CRN Exclusive: IBM To Appeal $39 Million Lawsuit Verdict From 2010 Sterling Commerce Acquisition

Big Blue is nursing a black eye after Jewelry Television, a Sterling Commerce customer, successfully convinced a jury that the software developer committed fraud by over-promising an integrated business management solution.

By **Joseph Tsidulko** September 07, 2017, 07:00 PM EDT

IBM plans to appeal a multi-million-dollar verdict rendered against it in June from a lawsuit it inherited when it purchased an enterprise software vendor years earlier.

After a two-week trial, a federal jury in Tennessee awarded Jewelry Television $39 million to compensate the company on a software licensing and implementation deal gone awry with Sterling Commerce, which is now a division of Big Blue.

The Knoxville, Tenn.-based jewelry retailer sued Sterling back in 2009, claiming the software developer committed fraud by over-promising comprehensive and integrated solutions to manage its business operations.

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Liability in the case transferred to IBM in 2010 after it acquired Sterling from AT&T for $1.4 billion. Five years earlier, the telecom giant had merged with Sterling's parent, SBC Communications. Sterling Commerce and its 2,500 employees were subsequently rolled into IBM's WebSphere organization.

Jewelry Television, which sells its wares on television and the internet, first licensed warehouse management software from Sterling back in 2006. The next year, after a series of pitch meetings with Sterling representatives, the company signed additional contracts for purchase order and operations management solutions.

The customer's goal was to create a state-of-the-art warehouse for distributing

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Sterling's representatives convinced JTV to go beyond the warehouse management software and purchase the two other software packages. The developer claimed the three products could all be integrated to create a seamless back-end management platform.

"They kept repeating they had implemented all three for customers prior to JTV and that turned out to be blatantly false," Shapiro told CRN.

In its response to JTV's request for proposal, and in subsequent conversations, Sterling pegged implementation costs at a max of $2 million, the suit claimed.

But JTV ended up spending $5 million for the system that never fully integrated to operational standards, and another $5 million in efforts to support the failed project. That $2 million budget was "exhausted before a third of the project was completed," the complaint read.

Shapiro said Sterling misstated its experience, as well as the various components' technical capabilities to integrate with each other and JTV's legacy software.

As part of its pitch, Sterling played up expertise it ostensibly had with service-oriented architecture principles that lent themselves to the implementation of highly integrated systems. A JTV employee who worked on the engagement testified at trial Sterling’s employees and its products, were not at all proficient with SOA design concepts, Shapiro said.

"From a technical point of view they thought they could do it because the software was integrated, SOA, all the pieces were going to communicate with each other, pass information back and forth. And it turned out it didn't work that way," Shapiro told CRN.

IBM did not comment on whether the JTV lawsuit filed a year earlier influenced its decision to purchase Sterling Commerce for more than $1 billion in 2010 during an acquisition spree that fueled a "Smarter Commerce" initiative within the Armonk, N.Y.-based tech giant.

The jury determined IBM owed JTV $13 million in damages for fraudulently inducing the deal, $13 million for negligent misrepresentation, and $13 million for breach of contract

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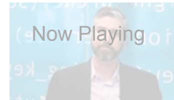

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