



Office of Inspector General Small Business Administration

May 2000 Update

Business Loans

California Tax Preparer Charged with Conspiracy, Mail Fraud, and Aiding and Abetting. A southern California tax preparer was charged in a criminal information filed on April 21, 2000, with one count of **conspiracy**, two counts of **mail fraud**, and one count of **aiding and abetting**. The U.S. Attorney's Office for the Central District of California requested that SBA/OIG join the Department of Housing and Urban Development (HUD) OIG, the Federal Bureau of Investigation (FBI), and the Internal Revenue Service (IRS) in their investigation of two officers of a residential real estate company in Santa Fe Springs, California. The two had obtained a \$550,000 SBA-guaranteed loan to purchase a billiards club in Whittier, California, allegedly by using a false Social Security number and fraudulent checks, submitting false financial statements, and omitting a criminal record from the SBA application. One of the two has admitted preparing altered income tax returns for 1995 through 1997 so that the other could obtain loans from HUD and SBA. They were previously indicted on charges of making material false statements, conspiracy, wire fraud, money laundering, and aiding and abetting.

Former California Accountant and Businessman Indicted on Nine Counts. A former accountant from Alta Loma, California, and a businessman had previously been indicted on nine counts of

making false statements to a federally insured financial institution in connection with SBA-guaranteed loans. On April 28, 2000, the accountant pled guilty to two counts; as part of the negotiated plea, the Government agreed to dismiss the other counts on which he had been indicted. The indictment charged him with preparing altered copies of tax returns submitted with four SBA-guaranteed loan applications. On May 4, 2000, the businessman was acquitted on all counts. He had been charged with submitting altered tax returns for 1989 and 1990 in support of his \$550,000 loan application and with aiding and abetting the accountant's crimes. This was one of six loan applications presented in 1991 by an SBA-loan broker to the now-defunct Mechanics National Bank for SBA guaranty consideration. These applications totaled over \$2.7 million but were actually part of a \$4 million scheme. The investigation was conducted jointly with FBI.

California Man Sentenced for Bank Fraud.

The former owner of a liquor store in San Diego, California, was sentenced on May 1, 2000, to time served (1 day's incarceration), 5 years supervised release, and \$115,000 restitution to SBA. He previously pled guilty to one count of **bank fraud**. OIG initiated its investigation based on a referral from SBA's San Diego District Office. The referral identified discrepancies concerning real properties the former owner had listed on his application for an SBA-guaranteed loan and in a Chapter 7 bankruptcy filing. In

personal and business financial statements submitted with his application for the \$161,500 business loan, he indicated that he owned three pieces of real estate. The investigation revealed that, in fact, he had transferred ownership of two of the properties to his brother 2 years prior to the application. The investigation also found that he failed to list two outstanding loans, totaling over \$100,000, for which the liquor store was liable.

Three Californians Indicted for Bank Fraud, Making False Statements to Bank, and Wire Fraud. Three persons associated with an equipment manufacturer in San Diego, California, were indicted on April 7, 2000, on four counts of **bank fraud**, three counts of **making false statements to a bank**, four counts of **wire fraud**, four counts of **mail fraud**, five counts of **fraudulent transfer of property in contemplation of bankruptcy**, and one count of **bankruptcy fraud**. The company had obtained an \$833,000 SBA-guaranteed Export Working Capital loan in 1996. The line of credit disbursements were to be used to finance production of mining conveyors. The defendants allegedly submitted false documentation to obtain the SBA-guaranteed loan disbursements, including false invoices and false facsimile transmissions. To carry out the alleged fraud, they made false representations by wire communication and by Federal Express. The defendants also allegedly transferred property of the company to conceal it from the U.S. Bankruptcy Court. The indictment also charges that the company president made material omissions on the company's Statement of Financial Affairs to the U.S. Bankruptcy Court. SBA's net chargeoff on the loan was \$175,051. OIG joined FBI's investigation at the request of the U.S. Attorney's Office for the Southern District of California.

Kansas Bank and President Sued for Making False Statements and Breach of Contract. A Federal civil fraud complaint filed on May 10, 2000, charged a Kansas bank and the bank president with **making false statements** to SBA and **breach of contract**. In 1993, SBA had guaranteed 85 percent of the bank's \$630,000

loan to a company which failed in 1994. According to the lawsuit, the bank and its president submitted to SBA a fraudulently redacted appraisal that included buildings that were not part of the loan collateral. Although no credit report was obtained or reviewed, they stated that the applicants had excellent credit history. Further, the pair certified that there had been no substantial adverse change in the applicants' financial condition. In fact, upon learning that the company would not be receiving a \$500,000 Community Development Block Grant (the grant application was never disclosed to SBA), they demanded additional security for the loan. Finally, the bank and its president certified that they had not received any Certificates of Deposit (CDs) in connection with making the defendant's loan, when in fact they had obtained CDs totaling \$55,000. The lawsuit claims SBA incurred damages of \$474,587 due to the defendants' actions, and seeks triple damages, other civil penalties, and interest and costs. OIG's joint investigation with the U.S. Secret Service previously resulted in the indictment of company officials for making false statements regarding their true ownership and officer positions. This investigation was initiated based on a referral from SBA's Kansas City District Office and subsequent information developed by OIG.

Two Associates of Franchise in Florida Indicted for Conspiracy and Making Material False Statements. Two persons associated with the sale of a pet store franchise in Tampa, Florida, were indicted on May 10, 2000, on one count of **conspiracy** and one count of **making material false statements** to induce the participating lender and SBA to fund a \$150,000 SBA-guaranteed loan. The store's seller allegedly signed and submitted a bill of sale that indicated a total price of \$225,000 and verified that he had received a \$75,000 cash injection from the buyers. The president of the franchiser allegedly submitted a letter to the bank corroborating that the \$75,000 cash injection from the buyers had been paid. In fact, the sale price was \$200,000 and the buyers had made a cash injection of only

\$25,000. An undisclosed \$25,000 note between seller and the buyers made up the difference. OIG conducted this investigation, which is continuing, jointly with FBI. SBA's South Florida District Office had forwarded to OIG the allegation on which the investigation was based.

California Man Arrested for Making False Statements to Federally Insured Bank. The owner of a North Hollywood, California, computer parts company was arrested by OIG on May 15, 2000. The warrant was based on an affidavit declaring that the owner had violated the terms of his supervised release (following a period in prison) by **making false statements to a federally insured bank** in an application for a \$135,000 SBA-guaranteed loan. In the Statement of Personal History (SBA Form 912) included with his 1999 application, he allegedly indicated that he had no criminal history. In fact, he had been convicted of transporting more than five kilograms of cocaine into the United States in 1989 and was sentenced to more than 10 years in prison. When he applied for the SBA-guaranteed loan (his application was subsequently declined), he was on parole for this crime. Further investigation revealed that he had also made false statements, including concealing his criminal history, in applying for an earlier SBA-guaranteed loan. In March 1999, OIG found another North Hollywood company he owned applied for a \$430,000 loan to acquire equipment and open a telemarketing center for computer parts and office supplies. Scheduled repayments on that loan are current. The U.S. Probation Office asked OIG to join its investigation.

New York Café Owner Pleads Guilty to Bank Larceny. A Buffalo, New York, café owner pled guilty on May 23, 2000, to a one-count information charging him with **bank larceny** in connection with a \$38,000 LowDoc loan made through a participating lender. The investigation revealed that he had filed tax returns with IRS that were significantly different from the "copies" of tax returns that he had submitted to the bank as part of the loan application process. He made full

restitution (\$38,770) to the bank before entering his plea. The investigation, conducted jointly with FBI, was based upon a referral from SBA's Buffalo District Office.

Pennsylvania Businessman Indicted for Mail Fraud and Making False Statements. The owner of a manufacturing business in Lancaster, Pennsylvania, was indicted on May 31, 2000, on three counts of **mail fraud** and three counts of **making false statements** to SBA. The company had obtained a \$315,000 SBA-guaranteed loan in 1990 which defaulted in 1991. The owner made various offers of compromise to SBA during the period 1992-1995, including stating that his only asset was the \$60,000 of equity in his home. The indictment charges that during this time period he obtained \$551,000 through an unrelated stock sale, opened various bank accounts in the names of his children, prepared bogus stock certificates showing that his children and other entities actually owned the stock, and purchased a warehouse for \$475,000 in 1994. The indictment further alleges that the defendant at all times had complete control of the shares of stock and monies from the stock sale. He allegedly concealed financial information from SBA by submitting various false financial statements and false stock certificates via the U. S. Postal Service and Federal Express. The purpose was to induce SBA to accept his \$60,000 compromise offer and forgive the remaining balance of the loan, estimated to be \$437,000. This investigation was conducted by OIG based on a referral from SBA's Philadelphia District Office.

Small Business Investment Companies

New York Consultant Sentenced to Prison for Bank Fraud. A consultant to the officers of a now-failed small business investment company (SBIC) in New York, New York, was sentenced on May 26, 2000, to 12 months incarceration, 3 years probation, and \$244,847 restitution. He previously pled guilty to one count of **bank fraud**. Between February 1991 and May 1992,

he acquired control over the day-to-day operations of the company, a financial institution licensed by SBA. He executed a scheme to defraud the SBIC by misappropriating and embezzling funds and other assets intended for or belonging to the SBIC. In furtherance of the scheme, he opened accounts at three banks in a name deceptively similar to that of the company he consulted for. He also deposited checks made payable to the investment company into the bogus accounts and converted the proceeds.

Over \$1 million was misappropriated in this fashion. In May 1992, the SBIC failed and was placed in receivership. SBA, honoring its guaranty, was obligated to pay \$4.7 million to the bank that issued the federally guaranteed debentures to the SBIC. OIG's joint investigation with FBI was based on a referral from SBA's Office of General Counsel.

Section 8(a) Business Development

New York Project Manager of Construction Company Indicted for Bond Scheme. A project manager of a Long Island City, New York, construction company was indicted on May 1, 2000, on one count each of **conspiracy and altering, forging, or counterfeiting a bond to defraud the Government.** As a condition of a \$379,079 Section 8(a) contract with the Federal Bureau of Prisons (BOP), the construction company was required to obtain payment and performance bonds to cover any cost resulting from its failure to perform adequately and/or pay its subcontractor. The project manager allegedly submitted to a BOP contracting officer payment and performance bonds purportedly issued to his company by an insurance company. OIG's joint investigation with FBI found that the insurance company never issued the bonds and that the signatures on them were forged. According to the indictment, the project manager knowingly submitted forged bonds and conspired with others to defraud the Government through the counterfeit bonds and the alteration of other records. The president of the construction

company previously pled guilty to conspiracy in connection with his role in submission of fraudulent bonds. In a cooperation agreement with the Government, the president of the company stated that the project manager was responsible for obtaining bonding and insurance the company's contracts. OIG initiated the case based on a referral from BOP.

Office of Inspector General

The Office of Inspector General's Semiannual Report to Congress for the period of October 1, 1999, through March 31, 2000, has been transmitted to Congress. This report, which highlights OIG's accomplishments for the last six months, is available on our website, www.sba.gov/IG/reports/html#sar.

OIG has established an e-mail address, oig@sba.gov, which we encourage the public to use to communicate with our office. We welcome your comments on our publications, requests for reports, suggestions for possible audits, or referrals of possible incidents of waste, fraud, or abuse.

The activity Update is produced by SBA/OIG, Phyllis K. Fong, Inspector General.

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