



Office of Inspector General

February 2015



Business Loans

Wyoming Bank to Improve its Review Process for Loans Greater than \$1 Million

On February 5, 2015, the U.S. Small Business Administration (SBA) Office of Credit Risk Management (OCRM) provided to the Office of Inspector General (OIG) a notice that a Wyoming bank had agreed to implement additional controls in its loan review and approval process, including a secondary review of loans greater than \$1 million. These changes resulted from a qui tam lawsuit and a U.S. Department of Justice (DOJ) settlement agreement in which the bank agreed to pay \$3 million to the United States and an additional \$95,000 to the qui tam relator. In a qui tam complaint, a private citizen can sue on behalf of the United States and share in any recovery. OCRM advised that it will be conducting a target review of the bank to analyze its internal controls on loan approvals and sample its larger loans for a file review.

Based on the joint investigation with OIG, DOJ alleged that the bank withheld material information from, and made material misrepresentations to, SBA regarding the financial condition of a borrower that obtained a \$2 million SBA Section 504 loan. The settlement agreement is neither an admission of liability by the bank nor a concession by DOJ that its claims are not well-founded.

DOJ previously had filed a complaint against the bank in October 2013 alleging that the bank falsely certified to SBA that the borrower was current on its interim loan. In addition, the bank had failed to disclose cost overruns incurred by the borrower.

Illinois Man Sentenced to 6 Months of Incarceration for Involvement in Gas Station Fraud Scheme

On February 6th, 2015, an Illinois man was sentenced to serve six months of incarceration and 1 year of supervised release, and was ordered to pay \$150,376 in restitution and a \$14,640 fine. The defendant previously pled guilty to failing to file a tax return related to over \$340,000 in fraudulent SBA loan commissions paid by a bank.

In October 2013, four other men had been indicted for their role in the scheme. The first man, a former SBA market president at the bank, was charged with committing bank fraud. The second man was charged with committing bank fraud, bribing a bank official, and filing a false tax return. The third man (the defendant's brother) and a fourth man (an accountant) were charged with committing bank fraud. The indictment sought forfeiture of at least \$10.2 million, representing proceeds of the scheme.

The first three men and others had conspired to "flip" (i.e., resell quickly) gas stations using SBA loans from the bank. The first and second men worked together to get unqualified borrowers approved to purchase the gas stations that the second man would flip with a third man, his business partner. In addition, the first two men utilized the accountant to create false tax returns needed for the loan files. The second and third men provided the first man with more than \$150,000 in kickbacks, in return for his actions in getting the loans approved.

The first man fraudulently instructed the bank to pay the defendant over \$340,000 in broker commissions for multiple SBA loans, even though the defendant had no involvement with the loans.

After accepting these commission payments, he then failed to file Federal tax returns to report the income.

This investigation is being conducted jointly with the Federal Bureau of Investigation (FBI), Internal Revenue Service (IRS) Criminal Investigation (CI), and Federal Deposit Insurance Corporation (FDIC) OIG.

Attorney Sentenced to 6 Months of Imprisonment for Role in Mortgage Fraud

On February 09, 2015, a Chicago-area real estate attorney was sentenced to 6 months of imprisonment and one year of supervised release, and was ordered to pay restitution of \$492,303. He had previously pled guilty to wire fraud in connection with residential mortgage fraud schemes involving two Chicago properties transferred in 2009.

The investigation revealed that he had conspired with the seller and a buyer to falsify the buyer's down payment. He prepared a bogus will for a deceased man which purported to leave a \$200,000 inheritance for his son, the buyer. The attorney signed the will as the father's attorney and as the executor of the father's estate. The bogus will was created and forged after the father had died. These documents were forwarded to the lender as evidence of the source of the buyer's down payments. The attorney represented the buyer in these real estate transactions.

This is an ongoing joint investigation with the U.S. Postal Inspection Service. It was initiated following a lead provided by OIG's Early Fraud Detection Working Group.

President of Georgia Banking Company Indicted for Bank and Major Fraud

On February 12, 2015, the former president and chief executive officer of a Georgia banking company was indicted for bank fraud and for major fraud against the United States. Between 2005 and 2010, in conspiracy with others not yet named, he allegedly committed bank fraud to obtain money, funds, credits, assets, securities, and other banking company property while replacing non-performing loans with new loans. This included a \$1.5 million SBA-guaranteed loan to a business. In that loan, he conspired with others to conceal the borrower's failure to make a required \$300,000 equity injection. The loan was for purchasing a failed manufactured home plant that had been the subject of \$900,000 in defaulted banking company non-guaranteed loans. The purpose of the scheme was to make the bank appear financially stronger than it was. The actions caused approximately \$2.8 million in monetary losses to the bank and SBA. He continued similar illegal activities even during the time that the bank applied for and received \$3.8 million in assistance from the Troubled Asset Relief Program (TARP), a Government initiative to help financial institutions during an economic crisis. This ongoing case is being investigated jointly with FDIC, the Special Inspector General for TARP, the FBI, the Tift County Sheriff's Office, and the United States Attorney's office.

Washington Man Sentenced to 3 Months in Prison for Making False Statements to SBA

On February 23, 2015, a Washington loan broker was sentenced to 3 months of imprisonment, 6 months of home confinement, 3 years of supervised release, and ordered to pay \$427,015 in restitution and a \$100 special assessment.

The man previously pled guilty to making false statements to SBA and aiding and abetting. As the business broker han-

dling the sale of a disaster restoration company in May 2007, the broker helped the buyer obtaining a loan of approximately \$2 million. Through e-mails and testimony, the investigation found that the broker knowingly and willfully made, and aided and abetted the making of, false statements to SBA by: 1) understating the true purchase price of the business, 2) failing to disclose a promissory note, 3) falsely representing the seller's employment contract and earn-out agreement, and 4) structuring the closing to occur in two sessions in order to conceal these misrepresentations from the bank and SBA. This case is being investigated jointly with IRS CI and was based on a referral from the borrower.

Maryland Man Pleads Guilty to Bank Fraud and Money Laundering

On February 25, 2015, a Maryland man pled guilty to bank fraud, money laundering, and aggravated identity theft. In addition, he agreed to pay \$1.67 million in restitution and forfeit a home.

The man was previously indicted after an investigation revealed that he provided false statements and equity injection proof to obtain a \$1.67 million SBA Section 7(a) loan. He had provided a falsified SBA statement of personal history and commercial bank application, as well as bogus tax returns for 2006 through 2009, to a 7(a) lender. He also listed the social security number (SSN) of a deceased person on the documents. Finally, he provided fabricated bank statements to the lender as proof that he maintained enough assets to provide an equity injection. Review of the actual bank statements showed that he did not possess the necessary equity injection to qualify for the loan.

After the loan was approved and disbursed, the man converted a portion of the 7(a) loan proceeds to personal use when he purchased cashier's checks to buy a new home in Maryland. He also

attempted to file bankruptcy in Maryland using his actual SSN, but falsified bankruptcy documents by failing to list the SBA lender and the 7(a) loan in his bankruptcy filings. This investigation is being worked in conjunction with the Social Security Administration OIG.

New Jersey Loan Broker Sentenced for Conspiracy to Commit Bank Fraud

On February 26, 2015, a New Jersey loan broker was sentenced to time served and 36 months of probation, and was ordered to pay approximately \$1.1 million in restitution. He previously pled guilty to conspiracy to commit bank fraud. The investigation revealed that an organized group of Korean nationals was obtaining credit cards and loans from various lending institutions using false identities, documents, and business names. The investigation identified 275 loans, totaling approximately \$19 million. Each business or individual obtained multiple loans, usually from different financial institutions. Approximately 85 percent of the loans were SBA Express loans, with the majority having defaulted. This particular broker obtained loans for the fictitious businesses from various financial institutions. 28 loans totaling approximately \$1.5 million have been identified as being brokered by him. Losses on these loans were approximately \$1.1 million. This joint investigation was conducted in conjunction with IRS CI, the Englewood (NJ) Police Department, and Bergen County Prosecutor's Office.

Disaster Loans

Texas Man Sentenced to 5 Years of Probation

On February 12, 2015, a Texas man was sentenced to 5 years of probation and restitution of \$500,000. He had previously pled guilty to conspiracy to defraud SBA of disaster loan funds. The court

cited his serious health issues in following the Government's recommendation for probation.

The man had owned a bowling alley and had been approved for two disaster loans totaling approximately \$1.9 million: one for damages allegedly caused by Hurricane Humberto (\$998,500), and the other for Hurricane Ike damages (\$885,600).

The man's former business partner and friend provided information to investigators alleging that the man had committed SBA loan fraud. He stated that, after the hurricane in 2007, the defendant had received an SBA loan of approximately \$1 million to make repairs to the bowling alley. According to the former partner, the man hired him to make repairs on the building, with the two of them agreeing to submit inflated repair cost invoices to SBA. The defendant would write checks for the repair costs indicated on the invoices to the partner. After the partner cashed the checks, he would then give the inflated cash difference back to the man. To conceal the true identity of where the funds were derived, the two men devised contracts in which the partner would act as the defendant's consultant in order to receive consulting fees. They also entered into an agreement which indicated the partner would lease the bingo hall portion of the bowling center. According to the partner, these arrangements were made so that he could receive monies for consulting fees and purported payments for repairs, while being able to return the monies as lease payments. Investigators' review of bank records confirmed this activity.

The partner also noted that he asked the owner of a subcontractor he utilized for repairs to inflate his price because that was what the defendant wanted. According to the partner, this owner was aware of fraudulent claims to SBA, an assertion that was later verified. The owner stated that many of the repairs were not done as reflected on the invoice

es and that he did not receive the amounts indicated on several of the invoices. Moreover, he stated that he prepared the invoices on the bowling alley's computer and was instructed by the other two men as to the amounts to place on the invoices. He was also told to indicate that the invoices had been paid so that the defendant would receive his money from SBA. This investigation was conducted jointly with the FBI.

Loan Officers Used Inconsistent Methodologies when Evaluating Hurricane Sandy Business Loan for Repayment Ability

On February 24, 2015, OIG issued Audit Report 15-05, *SBA's Evaluation of Principal's Repayment Ability for Hurricane Sandy Business Loans*. OIG found that loan officers did not have guidance for performing the financial analysis to determine whether Hurricane Sandy business loan applicants had repayment ability. SBA standard operating procedures state (SOP) that "[f]or business loans, we determine repayment ability by the results of the financial analysis performed on the business." However, the SOP provided no additional guidance regarding how to perform the financial analysis. Because there was no guidance, loan officers used inconsistent methodologies when evaluating Hurricane Sandy business loans for repayment ability. We estimate that SBA approved at least 537 Hurricane Sandy disaster business loans, totaling at least \$17.9 million, without sufficiently considering principals' living expenses when determining repayment ability. Therefore, we believe that for these loans, SBA did not have reasonable assurance that the borrowers had repayment ability, and these loans are at a higher risk of default.

OIG recommend that SBA establish and implement clear, written policies and procedures for analyzing the repayment ability of disaster business loan applicants, including business loan principals

and guarantors. Additionally, SBA should ensure that these procedures, whether included in the SOP or other written guidance, are reviewed and officially approved by the headquarters management responsible for administering the disaster loan program. SBA management generally agreed with our finding and recommendation. However, management did not agree with our projection that borrowers of at least \$17.9 million in Hurricane Sandy disaster business loans did not have repayment ability.

Government Contracting

Missouri Woman Pleads Guilty to Wire Fraud and Aiding and Abetting

On February 2, 2015, a Missouri woman pled guilty in a Federal court in Kansas to wire fraud and aiding and abetting. The investigation showed that she, along with her husband, her son, and the majority owner of a different business, conspired to defraud the Government to obtain service-disabled veteran-owned small business (SDVOSB) contracts. Both she and her husband made false statements so that their Kansas construction company could obtain SDVOSB status and bid on contracts awarded under that program. As part of his guilty plea, the husband admitted to fraudulently claiming service-disabled veteran (SDV) status. The investigation showed that he was never classified as an SDV.

Moreover, the majority owner of the separate business falsely claimed to have worked for the Kansas construction company and conspired with the others to use the Kansas business as a pass-through and front company for his firm. The Kansas 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. Depart-

ment of Defense before the scheme unraveled. This is a joint investigation with the General Services Administration OIG, VA OIG, and the Defense Criminal Investigative Service (DCIS).

Virginia Firm Agrees to Pay \$540,000 in SDVOSB Settlement

On February 18, 2015, a Virginia company and the U.S. Attorney's Office executed a settlement agreement related to civil claims arising from the firm's representation that it was an SDVOSB. The firm agreed to pay \$540,000 to settle the claims.

OIG originally received a complaint alleging that the company was falsely claiming its SDVOSB status. The firm provides management consulting services for program management, administrative support, information technology, Federal acquisitions, Federal grants, finance, and accounting. It had received an indefinite delivery contract for approximately \$6.4 million from the Department of the Army that was set aside for an SDVOSB. The director, who was also the subject of the investigation, had been suspected of misrepresenting the firm's SDVOSB status and receiving set-aside contracts under fraudulent pretenses. The case is a joint investigation with the U.S. Army Criminal Investigation Command.

Texas Man Sentenced for Wire Fraud

On February 19, 2015, a Texas man was sentenced to serve 12 months of confinement and 36 months of supervised release, and was ordered to pay restitution of approximately \$1.5 million. He previously had pled guilty to wire fraud.

This case was based on a referral from the U.S. Government Accountability Office (GAO). The referral stated that the GAO FraudNET received a letter from an anonymous source alleging that a firm was falsifying documents to establish its status as an SDVOSB and as an architect-

tural and engineering firm. The company reportedly falsified the credentials of its engineers, office locations, number of employees, and past projects.

The investigation determined that the firm owner did not have a VA disability rating or service-connected disability. Thus, his firm was not a legitimate SDVOSB. Moreover, the firm had submitted architect-engineer qualifications documentation to the VA Contracting Office in San Antonio, TX, which included "example projects which best illustrate proposed team's qualifications for this contract" that the company did not actually work on. At least three of the firm's "key personnel" contained in its documentation had never worked with, or even heard of, the man or his firm. He confessed to the aforementioned findings during an OIG interview. The firm was awarded an SDVOSB set-aside contract and 10 task orders under that contract.

Former Owner of Virginia Security Company Pays \$300,000 in Settlement for Fraud Scheme

On February 23, 2015, the former owner of a Virginia security company agreed to pay \$300,000 to settle civil claims arising from a fraudulent scheme to establish her firm as a front company. The firm had obtained more than \$31 million in contract payments intended for disadvantaged small businesses through the SBA Section 8(a) Program. In June 2013, she was sentenced to 48 months of incarceration followed by 36 months of supervised release. She was also ordered to pay a \$1 million fine and a forfeiture of approximately \$1.2 million. The owner previously pled guilty to major fraud against the Government. She had participated in a scheme whereby she and the principals of a second firm falsely represented to the Government that her firm was eligible for the 8(a) Program. In fact, her company was operated and controlled by the second firm.

This case is being jointly investigated with the U.S. National Aeronautics and Space Administration OIG, DCIS, and the U.S. Department of Homeland Security OIG.

**Office of Inspector General
Peggy E. Gustafson
Inspector General**

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