EXHIBIT 11

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

- - - - - - - - - - - - - - - - X

BLUE FLAME MEDICAL LLC, :

Plaintiff, :

v. : Civil Action No.

CHAIN BRIDGE BANK, N.A., : 1:20-cv-00658

JOHN J. BROUGH and DAVID M. :

EVINGER, :

Defendants. :

_____ :

CHAIN BRIDGE BANK, N.A., :

Third-Party Plaintiff, :

v. :

JPMORGAN CHASE BANK, N.A., :

Third-Party Defendant. :

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Remote Deposition

Monday, March 29, 2021

Deposition via Zoom of DANIEL KIM, a witness herein, called for examination by counsel for

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Defendants/Third-Party Plaintiff Chain Bridge Bank, N.A., in the above-entitled matter, pursuant to notice, the witness being duly sworn by MARY GRACE CASTLEBERRY, a Notary Public in and for the State of Maryland, taken at 9:02 a.m. PST, Monday, March 29, 2021, and the proceedings being taken down by Stenotype by MARY GRACE CASTLEBERRY, RPR, and transcribed under her direction.

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APPEARANCES:

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record today is my colleague, Jason Mitchell. Also joining from time to time may be my colleagues, Pete White, Bill Gussman and Keni Ukabiala and Blue Flame Medical's chief legal officer, Ethan Bearman.

MR. PRIZGINTAS: This is Albinas Prizgintas for third-party defendant, JPMorgan Chase Bank, N.A.

MS. PORTER: Good morning. Cara Porter, deputy attorney general. I represent the witness, Daniel Kim. Also on the line with me is fellow deputy attorney general Sarah L. Fabian.

THE VIDEOGRAPHER: Will the court reporter please administer the oath.

Whereupon,

DANIEL KIM,

was called as a witness by counsel for Defendants/Third-Party Plaintiff Chain Bridge Bank, N.A., and having been duly sworn by the Notary Public, was examined and testified as follows:

EXAMINATION BY COUNSEL FOR DEFENDANTS/THIRD-PARTY PLAINTIFF CHAIN BRIDGE BANK, N.A.

BY MS. FORSTEIN:

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Q. Good morning, Mr. Kim. As mentioned, my name is Carolyn Forstein representing defendants in this matter. Thanks for being with us today.

Just to begin with, could you state your full name again.

A. Daniel Kim.

Q. And where are you currently located?

A. I'm in Woodland, California in my work office.

Q. Is there anyone else currently present in the room with you?

A. No.

Q. And Mr. Kim, have you been deposed before?

A. No.

Q. Great. I'm sure your counsel has probably gone over some of the logistics with you, but just a couple of quick points to start with.

The first is that just for the court reporter, we should try to all speak one at a time. So I will do my best not to interrupt or cut you off, and it's just important so that we can get a clear record and so that each of the parties and myself and you can all have our respective statements recorded.

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Secondly, if at any point in time you need a break, please just ask. We typically take breaks roughly once an hour or every hour and a half, but if you need a break at any point, please just ask and I'm happy to break as requested.

Mr. Kim, how did you prepare for today's deposition?

A. Prepare? I don't know what you mean by that.

Q. Sure. Did you review any documents in preparation for the deposition today?

A. Not recently.

Q. Okay. Other than your attorneys, did you discuss today's deposition with anyone else at the state of California?

A. No.

Q. And what is your current job title?

A. I am the assistant county administrator for Yolo County.

Q. When did you begin in that role?

A. February 1st.

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Q. And what was your prior role?

A. I was the director of the Department of General Services for the state of California.

Q. How long did you serve in that role for?

A. Five and a half years.

Q. And could you describe your responsibilities as the director of the Department of General Services?

A. I oversaw the department, which is effectively the business manager for the state of California. So I had a number of different functions, which included real estate, construction, facility management, procurement, fleet, the Division of State Architects, Building Standards Commission, Office of Public School, construction, Office of Administrative Hearings, and a number of other offices.

Q. Who did you report to as the director of the Department of General Services?

A. I reported to the secretary of government operations agency.

Q. And who was the secretary in March of

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2020?
A. Yolanda Richardson.
Q. And who were your direct reports in March of 2020 while you were the director of the department?
A. I had about 18 different direct reports. Do you want me to go through all of them?
Q. If you recall them, yes, please.
A. The names and titles or just the names?
Q. Names and titles.
A. Okay. Let's start with my assistant, Carmen Llamas. My chief deputy position was vacant, so had Jason Kenney, the real estate deputy director. Brent Jamison, who was the deputy director for internal services division. Had Angela Shell, who was the deputy director for procurement. Had Zach Morazzini, who was the deputy director for the Office of Administrative Hearings.
Oh, gosh, let's see. Trying to -- we had -- oh, my gosh. Nancy Ander, deputy director for sustainability. Jemahl Amen, deputy director for facility management division. We had -- let's see,

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I'm trying to figure out the direct reports. Chuck Tobia, who's the deputy director for strategic planning. Monica Hassan, the deputy director for public affairs. Anita Kung, who is my special assistant. Ida Clair was the acting state architect over the Division of State Architect. Juan Vasquez, who's the deputy director for special projects.
How many is that?
Q. I likewise haven't been counting, but if those are the ones you recall, that's all we're asking for.
A. Yeah.
Q. And why did you leave the Department of General Services?
A. I left because I found a position in Yolo County that fit my skill sets that was a great opportunity to be working under a really reputable leader for more pay than I was making at the state.
Q. And turning back to March of 2020, what was the Department of General Services' role in procuring personal protective equipment for the state of California?

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A. Our role was to be one of a number of departments that were part of the statewide task force for logistics and commodity movement. We had a number of different roles in that capacity. In terms of PPE, we were purchasing PPE on behalf of the state.
Q. Did the Department of General Services play a role in vetting potential PPE vendors?
A. Yes.
Q. What was that role?
A. Our staff, who were doing procurement along with other staff who were part of the logistics commodity movement team, were doing some vetting to determine whether the vendors met the qualifications necessary to purchase from.
Q. And what were the qualifications that were necessary to purchase from in March 2020?
A. I don't know the specifics, but I do know that our process for vetting was much more expedited than it would normally have been, outside of an emergency.
Q. And who in your office was primarily

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responsible for that work?
A. Our chief procurement officer was largely responsible for that.
Q. And who was that in March 2020?
A. Angela Shell.
Q. And you mentioned that the department's rollout of the vetting process was abbreviated from what the usual vetting procedure would be. What is DG -- outside of the context of the pandemic, how do vetting procedures typically work for procurement at DGS?
A. And I don't know the specifics of the vetting procedure. I just know that the process is much more time-intensive and rigorous.
Q. Was vetting vendors difficult at the start of the COVID-19 pandemic in March 2020?
A. Yes.
Q. And why was that?
A. We were asked to purchase PPE in a very expedited time frame. Typically a procurement that the state conducts takes anywhere from six months to 12 months. So we had days rather than months or a

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year.
Q. Does the department have a policy concerning prepayment for goods or services?
A. We do not. The department did not have an official policy on that.
Q. Did the department have a typical practice?
A. No.
Q. Did the department, outside of an emergency context, did the department prepay for goods or services?
A. No.
Q. Did this change in the context of the pandemic?
A. Yes.
Q. So typically outside of the pandemic or other emergency contexts, would DGS only pay after it had received the goods or services that it had been contracted for?
A. Yes.
Q. So the department would typically have the goods in hand at the time of payment?

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A. I don't know the answer to that because we do procurement vehicles and oftentimes other departments utilize those services, so they would purchase and receive those goods. So we would not be receiving the goods ourselves. But my understanding -- it's my understanding is that payment would happen upon receipt.
Q. Understood. Thank you for the clarification. And just for the record, if I refer to DGS or the department, is that fair to understand that that refers to the Department of General Services?
A. Yes. So I will try to clarify when it's the DGS or procurement vehicle that is being purchased on behalf of another state department.
Q. Thank you. And I will try to do the same. And if at any point it's unclear which department we are referring to, please just let me know.
When a vendor does seek advance payment in an emergency context, does DGS rely on the vendor's representations regarding delivery?
A. I don't know the specifics of that.

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Again, advance payment is not something that we do typically. Even under emergency circumstances, we typically do not do advance payments.
Q. Were the advance payments that the department was considering in March 2020 the first time that you had considered prepaying for goods or services?
MS. PORTER: Objection. Will counsel please clarify who "you" is in the question?
BY MS. FORSTEIN:
Q. Sure. You, Director Kim.
A. Could you repeat the question, please?
Q. Sure. In your experience, was March 2020 the first time when you personally at the department had to consider prepaying for goods or services?
A. Yes.
Q. And in this context in which you were considering prepaying for goods or services, were you relying on the vendor's description of when those goods would be delivered?
MS. PORTER: Objection. Vague as to "you."

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BY MS. FORSTEIN:
Q. Sure. Mr. Kim, when you personally were considering this in March of 2020, would you have relied on the representations of a vendor as to when goods would be delivered?
MS. PORTER: Objection. Assumes facts not in evidence.
BY MS. FORSTEIN:
Q. Sure. Mr. Kim, you can answer the question.
A. I would rely on staff.
Q. And which staff would you have relied on?
A. The LCM team, so whoever was doing that vetting. I'm not going to be talking to each individual, but if it comes to me, I'm presuming that that's been vetted.
Q. Sure. And is that the team that you mentioned that was led by Angela Shell?
A. Yes.
Q. And you mentioned that DGS worked with other agencies in this task force. Which other agencies did DGS work with?

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A. Within our task force, we worked largely with Cal OES, but also EMSA and Cal Fire and public health.
Q. And did you work with the state controller's office at all?
A. On the procurement?
Q. Yes.
A. Generally, we didn't work with them, to my knowledge, on procurement.
Q. And same question with respect to the state treasurer's office. Did you work with them at all on procurement?
A. Again, we don't -- can you clarify what you mean by procurement?
Q. Sure. The contracting for goods and services.
A. No, my team did not generally work with the state controller or the treasurer's office on procurements.
Q. Sure. Changing topics slightly, do you recall when you first heard about Blue Flame Medical?
A. Can you clarify that? What do you mean by

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recall?
Q. Sure.
A. When I recall?
Q. Yes.
A. Yes.
Q. I apologize if the question was unclear. When was that that you first heard of Blue Flame Medical?
A. In late March.
Q. Do you recall how you heard about Blue Flame Medical?
A. Yes.
Q. How did you hear about them?
A. I received just a slip saying that this is a potential vendor to consider, one of many slips and referrals I received throughout the course of that period.
Just to give you some context, we were receiving tens, hundreds of requests or tips from people on vendors who might have PPE.
Q. And just for my understanding, what do you mean by a slip?

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A. Oh, just a piece of paper indicating a vendor.
Q. Is that a particular form that you would receive or more just a note?
A. Just a note.
Q. Do you recall who you received a slip from about Blue Flame Medical?
A. Yes.
Q. Who was that?
A. Ms. Matosantos.
Q. And where does she work?
A. She works for the state. The governor's office.
Q. And does the governor's office typically refer vendors or potential vendors to DGS?
A. There was nothing typical about the situation. So at that time, when we were receiving tips from people, we were getting them from the governor's office and from others throughout the state and beyond. So in that context, it was typical. Outside of the context of the pandemic, it's not typical.

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Q. And you mentioned that at the time, you were receiving hundreds of tips about potential vendors. What did you do upon receipt of a tip?
A. I would give them to my staff.
Q. And what would they do?
A. They would contact the vendors.
Q. Would they go through any sort of vetting process?
A. They did go through some vetting. I'm not sure of the particulars. But as I mentioned before, it was a much more expedited process.
Q. And was the goal upon -- once you received a tip -- I'm just trying to get an understanding of what the department's process was at the time upon receiving a potential opportunity to contact a vendor. Did your staff then ask about availability and price and that sort of thing?
A. Yes.
Q. What information was the department seeking to gather from potential vendors at that time?
A. Generally speaking, we wanted to know the

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a laptop or a tablet?
A. I'm on a Surface.
Q. Okay. We'll try to use -- and are you now able to see this document again?
A. Yes.
Q. Great. So we would like to mark this document as -- this is BFM_CA_DGS6515.
A. 6516.
Q. 6516. Thank you for the correction. I'm just trying to confirm exactly which exhibit number this should be.
MS. FORSTEIN: I believe this will be Defendants' Exhibit 108.
(Defendants' Exhibit No. 108 was identified for the record.)
BY MS. FORSTEIN:
Q. Mr. Kim, do you recognize this document?
A. I don't, but it looks like I wrote it.
Q. Sure. And can I ask, do you know what this is?
A. Writing notes about what occurred.
Q. And it looks like this may be an email or

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a draft email. Do you know whether this is -- what format this document is in?
A. No, but it looks like an email.
Q. And if you look at the date on the top, could you read that date?
A. 10/26/2020.
Q. Do you have any recollection why you would have recorded notes about Blue Flame Medical in October of 2020?
MS. PORTER: Objection. Assumes facts not in evidence.
BY MS. FORSTEIN:
Q. Mr. Kim, if you happen to know, you can answer.
A. I was probably trying to recall what happened.
Q. Sure. And I have a number of questions about this document and we'll be sort of going through it chronologically. If you'd like to take a look at it now, I'm happy to have you read through the entire thing now and we can ask questions about it, or you can just go paragraph by paragraph. But

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just let me know if you need more time to read it or would like to see more of the document.
A. Could you scroll so I can read that quickly and then we can go paragraph by paragraph-like?
Q. Sure. That's great. Just let me know when you're ready for me to scroll a bit further.
MS. PORTER: Ms. Forstein, while we're -- while Mr. Kim is taking a moment to review this, will you please put the exhibit into the chat? A link into the chat?
MS. FORSTEIN: Sure.
THE WITNESS: If you could scroll, please. Okay.
MS. FORSTEIN: Ms. Porter, are you able to open the document?
MS. PORTER: I'm trying right now.
MS. FORSTEIN: Sure.
BY MS. FORSTEIN:
Q. And Mr. Kim, if you are able to view the chat function, I know it's been unavailable for some witnesses based on their technology, but if you're

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able to view the chat function on Zoom and can open the document there, then that also works as well.
A. Trying it now.
Q. Were you able to open the document --
A. Yes.
Q. -- through the chat function? Great. And just let me know when you're ready to begin discussing.
A. Okay. Okay.
Q. Did reading through these notes refresh your recollection as to whether or not you wrote these down in October of 2020?
A. Yes.
Q. And if I could direct you first to the very top paragraph where you say, "I received a referral for someone who might be able to help us procure critical medical supplies."
Is this the slip that you referred to earlier?
A. Yes.
Q. And you received this slip from Ms. Matosantos in the governor's office?

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A. Yes.
Q. Did Ms. Matosantos tell you anything at that point about Blue Flame Medical?
A. No. Well, can you clarify? What do you mean by --
Q. Sure. I suppose an easier question might be what did the referral say?
A. It was to contact this person. He might have N95 masks.
Q. Did it say anything about the potential quantity of N95s?
A. No.
Q. Did Ms. Matosantos mention anything about Blue Flame Medical having access to masks available in the Port of Long Beach?
A. No.
Q. Did the initial referral from Ms. Matosantos tell you that Blue Flame Medical had represented that it had made deliveries to other states?
A. I don't recall, but no. My -- my recollection is that it was literally a phone number

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of a contact.
Q. And going back to the top paragraph in Defendants' Exhibit 108, you then say that you shared this information with Angela Shell to follow up. Is this correct?
A. Yes.
Q. And do you know what Ms. Shell did subsequently?
MS. PORTER: Objection. Vague.
BY MS. FORSTEIN:
Q. Sure. I can -- let me rephrase this.
How did you pass this along or how did you share this information with Ms. Shell?
A. I gave her the slip of paper.
Q. Did you tell her what to do with the slip of paper?
A. I don't recall the specifics other than what I was doing with most referrals is just sending them to her, saying here's another referral. This one is for N95s.
Q. Great. And you say then in your notes that Ms. Shell later asked Michael Wong to contact

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Mr. Thomas that day. Did this slip include mention of John Thomas?
A. I don't recall.
Q. And who is Michael Wong?
A. He is one of the staff who is on the logistics commodity movement task force and is a DGS buyer.
Q. Do you know why Michelle asked Mr. Wong to follow up with Mr. Thomas?
MS. PORTER: Objection. Calls for speculation.
BY MS. FORSTEIN:
Q. Mr. Kim, I'm just asking for your understanding, if you have one.
A. Michael Wong was one of our buyers. So he was one of the people who would be contacting vendors that had PPE.
Q. Sure. If I can direct you to the second paragraph in the document that we've been looking at, the first sentence begins, "Mr. Thomas identified himself as a strategic sourcer with direct access to manufacturers in China."

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Do you recall learning this information?
A. What do you mean by that, that I recall that that's what he represented himself as?
Q. Sure. How -- did Mr. Thomas have a conversation with Mr. Wong?
A. I don't know.
Q. How did you learn this information about Mr. Thomas?
A. I talked to him at one point, but I also talked to Mr. Wong.
Q. When did -- do you recall, when did you talk to Mr. Wong?
A. Probably sometime after I gave Angela the slip.
Q. And when Mr. Thomas identified himself as a sourcer with direct access to manufacturers in China, did he identify any particular manufacturers?
A. He did.
Q. Who did he identify?
A. I don't recall the person, but he mentioned his neighbor, Henry something, who manufactured or owned some plants in China.

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Q. And continuing on in that same paragraph, in the document that we've been looking at, in the third sentence you say, "He offered to sell 100M N95 masks at a low cost (relative to the current market rate) and have the items ship quickly to California."

First, do you understand 100M to refer to 100 million?

A. Yes.

Q. And do you recall Mr. Thomas making this offer?

A. Yes.

Q. You say that he offered to sell the 100 million N95 masks at a low cost relative to the current market rate. Do you recall what the current market rate was in March of 2020?

A. Let's put it this way. We were getting price ranges up to $12 a mask. I think prior to that, prior to the pandemic, they were as cheap as 63 cents a mask. But at the ranges that we were getting from most folks who had quantities were, if I recall, somewhere around 6 to $8.

Q. And then the next sentence goes on to say,

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"As our focus was to get N95s as quickly as possible, and the price was reasonable, our state procurement staff were very interested in Mr. Thomas' offer."

Is this accurate?

A. Yes.

Q. Was getting masks as quickly as possible a top priority for California?

A. Yes.

Q. And why was that?

A. We wanted to save lives.

Q. Did Mr. Thomas say he quickly he could have the items delivered to California?

A. Yes. I don't recall the specifics, but he was talking about days or weeks.

Q. And was the low cost relative to the current market rate also a significant factor for DGS in looking at vendors?

A. Less significant than when we could receive them.

Q. Do you recall at this point if Mr. Thomas offered a specific price per mask?

A. Yes.

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Q. Do you recall what this was?

A. No.

Q. And do you recall if he identified a particular brand of N95 mask?

A. No. I do recall that he said that they were NIOSH certified.

Q. Understood. Was NIOSH certification a requirement for California to purchase N95 masks at that point?

A. I don't recall if they were at that point. But, again, this is speculation. I believe they were. I know they were definitely in April and I -- that was so early, I'm not sure.

Q. And moving down one paragraph to the third paragraph in this document, you note that DGS did not approve advance payments outside of an emergency order. Is this what we were discussing earlier about DGS typically not prepaying for goods?

A. Yes.

Q. And then moving one paragraph down from that, the start of the fourth paragraph, you say, "Unknown to me at the time was Mr. Thomas' request

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for 75 percent advance payment."

Do you recall when you first learned that Mr. Thomas was seeking advance payment?

A. No.

Q. Was DGS prioritizing vendors that did not require advance payment?

A. In what context? Let me -- again, just to -- we wanted to get goods as soon as possible. The ideal circumstance would be to get NIOSH certified N95s as soon as possible for the lowest price possible. Beggars can't be choosers, so we were looking at other -- trying to weigh risk versus reward.

Q. Understood. And I appreciate the background on that as well. You note that, "Mr. Thomas provided information that made our staff feel he was a credible buyer."

Do you see that sentence?

A. Yes.

Q. Is this correct?

A. What is correct?

Q. Sure. Do you recall that Mr. Thomas

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provided information that made the staff feel he was a credible buyer?

A. I recall my staff saying that he represented himself as that.

Q. And in this context, did your staff include Ms. Shell?

A. Michelle who?

Q. Angela Shell.

A. Oh, Angela Shell.

Q. Sorry, yes.

A. Yes.

Q. Did the staff also include Mr. Wong?

A. Yes. But again, I'm not sure who told me what about Mr. Thomas and his firm. But my understanding at the time -- and this could have been from -- directly from Mr. Thomas -- was that he was an American-based company.

Q. Do you recall any other information that made the staff feel that he was a credible buyer?

A. I believe that he was -- again, this is -- I don't want to speculate, but my recollection was, compared to a number of other vendors, he checked out

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better because he was American, living and residing in California. He had all of his -- whatever, their articles or incorporation or such, to our knowledge. He didn't have any dings, to our knowledge. So that checked out, compared to other vendors that were selling things that had nothing to do with medical supplies or claiming that they had contacts in China or were foreign firms dealing with.

Q. Did -- and again, I'm only asking for your recollection and I appreciate that you don't want to speculate. As you recall, did Blue Flame Medical have prior experience in the medical supplies industry?

A. I don't know.

Q. And did the department eventually decide to place an order with Blue Flame Medical?

A. Our task force did, yes.

Q. And who made that decision?

A. It was a collective decision within the administration.

Q. Who within administration had the authority to sign off on that sort of decision? Was

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it the task force as a whole?

A. The task force alone could not make a decision like this for advance payment.

Q. Sure. And I'm just trying to understand sort of the process as to how the state at the time was signing off on procurement orders. Could you just walk me through that briefly?

How would you sort of -- once, you know, DGS thinks that it has a vendor that it might want to contract with, what are the next steps once you decided you might want to move forward?

A. So typically -- well, not typically. Even under the emergency, if we were going to make an order, the staff would make the order, if there was no advance payment, and they could go ahead and proceed.

If there was an advance payment, staff would try to negotiate that down. If it was -- and then advance payments were -- we were informed at the task force level. That would be myself, Angela Shell and some of the Cal OES staff. And if it would -- and then we would see whether or not that was

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something we could -- we would feel comfortable doing.

If it was a large number, we would raise that up the flagpole. We formalized that procedure in April. So we came up with an advance payment process in April. But prior to then, it was more informal.

Q. And when you say -- thinking about the March 2020 time frame, when you say that you would run it up the flagpole, who would that be run up to?

A. We would discuss this with the Cal OES director and also bring it to the attention of the secretary of GovOps.

Q. And who was the secretary of GovOps at that time?

A. Yolanda Richardson.

Q. And do you recall what day the department decided -- or not the department -- but this process decided to place an order with Blue Flame Medical?

A. I don't recall the specific date.

(Defendants' Exhibit No. 43 referenced.)

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A. I don't recall.
Q. And what did Mr. Thomas tell you about this manufacturer, Henry's, experience?
A. I don't recall the specifics, but that he had the masks available. And so he mentioned, even after the 100 million order, additional masks we could order that were at a higher quality and that were 3M masks, I believe. 3M gold.
Q. Sorry?
A. Some 3M gold. I forgot, but there was some like -- and again, I wasn't a specialist in PPE at the time, but I was -- I recall him saying something about 3M gold. That's about all I recall.
Q. But he indicated that above and beyond the 100 million masks that he could provide to California quickly, that they may be able to provide additional masks at a highly caliber shortly thereafter?
MR. KETCHAM-COLWILL: Objection to form.
THE WITNESS: Yes, what I recall.
BY MS. FORSTEIN:
Q. Did you and Mr. Thomas discuss the schedule for delivery?

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A. Yes.
Q. What did Mr. Thomas tell you?
A. So I wanted to get a sense of whether he was going to supply this quickly. So I asked him for a delivery schedule that he would send us. So I believe he provided that and he also indicated that he could, as a measure of goodwill and good faith, bring a private jet and bring over some number of masks immediately.
Q. Did you discuss what the outside date would be by which time California could expect to have all 100 million masks?
A. I don't recall, but I do recall that our conversation or the discussions that staff had had was we were talking about days, maybe a week where we would get the order, not months.
Q. And you said that Mr. -- you asked Mr. Thomas for a delivery schedule?
A. Yes.
Q. Did I hear that correctly?
Do you recall if you ever received a delivery schedule.

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A. I believe he sent something like that to me via text.
Q. And based on your discussion with Mr. Thomas, did you expect the delivery schedule that he sent you to reflect information that Blue Flame Medical had received from its suppliers?
A. I reserved that to the staff to do that review. My goal was to get something that would be passed on to staff.
Q. Did Mr. Thomas tell you that California would have the right to cancel a shipment if it didn't arrive on time?
A. I don't recall the specifics, but there were certain assurances I recall that he made to give me a greater sense of comfort.
Q. Do you recall what any of those assurances were?
A. Well, one was that he would have a jet flown and bring the supplies immediately. I think there was some kind of quality control. If we didn't like the product, we could stop. But again, I'm on the verge of speculation now because it's been a year

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and I don't want to say anything that is inaccurate.
Q. Did you expect the schedule that Mr. Thomas provided you to accurately reflect Blue Flame Medical's delivery capabilities?
A. I asked for a schedule and he provided one. The assumption was that that schedule is what he would uphold and that the staff would review it and that would inform the purchase order.
Q. Did Mr. Thomas tell you that he would provide references to his credibility?
A. I don't recall.
Q. And you mentioned earlier that Mr. Thomas had referred to the California Nurses Association; is that right?
A. Yes.
Q. What did Mr. Thomas say about the CNA?
A. My recollection is that either he sold or was in the process of selling to the CNA.
Q. Did Mr. Thomas tell you that Controller Yee had put him in touch with CNA only the day before on March 24th?
A. No.

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Q. Was there anything else that you recall discussing with Mr. Thomas on this phone call?
A. No. You're going to have to give me some help there.
Q. I'm genuinely just asking if there's anything else that comes to mind that we haven't already touched upon.
A. Not that I recall.
Q. Following this conversation, what was your impression of Blue Flame Medical?
A. My impression, given the circumstances we had where there was expedited vetting, was that, one, he was an American living in California operating with a supplier who could manufacture directly as opposed to some middleman and that we could get the product immediately, and if we didn't like the product, we could either cancel or reduce the order, and that any advance payment would be conducted through an American bank.
Q. And at this point in time, on the evening of March 25th, had Mr. Thomas or anyone else associated with Blue Flame Medical told you that Blue

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Flame Medical had only existed for two days?
A. No.
Q. Had Mr. Thomas or anyone else associated with Blue Flame Medical told you that Blue Flame Medical had only opened its bank account that morning?
A. No.
Q. Had Mr. Thomas or anyone else associated with Blue Flame told you that Blue Flame had not yet delivered any N95 masks to any customers?
A. No.
Q. Had Mr. Thomas or anyone else associated with Blue Flame told you that Mr. Thomas had no experience in medical supply logistics?
A. No.
MR. KETCHAM-COLWILL: Object to form.
BY MS. FORSTEIN:
Q. Had Mr. Thomas or anyone else associated with Blue Flame Medical told you that Mr. Thomas' partner, Mike Gula, had no experience in medical supply logistics?
A. No.

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Q. Had Mr. Thomas or anyone else associated with Blue Flame Medical told you that Blue Flame Medical was not registered to conduct business in the state of California?
A. No.
Q. Had Mr. Thomas or anyone else associated with Blue Flame Medical told you that Blue Flame Medical had no office in the state of California?
MR. KETCHAM-COLWILL: Objection. Misstates testimony.
BY MS. FORSTEIN:
Q. Mr. Kim, you can answer.
A. No.
Q. If Mr. Thomas had told you this information about Blue Flame Medical, would this have been important information to you?
MS. PORTER: Objection. Calls for speculation.
MR. KETCHAM-COLWILL: Objection. Calls for speculation.
BY MS. FORSTEIN:
Q. Mr. Kim, you can answer.

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A. Yes.
Q. Would this information have impacted your impression of Blue Flame Medical as a vendor?
MS. PORTER: Objection. Calls for speculation.
BY MS. FORSTEIN:
Q. Mr. Kim, you can answer.
A. It would have raised alarm bells.
Q. Did you speak with Controller Yee again after this conversation with Mr. Thomas?
A. About what?
Q. About anything on the evening of March 25th.
A. Not that I recall.
Q. If you had known about -- had you had known this additional information about Blue Flame Medical that you said might have set off alarm bells, would you have told this to Controller Yee?
MS. PORTER: Objection. Calls for speculation.
THE WITNESS: Controller Yee is not within my chain of command, so she would not have any

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bearing on our decision to purchase or procure through Blue Flame.
BY MS. FORSTEIN:
Q. Understood. I'm asking about Controller Yee because Mr. Chivaro, representing the SCO's office, testified that you spoke with Controller Yee twice on the evening of March 25th, once before and once after you spoke with Mr. Thomas.
Understanding that she's not part of your department, I was simply trying to understand what you may or may not have conveyed to her if you had additional information at the time.
A. I don't recall.
Q. I'm going to put two additional documents into the chat function. So this is BFM_CA_DGS 5363, which I believe will be Defendants' Exhibit 112 and BFM 000200134, which will be Defendants' Exhibit 113.
(Defendants' Exhibit Nos. 112 and 113 were identified for the record.)
BY MS. FORSTEIN:
Q. And if you could open both of these documents.

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A. Yes.
Q. So the first one, Defendants' Exhibit 112, it looks like a series of screenshots of text messages.
A. Yes.
Q. And Defendants' Exhibit 113 is the same text messages reproduced in a unified text format. So if you could take a look at both documents. And my initial question, do you recognize these documents?
A. Yes.
Q. What are they?
A. The text messages, not the other document that I think someone pulled together. I recognize the DGS 5363, but not the 200134.
Q. Great. And what is DGS 5363?
A. Those are text messages from John Thomas to me.
Q. And if you can just take a minute and compare the two documents that I put up. The unified text chain was produced by Blue Flame Medical. If you could just take a moment and confirm that these

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two documents reflect the same text and aren't missing anything.
A. Okay. Just trying to -- I have to scroll back and forth. Give me a second.
Q. Sure.
A. Yes.
Q. The content appears to be the same?
A. Yes.
Q. Great. Looking at the first text message in the chain, it looks like a text message from John Thomas to you where he says, "My team and I are grinding out that shipping and amount grid for you tonight."
Does that refer to the delivery schedules that you asked Mr. Thomas for on your phone call?
A. I believe so, yes.
Q. And he says, "I will text to you and Michael ASAP." Does that refer to Michael Wong?
A. Yes.
(Plaintiff's Exhibit No. 9 was referenced.)
BY MS. FORSTEIN:

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Q. And I'm going to put one more document into the chat function. This document has previously been marked as Plaintiff's Exhibit 9.
Mr. Kim, if you could take a look at this and, once you've had a chance to review, if you could let me know if you recognize the document.
A. Okay.
Q. Do you recognize these communications?
A. Yes.
Q. And what are they?
A. They're text messages from John Thomas to me.
MS. PORTER: Ms. Forstein, excuse me, just real quick, I should lodge this objection. I notice on this document in the lower left-hand corner, it's marked confidential. Previously, the parties had asked the state employees to execute a protective order, but the state employees have not -- the California state employees have not executed.
So for the record, I mention that this confidentiality designation has no bearing on this witness.