

# A \$750,000 ruling for couple

**Johnson County judge says Bank of America reneged on a loan commitment and the plaintiffs lost their business.**

By DAN MARGOLIES  
The Kansas City Star

A judge has ordered Bank of America to pay \$750,000 in punitive damages to a couple who lost their business after the bank reneged on a loan commitment.

Johnson County District Judge J. Charles Droege last week said he was convinced that the bank intentionally defrauded the couple, Sanjiv and Indubala Narula, in connection with a \$1.32 million construction loan the bank made in 2000.

Bank of America officials did not immediately respond to a request for comment.

The case grew out of the bank's suggestion that the Narulas construct their own building to house their expanding company, Promotional Resources Inc., a seller of advertising and promotional products. It began as a home-based business in 1986. By 1996, it was doing \$3.75 million in annual sales.

The loan agreement called for the

construction loan to be converted to a permanent loan once the building at 6701 W. 121st St. in Overland Park was completed. But when construction of the building was nearly finished in October 2001, the bank developed concerns about the Narulas' ability to repay and decided not to make the permanent loan.

At the time, the Narulas were current on all their loans. Nonetheless, the bank, with the assistance of its lawyers, prepared a modification agreement containing an inconspicuous provision deleting the bank's obligation to make the permanent loan, according to findings by Droege.

The Narulas, thinking the agreement was virtually the same as an earlier one without the provision, signed it. A bank official had warned them that if they failed to do so, the balance of nearly \$1.32 million would become immediately due and payable.

Droege said that the Narulas never gave the document another thought until the following April, when the bank demanded payment of the entire loan and sent them a default notice.

After granting the Narulas several additional extensions and after liqui-

dating their personal accounts to pay off a line of credit, the bank in 2003 demanded payment of the loan as well as a "swap termination fee" of nearly \$184,000.

Droege found that the bank's actions starved Promotional Resources of working capital, causing it to lose several large customers. While the company's sales had been decreasing since 1998, Droege determined that the bank's actions were a contributing cause, though not the sole cause, of Promotional Resources' failure in 2005. In December he awarded nearly \$764,000 in actual damages to the Narulas.

His award of \$750,000 in punitive damages came after he found that Bank of America had breached its duties of good faith and fair dealing under Kansas law.

"The court found that Bank of America defrauded our clients and breached its fiduciary duty as a "trusted financial advisor," which it held itself out to be," said Kansas City lawyer Bob Bjerg, one of the Narulas' attorneys.

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