EXHIBIT 74

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. : CONFIDENTIAL
_____ :
CHAIN BRIDGE BANK, N.A., :
Third-Party Plaintiff, :
v. :
JPMORGAN CHASE BANK, N.A., :
Third-Party Defendant. :

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

Remote Deposition

Tuesday, April 6, 2021

Videotape deposition via Zoom of SEAN O'MALLEY, a 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 9:32 a.m. EDT, Tuesday, April 6, 2021, and the proceedings being taken down by Stenotype by MARY GRACE CASTLEBERRY, RPR, and transcribed under her direction.

APPEARANCES:

On behalf of the Plaintiff Blue Flame Medical LLC and Mr. O'Malley:

JASON MITCHELL, ESQ.
ANGIE GARCIA, ESQ.
Schulte Roth & Zabel
901 15th Street, N.W., Suite 800
Washington, D.C. 20005
(202) 729-7476
jason.mitchell@srz.com
angela.garcia@srz.com

APPEARANCES (Continued):

On behalf of the Defendants/Third-Party Plaintiff Chain Bridge Bank, N.A.:

MATTHEW M. MADDEN, ESQ.
LESLIE ESBROOK, ESQ.
Robbins Russell Englert, Orseck, Untereiner & Sauber
2000 K Street, N.W., 4th Floor
Washington, D.C. 20006
(202) 775-4500
mmadden@robbinsrussell.com
lesbrook@robbinsrussell.com

APPEARANCES (Continued):

On behalf of the Third-Party Defendant JPMorgan Chase Bank:

ALBINAS PRIZGINTAS, ESQ.
Wilmer Cutler Pickering Hale & Dorr LLP
1875 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
(212) 663-6981
albinas.prizgintas@wilmerhale.com
and
GABRIEL TORRES, ESQ.
JPMorgan Chase
Assistant General Counsel
383 Madison Avenue
New York, New York 10179
(212) 270-6000

ALSO PRESENT:

JASON AQUI, Videographer

Page 90

hey, we're going to have this wire come in, you should tell the bank in advance, did so.
BY MR. MADDEN:
Q. Do you agree with me that, given the expected activity reported by Mr. Gula and reflected in DX-48, that Mr. Gula -- you would have expected Mr. Gula to promptly inform Chain Bridge Bank as soon as he knew that a $450 million wire -- domestic wire transfer was coming into the account; is that fair to say?
MR. MITCHELL: Object to the form.
THE WITNESS: I would expect him to provide advance notice of the wire transfer coming in. Based on the facts I've reviewed, I believe that prior notice was provided being that it was the day before the wire transfer arrived.
BY MR. MADDEN:
Q. And if Mr. Gula knew about the incoming $450 million wire transfer at the time he reported to Chain Bridge Bank the expected activity that's described in Defense Exhibit 48, would that concern you from an anti-money laundering/BSA perspective?

Page 91

MR. MITCHELL: Object to the form.
THE WITNESS: If Mr. Gula had confirmation that the wire transfer was definitely coming from the state of California, that -- you know, that should have been provided when it was an absolute certainty.
BY MR. MADDEN:
Q. But not before that?
A. Well, otherwise it's a prospective transaction. You don't know if it's going to happen. It's potential business. Nothing is confirmed.
Q. Well, what Mr. Gula is reporting that's reflected in Defense Exhibit 48 is expected -- expected activity, is he not?
MR. MITCHELL: Object to the form.
THE WITNESS: That is an expected activity form, yes.
BY MR. MADDEN:
Q. Right. And it's not your understanding that when a customer reports expected activity, it reports only transactions that have -- that are an absolute certainty, is it?
MR. MITCHELL: Object to the form.

Page 92

THE WITNESS: Expected activity is essentially what it states itself to be, what the customer expects the general activity to be. And based on my experience, in many instances, there are circumstances that occur that change that when you're dealing with actual activity versus expected.
BY MR. MADDEN:
Q. Okay. But my question is whether, when a bank asks a customer to report its expected activity during a due diligence process, it expects that customer to report only absolute certain activity.
A. Well, it's reporting what they expect the activity to be. If they do not have certitude about something happening, they probably won't report it as expected activity. That would not be surprising to me at all.
Q. Do you agree as a general principle that a difference in actual activity versus expected activity can raise red flags under certain circumstances?
MR. MITCHELL: Object to the form.
THE WITNESS: Differences in actual

Page 93

activity versus expected activity are typically, based on my experience, evaluated as part of the periodic review process for customer risk rating and, upon review, it may or may not impact the risk rating of the customer profile.
BY MR. MADDEN:
Q. Okay. My question, though, was whether you agree that a difference in actual activity versus expected activity can raise red flags under certain circumstances.
MR. MITCHELL: Object to the form.
THE WITNESS: And the answer I provided was within the context of my experience. Expected activity -- the way that you're phrasing the question appears to be that expected activity will be known instantly.
In the vast majority of cases, when you're conducting ongoing customer due diligence, you evaluate the actual activity versus expected activity at a certain point in time in the future. It is not something that is evaluated instantaneously, you know, for each and every customer, you know, as --

Page 94

you know, as it happens. It's part of the periodic review process.
BY MR. MADDEN:
Q. Just a second. Turn if you will to page 12 of your rebuttal report, DX-117.
A. Yes.
Q. I'm reading from the second sentence of the first full paragraph on that page, the beginning.
MR. MITCHELL: If anyone can hear me, my --
MR. MADDEN: I heard somebody. Let's go --
MR. MITCHELL: Yeah, I think it's okay now. I froze momentarily, but I seem to be back.
MR. MADDEN: Okay. All right.
BY MR. MADDEN:
Q. The beginning of that sentence reads, "While a difference in actual activity versus expected activity can raise red flags under certain circumstances."
Do you see that?
A. Yes.

Page 95

Q. I've been trying to ask you, sir, whether it is in fact your opinion that a difference in actual activity versus expected activity can raise red flags under certain circumstances. Can you answer that question?
A. Yes. If it's -- if it's substantial enough, it can raise a red flag, yeah.
Q. Okay. Thank you. You agree with me that the California wire transfer of just over $450 million was six times larger than what Mr. Gula had told Chain Bridge Bank prior to account opening that he expected to be Blue Flame Medical's average monthly total of incoming domestic wires, correct?
MR. MITCHELL: Object to the form.
THE WITNESS: Yes. The actual wire -- size of the wire transfer from California was much larger than the expected activity.
BY MR. MADDEN:
Q. And you agree with me that when you say much larger, it was six times larger, correct?
A. Well, for domestic wires. For total activity, it's a different ratio. But let's just say

Page 96

it's larger, much larger.
Q. And earlier we calculated, based on Defense Exhibit 48, an average incoming domestic wire of $3 million. Do you recall that?
A. Yes.
Q. You agree with me that the California wire transfer was more than 150 times that average domestic incoming wire transfer, correct?
A. Mathematically, you are correct.
Q. Okay. Is that a significant enough difference in actual activity versus reported expected activity to raise red flags in your experience?
A. Looking at the size of the wire transfer versus the total activity expected, that's enough to raise questions that you'd want to get answered.
Q. As you sit here today, do you know for a fact one way or the other whether Chain Bridge Bank would have opened an account for Blue Flame Medical if Mr. Gula had disclosed beforehand that he was expecting a $450 million-plus wire transfer?
MR. MITCHELL: Object to the form.

Page 97

THE WITNESS: That -- to answer would be speculative.
BY MR. MADDEN:
Q. And so you don't know, correct?
A. I'm not purporting to know what Chain Bridge Bank would or would not have done regarding opening the account.
Q. If you turn to page 12 of your rebuttal report, which is Defense Exhibit 117.
A. Isn't that where we are now?
Q. Oh, maybe it was. I apologize.
A. That's okay. I just want to make sure we're on the same page quite literally.
Q. Exactly. In any case, page 12 of your rebuttal report that is Defense Exhibit 117. Just let me know when you're there.
A. Yeah. Uh-huh.
Q. Great. Excuse me. I lost my place. Let me come back to that. I can't find the passage I was looking for, so I'll direct you somewhere else.
Is it your opinion that Mr. Gula's disclosure of the size of the California wire the

Page 98

afternoon of March 25th diffused any red flag that otherwise might have arisen from the difference between the size of that wire on the one hand and the expected account activity that Mr. Gula had disclosed that morning before account opening on the other hand?

A. As an anti-money laundering professional, yes, the fact that Mr. Gula came forth the day before informing Chain Bridge Bank of the expected wire transfer means that, okay, if any questions that would have come up regarding, hey, why is your expected activity so much larger than your actual activity, have been addressed.

Frequently, in money laundering, the objective is concealment or obfuscation. That is not the case here. He was forthcoming about the transaction in advance.

Q. But not at account opening, correct?

MR. MITCHELL: Object to the form.

THE WITNESS: Clearly based on the expected transaction amounts, the wire transfer from California is not included in those numbers.

Page 99

BY MR. MADDEN:

Q. Okay. Why isn't it more suspicious from an anti-money laundering/Bank Secrecy Act perspective, not less suspicious, that Mr. Gula changed his account activity expectation so significantly in only just a few hours?

MR. MITCHELL: Object to the form.

THE WITNESS: It's less suspicious again because one of the primary objectives in money laundering is concealment, obfuscation. Anonymity is another factor. And if someone was trying to engage in activity that I would regard as suspect for money laundering, I would expect, based on my professional experience, that they would not disclose the fact that they're expecting a very large wire transfer to come in.

In fact, there are specific typologies of money laundering where that very fact is exploited, the fact that an account will be open with certain information and then, without informing the bank, the actual activity will be very different. But it is the fact that they don't inform the bank that is

Page 100

what -- is part of the facts surrounding those typologies of money laundering.

BY MR. MADDEN:

Q. Do those typologies of money laundering have a name or a category that you refer to in your profession?

A. Well, the one I'm thinking of in particularly are -- are funnel accounts where an account will be opened and then left dormant for a period of time and then a large wire transfer will be sent in typically internationally.

These are used primarily by drug kingpins and transnational crime organizations. And then once that one wire hits, it will quickly be sent off in, you know, various directions and so the effect is that the account will be filled and then emptied very rapidly, often before the bank knows really what's going on.

Q. And am I right that a part of that typology that you're referring to involves not alerting the bank to the incoming filling transfers prior to them occurring?

Page 101

A. Correct. It's the very fact that the bank is unaware and, for all intents and purposes, prior to the filling action, as you describe it, it seems to be a very sleepy account. There is actually little or no -- frequently no transaction activity whatsoever for quite some time.

Q. Would it increase your level of concern from an AML perspective if, hypothetically, at the time Mr. Gula informed the bank of the California wire transfer, he had reason to believe that the wire transfer was already in process?

MR. MITCHELL: Objection to the form.

THE WITNESS: I'm sorry, can you repeat that again?

BY MR. MADDEN:

Q. Sure can. Would it increase your level of concern from an AML perspective if, at the time Mr. Gula informed the bank -- informed the bank of the California wire transfer, he had reason to believe that the wire transfer was already in process?

MR. MITCHELL: Object to the form.