



Liquidations and Offer in Compromise

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Thank you!

April 5, 2016 – 11:00 a.m. EST

Acknowledgement

We would like to thank Gary Griffin for his time and providing information regarding his experience in lending and working on SBA loans from his perspective.



Capital Growth Solutions, LLC

Liquidations and Offer in Compromise

CYA

Liquidation is FUN!



Fair Warning

From December 1, 2015 to December 1, 2017 ALL wrap-up reports for existing liquidation files **MUST** be completed and submitted. If not, guaranty will be void as in a complete denial. If already repurchased, loan will be put back on the Lender!!!!

Resources

- * 50 57 2 READ IT!!!!!!!!!!!!!!
- * Servicing and Liquidation Matrix (Ver. 12) 12/1/2015
- * 50 10 5(H) Chapter 8 (Post-disbursement actions)

Major Changes

- * New unilateral authority (with/without SBA notification)
- * E-tran actions
- * Guaranty fees on increased loans
- * Reporting requirements on repurchased loans
- * NO receiver w/o SBA approval

Housekeeping

- * Credit Bureau reporting
- * OCRM is now looking at risk-ratings on SBA Portfolios
- * Best keep OCRM happy!

The Basics

- 1) Document/verify Equity
- 2) Document/verify Use of Proceeds
- 3) 4506-T ALWAYS
- 4) Life Insurance Assignment
- 5) Site Visits



Best Practice

- * Prepare the SBA 10 Tab 30 days after closing
- * Assume the loan will be an “early default”



Only Words on Servicing

- * Site Visits Annually!
- * Companion Loans – Use EXTREME Caution!
- * Concurrence of all Parties to Loan for ANY Loan Modifications!



Prior to Demand ALWAYS

- *Review File per “The Basics”!
- *Recovery Act Loans
 - *Immigration/Illegal Hiring
 - *Use of Proceeds

Lifecycle of a Liquidation

- 1) 30 Days Past Due – Site Visit
 - Discuss Remedies and Take Pictures
- 2) 60 Days Past Due – Discuss Voluntary Liquidation and Transfer to Herndon
 - Sold on Secondary Market (DL, Transcript, LA)
 - Not Sold on Secondary Market
- 3) Order Appraisals
- 4) Prepare Liquidation Plan

Lifecycle (continued)

- 5) Update SBA 10 Tab (You did this 30 Days after Closing, Right???)
- 6) Liquidate
- 7) Submit 10 Tab with CPC Summary
- 8) Work Towards Full Recovery (OIC?)
- 9) Charge-off and Wrap-up Report

30 Day Past Due

- 1) Site Visit (59 Day Rule)
 - a) Discuss Remedies to Delinquency
 - b) Collect Financial Data
 - c) Take Pictures (collateral is good!)
 - d) Take Action (and put in Writing)
- 2) Review Closing Docs
 - a) Remember the BASICS!!!!!!!!!!!!!!!!!!!!!!

60 Days Past Due

- 1) Second Site Visit (59 Day Rule) with List of Collateral
- 2) Bring Appraiser with you (Personal Property)
 - a) Auction
 - b) Storage
- 3) Discuss Voluntary Liquidation or Workout
 - a) No
 - b) Yes

Order Appraisals

- * Varies State by State
 1. Liquidation Value Appraisal (60 day rule)
 - a) Less Costly
 - b) Quicker
 - 2) FMV Appraisal (Georgia) (Guarantors?)
 - 3) Judicial Foreclosure (Time Frame and Bid Process)

Liquidation Plan

SBA National Bank SBA Loan Liquidation Plan

SBA National Bank
1234 Any Street
Your Town, TN 37300

Date: January 6, 2013

Borrower: Super Gas Station, LLC. and
Joe Smith, Individually
5678 Somewhere Road
Your Town, TN 37300

SBA Loan No.: 12345678-01

SBA Bank Loan No: 1200000045

Date of Loan Approval: December 01, 2009

Original Loan Amount: \$1,000,000.00

Principal Balance of Loan: \$932,076.32

Date Borrower Last Paid: February 4, 2012 Date Next Payment is due: March 1, 2012

Liquidation Plan (continued)

1. Justification for liquidation: Principal, Joe Smith, was diagnosed with terminal cancer and made the decision to close the business.
2. Cause of business breakdown & workout attempts.

SBA National Bank originally approved the above referenced SBA 7(a) loan (Note # 1200000045) to Super Gas Station in amount of \$1,000,000. The current balance of this loan is \$932,076.32. The purpose of the loan was for the construction of a convenience store and for working capital. This loan carries a 90% SBA guaranty. \$992,340.09 was advanced on the loan leaving \$7,659.91 unfunded during the 12 month construction phase. The loan began amortizing in November 2010.

In mid-October 2010 Mr. Smith requested \$15,000 to finish out his equipment purchases (\$5,000) and provide working capital (\$10,000). Since this was beyond what was available on the SBA loan and the loan had begun amortizing, we chose to provide the company a loan outside of the SBA, secured by completely separate assets. Note # 123456789 in the amount of \$15,000 was originally made on October 22, 2010 and was renewed on March 11, 2011 in the amount of \$14,418.35. The balance was \$11,304 upon default. The purpose of the loan was to fund the purchase of scanning equipment at a cost of \$5,000 and \$10,000 for working capital. The loan was secured by a lot at 1200 My Drive, Your Town, Tennessee valued at \$105,000. This property was not part of the collateral securing the SBA guaranteed loan and was sold on May 31, 2012 for \$62,000.

Liquidation Plan (continued)

In March of 2011 Mr. Smith contacted Any Body of SBA Bank to explain he was having cash flow problems. Upon review of the simple cash records Mr. Smith provided, it was clear that he was selling the fuel for less than he was paying for it under a fuel contract. He also was selling his retail store items at below suggested retail price provided by the vendors. At the urging of his advisors, Mr. Smith canceled his fuel contract and re-priced all his store merchandise. Note # 987654321 is a sweep line of credit in the amount of \$50,000 and was made on March 11, 2011. The purpose of the line was working capital to shore-up the business. It is automatically reduced when funds in the business's checking account exceed \$5,000. The line is secured by a second DOT on the lot at 1200 My Drive, Your Town, Tennessee. The balance of this line was \$49,007 upon default. Collateral was liquidated per the above. There were no excess proceeds from the sale (settlement sheet attached).

In May of 2011 Mr. Smith again approached the Bank for additional working capital. Note # 123567321 in the amount of \$35,000 was originally made on May 13, 2011. The balance is currently \$33,150. The purpose of the loan was working capital. The loan is secured by vacant lots in Niceplace and Onn Pointe. Mr. Smith was convinced he could make a go of the operation with the additional funds. The Bank did inform him that this was the last advance and was trying to give him every opportunity for success. At this time, Mr. Smith was convinced that selling only "pure" gasoline would be the key to his success, contrary to advice from advisors and his jobber. There is a dilapidated C-store across the street from this location which sold only "cheap" gas.

Liquidation Plan (continued)

COLLATERAL POSITION REVIEW

Loan # 1200000045 (store loan) is secured by a convenience store located on Somewhere Road in Your Town, vacant land on Fishy Pike, and Mr. Smith's personal residence. The balance on this loan is \$932,076.32. At origination, the value of the collateral for this loan was \$1,390,000 making the LTV 72.00%. Declining values in RE and the poor performance of the C-store will hinder the full recovery of this loan.

ANALYSIS OF TREND

Although payments were being maintained in a reasonable manner, on November 8th 2011, Joe Smith came to the bank and told us that he was closing his convenience store and that he would no longer be able to pay. We have currently foreclosed on all property with the exception of the collateral securing the SBA loan due to our belief that the maximum recovery will come from the Borrower's voluntary liquidation of said collateral.

The store property is being aggressively marketed through Dang Good of Quiet Auctions. **There is currently a sales contract on the convenience store in the amount of \$400,000.** The Fishy Pike property is listed with Tennessee Realty for \$350,000. Mr. Smith has secured a reverse mortgage on his personal residence outlined below. Both the C-store sales contract and reverse mortgage will be accepted with SBA approval.

Liquidation Plan (continued)

REPAYMENT SOURCES (INCLUDE DEBT SERVICE COVERAGE)

The repayment source for these loans will be the liquidation of collateral.

INDIVIDUAL (INCLUDE INDIVIDUAL'S LIQUID ASSETS)

Mr. Smith's personal financial statement dated 03/11/2011 shows liquid assets of \$23,440. This was in a checking account at 1st Tennessee. His total assets are \$1,719,940 which is made up primarily of real estate. The total liabilities shown are \$932,076. This is all store related debt. His net worth is \$787,864. It is believed that this is a highly inflated value based on his estimate of RE values.

3. Does the Lender have any "non-SBA" loans with any borrower, guarantor, or principal?

SBA National Bank has funded three additional loans to Super Gas Station:

Note # 123456789

Note # 987654321

Note # 123567321

For further explanation see Page 1. Item 2: Cause of business breakdown and workout attempts.

In April of 2012 SBA Bank foreclosed on the collateral mention in the above referenced loans. Copy of Notes and Deeds of Trust attached.

Liquidation Plan (continued)

a. Obligors: Super Gas Station, LLC
5678 Somewhere Road
Your Town, TN 37300
EIN #27-123156

Joe G. Smith
1234 Rock Road
Your Town, TN 37300
SS#123-45-6789

b. Guarantor: N/A

c. Life Insurance: Original Life Insurance requirement of \$1,000,000.00 was reduced to \$500,000 by stamp action January 19, 2010 (#573470) and later eliminated in its entirety by stamp action dated February 10, 2010 (#578317).

d. Demand has not been made at this point in time. Borrower is voluntarily liquidating collateral.

5. Will legal action be required? Not at this time.

Liquidation Plan (continued)

6. General Recovery Plan: It is the Bank's intention to liquidate all real and personal property used to secure this loan. Personal property was negligible, has been sold and applied to principal (\$5,526.54 between March 12, 2011 and April 21, 2012). The primary commercial property built with the loan proceeds is under contract for \$400,000. We obtained a FMV appraisal dated April 16, 2011 for \$1,000,000 and a liquidation value of \$ 750,000 as of May 28, 2012. However, after aggressively marketing the property for 3 months, we have received offers of as little of \$200,000 to a maximum of \$400,000, this offer being from an existing customer of the Bank. We have accepted this offer (subject to SBA approval) and obtained a Broker Opinion as to the reasonableness of this offer. It is not the replacement value which was ever in question. It is based almost solely on the lack of sales and profitability of the store's operations. The remaining 2 commercial tracts are listed for \$350,000 with a local realtor but have had to date no activity. Mr. Smith has obtained approval for a reverse mortgage on his personal residence for \$160,000, based on an appraised value of \$230,000. We are inclined to accept this payoff (the Bank's appraisal on the same parcel was \$215,000) and release the residence for the principal reduction, given SBA's concurrence. Mr. Smith is in failing health so the disposition of any shortfall in collateral is anticipated to be minimal. Liquidation is anticipated as follows in #7.

Liquidation Plan (continued)

7. Estimate of Liquidation Recovery:

	Real Estate Commercial C-store <u>Y.T., TN</u>	Real Estate Commercial Vacant Lots <u>Y.T., TN</u>	Real Estate Residential <u>Y.T., TN</u>
Original Appr. Value	\$1,000,000	\$550,000	\$350,000
Current Appr. Value	\$750,000	\$350,000	\$230,000
Current Liq. Value (Based on):	\$400,000 Purchase Agreement	\$262,500 75% of List Price	\$160,000 Reverse Mortgage
Less Sr. liens:			
1 st : None	\$0	\$0	\$0
2 nd : None	\$0	\$0	\$0
Estimated net value:	\$400,000	\$262,500	\$160,000

Liquidation Plan (continued)

Expense Category:

RE Appraisal:	\$2,000	\$0	\$325
Personal Property:	\$0	\$0	\$0
Environmental:	\$0	\$0	\$0
Past dues taxes:	\$9,475	\$0	\$0
Legal fees:	\$0	\$0	\$0
CPC:	\$0	\$0	\$0
Escrow/Commissions:	\$24,000	\$15,750	\$0
Storage/Pick-up/Etc.	\$0	\$0	\$0
Trustee Foreclosure:	\$0	\$0	\$0
Auction/Sale Expenses:	\$0	\$0	\$0
Other: Def. Maint.	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Total Expenses:	\$35,475	\$15,750	\$325
Projected recovery:	\$364,525	\$246,750	\$159,675

Total projected recovery: \$ 770,950

Note 1: Current liquidation value on CRE (C-store) is based on contract. Liquidation value on residential RE is loan value determined by reverse mortgage based on appraisal value of \$230,000 (much higher than our appraisal in file). Current Liquidation Value of Commercial Lots is 75% of most recent appraisal and broker's opinion.

Note 2: Commission on CRE is 6%.

Any Body, EVP, Chief Credit Officer

Date



Helpful Hint!

- * After writing the plan, present to a third party within your organization who knows nothing about the credit. Incorporate their questions (and appropriate answers) into your memo.
- * Plagiarize! Using a familiar format assists everyone in reviewing the plan.

Prepare SBA 10 Tab

- * Relatively Self-explanatory
(<http://www.sba.gov/sites/default/files/regular-7a-guaranty-purchase-package-tabs.pdf>)
- * DO IT COMPLETELY and THOROUGHLY. Do NOT leave ANYTHING out that has a Tab (sometimes called the 100 tab system).
- * For Lenders with Volume – Adobe Pro



Liquidate

- * Do NOT be unreasonable and arbitrary in your discussions with Borrowers or Guarantors. Voluntary liquidation is ALWAYS the best alternative. Maximizes recovery for the Lender which in turn reduces the liability of all parties to the Loan. Florida ESPECIALLY!!!!
- * Speed is everything in Liquidation!

Submit 10 Tab with CPC

- * If Loan was repurchased by SBA from the Secondary Market, the Lender has 45 days to deliver the 10 Tab.
- * If Lender repurchased Loan, or Loan was not sold onto the Secondary Market, must liquidate at a minimum personal property. If prudent, liquidate real property also (not practical in Florida in most cases and Bankruptcy).

Submit 10 Tab with CPC (continued)

- * The importance of including as much as possible in the CPC section of the 10 Tab is the “quick” turnaround of reimbursement. SBA no longer will accept request for reimbursement after initial submission until final wrap-up report.



Full Recovery?

- * This is the obvious goal of every liquidation scenario, for the benefit of the Borrower and the Lender. Do NOT let the file sit! Push towards a quick resolution and then re-evaluate the situation. If amounts can be placed on term with Borrower/Guarantors, do so. What about the famous OIC????

Offers in Compromise

- * Offer in Compromise. Typically at the culmination of the liquidation of all business and other worthwhile assets, an OIC is the process used to evaluate a monetary offer in exchange for the release of a personal guaranty on the loan. An Offer in Compromise is an action that requires SBA's express written consent and may be submitted to SBA using the OIC Tabs. If payment plan, look for 3 year recovery.



Helpful Hints OIC

- 1) Needs to be substantial in relationship to Borrower/Guarantors' ability to pay and the outstanding debt. The Bank **MUST** make a recommendation!
- 2) Extraordinary circumstances.
- 3) Last resort.
- 4) OIC Tabs; be **COMPLETE!!!**
- 5) 4506-T's.

Wrap-up Report

- * When all worthwhile collateral has been liquidated and no further recoveries are anticipated within a reasonable period of time, a final wrap-up report that documents the actions taken to liquidate the account and the results of those actions must be submitted to SBA. Two years from date of repurchase or December 1, 2017 if already in liquidation trigger denial of liability. 30 calendar days is the new standard for wrap-up report following final liquidation action.

What is SBA Resolution?

- 1) Loan goes back into regular servicing
- 2) PIF
- 3) Complete Wrap-up Report
- 4) Exceptions: If you are NOT going to make the deadline, give yourself MONTHS of lead time to request and fully document a need to extend the recovery for the benefit of the Lender and SBA.



NOTE

- * Wrap-up reports are submitted after all available collection avenues have been exhausted. If there is still collection (i.e. a monthly payment being collected) this file is NOT ready for charge-off.
- * CPC expenses will be forwarded on to be reimbursed prior to the loan being charged-off. This process takes several months.
- * New SBA Assignment form – Must be executed! (Go to NGPC website for form – wrong one in 10-tab).



1099's and Treasury

- * It was our practice to issue 1099's to the Borrower (or Co-Borrowers) after a charge-off. Treasury will now do this.
- * The Guarantors will still be pursued through the collection effort of the Treasury.



Final Helpful Hints

- * On reconciliations, use Colson's numbers if they are close to Bank's numbers. SBA will not repurchase if their numbers (provided by Colson) do not agree (3 days interest and \$10 principal). Give Colson 3 weeks to get transcript to you.
- * For those that scan for document retention, you **MUST** keep the original Note, Guaranties, Collateral Documents and Loan Application Materials (especially 912) (in discussion- some disagreement).
- * Treat every SBA with **AT LEAST** as much care as you would a non-SBA credit of that magnitude!

SBA Quick Reference

- * The Center will utilize Loan Resolution Teams to manage cases. Upon receipt of your request for action, your request will be assigned to a team for resolution. The assigned Loan Specialist will either take action or contact you for additional information to complete the action requested. You may communicate with SBA through the following means:
- * Main Line: 703-487-9283
- * Toll Free: 1-877-488-4364
- * Fax: 202-481-4674
- * General Loan Liquidation Information and Guidance E-mail: Loanresolution@sba.gov
- * Fax line for Liquidation Information and Guidance: 202-481-4674
- * Guaranty Purchase Information and Guidance E-mail: SBAPurchase@sba.gov
- * Guaranty Purchase Status Information: Purchasestatus@sba.gov
- * Secondary Market Information and Guidance E-mail Secondarymarketliq@sba.gov
- * Fax line for Secondary Market Information and Guidance 202-481-6539
- * Email to Submit CPC requests and request status: SBACPC@sba.gov
- * Fax line for CPC submissions: 202-481-4599
- * Email for submitting Charge-off inquires and Wrap up Reports: SBACHargeoff@sba.gov
- * Fax line for wrap-up reports: 202-292-3789
- * Submission of Additional Post Purchase Review Information: SBAPPR@sba.gov

Your Presenter!

Gary Griffin

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Or contact your local Lender Relations Specialist.