October 8, 2021

Mr. Hannibal Ware

Inspector General

U.S. Small Business Administration

Office of 409 3rd Street, SW

 Suite 7150

Washington, D 20416

Dear Inspector General Ware:

 National Legal and Policy Center (NLPC) respectfully requests that your office open a formal investigation into the circumstances surrounding the approval of a loan by the U.S. Small Business Administration (SBA) to Georges Berges Galleries LLC, the broker for the “artwork” of Hunter Biden, son of President Joseph Biden.

**BACKGROUND**

 On July 30, 2021 the General Accounting Office (GOA) published a report titled, “Economic Injury Disaster Loan Program (EIDLP): Additional Actions Needed to Improve Communication with Applicants and Address Fraud Risks.”[[1]](#footnote-1) The report painted a troubling picture of fraud, waste, and abuse combined with poor agency communication that has resulted in thousands of ineligible parties receiving SBA EIDL loans.

 On July 26, 2021, four days before the GAO report was published, the SBA approved a $350,000 increase in an EIDL loan to Georges Berges Galleries LLC[[2]](#footnote-2). This was an increase to a $150,000 EIDL loan the gallery received the previous year. It is our contention this loan appears to have been improperly made. Public documents obtained by the National Legal and Policy Center show it is highly unlikely the art gallery qualified for the maximum loan available and appears to have received benefits that were unavailable to the general public at the time of disbursement. It also appears the gallery fails to reach the required threshold based on the SBA’s formula of revenue vs. cost of goods to receive the maximum loan available.

 These documents show other art galleries, nearly 100, in the same congressional district failed to receive anywhere near the $500,000 in EIDL funds received by Georges Berges Gallery LLC[[3]](#footnote-3). A federal lawsuit for alleged fraud against Mr. Berges in 2016 alleged the gallery to be barely operational and in need of cash at the time before the suit was settled in 2018[[4]](#footnote-4). Dun and Bradstreet[[5]](#footnote-5) reports also show the gallery has only two employees and does not come near having the type of revenue needed to qualify for a $500,000 loan. Applications for Paycheck Protection Program (PPP) loans made by the gallery also verify only two employees.

 Unlike PPP loans EIDL loans are not forgivable and come with a 30-year payment period at a competitive interest rate[[6]](#footnote-6). The $500,000 loan Georges Berges Gallery LLC received is an EIDL loan and it has a two-year deferral period for payments to begin. This deferral period restarted on July 26, 2021 when they received the additional $350,000 from the SBA. The SBA supposedly used a formula to determine Georges Berges Gallery LLC was eligible for the maximum allowed under program rules. National Legal and Policy Center has reviewed public documents that bring into question Georges Berges Gallery LLC’s qualification for the maximum loan allowed under program rules. These public documents fall into two categories. Government agency documents related to GAO findings on the EIDL program and SBA records on loans that have been approved. The second category being public records in the form of a federal lawsuit[[7]](#footnote-7), land records[[8]](#footnote-8), UCC records, and media coverage related to Hunter’s art sales through the Georges Berges art gallery.

 On July 30, 2021 the GAO filed a report showing the SBA’s EIDL program is wrought with fraud, with an inability to properly administer policies and procedures internally to make the program more streamlined and less open to fraud, waste, and abuse. Here are some of the “highlights” found in the report[[9]](#footnote-9).

* As of April 2021, SBA had not clarified in its application, on its website, or in its most recent FAQ how it uses gross revenues and cost of goods sold to calculate the loan amount that it could offer.
* In December 2020, SBA’s independent financial statement auditor noted discrepancies including more than one loan or advance approved and disbursed to the same borrower. The auditor also identified over 6,000 disbursed EIDL loans (over $212 million

total) issued to potentially ineligible borrowers.

* Across the 51 cases in which DOJ filed fraud-related charges, we found that 19 involved identity theft, 39 involved false attestation, 39 involved fictitious or inflated employee counts, and 29 involved misuse of proceeds.[38](#bookmark0) These cases included charges of bank fraud, wire fraud, false statements, money laundering, and identity theft.
* SBA also did not provide other key information to help applicants estimate their potential loan amount. Specifically, the EIDL application form requests that applicants provide the dollar amounts for 12 months of gross revenues and cost of goods sold. These amounts are part of the calculation SBA uses to determine an applicant’s economic injury and ultimately the loan amount SBA could offer the applicant. However, as of April 2021, SBA had not clarified in its application, on its website, or in its most recent FAQ how it uses gross revenues and cost of goods sold to calculate the loan amount that it could offer.
* In February 2021, 11 months after the CARES Act revised the EIDL program in response to COVID-19, SBA defined “cost of goods sold” in its updated FAQ and provided a link to an Internal Revenue Service website for further information. However, the link takes the applicant to a webpage with over 30 links on a variety of topics, none of which are labeled “cost of goods sold.”

**Advances of Cash Received Before SBA Made them Available Through Application**

The SBA has a documented inability to communicate with applicants the most basic information related to loan eligibility and availability of funds related to the EIDL program. Specifically, the SBA failed to adequately inform applicants of EIDL loans of advances of cash available to them and the policies for eligibility and amount provided.

Advance limits: SBA revised the limits on advances to $1,000 per employee and a maximum of $10,000 per applicant on April 7, 2020, and informed EIDL applicants that had applied about the revised limit by email on April 13, 2020. SBA also provided the revised advance limits during webinars. However, SBA did not communicate this information on its website or within the EIDL application. SBA included the limits on advances in a press releases issued on June 15, 2020, but as of early July 2020—almost 3 months after SBA revised the advance limits—SBA’s website still did not include this information[[10]](#footnote-10).

 Georges Berges Gallery LLC’s ability to access a product the SBA never communicated through the application or its website leads us to believe that Georges Berges Gallery LLC has an inside track to SBA funds. In fact, the gallery received a cash advance of $1,000 for each of their two employees within 7 days of the SBA emailing applicants about the availability of funds[[11]](#footnote-11). The GAO found in their report the average time of response by the SBA on EIDL funding was 60 days. How did Georges Berges Gallery LLC get approved for an advance within 7 days of being notified of available funds if the average wait time for response is 60 days?[[12]](#footnote-12) How did Georges Berges Gallery apply for these funds if there was no application available to file? Did the SBA voluntarily provide the cash advances without Georges Berges Gallery LLC applying? An examination of other galleries receiving advances shows the SBA was disbursing funds in a non-uniform way. It is virtually impossible to know what occurred here without an investigation into the cash advance program connected to EIDL loans.

 The other issue is the amount of the loan provided to Georges Berges Gallery LLC. The SBA claims to have a formula they use to decide loan amount eligibility. The SBA asks applicants to provide gross revenue amounts and cost of goods as the basis for their equation on amount eligibility[[13]](#footnote-13):

If Applicant business was in operation before January 1, 2019, the maximum eligible loan amount is calculated as follows:

• 2019 gross receipts or sales minus 2019 cost of goods sold multiplied by 2, or $500,000, whichever is less

• For rental loss: Actual 2019 rent received minus actual 2020 rent received multiplied by 2, or $500,000, whichever is less

 NLPC believes this equation may not have been used, or inaccurate information was provided, when the SBA approved the maximum of $500,000 to the Georges Berges Gallery LLC. In a federal lawsuit against Georges Berges, an investor accused Berges of fraud and running a gallery strapped for cash[[14]](#footnote-14). The case was settled in 2018[[15]](#footnote-15), one year before the 2019 gross revenue and cost of service numbers used for the equation for the $500,000 loan approval. Due to these issues we feel it is possible Georges Berges Gallery LLC may be violating SBA policy by using these funds to expand their business through Hunter Biden’s art collection they are displaying[[16]](#footnote-16).

 Real Estate and Uniform Commercial Code (UCC) records, as well as media reports, bring into question whether Georges Berges posted the required collateral for the loan. For all EIDL loans above $200,000 the SBA requires a personal guarantee of repayment[[17]](#footnote-17). The SBA prefers land and property as collateral for EIDL loans above $200,000. A UCC and property record search of Georges Berges didn’t show a lien or UCC placed on Berges or the condo he owns in Manhattan[[18]](#footnote-18). This appears to be a violation of SBA rules related to this EIDL loan. The SBA approved the maximum increase to the Georges Berges Gallery LLC on July 26, 2021, weeks before the Hunter Biden art show debut where several works of art were sold for $75,000 each, leading us to believe the show may have been partly or wholly subsidized by this EIDL loan.

 Hunter Biden has a history of benefitting from federal government bailout programs, including the Term Asset-Backed Securities Loan Facility (TALF)[[19]](#footnote-19). A firm connected to Hunter Biden was approved for hundreds of millions in TALF loans. TALF was a program also rife with waste, fraud, and abuse[[20]](#footnote-20). It is our contention that the EIDL loan is another example of Hunter’s ability to access emergency federal loans. Though Hunter Biden is not directly receiving the SBA money, the broker for his art appears to have been kept afloat just in time to market his art.

**CONCLUSION**

 The SBA’s documented problems in administering the EIDL program, coupled with the actions of individuals who have a documented past of being accused of alleged fraud and taking advantage of previous disaster relief programs, makes it imperative that this loan be reviewed.

 Moreover, given the prominence of these individuals — the son of the sitting president and his broker — the Inspector General must take the necessary steps to ensure an independent, timely and complete investigation free of political influence or interference.

 Sincerely,

 Thomas Anderson

 Director, Government Integrity Project

1. United States Government Accountability Office, Economic Injury Disaster Loan Program: Additional Actions Needed to Improve Communication with Applicants and Address Fraud Risks, July 2021 [↑](#footnote-ref-1)
2. Small Business Administration, ASST\_NON\_4636367807\_7300, FAIN 4636367807, <https://www.usaspending.gov/award/ASST_NON_4636367807_7300>, July 26, 2021 [↑](#footnote-ref-2)
3. USA Spending, NY-10 Congressional District, Covid-19 Data, https://files.usaspending.gov/generated\_downloads/PrimeAwardSummariesAndSubawards\_2021-10-09\_H22M08S49867821.zip [↑](#footnote-ref-3)
4. “Hunter Biden Art Dealer Served jail Time and Allegedly Defrauded Investor”, Alana Goodman, Washington Free Beacon, August 26, 2021 [↑](#footnote-ref-4)
5. Dun & Bradstreet 2015 Business Report, Georges Berges Gallery LLC [↑](#footnote-ref-5)
6. Small Business Administration, COVID EIDL FAQ’s as of September 3, 2021, Page 11 [↑](#footnote-ref-6)
7. United States District Court Southern District of New York, Ingrid V. Arnberg v Georges Berges, and Georges Berges Galleries, LLC, Case 1:16-cv-08955-AJN-KHP, 11/17/2016 [↑](#footnote-ref-7)
8. ACRIS Land Search, Georges Berges, 10/09/2021 [↑](#footnote-ref-8)
9. United States Government Accountability Office, Economic Injury Disaster Loan Program: Additional Actions Needed to Improve Communication with Applicants and Address Fraud Risks, July 2021 [↑](#footnote-ref-9)
10. United States Government Accountability Office, Economic Injury Disaster Loan Program: Additional Actions Needed to Improve Communication with Applicants and Address Fraud Risks, July 2021, Page 21 [↑](#footnote-ref-10)
11. Small Business Administration, ASST\_NON\_EIDLGT%3A3301125311\_7300, <https://www.usaspending.gov/award/ASST_NON_EIDLGT%3A3301125311_7300> [↑](#footnote-ref-11)
12. United States Government Accountability Office, Economic Injury Disaster Loan Program: Additional Actions Needed to Improve Communication with Applicants and Address Fraud Risks, July 2021, Page 13 [↑](#footnote-ref-12)
13. Small Business Administration, COVID EIDL FAQ’s as of September 3, 2021, Page 11 [↑](#footnote-ref-13)
14. “Hunter Biden Art Dealer Served jail Time and Allegedly Defrauded Investor”, Alana Goodman, Washington Free Beacon, August 26, 2021 [↑](#footnote-ref-14)
15. United States District Court Southern District of New York, Ingrid V. Arnberg v Georges Berges, and Georges Berges Galleries, LLC, Case 1:16-cv-08955-AJN-KHP, Stipulation of Settlement and Dismissal Order, September 18, 2018. [↑](#footnote-ref-15)
16. Small Business Administration, COVID EIDL FAQ’s as of September 3, 2021, Page 4 [↑](#footnote-ref-16)
17. Small Business Administration, COVID EIDL FAQ’s as of September 3, 2021, Page 4 [↑](#footnote-ref-17)
18. ACRIS Land Record Search, NYC, October 9, 2021 [↑](#footnote-ref-18)
19. “Hunter Biden-linked company received $130M in special federal loans while Joe Biden was vice president”, Alana Goodman, Washington Free Beacon, November 12, 2019. [↑](#footnote-ref-19)
20. “Multiple Federal Agencies Form Term Asset-Backed Securities Loan Facility (TALF) Task Force to Deter, Detect, and Investigate any Instances of Fraud and Abuse”, FBI.GOV, March 11, 2009 [↑](#footnote-ref-20)