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October 30, 2016, 09:00 am

Only Congress can end small business fraud according to federal judge

By Lloyd Chapman



COMMENTS 5

The Federal **injunction** case the American Small Business League (**ASBL**) filed against the Small Business Administration (SBA) has been **dismissed** by Federal District Court Judge Vince Chhabria. In his decision Judge Chhabria stated, "The upshot is that Congress enacted a statute requiring the Small Business Administration to provide information about the participation of small business in federal contracting. If the Small Business Administration is giving Congress bad information, then Congress can do something about it, either in an oversight capacity or legislative capacity."

After reading the judge's ruling, Professor **Charles Tiefer** who had filed a **declaration** in support of the ASBL's case stated, "Today's ruling locked the courthouse door without even giving this very real and meaningful suit its rightful day in court. Dismissing the suit frustrates the legitimate rights of small businesses to their proper share of the true scale of government contracting. The case was barred from the courthouse prematurely. The court should have let it be shown that SBA sets its small business goals too low, giving away the store to the big contractors. If the lawsuit had been allowed to get its rightful day in court on the merits, the lawsuit would have required the SBA to give all small businesses -- and doubly so for minority, women-owned, and disabled veteran businesses -- a larger and proper share of federal procurement."

As I read the judge's ruling, I realized this wasn't a ruling on the case I filed. I filed a case to get a federal injunction to stop the Small Business Administration from defrauding American small businesses by reporting federal contracts to **Fortune 500 firms** as small businesses. My case wanted the court to stop the SBA from fabricating the federal government's compliance with the **23%** small business contracting goal by excluding over two thirds of the total federal acquisition budget from their calculations.

It's frustrating to hear Judge Chhabria believes only Congress can end federal small business contracting fraud. I only filed the case because I gave up on trying to get Congress to address this issue. I wrote the **'Fairness and**



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Transparency in Contracting Act that would have ended the diversion of federal small business contracts to Fortune 500 firms. I succeeded in getting my bill introduced to Congress three times, but it never even made it out of the House Small Business Committee. It appears both Congress and the Justice Department approve of diverting billions of dollars a year in federal contracts that by law should be going to our nation's 28 million small businesses to Fortune 500 firms.

This is a prime example of why the World Bank **reported** the United States has plummeted to 49th worldwide in the ease of starting a new business. Even **Hillary Clinton** acknowledged small business creation in America has "**stalled out**" and government anti-small business policies are clearly to blame.

The Small Business Act clearly states small businesses shall receive a **minimum of 23%** of "all" federal contracts. There is no mention of the SBA's "**exclusionary rule**" or "**small business eligible dollars**". I think the word "all" is very clear and I don't think there is any ambiguity in the word "all."

My case clearly laid out the facts in the law that Fortune 500 firms are not small businesses and the word all means all. Obviously Judge Chhabria didn't see it that way.

It appears Congress will allow the SBA to continue to defraud legitimate small businesses out of **billions of dollars a year** in federal small business contracts by reporting awards to Fortune 500 firms as small business contracts and by excluding the vast majority of all federal acquisitions to falsely claim small businesses received 23% of all federal contracts.

I was not surprised at the **Judge's ruling**. If this case had gone to trial the SBA would have to justify why they reported billions in federal contracts to Fortune 500 firms as small business contracts, falsifying the federal government's compliance with the 23% small business goal by excluding the vast majority of all federal acquisitions from those calculations for over 15 years.

The American Small Business League will be **appealing** this case to the 9th Circuit Court of Appeals this month. I am looking forward to hearing the SBA try and convince the 9th Circuit judges that Fortune 500 firms are actually small businesses and the word "all" actually means less than one third of all federal acquisitions.

Lloyd Chapman is president and Founder of the American Small Business League

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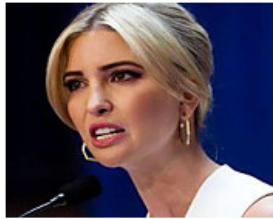
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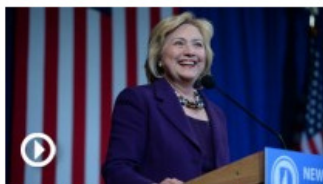
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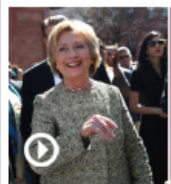


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