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House of Representatives

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SELECT SUBCOMMITTEE ON THE CORONAVIRUS CRISIS

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<https://coronavirus.house.gov>

May 11, 2020

The Honorable James E. Clyburn
Chairman
Select Subcommittee on the Coronavirus Crisis
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Clyburn:

We received the letters that you and the other Democrat Select Subcommittee members sent on May 8, 2020, to five American companies that received loans through the Paycheck Protection Program (PPP) authorized by the Coronavirus Aid, Relief, and Economic Security Act (CARES or CARES Act). Your letters underscore many of the concerns that we had about the creation of the Select Subcommittee. After examining the unique circumstances of the five companies—and understanding the communities and American workers they support—we write to urge you to exercise some basic level of due diligence before publicly attacking hardworking taxpayers whose jobs you are placing in jeopardy. Demanding repayment from these companies seeking to cope with serious economic challenges will only put jobs at risk.

After your hasty transmittal of these letters—one day after Republican members were appointed to the Select Subcommittee and without substantive bipartisan consultation—we contacted the companies to better understand their particular cases and the merits of their receipt of federal aid. It is now clear that your letters to these businesses were misinformed, irresponsible, and reliant on deeply flawed factual and legal assumptions. We can only assume that you sent these letters—without careful examination of these particular companies and the situations they face—to bully and shame the companies into returning the loan money.

Your interpretation of the Small Business Administration's (SBA) PPP, established by section 1102 of the CARES Act, is inaccurate. The recipients in question, acting in good faith and their understanding of the program, applied for these loans consistent with the goals and intentions of the PPP and the CARES Act. Each of the recipients qualify under SBA guidelines as a small business concern. Specifically, the SBA guidance states:

Small business concerns can be eligible borrowers even if they have more than 500 employees, as long as they satisfy the existing statutory and regulatory definition of a “small business concern” under section 3 of the

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Small Business Act, 15 U.S.C. 632. A business can qualify if it meets the SBA employee-based or revenue-based.

Additionally, a business can qualify for the Paycheck Protection Program as a small business concern if it met both tests in SBA's "alternative size standard" as of March 27, 2020: (1) maximum tangible net worth of the business is not more than \$15 million; and (2) the average net income after Federal income taxes (excluding any carry-over losses) of the business for the two full fiscal years before the date of the application is not more than \$5 million.¹

Your letters attacking the five companies misinterpret the SBA guidance and make unsupported assumptions about their financial conditions and the ready access they may or may not have to the capital markets. Your purported analysis is severely flawed. We learned that due to current market conditions, at least four of these companies would be unable to operate or make payroll without the assistance from CARES.

For instance, without the PPP loan, Universal Stainless & Alloy Products, Inc. (Universal Stainless) would be forced to lay off a significant number of the 725 steelworkers it employs outside of Pittsburgh, Pennsylvania. The company publicly stated this fact before your letter was sent. Prior to receiving the loan, Universal Stainless reported that it had furloughed a significant number of its employees. After consulting with financial analysts and legal counsel, it determined it cannot adequately access market capital. Without the PPP funds, Universal Stainless would not survive and its 725 Pennsylvania workers would lose their jobs.

EVO Transportation and Energy Services (EVO) is a public company employing 1,200 truck drivers who help to serve the U.S. Postal Service. These drivers do long haul service, regional services, and even last-mile service in rural parts of the country. In March, EVO was near bankruptcy and unable to raise private funds outside of one internal investor. According to EVO, it does not have financial liquidity, its stock rarely trades, it has no access to market capital, and it is unable to operate without the PPP funds.²

Gulf Island Fabrication, Inc. (Gulf Island) is a shipbuilding company employing 800 people, largely outside of New Orleans, Louisiana. The company, a small business under the applicable industry standards, properly qualified for a PPP loan. According to the company:

¹ U.S. Small Business Administration, Paycheck Protection Loans, Frequently Asked Questions *available at* https://www.sba.gov/sites/default/files/2020-04/Final%20PPP%20FAQs%20for%20Lenders%20and%20Borrowers%204-8-20_0.pdf (May 11, 2020).

² Press Statement of EVO Transportation & Energy Services, Inc Regarding PPP *available at* <http://www.globenewswire.com/news-release/2020/05/09/2030693/0/en/Statement-of-EVO-Transportation-Energy-Services-Inc-Regarding-PPP.html> (May 9, 2020).

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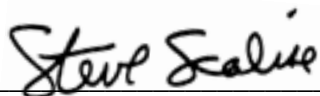
As a result of the effects of the pandemic, Gulf Island had to furlough approximately 70 employees during the period from March 25 through April 3. In addition, there were additional employees who were slated for release in April and shortly thereafter due to the uncertainty created by the pandemic. Through the PPP loan, we were able to avoid or reverse these actions, bringing furloughed employees as well as retaining the additional employees who were scheduled for April release, which totals more than 100 employees. We immediately applied the PPP loan proceeds for the purpose which it was intended.

The majority of our employees are the heads of their household. We cannot over-emphasize the negative impact that a potential layoff will have on their lives, and the financial impact in Houma, Louisiana and the surrounding community. As you may be aware, Louisiana has one of the highest unemployment rates in the country following the onset of the pandemic and knock-on-effect of the crude oil price. We would like to continue to use the PPP loan proceeds for the exclusive purpose of saving our employees from layoff and to be a positive force and economic multiplier in the community.³

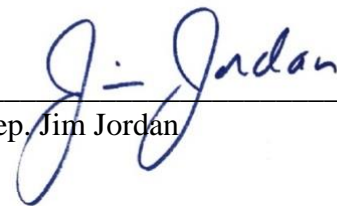
To date, the PPP has saved millions of jobs by awarding nearly four million loans in record time.⁴ We fail to understand how your goal of demonizing American businesses and publicly shaming them advances the purpose of the CARES Act—legislation for which each of you voted. Even more disappointing, your letters raise significant concerns about the intentions of the Select Panel. We urge you to reconsider your approach to politicizing the coronavirus epidemic and putting at risk the jobs of hardworking Americans trying to provide for their families.

Thank you for your attention to this matter.

Sincerely,



Rep. Steve Scalise
Ranking Member



Rep. Jim Jordan

³ Letter from Mr. Richard W. Heo, President & CEO, Gulf Island Fabrication, Inc. to Hon. James E. Clyburn, Chairman, Select Subcommittee on the Coronavirus Crisis, H. Oversight & Reform Comm. (May 11, 2020).


⁴ Remarks by President Trump on Supporting our Nation's Small Businesses Through the Paycheck Protection Program available at <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-supporting-nations-small-businesses-paycheck-protection-program/> (Apr. 28, 2020); See also

Important Information to Know About the Coronavirus: PPP Works available at <https://www.gop.gov/pppworks/> (May 11, 2020).

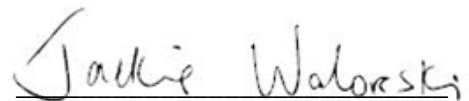
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Rep. Blaine Luetkemeyer



Rep. Jackie Walorski



Rep. Mark E. Green, MD

cc: The Honorable Nancy Pelosi
Speaker of the House

The Honorable Kevin McCarthy
Republican Leader