

Witness calls stock buy illegal

Bank of Carmel's ex-lawyer testifies at San Jose trial

7-1-93
BY ROBERT JONES

Herald Staff Writer

SAN JOSE — The National Bank of Carmel illegally purchased \$360,000 worth of stock in a New York computer firm in 1984, one of its former lawyers testified yesterday.

Brian Call of Carmel said he learned in a telephone call on March 8, 1984, that the bank had acquired 72,000 shares of Information Displays Inc.

Call said he had told Robert Boynton, president of the bank holding company, on Jan. 30, that federal banks were prohibited from dealing in securities.

A week before Boynton asked for Call's legal opinion, the bank wired \$360,000 to a New York brokerage to buy the stock, according to bank records at the trial of Boynton, Richard Fritz and Leonard Levy.

Levy, an Orange County financier, targeted IDI for a hostile takeover in the spring of 1984. He is accused of making false statements on loan applications to get between \$6 million and \$9 million from the bank to finance the takeover.

Boynton and Fritz, who was the chief lending officer, are accused of misapplying bank funds and wire fraud by joining with Levy in the takeover fight.

Levy's takeover backfired, leaving him bankrupt and leaving the bank holding the bag. Federal regulators moved in and shut the bank down on May 8, 1984.

Call testified that Boynton did not tell him, when he sought his legal opinion, that the stock had already been purchased. Call said he first learned of it in a phone call from Levy's New York lawyer, Arthur Malman, an earlier witness at the trial.

Assistant U.S. Attorney Robert Crowe, concluding the second week of the prosecution, presented a former bank employee and an FBI agent as his witnesses yesterday.

Nancy Zarzana of Monterey and agent James Key, now of San Antonio, were asked about a plan devised by Fritz to divide \$6 million in loans to Levy into 12 separate loans of \$500,000 each.

The money had already been disbursed to Levy, and the device was adopted because the amount violated the bank's lending limit to an individual borrower.

Zarzana said Fritz told her not to discuss those loans with anyone. She also said she refused to sign documents containing false statements about the loans.

She said it was neither Fritz nor Boynton, but former operations officer Alinda Heringer, who asked her to sign the documents. Heringer testified earlier at the trial that she knew the statements were false, but was acting under orders from another bank officer, Thomas Abert.

Questioned by Fritz's attorney, David Grunbaum, Key testified that Fritz voluntarily came in for FBI interviews in 1986.

Fritz had told bank director Clayton Neill that the 12 loans to Levy on March 23, 1984, were to "sham partnerships," Key said.

Key said Fritz told him he devised the plan in order to get collateral from Levy and to correct the violations of the bank's lending limit that had occurred.

Pressed by Grunbaum, Key acknowledged that he had been mistaken when he told a federal grand jury that the lending limit was between \$600,000 to \$700,000 to a single borrower.

Actually, Key said, the limit would have been about \$1 million, because that would comply with the lending limit formula, which is 15 percent of a bank's capital. In the spring of 1984, the bank's capital was \$6.9 million, he said.