# In the
# Court of Appeals
# Second Appellate District of Texas
# at Fort Worth

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No. 02-19-00197-CV

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ALI RIZVI A/K/A ALI H. RIZVI AND SHAHZAY CONSTRUCTION, INC.,
Appellants

V.

AMERICAN EXPRESS NATIONAL BANK, Appellee

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On Appeal from the 393rd District Court
Denton County, Texas
Trial Court No. 17-10521-393

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Before Kerr, Bassel, and Womack, JJ.
Memorandum Opinion by Justice Kerr

## MEMORANDUM OPINION

Following a bench trial, Ali Rizvi a/k/a Ali H. Rizvi and Shahzay Construction, Inc. (collectively, "Rizvi"), appeal the judgment entered against them for over $360,000 of American Express credit-card debt. Because (1) legally and factually sufficient evidence supports the judgment, and (2) the trial court did not abuse its discretion by admitting the testimony of an American Express assistant records custodian, we affirm.

## Background

In late 2017, American Express Bank, FSB, sued Rizvi for breach of contract, seeking to collect $360,184.42 owed on a credit-card account. Several months later, American Express National Bank filed an amended petition asserting that "[o]n April 1, 2018, AMERICAN EXPRESS BANK, FSB merged with AMERICAN EXPRESS NATIONAL BANK, which is the surviving entity after the merger." Rizvi did not specially except or amend his answer.

Later, in response to Rizvi's Rule 194.2 disclosure request, for the rule's subsection (e), American Express National Bank identified twelve individuals, ten of whom bore the designated job title "Assistant Custodian of Records,"[1] as people with

[1]An eleventh disclosed person, Mehdi Touhidi, was described as "Custodian of Records" and as having the same familiarity with the records. It isn't clear whether Touhidi is American Express's head records custodian or whether the descriptive term *Assistant* was inadvertently omitted, but clarity on this point is immaterial to our analysis. AmEx National rounded out its list of 12 people with knowledge of relevant facts under Rule 194.2(e) with Rizvi (including his company, Shahzay Construction).

knowledge of relevant facts. *See* Tex. R. Civ. P. 194.2(e). Each Assistant Custodian of Records was identically described as being "familiar with the maintenance of Plaintiff's account records." On the same day, AmEx National answered Rizvi's interrogatories and in response to the first one—asking AmEx National to identify everyone whom it expected to call to testify at trial—stated that

> Plaintiff has not yet identified which, if any, of those persons identified as persons with knowledge of relevant facts in Plaintiff's Responses to Defendants' Requests for Disclosure (e) and all supplements and/or amendments thereafter who Plaintiff may call to testify for trial. Plaintiff may also call either Defendant to testify.

One of the assistant records custodians named in the disclosure responses was Robert Rebhan. Rebhan was AmEx National's sole witness at trial,[2] testifying over Rizvi's objection that Rebhan had not been properly disclosed and that his testimony would constitute unfair surprise.

Rebhan testified that he worked for American Express Company, the parent company of AmEx National, as an assistant custodian of records. He described his duties as "to review documents, go into different databases, assure accuracy of information in those databases, and to read documents, moving them forward to litigation[] in cases such as this, and to provide testimony." Also over Rizvi's objection, the trial court admitted three exhibits into evidence:

- a screenshot of Rizvi's account application;

[2]In fact, Rebhan was the only witness at all; no one testified for Rizvi's side of the case.

- a cardmember agreement showing "American Express Bank, FSB," as the issuer, "Sha[h]zay Construction" as the company name, and "Ali Rizvi" as the cardmember name; and

- a collective exhibit comprising roughly twelve months' of Rizvi's account statements.

For each exhibit, Rebhan testified that he had personal knowledge of its contents, that the document was created at or near the time the relevant event occurred, and that it was kept in the ordinary course of business. Rebhan also said that Rizvi had never notified Rebhan's office of any disputed charges.

Rizvi took Rebhan on voir dire to assess his competency to testify about the documents, asserting that the proper foundation had not been laid. During this questioning, Rebhan acknowledged that he had first seen the actual documents that day, when he came to court.[3] He generally described his work the previous week as having made two court appearances, as well as having gone to an office to sign affidavits that had already been prepared and printed for him. Rebhan described his overall review process in performing his duties as (1) matching the name on the affidavit with the name on the account statements, the cardmember agreement, and various associated documents; (2) reviewing the data on the forms to ensure the accuracy of such things as the account's opening date; and (3) cross-referencing the

[3]To prepare for trial, though, Rebhan had accessed "various electronic databases" over the preceding weekend; he testified that he took notes from that review, which at Rizvi's request he promptly gave to Rizvi during voir dire. Those notes were not introduced into evidence or referred to again.

information contained in the documents. Rebhan's "main duty [was] to review the documents to assure their accuracy and move them forward to litigation."

At the end of voir dire, Rizvi objected that he was "going to have to ask the court to disqualify [Rebhan] as a witness" because he "[didn't] think Mr. Rebhan is competent to talk about the records or the creation of the records, and certainly wasn't disclosed to talk about the creation of the records." The trial court overruled the objection, commenting that—

> THE COURT: . . . This isn't the first type of case I've had like this. The custodian of the records is typically not the person who creates the record. The custodian of the record may not even be the person who maintains the record.
>
> I think we've already had testimony, though, that they were made at or about the time by other people who may have had personal knowledge. And that can include, by the way, defense counsel, your client, as long as it's customary in the business to rely on records that are created by other people. The classic example -- and I see this in divorce cases all the time -- are bank records where there's checks signed by someone else, but if they're kept in the ordinary course of the business, such as bank records and bank statements, they become your record.
>
> So it's overruled. I find the predicate's been met. It's a low-bar predicate, and the -- the record's admitted. I find he's custodian.

Later, in response to Rizvi's questioning about the correct American Express entity involved in the case, Rebhan agreed that although the card issuer had been American Express Bank, FSB, the plaintiff was now AmEx National, explaining—

consistent with AmEx National's amended petition—that "[t]hrough acquisition, American Express National Bank absorbed FSB."[4]

At the conclusion of the brief bench trial, the trial court ruled that Rizvi owed AmEx National $360,184.42 and followed that up with a written judgment. At Rizvi's request, the trial court then entered findings of fact and conclusions of law, and this appeal followed.

**Issues**

Rizvi has set out five issues, which we quote verbatim:

> 1. Did the trial court abuse its discretion in admitting Rebhan's testimony based on deficient discovery responses?
>
> 2. Did the trial court abuse its discretion in admitting Rebhan's testimony when he did not testify as to how the records were created?
>
> 3. Is the trial court's judgment in favor of American Express National Bank supported by legally sufficient evidence?
>
> 4. Is the trial court's judgment in favor of American Express National Bank supported by factually sufficient evidence?
>
> 5. Did American Express National Bank fail to prove it has entitlement to sue on the contract?

[4]Rebhan acknowledged that he had no personal knowledge of the merger and agreed that it was "something that [he] learned by being told in an office memo or something that these things had occurred." The trial court compared that lack of direct knowledge to the rhetorical question of "How do you know your name? . . . You know it by hearsay. You're told that that's your name. . . . [H]ow does someone in the corporate structure ever know? Typically what was testified to in this case, you're told, or there's some internal memo. So I think that qualifies."

Rizvi has briefed his issues 1–2 and 3–5 as falling under two major categories; we'll do likewise, although with the order switched. "Issues, if sustained, that require the judgment to be reversed and rendered should be addressed first." *Arshad v. Am. Express Bank, FSB*, 580 S.W.3d 798, 803 (Tex. App.—Houston [14th Dist.] 2019, no pet.). Because Rizvi raises a legal-sufficiency challenge (issue 3) that if sustained would require us to reverse and render judgment, we'll first take up the evidentiary-sufficiency issues and then address whether the trial court abused its discretion by letting Rebhan testify. *See id.*

## I. Sufficiency of the Evidence

### *Standards of Review*

We may sustain a legal-sufficiency challenge only when (1) the record bears no evidence of a vital fact, (2) the rules of law or of evidence bar the court from giving weight to the only evidence offered to prove a vital fact, (3) the evidence offered to prove a vital fact is no more than a mere scintilla, or (4) the evidence establishes conclusively the opposite of a vital fact. *Shields Ltd. P'ship v. Bradberry*, 526 S.W.3d 471, 480 (Tex. 2017). In determining whether legally sufficient evidence supports the finding under review, we must consider evidence favorable to the finding if a reasonable factfinder could and must disregard contrary evidence unless a reasonable factfinder could not. *Cent. Ready Mix Concrete Co. v. Islas*, 228 S.W.3d 649, 651 (Tex. 2007); *City of Keller v. Wilson*, 168 S.W.3d 802, 807, 827 (Tex. 2005). We indulge "every reasonable inference deducible from the evidence" in support of the challenged

finding. *Gunn v. McCoy*, 554 S.W.3d 645, 658 (Tex. 2018) (quoting *Bustamante v. Ponte*, 529 S.W.3d 447, 456 (Tex. 2017)).

When deciding whether the evidence is factually insufficient to support a finding, we set the finding aside only if, after considering and weighing all the pertinent record evidence, we determine that the credible evidence supporting the finding is so weak, or so contrary to the overwhelming weight of all the evidence, that the finding should be set aside and a new trial ordered. *Pool v. Ford Motor Co.*, 715 S.W.2d 629, 635 (Tex. 1986) (op. on reh'g).

### *The Evidence Supports the Judgment*

Rizvi points to one finding of fact and 11 conclusions of law[5] as allegedly bereft of legally sufficient evidence. Rizvi's attack on the bulk of these 12 paragraphs turns on the theme that AmEx National had no proven connection to Rizvi; Rizvi's only possible contractual relationship was with AmEx FSB; therefore, AmEx National cannot recover on a debt owed to AmEx FSB. Subsumed within Rizvi's argument is the notion that Rebhan's lack of personal knowledge about or involvement in the events related to the merger destroys AmEx National's entitlement to recover. Rizvi does not explicitly deny a contractual relationship with or obligation to AmEx FSB.[6]

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[5]Many statements in the trial court's conclusions of law that Rizvi challenges resemble fact findings more than they do legal conclusions.

[6]For example, Rizvi's appellate brief states:

Even without some documentation proving the April 2018 merger, Rebhan's testimony to the fact of it is legally sufficient to establish that AmEx National can sue on AmEx FSB's accounts. Rebhan testified that he had been affiliated with the American Express Company for over 30 years and for the last three years had been a full-time employee of that company, which Rebhan agreed on cross-examination was at the "top of the pile" of the "American Express hierarchy." Rebhan testified that in the course of his employment he had been made aware of AmEx FSB's having been merged into AmEx National—an assertion that Rizvi did not controvert.

A corporate employee such as a records custodian is "generally presumed to possess personal knowledge of facts that he or she would learn in the usual course of employment without having to otherwise prove personal knowledge." *Energico Prod., Inc. v. Frost Nat'l Bank*, No. 02-11-00148-CV, 2012 WL 254093, at *6 (Tex. App.—Fort Worth Jan. 26, 2012, pets. denied) (mem. op.). Through his position and his testimony, Rebhan thus established AmEx National's right to pursue Rizvi's debt. *See Espinoza v. Wells Fargo Bank, N.A.*, No. 02-13-00111-CV, 2013 WL 6046611, at *2–3 (Tex. App.—Fort Worth Nov. 14, 2013, pet. denied) (mem. op.) (affirming

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> The amended petition also claims a contractual relationship between American Express National Bank and Defendants regarding an account ending in 007. That is factually incorrect, based on the cardmember agreement introduced at trial, which identifies the issuer as American Express Bank, FSB. As proven at trial, there was no valid contract between the Plaintiff – American Express National Bank – and the Defendants. Or stated another way, American Express National Bank has not shown that Defendants are obligated to it.

summary judgment for bank based on affidavit of its "legal process specialist," who averred that bank was the current noteholder and that note had been transferred to plaintiff bank through a series of name changes and mergers; this "uncontroverted affidavit testimony" that bank became noteholder "through name change, merger, and assignment" was "sufficient proof of its entitlement to sue for a deficiency under the note"); *Robeson v. Mortg. Elec. Registration Sys., Inc.*, No. 02-10-00227-CV, 2012 WL 42965, at *5 (Tex. App.—Fort Worth Jan. 5, 2012, pet. denied) (mem. op.) (holding that uncontroverted affidavit testimony reciting that bank had become owner and holder of note and deed of trust originally in another entity's name was "all that was required for appellees to prove their ownership of the note for foreclosure purposes"); *Cannon v. Tex. Indep. Bank*, 1 S.W.3d 218, 224–25 (Tex. App.—Texarkana 1999, pet. denied) (affirming judgment in bank's favor based on uncontroverted affidavit and deposition testimony about its status as noteholder; debtors did "not produce any competent summary judgment evidence that [bank] was not the owner and holder of the note," and bank vice president's testimony to that fact was legally sufficient to support judgment).

Rizvi also argues that no evidence shows acceptance of a contract or who used the American Express card. But the Cardmember Agreement specifies that "[w]hen you or an Additional Cardmember . . . use the Account (or sign or keep a card), you agree to the terms of the Agreement" and that "[y]ou promise to pay all charges." And the monthly account statements show that Rizvi indeed made frequent

payments, at least early on. As a sister court in Houston has observed, a cardholder's "making purchases and payments on the account demonstrate the existence of a contract." *Hay v. Citibank (S.D.), N.A.*, No. 14-04-01131-CV, 2006 WL 2620089, at *3 (Tex. App.—Houston [14th Dist.] Sept. 14, 2006, no pet.) (op. on reh'g); *Benser v. Citibank (S.D.), N.A.*, No. 08-99-00242-CV, 2000 WL 1231386, at *5 (Tex. App.—El Paso Aug. 31, 2000, no pet.) (not designated for publication) (concluding that using credit card and making payments to account showed that cardholder understood obligation to bank and that contract had been formed).

Rizvi's no-evidence challenge to the trial court's conclusion that AmEx National "rendered written demand for payment of the balance due and owing" fares no better. The final credit-card statement sent to Rizvi, showing a $360,184.42 past-due balance and informing Rizvi that "[y]our account is cancelled," states on its first page, "Pay Past Due Amount Immediately." Although that statement emanated from AmEx FSB, that entity is now AmEx National.

We conclude that more than a scintilla of evidence exists to support the trial court's judgment and thus overrule Rizvi's no-evidence challenge.

Rizvi raises a factual-sufficiency challenge to but one of the trial court's findings, its first: "Plaintiff, AMERICAN EXPRESS NATIONAL BANK, filed suit against Defendant ALI RIZVI A/K/A ALI H. RIZVI and Defendant SHAHZAY CONSTRUCTION, INC. 'collectively referred to herein as "Defendant"' for breach of contract on December 12, 2017." Rizvi also attacked this finding on no-evidence

grounds, and because it stems from Rizvi's overarching complaint—which we have rejected for reasons set out above—that he had nothing to do with AmEx National, we dispose of it the same way. Besides, a factual-sufficiency challenge presupposes some evidence on both sides of the scale that needs weighing: "Factual sufficiency points of error concede conflicting evidence on an issue, yet maintain that the evidence against [the factfinder's] finding is so great as to make the finding erroneous." *Cowboys Concert Hall–Arlington, Inc. v. Jones*, No. 02-12-00518-CV, 2014 WL 1713472, at *5 (Tex. App.—Fort Worth May 1, 2014, pets. denied) (mem. op.) (per curiam) (quoting *Raw Hide Oil & Gas, Inc. v. Maxus Expl. Co.*, 766 S.W.2d 264, 275 (Tex. App.—Amarillo 1988, writ denied)). Here, the trial court had no conflicting evidence before it; as noted, Rizvi did not put on any witnesses or evidence, and rested immediately after AmEx National did.

Although Rizvi is technically correct in that the original plaintiff was AmEx FSB rather than AmEx National, the latter filed an amended petition after the merger—and a merger does not affect parties' contractual obligations:

> A "merger" exists where one corporation is continued and the others are merged in it without the formation of a new company. Strictly speaking, a merger means the absorption of one corporation that ceases to exist into another that retains its own name and identity and acquires the assets and liabilities of the former where the latter also retains its name and corporate identity with the added capital, franchises and powers of the merged corporation. It is the uniting of two or more corporations by the transfer of property to one of them, which continues in existence, the others being merged in it. Hence, a merger essentially consists of a combination whereby one of the constituent corporations remains in

> being, absorbing or merging in itself all the other constituent corporations.

15 William Meade Fletcher et al., Fletcher Cyclopedia of the Law of Corporations § 7041 (Sept. 2019 update).

In similar fashion, a name change does not affect existing contractual obligations of parties that were in place before the change. *E.g.*, *Kassira v. RHE Hatco, Inc.*, No. 2-09-295-CV, 2010 WL 3718896, at *4 (Tex. App.—Fort Worth Sept. 23, 2010, no pet.) (mem. op.).

### *AmEx National Is Entitled to Sue on Rizvi's Indebtedness*

Finally, based on our holding that Rebhan's testifying to the fact of the merger was sufficient because it was the sort of thing he would learn in the "usual course of employment without having to otherwise prove personal knowledge," *Energico Prod.*, 2012 WL 254093, at *6, AmEx National had both standing and capacity, to the extent Rizvi challenges either one, to recover on Rizvi's indebtedness.

We overrule Rizvi's third, fourth, and fifth issues.

## II. Admissibility of Rebhan's Testimony

### *Standard of Review*

We review a trial court's rulings in admitting or excluding evidence for abuse of discretion. *Gharda USA, Inc. v. Control Sols., Inc.*, 464 S.W.3d 338, 347 (Tex. 2015). And as the long-established formulation has it, a trial court abuses its discretion if it acts without reference to any guiding rules or principles—that is, if it acts arbitrarily or

unreasonably. *Low v. Henry*, 221 S.W.3d 609, 614 (Tex. 2007); *Cire v. Cummings*, 134 S.W.3d 835, 838–39 (Tex. 2004). Just because we might have ruled differently under the circumstances does not mean that we can hold that a trial court abused its discretion. *E.I. du Pont de Nemours & Co. v. Robinson*, 923 S.W.2d 549, 558 (Tex. 1995); *see Low*, 221 S.W.3d at 620. If the record shows any legitimate basis for an evidentiary ruling, we must uphold that ruling. *Owens-Corning Fiberglas Corp. v. Malone*, 972 S.W.2d 35, 43 (Tex. 1998).

### *Rebhan Was Sufficiently Disclosed as a Witness*

Rizvi first contends that AmEx National did not satisfy its burden under Rule 193.6 to establish the requisite "good cause or the lack of unfair surprise or unfair prejudice," which must be "supported by the record," before putting on a witness who was "not timely identified" in a discovery response. *See* Tex. R. Civ. P. 193.6(a), (b). In their entirety, subsections (a) and (b) provide:

> (a) *Exclusion of Evidence and Exceptions*. A party who fails to make, amend, or supplement a discovery response in a timely manner may not introduce in evidence the material or information that was not timely disclosed, or offer the testimony of a witness (other than a named party) who was not timely identified, unless the court finds that:
>
> (1) there was good cause for the failure to timely make, amend, or supplement the discovery response; or
>
> (2) the failure to timely make, amend, or supplement the discovery response will not unfairly surprise or unfairly prejudice the other parties.
>
> (b) *Burden of Establishing Exception.* The burden of establishing good cause or the lack of unfair surprise or unfair prejudice is on the

> party seeking to introduce the evidence or call the witness. A finding of good cause or of the lack of unfair surprise or unfair prejudice must be supported by the record.

*Id.*

But in its Rule 194.2(e) disclosures, AmEx National did identify Rebhan as a person with knowledge of relevant facts and carried him through, as part of the entire group listed in the disclosures, as an expected trial witness in AmEx National's simultaneous interrogatory response that we quoted above.

Rizvi's one-paragraph argument in his appellate brief cites no authority for his implicit idea that incorporating Rule 194.2(e) disclosures into answering an interrogatory about anticipated trial witnesses is somehow dirty pool that triggers Rule 193.6 penalties. We haven't found a case so holding and agree with the trial court's overruling Rizvi's objection to AmEx National's proffering Rebhan as its witness:

> THE COURT: . . . In this case we do have pretrial request for disclosures that were responded to. And I'm looking at the answer to interrogatory, and they do reference the persons with knowledge of relevant facts. They don't say they don't know which one will testify, if any. But, again, they limit it to the circle of 12, which is -- like I said, I'm holding that's enough. It wasn't the phonebook, but it was a limited amount.

We conclude that the trial court did not abuse its discretion in allowing Rebhan to testify.[7]

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[7]This conclusion makes it unnecessary for us to consider AmEx National's alternative argument: that Rebhan was its designated corporate representative and thus—because corporations act only through people—was a "named party" expressly excluded from Rule 193.6(a)'s exclusion provision. *See* Tex. R. Civ. P. 193.6(a)

### *Rebhan's Testimony Satisfied the Business-Records Exception*

Rizvi next argues that because Rebhan did not testify about how the exhibits were created, AmEx National failed to establish the Rule 803(6) business-records exception to the hearsay rule. *See* Tex. R. Evid. 803(6). This evidentiary rule removes from the inadmissible-hearsay realm a record that was made at or near the time of the recorded event by a person with knowledge of the event, if the record was kept in the course of a regularly conducted business activity[8] as shown by the testimony of a custodian of the record or other qualified witness. *Id.*; *Concept Gen. Contracting, Inc. v. Asbestos Maint. Servs., Inc.*, 346 S.W.3d 172, 181 (Tex. App.—Amarillo 2011, pet. denied).

A records custodian can prove up business records without being the record's creator or having personal knowledge of the information in it—and without even being employed by the same entity as the record's creator. *E.g.*, *Gaydos v. Bank of Am., N.A.*, No. 02-14-00221-CV, 2015 WL 1544014, at *2 (Tex. App.—Fort Worth Apr. 2,

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(requiring the conditional exclusion of an undisclosed "witness (other than a named party) who was not timely identified"). AmEx National didn't take that position at trial, and the trial court apparently wasn't viewing Rebhan as a corporate representative when it said to Rizvi's counsel, "And I note you could have had the opportunity at that point [after getting the Rule 194.2(e) disclosure of 12 people] to say . . . designate the [corporate] representative for a pretrial deposition or anything like that."

[8]Contrary to Rizvi's suggestion that AmEx National had to "establish a predicate which includes proof that the 'business' is the kind that conducts a regular organized activity," we're prepared to accept as a given—as a sort of syllogistic enthymeme—that a credit-card company is just such a business.

2015, pet. denied) (mem. op.) (noting that qualified witnesses need have only personal knowledge of the "manner in which the records were kept"). And a witness whose title is "records custodian" or the like is ordinarily qualified to prove up business records for a simple reason: someone's "position or job responsibilities can peculiarly qualify him to have personal knowledge of facts and establish how he learned of the facts." *Southtex 66 Pipeline Co. v. Spoor*, 238 S.W.3d 538, 543 (Tex. App.—Houston [14th Dist.] 2007, pet. denied); *see First Nat'l Bank in Munday v. Lubbock Feeders, L.P.*, 183 S.W.3d 875, 881 (Tex. App.—Eastland 2006, pet. denied).

One relatively recent case involving a credit-card company looking to get paid expanded on this principle. *See Rodriguez v. Citibank, N.A.*, No. 04-12-00777-CV, 2013 WL 4682194 (Tex. App.—San Antonio Aug. 30, 2013, no pet.) (mem. op.). There, the summary-judgment affidavit of Citibank's "Document Control Officer" described his duties as, among others, acting as records custodian with respect to Citibank-owned accounts. *Id.* at *2. The affiant also stated that he had "knowledge of, and access to, account information and records" concerning the defendant–appellant's account, records of which were attached to the affidavit. *Id.* Noting that an affiant's position or job responsibilities can "qualify him to have personal knowledge," *id.* (quoting *Valenzuela v. State & Cty. Fire Ins. Co.*, 317 S.W.3d 550, 553 (Tex. App.—Houston [14th Dist.] 2010, no pet.)), the court observed that

> the requirement of personal knowledge is satisfied when an affiant identifies the position he holds and describes his job responsibilities so

> that one can reasonably assume he would be particularly situated to have personal knowledge of the facts within his affidavit.

*Id.* The *Rodriguez* court concluded that personal knowledge was established by the affiant's explaining that "as custodian of records he has access to and knowledge of Citibank accounts, including Rodriguez's account." *Id.* (citing, among other cases, *Kyle v. Countrywide Home Loans, Inc.*, 232 S.W.3d 355, 359 (Tex. App.—Dallas 2007, pet. denied) (holding that affiant's testimony that she was records custodian for mortgagee with respect to mortgagor's loan sufficed to identify her position and responsibilities, meeting personal-knowledge requirement)).[9]

The same is true here. Rebhan's testimony satisfied the foundational requirements of evidentiary rule 803(6). We thus overrule Rizvi's first and second issues.

## Conclusion

Having overruled all five of Rizvi's appellate issues, we affirm the trial court's judgment.

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[9]Rizvi's authorities are distinguishable in that they involved third-party documents—for example, when a general contractor's records custodian had to know something concrete about its subcontractors' activities on site in order to prove up the accuracy of the general contractor's total unpaid bills. *Duncan Dev., Inc. v. Haney*, 634 S.W.2d 811, 814 (Tex. 1982) (noting that the witness established that he or others in his company "knew of the events recorded on the third[-]party [(subcontractors')] documents").

/s/ Elizabeth Kerr
Elizabeth Kerr
Justice

Delivered: June 18, 2020