

**Ex. 23 – Excerpts of Deposition of Stephen Feinstein,
dated August 28, 2024**

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

ALICIA MARSHALL, et	:	CASE NO.
al., individually and	:	5:21-ev-04337-JMG
on behalf of all	:	
others similarly	:	
situated,	:	
Plaintiffs	:	
vs.	:	
PRESTAMOS CDFI, LLC,	:	
Defendant	:	

* * *

WEDNESDAY, AUGUST 28, 2024

* * *

Oral deposition of STEVEN FEINSTEIN,
PH.D., taken remotely, commencing at
10:09 a.m. before Debbie Leonard, Registered
Diplomate Reporter, Certified Realtime
Reporter.

Page 5 1 * * * 2 (The witness was placed under 3 oath.) 4 * * * 5 MR. LEDERER: Pardon me. 6 Before you even go on, I know that you 7 just swore in the witness, 8 Ms. Leonard, but I had a really hard 9 time hearing anything. I'm not sure 10 if anyone else shared that. 11 THE REPORTER: I am going to go 12 off the record. 13 * * * 14 (Off-the-record discussion.) 15 * * * 16 STEVEN FEINSTEIN, PH.D., 17 having been first duly sworn, testified as 18 follows: 19 * * * 20 EXAMINATION 21 * * * 22 BY MR. PRATT: 23 Q. Good morning, Dr. Feinstein. 24 How are you? 25 A. Good. Good morning.	Page 7 1 Q. About how many times? 2 A. Many. At least a hundred -- 3 Q. So I'm going to -- 4 A. -- over the last 30 years. 5 Q. So I'm going to give you some 6 instructions that I'm sure you've heard 7 before. 8 As you're aware, there's a 9 court reporter taking down my questions and 10 your answers. She can only take down one 11 person speaking at a time, so if I ask a 12 question, please give me time to finish 13 before you respond. Also speak slowly, 14 clearly, so that we can accurately capture 15 your answers. 16 If you need to take a break at 17 any point, please let me know. My only 18 request on that score is that if you need to 19 take a break while a question is pending, 20 please answer the question first. 21 Is there any reason that you 22 are not able to tell the truth today? 23 A. No. 24 Q. Are you on any medications or 25 substances that would prevent your ability to
Page 6 1 Q. My name is Marcel Pratt. I'm a 2 lawyer with the law firm Ballard Spahr, and I 3 represent the defendant in this case, 4 Prestamos CDFI LLC. 5 Could you state your full name 6 for the record? 7 A. Steven Phillip Feinstein. 8 Q. And, Dr. Feinstein, what is 9 your business address? 10 A. I'm a professor at Babson 11 College. The address there is Babson 12 College, Finance Division, Tomasso Hall, 13 Babson Park, Massachusetts 02457. 14 I also have a consulting firm 15 that has a different address. I can give you 16 that address, too, if you would like it. 17 Q. Yes. What's the address -- 18 what's the name and address of your 19 consulting firm? 20 A. The firm is Crowninshield 21 Financial Research, Inc., 56 Harvard Street, 22 Brookline, Massachusetts 02445. 23 Q. Thank you. And I take it 24 you've been deposed before? 25 A. Yes.	Page 8 1 testify accurately? 2 A. No. 3 Q. So could you walk us through 4 your educational background. 5 A. Sure. So I went to college, 6 undergraduate, at Pomona College in 7 California. I graduated in 1981. 8 I then went to graduate school 9 in a Ph.D. program in economics at Yale 10 University and received two master's degrees 11 in the 1980s and my Ph.D. in economics with a 12 concentration in finance in 1989. 13 In addition to that -- I mean, 14 that's my formal university education. 15 I have been teaching at the 16 university level since 1990, and along the 17 way, I sat for and received the chartered 18 financial analyst designation, which is a 19 premier practitioner designation in financial 20 analysis. 21 Q. In your educational studies, 22 have you ever studied the Small Business 23 Administration? 24 A. I've come across it. It's 25 never been a focus of a course or an article,

Page 29 1 A. I think it's in the 2 neighborhood of that. 3 Q. Okay. So could you describe 4 generally what you were asked to do by 5 plaintiffs in this case. 6 A. Sure. Well, it's in my report, 7 the scope of the engagement. I was asked to 8 review the Complaint, understand the 9 Complaint and the allegations, read some 10 other background reference materials that are 11 cited and referenced in the Complaint and 12 other case documents. 13 And based on that and my 14 expertise, opine, you know, formulate an 15 opinion as to whether or not damages could be 16 calculated using a common methodology for all 17 class members, members of the proposed class, 18 using the -- in a method that is both 19 feasible and consistent with plaintiffs' 20 theory of liability. 21 Essentially, they're asking a 22 yes or no question about whether damages 23 could be computed commonly. 24 Q. So we want to introduce as 25 Exhibit 1 your report.	Page 31 1 A. It does say that. 2 Q. Okay. And we're going to 3 scroll down to the signature page. Okay. Do 4 you see page 12 -- 5 A. I do. 6 Q. -- of this document? 7 A. I do. 8 Q. And is that your signature at 9 the bottom? 10 A. It is. 11 Q. Is this the report that you 12 submitted in this litigation? 13 A. Yes. 14 Q. And you submitted a rebuttal 15 report as well, correct? 16 A. I'm not sure whether it was 17 called rebuttal or reply. But either way, 18 yes. 19 Q. Okay. So we're going to focus 20 on this initial report for the time being. 21 We're going to go back up to the top. 22 A. Could I see page 2, or 1 or 2, 23 just for a second? And let's keep going. 24 There's something I'm looking for, and I want 25 to -- in order to just verify a prior answer
Page 30 1 * * * 2 (Exhibit 1 marked for 3 identification.) 4 * * * 5 BY MR. PRATT: 6 Q. Okay. Dr. Feinstein, do you 7 have a copy of your report with you? 8 A. I don't. I can get one during 9 a break, but I don't right now. 10 Q. Okay. Well, let's -- let's see 11 how we fare using what is on the screen. And 12 if you have issues, we can take a break for 13 you to get a copy. 14 Does that sound okay? 15 A. Sure. 16 Q. Okay. So do you -- do you 17 recognize this document on the screen? 18 A. Well, if I had the report in 19 front of me, I would scroll down to the 20 signature page. 21 Q. The very first page says 22 report -- the very first page says Report on 23 Damages Methodology, Professor Steven P. 24 Feinstein, Ph.D., CFA, July 12, 2024, 25 correct?	Page 32 1 I gave. Page 2. I guess it would be on 2 page 3. Let's try one more page. No. Let's 3 try page 4. There it is. 4 Yeah, so my rate is in 5 paragraph 21. That's the rate for 6 engagements that begin in 2024. That's the 7 rate for this case. 8 Q. Okay. Understood. I want to 9 direct your attention to paragraph 1. 10 A. Okay. 11 Q. Paragraph 1, you wrote, "I was 12 asked by Bailey & Glasser LLP, co-counsel for 13 the plaintiffs, to determine whether damages 14 in this matter can be computed for all Class 15 members using a common methodology that is 16 consistent with Plaintiffs' -- with the 17 plaintiffs' theory of liability." 18 Did I read that correctly? 19 A. That's right. 20 Q. What is a common methodology? 21 A. That means the same formula for 22 calculating damages would be used for all 23 class members. It's common among all class 24 members. 25 Q. And what is plaintiffs' theory

Page 129 1 other than their own statement that they 2 would have used it for an appropriate 3 purpose, correct? 4 A. Well, there's their own 5 statement that says that that's what their 6 intention was. 7 There's the fact that 8 there's -- in the hypothetical -- we don't 9 have any evidence from the hypothetical world 10 because it never happened. 11 And then we also have abundant 12 evidence that even if there are some 13 deviations, the SBA still granted 14 forgiveness, as your example that's on the 15 screen attests to. 16 Q. So do you -- in your mind, is 17 there a probability that you would assess on 18 whether or not a named plaintiff would have 19 received forgiveness? 20 A. I don't have a set probability, 21 but I think the probability that they would 22 not have is negligible. 23 Q. Do you think the probability 24 that the named plaintiffs in this case would 25 have received forgiveness is 99 percent?	Page 131 1 were some deviations, if someone was 2 desperate to clear their name, you know, and 3 signed something, they would get forgiveness 4 anyway, even if it wasn't a hundred percent 5 accurate. 6 Q. Okay. So have you assumed in 7 your analysis that a hundred percent of the 8 class would have received [indiscernible]? 9 THE REPORTER: I'm sorry. 10 MR. LEDERER: Would have 11 received what? Pardon me. 12 THE REPORTER: Yeah, you're 13 going to have to repeat that for me. 14 MR. ZINI: Me too. 15 BY MR. PRATT: 16 Q. In your analysis, are you 17 assuming that 100 percent of the class would 18 have received forgiveness? 19 A. No. I am concluding that the 20 amount -- I'm concluding that that's -- that 21 there's a negligible probability that they 22 would not have. And the issue is mixed with 23 the question of liability, which is a merits 24 question beyond the scope of an economist. 25 Q. Okay. So I'm going to ask you
Page 130 1 A. We know -- look, obviously, 2 we're estimating what might have happened in 3 a hypothetical that never occurred. And 4 we're mixing up the economic and statistical 5 issues with legal liability issues. So we 6 really ought to sort this out for this 7 discussion. 8 If -- it's -- from the -- I'm 9 not a lawyer, but my understanding of the 10 liability -- theory of liability that I'm 11 assuming for purposes of constructing the 12 damage model holds the defendants liable for 13 not funding and holds the defendants liable 14 for not -- for preventing forgiveness. 15 So that's -- so, you know, 16 there's good reason to assume it for that 17 reason. 18 The statistics tell us that it 19 was virtually assured that anyone who applied 20 for forgiveness got it. It's an incredibly 21 small percentage, half a -- fraction of a 22 percent of people that didn't get it. 23 And the document you have on 24 the screen right now tells me that the 25 program was so lenient that even if there	Page 132 1 again. Is there a probability that you have 2 assessed -- just yes or no. Is there a 3 probability that you have assessed -- 4 A. I said -- I said -- 5 Q. Dr. Feinstein, let me finish 6 the question. 7 Yes or no. Is there a 8 probability that you have assessed as to 9 whether or not a named plaintiff in this case 10 would have received PPP forgiveness if they 11 had received their loan funds? 12 MR. LEDERER: Objection to the 13 form of the question. 14 THE WITNESS: So when you say 15 "a probability," you mean a particular 16 number or a characterization of the 17 probability such as that it's 18 negligible? 19 BY MR. PRATT: 20 Q. A particular number. 21 A. No, but there is the 22 characterization. It's negligible. The 23 statistics bear it out. 24 Q. But you are -- when you keep 25 citing statistics, are you talking about the

Page 169 * * * (Exhibit 10 marked for identification.) * * * BY MR. PRATT: Q. Earlier I had asked you whether your damages methodology in the Greathouse case was the same as the damages methodology in this case. Would it help to look at your report to answer my question? A. Sure. Let me -- do you mind if I kind of pull it up on my own computer screen so I can read through it quickly? Q. I think that's fine so long as you're not looking at other notes. A. No, it would be -- I'll promise you it's exactly the same document you have here. It just would be easier. You know, I don't have it. I don't have it. There's one more place I can find it. Or we could just scroll through yours if you want. That would be fine, too. Here, I'll move over here. Q. I'm going to direct your	Page 171 Yeah, so they're the same, because my report in this case said that at a minimum, the damages are the unfunded amount of the SBA loan, and that's what I said in Greathouse. In this case, I said that in addition to that, there's consequential damages, and I said that in Greathouse. In Greathouse, I said that if we exclude any element for consequential damages, it would be a conservative measure, and that's true. Q. Thank you. We can take this down. Are you aware that the Court denied class certification in the Greathouse case? A. I'm aware. Q. And do you know whether or not the Court cited to or relied on your opinion? A. I know the Court had no objection to my opinion. There was no exclusion or criticism of my opinion in Greathouse. Q. But the Court did not consider
Page 170 attention to paragraph 25 of this report. A. Okay. Q. Paragraph 25 says, "Therefore, assuming Plaintiffs establish liability, each Class member's damages are at a minimum the respective amount of their SBA-approved PPP loan that CPF failed to fund. That is, each class member's damages are at least equal to the amount of the SBA-approved PPP loan minus the amount received, if any. Given the facts and circumstances of this case, and assuming Plaintiffs' allegations are true, the amount of the SBA-approved, but unfunded PPP loan is an appropriate and conservative measure of damages for every Class member. I also understand that in lieu of damages or to express damages differently, Plaintiffs would be amenable to receiving their PPP loan funding in full with interest." Does that refresh your recollection as to whether the damages methodology in Greathouse was the same as this case? A. Could I see the next page, page 7?	Page 172 your opinion, or did it? MR. LEDERER: Objection to form. THE WITNESS: That -- I'm not a lawyer. I don't think they -- I don't know one way or the other. BY MR. PRATT: Q. Have you reviewed the rebuttal report of Jorge Baez? A. Yes. Q. And do you disagree with any of his opinions? A. Yes. Q. Do you know which ones? A. No. I mean, I -- I can't verbally give you a rebuttal here. I did cite to some of the things today, but I -- I couldn't give you a comprehensive critique, as I sit here now. MR. PRATT: I think we're getting close to being finished. I just want to take another five minutes. MR. LEDERER: Okay. * * *