Office of Inspector General

April and May 2016

Business Loans

Two Men Plead Guilty and Third Sentenced for Involvement in Fraudulently Obtaining a $2.32 Million SBA-Guaranteed Loan

On April 22, 2016, two telemarketers, who are also the brothers of the owner of a Denver, CO, real estate investment firm, each pled guilty in State court to bait advertising. On the same date, the brothers were sentenced to 1 year of probation. Each brother is required to testify in the owner's upcoming trial.

In addition, on May 9, 2016, a loan processor and father to the real estate firm's owner was sentenced in State court to 5 years of probation and remanded to the U.S. Department of Homeland Security (DHS) for deportation from the United States. If he returns to the U.S. without legal authorization, he would be in violation of his probation and subject to resentencing by the court. He was also ordered to pay $459,917 in restitution, after having previously pled guilty to felony theft.

The brothers and father were originally charged along with the firm's owner and two other family members in a 37-count indictment. The indictment included charges of violating the Colorado Organized Crime Control Act, attempting to influence a public servant, criminal impersonation, conspiracy, theft, and committing forgery and making false statements to the Small Business Administration (SBA), the State of Colorado, and various lenders.

The investigation showed that the firm's owner had obtained a $2.32 million 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 on probation. He and five other 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 that included manipulating multiple real estate transactions through fraudulent statements, material omissions, false identification and notary commissions, and "straw buyers" to purchase and sell real estate.

This was a joint investigation with the Colorado Attorney General's Office, Colorado Bureau of Investigation, the Federal Bureau of Investigation (FBI), and Federal Housing Finance Agency (FHFA) Office of Inspector General (OIG).

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Loan Broker Pleads Guilty for Involvement in SBA Loan Fraud Scheme

On May 5, 2016, a loan broker for a now defunct California bank pled guilty in Federal court to making false statements in relation to an investigation into bribes paid to the bank's vice president and SBA lending department manager. The guilty plea followed an earlier indictment for conspiracy, bank bribery, and making false statements to a Federal agent.

As part of her guilty plea, the broker admitted that she paid cash bribes in return for the banker's assurance that the loans she referred would be approved and funded, and that the broker's commissions would be paid. She had worked as an unofficial broker for the bank, referring business loan customers to the bank's SBA department. She had helped her borrowers compile their loan application packages and submit them to the bank. In return for generating business, the broker collected tens of thousands of dollars in referral fees from the bank and "kicked back" a portion to the bank manager in cash every time she was paid.

The broker admitted that in 2006, the banker had asked her to kick back a portion of her commissions, in cash, after her clients' loans were funded. In turn, the banker would make sure the loans were approved so that the broker could collect commission payments, regardless of the loans' soundness or their benefit to the bank. Moreover, the banker arranged to pay the broker a fraudulent $30,000 commission for a loan she had no part in brokering. Accordingly, the broker generated a fake invoice, pretending that she had earned the commission.

She also admitted that she lied to law enforcement agents by concealing these bribe payments and hiding her relationship with the banker. During the investigation, she falsely told Federal agents that she never saw the banker accept money in exchange for loans and that she had not spoken to or seen the banker since before she learned about the investigation. This is an ongoing investigation with the FBI, Treasury Inspector General for Tax Administration, Federal Deposit Insurance Corporation OIG, and FHFA OIG.

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Former Vice President of Firm Sentenced for Bank Fraud and Making False Statements

On May 20, 2016, an Illinois man was sentenced in Federal court to 1 day in prison, 120 days of home confinement, 800 hours of community service, and 4 years of supervised release. In addition, he was ordered to pay $740,829 in restitution for committing bank fraud and making false statements. The man had been the vice president, chief financial officer, and a shareholder of a firm that sold and serviced industrial batteries and related products. His co-defendant, the president and majority shareholder of the firm, was previously sentenced and ordered to pay $222,867 in restitution to SBA.

The investigation showed that, from approximately April 2007 to May 2011, the two men sought to fraudulently retain funds obtained from a commercial bank. They submitted financial information to the bank which falsely inflated their company's account receivables, sales, and inventory in order to conceal their company's declining financial condition and prevent the bank from demanding repayment and seizing company assets.

Moreover, around May 2009, the two men submitted to SBA the same materially false information in order to receive a $240,100 economic injury disaster loan. Specifically, they submitted inflated monthly sales figures for 2007 and 2008 in their disaster loan application, while knowing that the sale figures were false.

Finally, the men submitted the firm's 2008 Federal corporate tax return to SBA as a supplementary submission in order to obtain the disaster loan. The tax return falsely represented the company's sales for 2008 as $5.4 million, when in fact the company's sales were only $3 million. The company defaulted on the disaster loan, resulting in $222,867 in losses to SBA. This investigation is being conducted jointly with the FBI.

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Disaster Loans

New Jersey Man Sentenced for Fraudulently Obtaining $218,209 in Hurricane Sandy Assistance

On February 25, 2016, a New Jersey man was sentenced in State court to a suspended sentence of 346 days in jail and 3 years of probation. The man was also ordered to pay restitution of $31,000 to the Federal Emergency Management Agency (FEMA), and $186,309 to the New Jersey Department of Community Affairs (DCA). He had previously pled guilty to theft by deception.

The man was a homeowner who filed false applications to collect Federal relief funds after Hurricane Sandy. He received $201,722 by filing fraudulent applications for a FEMA grant and for state grants under the Homeowner Resettlement Program (RSP) and Reconstruction, Rehabilitation, Elevation, and Mitigation (RREM) Program, which are funded by the U.S. Department of Housing and Urban Development (HUD) and administered by the DCA. Another $16,487 came from two rental assistance programs funded by the New Jersey Department of Human Services, thus bringing his total Hurricane Sandy assistance to $218,209. He also applied for an SBA disaster home loan that was declined.

The man had claimed that a storm-damaged home in a New Jersey city was his primary residence. However, he was actually living with his girlfriend in another city. This case was investigated jointly by a task force comprised of SBA OIG, HUD OIG, DHS OIG, and the New Jersey DCA in conjunction with the New Jersey Office of the Attorney General.

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Letter Carrier Sentenced for Stealing SBA Borrower's Disaster Claim Check in Mail

On March 7, 2016, a Michigan man was sentenced in Federal court to 1 year of probation and an $1,100 monetary fine for stealing mail. This case was initiated after the theft of a U.S. Treasury check issued to an SBA borrower in support of a disaster claim for real estate and personal property loss. The Michigan man was a letter carrier working out of the main downtown Detroit post office and was assigned to the borrower's mail delivery route.

Further investigation found that around November 2000, the letter carrier also had been approved for a $13,300 SBA disaster loan. He made one payment and then defaulted on the loan. In November 2014, he applied for a second disaster loan and was denied due to his unsatisfactory history with the previous loan and other eligibility matters.

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New Jersey Couple Ordered to 12 Months of Probation and to make Full Restitution for Hurricane Sandy Fraud

On March 16, 2016, a New Jersey couple pled guilty in State court to theft by deception. On the same day, the man and woman were sentenced to 1 year of probation and ordered to make full restitution to FEMA of $38,396. The couple previously made $16,584 in partial restitution to the New Jersey DCA for an RSP grant and the Sandy Homeowner/Renter Assistance Program (SHRAP), a relief program administered by the New Jersey State Department of Human Services to assist people experiencing a housing crisis because of Hurricane Sandy. Moreover, the woman made individual restitution of $15,886 to the New Jersey Disaster Unemployment Assistance (DUA) Program.

The investigation disclosed that the couple had claimed that their storm-damaged seasonal bed and breakfast enterprise was their primary residence. In reality, their primary residence was in another New Jersey city, and they spent the winter months in Florida. As a result of fraudulent disaster applications, the couple received approximately $70,866 in relief funds. Specifically, they received $38,396 from FEMA, a $10,000 RSP grant funded by HUD and administered by the New Jersey DCA, $6,584 from SHRAP, and the woman's $15,886 in DUA benefits. She had received DUA by claiming she was out of work because the storm forced her employer, the bed and breakfast enterprise, out of business. In reality, the bed and breakfast routinely closed from the end of October until May. Thus, her employment was not affected while she was collecting DUA.

Finally, the couple had applied for an SBA disaster home loan, which was declined in May 2013 because the property was ineligible. This case was investigated jointly by a Hurricane Sandy task force comprised of SBA OIG, HUD OIG, DHS OIG, the New Jersey Division of Criminal Justice, and the New Jersey DCA in conjunction with the New Jersey Office of the Attorney General.

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New Jersey Woman Pleads Guilty to Fraudulently Receiving $93,696 in Hurricane Sandy Assistance

On May 16, 2016, a New Jersey woman pled guilty in State court to theft by deception for filing false applications following Hurricane Sandy. She and her husband previously had been charged for falsely claiming that a storm-damaged property they owned was their primary residence when Hurricane Sandy struck. In reality, their primary residence was in a different New Jersey city, and the damaged property was a summer home.

The couple applied for and were approved for a $64,000 SBA loan but ultimately accepted and received $40,000 in proceeds. The other applications were filed solely by the woman. She received $28,875 in FEMA rental assistance, $12,698 in RSP grants, and $12,123 in RREM funds. At her future sentencing, the court will authorize a civil consent judgment for $91,017 in restitution. Her husband has applied for pre-trial intervention. This investigation is being worked jointly with a task force comprised of the New Jersey DCA, SBA OIG, DHS OIG, and HUD OIG, in conjunction with the New Jersey Office of the Attorney General.

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Government Contracting

Man and Two Firms Debarred After Fraudulently Receiving Millions of Dollars in Government Contracts

On March 16, 2016, a Maryland man and two technology corporations were debarred from Federal Government contracting by the U.S. Department of the Navy. The man, one of two controlling corporate officers of the firms, previously had been sentenced in Federal court to 8 years of incarceration followed by 3 years of supervised release. He also had been ordered to pay $1.6 million in restitution, $492,961 in tax restitution, and $30 million in forfeiture for conspiracy to commit wire fraud and tax evasion.

The two corporations were awarded millions of dollars in Federal contracts pursuant to small business and service-disabled veteran-owned small business set-asides. Competitors had protested the firms' contracts several times based on affiliation issues and size determination matters. Each time SBA had found the two corporations to be small businesses based on false documents provided to SBA. This investigation was conducted jointly with the Internal Revenue Service, Defense Criminal Investigative Service, Department of Labor OIG, and the Air Force Office of Special Investigations.

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Report 16-13: SBA's 8(a) Business Development Program Eligibility

On April 6, SBA OIG published our results of our audit of the 8(a) Business Development Program's compliance with eligibility requirements. The 8(a) Program provides economically and socially disadvantaged small business owners with business development assistance and preference-based Federal contracts.

We found that 30 of the 48 8(a) Program applicants we evaluated did not meet one or more areas of eligibility, based on information in the Business Development Management Information System (BDMIS). The director of the Office of Certification and Eligibility and the associate administrator for Business Development (AA/BD) gathered additional information for 18 firms and, based on this information, approved the firms into the 8(a) Program. However, for the remaining 30 firms, the AA/BD approved the firms without fully documenting in BDMIS how all areas of concern regarding eligibility raised by lower-level reviewers were resolved. As a result, it was not clear whether these 30 firms should have been approved into the 8(a) Program. During the past year within SBA, the 8(a) Program has experienced a change in leadership, identified an aggressive growth plan for the coming years, began testing a streamlined application process, and shifted responsibilities for continuing eligibility reviews. As new management works to improve the program, we encourage SBA management to ensure the documentation supporting 8(a) Program application approvals is maintained in a method ensuring clear eligibility of the applicant. OIG made two recommendations to improve SBA's eligibility determination process for the 8(a) Program. SBA management's planned actions resolve these recommendations.

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Agency Management

Report 16-14: Review of SBA Executive and Political Appointee Travel

On April 14, 2016, SBA OIG published its evaluation of SBA executive and political appointee travel. The Office of the Chief Financial Officer and the Denver Finance Center (DFC) provide oversight of SBA's travel program for employees traveling on official business. Delegated officials within SBA have the vital responsibility to ensure that travel claims are properly prepared in accordance with the regulations and that travel is in the best interest of the Government.

We found that SBA did not always ensure local, domestic, and international travel authorizations and vouchers complied with Federal and SBA travel regulations. Specifically, we noted that (1) actual expenses, travel dates and locations, and annual leave were not pre-approved prior to traveling, (2) appropriate officials did not approve travel authorizations and vouchers, (3) claims for reimbursement did not include complete supporting documentation as required by SBA and Federal travel guidance, and (4) local travel vouchers were not submitted in a timely manner. Furthermore, SBA had gaps in the system for identifying and reporting premium travel that resulted in SBA submitting an inaccurate 2014 premium travel report to the General Services Administration. We made four recommendations to the Office of the Chief Financial Officer which SBA management agreed with and provided additional documentation to close three of the recommendations and the associated questioned costs.

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Report 16-15: SBA's FY 2015 Progress in Reducing Improper Payments

On May 13, 2016, SBA OIG issued our evaluation of SBA's improper payments for fiscal year (FY) 20115. Our objectives were to (1) determine whether SBA complied with IPERA and (2) assess SBA's progress in remediating improper payment-related recommendations. We evaluated SBA's controls to address prior year OIG recommendations and evaluated whether SBA mitigated risks. We also assessed SBA's efforts to prevent and reduce improper payments and reviewed the accuracy and completeness of improper payment disclosures in the 2015 *Agency Financial Report (AFR).*

We found that SBA continued to make progress in its efforts to prevent and reduce improper payments. SBA published and posted an AFR on its website, conducted program-specific risk assessments, published improper payment estimates for all programs and activities identified as susceptible to significant improper payments, published extracts from the applicable programmatic corrective action plans in the AFR, reported a gross improper payment rate of less than 10 percent for six of seven areas tested for FY 2015 reporting, and published and met the annual reduction target for three of the applicable seven areas tested.

However, SBA was not compliant with IPERA reporting requirements; disbursements for goods and services had an improper payment rate that exceeded the 10 percent threshold; and Sections 7(a) and 504 loan guaranty approvals, Hurricane Sandy disaster relief grants, and disbursements for goods and services did not meet their annual reduction target. The report contains four recommendations that SBA generally agreed to address. SBA implemented Recommendation 1, but Recommendations 2, 3, and 4 will remain open until OIG receives documentation demonstrating that these recommendations have been addressed.

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Office of Inspector General
Peggy E. Gustafson
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.

To obtain copies of these documents please contact us at:

SBA Office of Inspector General
409 Third Street SW, 7th Floor
Washington, DC 20416
E-mail: oig@sba.gov
Telephone: (202) 205-6586 FAX (202) 205-7382

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