

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 1:22-cv-00359
)	
LATIFA BROOKS,)	
)	JURY TRIAL DEMANDED
)	
Defendant.)	

COMPLAINT OF THE UNITED STATES OF AMERICA

The United States of America brings this action against Latifa Brooks for treble damages and civil penalties under the False Claims Act, 31 U.S.C. §§ 3729–3733, civil penalties under the Financial Institutions Reform, Recovery and Enforcement Act (“FIRREA”), partially codified at 12 U.S.C. § 1833a, and restitution for payment by mistake resulting from false and fraudulent claims submitted by Brooks in connection with loans obtained through the Paycheck Protection Program (“PPP”).

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345. This civil action arises under the laws of the United States and is brought by the United States pursuant to the False Claims Act, FIRREA, and the common law.

2. The Court may exercise personal jurisdiction over Brooks pursuant to 31 U.S.C. § 3732(a) because that section authorizes nationwide service of process and because Brooks can be found in and/or has transacted business within the Eastern District of Virginia.

3. Venue is proper in the Eastern District of Virginia under 31 U.S.C. § 3732(a), 28 U.S.C. § 1391(b), and 28 U.S.C. § 1395(a) because Brooks is located, resides, and does business, in the Eastern District of Virginia, and the acts proscribed by 31 U.S.C. § 3729 and giving rise to the civil penalties under 12 U.S.C. § 1833a occurred in this district.

PARTIES

4. Plaintiff is the United States.

5. Defendant Brooks resides at 8305 Greensboro Drive, Apartment 1804, McLean, VA 22102.

FACTS

A. The Paycheck Protection Program.

6. The U.S. Small Business Administration (“SBA”) is a cabinet-level agency of the United States headquartered in Washington, D.C. The SBA’s mission is to preserve free, competitive enterprise and to maintain and strengthen the overall economy of our nation by assisting in and facilitating the creation and growth of small businesses, a critical component of the country’s economic strength and health.

7. The Coronavirus Aid, Relief, and Economic Security (“CARES”) Act is a federal law enacted on March 27, 2020, designed to provide emergency financial assistance to the millions of Americans suffering the economic effects caused by the COVID-19 pandemic. CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020).

8. The CARES Act authorized forgivable loans to small businesses and self-employed individuals for payroll, mortgage interest, rent/lease, utilities, and other business-related expenses through the PPP. CARES Act § 1102(b)(1), 134 Stat. at 293.

9. The PPP was implemented under section 7(a) of the Small Business Act, 15 U.S.C. § 636, and is administered by the SBA. *See* Business Loan Program Temporary Changes; Paycheck Protection Program, 85 Fed. Reg. 20,811 (April 15, 2020).

10. During the period that PPP loans were available to the public, the PPP loan amount available to qualifying small businesses and self-employed individuals **was determined by the business's average monthly payroll costs or gross income.** 15 U.S.C. § 636(a)(36)(E). **PPP loans were capped at \$20,833 for sole proprietors and independent contractors.** *See id.* §§ 636(a)(36)(A)(viii)(II)(aa); 636(a)(36)(E).¹

11. Sole proprietors and independent contractors could apply for a PPP loan using SBA Form 2483-C. This PPP application calculates the PPP loan amount based on the sole proprietor's or independent contractor's gross income for 2019 or 2020.

12. The SBA Form 2483-C provides "an applicant may use this form only if the applicant files an IRS Form 1040, Schedule C," which is a federal tax document used to report income or loss to the U.S. Internal Revenue Service ("IRS").

13. The SBA Form 2483-C requires the applicant to submit a copy of the sole proprietor's or independent contractor's IRS Form 1040, Schedule C ("Schedule C") **from 2019 or 2020 to establish gross income for the purpose of calculating the PPP loan amount.**

14. PPP applications are submitted to private lenders, which are authorized to process PPP applications and supporting documents on behalf of the SBA and then make loans using their own funds, which the SBA fully guarantees. 15 U.S.C. § 636(a)(36)(B).

¹ The PPP loan provides 2.5 months' payroll or gross income up to \$100,000 on an annualized basis. *Id.* Thus, the maximum PPP loan amount for sole proprietors and independent contractors is calculated based on \$100,000 divided by 12, multiplied by 2.5, which equals \$20,833.

15. During the relevant period for the loans in this case, SBA paid lenders a processing fee of 50 percent or \$2,500, whichever is less, for loans of not more than \$50,000. *Id.* § 636(a)(36)(P)(i)(II)(aa).

16. The PPP provides that up to the full amount of a PPP loan can be forgiven if the PPP funds were spent on eligible purposes over an 8-week to 24-week covered period after the PPP loan is issued. *Id.* § 636m. To obtain forgiveness, the borrower must submit a PPP Loan Forgiveness Application Form 3508S (“SBA Form 3508S”), which requires the borrower to certify compliance with all requirements of the PPP.

17. After the PPP loan is forgiven, the SBA reimburses the lender for the full amount of the PPP loan plus interest on the loan.

B. Brooks’s Fraudulent PPP Applications.

18. Brooks fraudulently applied for and received two PPP loans totaling \$42,601. Brooks subsequently applied for and received forgiveness for both loans with interest, totaling \$42,772.

19. To apply for the PPP loans, Brooks created and submitted a fake federal tax Schedule C for each loan. Brooks also falsely certified that the information provided in all supporting documents and forms is true and accurate in all material respects.

20. After obtaining the PPP loans, Brooks submitted SBA Form 3508S forgiveness applications for both loans, in which she certified that she complied with all requirements of the PPP.

21. Because Brooks submitted fake federal tax documents and false certifications in her PPP applications, Brooks was not eligible for the PPP loans or forgiveness of the PPP loans.

22. As a result of Brooks submitting fake federal tax documents and false certifications in her PPP loan and forgiveness applications, the SBA paid \$42,772 for Brooks's PPP loans (including interest), and, separately, \$5,000 in processing fees to the lenders that processed Brooks's PPP loans.

1. The Harvest PPP Loan.

23. On April 17, 2021, Brooks applied for a PPP loan through Harvest Business Finance, LLC ("Harvest") using SBA Form 2483-C, which states "an applicant may use this form only if the applicant files an IRS Form 1040, Schedule C."

24. The application listed the business's legal name as "Latifa Brooks" and selected "sole proprietor" from the list of applicant types.

25. In the PPP loan application, Brooks claimed that she was eligible for the maximum PPP loan available to sole proprietors, \$20,833.

26. Despite applying as a sole proprietor, in her PPP application, Brooks submitted a Schedule C for a company named Superb Movers, Inc. ("Superb Movers").

27. Superb Movers did not have an active corporate registration in 2019 or 2020.

28. On information and belief, no tax returns were filed for Superb Movers for 2019 or 2020.

29. Brooks created a fake Schedule C for the tax year 2020 to apply for the PPP loan.

30. The fake Schedule C reported gross income in excess of \$100,000 for the year 2020, which enabled Brooks to apply for the maximum PPP loan amount available to sole proprietors.

31. In the PPP application, Brooks "certif[ied] that the information provided in this application and the information provided in all supporting documents and forms is true and

accurate in all material respects,” even though the Schedule C that she submitted with her application was fake.

32. Based on her certifications in the PPP application, Brooks knew that she did not qualify for PPP loan because she did not file a Schedule C for 2019 or 2020, and the Schedule C that she submitted to obtain the PPP loan was fake.

33. Brooks also knew that the fake schedule C was material to the issuance of a PPP loan because the loan application stated that the lender would use the Schedule C to establish the loan amount.

34. Based on Brooks’s false certification and the fake Schedule C that she submitted in support of the PPP application, Harvest processed the PPP application and issued a PPP loan to Brooks totaling \$20,833.

35. At the time Brooks’s PPP loan applications were approved and the funds were disbursed to Brooks, the SBA was not aware that Brooks submitted a fake Schedule C.

36. Because Brooks submitted a false and fraudulent PPP loan application, she obtained a PPP loan for which she was not entitled and subsequent forgiveness of the loan by the SBA.

37. Because Brooks submitted a fake Schedule C and false certifications in the PPP application, the SBA paid Harvest \$2,500 to process the PPP loan.

38. On September 18, 2021, Brooks applied for forgiveness of the PPP loan that she received through Harvest.

39. In the forgiveness applications, Brooks falsely certified that she “complied with all requirements in the Paycheck Protection Program Rules (Sections 7(a)(36), (7)(a)(37), and 7A of the Small Business Act, the PPP interim final rules, and guidance issued by SBA through the

date of this application),” even though she obtained the PPP loan based on a fake federal tax document and false certifications in the PPP application.

40. Brooks knew this certification was false because, at the time she made the certification, Brooks submitted a fake Schedule C in her application for the PPP loan.

41. Based on the false certifications in Brooks’s forgiveness application, the SBA granted forgiveness of the PPP plus interest and reimbursed Harvest \$20,915 when the PPP loan was forgiven.

42. At the time Brooks’s forgiveness applications were approved and the SBA reimbursed Harvest for the PPP loan plus interest, the SBA was not aware that Brooks submitted a fake Schedule C and/or falsely certified that the Schedule C was true and correct in all material respects.

43. If the SBA had known that Brooks submitted a fake Schedule C and false certifications in connection with her PPP loan application and forgiveness application, the SBA would have rejected Brooks’s forgiveness application.

2. The Prestamos PPP Loan.

44. On April 26, 2021, Brooks applied for a PPP loan through Prestamos CDFI, LLC (“Prestamos”) using SBA Form 2483-C, which states “an applicant may use this form only if the applicant files an IRS Form 1040, Schedule C.”

45. The application listed the business’s legal name as “Latifa Brooks” and selected “independent contractor” from the list of applicant types.

46. In the PPP loan application, Brooks claimed she was eligible for \$21,768, which is more than the maximum PPP loan available to independent contractors.

47. On information and belief, Brooks did not file a federal tax return in 2019 or 2020.

48. Brooks created a fake Schedule C in her own name for the tax year 2020 to apply for a PPP loan.

49. The fake Schedule C reported gross income in excess of \$100,000 per year in support of Brooks' application.

50. In the PPP application, Brooks "certif[ied] that the information provided in this application and the information provided in all supporting documents and forms is true and accurate in all material respects," even though the Schedule C that she submitted with her application was fake.

51. Based on her certifications in the PPP application, Brooks knew that she did not qualify for the PPP loan because she did not file a Schedule C for 2019 or 2020.

52. Brooks also knew that the fake schedule C was material to the issuance of a PPP loan because the loan application stated that the lender would use the Schedule C to establish the loan amount.

53. Based on Brooks's false certification and the fake Schedule C that she submitted in support of the PPP application, Prestamos processed Brooks's PPP application and issued a PPP loan to Brooks totaling \$21,768.

54. At the time Brooks's PPP loan applications were approved and the funds were disbursed to Brooks, the SBA was not aware that Brooks submitted a fake Schedule C and/or falsely certified that the Schedule C was true and correct in all material respects.

55. Because Brooks submitted a false and fraudulent PPP loan application, she obtained a PPP loan for which she was not entitled and subsequent forgiveness of the loan by the SBA.

56. Because of Brooks submitted a fake Schedule C and false certifications in her PPP application, the SBA paid Prestamos \$2,500 to process the PPP loan.

57. On September 18, 2021, Brooks applied for forgiveness of the PPP loan that she received through Prestamos.

58. In her forgiveness applications, Brooks falsely certified that she “complied with all requirements in the Paycheck Protection Program Rules (Sections 7(a)(36), (7)(a)(37), and 7A of the Small Business Act, the PPP interim final rules, and guidance issued by SBA through the date of this application),” even though she obtained the PPP loan based on a fake federal tax document and false certifications in the PPP application.

59. Brooks knew this certification was false because, at the time she made the certification, Brooks submitted a fake Schedule C in her application for the PPP loan.

60. Based on the false certifications in Brooks’s forgiveness application, the SBA granted forgiveness of the PPP loan plus interest and reimbursed Prestamos \$21,857 as part of the loan forgiveness process.

61. At the time Brooks’s forgiveness application was approved and the SBA reimbursed Prestamos for the PPP loan plus interest, the SBA was not aware that Brooks submitted a fake Schedule C and/or falsely certified that the Schedule C was true and correct in all material respects.

62. If the SBA had known that Brooks submitted a fake Schedule C and/or false certifications in connection with her PPP loan application and forgiveness application, then the SBA would have rejected Brooks's forgiveness application.

COUNT I
False or Fraudulent Claims
31 U.S.C. § 3729(a)(1)(A)

63. The United States repeats and realleges paragraphs 1 through 62 above.

64. Brooks knowingly presented or caused to be presented four false or fraudulent claims for payment or approval involving two PPP loan applications and two claims for loan forgiveness in violation of the False Claims Act, 31 U.S.C. § 3729(a)(1)(A).

65. Due to Brooks's false certifications and her use of fake federal tax forms, Brooks was ineligible for PPP loans or loan forgiveness.

66. Brooks, through her false or fraudulent claims for PPP loans and loan forgiveness, caused the Government to pay a total of \$47,772 in processing fees and loan forgiveness.

67. Because of Brooks's false claims for PPP funds, the United States suffered damages of \$47,772, and therefore is entitled to treble damages under the False Claims Act, as well as a minimum civil penalty of \$11,803 to a maximum penalty of \$23,607 for each of the four false claims submitted to the SBA, including two false PPP applications and two false forgiveness applications.

COUNT II
False Records or Statements Material to False Claims
31 U.S.C. § 3729(a)(1)(B)

68. The United States repeats and realleges paragraphs 1 through 62 above.

69. Brooks knowingly made and used false records and/or statements material to Brooks's false and fraudulent claims for two PPP loans and the forgiveness of those loans with interest in violation of the False Claims Act, 31 U.S.C. § 3729(a)(1)(B).

70. Brooks, through her use of false records and statements to obtain PPP loans and loan forgiveness, caused the Government to pay a total of \$47,772 in processing fees and loan forgiveness.

71. Because Brooks submitted false records and statements in connection with two PPP loans, which caused the United States to pay \$5,000 in processing fees, and false records and statements in connection with two forgiveness applications, which caused the United States to pay the lenders \$42,772 on the SBA guarantees, the United States suffered damages of \$47,772.

72. The United States is entitled to treble damages under the False Claims Act, as well as a minimum civil penalty of \$11,803 to a maximum penalty of \$23,607 for each false claim.

COUNT III
False Statements to the SBA
12 U.S.C. § 1833a

73. The United States repeats and realleges paragraphs 1 through 62 above.

74. Defendant Brooks, for the purposes of fraudulently obtaining two federally guaranteed PPP loans and inducing the SBA to forgive the PPP loans unlawfully, willfully, and knowingly made false statements and/or certifications to SBA Lenders and the SBA in violation of FIRREA, 12 U.S.C. § 1833a.

75. Specifically, Brooks unlawfully, willfully, and knowingly submitted fake federal tax return forms and false certifications for the purpose of influencing the SBA and obtain PPP loan proceeds in violation of 15 U.S.C. § 645(a), which is a predicate violation of FIRREA.

76. Because of Brooks's acts, she is liable for civil penalties up to the maximum amount authorized under 12 U.S.C. § 1833a.

COUNT IV

Payment by Mistake of Fact

77. The United States repeats and realleges paragraphs 1 through 62 above.

78. Brooks's false certifications and the fake federal tax forms that she submitted in connection with her PPP applications caused the SBA to pay a total of \$5,000 to for processing Brooks's PPP loans.

79. Brooks's false certifications that she submitted in connection with her forgiveness applications of PPP loans for which she was ineligible caused the SBA to pay a total of \$42,772 in loan guarantees.

80. The United States mistakenly paid a combined \$47,772 in processing fees and loan guarantees based on the erroneous belief that Brooks was eligible for two PPP loans and the forgiveness of those loans with interest.

81. The United States is thus entitled to recover \$47,772 that the Government wrongfully and erroneously paid as a result of Brooks's false certifications and the fake federal tax forms that Brooks submitted in her PPP loan and forgiveness applications.

PRAYER FOR RELIEF

WHEREFORE, plaintiff United States prays for judgment against Brooks as follows:

- a. That the acts alleged herein be adjudged and decreed to be unlawful in violation of the False Claims Act;
- b. That the Government recover treble damages pursuant to 31 U.S.C. § 3729(a), and that judgment be entered against Brooks and in favor of the Government on the amount of the loan processing fees and loan guarantees paid by SBA;
- c. That Brooks be ordered to pay civil penalties pursuant to § 3729(a) for submitting a total of four false claims based on two fraudulent PPP loan applications and two fraudulent loan forgiveness applications;
- d. In the alternative, that Brooks be ordered to pay civil penalties pursuant to 12 U.S.C. § 1833a equal to, at minimum, the full amount of the PPP loans plus interest that Brooks received based the knowingly false statements that Brooks made to the SBA to obtain PPP loan proceeds in violation of 15 U.S.C. § 645(a);
- e. In the alternative, to the extent not required to pay damages of \$47,772 pursuant to 31 U.S.C. § 3729(a) or penalties under 12 U.S.C. § 1833a, that Brooks be ordered to pay restitution of \$47,772 for the processing fees and loan forgiveness amounts the United States mistakenly paid because of the false claims and statements that Brooks submitted for PPP loans and forgiveness; and
- f. Such other relief as the Court may deem just and proper, together with interest, costs, and the disbursements of this action.

JURY TRIAL DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the United States demands trial by jury as to all issues triable.

Dated: March 31, 2022

Respectfully submitted,

JESSICA D. ABER
United States Attorney

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