EXHIBIT 1

JAMS ARBITRATION
BEFORE
ALEXANDER L. BRAINERD, ESQ. (ARBITRATOR)

OTO ANALYTICS, INC., d/b/a WOMPLY,	)	Case No.: 1210038203
Claimant/Counter-Respondent,	)	
v.	)	
BENWORTH CAPITAL PARTNERS LLC,	)	
Respondent/Counter-Claimant.	)	

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THURSDAY, JUNE 29, 2023
9:37 a.m.
Full Session

REPORTED BY:
Vickie Blair
CSR No. 8940, RPR-CRR
JOB NO. 5991546

Arbitration taken on Thursday, June 29, 2023, 9:37 a.m., before VICKIE BLAIR, CSR No. 8940, RPR-CRR.

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form.

And then Benworth is correct that you can't rewrite the parties' agreement, that is the allocations that the parties agreed to, they determined that was the value, that was the price to pay for those services.

Benworth also argued that Womply is an LSP because it generated a lot of loans. I take that to mean because it collected a lot of loan applications, or information for loan applications, and referred that to the lender, to Benworth.

Well, that was done under the referral agreement, so if that is what makes Womply, in Benworth's view, a lender service provider, then perhaps maybe it was the referral agreement that needed to approved by the SBA, but that's not what was being done under the separate order form.

But, in any event, our point is, under the law, because this transaction is complete, and the only obligation to be performed under the contract is payment, payment will still be enforced under California law, otherwise, you're rewarding Benworth for not complying with the SBA rules to submit LSP agreements to the SBA.

ARBITRATOR BRAINERD: Let me stop you, Mr. Cheney. Just tell me in -- I mean, I know it's in your brief, but just tell me today sort of, if you can, in summary fashion why you believe that Womply is not a lender service provider under the SBA regulations.

MR. CHENEY: Because if you look at the actual definition of a lender service provider, and I think I have the language here, all right, give me one minute, it is a lender who carries out lender functions in originating, disbursing, servicing, or liquidating a specific SBA business loan or loan portfolio.

So the difficult thing, admittedly, about SBA regulations, but the first part, originating, that term is not defined, but it can't simply be referring loan applications because referral agent is separately defined as a separate type of entity.

Disbursing, Womply was not involved in disbursing loans; that was Benworth.

Womply did not service the loans, as Benworth concedes; Benworth is servicing the loans.

And Womply has not liquidated any of the loans.

So, focusing on the definition of a lender service provider, Womply was not performing any of those services, and apparently Benworth agreed because that's what it told the SBA, and that's what it said in Womply's contracts.

ARBITRATOR BRAINERD: Can you make a distinction for me between referring and originating? Is there some meaningful distinction, in your mind, between those two activities?

MR. CHENEY: So there are other -- in the SOPs it refers to technology service providers that provide technology to lenders that don't involve underwriting are not agents.

If an agent is performing underwriting, then they are a lender service provider.

So I would interpret, using that guidance, that the term "originating" really means underwriting.

ARBITRATOR BRAINERD: Let me ask you next, the following question there, it's your position that Womply was not engaging in underwriting services; correct?

MR. CHENEY: That's correct.

ARBITRATOR BRAINERD: So let's take the verification activities that you think are supported by the technology fees.

I mean, you know, isn't verification part of the underwriting process?

MR. CHENEY: So that is something that a lender can use in order to conduct its underwriting activities.

We like to think of it this way: That if Womply had not compiled all of these verification services into the platform, Benworth may have had to go out and contract with each one of these service providers individually.

For example, Mr. Navarro testified that, in 2020, Benworth was using LexisNexis to verify information; that doesn't make LexisNexis a lender service provider.

All Womply was doing was compiling these services together in one place, and then, in the contracts with Benworth, they said they were not, you know, saying that these contracts or these applications should be submitted to the SBA or comply with the regs.

They applied the technology, they provided the results to the lender, and then it was the lender's decision on whether or not to ask for more information or to submit that information to the SBA.

So, ultimately, it was the lender who was doing the underwriting based on the results of technology that was applied by Womply.

Simply applying technology and giving the results to the lender does not make that technology service provider a lender service provider --

ARBITRATOR BRAINERD: Well, I remember --

MR. CHENEY: -- or an underwriter.

ARBITRATOR BRAINERD: I remember that in the -- and, again, I may have this not quite right, but I remember in the hearing that all of the Benworth folks agreed that Benworth had the obligation to do a, quote, unquote, "good faith review," and I gather you would contend that's where the actual underwriting took place; right?

MR. CHENEY: Yes, that's correct, and they had to actually indicate which loans would be submitted to the SBA for approval; Womply was not involved in that process.

ARBITRATOR BRAINERD: Okay. I'm sorry, go ahead, is there anything further you want to make -- any other points you want to make?

MR. CHENEY: No, that was all.

Thank you, Mr. Brainerd.

ARBITRATOR BRAINERD: Mr. Robinson, briefly, anything else?

MR. ROBINSON: I do.

So the definition of LSP, if you would review it, Mr. Brainerd, it says, "an entity that carries out the functions of originating."

Not just originating, but the functions.

And can any of us really conclude, after