

**Pickholz, Marvin**

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**From:** Pickholz, Marvin  
**Sent:** Thursday, November 15, 2007 10:31 AM  
**To:** 'Lutz, Julie K.'; Hughes, L J.  
**Cc:** John Harris; jhutchings@dillanddill.com; Pickholz, Jason  
**Subject:** RE: Erroneous SEC Statement to Judge Lynch

Julie:

I have reviewed what you sent as well as Jason's letter to you. I can't find a signature page with either of our signatures on it. In any event I fail to understand how':

1. you can deem the exchange of correspondence to constitute a stipulation to admissibility of all the records as genuine "business records" given the points and issues he raised in the very letter attached to your email and, in any event,

2. how the SEC could seek to offer records to a Court as " authentic" and as "genuine business records" of institutions when the witness(es) from those institutions either have not testified at deposition to lay the foundation or, worse, as in the case of the OTC Corporate Transfer records, Mrs. Drayer expressly stated she could not identify some, others she was unfamiliar with and still others were not OTC's business records but things she pulled from hither and yon and put into a format as directed by the SEC. See our Deposition Designations from Mrs Drayer's deposition on this very point.

3. Other so-called "business records" are a mish-mash of documents taken from disparate records or sources and, as admitted by the SEC at the depositions, are a "composite" assembled by the SEC. Moreover, as the depositions make clear, these issues were pointed out by various defense counsel in objections and the SEC chose to plow ahead without curing the deficiencies.

So, I am again asking that you correct your statement to the Court today.

Marvin

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**From:** Lutz, Julie K. [mailto:LutzJ@SEC.GOV]  
**Sent:** Wednesday, November 14, 2007 1:54 PM  
**To:** Pickholz, Marvin; Hughes, L J.  
**Cc:** John Harris; jhutchings@dillanddill.com  
**Subject:** RE: Erroneous SEC Statement to Judge Lynch

Marvin:

In February 2006, I served Requests for Admissions on the parties as to brokerage, transfer agent and bank

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records.

After objections from the parties, I sent the attached meet and confer letter.

Jason proposed a solution via stipulation. See attached letter. In accordance with his suggestion, stipulations were created and executed based upon a model suggested by Lara Shalov. On that basis the SEC did not proceed with a motion to compel admissions.

Attached are the stipulations. I am currently looking for Jason's signature pages, which may have been misfiled. In the meantime, I would appreciate it if you would look in your files and send them again. It seems best to file the stipulations as Exhibits to make clear what it is that the parties agreed to.

Let me know if you have any further questions.

Thanks. Julie Lutz

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**From:** Pickholz, Marvin [mailto:marvin.pickholz@akerman.com]  
**Sent:** Wednesday, November 14, 2007 10:11 AM  
**To:** Hughes, L J.; Lutz, Julie K.  
**Cc:** John Harris; jhutchings@dillanddill.com  
**Subject:** Erroneous SEC Statement to Judge Lynch

Leslie/Julie

The SEC's filed Joint Pretrial Order arrived this morning. In reviewing that document we note that it erroneously states that the parties have stipulated to the authenticity of the bank, brokerage and transfer records as business records negating the necessity for a custodian of those records to qualify them for admission.

This is incorrect. Mrs Dreyer expressly testified that certain records she had not seen, others were not the types of records OTC Corporate Transfer Services made or prepared and kept in the ordinary and regular course of its business. Still others she created at the behest of and in the form and with only certain information in them as instructed by the SEC.

As for bank records, we never stipulated any of those nor any brokerage records. My memory is that SEC staff witnesses testified at their depositions, among other things, that they either had not received or did not secure authentications from foreign broker dealers.

In this case, in view of the "coincidence" of the USAO reawakened interest, we have expressly refused to stipulate ANY facts or documents to be offered by the SEC.

If you disagree please cite me to the record references where each of the

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documents the SEC is seeking to get admitted this way was stipulated to as to its authenticity and as a qualified "business" record of the institution.

Otherwise, please send a correction to Judge Lynch before close of business today with a copy to us to obviate our being forced to advise the Court as above.

Marvin

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