



## Office of Inspector General U.S. Small Business Administration

December 2010 Update

### *Business Loan Programs*

Illinois Entrepreneur Sentenced. On November 10, 2010, an Illinois entrepreneur was sentenced to 15 months incarceration, 3 years supervised release, restitution of \$953,736, and a \$100 special assessment fee after he pled guilty to one count of false statements, as charged in a superseding information filed in U.S. District Court for the Northern District of Illinois. It was also ordered that the subject be transferred to the Department of Homeland Security (DHS), Immigration and Customs Enforcement, for deportation immediately following his term of imprisonment. The false statements followed an earlier indictment charging the entrepreneur and three other businessmen with multiple counts of wire fraud in connection with schemes to defraud the SBA and a preferred lender. These schemes involved a \$1,240,000 SBA-guaranteed loan to an Illinois corporation for the purchase of a gasoline station in Chesterton, Indiana whereby the subject was the corporate president and a 50% owner of the corporation. The subject conspired with the loan agent and his company to certify and present fraudulent documents to the lender and SBA as part of the application for financing.

Bar Owner Sentenced. On December 2, 2010, a bar owner was sentenced in the Northern District of Georgia to 20 months incarceration, 3 years probation, \$1.8 million in restitution and a \$100 special assessment fee following a guilty plea to one count of false statements. In November 2009, the subject was indicted for providing false information on his bank application for a \$1.8 million loan. Specifically, the subject indicated that he had no previous criminal history when he had numerous arrests and convictions for various crimes, including simple assault and possession of illegal substances.

Funding Group VP Pleads Guilty. On December 13, 2010, in the Commonwealth of Pennsylvania, the senior vice president of a funding group pled guilty to three counts of theft by deception. The Information alleged that the vice president of the group misrepresented himself to the complainants by creating a false impression that he could secure SBA loans for them. The subject accepted application fees from the complainants knowing he was not an SBA-approved lender. This investigation is being conducted by the SBA OIG and investigators from the Tredyffrin, Phoenixville, and New Garden Township Police Departments.

Restaurant Equipment Co. Owner Sentenced. On December 28, 2010, in U.S. District Court for the District of Maryland, the owner of a restaurant equipment outlet was sentenced to 6 months home detention, 3 years probation, \$97,000 in restitution and a \$100 special assessment fee. The owner had previously pled guilty to one count of conspiracy. The owner had entered into an agreement with another company to perform construction/renovation work and provide equipment at a cost of \$145,000. In the summer of 2007, the company asked the restaurant equipment owner to falsely represent the total cost of the project to be \$295,000. The company filed an SBA loan application and provided the restaurant equipment owner's contract in support of the loan. Ultimately, the company was approved for an SBA-guaranteed loan in the amount of \$417,000, of which approximately \$310,000 was actually disbursed. After the company received the initial disbursement from the loan proceeds, the restaurant equipment company owner was paid for remodeling work, of which \$97,000 was given back to the company owner.

## ***Government Contracting and Business Development***

Additional Debarments. During December, 2010, the U.S. Air Force's Deputy General Counsel for Contractor Responsibility issued additional debarments from Federal contracting to six companies and one individual affiliated with an Alaskan Native Corporation (ANC) defense contractor headquartered in Yorba Linda, California. Previously, 24 companies and 7 individuals had been suspended and 8 companies and 4 individuals debarred from Federal contracting as a result of this investigation. The suspension and debarment actions resulted from the concealment of business and ownership relationships by principals of the ANC company and its affiliated entities in order to gain preferential treatment under the 8(a) and ANC programs. The SBA OIG is conducting this investigation jointly with the Defense Criminal Investigative Service; U.S. Army, Criminal Investigation Command; U.S. Air Force, Office of Special Investigations; U.S. Naval Criminal Investigative Service; and the Federal Bureau of Investigation (FBI).

## ***Disaster Loans***

Former Spouses Sentenced for Theft of Funds. On December 1, 2010, in U.S. District Court for the Eastern District of Louisiana, a former husband and wife were sentenced related to their guilty pleas to theft of government funds. The husband was sentenced to 18 months in jail; 36 months supervised release, restitution of \$122,715.10, and a \$200 special assessment fee. His former wife was sentenced to six months at a halfway house, 6 months home detention, and 36 months supervised probation. She was also ordered to pay \$110,300 in restitution, and a \$100 special assessment fee. In order to receive a \$50,000 SBA disaster loan, the couple used the address of another property that they owned, but did not occupy, and misrepresented it to be their primary residence on their loan application. The indictment alleged that the couple made additional false statements in order to receive benefits from the National Flood Insurance Program and the Louisiana Road Home Program. This was a joint investigation between the SBA OIG, U.S. Housing and Urban Development (HUD) OIG, DHS OIG, and the FBI.

Couple Sentenced for Theft of Funds. On December 21, 2010, a husband and wife appeared in U.S. District Court for the Southern District of Mississippi for sentencing after previously pleading guilty to theft of public funds. The wife was sentenced to 15 months in prison and 3 years supervised release. The husband was sentenced to 18 months in prison and 3 years supervised release. Both defendants were ordered to pay joint and several restitution of \$95,379.18 and a \$100 special assessment fee each. During a previous investigation of the wife on separate charges, information was disclosed alleging that she and her husband had applied for and received disaster relief funds for an address that was not their primary residence. The couple had received nearly \$300,000 in fraudulent funds, of which \$152,000 was from the SBA for a disaster home loan. This case was investigated by the SBA OIG, HUD OIG, the Mississippi State Auditor's Office, DHS OIG, and the U.S. Department of Health and Human Services OIG.

Hurricane Katrina Settlement Agreement Reached. On December 28, 2010, a Civil Settlement Agreement was entered into by and between the United States of America, on behalf of the SBA, HUD, and the Federal Emergency Management Agency (FEMA) and a Louisiana couple. The couple agreed to pay the United States \$140,000 in full by, or at the time of, the signing of the Settlement Agreement. In addition, the couple confirmed that on October 7, 2010, they paid the remaining \$94,655.52 balance on an SBA Disaster Assistance Loan. This investigation was initiated as a result of information received from Inspector General's Office alleging that the wife had made false claims to SBA relating to the location of her primary residence at the time of Hurricane Katrina. Based on this claim, she received an SBA-guaranteed loan for \$182,900, FEMA disaster benefits of \$46,605.45, and \$66,342.03 in assistance from the Louisiana Road Home Program. This was a joint SBA OIG, HUD OIG, and DHS OIG investigation.

## ***Agency Management***

Audit of SBA's Fiscal Year (FY) 2010 Financial Statements – Management Letter. Pursuant to the Chief Financial Officer's Act of 1990, an audit of SBA's FY 2010 financial statements was performed by KPMG LLP under a contract with the OIG. The independent auditor's report was issued on

November 12, 2010. On December 15, 2010, KPMG issued a [Management Letter](#) addressing internal control and other operational matters that were noted during the audit, but were not considered to be reportable conditions. KPMG's comments and recommendations, all of which were discussed with the appropriate members of management, are intended to improve internal control or result in other operating efficiencies.

Improper Allotment of Recovery Act Apportionments.

On December 15, 2010, KPMG LLP issued a [Management Letter](#) which identified a matter that came to KPMG's attention during its audit of SBA's FY 2010 financial statements. Specifically, the review noted nine instances where allotment adjustments resulted in the "unobligated funds available" balance exceeding the available apportionment. At the time these entries were made, SBA utilized two separate systems to allot funds: the Funds Control Management System (FCMS) used by staff in the Office of Capital Access and the Loan Accounting Allotment System used by staff in the Office of the Chief Financial Officer. The review also noted that although the "unobligated funds available" balance exceeded the apportionment, SBA did not obligate more than that which was apportioned. The report recommended that the Chief Financial Officer ensure the newly implemented FCMS has adequate system controls in place to prevent allotments from exceeding apportioned amounts.

Lack of Documentation and Incorrect Accounting for Recovery Act 7(a) Loan Guaranty Approvals

On December 15, 2010, KPMG LLP issued a [Management Letter](#) which identified a matter that came to KPMG's attention during its audit of SBA's FY 2010 financial statements. During the audit, KPMG noted an internal control matter concerning a lack of documentation and incorrect accounting pertaining to the American Recovery and Reinvestment Act of 2009 (ARRA) loan guaranty approvals. Specifically, one loan guaranty was cancelled and replaced with a new loan guaranty due to an unknown and undocumented issue. The loan file did not contain documentation to support the loan cancellation and subsequent approval of a non-ARRA 7(a) loan. Another loan guaranty was not eligible for approval. The report recommended that the Office of Financial Program Operations reinforce the importance of effective review of loan guaranty applications by a loan officer and supervisory loan

officer to ensure that loan files contain proper documentation to support the approval or denial determination, that loan guaranty transactions are properly recorded in the Loan Accounting System, and that transactions are posted to the proper program and financing accounts.

This update is produced by the SBA OIG,  
Peggy E. Gustafson, Inspector General.

If you have comments, questions, or would like additional information, please contact:

SBA OIG  
409 Third Street SW, 7th Floor  
Washington, DC 20416  
E-mail: [oig@sba.gov](mailto:oig@sba.gov)  
Telephone: (202) 205-6586  
FAX: (202) 205-7382

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