UNITED STATES DISTRICT COURT

for the

Southern District of Florida

_____ Division

Dr. Lydia Smith

Plaintiff(s)
(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Biz2Credit, Inc

Defendant(s)
(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Case No. _____
(to be filled in by the Clerk's Office)

Jury Trial: *(check one)* ☑ Yes ☐ No

FILED BY cob D.C.
DEC 22 2021
ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S.D. OF FLA. – W.P.B.

COMPLAINT FOR A CIVIL CASE ALLEGING BREACH OF CONTRACT
(28 U.S.C. § 1332; Diversity of Citizenship)

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Dr. Lydia Smith
Street Address	1330 Avenue R
City and County	Riviera Beach, Palm Beach County
State and Zip Code	Florida, 33404
Telephone Number	561-889-1663
E-mail Address	drlydia@live.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title *(if known)*. Attach additional pages if needed.

Defendant No. 1

Name	BIZ2CREDIT INC
Job or Title *(if known)*	
Street Address	251 LITTLE FALLS DRIVE
City and County	WILMINGTON, NEW CASTLE
State and Zip Code	DELAWARE, 19808
Telephone Number	302-636-5440
E-mail Address *(if known)*	

Defendant No. 2

Name	
Job or Title *(if known)*	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address *(if known)*	

Defendant No. 3

Name	
Job or Title *(if known)*	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address *(if known)*	

Defendant No. 4

Name	
Job or Title *(if known)*	
Street Address	
City and County	
State and Zip Code	
Telephone Number	
E-mail Address *(if known)*	

II. Basis for Jurisdiction

Federal courts are courts of limited jurisdiction (limited power). Under 28 U.S.C. § 1332, federal courts may hear cases in which a citizen of one State sues a citizen of another State or nation and the amount at stake is more than $75,000. In that kind of case, called a diversity of citizenship case, no defendant may be a citizen of the same State as any plaintiff. Explain how these jurisdictional requirements have been met.

A. The Plaintiff(s)

1. If the plaintiff is an individual

The plaintiff, *(name)* Dr. Lydia Smith , is a citizen of the State of *(name)* FLORIDA .

2. If the plaintiff is a corporation

The plaintiff, *(name)* _____ , is incorporated under the laws of the State of *(name)* _____ , and has its principal place of business in the State of *(name)* _____ .

(If more than one plaintiff is named in the complaint, attach an additional page providing the same information for each additional plaintiff.)

B. The Defendant(s)

1. If the defendant is an individual

The defendant, *(name)* _____ , is a citizen of the State of *(name)* _____ . Or is a citizen of *(foreign nation)* _____ .

2. If the defendant is a corporation

The defendant, *(name)* BIZ2CREDIT INC. , is incorporated under the laws of the State of *(name)* DELAWARE , and has its principal place of business in the State of *(name)* New York . Or is incorporated under the laws of *(foreign nation)* _____ , and has its principal place of business in *(name)* _____ .

(If more than one defendant is named in the complaint, attach an additional page providing the same information for each additional defendant.)

C. The Amount in Controversy

The amount in controversy–the amount the plaintiff claims the defendant owes or the amount at stake–is more than $75,000, not counting interest and costs of court, because *(explain)*:

THE DEFENDANT OWES $62,211.98 IN UNPAID AGENT FEES, $15,000 IN OUT-OF POCKET COST, AND $25,000 IN PUNITIVE DAMAGES, TOTALING 102,211.98.

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

The plaintiff, *(name)* Dr. Lydia Smith, and the defendant, *(name)* BIZ2CREDIT, made an agreement or contract on *(date)* JAN 21, 2021. The agreement or contract was *(oral or written)* Written. Under that agreement or contract, the parties were required to *(specify what the agreement or contract required each party to do)*

ON JANUARY 21, 2021, THE PLAINTIFF AND DEFENDANT ENTERED INTO A CONTRACT (EXHIBIT A). WHEREBY THE PLAINTIFF WOULD PAY THE DEFENDANT A SUBSCRIPTION FEE OF $1,499.00 (EXHIBIT B) AND THE PLAINTIFF WOULD HAVE ACCESS TO USE THE DEFENDANT DIGITAL PORTAL TO SUBMIT APPLICATIONS FOR FUNDING. ONCE THE APPLICATIONS OR CLIENT WAS FUNDED BY DEFENDANT OR ITS AFFILIATES,THE DEFENDANT WAS CONTRACTUAL (CONT... ATTACHED)

The defendant failed to comply because *(specify what the defendant did or failed to do that failed to comply with what the agreement or contract required)*

THE DEFENDANT REFUSE TO PAY CALCULATED AGENT FEES AS PER THE APPLICATIONS FUNDED.

The plaintiff has complied with the plaintiff's obligations under the contract.

IV. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

THE DEFENDANT OWES $62,211.98 IN UNPAID AGENT FEES, $15,000 IN OUT-OF POCKET COST, AND $25,000 IN PUNITIVE DAMAGES, TOTALING 102,211.98.

STATEMENT OF CLAIM - CONT....

OBLIGATED TO COMPENSATE THE PLAINTIFF WITH AGENT FEES. HOWEVER, THE DEFENDANT FAILED TO PAY THE AGENT FEES OF $62,211.98, RESULTING IN THE PLAINTIFF HAVING TO PAY $15,000.00 IN ADDITIONAL COST IN OUT-OF-POCKET EXPENSES. AS SUCH, THE PLAINTIFF ASK THE COURT FOR RELIEF OF $25,000.00 IN HARM, CLAIM TOTALING 102,211.98

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: December 18, 2021

Signature of Plaintiff _____

Printed Name of Plaintiff Dr. Lydia Smith

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Street Address _____

State and Zip Code _____

Telephone Number _____

E-mail Address _____

EXHIBIT A

AFFIDAVIT OF DR. LYDIA SMITH

I, Dr. Lydia Smith, swear and affirm that the following statements are true and correct:

1. On or about January 21, 2021, I entered into a written contract with Biz2Credit Inc. The essence of the agreement was for me to pay Biz2Credit a fee of $1,499.00 for what Biz2Credit terms an "Enterprise Level subscription fee".

2. The subscription fee is what Biz2Credit charges its clients (me being one of these clients) to submit applications for funding for clients that I represent that were seeking funding from the Small Business Administration.

3. I via my consulting firm, Dr. Lydia Consulting Incorporated would provide customary services in connection with their PPP application including the collection of required documentation that Biz2Credit may have required.

4. Once I collected, screened, and processed my clients applications, they would be submitted through Biz2Credit's Enterprise Level portal where eligible applicant would receive funding.

5. Once Biz2Credit determined that my client was eligible for funding and in fact did receive funding through Biz2Credit or one of its affiliates, I was subject to receive an agent fee from Biz2Credit.

6. As of date, Biz2Credit has funded approximately one-hundred eleven (111) of my clients' applications that I submitted through its Enterprise Level portal and Biz2Credit has failed to pay my agent fees for each of the funded applicant's.

7. My agent fee for those 111 applications that Biz2Credit totals $62,211.98.

Pursuant to 28 U.S.C. §1746, under penalty of perjury, I swear and affirm that the following statement is true and correct.

Dated December 18, 2021
West Palm Beach, Fl.

Dr. Lydia Smith

CPA BUSINESS FUNDING PORTAL

Terms of Service Agreement Updated May 4, 2021

Welcome to Biz2Credit's CPA Business Funding Portal ("Funding Portal"). This Terms of Service Agreement ("Agreement") between each user (as specified below, including principals, agents and employees, "you" or "firm") and Biz2Credit Inc. (including its subsidiaries, "Biz2Credit," "we" or "us") governs your use of the Funding Portal.

The Funding Portal is a SBA Paycheck Protection Program (the "PPP") and business funding resource for CPAs, CPA firms, persons who represent CPAs or their firms, members of the American Institute of Certified Public Accountants ("AICPA"), and other firms, companies and sole proprietors in the business of providing accounting, tax or bookkeeping services to clients (each, a "user").

This Agreement is a legally binding agreement between you and Biz2Credit, and becomes effective as soon as you use, visit or set up an account ("Portal Account") on the Funding Portal. By using the Funding Portal, the Portal Account and/or the Services provided thereunder on or after the date of the update, above, you agree that this Agreement will govern all subscriptions, Services, payment of fees and other matters which are the subject of this Agreement, regardless of the date you first signed up for the Funding Portal.

1. Scope of Agreement

i. By visiting the Portal or setting up an Account, you acknowledge that you have read, understood, and agree to be bound by the Agreement. This Agreement (i) sets out the terms and conditions for use of the site and (ii) authorizes Biz2Credit to charge users (x) Verification Fee (as defined below) and (y) Subscription Fees (as defined in Section 5) for use of the Funding Portal and (iii) allows Biz2Credit to collect payment of these Verification Fees and Subscription Fees from your Portal Account.

ii. By using, visiting or setting up an account on the Funding Portal or accessing Services (as defined below), you also agree to accept Biz2Credit's Terms of Service and Privacy Policy, which are incorporated into and form a part of the Agreement. Further, behalf of you and/or your firm and/or its business clients ("Clients"), you agree to accept Biz2Credit's Business Finance Terms, which are incorporated into and form a part of the Agreement. Please read this Agreement carefully to ensure that you understand each provision. If you do not agree to any of these terms, then please do not use Funding Portal or any part thereof.

iii. You acknowledge that, if you are not a licensed CPA, licensed CPA firm, or member of the AICPA, your application may take longer to process.

iv. This Agreement may be updated and amended by Biz2Credit from time to time upon written notice to you. If you continue to use the Services after 30 days from such written notice, you will be deemed to have accepted the revised Agreement and new terms and conditions, which shall then be legally binding upon you.

v. As a condition of your using the Services, you will first be charged an initial non-refundable $50 fee (the "Verification Fee") and must provide Biz2Credit with all requested documentation to verify your identity and account information. If you pass this initial screening, you will be allowed access to the Services upon election of your desired service level. Please see Sections 2 and 5, below. This determination will be made at the sole discretion of Biz2Credit. The Verification Fee is non-refundable even if your application is denied.

2. Services

The Funding Portal offers various service levels (such services, collectively, "Services"):

i. Basic. The Basic service level offers / allows access to a single user ("Basic Services" or "Basic Service Level"). There is no charge for Basic Services.

ii. Premium. The Premium service level offers / allows access to your account on the CPA Business Funding Portal for up to 5 users associated with your firm ("Premium Services" or "Premium Service Level"). Pricing for the Premium Service Level is set out in Section 5(i) below.

iii. Enterprise. The Enterprise service level offers / allows access to your account on the CPA Business Funding Portal for up to 15 users associated with your firm ("Enterprise Services" or "Enterprise Service Level"). Pricing for the Enterprise Service Level is set out in Section 5(ii) below.

iv. Custom. One of the custom plans, such as Plus Plan A Service Level or Plus Plan B Service Level (collectively, "Custom Level"), having such terms as set out separately.

v. Accountant Directory. You also have the option to provide individual and/or firm profile information for inclusion on a directory of accountants on the Funding Portal (the "CPA Directory" or "Accountant Directory"), as a complimentary service offered to all accounting firms and professionals that use the CPA Business Funding Portal (regardless of Services level). Our goal is to create a community of professionals and provide an opportunity for accounting firms and professionals to reach new small business clients. By participating, you acknowledge on behalf of yourself and your firm, if applicable, that your profile information may be used (in whole or in part) on digital properties owned by Biz2Credit and/or CPA.com, including but not limited to www.cpa.com, www.biz2credit.com and www.ppeforgiveness.tool.com The final form of your profile is subject to our approval and sole editorial discretion for content and uniformity. You can remove or edit your profile from public view at any time from within your Funding Portal account or on reasonable written notice to us at cpa@biz2credit.com.

3. Representations and Warranties

You hereby represent and warrant to Biz2Credit as follows:

i. You either are a CPA, a CPA firm, or represent a CPA firm, or your firm, company or sole proprietorship is in the business of providing accounting, tax or bookkeeping services to clients. You further represent that, if you are a CPA or CPA firm, you are duly licensed and in good standing with all professional, licensing and/or other regulatory bodies overseeing your profession

ii. Unless you are applying solely in your individual capacity, you are duly authorized to enter into this Agreement on behalf of the firm or company;

iii. You are authorized to submit all information and documentation on behalf of both your firm or company, if applicable, and your Clients (collectively, "Information and Documentation") that you provide to us for use on the Funding Portal;

iv. You have obtained all necessary consents from your Clients to submit their Information and Documentation to Biz2Credit via the Funding Portal for use in connection with the PPP application and loan process;

v. You will provide customary services to your Clients in connection with their PPP application, including the collection and production of required documentation (collectively, the "Agent Services"), as your Client or Biz2Credit may reasonably request;

vi. All such Information and Documentation is true, complete and accurate, including without limitation information provided to us for the Accountant Directory;

vii. All Portal Account information (including without limitation bank account information, "Account Information") is true, complete and accurate;

viii. You will promptly notify Biz2Credit of any errors in or changes to such Information and Documentation and Account Information, as applicable, and promptly provide Biz2Credit with corrected or updated Information and Documentation, including without limitation bank account and contact information;

ix. You acknowledge that Biz2Credit is entitled to rely on the accuracy of all such Information and Documentation provided to it without further review or investigation of any kind; and

x. Prior to referring any Client to us for PPP funding, you have reviewed all required borrower documentation specified in the Lender Certification and Item C.3 of the SBA's main Internal Final Rules and confirmed that your client is eligible for a PPP loan under SBA rules.

In order to further the anti-fraud protocols endorsed by the SBA and further the efficient operation of the PPP, the foregoing representations and warranties will survive until the SBA determines that the PPP loans you referred were made in accordance with the PPP and eligible for forgiveness (such period, the "Survival Period").

4. Authorizations

You hereby authorize Biz2Credit to:

i. Use and such Information and Documentation in connection with the provision of the Services; and

ii. Disclose such Information and Documentation (or portions thereof) to third parties as deemed necessary or desirable by Biz2Credit in its sole discretion.

5. Subscription Levels and Fees

If you wish to enroll in Premium Service Level, Enterprise Service Level, Plus Plan A Service Level, or Plus Plan B Service Level, you will need to pre-pay the annual subscription fee ("Subscription Fee") set out below:

i. Premium. The annual Subscription Fee for Premium Services is $749 (less any discounts applied at time of subscription).

ii. Enterprise. The annual Subscription Fee for Enterprise Services is $1,499 (less any discounts applied at time of subscription).

iii. Custom. Custom Level terms and Subscription Fees are set out separately.

iv. Service Upgrades. If you wish to upgrade Service levels, you will be charged for the increased service level on a pro-rated basis (based on time used in each level during the year).

v. Renewal. Renewal. Your Subscription Fees for the selected Services level will automatically renew for the next 12-month period unless you cancel the subscription not later than thirty (30) days before the end of the current 12th month prepaid period.

vi. Cancellation. You may cancel your subscription to the Funding Portal by sending an email with the subject line "CPA Business Funding Portal Cancellation Request" to cpa@biz2credit.com at any time on not less than thirty (30) days prior written notice; further, Biz2Credit may cancel your subscription for failure to perform your obligations under or other breach of this Agreement., provided you will not, in either case, receive any refund of your Subscription Fees.

vii. Agent Fees. Agent Fees. In consideration of your providing Agent Services for your Clients, in the event a Client receives a PPP loan via the Funding Platform using your Premium Service Level, Enterprise Service Level or Custom Level Account, Biz2Credit will pay you the applicable "agent fee", based on amount funded, as designated under then-current Covid relief legislation and/or Small Business Administration (SBA") rules, not later than 30 days from the end of the Survival Period for PPP loans on which Biz2Credit receives fee revenue from the SBA. You acknowledge that (i) the foregoing fee will only be paid if (x) your Subscription Fees are current and (y) you are in compliance with the terms and conditions of this Agreement; and (ii) you will not be entitled to any agent or other fee (x) upon the closing of a PPP Client loan using your Basic Service Level Account or (y) the PPP loan(s) you referred were not made in accordance with the PPP or not eligible for forgiveness. In addition, users enrolled in the Premium, Enterprise or Custom Plan have the opportunity at any time to opt-out of receiving "agent fees", and may do so by sending an email to cpa@biz2credit.com. You acknowledge that the dates on which Biz2Credit determines to release agent fees will depend on the level of noncompliance with representations and warranties and/or fraud in the PPP applications you have submitted. You acknowledge that Biz2Credit may defer some or all of the Agent Fees otherwise payable in order to implement the foregoing anti-fraud protocols. Further, you acknowledge that the Agent Fees are subject to clawback by Biz2Credit in whole or in part if the SBA determines that the corresponding PPP loan(s) you referred were not in compliance with the requirements of the PPP and/or are not eligible for forgiveness.

6. Payments

You hereby approve the following payment terms and authorize Biz2Credit to do the following:

i. Accounts. You acknowledge that Biz2Credit may debit via ACH or via credit card the payments specified in the Agreement from the account(s) listed in the Account Information.

ii. Authorization. You hereby authorize Biz2Credit to collect all Subscription Fees for the year from your designated account(s) upon your enrollment in the Funding Portal in full and in advance.

7. Additional Features

You acknowledge that, from time to time, Biz2Credit may make changes to the Funding Portal, the Services and/or the Services Levels, including without limitation pricing changes or offering additional features and services. You will be notified in writing of all pricing increases and new Service levels. If you chose to any such additional features and services, you will be responsible for all increased charges, and you hereby authorize Biz2Credit to debit your account(s) for such increased charges as provided in Section 6 above.

8. Promotional Communications

You hereby consent to and authorize Biz2Credit to send you, via email, telephone or text (SMS) messages, (i) notices relating to the Service, including any notices required by law, in lieu of communication by postal mail and (ii) advertisements or telemarketing messages relating to the Services, which consent may be revoked by your providing written notice to Biz2Credit.

9. Notices

All notices under this Agreement shall be in writing and shall be sent by email to (i) you at the email provided to Biz2Credit as per your Account Information and (ii) Biz2Credit at cpa@biz2credit.com.

10. Consent to Electronic Transactions

By using, visiting or setting up an account on the Funding Portal and entering into this Agreement, you hereby consent to the conduct of by electronic and digital means, including without limitation email, e-signatures and e-payments as applicable.

11. Other Legal Provisions

The following provisions from Biz2Credit's Terms of Service are incorporated into this Agreement: Sections 4 (Privacy), 6 (Mobile Software), 7 (Proprietary Rights), 8 (User Content), 9 (Indemnity), 10 (Limitation of Liability), 11 (No Warranty), 12 (Disclaimer), 13 (Governing Law), 14 (Arbitration), 15 (Class Action/Jury Trial Waiver), 16 (Notification Procedures and Changes to the Agreement), 17 (Severability), 18 (No Waiver; No Assignment) and 19 (Contact).

In the event Biz2Credit has to enforce any payment provision this Agreement (including the clawback provisions in Section 5), you and/or your firm will be liable (on a joint and several basis) for Biz2Credit's reasonable attorneys' fees and costs.

This Agreement was last modified on May 4, 2021.

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EXHIBIT B

Biz2X LLC
One Penn Plaza
Suite 4530
New York, NY 10119
Ph: 212-644-4555

Invoice

Date	Invoice #
Jan 28, 2021	CPABL-06286

Bill To
Dr. Lydia Smith

Quantity	Description	Rate (USD)	Amount (USD)
1	CPA Business Funding Portal Enterprise subscription charges from Jan 28, 2021 to Jan 28, 2022 charged on card XXXX-XXXX-XXXX-4483.	750.00	750.00

Total	$750.00
Balance Due	$0

Biz2X LLC
One Penn Plaza
Suite 4530
New York, NY 10119
Ph: 212-644-4555

Invoice

Date	Invoice #
Jan 21, 2021	CPABL-05720

Bill To
Dr. Lydia Smith

Quantity	Description	Rate (USD)	Amount (USD)
1	CPA Business Funding Portal Premium subscription charges from Jan 21, 2021 to Jan 21, 2022 charged on card XXXX-XXXX-XXXX-4483.	749.00	749.00

Total	$749.00
Balance Due	$0