

# **EXHIBIT 3**

CORONAVIRUS

# Lawmakers told half-billion dollar Blue Flame mask deal thwarted by suspicious bankers



BY LAUREL ROSENHALL , MAY 11, 2020 UPDATED SEPTEMBER 17, 2020



An Assembly oversight committee hears testimony about California's aborted Blue Flame mask deal and weighs ideas on how to better vet coronavirus medical supply contractors. Photo by Rich Pedroncelli, AP Photo

## IN SUMMARY

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medical supply contractors.

Amid a global shortage of face masks that could help stem the spread of the coronavirus, California officials received an intriguing call on March 23. The caller said he had access to 100 million coveted N95 masks that were sitting at the Port of Long Beach. He'd sell them to the state of California for \$4.76 each – a bargain compared to other vendors asking between \$6 and \$12 at the time.

That was the picture painted by Mark Ghilarducci, director of the Governor's Office of Emergency Services, as he explained to lawmakers today why the state wired nearly half a billion dollars to Blue Flame Medical LLC, then quickly walked back the deal. Ultimately, he said, banks involved in the large wire transfer called state officials and alerted them that the transaction seemed suspicious, and the state got its money back.

"Of the multiple checks and balances, this was one that was identified ultimately by the bank," Ghilarducci said. "The bank's normal vetting process caught it, reported it to the state."

California's frenetic Blue Flame deal with a politically connected mask supplier was [first reported last week by CalMatters](#).

Today's hearing of the Assembly accountability and administrative review committee provided a glimpse into California's scramble to obtain medical supplies for a state of 40 million people. As the pandemic mounted, states found themselves competing with each other and the federal government for limited stock, amid supply chains from China that were disrupted by the coronavirus outbreak there.

State lawmakers pressed officials on why it took an intervention by banks to catch a possibly fraudulent transaction and heard suggestions for potential changes to state law to improve the process for vetting vendors during an emergency.

"The sense of urgency and panic, trying to get supplies, rushing to compete with the federal government and other states, created the need for expediency which colored the normal processes in selecting and vetting approved vendors," state Treasurer Fiona Ma told the panel.

"The need to take immediate action and to produce immediate results impacted the normal careful and deliberate checks and balances that are in place."

Ma's office wired nearly \$457 million to Blue Flame on March 26 – a 75% down payment on a \$609 million deal – after being assured by other state departments that the company was vetted, she said. But then, Ma said, two banks involved in the wire transfer contacted her office because they had suspicions. One said the transaction seemed like it might be fraudulent, and the other said the recipient was a Washington, D.C., lobbyist who had only opened a bank account the day before.

Public records show Blue Flame incorporated on March 23, the same day Ghilarducci said state officials received a pitch from the company. The supply company was founded by Mike Gula, a Republican fundraiser in Washington, D.C., and John Thomas, a Republican strategist in Southern California. The identity of the individual who contacted the state March 23 on behalf of Blue Flame was not revealed at the hearing, though Ghilarducci said the caller presented himself as a California resident who was an owner of Blue Flame.

Ghilarducci said the state still has not canceled its order from Blue Flame and that "it remains open pending an investigation." The Washington Post reported last week that the U.S. Department of Justice [opened an investigation into the company](#) focused at least on its deals with the states of Maryland and California.

While Ghilarducci and Ma emphasized that no taxpayer money was lost in California's Blue Flame deal because the state got all its money back, Assemblyman Adam Gray pointed out that the potential problem was "caught by the bank, after we've gone through several government steps."

“That leaves us all with the questions that there may be room for improvement there on our part, in our process,” said Gray, a Democrat from Merced.

The normal rules for doing business with private vendors – advertising the call for proposals, getting multiple bids – were waived when Gov. Gavin Newsom declared a state of emergency due to the pandemic. That’s intentional, as the government tries to speed up to respond to life and death circumstances, Helen Kerstein of the nonpartisan Legislative Analyst’s Office told lawmakers.

“In the trade-off between how robust the vetting is and how quickly the state moves, it can go toward quicker and a little bit less robust than the typical procurement and there is certainly a reason for that,” she said.

Lawmakers could consider adding more oversight to the procurement process, Kerstein said, by requiring review from law enforcement (something California started doing after the Blue Flame deal fell apart); by requiring that the Newsom administration notify lawmakers when they spend money from the state’s disaster relief fund, or by requiring that the governor’s aides make contracts available for lawmakers to review.

“The Legislature has an interest in getting timely consistent information on these contracts to make sure the funding is appropriately spent,” Kerstein said.

Newsom angered many lawmakers by withholding the contract with BYD for a month after it was signed. The Chinese company had entered into a \$1 billion deal with BYD for N95 masks after the Blue Flame deal collapsed. Ghilarducci said the contract was not made public, or even available to lawmakers for review, because the marketplace for masks and other protective gear was so chaotic they feared imperiling delivery by making details known to other potential buyers.

BYD returned \$247.5 million to the state last week because it did not meet the agreed upon deadline for certifying that its N95 masks meet federal health and safety standards. The state [still hasn't received any N95 masks from BYD](#), but surgical masks from the company have begun arriving in California. Newsom said today that they have already been distributed to child care centers, grocery stores, farmworkers and other worksites.

"We are making real progress in terms of being able to procure the (personal protective equipment) and distribute the PPE and that will allow us to move forward with additional announcements on the stay-at-home order and meaningful modifications to our economy over the course of the next days and weeks and months," Newsom said.

"I have real confidence in our team and how they've conducted themselves, and as I've said on multiple occasions, I'll repeat it: it was the Wild, Wild West there a few months back. I hope we don't develop amnesia about the world we all were living in."

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