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Area lawyers help couple fight fraudulent credit counselors



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Lawyers Greg Duncan (left) and Garrett Smith say Cambridge Credit Counseling Corp. preyed on people looking to get out of debt.

By [TASHA KATES](#)
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The ad promised that the firm would get a person's debt under control. Cambridge Credit Counseling Corp. said it was a nonprofit credit repair agency that could reduce a debtor's interest, get rid of late fees and create "one low monthly payment."

"I was personally sold the first time I spoke with them," said Andrew Zimmerman, a former Palmyra resident. "The only reason we did it [was] because it was nonprofit."

Months later, creditors still were contacting the Zimmermans about late payments and they couldn't get someone on the phone at Cambridge. So Zimmerman walked into the Charlottesville office of lawyer Greg Duncan in 2003, asking for help getting his money back and for this to never happen to another person again.

Nearly six years later, local attorneys Duncan and Garrett Smith have settled a \$256 million class action suit on behalf of the Zimmermans and 268,000 others who were duped by the purported nonprofit's tactics. Along the way, the Charlottesville lawyers invoked an untested federal law and the alleged fraud sparked a U.S. Senate investigation of credit counseling agencies.

“It is every penny ever paid to the company in fees,” Duncan said. “We could not have gotten a larger judgment.”

Duncan said his research has shown that it may be the largest consumer-related judgment in the country so far this year, although not all major judgments are reported.

Although it was registered as a nonprofit, Cambridge actually profited from the venture by keeping its clients’ initial payments as fees to open accounts for them, earning the owners \$52 million in eight years. The Internal Revenue Service granted the company’s charity status, but its true operations went unchecked.

Duncan and Smith applied the little-used Credit Repair Organizations Act on behalf of the Zimmermans. The federal law, which was enacted in 1997, regulates companies that claim they can help people with their credit history, rating or record. Under this law, the local lawyers claimed that brothers/founders John and Richard Puccio are personally liable for the false claims of their nonprofit credit counseling firm.

“This statute allows consumers to go directly after the players behind the scheme,” Smith said.

An attorney representing the Puccios in this case did not immediately return a call seeking comment.

Solutions

Credit counseling companies have existed since the 1960s, Smith said, when clients visited an office to meet with counselors. In the mid- to late-’90s, Smith said, a new breed of businesspeople introduced an Internet- and phone-based business model.

“The problem is that they wouldn’t give you real counseling, just set up a debt management plan,” Smith said.

According to the Zimmermans’ lawsuit, the Puccios established Cambridge Credit Counseling in the late 1990s in a small Massachusetts town near the Connecticut state line. In tax documents, the firm stated that its tax-exempt purpose was to “provide direct aid to financially distressed debtors with credit counseling services and conduct negotiations on their behalf.”

Andrew Zimmerman, now 44, first heard about the company about eight years ago. He said it seemed like a solution to a mounting debt problem that started with identity theft.

In 1996, Zimmerman said a couple stole a checkbook from his car and passed the checks off in Northern Virginia. Normally the Zimmermans wouldn’t have had much money available in checking, but Zimmerman’s now-former wife, Kelly, sold her car so she could go to Boston to be with her ailing father. Police alerted the couple to the theft that summer.

“The checks had already been submitted and paid,” Zimmerman said. “[The couple who took the checks] didn’t have money to repay it. We lost about \$10,000. To us, that was everything.”

At the same time, Zimmerman said he hadn’t noticed that the mortgage and car loan hadn’t been clearing. The couple could afford their monthly payments, but couldn’t pay three months’ worth at once.

The couple moved to Palmyra in 1999. Zimmerman heard an ad for Cambridge Credit Counseling on a radio show, and he decided to call the toll-free number. He said the company said it could negotiate with the Zimmermans' creditors and distribute a lump-sum payment among them without fear of late fees.

"We were told we might get calls from time to time that say we were still delinquent, but we should tell them we had sought credit counseling," Zimmerman said. "Well, the calls kept coming, and it didn't make sense."

The couple contacted their credit counseling company for answers. Zimmerman said he soon realized that the company he called appeared to be full of frontmen, and he could never get in touch with a manager to sort things out.

Duncan said the first \$700 payment that the Zimmermans made didn't go to their creditors. In the fine print, Duncan said, the credit counseling company said it would keep the first payment as a fee to pay for setting up accounts for their clients.

After realizing something was wrong, Zimmerman called the Virginia Bar Association for help. He was referred to Duncan.

"I walked into his office one day and his life has never been the same," Zimmerman laughed. "He's an amazing man. He saved us."

Hard work

Duncan spent a month trying to find a law to apply to the Zimmermans' case before he discovered the Credit Repair Organizations Act. Soon after, Duncan said he discovered that a lawyer in California had filed suit against Cambridge a week earlier.

The Massachusetts federal court record of the Cambridge case is filled with hundreds of filings over the last several years. Since the Zimmermans filed suit in November 2003, the case file has grown fat with motions and requests for extensions. Smith said it took the attorneys a while to prove the case, which was paused for 10 months while the Puccios tried to get the case dismissed and was further complicated by witnesses who feared retaliation from the brothers if they came forward.

The case involved multiple journeys to Massachusetts and many late nights. Duncan said he is trying to bill for 2,000 hours of work over the life of the case. Zimmerman, who now lives in North Carolina, said he had called for food to be delivered to Duncan while he worked on the case at 11 p.m. on a Saturday.

"There is an underlying gratitude that Greg seems to have with Kelly and I for sticking with it, and the reality is, it's the other way around," Zimmerman said. "... The fact that it has progressed to the point where it has stopped is a huge relief. That was Greg's promise."

The suit against Cambridge Credit and the Puccios is the second sizable settlement that Duncan and Smith have gotten from a credit counseling firm with 501(c)(3) status. In 2006, the attorneys landed a \$35 million, 437,000-person class action settlement against the founder of AmeriDebt Inc., another nonprofit that skimmed money from its clients' payments.

It sparked the interest of the Federal Trade Commission and U.S. Senate, whose Permanent Subcommittee on Investigations released a report on abusive practices in credit counseling in 2004. Cambridge is included in the report as a case study.

According to the report, the Puccios started two for-profit credit corporations in the early 1990s in New York. However, the state's banking department served a cease-and-desist order preventing them from performing credit counseling services because they were moneymaking operations.

The Puccios moved their companies to Massachusetts, the report said, where they applied for nonprofit status. The brothers continued to open interconnected credit counseling agencies in New York and Florida.

John Puccio was the president/director of the organization, with full stake in three of the companies and 50 percent stake in four. The report said Richard Puccio was the "strategic planner" and had 50 percent stake in four of the companies.

The subcommittee determined that Cambridge's fees were the highest of any credit counseling agency that it investigated.

The initial fee in the fine print, called the "payment design fee," often cost customers \$500 or \$1,000. The monthly "program service fee" was set at 10 percent of the customer's payment regardless of how much it cost Cambridge to perform its services.

After the Senate hearings, the IRS checked into the charity status of the 41 largest credit counseling companies and revoked all of them. Cambridge's status remains on appeal.

Changes

Since the hearings, Duncan said, some credit counseling agencies have changed their ways. Under the federal act, these companies can't collect a fee until they have fully performed their services. People who need credit counseling should check with the Federal Trade Commission and the Better Business Bureau before signing up with an agency.

The Puccios continued to operate their business and its arms even after the Massachusetts federal court ruled that they were liable to the Zimmermans and the other consumers, Duncan and Smith said.

The brothers were forced out of the company in 2004 by the Massachusetts attorney general. Criminal charges may be pending, Duncan said, because they are accused of taking \$900,000 out of a related trust account.

The recent judgment against the Puccios is good for 20 years, Duncan said. A court-appointed receiver is starting to marshal the Puccios' assets.

"It is ironic that the Puccios, who promised unsuspecting consumers protection from creditors, are now having their assets, including their multimillion-dollar mansions, seized by their own creditors for non-payment of debts," Duncan said in a statement.

The Puccios have filed an appeal.

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