

THE ART OF HANDLING SBA OFFERS OF COMPROMISE

In this still volatile economy, the upturns have come too late for many small businesses. Unfortunately, some of our clients have seen this issue popping up: borrowers they've worked with for years stretched to the limit and hard-put to meet their SBA loan obligation. A possible solution: the Offer of Compromise. In some circumstances, a lender can release a borrower from their obligation when the borrower offers a form of reasonable consideration.

This sample case study underscores this situation:

Your borrower's business has failed. He's closed the business, sold the assets and lost his home to foreclosure, so there's no value to recoup from the residence; and there's \$200,000 outstanding on the SBA loan.* The borrower is financially at the end of his rope, and also might have a personal emergency such as a critical family illness that further saps his resources. As a last resort, he makes an Offer of Compromise: \$60,000 in personal savings and \$40,000 in his 401(k) - \$100,000 to forgive the debt.

In this and similar circumstances, you'd be inclined to accept the Offer of Compromise. You have a relationship with your borrower and understand his economic and personal situation. You're also known in your community as a fair lender. Of course final approval rests with the SBA.

As the SBA lender, what's your role? How do you handle this? That's where the art comes in. The SBA will not automatically approve a borrower's Offer of Compromise. In fact, they won't consider it without the lender's - your - recommendation. In cases like these, it's often in everybody's best interest to make a case to the SBA on your borrower's behalf.

At J.R. Bruno & Associates, we often come across situations like these that are a little off the radar, yet critical to your borrowers and importantly, to your business in the long-run. We're a valuable resource! You can rely on our long-time experience with hundreds of SBA lenders to assist you in working through the liquidations and finding the most artful - and successful - Offer of Comprise solutions. Contact us at 626.688.2125 or at www.jrbrunoassoc.com for all things SBA.

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****Last year, California enacted Civil Code 580(e) that protects homeowners. In brief, if a junior lien holder, e.g., the SBA business lender, agrees to a short-sale, the lender is in essence agreeing to release the Principal from their Personal Guaranty. Due to the release of the Guaranty, these requests are now treated by the SBA as Offers of Compromise and must have prior SBA approval.***

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