Testimony of

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Chairman Whitehouse, Ranking Member Sessions, thank you for the opportunity to appear today before this subcommittee to tell my story and for looking into ways to help small businesses stay open.

My story begins at the end of 1995 when I decided to open a full-scale health club in Warren, Rhode Island. I had a degree in Nutrition, experience with Personal Training, and lifelong involvement in sports, martial arts and exercise. I grew up in the area and recognized the need for a health club, so I placed a full page ad in the local paper, "Coming Soon! East Bay Fitness".

Shortly thereafter, I secured a reasonably priced location. I moved into the building and began to renovate it 24/7 with the help of family and friends. During this time I met a grad student who wanted to invest in a business. We negotiated a five year arrangement and he invested his $50,000.

In October of 1996, we officially opened the doors. Though the location was not ideal and the business was very young, East Bay Fitness grew into a successful and well established business. We were actually profitable from day one. We put every dollar back into the business and continued to improve and grow over the years. In 2001, we were able to endure the opening of a larger, better funded competitor because our customer base was so loyal.

In 2005, things took an unexpected turn when our landlord refused to renew our lease. While moving to a new facility in a better location was definitely part of our long term strategy, the news was devastating at that time. Our type of business requires a large open floor plan on a main road and there were few suitable locations in the area. To make matters worse, we didn't have the cash necessary to build out a new location. We were on the verge of losing everything we had worked so hard for all those years.

Despite the daunting challenges, I decided to attempt to move the club. I knew that if I was going to pull this off, I had to make sure that I did everything right. So, the first thing I did was to enlist the expertise of a health club design and marketing firm that built clubs all over the world. They began with a market analysis and we began the search for potential locations.

We found ourselves with no other option than to lease space. At that time there were only two spaces available for lease. Late summer/early fall of 2006, we finally negotiated a deal to move into a shopping plaza and applied for the financing. Our financing needed to be secured by my personal home and assets.

Now that we had the financing in place, we were just waiting on the actual lease documents to be finished. We needed to begin the renovations right away in order to make a January opening date. In the Health Club industry, the first quarter sets up the rest of the year as people are more inclined to join after making New Years resolutions. As negotiations on the lease for the plaza space dragged, another space opened up and we signed the lease in April of 2007.

In the fall of 2007, we had the new space completely gutted and began the sandblasting and sealing of the wood beam ceiling and brick walls. We also began the closing process with our bank. We had hopes of a January opening - to seize on the New Years resolutions crowd - and continued to do what we could to keep the project moving forward. However, it wasn't until January that we were finally ready to close on the loan.

Days before the closing date was ready to be set, the bank informed us that there was a UCC filing that had to be cleared before proceeding with the closing. Unfortunately, because my business partner couldn't use any collateral, the bank that financed her stock purchase filed a UCC against the shares.

By the time we found a solution and notified the bank that we were going to clear the UCC filing they informed us that our file had been taken out of closing and sent to storage in another state. We then had to begin the closing process over again and had to resubmit all documentation. We were informed by a bank employee that through the course of our loan everyone at the bank involved with our loan had either been fired or quit at some point during the process. Within the bank there was a lot of confusion, miscommunication and misplaced documents, etc. This caused the whole process to be far longer and more painful than it should have been.

The delays ultimately caused our original landlord to evict us in the summer of 2008. The eviction process began in July of 2008 when our landlord literally began taking over our space and renovating around our customers while we were still trying to operate. Immediately, our sales dropped $10,000 (25%) per month.

Luckily, we found a small vacant building around the end of September that was to serve as a temporary location. It wasn't ideal but it saved us. We operated there until we opened the new facility in April of 2009.

We finally closed on the loan in October of 2008 and the club opened in April of 2009 --2 years behind schedule.

Our average sales prior to the eviction were $40,000 per month, enough to cover minimal expenses at the new location including the new debt service. Average sales after eviction were $30,000 per month. A year of normal operations and growth in the new facility would have put us back on track.

By the time the new club was open we were behind in bills and needed to free up cash flow so we would have a chance to breath and focus on growing. We were looking for help everywhere, RIEDC, SBA, our banks, new banks, private investors, etc. We had applied for an ARC loan to pay our equipment leases. If approved, it would have freed up $7,000 a month in working capital for 5 months. We couldn't even get banks to take the application never mind consider it. They said they did not want to do the paperwork. We also applied for a deferment with our bank. We were told by the SBA that our bank could approve a deferment for up to 1 year without SBA approval. It took 4 months and a lot of paperwork just to get an answer. We were eventually granted a 3 month interest only deferment. Unfortunately, this would not be a significant help.

An ARC loan and a longer loan deferment by themselves probably would have been enough to save the business if granted soon enough. This would have given us the time we needed to grow and catch up on the past due bills. When we closed we had accumulated approximately $140,000 in past due bills. Half of that amount also would have saved the business while we caught up with the rest over time. I guess when you look at the big picture a relatively small amount of assistance could have helped us avoid having to go bankrupt with over 1 million dollars in debt.

A little flexibility on timing could have saved our business. Last year, we met with a bankruptcy attorney hoping that, if we filed, we could buy enough time to make it to the first quarter of the year and get our business back on track. Unfortunately, the attorney told us that our business value was too small to warrant reorganization in Chapter 11. The only bankruptcy option for us was liquidation.

We have now lost the business, our entire life savings, our credit, and now probably our house which was used to secure the bank loan. It didn't have to be this way. Timing worked against us. If we had more time, we could have stayed in business, become profitable again, and avoided laying off 25 full-time and part-time employees. Senators, please consider ways to help small businesses like mine have a fighting chance to stay in business. Thank you and I'm happy to answer any questions.