

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

Hon. Richard J. Sullivan
UNITED STATES DISTRICT COURT
for the Southern District of New York
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

December 23, 2021

Regarding: United States v. Brennerman Case No. 17 Cr. 337 (RJS)

Dear Judge Sullivan:

Petitioner/Movant Pro Se Raheem Jefferson Brennerman ("Brennerman") respectfully submits this correspondence in furtherance and support of his omnibus motion including collateral attack motion at 17 Cr. 337 (RJS), EFC No. 269 and the affidavit in support of the omnibus motion at 17 Cr. 337 (RJS), EFC No. 270. This correspondence is respectfully submitted in reliance on the U.S. Constitution, all applicable law and federal rule.

I. PROSECUTORIAL MISCONDUCT BASED ON CONSPIRACY TO DEPRIVE PETITIONER PERTINENT EXCULPATORY EVIDENCE

As evident through the testimony of Government witness, Mr. Julian Madgett from ICBC (London) plc, United States v. Brennerman, 17 Cr. 337 (RJS), trial tr. 551-554; 617 (see "Exhibit 1"), who testified that the bank, ICBC (London) plc provided all documents/evidence related to the bridge loan transaction between the bank and The Blacksands Pacific Group, Inc., and Blacksands Pacific Alpha Blue, LLC to their New York based attorney, Linklaters LLP, that Linklaters LLP were expected to turn over the documents/discovery to the Government. To-date, notwithstanding Mr. Madgett testifying to the existence of the underwriting file which documents the basis for the bank approving the bridge loan thus highlighting the representations or alleged misrepresentation which the bank relied upon, petitioner/movant has been unable to obtain and present the evidence/underwriting file for his complete defense and collateral attack motion.

Petitioner/Movant further avers that Attorney Paul S. Hessler who represented the bank, ICBC (London) pic while working at Linklaters LLP, conspired with the prosecution, as part of the overall conspiracy to convict and imprison him, to withhold presenting the pertinent evidence - ICBC underwriting files to the prosecution so as not to turn over the evidence / underwriting file to petitioner/movant for his complete defense, because the evidence will prove his innocence.

Given that Government witness Mr. Julian Madgett testified to the existence of the underwriting file in open Court, its importance to this prosecution and that the bank turned over the evidence/discovery to Linklaters LLP's New York office, the prosecution should have obtained the evidence - pertinent ICBC underwriting file. Furthermore, as a result of Mr. Madgett testimony Linklaters LLP's New York office and Attorney Paul S. Hessler should have turned over all document / evidence including the underwriting file related to the bridge loan transaction as aforesaid to the prosecution and petitioner so that he may present it for his complete defense. Failure to do so is a professional misconduct and violated petitioner's Constitutional rights.

II. RECUSAL/DISQUALIFICATION OF THIS COURT (JUDGE RICHARD J. SULLIVAN) BASED ON JUDICIAL MISCONDUCT

In addition, Petitioner/Movant, reiterates his assertion and request for this Court (Judge Richard J. Sullivan) to disqualify and recuse himself from continuing to adjudicate this case, including the omnibus motion, due to this court's partiality and interest in

the outcome of this case, to imprison him. To highlight the reasons for such request for disqualification/recusal, Petitioner/Movants presents copies of transcripts and exhibits from the proceedings including:

- i.) Government exhibits GX1-57; GX1-57A; GX1-73; GX519 adduced at trial and which were docketed at United States v. Brennerman, 17 Cr. 337 (RJS), EFC No. 167 on June 27, 2018 to highlight that his account was opened at Morgan Stanley Smith Barney, LLC, which was/is not FDIC insured, thus he should have been acquitted (see "Exhibit 2");
- ii.) Testimony of Government witness, Barry Gonzalez, FDIC commissioner at United States v. Brennerman, 17 Cr. 337 (RJS), trial tr. 1059 at 9-18, confirming that Government failed to prove that Morgan Stanley Smith Barney, LLC was/is FDIC insured (see "Exhibit 3");
- iii.) Sentencing transcript on November 19, 2018, 5 months after June 27, 2018, at United States v. Brennerman, 17 Cr. 337 (RJS), Document 206 at 19 where this Court surreptitiously supplanted a non-FDIC insured institution, Morgan Stanley Smith Barney, LLC with a FDIC insured institution, Morgan Stanley Private Bank so as to falsely satisfy the law to convict and imprison Petitioner/Movant by stating on record that "But the bank fraud here 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 some 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." (see "Exhibit 4").

Furthermore there was no evidence adduced at trial that Brennerman received any banking perks hence the Court was inaccurate to state that he received perks worth \$6,500, in order to enhance the sentence imposed by the Court.

III. CONCLUSION

For all the foregoing, Petitioner/Movant respectfully submits the above in furtherance and support of his pleadings at 17 Cr. 337 (RJS), EFC Nos. 269, 270.

Dated: December 23, 2021 White Deer, Pa. 17887-1000

Respectfully submitted

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

Pro Se Petitioner/Movant

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EXHIBIT 1

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	Case 1:17-cr-00337-RJS					
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					

Case 1:17-cr-00337-RJS Document 94 Filed 12/13/17 Page 202 of 263 HBT5bre7 Madgett - cross

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

MR. ROOS: Objection.

THE COURT: You can answer.

- A. To my knowledge, no. But I need to state perhaps it's appropriate to say this: After the loan was defaulted, the internal process of the bank means that the direct relationship managers who were responsible for that dialogue step away and the defaulted loan is then passed to a different department. So, I'm not fully aware of all aspects of what has happened to the management of the loan after around April 2014.
- Q. And when I say produced to the government, I meant to the prosecutors here in this case. You understood that?
- A. I understood that and to my knowledge, no, that has not been the case.
- Q. But ICBC did produce a lot of documents to the government, correct?
- A. All I can state is that the documents were provided to our legal advisors and then our legal advisors have interacted with the U.S. Attorney's office.
- Q. Would it be fair to say that some documents that are in the underwriting file for ICBC were produced to the document and others were not?
 - A. Some documents will have been passed across. I do not know whether or not all or some. I'm not in -- I don't have that

25 knowledge.

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	Case 1:17-cr-00337-RJS					
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.					

	Case 1:17-cr-00337-RJS					
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					

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Case 1:17-cr-00337-RJS Document 96 Filed 12/13/17 Page 4 of 315 617 HBUKBRE1 MS. FRITZ: Your Honor, your Honor, no. We have it here, but --THE COURT: You haven't served it yet? MS. FRITZ: We wanted to hear what your Honor said. THE COURT: In any event, the witness has indicated he doesn't possess the documents, so the documents are not with He doesn't have them. According to his testimony, they're in London with the bank's files that he turned over once the deal went south. He certainly said he didn't review them in preparation for his testimony. He doesn't possess them now. So, to the extent the bank is subpoenaed with a Rule 17 subpoena, then that would be a different issue, but I don't think serving Mr. -- who is the lawyer, Mr.? MR. HESSLER: Hessler, your Honor. THE COURT: Yes, Mr. Hessler. I'm sorry. I don't think serving Mr. Hessler is adequate service

for purposes of the bank.

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

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EXHIBIT 2

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From:

BRENNERMAN, R. J @The Executive Office

To:

Stout, Scott

Cc: Subject: Date: BRENNERMAN R. J@Executive Office
Re: Morgan Stanley (Wealth Management)
Tuesday, January 8, 2013 9:09:49 AM
Morgan Stanley (Client Profile).pdf

Attachments: Importance:

I liala

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., 6th Floor Beverly Hills, CA 90212

http://www.morganstanlev.com/fa/scott.stout scott.stout@www.ganstanley.com

> GOVERNMENT EXHIBIT 1-57 17 Cr. 337 (RJS)

Case 1:17-cr-00337-RJS Document 272 Filed 01/10/22 Page 11 of 20 9065 Wilshire Boulevard Suite 600 Beverly Hills, CA 90212 Kindly provide all personal information. Kindly provide all personal information.						
Kindly provide all personel information. SmithBarney For additional owners, please complete a 2 rd profile.						
Full Name KAHEGO JEFFERSON BREMVERMAN						
Address 245 PACK AMMER, 31 FL						
City NEW YORK State NEW YORK Zip Code 10167						
Home Phone Business						
Cell 917 649 6430 Fax 310 861 1057						
SS# or Tax ID US Citizen y N						
Marital Status Sivial #of Dependents N/I) Date of Birth CH/21/78						
E-mail Address 3 brennerman @ blacksands pacings Com						
Telephone access Prompts Mother's Maiden Name						
City of Birth or 1st School Attended Dwlatt						
Employer BUNGSAND METHIC DIEKGY CERPORATION						
Nature of Business <u>Cit. \$ Gris</u> Occupation <u>Cit. \$ Gris Excuri</u> ve						
Est. Annual Compensation \$ \frac{\frac{120,000}{63\iff Springs}}{63\iff Springs}\$ Employed Since \frac{2010}{2010}						
Primary Source of Income-Check all that apply						
Annual Salary X Investments X 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 1X Current Income 3 Tax Deferral 4 Liquidity × 2						
Investing Since (year) Stocks <u>II</u> Bonds <u>II</u> Commodities <u>CI</u> Options <u>D2</u>						
Risk Tolerance (check one) Aggressive Moderate X Conservative						
Speculation YesNo						
Primary Financial Need: (circle one)						
Wealth Accumulation Major Purchase Healthcare Education Estate Planning Retirement Charity Income						
Outside Investments: Firms Used:						
Equities S 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) 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

GOVERNMENT EXHIBIT 1-57A .17 Cr. 337 (RJS)

Case 1:17-cr-00337-RJS Document 272 Filed 01/10/22 Page 12 of 20 9665 Wilshire Bouleyard MorganStanley Suite 600 Beverly Hills, CA 90212 SmithBarney Kindly provide all personal information. For additional owners, please complete a 2nd profile. EFFRICA the Divisi MARKINAY, SLUTE 500 Muchics Zip Code 89169 City LAS VEGAS State Nivere Home Phone Business __ 71769 6430 SS# or Tax ID _ US Citizen(Y) N Marital Status_ N.P. #of Dependents_____ Date of Birth _____ E-mail Address ____ **Telephone access Prompts** Mother's Maiden Name or 1st School Attended DWIGHT City of Birth_____ 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 Current Income 2 Tax Deferral 3 Liquidity 4

Investing Since (year)	Stocks $\underline{\dot{\gamma}\gamma}$ Bonds	<u>99</u> Commodities <u>DI</u>	_Options_ <u>02</u> _				
Risk Tolerance (check one) Aggressive Moderate X_Conservative							
Speculation YesNo							
Primary Financial Need: (circle one)							
	Major Purchase	Healthcare	Education				
(Estate Planning)	Retirement	Charity	Income				

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

Firms Used: Equities \$_____ Fixed Income \$____ Cash\$____ Alt Investments_____

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

Time Horizon _____ Liquidity Needs _____

Please sign and date above

Outside Investments:

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

\$200,000.88

TOTAL VALUE OF YOURCCOUNT(as of 1/31/13) (Total Values include account interest)

YourFinancialAdvisor

Scott Stout

TOTAL VALUE LAST PERIOSS of 12/31/1/2)

NET CREDITS/DEBITS

CHANGE IN VALUE

200,000.00

Morgan Stanley

CLIENT STATEMENT For the Period January 431, 2013

#BWNJGWM

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

9665 WILSHIRE BLVD STE 600 BEVERLY HILLS, CA 90212 Telephone: 310-285-2600 Aft. Phone: 800-458-9838 Fax: 310-285-2696 Your Branch

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

www.morganstanley.com/online Access your accounts online

Morgan Stanley Smith Barney LLC. Member SIPC.

GOVERNMENT EXHIBIT 523

17 Cr. 337 (RUS)

197 - 012515 - 054 - 1 - 0

From:

BRENNERMAN, R. J @The Executive Office

To: Cc: Stout, Scott Gevarter, Mona Re: Platinum AMEX

Subject: 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., 6th Floor Beverly Hills, CA 90212

http://www.morganstanley.com/fa/scott.stout scott.stout@morganstanley.com

Important Notice to Recipients:

GOVERNMENT EXHIBIT 1-73

17 Cr. 337 (RJS)

Please do not use e-mail to request, authorize or effect the purchase or sale of any security or commodity. Unfortunately, we cannot execute such instructions provided in e-mail. Thank you.

The sender of this e-mail is an employee of Morgan Stanley Smith Barney LLC ("Morgan Stanley") If you have received this communication in error, please destroy all electronic and paper copies and notify the sender immediately. Erroneous transmission is not intended to waive confidentiality or privilege. Morgan Stanley reserves the right, to the extent permitted under applicable law, to monitor electronic communications. This message is subject to terms available at the following link: http://www.morganstanley.com/disclaimers/mssbemail.html. If you cannot access this link, please notify us by reply message and we will send the contents to you. By messaging with Morgan Stanley you consent to the foregoing.

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EXHIBIT 3

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HC48BRE4

Gonzalez - Cross

- Q. OK. I am not sure it's reflected on this page, but maybe on the first page of this exhibit.
 - You see at the bottom here, on the bottom left, there is an italicized text that reads "Morgan Stanley Smith Barney LLC"?
 - A. It's hard for me to see.
 - Q. Do you see that text now?
 - || A. Yes.

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- 9 Q. Are you aware if Morgan Stanley Smith Barney LLC is insured
- 10 by the FDIC?
- 11 | A. I'm not aware of that.
- 12 | Q. Did you conduct any search to confirm that?
- 13 | A. No.
- 14 Q. The rest of this text, it has "member SIPC." Do you see
- 15 | that?
- 16 A. Yes.
- 17 | Q. Are you familiar with that acronym SIPC?
- 18 A. I'm not familiar with that acronym.
- 19 Q. Does that, as far as you know, pertain to the FDIC in any
- 20 || way?
- 21 | A. No.
- 22 | Q. Does the FDIC insure banks outside of the United States?
- 23 | A. No.
- 24 Q. So if there is a bank located in London, in the United
- 25 | Kingdom, that would not be covered by the FDIC?

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EXHIBIT 4

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IBJQBREs

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

Now, I do think, frankly, that it's worth pointing out that the bank fraud calculation here I think would be quite different than the wire fraud, and I guess I want to hear from the parties on that. But the bank fraud here 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 some 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.

Mr. Roos, do you disagree?

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

THE COURT: You agree, OK.

