

Credit WORDS

REAL-LIFE
STORIES OF
VICTORY AND
DEFEAT

CONTEST WINNERS

NACM and *Business Credit* are pleased to present the 2009 winners.

We proudly congratulate all three!

THE WINNING STORY IS...

deliberate debtor pays BIG PRICE

by Jennifer Hudgens

I have pursued many debtors over the years, including high profile cases where millions of dollars were owed. But it took one small balance debtor to educate me about certain debtors who make a tidy little business for themselves by deliberately incurring low balance debts. I had a big laugh in the end on how I dealt a blow of my own to one such scam artist.

My client's firm did construction for new housing developments as well as contracting out work for new additions to their customer's homes. Therefore, my client would hire out contractors who would do the work and collect the money from the homeowner on site. Unfortunately, a common problem in this industry was that the contractors would collect the money, pocket it themselves, and never pay the company that got them the job in the first place. These contractors would often state that it was the homeowner who never paid them, which of course was almost always untrue. In this case, the contractor/debtor owed \$700. He claimed the homeowner had never paid him. We first went to the homeowner and got a copy of the cancelled check, which of course was signed by the debtor. This debtor was arrogant and rude, and dodged all of our collection calls. Often we would know it was the debtor himself who answered the phone, but he would claim that "his partner" was out of town, etc.

Unfortunately, a common problem in this industry was that the contractors would collect the money, pocket it themselves, and never pay the company that got them the job in the first place.

After a couple of months of runaround on the phone and unanswered demands, I told my client we could take him to a small claims court, but it may not be worth it considering how small the amount was that was owed. My client was adamant that she would pay whatever fee to sue. At first I thought this might just be her frustration talking. I said, "Look, I know this guy is really arrogant, and I don't blame you for wanting to get him, but is a lawsuit in this case cost wise for your company?"

She explained that, in her business, contractors did this sort of thing all the time and in this town where the debtor was located, they had over 20 contractors that they used. She said if her firm got the reputation of not pursuing their small balances that all the dishonest contractors would come out of the woodwork looking to do business with them so they too could take advantage.

Prior to suit, our attorney ran a credit report on the debtor and found that he owed a long list of debts, but all of them were under \$1,000 each. None of the creditors had taken him to court, either. We realized our client was right—for this contractor, unpaid debts were merely a way to generate income! I mean, hey, if you steal under \$1,000 from 20 companies in a row, and only one takes the time and money to pursue you in court, the other 19 debts are pure "profit", which is a pretty nice return (assuming you have no ethics).

We summoned the debtor to court and he did not show up. In this jurisdiction, he had two more summons to appear before the judge would give us a warrant for his arrest. After the third summons was a no show, we got a Sheriff's warrant to arrest the debtor. We were all excited that this slimy debtor would finally get his due. However, after two attempts to serve the warrant, the Sheriff's office said that he was never there at his office and gave up!

We were beyond frustrated. I spoke to the Sheriff's office and asked how many times they had gone, what happened, etc. Apparently, this sly contractor had located his one-room office deep in the woods at the end of a gravel drive. The Sheriff, or his deputy, would drive up with lights off, or even in an unmarked car, but as they approached, the sound of the tires running over gravel would alert the debtor.

All of a sudden, the lights of the small office would go off before they could even get out of their car! They would pound on the door and walk around the premises looking in the windows, but it appeared the debtor had left by the back door.

I explained to the Sheriff the history of this debtor and how my client's local reputation rested on being able to force him to pay.

At 4:00am the following week, the Sheriff's deputy parked his unmarked car in the woods far from the site of the contractor's office. He sat behind the bushes by the back door with his cup of coffee and got comfortable for a long wait. At 7:00am, the contractor arrived and parked in the back and entered the back entrance. The deputy had to stay hidden, as he could not arrest him until he was actually fleeing the warrant.

The Sheriff pulled up 20 minutes later in his cruiser with the lights silently flashing up the noisy gravel drive. The debtor switched off the lights and ran out the back door, only to be handcuffed by the waiting deputy!

He was informed that he must pay the \$700 he owed immediately or go to jail. The contractor offered to write him a check, and when the Sheriff deputy stopped laughing, they informed him that actual cash was required at this point. The debtor said he had to go to the bank. So the Sheriff said no problem, they would take him in the squad car in handcuffs to the bank. The debtor pleaded that in this small southern town (not unlike Andy Griffith's Mayberry) everyone would know him and his reputation and business would be ruined. "Well..." drawled the Sheriff, "maybe now you know how the people you owe money have been feeling." The humiliated thief was taken right down Main Street in handcuffs to the bank and was "the talk of the town."

We were thrilled, and needless to say, there have not been too many problems since in this particular town of contractors paying their employer's fees on time. I personally learned from this case about this "deliberate debtor" psychology, which I have run into many times since then. Some debtors just assume that if they fly below the radar with small balances, that all the creditors will write the debt off rather than sue.

Unfortunately for our debtor, that assumption was false!

Jennifer Hudgens, first prize winner, is vice president of The Kreller Group in Cincinnati, OH.