



2 South Main Street
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I thank you for the opportunity to testify before the Committee on Small Business regarding the Paycheck Protection Program.

Background

I am Melissa Kelly, Chef and Owner of Primo Restaurant in Rockland, Maine. I am a chef; it is my calling. The reason I do what I do, is to help people eat healthy delicious food that gives them nourishment, joy, and good health. I also believe that supporting the health of this planet is part of my responsibility.

I own and operate a small farm and restaurant in Rockland, Maine where I bring those beliefs to life.

We operate on a seasonal calendar open for nine months and closed for three. This April was the beginning of our 21st season. The business has grown steadily over the years and now I employ a team of 50 farmers, managers, cooks, dishwashers, servers, hosts and office staff.

When Governor Mills wisely put our state on lock down, we were preparing to open our doors.

My first worry was my people. I had enough money in reserves to see them through a couple of payroll periods, but I did not have any idea how long we would need to support them before we could get back to work. I did not want to lay them off. The team that I have assembled is the reason we are able to do the great things that we do. I have won the James Beard Award best chef Northeast, twice, and my team is a big part of the reason why.

My restaurant seats 165 patrons inside, we normally serve 32,000 meals a season. My staff of 50 have an average earning of \$26 per hour. Most of our revenue is earned July thru October.

I am here today not only representing myself but also as a spokesperson for the restaurant industry in general. I operate in Maine, a state that is especially dependent on revenue from seasonal tourists. Many of my fellow restaurateurs are not going to survive the government-mandated restrictions on restaurant operation. I worry for them, but also for myself.

Primo, like many small businesses, looked at the Paycheck Protection Program (“PPP”) as more of a grant than a loan program as it was promoted as a “forgivable loan” upon rollout. Primo wants to do all it can to support its staff and the community while staying financially viable for the long term, while it is looking at its most challenging season in its history. We want to continue to create a positive economic impact on our community.

On April 17, Primo received a PPP loan of \$185,050 to cover its 24 full time employees (“FTEs”), the maximum allowable loan at the time even though in-season employment is 50 FTEs. Primo applied for this amount under the original PPP rules, which allowed seasonal businesses to calculate their maximum loan amount based on their wages from February 15, 2019 through June 30, 2019 or January 1, 2020 through February 29, 2020. This funding was a big help in assisting with cash flows in a very uncertain time.

On May 13, SBA issued a new rule allowing seasonal businesses to use an alternative seasonal operation base period to calculate the maximum loan amount. Under this calculation, Primo was eligible for up to



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\$513,000, but would have had until only June 30 to utilize the funds and achieve forgiveness for the whole amount. At this time, the restaurant was closed by state and local government orders. As such, it would have been a poor business decision to obtain additional loan funds at that time.

The Paycheck Protection Program Flexibility Act (“PPPFA”) was a giant step in the right direction to assist more businesses struggling during the pandemic. Upon passage, Primo applied to increase its loan to \$400,000. This funding would have greatly assisted in paying staff at a time when local and state COVID regulations restricted operations to allow a maximum of 40% capacity. After application, Primo was notified that the local bank had filed the SBA Form 1502 for the initial loan and the loan could not be increased by SBA rules. That means that we qualify for additional funds, but SBA rules will not permit us to access a second tranche of what we originally could have received. It is completely unfair that we cannot avail ourselves of extra funds based upon SBA’s having changed its own rule and the new statute. Accordingly, Primo is requesting that Congress work with SBA to establish a reasonable modification to this rule to benefit eligible seasonal businesses, employees, and local economies across the nation. Primo is requesting the SBA rule regarding form 1502 be adjusted to allow for increases to PPP loans for eligible seasonal businesses after the 1502 filing.

Primo is requesting minor changes to the PPP program to allow:

- Seasonal businesses, if eligible, to increase their loan amounts if the Form 1502 has been submitted; and
- greater flexibility on items the proceeds can be spent on.

PPP Issues

Seasonal Businesses

Seasonal businesses have inherent challenges with cash flow and staffing. Paying for off-season fixed costs, such as rent and insurance, place a greater burden on seasonal business to generate profit in season and accurately project cash flows year-round. The insecurity caused by the Pandemic create more issues for seasonal businesses around cash availability at season end to cover the off-season expenses. Current restrictions on indoor capacity and lost revenue at the start of the season will make it very challenging for countless establishments to earn enough to cover off-season expenses.

The PPP aided seasonal businesses as it was a cash infusion at a much-needed time. It eased some of the concern in the short term by allowing businesses to pay salaries and some bills. However, it created its own uncertainties, such as how much of the loan could be used for expenses and how much would be forgiven, etc. The biggest pitfall for seasonal businesses was the requirement to hire staff in the middle of locally ordered closures. The PPPFA went a long way in attempting to rectify this.

The original PPP rules allowed for a maximum loan calculation that was substantially lower for seasonal businesses whose peak season is the summer months. This was yet another hurdle for seasonal businesses to overcome.

When the SBA released guidance on May 13 that allowed for seasonal businesses to change their base period and draw additional funds, the original forgiveness rules were still in place. Many of the known PPP pitfalls were highly published, such as forgiveness projections. At this point in time it would have



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been unwise to seek any additional funding. In addition, state regulations severely restricted operations.

Amending SBA rules will aid not only Primo, but countless seasonal businesses, their staff, and local economies across the country by allowing eligible seasonal businesses to draw additional PPP loan proceeds and create some certainty in such uncertain times.

Ever changing rules

One struggle that affects not only seasonal businesses, but all businesses that accepted a PPP loan, is the ever-changing rules and guidance. There have been multiple changes as to the interest rate, the term, the calculation period. Businesses prosper on certainty. Budgeting sales, staffing, and purchasing accurately require a fair amount of certainty. To accurately project future cash flows, it would be very beneficial for all businesses to know how much of their PPP loan will be forgiven and more importantly, how much will not be forgiven and what the monthly loan payment will be.

Process for Obtaining Loan

The PPP application process was not overly cumbersome for Primo. Primo has a very good working relationship with its local community bank, The First National Bank of Damariscotta and was further assisted by subject matter experts including a SCORE mentor and Opus Consulting Group. These relationships allowed for an expeditious application and a quick and smooth loan closing.

Primo realizes it is fortunate to have these relationships. Many businesses do not have experienced advisors and working relationships, making it harder to navigate complicated loan processes.

Loan Forgiveness Concerns

The PPPFA extended the period to spend loan proceeds from 8 to 24 weeks. This greatly increased flexibility. Most businesses should be able to spend their loan amounts on payroll related expenses in this time frame.

Currently, the largest concerns regarding loan forgiveness are meeting the Full Time Equivalent safe-harbor threshold and any future unforeseen changes to the program. Primo does not anticipate it will have a difficult time hiring 24 staff before December 31, nor will it have a difficult time hiring 37 staff, appropriate staffing at a \$400,000 PPP loan. However, if it is forced to shut down due to an outbreak or changes in state or local restrictions it may have an issue meeting the threshold. Additionally, while most of the PPP changes have generally been for the better, there could be a change on the horizon that will make forgiveness more difficult.

Interaction with Federal \$600/week Unemployment Benefit

Primo is not alone in facing difficulty bringing staff back on board. Many employees have not wanted to come back to work to risk their health for essentially the same pay they would receive in State and Federal unemployment compensation benefits. Additionally, until recently, the restaurant has been closed due to state and local orders. There is not enough work to be done to justify having 24 full time staff at a closed restaurant. The PPPFA has greatly benefitted restaurants and other businesses that received PPP loans while closed; it has taken the burden off the businesses to hire staff that do not want to work. As Primo reopens, it will likely not have as high of staff counts as it has in prior years due to



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local operating restrictions. The PPPFA will allow for greater forgiveness while still protecting the health and safety of our communities.

More Flexibility

Recently, Primo obtained a non-PPP loan to finance construction of a fresh air shelter on its property to allow it to have greater capacity. Restrictions in Maine allow for indoor dining of no more than 50 people at a given time. This outdoor seating will allow Primo to seat approximately 100, which is still fewer people than it could accommodate in pre-COVID times. Had the PPP allowed for other uses outside of payroll, rent, and utilities, Primo likely would have utilized PPP proceeds to finance the construction to allow it to operate under the “new normal.” Primo knows it is not alone in requesting greater flexibility to spend PPP loan proceeds to cover other COVID related changes, be they greater operating expenses in the form of PPE or exterior spaces.

Conclusion

Primo is requesting the SBA rule regarding closing of a loan after form 1502 submission be adjusted to allow for increases to PPP loans for eligible seasonal businesses after the 1502 report filing. Primo is not asking for all closed PPP loans to be opened up, only those for seasonal businesses who were unable to take advantage of the alternative seasonal operation base period. Primo is also imploring the committee to understand the need for more money to create positive economic opportunities for businesses, their staff, and communities.

In addition to my testimony representing Primo, I am enclosing supporting statements (Attachments A and B) from two other well-known restaurateurs.

I’ve testified today about my experiences as a small business owner in Maine. I’m grateful to have the attention of this committee and for the bi-partisan work you have done, and I hope will continue to do, to support small businesses across our country. But let me take a moment to ask you to think about the restaurant business in a different way. I know after 30+ years of putting good food on plates how important independent restaurants are to our communities. These are the places where we convene to meet, to celebrate, to plan, to reflect. They are also a reflection of our larger American culture bringing together experiences of food from all the diverse places that make our country so special. By supporting independent restaurants, you are not just helping these business owners and their employees, you are making it possible for an important foundation of our culture to survive and once again to thrive.

Thank you.



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Attachment A
Supporting statement from Bill White

There are two components to the functionality of navigating this crisis that are often misunderstood. First are unemployment benefits. People mostly do not understand this program and think it is a government benefit. This is wrong. In a nutshell, unemployment insurance is a payroll tax paid solely by the employer, not the feds and not the employees. The state government Department of Workforce Services administers its distribution and processes claims. The claims filed in the previous period against the employers account and directly added to the payroll tax for the next period. Dollar for dollar. The system is not designed to handle ALL the employees filing claims at the same time, but that is what has happened. I am afraid of the headwinds and regulations governing our re-opening. I don't think many employers understand the potential impact on payroll taxes looming for 2021. (there is talk of adding an increased social cost to the SUTA rate, but that cost would be huge and ongoing)

The second issue that remains a toxic quagmire for restaurants is the PPP loans. These are a horrendous trap for many businesses that do not understand the nature of borrowing funds to pay for direct operational expenses especially while our demand is regulated to a fraction of our capacity.

Although these loans are potentially "forgivable" they are not designed for a business that has been forced to shutter. The loan amounts are calculated on a percentage of payroll. Although there have been some changes to the format, the original program required 70% of the loan amount to be spent on employees while 30% could be used for 3 things: rent, interest, and utilities. The fatal flaws with this program are the number of employees to be paid must be close to the number of people employed at the time of closure. Also, the PPP loan needed to be spent within 8 weeks of receiving the funds. With a mandated closure what good does this do to help the business weather the storm? It is a huge exposure for those that try to meet the standards then fail to meet the requirements. The PPP becomes a 2-year LOC due in full at the end of the term. This trap will sink many restaurants. Note that the rules continue to evolve but most restaurants that initially received these loans have already spent at least half of the amount and there are currently no other funds available to them.

The PPP program is well intentioned but flawed in many ways. The most glaring is the co-mingling the goals of the program. Is the goal to get money into the hands of employees or to help the business survive the crisis? Both are noble intentions but should be separated.

As it stands the employees get a paycheck for a brief period while the business gets to pay a small percentage of the loan proceeds for rent, utilities, and interest. There is no one size fits all fiscal stimulus package that works for all. Each business is different and has different needs to survive this terrible storm. My goal is to recognize surviving this tragic event is a marathon and not a sprint. I want to remain an employer, taxpayer, tenant, and entrepreneur that will continue to create jobs and add to the economy for years to come. I need long term, low interest financing (EIDL SBA loans) or straight up grant money to be able to make it through the crisis. Other businesses may need different structured loans/grants. The medium sized (500 employees \$20million, asset-based balance sheet companies in growth mode need to have long term financing solutions. Hiring and paying employees will happen organically as the virus passes, restrictions are lifted and the fear passes. Combining a direct financial stimulus program to get dollars into the workers hands is myopic and a very ephemeral approach. What happens after the short-term loan proceeds are spent on payroll and the economy/fear/virus are still here and crushing our cash reserves and snuffing out the consumer demand that we built our business upon? What business can withstand 50-75% demand elimination while the costs of rent, debt, goods,

and labor remain at “pre-virus” levels? Not many. We need extremely favorable financing options if our intention is to survive the crisis.

Bill White
Bill White Restaurant Group
Park City, UT



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Attachment B
Supporting statement from Jody Adams



We know that restaurants are the hearts and souls of a community. They are the places where people celebrate joy and share sorrows; where fundraisers are held for politicians and local organizations; they help create the character and personality of a community. In addition, they employ 1 out of 10 people and send between 90 and 95 cents of every dollar back into the community. We need restaurants, yet their survival looks bleak. Without significant help, we will not survive. PPP and the new fixes built half the bridge; we need a [stabilization fund](#)—grants—to finish the bridge that will allow us to survive the new few years.

\$120 billion Independent Restaurant Stabilization Fund, which would give us the resources and support we need for the challenging months – and years – ahead.

In fact, the Stabilization Fund would generate at least \$248 billion in economic returns – more than twice the amount of the proposed grant.

On March 14 we closed all 7 of our restaurants. Five days later we opened one of our quick serve Greek restaurants, Saloniki, for takeout. We are doing 30-40% of our typical revenue and not quite breaking even.

Two weeks later we started doing up to 300 meals a day for front line hospital and restaurant workers from Porto, one of our full service restaurants, and were paid \$10 per meal, which allowed us to employ some of our most vulnerable staff. This program is winding down.

We applied and received PPP for our 7 restaurants. With the original 8-week time frame and the unknown projections for how long COVID-19 will paralyze our businesses, PPP didn't work for us. We ran the risk of bringing our staff back, using the PPP up before we could re-open, and having to lay them off again. In addition, the statistics for COVID-19 cases in MA was scary and people did not want to come back to work. The \$600 federal unemployment was a disincentive for some to not return to work. With that said, the majority of people who said they did not want to come back to work stated that they were concerned about the health of themselves and their families.

Last week, as MA moved to phase #2, we opened our large patio at Porto. We are doing 50% of our typical business. Our servers want to work only part time so that they can receive the \$600. We won't open Trade, a full-service restaurant that serves lunch and dinner in the financial district, because people have not returned to their offices so we would not do enough business.

We have yet to start using our PPP as there still so many unknowns about this Pandemic. Moving the timeline for the PPP to 24 weeks is better than 8 weeks. With that said, we don't yet know when we will move to phase #3 when we can serve indoors. We don't know if there will be a resurgence in the fall.

We don't know what our revenue will be. December 31 would be a better date. What we really need is the Restaurant Stabilization Fund that the IRC is fighting for.

Jody Adams
Chef & Co-Owner
Porto Restaurant
Boston, MA