

From the Houston Business Journal:

<https://www.bizjournals.com/houston/news/2020/06/01/nobilis-health-corp-bbva-usa-loan-lawsuit.html>

Bank alleges Houston health care co. misrepresented finances while obtaining loan

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BBVA USA accused former leaders of a Houston-based health care development and management firm of misrepresenting the company's financial health while obtaining a loan, costing the bank millions of dollars in damages.

BBVA USA, a subsidiary of Houston-based BBVA USA Bancshares Inc., filed suit against three former employees of Houston-based Nobilis Health Corp. in Dallas County on May 29, according to court filings. BBVA's lawsuit names former CEO [Harry Fleming](#), former CFO [David Young](#) and former Senior Vice President of Finance [Brandon Moreno](#).

The lawsuit alleges that the Nobilis officers misrepresented company financial information to BBVA through lender presentations, financial statements, officer certificates and other communications while the bank worked with Nobilis in arranging a \$50 million term loan. In 2016, Nobilis retained BBVA in arranging an \$82.5 million credit facility to fund the firm's property acquisitions and refinance debt, before tapping BBVA again in November 2017 to provide the \$50 million term loan, according to the lawsuit.

BBVA asserts that the Nobilis officers made "grossly overstated" representations about the company's accounts receivable — which totaled more than \$112 million as of September 2017 — and its ability to collect those accounts from third-party insurance groups. BBVA also alleges that negligent and/or reckless actions by the Nobilis officers destroyed the value of the collateral with which the term loan was secured.

Nobilis wrote down \$72 million of its reported accounts receivable by no later than January 2019, the lawsuit states. Nobilis later voluntarily filed for Chapter 7 bankruptcy on Oct. 21, 2019, court documents show.

Ultimately, BBVA alleges that it suffered over \$63.6 million in damages "due to the negligent and/or reckless misrepresentations" made by the Nobilis officers about the value and collectability of its accounts receivable. BBVA's losses include approximately \$46.1 million in unpaid principal balance under the loan, accrued and unpaid interest of over \$7.5 million, and more than \$10 million in fees and expenses the bank has incurred as a result of the alleged misrepresentations. The bank seeks monetary relief in excess of \$63.6 million, according to the lawsuit.

The Nobilis officers have yet to file a response to the lawsuit, but an attorney representing the defendants rejected BBVA's allegations in a statement to the Houston Business Journal.

"Although our clients do not make a practice of commenting on current litigation, based on our review of the lawsuit, the allegations lack merit and are unfounded," [Ty Doyle](#), a partner with Smyser Kaplan & Veselka LLP, wrote in the statement. "We look forward to responding to them in court."

The bank is being represented by attorneys from [Reid Collins & Tsai LLP](#), according to court documents.

Prior to filing bankruptcy in October 2019, Nobilis [closed its corporate headquarters office at 11700 Katy Freeway](#) and closed a number of surgery centers in Texas and Arizona. The [NYSE American LLC stock exchange delisted Nobilis from securities trading in September 2019](#).

Before folding into bankruptcy, Nobilis Health Corp. owned dozens of hospitals, ambulatory surgery centers and multispecialty clinics Austin, Dallas, Houston, San Antonio, El Paso and Phoenix. Nobilis posted revenue of nearly \$300



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A Houston health care development and management company has been sued by its bank over alleged financial misrepresentations.

million in 2017, according to its 2017 annual report.

BBVA USA is the fourth-largest bank operating in the Houston metro region based on its roughly \$14.2 billion in local deposits as of June 30, 2019, according to the Federal Deposit Insurance Corp.

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