

LOCKRIDGE GRINDAL NAUEN P.L.L.P.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

HYDE-EDWARDS SALON & SPA,
Individually and on Behalf of All
Others Similarly Situated,

Plaintiff,

v.

JPMORGAN CHASE & CO. and
JPMORGAN CHASE BANK, N.A.,

Defendants.

) Case No. **'20CV0762 DMS MDD**

) **CLASS ACTION COMPLAINT**

) **FOR:**

) **DEMAND FOR JURY TRIAL**

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-) 1) California False Advertising Law,
California Business & Professions
Code §§17500, et seq.;
-) 2) Unfair Competition Law, California
Business & Professions Code
§§17200, et seq.;
-) 3) Fraudulent Concealment;
-) 4) Breach of Fiduciary Duty; and
-) 5) Negligence

NATURE OF THE ACTION

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3 1. Plaintiff Hyde-Edwards Salon and Spa (“Plaintiff”), individually and
4 on behalf of all others similarly situated, by and through its undersigned attorneys,
5 brings this Class Action Complaint and jury demand against Defendants JPMorgan
6 Chase & Co. and JPMorgan Chase Bank, N.A. (“Defendants”), for their unlawful
7 acts and/or intentional practices of making false, misleading, and deceptive
8 representations and omissions concerning their processing of economic assistance
9 via the Federal Paycheck Protection Program (“PPP”), by engaging in conduct
10 prohibited by law and regulations with customers and clients, and by otherwise
11 engaging in sharp business practices.

12 2. Defendants made false, misleading, and deceptive material statements
13 and omissions to consumers and small business owners who were in need of
14 financial relief and assistance as a result of the COVID-19 pandemic that they would
15 administer, process, and grant loans in accordance with applicable Small Business
16 Administration regulations.

17 3. Specifically, Defendants knew that all loans through the PPP were vital
18 to Plaintiff and the Class members and critically time-sensitive given that the total
19 amount of PPP funds were limited and the amount Defendants could loan pursuant
20 to the PPP was capped. Defendants, as an approved lender agreed to comply with all
21 applicable rules, requirements and guidelines.¹ Defendants, however, intentionally
22 ignored the equitable and critical guideline that loans would be processed on a “first
23 come, first served” basis as required by the PPP. Instead, in order to protect their
24 financial gains, Defendants prioritized the processing of larger loans over smaller
25 loans and loans for which Defendants risked greater exposure in the event of a
26 business failure over loans where the risk exposure was less. For instance,

27 ¹ [https://www.sba.gov/sites/default/files/2020-04/PPP--Agreement-for-New-](https://www.sba.gov/sites/default/files/2020-04/PPP--Agreement-for-New-Lenders-Banks-Credit-Unions-FCS-w-seal-fillable.pdf)
28 [Lenders-Banks-Credit-Unions-FCS-w-seal-fillable.pdf](https://www.sba.gov/sites/default/files/2020-04/PPP--Agreement-for-New-Lenders-Banks-Credit-Unions-FCS-w-seal-fillable.pdf)

1 Defendants prioritized processing the loans for large restaurant chains such as Ruth's
2 Chris Steakhouse (approved \$20 million on April 7), Shake Shack (\$10 million),
3 Potbelly Sandwich Shop (approved \$10 million on April 6), and Texas Taco Cabana
4 (approved \$10 million on April 8).²

5 4. Defendants not only decided to line their own pockets at the expense of
6 Plaintiff and the Class members, they affirmatively chose to not disclose to any small
7 business owner that they were prioritizing larger business loans and not following
8 the PPP's official guidelines of "first come, first served." This was further
9 wrongdoing as Plaintiff and the Class members could have decided to apply for the
10 PPP assistance through another financial institution. Defendants' material
11 misrepresentations and omissions ensured that there was no arms-length transaction
12 between Plaintiff and the Class Members and otherwise violated the Small Business
13 Administration's ("SBA") regulatory code of ethics.

14 5. Moreover, no reasonable consumer would have expected Defendants to
15 prioritize the larger businesses in contradiction to the PPP guidelines and rules.

16 6. Defendants' misrepresentations, omissions and wrongdoing caused
17 substantial injury to small businesses such as Plaintiff and the Class members who
18 were thus unable to benefit from the economic assistance.

19 JURISDICTION AND VENUE

20 7. This Court has subject matter jurisdiction over all causes of action
21 under the Class Action Fairness Act of 2005 and 28 U.S.C. §1332, pursuant to which
22 this Court has diversity jurisdiction because Plaintiff and the Class members are
23 citizens of states different than Defendants and because the amount in controversy
24 exceeds the sum or value of \$5,000,000.

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27 ² Since receiving the \$10 million loan, Shake Shack has announced that it will return
28 the entire amount of the loan. (<https://www.businessinsider.com/ruths-chris-potbelly-chains-tk-million-in-small-business-loans-2020-4>) (last accessed April 22, 2020)

1 institution that provides investment, commercial, and private banking; asset
2 management; and credit card services.

3 FACTUAL ALLEGATIONS

4 14. As a result of the rapidly increasing number of cases and countries
5 affected by COVID-19, on March 11, 2020, the World Health Organization's
6 ("WHO") Director-General declared COVID-19 as a pandemic.

7 15. In response to the rapid spread of COVID-19 throughout California, on
8 March 19, 2020, California's Governor Gavin Newsom issued Executive Order N-
9 33-20 ("Order"), which ordered California residents to stay at home.

10 16. The Order allowed certain "essential services" to remain open,
11 including banks, gas stations, pharmacies, grocery stores, and state and local
12 government functions.

13 17. However, the Order closed dine-in restaurants, entertainment venues,
14 public events and gatherings, and hair and nail salons.

15 18. On March 27, 2020, President Trump signed the Coronavirus Aid,
16 Relief, and Economic Security ("CARES") Act into law, including the provision of
17 \$376 billion in economic assistance to small businesses.

18 19. The CARES Act was intended to provide direct economic assistance to
19 workers and *businesses on a first come, first served basis*, and to preserve U.S. jobs.

20 20. The CARES Act created certain economic programs designed to
21 provide financial assistance to small business owners, including the PPP.

22 21. The PPP was designed to help small business owners cover the costs
23 associated with retaining their employees during the COVID-19 pandemic by
24 providing 100% federally guaranteed loans. Additionally, the loans may be
25 forgiven, they carry no SBA fees, and loan repayment can be deferred for six months.

26 22. Small businesses are eligible to apply for a loan through the PPP if they
27 have been harmed by the COVID-19 pandemic between February 15, 2020 and June
28

1 30, 2020. Loans are retroactive to February 15, 2020, in order to provide assistance
2 to workers who were already laid off.

3 23. While the loans were guaranteed by the federal government, small
4 business owners need to apply for such loans through private banks.

5 24. Because each loan will be registered under a Taxpayer Identification
6 Number, small business owners could only apply once for a loan through the PPP so
7 if a bank was unwilling or did not treat each business on a first come, first served
8 basis, an applicant was left with little recourse.

9 25. According to the U.S. Small Business Administration Office of
10 Advocacy, in 2018, the country had 30.2 million small businesses, representing
11 99.9% of all U.S. businesses and 47.5% of all employees in the U.S.³

12 26. Of the 30.2 million small businesses in the U.S., 22 million are
13 individually operated, with no employees other than the owner.⁴

14 27. In 2018, the average loan amount backed by the SBA was \$107,000.⁵

15 28. Beginning on April 3, 2020, small businesses and sole proprietorships
16 could apply for and receive loans through the PPP. Beginning on April 10, 2020,
17 independent contractors and self-employed individuals could apply for and receive
18 such loans. The last day to apply for and receive a loan through the PPP is June 30,
19 2020.

20 29. Loans through the PPP were time-sensitive as they were to be
21 administered on a “first-come, first-served” basis. Consequently, loans should have
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24 ³ [https://www.sba.gov/sites/default/files/advocacy/2018-Small-Business-Profiles-](https://www.sba.gov/sites/default/files/advocacy/2018-Small-Business-Profiles-US.pdf)
25 [US.pdf](https://www.sba.gov/sites/default/files/advocacy/2018-Small-Business-Profiles-US.pdf) (last accessed April 21, 2020)

26 ⁴ <https://www.chamberofcommerce.org/small-business-statistics/> (last accessed
27 April 21, 2020)

28 ⁵ <https://www.valuepenguin.com/average-small-business-loan-amount> (last
accessed April 21, 2020)

been considered by banks in the order in which they were received, rendering the loan amount insignificant.⁶

30. Lenders of PPP loans earned varying percentages of origination fees, based on the loan amount: five percent on loans not more than \$350,000; three percent on loans more than \$350,000 but less than \$2,000,000; and one percent on loans more than \$2,000,000.⁷

31. Despite the first come, first served mandate and because of the tiered percentage-based origination fees, lenders were financially incentivized to approve of larger loans ahead of smaller ones: one percent fees on a \$5,000,000 loan would earn a bank \$50,000 while five percent on a \$350,000 loan would earn \$17,500.

32. The SBA tracked the numbers of approved loans and dollars for both the first 10 days of the PPP (April 3-13, first chart) and through the last 3 days (through April 16, second chart).⁸

Loan Size	Approved Loans	Approved Dollars	% of Count	% of Amount
\$150K and Under	725,058	\$37,178,984,187	70.05%	15.02%
>\$150K - \$350K	156,590	\$35,735,615,983	15.13%	14.44%
>\$350K - \$1M	102,473	\$59,291,602,643	9.90%	23.95%
>\$1M - \$2M	31,176	\$43,278,883,532	3.01%	17.48%
>\$2M - \$5M	16,516	\$49,288,997,593	1.60%	19.91%
>\$5M	3,273	\$22,769,309,582	0.32%	9.20%

- Overall average loan size is \$239,152.

⁶ SMALL BUSINESS ADMINISTRATION Interim Final Rule §m [Docket No. SBA-2020-0015] 13 CFR Part 120 Business Loan Program Temporary Changes; Paycheck Protection Program RIN 3245-AH34.

⁷ <https://home.treasury.gov/system/files/136/PPP%20Lender%20Information%20Fact%20Sheet.pdf> (last accessed April 22, 2020)

⁸ <https://www.sba.gov/sites/default/files/2020-04/PPP%20Report%20SBA%204.14.20%20-%20-%20Read-Only.pdf> and <https://www.sba.gov/sites/default/files/2020-04/PPP%20Deck%20copy.pdf> (last accessed April 22, 2020)

Loan Size	Approved Loans	Approved Dollars	% of Count	% of Amount
\$150K and Under	1,229,893	\$58,321,791,761	74.03%	17.04%
>\$150K - \$350K	224,061	\$50,926,354,675	13.49%	14.88%
>\$350K - \$1M	140,197	\$80,628,410,796	8.44%	23.56%
>\$1M - \$2M	41,238	\$57,187,983,464	2.48%	16.71%
>\$2M - \$5M	21,566	\$64,315,474,825	1.30%	18.79%
>\$5M	4,412	\$30,897,983,582	0.27%	9.03%

- Overall average loan size is \$206K.

33. Not only was the overall average loan size greater during the first ten days of the PPP (see charts above: \$239,152 vs. \$206,000), but the number of approved loans for applications under \$350,000 was significantly greater in the last three days before PPP funds ran out when compared to the first ten days: 881,648 approved loans in the first ten days versus 1,453,954 approved loans as of the last day PPP funds were available. In the period between April 14 through April 16, 572,306 more loans were approved, representing a 65% increase over those approved during the first ten days.

34. That 65% increase is even more telling when compared with the difference in approved loans for applications above \$2,000,000 for the same period. In the first ten days, 19,789 loans were approved versus 25,978 loans approved as of the last day PPP funds were available, meaning that between April 14-16, 6,189 loans were approved, equaling a 31% increase over those approved during the first ten days.

35. With such varying data, it's clear that lenders such as Defendants did not process loans on a "first come, first served" basis as required by the PPP, but that the loan amount and possible loan failure exposure to the Defendants influenced when the application was processed by the Bank and submitted for approval.

36. For example, Defendants quickly approved four loans equaling \$50 million in loans to large restaurant chains Ruth's Chris Steakhouse (approved \$20

1 million on April 7), Shake Shack (\$10 million), Potbelly Sandwich Shop (approved
2 \$10 million on April 6), and Texas Taco Cabana (approved \$10 million on April 8).⁹

3 37. Plaintiff learned of the CARES Act and PPP when it was passed and
4 signed into law by President Trump.

5 38. On approximately March 17, 2020, Plaintiff's business closed in
6 accordance with San Diego County's Shelter in Place Order.

7 39. On approximately April 8, 2020, Plaintiff submitted an application for
8 loan assistance through the PPP with Defendants. Plaintiff applied for a loan through
9 the PPP in order to keep employees on the payroll, as well as to pay rent and other
10 approved expenses. Plaintiff chose to submit a loan application with Defendants
11 because it conducts all business banking with them.

12 40. On that same day, Plaintiff received an e-mail communication from
13 Defendants acknowledging receipt of its loan application.

14 41. On April 19, 2020, Plaintiff received an e-mail communication stating
15 its application was in Stage 2 of the review process, but that PPP funds were no
16 longer available. There has been no further communication from Defendants about
17 the status of Plaintiff's loan application.

18 42. Because Plaintiff submitted an application for a loan through the PPP
19 with Defendants, it was denied access to funds that would have helped it survive the
20 Stay at Home Order and resulting business closure and economic crisis and was
21 prevented from seeking assistance from a different lender.

22 43. Defendants claim they worked tirelessly to ensure as many clients
23 received PPP funds as possible, and that loan applications were processed and
24 approved "in the same general order" in which they received the initial online form.¹⁰

25 _____
26 ⁹ Since receiving the \$10 million loan, Shake Shack has announced that it will return
27 the entire amount of the loan. ([https://www.businessinsider.com/ruths-chris-
28 potbelly-chains-tk-million-in-small-business-loans-2020-4](https://www.businessinsider.com/ruths-chris-potbelly-chains-tk-million-in-small-business-loans-2020-4)) (last accessed April 22,
2020)

¹⁰ <https://recovery.chase.com/cares1> (last accessed April 22, 2020)

1 44. However, Defendants misled and deceived their clients, including
2 Plaintiff, into believing applications for loans through the PPP were processed in the
3 order received with no regard to loan amount, when in fact the loan amount certainly
4 influenced the order in which loans were processed and approved.

5 45. If Defendants had not misled and deceived their small business clients,
6 such clients could have submitted their applications for loans through the PPP with
7 other lenders that were following the required “first come, first served” application
8 processing order. Because small businesses were only allowed to submit one
9 application for PPP loans, they could not go to another lender for assistance.

10 46. Defendants knew their clients trusted them and believed they would
11 administer the PPP as required, but chose to exploit their clients’ trust. As a result
12 of Defendants’ greed and focus on their own financial incentives, countless small
13 businesses were prevented from benefitting from the program designed to help them
14 survive during the COVID-19 pandemic.

15 **DEFENDANTS’ MISREPRESENTATIONS AND OMISSIONS VIOLATED**
16 **CALIFORNIA LAW**

17 47. Defendants violated California law by engaging in fraudulent, unfair
18 and unlawful business practices.

19 48. Defendants wrongfully and unfairly chose to put their financial
20 interests before Plaintiff and the Class Members despite agreeing to comply with all
21 rules, regulations and requirements issued concerning PPP loans.

22 49. Furthermore, the statements provided by and/or made by Defendants to
23 Plaintiffs and the Class Members did not disclose Defendants’ practice or policy that
24 larger businesses PPP loan applications should take priority.

**PLAINTIFF'S RELIANCE WAS
REASONABLE AND FORESEEN BY DEFENDANTS**

50. Defendants knew the vital importance of the PPP loans to Plaintiff and the Class Members. Defendants also knew for many these loans were required to ensure the viability of these businesses going forward.

51. When deciding to submit a PPP loan application, Plaintiff reasonably relied on Defendants' material misrepresentations and omissions.

52. A reasonable consumer would consider if a lender was not going to follow the "first come, first serve" guideline in deciding what bank to submit a PPP loan application through.

CLASS ACTION ALLEGATIONS

53. Plaintiff brings this action individually and on behalf of the following Class pursuant to Rule 23:

All eligible persons or entities in the State of California who applied for a loan under the PPP with Defendants and whose applications were not processed by Defendants in accordance with SBA regulations and requirements or California law.

54. Excluded from the proposed class are Defendants, any parent companies, subsidiaries, and/or affiliates, officers, directors, legal representatives, employees, co-conspirators, all governmental entities, and any judge, justice, or judicial officer presiding over this matter.

55. This action is brought and may be properly maintained as a class action. There is a well-defined community of interests in this litigation and the members of the Class are easily ascertainable.

56. The members in the proposed class are so numerous that individual joinder of all members is impracticable, and the disposition of the claims of the Class members in a single action will provide substantial benefits to the parties and Court.

1 57. Questions of law and fact common to Plaintiff and the Class include,
2 but are not limited to, the following:

- 3 (a) Whether Defendants violated the regulations for
4 administering, processing, and handling loans through the
5 PPP;
- 6 (b) Whether Defendants made false, misleading, and deceptive
7 misrepresentations and omissions regarding their
8 administration, processing, and handling of the applications
9 for loans from small businesses through the PPP;
- 10 (c) Whether Defendants failed to adhere to the administer,
11 process, and handle loans on a “first come, first served” basis
12 as required by the PPP;
- 13 (d) Whether Defendants administered, processed, and handled
14 larger loans before smaller loans;
- 15 (e) Whether Defendants violated various California laws;
- 16 (f) Whether Defendants engaged in false advertising;
- 17 (g) Whether Defendants fraudulently concealed material facts
18 from their clients;
- 19 (h) Whether Defendants’ conduct was negligent per se;
- 20 (i) Whether Defendants breached a fiduciary duty;
- 21 (j) Whether Plaintiff and members of the Class are entitled to
22 statutory and punitive damages; and
- 23 (k) Whether Plaintiff and the members of the Class are entitled to
24 declaratory and injunctive relief.

25 58. Defendants engaged in a course of common conduct that gave rise to
26 the legal rights sought to be enforced by Plaintiff individually and on behalf of the
27 other members of the Class. Identical statutory violations and business practices and
28

1 harms are involved. Individual questions, if any, are not prevalent in comparison to
2 the numerous common questions that dominate this action.

3 59. Plaintiff's claims are typical of those of the members of the Class
4 because they are based on the same underlying facts, events, and circumstances
5 relating to Defendants' conduct.

6 60. Plaintiff will fairly and adequately represent and protect the interests of
7 the Class, has no interests incompatible with the interests of the Class, and has
8 retained counsel competent and experienced in class action, consumer protection,
9 and false advertising litigation.

10 61. Class treatment is superior to other options for resolution of the
11 controversy because the relief sought for each member of the Class is small such
12 that, absent representative litigation, it would be infeasible for members of the Class
13 to redress the wrongs done to them.

14 62. Questions of law and fact common to the Class predominate over any
15 questions affecting only individual members of a Class.

16 63. As a result of the foregoing, class treatment is appropriate.

17 **CLAIMS FOR RELIEF**

18 **COUNT I**

19 **Violation of California's False Advertising Law, California Business &**
20 **Professions Code §§17500, *Et Seq.*, Against Defendants on Behalf of the Class**

21 64. Plaintiff incorporates by reference and realleges each and every
22 allegation contained above, as though fully set forth herein.

23 65. California's False Advertising Law ("FAL") prohibits the performance
24 of services, professional or otherwise "which [are] untrue or misleading." Cal. Bus.
25 & Prof. Code §17500.

26 66. As set forth herein, Defendants' misrepresentations and omissions that
27 they were working tirelessly to administer, process, and handle loan applications
28 through the PPP in order to provide assistance to as many clients as possible and that

1 they were otherwise following the requirements of the PPP was literally false,
2 misleading, and likely to deceive the public.

3 67. Defendants knew or reasonably should have known that all these claims
4 were untrue or misleading.

5 68. Plaintiff and the Class members are entitled to statutory, injunctive, and
6 equitable relief in the amount of money in their respective PPP loan application.

7 **COUNT II**

8 **Violation of California's Unfair Competition Law, California Business &**
9 **Professions Code §§17200, *Et Seq.*, Against Defendants on Behalf of the Class**

10 69. Plaintiff incorporates by reference and realleges each and every
11 allegation contained above, as though fully set forth herein.

12 70. The Unfair Competition Law ("UCL") prohibits any unlawful, unfair,
13 or fraudulent business act or practice." Cal. Bus. & Prof. Code §17200.

14 **Fraudulent**

15 71. Defendants' misrepresentations and related omissions that they were
16 working tirelessly to administer, process, and handle loan applications through the
17 PPP in order to provide assistance to as many clients as possible and that they were
18 otherwise following the requirements of the PPP are literally false, misleading, and
19 likely to deceive the public.

20 **Unlawful**

21 72. As alleged herein, Defendants have advertised and represented their
22 administration of loans through the PPP, such that Defendants' actions as alleged
23 herein violate at least the following law:

24 (a) The False Advertising Law, California Business & Professions
25 Code §§17500, *et seq.* (the "FAL").

26 **Unfair**

27 73. Defendants' conduct with respect to the administration, processing, and
28 handling of the applications from small businesses for loans through the PPP was

1 unfair because Defendants' conduct was immoral, unethical, unscrupulous, or
2 substantially injurious to their clients. The utility of their conduct, if any, does not
3 outweigh the gravity of harm to their victims.

4 74. Defendants' conduct with respect to the administration, processing, and
5 handling of the applications from small businesses for loans through the PPP was
6 also unfair because in order to maximize its financial gain associated with loans
7 through the PPP, it prioritized larger loans over smaller ones while deceiving and
8 misleading small business owners into believing their loans were processed on a
9 "first come, first served" basis, as dictated by the PPP.

10 75. In accordance with California Business & Professions Code §17203,
11 Plaintiff seeks an order enjoining Defendants from continuing to conduct business
12 through fraudulent or unlawful acts and practices and to discharge the funds they
13 received from the PPP to Plaintiff and the Class members.

14 **COUNT III**

15 **Fraudulent Concealment Against Defendants on Behalf of the Class**

16 76. Plaintiff incorporates by reference and realleges each and every
17 allegation contained above, as though fully set forth herein.

18 77. Defendants fraudulently concealed material facts they had a legal duty
19 to disclose to Plaintiff and the Class members regarding their administration,
20 processing, and handling of the loans through the PPP. These material facts known
21 by Defendants were:

- 22 (a) The order of how applications for loans through the PPP would
23 actually be processed and granted;
- 24 (b) That the processing and granting of larger loans would be
25 given priority over smaller loans or loans where there was
26 greater exposure to the bank over loans where there was less
27 exposure; and
28

1 (c) The applications for loans through the PPP would not be
2 processed or granted in accordance with the PPP.

3 78. Defendants intentionally and knowingly omitted this information to
4 induce Plaintiff and the Class members to submit applications for loans through the
5 PPP with them.

6 79. Defendants knew the concealment or nondisclosure of these facts
7 regarding the true nature of how the PPP loan applications were going to be
8 administered, processed, and handled were material to their clients because they
9 contradicted the representations made by Defendants in their statements and
10 marketing.

11 80. Defendants had a legal duty to disclose this information because
12 Defendants knew the representations made in their statements and marketing created
13 a false impression unless these omitted material facts were disclosed to Plaintiff and
14 the Class members, especially as the Government was stating it would be done on a
15 first come, first serve bases.

16 81. Plaintiff and the Class members had no knowledge of the true nature of
17 how the PPP loan applications were going to be administered, processed, and
18 handled based on Defendants' fraudulent concealment and nondisclosures, and they
19 had no ability to discover the omitted information prior to submitting their loan
20 applications. Given the deceptive manner in which Defendants chose to omit or not
21 disclose material information concerning the true nature of how they were
22 administering, processing, and handling PPP loan applications, Plaintiff and the
23 Class members were injured.

24 82. As a direct and proximate result of Defendants' conduct, Plaintiff and
25 the Class members suffered actual damages in that they submitted applications for
26 loans through the PPP with Defendants and because they could only apply for such
27 loans once, were prevented from seeking assistance from another lender.

28

1 83. Plaintiff and the Class members seek injunctive and declaratory relief,
2 attorneys' fees, costs, and any other just and proper relief available under the law.

3 **COUNT IV**

4 **Breach of Fiduciary Duty Against Defendants on Behalf of the Class**

5 84. Plaintiff incorporates by reference and realleges each and every
6 allegation contained above, as though fully set forth herein.

7 85. The Defendants owed and owe Plaintiff and the Class members
8 fiduciary obligations as there was no arms-length transaction. Defendants failed to
9 provide Plaintiff and the Class with sufficient information that would disclose
10 Defendants practice or policy to not follow the SBA regulations and requirements
11 for PPP loans.

12 86. By reason of their fiduciary relationships, the Defendants owed and
13 owe Plaintiff and the Class members the highest obligation of good faith, fair
14 dealing, loyalty, and due care.

15 87. The Defendants violated and breached their fiduciary duties to Plaintiff
16 and the Class members.

17 88. Defendants' made false, misleading, and deceptive misrepresentations
18 and omissions regarding their administration, processing, and handling of the
19 applications for loans from small businesses through the PPP.

20 89. Additionally, Defendants unjustly profited from the administration,
21 processing, and handling of loans through the PPP as they received origination fees
22 based on the loan amounts. Consequently, as alleged herein, Defendants prioritized
23 larger loans- and thus larger fees- over smaller loans.

24 90. As a direct and proximate result of the Defendants' breaches of their
25 fiduciary obligations, Plaintiff and the Class members have sustained significant
26 damages, as alleged herein. As a result of the misconduct alleged herein, Defendants
27 are liable to Plaintiff and the Class members.
28

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

PRAYER FOR RELIEF

Wherefore, Plaintiff, individually and on behalf of all others similarly situated, respectively requests relief against Defendants as set forth below:

A. Certifying the proposed Class; appointing Plaintiff as Class representative; and its undersigned counsel as Class counsel;

B. An order requiring Defendants to bear the costs of class notice;

C. An order enjoining Defendants from administering, processing, or handling loans through the PPP inconsistent with or in violation of the PPP;

D. An order awarding declaratory relief, and any further retrospective or prospective injunctive relief permitted by law or equity, including enjoining Defendants from continuing the unlawful practices as alleged herein, and injunctive relief to remedy Defendants' past conduct;

E. An order requiring Defendants to disgorge or return all monies, revenues, and profits obtained by means of any wrongful or unlawful act or practice;

F. An order requiring Defendants to pay punitive damages on any count so allowable;

G. An order requiring Defendants to pay all statutory damages permitted under the counts alleged herein;

1 H. An order awarding attorneys' fees and costs, including the costs of pre-
2 suit investigation, to Plaintiff and the Class members; and

3 I. An order providing for all other such equitable relief as may be just and
4 proper.
5

6
7 Dated: April 22, 2020

LOCKRIDGE GRINDAL NAUEN P.L.L.P.

8
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