

**UNITED STATES SENATE
COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP**

“Small Business Recovery: Progress Report on Small Business Jobs Act of 2010
Implementation.”

TESTIMONY OF ERIC H. BLINDERMAN

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Thank you, Chairwoman Landrieu, Ranking Member Snowe, and members of the Committee for inviting me to testify this morning on issues pertaining to implementation of the Small Business Jobs Act of 2010. Although I am International Litigation Counsel at the law firm of Proskauer Rose LLP in New York City, I testify today in my capacity as the founder and owner of a restaurant in New York called *Mas (farmhouse)* and as the founder and owner of a new restaurant called *Mas (la grillade)* which I am currently constructing in New York and which I expect will open in the late summer of 2011.

**The Small Business Job Act of 2010 Provided Much Needed Economic Incentives
and Statutory Tools to Permit Small Business to Create Jobs**

The Small Business Jobs Act of 2010 has served as a critical piece of legislation that allowed small business owners to expand existing operations, to build new enterprises, and to create jobs.

A. The Use of SBA Funds to Establish *Mas (farmhouse)*

By way of background, I am a restaurant owner and attorney. My business partner, Chef Galen Zamarra, and I conceived of our current restaurant, *Mas (farmhouse)*, in late 2001, shortly after the attacks of September 11. At this time, New York was suffering from the horrific loss of life and property that accompanied the tragic events of that day.

In those troubled times, Chef Zamarra and I turned our attention from grieving into reconstruction which included the nuts and bolts of assembling our first restaurant with no capital, little experience, but lots of ideas. Chef Zamarra focused on the artistic and creative side of the ledger while I began to write a business plan, to prepare financial models, and otherwise to take steps to turn our ideas into a concrete reality. With business plan in hand (neatly bound), I spent my lunch hours at the law firm, wearing my only suit, walking into dozens of banks

whereupon I explained to the teller that I would like to obtain a small business loan to help me, then a 27 year old kid, obtain over a half-million dollars so I could open a fine dining restaurant in Manhattan. Self-evidently, this approach was not successful and, although every bank was polite, they all rejected my request outright.

Fortunately, I persisted and was ultimately placed in touch with an entity chartered by the State of New York called the New York Business Development Corporation (“NYBDC”). The NYBDC’s purpose is to provide creative underwriting solutions for non-traditional lending risks—a category into which I clearly fell. Because of the NYBDC’s relationship with the United States Small Business Association and conventional banks, they were able to mentor and guide me through the SBA lending process, locate a partner bank willing to share in the lending risk, and ultimately to underwrite a \$500,000 SBA 7(a) term loan and a \$50,000 WTC Small Business Development Loan that we used to open *Mas (farmhouse)*. In terms of public/private partnership, the lending package worked exactly as designed. My partner and I used SBA guaranteed funds to renovate a restaurant located in Greenwich Village which had gone bankrupt as a result of September 11 and to convert it into *Mas (farmhouse)*. Now, more than seven years after opening, we employ approximately 35 individuals, generate hundreds of thousands of dollars in city, state, and federal tax revenue, and continue to pay down the balance of our loan, having never missed a single payment.

Of course, all good stories must come to an end but for *Mas (farmhouse)*, the ending is unclear as, despite our successes, our continued existence is bounded by the terms of our lease which expires in less than three years. Moreover, despite my best efforts to arrive at business terms with my current landlord to extend our lease, we have not been able to do so because of various onerous economic demands that the landlord has placed upon my business as a condition of lease renewal.

B. The Small Business Stimulus Package of 2010 and the Establishment of *Mas (la grillade)*

Enter the Small Business Stimulus Package of 2010, which was initially put to vote in July of 2010, around the time Chef Zamorra and I had finally found a location to house a new restaurant called *Mas (la grillade)*. This restaurant will either replace *Mas (farmhouse)* when our current lease expires or will operate concurrently with *Mas (farmhouse)* assuming we are able to come to terms with our landlord. That location is a modest two story red-brick structure, around the corner from our current location, had been vacant for several years, and the owner was willing to either sell or lease it to us. For Chef Zamorra and I, the decision between attempting to purchase the building or to lease was obvious given the difficulties we had encountered with our current landlord—we wanted the property outright and quickly settled on a purchase price of \$2.5 million.

Following on the lessons learned in opening *Mas (farmhouse)*, I contacted the NYBDC to determine if they would consider assisting us in obtaining this sum of money plus an additional \$600,000 so that we could renovate the property and open *Mas (la grillade)*. Although the NYBDC was receptive to this request, I was informed that we would not likely be able to access the SBA’s 504 program to obtain the property because of the \$2 million lending limit contained

in then-existing legislation. In addition, lending fees alone on our package were going to total approximately \$60,000 which was a significant economic burden and rendered the viability of our expansion plans dubious.

Notwithstanding, the NYBDC aggressively courted lending partners which included the Bank of America, Citibank, HSBC, Chase, and others who were flush with capital infusions provided by the Troubled Asset Relief Program but who were having difficulties finding credit-worthy small businesses in which to invest. Ultimately, Chef Zamorra and I chose Citibank as our lending partner because of its attractive financing offer which included a fixed 25-year mortgage and low interest rates although the viability of our project depending nearly entirely on passage of the Small Business Stimulus Package. Thus, in July 2010, I watched in dismay as politics derailed the legislation's passage by a mere two votes. When the legislation was put up for vote again in September, I sat in my office voraciously counting votes while sharing live updates about the legislation's progress with Citibank. Fortunately, the legislation passed. Lending limits to small business owners were increased to \$5 million, lending fees were eliminated, and my project was able to commence.

Specifically, I was able to obtain a total of \$3,179,850 in lending as a direct result of the bill's passage which is secured through personal guarantees, cross collateralization with my existing restaurant, and (most importantly in Manhattan) the building that I now own. In addition, I saved nearly \$30,000 in SBA fees. The loan package itself was structured as follows: Citibank lent \$1,533,250 through the SBA 504 program while the NYBDC lent \$1,226,600 through the SBA 504 program. Citibank lent a further \$420,000 for start-up and related operational costs through the SBA 7(a) program, and construction is proceeding rapidly. Most importantly, *Mas (la grillade)* will be hiring approximately 65 new employees over the next 90 days.

The importance of this expansion to my business cannot be understated. First, the SBA 504 program allowed me to purchase property in New York City by placing only 10% down on the total purchase price with lenders providing 90% of the capital. Because my existing restaurant runs on tight margins, we would never have been able to purchase the property for our new restaurant if not for the fact that we were able to finance 90% of the purchase price through the SBA 504 program. Second, the collective terms of the loan package will result in my new restaurant paying thousands of dollars less per month in loan servicing costs that I currently pay in fixed costs for my existing restaurant. When this is combined with the fact that the new location has over twenty extra seats and the capacity to serve lunch and dinner (*Mas (farmhouse)* serves only dinner), the business incentives to expand remain apparent. Third, rather than paying thousands of dollars per month to a landlord who shares no vested interest in the long-term operation of my business establishment, I am now building equity in the form of property that can be used to collateralize future business-expansion plans. Fourth, unlike a conventional leasing transaction in which my rent and related fixed costs rise each year according to set terms, my fixed costs at the new restaurant are set according to the terms of the various loan agreements. Thus, they will not rise over time and will, in fact, decrease as portions of the loan are paid off in full. Finally, I am now in the privileged position to have what I term "a forever home." In other words, most small business owners lack the ability to purchase property and therefore remain subject to the whims and vagaries of commercial landlords who do not share

their economic interest. Accordingly, the business asset that one spends years creating can be torn apart in an instant when a landlord decides (for whatever reason) that the tenant's occupancy is no longer desired. Because of the SBA 504 program, Chef Zamorra and I no longer face that risk and can focus instead on the risks of satisfying customers at *Mas (la grillade)*. If we are successful in meeting that challenge, then we will rest well knowing that our new restaurant will not have to face the Hobbesian choice of shutting down (which would cause our employees and staff to lose their jobs), relocating (with the attendant associates risks and costs), or accepting commercially unreasonable leasing terms ever again.

Importantly, these benefits do not just inure to me as a business owner. They also inure to the City and State of New York and the Federal government. For example, projected revenue for *Mas (la grillade)* should generate hundreds of thousands of dollars in sales tax for the City and State of New York. In addition, each of my 65 anticipated employees will pay local, state, and federal income taxes on their earnings while also contributing their fair share to social security, Medicare, Medicaid, and related entitlement programs. Payments to the hundreds of food, beverage, and other vendors who service *Mas (la grillade)*, which include local farmers and fisherman from around the region, accountants, lawyers, plumbers, electricians, and other trade people, provide additional revenue for local, state, and federal coffers. Indeed, these benefits have already begun accruing despite the fact that *Mas (la grillade)* is only under construction. As an active construction site, we are already utilizing our SBA 504 and 7(a) funds to employ dozens of architects, engineers, plumbers, electricians, contractors, and others who are on site every day and which likewise generates tax and related revenue.

In short, the bottom line of any small business is measured in its cash flow and profitability. I think the same metrics should be utilized to measure the success of the Small Business Stimulus Package of 2010. As businesses take advantage of the bill's benefits to open, expand, and grow, this Committee should analyze whether they are generating employment opportunities, contributing to economic expansion, creating new revenue streams for government entities, and repaying their debts with interest and without default. If, on balance, the net sum of loans made pursuant to the Small Business Stimulus Package of 2010 achieves these objectives, then I think the United States will have benefited greatly from the bill's passage as will those business owners and entrepreneurs who had the foresight to take advantage of its tools. I am confident that *Mas (la grillade)* will meet these objectives and am grateful for the passage of the Small Business Stimulus Package of 2010.

Thank you for your time this morning. I will be happy to answer any questions the Committee might have.