



## Office of Inspector General U.S. Small Business Administration

January 2008 Update

### *Business Loan Programs*

Ongoing Investigation Results in Indictments. The following cases is part of an ongoing investigation, being conducted jointly with the U.S. Secret Service, relating to a scheme in which a lender's former executive vice president and others conspired to fraudulently qualify loan applicants for SBA-guaranteed loans.

- On January 23, 2008, the former owner of a gas station and convenience store in Allen Park, Michigan, pled guilty to a Superseding Information charging him with making a false statement to the SBA in order to obtain an \$880,000 SBA-guaranteed loan. The guilty plea relates to his falsely stating that he would be the sole owner of the business when, in fact, he would only own 30 percent. In addition, he falsely represented that he was contributing \$300,000 as his equity injection. Although his loan is in default, the lender canceled the SBA guaranty during the course of this investigation, so SBA suffered no loss.
- On January 23, 2008, the former managing member, of a gas station and convenience store in Auburn Hills, Michigan, was sentenced to 24 months probation, the first 9 to be served in home confinement. He was originally charged in a five-count federal indictment, along with both his undisclosed partner and the seller of the property, with conspiracy, false statements, and wire fraud in connection with a \$1,335,000 SBA-guaranteed loan that was used to purchase the gas station/convenience store. He later pled guilty to superseding Information charging him with one count of making false statements, specifically with claiming to be 100 percent owner when actually he was only a 50/50 partner. He defaulted on the SBA-guaranteed loan and SBA paid a claim of \$1,019,943.56; however, the lender subsequently refunded this amount and canceled its guaranty pursuant to a settlement agreement with SBA. The indictment charges against the former managing member were dismissed at his sentencing; however, those charges will remain in effect against the undisclosed partner and the seller of the property, both of whom are international fugitives.
- On January 15, 2008, a Michigan man pled guilty to a criminal Information charging him with two counts of conspiracy. The first count involves the Michigan man and his co-conspirators making false statements relating to SBA-guaranteed loans made by a Michigan lender and Tennessee lender. The false statements relate to counterfeit bank documents and checks used to verify the required borrower equity injection on at least nine SBA-guaranteed loans. The second count relates to conspiracy to defraud a bank in a non-SBA matter.
- On December 14, 2007, the former president of a gas station and convenience store in Detroit, Michigan, was charged in a six-count criminal Information with conspiracy to defraud the U.S. government, false statements, and aiding and abetting. According to the Information, the former president conspired with others to make false statements regarding his education, employment history, net worth, required equity injection, and the percentage of the business that he owned. He defaulted on the loan and SBA paid a claim to the lender of \$570,303.01. The lender has since refunded this money and canceled its guaranty pursuant to a settlement agreement with SBA.

Company and Texas Man Ordered to Pay Penalties. On January 3, 2008, a lithium power company and a Texas man were ordered to pay civil penalties to the U.S. Government as a result of a partial summary

judgment entered on September 27, 2007. The company and the Texas man were ordered to pay \$4,972,365 in actual damages and \$43,000 in civil forfeitures, for a total of \$5,015,365 (plus post judgment interest of 3.28%). The SBA OIG began investigating the company and the Texas man after an allegation was received from the National Aeronautics and Space Agency (NASA) OIG and the Defense Criminal Investigative Service (DCIS) that the company had fraudulently obtained ten research contracts, totaling over \$3 million, under the Small Business Innovative Research (SBIR) program. The court ruled that the company misrepresented its history, status, physical facilities, and previous work performed. The SBA OIG is conducting this investigation jointly with the NASA OIG, DCIS, and Army Criminal Investigation Division.

Pennsylvania Business Manager Sentenced. On January 9, 2008, the business manager of a now defunct Philadelphia, Pennsylvania supermarket was sentenced to six months home confinement, three years probation, and restitution of \$993,000 to be paid jointly and severally with other defendants charged in this case. The business manager previously pled guilty to an Information charging him with one count of wire fraud and one count of aiding and abetting. He had obtained a 75 percent SBA-guaranteed loan in the amount of \$993,000 through a New Jersey lender to assist his business. In support of the loan application, he provided forged power of attorney documents in order to improperly pledge collateral. Further, he submitted false documentation that showed he had provided a cash injection of \$250,000 into the business when in fact he had not. Currently, two other defendants charged in this matter are awaiting judicial action. This investigation is being conducted jointly with the Federal Bureau of Investigation (FBI).

Texas Men Sentenced. On January 7, 2008, the sellers of an investment company, doing business as gas stations and convenience stores, were sentenced in the Northern District of Texas to 36 months probation and ordered to pay restitution in the amount of \$492,187.24. Each of the sellers pled guilty on September 14, 2007, to one count of conspiracy to commit wire fraud. In addition, the purchaser of the gas stations and convenience stores pled guilty on October 30, 2007, to one count of the same charge. The investigation disclosed that, in order to obtain two SBA-guaranteed loans in the amounts of \$500,000 and \$1,100,000 for the purchase of the businesses, both the

sellers and the purchaser conspired to falsify the capital injection requirements by submitting fraudulent loan applications and supporting documents to the lender and SBA. The purchaser is awaiting sentencing. The OIG is conducting this investigation jointly with the FBI.

Construction Contractor President Charged. On January 8, 2008, the president of a now defunct construction company in Spokane, Washington was charged in a superseding indictment with two counts of mail fraud, one count of false statements on a loan application, and two counts of false statements to the SBA. The construction company obtained SBA-guaranteed surety bonds in order to perform public works contracts for state agencies and city municipalities. The indictment alleges that he falsely stated he had paid subcontractors and suppliers; falsely claimed to the surety company that the construction company was out of funds when, in fact, he had diverted and was continuing to divert contract proceeds of approximately \$87,000 to his personal use; made false statements to a federally-insured financial institution regarding a mortgage loan; and falsely stated to the SBA that he had not defaulted on prior surety bonds. The SBA suffered a loss of over \$500,000 due to the construction company's defaults on several contracts (the SBA's surety bond program guarantees 70 percent of the surety company's losses on bonded jobs the SBA has guaranteed). This matter was referred to the OIG by the National Insurance Crime Bureau (NICB). The OIG is conducting this investigation with the FBI and the NICB.

Suspended Attorney Pleads Guilty. On January 15, 2008, a suspended New Jersey attorney pled guilty to one count of wire fraud, one count of money laundering, and one count of aiding and abetting. He acted as a loan broker and assisted a borrower in obtaining an SBA-guaranteed loan in the amount of \$993,000 through a small business lender in Livingston, New Jersey. In exchange for a 10 percent fee, the attorney conspired with the borrower to submit forged power of attorney documents, fraudulent tax records, and false cash injection documentation. The borrower was previously sentenced, and another co-conspirator is awaiting sentencing. The OIG is conducting this investigation jointly with the FBI.

## ***Disaster Loan Program***

OIG Issues Report on the Adequacy of Supporting Documentation for Disbursements. On January 29, 2008, the OIG issued a report, *Review of the Adequacy of Supporting Documentation for Disbursements*. This report is the last in a series resulting from our review of SBA's efforts to expedite loan disbursements during its "90-in-45 Campaign". The campaign was initiated in the fall of 2006 to disburse funds on approximately 90,000 loans approved for the Gulf Coast Hurricanes within 45 days. We initiated the audit in response to an employee complaint that loans processed during the campaign were disbursed without receiving the required supporting documentation.

We reviewed general information on 40 of 1,154 statistically sampled loans disbursed by the 10 case managers within the Fort Worth Processing and Disbursement Center who had made the highest average daily disbursements during the "90-in-45 Campaign." The review disclosed that nearly half (19) of the 40 loans reviewed were disbursed by SBA without securing the proper documentation needed to protect SBA's interest in the collateral and to document that insurance proceeds were used to offset the SBA loans. In total, 55 documents were missing for the 19 loans in question. Projecting the sample results to the universe of 1,154 loans, we estimated that SBA disbursed 554 loans without securing all of the documents required to make disbursements.

We made three recommendations to the Associate Administrator for Disaster Assistance to correct the identified deficiencies. The Agency agreed with our findings and recommendations and stated that it would contact the borrowers associated with the 19 loans to request the missing documents; review the 1,154 loans and, in cases where all required documents were not obtained, contact borrowers to obtain the missing documents; and establish written procedures to ensure that all required loan documents are obtained and noted in loan files prior to disbursements over \$10,000.

Alabama Resident Indicted. On December 26, 2007, a Mobile, Alabama resident was indicted on one count of false statements and one count of false statements/overvalued statement of assets. The indictment alleges that he altered a bill of sale for his houseboat, which was used as his primary residence,

in order to secure a disaster loan in the amount of \$21,800. It also alleges that he provided false statements to the SBA regarding the use of the loan proceeds. This case was referred by an insurance company.

Financial Consultant Enters Into Agreement. On December 28, 2007, the U.S. Attorney's Office (USAO) for the Southern District of New York entered into a non-prosecution agreement with a financial consultant who obtained a \$140,600 disaster loan in May 2002, pursuant to the declared disaster after the terrorist attacks on September 11, 2001. He stated on his application that he had started a consulting business in May 2001, and that his business had suffered as a result of the attacks. The investigation revealed that, instead of being used as working capital, the loan proceeds were deposited into the trust account of his attorney. A portion of the proceeds were paid to another company, co-owned by the financial consultant, and the remaining funds were disbursed to him and his attorney. The attorney was recently convicted in federal court of fraud involving misuse of his escrow account and was sentenced to 4 years imprisonment. Due to this fact, the age of the case, and the ambiguities involved with prosecuting working capital loan cases, the USAO declined to prosecute. Instead, it entered into a non-prosecution agreement that states that the financial consultant, under threat of prosecution for non-compliance, will pay the SBA an initial \$5,000 and will thereafter make minimum \$1,000 monthly payments until the loan is paid in full. This case was referred to the OIG by a former FBI agent now working as a private investigator.

Texas Couple Convicted. On January 16, 2008, the president of a Texas lumber company was convicted in the U.S. District Court in the Eastern District of Texas on three counts of making false statements to the SBA, and her husband was convicted on one count of the same charge. The couple provided false statements to SBA in order to obtain a \$25,800 Economic Injury Disaster Loan (EIDL). Both the husband and the wife purported to own several vacant lots in Texas that they knew did not belong to them, and offered these lots to SBA as collateral in order to obtain the EIDL.

Louisiana Resident Indicted. On January 18, 2008, a resident of Metairie, Louisiana was indicted on four counts of wire fraud relating to \$69,100 in Hurricane Katrina disaster loan assistance he received from the

SBA. The indictment alleges that he transmitted facsimiles of altered building permits in order to induce SBA to release funds on both a \$19,500 disaster home loan and a \$49,600 disaster business loan. The investigation revealed that the building permits were for work performed prior to Hurricane Katrina. In addition, he allegedly kept insurance proceeds assigned to the SBA and used loan proceeds to purchase a new home, car, and boat. This case was initiated based on an anonymous complaint through the OIG Hotline.

### ***Statutory/Regulatory/Policy Reviews***

In an effort to proactively identify and correct potential Agency inefficiency and management problems at the onset of policy and regulatory development, the OIG reviewed, cleared, and/or provided comments, as appropriate, on 3 Agency initiatives, including proposed legislation, SBA Standard Operating Procedures, and Agency notices containing directives to its employees.

This monthly update is produced by the SBA OIG, Eric M. Thorson, Inspector General.

The OIG has established an e-mail address ([oig@sba.gov](mailto:oig@sba.gov)) that we encourage the public to use to communicate with our office. We welcome your comments concerning this update or other OIG publications. To obtain copies of these documents please contact:

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