IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)

BLUE FLAME MEDICAL LLC, Plaintiff, v. CHAIN BRIDGE BANK, N.A., JOHN J. BROUGH, and DAVID M. EVINGER, Defendants.	**Civil Action No. 1:20-cv-00658** **THIRD-PARTY COMPLAINT** **Jury Trial Demanded**
CHAIN BRIDGE BANK, N.A, Third-Party Plaintiff, v. JPMORGAN CHASE BANK, N.A., Third-Party Defendant.	

CHAIN BRIDGE BANK, N.A.'S THIRD-PARTY COMPLAINT AGAINST JPMORGAN CHASE BANK, N.A.

Defendant/Third-Party Plaintiff Chain Bridge Bank, N.A., for its Third-Party Complaint against Third-Party Defendant JPMorgan Chase Bank, N.A. ("JPMorgan"), hereby alleges as follows:

PARTIES

1. Defendant/Third-Party Plaintiff Chain Bridge Bank, N.A. is a national banking association organized under the laws of the United States with a principal place of business at 1445A Laughlin Avenue, McLean, Virginia, 22101. It is the sole subsidiary of Chain Bridge Bancorp, Inc., a bank holding company registered with the Federal Reserve and incorporated under

the laws of the Commonwealth of Virginia with the same principal place of business as Chain Bridge Bank, N.A.

Third-Party Defendant JPMorgan is a national banking association organized under the laws of the United States with its principal place of business in Columbus, Ohio. It is a wholly owned subsidiary of JPMorgan Chase & Co., a registered bank holding company that has elected to be treated as a financial holding company, which is incorporated under the laws of Delaware and maintains its principal place of business at 383 Madison Avenue, New York, New York, 10017.

JURISDICTION AND VENUE

2. The Court has subject matter jurisdiction over Chain Bridge Bank N.A.'s claim against JPMorgan for indemnification under Federal Reserve Board Regulation J because that claim arises under federal law. *See* 28 U.S.C. § 1331. The Court has ancillary jurisdiction over Chain Bridge Bank N.A.'s claim against JPMorgan for unjust enrichment. *See* 28 U.S.C. § 1367(a).

3. The Court has personal jurisdiction over JPMorgan because, as described below, Chain Bridge Bank, N.A.'s third-party claims arise from business that JPMorgan has transacted in the Commonwealth of Virginia. *See* Va. Code § 8.01-328.1(A)(1).

4. Venue is proper in this Court with respect to Chain Bridge Bank N.A.'s third-party claims against JPMorgan because venue in this Court is proper with respect to the original action. *See, e.g.*, *One Beacon Ins. Co. v. JNB Storage Trailer Rental Corp.*, 312 F. Supp. 2d 824, 828-29 (E.D. Va. 2004).

FACTUAL ALLEGATIONS

A. California's Wire Transfer To Blue Flame

5. On or about March 25, 2020, Plaintiff Blue Flame Medical LLC ("Blue Flame") opened a commercial banking account with Chain Bridge Bank, N.A. Blue Flame had been incorporated in Delaware just two days before, on March 23, 2020.

6. On March 26, 2020, at approximately 11:23 AM eastern time ("ET"), a representative from the State Treasurer's Office of the State of California initiated a wire transfer in the amount of $456,888,600 for Blue Flame's benefit by delivering an instruction to California's bank, JPMorgan.

7. California's wire transfer was sent over the Federal Reserve's Fedwire Funds Service. For that reason, the wire transfer is governed by Federal Reserve Board regulations and guidance, including Subpart B of the Federal Reserve Board's Regulation J. 12 C.F.R. §§ 210.25-210.32. Subpart B of Regulation J incorporates Article 4A of the Uniform Commercial Code (UCC),[1] and Fedwire transfers under Article 4A are a form of "funds transfer," or a series of transactions by which an "originator" causes a "beneficiary" to receive payment through instructions to one or more banks. UCC § 4A-104(a).[2] Those instructions, which form the individual steps of a funds transfer, are known as "payment orders." *Id.* § 4A-103(a)(1).

8. At 11:55 AM ET, Chain Bridge Bank, N.A. received a payment order from JPMorgan in connection with California's wire transfer. A copy of that payment order is attached hereto as Exhibit A.

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[1] 12 C.F.R. § 210.25(b)(1); 12 C.F.R. pt. 210, subpt. B, app. B; *see also Donmar Enters., Inc. v. Southern Nat'l Bank of N.C.*, 64 F.3d 944, 948 (4th Cir. 1995).

[2] Unless otherwise indicated, all references in this complaint to provisions of Article 4A of the UCC are to the version of that law incorporated by reference in Subpart B of Regulation J and reprinted as an appendix to Subpart B.

9. Upon information and belief, California's wire transfer of $456,888,600 was intended by California as a down payment for a purchase of 100 million N95 masks from Blue Flame. But neither of Blue Flame's principals, Mike Gula and John Thomas, had any experience in the medical supply industry. To the contrary, both had previously worked as political operatives. In addition, on information and belief, Blue Flame in fact had no ability, then or ever, to procure and provide the 100 million N95 masks that it had promised to California. Blue Flame nevertheless falsely represented to California that it could provide them within a matter of days.

B. The Cancellation Of California's Wire Transfer

10. Within hours of Chain Bridge Bank, N.A.'s receipt of the payment order for California's wire transfer, JPMorgan notified Chain Bridge Bank, N.A. that JPMorgan and California would be canceling that payment order by requesting return of the $456,888,600.

11. At 2:05 PM ET, JPMorgan sent a service message to Chain Bridge Bank, N.A. through the Federal Reserve's Fedwire funds transfer system in which JPMorgan requested cancellation of the payment order. A copy of JPMorgan's cancellation message is attached hereto as Exhibit B.

12. At 3:21 PM ET, Chain Bridge Bank, N.A. honored the cancellation request by returning $456,888,600 to JPMorgan by wire transfer. A copy of the payment order sent through the Fedwire system to effectuate the return of the $456,888,600 to JPMorgan is attached hereto as Exhibit C.

C. This Litigation

13. On June 12, 2020, Blue Flame filed this lawsuit against Chain Bridge Bank, N.A., and two of its officers, John J. Brough, and David M. Evinger. Blue Flame's complaint seeks to impose liability based on Chain Bridge Bank, N.A.'s decision to honor JPMorgan and California's

request to cancel the wire transfer and based on interactions between Messrs. Brough and Evinger and California government officials in connection with the wire transfer.

14. Among other things, Blue Flame's complaint alleges that Chain Bridge Bank, N.A. remains liable to pay Blue Flame on the payment order for California's wire transfer because, Blue Flame contends, Chain Bridge Bank, N.A. accepted that payment order and it could not be validly cancelled under the circumstances.

15. Chain Bridge Bank, N.A. has incurred and will continue to incur substantial costs and attorney's fees in defending against Blue Flame's claims in this action, both on its own behalf and on behalf of its officers, Messrs. Brough and Evinger.

COUNT I
INDEMNIFICATION UNDER REGULATION J

16. Chain Bridge Bank, N.A. realleges and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

17. Under UCC § 4A-211(f), "if the receiving bank, after accepting a payment order, agrees to cancellation or amendment of the order by the sender . . . , the sender, whether or not cancellation or amendment is effective, is liable to the [receiving] bank for any loss and expense, including reasonable attorney's fees, incurred by the [receiving] bank as a result of the cancellation or amendment or attempted cancellation or amendment."

18. As the UCC's official commentary explains, Section 4A-211(f) ensures that, "[i]f a receiving bank agrees to cancellation" of a payment order, "it is automatically entitled to indemnification from the sender." UCC § 4A-211(f). The indemnification provision reflects the commercial reality that, "[i]f the receiving bank agrees to cancellation, it is doing so as an accommodation to the sender and it should not incur a risk of loss in doing so." *Id.*

19. As described above, JPMorgan requested cancellation of California's wire transfer, and Chain Bridge Bank, N.A. honored that cancellation request by returning the $456,888,600 to JPMorgan by wire transfer.

20. Accordingly, under UCC § 4A-211(f) JPMorgan is liable to Chain Bridge Bank, N.A. for "any loss and expenses, including reasonable attorney's fees, incurred . . . as a result of the cancellation" of JPMorgan's payment order. This includes the costs and attorney's fees Chain Bridge Bank, N.A. has incurred and will continue to incur as a result of the cancellation of JPMorgan's payment order, both on its own behalf and on behalf of its officers, Messrs. Brough and Evinger. It also includes any judgment entered against Chain Bridge Bank, N.A. on Blue Flame's claims in this case and any amounts for which Chain Bridge Bank, N.A. becomes liable to Messrs. Brough and Evinger as a consequence of any judgment entered against them on Blue Flame's claims in this case for conduct occurring within the scope of their employment.

COUNT II
DECLARATORY JUDGMENT

21. Chain Bridge Bank, N.A. realleges and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

22. A current dispute exists between the parties regarding whether JPMorgan is liable to indemnify Chain Bridge Bank, N.A., under UCC § 4A-211(f), for any loss and expense incurred by Chain Bridge Bank, N.A. as a result of JPMorgan's cancellation of the payment order for California's wire transfer.

23. As described above, JPMorgan requested cancellation of California's wire transfer, and Chain Bridge Bank, N.A. honored that cancellation request by returning the $456,888,600 to JPMorgan by wire transfer.

24. Accordingly, under UCC § 4A-211(f) JPMorgan is liable to Chain Bridge Bank, N.A. for "any loss and expenses, including reasonable attorney's fees, incurred . . . as a result of the cancellation" of the payment order for California's wire transfer,

25. Accordingly, Chain Bridge Bank, N.A. is entitled to a declaratory judgment that JPMorgan is liable to it for the costs and attorney's fees Chain Bridge Bank, N.A. has incurred and will continue to incur as a result of the cancellation of JPMorgan's payment order, both on its own behalf and on behalf of its officers, Messrs. Brough and Evinger, as well as any judgment entered against Chain Bridge Bank, N.A. on Blue Flame's claims in this case and any amounts for which Chain Bridge Bank, N.A. becomes liable to Messrs. Brough and Evinger as a consequence of any judgment entered against them on Blue Flame's claims in this case for conduct occurring within the scope of their employment.

COUNT III
UNJUST ENRICHMENT

26. Chain Bridge Bank, N.A. realleges and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

27. As described above, Chain Bridge Bank, N.A. returned $456,888,600 to JPMorgan by wire transfer in response to JPMorgan's request to cancel California's wire transfer.

28. Chain Bridge Bank, N.A. agreed to return the funds to JPMorgan on the understanding that California's wire transfer had been cancelled, with the result that Chain Bridge Bank, N.A. had no obligation to make payment to Blue Flame and JPMorgan had a legal entitlement to return of the funds, or that at a minimum JPMorgan would be required to indemnify Chain Bridge Bank, N.A. under UCC § 4A-211(f) for any loss resulting from the cancellation.

29. Blue Flame has nonetheless alleged in this litigation that Chain Bridge Bank, N.A. remains liable to Blue Flame on the payment order for California's wire transfer because that payment order could not be validly cancelled under the circumstances.

30. If Blue Flame were to prevail on its claims against Chain Bridge Bank, N.A., and if JPMorgan were not required to indemnify Chain Bridge Bank, N.A. under UCC § 4A-211(f) (as alleged in Counts I and II), then JPMorgan would be unjustly enriched at the expense of Chain Bridge Bank, N.A. In that scenario, Chain Bridge Bank, N.A. would have transferred $456,888,600 to JPMorgan despite not having any legal obligation to do so, and under the circumstances it would be inequitable for JPMorgan to retain that benefit.

31. Accordingly, to prevent such unjust enrichment, Chain Bridge Bank, N.A. is entitled to an award of damages against JPMorgan in the amount of any judgment entered in favor of Blue Flame on its claims against Chain Bridge Bank, N.A.

PRAYER FOR RELIEF

WHEREFORE, based upon the foregoing allegations and claims, Chain Bridge Bank, N.A. demands judgment in its favor and against Third-Party Defendant JPMorgan as follows:

(a) an award of money damages for all losses and expenses incurred as a result of Blue Flame's lawsuit, including the amount of any judgment entered in favor of Blue Flame against Chain Bridge Bank, N.A., as well as Chain Bridge Bank, N.A.'s attorney's fees and costs, both on its own behalf and on behalf of its officers, Messrs. Brough and Evinger, and any amounts for which Chain Bridge Bank, N.A. becomes liable to Messrs. Brough and Evinger as a consequence of any judgment entered against them on Blue Flame's claims in this case for conduct occurring within the scope of their employment;

(b) an order declaring that JPMorgan is liable to indemnify Chain Bridge Bank, N.A., under UCC § 4A-211(f), for any loss and expense incurred by Chain Bridge Bank, N.A. as a result of JPMorgan's cancellation of the payment order for California's wire transfer, including the amount of any judgment entered in favor of Blue Flame against Chain Bridge Bank, N.A., as well as Chain Bridge Bank, N.A.'s attorney's fees and costs, both on its own behalf and on behalf of its officers, Messrs. Brough and Evinger, and any amounts for which Chain Bridge Bank, N.A. becomes liable to Messrs. Brough and Evinger as a consequence of any judgment entered against them on Blue Flame's claims in this case for conduct occurring within the scope of their employment; and

(c) any such further relief as this Court deems just and proper.

TRIAL BY JURY IS DEMANDED.

Date: October 13, 2020

Respectfully submitted,

/s/ Donald Burke
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CERTIFICATE OF SERVICE

I hereby certify that on October 13, 2020, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing to the following:

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