EX. 18 -- DECLARATION OF DAVID CASTILLO, SENIOR CREDIT OFFICER WITH PRESTAMOS

Ex. 2 – Declaration of David Castillo, Senior Credit Officer with Prestamos

ALICIA MARSHALL, *et al.*, 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 DAVID CASTILLO

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. My name is David Castillo. I am over the age of 18 and competent to make this declaration, which is based on my personal knowledge.

2. I have been employed by Prestamos CDFI, LLC ("Prestamos") since September 02, 2014. I am currently Senior Credit Officer with Prestamos and have served in that role since November 2023. Prior to this, I was Portfolio Manager.

3. Under my new role, I am responsible for managing risk. See Job Description for more detail.

4. Prestamos is a Community Development Financial Institution ("CDFI") created in 2000 with the mission of building strong communities by providing small business owners access to capital through non-traditional financing resources.

5. CDFIs are certified by the U.S. Department of the Treasury and are private-sector, financial intermediaries that work to supply tools to economically disadvantaged individuals and underserved communities to become self-sufficient.

6. Prestamos is committed to supporting small businesses that face barriers to securing credit from traditional lending sources because of smaller loan requests, a need for flexible underwriting, or the need for assistance to meet underwriting standards.

7. In its capacity as a CDFI, Prestamos provides financial services, loans, investments; training and technical assistance services, and promotes development efforts that enable individuals and communities to effectively use credit and capital. Prestamos works with communities in Arizona, California, Nevada, New Mexico, and Texas.

8. During the COVID-19 pandemic, the federal government enacted the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), which included the Paycheck Protection Program ("PPP"). The PPP was designed to help small businesses, include sole proprietors, continue to pay their workers during the pandemic.

9. In May 2020, the U.S. Small Business Association ("SBA")—the federal agency responsible for reviewing and approving PPP loans—allowed CDFI lenders to participate in the PPP loan process as part of the second round of PPP funding. On or around April 2020, the SBA approved Prestamos to act as a PPP lender.

10. Prestamos was a lender through its own SPARK program and through its contact with Blueacorn.

11. Prestamos approved 494,415 PPP loans, and completed 3,146 loans through SPARK and 460,841 loans with the assistance of Blueacorn. Some approved borrowers did not sign SBA Form 147, the loan note, and their loans were never funded.

12. Prestamos began working with Blueacorn, as its lender service provider for PPP, in April 2021. Prestamos and Blueacorn agreed that Blueacorn would include Prestamos among the

lenders Blueacorn used when submitting PPP loan applications to the SBA, and Prestamos agreed to use Blueacorn for due diligence.

13. While not a lender itself, Blueacorn committed to connect PPP lenders with borrowers. Blueacorn partnered with an advertising company that directed prospective PPP borrowers to Blueacorn's website.

14. Once there, Blueacorn outlined that a potential borrower could submit information to determine if they met the criteria for a PPP loan and, if so, the potential borrower could then use the Blueacorn website to provide the additional information needed to complete a PPP loan application.

15. After a potential borrower completed a PPP loan application, Blueacorn committed to conducting an initial round of due diligence to determine if the applicant met the SBA requirements. Blueacorn committed to use individual reviewers along with proprietary software to conduct due diligence.

16. Blueacorn outlined that once it completed due diligence on an application, it would submit the application to the SBA for approval and would designate a PPP lender (sometimes Prestamos).

17. Once Blueacorn submitted an application to the SBA, the SBA would make a decision approving or denying the application. The SBA did not approve all applications.

18. If the SBA denied an application, Prestamos generally did not take any further action.

19. If the SBA approved a PPP loan application, the applicant was required to execute a promissory note and other loan documents. Blueacorn committed to transmitting those documents to each borrower and, once completed, returned the documents to Prestamos.

20. Once the SBA approved a borrower's PPP loan application and the borrower signed and returned the promissory note and loan documents, Prestamos would either send an Automated Clearing House ("ACH") payment electronically to the account the borrower designated on the loan documents or cancel the loan.

21. Pursuant to the CARES Act, the Federal Reserve maintained a credit facility from which PPP lenders could borrow funds for use in issuing PPP loans.

22. When a borrower's PPP loan application was approved by the SBA, and the borrower signed a promissory note, Prestamos would request a credit advance from the Federal Reserve.

23. If Prestamos canceled a loan, it was usually because the application was flagged by Blueacorn's software for suspected fraud.

24. This suspected fraud could be because of issues relating to identity verification, business verification, and/or financial verification among other things, including bank rejections of loan proceeds by banking institutions that had established Anti-Money Laundering/Bank Secrecy Act ("AML/BSA") policies, as well as information collision (e,g., when borrowers used the same address or Schedule C, etc.).

25. Notably, this entire process took place on a very compressed time schedule. In approximately six weeks, Prestamos funded 463,987 PPP loans. On average, it took Prestamos 8 days from the time the SBA approved a borrower's application to fund the borrower's PPP loan.

26. Because of the high volume of PPP loans for which Prestamos acted as the lender, Prestamos sent orders to its bank, Evolve Bank & Trust ("Evolve"), for ACH payments in batches by compiling the information needed to make a given payment (*i.e.*, borrower name, recipient bank, payment amount, account, and routing number) into a single spreadsheet.

27. Prestamos' bank, Evolve would then provide confirmation that the requested ACH payments were made to borrowers.

28. Prestamos is a non-depository bank, and did not (and does not) have the liquidity that other SBA-approved PPP lenders had. As a result, in order to fund PPP loans, Prestamos needed a credit advance from the Federal Reserve.

29. In order for the Federal Reserve to release the funds for a credit advance, Prestamos had to submit both the SBA Form 1502 to the SBA and the "Paycheck Protection Program Liquidity Facility PPP Pledge and Advance Request" to the Federal Reserve—*i.e.*, Prestamos had to submit SBA Form 1502 before any money was released by the Federal Reserve or deposited into a borrower's account.

30. Before drafting this declaration, I reviewed paragraphs 20 and 43 of Plaintiffs' expert William Briggs's report, as well as paragraphs 20 and 23 of Plaintiffs' expert William Manger's report. Both Briggs and Manger state that lenders were supposed to file SBA Form 1502 after a PPP loan was funded. That may have been true for depository banks that were also PPP lenders. But for non-depository banks like Prestamos—who had to rely on credit advances from the Federal Reserve—that was not possible.

31. The "loan status" section of SBA Form 1502 needed to be filled out as "Funded," "Undisbursed," or "Cancelled." Prestamos used "Funded" in order to initiate the credit advance from the Federal Reserve.

32. A small percentage of the PPP loans that Prestamos funded in the manner described above were rejected by the borrowers' banks. In other words, the loan funds were sent electronically from Prestamos's bank, Evolve, by ACH payment, the borrower's bank received the funds, and the borrower's bank returned or rejected the funds.

33. ACH payments, including loans, may be rejected for a number of reasons. In fact, there are more than eighty (80) ACH "return codes" that a receiving depository financial institution ("RDFI") may use when returning an ACH payment to the originating depository financial institution ("ODFI").

34. The same was true for PPP loans. For example, borrowers' banks returned ACH payments because the borrower's bank account was closed, frozen, subject to a stop payment, invalid, nonexistent, or unable to be located. The ACH payment may also have been returned because the account holder was deceased, the name on the account did not match the name listed in the requested ACH, or a governmental agency told the bank to reject the loan funds.

35. Moreover, a bank's policies could have caused the rejection of the borrower's ACH payment. For example, the borrower may have identified a personal bank account that could not accept business loans (such as a PPP loan). A borrower's bank may have rejected loan funds for a number of other reasons, including: the account was non-depository; the account holder failed to submit required documentation; or the bank detected fraud.

36. When a borrower's bank rejected an ACH payment, it would notify Prestamos of the rejection and the ACH return code, along with any other reasons listed for not depositing the funds.

37. Pursuant to its contract with Prestamos, Blueacorn was responsible for addressing the ACH return issues with the borrowers through reverification. Blueacorn resolved a large number of PPP loan rejections, which enabled those borrowers to receive the full amount of their PPP loans. For some borrowers whose ACH payment did not go through, their PPP loan was deposited on a prepaid card and sent to them.

38. Notably, the rules governing PPP loans required banks to act consistent with their AML/BSA compliance programs. Prestamos is not a depository bank, and therefore did not have a AML/BSA compliance program. Instead, if an ACH payment was flagged by a borrower's bank consistent with its AML/BSA compliance program, it triggered Prestamos's reverification process.

39. In addition, in March 2021, the SBA Office of Inspector General and the U.S. Secret Service Office of Investigations issued guidance to Prestamos and other PPP lenders that, if a borrower's bank rejected PPP loan funds, it was a sign of suspicious activity by the borrower. Based on this guidance, Prestamos and other lenders began to conduct enhanced due diligence for those borrowers.

40. Blueacorn committed to perform this enhanced due diligence, which included the close examination of the borrower's file (as opposed to the generalized review that was conducted at the application and submission stage). Prestamos understands that the precise steps taken during the enhanced due diligence process were not uniform, but varied depending on the ACH return code or any other specific issue identified as causing the failed deposit.

41. Enhanced due diligence consisted of additional steps, such as requesting submission of additional identification, asking security questions, and/or seeking additional financial information (*e.g.*, tax returns or bank statements).

42. Blueacorn committed to manually review the entire loan file and looked for any evidence of fraud or other suspicious activity. During the manual review, Blueacorn could potentially identify a separate reason, aside from that identified by the ACH return code, that the loan should not be funded. Blueacorn could follow up with the borrower about these later-identified issues.

43. If a borrower cleared the enhanced due diligence process, Prestamos would fund the loan again by instructing Evolve to issue an ACH payment to the borrower's bank account. For some borrowers, this second attempt to fund the loan was successful. In some cases, however, the borrower's bank once again rejected the funds.

44. If a borrower's bank rejected the PPP loan ACH payment a second time, Prestamos usually did not make further attempts to deposit the loan amount.

45. Similarly, if a borrower failed the enhanced due diligence process—either because the borrower failed to resolve the issue identified during the first payment attempt or failed to resolve evidence of fraud or suspicious activity discovered during the enhanced due diligence—Prestamos generally did not make further attempts to pay the PPP loan funds.

46. Prestamos was required to submit SBA Form 1502 monthly to report updates on the status of PPP loans. During reverification and/or the enhanced due diligence process, Prestamos would keep the loan status as "Funded" on SBA Form 1502.

47. If a party failed the reverification and/or enhanced due diligence process, or failed to provide the documents Blueacorn requested to complete the process, Prestamos changed the loan status from "Funded" to "Cancelled" on SBA Form 1502.

48. As a general matter, Prestamos's practice regarding approved loans—consistent with SBA guidance for PPP loans and other SBA loans—was to direct Evolve to disburse the money. Once the ACH payment was initiated and sent to the borrower's bank, Prestamos's role in the PPP loan disbursement process was complete, subject to any reverification by Blueacorn.

49. Indeed, once Evolve attempted to make an ACH payment at Prestamos's request, Prestamos did not have control over the ultimate disposition of the funds and was not in a position

to override or dispute any rejection by a borrower's bank, which, as noted above, was often a result of a borrower's bank's AML/BSA compliance program.

50. Unlike other SBA loan programs, and because of the quick turnaround required by the program, PPP loans did not go through full underwriting, which would likely have prevented the actions taken by some borrower's banks, including returning ACH payments or freezing them.

51. In September 2021, Prestamos returned the credit advances from the Federal Reserve for loans that were ultimately not funded.

I certify under the penalty of perjury that the foregoing is true and correct.

Executed on August 9, 2024.

DocuSigned by:
david castillo
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David Castillo

JOB DESCRIPTION

Title: Chief Credit Officer	**Reports To: Vice President of Prestamos**
Classification: ☐ Exempt ☐ Non-Exempt	**Program/Department: Prestamos**
Hours: ☐ FT ☐ ¾ ☐ PT ☐ On-Call ☐ Temp	**Pillar:** Economic Development
Schedule: ☐ Within Standard Business Hour Range ☐ Atypical	**Executive Vice President:** Jose Martinez, EVP, Economic Development
If Atypical: ☐ School Schedule ☒ Evenings ☐ Nights ☐ Weekends ☐ Staggered Days	**Eligible for:** ☐ Phone Allowance ☐ Mileage (Federal Rate) ☐ Car Allowance
Emergency Essential: ☐ Yes ☐ No	**Established Date:** Click or tap to enter a date. **Revision Date(s):**

OBJECTIVE AND POSITION SUMMARY

Responsible for providing support, direction, credit information, and loan policies and procedures to ensure the overall quality of the lending portfolio. Duties include calculating the Allowance for Loan Loss Reserve (ALL) and making recommendations to executive management and the Board of Directors for monthly allocations to the Loan Loss Reserve. Responsible for execution and communication of policy, approval process, administration, portfolio analysis and asset quality Reviews large and complex loans prior to submission to Loan Committee. Reviews loan portfolio on a continuing basis in order to manage the mitigation of risk associated with the loan portfolio, oversee collections and loan procedures losses and ensures internal compliance objectives are met. Ensures that appropriate policies, procedures, and systems are developed, implemented, and maintained to identify, measure, monitor and control credit risks in accordance with credit policies, standards, and applicable regulatory guidelines.

SUPERVISORY RESPONSIBILITIES

Supervise the Director of Loan Servicing and works directly with the Director of Lending.

SPECIALIZATIONS

Demonstrated understanding of loan underwriting structures, pricing and processes as they relate to the funding of small business loans for business start ups and ongoing business entities.
Must have thorough knowledge of financial accounting theory and logic and loan structuring.
Must maintain a demonstrated understanding of loan analysis, closing, funding and collections procedures.

JOB DESCRIPTION

Must be able to communicate information and concepts clearly, both orally and in writing; ability to interpret and discuss analytical data.

Technical skills should include proficiency in MS Office (Word and Excel in particular) as well as a familiarity with Microsoft Outlook and loan portfolio software systems

Must understand auditing practices

Helpful to have a working knowledge of SBA lending programs and New Market Tax Credit financing.

Ability to work independently, as well as in a team environment.

PRIMARY DUTIES AND ESSENTIAL FUNCTIONS

Oversee the credit approval process, as well as portfolio monitoring systems for all current and future credit products.

Responsible for the credit policies and its compliance with the applicable regulations and laws, credit risk, product and program management.

Ensure that credit policies are routinely reviewed, modified as necessary, and well-communicated throughout the organization.

Ensure that allowance for credit losses and the charge-off process and procedures are consistent with industry best practices and meet current and anticipated accounting and regulatory guidelines.

Monitor and track all underwriting activity to ensure underwriting guidelines and regulations are being adhered to, and information is analyzed and completed within established timelines.

Ensuring that systems of internal controls and procedures are consistent with the best practices in the industry and are appropriate for all regulatory requirements.

Ensuring that all loan systems and tracking techniques provide the appropriate data to management, and the Board of Directors, to allow for accurate assessment of loan quality and risk management.

Provide overall loan portfolio management analysis and oversight to ensure that the Prestamos' asset quality meets objectives, and that the emphasis of Prestamos' overall credit relationship management is consistent with Prestamos' underwriting standards.

Support diversification of the loan portfolio by establishing sound credit policies and proper training of BDOs and credit officers.

Maintain knowledge of applicable state and federal lending and compliance laws and regulations and implement appropriate policies, procedures, and controls.

Assist with the monitoring of loan performance in the Prestamos' portfolio and ensure loans are appropriately Risk Rated and adequately reserved. Attempts to ensure that individual loans are risk rated correctly when reviewing loans for loan committee submission.

Prepare all portfolio performance reports for senior management and Executive Board.

Manage loan delinquencies and loan servicing matters, including third party servicers & facilitate appropriate strategies and procedures to ensure that delinquencies and defaults are effectively managed and reported to the Executive Management, and the Board.

Underwrite, structure and present large and complex loans.

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JOB DESCRIPTION

Review and recommend loan requests for approval submitted by BDO/ loan analysts within delegated authority limits.

Reviews and approves/declines large loans prior to submission to Loan Committee.

Approve short-term loan payment adjustments within delegated authority limits.

Generate all memos that explain all divergence from the loan approval and obtain all necessary approvals.

Identify problematic loans and manage workouts. Supervises Prestamos' collections and assists in curing weak credits, collection of such credits, or the movement of such undesirable credits.

Negotiate, recommend and discuss workout and or liquidation strategies to minimize loss to the Prestamos and to maximize recovery.

Meets with Director of Loan Servicing and Sets goals/strategies for payment resolution of impaired loans.

Manage liquidations of collateral

Manage Loan Loss Reconciliation in coordination with the Accountant

Generate and lead monthly Portfolio Quality Review with Vice President and BDOs

Updates job knowledge by participating in educational opportunities; reading professional publications; maintaining personal networks; participating in professional organizations.

Document and report on lending relationships' status and quality.

Investigate and understand discrepancies, problems, and unusual situations.

Analyze financial information to determine credit quality, approve credit, and document risk factors.

Develop and document risk mitigation standards and processes.

May perform other duties as assigned

MINIMUM QUALIFICATIONS AND COMPETENCIES

1. Education /Background:

   Candidate should possess a minimum of a bachelor's degree in finance, business or accounting or combination of education and experience. Work related experience should consist of a financial analyzing or lending background

   Advanced degree preferred.

   Mastered experience, knowledge and training in financial statement and tax return analysis typically resulting from a combination of education in accounting, financial and/or credit analysis or related areas.

   Possess a clear understanding of reporting guidelines.

   10+ years of experience working in credit risk analytics and/or risk management with financial institutions including the development of credit policy, underwriting standards, and internal risk rating scorecards.

   Knowledge of and experience in regulatory compliance, including CRA and Fair Lending compliance.

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JOB DESCRIPTION

2. Other requirements:

   Able to work in office Monday through Friday

Effective January 3, 2022, all CPLC Employees and all Service Providers, are required to be Fully Vaccinated against COVID-19. Newly hired employees, who are not Fully Vaccinated at the time of hire, are expected to begin a vaccination series immediately upon hire. CPLC recognizes medical and religious exemptions to the COVID-19 vaccination requirement, in accordance with applicable law and upon approval by CPLC. However, any person approved for an exemption, without exception, is subject to masking, weekly COVID-19 testing at their expense, and other requirements established by CPLC from time to time.

PHYSICAL DEMANDS AND TYPICAL WORKING CONDITIONS (please review below the 3 categories and edit as necessary)

Position requirements: *This position is both a mobile and a sedentary position with periods of light physical activity, and is performed mostly in office surroundings. Positions typical in nature require regular walking or standing; sitting, lifting and carrying up to 20 pounds; climbing stairs, bending, reaching, holding, grasping and turning objects; and using fingers to operate computer keyboards. This position will require the ability to speak normally and to use normal or aided vision and hearing.*

Travel: *Local, interstate and intrastate travel to Chicanos Por La Causa, Inc., its affiliates and/or subsidiaries, will be necessary to successfully fulfill the duties of this position. Candidate must have and maintain a valid driver's license and auto insurance. Technology will be utilized to minimize travel whenever feasible. The travel requirements for this position are anticipated to be 25 to 35 percent assignment depending. Overnight travel must be approved in advance by the Department VP.*

Continuous Learning: All certifications related to the position at hire, or obtained while employed by CPLC, must be maintained. Candidate will be expected to participate in continuous learning opportunities to maintain competency and enhance skillset. Learning opportunities must be approved by Department VP.

LIMITATIONS AND DISCLAIMER

This job description is meant to describe the general nature and level of work being performed; it is not intended or is implied to be construed as an exhaustive list of all responsibilities, duties and skills required for the position. Duties, responsibilities and activities may change or new ones may be assigned at any time with or without notice.

Requirements are representative of minimum levels of knowledge, skills and/or abilities. To perform this job successfully, the employee must possess the abilities or aptitudes to perform each duty proficiently. All employees are accountable for understanding and complying with all corporate policies and procedures as well as any program specific policies and procedures. Continued employment remains on an "at-will" basis.

This job description is subject to possible modification to reasonably accommodate individuals with disabilities. Some requirements may exclude individuals who pose a direct threat or significant risk to the health and safety of themselves or other employees. Employee signature below indicates the employee's understanding of the requirements, essential functions and duties of the position.

EMPOWERING LIVES THROUGH CONTINUOUS LEARNING

Continuous Learning: All certifications related to the position at hire, or obtained while employed by CPLC, must be maintained. Candidate will be expected to participate in continuous learning opportunities to maintain competency and enhance skillset. Learning opportunities must be approved by supervisor.

CPLC Mission, Vison and Values in Action: Our mission and purpose is to drive economic and political empowerment. We cannot achieve our vision of "Empowered Lives" without the full engaged participation of each employee. Each CPLC employee is expected to adhere not only to the CPLC Code of Conduct when acting on behalf of CPLC, but each employee is also expected to contribute to promoting and demonstrating CPLC's Values in Action in their interactions with clients, other CPLC employees, CPLC stakeholders, and at any and all times representing CPLC.

CPLC Values in Action

(1) I deliver on my commitments
(2) I bring innovative solutions and adapt to address challenges.
(3) I advance and own my professional and personal growth.
(4) I engage passionately and fully in advocating for, and responding to, the needs of our community.
(5) I demonstrate respect with honest and transparent communication.
(6) I protect CPLC resources as if they are my own.

I understand, acknowledge and will do my utmost to fulfill the job duties and functions as outlined above and to demonstrate CPLC's values in my behaviors and actions now that I have become an integral and vital part of the CPLC Familia.

Employee Name (Print)	**Hiring Manager Name (Print)**
Employee Signature	**Hiring Manager Signature**
Date	**Date**