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September 1, 2023

The Rt. Hon. James Cleverly MP  
United Kingdom Foreign Secretary  
Foreign, Commonwealth & Development Office  
King Charles Street  
London, SW1A 2AH  
United Kingdom

The Rt. Hon. David Rutley, MP  
Minister for Americas and the Caribbean  
Foreign, Commonwealth & Development Office  
King Charles Street  
London, SW1A 2AH  
United Kingdom

The Rt. Hon. Greg Hands MP  
Member of Parliament for Chelsea and Fulham  
Chairman of the Conservative Party  
House of Commons  
London, SW1A 0AA  
United Kingdom

Dear Sirs:

I am writing on behalf of my client, Raheem Brennerman, to give you background information about his criminal convictions in the United States and to let you know about the serious problems inherent in those convictions. Since Mr. Brennerman has exhausted all possible avenues of relief available in the American judicial system, we are hopeful that you can help him find redress.

**Raheem Brennerman and Blacksands Pacific**

The prosecution opened Mr. Brennerman's fraud trial by telling the jury: "This is a case about a con man, a con man who invented a fake company [Blacksands Pacific], a con man who said he had oil fields all over the world and thousands of barrels of oil to sell. But none of that was true. It was all a lie" (Fraud Trial Tr. [hereinafter "Tr."] at 76). Furthermore, the government claimed, Blacksands had "*never* owned oil assets" (Tr. at 1407, 1409)(*emphasis added*). Mr.

Brennerman had only “invented the company” to steal money (Tr. at 76). “There was no oil company, ... no oil fields. The defendant just made them up” (Tr. at 79). Blacksands’ business operations consisted “of little more than Raheem Brennerman sitting in his apartment... or in a fancy hotel room... lying about the oil assets he never owned” (Tr. at 1409). The prosecutors also told the jury that Mr. Brennerman had only pretended to know about the oil business.

In truth, it was the prosecution’s characterization of both Mr. Brennerman and the company he founded that was completely false.

Mr. Brennerman is a 45 year-old British businessman who has been doing business in both the U.K., the U.S., and on the African continent since 2001. Until the instant convictions, Mr. Brennerman had an unblemished record, with no arrests or convictions in either the United States or the United Kingdom. He began his career working in the real estate market, and started a real estate investment and development business called BLV Group Corp. BLV Group operates in the U.S. and the U.K., among other countries.<sup>1</sup>

In 2010, he founded an oil and gas exploration company, made up of two separate entities: (1) Blacksands Pacific Group, Inc. and its subsidiaries operating in the United States; and (2) Blacksands Pacific International Ltd. and its subsidiaries operating from the United Kingdom with an international reach, and many projects in Africa. Blacksands was hardly a sham company: contrary to the prosecution’s claims, it had ownership interests in many oil fields in various countries. Attached to this letter as Exhibit One is a summary of Blacksands’ acquisitions in Nigeria, Equatorial Guinea, the United States and Canada as of the time of trial.

Moreover, contrary to the prosecution’s claims, Mr. Brennerman had a genuine interest in, and knowledge of, the energy market. In fact, he wrote a number of pieces about the oil industry that were published in various outlets. *See, e.g.,* Raheem Brennerman, *4.9 Million Reasons Why the GoM Will be Central to Our Energy Future*, HART ENERGY, Nov. 7, 2014, *available at* <https://www.hartenergy.com/opinions/49-billion-reasons-why-gom-will-be-central-our-energy-future-122250>; Raheem Brennerman, *Investing in Africa’s Future is Good for Ours*, THE HILL, Oct. 13, 2014, *available at* <https://thehill.com/blogs/congress-blog/foreign-policy/220564-investing-in-africas-future-is-good-for-ours>. One of his articles was even used as a learning aid in a workshop on the exportation of oil and gas organized by the the Gulf Research Center Cambridge.<sup>2</sup>

## FACTS UNDERLYING THE FRAUD AND CONTEMPT CONVICTIONS

### The Cat Canyon Deal; Negotiations with ICBC

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<sup>1</sup> See Kevin Brass, *Developer of Belgravia Offers Insights into the Wants and Desires of Super Rich Buyers*, NEW YORK TIMES, Aug. 8, 2008, *available at* [https://archive.nytimes.com/raisingtheroof.blogs.nytimes.com/2008/08/08/developer-of-belgravia-project-offers-insights-into-the-wants-and-desires-of-super-rich-buyers/?\\_php=true&\\_type=blogs&\\_r=0](https://archive.nytimes.com/raisingtheroof.blogs.nytimes.com/2008/08/08/developer-of-belgravia-project-offers-insights-into-the-wants-and-desires-of-super-rich-buyers/?_php=true&_type=blogs&_r=0) (discussing a multi-million dollar project BLV Group was engaged in).

<sup>2</sup> The workshop was called “Challenges Facing GCC Oil and Gas Exports, [https://gulfresearchmeeting.net/documents/1584444245111\\_WS1%20-%20Challenges%20Facing%20GCC%20Oil%20and%20Gas%20Exports%20-%20checked.pdf](https://gulfresearchmeeting.net/documents/1584444245111_WS1%20-%20Challenges%20Facing%20GCC%20Oil%20and%20Gas%20Exports%20-%20checked.pdf). Mr. Brennerman’s article was entitled “What Next for Middle East Shale Oil & Gas?” *Id.* at p.7.

In 2011, Mr. Brennerman began a working relationship with Julian Madgett, a bank executive at the London Branch of Industrial Commercial Bank of China (ICBC). He told Madgett that Blacksands was a relatively young company and wanted backing for its activities in oil and gas exploration.

In 2012, Mr. Brennerman became aware of a potential opportunity for Blacksands: a company called ERG was looking to sell Cat Canyon, an oil field in California, for \$650 million. Blacksands and ERG engaged in extensive negotiations about the deal. Mr. Brennerman met with ERG executives several times and visited the oil field. Mr. Brennerman even secured an “offtaker” (Sinochem) for the oil.

Mr. Brennerman wanted to move forward with the purchase and sought financing for the deal from ICBC. Madgett seemed eager to assist. So Blacksands spent a good deal of time and money trying to make the deal happen: it hired three prominent law firms, a project management and engineering firm specializing in oil and gas, among others. It also created a “data room” so that ICBC and other potential investors could have access to pertinent confidential documents and information.<sup>3</sup>

ERG was willing to sell Cat Canyon to Blacksands, but, as the loan negotiations between Blacksands and ICBC dragged on for months without a firm commitment from ICBC, ERG began to doubt whether Blacksands was a viable purchaser. Toward the end of that period, Mr. Brennerman made Blacksands’ displeasure known to ICBC, and expressed the intention to obtain financing from a different bank. According to emails between Madgett and Brennerman (included in Brennerman’s fraud case, Gov. Exhibit 1-19), ICBC had not conducted any “serious review of the data supplied in the data room.” Madgett expressed ICBC’s concern that the Blacksands was not “a major or well established trader.” Brennerman responded that this had been well known to the bank when they began negotiations. He added: “[P]erhaps you should have stated this earlier so we would not have committed so much time with ICBC.” Moreover, Mr. Brennerman reminded him, Madgett had told him that the other operations of Blacksands were “irrelevant” to the financing related to Cat Canyon, and that the proposal under discussion would be “considered on an isolated basis which was the basis in which we progressed discussions.” *Id.*

Eventually, ICBC and Blacksands agreed on a \$20 million 90-day bridge loan with maximum \$5 million net release to assist Blacksands with the costs associated with the deal.

In return, ICBC asked for a significantly higher interest (Libor plus 9.95%) and fees (4% of \$20 million), given the unsecured nature of the bridge loan. However, the Cat Canyon deal fell

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<sup>3</sup> A virtual data room is essentially a secure website where confidential documents can be kept and only read by people authorized to access them. Blacksands’ data room contained thousands upon thousands of documents.

through,<sup>4</sup> and, although Blacksands paid approximately \$1.1 million to ICBC in fees and interest, Blacksands and ICBC could not agree about repayment for the remainder of the loan.<sup>5</sup>

### **The Contempt Conviction**

ICBC instituted a civil suit against Blacksands to recoup the \$5 million. ICBC London PLC v. Blacksands Pacific Group, 15-cv-70 (S.D.N.Y.). Mr. Brennerman was not a party to the suit. On September 29, 2015, Federal District Judge Kaplan granted ICBC's motion for summary judgment and entered judgment against Blacksands for \$5 million plus interest, costs, and attorneys' fees. At the same time that Judge Kaplan granted ICBC summary judgment, he denied Blacksands' request for discovery from ICBC.<sup>6</sup>

ICBC initiated post-judgment discovery to locate assets to satisfy the judgment: document requests and interrogatories were served on Blacksands' counsel. Blacksands' attorneys and ICBC attempted to reach a settlement. After they were unable to come to an agreement over the terms of the proposed settlement, Blacksands produced interrogatory responses and documents to ICBC.

However, ICBC was not satisfied by Blacksands' response. The bank moved to hold Mr. Brennerman personally responsible, and, on December 13, 2016, the district court granted the bank's motion to hold him, as well as Blacksands, in civil contempt. When Blacksands did not satisfy ICBC's discovery requests, Judge Kaplan referred the contempt matter to the United States Attorney's Office who, at the judge's urging, moved for an order directing Mr. Brennerman to show cause why he should not be found in criminal contempt. District Judge Kaplan issued the order.

The matter escalated when, on March 7, 2017, Judge Kaplan called the prosecutors into his robing room to insist that an arrest warrant be issued and that Mr. Brennerman should not be permitted to appear voluntarily. At the time, the prosecutors did not agree with the judge's assessment. At the judge's urging, Mr. Brennerman was arrested pursuant to an arrest warrant.<sup>7</sup>

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<sup>4</sup> According to ERG's owner, toward the end of 2013, the company decided that it did not want to proceed further without some "proof of funds." United States v. Brennerman, 18-3546 (2d Cir. 2017), Doc. 96 at p.254.

<sup>5</sup> Blacksands contended that it agreed to the bridge loan in reliance on ICBC's promise to issue a \$70 million revolving credit facility (RCF) 90 days after the issuance of the bridge loan. The bridge loan was intended to be refinanced into the RCF, as Madgett acknowledged in an October 27, 2013 email, stating: "The \$5 million net bridge funds should be included as refinanced by the main advance" minus the interest, which would be paid by Blacksands. 15-cv-70, doc. No. 11, Exhibit 1, attached to this letter as Exhibit 2.

<sup>6</sup> Blacksands sought the discovery from ICBC in support of its counterclaim against the bank, alleging that it had agreed to the bridge loan in reliance on ICBC's agreement to refinance the bridge loan into the RCF. Judge Kaplan's order granting summary judgment while denying Blacksands any discovery violated settled law. *See, e.g., Clark v. Capital Credit & Collection Services, Inc.*, 460 F.3d 1162, 1178 (9th Cir. 2006) ("summary motion should not be granted while [an] opposing party timely seeks discovery of potentially favorable information").

<sup>7</sup> The day before Mr. Brennerman was arrested, he had negotiated an agreement between Blacksands and Britannia-U Nigeria Limited (a Nigerian company), whereby Britannia-U would pay Blacksands \$100 million in return for a 20%

Following a trial before Judge Kaplan, Mr. Brennerman was convicted of criminal contempt. United States v. Brennerman, 17-cr-155. The Probation Department, which is responsible for providing a sentencing judge with a recommendation of the appropriate sentence to be imposed pursuant to the United States Sentencing Guidelines, informed the judge that under the Guidelines, Mr. Brennerman's sentence should be at least 15 months, but no more than 21 months' imprisonment. It further recommended that he be sentenced to a term of imprisonment of 15 months. Ignoring both the Guidelines and the Probation Department's recommendation, Judge Kaplan sentenced Mr. Brennerman to a 24-month term of imprisonment.<sup>8</sup>

### **The Contempt Conviction was a Miscarriage of Justice**

American federal law is clear: the only way to compel a nonparty to produce documents or other materials is through a subpoena duces tecum. Wright & Miller, Federal Practice and Procedure (9A), §2456. *See also* Hobley v. Burge, 433 F.3d 946, 949 (7th Cir. 2006); In re Sealed Case, 141 F.3d 337, 341 (D.C. Cir., 1998) ("Rule 34(c) explicitly makes the subpoena process of Rule 45 the route to compelling production of documents from nonparties"). To obtain document discovery from nonparties, a litigant must use a subpoena duces tecum pursuant to FED. R. Civ. P. 45(d)(1). *See, e.g.,* Carlisle, Jay C. "Nonparty Document Discovery from Corporations and Governmental Entities Under the Federal Rules of Civil Procedure" 32 NYL SCH. L. REV. 9, 10 (1987).

In short, Mr. Brennerman was not a party to ICBC's civil suit against Blacksands, and he was never served with a subpoena. Absent a subpoena, he was under no obligation to provide any documents or information to ICBC.<sup>9</sup> Nonetheless, Judge Kaplan vigorously pursued both civil and criminal contempt charges against Mr. Brennerman for not providing documents he was not required to provide absent a subpoena.<sup>10</sup> At the same time, it refused to order ICBC, on whose behalf

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interest in Blacksands subsidiaries holding eight oil reserves (attached hereto as Exhibit 3). Blacksands intended to use a portion of that money to repay ICBC for the bridge loan. However, when Britannia-U learned of the contempt charge, it cancelled its agreement with Blacksands (attached hereto as Exhibit 4).

<sup>8</sup> After Mr. Brennerman's fraud trial, the Probation Department recommended that he be sentenced to a 120-month term of imprisonment for the fraud convictions. It based that recommendation on his minimal criminal history as well as the fact that he was not considered a physical danger to the community. The Probation Department stated that Brennerman's fraud sentence should be served *concurrently* with his undischarged term of 24 months' imprisonment in the contempt case. As had Judge Kaplan, Judge Sullivan completely ignored the recommendation of the Probation Department, and sentenced Mr Brennerman to a term of imprisonment of 144 months, to run *consecutive* to the 24-month term from the contempt case.

<sup>9</sup> Although federal courts in the United States are vested with certain inherent post-judgment discovery powers, there is no broad, general inherent power to order a non-party to produce documents. Rather, under FED. R. Civ. P. 69(a)(2), which controls discovery post-judgment, such discovery is controlled by the same rules that apply to pre-judgment discovery.

<sup>10</sup> Notably, in 2006, the Court of Appeals vacated a similar contempt order issued by Judge Kaplan because, as here, the defendant, although the head of the defendant corporation, was not a party to the underlying litigation. OSRecovery, Inc. v. One Groupe Int'l, Inc., 462 F.3d 87, 90 (2d Cir. 2006).

the request for documents had been made, to produce any documents to either Blacksands or Mr. Brennerman. The injustice inherent in this sequence of events is self-evident.

### **The Fraud Conviction**

Mr. Brennerman's fraud charges also flowed from the civil case against Blacksands for its failure to repay the bridge loan. On May 31, 2017, the United States Attorney's Office filed the fraud indictment against Mr. Brennerman, charging him with conspiracy, and the substantive offenses of bank, wire, mail, and visa fraud. The case proceeded to trial, presided over by Federal District Court Judge Sullivan.

The allegations set forth in the indictment detailed the ICBC transaction at issue in the civil case. It alleged that in negotiating the ICBC loan, Brennerman had misrepresented Blacksands' involvement in the oil and gas market, along with several other alleged exaggerations.

The indictment's only other allegation of financial fraud was a general claim that Mr. Brennerman "made similar representations to other financial institutions, in an effort to induce those institutions to provide financing to Blacksands Pacific and Blacksands Alpha."

At trial, the prosecution alleged that Mr. Brennerman's effort to obtain financing from ICBC was a "scheme" that began as early as 2011. It claimed that his conduct before and after getting the bridge loan was indicative of fraud:

He invented a business, he fabricated documents, he said he owned assets he didn't, he made up fake employees, he claimed to have real offices, he lied about millions of dollars in revenue. ...

... [H]e got the loan not to buy an oil field, but to cash in and spend the money on himself and his partner in crime. Tr. at 1420 .

However, as the government belatedly recognized, even if those allegations had been true, they would not have supported a bank fraud conviction, since ICBC was not FDIC-insured, as required by the relevant statute (18 U.S.C. §1344). *See, e.g., United States v. Everett*, 270 F.3d 986 (6<sup>th</sup> Cir. 2001)(one of the three essential elements required for a bank fraud conviction is "that the financial institution was insured by the FDIC"). *See also* 18 U.S.C. §20, which defines a "financial institution" as "an [FDIC] insured depository institution."

Thus, at trial, the government shifted gears and focused on a different theory, one that had not even been mentioned in the indictment: that Brennerman had also targeted another bank, Morgan Stanley, opening an account at its Wealth Management department and conning "Morgan Stanley's bankers with the same lies he told ICBC." Tr. at 80. The prosecution claimed that Morgan Stanley Wealth Management was "an FDIC insured institution," *id.* at 1429, and that Mr. Brennerman lied to the get the bank to open a Morgan Stanley Wealth Management personal account as a

way to get introduced to the Morgan Stanley's investment banking team, with the aim of getting the money he was having trouble getting from ICBC.

By the end of the case, the prosecutors realized that they couldn't rely on that theory either. It was a non-starter because Kevin Bonebrake, the investment banker Brennerman dealt with, testified that his particular unit would not have been involved with lending out the bank's money, but rather would have focused on finding non-FDIC insured third parties to invest in Blacksands' endeavors. *See id.* at 407. So the government dropped its allegation that Mr. Brennerman had violated 18 U.S.C. §1344(2), and proceeded solely on §1344(1), on the theory that he opened the account in order to "get special perks, things like fancy credit cards and lower rates," *id.* at 1431.<sup>11</sup> *See, e.g., id.* at 1493-94 ("through this fraud on Morgan Stanley..., Mr. Brennerman got access to special perks other people couldn't get, like lower rates, and fancy credit cards, and also the ... opportunity to meet and access to do business with people like Kevin Bonebrake").

What the government and Judge Sullivan failed to recognize, however, was that Morgan Stanley's Wealth Management department was not part of Morgan Stanley's banking arm. Rather, it was part of Morgan Stanley Smith Barney, a subsidiary which is *not* FDIC insured. In fact, on its website, it states explicitly: "Morgan Stanley Wealth Management is a business of Morgan Stanley Smith Barney LLC. Morgan Stanley Smith Barney LLC is a registered Broker/Dealer SIPC, and not a bank." Wealth Management/Morgan Stanley, available at <https://www.morgan-stanley.com/what-we-do/wealth-management#>. That Mr. Brennerman was seeking to open an account with the non-FDIC-insured Morgan Stanley Smith Barney, and *not* the FDIC-insured Morgan Stanley Bank, is obvious from the application he filled out to open his account: it clearly states that it is a Morgan Stanley Smith Barney application. *See* MSSB application, attached to this letter as Exhibit 5.

In denying Mr. Brennerman's motion for a new trial or judgment of acquittal, Judge Sullivan stated: "I think the evidence reflects that he opened an account at the private bank using false information, false documents; that that resulted in him having access to perks and benefits that he wouldn't otherwise be entitled to." United States v. Brennerman, 17-cr-337, Sentence Transcript at 4. Since Brennerman's account was not with Morgan Stanley's private bank, but rather with the non-FDIC-insured Wealth Management group, the judge's ruling was factually and legally flawed. And, given that the issue of FDIC insurance was pivotal to the bank fraud/conspiracy charges, the ruling was fatally flawed.

Moreover, the theory that the government's entire case turned on — that Brennerman had essentially made up Blacksands in order to defraud financial institutions — was based on the false assumption that Blacksands was not a real company, was not involved in the oil and gas market, and was not financially viable. In fact, Blacksands — and particularly its subsidiaries in Africa —

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<sup>11</sup> The indictment alleged that Mr. Brennerman had violated both prongs of the bank fraud statute, 18 U.S.C. §1344(1) and (2). Section One requires proof that the defendant schemed to "defraud a financial institution." Section Two requires proof that he schemed to "obtain any of the moneys, funds, credits, assets, securities or other property owned by, or under the custody or control of, a financial institution, by means of false or fraudulent pretenses, representations, or promises."

had various oil assets worth at least as much as Brennerman had represented to both ICBC and Morgan Stanley Smith Barney. *See* Exhibit One, attached hereto. And nothing better demonstrates the fictitiousness of the government's theory than the fact that Blacksands Pacific International Ltd. and its subsidiaries are still operational.<sup>12</sup>

### **Denial of Mr. Brennerman's Effort to Obtain Discovery**

Additionally, Mr. Brennerman's ability to defend against the fraud charges was severely limited by his inability to obtain the full ICBC file. Just as he had done in the contempt case, Mr. Brennerman moved for discovery of the file. And just as Judge Kaplan had done, Judge Sullivan denied his requests for a subpoena to obtain these documents. Judge Sullivan additionally refused to compel the government to obtain the documents and produce them at trial.

That file would have included notes made by ICBC employee Julian Madgett, one of the government's key witnesses, along with the bank's underwriting file and settlement discussions.<sup>13</sup> Without those documents, Mr. Brennerman was prevented from thoroughly cross-examining Madgett and demonstrating where aspects of his testimony were misleading.<sup>14</sup>

Brennerman argued to the jury that he had negotiated in good faith with ICBC, had provided accurate information about Blacksands, and had engaged in good faith negotiations regarding repayment of the loan. However, absent the documentary proof supporting his good-faith defense, his ability to support that argument was unfairly limited.

### **The Fraud Convictions were a Miscarriage of Justice**

It goes without saying that a miscarriage of justice has occurred when a conviction is obtained: (1) without providing the defendant with the evidence necessary to support his defense; (2) based on a flimsy theory; and (3) based upon a theory which bears no resemblance to the theory propounded in the charging document. *See, e.g., Dunn v. United States*, 442 U.S. 100, 107 (S.Ct. 1979). And that is precisely what happened here.

Raheem Brennerman's convictions were based on the bogus theory that Blacksands was a fictitious company that did not really exist. His bank fraud convictions were obtained despite the requirement of the bank fraud statute that the 'defrauded' institution be FDIC insured. And they

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<sup>12</sup> Blacksands Pacific International Ltd. is owned through a trust, and the trustees of the trust run the business. Due to Mr. Brennerman's conviction, he was removed from the trust.

<sup>13</sup> An underwriting file documents the basis for a bank's decision to loan money. Documents relating to the settlement discussions would also include meeting minutes, notes, and emails. In this case, Mr. Brennerman continuously attempted to obtain both from ICBC.

<sup>14</sup> Mr. Brennerman's motion to preclude Madgett from testifying, on the grounds that the defense had not been provided the complete file, was denied. Further, Judge Sullivan stated: "I'm not going to allow any sort of negative inference argument to be made on the basis of these notes being... not produced." *United States v. Brennerman*, 17-cr-337, trial transcript at 620.



were obtained in violation of his right to present a fullsome defense. Since Mr. Brennerman has exhausted all possible avenues of redress through the United States court system without getting any relief, we are hopeful that you will advocate on his behalf and achieve a just outcome for him.

In regards to your query as to my experience: I have worked as a criminal defense attorney since I graduated from law school in 1978. I became an appellate specialist in 1985, and, since 1996, I have limited my practice to federal appeals. I am admitted to practice law in the United States Supreme Court, the Second Circuit Court of Appeals, and the State of New York.

Respectfully submitted,

A handwritten signature in black ink that reads "MTaubenhau8". The signature is stylized, with the first letters of the first and last names being capitalized and prominent.

Marsha R. Taubenhau8, Esq.  
Attorney for Raheem Brennerman

cc: Ambassador Madame Karen Pierce  
Vice Consul Ms. Lisa Strathdee  
Honorable Mr. Voker Turk  
Ambassador Dame Barbara Woodward  
Ambassador Linda Thomas-Greenfield

FROM: 54001048  
TO: Taubenhau, Marsha R  
SUBJECT: BRENNERMAN REPRESENTATION SUMMARY (ADDENDUM - I)  
DATE: 12/09/2023 09:28:56 AM

PART ONE

CLIENT REPRESENTATION SUMMARY

Hello Attorney Taubenhau:

I am writing to you with the additional suggested issues to include in the letter to the British Government, to accentuate the miscarriage of justice concerns with my criminal cases/convictions. The letter needs to address the injustices with both the civil and criminal contempt of court as well as the fraud conviction.

1.) MISCARRIAGE OF JUSTICE CONCERNS IN THE CRIMINAL CONTEMPT OF COURT CASE

(a.) JUDGE KAPLAN IMPROPERLY/ILLEGALLY PIERCED THROUGH THE CORPORATE VEIL OF THE CORPORATION - THE BLACKSANDS PACIFIC GROUP, INC. ("BLACKSANDS PACIFIC"), TO HOLD MR. RAHEEM J. BRENNERMAN ("BRENNERMAN") IN CIVIL CONTEMPT OF COURT:

The pertinent section of the Second Circuit case law in "Am. Fuel Corp. v. Utah Energy Dev. Co., 122 F. 3d 130, 134 (2d Cir. 1997) ("Typically, piercing analysis is used to hold individuals liable for the actions of a corporation they control")" reads:

New York law requires the party seeking to pierce a corporate veil to make a two part showing: (i.) that the owner exercised complete domination over the corporation with respect to the transaction at issue; and (ii.) that such domination was used to commit a fraud or wrong that injured the party seeking to pierce the veil. *Morris v. New York Stat Dep't of Taxation & Fin.*, 82 N.Y. 2d 135, 623 N.E. 2d 1157, 1160-61, 603 N.Y.S. 2d 807 (N.Y. 1993) (citing cases). "While complete domination of the corporation is the key to piercing the corporate veil....such domination, standing alone, is not enough, some showing of a wrongful or unjust act toward [the party seeking piercing] is required." 623 N.E. 2d at 1181 (citing *Walkovszky v. Carlton*, 18 N.Y. 2d 414, 223 N.E.2d 6, 8, 276 N.Y.S. 2d 585 (N.Y. 1966); *Guptill Holding Corp v. State*, 33 A.D.2d 362, 307 N.Y.S. 2d 970, 972-73 (App. Div. 1970), *aff'd*, 31 N.Y.2d 897, 292 N.E. 2d 782, 340 N.Y.S. 2d 628 (N.Y. 1972)

In *Passalacqua*, 933 F.2d 131, the Second Circuit court enunciated a list of factors that tend to identify a dominated corporation: (1) whether corporate formalities are observed; (2) whether the capitalization is adequate; (3) whether funds are put in and taken out of the corporation for personal rather than corporate purposes; (4) whether there is overlap in ownership, officers, directors, and personnel; (5) whether the corporate entities share common office space, address and telephone numbers; (6) the amount of business discretion displayed by the allegedly dominated corporation; (7) whether the alleged dominator deals with the dominated corporation at arms length; (8) whether the corporation is treated as an independent profit center; (9) whether others pay or guarantee debts of the dominated corporation; and (10) whether the corporation in question had property that was used by the alleged dominator as if it were the dominator's own. *Id* at 139.

In "OSRecovery" the Second Circuit court rejected Judge Kaplan's statement that: "...because OSRecovery is nothing more than a front for Clare, who entirely dominates and controls it" *Id*. Thus, according to the court, Clare is a party as OSRecovery's proxy. *Id* 2005 U.S. Dist. LEXIS 15699 at \*3-4."

At 1:15-cv-0070 (LAK), EFC Nos. 127-128, the corporation, Blacksands Pacific, submitted its corporate shareholding structure to Judge Kaplan, which highlighted that Brennerman was not a direct shareholder of the corporation. However, Judge Kaplan ignored the submission. Furthermore, Judge Kaplan made no inquiries or fact-findings other than the proffer by ICBC (London) plc prior to illegally/improperly piercing through the corporate veil of Blacksands Pacific to hold Brennerman in civil contempt

It also highlighted that The Blacksands Pacific Group, Inc., was no longer operating in the United States as of the end of 2016, hence both the Court and prosecution were aware at the time of trial that The Blacksands Pacific Group, Inc., maintained no assets or operation in the United States despite their statements during trial. Furthermore, the Court denied Brennerman's request during trial to present assets owned by Blacksands Pacific International Limited, outside of the United States.

NOTE: WE BELIEVE THIS ILLEGAL/IMPROPER CONDUCT BY JUDGE KAPLAN WAS ONE OF THE REASONS FOR THE PROSECUTION BELATEDLY ALLEGING FRAUD WITH THE CORPORATION SO AS TO JUSTIFY JUDGE KAPLAN'S CONDUCT.

(b.) THE ARREST WARRANT ISSUE:

The issue of the arrest warrant at 1:17-cr-0155 (LAK), EFC No. 12 Ex. 3. The entire issue is contained within the one page arrest warrant. Whether it was properly issued and if its issuance violated Brennerman's Fourth and Fifth amendment rights.

The arrest warrant, while it bore the civil case no. 15-cv-0070 (LAK) from the antecedent case between ICBC (London) plc and The Blacksands Pacific Group, Inc., the caption on the arrest warrant is for the criminal case, United States v. Brennerman, even though it was issued at a time when the criminal case did not exist.

Additionally, because none of the offense conduct which the arrest warrant charged was pertinent to Brennerman, the judge crossed-out one of the check box and wrote in "The Petition" even though no petition existed at the time, because the judge had failed to sign the draft order to show cause petition presented pursuant to Fed R. Crim. P. 42 by the prosecution. In fact, the petition was not issued and signed until 5 months later in August 2017 after Brennerman's arrest.

The question here is: Whether the arrest warrant was fabricated and did its issuance violate Brennerman's fourth and fifth amendment right? No petition, information, indictment, order to show cause etc existed at the time of its issuance. Judge Kaplan had failed to sign the order to show cause as it related to Brennerman, so there was no probable cause basis for its issuance, hence why the judge had to cross-out and write in his own offense conduct - "the petition" which did not exist at the time, plus the criminal case caption did not exist at the time of its issuance.

(c.) DENIAL OF MR BRENNERMAN'S EFFORT TO OBTAIN DISCOVERY - THE MISSING ICBC (LONDON) PLC ("ICBC") FILES INCLUDING THE [UNDERWRITING FILE], AND SETTLEMENT DISCUSSION [MEETING MINUTES], [NOTES], AND [E-MAILS] IN THE CRIMINAL CONTEMPT OF COURT CASE:

Prior to trial, government prosecutors made request of ICBC's New York based counsel, Linklaters LLP through Attorney Paul S. Hessler, to obtain in-excess of 5,000 pages of discovery, however missing from the discovery production were the pertinent ICBC files including the transaction [underwriting file] and settlement discussions [meeting minutes], [notes], [e-mails], which Brennerman required to present his complete defense at trial.

To prepare for trial, Brennerman made requests to the government for the missing ICBC files however they refused to obtain or review those files from ICBC. ICBC also refused Brennerman's direct request for the files and Judge Kaplan denied Brennerman's request for subpoena to compel for the missing ICBC files. Thus, at trial, Brennerman was deprived of the very evidence, missing ICBC files, which he required to present his complete defense, thereby depriving him of his right to a fair trial.

The missing evidence - ICBC files would have cast significant reasonable doubt in the mind of the jurors, particularly given that the second order in September 2016 specifically stipulated for the "parties to either settle or produce for discovery" and agents of ICBC, recipient of the discovery, repeatedly and continually advised Brennerman and Blacksands Pacific that they did not want more discovery but rather preferred to negotiate settlement.

Agents of ICBC and Blacksands Pacific negotiated settlement resulting in the draft settlement agreement at 17 CR. 155 (LAK), EFC No. 12 Ex. 10, however, Linklaters LLP (attorney for ICBC) and Attorney Paul S. Hessler, withheld and hid the missing ICBC files from Brennerman so he would be unable to present it to the jury at trial and the prosecution refused to obtain or present them.

The evidence would have shown that neither Brennerman nor Blacksands Pacific willfully or defiantly disobeyed the court order (s) directed at the company.

(d.) PRESENTMENT OF THE ERRONEOUSLY ADJUDGED CIVIL CONTEMPT ORDER TO THE JURY DURING THE CRIMINAL CONTEMPT TRIAL:

Judge Lewis A. Kaplan erroneously adjudged the civil contempt order against Brennerman by ignoring the holding in "OSRecovery" and the rules and law for compelling non-parties to produce for discovery. So after Judge Kaplan improperly held Brennerman in civil contempt in the antecedent civil case at: 1:15-cv-0070 (LAK), EFC Nos. 139-140.

During trial for the criminal contempt case, having prevented the jury from considering the missing ICBC files, Judge Kaplan then permitted the prosecution to present the erroneously adjudged civil contempt order to the jury (see Trial Tr. at case no. 17 CR. 155 (LAK), Trial Tr. 3-7).

In OSRecovery, the Second Circuit Court promulgated: "Moreover we think it is fundamentally unfair to hold [a non-party] in contempt as if he were a party without sufficient legal support for treating him, a non-party, as a party but only for the purpose of discovery." OSRecovery, Inc., 462 F.3d at 90. In OSRecovery, the Second Circuit Court had found that the district court abused its discretion by holding a person "in contempt as a party without sufficient explanation or citation to legal authority supporting the basis upon which the court relied in treating [him] as a party --- for discovery purposes only --- despite the fact that [he] was not actually a party." Id. at 93.

Here, Judge Kaplan (the same district court judge whose contempt order the Second Circuit Court found inappropriate in OSRecovery) held Brennerman in civil contempt as a non-party and failed to provide any legal authority or present any particular theory for treating him as a party solely for the purpose of discovery. See ICBC (London) PLC v. The Blacksands Pacific Group, Inc., 15-CV-70 (LAK) (S.D.N.Y. 2015) at EFC No. 139-140. No court order, subpoena, or motion to compel were ever directed at Brennerman personally nor was he present during the civil case's various proceedings.

The presentment of the erroneously adjudged civil contempt order swayed the jury to find Brennerman guilty of criminal contempt of court according to an interview given by one of the jurors (named Gordon) to the media. (See Law 360 article at: 1:17-cr-0337 (RJS), EFC No. 236 Ex 3 at 17). The question of whether the civil contempt order was improperly adjudged against Brennerman goes beyond a simple analysis of Rules 403 and 404(b) of the Federal Rules of Evidence. Brennerman was a non-party in the civil lawsuit at the time of the civil order. Because the order was erroneously adjudged against him, its erroneous adjudication had more serious legal implications above and beyond an abuse of discretion analysis.

The erroneous adjudication of the civil contempt order was more than an evidentiary error. It violated the Court's instruction concerning contempt orders against non-parties.

This issue was presented at the Second Circuit Court in the motion for rehearing en banc at appeal no. 18-1033(L), EFC No. 314 and at the Supreme Court in the petition for writ of certiorari at docket no. 20-6895. Both Courts declined review to correct the error.

NOTE: POINTS (C.) AND (D.) ABOVE HIGHLIGHTS HOW BRENNERMAN WAS IMPROPERLY CONVICTED OF CRIMINAL CONTEMPT OF COURT.

## 2.) MISCARRIAGE OF JUSTICE CONCERNS IN THE FRAUD CASE:

We want to include the issues below in addition to the articulation already contained within the letter.

a.) JUDGE SULLIVAN CONTINUES TO IGNORE NOTIFICATION OF HIS FACTUALLY AND LEGALLY FLAWED RULING(S) WHICH WRONGLY CONVICTED AND IMPRISONED BRENNERMAN, THEREBY CAUSING BRENNERMAN TO REMAIN UNJUSTLY IMPRISONED.

Judge Sullivan was advised numerous times of his factually and legally flawed rulings to wrongly convict and imprison Brennerman, however he chose to ignore them including refusing to even docket some of the submissions. See court record at: 1:17-cr-0337 (RJS), ECF Nos. 269, 270, 272, 274, 290, 298, 303.

b.) JUDGE SULLIVAN INTENTIONALLY MISREPRESENTED EVIDENCE TO FALSELY SATISFY THE LAW AND STATUTE TO WRONGLY CONVICT AND IMPRISON BRENNERMAN

Judge Sullivan made contrasting promulgation(s) in his rulings about the evidence, which highlights that Judge Sullivan intentionally misrepresented evidence to falsely satisfy the law and statute to wrongly convict and imprison Brennerman when he denied Brennerman's Rule 29 motion and sentenced him. Brennerman presented this to Judge Sullivan in his submission at: 1:17-cr-0337 (RJS), ECF No. 298, however Judge Sullivan ignored Brennerman's submission. This issue is also submitted at Appeal No. 23-6180, Doc. No. 28

Contd.

FROM: 54001048

TO: Taubenhause, Marsha R

SUBJECT: BRENNERMAN REPRESENTATION SUMMARY (ADDENDUM - II)

DATE: 12/09/2023 09:29:02 AM

PART TWO

3.) CONTINUED DENIAL OF MR BRENNERMAN'S EFFORT TO OBTAIN DISCOVERY - THE MISSING ICBC (LONDON) PLC ("ICBC") FILES INCLUDING THE UNDERWRITING FILE AND SETTLEMENT DISCUSSION NOTES, MEETING MINUTES, E-MAILS, IN BOTH CRIMINAL CONTEMPT OF COURT AND FRAUD CASES.

Brennerman filed supplemental motion with his collateral attack petition in both the fraud and criminal contempt of court cases, requesting for subpoena to ICBC's New York based counsel, Linklaters LLP for evidence - missing ICBC files including the underwriting file and settlement discussion notes, e-mails and meeting minutes pursuant to Rules 6 and 7 governing 2255 motion in the U.S. District Court.

Among others, Brennerman argued that his trial counsel were ineffective because they failed to subpoena ICBC New York based counsel, Linklaters LLP for the missing ICBC files which he required at trial to present his complete defense, confront witnesses against him and to demonstrate that ICBC deceived him and Blacksands Pacific to fraudulently enrich itself by falsely assuring that the 90-days \$20m bridge finance will be rolled into a 5-yr. \$70m revolver credit facility (RCF), precipitating Blacksands Pacific to pay in-excess of \$1.1m in fees and interest to ICBC. Brennerman argued that, prior to trial government prosecutors made requests of ICBC's New York based counsel, Linklaters LLP to obtain in-excess of 5,000 pages of discovery, however, missing from the discovery production were the pertinent ICBC documents including the underwriting file and settlement discussion meeting minutes, notes and e-mails, which the prosecution refused to obtain or review.

Brennerman further notified both Judge Kaplan and Judge Sullivan in the supplemental motion to the collateral attack petition that on March 17, 2022, Linklaters LLP wrote to him to advise that they are in possession of the missing ICBC files including the underwriting file and settlement discussion meeting minutes, notes, e-mails etc., however that as a law firm, they require either consent from their client, ICBC, or an order from the Court prior to providing the missing ICBC files to Brennerman. However, both Judges Kaplan and Sullivan ignored him.

This issue was presented in the collateral attack petition at: 22-cv-0996 (LAK), ECF Nos. 17, 31 and at case no. 17 CR. 155 (LAK), ECF Nos. 227, 241. And in the fraud case collateral attack petition at: 17 CR. 337 (RJS), ECF No. 274.

4.) MISCARRIAGE OF JUSTICE SUMMATION:

(i.) Judge Lewis A. Kaplan ignored the law to vigorously pursue Brennerman, a non-party, for civil and criminal contempt of court and improperly convicted and imprisoned him (Brennerman) for criminal contempt of court.

(ii.) Judge Richard J. Sullivan made factually and legally flawed ruling(s) by intentionally misrepresenting the evidence to wrongly convict and imprison Brennerman for bank fraud and its related conspiracy.

(iii.) Even though the missing ICBC files were glaringly obvious, both Judge Kaplan and Judge Sullivan denied Brennerman's request to compel the prosecutors to obtain, review and present the missing ICBC files including the transaction underwriting file and settlement discussion meeting minutes, notes and e-mails, which Brennerman required to present his complete defense and confront witnesses against him during trial of the criminal contempt of court and fraud case, thereby depriving Brennerman of his Sixth Amendment right to present his complete defense. This was even though they were aware that the prosecution had previously obtained in-excess of 5,000 pages of discovery from ICBC's New York based counsel, Linklaters LLP and Attorney Paul S. Hessler, however that those files were missing from their production.

During trial, prosecution witness, Mr. Julian Madgett, testified as to the contents of the missing ICBC files, knowing that Brennerman had been deprived access to those files, thus would be unable to meaningfully cross-examine him (Mr. Madgett) as to substance and credibility on the issue, thereby depriving Brennerman of his Sixth Amendment right to a fair trial.

SUMMARY ON DEPRIVING BRENNERMAN OF THE MISSING ICBC FILES:

The prosecution commenced their investigation by making requests to ICBC's New York based counsel, Linklaters LLP through Attorney Paul S. Hessler for the pertinent ICBC documents. Mr. Hessler provided the prosecution with communications between Blacksands and ICBC on the one part and Brennerman and ICBC on the other part. However, glaringly obvious from the

document production are the missing pertinent ICBC documents - there was no transaction underwriting file, no ICBC internal documents or minutes and no settlement discussion notes, meeting minutes or emails.

The prosecution then proceeded to obtain a search warrant upon Judge Kaplan insisting on them enforcing his arrest warrant, to obtain Brennerman's electronic devices so they may prove that those communications provided by Attorney Hessler were sent from Brennerman.

Prior to trial, Brennerman through his trial counsel notified the prosecution of the missing ICBC documents which he (Brennerman) required for his defense. The prosecution refused to obtain or review those missing ICBC files and the Courts - both Judges Kaplan and Sullivan denied Brennerman's requests to compel for the missing ICBC files.

During trial of the fraud case, the prosecution's sole witness from ICBC, Mr. Julian Madgett, testified in open Court before the Court and prosecutors that the missing ICBC files including the underwriting file were provided by ICBC to their counsel, Linklaters and that their counsel had communicated with the U.S. Attorney office. He also testified that the missing ICBC underwriting file documents the basis for the bank, ICBC, approving the bridge finance thus would highlight which representations or alleged misrepresentations were MATERIAL to the bank in approving the bridge finance. See 1:17-cr-0337 (RJS), trial tr. 551-554

During trial following Mr. Madgett's testimony, Brennerman again requested that the Court (Judge Sullivan) compel the prosecution to obtain the missing ICBC file and present it to him (Brennerman) for his complete defense. See 1:17-cr-0337 (RJS), ECF No. 71, however, Judge Sullivan denied Brennerman's request while permitting Mr. Madgett to testify as to the content of the missing ICBC underwriting file knowing that Brennerman was already deprived of the evidence (ICBC underwriting file) and would be unable to meaningfully cross-examine Mr. Madgett as to substance and credibility on the issues. Mr. Madgett made misleading statements to the jury, however, Brennerman was deprived of the ability to rebut his statements. That violated Brennerman's right to a fair trial by depriving him of his right to present his complete defense and to confront witnesses against him. See 1:17-cr-0337 (RJS), ECF No. 96 (trial tr. at. 617-623).

That was not inadvertent but a deliberate endeavor by the prosecution and Courts (Judges Kaplan and Sullivan) to deprive Brennerman of his right to a fair trial, particularly given that the Courts asked Mr. Hessler, who was no longer employed at Linklaters LLP at the time of the trials to confirm whether all ICBC evidence with Linklaters LLP had been turned over rather than compelling Linklaters LLP itself for the ICBC files.

During Brennerman's direct appeal, the Second Circuit Court incorrectly stated that: "[t]he only indication that the document (ICBC file) is extant comes from Brennerman's bare assertion" in contrast to the trial records.

#### IMPORTANT NOTE:

(a.) Mr. Brennerman's mother passed away while waiting for him to clear his name and return to care for her including donating one of his kidneys to save her life. His plea to Judge Sullivan about the FDIC issue and to obtain the missing ICBC file so he could clear his name was submitted at: 1:17-cr-0337 (RJS), ECF No. 188.

(b.) Lobbying on Mr. Brennerman's behalf will also include the erroneously adjudged civil contempt order as the coercive sanction/fine for the civil contempt since December 2016 is now in-excess of \$250 million at \$100,000 per day, so the civil contempt order at: 1:15-cv-0070 (LAK), EFC No. 139 will need to be abrogated.

#### QUESTIONS:

(a.) Under what circumstance would the Second Circuit Court, reconsider the motion for rehearing en banc at 18-3546(L), Dkt. No. 190 (for the fraud case) and 18-1033(L), Dkt. No. 314 (for the criminal contempt of court case) which they previously declined review. Or recall the mandate to correct their erroneous adjudication of the direct appeal.

(b.) Under what circumstance would the Supreme Court of the United States, reconsider grant of certiorari at 20-6895 (Criminal contempt of court case) and at 20-6638 (Fraud case) which they previously declined review.

The criminal contempt case presents significant issue due to the disparity between the Court's prior promulgation and law with respect to non-parties and discovery request and Brennerman's conviction. The panel Court in the fraud case misapprehended key facts and evidence in their adjudication of that case thereby causing Brennerman to be wrongly convicted and imprisoned.

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THE UPDATED LETTER AND EXHIBIT SHOULD BE ADDRESSED TO THESE THREE PEOPLE:  
=====

The Rt. Hon. David CAMERON MP  
United Kingdom Foreign Secretary  
FOREIGN, COMMONWEALTH & DEVELOPMENT OFFICE  
King Charles Street  
London. SW1A 2AH  
UNITED KINGDOM

-and-

The Rt. Hon. David RUTLEY MP  
Minister for Americas and the Caribbean  
FOREIGN, COMMONWEALTH & DEVELOPMENT OFFICE  
King Charles Street  
London. SW1A 2AH  
UNITED KINGDOM

-and-

The Rt. Hon. Gregg HANDS MP  
Member of Parliament for Chelsea and Fulham |  
Chairman of the conservative party  
HOUSE OF COMMONS  
London. SW1A 0AA  
UNITED KINGDOM

=====

AT THE BOTTOM OF THE LETTER, THE FOLLOWING SHOULD BE COPIED (CC"ED) ON THE LETTER:

=====

a.) Ms. Lisa STRATHDEE, Vice Consul, BRITISH CONSULATE GENERAL (New York), One Dag Hammarskjold Plz, 885 Second Avenue, New York, NY 10017

b.) Ambassador Karen PIERCE, Ambassador of the United Kingdom to the United States, EMBASSY OF THE UNITED KINGDOM, 3100 Massachusetts Avenue, Washington, D.C. 20008

c.) Ambassador Dame Barbara WOODWARD, United Kingdom Ambassador to the United Nations, UNITED KINGDOM MISSION TO THE UNITED NATIONS, One Dag Hammarskjold Plz, 885 Second Avenue, New York, NY 10017

d.) Honorable Volker TURK, United Nations High Commissioner for Human Rights, THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS (OHCHR), Palais Des Nations, CH-1211 Geneva 10, Switzerland

e.) Ambassador Linda Thomas-GREENFIELD, United States Ambassador to the United Nations, UNITED STATES MISSION TO THE UNITED NATIONS, 799 United Nations Plaza, New York, NY 10017

=====

A.) E-MAIL ADDRESSES TO E-MAIL THE LETTER AND EXHIBIT (IN A SINGLE E-MAIL):

=====

- 1.) rjbrennerman@gmail.com
- 2.) handsg@parliament.uk
- 3.) UKinNewYork@fcdo.gov.uk
- 4.) fcdo.correspondence@fcdo.gov.uk
- 5.) kaddy.bojang2@fcdo.gov.uk
- 6.) keir.starmer.mp@parliament.uk

- 7.) ohchr-infodesk@un.org

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

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8.) ohchr-civilsociety@un.org

9.) congressmanjeffries08@gmail.com

10.) rena.diamond@mail.house.gov

11.) mike\_iannelli@schumer.senate.gov

12.) david.davis.mp@parliament.uk

13.) iain.duncansmith.mp@parliament.uk

14.) angela.rayner.mp@parliament.uk

15.) sct@amnesty.org.uk

16.) sacha.deshmukh@amnesty.org.uk

17.) kerry.moscogiuri@amnesty.org.uk

18.) admin@centreforsocialjustice.org.uk

19.) chairman@conservatives.com

=====

B.) INFORMATION TO SEND THE LETTER AND EXHIBITS VIA COURIER/CERTIFIED MAIL:

=====

i.) Please send copy of the updated letter and exhibits, to the parties whom the letter is addressed and cc'ed. There are total of 8 parties.

ii.) Please send copy of the (1.) update letter to the British Government with exhibits; and (2.) update letter to the British Government without exhibits to me at: [rjbrennerman@gmail.com](mailto:rjbrennerman@gmail.com)

iii.) Also please send copy of the updated letter to the British Government with exhibits to me at:

Raheem J. Brennerman

Reg. No. 54001-048

LEGAL MAIL - OPEN ONLY IN PRESCENCE OF INMATE

FCI Allenwood Low

Federal Correctional Institution

P. O. Box 1000

White Deer, Pa. 17887-1000

Thank you so much

Raheem J. Brennerman

E: [rjbrennerman@gmail.com](mailto:rjbrennerman@gmail.com)

W: <https://freeraheem.org>