

**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

CHAIN BRIDGE BANK, N.A.,

Third-Party Plaintiff,

v.

JPMORGAN CHASE BANK, N.A.,

Third-Party Defendant.

DECLARATION OF DONALD BURKE

I, Donald Burke, state as follows:

1. I am over twenty-one years of age, and I am competent to give this declaration. I have personal knowledge of the facts set forth in this declaration.

2. I am one of the attorneys representing Defendant/Third-Party Plaintiff Chain Bridge Bank, N.A., and Defendants John J. Brough and David M. Evinger in the above-captioned matter.

3. I submit this declaration in support of Defendants'/Third-Party Plaintiff's motions for summary judgment in order to place before the Court true and correct copies of certain documents that are relevant to this matter.

4. Attached hereto as Exhibit 1 are excerpts from a true and correct copy of the transcript of the January 12, 2021 deposition of Mike Gula in this action.

5. Attached hereto as Exhibit 2 are excerpts from a true and correct copy of the transcript of the January 11, 2021 deposition of John Thomas in this action.

6. Attached hereto as Exhibit 3 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000003970.

7. Attached hereto as Exhibit 4 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000007156.

8. Attached hereto as Exhibit 5 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00002563.

9. Attached hereto as Exhibit 6 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000066431.

10. Attached hereto as Exhibit 7 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000095501.

11. Attached hereto as Exhibit 8 are excerpts from a true and correct copy of the transcript of the January 19, 2021 deposition of Michael Wong in this action.

12. Attached hereto as Exhibit 9 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000129957.

13. Attached hereto as Exhibit 10 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000110967.

14. Attached hereto as Exhibit 11 are excerpts from a true and correct copy of the transcript of the March 29, 2021 deposition of Daniel Kim in this action.

15. Attached hereto as Exhibit 12 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000200119.

16. Attached hereto as Exhibit 13 are excerpts from a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000200058.

17. Attached hereto as Exhibit 14 are excerpts from a true and correct copy of a document exchanged in discovery bearing the Bates label SDS000078.

18. Attached hereto as Exhibit 15 are excerpts from a true and correct copy of a document exchanged in discovery bearing the Bates label SDS000144.

19. Attached hereto as Exhibit 16 are excerpts from a true and correct copy of the transcript of the March 4, 2021 deposition of Richard J. Chivaro, 30(b)(6) witness for the State of California's State Controller's Office, in this action.

20. Attached hereto as Exhibit 17 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000200135.

21. Attached hereto as Exhibit 18 are excerpts from a true and correct copy of the transcript of the February 10, 2021 deposition of Andrew Sturmfels in this action.

22. Attached hereto as Exhibit 19 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000116497.

23. Attached hereto as Exhibit 20 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000012837.

24. Attached hereto as Exhibit 21 are excerpts from a true and correct copy of the transcript of the January 21, 2021 deposition of Ethan Bearman in this action.

25. Attached hereto as Exhibit 22 is a true and correct copy of the Expert Report of Mark Faulkner, served by Defendants in this action on February 12, 2021, including Exs. 1-2 and not including Appendices.

26. Attached hereto as Exhibit 23 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000012806.

27. Attached hereto as Exhibit 24 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000013558.

28. Attached hereto as Exhibit 25 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000013560.

29. Attached hereto as Exhibit 26 are excerpts from a true and correct copy of a document exchanged in discovery bearing the Bates label SCO1521.

30. Attached hereto as Exhibit 27 are excerpts from a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000202805.

31. Attached hereto as Exhibit 28 are excerpts from a true and correct copy of the transcript of the January 29, 2021 deposition of David M. Evinger in this action.

32. Attached hereto as Exhibit 29 are excerpts from a true and correct copy of the transcript of the January 22, 2021 deposition of Heather Schoeppe in this action.

33. Attached hereto as Exhibit 30 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00001202.

34. Attached hereto as Exhibit 31 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00000555.

35. Attached hereto as Exhibit 32 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000012824.

36. Attached hereto as Exhibit 33 is a true and correct copy of the Declaration of John Brough dated May 5, 2021.

37. Attached hereto as Exhibit 34 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00001781.

38. Attached hereto as Exhibit 35 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000116274.

39. Attached hereto as Exhibit 36 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000110311.

40. Attached hereto as Exhibit 37 is a true and correct copy of a recording of a call between Mike Gula (Blue Flame) and Heather Schoeppe (Chain Bridge) ending on March 25, 2020 at 3:26:46 p.m. EDT and exchanged in discovery bearing the Bates label CBB00002794. A copy of this audio recording will be filed on compact disc pursuant to this Court's Order of May 5, 2021.

41. Attached hereto as Exhibit 38 is a true and correct copy of a recording of a call between Heather Schoeppe (Chain Bridge) and Mike Gula (Blue Flame) ending on March 25, 2020 at 6:17 p.m. EDT and exchanged in discovery bearing the Bates label CBB00002795. A copy of this audio recording will be filed on compact disc pursuant to this Court's Order of May 5, 2021.

42. Attached hereto as Exhibit 39 is a true and correct copy of a recording of a call between Heather Schoeppe (Chain Bridge), David Evinger (Chain Bridge), and John Brough (Chain Bridge) ending on March 25, 2020 at 4:46 p.m. EDT and exchanged in discovery bearing the Bates label CBB00002798. A copy of this audio recording will be filed on compact disc pursuant to this Court's Order of May 5, 2021.

43. Attached hereto as Exhibit 40 are excerpts from a true and correct copy of the transcript of the February 2, 2021 deposition of John Brough in this action.

44. Attached hereto as Exhibit 41 are excerpts from a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00004453.

45. Attached hereto as Exhibit 42 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000137279.

46. Attached hereto as Exhibit 43 is a true and correct copy of the Federal Financial Institutions Examination Counsel Bank Secrecy Act/Anti-Money Laundering Examination Manual of 2014, Appendix F: Money Laundering and Terrorist Financing “Red Flags.”

47. Attached hereto as Exhibit 44 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00004463.

48. Attached hereto as Exhibit 45 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000013445.

49. Attached hereto as Exhibit 46 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00000767.

50. Attached hereto as Exhibit 47 are excerpts from a true and correct copy of the transcript of the February 9, 2021 deposition of Rakesh Korpai, 30(b)(6) witness for JPMorgan Chase Bank, N.A., in this action.

51. Attached hereto as Exhibit 48 is a true and correct copy of a document exchanged in discovery bearing the Bates label JPMC-00000003.

52. Attached hereto as Exhibit 49 is a true and correct copy of a document exchanged in discovery bearing the Bates label JPMC-00000009.

53. Attached hereto as Exhibit 50 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00002779.

54. Attached hereto as Exhibit 51 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00002673.

55. Attached hereto as Exhibit 52 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00001939.

56. Attached hereto as Exhibit 53 is a true and correct copy of the Expert Report of Charles H. Grice, served by Defendants in this action on February 12, 2021, including Ex. 1 and not including Appendices.

57. Attached hereto as Exhibit 54 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00000655.

58. Attached hereto as Exhibit 55 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00000728.

59. Attached hereto as Exhibit 56 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00000741.

60. Attached hereto as Exhibit 57 is a true and correct copy of a recording of a call between Tim Coffey (JPMC) and Mariano Castagnello (Chain Bridge) ending on March 26, 2020 at 12:33 p.m. EDT and exchanged in discovery bearing the Bates label CBB00002784. A copy of this audio recording will be filed on compact disc pursuant to this Court's Order of May 5, 2021.

61. Attached hereto as Exhibit 58 are excerpts from a true and correct copy of the transcript of the February 11, 2021 deposition of Timothy P. Coffey in this action.

62. Attached hereto as Exhibit 59 is a true and correct copy of a partial recording of a call between John Brough (Chain Bridge), David Evinger (Chain Bridge), and Rakesh Korpai

(JPMC) beginning on March 26, 2020 at 12:44 p.m. EDT and exchanged in discovery bearing the Bates label CBB00002541. A copy of this audio recording will be filed on compact disc pursuant to this Court's Order of May 5, 2021.

63. Attached hereto as Exhibit 60 is a true and correct copy of a voicemail from Fee Chang (California) delivered to David Evinger (Chain Bridge) on March 26, 2020 at 12:51 p.m. EDT and exchanged in discovery bearing the Bates label CBB00000707. A copy of this audio recording will be filed on compact disc pursuant to this Court's Order of May 5, 2021.

64. Attached hereto as Exhibit 61 is a true and correct copy of a partial recording of a call between John Brough (Chain Bridge), David Evinger (Chain Bridge), and Fee Chang (California) beginning on March 26, 2020 at 12:55 p.m. EDT and exchanged in discovery bearing the Bates label CBB00002543. A copy of this audio recording will be filed on compact disc pursuant to this Court's Order of May 5, 2021.

65. Attached hereto as Exhibit 62 are excerpts from a true and correct copy of the transcript of the January 28, 2021 deposition of Natalie Gonzales in this action.

66. Attached hereto as Exhibit 63 is a true and correct copy of a partial recording of a call between John Brough (Chain Bridge), David Evinger (Chain Bridge), and Rakesh Korpall (JPMC) beginning on March 26, 2020 at 1:34 p.m. EDT and exchanged in discovery bearing the Bates label CBB00002544. A copy of this audio recording will be filed on compact disc pursuant to this Court's Order of May 5, 2021.

67. Attached hereto as Exhibit 64 is a true and correct copy of a recording of a call between John Brough (Chain Bridge), David Evinger (Chain Bridge), and Tim Coffey (JPMC) beginning on March 26, 2020 at 1:37 p.m. EDT and exchanged in discovery bearing the Bates

label CBB00002545. A copy of this audio recording will be filed on compact disc pursuant to this Court's Order of May 5, 2021.

68. Attached hereto as Exhibit 65 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00002780.

69. Attached hereto as Exhibit 66 is a true and correct copy of a document exchanged in discovery bearing the Bates label JPMC-00000135.

70. Attached hereto as Exhibit 67 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00000650.

71. Attached hereto as Exhibit 68 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00002781.

72. Attached hereto as Exhibit 69 is a true and correct copy of a document exchanged in discovery bearing the Bates label SCO0131.

73. Attached hereto as Exhibit 70 are excerpts from a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00002291.

74. Attached hereto as Exhibit 71 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000113888.

75. Attached hereto as Exhibit 72 is a true and correct copy of a document exchanged in discovery bearing the Bates label DGS5363.

76. Attached hereto as Exhibit 73 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000163505.

77. Attached hereto as Exhibit 74 are excerpts from a true and correct copy of the transcript of the April 6, 2021 deposition of Sean O'Malley in this action.

78. Attached hereto as Exhibit 75 is a true and correct copy of a March 16, 2020 news release entitled 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.

79. Attached hereto as Exhibit 76 is a true and correct copy of a March 27, 2020 news release entitled FBI Warns Health Care Professionals of Increased Potential for Fraudulent Sales of COVID-19-Related Medical Equipment.

80. Attached hereto as Exhibit 77 is a true and correct copy of a May 18, 2020 FinCEN Advisory entitled Advisory on Medical Scams Related to the Coronavirus Disease 2019 (COVID-19), FIN-2020-A002.

81. Attached hereto as Exhibit 78 are excerpts from a true and correct copy of the transcript of the April 11, 2021 deposition of Joanna Williamson in this action.

82. Attached hereto as Exhibit 79 is a true and correct copy of the State of California Department of General Services Form GSPD 401 Non-IT Commodities Revision Date: 6/8/2010, available at <https://www.dgs.ca.gov/-/media/Divisions/PD/PTCS/OPPL/Model-Language/Non-IT/gspd0401NONIT-ADA.pdf>.

83. Attached hereto as Exhibit 80 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000001582.

84. Attached hereto as Exhibit 81 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000013610.

85. Attached hereto as Exhibit 82 is a true and correct copy of Blue Flame Medical LLC's Responses to Defendants' First Set of Interrogatories dated October 13, 2020.

86. Attached hereto as Exhibit 83 is a true and correct copy of a document exchanged in discovery bearing the Bates label BFM000032772.

87. Attached hereto as Exhibit 84 is a true and correct copy of the Revised Expert Report of William T. Baskett, served by Plaintiffs in this action on March 8, 2021, including Schedule 1 and not including Appendices.

88. Attached hereto as Exhibit 85 is a true and correct copy of the Expert Report of Laura B. Stamm, served by Defendants/Third-Party Plaintiff and Third-Party Defendant in this action on March 19, 2021, including Exs. 1-3 and not including Appendices.

89. Attached hereto as Exhibit 86 is a true and correct copy of the Federal Reserve Banks Operating Circular No. 6, Funds Transfers Through the Fedwire® Funds Service, effective December 20, 2019, available at <https://perma.cc/8FTE-NDZV>.

90. Attached hereto as Exhibit 87 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00001574.

91. Attached hereto as Exhibit 88 is a true and correct copy of a document exchanged in discovery bearing the Bates label JPMC-00000001.

92. Attached hereto as Exhibit 89 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00000919.

93. Attached hereto as Exhibit 90 is a true and correct copy of a document exchanged in discovery bearing the Bates label JPMC-00000080.

94. Attached hereto as Exhibit 91 is a true and correct copy of the second Expert Report of Charles H. Grice, served by Defendants in this action on February 12, 2021.

95. Attached hereto as Exhibit 92 are excerpts from a true and correct copy of the transcript of the April 12, 2021 deposition of Thomas C. Baxter, Jr. in this action.

96. Attached hereto as Exhibit 93 is a true and correct copy of a document exchanged in discovery bearing the Bates label JPMC-00000392.

97. Attached hereto as Exhibit 94 is a true and correct copy of a document exchanged in discovery bearing the Bates label JPMC-00000386.

98. Attached hereto as Exhibit 95 is a true and correct copy of a document exchanged in discovery bearing the Bates label JPMC-00000533.

99. Attached hereto as Exhibit 96 is a true and correct copy of a document exchanged in discovery bearing the Bates label JPMC-00000535.

100. Attached hereto as Exhibit 97 is a true and correct copy of JPMorgan Chase Bank, N.A.'s Response to Chain Bridge Bank, N.A.'s First Set of Interrogatories dated March 31, 2021.

101. Attached hereto as Exhibit 98 is a true and correct copy of the Expert Report of Thomas C. Baxter, Jr., served by Third-Party Defendant in this action on March 12, 2021, not including Appendices.

102. Attached hereto as Exhibit 99 is a true and correct copy of a document exchanged in discovery bearing the Bates label CBB00004294.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on May 6, 2021.

/s/ Donald Burke
Donald Burke

CERTIFICATE OF SERVICE

I hereby certify that on May 6, 2021, 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:

Peter H. White, Esq. (VA Bar No. 32310)
SCHULTE ROTH & ZABEL LLP
901 Fifteenth Street, NW, Suite 800
Washington, DC 20005
Phone: (202) 729-7476
Fax: (202) 730-4520
Email: peter.white@srz.com
Counsel for Plaintiff

Meredith K. Loretta, Esq. (VA Bar No. 92369)
**WILMER CUTLER PICKERING HALE &
DORR LLP**
1875 Pennsylvania Avenue NW
Washington, DC 20006
Phone: (212) 663-6981
Email: meredith.loretta@wilmerhale.com
Counsel for Third-Party Defendant

/s/ Donald Burke
Donald Burke (VA Bar No. 76550)
ROBBINS, RUSSELL, ENGLERT, ORSECK
& UNTEREINER LLP
2000 K Street, NW, 4th Floor
Washington, DC 20006
Telephone: (202) 775-4500
Facsimile: (202) 775-4510
dburke@robbinsrussell.com
Counsel for Defendants