

The Court's Decision

The trial court ruled that the alleged personal guaranty of Sproul could not be enforced against him, and the Supreme Court of Virginia agreed. The basis of the court's decision is that the letter written by Sproul did not meet the requirements of the Statute of Frauds. The Statute of Frauds states that unless a promise to guarantee a debt is in writing and signed by the person liable, no claim can be brought.

The court stated that the document used to guarantee a debt "must contain the essential terms of the agreement it memorializes." The nature and extent of the guaranty, including the promise to pay the debt of another party, must appear on the face of the document, or the agreement is not enforceable. The court said that these required terms "must be obvious on the face of the writing" and could not be proved through testimony of witnesses.

The term that was missing was Sproul's *personal* promise to pay the debt of the corporation. The court reasoned that the letter "merely acknowledges that a commission will be paid," but it did not state who would pay it. The full opinion of this case is found at *Janus v. Sproul*, 250 Va. 90 (1995).

The Moral

Personal guaranty documents must meet certain minimum requirements, or they will be ruled invalid. While the missing terms of other types of contracts may, in many situations, be supplied by witness testimony, all required terms of a guaranty must be stated in the document itself. Creditors should use only guaranty forms that have been reviewed by their legal advisors and found to contain all essential terms.

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