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May 22, 2024

By Electronic Filing

The Hon. John M. Gallagher
United States District Court for the Eastern District of Pennsylvania
Edward N. Cahn Courthouse & Federal Building
504 W. Hamilton Street
Allentown, PA 18101

Re: Marshall v. Prestamos CDFI, LLC, No. 5:21-cv-04337-JMG (E.D. Pa.)

Judge Gallagher:

Today, Blueacorn, via a sworn declaration, withdrew “certain objections [to Prestamos’s Subpoena]” and agreed to produce additional documents, starting within fourteen (14) days. Blueacorn authorized Prestamos to submit its declaration and cover letter to the Court, and those documents are attached here as **Exhibit A**. Prestamos would not object if the Court released Blueacorn from appearing tomorrow, subject to reserving Prestamos’s rights to enforce the commitments in its declaration.

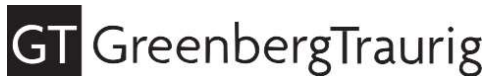
Evolve Bank & Trust provided Prestamos with a declaration, which is attached here as **Exhibit B**. As we stated in yesterday’s letter, Evolve is in substantial compliance with Prestamos’s subpoena and Prestamos does not oppose its request to be excused.

Respectfully,

/s/ Marcel S. Pratt

Marcel S. Pratt

EXHIBIT A



Nicole M. Goodwin
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GoodwinN@gtlaw.com

Matthew P. Hoxsie
Tel. 602.445.8471
HoxsieM@gtlaw.com

May 22, 2024

Via Electronic Mail

Marcel S. Pratt
J. Chesley Burruss
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Re: *Marshall, et al. v. Prestamos CDFI, LLC* – Case No. 5:21-cv-04337-JMG

Dear Counsel:

Pursuant to our discussions, enclosed please find Non-Party BA Fin, PPP, LLC d/b/a Blueacorn's ("Blueacorn") Declaration regarding the status of Blueacorn's review for and production of documents in response to the Subpoena that Prestamos CDFI, LLC ("Prestamos") served on Blueacorn on February 20, 2024, as narrowed by Blueacorn's objections served on March 19, 2024, and pursuant to the April 10, 2024 meet-and-confer between Blueacorn and Prestamos and the sample SBA loan numbers provided to Blueacorn by Prestamos on April 29, 2024.

Blueacorn will make itself available to meet and confer with Prestamos as to any further issues upon request.

Very truly yours,

A handwritten signature in black ink, appearing to read "Nicole M. Goodwin", with a long horizontal flourish extending to the right.

Nicole M. Goodwin

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DECLARATION OF JOSHUA BUSBY

STATE OF TEXAS

COUNTY OF WILLIAMSON

I, Joshua Busby, declare as follows:

1. I have personal knowledge of the matters set forth herein and, if called to testify, could and would testify competently thereto under oath.

2. I am the Director of Operations at BA PPP Fin, LLC d/b/a Blueacorn (“Blueacorn”).

3. Following a meet and confer session to address Blueacorn’s objections regarding the breadth and burden of the Subpoena, on April 29, 2024, Prestamos CDFI, LLC (“Prestamos”) provided Blueacorn with a sampling of SBA loan numbers in order for Blueacorn to determine if it could, without undue burden, identify and produce the applicable loan application files for the SBA loan numbers in question.

4. Prestamos and Blueacorn have worked cooperatively to address Blueacorn’s objections to the Subpoena, such that Blueacorn is able to withdraw certain objections and produce additional documents.

5. Blueacorn has determined that it can identify the applicable loan application files in question without undue burden and estimates that it can produce relevant records using the SBA loan numbers in question within fourteen (14) calendar days of provision by Prestamos of the complete list of SBA loan application numbers.

6. Blueacorn estimates that it can conduct a reasonable and diligent search for and thereafter produce documents sufficient to show the corporate structure of Blueacorn within fourteen (14) calendar days.

7. Blueacorn estimates that it can conduct a reasonable and diligent search for and thereafter produce documents concerning responsive procedures and policies within fourteen (14) calendar days.

I declare under penalty of perjury under the laws of the State of Texas that the foregoing is true and correct.

Executed this 22nd of May 2024 in Hutto, Texas.

DocuSigned by:
Joshua Busby
1F091FDBD27A42A...

Joshua Busby

EXHIBIT B

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ALICIA MARSHALL, DANIEL PRONSKY,
PARIS TOWNSEND, NANCILEE HOLLAND,
LEONA OWSLEY, KOLAWOLE AHMADOU,
KIANA DERVIN, KRISTINA HENDERSON,
DUSTIN INNIS, KELLY STALNAKER,
JAMIE JONES, GEORGINA DREVNAK,
JOHN MARTIN, EZRA BEATTIE, GREGORY
LLOYD, ALYSHIA JOHNSON, LAMETRIA
MARVEL, GUY GRICHAR, JAHBRAEL
HORNE, ENOBONG ETUKNWA, and
SHARON BRADLEY SMITH, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

PRESTAMOS CDFI, LLC,

Defendant.

Civil Action No. 5:21-cv-04337-JMG

DECLARATION OF MARGARET GIBSON EVERETT

I, Margaret Gibson Everett, being duly sworn, do hereby depose and state as follows:

1. I am employed by Evolve Bank & Trust (“Evolve”) as Assistant Vice President, Legal Operations Administrator and Assistant Corporate Secretary.
2. I have served in this role since 2020.
3. In December 2023, in response to Prestamos’s request, Evolve provided ACH rejection/return information associated with each of the then-eighteen named Plaintiffs (where available) in *Marshall v. Prestamos*, 5:21-04337-JMG (E.D. Pa.) (“*Marshall*”), and *Drevnak v. Prestamos*, 2:23-cv-02777-JMG (E.D. Pa.) (“*Drevnak*”).

4. On February 20, 2024, Prestamos served a Subpoena to Produce Documents on Evolve in *Marshall* and *Drevnak* (the “Evolve Subpoenas”) seeking any available ACH rejection/return information for all Prestamos PPP loans as well as any documents related to the Named Plaintiffs.

5. On March 22, 2024, Evolve produced thirty-nine responsive documents to Prestamos.

6. On April 24, 2024, Evolve supplemented its March 22, 2024 production with an additional five documents, for a total of forty-four responsive documents produced.

7. In my capacity as Assistant Corporate Secretary, I have personal knowledge of Evolve’s business filing records system.

8. Pursuant to Rules 902(11) and 803(6) of the Federal Rules of Evidence, I hereby certify that the documents provided in response to the Evolve Subpoenas: (a) were made at or near the time of the occurrence of the matters set forth in the records, by, or from information transmitted by, someone with knowledge of those matters; (b) were kept in the course of regularly conducted business activity; and (c) were made pursuant to a regular practice of that business activity.

9. On May 21, 2024, in response to the Evolve Subpoenas, Evolve agreed to provide Prestamos with any additional information it has about Named Plaintiffs’ accounts with Evolve fintech partners.

10. Evolve believes that, once this information is produced, it will have fully complied with the Evolve Subpoenas.

11. As such, Evolve respectfully requests that the Court excuse Evolve from any obligation to appear at the May 23 Hearing.

12. Evolve spoke with Prestamos on May 21, 2024, and Prestamos does not oppose Evolve's request.

13. Evolve does not have employees in Pennsylvania who can speak to the matters that will be discussed at the May 23 Hearing, and any appearance in person from Evolve's employees based in Memphis, Tennessee would come at significant cost and burden.

14. Should the Court decide not to excuse Evolve from the May 23 Hearing, Evolve respectfully requests that it be permitted to appear by videoconference or telephone.

I hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

May 22, 2024
Dated: _____



Margaret Gibson Everett

Assistant Vice President, Legal Operations
Administrator and Assistant Corporate
Secretary

87907621.v1

CERTIFICATE OF SERVICE

I, Marcel Pratt, hereby certify that on the 22nd day of May 2024, I caused a true and correct copy of the foregoing letter to be served on counsel of record for all Plaintiffs via the Court's ECF System. The letter is available for viewing and downloading from the ECF System.

/s/ Marcel Pratt
Marcel Pratt