



Office of Inspector General Small Business Administration

July 1996 Update

Business Loans

Two California Merchants Charged with Making False Statements. On July 1, 1996, two southern California businessmen, both clients of the same loan packager, were charged on July 1, 1996, with making false statements to Federally-insured banks.

❶ The owner of a general merchandise discount store in Los Angeles, California, was charged in a criminal information with one count of **making false statements in a loan application to a Federally-insured bank.** The false statements were made in connection with his \$1,000,000 SBA-guaranteed business loan from a participating lender bank. The loan was referred to the OIG by officials at the bank who were suspicious of the documentation supporting the borrower's capital injection. In addition to the false documents associated with the capital injection, the man submitted altered Federal income tax returns for 1987-89 that significantly overstated his income to support his loan application.

❷ The owner of a market in West

Covina, California, was charged in a criminal information with one count of **making false statements in a loan application to a Federally-insured bank.** He had obtained a \$285,000 SBA-guaranteed business loan based on an application containing altered copies of income tax returns for 1988-90. Each of the returns significantly overstated his income.

These actions were the result of an ongoing series of investigations, conducted jointly with the U.S. Secret Service, regarding the submission of false documents in loan applications prepared by unscrupulous loan brokers and packagers. The loan broker has also been charged as a result of this investigation.

Two California Business Owners Plead Guilty to Making False Statements. Two Los Angeles, California, business owners, both clients of a Pasadena, California, loan broker, entered guilty pleas on July 22, 1996, each admitting to one count of **making a false statement in a loan application to a Federally-insured financial institution.** The charges had been filed as a result of the OIG's joint investigation with the Secret

Service.

① The owner of an automotive transmission shop was charged with making a false statement in connection with his \$420,000 SBA-guaranteed business loan. The investigation revealed that the owner submitted altered tax returns for the years 1988-90, each of which significantly overstated his income. He also submitted invoices in the names of nonexistent businesses. The investigation also determined that the applicant received a \$208,000 residential loan from another lender by using altered income tax returns.

② The owner of a sporting goods store was charged with making a false statement in support of her \$1,000,000 SBA-guaranteed business loan. The investigation revealed that the woman submitted altered tax returns for the years 1988-90, each of which significantly overstated her income. By using altered income tax returns, she received business loans that, in turn, were used to purchase a home and a new automobile.

The OIG initiated the investigation after a participating lender referred the matter.

Utah Motorcycle Dealer Sentenced for Bank Fraud. An owner of a motorcycle dealership in Salt Lake City, Utah, was sentenced on July 15, 1996, to 6 months home confinement, 3 years supervised release, and \$71,799 restitution. He had previously pled guilty to one count of

bank fraud. The dealership had received a \$185,000 SBA-guaranteed loan in 1979, pledging three pieces of real property as collateral. The felony information to which he pled guilty charged that in the fall of 1993, when the loan was in serious default, he caused the filing of reconveyance documents fraudulently releasing the liens on the properties. Having obtained release of the liens, he then pledged two of the properties to another Federally-insured bank to obtain an additional \$150,000 in financing. The SBA/OIG investigation also determined that the businessman forged the signature of a former officer of the participating lender on the release-of-lien documents. The investigation was based on a referral from the Salt Lake City District Office.

Pennsylvania Business Owner Sentenced for Bank Fraud and Making False Statements. The owner of an Allentown, Pennsylvania, dog grooming business was sentenced on June 6, 1996, to 1 day's imprisonment, 3 years supervised release, a \$2,000 fine, and a \$150 special assessment for submitting false information to SBA and a Small Business Lending Corporation (SBLC). She had previously pled guilty to **bank fraud, making a false statement to SBA, and making a false statement to a Federally-insured lender.** The charges relate to her scheme to defraud SBA, the SBLC, and a participating lender bank by submitting fictitious Federal income tax returns as part of her loan applications. The woman first applied to the SBLC for a \$107,000 SBA-guaranteed loan, which was subsequently canceled due to discrepancies between the tax returns she submitted and those on file with the

IRS. While being interviewed by an SBA/OIG special agent, she admitted that she then went to the bank in Emmaus, Pennsylvania, and, using the same fictitious tax returns, applied for and received two non-SBA loans totaling \$100,000. This matter was referred to the OIG by the Financing Division of SBA's Philadelphia District Office.

California Businessman Convicted of Making False Statements to Federally-Insured Bank. The former owner of a Paramount, California, marble flooring company was convicted on July 31, 1996, on all counts of his indictment. The indictment charged the man with **making false statements on a loan application to a Federally-insured financial institution** in connection with his \$300,000 SBA-guaranteed business loan. The businessman was identified in an ongoing series of SBA/OIG and FBI investigations examining the submission of false tax returns and false invoices as part of applications submitted to SBA's participating lenders by his loan packager. The OIG initiated this investigation based on a referral from SBA's Los Angeles District Office.

Indiana Businessman Charged with Making False Statement to SBA. A Muncie, Indiana, businessman was charged in an information filed on July 2, 1996, with one count of **making a false statement** to obtain a \$400,000 SBA-guaranteed loan. The SBA/OIG's joint investigation with the FBI disclosed that the man falsely certified that the loan proceeds were to be used as operating capital for his foundry and machine shop, when he actually intended to (and subsequently did) use a substantial portion of the loan proceeds for his

personal benefit. This investigation was initiated based on a referral from the Indianapolis District Office.

Florida Dairy Product Supplier Suspended from Federal Programs--Balance of SBA-Guaranteed Loan Canceled. Following notification by the OIG, on May 17, 1996, SBA's Miami District Office **canceled the final disbursement of \$734,037.80 of a \$1,200,000 SBA-guaranteed loan** to a Fort Lauderdale, Florida, dairy product supply company. SBA took this action after the General Services Administration suspended the firm from participating in all Federal programs as of April 17, 1996. The dairy supply company allegedly falsely entered into an agreement with the U.S. Department of Agriculture (USDA) to export milk powder to the United Arab Emirates. Investigation by USDA's OIG determined that the firm had diverted the milk powder through Singapore to the Philippines in violation of the agreement. The firm had earlier received an SBA-guaranteed loan of \$375,000 to purchase inventory and equipment, and the company's repayment ability is heavily reliant on the Government's export subsidies that will be eliminated by the current suspension.

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Disaster Assistance

U.S. Virgin Islands Loan Applicant Indicted for Making False Statement. A St. Croix, U.S. Virgin Islands, disaster loan applicant was indicted on July 16, 1996, on charges of **making false statements to SBA.** The SBA/OIG's

joint investigation with the Federal Emergency Management Agency's (FEMA) OIG developed evidence that the man's application for a \$10,000 disaster home loan contained false claims for lost property, a fabricated bill of sale for an automobile, and falsified property rental agreements. The investigation was based on a referral from the Disaster Assistance recovery center in St. Croix.

North Dakota Resident Indicted for Making False Statement and Theft of Public Money. A resident of Mandan, North Dakota, was indicted on July 16, 1996, on three counts of **making a false statement to SBA** and three counts of **theft of public money**. The SBA/OIG investigation determined that the loan applicant failed to show a \$103,189 judgment on her application for a \$35,000 disaster home loan. A court-authorized search of her home by an OIG agent and Deputy U.S. Marshals documented that she had not used the loan proceeds to repair her home, as she had claimed. The woman was charged with theft of public money because she failed to return the loan proceeds that she had not used for authorized purposes. The OIG initiated the investigation based on a referral from the Fargo District Office.

Government Awarded Treble Damages in Judgment Over Fraudulent Disaster Loans. The Government was awarded a \$418,000 civil judgment on June 3, 1996, against a restaurant holding company and its president for **false claims**, **conversion of collateral**, and **breach of contract** in connection with two disaster loans. The company, which was operating a restaurant in Des Moines, Iowa, at the time of the Midwest Flood of 1993, had received the first \$110,000 of

the loan proceeds when the Des Moines District Office was told that the firm's president had sold equipment pledged as collateral for SBA loans. The OIG's subsequent investigation showed that he had failed to disclose a significant debt when applying for the disaster loans, lied to conceal his misuse of disaster loan proceeds, and repeatedly lied to prevent SBA from recovering the collateral he had unlawfully sold. The judgment included three times the \$110,000 amount of loan proceeds disbursed, a \$10,000 penalty for each of five false claims, plus a 10 percent surcharge. The OIG initiated this Affirmative Civil Enforcement investigation based on a referral from the Des Moines District Office.

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Government Contracting

Pennsylvania Dairy Agrees to Settle Government Lawsuit. A Uniontown, Pennsylvania, dairy agreed on May 21, 1996, to pay the Government \$32,500 to settle (while denying any fraud) a civil action filed by the U.S. Attorney's Office for Eastern Pennsylvania under the False Claims Act. An OIG investigation had disclosed that the firm **falsely certified** that it was eligible to bid on Government contracts set aside for small businesses. The dairy's owner was awarded contracts to provide dairy products to Fort McNair, Andrews Air Force Base, and Bolling Air Force Base after falsely certifying that, together with its affiliated companies, it had fewer than 500 employees. In fact, the dairy's owner was affiliated with three companies, with total reported net sales of \$160 million and a total number of employees exceeding 500; therefore, it

was formally judged by SBA to be ineligible for small business set-aside contracts. The owner nevertheless continued to bid on and obtain such set-asides, submitting to the Government at least 686 false claims for reimbursement totaling \$483,671. This matter was referred to the OIG by the Office of Government Contracting's Area II Office.

This case is the fourth Government Contracting case, in as many years, to generate an Affirmative Civil Enforcement settlement. Each involved a contractor who disregarded SBA's eligibility determination and bid on subsequent set-aside contracts for which he was ineligible. Because contracting agencies have no effective way of knowing whether SBA has deemed a company too large for set-aside contracts within certain industries, they have sometimes awarded contracts to ineligible businesses as a result of relying on false self-certifications. In FY 1995, the OIG issued a Program Vulnerability Memorandum suggesting that SBA periodically generate a list of companies found ineligible to self-certify as small and circulate it to all Federal agencies. Although the Assistant Administrator for Government Contracting rejected the suggestion by stating that such a listing would be unable to keep pace with SBA's recertification process, the OIG continues to believe that this practice would prevent a substantial number of fraudulent awards and preclude many size appeals. Any company on the list could rebut the presumption of ineligibility by presenting SBA's recertification to the procuring agency.

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Other OIG News

Office of Inspector General Conducts Annual Training in Washington, D.C. The Office of Inspector General conducted its annual training conference at the SBA's Central Office in Washington, D.C., during the week of July 8, 1996. Participants heard "state of the OIG" remarks by the Inspector General, as well as presentations by Administrator Phillip Lader and Deputy Administrator Ginger Lew. Sessions which were attended by OIG auditors and inspectors included: Surety Bond and SBIC program updates presented by SBA program officials, ADP information presented by SBA's Office of Information Resource Management, statistical sampling, and report referencing. All OIG investigators underwent firearms qualification training and received instruction in the "use of force" policy. They also received training in firearms safety and retention, asset forfeiture, search warrants, and critical incident trauma. All OIG conference participants attended program updates on the Agency's Economic Development programs, the Section 8(a) program, and the Disaster Assistance program, these updates were presented by senior SBA program officials. Finally, all attendees received instruction in understanding and avoiding sexual harassment.

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The Activity Update is produced by the SBA/OIG, James F. Hoobler, Inspector General.

Comments or questions concerning this update or requests for copies of OIG audits, inspections, or other documents should be directed to Johnny Cahn, SBA/OIG, 409 Third Street, SW, Washington, DC, 20416-4110.

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