



WHO SIGNED THE GUARANTY?

BancInsure recently paid a claim involving the forgery of a personal guaranty on a commercial loan. A bank made a commercial loan in the amount of \$100,000 to a company that produced audiotope books. The loan was secured by a pledge of a large block of the company's stock and the personal guaranties of the chief executive officer of the company and the major investor in the company. The company's major investor's financial statement showed a net worth of several million dollars. The note, which was signed by the chief executive officer of the company, had an original maturity of approximately 10 days and was renewed several times. Approximately four months later the company borrowed an additional \$250,000. The loan was secured by a pledge of additional stock in the company and the personal guaranties of the chief executive officer of the company and the major investor in the company. The loan officer handling the account left the bank on good terms. Later both loans became due. The new loan officer sent letter to the major investor concerning the delinquency of the two loans. The major investor acknowledged that he had signed the guaranty for the \$100,000 loan, but denied signing the guaranty for the \$250,000 loan and having any knowledge of the loan. The bank began its investigation and with the aid of the former loan officer determined that the chief executive officer of the company previously had been convicted of bank fraud and that the major investor had never come into to the bank to sign any documents. The former loan officer admitted that he was aware of the company's chief executive officer's past legal difficulties, but thought he had "turned his life around. Additionally, the personal guaranty of the major investor appeared to protect the bank form loss. The major investor's purported signature on the guaranty agreement for the \$250,000 loan was markedly different that the signature on the guaranty for the \$100,000 loan. The bank o began collection procedures on the loans from the company and it filed bankruptcy. The major investor honored his personal guaranty on the \$100,000 loan, but naturally refused to honor the forged guaranty. The chief executive officer of the company was unable to fund his personal guaranties.

The bank filed a claim under its financial institution bond for the loss due to the forged personal guaranty. BancInsure paid the claim in the amount of \$240,000 after applying the \$10,000 deductible.

The above situation points out several things to consider. First, when dealing with a loan applicant with known past criminal activity, bank personnel should very carefully consider whether the loan even should be made and if it is made under what terms and conditions. Secondly, the bank routinely allowed documents to be taken out of the bank for signatures with out requiring them to be notarized. Important documents on major loans should be signed in the bank if possible. Otherwise, the bank should require that important documents signed out side the bank should have the signatures notarized.

BancInsure has become a leading writer of Financial Institution Bonds in the United States by providing a sound, stable market, excellent service and fair claims service. If you would like to learn more about BancInsure coverages, please contact your BancInsure marketing representative.