

## SBA Creditors' Rights

### THE CHALLENGE

The government guaranty is unquestionably the most important collateral for any SBA loan. The ability of an SBA lender to collect on that guaranty, however, is far from certain. The procedures established by the SBA for liquidating loans are detailed, complex and cumbersome. For example, the SBA's regulations require that lenders obtain the SBA's written approval before taking certain liquidation actions, and that the lender notify the SBA in advance of its intention to pursue certain other actions. In addition, the regulations also require lenders to take some actions that they ordinarily might not take on their conventional loans, particularly where one of their loan obligors files for bankruptcy or dies. Finally, even if an SBA lender makes all of the right decisions and chooses the correct course of action, it may not document its actions sufficiently in accordance with the SBA's requirements.

As a result, lenders enforcing their rights under an SBA loan often feel as though the process is a high stakes gamble. If the lender (or its unwitting counsel) makes a mistake or fails to act in strict compliance with the applicable regulations, the SBA may limit its obligation to reimburse the lender for liquidation costs, reduce the amount of its guaranty, or even refuse to honor its guaranty outright. Moreover, because guaranty purchase is the last step in the SBA loan liquidation process, lenders typically do not discover that they (or their counsel) have made a costly mistake until it is too late to correct the problem. In too many cases, a lender's errors do not come to light until the SBA denies a guaranty purchase request or penalizes the lender with a reduction in its guarantee.

### THE SOLUTION

Starfield & Smith offers SBA lenders the rarest of commodities: highly skilled creditors' rights attorneys who are also well-versed in the SBA's regulations. Our creditors' rights attorneys not only maximize the recoverable value of their clients' collateral, they also protect their clients' SBA guaranty every step of the way.

Starfield & Smith's creditors' rights attorneys recognize that their primary responsibility is to keep the lender compliant with all applicable SBA regulations so that the guaranty purchase process is as successful as possible. As a result, they begin protecting the SBA guaranty from the moment they are retained. Every piece of advice they give and every liquidation action they take is focused on placing their clients in the most advantageous position possible within the framework of the SBA's regulations. In doing so, they avoid creating guaranty purchase problems for their SBA lender clients during the liquidation process.

Starfield & Smith's creditors' rights attorneys can provide full service representation to SBA lenders in the state and federal courts of California, Nevada, New Jersey and Pennsylvania. In addition, they can act as SBA compliance counsel working in consultation with local liquidation counsel nationwide.

Choosing counsel who understand and comply with the SBA's regulations is critical to maintaining the viability of the government's guaranty. Hiring Starfield & Smith is the soundest investment an SBA lender can make towards maximizing its recovery. Contact us today to learn how we can help.