EXHIBIT 2

FILED PROVISIONALLY UNDER SEAL WITH REDACTIONS PURSUANT TO STIPULATED PROTECTIVE ORDER

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

SAN DIEGO DIVISION

IN RE: BANK OF AMERICA CALIFORNIA UNEMPLOYMENT BENEFITS LITIGATION	Case No. 3:21-md-02992-GPC-MSB

EXPERT DECLARATION OF TERESA A. PESCE

October 24, 2024

FILED PROVISIONALLY UNDER SEAL
PURSUANT TO STIPULATED PROTECTIVE ORDER

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I. ASSIGNMENT

1. I have been engaged by Goodwin Procter LLP ("Counsel"), counsel for Bank of America, N.A. ("the Bank") to provide an expert declaration in the matter of *In Re Bank of America California Unemployment Benefits Litig.*, Case No. 3:21-md-02992-GPC-MSB. This declaration is based upon my expertise, experience, and knowledge of the regulatory environment and industry practices in the area of financial crimes, in particular with respect to fraud and anti-money laundering ("AML") requirements and expectations driven by the Bank Secrecy Act ("BSA") as amended by the USA PATRIOT Act. Counsel has asked me to provide my opinion on the regulatory and law enforcement environment during a period when there was an unprecedented volume of fraudulent claims driven by lax controls deployed by the State of California's Employment Development Department ("EDD") when conferring unemployment benefits pursuant to COVID-19 related relief programs. In addition, Counsel has asked me to respond to portions of the expert report of J. Daniel Kreis filed on August 29, 2024 (the "Kreis Report")[1] that address, or fail to address, the unique circumstances under which the Bank was working during the COVID-19 pandemic. I was also asked to review the proposed "claim denial class" described in the expert report of Greg J. Regan (the "Regan Report") and opine on whether any potential fraudulent individuals may be included in the proposed class.[2] As this Declaration does not address all aspects of the Kreis or Regan Reports, I reserve the right to respond to the remainder of the opinions set forth in those Reports if asked by Counsel.

2. In furtherance of this assignment and to assist in my understanding of the facts and circumstances surrounding this matter, Counsel provided me with materials pertaining to this case, including pleadings and other court documents, deposition transcripts, and materials produced in discovery, which are referenced and cited herein. A list of

[1] Expert Class Certification Report of J. Daniel Kreis, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-nd-02992-GPC-MSB (Aug. 29, 2024).
[2] Expert Class Certification Report of Greg J. Regan, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-nd-02992-GPC-MSB (Aug. 29, 2024).

materials reviewed and cited is appended hereto at Appendix A. I reserve the right to supplement or amend my declaration should new information become available. I am prepared to testify at trial on the topics addressed in this declaration.

3. Any and all opinions stated herein are mine and mine alone. My compensation in this matter is not dependent on my opinions in or the outcome of this case. I am being compensated at my standard rate of $800 per hour for work related to preparing my declaration and $1,000 per hour for deposition and trial testimony. In addition, staff at Cornerstone Research assisted me by performing research and other tasks under my direction in this matter.

II. QUALIFICATIONS

4. I am an industry leader and subject matter expert in financial-crimes regulatory enforcement and compliance, with an extensive and varied history of working in and with the financial services industry, including in government, industry, and consulting. I have led large teams and managed significant projects for global financial institutions, and I have designed and implemented financial-crimes compliance programs and organizational structures. I have been called upon by boards of directors and senior management of large, international financial institutions to provide guidance and support as those institutions navigated enforcement actions.

5. I have served, and currently serve, as an expert witness and expert consultant in litigations and investigations relating to financial crimes, including AML, sanctions, and fraud. I have provided expert opinions in cases in the United States and abroad.

6. I currently own and operate an independent consulting firm, Terry Pesce & Co. LLC, established in September 2020. My clients range from multinational financial institutions to fintechs and non-traditional firms. I have worked as an independent consultant with some of the largest global financial institutions headquartered and/or doing business in North America, Europe, and Asia. In addition to more traditional depository institutions,

I have worked with the world's largest investment banks, money service businesses, insurance companies, and more regional institutions.

7. Prior to establishing my consulting firm, I spent 13 years as a Principal in KPMG LLP's ("KPMG") Forensic Advisory Services, serving as Global Head of Anti-Money Laundering and Head of the firm's Financial Crimes group. I spearheaded diverse engagements for financial institutions addressing numerous issues concerning financial crimes and sanctions. My work was both proactive, assisting firms in designing new compliance programs and conducting independent assessments, and reactive, assisting firms responding to enforcement actions. I have often been called upon to report directly to law enforcement agents, prosecutors, and regulatory agencies.

8. Before joining KPMG in early 2007, I was Executive Vice President and AML Director for HSBC North America ("HSBC"). I joined HSBC in late 2003 to build out the AML compliance function for all U.S. business lines and products in response to a regulatory order imposed by the Federal Reserve Bank of New York earlier that year and lifted by the Office of the Comptroller of the Currency ("OCC") during my tenure in 2006. I left HSBC to join KPMG shortly thereafter.

9. Prior to joining HSBC, I was an Assistant United States Attorney in the Southern District of New York, serving as Chief of the Major Crimes Unit, and Deputy Chief of the Criminal Division. From 1999 through 2003, I was responsible for supervision and oversight of all money-laundering and tax prosecutions. I worked closely with law enforcement officers and agents and the financial regulatory agencies responsible for oversight of AML enforcement. During my tenure at the U.S. Attorney's office, I investigated and prosecuted numerous cases involving and charging money laundering and other complex fraud cases.

10. I have served as an Associate Professor for the Case Western School of Law, Masters of Financial Integrity program, lecturing students from around the globe on a variety of

subjects relevant to financial crimes enforcement and compliance, as well as criminal law.

11. I hold a Bachelor of Arts from Columbia University, where I graduated magna cum laude, Phi Beta Kappa, and I hold a Juris Doctor from Columbia Law School.

12. I am a recognized industry speaker and have published numerous pieces on financial crimes and enforcement. A complete CV, including a list of publications and matters in which I have provided testimony, is appended hereto at Appendix B.

III. SUMMARY OF RELEVANT FACTS CONSIDERED

13. The Bank's partnership with EDD predated the COVID-19 pandemic. Pre-COVID-19, the Bank issued prepaid cards to a relatively stable and predictable number of unemployment claimants that EDD had vetted in advance for eligibility. This included identity and employment verification checks.

14. During the COVID-19 pandemic, the paradigm shifted dramatically. Federal government programs made unemployment benefits available to individuals who either did not need them before or were not entitled to them before. The Bank was directed by EDD to provide prepaid cards to an unprecedented number of recipients – [redacted]. In an effort to get funds into the hands of the masses of claimants, EDD relaxed its eligibility controls, allowing claimants to apply for unemployment benefits without verifying their former employment, wage, or salary history (adopting a "pay and chase" model), which resulted in cards being issued to fraudsters – e.g., recipients fraudulently claiming entitlement and identity thieves. As the number of cardholders increased and fraud controls were relaxed, the number of benefits recipients making claims and seeking reimbursement for purportedly unauthorized transactions on their cards increased exponentially.

15. At the same time the Bank was presented with an unprecedented volume of unauthorized transaction claims in the EDD portfolio, the Bank received numerous warnings from both its regulators and law enforcement to be vigilant to prevent, detect, and report rampant fraud associated with COVID-19-related relief, and, in particular, unemployment insurance. Regulators and law enforcement instructed banks to take action in the face of COVID-19-related fraud. Banks have an obligation to prevent, detect, and report financial crime, an obligation that was stressed by regulators in their alerts.

16. Regulatory warnings of rampant fraud were substantiated by the Bank's own review of unauthorized transaction claims. The Bank uncovered significant fraud in the EDD portfolio. [redacted]

17. Plaintiffs have tendered the reports of two experts, purportedly to support their motion for class certification. While the Regan Report addresses class identification, the Kreis Report addresses only Plaintiffs' positions on the merits; Mr. Kreis's report contends that the Bank should have addressed suspected fraud in the EDD portfolio as business as usual, wholly ignoring the extraordinary circumstances under which the Bank was operating.

IV. SUMMARY OF OPINIONS

18. Recognizing its responsibility to law enforcement to prevent rampant fraud, and faced with unprecedented volumes of claims, the Bank devised the Claims Fraud Filter ("CFF") to identify likely fraudulent unauthorized transaction claims. [redacted] In my experience, Banks routinely use automated detection technology to detect fraud and other suspicious activity. Regulators expect

banks to deploy technology to detect such activity. There would be no other way to monitor the volume of transactions processed daily.

19. Mr. Kreis faults the Bank for [redacted] His analysis fails to account for either the unprecedented volume of claims the Bank was faced with, or the rampant fraud in the portfolio. He also ignores the fact that the Bank [redacted] He posits three over-simplified strategies: hire more claims analysts; prioritize higher-dollar value claims for investigation; and increase the monetary threshold at which claims were auto-paid. His suggested alternative strategies [redacted] or would not have been sufficient to manage the unprecedented number of unauthorized transaction claims or prevent the unprecedented volume of actual fraud.

20. Mr. Regan contends that the proposed claim denial class should be defined by [redacted] These factors alone would not weed out all fraudsters from the proposed class.

21. There can be no blanket application or assumption that the remaining individuals in the proposed claim denial class are all legitimately entitled to unemployment benefits or submitted a legitimate unauthorized transaction claim. In my opinion, and given the rampant fraud prevalent in connection with COVID-19-related unemployment insurance

[3] [redacted]

benefits, which has been estimated to exceed $32 billion of EDD's portfolio and nearly 40 percent of benefits issued pursuant to the PUA, and EDD's mishandling of fraud prevention, fraudsters remain in the population, and it would require a case-by-case review to identify every likely fraudster.

V. BACKGROUND

1. Banks Have a Duty to Prevent Potentially Criminal Activity.

22. The BSA requires banks to implement compliance programs to prevent, detect, and report potentially suspicious activity, including fraud, to the Financial Action Criminal Enforcement Network ("FinCEN") of the U.S. Department of the Treasury.[4] Prevention under the BSA is furthered by banks knowing the identity of their customers pursuant to Customer Identification Program ("CIP")[5] requirements, and knowing the risk the customer poses to the bank through Customer Due Diligence ("CDD").[6] Through these controls, banks can better understand who is transacting through their bank, and what transactions are expected and normal for the customer.[7] In the absence of these controls,[8] banks risk providing services to illicit actors who would use the bank for criminal purposes.

[4] FinCEN is the federal agency charged with administering and enforcing the BSA. FinCEN, *What We Do*, https://www.fincen.gov/what-we-do. *See also* Federal Financial Institution Examination Counsel Bank Secrecy Act/Anti-Money Laundering Examination Manual ("FFIEC Manual"), *Introduction, Role of Government Agencies in the BSA* (2015), https://bsaaml.ffiec.gov/manual/Introduction/01. Banks are required to file Suspicious Activity Reports ("SARs") upon the identification of potentially suspicious activity. 31 C.F.R. § 1020.320.
[5] 31 C.F.R. § 1020.220. *See* FFIEC Manual, *Assessing Compliance with BSA Regulatory Requirements, Customer Identification Program* (2021), https://bsaaml.ffiec.gov/manual/AssessingComplianceWithBSARegulatoryRequirements/01.
[6] FFIEC Manual, *Assessing Compliance with BSA Regulatory Requirements, Customer Due Diligence, Overview* (2018), https://bsaaml.ffiec.gov/manual/AssessingComplianceWithBSARegulatoryRequirements/02; 31 C.F.R. § 1020.210.
[7] *Id.* ("The objective of CDD is to enable the bank to understand the nature and purpose of customer relationships, which may include understanding the types of transactions in which a customer is likely to engage. These processes assist the bank in determining when transactions are potentially suspicious.").
[8] *Id.* ("CDD policies, procedures, and processes are critical to the bank because they can aid in … [a]voiding criminal exposure from persons who use or attempt to use the bank's products and services for illicit purposes.").

23. Two critical purposes of fraud detection are to prevent fraud and to prevent loss.[9] Banks deploy fraud software and technology solutions to assist with anti-fraud efforts. These include detection scenarios to stop transactions before they occur and, where necessary, cancel access, by, for example, cancelling prepaid, debit, or credit cards.[10]

24. Regulators do not expect banks merely to report repeated or egregious instances of criminal activity; regulators expect banks to have processes in place to close accounts and/or terminate relationships.[11] Per regulatory guidance, banks are expected to have policies, procedures, and processes in place on when to terminate relationships in the face of elevated risk factors.[12] In my experience, banks are under constant regulatory scrutiny, and some have been subject to regulatory criticism and/or potential enforcement actions when maintaining accounts for bad actors.[13]

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[9] Office of the Comptroller of the Currency, *OCC Bulletin 2019-37: Operational Risk: Fraud Risk Management Principles* (July 24, 2019), https://www.occ.treas.gov/news-issuances/bulletins/2019/bulletin-2019-37.html, Appendix of Exhibits to the Declaration of Laura Brys in Support of Defendant's Opposition to Plaintiffs' Motion for Class Certification, Ex. ("DX") 108.

[10] Office of the Comptroller of the Currency, *OCC Bulletin 2019-37: Operational Risk: Fraud Risk Management Principles* (July 24, 2019), https://www.occ.treas.gov/news-issuances/bulletins/2019/bulletin-2019-37.html (DX 108). *See* Federal Trade Commission, *When a Company Declines Your Credit or Debit Card*, *Consumer Advice* (Aug. 2022), https://consumer.ftc.gov/articles/when-company-declines-your-credit-or-debit-card ("Your card may be declined for a number of reasons . . . the card issuer sees suspicious activity that could be a sign of fraud.").

[11] Board of Governors of the Federal Reserve System, FDIC, FinCEN, NCUA, OCC, *Answers to Frequently Asked Questions Regarding Suspicious Activity Reporting and Other Anti-Money Laundering Considerations* (Jan. 19, 2021), https://www.fincen.gov/sites/default/files/2021-01/Joint%20SAR%20FAQs%20Final%20508.pdf ("The decision to maintain or close a customer relationship as a result of the identification of suspicious activity is a determination for a financial institution to make based on the information available to it, its assessment of money laundering or other illicit financial activity risks, and established policies, procedures, and processes. Financial institutions have the flexibility to develop risk-based procedures and monitoring processes for the purpose of updating the customer risk profile and determining when to maintain or close accounts. Generally, financial institutions have policies, procedures, and processes in place that establish an escalation process for decisions to maintain or terminate customer relationships based on relevant factors, including SAR filing(s). These processes establish criteria, including when review by senior management and legal staff is warranted, for the decision to maintain or terminate the customer relationship in light of elevated risk factors.").

[12] *Id.*

[13] Office of the Comptroller of the Currency, *OCC Issues Cease and Desist Order, Assesses $450 Million Civil Money Penalty, and Imposes Growth Restriction Upon TD Bank, N.A. for BSA/AML Deficiencies* (Oct. 10, 2024), https://www.occ.treas.gov/news-issuances/news-releases/2024/nr-occ-2024-116.html.

2. National Crisis

25. Beginning in the spring of 2020, the U.S. faced an unprecedented health crisis due to the COVID-19 pandemic.[14] The U.S. was placed under stay-at-home orders, which resulted in mass unemployment.[15] To address the hardship caused by unemployment, Congress passed the Coronavirus Aid, Relief, and Economic Security ("CARES") Act at the end of March 2020, which provided unemployment benefits to those not traditionally eligible (Pandemic Unemployment Assistance or "PUA"), additional benefits to those who had exhausted benefits (Pandemic Emergency Unemployment Compensation or "PEUC"), and weekly supplements (Federal Pandemic Unemployment Compensation or ("FPUC").[16] Available funds were drawn down by and distributed by states, with four states (California, Georgia, Kentucky, and Michigan) taking approximately one-third of all funds between March 28, 2020 and March 14, 2021.[17] In an effort to distribute funds quickly given the unprecedented number of unemployment claims, states relaxed eligibility and identification procedures, which resulted in widespread fraud.[18] The

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[14] Trump White House, *Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak* (Mar. 13, 2020), https://trumpwhitehouse.archives.gov/presidential-actions/proclamation-declaring-national-emergency-concerning-novel-coronavirus-disease-covid-19-outbreak/.

[15] Centers for Disease Control, *Timing of State and Territorial COVID-19 Stay-at-Home Orders and Changes in Population Movement – United States, March 1–May 31, 2020* (Sep. 4, 2020), https://www.cdc.gov/mmwr/volumes/69/wr/mm6935a2.htm; Congressional Research Service, *Unemployment Rates During the COVID-19 Pandemic* (Aug. 20, 2021) at 5, https://crsreports.congress.gov/product/pdf/R/R46554; Auditor of the State of California, *Employment Development Department: EDD's Poor Planning and Ineffective Management Left it Unprepared to Assist Californians Unemployed by COVID-19 Shutdowns* (Jan. 2021) ("EDD's Poor Planning, Jan. 2021") (DX 89) at 1, https://information.auditor.ca.gov/pdfs/reports/2020-128and628.1.pdf.

[16] U.S. Department of the Treasury, *About the CARES Act and the Consolidated Appropriations Act*, https://home.treasury.gov/policy-issues/coronavirus/about-the-cares-act; U.S. Department of Labor Press Release, *U.S. Department of Labor Announces New Guidance to States on Unemployment Insurance Programs* (Dec. 30, 2020), https://www.dol.gov/newsroom/releases/eta/eta20201230-1; U.S. Department of Labor, Office of Inspector General, *COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds From Improper Payments Including Fraud or From Payment Delays* (Sep. 30, 2022) ("DOL OIG Report") at 1–2, https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf.

[17] DOL OIG Report at 2.

[18] United States Government Accountability Office, *GAO-22-105715: Significant Improvements Are Needed to Ensure Transparency and Accountability for COVID-19 and Beyond* (Mar. 17, 2022) (DX 87) ("When reviewing the federal government's response to the COVID-19 pandemic, GAO found that agencies had significant shortcomings in their application of fundamental internal controls and financial and fraud risk management practices."), https://www.gao.gov/assets/gao-22-105715.pdf; Employment Development Department, State of California, *Annual Report California Fraud Deterrence and Detection Activities* (June 2021) at 3 ("EDD Annual Report, June 2021") ("The federal Pandemic Unemployment Assistance (PUA) program, where much of the current fraud is concentrated, was designed to provide unemployment benefits to independent contractors and the self-employed."), https://edd.ca.gov/siteassets/files/about_edd/pdf/fraud_deterrence_and_detection_activities_2021.pdf (DX 16); BANA_EDD_MDL-00080294–352 (Auditor of the State of California, *Significant Weaknesses in EDD's*

EDD's June 2021 Annual Report states that "[t]raditionally state unemployment agencies rely on employment or wage records to verify eligibility. The self-certification of prior wages, made allowable under the PUA program, made it inherently susceptible to fraud. With the lack of verifiable criteria regarding eligibility, fraud increased with the number of claims filed."[19]

3. California's Employment Development Department

26. EDD was responsible for administering the state unemployment benefits program generally, including PUA for the State of California.[20] Prior to PUA, California had safeguards in place to determine both the identity of claimants and eligibility to receive benefits; traditionally, the state could verify the claimant's prior employment as well as the date they became unemployed and their wage or salary history.[21] However, during the COVID-19 pandemic, to distribute benefits quickly, California eliminated many of the eligibility controls previously in place.[22] The EDD's June 2021 Annual Report states that "[w]ith the absence of comparable wage information to validate the claims, the PUA program was particularly vulnerable to fraud. This was evident at the end of 2020 with an identified fraud rate in the PUA program of just over 24 percent, or approximately $10.5 billion."[23] Subsequent reports from the DOL-OIG have reported that more than 35 percent of the PUA benefits issued nationwide were likely fraudulent.[24]

Approach to Fraud Prevention Have Led to Billions of Dollars in Improper Benefit Payments, (Jan. 2021) ("Weaknesses in EDD's Approach, Jan. 2021"), (DX 88) at 310 ("It is almost certain that because of its lax approach, EDD missed stopping payment on fraudulent claims during the pandemic.").

[19] EDD Annual Report, June 2021 (DX 16) at 3.

[20] Weaknesses in EDD's Approach, Jan. 2021 (DX 88) at 300 ("The Employment Development Department (EDD) is responsible for administering the State's unemployment insurance (UI) program, which provides partial wage replacement benefits to eligible Californians who have become unemployed, including those affected by the COVID-19 pandemic (pandemic).").

[21] House Committee on Oversight and Accountability Majority Staff, *Examining Widespread Fraud in Pandemic Unemployment Relief Programs* (Sep. 10, 2024) ("House Committee Report") at 13, https://oversight.house.gov/wp-content/uploads/2024/09/UI-Report-FINAL.pdf (DX 14).

[22] EDD's Poor Planning, Jan. 2021 (DX 89) at 25 ("In March 2020, EDD halted most of its work related to determining whether UI claimants were eligible for benefits.").

[23] EDD Annual Report, June 2021 (DX 16) at 7.

[24] House Committee Report (DX 14) at 6, 23 ("The U.S. Government Accountability Office estimates that about 11 to 15 percent of total benefits paid during the pandemic were fraudulent, totaling between $100 to $135 billion.").

27. EDD's removal of guardrails in administering PUA benefits led to an unprecedented wave of fraud perpetrated by bad actors, including sophisticated criminal syndicates.[25] Two types of fraud were prevalent: benefits eligibility fraud and false claims fraud. First, benefits eligibility fraud involved issuing cards to benefits claimants who were not entitled to benefits, including fraudsters who also committed identity theft, by using fake or stolen identities to obtain benefits cards.[26] Second, [redacted].[27] False unauthorized transaction claims fraud was committed by those who fraudulently sought benefits [redacted]

28. The State of California issued a report in January 2021 acknowledging that it had mishandled fraud prevention and had, at that point, already paid approximately $10

[25] EDD Annual Report, June 2021 (DX 16) at 3 ("States across the country faced new levels of criminal fraud, including fraud perpetrated by sophisticated organized crime groups and criminal opportunists throughout the country."); Weaknesses in EDD's Approach, Jan. 2021 (DX 88) at 342–343 ("The new federal Pandemic Unemployment Assistance (PUA) program presented particular challenges, as it did not have the same safeguards as California's unemployment program. While in a September letter from the Department of Labor acknowledged that the new program is a 'target for criminal enterprises and other bad actors deploying advanced technologies, stolen or synthetic identities, and other sophisticated tactics,' the Trump Administration provided insufficient support to states to address the aggressive attacks by domestic and international criminal syndicates.").

[26] EDD Annual Report, June 2021 (DX 16) at 44; Deposition of Michael Letson, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-md-02992-LAB-MSB (Feb. 16, 2024) ("Letson Deposition") (DX 97) at 147:15–25 [redacted]

[27] Deposition of William Matthew Martin, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-md-02992-LAB-MSB (Feb. 14, 2024) ("Martin Deposition") at 146:19–25; Deposition of Shane Daniels, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-md-02992-LAB-MSB (Feb. 6, 2024) ("Daniels Deposition") (DX 98) at 195:23–196:12.

[28] Martin Deposition at 146:19–25; Daniels Deposition at 195:23–196:12 (DX 98); EDD Annual Report, June 2021 (DX 16) at 44 ("Identity Theft and Address Theft - Imposter Claims: PUA claims filed by perpetrators and sophisticated criminal schemes using stolen or borrowed identities, and using false addresses to obtain unemployment insurance benefits illicitly for financial gain. These occurrences generally involved filing for benefits using true wage earner without knowledge or consent."). Letter from Elaine M. Howle, 2020-502 (Nov. 19, 2020), https://information.auditor.ca.gov/pdfs/reports/2020-502.pdf (DX 17).

billion in fraudulent claims.[29] The report noted that fraud in benefits payments had increased 393 percent.[30] More recently, the House Committee on Oversight and Accountability (the "House Committee") issued a report setting forth in detail California's failures with respect to preventing and/or detecting fraud in its pandemic unemployment relief programs, including that EDD's parent agency "clearly … made the decision to sacrifice preventing fraud for expeditious processing times" and EDD "adopted a 'pay and chase' model" that exposed the system to fraudsters.[31]

4. Bank of America's Role in Distributing EDD Benefits

29. The Bank's relationship with EDD long predated the COVID-19 crisis.[32] [redacted][33] The Bank would then issue prepaid cards to the benefits recipients loaded with funds made available by EDD.

30. In operating the EDD benefits program, [redacted][34] Rather, [redacted]

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[29] Weaknesses in EDD's Approach, Jan. 2021 (DX 88) at 308.
[30] The report notes that, in 2019, \$116.8 million of \$4.9 billion in benefit payments were fraudulent (2.3%). Between March and December 2020, \$10.4 billion of \$111 billion in benefit payments were fraudulent (9.4%). *See* Weaknesses in EDD's Approach, Jan. 2021 (DX 88) at 305, 308.
[31] House Committee Report (DX 14) at 28.
[32] Mary Ann Milbourn, *Unemployment Payouts Go Plastic in July*, The Orange County Register (Mar. 16, 2011), https://www.ocregister.com/2011/03/16/unemployment-payouts-go-plastic-in-july/ (DX 91) ("Bank of America won the contract to provide the Visa-branded EDD debit cards. Under the program, EDD will deposit unemployment payments directly to the claimant's debit card once the BofA account is activated.").
[33] Letson Deposition (DX 97) at 112:16–20; [redacted]
[34] Letson Deposition (DX 97) at 112:12–113:8 [redacted]

[redacted].[35]

31. Before the COVID-19 pandemic, the number of active benefits recipients to whom the Bank issued prepaid cards was [redacted][36] During the COVID-19 pandemic, the number of active benefits recipients to whom the Bank issued cards grew exponentially to [redacted], and as the federal government expanded benefits eligibility and the EDD relaxed eligibility verification and requirements, the result was massive fraud.[37] Under normal circumstances, a bank would be able to address fraud in the ordinary course. However, [redacted] would present a massive challenge for any bank. This challenge was observed by Bank employees. As noted by Michael Letson, a Managing Director leading detection and complex investigations in the Bank's Global Financial Crimes Compliance ("GFCC") group,[38] [redacted][39]

[35] Deposition of Robert A. Chestnut, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-md-02992-LAB-MSB (Feb. 8, 2024) (DX 24) at 34:17–19 [redacted]

[36] The number of active EDD debit cards in mid-March of 2020 was 666,000. *See* BANA_EDD_MDL-00154700–8 (Bank of America, *California EDD Program Overview* (Nov. 2, 2020)) at 1.

[37] *Id.* at 1. *See* **Section V.3**.

[38] Letson Deposition (DX 97) at 35:23–36:3.

[39] *Id.* (DX 97) at 112:16–113:8.

5. Warnings from Regulatory Agencies and Law Enforcement

32. Recognizing the extent of the fraud resulting from the PUA and the vulnerability of financial institutions, banking regulatory agencies and law enforcement issued warnings, alerting banks to be vigilant in detecting fraud.

33. FinCEN issued nine separate warnings to banks between March 2020 and February 2021 directing banks to ensure they detected, prevented, and reported financial crimes related to COVID-19-related payments, including one warning specifically addressing unemployment insurance fraud.[40] FinCEN encouraged banks to look for red flags indicating fraud and to implement "innovative approaches to meet their BSA/anti-money laundering compliance obligations, in order to further strengthen the financial system against illicit financial activity and other related fraud."[41] Recognizing the extent of criminal activity associated with COVID-19 relief, in February 2021, FinCEN provided

[40] FinCEN Press Release, *The Financial Crimes Enforcement Network (FinCEN) Encourages Financial Institutions to Communicate Concerns Related to the Coronavirus Disease 2019 (COVID-19) and to Remain Alert to Related Illicit Financial Activity* (Mar. 16, 2020), https://www.fincen.gov/news/news-releases/financial-crimes-enforcement-network-fincen-encourages-financial-institutions (DX 92); FinCEN Press Release, *The Financial Crimes Enforcement Network Provides Further Information to Financial Institutions in Response to the Coronavirus Disease 2019 (COVID-19) Pandemic* (Apr. 3, 2020), https://www.fincen.gov/news/news-releases/financial-crimes-enforcement-network-provides-further-information-financial (DX 92); FinCEN, *Advisory on Medical Scams Related to the Coronavirus Disease 2019 (COVID-19)* (May 18, 2020), https://www.fincen.gov/sites/default/files/advisory/2020-05-18/Advisory%20Medical%20Fraud%20Covid%2019%20FINAL%20508.pdf (DX 92); FinCEN, *Notice Related to the Coronavirus Disease 2019 (COVID-19)* (May 18, 2020), https://www.fincen.gov/sites/default/files/shared/May_18_Notice_Related_to_COVID-19.pdf (DX 92); FinCEN, *Advisory on Imposter Scams and Money Mule Schemes Related to Coronavirus Disease 2019 (COVID-19)* (July 7, 2020), https://www.fincen.gov/sites/default/files/advisory/2020-07-07/Advisory_%20Imposter_and_Money_Mule_COVID_19_508_FINAL.pdf (DX 92); FinCEN, *Advisory on Cybercrime and Cyber-Enabled Crime Exploiting the Coronavirus Disease 2019 (COVID-19) Pandemic* (July 30, 2020), https://www.fincen.gov/sites/default/files/advisory/2020-07-30/FinCEN%20Advisory%20Covid%20Cybercrime%20508%20FINAL.pdf (DX 92); FinCEN, *Advisory on Unemployment Insurance Fraud During the Coronavirus Disease 2019 (COVID-19) Pandemic* (Oct. 13, 2020), https://www.fincen.gov/sites/default/files/advisory/2020-10-13/Advisory%20Unemployment%20Insurance%20COVID%2019%20508%20Final.pdf (DX 92); FinCEN, *Consolidated COVID-19 Suspicious Activity Report Key Terms and Filing Instructions* (Feb. 24, 2021), https://www.fincen.gov/sites/default/files/shared/Consolidated%20COVID-19%20Notice%20508%20Final.pdf (DX 92); FinCEN, *Advisory on Financial Crimes Targeting COVID-19 Economic Impact Payments* (Feb. 24, 2021), https://www.fincen.gov/sites/default/files/advisory/2021-02-24/Advisory%20EIP%20FINAL%20508.pdf (DX 92).

[41] FinCEN Press Release, *The Financial Crimes Enforcement Network Provides Further Information to Financial Institutions in Response to the Coronavirus Disease 2019 (COVID-19) Pandemic* (Apr. 3, 2020), https://www.fincen.gov/news/news-releases/financial-crimes-enforcement-network-provides-further-information-financial (DX 92).

banks with specific instructions for banks filing SARs based on COVID-19-related fraud-types.[42]

34. In its Spring 2021 Semi-Annual Risk Perspective, the OCC, the Bank's primary regulator, instructed banks to be prepared to deal with new criminal typologies related to the CARES Act.[43] The OCC advised banks to "be diligent to appropriately monitor and manage changes and associated risks [with respect to COVID-19], and ensure new processes incorporated into their compliance and risk management programs are effective."[44]

35. In September 2020, the United States Department of Justice ("DOJ") established the National Unemployment Insurance Fraud Task Force. The intent was to marshal the resources of the DOJ together with other state and federal agencies to combat and prevent pandemic-related fraud.[45] The Task Force noted that "[f]raudsters, some of which are transnational criminal organizations, are [redacted], exploiting the unprecedented expansion of these benefits provided in response to economic disruption caused by the COVID-19 pandemic."[46] The Task Force's most recent report confirms the widespread criminal activity relating to the issuance of COVID-related unemployment benefits; it reported the arrests of more than 3,500 defendants, the seizure or forfeiture of over $1.4 billion in stolen COVID-19 relief funds, and the "ongoing investigations into hundreds of

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[42] *See* FinCEN, *Advisory on Financial Crimes Targeting COVID-19 Economic Impact Payments* (Feb. 24, 2021), https://www.fincen.gov/sites/default/files/advisory/2021-02-24/Advisory%20EIP%20FINAL%20508.pdf (DX 92).
[43] Office of the Comptroller of the Currency, *Semiannual Risk Perspective from the National Risk Committee* (Spring 2021), at ii, 21, https://www.occ.gov/publications-and-resources/publications/semiannual-risk-perspective/files/pub-semiannual-risk-perspective-spring-2021.pdf (DX 93).
[44] *Id.* (DX 93) at 20.
[45] U.S. Department of Justice, National Unemployment Insurance Fraud Task Force, *Unemployment Insurance Fraud Consumer Protection Guide* (Sep. 21, 2020), https://www.oig.dol.gov/public/Unemployment%20Insurance%20Fraud%20Consumer%20Protection%20Guide,%20Final.pdf (DX 95).
[46] *Id.* (DX 95).

identity thieves, transnational fraud and money laundering networks, large-dollar individual fraudsters, and the businesses that facilitated these crimes."[47]

36. The United States Secret Service also issued a statement warning of massive fraud in connection with state unemployment insurance programs.[48]

37. Kela, a cyber threat security company, published warnings about [redacted].[49] Fraudsters posted instructions on the dark web on [redacted][50]

38. In fact, more recent reports estimate COVID-19-related unemployment benefits fraud to be in the hundreds of billions of dollars. The U.S. Government Accountability Office estimates that the amount of fraud is likely between $100 and $135 billion.[51] And the Department of Labor (DOL) Office of Inspector General (OIG) estimates that the amount of improperly paid pandemic unemployment insurance payments is likely even higher, and could be more than $191 billion.[52]

VI. THE BANK MUST ADMINISTER THE PROGRAM FACING BOTH AN UNPRECEDENTED NUMBER OF CLAIMS AND AN UNPRECEDENTED VOLUME OF FRAUD.

39. During the COVID-19 pandemic, the Bank was [redacted] it went from issuing [redacted] new EDD debit cardholder

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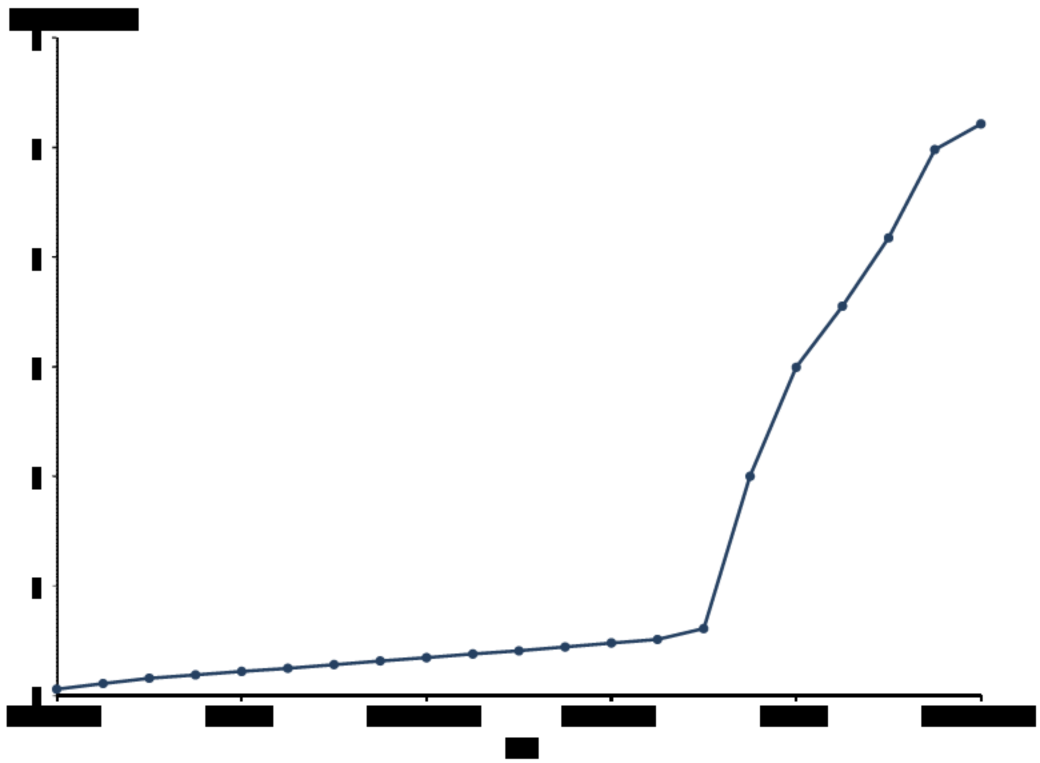
[47] U.S. Department of Justice Press Release, *COVID-19 Fraud Enforcement Task Force Releases 2024 Report* (Apr. 9, 2024), https://www.justice.gov/opa/pr/covid-19-fraud-enforcement-task-force-releases-2024-report; U.S. Department of Justice, *COVID-19 Fraud Enforcement Task Force 2024 Report* (Apr. 2024), https://www.justice.gov/coronavirus/media/1347161/dl?inline (DX 94).
[48] BANA_EDD_MDL-00205361 (U.S. Secret Service, *Massive Fraud Against State Unemployment Insurance Programs* (May 14, 2020)) (DX 96).
[49] [redacted]
[50] [redacted]
[51] House Committee Report (DX 14) at 23.
[52] *Id.* (DX 14) at 6.

accounts in February 2020 prior to COVID-19 to issuing [redacted] new EDD debit cardholder accounts in April 2020, as shown in **Exhibit 1**.[53]

[redacted]



[redacted]

40. [redacted].[54]

41. [redacted]

[53] *See* [redacted]

[54] [redacted] *See also* Daniels Deposition at 102:20–103:21 (DX 98).

[redacted],[55] which the Bank was able to investigate and address in the ordinary course. [redacted].[56] During the COVID-19 pandemic, the number of unemployment benefits increased dramatically as the federal government broadened eligibility and EDD abandoned many of its pre-pandemic controls. Not surprisingly, [redacted][57] As shown in **Exhibit 2**, [redacted][58]

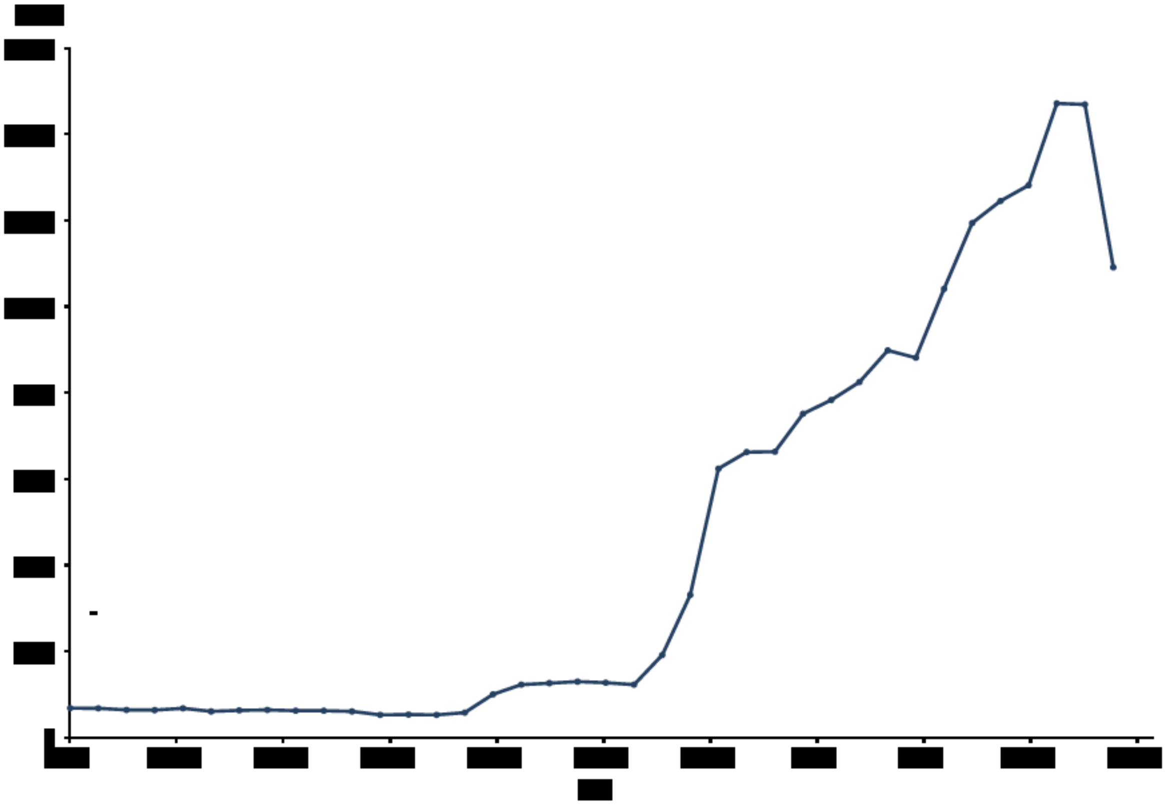
[55] Letson Deposition (DX 97) at 67:5–16, 75:13–76:12 [redacted]

[56] Bank of America's Responses and Objections to Plaintiff Yick's Fifth Set of Interrogatories, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-md-02992-LAB-MSB (Feb. 2, 2024) ("BoA Responses and Objections"), Exhibit 11 (DX 105).

[57] *See* **Exhibit 2**.

[58] [redacted] *See* BoA Responses and Objections, Exhibit 11 (DX 105).

[redacted]



[redacted]

Likewise, as shown in **Exhibit 3**, [redacted][59]

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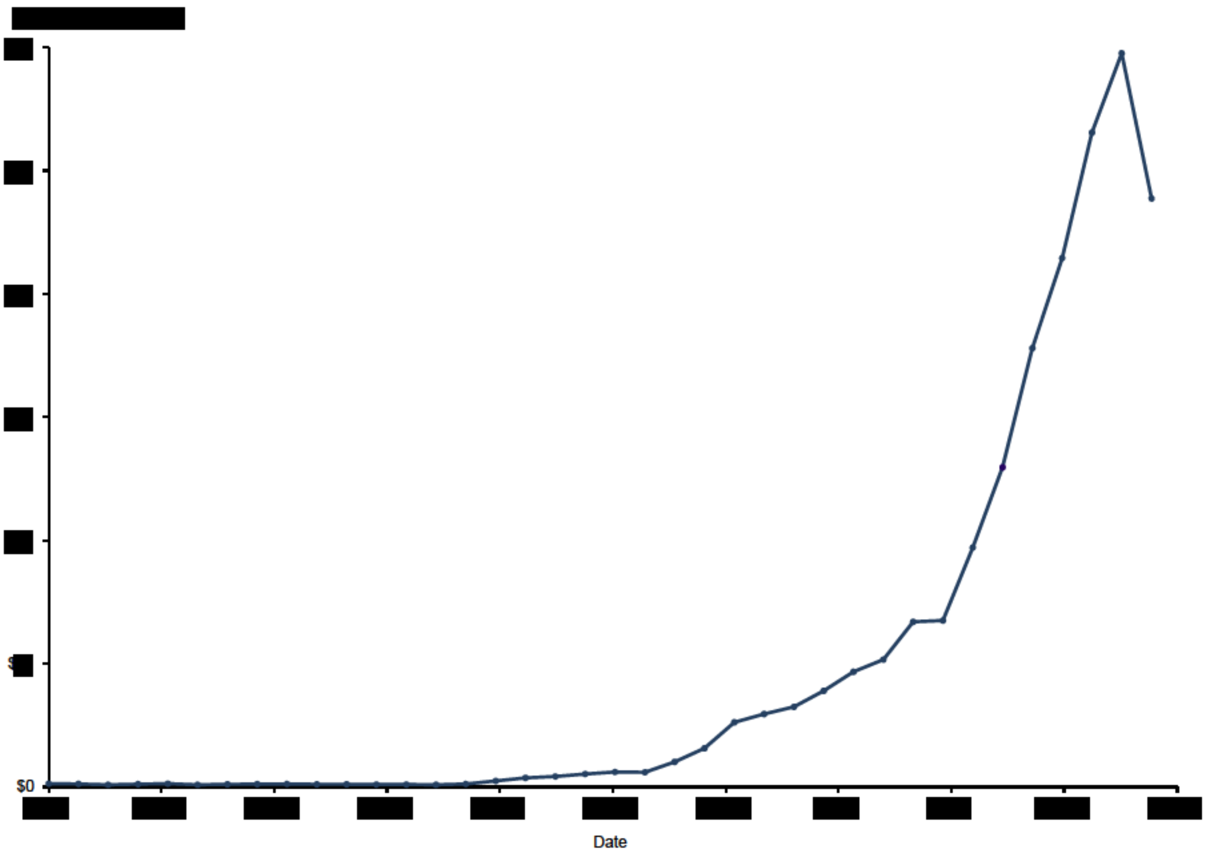
59 [redacted] *See* BoA Responses and Objections, Exhibit 11 (DX 105).

[redacted]



[redacted]

42. The state of California admitted that its failure to exercise stringent identity and eligibility verification resulted in massive fraud:

> [E]arly in the pandemic, EDD decided to remove a key safeguard against paying claims for which staff had identity concerns because of the mistaken belief that other safeguards would stop payments on these claims. However, because the EDD leadership who made these decisions did not adequately understand how the stop payments worked, EDD waived the barriers to payment for almost 77,000 claims and paid more than $1 billion on claims that it has determined are potentially fraudulent.[60]

[60] Weaknesses in EDD's Approach, Jan. 2021 (DX 88) at 317.

43. As noted above, the Bank received warnings from its regulators telling it to be prepared to prevent, detect, and report fraud.[61] Confirming the breadth of fraudulent cardholders in the EDD prepaid card portfolio, in September 2020, the Bank received direction from EDD to freeze 344,000 prepaid cards, indicating that the State knew it had provided benefits to fraudulent actors.[62] [redacted].[63] More recently, the House Committee on Oversight and Accountability reported that "EDD failed to cross reference applicants with databases of incarcerated individuals and lost around $810 million to these fraudulent claims."[64]

44. [redacted].[65] [redacted][66] Per Mr. Letson's testimony, [redacted].[67] [redacted].[68]

[61] *See* **Section V.5**.
[62] Weaknesses in EDD's Approach, Jan. 2021 (DX 88) at 323 ("In September 2020, because of fraud concerns, EDD directed Bank of America to freeze 344,000 debit cards (accounts) because of concerns about UI fraud. Since then, EDD has not acknowledged its responsibility for this action, and it did not have a plan or take action to ensure that it could unfreeze those accounts belonging to legitimate claimants.").
[63] [redacted]
[64] House Committee Report (DX 14) at 7.
[65] Letson Deposition (DX 97) at 105:3–106:10 [redacted]
[66] Letson Deposition (DX 97) at 126:15–131:6.
[67] *Id.* (DX 97) at 113:10–18 [redacted]
[68] *Id.* (DX 97) at 97:6–98:22; **Section V.3.**

45. [redacted][69] Under ordinary circumstances, [redacted][70] However, [redacted].[71]

46. [redacted], the Bank determined that [redacted].[74] The team also made two key observations: (1) [redacted]

[69] Daniels Deposition at 102:20–103:17 (DX 98) [redacted]

[70] *Id.* (DX 98) at 59:8–61:9.

[71] *Id.* (DX 98) at 60:25–61:9 [redacted].

[72] Martin Deposition at 136:20–22, 138:17–139:4.

[73] Martin Deposition at 139:21–144:23; [redacted]

[74] Letson Deposition (DX 97) at 187:10–24.

[redacted].[75] The need for large amounts of cash would have been unusual given the general shift to cashless payments during the COVID-19 Pandemic.[76]

47. [redacted].[81]

48. [redacted]

[75] Letson (DX 97) at 97:6–98:22, 115:9–117:24. [redacted]

[76] Square, *Making Change, Chapter 4: One Year of Payments and the Pandemic*, https://squareup.com/us/en/press/making-change/2021; Kelsey Coyle, et al., *Consumer Payments and the Covid-19 Pandemic*, Federal Reserve Bank of San Francisco (Feb. 9, 2021), https://www.frbsf.org/wp-content/uploads/sites/7/consumer-payments-covid-19-pandemic-2020-diary-consumer-payment-choice-supplement-2.pdf.

[77] [redacted]

[82] Letson Deposition (DX 97) at 76:17–77:18.

[redacted][83] In my experience, it is common for banks' financial crimes teams to cooperate closely with law enforcement. One of the primary responsibilities of a financial crimes team is to detect potentially suspicious and/or criminal activity and provide law enforcement with actionable information.

49. Based on Mr. Letson's testimony, [redacted].[84] In my experience, automated detection mechanisms are routinely used by banks to detect fraud and other financial crimes. Due to the speed and volume of transactions, banks rely upon automated transaction monitoring systems to alert them to fraud and other potentially suspicious activity.[85] Indeed, banking regulators expect banks to deploy technology as part of their required fraud risk management processes.[86]

50. [redacted]

[83] [redacted] Letson Deposition (DX 97) at 115:9–117:24.
[84] Letson Deposition (DX 97) at 122:1–123:18.
[85] F5, *How Fraud Detection Works: Common Software and Tools*, https://www.f5.com/glossary/fraud-detection.
[86] Office of the Comptroller of the Currency, *OCC Bulletin 2019-37:* Operational Risk: Fraud Management Principals (July 24, 2019), https://www.occ.treas.gov/news-issuances/bulletins/2019/bulletin-2019-37.html (DX 108); Office of the Comptroller of the Currency, *Acting Comptroller of the Currency Michael J. Hsu Remarks for the Financial Literacy and Education Commission's Public Meeting* (July 10, 2024) at 2, https://www.occ.treas.gov/news-issuances/speeches/2024/pub-speech-2024-75.pdf.
[87] Letson Deposition (DX 97) at 108:11–109:15, 110:20–112:6 [redacted].
[88] Letson Deposition (DX 97) at 112:8–113:8 [redacted]

[redacted].

VII. MR. KREIS IGNORES THE REALITIES OF THE BANK'S POSITION DURING UNPRECEDENTED CIRCUMSTANCES.

51. Plaintiffs have tendered the report of their expert, J. Daniel Kreis.[92] Mr. Kreis bases his report on how banks should address unauthorized transaction claims under ordinary circumstances.[93] [redacted].[94] His opinions do not account for the realities of the COVID-19 crisis, the explosion of fraudulent unemployment benefits recipients in the EDD prepaid card program, or the intentional abuse of the [redacted]. He instead briefly acknowledges that he understands "that the Bank's prepaid claims operations faced elevated claims volume and other operational challenges during the Class Period…"[95] He suggests that the Bank could have easily addressed fraud issues simply by prioritizing the investigation of high-dollar-value unauthorized transaction claims, increasing the dollar threshold for auto-paying claims, and hiring more analysts.[96] He wholly ignores that these were extraordinary and complex circumstances with unprecedented fraudulent activity and the likelihood of rapidly increasing, substantial losses requiring the Bank to act expeditiously. Indeed, the Bank was faced with an

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89 Letson Deposition (DX 97) at 112:8–113:8.
90 31 C.F.R. § 1020.220.
91 31 C.F.R. § 1020.210.
92 Kreis Report, ¶ 1. *See* fn. 1, *supra*.
93 *Id.* at **Section VII**.
94 *Id.* at **Sections VII.B** and **VII.C**.
95 Kreis Report, ¶ 51.
96 *Id.* at ¶ 52.

unprecedented number of unauthorized transaction claims – [redacted] – in a portfolio of cards that was known to contain unverified individuals and fraudsters.[97]

52. Mr. Kreis contends that the Bank could have, but failed to, increase Claims Department resources, suggesting that the Bank simply did not want to bear that expense.[98] [redacted],[99] and appears to suggest that the Bank could have easily added even more resources, sufficient to manage the barrage of unauthorized transaction claims.[100] Based on my experience in the industry, I disagree. Claims analysts are skilled workers who must be trained to both engage in customer service and conduct potentially complex investigations. Mr. Kreis acknowledges as much in his report.[101] Locating and hiring trained personnel to address the daunting volume of unauthorized transaction claims over a short timeframe is simply unrealistic. The Bank could not have just hired masses of workers from a temp agency.

53. Mr. Kreis also suggests that the Bank could have prioritized the investigation of higher-dollar-value claims and "increase[ed] the monetary threshold at which low-dollar-value claims are auto-paid without conducting an investigation . . . ."[102] But he offers no evidence that the automatic payment of lower dollar value claims would solve the problem that the Bank was facing. [redacted].[103]

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[97] **Exhibit 2; Section V.4**.
[98] Kreis Report, ¶¶ 52–53.
[99] Daniels Deposition (DX 98) at 102:20–103:17.
[100] Kreis Report, ¶¶ 52–53.
[101] *Id.* at ¶ 20.
[102] *Id.* at ¶ 52.
[103] *See* **Sections V** and **VI**.

54. Mr. Kreis's opinion fails to address any of the extraordinary circumstances under which the events in this matter took place. His suggested alternative strategies were [redacted] or would not have been sufficient to manage the unprecedented number of unauthorized transaction claims or prevent the unprecedented volume of actual fraud. He additionally does not address the regulatory pressure banks were under to prevent, detect, and report COVID-19-related fraud.[104] Because he totally ignores the context in which decisions were made, his opinion is fatally flawed.

VIII. PLAINTIFFS' ASSUMPTION THAT [redacted]

55. Plaintiffs define their claim denial class as "[a]ll Bank of America EDD cardholders who notified the Bank that an unauthorized transaction had occurred on their Bank of America EDD debit card account ('Claim') at an automated teller machine ('ATM'), and whose Claim the Bank denied or closed at any time from September 28, 2020 through June 8, 2021, based solely on Indicator 1 of the Bank's CFF."[105]

56. [redacted][107]

[104] *See* **Section V**.
[105] Regan Report, ¶ 4.
[106] *Id.* fn. 11.
[107] [redacted]

57. [redacted].[108]

58. Based on my expertise and experience, [redacted].[109]

59. [redacted] A report issued by the House Committee on Oversight and Accountability noted a case where even after EDD made a determination of suspicious fraudulent activity, it continued to issue benefits to some of the fraudsters.[111] The same report notes that, as of April 2024, the Department of Justice has recovered only $1.4 billion of the more than $191 billion of improperly paid pandemic unemployment insurance payments, and that many of the criminals "will likely never even be apprehended."[112] [redacted]

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[108] *See* Memorandum of Points and Authorities in Support of Motion for Class Certification, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-md-02992-GPC-MSB (Aug. 29, 2024) at 3, citing Regan Report ¶ 35 (emphasis added).

[109] [redacted]

[110] *See* **Section V.3**.

[111] House Committee Report (DX 97) at 29.

[112] House Committee Report (DX 14) at 74–75.

60. [redacted].[114] As a result, it is likely that fraudsters would remain in the proposed claim denial class. Separating out the fraudsters from Plaintiffs' purported "legitimate cardholder claimants" would require individual case-by-case review.

61. Based on my expertise and experience, and my understanding of the rampant nature of fraud targeting the unemployment benefits program during the pandemic, it is my opinion that there are likely additional fraudsters within Plaintiffs' proposed claim denial class, and identifying such fraudsters would require a case-by-case review.

Executed this 24 of October, 2024

Teresa A. Pesce

[113] [redacted]

[114] Letson Deposition (DX 97) at 112:12–113:8 [redacted] Letson Deposition (DX 97) at 105:10–20 ([redacted]

Documents Considered List

Articles

- Doug Clare, *Falcon Intelligence Network: A Fraud Consortium for Fraud-Fighting Machine Learning Innovation*, FICO Blog (Mar. 26, 2021), https://www.fico.com/blogs/falcon-intelligence-network-fraud-consortium-fraud-fighting-machine-learning-innovation
- F5, *How Fraud Detection Works: Common Software and Tools*, https://www.f5.com/glossary/fraud-detection
- FICO, *FICO Falcon Fraud Manager*, https://www.fico.com/en/products/fico-falcon-fraud-manager
- Mary Ann Milbourn, *Unemployment Payouts Go Plastic in July*, The Orange County Register (Mar. 16, 2011), https://www.ocregister.com/2011/03/16/unemployment-payouts-go-plastic-in-july/
- Scott Zoldi, *FICO Fights Prepaid Card Fraud with AI and Machine Learning*, FICO Blog (Mar. 9, 2020), https://www.fico.com/blogs/fico-fights-prepaid-card-fraud-ai-and-machine-learning
- Square, *Making Change, Chapter 4: One Year of Payments and the Pandemic*, https://squareup.com/us/en/press/making-change/2021
- TJ Horan, *The Fraud Consortium: 9,000 Heads Are Better than 1*, FICO Blog (Dec. 6, 2017), https://www.fico.com/blogs/fraud-consortium-9-000-heads-are-better-1

Depositions

- Deposition of Shane Daniels, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-md-02992-LAB-MSB (Feb. 6, 2024)
- Deposition of Robert A. Chestnut, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-md-02992-LAB-MSB (Feb. 8, 2024)
- Deposition of William Matthew Martin, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-md-02992-LAB-MSB (Feb. 14, 2024)
- Deposition of Michael Letson, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-md-02992-LAB-MSB (Feb. 16, 2024)
- Deposition of William Golden, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-md-02992-LAB-MSB (Feb. 22, 2024)

Expert Reports and Declaration

- Appendix of Exhibits to the Declaration of Laura Brys in Support of Defendant's Opposition to Plaintiffs' Motion for Class Certification
- Expert Class Certification Report of Greg J. Regan, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3-21-md-02992-GPC-MSB (Aug. 29, 2024)
- Expert Class Certification Report of J. Daniel Kreis, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-nd-02992-GPC-MSB (Aug. 29, 2024)

Government Reports and Releases

- Auditor of the State of California, Employment Development Department: EDD's Poor Planning and Ineffective Management Left it Unprepared to Assist Californians Unemployed by COVID-19 Shutdowns (Jan. 2021), https://information.auditor.ca.gov/pdfs/reports/2020-128and628.1.pdf
- Board of Governors of the Federal Reserve System, FDIC, FinCEN, NCUA, OCC, *Answers to Frequently Asked Questions Regarding Suspicious Activity Reporting and Other Anti-Money Laundering Considerations* (Jan. 19, 2021), https://www.fincen.gov/sites/default/files/2021-01/Joint%20SAR%20FAQs%20Final%20508.pdf
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- FinCEN, *Advisory on Financial Crimes Targeting COVID-19 Economic Impact Payments* (Feb. 24, 2021), https://www.fincen.gov/sites/default/files/advisory/2021-02-24/Advisory%20EIP%20FINAL%20508.pdf
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Legal Codes

- 31 C.F.R. § 1020.210
- 31 C.F.R. § 1020.220
- 31 C.F.R. § 1020.320

Pleadings

- Plaintiffs' Revised Notice of Deposition of Defendant Bank of America, N.A. Pursuant to Federal Rule of Civil Procedure 30(b)(6), *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 21-MD-02992-LAB-MSB (Feb. 4, 2024)
- Order Re Preliminary Injunction, *Jennifer Yick, et al. v. Bank of America, N.A.*, Case No.: 21-cv-00376-VC (May 17, 2021)
- Preliminary Injunction, *Jennifer Yick, et al. v. Bank of America, N.A.*, Case No.: 21-cv-00376-VC (June 2, 2021)
- Consent Order, *In the Matter of: Bank of America, N.A.*, File No.: 2022-CFPB-0004 (July 14, 2022)
- Consent Order, *In the Matter of: Bank of America, N.A. Charlotte, North Carolina*, File No.: AA-ENF-2022-21 (July 14, 2022)
- Order: (1) Granting in Part and Denying in Part Motion to Dismiss Master Consolidated Complaint, [Dkt. 64]; (2) Granting in Part and Denying in Part Request for Judicial Notice, [Dkt. 84-2]; and (3) Granting Request for Judicial Notice, [Dkt.

90-1], *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 21-MD-02992-LAB-MSB (May 25, 2023)

- First Amended Master Consolidated Complaint, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 21-MD-02992-LAB-MSB (June 13, 2023)
- Confidential Mediation Statement of Defendant Bank of America, N.A., *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 21-MD-02992-LAB-MSB (Oct. 10, 2023)
- Plaintiffs' Mediation Statement, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 21-MD-02992-LAB-MSB (Oct. 10, 2023)
- Plaintiffs' Reply Mediation Statement, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 21-MD-02992-LAB-MSB (Oct. 30, 2023)
- Confidential Reply Mediation Statement of Bank of America, N.A., *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 21-MD-02992-LAB-MSB (Oct. 30, 2023)
- Bank of America's Responses and Objections to Plaintiff Yick's Fourth Set of Interrogatories, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-md-02992-LAB-MSB (Jan. 2, 2024)
- Bank of America's Responses and Objections to Plaintiff Yick's Fifth Set of Interrogatories, *In re Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-md-02992-LAB-MSB (Feb. 2, 2024), and Exhibit 11
- Memorandum of Points and Authorities in Support of Defendant's Motion to Dissolve Preliminary Injunction, *In re Bank of America California Unemployment Benefits Litigation*, Case No.: 21-MD-02992-LAB-MSB (Feb. 29, 2024)
- Order: (1) Granting Motion to Dissolve Preliminary Injunction, [Dkt. 225]; And (2) Granting Motion to Seal, [Dkt. 246], *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 21-MD-02992-LAB-MSB (Apr. 3, 2024)
- Bank of America's First Set of Responses and Objections to Plaintiff Yick's Seventh Set of Interrogatories (Interrogs. 40-41 & 44-46), *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 21-MD-02992-LAB-MSB (Apr. 23, 2024)
- Bank of America's Second Set of Responses and Objections to Plaintiff Yick's Seventh Set of Interrogatories (Interrogs. 39 & 42), *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 21-MD-02992-LAB-MSB (Apr. 23, 2024)

- Second Amended Master Consolidated Complaint, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-md-02992-GPC-MSB (July 16, 2024)
- Memorandum of Points and Authorities in Support of Motion for Class Certification, *In re: Bank of America California Unemployment Benefits Litigation*, Case No.: 3:21-md-02992-GPC-MSB (Aug. 29, 2024)

Press Releases

- FinCEN Press Release, *The Financial Crimes Enforcement Network (FinCEN) Encourages Financial Institutions to Communicate Concerns Related to the Coronavirus Disease 2019 (COVID-19) and to Remain Alert to Related Illicit Financial Activity* (Mar. 16, 2020), https://www.fincen.gov/news/news-releases/financial-crimes-enforcement-network-fincen-encourages-financial-institutions
- FinCEN Press Release, *The Financial Crimes Enforcement Network Provides Further Information to Financial Institutions in Response to the Coronavirus Disease 2019 (COVID-19) Pandemic* (Apr. 3, 2020), https://www.fincen.gov/news/news-releases/financial-crimes-enforcement-network-provides-further-information-financial
- U.S. Department of Justice Press Release, *COVID-19 Fraud Enforcement Task Force Releases 2024 Report* (Apr. 9, 2024), https://www.justice.gov/opa/pr/covid-19-fraud-enforcement-task-force-releases-2024-report
- U.S. Department of Labor Press Release, *U.S. Department of Labor Announces New Guidance to States on Unemployment Insurance Programs* (Dec. 30, 2020), https://www.dol.gov/newsroom/releases/eta/eta20201230-1

Bates Stamped Documents

- BANA_EDD_MDL-00001312–30
- BANA_EDD_MDL-00003887–911
- BANA_EDD_MDL-00003912–37
- BANA_EDD_MDL-00004535–80
- BANA_EDD_MDL-00005509–45
- BANA_EDD_MDL-00005546–60
- BANA_EDD_MDL-00006482–535
- BANA_EDD_MDL-00012738–9

- BANA_EDD_MDL-00012790
- BANA_EDD_MDL-00019602–3
- BANA_EDD_MDL-00019618–28
- BANA_EDD_MDL-00028946–9
- BANA_EDD_MDL-00057504–6
- BANA_EDD_MDL-00057837–78
- BANA_EDD_MDL-00077223
- BANA_EDD_MDL-00077224–5
- BANA_EDD_MDL-00080294–352
- BANA_EDD_MDL-00087715–6
- BANA_EDD_MDL-00088501–5
- BANA_EDD_MDL-00088506–21
- BANA_EDD_MDL-00090135–7
- BANA_EDD_MDL-00090640–7
- BANA_EDD_MDL-00090695–8
- BANA_EDD_MDL-00090721
- BANA_EDD_MDL-00100390
- BANA_EDD_MDL-00100506–29
- BANA_EDD_MDL-00100530–59
- BANA_EDD_MDL-00100616–33
- BANA_EDD_MDL-00100634–79
- BANA_EDD_MDL-00100741–59
- BANA_EDD_MDL-00102554–77
- BANA_EDD_MDL-00104526–7
- BANA_EDD_MDL-00107327–35
- BANA_EDD_MDL-00125177–9
- BANA_EDD_MDL-00125428–30
- BANA_EDD_MDL-00125919

- BANA_EDD_MDL-00125920–3
- BANA_EDD_MDL-00129437–40
- BANA_EDD_MDL-00154700–8
- BANA_EDD_MDL-00159469
- BANA_EDD_MDL-00159470–4
- BANA_EDD_MDL-00163307–8
- BANA_EDD_MDL-00181896.
- BANA_EDD_MDL-00205361
- BANA_EDD_MDL-00218256
- BANA_EDD_MDL-00225047–8
- BANA_EDD_MDL-00225867
- BANA_EDD_MDL-00228914–5
- BANA_EDD_MDL-00273305–7
- BANA_EDD_MDL-00297295
- BANA_EDD_MDL-00406128–30
- BANA_EDD_MDL-00411205
- BANA_EDD_MDL-00417487–90
- BANA_EDD_MDL-00450516–8
- BANA_EDD_MDL-00452826–7
- BANA_EDD_MDL-00455617–9
- BANA_EDD_MDL-00510141
- BANA_EDD_MDL-00510142–7
- BANA_EDD_MDL-00510148
- BANA_EDD_MDL-00517105–26
- BANA_EDD_MDL-00556122
- BANA_EDD_MDL-00556152
- BANA_EDD_MDL-00556324
- BANA_EDD_MDL-00556536–7

- BANA_EDD_MDL-00558991
- BANA_EDD_MDL-00558996
- BANA_EDD_MDL-00559094
- BANA_EDD_MDL-00559101
- BANA_EDD_MDL-00559693–980
- BANA_EDD_MDL-00570333–4
- BANA_EDD_MDL-00571307–10
- BANA_EDD_MDL00571310
- BANA_EDD_MDL-00572766–70
- BANA_EDD_MDL-00592192–4
- BANA_EDD_MDL-00592324–30
- BANA_EDD_MDL-00630008–9
- BANA_EDD_MDL-00718756–70
- BANA_EDD_MDL-00720087–90
- BANA_EDD_MDL-00881823–8
- BANA_EDD_MDL-00884198
- Moore_S_0000367

Note: Even if not included in this list, I also considered any documents cited in my Declaration.

APPENDIX B

Teresa A. Pesce
Financial Crimes Subject Matter Expert
(914) 602-4103, terry@terrypesceco.com

Professional Summary

Teresa (Terry) Pesce is an industry leader and Subject Matter Expert in Financial Crimes regulatory enforcement and compliance. She has a demonstrated history of working in and with the financial services industry in both an advisory and expert capacity. Her background includes experience in government, industry, and consulting. She has led large teams and managed significant projects, and she has designed and implemented financial crimes compliance programs and organizational structures.

Prior to establishing her independent consulting firm, Terry spent 13 years as a Principal in KPMG's Forensic Advisory Services, serving as Global Head of Anti-Money Laundering (AML) and Head of the firm's Financial Crimes Solution. Terry has spearheaded engagements for financial institutions addressing numerous financial crimes and sanctions issues. She has assisted clients facing regulatory enforcement actions, both private and public. She has often been asked to report directly to law enforcement agents and prosecutors, regulatory agencies, Boards of Directors, and senior management.

Before joining KPMG, Terry was Executive Vice President and AML Director for HSBC North America. She joined the bank to build out the AML compliance function for all business lines in response to a regulatory order imposed in 2003 and lifted by the OCC during her tenure in 2006.

Prior to joining HSBC, Terry was an Assistant United States Attorney in the Southern District of New York, serving as Chief of the Major Crimes Unit, and Deputy Chief of the Criminal Division. From 1999 through 2003, Terry was responsible for supervision and oversight of all money-laundering and tax prosecutions and worked closely with law enforcement and the financial regulatory agencies responsible for oversight of AML enforcement. During her tenure at the US Attorney's office, she investigated and prosecuted numerous cases involving and charging money laundering.

Terry holds a BA from Columbia University, where she graduated magna cum laud, Phi Beta Kappa, and she holds a JD from Columbia Law School, where she served as Managing Editor of the Law Review and received prizes in Constitutional Law and Trial Advocacy. She is a recognized industry speaker and has published numerous pieces on financial crimes and enforcement.

Professional and Industry Experience

- **President and CEO, Terry Pesce & Co LLC**

  October 2020 to present

  Terry provides legal and consulting services to the financial services industry, including assisting clients in the organizational design of financial crimes compliance programs, assisting with regulatory and enforcement matters, and advising senior management and Boards of Directors on financial crimes matters. She provides expert witness services in the areas of financial crimes compliance and enforcement. Examples of recent matters include the following:

  - Terry has provided expert witness and consulting services in connection with a variety of complex civil litigation and enforcement matters involving, for example, money laundering, sanctions enforcement, fraud, human trafficking, compliance, and financial industry practices. (*See* page 6 for representative engagements.)
  - Terry has been retained by large financial services companies to advise senior leadership and Boards of Directors with respect to the effectiveness of regulatory responses, remedial actions, and program changes undertaken in response to enforcement actions and regulatory expectations.

- Terry has assisted a financial institution in the preparation of a response and reports to the Department of Justice in connection with a criminal enforcement action.
- Terry has designed the AML framework for a start-up FinTech company.
- Terry has assisted in designing the AML program for a de novo bank.
- Terry has advised a Private Equity fund on financial crimes risk and processes.
- Terry has served as legal counsel in a civil matter alleging financial crimes.
- Terry has been retained to assist counsel with the financial-crimes component of a FinTech's independent compliance assessment.
- Terry has performed gap analyses of financial crimes compliance programs against legal and regulatory standards and against industry best practices.
- Terry is assisting a financial institutions with enhancing its anti-money laundering controls in response to regulatory findings.

- **Adjunct Professor, Case Western School of Law, Masters in Financial Integrity Program**

  July 2020 to December 2021

  Terry taught in a global program focusing on topics relevant to financial crimes, financial crime prevention, and criminal law related subjects, including sessions on human trafficking.

- **Principal, KPMG LLP Forensic Advisory Services, Head of Anti-Money Laundering/Financial Crimes Practice**

  April 2007 – September 2020

  Terry served as Global Head of AML Services and Head of Financial Crimes Solutions in the US. As leader of the AML service line, Terry led numerous engagements, assisting a variety of financial institutions in addressing AML and sanctions issues, both proactively and reactively.

  Representative Project/Engagement Experience

  - Assisted a global financial institution under regulatory order in enhancing its overall BSA/AML program, including by conducting a gap analysis of the then existing program, recommending and assisting in the design of enhancements to all required program components. The project also required conducting a transaction review of correspondent banking for suspicious activity.
  - Assisted a global financial institution under investigation for potential sanctions violations. Assistance included presentation to the Department of Justice, NYS Department of Financial Services and the Federal Reserve Bank.
  - Assisted a global broker dealer with an investigation of transactions for suspicious activity, including by presenting to the SEC and FINRA.
  - Assisted a global financial institution in connection with the assessment and revision of its global AML Target Operating Model. Terry assisted with BSA/AML program enhancements to the markets division of this institution in the US by designing and implementing of AML and OFAC risk assessments; the implementation of tactical transaction monitoring; systems testing for sanctions and information sharing; and by performing a customer file remediation.
  - Assisted a global financial institution in the creation and implementation of an AML Compliance risk self-assessment program for roll out across all business lines, measuring for risk against regulatory requirements and expectations. The work involved the measuring of risks and the assessment of internal controls to measure residual risk to the institution.
  - Assisted a global broker dealer in a KYC remediation of a complex client portfolio migrating from an unregulated entity to a bank in connection with the institution's transition to a bank holding company.

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- Assisted a global bank/broker dealer in a customer KYC remediation for both institutional and private wealth clients to ensure information on file met customer information, customer due diligence and enhanced due diligence requirements.
- Assisted a global financial institution operating under a regulatory order in conducting a transaction lookback for cash and suspicious activity, including engaging in regular regulatory reporting. This matter involved extensive work with banking regulators.
- Assisted a global financial institution/MSB by leading a transaction review in connection with the sale of monetary instruments; in the creation of AML policies and investigative procedures; and in the analysis of product specific risks in several high-risk jurisdictions globally.
- Assisted a global MSB/payment processer by conducting an independent gap analysis of its AML program for compliance with regulatory requirements, regulatory guidance, and industry standards. Terry additionally assisted in the review of transaction monitoring processes for capturing suspicious activity and in the review of the suspicious activity reporting process.
- Assisted a global MSB in connection with its credit card offering to high-net worth individuals by testing the AML/KYC program in the private banking business.

- **Executive Vice President/Managing Director for Anti-Money Laundering for HSBC North American Holdings, including HSBC Bank, USA, N.A.; HSBC Securities, Inc., and HSBC Finance Corporation.**

  September 2003 – March 2007

  Terry built out the AML compliance function for all business lines in response to a regulatory order imposed in 2003 and lifted by the OCC during her tenure in 2006. Responsibilities included management and oversight of teams responsible for the creation and maintenance of policies and procedures; testing; training; investigative/financial intelligence programs; transaction monitoring; OFAC/sanctions compliance; and business line AML compliance. Terry served as the primary contact for the bank's regulators (the FRBNY, OCC inter alia) during all AML-related examinations.

- **Assistant United States Attorney, Southern District of New York. Positions included Chief of the Major Crimes Unit, Deputy Chief of the Criminal Division and Senior Trial Counsel.**

  August 1992 – September 2003

  Terry was responsible for the investigation and prosecution of numerous criminal cases ranging from white collar offenses to narcotics and violent crimes. As Chief of the Major Crimes Unit, Terry supervised the prosecution of primarily white-collar crimes including, bank fraud, money laundering, wire fraud, tax fraud, investment fraud and computer crimes. For the last five years of her tenure at the U.S. Attorney's Office she was the supervisory attorney on all money laundering and criminal tax matters, reviewing all cases and ultimately providing the final authorization for the filing and prosecution of such cases within the district. Terry tried numerous criminal cases, including those charging money laundering.

- **Litigation Associate, Fried, Frank, Harris, Shriver & Jacobson**

  December 1988 – August 1992

- **Law Clerk, Hon. Robert W. Sweet, United States District Judge, S.D.N.Y.**

  October 1987 – October 1988

APPENDIX B

Education

- **Columbia University School of Law, New York, NY, JD 1987**
  - Columbia Law Review, Managing Editor
  - Harlan Fiske Stone Scholar
  - James A. Elkins Award in Constitutional Law
  - Whitney North Seymour Award in Trial Advocacy

- **Columbia University, New York, NY, BA 1984**
  - Magna cum laude
  - Phi Beta Kappa
  - Honors History

Speaking Engagements and Publications

Speaking engagements

Terry is frequently called upon to speak at industry conferences and forums regarding Financial Crimes and regulatory compliance, as well as the current regulatory landscape, including for the following organizations:

- American Bankers' Association
- American Bar Association
- ACAMS
- The Institute for International Research
- Institutional Investor
- New York State Society of CPAs
- Securities Industry and Financial Markets Association (SIFMA)
- Institution for International Bankers
- Association of the Bar of the City of NY
- Association of Certified Sanctions Specialists

Terry has served as a panelist for the New York State Banking Department (now the Department of Financial Services) conference on money laundering legislation and reporting requirements as applied to money remitters and other non-bank financial institutions; and participated in post-9/11 Clearing House panels on detecting terrorist financing.

While in industry, Terry was a member of the Clearing House AML and OFAC Committees, as well as a member of the Subcommittee on Cover Payments.

Terry also participated in the World Bank's Global Dialogue Series and attended meetings of the Wolfsberg Group and a UN Committee dedicated to combating terrorist financing.

Publications and Thought Leadership

The New Era of Regulatory Enforcement, *Chapter 4, Money Laundering (Girgenti & Hedley 2016)*

Managing the Risk of Fraud and Misconduct, *Chapter 4, Money Laundering & Trade Sanctions (Girgenti & Hedley 2011)*

ABA Bank Compliance – Intelligent Automation in Financial Crimes Compliance: We can't have a failure to innovate
Article written by Tom Keegan, Terry Pesce and Stephen Marshall
https://advisory.kpmg.us/content/dam/advisory/en/pdfs/aba-aml-article-feb-2018.pdf

Reuters
Coming Clean About Data Analytics in the Anti-Money Space, Nov. 2018
Q&A with Terry Pesce on using Artificial Intelligence in fighting financial crime
https://blogs.thomsonreuters.com/answerson/coming-clean-about-data-analytics-in-the-anti-money-laundering-space/

Risk Intelligence
Discussing the use of technology to improve sanctions compliance:
http://www.garp.org/#!/risk-intelligence/culture-governance/compliance/a1Z1W000003fBo4UAE

RESPA News
Article quotes Terry Pesce and Greg Matthews discussing third-party risk and AML compliance issues within the mortgage industry:
http://www.respanews.com/RN/ArticlesRN/AML-thirdparty-oversight-hold-similarities-71171.aspx.

- Wrote *American Banker* guest article: Regulators Foster De-Risking More Than They Admit
- Terry Pesce quoted in *Wall Street Journal* article: Treasury Scrutinizes Credit Unions
- Terry Pesce quoted in *American Banker* article: Banks Feat Iron-Fisted Answer to De-risking Dilemma
- Terry Pesce quoted in *Wall Street Journal* article: Banks, Regulators Reach Impasse Over Risky Account Closures
- Terry Pesce quoted in *Wall Street Journal* article: Steering Clear of Sanctions

Intelligent automation in financial crimes: Forging an innovative compliance strategy for the future
https://advisory.kpmg.us/content/kpmg-advisory/risk-consulting/forensics/financial-services/intelligent-automation-in-financial-crime.html

The future of financial crime: Comply. Integrate. Automate
https://advisory.kpmg.us/content/dam/advisory/en/pdfs/future-of-financial-crime.pdf

Building an effective financial crimes change management program: How financial institutions can keep up with global regulatory change
https://advisory.kpmg.us/content/dam/advisory/en/pdfs/building-an-effective-financial-crimes-change-managemnet-program.pdf

Under one agile umbrella: An approach to managing financial crimes risk
https://advisory.kpmg.us/content/dam/advisory/en/pdfs/under-one-agile-umbrella.pdf

Financial Crimes, A Paradigm Shift, December 2022
Contributor
http://bit.ly/3GX0FhF

Videos

Terrorist Financing and Anti-Money Laundering Regulation
Teresa Pesce of KPMG Forensic discusses the new era of anti-money laundering (AML) and terrorist financing regulatory enforcement that began following 9/11. This extends far beyond the original intent of the USA PATRIOT Act and is something that both the government and the financial services industry needs to pay attention to.

Webcasts

AML Hot Topics: More Updates to the FFIEC Exam Manual
With AML RightSource
https://vimeo.com/530014556

2021 Regulatory Sanctions Update – Challenges, Considerations, and Pathways
June 23, 2021

What's New for 2022
With AML RightSource

The Value of FATF to Your Financial Crime Compliance
July 27, 2023
https://www.amlrightsource.com/news/aml-voices-the-value-of-fatf-to-your-financial-crime-compliance?utm_content=261543986&utm_medium=social&utm_source=linkedin&hss_channel=lcp-2477367

Podcasts

Financial Crimes – Dirty Money Stories
With AML RightSource
https://vimeo.com/543213606

Interagency Guidance on Third Party Risk Management
With AML RightSource

Expert Witness Experience

- *Blue Flame Medical LLC v. Chain Bridge Bank, NA, John J. Brough, and David M. Evinger; Chain Bridge Bank, NA v JPMorgan Chase Bank, NA*, Civil Action No. 1:20-cv-00658 (LMB/IDD) (E.D. Va. 2021).
  - Provided expert report and testimony on behalf of JPMorgan Chase Bank, NA
- *Entesar Omar Kashef, et al. v. BNP Paribas, S.A., et al.,* Case 1:16-cv-03228-AKH (S.D.N.Y.).
  - Provided expert report and testimony on behalf of BNP Paribas, S.A.
- *Government of the United States Virgin Islands v. JPMorgan Chase Bank, N.A.,* Case No. 1:22-cv-10904-JSR (S.D.N.Y.)
  - Provided expert report and deposition testimony on behalf of JPMorgan Chase Bank, NA
- Terry provided an expert report on behalf of three global financial institutions in a litigation filed in a foreign jurisdiction.
- Terry is providing expert services to an international financial institution in connection with a pending AML investigation and potential enforcement action.
- Terry is providing expert services to two global financial institutions in connection with pending civil litigations involving Ponzi schemes.
- Terry is providing expert services to a global financial institution in connection with a pending civil litigation involving fraud controls.

Relevant Coursework

- Certificate in Human Trafficking Training from the Polaris Project.

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Awards & Recognition

ACQ5 Gamechanger Awards 2023

- Terry Pesce & Co LLC – International Financial Crimes Service Provider of the Year
- Terry Pesce – International AML Expert of the Year

During Terry's tenure as Head of AML/Financial Crimes, KPMG won numerous awards from industry publications as the AML Firm of the Year globally and or nationally including:

- Finance Monthly
- Lawyer International
- ACQ 5
- M&A Monthly

Teresa Pesce named International Game Changer of the Year in the field of Anti-Money Laundering by ACQ 5:

- 2015, 2016, 2017, 2020

Directors Award for Superior Performance as an Assistant United States Attorney

US Department of Justice, 1998

Professional Associations

- New York State Bar Association
- American Bankers Association, Associate Member
- Member of the American Bankers/Bar Association, FC Enforcement conference board 2014-2020; Terry continued to serve as a moderator and/or panelist at this conference, most recently in January 2022.

Bar Admissions

New York State Appellate Division, First Department

United States District Courts: SDNY, EDNY