



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

December 2002 Update

### *Business Loan Programs*

Pennsylvania Attorney Charged with Perjury and Wire and Bankruptcy Fraud. An attorney and owner of a now-defunct law practice in Pottstown, Pennsylvania, plead guilty on December 2, 2002, to one count of **wire fraud**, one count of **bankruptcy fraud**, and one count of **perjury**. The charges related to a scheme to steal \$107,000 in SBA-guaranteed loan proceeds obtained from an SBA non-bank participating lender. The defendant stated on his loan application that the purpose of the loan was to purchase business equipment and furniture, to make leasehold improvements, and for working capital for his law practice. However, he diverted the proceeds for unauthorized personal expenditures, then defaulted on the loan and filed for bankruptcy. Just weeks before the bankruptcy, the defendant transferred the real estate purchased with the loan proceeds into his parents' names. He also hid \$65,000 worth of other assets from his creditors during the bankruptcy. The perjury charge related to his testimony during the bankruptcy proceedings that the non-bank participating lender had agreed to his diversion of the loan proceeds to pay his personal expenses. OIG initiated this investigation based on information received from the Federal Bureau of Investigation (FBI). As part of his guilty plea, he was required to pay the lender \$10,000, which represents the first payment in his restitution of the loan proceeds.

Illinois Business Owner Indicted for Bank Fraud and Making False Statements to a Bank. The president of a heating, cooling, and plumbing company in Bloomington, Illinois, was indicted by a Federal Grand Jury, on December 4, 2002, in the

Central District of Illinois, for six counts of **bank fraud** and six counts of **making false statements to a bank**. The indictment relates to an SBA-guaranteed loan for \$375,000 from a bank in Illinois for the defendant to take over a heating, cooling, and plumbing business from his father. The investigation revealed that the defendant submitted fraudulent invoices to the bank in order to receive disbursements on the SBA-guaranteed loan. Additional investigation revealed that within 1 week after the loan closed, the defendant took the \$125,000 capital injection out of his business and paid off a personal loan he previously secured in order to have the capital injection. This was a violation of the SBA Authorization and Loan Agreement, which detailed that the capital injection was to be used as working capital and to purchase inventory. The investigation was initiated based on a referral from the SBA Springfield Branch Office.

OIG Issues Audit Report on SBA-Guaranteed Loan. OIG issued an audit report on December 19, 2002, on an SBA-guaranteed loan to Webcot Farms and Gin Co., Inc. The audit found that the lender disbursed \$1.1 million in loan proceeds. The borrower's principals owned an affiliated business that had seven loans from the U. S. Department of Agriculture totaling \$279,379, all of which were delinquent at the time of disbursement. SBA regulations provide that applicants are ineligible for an SBA business loan if the applicant or an affiliated business previously defaulted on a Federal loan which resulted in a loss. Although the borrower did not identify the affiliated business in the application, the principals' 1995 tax returns included with the loan application disclosed the name of the affiliated business. In addition, the lender knew the borrower was in weak financial condition and did not properly analyze the borrower's

repayment ability. Finally, the borrower did not meet the required equity injection. OIG recommended that the Georgia District Office seek recovery of the \$609,203 from General Electric Capital Corporation (formerly Heller). The District Office and the lender agreed with the finding and recommendation. The lender repaid the guaranty purchase amount of \$609,203.

## *Disaster Loan Program*

New Mexico Woman Sentenced to Prison on Various Charges. On December 17, 2002, an Albuquerque, New Mexico, woman was sentenced to serve 78 months incarceration (with credit for the 24 months served); 3 years supervised release, pay \$40,000 restitution to SBA and \$1,700 restitution to the Federal Emergency Management Agency (FEMA). The sentencing was the result of her trial conviction on three counts of **mail fraud**; one count of **wire fraud**; one count of **false, fictitious and fraudulent claim upon the U.S.**; one count of **impersonation of a U.S. employee**; one count of **making material false statements**; and one count of **false representation of social security number** all to fraudulently influence SBA to fund a \$40,000 disaster home loan. The defendant was charged in two superseding indictments, with an additional four counts of **wire fraud**, one count of **mail fraud**, and one count of **impersonation of a U.S. Government employee**, two counts of **mail fraud**, and seven counts of **laundering of monetary instruments and aiding and abetting**. The defendant used the name and social security number of another woman to apply for disaster assistance with SBA and FEMA. The defendant submitted numerous false documents in support of her claim and also attempted to obtain information about her disaster claim/investigation, by posing as a representative of the U.S. Attorney's Office. Investigative results determined that neither the defendant nor the person she was impersonating ever lived at the address of the claimed disaster damaged property. This investigation was initiated by request from and worked jointly with FEMA.

## *Government Contracting and Business Development Programs*

Philadelphia Business Man Pleads Guilty to Conspiracy and Mail Fraud. A former SBA Section 8(a) program participant in Philadelphia, Pennsylvania, pled guilty on December 12, 2002, to one count of **conspiracy** and one count of **mail fraud**. The conspiracy count related to the defendant making material false statements and representations to SBA that someone else controlled the SBA Section 8(a) certified firm that the defendant actually ran. The defendant and the person he alleged controlled the company obtained bonding for the 8(a) company through an insurance company through an independent agent. The mail fraud count related to the defendant causing fictitious financial statements to be mailed from the independent agent to the insurance company. The insurance company relied on the false financial statements to issue bonding to the 8(a) company. As a result of the 8(a) company's defaults on contracts, the insurance company paid more than \$2.9 million to subcontractors and suppliers in payment bonds and incurred an additional \$3 million in losses on performance bonds to have the contracts completed. A principal condition of the guilty plea agreement is that the defendant will make restitution to the insurance company pursuant to a \$500,000 settlement agreement. Sentencing has been scheduled for April 21, 2003. OIG is continuing this joint investigation with the Naval Criminal Investigative Service, Department of Veterans Affairs OIG, Defense Criminal Investigative Service, and the U.S. Customs Service.

Washington, DC, Information Technology Services Company Decertified from SBA HUBZone Program. An information technology services company in Washington, DC, voluntarily **decertified** from SBA's HUBZone program on December 18, 2002, while under investigation for **false statements** made in its HUBZone application. The alleged false statements concerned the ownership and control of the business by the president of the company. The investigation revealed that the president is not involved in the day-to-day operation of the company and does not appear to control the company. The president's two sons own another information technology services

company that is a Section 8(a) business located in Springfield, Virginia. The sons had applied for HUBZone certification of their company, but were denied. It was alleged that the sons then created their mother's company in an effort to obtain HUBZone contracts. In an effort to discover more information, OIG served a Subpoena on the HUBZone company dated November 8, 2002. Shortly after, the HUBZone company notified SBA that they planned to voluntarily withdraw from the HubZone Program. They were officially decertified on December 18, 2002, prior to obtaining any HUBZone contracts. This case was initiated based on a referral from an anonymous source.

Missouri Section 8(a) Corporation President and the Corporation Named in Civil Fraud Lawsuit. The president of a Section 8(a) contractor in Poplar Bluff, Missouri, and his corporation were both named in a **civil fraud** lawsuit filed by the U.S. Attorney's Office, Eastern District of Missouri, on December 23, 2002. According to the lawsuit, the president and his corporation made **false statements** to SBA concerning his claimed social and economic disadvantage qualification status in order to be certified as an SBA Section 8(a) contractor, and thereby received about \$17 million for 17 Federal contracts from various Federal entities, none of which he would have been otherwise qualified to receive. Specifically, the president is alleged to have made **false statements** about his supposed Native American ancestry, and the resulting economic disadvantage suffered as a "proclaimed Cherokee-owned company." The U.S. seeks relief under the False Claims Act, payment under mistake of fact, unjust enrichment, and equitable nullification or annulment of contracts. Restitution, penalties, interest, and costs could total in the millions of dollars. The president and the corporation were previously sentenced on June 24, 2002, in a related criminal case after pleading guilty to three counts of **mail fraud involving insurance claims**. The president was placed on probation for 3 years, ordered to pay approximately \$140,000 in fines and restitution. The corporation was placed on probation for 5 years and ordered to pay a similar amount. A joint investigation with the U.S. Department of Labor OIG (DOL/OIG) and FBI had resulted in a 12 count indictment against the

president and the corporation alleging **illegal kickbacks, mail fraud, false statements to SBA**, and major **contract fraud** against the U.S. All counts other than mail fraud were dismissed as part of the plea agreement at sentencing. As a result of the indictment, the president and corporation were suspended by the Department of Defense from receiving all new Government contracts. This case was initiated based on information received from DOL/OIG and was conducted jointly with them and FBI.

The activity Update is produced by SBA/OIG, Peter L. McClintock, Acting Inspector General.

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 such documents please contact:

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