Office of Inspector General

March 2014

Business Loans

Former Massachusetts Business Owner Pleads Guilty to Fraud & Tax Evasion

On March 11, 2014, the former owner of a Massachusetts photography business pleaded guilty to one count of bank fraud and one count of tax evasion. Beginning in 2005, the man obtained a series of loans, including two SBA-guaranteed loans, from a local bank. In the course of obtaining the financing, he submitted numerous financial statements and records to the bank that did not reflect the use of approximately $2.6 million of his business's funds for personal expenses. The personal expenses included construction expenses at his personal residence, cash for gambling, and clothing. He also altered the business's financial books and records to conceal these personal expenses from the Internal Revenue Service. This is a joint investigation with the Internal Revenue Service – Criminal Investigation (IRS CI).

Bank Enters into Settlement Agreements

In March 2014, a large bank entered into settlement agreements with the U.S. Department of Justice (DOJ) and the SBA. These settlement agreements were the result of an investigation on loans processed by some of the bank's branches in Utah. As a result, the bank agreed to pay approximately $212,920 to the United States.

The DOJ alleged that bank employees falsified borrower information on loan applications to meet underwriting criteria and obtain approvals on three SBA loans. In addition, borrowers used loan proceeds to invest in a Ponzi type scheme that benefitted certain bank employees. The bank —having knowledge of these activities—requested the SBA to pay the 50 percent guarantee on all three loans. The bank did not concur with DOJ's allegations but agreed without admission to the settlement agreement.

Following the DOJ settlement, the bank also entered into an administrative agreement with the SBA. The bank agreed to verify borrower income separate from the customer-facing employees who are responsible for initiating and negotiating loans with small businesses. The SBA believes that the bank knew or should have known of false statements on documentation for SBA loans prior to submitting a request for the SBA to make guarantee payments on loans. Further, the bank failed to follow reasonable and prudent lending practices as required by SBA regulations and policies. This case was initiated on a referral from the bank to the OIG Hotline.

Owner of Missouri Business Sentenced

On March 4, 2014, the owner of a Missouri business was sentenced to three years of probation and was ordered to pay $2,000 in restitution and a $25 special assessment fee. He was previously charged with one count of Aiding and Abetting the Misapplication of Bank Funds. According to charges, the man allowed a former official at a Missouri bank to use him and his business bank account as a conduit to transfer funds from a fraudulent loan to pay off the remaining balance of a separate fraudulent loan. He kept $2,000 of the funds for personal use. The man is one of seventeen who charged in a complex fraud conspiracy to defraud the bank and the SBA. Each of the defendants has pleaded guilty and nine are awaiting sentencing. This is a joint investigation with Federal Bureau of Investigation (FBI).

Wisconsin Man Pleads Guilty to False Statements

On March 27, 2014, a Wisconsin man pleaded guilty to Making False Statements on a Loan and Credit Application. The investigation determined that from December 2006 until July 2010, the owner and chief executive officer of a business provided financial statements that falsely represented the business's profitability by increasing the cash reserves, fixed assets, accounts receivable, and inventory and by reducing existing liabilities. The man submitted the false statements to a bank on a regular basis. The bank relied upon the false financial statements in assessing the financial stability and risk associated with the extension of credit and other financial services to the business, including the approval of a $750,000 SBA-guaranteed loan to the business. This is a joint investigation with the FBI.

Recovery Act

California Man Pleads Guilty to False Statements

On March 12, 2014, a California man pleaded guilty to three counts of Making False Statements to a Bank and one count of False Statements to the Government. The investigation revealed that the man had previously obtained three loans from a bank and was in default for approximately $700,000 when he obtained two SBA 7(a) loans and one SBA 504 loan. All of his SBA loans defaulted early and left losses to the banks and the SBA of nearly $1,839,360.

This joint investigation with the FBI was initiated on a referral from the OIG's Early Fraud Detection Working Group.

Government Contracting

Utah Construction Company Enters Settlement Agreement

On March 18, 2014, a Utah based construction company entered into settlement agreements with the DOJ and the SBA. In a settlement agreement with the DOJ, the company agreed to pay $928,000 to the U.S. and an additional $86,000 to the Relator for attorney fees.

The DOJ alleged that the company improperly obtained and worked on contracts awarded to an 8(a) firm, and as a result, violated the False Claims Act by knowingly submitting, or causing to be submitted, false claims to the United States. The construction company did not concur with DOJ's position but agreed, without admission, to the settlement agreement.

Utah Construction Company Enters Into Settlement Agreement with DOJ and the SBA

As a result of the DOJ settlement, the firm also entered into an administrative agreement with the SBA. The firm agreed to refrain from participation in the SBA 8(a) program and any SBA mentor-protégé programs for a period of five years. The SBA alleged that the firm knowingly submitted, or caused to be submitted false or fraudulent claims. The firm did not concur with SBA's position but agreed, without admission, to the administrative agreement.

Idaho Man Sentenced

On March 19, 2014, an Idaho man and minority shareholder in an 8(a) business was sentenced to three months in prison followed by two years of supervised release. He was also ordered to pay a $5,000 fine and perform 100 hours of community service. The man, a minority shareholder in his ex-girlfriend's business, was found guilty of two counts of obstruction of justice and one count of conspiracy to obstruct justice.

The man's girlfriend had taken steps to lower, artificially, her personal net worth, such as acquiring, holding, and transferring assets into the names of nominees in order to appear to be economically disadvantaged. This allowed her construction firm to qualify for the Department of Transportation's (DOT) Disadvantaged Business Enterprises (DBE) and SBA 8(a) programs. The woman caused false and fraudulent tax returns to be filed for her and her business by not reporting all income received. The false returns and financial statements were then submitted in support of her business applications to the SBA 8(a) Program and the DBE Program for Idaho and Utah.

During a 26 day trial, the government presented evidence that the man's ex-girlfriend omitted, deleted, altered, and miscategorized entries in the business's financial books and records. She also concealed her role or relationship in other business entities that dealt with the business. As a result, the business received more than $2.5 million in federal government contracts based on the company's fraudulently obtained SBA 8(a) status. Further, the business received more than $15 million in state government contracts based on the company's fraudulently obtained DBE status in the states of Idaho and Utah. In order to impede an IRS audit of the business and a criminal investigation into the ex-girlfriend, the man and his ex-girlfriend conspired to obstruct justice by fabricating documents and making false statements that sought to conceal the true nature, source, and extent of property the woman owned. This is a joint investigation with IRS CI, the DOT OIG, and the FBI.

Maryland Man Pleads Guilty in 8(a) Scheme

On March 28, 2014, a Maryland man pleaded guilty to one count of Conspiracy to Defraud the United States after having been indicted for schemes to fraudulently seek federal contracts under the Section 8(a) program. He owned less than half of a roofing and construction company while it participated in the 8(a) program.

In March 2002, his firm graduated from the program, and he became the company's president and sole owner. Prior to that, in August 1999, he had caused a second roofing and construction company to be incorporated.

Former Owner of Texas Bowling Center Pleads Guilty to Conspiracy, Fraud, & False Statements in Disaster Loan Scheme

He also arranged for a member of an underrepresented group, who was a former roofer and project manager at the first firm, to own 60 percent of the second company. He then structured the company so his son would own the remaining 40 percent. The man, for his role, received the title of senior vice president.

The original firm and the second roofing and construction company shared office space and many of the same employees. The man conspired to defraud the SBA by concealing on the second firm's 8(a) application and on subsequent annual updates that: (1) he exercised control over the second firm's operations; (2) he had previously supervised the former roofer at the first firm; (3) he owned more than 10 percent of the first firm and was related to an owner of the second firm; (4) he and his wife had personally guaranteed bonding, bank loans and lines of credit for the second firm; and (5) no non-disadvantaged individual member of the second firm's management received compensation in any form that exceeded the compensation received by the former roofer. The second firm paid millions of dollars to the Maryland man, including salary and other payments to bank accounts in his and his wife's names. The firm also made payments to the first firm, payments to casinos on behalf of the man and his wife, and paid personal charges incurred by him and his wife on the second firm's credit cards.

As a result of the fraudulent application and updates, the second firm received more than $50 million in 8(a) program contracts from the federal government, to which it was not entitled.

The man also caused more than $1 million, which had been transferred to bank accounts and to casinos on his behalf, to be falsely recorded in the first company's books and records as corporate expenses paid for subcontractors. He concealed this fact from his tax preparer. Consequently, the preparer produced corporate tax returns for the first firm that overstated the company's expenses, and prepared personal income taxes for the man that understated his taxable income, thereby understating the amount of taxes owed to the IRS. This case is a joint investigation with the Defense Criminal Investigative Service, the U.S. General Services Administration OIG, and the IRS CI.

More Money Paid in Contracting Civil Settlement

On March 8, 2014, five masonry firms and the presidents of two of the firms paid $698,250 as part of a civil settlement in connection with a contracting scheme. This payment was based on the sale of a president's personal residence. On December 17, 2013, the firms and the presidents had agreed to a civil settlement of $1,175,000. The total civil settlement now stands at $1,873,250.

In 2011, a Virginia military command issued a "Solicitation, Offer and Award" for a series of construction projects at a separate military base. The contract of over $67 million was awarded to a large construction company in August 2011. One masonry firm submitted a $9.4 million bid to do masonry work as a subcontractor. An employee of the construction company subsequently told the president of that masonry firm that his firm would receive the subcontract if it used a minority-owned company. The president agreed to use an affiliated company that he controlled as a front to receive the subcontract. All of the work on the subcontract was subsequently passed through to the original masonry firm.

Disaster

Former Owner of Texas Bowling Center Pleads Guilty

On March 12, 2014, the former owner of a Texas bowling center pleaded guilty to conspiracy to commit offenses against and to defraud the United States. The man was indicted in 2013 on one count of conspiracy, one count of fraud in connection with a major disaster, and six counts of false statements in connection with a federally insured loan. The investigation revealed that the former business owner had been approved for two disaster loans. One loan was for damages allegedly caused by Hurricane Humberto, for $998,500. The other loan was for damages caused by Hurricane Ike, for $885,600. Both loans were disbursed in full, for a total loan amount of $1,884,100. This is a joint investigation with the FBI.

Four Charged in Hurricane Sandy Fraud

New Jersey Man Charged with Theft and Unsworn Falsification

On March 12, 2014, a New Jersey man was charged with one count of theft by deception and one count of unsworn falsification. The man had allegedly claimed that his storm-damaged home on the Jersey Shore was his primary residence when it was not. Specifically, he received $2,820 in Federal Emergency Management Agency (FEMA) rental assistance, and a $10,000 grant under the Housing and Urban Development (HUD) Homeowner Resettlement Program administered by the New Jersey State Department of Community Affairs (DCA). The investigation disclosed about one month after Hurricane Sandy occurred, but before he filed the applications for storm aid, that he changed the address on his driver's license to the damaged property address. He also applied for a $94,400 SBA Home Disaster Loan that was cancelled by the SBA in October 2013 because he provided false information concerning his primary residence.

Colorado Man Charged with Theft, Unsworn Falsification, & Attempted Theft

On March 12, 2014, a Colorado man was charged with one count of theft by deception and one count of unsworn falsification. He received $20,358 in FEMA grants, including a $16,685 home repair grant and smaller rental assistance and personal property grants. He had filed applications claiming that a storm-damaged property in New Jersey was his primary residence, when in fact the home was damaged by a fire in May 2009 and had since been uninhabited with no utility service. He was also charged with third-degree attempted theft by deception in connection with applications for HUD funds that were denied by the DCA. The SBA declined his Home Disaster Loan Application in December 2012.

New York Woman Charge with Theft and Unsworn Falsification

On March 12, 2014, a New York woman was charged with one count of theft by deception and one count of unsworn falsification. Specifically, she received $22,410 in FEMA grants, including a $16,230 home repair grant and $6,180 in rental assistance. She claimed a storm-damaged house in New Jersey as her primary residence, when in fact it was a vacation rental property. The SBA declined her Home Disaster Loan Application in January 2013, because she provided the SBA with false information concerning her primary residence.

New Jersey Woman Charged with Theft and Unsworn Falsification

On March 12, 2014, a New Jersey woman was charged with one count of theft by deception and one count of unsworn falsification. Specifically, she received $21,128 in FEMA grants, including $18,858 for repairs and $2,270 for rental assistance. She claimed a storm-damaged house on the Jersey Shore was her primary residence, when in fact the vacant home was owned by the family of her deceased husband, from whom she had been separated. As administrator of his estate, she deeded herself a 50 percent interest in the home after receiving the FEMA grants. The SBA declined her Home Disaster Loan Application in December 2012.

These investigations were joint investigations with New Jersey (NJ) State Department of Community Affairs, the U.S. Department of Homeland Security OIG, HUD OIG, and the NJ Office of the Attorney General.

New York Business Repays Claim Resulting in $715,700 SBA Cost Avoidance

On March 18, 2014, the SBA Disaster Processing and Disbursement Center (PDC) notified the OIG that the owner of a New York distribution firm repaid a $19,000 disaster claim to the SBA, resulting in a cost avoidance of $715,700. The owner of the firm had originally been approved for a $734,700 disaster loan, of which $19,000 had been disbursed. During the course of this review, the OIG determined that the borrower was not eligible for the full loan amount.

Initially, the owner claimed that he had personally paid for the renovation of his leased business space, but could not provide supporting documentation to the OIG or PDC. During the application process the man provided the PDC with a list of lost inventory with what the OIG later determined were corresponding retail values, not wholesale values, suffered from Superstorm Sandy. The OIG also learned that the man was disputing his insurance company's findings with regard to his losses suffered from Sandy. Because the owner did not provide sufficient documentary proof of his losses and because of the related OIG investigation, the PDC did not make any additional disbursements on this loan.

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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.*

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

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SBA Office of Inspector General
409 Third Street SW, 7th Floor
Washington, DC 20416
E-mail: oig@sba.gov
Telephone: (202) 205-6586 FAX (202) 205-7382

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