

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

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No.
)	
STEPHON BROOKS,)	
)	JURY TRIAL DEMANDED
)	
Defendant.)	

COMPLAINT OF THE UNITED STATES

The United States brings this action against Stephon Brooks (“Defendant”) for treble damages and civil penalties under the False Claims Act (“FCA”), 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 under the common law, owed to the United States resulting from a total of six false and/or fraudulent claims submitted by Brooks in connection with the Paycheck Protection Program (“PPP”). Specifically, Brooks made false and/or fraudulent statements to obtain four federally guaranteed PPP loans totaling \$82,498, which caused the United States to pay processing fees to private lenders of \$2,500 on each of the four loans. Brooks also made false and/or fraudulent statements in applications he submitted to have two of those federally guaranteed PPP loans forgiven, which caused the United States to pay \$40,832 to reimburse private lenders for the amount of the forgiven loans.

JURISDICTION AND VENUE

1. The United States brings this action pursuant to the FCA and FIRREA.

2. 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 this civil action is brought by the United States as a plaintiff pursuant to the FCA and FIRREA.

3. 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.

4. 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

5. Plaintiff is the United States.

6. Defendant Brooks is a self-employed real estate agent. Brooks resides at 8305 Greensboro Dr. Apt. 1804, McLean, VA 22102.

STATUTORY BACKGROUND

A. The Paycheck Protection Program

7. 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.

8. 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 who are suffering the economic effects caused by the COVID-19 pandemic. CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020).

9. One source of relief provided by the CARES Act is the authorization of 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.

10. 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).

11. The PPP loan amount available to qualifying small businesses and self-employed individuals is determined by the number of employees employed by the business or self-employed person and the business's average monthly payroll costs. 15 U.S.C. § 636(a)(36)(E). The maximum PPP loan that a self-employed person can obtain is \$20,833. *See* 15 U.S.C. § 636(a)(36)(A)(viii)(II)(aa); 15 U.S.C. § 636(a)(36)(E).

12. To obtain a PPP loan, qualifying businesses are required to submit an SBA Form 2483 ("PPP Borrower Application Form") signed by an authorized representative of the business or the self-employed applicant. The PPP Borrower Application Form requires the business (through its authorized representative) or the self-employed individual to acknowledge the program rules and make certain affirmative certifications regarding their eligibility to obtain the PPP loan.

13. Section 7(a) of the Small Business Act requires that "an eligible recipient applying for a [PPP] loan shall make a good faith certification . . . that the eligible recipient does not have an application pending for a loan under this subsection for the same purpose and

duplicative of amounts applied for or received under a covered loan.” 15 U.S.C.

§ 636(a)(36)(G)(i)(III).

14. Under certain circumstances, a business or self-employed individual that received a PPP loan may also receive a second PPP loan. 15 U.S.C. § 636(a)(37). In those circumstances, the first PPP loan the applicant received is referred to as a “First Draw” PPP loan, and the second PPP loan is referred to as a “Second Draw” PPP loan. *Id.* To be eligible for a Second Draw PPP loan, an applicant must have (1) received a First Draw PPP loan, (2) used (or will use) the full amount of the First Draw PPP loan only for authorized uses, and (3) demonstrate at least a 25 percent reduction in gross receipts between comparable quarters in 2019 and 2020. 15 U.S.C. § 636(a)(37)(A)(iv). An applicant is *not* permitted to receive two First Draw PPP loans based on the same purpose or income. 15 U.S.C. § 636(a)(36)(G)(i)(III).

15. The PPP Borrower Application Form for First Draw PPP loans requires the applicant to make the following certification: “The Applicant has not and will not receive another loan under the Paycheck Protection Program, section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)) (this does not include Paycheck Protection Program second draw loans, section 7(a)(37) of the Small Business Act (15 U.S.C. 636(a)(37)).” The PPP Borrower Application Form also requires the applicant to “certify that the information provided in this application . . . is true and accurate in all material respects.” *Id.*

16. The PPP Borrower Application Form requires the applicant to make the following certification: “I understand that loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, covered utilities, covered operations expenditures, covered property damage costs, covered supplier costs, and

covered worker protection expenditures, and not more than 40% of the forgiven amount may be for non-payroll costs.” *Id.*

17. The SBA administers the PPP. The SBA authorizes private lenders to receive and process PPP applications and supporting documents, and then make loans using their own funds, which the SBA fully guarantees. 15 U.S.C. § 636(a)(36)(B). The lender processes the loan application and transmitted data from the application, including information about the borrower, the total amount of the loan, and the listed number of employees to the SBA.

18. Under the PPP, the SBA not only guarantees the PPP loan, the SBA also pays the private lenders a processing fee for each loan at the time the loan is made. During the relevant period at issue for the loans in this case, SBA paid processing fees of 50 percent or \$2,500, whichever is less, for loans of not more than \$50,000. 15 U.S.C. § 636(a)(36)(P)(i)(II)(aa).

19. The PPP provides that up to the full amount of a PPP loan can be forgiven if certain conditions are met over an 8-week to 24-week covered period after the PPP loan is issued. 15 U.S.C. § 636m. To obtain forgiveness, the business or self-employed individual submits a PPP Loan Forgiveness Application with supporting documents, seeking forgiveness to the lender, using SBA Form 3508.

20. The PPP Loan Forgiveness Application requires the applicant to certify that the applicant: “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).”

21. The PPP Loan Forgiveness Application also requires the applicant to make the following certification: “The information provided in this application is true and correct in all material respects. I understand that knowingly making a false statement to obtain forgiveness of

an SBA-guaranteed loan is punishable under the law, including 18 U.S.C. 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 U.S.C. 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a Federally insured institution, under 18 U.S.C. 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.”

22. The PPP provides that if a business or self-employed individual applies for loan forgiveness, the private lender is required to approve or deny the application within 60 days. 15 U.S.C. § 636m(g).

23. If the private lender determines that a business is entitled to full or partial forgiveness of its PPP loan, the bank requests payment from the SBA in the amount of the PPP loan to be forgiven.

24. The SBA has 90 days to review a private lender’s recommendation that a PPP loan should be forgiven. If the SBA approves the forgiveness request, the SBA makes a payment to the private lender in the amount of the PPP loan to be forgiven, plus interest. 15 U.S.C. § 636m(c)(3).

25. Borrowers applying for the forgiveness of PPP loans are notified in the PPP Loan Forgiveness Application that SBA funds are used to pay the balance of approved applicants’ loan. The PPP Loan Forgiveness Application includes the following notice: “Your Lender has 60 days from the date of notice to review your forgiveness application and supporting documentation (if applicable) and issue a forgiveness decision to SBA through the SBA Platform. Upon issuance of the Lender’s forgiveness decision, SBA has 90 days, subject to any review of the loan or loan application, to make a forgiveness remittance to the Lender, if appropriate.”

B. The False Claims Act

26. Originally enacted in the 1860s to combat fraud against the Union Army during the Civil War, the False Claims Act, 31 U.S.C. §§ 3729–3733, is the primary tool with which the United States combats fraud against the Government and protects the federal fisc. The Supreme Court has held that the False Claims Act’s provisions must be construed broadly to reach “all types of fraud, without qualification, that might result in financial loss to the Government.”

United States v. Neifert-White, 390 U.S. 228, 232 (1968).

27. The False Claims Act provides, in pertinent part:

(a) Liability for certain acts. –

(1) In general. – Subject to paragraph (2), any person who –

(A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

(B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim; [or]

is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Public Law 104-410), plus 3 times the amount of damages which the Government sustains because of the act of that person.

31 U.S.C. § 3729(a).

28. The FCA provides the following relevant definitions:

(b) Definitions.--For purposes of this section--

(1) the terms “knowing” and “knowingly” --

(A) mean that a person, with respect to information--

(i) has actual knowledge of the information;

(ii) acts in deliberate ignorance of the truth or falsity of the information; or

(iii) acts in reckless disregard of the truth or falsity of the information; and

(B) require no proof of specific intent to defraud;

(2) the term “claim”--

(A) means any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that--

(i) is presented to an officer, employee, or agent of the United States; or

(ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government’s behalf or to advance a Government program or interest, and if the United States Government--

(I) provides or has provided any portion of the money or property requested or demanded; or

(II) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and

(B) does not include requests or demands for money or property that the Government has paid to an individual as compensation for Federal employment or as an income subsidy with no restrictions on that individual’s use of the money or property;

(4) the term “material” means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

31 U.S.C. § 3729(b).

C. The Financial Institutions Reform, Recovery, and Enforcement Act (“FIRREA”)

29. Congress enacted FIRREA in 1989 to strengthen the civil sanctions and criminal penalties for defrauding or otherwise damaging depository institutions and their depositors, as

well as certain government agencies and various other covered entities. Pub. L. 101-73, 103 Stat. 183 (1989).

30. Section 951 of FIRREA, as amended, codified at 12 U.S.C. § 1833a, provides that the Attorney General may recover civil penalties of up to \$1 million per violation against persons who commit specified violations as established by a preponderance of the evidence. *See* 28 C.F.R. § 85.5 (the maximum civil penalty was increased to \$2,073,133 for assessments after December 13, 2021 for which violations occurred after November 2, 2015). The statute further provides that the Attorney General alternatively may recover the amount of any gain to the person committing the violation, or the amount of the loss to a person other than the violator stemming from such conduct, up to the amount of the gain or the loss. *Id.* The predicate violations identified in Section 951 that can form the basis for liability under FIRREA include, among others: (a) knowingly or willfully making a materially false or fraudulent statement affecting a federally insured financial institution (18 U.S.C. § 1001); (b) making a false statement on a loan application to a financial institution, “the accounts of which are insured by the Federal Deposit Insurance Corporation” (18 U.S.C. § 1014); and (c) knowingly making a false statement for the purpose of influencing a decision by the Administrator of the SBA or to obtain a loan, money, or anything of value under the SBA’s 7(a) program, including the PPP (15 U.S.C. § 645(a)).

31. Section 1109(i) of the CARES Act provides that PPP loans are SBA loans for purposes of 15 U.S.C. § 645.

FACTUAL ALLEGATIONS

32. Brooks submitted four PPP Borrower Application Forms for First Draw PPP loans and obtained four First Draw PPP loans based on his asserted status as a self-employed real estate agent with gross receipts of \$115,858 in 2019.

33. Brooks knew based on his certification of his PPP Borrower Application Forms, that he was eligible for a maximum of only one First Draw PPP loan based on his 2019 income.

34. In each PPP loan application, Brooks falsely certified that he had only and would only apply for one PPP loan. If Brooks accurately certified that he would apply for and obtain more than one First Draw PPP loan, then each of Brooks's PPP loan applications would have been denied.

35. Brooks concealed that he was applying for and obtaining multiple First Draw PPP loans by using four different Tax Identification Number ("TIN") or Employer Identification Number ("EIN") numbers to apply for the four separate First Draw PPP loans. Brooks also applied for the four PPP loans through three different SBA-approved lenders: Cross River Bank, Capital Plus Financial, LLC, and Benworth Capital ("SBA Lenders"). Because Brooks submitted two applications through Cross River Bank, Brooks also used different email addresses to conceal his identity and prevent Cross River Bank from detecting that Brooks had already applied for and obtained a PPP loan based on his 2019 self-employment income. If Brooks had used the same TIN/EIN for each application, the lender would have detected the duplicate PPP loan applications and determined that Brooks was not eligible to receive more than one First Draw PPP loan, and Brooks would not have received multiple First Draw PPP loans.

36. The United States paid processing fees of \$2,500 to the SBA Lenders for each of the four loans PPP loans Brooks obtained. At the time Brooks's PPP loan applications were approved and the funds were disbursed to Brooks, the SBA was not aware that Brooks had applied for and obtained (or intended to apply for and obtain) multiple First Draw PPP loans based on his 2019 income as a self-employed real estate agent.

37. Brooks also applied for forgiveness for two of the PPP loans. In his forgiveness applications, Brooks falsely certified that he had complied with the PPP rules. Brooks knew these certifications were false because, at the time he made the certifications, Brooks had already wrongfully received four First Draw PPP loans based on the same 2019 self-employment income. As a result of these false certifications, Brooks's forgiveness applications were approved, and the SBA transmitted a total of \$40,832 to the SBA Lenders that processed the loans.

First Application ("Loan No. 6905528703" or "First PPP Loan").

38. On April 2, 2021, Brooks submitted an SBA Form 2483 PPP Borrower Application Form for Loan No. 6905528703 to Capital Plus Financial, LLC seeking a forgivable First Draw PPP loan for \$20,832. Brooks listed the legal name of the applicant seeking the loan as "Stephon Brooks" and the total amount of gross income for the applicant as "\$115,858." Brooks listed the TIN/EIN of the applicant as "XXXXX3500." Brooks listed the email address of the applicant as "stephonthemogul@gmail.com" and the business address of the applicant as "8305 Greensboro Drive apt 1804 McLean, VA 22102."

39. Brooks submitted a Schedule C Form 1040 from 2019 to Capital Plus Financial, LLC to support his PPP Borrower Application Form for Loan No. 6905528703. The Schedule C Form 1040 listed the proprietor's name as "Stephon Brooks," the business name as "Echelon

Realty Group,” the EIN as “XXXXXX2635,” the business address as “8305 Greensboro Dr Apt. 1804 McLean VA 22102,” and the annual gross receipts as “\$115,858.”

40. In the PPP Borrower Application Form for Loan No. 6905528703, Brooks certified that: “The Applicant has not and will not receive another loan under the Paycheck Protection Program, section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)) (this does not include Paycheck Protection Program second draw loans, section 7(a)(37) of the Small Business Act (15 U.S.C. 636(a)(37)).” If Brooks had not made this false certification, Brooks’s application for Loan No. 6905528703 would not have been approved.

41. On April 20, 2021, Brooks signed a loan agreement for \$20,832 with Capital Plus Financial, LLC for Loan No. 6905528703. The loan agreement stated, “This Loan is made pursuant to the PPP. Borrower agrees that it will comply with all SBA guidance under the CARES Act and the PPP as it applies to this Loan, regardless when enacted or supplemented.” As further described below, at the time Brooks signed the loan agreement, this statement was false because Brooks had already applied for and obtained another First Draw PPP loan (Loan No. 6719908706). Brooks signed the loan agreement despite his awareness that he would not comply with SBA guidance and CARES Act regulations limiting each applicant to only one First Draw PPP loan.

42. Because Brooks’s application contained false representation that he “will comply with all SBA guidance under the CARES Act and the PPP” as it applied to Loan No. 6905528703, Capital Plus Financial, LLC processed Brooks’s loan agreement.

43. On June 14, 2021, the United States paid Capital Plus Financial, LLC a loan processing fee of \$2,500 to reimburse the SBA Lender for the costs of processing Loan No. 6905528703.

44. On June 30, 2021, Loan No. 6905528703 in the amount of \$20,832 was approved and disbursed.

45. Brooks never informed the SBA or Capital Plus Financial, LLC that he had or would apply for and obtain multiple First Draw PPP loans based on the same 2019 self-employment income that he used to obtain PPP Loan No 6905528703 or that he falsely certified that he would comply with all SBA guidance as it applied to the First PPP Loan.

46. On June 3, 2021, Brooks submitted a Form 3508 to Capital Plus Financial, LLC, seeking forgiveness for Loan No. 6905528703.

47. Brooks certified in the forgiveness application that he had “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).” As further described below, Brooks had already obtained three other First Draw PPP loans in violation of the Protection Program Rules at the time he made this certification, and he knew the certification was false. If Brooks had not made this false certification, the SBA would not have approved Brooks’s application for forgiveness for Loan No. 6905528703.

48. Brooks signed his initials next to the following statement: “The information provided in this application is true and correct in all material respects. I understand that knowingly making a false statement to obtain forgiveness of an SBA-guaranteed loan is punishable under the law, including 18 U.S.C. 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 U.S.C. 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a Federally insured institution, under 18 U.S.C. 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.”

Brooks made this certification knowing that the false statements he made in his Form 3508 were illegal and punishable under the law.

49. The SBA was not aware that Brooks had obtained Loan No. 6905528703 because Brooks falsely certified that he would comply with all SBA guidance” as it applied to the First PPP Loan or that Brooks made false certifications regarding his compliance with Paycheck Protection Program Rules in his forgiveness application. These false certifications were material to the SBA’s decision to forgive the loan. If Brooks had not made the false certifications, the SBA would not have approved Brooks’s application for forgiveness. The SBA forgave the principal balance of \$20,832 Brooks owed for Loan No. 6905528703.

50. On September 1, 2021, the SBA reimbursed Capital Plus Financial, LLC, for \$20,832, the outstanding loan balance.

Second Application (“Loan No. 6719908706” or “Second PPP Loan”).

51. On April 4, 2021, Brooks submitted SBA Form 2483 PPP Borrower Application Form for Loan No. 6719908706 to Cross River Bank seeking a forgivable First Draw PPP loan for \$20,833. Brooks listed the legal name of the applicant seeking the loan as “Stephon Brooks” and the total amount of gross income for the applicant as “\$115,858.” Brooks listed the TIN/EIN of the applicant as “XXXXXX2635.” Brooks listed the email address of the applicant as “stephonthemogul@gmail.com” and the business address of the applicant as “8305 Greensboro Drive 1804 McLean VA 22102.”

52. Brooks submitted a Schedule C Form 1040 from 2019 to Cross River Bank to support his PPP Borrower Application Form for Loan No. 6719908706. The Schedule C Form 1040 listed the proprietor name as “Stephon Brooks,” the business name as “Echelon Realty Group,”

the EIN as “XXXXXX2635,” the business address as “8305 Greensboro Dr Apt. 1804 McLean VA 22102,” and the annual gross receipts as “\$115,858.”

53. In the PPP Borrower Application Form for Loan No. 6719908706, Brooks certified that: “The Applicant has not and will not receive another loan under the Paycheck Protection Program, section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)) (this does not include Paycheck Protection Program second draw loans, section 7(a)(37) of the Small Business Act (15 U.S.C. 636(a)(37)).” Brooks acted knowingly in falsely certifying the accuracy of this statement. At the time Brooks certified the accuracy of this statement, he had already applied for another First Draw PPP loan and knew the certification was false. Because Brooks’s application contained this false representation, Cross River Bank processed Brooks’s application for Loan No. 6719908706 and the application was approved.

54. On April 4, 2021, Brooks signed a loan agreement for a \$20,833 loan with Cross River Bank for Loan No. 6719908706.

55. On April 5, 2021, Loan No. 6719908706 in the amount of \$20,833 was approved and disbursed.

56. On April 20, 2021, the United States paid Cross River Bank a loan processing fee of \$2,500 to reimburse the SBA Lender for the costs of processing Loan No. 6719908706.

57. Brooks at no point informed the SBA or Cross River Bank that he had or would apply for and obtain multiple First Draw PPP loans based on the same 2019 self-employment income that he used to obtain PPP Loan No 6719908706.

Third Application (“Loan No. 3983778906” or “Third PPP Loan”).

58. On April 21, 2021, Brooks submitted SBA Form 2483 PPP Borrower Application Form for Loan No. 3983778906 to Benworth Capital Partners, LLC seeking a forgivable First

Draw PPP loan for \$20,833. Brooks listed the legal name of the applicant seeking the loan as “Stephon Brooks” and the total gross income of the applicant as “\$115,858.” Brooks listed the TIN/EIN of the applicant as “XXXXXX7025.” Brooks listed the email address of the applicant as “stephonbrooks1@icloud.com” and the business address of the applicant as “8305 Greensboro drive McLean, VA 22102.”

59. Brooks submitted a Schedule C 1040 from 2019 to Benworth Capital Partners, LLC to support his PPP Borrower Application Form for Loan No. 3983778906. The Schedule C 1040 listed the proprietor name as “Stephon Brooks,” the business name as “Stephon Brooks LLC,” the EIN as “XXXXXX7025,” the business address as “8305 Greensboro Dr. Apt. 1804 McLean, VA 22102,” and the annual gross receipts as “\$115,858.”

60. In the PPP Borrower Application Form for Loan No. 3983778906, Brooks certified that: “The Applicant has not and will not receive another loan under the Paycheck Protection Program, section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)) (this does not include Paycheck Protection Program second draw loans, section 7(a)(37) of the Small Business Act (15 U.S.C. 636(a)(37)).” Brooks acted knowingly in falsely certifying the accuracy of this statement. Brooks had already applied for two previous First Draw PPP loans, and the funds for one PPP loan had already been disbursed to him. Because Brooks’s application contained this false representation, Benworth Capital Partners, LLC processed Brooks’s application for Loan No. 3983778906 and the application was approved.

61. On April 30, 2021, Brooks signed a loan agreement for a \$20,833 loan with Benworth Capital Partners, LLC for Loan No. 3983778906.

62. On May 6, 2021, Loan No. 3983778906 in the amount of \$20,833 was approved and disbursed.

63. On June 4, 2021, the United States paid Benworth Capital Partners, LLC a loan processing fee of \$2,500 to reimburse the SBA Lender for the costs of processing Loan No. 3983778906.

64. Brooks at no point informed the SBA or Benworth Capital Partners, LLC that he had or would apply for and obtain multiple First Draw PPP loans based on the same 2019 self-employment income that he used to obtain Loan No. 3983778906.

Fourth Application (“Loan No. 1475738910” or “Fourth PPP Loan”).

65. On April 26, 2021, Brooks submitted SBA Form 2483 PPP Borrower Application Form for Loan No. 1475738910 to Cross River Bank seeking a forgivable First Draw PPP loan for \$20,000. Brooks listed the legal name of the applicant seeking the loan as “Stephon Brooks” and the total average monthly payroll as “\$8,000.” Brooks listed the TIN/EIN of the business as “XXXXX9990.” Brooks listed the email address of the applicant as “stephonbrooks1@icloud.com” and the business address of the applicant as “8305 Greensboro Drive #1804 McLean VA 22102.”

66. Brooks submitted a Schedule C 1040 from 2019 to Cross River Bank to support his PPP Borrower Application Form for Loan No. 1475738910. The Schedule C 1040 listed the proprietor’s name as “Stephon Brooks,” the business name as “Echelon Realty Group,” the EIN as “XXXXX2635,” the business address as “8305 Greensboro Dr. Apt. 1804 McLean VA 22102,” and the annual gross receipts as “\$115,858. ”

67. In the PPP Borrower Application Form for Loan No. 1475738910, Brooks certified that: “The Applicant has not and will not receive another loan under the Paycheck Protection Program, section 7(a)(36) of the Small Business Act (15 U.S.C. 636(a)(36)) (this does not include Paycheck Protection Program second draw loans, section 7(a)(37) of the Small Business

Act (15 U.S.C. 636(a)(37)).” Brooks acted knowingly in falsely certifying the accuracy of this statement. Brooks had already applied for three previous First Draw PPP loans, and the funds for one PPP loan had already been disbursed to him. Because Brooks’s application contained this false representation, Cross River Bank processed Brooks’s application for Loan No. 1475738910 and the application was approved.

68. On April 26, 2021, Brooks signed a loan agreement for a \$20,000 loan with Cross River Bank for Loan No. 1475738910.

69. On April 27, 2021, Loan No. 1475738910 in the amount of \$20,000 was approved and disbursed.

70. On May 11, 2021, the United States paid Cross River Bank a loan processing fee of \$2,500 to reimburse the SBA Lender for the costs of processing Loan No. 1475738910.

71. Brooks at no point informed the SBA or Cross River Bank that he had or would apply for and obtain multiple First Draw PPP loans based on the same 2019 self-employment income that he used to obtain Loan No. 1475738910.

72. On October 3, 2021, Brooks submitted a Form 3508 to Cross River Bank, seeking forgiveness for Loan No. 1475738910.

73. Brooks certified in the forgiveness application that he had “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).” Brooks had already applied for and obtained four First Draw PPP loans in violation of the Protection Program Rules at the time he made this certification, and he knew the certification was false. If Brooks had not made this false certification, the SBA would not have approved Brooks’s application for forgiveness for Loan No. 1475738910.

74. Brooks signed his initials next to the following statement: “The information provided in this application is true and correct in all material respects. I understand that knowingly making a false statement to obtain forgiveness of an SBA-guaranteed loan is punishable under the law, including 18 U.S.C. 1001 and 3571 by imprisonment of not more than five years and/or a fine of up to \$250,000; under 15 U.S.C. 645 by imprisonment of not more than two years and/or a fine of not more than \$5,000; and, if submitted to a Federally insured institution, under 18 U.S.C. 1014 by imprisonment of not more than thirty years and/or a fine of not more than \$1,000,000.” Brooks made this certification knowing that the false statements he made in his Form 3508 were illegal and punishable under the law.

75. The SBA was not aware that Brooks had obtained Loan No. 1475738910 through falsely certifying that he “had not and will not receive another loan under the Paycheck Protection Program” or that Brooks made false certifications regarding his compliance with Paycheck Protection Program Rules in his forgiveness application. These false certifications were material to the SBA’s decision to forgive the loan. If Brooks had not made these false certifications, the SBA would not have approved Brooks’s application for forgiveness. The SBA forgave the principal balance of \$20,000 Brooks owed for Loan No. 1475738910.

76. On October 14, 2021, the SBA reimbursed Cross River Bank for \$20,000, the outstanding loan balance.

COUNT I

False or Fraudulent Claims to the SBA 31 U.S.C. § 3729(a)(1)(A)

77. The United States repeats and realleges paragraphs 1 through 76 above.

78. This is a claim for treble damages and penalties under the FCA, 31 U.S.C. §§ 3729–3733, as amended.

79. Defendant Brooks knowingly, or with reckless disregard, caused to be presented six false or fraudulent claims for payment or approval, in violation of the FCA, 31 U.S.C. § 3729(a)(1)(A).

80. Brooks submitted four false statements in connection with procuring four First Draw PPP loans. Brooks signed the PPP loan agreement for the First PPP Loan (Loan No. 6905528703), thereby knowingly falsely representing that he would “comply with all SBA guidance” as it applied to the First PPP Loan. While applying for the Second PPP Loan (Loan No. 6719908706), Third PPP Loan (Loan No. 3983778906), and Fourth PPP Loan (Loan No. 1475738910), Brooks knowingly falsely stated in the SBA Form 2483 that he “has not and will not receive another [First Draw] loan under the Paycheck Protection Program.” As a result of these false statements, all four PPP applications were approved and the SBA disbursed a total of \$10,000 in processing fees to the SBA Lenders.

81. Brooks submitted two false statements in connection with his applications for forgiveness for the First PPP Loan (Loan No. 6905528703) and the Fourth PPP Loan (Loan No. 1475738910). Brooks knowingly and falsely stated in the SBA Forms 3508 for these loans that he had complied with all requirements in the Paycheck Protection Program Rules. In reliance on Brooks’s false statements, the SBA approved Brooks’s forgiveness applications and transmitted a total of \$40,832 to the SBA Lenders that processed the loans.

82. Because of Brooks’s acts, the United States suffered damages of \$50,832, and therefore is entitled to treble damages under the FCA, as well as a minimum civil penalty of \$11,803 to a maximum penalty of \$23,607 for each of the six false claims submitted to the SBA.

COUNT II

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

83. The United States repeats and realleges paragraphs 1 through 76 above.

84. This is a claim for treble damages and penalties under the FCA, 31 U.S.C. §§ 3729–3733, as amended.

85. Defendant Brooks knowingly caused to be made or used six false records or statements material to a false or fraudulent claim, in violation of the FCA, 31 U.S.C. § 3729(a)(1)(B). Brooks signed the PPP loan agreement for the First PPP Loan (Loan No. 6905528703), thereby knowingly falsely representing that he would “comply with all SBA guidance” as it applied to the First PPP Loan. While applying for the Second PPP Loan (Loan No. 6719908706), Third PPP Loan (Loan No. 3983778906), and Fourth PPP Loan (Loan No. 1475738910), Brooks knowingly falsely stated in the SBA Form 2483 that he “has not and will not receive another [First Draw] loan under the Paycheck Protection Program.” As a result of these false statements, all four PPP applications were approved and the SBA disbursed a total of \$10,000 in processing fees to the SBA Lenders.

86. Also, while seeking forgiveness of the First PPP Loan (Loan No. 6905528703) and the Fourth PPP Loan (Loan No. 1475738910), Brooks knowingly and falsely stated in the SBA Forms 3508 that he had complied with all requirements in the Paycheck Protection Program Rules. In reliance on Brooks’s false statements, the SBA approved Brooks’s forgiveness applications and transmitted a total of \$40,832 to the SBA Lenders that processed the loans.

87. Because of Brooks’s acts, the United States suffered damages of \$50,832, and therefore is entitled to treble damages under the FCA, as well as a minimum civil penalty of \$11,803 to a maximum penalty of \$23,607 for each of the six false claims submitted to the SBA.

COUNT III

False Statements to the SBA

12 U.S.C. § 1833a (FIRREA)

88. The United States repeats and realleges paragraphs 1 through 76 above.

89. This is a claim for civil penalties under FIRREA, 12 U.S.C. § 1833a, as amended.

90. Defendant Brooks, for the purposes of fraudulently obtaining four federally guaranteed PPP loans and inducing the SBA to forgive two of the PPP loans, in violation of 12 U.S.C. § 1833a, unlawfully, willfully and knowingly made false statements or certifications to SBA Lenders and the SBA in violation of 15 U.S.C. § 645(a).

91. Specifically, Brooks signed the PPP loan agreement for the First PPP Loan (Loan No. 6905528703), thereby knowingly falsely representing that he would “comply with all SBA guidance” as it applied to the First PPP Loan. While applying for the Second PPP Loan (Loan No. 6719908706), Third PPP Loan (Loan No. 3983778906), and Fourth PPP Loan (Loan No. 1475738910), Brooks knowingly falsely stated in the SBA Form 2483 that he “has not and will not receive another [First Draw] loan under the Paycheck Protection Program.” Also, while seeking forgiveness of the First PPP Loan (Loan No. 6905528703) and the Fourth PPP Loan (Loan No. 1475738910), Brooks knowingly and falsely stated in the SBA Forms 3508 that he had complied with all requirements in the Paycheck Protection Program Rules. These false statements were knowingly false and made for the purpose of influencing the SBA to obtain PPP loan proceeds in violation of 15 U.S.C. § 645(a).

92. Because of Brooks’s acts, he is liable for civil penalties up to the maximum amount authorized under 12 U.S.C. § 1833a(b).

COUNT IV

Payment by Mistake of Fact

93. The United States repeats and realleges paragraphs 1 through 76 above.

94. Defendant Brooks's misrepresentations on his loan agreement for the First PPP Loan (Loan No. 6905528703), and on the SBA Form 2483 PPP Borrower Application Forms for the Second PPP Loan (Loan No. 6719908706), Third PPP Loan (Loan No. 3983778906), and Fourth PPP Loan (Loan No. 1475738910) caused the submission of private lenders' requests for payment to the SBA for processing fees attributable to four PPP loans for which Brooks was not eligible to receive. Additionally, Brooks's false statements in the SBA Forms 3508 for the First PPP Loan (Loan No. 6905528703) and the Fourth PPP Loan (Loan No. 1475738910), caused the SBA to approve forgiveness for two loans for which Brooks was not eligible to receive forgiveness.

95. The United States paid \$50,832 more to the private lenders than it would have based on the erroneous belief that the bank was entitled to reimbursement for the processing fees for the four PPP loans Brooks obtained and the erroneous belief that Brooks was entitled to forgiveness of the full loan amounts for the First PPP Loan (Loan No. 6905528703) and the Fourth PPP Loan (Loan No. 1475738910).

96. The United States is thus entitled to recover \$50,832 that the Government wrongfully and erroneously paid as a result of the false statements Brooks made in his PPP loan agreement for the First PPP Loan (Loan No. 6905528703), on the PPP Borrower Application Forms for the Second PPP Loan (Loan No. 6719908706), Third PPP Loan (Loan No. 3983778906), and Fourth PPP Loan (Loan No. 1475738910), and in his PPP forgiveness applications for the First PPP Loan (Loan No. 6905528703) and the Fourth PPP Loan (Loan No. 1475738910).

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 three-fold the damages of \$50,832 caused by Brooks pursuant to 31 U.S.C. § 3729(a), and that judgment be entered against Brooks and in favor of the Government;
- c. That Brooks be ordered to pay a civil penalty pursuant to 31 U.S.C. § 3729(a) for the false representation Brooks made in the loan agreement for the First PPP Loan (Loan No. 6905528703),
- d. That Brooks be ordered to pay civil penalties pursuant to 31 U.S.C. § 3729(a) for the PPP applications Brooks submitted containing false statements for the Second PPP Loan (Loan No. 6719908706), Third PPP Loan (Loan No. 3983778906), and Fourth PPP Loan (Loan No. 1475738910);
- e. That Brooks be ordered to pay a civil penalty pursuant to 31 U.S.C. § 3729(a) for each of the two PPP forgiveness applications Brooks submitted containing false certifications;
- f. That Brooks be ordered to pay civil penalties pursuant to 12 U.S.C. § 1833a equal to, at minimum, the full amount of the Second PPP Loan (Loan No. 6719908706) and the Third PPP Loan (Loan No. 3983778906);
- g. To the extent not required to pay damages of \$50,832 pursuant to 31 U.S.C. § 3729(a), that Brooks be ordered to pay restitution of \$50,832 for the processing fees and loan forgiveness amounts the United States erroneously paid out because of the false statements and false representations Brooks made in the loan agreement for the First PPP Loan (Loan No. 6905528703), on the SBA Form 2483 PPP Borrower Application Forms for the Second PPP Loan (Loan No. 6719908706), Third PPP Loan (Loan No. 3983778906), and Fourth PPP Loan

(Loan No. 1475738910), and in his PPP forgiveness applications for the First PPP Loan (Loan No. 6905528703) and the Fourth PPP Loan (Loan No. 1475738910).

h. 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: January 31, 2022

Respectfully submitted,

JESSICA D. ABER
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By:

/s/

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