Office of Inspector General

April 2014

Business Loans

Texas Women Sentenced on Conspiracy Charges

On April 7, 2014, two Texas women were sentenced after having pled guilty to conspiracy to commit bank fraud. The first woman was sentenced to 27 months in federal prison and two years of supervised release, and was ordered to pay $4.2 million in joint restitution with her co-defendant. The second woman was sentenced to 18 months in federal prison and two years of supervised release. The women and a man previously had been indicted for bank fraud, conspiracy to commit bank fraud, and aiding and abetting.

In 2007, the second woman applied for and received a $1,853,000 Section 7(a) loan to purchase a laundromat from a company affiliated with the first woman. In 2008, she applied for and received two commercial loans totaling $1,332,500 to purchase land from companies affiliated with the first woman. During the loan process, the two women and the man conspired to defraud the SBA and two banks to gain loan approval and receive funds. On the loan applications and during conversations with bank personnel, the three individuals misrepresented the second woman's assets and the source of her equity injection and down payment funds. This is a joint investigation with the Federal Bureau of Investigation (FBI).

California Woman Sentenced on False Statements Charge

On April 14, 2014, a California woman was sentenced to three months imprisonment, five years supervised release, and six months of home confinement. She was also ordered to pay $362,875 in restitution to a bank. The woman had previously pled guilty to making a false statement to a federally insured financial institution.

The sentencing is the by-product of an investigation of another person, an alleged "straw borrower" for a 7(a) loan. The woman had been the new accounts representative at a bank. She was initially approached to provide information about her involvement in the deposit of fraudulently obtained SBA loan proceeds into a business account at the bank. During the investigation, it was discovered that she had stolen approximately $362,875 from seven certificate of deposit accounts. This is a joint investigation with the FBI.

Washington State Man Sentenced for Bank Fraud

On April 18, 2014, a Washington State man was sentenced to six months of electronic monitoring, three years of supervised probation, and 100 hours of community service after having pled guilty to bank fraud. He was also ordered to participate in mental health counseling and to pay $334,242 in restitution. The man received credit for time served. He and others devised a scheme to defraud a bank and the SBA to obtain funds. They prepared and submitted an SBA loan application that included two misrepresentations. First, they claimed a $385,000 down payment had been made when no such down payment had occurred. Second, they claimed that the business and its property had been appraised at $2,100,000 when the true appraised value was $1,700,000. This was a joint investigation with the Federal Deposit Insurance Corporation OIG.

Maryland Man Indicted – Government Seeks $14.8 Million in Forfeiture

On April 23, 2014, a Maryland man was indicted for bank fraud, conspiracy to commit bank fraud, aiding and abetting, criminal forfeiture, and destruction of records in a federal investigation. The indictment seeks a $14,708,000 forfeiture, the amount of the alleged fraudulently obtained funds. The man owned and operated a loan brokerage company specializing in securing loans for individuals interested in purchasing or refinancing small businesses in the Mid-Atlantic area. According to the indictment, he and others encouraged prospective borrowers using his company's services to apply for Section 7(a) guaranteed business loans.

In the process of investigating the SBA loans, it was discovered that the man submitted applications for 17 commercial non-SBA loans to a Maryland bank. For each of the loans, the IRS tax documents had been altered. Moreover, the borrowers' personal and business income was inflated to support a more favorable debt-to-income ratio, thus increasing the likelihood of loan approval. This is a joint investigation with the U.S. Attorney's Office and the United States Postal Inspection Service.

New Jersey Woman Arrested for Bank Fraud and False Statements

On April 24, 2014, a New Jersey woman was arrested by federal and local law enforcement agencies after having been charged with bank fraud and making a false statement in the application and use of a passport. The alleged bank fraud involved deceitfully obtaining Home Equity Line of Credit (HELOC) loans from various financial institutions, and the alleged passport fraud involved obtaining a U.S. passport by using another individual's identity.

The investigation revealed that an organized group of criminals obtained HELOC and SBA loans from various lending institutions by using false identities, documents, and business names. There are 60 to 70 HELOC loans and 36 SBA loans, totaling approximately $20 million and $2.9 million, respectively, which have been identified in the investigation. Each business or individual obtained multiple loans from different financial institutions, and the majority of the loans are in default.

The woman, as a member of the group, obtained a $100,000 loan from a bank. She used the identity of another individual to obtain the loan in the name of a business. The SBA loan was paid in full with the proceeds of the fraudulent HELOC loans after the woman became aware of a prior FBI investigation into HELOC loans. This is a joint investigation with the FBI, Internal Revenue Service Criminal Investigation (IRS CI), the Bergen County (NJ) Prosecutors Office, and the New Jersey Division of Taxation.

Maryland Woman Pleads Guilty to Conspiracy

Government Contracting

Maryland Woman Pleads Guilty in Section 8(a) Fraud Scheme

On April 9, 2014, a Maryland woman pled guilty to conspiracy to defraud the United States. Her previous indictment was related to schemes to fraudulently seek federal contracts under the SBA Section 8(a) program. Her husband had been the president and sole owner of a Maryland roofing and construction corporation ("Company A") since 2002. However, the firm was largely dormant after 2002.

In 1999, he had caused a different roofing and construction company ("Company B") to be incorporated in Maryland. Although he installed two individuals to be the nominee owners and officers of this roofing company, he exercised complete and undisclosed control over its operations. The woman was in charge of the company's accounting and acted as the de facto controller.

The couple transferred millions of dollars from this firm to bank accounts in their own names, to casinos on their own behalf, and to Company A and another company owned by the husband. They also shifted funds to credit card companies to pay for personal expenses that the couple charged to Company B's corporate credit cards. These included extensive dental work, veterinary visits for personal pets, lavish vacations, a cruise, limousine transportation to casinos, funeral expenses for a family relative, and fencing for their personal residence. The woman also mischaracterized numerous payments to casinos as subcontractor expenses.

The woman admitted that she and her husband signed false corporate and personal tax returns for 2005 and 2006. They knew that the cost of goods sold and payments to contractors reported on the corporate returns were false because almost all of that money was paid to, and for the benefit of, the couple at casinos. The couple also knew that the income reported on their personal income taxes omitted hundreds of thousands of dollars that Company A had paid to them and for their benefit. As a result, the couple owed additional personal income tax to the IRS totaling $264,105, and Company A owed an additional $574,911 to the IRS for tax years 2005 and 2006. The total tax loss resulting from their conspiracy to defraud the IRS is $839,016. This is a joint investigation with the Defense Criminal Investigative Service (DCIS), General Services Administration (GSA) OIG, and IRS CI.

Ohio Firm and Owner Plead Guilty to HUBZone Related Fraud

On April 17, 2014, an Ohio construction company and its owner pled guilty to wire fraud for using the firm's fraudulently obtained Historically Underutilized Business Zone (HUBZone) certification to receive government set-aside contracts from April 2005 through April 2012. The owner had applied to the HUBZone program in 2000 by claiming that the company's principal office location was in a designated HUBZone location, when no employees actually worked there. The firm maintained offices and its employees actually worked at a non-HUBZone location. Even though the owner informed the SBA that his company was located in a HUBZone, he regularly used the other address to conduct the firm's business affairs. In 2006, the owner applied for re-certification to the HUBZone program and again falsely reported that his company's employees worked at the HUBZone location. This investigation is being conducted jointly with the DCIS, the U.S. Department of Homeland Security OIG (DHS OIG), and Army Criminal Investigation Command (CID).

Former Army Contracting Officials Sentenced

On April 24, 2014, a Texas husband and wife, both of whom were high-level U.S. Army contracting officials, were each sentenced after pleading guilty to filing false tax returns, aiding and abetting, and making false statements to the U.S. government. The man was sentenced to 30 months imprisonment and one year of supervised release. He was also ordered to pay a $10,000 fine and $153,249 in joint restitution to the IRS. His wife was sentenced to 20 months imprisonment and three years of supervised release, and was ordered to pay a $10,000 fine and joint restitution.

The couple was sentenced in connection with their acceptance and concealment of payments and gifts totaling over $500,000 from a Chicago-based SBA Section 8(a) firm to which they awarded multiple construction contracts in their official capacities.

The couple conspired to evade administrative and criminal inquiry by directing the 8(a) firm to convey its payments through complex financial transactions involving the couple's relatives. This included structuring cash deposits below $10,000 into joint accounts held with relatives.

These surreptitious transactions were designed to conceal the true source and purpose of the funds and to circumvent financial institutions' reporting requirements. The scheme also included their concealment of the prohibited income from the IRS on the couple's tax returns during 2002-2009, and from the Army's ethics officials on the couple's annual Confidential Financial Disclosure Reports. This was a joint investigation with the Army CID, IRS CI, FBI, DCIS, and Department of Justice Antirust and Tax Divisions.

Two California Brothers Sentenced on Anti-Kickback Act Violations in Section 8(a) Program

On April 25, 2014, two California brothers were each sentenced to five years of supervised probation, 60 days of home confinement with electronic monitoring, and several special conditions, including 200 hours of community service. Each was also ordered to pay a $1000 fine. The sentencing was in connection with their violations of the Anti-Kickback Act. On the same day, a third man was sentenced to five years of supervised probation and 60 days of home confinement with electronic monitoring in connection with his violation of the same Act. The three men and two other subcontractors participated in a scheme involving bribery and kickbacks at a Navy and Marine base and other federal facilities. In addition, the SBA has begun the process of formally removing one of the companies involved in the scheme from the Agency's list of active Section 8(a) companies. This investigation was based on allegations that contractors in the 8(a) program in California were receiving kickbacks from subcontractors. This is a joint investigation with the FBI, Naval Criminal Investigative Service (NCIS), IRS CI, DCIS, and the GSA OIG.

Three Sentenced in California for Violations of Anti-Kickback Act

Disaster

New Jersey Man Charged with Filing False Applications for Federal Relief Funds

On April 7, 2014, the State of New Jersey, Office of the Attorney General, filed a complaint against a man for filing false applications to collect federal relief funds after Superstorm Sandy. It is alleged he falsely claimed that a storm-damaged New Jersey house was his primary residence, when in fact it was a vacation home. The man received $17,766 in Federal Emergency Management Agency (FEMA) rental assistance grants and allegedly filed a false application for a $10,000 grant under the Department of Housing and Urban Development (HUD) Homeowner Resettlement Program administered by the New Jersey Department of Community Affairs (DCA). He was approved for the HUD grant, but the funds were not issued because his alleged fraud was discovered. The man was charged with theft by deception and unsworn falsification. In January 2014, he and his wife received $46,700 from an SBA home disaster loan in which he claimed his primary residence was the damaged property, when it really was a vacation home. This is a joint investigation with a task force comprised of the New Jersey DCA, the DHS OIG, HUD OIG, and the New Jersey Office of the Attorney General.

Two Illinois Men Indicted for Theft of Disaster Loan Proceeds

On April 8, 2014, two Illinois men were indicted for felony theft exceeding $10,000 and theft by deception. The charges resulted from their joint theft of $22,300 in SBA disaster loan proceeds intended for a church's benefit in order to assist with repairs and the replacement of damaged property caused by severe storms and flooding in May 2013.

The SBA had approved the $22,300 physical disaster loan for the church in October 2013. The pastor and one of the men were signatories on the loan documents. Loan proceeds were disbursed during November and December 2013, and deposited directly into the bank account designated on the loan application. However, in January 2014, the pastor reported that the church had not received the funds and suspected that the bank routing information was altered on the SBA loan application.

The investigation revealed that the two men created false corporate resolution records, opened a checking account at a bank unknown to the church or the pastor, and diverted the SBA disaster loan funds into the account for their personal use. During interviews, both men provided written confessions to the theft and admitted they used the funds for personal expenses and for gambling at casinos. This is a joint investigation with the Cook County Sheriff's Police and the Cook County State's Attorney Office.

New Jersey Man Arrested for Theft by Deception

On April 30, 2014, a New Jersey man was arrested by the State of New Jersey, Division of Criminal Justice, after having been charged with theft by deception and unsworn falsification for filing false applications to collect federal relief funds after Superstorm Sandy. He received $2,820 in FEMA rental assistance and a $10,000 grant under the HUD Homeowner Resettlement Program administered by the New Jersey State DCA. He had claimed that a storm-damaged house was his primary residence when in fact it was a vacation home.

The investigation disclosed that about one month after Hurricane Sandy occurred but before he filed the applications for storm aid, the man changed the address on his driver's license to the damaged property address. He had applied for a $94,400 SBA home disaster loan, which the SBA cancelled in October 2013 because the Agency could not verify that the damaged property was his primary residence. This is a joint investigation with a task force comprised of the New Jersey State DCA, the DHS OIG, the HUD OIG, and the New Jersey Office of the Attorney General.

New Jersey Woman Arrested on Charges of Theft by Deception

On April 30, 2014, a New Jersey woman was arrested by the State of New Jersey, Division of Criminal Justice, after being charged with theft by deception and unsworn falsification for filing false applications to collect federal relief funds after Superstorm Sandy. She received $21,128 in FEMA grants, including $18,858 for repairs and $2,270 for rental assistance.

The woman had claimed that a storm-damaged house was her primary home, when in fact it was owned by the family of her deceased husband, from whom she had been separated. The house was vacant. As administrator of her deceased husband's estate, she deeded herself a 50 percent interest in the home after receiving the FEMA grants. The SBA had declined her home disaster loan application in December 2012, due to an unsatisfactory credit history. This is a joint investigation with a task force comprised of the New Jersey State DCA, the DHS OIG, the HUD OIG, and the New Jersey Office of the Attorney General.

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Office of Inspector General

Peggy E. Gustafson

Inspector General

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To promote integrity, economy, and efficiency, we encourage you to report suspected instances of fraud, waste, abuse, or mismanagement in any SBA program to the OIG Hotline* at

http://www.sba.gov/office-of-inspector-general/2662

Or call the OIG Hotline toll-free, at (800) 767-0385

**In accordance with Sections 7 and 8L (b)(2)(B) of the Inspector General's Act, confidentiality of a complainant's personally identifying information is mandatory, absent express consent by the complainant authorizing the release of such information.*

Agency Management

Audit Report 14-11

On April 10, 2014, the OIG issued Audit Report 14-11*, SBA's Progress in Complying with the Improper Payments Elimination and Recovery Act*. The objectives of this evaluation were to (1) assess the progress the SBA has made in remediating improper payment-related recommendations, and (2) determine whether the SBA complied with IPERA using guidelines. The OIG found the SBA continues to make progress in its efforts to prevent and reduce improper payments. Further, the SBA was generally compliant in meeting the minimum requirements in accordance with OMB guidance. Specifically, the Disbursements for Goods and Services, as well as 7(a) loan guaranty approvals continued to make progress through the deployment of improved controls and process improvements. The revised procedures were robust and led to the identification of more improper payments during the testing process. Contrarily, the need to use less experienced staff to process applications for Hurricane Sandy may have attributed to the rate increase for Disaster Assistance loan disbursements. Consequently, the improper payment estimates increased from $12.5 million to $14.1 million for Disbursement of Goods and Services; $233.2 million to $510.9 million for 7(a) guaranty loan approvals; and $91 million to $121.1 million for Disaster Assistance loan disbursements. Notwithstanding the accomplishments, the SBA needs to improve, further, the effectiveness and development of improper payment controls and processes for all of the programs or activities reviewed. Specific areas include completeness of test plans, quality of corrective action plans, and sufficiency of improper payment recapturing activities. The OIG, as specified in Memorandum M-11-16, which requires a limited review of controls over Agency reporting, also assessed whether the SBA complied with IPERA reporting requirements. The OIG found that the SBA generally met all the IPERA reporting requirements. However, the Disbursements for Goods and Services and Disaster Assistance Loan programs were not compliant because their improper payment rate exceeded the 10 percent threshold. In addition, Disbursements for Goods and Services, as well as the 7(a) Guaranty Approvals and Disaster Assistance Loan programs did not achieve their annual reduction targets.

Audit Report 14-12

On April 30, 2014, the OIG issued Audit Report 14-12, *Weaknesses Identified During the FY 2013 Federal Information Security Management Act Review* (FISMA). Under FISMA, agencies must report their compliance with information security requirements. The OIG reports on the effectiveness of the agency's information security program in accordance with OMB criteria. In FY 2013, the OIG found that the SBA continued to show limited progress in meeting FISMA requirements. In the annual FISMA report, the OIG found the SBA needs to further establish its configuration management, identity and access management, risk management, and continuous monitoring controls. In addition to weaknesses identified in FY 2013, the SBA needs to continue to remediate outstanding and overdue recommendations. The OIG made seven new recommendations relating to FISMA compliance.

We welcome your comments concerning this update or other OIG publications.

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