



Office of Inspector General U.S. Small Business Administration

November 2003 Update

NOTICE: The monthly update on activities of the SBA's Office of Inspector General is posted on the internet at <http://www.sba.gov/IG/igreadingroom.html>. You may access this site at any time and find the latest monthly updates along with other Inspector General reports and documents. If you are not an SBA employee and wish to receive a monthly reminder by e-mail, please send your name, telephone number, and e-mail address to teresa.clouser@sba.gov or you may contact her at (202) 205-6580.

Business Loan Programs

Colorado Business Owner and Wife Plead Guilty. A Berthoud, Colorado, business owner and his wife, pled guilty on October 20, 2003, to one count of **bankruptcy fraud** and one count of **conspiracy**. The business owner was previously indicted on both counts. The investigation determined that his wife obtained a \$100,000 SBA-guaranteed LowDoc loan from a financial institution. Shortly after receiving the loan, she defaulted and filed for bankruptcy. They conspired to hide assets in excess of \$25,000 from the bankruptcy court. The business owner's indictment was based on information obtained during the investigation of his wife, who recently pled guilty to one count of making a **false statement** to a financial institution and one count of **bankruptcy fraud**. This investigation was initiated based on a referral from the Colorado District Office. The SBA OIG conducted this investigation jointly with the Federal Bureau of Investigation (FBI).

Texas Business Owner Pleads Guilty to Conspiracy. A Houston, Texas, business owner pled guilty on October 27, 2003, to one count of **conspiracy**, in connection with a fraudulent loan scheme to finance the purchase of another business. He conspired with

another individual to submit a loan application package with fraudulent personal financial statements and a false purchase contract that inflated the price of the business from \$2 million to \$2.7 million. To satisfy the closing requirements, the defendants submitted altered fraudulent copies of cashiers' checks as proof of their required equity injection. He will be sentenced on January 26, 2004. The SBA OIG conducted this investigation jointly with the FBI.

Texas Business Owner and Wife Charged with False Claim of U.S. Citizenship. A convenience store and service station owner in Arlington, Texas, was indicted on November 18, 2003, on one count of **false claim of United States (U.S.) Citizenship**, a violation of Title 18 USC 911. His wife was indicted for inducing a financial institution, and the SBA, to fund a \$605,000 SBA-guaranteed loan by falsely representing herself as a U.S. citizen on SBA Form 912. The SBA OIG is conducting this continuing investigation with the Department of Treasury's OIG for Tax Administration, the Department of Homeland Security, Social Security Administration (SSA), Department of Agriculture, Texas Department of Public Safety, and the Texas Alcoholic Beverage Commission.

SBA Delaware District Counsel Denied Application for Assistance. The SBA Delaware District Counsel **denied the application for assistance** to a business in Bear, Delaware, on November 5, 2003, in the amount of \$350,000, due to issues of character ineligibility. The applicant applied through a financial institution for a \$350,000 SBA-guaranteed loan to purchase a carwash and convenience store. The SBA OIG investigation determined that the applicant did not fully disclose his criminal history record. Further, the applicant, who was a permanent resident but not a citizen of the U.S., had advised that he had two social security numbers because he had entered the U.S. two times and filled out the paperwork for a social security number both times. The

applicant asserted it was a mistake, but his explanation could not be verified by the SSA. A character evaluation was conducted by the SBA Office of Financial Assistance and it was determined that the applicant could not be found of good character. This investigation was initiated based upon a referral from the SBA Delaware District Office.

Vermont Man Charged with Bank Fraud. The president, owner, and operator of a business in Burlington, Vermont, was indicted on November 13, 2003, on charges of **bank fraud**. In August 1999, his business obtained a \$200,000 SBA-guaranteed loan through a financial institution to provide instructional training. The bank purchased the rights to the business' accounts receivables at a discounted rate for cash. When the business' customers made payments, the money was supposed to go to the bank and the business was also required to turn over invoices to the bank. In December 2000, the business defaulted on the loan in excess of \$76,000 and filed for bankruptcy protection. The SBA paid the 75 percent guaranty prior to the bank discovering that he had allegedly submitted false invoices to the bank and collected receivables that he failed to turn over. The investigation revealed that he defrauded the bank in the amount of \$27,442.50. He created false receivables that were submitted to the bank and failed to provide payments that he received from customers whose receivables had already been sold to the bank. This investigation was conducted jointly with the FBI and was initiated based on a referral from the SBA Vermont District Office.

Wyoming Sporting Goods Store Owner Sentenced. The owner of a sporting goods store in Laramie, Wyoming, was sentenced on November 24, 2003. He received 1 year and 1 day of incarceration, and 3 years supervised release. In addition, he was ordered to pay restitution in the amount of \$147,535. He previously pled guilty to one count of making a **false statement** to the SBA. The investigation determined that he submitted two false personal financial statements to the bank in order to obtain two separate SBA loans totaling \$250,000. He failed to disclose four debts totaling approximately \$312,000. The investigation also disclosed that he faxed several loan documents in furtherance of his scheme to defraud the SBA and the bank. This investigation was conducted jointly with the FBI and was initiated based on a referral from the SBA Wyoming District Office and the FBI.

OIG Issues Audit Report on an Early Defaulted SBA-Guaranteed Loan. On November 24, 2003, the OIG issued an audit report on an early defaulted SBA-guaranteed loan. The lender made a loan that did not meet SBA's requirements for size (as a result of affiliation), change in ownership, and repayment ability as addressed in Title 13 of the Code of Federal Regulations (CFR), Part 120 and SOP 50 10(4). After the loan defaulted, the lender agreed to a reduced guaranty payment as a result of deficiencies identified by the district office. Because the noncompliances identified by the district office and the OIG provide a basis for SBA to deny liability on the guaranty in full, as provided for in Part 120.524 of 13 CFR, the OIG recommended that the district director seek to recover the \$376,106 erroneous payment made to honor the reduced guaranty. The district director concurred with the recommendation, but had concerns with the OIG's position on "repayment ability not determined properly" and requested that the recommendation to deny the total guaranty be submitted to SBA Headquarters for a final decision. While OIG agrees that the final decision rests with the Administrator or his delegate, the district director should submit a recommendation to that effect to SBA Headquarters if the lender refuses to refund money paid to honor the guaranty.

Disaster Loan Program

St. Thomas, U.S. Virgin Islands, Property Owners Charged with Conspiracy and Mail Fraud. Three individuals of St. Thomas, U.S. Virgin Islands, were indicted on November 6, 2003, on one count of **conspiracy** and eight counts of **mail fraud** relating to FEMA and SBA disaster assistance. Two of the individuals are joint property owners in St. Thomas. In an application to FEMA's Home Protection Roofing Program, they falsely claimed that this was their primary residence and that it had sustained damages during Hurricane Bertha (7/96). They failed to disclose to FEMA that they had purchased the property a few weeks prior to Hurricane Bertha in an "as is" condition because it had been damaged by Hurricane Marilyn (9/95). Their application was ultimately approved and they received a new roof at a cost of \$90,000 from FEMA's Home Protection Roofing Program. They also applied for an SBA disaster home loan relating to Hurricane Bertha damages; however, their loan application was declined because SBA determined that the claimed losses were

“pre-existing.” The third individual, an insurance loss adjuster, was hired by the property owners to prepare their insurance loss packet relating to Hurricane Bertha damages. Based on the insurance loss report prepared by the adjuster, they received \$95,000 in insurance proceeds relating to Hurricane Bertha damages. They also applied for and received approval of an \$80,000 SBA disaster home loan as a result of Hurricane Georges damages (9/98). The SBA cancelled part of their disaster loan and they received only \$45,000 in proceeds because they failed to submit required financial information for further loan disbursements. The insurance adjuster also prepared an insurance loss packet for them relating to Hurricane Georges damages, and they received \$90,000 in insurance proceeds. A comparison of the insurance loss packets the adjuster prepared for them relating to losses for Hurricanes Bertha and Georges revealed that the packets were almost identical. This investigation was initiated based upon a referral from the U.S. Attorney’s Office, St. Thomas Division. The SBA OIG conducted this investigation jointly with the Department of Homeland Security, OIG.

Guam Resort Owner Pleads Guilty to Making a Material False Statement. The owner of a resort in Talofofo, Guam, pled guilty on November 24, 2003, to **one count of making a material false statement.** He was indicted on May 7, 2003, after submitting a disaster loan application in January 2003, claiming damages to the resort as a result of super typhoon Pongsana. As part of the application process, he was asked if he had ever been arrested, convicted or indicted for any offense. He stated on his application that he had not, when in fact he had been indicted, arrested, and convicted in 1998 for **Bribery of a Public Official.** During that investigation he had attempted to bribe an SBA employee for \$5,000 to approve a disaster loan after super typhoon Paka in December of 1997. The SBA OIG conducted this investigation jointly with the FBI.

Agency Management

Final Action Completed on Directives System Inspection. In an inspection of SBA’s directives system, the OIG recommended that the Associate Deputy Administrator for Management and Administration (ADA/M&A) immediately establish, chair, and consult with a working group of

representatives from major Agency offices and at least one field office. Within 60 days after its creation, the group was supposed to develop a plan for revising the fundamental structure of the directives system. As a result, a working group was established, and they submitted a plan in November 2003 for revising the directives system. Implementation of the plan is reportedly underway.

This monthly update is produced by the SBA OIG, Harold Damelin, Inspector General.

The OIG has established an e-mail address (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 such documents please contact:

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