



Presented in participation with:
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EQUITY INJECTION ISSUES

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Presenter

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Jessica Conn's areas of practice focus on government guaranteed lending, commercial lending, banking, real estate and commercial law.

Starfield & Smith, P.C. is a boutique law firm specializing in all aspects of commercial lending, from origination through liquidation, for lenders nationwide. Starfield & Smith closes over \$150 million of commercial loans for its lender clients every quarter. For more information about Starfield & Smith, visit www.starfieldsmith.com

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Agenda:

- ❑ Equity Injection
- ❑ SBA Requirements
- ❑ Purpose
- ❑ Types
- ❑ Documentation Requirements
- ❑ Common Issues/Pitfalls





EQUITY INJECTION: SBA REQUIREMENTS

SBA REQUIREMENTS

- ❑ Minimum Amount of Equity for all loans

- ❑ Loans under \$350k – Other Requirements
 - Follow lender policy for similarly sized non-SBA loans

- ❑ Loans over \$350k – Other Requirements
 - Adequacy of Documentation
 - SBA expects equity injection. **WHY?**



EQUITY INJECTION: PURPOSE

PURPOSE

- “ensure long-term survival of the business”
- Skin in the game

Skin in the Game
(skin : ən 'θi : 'ɡeɪm)

to have a personal stake
in a desired outcome



EQUITY INJECTION: TYPES

TYPES

□ Cash

- “Money talks”

□ Borrowed Cash

- Outside source of repayment
- Disclosure to SBA – GP if same Lender

□ Assets

- Independent valuation

□ Standby Debt

- No payments for the term of the loan





EQUITY INJECTION: DOCUMENTATION REQUIREMENTS

DOCUMENTATION REQUIREMENTS

□ 2 concepts:

■ Use

- “Did the money actually go into/for the benefit of the business?”

■ Source

- Where did the money come from?

□ Why do we care?

- High rates of fraud -- that’s why!



DOCUMENTATION REQUIREMENTS

□ Documentation:

- Verify prior to loan disbursement
- Check/wire w/ accompanying bank statement showing \$ moved to borrower's account
- 2 most recent months' statements for the account the funds were drawn from
- Escrow statement showing use of the cash
- Gift Letters/Financial Statements/Promissory Notes are insufficient absent bank statements, cancelled checks, etc.

- Failure to properly document
= guaranty denial!



DOCUMENTATION REQUIREMENTS

- ❑ Ineligible “equity”
 - Value/cost of education
 - Borrowed funds that don’t qualify for exception

- ❑ Gifts
 - Is it *really* a gift?!?

- ❑ Standby Debt
 - Note
 - Interest only?
 - PLP Confusion





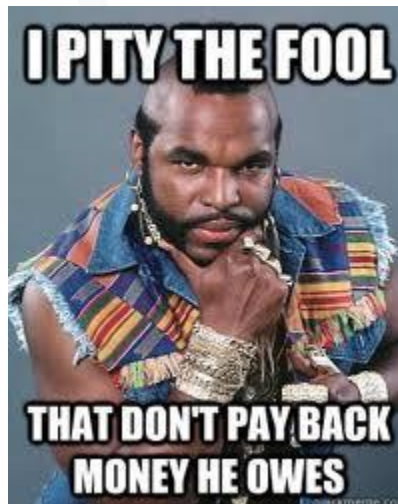
EQUITY INJECTION: COMMON ISSUES/PITFALLS

COMMON ISSUES/PITFALLS

☐ Affiliates



☐ Notes Payable

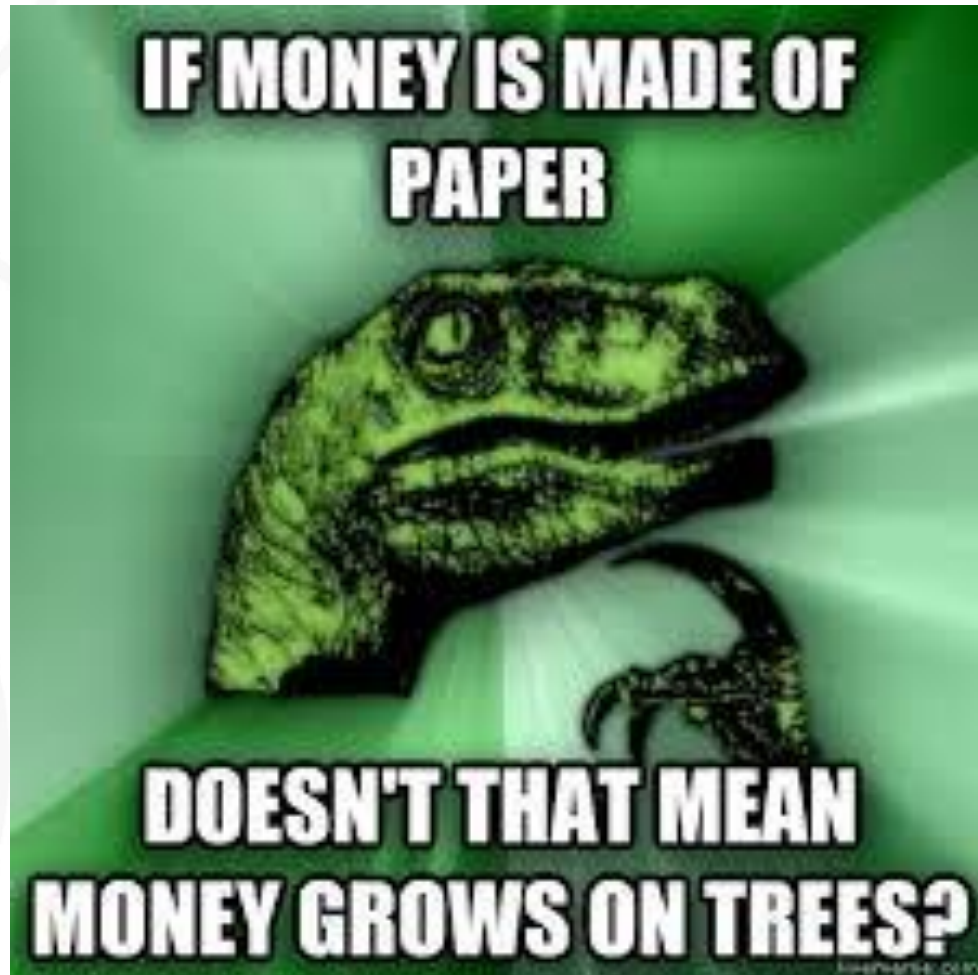


COMMON ISSUES/PITFALLS

- ❑ “Borrowed” Funds
- ❑ “Gifted” Funds
- ❑ “CASH”!!!
- ❑ Failure to verify equity is in before loan proceeds disbursed
- ❑ Agents



Questions



Thanks!

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