

Big Spat With Little Bank

Carrollton – J.D. Walker will be the first to say he’s an idealist.

Make a promise, he’ll take you at your word. A handshake equals a signature on the proverbial dotted line.

That outlook led Walker into a branch of West Georgia National Bank in 1977 to get a business loan for the fleet vehicle refinishing business he opened in 1993. At the time, he banked with the Trust Company of Georgia – now SunTrust – which made about \$300,000 in loans to his business, All Fleet Refinishing.

But Walker opted to entrust his business’s future with West Georgia National, a homegrown, folksy institution where decisions are locally made. The ability to get personal face time with senior decision-makers appealed to him, so he transferred the loans to West Georgia National.

A foreclosed business, a personal bankruptcy filing, a handful of lawsuits and countersuits later, the relationship between Walker and West Georgia National has deteriorated into a venomous, years-long war.

Carrollton-based West Georgia National, which has total assets of \$518 million, prides itself on its personal relationships and stresses its small-bank approach is key to its success as one of Georgia’s fastest-growing banks.

At the company’s annual shareholders meeting in April, L. Leighton Alston, West Georgia National’s chief executive officer, easily mingled among the crowd of mostly local investors, joking with them comfortably chatting.

But as the Walker vs. West Georgia National saga illustrates, community institutions are not immune from the nasty and often complicated entanglements consumers more commonly associate with megabanks.

The latest in the ongoing tug of war: West Georgia National bought the assets and land of the foreclosed refinishing business last month for \$403,000. The bank, in documents filed both in Carroll County and Fulton County Superior courts, say Walker and his wife, Patricia, and their company, All Fleet Refinishing, owed more than \$526,000 to West Georgia National and the Small Business Administration.

The bank said that when the Walkers fell hopelessly behind on those loans, it began the foreclosure.

Small-town blues

Such skirmishes also can make life in a small community difficult for all involved.

The Walkers, who say the entire experience wiped them out financially and forced them into bankruptcy, say when they’re out in public in Carrollton, they’re treated like pariahs.

“People come in and look at you and it hurts,” Patricia Walker said recently at the couple’s home. A part-time

bookkeeper in town, she said she and her husband are routinely subject to gossip and fingerpointing.

“Who’s going to believe us over a bank?” she said between tears. “I don’t like being called a cheat, a liar and a thief.”

Bank executives and the board of directors declined interview requests, directing questions to West Georgia National’s Atlanta law firm, Sutherland Asbill & Brennan.

Through their attorney, West Georgia National executives say their and the bank’s reputation has been sullied, too.

“They feel their reputations have been hurt,” said **Richard L. Robbins**, the attorney representing the bank and its executive. “It’s hard to be accused of fraud, especially when you’ve bent over backwards to help someone.”

Promises made

At the core of the dispute between the Walkers and the bank is what each side says is a failure by the other to live up to an agreement that would bring the couple current on their past-due loans for All Fleet .

The Walkers charge that in 2001 the institution reneged on an earlier promise not to penalize or begin foreclosure proceedings when their business started having cash-flow problems. The money snag began in 1997 – the same year the Walkers entered into their loan agreements with West Georgia National – when a former employee used All Fleet’s trade secrets to lure customers to a rival.

The Walkers sued that company, Spectrum, Inc., in August 1997. By that October – with the cash flow problems continuing – the Walkers entered into interest-only payment agreements on the various loans.

West Georgia National says it agreed to work with the Walkers on the promise that if they prevailed in the lawsuit against the other refinishing business, they would bring the loans current by paying \$60,000 from the judgment.

The Walkers won \$316,820 in April 2000. They received it more than a year later after Spectrum lost its appeal.

There, both sides’ stories part ways.

The Walkers who paid their attorney \$112,000 out of the Spectrum settlement, say the bank pledged not to go after the entire judgment, then broke that promise when it demanded the full Spectrum settlement.

“They kept telling me, ‘We’re going to work with you,’” J.D. Walker said. “A thief can dress like he’s going to church, but he’s still a thief.”

Walker said he was so distrustful of West Georgia National by the time he received his share of the settlement, he deposited it in an account he held at another bank and then later withdrew the cash.

“I had a feeling that the banks would talk to each other,” he said. “So I was carrying the money around in a briefcase.”

Robbins countered that the bank declared the Walkers in default and followed with foreclosure proceedings only when it concluded the couple would not be able to repay the loans.

“The Walkers got their money, and that’s the fundamental issue,” Robbins said, referring to the Spectrum lawsuit. “The bank had every right to exercise its rights on default and foreclosure. The undisputed facts are that the Walkers never paid what they claim the parties agreed to. He got \$146,000 in cash, paid another creditor \$50,000, and they didn’t pay the bank a cent and they have the nerve to say the bank did something wrong?”

Spate of lawsuits

The dispute, of course, has mushroomed into a spate of lawsuits and countersuits both in Carroll County and Fulton County going back to January 2002.

It is original lawsuit, the bank said it imposed a lien against the judgment the Walkers received in their Spectrum case and is seeking repayment on the outstanding debts.

The Walkers countersued, saying they had a verbal contract with West Georgia National stipulating the \$60,000 agreement. Further, they contend the bank didn’t give them the 10 days’ notice of its intent to declare a default until July 2002 – six months after West Georgia National took them to court. Because of that, the Walkers say the bank illegally foreclosed on them, caused the ruin of their business and forced them into bankruptcy.

They are seeking \$87 million in damages.

“They never had a lien to start with,” said Rick Cromartie, the Walkers’ attorney. “The bank tried to say they had a lien but all the bank had to do was take the \$60,000 they had agreed to take and they breached that agreement when they wanted the entire \$300,000 judgment.

The Walkers’ countersuit alleges the bank, its officers and lawyers engaged in conspiracy, extortion, racketeering and theft by deception.

They have a similar suit against individual bank executives, board members and West Georgia National attorneys in Fulton County.

That case is still pending, but Arthur W. Fudger, the Carroll Court judge who heard the case, threw out all of their claims.

In his five-page, June 28 ruling, Fudger – who just happened to be the same judge who heard the Walkers in their lawsuit against Spectrum – wrote that the Walkers “have not produced any evidence by way of depositions, affidavits or otherwise to support a genuine issue of fact. There being no specific evidence giving rise to a triable issue, all counterclaims are dismissed.”

Walkers appeal

The Walkers have appealed the decision, saying the judge didn’t receive all of their supporting documents in time.

When asked what impact the ruling might have on the Fulton County case, J.D. Walker said he doesn’t expect any.

“Our position is that the judge got it all wrong.” Walker said. “We hope the judge in Fulton County gets it right.”

Besides the lawsuits, the Walkers have filed a complaint with the Securities and Exchange Commission. Robbins, West Georgia National’s lawyer, said the institution has not received any inquiries from the agency.

“Words fail me with this guy,” Robbins said. “He keeps making these charges – they’re not true and sooner or later he’s going to have to pay for his abuse of the legal system.”

Not surprisingly, the Walkers don’t see it that way.

“We hope that we have our day in front of a jury and we’ll be very content to let a jury make a sound decision,” J.D. Walker said.

Asked how long and how far they’re willing to fight, he said: “I didn’t initiate this lawsuit. I suppose the same question could be asked of the bank and see how far they are willing to take this.”