

Empty wallets, empty cribs for parents of failed international adoptions

By: Ben Mook October 19, 2008



When Katlyn, left, went off to college, Elizabeth Rozenbroek and her husband decided to adopt a Guatemalan child — but the girl she adopted was emotionally troubled and physically dangerous.

After their youngest daughter went off to college, Elizabeth and Thomas Rozenbroek decided to make one more addition to the family, paying \$25,000 to adopt an 8-year-old Guatemalan girl recommended to them by the owner of an adoption agency.

The adoption, facilitated by Project Oz Adoptions Inc., was finalized in December 2005. However, within a few months, the child began to exhibit signs of severe aggression — choking the family dog and attempting to gouge out its eyes, breaking windows and even pulling a knife on a family member. By the time the girl had turned 10, she had been hospitalized for a host of psychiatric problems and police had been called to the Rozenbroek's Calvert County home no fewer than five times due to the child's behavior.

"It's just not a good situation, obviously, but it's what we're faced with," Elizabeth Rozenbroek said. "She's so violent and, as horrible as it is to say, I can't trust her in the home. So, we have a child who we've legally adopted who has been in psychiatric care now more than she's been in our home."

The child is in long-term residential care now, and the couple (who split up due to stresses from the adoption, Elizabeth Rozenbroek said) have little contact with her outside of a few hours of visitation allowed intermittently and at the discretion of the facility.

The Rozenbroeks are among the plaintiffs in a civil racketeering lawsuit against Project Oz and its owner, Kerry Palakanis, filed in U.S. District Court in Greenbelt.

The Rozenbroeks contend that Kerry Palakanis never told them about the child's psychiatric problems or the fact that she had been removed from her original adoptive parents' home in California because of severe aggressive behavior toward a sibling.

A novel approach

As an international adoption "facilitator," Project Oz's purpose is to put potential parents in touch with the birth mother, an orphanage or other agency to find an adoptable child. The agency is then paid to guide the paperwork through the complex, time-consuming process. For an additional fee, they would take parents to the child's home country for required visits before adoption.

The plaintiffs claim that Palakanis preyed on desperate parents and fleeced them for thousands of dollars in fees with little or no effort put into completing the adoptions of mostly Guatemalan children.

"You have heartbroken families with empty bank accounts and empty cribs," said Joni Fixel, the East Lansing, Mich., co-counsel representing the families with Gary Huggins of Gaithersburg. "What we have are families who are just devastated financially and emotionally."

In their civil lawsuit under the Racketeer Influenced and Corrupt Organizations Act, the plaintiffs paint a picture of threats, extortion and lies during the adoption process. A civil RICO lawsuit is similar to the criminal version made famous by prosecutions against mob figures. With a civil RICO case, however, a criminal conviction is not necessary and treble damages are possible.

Barbara McArtney, a New York attorney and board member of Parents for Ethical Adoption Reform, said suing under civil RICO was a novel approach that many advocates of adoption reform were keeping an eye on to see if it is successful.

“With civil RICO, it is untested at this point,” McArtney said. “But, right now, parents have no recourse when they get screwed over. It’s just this weird little niche that doesn’t fit anywhere in the law.”

Repeated attempts to contact Palakanis were unsuccessful. Robert L Ferguson Jr., with Ferguson, Schetelich & Ballew P.A. in Baltimore, is representing her. Ferguson declined to comment on the case, but said his client planned to respond to the allegations and fight the lawsuit.

Incomplete adoptions

The Rozenbroeks’ story is just one of eight the complaint sets forth.

Andrea and Christopher Campo hired Project Oz to facilitate a Guatemalan adoption in May 2006, a few years after losing their infant daughter. Shortly after contracting with Project Oz, the Campos learned they could adopt a three-day-old Guatemalan girl, Esther, as soon as the necessary paperwork cleared.

According to court filings, that never happened. Now, nearly two-and-a-half years later, the Campos have no idea where their daughter is, and have spent not only the original \$25,000 fee to Project Oz but an additional \$25,000 or so in efforts to complete the adoption.

“It’s a sad story that started this, and it hasn’t gotten any better since,” Campo said. “Suddenly, there’s nobody, we’re left here alone, and our child is floating around in Guatemala somewhere and we don’t even know how she is doing.”

The Campos have not given up hope, but Andrea said they realize the odds are stacked against them and they have few options left.

“Here you think you’ve paid for professional assistance, and next thing you know it’s dumped back in your lap,” Andrea Campo said. “Now we’re looking at international immigration and adoption law on our own. And, what do I know about international adoption law?”

Another plaintiff, Theresa Prosper, claims she hired Project Oz to facilitate a Guatemalan adoption in 2006. After completing a home study and signing a required statement that as a single mother she was heterosexual, she soon received notice that she could adopt a two-week-old girl, Geneva.

As what was supposed to be a six-month process dragged on, Prosper started asking questions on Internet chat rooms about Project Oz. That, she claims, brought down the wrath of Palakanis, who suddenly started making demands such as requiring parental counseling.

“I had already raised three children to adulthood,” the 42-year-old Prosper said. “Now, all of a sudden, after I post something, I need counseling on how to be a mom?”

Prosper claims that after reaching a dead-end with Palakanis and Project Oz, she had to hire additional specialists in Guatemala to complete the adoption. Shortly after Geneva’s second birthday in September, the adoption was completed and Prosper was reunited with the daughter she first met when she was only a few weeks old.

“It’s been an emotional roller coaster,” Prosper said. “And, now I want [Palakanis] to pay for what she’s done. She has taken from people desperate for a family, who have spent their last dime to bring a child home.”

A multibillion dollar industry

The case highlights the nebulous world of international adoptions, a multibillion dollar industry fraught with potential problems for parents.

“I wish I could say I’d never heard of things like this,” Towson lawyer Carolyn Thaler said. “But I’ve heard it enough that it’s frightening.”

Thaler is a member of the American Academy of Adoption Attorneys, an association that works to reform adoption laws. While not involved in the lawsuit, she said it can be tough for prospective parents to vet agencies and facilitators on their own. The adoption process itself can be difficult because parents invest so much time, money and emotion in the child that agencies can wield that to their advantage.

“People get in a position where they’re almost blackmailed,” Thaler said. “They’re afraid if they open their mouth and speak out that they might be left empty-handed.”

“A lot of people just don’t really know where to go,” added Huggins, co-counsel on the case against Project Oz. “And these agencies are very good at making these people feel like they are the ones who messed it up.”

Huggins, of Huggins and Huggins Law, said he expects the case could grow further and might end up as a class-action lawsuit. He said it could also lead to other lawsuits against agencies which have operated the same way.

“There are charlatans out there and a lot of them know how to play the game,” Huggins said. “How many [Project] Ozs are out there? That’s the big question.”

“I don’t know yet how deep this goes,” he added, “but I’m confident this thing has legs.”

Raising questions

The Maryland Department of Human Resources, the licensing body for adoption agencies, is also named in the lawsuit. The parents claim the state was negligent, since it licensed and re-licensed Palakanis despite the fact she had filed for bankruptcy in 1996 in Maryland, was involved with an agency that had its license revoked in Pennsylvania and was the subject of a civil breach of contract lawsuit in Prince George’s County in 2006 that ended in binding arbitration.

“If Maryland had done their background checks, it would have raised questions about whether or not [Palakanis] should be trusted with tens of thousands of dollars,” said Fixel, the Michigan lawyer. “If they’re not going to bother even checking, then why have licenses?”

The state has filed a motion to dismiss, claiming sovereign immunity under the Eleventh Amendment and the Maryland Tort Claims Act, among other grounds. It also notes that the state’s role in licensing agencies does not make it responsible for the licensee’s actions, or create a duty to specific individuals who deal with the licensee.

In an e-mail response to questions about the licensing, DHR spokeswoman Paula Tolson said all agencies undergo a comprehensive application and review process that includes a look at business practices, the staff’s qualifications and criminal background checks. Tolson said the two-year renewal process mirrors the original process.

First licensed in 2003 in Calvert County by the Maryland Department of Human Resources, Project Oz grew over the next few years to add satellite offices in Pennsylvania, Illinois and North Carolina.

As a 501(c)(3) nonprofit agency, Project Oz was required to file income statements with the IRS. From its inception through 2006 (the last year it filed), Project Oz reported working with more than a thousand clients while collecting millions of dollars in fees.

Project Oz’s average adoption fee was around \$25,000, which McCartney, the New York reform advocate, said was in line with the industry average.

The agency earned a reported \$1.8 million in revenue during 2006, and \$4.5 million between 2002 and 2005, according to its filings.

According to the IRS form, Palakanis was paid \$65,000 in 2006 as the CEO of Project Oz. In 2005, she earned \$122,000.

Today, Project Oz has ceased to exist. The final chapter in its five-year existence came on Sept. 19, when the state of North Carolina revoked the license of its sole remaining office.

Palakanis herself resigned in July 2007, although a later investigation determined she didn’t turn over all her files or the agency’s checkbook until the end of the year.

The agency’s board of directors closed the Calvert County office in August 2007 and moved Project Oz’s headquarters to Concord, N.C. Amy Davis, a North Carolina adoption attorney, took over as executive director.

About that same time, the North Carolina Department of Health and Human Services started receiving complaints about Palakanis and initiated an investigation.

In February, North Carolina notified Project Oz it was revoking its license for “serious” violations of licensure rules. Davis, who had stepped down briefly but returned by December 2007, appealed the decision and tried to correct the deficiencies, according to North Carolina authorities.

Last month, both sides agreed to close the agency, which by that time had a mere \$4,000 in the bank and dozens of prospective parents with adoptions pending, the lawsuit says.

In revoking Project Oz’s license, North Carolina cited “extensive evidence of mismanagement of the agency” by Palakanis along with a number of regulatory violations. But, because of Davis’ efforts to keep the agency afloat, they barred her from opening a new child-placing agency in the state for just one year instead of the maximum of five years.

Davis declined to be interviewed for this story.

Caveat emptor

Even with state oversight, prospective parents are largely left to their own devices to figure out where to turn and how much to pay. The Maryland Department of Human Resources makes it clear on its adoption Web page that it has no control over agencies' fees.

"All private agencies charge a fee for their services," the department says on its Web site. "There is no limit on the amount an agency may charge."

The U.S. State Department also cautions parents about the risks associated with adoption.

"It is buyer beware to some extent," said William Bistransky, a representative of the State Department's Office of Children's Issues.

On the State Department's Web site, the "Frequently Asked Questions" section goes into greater detail.

"The State Department has received a growing number of complaints concerning adoption facilitators operating in various countries. Licensing of agents and facilitators is done in accordance with local law," the FAQ says.

"Unfortunately, not all foreign governments require that agents and facilitators be licensed," the site says.

"Accordingly, it can be difficult to hold facilitators accountable for fraud, malfeasance, or other bad practices in general."

Stephen J. Cullen, a principal at Miles & Stockbridge P.C., agreed that in general, in his experience, the business of international adoptions is fraught with corruption and fraud.

"It's absolutely outrageous what's been going on," Cullen said. "These are parents who are desperate to help a child and you have people preying on them and charging exorbitant fees, if not using extortionist tactics as well."

Cullen represented a California woman who sued Project Oz in Prince George's County in 2006. The case was settled in binding arbitration; Cullen declined to comment on the case and is precluded from discussing it and Project Oz as part of the agreement.

Court records, though, indicate that Cullen's client alleged she hired Project Oz in March 2005, paid them \$25,845, and received a letter in August 2005 terminating the agreement due to "lack of communication and cooperation." The Guatemalan adoption was never completed, according to the original complaint in the court's file.

Hague Adoption Convention

Bistransky said the implementation of an internationally agreed-upon set of standards will add more layers of protection for parents and children involved in cross-border adoptions.

The standards, known as the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (or the Hague Adoption Convention), were officially adopted in the U.S. in April.

Since then, international adoption agencies need "Hague" accreditation to bring children back from countries, such as Guatemala, that adhere to the convention.

While the Department of State does not perform the actual accreditation — it is done through either of two independent entities — it does believe the changes will be beneficial. Complaints and compliance issues are handled by the accrediting agencies, which the State Department's Bistransky said would add another layer of protection for customers that did not exist before.

"I think this will go a long way to prevent these unscrupulous activities," he said. "We've gone from buyer beware to a system where you still have to do that, but there are more safeguards in place."

Even with the Hague changes, though, McArtney is afraid there will continue to be problems.

In addition to her advocacy work, the New York lawyer is the director of Graham's Gift Children's Foundation, primarily a home-study agency that does not do child placements — although at one point McArtney considered getting into that field.

"The problem is, you have these agencies — some who go in with the best of intentions — and they see the money you can make and just can't back out," she said. "It's an unmonitored money flow left and right."