

COMPOSITE ATTACHMENT “B”

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA,	)	Fort Myers, Florida
	)	
	)	Case 2:20-CR-114-FtM-66MRM
Plaintiff	)	
	)	Wednesday, March 23, 2021
vs.	)	
	)	1:38 p.m. to 3:51 p.m.
CASEY DAVID CROWTHER,	)	
	)	Courtroom 5D
Defendant	)	
_____	)	

TRANSCRIPT OF JURY TRIAL TESTIMONY OF JOHN MILLER
HELD BEFORE THE HONORABLE JOHN E. STEELE,
United States District Court Judge

Official Court Reporter:
Jeffrey G. Thomas, RPR, CRR
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*(Proceedings reported by Stenotype; Transcript produced by
computer-aided transcription.)*

1 yourself first.

2 (Witness examines evidence.)

3 Q Okay, sir. Do you recall reviewing this IFR when it was
4 published?

5 A Yes.

6 Q And, when you reviewed this when it was published, what
7 was your understanding of this IFR?

8 A This IFR was a consolidated IFR that was issued after
9 the passage of the -- well, it's for loan forgiveness and loan
10 review as provided by the Economic Aid Act.

11 Q And we haven't talked about the Economic Aid Act yet.
12 What is that?

13 A The Economic Aid Act was another of the stimulus . . .
14 stimulus acts, or programs, that was passed by Congress and
15 signed by the President. I believe it was signed at the end of
16 December.

17 Q Okay. And so this IFR is saying anything from the
18 Economic Aid Act overrides any conflicting past, previous
19 guidance in the FAQs, and the SBA will be revised in the FAQs;
20 correct?

21 A It does state SBA will be revising the FAQs. It
22 overrides any conflicting guidance in the FAQs. So, if there
23 wasn't conflicting guidance, then the other guidance would
24 stand. And it says that the SBA will be revising the FAQs to
25 conform.

1 account, a segregated account?

2 A When you segregated account.

3 Q So when the lender then provided the funds to the
4 borrower, was it required to be in a segregated account?

5 A The Act -- I don't recall anything requiring that.

6 Q And so if the borrower commingled it by not having a
7 separated account, but just went directly to the operating
8 account, that was permissible.

9 A I don't know about when you say commingling, but the --

10 Q Well, let me define it. Commingling is I have \$500,000
11 in my account right now. The bank then deposits the PPP money
12 into that \$500,000 account. Now I have -- let's say it's a
13 million-dollar loan -- a \$1.5 million balance.

14 A That would be permissible.

15 Q So there's no requirement to have a standalone account,
16 and it can be commingled with the other bank account.

17 A If your definition of commingling, yes, is that it's
18 deposited into an account with other funds, then yes.

19 Q Okay. And then, for the loan, the borrower had, at
20 first, eight weeks to use the loan proceeds for the eligible
21 purposes if they wanted forgiveness.

22 A That's correct.

23 Q And then it extended to 24 weeks.

24 A Yes. Under the Flexibility Act, it was extended.

25 Q So if that money from the bank is deposited in the

1 limitations though. I want to point that out. Right before
2 that.

3 Q And where does it say the limitations?

4 A That same sentence. "Section 7A of the Small Business
5 Act provides that, subject to several important limitations,
6 borrower shall be eligible for forgiveness."

7 Q Right but this was an add-on to the 7A; correct?

8 A That's correct.

9 Q And correct me if I'm wrong, 7A SBA loans are directly
10 from the SBA to the actual borrower?

11 A No, they are not. They are guaranteed loans, as well.

12 Q Okay. So, when is the SBA proceeds ever come into play
13 with regard to a 7A loan, is it only during either the guaranty
14 when there's a default, or with a Paycheck Protection Program
15 when there's actually forgiveness?

16 A Yes. The government funds would only come into play for
17 a 7A loan in the event of a guaranty purchase, as you
18 suggest -- or when a guaranty is honored. Or in the case of
19 the Paycheck Protection Program forgiveness. Some of the
20 funds, though, are also issued to lenders for processing loans.
21 They are paid a fee in the PPP loan. I just want to point that
22 out.

23 Q But, with a borrower who has not defaulted on the loan,
24 and a borrower who has not applied for forgiveness, there's no
25 SBA proceeds applied to that loan.

1 A Not to the loan; correct. There would have been
2 proceeds applied to the lender for making that loan.

3 Q That goes to the lender.

4 A That goes to the lender. Correct.

5 Q But no SBA proceeds going to the borrower.

6 A No SBA proceeds going to the borrower; correct.

7 Q And do you have any direct knowledge or information
8 about the Target Roofing PPP application?

9 A None. No.

10 Q And none about the forgiveness eligibility, nothing;
11 right?

12 A No. I don't know if a forgiveness application was
13 submitted.

14 Q You don't even know if a forgiveness application was
15 submitted.

16 A That's correct, I do not know.

17 Q Okay. And you made a comment about if the SBA . . . I
18 think -- I don't want to paraphrase it, so correct me if I'm
19 wrong. If an applicant uses the proceeds knowingly wrong, the
20 SBA will ask them for repayment?

21 A Actually, if the SBA -- I'm not sure that that's what I
22 said.

23 Q All right. Well, tell me. I want your words.

24 A Okay. If -- if the SBA -- if a borrower knowingly uses
25 the proceeds for an unauthorized purpose, the borrower could be