

John L. Pointer  
7253 Legacy Drive  
Nashville, TN 37013  
(615) 469 – 1732

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Submitted To: Honorable Members  
Subcommittee on Federal Financial  
Management, Government Information, and  
International Security

Dear Senators:

It is truly an honor to be invited to give my testimony regarding my experiences with the Small Business Administration. My presentation today will exemplify my expertise in small and minority business development and full knowledge of Small Business Administration's various programs.

My wife, Vicki and I formed Pointer Oil Company in 1988. Pointer Oil, a petroleum distribution company, was capitalized by an SBA loan in the amount of \$250,000 issued through Tennessee Equity Capital Corporation. TECC was a private investment firm certified and monitored by the SBA as a Specialized Small Business Investment Corporation. TECC's purpose was to assist minority businesses with contractual arrangements with guarantee agreements of SBA loans for minority businesses. Pointer Oil quickly established sizable contracts and by 1991 posted annual sales of \$15 Million. The Nashville Business Journal and Memphis Minority Business Development Center recognized Pointer Oil as a Top Rated Minority Businessman in the State of Tennessee. Similar additional accolades were bestowed from former US Senator Harold Ford, Sr., who honored me with a US Proclamation as the Top Minority Businessman in Shelby County. (Please see Exhibit A)

My experience qualified me as a Whistle Blower. During that time I single-handedly initiated an SBA and US Department of Justice major criminal investigation which focused on the SBA's Specialized Small Business Investment Corporation (SSBIC) in Nashville, Tennessee. Those efforts have been duly noted on the House Floor of Congress, US. Senate and Congressional Small Business Committees. The Wall Street Journal even wrote two articles about my strong actions to stop federal waste and abuse. And Washington Insiders have claimed my actions to be the Nation's Largest Minority Business Development and Loan Scandal in the history of federal programs for minorities. The Chicago Tribune did an article and an NBC affiliate news investigative program produced a story about the SBA's misuse of authority and government cover-up regarding my personal experiences.

The difficulties that I faced while applying for financial restitution from the SBA have been an ongoing battle for many years. (Please see Exhibit B.) A guilty verdict indicting Tennessee Equity Capital Corporation for defrauding Portfolio firms totaled \$22 Million. (Please see Exhibit C.) However, I could not get support or assistance from the SBA. This led to the closing of my company along with personal and corporate Bankruptcy protection.

After my years as small businessman, I became an English High School teacher for a while. Then I was called into public service as the State Director of Tennessee Department of Transportation's Disadvantaged Business Enterprise Program. The DBE program is federally funded under the US Department of Transportation. And as a State Director, I exposed fraudulent companies that had received well over \$200 million dollars of federal construction contracts by abusing their certified DBE status. These actions as a Whistle Blower led to the termination of my employment with this state agency.

Recently I've been the Liaison for Hurricane Katrina Recovery for Small and Minority Business Development on behalf of the State of Mississippi under their agency, Mississippi Development Authority.

Before I advise you today of my dealings with the SBA, I would like to give you an insight of my background and my strong moral beliefs. My brother, Reggie and I grew up in the small Tennessee town of Columbia. We were well nurtured by parents who worked serving the public. Our mother taught high school for 37 years, both during and after racial segregation in the South. And our father worked for 42 years in the grocery business with Atlantic & Pacific (A&P) Food Stores. He was one of the first African Americans to become a store manager in Tennessee.

We were taught Christian values and went to church every Sunday. Our parents wanted us to use the Golden Rule in life, which is to treat others the way you would want them to treat you. Our parents also trained us to be proud of our culture and heritage and never use the color of your skin as an excuse in life. My brother played basketball and graduated from Middle Tennessee State University and worked in state government for twenty three (23) years. I played football and graduated from Vanderbilt University. As an English major, my choices for the future included corporate business, small business ownership, law degree, or education and coaching.

I was blessed to have the extended opportunity to play professional football for six (6) years. I played the majority of my years as a linebacker in the Canadian Football League with a certain celebrity teammate and newly elected NFL Hall of Famer, Warren Moon. I also played against a highly competitive arch rival, named JC Watts. I finished my career with the Green Bay Packers in 1987.

While in Canada, I met my wife to be, Vicki. Our first child, Sean, was even born in Montreal. I continued my post graduate work in small business studies in Montreal during the off-season and I worked with a top flight marketing company that had contracts with Fortune 500 firms throughout North America. I also learned the business of petroleum marketing from top administrators who annually bought billions in the petroleum industry for their perspective companies such as BP of Canada and CSX Rails.

I was really proud to have received honors in the community while in Canada with such as B' Nai Brith's Man of the Year for service in the Jewish community. I also received a national award in Canada known as Americans in Canada for community and civic responsibilities.

Although saddened that my first career, pro football, was ending, I was extremely excited by the prospects of being prepared with skills for the future. I channeled my energy and increased my focus towards wonderful expectations of creating an outstanding business entity. In order to implement my business plan, I moved back to Nashville, TN in 1987. It was an economical boom town. For example, the Nissan plant was fully operating and GM's Saturn had just begun to build its plant only sixteen (16) miles from my parent's home address. With family in the area and a well known name in the middle Tennessee area, I was empowered with the freedom and the flexibility to network with some of the best and brightest business minds the city could offer. My family supported my wife's difficult transition from Canada to a town that celebrates Mule Day, and I eagerly implemented my research by traveling throughout the southeastern states developing business opportunities and establishing supplier lists of fuel and tanker truck transportation.

A valid issue that was also my top priority was future banking opportunities. I began meeting with bankers and showing them my business plan along with letters of commitment already developed such as the Saturn Plant, Fed Ex, Tennessee Valley Authority, Nashville Electric Service, as examples (Please see Exhibit D.). Banks turned me down as a start-up, but they offered me support by letting me know about the Small Business Administration (SBA) and even its minority small business programs. The SBA's District office directed me to a locally SBA certified and licensed investment firm named Tennessee Equity Capital Corporation. TECC was owned by Walter Cohen.

In January of 1988, and upon thorough research, my wife and I signed a contract as guarantors with an agreement to receive an SBA business loan of \$250,000 for Pointer Oil Company. (Please see Exhibit E.) Vicki and I did not know much about Walter Cohen or TECC, so we sought our own legal council. Then we took our due diligence a step further. We met with and received assurance from the regional SBA examiner, Linda Mowery out of their Atlanta office.

With commitments from noted customers, Pointer Oil Company soon began landing multi-million dollar contracts. My company was servicing fuel at Saturn, Nashville Electric Service, Nashville School Board, Shelby County, The City of Memphis, Memphis Transit Authority, The City of Atlanta, Atlanta's Transit Authority (during the Olympics Games), and Martin Marietta, (the ammunition plant servicing the US military during Desert Storm). (Please see Exhibit F.)

From 1989 to 1992, Pointer Oil Company had a mercurial climb to the top in business development in the state of Tennessee. However during the climb to be the best business entity regardless of race and classification, I detected criminal wrongdoings. Mr. Cohen and his cronies had conducted an illegal wire transfer with a major portion of my SBA loan. (Please see exhibit G.) I also identified forged signatures on checks, state and federal taxes. Checks were also being written to Walter Cohen and his staff. (Please see Exhibit H.)

Nevertheless, I felt that there would be honesty, good faith and a full spirit of cooperation with the SBA and their Investigation Division while they dealt with their corrupt SSBIC and its criminal owner.

I made the initial contact concerning criminal wrongdoings to Linda Mowery, the SBA Regional Examiner out of Atlanta. I called her and, at her advice, I sent her copies of burden of proof of criminal intent in a FedEx overnight delivery. And within five (5) business days, the SBA sent Special Investigator Gerald Struchen from the Regional office of Atlanta to begin a full scale criminal investigation. Unbeknownst to me at that time, Special Investigator Gerald Struchen was engaged to marry Linda Mowery, the SBA examiner. The potential conflict existed by her federal requirement to validate all SBICs and SSBICs in her four state region to be sure they complied with SBA required business practices.

Initially, SBA Special Investigator, Struchen and his Investigations supervisor, Jim Albers informed me and my wife as well as my attorney, Adrian Altshuler that in the early stages, the SBA would definitely make me whole and return the \$250,000 SBA business loan. This would have allowed me to continue to deliver to such urgent clients as Martin Merritta (ammunition plant servicing Desert Storm - \$3 million dollar contract for POC) and the State of Tennessee General Services (servicing departments such as the State of TN Highway Patrol cars - \$15 million dollar contract for POC).

Apparently, ethical obligations to my contracts were not among the criteria of the SBA. Cohen, the president of the SBA's fraudulent investment firm, TECC, found out that there was an SBA and US Department of Justice investigation against him in the early 90's. When Cohen discovered my Whistle Blowing actions, he retaliated. He notified the SBA in writing that under their SBA and SBIC regulations, he was proclaiming Pointer Oil Company to be in default. Then he filed a lawsuit against my company, my wife and me, as well as the State of Tennessee's Petroleum Tax Division, which ultimately withheld over \$660,000 of fuel rebate funds that were owed to POC.

The SBA knew in detail of these actions through direct communications I had with them and with the federal investigation team, which was in the field in Nashville. This team was led by SBA Investigator Struchen. The SBA chose not to take any action to protect Vicki and me from frivolous regulatory consequences or wrongful legal attacks on our credit and character, which resulted from Cohen's SBA default claim. Because the SBA chose not to intervene, ultimately the legal attacks forced my wife and me and our company to file Bankruptcy. In the US Federal Bankruptcy Court of Middle Tennessee, US Bankruptcy Judge Keith Lundin ruled in favor of my family and former company being harmed by stating, "It is more likely than not that the transfers of cash from Pointer Oil to TECC (SBA's investment firm) in May of 1990 were preferential or fraudulent conveyances or constituted outright theft of the assets of Pointer Oil." (Please see Exhibit I.)

During this process, I began contacting as many Congressmen and Senators as possible, including the various Presidential appointed Chiefs of Administration of the SBA. From former Congressman JC Watts as well as former Senator Fred Thompson (TN) all inquired including my Tennessee State Senator and Senate Majority Leader, Bill Frist. (Please see Exhibit J.) Former Congressman and Chairman of the Congressional Small Business Committee and now Senator, James Talent conducted an intensive Committee inquiry concerning the SBA's questionable actions against me. Congressman Harold Ford, Jr.

tried to launch an investigation through the Congressional Black Caucus. Even former Congressman Bob Clement spoke on The House Floor of Congress, which was written in the Congressional Record, July 31, 1992. He stated “that if the SBA does not conduct better monitoring, then other small and minority firms may suffer such as my company and to be left out in the cold by the SBA”. Mr. Joe Rogers, former US Ambassador of France under the Reagan Administration, even wrote on my behalf to the SBA Chief of Administration. (Please see Exhibit K.)

Nevertheless, through prayer and intestinal fortitude, my wife and I tried to continue to live responsible lives within the community. Vicki traveled with her choir to such places as Jerusalem and to Russia. And I tried to be an example of a role model by still holding my “John Pointer’s Back To Basic’s Annual Football Camps” in my hometown of Columbia. The proceeds always went to the youth football programs and I even supplied books to a Boys and Girls Club along with contributing funds to a Black Church that was burned down due to racial attacks in the South one particular summer. I was humbled when I received such honored awards from my hometown as Maury County Male of the Year and a “John Pointer Day”. (Please see Exhibit L.)

I did all of this while I had to also apply for US Food Stamps in order to take care of my family. Former Congressman Bob Clement pleaded with former US HUD Secretary, Jack Kemp, also a former pro football player, to help prevent me from losing my home. So, Mr. Kemp placed my young family in a HUD mortgage assistance program. Enormous amounts of collection agencies began submitting information of debt to us as well; while the SBA claimed that they were doing all they could to assist. (Please see Exhibit M.) Our hope in the system continued, but our financial reputation was burning to the ground.

Once, I had an opportunity to be invited to Washington to speak to high ranking SBA officials. In the presence of former Congressman Bob Clement’s Chief of Staff, Mr. David Flanders, along with my attorney on the conference call listening, the SBA officials, including SBA lawyer Janice Mitnick again informed me that the SBA would pay restitution and make me whole with a SBA original loan of \$250,000. This never happened. (Please see Exhibit N.)

Through the Freedom of Information Act, I was able to obtain critical documents showing internal memos where the SBA administrators were adamant in continuing to deny me restitution. These Internal Memos mirror the dates and times that the SBA was still paying lip service of wanting to assist us by communicating this to various Congressmen and Senators’ inquiries. (Please see Exhibit O.) In exhibits you will see where even SBA attorney, Janice Mitnick was conducting business quite the contrary of what she proclaimed to me and to my representatives regarding restitution. Her Internal Memo entitled “This Documentation is Prepared in Anticipation of Litigation”, shows Mitnick preparing the SBA and its Receiver to litigate against me, while external letters to Congressmen and to Senators all read that the SBA was in support of me. (Please see Exhibit P.)

During these dark phases of our lives, Walter Cohen, often in a drugged and drunken state of mind, began calling our personal phone at 2:00 and 3:00 in the morning. He repeatedly

threatened to kill me and to harm my family while using vile racial statements. My brother, Reggie, was at that time a state certified Bail Bondsman. Reggie signed documents and testified to SBA Special Investigator, Struchen that a client of his was solicited by Cohen to bring physical harm to me and to my family. Yet the SBA still did nothing to offer us assistance.

On more than several occasions, Special Investigator Struchen came over to our home and consulted with me regarding criminal investigative information. I still feel that these were deceiving and illegal acts that violated federal regulations. Even when my wife, Vicki, was preparing to deliver birth to our second child, Danielle, SBA Special Investigator, Struchen showed up at my wife's birthing room. And in the presence of my mother and mother-in law, he pressured Vicki and me to sign a US Affidavit. He actually wanted me to start wearing a live wire tape, and to review more critical documents on various portfolio firms under the SBA's fraudulent investment firm. (Please see Exhibit Q.)

In spite of my speaking at an SBA Ombudsman Hearing, there was still no SBA support of my efforts. Due to the years of delays and overburdensome acts caused by the SBA Receiver, which was supported by the SBA, my lawyer pursued our legal right to file suit against the fraudulent SBA investment firm, TECC. Please note that the SBA was fortunate to be granted Receivership due to my sole testimony in federal court. Also, former Vice President Al Gore wrote an inquiry letter to the SBA's OIG and yet there was still no assistance by the SBA in helping our plight of financial recovery. (Please see Exhibit R.)

On February of 1993, on Valentine's Day, SBA's Special Investigator, Gerald Struchen called my house and informed us to watch the local news that day. He told us that the Grand Jury had given the US Attorney General the right to indict and arrest Walter Cohen, president of the SBA certified investment firm, along with a select few staff members. I informed Special Investigator Struchen that it finally was about time, since I first alerted the SBA of criminal wrongdoing in 1989, four years earlier. I also informed Struchen that I would have to go to my neighbors to watch the federal arrests take place. Our electricity had been turned off because we couldn't pay the bill.

In the US Court Chambers of US District Judge Thomas Wiseman, Jr., SBA's top legal counsel from Washington DC, Mark Gallagher asked me to testify in order for the SBA to be appointed as Receiver. Judge Wiseman concurred that my testimony was important in order for him to grant the SBA Receivership. Top SBA administrators came to Nashville from Washington to give their testimonies in the criminal court that started on April 6, 1993. They all testified that they knew that I (John Pointer) initiated the criminal investigation.

Please find as listed: (Please see Exhibit S.)

**Nancy Braswell, Loan Specialist, SBA District Office, Nashville, TN**

**Richard Hobaugh, Examiner of SBIC, Supervisor of SBA, San Francisco, CA**  
**Marvin Klapp, Administrator of developing SBIC regulations, Washington, DC**  
**Virginia Campbell, Chief Area of SBIC, SBA, Washington, DC**  
**Mark Gallagher, SBA Lead lawyer, Washington, DC**  
**Linda Mowery-Struchen, Regional Examiner, SBA, Atlanta, GA**  
**Gerald Struchen, Regional Special Investigator, SBA, Atlanta, GA**  
**Jo Ann Gordon, Financial Analyst of Liquidation, SBA, Washington, DC**

Not only did top SBA administrators witness factual testimonies of fraudulent acts, they also witnessed a rude and belligerent man, Walter Cohen, whom they (SBA) had certified and funded for years as the owner and administrator of a multi-million dollar SBA investment firm in Nashville Tennessee. TECC was federally approved to assist minority businesses. Walter Cohen had to be bound in shackles with the threat of US Judge Thomas Wiseman, Jr. willing to gag him due to his lewd cursing and spitting at the jurors and to various people in court and in the hallway. (Please see Exhibit T.) Cohen's attorney Mr. Peter Strianse even acknowledged his heavy drinking problems in court proceedings.

Walter Cohen was found guilty of federal fraud to the US Small Business Administration and to the portfolio firms in 1993. Even Federal Judge Wiseman proclaimed Cohen and his cronies as, "only setting up Blacks to head up corporations in order to qualify for SBA funds and then using the money to his own benefit to the extent that he chooses to do so." He further said, "I think he (Cohen) used the money as if it was his own without any restrictions and paid lip service to the regulations of the Small Business Administration, and he used showcase Blacks to head these corporations which were dummies, to do what he wanted to do with them." (Please see Exhibit U.) Testimony from Theodora Morrison, an African American employee explains that her company was set up as a front (sham company) in order for Cohen to receive a \$250,000 SBA loan.

Mr. Cohen eventually died, apparently of heart failure, while waiting on his federal prison sentence. In the criminal trial of Walter Cohen and the SBA's Criminal Investment firm, Cohen's attorney even questioned the "Conflict of Interest" of SBA's Examiner, Linda Mowery-Struchen. He apparently saw a problem with her responsibility of examining the SBA's TECC's books while engaged and later married to SBA Special Investigator, Gerald Struchen. Then Gerald Struchen's investigation found Cohen guilty. Cohen's attorney called the SBA's action as duplicity. Judge Wiseman also questioned the poor monitoring of the SBA as well. (Please see Exhibit V.)

Working as a team, the SBA, SBA Receiver and the Estate of Cohen proceeded to fight the Pointers and their claims in Tennessee legal court rooms (Chancery and Appeals) from 1993 to 2003.

During a particular hearing in front of a Tennessee Chancery Judge, the SBA's locally hired southern lawyer, proclaimed to the judge the slur, "all Mr. and Mrs. Pointer would like to do is to get in front of a jury amongst their peers and then proclaim that because they are Black, then they were abused by big bad government, therefore government should pay them

restitution”. I received this information from my attorney as a racial insult and then I proceeded to protest this to the Tennessee Professional Board of Ethics and to the SBA concerning this horrible statement, yet the SBA did nothing. SBA allowed frivolous claims and lawsuits by the SBA Receiver to pursue for years, while tying us up in courts and frustrating my attorney. Also, in the Final Order in which the SBA Receiver won the claim to deny restitution over the Pointer family, only \$3million dollars were found through liquidation sales. The SBA was granted to take the funds back to Washington, DC as well as destroy all documentation of all activities in the state of Tennessee as if this never happened. (Please see Exhibit W.)

I have an additional but related concern. Two White male business owners under the same fraudulent SBA investment firm received collectively nearly \$500,000 in their SBA claims restitutions. Even one of the owners stated “that if it hadn’t been for me (John Pointer) being a Whistle Blower, he would not have been able to receive his SBA money”. I never received a dime from the SBA nor from the SBA Receiver, which were all acting as one and the same. (Please see Exhibit X.)

Tennessee Equity Capital Corporation was somehow allowed to act as an SBA certified investment firm since 1979. But for some reason, TECC did not undergo proper auditing from the SBA for over a decade prior to when I alerted the SBA’s Investigations Office of criminal wrongdoing in 1989. It is conceivable that millions of SBA funds had already been lost prior to my Whistle Blowing. And with me becoming the Nation’s Largest Whistle Blower effecting minority business development, the SBA apparently decided to try to discredit me.

Therefore, I now request the Honorable members of the Senate and this Special Subcommittee to authorize and instruct the SBA to make my family financially whole. There have been years and years of distrust and misuse of federal regulatory power, in and out of court. In 2003, the SBA even asked me to reapply for a loan and then they declined me due to my bad credit, bankruptcy and start-up business interest. (Please see Exhibit Y)

In 1995, an administrator, Judy England from the US General Accounting Office (GAO) testified regarding the SBA on the subject matter, “Better Oversight of SBIC Programs Could Reduce Federal Loses.” This report at that time showed 189 SBICs and SSBICs in liquidation who collectively owed the SBA well over \$501 million dollars. (Please see Exhibit Z.)

In my years as a Whistleblower, I have lost jobs, careers, and faced financial hardships. I’ve even enclosed a recent IRS notification to “Garnish My Wages” statement. Yet, I prevail knowing that I still believe in Congress and the Senate’s federal mandate to continue to support minority business development in the United States.

There needs to be a Special Oversight Committee to monitor all federal agencies that have minority business development programs. And I would like to be involved in this Special Oversight group, which should report directly to this Senate Subcommittee as well as to the entire Senate governing body.

In a time when political sensitivities worry about *More* government or *Less* government, I am still an advocate of *Better* and *Responsible* government.

In closing, USA Today wrote articles about the traits of a Whistle Blower in claiming that “Whistle Blowers persist because that’s the way they are – a breed apart, driven by a desire to expose dirty executives, protect consumers or avenge wrongs they feel have been done to them.” (Please see Exhibit AA.)

I have written an earnest dialogue with representation of facts that is to be submitted to the Senate Subcommittee on Federal Financial Management, Government Information, and International Security under the Committee on Homeland Security and Government Affairs.

And I thank you for allowing me to fulfill an American Dream today.  
(Enclosures)

Yours in Trust,