EXHIBIT 1

CONFIDENTIAL UNDER PROTECTIVE ORDER

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 (LMB/IDD)**
CHAIN BRIDGE BANK, N.A., Third-Party Plaintiff, v. JPMORGAN CHASE BANK, N.A., Third-Party Defendant.	

EXPERT REPORT OF THOMAS C. BAXTER, JR. ON BEHALF OF THIRD-PARTY DEFENDANT JPMORGAN CHASE BANK, N.A.

MARCH 12, 2021

25. This did not mean there is no place for humans in wire transfer processing. There are instances in wire transfer processing where human involvement may occur, as it did in this case.

26. But it bears emphasis that, as of the time of Article 4A's drafting and still today, the vast majority of wire transfers are processed by computers and are not reviewed by humans.

27. Finally, it is important to understand the effect of a wire transfer reversal on the relationship between the originator (the State of California) and the beneficiary (Blue Flame). In many situations, a wire transfer is made to discharge an underlying indebtedness between the originator and the beneficiary. If a wire transfer is reversed or not completed, the originator gets its "money back" and the underlying obligation (if there is one) between the originator and beneficiary is restored.[16]

28. With those features of Article 4A's architecture in mind, let us start with some obvious details about the Wire Transfer. The Wire Transfer in this case is of an extraordinary size – nearly $457 million. During 2020, the average Fedwire transfer was $4.57 million.[17] The subject Wire Transfer was 100 times the size of the average Fedwire transfer during 2020. The amount is extraordinary, and I spent the bulk of my career at the Federal Reserve, where I saw a number of large wire transfers. This is large by any measure.

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[16] For a description of the so-called "money back guarantee", see *Funds Transfers*, *supra* note 2, at 41-44.

[17] The Federal Reserve publishes all sorts of statistics about transfers over Fedwire. This $4.57 million figure is the average transfer done over the course of 2020. *Fedwire® Funds Service - Annual Statistics*, The Federal Reserve, https://www.frbservices.org/resources/financial-services/wires/volume-value-stats/annual-stats.html. You can also assess the average transfer over any individual month. *Fedwire® Funds Service - Monthly Statistics*, The Federal Reserve, https://www.frbservices.org/resources/financial-services/wires/volume-value-stats/monthly-stats.html.

board of directors. This level of executive involvement, while in my view extraordinary for a wire transfer, was no surprise to me given the risks that Chain Bridge faced.

39. The risk situation for Chain Bridge in this extraordinary situation is not like other beneficiary banks handling more common reversal requests. Unlike the more common requests, here there were powerful incentives propelling Chain Bridge to reverse the Wire Transfer. I will explain these incentives.

40. First, there is the Wire Transfer's size. This individual Wire Transfer represented about 50% of all the bank's assets; a simple error in handling a wire transfer of this size, for a small community bank like Chain Bridge, could easily deplete the bank's capital and cause it to fail. To put it simply, this Wire Transfer was franchise-threatening for Chain Bridge.

41. Second, Chain Bridge placed a "hold" on the funds before ever speaking to JPMC and did not make them available to the newly opened account, Blue Flame.[31] A Chain Bridge decision to hold[32] the funds could arguably have deprived Blue Flame of liquidity. This can lead to litigation between the bank imposing the hold and the adversely affected bank customer. Here, the Wire Transfer was reversed instead, which Chain Bridge may have believed relieved it of exposure to any potential claim for lost liquidity because there would be no credit balance.

42. Third, Chain Bridge's own wire transfer policy required that the Wire Transfer be returned. The policy provides: "If there is any question as to the beneficiary's right to the funds,

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[31] CBB00000728 (email from David Evinger of Chain Bridge instructing Jennifer Lincoln of Chain Bridge, "Place HOLD on funds" at 12:07 p.m. on March 26); Evinger Dep. 232:2-236:14; Brough Dep. 76:12-77:18, 196:12-198:4 . Banks use different ways to implement a "hold" on the proceeds of a wire transfer. Some may post the credit to a suspense account, and others, like Chain Bridge, reflect the credit as a "memo post". *See* Evinger Dep. 260:7-11. The important point for this discussion is that the customer does not have liquidity – it does not have access to the funds. *See* Brough Dep. 196:19-197:11.

[32] Chain Bridge's Chief Executive Officer, John Brough, explained: "If we had not received the request to return the wire, then I'm almost sure that we would have held the funds . . . ." Brough Dep. 223:4-6.