

## Tip Of The Day

# When Regulators Come Knocking, Call The SBA

By Maureen Farrell, Electronically reprinted from June 9, 2008



National Ombudsman, Nick Owens

**Entrepreneurs are always griping about dealing with too much government regulation. Is there any way to ease the frustration?**

Yes—by calling on the very government giving you headaches in the first place.

Don't believe it? Back in 1996, Congress passed the Small Business Regulatory Enforcement Act, which aimed to ease small businesses' regula-

tory burdens. The act also established the role of an ombudsman—a citizens' advocate—within the Small Business Administration (SBA). These days, his name is Nicholas Owens.

"I do not turn anyone away, even if it's outside the purview of our work," says Owens. "If you believe you've been treated unfairly or unprofessionally [by any federal agency], call us." Owens' eight-person staff works with

entrepreneurs nonplussed by stiff regulatory fees or fines, as well as with those having trouble getting paid for government-contracting work.

Upon receiving a request, a staff member contacts both the relevant agency and the small business within two days. ("I've worked in government long enough to know [how to navigate] the bureaucratic maze of voicemail," says Owens.) Typically, Owens schedules a face-to-face meeting with the appropriate agency official within 30 days. "We have good working relationships with most federal agencies," he says.

Not that the agencies always hop to it. To give his requests some teeth, Owens sends a report card to Congress that grades them on the quickness and quality of their responses. For instance, the relatively responsive Food and Drug Administration boasts an "A" grade, while the sluggish Citizenship and Immigration Services agency, a division of the Department of Homeland Security, earns an "F."

How effective is the SBA's SWAT team? Owens claims not to have hard data on how many of the 500 cases he's handled this year have yielded significant progress for troubled entrepreneurs. Rob Latham, though, is a believer.

"Finding Nick basically allowed me to save my business," says Latham, chief executive of the List Company, a Piedmont, S.C.-based online retailer of power tools and candles. "If I hadn't, I would have lost the majority of my life savings."

Latham ran afoul of both U.S. Customs and Border Protection and the Environmental Protection Agency when importing home-power generators from China. Customs agents claimed the EPA-compliant labels on the generator boxes could be easily removed—a no-no according to the law—despite plenty of additional proof that Latham had passed all relevant inspections. "We had certification that the EPA had worked with the [contract manufacturing] factory in China, and photographs that the factory sent us of

all the inspections," he says.

The generators arrived at the port of Savannah, Ga., in January 2007. For two months, Latham says, he was told that the EPA and Customs were reviewing the shipment; meanwhile, storage fees at the port racked up a \$7,500 bill.

After hiring a lawyer and meeting face-to-face with EPA representatives, Latham says he was told that he would have to cover storage fees and fines, as well as the cost of either sending the generators back to China or having them destroyed. Taken together, those costs—plus all that lost business—would have bankrupted Latham's company, he says.

Two months later, Latham called Owens. Within several days, the ombudsman had arranged for Latham to pay a \$10,000 fine, re-affix the

labels and sell the generators. It was an expensive lesson, but having to pay a stiff fine is a lot better than going out of business.

Owens is quick to point out that small-business owners must comply with whatever hearing and appeal processes individual agencies have in place. "Our office does not substitute for existing procedures," he warns. He also suggests keeping extensive records of all correspondence with all government agencies. Finally, "Contact us as soon as possible," he says. "Time is usually of the essence in addressing these concerns."

You can reach the SBA's ombudsman's office by phone at (202) 205-2417 or (888) 734-3247 (REG FAIR), and via e-mail at [nicholas.owens@sba.gov](mailto:nicholas.owens@sba.gov) or [ombudsman@sba.gov](mailto:ombudsman@sba.gov).

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