EXHIBIT 86

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

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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, : CONFIDENTIAL
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, January 11, 2021

Videotape Deposition via Zoom of JOHN THOMAS, a witness herein, called for examination by

(Recess.)

(Defendant's Exhibit No. 3 was marked for identification.)

THE VIDEOGRAPHER: We are now back on the record. The time is 11:43 a.m.

BY MR. ORSECK:

Q. Mr. Thomas, we've marked as Defendant's Exhibit 3 a three-page email string and I'll ask you to scroll to page 3 of 3 on the PDF. The Bates is 8868. Let me know when you've got it.

A. Okay. I have it.

Q. It appears that on March 19th at 4:05 p.m., you sent an email to Jason Lee, Mike Gula and others, subject line, 100 million masks sitting at Port of Long Beach - intro.

Then you write, "Team meet Jason Lee. He is sitting on 100 million masks in Long Beach. He wants to sell to us. Jason meet my crack team who will sell your product quickly."

Who is Jason Lee.

A. He is one of our suppliers.

Q. When did you meet him?

A. You know, I don't recall the specific date, but sometime in March.

Q. Had you ever known Mr. Lee prior to March 2020?

A. I don't believe so.

Q. And what was your basis for emailing your team and advising that he had 100 million masks in Long Beach?

A. I believe I had spoken extensively with Mr. Lee about his capacities and product availabilities and he had told us that he had those masks at the Port of Long Beach.

Q. You just said he told us. Who is the "us" who he said that to?

A. My company. You know, told me.

Q. I'm wondering if he told it to you or anybody in addition to you.

A. You know, I don't specifically recall.

Q. Was this a phone call or by some other means?

A. Phone call.

Q. Where exactly were the 100 million masks

being stored as he related it to you?

A. At the Port of Long Beach.

Q. Did he tell you where at the Port of Long Beach he was storing them?

A. Well, it would be where any product that just comes in from the port would be stored. So at the Port of Long Beach.

Q. You don't know anything more specific than that?

A. You know, I seem to recall having conversations where in the port it was, but I can't recall the specifics relating to that.

Q. Are you familiar with the Port of Long Beach?

A. Somewhat.

Q. Have you ever been there?

A. Yes.

Q. When were you there?

A. You know, I don't recall. It's been multiple times, but I don't recall.

Q. Have you been there since the first -- first of the -- since January 1st, 2020?

A. I don't recall.

MR. ORSECK: Carolyn, can you put up tab 154, please, and that will make Defendant's Exhibit 4.

MS. FORSTEIN: I just dropped it in the chat.

(Defendant's Exhibit No. 4 was marked for identification.)

MR. WHITE: Do you have that, Mr. Thomas?

THE WITNESS: Yes, I do. I'm sorry. I'm looking at it.

BY MR. ORSECK:

Q. All right. We've marked as Exhibit 4 a two-page email string and I'll direct you on the first page to the second -- third email down. It's from you at 8:10 p.m. to Jason Lee. Are you there?

A. I'm here.

Q. And you say, "Jason, can you get us a picture of the product immediately? The team needs proof of product. Just a few snaps of the mask is good," right?

A. Correct.

Q. And did you want a picture of the -- well, why did you want a picture of the product?

A. That's fairly standard. It's one of the mechanisms that we use to verify the integrity of the product. It's called proof of life. And that can be with a picture.

Q. So you yourself hadn't seen them by this time, by the evening of March 19th, right?

A. You mean hadn't seen them, you mean in person; is that what you're asking?

Q. At all. Had you seen them at all by the end of the day on March 19th?

A. You know, I don't recall the specific date of when I received a proof of life confirmation. So it's hard for me to say.

Q. He writes you back just above that and says, "I do not have access to the product until we fund escrow."

Do you see that?

A. I do.

Q. Does that refresh your recollection that at least as of the end of the day on March 19th, he

hadn't sent you proof of life?

A. You know, I'm not sure because I believe our primary communication was telephonically. I seem to recall we had extensive conversations. And you've got to remember back at that -- back in the month of March, you know, an hour felt like a month. So a lot of things were happening. So I can't actually say by the end of the day. You know, I was working sometimes 22-hour days and so that would leave three and a half hours left in the day, which is a long time.

Q. I haven't seen -- okay. I'm sorry to interrupt. I haven't seen any correspondence of any sort in which Mr. Lee sent you a picture of the product. Do you have any reason to think that he did that at some point later on on March 19th?

A. You know, I don't recall if that was on March 19th. I don't recall.

Q. Did you physically go to the Port of Long Beach to see them yourself on the 19th?

A. You know, I attempted to do it several times, but I don't -- I don't know about March 19th.

Q. Did you ever see these masks yourself?
A. What do you mean, in person?
Q. Did you ever see them in any way?
A. I believe I did see proof of life. I was unable to physically visit them in person.
Q. How do you believe you saw proof of life?
A. I seem to recall that I was sent proof of life.
Q. You seem to recall, but you don't have a specific recollection; is that right?
A. Correct.
Q. You think he sent you photos?
A. I seem to recall that, yes.
Q. You may not have the timeline in mind, but we'll get there through the documents. But I'll represent to you that the next day, March 20th, you began to engage with California about a potential transaction. That's Friday, March 20th.
Do you have that date in mind?
A. Can you be a little more specific? What do you mean engage with California? I'm not quite sure what that means.

A. No.

Q. Had you reached out to other California state officials to try to do a deal with California?

A. I don't believe so.

Q. Okay. Well, why were you pressing me as to which one I meant, then?

A. I value specificity, so I just wanted to make sure what you were asking.

Q. Okay. Fair enough. Go down three or four more entries and you'll see that there is one sent by you at 1:17 p.m. on the 20th that begins, "Thanks again."

Are you there?

A. Okay. Yes.

Q. You say, "We have 100 million 3M masks at the Port of Long Beach I can move to you guys today. Also we can get the state any supplies they need easily. Thanks again." Correct?

A. Correct.

Q. What was the basis for your saying that you had 100 million 3M masks?

A. The fact that Jason Lee and I had

negotiated our ability to buy from Jason Lee 100 million 3M masks.

Q. Did you have a written agreement with Mr. Lee about your ability to purchase the 100 million masks?

A. You know, you'd have to ask our chief legal officer. I don't recall if we had paperwork in place. I think we might have, but I don't recall.

Q. I'm just asking you all day for your recollection. Do you recall having any written agreement with Mr. Lee or his company?

MR. WHITE: Objection. Asked and answered. You may answer.

THE WITNESS: I don't recall specifically. We might have had an agreement in place. I don't recall.

BY MR. ORSECK:

Q. Did you negotiate a price with Mr. Lee?

A. I believe we did.

Q. Is that in writing?

A. I don't recall. I'd have to look. I don't recall.

Q. Yes.
A. -- via text?
Q. No, I have the texts. I'm asking you what you ever spoke to her about on the phone if you recall.
A. The only phone call I remember having with her was that she was running into a meeting and couldn't talk. And that she texted me.
Q. Did you ever, between March 20th and March 27th -- well, let me back up.
Did you ever tell Betty Yee that prior to March 20th, Blue Flame Medical had not ever supplied an N95 mask to any customer?
A. Could you say that again?
Q. Yes. Did you ever tell Betty Yee that prior to March 20th, Blue Flame Medical had not ever supplied an N95 mask to any customer?
A. No.
Q. Did you have an office on or around March 20th? Let me back up. Did Blue Flame Medical have an office on March 20th?
A. You know, I don't recall the exact date

that we signed our office lease. You may not be aware, but the entire state of California was on lockdown with mandatory stay-at-home orders at that time. It was virtually impossible despite repeated attempts to secure office space in the month of March.

Q. Did you have an office on March 20th?

A. You know, I believe I was utilizing, but I don't recall on the exact date, but I think it was in the month of March, multiple conference rooms in the Langham Hotel in Pasadena as that was the only available gathering place that was still open.

Q. Did you tell Betty Yee that Blue Flame Medical did not have an office of its own?

A. You're referring to an office space?

Q. Did you tell Betty Yee that you didn't have an office of your own?

A. Can you define "your"? I'm -- I'm confused. Had offices? I believe, Mr. Orseck, just to be -- if you want to be technical, the legally registered address for the LLC, I believe, was in -- it was a Delaware LLC, but I believe Capital Place

was the legally registered address, which I believe my partner physically occupied at that time for Blue Flame Medical. So --

Q. Did you tell Betty Yee anything about the office space out of which you were operating, Mr. Thomas?

A. To be clear, you want to know if I, John Thomas, in my personal capacity, told Betty Yee during mandatory stay-at-home orders where I was operating out of? Is that what you're asking?

Q. I don't think I said any of that. My question is, did you discuss the topic of office space at all at any time with Betty Yee?

A. Let me think. I believe I did. I think I told her I was based in Pasadena, California.

Q. Anything else?

A. I'm not sure why that would be a pertinent topic in a mandatory stay-at-home order in the state of California. But no, I don't believe so.

Q. I'm going to ask you -- I'm going to ask you to answer the question. Did you discuss office space with her at all?

MR. WHITE: Objection. Asked and answered already. But you may answer again.

THE WITNESS: Well, as I said before, I'm confident I told her I personally was based in Pasadena, California and I'm not sure why we would discuss any office space or the status of the leases I was looking to procure for our company given we were on mandatory stay-at-home orders. So no.

BY MR. ORSECK:

Q. So no. What does no mean?

MR. WHITE: Objection. Do you really need to know what "no" means?

MR. ORSECK: Well, look, I'm getting these long answers about the rationale of the conversations.

BY MR. ORSECK:

Q. I'm simply asking you if you remember discussing office space with Betty Yee. Yes, no or I don't remember?

A. No, I don't think she doubles as a leasing agent. Sorry for the humor. But no.

Q. Okay. Blue Flame Medical incorporated in

you'd have to ask my partner, Mike Gula.

Q. You go on to say in your 5:40 p.m. text, "We'll have 100 million units every week being delivered to Long Beach."

Do you see that?

A. I do.

Q. What was your basis for that statement?

A. Jason Lee had told me that there was a weekly delivery of that size coming into Long Beach.

Q. Did he tell you that by text or on the phone or by email or in some other mechanism?

MR. WHITE: Objection.

THE WITNESS: On the phone.

MR. WHITE: Mr. Thomas, you have to wait until he finishes so that the court reporter -- and until I finish because the court reporter can't take down both at the same time.

BY MR. ORSECK:

Q. Jason Lee is with an outfit called First Alta or he was at the time. Does that ring a bell?

A. It does ring a bell.

Q. Did Mr. Lee or his company ever supply any

N95 masks to Blue Flame Medical?

A. No.

Q. What came of the 100 million that you anticipated being delivered every week?

A. You know, I don't know. We didn't have a need to procure those because after your client destroyed my bank account, destroyed my credibility, our demand for that level of volume dramatically decreased. So I don't believe I ever followed up with Mr. Lee to procure any of his products.

Q. To your knowledge, those materials were available. You just had no demand for them. Is that what you're saying?

A. Correct.

MR. ORSECK: Carolyn, can you put up tab 10, please. We'll mark that as Defendant's Exhibit 8.

THE WITNESS: I'm downloading it.

(Defendant's Exhibit No. 8 was marked for identification.)

THE WITNESS: Okay. I have it open.

BY MR. ORSECK:

A. You know, I don't specifically recall, but that looks correct.

Q. Do you think it might mean something else?

A. I'm unsure.

Q. Well, you wrote it. Do you have any reason to think it means anything other than 100 million?

A. No, but it -- no.

Q. No?

A. No.

Q. What was the basis for your reporting to the controller that you were delivering 100 million units of N95 masks to Florida?

A. Well, that would be that my partner was negotiating and almost closing, I believe at that time, talks for very large quantities, sometimes in the quantities of 100 million, to other buyers in other states.

I think in Florida, there were several private and I think one public buyer in Florida. And I think I'm also saying, in reference to this chain, it appears that we're speaking about a lack of

responsiveness from procurement officials to begin negotiations with me in the state of California, and other states seemed to move more quickly in being responsive to tell us what they need.

Q. Was it Mr. Gula who was having the negotiations with Florida over the 100 million units?

A. I seem to recall that, yes.

Q. And what entity was he negotiating with?

A. You'd have to ask him. I don't remember.

Q. Did you know at the time?

A. I would imagine I did, but I don't recall.

Q. It says that you're delivering another 100 million units of N95 masks. Was there an earlier delivery of 100 million units?

A. Well, I think the term "delivering" in this text message is likely referring to closing a sale for those masks. And I do know there were several very large different buyers in the state of Florida that wanted a variety of things.

Q. You weren't physically delivering 100 million N95 masks to the state of Florida, were you?

A. Do you mean that I personally was going to

lift the masks myself? What do you -- unclear.

Q. When you say "we" in that sentence, who are you referring to?

A. Blue Flame Medical.

Q. Was Blue Flame Medical physically delivering 100 million N95 masks to somebody in the state of Florida?

A. Well, as I stated earlier, we're using delivering in this instance as language to say that we are closing, we are finalizing contracts to deliver large quantities of masks and COVID-19 kits.

Q. So by delivering, you did not mean to convey that you were transporting the masks from one place to the state of Florida?

A. You know, I don't recall specifically. In this instance, it appears that I'm referring to the sales process, but I don't recall specifically.

Q. Did Blue Flame ever in fact physically deliver or cause to be delivered 100 million N95 masks to the state of Florida?

A. No. No, I don't believe we did.

Q. Did you ever deliver one million masks to

the state of Florida? By you in this instance, I mean Blue Flame.

A. I don't believe we did. We very well might have, had we had a bank account to transact and had your client not destroyed my California transaction that allowed us to fulfill a lot of orders all over the country. Some of these customers were in Florida. They were unable to take because the California transaction was blown up.

Q. Did you ever deliver any N95 masks to any purchaser in the state of Florida?

A. You know, I don't recall. There were some smaller orders in Florida. I don't recall if they ordered N95s or not. I can't recall.

Q. Did you ever advise Ms. Yee that there in fact would not be a delivery of 100 million or any masks to the state of Florida?

A. Can you say that again?

Q. Yes. You say here on page 121 that Blue Flame is delivering another 100 million units of N95 masks to Florida. Did you ever amend or retract in any way that statement to her?

financial officer. And we came to the conclusion for the before mentioned reasons that we had to drop those plans.

Q. You referenced that you had developed business plans and pro formas. I'm asking if they were reduced to writing.

A. Correct, yes.

Q. They were?

A. Uh-huh.

Q. Do you have them somewhere?

A. Well, they would have been in emails to and from my chief financial officer.

Q. Is that Mr. Serrio?

A. Yes.

Q. You referenced to the California transaction providing you seed capital. What do you mean by that?

A. Well, there's a couple of things I mean by that. One was, you know, as we were speaking with dozens and dozens and dozens of very large customers, private buyers, public buyers, many of these buyers could not prepay for product. Meaning, Mr. Orseck,

that means that they demanded net payment terms of 30, 60, 90 days, sometimes affording their internal procurement rules or in some cases the law of the state, precluding even a dollar upfront to us.

And unfortunately for them, the state of the market, because there was such intense global demand, the manufacturers and suppliers had shifted their normal procurement prepayment or the payment terms and were requiring usually 100 percent prepayment upfront.

So we would communicate that to customers. Some customers understood it, like California. Many understood it but were unable to rework their procurement laws or rules. So that meant, I believe, the state of Washington deal fell apart, a large deal, where they just simply couldn't prepay.

There was a large county in central northern California where the deal just -- we negotiated, vetted everything. The deal fell apart because they weren't able to prepay. We were intending to use the profits from the California mask order to front cash to our manufacturers for states

and entities that could not prepay so that we could deliver the lifesaving PPE items. So that's one form of seed capital.

The other is we, because there was such demand domestically and globally for these medical supplies, we -- we were going to hire more employees, more sales force and grow the company using that capital.

Q. You also said that Blue Flame Medical was a preferred supplier to California. Is that a term of art by which California designated Blue Flame Medical a preferred supplier?

A. I think we said we were going to be. And what that means, colloquially, all I'm saying is we were -- we would be a trusted vendor to the state of California.

Q. Did anybody within the California state government tell you or anybody at Blue Flame Medical that you would have preferred supplier status?

A. I'm not sure that is a -- a technical status. But what it does mean is typically in state governments and municipalities, once you become a

introductions. We have NDAs as part of all their contracts. So that's likely what I was referring to.

Q. Did you in fact have NDAs with anybody in Florida?

A. I believe we did.

Q. Have you produced them to your counsel?

A. Every referral agreement we have we've produced to counsel, yes.

Q. Did you have any NDAs with any --

A. I'm sorry, may I interrupt? I'd like to amend my testimony.

You asked if I have -- I believe you asked did I have NDAs with referral partners in Florida. I'm not sure if the referral partners were based in Florida. They were introducing us to Florida. I just want to be clear about that.

Q. I don't believe I used the term "referral partners." What I was asking -- what I intended to ask, so I'll ask again, is did you have any NDAs with the hospitals and the private buyer that you are referencing in your 4:13 p.m. text with Ms. Yee?

A. You know, you'd have to ask either our

legal officer or my partner, Mike Gula, specifically. But yes, I believe we did have NDAs with our main point of contact that was helping us facilitate deals in Florida.

Q. Who was that? Who was your main point of contact?

A. You'd have to ask my partner. But I know that he had a lot of referral partners from all over the country that had access into states other than in which they resided.

Q. All right. I'm asking something different. You say to Ms. Yee that the 100 million NDA masks that you had told her about went to hospitals and a private buyer. "They went to hospitals and a private buyer," you say at 4:13.

They didn't go anywhere at all, did they?

A. I believe those transactions fell apart. I'm not entirely sure of the specifics, why those ended up falling apart. I think in part, I know we lost a lot of customers and I think we lost some in Florida related to the horrible actions taken by Chain Bridge Bank that caused a cascade of problems

for us. So, no, those transactions didn't happen.

Q. And you go on to say, "I can't go into any more detail as I have NDAs with all of them."

You didn't have any NDAs with any hospitals and private buyer at all, did you?

A. We had NDAs with many people that we were having these conversations with, yes.

Q. Did you have NDAs with a hospital or a private buyer in Florida with respect to the 100 million masks that you told Betty Yee you were delivering to Florida?

A. You know, I don't recall. You'd have to ask our legal officer about that.

Q. And if you had such NDAs, they would have been provided to counsel, right?

A. Yes.

Q. You didn't purposely withhold anything from your lawyers, did you?

A. No.

Q. At that time at 4 o'clock on March 23rd, did you have any concerns about the risk of making material misstatements to a California state

Q. Is this the Great Health inventory list?
A. Yeah, it was the products that they had available at that moment in time to procure.
Q. And at that moment in time was March 24th, right?
A. I believe so, yeah. Uh-huh.
Q. I was trying to interpret this document, and you'll tell me if I've gotten it wrong. But the first section is entitled masks and if you go to the bottom of that section, the last six or so entries are for N95 masks; am I right?
A. Yes.
Q. And then the fourth column over says monthly capacity. And I tallied up Great Health Companion's monthly capacity for N95 masks and I get to 11.5 million. If you want to check my math, go ahead.
A. Okay.
Q. Does that appear correct?
A. No. Is it correct it was on the sheet or is it correct that that's their capacity?
Q. First of all, I'm just reading the sheet.

Does this indicate that his monthly capacity for N95 masks was 11.5 million?

A. This was more of a guide for what brands of masks and product types Great Health Companion could procure at that moment. Less of an actual capacity. Would you like me to explain why?

Q. Are you asking me?

A. Yes.

Q. You should explain whatever you think you should explain.

A. Okay. So the way a supplier like Great Health Companion works is they contract out with -- here. Let me -- they contract out with manufacturers' facilities.

And Great Health Companion is owned by a company called Hakim. It's a very large publicly traded company. It's a quasi state-owned company, which means Great Health Companion can procure essentially as much PPE as they want. All they have to do is go reach out to manufacturers of PPE and they can up their capacity. So the monthly capacity that was on that sheet really wasn't pertinent to my

discussions with Great Health Companion.

Great Health Companion pledged that they could fulfill any amount I needed in part of the California order, for instance. All they have to do is spin up more factories. So that's how that works. So the monthly capacity there is really not an applicable number. It's more the numbers, the model numbers.

Q. This document indicates a monthly capacity of 11 and a half million N95 masks, true?

A. The document indicates that, yes.

MR. ORSECK: Carolyn, can we put up tab 38? This will be DX-16.

THE WITNESS: Can I have a bathroom break in a couple of minutes? We can get through this exhibit.

BY MR. ORSECK:

Q. Sure, sure, sure. I do not mean to impose suffering.

A. Well, not that kind of suffering.

Q. Well, right. Exactly.

A. Sixteen?

through. So we needed the wire to be able to come through.

Q. Were any of your manufacturers in fact loading up the jet as we speak?

A. You know, I don't recall the specifics, but I know things were getting in motion.

Q. Were you speaking figuratively there?

A. You know, I don't recall.

Q. Did you have any evidence that anybody was loading up the jet?

A. I don't recall.

Q. You say, "I'm on the hook for it now." Was that in fact the truth? Were you on the hook for the 100 million masks?

A. Yeah. I had made commitments to my different manufacturers that we were going to be placing orders with them, yeah.

I had also -- I'd also reached out to and really used a chit with a friend of mine who's chairman of the board at Pepperdine, the board I sat own, who owns one of the largest commercial fleets, airline fleets, to commit, if necessary, he would

utilize his fleet. Land so those things were starting to get in motion. So --

Q. When you say -- I'm sorry, Mr. Thomas. I didn't mean to cut you off, but we're getting already late in the day and I have a long way to go. So I want to just ask specific questions and if you can just try to answer my specific question.

When you said I'm on the hook, did you mean you were financially liable for the masks?

A. You know, I think with Suuchi I was. But you'd have to ask Ethan Bearman about the legality. I think we -- did we lose you?

THE VIDEOGRAPHER: Counsel, do we want to go off the record?

THE WITNESS: Oh, I think I was disconnected.

THE VIDEOGRAPHER: I think we lost the witness.

THE WITNESS: I hear you. Hello?

MR. WHITE: We can still hear you and see you. Your computer may be having a problem.

THE WITNESS: Do you see me now?

paying any portion of the $476 million or any other amount for the masks?

MR. WHITE: Objection to your characterization of what you understand that to mean. That doesn't matter. If you understand the question, you can answer.

THE WITNESS: Yeah. I'm not sure I understand the question. I know my reputation was at stake with these suppliers.

BY MR. ORSECK:

Q. Mr. Thomas, I didn't ask you that. I didn't ask you about your reputation. I'm asking you a specific question.

MR. WHITE: Objection to interrupting. Let him finish.

MR. ORSECK: Okay.

BY MR. ORSECK:

Q. Go ahead. Tell me about your reputation.

A. I know my reputation was on the line with these different manufacturers because I gave them my word that we would be executing and asking them to hold their production lines for me.

and manufacture" -- I'm sorry. "The Chinese government has directly intervened in the operations of manufacture and export of N95 masks, making it extremely difficult, if not possible, for us to fulfill the order without causing undue delay." Right?

A. I see that.

Q. And then he says, "It is uncertain at best when the restrictions on the N95 masks will be lifted."

Did he tell you at any point that those restrictions were lifted?

A. I don't recall. We successfully procured from other manufacturers. But there is something I think that's important for you to know about this particular restriction if you'd like me to tell you.

Q. Okay.

A. Part of the reason it was important to consummate the transaction in the month of March with the state of California was not only was the marketplace constantly shifting and we needed to lock in production lines, but it really had to do with

buying power because Henry Huang's company is partially state owned.

Henry made it clear to me that part of locking in an initial 100 million unit order is that we became a big fish as a customer, and the Chinese government would be making a lot of money on our buying power. And when we failed to send Great Health Companion the money because of what Chain Bridge did, it dramatically reduced our buying power, which opened us up as a company to having these moments like our inventory being stolen because we became a small fish at that point.

You know, a million -- a 1.5 million unit mask order to the State of Maryland is very small in the scope of orders going through China. So had our California deal gone through, not only would we absolutely have delivered, but all of these other orders would not have had challenges because we would have become a big fish customer.

Q. Did Mr. Huang tell you that?

A. Yes.

Q. I'm sorry?