EXHIBIT 16

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. :
- - - - - - - - - - - - - - - - - - X

Remote Deposition

Thursday, March 4, 2021

Deposition via Zoom of RICHARD J. CHIVARO, a 30(b)(6) witness herein, called for examination by

counsel for Defendants/Third-Party Plaintiff 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 9:39 a.m. PST, Thursday, March 4, 2021, and the proceedings being taken down by Stenotype by MARY GRACE CASTLEBERRY, RPR, and transcribed under her direction.

APPEARANCES:

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responding a few days later?
A. Yeah, I wasn't sure. I thought it was a day later or so, but it must have been -- must have been that evening, judging by that statement because I know that -- you can see at 5:34, Mr. Thomas says that "CNA rep calling me shortly."
Q. I see that, yeah. And --
A. So that had happened. So Matosantos must have called the controller sometime after 5:34 that day because -- or it could have been very early on the 21st. It's just all blurred together in my mind right now, but she -- Ana Matosantos did refer him to the CNA rep.
Q. Okay. And --
A. Who was Stephanie Roberson.
Q. Do you know if Ana Matosantos ever had communications with Mr. Thomas himself?
MS. PORTER: Objection. Calls for speculation.
THE WITNESS: I want to say, yes, she did speak with him.
BY MS. ESBROOK:

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Q. Do you know anything -- do you when that occurred or anything more about that communication?
MS. PORTER: Objection. Calls for speculation. Outside the scope of the topics listed in the subpoena.
THE WITNESS: No.
BY MS. ESBROOK:
Q. And you also said, "At some point, Mr. Thomas acknowledged that he spoke with Abby Browning in the governor's office who referred him to emergency manager Bill Simonson," correct?
A. Correct.
Q. And did Mr. Thomas communicate that he spoke with Abby Browning to Ms. Yee?
A. I think that -- I think that what happened was Ana Matosantos told the controller that she put him in touch with the CNA. The controller later confirmed with Mr. Thomas that he was expecting a call from CNA rep shortly. And that's reflected in the 5:34 note. So there was some movement that was going on.
Q. Okay. My question was about how the

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controller's office learned that Mr. Thomas had spoke with Abby Browning.
A. Well, I know the controller had contact with CNA herself, so she could have learned from the CNA rep because they had contacted the controller early on to voice their concerns about the lack of protective equipment while they were on the front line. They were feeling very vulnerable at the time.
So I do know that the controller reached out to CNA and then we found out that Ana Matosantos could put out -- put him in touch with the CNA as well.
Q. And is Abby Browning affiliated with CNA?
A. Yeah. I think so, yes.
MS. PORTER: Ms. Esbrook, if you're about to turn to another entry in the text string, perhaps now is a good time for a break.
MS. ESBROOK: Yes. I am about to, so that sounds good to me. Should we take 10?
MS. PORTER: Sounds good.
MR. MITCHELL: Before we go off the record -- apologies, Mr. Chivaro. Before we go off

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the record, I'd just like to state for the record that to the extent Ms. Porter or any other attorney lodges an objection to a question, we would like to reserve the right to join in that objection. We discussed this before the deposition began, and I believe that everybody indicated that they were okay with that, but I would like to put it on the record now.
MS. PORTER: And I second Mr. Mitchell's statement, that we also join in any objections the other parties make.
MS. ESBROOK: Same here.
THE VIDEOGRAPHER: Okay. Off the record at 10:52.
(Discussion off the record.)
THE VIDEOGRAPHER: We are now back on the record. The time is 10:53 a.m.
THE WITNESS: And I just wanted to take a moment to clarify that Abby Robinson works for the governor, not for CNA.
BY MS. ESBROOK:
Q. And just for further clarification, I

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believe you said Abby Robinson. Do you mean Abby Browning?
A. Abby Browning, yes.
Q. Thank you.
A. She's with the governor's office. So as long as that was clear, I just want to make sure that we're on the same -- same page.
Q. Great. I understand.
MS. ESBROOK: I think we can go off record now.
THE VIDEOGRAPHER: Off the record at 10:53.
(Recess.)
THE VIDEOGRAPHER: We are now back on the record. The time is 11:10 a.m.
BY MS. ESBROOK:
Q. All right. Welcome back, Mr. Chivaro. I'm going to share my screen again and go back to that same Defendant's Exhibit 6 text thread that we were looking at earlier.
Okay. Are you able to see the exhibit, Mr. Chivaro?

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A. Yes, I do.
Q. All right. And I'm going to direct your attention to a text on page 1, this March 20th, 2020 5:40 p.m. text.
A. Yes.
Q. Mr. Thomas says to Mr. Yee --
A. Ms. Yee.
Q. Excuse me, Ms. Yee. "We've almost sold all of this first shipment, but we'll have 100m units every week being delivered to Long Beach."
Do you see that?
A. Yes, I do.
Q. And the M refers to a million there, 100M; is that correct?
A. Yes.
MR. MITCHELL: Object to the form.
BY MS. ESBROOK:
Q. Okay. And so the first half of that, "We've almost sold all of this first shipment," do you understand Mr. Thomas to be referring to the 100 million mask shipment Yee texted about earlier in this chain?

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A. I do.
Q. And that earlier text was, let's see, at 1:17 p.m.; is that correct?
A. That's correct.
Q. So do you understand or did the controller's office understand Mr. Thomas to be representing that he had sold 100 million masks in about four hours?
MR. MITCHELL: Object to the form.
MS. PORTER: Objection.
THE WITNESS: Yes.
BY MS. ESBROOK:
Q. And was that fact important to the controller?
A. Well, only to the point that, as I stated early on, that she was very concerned that California was going to lose out on this deal. So, yes. So the fact that he sold out 100 million masks in such a short period of time did cause her some concern. But he later came back and told her that he could get that much every week, so it was not a -- not a big thing.

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Q. Okay. And was it still Ms. Yee's understanding, at the time the controller's office signed the warrants for Blue Flame, that Blue Flame had sold 100 million masks on March 20th?
MR. MITCHELL: Object to the form.
THE WITNESS: Yes.
BY MS. ESBROOK:
Q. Did Blue Flame ever tell the controller's office otherwise?
A. No.
Q. Would you have wanted to know if that was not incorrect -- if that was not correct information?
A. The fact that he -- that he claimed to have sold 100 million masks to other entities? Yeah, that would have been good to know.
Q. And why would that have been good to know?
A. Because I think that the fact that he was selling so many masks so quickly kind of was putting pressure on the state to get a deal done as soon as possible.
Q. Okay. And then the second half of that 5:40 p.m. text message, Mr. Thomas says, "We'll have

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100m," million, "units every week being delivered to Long Beach."

Do you see that?

A. I do see that. That's consistent with my understanding of the text messages that he sent to the controller.

Q. Okay. And again, it was important for the controller -- was it important for the controller to know that Mr. Thomas had 100 million units every week being delivered to Long Beach?

A. Yes, that was --

MR. MITCHELL: Object to the form.

THE WITNESS: -- that was important.

BY MS. ESBROOK:

Q. Did the controller send Mr. Thomas' information to the governor's office in part based on his representations that he could secure 100 million units of masks every week?

MR. MITCHELL: Object to the form.

THE WITNESS: I do not know whether she sent it to the governor or to -- I know she discussed it with Daniel Kim, who was the director of General

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Services.

BY MS. ESBROOK:

Q. Do you know about what time Ms. Yee spoke with Mr. Kim?

A. No. I believe it was in the --

MS. PORTER: Objection. Vague.

THE WITNESS: It's in the string of emails that she mentions talking to Daniel Kim. I think the -- it was definitely on or about the 24th or 25th.

BY MS. ESBROOK:

Q. And again, at the time that Ms. Yee signed the warrants for Blue Flame, did the controller's office still understand that Mr. Thomas could deliver 100 million units every week to Long Beach?

A. Yes.

MR. MITCHELL: Object to the form. Argumentative.

THE WITNESS: Just for clarification purposes, again, the controller does not verify whether the quantity that's supposed to be available is actually available. That's for the procurement

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officer, who in this case was the Office of Emergency Services, to determine whether or not he actually had the quantity of masks that he claimed to have and can produce it within the time required by the purchase order.

So in that -- the controller was only acting on the fact that she had received representation that he had 100 million masks available and that she was interested in the protection that they afforded to the front-line workers, and that's pretty much it. As to whether he had 100 million masks or 50 million masks or zero masks would not have been up to us to verify.

BY MS. ESBROOK:

Q. Understood. Would the controller, though, have wanted to know if Mr. Thomas did not have access to 100 million masks at the Port of Long Beach?

MR. MITCHELL: Object to the form.

THE WITNESS: Yes, of course.

MS. PORTER: Objection --

THE WITNESS: As stated earlier, that -- she put in a considerable amount of time in trying to

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put Mr. Thomas in connection -- in contact with the correct individuals. She obviously would not have spent a moment longer than necessary had she have known that this was a sham in any way, shape or form.

BY MS. ESBROOK:

Q. Okay. I'm going to move on to the next page on this text thread, March 21st. For the record, this is Bates numbered page BFM200120 and the text at 3 -- no. Sorry. Just give me a moment to find my place.

Okay. This is Bates page BFM200121, March 21st, 3:20 p.m. Mr. Chivaro, can you see this message that starts with, "We are delivering"?

A. I see that.

Q. Okay. And I'll read it. It says -- Mr. Thomas says to Ms. Yee, "We are delivering another 100m units of n95 masks and 500k COVID-19 testing kits to Florida. Just came in."

Do you see that?

A. I do see that.

Q. And again, 100M is 100 million; is that correct?

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A. That's my understanding.
Q. And do you understand Mr. Thomas to be saying here that Blue Flame was delivering 100 million N95 masks to customers in Florida?
A. Yes.
MS. PORTER: Objection. The document speaks for itself.
BY MS. ESBROOK:
Q. And again, was knowledge of Blue Flame's successful delivery of masks to other customers important for Ms. Yee?
A. It was --
MR. MITCHELL: Objection to the form.
THE WITNESS: -- important, yes.
MS. PORTER: Objection.
THE WITNESS: It goes to the credibility of the vendor.
BY MS. ESBROOK:
Q. And at the time that the controller's office signed the warrants for Blue Flame, it still understood that Blue Flame had delivered 100 million N95 masks to Florida?

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MR. MITCHELL: Object to the form.
THE WITNESS: Yes, at that time we were --
MS. PORTER: Objection.
THE WITNESS: At the time the warrant was drawn, we were not concerned with how many they delivered to other states, only whether they could provide the 100 million to California.
BY MS. ESBROOK:
Q. Okay. And did Blue Flame's ability to provide masks to other states influence whether Blue Flame could provide masks to California?
MR. MITCHELL: Object to the form.
MS. PORTER: Objection. Lack of foundation.
THE WITNESS: It would have mattered to our procurement people, yes. Not necessarily to the controller.
BY MS. ESBROOK:
Q. And did Blue Flame ever say that it did not deliver 100 million N95 masks to Florida?
MR. MITCHELL: Object to the form.
MS. PORTER: Objection. Vague.

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THE WITNESS: Never.
BY MS. ESBROOK:
Q. In her conversations with the governor's office, did Ms. Yee convey that Blue Flame was able to source 100 million masks?
MR. MITCHELL: Object to the form.
THE WITNESS: Yes.
BY MS. ESBROOK:
Q. And did she convey that Blue Flame had access to 100 million masks weekly?
A. Yes.
MR. MITCHELL: Object -- pardon me, Mr. Chivaro. Object to the form.
BY MS. ESBROOK:
Q. And did Ms. Yee convey to the governor's office that Blue Flame had already delivered masks to other customers?
MR. MITCHELL: Object to the form.
THE WITNESS: I don't know whether she did or not. As I said earlier, that information would have been important to our procurement people in OES for purposes of the cost, because I think that,

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obviously, if they perceived that masks were going out the door to other states, it would put pressure on the supply and demand and impact the cost of the masks that were being paid for by the state of California.
So it's definitely important to know whether they were selling masks to other states or not. And again, the controller was just going on the representations made to her by Mr. Thomas.
BY MS. ESBROOK:
Q. Okay. I'm going to keep moving forward in this text chain to the page Bates stamped BFM200124, a text sent March 23rd at 1:54 p.m. from Ms. Yee to Mr. Thomas in which Ms. Yee says, "Prepayment process in place. Out of curiosity, where did your stock on Friday go in FL? Hospitals? State of FL? Thank you, John."
Do you see that?
A. Yes.
Q. And Ms. Yee's question refers to the 100 million masks and COVID testing kits sent to Florida that we were just discussing, correct?

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A. That's correct.
Q. And Mr. Thomas replies at 4:13 p.m. and he says, "Hi Betty. Sorry for the delay. They went to hospitals and a private buyer. I can't go into any more detail as I have NDAs with all of them."
Do you see that?
A. I do.
Q. And NDAs there refers to nondisclosure agreements; is that -- is that your understanding?
A. That's my understanding, correct.
Q. Okay. And Mr. Thomas is saying he can't give additional names of the hospital and the private buyer in Florida because he has nondisclosure agreements with them?
MS. PORTER: Objection.
THE WITNESS: That's correct.
MS. PORTER: The document speaks for itself.
THE WITNESS: That's correct.
BY MS. ESBROOK:
Q. Would -- let me rephrase.
Did Blue Flame ever inform the

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controller's office that it did not sell masks to a hospital or a private buyer in Florida?
MS. PORTER: Objection. Vague as to time.
THE WITNESS: No.
BY MS. ESBROOK:
Q. Would the controller's office have wanted to learn if Blue Flame had not sold any masks in Florida?
MR. MITCHELL: Object to the form.
THE WITNESS: Yes. As I said, it would definitely impact the price that was being paid.
BY MS. ESBROOK:
Q. Okay. I'm going to have a similar set of questions for you on one more text. I just need to find it so give me a moment. Okay. I'm just going to jump back in the chain. Sorry for the confusion.
We're on page Bates stamped BFM200121, so March 21st, 7:03 p.m., and Mr. Thomas says to Ms. Yee, "Thanks Betty. I'm about to unlock a bunch of" -- I believe it's "US-based manufacturers, too, so if we need made in America goods too."
Do you see that text?

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A. I do, yes.
Q. And do you understand the US to be referring to United States-based?
A. Yes.
Q. Okay. And is Mr. Thomas here telling Ms. Yee that he can supply her with masks that are made in America?
MS. PORTER: Objection. The document --
MR. MITCHELL: Object to form.
MS. PORTER: -- speaks for itself.
THE WITNESS: Yes.
BY MS. ESBROOK:
Q. And was that fact important to the controller's office?
A. The only thing that was important to the controller's office was whether or not he could perform and provide what he promised to provide, the 100 million 3M masks.
Q. Did Mr. Thomas ever tell the controller's office that he did not have suppliers making masks in America?
A. No.

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MS. PORTER: Objection. Vague as to time.
BY MS. ESBROOK:
Q. And would you have wanted to know if he did not have suppliers making masks in the United States?
MR. MITCHELL: Object to the form.
THE WITNESS: It didn't matter to the controller.
THE REPORTER: I'm sorry, did you say "did not matter"?
THE WITNESS: Correct.
THE VIDEOGRAPHER: Also, Mr. Chivaro, can you adjust your webcam down, please?
THE WITNESS: Am I losing you? How about that?
THE VIDEOGRAPHER: Yeah. That's great. Thank you.
THE WITNESS: Okay.
BY MS. ESBROOK:
Q. I think we talked earlier, you said you recalled a few calls that Mr. Thomas had with Ms. Yee during the course of this March 20th to March 27th

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A. No.
Q. Is that information something you would have liked to know?
MR. MITCHELL: Object to the form.
THE WITNESS: Yeah. I think early on it would have been important to know that, as I said, questions surfaced both in the governor's office early on by Ms. Matosantos as to whether this guy was legit. So this was something that we would have appreciated knowing in advance, yes.
BY MS. ESBROOK:
Q. And what questions did Ms. Matosantos have about this transaction?
MS. PORTER: Objection. Vague.
BY MS. ESBROOK:
Q. Let me rephrase that.
A. She was -- okay.
Q. Sorry. I think you know where I'm going. But you just said, I believe, that questions surfaced both in the governor's office early on by Ms. Matosantos as to whether this guy was legit.
What were you referring to?

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A. Ms. Matosantos' conversation with the controller over that, she asked, as did Daniel Kim, how well the controller knew Mr. Thomas and whether or not this was a legit offer. The controller only forwarded the information that she had received from Mr. Thompson -- Thomas and she told Ana Matosantos like she told Daniel Kim, vet -- vet him. Go ahead and find out whether -- whether he's doing what he's supposed to be doing or not. That's not something that I'm doing.
The controller was merely trying to ensure that we had the face masks that we needed and other PPE to protect the nurses and the doctors that were handling these COVID cases. Her job was not to vet Mr. Thomas in any way, shape or form. Her job was to communicate to the people that had that responsibility for procurement to get them the information and let them act on it.
Q. The conversation with Ms. Matosantos that you just referred to, when did that take place?
A. It was when the -- she finally got back to the controller on the 23rd, I think it was, whenever

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that was.
Q. And did Ms. Yee later come to learn whether or not Ms. Matosantos had vetted Mr. Thomas to her satisfaction?
MR. MITCHELL: Object to the form.
THE WITNESS: I don't think she did. I don't know the answer to that question.
BY MS. ESBROOK:
Q. Did Ms. Yee share with Ms. Matosantos how she came to learn about Blue Flame?
MS. PORTER: Objection. Asked and answered.
THE WITNESS: Yes, she did.
BY MS. ESBROOK:
Q. Did Ms. Yee say that her fundraiser had told her about Blue Flame?
A. Well, again, the fundraiser -- let's be very clear. The fundraiser just passed on the information to the controller that she had received in a contact that was made by John Thomas, who was reaching out to the controller to let her know that he had these masks that he was going to make

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available to California. That's the only information that was passed along to the controller other than Mr. Thomas' contact information.
Q. Okay. Then would I be correct in characterizing that Ms. Yee did not mention to Ms. Matosantos that her fundraiser told her about John Thomas?
MR. MITCHELL: Object to the form.
MS. PORTER: Asked and answered.
THE WITNESS: Again, I think that she told Ana Matosantos that her fundraiser had received the call that was directed to the controller, wanted to -- Mr. Thomas wanted to speak to the controller and she told her that -- told Ana Matosantos that here's his contact information, somebody needs to contact him and find out what the deal is here and whether or not this is something that would be useful for California.
And Ana Matosantos ultimately referred Mr. Thompson to -- Mr. Thomas to both the California Nursing Association and to Mr. Simonson to work out some arrangement. Presumably, in that process, they

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would get to the bottom of whether or not Mr. Thomas was a legitimate operator.
BY MS. ESBROOK:
Q. Okay. And just to be clear, I think earlier we were talking about an Abby Browning putting Blue Flame in touch with Bill Simonson.
A. Yes.
Q. Are you now saying that it was Ana Matosantos that --
A. No, it was Ana Matosantos that referred it to her for handling. She's the one that actually put them in contact.
Q. Thank you.
MR. MITCHELL: For clarity of the record, excuse me, is the testimony that Abby Browning is the one that put Blue Flame in contact? I'm just confused by who the "she" is in that answer.
THE WITNESS: It's -- it is Amy, yes, that put Blue Flame in contact with Bill Simonson.
MR. MITCHELL: Thank you.
BY MS. ESBROOK:
Q. Did Mr. Thomas tell Ms. Yee about his

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experience in the political consulting business?
MR. MITCHELL: Objection to form.
THE WITNESS: No. As I said, she knew him by name. She knew him to be a lobbyist of some sort. That's all she really knew about him.
BY MS. ESBROOK:
Q. Did Mr. Thomas, in discussions with the controller's office, discuss his partner, Mike Gula?
A. No, he never discussed the partner with the controller.
Q. Did Mr. Thomas ever disclose to the state controller's office his experience in procurement?
A. No.
Q. Did Mr. Thomas ever disclose to the controller whether Blue Flame owned N95 inventory?
MR. MITCHELL: Object to the form.
THE WITNESS: Yeah, I think that was implied in their conversation when he told her that he had 100 million masks available at the Port of Long Beach.
BY MS. ESBROOK:
Q. And did Mr. Thomas ever communicate to the

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controller's office that Blue Flame, by March 26th, had not delivered any N95 masks to any customers?
MR. MITCHELL: Object to the form.
THE WITNESS: That was not --
MS. PORTER: Objection.
THE WITNESS: -- not communicated.
BY MS. ESBROOK:
Q. Would that have been something the controller's office wanted to know?
MR. MITCHELL: Object to the form.
THE WITNESS: Yes. As I indicated early on, if the controller had thought that he was not legit, she would not have spent a moment further on this matter. She just would have thanked him for his call and hung up on him.
But I think the fact that she thought that he was legitimate and actually had 100 million masks available, that that was worth pursuing from her perspective.
BY MS. ESBROOK:
Q. Did Mr. Thomas, in communications with the controller's office, disclose that Blue Flame was

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incorporated on March 23rd?
A. No.
Q. Did Mr. Thomas, in discussions with the controller's office, disclose that Blue Flame did not have a bank account until March 25th?
MR. MITCHELL: Object to the form.
THE WITNESS: No.
BY MS. ESBROOK:
Q. Did Mr. Thomas, in communications with the controller's office, disclose that Blue Flame did not have any supplier agreements in place until March 25th?
MR. MITCHELL: Object to the form.
THE WITNESS: No.
BY MS. ESBROOK:
Q. Are those facts that the state controller's office would expect a vendor to disclose?
MS. PORTER: Objection. Foundation.
THE WITNESS: Again, she was not handling the procurement. That would have been something that would have been important to OES, yes.

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BY MS. ESBROOK:
Q. Would those facts have been important to the controller's office to learn?
MR. MITCHELL: Object to the form.
THE WITNESS: I think it would have been important to go to his legitimacy, yes.
BY MS. ESBROOK:
Q. Did Mr. Thomas ever tell the controller's office where Blue Flame's offices were located?
A. I think he said he was in California, yes.
Q. Did Mr. Thomas tell the controller's office that Blue Flame was registered to do business in California?
MR. MITCHELL: Object to the form.
THE WITNESS: I think that it was based on implication that if he was located in California, that he was licensed to do business here.
BY MS. ESBROOK:
Q. And again, were those important pieces of information for the controller?
MR. MITCHELL: Object to the form.
MS. PORTER: Asked and answered.

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THE WITNESS: Yes.
BY MS. ESBROOK:
Q. Does a vendor need to be registered to do business in California to contract with the state?
MS. PORTER: Objection.
THE WITNESS: No.
MS. PORTER: Lack of foundation. Exceeds the scope.
THE WITNESS: No.
BY MS. ESBROOK:
Q. Are there advantages for a business that is a resident of California if it contracts with the state?
A. No.
MS. PORTER: Objection to form.
BY MS. ESBROOK:
Q. All else equal -- excuse me. All else equal, would the controller's office prefer to do business with a California resident over a nonresident?
A. It depends on the context.
MS. PORTER: Objection to the form.

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Exceeds the scope.
THE WITNESS: Yes, in this situation, it didn't matter where she was -- where the company was located. What was important was getting the PPE here in California where it was needed.
BY MS. ESBROOK:
Q. Okay. I'm about to pull up another exhibit. I don't know if, Mr. Chivaro, you'd like to take a break before we go on to the next exhibit.
MS. PORTER: Is this a good time to break for lunch?
MS. ESBROOK: Oh, didn't even think about that.
THE WITNESS: Yeah, it'd be good.
MS. ESBROOK: Okay. How much time would you need for lunch?
MS. PORTER: Forty-five minutes.
THE WITNESS: I need about, yeah, 30 minutes, 45 minutes. That's fine.
MS. ESBROOK: Okay. I think that works. So we'll be back on the record at 4:15 Eastern, 1:15 Pacific.

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THE WITNESS: Okay. Thank you.
MS. PORTER: Very good.
THE VIDEOGRAPHER: Off the record at 12:30.
(Whereupon, at 12:30 p.m. PST, the deposition in the above-entitled matter was recessed, to reconvene at 1:15 p.m. PST p.m., this same day.)

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AFTERNOON SESSION
(1:15 p.m. PST)
THE VIDEOGRAPHER: We are now back on the record. The time is 1:15 p.m.
EXAMINATION BY COUNSEL FOR DEFENDANT/THIRD-PARTY PLAINTIFF (RESUMED)
BY MS. ESBROOK:
Q. All right. Welcome back, Mr. Chivaro.
A. Thank you.
Q. So before we were talking a little bit about March 25th and how California missed the wire cutoff for the day and had to send the wire March 26th.
Do you recall that?
A. I do.
Q. So I just have a few more questions about the events of March 25th. And I'm going to pull up the -- Plaintiff's Exhibit 61 that we have been looking at earlier.
A. Okay.
Q. Okay. Hopefully you can see that on my screen.

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A. I see it.
Q. All right. I'm just going to read a portion of a message spanning pages SCO0139 to 0140 from Allan Watson in the controller's office to many other individuals in the controller's office and other agency offices.
And Mr. Watson writes, "Unfortunately, we missed the GSL pickup for overnight delivery. Can we prepare warrants for wire transfer for both vendors tomorrow morning? Also, we still need funding approval prior to release, which we expect will come from SCO state accounting and reporting division per our usual process."
Do you see that?
A. Yes.
Q. Okay. And both vendors here is Blue Flame and the other vendor that we were talking about earlier, right?
A. Right.
Q. And can you explain what funding approval prior to release means?
A. As I indicated at the very beginning of this deposition, in kind of giving you a nutshell view as to how the process works, there has to be some funding available from which the payment can be made and that comes from the claim schedule. The claim schedule identifies an appropriation that's available for the account for the controller to make payment from, and that information would be put on the claim schedule by OES or General Services, whoever procured the services.

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And on there, that would go to our accounting office who works with the department of finance. The department of finance issues an executive order to our state accounting and reporting division telling them where to move the funds from, and that's what that's in reference to.
Apparently, finance had not done that at the time that the warrant was drawn.
Q. Okay. Thank you. And this email is sent at 5:11 p.m.?
A. Yes.
Q. And so the process for funding approval was to occur the evening of March 25th; is that correct?
A. Yes.
Q. And I think we already talked about that evening, the controller's office, Ms. Yee, speaks with Mr. Kim from Department of General Services twice as well; is that correct?
A. That's correct.
Q. All right. And apart from those occurrences, did the controller's office have any additional communications about the Blue Flame wire the evening of March 25th?
A. No, other than the expectation was going to be that the funds would be electronically transferred in the morning of the 26th.
Q. Okay. And I think you also spoke about looking at the purchase order as part of the review process; is that right?
A. Yes.
Q. Okay. I'm going to pull up the purchase order here. It's been previously marked as Plaintiff's Exhibit 109 and I'll drop it into the chat as well.

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