

TRULINCS 54001048 - BRENNERMAN, RAHEEM J - Unit: ALF-U-B

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FROM: 54001048

TO:

SUBJECT: CORRESPONDENCE TO SULLIVAN

DATE: 06/03/2023 09:43:38 AM

x

Raheem J. Brennerman  
Reg. No. 54001-048  
FCI Allenwood Low  
Federal Correctional Institution  
P. O. Box 1000  
White Deer, Pa. 17887-1000

Hon. Richard J. SULLIVAN  
United States Circuit Judge  
UNITED STATES DISTRICT COURT  
Thurgood Marshall U.S. Courthouse  
40 Foley Square  
New York, New York 10007

With copy to:

Mr. Kenneth A. POLITE JR.  
Assistant Attorney General  
for Criminal Division  
UNITED STATES DEPARTMENT OF JUSTICE  
950 Pennsylvania Avenue, NW  
Washington, D.C. 20530-0001

-and-

Mr. Damian WILLIAMS  
U.S. Attorney  
for the Southern District of New York  
UNITED STATES ATTORNEY OFFICE  
Southern District of New York  
One St. Andrew's Plaza  
New York, New York 10007

June 5, 2023

BY E-MAIL & CERTIFIED FIRST CLASS MAIL

Regarding: United States v. Brennerman, case no. 17-cr-0337 (RJS)  
DEFENDANT'S REQUEST FOR APPROPRIATE RELIEF (THE "RELIEF")  
FROM THIS COURT'S CRIME & MISCONDUCT AGAINST HIM.

Dear Judge Sullivan:

Defendant Pro Se Raheem J. Brennerman ("Brennerman") respectfully submits this correspondence in response to this Court's order at EFC No. 298 (dated May 22, 2023), 300 (dated May 31, 2023) and to seek appropriate relief (the "Relief") in respect of the CRIME committed against him (Brennerman) by this Court (Judge Richard J. Sullivan), where this Court intentionally misrepresented (fabricated) evidence to falsely satisfy the law and federal statute to wrongly convict and falsely imprison him, as more succinctly highlighted in the appended document titled: Notification of violation to Court. This is not a successive habeas petition.

This Court issued an Order at EFC No. 300 following its initial Order at EFC No. 298, however, both Orders of this Court are intended to distract and evade the issue of CRIME committed by this Court against Brennerman.

The Order issued by this Court at EFC No. 300, states in relevant part: "The Court is also in receipt of several pro se emails from Brennerman that were sent directly to the Court's electronic mailbox. Brennerman is reminded that all pro se communication with the Court must be conducted through the Court's pro se office and that the Court will not docket or take any action in connection with emails sent directly to the Court. See Section 1(A) of the Court's Individual Rules and Practices; Add to S.D.N.Y. Elec. Case Filing R. & Instructions at 2: see also Doc. Nos. 282, 284."

However, notwithstanding citing these rules, this Court's own conduct compelled Brennerman to also make submissions and communications via electronic mail and to copy such submissions and communications to various other recipients.

Brennerman endeavors to highlight this Court's CRIME and Misconduct perpetuated against him. Furthermore, this Court's own statement within the Order at EFC No. 300, warrants also making submissions by electronic mail copied to others.

For instance, while Brennerman submitted correspondences dated April 21, 2023 titled: Formal Report to Assist. AG (copy appended), in this instant criminal case and in the civil action before Judge Lewis A. Kaplan, using the same United States Postal Services ("USPS") certified mail service for both submissions to the Court's pro se office. The submission in the civil action before Judge Kaplan was docketed at: Brennerman v. U.S., case no. 22-cv-0996 (LAK), EFC No. 44, however the submission sent to this Court's pro se office in respect of this instant criminal case is purported missing even though the USPS tracking no. 7020 1810 0001 4638 4735, indicates that the document was delivered.

Additionally, on May 11, 2023, Brennerman submitted a 23 page document with demonstrable evidence titled: Notification of violation to Court (copy appended), which highlights Judge Sullivan's CRIME and Misconduct. This Court (Judge Sullivan) held onto the document and only docketed the document on May 22, 2023, after Brennerman submitted electronic mail to both U.S. Assistant Attorney General for criminal division, Mr. Kenneth A Polite Jr. and U.S. Attorney for the Southern District of New York, Mr. Damian Williams, copying this Court (Judge Sullivan) and other recipients, and appending the 23 page document to the electronic mail.

Even when this Court (Judge Sullivan) docketed the document on May 22, 2023, this Court (Judge Sullivan) endeavored to distract from the demonstrable evidence which highlights the CRIME and Misconduct perpetuated against Brennerman, by issuing an Order promulgating the process for submitting successive habeas petition. However, Brennerman's 23 page submission was not a habeas petition, nor did Brennerman state or intend for the submission to be construed as a habeas petition. However, because this Court (Judge Sullivan) was/is unable to refute the demonstrable evidence of his CRIME and Misconduct, this Court endeavored to distract from the submission by issuing an Order then appending Brennerman's submission to the Order, prior to their joint docketing at EFC No. 298.

A copy of the May 24, 2023 correspondence appending the document titled: Notification of violation to Court, which was submitted to this Court via electronic mail on May 24, 2023, was also submitted to this Court's pro se office through USPS mail. The USPS mail tracking number is: 7020 1810 0001 4638 5886.

This Court's Order (at EFC No. 300), further states "Brennerman is also advised that the Court will not respond to or take any action in connection with submissions that fail to request court action or otherwise make a cognizable request for relief. Furthermore, as indicated in the Court's May 22, 2023 Order, a petitioner must first obtain an order from the United States Court of Appeals for the Second Circuit authorizing a district court to consider a successive habeas petition before any such successive petition may be filed. See Doc. No. 298; see also 28 U.S.C. Section 2255(h); 28 U.S.C. Section 2244(b)(3)."

As previously stated, Brennerman's submission is not a habeas petition, nor does Brennerman seek a successive habeas petition. This Court's promulgation is simply an endeavor to bar Brennerman from presenting the CRIME and Misconduct perpetuated by this Court using irrelevant procedural hurdle. However, Brennerman respectfully notifies this Court of the CRIMES and Misconduct perpetuated against him by this Court where this Court intentionally misrepresented (fabricated) evidence to falsely satisfy the law and federal statute as more succinctly highlighted in the appended document titled: Notification of violation to Court.

Moreover, Brennerman's request for relief from this Court's CRIME and Misconduct against him is unambiguous and in plain text, however, because this Court is unable to refute the demonstrable evidence contained within Brennerman's submission, the Court continues with its gamesmanship to distract from and bar review of the core issue of the CRIME perpetuated against Brennerman, by issuing Orders reciting the rules for pro se submission and for seeking successive habeas petition. Both of which are irrelevant to the issue of CRIME and Misconduct perpetuated by this Court against Brennerman. Brennerman has also notified the U.S. Department of Justice that he signed and submitted the Civilian Crime Report (see EFC No. 286, 294), under penalty of perjury, hence if the U.S. Department of Justice and this Court (Judge Sullivan) do not agree with Brennerman's submission that Judge Richard J. Sullivan committed and perpetuated CRIME against him by intentionally misrepresenting (fabricating) evidence to falsely satisfy the law and federal statute to wrongly convict and falsely imprison him, then they should charge him (Brennerman) with perjury, however both Judge Sullivan and the U.S. Department of Justice have remained silent while Brennerman remains unjustly imprisoned.

This correspondence further highlights that all options have been fully exhausted with both the U.S. federal Courts and the U.S. Department of Justice to seek relief.

This correspondence is submitted pursuant to Federal Rule of Criminal Procedure 49(b)(2)(B)(i) in reliance on Federal Rule of

TRULINCS 54001048 - BRENNERMAN, RAHEEM J - Unit: ALF-U-B

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Criminal Procedure 49(b)(5).

Brennerman respectfully submits the above and appended document titled: Notification of violation to Court.

Dated: June 5, 2023  
White Deer, Pa. 17887-1000

Respectfully submitted

/s/ Raheem J. Brennerman  
RAHEEM JEFFERSON BRENNERMAN  
FCI Allenwood Low  
Federal Correctional Institution  
P. O. Box 1000  
White Deer, Pa. 17887-1000

Pro Se Defendant

TRULINCS 54001048 - BRENNERMAN, RAHEEM J.- Unit: ALF-U-B

FROM: 54001048  
TO:  
SUBJECT: SUBMISSION TO COURT (17-cr-0337 (RJS))  
DATE: 05/11/2023 05:53:40 PM

RECEIVED  
SDNY PRO SE OFFICE  
7/23/2023 10:04:07

x

Raheem J. Brennerman  
Reg. No. 54001-048  
FCI Allenwood Low  
Federal Correctional Institution  
P. O. Box 1000  
White Deer, Pa. 17887-1000

Hon. Richard J. SULLIVAN  
UNITED STATES DISTRICT COURT  
Southern District of New York  
Thurgood Marshall U.S. Courthouse  
40 Foley Square  
New York, New York 10007

-and-

Ruby KRAJICK  
Clerk of Court  
UNITED STATES DISTRICT COURT  
Southern District of New York  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, New York 10007

May 11, 2023

BY CERTIFIED FIRST CLASS MAIL

Regarding: United States v. Brennerman, Case no. 1:17-cr-0337 (RJS)  
RESPONSE TO ORDER AT EFC NOS. 289, 291 AND NOTIFICATION OF VIOLATION  
OF THE LAW/DEFENDANT'S HUMAN, CIVIL & CONSTITUTIONAL RIGHTS, IN  
SEEKING APPROPRIATE RELIEF (THE "RELIEF")

Dear Judge Sullivan:

Defendant Pro Se Raheem J. Brennerman ("Brennerman") respectfully submits this correspondence in response to this Court's order at EFC Nos. 289, 291 and to notify this Court of its violation of the law/Defendant's human, civil and Constitutional rights, in seeking appropriate relief (the "Relief").

DISCUSSION:

On June 24, 2018, Brennerman submitted at: 1:17-cr-0337 (RJS), EFC No. 167, copies of Government exhibits - GX1-57; GX1-57A; GX529: GX 1-73 which were adduced at trial to demonstrate that he (Brennerman) interacted with Scott Stout and Morgan Stanley Smith Barney, LLC where he (Brennerman) opened his wealth management brokerage account. Brennerman's aforesaid submissions was to bolster his argument for judgment of acquittal pursuant to Rule 29 of the Federal Rule of Criminal Procedure (Fed. R. Crim. P. 29), arguing that all evidence adduced by the Government at trial demonstrated and highlighted that his interaction was with Morgan Stanley Smith Barney, LLC and that Government witness,

Barry Gonzalez, the FDIC commissioner testified that Morgan Stanley Smith Barney, LLC was not FDIC insured hence there was no federal jurisdiction to even indict (charge) him (Brennerman) much less prosecute and conviction him for bank fraud and conspiracy to commit bank fraud. The basis for the motion pursuant to Rule 29 of the Federal Rule of Criminal Procedure was for this Court to acquit him of the bank fraud charges even where the jury had capriciously convicted him because jurors are unfamiliar with the legal standards and the law.

A copy of the submission at: 1:17-cr-0337 (RJS), EFC No. 167 is appended to this correspondence as "Exhibit C"

On November 19, 2018, during sentencing at: 1:17-cr-0337 (RJS), EFC No. 206 (Sentencing Tr. 19:12-22), Judge Sullivan stated:

".....But the bank fraud was a scheme or artifice to defraud the private banking arm of Morgan Stanley to enable Mr. Brennerman to get access to the perks which are tangible. They're worth money, free checking, among them. I don't get that. And some other perks. But also to get more intangible perks, which would be access to other arms of the Morgan Stanley family of entities.

I'm only really focused on the first category here. It seems to me the first category here, there's been no evidence that I've seen that suggests that was worth more than \$6,500 or so."

A copy of the excerpt from the Sentencing Transcript cited above is appended to this correspondence as "Exhibit A"

On November 19, 2018, Judge Sullivan made such promulgation after denying the motion for judgment of acquittal filed pursuant to Rule 29 of the Federal Rule of Criminal Procedure (Fed. R. Crim. P. 29), where argument was that evidence adduced at trial demonstrated that Brennerman interacted with Morgan Stanley Smith Barney, LLC where he maintained a wealth management account. And that trial testimony demonstrated that Morgan Stanley Smith Barney, LLC is not FDIC insured, hence there was no violation of the federal bank fraud statute or jurisdiction to convict him. See 1:17-cr-0337 (RJS), EFC No. 167. However, Judge Sullivan denied the motion arguing that Brennerman defrauded the private banking arm of Morgan Stanley which is FDIC insured. See 1:17-cr-0337 (RJS), EFC No. 206:19. Judge Sullivan then proceeded to sentence Brennerman.

On November 7, 2021, Brennerman signed and submitted a 442 page Omnibus motion including Collateral Attack petition at: 1:17-cr-0337 (RJS), EFC No. 269. Supplemental papers and exhibits in support of the Omnibus motion was submitted at: 1:17-cr-0337 (RJS), EFC Nos. 270, 272, 274, 288. Among others, the crux of the argument presented was that Brennerman never or rather did not interact with the private banking arm of Morgan Stanley which is FDIC insured because all evidence adduced by Government at trial demonstrated that Brennerman interacted with Morgan Stanley Smith Barney, LLC which is not FDIC insured. Further that to convict Brennerman of bank fraud and its related conspiracy, the institution which he interacted with must be FDIC insured.

On January 3, 2023 (in-excess of 4 years after November 19, 2018), in adjudicating Brennerman's Omnibus motion including Collateral Attack petition to vacate the judgment and set-aside the sentence pursuant to 28 United States Code Section

2255 (28 U.S.C.S. 2255) at: 1:17-cr-0337 (RJS), EFC Nos. 269, 270, 272, 274, 288. Judge Sullivan promulgated at: 1:17-cr-0337 (RJS), EFC No. 289:pgs. 6-7 that:

".....As an initial matter, the record reveals that Brennerman's counsel vigorously pursued the FDIC issue before the jury. For instance, counsel elicited testimony from a government witness that Morgan Stanley Smith Barney, LLC was not insured by the FDIC. (Tr. at 1059:9-11.) He further elicited testimony that affiliate entities within a corporate family - like Morgan Stanley Smith Barney, LLC and Morgan Stanley & Company, LLC - must obtain "separate certificate[s] of insurance to be FDIC insured." (Tr. at 1060:24-1061:5). In summation, Brennerman's counsel again argued that "the law absolutely requires that the bank...targeted in a fraud....be insured by the FDIC" (Tr. at 1538:9-10), and that "Brennerman was not looking to take....money" from "wealth management arm of Morgan Stanley.....the only arm of Morgan Stanley [at issue] that was FDIC insured" (Tr. at 1539:9-14). In short, Brennerman's allegation that his counsel failed to press the FDIC argument before the jury is plainly contradicted by the record"

A copy of the excerpt from Judge Sullivan's January 3, 2023 promulgation cited above is appended to this correspondence as "Exhibit B"

Judge Sullivan's Jan. 3, 2023 promulgation at 1:17-cr-0337 (RJS), EFC No. 289:pgs. 6-7 was in significant contradiction to his prior promulgation on November 19, 2018 at: 1:17-cr-0337 (RJS), EFC No. 206:19 when he (Judge Sullivan) sentenced Brennerman, specifically the statement: "....For instance, counsel elicited testimony from a government witness that Morgan Stanley Smith Barney, LLC was not insured by the FDIC. (Tr. at 1059:9-11)..." demonstrates, first, that the Court (Judge Sullivan) lacked jurisdiction to convict and sentence Brennerman for conspiracy to commit bank fraud in violation of 18 United States Code Section 1349 (18 U.S.C.S. 1349) and bank fraud in violation of 18 United States Code Section 1344 (18 U.S.C.S. 1344). Second, that Brennerman did not violate the federal bank fraud statute. Third, that Judge Sullivan intentionally misrepresented (fabricated) the evidence on November 19, 2018 at 1:17-cr-0337 (RJS), EFC No. 2016:19, by surreptitiously supplanting Morgan Stanley Smith Barney, LLC ("MSSB") which is not FDIC insured (and all evidence adduced at trial demonstrated Brennerman interacted with) with the private banking arm of Morgan Stanley ("MSPB") which is FDIC insured, so as to falsely satisfy the law and federal statute, and finally, that the adjudication of Brennerman's direct appeal by the Second Circuit U.S. Court of Appeals was erroneous where the Second Circuit panel Court intentionally generalized Morgan Stanley as a single entity without considering the trial records which Judge Sullivan now succinctly outline in his Jan. 3, 2023 promulgation.

Judge Sullivan further cites to other erroneous promulgation by the Second Circuit panel Court with respect to the ICBC document including the transaction underwriting file, where they falsely stated: "[t]he only indication that such documents are extant comes from Brennerman's bare assertion." Brennerman II, 818 F. App'x at 30. This was even after Brennerman submitted the trial records with his Collateral Attack petition which demonstrated that government witness, Julian Madget testified on record that the ICBC document including the underwriting file which documents the basis for ICBC approving the finance [at issue], are extant and were provided to ICBC's New York based lawyers Linklaters LLP (see 1:17-cr-0337 (RJS),

Trial Tr. 551-554). Brennerman also submitted on record (at EFC No. 274) that ICBC's New York based lawyer Linklaters LLP wrote to him (Brennerman) on March 14, 2022 to confirm that they are in possession of the ICBC document, however that as a law firm, they require either an order from the Court or consent from their client to produce the ICBC document to Brennerman. Even Judge Sullivan conceded on record at trial that government witness, Julian Madgett testified that the ICBC documents are extant and with the bank's file in London, U.K. (see 1:17-cr-0337 (RJS), Trial Tr. 617) as "Exhibit D" A copy of excerpt from Julian Madgett's trial testimony testifying that the ICBC documents are extant and with their New York based lawyers is appended to this correspondence as "Exhibit E"

Given the above and pursuant to Judge Sullivan's own promulgation on record (see appended "Exhibits A & B"), this Court (Judge Sullivan) exhibited partiality, first, by convicting and sentencing Brennerman for bank fraud and bank fraud conspiracy where the Court lacked jurisdiction; second, by convicting Brennerman for bank fraud and bank fraud conspiracy where no conduct violated the federal bank fraud statute; third, by this Court (Judge Sullivan) intentionally misrepresenting (fabricating) the evidence during sentencing, on Nov. 19, 2018, by surreptitiously supplanting a non-FDIC insured institution MSSB with MSPB, a FDIC insured institution, so as to falsely satisfy the law and the federal bank fraud statute to convict and imprison Brennerman.

Supreme Court precedent makes clear that a criminal defendant tried by a partial judge is entitled to have his conviction set aside no matter how strong the evidence against him. See *Edward v. Balisok*, 520 U.S. 641, 647, 117 S. Ct. 1684, 13 L. Ed 2d 906 (1997); *Arizona v. Fulminante*, 499 U.S. 279, 308, 111 S. Ct. 1246, 113 L. Ed 2d 302 (1991). Hence, the entire case and conviction should be set aside.

This correspondence and the appended exhibits are submitted pursuant to Federal Rule of Criminal Procedure 49(b)(2)(B)(i) in reliance on Federal Rule of Criminal Procedure 49(b)(5).

#### CONCLUSION

For the reasons cited above, Brennerman respectfully notifies this Court of its violation of the law and Defendant's human, civil and Constitutional rights in seeking appropriate relief.

Dated: May 11, 2023  
White Deer, Pa. 17887-1000

Respectfully submitted

/s/ Raheem J. Brennerman  
RAHEEM JEFFERSON BRENNERMAN



TRULINCS 54001048 - BRENNERMAN, RAHEEM J - Unit: ALF-U-B

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FROM: 54001048  
TO:  
SUBJECT: EXHIBIT A  
DATE: 05/11/2023 06:40:56 PM

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

EXHIBIT A

Excerpt of November 19, 2018 Sentencing Transcript  
at: 1:17-cr-0337 (RJS), EFC No. 206:19

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

IBJBRES

1 are distinct crimes but they all involve the same conduct; in  
2 most cases you group them all together and you do an analysis  
3 all together. You don't count them separately and add them up.  
4 You do them together. So the conspiracy to commit bank and  
5 wire fraud, the bank fraud and the wire fraud are all treated  
6 together, and they're all covered by the same guidelines  
7 provision, which is Section 2B1.1. That's the general fraud  
8 provision under the guidelines.

9 Now, I do think, frankly, that it's worth pointing out  
10 that the bank fraud calculation here I think would be quite  
11 different than the wire fraud, and I guess I want to hear from  
12 the parties on that. But the bank fraud here was a scheme or  
13 artifice to defraud the private banking arm of Morgan Stanley  
14 to enable Mr. Brennerman to get access to the perks which are  
15 tangible. They're worth money, free checking among them. I  
16 don't get that. And some other perks. But also to get some  
17 more intangible perks, which would be access to other arms of  
18 the Morgan Stanley family of entities.

19 I'm only really focused on the first category here.  
20 It seems to me the first category here, there's been no  
21 evidence that I've seen that suggests that was worth more than  
22 \$6,500 or so.

23 Mr. Roos, do you disagree?

24 MR. ROOS: I think that's right, your Honor.

25 THE COURT: You agree, OK.

TRULINCS 54001048 - BRENNERMAN, RAHEEM J - Unit: ALF-U-B

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FROM: 54001048

TO:

SUBJECT: EXHIBIT B

DATE: 05/11/2023 06:41:37 PM

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

EXHIBIT B

Excerpt of Judge Sullivan's January 3, 2023 promulgation  
at: 1:17-cr-0337 (RJS), EFC No. 289

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. *Strickland*, 466 U.S. at 689.

With respect to *Strickland*'s second prong, a "reasonable probability" that the outcome would have been different but for counsel's deficient performance is "a probability sufficient to undermine confidence in the outcome." *Id.* at 694. "[A]n 'error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment.'" *Henry v. Poole*, 409 F.3d 48, 63 (2d Cir. 2005) (quoting *Strickland*, 466 U.S. at 691). In other words, to find prejudice, a court must conclude that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result." *Id.* (quoting *Strickland*, 466 U.S. at 686).

Brennerman claims that he received ineffective assistance because his trial counsel failed to argue that Morgan Stanley Smith Barney, LLC was not an FDIC-insured institution as required for bank fraud. He also asserts that his counsel should have obtained and introduced at trial ICBC's underwriting file and his birth certificate to "demonstrate his innocence." (Petition at 41.) None of these arguments is persuasive.

As an initial matter, the record reveals that Brennerman's counsel vigorously pursued the FDIC issue before the jury. For instance, counsel elicited testimony from a government witness that Morgan Stanley Smith Barney, LLC was not insured by the FDIC. (Tr. at 1059:9–11.) He further elicited testimony that affiliate entities within a corporate family – like Morgan Stanley Smith Barney, LLC and Morgan Stanley & Company LLC – must obtain "separate certificate[s] of insurance to be FDIC insured." (Tr. at 1060:24–1061:5.) In summation, Brennerman's counsel again argued that "the law absolutely requires that the bank . . . targeted in a fraud . . . be insured by the FDIC" (Tr. at 1538:9–10), and that "Brennerman was not looking to take . . . money" from

“the wealth management arm of Morgan Stanley, . . . the only arm of Morgan Stanley [at issue] that . . . was FDIC insured” (Tr. at 1539:9–14). In short, Brennerman’s allegation that his counsel failed to press the FDIC argument before the jury is plainly contradicted by the record. *See Slevin v. United States*, 234 F.3d 1263 (2d Cir. 2000) (agreeing with the district court that the defendant failed to establish an ineffective-assistance claim because the defendant’s allegations were “contradicted in several instances by evidence in the record”); *Puglisi v. United States*, 586 F.3d 209, 214 (2d Cir. 2009) (collecting cases). As a result, Brennerman’s “bald assertion[s]” to the contrary are insufficient to meet either prong of the *Strickland* standard. *United States v. Blau*, 159 F.3d 68, 75 (2d Cir. 1998).

Brennerman’s remaining allegations of ineffective assistance also fail. First, Brennerman argues that his counsel should have requested that the Court “order and compel” the production of ICBC’s “pertinent underwriting file.” (Petition at 39.) But as the Second Circuit ruled on direct appeal, the underwriting file allegedly possessed by ICBC was outside the scope of the government’s disclosure obligations, and “[t]he only indication that such documents are extant comes from Brennerman’s bare assertions.” *Brennerman II*, 818 F. App’x at 30. This Court also previously denied Brennerman’s discovery requests of the underwriting file on numerous occasions, finding, among other things, that this Court has no jurisdiction over ICBC – “a foreign bank located approximately 3,500 miles from the courthouse.” (Doc. No. 249 at 2 (quoting *United States v. Brennerman*, No. 17-cr-155 (LAK), 2017 WL 4513563, at \*2 (S.D.N.Y. Sept. 1, 2017)); *see also* Doc. Nos. 242, 249, 251, 253, 255.) Because it would have been “futile or frivolous” for trial counsel to request that the Court compel production of unspecified documents from an entity that was beyond the Court’s jurisdiction, *United States v. Nersesian*, 824 F.2d 1294, 1322 (2d Cir. 1987), the Court cannot say that trial counsel’s failure to make such a request “fell below an

TRULINCS 54001048 - BRENNERMAN, RAHEEM J - Unit: ALF-U-B

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FROM: 54001048

TO:

SUBJECT: EXHIBIT C

DATE: 05/11/2023 06:42:31 PM

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

## EXHIBIT C

Government Exhibits - GX1-57; Gx1-57A; GX1-73; GX529  
adduced at trial and submitted by Brennerman on record  
at: 1:17-cr-0337 (RJS), EFC No. 167, demonstrating that  
Brennerman interacted with Morgan Stanley Smith Barney, LLC

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

**From:** BRENNERMAN, R. J @The Executive Office  
**To:** Stout, Scott  
**Cc:** BRENNERMAN R. J@Executive Office  
**Subject:** Re: Morgan Stanley (Wealth Management)  
**Date:** Tuesday, January 8, 2013 9:09:49 AM  
**Attachments:** Morgan Stanley (Client Profile).pdf  
**Importance:** High

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Dear Scott,

As discussed, attached is the completed forms, as advised the account will be in the corporate name however you wanted me to also complete a form with personal information. As discussed, I will require Debit Card and AMEX card with the account.

Please let know what are the next steps.

Best Regards

**From:** Stout, Scott  
**Sent:** Monday, December 10, 2012 1:10 PM  
**To:** mailto:rbrennerman@blacksandspacific.com  
**Subject:** RE: 2013 Preparation

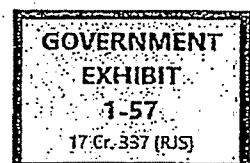
Hi RJ,

Just a reminder to get those forms to me so I can get everything in order prior to our lunch on Friday.

Thanks,  
Scott

Scott Stout  
F.A. - Wealth Management  
MorganStanley  
Direct: 310 205 4912  
9665 Wilshire Blvd., 6<sup>th</sup> Floor  
Beverly Hills, CA 90212

<http://www.morganstanley.com/fa/scott.stout>  
[scott.stout@morganstanley.com](mailto:scott.stout@morganstanley.com)



Kindly provide all personal information.  
For additional owners, please complete a 2<sup>nd</sup> profile.

Full Name KATHLEEN JEFFERSON BERNVERMAN  
Address 245 PARK AVENUE, 37 FL  
City NEW YORK State NEW YORK Zip Code 10167  
Home Phone \_\_\_\_\_ Business \_\_\_\_\_  
Cell 917 677 6430 Fax 312 861 1057  
SS# or Tax ID [REDACTED] US Citizen ☒ N  
Marital Status SINGLE # of Dependents N/A Date of Birth 04/21/78  
E-mail Address YBERMAN@blackstonecapital.com  
Telephone access Prompts \_\_\_\_\_ Mother's Maiden Name \_\_\_\_\_  
City of Birth \_\_\_\_\_ or 1<sup>st</sup> School Attended DWIGHT  
Employer BLACKSTONE ENERGY CORPORATION  
Nature of Business OIL & GAS Occupation OIL & GAS EXECUTIVE  
Est. Annual Compensation \$ 720,000 (BASE SALARY) Employed Since 2010

Primary Source of Income-Check all that apply

Annual Salary ☒ Investments ☒ Retirement Assets \_\_\_\_\_ Amount \$ \_\_\_\_\_  
Est. Total Annual Income (all sources) \_\_\_\_\_  
Est. Liquid Net Worth \$ 45m Est. Total Net Worth \$ \_\_\_\_\_  
Tax Bracket (percentile) \_\_\_\_\_

Investment Objectives: (Please rank 1 through 4, in order of priority)

Growth ☒ Current Income 3 Tax Deferral 4 Liquidity ☒ 2  
Investing Since (year) \_\_\_\_\_ Stocks 99 Bonds 19 Commodities 01 Options 02  
Risk Tolerance (check one) Aggressive \_\_\_\_\_ Moderate ☒ Conservative \_\_\_\_\_  
Speculation Yes \_\_\_\_\_ No \_\_\_\_\_

Primary Financial Need: (circle one)

☒ Wealth Accumulation \_\_\_\_\_ Major Purchase \_\_\_\_\_ Healthcare \_\_\_\_\_ Education  
Estate Planning \_\_\_\_\_ Retirement \_\_\_\_\_ Charity \_\_\_\_\_ Income

Outside Investments: \_\_\_\_\_ Firms Used: \_\_\_\_\_  
Equities \$ \_\_\_\_\_ Fixed Income \$ \_\_\_\_\_ Cash \$ \_\_\_\_\_ Alt Investments \_\_\_\_\_  
Time Horizon \_\_\_\_\_ Liquidity Needs \_\_\_\_\_

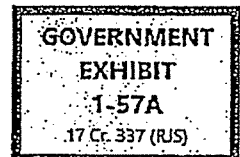
Are you or anyone in your household a major share holder in a publicly traded company? Y ☒ N  
Are you an executive of a publicly traded company? Y ☒ N  
Do you or anyone in your immediate family work for a brokerage house? Y ☒ N  
Is anyone in your immediate family employed by CitiGroup? Y ☒ N

[Signature] 1/5/13

Please sign and date above

In order to open your account we are required to obtain this information. Thank you for assisting us.

THIS INFORMATION WILL REMAIN CONFIDENTIAL 02/2012





Kindly provide all personal information.  
For additional owners, please complete a 2<sup>nd</sup> profile.

Full Name JEFFERSON III HOLDINGS LLC  
Address 3960 HOWARD HUGHES PARKWAY, SUITE 500  
City LAS VEGAS State NEVADA Zip Code 89169  
Home Phone \_\_\_\_\_ Business \_\_\_\_\_  
Cell 9769 6430 Fax \_\_\_\_\_  
SS# or Tax ID [REDACTED] US Citizen (Y) N  
Marital Status NA # of Dependents \_\_\_\_\_ Date of Birth \_\_\_\_\_  
E-mail Address \_\_\_\_\_  
Telephone access Prompts \_\_\_\_\_ Mother's Maiden Name \_\_\_\_\_  
City of Birth \_\_\_\_\_ or 1<sup>st</sup> School Attended DWIGHT  
Employer \_\_\_\_\_  
Nature of Business INVESTMENTS Occupation \_\_\_\_\_  
Est. Annual Compensation \$ \_\_\_\_\_ Employed Since \_\_\_\_\_  
Primary Source of Income-Check all that apply  
Annual Salary \_\_\_\_\_ Investments \_\_\_\_\_ Retirement Assets \_\_\_\_\_ Amount \$ \_\_\_\_\_  
Est. Total Annual Income (all sources) \_\_\_\_\_  
Est. Liquid Net Worth \$ \_\_\_\_\_ Est. Total Net Worth \$ \_\_\_\_\_  
Tax Bracket (percentile) \_\_\_\_\_

**Investment Objectives: (Please rank 1 through 4, in order of priority)**

Growth 1 Current Income 2 Tax Deferral 3 Liquidity 4  
Investing Since (year) \_\_\_\_\_ Stocks 97 Bonds 97 Commodities 01 Options 02  
Risk Tolerance (check one) Aggressive \_\_\_\_\_ Moderate X Conservative \_\_\_\_\_  
Speculation Yes \_\_\_\_\_ No \_\_\_\_\_

**Primary Financial Need: (circle one)**

Wealth Accumulation \_\_\_\_\_ Major Purchase \_\_\_\_\_ Healthcare \_\_\_\_\_ Education \_\_\_\_\_  
(Estate Planning) Retirement \_\_\_\_\_ Charity \_\_\_\_\_ Income \_\_\_\_\_

Outside Investments: \_\_\_\_\_ Firms Used: \_\_\_\_\_  
Equities \$ \_\_\_\_\_ Fixed Income \$ \_\_\_\_\_ Cash \$ \_\_\_\_\_ Alt Investments \_\_\_\_\_  
Time Horizon \_\_\_\_\_ Liquidity Needs \_\_\_\_\_

Are you or anyone in your household a major share holder in a publicly traded company? Y N  
Are you an executive of a publicly traded company? Y N  
Do you or anyone in your immediate family work for a brokerage house? Y N  
Is anyone in your immediate family employed by CitiGroup? Y N

[Signature] 1/5/13  
Please sign and date above

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# Morgan Stanley

CLIENT STATEMENT For the Period January 31, 2013

#BWNJGWM

TOTAL VALUE LAST PERIOD (as of 12/31/12)

□

NET CREDITS/DEBITS

200,000.00

CHANGE IN VALUE

0.88

TOTAL VALUE OF YOUR ACCOUNT (as of 1/31/13)  
(Total Values include accrued interest)

\$200,000.88

RAHEEM JEFFERSON BRENNERMAN  
245 PARK AVENUE  
39 FLOOR  
NEW YORK NY 10167-4000

Your Branch

9685 WILSHIRE BLVD STE 600  
BEVERLY HILLS, CA 90212  
Telephone: 310-285-2600  
Alt. Phone: 800-458-9838  
Fax: 310-285-2696

Your Financial Advisor

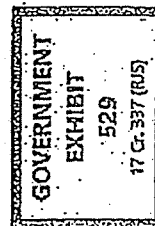
Scott Stout

Client Interaction Center

800-869-3326  
24 Hours a Day, 7 Days a Week

Access your accounts online  
[www.morganstanley.com/online](http://www.morganstanley.com/online)

Morgan Stanley Smith Barney LLC, Member SIPC.



197 - 012515 - 054 - 1 - 0

**From:** BRENNERMAN, R. J @The Executive Office  
**To:** Stout, Scott  
**Cc:** Gevarter, Mona  
**Subject:** Re: Platinum AMEX  
**Date:** Wednesday, January 9, 2013 7:24:39 PM  
**Importance:** High

---

Dear Mona,

Are you able to call me on my cellphone 917 699 6430 regarding the email below

Best Regards

**From:** Stout, Scott  
**Sent:** Wednesday, January 09, 2013 4:45 PM  
**To:** mailto:rbrennerman@blacksandspacific.com  
**Cc:** Gevarter, Mona  
**Subject:** Platinum AMEX

RJ,

Please give Mona a call to set up your Platinum AMEX card. 310 205 4751.

As a Morgan Stanley perk, if you spend \$100k annually we deposit \$500 into your account to cover your annual fee (\$450).

Other MS/Platinum Perks Include:

- First Class Lounge Access
- \$200 annually in airline fee credits (checking bags, etc)
- No foreign transaction fees
- Premium upgrades for car rentals
- Concierge
- 20% Travel Bonus

Scott Stout  
F.A. - Wealth Management  
MorganStanley  
Direct: 310 205 4912  
9665 Wilshire Blvd., 6<sup>th</sup> Floor  
Beverly Hills, CA 90212

<http://www.morganstanley.com/fa/scott.stout>  
[scott.stout@morganstanley.com](mailto:scott.stout@morganstanley.com)

Important Notice to Recipients:

GOVERNMENT  
EXHIBIT  
1-73  
17 Cr. 337 (RUS)

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1 MS. FRITZ: Your Honor, your Honor, no. We have it  
2 here, but --

3 THE COURT: You haven't served it yet?

4 MS. FRITZ: We wanted to hear what your Honor said.

5 THE COURT: In any event, the witness has indicated he  
6 doesn't possess the documents, so the documents are not with  
7 him. He doesn't have them. According to his testimony,  
8 they're in London with the bank's files that he turned over  
9 once the deal went south. He certainly said he didn't review  
10 them in preparation for his testimony. He doesn't possess them  
11 now.

12 So, to the extent the bank is subpoenaed with a Rule  
13 17 subpoena, then that would be a different issue, but I don't  
14 think serving Mr. -- who is the lawyer, Mr.?

15 MR. HESSLER: Hessler, your Honor.

16 THE COURT: Yes, Mr. Hessler. I'm sorry.

17 I don't think serving Mr. Hessler is adequate service  
18 for purposes of the bank.

19 MS. FRITZ: Let me explain why we did it that way,  
20 because initially last night, we had an ICBC subpoena drafted,  
21 and the reason that we did it this way is, again, I don't  
22 necessarily agree with your Honor's definition of possession.  
23 I do think that Julian Madgett, I think quite plainly, has  
24 access to these documents. People very rarely walk around with  
25 the documents that you're asking for from them, but they do

TRULINCS. 54001048 - BRENNERMAN, RAHEEM J - Unit: ALF-U-B

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Excerpt of Trial Transcript at: 1:17-cr-0337 (RJS), Trial Tr. 551-554 where government witness, Julian Madgett testified that the ICBC document including the underwriting file which documents the basis for the bank, ICBC, approving the finance [at issue] was provided to the bank's New York based lawyers Linklaters LLP who then transmitted the documents to the United States Attorney office.

1 (Jury present)

2 THE COURT: Okay. Have a seat. We will now begin the  
3 cross-examination of Mr. Madgett by Mr. Waller.

4 CROSS EXAMINATION

5 BY MR. WALLER:

6 Q. Good afternoon, Mr. Madgett.

7 A. Good afternoon.

8 Q. When did you say you started working for ICBC?

9 A. 2009.

10 Q. And you work for ICBC in London, correct?

11 A. Correct.

12 Q. And it is a subsidiary of a Chinese bank?

13 A. It is a subsidiary and a branch of a Chinese bank.

14 Q. ICBC London is not FDIC insured; is that correct?

15 A. You are referring to the U.S. arrangement?

16 Q. That's correct.

17 A. No, it would not be because it's an operation in the U.K.

18 Q. When your credit committee makes a decision, a credit  
19 decision whether or not to give a loan or not to give a loan,  
20 what sort of documentation does it produce? Does it produce a

21 memo that explains its reasons or analysis for giving a loan?

22 A. The credit committee will have a series of minutes which  
23 reflects a discussion of the case in credit committee and  
24 records the decision of the credit committee.

25 Q. Did you ever produce the documents from that credit



1 committee, the ones you just described, to the government?

2 MR. ROOS: Objection.

3 THE COURT: You can answer.

4 A. To my knowledge, no. But I need to state perhaps it's  
5 appropriate to say this: After the loan was defaulted, the  
6 internal process of the bank means that the direct relationship  
7 managers who were responsible for that dialogue step away and  
8 the defaulted loan is then passed to a different department.  
9 So, I'm not fully aware of all aspects of what has happened to  
10 the management of the loan after around April 2014.

11 Q. And when I say produced to the government, I meant to the  
12 prosecutors here in this case. You understood that?

13 A. I understood that and to my knowledge, no, that has not  
14 been the case.

15 Q. But ICBC did produce a lot of documents to the government,  
16 correct?

17 A. All I can state is that the documents were provided to our  
18 legal advisors and then our legal advisors have interacted with  
19 the U.S. Attorney's office.

20 Q. Would it be fair to say that some documents that are in the  
21 underwriting file for ICBC were produced to the document and  
22 others were not?

23 A. Some documents will have been passed across. I do not know  
24 whether or not all or some. I'm not in -- I don't have that  
25 knowledge.

1 Q. Is there an underwriting file for a loan application such  
2 as the one we are dealing with in this case?

3 A. There would be a credit application document which is where  
4 the case for making the loan has been summarized, and that is  
5 the credit application document which then goes to credit  
6 committee for approval or decline.

7 Q. Do you know if that -- well who would have prepared that  
8 document?

9 A. I would have been one of the main authors of that document.

10 Q. Do you know if that document was produced to the  
11 government?

12 A. I do not and I wouldn't see great relevance in it, but I do  
13 not know if it has gone to the government.

14 Q. Well, relevance is not really your determination, correct?

15 A. Correct, correct. Yes.

16 Q. So you don't know if it was produced to the government and  
17 it certainly wasn't produced to the defense, correct, by ICBC?

18 THE COURT: Well, do you know?

19 THE WITNESS: I don't know, but I'm assuming from your  
20 question that it wasn't.

21 THE COURT: Well, don't assume.

22 THE WITNESS: Okay, sorry. My apologies.

23 THE COURT: The jury knows not to assume anything from  
24 a question. So, you just answer as to what you know.

25 THE WITNESS: All right.

1 BY MR. WALLER:

2 Q. Was there an answer?

3 A. Could you repeat the question, please?

4 Q. Yes.

5 Do you know if that document that we were talking  
6 about was ever produced?

7 THE COURT: He answered. He said I don't know.

8 THE WITNESS: I don't know.

9 THE COURT: And then he started assuming things and  
10 that's when I jumped in.

11 BY MR. WALLER:

12 Q. So the answer is you don't know?

13 A. I don't know.

14 Q. Now, you first met Mr. Brennerman in 2011, correct?

15 A. Yes.

16 Q. Did you meet him in person for a meeting?

17 A. Yes.

18 Q. Jumeirah Carlton Tower Hotel, does that sound right?

19 A. On one occasion I met him in a hotel, yes.

20 Q. At that point when you met him I think you testified that  
21 there were no firm deals that he was bringing to you at that  
22 point? There were no deals that he was bringing to you, he was  
23 just making an introduction?

24 A. When the initial interaction between us started, yes.

25 Q. And, do you recall when the first deal was that he brought