

EXHIBIT 99

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

GOVERNMENT OF THE UNITED : Case Number:
STATES VIRGIN ISLANDS : 1:22-cv-
Plaintiff, : 10904-JSR
v. :
JPMORGAN CHASE BANK, N.A. :
Defendant/Third-Party :
Plaintiff. :

JPMORGAN CHASE BANK, N.A. :
Third-Party Plaintiff, :
v. :
JAMES EDWARD STALEY :
Third-Party Defendant. :

MAY 24, 2023
HIGHLY CONFIDENTIAL

Videotaped deposition of
STEPHEN CUTLER, taken pursuant to notice,
was held at the law offices of Boies
Schiller Flexner LLP, 55 Hudson Yards,
New York, New York, commencing at
9:40 a.m., on the above date, before
Amanda Dee Maslynsky-Miller, a Certified
Realtime Reporter and Notary Public in
and for the State of New York.

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1 you know that there was a federal
2 non-prosecution agreement, you just don't
3 know when you knew that?

4 A. I know at a certain point I
5 understood that there was a federal
6 non-pros agreement. I can't tell you
7 exactly when. And I can't tell you that
8 I knew precisely what the terms of it
9 were.

10 Q. But you knew at some point
11 while you were general counsel at
12 JPMorgan and Jeffrey Epstein was a client
13 of the bank; is that fair?

14 A. I believe I knew that there
15 was a non-pros agreement.

16 Q. Okay. You can put that
17 document away.

18 Do you recall, in 2008,
19 after Jeffrey Epstein pled guilty to the
20 child sex offenses, that private bank
21 wanted to exit Jeffrey Epstein as a
22 client of the bank?

23 A. I do not.

24 - - -

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1 MR. GAIL: Objection.

2 THE WITNESS: I don't know
3 why you don't think it would make
4 any sense, but I could -- I could
5 conceive of -- if I had been
6 involved in approval in '08, I
7 could also conceive, in 2011,
8 having this view.

9 BY MS. LIU:

10 Q. What happened between
11 possibly your approving him in 2008 and
12 your having this view in 2011,
13 Mr. Cutler?

14 A. Well, among other things, I
15 think we would have seen the non-pros
16 agreement. We would have reviewed a lot
17 of press that arose, I want to say in the
18 2010, early 2011 period. We had some
19 direct experience with him in connection
20 with the claims that he was raising
21 against Bear Stearns.

22 And so I think whatever
23 judgment I had had in 2008, clearly by
24 this date in 2011, I did not believe that

1 Jeffrey Epstein should be a client of the
2 firm.

3 Q. The press that arose said he
4 was being investigated for child sex
5 trafficking and human trafficking,
6 correct?

7 A. I don't remember the
8 precise, but -- the precise parameters of
9 the press, but I remember there was a
10 series of articles about a new
11 investigation. There were articles that
12 I remember pointed that he was -- he had
13 resolved claims with -- with a very large
14 number of women.

15 And, yeah, so I remember
16 those being among the articles, you know,
17 that we saw in 2010 or '11.

18 Q. Who is Nina Shenker?

19 A. At this point, she was the
20 general counsel of the asset management
21 business.

22 Q. She was Mary Erdoes's
23 general counsel, correct?

24 A. I'd never put it that way,

1 I'll represent to you, and you can -- you
2 can check me on this, 7/21/11, when you
3 say, I would like to put it and him
4 behind us, not a person we should do
5 business with period, was a Thursday.

6 A. Okay.

7 Q. And the him, just so it's
8 perfectly clear for the record, is
9 Jeffrey Epstein, correct?

10 A. I believe that's right.

11 - - -

12 (Whereupon, Exhibit
13 Cutler-23,
14 JPM-SDNYLIT-00754982-984, 7/22/11
15 E-mail, was marked for
16 identification.)

17 - - -

18 BY MS. LIU:

19 Q. I'm showing you what's been
20 marked as Exhibit-23.

21 So you'll see the top e-mail
22 on Exhibit-23 is from Nina Shenker to
23 Mary Erdoes on 7/22/2011 --

24 A. I see it.

1 Q. -- the next day, correct?

2 She writes, Imagine lots to
3 do upon your return to U.S. and for next
4 week.

5 Do you see that?

6 A. Yes.

7 Q. And then there's a redacted
8 portion. And then the next line says,
9 FYI, Steve, at conclusion of JE approval,
10 asked when we are off-boarding JE. I
11 reminded him that we have the other
12 matter outstanding.

13 Do you see that?

14 A. I do.

15 Q. What was the JE approval?

16 A. I don't know. I mean, I
17 could make an assumption that it related
18 to this lawsuit, but I don't know.

19 Q. So the day before you said
20 to Mary Erdoes, I want to put him behind
21 us?

22 A. Correct.

23 Q. Not a person we should do
24 business with?

1 A. Correct.

2 Q. Do you believe that Nina
3 Shenker is referring to an approval of
4 Jeffrey Epstein that predated July 21st,
5 2011?

6 MR. GAIL: Objection.

7 MR. EDELMAN: Objection to
8 form.

9 THE WITNESS: I'm sorry, an
10 approval of him as a client?

11 BY MS. LIU:

12 Q. Yes.

13 A. No.

14 Q. Okay. Let me understand.

15 What do you believe, FYI

16 Steve, at conclusion of JE approval,
17 asked when we are off-boarding JE?

18 A. I -- I don't think I would
19 have said when are we off-boarding him if
20 we were speaking about an approval of his
21 account. It just -- the two things in
22 conjunction don't make sense to me.

23 I would think, just based on
24 the juxtaposition of Exhibit-22 versus

1 Exhibit-23 that it's somehow the approval
2 of the settlement.

3 Q. I see.

4 Steve, at the conclusion of
5 the Jeffrey Epstein settlement approval?

6 A. I -- that makes more sense
7 to me.

8 Q. Okay.

9 A. I don't remember it.

10 Q. Okay. Fine. Just want to
11 try to understand what you think it
12 means.

13 So -- asked when we are
14 off-boarding Jeffrey Epstein.

15 That's consistent with your
16 telling Mary Erdoes and others in the
17 e-mail before this is not a person we
18 should be doing business with?

19 MR. GAIL: Objection.

20 THE WITNESS: Well, I think
21 the notion of off-boarding
22 somebody that I don't think we
23 should be doing business with, I
24 see how those things are

1 consistent, yes.

2 BY MS. LIU:

3 Q. And it's also consistent
4 that JPMorgan retained Jeffrey Epstein as
5 a client to deal with the Bear Stearns
6 litigation that Jeffrey Epstein had,
7 correct?

8 A. I don't know that.

9 Q. Because then she writes, I
10 reminded him that we have the other
11 matter outstanding.

12 Do you see that?

13 A. I do.

14 Q. So we had the one, it's been
15 approved, settlement is done. But Steve,
16 from Nina, we've got that other
17 litigation with Jeffrey Epstein.

18 Do you recall that?

19 A. I don't.

20 Q. Do you recall the Zwirn
21 Highbridge Dubin litigation?

22 A. I've now seen documents that
23 remind me there was -- there was another
24 claim that Epstein had.

1 embarked upon was the only reason,
2 or even a primary reason, to exit
3 Mr. Epstein.

4 BY MS. LIU:

5 Q. You had already decided
6 there were other reasons?

7 A. Yeah. I don't think I was
8 oblivious to the issue that William
9 raised. But I -- in my own mind, I don't
10 remember it as being the core of the --
11 of the issue that drove my conclusion.

12 Q. Do you recall William
13 Langford saying to you, AML
14 investigations does not want -- believe
15 we should retain Jeffrey Epstein as a
16 client, in early 2011?

17 A. I don't remember him
18 referring to AML investigations in
19 particular. I think what he communicated
20 to me was concern about the reputational
21 issues. Those concerns are heightened,
22 if you will, by the human trafficking
23 initiative that we're doing, given that
24 he was convicted of these crimes.

1

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6

7 BY MS. LIU:

8 Q. You can put that document
9 away.

10 Mr. Cutler, are you aware
11 that in or around 2020, Deutsche Bank was
12 fined by the New York State Department of
13 Financial Services \$150 million in
14 connection with its conduct related to
15 Jeffrey Epstein's accounts?

16 A. I believe I read about that.

17 - - -

18 (Whereupon, Exhibit
19 Cutler-39, No Bates, Department of
20 Financial Services Article, was
21 marked for identification.)

22 - - -

23 BY MS. LIU:

24 Q. So I'm going to hand you the

1 press release that was issued by the New
2 York State Department of Financial
3 Services. It's Exhibit-39.

4 And at the same time, I'm
5 going to hand you the actual consent
6 order by the New York State Department of
7 Financial Services. And it's Exhibit-40.

8 - - -

9 (Whereupon, Exhibit
10 Cutler-40, No Bates, Consent Order
11 Under New York Banking Law 39 and
12 44, was marked for
13 identification.)

14 - - -

15 BY MS. LIU:

16 Q. I would ask you to first
17 take a look at Exhibit-40 and see if you
18 recall that being the consent order that
19 you recall reading?

20 MR. GAIL: Objection. That
21 misstates.

22 THE WITNESS: I don't think
23 I ever read the consent order.

24 BY MS. LIU:

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1 Q. Oh, you --

2 A. I think you --

3 Q. -- read about this at the
4 time?

5 A. I think you asked me if I
6 was aware of it. And I believe I read
7 about it.

8 Q. Fair enough. I
9 misunderstood you.

10 A. And I don't -- I don't
11 believe I've ever seen this document
12 before.

13 Q. You can put that document
14 away. I just want to look at the press
15 release, then.

16 A. Okay.

17 Q. So you'll see the title is,
18 Superintendent Lacewell Announces DFS,
19 Department of Financial Services, Imposes
20 a \$150 Million Penalty on Deutsche Bank
21 in Connection with Bank's Relationship
22 with Jeffrey Epstein.

23 And it also mentions
24 something unrelated to Jeffrey Epstein.

1 Do you see that?

2 A. I do.

3 Q. And if you turn to the
4 second page of the document and you go to
5 the first full paragraph, With respect to
6 the case of Jeffrey Epstein, before the
7 bullets.

8 Do you see that?

9 A. Yes.

10 Q. All right. The bank failed
11 to properly monitor account activity
12 conducted on behalf of the registered sex
13 offender, despite ample information that
14 was publicly available concerning the
15 circumstances surrounding Mr. Epstein's
16 earlier criminal misconduct.

17 Do you see that?

18 A. I do.

19 Q. The bank -- The result was
20 that the bank processed hundreds of
21 transactions totalling millions of
22 dollars that, at the very least, should
23 have prompted additional scrutiny, in
24 light of Mr. Epstein's history.

1 And then it lists a number
2 of things, correct?

3 A. Yes.

4 Q. All right. Payments to
5 individuals who were publicly alleged to
6 have been Mr. Epstein's co-conspirators
7 in sexually abusing young women.

8 Do you see that?

9 A. I do.

10 Q. JPMorgan also made
11 payments -- handled payments from
12 Mr. Epstein's accounts to individuals who
13 are publicly alleged to have been
14 Mr. Epstein's co-conspirators in sexually
15 abusing young women, correct?

16 MR. GAIL: Objection.

17 THE WITNESS: Are you
18 referring to the non-pros
19 agreement, which refers to certain
20 people as potential
21 co-conspirators?

22 BY MS. LIU:

23 Q. Yes.

24 A. And I'm -- just based on

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1 what you said here today and what you
2 have shown me, there are payments that
3 were made out of Epstein accounts to one
4 or more of those individuals.

5 Q. Next bullet, Settlement
6 payments totalling over \$7 million
7 dollars, as well as dozens of payments to
8 law firms totalling over \$6 million for
9 what appears to have been the legal
10 expenses of Mr. Epstein and his
11 co-conspirators.

12 Do you see that?

13 A. I do.

14 Q. And you recall earlier this
15 morning I showed you a spreadsheet that
16 contained many payments, many in the
17 amount of \$100,000, from Jeffrey
18 Epstein's accounts to law firms and
19 lawyers?

20 Do you recall that?

21 A. I do.

22 Q. The next bullet, Payments to
23 Russian models, payments for women's
24 school tuition, hotel and rent

1 expenses -- and rent expenses and,
2 consistent public allegations of prior
3 wrongdoing, payments directly to numerous
4 women with Eastern European surnames.

5 Do you see that?

6 A. I do.

7 Q. And you'll recall we looked
8 at a document that showed payments to
9 women whose names, you said, could be
10 Russian or could be Eastern European.

11 Do you recall that?

12 A. I should clarify, I mean,
13 they could be Americans with those names.

14 But I get the point that
15 there are certain names that you might
16 associate with Russian heritage or
17 Eastern European heritage.

18 Q. Next one, Periodic
19 suspicious cash withdrawals, in total,
20 more than \$800,000 over approximately
21 four years.

22 Do you see that?

23 A. I do.

24 Q. [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED] [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]

14 Q. And then if you turn to the
15 next page, you'll see the second sentence
16 begins, For example, certain conditions
17 imposed upon the Epstein accounts by a
18 bank reputational risk committee,
19 conditions that, if followed, might have
20 detected and prevented many subsequent
21 suspicious transactions were either not
22 transmitted to the majority of the
23 account relationship team or were
24 misinterpreted by a compliance officer.

1 Do you see that?

2 A. I do.

3 Q. Okay. So you'll recall that
4 I -- we talked about this condition that
5 was imposed following rapid response
6 meetings that Epstein was to be a banking
7 only client.

8 Do you recall that?

9 A. I do.

10 Q. And then you'll recall
11 later, in the Justin Nelson KYC, there
12 were numerous entries which referred to
13 him as an active brokerage client?

14 A. Right.

15 I -- what I don't know is
16 whether that was contemplated within the
17 panoply of activities that could take
18 place at the bank.

19 Q. And then --

20 A. Nor do I know that any of
21 those activities or the -- you know, if
22 those activities hadn't been affected,
23 that would have allowed for detection and
24 prevention of suspicious transactions as

1 reflected in the sentence that you just
2 read.

3 Q. And then after this section
4 I just read, related to Epstein, it moves
5 on to a different account, Don Esconia,
6 right?

7 A. Yes. I gather that the fine
8 imposed here was both for Epstein and for
9 other relationships that Deutsche Bank
10 had.

11 Q. You can put that document
12 away.

13 MR. GAIL: We've got you
14 with one minute left.

15 MS. LIU: I have no further
16 questions, Mr. Cutler. I
17 appreciate your time.

18 MR. GAIL: Let me just
19 confer with my colleague, but I'm
20 sure we're done.

21 VIDEO TECHNICIAN: Do you
22 want to go off the record?

23 - - -

24 (Whereupon, a discussion off