EX. 13 -- THE REPORT OF WILLIAM BRIGGS ("BRIGGS") DATED JULY 12, 2024

Report of William Briggs

Alicia Marshall et al., individually and behalf of all others similarly situated
vs.
Prestamos CDFI, LLC and Chicanos Por La Causa, Inc.,

I. Qualifications

1. My name is William Briggs. I operate a consulting firm based in Austin, Texas.

2. From November 2017 to January 2021, I served in multiple roles at the United States Small Business Administration (SBA). Prior to my appointment at the United States Small Business Administration, I was employed in multiple positions in and out of public service advising clients, companies, and officials.

3. Prior to November 2017, I was employed by organizations including the Property Casualty Insurers Association of America and two presidential campaigns. From 2007 to January 2009, I served as a presidential appointee at the Environmental Protection Agency engaging in complex regulatory issues.

4. I received a bachelor's degree in economics from the University of Michigan, completed executive education at the University of Pennsylvania Wharton School of Business and am currently enrolled at the Southwestern Graduate School of Banking.

5. I was appointed in November 2017 by the President to serve in the Office of Capital Access located at the Small Business Administration headquarters building in Washington, DC. During my three years of service in the SBA Office of Capital Access, I served as Senior Advisor to the Associate Administrator of the Office of Capital Access and was subsequently promoted to Deputy Associate Administrator of the Office of Capital Access in January 2020.

6. In December 2020, I was appointed as Acting Associate Administrator of the Office of Capital Access and reported directly to the Administrator of the United States Small Business Administration, overseeing all SBA loan programs including the Paycheck Protection Program. I served in this capacity until January 20, 2021.

7. The mission of the Office of Capital Access is to help make capital available, through banks and other lending partners, to small businesses that would not be able to access credit conventionally at reasonable rates and terms.

8. The Office of Capital Access administers three main loan programs including the 7(a) loan program, the 504 loan program, and the Microloan program.

9. From March 2020 to January 2021, I oversaw operations, communications, public engagement and daily management of the Paycheck Protection Program or "PPP" as it commonly identified in the media and among the public.

10. In this capacity, I served as a lead headquarters official at the United States Small Business Administration explaining Paycheck Protection Program rules, guidelines, and design to lenders, trade associations, borrowers, Administration officials, elected officials, federal regulators, and related entities.

11. I publicly posted and widely disseminated information and updates about the PPP to the public at large and believe I am an expert on the PPP and worked with the Program from its inception through January 20, 2021, including its operations, its designs, and many facets of the Program and its execution.

12. In connection with this report, I reviewed plaintiffs' Third Amended Complaint and exhibit containing the parties' SBA standard form note and other related documents (the "complaint"), other filings in this case, applicable PPP rules and regulations, certain documents produced in discovery, and other information.

II. Purpose & Summary

13. I have been retained by counsel for the plaintiffs in this case, to provide expert testimony in this case. I am being compensated for my work in this case by plaintiffs' counsel at the rate of $1,000 per hour and my compensation is not contingent on my work.

14. Ironically, I was approached by Prestamos' counsel to potentially serve as a Prestamos expert in another PPP-related litigation or arbitration matter. As I was retained previously by plaintiffs' counsel in this case, I declined that engagement.

15. My testimony is focused on relevant aspects of the Paycheck Protection Program that are at issue in the complaint filed by Alicia Marshall et al. against Prestamos CDFI, LLC and its parent company Chicanos Por La Causa, Inc.

16. The Paycheck Protection Program was meant to help eligible small businesses and their employees survive the worst economic crisis since the Great Depression.

17. The Program was designed so that borrowers could fill out a simplified application, provide the required documentation to a lender within a certain timeframe sufficient to enable the lender to pass the required the lender review processes, obtain a SBA loan number after the lender submitted the loan package to SBA, and then receive funds from that lender via a one-time disbursement. The lender would then report to and certify to SBA that the loans were fully disbursed in order to receive a lender fee. Per program guidelines, the lender was not supposed to obtain the lender fee unless it fully disbursed the loan. After a certain timeframe, borrowers would then be eligible to apply for and receive loan forgiveness assuming the proceeds were used for payroll or other purposes permitted under the PPP.

18. The required borrower documentation was also streamlined under the PPP to require that the borrower make certain certifications on the loan application regarding eligibility and provide only certain other limited information as the intent was for borrowers to apply, qualify and obtain the loans with minimal regulatory, paperwork or other conditions.

19. Timely disbursement of funds to borrowers was both an intentional design feature and a core lender requirement of the program. As noted in multiple PPP regulations: "The intent of both the CARES Act and the Economic Aid Act is that SBA provides relief to America's small businesses expeditiously. Congress reauthorized PPP because of the current economic conditions affecting small businesses and intended for the loans to be made quickly." 86 FR 3694.

20. Program language was clear: lenders ***must*** fully disburse loan funds within the time period set by the PPP (which was ten days after the loan was approved by the SBA and the borrower returned to the lender the loan documentation), and ***must*** file the SBA Form 1502s with the SBA to obtain a loan processing fee. Lenders also were obligated to report accurately the status of each PPP loan. Further, a lender ***must*** certify to loans having been fully disbursed in order to receive a lender fee for each loan that was funded. 86 FR 3709, 3710.

21. The lender ***must*** do these things per PPP program requirements. A PPP lender also had incentive – that is, the lender would ***want*** to timely and fully disburse funds - as it could then accurately report the loans as fully disbursed to receive a lender fee.

22. The plaintiffs assert that they did they not receive loan funds after completing all required loan documentation within the required timeframe or ever, and after obtaining individual SBA loan approval numbers for their respective loans. For several plaintiffs in this case as detailed in the complaint's citation to publicly available websites, the complaint alleges that loan funds were shown in publicly available PPP loan data to have been funded when plaintiffs allege that they were, in fact, not funded. *See, e.g*., complaint paras. 245, 250, 269, 281, 293, 311, 323, 332, 335. If the loans were not funded and publicly available data purport to show the loans were funded, that is most likely based on Prestamos' reports regarding the purported full disbursement of those loans.

23. The complaint asserts that the SBA records provided to the agency by the lender Prestamos purport to show these funds as disbursed and for which the lender received associated PPP lender fees from SBA. As discussed more fully below, plaintiffs' complaint here alleges a class narrowed from the class alleged in the *Greathouse v. Capital Plus Financial, LLC* lawsuit because it includes only borrowers in plaintiffs' respective states who were approved by the SBA for their PPP loans, returned all loan documentation, failed to get funded, but who Prestamos reported to the SBA were fully disbursed and thus obtained the SBA loan processing fee. Complaint paras. 376 – 377.

24. Plaintiffs also assert they were precluded from applying for loan forgiveness because they failed to receive the loan proceeds and thus could not certify that they used those proceeds for purposes permissible under the PPP, such as for payroll. PPP was designed as a forgivable loan program and the vast majority of PPP borrowers who did receive their PPP loan proceeds had their loans forgiven.

25. In addition, under the parties' note and accompanying loan documents attached to the note a copy of which plaintiffs filed with their complaint, plaintiffs potentially have to pay back to Prestamos loan proceeds they never received plus interest. In some instances, as alleged in

plaintiffs' complaint and quoted from Prestamos collection-related correspondence, these plaintiffs continue to receive notice from the lender Prestamos that they are required to pay back the loan amount with associated interest as of 2023. These notices suggest that SBA records managed by Prestamos continue to show these loans as disbursed since 2021 although plaintiffs allege these loans were not disbursed to them. Complaint paras. 253 – 258, 296 – 300.

26. The Program's intent was to help – not hurt – the borrower, assuming the borrower was eligible to receive funding and submitted a complete loan application and required documentation to an approved lender in a timely manner.

27. In 2021, the Program was especially focused on reaching underserved borrowers – those hit hardest by the economic conditions associated with the COVID-19 pandemic – and to ensure they were ultimately helped and not hurt as detailed in plaintiffs' complaint as part of the PPP process.

28. Many of the plaintiffs are typical of the underserved borrowers that the Program was trying to help through the actions of PPP lenders. In this specific complaint and class definition as noted above, there appears a consistent fact pattern where borrowers provided all necessary and signed loan documentation – including a standard SBA form promissory note - and received an SBA loan number. The lender was then ultimately paid a lender fee for reporting the loans as fully disbursed and the borrowers allegedly never received the funds.

29. By Program design, once a borrower received a SBA loan number, the borrower would not be able to apply for a loan and receive funds with a different lender than Prestamos even if Prestamos never actually funded the loan. The borrower was "stuck" with the lender who submitted the application to SBA to receive the SBA loan number (in this lawsuit, the lender is Prestamos) and could be considered harmed if not worse off if the lender did not meet clear program requirements to fully disburse the loan.

III. Different from Greathouse vs. Capital Plus Financial lawsuit

30. I have provided a report for the *Greathouse v. Capital Plus Financial, LLC* lawsuit. In that case, the defendants filed a motion seeking to reject my testimony from that case. The Court denied the motion noting the testimony was allowable "*to better understand certain issues of the case which squarely rest on the SBA lending rules." see Greathouse v. Capital Plus Fin.*, 4:22-CV-0686-P, 2023 WL 5746927, at *5 footnote 2 (N.D. Tex. Sep. 6, 2023) (emphasis added).

31. In *Greathouse v. Capital Plus Financial, LLC*, the court also denied class certification noting as follows:

> "The central question in this case—as Plaintiff notes—is whether CPF failed to fund Plaintiffs' loans or timely cancel them." *Capital Plus,* 2023 WL 5746927 at *5.

32. However, in this lawsuit as stated in plaintiffs' complaint, the class that the plaintiffs allege follows that Court's ruling and is narrower than the class alleged in *Capital Plus*. First, the class here is not a nationwide class but only covers those in plaintiffs' respective states,

consistent with the Court's ruling on Prestamos' motion to dismiss in this case. Second, plaintiffs and class members here include only those "who executed and submitted their Loan Documents and provided to Prestamos all required loan documentation" (complaint, paras. 376 – 377). Thus, unlike *Capital Plus*, there are no issues of inconsistent or incomplete paperwork. All plaintiffs and class members had their paperwork completed and returned to Prestamos in this case per the class definition alleged in the plaintiffs' complaint.

33. In my view, completeness of loan documentation matters as the Court stated in *Capital Plus* that the 20 day cancellation rule applies only to "[l]oans for which funds have not been disbursed *because a borrower has not submitted required loan documentation* within 20 calendar days of loan approval" (*Capital Plus*, 2023 WL 5746927 at *5). As alleged in this complaint, all plaintiffs and class members had to have submitted "all required loan documentation" (complaint, paras. 376 – 377). Thus, the 20 day loan cancellation rule that the Court relied on in *Capital Plus*, 86 FR 3692, 3710, does not apply here. Assuming the truth of the allegations here, all the loans at issue here were backed by "all required loan documentation," or would not fall within the definitions of the two classes alleged in the complaint. *See* Complaint paras. 376 – 377.

34. Prestamos used the standard SBA form of note and accompanying loan documents that plaintiffs filed with their complaint. *See* complaint Exhibit A.

35. The promissory note Prestamos used also contains a release of the lender at section 10 of the note which I understand the defendants argue shield them from all claims. Generally, a PPP lender would not disburse a PPP loan until the parties had signed the note and the borrower returned the required loan documentation.

36. I note that the Court ruled in *Capital Plus* that the release at issue there was void as being against public policy. *See Greathouse v. Capital Plus Fin.*, 4:22-CV-0686-P, 2023 WL 5759250, at *15-16 (N.D. Tex. Sep. 6, 2023). The Court there based that ruling in part by noting the unequal bargaining power between the lender and the borrower.

37. Third and unlike *Capital Plus*, the class here as plaintiffs' complaint also alleges includes only those who failed to receive their approved PPP loans ***and*** who Prestamos "reported to the SBA that the loan proceeds were disbursed." Complaint paras. 376 – 377. This also is an important distinction because I believe Prestamos, as a matter of both fairness and the intent of the PPP, should not have it both ways: obtaining the loan processing fee based on reporting the loans as fully disbursed on the one hand, but arguing on the other hand that a mere unsuccessful attempt to fully disburse the loan shields it from claims. The PPP was clear in that the lender should obtain a loan processing fee if it fully disbursed the loan(s). The PPP was also clear that the lender had to accurately report to the SBA concerning the status of PPP loans.

38. Again, unlike *Capital Plus*, the complaint alleges a consistent pattern of state-specific borrowers and defined class members who followed the appropriate process, provided all necessary loan documents including a signed promissory note, received an SBA loan number, and never received funding despite the lender reporting the loans as fully disbursed to the SBA. These borrowers have also been denied any forgiveness and potentially are bound to pay back proceeds they never received plus interest.

IV. Noteworthy Paycheck Protection Program lender requirements

39. In January 2021, SBA in consultation with the Treasury Department, produced updated rules to ensure that lenders like Prestamos were performing appropriate review of the loan applications and materials by complying with Bank Secrecy Act (BSA) and or implementing anti-money laundering protocols. These requirements were specifically outlined in program rules made public on January 6, 2021, and would thus apply to the loan process used in 2021 by Prestamos. These rules provided more clarification about the exact requirements and level of review expected by a PPP lender.

40. In my view, these rules also further cement the perspective that the lender was ultimately responsible for the proper origination, processing, disbursement, servicing, customer interaction and related caretaking of their Paycheck Protection Program loan portfolio. As noted, the rules also clearly required PPP lenders to accurately report to the SBA regarding the status of the loans.

41. Even in instances where a PPP lender use a third-party agent to assist with loan origination and the lender's PPP program mechanics, I believe the lender was and is ultimately responsible for what happens or doesn't happen with their PPP loan portfolio. Having been an SBA lender before pandemic era, Prestamos likely understood this concept as a long-standing tenet of SBA lending.

42. To accurately report and certify to accuracy on a consistent basis the status of the loans in their PPP loan portfolio to the SBA, a lender had to follow specifically the SBA Form 1502 process as alleged in detail in plaintiffs' complaint. *See* Complaint paras. 385 – 392.

43. Prestamos was required to both report First Draw PPP Loans and Second Draw PPP loans that were fully disbursed to SBA via SBA Form 1502 (1502 reports). Prestamos was required to electronically submit SBA Form 1502 reporting information to the SBA within 20 calendar days (later changed to 10 days in February 2021) after disbursement of a PPP loan. Prestamos was required to confirm that all PPP loans for which Prestamos was requesting a processing fee had been fully disbursed on the disbursement dates and in the loan amounts reported.

44. As part of the 1502 reporting process, Prestamos was required to certify to four statements in total which included the following three statements:

45. "…all First Draw Loans and Second Draw Loans included in the report were fully disbursed to the borrowers on the disbursement dates entered and in the loan amounts entered in the report;

46. all information in the report is true and correct; and

47. the report has been submitted by an authorized employee or agent of Lender acting within the scope of Lender's authority and Lender acknowledges responsibility for all entries and certifications made on its behalf."

48. After submitting the initial SBA Form 1502 report, Prestamos was required submit PPP loan information to SBA on a monthly basis via updated Form 1502 reports.

49. The 1502 process is an ongoing process and meant to provide to SBA an accurate picture of the status of PPP loans as the lender is the one managing the loans and is in the best position to know with certainty what loans were actually fully disbursed.

50. Lenders were and are also required to provide monthly 1502 reports that include loan status information for their PPP loans regardless of whether the borrower made a payment in the current month. Lenders were required and must continue reporting on a loan until the lender notifies SBA that the loan has been paid in full.

51. If Prestamos failed to fully disburse after the loan received a loan number in the ten-day timeframe or thereafter, Prestamos should not have reported a loan as fully disbursed and should not requested a lender fee for that loan.

52. Assuming the truth of the allegations here, I believe the "stuck" plaintiffs and class members were harmed when their loans weren't fully disbursed in a timely manner as required by PPP rules. These borrowers weren't eligible to receive PPP funds from another lender as they contracted with Prestamos and Prestamos had reported to SBA that their loans had been fully disbursed.

53. Assuming the truth of the allegations here, I also believe the plaintiffs and other unfunded class members were also deprived of the opportunity to obtain loan forgiveness as the PPP was designed to do and widely did.

53. As also noted above, some plaintiffs and class members are now subject to claims by Prestamos to repay to Prestamos loan proceeds they never received, plus interest under the parties' note and accompanying loan documents. Assuming the truth of the allegations here, I also believe this is also inconsistent with the intent of the PPP.

Dated: July 12, 2024

William Briggs

William Briggs