EXHIBIT 28

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

BLUE FLAME MEDICAL, LLC,	)	
	)	
Plaintiff,	)	Civil Action No.
	)	
vs.	)	1:20-cv-00658
	)	
CHAIN BRIDGE BANK, N.A.,	)	(LMB/IDD)
JOHN J. BROUGH, and DAVID	)	
M. EVINGER,	)	
	)	
Defendant.	)	
______________________________	)	
CHAIN BRIDGE BANK, N.A.,	)	
	)	
Third-Party Plaintiff,	)	
	)	
vs.	)	
	)	
JPMORGAN CHASE BANK, N.A.,	)	
	)	
Third-Party Defendant.	)	

REMOTE VIDEOCONFERENCE
VIDEO-RECORDED DEPOSITION OF DAVID EVINGER
Friday, January 29, 2021, 9:32 a.m.
Oak Hill, Virginia

Reported By: Marjorie Peters, FAPR, RMR, CRR, RSA
Job Number: 4398572

REMOTE VIDEOCONFERENCE

VIDEO-RECORDED DEPOSITION OF DAVID EVINGER, a witness herein, called by the Plaintiff Blue Flame Medical, LLC, for examination, taken pursuant to the Notice, and by Stipulated Agreement Regarding Remote Depositions, by and before Marjorie Peters, a Registered Merit Reporter, Certified Realtime Reporter and Notary Public in and for the Commonwealth of Virginia, at Oak Hill, Virginia, on Friday, January 29, 2021, at 9:32 a.m.

APPEARANCES

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APPEARANCES

ALSO PRESENT:
Scott Forman, legal videographer
Betsey Sharon, Chain Bridge Bank
Ethan Bearman, Blue Flame Medical
John Brough, Blue Flame Medical
Gabriel Torres

INDEX

INDEX OF EXHIBITS

MR. ORSECK: Object to form.
A. If I can answer that, I don't have -- I don't have a recollection of any situation.
Q. You say you don't have a recollection. Is it that you think that happened at some point, and you just don't recall it, or you think that never happened?
A. Mr. White, I don't know -- I can't say it never happened, but I don't have an example for you that I can point to.
Q. And -- go ahead. I'm sorry. I didn't mean to cut you off.
A. I completed.
Q. You train your personnel, who speak on recorded lines. To always tell the person on the other side that it's being recorded; correct?
A. I can't speak to the exact training that our team was provided.
Q. So do you think that your employees are instructed not to tell people that they're being recorded?
MR. ORSECK: Objection. Foundation.

A. I would say our employees are provided training on how to use their phone systems, including their recorded lines. But I don't have any specific --
Q. I'm sorry. Go ahead.
A. I don't have -- I don't know the training specifically that they're provided, but I do -- I do -- they were provided instructions on how to use their phone system.
Q. And part of the standard instruction is when you're speaking on recorded line is to let the party on the other side know that you are speaking on a recorded line according to Chain Bridge policy; correct?
A. I don't know that we have a policy related to -- to that, but I --
Q. Have you finished?
A. Yes, sir.
Q. Did anyone let the people from the State of California, that you ask Mr. Brough spoke with, know that the call was being recorded?
A. I don't -- I don't recall that coming

up.
Q. You've looked at the transcript. It's not on there, is it?
A. I did not see it on the transcript.
Q. There's nothing that happened on the call that wasn't in the transcript; correct?
MR. ORSECK: Object to form.
A. I think the transcript's materially complete. I don't know, again, you know, whether it was all transcribed. We have turned over what we had, and the transcript was provided.
Q. Did you or Mr. Brough let JPMorgan know that the call was being recorded when you called them?
A. I don't recall that coming up. Again, I was focused on the call itself.
Q. Do you know whether or not it's legal to have a one-party recorded conversation without consent with somebody from California?
MR. ORSECK: Object to form.
A. I believe Virginia is a one-party state, but I don't know California's specific rules, and I

don't know where -- you know, where -- with respect to JPMorgan, where they were residing at the time.
Q. Why didn't you or Mr. Brough let the JPMorgan people know that you were recording the call with them?
MR. ORSECK: Object to form.
A. I can't answer for Mr. Brough, but I -- again, I was focused on the call itself, and the content, and trying to discuss what we needed to for our investigation.
Q. Why didn't you let the people from the State of California know that the call was being recorded?
A. Again, I was trying to conduct the business we had, and I was -- again, I -- at the time, necessarily -- not necessarily aware we were recording the call.
Q. Again, I take it the same answer for JPMorgan. I can restate the question, if you prefer.
Let me just do it this way: Why didn't you let JPMorgan know that the calls with

them were being recorded?
A. I don't know, Mr. White. I don't have a recollection of that component of it, but we were focused on our discussion -- I was focused on the discussions with JPMorgan, so I don't have a why or why not we did or didn't do that.
Q. To your knowledge, there was no part of those conversations that was not recorded; is that right?
MR. ORSECK: Object to form.
A. I can't say with specificity, because I didn't -- you know, again, I was the one that dealing with the call from my office. It was from my office, and I think I couldn't state that -- the question that -- I can't answer.
I think the majority of those calls are there, but if you're asking me is the full call, I don't -- I don't remember any material pieces that are not included, but I think we turned over everything that was required of us.
Q. But you don't recall Mr. Brough asking for permission or stating his intent to record the

call before beginning the recording of the call; is that correct?
A. I don't.
MR. WHITE: Okay. I note that it's about 12:30, Mr. Evinger. I want to be sensitive to your need for breaks and to eat and so on during the day.
I defer to you and counsel as to when an appropriate time for that is. I'm happy to keep going.
THE WITNESS: I would be fine with taking a break now. That would be good.
MR. WHITE: Okay. Should we take a lunch break? How long would you like, Mr. Evinger?
THE WITNESS: 1:15?
MR. WHITE: 1:15 is fine. Thank you.
THE VIDEOGRAPHER: Stand by. We're going off the record. The time is 12:33 p.m.
(RECESS, 12:33 p.m. - 1:17 p.m.)
THE VIDEOGRAPHER: We're back on the record. The time is 1:17 p.m.

BY MR. WHITE:
Q. Thank you.
Mr. Evinger, I'd like to focus your attention on March 25, 2020.
Do you recall that as the date that the Blue Flame Medical account was opened?
A. Yes.
Q. Okay. Do you recall whether you were at the bank that day in person?
A. I was working from the bank main office, yes.
Q. Was anyone else working from the bank at that time?
A. Yes. Our banking staff: Heather Schoeppe, Mariano Castagnello and Angeli Nanali, I think is the last name. Pardon me. I don't have her last name perfectly articulated.
Q. Was Mr. Brough there at any time on March 25, 2020, in person?
A. No, he was not. No, he was working from home that day.
Q. Obviously, this is post-pandemic, so I

assume that was not your normal pre-pandemic staffing levels at the bank; is that right?
A. That's correct. We made a change to our protocols mid-March.
Q. How did you become aware that Mr. Gula had opened an account that day for Blue Flame Medical?
A. Through Heather Schoeppe.
Q. What did she tell you?
A. She -- it was -- we had a phone call with Mr. Brough. She expressed that the Blue Flame Medical account had been opened earlier in the day, and that she had received phone call, communication with Mr. Gula, and that the account would be anticipating a wire of $450 million or more.
Q. So you were not aware of that account opening until that phone call from Mr. Schoeppe -- Ms. Schoeppe?
A. So earlier in the day, Heather Schoeppe alerted me to a client that wanted to open an account with us in person. And Heather was concerned about COVID, our protocols at that time.

Page 130

We had just moved them. We weren't allowing clients in the banking office, and she said there's a client that would like to open an account in person, and I said, well, Heather, you know, do your best to accommodate them, but I don't want you to do anything you don't feel comfortable doing.

And she said, well, okay, this person is persistent about opening it up. I said, well, I mean, who are we talking? She told me it was Mike Gula, and I just said, well, okay, he has been a client of the bank. Go ahead and open up an account.

There was no discussion about anything else. Heather was actually not the person who opened the account at that time, and I went about my day.

Q. Okay. Did she tell you what the business was that it was being opened for, or did that come up later?

A. It came up later.

Q. By the time you had this, I guess what would be second conversation with -- am I

Page 131

pronouncing it right, Schoeppe?

A. Yes. It's Schoeppe. That's correct.

Q. At the time you had the second conversation with Ms. Schoeppe, the Blue Flame Medical account was already opened; is that correct?

A. Yes. It had been opened.

Q. Other than this conversation with Ms. Schoeppe about Mr. Gula wanting to come to the bank to open it in person, did you have any other involvement in the Blue Flame Medical account opening process?

A. I did not -- did not have any involvement in the account opening.

Q. So you didn't have any role in overseeing collection of information regarding the account at that point?

A. No.

Q. Were you aware of any problems in connection with the account's opening process?

A. Not before the phone call. Nothing came to my attention after the conversation with Heather about the client wanting to open the account in

Page 132

person. That was the only frustration.

Q. Did Mr. Gula fail to provide any information that was requested by the bank, to your knowledge, in connection with opening the account?

A. With respect to the account opening, he provided a sufficient amount to get our account documents prepared.

Q. Was there anything --

A. I don't recall --

Q. I'm sorry. I spoke over you there, Mr. Evinger.

Was there anything in terms of account's opening that he was asked to provide that he did not provide to your knowledge?

A. I don't know what he was asked to provide by the account opening -- the personal banker, Mariano, but the account was opened up on the system, so I would take that he provided information that led to the account opening.

Q. So you would take from that that he had provided information sufficient to open the account, by the fact that it was opened by your personnel;

Page 133

correct?

A. I would characterize that he gave us the basic elements to open the account.

But I do -- I wasn't part of the process, so I'm -- I'm -- our team would conduct their job as they're trained to do, and they would process that according to our -- our standards.

Q. You don't have any reason to think they did not do their job properly, did you?

A. I don't know if they did anything other than what they were supposed to do, but I wasn't -- I wasn't present at the account opening.

Q. Okay. So the first you became aware that there was potentially a large wire coming in was the conversation you had with Ms. Schoeppe later in the day that you had testified about; is that right?

A. Approximately 4:30.

Q. Tell me about that conversation.

A. Heather reached out to John, and I was patched into the phone call for conveniences, and Heather described that the account was opened up earlier in the day, that, you know, the client, Mr. Gula, was persistent throughout the day about this wire transfer that he was expecting in.

It was a large sum of money, 450 million. That was new information for Heather. She immediately wanted to convey that to us, John Brough and myself.

She said that the business would be engaging in buying N95 masks and receiving a contract with the State of California, and we would anticipate funds of $450 million or so.

She thought that was very large amount of money, and she wanted to alert us. She was -- appeared to be caught off guard herself, and brought John and I into the conversation.

Q. What was your reaction to finding out that they were expecting a wire transfer at that level?

A. Well, it's a highly unusual event for a new business to receive such a large contract, so -- and that amount in and of itself is a very large amount of money for any business. So, you know, it

warranted attention by John and I -- and me. Sorry.

Q. That's quite appropriate.

So when you first learned about it, were you concerned about the bank's ability to process a wire transfer of that size?

MR. ORSECK: Object to form.

A. I guess I would characterize it that we always have to be mindful of our controls in any situation. We want to make sure that we understand the account, the business, the nature of the funds, nature of the business, how we can serve that client; what are the proceeds going to be used for, how long will they be with the bank.

So that prompted, you know, us to look into it further.

Q. I take it that increased deposits at the bank also increased the bank's ability to make money from those deposits, as a general rule; isn't that right in?

A. We invest our deposits into various assets, yes, and they lead to a return. I mean, that's -- we are a for-profit business, so anything

we take on, we look to make sure we cannot only serve the client, but also provide an adequate return.

Q. By the way, who are the owners of business?

A. Again, Chain Bridge Bank is owned by its holding company, Chain Bridge Bancorp, Inc.

We have shareholders at the -- individual shareholders at the holding-company level.

Q. Who are the largest shareholders?

A. The Fitzgerald family, which is a broad term, but our chairman, Peter Fitzgerald, and his family own approximately, collectively, 48 percent of the bank -- holding company -- bank holding company.

Q. Who are the next largest shareholders after the Fitzgerald family?

A. We have several board members who own large stakes in the bank. By that, I would define as somewhere between 2 to 5 percent of the holding company.

Q. Who are the board members that hold 2 to 5 percent of the holding company's stock?

A. Think for a second -- pardon me, I want to make sure I go down my roster.

Phillip Herrick -- Herrick is one.

Q. Spell that last name for me, please.

A. H-E-R-R-I-C-K.

Q. Thank you. Go ahead.

A. Paul Schiffman.

Q. Any others?

A. I'm trying to think.

Paul Leavitt, L-E-A-V-I-T-T.

Just to clarify, when I provide with you their ownership, it may include several forms of ownership that they control, not necessarily individually, but they have controlling interest over.

Q. Understood.

Are any of those folks former elected officials: Mr. Herrick, Mr. Schiffman or Mr. Leavitt?

A. Not to my knowledge.

Page 182

We're used to managing monies that come in.

This was an unusually large amount of money for any financial institution. So it warranted additional review, in our -- in my assessment.

So we just need to make sure -- we are usually liquid and have -- have funds, so it's not uncommon for us to deal with this issue. One of the ways we deal with it is through tools like CDARS and ICS.

I think the -- the discussion initially on this call was about that, as to provide the -- to ready, I guess, or to examine those tools to help place money in -- in those alternatives.

Q. I'm going to try this one more time, Mr. Evinger.

None of that addresses the balance sheet aspect of it.

I'm trying to understand why Mr. Brough, if you know, was concerned that you could not hold that money on your balance sheet, and that there was a problem from the balance sheet

Page 183

being so flush with money at this time.

Do you know what he meant?

MR. ORSECK: Objection. Foundation. Mischaracterizes the phone call.

A. Yeah, I -- I -- I don't know. Again, I don't want to assume what he was thinking at the time. I think he, like we all were, were early on into this discovery and trying to evaluate it. That's where I think -- I would take away from it. That's where I was. I was trying to examine and evaluate, you know, it's a new account with this large sum of money.

Q. But from your perspective, there was no problem from a bank balance sheet perspective from taking this transaction; is that correct?

A. At the time, we had the capital to support holding it based -- based on what was conveyed to us.

Q. So -- so there wasn't a problem, from your perspective, from a bank balance sheet perspective to doing this transaction at that time; correct?

Page 184

MR. ORSECK: Object to form.

A. So with respect to the size of the deposit or the relationship itself? I want to be clear. We were able to handle the deposit amount through our balance sheet or alternative sources. But I'm not -- I don't know enough specifics about anything else to comment.

You're just referring to the money itself. That's one thing.

Q. From your perspective, the amount of money did not create a problem for the bank, from a balance sheet perspective in terms of executing this transaction; do I have that correct?

MR. ORSECK: Same objection. I think this has probably been asked a dozen times now, but you can still answer it.

MR. WHITE: That would be the first, but let's try.

A. Well, I think I'm trying to convey where we are just with this limited amount of information. You're -- this is a very unusual size, and it warranted us to have more information and

Page 185

discussion.

But from a -- from a balance sheet perspective, you asked were we awash in cash, I guess is what -- what the term is, or money was --

Q. I'm sorry. Just, Mr. Evinger --

A. Awash in cash.

Q. "Flush with money" is the actual quote.

A. "Flush with money."

So, you know, money -- money was flowing into our bank's balance sheet for a variety of reasons as I pointed out.

We just needed to see vis-?-vis where this deposit fits into the balance sheet. We don't have the -- that wasn't -- that wasn't examined at that point, but...

MR. ORSECK: I don't know if you are staying on this point in this phone call, but we have been going about an hour-and-a-half, I think, so at a good breaking point, let's take a short bathroom break.

MR. WHITE: Gary, I have a couple more questions about the phone call, not here. I'm

Page 186

fine with stopping now or just going to those. I'm moving off this topic. Up to you.

MR. ORSECK: Okay. Let's just take a very short break, then, if you're done with this topic.

THE VIDEOGRAPHER: We're going off the record. The time is 2:47 p.m.

(RECESS, 2:47 p.m. - 3:00 p.m.)

THE VIDEOGRAPHER: We are back on the record. The time is 3:00 p.m.

BY MR. WHITE:

Q. Mr. Evinger, I'd like to play you a piece from later in the same conversation.

MR. WHITE: Could you go ahead and queue that up. For the record, it's from the to 9:15 mark.

(Audio recording playing.)

Q. Mr. Evinger, in that piece there, was it you or Mr. Brough that had the longer piece of the conversation that we just listened to?

A. Mr. White, I was the one that had the longer piece.

Page 187

Q. So the "interesting; that's unbelievable; Mike Gula being a very entrepreneurial" -- "entrepreneurial guy"; that's your voice?

A. Yes, it is.

MR. ORSECK: I'd just like to note for the record that the portion we just heard, I believe, jumped several minutes ahead from the portion we heard prior to that. So that this is omitting a portion of the phone conversation.

MR. WHITE: Thank you.

Q. When you said that the header data is going to be really important to see, what did you mean by that?

A. So where the wire was coming from, was it truly, in fact, going to be from the State of California sending the money, or was it another -- for whatever reason, any other entity, intermediary sending the money.

Q. The money did actually come from the State of California the next day; isn't that right?

A. It did come in from the State of

Page 188

California.

Q. And the header data that you were talking about here did indicate it was from the State of California; correct?

A. The wire came from the State of California.

Q. Mr. Brough mentioned that we should call Peter; is that a reference to Peter Fitzgerald, the chairman?

A. That is a reference to Peter Fitzgerald, yes.

Q. He also said maybe we should engage an attorney about this.

Did the bank engage an attorney about this transaction at this point?

A. No. We did not engage outside counsel at this point.

Q. Do you know why Mr. Brough suggested that perhaps you should engage an attorney at this point?

MR. ORSECK: Object to form.

A. I don't know why he said -- what I would

Page 189

take it as a normal thought to have, given all of the things that were conveyed to us.

Q. Did you have a phone conversation with Mr. Gula after this conversation with Ms. Schoeppe and Mr. Brough?

A. Yes, we did.

Q. Who was a party to that conversation?

A. John Brough, myself, Mike Gula and Brent Case, I believe is the name.

Q. An attorney friend of Mr. Gula's was on the phone as well; is that right?

A. That is correct.

Q. Did that phone call come immediately after this conversation that we just listened to?

A. Came very shortly after it. I don't know the exact time at which that started, but it was the next -- next thing we did, I guess, is we made outreach to Mike Gula.

Q. Does Chain Bridge Bank normally call customers who are expecting large wire transfers?

A. We would when the circumstances warrant it. Given that this was a new account, the circumstances certainly warranted it, along with the very large size of the money that was coming in.

Q. The records we have seen, Mr. Evinger, indicate that this conversation lasted about 19 minutes.

Does that accord with your recollection of the length of the conversation that you and Mr. Brough had with Mr. Gula and Mr. Case?

A. Yes, that does.

Q. Did Mr. Gula tell you about Blue Flame Medical during that conversation?

A. He provided us with a brief overview of Blue Flame Medical, and its intended new business.

Q. I take it he told you as well about the contract to supply 100 million N95 masks to the State of California; correct?

A. He reviewed the contract with the State of California with us, and gave us an overview.

Q. I take it he also told you or confirmed, because you had already heard it, that Blue Flame was expecting a wire for over $450 million either that day or the following day from the State of

California; is that right?

MR. ORSECK: Object to form.

A. Mr. Gula was asking us on the call several times whether the wire had arrived yet or not. He had -- he has wanted to know if it had hit our wire room on our call, and asked if we could check.

Q. Did you all check during the call?

A. I do recall checking, and I e-mailed him back. Whether it was during the call or shortly thereafter -- I know we did it after. But I'm not sure if we did it during the call because we were talking to him, but he wanted us to verify whether the wire had already arrived or not.

Q. He disclosed to you the amount of the wire that he was expecting; is that correct?

A. Yes. He told us it was going to be for $450 million, approximately, and it was a down payment towards a larger amount -- contract that they had with the state.

Q. Do you recall him telling you that the manufacturer of the masks -- one of the

manufacturers was a Chinese company called Great Health Companion?

Do you recall that coming up during the call?

A. He spoke about a company. I believe that was correct. Great Health -- Greater Health. I believe he referenced that.

Q. And that they were going to be manufacturing the masks in China; is that correct?

A. Yes. The masks would be manufactured in China.

Q. Did he also tell you the name of the company that was -- that was the owner of Great Health Companion, Hakim Unique -- I am sorry, Hakim Unique Internet Company?

Did he tell you that?

A. I seem to recall that, yes. And it was hard to understand what it -- what the name was on the call or to spell it, but that sounds like something -- yes, that sounds as if that was said.

Q. And he told you that Blue Flame was going to use the funds wired by California to pay

the suppliers of the masks for California's order; isn't that right?

A. He gave us rough -- rough details. He was not specific with amounts or -- or dates or times. It was general -- generalizations were provided.

Q. Did he confirm, as you had heard before, that Blue Flame would not be wiring all of the funds that were wired to it out of the account at Chain Bridge Bank?

Do you recall him saying that?

A. I don't -- I don't -- I don't remember exactly it said that way, but it came across is that there would be money moving out within several days or sooner, for purchases of personal protective equipment.

He was not able to provide us with exact information of that or the timing or the dollar amounts of those outgoing at that point of the call.

So I don't know how much would be remaining in the account, if you will.

Q. You can answer.
A. Those weren't done using -- using my phone.
Q. Whose phone was used for those?
A. Mr. Brough's cell phone.
Q. Were the calls placed on Mr. Brough's cell phone?
A. Which call -- which call specifically are you referring to, Mr. White?
Q. You mentioned three recorded calls that were recorded on Mr. Brough's cell phone. What I want to know is whose phone was used to make those calls?
MR. ORSECK: Object to form.
A. I -- I made outbound calls from my desk phone.
Q. Just like -- I'm sorry. Go ahead.
A. His call -- the call in question with Mr. Gula was made outbound from my desk.
Q. The other calls that were --
A. Mr. Brough --
Q. Go ahead. Sorry.

A. Can I finish?
Q. Sorry.
A. Mr. Brough was on his -- I dialed him on his cell phone.
Q. Finished?
A. Yes.
Q. So there was -- there were calls made from your office phone, as this one was, that were recorded, in relation to this transaction; isn't that right?
A. Those recordings were not done using my phone, but there were recordings made of calls from my office.
Q. The calls that were recorded were from the same phone you used to make this call with Mr. Gula; correct?
A. Yes. And the same -- I called from my office, my desk phone.
Q. But that device that's probably to your left right now was used for those calls and this call with Mr. Gula; correct?
MR. ORSECK: Object to form.

A. I was in my office -- I'm not in my current office right now, just for clarity, and for the record. I'm in a different office that has -- a little quieter, but calls that were made were all made from -- from my office phone out.
Q. Was your concern here for your customer, Mr. Gula, to make sure that he was not the victim of something untoward?
A. That was certainly a concern, and it needed to be vetted.
Q. But as a matter of fact, you found out from vetting it that the State of California did -- had, in fact, vetted Blue Flame Medical. It did, in fact, intend to send them over $450 million; correct?
MR. ORSECK: Object to form. Foundation.
A. Mr. White, I think where the concern came in is that Mr. Gula didn't have a lot of specifics on how this contract were procured. He mentioned his business partner, Mr. Thomas. But he really couldn't offer much detail on how the

contract came about and/or how the vendor/manufacturing process was going to work with respect to delivery.
So with that, we still had more unanswered questions in terms of -- you know, we actually asked him, I think, are you -- are you sure, or conversation around are you, you know -- how well do you know these people?
He made reference to, what he knew -- I think it was Mr. Wong -- Henry Huang. I'm sorry if I pronounced the name wrong. But that's a name that kind of came up, I believe, in the call.
And that they knew him, and they trusted him, and we kind of probed, but he was unable to really fulfill and provide any -- any pertinent details on his vendor, his supplier.
Q. Well, it turned out, Mr. Evinger, that the State of California was satisfied enough with their diligence as to Blue Flame Medical because they sent $456 million to your bank for that account, the very next day; isn't that right?
MR. ORSECK: Objection to the

testimony by counsel, and foundation.
Q. You can answer.
A. I don't know what process was conducted at the State of California. I only know we had more work to do, more unanswered questions. We needed to get documentation for us to support this.
At this point, we haven't received any. We were verbally requesting it. There was a acceptance from Mr. Gula to provide documentation.
Q. What was it that you verbally requested?
A. We asked to see the copies of these contracts, and that would be reference to the State of California, and also his manufacturer.
Q. I know you followed up with Mr. Gula about some other documentation by e-mail.
Did you follow one about this document that you supposedly requested during that non-recorded call by e-mail as well?
MR. ORSECK: Object to form.
Q. You can answer.
A. The e-mail that was a follow-up to our conversation, and it just reminded him to send us

the contracts for us. So we did follow up with that request. That was shortly after we got off the phone with him.
MR. WHITE: Can you go to Tab 3, please. This is March 25 e-mail, BFM13445.
I'm sorry, Greg. That's -- in the interest of time, let's skip that and go to what is our Tab 4, March 25 e-mail from Ms. Schoeppe to Mr. Brough with Mr. Evinger copied.
I think it's already Plaintiff's Exhibit 17.
MR. COLWILL: Yes.
(Previously marked Plaintiff Exhibit 17, e-mail 3.25.2020, CBB00000761-63, was presented.)
BY MR. WHITE:
Q. Mr. Evinger, you should be able to see that now.
A. I'm in the folder. I see it. It's Exhibit 17?
Q. Correct.
MR. ORSECK: Sorry. Mine's still just showing the same Exhibit 46.

MR. WHITE: I think you have to hit the refresh button to get the new one to show up.
MR. ORSECK: Right. Thank you.
A. Mr. White, I'm going to go ahead and read it and refresh my memory on this.
Q. Sure. That's fine, Mr. Evinger. For reference, everything after the top two-thirds of the first page is something we've already looked at, but you're welcome to refresh your recollection.
A. Okay.
Q. Have you reviewed it, Mr. Evinger?
A. Yes, I have.
Q. The second e-mail down is from Mr. Brough indicating that you and he had spoken to Mike Gula; do you see where I am?
A. Yes, I do.
Q. Mr. Brough writes, "We called Peter to bring him up to speed. Peter also thinks it's a scam."
Is that Peter Fitzgerald?
A. That is Peter Fitzgerald.
Q. What scam did Peter Fitzgerald think it

was?
MR. ORSECK: Objection. Foundation.
A. Mr. White, I don't know what Peter was thinking about that. I would surmise that, you know, we all sort of had unanswered questions.
MR. ORSECK: No, no, no, no. Don't surmise. The question is do you know. So you need to testify to your own knowledge.
A. Pardon me.
MR. WHITE: Allow him to finish his answer.
Q. Go ahead, Mr. Evinger. Go ahead. Finish your --
A. I don't know what Peter Fitzgerald meant by it was a scam.
Q. You were part of the conversation with Mr. Fitzgerald; correct?
A. I was on the phone with him, yes.
Q. Did he -- is Mr. Brough correct here, that Mr. Fitzgerald said he thought it was a scam?
A. I think there were -- all of us had unanswered questions, and I think all of us were

Page 206

wondering what was transpiring. We didn't have any validation or documentation to support this, so we -- we have seen clients of ours get put into compromised situations, and you know, that -- it's -- it would just seem with this size transaction, and the relevant lack of experience for selling these products that it could -- it could be something that didn't pan out.

Q. Did Peters Fitzgerald tell you during your conversation that he thought this was a scam?

A. I don't recall that specifically, but you can -- you can read the e-mail for yourself. I know -- I know that we all had unanswered questions, and there was more work to be done.

Q. Did you get the impression that Mr. Fitzgerald thought it was a scam during your conversation, as Mr. Brough indicates here?

Did you share that impression?

A. I don't know that I shared that impression. My impression was that we were trying to understand the overall contract with California, the movements of money, the suppliers, and we were

Page 207

trying to obtain the necessary information to make a good, informed decision, so...

Q. Mr. Brough is stating here that he thought it was a scam.

Did you agree?

MR. ORSECK: You mean that Mr. -- that Peter thought it was a scam; right?

MR. WHITE: No. That's not what I said.

MR. ORSECK: Okay.

BY MR. WHITE:

Q. Did you agree with Mr. Brough that this was a scam?

MR. ORSECK: Okay. Sorry.

Objection. Foundation.

A. I don't -- I don't know. With respect to Mr. Brough here, he obviously -- you know, I'm on this e-mail, and he's alerting Heather to what took place, but we were still trying to give an opportunity for our client to provide us with information to rule that out.

If we don't have information, it

Page 208

certainly has elements of -- that there are red flags that still needed to, you know, be cleared.

Is it a scam? I don't know that -- I didn't use that word, but we certainly, you know, were concerned about this not going well for -- for either party.

Q. Well, it certainly didn't end up going well for either party; isn't that correct?

A. I guess that's your -- your side of it. I -- we didn't have the documentation to -- to confirm that there was a contract with California, that there were vendors that were sufficient to provide delivery of these contracts.

So we were still left with a lot of unanswered questions and a lot of red flags that remained.

Q. Isn't California's approval of a wire of $450 million enough to prove to you as bankers that they did indeed have a contract with Blue Flame Medical?

MR. ORSECK: Object to form.

A. I don't know what approval process or

Page 209

due diligence California did. That was the stage, and I can't answer for California.

Q. As a matter of fact, their approval process is none of your business, is it?

MR. ORSECK: Object to form. Foundation.

A. I don't -- with respect to understanding our client, I would want to make sure that they had done their due diligence, and they were comfortable proceeding in this size transaction.

Q. Again, clearly, they were because they transferred the money; correct?

MR. ORSECK: Objection to the argumentative non-question.

Q. You can answer.

A. I don't know that we -- I don't know that we had sufficient information to determine that, and certainly not at this stage.

Q. They did, in fact, wire the money, didn't they?

A. The money was wired the next day on --

Q. The exact amount that Mr. Gula told you

Do I have that right?
A. That's correct.
Q. Which one was first?
A. So we placed an initial phone call to the Department of General Services. That was an initial outreach shortly after receiving the wire. There was really no communication with that call.
Q. What was the purpose of that call?
A. We wanted to confirm that they, being California, intended to order or have a contract for $450 million with Blue Flame Medical.
Q. Did they confirm that?
A. Well, Mr. White, our initial call was simply to leave our name and number and who we were, to return our call. We didn't speak to anyone with any -- any specificity.
MR. WHITE: I'm going to load up Tab 16, Greg. It's a transcript of a -- I believe it's a voicemail that we received in discovery, although I'll ask you to describe what it is.
It would be the next sequential Plaintiff's Exhibit, which is --

MR. COLWILL: 67. It's an audio recording.
MR. WHITE: Plaintiff's Exhibit 67. It's what?
MR. COLWILL: Audio recording.
MR. WHITE: It's an audio recording. Thank you.
(Plaintiff Exhibit 67, audio recording, CBB00000707, was marked for identification.)
(Audio recording played.)
Q. Mr. Evinger, was that a voicemail -- excuse me -- left on your office line on the 26th of March?
A. Yes.
Q. This is in response to the call you made to the State of California seeking confirmation about the wire transfer; is that correct?
A. Yes.
Q. Ms. Chang -- Ms. Chang, I'm sorry, confirmed that the wire transfer in the specific amount from the State of California was a legitimate transfer; is that correct?

A. That's what the message said, yes.
Q. Then you called her back; right?
A. Yes. We called back. We wanted to speak with her directly.
MR. WHITE: If you could play Tab 17. This will be the next sequential exhibit number.
(Plaintiff Exhibit 68, audio recording, CBB00002543, was marked for identification.)
MR. COLWILL: 68.
MR. WHITE: It's an audio recording, Plaintiff's Exhibit 68.
(Audio recording played.)
BY MR. WHITE:
Q. Mr. Evinger, that's your voice on that call; correct?
A. Yes, it is.
Q. How did this call come to be recorded?
A. John Brough used his cell phone.
Q. Was John Brough -- were you in your office when you placed this call?
A. Yes, we were.

Q. I take it you placed the call in response to the voicemail; is that correct?
A. That's right. The call was placed based on the number left on the voicemail.
Q. I note that the recording starts in the middle of the call.
Do you know why that is?
A. I don't know.
Q. Did Mr. Brough or you let Ms. Chang know that the call was being recorded?
A. I don't recall that coming up, no.
Q. Did Mr. Brough take out his cell phone to record this call?
A. I don't -- I don't remember.
Q. Why did you want to talk to the treasurer's office?
A. I think it would be appropriate for us to get confirmation from the source of the payment, that it was properly authorized for this amount of money. It was also offered and we accepted. We didn't reject it. It would...
Q. After this call, you did, in fact, have

Page 250

a call with the California State Treasurer's Office; correct?

A. They did -- they did eventually call us, yes.

Q. That was a Mr. Mark Hariri and Ms. Natalie Gonzales; is that right?

A. Yes. That sounds right. I think she may go by Saunders [ph]. I'm not 100 percent sure of that.

Q. Did they say why they were calling?

A. They were following up on the request for -- from the Department of General Services for Ms. Chang.

Q. Did they confirm for you that the wire transfer was indeed in connection with an agreement with Blue Flame Medical to supply N95 masks?

A. They made reference to that the state was attempting to purchase N95 masks.

Q. Why did you want to speak with them?

A. We wanted to confirm that the wire was proper -- properly authorized in their office, and that the funds were intended to go to Blue Flame

Page 251

Medical, and they knew about the -- about the overall transaction.

Q. And you confirmed that the funds were properly authorized; correct?

A. There was a discussion about that.

Q. And they told you that the fund -- that the transfer had been authorized to Blue Flame Medical; correct?

A. They said that the funds were approved for the purchase.

Q. And that the funds were being sent to Blue Flame Medical for the purchase of N95 masks; correct?

A. That's what they thought they were purchasing, yes.

Q. And that Blue Flame Medical was the intended recipient; correct?

A. They referenced Blue Flame, I believe, yes.

Q. So they had confirmed all of the aspects that you wanted confirmed; that there was an agreement with Blue Flame Medical, and they meant to

Page 252

send the money to them; correct?

MR. ORSECK: Object to form.

A. That's the -- during the discussion, they were trying to figure out more information about Blue Flame. We had a discussion about the purpose of our call, I guess, and we wanted to make sure that they were comfortable wiring in the money to the account that had just been opened a few days ago -- or a day ago.

Q. I think you just testified that they said yes, that they had intended to send that money into that account; isn't that correct?

A. They believed they were purchasing 100 million N95 masks for the State of California, and that was what was authorized.

Q. And that they were purchasing them from Blue Flame Medical; correct?

A. That was the name, I believe, that they used on their -- their contract or call, yes.

Q. Well, certainly, that satisfied your curiosity as to whether there was an agreement between the State of California and Blue Flame

Page 253

Medical to supply 100 million N95 masks; correct?

MR. ORSECK: Object to form.

A. Yeah. I think I already -- we didn't have a copy of the contract. We also didn't have that Blue Flame purchase -- actually procured this from their supplier. The impression was that they were buying --

Q. I'm sorry. You said the impression is that they were buying, but I didn't let you finish. Go ahead.

A. That they were -- they were acquiring -- purchasing 100 million N95 masks in a short delivery period, within a short time. That's my recollection.

Q. Where did you get that recollection -- where did you get that impression? Is that something they told you?

A. There was a lot -- they said this was a special purchase that was outside their normal procurement process. They had been authorized, and they were purchasing this because of the pandemic.

So they -- you know, they had a

belief that they were -- my understanding was they were getting 100 -- 100 million masks delivered.
Q. That's what the contract was for, correct, 100 million N95 masks?
That's what Mr. Gula had told you it was for; isn't that right?
A. That's what he conveyed to us in the phone call.
Q. And that's what California conveyed to you as well; correct?
MR. ORSECK: Pete, I'm sorry, but you've asked this so many times, and he's answered it so many times, and it's late in the day.
So you can answer it once more.
MR. WHITE: We're going to keep going until he does.
MR. ORSECK: He's answered it, and he's answered it to your satisfaction, but you just keep asking it over and over again. So I object.
BY MR. WHITE:
Q. Go ahead and answer.
A. Can you -- I hate to do this to you, but

I lost my train of thought. I know you're going to tell me I already know the question, but could you please repeat it again?
Q. You know what, I'm not. It is late in the day, and Mr. Orseck has a fair point. Let's move on from that.
During this conversation, did you offer to return the wire to California?
A. I don't recall it being on our first -- first call with California. I spoke to them. They seemed a little bit unsure, and they were going to -- they had outreach apparently from JPMorgan, so I think the two banks calling about the same transaction caused them some confusion.
They wanted to take some time and revisit, get back to us.
Q. Did you offer to return the wire?
A. In part of our discussion, we proposed that we could hold the money, or we could return the money. They did not want us to return the money at that stage.
They were continuing to conduct some

research on their end and work with their bank, JPMorgan, who had made outreach, apparently.
Q. Ms. Gonzales recalls that during that conversation, she asked whether the money -- the wire had been deposited into the Blue Flame Medical account.
Do you remember her asking about that?
A. There was a discussion about funds, and if they had -- they were in the account and had -- was all of the money still available or was money not there.
And so I think that she asked -- inquired about did we still have possession of the money, and she was comforted that we had the money and a hold on it while they and we determined if it was all in place properly.
Q. She calls you saying that the money had not been deposited into the Blue Flame Medical account. Is her recollection on that accurate?
A. Well, what I recall is we were discussing Chain Bridge Bank having possession of

the money, and it was all still there.
I guess, in my terminology, if I said, you know, we had a hold on it, so -- and the availability would have been subject to our funds availability policy.
So I don't know that I -- I know we talked about funds and whether they're still there at the bank. If her impression was that -- that I said no, I don't -- I don't know that I have any information to recollect that, and I don't have -- I don't have a memory of that specifically, but I know we talked about whether the funds were still at the bank and whether we had possession of them and would hold them during this time.
But my -- my statement, I guess would --
Q. But -- go ahead. Go ahead.
A. So I was going to say that if I heard you correctly, she was saying the funds -- she -- can you repeat the question again, I guess?
I lost my train of thought.
Q. That's fine.

Is it your testimony that you did not tell her that the funds had already been credited to the Blue Flame Medical account?
MR. ORSECK: Object to form.
A. I don't know that I specifically said -- again, my conversation would revolve around us holding the funds, having control of the funds while she worked to do further work with the department and her -- her office, JPMorgan.
Q. Her recollection is that you told her that the funds had not been credited to the Blue Flame account at the time of your conversation.
A. I guess there's a difference in terminology.
MR. ORSECK: Hey. You didn't get a question yet. You didn't get a question yet.
Q. You may finish. Difference in terminology about what?
MR. ORSECK: Object to form.
A. Going back to the conversation we had about whether we had possession of the funds or not, the terminology, to me, credited would mean final

credit versus memo post with a hold, but that was a general term.
I don't know that -- I don't recall the specific details of that conversation, but we did talk about maintaining the funds until there was further resolution on their end.
They agreed to do so.
Q. Did you tell her at this point that the funds were in the Blue Flame account?
A. Again, I -- I don't recall that specific point. I recall a general conversation about the bank having the funds and having a hold on them.
If that implied that they were in the account, I don't have any reason -- I don't know what she was thinking about. She didn't -- she wasn't overly specific one way or the other about it. She just wanted, I think, a -- general knowledge that we -- we had still control of the wire.
Q. But, in fact, the funds were, in fact, in the Blue Flame Medical account subject to the hold that you spoke of; is that correct?

MR. ORSECK: Object to form. Asked and answered.
Q. You can answer.
A. Sorry, Mr. White. I was taking a sip of water.
Q. All right.
A. So as I said, the funds were memo-posted to the client's account and then a hold placed during this process, so I think there was some confusion around that terminology and how it was conveyed.
My memory was that the conversation was more around the bank maintaining that hold while -- while they did more research.
Q. How were the funds logistically moved out of the Blue Flame account and back to California by Chain Bridge Bank?
A. JPMorgan sent a wire recall notice over Fedline.
Q. Did you inform JPMorgan that the money was in the customer's account, and not in the bank's general ledger account at the time?

A. I don't know that that specific -- that those specifics had came up. They were aware that they sent the money to Chain Bridge Bank for credit to Blue Flame.
Q. Do you recall discussion about whether to get an indemnification letter from JPMorgan in connection with the return of these funds?
A. Yes.
Q. What do you recall about that?
A. I think it was raised by Claudia Mojica, on a phone conversation.
Q. What would you need an indemnification for?
A. We didn't view there was a need for an indemnification based on the recall because the recall had that indemnification built in, and we viewed JPMorgan, you know, as our counterparty.
Frequently, indemnification letters are -- sorry. Indemnification letters can be used with other parties that you don't necessarily have a knowledge of or a mechanism to transact, so sort of outside the normal process over Fedline.

Q. So it's your understanding that JPMorgan was on the hook for any liability that would accrue in connection with improperly removing these funds such that you did not need an indemnification letter from them regarding this transaction; is that correct?

MR. ORSECK: Object to form.

A. So I would characterize, by using Fedline, we used the proper tools to -- to honor JPMorgan's request.

Q. If anything improper happened in that regard, then JP -- JPMorgan would be required to indemnify Chain Bridge Bank for it without the need of an indemnification letter; isn't that correct?

MR. ORSECK: Object to form.

A. That's my understanding with that. Part of the fed.

Q. Was it your suggestion to JPMorgan that they recall the wire?

A. I recall that I raised it as an option. It was certainly not a demand for a return wire. It was discussed and evaluated as an option, and the

money was also an option. JPMorgan was, at a point, comfortable with that.

Q. When you raised it with Rakesh Korpal of JPMorgan, his response was that he was comfortable with you, meaning Chain Bridge Bank, holding the money right now; isn't that correct?

A. For that time being, he was.

Q. How did it come to pass later that the request was generated by JPMorgan to recall the wire?

A. We received a follow-up phone call stating that the State of California would be recalling -- recalling the wire, and we honored that recall. They were -- they were -- the phone call was they were recalling the wire.

Q. Is that the phone call with Tim Coffey of JPMorgan?

A. I believe that's correct.

Q. That call was recorded as well; isn't that right?

A. I don't know if that -- I can't recall off the top of my head, Mr. White, what it was.

There were several JPMorgan calls that were. I apologize. I don't -- I don't have whether that one was one of them or not. But I --

MR. WHITE: What's the next sequential exhibit number?

MR. COLWILL: 69.

Q. I'm going to play for you Plaintiff's Exhibit 69, which is an audio recording of a March 26th phone call, which I believe to be between you, Mr. Brough, and Tim Coffey of JPMorgan, on the afternoon of March 26th.

(Plaintiff Exhibit 69, audio recording, CBB00002545, was marked for identification.)

(Audio recording played.)

BY MR. WHITE:

Q. Is that the conversation that you were referring to earlier?

A. Yes.

Q. That's your voice, Mr. Brough's voice and Tim Coffey of JPMorgan's voice; is that right?

A. Yes.

Q. They're taking you up on the suggestion

that they issue a recall for the funds --

MR. ORSECK: Object to form.

Q. -- is that correct?

Sorry. I was waving to someone else, Mr. Evinger, at the door.

Go ahead. You can answer.

A. That's not the way I characterized it. JPMorgan had its own independent investigation. In fact, as I understood, started before ours, and they were a bit unsure, so they were going to proceed in that manner.

They made their own independent decision.

Q. You did, in fact, get former -- formal notice to recall the wire, is that right, from JPMorgan?

A. Yes. JPMorgan did send it.

Q. Why did you or Mr. Brough ask that that communication be done by Fedline?

A. We viewed that and understand that to be the proper way to do a recall of the wire.

Q. And you believe that to be proper even need for those accounts, so he understood that, but he wanted to have his other accounts remain open, as he was winding down his businesses.

Q. I think I may have lost you for a minute there, Mr. Evinger.

Could you -- let me just try it again. I apologize if I have to repeat myself here.

Did you tell Mr. Gula why Chain Bridge Bank was closing the Blue Flame Medical accounts?

A. I recall we just told him that we would be closing out his accounts. We would no longer conduct business, you know, with that -- those entities, and he seemed to understand that. I don't know that it was a very lengthy or detailed conversation, but it was conveyed to him that the Blue Flame accounts would no longer -- and I believe there was another -- third -- third entity involved that would have been closed out.

He wanted to have his other accounts remain open.

Q. My question was did you tell him why the

accounts were being closed?

A. Well, we said we would -- the wire -- following the wire recall from the State of California, and we suggested that he work with another bank on this. We weren't -- we weren't satisfied with -- obviously, we didn't get the documentation.

Our due diligence never was satisfied. We had concerns over the -- over the origins of the -- of where the money may go. We suggested that he find another partner, and he was -- he was amenable to that, I guess, or he didn't reject that, but I don't think there was a lot of discussion or dialogue about it.

Q. So you told Mr. Gula during that conversation that part of the reason that the account was being closed is that you were not satisfied; that you did not get the documents required? You told him that during that conversation?

A. No. Mr. White, I apologize. I was explaining to you why we made the decision to close

the account. I don't recall us conveying a specific message. We -- the only message we -- that I recall us conveying is that the accounts were being closed. What I was explaining to you was our rationale that we -- we had.

Q. But -- but to be clear, that was not conveyed to Mr. Gula, the rationale. That was your internal deliberations; is that right?

A. Those were our internal deliberations. We do not convey the specifics.

Q. The internal -- the internal deliberations, of course, would not involve Mr. Gula.

Was that just you and Mr. Brough, or were other people involved in that?

A. It was primarily Mr. Brough and I that would -- were -- were involved with that decision.

Q. And the documents that you did not get, there you're referring to the contract that you said that you had asked for in the unrecorded conversation with Mr. Gula; is that right?

A. Yes. We never got the supporting

materials that were requested in our conversation or by -- by e-mail.

Q. If he had sent you the contract on the 26th, would you have let the transaction remain?

A. I can't answer that hypothetical. I don't -- I don't have -- I would have to have the information in order to evaluate it. Given this --

Q. Certainly by the time -- I'm sorry. Go ahead.

A. It was -- I apologize.

So you asked me if we merely had the contract, why I would have to see what was presented to me and the quality of it, the documentation, the details within it before I could render a decision.

Q. The State of California had told you that they were satisfied, and that they had come to an agreement with Blue Flame Medical; correct?

MR. ORSECK: Object to form.

A. They --

MR. ORSECK: Object to form.

Excuse me. I was on mute.

Asked and answered multiple times.

A. Mr. White, the -- I think the State of California believed they were dealing with a well-established medical supplier who could provide them with N95 masks, but I don't know that that -- that they conveyed information to us on our call that that's what they believed they were working with.

Q. Who from the State of California told you that?

A. In our conversations with Natalie and Mark, we had, you know, general discussion there. We -- when we were conducting our information gathering, they were surprised to hear that it was a brand-new account.

There was more discussion about Blue Flame itself, and that they were formed just a few days ago. I don't believe they were aware of that, so they were looking into whether that was the case or not, whether -- their due diligence process.

At the same time, they were also hearing from their banker at JPMorgan. I don't know any of the discussions with that, but I think both

of those things certainly called for them to investigate further.

Q. Is this one of the conversations that Mr. Brough surreptitiously recorded?

MR. ORSECK: Object to form.

A. I don't -- I don't recall whether that conversation was one of the ones that were recorded or not. I'm just going off my memory of the call with California.

Q. And the participants in that call were you, Mr. Brough; Natalie, either Gonzales or the other last name that you remember; and Mark Hariri; is that correct?

A. That sounds correct.

Q. You also mentioned that you, the bank I assume you mean, had concerns about where the money may go.

What do you mean by that?

A. We didn't have any supporting documentation for their manufacturing contract. We had conflicting information provided to us.

Wednesday evening when we talked to

Mike Gula, he provided us with wire instructions that were from Greater Health, the Winguard Industries, I believe.

However, other wiring instructions for a different vendor were provided to the bank the next morning. I was unaware of those wiring instructions, but I know that those were presented to the bank. So that is something that would raise -- raise a red flag with us; that on one hand we were told that the money was going to one place, and then subsequently directed to another.

Q. So having multiple suppliers raises a red flag for you, for a vendor?

A. I think in this case, our call with Mr. Gula on Wednesday evening, he referenced and only referenced his contacts with the Greater Health entity, Mr. Wang.

He did not reference his other supplier or vendor, and it seemed that that changed. That was another piece of information that caused us concern.

Q. Why is it concerning that a supplier has

multiple vendors?

A. May not necessarily be, but what was presented to us was a -- was a large vendor contract that was going to be fulfilled by one entity, and it wasn't explained to us that there would be other entities and who those were.

That would also be part of what we would want to learn by asking for more documentation.

Q. You did not close any other accounts that Mr. Gula was involved in; is that correct?

A. We left it -- per his request, we left open his accounts that had been with us prior to his opening of the Blue Flame relationship, and I believe it's Red Line Strategies and Blue Flame Strategies.

Q. And his personal accounts; correct?

A. Yes. Pardon me. His personal account was left open.

Q. Those were ultimately closed by Chain Bridge Bank as well; isn't that correct?

A. The accounts were closed later on in the

summer of this past -- 2020. I don't know the exact dates. Some of them were closed likely by Mr. Gula through the wind-down of his businesses, and then the others we were determining that it was better that we exit the relationship, and gave him notice of that.
Q. Who made that decision?
A. That was made in conjunction with our management team.
Q. Who is that?
A. That would have included John Brough, myself, and Betsy Sharon.
Q. What was the reason for closing those accounts?
A. Well, I think it was difficult to continue on with a relationship where the client is suing the bank for this purpose. We felt like we had allotted him an appropriate amount of time to wind down his accounts, and we went ahead and notified him that we would exit the relationship.
Q. So that was a result of the filing of the lawsuit, the closing of the other accounts; is

that correct, Mr. Evinger?
A. I guess that's how I would characterize it.
Q. Turning back to Plaintiff's Exhibit 71, there is a reference from Ms. Schoeppe to -- stating that she will close the Blue Flame Medical once the wire is returned.
Do you see that?
It's on the third page, Mr. Evinger.
A. Thank you for that.
Q. Are you with me there?
A. I see it. Yes.
Q. I take it the reason that you wouldn't want to close the account at that point, is that the funds were still in the account; is that right?
MR. ORSECK: Objection. Foundation.
A. As we've covered, the -- the account would be closed the next day because the memo post in it would have to be processed out, the offsetting transaction. I don't know how else to say it.
But when the account had been opened, there had been a transaction in it,

memo-posted, we would need to close it out the next day.
Heather was just informing, I think, us, that it needed to go through nightly processing, normal course of business, and then it would be closed the next day.
Q. So she needed the payment order for return of the wire to be processed before closing the account; correct?
A. That day's transactions would have to be settled, yes, and then when the funds -- when there was -- when that occurred, then the account would be closed. That would have been the next business day.
Q. So is it correct that she needed the payment order for the return wire to be processed, so that there would be a zero balance before she closed the account; is that correct?
A. There has to be -- there would have to have been a zero balance for her to close the account, so...
Q. To get to a zero balance at that point, the payment order for the return wire needed to be

processed, which may not happen until overnight; is that correct?
A. The payment order was processed that day. The account would then have to go through nightly processing, and then next business day, she could, as I understand it, place the hold -- or that's incorrect -- close the account, I meant to say.
Q. When you mentioned "payment order," what is the form of that payment order that sends the funds back to California?
A. I'm sorry. The recall.
Q. Does that take the form of a payment order, in your system?
A. The recall would be what was used to send back.
Q. Is that processed through the payment order?
A. I don't have -- I'm not -- I don't have an answer to your question about whether it is or is in the payment order. I'm going to...
Q. So you just don't know as a mechanical