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**[BANK HAD NO DUTY TO ADVISE BUSINESS CHARGE CARD OWNER THAT BANK HAD OBTAINED JUDGMENT AGAINST A PERSON WHO WAS AUTHORIZED TO USE THE CARD](#)**

**Question:** Does a bank that enters into an agreement with a company to issue a business charge card have a duty to disclose to the card owner, before issuing a card to another person authorized to use the card, that the bank's affiliate had previously obtained a default judgment against that person for not paying his own charge card bill?

**Answer:** No, according to the Second District Court of Appeal in *American Express Bank, FSB v. Kayatta*, No. B223686 (decided Nov. 29, 2010).

In this case, American Express Bank entered into an agreement with a business to issue a business charge card. Plaintiff Kayatta, as the company's "Authorizing Officer," agreed to pay for all amounts charged on the card. Kayatta paid all charges he personally incurred but declined to pay for charges incurred by employee Robert Francis, who also used the card. The Bank filed suit.

Kayatta defended by arguing that the Bank knew or should have known that its affiliate had obtained a default judgment against Francis, and hence the Bank assumed the risk that Francis would not repay the charges he made on Kayatta's card. Kayatta argued the Bank was required to make such disclosure federal Truth & Lending Act, its "special relationship of trust and confidence" with Kayatta based upon a longstanding business relationship, and the implied covenant of good faith and fair dealing in the agreement.

The Court of Appeal rejected all these arguments. As to TILA, the Court found no authority that would require the Bank to make the disclosure. Nor did Kayatta's "longstanding relationship with American Express" create any such duty. Nor did the implied covenant of good faith and fair dealing because, the Court held, the "Business Agreement did not state that Kayatta would be provided with credit-related information about additional card members."

End of story.

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