Presented in participation with: Ethan W. Smith, Esq.

EQUITY INJECTION ISSUES

For technical assistance, call AT&T Helpdesk at 888-796-6118
Thank you!

SBA West Virginia District Office
Tuesday, August 23, 2016
11:00 a.m. EST
We would like to thank Ethan Smith for his time and providing information regarding his experience in lending and working on SBA loans from his perspective.

All opinions, conclusions, and/or recommendations expressed herein are those of the presenter and do not necessarily reflect the views of the SBA.
Ethan W. Smith's areas of practice focus on government guaranteed lending, commercial lending, banking, real estate and commercial law. Ethan has closed thousands of government guaranteed loans nationwide.

Starfield & Smith, P.C. is a boutique law firm specializing in all aspects of commercial lending, from origination through liquidation, for lenders nationwide. Starfield & Smith closes over $150 million of commercial loans for its lender clients every quarter. For more information about Starfield & Smith, visit www.starfieldsmith.com.
Agenda:

- Equity Injection
- SBA Requirements
- Purpose
- Types
- Documentation Requirements
- Common Issues/Pitfalls
Guiding Principle

In = Out
EQUITY INJECTION: SBA REQUIREMENTS
SBA REQUIREMENTS

- Loans under $350k
  - Follow lender policy for similarly sized non-SBA loans

- Loans over $350k
  - Same as it ever was...
  - Detailed discussion of amount of required equity and its adequacy (industry, experience, competition, etc.)
  - SBA *expects* equity injection. **WHY?**
EQUITY INJECTION: PURPOSE
PURPOSE

- “ensure long-term survival of the business”
- Skin in the game
EQUITY INJECTION: TYPES
TYPES

- Cash
  - “Money talks”

- Borrowed Cash
  - Outside source of repayment
  - Disclosure to SBA – GP if same Lender

- Assets
  - Independent valuation

- Standby Debt
  - No payments for the term of the loan
EQUITY INJECTION: DOCUMENTATION REQUIREMENTS
DOCUMENTATION REQUIREMENTS

- 2 concepts:
  - Existence
    - “Did the money actually go into/for the benefit of the business?”
  - Source
    - Where did the money come from?

- Why do we care?
  - High rates of fraud -- that’s why!
Documentation:

- Verify prior to loan disbursement
- Check/wire w/ accompanying bank statement showing $ moved to borrower’s account
- 2 most recent months’ statements for the account the funds were drawn from
- Escrow statement showing use of the cash
- Gift Letters/Financial Statements/Promissory Notes are insufficient absent bank statements, cancelled checks, etc.

Failure to properly document = guaranty denial!
Ineligible “equity”
- Value/cost of education
- Borrowed funds that don’t qualify for exception

Gifts
- Is it *really* a gift?!?

Standby Debt
- Note
- Interest only?
- PLP Confusion
EQUITY INJECTION:
COMMON ISSUES/PITFALLS

I DON'T KNOW THE AMOUNT OF MONEY I HAVE

I ONLY KNOW HOW MANY POUNDS OF MONEY I HAVE
COMMON ISSUES/PITFALLS

- Affiliates

- Notes Payable
COMMON ISSUES/PITFALLS

- “Borrowed” Funds
- “Gifted” Funds
- “CASH”!!!
- Failure to verify equity is in before loan proceeds disbursed
- Agents
Questions

IF MONEY IS MADE OF PAPER

DOESN'T THAT MEAN MONEY GROWS ON TREES?
Thanks!

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