

NEWS FROM SCDCA

South Carolina Department of Consumer Affairs



Brandolyn Thomas Pinkston, Administrator

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FOR IMMEDIATE RELEASE

SC SUPREME COURT RULES IN FAVOR OF CONSUMER AFFAIRS

Columbia, SC..... In an opinion delivered Tuesday, May 12, 2009, the South Carolina Supreme Court unanimously agreed with the South Carolina Department of Consumer Affairs (SCDCA). The Department appealed a decision by the Administrative Law Court regarding Lexington Law Firm based in Salt Lake City, Utah. The South Carolina Supreme Court stepped in to handle the appeal and found that the organization cannot continue to offer credit counseling services to South Carolina citizens without receiving a license from SCDCA.

The decision provided by the Court upholds the Department's authority to enforce and administer its statutes and regulations. "The Court recognized that the licensure of individuals and organizations offering credit counseling services is central to the Consumer Credit Counseling Act. The Act itself was drafted because of abuses against consumers by some unscrupulous companies in the credit counseling/debt management industry. It's really nice to see the Supreme Court recognize not only the importance of the Act and the licensing SCDCA provides, but also the protection consumers deserve," said Carri Grube Lybarker, who argued the case for the Department.

Furthermore, the decision clarifies a gray area regarding who is exempt from being licensed as a credit counselor. The Consumer Credit Counseling Act does provide licensing exemptions for attorneys, banks, mortgage brokers, accountants, and certain others who offer credit counseling

About the South Carolina Department of Consumer Affairs:

Established by the Consumer Protection code in 1974, The South Carolina Department of Consumer Affairs represents the interests of South Carolina Consumers.

Our mission is to protect consumers from inequities in the marketplace through advocacy, mediation, enforcement and education.

For more information, visit www.sccoconsumer.gov.

services during their “regular course of business.” Lexington Law Firm argued this exemption applied to them as attorneys at law. The Supreme Court disagreed holding the General Assembly intended to limit the “attorneys at law” exemption to attorneys authorized to practice law in this State when the attorney is “acting in the regular course” of his or her profession as an attorney. The Utah organization did not meet either of these requirements. The decision will be helpful as a model to other state agencies in South Carolina and across the nation, many of whom are facing the same issues.

The Consumer Credit Counseling Act, passed in 2005 by the General Assembly, is one of the strongest of its kind nationwide. Not only does it require those who offer credit counseling services to be licensed by the Department, but the Act caps the fees counselors can charge to consumers, most of whom are looking for help during financial hardship.

The Department plans to pursue the case and recover refunds for South Carolina consumers. It is unclear at this point how many consumers will receive refunds. Under the Consumer Credit Counseling Act, SCDCA has recovered more than \$1.4 million for roughly 1500 consumers from July 1 2006, through June 30, 2008.

For more information on credit counseling or other consumer issues, contact the public information division at SCDCA at 803.734.4190, or toll free in South Carolina, 1.800.922.1594, or online at www.sconsumer.gov.

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