

EXHIBIT 121

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF VIRGINIA
3 (Alexandria Division)
4 - - - - - X
5 BLUE FLAME MEDICAL LLC, :
6 Plaintiff, :
7 v. : Civil Action No.
8 CHAIN BRIDGE BANK, N.A., : 1:20-cv-00658
9 JOHN J. BROUGH and DAVID M. :
10 EVINGER, :
11 Defendants. :

12 _____ :
13 CHAIN BRIDGE BANK, N.A., :
14 Third-Party Plaintiff, :
15 v. :
16 JPMORGAN CHASE BANK, N.A., :
17 Third-Party Defendant. :

18 - - - - - X
19 Remote Deposition
20 Monday, March 29, 2021
21 Deposition via Zoom of DANIEL KIM, a
22 witness herein, called for examination by counsel for

Page 2 1 Defendants/Third-Party Plaintiff Chain Bridge Bank, 2 N.A., in the above-entitled matter, pursuant to 3 notice, the witness being duly sworn by MARY GRACE 4 CASTLEBERRY, a Notary Public in and for the State of 5 Maryland, taken at 9:02 a.m. PST, Monday, March 29, 6 2021, and the proceedings being taken down by 7 Stenotype by MARY GRACE CASTLEBERRY, RPR, and 8 transcribed under her direction. 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Page 4 1 APPEARANCES (Continued): 2 3 On behalf of Defendant/Third-Party Plaintiff 4 Chain Bridge Bank, N.A.: 5 CAROLYN FORSTEIN, ESQ. 6 DONALD BURKE, ESQ. 7 Robbins Russell Englert, Orseck, 8 Untereiner & Sauber 9 2000 K Street, N.W., 4th Floor 10 Washington, D.C. 20006 11 (202) 775-4500 12 cforstein@robbinsrussell.com 13 dburke@robbinsrussell.com 14 znferguson@robbinsrussell.com 15 16 17 18 19 20 21 22
Page 3 1 APPEARANCES: 2 3 On behalf of the Plaintiff Blue Flame Medical 4 LLC: 5 GREG KETCHAM-COLWILL, ESQ. 6 JASON MITCHELL, ESQ. 7 KENI UKABIALA, ESQ. 8 Schulte Roth & Zabel 9 901 15th Street, N.W., Suite 800 10 Washington, D.C. 20005 11 (202) 729-7476 12 gregory.ketcham-colwill@srz.com 13 jason.mitchell@srz.com 14 ekenedilichukwu@ukabiala@srz.com 15 and 16 ETHAN BEARMAN, ESQ. 17 The Bearman Firm 18 10250 Constellation Boulevard, Suite 100 19 Los Angeles, California 90067 20 (747) 344-1004 21 22	Page 5 1 APPEARANCES (Continued): 2 3 On behalf of Third-Party Defendant JPMorgan 4 Chase Bank: 5 ALBINAS PRIZGINTAS, ESQ. 6 Wilmer Cutler Pickering Hale & Dorr LLP 7 1875 Pennsylvania Avenue, N.W. 8 Washington, D.C. 20006 9 (212) 663-6981 10 albinas.prizgintas@wilmerhale.com 11 12 On behalf of the deponent: 13 CARA PORTER, ESQ. 14 SARAH FABIAN, ESQ. 15 Office of the Attorney General 16 California Department of Justice 17 455 Golden Gate Avenue, Suite 11000 18 San Francisco, California 94102-7020 19 (415) 254-3934 20 cara.porter@doj.ca.gov 21 sarah.fabian@doj.ca.gov 22

Page 62 1 conversation, but I could see that I suggested that 2 it would be good to bring them in. 3 Q. And who is Secretary Ghaly? 4 A. He's the secretary for health and human 5 services. 6 Q. And who is Secretary Ghilarducci? 7 A. He is over Cal OES. 8 Q. And why did you need -- why did you need 9 to bring them to confirm whether you should pursue 10 the wire transfer? 11 A. Well, first, I didn't think -- we didn't 12 need to, so maybe that's a misstatement there. Even 13 after when we developed a procedure for advance 14 payments, we did not require either of those 15 secretaries to be part of that process. I just 16 thought it would be good for us to be all on the same 17 page. 18 Q. Were those secretaries involved with 19 procurement of PPE in March 2020? 20 A. That's a pretty broad statement. I think 21 we were all involved with procurement at the time, 22 but they did have some bearing on that.	Page 64 1 to hold off on the wire transfer as we need to 2 confirm within the administration." 3 A. Where is that? I'm sorry. 4 Q. Sure. 5 A. Okay. Yes. 6 Q. Do you recall asking DGS, SCO and STO 7 staff to hold off on the wire transfer? 8 A. I don't recall, but if I wrote that in 9 there, I probably did that. 10 Q. And skipping down, I think, two 11 paragraphs, you say, "I learned" -- actually, sorry. 12 Just one second. 13 Do you recall if you discussed the wire 14 transfer with anyone in the administration? 15 A. Yes. 16 Q. Who did you discuss it with? 17 A. I brought it to the people at that meeting 18 that I was at at 2 o'clock. 19 Q. And after that meeting concluded, did you 20 then confirm with anyone else in the administration? 21 A. Yes. 22 Q. And who was that?
Page 63 1 Q. I'm just trying to understand why 2 specifically you thought it might be helpful to speak 3 to these two secretaries in connection with this wire 4 transfer. 5 A. We were all working as a team and it was 6 important, given we had -- we needed to get a better 7 sense of what are the priorities in terms of 8 spending, what are the medical needs, what's the 9 urgency for different things. And this was a large 10 purchase. 11 But we already had a general idea of the 12 amount of PPE we needed, of the number of N95s. A 13 hundred million was only a portion of the amount that 14 we needed. And we had a general idea of what we 15 would be willing to pay for those types of items. So 16 if anything, this was probably my way of seeing how 17 we could bring people to the table, not a requirement 18 per se. 19 Q. Understood. And looking back to your 20 notes and looking at the last sentence in the 21 paragraph that we've just been discussing, you say 22 that, "At 4:00 p.m., I emailed DGS, SCO and STO staff	Page 65 1 A. Ms. Bosler. 2 Q. Who is Ms. Bosler? 3 A. She's the director of finance. 4 Q. And what did you discuss with Ms. Bosler? 5 A. I actually discussed this at the meeting 6 where she was present and wanted to confirm that we 7 were proceeding with the wire. 8 Q. And what did Ms. Bosler say? 9 A. Upon -- after a while, there was 10 discussion and was told we could proceed. 11 Q. Do you recall whether Ms. Bosler contacted 12 Ms. Matosantos? 13 A. I surmise that that's who she was talking 14 to on the phone and that was -- 15 MS. PORTER: Apologies. There's a delayed 16 objection. Calls for speculation. 17 BY MS. FORSTEIN: 18 Q. Mr. Kim, you can answer. And, again, I'm 19 only ever asking for your recollection. So if you 20 don't know, understood. 21 A. I do not know and I did not hear a voice. 22 I just assumed. But I don't know.

Page 66 1 Q. So you mentioned that Ms. Bosler talked to 2 someone on the phone. Was the 2:00 p.m. meeting in 3 person? 4 A. Yes, it was in person, but people were 5 coming in and out. We were at the state operations 6 center and people were homesteading in different 7 cubicles and offices. 8 Q. And just again to understand the 9 procedure, after you spoke with Ms. Bosler, did she 10 then call someone to discuss the issue? 11 A. I don't know. I just know she was on the 12 phone. We were all on the phone. Literally during 13 meetings, we would have people having sidebar 14 conversations on the phones and checking emails. 15 Q. Sure. And looking back at your notes 16 briefly, you said in the paragraph -- this is 17 probably paragraph 1, 2, 3, 4, 5, 6, 7 -- 8, you say, 18 "The two secretaries were unavailable, so Ms. Bosler 19 contacted Ms. Matosantos to confirm if we should 20 pursue the wire transfer." 21 And then, "Given the criticality of 22 purchasing N95s to save California lives, Page 67 1 Ms. Matosantos confirmed we should purchase and 2 notified Ms. Bosler, who notified me." 3 Does this fit with your recollection of 4 how you confirmed with the administration? 5 A. I wrote this, but I realize I never should 6 have speculated that that conversation was with 7 Ms. Matosantos because I really don't know and didn't 8 know then. 9 Q. And I think you mentioned this earlier, 10 but what is Ms. Matosantos' role again within the 11 administration? 12 A. She's the cabinet secretary. 13 MS. FORSTEIN: And I think this might be a 14 good time for a brief break. Perhaps we can come 15 back in about 10 minutes and resume? 16 THE VIDEOGRAPHER: Off the record at 17 10:25. 18 (Recess.) 19 THE VIDEOGRAPHER: We are now back on the 20 record. The time is 10:37 a.m. 21 MS. PORTER: Ms. Forstein, if I may. One 22 of the practices that the parties have seemed to	Page 68 1 engage in throughout the depositions in this case has 2 been to join in the objections of other attorneys who 3 may be making objections throughout the process. I'd 4 like just to register that I'll be joining in the 5 objections that the other counsel make to any 6 questioning. 7 MR. KETCHAM-COLWILL: And I'd like to make 8 the same statement. 9 MR. PRIZGINTAS: Same. 10 MS. FORSTEIN: Understood. And I stand 11 with defendants. 12 MS. PORTER: Thank you. 13 BY MS. FORSTEIN: 14 Q. Mr. Kim, you mentioned that at some point 15 you learned that the deadline for the wire to go out 16 on March 25th was actually 5:00 p.m. Eastern Standard 17 Time; is that correct? 18 A. Yes. 19 Q. And do you recall when you learned that 20 the new deadline would then be 8:00 a.m. the 21 following morning? 22 MS. PORTER: Objection. Assumes facts not Page 69 1 in evidence. 2 THE WITNESS: Well, it was sometime during 3 that day. I'm not sure when. 4 BY MS. FORSTEIN: 5 Q. Do you recall how you learned this? 6 A. No, but it was either by email or by call. 7 Q. And at some point you came to understand 8 that the new deadline for the wire to go out would be 9 8:00 a.m. on March 26th; is that correct? 10 A. Yes. 11 Q. And once you learned that the new -- that 12 the wire could not go out on March 25th, what, if 13 anything, did you decide to do next? 14 A. According to these notes, I told staff to 15 hold off until I let them know in the morning what 16 would happen. That's what I probably did. But I 17 don't recall the specifics. 18 Q. I'm going to drop another document into 19 the chat function. And I apologize. I may have lost 20 track of which exhibit we're on. 21 MS. FORSTEIN: Ms. Castleberry, I don't 22 know if you have that at hand. I think this would be
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Page 86 1 bearing on our decision to purchase or procure 2 through Blue Flame. 3 BY MS. FORSTEIN: 4 Q. Understood. I'm asking about Controller 5 Yee because Mr. Chivaro, representing the SCO's 6 office, testified that you spoke with Controller Yee 7 twice on the evening of March 25th, once before and 8 once after you spoke with Mr. Thomas. 9 Understanding that she's not part of your 10 department, I was simply trying to understand what 11 you may or may not have conveyed to her if you had 12 additional information at the time. 13 A. I don't recall. 14 Q. I'm going to put two additional documents 15 into the chat function. So this is BFM_CA_DGS 5363, 16 which I believe will be Defendants' Exhibit 112 and 17 BFM 000200134, which will be Defendants' Exhibit 113. 18 (Defendants' Exhibit Nos. 112 and 113 19 were identified for the record.) 20 BY MS. FORSTEIN: 21 Q. And if you could open both of these 22 documents.	Page 88 1 two documents reflect the same text and aren't 2 missing anything. 3 A. Okay. Just trying to -- I have to scroll 4 back and forth. Give me a second. 5 Q. Sure. 6 A. Yes. 7 Q. The content appears to be the same? 8 A. Yes. 9 Q. Great. Looking at the first text message 10 in the chain, it looks like a text message from John 11 Thomas to you where he says, "My team and I are 12 grinding out that shipping and amount grid for you 13 tonight." 14 Does that refer to the delivery schedules 15 that you asked Mr. Thomas for on your phone call? 16 A. I believe so, yes. 17 Q. And he says, "I will text to you and 18 Michael ASAP." Does that refer to Michael Wong? 19 A. Yes. 20 (Plaintiff's Exhibit No. 9 was 21 referenced.) 22 BY MS. FORSTEIN:
Page 87 1 A. Yes. 2 Q. So the first one, Defendants' Exhibit 112, 3 it looks like a series of screenshots of text 4 messages. 5 A. Yes. 6 Q. And Defendants' Exhibit 113 is the same 7 text messages reproduced in a unified text format. 8 So if you could take a look at both documents. And 9 my initial question, do you recognize these 10 documents? 11 A. Yes. 12 Q. What are they? 13 A. The text messages, not the other document 14 that I think someone pulled together. I recognize 15 the DGS 5363, but not the 200134. 16 Q. Great. And what is DGS 5363? 17 A. Those are text messages from John Thomas 18 to me. 19 Q. And if you can just take a minute and 20 compare the two documents that I put up. The unified 21 text chain was produced by Blue Flame Medical. If 22 you could just take a moment and confirm that these	Page 89 1 Q. And I'm going to put one more document 2 into the chat function. This document has previously 3 been marked as Plaintiff's Exhibit 9. 4 Mr. Kim, if you could take a look at this 5 and, once you've had a chance to review, if you could 6 let me know if you recognize the document. 7 A. Okay. 8 Q. Do you recognize these communications? 9 A. Yes. 10 Q. And what are they? 11 A. They're text messages from John Thomas to 12 me. 13 MS. PORTER: Ms. Forstein, excuse me, just 14 real quick, I should lodge this objection. I notice 15 on this document in the lower left-hand corner, it's 16 marked confidential. Previously, the parties had 17 asked the state employees to execute a protective 18 order, but the state employees have not -- the 19 California state employees have not executed. 20 So for the record, I mention that this 21 confidentiality designation has no bearing on this 22 witness.

Page 90 1 MS. FORSTEIN: Thank you, Ms. Porter. We 2 used this exhibit because it had previously been 3 marked, but I believe this is an exhibit that 4 California produced that was then reproduced by Blue 5 Flame to defendants. 6 I'm happy to discuss, outside this 7 deposition, confidentiality concerns, but I don't 8 believe that this will raise any. But I appreciate 9 the objection being on the record. 10 MS. PORTER: Thank you. 11 BY MS. FORSTEIN: 12 Q. And Mr. Kim, was Mr. Wong also on this 13 text chain? 14 A. Sorry? I didn't hear that. 15 Q. Sure. Was Michael Wong also on this text 16 chain with you and John Thomas? 17 A. I don't recall, but I believe he received 18 the schedule. I'm not sure. 19 Q. Sure. And I can -- I will represent to 20 you that I realize the first page is a bit blurry, 21 but this is a text chain between you, Michael Wong 22 and John Thomas, just for context.	Page 92 1 2281. 2 MS. FORSTEIN: It's about halfway down the 3 page, the second paragraph. 4 MS. PORTER: Objection. Misstates the 5 document. I see the name Henry. I don't see the 6 name Mr. Huang. Or maybe I do and it's just too -- 7 it's just too -- 8 MS. FORSTEIN: It's a bit blurry. 9 MS. PORTER: -- it's just too light of a 10 print to see. Okay. Very good. Thank you. 11 MS. FORSTEIN: Sure. 12 BY MS. FORSTEIN: 13 Q. Mr. Kim, is this the manufacturer that you 14 discussed with Mr. Thomas on the phone? 15 A. Yes. 16 Q. And did you have an understanding at the 17 time as to how Mr. Huang planned to source product? 18 Was he planning to manufacture it himself? 19 A. Again, it's a bit blurry, but my 20 understanding was he owned the plant and manufactured 21 these. 22 Q. If you look at page 2 where fortunately
Page 91 1 Do you recall texting with Mr. Thomas and 2 Mr. Wong on March 25th? 3 A. I don't recall on March 25th, but I recall 4 this message -- these messages. 5 Q. Sure. And in this message, is Mr. Thomas 6 sending you the delivery timeline that you had 7 requested? 8 A. Yes. 9 Q. And we discussed this a bit earlier, but 10 were these delivery timelines important to you and to 11 California? 12 MR. KETCHAM-COLWILL: Objection. Vague. 13 THE WITNESS: Yes. 14 BY MS. FORSTEIN: 15 Q. Towards the bottom of the first page, 16 Mr. Thomas referred to his main manufacturer, Henry 17 Huang. Is this the manufacturer that you discussed 18 with Mr. Thomas on the call? 19 MS. PORTER: Ms. Forstein, excuse me, I 20 thought I heard you say on the bottom of page 1. I 21 don't see the reference to Mr. Huang on page 1, which 22 is Bates stamped at the very bottom CBB ending in	Page 93 1 the text clears up a little bit and might be a bit 2 easier to read, on the same document there's mention 3 of he -- I believe still referring to Mr. Huang -- 4 "moving heaven and earth to steal from neighboring 5 factories and promised to deliver the full order from 6 his shop alone." 7 Did you understand that Mr. Huang would 8 also be obtaining product from other factories? 9 A. I wasn't clear on -- I recall seeing this 10 and wasn't clear on what that meant because he said 11 he would deliver the full order from his shop alone. 12 And frankly, from my standpoint, that was irrelevant. 13 I just needed the product. And it had to be N95s and 14 it had to be delivered quickly. 15 Q. Did anyone at DGS vet Henry Huang? 16 A. I don't know. 17 Q. Do you know if any other departments in 18 the state of California vetted Henry Huang? 19 A. No. 20 MS. PORTER: Objection. Calls for 21 speculation. Lack of foundation. 22 BY MS. FORSTEIN:

Page 94 1 Q. I'm, again, Mr. Kim, only asking to the 2 extent that you recall or you know whether or not -- 3 A. No, I do not recall. 4 Q. And further down on the second page in 5 this text chain, there is mention of "finding a jet 6 just to have the first million units loaded up 7 starting tomorrow." 8 Is this -- I think we discussed this in 9 connection with the phone call that you had with 10 Mr. Thomas. Is this the -- is this what you 11 discussed on the phone prior to receiving this text 12 message? 13 A. Yes. 14 Q. And did you understand at the time that 15 these million masks would be placed on a plane and 16 shipped to California the following day? 17 A. Again, I don't recall specifics, but just 18 looking at the email or the text, that's what it 19 indicates. 20 Q. And did you understand that Mr. Thomas 21 would be fronting the cash for those first 100 22 million masks? Page 95 1 A. That's my understanding based on the 2 texts. 3 Q. And then Mr. Thomas says, "I'm also" -- or 4 apologies. "I'm sending some inventories from Hong 5 Kong manufacturer who is sitting on 6 million units 6 currently made." 7 Was Mr. Thomas -- to your understanding, 8 did Mr. Thomas have a manufacturer in Hong Kong who 9 already had six million masks in inventory? 10 A. Again, looking at the text, that's what he 11 indicates. So that is what I assumed. 12 Q. And then the following sentences, "You'll 13 see on my chart the delivery dates are early. We'll 14 then ramp up quickly to essentially having planes 15 landing every day to meet our deadline for 16 California." 17 And we'll take a look at the grid in just 18 a minute, but does this refer to your request for a 19 delivery schedule that you'd discussed with 20 Mr. Thomas? 21 A. I believe so. 22 Q. And were early delivery dates and meeting	Page 96 1 your deadlines important to you at the time? 2 MS. PORTER: Objection. Asked and 3 answered. 4 THE WITNESS: As I mentioned earlier, it 5 was very important for us to get N95s as soon as 6 possible. 7 BY MS. FORSTEIN: 8 Q. And if you scroll down to page 4 of the 9 document, there is a screenshot of a spreadsheet or a 10 grid. Do you see that? 11 A. Yes. 12 Q. Is this the delivery schedule that we've 13 been discussing? 14 A. Yes. 15 Q. And if you look down the delivery schedule 16 and do you see that the first one million masks were 17 scheduled to arrive on April 2nd? 18 A. Yes. 19 Q. You might have to scroll in a little bit. 20 Great. And then going back up to page 3, Mr. Thomas 21 says, "We'll then ramp up quickly to essentially 22 having planes landing every day to meet our deadline Page 97 1 for California." 2 And if you look down at the delivery 3 schedule, you'll see that Mr. Thomas did propose to 4 deliver millions of masks every day between April 8 5 and April 24; is that right? 6 A. Correct. 7 Q. And the deadline for delivery was April 24 8 for the total 100 million masks? 9 A. I don't recall. 10 Q. And was it your understanding that this 11 delivery schedule reflected Blue Flame Medical's best 12 estimate of when it could actually deliver the masks? 13 A. Yes. 14 Q. And you understood this schedule as 15 starting with a delivery of one million masks on 16 April 2nd; is that right? 17 A. That's what he represented, yes. 18 Q. And that was only, at this point in time, 19 eight days away? 20 A. I presume, but I don't -- again, I 21 don't -- was this the 25th? 22 Q. Yes.
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