COMPOSITE ATTACHMENT "A"

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA,	) Fort Myers, Florida
Plaintiff	) Case 2:20-CR-114-FtM-66MRM
vs.	) Wednesday, March 24, 2021
CASEY DAVID CROWTHER,	) 10:05 a.m. to 11:55 a.m.
Defendant	) Courtroom 5D

TRANSCRIPT OF JURY TRIAL CROSS EXAMINATION OF KYLE DECICCO

HELD BEFORE THE HONORABLE JOHN E. STEELE,

United States District Court Judge

Official Court Reporter:
Jeffrey G. Thomas, RPR, CRR
2110 First Street, Suite 2-194
Fort Myers, FL 33901
Telephone: (239) 461-2033

(Proceedings reported by Stenotype; Transcript produced by computer-aided transcription.)

loan number, that is . . . .

A That is the loan number as it appears on our books on our bank's system.

Q Sanibel Captiva Community Bank's loan number?

A Yes.

Q And the SBA loan number, that's the loan number assigned by the SBA for this loan.

A Correct.

Q So with regard -- I'm going to just call it 0251, the last four digits; is that right?

A Yes.

Q All right. With regard to loan 0251, term's one percent interest?

A Yes.

Q And if you need to look at it, I'll pull each page up, but two-year maturity rate?

A Two, which actually could be changed to five.

Q Why is that?

A Because the SBA provided additional further guidance later on down the road.

Q So a subsequent interim final rule changes?

A Yes. One of many.

Q When you say one of the many, how many were there?

A Roughly 50. But I'm not an expert on every one of them.

Q And did you have the time to review every one of them?

A Not in their entirety.
Q Okay. So this is the contractual documents between Sanibel Captiva Bank and Target Roofing.
A Yes.
Q These proceeds, the 2,098,700, are Sanibel Captiva Community Bank proceeds; correct?
A Yes.
Q Have there been any SBA loan proceeds with regard to this loan?
A Any SBA proceeds.
Q So Target Roofing with this loan.
A That is a Sanibel Captiva Community Bank loan guaranteed by the SBA.
Q Right. So there have been no SBA loan proceeds used for this Loan 3330251.
A Correct.
Q Thank you. With regard to this loan, we'll get to the documents, you've mentioned cover period a couple of times. Did that change?
A It did.
Q What's your understanding of how that changed?
A It's changed a few times since the program originated in April of 2020. At first it was an eight-week period that the funds must be used during. Then it changed to 24 weeks. And now it could be used between eight weeks and 24 weeks.

Q So again all these changing rules.
A Yes.
Q When is the first payment due on this loan, if you know?
A I believe we set all the maturity dates out seven months, on a specific date in April so it would just be easier for the bank to facilitate those all with our loan operations department.
Q So seven months from this April?
A Seven months from . . . . Excuse me. Seven months from April of 2020.
Q Okay.
A And then, later on, what happened was is that we got more, guidance where we can extend that a different period of time until the loan was either applied for forgiveness or wasn't applied for forgiveness, and then it became -- had to become a repay back as the loan terms of the loan in the loan agreement suggest.
Q All right. Can you speak up a little bit?
A I'm sorry.
Q Say that again?
A Can you ask the question again, please?
Q Yup. So I mean when is the loan payment due? The first loan payment on the Sanibel Captiva lone, when is the first payment due?
A We set the loan payments, I believe, to be due

seven months after the origination of the loan.
Q Okay. So, with regard to the original loan, it would have been seven months after April 14th, 2020.
A Yes.
Q And then that has changed.
A It got extended.
Q And how did it get extended?
A We internally did that at the bank.
Q Okay. Were there any IFRs, interim final rules, that said that a time period after either the cover period terminates or a loan forgiveness application is filed?
A Yes.
Q And do you recall -- you know that specifically?
A Not specifically, no.
Q Okay. Do you know when this now loan first payment is due?
A Roughly November, 2021.
Q Okay. Okay. So there's no loan payments up to this point in time.
A Correct.
Q Has there been a forgiveness application filed by Target Roofing for this loan to Sanibel Captiva Community Bank?
A No.
Q Has Sanibel Captiva Bank received any loan application with forgiveness documents, like payroll, employee information,

seeking forgiveness of this loan?
A I don't believe so.
Q And so, as it stands with Sanibel Captiva Community Bank, this is a loan where the payments start November of 2021.
A Correct.
Q And if Target bank -- I mean Target Roofing wants to apply for forgiveness, they still can.
A Yes.
Q Do you understand that, under the rules, the borrower can still apply for forgiveness up to the last payment date of the loan?
A No.
Q Okay.
A I didn't understand that.
Q All right.
A And then the loan proceeds would be reimbursed? Is that what you're saying?
Q Based upon whether or not there is a forgiveness.
A Okay.
Q And it's your understanding that this -- since this is a loan on Sanibel Captiva Bank's books and records, and on the Target Roofing's loan --
A This an asset of Sanibel Captiva Community Bank, and I'm assuming it's carried as a liability on Target Roofing's balance sheet.

Q And that's what I'm getting at. When Sanibel Captiva Bank is looking at Target Roofing, sole shareholder Casey Crowther, this loan is looked at as a liability for them; correct?
A Yes.
Q The bank hasn't defaulted Target Roofing on this loan; correct?
A No, we have not.
Q Do you see the bank as a victim of this loan?
A No.
Q There's been no injury to the bank from this loan.
A No.
Q Do you feel there was any misrepresentations by Target Roofing with regard to the SBA loan application?
A No.
Q No? I couldn't hear you, sir.
A No.
Q And I'm simply referring, if you can look to it, Exhibit 6 and Exhibit 8.
A The two applications?
Q Correct. Do you see -- was there any misrepresentation in those documents from Target Roofing?
A No. The client, the borrower, filled out the application just as every one of our customers did, or had to.
Q And I'm going to get to that through those documents

specifically, so we'll get that in a second.

Has the SBA provided any notice to Sanibel Captiva Bank that this guaranty by SBA is ineligible, or that the SBA will not guarantee this loan?

A No, they have not. Not to my knowledge.

Q And let's go to your knowledge. You said before there's one person above you at Sanibel Captiva Bank; correct?

A Correct.

Q And you're the one in charge of the loans that were disbursed based upon the CARES Act.

A (Witness nods head up and down.)

Q So if there's anybody else in the bank to know, it would be you and one other person?

A Correct.

Q So you're not aware of that at all.

A I'm not aware of it.

Q Are you aware of any demand by the SBA for repayment of the loan from Target Roofing to Sanibel Captiva Bank?

A No, I'm not.

Q Is Target Roofing in good standing with Sanibel Captiva Bank?

A Yes.

Q Is Casey Crowther in good standing with Sanibel Captiva Bank?

A Yes.

A Yes.
Q Are there any SBA loan proceeds involved, at all, with regard to being paid to Target Roofing for this loan?
A The proceeds of the loan is a loan with Sanibel Captiva Community Bank loan funds.
Q And that's what I'm getting at. They had you read the third bullet point. Third bullet point, if you can read that, sir?
A "All SBA loan proceeds will be used only for business purposes as specified in the loan application."
Q There are no SBA loan proceeds in this loan; correct?
A That's an SBA guaranteed loan. They are not loan proceeds.
Q All right. So that's correct?
A That is correct.
Q Thank you. And if you'd look now to Exhibit 8. That is the second application; correct?
A Correct.
Q And on these applications -- actually, I'm sorry. Go back to six. I apologize. Do you know -- I heard -- you were asked whether that is Casey Crowther's print name. Do you know whether that's his signature?
A I don't. I'm not an expert in signatures.
Q And, in fact, I think you were exchanging e-mails with Mr. Crowther that Mr. Crowther was having other people on his

A Loan forgiveness?
Q Yes.
A "Borrower may apply to lender for forgiveness of the amount due on this loan in the amount equal to the sum of the following costs incurred by the borrower during the eight-week period beginning on the date of first disbursement of this loan."
Q And then it has the A through D; correct?
A Correct.
Q And then what is the last paragraph?
A "The amount of loan forgiveness shall be calculated, (and may be reduced,) in accordance with the requirement of the Paycheck Protection Program, including provisions of Section 1106 of the Coronavirus Aid, Relief, and Economic Security Act, the CARES Act, not more than 25 percent of the amount forgiven can be attributed to non-payroll costs."
Q So do you understand that provision to be, if somebody, being an applicant, a borrower in this case, applies for forgiveness, they're not required to, but they may; correct?
A Correct.
Q And if they do apply for forgiveness, then it is triggering the requirements of the Paycheck Protection Program, and specifically that last paragraph you read.
A That's what it says; yes.
Q And so if somebody doesn't apply for forgiveness, that

paragraph, that section, doesn't even apply to that borrower.
A Correct.
Q And they're still responsible . . . .
A For the loan. For the promissory note.
Q Yeah, and Paragraph 1, promising to pay.
A Correct.
MR. DICKERSON: Sorry, Your Honor. Hit the wrong button.
BY MR. DICKERSON:
Q Reach for Government's Exhibit 14, please, sir. And again review that and see if that document is within Defendant's Exhibit I, the loan package.
A The loan agreement, yes, it's in this package.
Q And what -- tell the ladies and gentlemen of the jury what this loan agreement is.
A It spells out the terms of the loan.
Q And at this point in time it was still a two-year maturity; correct?
A Yes.
Q And that's why we have that term right there; correct?
A That's correct.
Q And that's changed.
A Yes.
Q To five years.
A It has.

repay those amounts; correct?
A That's what it says; yes.
Q And you're unaware of any demand, direction, by the SBA, to Target Roofing, to repay any amount back to Sanibel Captiva Bank.
A Correct.
Q Number 12. Government's Exhibit Number 12. Again, review and let me know if that's in Exhibit I, the loan packet.
A Settlement statement, yes, it is.
Q And this is an SBA form; correct?
A That's a standard Form 1050; yes.
Q And again, the use of proceeds in Exhibit 12 is discussing the use of proceeds if the borrower applied for forgiveness.
A Yes.
Q I'm going to go to 149. Same exercise. Look at it and let me know if it's in the packet.
A Loan forgiveness affidavit. Yes, it's in the package.
Q And again, this loan forgiveness affidavit is -- I mean, this was signed at the time of the actual loan closing; correct?
A Correct.
Q So there's been no submission of -- excuse me -- of loan forgiveness request at this time.
A No.

RECROSS EXAMINATION

BY MR. DICKERSON:

Q Hello, sir. We discussed this before, but, based upon the government's questions, I'm going to, in a second, get the right exhibit -- Exhibit 10, CARES Act disclosure? May I have it published, please?

(Evidence was published via the projector.)

BY MR. DICKERSON:

Q Now, we talked about this is disclosing to the borrower what the CARES Act is; correct?

A Yes.

Q And go down to Paragraph 11. That's talking about the 75/25, as far as what's needed for loan forgiveness; correct?

A Yes.

Q The CARES Act is discussing, if somebody submits for forgiveness, this, right here, the CARES Act disclosure, is what's allowable for forgiveness under the CARES Act; correct?

A Yes.

Q So it has nothing do with somebody buying a boat, or misrepresenting a boat, if they've never filed for forgiveness, because it's still just a loan; correct? Take your time. Read it.

A Based on that statement right there?

Q Yes.

A I'd say yes.

Q Okay. So, now, if someone bought a boat, and applied for forgiveness, and used the boat as forgiveness, that would be violating this provision; correct?
A I would certainly assume so.
Q Yes. So this is specifically to the CARES Act, disclosing to the borrower, if they applied for forgiveness pursuant to the CARES Act, what they can use the funds for.
A Yes.
Q Thank you.
Exhibit 7. Reading the entire document, specifically the top. The purpose of this is for the guaranty; correct? The purpose of Sanibel Captiva Bank, yeah, look at it, sir. Take your time. The purpose of seven, which this is your lender application form, the purpose of this is so Sanibel Captiva Bank, if there is either a forgiveness application or the borrower defaults, the bank then has the guaranty; correct?
A This accompanied every loan.
Q Right.
A These loans were done in accordance with the program so that they would be guaranteed.
Q Correct. And this is the bank's representation for the guaranty.
A Yes.
Q And the only time that the Sanibel Captiva Bank can invoke that guaranty is, one, if the borrower submits for

forgiveness.
A I'm trying to think of another situation where the bank would invoke the guaranty prior --
Q I'll rephrase my question, because there is more than one. There is the loan forgiveness and if the borrower doesn't pay.
A That would be the next point. If the loan was not forgiven, and the first payment was missed, we could invoke the guaranty.
Q And there have been no payments missed on this loan; correct?
A Correct.
Q And there's been no forgiveness filed; correct?
A Correct.
Q So the guaranty doesn't kick in until one of those things happen, either application for forgiveness, approval by the bank, approval by SBA, then there's payment, being one; correct?
A I'm not a specialist to know if the loan is currently guaranteed or if it is only guaranteed upon the two items that you're talking about.
Q Okay. But there are no SBA loan proceeds in this loan at all.
A The loan was funded out of liquidity of Sanibel Captiva Community Bank.

Q Right. And Sanibel Captiva Community Bank does not receive any proceeds from the SBA unless there is either a forgiveness payment by SBA or a guaranty by SBA for this loan.
A The bank received a loan origination fee from the SBA.
Q Right. The bank received a fee, but that wasn't towards this loan. This didn't fund the loan.
A That is correct.
MR. DICKERSON: Okay. Nothing further, Your Honor.

-- -- -- -- -- -- -- --

(Thereupon, at 11:55 a.m., the cross-examination of Kyle DeCicco was concluded.)

-- -- -- -- -- -- -- --

CERTIFICATE

I CERTIFY THAT THE FOREGOING TRANSCRIPT IS A TRUE AND ACCURATE TRANSCRIPT FROM THE ORIGINAL STENOGRAPHIC RECORD IN THE ABOVE-ENTITLED MATTER.

Dated this 25th day of March, 2021.

Jeffrey G. Thomas

JEFFREY G. THOMAS, RPR, CRR