

Bill Bookout

From: Bill Bookout [pismobeachsurfshop@charter.net]
Sent: Monday, November 28, 2011 7:07 AM
To: 'FOIA'; 'Babcock, Lisa J.'
Cc: 'Nguyen, Hien D.'; 'Ashker, Terrill K.'; 'Hobby, Jill C.'; 'carlos.mendoza@sba.gov'; 'Butcher-Sumner, Blossom V.'; 'catherine.higgins@sba.gov'; 'lol@rsmediate.com'; 'Kaplan, Adam D.(Off. Inspector Gen.)'; 'Senator.Blakeslee@senate.ca.gov'; 'Richard Rossi'; 'Chris Gautschi'; 'rmiller@newtimesslo.com'; 'econolly@newtimesslo.com'
Subject: RE: Santa Barbara Bank & Trust Loan Fraud and Breach of Contract SBA PLP Loan # 664-196-4009

November 28, 2011

OIG complaint ID # 20110484

Lisa J. Babcock and Mr. Adam D. Kaplan,
Adam D, Kaplan
OIG complaint ID # 20110484
U.S. Small Business Administration
Chief, Freedom of Information/Privacy Acts Office,
Small Business Administration,
409 Third Street, SW,
Washington, DC 20416

Dear Mrs. Babcock and Mr. Adam D. Kaplan,

The documents requested below from my FOIA request have not been provided by the United States Small Business Administration. Please provide copies of the Freedom of Information Act documents listed below!

All Communication is now posted to www.sbaploans.com for the publics full knowledge of how SBA PLP Loan # 664-196-4009 has been handled by the SBA! Please see that the questions below asked of the SBA are fully answered!

Santa Barbara Bank & Trust does not have a right to file false Notices of Defaults on their SBA Loans and change SBA Loan Authorizations known to the SBA! As a Small Business Person in California, I am only standing up for my rights! Please review your email of November 14, 2011 attached below!

Sincerely

Bill Bookout

CC United States Senate
CC Adam D. Kaplan
CC Hien D. Nguyen
CC Jill Hobby
CC Senator Sam Blakslee

From: FOIA [mailto:FOIA@sba.gov]
Sent: Monday, November 14, 2011 8:42 AM
To: Bill Bookout
Subject: RE: FOIA #2012-00052

Mr. Bookout,

Ms. Butcher-Sumner has confirmed that all records pertinent to your FOIA request that are maintained by SBA were reviewed in response to your initial request. In addition, the Fresno Commercial Loan Service Center and the Sacramento District Office both stated in their responses to you that those offices do not maintain pertinent records.

As previously stated to you by this office, the records reviewed upon appeal by this office are only those that were withheld initially by Ms. Butcher-Sumner.

As you know, most of those records initially withheld are Appraisal Reports and Environmental Site Assessments.

11/28/2011

Before we can respond to you with our disclosure determinations concerning those records, in accordance with Executive Order 12600, a Pre-disclosure Notification will be sent to those firms that created the records. The firms will be given ten working days to respond to this office as to whether they object to the disclosure of any portions of their records that this office deems releasable. This process will take additional time beyond our twenty day processing time set forth in the FOIA.

A time extension is allowed in such circumstances pursuant to the FOIA and 13 CFR 102.4(2) which states that additional time is extended for: "The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request...." If you are not interested in our review of any of those records on the document list that was prepared initially by Ms. Butcher-Sumner, please advise this office at foia@sba.gov and we will limit our review to withheld records on that list that you specify.

Sincerely,

Lisa J. Babcock
Chief, Freedom of Information/
Privacy Acts Office

From: FOIA [mailto:FOIA@sba.gov]
Sent: Monday, November 28, 2011 3:49 AM
To: Bill Bookout
Subject: RE: Santa Barbara Bank & Trust Loan Fraud and Breach of Contract SBA PLP Loan # 664-196-4009

Mr. Bookout:

As stated below you have received copies of the documents and the Federal Government cannot provide original documents.

Sincerely,

Lisa J. Babcock
Chief, Freedom of Information/
Privacy Acts Office

From: FOIA
Sent: Wednesday, November 23, 2011 11:57 AM
To: 'Bill Bookout'
Subject: RE: Santa Barbara Bank & Trust Loan Fraud and Breach of Contract SBA PLP Loan # 664-196-4009

Dear Mr. Bookout:

I believe that copies of the documents referred to below have already been provided to you, as original documents cannot be returned, copies are provided. The files have been reviewed for all pertinent records and the copies that have been provided to you represent what is in the possession of the Small Business Administration.

Sincerely,

Lisa J. Babcock
Chief, Freedom of Information/
Privacy Acts Office

From: Bill Bookout [mailto:pismobeachsurfshop@charter.net]
Sent: Sunday, November 27, 2011 6:37 PM
To: FOIA; Babcock, Lisa J.
Cc: Nguyen, Hien D.; Ashker, Terrill K.; Hobby, Jill C.; Mendoza, Carlos G.; Butcher-Sumner, Blossom V.; Higgins, Catherine Mccann; lol@rsmediate.com; Kaplan, Adam D.(Off. Inspector Gen.); Senator.Blakeslee@senate.ca.gov; 'Richard Rossi'; 'Chris

11/28/2011

Gautschi'; rmiller@newtimeslo.com; econolly@newtimeslo.com

Subject: RE: Santa Barbara Bank & Trust Loan Fraud and Breach of Contract SBA PLP Loan # 664-196-4009

November 27, 2011

OIG complaint ID # 20110484

Lisa J. Babcock and Catherine Higgins
Adam D, Kaplan
OIG complaint ID # 20110484
U.S. Small Business Administration
Chief, Freedom of Information/Privacy Acts Office,
Small Business Administration,
409 Third Street, SW,
Washington, DC 20416

Dear Mrs. Babcock and Mr. Adam D. Kaplan,

Santa Barbara Bank & Trust from their Fraud and Breach of Contract as seen below, States November 23, 2011 **“Again, please direct any future questions, comments or concerns through your attorneys only.”** The SBA Attorneys are fully aware of Santa Barbara Bank & Trust SBA PLP Loan Fraud since the August 29, 2003 SBA Loan Authorization!

Lisa J. Babcock, Thank you, for responding on November 23, 2011 with the Santa Barbara Bank & Trust Fraud seen below your response. I am again making a FOIA request of the SBA, per my prior requests! Please provide the Original signed August 29, 2003 SBA Loan Authorization and any and all SBA signed documents leading up to this Authorization. All documents can now be seen at www.sbaploans.com showing the Santa Barbara Bank & Trust SBA PLP Loan Fraud going back to 2003.

Please provide per the FOIA request of the SBA documents in the hands of the SBA along with any new communication with Santa Barbara Bank & Trust. The SBA PLP Loan program now needs to be fully looked at with Santa Barbara Bank & Trusts actions now fully seen at www.sbaploans.com

The SBA has obtained emails from Santa Barbara Bank & Trust, that need to be provided per my FOIA Request. Please provide any and all Emails!

Email from Sandra Sheffield to Joyce Jackson	02/004/2009	2	Withheld Ex. 5
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The Attorneys in this letter are involved in the Oceano Nursery SBA Required Inverse Condemnation of Oceano Nursery. Under my FOIA Request these documents need to be provided!

Letter from Clayton Hall to M. Scott Radovich with attachments	07/18/2006	16	Withheld Ex. 5
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Mrs. Lisa J. Babcock, please provide all 2011 Environmental Reports of the 470 Price Street property and the Oceano Nursery property with the 2007 ODIC Environmental problems fully known to the SBA! The photos attached are of both properties showing Gas Stations.

The SBA is fully aware that Santa Barbara Bank & Trust has done False Environmental Reports in 2007 using other properties that had no structures on them! Mrs. Lisa J. Babcock, it is important to have the Two New Environmental reports done in 2011 per my FOIA request of the SBA. These documents are in the hands of the SBA as seen below accounted for by the SBA!

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Phase 1 environmental Site Assessment (1341 Paso Robles St.)	06/06/2011	74	Withheld Ex. 4 & Ex. 5
The Standard Environmental Risk Information (1341 Paso Robles St.)	05/02/2011	37	Withheld Ex. 4 & Ex. 5
The Standard Environmental Risk Information (1341 Paso Robles St.)	05/30/2007	11	Withheld Ex. 4 & Ex. 5
Phase 1 environmental Site Assessment (470 Price St.)	05/17/2011	85	Withheld Ex. 4 & Ex. 5
The Standard Environmental Risk Information (470 Price St.)	05/02/2011	53	Withheld Ex. 4 & Ex. 5
Letter from Sandra Sheffield to Terry Hetherington with attachments	10/23/2008	52	Withheld Ex. 5
Appraisal report (470 Price St.)	08/19/2010	31	Withheld Ex. 4 & Ex. 5

Why would the SBA allow Santa Barbara Bank & Trust do an Environmental Questionnaire on the 470 Price Street property on October 6, 2003? Should, this not have been done with the signed August 29, 2003 U. S. Small Business Administration Authorization (SBA Guaranteed Loan)?

Environmental Questionnaire, Indemnification and Disclosure Statement (470 Price St.)	10/06/2003	5	Released
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Again, for the Second Time, Please consider this my official Appeal for any and all SBA loan PLP 664-196-4009 documents withheld by the U.S. Small Business Administration National Guaranty Purchase Center. (Exemptions 4 and 5 do not apply (5 U.S.C. § 552(b)(5) (4) --The Fraud that has been committed by Santa Barbara Bank & Trust is seen at www.sbaploans.com ---- www.sbaquestions.net and at www.sbbtfraud.com

Santa Barbara Bank & Trust is now claiming falsified, deferred and defaulted payments of \$45,171.20 as seen below! This type of Bank Fraud affects all SBA PLP loans as seen at www.sbaploans.com

Santa Barbara Bank & Trust States November 23, 2011 **“The Prime Rate during that period varied between 3.25%-8.25% and thus the interest rate for your loan during that period of time varied between 5.25%-10.25%. Since the interest rate was higher than the fixed 6% rate for much of this period, when the loan was re-calculated and re-amortized under the original loan terms, your principal amount increased to \$400,962.89 due to the higher interest rate and the fact that you failed to make any payments for a large portion of that period of time. The \$390,996.91 balance appears on SBBT's online account access for your loan because that system has not been updated to rescind the terms of the Forbearance Agreement and has accordingly not re-calculated or re-amortized your loan based on the original loan terms.”** Please see that Santa Barbara Bank & Trust provides a full accounting for this October 28, 2011 change against the August 29, 2011 SBA Form 1149 provided by the SBA in my prior FOIA request! Please review the full November 23, 2011 email below by Santa Barbara Bank & Trust!

Why has the SBA allowed Santa Barbara Bank & Trust to not properly amortize the Oceano Nursery SBA loan as seen in SBA Form 147 Note at www.sbaploans.com ?

Why has the SBA allowed Santa Barbara Bank & Trust to not apply the principal in the 2007 forbearance and workout agreement as agreed in this signed document?

Why has the United States Small Business Administration allowed Santa Barbara Bank & Trust to over charge the Oceano Nursery SBA loan payment by \$240.86 per month, since the 2007 forbearance and workout agreement?

Sincerely

Bill Bookout

From: Robert Forouzandeh [mailto:rforouzandeh@rppmh.com]

11/28/2011

Sent: Wednesday, November 23, 2011 10:22 AM

To: Bill Bookout

Cc: Richard Rossi; sanschromo@yahoo.com; kgrant@silcom.com; Diana Lee

Subject: FW: Santa Barbara Bank & Trust Loan Fraud and Breach of Contract SBA PLP Loan # 664-196-4009

Mr. Bookout:

Since you have retained legal counsel, I have stated to you on more than three occasions now, any questions, comments or concerns pertaining to your SBBT loan should be directed through your attorneys only.

With that being said, I did notice one new question that you have posed in your email below which does not pertain to any legal matters and I will proceed to answer it at this time and CC your attorneys on this email so that it is not construed as an ex parte communication.

You ask: "How did Santa Barbara Bank & Trust come up with a principal balance owed of \$400,962.89..." In doing so, you post what appears to be a cut and paste excerpt from SBBT's website which shows a principal balance of \$390,996.91 for the loan.

Our response is as follows: The \$390,996.91 was calculated using the fixed interest rate of 6% set forth in the Forbearance Agreement. Due to your default of the Forbearance Agreement, the Forbearance Agreement was rescinded (as permitted by its terms) and the principal amount of the loan was re-calculated and re-amortized going back to the date of the Forbearance Agreement using the interest rate of Prime + 2% (as required in your original loan) for the time period between the date of the Forbearance Agreement and the date of the Proof of Claim with the loan being re-amortized on a yearly basis per SBA loan rules. The Prime Rate during that period varied between 3.25%-8.25% and thus the interest rate for your loan during that period of time varied between 5.25%-10.25%. Since the interest rate was higher than the fixed 6% rate for much of this period, when the loan was re-calculated and re-amortized under the original loan terms, your principal amount increased to \$400,962.89 due to the higher interest rate and the fact that you failed to make any payments for a large portion of that period of time. The \$390,996.91 balance appears on SBBT's online account access for your loan because that system has not been updated to rescind the terms of the Forbearance Agreement and has accordingly not re-calculated or re-amortized your loan based on the original loan terms.

I hope this answers your question. Again, please direct any future questions, comments or concerns through your attorneys only.

Robert B. Forouzandeh

Attorney at Law

Reicker, Pfau, Pyle & McRoy LLP

1421 State Street, Suite B

Santa Barbara, CA 93101

Tel: 805-966-2440

Fax: 805-966-3320

E-mail: rforouzandeh@rppmh.com

Website: www.reickerpfau.com

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From: FOIA [mailto:FOIA@sba.gov]

Sent: Wednesday, November 23, 2011 8:57 AM

To: Bill Bookout

Subject: RE: Santa Barbara Bank & Trust Loan Fraud and Breach of Contract SBA PLP Loan # 664-196-4009

Dear Mr. Bookout:

I believe that copies of the documents referred to below have already been provided to you, as original documents cannot be returned, copies are provided. The files have been reviewed for all pertinent records and the copies that have been provided to you represent what is in the possession of the Small Business Administration.

Sincerely,

Lisa J. Babcock

Chief, Freedom of Information/

11/28/2011

From: Bill Bookout [mailto:pismobeachsurfshop@charter.net]
Sent: Tuesday, November 22, 2011 12:49 PM
To: Higgins, Catherine Mccann; FOIA; Babcock, Lisa J.
Cc: Butcher-Sumner, Blossom V.; Mendoza, Carlos G.; Hobby, Jill C.; Nguyen, Hien D.; Ashker, Terrill K.
Subject: RE: Santa Barbara Bank & Trust Loan Fraud and Breach of Contract SBA PLP Loan # 664-196-4009

November 22, 2011

OIG complaint ID # 20110484

Lisa J. Babcock and Catherine Higgins
U.S. Small Business Administration
Chief, Freedom of Information/Privacy Acts Office,
Small Business Administration,
409 Third Street, SW,
Washington, DC 20416

Dear Mrs. Babcock and Mrs. Higgins

I am again making a FOIA request of the SBA, per my prior requests! Please provide the Original signed August 29, 2003 SBA Loan Authorization and any and all documents leading up to this Authorization.

Please review the August 27, 2003 (Loan Committee Presentation Report) attached above used for the original August 29, 2003 SBA loan Authorization.

Sincerely

Bill Bookout

CC California State Attorney General, Kamala D. Harris
California Department of Justice
P. O. Box 944255
Sacramento, Ca 94244-2550

CC Judge Robin L. Riblet---Exhibit # 22

From: Bill Bookout [mailto:pismobeachsurfshop@charter.net]
Sent: Tuesday, November 22, 2011 8:04 AM
To: 'Kaplan, Adam D.(Off. Inspector Gen.)'
Cc: 'Senator.Blakeslee@senate.ca.gov'; 'Babcock, Lisa J.'; 'Senator.Blakeslee@senate.ca.gov'; 'Senator.Alquist@senate.ca.gov'; 'Senator.Anderson@senate.ca.gov'; 'Senator.Berryhill@senate.ca.gov'; 'Senator.Blakeslee@senate.ca.gov'; 'Senator.Calderon@senate.ca.gov'; 'Senator.Cannella@senate.ca.gov'; 'Senator.Corbett@senate.ca.gov'; 'Senator.Correa@senate.ca.gov'; 'Senator.DeLeón@senate.ca.gov'; 'Senator.DeSaulnier@senate.ca.gov'; 'Senator.Dutton@senate.ca.gov'; 'Senator.Emmerson@senate.ca.gov'; 'Senator.Evans@senate.ca.gov'; 'Senator.Fuller@senate.ca.gov'; 'Senator.Gaines@senate.ca.gov'; 'Senator.Hancock@senate.ca.gov'; 'Senator.Harman@senate.ca.gov'; 'Senator.Hernandez@senate.ca.gov'; 'Senator.Huff@senate.ca.gov'; 'Senator.Kehoe@senate.ca.gov'; 'Senator.LaMalfa@senate.ca.gov'; 'Senator.Leno@senate.ca.gov'; 'Senator.Lieu@senate.ca.gov'; 'Senator.Liu@senate.ca.gov'; 'Senator.Lowenthal@senate.ca.gov'; 'Senator.McLeod@senate.ca.gov'; 'Senator.Padilla@senate.ca.gov'; 'Senator.Pavley@senate.ca.gov'; 'Senator.Price@senate.ca.gov'; 'Senator.Rubio@senate.ca.gov'; 'Senator.Runner@senate.ca.gov'; 'Senator.Simitian@senate.ca.gov'; 'Senator.Steinberg@senate.ca.gov'; 'Senator.Strickland@senate.ca.gov'; 'Senator.Vargas@senate.ca.gov'; 'Senator.Walters@senate.ca.gov'; 'Senator.Wolk@senate.ca.gov'; 'Senator.Wright@senate.ca.gov'; 'Senator.Wyland@senate.ca.gov'; 'Senator.Yee@senate.ca.gov'; 'Kaplan, Adam D.(Off. Inspector Gen.)'; 'OIGHotline@sba.gov'; 'legal@fdic.gov'; 'ombudsman@fdic.gov'; 'SBA National Ombudsman'; 'Cookie, Lisa A.'; 'Hobby, Jill C.'; 'Slay, Hardy'; 'Nguyen, Hien D.'; 'Gatell, Graciela M.'; 'Pope, Cynthia D.'; 'Hedgespeth, Grady'; 'Fishman, David A.'; 'Harris, Glenn P. (Off. Inspector Gen.)'; 'Gold, Martin'; 'O'Neal, Jim'; 'Taylor, Richard A.'; 'Pamela Brinks'; 'velie@calcoastnews.com'; 'Weber, Tad - SLO'; 'bmcewen@fresnobee.com'; 'sduerr@thetribunenews.com'; 'Assemblymember.John.Perez@assembly.ca.gov'; 'cschur@santamariatimes.com'; 'consumer@dfi.ca.gov'; 'Butcher-Sumner, Blossom V.'; 'Robert Forouzandeh'; 'Diana Lee'; 'lol@rsmediate.com'; 'Richard Rossi'; 'sanschromo@yahoo.com'

Subject: RE: Santa Barbara Bank & Trust Loan Fraud and Breach of Contract SBA PLP Loan # 664-196-4009

November 22, 2011

Adam D. Kaplan
Assistant Counsel to the Inspector General
U.S. Small Business Administration
Voice - 202-205-6696
Fax - 202-205-7127
adam.kaplan@sba.gov

Dear Mr. Kaplan and California State Senators attached,

The Santa Barbara Bank & Trust Board of Directors George Leis, Gerald J. Ford, Carl B. Webb, Richard A. Nightingale, John R. Mackall, Mark K. Olson, D. Vernon Horton, William R. Loomis, Edward E. Birch, Kathy J. Odell, Clayton C. Larson, Gordon J. Wahlgren and Mary Mascolo; Are Fully aware of the Fraud and Breach of Contract committed in the Oceano Nursery SBA PLP Loan # 664-196-4009 since 2003 by Santa Barbara Bank & Trust!

Santa Barbara Bank & Trust Attorneys, Diana Jessup Lee State Bar # 155191 and Robert Forouzandeh State Bar # 247177 have been requested to provide all information to them!

Santa Barbara Bank & Trust has falsified the August 29, 2003 SBA Loan Authorization as seen attached above to the SBA! I am again making a FOIA request of any all documents being currently withheld by the SBA from 2003 to November 22, 2011.

Please review the fraudulent actions below by Santa Barbara Bank & Trust. The SBA has provided SBA Form 1149 showing the NOD Fraud by Santa Barbara Bank & Trust. The SBA has provided the September 30, 2008 letter showing the \$45,171.20 in the Santa Barbara Bank & Trust May 19, 2011 NOD to be fraudulent!

Please review the October 28, 2011 Proof of Claim attached above presented to Judge Robin L. Riblet, by Santa Barbara Bank & Trust against SBA Form 1149 and the letter written to the SBA on September 30, 2008 by Santa Barbara Bank & Trust.

Sincerely

Bill Bookout

CC California State Attorney General, Kamala D. Harris
California Department of Justice
P. O. Box 944255
Sacramento, Ca 94244-2550

CC Judge Robin L. Riblet---Exhibit # 22

From: Bill Bookout [mailto:pismobeachsurfshop@charter.net]

Sent: Monday, November 21, 2011 6:59 AM

To: 'Robert Forouzandeh'

Cc: 'Chris Gautschi'; 'Richard Rossi'; 'Diana Lee'; 'rmiller@newtimesslo.com'; 'crigley@newtimesslo.com'; 'lol@rsmediate.com'; 'Kaplan, Adam D.(Off. Inspector Gen.)'; 'Koznek, Jeff'; 'danhil@charter.net'; 'ajsantana@co.slo.ca.us'; 'dvallely@co.slo.ca.us'; 'Thomas Cregger'; 'Karen Grant'; 'Pamela Brinks'

Subject: RE: Santa Barbara Bank & Trust Loan Fraud and Breach of Contract SBA PLP Loan # 664-196-4009

November 21, 2011

Santa Barbara Bank & Trust Board of Directors George Leis, Gerald J. Ford, Carl B. Webb, Richard A. Nightingale, John R. Mackall, Mark K. Olson, D. Vernon Horton, William R. Loomis, Edward E. Birch, Kathy J. Odell, Clayton C. Larson, Gordon J. Wahlgren and Mary Mascolo;

Robert Forouzandeh State Bar # 247177
Diana Jessup Lee State Bar # 155191

Robert Forouzandeh and Diana Jessup Lee,

11/28/2011

Thank you, for Santa Barbara Bank & Trusts position on the May 19, 2011 NOD filed by Santa Barbara Bank & Trust. Your Statement on November 18, 2011 is taken as the official statement by Santa Barbara Bank & Trust Attorneys, per the Fraud and Breach of Contract committed by Santa Barbara Bank & Trust since 2003!

“With that being said, as I have done on countless occasions in the past, I deny each and every one of the false allegations that you have set forth in your email below. There is nothing deficient about the May 19, 2011 NOD. Santa Barbara Bank and Trust will not rescind it. We have reviewed all of the information pertaining to this NOD and it is valid.”

Robert Forouzandeh and Diana Jessup Lee, This is again a Written Demand Letter of Santa Barbara Bank & Trust to Rescind the Fraudulent NOD filed on May 19, 2011 on the Oceano Nursery property and the Pismo Beach Property within one week of November 18, 2011! **Please let the Santa Barbara Bank & Trust Board of Directors** George Leis, Gerald J. Ford, Carl B. Webb, Richard A. Nightingale, John R. Mackall, Mark K. Olson, D. Vernon Horton, William R. Loomis, Edward E. Birch, Kathy J. Odell, Clayton C. Larson, Gordon J. Wahlgren and Mary Mascolo; make this decision after reviewing the documents attached!

Robert Forouzandeh and Diana Jessup Lee, Please pay attention to the articles and comments below by Barry Cappello

“History shows that whenever the economy is hurting, there are always a percentage of lenders who behave badly and literally drive a borrower into default.”

Cappello cautions, “Unless lenders are willing to work with their commercial borrowers, they may be faced with unmanageable REO portfolios as well as protracted multi-million-dollar lender liability litigation. **Commercial borrowers will fight to keep ownership of their property. If there are violations of due process in the foreclosure procedure or illegal banking practices, you can be sure commercial borrowers will seek legal redress.**”

Judge Robin L. Riblet, commented at the hearing on November 18, 2011 about the Inverse Condemnation per the County and Rail Road claim. Please note that Santa Barbara Bank & Trust is responsible for any and all Judgments and Liens per the SBBT requirement in the Deed of Trust to Fight Inverse Condemnation. This is again backed up in the 2007 forbearance and workout agreement presented to Judge Robin L. Riblet, by Santa Barbara Bank & Trust. A discussion was held outside of the court room with Union Pacific Rail Road and Karen L. Grant on this issue.

Robert Forouzandeh and Diana Jessup Lee, Attached above are 42 documents showing Santa Barbara Bank & Trusts Fraud and Breach of Contract since 2003! Please pay close attention to the letters from Diana Jessup Lee on May 6, 2011 and May 19, 2011. Santa Barbara Bank & Trust is not owed deferred payments as stated May 6, 2011! Please review the SBBT letter attached September 30, 2008!

In the Santa Barbara Bank & Trusts Proof of claim to the United States Bankruptcy Court Judge Robin L. Riblet on October 28, 2011; **Please explain as to why Santa Barbara Bank & Trust is claiming \$55,137.18 dollars from the Oceano Nursery SBA loan, that is not owed Santa Barbara Bank & Trust? How can this be legal in California Banking?** This in itself makes the May 19, 2011 NOD Fraudulent! This falsified amount owed has had an impact on the November 18, 2011 hearing in front of Judge Robin L. Riblet.

Santa Barbara Bank & Trust claims on 11/28/2011 that they are owed a principal balance of \$400,962.89. In the SBA form 1149 provided by Santa Barbara Bank & Trust on August 29, 2011 to the U.S. Small Business Administration. SBBT states the Principal Balance was \$390,996.91! Why is Santa Barbara Bank & Trust now claiming they are owed an additional \$9,965.98 to Judge Robin L. Riblet? Please explain this to myself and those attached above along with Judge Robin L. Riblet!

Santa Barbara Bank & Trust claims on 11/28/2011 that they are owed \$45,171.20 in deferred and defaulted payments past due! Please explain as to how Santa Barbara Bank & Trust can claim this amount, when Santa Barbara Bank & Trust on September 30, 2008 informed the SBA. ***“In addition interest has been paid current and the loan is fully secured with real estate.”*** ????

Please explain this to myself and those attached above along with Judge Robin L. Riblet!

Mr. Robert Forouzandeh, Please pay attention to your August 1, 2011 and August 2, 2011 emails below! Santa Barbara Bank & Trust is not owed \$45,171.20 as claimed in the May 19, 2011 NOD!

“The July 27, 2011 statement sent from Santa Barbara Bank and Trust does not include the amounts owed by you for the deferred payments under the Forbearance Agreement. When you breached the Forbearance Agreement by going into default on your loan, pursuant to contract, the deferred payments were accelerated and due in full immediately.”

Santa Barbara Bank & Trust on August 29, 2003 obtained an SBA authorization for the Oceano Nursery SBA loan as seen and signed above by SBBT on August 29, 2003. The October 6, 2003 signed Loan Agreement shows this August 29, 2003 SBA Authorization. The August 27, 2003 Loan Committee Presentation Report shows the purpose of the Oceano Nursery SBA August 29, 2003 loan Authorization just prior to the contract between the SBA and Santa Barbara Bank & Trust. Explain the Fraud that has been committed by Santa Barbara Bank & Trust in changing the SBA loan Authorization on October 1, 2003 in what is called

a collateral Modification attached? **Santa Barbara Bank & Trust does not have a legal right to be in the Second Position on the 470 Price Street property with this Fraud! This issue should be investigated by the California State Attorney General, Kamala D. Harris.**

Robert Forouzandeh and Diana Jessup Lee, Please explain as to why Santa Barbara Bank & Trust has a second on the Pismo Beach Dive Shop and the Pismo Beach Surf Shop property at 470 Price Street? Notice the Fraud committed on 10/1/03 in the original August 29, 2003 SBA Loan Authorization attached above! Please explain this to myself and those attached!

Santa Barbara Bank & Trust claims in the May 19, 2011 NOD and the Loan amortization schedule prepared by SBBT on May 5, 2011; that on July 6, 2007 SBBT was owed \$465,195.50 after paying \$22,274.46! **Robert Forouzandeh and Diana Jessup Lee, Please explain as to why in the June 23, 2007 Payment Notice that my total debt was \$472,774.05 and in the May 5, 2011 amortization schedule prepared by Santa Barbara Bank & Trust this debt is raised up to \$487,469.96? What Bank records has Santa Barbara Bank & Trust used to show this undocumented difference of \$14,695.91 claimed owed by Santa Barbara Bank & Trust? Please make these Santa Barbara Bank & Trust records used public if they are different then the SBBT records attached above! This issue should be investigated by the California State Attorney General, Kamala D. Harris.**

Robert Forouzandeh and Diana Jessup Lee, Please explain as to why the July 6, 2007 payment of \$22,274.46 was not credited to any Principal as seen in the May 5, 2011 amortization schedule? Please explain as to why Santa Barbara Bank & Trust has stolen \$5,200.00 in the 2007 forbearance agreement principal? Notice the Santa Barbara Bank & Trust Loan Payment History attached above showing the \$22,274.46 five payments going to interest only and none to principal! What has Santa Barbara Bank & Trust done with my \$5,200.00 in principal not applied to my Oceano Nursery SBA Loan in the 2007 forbearance agreement? This statement on June 19, 2011 by Diana Jessup Lee is unacceptable and false! "4. Your July 2007 payment of \$22,274.46 was used "to pay the monthly principal and interest payments owing on Note for the earliest five monthly past due payments (May, 2006, June, 2006, July, 2006, August, 2006 and September, 2006)" exactly as stated in the Forbearance Agreement (emphasis added). This has been explained to you repeatedly. See my May 19, 2011 letter as well as the charts enclosed with my May 6, 2011 letter. I do not intend to continue repeating myself, so please do not keep asking this same question."

Attached is the August 29, 2011 Lenders Transcript of Account showing only interest payments from 7/6/07—9/2/08 against the 2007 Forbearance Agreement (emphasis added). No Principal was paid from May 2006 to September 2006! Attached is the May 19, 2011 letter from Diana Jessup Lee per her June 29, 2011 email attached!

Attached is a July 16, 2008 OCC letter showing that Santa Barbara Bank & Trust, claims that the \$22,274.46 is applied to Principal and Interest. Why would Santa Barbara Bank & Trust misapply this principal paid SBBT, from my Oceano Nursery SBA loan against the OCC's July 16, 2008 letter. Why would Santa Barbara Bank & Trust charge \$1,953.45 in attorney fees as seen in this OCC letter from 6/30-9/30/2007 against the forbearance agreement?

Robert Forouzandeh and Diana Jessup Lee, Please explain the letter attached that was written by Diana Jessup Lee on May 19, 2011 claiming that on July 6, 2007 \$487,469.96 was owed on the Oceano Nursery SBA loan before the five payments of \$22,274.46 with Santa Barbara Bank & Trust just subtracting, interest bringing this loan down to \$465,195.50 and stealing \$5,200.00 of principal from Bill Bookout and Oceano Nursery? Robert Forouzandeh and Diana Jessup Lee, again I am asking Santa Barbara Bank & Trust to cancel the May 19, 2011 NOD filed on the Oceano Nursery property and the 470 Price Street property!

Robert Forouzandeh and Diana Jessup Lee, attached are a few emails from both of you claiming that Santa Barbara Bank & Trust paid principal on the \$22,274.46 for the five payments per the forbearance agreement! Please explain to myself, the District Attorney and the San Luis Obispo Police Department attached above as to what Santa Barbara Bank & Trust has done with this \$5,200.00 of my principal paid towards my SBA loan in 2007? This principal paid does not show up in the SBA Form 1149 prepared by Santa Barbara Bank & Trust on August 29, 2011. The deferred payments claimed of \$45,171.20 does not show up in SBA Form 1149 prepared by SBBT on August 29, 2011!

Santa Barbara Bank & Trust had the ability to properly amortize the Oceano Nursery SBA Loan in 2007 with the Forbearance Agreement. This could have been done by Santa Barbara Bank & Trust taking the June 23, 2007 (Payment Notice) showing a Loan Balance of \$420,024.30 plus the Previous Due of \$52,749.75 added together totaling \$472,774.05 and then subtracting the \$22,274.46 bring a balance down to \$450,499.59 and then subtracting the \$5,200.00 of principal not accounted for by Santa Barbara Bank & Trust bringing the proper principal owed down to \$445,299.59 with a August 1, 2007 monthly payment of \$3,880.20 instead of the \$4,121.06 charged against SBA Form 147 Note!

In 2007 Extra Principal Paid was \$2,236.82. The SBA loan should have been re amortized in 2007 and 2008 under terms per SBA Form 147 Note.

In 2008 Extra Principal Paid was \$631.52. The SBA loan should have been re amortized in 2009 under terms per SBA Form 147 Note.

In 2009 Extra Principal Paid was \$473.64. The SBA loan should have been re amortized in 2010 under terms per SBA Form 147

Note.

LOAN SUMMARY SANTA BARBARA BANK & TRUST

Principal:	\$445299.59
Interest Rate:	6%
Loan Term:	171 months
Number of Payments:	171
Monthly Payment:	\$3,880.20
Total Principal Paid:	\$445,299.59
Total Interest Paid:	\$218,214.93
Total Paid:	\$663,514.52

Santa Barbara Bank & Trust online accounting as of November 20, 2011 showing a Principal Balance of \$390,996.91 instead of the Proof of Claim presented to Judge Robin L. Riblet. The Principal balance is not \$400,962.89 claimed to Judge Robin J. Riblet.

Date	Description	Category	Debit	Credit	Balance
11/4/2011	EFF 11/03/2011			\$4,121.06	\$390,996.91
10/11/2011	Regular Payment			\$4,121.06	\$390,996.91
9/16/2011	Automatic		\$206.05		\$390,996.91

Robert Forouzandeh and Diana Jessup Lee, what has Santa Barbara Bank & Trust done with the \$7,172.57 of extra principal paid in my SBA loan since July 6, 2007 as talked about in the June 29, 2011 email from Diana Jessup Lee? The falsified Proof of Claim to the United States Bankruptcy Court on 10/28/2011 now claims a principal balance of \$400,962.89 instead of the September 23, 2011 (Payment Notice) balance of \$390,996.91 or the November 20, 2011 online balance! **Robert Forouzandeh and Diana Jessup Lee, Why would Santa Barbara Bank & Trust Falsify Bank Accounting to the United States Bankruptcy Court Judge Robin J. Riblet dated 10/28/11?**

Diana Jessup Lee in her May 19, 2011 letter has provided evidence showing Santa Barbara Bank & Trust accounting records per payment notices! This same Santa Barbara Bank & Trust accounting is seen openly in the September 23, 2011 (payment notice)! The June 23, 2007 Payment Notice by Santa Barbara Bank & Trust is undisputed! Why has Santa Barbara Bank & Trust charged two monthly payments of \$4,121.06 for the October and November 2011 payments against SBA Form 147 Note?

Again, this is a written demand of Santa Barbara Bank & Trust to Rescind the Fraudulent NOD filed on May 19, 2011 on the Oceano Nursery property and the Pismo Beach Property within one week of November 18, 2011! With the documents attached, Santa Barbara Bank & Trust Board of Directors; have full knowledge of the Santa Barbara Bank & Trusts actions since 2003!

Please again read the email below on August 1, 2011 to Robert Forouzandeh!

Sincerely

Bill Bookout

CC California State Attorney General, Kamala D. Harris
California Department of Justice
P. O. Box 944255
Sacramento, Ca 94244-2550

CC Judge Robin L. Riblet---Exhibit # 22
CC Barry A. Cappello Lender Liability
CC Karen L. Grant State Bar # 122084
CC Chris Gautschi [sanschromo@yahoo.com]
CC San Luis Obispo District Attorney
CC San Luis Obispo Police Department **Case # 111108022**
CC Adam D. Kaplan Office of Inspector General OIG complaint ID # 20110484
CC Thomas Cregger -Union Pacific Rail Road

DAY OF RECKONING HAS ARRIVED FOR COMMERCIAL REAL ESTATE LENDERS

11/28/2011

Category : [Lender Liability, News](#)

For Immediate Release: October 11, 2011

Day of Reckoning Has Arrived For Commercial Real Estate Lenders

SANTA BARBARA, CALIF.—A collapse of the commercial real estate sector will be catastrophic to financial institutions and the economy so lenders must act now to avoid such a financial debacle, says A. Barry Cappello, nationally renowned attorney specializing in lender liability law.

“With the exception of prime properties in large cities such as Los Angeles and New York, commercial real estate has been an unmitigated disaster,” says Cappello, managing partner in the Santa Barbara, Calif.-based Cappello & Noël and author of *Lender Liability*. “TARP helped banks survive the housing mortgage meltdown. That money won’t be there when commercial loans start to fall apart, which we’re already seeing.”

Unlike residential housing borrowers, commercial borrowers can have tens of millions of dollars tied up in a single property. “Banks are beginning to foreclose on commercial properties, but that is the absolutely wrong way out,” says Cappello.

Cappello suggests that instead of foreclosing, lenders should renegotiate interest rates and principal or even arrange short sales with borrowers. “These are unique times and they call for creative action,” says Cappello. “Banks need to be flexible. This is especially true when lender liability is an issue. When banks become nervous, and we are in very nervous times, some lenders overreach and breach their loan agreements with their borrowers—whether the borrowers are behind in their loan payments or not. History shows that whenever the economy is hurting, there are always a percentage of lenders who behave badly and literally drive a borrower into default.”

Cappello cautions, “Unless lenders are willing to work with their commercial borrowers, they may be faced with unmanageable REO portfolios as well as protracted multi-million-dollar lender liability litigation. **Commercial borrowers will fight to keep ownership of their property. If there are violations of due process in the foreclosure procedure or illegal banking practices, you can be sure commercial borrowers will seek legal redress.**”

Do not expect a commercial real estate disaster to drag on like the housing fiasco. “Banks can’t count on another government bailout. They’re on their own when it comes to commercial loans,” says Cappello. “It’s in their best interest to work out financing solutions with their commercial borrowers. If they don’t, some banks simply won’t survive and they will drag the economy down with them.”

###

LENDER LIABILITY IN LOOMING COMMERCIAL LENDING CRISIS – FINDLAW

Category : [News](#)

2011-10-03

By *Editorial Staff* of [FindLaw](#)

SANTA BARBARA, CALIF. — Business borrowers are beginning to feel the ripple effects of the financial crisis as lenders tighten commercial lending in a cautionary attempt to stop further erosion of capital and assets, says lender liability expert A. Barry Cappello, managing partner with the Santa Barbara law firm of Cappello & Noel, LLP. He says the coming commercial credit crunch will be hard felt—especially by small businesses and borrowers in certain industries.

Cappello, author of *Lender Liability* (Juris Publishing) and nationally recognized as the pioneer in lender liability law, says the lending contraction in the commercial sector will be more severe than that which occurred in the late 1980s and early 1990s when the savings and loan meltdown and lender misconduct resulted in multi-million dollar jury verdicts and settlements for business borrowers.

“National lenders are writing off hundreds of millions, even billions of dollars in subprime and ARM loans,” explains Cappello. “They are bloodied by their ill-conceived collateralized debt obligation forays. They are now turning to their commercial portfolio to see where they can cut to stop new bleeding. Lenders are in write-down mode.”

Cappello says commercial borrowers should not feel relief on news that banks are swallowing up investment banks. “These banks are getting in over their head and the buyouts just mean less available funds for borrowers,” cautions

11/28/2011

Cappello.

Credit is already tight in the transportation, housing and manufacturing sectors, notes Cappello. “Even if your business is healthy, if you’re in one of these sectors, you can be sure your lender is reviewing your file and deciding whether it wants to continue the relationship. I’m getting calls to my office from business borrowers whose commercial lending relationship is souring,” he says.

Cappello advises business borrowers to turn to regional banks for their borrowing needs and avoid national lenders altogether. “Regional banks, for the most part, didn’t gamble with their home loans so financially they are in better shape. They aren’t jeopardizing their viability by buying financially troubled investment banks,” says Cappello. “On the other hand, national lenders are hunkering down. They are less likely to extend new credit. Their primary concern now is to wipe their losses from the books so they can show their shareholders a profit in the next year or two.”

Cappello represents business borrowers who feel their lenders have overstepped their legal authority. “When a bank decides it wants to stop lending to certain types of businesses that’s when lender liability usually occurs,” says Cappello. **“Lenders are tempted to arbitrarily change loan terms with current customers, grab collateral and make unrealistic payment demands. There are laws that forbid them to do that.”**

Besides reading the fine print of your loan agreement and getting every verbal promise in writing, Cappello suggests, “Avoid using personal guarantees to secure a business loan. If you must use a personal guarantee, require language in the loan documents that state the bank has to go against business collateral first. Some lenders also seek to collateralize intellectual property. I can’t think of any bank loan that would be worth the risk of losing your rights to the intellectual property that built your business.”

Cappello warns businesses to be cautious if their lender is bought out by another bank. “A lending relationship is a personal relationship,” notes Cappello. “If your loan officer is suddenly replaced by a new loan officer, you lose an important ally who knew your business and could stand up for you.”

From: Robert Forouzandeh [mailto:rforouzandeh@rppmh.com]

Sent: Tuesday, August 02, 2011 10:04 AM

To: Bill Bookout

Subject: RE: Bookout/PCB Mediation per thier Bank Fraud and Breach of Contract since 2007

Mr. Bookout,

The July 27, 2011 statement sent from Santa Barbara Bank and Trust does not include the amounts owed by you for the deferred payments under the Forbearance Agreement. When you breached the Forbearance Agreement by going into default on your loan, pursuant to contract, the deferred payments were accelerated and due in full immediately. Accordingly, they were added to the notice of default amount. Nonetheless, as a token of good faith, if you pay the amount set forth on the July 27, 2011 statement (\$102,859.01), Santa Barbara Bank and Trust will accept this as a complete cure of your default on your loan which is now in its 21st month.

All of the other questions you refer to in your email were fully and completely answered in the various emails from Ms. Lee to you that I identified in my August 1, 2011 email to you. Please go back and review them in depth and you will find answers to all of your questions, including how the May Notice of Default was calculated.
Thank you.

Robert

From: Bill Bookout [mailto:Pismobeachdiveshop@charter.net]

Sent: Monday, August 01, 2011 5:47 PM

To: Robert Forouzandeh

Cc: sandiego@sba.gov; 'Marianne Partridge -'; 'Nick Welsh -'; 'Michelle Drown -'; 'Matt Kettmann -'; dkatich@newspress.com; wmccaw@newspress.com; avw@newspress.com; rmiller@newtimesslo.com; aschwellenbach@newtimesslo.com; velie@calcoastnews.com; assignmentdesk@keyt.com; Customer.Assistance@occ.treas.gov; Carlos.Mendoza@sba.gov; sbcountyda@co.santa-barbara.ca.us; ombudsman@fdic.gov; sandiego@sba.gov; Lcannon@dfi.ca.gov; legal@fdic.gov; barney@independent.com; dporter@dfi.ca.gov; lol@rsmediate.com; begelko@sfchronicle.com

Subject: RE: Bookout/PCB Mediation per thier Bank Fraud and Breach of Contract since 2007

11/28/2011

August 1, 2011

Office of the Comptroller of the Currency Case # 01394465 – Case # 770567

Robert Forouzandeh,
Reicker, Pfau, Pyle & McRoy LLP
1421 State Street, Suite B
Santa Barbara, CA 93101

Mr. Robert Forouzandeh,

RE: Santa Barbara Bank & Trusts, Fraud and Breach of Contract since July 2007.

- 1) Please see that the questions asked of Mr. Mark K. Olson and Mr. Nightingale on June 3, 2011 as seen below are answered!
- 2) Please see that the questions below asked of Diana Jessup Lee on June 2, 2011 are answered!
- 3) Please see that the questions asked of Diana Jessup Lee on June 27, 2011 as seen below are answered!
- 4) Please see that the questions asked of Diana Jessup Lee on July 4, 2011 as seen below are answered!
- 5) Please see that the questions asked of Diana Jessup Lee on July 16, 2011 as seen below are answered!
- 6) Please see that the questions asked of Diana Jessup Lee on July 20, 2011 as seen below are answered!

Mr. Forouzandeh, Please explain why the NOD filed May 19, 2011 for \$111,024.71 is a larger amount then the Santa Barbara Bank & Trust July 24, 2011 payment notice? Please pay close attention to the Fidelity National Title Company email below dated May 26, 2011 along with the SBBT payment notice attached! You will notice that \$78,300.14 divided by 19 is \$4,121.06 per month! Why is Santa Barbara Bank & Trust still billing this amount with the SBBT Fraud seen in Diana Lee's May 19, 2011 letter attached?

Robert Forouzandeh, Please explain how you had come up with the \$45,171.20 again as this is not seen in the Santa Barbara Bank & Trust payment notice and is not mentioned in the Office of the Comptroller of the Currency Case # 01394465 – Case # 770567 June 30, 2011 findings?

Please see that Christine Sontag; the Santa Barbara Bank & Trust and Pacific Capital Bancorp Board of Directors--- George Leis, Gerald J. Ford, Carl B. Webb, Richard A. Nightingale, John R. Mackall, Mark K. Olson, D. Vernon Horton, William R. Loomis, Edward E. Birch, Kathy J. Odell, Clayton C. Larson, Gordon J. Wahlgren and Mary Mascolo; -----**Are fully aware of your statements in your email August 1, 2011!**

Sincerely

Bill Bookout

CC Sharon Gilstrap and John Walsh
Office of the Comptroller of the Currency Case # 01394465
1301 McKinney Street, Suite 3450
Houston, Texas 77010-9050
Fax # 713-336-4301

CC U.S. Small Business Administration

Attorney General Kamala D. Harris
California Department of Justice
P. O. Box 944255
Sacramento, Ca 94244-2550

FDIC Consumer Response Center
1100 Walnut Street, Box #11
Kansas City, MO 64106

From: Robert Forouzandeh [mailto:rforouzandeh@rppmh.com]

Sent: Monday, August 01, 2011 4:45 PM

To: Bill Bookout

Cc: Diana Lee

Subject: RE: Bookout/PCB Mediation per thier Bank Fraud and Breach of Contract since 2007

11/28/2011

Mr. Bookout,

I disagree with your assertion that Ms. Lee has been "unable to answer" your questions. Ms. Lee has answered all of your questions repeatedly. I would refer you to Ms. Lee's correspondences to you dated: May 6, May 26, May 31, June 28, July 5 and July 15, 2011 (among others), in which Ms. Lee has answered each and every one of your questions repeatedly.

If you have any new information or any new questions, please provide those to me and I will respond accordingly.

Thank you.

Robert B. Forouzandeh
Attorney at Law
Reicker, Pfau, Pyle & McRoy LLP
1421 State Street, Suite B
Santa Barbara, CA 93101

Tel: 805-966-2440
Fax: 805-966-3320
E-mail: rforouzandeh@rppmh.com
Website: www.reickerpfau.com

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FIDUCIARY BREACH FOR LENDERS IS ALIVE AND WELL

Category : [Lender Liability](#)

By **A. Barry Cappello**

Note: This article appeared in the Letters to the Editor column of the Los Angeles Daily Journal, Sept, 20, 2011

This letter responds to “*Reality check: A bank’s liability is not that simple*,” by Jill Switzer (Sept. 1). In cautioning the reader not to assume that bank liability for depositor claims is “a snap,” Switzer states that “[t]he only situation in which a bank is a fiduciary is when the bank acts as a fiduciary, e.g., its trust department. In all other situations, the relationship between a bank and its depositor is simply one of debtor-creditor, founded on a contract – the deposit agreement. *Price v. Wells Fargo Bank* (1989) 213 Cal.App.3d 465.”

The citation to *Price v. Wells Fargo*, a lender case, suggests that a bank, as lender, can never be liable for fiduciary breach. As a litigator who has tried, settled, and written about lender liability cases for over three decades, I disagree with that suggestion.

Abundant case law supports imposing fiduciary liability against a lender in situations where the bank, as often occurs, acts as more than an arms’-length lender. Some examples are giving the borrower financial advice or related financial services, acting as agent of the borrower, exercising undue control over the borrower, or situations where the borrower clearly reposed trust and confidence in the lender. (See *Rutherford v. Rideout Bank* (1938) 11 Cal.2d 479 (confidence reposed in bank manager to provide business and financial advice); *Credit Managers Ass’n. v. Superior Court* (1975) 51 Cal.App.3d 352 (bank controlled business activities of borrower through compelled use of consultant); *Frydman & Co. v. Credit Suisse First Boston Corp.*, 708 N.Y.S.2d 77 (N.Y.App.Div. 2000) (lender negotiated for borrower); *Capital Bank v. MVB Inc.*, 644 So.2d 515 (Fla.Ct.App. 1994) (advising borrower to acquire defective assets from another of bank’s borrowers); *Scott v. Dime Savings Bank*, 866 F.Supp. 1073 (S.D.N.Y. 1995) (advising borrower to invest borrowed funds with bank’s investment arm); *McFate v. Bank of America* (1932) 125 Cal.App.683 (bank acted as agent for mortgagor, mortgagee, and escrow holder for plaintiff in mortgagor-plaintiff exchange); see also, *Tate v. Saratoga Sav. & Loan Ass’n.* (1989) 216 Cal.App.3d 843 (bank as joint venturer is a fiduciary); see, generally, A. Barry Cappello, “*Lender Liability*” (Juris Publishing 4th Edition).)

A litigator is well advised to consider fiduciary breach in any case where the lender has engaged in self-dealing, used one borrower to cover another borrower’s debt, tricked the borrower, exploited confidential information, or failed to disclose material information. These are facts that might ground a credible claim for fiduciary breach under existing case law. While lender liability for breach of fiduciary duty is not “a snap,” it is alive and well as a potential option in

the right case.

From: Robert Forouzandeh [mailto:rforouzandeh@rppmh.com]
Sent: Friday, November 18, 2011 4:33 PM
To: Bill Bookout
Cc: 'Chris Gautschi'; 'Richard Rossi'; Diana Lee
Subject: RE: plan

Mr. Bookout:

As I have repeatedly stated to you in the past, you are represented by counsel. In fact, you have included them as recipients of your email. Please direct any requests, demands or any other information through them and them only. Please do not contact me directly again while you are represented by counsel.

With that being said, as I have done on countless occasions in the past, I deny each and every one of the false allegations that you have set forth in your email below. There is nothing deficient about the May 19, 2011 NOD. Santa Barbara Bank and Trust will not rescind it. We have reviewed all of the information pertaining to this NOD and it is valid.

Robert B. Forouzandeh
Attorney at Law
Reicker, Pfau, Pyle & McRoy LLP
1421 State Street, Suite B
Santa Barbara, CA 93101

Tel: 805-966-2440
Fax: 805-966-3320
E-mail: rforouzandeh@rppmh.com
Website: www.reickerpfau.com

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From: Bill Bookout [mailto:pismobeachsurfshop@charter.net]
Sent: Friday, November 18, 2011 4:27 PM
To: Robert Forouzandeh
Cc: 'Chris Gautschi'; 'Richard Rossi'; Diana Lee; rmiller@newtimeslo.com; crigley@newtimeslo.com; lol@rsmediate.com; 'Kaplan, Adam D.(Off. Inspector Gen.)'
Subject: RE: plan

November 18, 2011

Santa Barbara Bank & Trust

Robert Forouzandeh and Diana Jessup Lee,

This is a written demand of Santa Barbara Bank & Trust to Rescind the fraudulent NOD filed on May 19, 2011 on the Oceano Nursery property and the Pismo Beach Property within one week of November 18, 2011!

I am willing to go back into mediation as both of you are now fully aware of the Santa Barbara Bank & Trust September 30, 2008 letter to the SBA showing the May 19, 2011 NOD to be false! Both of you are familiar with the SBA Form 1149 presented at our last mediation by Santa Barbara Bank & Trust showing the May 19, 2011 NOD to be false. Santa Barbara Bank & Trust has since made another SBA Form 1149 showing the fraud in the May 19, 2011 NOD.

Santa Barbara Bank & Trusts actions in 2007 are the cause of Oceano Nursery closing and are now causing major problems to my Pismo Beach businesses. Again I am demanding that the May 19, 2011 NOD is immediately rescinded!

Santa Barbara Bank & Trust has over charged \$45,171.20 in the May 19, 2011 NOD! This is not legal!

Santa Barbara Bank & Trust is not owed \$400,962.89 instead of the Principal Balance of \$390,996.91 claimed on August 29, 2011 to the United States Small Business Administration by Santa Barbara Bank & Trust!

11/28/2011

Sincerely

Bill Bookout

From: Chris Gautschi [mailto:sanschromo@yahoo.com]
Sent: Thursday, November 17, 2011 9:18 PM
To: Bill Bookout
Cc: Chris Gautschi
Subject: Re: plan

The incorrectness of the NOD has nothing to do with the fact that there is some amount of mortgage arrears, they are separate. For example, a person could have mortgage arrears even without a NOD having been filed. The way you get a bank to rescind an incorrect NOD is to make a written demand letter that they do so, and when they don't sue them in state court.

From: Bill Bookout <pismobeachsurfshop@charter.net>
To: 'Chris Gautschi' <sanschromo@yahoo.com>
Cc: 'Richard Rossi' <richard@rossilegal.com>
Sent: Thursday, November 17, 2011 3:57 PM
Subject: RE: plan

What about the fact that Santa Barbara Bank & Trust has committed fraud in their Proof of Claim to the Bankruptcy Court?

What about the Fact that SBBT filed a false NOD on May 19, 2011 claiming \$45,171.20 owed in deferred and defaulted payments?

What about the fact in the Proof of Claim that SBBT is now calling my principal balance \$400,962.89 instead of the Principal Balance of \$390,996.91 claimed on August 29, 2011 to the United States Small Business Administration?

Would it not be easier to let the Judge rule that the NOD was filed fraudulently and let SBBT file a new NOD and pay Attorney Fees for their Mistakes?

What about the money since 2007 that I have monthly over paid Santa Barbara Bank & Trust as they have not properly amortized my SBA loan under SBA Form 147 Note since 2007?

11/28/2011