



Lawyer sanctioned for misleading debt collection

For eight-and-a-half years, Melbourne lawyer Pippa Sampson pursued debts on behalf of video rental stores.

In one 12-month period she sent as many as 20 000 debt collection notices a month nationwide.

The only problem was, she broke the law in doing so. Not for the fact that she pursued the debts, but in how she went about it.

In October the Federal Court declared that a number of representations made by Ms Sampson, the principal of Goddard Elliot lawyers, between April 2002 and October 2010, to collect small debts on behalf of several major video rental chains were misleading and deceptive.

A complaint by the Central Australian Aboriginal Legal Aid Service, on behalf of clients who had received debt-collection notices from Ms Sampson, sparked an ACCC investigation.

Her approach was subtle, yet effective. The notices said the video stores she represented were entitled to recover an amount in solicitor's costs—to be paid by the customer—in addition to the debts, and that the customer would incur extra costs for any legal action.

Notices also said a judgment could be made against the customer without a formal court order unless the debt was paid in full or the proceeding defended, and that Goddard Elliott could enforce any judgment by itself, such as the docking of wages.

And one of the seven types of notices she issued was formatted like a formal court document.

But each of these points overstated the possible consequences of Goddard Elliott taking a customer to court for the debt. They were wrong, and they amounted to misleading and deceptive conduct under the Competition and Consumer Act (CCA).

Her actions were reported to the ACCC, which instituted court proceedings.

As a result the Federal Court ordered Ms Sampson to publish corrective notices in a number of national newspapers and industry publications, and that she and her staff undertake compliance training. She was also ordered to pay \$30 000 towards the ACCC's court costs.

ACCC Chairman Rod Sims said this type of behaviour was not new, nor was it uncommon.

'But the scale and flagrant nature of this conduct—and the fact that it was engaged in by a lawyer—is of great concern,' he said.

'It would be inappropriate to tar the debt-collection industry with one brush, but the conduct of some operators, such as Ms Sampson, has the ability to overshadow the legitimate work done within the sector.'

'The formation in 2009 of the Australian Collectors and Debt Buyers' Association (ACDBA) has gone some way to improving the industry but, as this case highlights, unfortunate practices continue, particularly in representing the consequences of non-payment of debts.'

Mr Sims said consumers often have little or no knowledge of their rights on debt recovery and are therefore vulnerable to deceit.

'When they receive a notice, particularly one issued on a law firm's letterhead, that implies the possible consequences of not paying a debt are definite consequences, they are unlikely to question it.'

'They could then feel pressured into paying legal or administrative costs they are not under any legal obligation to pay or, worse, pay a debt they do not even owe.'

'The orders made against Ms Sampson should send a clear message to members of the debt-collection industry that they must not misrepresent or overstate the consequences of failing to pay small debts. It should also remind the legal industry that they are not immune from the provisions of the CCA.'

...consumers often have little or no knowledge of their rights on debt recovery and are therefore vulnerable to deceit.