August 22, 2004

Mr. Jonathon G. Katz, Secretary
Securities and Exchange Commission
450 5th Street, NW
Washington DC 20549

RE: File S7-26-04; Release 34-49879; Proposed Regulation B

Dear Mr. Katz:

Although I am an employee of a major bank that is impacted by the proposed regulation, I am writing as an individual with a concern for non-profit organizations that may unwittingly be impacted by the custody and safekeeping exemption as proposed. Those of us who work in the banking industry are aware of these impacts, but most, if not all, non-profit organizations may be unaware that the custody provisions of the proposed rule will have an impact on their future handling of gifts from donors. Furthermore, I'm unaware of any efforts to reach out to the non-profit community, municipalities, and others that will be impacted by this proposal as these organizations typically would not be keeping abreast of proposed regulations from the Securities and Exchange Commission.

I serve on the Boards of Directors of non-profit entities which do not have sufficient assets to meet the definition of "qualified investor" [investable assets of $25 million or greater] that you require under the custody and safekeeping exemption. For tax purposes, many donors choose to make gifts of appreciated securities instead of cash to non-profit organizations. Non-profits like ours that may utilize a bank trust department for the custody and safekeeping of assets find it convenient to have such gifts delivered to our bank custodian, often via ACATS from the donor's broker or from the donor's trust account. We will then instruct the custodian to sell the securities and deposit the proceeds in our operating checking account or in an account that is managed by an investment advisor. Under the proposed regulation, small non-profits without an existing grandfathered account could not enjoy the choice of using a bank custodian to take care of this type of transaction on their behalf.

Instead, small non-profits that do not have a grandfathered custody account would be forced to open a brokerage account at a broker-dealer and to pay retail broker commissions to execute the sale of gifted securities instead of the reduced institutional rates that bank custodians pass through from the brokers who execute the sale at the bank's request. If these sales are not handled delivery vs. payment, we would also have to pay wire fees to transfer the proceeds from the sale of the gifted securities to our bank operating account or, alternatively, face delays while we await the disbursement of a check. Conversely, a bank custodian that sells a gift of stock for us can easily move the sales proceeds at our direction to our checking account at the same bank with no wire or transfer fees. The fact is that many non-profits prefer the convenience and simplicity of asking a bank's trust department to take care of the receipt of the gift, the sale of the gift, and the deposit of the proceeds wherever we direct and then showing the accounting for all of these steps on our custody statements. This proposal would prevent us from changing to another bank custodian to obtain similar services if we so choose because the new account would not be grandfathered and the successor custodian would be restricted from facilitating the sale of the donor securities.

The restrictive provisions of the custody exemption in the proposal also impact any small non-profit that uses an internal investment committee to select investments. Such committees typically choose mutual funds and may then direct their bank custodian to invest in the chosen funds. If we do not meet the definition of qualified investor, this option is removed for us and instead we must open individual accounts at each and every

fund by completing applications, executing board resolutions and paying wire fees to remit the money from our bank account over to the fund. We would end up with numerous mutual fund statements instead of one consolidated statement from our bank custodian. This is not only more cumbersome for purposes of internal bookkeeping, it might also potentially increase our accounting and audit fees due to the additional reconcilements required for additional investment accounts. Using a broker for these traditional bank custody services is not necessarily an equivalent option because typically brokers will only sell us load shares, whereas our bank custodian can buy no-load institutional shares for us. Furthermore, some brokers refuse to handle no-load funds. Mutual fund transactions cannot be settled delivery vs. payment, so fund-direct purchases or opening an account at a broker are the only alternatives to a bank trust department custody account, neither of which gives us the convenience of having our transactions consolidated on our custody statement.

Currently both large and small non-profits can enjoy the convenience and consolidation that bank custodians offer. If the current limited exemption for the custody and safekeeping provision is implemented, this option will not be available to a small non-profit that is not grandfathered with a current bank custody account. Our goal is to have a consolidated custody statement at any bank our Board might choose for ease of assessing our financial situation and performing audits and reconcilements. Please do not remove that option for small non-profits and increase execution costs and fund purchase fees by requiring us to open brokerage accounts to sell donor gifts and to purchase and sell shares of mutual funds.

Thank you for your consideration of my concerns.

Sincerely yours,

Jan Sackley
Member, Board of Directors:
Portage Community Outreach Center and
Hospital Hospitality House of Southwest Michigan