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Description of document: Final Report, Closing Memo and Report of Investigation for eight Small Business Administration (SBA) Office of Inspector General (OIG) closed investigations, 2007-2011

Requested date: 08-May-2012

Released date: 06-July-2012

Posted date: 24-September-2012

Source of document: Chief, Freedom of Information/Privacy Acts Office
Small Business Administration
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Washington, DC 20416
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U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL
WASHINGTON, D.C. 20416

JUL 06 2012

Via USPS

Re: Freedom of Information Act Request
(FR-5/12-17; Case No. 2012-02607)

This is in response to your Freedom of Information Act request dated May 8, 2012, in which you sought copies of "the Final Report, Closing Memo and Report of Investigation" for eight different closed investigations conducted by the Small Business Administration Office of Inspector General. Your request was referred to this office by the Small Business Administration's (SBA) Freedom of Information/Privacy Act Office on May 10, 2012, and has been assigned the number cited in the caption above.

In our search, we located 38 pages of information responsive to your request. We are withholding part of the information in these records pursuant to FOIA Exemptions 6 and 7C. We are also withholding part of the information in 11 pages of these records pursuant to FOIA Exemption 5, and three pages of these records pursuant to FOIA Exemption 3. An explanation of these FOIA Exemptions is enclosed.

If you are not satisfied with this reply, you have the right to appeal it, within 60 calendar days from the date of this letter, to the Chief, Freedom of Information/Privacy Acts Office, Small Business Administration, 409 Third Street, SW, Washington, DC 20416. Should you choose to do so, please include a copy of this letter in your appeal, as well as any other matters you deem appropriate.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn P. Harris", is written over a horizontal line.

Glenn P. Harris
Counsel to the Inspector General

cc: Lisa Babcock, Freedom of Information/Privacy Acts Office

FOIA EXEMPTIONS

Exemption 2 (5 U.S.C. 552(b)(2)) permits agencies to withhold documents which relate solely to the internal personnel rules and practices of an agency.

Exemption 3 (5 U.S.C. 552(b)(3)) protects information specifically exempted from disclosure by statute. (The specific statute must be cited.)

Exemption 4 (5 U.S.C. 552(b)(4)) protects "trade secrets and commercial or financial information obtained from a person and privileged or confidential" the release of which could be competitively harmful to the submitter of the information; which could impair the government's ability to obtain similar necessary information in a purely voluntary manner in the future; and, which could affect other governmental interests, such as program effectiveness and compliance.

Exemption 5 (5 U.S.C. 552(b)(5)) allows agencies the discretion to withhold "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency." This exemption may protect the deliberative process, and may protect attorney-work product and attorney-client materials.

Exemption 6 (5 U.S.C. 552(b)(6)) protects personnel and medical files and similar files the disclosure of which would constitute "a clearly unwarranted invasion" of individual privacy and might adversely affect the individual or his/her family.

Exemption 7 (5 U.S.C. 552(b)(7)) protects from disclosure "records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of a record or information compiled by a criminal law enforcement authority in the course of a national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual."

Exemption 8 (5 U.S.C. 552(b)(8)) protects matters that are "contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions."

CASE REVIEW SUMMARY
CENTRAL REGIONAL OFFICE

Case Number: C-IA-09-0514

Case Agent: [Ex. 6, 7C]

Case Title: [Ex. 6, 7C]

Date of Case Review: July 9, 2010

AUSA: [Ex. 6, 7C]

Judicial District: NORTHERN TX
(PUBLIC INTEGRITY)

Amount of Loan:

Amount of Loss:

Statutory Deadline: 2013

Type of Loan:

Allegation and Involved Statutes:

18 USC 872 – Extortion by officers or employees of the United States.

Summary of Investigative Findings:

[Ex. 6, 7C] demanded money from a fellow SBA District Office employee. She has repeatedly told the employee that she saved his job while he was out on extended medical leave.

Actions Completed Since Last Update:

Reviewed subpoenaed records.

Interviewed [Ex. 6, 7C]

Public Integrity officially declined the case.

Planned Investigative Actions:

Determining whether or not subject will need to be interviewed again under Kalkines. Report of investigation will be written and provided to SBA Dallas District Director [Ex. 6, 7C]

SAC Comments: [Ex. 5]

SAC Initials: [Ex. 6, 7C]

Date: July 9, 2010



**U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL
INVESTIGATIONS DIVISION**

Prepared by: [Ex. 6, 7C]

Approved by: [Ex. 6, 7C]

REPORT OF INVESTIGATION

CASE#: C-IA-09-0514	DATE OF REPORT: May 13, 2011
CASE TITLE: [Ex. 6, 7C]	
PERIOD OF INVESTIGATION: September 21, 2009 TO May 9, 2011	
CASE AGENT: [Ex. 6, 7C]	
DISTRIBUTION: AIGI, OIG OFFICIAL CASE FILE	

SUMMARY

Reporting agent initiated this investigation based upon a United States Small Business Administration (SBA), Office of Inspector General, hotline complaint on September 2, 2009. The complainant, who requested confidentiality, alleged that SBA Supervisor Business Development Specialist [Ex. 6, 7C] had been asking SBA Lender Relations Specialist [Ex. 6, 7C] for money for an extended length of time. [Ex. 6, 7C] routinely requested money via her official SBA government email account. [Ex. 6, 7C] continually told [Ex. 6, 7C] that she saved his job when he was on extended sick leave. [Ex. 6, 7C] told complainant that he felt that he was being blackmailed by [Ex. 6, 7C]. [Ex. 6, 7C] admitted to taking no more than \$10,000 from [Ex. 6, 7C]; but, she said it was all a gift between friends.

During the course of the investigation, it was discovered that for calendar years 2007, 2008, and 2009, [Ex. 6, 7C] submitted false Office of Government Ethics Forms 450, Confidential Financial Disclosure Report, to the SBA. [Ex. 6, 7C] failed to report the money received from [Ex. 6, 7C] and income received from her church.

In addition, it was discovered that [Ex. 6, 7C] may have misused her position by contacting a Small Business Development Center to try and obtain a job for [Ex. 6, 7C].

Finally, [Ex. 6, 7C] misused her government computer and violated SBA Standard Operating Procedure 90 49.1, Appropriate Use of SBA's Automated Information Systems, by using her government computer to send the improper emails requesting monies from [Ex. 6, 7C].

SUBJECT

[Ex. 6, 7C]

1 of 3

RESTRICTED INFORMATION SBA FORM 22 07/16/2007	This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Small Business Administration or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.
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JUDICIAL/ADMINISTRATIVE ACTIONS

Reporting agent investigated this case for possible violation of Title 18 USC 872 - Extortion by Officers or Employees of the United States and Title 18 USC 1001 – False Statements. The case was officially declined by the Department of Justice, Criminal Division, Public Integrity Section, on July 8, 2010.

The investigation did develop sufficient information and evidence to show that [Ex. 6, 7C] knowingly violated Federal Government and SBA regulations. The case was subsequently presented to SBA for administrative action. On February 10, 2011, the [Ex. 6, 7C] District Director recommended [Ex. 6, 7C] employment with both SBA and the Federal Government be terminated.

On May 9, 2011, SBA entered into a settlement agreement with [Ex. 6, 7C] allowing her to resign. The settlement agreement contained a provision which prohibits [Ex. 6, 7C] from working for the Federal Government again.

Finally, SBA took administration action against [Ex. 6, 7C] for violating the Standards of Ethical Conduct for giving monetary gifts to a supervisor / employee who made more money than he did. [Ex. 6, 7C] was suspended for five days without pay.

DISPOSITION OF EVIDENCE

Destroyed per approval from the Department of Justice.

STATUS

This matter is closed.

RESTRICTED INFORMATION	This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Small Business Administration or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.
SBA FORM 22 07/16/2007	

11
three
13



U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL
INVESTIGATIONS DIVISION

Prepared by: [Ex. 6, 7C]
Approved by: [Ex. 6, 7C]

REPORT OF INVESTIGATION

CASE#: S-DL-10-0280-I	DATE OF REPORT: September 28, 2010
CASE TITLE: PDC Identity Theft	
PERIOD OF INVESTIGATION: July 20, 2010 TO September 23, 2010	
CASE AGENT: [Ex. 6, 7C]	
DISTRIBUTION: FT WORTH POLICE DEPARTMENT; CASE FILE	

SUMMARY

The reporting agent (RA), Special Agent (SA) [Ex. 6, 7C], Small Business Administration, Office of Inspector General (SBA-OIG) initiated this investigation based upon a referral from the SBA Disaster Assistance Processing and Disbursement Center. The referral alleged an unknown individual was using disaster applicant's bank account information to write fraudulent checks.

Coordination with [Ex. 6, 7C], Fort Worth Police Department (FWPD), revealed that during a search warrant [Ex. 6, 7C] found several voided checks along with SBA Electronic Funds Transfer (EFT) forms. [Ex. 6, 7C] stated the subject of her investigation, [Ex. 6, 7C] was using the voided checks as a template to print new checks off her computer. [Ex. 6, 7C] investigation revealed all individuals identified on the SBA EFT forms had previously applied for SBA disaster loans. A review of the SBA Disaster Credit Management System (DCMS) confirmed the check numbers on the voided checks [Ex. 6, 7C] seized, match up with the voided checks maintained in DCMS.

During the course of this investigation the RA reviewed DCMS audit logs, voided checks and SBA EFT forms which corresponded with loan applicants banking information. This investigation revealed 16 SBA loan applicants had their account information compromised. Of those, only one actually had a fraudulent check processed by their bank which resulted in a loss of \$951.96.

The RA investigated this case for possible violations of 18 USC 1028, Identity Theft and is closing this investigation due to inability to identify a subject.

1 of 4

RESTRICTED INFORMATION SBA FORM 22 07/16/2007	This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Small Business Administration or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.
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BACKGROUND:

The SBA is tasked with disaster assistance in the aftermath of certain incidents determined to be a Presidentially declared disaster. All disaster loan processing occurs at the SBA Disaster Assistance Processing and Disbursement Center (PDC), Ft Worth, TX. One of the requirements prior to disbursing loan funds is for applicants to submit an SBA Electronic Funds Transfer (EFT) form along with a voided personal check. These documents are scanned and uploaded into the Disaster Credit Management System (DCMS) as part of the official loan file.

The Fort Worth Police Department (FWPD) executed a search warrant for a property occupied by a person not employed by the SBA, [Ex. 6, 7C]. A FWPD detective seized several copies of voided checks along with SBA Electronic Funds Transfer (EFT) forms. The detective stated that the subject of her investigation, [Ex. 6, 7C] was using the voided checks as a template to print new checks from a home computer and had obtained the documents from a thus far unidentified SBA employee. A review of DCMS confirmed that the check routing and account numbers on the seized voided checks matched those of the voided checks maintained in DCMS for those loan applicants.

The number of PDC employees ranges between 300-600 depending upon the tempo of disasters. All PDC employees have access to DCMS and can view loan files, bank account information and scanned documents. Sometime from December 2009 through April 2010, an SBA employee working at the PDC stole checking information from disaster loan applicants. The unknown SBA employee printed the EFT form along with applicants voided checks to participate in the identity theft ring being investigated by FWPD.

DETAILS:

On April 28, 2010, [Ex. 6, 7C] DCMS, conducted a computer analysis against SBA loan files that were affected by the theft of applicant checking account information. [Ex. 6, 7C] pulled an audit of each loan file showing what user made a change in DCMS against that file. [Ex. 6, 7C] was unable to determine if a user viewed or printed any documents or screen shots in DCMS since the audit trail did not track that information. Therefore, he was unable to determine what SBA employee stole the information.

From June 16, 2010 to July 14, 2010, RA compared DCMS loan files against the accounts of 734 identity theft victims provided by the FWPD. [Ex. 6, 7C] was able to conduct a computer analysis that compared DCMS loan applicant bank account data against the bank account checking numbers from the 734 identity theft victims. [Ex. 6, 7C] matched sixteen SBA loan applicants to the bank accounts of identity theft victims (Exhibit 1). Although there were sixteen matches, only one account actually had a fraudulent check processed against it in the amount of \$951.96.

On June 29, 2010, RA interviewed [Ex. 6, 7C] via telephone at [Ex. 6, 7C] regarding the stolen voided checks from the PDC. [Ex. 6, 7C] stated the SBA voided checks were found at her home during a FWPD search but she was not the one who obtained them from an SBA employee. There were three other women involved and they would approach random employees

RESTRICTED INFORMATION	This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Small Business Administration or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.
SBA FORM 22 07/16/2007	

from various businesses to get customer checking account information. [Ex. 6, 7C] residence was only used as a place to print the fraudulent checks and she did not know anyone who worked for the SBA or the government.

On June 30, 2010, RA coordinated with [Ex. 6, 7C] [Ex. 6, 7C] attorney, regarding possible cooperation from [Ex. 6, 7C] and the other three women involved to divulge the SBA employee's identity. [Ex. 6, 7C] stated he would coordinate with the other attorneys and if anyone was willing to cooperate, he would contact the RA.

On September 23, 2010, a Program Vulnerability Memorandum (PVM) was submitted to the SBA Associate Administrator for Disaster Assistance to implement change to DCMS (Exhibit 2). The suggested change would increase security of loan applicant's banking information and increase the audit capability of DCMS.

SUBJECTS

Unknown

JUDICIAL/ADMINISTRATIVE ACTIONS

This case is being closed due to inability to identify a subject. The subjects identified by the FWPD are not SBA employees.

DISPOSITION OF EVIDENCE

N/A

STATUS

Closed.

CASE REVIEW SUMMARY

WESTERN REGIONAL OFFICE

Case Number: W-IA-07- 0364-I **Case Agent:** [Ex. 6, 7C]
Case Title: [Ex. 6, 7C] and [Ex. 6, 7C] **Date of Case Review:** April 13, 2009
AUSA: [Ex. 6, 7C] **Judicial District:** Northern Judicial District
of California
Amount of Loan: N/A **Amount of Loss:** N/A
Statutory Deadline: N/A **Type of Loan:** N/A

Allegation and Involved Statutes:

The referral alleged that [Ex. 6, 7C] SBA, Program Certification
and Eligibility, San Francisco, was in violation of prohibited personnel practices due to her
[Ex. 6, 7C] relationship with [Ex. 6, 7C] her alleged husband.

Title 5 United States Code (USC), Section 2302, Prohibited Personnel Practices; SBA's Standard
Operating Procedure (SOP) 33 00 2, Employment; Title 18 USC, Section 1001, False
Statements; and Title 5 USC, Section 8905, Health Insurance.

Summary of Investigative Findings:

The investigation revealed that [Ex. 6, 7C] and [Ex. 6, 7C] were married during the time period
(about March through June 2007) of [Ex. 6, 7C] recruitment, ranking, and selection for the
position to which [Ex. 6, 7C] [Ex. 6, 7C] Their divorce was final as of
[Ex. 6, 7C] [Ex. 6, 7C] started work at SBA on [Ex. 6, 7C]

The investigation also revealed that [Ex. 6, 7C] made false statements on one of two of his
Optional Form 306s, Declaration of Federal Employment, regarding his marital status, and on his
Standard Form 85P, Questionnaire for Public Trust Position, regarding his marital status and his
places of residence for the past seven years.

In addition, the investigation revealed that [Ex. 6, 7C] had several opportunities to tell
[Ex. 6, 7C] the Human Resource Specialist who handled the hiring, that [Ex. 6, 7C] had a relationship
with [Ex. 6, 7C]. According to [Ex. 6, 7C] [Ex. 6, 7C] told [Ex. 6, 7C] that she knew [Ex. 6, 7C] from a
bank. According to both [Ex. 6, 7C] and [Ex. 6, 7C] Office of
Government Contracting and Business Development, [Ex. 6, 7C] told [Ex. 6, 7C] that [Ex. 6, 7C] was her
ex-husband; however, [Ex. 6, 7C] stated she did not contact either [Ex. 6, 7C]
International Trade, Office of International Trade, or [Ex. 6, 7C]
Office Of Government Contracting and Business Development, or anyone at the
Office of Human Capital Management (OHCM), regarding the fact that [Ex. 6, 7C] had a
relationship with [Ex. 6, 7C]

On September 10, 2007, the investigation was presented to Assistant United States Attorney (AUSA) [Ex. 6, 7C] Northern Judicial District of California, San Francisco, CA. The details of the referral and allegations were discussed with AUSA [Ex. 6, 7C] AUSA [Ex. 6, 7C] conferred with his supervisor, [Ex. 6, 7C] Major Crimes Unit, U.S. Attorney's Office. The matter was declined for prosecutive consideration [Ex. 5]

On [Ex. 6, 7C] a Report of Investigation (ROI) was prepared for Administrative Action against [Ex. 6, 7C] [Ex. 6, 7C] and [Ex. 6, 7C] two copies of the ROI were sent to [Ex. 6, 7C] for distribution to the appropriate SBA Program Office. ROI copy given to action official with cover letter. Letter loaded into IMIS. Updated IMIS and added [Ex. 6, 7C] to case. Emails regarding filling out OGE form. Determined not necessary.

[Ex. 6, 7C] resignation sent to me by [Ex. 6, 7C] Loaded into IMIS. SAR written on [Ex. 6, 7C] resignation, sent to [Ex. 6, 7C] and loaded into IMIS.

ROI requested by officials to be given to [Ex. 6, 7C] and [Ex. 6, 7C] Went through ROI. Okay to distribute.

Actions Completed Since Last Update on January 6, 2009:

Still awaiting word on official action. Told March 9, 2009, that documents on Administrative Action still in legal, awaiting signature.

Case summary review with SSA and SAC. All IMIS documents and worksheets uploaded into IMIS.

Planned Investigative Actions:

Waiting to hear if action taken on [Ex. 6, 7C] and [Ex. 6, 7C] Appropriate information will be entered into IMIS if administrative action is taken or not taken against the subjects. Upload any documents regarding the administrative action.

Once administrative action has been decided, close case.

SAC Comments:

SAC Initials: [Ex. 6, 7C]

Date:

4/13/09



**U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL
INVESTIGATIONS DIVISION**

Prepared by: [Ex. 6, 7C]

Approved by: [Ex. 6, 7C]

REPORT OF INVESTIGATION

CASE#: W-IA-07-0364-I	DATE OF REPORT: May 11, 2009
CASE TITLE: [Ex. 6, 7C] AND [Ex. 6, 7C]	
PERIOD OF INVESTIGATION: September 10, 2007 TO May 11, 2009	
CASE AGENT: [Ex. 6, 7C]	
DISTRIBUTION:	

SUMMARY

On [Ex. 6, 7C] a Report of Investigation was prepared for administrative action under SBA Standard Operating Procedure (SOP) 37 52 2, Appendix 5.

On [Ex. 6, 7C] [Ex. 6, 7C] [Ex. 6, 7C] SBA, Office of Certification and Eligibility, 455 Market Street, 6th Floor, San Francisco, CA, resigned from Federal service. His resignation came prior to the SBA taking adverse administrative action against him for making false statements on his employment application, in violation of Title 18 USC, Section 1001, False Statements (**Exhibit 1**).

On [Ex. 6, 7C] [Ex. 6, 7C] [Ex. 6, 7C] SBA, Office of Certification and Eligibility, San Francisco, CA, received a seven day suspension without pay and duty effective [Ex. 6, 7C] through [Ex. 6, 7C] for conduct [Ex. 6, 7C] and lack of candor, in violation of Title 5 USC, Section 2302, Prohibited Personnel Practices; and SBA's SOP 33 00 2, Employment (**Exhibit 2**). In addition, on April 24, 2009, [Ex. 6, 7C] Certification and Eligibility, SBA, Office of Business Development, Washington, DC, received a Letter of Warning (LOW) for conduct [Ex. 6, 7C] in violation of Title 5 USC, Section 2302, Prohibited Personnel Practices; and SBA's SOP 33 00 2, Employment (**Exhibit 3**).

[Ex. 6, 7C] and [Ex. 6, 7C] received letters on [Ex. 6, 7C] for a proposed 30 days suspension each; however, the administrative actions were reduced due to mitigating circumstances, including satisfactory performance ratings, tenure in federal service, and no previous disciplinary action (**Exhibits 2 and 3**).

1 of 4

RESTRICTED INFORMATION SBA FORM 22 07/16/2007	This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Small Business Administration or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.
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DETAILS

The investigation revealed that [Ex. 6, 7C] made false statements on one of two of his Optional Form 306s, Declaration of Federal Employment, regarding his marital status, and on his Standard Form 85P, Questionnaire for Public Trust Position, regarding his marital status and his places of residence for the past seven years.

The investigation also revealed that [Ex. 6, 7C] and [Ex. 6, 7C] [Ex. 6, 7C] ex-husband, were married during the time period of [Ex. 6, 7C] recruitment, ranking, and selection for a position to which [Ex. 6, 7C] [Ex. 6, 7C] [Ex. 6, 7C] had several opportunities to tell Human Resources that she had a personal relationship with [Ex. 6, 7C] [Ex. 6, 7C] told [Ex. 6, 7C] [Ex. 6, 7C] that [Ex. 6, 7C] was her ex-husband when at the time they were still married; however, [Ex. 6, 7C] did not contact anyone at the Office of International Trade, the Office of Government Contracting and Business Development, or the Office of Human Capital Management regarding the fact that [Ex. 6, 7C] had a personal relationship with [Ex. 6, 7C]

SUBJECTS

[Ex. 6, 7C]

SBA, Office of Certification and Eligibility
455 Market Street, 6th Floor
San Francisco, CA

[Ex. 6, 7C]

SBA, Office of Certification and Eligibility
455 Market Street, 6th Floor
San Francisco, CA

[Ex. 6, 7C]

SBA, Office of Certification and Eligibility
Government Contracting and Business Development
409 3rd Street, SW, 8th Floor, Washington, DC

RESTRICTED INFORMATION	This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Small Business Administration or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.
SBA FORM 22 07/16/2007	

JUDICIAL/ADMINISTRATIVE ACTIONS

On [Ex. 6, 7C] a Report of Investigation was prepared for administrative action under SBA SOP 37 52 2, Appendix 5.

On [Ex. 6, 7C] [Ex. 6, 7C] [Ex. 6, 7C] SBA, Office of Certification and Eligibility, 455 Market Street, 6th Floor, San Francisco, CA, resigned from Federal service. His resignation came prior to the SBA taking adverse administrative action against him for making false statements on his employment application.

On [Ex. 6, 7C] [Ex. 6, 7C] [Ex. 6, 7C] SBA, Office of Certification and Eligibility, San Francisco, CA, received a seven day suspension without pay and duty effective May 3, 2009, through May 9, 2009, for conduct [Ex. 6, 7C] and lack of candor.

On [Ex. 6, 7C] [Ex. 6, 7C] Certification and Eligibility, SBA, Office of Business Development, Washington, DC, received a Letter of Warning (LOW) for conduct [Ex. 6, 7C]

DISPOSITION OF EVIDENCE

There were no original documents or other evidence inventoried during this investigation. Copies of pertinent records will be retained in the case file to be destroyed at a later date in adherence to SBA policy.

STATUS

Case closed.

RESTRICTED INFORMATION SBA FORM 22 07/16/2007	This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Small Business Administration or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.
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CASE REVIEW SUMMARY
SOUTHERN REGIONAL OFFICE

Case Number: S-DL-07-0096-I

Case Agent: [Ex. 6, 7C]

Case Title: [Ex. 6, 7C]

Date of Case Review: 1/13/09

AUSA: [Ex. 6, 7C]

Judicial District: Southern District AL

Amount of Loan: \$40,000.00

Amount of Loss: \$40,000.00

Statutory Deadline: 12-11-2010

Type of Loan: DISASTER

Allegation and Involved Statutes:

Subject submitted falsified documents to the SBA and received a loan based on them.

18 U.S.C. 641 & 1001

Summary of Investigative Findings:

[Ex. 6, 7C] submitted an application for and received a Hurricane Katrina Disaster Assistance Loan from the Small Business Administration (SBA) in which he knowingly forged his wife's signature on SBA documents in order to receive disbursement of \$30,000.00 and has misappropriated these funds and converted them to his personal use, paying off debts and purchasing an automobile, while abandoning the family and residence for which the funds were intended.

The above findings indicate [Ex. 6, 7C] may have violated 18 U.S.C. 1001, 1014, 287, 641, and 15 U.S.C. 645.

Actions Completed Since Last Update:

On December 8, 2008 AUSA was contacted regarding a declination with a Civil Referral. No answer. [Ex. 3, 5, 6, 7C]

Planned Investigative Actions:

Awaiting USAO Birmingham declination letter.

SAC Comments: [Ex. 5, 6, 7C]

SAC Initials: [Ex. 6, 7C]

Date: 1/13/09



**U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL
INVESTIGATIONS DIVISION**

Prepared by: [Ex. 6, 7C]
Approved by: [Ex. 6, 7C]

REPORT OF INVESTIGATION

CASE#: S-DL-07-0096-I	DATE OF REPORT: March 9, 2009
CASE TITLE: [Ex. 6, 7C]	
PERIOD OF INVESTIGATION: December 1, 2006 TO March 9, 2009	
CASE AGENT: [Ex. 6, 7C]	
DISTRIBUTION: OFFICIAL CASE FOLDER	

SUMMARY

On January 14, 2008, the reporting agent (RA), SA [Ex. 6, 7C] provided Assistant United States Attorney (AUSA) [Ex. 6, 7C] Northern District of Alabama, with a copy of the prosecutive Report of Investigation, dated December 19, 2007.

On December 22, 2008 based on the investigative findings in that report AUSA [Ex. 6, 7C] Criminal Division, Northern District of Alabama declined to prosecute this case citing the facts of the case do not provide the required level of guilt needed for prosecution and the subject's wife, [Ex. 3, 5, 6, 7C]

The RA investigated this case for possible violations of 18 U.S.C. 1001, 18 U.S.C. 1014, 18 U.S.C. 287, 18 U.S.C. 641, and 15 U.S.C. 645.

DETAILS

No investigative findings after December 22, 2008.

SUBJECT

[Ex. 6, 7C] is a black male who was born on
[Ex. 6, 7C]

1 of 4

RESTRICTED INFORMATION SBA FORM 22 07/16/2007	This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Small Business Administration or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.
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His Social Security Number (SSN) is [Ex. 6, 7C] [Ex. 6, 7C] currently resides at [Ex. 6, 7C]
[Ex. 6, 7C] cellular telephone number [Ex. 6, 7C]
His Florida Driver's License Number is [Ex. 6, 7C] His employment is unknown.
[Ex. 6, 7C] is divorced from [Ex. 6, 7C] and father of two children.

JUDICIAL/ADMINISTRATIVE ACTIONS

On December 22, 2008 AUSA [Ex. 6, 7C] Northern District of Alabama, declined to prosecute this case [Ex. 3, 5, 6, 7C]

(Exhibit 1).

DISPOSITION OF EVIDENCE

There were no original documents or other evidence inventoried during this investigation. Copies of pertinent records will be retained in the case file to be destroyed at a later date in adherence to SBA policy.

STATUS

Case closed.

RESTRICTED INFORMATION SBA FORM 22 07/16/2007	This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Small Business Administration or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.
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CASE REVIEW SUMMARY
WESTERN REGIONAL OFFICE

Case Number: W-IA-09-0458-I

Case Agent: [Ex. 6, 7C]

Case Title: [Ex. 6, 7C]

Date of Case Review: July 7, 2010

AUSA: N/A

Judicial District: N/A

Amount of Loan: N/A

Amount of Loss: N/A

Statutory Deadline: N/A

Type of Loan: N/A

Allegation and Involved Statutes:

[Ex. 6, 7C] violated the Hatch Act by engaging in partisan political management and partisan political campaigns while engaged in federal government employment.

Statute 5 USC 7321-7326: The Hatch Act restricts the political activity of executive branch employees of the federal government engaging in partisan political management and partisan political campaigns

Summary of Investigative Findings:

On January 8, 2009, request for assistance received from the Office of Special Counsel (OSC) via [Ex. 6, 7C] and [Ex. 6, 7C] to image and analyze SBA employee's hard drive, and to obtain and analyze [Ex. 6, 7C] emails and files on the SBA Local Area Network (LAN) server.

[Ex. 6, 7C] hard drive seized by [Ex. 6, 7C] and sent to me. Received March 4, 2009, and logged into evidence. Hard drive imaged on March 30, 2009, and started Encase reports and manual searching and bookmarking.

From January to May 2009, I sent several requests via [Ex. 6, 7C] and directly to OCIO requesting [Ex. 6, 7C] emails from the LAN server. I finally received all emails containing the word [Ex. 6, 7C] from OCIO—about 15,000 of them. Sorted through them all and separated out the ones which pertained to [Ex. 6, 7C] then sorted those emails into categories. Discussed with [Ex. 6, 7C] and [Ex. 6, 7C] the legality of giving OSC all the emails. Talked with OSC attorney [Ex. 6, 7C] regarding emails she required.

Received LAN files of [Ex. 6, 7C] from OCIO on March 2, 2009. Added those files as logical evidence file to Encase for review and reports.

Worked on SCERS report and finished. SCERS report contained numerous hyperlinks to other documents, emails, and Encase generated reports. Transferred SCERS report to DVD as the total report is 4.2 GB. Sent via Federal Express in July 2009 to [Ex. 6, 7C] OSC.

Opened investigation on IMIS. Did all required paperwork and loaded onto IMIS. Loaded SCERS report and additional documentation into IMIS.

Actions Completed Since April 1, 2010:

Contacted [Ex. 6, 7C] regarding status of the case. Automatic email reply stated she was out until July 12, 2010.

See Planned Investigative Actions

Planned Investigative Actions:

SCERS work done at request of OSC. It is their investigation. Case will remain open until OSC reports an outcome. At that time, closing ROI will be prepared and all IMIS screens completed.

SAC Comments:

[Ex. 5, 6, 7C]

SAC Initials: [Ex. 6, 7C]

Date:

7/12/10



**U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL
INVESTIGATIONS DIVISION**

Prepared by: [Ex. 6, 7C]

Approved by: [Ex. 6, 7C]

REPORT OF INVESTIGATION

CASE#: W-BL-09-0458-I	DATE OF REPORT: July 22, 2010
CASE TITLE: [Ex. 6, 7C]	
PERIOD OF INVESTIGATION: January 6, 2009 TO July 12, 2010	
CASE AGENT: [Ex. 6, 7C]	
DISTRIBUTION:	

SUMMARY

The reporting agent (RA), [Ex. 6, 7C] Special Agent, U.S. Small Business Administration (SBA), Office of Inspector General (OIG), Los Angeles Field Office, Glendale, CA, initiated this investigation based upon a January 6, 2009, request for assistance from the U.S. Office of Special Counsel (OSC) via [Ex. 6, 7C] and [Ex. 6, 7C] SBA-OIG, Washington DC, to image and analyze SBA employee [Ex. 6, 7C]'s hard drive, and to obtain and analyze [Ex. 6, 7C] emails and files on the SBA Local Area Network (LAN) server, due to alleged Hatch Act violations stemming from an email disseminated by [Ex. 6, 7C]b other SBA employees (Exhibit 1).

The RA made an extensive computer hard drive examination, email examination, and SBA LAN file examination of [Ex. 6, 7C] hard drive, emails, and LAN files (Exhibit 2). On July 20, 2009, two DVD copies of the [Ex. 6, 7C] Seized Computer Evidence Recovery Specialist (SCERS) report were sent to [Ex. 6, 7C] Attorney, Hatch Act Unit, OSC, Washington, DC (Exhibit 3). Based on the examinations, the OSC determined that [Ex. 6, 7C] disseminated three emails to various recipients which OSC determined to be political activity due to the emails' content (Exhibit 4).

On July 12, 2010, the RA received a letter from [Ex. 6, 7C] addressed to [Ex. 6, 7C] dated November 30, 2009, which stated that [Ex. 6, 7C] was orally admonished by the OSC against future Hatch Act prohibited activity while employed by a federal executive agency; and she was orally admonished that if she were to engage in such activity, it would be considered to be a willful and knowing violation of the law that could result in her removal from her employment (Exhibit 4).

1 of 4

RESTRICTED INFORMATION SBA FORM 22 07/16/2007	This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Small Business Administration or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.
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The RA investigated this case for possible violations of 5 USC 7321-7326, Hatch Act restrictions regarding the political activity of executive branch employees of the federal government engaging in partisan political management and partisan political campaigns.

DETAILS

Allegation 1 – [Ex. 6, 7C] [Ex. 6, 7C] SBA, Dallas/Fort Worth District Office, Fort Worth, TX, was in violation of the Hatch Act by engaging in partisan political management and partisan political campaigns while employed by the federal government.

On January 6, 2009, the RA was sent an email by [Ex. 6, 7C] SBA-OIG, Washington, DC, regarding a request by the OSC to image the computer hard drive of SBA employee [Ex. 6, 7C] and search emails and other files of [Ex. 6, 7C] from SBA's LAN computer server (**Exhibits 4 and 5**).

On or before March 4, 2009, Special Agent (SA) [Ex. 6, 7C] SBA-OIG, Fort Worth, TX, obtained possession of [Ex. 6, 7C] SBA desktop computer from the SBA Dallas/Fort Worth District Office at the request of the RA, and sent [Ex. 6, 7C] computer tower and hard drive to the RA via Federal Express. On March 30, 2009, a forensic image of the hard drive was made using EnCase forensic software, Encase for Windows, version 6, for forensic examination (**Exhibit 2**).

On March 2, 2009, the RA received two DVDs from the Office of the Chief Information Officer (OCIO) containing [Ex. 6, 7C] files on the SBA Local Area Network (LAN) server. On June 4, 2009, the RA used Encase for Windows, version 6, to create two logical evidence files, one of each of the two DVDs, for forensic examination (**Exhibit 2**).

On May 6, 2009, the RA received three CDs provided by OCIO containing [Ex. 6, 7C] email files on the SBA LAN server. On May 26, 2009, the RA transferred the .PST (personal storage table: a folder storage file extension for Microsoft Office Outlook) files on the disks to her Microsoft Office Outlook mailbox under Archive Folders in a folder labeled [Ex. 6, 7C] "Emails," in order to view the files. OCIO sent the RA any and all emails containing the word [Ex. 6, 7C] in the emails from the SBA LAN server. The RA went through all the emails and removed the emails which did not pertain to [Ex. 6, 7C]. The RA then went through all the emails which pertained to [Ex. 6, 7C] and sorted the emails into folders by categories as follows: "AFGE Review," "FEDweek," "Goldfax," "macys.com," "medco," "Obama references," "Palin references," "Paul Suplizio," "SBA work related," "Star Telegram," "Time or T& A," "ucereport," "Union," "USA jobs," "vacations," "Vendors personal and work," "vote references," and "washingtonpost." Uncategorized emails were left in the folders called [Ex. 6, 7C] "emails 1," [Ex. 6, 7C] "emails 2," and [Ex. 6, 7C] "emails 3," which corresponded to what CD they were from (**Exhibit 2**).

On June 24, 2009, the RA spoke with [Ex. 6, 7C] OSC, Hatch Act Unit, to determine which emails she wanted. [Ex. 6, 7C] requested the email folders "AFGE Review," "FEDweek," "Obama references," "Palin references," "Paul Suplizio," "Star Telegram," "Union," "vote

RESTRICTED INFORMATION	This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Small Business Administration or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.
SBA FORM 22 07/16/2007	

references," "washingtonpost," [Ex. 6, 7C] emails 1, [Ex. 6, 7C] emails 2," and [Ex. 6, 7C] emails 3" (Exhibit 2).

On July 20, 2009, two DVD copies of the [Ex. 6, 7C] Seized Computer Evidence Recovery Specialist (SCERS) report were sent to [Ex. 6, 7C] Attorney, Hatch Act Unit, OSC, Washington, DC (Exhibit 3). Based on the examinations, the OSC determined that [Ex. 6, 7C] disseminated three emails to various recipients which OSC determined to be political activity due to the emails' content (Exhibit 4).

SUBJECTS

[Ex. 6, 7C]

SBA, Dallas/Ft. Worth District Office, 4300 Amon Carter Blvd., Ft Worth, TX

JUDICIAL/ADMINISTRATIVE ACTIONS

On or about November 30, 2009, [Ex. 6, 7C] was orally admonished by the OSC against future Hatch Act prohibited activity while employed by a federal executive agency; and she was orally admonished that if she were to engage in such activity, it would be considered to be a willful and knowing violation of the law that could result in her removal from her employment.

DISPOSITION OF EVIDENCE

[Ex. 6, 7C]'s SBA desk top computer with hard drive was inventoried as evidence during this investigation. [Ex. 6, 7C] desk top computer with hard drive was be logged out of evidence on July 22, 2010, and returned to her via SBA-OIG, in Forth Worth, TX.

Copies of pertinent records will be retained in the case file to be destroyed at a later date in adherence with SBA policy.

STATUS

Case closed.

RESTRICTED INFORMATION	This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Small Business Administration or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.
SBA FORM 22 07/16/2007	

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CASE REVIEW SUMMARY
CENTRAL REGIONAL OFFICE

Case Number: C-BL-07-0370-I

Case Agent: [Ex. 6, 7C]

Case Title: [Ex. 6, 7C]

Date of Case Review: 10/5/10

AUSA: [Ex. 6, 7C]

Judicial District: Eastern District of TX

Amount of Loan: \$1,400,000
\$1,183,700

Amount of Loss: \$1,320,102.56
\$1,180,011.55

Loan Default Date: 7/20/07
2/08/09

Type of Loan: 7(a)

Allegation and Involved Statutes:

SBA-OIG received an allegation from a cooperating source that [Ex. 6, 7C] (seller) and [Ex. 6, 7C] (loan broker) organized the sale of two (2) of [Ex. 6, 7C] grocery stores to unqualified buyers and provided all or a portion of the cash injection for the borrowers. Additionally, it was alleged that [Ex. 6, 7C] and [Ex. 6, 7C] (buyer) and [Ex. 6, 7C] (buyer) conspired to provide numerous altered and/or fictitious documents to SBA and Wachovia Bank to artificially inflate the sales price of both grocery stores and represent that the two (2) buyers had the required money for the cash injection. The federal statutes involved include: 18 USC 1341 (Mail Fraud); 18 USC 1343 (Wire Fraud); 18 USC 341 (Conspiracy), 18 USC 641 (Theft of Public Money) and 18 USC 1001 (False Statements).

Summary of Investigative Findings:

On April 28, 2006, [Ex. 6, 7C] sold a grocery store located at [Ex. 6, 7C] to [Ex. 6, 7C] [Ex. 6, 7C] for \$1,880,000. [Ex. 6, 7C] secured a \$1,400,000 SBA guaranteed loan from Wachovia SBA Lending, Inc. The equity injection was made in the form of a \$178,642.02 Chase Bank cashier's check provided to American National Title. The cashier's check was purchased by [Ex. 6, 7C] from the Chase Bank account of [Ex. 6, 7C] [Ex. 6, 7C]. The account was opened in December 2005 with three deposits totaling over \$400,000. Another deposit in excess of \$782,000 was made to the account in the month prior to the loan closing. In addition to [Ex. 6, 7C] [Ex. 6, 7C] who got an SBA loan to buy another store from [Ex. 6, 7C] was an authorized signer on the account. Both [Ex. 6, 7C] and [Ex. 6, 7C] were identified as directors of [Ex. 6, 7C]. According to [Ex. 6, 7C] she obtained \$185,765.94 from the sale of her home located in NY to use as equity injection. The settlement sheet provided by [Ex. 6, 7C] to the lender showed the sales price of her home as \$190,000 and the sales date as January 27, 2006. [Ex. 6, 7C] [Ex. 6, 7C]

[Ex. 6, 7C] husband, admitted they only received \$59,313.82 from the sale of their NY home after paying off the first mortgage of approximately \$122,000.

A loan file of Wachovia SBA Lending, Inc., showed that on July 29, 2005, [Ex. 6, 7C] [Ex. 6, 7C] sold a grocery store located at [Ex. 6, 7C] to [Ex. 6, 7C] [Ex. 6, 7C] for \$1,433,000. It was determined that the lender was not an FDIC insured lending institution and the statute of limitations for any applicable federal statutes had expired.

Actions Completed Since Last Update:

[Ex. 6, 7C] contacted Chase Bank and requested additional records to document the source of the deposited funds drawn upon to fund the equity injection.

Planned Investigative Actions:

Receive and review records from Chase Bank to determine if any of the equity injection was derived from [Ex. 6, 7C] the seller.

SAC Comments: [Ex. 5, 6, 7C]

SAC Initials: [Ex. 6, 7C]

Date: 10/5/10



U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL
INVESTIGATIONS DIVISION

Prepared by: [Ex. 6, 7C]
Approved by: [Ex. 6, 7C]

REPORT OF INVESTIGATION

CASE#: C-BL-07-0370-I	DATE OF REPORT: November 11, 2010
CASE TITLE: [Ex. 6, 7C]	
PERIOD OF INVESTIGATION: September 5, 2007 TO November 11, 2010	
CASE AGENT: [Ex. 6, 7C]	
DISTRIBUTION:	

SUMMARY

On August 27, 2007, a cooperating source brought allegations that [Ex. 6, 7C] (seller) and [Ex. 6, 7C] (loan broker) organized the sale of two grocery stores owned by [Ex. 6, 7C] to unqualified buyers and provided all or a portion of the equity injection for the borrowers. The stores in question were located at [Ex. 6, 7C] and [Ex. 6, 7C]. It was alleged that [Ex. 6, 7C] and [Ex. 6, 7C] (buyer) and [Ex. 6, 7C] (buyer) conspired to provide numerous altered and/or fictitious documents to SBA and Wachovia Bank to falsely represent that the two buyers had the required money for the equity injection.

This case was investigated for potential violations of Bank Fraud (18 USC 1344); Wire Fraud (18 USC 1343); Mail Fraud (18 USC 1341); Theft of Public Money (18 USC 641); False Statements (18 USC 1001); and Conspiracy (18 USC 371).

DETAILS

A settlement agreement (HUD-1) (Exhibit 1), dated April 28, 2006, documented the purchase of a grocery store located at [Ex. 6, 7C] by [Ex. 6, 7C] from [Ex. 6, 7C] for the sales price of \$1,880,000. According to the HUD-1, funding of the purchase was through a \$1,400,000 SBA guaranteed loan from Wachovia SBA Lending, Inc. (Wachovia), and a seller financed note in the amount of \$400,000. (Agent's Note: Wachovia SBA Lending, Inc., is a subsidiary of Wachovia Bank and is not a FDIC insured financial institution.) The HUD-1 listed a payment of \$178,642.02 in equity injection by [Ex. 6, 7C] was made at the loan closing.

RESTRICTED INFORMATION SBA FORM 22 07/16/2007	This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Small Business Administration or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.
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According to Texas Secretary of State records for [Ex. 6, 7C] Directors of the company (each with 200 shares of stock) were identified as follows: [Ex. 6, 7C] [Ex. 6, 7C] [Ex. 6, 7C] [Ex. 6, 7C] [Ex. 6, 7C] (**Exhibit 2**). The equity injection of \$178,642.02 for [Ex. 6, 7C] purchase of the grocery store from [Ex. 6, 7C] was made in the form of Chase Bank cashier's check number [Ex. 6, 7C] payable to American National Title, with the remitter listed on the face of the check as [Ex. 6, 7C] (**Exhibit 3**). As part of the investigation, a withdrawal slip (**Exhibit 4**) was obtained which documented that the aforementioned cashier's check was purchased on April 28, 2006, by [Ex. 6, 7C] (a Director of [Ex. 6, 7C] which was the company listed as the borrower on the SBA guaranteed loan), using funds from Chase Bank account number [Ex. 6, 7C]

Records from Chase Bank revealed that account number [Ex. 6, 7C] was styled [Ex. 6, 7C] with an address of [Ex. 6, 7C]. A review of the signature card (**Exhibit 5**) for the above referenced account identified the only persons with signature authority for the account were [Ex. 6, 7C] and [Ex. 6, 7C]. The monthly statement for the bank account showed it was opened in December 2005 with three deposits totaling \$406,492.00 (**Exhibit 6**). The aforementioned deposits were as follows:

1. A \$300,000.00 deposit originating from Chase Bank account number [Ex. 6, 7C] as evidenced by a Chase Bank withdrawal slip (**Exhibit 7**) bearing a signature appearing to belong to [Ex. 6, 7C]
2. A \$69,018.80 SouthTrust Bank Cashier's Check (**Exhibit 8**) made payable to [Ex. 6, 7C] and listing the remitter to be the same as the payee. (**Agent's Note:** [Ex. 6, 7C] was the corporate name used by [Ex. 6, 7C] to purchase the grocery store at [Ex. 6, 7C] from [Ex. 6, 7C]. According to a search of the Texas Comptroller of Public Accounts website, [Ex. 6, 7C] was company Director and [Ex. 6, 7C] was Registered Agent (**Exhibit 9**). As stated previously, both [Ex. 6, 7C] and [Ex. 6, 7C] were identified as partners of [Ex. 6, 7C] in the ownership of [Ex. 6, 7C] which purchased [Ex. 6, 7C] store at [Ex. 6, 7C]; and
3. A \$37,473.20 deposit that Chase Bank referred to as an online transfer and for which the bank could not find the supporting documentation.

The balance of funds in the Chase Bank account of [Ex. 6, 7C] remained relatively constant until March 2006 when, largely as a result of a \$789,602.40 deposit, the balance increased to \$1,070,266.59 (**Exhibit 10**). The deposit was comprised of two Farmers Insurance Group of Companies checks (**Exhibit 11**) made payable to [Ex. 6, 7C] [Ex. 6, 7C] in the amounts of \$456,062.30 and \$326,838.10.

[Ex. 6, 7C] and [Ex. 6, 7C] were affiliated with [Ex. 6, 7C] which, on July 29, 2005, purchased [Ex. 6, 7C] store located at [Ex. 6, 7C] (**Exhibit 12**). [Ex. 6, 7C] and [Ex. 6, 7C] were also affiliated with [Ex. 6, 7C] which, on April 28, 2006, purchased [Ex. 6, 7C] store located at [Ex. 6, 7C]. The documents referenced above indicated the equity injection of \$178,642.02 was drawn from a Chase Bank account associated with the business

being operated at [Ex. 6, 7C] and that there were sufficient funds belonging to that business on deposit in the account to cover the equity injection.

SUBJECTS

1. [Ex. 6, 7C] SSN: [Ex. 6, 7C] DOB: [Ex. 6, 7C] Criminal History: [Ex. 6, 7C]
2. [Ex. 6, 7C] DOB: [Ex. 6, 7C] Criminal History: [Ex. 6, 7C]
3. [Ex. 6, 7C] DOB: [Ex. 6, 7C] Criminal History: [Ex. 6, 7C]
4. [Ex. 6, 7C] SSN: [Ex. 6, 7C] DOB: [Ex. 6, 7C]
Criminal History: [Ex. 6, 7C]
5. [Ex. 6, 7C] SSN: [Ex. 6, 7C] DOB: [Ex. 6, 7C] Criminal History: [Ex. 6, 7C]
6. [Ex. 6, 7C] DOB: [Ex. 6, 7C] Criminal History: [Ex. 6, 7C]

JUDICIAL/ADMINISTRATIVE ACTIONS

N/A

DISPOSITION OF EVIDENCE

N/A

STATUS

This case was presented to Assistant United States Attorney [Ex. 6, 7C] Eastern District of Texas, and was declined for prosecution [Ex. 5]

RESTRICTED INFORMATION SBA FORM 22 07/16/2007	This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Small Business Administration or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.
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CASE REVIEW SUMMARY
SOUTHERN REGIONAL OFFICE

Case Number: S-DL-06-0213-I

Case Agent: [Ex. 6, 7C]

Case Title: [Ex. 6, 7C]

Date of Case Review: 10/4/2010

AUSA: [Ex. 6, 7C]

Judicial District: EDLA

Amount of Loan: 67,700

Amount of Loss: 67,700

Statutory Deadline: 10-15-2010

Type of Loan: DISASTER

Allegation and Involved Statutes:

18 U.S.C. 641 and 15 U.S.C. 645. On June 16, 2006, an unknown complainant contacted SBA/OIG in reference to possible false statements and theft of government funds by the subject, [Ex. 6, 7C]. The subject has received \$27,700 from the SBA on his disaster business loan application and \$40,000 for personal property.

Summary of Investigative Findings:

OIG/NO agents interviewed [Ex. 6, 7C]. [Ex. 6, 7C] advised that he did in fact apply to the SBA for business and home loan disaster benefits as a result of his residence and business tools being destroyed by Hurricane Katrina. [Ex. 6, 7C] stated he did not falsify any information on the application itself, but admitted misapplying the loan proceeds for items unrelated to his disaster loan claim, such as \$20,000 for a Jaguar automobile and other purchases. [Ex. 6, 7C] advised he has expended all of the \$67,700 and that none of the funds went toward replacing or rehabilitating any property damaged by Hurricane Katrina.

Actions Completed Since Last Update:

The AUSA has offered a plea deal for [Ex. 6, 7C] but he will not accept it. [Ex. 6, 7C] advised, through his public defender, that he can provide paperwork to defend his position that he used the money for what it was intended. The AUSA has set up a meeting with [Ex. 6, 7C] for the end of July to give him time to obtain the paperwork and review it with his attorney.

Planned Investigative Actions:

Continue speaking with AUSA for either charging or declining the case.

The AUSA phoned and stated that she is planning on charging [Ex. 6, 7C]

SAC Comments: [Ex. 5]

SAC Initials: [Ex. 6, 7C]

Date: 10/4/2010

6/06 Delete All Previous Editions



U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL
INVESTIGATIONS DIVISION

Prepared by: [Ex. 6, 7C]

Approved by: [Ex. 6, 7C]

REPORT OF INVESTIGATION

CASE#: S-DL-06-0213-I	DATE OF REPORT: January 6, 2011
CASE TITLE: [Ex. 6, 7C]	
PERIOD OF INVESTIGATION: June 16, 2006 TO December 4, 2006	
CASE AGENT: [Ex. 6, 7C]	
DISTRIBUTION: OCF	

SUMMARY

On June 16, 2006, an allegation was received from an unknown complainant stating that the subject, [Ex. 6, 7C] was misapplying his U.S. Small Business Administration (SBA) disaster loan funds. The initial investigation revealed that the subject received \$67,700 in funds from the SBA based on his claims that his personal property and business equipment and machinery were destroyed as a result of Hurricane Katrina. [Ex. 6, 7C] was notified of how the funds would be dispersed and the authorized purposes of the funds. However, [Ex. 6, 7C] used the funds, in part, for items and expenses that were not prescribed by the SBA. The violations include Title 18 U.S.C. 641, Theft of public money and Title 15 U.S.C. 645, False statements/embezzlement. The total potential loss to the government is \$67,700.

BACKGROUND

The SBA is tasked with disaster assistance in the aftermath of certain incidents determined to be a Presidentially declared disaster. On August 29, 2005, Hurricane Katrina struck the gulf coast, including specifically New Orleans, where the subject's business and residence was located. Applicants could apply directly to the SBA for a low interest disaster assistance loan for personal property, real estate, business loss, along with other programs. [Ex. 6, 7C] applied for a loan specifically for personal property and business loss.

Based on the information submitted by the applicant, the SBA will generally verify the loss. In this case, [Ex. 6, 7C] did in fact lose personal property that was in the residence he was renting. In addition, [Ex. 6, 7C] business was operated out of the same address. The loss verifier of the SBA was able to determine that [Ex. 6, 7C] would be entitled to a personal property loan and a business loss loan. The personal property loan maximum amount is \$ 40,000, which [Ex. 6, 7C]

1 of 5

RESTRICTED INFORMATION SBA FORM 22 6/06	This report is confidential and may contain information that is prohibited from disclosure by the Privacy Act, 5 USC 552a. Therefore, this report is furnished solely on an official need-to-know basis and must not be released or disseminated to any other party without prior written consent of the Assistant Inspector General for Investigations of the Small Business Administration/or designee. Unauthorized release may result in criminal prosecution and/or other penalties as may be available under law.
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received. The business loss maximum amount can potentially be much higher; however, [Ex. 6, 7C] received \$27,700 for his business loss.

DETAILS

The information received indicated that [Ex. 6, 7C] had claimed that Hurricane Katrina destroyed his business. The allegation reported that [Ex. 6, 7C] had purchased a Jaguar vehicle and did not even own a business. After review of the documents submitted to the SBA, it was determined that the subject did in fact have a business, and was the sole proprietor of [Ex. 6, 7C] [Ex. 6, 7C] in which name he had filed business tax returns. That allegation was then deemed to be unsubstantiated. However, the fact that [Ex. 6, 7C] purchased and was driving a Jaguar was possible misuse of SBA funds, had he purchased it with disbursements from his SBA loan.

A review of [Ex. 6, 7C] SBA loan agreement specifically provided that he was not allowed to purchase a vehicle. On an SBA document titled Loan Authorization & Agreement for the business loan, dated March 6, 2006 and signed by [Ex. 6, 7C] on March 20, 2006, section 4 states that of the \$27,700, approximately \$6,000 will be used for working capital to alleviate economic injury, approximately \$9,300 will be used to replace/repair furniture and fixtures, and approximately \$12,400 will be used to repair/replace damaged machinery and equipment (Exhibit 1).

In addition, the subject submitted an inflated profit and loss statement projection for the period of January 2006 through January 2007. This stated that the total business income would be \$550,000. In addition, Car & Truck Expense would be \$50,000 (Exhibit 2). However, at no time did the subject claim a loss of a vehicle, therefore, this information was never verified by the SBA. Since this form was a projection and the fact that a vehicle was not part of the items claimed as an asset on the application, the subject was not authorized to use the SBA funds for the purchase of a vehicle. Also, the total income from the business based on income tax filings was \$1,764 for 2003. This was a result of approximately \$50,000 in income and approximately \$48,000 in expenses. The total income from the business based on income tax filings was a loss of \$5,540 for 2004. This was a result of approximately \$36,000 in income and approximately \$41,000 in expenses. Furthermore, the subject stated that his salary and wage expenses for the projected time would be \$125,000. However, on the application, [Ex. 6, 7C] stated that he was the sole employee and had one part time helper.

The SBA Loan Authorization & Agreement form for the personal property loan, dated March 20, 2006 and signed by [Ex. 6, 7C] prescribes how the SBA funds can be used. The \$40,000 was intended to repair/replace damaged personal property in similar kind and quantity. The same sentence specifically excludes motor vehicles from the authorized uses of the loan (Exhibit 3).

On March 30, 2006, the SBA sent \$10,000 via electronic funds transfer to the account designated by [Ex. 6, 7C]. The SBA then sent an additional \$7,700 on April 10, 2006 and a subsequent payment on April 27, 2006 for the final business loan payment of \$10,000. The payment of the

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personal property loan amount was also sent via electronic transfer to the same account in the amount of \$40,000 on April 18, 2006.

A verification of the vehicle title history provided that the Jaguar was a 2000 S-type 4 door purchased on April 20, 2006. A letter written by [Ex. 6, 7C] received on January 30, 2006 stated the intended purposes of the loan. This letter was unsolicited and was not a required form by the SBA for the loan. However, the document states that [Ex. 6, 7C] intended to use the loan for the purchase of a pick-up truck and a 15 passenger van along with office equipment, tool replacement, and other work related expenses. In addition, the letter suggests that [Ex. 6, 7C] [Ex. 6, 7C] will offer experienced and professional help for the New Orleans area. This document, along with the previously mentioned projected profit and loss statement, was submitted by [Ex. 6, 7C] after he had been notified that his application was declined based on the fact that the SBA could not verify his income since he had not filed taxes with the IRS. However, the tax verification was later provided and was determined that the tax information was not found initially due to an administrative error. Ultimately, these forms were used in making a decision to approve the subject's loan.

On October 18, 2006 [Ex. 6, 7C] voluntarily appeared at the New Orleans, LA office of the SBA-OIG and was interviewed by Special Agents. [Ex. 6, 7C] stated that to date he had not purchased any tools or anything work or business-related with the proceeds of his SBA loan.

[Ex. 6, 7C] stated that he used the majority of the SBA funds as follows; \$7,500.00 paid for rent on his apartment in Atlanta, Georgia which he shared with his girlfriend; \$20,000.00 for the Jaguar he purchased; unknown amount for medical expenses and other items.

[Ex. 6, 7C] did also advise that he purchased some furniture and clothing, which the SBA loan was intended for (**Exhibit 4**) but was unable to provide any documentation or receipts, other than paperwork for the Jaguar.

The investigation determined that [Ex. 6, 7C] knowingly misused the SBA loan proceeds for other than prescribed purposes, and to which he had signed his agreement. [Ex. 6, 7C] also submitted profit and loss statement documents that were grossly over-inflated for the purpose of obtaining the SBA loan.

SUBJECTS

[Ex. 6, 7C] president/sole proprietor, [Ex. 6, 7C] SSN: [Ex. 6, 7C]
DOB: [Ex. 6, 7C] [Ex. 6, 7C] [Ex. 6, 7C] criminal
history includes:

[Ex. 6, 7C]

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STATUS

This case has been submitted to United States Attorney's Office for the Eastern District of Louisiana for a prosecutorial decision.

On January 5, 2011 a declination letter dated November 24, 2010 was received in the New Orleans Field Office. According to the declination letter the United States Attorney's Office

[Ex. 5]

This case is closed.

CASE REVIEW SUMMARY
CENTRAL REGIONAL OFFICE

Case Number: C-BL-09-0388

Case Agent: [Ex. 6, 7C]

Case Title: [Ex. 6, 7C] [Ex. 6, 7C]
[Ex. 6, 7C]

Date of Case Review: July 9, 2010

AUSA: [Ex. 6, 7C]

Judicial District: NORTHERN TX

Amount of Loans: TBD

Amount of Loss: TBD

Statutory Deadline: December 2016

Type of Loan: 504

Allegation and Involved Statutes:

18 USC 1005, Bank Fraud – bank entries, reports and transactions; and 18 USC 641, Embezzlement – public money, property, or records.

Summary of Investigative Findings:

While [Ex. 6, 7C] of [Ex. 6, 7C] [Ex. 6, 7C] told the bank to pay a 1.5% referral fee even though only 1% had been approved by SBA. The referral fee was paid to [Ex. 6, 7C] business without disclosing that she was [Ex. 6, 7C] wife and benefiting from the transactions.

[Ex. 6, 7C] business received one percent commission on 11 SBA loans while he was [Ex. 6, 7C] [Ex. 6, 7C] Additionally, at least two payments were made from [Ex. 6, 7C] to [Ex. 6, 7C] during this time and not disclosed.

Actions Completed Since Last Update:

FDIC/OIG is the lead agency. Delay in investigative activity is due to FDIC/OIG case load.

Attempted to interview [Ex. 6, 7C] – his attorney declined the request.

Planned Investigative Actions:

FDIC/OIG is attempting to contact AUSA to obtain a prosecutorial decision since we were unable to interview [Ex. 6, 7C]

SAC Comments: [Ex. 5]

SAC Initials: [Ex. 6, 7C]

Date:



**U.S. SMALL BUSINESS ADMINISTRATION
OFFICE OF INSPECTOR GENERAL
INVESTIGATIONS DIVISION**

Prepared by: [Ex. 6, 7C]

Approved by: [Ex. 6, 7C]

REPORT OF INVESTIGATION

CASE#: C-BL-09-0388	DATE OF REPORT: October 25, 2010
CASE TITLE: [Ex. 6, 7C] [Ex. 6, 7C] [Ex. 6, 7C]	
PERIOD OF INVESTIGATION: May 15, 2009 TO August 17, 2010	
CASE AGENT: [Ex. 6, 7C]	
DISTRIBUTION: AIGI, OIG OFFICIAL CASE FILE	

SUMMARY

Reporting agent initiated this investigation based upon a request by the Federal Deposit Insurance Corporation (FDIC), Office of Inspector General (OIG), as a result of suspicious activity reports (SAR) filed by [Ex. 6, 7C] Dallas, Texas (TX) regarding [Ex. 6, 7C] [Ex. 6, 7C] and [Ex. 6, 7C] (exhibit 1).

[Ex. 6, 7C]

[Ex. 6, 7C] was married to [Ex. 6, 7C] until January 30, 2008. She was a Business Development Officer (BDO) at Comerica Bank (Comerica) and owned and operated [Ex. 6, 7C] [Ex. 6, 7C]. She was a stockholder of [Ex. 6, 7C] until it was closed.

[Ex. 6, 7C]

[Ex. 6, 7C] approved two United States Small Business Administration (SBA) 7a loans which had been brought in by a broker, [Ex. 6, 7C]. The referral fee on these loans approved by the loan committee, including [Ex. 6, 7C] was one percent; however, the invoices received and paid by the bank upon [Ex. 6, 7C] approval, indicated one and one half percent. [Ex. 6, 7C] ownership of [Ex. 6, 7C] was not made known to the loan committee. She was paid \$44,250 in fees on these two loans.

1 of 8

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[Ex. 6, 7C] made [Ex. 6, 7C] a BDO in order to pay him commissions for SBA 504 loans being made by [Ex. 6, 7C] [Ex. 6, 7C] allegedly did so in an effort to help [Ex. 6, 7C] but of financial difficulty. While the investigation could not substantiate that [Ex. 6, 7C] made [Ex. 6, 7C] a BDO to provide him financial support, it concluded that [Ex. 6, 7C] compensation was consistent with the BDO Compensation Plan approved by the Board of Directors.

Finally, the investigation confirmed that from the commissions paid on the SBA 504 loans to [Ex. 6, 7C] he made payments to [Ex. 6, 7C] These payments totaled ten percent of the referral fee that his company, [Ex. 6, 7C] received from [Ex. 6, 7C] According to [Ex. 6, 7C] and [Ex. 6, 7C] these payments were for [Ex. 6, 7C] teaching [Ex. 6, 7C] how to develop and package the loan applications. Although the bank's board was aware of commissions being paid to [Ex. 6, 7C] It was not aware of the \$7,853 in "consulting fees" paid to [Ex. 6, 7C]

[Ex. 6, 7C] was closed by the Texas Department of Banking and the FDIC was appointed as Receiver on [Ex. 6, 7C]

DETAILS

Allegation 1 – Broker fees paid to [Ex. 6, 7C] without loan committee's knowledge

In December 2006, [Ex. 6, 7C] approved a \$1,795,000 SBA 7a loan for LMS Day Spa, LLC, to purchase a business (The Grand Spa). The loan was brought in by a broker, [Ex. 6, 7C] The outside referral fee on the loan memorandum was one percent. This loan had been approved by the loan committee, which included [Ex. 6, 7C] When the bank received the invoice, the referral fee was listed at one and a half percent (\$26,250). [Ex. 6, 7C] approved the invoice on March 26, 2007 and it was subsequently paid.

In May 2007, [Ex. 6, 7C] approved a \$1,200,000 SBA 7a loan for Wiese Industries, Inc. (Wiese) to purchase a Kwik Kopy printing company. This loan was also brought in by [Ex. 6, 7C] and included the approved one percent referral fee. As before, when the invoice was received, it listed the referral fee as one and a half percent (\$18,000). [Ex. 6, 7C] approved this invoice on June 22, 2007 and it was subsequently paid.

Witness Interviews

On July 2, 2009, Special Agent (SA) [Ex. 6, 7C] FDIC/OIG, Dallas, TX, interviewed [Ex. 6, 7C] (exhibit 2). He stated that he was not aware of [Ex. 6, 7C] paying referral fees or commissions to or on behalf of [Ex. 6, 7C] until after the discovery by [Ex. 6, 7C]

On July 2, 2009, SA [Ex. 6, 7C] interviewed [Ex. 6, 7C] (exhibit 3). [Ex. 6, 7C] stated that she was not aware referral fees were paid to [Ex. 6, 7C] until after the discovery by [Ex. 6, 7C]

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On July 23, 2009, reporting agent and SA [Ex. 6, 7C] interviewed [Ex. 6, 7C] (exhibit 4). He denied knowing, until after the fact, that [Ex. 6, 7C] was the owner of [Ex. 6, 7C]

On August 11, 2009, reporting agent and SA [Ex. 6, 7C] interviewed [Ex. 6, 7C] (exhibit 5). She advised that [Ex. 6, 7C] brought in loans she had packaged, but Comerica had rejected. [Ex. 6, 7C] assumed [Ex. 6, 7C] was not paid broker or referral fees because she was [Ex. 6, 7C] wife.

[Ex. 6, 7C] advised that during a lunch one day in 2007, [Ex. 6, 7C] told her that he needed to find a way to pay [Ex. 6, 7C] because she was pressuring him to pay her referral fees on the loans. [Ex. 6, 7C] told [Ex. 6, 7C] that payments to [Ex. 6, 7C] would be a conflict of interest.

[Ex. 6, 7C] insisted she did not know that [Ex. 6, 7C] had paid [Ex. 6, 7C] in connection with any loans. She was shown a copy of [Ex. 6, 7C] check number [Ex. 6, 7C] dated July 3, 2007, in the amount of \$18,000 payable to [Ex. 6, 7C] she identified her signature as the authorized signer on the check. When explained that this check was payment for [Ex. 6, 7C] referral fee in connection with the Wiese loan, [Ex. 6, 7C] denied she had knowledge the payment was going to [Ex. 6, 7C] [Ex. 6, 7C] stated she did not know that [Ex. 6, 7C] was the owner of [Ex. 6, 7C] until [Ex. 6, 7C] [Ex. 6, 7C] began asking questions during a loan committee meeting about the payment of referral fees; this meeting occurred after the date of the check.

On December 4, 2009, reporting agent and SA [Ex. 6, 7C] interviewed [Ex. 6, 7C] (exhibit 6). According to [Ex. 6, 7C] [Ex. 6, 7C] was bringing all of the SBA loans to [Ex. 6, 7C] and she was getting paid for it. [Ex. 6, 7C] stated that when she started looking into the situation, she found two checks paid to [Ex. 6, 7C] totaling \$45,000.

[Ex. 6, 7C] Subject Interview

On December 10, 2009, reporting agent and SA [Ex. 6, 7C] interviewed [Ex. 6, 7C] (exhibit 7). She stated she was married to [Ex. 6, 7C] from January 2001 until December 2007 or January 2008 when they divorced. She owned [Ex. 6, 7C] which was started in 2003 for the primary purpose of building and selling homes.

She explained that in 2007, there was a strong interest by many banks to purchase first-lien SBA 504 loans and it was customary for these banks to pay referral fees for the loans based upon a percentage of the loan amount. According to [Ex. 6, 7C] [Ex. 6, 7C] paid a referral fee of one and one half percent on general business loans and two to two and one half percent for commercial real estate loans through one of the SBA guaranteed loan programs. If Comerica did not approve a loan package presented by [Ex. 6, 7C] it was her standard practice to present it to another financial institution in order to earn a referral fee. She presented these loan packages to [Ex. 6, 7C] through [Ex. 6, 7C] because she was the credit underwriter.

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SBA FORM 22 07/16/2007	

[Ex. 6, 7C] was shown [Ex. 6, 7C] invoices numbered 1030 and 1038; she confirmed that both of these invoices were for payment of referral fees on loans that were originally declined by Comerica, but accepted by [Ex. 6, 7C] at [Ex. 6, 7C]. The invoices were for one and one half percent of the loan amount. [Ex. 6, 7C] stated that at no time did she agree to or bill for only a one percent referral fee on these loans and she did not know what had been presented to the [Ex. 6, 7C] loan committee. [Ex. 6, 7C] stated, more than once, that [Ex. 6, 7C] and [Ex. 6, 7C] knew she was the owner of [Ex. 6, 7C]

[Ex. 6, 7C] insisted [Ex. 6, 7C] did not receive a portion of the fees paid to her by [Ex. 6, 7C]. She and [Ex. 6, 7C] always kept their finances separate, with the exception of one savings account they had for vacations.

[Ex. 6, 7C] Subject Interview

On January 19, 2010, reporting agent and SA [Ex. 6, 7C] interviewed [Ex. 6, 7C] (exhibit 8); his attorney, [Ex. 6, 7C] was also present. [Ex. 6, 7C] explained that on November 17, 2007, following a special board meeting, [Ex. 6, 7C] showed him a check made payable to [Ex. 6, 7C]. [Ex. 6, 7C] said this represented a referral fee to [Ex. 6, 7C] that had not been disclosed to the Board of Directors. [Ex. 6, 7C] told [Ex. 6, 7C] that he had known about it for several months and was "working" with [Ex. 6, 7C] on it. [Ex. 6, 7C] further explained that he reviewed the loan committee minutes and had not seen any approval for referral or broker fees in connection with that particular loan. According to [Ex. 6, 7C], [Ex. 6, 7C] said that [Ex. 6, 7C] paid [Ex. 6, 7C] \$85,000 in fees for loans.

Allegation 2 – Commissions paid to [Ex. 6, 7C]

From April 2007 through November 2007, [Ex. 6, 7C] closed ten SBA 504 loans and one 7a loan with UPS Capital (UPS) for hotels in TX, Oklahoma, New Mexico and Arizona. These loans were brought to [Ex. 6, 7C] by [Ex. 6, 7C] who was [Ex. 6, 7C] at the time. Prior to the submission of these loans, [Ex. 6, 7C] had no previous banking or lending experience. [Ex. 6, 7C] company, [Ex. 6, 7C] received a one percent commission on each of these loans. [Ex. 6, 7C] presented two additional loans to [Ex. 6, 7C] which were refinanced from Comerica in July and September 2007. Again, [Ex. 6, 7C] received a one percent commission on each of these loans.

Witness Interviews

During his interview, [Ex. 6, 7C] stated that prior to the special board meeting on October 4, 2007, [Ex. 6, 7C] told him of [Ex. 6, 7C] financial problems. As part of a plan to keep [Ex. 6, 7C] afloat, the UPS loans would be attributed to him and referral fees or commissions would be paid to [Ex. 6, 7C] by the bank. According to [Ex. 6, 7C] tension developed between [Ex. 6, 7C] and [Ex. 6, 7C]. When [Ex. 6, 7C] continued to disagree with [Ex. 6, 7C] management of [Ex. 6, 7C] he [Ex. 6, 7C] discontinued the practice of paying [Ex. 6, 7C]

During her interview, [Ex. 6, 7C] stated that she was not aware [Ex. 6, 7C] was paid referral fees or commissions for bringing loans to [Ex. 6, 7C] until prior to the last annual meeting. She believed it was inappropriate for a board member to receive referral fees or commissions for bringing business to the bank.

During his interview, [Ex. 6, 7C] stated that when [Ex. 6, 7C] was experiencing financial difficulties, [Ex. 6, 7C] addressed the issue in an executive management meeting. [Ex. 6, 7C] stated that [Ex. 6, 7C] was in some tax trouble and needed help. [Ex. 6, 7C] explained that [Ex. 6, 7C] would pay [Ex. 6, 7C] points for working with UPS. [Ex. 6, 7C] stated that during this executive management meeting, he voiced his concerns regarding regulatory violations and the need for Board of Director approval.

During her interview, [Ex. 6, 7C] advised that [Ex. 6, 7C] told her referral fees would be paid to [Ex. 6, 7C] because he was having financial problems. [Ex. 6, 7C] told her, "He's the gorilla on the board protecting me and I need to keep him there." [Ex. 6, 7C] also stated that loans brought to [Ex. 6, 7C] by [Ex. 6, 7C] or [Ex. 6, 7C] went to the loan committee regardless of whether she or the other underwriters liked the deals or not.

During her interview, [Ex. 6, 7C] stated that [Ex. 6, 7C] was being paid fees because he had a gambling problem and needed money all of the time.

[Ex. 6, 7C] Subject Interview

During her interview, [Ex. 6, 7C] stated that in 2007, [Ex. 6, 7C] was experiencing financial problems and needed to "make money." [Ex. 6, 7C] had the idea to bring SBA 504 loans to [Ex. 6, 7C] in order to earn referral fees. [Ex. 6, 7C] agreed that it was a great idea. [Ex. 6, 7C] explained that [Ex. 6, 7C] would be paid a one percent referral fee on the loans.

[Ex. 6, 7C] Subject Interview

During his interview, [Ex. 6, 7C] explained that on February 16, 2007, [Ex. 6, 7C] approached him with a business proposition. [Ex. 6, 7C] told [Ex. 6, 7C] that there were very lucrative loans being wholesaled by UPS and Comerica that the other BDOs were not working very well. [Ex. 6, 7C] asked [Ex. 6, 7C] if he would be interested in bringing these loans to [Ex. 6, 7C] on a fee basis. [Ex. 6, 7C] agreed. His job was to compete successfully with other lenders in order to bring SBA 504 loans to [Ex. 6, 7C] however, he did not perform underwriting or make lending decisions on behalf of [Ex. 6, 7C]. [Ex. 6, 7C] would pay UPS or Comerica a referral fee of up to five percent and [Ex. 6, 7C] a fee of one percent of the loan amount. When asked what he did to earn the fees paid by [Ex. 6, 7C] [Ex. 6, 7C] said he would analyze the deals to see if they made sense, reviewed cash flow, performed site inspections, and put the loan package documents together with a summary for presentation to [Ex. 6, 7C].

[Ex. 6, 7C] agreed he was paid by [Ex. 6, 7C] as a BDO under the existing BDO compensation plan. He did not have a written agreement for payment of these fees and neither he nor [Ex. 6, 7C] obtained prior approval from the [Ex. 6, 7C] Board of Directors for his employment as a BDO. [Ex. 6, 7C] stated that all of the loans had been approved by

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the [Ex. 6, 7C] loan committee and he abstained from voting on the loans in which he submitted.

Finally, [Ex. 6, 7C] insisted he was unaware of this opportunity until it was suggested by [Ex. 6, 7C] as a way to increase loan production and interest income.

Allegation 3 – Monies paid to [Ex. 6, 7C] by [Ex. 6, 7C]

Additionally, the investigation identified at least two payments made by [Ex. 6, 7C] to [Ex. 6, 7C]. These payments totaled ten percent of the commission [Ex. 6, 7C] received from [Ex. 6, 7C] on three separate loans. [Ex. 6, 7C] board meeting minutes disclosed points paid to [Ex. 6, 7C] but no disclosure was made with respect to the \$7,853 in “consulting fees” paid to [Ex. 6, 7C].

Witness Interviews

During his interview, [Ex. 6, 7C] opined that [Ex. 6, 7C] set up the UPS Capital deals with [Ex. 6, 7C] in order to pay [Ex. 6, 7C]. [Ex. 6, 7C] explained that while out to lunch with [Ex. 6, 7C] [Ex. 6, 7C] commented that he needed to find a way to pay [Ex. 6, 7C] for all the loans she was bringing to the bank. [Ex. 6, 7C] cautioned [Ex. 6, 7C] not to pay [Ex. 6, 7C] because neither the board nor the bank’s regulators would approve of it. Additionally, [Ex. 6, 7C] stated that during a Board of Directors’ meeting in which they were voting to [Ex. 6, 7C] [Ex. 6, 7C] said, “It’s not like I got to keep all that commission – I had to pay [Ex. 6, 7C].”

During her interview, [Ex. 6, 7C] stated that in September 2007, she found out that [Ex. 6, 7C] was paying [Ex. 6, 7C] a portion of his fee because she [Ex. 6, 7C] had performed the underwriting on the deal. She did not think it was a big deal because [Ex. 6, 7C] had helped [Ex. 6, 7C] put the package together.

[Ex. 6, 7C] Subject Interview

During her interview, [Ex. 6, 7C] stated [Ex. 6, 7C] was going to be paid a one percent referral fee for bringing SBA 504 loans to [Ex. 6, 7C]. When [Ex. 6, 7C] agreed that it was a great idea, he suggested [Ex. 6, 7C] assist [Ex. 6, 7C]. She provided [Ex. 6, 7C] with her list of contacts in Dallas, TX, and agreed to assist [Ex. 6, 7C] in exchange for a consulting fee on the first three loans. [Ex. 6, 7C] agreed to pay [Ex. 6, 7C] ten percent of his referral fee. [Ex. 6, 7C] explained that her consulting fee was for showing [Ex. 6, 7C] how to put the loan packages together, set up the spreadsheet of the financial information, and perform underwriting of the loan. [Ex. 6, 7C] acknowledged that she received two checks from [Ex. 6, 7C] in the amounts of \$6,720 and \$1,333. She stated the checks represented payment of her consulting fee for the first three loans [Ex. 6, 7C] took to [Ex. 6, 7C].

[Ex. 6, 7C] stated, more than once, that [Ex. 6, 7C] and [Ex. 6, 7C] knew she was helping [Ex. 6, 7C]. However, she did not know if [Ex. 6, 7C] knew [Ex. 6, 7C] was paying her because she and [Ex. 6, 7C] were separated at the time.

[Ex. 6, 7C] declined to be interviewed.

SUBJECTS

[Ex. 6, 7C]

[Ex. 6, 7C]

[Ex. 6, 7C]

JUDICIAL/ADMINISTRATIVE ACTIONS

Declined by Assistant United States Attorney, [Ex. 6, 7C] United States Attorney's Office,
Northern District of Texas, on August 17, 2010, [Ex. 5]

DISPOSITION OF EVIDENCE

N/A

STATUS

This matter is closed.