

April 2010

## Baycorp's Fees Under Scrutiny by Court

### The Situation

The High Court recently examined Baycorp's fees and found them to be arguably unreasonable.

In the case of Truck Painting Specialists Ltd (TPS) versus Cambridge Decorative & Automotive Supplies Ltd (CDA), CDA engaged Baycorp to serve a statutory demand on TPS for an unpaid account of \$50,901.39 for paint supplied.

In the statutory demand Baycorp claimed not only the cost of the paint, but also the amount of \$19,929.43 for its collection costs and \$320 for a company search.

### Debtor paid, but ...

TPS paid the cost of the paint but applied to the High Court to set the statutory demand aside claiming that there was a dispute that Baycorp's costs were not owing or due.

Notwithstanding that CDA had terms of trade that permitted them to add collection costs to a debt, the High Court had little hesitation in setting aside the statutory demand. It found that it was arguable that collection costs of this size were unreasonable. The court noted that the collection costs amounted to a third of the debt (on a percentage basis some 33%). It also noted that the statutory demand procedure was inappropriate and should not have been used.

Other points of interest that emerge from this case were that the application to set aside the statutory demand was not opposed by CDA.

Before the hearing, Baycorp's collection costs reduced from \$19,929.43 to \$13,000 without explanation.

### The Creditor also had to pay! ...

CDA was ordered to pay costs to the debtor. This would have been the sum of \$4,960 + a filing fee of \$400 + service fees (well over \$5,000!!)

This case is an illustration of an inappropriate procedure being used with disastrous consequences for the creditor. CDA who was the innocent party, genuinely owed money by its debtor TPS, has ended up in the position of having to pay a significant sum in costs.

### How do you ensure you're not being ripped off?

### Case Study

Bob the Plumber is self employed.

He has installed a hot water system in Cambridge and has invoiced his clients for \$3,000. 3 months has passed without payment so Bob sends a letter to which the client replies, disputing the workmanship.

Bob has a dispute over a debt less than \$15,000. He can immediately lodge a proceeding in the disputes tribunal and have his debt determined there.

The CollectIT system will provide Bob with all of the forms and documents he will need to lodge his dispute.

[more case studies](#)

### Success Story

Eric Moess Fencing Ltd I was doubtful that I needed collectIT because I kept thinking I could do this myself, and we did not go to a debt collector as we were not happy with the fees they charge.

Using collectIT has been very successful for us because it has systemised our debtor management. I am now sending out the 1st letter in the process much earlier than I used to and we are getting money in the bank much earlier than we used to!

I am still chasing 2 very overdue and very large debts and the collectIT office has been extremely approachable and helpful going through the court process.

Andrea Moess

CollectIT suggest the better course in this situation is to issue court proceedings, obtain a court order and then issue a statutory demand based on that order obtained.

CollectIT also suggest that creditors insist on knowing from the outset what a debt collection company will charge for collection costs. Often costs are hidden or couched in ambiguous language.

CollectIT prides itself on a simple upfront approach to costs clearly outlined on the website [www.collectit.co.nz](http://www.collectit.co.nz) . Alternatively, give us a call on 07 834 9111 or 0508 collectit (265 5328)

Ph: 07 823 5236

[more success stories](#)

Until next time

don't write off debt... **collectIT**



Catherine Clark & Melanie O'Neill  
Directors



0508 collectIT (0508 26 55 328)

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