 credits, right?

18 A. Yes.

19 Q. And I think in your words, cryptocurrency only exists
20 through the blockchain; do I have that right?

21 A. That's how you can tell if it's a cryptocurrency is when
22 you can look at it on a blockchain.

23 Q. And if you can't see a coin on a public ledger, you can
24 tell it's not cryptocurrency, right?

25 A. I wouldn't characterize what I said that way, but—

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1 MR. SCHIRICK: Objection.

2 THE COURT: You may answer. I'm sorry.

3 THE WITNESS: I'm sorry.

4 THE COURT: I spoke over you.

5 If you'll read back the question, please.

6 (Record read)

7 THE COURT: Go ahead.

8 A. No. I wouldn't characterize what I said that way.

9 Q. Okay. But I understand you correctly that cryptocurrency
10 only exists through the blockchain, right?

11 A. For it to be a cryptocurrency, it would need to at some
12 point be on the blockchain, but that doesn't mean what you're
13 doing doesn't involve cryptocurrency.

14 Q. And you testified about exchange credits, right?

15 A. Yes.

16 Q. And those are notations on internal databases, right?

17 A. In this case, yes.

18 Q. Yeah. And those internal databases, they're not on the
19 blockchain, right?

20 A. In my understanding, the credit system was not on the
21 blockchain.

22 Q. The Coinbase internal credits, those are off-chain; that's
23 what Coinbase calls it, right?

24 A. They call it an internal distributed ledger system, but
25 yes, they could have called it credits or anything else, but

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1 that's what they call it. That's on their website, yes, and
2 that's—

3 Q. Okay. But—

4 A. —the usage of Coinbase.

5 Q. I'm sorry. I didn't mean to interrupt you.

6 A. No, no. Yeah, go ahead.

7 THE COURT: When you say "they," who are you referring
8 to?

9 THE WITNESS: Sorry. Me?

10 THE COURT: Yes.

11 THE WITNESS: Sorry. Can you repeat back, when did I
12 say "they"? Sorry.

13 THE COURT: If you just please restate the answer, the
14 question and the answer.

15 Q. You said that Coinbase—

16 THE COURT: I'm asking for the reporter to read it
17 back.

18 MR. HORTON: Sorry.

19 (Record read)

20 A. Sorry. Yes, by "they," I meant Coinbase. It's—it's part
21 of the usage of Coinbase, but it's also publicly available, as
22 an explanation, how Coinbase operates.

23 THE COURT: Go ahead.

24 MR. HORTON: Thank you, your Honor.

25 BY MR. HORTON:

0721GU05

Sklar - Cross

1 Q. The internal database at Coinbase, Ms. Sklar, that you're
2 just describing now, that's not on the blockchain, correct?

3 A. That's my understanding, without also revealing anything
4 that I'm not allowed to reveal. I'm only going to discuss
5 things that are publicly available.

6 Q. Understood. These internal databases where an exchange
7 keeps their credits, they're not publicly available, right?

8 A. The internal database, no.

9 Q. And the Himalaya Exchange's internal database, where its
10 credit transactions are located, that's not publicly available,
11 right?

12 A. That's my understanding.

13 Q. You haven't seen the Himalaya Exchange's internal database;
14 isn't that right?

15 A. I have not.

16 Q. And you testified about what you expect to see on a
17 centralized exchange's ledger; isn't that right?

18 MR. SCHIRICK: Objection.

19 A. What's usual or could be?

20 THE COURT: You may answer.

21 A. What's usual or could be, but every centralized exchange is
22 allowed to, frankly, have its own model.

23 Q. And you don't know, sitting here today, whether the
24 Himalaya Exchange's private ledger matches your expectations;
25 isn't that right?

0721GU05

Sklar - Cross

1 A. Sorry. My expectations of?

2 Q. Well, you just testified about what's usual at a
3 centralized exchange; isn't that right?

4 A. Yes.

5 Q. Sitting here today, you haven't looked at the Himalaya
6 Exchange's internal ledger; isn't that right?

7 A. Right.

8 Q. So you have no way of opining about whether the Himalaya
9 Exchange's actual internal ledger matches your expectations of
10 what's usual at a centralized exchange; isn't that true?

11 A. I haven't—I haven't seen it, so I—I can't really say
12 either way. I have—as I just said, I haven't seen it.

13 Q. Your testimony today was that the Himalaya Exchange is
14 designed to be a centralized exchange, right?

15 A. Yes.

16 Q. And that means that some person or group of people control
17 its operations; isn't that true?

18 A. Yes.

19 Q. Do you know who those people are?

20 A. I've seen the diagrams and the, you know, organizational
21 charts. I haven't memorized them, but I've seen them.

22 Q. And who gave those to you?

23 A. They're in a document that may or may not be an exhibit.
24 There's a business plan.

25 Q. And—sorry—who gave that document to you, the org chart at

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Sklar - Cross

1 the exchange, before you testified?

2 A. The lawyers, but it's in the Himalaya Exchange business
3 plan. It may even be in the white paper as well. In fact, in
4 the white paper, there are bios in there. The org chart is in
5 their business plan, as I recall.

6 Q. And so because it's designed to be a centralized exchange,
7 that means there's some group of people with control over this
8 internal database that you haven't seen; isn't that right?

9 A. Yes.

10 Q. Okay. Now some centralized exchanges sell crypto tokens
11 directly to customers' wallets; isn't that true?

12 A. Yes.

13 Q. It's possible to use Coinbase, for example, bring your own
14 wallet as a customer, and receive and hold crypto token
15 yourself; isn't that right?

16 MR. SCHIRICK: Objection, compound.

17 THE COURT: You're asking whether it can be done?

18 MR. HORTON: I can break it down a little bit, your
19 Honor.

20 THE COURT: Okay. Go ahead.

21 Q. If a person goes to Coinbase with their own wallet, they
22 can obtain cryptocurrency to hold themselves directly; isn't
23 that true?

24 MR. SCHIRICK: Objection.

25 THE COURT: You may answer.

0721GU05

Sklar - Cross

1 A. Now, but that wasn't always the case.

2 Q. But it's true now, isn't it?

3 A. It is true now. It took time though.

4 Q. And Coinbase, not the only centralized exchange where you
5 can show up with your own wallet and get crypto tokens to store
6 in your wallet; isn't that right?

7 A. Yes.

8 Q. But in the Himalaya ecosystem, customers could not hold H
9 Coin tokens in their own wallets; isn't that true?

10 A. At that time, but that's not what the plan was, according
11 to the white papers.

12 Q. Well, I'm not asking about the plan. Is it currently the
13 case, right now, today, that you can hold H Coin tokens in a
14 customer wallet?

15 A. As of today, I don't believe so.

16 Q. Okay. In fact, all that Himalaya Exchange customers can
17 buy are credits, right?

18 A. Right now? I think so.

19 Q. Well, what about for the entire period of your review?

20 A. I mean, the plan was, obviously, for—

21 Q. I'm sorry. I'm going to just interrupt you really quickly,
22 Ms. Sklar, because I'm not asking you about the plan or the
23 future or anyone's intentions.

24 MR. SCHIRICK: Your Honor, can she be allowed to
25 answer the question.

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Sklar - Cross

1 THE COURT: Right. So he's asking you not about what
2 they may have planned to do but what they actually did.

3 A. Sure. At the time, yes.

4 Q. In fact, isn't it true, Ms. Sklar, that even in the white
5 papers, stating their intentions, the Himalaya Exchange said
6 that customers couldn't hold any crypto assets at all in the
7 Himalaya ecosystem? Isn't that true?

8 A. Honestly, you'd have to point me to where that says. I
9 actually don't recall that sentence.

10 Q. That's fine.

11 MR. HORTON: Can we pull up GX AS12, which is in
12 evidence, please, Isabel, and go to page 11.

13 Let's start at the first page, actually, so we can see
14 what document we're looking at.

15 Q. So Ms. Sklar, this is the January 2022 Himalaya Coin white
16 paper. Did you review this?

17 A. Yes.

18 MR. HORTON: Okay. If we can go to page 11, please,
19 Ms. Loftus.

20 Q. And do you see the section of this page, Ms. Sklar, that's
21 titled Structural Considerations?

22 A. Yes.

23 MR. HORTON: If you could blow that up, please,
24 Ms. Loftus.

25 Q. Ms. Sklar, if you could just read on this last paragraph,

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Sklar - Cross

1 it starts, "Prospective Members," and if you could just read
2 that sentence, aloud.

3 A. Sure. The one that starts with "Prospective Members"?

4 Q. Sure. It's the last paragraph, the first sentence.

5 A. "Prospective Members are advised that neither crypto assets
6 or fiat currency may be held by Members within the Himalaya
7 Ecosystem, and the Himalaya Ecosystem does not provide, and
8 none—"it's a long sentence—"and none of the Himalaya Exchange
9 or any other entity within the Himalaya Ecosystem holds any
10 necessary licenses or authorizations to provide any type of
11 custody or other arrangements to facilitate this."

12 Q. Ms. Sklar, that four-line sentence says that members cannot
13 hold any crypto assets of any kind at the Himalaya Ecosystem;
14 isn't that right?

15 A. No. It says—

16 MR. SCHIRICK: Objection.

17 A. —the Himalaya Ecosystem does not provide. The sentence
18 refers to that they didn't yet have the ability to do Bitcoin
19 and Ether, which was their plan.

20 Q. Let's start at the beginning of the sentence.

21 A. Okay.

22 Q. There's a line and a half before we hit the first comma.
23 Can you read that line, please.

24 A. Before the first comma. The "Prospective Members"?

25 Q. That's right.

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Sklar - Cross

1 A. Okay. "Prospective Members are advised that neither crypto
2 assets or fiat currency may be held by members within the
3 Himalaya Ecosystem."

4 Q. Okay. That language from the white paper released by the
5 Himalaya Exchange says that members cannot hold crypto assets
6 within the Himalaya Ecosystem, does it not?

7 MR. SCHIRICK: Objection.

8 A. I mean, the sentence says what it says, but I may disagree
9 with whether—how I read it.

10 Q. Well—

11 THE COURT: So what is the question? Is the question
12 what does it say?

13 Q. Ms. Sklar, you interpret documents like this for a living,
14 correct?

15 MR. SCHIRICK: Objection, your Honor, relevance.

16 THE COURT: Overruled. Of course it's relevant.

17 A. Yes. Just give me—

18 Q. And these documents are not written only for lawyers; isn't
19 that right?

20 A. Right.

21 Q. They're written for people who might invest in coins they
22 might find on the internet; isn't that right?

23 A. Yes, but they're heavily edited by lots of lawyers and lots
24 of other people, so this is not the clearest sentence I've ever
25 seen, just to be honest.

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Sklar - Cross

1 Q. Stipulating that it's not a clear sentence, does the first
2 clause, before we get to the comma, say that neither crypto
3 assets or fiat currency may be held by members within the
4 Himalaya Ecosystem? Yes or no; is that what it says?

5 MR. SCHIRICK: Document speaks for itself.

6 A. It says that, but I disagree with what I think the sentence
7 means.

8 Q. Ms. Sklar, the question was—

9 THE COURT: The question wasn't how you interpret it
10 but what does it say.

11 A. I read it, though. I mean, it says what it says, and I've
12 read it now a few times.

13 THE COURT: Okay.

14 MR. HORTON: Your Honor, we can move on.

15 THE COURT: Excuse me?

16 MR. HORTON: We can move on from the topic.

17 THE COURT: Go ahead.

18 Q. Ms. Sklar, if somebody wanted to buy a credit on the
19 Himalaya Ecosystem, they would have to send U.S. dollars to a
20 Himalaya bank account; isn't that right?

21 A. Yes.

22 Q. And you said in your testimony earlier that one reason that
23 people use crypto tokens is to avoid using banks; isn't that
24 right?

25 MR. SCHIRICK: No. Objection. Totally misstates the

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Sklar - Cross

1 testimony.

2 MR. HORTON: The question was for the witness, not
3 Mr. Schirick.

4 THE COURT: Sustained.

5 MR. HORTON: Maybe I misunderstood, your Honor.

6 BY MR. HORTON:

7 Q. Ms. Sklar, did you not testify that a reason to use
8 cryptocurrency is to not use a bank for financial transactions?

9 MR. SCHIRICK: Same objection.

10 THE COURT: Overruled. You may answer.

11 A. I mentioned privacy and I mentioned not using third-party
12 intermediaries like banks, yes.

13 Q. Like banks, correct?

14 A. Yes.

15 Q. But isn't it a fact that to buy a credit on the Himalaya
16 Ecosystem, you had to send U.S. dollars through a wire
17 transfer; isn't that right?

18 A. I mean, they had to send U.S. dollars. Whether they were
19 using Venmo or wire transfers, I actually don't know, but yes,
20 the dollars had to get there, yes.

21 Q. Is there a way to use Venmo or wire transfers without using
22 a bank?

23 A. No, not usually. Well, no.

24 Q. Not usually or no?

25 A. I mean, no.

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Sklar - Cross

1 Q. And sending those U.S. dollar wires to the Himalaya
2 Exchange, that transaction, that's not on the blockchain,
3 right?

4 A. A wire transfer, no.

5 Q. It's not a cryptocurrency transaction when you do that, is
6 it?

7 A. Right. It's not.

8 Q. And after the exchange gets the U.S. dollars from a
9 customer—by the way, I'm sorry. One question. Are wire
10 transfers anonymous?

11 A. No.

12 Q. Can you send U.S. dollars without revealing your true name?

13 MR. SCHIRICK: Asked and answered.

14 THE COURT: Overruled. You may answer.

15 A. When you send a wire transfer through your bank, your bank
16 knows your name.

17 Q. And after a customer sends U.S. dollars through the wires
18 and gets an H Coin credit, the customer at the Himalaya
19 Exchange, they have no right to get an actual H Coin token;
20 isn't that true?

21 A. They have—they get the credit, which is representative of
22 a right, but are you asking whether they get an actual coin
23 or—

24 Q. Well, both of those. Do they get an actual coin?

25 A. I don't think so. I think they—at the time that they

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Sklar - Cross

1 would get the credit.

2 Q. And you said a moment ago that the credit is representative
3 of a right to get the coin; is that your testimony?

4 A. That's my understanding of what—the credit system.

5 MR. HORTON: Ms. Loftus, can we bring the white paper
6 back up, please, GX AS12, same page, page 11.

7 If you can blow up the third paragraph from the top.

8 Q. I'm going to read this one this time, Ms. Sklar.

9 "Credits can only be used on the Himalaya Exchange or
10 within the Himalaya Ecosystem, representing a right to
11 participate in trading on the Himalaya Exchange and do not
12 carry any right to require their exchange for fiat currency or
13 crypto assets."

14 A. Mm-hmm.

15 Q. So holding an H Coin or an H Dollar credit at Himalaya did
16 not carry a right to require its exchange for crypto; isn't
17 that what this says?

18 A. To require it, yes.

19 MR. HORTON: Okay. We can take it down, Ms. Loftus.

20 Q. The credits that customers could buy at the Himalaya
21 Exchange, those credits couldn't be used anywhere else other
22 than the Himalaya Ecosystem; isn't that right?

23 A. Right.

24 Q. When you go to Coinbase, for example, you can buy
25 cryptocurrency and take it out of the exchange, can't you?

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Sklar - Cross

1 A. Yes.

2 Q. You could buy Bitcoin on Coinbase and sell it on Binance;
3 isn't that right?

4 MR. SCHIRICK: Objection.

5 A. Bitcoin isn't issued by Coinbase, it's—

6 THE COURT: You—

7 A. Oh, sorry.

8 THE COURT: You may answer.

9 A. It's a little bit apples and oranges there because Bitcoin
10 isn't issued by Coinbase, so of course you can get it out; it's
11 not a closed system.

12 Q. Well, my question isn't whether Coinbase issued the coin;
13 it's whether you can buy Bitcoin at Coinbase and then sell it
14 at a different exchange.

15 A. That is how they've set up their system, yes.

16 Q. And cryptocurrencies are often listed on multiple
17 exchanges; isn't that right?

18 MR. SCHIRICK: Objection.

19 THE COURT: Overruled. You may answer.

20 A. If—if the issuer has designed it that way, but it doesn't
21 have to be.

22 Q. And Bitcoin, for example, that's listed on over a hundred
23 exchanges; isn't that true?

24 MR. SCHIRICK: Objection, foundation.

25 THE COURT: You may answer.

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Sklar - Cross

1 A. I mean, Bitcoin is the most decentralized cryptocurrency,
2 no one even knows who created it, so yes, it's everywhere.

3 Q. Tether, that's another stablecoin; isn't that right?

4 A. Tether is a stablecoin, yes.

5 Q. And Tether is listed on 115 different exchanges; isn't that
6 true?

7 MR. SCHIRICK: Objection.

8 THE COURT: You may answer.

9 A. I can't confirm 115, but yes, it is the most—I think the
10 most highly traded stablecoin right now, yes.

11 Q. You said a moment ago that Coinbase didn't issue Bitcoin;
12 is that right?

13 A. Yes.

14 Q. And you were drawing a comparison with the Himalaya
15 Exchange issuing its H Coin and H Dollar; isn't that right?

16 A. I was, yes.

17 Q. Binance is another cryptocurrency exchange; isn't that
18 true?

19 A. Yes.

20 Q. And they issued an exchange coin called BNB; isn't that
21 right?

22 A. Yes.

23 Q. And Binance's exchange coin, BNB, is listed on exchanges
24 other than Binance, isn't it?

25 A. Yes, as part of their design, yes.

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Sklar - Cross

1 Q. In fact, it's listed on 62 other exchanges, isn't it?

2 MR. SCHIRICK: Objection.

3 THE COURT: You may answer, if you know.

4 A. I don't know 62, but I know it is—it is traded, yes.

5 (Continued on next page)

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Sklar - Cross

1 BY MR. HORTON:

2 Q. You said in your testimony today that you reviewed other
3 witnesses' testimony in this case; is that right?

4 A. Yes.

5 Q. Did you review Jesse Brown's testimony?

6 A. Yes.

7 Q. Do you know that he's the former CEO of the Himalaya
8 Exchange?

9 A. Yes.

10 Q. Do you recall that Mr. Brown testified that his
11 understanding was that Himalaya Coin wasn't listed at any other
12 Exchange because the Exchange was worried that would cost its
13 price to drop?

14 A. I can't if -- if he said that, he said that, but I can't
15 testify whether that's true or not. I don't know.

16 Q. My question is not whether it's true, it is whether you
17 read Jesse Brown the former CEO of the Exchange testified that
18 H Coin wasn't listed at any other Exchange to avoid its price
19 dropping?

20 A. That's what he said.

21 Q. And he was sitting right where you're sitting right now
22 when he testified to that?

23 MR. SCHIRICK: Objection.

24 THE COURT: She wasn't here for the testimony so she
25 can't answer.

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Sklar - Cross

1 Q. Withdrawn. By the way, Ms. Sklar, Himalaya Coin was not
2 listed at any other Exchange, was it?

3 A. It was not.

4 Q. And H Dollar was not listed any other Exchange?

5 A. It was not.

6 Q. Now speaking of H dollar, Ms. Sklar, that was described in
7 the exchange's papers as a stable coin; isn't that right?

8 A. Yes.

9 Q. When I refer to it as HDO, you'll know I'm talking about
10 the same thing?

11 A. Yes.

12 Q. And sort of basic feature of stable coins is that they're
13 redeemable; isn't that true?

14 A. It depends on the terms of the contract.

15 Q. Well, let me ask you this, are you familiar with any stable
16 coins that can't be redeemed into the currency their associated
17 with?

18 A. Yes.

19 Q. Which are those?

20 A. Tether before it was subject to the CFTC's and New York
21 State Department of Financial Services action was only
22 redeemable by people who had over a hundred thousand, which
23 meant that the vast majority of average users of Tether could
24 not redeem Tether.

25 Q. But some could, right?

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Sklar - Cross

1 A. If you had over a \$100,000 you could, yes.

2 Q. And redeemable means that you can convert the stable coin
3 into real world currency; isn't that right?

4 A. Yes.

5 Q. I don't say fiat because that's confusing, but that's what
6 that means?

7 A. Yes.

8 Q. And in fact a true fully reserved stable coin, it's
9 redeemable one-to-one at all times, isn't it?

10 A. That's the intent, but even the best stable coins sometime
11 drop down a peg to 98 percent, but, yes, that's the purpose of
12 reserved coins, yes.

13 Q. And if it wasn't redeemable at all times, it wouldn't be a
14 true fully reserved stable coin, right?

15 MR. SCHIRICK: Objection.

16 THE COURT: Overruled. You may answer.

17 A. The purpose of a redeemable full reserve stable coin is to
18 be able to redeem it.

19 Q. Putting aside it's purpose, Ms. Sklar, what makes it a true
20 stable coin is that it's redeemable at all times, right?

21 MR. SCHIRICK: Asked and answered.

22 THE COURT: You may answer.

23 A. It sort of goes back to what I just mention about Tether
24 and the issuer. If you have a stable coin right now on
25 Coinbase, for example, Coinbase doesn't have an obligation to

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Sklar - Cross

1 redeem it back one-to-one. If you wanted to go to your issuer,
2 you could try to do that, but it depends on the contract with
3 the issuer.

4 Q. Ms. Sklar, didn't you write the words, A true fully
5 reserved stable coin is redeemable one-to-one for U.S. dollars
6 at all times. Didn't you write that?

7 A. Is that from something I wrote?

8 Q. Isn't it?

9 A. It's possible, could you just refresh my recollection.

10 Q. Yes. Ms. Loftus, can we pull up GXC0207 and go to page
11 seven of it. Actually let's go to the first page for the
12 author.

13 So, Ms. Sklar, just for the witness and the parties,
14 please. This is the first page.

15 THE INTERPRETER: Your Honor, can you please remind
16 all parties to please slow down, please.

17 THE COURT: Please slow down.

18 Q. If you could go to page two for Ms. Sklar, please. That's
19 your name there as an author of this document?

20 A. Yes.

21 Q. Can we go to page seven, please. I may have the wrong
22 page. Can we try the next page.

23 At the top of page eight, Ms. Sklar -- Ms. Loftus, can
24 you highlight that two line fragment.

25 Looking at this, Ms. Sklar, does it refresh your

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Sklar - Cross

1 recollection that you wrote, A true fully reserved stable coin
2 is a hundred percent backed by cash and short-dated U.S.
3 treasuries and is redeemable one-to-one for U.S. dollars at all
4 times?

5 A. Yes. The point is a true fully reserve stable coin. This
6 paper is about stable coins that is are different, but I did
7 write this sentence, yes.

8 Q. And, in fact, the Himalaya Dollar was not redeemable for
9 U.S. dollars at all times; isn't that true?

10 A. I don't know that that's not true.

11 Q. Ms. Loftus, if we can look back at the January 2022 H
12 dollar white paper GXAS18. This is a document in evidence, if
13 we can go to page 10, and if you could zoom in on the fourth
14 paragraph down.

15 Ms. Sklar, this paragraph says, Additionally a member
16 may make a request to the Himalaya Exchange to accept a
17 transfer of HDO credits in exchange for an equivalent payment
18 in U.S. dollars to be paid to the bank account of the member.
19 Just stopping there, that's describing a redemption, right?

20 A. Yes.

21 Q. However, such exchanges are at the discretion of the
22 Himalaya Exchange, and the Himalaya Exchange is not obliged to
23 fulfill any such request.

24 A. Yes, that's what it says, yes.

25 Q. And the meaning of that is that H dollars were not

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Sklar - Cross

1 redeemable into cash whenever a holder wanted; isn't that
2 right?

3 MR. SCHIRICK: Objection. These aren't her words.

4 THE COURT: You may answer.

5 A. It says at the discretion.

6 Q. What that means for nonlawyers is the Himalaya Exchange
7 could decide not to redeem for dollars, right?

8 A. I mean that's my understanding of the words at the
9 discretion.

10 Q. For any reason they wanted, right?

11 MR. SCHIRICK: Objection.

12 A. I have no idea what the reasons.

13 THE COURT: Overruled.

14 Q. Or for no reason at all, right?

15 MR. SCHIRICK: Same objection.

16 THE COURT: Overruled.

17 A. I didn't work there. I don't know what the reasons would
18 be. Do I understand what the word at the discretion means,
19 yes.

20 Q. That means that the exchange could decide no redemptions
21 for H dollars for any reason we decide.

22 A. I don't know for any reasons. They might have their own
23 reasons.

24 MR. SCHIRICK: Objection.

25 Q. I'm not asking if they had reasons. I'm saying what this

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Sklar - Cross

1 document says that you reviewed and testified about says that
2 the Himalaya Exchange gets to decide for any reason it wants
3 whether to redeem an HDO credit for U.S. dollars?

4 MR. SCHIRICK: Objection.

5 THE COURT: Overruled. You may answer if you agree
6 with him.

7 A. It says at the discretion does that mean any reason, I
8 assume there must have been some internal process that it
9 wasn't just any reason.

10 Q. I'm not asking about internal processes.

11 A. I didn't work there, so I don't know.

12 Q. And you don't know about any internal processes there, do
13 you?

14 A. I don't know what this sentence refers to.

15 Q. Did you review any minutes of board meetings there?

16 A. I did not, no.

17 Q. Ms. Sklar, you're a regulatory lawyer, what limits on the
18 discretion to deny redemption for H dollars are in this
19 document?

20 MR. SCHIRICK: Objection, foundation calls for
21 speculation.

22 THE COURT: You can ask whether she knows of any
23 limitation on their discretion.

24 THE WITNESS: Is that the question?

25 THE COURT: That's my question.

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Sklar - Cross

1 A. I'm not aware.

2 Q. Okay. And the last sentence of this paragraph that we have
3 up now says, References in this document, this is the January
4 2022 H dollar white paper, references in this document to HCN,
5 the Himalaya Coin, a new coin issued by Himalaya International
6 Financial Group, HCN or Himalaya Coin, HDO or any other type of
7 asset on an account at the exchange or through the Himalaya pay
8 app, references in this document to that list of things are
9 references to credits corresponding to that asset. Is that
10 what that says?

11 A. Yes.

12 Q. In fact, Ms. Sklar, the Himalaya Exchange did refuse
13 redemption for Himalaya Dollars; isn't that true?

14 MR. SCHIRICK: Objection, foundation.

15 THE COURT: If you know.

16 A. I also thought they gave redemption.

17 Q. You testified a moment ago that you read jesse brown's, the
18 transcript of his testimony in this trial, right?

19 A. Yes.

20 Q. Do you remember that Mr. Brown testified that after the
21 Himalaya Exchange's bank accounts were seized in the fall of
22 2022, the Exchange stopped doing redemptions for H Dollars?

23 A. After the accounts were seized, yes.

24 Q. So the Himalaya Exchange stopped doing H Dollar
25 redemptions?

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Sklar - Cross

1 A. After its accounts were seized, yes.

2 Q. What was the exchange using to backup H Dollar with cash
3 after its accounts were seized?

4 MR. SCHIRICK: Objection to form.

5 THE COURT: If you know you may answer.

6 A. I don't know actually.

7 Q. I want to talk about those. Those are the reserves, right,
8 cash that backs up stable coins are reserves, right?

9 A. Yes.

10 Q. I want to talk about those reserves for a minute. You
11 testified about reviewing documents that Himalaya sent to a
12 company called Armanino, right?

13 A. Yes.

14 Q. And Armanino at that time did audits of crypto companies,
15 right?

16 A. Yeah.

17 Q. Does Armanino still do audits of crypto companies?

18 A. No.

19 Q. Do you know why they don't?

20 MR. SCHIRICK: Objection, relevance, your Honor.

21 THE COURT: You may answer if you know.

22 A. I don't know why.

23 Q. Did you review a document that said the Exchange has \$400
24 million more or less in cash reserves for its H Dollar?

25 A. Yes.

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Sklar - Cross

1 Q. Do you remember that document had a part at the bottom that
2 says, I'm representing that this is accurate and complete?

3 A. I believe so.

4 MR. SCHIRICK: Objection.

5 A. I think I know what document you're talking to.

6 THE COURT: You may answer.

7 A. I think I know the document you're referring to. I can't
8 recall that it says that sentence, but if you represent to me
9 that it does, I mean I have no reason to believe it doesn't say
10 that.

11 Q. And crypto auditors rely on information that's given to
12 them by the companies they're auditing, right?

13 A. All auditors do, not just for crypto.

14 Q. Do you remember that that Armanino document where
15 information was represented by the Himalaya Exchange, do you
16 remember it was signed by Jesse Brown?

17 A. Yes.

18 Q. Do you know if Jesse Brown read that document before he
19 signed it?

20 MR. SCHIRICK: Objection.

21 THE COURT: If you know, you may answer.

22 A. I don't know.

23 Q. Do you know sitting here today if the information in that
24 document is accurate and complete as Mr. Brown represented with
25 his signature?

072BGU06

Sklar - Cross

1 A. All I know is what the document says and what was
2 represented in it.

3 Q. Did you speak with Priya Patel when you were learning about
4 the Himalaya Exchange?

5 A. I did not.

6 Q. Do you know who she is?

7 A. Yes, from some references in documents, yes.

8 Q. And she was a general counsel at the Himalaya Exchange
9 isn't that right?

10 A. Yes.

11 Q. Did you know that Ms. Patel gave that same document the
12 \$400 million cash reserve document to Bitgo in January of 2020?

13 MR. SCHIRICK: Objection.

14 THE COURT: If you know, you may answer.

15 A. I don't know.

16 Q. And that document said that Himalaya Exchange had \$400
17 million in cash reserves in August 2022, right?

18 MR. SCHIRICK: Objection, your Honor. She already
19 said she doesn't know.

20 A. Which document the one I saw?

21 Q. The \$400 million cash reserve --

22 MR. SCHIRICK: Excuse me.

23 THE COURT: It's not clear that she said that she was
24 aware of that document.

25 Q. Let's take a quick look at it. Ms. Loftus, can you pull up

072BGU06

Sklar - Cross

1 GXBR208A. It's in evidence. If you can go to the second page
2 please. This is one of the documents you looked at right,
3 Ms. Sklar?

4 A. Yes.

5 Q. Can you blow up the top of the second page, please,
6 Ms. Loftus. So this bank and fund holdings report signed by
7 Mr. Brown is dated July 31, 2022. Isn't that right?

8 A. Yes.

9 Q. And you said a moment ago you knew that the seizures of the
10 Himalaya Exchange's bank account were in the fall of 2022?

11 MR. SCHIRICK: Objection, mischaracterizes testimony.

12 THE COURT: I don't recall her stating that.

13 Q. You know that the Himalaya Exchange's bank accounts were
14 seized, right?

15 A. Yes.

16 Q. And did you know that Ms. Patel, Priya Patel, who you know,
17 gave this document to Bitgo the company you testified about in
18 January of 2023?

19 MR. SCHIRICK: Objection.

20 THE COURT: Do you know?

21 A. I don't know. I don't know that.

22 Q. And do you know that in January of 2023, the exchange's
23 bank accounts had already been seized?

24 MR. SCHIRICK: Objection.

25 THE COURT: If you know.

072BGU06

Sklar - Cross

1 A. I know they were seized. If you represent to me that was
2 the month that it happened, I have no reason to doubt that.

3 Q. And what's your understanding of what the cash reserves
4 were for H Dollar after the exchange's accounts were seized?

5 A. I don't know that.

6 MR. SCHIRICK: Objection.

7 Q. Ms. Sklar, you testified a little bit about reviewing
8 documents about the exchange's relationship with Bitgo, right?

9 A. Yes.

10 Q. And Bitgo, there's was a contract with Bitgo for wallet
11 services; isn't that right?

12 A. Yes.

13 Q. What happened with the Bitgo/Himalaya Exchange
14 relationship, do you know how it ended?

15 A. I mean, I know it ended. I don't know if I should be
16 characterizing.

17 Q. Do you know that Bitgo terminated its relationship with the
18 Himalaya Exchange?

19 A. Yes.

20 Q. And do you know that happened after Bitgo found red flags
21 in its account review of the Himalaya Exchange?

22 MR. SCHIRICK: Objection.

23 THE COURT: You may answer.

24 A. If that's what they said, I can't say what they said.

25 Q. You also reviewed documents about the exchange's

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Sklar - Cross

1 relationship with a company called Certik?

2 A. Certik, yes.

3 Q. And a company called Jumio; is that right?

4 A. I didn't see the Jumio documents, but I know what they do.

5 Q. You know about their relationship?

6 A. Yes.

7 Q. And GXBR208A, that wasn't the only Armanino document you
8 looked at, right?

9 MR. SCHIRICK: Objection. You didn't show her that
10 document.

11 THE COURT: Overruled. You may answer.

12 A. If I seen other Armanino documents?

13 Q. Yes, in the course of this review.

14 A. Yes.

15 Q. By the way, did the exchange ever publicly release its
16 audits?

17 A. I'm not aware if they did.

18 Q. But they said they would, right?

19 MR. SCHIRICK: Objection.

20 THE COURT: If you know.

21 A. I don't know.

22 Q. Can we pull up GXAS18. It's the January 2022 H Dollar
23 white paper, and can we go to page eight and blow up the third
24 paragraph above the gold writing on the bottom. It says if the
25 market, it's in the middle of the page.

072BGU06

Sklar - Cross

1 So this says -- and you reviewed the January 2022 H
2 Coin white paper that we're looking at. This says, The reserve
3 will be manage -- and that's referring to the H Dollar reserve?

4 A. Yes.

5 Q. "With the aim of maintaining its value at a level equal to
6 the value of all HDO in circulation and will be subject to
7 independent audit with audit reports made public." Isn't that
8 what it says?

9 A. Yes.

10 Q. Sitting here today, you don't know if that ever happened,
11 right?

12 A. That 2022 document wasn't made public before it was seized
13 in 2023, yeah.

14 Q. My question, Ms. Sklar, is sitting here today, you don't
15 know whether the Himalaya Exchange ever made any audit report
16 public, do you?

17 A. Right, I'm not aware that they made it public.

18 Q. In all of the documents you reviewed from the exchange, all
19 the documents reviewed from third-party contractors and the
20 time you spent on Etherscan, you didn't see any evidence that
21 H Coin was backed by gold, did you?

22 MR. SCHIRICK: Objection, foundation, calls for
23 speculation.

24 THE COURT: You may answer. If you know, you can
25 answer.

072BGU06

Sklar - Cross

1 A. That it was backed by gold, no, I didn't see anything.

2 Q. And you didn't see any balance sheet at the exchange
3 reflecting that the exchange held gold or owned gold, did you?

4 A. I saw something about them holding gold. I don't know. I
5 can't recall what document it was though.

6 Q. And you reviewed a lot of documents about H Dollar
7 reserves, right?

8 A. That they had reserves, yes.

9 Q. And none of those documents said the reserves were in gold,
10 right?

11 A. I don't recall seeing that.

12 Q. And the Armanino audit document we just looked at a few
13 moments ago, that was an HDO reserve audit document, right?

14 A. Yes.

15 Q. That document didn't say anything about its reserves being
16 gold, did it?

17 MR. SCHIRICK: Objection.

18 THE COURT: You may answer.

19 A. It said cash.

20 Q. But cash isn't gold, right?

21 A. Right.

22 Q. You're a former regulator, if the HDO was backed by gold
23 would they need to tell their auditor that?

24 MR. SCHIRICK: Objection, calls for legal conclusion.

25 THE COURT: You may answer.

072BGU06

Sklar - Cross

1 A. There's technically no requirement for any of this when it
2 comes to stable coins. The purpose, the philosophy behind it
3 is, yeah, when you say something is reserved by something, it
4 should be reserved by that. If you say it's reserved by gold,
5 then there should be gold. If you say it's cash or cash
6 equivalence, which I also believe I saw somewhere too which is
7 what most stable coins do. There's no regulatory requirement
8 right now that says how to do it at all.

9 Q. You testified earlier that you advise clients on white
10 paper; is that right?

11 A. Right.

12 Q. Have you advised clients on dealing with crypto audits?

13 A. Yes.

14 Q. Would you advise a client to not tell its auditor about the
15 nature of its --

16 MR. SCHIRICK: Objection, calls for speculation.
17 She's not testifying as a legal expert.

18 MR. HORTON: I'm asking about the facts of how she
19 interacts with the clients she advises.

20 MR. SCHIRICK: It's a hypothetical question about what
21 she would do.

22 THE COURT: She's an expert. She can answer
23 hypothetical questions.

24 A. I would tell my clients to be honest, but, you know, my
25 clients are also my clients. I don't control what it is they

072BGU06

Sklar - Cross

1 actually do in these situations, but I give my advice for them
2 to be honest.

3 Q. Now, in addition to reviewing documents, you reviewed some
4 witness testimony in this case; is that right?

5 A. Yes.

6 Q. Did you review everything that Miles Guo has said about
7 H Coin?

8 A. I have not, no.

9 Q. Did you review anything that Miles Guo had said about H
10 Coin?

11 A. I actually don't think I have.

12 Q. Did you review anything that Miles Guo said about H Dollar?

13 A. No.

14 Q. Ms. Loftus, can we please pull up what's in evidence as
15 GXZ9 and go to the bottom of page 120 of this document, please.

16 Ms. Sklar, the person who's in the middle of the
17 screenshot at the top of this page, do you know who that is?

18 A. I've never seen this before. That's Miles, right?

19 Q. I couldn't hear you.

20 A. That's Miles Guo, right.

21 Q. What's the date on the left-hand top left of this page?

22 A. October 20, 2021.

23 Q. That's less than two weeks before the launch of the
24 Himalaya Exchange, isn't it?

25 A. Yes.

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Sklar - Cross

1 Q. And, Ms. Loftus, if you can scroll down to the next page
2 121 and zoom in on the second large body paragraph there.

3 Ms. Sklar, the sentence the third line down starts
4 with what is called, Do you see that?

5 A. Yes.

6 Q. Starting with what is called, can you please read aloud
7 until I stop you?

8 A. Can I ask like who is saying this? Is that Mr. Guo?

9 Q. This document is in evidence as a statement of Miles Guo.

10 A. Okay.

11 Q. Starting at, What is called, can you just plead read aloud
12 until I stop you.

13 A. What is called. I'm talking about your H Coins Brother
14 Seven designed it at that time.

15 Q. I'll stop you there. You don't know who Brother Seven is,
16 do you?

17 A. Yes.

18 Q. You do know who Brother Seven is?

19 A. It's in the caption of the indictment.

20 Q. And who is Brother Seven?

21 A. Referring to Mr. Guo.

22 Q. From Brother Seven designed it at that time, please keep
23 reading?

24 A. It has the first one. It has the attribute of currency.

25 Why? It is 20 percent gold. Awesome. It was born as currency

072BGU06 Sklar - Cross

1 on the first day, so it is value, and it is linked to gold, not
2 to others. Clear gold directly.

3 Do you want me to keep going?

4 Q. Just the next sentence, please.

5 A. No matter how much it raises 20 percent will turn into
6 gold.

7 Q. Thank you, Ms. Sklar. Ms. Loftus, if we can take us to 168
8 of this same document that is in evidence. If you could scroll
9 up sort of the top part of the page with the screenshot.

10 Do you see the date on this page is May 2022,
11 Ms. Sklar?

12 A. Yes.

13 Q. You see the URL tehre says G News.org?

14 A. Yes.

15 Q. You know that G News is Miles Guo's media outlet, right?

16 MR. SCHIRICK: Objection, foundation.

17 THE COURT: You may answer if you know.

18 A. I haven't been to this website, but if that's his, then
19 I'll take your representation for it.

20 Q. Do you see there's a pricing chart for H Coin and H Dollar
21 in this screen gram?

22 A. Yes.

23 Q. Where does that pricing data come from?

24 A. G News.

25 Q. My question is where did G News get that information?

072BGU06

Sklar - Cross

1 MR. SCHIRICK: Objection, how could she possibly know
2 that.

3 THE COURT: If you happen to know you may answer.

4 A. Just reading off the screen follow NFSC news on Gettr. I
5 don't know.

6 Q. Ms. Loftus, if you could go down to the paragraph it
7 straddles the bottom of 168 to the top of 169, please.

8 I'll read some of this, Ms. Sklar, and I'll ask you to
9 pick up where I leave off. And again this is the same document
10 we're looking at it's statements from G News.

11 Luna coin plunged 99.99 percent to almost zero this
12 week from \$120 a month ago, and it's stable coin UST plummeted
13 from \$1 to under 20 cents exposing a major flaw in the current
14 stable coin reserve in the digital currency industry. Can you
15 start reading from there please.

16 A. Miles emphasize in the live broadcast that the traditional
17 financial institutions and many digital currency projects
18 around the world collapse when faced with a run.

19 You want me to continue?

20 Q. Yes, just to the bottom of the text, please.

21 A. But the H Coin stable coin, HDO, H Dollar can guaranty that
22 no run will ever happen under any circumstances. The stable
23 coin, HDO and U.S.D. deposited by users always maintain a
24 constant 1:1 exchange rate without any financial leverage or
25 room for misappropriation.

072BGU06

Sklar - Cross

1 Q. Ms. Sklar, this says that HDO can guaranty that no run will
2 ever happen under any circumstances. Do you see that?

3 A. Yes.

4 Q. And a run refers to when the price of a stable coin
5 basically plummets, right?

6 A. Technically the run is when people are actually running to
7 try to take their money out and the price may plummet because
8 of that, but the run is the activity that might lead to it.

9 Q. And if you hold a stable coin, you don't want there to be a
10 run on it, right?

11 A. Right.

12 Q. You're an expert in stable coin, right, Ms. Sklar?

13 A. Right.

14 Q. And you read all about Himalaya Dollar to testify today;
15 isn't that right?

16 MR. SCHIRICK: Objection, asked and answered.

17 A. I read the documents I referred to, yes.

18 Q. Ms. Sklar, what was the mechanism in H Dollar to guaranty
19 that a run would never happen under any circumstances? How did
20 that work?

21 A. I think it was one of the documents you showed me before,
22 the Armanino document shows that they were overcapitalized
23 one-to-one for their stable coin, that they had slightly over
24 400 million, so they had enough also to probably pay out
25 whatever fees or wind down expenses they needed on top of a

072BGU06

Sklar - Cross

1 one-to-one.

2 Q. Just so I'm clear, Ms. Sklar, is it your testimony that
3 H Dollar could guaranty that no run would ever happen under any
4 circumstances?

5 MR. SCHIRICK: Objection. That's not her testimony.

6 THE COURT: Overruled.

7 A. I don't think anyone can guaranty anything, but the
8 document showed that it had more than one-to-one.

9 Q. Is that the only stable coin that's over-collateralized as
10 far as you know?

11 A. Some of them are supposed to be, but again there's no
12 regulation requiring it. It's good practice --

13 Q. Just so I understand --

14 A. -- to overcapitalize if you can.

15 Q. Is your testimony that there are right now in the world
16 stable coins that can guaranty people who may buy or hold them
17 that they will never have a run never under any circumstances?

18 MR. SCHIRICK: Objection.

19 THE COURT: Overruled. She may answer. Go ahead.

20 A. They might have a run. A run is irrelevant if you have
21 one-to-one backing. Give everyone their money back and it
22 works.

23 THE INTERPRETER: If the witness and counsel can slow
24 down.

25 THE COURT: Slow down.

072BGU06

Sklar - Cross

1 Q. It can't be guaranteed, right, Ms. Sklar?

2 MR. SCHIRICK: Objection.

3 A. A run can't be guaranteed?

4 Q. Right, can't be guaranteed?

5 A. Yes, runs can happen.

6 Q. Ms. Loftus, if we can go back to the bottom of page 120,
7 GXZ9.

8 This is the same screenshot we were looking at a
9 moment ago; isn't that right, Ms. Sklar?

10 A. Yes.

11 Q. Same date, October 20, 2021, and that's a few weeks before
12 the exchange launch?

13 A. Yes.

14 Q. Ms. Loftus, you can go down to the top of 123, please, if
15 you could blow up the paragraph that starts with second,
16 Remember what Brother Seven said.

17 I'll read some of this, and then ask you to read some
18 Ms. Sklar. And again, this is a statement by Miles Guo.
19 Second, Remember what Brother Seven said. The real H Coin, you
20 don't care about the first three months. You don't care if it
21 rises to one million or falls to .001 cents. The real owner of
22 H Coin is two years later, and it can almost tell you whether
23 you should hold it or not. H Coin must be making money. Can
24 you read the next three sentences.

25 A. If anyone loses money, I can say that I will compensate 100

072BGU06

Sklar - Redirect

1 percent. I give you 100 percent. Whoever loses money, I will
2 bear it. Do you want me to keep going?

3 Q. No, that's okay. You're also an expert on crypto trading
4 coins, right?

5 A. Yes.

6 Q. Are you aware of any crypto coin whose holders are
7 guaranteed against any losses by a particular individual?

8 MR. SCHIRICK: Objection.

9 THE COURT: You may answer.

10 A. No, but I probably want to invest in that cryptocurrency.
11 I mean that's -- yeah. No one does that, but not because they
12 can't. Most people can't.

13 Q. Ms. Sklar, what was the total amount you were paid to
14 testify today?

15 A. It's somewhere around 70,000.

16 MR. HORTON: No further questions, your Honor.

17 THE COURT: Redirect.

18 THE WITNESS: Actually, sorry, can I revise that
19 answer?

20 THE COURT: You may.

21 A. That's what Seda Experts was paid. I get paid less than
22 than that. That's what the management company charges.

23 MR. HORTON: Thank you, Ms. Sklar.

24 REDIRECT EXAMINATION

25 BY MR. SCHIRICK:

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Sklar - Redirect

1 Q. Ms. Sklar, you were asked some questions on cross about,
2 toward the beginning, about whether you were allowed to
3 interview people from the Himalaya Exchange. Do you recall
4 that?

5 A. Yes.

6 Q. Did you ask to interview anyone from the Himalaya Exchange?

7 A. I did not.

8 Q. Did we deny you the opportunity to interview anyone from
9 the Himalaya Exchange?

10 A. No.

11 Q. Mr. Horton, also read you -- withdrawn.

12 Mr. Horton also referred to a number of individuals
13 and entities back toward the beginning of his cross
14 examination. Do you recognize any of those individuals or
15 entities?

16 A. No.

17 Q. Mountain of Spices?

18 A. No.

19 Q. Does that mean anything to you?

20 A. No.

21 Q. Now, Mr. Horton also asked you the question whether if you
22 can't see a cryptocurrency on the public ledger, it doesn't
23 exist. Do you recall him asking you that?

24 A. Yes.

25 Q. Now, are you familiar with private blockchains?

O72BGU06

Sklar - Redirect

1 A. Yes.

2 Q. And what are private blockchains?

3 A. It's an internal blockchain, an internal ledger system,
4 similar to how a public blockchain would look, but it's
5 internal. One popular example is JPM coin, that's for JP
6 Morgan. They have an internal blockchain and an internal coin.
7 It's not public. Blockchain isn't public.

8 Q. And on a private blockchain, you can't see those
9 cryptocurrencies on the public blockchain, right?

10 A. Right.

11 Q. And on a centralized exchange, you can't see transactions
12 reflected on the public blockchain, right?

13 A. Right. That's traditionally how it works. I have crypto as
14 I mentioned. I have no idea where it is on the blockchain
15 cause I use a centralized exchange to do transactions.

16 Q. Would you agree with me that those are at least two
17 examples there of transactions on a blockchain that might not
18 be publicly viewable from outside?

19 MR. HORTON: Objection to the compound leading
20 question.

21 THE COURT: Can you break it down, please.

22 Q. Would you agree with me that the -- a private blockchain,
23 the use for a private blockchain cannot be viewed from the
24 public blockchain?

25 MR. HORTON: Objection, asked and answered.

O72BGU06

Sklar - Redirect

1 MR. SCHIRICK: You can't object and --

2 THE COURT: You May answer.

3 A. If it's a private blockchain, it wouldn't be reflected on
4 the public blockchain.

5 Q. Right. And same question with respect to transactions on a
6 centralized exchange, would those also not be viewable on a
7 public blockchain?

8 A. Right. If that's the way the centralized exchange has it
9 set up, as many do, yes, you don't see the individual
10 transaction on the blockchain.

11 Q. Would you agree with me that's at least two examples of
12 cryptocurrency transactions that are not viewable from a public
13 blockchain?

14 A. Yes.

15 Q. Now, you were also asked several questions by Mr. Horton
16 about the internal ledger nature of the Himalaya Exchange. You
17 recall those?

18 A. Yes.

19 Q. And he asked whether the Himalaya Exchange's internal
20 system sort of would meet your expectation of what an internal
21 ledger system would look like. Do you recall that?

22 A. Yes.

23 Q. Now, do you have a specific expectation of what an internal
24 ledger system would look like at a centralized exchange?

25 A. No.

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Sklar - Redirect

1 Q. And why is that?

2 A. Each exchange would have its own software and technology
3 which would be proprietary, frankly. So even if I did know
4 what some of these systems might look like, those would be
5 things I learn from privileged conversations.

6 Q. Now, you were asked on cross whether a Himalaya Exchange
7 user could hold tokens in their own wallet. Do you recall
8 that?

9 A. Yes.

10 Q. Do you know whether that was possible as a technical
11 matter?

12 A. Not aware whether it was or wasn't a technical matter or
13 not.

14 Q. Sorry, just to be clear. As a technical matter, was that
15 possible?

16 MR. HORTON: Objection, asked and answered.

17 THE COURT: Sustained.

18 Q. Is it your understanding that it was technically possible,
19 but it was part of the closed system of the Himalaya Exchange
20 not to transmit tokens to customer wallets?

21 MR. HORTON: Objection, leading.

22 THE COURT: If you could not ask leading questions,
23 please.

24 Q. What's your understanding of what was technically possible
25 to do in terms of transferring tokens on the Himalaya Exchange?

072BGU06

Sklar - Redirect

1 A. It was my understanding that they were developing that
2 technology and that build out and that was also why they were
3 working with Bitgo and working to develop ways of having
4 wallets and connecting wallets as well as other crypto.

5 Q. And you testified both on direct and cross about the closed
6 nature of the Himalaya Exchange system, right?

7 A. Yes.

8 Q. Is it surprising to you given that closed system that the
9 exchange didn't permit users to send tokens off the exchange?

10 MR. HORTON: Objection, leading, testifying.

11 THE COURT: Sustained.

12 Q. In a closed exchange in your experience is it typical for
13 an exchange to allow customers to send tokens off exchange?

14 MR. HORTON: Same objection.

15 THE COURT: You can answer.

16 A. If the intent is to create a close system, the purpose of
17 the token is to be used through how the system is designed.
18 And in this case eventually the purpose was, according to the
19 white papers, to allow merchants to exchange the tokens too so
20 that you could use it as an exchange of value.

21 Q. That's right. And so in your experience as an expert in
22 this industry is there anything unusual about having a closed
23 system like the Himalaya Exchange?

24 MR. HORTON: The question was previously objected to.
25 It's sustained, leading.

O72BGU06

Sklar - Redirect

1 THE COURT: Sustained.

2 Q. What, if anything, is unusual in your experience --
3 withdrawn.

4 Now, in response to a number of Mr. Horton's questions
5 I believe you started to testify or at least tried to about the
6 long term plans of the Himalaya Exchange. Do you recall that?

7 MR. HORTON: Objection.

8 THE COURT: Sustained.

9 Q. Do you recall trying to testify about the long-term plans
10 of the Himalaya Exchange?

11 MR. HORTON: Same objection your, Honor.

12 THE COURT: Sustained.

13 Q. What were the long-terms plans of the Himalaya Exchange,
14 Ms. Sklar?

15 MR. HORTON: Objection, lack of foundation to the
16 exchange long-term plans.

17 MR. SCHIRICK: Your Honor, she got all the foundation
18 one could ask for. She's read all the white papers which she
19 described earlier as talking about the long-term plans.

20 THE COURT: Long-term plans as to?

21 MR. SCHIRICK: The exchange the long-term plans for
22 its system, your Honor.

23 MR. HORTON: Objection, about the long-term plans of a
24 group of people she testified she never met.

25 MR. SCHIRICK: Whether she met them or not --

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Sklar - Redirect

1 THE COURT: Can you be more specific.

2 MR. SCHIRICK: I will try. We'll see if Mr. Horton
3 objects.

4 Q. Do you recall that part of the long-term plan of the
5 exchange was to permit the deposit of other cryptocurrencies
6 with the exchange?

7 MR. HORTON: Objection, leading.

8 THE COURT: Sustained.

9 MR. SCHIRICK: Your Honor, can I have a brief sidebar,
10 please.

11 THE COURT: Okay.

12 (Continued on next page)

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O72BGU06

Sklar - Redirect

1 (At sidebar)

2 MR. SCHIRICK: Your Honor, I believe I'm permitted to
3 lead on redirect.

4 MS. SHROFF: That is the government's position in
5 every single trial, and the Southern District of New York has
6 always taken the position that the statute is clear that they
7 can lead on redirect, and they have led on redirect throughout
8 this entire case.

9 MR. SCHIRICK: There's no mystery, your Honor. I'm
10 just asking about her understanding about the long-term plan of
11 the exchange. I can either ask in a general way or in a
12 specific way which the government has also objected to.

13 THE COURT: You can ask long-term plans with respect
14 to --

15 MR. SCHIRICK: I thought I just did that and that also
16 drew an objection.

17 MR. HORTON: From our perspective I think there's
18 leading and then there's leading and some of Mr. Schirick's
19 questions put a developed argument into his witness's mouth and
20 I objected.

21 THE COURT: I feel like you can get to this answer
22 fairly easily.

23 MR. SCHIRICK: Your Honor, I just ask that I be
24 permitted to some degree -- this is obviously an appropriate
25 topic for questions. The government is just going to be

O72BGU06

Sklar - Redirect

1 objecting on form. I suppose we could be here all day until we
2 get one that's not objected to.

3 MS. SHROFF: I'll certainly cite this portion of the
4 transcript in future trials that the government doesn't think
5 we're not allowed to lead on redirect.

6 THE COURT: So instead of talking with your adversary,
7 talk to me.

8 MS. SHROFF: Sorry about that. Your Honor, I think
9 that the government's position has always been in this trial
10 and in every trial -- and I note the silence from the
11 government on this point -- that they're allowed to lead, and
12 the statute says you can. You are permitted to lead on
13 redirect examination, so that that's my point.

14 MR. FINKEL: Happy to respond on behalf of the
15 government. As Mr. Horton said quite correctly, there's
16 leading and then there's leading. And thank you for shaking
17 your head.

18 THE COURT: Mr. Finkel.

19 MR. FINKEL: Sorry, your Honor.

20 THE COURT: That was very snarky.

21 MR. FINKEL: You're right. I apologize. As
22 Mr. Schirick was doing, it was more leading than I think is
23 appropriate like Mr. Horton said and that's why he raised the
24 objection.

25 THE COURT: Okay. What do you understand were the

1 plans for X, okay.

2 (Continued on next page)

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072BGU06

Sklar - Redirect

1 (In open court)

2 MR. SCHIRICK: May I, your Honor?

3 THE COURT: Go ahead.

4 BY MR. SCHIRICK:

5 Q. Ms. Sklar, what was your understanding of the exchange's
6 long-term plans when it comes to other cryptocurrency besides
7 HCN and HDO?

8 A. From my understanding it was to eventually accept Ether and
9 Bitcoin which were the two largest cryptocurrencies in
10 circulation to be used instead of U.S. dollars to buy HCN and
11 HDO.

12 Q. Fair to say they would be opened to other cryptocurrencies?

13 MR. HORTON: Objection to leading.

14 THE COURT: Overruled. You may answer.

15 A. To accepting other cryptocurrencies as a meet of exchange
16 for other cryptocurrency. Whether they listed it for trading,
17 I don't know that that was the plan in order to keep a close
18 system, but to make it more inclusive in what types of crypto
19 they were accepting, yes.

20 Q. What was your understanding about the exchange's long term
21 plan when it comes to eventually permitting the tokens to trade
22 themselves?

23 A. The long-term plan was for it to be a closed system in that
24 it would be trading HCN and HDO, but that they would be able to
25 translated back and forth into U.S. dollars and into other

072BGU06

Sklar - Redirect

1 crypto and to be used by merchants they selected.

2 Q. And that would replace the credit system?

3 A. Yes.

4 Q. And what was your understanding of the long-term plan to
5 permit HCN to be traded off the Himalaya Exchange?

6 A. I'm not sure I know exactly what their long-term plan was,
7 but presumably any crypto that gains traction does get traded
8 on a secondary market.

9 MR. HORTON: Objection, motion to strike. The
10 testimony is that she doesn't know the plan and the
11 speculation.

12 THE COURT: Sustained.

13 Q. In your experience is it common for a centralized exchange
14 to have a period of development towards its long-term plans?

15 A. Yes.

16 Q. In your understanding where was Himalaya Exchange in its
17 development at the end of 2021 and in 2022?

18 A. There is still building out the technology, developing
19 their user base, obviously editing their white papers and the
20 philosophy and the use cases of what they wanted it to look
21 like.

22 Crypto is no different than any other startup.
23 There's an idea. You need money and users for it to make
24 sense, and you continue to develop it depending also on what
25 your users want.

072BGU06

Sklar - Redirect

1 Q. And lastly, Ms. Sklar, what was your understanding of the
2 exchange's long-term plans with respect to something called
3 H pay?

4 A. H pay would be a way to transmit crypto some more of either
5 more of a means of exchange or just a payment system. So sort
6 of as I stated, as I saw it, like their Venmo system so you
7 could actually send the coin to someone else without using --
8 going through the exchange itself.

9 Q. Now, if we could please pull up what's in evidence as
10 Government Exhibit BR208A and if we could please go to the
11 second page of this.

12 Now, Ms. Sklar, you recall being asked some questions
13 about this document?

14 A. Yes.

15 Q. And do you recall testifying that you believe that this
16 document shows that the HDO tokens -- withdrawn.

17 You recall testifying that in your view this document
18 shows that HDO in circulation was over-collateralized?

19 A. Yes.

20 Q. Can you just explain what you mean by that?

21 A. If you look at the top line, it's over 401 million, that's
22 U.S. dollars held in the bank accounts. And if you go to the
23 bottom line which is collateralize HDO which is the -- on the
24 platform, you can see that number is slightly smaller, which
25 means they're holding more money, more dollars in the bank

072BGU06

Sklar - Redirect

1 accounts than are on the collateralized HDO credits.

2 Q. And now you were asked some questions about the white
3 papers. Do you recall that?

4 A. Yes.

5 Q. And you were specifically pointed to some portion of the
6 white paper that said it was in the Himalaya Exchange's
7 discretion whether or not to pay redemptions in dollars. You
8 recall that?

9 A. Yes.

10 Q. In your experience is that provision a common one in
11 cryptocurrency exchanges?

12 MR. HORTON: Objection.

13 THE COURT: You may answer.

14 A. I can't say how common it is, but it's not unusual to
15 create your own redemption policies. It's a contract like any
16 other that you're signing onto when you buy cryptocurrency as
17 well as any sort of other thing you might be buying.

18 Q. And is it common in your experience to have some
19 restrictions on redemptions from an exchange?

20 MR. HORTON: Same objection, your Honor.

21 THE COURT: You may answer.

22 A. Yes, for startup exchanges, yes.

23 Q. And you testified that you just don't have any information
24 with respect to how the exchange exercised that discretion, do
25 you?

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Sklar - Redirect

1 A. I don't.

2 Q. Now, you were asked several questions by Mr. Horton about
3 whether HDO ceased to be backed by dollars at the point that
4 the government seized the Himalaya Exchange bank accounts. Do
5 you recall that?

6 A. Yes.

7 Q. Prior to the time that the Himalaya Exchange accounts were
8 seized by the US government, have you seen anything that
9 indicates to you that HDO was not fully backed?

10 A. No.

11 Q. You were asked several questions by Mr. Horton to the
12 effect that the Himalaya Exchange halted redemptions when its
13 account were seized by the US government. Do you recall that?

14 A. Yes.

15 Q. Have you seen anything in this case that indicates that the
16 Himalaya Exchange did not honor redemption consistent with its
17 policy prior to the seizure?

18 A. No.

19 Q. You were asked a series of questions by Mr. Horton about
20 audit report issued by Armanino and whether they were made
21 public. Do you recall that?

22 A. Yes.

23 Q. Do you know whether the audit reports -- withdrawn.

24 Do you know whether the Himalaya Exchange accounts
25 were seized before it could make any audit reports public?

072BGU06

Sklar - Redirect

1 MR. HORTON: Objection.

2 MR. SCHIRICK: She was asked a whole series of
3 questions about audits.

4 THE COURT: You may answer.

5 A. The audit report wasn't issued before the accounts were
6 seized; is that the question?

7 Q. The question is, do you know whether the timing of the
8 account seizure affected the public release of the audit
9 report?

10 MR. HORTON: Objection, calls for speculation.

11 THE COURT: You may answer if you know.

12 A. I don't know.

13 Q. Now, you were asked several questions about gold backing.
14 Do you recall that?

15 A. Yes.

16 Q. And do you know that the only representations about gold
17 backing at all in this case relate to HCN, not HDO?

18 A. I mean, that's my understanding.

19 Q. Right. Because HDO is a stable coin?

20 A. Yes.

21 Q. By dollars?

22 A. Yes.

23 Q. Now were you asked to review any gold reserve issue as part
24 of your expert testimony today?

25 A. No.

072BGU06

Sklar - Redirect

1 Q. So you wouldn't know one way or the other about any gold
2 reserves because it wasn't in scope for you, right?

3 MR. HORTON: Objection.

4 THE COURT: Overruled. You may answer.

5 A. I don't know.

6 Q. Now, you were shown by Mr. Horton the transcript of
7 statements by Mr. Guo to the effect that no run could happen.
8 Do you recall that?

9 A. Yes.

10 Q. Now, can you just describe to us what a run is, please?

11 A. Sure. A run is generally when people panic and they run.
12 The way it's used in traditional financial senses is people use
13 to actually run to the bank and pull their money out. Now a
14 run can be like electronic in the crypto world. It happened
15 with another crypto. Everyone ran to get redemptions or to try
16 to sell it. Now runs can happen through social media or other
17 ways. It's when everyone tries to get money back. It's a
18 process.

19 Q. Understood. And what role does confidence play in a run?

20 A. If you have confidence that what you're investing in is
21 backed and something real behind it, there isn't an incentive
22 to run. A run is usually psychological effect that happens
23 when people run to the bank or they run to sell something.

24 Q. If they lose confidence, fair?

25 A. Yes.

072BGU06

Sklar - Recross

1 Q. And adversely if people believe that the reserves are
2 there, there's no reason for a run, right?

3 MR. HORTON: Object to the leading.

4 THE COURT: Overruled. You can answer.

5 A. Again, like I said it is mainly a psychological effect. So
6 if you don't have a reason to make a run on something, then you
7 wouldn't need to.

8 Q. And would maintaining a cash reserve one-to-one of all HDO
9 in circulation provide just that kind of confidence to prevent
10 a run in your view?

11 A. Yes, because that's also the purpose of a stable coin is
12 that you're supposed to have confidence in it, having the
13 backing, unlike other forms of crypto which are more
14 speculative and are intended to go up and down.

15 MR. SCHIRICK: Thank you. No further questions, your
16 Honor.

17 THE COURT: Recross.

18 MR. HORTON: Very brief.

19 CROSS-EXAMINATION

20 BY MR. HORTON:

21 Q. Ms. Sklar, you were just asked some questions by
22 Mr. Schirick on redirect about whether Miles Guo ever said
23 H Dollar was backed by gold. Do you remember that?

24 MR. SCHIRICK: Objection, misstates the testimony.

25 A. It was whether it was backed by -- I'm sorry.

1 THE COURT: Overruled. You may answer.

2 Q. Ms. Loftus, can you please pull up GXZ9 at the top of 105
3 and blow up the first two lines. This is a document in
4 evidence at GXZ9. It's a statement from Miles Guo. Can you
5 read the line that starts with the word "there." Read that
6 sentence, please.

7 A. This is H dollars backing H Coins and H dollars is backed
8 by Himalaya reserve as well as gold.

9 Q. We can take that down, Ms. Loftus.

10 Ms. Sklar, you were also asked questions by
11 Mr. Schirick about Himalaya Exchange future plans, right?

12 A. Yes.

13 Q. Ms. Loftus, if you can go to page 120 at GXZ9. If you
14 could blow up the top half of this page.

15 Do you see the date at the top left?

16 A. Yes.

17 Q. That's September 29, 2021, right?

18 A. Yes.

19 Q. That's just a few weeks before the exchange launched in
20 November first of this year, right?

21 A. Yes.

22 Q. This is highlights of Miles Guo's live broadcast on that
23 same day, right?

24 A. Yes.

25 Q. Can you read the sentence below it, please.

072BGU06

Sklar - Recross

1 A. The safest virtual coin at the moment is the Himalaya coin
2 because 20 percent of the value is anchored to gold.

3 Q. Does that say the safest coin at the moment, Ms. Sklar?

4 A. That's what that sentence says.

5 MR. SCHIRICK: Objection.

6 THE COURT: Overruled.

7 A. That's what the sentence says, yes.

8 MR. HORTON: One moment, please. Thank you, Ms.

9 Sklar. No further questions from us.

10 MR. SCHIRICK: No further questions, your Honor.

11 THE COURT: Thank you, you may step out.

12 (Witness excused)

13 THE COURT: Members of the jury, it's 4:59. We'll
14 continue tomorrow at 9:30, so I'll expect you to, as usual, be
15 ready to come into the courtroom at this time. Remember that
16 you're not allowed to discuss the case amongst yourselves or
17 with anyone else. Don't permit anyone to discuss the case in
18 your presence. Don't read, watch or listen to anything from
19 any source that touches on the subject matter of this case.
20 Have a good evening.

21 (Continued on next page)

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1 (Jury not present)

2 THE COURT: Please be seated. Is there anything
3 before we start tomorrow.

4 MS. MURRAY: Your Honor, briefly a couple of points.
5 One thing to note with respect to the direct examinations of
6 both of the witnesses today, there were a lot of commentary
7 after each answer. So the witness would give an answer and the
8 questioner would say thank you or some kind of acknowledgment.
9 We would just ask that the Court police that and limit it. We
10 don't think that's at all appropriate in a direct examination
11 to kind of validate or acknowledge the answer that is given.
12 It's commentary. It shouldn't be existent. It's also akin to
13 the government's continuing objection to the direct questions
14 being overly leading.

15 Again, as we discussed at sidebar, we understand it's
16 within the Court's discretion. We don't object to certain
17 leading questions particularly for efficiency. But when they
18 veer into testimonial and they bake into the questions some
19 judgment that's implicit that's being placed into the mouth of
20 the witness, we would object. We note under Rule 611 it's up
21 to the Court's discretion to what extent, if any, to permit
22 leading questions on direct, so we would just note that point.

23 Separate and apart from that, we would ask if the
24 defense could advise how many witness it currently expects to
25 get through tomorrow for planning purposes and also because we

1 understand there was some question about scheduling issues that
2 might arise for certain witness, we'd just like an update on
3 what we expect tomorrow.

4 MS. SHROFF: Your Honor, I think what we are going to
5 have to adjust the roll call because two of our witnesses have
6 to be out of the United States by the end of day tomorrow, so
7 it may involve a brief reshuffling. I'm happy to get back to
8 the government in about 30 minutes. I need to talk to the rest
9 of the team and I've been in here all day. We've had two
10 witnesses waiting here in the room across all day, so actually
11 we ran out of room so one was in the cafeteria, but anyway.

12 MS. MURRAY: Which witnesses, your Honor.

13 THE COURT: If you'll please let the prosecution know.

14 MS. SHROFF: In 30 minutes. I'm not a scout, but 30
15 minutes it is.

16 THE COURT: So with regard to the leading and the
17 commentary, too much commentary diminish the positive effects
18 of leading, so not too much leading and no commentary. Thank
19 you. Have a good evening.

20 (Adjourned to July 3, 2024 at 9:00 a.m.)
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GOVERNMENT EXHIBITS

Exhibit No.	Received
3100-31074774
SW 114, SW 129, and SW 1334774
[exhibits listed in Stip 21]4774
Stip 23; C62-V1 through -V13, and4774
C62-TX	
1780 and Stip 204807