

Collections Agencies – When, Why and How”

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From the BCCA Las Vegas Seminar

I think we can safely assume that most, if not all, of the following factual patterns will be all too familiar to those of you who are directly responsible for the pursuit of your company's over-due receivables:

Debtor's phone is disconnected. Debtor's phone number is changed to an unlisted number. Debtor totally uncooperative.

They may refuse to acknowledge responsibility for the debt – they won't even issue post dated checks – they won't agree to a repayment plan – not to mention one – combined with a written acknowledgement or other written – commitment.

Debtor's checks are bouncing – returned for insufficient funds or marked “refer to Maker”. Debtor defaults on payment plans either by missing payments or revising the amounts lower. You discover debtor is having similar problems elsewhere. Debtor informs you that he's got to pay other creditors first and you are way down on his list. Debtor is seeking financing either from a bank or he's absorbing an additional partner or investor who will rescue the situation with an infusion of cash. Wants to pay less than the balance, lump sum or not. Will seek Bankruptcy protection if you press him or if you assign to a collection agency. Debtor tells you to call his attorney.

What do you do now? Certainly each of these events vary in their degree

of seriousness. Many of these fact patterns do not lend themselves to any degree of mathematical certitude. There are many gray areas. Some by themselves are reason enough to assign the claim to a collection agency, while others may need further evaluation.

In any event you must develop a working facility with these concepts. The act of deciding whether to place a claim for collection can have serious consequences. Placing an account before all the circumstances indicate that you should will result in legitimate criticism from your management. Why couldn't you collect from this particular debtor? Your management may see you as a “trigger-happy” collection manger responsible for:

Eroding the stations revenues by paying needless collection fees. Depriving your station of future revenues by wrongfully antagonizing customers.

On the other hand, if you don't place the claim on a timely enough basis you could be responsible for causing the claim to become uncollectible.

Between these two extremes, it would seem clear that when in doubt it would be preferable to err on the side of placing the claim and possibly obtaining 75 to 80% of the balance as opposed to nothing.

So to protect your station and yourself you need to have a check-list of procedures to go through in order to be absolutely confident that placing the claim is the correct business decision.

SOME SUGGESTIONS:

Establish time frames and procedures for collection activity that are realistic and achievable. Stick to deadlines once they are set (be they for yourself/dept or for the delinquent account) unless there is some material change in circumstances – do not postpone the next step in the procedure.

If appropriate, considering the circumstances of the debtor and your own time and manpower constraints, you may wish to consider some of the following additional pre-collection agency activities:

- Is there someone else at your company who may be able to obtain payment more effectively? Don't take this personally, but sometimes delegating makes sense. Your A/E or someone else in management at times will be able to elicit cooperation.
- Perhaps a physical visit to the debtor's location will be of help. Was your original payment arrangement a little too optimistic? If a revised plan would work (depending on the circumstances) you may want to consider that. However, in considering payment plans keep in mind the time involved. The key to the successful implementation of payment plans is managing them properly. This time management must be viewed from the overall responsibilities of collection personnel. (Close monitoring of an acceptable payment plan is one of the services a collection firm supplies).
- Final re-examination of the file; you may have overlooked information leading to the debtor.

A reference on the credit application who may know something.

- Sometimes something as basic as the telephone directory may yield a residence address or phone number (It's embarrassing to be asked if you've done that when you haven't).
- Your ultimate and final weapon to incorporate is the utilization of the final demand as the last step before assigning the claim to an agency. This is a written memo either on your company's stationery or on a form supplied by your collection agency which clearly communicates that unless payment is received in ten days – that the matter will be assigned to your collection agency on the 11th day.

Not only is this good business practice, it may also produce a check. The final demand is one of these rare examples in business where you get an absolute guarantee.

A classic win-win situation:

You will either receive a check (not to mention the avoidance of collection fees) or by the debtor ignoring the F.D. you'll know that placing the claim is the correct thing to do.

SUMMARIZING

By clearly establishing these procedures and sticking to them, there will be little room for second-guessing by upper management. You just want to be thorough in your duties so that you're absolutely confident that placing the claim makes the most amount of business sense given the information available to you.

What are some of the advantages of sending your over-due claims to a collection agency?

By a periodic schedule of frequent correspondence, phone calls, and where appropriate visitations, they will provide an aggressive program of dramatic third party intervention.

A reputable collection firm, provide the exclusive dedication of time for the resolution of your delinquent receivables.

A reputable collection firm, provide general collection expertise by providing fast claim qualification (analysis of most expeditious means of resolving account and maximizing recovery).

Your options will become quickly apparent:

Is full payment obtainable? Is it feasible to sue? Does a debtor's claim have any merit? Should a settlement or payment plan be considered? Is the claim uncollectible?

On irresolvable accounts – knowledge of legal system and ongoing working relationship with attorneys nationally and internationally.

The agency should have an overall industry specific knowledge of your collection problems. In many instances the agency will have prior experience with your accounts and will be able to target specific procedures designed to fit that particular debtor's circumstance. Of course, the advantage here is faster and more effective results.

Your agency may from time to time produce instantaneous results.

Sometimes the mere contact by a collection agency will produce the check. The communications between you and the debtor have been severed. That cozy, friendly relationship has been terminated. The debtor knows this

because you told him in your final demand that effective on such and such a date if payment is not made the collection agency will take over. Now it's a cold, calculating objective third party. A stranger who is an expert in eliciting a fast and positive response (payment).

Also the debtor may not want anyone to know that a collection agency is after him. (His bank, his business community, his employees).

So a check sometimes goes out immediately upon the collection agency's first contact with the debtor.

Credit managers who may feel an agency has not earned his fee from these "quickie results" should consider all of the efforts and services your agency provides on both sides of the coin: Collectible and uncollectible claims. The standard fee arrangement being a total contingent basis or no collection no fee.

When to place a claim for collection. The adage "timing is everything" has particular relevance in the collection industry.

A universally accepted maxim regarding collectability: There is an indirect proportion to the age of a delinquent receivable and the chance of success in collecting the receivable. Or to put it another way, the longer you delay in your attempts in collecting the more difficult and thereby the less collectible the claim becomes.

REASONS

As time marches on employee of the debtor company familiar with the circumstances surrounding the debt move to other companies. As time marches on, even employees who have not moves will suffer memory lapses, feigned or legitimate.

Companies are sold. Companies become insolvent and/or go out of business. Assets can be placed out of your reach. Debtors have been known to conceal, sell or otherwise dispose of their assets. Suit may become necessary, increasing the time and expense of your collection efforts.

Therefore, the short answer to when to place an account for collection is:

When every reasonable means available to you and your staff have been exhausted. (Generally, between 90-120 days and it could be sooner or later depending upon the circumstances).

Depending on the degree of your authority, when your supervisor gives his approval.

How to Place a Claim with a Collection Agency.

Once you have decided to place a claim for collections what procedure do you follow?

When an account is placed, copies of everything (where feasible) relating to the substantiation of the debt should be sent to your collection agency:

Invoices and statements. Besides their legal relevance they will contain names and address of all liable parties correctly and clearly spelled out. Include contact name and phone numbers of debtor. Sales confirmation and/or contracts which may exist. Collection notes, if available. The ideal objective is to enable the collection agency to initiate collection activities where you left off and not duplicate the steps you've already taken. Time is always of the essence in collections. Correspondence in relation to the debt from both creditor and debtor. Copies of debtor's check.

HOW TO BEST USE A COLLECTION FIRM'S SERVICES

In establishing a good working relationship with your collection firm, communication of any special needs at the beginning of your relationship will enable you to receive timely and relevant information. Encourage the same ability on the part of the agency. Remember that they are working on a contingency basis and have a vested interest in recovering as much as possible for your firm. A well-run agency will be very sensitive to your time constraints and highly proficient in its ability to supply you with information and requests in the easiest format for your use. If you need 30-day full detail computer reports, tell the agency. If you prefer acting on individual reports through fax or mail, tell the agency. If they cannot handle information or requests out of their routine, perhaps an alternative agency should be considered.

SUMMARY

Build a relationship with a knowledgeable, experienced, professional firm upon whom you can rely whenever a receivable problem is encountered.

Judge their performance and analyze the results provided based upon the volume of business placed and the quality of that business.

Rely on the agency to give you clear information as to why claims are not collectible in order to contribute to that analysis.

HOW TO CHOOSE A COLLECTION AGENCY

When it comes time to decide which agency to use or when you feel it's time for a new agency, the three

most important criteria are experience, reputation and financial responsibility.

EXPERIENCE

How many years has the agency and its staff been involved in collecting over due accounts in the media industry? Business in the media industry is not conducted in the same manner as most other industries. Therefore, collecting media accounts requires special knowledge of that industry.

Examples of some of those elements which distinguish the media business from most other industries:

Millions of dollars of business is transacted over the phone, without benefit of contracts whether they be signed or unsigned. Your basic commodity is time – (here today, gone tomorrow): unlike the majority of business transactions dealing with the sale of hard goods where there are opportunities to take legal action in relation to existing goods. You're dealing with highly perishable goods. There are precious few agencies who are comfortable in collecting these kinds of receivables. Or more importantly who perform in an effective way.

REPUTATION

References

You must investigate within your industry what the agency's reputation is. Just as you do with a credit investigation, question references furnished by the agency and question others not furnished. The agency may be offering only those references that will give glowing reports. Start your investigation of references within the agency's principal place of business. Companies in New York or Chicago or Atlanta should be checked for the

company's performance and reputation in its own locale. If you can't obtain positive feed back in an agency's own city where presumably more business is being conducted, you need not go any further.

Abusive Conduct

Pay attention to items such as complaints for abusive tactics. The agency is an extension of your firm. Your reputation should be as important to them as it is to you. In the extreme, you don't need a bad situation turned into a problem with your respective governmental authorities citing you for abusive and unethical collection procedures.

FINANCIAL RESPONSIBILITY

Make sure the agency maintains sufficient bonds and insurance, subject to verification. We've seen situations where collection agencies have vanished from the face of the earth with your money (this is why bond info and confirmation is particularly important). Agencies should maintain a separate trust account into which your (the creditor's) money is deposited. It should be separate from the agencies operating account. Find out what each agency's policy is on clearance of funds and how it routinely reports payments received. Remittances should be made within two weeks of receipt depending upon the location of the debtor's bank.

REPORTING PROCEDURE

After you receive the acknowledgement that the agency has received your claim, you should receive timely reports informing you of the progress of the account without your having to continually follow-up with the agency. Also you should be furnished

with either a quarterly or monthly status report recapping the status of all accounts with payments, balances and comments.

LICENSING AND INDUSTRY ASSOCIATIONS

If required in the agencies home state, make sure you are dealing with a licensed agency in good standing. Your agency should be active in the various associations and attending conferences and educational meetings where industry matters are discussed and collection techniques are continually being improved. Examples are memberships in:

The Commercial Law League of America. The ACCA (American Commercial Collections Association).

FEES

There are many agencies out there who will try to get your attention with their low rates. The old adage "you get what you pay for" really applies in the collection business. Many times the lowest rate will generate:

The least effort; No special services; Lowest recovery; In many cases no remittance.

In considering collection fees ascertain that your agency performs at least the following services:

A Free Demand Service. Under your direction and control you send the debtor a final demand on a form provided by your collection agency. Basically provides that if the balance is not received in ten days that the agency will take over on the 11th day. Also there is no collection fee if payment is received within the ten-day period.

Account Executive. Assigned to your claims experienced in media collections.

Many companies, which offer low fees, provide little more than a letter writing service. It's extremely rare that a mere letter or two will produce payment.

Overly Automated. Some firms are so automated that all claims are handled in the same way without distinguishing the different industries they may represent.

Each industry is different in the way business is transacted and for that matter each claim should be analyzed as to its differing circumstances and handled and assigned accordingly. Consequently you will be better served by a firm, which has the ability to personalize its procedures to fit your particular needs.