

## **David.com vs. Goliath, Inc.**

### **Internet Group Takes on Credit Card Giants and Wins Big, Reclaiming over \$400K**

Atlanta, GA-- What do you do when you've been defrauded by an online merchant but your credit card company refuses to refund your money? If you're like the members of the Cyberrebate Rebate Recovery Alliance, you form an online group to share strategies and tactics about how to fight these companies in court with little expense and no lawyer. And if you're like these members, you will succeed in recovering over \$400,000 for your members.

The Cyberrebate Rebate Recovery Alliance did not start out to battle credit card giants. "We initially created the forum in response to an online merchant's failure to honor its rebate policy," says Linda Purcell, one of the founding members of this online forum. "We simply wanted to share our experiences with other customers in order to warn them about this company and also to figure out ways to recover our money."

Cyberrebate.com was one of the fastest growing online merchants after its creation in 1999. By the year 2001 it had surpassed Amazon.com as the leading internet shopping site based primarily upon its business model. This business model was based on giving rebates on all items purchased at this website as highlighted by its slogan: "Where everything comes with a rebate." Sometimes these rebates amounted to as much as 100 percent of the purchase price.

"Sure it sounded too good to be true," admits Purcell, "and that's why I started off slowly only making a few purchases at a time." After successfully receiving her rebates she, like millions of other consumers, began increasing her purchase volume. Eventually she racked up debts in the tens of thousands of dollars. "But after the rebate it was all free, so I didn't see it as 'real' debt. I used credit cards with introductory offers of zero percent interest that were advertised on this website and thus never paid any interest. I made the

minimum monthly payments and by the time the introductory interest period was over, I had my rebate checks and simply paid off the remainder of the bill.”

American Express is the company that advertised its zero percent credit card offers most heavily on the Cyberrebate.com website. On nearly every page of the website the visitor was exposed to American Express’s offer of “buy now and pay no interest for up to six months.” Since rebate checks were always issued within three months the implication of this ad was clear: use our credit card to get free stuff and pay us off when you receive your rebate check. In other words, you would get free merchandise without ever spending a dime of your own money.

Thousands of consumers took them up on their offer along with the offers made by Discover and other credit card issuers. Since Cyberrebate.com had selling prices that were several times higher than normal retail prices, the credit card companies’ percentage was thus several times higher as well. Cyberrebate stated in all of its interviews in the media, including CNN, that the high prices enabled them to earn higher interest rates while the money was sitting in the bank waiting for the rebate to be processed. It was this interest they earned that enabled them to offer the products for free or so they claimed.

On May 16th Cyberrebate.com filed for bankruptcy and the scam was finally exposed. Their bankruptcy petition stated that they owed over \$80 million in unpaid rebates yet only had \$24 million in assets. Thousands of consumers were left in serious debt.

Most consumers thought they were protected by the credit card billing laws. “When we heard about the bankruptcy the messages on the forum revealed that people were a little nervous but not in a panic since we all felt this would definitely be considered a billing error by our credit cards,” states Purcell.

The billing error resolution is part of the Fair Credit Billing Act that protects consumers from fraudulent charges for non-receipt of goods and services. If you purchase a new coat on the internet and the merchant bills your account but never sends the coat, the

consumer can dispute the charge under this act and the credit card company will remove the fraudulent charge.

Many credit cards did just that. They immediately removed the charges from the consumer's account as soon as they learned of the problem. Yet other card issuers, most notably American Express and Discover, refused to honor their customers' chargeback requests using the excuse that the unreceived rebate was neither a "good" or "service" and thus their claims did not fall under the protection of the billing errors resolution for non-receipt of goods and services.

This is the moment when the Cyberrebate Rebate Recovery Alliance began transforming itself from a small group of individuals sharing their individual experiences into a powerful group of consumer advocates. "When member after member began telling their negative experiences with certain credit card companies the whole dynamic of the board changed," states Purcell. "The mood changed from fear, to frustration, to disillusionment, to anger, and finally to resolve. Everyone just resolved to fight for what we knew our rights were. And that's when the lawsuits began."

Due to provisions in the cardmember agreements of most credit cards, consumers are barred from bringing class actions against these companies. They are limited to either arbitration or small claims court. One member after another decided to file their claims in small claims court.

The cost of having to send lawyers to hundreds of cases all over the country finally brought one company to its senses. American Express began settling every claim out of court. Once news of this spread through the online forum more members gained confidence to file suits and even more tales of success were posted to the forum. "One success led to another until the whole thing just snowballed," says Susan Shellor. Shellor is a volunteer for Clark Howard's Consumer Action Center here in Atlanta. Clark Howard is the host of a nationally syndicated consumer advocacy radio talk show that is produced right here in Atlanta and broadcast to stations around the nation.

“The first cases were for just a few hundred dollars. After they won, cases for a thousand dollars were filed. When they won, cases for a few thousand were filed. Then for ten thousand. Then for twenty and thirty thousand and finally just a couple weeks ago one of our members recovered \$70,000 in an out-of-court settlement with American Express. This would have never happened without this forum for people to share their experiences and tactics,” notes Shellor.

Another member agrees with Shellor’s assessment. “I had already given up months ago. Then when I found this forum and saw all the success people were having recovering their money I decided to file a small claims suit and see what happened,” says Mike Rivers. “And just like the others I recovered all of my money. I even received interest and expenses thanks to other members alerting me that they had succeeded in their demands for these things too. Without this board I would have simply written this off as a bad debt.”

So far the forum estimates that its members have recovered over \$400,000 from American Express and other credit card companies. Only Discover is choosing to fight every single case in court even though many times the cost to defend the case is greater than the claim. Despite this, the online group’s members have won several cases against Discover. So far Discover has appealed every case, thus increasing their costs further. It seems Discover thinks by appealing these cases in Superior Court where consumers will be forced into the additional expense of hiring a lawyer that they can intimidate these plaintiffs into dismissing their cases.

“Not a chance,” says Shellor when asked if this tactic will succeed. “They have obviously misjudged the situation completely. All this is doing is causing additional expense for Discover. It’s a cheap tactic that will eventually backfire.”

When asked about what she thought the moral of the story was she replied, “Well, the credit card companies have spent enormous energy getting legislation passed so they can’t be sued in a class action by consumers. In the past, without a class action suit there was no way for people to know there were others in the same predicament. But the internet

changes all that. We get ten new members every week in our forum. Slowly but surely the news is getting out and by sharing our experience we have effectively created our own class action suit that is simply filed individually in many cities in many states. This has the added benefit of the credit card companies not having one law firm to throw all their resources at in fighting a class action but instead are now forced to deal with hundreds of individuals around the country. They certainly hadn't counted on that and that's the moral of the story. The internet changes everything. It levels the playing field and maybe even tips it a little in favor of consumers."