Office of Inspector General

September 2014

Business Loans

California Woman Sentenced for False Statement Regarding Her Involvement in Fraud

On September 12, 2014, a California woman was sentenced to 1 year of home detention subject to electronic monitoring, 3 years of probation, and a $3,000 fine for making a false statement to a Federal agent. She had been a personal assistant to a San Diego small business owner, who in turn has pled guilty in a separate case to bribery.

The woman assisted the business owner in obtaining a $1.8 million U.S. Small Business Administration (SBA) loan from a bank by creating false Federal tax release forms. She made false statements to SBA Office of Inspector General (OIG) and Treasury Inspector General for Tax Administration (TIGTA) agents in a nearly 5-year cover-up of a conspiracy to defraud the bank. During interviews with Federal agents, she adamantly denied any involvement in creating fraudulent tax forms submitted to the lender as proof that the small business owner had resolved his outstanding Federal tax liabilities. However, agents learned that she had helped the owner create the fraudulent documents and had faxed the documents to the bank using her laptop. When she and the owner became aware of the investigation, they destroyed the laptop to conceal evidence of their fraud. In addition to making false statements to Federal agents, she instructed her ex-husband, who was also interviewed by agents and subpoenaed to appear before a Federal grand jury, to lie regarding the disposition of her laptop.

This case was initiated based on a referral from TIGTA regarding fraudulent Internal Revenue Service (IRS) tax lien documents. This is a joint investigation with TIGTA, the Federal Bureau of Investigation (FBI), the Federal Housing and Finance Administration OIG, and the Federal Deposit Insurance Corporation (FDIC) OIG.

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Alabama Man To Be Taken Into Custody for Witness Tampering and Ordered to Pay Restitution

Around September 18, 2014, the U.S. Attorney's Office filed a motion with the U.S. District Court requesting that the bond of an Alabama man be revoked and that he be taken into custody for witness tampering. In addition, on September 25, 2014, the court ordered him to pay $417,702 in restitution to a credit union, bringing the total restitution in this case to $2,227,702. Previously, on July 29, 2014, he had been sentenced to serve 3 years in prison, forfeit $1,760,000 in assets to the Federal government, and pay restitution of $1,760,000 to the SBA and $50,000 to a finance company. This sentence resulted from the man's guilty plea to wire fraud and bank fraud.

This matter was originally referred to the OIG by the SBA's Little Rock Commercial Loan Servicing Center. A $1,760,000 SBA Section 504 debenture had been approved to the man's grocery store. After making only one payment, the borrower defaulted on the note. This investigation was worked jointly with the FBI.

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Colorado Real Estate Firm Owner and 5 Family Members Indicted for Organized Crime

The owner of a Colorado real estate firm and five family members were indicted by a State grand jury on September 18, 2014. The 37-count indictment charged the individuals with violating the Organized Crime Control Act, forgery and making false statements to the SBA, forgery and making false statements to the State of Colorado, attempting to influence a public servant, criminal impersonation, conspiracy, theft, and forgery and making false statements to various lenders. On the same date, arrest warrants were issued for those indicted.

The investigation showed that the owner obtained a $2,323,000 SBA-guaranteed loan to refinance his office building and other existing debt. To obtain the loan, he concealed his extensive criminal history and the fact that he was currently on probation. He also falsified documents related to his debts and the taxes owed to the State of Colorado. This investigation also discovered that he and five family members created a criminal enterprise using their status as professionals in the real estate industry to execute a large long-term fraud-for-profit scheme. The scheme primarily centered on mortgage fraud including, but not limited to, the manipulation of multiple real estate transactions through the use of fraudulent statements, material omissions, acquiring false identification and notary commissions, as well as using "straw buyers" to buy and sell real estate.

This case was initiated after the SBA OIG received a referral from a California bank. This was a joint investigation with the Colorado Bureau of Investigation, the FBI, and the Federal Housing Finance Agency OIG.

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Illinois Man Pleads Guilty to Failing to File Tax Return in Connection with Gas Station Fraud Scheme

On September 18, 2014, an Illinois man pled guilty to failing to file a tax return in connection with over $340,000 in fraudulent SBA loan commissions he was paid by a bank. Previously, in October 2013, four other individuals, including his brother, were indicted on various charges, including bank fraud, bribing a bank official, and filing a false tax return. The indictment sought at least $10,210,000 in forfeiture, representing proceeds of the fraud scheme.

The five individuals conspired to "flip" gas stations using SBA loans from the bank. Some of them worked to get unqualified SBA borrowers approved to purchase gas stations that could be "flipped" to another buyer in the future. This involved creating false tax returns for the loan files. A former SBA market president at the bank received over $150,000 in kickbacks in return for his actions in getting the loans approved. He also fraudulently instructed the bank to pay the Illinois man over $340,000 in broker commissions for multiple SBA loans, even though the man had no involvement with the SBA loans. This investigation is being conducted jointly with the FBI, the IRS Criminal Investigation (CI), and the FDIC OIG.

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Maryland Man Pleads Guilty to Conspiracy to Commit Bank Fraud

On September 23, 2014, a Maryland man pled guilty to conspiracy to commit bank fraud. The related monetary judgment amount is $950,000. According to his plea agreement, the man created a real estate company to buy a liquor store, and was the majority and controlling owner of that company. In May 2006, he and an individual with a minority ownership interest in the real estate company signed agreements to buy the liquor store for $899,000 and the real estate that the store occupied for $400,000.

The man then sought a principal of an investment firm to broker a loan for the purchase of the store. He and the principal discussed obtaining an SBA-guaranteed loan from a bank. Because the man had significant debt from the purchase of residential properties, the investment firm principal advised him that he likely would not be approved for the loan. The man disclosed to the principal that he could use a straw buyer instead. The two agreed that they would falsely represent to the bank that the straw buyer would be the owner and operator of the liquor store.
The man asked the straw buyer to apply for the loan and promised that he would pay all the bills for the store and make the loan payments. At the September 2006 settlement for the sale of the liquor store to the real estate company, the straw purchaser falsely represented to the bank that he was the president of the real estate company. The funds needed to close the transaction were provided by the real estate company owner and not the straw purchaser. The bank then funded a loan of $950,000. After the closing, the real estate company owner operated the liquor store and, in January 2007, sold a 50 percent stake in the store to another individual for $380,000. During the sale, he represented to the individual that he owned 100 percent of the store. In 2007, he stopped making loan payments to the bank, and the loan went into default.

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Former Owner of Missouri Drinking Establishment Sentenced to 5 Years' Probation

On September 30, 2014, the former owner of a Missouri drinking establishment was sentenced to 5 years of probation and ordered to pay $244,087 in restitution. He previously pled guilty to aiding and abetting the misapplication of bank funds.

The owner had aided and abetted the former executive vice president of a bank in connection with four SBA-guaranteed loans the banker made to the owner and his daughter's business in October 2006. The stated purpose of these loans was for working capital, but, in fact, the loan funds were used to pay the owner's delinquent debt at the bank, to conceal the issuance of unfunded cashier's checks, and to benefit unrelated businesses and persons who held accounts at the bank. The business owner is one of 17 people charged in a complex conspiracy to defraud the bank and the SBA. This is a joint investigation with the FBI.

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President of Missouri Company Sentenced to 5 Years' Probation

On September 30, 2014, the president of a Missouri company was sentenced to 5 years of probation and ordered to pay $5,986 in restitution. He previously was charged with aiding and abetting the misapplication of bank funds. The president had been the owner and operator of a restaurant in Missouri. He resided in Missouri until September 2005 before moving to North Carolina, where he managed another restaurant and played no role in the daily affairs of the Missouri restaurant. He had also obtained multiple business loans from a Missouri bank, many of which were past due in payment.

In March 2006, the man obtained a $1.6 million SBA loan from the bank in which he signed an SBA settlement sheet and forged his wife's name. He represented that the bank received $1,415,000 to pay outstanding debt and that his firm received $185,000 for working capital and to pay outstanding debts. In that month, he aided and abetted a former executive vice president of the bank and others to misapply $91,100 of SBA loan proceeds to benefit third parties not related to the business for which the loan was intended. The company president is one of 17 people charged in a complex conspiracy to defraud the bank and the SBA. This is a joint investigation with the FBI.

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Government Contracting

Missouri Man Pleads Guilty For Involvement in SDVOSB Fraud

On September 4, 2014, a Missouri man pled guilty to conspiracy to commit fraud against the United States, major program fraud, and wire fraud. The investigation showed that he—along with his father, mother, and a third man—conspired to defraud the Government in order to obtain Service-Disabled Veteran-Owned Small Business (SDVOSB) contracts. Both he and his father made false statements in order for their Kansas construction company to obtain SDVOSB status and bid on contracts awarded under that program. In addition, as part of his guilty plea, the father admitted to fraudulently claiming service disabled veteran status after the investigation showed that he never held that status.

Moreover, the investigation found that the third man, who was the majority owner of a second company, falsely claimed to have worked for the construction company and conspired with the others to use the construction company as a pass-through and front company for the second company. The construction company obtained more than $6.7 million in SDVOSB set-aside contracts from the U.S. Department of Veterans Affairs (VA) and approximately $748,000 in SDVOSB set-aside contracts from the U.S. Department of Defense before the scheme unraveled. The third man previously pled guilty on April 7, 2014, to acting as a principal in an offense against the United States and to wire fraud. In his plea, he admitted to willful and deliberate ignorance as to the unlawful nature of the companies' relationship and to accepting monies generated from the fraudulent VA SDVOSB contracts.

This is a joint investigation with the General Services Administration (GSA) OIG, the VA OIG, and the Defense Criminal Investigative Service (DCIS).

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Co-Owner of IT Contractor Sentenced for Providing Internal Government Documents

On September 12, 2014, the co-owner of a former Department of Homeland Security (DHS) Customs and Border Patrol (CBP) information technology contractor in Virginia was sentenced to 10 months' imprisonment, 2 years' supervised release, $351,761 in restitution, and $351,761 in forfeiture. The investigation revealed that he received $351,176 in illegal gratuities for providing internal Government documents and information to employees of a second Government contractor that claimed SDVOSB status. This contractor was awarded a $24 million dollar CBP contract as a result of his actions. This ongoing investigation is being worked in conjunction with the DHS OIG, the VA OIG, the GSA OIG, and the Department of Justice.

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Maryland Couple Indicted for Embezzling Funds from Employees' Retirement Plans

On September 15, 2014, a Maryland husband and wife who were affiliated with two technology firms were indicted for embezzlement from an employee benefit plan, tax evasion, and criminal forfeiture. The couple was ordered to forfeit all property involved in the offenses—including at least $284,999—to the United States.

The couple allegedly embezzled approximately $284,000 from employees' retirement plans and converted employee welfare benefit plans to their own use. Moreover, they allegedly prepared a fraudulent tax return in order to avoid paying much of their 2009 Federal income tax. The couple had stated that their joint taxable income for 2009 was $180,251, and that the amount of the tax due was $42,350. In reality, their joint taxable income was $821,579 and the tax due was $256,069.

In addition, the two technology firms affiliated with the couple had been awarded millions of dollars in Federal contracts, pursuant to small business and SDVOSB set-aside contracts. Although competitors had protested the two firms' awards several times, based on affiliation issues and size determination matters, the SBA found the firms to be small businesses, based on documents submitted to the Agency. The investigation of the couple and the two firms continues, including issues as to the firms' size determination and the possible filing of false documents with the SBA. This is a joint investigation with the IRS, the DCIS, and the Department of Labor OIG.

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North Carolina Businesswoman Pleads Guilty to Making False Statements

On September 17, 2014, a North Carolina businesswoman pled guilty to making false statements. As the owner of a masonry corporation, she created a construction company in order to obtain two small business subcontracts on a Department of Navy contract—even though she had been indefinitely debarred from participating in all Federal procurement programs in 2004. She created the construction company after a $14 million subcontract was awarded to the masonry corporation. She offered the use of the construction company to replace the masonry corporation in exchange for a 2 percent fee. In 2010, she mailed a falsified North Carolina HUBZone application, with numerous, fraudulently altered supporting documents, on behalf of the construction company. The woman also forged her daughter's signature on documents related to that firm. This case is being investigated jointly with the DCIS and the Naval Criminal Investigative Service.

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Maryland and California Men Indicted for Wire Fraud

On September 24, 2014, a Maryland man was indicted for wire fraud, conspiracy to commit wire fraud, and criminal forfeiture. In addition, a California man was indicted for wire fraud, conspiracy to commit wire fraud, aggravated identity theft, witness tampering, obstruction of justice, and criminal forfeiture.

The Maryland man owned and operated an SBA Section 8(a) technology firm and substantially passed through numerous set-aside contracts to the California man's Virginia-based firm. In exchange for the California man using the Maryland man's company as a pass-through, the California man paid the Maryland man a 4.5 percent fee on all contracts awarded to the latter's company. On two different occasions, the California man tampered with or obstructed witnesses. The investigation continues in conjunction with the Air Force Office of Special Investigations and the Department of Interior OIG.

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Maryland Man Sentenced For Making False Statements to the SBA

On September 26, 2014, a Maryland man was sentenced to 18 months of probation, with the first 8 months to be served under home confinement. He was also ordered to pay $250,000 in restitution after having previously pled guilty to making a false statement to the SBA. The man had been the nominal owner of a Section 8(a) certified contracting business. He had submitted a letter to the SBA in February 2009, stating that he was responsible for the day-to-day management and long-term decision-making for the business, when in fact an individual who was not socially or economically disadvantaged controlled all aspects of the firm's operations since its inception. The company obtained its 8(a) certification in 2002 and obtained over $50 million dollars in contracts set aside for 8(a) businesses. This case is being jointly investigated with the DCIS, GSA OIG, and IRS CI.

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Audit Report 14-18: Evaluation of Select 8(a) Business Development and HUBZone Contract Awards

In a report published September 24, 2014, the OIG identified over $400 million in contract actions that were awarded to ineligible firms, which may have contributed to the overstatement of small business goaling dollars for the Small Disadvantaged Business and the HUBZone Business preference programs in FY 2013. Besides reporting inaccurate information in Federal Procurement Data System-Next Generation (FPDS-NG), procuring agencies may have limited contracting opportunities for firms currently participating in the 8(a) or HUBZone programs.
Further, the OIG found that HUBZone and 8(a) certification information is not consistently transmitted to the Dynamic Small Business Search and the System for Award Management. As a result, the affected small businesses are not getting visibility in the Dynamic Small Business Search, especially the HUBZone firms, and may impact Federal agencies' ability to meet their HUBZone procurement goals.

Additionally, the OIG identified over $1.5 billion dollars in contract actions for which firms were in the programs at the time of contract award, but in FY 2013 were no longer in the 8(a) or HUBZone programs. Specifically, SBA regulations permit procuring agencies to claim Small Disadvantaged Business and HUBZone goaling credit on certain contract actions even after firms have left the program. In our opinion, the amount of dollars the SBA reports to Congress and the public as being performed by 8(a) and HUBZone firms in the *Small Business Goaling Report* is significantly impacted by the inclusion of contract actions performed by former program participants.
The OIG made two recommendations to the Associate Administrator for Government Contracting and Business Development intended to strengthen controls between SBA databases on certification data of 8(a) and HUBZone firms and information reported in FPDS-NG.

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Disaster Loans

Four Homeowners Charged For Fraudulent Claims for Hurricane Sandy Relief

On September 17, 2014, the New Jersey Office of the Attorney General filed separate complaints against four homeowners who allegedly filed false applications to collect Federal relief funds after Hurricane Sandy.

- A man was charged by complaint-summons with theft by deception and unsworn falsification after allegedly receiving $116,900 by filing fraudulent applications. He allegedly received $31,900 in Federal Emergency Management Agency (FEMA) grants, a $10,000 grant under the Homeowner Resettlement Program (RSP), and a $75,000 grant under the Reconstruction, Rehabilitation, Elevation and Mitigation Program. The latter two grants are funded by the U.S. Department of Housing and Urban Development (HUD) and administered by the New Jersey State Department of Community Affairs (DCA). The man claimed that his primary residence was damaged by Hurricane Sandy, although the house is allegedly a vacation property. His actual primary residence allegedly is elsewhere. The man also applied for an SBA Disaster Home Loan.

- Another man was charged by complaint-summons with conspiracy, theft by deception, and unsworn falsification. His girlfriend was charged with conspiracy and theft by deception. The two individuals allegedly obtained $33,269 in FEMA grants for rental assistance by filing fraudulent FEMA grant applications—one following Hurricane Irene and two following Hurricane Sandy. For two of the applications, the couple allegedly asserted that they were forced to relocate to a rental home as a result of storm damage to their primary residence in the two storms. In the second Hurricane Sandy application, they allegedly applied using the name of a relative of the man who, they falsely asserted, was forced to relocate due to Hurricane Sandy. In reality, the couple and the relative were never forced to relocate. The man allegedly submitted fraudulent leases and rental receipts to support the claims. The investigation also disclosed that he requested a disaster application after Hurricane Irene. His girlfriend also applied for an SBA Disaster Home Loan after Hurricane Sandy.

- A third man was charged by complaint-summons with theft by deception and unsworn falsification. He allegedly filed fraudulent applications for a FEMA grant and a state RSP grant following Hurricane Sandy. He received $2,820 in FEMA rental assistance and $10,000 from the RSP program. The man allegedly claimed that a storm-damaged house was his primary residence, when in fact it was a vacation home and he was living elsewhere at the time of Hurricane Sandy. The man also applied for an SBA Disaster Home Loan.

These investigations were worked jointly with a task force comprised of the New Jersey DCA, the DHS OIG, and the HUD OIG, under the direction of the New Jersey Office of the Attorney General.

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Controls Governing Economic Injury Disaster Loan Approval Need Improvement

Audit Report 14 -20, published September 29, 2014, is the second of two reports resulting from our audit of the Economic Injury Disaster Loan (EIDL) Program and addresses our findings on the SBA's processing and approval of loans in the EIDL Program. The audit objective was to determine whether the SBA had sufficient controls to ensure working capital loans under the EIDL Program were approved for eligible borrowers in the correct amount.

The OIG found that the SBA approved a total of nearly $1 million more than it should have for 11 of the 22 loans in our sample—over half of the total $1.8 million that SBA approved for these 11 loans. The SBA approved one loan to an ineligible borrower, two loans with incomplete analyses, and eight loans that contained errors in the SBA's calculations to determine an applicant's economic injury or did not have supporting documentation needed to justify the loan amount. All of these loans were recommended for approval by the loan officers processing the applications and were approved by a separate supervisory loan officer. Thus, the OIG concluded that internal controls governing the EIDL approval process need to be improved to ensure that loans are approved only to eligible borrowers and for the correct amount.

The OIG recommended that the agency develop a checklist for key requirements such as applicant eligibility, and ensure that all required supporting documentation is included in the electronic loan file prior to approving the loan. Additional training should also be provided to the loan officers and supervisory loan officers for the identified noncompliance with the standard operating procedures. The Office of Disaster Assistance (ODA) generally agreed that improvement was needed and fully agreed with the second recommendation to provide training, since it reported it had recently revised training which covers these issues. However, the ODA only partially agreed with the first recommendation to develop a checklist. Because the ODA had revised its training within the past year and felt that it could continue to rely on its electronic loan filing system, the ODA did not believe that the recommended checklist was needed. However, the OIG believes that training alone will not suffice—and that the ODA still needs the recommended checklist. The two recommendations will continue to remain open until supporting documentation is submitted by the ODA for further verification.

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Entrepreneurial Development

Improvements Needed in SBA's Oversight of the Financial Management of the District of Columbia Small Business Development Center

On September 29, 2014, the OIG issued the results of the first in a series of reviews it plans to conduct on the Small Business Administration's Small Business Development Center (SBDC) Program (Evaluation Report 14-19). The OIG found that the District of Columbia SBDC (Lead Center) did not meet its statutory matching requirement concerning a $625,000 grant award. Due to the Lead Center's incorrect calculation of indirect costs, incorrect classification of its grant activity, and submission of unreasonable and unallowable costs, the SBA improperly credited the Lead Center with an overmatch of grant funds totaling$143,811—when the Lead Center actually under-matched its required contribution by $21,415.

Furthermore, the OIG identified weaknesses in the Agency's internal control system that impacted the Agency's ability to detect regulatory violations and other non-compliance issues. Most notably, the two existing standard operating procedures used to administer the SBDC program were last updated in August of 1985. Therefore, they do not address numerous subsequent changes made by Congress to Section 21 of the Small Business Act, by the Office of Management and Budget to guidelines on grant administration, and by the SBA to regulations for the SBDC Program.

Finally, the Agency is taking steps to update its policies and procedures for the SBDC Program and to ensure that the Lead Center properly computes indirect costs for its future program years. However, improvements are still needed in the SBA's oversight structure to ensure that the Lead Center accurately reports financial information; incurs and claims reimbursement for allowable and allocable costs; and complies with applicable laws, regulations, policies, and procedures.

The OIG recommended eight actions directed to the Associate Administrator for Small Business Development Centers to improve the Agency's oversight of the financial management of the Lead Center and the SBDC Program as a whole.

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Agency Management

LMAS Incremental Improvement Projects Experienced Multiple Delays

On September 30, 2014, the OIG issued the results of its review of the Loan Management and Accounting System (LMAS) Incremental Improvement Projects (Evaluation Report 14-21). The OIG found that the LMAS modernization continues to progress, but the overall goal of moving off the mainframe has experienced multiple schedule delays. Current plans call for the completion of the mainframe migration early in 2015 instead of initial planned completion of September 2013. Prospectively, the LMAS project needs to ensure user acceptance testing protocols outlined in its system development guidance are followed.

Additionally, the SBA's information technology governance boards need to actively oversee projects and utilize tool–such as Independent Verification and Validation services—to assess progress and initiate accountability reviews, or TechStats to redress underperforming projects, when necessary. Finally, the SBA needs to ensure its Enterprise Architecture serves as the Agency roadmap for integrating proposed business requirements and technology solutions.

The OIG made four recommendations to the Chief Information Officer to improve project oversight controls and one recommendation to the Director of Systems and Performance Management, Office of Capital Access, to improve testing procedures. Both offices agreed to implement these recommendations.

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Office of 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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