

SBA Lender Alert: Red Flags for Fraud

As an SBA lender, you're a critical gatekeeper in avoiding loan agent/broker and borrower abuse, unethical conduct and criminal fraudulent activity.

First, let's define the difference between fraud and regulatory violations.

Fraud is a criminal act, punishable by imprisonment, fine, restitution, probation, or a combination of penalties. Examples include: 1) Money laundering; 2) Falsified tax reports; 3) Doctored documents; 4) Declaring false equity injections, making it appear to the lender that the borrower had sufficient funds; the funds disappear once the loan is granted; 5) Borrower files the business under another name; 6) Loan agent has falsified documents, e.g., inflated the cost of the loan.

A regulatory violation of recent concern to the SBA is an excessive broker fee a loan agent charges a borrower to refer a 7(a) lender, e.g., \$20,000, \$30,000 or more. For a broker to improperly profit is not illegal, but it violates regulations. The new policy requiring disclosure of all broker fees on Form 159 - whether by the borrower or the lender - will curb this activity.

*Your best protection: On a consistent basis, thoroughly vet potential brokers, perform due diligence in examining a borrower's paperwork, and comply with all regulations. And the more you're aware of potential wrongdoing the better position you're in to report regulatory violations and potential fraud so corrective action can be taken: Go to www.sba.gov and click on Report Waste, Fraud, and Abuse, email the OIGHotline@sba.gov or call the *OIG Hotline* at 1.800.767.0385.*

When working with loan agents, the SBA Office of Inspector General encourages lenders to consider these potential fraud indicators. Red Flags should go up when a loan agent:

- has a record of early defaults
- threatens to "shop the loan" to your competitor
- brings in high number of qualified borrowers in a relatively short period of time
- is able to overcome all obstacles
- steers you to specific appraisers and/or title companies
- refers deals which involve the same seller on multiple loans
- recruits family members and associates to apply for loans
- advises you not to talk with the borrower/controls all communication.

As consultants, we've seen examples of this last point, where a broker controls all aspects of the loan, e.g., packaging and servicing. This makes the lender vulnerable to agent/broker wrongdoing because there are no checks and balances.

At J.R. Bruno & Associates, we've seen just about everything in our many years of assisting SBA lenders. With more than 150 years' combined commercial lending experience, we can help you maintain your SBA portfolio - and see through the smokescreens. Call us.

Joanna

Joanna Bruno
President
J.R. Bruno & Associates
870 Market Street, Suite 462
San Francisco, CA 94102
415.362.1200
joanna@jrbrunoassoc.com

Visit us at www.jrbrunoassoc.com
Or give us a call:
West Coast: 415.362.1200
East Coast: 978. 886.5875
Southwest Region: 602.820.1337