IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

SPORT & WHEAT CPA PA, a Florida corporation, individually and on behalf of a class of similarly situated businesses and individuals, Plaintiff, v. **SERVISFIRST BANK INC.; SYNOVUS BANK; THE FIRST, A NATIONAL ASSOCIATION;** and **TRUIST BANK,** Defendants.	Case No. 3:20-cv-5425-TKW-HTC

TRUIST BANK'S RULE 26(a)(1) INITIAL DISCLOSURES

Pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, Defendant Truist Bank ("Truist") provides the following initial disclosures:

SCOPE OF RULE 26(a)(1) DISCLOSURES

Truist's investigation of this matter is still at an early stage and these initial disclosures contain only the information and description of documents reasonably known or ascertainable as of this date. By making these initial disclosures, Truist does not represent that it is identifying every document, tangible thing, or witness possibly relevant to this proceeding, nor does Truist waive its right to object to the production of any document or tangible thing on the basis of any privilege, the work product doctrine, relevance, undue burden, or any other valid objection. Rather, Truist's disclosures herein represent its good faith effort to reasonably identify information subject to the disclosure requirements of Federal Rule of Civil Procedure 26(a)(1). Truist reserves the right to supplement or amend its initial disclosures based on information learned through the course of discovery or otherwise.

Rule 26(a)(1)(A)(i): The name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.

Response: At this stage of the litigation, Truist has identified the following individuals or representatives who it believes may have discoverable information that may be used to support its defenses in this case:

1. Corporate representative of Sport & Wheat CPA, PA and/or Jill Sport, c/o Plaintiff's Counsel - Truist believes that Plaintiff Sport & Wheat CPA, PA ("Plaintiff") and/or its principal, Jill Sport, have knowledge or information regarding the subject lawsuit, including the allegations asserted and damages claimed therein.

2. Corporate representative of "Borrower M" - Truist believes that "Borrower M," as identified in Paragraph 129 of the Amended Complaint, may have knowledge or information regarding its PPP loan application submitted to Truist, including the loan application process, required documentation, and the alleged involvement of Plaintiff, if any, in connection therewith.

3. Thomas Hughes, Jr., c/o McGuireWoods LLP - Truist believes that Mr. Hughes may have knowledge or information regarding Truist's participation in the Paycheck Protection Program ("PPP"), including but not limited to Truist's policies and procedures regarding the non-payment of agent fees in connection therewith.

4. Tim White and Jimmy Stapleton, c/o McGuireWoods LLP - Truist believes that Messrs. White and Stapleton may have knowledge or information regarding Truist's participation in the PPP, including the loan application process, required documentation, and Truist's online application portal, as well as knowledge or information regarding interactions and communications with "Borrower M" and Plaintiff in connection with the submission of Borrower M's PPP loan application to Truist.

5. All individuals and business entities (including Fed. R. Civ. P. 30(b)(6) witnesses of such entities) previously and hereafter identified or disclosed by any party or non-party, including without limitation, in Plaintiff's initial disclosures or in response to any discovery requests propounded upon Plaintiff by any Defendant, as amended or supplemented.

Rule 26(a)(1)(A)(ii): A copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

Response: The following is a description of categories of documents, data compilations, and tangible things that Truist may rely on in support of its claims or defenses:

1. Information Related to Truist's Implementation of the PPP

Information or documents relating to Truist's implementation of the PPP, including but not limited to: spreadsheets, flowcharts, training handouts or manuals, policies and procedures, and/or step-by-step guides provided to Truist employees in order to introduce and train employees on the PPP loan process; documents or guidance published by any governmental agency or professional accounting organization (e.g., the American Institute of Certified Public Accountants) and relied upon by Truist regarding implementation of the PPP and payment of agent fees; spreadsheets, flowcharts, how-to manuals, policies and procedures, and/or step-by-step guides provided to Truist customers in order to help facilitate the PPP loan process; and information regarding the PPP, including affirmative statements regarding use of agents and payment of agent fees, posted to Truist's website.

2. Information Related to Borrower M's PPP Loan

Information or documents relating to the PPP loan funded by Truist Bank to Borrower M (the "Borrower M Loan"), including but not limited to: documents submitted with the Borrower M Loan application, including any certifications or fee disclosure agreements (such as SBA Form 159) submitted by Plaintiff; communications with Borrower M and/or Plaintiff in connection with applying for the Borrower M Loan; and any demands for payment allegedly due to Plaintiff for its work on securing the Borrower M Loan.

3. Information Related to Plaintiff's Relationship With and Processes For Clients That They Assisted in the PPP Loan Process

Information or documents relating to Plaintiff's process for serving clients for whom they applied for PPP loans, including but not limited to: documents evidencing the client relationship between Plaintiff and such clients, including Borrower M; documents evidencing all work performed by Plaintiff for such clients, including Borrower M; and documents evidencing Plaintiff's processes for assisting clients in applying for PPP loans.

4. Information Identified or Produced in Discovery

Information or documents previously and hereafter identified, disclosed, or produced by any party or non-party, including without limitation, in Plaintiff's initial disclosures or in response to any discovery requests propounded upon Plaintiff by any Defendant, as amended or supplemented.

<u>Rule 26(a)(1)(A)(iii)</u>: A computation of each category of damages claimed by the disclosing party—who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.

<u>Response</u>: Truist is not claiming any damages at present, but expressly reserves the right to do so at a later time. However, Truist has incurred and continues to incur costs and attorney's fees as a result of its defense of this lawsuit. Truist reserves the right to seek attorney's fees and costs that it incurs in this matter.

<u>Rule 26(a)(1)(A)(iv)</u>: For inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

<u>Response</u>: Truist states that, although it has a commercial insurance policy, it does not believe such policy is relevant to this matter given the amounts at issue in this case and the applicable retention. Truist reserves the right to supplement this response, if needed, in accordance with federal and local rules.

Dated: June 29, 2020

Respectfully Submitted,

McGUIREWOODS LLP

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 29, 2020, I served the foregoing via electronic mail and U.S. Mail to all counsel of record.

/s/ M. Laughlin Allen
Attorney