

ABCNYS Financial Literacy Workshop

Jonathan Irons, Esq.

March 11-12, 2022

TABLE OF CONTENTS

Co-signing	Page 3
Contracts	Page 5
Identity Theft	Page 7
Financial Scams	Page 10
Benefits of a Will, Power of Attorney, Health Proxy	Page 15
Disclaimer	Page 16

1. Considerations before co-signing

“It is senseless to give a pledge, to become surety for a friend,” (Proverbs 17:18; see also Proverbs 11:15).

To co-sign means that you are guaranteeing the debt of someone else. If that person dies, loses a job or gets sick and cannot pay his/her debt, you, the co-signer, are responsible for the balance of the debt. Even if the original debtor just walks away from the debt, the creditor will legally demand that the co-signer pay off the debt. This could deter or destroy your plans to purchase a car, house, secure a business loan or any other valuable endeavor you may want to pursue.

Scenario

Let's use an example of a young woman named Constance, who works as middle manager for a company. She pays her bills on time and has a good work and credit history. She is engaged to be married. Constance and her fiancé plan to buy a house after they marry. Constance's younger brother, who doesn't have a steady work background or good credit, wants to become an entrepreneur and own a livery car service. He applies for a car loan, but he is denied the loan. He begins to pester Constance to co-sign a loan for him. She is reluctant at first, but because of his continued pleas for help, Constance gives in and co-signs a car loan for her brother.

Constance co-signed a 60-month payout agreement for her brother's car loan. The cost of the car was \$40,000.00. After 3 months, her brother stopped paying the monthly bill for the loan and refused to talk to Constance; notwithstanding, under the law, she, as co-signer, must honor her agreement and must make the payments.

Let's examine what she will have to pay for the remainder of the 60-month agreement for the car loan: price of car: \$40,000; downpayment: \$2500; New York sales tax: 4%; interest rate on the loan: 5.5%. Based upon these figures, Constance will have to pay approximately \$745.00 per month until the loan is paid off. This new debt could wreck her budget, be a roadblock to her plans for purchasing a home, car or other needed item, and possibly affect her wedding plans.

According to the Federal Trade Commission, 75% of all co-signed loans in default are actually paid by the co-signer and not the original debtor.

2. Considerations before signing a contract

“Listen to advice and accept instruction, and in the end you will be wise,” (Proverbs 19:20).

Always be a **wise consumer** and know your rights when it comes to contracts, but if you do not understand the fine print, take the time to find help before you sign. It is unwise to enter into an agreement to buy, purchase or rent something if you do not fully understand the terms of the agreement. Many people rely on the words of the salesperson instead of the words on the contract. Oftentimes, if a disagreement arises after the contract has been signed, the salesperson will develop amnesia or deny what the consumer thought he/she said. Unless you are a minor, a mentally disabled person, or threatened with bodily harm to sign, the courts usually uphold the written terms of a contract, unless the contract is unconscionable or illegal per se (e.g., an agreement to launder drug money). You cannot say that you did not understand the contract or you did not have your glasses at the time to read it properly. As an adult you will be held responsible.

The New York State Bar Association offers a panel of attorneys who can provide consultation fees for just \$50.00 or less for 30 minutes of consultation. This is a great opportunity to ask about the fine print of a proposed contract, agreement, etc., that you don't understand, and possibly save you untold trouble down the road. **Do not ever rely on a salesperson's interpretation of the contract or agreement. Make sure you obtain your own understanding of what the document states. This should be independent of the salesperson's interpretation. If anyone pressures you to sign a contract or an agreement immediately, regard that pressure as a**

danger sign. Always take as much time as you need before you enter into any agreement, whether written or oral.

New York law states that the consumer has **the right to cancel the following** types of items within 3 days of signing a contract or agreement:

- Health club memberships
- Home improvement loans
- Telephone sales contracts (sales made by telephone, mail or internet)
- Campground membership contracts (an agreement offered within the State which indicates a purchaser's right or license for using camping or outdoor recreation facilities)
- Dating service contracts;
- Home food service plans
- Credit card contracts
- Door-to-door sales contracts

If you cancel a contract within the three day period, make sure you do it in such a manner where you can show proof of cancellation. Be specific about the nature or details of the contract you choose to cancel. Always keep a copy of the letter that you send by overnight mail, fax or email. Do not just call the provider and say: "I cancel the xyz contract." **This adage is still relevant today: If something sounds too good to be true, it probably is. If something seems more exciting, pleasing or ideal than seems reasonable, then it probably isn't genuine, legitimate or true.**

3. Identity Theft

Identity theft can cause an enormous amount of damage to your personal and financial life. For example, identity thieves can use your health insurance to obtain medical services, file a fake tax return, ship your online purchases to another address, use your social security number or credit card information to make purchases in your name, among other fraudulent acts. Below are some tips that can help you set up effective barriers against identity thieves. Remember, identity theft can happen in many ways: online, postal service mail, garbage, personal records, movers, neighbors, friends or family with wandering eyes. To help protect your identity:

- A. Keep your personal information private. Be careful with whom you share. As a general practice, avoid sharing such information over the phone or internet.
- B. Use strong passwords. Aim for unique passwords that would be hard to guess. When possible, aim for at least 10 characters, but recognize that this will not be possible in all cases.
- C. Remember that you do not need to travel with every piece of personal identification in your wallet - never carry your social security card.
- D. Use a fraud alert or a credit freeze on your accounts and credit cards. A fraud alert requires extra scrutiny on credit applications in that creditors must verify identity before opening new credit. A credit freeze cuts off access to your credit reports unless you lift the freeze, which makes it unlikely new credit accounts can be opened in your name without your consent. Fraud alert and credit freezes are both free; notwithstanding, a

credit freeze offers better protection. Be aware, though, that the credit freezes can only protect you going forward; that is, a fraudster cannot open up new accounts. However, your existing accounts are still subject to attack. That is why it is so important to take advantage of fraud alerts on existing accounts offered by banks and credit card companies. Also, for added protection, get a free copy of your annual credit report.

- E. When you have a social event at your home, put away all your personal information into a secure location. It's the safest approach.
- F. Shred all letters or other paperwork from banks, credit card companies or municipal credit unions that offer you new lines of credit, low interest loans or the like that you do not want to apply for or use. If you just discard the paperwork in the garbage be aware that identity thieves are known to look into garbage cans, take the discarded financial loan or credit invitations, and apply for them in your name.
- G. If you hire a moving company, secure all of your personal papers, insurance documents, bills, credit cards, etc.

If you are a victim of identity theft, take the following steps immediately:

1. Contact the 3 major credit bureaus:
Equifax: 800-525-6285; Experian: 888-397-3742; TransUnion: 800-680-7289.
2. Tell them to place a fraud alert or credit freeze on your file.
3. Contact all fraud departments of your financial institutions

4. File a police report. Identity theft is a crime and it is essential that you have a written report on file. This is, in part, a way of showing that you did not use or authorize use of your credit card(s) or other financial transactions.
 5. Contact the Federal Trade Commission's Identity Theft Hotline (877) 438-4338.
- The FTC will offer practical tips for resolving fraud complaints at www.consumer.ftc.gov

4. Financial Scams

Scenario: Government Imposter Scams

Scammers may call an unsuspecting victim and pretend to be from the IRS, Social Security Adm., or Medicare. They may demand that you pay immediately supposed unpaid taxes and threaten with arrest if victim doesn't pay. The scammers may claim that Medicaid or Social Security payments will be cut off if person does not supply personal identifying information.

Scenario: Grandma Scams

A scammer may place a call to you and say something like: "Hi Grandma, do you know who this is?" When the unsuspecting grandparent guesses the name of the grandchild the scammer most sounds like, the fake grandchild will ask for money to meet some unexpected financial problem like a car payment or overdue rent. The scammer will ask the grandparent to send via gift card or money transfer.

Scenario: Computer Tech Support Scams

A pop-up message will appear on your computer screen and state that the said device is compromised and needs fixing. When the victim calls the support number, the scammer either asks for remote access to your computer and/or that the victim pay to have the computer repaired.

Scenario: Sweepstakes & Lottery Scams

Scammers inform the intended victims that they won a lottery or sweepstakes of some kind and need to make some sort of payment to unlock the supposed prize. The scammers will send a fraudulent check to the victim and ask for payment to unlock the prize. The fraudulent check will bounce in a few days and the victim's check will be removed from his/her account as soon the fake check bounces.

Scenario: Robocalls

Scammers use a variety of schemes to cheat their victims. Some may claim a warranty is expiring on their car or electronic device and payment is needed to renew .

Scenario: Romance Scams

Romance scammers often create elaborate fake profiles, often on social media, and exploit a person's loneliness to get money. In some cases, romance scammers may pretend to be overseas and request money to pay for visas, medical emergencies and travel expenses to come visit the United States. These type of scams may endure for a long time with the individual victims. Some scammers try to develop an emotional rapport with their targets over time, so that they can milk more & more money from their victim. In this way, romance scammers tend to obtain a lot of money from their targets.

Scenario: Charity Scams

These scammers often capitalize on current events, such as natural disasters, and may set up a fundraising page on a crowdsourcing site (allows people to come together to form online communities for projects like fundraising, e.g. Go Fund Me and Kickstarter). Charity scammers may insist that you donate immediately.

Scenario: Internet and email fraud.

Pop-up browser windows simulating virus scanning software will fool victims into either downloading a fake anti-virus program, at substantial cost, or and actual virus that will open up whatever information is on the user's computer to scammers. **A phishing email** occurs when a fraudulent attacker masquerades as a trusted entity and dupes the victim into opening an email, instant message or text message. Phishing emails use generic salutations such as "Dear valued member" or "Dear account holder." Phishing

fraudsters may then ask you to login your Social Security number to verify your account or ask you to update your credit card payment. With this information they will steal your personal and financial information.

Remember:

- A. Scammers create a sense of urgency (need money now!)
- B. Always do your research to double check the details you are given. Do not be bullied into making a decision with smooth talk. If asked to act immediately, back away.
- C. Do not send money on the spot. No reputable agency or corporation will demand that you send money on the spot.

Scenario: Ponzi Schemes

What is a Ponzi scheme? A Ponzi scheme is a form of fraud that lures investors and pays profits to earlier investors with funds from more recent investors. The scheme leads victims to believe the profits are coming from legitimate business activity, and they remain unaware that other investors are the source of funds. In the last several years, there has been an increasing number of Ponzi schemes, which use money from new investors to pay earlier investors until the fraud falls apart. Bernie Madoff, the biggest Ponzi scheme fraudster this Nation has ever known, was sentenced to 150 years. You may ask, why would anyone start a Ponzi scheme and think they can get away with it? Well, oftentimes, many think they are smarter and more savvy than the people who were caught and prosecuted.

Most Ponzi schemers start with friends and family because of the built in trust. Right after that come houses of worship. That's partly because of the connections people make in them and because people want to believe that someone they meet where they worship have the same beliefs and values that they do. People assume others in the church fellowship would not take advantage of someone else because they themselves would not take advantage of someone else. This is what some label as the "just like I am" syndrome. It applies to any affinity group, such as an immigrant community, a country club or school. Most of the schemers are men, and are usually older and able

to project an air of success. Aging may allow you to appear to have knowledge and experience. The perpetrator is usually very pleasant and friendly.

Steps to detect Ponzi schemes:

- **Always check the documents.** Ponzi schemes always have fraudulent documents. The schemers rely on their targets to not review documents carefully. The perpetrators use their smooth “razzle dazzle” talk and their false appearance of success to mesmerize their targets.
- **Always verify the spokesperson’s credentials and question their claims.** Don’t just take the word of the presenter about his/her experience and background. Do some investigative work to see if what they are saying about themselves is true. For example, the presenter might say: “I was an executive vice president of a bank or fortune 500 company.” Don’t accept that claim without investigation. Oftentimes, you will find that the spokesperson was not telling the truth or grossly exaggerated their professional background or experience.
- **Be wary of photos of the spokesperson posing with pictures of well known political figures or candidates.** Many Ponzi schemers donate to political campaigns and because of that they may be given a photo op with a candidate or legislator who they really don’t know. The photo may give an appearance of success.
- **Make sure you understand what the representative is specifically** going to do with your money and why he/she wants to invest your money. In which stocks, bonds, or companies will your funds be used to invest? If a fraud is revealed or the Ponzi scheme collapses, investors who were defrauded generally get back only 5 to 6% on the dollar.
- Be skeptical of promises of consistent high returns on your investments. If the claims seem shaky or dubious, back away. In the final analysis: ***caveat emptor (buyer beware).***

Scenario: Bank transfer/wire Scams

If, during a financial transaction, you are given instructions by the bank in your email to wire funds in a specific way and later the instructions change, call the bank or financial institution immediately and verify the purported change before you send anything. The change of instructions could come from a scammer who has intercepted your original email instructions and now provides new instructions so you can wire funds to the scammer's account. Wire transfers to a scammer's account can be very difficult to trace and oftentimes, you may not be able to get a refund. Notwithstanding, if wired funds have gone astray, call the wire transfer company immediately and inform them that it was a fraudulent transfer, and see if they can reverse the wire transfer. Best practice is not to wire money on the phone for a sale.

Scenario: Payday Loans

For over 12 million Americans who take out pay day loans every year, the debt often does not end or paid off with their next paycheck. This is true because these loans often charge extremely high interest rates which can go as high as 400% or even higher. If the borrower cannot pay back the loan on time, they either renew the loan or take out a new one; the borrower becomes entrapped in a vicious cycle of interest payments and poverty which can continue on for a long period of time and have a terrible impact on the borrowers finances from one month to the next. If a borrower cannot pay back the loan, his/her accounts will be sent to a collection agency, and it will damage his/her credit rating; also, the debtor will be subject to a civil suit in court wherein a judgment can be entered against the debtor. In New York, a judgement can last 20 years. Payday loans are considered predatory. It would be far better for the

would-be borrower to exhaust all available options, such as requesting loans from friends or family, selling unused items or even valuable things that you can do without; credit union loans and even requesting an advance from your employer is worth a try. If you are subject to an existing payday loan, try to consolidate your payday loan into a credit card, credit union loan or even a personal loan for a lower interest rate.

5. Benefits of a Will

- Ensure that your possessions will be distributed as you wish
- Appoint and outline powers of an Executor
- Appoint a guardian for minor children
- Specify funeral wishes
- Expedite the legal process.

6. Benefits of a Power of Attorney

- Avoids the necessity of a guardianship or conservatorship
- Prevents delays in asset protection planning
- Allows the agent to talk to other agencies
- Allows the agent to make transactions on behalf of the principal

6. Benefits of a Health Care Proxy

A health care proxy allows you to appoint someone else to act as your agent for medical decisions if you are incapacitated. It will ensure that your medical treatment instructions are carried out; it is especially important to have a health care proxy if you and family members disagree about plan of treatment.

DISCLAIMER

The legal information provided is for general informational and educational purposes and is not a substitute for legal advice. Please consult with the appropriate licensed attorney for legal advice.