

24 March 2021

Overwhelming debt waived for Beth

Removing the threat of a \$70,000 debt has been a lifesaver for a woman in her 60s, thanks to a full waiver achieved by the Hume Riverina Community Legal Service.

Beth* will never forget the call from the community legal centre lawyer telling her the good news.

“I will treasure that moment until the day I die. When I got off the phone I just cried and cried for the rest of the day. I find it hard to explain it, but the feeling was like someone above my head pulling everything up and I was born again,” she said.

Due to a lack of understanding about the property settlement laws, Beth didn't realise that taking what was hers without a court order was against the law. This led to her spending 12 months at a women's correctional facility. Despite the circumstances of the conviction, Beth tried to remain positive and accepted her lot begrudgingly.

Under the impression the debt had been wiped due to her conviction and time in prison, Beth thought the ordeal was behind her when she was released from the facility. She longed to get back to her home, her garden and her community. But nagging at the back of her mind was the possibility things weren't over yet.

In November 2020, about six months after her release, Beth was back at home and tending to her garden, planting plants, when a woman approached, gave a curt introduction, then handed over a bombshell.

“She gave me a bunch of papers then walked off. That was it,” Beth said.

Beth read the documents and went into shock. It was a statement of claim for almost \$70,000 from a guarantee Beth signed back in 2012 for her ex-husband's aged care expenses.

In 2011 VCAT made an order and Beth was named as the private administrator of her then husband's finances. A year later, Beth filed for divorce and her husband was admitted to an aged care facility. But Beth signed an agreement with them under a Power of Attorney and also where

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she agreed to be Guarantor for any guaranteed moneys owing by her ex-husband.

In 2013 VCAT made an order removing Beth as private administrator and placing State Trustee Administration in charge of her ex-husband's finances. State Trustee Administration notified VCAT that he passed away on 1 July 2020 and Beth was served the Statement of Claim.

To no avail, Beth's partner tried to calm her down and said they would deal with it somehow.

"But I was thinking, 'I can't pay back the money and I can't go back to prison,'" she said. "I couldn't eat, couldn't sleep, couldn't do anything without thinking about what might happen. It took over my life."

Thanks to the advice from a financial counsellor linked with the women's facility, Beth had the number for UMFC Financial Counselling service. The financial counsellor had recommended Beth seek them out if she ever need assistance in the future. She hunted through her papers to get the information she needed.

"I am so glad I found the piece of paper," she said. "I contacted the UMFC financial counsellor, who got me in touch with Raissa. She called me straight away, asked me to explained what happened, and it didn't take too long until she got working on it."

HRCLS lawyer Raissa Butkowski wrote to the legal representatives of the aged care facility with the concerns regarding the unconscionable conduct the legal service believed the aged care facility had engaged in. A waiver of the full amount was sought, due to the unconscionable conduct and Beth's personal circumstances.

Raissa's positive attitude and regular updates once or twice a week meant plenty to Beth, as the stress about her situation mounted. This level of support and treatment was important to Beth at a time when she felt her life could crash around her again.

"I was still worried and very stressed, even though Raissa was saying she would do the best she could," Beth said. "But even if she hadn't have been able to help me, I was happy with the way she was always reassuring and how she spoke to me. If she was going to call me at a time, she would phone at that exact time."

Sharing the unfortunate news that Beth's ex-husband had passed away also fell to the lawyer.

"I told Raissa, I don't know if he was dead or not, and gave her permission to find out on my behalf," she said. As it turned out the man she had married in the 1970s, and had been separated from for a number of years, had passed away in July 2020. Raissa shared this news with Beth, who was annoyed with the way the aged care facility had acted towards her.

"If they found out where I lived, why didn't they have the decency to let me know in a few words that he was gone?" she said. "It was not very nice at all."

By mid-December 2020, the decision was taken to waive the full amount of the debt, and when Raissa shared the good news, it had a profound impact.

"When I got off the phone I just cried and cried for the rest of the day. I find it hard to explain it in words, but the feeling was like someone above my head pulling everything up and I was born again," Beth said.

Just thinking about the potential trauma makes Beth upset. "I still get emotional now when I think about going through what happened," she said. "I don't know what I would have done if I owed the money and had to pay it back.

"Now when I hit the pillow, I go straight to sleep. I get up and enjoy life, whether it's gardening or anything, and there is no fear in my head."

Beth had no idea the community legal service existed or could help with the problem she was facing. If not for the referral from the financial counsellor at the corrections facility, she may never have connected with the community legal service and been forced to pay for private legal help she couldn't afford.

"I will be forever grateful and thankful. I would recommend the service to anyone. I think there would be a lot of people out there who get in a similar situation to the one I was in, and they don't know there could be help out there for them."

*not real name/client consent granted